

## 10.15.Planning Proposal 6/20 - 45 McLaren Street - Post Exhibition Report

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<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Gateway Determination 1 June 2022 [<b>10.15.1</b> - 4 pages]</li> <li>2. Gateway Determination Alteration 26 Aug 2022 [<b>10.15.2</b> - 2 pages]</li> <li>3. Gateway Alteration Request 9 March 2023 [<b>10.15.3</b> - 3 pages]</li> <li>4. Letter to Council - Alteration of Gateway determination [<b>10.15.4</b> - 2 pages]</li> <li>5. Planning Proposal (as amended) Sept 2022 [<b>10.15.5</b> - 122 pages]</li> <li>6. Draft VPA 45 McLaren Street North Sydney [<b>10.15.6</b> - 47 pages]</li> <li>7. NSDCP 2013 Draft Amendment as exhibited (Nov 2022) [<b>10.15.7</b> - 21 pages]</li> <li>8. Submissions Summary Table - 45 McLaren Street [<b>10.15.8</b> - 52 pages]</li> <li>9. NSDCP 2013 Amendment for Adoption (Mar 2023) [<b>10.15.9</b> - 40 pages]</li> </ol>
<b>CSP LINK</b>	<ol style="list-style-type: none"> <li>1. Our Living Environment             <ol style="list-style-type: none"> <li>1.4 Well utilised open space and recreational facilities</li> </ol> </li> <li>2. Our Built Infrastructure             <ol style="list-style-type: none"> <li>2.1 Infrastructure and assets meet diverse community needs</li> <li>2.2 Vibrant public domains and villages</li> <li>2.3 Prioritise sustainable and active transport</li> <li>2.4 Efficient traffic mobility and parking</li> </ol> </li> <li>3. Our Innovative City             <ol style="list-style-type: none"> <li>3.1 Our commercial centres are prosperous and vibrant</li> <li>3.3 Distinctive sense of place and design excellence</li> </ol> </li> <li>4. Our Social Vitality             <ol style="list-style-type: none"> <li>4.3 North Sydney’s history is preserved and recognised</li> </ol> </li> <li>5. Our Civic Leadership             <ol style="list-style-type: none"> <li>5.1 Lead North Sydney’s strategic direction</li> </ol> </li> </ol>

### PURPOSE:

The purpose of this report is to seek Council’s endorsement to progress the Planning Proposal to amend North Sydney Local Environmental Plan 2013, adopt the associated amendment to North Sydney Development Control Plan 2013, and proceed with the execution of the related Voluntary Planning Agreement.

## EXECUTIVE SUMMARY:

- At its meeting on 28 March 2022, Council resolved to forward a Planning Proposal to the Department of Planning and Environment (DPE) seeking to amend the planning controls under North Sydney Local Environmental Plan (NSLEP) 2013 as they relate to land at 45 McLaren Street, North Sydney. The proposed amendments include:
  - changing the zoning from *R4 High Density Residential* to *B4 Mixed Use* (or *MU1 Mixed Use*, if the Employment Zone Reforms are implemented prior to the finalisation of this proposed amendment);
  - increasing the maximum height of building limit from 12m to part RL 103 (approximately 36-43m) and Part RL 115 (approximately 47-51m max);
  - imposing a maximum floor space ratio of 6.25:1;
  - imposing a non-residential floor space ratio of 1:1;
  - amending Clause 4.4A – *Non-Residential Floor Space Ratios* to permit residential accommodation at ground level facing Walker Street; and
  - amending Clause 6.12A – *Residential flat buildings in Zone B4 Mixed Use* to permit residential accommodation at ground level facing Walker Street.
  
- The Planning Proposal is also accompanied by a draft Voluntary Planning Agreement (VPA) to deliver a number of public benefits to the value of approximately \$5.8 million, including a monetary contribution towards public infrastructure identified in the Ward Street Precinct Masterplan, streetscape upgrades adjacent to the site, expansion of an existing public through-site link across the site, and dedication of one x two-bedroom affordable housing unit. It is also accompanied by a draft site-specific amendment to North Sydney Development Control Plan (NSDCP) 2013, to provide greater certainty as to the built form outcomes envisaged on the subject site.
  
- The Planning Proposal, draft DCP amendment, and draft VPA were placed on public exhibition concurrently for a period of 57 calendar days (or 24 working days), from 21 November 2022 to 16 January 2023.
  
- 17 submissions were received during the exhibition period, of which two were in support of the intended outcomes of the Planning Proposal, and 15 opposed.
  
- This report recommends that the Planning Proposal, DCP and VPA should proceed with several minor amendments.

## RECOMMENDATION:

- 1. THAT** Council note the submissions made.
- 2. THAT** in response to the submissions made, Council endorse the Planning Proposal, as exhibited, forming Attachment 5 to this report.
- 3. THAT** having completed the community consultation requirements outlined in the Gateway Determination, that, Council proceed under delegation with the making of a Local Environmental Plan in accordance with section 3.36 of the Environmental Planning and Assessment Act 1979, to give effect to the Planning Proposal (Attachment 5).
- 4. THAT** Council grant delegation to the General Manager to finalise the Voluntary Planning Agreement with the view to have it executed prior to the gazettal of the LEP amendment.

**5. THAT** in accordance with clause 14 of the Environmental Planning and Assessment Regulation, 2021, Council adopt the amendment to North Sydney Development Control Plan 2013 as amended in response to submissions, forming Attachment 9 to this report.

**6. THAT** should Council not resolve to adopt the broader revised car parking rates in high accessibility areas being considered at the same meeting as this report, that the site-specific parking rates as exhibited be adopted subject to:

(a) the 2-bedroom rate be revised from 0.6 spaces per dwelling to 0.7 space per dwelling;  
and

(b) the 3+bedroom rate be revised from 0.7 spaces per dwelling to 1 space per dwelling.

**7. THAT** Council nominate that the date the amendment to North Sydney Development Control Plan 2013 commences is the same day as the amendment to North Sydney Local Environmental Plan 2013 giving effect to the Planning Proposal comes into force.

**8. THAT** in accordance with clause 14 of the Environmental Planning and Assessment Regulation 2021, public notice of Council's decision be given on Council's website regarding its adoption of the amendment to North Sydney Development Control Plan 2013 and again on the day that the amendment to North Sydney Development Control Plan 2013 comes into force and published on Council's website.

**9. THAT** in accordance with the clause 20(1) of the Environmental Planning and Assessment Regulation 2021, a copy of the revised development control plan be provided to the NSW Planning Secretary.

**10. THAT** Council notify all submitters of Council's decision.

## Background

The following outlines the chronology and milestones of the Planning Proposal process to date:

22 October 2020 – Planning Proposal 6/20 was lodged with Council to amend the planning controls within North Sydney Local Environmental Plan (NSLEP) 2013 as it relates to land located at 45 McLaren Street, North Sydney.

As lodged, the proposal sought to accommodate a mixed-use development up to 16 storeys in height, comprising approximately 13,251sqm of Gross Floor Area (GFA), with 100 apartments located above 2,168sqm of commercial floorspace, and five levels of basement car parking. In order to achieve the concept proposal, it was sought to amend NSLEP 2013 as follows:

- increase the maximum height of building limit from 12m to 61m;
- impose a maximum floor space ratio of 7.5:1; and
- incorporate a new clause within Schedule 1 – Additional permitted uses to allow “commercial premises” and “recreational facilities (indoor)” with development consent on the subject site.

The Planning Proposal was also accompanied by an offer to enter into a Voluntary Planning Agreement (VPA) to deliver public benefits valued by the applicant at approximately \$12 million, including affordable housing, public domain upgrades, provision of community infrastructure, carbon neutral development, and expansion of an existing through-site link across the site.

8 November 2021 – Applicant submits a revised planning proposal in response to issues raised by Council staff. The revised proposal sought to accommodate a 10-14 storey mixed-use development comprising approximately 13,251sqm (GFA), with 82 apartments located above 2,091sqm of commercial floorspace, and three levels of basement car parking. To achieve the revised concept proposal, it was sought to amend NSLEP 2013 as follows:

- rezone the site from *R4 High Density Residential* to *B4 Mixed Use*;
- increase the maximum height of building limit from 12m to part RL 103 (approximately 36-43m) and Part RL 115 (approximately 47-51m);
- impose a maximum floor space ratio of 6.25:1;
- impose a non-residential floor space ratio of 1:1;
- amend Clause 4.4A – Non-Residential Floor Space Ratios to permit residential development at ground level facing Walker Street; and
- amend Clause 6.12A – Residential flat buildings in Zone B4 Mixed Use to permit residential development at ground level facing Walker Street.

The Planning Proposal was also accompanied by a revised offer to enter into a Voluntary Planning Agreement (VPA) to deliver a number of public benefits to the value of approximately \$4.8 million, including a monetary contribution towards public infrastructure identified in the *Ward Street Precinct Masterplan*, streetscape upgrades adjacent to the site, expansion of an existing public through-site link across the site, and dedication of one x two-bedroom affordable housing unit.

The Planning Proposal also included several suggested site-specific amendments to North Sydney Development Control Plan (NSDCP) 2013, to provide greater certainty as to the built form outcomes envisaged on the subject site.

23 February 2022 – The North Sydney Local Planning Panel considers the proposal and recommends that the Planning Proposal be supported to proceed to Gateway Determination in conjunction with the site-specific DCP provisions to help guide future detailed design at the development application stage. It further recommended that:

- 1. The visual assessment report be amended to provide increased illustrative analysis of the view impacts from residential properties located to the west and fronting McLaren and Miller Streets, before being placed on public exhibition;*
- 2. All vehicular access and servicing be provided from Walker Street and included in the DCP to be exhibited; and*
- 3. Consideration be given to the provision of affordable housing given the development uplift.*

28 March 2022 – Council resolves to support the progression of Planning Proposal 6/20 to Gateway Determination to amend the planning controls under North Sydney Local Environmental Plan 2013 as it relates to land at 45 McLaren Street North Sydney. In addition, it resolved to support:

- an offer to enter into a Voluntary Planning Agreement (VPA) to deliver a number of public benefits to the value of approximately \$5.8 million including:
  - a monetary contribution towards public infrastructure identified in the Ward Street Precinct Masterplan;
  - streetscape upgrades adjacent to the site;
  - expansion of an existing public through site link across the site; and
  - dedication of one x two-bedroom affordable housing unit.
- A site-specific amendment to North Sydney Development Control Plan 2013 to moderate the built form including revised parking rates.

8 April 2022 – Council submits the Planning Proposal to the Department of Planning and Environment (DPE), requesting a Gateway Determination.

1 June 2022 – The DPE issues a Gateway Determination enabling the Planning Proposal to proceed to public exhibition, subject to meeting a number of conditions.

20 June 2022 – The applicant advises Council that it has concerns about its ability to deliver the public benefits under the VPA offer as endorsed on 28 March 2022, due to Council's additional resolution to impose more restrictive parking rates on the site under NSDCP 2013.

25 July 2022 – Council endorses a draft amendment to the car parking rates under NSDCP 2013 where a site has a high accessibility to mass public transport, to minimise traffic generation and maximise the uptake of active transport, and place that amendment on public exhibition. These proposed rates were less restrictive than those previously proposed.

2 August 2022 – Council receives a formal request from the applicant to amend the draft VPA offer and amend the proposed car parking rates under the site-specific draft amendment to

NSDCP 2013.

9 August 2022 – Council submits a Gateway Determination Alteration Request to the DPE, seeking an amendment to the specified timeframes to enable the applicant to amend aspects of their proposal prior to it going on public exhibition.

22 August 2022 – Council resolves to support the additional minor amendments to the draft VPA offer and proposed car parking rates under the site-specific draft amendment to NSDCP 2013 for the purposes of public exhibition.

26 August 2022 – DPE issues a Gateway Determination Alteration to enable an extension to the timeframes set within the Determination (Attachment 2).

9 March 2022 – Council requests a Gateway Determination Alteration to extend various timeframes in acknowledgment of the extended exhibition process required over the Christmas period, concerns raised by the proponent and a number of resourcing issues (Attachment 3).

6 April 2023 – DPE issues a Gateway Determination Alteration to enable an extension to the timeframes set within the Determination (Attachment 4).

## **Report**

### **1. Issue of Gateway Determination**

On 1 June 2022, the DPE issued a Gateway Determination (refer to Attachment 1) enabling the Planning Proposal to proceed to the public exhibition of the plan-making process subject to satisfying seven conditions. The Gateway Determination was altered on 26 August 2022 (refer to Attachment 2) to extend the timeframes within which to complete certain aspects of the plan-making process.

A request for a Gateway Alteration (Attachment 3) was submitted to the DPE by Council on 9 March 2023, to further extend the timeframes within which to complete certain aspects of the plan-making process. A decision on this request had not been made at the time of writing this report.

### **2. Assessment against Gateway Determination Conditions**

The seven conditions imposed on the Gateway Determination, as altered, are addressed in the following subsections.

#### **2.1. Amendment of Planning Proposal prior to public exhibition**

Condition 1 of the Gateway Determination required the Planning Proposal to be amended prior to being placed on public exhibition. In particular, the following matters were to be addressed:

- a) *provide consistency and clarification throughout the planning proposal regarding the height sought by the planning proposal is a maximum height of RL115, where the reference scheme provides for a maximum height of RL 113.8;*
- b) *address the reissued and updated 9.1 Ministerial directions of 1 March 2022, remove revoked directions;*
- c) *provide further justification for 1.4 Site Specific Provisions;*
- d) *address the consolidated and updated SEPPs of 1 March 2022;*
- e) *include an advisory note referencing the Employment Zones Reform Framework and noting the proposed translation of employment zones as it relates to the proposed amendments. Include a table within the planning proposal that clearly demonstrates the information required in the table template for changes within an industrial or business zone for each of the following options:*
  - *the amendment or introduction of a local provision; and*
  - *Schedule 1 Additional Permitted Uses.*
- f) *revise to address consistency with the Council endorsed Ward Street Precinct Masterplan preferred 'Option 2' in lieu of 'Option 1' (p.37);*
- g) *provide clear proposed mapping as the images in the amended planning proposal are of a poor resolution;*
- h) *update the Visual Assessment Report to include an illustrative assessment of the view impacts to residential properties located to the west of 45 McLaren Street located on McLaren and Miller Streets;*
- i) *provide the number of jobs that may be created as result of the changes to the planning controls on the site;*
- j) *reflect the new LEP Making Guidelines (Dec 2021) taking effect; and*
- k) *include an updated timeline based on the issuing of the Gateway determination.*

The applicant revised the Planning Proposal (Attachment 5) to address all identified matters to Council's satisfaction prior to being placed on public exhibition.

## **2.2. Public Exhibition**

Condition 2 of the Gateway Determination required that the Planning Proposal be placed on public exhibition for a minimum of 28 calendar days, with the commencement of the public exhibition to occur within six months following the date of the Gateway Determination (as altered). The Planning Proposal was placed on public exhibition for a total period of 57 calendar days or 26 working days<sup>1</sup> in accordance with this Condition. The public exhibition commenced on 21 November 2022, which was less than six months after the Gateway Determination was issued and thereby complies with the Condition.

## **2.3. Consultation with Public Bodies**

Condition 3 of the Gateway Determination stated that the Planning Proposal required referral to the following public authorities and government agencies:

- Transport for NSW (TfNSW);
- Ausgrid;
- Sydney Water Corporation;

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<sup>1</sup> As defined under the DPE's Local Environmental Plan Making Guideline (December 2021)

- NSW Department of Education; and
- NSW Department of Health – Northern Sydney Local Health District.

The Planning Proposal was referred to the above public authorities on 11 November 2022 through the NSW Planning Portal. Responses were only received from Sydney Water Corporation, NSW Department of Health and Transport for NSW. Their responses are summarised in the following subsections.

### **2.3.1. Sydney Water Corporation**

No objection was raised regarding the Planning Proposal, noting that there are appropriate services located in the vicinity of the site, and that matters of augmentation and upgrading can be addressed at the development application stage.

### **2.3.2. NSW Department of Health – Northern Sydney Local Health District**

No objection was raised about the Planning Proposal.

### **2.3.3. Transport for NSW**

No objection was raised regarding the Planning Proposal, noting the proximity of the site to Victoria Cross metro station (under construction) and North Sydney train station, low traffic generation potential, and limited on-site car parking provision (total 70-80 spaces).

## **2.4. Public Hearing**

Condition 4 of the Gateway Determination did not require the undertaking of a public hearing, in accordance with s.3.34(2)(e) of the EP&A Act. However, the Condition stated that this did not remove the need to undertake a public hearing in relation to the reclassification of land under the Local Government Act, 1993.

The Planning Proposal does not seek to reclassify any land under the Local Government Act, 1993 and therefore did not warrant the holding of a public hearing under s.3.34(2)(e) of the EP&A Act.

## **2.5. Council as planning proposal authority**

Condition 5 of the Gateway Determination stated that Council, as the planning proposal authority, is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) *the planning proposal authority has satisfied all the conditions of the gateway determination.*
- (b) *the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and*
- (c) *there are no outstanding written objections from public authorities.*

Compliance with these requirements is addressed in the following subsections.

### **2.5.1. Satisfaction of Conditions**

As demonstrated within Section 2 of this report, Council has complied with all conditions imposed.



### **2.5.2. Ministerial Directions**

In issuing the Gateway Determination, the DPE did not raise any issue with the Planning Proposal's compliance and consistency with the Ministerial Directions. Whilst it is acknowledged that the DPE suggests that the Planning Proposal was inconsistent with Direction 1.3 (Approval and Referral Requirements) as part of its Gateway Assessment Report, it is believed that this was made in error, as the proposal does not seek to include provisions within the LEP requiring the referral of development applications to public authorities for concurrence, consultation, or referral.

### **2.5.3. Outstanding Objections**

Of the responses received from the public authorities, none have objected to the progression of the Planning Proposal. Therefore, there are no outstanding objections to be resolved.

### **2.5.4. Summary**

As Council has not been able to meet criteria (a) to the Condition, Council is no longer entitled to be the Local Plan Making Authority, defaulting back to the DPE for finalisation. However, should the DPE issue a Gateway Alteration in response to Council's request of 9 March 2023, Council will have the ability to satisfy this condition.

### **2.6. Council Reporting Timeframe**

The altered Condition 6 of the Gateway Determination, states that the Planning Proposal "must" be reported to Council for a final recommendation, eleven months (1 May 2023) from the date of the Gateway Determination.

The post-exhibition report is being reported to Council approximately ten months after the issue of Gateway Determination and is therefore consistent with the altered Gateway Determination.

### **2.7. Completion Timeframe**

The altered Condition 7 of the Gateway Determination, requires that an LEP that implements the intent of the Planning Proposal "should" be made within 13 months (1 July 2023) of the issuing of the Gateway Determination.

Based on a review of the LEP-making processes of former LEP amendments of similar complexity, it is anticipated that this amendment could be made within the required approximately two months window included in this condition.

## **3. Public exhibition**

The Planning Proposal (Attachment 5), draft VPA (Attachment 6) and draft amendment to NSDCP 2013 (Attachment 7) were placed on public exhibition concurrently for 57 calendar days (or 28 "working days"), from Monday 21 November 2022 to Monday 16 January 2023.

Approximately 2,000 property owners and occupiers located in the vicinity of the site were directly notified (by letter) of the public exhibition of the Planning Proposal. In addition, formal notices were placed on the NSW Planning Portal and Council's website in accordance

with the Environmental Planning and Assessment Act, 1979, and Council's Community Engagement Strategy. Electronic copies of the exhibition documentation were made available on Council's website and the NSW Planning Portal for the entirety of the exhibition period, and hard copies were made available at Council's Customer Service Centre and Stanton Library.

#### **4. Consideration of Submissions**

17 submissions were received in response to the public exhibition of the Planning Proposal, draft VPA and draft amendment to NSDCP 2013, with:

- two submissions supporting the intent of the proposal; and
- 15 submissions objecting to the intent of the proposal.

Of those who objected to the proposal, the following reasons were provided:

- traffic impacts (13);
- overshadowing and solar access impacts (11);
- loss of vegetation and landscaping (11)
- loss of visual privacy (10)
- loss of views (9);
- amenity impacts (7)
- consistency with Council resolutions and policies relating to the Ward Street Precinct Masterplan (7);
- overdevelopment (3);
- cumulative impacts (3);
- loss in property values (3)
- construction impacts (2);
- supply of commercial floor space (2);
- visual impact on CBD skyline (1)
- competition for on-street carparking (1)
- impacts on local heritage (1);
- lack of carparking provision (1)
- use and ownership of the through-site link across 144-152 Walker Street (1)
- construction damage (1);
- housing affordability (1); and
- geological suitability of the site (1).

One submission also suggested additional amendments to draft amendment to NSDCP 2013:

- reducing the minimum podium wall setback to Walker Street;
- reducing the minimum above-podium wall setback to Walker Street;
- increasing the minimum balcony encroachment controls to McLaren Street;
- revising the basement setback controls to Walker Street;
- reducing the above-podium setback to the southern boundary; and
- alternative carparking requirements.

A summary and response to all submissions received are contained in the Submissions Summary Table (Attachment 10). It is advised that the recommendations outlined in the Submissions Summary Table be adopted as part of this report.

The proposal was considered by the Stanton Precinct Committee on 6 December 2022. The Committee heard views in support of the development, and others who consider the increased development and modest financial contribution inappropriate. No vote was taken, with individual residents encouraged to make individual submissions. No formal submission was made by the Precinct.

The following key issues were raised in the submissions, and are discussed in subsequent subsections:

- traffic impacts (13);
- overshadowing and solar access impacts (11);
- loss of vegetation and landscaping (11);
- loss of visual privacy (10);
- loss of views (9);
- amenity impacts (7); and
- consistency with Council resolutions and policies relating to the Ward Street Precinct Masterplan (7);

#### **4.1. Traffic**

13 submissions objected on the basis that the proposal would result in unacceptable traffic impacts on the locality. Furthermore, those submissions stated that the Traffic Impact Assessment was incorrect and inadequate because:

- cumulative impacts have not been considered (such as 168 Walker Street and 173-179 Walker Street and proposed school at 41 McLaren Street);
- traffic volumes on Walker and McLaren Streets had been misrepresented;
- it did not consider impacts associated with the operation of nearby schools;
- traffic generation of the site was underestimated;
- traffic volume splits on local roads were incorrect; and
- it did not consider vehicular and pedestrian movements associated with the new Metro Station.

##### **4.1.1. Comment**

Some of the issues raised in the submissions were based on a misreading of the information presented in the Traffic Impact Assessment. For instance, there was confusion between the traffic volume split on the road itself, as opposed to the direction and split of traffic generated by the proposal.

The Traffic Impact Assessment suggests that the concept proposal would contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which typically experienced by residents. Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.

Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When redevelopment of 168 Walker Street was approved, despite a change from a fully commercial building to a mixed-use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes the impacts from the redevelopment of 168 Walker Street.

At the time the traffic report was prepared, it was not reasonable to include traffic generation associated with the proposed developments at 173-179 Walker Street or 41 McLaren Street, as there was (and remains) no certainty as to the future outcomes of those sites, which is consistent with the approach taken by the Land and Environment Court. Notwithstanding, nothing prevents Council from requesting a further analysis incorporating newer developments at the development application stage, to ensure that the site's traffic generation does not adversely impact the surrounding road system.

It is further recognised that Transport for NSW has not raised an objection to the progression of the planning proposal because of the proposal's proximity of the site to the Victoria Cross Metro Station (under-construction) and North Sydney train station, low traffic generation potential, and limited on-site car parking provision (total 70-80 spaces).

#### **4.1.2. Recommendation**

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.

#### **4.2. Overshadowing / Solar Access**

11 submissions objected on the basis that the proposal would result in a loss of solar access to existing buildings in the surrounding area, particularly to the development at 144-152 Walker Street, immediately to the south of the subject site.

One submission stated that the proposal would also reduce the solar access to the through-site link which is dark, damp, and potentially dangerous for those wishing to use it.

Many suggested that the proposal be reduced in height, and incorporate a sufficient setback to maintain the existing level of solar access to adjoining residences.

##### **4.2.1. Comment**

The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact, largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.

Due to most apartments (approximately 80%) within 144-152 Walker Street having both eastern and western walls, the majority of the apartments receive in excess of two hours of sunlight at the Winter Solstice. This is consistent with the minimum requirement under the NSW Department of Planning's Apartment Design Guide (ADG) in a dense urban area. It is possible that a higher percentage of compliance may be achieved at the development application stage.

It was further noted that some submitters suggested that the proposal would result in the overshadowing of 221 and 229 Miller Street, and 138 Walker Street. However, the proposal is incapable of overshadowing these properties, as the proposal's shadows are contained within the existing shadows cast by 168 Walker Street, 41 McLaren Street, and 144-152 Walker Street.

Despite, there being an increase in overshadowing to adjoining properties, it will be generally consistent with best practice in a dense urban area such as North Sydney.

#### **4.2.2. Recommendation**

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.

#### **4.3. Vegetation and Landscaping**

11 submissions objected to the proposal on the basis that the proposal would result in a loss of eight mature canopy trees, and that an insufficient landscaping is provided. Two submissions stated that the existing vegetation along the southern boundary of the site should be retained to provide increased privacy to 144-152 McLaren Street.

##### **4.3.1. Comment**

The proposal seeks to rezone the land from *R4 High Density Residential* to *B4 Mixed Use*. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry, and Miller Streets.

There is no minimum landscape requirement for development in the *B4 Mixed Use* zone, as development in this zone typically covers 100% of a site. However, the draft amendment to NSDCP 2013 includes a proposed requirement for a landscaped setback to Walker Street, to provide a consistent streetscape along the western side of Walker Street. Therefore, despite an initial loss of vegetation across the site, there will be opportunities to reinstate vegetation on the site, reflective of the proposed development.

##### **4.3.2. Recommendation**

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.

#### **4.4. Privacy**

10 submissions suggested that the proposal would result in a loss of privacy for existing buildings in the surrounding area, particularly to the development at 144-152 Walker Street, immediately to the south of the subject site.

##### **4.4.1. Comment**

The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing, and/or privacy screens.

#### 4.4.2. Recommendation

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.

#### 4.5. Views

Nine submissions suggested that the proposal would result in view loss to surrounding apartments. Of those submissions, five stated that the View Analysis Report is inadequate and does not properly assess view loss to surrounding apartments.

##### 4.5.1. Comment

The location of the submitters' properties located with respect to the subject site, and the primary view shed are identified in Figure 1 below.

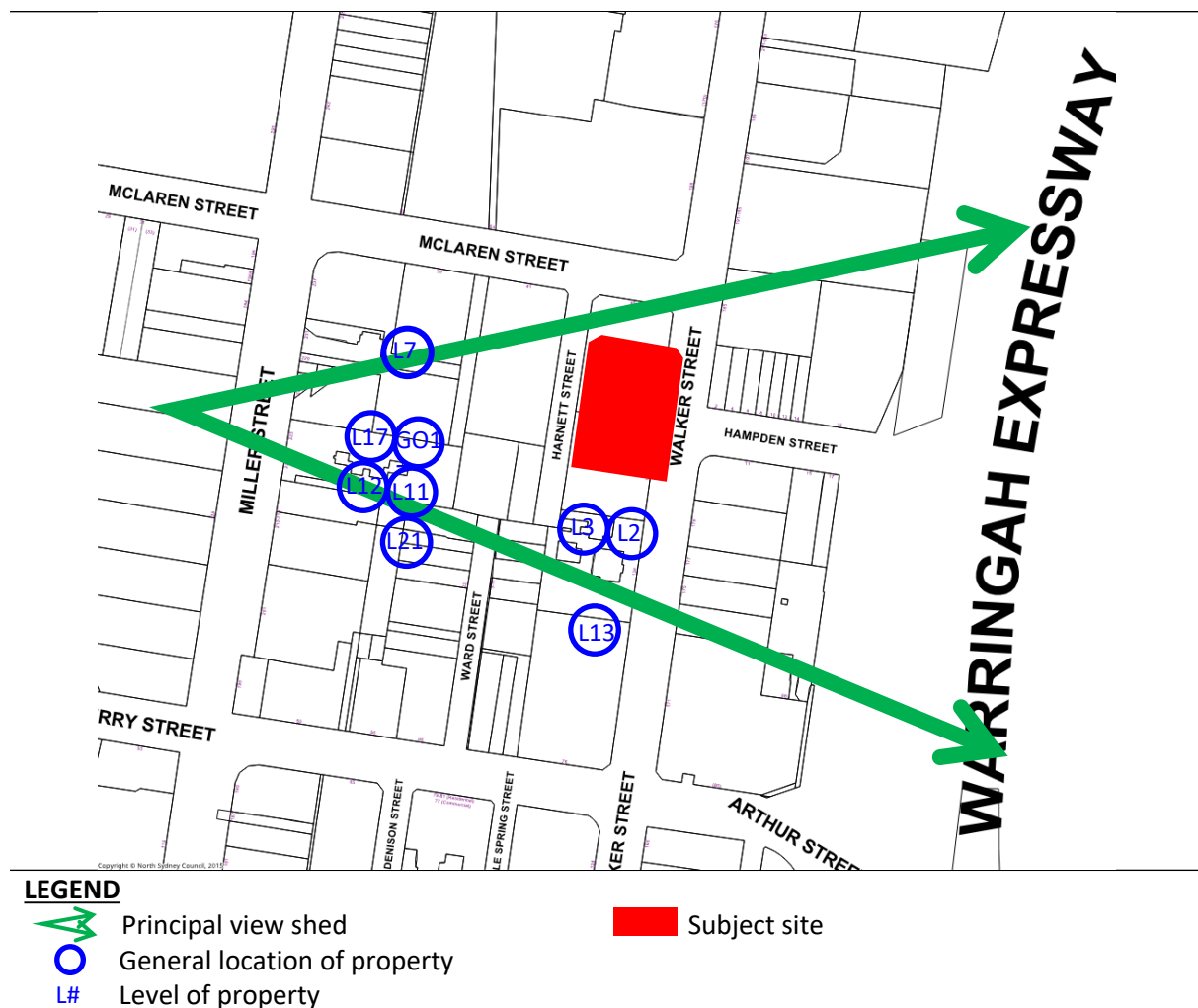


Figure 1: General view shed from the locality

When Council initially undertook its assessment regarding view loss, it identified a shortcoming with the View Analysis Report in that it did not adequately address the impacts on properties located to the west of the subject site, fronting McLaren and Miller Streets.

In accordance with the Gateway Determination, an addendum report was prepared to supplement the previous assessment. In particular, it investigated the impacts upon the properties to the west of the site at 229 and 239 Miller Street, and 39 McLaren Street. This

addendum was attached to the end of the original assessment and exhibited with the planning proposal.

The assessment concluded that impacts to these buildings will be minimal, with most of the bulk of the proposed building envelope hidden behind the development at 41 McLaren Street. Accordingly, an adequate level of assessment has been provided. Whilst it is acknowledged that some level of impact will occur on the lower levels of these neighbouring buildings, the envisaged envelope enables the sharing of views to the upper levels.

View loss to the properties located to the south of the subject site is negligible. This is due to the development located immediately to the north of the subject site at 168 Walker Street: once completed, it will be significantly taller and wider than the envisaged development on the subject site. Therefore, the development will only be able to be seen in the foreground of the development at 168 Walker Street, with no view beyond.

#### **4.5.2. Recommendation**

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.

#### **4.6. Amenity**

Seven submissions objected to the proposal on the basis that it would reduce amenity of the locality or to adjoining properties.

##### **4.6.1. Comment**

Where amenity to a locality was mentioned, it generally related to higher-level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion, accessibility, and adaptability. The majority of these issues are addressed elsewhere in this report.

##### **4.6.2. Recommendation**

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.

#### **4.7. Consistency with Council resolutions and policies relating to the Ward Street Precinct Masterplan**

Seven submissions objected to the proposal on the basis that it was inconsistent with former Council resolutions, and the adopted Ward Street Precinct Masterplan. In particular, it was stated that the proposal is inconsistent with the Council resolution of 24 June 2019:

*THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:*

- i) Minimise solar reductions upon new public domain as identified in the Masterplan*
- ii) Minimise solar and privacy impacts upon existing residential development. ...*

The submitters felt that the proposal was inconsistent with the first requirement, as the proposal would still overshadow the future public domain spaces with the Ward Street Precinct. In addition, they felt that the proposal would result in a complete loss of solar access

to the living areas of 144-152 Walker Street, where many work from home or spend considerable hours of the day inside.

Several submissions stated that a maximum of eight storeys should be applied to the site, provided that the privacy and overshadowing impacts to 144 -152 Walker Street are also removed. This would be consistent with the report (June 2019), in which the Strategic Planning Manager stated:

*The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.*

It was further suggested that a reduction in height would also reduce new traffic generated by the proposal.

#### **4.7.1. Comment**

The key premise for Council supporting the progression of the Planning Proposal to Gateway Determination was based on addressing two specific questions to Council's resolution of 24 June 2019.

The proposal does not result in any overshadowing of the future southern Central Square at key usage times and the extent of overshadowing to the future northern Green Square is minimal, consistent with the intent of the Ward Street Precinct Masterplan and recently imposed requirements (2022) under NSDCP 2013. This has largely been achieved by stepping the building down with the fall of the land.

Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which generally complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.

The comments made by the Manager of Strategic Planning's (i.e., "2-8 storeys") were a reflection of the existing building heights across three sites, and the recommendation to proceed with Option 2 under the Masterplan (i.e., no uplift to the north-east corner of the Precinct). However, Council's resolution of 24 June 2019 ultimately opened an opportunity to revisit the development potential of 45 McLaren Street subject to meeting a number of amenity criteria.

Council staff are still of the opinion that the proposal adequately satisfies these criteria, especially given that no further amendments have been made to the proposal's built form since its consideration to proceed to Gateway Determination.

#### **4.7.2. Recommendation**

That the Planning Proposal and draft amendments to NSDCP 2013 be retained unamended.



## **5. Amendment of the Planning Proposal**

Section 3.35 of the EP&A Act states that the planning proposal authority may, at any time, vary its proposals as a consequence of its consideration of any submission or report during community consultation or for any other reason. However, if it does so, it must forward the planning proposal to the Minister to determine if further community consultation is required.

It is not recommended to amend the Planning Proposal as a result of consideration of the submissions.

## **6. Authorisation to Make the Plan**

In issuing the Gateway Determination, the DPE granted Council delegation to be the local plan-making authority to finalise the making of the LEP amendment giving effect to the Planning Proposal (refer to Attachment 1).

Given that all timeframes included in the altered Gateway Determination should, be complied with, Council would retain the Local Plan Making Authority role.

## **7. Draft amendment to NSDCP 2013**

A draft amendment to NSDCP 2103 was exhibited concurrently with the Planning Proposal to ensure consistency with the proposed NSLEP 2013 amendments.

### **7.1. Setbacks**

The applicant of the Planning Proposal objected to a number of the setback controls contained within the draft DCP amendment on the basis that the controls did not reflect the adopted reference design scheme. In particular, objection was raised with regard to:

- above podium setbacks to McLaren Street;
- whole of building setbacks to Walker Street;
- above podium setback to Walker Street;
- basement setbacks to Walker Street; and
- above podium setback to the southern boundary.

The primary justification for amending the controls related to the entire site being out of square, meaning that it would be impractical to construct a building parallel to all boundaries. Accordingly, the reference scheme has varied setbacks to its street boundaries, particularly McLaren and Walker Streets.

Each of these issues are discussed in turn. In addressing these issues, it should be recognised that Council has not approved or endorsed the reference scheme, but the built form envelope controls applying to the subject site forming part of the Planning Proposal and associated DCP amendments. The reference scheme is solely to illustrate what may be achieved under the proposed controls.

### **7.1.1. Above Podium Setbacks to McLaren Street**

The draft amendment to NSDCP 2013 requires all parts of a building located above the podium level to be setback a minimum 3m from the McLaren Street frontage. In addition, the draft amendment includes a provision that enables balconies to encroach into this setback area, but only if the balconies are setback a minimum of 1m from the McLaren Street frontage, their combined widths do not exceed a maximum of the 50% of the building's elevation to McLaren Street and they are generally "open" in form (i.e., not enclosed).

The applicant has advised that the balconies fronting McLaren Street as illustrated in the reference scheme have a minimum setback of 900mm to McLaren Street and have a combined width representing 51% building's elevation to McLaren Street. It has been requested that the proposed DCP controls be amended to reflect these measurements.

#### **Comment**

During the assessment of the Planning Proposal, Council raised concern with the built form as it presents to McLaren Street. As part of this assessment, the proposal was reviewed by Council's Senior Strategic Planner, Urban Design with the following comments made with regard to the bulk and scale of the proposal:

#### ***Balconies on McLaren Street***

*The proposal notes that balconies along McLaren Street will project beyond the 3m setback and the design scheme shows two balconies per floor from Level 4.*

*Minor extrusions beyond the 3m setback are considered reasonable, however balconies should not be enclosed or run the entire width of the McLaren Street façade. This will ensure that the balconies do not add to the overall bulk of the proposal.*

In light of this advice, Council's assessment report of 28 March 2022 further stated:

*Additional controls could be included in a future site specific DCP amendment to ensure any balconies fronting McLaren Street remain minor elements of the façade.*

Consistent with the concerns raised by Council's Senior Strategic Planner, Urban Design, the proposed controls were established to ensure any projections are minimal, and do not significantly add to the bulk of the building. These controls were also generally consistent with the reference scheme and degree of existing encroachments elsewhere along the southern side of McLaren Street.

Given that Council has already allowed a reasonable level of encroachment into the primary above-podium setback requirement, it is not appropriate to further erode this requirement in this instance.

Furthermore, as the reference scheme's degree of non-compliance is minimal (100mm), there is adequate scope for a future development to fully comply with this requirement at the development application stage.

### **Recommendation**

No amendment be made to the encroachment clause to the above podium setbacks to McLaren Street.

#### **7.1.2. Whole of building setbacks to Walker Street**

The draft amendment to NSDCP 2013 requires a minimum 5.5m whole of building setback to Walker Street.

The applicant has advised that the eastern podium of the reference scheme is setback between 5m at its northern end and 5.3m at its southern end. It is requested that the setback control be amended to be a minimum of 4.95m.

### **Comment**

The setback control was initially imposed to ensure that a consistent setback is provided to Walker Street congruent to the existing prevailing setback of buildings on the western side of Walker Street, particularly those at 144-152 Walker Street.

In early 2021, Council commenced the preparation of an amendment to NSDCP2013 to implement the outcomes of the Ward Street Precinct Masterplan.

On 2 May 2022, Council resolved to amend the setback controls for development on the western side of Walker Street, located north of 76 Berry Street within the North Sydney CBD Locality Area under NSDCP 2013 (n.b., 45 McLaren Street is currently within a different Locality Area and therefore not subject to the same controls). The setback was reduced from 7m to 5m to reflect the predominant alignment of the heritage dwellings at 144-152 Walker Street and to continue the recognition of the residentially zoned land on the eastern side of the street.

It does not make sense to impose a different setback requirement for 45 McLaren Street when a 5m minimum setback applies to properties located immediately to the north and south of 45 McLaren Street. Accordingly, to ensure a more consistent application of the desired setback it is recommended that the same setback requirement be applied to 45 McLaren Street.

The reference scheme's degree of non-compliance with a minimum 5m setback is minimal (50mm) and there is adequate scope for a future development to fully comply with this requirement at the development application stage.

### **Recommendation**

That the minimum podium setback requirement to Walker Street be reduced from 5.5m to 5m.

#### **7.1.3. Above Podium setbacks to Walker Street**

The draft amendment to NSDCP 2013 requires a minimum 10.35m above podium setback to Walker Street measured from the property boundary. It effectively comprises a 4.85m setback from the eastern façade of the podium level.

The applicant has advised that the eastern podium of the reference scheme is setback between 9.85m at its northern end and 10.15m at its southern end. It is requested that the setback control be amended to be a minimum of 9.8m from the property boundary.

### **Comment**

The setback control was initially imposed to ensure that a consistent setback is provided to Walker Street consistent with the reference design.

As discussed in section 7.1.2 above, it is proposed to amend the podium setback controls to be more consistent with that applied to the north and south of the subject site.

However, applying this to the above podium setback does not guarantee a consistent setback above the podium, given the reference design is not parallel to the Walker Street frontage.

To provide greater certainty, it is recommended that a setback control of 4.85m be applied, measured from the eastern façade of the podium facing Walker Street. This will enable a regularised built form.

### **Recommendation**

That the above podium setback requirement to Walker Street be amended from a minimum of 10.35 as measured from the Walker Street boundary to a minimum of 4.85m from the eastern façade of the podium facing Walker Street.

#### **7.1.4. Basement setbacks to Walker Street**

The draft amendment to NSDCP 2013 requires a minimum 5.5m setback to Walker Street for any basement component to enable the delivery of a landscaped setback. An additional clause was also drafted to enable a basement to encroach into the setback requirement subject to delivering a minimum soil depth.

The applicant has requested the following amendments to the proposed setback control (~~red strikethrough~~ a deletion and blue underline an insertion):

*P14 ~~Any basement structure should be setback at least 5.5m to Walker Street, The upper level of the southern portion of the basement should be setback, generally below the building footprint of the residential terraces, to accommodate provision of deep soil zones to accommodate trees and vegetation of a scale reflective with the scale of the proposed future development of the site.~~*

*~~P15 Despite P1, a basement may be permitted within the setback area to Walker Street, but only where there is soil depth of at least 1.5m is provided below the alignment of the adjoining footpath on Walker Street.~~*

### **Comment**

As indicated at section 7.1.2 to this report, it is recommended that the minimum podium setback to Walker Street be reduced from 5.5m to 5m to ensure the provision of consistent setback controls along the length of Walker Street, north of Berry Street. It would be unreasonable to impose a different setback control on the basement, as basements typically follow the alignment of the building above to achieve better economies in construction layout

and costs. On this basis, it is recommended that the minimum basement setback be reduced from 5.5m to 5m to be consistent with the recommended amendment to the podium level setback as discussed at section 7.1.2 to this report.

The encroachment clause as drafted is very prescriptive through the imposition of numerical controls and does not provide any flexibility. Due to the substantial fall in topography along the site's Walker Street frontage, strict compliance with the numerical requirement could result in potential awkward stepping within the basement levels both horizontally and vertically, that could affect the basement layout and inadvertently add to construction costs.

It is therefore recommended that a more performance-based solution be provided, whereby the onus is placed on the applicant to adequately demonstrate that sufficient soil depth can be provided to enable the growth of vegetation within the Walker Street setback to compliment the scale of the future development on the site.

### **Recommendation**

That the subject clauses to the draft DCP amendment be revised as follows (~~red strikethrough~~ a deletion and blue underline an insertion):

- P1 Any basement structure should be setback at least ~~5.5m~~ 5m to Walker Street, to accommodate provision of deep soil zones to accommodate trees and vegetation of a scale reflective with the scale of the proposed future development of the site.*
- P2 Despite P1, a basement may be permitted within the setback area to Walker Street, but only where ~~there is soil depth of at least 1.5m is provided below the alignment of the adjoining footpath on Walker Street~~ it can be adequately demonstrated that the setback area is predominantly soft landscaped and is capable of accommodating trees and vegetation of a scale reflective of the proposed future development on the site.*

### **7.1.5. Above podium setback to southern boundary**

The draft DCP amendment requires a minimum 4.5m setback for all parts of the building located above the podium level.

The applicant has requested a reduction to the above podium setback from 4.5m to 4.2m.

### **Comment**

The proposed above podium setback requirement was established from the consideration of the minimum required setback and building separation controls under the Apartment Design Guide (ADG) which is to be considered in conjunction with *SEPP 65 – Design Quality of Residential Apartment Development*. The setback controls generally comprise half the requirement of the building separation controls.

The ADG requires at least a minimum building separation of 9m between non-habitable rooms for buildings up to 8 storeys in height (Section 2F – Building Separation), representing at least a 4.5m setback from the boundary. The ADG also states that in setting side setbacks, consider increasing those setbacks on sloping sites where new development is uphill, to minimise overshadowing and assist with visual privacy.

The northern façade to 144-152 Walker Street is setback approximately 1.5m from the northern boundary for the podium levels and 4.5m for levels above the podium. Windows on the northern façade of 144-152 Walker Street relate to open plan living/dining rooms and separate family rooms to all dwellings above the podium level. Within the podium level, the windows on the northern side relate to balconies located in front of living rooms which have no other means to obtain solar access.

Whilst it is acknowledged that the southern wall of a future building on the subject site could be devoid of windows thereby negating privacy impacts, further reducing the minimum setback as recommended by the ADG would result in reduced solar and daylight access to dwellings within the building at 144-152 Walker Street, as it fronts Hampden Street. This is further exacerbated by the subject site’s elevation above the property to the south.

Accordingly, it is not recommended to amend the above podium setbacks to the southern boundary as it would exacerbate amenity impacts upon dwellings at 144-152 Walker Street.

**Recommendation**

That no change be made to the above podium setback to the southern boundary under the proposed amendment to NSDCP 2013.

**7.2. Carparking Rates**

The draft amendment to NSDCP 2013 imposes the following maximum car parking rates on the subject property:

TABLE C-2.1: Parking Rates		
Development type		Maximum Parking Rate
Residential accommodation	Studio / 1 bedroom	0.4 spaces / dwelling
	2 bedrooms	0.6 space / dwelling
	3 or more bedrooms	0.7 spaces / dwelling
Non-residential development		1 space / 400sqm of non-residential GFA

These rates reflect those which were recently publicly exhibited as part of a broader parking policy reform in high accessibility areas. The subject site is located within a high accessibility area, being located within 150m of the northern entry to the Victoria Cross Metro Station.

The applicant objects to the proposed rates and has requested the implementation of one of the following amendments:

- (a) deletion of the site-specific car parking rates in their entirety; or
- (b) inclusion of a further statement that allows either the site-specific DCP rates or the prevailing North Sydney DCP controls applicable at the time a development

- application is submitted, whichever rate delivers the higher amount of on-site car parking; or
- (c) in addition to the site-specific parking rates, incorporation of:
- (i) A visitor parking rate of 0.25 spaces per dwelling; and
  - (ii) A car spare space at 0.15spaces per dwelling; and
  - (iii) A EV charging station at 0.1 spaces per dwelling.

The applicant's justification provided for the amendments can be summarised as follows:

- the proposed rates will create confusion within the community, due to:
  - the proposed amendments to the draft DCP are intended to relate to "site-specific" matters only and not guide matters that relate to broader LGA wide issues, such as car parking;
  - the concurrent and broader LGA wide draft amendments to carparking not being finally resolved;
- the proposed rates will create unintended impacts on the broader community, including:
  - increased pressure to on-street parking;
  - a lack of car parking amenity for young families with children as well as the elderly,
  - an erosion of pedestrian friendly streets due to overcrowding of cars searching for car parking;
- inconsistent planning practice, as site specific parking rates have not been imposed for other properties; and
- will reduce the monetary contribution under the associated Voluntary Planning Agreement.

### **7.2.1. Comment**

#### **Confusion**

Council has completed its public exhibition of the broader parking reform within high accessibility areas and will be considering the outcomes of this project at the same meeting as this report.

The broader parking reform report recommends that Council proceed with revised parking rates in high accessibility areas. In response to submissions made, the proposed rates are recommended to be further revised to enable a higher level of off-street parking to be provided, than that exhibited. In particular, the report recommends that the parking rates be amended as follows:

- 2-bedroom apartments – increased from 0.6 spaces per dwelling to 0.7 spaces per dwelling; and
- 3+ bedroom apartments – increased from 0.7 spaces per dwelling to 1 space per dwelling.

Should Council resolve to adopt these revised parking rates, then site specific rates as they relate to 45 McLaren Street will be inconsistent with the adopted broader policy position. Therefore, should Council resolve to adopt these revised parking rates in high accessibility

areas, it is recommended that the site-specific parking rates be removed from draft DCP amendment.

However, should Council not resolve to adopt the broader revised parking rates in high accessibility areas as recommended, then the site-specific parking rates as exhibited should remain, but include a change to the rates as follows:

- 2-bedroom apartments – increased from 0.6 spaces per dwelling to 0.7 spaces per dwelling; and
- 3+ bedroom apartments – increased from 0.7 spaces per dwelling to 1 space per dwelling.

These revised site-specific parking rates can then be removed at a later stage once Council resolves its position in relation to the broader parking reforms in high accessibility areas, to improve consistency and clarity.

### **Community Impacts**

The issues raised with regard to the suggested community impacts are overemphasised. There appears to be a presumption that everyone wants to own a car, which is not necessarily the case: Council's research indicates that 20% of households in and around the North Sydney CBD are car-free households.

When people purchase an apartment, they are conscious of the level of parking allocated to that apartment and the potential availability of long-term parking in the locality. People will also consider reducing their level of car ownership where the dwelling is in a locality highly accessible to transport, services and facilities. It should also be noted that there is an abundance of parking infrastructure within the locality, for the occasional use of visitors and the like.

### **Planning Practices**

Council's Community Strategic Plan and North Sydney Transport Strategy both seek to minimise traffic generation as a key objective.

Whilst it is recognised that Council is seeking to impose a wider parking policy in high accessibility areas, nothing prevents Council from still striving to implement the key objectives of the Community Strategic Plan and North Sydney Transport Strategy on a case-by-case basis. The proposed site-specific rates that were exhibited were underpinned by substantive analysis which had formed part of the broader policy approach in high accessibility areas. Accordingly, the approach to their implementation is sound.

It is further noted, that Council had imposed site-specific parking rates consistent with the rates in the St Leonards / Crows Nest Area when it progressed the Planning Proposal for 27-57 Falcon Street, Crows Nest. Accordingly, the application of broader scale policies on a case-by-case basis to promote the key objectives of Council's higher order policies and plans is not a new approach. Such matters have also been considered in the progression of other planning proposals in the LGA.



### **Impact on Contributions**

Council acknowledged the potential impacts on the monetary contributions to the applicant's draft VPA offer when it resolved to support an amended draft VPA offer on 22 August 2022 for the purposes of public exhibition. In particular, the site-specific parking rates as exhibited could result in the value of the public benefit offer being reduced in the order of \$1.6m, depending upon the makeup of any future development approved on the site. Those funds would effectively reduce the quantum of money to be allocated to new community infrastructure within the Ward Street Precinct.

#### **7.2.2. Recommendation**

That the site-specific parking rates be removed from the draft DCP amendment, on the presumption that Council will resolve to adopt the broader parking reform policy in high accessibility areas. However, should Council not resolve to adopt the broader parking reform in high accessibility areas, then the rates as exhibited remain, with the minor exception that the rate for a 2-bedroom dwelling be revised from 0.6 spaces per dwelling to 0.7 spaces per dwelling and the rate for a 3+ bedroom dwelling be revised from 0.7 spaces per dwelling to 1 space per dwelling.

#### **7.3. Provision Numbers**

It was noted that the exhibited version of the draft DCP amendment contained some inconsistencies in the numbering of provisions. In particular, it was noted that there was a continuation of provision numbers between subsections, when the provision numbers should have restarted at the commencement of each subsection.

To ensure a consistent numbering system, the numbering of provisions has been amended within Section 2.1.4 to the draft DCP forming Attachment 9 to this report.

##### **7.3.1. Recommendation**

Amend the provision numbers within Section 2.1.4 to the amendment of the DCP to ensure consistent numbering.

#### **7.4. Revised amendment to NSDCP 2013**

Attachment 9 incorporates the recommended amendments to the proposed amendments to NSDCP 2013.

### **8. Voluntary Planning Agreement (VPA)**

No submissions were received in response to the draft VPA as exhibited. It is recommended that delegation be granted to the General Manager to finalise and execute the VPA generally in accordance with that exhibited and that the VPA be executed before the LEP amendment is made.

### **Options**

Council has the following options in relation to this matter:

1. Progress with the making of an amendment to NSLEP 2013 giving effect to the Planning Proposal and adoption of the associated VPA and amendments to NSDCP 2013.

2. Not proceed with the making of an amendment to NSLEP 2013 giving effect to the Planning Proposal and adoption of the associated VPA and amendments to NSDCP 2013.

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	The progression of the Planning Proposal, VPA and amendment to NSDCP 2013 can be accommodated within existing budget lines.	Contributes to the provision of substantial public benefits. Enables the appropriate redevelopment of the site, which has been subject to years of negotiation between the applicant, property owners and Council.	No additional consultation is required. Submitters to be notified of Council's decision.
2.	Additional staff time may be required defend Council's refusal to proceed with the proposal with the DPE. Additional staff time to potentially reassess a new proposal.	Applicant may lobby DPE to progress the proposal contrary to Council's resolved position. Loss of the provision of substantial public benefits.	No additional consultation is required. Submitters to be notified of Council's decision.

Option 1, is recommended for the following reasons:

- Progression of the Planning Proposal, VPA and amendment to NSDCP 2013 can occur with minimal impact on Council finances and resources.
- Progression of the Planning Proposal, VPA and amendment to NSDCP 2013 will enable the suitable redevelopment of the site in the context of the existing planning framework and minimising impacts to adjoining properties.
- No further consultation is required other than to advise submitters of Council's resolution on the matter.

### Consultation requirements

Community engagement has occurred in accordance with Council's *Community Engagement Protocol* and the conditions of the Gateway Determination. The detail of this report provides the outcomes from the engagement for Council to consider prior to adoption.

## **Financial/Resource Implications**

Progressing and finalising the plan-making process for this Planning Proposal to amend NSLEP 2013 in the manner proposed represents a modest investment in Council resources. This can be accommodated within existing budget lines.

The recommendation to remove the site-specific parking rates and rely on the broader rates for properties located in high accessibility areas (recommended to be adopted at the same meeting as this report) will ensure that a higher monetary contribution can be achieved under the VPA to deliver facilities within the Ward Street Precinct.

## **Legislation**

The proposal's compliance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and accompanying Regulations (2021) have been addressed throughout this report.

## **Conclusion**

The Planning Proposal as publicly exhibited seeks to amend the planning controls to NSLEP 2013, to enable the site to be redeveloped for a mixed commercial and residential development. The proposal is also accompanied by a VPA to deliver a number of public benefits, and an amendment to NSDCP 2013 to incorporate site-specific controls to provide greater certainty as to the built form outcomes envisaged on the subject site.

In response to the submissions made, it is recommended that:

- the Planning Proposal proceed to the next stage of the plan making process unamended; and
- the VPA be executed with no additional changes to the scope of the public benefit offer; and
- the draft amendment to NSDCP 2013 as exhibited, be adopted subject to the following amendments:
  - revise the setback and landscaping requirements to Walker Street;
  - removal of the site-specific carparking rates to reflect that to be adopted by Council concurrently with this report in relation to high accessibility areas.



Department of Planning and Environment

Mr Ken Gouldthorp  
General Manager  
North Sydney Council  
PO Box 12  
NORTH SYDNEY NSW 2059

Our ref: IRF22/1456

Via email: [council@northsydney.nsw.gov.au](mailto:council@northsydney.nsw.gov.au)

Attention: Marcelo Occhiuzzi, Manager Strategic Planning

Dear Mr Gouldthorp

**Planning proposal PP-2022-1259 to amend North Sydney Local Environmental Plan 2013**

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the site at 45 McLaren Street, North Sydney to rezone the site, introduce a maximum FSR, introduce a minimum non-residential FSR and amend other clauses in the North Sydney LEP 2013.

As delegate of the Minister for Planning and Homes, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination. Council may need to update the planning proposal to address conditions of the Gateway determination and should ensure this occurs prior to exhibition.

The proposed local environmental plan (LEP) is to be finalised within 9 months of the date of the Gateway determination or before 28 February 2023. Council should aim to commence the exhibition of the planning proposal as soon as possible and within 3 months of the date of the Gateway determination.

In considering the nature of the planning proposal, I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to be made. A copy of the request should be forwarded to the Department of Planning and Environment.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the Local Environmental Plan Making Guideline (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Christina Brooks to assist you. Ms Brooks can be contacted on 9274 6045.

Yours sincerely



**1 June 2022**  
**Brendan Metcalfe**  
**Director, North District**  
**Metro Central and North**

Encl: Gateway determination



## Gateway Determination

**Planning proposal (Department Ref: PP-2022-1259):** to amend the North Sydney LEP 2013 as it applies to 45 McLaren Street, North Sydney by rezoning the site from R4 High Density Residential to B4 Mixed Use, increasing the height of buildings to part RL103 and part RL 115, introducing a maximum FSR of 6.25:1, introducing a minimum non-residential FSR of 1:1 and amending other associated provisions to permit residential development at ground level along Walker Street.

I, the Director, North District at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the North Sydney LEP 2013 Local Environmental Plan (LEP) 2013 to rezone the site, increase the height of buildings, introduce a maximum FSR, introduce a minimum non-residential FSR and amend other associated provisions should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be updated to address the following:
  - (a) provide consistency and clarification throughout the planning proposal regarding the height sought by the planning proposal is a maximum height of RL115, where the reference scheme provides for a maximum height of RL 113.8;
  - (b) address the reissued and updated 9.1 Ministerial directions of 1 March 2022, remove revoked directions;
  - (c) provide further justification for 1.4 Site Specific Provisions;
  - (d) address the consolidated and updated SEPPs of 1 March 2022;
  - (e) include an advisory note referencing the Employment Zones Reform Framework and noting the proposed translation of employment zones as it relates to the proposed amendments. Include a table within the planning proposal that clearly demonstrates the information required in the table template for changes within an industrial or business zone for each of the following options:
    - the amendment or introduction of a local provision; and
    - Schedule 1 Additional Permitted Uses.
  - (f) revise to address consistency with the Council endorsed Ward Street Precinct Masterplan preferred 'Option 2' in lieu of 'Option 1' (p.37);
  - (g) provide clear proposed mapping as the images in the amended planning proposal are of a poor resolution;
  - (h) update the Visual Assessment Report to include an illustrative assessment of the view impacts to residential properties located to the west of 45 McLaren Street located on McLaren and Miller Streets;
  - (i) provide the number of jobs that may be created as result of the changes to the planning controls on the site;
  - (j) reflect the new LEP Making Guidelines (Dec 2021) taking effect; and
  - (k) include an updated timeline based on the issuing of the Gateway determination.
  
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 days; and

- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within **3 months** following the date of the gateway determination.

3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:

- Transport for NSW (TfNSW);
- Ausgrid;
- Sydney Water Corporation;
- NSW Department of Education;
- NSW Department of Health – Northern Sydney Local Health District;

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, if reclassifying land).
5. Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
  - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
6. The planning proposal must be reported to council for a final recommendation **6 months** from the date of the Gateway determination.
7. The LEP should be completed within **9 months** of the date of the Gateway determination.

Dated 1<sup>st</sup> day of June 2022.



**Brendan Metcalfe**  
**Director North District**  
**Metro Central and North**  
**Department of Planning and Environment**  
**Delegate of the Minister for Planning and Homes**



Department of Planning and Environment

Mr Robert Emerson  
A/General Manager  
North Sydney Council  
PO Box 12  
NORTH SYDNEY NSW 2059

Our ref: PP-2021-1259/(IRF22/2813)

Via email: [council@northsydney.nsw.gov.au](mailto:council@northsydney.nsw.gov.au)

**Attention: Marcelo Occhiuzzi, Manager Strategic Planning**

Dear Mr Emerson

**Planning proposal PP-2022-1259 – Alteration of Gateway Determination**

I refer to your letter dated 9 August 2022 in relation to seeking an extension of timeframes to complete planning proposal PP-2022-1259 relating to 45 McLaren Street, North Sydney.

Condition 2 of the Gateway determination conditions the timeframe for commencing exhibition to be 3 months following the date of the Gateway determination. Council has advised that there may be a delay in the commencement of the exhibition for the proposal to allow Council to consider amendments to the VPA offer and the site specific development control plan. I also note that Condition 6 of the Gateway determination requires the planning proposal to be reported to Council for a final recommendation within 6 months following the date of the Gateway determination.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 1 June 2022. The Alteration of Gateway determination is enclosed. An extension of time for commencing exhibition and reporting back to council has been agreed, however this must be within the overall completion timeframe of the LEP within 9 months of the date of the Gateway determination by 1 March 2023.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the Gateway determination.

If you have any questions in relation to this matter, I have arranged for Mr Matthew Rothwell to assist you. Mr Rothwell can be contacted on 8275 1066.

Yours sincerely

A handwritten signature in blue ink that reads "Brendan Metcalfe".

**26 August 2022**  
**Brendan Metcalfe**  
**Director, North District**  
**Metro Central and North**  
Encl: Alteration of Gateway Determination





Department of Planning and Environment

## Alteration of Gateway Determination

*Planning proposal (Department Ref: PP-2022-1259)*

I, the Director, North District at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 1 June 2022 for the proposed amendment to the North Sydney Local Environmental Plan 2013 as follows:

1. Delete:

“condition 2”

and replace with:

new condition 2:

“Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:

(a) the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 days; and

(b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition must commence within **6 months** following the date of the Gateway determination.”

2. Delete:

“condition 6”

and replace with:

new condition 6: “The planning proposal must be reported to Council for a final recommendation **8 months** from the date of the Gateway determination.”

Dated 26<sup>th</sup> day of August 2022.

A handwritten signature in blue ink that reads "Brendan Metcalfe".

**Brendan Metcalfe**  
Director North District  
Metro Central and North  
Department of Planning and Environment  
Delegate of the Minister for Planning and Homes

PP-2022-1259/(IRF22/2813)



# NORTH SYDNEY COUNCIL

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Brendan Metcalfe  
 Director, North District  
 NSW Department of Planning and Environment  
 Locked Bag 5022  
 PARRAMATTA NSW 2124

Our Ref: PP6/20  
 BB3 (CIS)

(Submitted via the NSW Planning Portal)

9 March 2023

Dear Brendan,

**RE: PP-2022-1259 - 45 McLAREN STREET, NORTH SYDNEY  
 – GATEWAY ALERATION REQUEST (2)**

On 1 June 2022, the Department of Planning and Environment (DPE) issued a Gateway Determination for PP-2022-1259 (Council's ref PP06/20), which seeks to amend North Sydney Local Environmental Plan (NSLEP) 2013, by amending planning controls as they relate to 45 McLaren Street, North Sydney.

The Planning Proposal is also accompanied by an offer to enter a Voluntary Planning Agreement (VPA) to deliver a number of public benefits to the value of approximately \$5.8 million and supported by a site-specific draft amendment to North Sydney Development Control Plan (NSDCP) 2013 to provide greater certainty as to the built form outcomes envisaged on the subject site.

On 22 August 2022, the DPE granted an alteration to the Gateway Determination to extend the timeframes as to when the Planning Proposal should be exhibited by and when Council should make a determination as to whether to proceed with the Planning Proposal or not following the conclusion of the public exhibition period. Unfortunately, the timeframe within which the entire plan making process was to be completed was not granted an extension at this time. This request was made to enable the applicant of the Planning Proposal to amend aspects of their proposal.

## **DETAIL**

An alteration to the Gateway Determination is requested to extend the timeframes contained within Conditions 6 and 7 of the Gateway Determination (as altered) to enable Council to complete the plan making process under delegation.

An explanation of how Council has sought to meet the required timeframes is explained as follows.

### ***Public Exhibition Commencement and Length***

Condition 2 of the Gateway Determination (as altered) requires that the Planning Proposal be placed on public exhibition for a minimum of 28 calendar days, with the commencement of the

- 2 -

public exhibition to occur within 6 months following the issue date of the Gateway Determination.

Council placed the Planning Proposal, Draft VPA and draft amendment to NSDCP 2013 on public exhibition for a total period of 57 calendar days or 26 working days. The public exhibition commenced on 21 November 2022 and concluded on 16 January 2023. The overall length of the exhibition complied with the DPE's and Council's minimum requirements for public exhibition.

The exhibition commenced less than 6 months after the Gateway Determination was issued and clearly complies with this Condition.

***Determination Reporting***

Condition 6 of the Gateway Determination (as altered), states that the Planning Proposal "must" be reported to Council for a final recommendation within 8 months (1 February 2023) from the date of the Gateway Determination.

With the public exhibition concluding on 16 January 2023, the earliest that Council could technically report the matter up to Council for its consideration was the 13 February 2023, based on the report being finalised by 27 January 2023. Accordingly, there was no ability for Council to meet the reporting timeframe given the need to have an extended exhibition period over the Christmas holiday period.

Post exhibition, Council have also been working collaboratively with the applicant to address a number of concerns they had with regard to the proposed draft DCP controls. This has required various meetings to ensure an appropriate outcome is achieved.

Council staff are currently trying to finalise the post exhibition report with the view to reporting the matter to Council for determination at its meeting of 24 April 2023. Whilst every endeavour has been made to try and get the matter reported to the Council meeting of 27 March 2023, delays have occurred due to a number of resourcing issues, particularly the loss of staff, relevant officers being on long periods of leave over the Christmas period and the need to respond urgently to a number of other more pressing matters.

Based on a reporting date of 24 April 2023, this would represent approximately 11 months after the initial issue of the Gateway Determination.

***Completion of LEP Amendment***

Condition 7 requires that an LEP that implements the intent of the Planning Proposal "should" be made within 9 months of the issuing of the Gateway Determination.

This suggested timeframe cannot be met, with the timeframe currently standing at approximately 10 months between the issuing of the Gateway Determination (as altered) and the anticipated reporting of the matter to Council in accordance with Condition 6.

Based on a review of the LEP making processes of former LEP amendments of similar complexity, it is anticipated that this amendment could be made within approximately 2-3 months after the consideration of the post exhibition report.

**REQUEST**

Based on a high level review of the submissions made to date, there does not appear to be any issues that would prevent the Planning Proposal from progressing. In that regard, Council staff

- 3 -

are preparing a report with the view to recommend that Council endorse the progression of the Planning Proposal and associated VPA and amendment to NSDCP 2013.

In light of this advice, Council respectfully requests an alteration to the Gateway Determination to extend the timeframe under Condition 6 of the Gateway Determination (as altered) from 8 months to 11 months.

In addition, it is requested that the timeframe to Condition 7 be extended from 9 months to 14 months.

Notwithstanding the request to alter the Gateway Determination timeframes, Council is committed to delivering the overall outcome of the planning proposal, VPA and DCP amendment in the quickest possible time.

Should you have any queries, please direct them to either Ben Boyd, Executive Strategic Planner or the undersigned on **9936-8100**.

Yours faithfully



MARCELO OCCHIUZZI  
**MANAGER STRATEGIC PLANNING**



Department of Planning and Environment

Our ref: PP-2022-1259 / (IRF23/577)

Ms Therese Manns  
General Manager  
North Sydney Council  
PO Box 12  
NORTH SYDNEY NSW 2059

**Attention: Marcelo Occhiuzzi, Manager Strategic Planning**

Dear Ms Manns

**Planning proposal PP-2022-1259 – Alteration of Gateway Determination**

I refer to your letter dated 9 March 2023 seeking an alteration to extend the timeframe to complete planning proposal PP-2022-1259 for 45 McLaren Street, North Sydney.

Condition 6 (as altered) of the Gateway determination conditions the timeframe for reporting the planning proposal to Council for a final recommendation to be 8 months following the date of the Gateway determination. Council has advised delays have occurred due to an extended exhibition over the Christmas period, concerns raised by the proponent regarding the proposed draft DCP controls and a number of resourcing issues an extension to this timeframe is required. I note it is Council's intention to report the proposal to its meeting of 24 April 2023.

Condition 7 of the Gateway determination requires the LEP be completed within 9 months of the date of the determination. The proposal has now exceeded this timeframe.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 1 June 2022 (since altered on 26 August 2022). The Alteration of Gateway determination is enclosed. An extension of time for reporting the planning proposal back to Council has been agreed, with the overall completion timeframe of the LEP to be within 13 months of the date of the Gateway determination by 1 July 2023. Should further time be required to align with the DCP and VPA timeframes, a deferred commencement condition may be considered by Parliamentary Counsel's Office during the drafting of the LEP.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the Gateway determination.

If you have any questions in relation to this matter, I have arranged for Mr Matthew Rothwell to assist you. Mr Rothwell can be contacted on 8275 1066.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'M. Rothwell'.

**Tharani Yoganathan**  
**A/Director, North District**  
**Planning and Land Use Strategy**  
Encl: Alteration of Gateway Determination

**URBIS**

# **AMENDED PLANNING PROPOSAL**

**45 MCLAREN STREET,  
NORTH SYDNEY**

PREPARED FOR  
**45 MCLAREN PTY LTD ("PODIA")**  
September 2022

**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Stephen White
Associate Director	Sophy Purton
Assistant Planner	Anais Sarkissian
Project Code	P0023365
Report Number	Amended Planning Proposal _ September 2022

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# EXECUTIVE SUMMARY

## DOCUMENT CONTROL

This report has been amended since the original publication in October 2020, following the issue of the Gateway Determination by the Department of Planning and Environment (**DPE**) in June 2022. The Planning Proposal and the draft Development Control Plan (**DCP**) has been refined to address the conditions of the Gateway Determination.

## SUMMARY

This amended Planning Proposal has been prepared by Urbis Pty Ltd (**Urbis**) on behalf of 45 McLaren Pty Ltd (**the Proponent**) to initiate an amendment to the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* as it relates to land at 45 McLaren Street, North Sydney (**the site**).

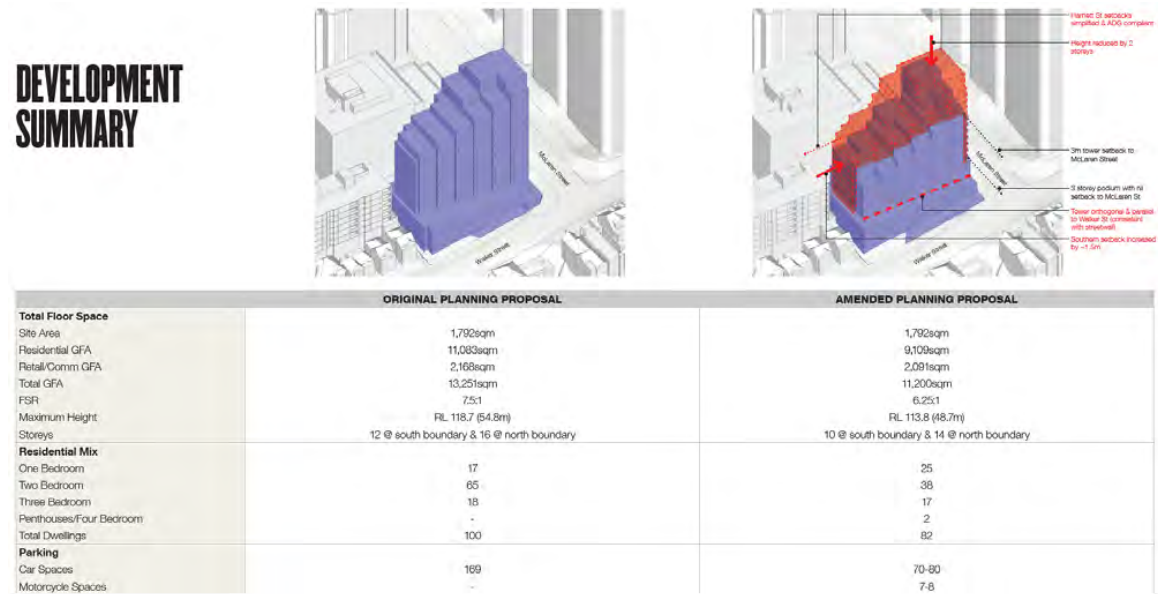
In accordance with the NSLEP 2013, the site is currently zoned R4 High Density Residential and has a maximum permissible building height of 12m. No floor space ratio (FSR) controls apply to the site and the site does not contain any items of European, Indigenous or environmental heritage.

The original Planning Proposal was lodged in October 2020. Following extensive and ongoing dialogue with North Sydney Council (**the Council**), this amended Planning Proposal seeks to redevelop the site from a 4-5 storey residential flat building to a mixed-use development comprising 82 residential units, with a maximum height of RL115 and a maximum FSR of 6.25:1. Whilst the intended vision remains the same, the original Planning Proposal has been amended to include the following changes (**Figure 1**):

- Rezone the site B4 Mixed Use, with an insertion into Clauses 4.4A and 6.12A to enable residential uses along Walker Street;
- A reduction in height from 12-16 storeys (RL118.7) to 10-14 storeys (RL115);
- A reduction in FSR from 7.5:1 to 6.25:1;
- Introduction of a minimum non-residential FSR of 1:1;
- A reduction in dwellings from 100 dwellings to 82 dwellings;
- 3m above podium setback to McLaren Street;
- Increased setbacks to the southern boundary; ADG compliant building separation to 41 McLaren Street;
- No overshadowing to the Central Plaza from 9am on June 21<sup>st</sup>; and
- Simplified building form to provide orthogonal frontage to Walker Street, consistent with the prevailing street wall character.

It is acknowledged that the Department of Planning and Environment has introduced a new employment zone framework which is to be implemented across all NSW LEPs by the end of 2022. Should that work be completed prior to the finalisation of any LEP amendment to which this Planning Proposal relates, the zoning of the land will be changed from R4 High Density Residential to MU1 Mixed Use under the new employment zone framework.

Figure 1: Development Summary



Source: Bates Smart

The redevelopment of the site would be guided by an amendment to the North Sydney Planning Area Character Statement of the *North Sydney Development Control Plan 2013 (NSDCP 2013)*. The amendment would seek to include the site within the boundary of the Central Business District (Part 2.1), reflective of the sites proposed zoning and its' location within the Ward Street Precinct.

The proposed amendments to the NSDCP 2013 include controls relating to building height in storeys, site setbacks, podium setbacks, and overshadowing restrictions to the Ward Street Plaza. The proposed DCP controls are outlined in *6.4 Site-Specific DCP Provisions*.

The amended Planning Proposal request has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the NSW Department of Planning, Industry and Environment (DPIE) guidelines '*Local Environmental Plan Making Guideline*' dated September 2022.

## THE VISION

The Proponent's vision for the site is for a sustainable mixed-use building that celebrates the site's location at the transition between North Sydney's high-density CBD and North Sydney's Civic Precinct. The amended Planning Proposal will enable the site to be redeveloped for retail and residential purposes, with a commercial/retail podium activating Harnett and McLaren Streets, and residential land uses fronting Walker Street and in the tower form above.

The massing approach proposes a series of stepped and staggered landscaped rooftops and cascading planting, which transition between the heritage terraces located south of the site, to the tall residential towers directly north of the site.

The design intends to complement and enhance the Ward Street Precinct by transforming Harnett Street into a shared way, widening the Walker Street and Harnett Street through site-link and activating this north-eastern bookend of the Precinct through podium retail uses and public domain improvements. These key urban design moves will mark this corner of Walker Street with a high-end, luxury design and will substantially improve pedestrian permeability around the site.

Its stepped and staggered massing retains solar access to the Ward Street Plaza from 9am onwards, and the residential apartments directly south of the site.

The podium complements the site's lower-scale density, fine-grain heritage and leafy character along Walker Street, as well as the mixed-use character along McLaren Street.

Importantly, the amended Planning Proposal revitalises the site from an existing, outdated building in a state of despair into a modern, well designed mixed-use development that provides significant community benefit, ground floor activation and employment uses, affordable accommodation, together with a mixture of apartment types.

## THE AMENDED PLANNING PROPOSAL

The amended Planning Proposal seeks to amend the NSLEP 2013 as follows:

- Rezone the site from R4 High Density Residential to B4 Mixed Use (or MU1 Mixed Use if the Employment Zone Reforms are implemented prior to the finalisation of this proposed amendment);
- Amend the maximum height of buildings to include a split height of RL103 and RL115;
- Introduce a maximum floor space ratio of 6.25:1;
- Introduce a minimum non-residential floor space ratio of 1:1;
- Insert the following subclause (6A) after subclause 4.4A(6):
  - *Despite subclause (5), an active street frontage is not required for any part of a building facing Walker Street, erected on land at 45 McLaren Street, North Sydney, being SP 14598; and*
- Insert the following subclause (4) after subclause 6.12A(3):
  - *Despite subclause (3)(b), development consent may be granted for the purpose of a residential flat building for that part of the building at the ground floor level that faces Walker Street at 45 McLaren Street, North Sydney being SP 14598.*

## STRATEGIC MERIT

The amended Planning Proposal demonstrates Strategic Merit as it gives effect to the following:

1. Consistent with the **Greater Sydney Region Plan and North District Plan** which seeks to intensify housing and employment around significant transport infrastructure and in proximity to employment nodes, capitalising on the State government's investment.
2. The site is located 100m from the new Victoria Cross Metro Station (north entrance) and approximately 600m from North Sydney Train Station.
3. Consistent with the **North Sydney Local Strategic Planning Statement** for locating residential development at the periphery of the North Sydney CBD. Residential density in this location will activate the CBD and supports the attainment of an 18-hour economy and a 30 minute city, as outlined within the **North District Plan**.
4. Assists Council in achieving the **housing targets** mandated by the **Greater Sydney Commission**. Council is required to demonstrate how it can achieve 3,000 – 3,500 dwellings for the period 2021/22 – 2025/26. Council's analysis currently shows 2,835 dwellings for this period.
5. Achieves an appropriate built form and scale that reflects the vision for **North Sydney** and the **Ward Street Precinct** which is expressed by local planning policy, precinct planning and the existing and emerging scale of development on adjacent and surrounding lands.
6. Rezoning the site to **B4 Mixed Use** is consistent with the zoning of all other land within the Ward Street Precinct, demonstrating consistency with the strategic intent for this Precinct, which is undergoing a period of transformation and urban renewal.
7. Increases the development capability of the site and activates the north-eastern corner of the Precinct, with 82 new dwellings and 2,091m<sup>2</sup> of commercial GFA.

## SITE-SPECIFIC MERIT

The amended Planning Proposal demonstrates site-specific merit is achieved, by way of the following:

1. **Ward Street Precinct Masterplan and Council Resolution:** The Ward Street Precinct Masterplan was endorsed by North Sydney Council on 24th June 2019. At the time of the endorsement council resolved that...

*despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 4 McLaren Street and may identify how any future redevelopment will:*

- I. Minimise solar reductions upon new public domain as identified in the Masterplan.*
- II. Minimise solar and privacy impacts upon existing residential development.*
- III. Provide for a commercial component to any redevelopment.*
- IV. Identifies significant public benefits that will arise from the development of the site with particular regard to the objectives of the Masterplan.*

The amended Planning Proposal has been prepared to address the above key criteria, in addition to recommendations provided by Council in their preliminary assessment of the Planning Proposal. Together, this advice has shaped and guided the urban design outcome for the site.

2. **Height:** Utilising the building heights established within the Ward Street Precinct Masterplan, the approved development to the north and the existing heritage buildings and residential tower to the south, the built form provides for a transition from west to east and north to south. The proposed heights have been designed to have stepped transition, falling away to the south.
3. **Density:** The built form has an FSR of 6.25:1, providing an appropriate mixed-use outcome within a fine grain built form, that sits comfortably within the existing and future context of the immediate locality.
4. **Residential amenity:**
  - Solar access: The building envelope has been designed to ensure that there is no additional overshadowing to the Ward Street Plaza from 9am onwards on June 21<sup>st</sup>. Sculpting of the built form also retains solar access to the residential properties at 150 Walker Street.
  - Privacy: The site's triple frontage provides substantial separation distance between the site and those properties to the north and east. The south-western façade has been recessed to achieve ADG compliant separation distances to the west. The apartments within the lower southern portion are setback 4.5m from the boundary, complying with ADG and have been designed to orientate to the east & west, limiting any direct overlooking.
  - View impact: The modest scale and stepped nature of the built form, retains view corridors through the south of the site. Any views from the north would likely be impacted by taller buildings further south of the site.
5. **Heritage:** The inclusion of a 1-3 storey street wall height responds to the sites substantially varied topography and is consistent with the datum and the street setbacks of the heritage terraces to the south. Fine grain architectural design will be developed at the DA stage to ensure that the use of materials and finishes are complementary to these heritage items.
6. **Landscape terracing:** The stepping of the built form allows for cascading landscaping to form a series of green roofs with substantial planter boxes to be staggered across the building façade and within the site setbacks. Key corner locations will be designed with green walls, creating a living, breathing building façade.
7. **Streetscape activation:** Active frontages and passive surveillance are provided along all site frontages. McLaren Street & Harnett Street is activated by retail and recreational (indoor) uses with residential uses providing passive surveillance of Walker Street.
8. **Public Domain Improvements:** Pedestrian connectivity will be enhanced through the expansion (from 1.5m to 3m) of the existing through-site link connecting Walker Street and Harnett Street, improving, and promoting pedestrianisation around the site and activating Ward Street Plaza. Public domain improvements also include pedestrian upgrades to the street frontages and upgrade of Harnett Street.



# 1. INTRODUCTION

## 1.1. OVERVIEW

This amended Planning Proposal has been prepared by Urbis Pty Ltd (**Urbis**) on behalf of 45 McLaren Pty Ltd (**the Proponent**) to initiate an amendment to the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* as it relates to land at 45 McLaren Street, North Sydney (**the site**).

In accordance with the NSLEP 2013, the site is currently zoned R4 High Density Residential and has a maximum permissible building height of 12m. No floor space ratio (**FSR**) controls apply to the site and the site does not contain any items of European, Indigenous or environmental heritage. The site is situated amongst locally listed heritage items, with the southern boundary adjoining locally listed heritage terraces, and other local heritage items located to the east of Walker Street and west of Harnett Street.

## 1.2. PROPONENT'S VISION & OBJECTIVES

The Proponent's vision is for a regenerative and sustainable urban place. A place that meaningfully and materially addresses the pressing environmental, social and economic challenges facing our city, our nation and our species. A place that moves beyond business-as-usual by implementing innovative initiatives in the built form that sets North Sydney on a new trajectory towards long term sustainability.

***Our vision is for a sustainable, mixed-use building exhibiting exemplary architectural design along with sound urban design initiatives that encourage ground plane activation and improved street surveillance. The desired outcome is to celebrate the site's location at the intersection between North Sydney's CBD and North Sydney's Civic Precinct.***

In addition to the sustainability aspirations, the Proponent is focused on delivering an enhanced public amenity, strong and considered connections to the low scale and fine-grained heritage buildings adjacent to the site, an abundance of landscape opportunities through the podium, terraces and rooftops, as well as delivering on the place principles of the Ward Street Precinct Masterplan (**WSPMP**).

The objectives of the amended Planning Proposal and the outcomes sought to be delivered for the site include:

- A sustainable (5 star Green Star Design and WELL silver rating) mixed-use building that celebrates the site's location at the transition between North Sydney's high-density CBD and North Sydney's Civic Precinct.
- A built form that responds to the emerging context defined by the place principles of the WSPMP through building articulation and amenity. The massing approach proposes a series of stepped and staggered landscapes rooftops, which transition between the low-mid scale residences to the south of the site and the tall residential towers to the north. The podium complements the site's lower-scale density, fine-grained heritage and leafy character along Walker Street.
- A proposal that seeks to enhance the pedestrian core defined within the WSPMP via a through-site linkage which connects pedestrians from the eastern side of Walker Street to the new central plaza and through to Miller Street.
- A proposal that enhances the public space journey by maximising the active retail frontages and improving pedestrian permeability which promotes a walkable, vibrant and connected centre.
- A proposal that strengthens the commercial centre of North Sydney through the provision of the new commercial/retail floor space which provides for an activated podium and supports employment.
- A proposal that seeks to deliver on the natural development potential of the site which will facilitate the delivery of approximately 41 full time jobs and housing growth on the edge of the North Sydney CBD and within a short walk from the new Victoria Cross Metro Station.

- An urban design outcome that connects positively with Walker, McLaren and Harnett Streets to encourage activation and create a sense of place, together with improved after-hours surveillance.
- A proposal that provides affordable key worker housing in a central and strategic location.

### 1.3. PROPOSED AMENDMENTS TO NSLEP 2013

This amended Planning Proposal seeks to amend the NSLEP 2013, by way of the following:

- Rezone the site from R4 High Density Residential to B4 Mixed Use (or MU1 Mixed Use if the Employment Zone Reforms are implemented prior to the finalisation of this proposed amendment ;
- Amend the height of buildings standard to a split maximum of RL103 and RL115;
- Introduce a maximum floor space ratio standard of 6.25:1;
- Introduce a minimum non-residential floor space ratio of 1:1;
- Insert the following subclause (6A) after subclause 4.4A(6):
  - *Despite subclause (5), an active street frontage is not required for any part of a building facing Walker Street, erected on land at 45 McLaren Street, North Sydney, being SP 14598.*
- Insert the following subclause (4) after subclause 6.12A(3):
  - *Despite subclause (3)(b), development consent may be granted for the purpose of a residential flat building for that part of the building at the ground floor level that faces Walker Street at 45 McLaren Street, North Sydney being SP 14598.*

### 1.4. REPORT STRUCTURE

This amended Planning Proposal has been prepared in accordance with Sections 3.33(1) and (2) of the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**) and the relevant guidelines prepared by the NSW Department of Planning, Industry and Environment (**DPIE**), namely the *Local Environmental Plan Making Guideline* . It includes the following:

- **Section 2:** Site & surrounding context
- **Section 3:** Council engagement and concept refinement
- **Section 4:** Statutory planning framework
- **Section 5:** Local strategic planning background
- **Section 6:** The reference scheme
- **Section 7:** The amended Planning Proposal
- **Section 8:** Part 1 – Objectives & intended outcome
- **Section 9:** Part 2 – Explanation of proposed provisions
- **Section 10:** Part 3 – Justification of Proposal
- **Section 11:** Part 4 – Mapping
- **Section 12:** Part 5 – Community Consultation
- **Section 13:** Part 6 - Project timeline
- **Section 14:** Conclusion

## 1.5. SPECIALIST INPUTS

This amended Planning Proposal is accompanied by the following specialist reports, which provide an analysis of the site complexities and characteristics:

Table 1: Specialist consultant reports

<b>Report</b>	<b>Consultant</b>	<b>Appendix</b>
Urban Design Report (as amended)	Bates Smart	Appendix A
Draft North Sydney DCP Submission	Podia	Appendix B
Survey Plan	LTS Lockely	Appendix C
Stakeholder Engagement Report	Polymer	Appendix D
Draft VPA (as amended)	Urbis	Appendix E
Traffic Impact Assessment (as amended)	Traffix	Appendix F
Visual Assessment Report (as amended)	Urbis	Appendix G
Heritage Impact Assessment (and addendum)	Weir Phillips	Appendix H
Landscape Concept Design Report (as amended)	Arcadia	Appendix I
Preliminary Site Investigation	EI Australia	Appendix J
Pedestrian Wind Environment Statement (and addendum)	Windtech	Appendix K
Sustainability Strategy (as amended)	Integral	Appendix L
Hydraulic Services Infrastructure Assessment	Calibre	Appendix M

## 2. SITE & SURROUNDING CONTEXT

### 2.1. THE SITE

The site is located at 45 McLaren Street, North Sydney (Lots 1-18 in SP14598) and is within the North Sydney Local Government Area (LGA).

The site forms a rectangular shaped corner block, with a primary frontage to McLaren Street in the north and secondary frontages to Walker Street in the east and Harnett Street in the west. Vehicular access is currently obtained from Walker Street.

The site is currently established with a part 4, part 5 storey residential flat building containing 18 strata title units. The existing building is an outdated 1960's building that is in a state of disrepair and requires substantial upgrades and improvements. The current design does not provide residents with adequate safety and security, and with the intensification of density around the site, this has been raised as a concern by residents.

The existing building provides little engagement with the streetscape and is of a typology that does not reflect the desired future character of the North Sydney CBD.

The key features of the site are summarised in the following table.

Table 2: Site Description

Feature	Description
Street Address	45 McLaren Street, North Sydney
Legal Description	Lot 1-18 in Strata Plan 14598
Site Area	1,792m <sup>2</sup>
Site Dimensions	North: 29.23m – 37.72m (inc. corner truncations) East: 47.39m South: 35.67m West: 48.23m
Easements and Restrictions	Stormwater easement
Site Topography	8.7m fall from the north western corner of the site (RL68.7) to the south eastern corner of the site (RL60). 8m fall from the north eastern corner (RL68) to the south eastern corner (RL60) along the Walker Street frontage. 3.5m fall from the north western corner (RL68.7) to the south western corner (RL63.24) along the frontage of Harnett Street
Vegetation	Several mature trees are established along site's northern, southern and western boundaries, including some street trees. Two street trees are located adjacent to the site's south-eastern boundary.

Aerial images of the site and site photos are provided below.

Figure 2: Aerial image of the site



Source: Urbis

Figure 3: Oblique view of the site, as viewed from the north east



Source: Colliers International

Figure 4: Site images



Picture 1: Site as viewed from the east illustrating existing vehicular access



Picture 2: Site as viewed from the north east, illustrating the sloping topography



Picture 3: south-eastern extent of the site illustrating the existing street trees

Source: Bates Smart



Picture 4: Site as viewed from the north-west, illustrating the relationship to Harnett Street

## 2.2. THE LOCALITY

The site is located within the suburb of North Sydney. North Sydney CBD is Australia's 9<sup>th</sup> largest commercial core and Sydney's 3<sup>rd</sup> largest, with over 800,000m<sup>2</sup> of commercial floor space, generating approximately 60,400 jobs (2016).

The North Sydney CBD specialises in financial and professional services, media and telecommunications. The commercial core is centred amongst a diverse range of land uses, including business and retail uses, educational facilities, churches and residential land uses of varying densities.

The suburb is bisected east-west by the Warringah Freeway, resulting in a predominance of residential land uses located on the eastern side of the Warringah Freeway, separated from the commercial core, mixed use precinct and key transport nodes.

The skyline of North Sydney is transforming, with a number of key factors contributing to the evolution of North Sydney as a strategic centre within the global economic corridor. These factors include, inter alia:

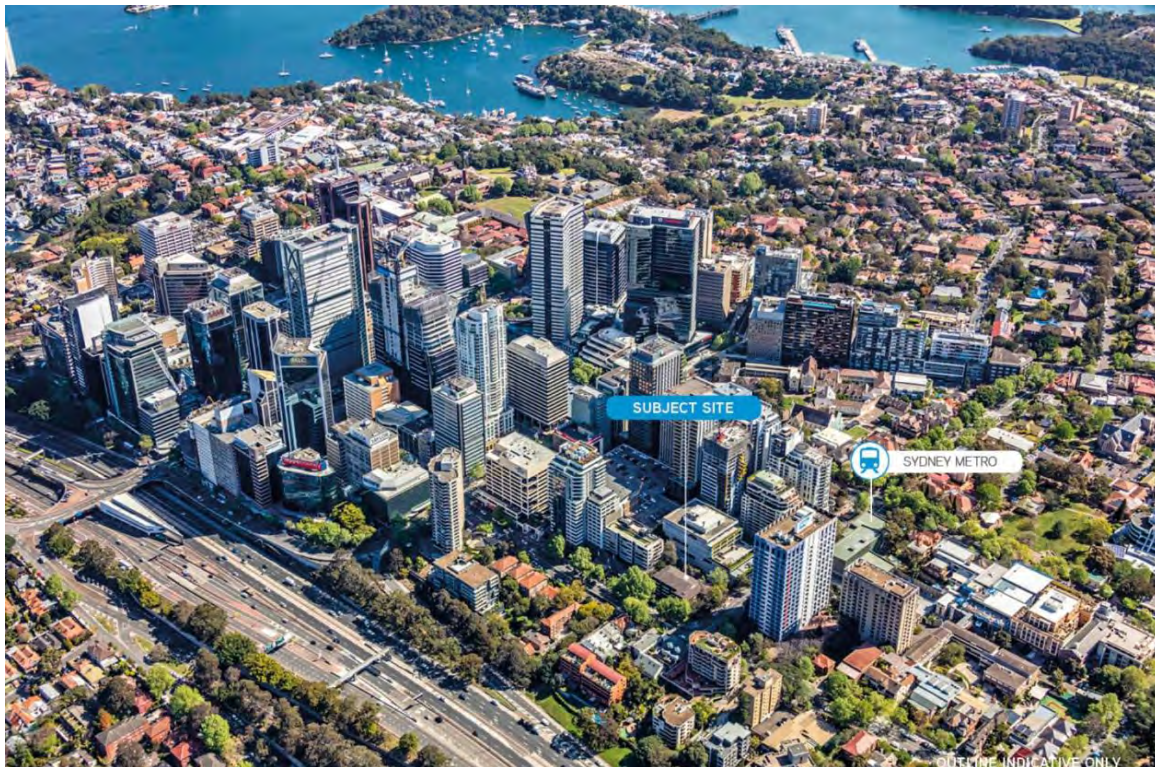
- The State government's commitment to the Sydney metro line and the presence of the Victoria Cross Metro Station on Miller Street and McLaren Street (approximately 100m from the site);
- The recently approved Victoria Cross Over Station Development (SSD 10294), which includes a commercial office tower up to RL230, delivering 61,500m<sup>2</sup> of commercial GFA;
- Amendment No. 23 to the NSLEP 2013, which increased the building heights within the B3 Commercial Core zone, unlocking additional commercial floor space capacity within the CBD by 530,000m<sup>2</sup>;
- The endorsed WSPMP, which includes several key sites identified for substantial increased height and density. This has the potential to deliver 170,987m<sup>2</sup> – 189,811m<sup>2</sup> of GFA with maximum building heights of up to RL285. The key sites include the Council-owned car park and the Ausgrid site;
- The Civic Precinct Planning Study (**Civic Study**), which includes increased heights and densities to the north of the Ward Street Precinct; and
- Recent development activity within the locality which includes a number of prominent mid to large scale developments being approved and constructed, including East Walker Street Precinct.

The surge in development activity, combined with the recent amendments to the NSLEP 2013 and the anticipated growth arising from the WSPMP, will rejuvenate and revitalise the locality to create an active and vibrant precinct. This amended Planning Proposal aligns with the emergence of North Sydney as a global destination and provides an ideal opportunity for the delivery of a mixed-use development which will activate and compliment the Ward Street Precinct.

Figure 5: Site location and context plan



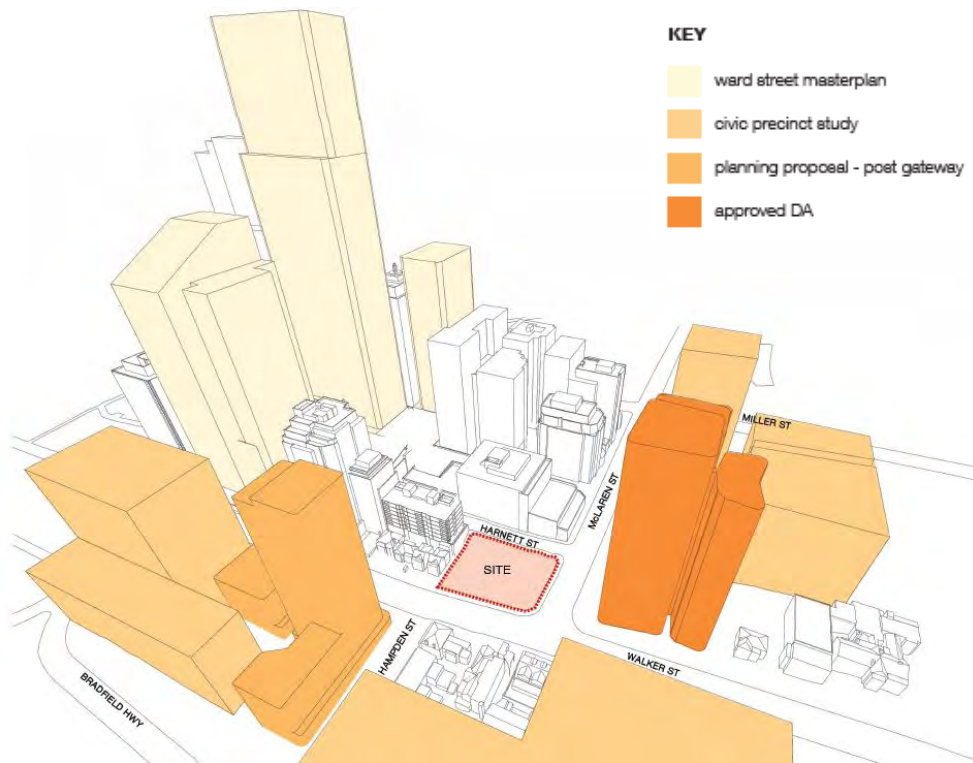
Figure 6: 3D view of the site within the existing locality



Source: Colliers International



Figure 7: Birds eye view of the site within the future context



Source: Bates Smart

## 2.3. THE CONTEXT

The site is located to the north-west of the North Sydney CBD and within the northern end of the Ward Street Precinct. The area is at the preliminary stages of urban renewal, which is set to transform the CBD and surrounds into a world class commercial destination, supported by a range of retail and residential uses. This transition is being supported by current development activity, recent approvals and further planned development within the North Sydney CBD and the Ward Street Precinct. The Civic Study also identifies the potential for future development activity to the north of the site.

The planning framework at both a State and local government level seeks to transition the area from an older style commercial precinct into a thriving mixed-use area, which retains and strengthens the commercial core for long-term employment growth supported by a mix of surrounding land uses.

The surrounding area is described as follows:

- **North:** The northern side of McLaren Street, at 168 Walker Street, is a recently approved 28-storey mixed-use tower, referred to as Aqualand. Further north of this is Wenona School Campus, which consists of a cluster of low to medium-rise buildings extending to Ridge and Elliot Streets to the north and west, respectively.
- **East:** To the east of the site is a heritage-listed retaining wall dissecting the roadway at Walker Street. Across the street are a row of two-storey heritage-listed terrace houses as well as a single storey heritage-listed stone cottage located adjacent to these to the north. Further to the east is the Warringah Freeway, which segregates the site and city centre from lower density residential land uses.
- **South:** To the south of the site is a through-site link connecting Walker Street to the east and Harnett Street to the west. South of this are a set of four heritage-listed terrace-style dwelling houses and a ten-storey residential building, referred to as 'The Heritage.'
- **West:** The site adjoins Harnett Street to the west, and on the western side of the street is Simsmetal House at 41 McLaren Street, seven – eight storey heritage-listed commercial building. Further west at 39 McLaren Street is The Harvard residential flat building, which is 18 storeys high.

Figure 8: Immediate site context



Picture 5 Heritage listed terraces at 150 Walker Street



Picture 6: 41 McLaren Street illustrating the stepped nature of the building form with landscaping above



Picture 7: Approved Aqualand building to the north



Picture 8: Existing through-site link, as viewed from Harnett Street

## 2.4. SURROUNDING ROAD, RAIL & BUS NETWORK

The site is well connected to significant road and rail infrastructure, including the Freeway, heavy rail and metro rail, making this one of the most accessible locations. North Sydney's transport statistics confirm that 71.3% of residents and 71.1% of workers are either walking, cycling or using public transport to travel (Source: *North Sydney CBD Transport Masterplan*).

### 2.4.1. Road

The site is located to the west of the Warringah Freeway and to the north of the Pacific Highway with access to the on ramp approximately 200m and 550m south of the site, respectively.

The Warringah Freeway provides direct and convenient access to the Sydney CBD in the south and Artarmon in the north west, where it then transitions into the Lane Cove Tunnel and intersects with the Pacific Highway.

### 2.4.2. Heavy Rail

The site is located 650m north of North Sydney Station, Sydney's 5<sup>th</sup> busiest station with an approximate 52,000 patrons per day (Environmental Impact Assessment, Sydney Metro). Frequent trains provide a 10-minute connection between North Sydney Station and the Sydney CBD. The train line also connects residents/workers to Berowra in the north and Parramatta in the west.

### 2.4.3. Metro Rail

Sydney Metro is Australia's largest public transport project, delivering 31 metro stations between Rouse Hill in the north-west to Bankston in the south-west. Early works for the Victoria Cross Metro Station began in September 2017 with the service expected to be operational in 2024. Trains will depart every 4 minutes, connecting North Sydney to Martin Place in 5 minutes and the Sydney CBD in 9 minutes. The Metro provides a 60% increase in the number of trains in the peak periods and caters for an extra 100,000 customers per hour.

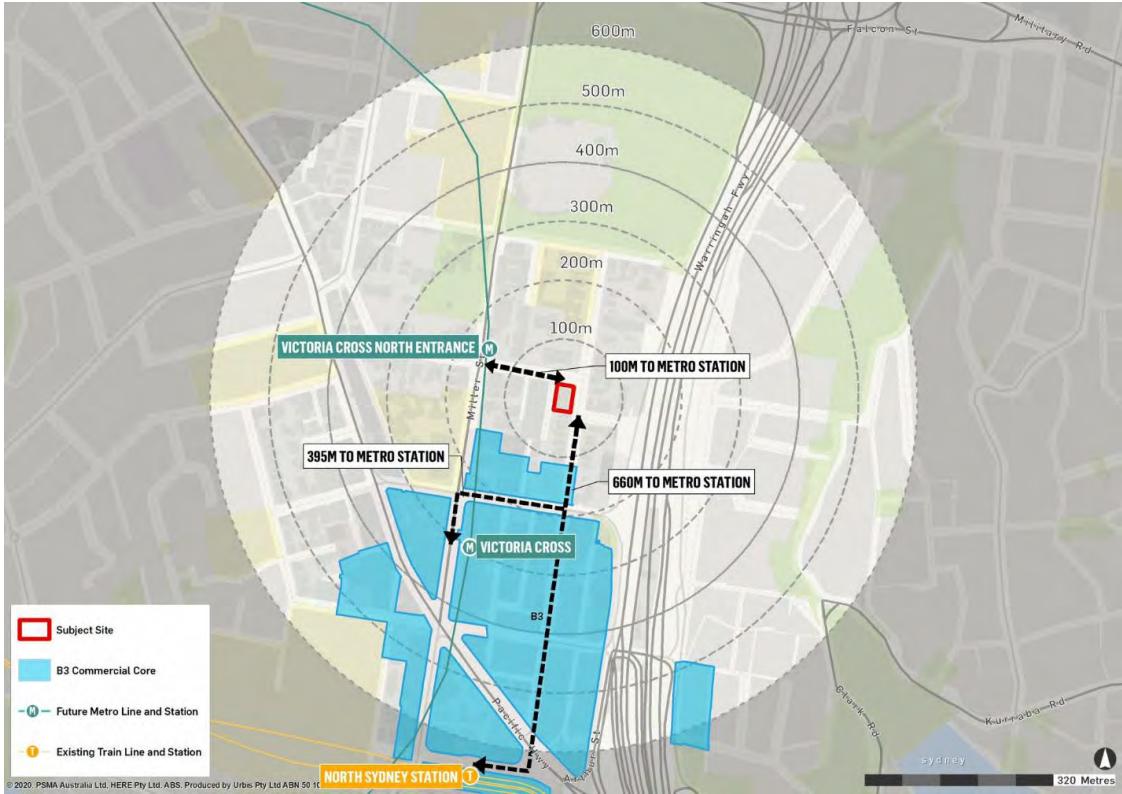
Victoria Cross will be accessed via the pedestrian plaza opening up onto Miller, Denison and Berry Streets. A secondary pedestrian entrance will be located at 50 McLaren Street, providing for underground connectivity between the two access points. This puts the site within 100m of the Metro Station.

The station will create a new transport focus on the northern side of the North Sydney CBD by providing much needed infrastructure to revitalise the area into an 18-hour economy, fostering greater connectivity to other nearby strategic centres, within the global economic arc.

### 2.4.4. Bus

Several different bus routes service North Sydney, with bus stops located along Miller Street, approximately 180m west of the site. The redevelopment of the Ward Street Precinct will allow for direct pedestrian connectivity to the Miller Street bus stops. Buses connect the Precinct to Sydney CBD, Bondi Junction, Gladesville, Lane Cove, Chatswood, Ryde, Kingsford and Botany.

Figure 9: Public transport map



Source: Urbis

## 3. COUNCIL ENGAGEMENT & CONCEPT REFINEMENT

### 3.1. COUNCIL ENGAGEMENT

The Proponent began preliminary discussions with Council in 2017 when the WSPMP was being prepared. As Council's studies progressed and the masterplan for the Ward Street Precinct was refined, the Proponent continued their ongoing dialogue, expressly reiterating the capacity of the site to accommodate a building of approximately 25 storeys, with no additional overshadowing between the nominated hours of 10:30am – 2:00pm.

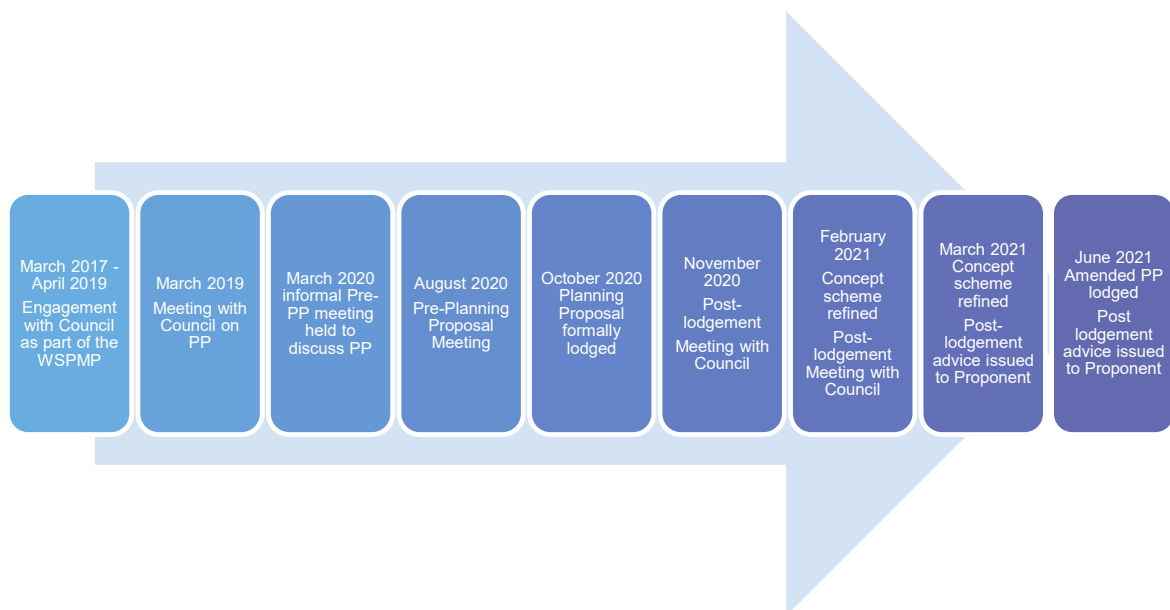
Following Council's decision to progress with Option 2 of the WSPMP (which precluded uplift on the site), the Proponent engaged with Council's strategic planning team.

Preliminary discussions were first held in March 2020 and a formal pre-Planning Proposal meeting was held on 10 August 2020, prior to the lodgement of the Planning Proposal.

Since that time, the Proponent has actively engaged with Council, with Bates Smart preparing multiple design refinements on each of the key issues, which have been discussed at length during various meetings with Council.

An overview of Council engagement to-date and the milestones of the Planning Proposal process is provided below.

Figure 10: Council engagement and Planning Proposal timeline



### 3.2. DESIGN EVOLUTION & CONCEPT REFINEMENT

Since lodgement of the original Planning Proposal, the design has evolved, and the concept has been refined in response to the key issues raised by Council. The key issues primarily relate to:

1. Overshadowing
2. Building setbacks
3. Separation distance

Other matters for consideration, including the appropriate land use zone, height, FSR, car parking rates and the VPA, have been positively addressed by the amended Planning Proposal.

A detailed analysis of the key issues is provided below:

### 3.2.1. Overshadowing to Ward Street Plaza

The original Planning Proposal had a height of 12 -16 storeys, stepping up from south to north. This resulted in Ward Street Plaza (**the Plaza**) being overshadowed, on June 21st, by approximately 516m<sup>2</sup> (9am), decreasing to 346m<sup>2</sup> (9:30am), and 98m<sup>2</sup> by 10am. By 10:17am, there was no additional overshadowing.

Full solar access was provided to the Plaza from Spring to Autumn.

Prior to lodgement, Council's direction was to ensure **"minimal overshadowing to the Ward Street Plaza."** The original Planning Proposal was prepared based on this preliminary advice. Given that overshadowing impacts were limited to a 1-hour period and primarily cast over an area of the Plaza that was identified as a raised green area, an amenities building and a pedestrian link (i.e. secondary spaces), the extent of overshadowing was considered to have minimal impact on the amenity of the space.

Following lodgement, Council's position changed. On 24<sup>th</sup> November 2020, the Proponent was advised to amend the concept design so that **"there is no nett additional overshadowing of the future public squares at any time of the day year round."**

In addition, Council confirmed the anticipated levels of the proposed plazas, with the southern Central Plaza, reducing from RL74.00 to RL69.45 (4.5m reduction). Lowering the finished level of the Plaza will exacerbate the extent of overshadowing impacts.

Bates Smart refined the building envelope and remodelled the shadows with the revised Plaza levels. Revised concept envelopes were presented to Council in December 2020 and again February 2021.

On 5 March 2021, Council advised that **"any increase in additional overshadowing to the future northern square is minimised to the greatest extent possible."**

Following the lodgement of the amended Planning Proposal in June 2021, Council advised, by written correspondence on 29 July 2021, that **"there is no nett additional overshadowing of the proposed southern Central Square from 9am onwards between the March and September equinoxes."**

The current proposal has been revised to comply with Council's recommendation from 29 July 2021.

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**The amended Planning Proposal results in no nett additional overshadowing to the Central Square from 9am onwards, year-round.**

A minor slither of overshadowing will occur within the northern Green Square from 9am – 10:08am during the winter solstice. This is considered acceptable, as it has been demonstrated through the continued design refinements, that this overshadowing is minimised to the greatest extent possible.

The proposed building envelope results in no nett additional overshadowing to both areas of the square, for the balance of the year.

## 3.2.2. Building Setbacks

### 3.2.2.1. North: McLaren Street

The original Planning Proposal included a 1.8m setback to McLaren Street at the street level and a nil setback above podium.

On 24 November 2021, Council recommended that the *“McLaren Street setback be revised to include a whole of building setback, consistent with the built form on adjoining properties.”*

The site is a unique island site when viewed along McLaren Street, separated from the western properties within Ward Street, by Harnett Street. Similarly, 41 McLaren Street is also separated from the two existing residential towers at 237 Miller Street and 39 McLaren Street by a carriageway. The built form along this frontage is varied in nature with 41 McLaren Street and 45 McLaren Street both separated by carriageways, with the site located 55m east from the two residential towers. The site is also substantially separated (28m) from 168 Walker Street, which has been built with tower to ground. This demonstrates that there is no prevailing character within this immediate section of McLaren Street that would result in the McLaren Street building alignment being inconsistent or “out of character.”

Council acknowledged that the current character of the southern side of McLaren Street does not conform to the applicable DCP controls. In their most recent correspondence, issued on 29 July 2021, Council recommended that a 3m above podium setback be adopted to McLaren Street.

Accordingly, the Planning Proposal has been amended to reflect Council’s recommendation.

#### 3.2.2.2. East: Walker Street

The original Planning Proposal included a 5.5m setback to Walker Street at the podium level and a stepped tower form above the podium. The intent of the upper level setback was to provide a transition between the existing residential tower at 150 Walker Street and the Aqualand building at 168 Walker Street.

Council recommended that the planning proposal be revised to *“regularise the tower setback such that it is parallel to the alignment of Walker Street.”*

The amended Planning Proposal has adopted this recommendation, with an above podium setback of 4.85m (10.35m to boundary).

It is noted that Council also recommended increasing the ground floor setback from 5.5m to 7m. The amended Planning Proposal has not adopted this increased setback as the properties to the south, including the heritage terraces, have a setback of approximately 5.5m, consistent with that proposed. Whilst it is acknowledged that the DCP includes a 7m setback for Walker Street, the proposed setback is inconsistent with the existing, prevailing character of the streetscape, as illustrated below.

#### 3.2.2.3. South: 150 Walker Street

The original Planning Proposal included a 1.5m setback to the southern boundary, which interfaces with 150 Walker Street.

Council recommended that the upper level of the southern setback be increased to 4.5m to improve sunlight and daylight access to the southern neighbour. The Planning Proposal has been amended to include a 4.5m setback to the southern boundary above Level 1.

## 3.2.3. Separation Distance to 41 McLaren Street

The original Planning Proposal included a 6.5m setback to the centreline of Harnett Street for the building’s entire height. This resulted in minor non-compliances with ADG separation distances between future residential uses on the site and the existing commercial tower.

The Planning Proposal has been amended to increase setbacks to Harnett Street, within the south portion of the site. This includes the following setbacks from the centreline of Harnett Street:

- 6m setback to ground level
- 7.5m setback from Level 1 – 3
- 9m setback from Level 4 – 9

### 3.3. KEY NUMERICAL CHANGES

The following tables provides a comparison of the key numerical changes that have occurred since lodgement of the original Planning Proposal, highlighting the reduction and refinement of the building envelope.

Table 3 Comparison between the original PP and amended PP

Numerical control	Original Planning Proposal	Amended Planning Proposal	Change
<b>Zoning</b>	R4 High Density zone	B4 Mixed Use zone  *Clause added to permit residential dwellings on Walker Street	-
<b>Height</b>	RL118.7 / 16 storeys	RL115 (14 storeys)  RL103 (10 storeys)	<2 storey
<b>FSR</b>	Total FSR: 7.5:1  Total GFA: 13,251m <sup>2</sup>	Total FSR: 6.25:1  Total GFA: 11,200m <sup>2</sup>	< 1.25:1 FSR  <1,051m <sup>2</sup> GFA
<b>Minimum non-residential FSR</b>	2,168m <sup>2</sup>	2,091m <sup>2</sup>	<77m <sup>2</sup> commercial GFA
<b>Overshadowing (to proposed southern Central Square)</b>	9am: 516m <sup>2</sup>  9:30am: 346m <sup>2</sup>  10am: 98m <sup>2</sup>	9am: 0m <sup>2</sup>  9:30am: 0m <sup>2</sup>  10am:0m <sup>2</sup>	9am: <516m <sup>2</sup>  9:30am: <346m <sup>2</sup>  10am: <98m <sup>2</sup>
<b>Setbacks</b>	<b>McLaren Street:</b> Podium: 1.8m Above podium: 0m to boundary (1.8m from boundary on east & west corners)  <b>Walker Street:</b> Podium: 5.5m Above podium: 4.85m – 9.1m  <b>South:</b> Podium: 1.5m Above podium: 1.5m  <b>Harnett Street:</b> Podium: 1m Above podium: 2.6m-5.3m at the south	<b>McLaren Street:</b> Podium: nil Above podium: 3m to boundary  <b>Walker Street:</b> Podium: 5.5m Above podium: 4.85m  <b>South:</b> Podium: 1.5m Above podium: 3m  <b>Harnett Street:</b> Podium: 1m Above podium: 1.5m-3m at the south	<b>McLaren Street:</b> Podium <1.8m Above podium >3m  <b>Walker Street:</b> Podium: no change Above podium: +4.25m in the south  <b>South:</b> Podium: no change Above podium: +1.5m  <b>Harnett Street:</b> Podium: 1m Above podium: 1.5m-3m at the south



Numerical control	Original Planning Proposal	Amended Planning Proposal	Change
Car parking	168 spaces	70-80 spaces	<88 spaces

### 3.4. DRAFT AMENDMENT TO NSDCP 2013 WARD STREET PRECINCT

#### 3.4.1. Built form outcome

On 19 April 2021, Council placed the draft amendment to NSDCP 2013 Ward Street Precinct Masterplan amendments on public exhibition. The primary purpose of the DCP amendment is to provide built form controls that will guide future development within the Ward Street Precinct, reflective of the WSPMP. However, the amendment included specific reference to the site and the subject Planning Proposal.

At the time of exhibition, the Planning Proposal was under assessment. Council had provided feedback to the Proponent on 20 March 2021. The introduction of draft DCP controls without consultation with the Proponent undermines the due planning process and is contrary to good planning practice.

**Figure 11** below, demonstrates a building envelope that is fully compliant with Council's exhibited draft DCP controls.

The resultant configuration is an inferior and irregular built form that ranges between 3 storeys and 7 storeys, where the upper three levels include floor plates of 160m<sup>2</sup>-300m<sup>2</sup>, creating a poor urban design outcome that is costly and presents difficult floorplates to design. Furthermore, the envelope is incapable of complying with SEPP 65 (ADG controls). Evidently, the draft DCP controls completely sterilize the site making it undevelopable.

The draft DCP amendment and its accompanying solar access controls indicate that Council is establishing controls without adequate testing of the impacts and consequences and without due regards to either established practice or proper process. This has a major impact on the redevelopment of not just the subject site, but all sites within the Precinct.

The Proponent lodged a submission on the draft DCP controls (**Appendix B**). The submission detailed **three (3) significant recommendations** for Council to adopt in revising the draft DCP Amendment.

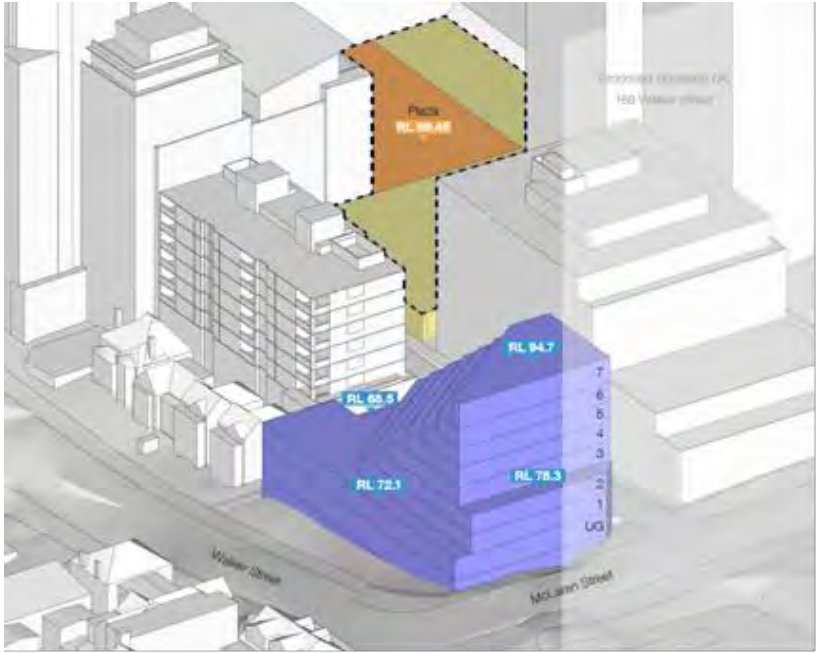
The recommendations were primarily in response to the inclusion of the DCP clause which states:

*"Development is to be designed to maintain year round solar access to the new public squares to be created within the Ward Street Precinct."*

As part of that submission, it was recommended that site-specific DCP controls be prepared in conjunction with the assessment of this amended Planning Proposal. A summary of the suggested site-specific DCP controls is contained in **Section 6.4**.

Council considered a post exhibition report to the draft DCP amendment on 26 April 2022, wherein it resolved to proceed with the draft amendment subject to a number of amendments in relation to issues raised in the public submissions. In particular, the overshadowing controls were relaxed to ensure no nett overshadowing the southern public square between 9am and 4pm between the March and September Equinoxes and that any overshadowing to the northern public square should be minimised. In addition, Council resolved to remove the site-specific controls that related to 45 McLaren Street and that any such amendments occur concurrently with the assessment of the Planning Proposal. The adopted amendments came into effect on 2 May 2022.

Figure 11: A building envelope that is fully compliant with council's draft DCP.



Source: Bates Smart Architects

## 4. STATUTORY PLANNING FRAMEWORK

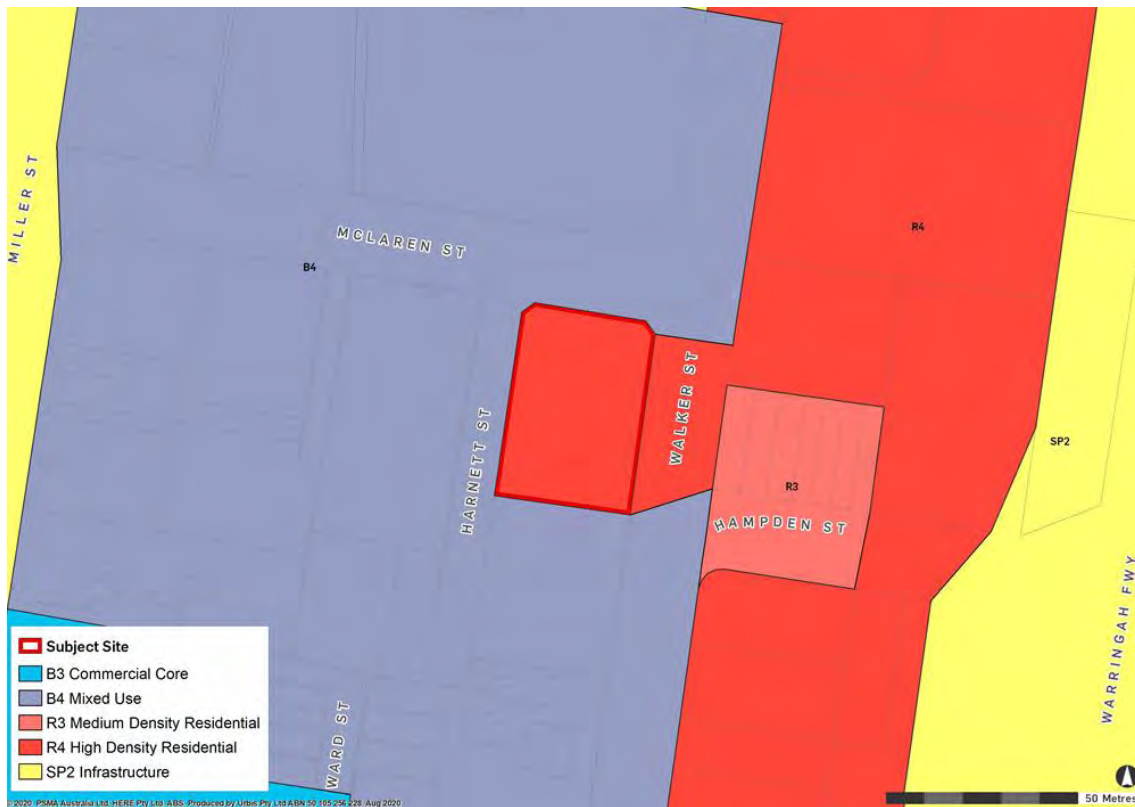
### 4.1. NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

The *North Sydney Local Environmental Plan 2013* (NSLEP 2013) is the principal Environmental Planning Instrument governing and guiding development within North Sydney LGA. The NSLEP was gazetted on 13 September 2013.

#### 4.1.1. Land Use Zone

In accordance with the NSLEP 2013 and as illustrated below, the site is zoned R4 High Density Residential. **Table 4** details the zone objectives and land use permissibility.

Figure 12: NSLEP 2013 Land Zoning Map



Source: Urbis

Table 4: R4 High Density Residential zone objectives and permissibility

<p><b>1. Objectives of zone</b></p>	<ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a high density residential environment.</li> <li>• To provide a variety of housing types within a high density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.</li> </ul>
-------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<ul style="list-style-type: none"> <li>To ensure that a reasonably high level of residential amenity is achieved and maintained.</li> </ul>
<b>2. Permitted without consent</b>	<i>Environmental protection works</i>
<b>3. Permitted with consent</b>	<i>Attached dwellings; Boarding houses; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Entertainment facilities; Home-based child care; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Shop top housing</i>
<b>4. Prohibited</b>	<i>Any development not specified in item 2 or 3</i>

#### 4.1.1.1. Employment Zones Reform Framework

In December 2020, the Department of Planning and Environment commenced working on a suite of planning reforms to deliver a simplified employment zones framework under the Standard LEP. The new framework was introduced through the Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 which was gazetted on 5 November 2021. The reforms will effectively replace the existing Business (B) and Industrial (IN) zones under a council's LEP with five new Employment (E) zones and three supporting zones (MU1, SP4 and W4). The Department of Planning commenced public exhibition of the translation of all LEPs in NSW, including NSLEP 2013, into the new employment zone framework on 30 May 2022. **Table 5** outlines the exhibited translation of the existing zones under NSLEP 2013 into the new zone framework.

Table 5: Land use zone transition

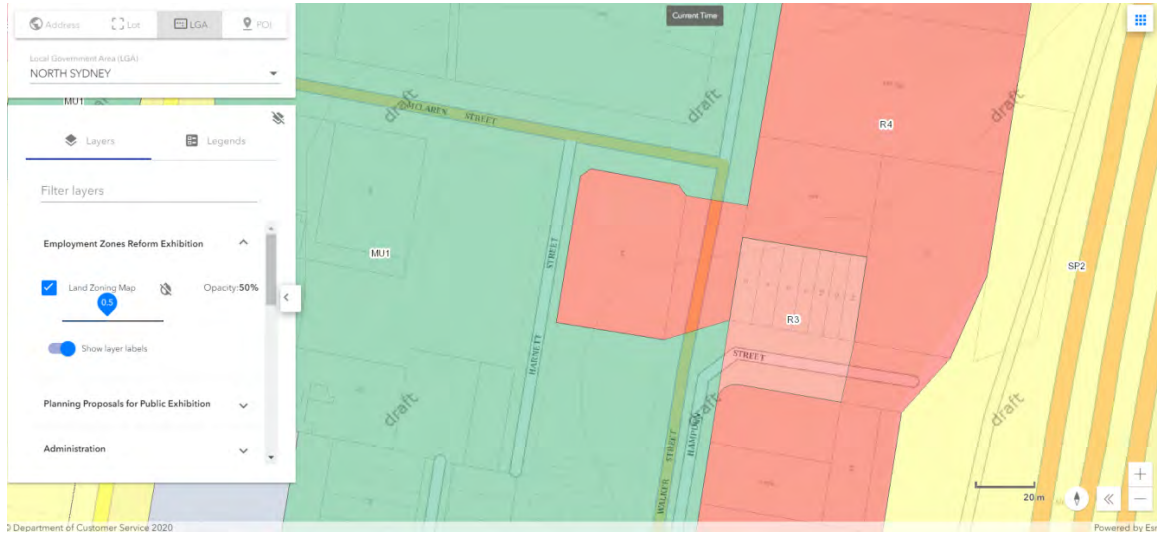
<b>Existing</b>	<b>Proposed</b>
B1 Neighbourhood Centre	E1 Local Centre
B3 Commercial Core	E2 Commercial Centre
B4 Mixed Use	MU1 Mixed Use
IN2 Light Industry	E3 Productivity Support
IN4 Working Waterfront	W4 Working Waterfront

The translation of the existing zones under NSLEP 2013 into the new zoning framework will result in all permissible uses under the current B4 Mixed Use zone being permissible under the proposed MU1 Mixed Use zone. However, the following land use types will also be made permissible with consent in the MU1 Mixed Use zone:

- Home businesses
- Home industries
- Home occupation
- Light industries

- Local distribution premises
- The following types of tourist and visitor accommodation types:
  - bed and breakfast
  - farm stay accommodation

Figure 13 NSLEP 2013 as amended per the employment zone reforms



Source: <https://www.planningportal.nsw.gov.au/employment-zones>

#### 4.1.2. Height of Buildings

Pursuant to Clause 4.3. of the NSLEP2013 and as illustrated in Figure 14 below, the site is subject to a maximum building height control of 12m.

Figure 14: NSLEP 2013 Height of Buildings Map



Source: Urbis

### 4.1.3. Floor Space Ratio

In accordance with the *NSLEP 2013*, the site is not encumbered by an FSR control.

Figure 15: NSLEP 2013 Floor Space Ratio Map



Source: Urbis

### 4.1.4. Heritage Conservation

In accordance with the *NSLEP 2013*, the site is not encumbered by any heritage affectations nor is it located within a heritage conservation area.

A number of heritage items are located in the immediate vicinity of the site including:

- **Item 889** Local heritage listed Simsmetal House (commercial office building) at 41 McLaren Street;
- **Item 988** Local heritage listed stone cottage at 185 Walker Street;
- **Items 984-987** Local heritage listed dwelling houses at 144-150 Walker Street;
- **Items 840-846** Local heritage listed Victorian Terraces at 2-14 Hampden Street; and
- **Item 996** Local heritage listed stone wall dissecting Walker Street.

The site is also located to the south of the Walker and Ridge Streets Heritage Conservation Area (CA20).

Figure 16: NSLEP 2013 Heritage Map



Source: Urbis

### 4.1.5. North Sydney Centre

As illustrated within **Figure 17** the site is not located within the North Sydney Centre.

Figure 17: NSLEP 2013 North Sydney Centre Map



Source: Urbis



## 5. LOCAL STRATEGIC PLANNING BACKGROUND

### 5.1. STAGE 1 WARD STREET PRECINCT MASTERPLAN (2016)

On 5 December 2016, the WSPMP was presented to Council, identifying the site as an opportunity site (site 3) ready for redevelopment. Council noted that opportunity sites are those that are relatively unconstrained and where land is underutilised within the context of its locality and proximity to the Centre.

Under this initial version of the WSPMP, the site was identified as having the potential to accommodate a mixed-use building with street level retail/commercial and residential above. The building was identified as having a stepped built form with a maximum height of RL100, which is approximately 12 storeys.

Figure 18: Ward Street Precinct Masterplan Analysis



Source: North Sydney Council, Attachment to CiS06, dated 5/12/16

## 5.2. STAGE 2 WARD STREET PRECINCT MASTERPLAN (2019)

On completion of the Stage 1 WSPMP study, Council elected to engage new consultants, taking on board feedback to develop the Stage 2 WSPMP.

Stage 2 was publicly exhibited between 7 August and 8 October 2018 and included two masterplan options: Miller Street Square (Option 1) and Central Square (Option 2). Each option was designed based upon the following built form criteria:

- Overshadowing
- Separation
- Heritage Impact
- Address
- Area
- Daylight
- Views

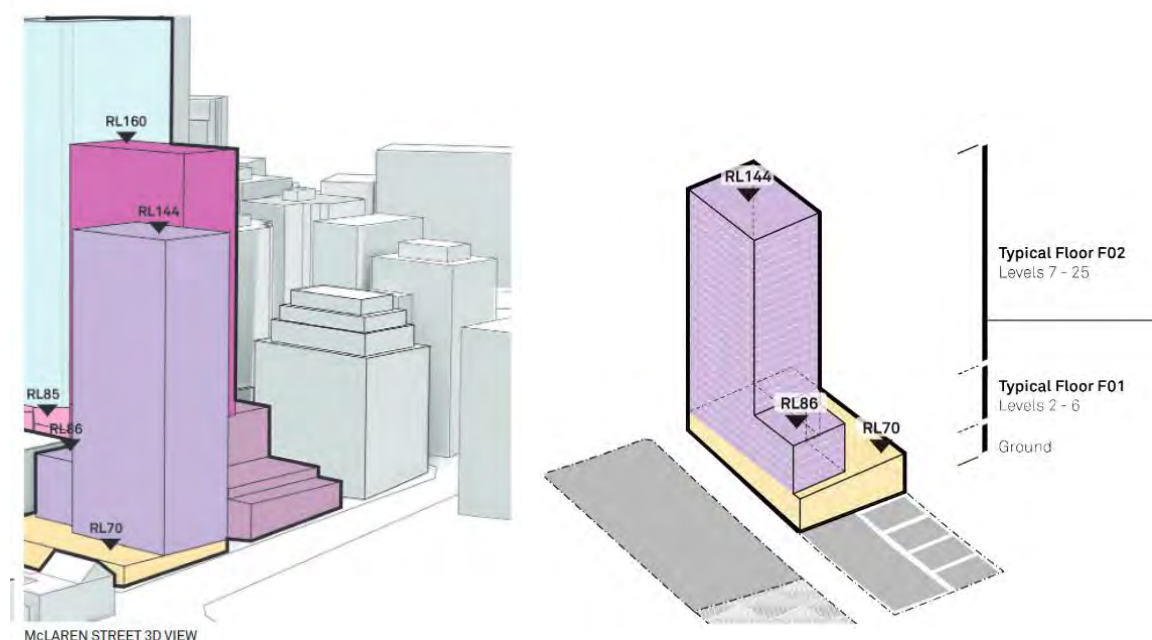
### Option 1 – Miller Street Square

The Miller Street Square option provided a balance of uplift across the precinct, a range of land uses and a greater proportion of open space, incorporating a central civic square and a linear park along Miller Street.

Specific to the site, the Miller Street Square option modelled a mixed-use development outcome on the site, which included a retail podium of up to RL70 (1-3 storeys) and a residential tower above, in a stepped built form, of up to RL144 (25 storeys). This envelope was designed to avoid shadow to the southern neighbouring site and provide a consistent bulk and scale to Walker Street, while defining the corner of McLaren and Walker Streets.

In establishing this built form outcome, Council identified that the site has a greater capacity for density, particularly in light of Victoria Cross Metro Station and development precedents nearby.

Figure 19: Indicative built form outcome



Source: Stage 2 Ward Street Master Plan

**Option 2 – Central Square**

The Central Square option sought to focus heights and densities at the northern end of the Ward Street Precinct. This outcome provided a smaller consolidated civic space within the centre of the precinct, restricting future development to the north due to concerns relating to overshadowing.

This option afforded no additional uplift to the site. While modelling concluded a similar stepped envelope to RL100 in the Stage 1 Masterplan, due to the financial impediments of such development, Council chose not to show any uplift for the site in the Central Square option.

On 24 June 2019, Council resolved to endorse the finalised Stage 2 WSPMP, which pursued the delivery of Option 2 (being the Central Square Option), as amended (refer **Figure 22**). The major driver of the selection of this option was the quality and amenity of the open space to be created and the solar access likely to be experienced, and the creation of employment. While Council recognised that development potential exists on the site at 45 McLaren Street, such development did not meet the immediate drivers that motivated the final recommended built form. As such, no immediate changes were envisaged for the site under the adopted WSPMP.

Figure 20: Miller Street Square (Option 1)

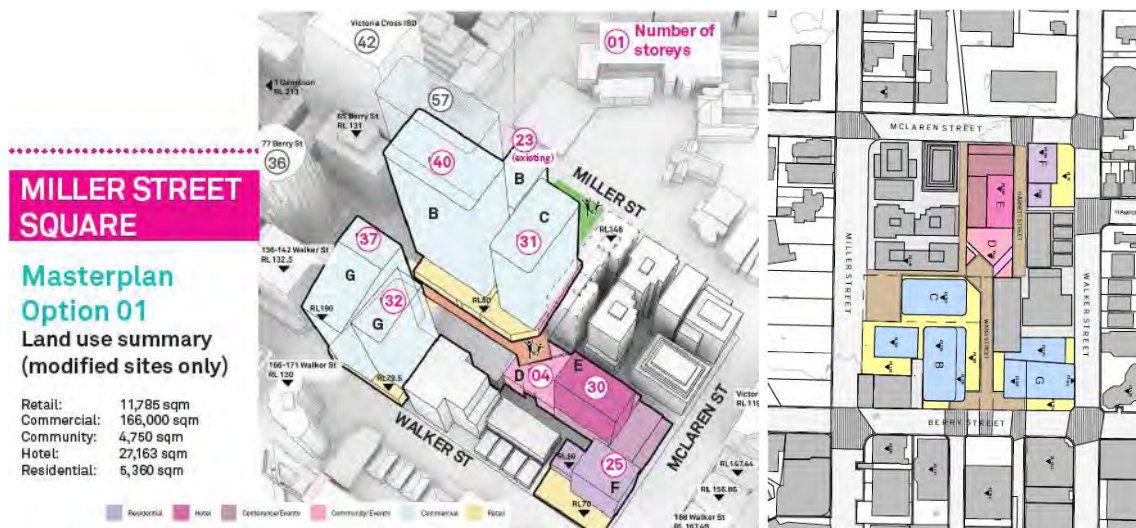


Figure 21: Central Square (Option 2)

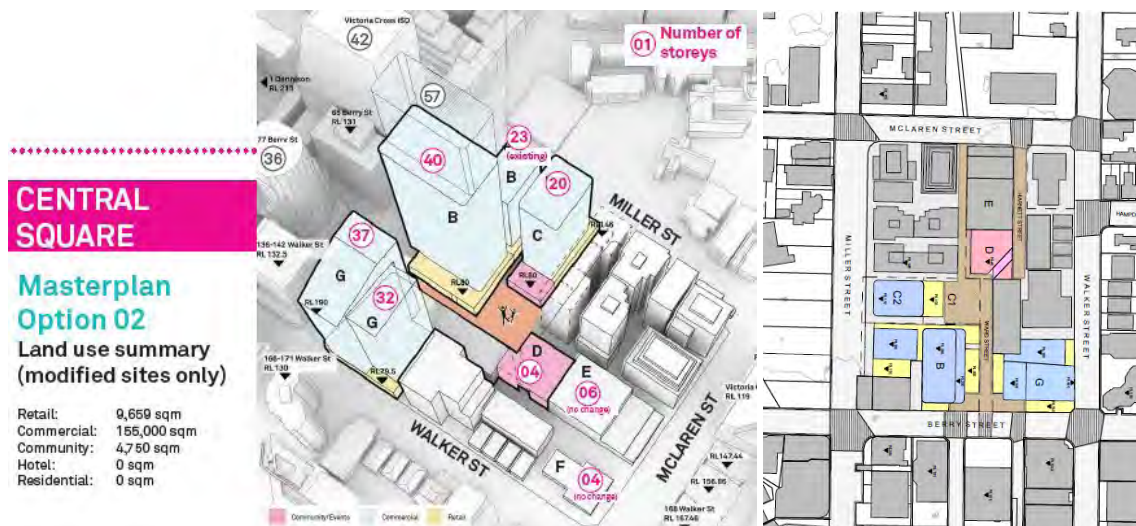
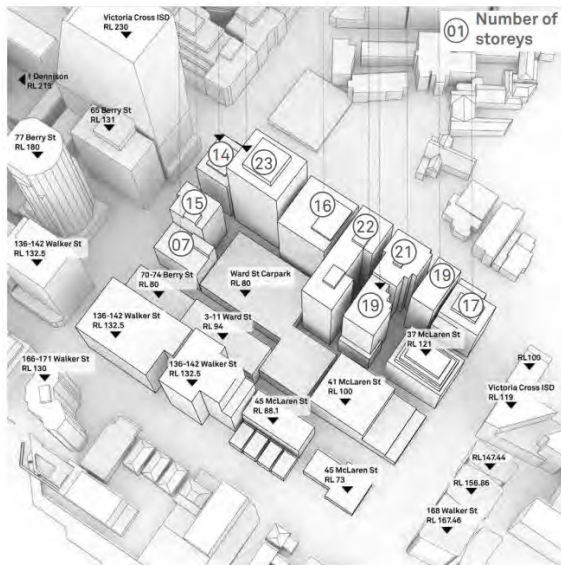
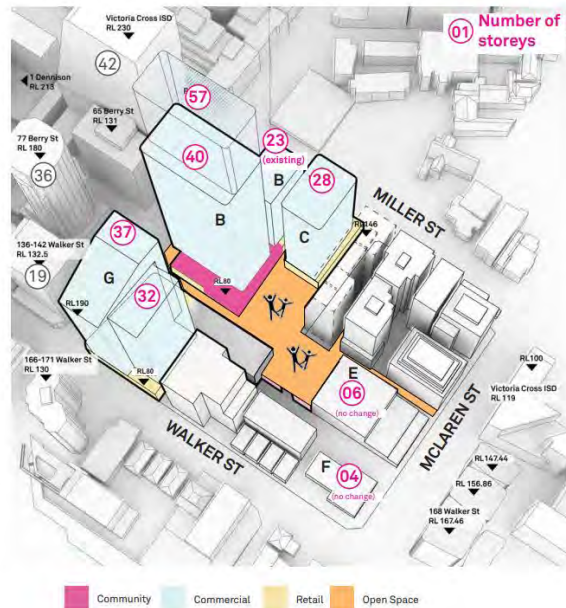


Figure 22: Final Ward Street Master Plan Built Form

Existing



Proposed



5.2.1. Consistency with the WSPMP

Whilst the endorsed WSPMP did not provide uplift on the site due to *adverse impacts to public spaces and adjoining residential areas*, Council’s resolution recommended that:

*despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:*

- I. *Minimise solar reductions upon new public domain as identified in the Masterplan.*
- II. *Minimise solar and privacy impacts upon existing residential development.*
- III. *Provide for a commercial component to any redevelopment.*
- IV. *Identifies significant public benefits that will arise from the development of the site with particular regard to the objectives of the Masterplan.*

The Proponent is acting upon Council’s resolution, which provides a clear opportunity to lodge a site-specific Planning Proposal.

The principles outlined in Council’s resolution have guided the built form modelling presented within the reference scheme, whilst also incorporating the Place Principles from the WSPMP and the objectives of the Civic Study.

The central objective of the WSPMP is to maximise the direct public benefit in the form of public open space and community facilities whilst delivering on the North District Plan’s (NDP) job targets. This amended Planning Proposal incorporates 2.5 levels of commercial and retail floor space and the provision of a new through-site link and active frontages, in line with the stated objective.

A comparison between the building envelope original earmarked for the site, the endorsed envelope for the site under the WSPMP and the amended Planning Proposal (and submitted reference scheme) is summarised in **Table 6** below:

Table 6 Comparison between WSPMP and the amended Planning Proposal

	<b>Ward Street Precinct Masterplan (Option 1)</b>	<b>Ward Street Precinct Masterplan (Option 2)</b>	<b>Amended Planning Proposal</b>
<b>Podium</b>	Retail podium up to RL70 (1-3 storeys)  Retail GFA: 1,390m <sup>2</sup>	N/A (retention of R4 zoning)	Retail podium up to RL72.1 (1-3 storeys)  Retail / Comm GFA: 2,091m <sup>2</sup>
<b>Tower</b>	Residential tower up to RL144 (25 storeys overall) with a southern wing up to RL86 (6 storeys overall)  Residential GFA: 15,360m <sup>2</sup>  834m <sup>2</sup> GFA per floor plate	Maximum height of 12m (3-4 storeys)	Residential tower up to RL115 (14 storeys overall) with a southern wing up to RL103 (10 storeys overall)  Residential GFA: 9,109m <sup>2</sup>
<b>Potential GFA</b>	16,750m <sup>2</sup>	As existing	11,200m <sup>2</sup>
<b>Through site link</b>	Along the southern boundary	Along the southern boundary	Along the southern boundary
<b>Active frontage(s)</b>	Walker Street  Harnett Street	Walker Street  Harnett Street	McLaren Street  Harnett Street

### 5.3. CIVIC PRECINCT STUDY

The Civic Precinct Planning Study (**Civic Study**) was exhibited between 18 May 2020 and 20 July 2020 and adopted by Council at its meeting on 30 November 2020. The Study was prepared in response to the construction of the Victoria Cross Metro Station and the significant transformation to the areas surrounding the Study area. The Study area is bound by McLaren Street, Pacific Highway, Falcon Street and the Warringah Freeway.

The site is not located within the Civic Precinct; rather, it forms part of the transitional zone between the CBD and the Civic Precinct, as shown in the diagram at **Figure 23** below.

Figure 23: Civic Precinct Study Area



Source: Civic Precinct Planning Study

### 5.3.1. Consistency with the Civic Precinct Study

Taking cues from the land uses, heights, densities and street wall heights nominated within the Study, for land to the north and east, the amended Planning Proposal includes the following elements:

- The stepped massing of the main building which provides a gradual transition between the mid-scale apartments to the south and the approved 28 storey Aqualand tower to the north;
- One – three storey street podium on the corner of Walker Street and McLaren Street, with upper level setbacks;
- Ground floor retail and commercial uses that improve street activation;
- A proportion of non-residential FSR consistent with the surrounding lands ranging between 0.5:1 and 1:1;
- Deliver jobs and housing growth on the fringe of the CBD;
- Preserve and respect heritage items;
- Improve the public domain and increasing linkages;
- Protect of amenity to existing and proposed public open spaces; and
- Provision of diversity in housing types.

## 6. THE REFERENCE SCHEME

### 6.1. REFERENCE SCHEME GUIDANCE

A reference scheme has been prepared by Bates Smart and Arcadia. Bates Smart has collaborated with the Proponent, the community and council staff to formulate a set of robust design principles that will inform the site's redevelopment into a high-quality mixed-use outcome.

The vision is for a sustainable mixed-use building that celebrates the site's location at the transition between North Sydney's high-density CBD and North Sydney's Civic Precinct.

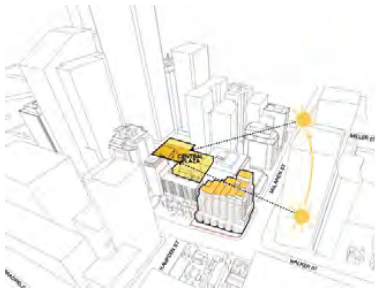
#### 6.1.1. Design Principles

The design strategy has been tailored to respond to the characteristics and constraints of the site and surrounds whilst incorporating the key design principles that underpinned the WSPMP and the Civic Study. This includes:

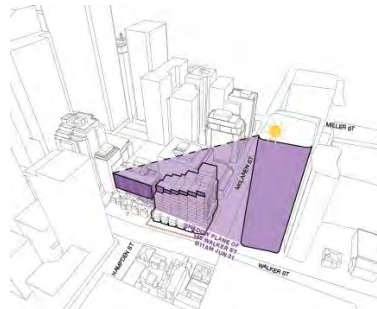
- **Solar access:** No overshadowing to the Central Square within the Plaza from 9am on June 21<sup>st</sup> and retention of solar access to existing residential properties at 150 Walker Street.
- **Height transition:** Utilising the building heights established within the endorsed WSPMP, the approved development to the north, and the existing heritage buildings and residential tower to the south, the proposed heights have been designed to have a stepped transition and fall away to the south.
- **Street setbacks:** The north-east and south-east corners of the podium have been setback with soft landscaping to align with the heritage terraces to the south, whilst the northern edge of the building aligns with 41 McLaren Street, immediately west of the site. The podium has also been setback along the southern boundary to allow for a widened through-site link.
- **Mixed-use outcome:** Commercial, retail and recreational (indoor) land uses contained within the podium along McLaren Street and Harnett Street and residential terraces fronting Walker Street will bridge the gap between the commercial buildings and to the west and the residential neighbourhoods to the east.
- **Streetscape activation:** Active frontages and passive surveillance are provided along all site frontages. McLaren Street and Harnett Street is activated by retail and recreational (indoor) uses with residential uses providing passive surveillance of Walker Street.
- **Public domain improvements:** Pedestrian connectivity will be enhanced through the expansion (from 1.5m to 3m) of the existing through-site link connecting Walker Street and Harnett Street, improving and promoting pedestrianisation around the site and activating Ward Street Plaza. Public domain improvements also include pedestrian upgrades to the street frontages and upgrade of Harnett Street.
- **Landscaping terracing:** The stepping of the built form allows for cascading landscaping to form a green roof. Key corner locations will be designed with green walls, creating a living, breathing building façade.

**Figure 24** below illustrates graphically how the reference scheme has been developed based upon the adopted design principles.

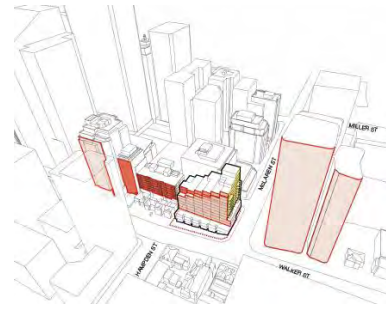
Figure 24: Design principles used to inform the reference scheme



Picture 1: Rooftop stepping



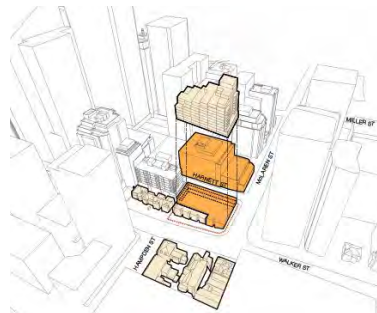
Picture 2: Tower stepping solar access



Picture 3: Tower setback stepping and alignments



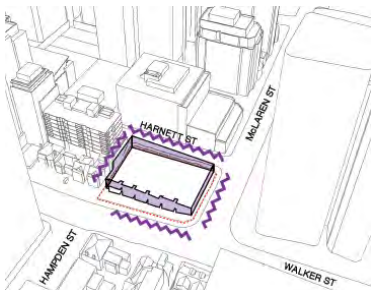
Picture 4: Street alignments and setbacks



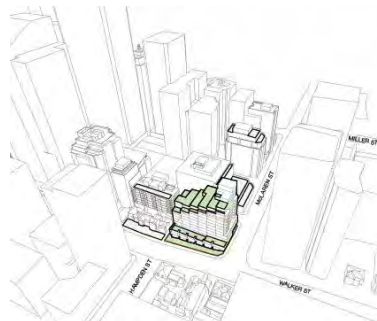
Picture 5: Mixed-use precinct



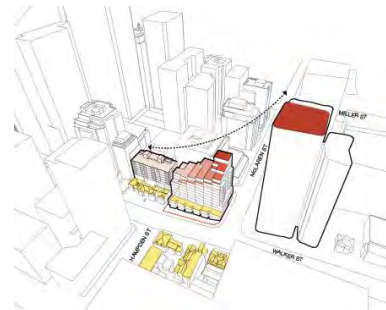
Picture 6: Enhancing the through-site link



Picture 7: Activation and interface



Picture 8: Landscape terracing



Picture 9: Building height transition and datum

Source: Bates Smart



## 6.2. REFERENCE DESIGN

By applying the design principles, Bates Smart has produced a reference design that demonstrates how future development could occur, consistent with the controls sought under this amended Planning Proposal.

### 6.2.1. Numerical Overview

The key numerical details of the reference scheme is provided in **Table 7** below.

Table 7: Key numerical details

Indicator	Proposed LEP Controls	Reference Design Outcome
Land Use	B4 Mixed Use (MU1 Mixed Use)	Residential accommodation (residential flat building)  Commercial / Retail  Recreational Facility (indoor) - Gymnasium
Height	Part RL 115 (max)  Part RL 103 (max)	RL 113.8 (14 storeys overall)  RL 101 (10 Storeys)
FSR	Whole - 6.25:1 (max)	Total GFA: 11,200m <sup>2</sup>  Total FSR: 6.25:1
	Residential – N/A	Residential GFA: 9,109m <sup>2</sup>
	Non-Residential – 1:1 (min)	Retail/commercial GFA: 2,091m <sup>2</sup>  Non-Residential FSR: 1.17:1
Apartments	N/A	82 apartments:  25 x one-bedroom apartments  38 x two-bedroom apartments  17 x three-bedroom apartments  2 x penthouse apartments
Built form	As per proposed site specific DCP	1-3 storey podium  Tower above podium
Parking	As per proposed site specific DCP	70-80 car spaces  7-8 motorcycle spaces

### 6.2.2. Land Use

The amended Planning Proposal seeks to rezone the site from R4 High Density Residential to B4 Mixed Use, which would support the activation of McLaren Street and Harnett Street, consistent with the desired future character of the precinct. Should the Department of Planning's Employment Zone reforms be implemented before the finalisation of any amendment to NSLEP 2013 to give effect to this planning proposal, the land will be zoned to MU1 Mixed Use under the new framework.

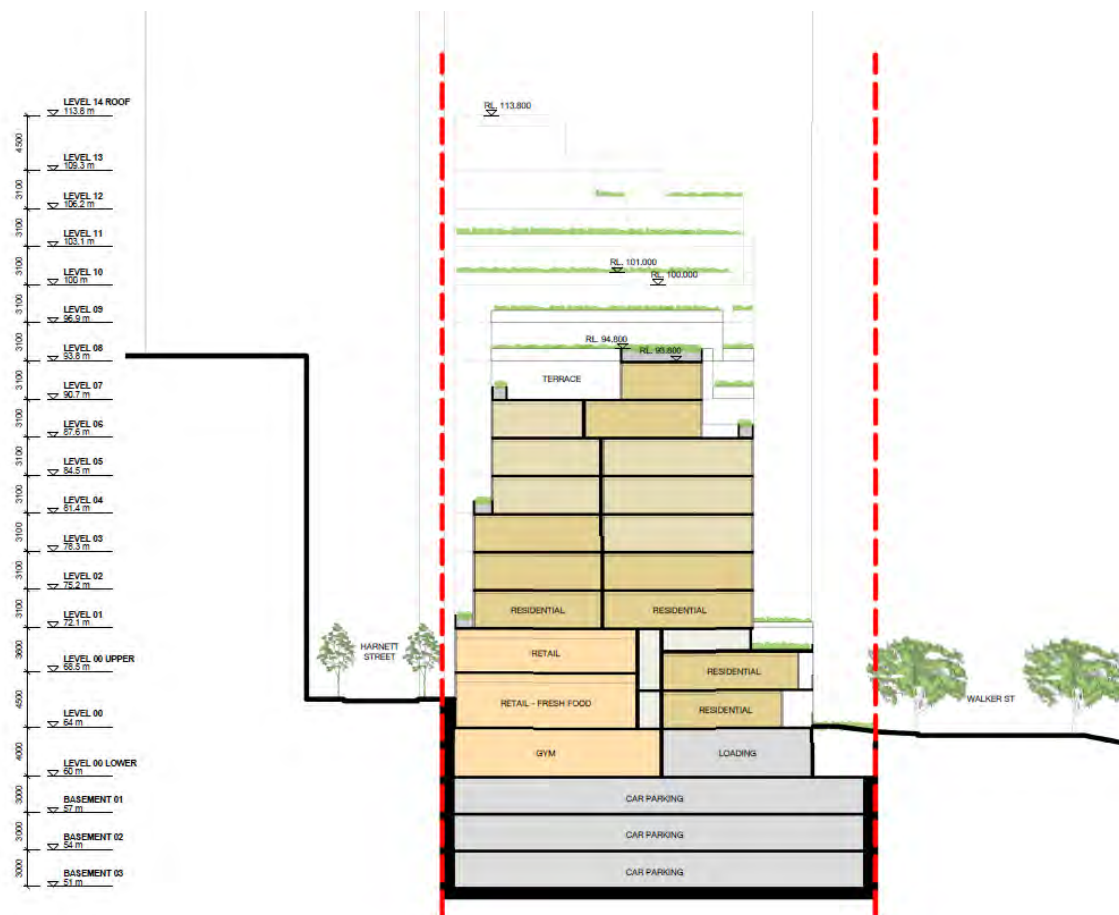
As illustrated in the submitted reference design, the redevelopment of the site would accommodate:

- Lower ground floor: A gym, which is accessed from the through site link or via the retail lift;
- Ground level and upper ground: retail on the corner of McLaren and Walker Streets and fresh-food offering with access from McLaren Street or Harnett Street
- Ground level (Walker Street): five (5) 1-2 storey residential terraces
- Tower: 82 residential apartments within the tower form above, which ranges in height from 10 storeys to 14 storeys (including podium)

The residential density on the site coupled with the provision of commercial/retail uses and a gym would activate the site and contribute to the 18-hour economy, creating a more vibrant place to live, work and socialise, and be consistent with the vision for the WSPMP.

The following sectional diagram shows how the land uses relate to the street frontages and the sites sloping topography.

Figure 25: Proposed east-west section illustrating the land uses



Source: Bates Smart

### 6.2.3. Height and Built Form

The reference design proposes a building up to 14 storeys in height above ground level up to RL113.8. The amended Planning Proposal proposes a maximum building height of part RL 103 and part RL115, which will allow for a built form that steps across the site. The reference design incorporates a 1-3 storey podium, with a 5.5m setback to Walker Street. Above the podium is a 7-13-storey tower form, which contains luxury residential apartments.

Key considerations have included an assessment of site and surrounding constraints and the evolving urban context. This has resulted in shaping a building envelope to deliver a stepped tower form that maximises opportunities for terrace landscaping at multiple levels across the site, reducing visual bulk impacts to provide a human-scale and contributing to ESD objectives and sustainability strategy.

Specifically, the building envelope has been positioned on the site to respond to the surrounding building context. The podium fronting Walker street has been setback to align with the heritage terraces to the south of the site, whilst the podium massing along McLaren Street aligns with 41 McLaren Street, immediately west of the site. The residential terraces along Walker Street are sculpted as individual 1-2 storey terraces, with outdoor balconies and direct street access as a modern interpretation of the heritage context.

The stepping of the tower form is within the solar plane cast by the building at 168 Walker Street, and provides a massing transition between this building and the residential apartments at 150 Walker Street. The stepped rooftop massing also enables good solar access to the site, the southern neighbouring properties and to the Central Plaza within the WSPMP. Further, the proposed building envelope results in no additional overshadowing to the Plaza. The stepped built form aligns with Council's intention of a transitional zone between the North Sydney CBD and the Civic Precinct on Walker and McLaren Streets.

The proposed stepped height is further justified and supported in the accompanying Urban Design Report prepared by Bates Smart (**Appendix A**).

### 6.2.4. Key Design Elements

The submitted reference scheme (**Appendix A**) includes the following key design elements that are anticipated to be reflected in any future development application.

#### 6.2.4.1. Basement and site access

Vehicular access to the site is proposed at the southern extent of Walker Street. This driveway will provide access to both the basement car parking and loading dock.

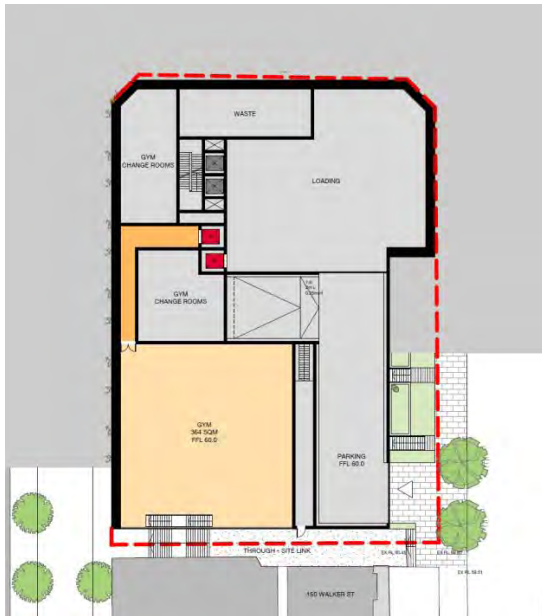
A site access study has been undertaken by Bates Smart and is documented in the submitted urban design report (**Appendix A**). The study documents the benefits associated with locating vehicular access at the lowest point of the site. If access was to be provided from Harnett Street, this would require reliance on a car lift, which would result in inefficient and sub-terrain commercial floor space and would compromise the ability to activate the through-site link.

Vehicle access from Walker Street has substantial benefits and would enable a traditional access ramp to be provided. Given this is similar to the existing site access arrangements, it is considered that there would be no additional adverse traffic implications to Walker Street associated with the retaining the current site access provisions.

#### 6.2.4.2. Lower ground

The lower ground level contains a waste room and loading area, which are below the McLaren Street level to minimise blank, un-activated frontages. These are accessed via a driveway from Walker Street to the south of the site, which also serves as the entrance to the basement parking levels. There is also a gym and associated change rooms accessible via the Harnett Street ground level, at the south-west corner of the site.

Figure 26: Lower Ground Floor



Source: Bates Smart

### 6.2.4.3. Ground

The ground floor is setback 5.5m from Walker Street and contains four residential terraces with outdoor balconies and direct street access. These 2-storey terraces complement the heritage buildings directly to the south of the site, presenting as a modern interpretation of the heritage context.

The ground floor at the Harnett Street frontage contains a fresh food supermarket accessible from the south-west corner of the site, as well as via the upper ground floor level on McLaren Street at the north-west corner of the site.

Figure 27: Ground floor



Source: Bates Smart

#### 6.2.4.4. Upper ground

The upper ground level features retail along the Harnett Street frontage as well as on the north-east corner of the site, which will activate the area. The podium level has a nil setback to McLaren Street. Separate lobbies for the various uses (residential and commercial lobbies) and associated lift are located on the upper ground floor and can be centrally accessed from the McLaren Street frontage. The upper ground floor also contains the upper levels of the four (4) residential terraces fronting Walker Street and an additional single storey, one (1) bedroom apartment.

Figure 28: Upper ground floor



Source: Bates Smart

#### 6.2.4.5. Tower form

The residential tower above is stepped back from the podium base along Walker Street and varies in height from 7 to 13 storeys. The tower form has been sculpted to transition from the south-west, where it aligns with 150 Walker Street, to the north-east, where it aligns with 168 Walker Street. The tower alignment takes cues from both the proposed development directly to the north and the heritage terraces to the south. Each unit is provided with a balcony or landscaped terrace as private open space. The indicative design for the tower floorplates at Level 1-13 are provided below at **Figure 29**. Levels 8-13 are stepped and contain less apartments as the floor level increases.

Figure 29 Floorplates for Level 1-13



Picture 10 Level 3



Picture 11 Level 4-5



Picture 12 Level 8



Picture 13 Level 9



Picture 7 Level 10



Picture 8 Level 11



Picture 9 Level 12



Picture 10 Level 13

Source: Bates Smart

### 6.2.5. ESD Initiatives

The amended Planning Proposal and submitted reference scheme is founded on the vision and intent of delivering a sustainable mixed-use building that expands the horizons of sustainability performance in the built environment. This vision and the overarching objectives are documented in the Sustainability Strategy (**Appendix L**). These objectives directly align with the priorities of the North District Plan and are reproduced as follows:

1. To reduce Green House Gas (**GHG**) emissions, with the goal of Net Zero Emissions (Priority N21);
2. To support the health and wellbeing of building occupants, visitors and the community (Priority N4);
3. To dramatically reduce the use of non-renewable resources and advance the circular economy (Priority N21);
4. To support the physical resilience of assets, and the resilience of the community, to manage shocks and stresses from climate change (Priority N22);
5. To contribute new green space to the city, supporting local habitat, connectivity for mobile species, water management, urban heat and local amenity (Priorities 15, 16 and 19);
6. To enable movement to and from the site with non-vehicular transport; connecting to Sydney Metro, supporting better mobility options in the neighbourhood and supporting the adoption of emerging mobility options that supports sustainable outcomes;
7. To mitigate the consumption of potable water resources, seek more sustainable infrastructure solutions and provide best practice water quality leaving the site (Priority N21);
8. To embed Indigenous knowledge into the design and development process in support of our cultural heritage and recognition of the sustainability insight from Indigenous communities (Priority N17).

The sustainability objectives are supported by five strategic initiatives that have directly guided the design and modelling of the reference scheme, being:

1. Pathway to Climate Positive Approach;
2. Passive Design, Amenity and Ventilation;
3. Biophilia and a Healthy Building;
4. Transport and Mobility; and
5. Liveable Public Realm.

These strategic initiatives and the ESD principles are documented in the Urban Design Report (**Appendix A**). This includes the irrigation of plants and recycled heat for hot water, as well as the collection and reuse of rainwater. The insulated green roofs will also reduce heat gain, thermal mass and the Urban Heat Island Effect.

The orientation and stepped massing of the development is designed to increase solar access and limit overshadowing to the surrounding buildings and areas of public open space. As such, the design maximises the building's north and east aspects, reducing the heat load to the west and optimising daylight for enhanced indoor-outdoor connections.

### 6.2.6. Landscape Outcome

The Landscape Concept Design Report prepared by Arcadia (**Appendix I**) illustrates a high-quality landscape outcome, achieving substantial landscaped terraces across multiple levels of the site that are available for both private and communal use for future residents of the building.

Soft landscaping will be located along the Walker Street frontage setback, which is in keeping with the neighbouring properties to the south and the leafy character of the surrounding context. With the residential building being setback from the podium, terrace landscaping will also be included.

The stepped massing of the built form provides great opportunity to incorporate multiple landscaped rooftops above the podium terraces throughout the site, which provide a human scale and allow the building to respond sensitively to the surrounding items of heritage significance. The terrace landscaping includes both private landscaped open space areas and communal areas.

### 6.2.7. Public Domain Improvements

The Landscape Concept Design Report prepared by Arcadia (**Appendix I**) illustrates a high-quality public domain outcome, achieved by widening the pedestrian through-site link connecting Walker and Harnett Streets from approximately 1.5m to 3m in width. This increased setback along the southern boundary of the site will enhance the pedestrianisation around the site, particularly with the entry to the fresh food supermarket off Harnett Street and allow for activation of the Ward Street Precinct. The podium also provides an active frontage on the other three boundaries of the site with retail offerings, improving passive surveillance and onlooking to the public domain. The proposed expansion of the through-site link and activation of street frontages are consistent with Council's North Sydney Public Domain Manual.

## 6.3. PUBLIC BENEFIT OFFER

Under Section 7.4 of the EP&A Act, a proponent may enter into a Voluntary Planning Agreement (VPA) where a change is sought to an environmental planning instrument, under which the developer agrees to dedicate land, pay a monetary contribution and/or provide any other material public benefit in association with the change to the environmental planning instrument.

The Proponent has engaged in discussions with North Sydney Council on the details of the VPA offer, with the contents of the offer endorsed in principle by Council at its meeting on 28 March 2022. On 2 August 2022, the Proponent requested an amendment to the draft VPA offer to account for any monetary loss associated with the potential imposition of more restrictive car parking controls for the site as resolved by Council on 28 March 2022, when it agreed to support the progression of the Planning Proposal. Council considered and endorsed the Proponent's request in conjunction with an additional request from the Proponent to further amend the site-specific car parking rates to reflect the draft rates endorsed by Council on 25 July 2022.

The VPA offer has been prepared based on the indicative development yield and associated car parking, as described in *Section 6.2.1 Numerical Overview of this report*. The public benefits that have been in-principally agreed, include:

- Monetary contribution of \$34,000 per additional dwelling, excluding any affordable housing
- Widening of through site pedestrian link (works-in-kind and land dedication)
- Harnett Street, Walker Street and McLaren Street public domain improvement works
- Dedication of one x 2-bedroom apartment to Council's affordable housing program



It is intended that the monetary contribution would help fund the type of public benefits needed in the community and for the delivery of the Ward Street Precinct public domain upgrades.

Once agreement has been reached as per Council's resolution of 28 March 2022, a formalised draft VPA will be placed on public exhibition concurrently with this amended Planning Proposal.

## 6.4. SITE-SPECIFIC DCP PROVISIONS

The redevelopment of the site would be guided by an amendment to North Sydney Planning Area Character Statement of the *North Sydney Development Control Plan 2013 (NSDCP 2013)*. The amendment would seek to include the site within the boundary of the Central Business District (Part 2.1), reflective of the sites proposed B4 Mixed-Use zone and its location within the Ward Street Precinct.

The proposed amendments to the NSDCP 2013 also include site-specific controls relating to building height in storeys, site setbacks, podium setbacks and overshadowing restrictions to the southern Central Square within the Ward Street Plaza.

These controls are summarised in the table below, however, noting that the site boundary is not parallel to the building alignment. This results in slight variations to the setback alignment, presenting as a range rather than a single number. For the Planning Proposal, we have provided a single number based on an average setback.

Table 8: Proposed DCP provisions

<b>Numerical control</b>	<b>Proposed control</b>
<b>Height in storeys</b>	Development is to provide a stepped transition in building height across the site, ranging in a maximum overall building height, as follows:  Southern Boundary: Maximum height of 10 storeys  McLaren Street: Maximum height of 14 storeys
<b>Setbacks</b>	<p><b>McLaren Street</b></p> <p>Podium: 0m Above podium: 3m to boundary</p> <p><b>Walker Street</b></p> <p>Podium: 5.5m Above podium: 4.85m from eastern podium wall</p> <p><b>Southern boundary</b></p> <p>Podium: 1.5m Above podium: 3m from the southern podium wall</p> <p><b>Harnett Street:</b></p> <p>Podium: 1m Above podium: 1.5m-3m for the southern extent of the building only</p>
<b>Activation of street frontages</b>	Commercial / retail land uses are to be provided to all street frontages, except Walker Street.

Numerical control	Proposed control
	Residential accommodation is permitted along Walker Street, reflecting the land uses and heritage datum of the existing heritage terraces at 150 Walker Street.
<b>Overshadowing</b>	Development is to result in no nett increase in overshadowing to the Ward Street Central Square from 9am on June 21st

On 28 March 2022, Council resolved to adopt a draft site specific DCP generally consistent with the above controls and to place those draft controls on public exhibition concurrently with the Planning Proposal. As part of its resolution, Council also included more restrictive parking controls.

Council, at its meeting on 26 April 2022, resolved to adopt an amendment to the DCP to reflect the desired outcomes of the Ward Street Precinct Masterplan. As part of the post exhibition report, the finalised DCP removed the clause which restricted “no nett increase in traffic generation.” Council stated that the clause was removed as *“It was not proposed to amend the specific parking rates as part of this draft DCP amendment, as it was considered more beneficial for the matter to be addressed as part of a wider parking strategy in light of the introduction of the new Metro Stations in the LGA which would affect more than just the Ward Street Precinct. An LGA wide parking strategy is currently being prepared by Council and this issue can be addressed through this process.”*

On 25 July 2022 Council resolved to amend the parking rates under its DCP to restrict parking in localities across the LGA which have high levels of access to mass public transport, including the subject site. These draft amendments are anticipated to be publicly exhibited in September 2022.

Following this resolution, the Proponent formally requested Council on 3 August 2022 to amend the draft site-specific DCP amendment for the subject site to reflect the draft parking rates adopted on 25 July 2022. Council endorsed this request on 22 August 2022. Accordingly, the proposed parking rates for the site will be as follows:

**Residential:**

Studio/ 1 bed – 0.4 space per dwelling

2 bedrooms – 0.6 space per dwelling

3 bedrooms – 0.7 spaces per dwelling

**Non-residential:**

1 space per 400sqm of non-residential GFA

## 7. AMENDED PLANNING PROPOSAL

This amended Planning Proposal has been prepared in accordance with Sections 3.33(1) and (2) of the *Environmental Planning and Assessment Act 1979* with consideration of the relevant guidelines, namely “*Local Environmental Plan Making Guideline*” issued by the Department of Planning and Environment (September 2022).

Accordingly, the proposal is discussed in the following six parts:

- **Part 1:** Statement of the objectives or intended outcomes of the proposed amendment;
- **Part 2:** Explanation of the provisions that are to be included in the proposed amendment;
- **Part 3:** Justification for those objectives, outcomes and the process for their implementation;
- **Part 4:** Supporting maps which identify the aspects of the amended Planning Proposal;
- **Part 5:** Details of community consultation that is to be undertaken for the amended Planning Proposal; and
- **Part 6:** The prospective project timeline.

Each of the above are addressed in the following sections of this report.

## 8. PART 1 – OBJECTIVES & INTENDED OUTCOMES

### 8.1. OBJECTIVES

The primary objective of this amended Planning Proposal is to amend the NSLEP land zoning, building height and FSR controls and introduce additional local provisions to facilitate a mixed-use development outcome, commensurate with the desired future character of the immediate locale.

Other key objectives include:

- Realise the development potential envisaged by Council within the WSPMP;
- Encourage development activity in an identified key location, supporting the evolution of a diverse mixed-use precinct and contributing to the rejuvenation of the North Sydney Centre;
- Provide compatible mix of land uses that contribute to the creation of a vibrant and active community, including the co-location of residential, commercial and retail in immediate proximity of the Metro and existing train station;
- Contribute towards the North Sydney housing and employment density targets;
- A sustainable mixed-use development that adopts innovative strategic initiatives in the built form, in building systems and in support for a renewed public realm; and
- Integrate the site within the broader area through public domain improvements to the site's triple frontage and streetscape activation including the provision of an expanded through-site link, connecting Walker Street to Ward Street.

### 8.2. INTENDED OUTCOMES

The intended outcome of this amended Planning Proposal is to amend the planning controls that apply to 45 McLaren Street to achieve the following:

- Rezone the site from R4 High Density Residential to B4 Mixed Use;
- Establish a site-specific split maximum height of building control of RL103 and RL115;
- Establish a site-specific FSR control of 6.25:1;
- Establish a minimum non-residential FSR of 1:1;
- Insert the following subclause (6A) after subclause 4.4A(6):
  - *Despite subclause (5), an active street frontage is not required for any part of a building facing Walker Street, erected on land at 45 McLaren Street, North Sydney, being SP 14598.*
- Insert the following subclause (4) after subclause 6.12A(3):
  - *Despite subclause (3)(b), development consent may be granted for the purpose of a residential flat building for that part of the building at the ground floor level that faces Walker Street at 45 McLaren Street, North Sydney being SP 14598.*

It is acknowledged that the Department of Planning and Environment has introduced a new employment zone framework into the Standard Instrument LEP which is to be implemented across all NSW LEPs by the end of 2022. Should that work be completed prior to the finalisation of any LEP amendment to which this Planning Proposal relates, the zoning of the land is proposed to be changed from R4 High Density Residential to MU1 Mixed Use under the new employment zone framework.

Ultimately, this will enable the achievement of a range of regional and local strategic planning objectives, including increased employment and housing growth within an accessible and connected location. The outcome would be the renewal of the site with commercial and recreational land uses fronting McLaren Street and Harnett Street and new residential dwellings that would complement the increased commercial floor space envisaged within the North Sydney CBD and Ward Street Precinct. The development would be at an appropriate scale, transitioning from the 28 storey Aqualand tower in the north to the Walker Street and Belvedere apartments to the south. Redevelopment would also contribute to enhancing the public domain, street frontages, pedestrian linkages and activating the 18-hour economy.

It is acknowledged that Council recommended applying a sun-access plane control over the site to restrict the height of the building. However, as the final design and levels of the Plaza are unknown, it is premature to include sun-access plane controls over the site. As stated earlier, amendments to the relative level of the Plaza may result in differing overshadowing outcomes from surrounding buildings. It is more appropriate that an LEP split height control be applied to the site, in combination with DCP height in storey controls.

## 9. PART 2 – EXPLANATION OF PROVISIONS

The proposed objectives and outcomes will be achieved by:

- Amending the *North Sydney Local Environmental Plan 2013 Land Zoning Map* (Sheet LZN\_002A) in accordance with the proposed land zoning map provided within Part 4 – Mapping. This illustrates a B4 Mixed Use zone over 45 McLaren Street;
- Amending the *North Sydney Local Environmental Plan 2013 Height of Buildings Map* (Sheet HOB\_002A) in accordance with the proposed height of buildings map provided within Part 4 – Mapping. This illustrates a split maximum building height of RL103 and RL115 over 45 McLaren Street;
- Amending the *North Sydney Local Environmental Plan 2013 Floor Space Ratio Map* (Sheet FSR\_002A) in accordance with the proposed floor space ratio map provided within Part 4 – Mapping. This illustrates a maximum floor space ratio of 6.25:1 over 45 McLaren Street;
- Amending the *North Sydney Local Environmental Plan 2013 Non-Residential Floor Space Ratio Map* (Sheet LCL\_002A) in accordance with the proposed non-residential floor space ratio map provided within Part 4 – Mapping. This illustrates a minimum non-residential floor space ratio of 1:1 over 45 McLaren Street;
- Amending the *North Sydney Local Environmental Plan 2013* to insert an additional subclause under **Clause 4.4A Non-residential Floor Space Ratios**, as follows:
  - (6A) Despite subclause (5), an active street frontage is not required for any part of a building facing Walker Street, erected on land at 45 McLaren Street, North Sydney, being SP 14598.
- Amending the *North Sydney Local Environmental Plan 2013* to insert an additional subclause under **Clause 6.12A Residential flat buildings in Zone B4 Mixed Use**, as follows:
  - (4) Despite subclause (3)(b), development consent may be granted for the purpose of a residential flat building for that part of the building at the ground floor level that faces Walker Street at 45 McLaren Street, North Sydney being SP 14598.

Should the Department of Planning and Environment's new employment zone framework be implemented prior to the finalisation of any LEP amendment to which this Planning Proposal relates, the *North Sydney Local Environmental Plan 2013 Land Zoning Map* (Sheet LZN\_002A) is to be amended in accordance with the proposed land zoning map provided within Part 4 – Mapping. This illustrates a MU1 Mixed Use zone over 45 McLaren Street.

## 10. PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

### 10.1. STRATEGIC & SITE-SPECIFIC MERIT ASSESSMENT CRITERIA

Part 3 of the Department's guide to preparing planning proposals states that:

*“For a planning proposal to proceed through Gateway determination, the Minister (or delegate) must be satisfied that the proposal has strategic and site-specific merit and that identified potential impacts can be readily addressed during the subsequent LEP making stages.*

*The following illustrates the assessment criteria and how justification of strategic and site-specific merit in the planning proposal should be addressed.”*

The Assessment Criteria, and the location of where those criteria are addressed in this amended Planning Proposal, is outlined in **Table 9** below.

Table 9: Guide for Preparing Planning Proposal Assessment Criteria

Assessment Criteria	Report Section Addressing Criteria
a) Does the proposal have <b>strategic merit</b> ? Will it:	
<i>give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or</i>	<b>Yes.</b>  Refer to response to Section B - Question 3. <i>Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy?</i>
<i>Demonstrate consistency with the relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan; or</i>	<b>Yes.</b>  Refer to response to Section B - Question 4. <i>Is the planning proposal consistent with council LSPS that has been endorsed by the Planning secretary or GSC, or another endorsed local strategy or strategic plan?</i>
<i>Respond to a change in circumstances that has not been recognised by the existing planning framework.</i>  <i>Factors that lead to responding to a change in circumstances may include, but not exclusively relate to:</i>  <ul style="list-style-type: none"> <li>- <i>Key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework</i></li> <li>- <i>Response to key Government priorities – Premiers priorities, climate change, or a shift in government policy</i></li> </ul>	<b>Yes.</b>  As discussed throughout this amended Planning Proposal, North Sydney is undergoing a period of urban transformation as a result of Australia's largest rail infrastructure investment and the State Government's initiative to boost housing supply and job growth around key transport nodes.  The Sydney Metro project will deliver 66 kilometres of new metro rail linking Sydney's north western regions to the south west. Full services are due to commence in 2024, with a train every 4 minutes in peak periods.

Assessment Criteria	Report Section Addressing Criteria
<ul style="list-style-type: none"> <li>- <i>Changes to population and demographic trends</i></li> </ul>	<p>The amended Planning Proposal responds to the construction of the Victoria Cross Metro Station Sydney, approximately 200 metres from the site. Infrastructure investment in increasing rail capacity is driving investment in North Sydney and surrounds. This is reflected in the recent amendments to the NSLEP 2013 for the commercial core in the CBD, the endorsed WSPMP, which provides an opportunity to expand the CBD north and the commissioning of further studies which recognise that increased density is required to boost employment and housing growth within walking distance of new rail infrastructure.</p>
<p><i>b) Does the proposal have <b>site-specific merit</b>, having regard to the following?</i></p>	
<p><i>The natural environment (including known significant environmental values, resources or hazards) and</i></p>	<p><b>Yes.</b></p> <p>Refer to response to Section B - <i>Question 7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?</i></p>
<p><i>The existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates; and</i></p>	<p><b>Yes.</b></p> <p>Refer to <i>Section 2 Site &amp; Surrounding Context</i> and <i>Section 5 Local Strategic Planning Background.</i></p>
<p><i>The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.</i></p>	<p><b>Yes.</b></p> <p>Refer to response in Section C - <i>Question 10. Has the planning proposal adequately addressed any social and economic effects?</i></p>



## 10.2. MATTERS FOR CONSIDERATION

The following section provides justification for the planning proposal and responds to the matters for consideration, as outlined in Table 3 of the LEP Making Guidelines.

### 10.2.1. Section A – Need for the Planning Proposal

#### **Q1. Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?**

**Yes.** The Proponent led amended Planning Proposal was initiated by the identification of the site as an opportunity site within the Stage 1 WSPMP in 2016. Uplift was identified for the site and built form testing was carried out as part of Option 1, within the Stage 2 WSPMP in 2019 (refer to **Section 5 Local Strategic Planning Background**).

Whilst Council resolved to endorse Option 2 and thus no uplift was afforded on the site, Council's resolution (24 June 2019), recommended that:

*despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:*

- i. Minimise solar reductions upon new public domain as identified in the Masterplan.*
- ii. Minimise solar and privacy impacts upon existing residential development.*
- iii. Provide for a commercial component to any redevelopment.*
- iv. Identifies significant public benefits that will arise from the development of the site with particular regard to the objectives of the Masterplan.*

The Proponent is acting upon Council's resolution, which provides an opportunity and willingness to consider a site-specific Planning Proposal for this site.

#### **Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

**Yes.** This amended Planning Proposal is the best means of achieving the objectives and intended outcomes for the site as:

- The final WSPMP has been endorsed and it is unlikely that this would be amended to include development controls for the site. Council's resolution provides a clear framework. It must be noted that the intent of the WSPMP is to encourage *"individual stakeholders to pursue planning proposals that reflect the outcomes of the master plan."*<sup>1</sup> Regardless of the site's inclusion in the built form options for WSPMP, a site-specific Planning Proposal would still be required.
- Further, built form modelling undertaken by Bates Smart confirms that the proposed building envelope is appropriate and can comfortably fit within the wider Option 2 WSPMP, with limited overshadowing impacts in comparison to the built form modelling presented for the site, within Option 1.
- The extent in numeric variation from the current built form controls in comparison to the proposal would unlikely be supported through the use of *Clause 4.6 Exceptions to development standards*.
- In accordance with the NSLEP 2013, the proposed commercial, retail and gym are prohibited land uses within the R4 High Density Residential zone. A B4 Mixed Use (or future MU1 Mixed Use) zone was considered as these proposed uses, are permitted. However, whilst residential flat buildings are permitted with consent in the B4 Mixed Use (or future MU1 Mixed Use) zone, the NSLEP 2013 contains provisions that do not permit residential uses to be located at the ground floor, where it faces a street. Given the site's context and desire to address the nearby heritage items, it was felt a more appropriate approach was to have street level residential uses along Walker Street. Therefore, amendments to the LEP via Clauses 4.4A Non-residential Floor Space Ratios and 6.12A Residential flat buildings in Zone B4 Mixed Use (or future MU1 Mixed Use) will permit residential development along the Walker Street frontage, which is the best means to achieve the intended concept development outcome.

<sup>1</sup> Stage 2 Ward Street Precinct Masterplan 2019, pg 27

- The preparation of the site-specific planning proposal would not interfere nor compromise the extensive work undertaken by Council in relation to the Ward Street Precinct and the Civic Precinct Study.

Without an amendment to the statutory planning controls, the proposed reference scheme cannot be achieved, and the associated public and community benefits would be lost. The site is a logical and appropriate place to concentrate future growth, being strategically located 100m from the Victoria Cross Metro and within a precinct that is undergoing urban renewal. This amended Planning Proposal aligns with the strategic direction for this immediate locality.

## 10.2.2. Section B – Relationship to the strategic planning framework

### **Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited drafts plans or strategies)?**

**Yes.** The amended Planning Proposal gives effect to the objectives and actions of the following regional, district and local planning strategies, thus demonstrating that the proposal has strategic merit:

- Greater Sydney Region Plan (see **Table 10**)
- North District Plan (see **Table 11**)

#### **Greater Sydney Region Plan – A Metropolis of Three Cities (2018)**

This section provides a summary of the *Greater Sydney Region Plan* (GSRP) and demonstrates how the amended Planning Proposal is consistent with the relevant objectives and actions therein.

The GSRP sets out policy directions to achieve the identified goals and principles, with each direction underpinned by a number of actions. **Table 10** below sets out some of the relevant directions and actions of the GSRP and explains how the amended Planning Proposal responds and aligns to these.

Table 10: Consistency with the Greater Sydney Region Plan

Greater Sydney Region Plan	Comment
<b>Direction 1: A City supported by infrastructure</b>	
<i>Objective 4: Infrastructure use is optimised</i>	<p>The proposed uplift will ensure the public transport infrastructure is optimised. The site is located approximately 100m from the Victoria Cross Station entrance. Once complete, Sydney Metro will provide a high frequency service connecting major employment hubs such as Macquarie Park, Chatswood and the North Sydney and Sydney CBDs.</p> <p>The proposal positively contributes to this objective by placing density in a highly convenient location that will encourage the use of existing and new transport infrastructure.</p> <p>The proposed mix of commercial, retail, recreational and residential land uses provides a diverse range of uses which will ensure the public transport is further optimised.</p> <p>Delivering density in the right location will help to drive better travel behaviour in future residents and workers, encouraging increased reliance on public transport.</p>
<b>Direction 3: A city of people</b>	
<i>Objective 7: Communities are healthy, resilient and socially connected</i>	This amended Planning Proposal builds upon the strengths and characteristics of the community through public domain improvements and increased pedestrian connectivity to promote

Greater Sydney Region Plan	Comment
	<p>walkability. Densification and dwelling diversity on the site coupled with a high quality streetscape interface and public domain improvements positively contributes to the social wellbeing of the existing and future residents.</p> <p>The applicant has actively engaged with stakeholders, community interest groups and local authorities to ensure that any future development delivers on the vision and needs of the community.</p>
<b>Direction 4: Housing the city</b>	
<p><i>Objective 10: Greater housing supply</i></p> <p><i>Objective 11: Housing is more diverse and affordable</i></p>	<p>The GSRP provides housing targets for 2016-2036 (Northern District), as per the following:</p> <ul style="list-style-type: none"> <li>▪ 0-5 year target (2016-2021): <b>25,950 additional homes</b>;</li> <li>▪ 20-year (2016-2036): 92,000 additional homes.</li> </ul> <p>This amended Planning Proposal would directly contribute to the dwelling supply needed to meet the dwelling targets for the district.</p> <p>The reference scheme prepared by Bates Smart demonstrates that the redevelopment of the site could accommodate approximately 82 dwellings, providing greater housing diversity and choice for the LGA. This outcome would positively contribute to achieving the 6-10 year housing targets for the Council as part of the North District (stated to be a minimum of 3,000 dwellings).</p> <p>The concentration of residential density within the site will reduce the pressure on the commercial core and remove barriers to promote growth and allow efficient land use outcomes that will bring people closer to jobs and services.</p> <p>Increased housing supply in and around the commercial core will enable the retention of existing lower density residential areas further north of the CBD where land is constrained, preserving local character and creating housing diversity. The concentration of density within walking distance of public transport nodes is considered an appropriate location for additional housing.</p>
<b>Direction 5: A city of great places</b>	
<p><i>Objective 12: Great places that bring people together</i></p>	<p>This amended Planning Proposal is consistent with Council's vision to revitalise and rejuvenate the immediate area. The proposed LEP amendments and the reference scheme builds upon the work undertaken by Council and realises the development potential of the site to create a holistic outcome for the Ward Street Precinct.</p> <p>Specifically, the proposal includes significant public domain improvements including widening the through-site link</p>

Greater Sydney Region Plan	Comment
	<p>connecting Walker Street and Harnett Street, improving pedestrian walkability within Ward Street Plaza and to the Metro Station; active retail frontage to McLaren Street and Harnett Street; and landscaped terracing across the site.</p> <p>The reference scheme, submitted montages and landscape concept illustrates how the site could be opened up and better integrated into the streetscape with a sympathetic and thoughtful landscape and design response to Walker Street, which complements the heritage terraces to the south. The combination of these elements will enhance the public domain, creating places for people to gather and enjoy.</p>
<b>Direction 6: A well-connected city</b>	
<p><i>Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities</i></p> <p><i>Objective 15: The Eastern, GPOP and Western Economic Corridors are better connected and more competitive</i></p>	<p>North Sydney is defined in the GSRP as forming part of the ‘Eastern Economic Corridor’ and is identified as the district’s largest office market. The site’s location just outside of the commercial core represents an appropriate location for residential uplift which will provide housing in a location which is highly accessible to jobs and support the importance of the commercial core.</p> <p>Concentrating housing growth close to the commercial core supports the desired integrated land use and transport model and it also encourages walkable centres. For these reasons, this proposal supports this objective.</p>
<b>Direction 7: Jobs and skills for the city</b>	
<p><i>Objective 22: Investment and business activity in centres</i></p> <p><i>Objective 24: Economic sectors are targeted for success</i></p>	<p>This amended Planning Proposal seeks to provide employment floor space and increased housing in North Sydney CBD, a significant employment generating centre. The site capitalises on the State Government’s investment in public transport and provides the community with better access to employment opportunities within the North Sydney CBD and elsewhere.</p> <p>The availability of public transport, coupled with the WSPMP vision for active retail and business uses, makes this an attractive walkable neighbourhood that will be a vibrant place to live; thus benefiting from the delivery of high density development.</p> <p>Strategic Centres, such as North Sydney, need a co-location of land uses. Including residential to ensure economic viability and liveability is maintained. This amended Planning Proposal delivers the residential accommodation that North Sydney CBD needs whilst provide for commercial, retail and recreational facilities at the podium level, which activities the site frontages.</p>
<b>Direction 8: A city in its landscape</b>	

Greater Sydney Region Plan	Comment
<i>Objective 31: Public open space is accessible, protected and enhanced</i>	<p>This amended Planning Proposal provides opportunity to positively contribute to the desired public domain upgrade works identified by Council, including:</p> <ul style="list-style-type: none"> <li>▪ Incorporate active uses along the building edges to Harnett Street, McLaren Street and Walker Street;</li> <li>▪ Widen the through-site link connecting Harnett Street to Walker Street to improve legibility and safety of this existing pedestrian link into the future new civic plaza;</li> <li>▪ Upgrade Harnett Street as a shared vehicle/pedestrian zone with improved public domain pavement, as part of the wider public domain improvements;</li> <li>▪ Upgrade McLaren Street with pavement and furniture, in accordance with Council's public domain policy;</li> <li>▪ New street trees to complement the existing street trees; and</li> <li>▪ A green wall at the corner of McLaren Street and Walker Street.</li> </ul>

### North District Plan

The site is located within the North District of Greater Sydney. The North District Plan reflects the broader vision of Sydney as a three-city metropolis, and contains the following key metrics:

- Housing target – The North District has a housing target of an additional 92,000 dwellings by 2036, with a total forecast dwelling count of 464,500.
- Job target – North Sydney is listed as having a job target of 76,000-81,500 by 2036, compared to 2016 figures of 60,400 existing jobs. This represents a minimum target of 15,600 new jobs over 20 years.

A description of how this amended Planning Proposal directly aligns with the relevant priorities of the North District Plan priorities, is set out in **Table 11** below.

Table 11: Consistency with the North District Plan

North District Plan	Comment
<p><i>N1. Planning for a city supported by infrastructure</i></p> <p><i>N12. Delivering integrated land use and transport planning and a 30-minute city</i></p>	<p>The amended Planning Proposal leverages on the new Victoria Cross Metro Station. The site is ideally located, approximately 100m from the station. The future Metro Station will support the growth of North Sydney in order to deliver additional employment and residential capacity, providing housing in close proximity to services and jobs.</p>
<p><i>N4. Fostering healthy, creative, culturally rich and socially connected communities</i></p> <p><i>N5. Providing housing supply, choice and affordability, with access to jobs and services</i></p>	<p>The amended Planning Proposal will facilitate the delivery of employment floor space and new dwellings with excellent access to public transport and job markets.</p> <p>Excellent public transport access and proximity to Macquarie Park, Sydney CBD and North Sydney CBD makes the site a highly attractive location for residential uses. The current</p>

North District Plan	Comment
<p><i>N6. Creating and renewing great places and local centres and respecting the District's heritage</i></p>	<p>DPIE approach is seeking to balance residential intensification whilst maintaining a strong employment function. The site can play an important role in this regard and allows for housing adjacent to the North Sydney CBD.</p> <p>Further, the District Plan considers locational criteria for urban renewal opportunities such as that located around regional or strategic centres. The District Plan maintains a position that housing growth should not happen in an ad hoc manner, rather it should be restricted to areas that meet locational criteria for urban renewal.</p> <p>The site meets that locational criteria and the reference scheme contained in the Bates Smart Urban Design Report demonstrates the proposed fine grain urban form envisaged for the site.</p>
<p><i>N20. Delivering high quality open space</i></p>	<p>This amended Planning Proposal seeks to upgrade Harnett Street as a flush shared zone with improved public domain pavement to enhance pedestrian and cyclist amenity, with new street trees also proposed. This laneway and through-site link will also be activated, and connections to Ward Street Plaza, Victoria Cross Metro Station and to North Sydney Oval will be reinforced.</p> <p>Harnett Street will act as a critical 'entry foyer' to the Plaza in the Ward Street Precinct as well as the wider retail area along Miller Street.</p> <p>The proposal seeks to widen the through-site link connecting Walker and Harnett Streets, improving pedestrian linkages in and around the site.</p>

**Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

**Yes.** In addition to meeting Strategic Merit Criteria 1, this amended Planning Proposal meets Strategic Merit Criteria 2 in that it is consistent with the following local strategies, as addressed in Q4 below:

- Local Strategic Planning Statement (endorsed)
- Local Housing Strategy (approved by DPIE on 10 May 2021)
- North Sydney CBD Capacity and Land Use Strategy
- Community Strategic Plan 2018 – 2028
- Stage 2 Ward Street Masterplan
- Civic Precinct Study
- Stage 2 Public Domain Strategy for the CBD
- Traffic & Pedestrian Study

## North Sydney Local Strategic Planning Statement (LSPS)

On 24 March 2020, Council adopted the North Sydney Local Strategic Planning Statement (LSPS), which is part of the DPIE mandated LEP review.

The LSPS sets out Council's land use vision, planning principles, priorities, and actions for the next 20 years. It outlines the desired future direction for housing, employment, transport, recreation, environment and infrastructure for North Sydney LGA.

The LSPS guides the content of Council's Local Environmental Plan (LEP) and Development Control Plan (DCP) and supports Council's consideration and determination of any proposed changes to the development standards under the LEP (via Planning Proposals).

The vision for North Sydney states:

*A progressive, vibrant and diverse North Sydney is the community's vision for the future. This vision is embedded in the North Sydney Community Strategic Plan (CSP) 2018-2028, which was developed with the community and has guided North Sydney Council's work since. The LSPS builds on the key directions and outcomes of the North Sydney CSP.*

This amended Planning Proposal is consistent with local planning priorities outlined in the LSPS, as documented in **Table 12** below.

Table 12: Consistency with North Sydney LSPS

Planning Priorities	Consistency
<b>Infrastructure &amp; collaboration</b>	
<i>I1 – Provide infrastructure and assets that support growth and change</i>	<p>As illustrated within the submitted Urban Design Report and the concept Landscape Plan, redevelopment of the site includes the upgrading and widening of the existing pedestrian through-site link connecting Walker Street and Harnett Street. Public domain improvement works are also proposed to Harnett Street, reflective of Council's public domain strategy which seeks to provide new active laneways and fine grain 'eat-streets.'</p> <p>The amended Planning Proposal is also accompanied by a draft VPA offer which, when executed, would contribute towards the necessary funding for Council to carry out public domain improvement works and local infrastructure works. The funding would provide a direct benefit to the North Sydney community.</p>
<b>Liveability</b>	
<i>L1 – Diverse housing options that meet the needs of the North Sydney Community.</i>	<p>The submitted reference design demonstrates that, subject to the proposed LEP amendment, future redevelopment of the site can accommodate approximately 82 dwellings, increasing housing choice and diversity. This represents a net increase of 64 dwellings from the existing apartment building on-site. The reference scheme includes a mix of 1, 2 &amp; 3 bedroom unit typologies, which will capitalise on the site's location within the North Sydney CBD and within 100m of the Victoria Cross Metro Station.</p>

Planning Priorities	Consistency
<i>L2 – Provide a range of community facilities and services to support a healthy, creative, diverse and socially connected North Sydney community.</i>	As stated above, the amended Planning Proposal is accompanied by a draft VPA offer which includes a variety of monetary and non-monetary contributions. The monetary contribution will help fund the necessary and required social and local infrastructure. The proposal includes the provision for improved pedestrian connectivity and public domain upgrades, consistent with Council's Public Domain Strategy.
<i>L3 – Create great places that recognise and preserve North Sydney's distinct local character and heritage</i>	<p>The site interfaces with heritage items to the east, south and west.</p> <p>The reference scheme has been designed to complement the immediate local character through the establishment of a 1-3 storey podium level along the Walker Street frontage. As illustrated in the Urban Design Report, the height, scale and modulation of the podium has been sculpted to provide a modern interpretation of the immediate heritage context. This includes 1-2 storey terraces that are in-keeping with the heritage building (scale and form) datum fronting Walker Street, and a subdivision pattern that is consistent with the terraces to the south.</p>
<b>Productivity</b>	
<i>P6 – Support walkable centres and a connected, vibrant and sustainable North Sydney</i>	The future redevelopment of the Precinct encourages active walking and cycling and capitalises on the State Government's investment into the metro line.

## Local Housing Strategy

North Sydney Council have prepared a Local Housing Strategy (LHS), which was formally approved by DPIE on 10 May 2021. The approval is subject to the following relevant requirements:

1. Council is to prepare an Affordable Housing Contribution Scheme that commits Council to examining the feasibility of levying affordable housing contributions for any new planning proposal resulting in uplift or increased land value.
2. Council's LSPS, stating "*Council will only support Planning Proposals that are consistent with Council's endorsed planning studies, that have identified growth being delivered in locations that support the role of centres and have critical infrastructure and services in place to support the North Sydney community*" is to prevail and replace Objective 6 of Council's LHS, which is to "*Manage residential development growth to ensure that ad hoc Planning Proposals are rejected if not in line with Council's strategic framework to manage growth*".
3. Notwithstanding requirement 2, the strategic direction endorsed in the St Leonards/Crows Nest 2036 Plan prevails over the LHS in the event of any inconsistency.
4. Forecasting indicates that Council is on track to meet the GSC target of 3,000 to 3,500 dwellings in the 2021-2026 period. Council is to therefore adopt a minimum housing target of 3,000 dwellings for this period to ensure that regional strategic planning can be appropriately managed.

Review of existing planning controls is mandated by the requirement to deliver housing in accordance with the targets set by the North District Plan. However, the LHS states that there is sufficient capacity within the existing planning controls, within existing planning proposals, within precinct studies undertaken by Council



and within the St Leonards/Crows Nest Precinct to enable the delivery of the 13,250 additional dwellings required to house the population, up to 2036.

Council's current policy position is not to amend the existing planning controls to provide for greater capacity, but rather, prepare master plans and studies for specific precincts which encourage individual landowners to lodge Planning Proposals to bring to fruition.

This amended Planning Proposal has been initiated by the Council resolution of the WSPMP, which provided a framework for the Proponent to lodge a Planning Proposal. The site's potential for increased residential density is acknowledged with Option 1 of the Stage 2 WSPMP, which identified the potential for 15,360m<sup>2</sup> of residential GFA.

The reference design demonstrates that the site's redevelopment has the potential to deliver 82 dwellings (being a net increase 64 new dwellings), in line with the 6-10-year housing targets required under the North District Plan. This represents a modest net dwelling increase and not one that would alter Council's current ongoing strategic planning goals.

### **North Sydney CBD Capacity and Land Use Strategy**

*The aim of the North Sydney Centre Planning Review is to identify and implement policies and strategies to ensure that the North Sydney Centre retains and strengthens its role as a key component in Sydney's global economic arc, remains the principle economic engine of Sydney's North Shore and becomes a more attractive, sustainable and vibrant place for residents, works and businesses.*

The North Sydney CBD Capacity and Land Use Strategy was prepared in support of the North Sydney Centre review, which encompasses land within the B3 Commercial Core and B4 Mixed Use zone. This document formed the basis on which Amendment No.23 to NSLEP 2013 was made, resulting in significant uplift in the B3 Commercial Core.

The site is currently zoned R4 High Density Residential and is located outside the identified North Sydney Centre boundary and therefore is generally exempt from the study area.

Notwithstanding this, the amended Planning Proposal supports the following objectives of the Strategy:

- Identify residential development opportunities in the periphery;
- Identify and facilitate specific land uses to contribute to the Centre's diversity, amenity and commercial sustainability;
- Take advantage of planned infrastructure upgrades by intensifying land use around significant transport infrastructure; and
- Allow for the growth of North Sydney Centre to ensure it maintains and improves its status as a resilient, vibrant and globally relevant commercial centre.

This amended Planning Proposal has been prepared to align with the outcomes of the North Sydney CBD Capacity and Land Use Strategy and the endorsed Stage 2 WSPMP to facilitate a holistic approach to urban renewal within North Sydney.

### **Community Strategic Plan 2018-2028**

The North Sydney Community Strategic Plan reflects the community's aspirations for the future and affirms Council's priority to revitalise the North Sydney CBD from a purely commercial centre to a place for both business and entertainment.

The key directions of the strategic plan and how this amended Planning Proposal achieves these directives, is outlined in **Table 13** below:

Table 13: Achieving the outcomes of the Strategic Plan

Outcome	Strategies	Amended Planning Proposal
<b>Direction 1: - Our Living Environment</b>		
1.3 Quality urban greenspaces	1.3.1 Expand urban tree canopy cover  1.2.2 Encourage community gardening	The reference scheme features an insulated green roof, reducing heat gain, thermal mass and the urban heat island effect.  The proposal also consists of a series of rooftop landscaped terraces that cater for communal uses on level 10.  Street tree planting and public domain works are also proposed along Harnett Street, McLaren Street and Walker Street.
1.4 Public open space, recreation facilities and services that meet community needs	1.4.1 Maximise use of existing, and protect, enhance and expand public open space	The Proposal will provide for public domain improvements, improved pedestrian connectivity and a gym, which will meet the recreational needs of the community and the increase demand projected by the increased employment floor space within the CBD and Ward Street Precinct.
<b>Direction 2: Our Built Infrastructure</b>		
2.1 Infrastructure, assets and facilities that meet community needs	2.1.1 Expand and adapt existing infrastructure to meet future needs	The amended Planning Proposal is accompanied by a draft VPA offer which includes a monetary contribution per additional dwelling, with the intent that this will provide needed funding for local and social infrastructure for the North Sydney community.
2.2 Vibrant centres, public domain, villages and streetscapes	2.2.1 Enhance public domains and village streetscapes through planning and activation	Any future DA over the site would include public domain improvements, including expansion and activation of the through-site link connecting Walker and Harnett Streets, providing landscaped terraces at each stepped level of the building, and incorporating active frontages along McLaren Street and Harnett Street.  Harnett Street will be upgraded as a flush shared zone with improved public domain pavement to enhance pedestrian and cyclist amenity, with new street trees also proposed. Connections to Ward Street Plaza, Victoria Cross Metro Station and

Outcome	Strategies	Amended Planning Proposal
2.3 Sustainable transport is encouraged	2.3.2 Ensure continual improvement and integration of major transport infrastructure through long term planning.	to North Sydney Oval will also be reinforced.  Harnett Street will act as a critical 'entry foyer' to the Plaza in the WSP as well as the wider retail area along Miller Street.
2.4 Improved traffic and parking management	2.4.3 Provide integrated and efficient on-street and off-street parking options in residential and commercial areas.	As illustrated within the reference scheme, future development would incorporate basement parking, with access provided off Walker Street.
<b>Direction 3: Our Future Planning</b>		
3.1 Prosperous and vibrant economy	3.1.4 Promote and enhance the night time/after hours and weekend offer	The increased residential population supports an 18-hour economy and contributes to the vitality and viability of local centres. The proposed commercial, retail and recreational land uses at the podium level would also activate this corner of the Ward Street Precinct and contribute towards the night time and weekend offering.
3.4 North Sydney is distinctive with a sense of place and quality design	3.4.2 Strengthen community participation in land use planning  3.4.4. Improve the urban design, amenity and quality of North Sydney's public domain  3.4.5 Use a place-based planning approach to achieve design excellence and management	This amended Planning Proposal and the supporting reference scheme has been prepared and refined through the feedback received during the community consultation undertaken by the Proponent, in addition to the advice and guidance provided by Councillors within their resolution of the Stage 2 WSPMP and council officers as part of the Pre-Planning Proposal meeting.  The submitted Urban Design Report demonstrates an exemplar urban design outcome that balances the site's constraints and characteristics whilst respecting the land use context in which the site is located.

### Stage 2 Ward Street Precinct Masterplan

The Stage 1 WSPMP marked the site as an 'opportunity site.' Opportunity sites are those which are underdeveloped and can accommodate greater heights and densities.

Council, as part of the Stage 2 WSPMP, undertook a series of built form testing and analysis. This included heights of up to 25 storeys and an FSR of 9:1.

**Section 5.2.1** of this document provides an overview of how the amended Planning Proposal is consistent with the objects and intent of the WSPMP, as envisaged by Council. Importantly, this amended Planning Proposal demonstrates that the proposed built form outcome is suitable for the site, whilst addressing Council's concerns in relation to amenity and overshadowing of public spaces.

### **Civic Precinct Planning Study**

Whilst the site is not located within the Civic Precinct Study, the land to the north and east is encompassed within this area.

As discussed in **Section 5.2.1**, the amended Planning Proposal has taken cues from the desired future character of the immediate locality, as sought by the Study.

In particular, the amended Planning Proposal and submitted reference scheme provides for a streetscape interface that relates to the evolving character of the McLaren and Walker Street intersection. This includes:

- The podium and height datum
- The active frontages along McLaren Street
- The existing heritage character to the south and to the east
- The transition in building heights
- Protection of residential amenity
- Protection of solar access to existing and planned open space

Bates Smart have thoroughly investigated the accumulated environmental impacts associated with the site's redevelopment and has tested building envelopes to achieve an outcome that responds to the existing and desired future context of this immediate precinct and its surrounds.

### **North Sydney Public Domain Strategy 2020**

The North Sydney CBD Public Domain Strategy has been prepared to align public and private investment in the CBD. *The Public Domain Strategy sets up the vision and frame to deliver the public domain that goes alongside, and complements, the new transport infrastructure...and caters for expected growth<sup>2</sup>.*

The public domain strategy will be delivered through the following guiding principles:

- Maximize the use and amenity of the inner block areas, creating new plazas, laneways and open spaces.
- Downgrade and reroute regional traffic where possible to create more pleasant, pedestrian friendly, active streets.
- Connect public open spaces into an integrated public domain network giving the CBD a stronger legibility and identity and facilitating movement across the CBD.

The site is located within the Ward Street Precinct. As part of the precinct revitalisation, the public domain offering includes over 3,000m<sup>2</sup> of new public open space.

This amended Planning Proposal aligns with the key public domain goals for the precinct, including the provision of new seats and street trees, active frontages and retail edges, pedestrian priority areas and comfortable meeting places.

### **Traffic and Pedestrian Study**

The North Sydney Traffic and Pedestrian Study highlights that:

- There is a high proportion of public transport users in the local area
- The pedestrian and cycle environments are generally of a poor quality
- Proposed upgrades to street infrastructure, crossing points and public realm will benefit future residents

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<sup>2</sup> North Sydney Council, *North Sydney Public Domain Strategy*, pg 3.

The Traffic and Pedestrian Study applies to land within the North Sydney Centre, of which the site is excised from. Nonetheless, the proposed pedestrian upgrades and improvements aligns with the aims and objectives of the study, which seeks to maximise public transport patronage and improve the pedestrian amenity and streetscape environment.

**Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

**Yes.** The amended Planning Proposal gives effect to the objectives and actions of the following State strategies, thus demonstrating that the proposal has strategic merit:

- Future Transport Strategy 2056
- NSW State Infrastructure Strategy 2018-2038

**Future Transport Strategy 2056**

The *Future Transport Strategy 2056* (2018) (**the Strategy**) sets six state-wide outcomes to guide investment, policy and reform. They provide a framework for network planning and investment aimed at supporting transport infrastructure.

The Strategy outlines the vision for the Greater Sydney mass transit network, detailing North Sydney as a 'strategic centre' linked directly to the 'Harbour City' (the Sydney CBD).

The site is well placed to gain from the future metro station, which will see high frequency metro transport moving more people, more quickly. Any future redevelopment of this key site has the potential to contribute to and enhance walking and cycling connections within the immediate precinct, and around the metro station.

**NSW State Infrastructure Strategy 2018-2038**

Infrastructure NSW published the Building Momentum State Infrastructure Strategy 2018-2038 (**SIS**). It is a 20-year infrastructure investment plan that sets out the infrastructure needs and priorities up to 2038.

It establishes six strategic directions which inform the recommendations contained within the SIS, including '*Integrating land use and infrastructure planning*'.

The Planning Proposal and supporting reference scheme have been prepared to take advantage of the existing infrastructure, being centrally located within an established commercial and mixed use area.

**Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

**Yes.** The proposal is consistent with the relevant State Environmental Planning Policies (SEPPs). The relevant SEPPs are identified in **Table 14**.

Table 14: Relevant SEPPs applicable to the amended Planning Proposal

Policy	Details
SEPP (Transport and Infrastructure) 2021	<p>Chapter 2 of the Transport and Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State by, inter alia, identifying matters to be considered in the assessment of development adjacent to particular types of development.</p> <p>The proposed development is not identified as traffic generating development in accordance with Schedule 3 of the SEPP.</p> <p>Notwithstanding, the Traffic Impact Assessment undertaken by TRAFFIX (<b>Appendix F</b>) concludes that the road network is capable of supporting the level of traffic generated by the proposed density, with minimal impact to the road network. This is based upon the assumption that 20% of residents will travel by car, with 80% of residents using alternative modes. This is</p>

Policy	Details
	consistent with the EIS for the Victoria Cross Metro, which states that 70% of trips within North Sydney are undertaken by non-car related modes of transport.
SEPP (Buildings Sustainability Index: BASIX) 2004	<p>The BASIX SEPP requires residential development to achieve mandated levels of energy and water efficiency.</p> <p>The Planning Proposal does not relate to building sustainability. The reference scheme has been designed and orientation to facilitate future BASIX compliance, which will be documented at the development application stage.</p>
SEPP 65 Design Quality of Residential Flat Buildings	<p>SEPP 65 provides a statutory framework to guide the design quality of residential flat developments. The development concept has been designed to facilitate future detailed building design in accordance with SEPP 65 and the accompanying Apartment Design Guide (ADG). Based on the indicative apartment layout, the following is noted:</p> <ul style="list-style-type: none"> <li>▪ The building envelope will facilitate approximately 82 apartments, comprising a mix of 1,2 and 3 bedrooms.</li> <li>▪ The reference scheme prepared by Bates Smart demonstrates that the proposed building envelope generally achieves compliance with the ADG criteria relating to design and configuration. This includes separation distances, overshadowing, communal open space, deep soil planting, pedestrian and vehicular access and parking.</li> <li>▪ Whilst assessment under Part 4 of the ADG is more relevant at the DA stage, the reference scheme includes indicative floor plans that confirm compliance with ADG can be achieved with regard to ventilation, apartment size and layout, private open space, ceiling height and storage. It is acknowledged that the indicative reference scheme achieves solar access to 61% of apartments however further detailed design and analysis will be carried out at the later DA stage.</li> </ul>

While not a State Environmental Planning Policy, we have considered; *Development Near Rail Corridors and Busy Roads – Interim Guideline*. The provisions of the interim guideline will be considered in the assessment of the potential future acoustic impacts associated with the Warringah Highway. Suitable mitigation and management measures will be provided so that a satisfactory level of residential amenity can be achieved.

**Q7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?**

**Yes.** The amended Planning Proposal has been assessed against the applicable s.9.1 Ministerial Directions and is consistent with each of the relevant matters, as outlined in **Table 15**.

Table 15: Consistency of the amended Planning Proposal with the applicable s9.1 Ministerial Directions

Direction	Comment
<b>1 Planning Systems</b>	
1.1 Implementation of Regional Plans	The amended Planning Proposal is consistent with this Direction, as discussed within Question 3, Table 10.
1.2 Development of Aboriginal Land Council land	Not applicable
1.3 Approval & Referral Requirements	This is an administrative requirement for the PPA
1.4 Site Specific Provisions	<p>The amended Planning Proposal has been prepared in accordance with the provisions of the Standard Instrument and in a manner consistent with the NSLEP 2013.</p> <p>The intended development outcome seeks to retain the existing residential land uses which front Walker Street at ground level. As the site is currently zoned R4 High Density, ground floor residential accommodation is permitted. However, both clauses 4.4A and 6.12A to NSLEP 2013 prohibits residential accommodation within the B4 Mixed Use zone, where it has street frontage and located at the ground level.</p> <p>The proposed amendments to Clause 4.4A and 6.12A seeks to resolve this issue, enabling the ground floor residential accommodation to be retained.</p> <p>Despite residential flat buildings being expressly permitted within the land use table for the B4 Mixed Use zone, an inclusion of a local clause within Schedule 1 Additionally Permitted Land Use would not overcome the restrictions under clauses 4.4A and 6.12A.</p>
1.5 Parramatta Road Corridor Transformation Strategy	Not applicable
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable

Direction	Comment
1.10 Implementation of Western Sydney Aerotropolis Plan	Not applicable
1.11 Implementation of Bayside West Precincts 2036 Plan	Not applicable
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable
1.14 Implementation of Greater Macarthur 2040	Not applicable
1.15 Implementation of the Pyrmont Peninsula Place Strategy	Not applicable
1.16 North West Rail Link Corridor Strategy	Not applicable
<b>2 Design and Place</b>	
<b>3 Biodiversity and Conservation</b>	
3.1 Conservation Zones	The site is not within an environmentally sensitive area.
3.2 Heritage Conservation	<p>The site has no identified or known items of European or Aboriginal significance, as such this provision is not applicable.</p> <p>The amended Planning Proposal and reference schemes have been informed by specialist heritage advice to respect and mitigate any adverse impacts on the heritage items to the west, south, east and north-east.</p> <p>A Heritage Impact Statement has been prepared and is contained within <b>Appendix H</b> which confirms that the proposal is sympathetic to the heritage curtilage and has been designed to mitigate adverse impacts on the surrounding heritage items.</p>
3.3 Sydney Drinking Water Catchment	Not applicable
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
3.5 Recreation Vehicle Areas	Not applicable
<b>4 Resilience and Hazards</b>	
4.1 Flooding	Not applicable
4.2 Coastal Management	Not applicable



Direction	Comment
4.3 Planning for Bushfire Protection	Not applicable
4.4 Remediation of Contaminated Land	<p>El Australia have prepared a preliminary site investigation assessment involving site visit, review of site information and historical records (<b>Appendix J</b>). Council records have not identified that a site audit statement has been received with respect to the site, and thus is not declared to be significantly contaminated land, nor subject to management or ongoing maintenance orders nor subject of an approved voluntary management proposal.</p> <p>Based upon the preliminary assessment and visual evidence, there was no evidence of gross contamination or suspicious odours. The potential for ASS is extremely low and the overall potential for contamination was low.</p> <p>The assessment concludes that, the site is not likely to be contaminated and providing appropriate disposal of demolition materials, is suitable for the proposed land uses.</p> <p>The site is currently utilised and zoned for residential purposes and this amended Planning Proposal seeks to maintain residential use of the land. The proposal is consistent with this direction.</p>
4.5 Acid Sulfate Soils	The site is not affected by acid sulfate soils.
4.6 Mine Subsidence & Unstable Land	Not applicable
<b>5 Transport and Infrastructure</b>	

Direction	Comment
<p>5.1 Integrating Land Use &amp; Transport</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight</p>	<p>The proposal is consistent with the direction for the following reasons:</p> <p>The proposal supports the principle of integrating land use and transport.</p> <p>The site is located 100m south-east of the Victoria Cross Metro Station and 700m north of the North Sydney Train Station. The Precinct is extremely well located to make use of existing services and employment opportunities and will complement and support these existing uses. The increased density supports the patronage of the metro station and accords with the key direction from the state government, which seeks to co-locate increased densities within the walking catchment of public transport nodes.</p> <p>The proximity to public transport will provide for increased opportunities to live, work and play within the LGA through the provision of residential accommodation adjacent to key employment nodes and therefore facilitating a walkable neighbourhood</p> <p>The provision of increased housing supply within a walkable neighbourhood reduces the need for car dependency. This is confirmed within the accompanying Traffic Impact Assessment, which confirms that the development is estimated to generate a net increase of 11 vehicle trips during the AM peak hour and 8 vehicle trips in the PM peak periods.</p>
<p>5.2 Reserving Land for Public Purposes</p>	<p>The proposal does not seek to create, alter or reduce any existing zonings or reservations for public purposes.</p>
<p>5.3 Development Near Regulated Airports and Defence Airfields</p>	<p>Despite not being located in close proximity to Sydney Airport, almost the entire LGA is affected by an Obstacle Limitation Surface (OLS) of 156m AHD, as with the surrounding sites. The amended Planning Proposal does not seek to increase the maximum height permitted on the subject site above the OLS. The amended Planning Proposal seeks to introduce a split maximum height limit of RL103 and RL115. This remains well below the OLS and allows for ample room to accommodate a crane for any future construction of a building. Any future development would not constitute a controlled activity as defined in section 182 of the Airports Act 1996.</p>
<p>5.4 Shooting Ranges</p>	<p>Not applicable</p>
<p><b>6 Housing</b></p>	

Direction	Comment
<p>6.1 Residential Zones</p> <p>The objectives of this direction are to:</p> <p>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) minimise the impact of residential development on the environment and resource lands.</p>	<p>The proposal will seek to broaden the range of housing provided in the LGA through accommodation of a high-density residential development offering a range of dwelling typologies, including a component of affordable rental accommodation.</p> <p>The amended Planning Proposal makes efficient use of existing and planned services and infrastructure and has the potential to accelerate housing supply surrounding the North Sydney CBD and assist in the achievement of infill housing targets. The proposed density will also assist in alleviating the pressure associated with the current housing shortage, will provide additional affordable rental accommodation in a highly sought after location and provides for significant residential opportunity within a centre that has limited future potential to supply growing demand.</p> <p>In this regard, the site is identified as one of a few large sites within walking distance to existing and planned transportation nodes, that is unconstrained by heritage affectations or extensive strata titling. The strategic placement of the site and relatively unconstrained nature demonstrates that it is ideal for redevelopment.</p> <p>Residential accommodation in this location will have minimal impact on the natural environment or resource lands as the site and surrounding sites are already developed for urban purposes.</p>
6.2 Caravan Parks & Manufactured Home Estates	Not applicable
<b>7 Industry and Employment</b>	
<p>7.1 Business &amp; Industrial Zones</p> <p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified centres.</p>	<p>The amended Planning Proposal seeks to rezone the site B4 mixed use zone.</p> <p>The proposal is consistent with this Direction as follows:</p> <p>The amended Planning Proposal facilitates the provision of both increased residential densities and new commercial floorspace to support the viability of the centre and encouraging employment growth in the area.</p>
7.2 Reduction in non-hosted short term rental accommodation period	Not applicable
7.3 Commercial and retail development along the Pacific Highway, North Coast	Not applicable

Direction	Comment
<b>8 Resources and Energy</b>	
8.1 Mining, Petroleum Production & Extractive Industries	Not applicable
<b>9 Primary Production</b>	
9.1 Rural Zones	Not applicable
9.2 Rural Lands	Not applicable
9.3 Oyster Aquaculture	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast.	Not applicable

### 10.2.3. Section C – Environmental, Social and Economic Impact

**Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected because of the proposal?**

**No.** The site is fully developed for urban purposes and comprises little vegetation. There are no known critical habitats, threatened species or ecological communities located on the site and therefore the likelihood of any negative impacts will be minimal.

**Q9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?**

**No.** The site is free from any major constraints that would render the land unsuitable for future redevelopment. This amended Planning Proposal has been prepared with specific focus on the likely environmental effects associated with development within a highly urbanised area. Preliminary urban design analysis and technical investigations have been undertaken to identify any potential site-specific environmental effects. Where this is likely to be an impact, mitigation measures have been proposed.

The likely environmental effects relate to built form and context, overshadowing, residential amenity, access and traffic, view sharing and public domain.

**Environmental considerations:**

**Building height and transition**

The skyline of North Sydney is already undergoing a transformation with a number of tall buildings recently approved or under construction. Surrounding sites will continue to undergo transformation over the coming years and the skyline will continue to evolve, as per council's strategic planning directive.

The proposed height is consistent with the emerging context, with the stepped building form sitting comfortably on this triple frontage site, providing a transition from the 8 storey contemporary residential flat building to the south and the 28 storey (RL168) Aqualand tower under construction to the north. The proposed heights of 10-14 storeys is of an appropriate and modest scale along this portion of Walker Street.

In this regard, the building height provides for a transition from north to south and west to east, being a scale that defines this corner at the transition zone of the CBD, Ward Street Precinct and the Civic Precincts. The overall height, bulk and scale including the varied setbacks responds contextually to the emerging character whilst being sympathetic to the southern heritage terraces and those low scale heritage properties on the eastern side of Walker Street.

Figure 30: Building height and transition



Picture 14 Existing streetscape

Source: Bates Smart



Picture 15 Future streetscape, demonstrating the transition in building heights

### Podium resolution

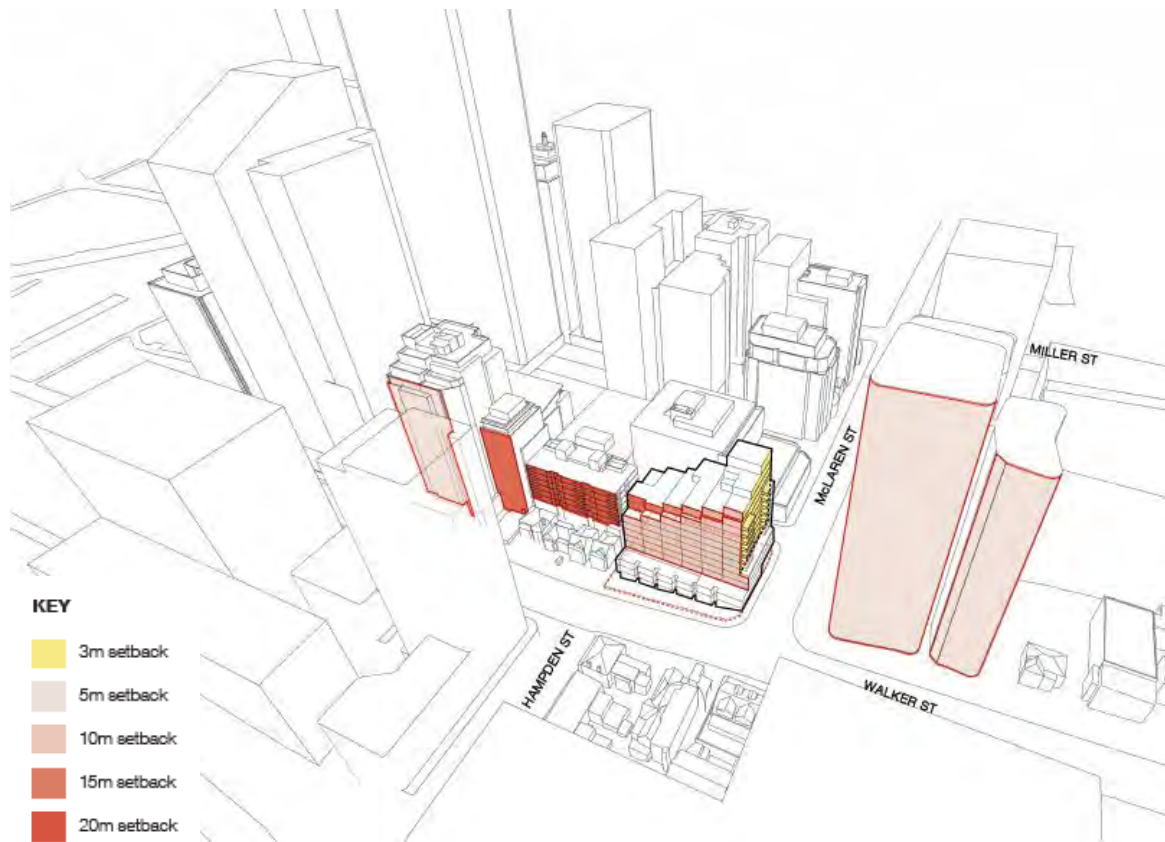
This section of Walker Street and McLaren Street includes a varied streetscape with inconsistent tower setbacks.

A range of design measures have been installed in response to the site's existing contextual relationship and the desired future character of the streetscape, as envisaged by the Civic Precinct Study. This includes:

- A low-scale retail and residential podium that responds to the site's topography and aligns with the existing built form, including a nil setback to McLaren Street and 5.5m setback to Walker Street, which aligns with 150 Walker Street
- A 1-3 storey street wall height to Walker Street that responds to the heritage datum to the south and is consistent with the street wall height envisaged for the properties to the north and east (as per Civic Study)
- Modulation of the proposed residential terraces fronting Walker Street, which mimics the subdivision pattern and vertical proportions of the heritage terraces to the south; and
- Residential terraces along Walker Street with outdoor balconies and direct street access, as a modern interpretation of the heritage context.

The combination of these elements is considered to result in a thoughtful urban design outcome. It bridges the gap between the commercial buildings and residential neighbourhoods, through a considered blend of boutique residents and active retail spaces. The skewed setback of the tower form ties together the existing and desired future character of this portion of Walker Street.

Figure 31: Tower setback to align with the existing and approved built form



Source: Bates Smart

Figure 32: Modulation of the residential terraces along Walker Street



Source: Bates Smart

Figure 33: Aerial view of the podium and tower alignment and modulation of the built residential terraces



Source: Bates Smart

### Public Domain and Landscape outcome

A Landscape Concept Plan has been prepared by Arcadia and is submitted at **Appendix I**. The report outlines the landscape vision for future public domain improvements and landscaping of the site, which is underpinned by four main principles:

1. *Strong Civic Connections* – to ensure the site has safe and legible connections
2. *Performative Landscape* – to ensure the landscape design is sustainable and contributes to environmental outcomes
3. *Green Inside, Green Outside* – to ensure both residents and the public benefit
4. *People-Centric Design* – to ensure that the needs of all user groups are respected

### **Public Domain**

Council's Public Domain Strategy 2020 seeks to provide for a variety of high quality civic and public spaces, befitting a globally-orientated CBD.

The proposed public domain outcome delivers on Council's vision for the Ward Street Precinct through the following initiatives:

- Upgrade public domain pavement and furniture to McLaren Street and Walker Street
- Upgrade Harnett Street into a flush shared zone with new street trees, providing improved pedestrian and cyclist amenity
- Expand the existing east-west through site link to 3m (double the existing width), enhancing pedestrianisation around the site and promoting activation of the Ward Street Plaza
- Retain existing mature trees and plant new street trees to complement existing.

Figure 34: Public domain master plan



Source: Arcadia

### Site Landscaping

In keeping with the leafy character of this immediate locality, the intent is for the site to be heavily landscaped with:

- deep podium planter with cascading plants along the perimeter
- a green roof and rooftop gardens with raised planter beds for small trees
- green walls at key building corner locations, creating habitats for native birds and breaking up the blank canvas



Figure 35: Walker Street elevation



Source: Arcadia

**Overshadowing to the Plaza**

The site is located to the north-east of the planned Ward Street Plaza, which is centrally located within the Ward Street Precinct, with direct access off Harnett Street.

Council’s vision for Plaza includes two components as follows (**Figure 36**):

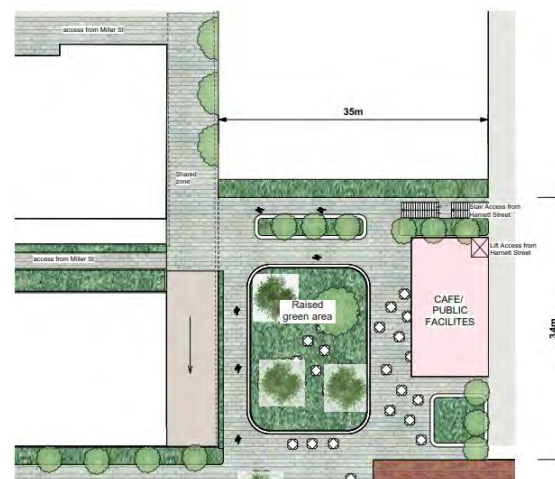
1. **The Central Square:** This southern square comprises an area of 2,080m<sup>2</sup> and is intended to be highly adaptable, forming a breakout space for community events being held in the Knowledge Hub. The square will be designed to provide for flexibility to maximise engagement. This area is located to take advantage of year round solar access.
2. **The Green Square:** This northern square comprises an area of 1,155m<sup>2</sup> and is envisaged to be transformed into an urban green ‘pocket park’ with landscape, a café and public facilities. This area is intended to accommodate for low-intensity open space activities with large shade trees.

Figure 36: Council’s vision for the Plaza



Picture 16: Central Square

Source: Endorsed WSPMP



Picture 17: Green Square (north of central square)

The amended Planning Proposal and associated height and built form has been designed with due regard to the future public open space areas and their intended use and function. Council’s resolution stated that any future development on the site is to minimise solar reduction to the new public domain.

The overshadowing diagrams provided within the urban design report, clearly demonstrate that the proposed heights and building envelope have minimal overshadowing impacts to the planned public domain areas.

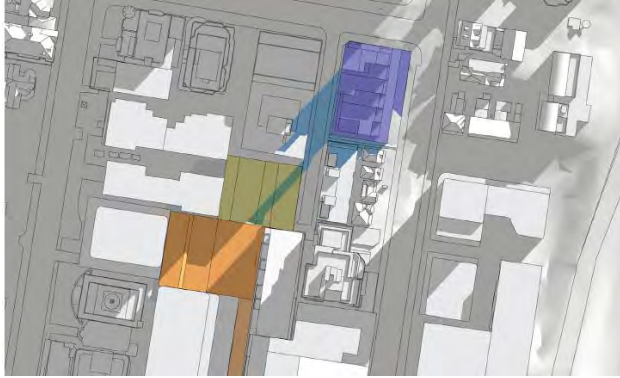
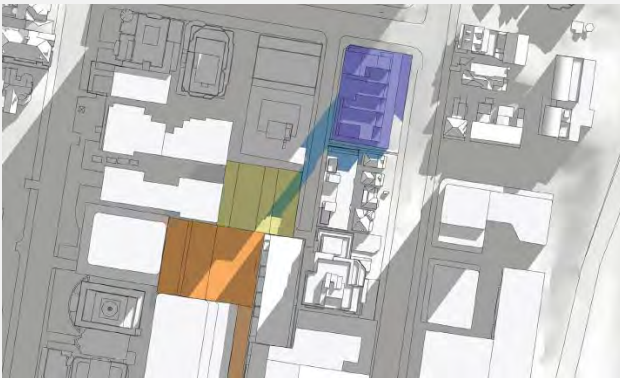
This is further discussed in the below table. Importantly, the future Plaza has not yet been identified as a 'special area' for the purpose of solar protection in whole or part. Whilst the site is not located within the North Sydney Centre and therefore is not subject to the LEP solar protection controls, the overshadowing diagrams demonstrate that the proposed building envelope does not result in any overshadowing between the prescribed 12pm – 2pm period. Therefore, any future development on the site is capable of complying with clause 6.3(2)(a) of the NSLEP 2013, which promotes height and massing that have no adverse impacts on land identified as 'Special Area.' In interpreting this clause, it is assumed that a degree of overshadowing is acceptable, providing it is not within the prescribed hours of 12pm-2pm.


As discussed in *Section 3.2.1 Overshadowing to Ward Street Plaza*, the reference scheme and the proposed LEP and DCP building height controls have been established to ensure that there is no nett additional overshadowing on the southern Central Square from 9am, year round.

Minor overshadowing will occur within the northern Green Square, from 9am – 10.08am, during the winter solstice only.

The Planning Proposal has been amended to reflect the lengthy and ongoing negotiations with Council regarding protection of solar access to the public domain. The no additional overshadowing to the southern Central Square and the minimal overshadowing to northern Green Square is consistent with the advice and recommendations of Council.

Table 16: Overshadowing analysis

Overshadowing to Central Plaza	Analysis
<b>Winter solstice – 21 June – Worst case scenario</b>	
 <p data-bbox="228 1361 279 1388"><b>9am</b></p>	<p data-bbox="890 969 1362 1064">At 9am, the proposed building envelope will result in additional overshadowing of 180m<sup>2</sup> to the northern Green Square.</p>
 <p data-bbox="228 1809 311 1836"><b>9:30am</b></p>	<p data-bbox="890 1417 1362 1713">By 9:30am, there will be approximately 148m<sup>2</sup> of additional overshadowing on the Green Square. It is noted that the concept design does include a café / amenities building in this location. Subject to final design of the northern Green Square, this degree of shadow may be proportionally reduced by the final design outcome for the public domain.</p>

Overshadowing to Central Plaza	Analysis
 <p data-bbox="228 705 295 745">10am</p>	<p data-bbox="890 320 1361 481">By 10am, there will be approximately 20m<sup>2</sup> of additional overshadowing to the northern Green Square. This is a very minor degree of overshadowing and by 10:08am, the extent of shadow will have passed.</p> <p data-bbox="890 504 1361 745">The concept design for the northern Green Square includes an indicate location for an amenities building in this location. Therefore, depending on the final concept, the extent of overshadowing may not fall within any areas of usable public open space.</p>

Source: Bates Smart

The above overshadowing excerpts demonstrate that the proposed building envelope results in minimal overshadowing to the future Plaza, with the greatest level of impact occurring between 9am – 9:30am to the northern portion only. By 10:08am on June 21<sup>st</sup>, the proposed building envelope would result in no nett increase in overshadowing on any part of the future Plaza. It is considered that the proposed overshadowing is minor and reasonable when offset against the community and economic benefits associated with the site's redevelopment. It is argued that the overshadowing is in a location and at a time when users of the site are unlikely to congregate in that area for enjoyment of solar access and therefore, it is unlikely that the development would result in a loss of amenity for users of the public domain space.

The overshadowing diagrams further confirm that when users are most likely to enjoy the space (between 12pm-2pm), the development will not result in any overshadowing. Further, during the spring equinox (22 September), future development will not result in any additional overshadowing between 9am – 3pm. This is considered to be an exceptional outcome and further demonstrates the site-specific merit of the amended Planning Proposal.

## Residential amenity

### Internal amenity

An indicative reference scheme has been developed to test the performance of the residential dwellings on the site with regard to the requirements of SEPP 65 and the Apartment Design Guide (ADG).

The reference design, prepared by Bates Smart (**Appendix A**) confirms that a residential development of this density could achieve an acceptable level of internal and external amenity for future residents. Based on the indicative apartment layout, the following is noted:

- The residential component consists of 82 apartments suited to a variety of lifestyles. An indicative dwelling mix of 1, 2 and 3 bedroom apartments is provided, each with high quality private open space areas;
- The residential floors have minimum floor to ceiling heights of 2.7m;
- Rooftop communal open space is provided at level 10;
- A minimum of 2 hours solar access is achieved to 61% of the apartments (this would be further refined and tested at the DA stage to achieve closer to 70%);
- 60% of apartments would be naturally cross ventilated

### Privacy

The site has a triple frontage and is separated from the western commercial building by Harnett Street, the northern residential tower by McLaren Street and the eastern residential dwellings by Walker Street. The proposed southern setback and through site link also provides appropriate separation distances to 150 Walker Street and the heritage terraces, not too dissimilar to that which currently exists.

As illustrated on the submitted reference scheme, the majority of the apartments have an easterly aspect. The combination of the Walker Street road corridor, the 5.5m ground floor setback and the upper level stepped podium setback, provides for substantial separation distances to those residents. The dual east-west orientation of the southern apartments ensures that privacy measures can be installed within the lower levels to limit any direct overlooking.

The Aqualand tower to the north of the site is suitable setback from McLaren Street to ensure that adequate separation distances between the two residential towers can be achieved.

Detailed floor planning and site layout would occur at the DA stage, however given the site's unique corner location, it is considered that privacy impacts can be mitigated.

### **Overshadowing**

It is widely accepted that in a dense urban environment, there is an inevitable degree of overshadowing, especially when redevelopment occurs. The degree of overshadowing however, needs to be assessed to ensure that it is of acceptable level and that it does not unacceptably deteriorate the amenity of the site and its surrounds.

One of the fundamental urban design principles guiding the proposed development outcome, is retention of solar access to the residential apartments at 150 & 168 Walker Street. As demonstrated in the urban design report, a minor degree of overshadowing will occur between 9am – 11am on July 21<sup>st</sup>. However, the stepping of the built form and upper level modulation ensures that an acceptable degree of solar access is retained to those residences and that any future building form does not result in an unacceptable loss of amenity.

Detailed shadow diagrams would be undertaken at the DA stage.

### **View Sharing**

A View Sharing Report dated November 2021 and an addendum to that report, dated July 2022 has been prepared by Urbis and is submitted at **Appendix G**.

The report assesses both the visual effects of the indicative reference scheme and the potential visual impacts on views within the private domain. To limit the extent of view impact and promote view sharing, the LEP height and FSR controls and the associated reference design have been prepared with the guidance and input from a specialist view impact consultant. The urban design principles that underpin the reference schemes are based on the principles of view sharing.

Urbis undertook fieldwork and documented views from the surrounding site and properties in July 2020.

Observations from the site investigation note that there is limited visual catchment to the north, west and south and that there are no public domain views available across the site towards the Sydney CBD and Harbour. Potential views towards Kirribilli would not be affected by the proposed additional height on the site, as there is no access to scenic views or vistas along Walker Street, towards the southern part of the North Sydney CBD. The assessment notes that the *"built form proposed is not dissimilar in character, height and form to other existing towers and approved development within the immediate visual context<sup>3</sup>."*

To understand potential impacts, private domain views from 168 Walker Street, 39 and 41 McLaren Street, , 225, 229, 231 and 237 Miller Street were analysed.

It was determined that potential view loss may occur in relation to those apartments that are located at the upper levels to the west and directly align with the site, for instance 39 McLaren Street and the Harvard Apartments at 237 Miller Street. View access from properties further west would likely be blocked by 39 McLaren Street. However, the proposed height is of a modest scale and it has been determined that the height and scale is *"unlikely to create any significant view loss or blocking effects.<sup>4</sup>"*

In relation to the properties at 229 Miller Street and 37-39 McLaren Street, Urbis have used CGI's along with LiDar point cloud data to determine RL's to model any potential view loss. Urbis have also obtained typical floor plans for those units, sourced from real estate sites. The location of viewpoints chosen are documented in Table 2 of the addendum view sharing report. Figures 11-15 of that report, provide CGI imagery of the views from those apartments, with the proposed built form modelled in the foreground.

<sup>3</sup> Urbis, *Visual Assessment Report*, pg 4

<sup>4</sup> Urbis, *Visual Assessment Report*, pg 11

The CGI's confirm that view loss from these buildings "would be negligible, given the wide extent of the view available, its predominant scenic character and quality."

A detailed view study was carried out for the Aqualand building at 168 Walker Street, which involved a series of drone imagery and the preparation of photomontages based on the approved Aqualand floor plans. The locations used for the drone imagery is illustrated in Figure 38 and the potential 'worst case' view affections are illustrated in

Figure 39 below.

Figure 37: CGI's depicting views from 37-39 Miller Street and 229 Miller Street



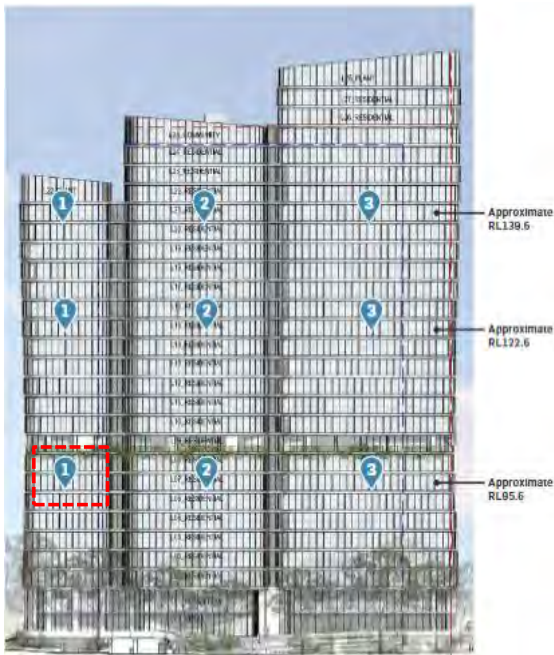
Picture 18: View from Penthouse of 37-39 Miller Street



Picture 19: View from Penthouse at 229 Miller Street

Source: *Visual Assessment, Urbis*

Figure 38 Location of drone imagery for Aqualand



Picture 20: Elevation illustrated the location of views

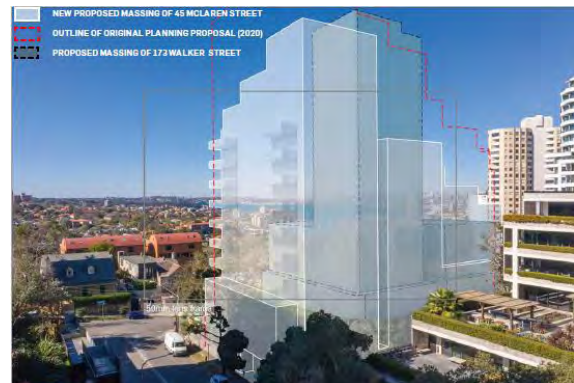


Picture 21: Typical floor plate location of view

Figure 39: View analysis from Aqualand



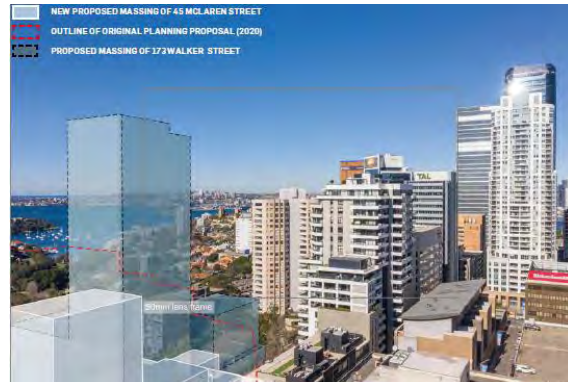
Picture 22: Existing view from RL92.36 (approximately L7) of the western stack of Aqualand



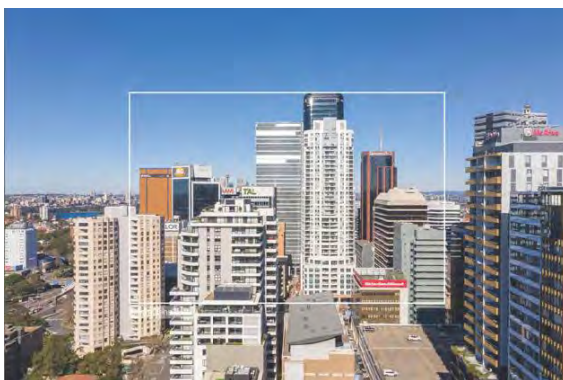
Picture 23: Proposed view from RL92.36 (approximately L7) of the western stack of Aqualand



Picture 24: Existing view from RL126.27 (approximately L15) of the western stack of Aqualand



Picture 25: Proposed from RL126.27 (approximately L15) of the western stack of Aqualand



Picture 26: Existing view from RL135.07 (approximately L21) of the middle stack of Aqualand



Picture 27: Proposed view from RL135.07 (approximately L21) of the middle stack of Aqualand

Source: Urbis

As per the above excerpts, the greatest view affectation is associated with the lower portion of the western tower (highlighted in red in Figure 38). The view is an oblique angle at the lower level of the western most wing of the residential tower. The views would be predominately blocked by any future development associated with the East Walker Street Precinct, with a narrow additional column east of the East Walker Street building envelope, which includes distant parts of Sydney Harbour. In this instance, the extent of view loss is rated moderate however the level of view sharing achieved is considered reasonable and acceptable in this highly urbanised visual setting.

The view analysis has determined that view affectations from all other locations is rated as minor to negligible.

Overall, the additional height sought by the amended planning proposal does not block iconic items or large proportion of scenic or highly valued views, as defined in Tenacity. The views that are affected are predominately of other urban development within North Sydney.

It should be noted that detailed design would occur at the development application stage, at which time fine-grain consideration of the massing, articulation, detailing and materials would be resolved. Any future development application lodged over the site will need to address the view sharing planning principles established in Tenacity. Further, at the development application stage, any future development would need to demonstrate compliance with the objectives and provisions contained in Part B, Section 1.3.6 Views and Part C, Section 2.1.1 Views of the NSDCP 2013. A summary assessment of these sections is provided at Table 17 below:

Table 17: Compliance with the NSDCP 2013

Control	Provision	Response
1.3.6 Views	<p>P1 Development should be designed such that views from streets and other public places, as identified in the relevant area character statement (refer to Part C of the DCP), are not unreasonably obstructed.</p> <p>P2 Development should be designed to maximise the sharing of views from surrounding properties and public places.</p> <p>P3 Ensure that existing and proposed dwellings will have an outlook onto trees and sky.</p> <p>P4 Where a proposal is likely to adversely affect views from either private or public land, Council will give consideration to the Land and Environment Court's Planning Principle for view sharing established in <i>Tenacity Consulting v Warringah Council</i> [2004] NSWLEC 140.</p>	<p>A view sharing analysis has been undertaken by Urbis which confirms that the amendments to the LEP in relation to maximum building height is suitable for the site and that iconic and highly valued views will remain unimpacted.</p> <p>Any future building envelope, in accordance with the proposed LEP amendments, must be designed in such a way as to promote view sharing.</p> <p>Any future development application will be subject to assessment against the tenacity principles.</p>
2.1.1 Significant Elements	<p>Views</p> <p>P7. The following views and vistas are to be preserved and where possible enhanced:</p> <p>(a) From the plaza at No. 5 Blue Street and located over North Sydney Rail Station to the Sydney Harbour Bridge.</p> <p>(b) From Doris Fitton Park (160-166 Arthur Street) to Sydney Harbour and Neutral Bay district.</p> <p>(c) Views along the Pacific highway to the Post Office on Mount Street from the south-east.</p> <p>(d) Views along the Pacific Highway to Sydney Harbour from the intersection with Mount Street.</p>	<p>The provision of a 1-3 storey street wall height and a stepped height transition south from McLaren Street ensures that a strong vista is maintained to the CBD.</p> <p>As documented on page 10 of the view sharing report, future development on the site would not affect the vistas along Walker Street, nor would they impact potential views of Kirribilli and the Harbour.</p> <p>The site sits north of the views and vistas identified in the NSDCP and does not form part of their areas of preservation.</p>

### Heritage

The site does not contain any heritage listed items under Schedule 5 of the *NSLEP 2013*, nor is it located within a heritage conservation area.

There are however several listed heritage items located within the vicinity of the site, including Simsmetal House, a commercial office building, at 41 McLaren Street to the west of the site and the stone cottage at 185 Walker Street to the north-east. Other heritage items include a group of late nineteenth century houses at 144-150 Walker Street to the south of the site and a row of Victorian terrace houses to the east, at 2-14 Hampden Street.



The amended Planning Proposal is accompanied by a Heritage Impact Statement prepared by Weir Phillips Heritage (**Appendix H**) which provides a detailed assessment of the proposed impacts on the surrounding heritage items.

The report states:

- *The degree of separation between the site and surrounding heritage items is sufficient to ensure that the proposal would have no direct impact on the lot boundary curtilage of these items;*
- *No significant view corridors to/from the heritage items would be blocked, beyond that which currently exists;*
- *The architectural, historic and/or social significance of the items will not be impacted upon;*
- *The proposed design has established a lower scale transition of the development at the southern end of the site, which acts as a transition zone from the heritage items on the western side of Walker Street; and*
- *The impact of the transition to a tower form will be mitigated by the use of a podium level of appropriate height and the proposed stepped tower form to improve solar access to heritage items.*

The report also notes that Council has accepted that the wider setting of these heritage items will change over time, with the proposed reference design consistent with the redevelopment of the wider locality.

The heritage report concludes to state that the associated impacts are acceptable.

### Traffic Generation

The amended Planning Proposal is accompanied by a Traffic Impact Assessment prepared by TRAFFIX in **Appendix F** which provides a detailed assessment of the proposed impacts on the traffic conditions surrounding the site.

The report addresses the following matters:

- Access to the site from Walker Street
- Generation car trips
- Vehicle queuing
- Public transport accessibility
- Car parking arrangements
- Pedestrian and bicycle access

TRAFFIX has modelled the traffic outputs associated with the capacity of the site to accommodate approximately 82 dwellings, consistent with the intended density within the area.

The key findings of the Traffic Impact Assessment are summarised as follows:

- The subject site is well connected to the public and active transport network with reliable access to regular bus, rail services and future metro services. These, along with existing pedestrian and cycle links, ensure the site is ideally situated for a mixed-use development as it provides a good opportunity to encourage future tenants/visitors to use sustainable transport modes.
- The reference scheme generates a demand for 70-80 car parking spaces. The site is capable of accommodating all car parking requirements within the basement.
- The traffic generation arising from the development has been assessed as a net change over existing conditions and equates to an additional 11 vehicle trips per hour during the morning peak and an additional 8 vehicle trips during the afternoon peak periods. SIDRA intersection modelling undertaken for the site indicated that no external improvements are required to facilitate the proposed development. The traffic impacts of the development are therefore considered acceptable.
- The basement car park will comply with the requirements of AS 2890.1 (2004), AS2890.2 (2002) and AS2890.6 (2009) and the detailed carpark operation can be dealt with during the DA Stage.

- The traffic report concludes that the amended Planning Proposal is supportable on traffic planning grounds.

### Wind Assessment

A Pedestrian Wind Environment Statement has been prepared by Windtech Consultants and supplement with a Cover letter in support of the amended Planning Proposal (**Appendix K**). It provides an assessment of the impact of the proposed building envelope on the pedestrian amenity surrounding the site and the wind affections for future users of the site.

The assessment focused on the critical outdoor trafficable areas, including:

- Pedestrian footpaths
- Level 10 communal terrace
- Private balconies and terraces

The findings from the study confirm that the *“proposed development has incorporated several design features and wind mitigation strategies and is expected to be suitable for the intended use.”*<sup>5</sup>

The location of the site is however potentially exposed to a variety of prevailing north-easterly wind conditions. This can be ameliorated through the provision of street trees along the Walker Street and McLaren Street frontages and through densely foliating vegetation along the eastern boundary, such as that proposed within the landscape concept plan.

Windtech have provided mitigation measures which would be considered at any future detailed design phase.

### ESD

A Sustainability Strategy has been prepared by Integral Group (**Appendix L**) which demonstrates a commitment by the Proponent to deliver a building that addresses the environmental challenges facing our society. The Strategy will be implemented through a schedule of certification commitments and a selection of strategic initiatives that support an ambitious sustainability agenda.

The Strategic Initiatives include:

1. Pathway to Climate Positive Approach  
*Objectives to achieve net zero emissions are aligned with industry best practice.*
2. Passive Design, Amenity & Ventilation  
*This focuses on opportunities to reduce resource consumption.*
3. Biophilia and a healthy building  
*This approach can reduce stress, improve cognitive function and creativity and improve well-being.*
4. Transport and mobility  
*This considers the relationship of movement priority and place priority for the project.*
5. Liveable Public Realm  
*A liveable public realm is at the heart of supporting a new urban place that is active, healthy and resilient.*

The report concludes that the proposal demonstrates three key areas of innovation that addresses pressing needs in our city: the need to decarbonise the city; the need to make better use of our favourable climate; and the need to create places that are amenable and resilient in a changing climate.

### Infrastructure

Preliminary investigations have been undertaken by Calibre (**Appendix J**) to identify the existing infrastructure services and confirm utility infrastructure required for the future redevelopment. The investigations confirm that subject to infrastructure upgrades, the surrounding infrastructure network is capable of accommodating the proposed density.

Detailed investigations will be undertaken at the Development Application stage.

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<sup>5</sup> Windtech Consultants Pty Ltd, *Pedestrian Wind Environment Statement*, pg iv

**Q10. Has the Planning Proposal adequately addressed any social and economic effects?**

**Yes.** The amended Planning Proposal is considered to have a number of social and economic benefits. Through realising economic benefits, a positive social on-flow effect can also occur, which the public can benefit through job creation and additional commercial and retail services.

The economic and social benefits are summarised as follows:

- **Facilitates renewal of a key site:** The amended Planning Proposal enables the renewal of an outdated and underdeveloped residential flat building that is situated on a triple frontage site and the junction of the Ward Street Precinct and Civic Precinct Study boundaries.
- **Creates indirect and direct construction jobs:** The site's redevelopment would result in full time construction jobs, with workers on the site also supporting local businesses.
- **Ensures ongoing employment:** The provision of a minimum non-residential FSR of 1:1, secures a proportion of employment generating floor space on the site. The estimated total number of full time jobs generated by the proposed development is 41. In addition, the proposed redevelopment of the site and ongoing maintenance will generate additional employment opportunities.
- **Economic benefits associated with future residential density:** Increased residential density would contribute to increased retail turnover and the activation of a night time economy. Such density is required to realise the vision for an active 18 hour economy and support council's vision for laneways, eat streets and arts and culture night time and weekend economy.
- **Improved public domain and ground floor activation, reinvigorating the precinct for workers and residents:** The inclusion of commercial and retail floor space at the ground floor and a gym, would have the benefit of activating the site and the through site link, contributing to a sense of place and activity through the day and night.
- **Public benefit offer:** A range of public benefits including the provision of public domain improvement works and through site links (including associated land dedication) and monetary contribution per net increase in dwelling yield, towards community infrastructure.

## 10.2.4. Section D – Infrastructure (Local, State and Commonwealth)

### **Q11. Is there adequate public infrastructure for the planning proposal?**

**Yes.** The site benefits from all the services one could expect in a location on the edge of a metropolitan CBD. It is served by existing utility services and is located to allow incoming residents and workers to capitalise on the wide range of infrastructure and services existing and planned within the area. It will reinforce existing investment in public transport infrastructure, through increased patronage of the existing North Sydney train station and the planned Victoria Cross metro station.

A range of established services are available within close proximity of the site, including health, education and emergency services networks.

#### **Transport Infrastructure**

As previously stated in this document, the site is located 100m from the Victoria Cross Metro Station and 600m from the North Sydney Train Station. By 2024, North Sydney will become one of the most connected centres in Sydney with ready access to all major employment centres in rapid time.

The area is also well-serviced by district state buses networks as well footpaths and a network of dedicated and on-road cycle paths, providing a wide range of available options for workers and residents to travel.

Based on the traffic distribution and generation assumptions, the analysis indicates that the increase in traffic is negligible and is not envisaged to affect the existing surrounding road network.

#### **Social Infrastructure**

North Sydney CBD is one of the most well serviced areas in Australia for social infrastructure. Given the high level of social infrastructure provided in North Sydney, this amended Planning Proposal is not expected to have a material impact on social infrastructure.

##### a) Existing Health and Education

The North District Plan confirms that the North District has a high proportion health and education jobs, compared to the Greater Sydney average, and in turn is considered a hub of Health and Education.

This is directly demonstrated by the number of schools in North Sydney listed below.

##### Schools in North Sydney

#### **Primary Schools (aged 5-12)**

ANZAC Park Public School  
Cameragal Montessori Primary  
Camberay Public School  
Loreto Kirribilli Junior School  
Neutral Bay Public School  
North Sydney Demonstration School  
Redlands Grammar School  
St Aloysius Junior College  
St Mary's Primary School  
Shore Grammar School  
Wenona School  
After School Care  
Available in conjunction with Primary Schools.

#### **Secondary Schools (aged 12-18)**

Cammeraygal High School  
Loreto Kirribilli Senior School  
Marist College North Shore  
Monte Sant' Angelo Mercy College  
North Sydney Boys High  
North Sydney Girls High  
Redlands Grammar School  
St Aloysius Senior College  
Shore Grammar School  
Wenona School  
TAFE NSW  
St Leonards Campus  
Bradfield Senior College (including HSC study)

The lower north shore is also very well serviced with health infrastructure as demonstrated by the list of hospital located near to the Precinct.

#### Hospitals in North Sydney

- Royal North Shore Hospital
- Royal North Shore Private Hospital
- Mater Hospital
- Mosman Private Hospital
- Northside Cremorne Clinic
- Northside Clinic
- Greenwich Hospital

#### b) Future Health and Education

The North District Plan identifies that there will be a focus on expansion of the nearby **St Leonards health and education precinct and Priority Precinct**, led by the NSW Department of Planning and Environment, which will bring together the Commission, North Sydney Council, Lane Cove Council, Willoughby City Council, Transport for NSW and NSW Health, to grow jobs, housing and infrastructure within the precinct.

The site is located within an established urban area and is fully serviced by existing and planned infrastructure which is capable of accommodating for the increased density on the site.

#### **Utility Infrastructure**

Preliminary investigations have been undertaken to identify sufficient utility infrastructure required for the proposed development. Detailed investigations will be undertaken to inform a subsequent Development Application.

## **10.2.5. Section E – State and Commonwealth Interests**

### **Q12. What are the views of State and Federal public authorities and government agencies consulted in order to inform the Gateway Determination?**

No consultation with State or Federal authorities has been carried out to date on the amended Planning Proposal. It is acknowledged that North Sydney Council will consult with relevant public authorities and government agencies following the Gateway Determination.

# 11. PART 4 – MAPS

The amended Planning Proposal seeks to amend the following NSLEP 2013 Maps:

- Height of Buildings Map Sheet HOB\_002A
- Floor Space Ratio Map FSR\_002A
- Non-Residential Floor Space Ratio Map LCL\_002A
- Land Zoning Map LZN\_002A

The proposed amendments to the LEP maps are provided below:

Figure 40: Height of Buildings Map



Picture 28 Existing Height of Buildings Map

Source: Urbis



Picture 29 Proposed Height of Buildings Map

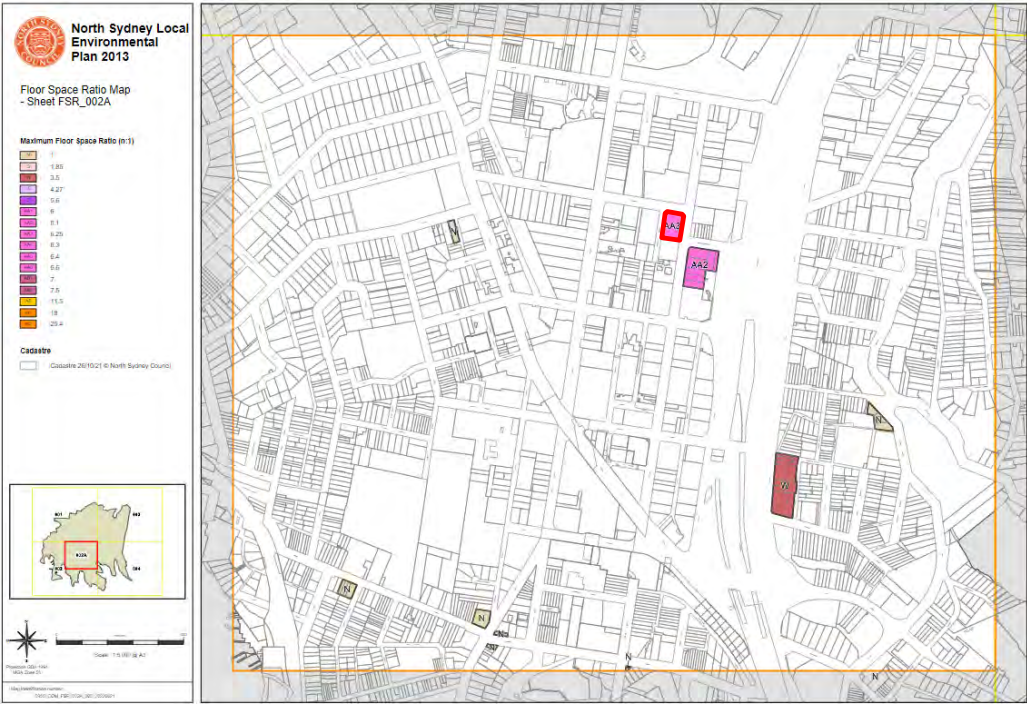
Source: North Sydney Council

Figure 41 Floor Space Ratio Map



Picture 30: Existing Floor Space Ratio Map

Source: Urbis



Picture 31: Proposed Floor Space Ratio Map

Source: North Sydney Council

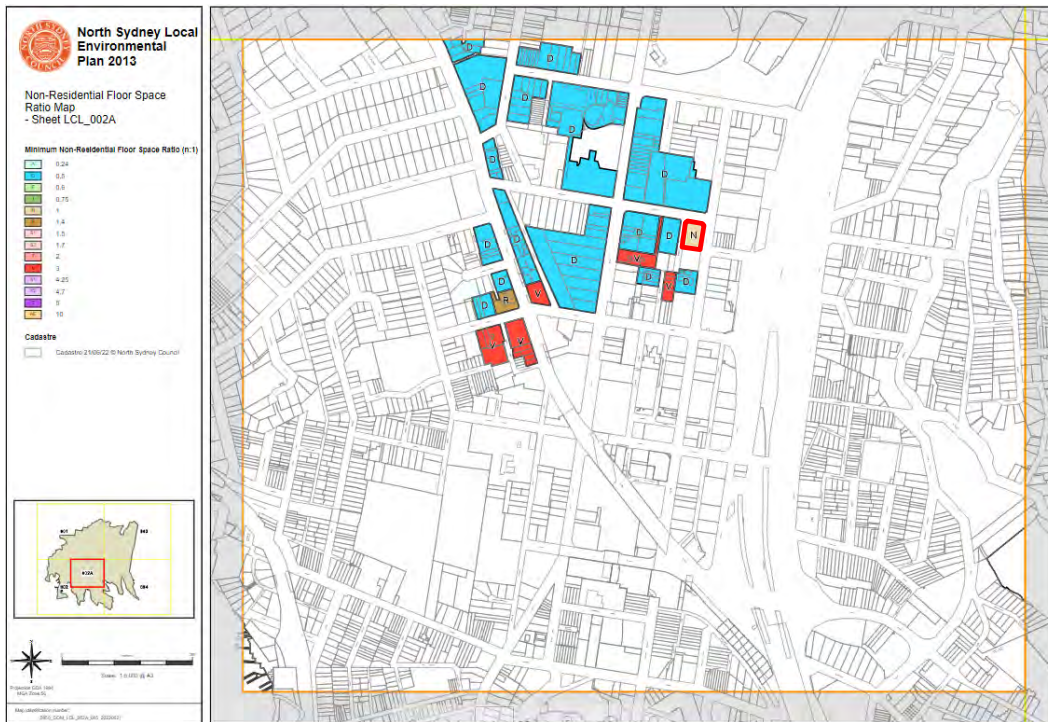
Figure 42: Minimum Non-Residential Floor Space Map



Picture 32 Existing Minimum Non-Residential Floor Space Map

Source: Urbis

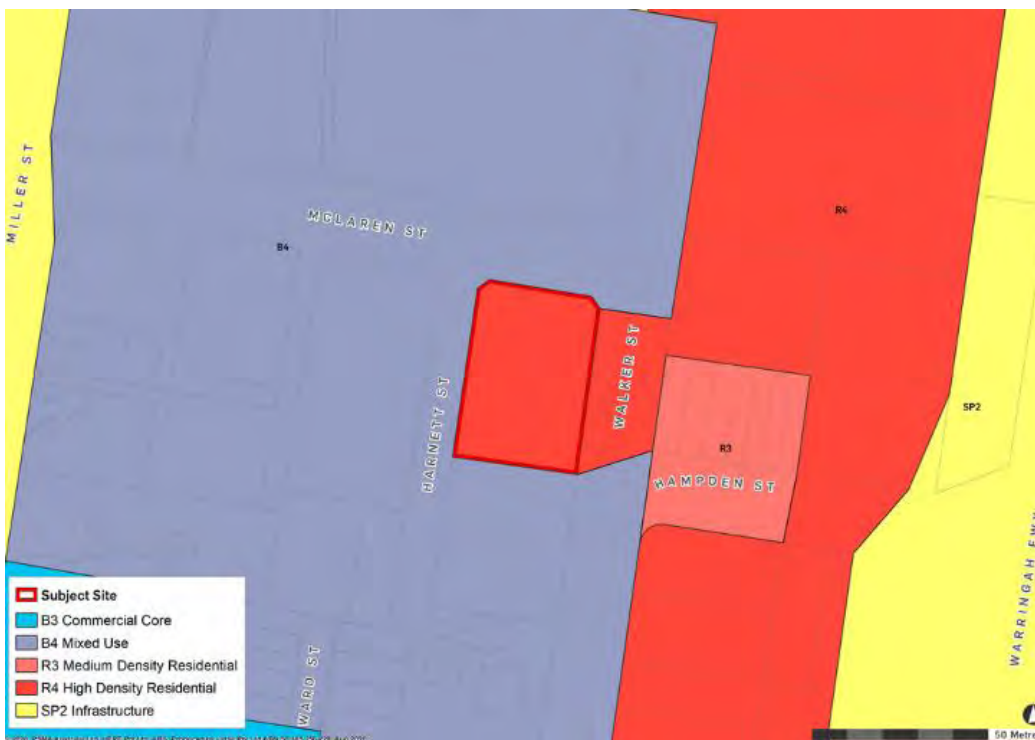




Picture 33 Proposed non-residential floor space

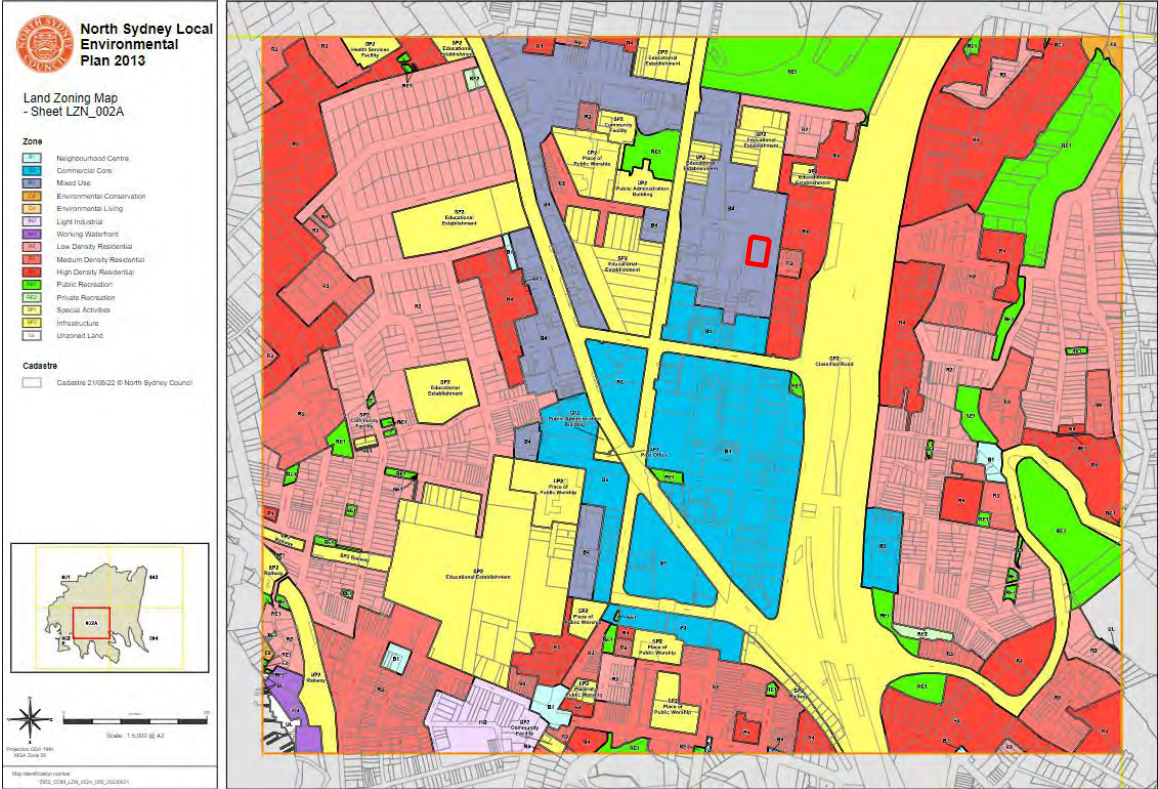
Source: Urbis

Figure 43 Land Zoning Map



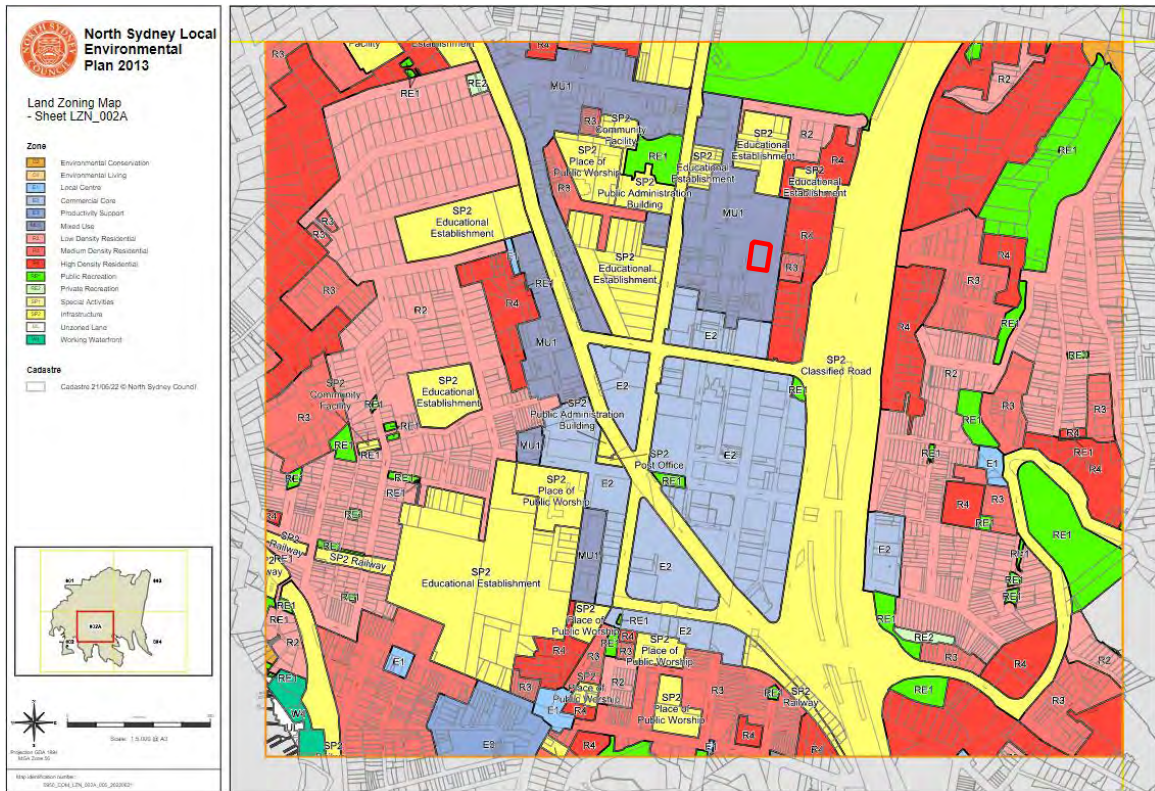
Picture 34 Existing Land Zoning Map

Source: Urbis



Picture 35 Proposed Land Zoning Map

Source: North Sydney Council



Picture 36 Proposed Land Zoning Map (if Employment Zone Reform is implemented)

Source: North Sydney Council

## 12. PART 5 – COMMUNITY CONSULTATION

### 12.1. PRE-LODGE MENT COMMUNITY ENGAGEMENT

Over August and September 2020, Podia undertook a stakeholder engagement strategy to inform the Planning Proposal outcomes. The engagement strategy is documented in **Appendix D**. This is consistent with North Sydney Council's Community Engagement Policy June 2018.

In summary, the consultation activities included:

- Distribution of DL flyers within a 1km radius;
- Online surveys
- Community Information session, held via Zoom on 2 September 2020
- Communication channels including a dedicated project email and project website, with an online survey ([www.45mclaren.com.au](http://www.45mclaren.com.au)).

A summary of the engagement activities is listed below and the location of the flyer distribution is illustrated in Figure 44.

ITEM	NUMBER
DL flyer distribution	833
Boundary of letterbox drop	1 km radius from 45 McLaren Street
Attendees at online community information session	18
Number of phone calls answered/received	14
Total number of surveys received	5
Length of time survey was available via community website	32 days
Number of interactions with Council	2

Figure 44: Map identifying DL flyer distribution



Source: Polymer Studio

This engagement process has been valuable in providing a forum for the community to share views, for the project team to take feedback and to create a transparent process that will build a foundation for further engagement through the process.

## 12.2. ENGAGEMENT WITH COUNCIL

As discussed in *Section 3.1 Council Engagement*, the Proponent has engaged with council, consulted with a range of stakeholders and technical experts and refined the proposed reference scheme to achieve an urban design outcome that is appropriate to the emerging site context.

Preliminary meetings and discussions with council began during the preparation of the WSPMP, which the site was ultimately void of any uplift. Notwithstanding, the Proponent and council maintained an ongoing dialogue, with a clear pathway presented to enable the framework for a site-specific Planning Proposal.

Since lodgement of the Planning Proposal, the Proponent and the technical team, have met with Council's strategic planners on a number of occasions, with four reiterations of feedback provided by Council. It is demonstrated that the Proponent has had a positive and ongoing dialogue with Council and this amended Planning Proposal has been prepared to reflect the conversations had to date. This amended Planning Proposal and the submitted Urban Design Report have adopted all recommendations made by Council, as part of their final letter of advice, of 29 July 2021.

Key issues that were raised and how the amended planning proposal has addressed those issues, are discussed in **Section 3. Council engagement & Concept refinement**.

## 12.3. PUBLIC CONSULTATION

Section 3.34 of the *Environmental Planning and Assessment Act 1979* requires the relevant planning authority to consult with the community in accordance with the gateway determination.

The amended Planning Proposal will be required to be publicly exhibited for 28 days in accordance with the requirements of “*A Guide to Preparing Local Environmental Plans*”. It is anticipated that the public exhibition would be notified by way of:

- A public notice in local newspaper(s).
- A notice on the North Sydney Council website.
- Written correspondence to adjoining and surrounding landowners.

As part of the public consultation process, the proponent will review all submissions, discuss with Council and DPIE as required, and provide a response to submission during the assessment of the amended Planning Proposal.

## 13. PART 6 – PROJECT TIMELINE

It is anticipated that the LEP amendment will be completed within 12-18 months. An indicative project timeframe is provided at **Table 18**.

Table 18: Indicative Project timeline

Stage	Timeframe and/or Date
Lodgement of Planning Proposal	October 2020
Lodgement of Amended Planning Proposal	November 2021
Consideration by North Sydney Local Planning Panel	February 2022
Consideration by North Sydney Council to Progress to Gateway	March 2022
Planning Proposal referred to DPE for Gateway Determination	April 2022
Gateway Determination issued by DPE	June 2022 August 2022 – Alteration
Public exhibition period	September 2022 - November 2022 <i>To commence by 1 December 2022 and be publicly exhibited for a minimum 28 days</i>
Consideration of the Planning Proposal post-exhibition	December 2022 <i>For final recommendation by 1 February 2023</i>
Delegation to Council finalise the drafting and making of LEP	December 2022-February 2023
Gazettal of LEP Amendment	March 2023 – May 2023 <i>For final making by 1 March 2023</i>

## 14. CONCLUSION

This amended Planning Proposal seeks an amendment to the NSLEP 2013 to establish planning controls that would enable a high quality mixed-use development outcome at 45 McLaren Street, North Sydney.

The amended Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and the relevant guidelines prepared by the NSW Department of Planning and Infrastructure including “*A Guide to Preparing Local Environmental Plans*” and “*A Guide to Preparing Planning Proposals*.” It sets out the justification for the proposed LEP amendments. It is supported by an Urban Design Report (**Appendix A**), associated reference scheme and submitted technical studies which demonstrate that the site is suitable for the proposed amendments to the LEP.

The report demonstrates that there is strategic merit and site-specific merit to justify advancement of the amended Planning Proposal. The preparation of the site-specific Planning Proposal has been prepared under the directive of the recommendation from the council’s resolution of the endorsed WSPMP.

The amended Planning Proposal and submitted reference scheme draws upon the strategic planning work undertaken by council in relation to the Ward Street Precinct, Civic Study and Public Domain Strategy and incorporates, where relevant, the principles and design guidelines contained within these documents, as they relate to land use, building envelopes, overshadowing, views, street wall heights, pedestrian connectivity and landscaping.

**The amended Planning Proposal demonstrates Strategic Merit as it gives effect to the following:**

1. Consistent with the **Greater Sydney Region Plan and North District Plan** which seeks to intensify housing and employment around significant transport infrastructure and in proximity to employment nodes, capitalising on the State government’s investment. The site is located 100m from the new Victoria Cross Metro station and 600m from North Sydney Train Station.
2. Consistent with the **North Sydney Local Strategic Planning Statement** for locating residential development at the periphery of the North Sydney CBD. Residential density in this location will active the CBD and supports the attainment of an 18-hour economy and a 30 minute city, as outlined within the **North District Plan**.
3. Assists Council in achieving the **housing targets** mandated by the **Greater Sydney Commission**. Council is required to demonstrate how it can achieve 3,000 – 3,500 dwellings for the period 2021/22 – 2025/26. Council’s analysis currently shows 2,835 dwellings for this period.
4. Achieves an appropriate built form and scale that reflects the vision for **North Sydney** and the **Ward Street Precinct** which is expressed by local planning policy, precinct planning and the existing and emerging scale of development on adjacent and surrounding lands.
5. Rezoning the site to **B4 Mixed Use** is consistent with the zoning of all other land within the Ward Street Precinct, demonstrating consistency with the strategic intent for this Precinct, which is undergoing a period of transformation and urban renewal.
6. Increases the development capability of the site and activates the north-eastern corner of the Precinct, with 82 new dwellings and 2,091m<sup>2</sup> of commercial GFA. The site is strategically located 100m from the Victoria Metro Station (opening 2024) and 600m from the North Sydney Train Station and in close walking distance to schools, open space and employment opportunities.

**The amended Planning Proposal demonstrates site-specific merit is achieved, by way of the following:**

7. **Ward Street Precinct Masterplan and Council Resolution:** The Ward Street Precinct Masterplan was endorsed by North Sydney Council on 24th June 2019. At the time of the endorsement council resolved that...

*despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered for 45 McLaren Street and may identify how any future redevelopment will:*

- I. Minimise solar reductions upon new public domain as identified in the Masterplan.*
- II. Minimise solar and privacy impacts upon existing residential development.*
- III. Provide for a commercial component to any redevelopment.*
- IV. Identifies significant public benefits that will arise from the development of the site with particular regard to the objectives of the Masterplan.*



The amended Planning Proposal has been prepared to address the above key criteria, in addition to recommendations provided by Council. Together, this advice has shaped and guided the urban design outcome for the site.

8. **Height:** Utilising the building heights established within the Ward Street Precinct Masterplan, the approved development to the north and the existing heritage buildings and residential tower to the south, the built form provides for a transition from west to east and north to south. The proposed heights have been designed to have stepped transition, falling away to the south.
9. **Density:** The built form has a modest FSR of 6.25:1, providing an appropriate mixed-use outcome within a fine grain built form, that sits comfortably within the existing and future context of the immediate locality.
10. **Urban Design:** The site's redevelopment would include a sustainable mixed-use building, a green roof, green walls and green spaces throughout, passive design principles and will create a bold vision for North Sydney.

**11. Residential amenity:**

Solar access: The building envelope has been designed to ensure that there is no additional overshadowing to the Ward Street Plaza Central Square from 9am onwards and to the Green Square beyond 10:08am on June 21<sup>st</sup>. Sculpting of the built form also retains a good level of solar access to the residential properties at 150 Walker Street.

Privacy: The site's triple frontage provides substantial separation distance between the site and those properties to the north and east. The south-western façade has been recessed to achieve compliant separation distances to the west. The apartments within the lower southern portion are setback 4.5m from the boundary and have been designed to orientate to the east & west, limiting any direct overlooking.

View impact: The modest scale and stepped nature of the built form, retains view corridors through the south of the site. Any views from the north would likely be impacted by taller buildings further south of the site.

12. **Heritage:** The inclusion of a 2-3 storey street wall height responds to the sties substantially varied topography and is consistent with the datum and the street setbacks of the heritage terraces to the south. Fine grain architectural design will be developed at the DA stage to ensure that the use of materials and finishes are complementary to these heritage items.
13. **Landscape terracing:** The stepping of the built form allows for cascading landscaping to form a green roof and substantial planter boxes to be staggered across the building façade and within the site setbacks. Key corner locations will be designed with green walls, creating a living, breathing building façade.
14. **Streetscape activation:** Active frontages and passive surveillance are provided along all site frontages. McLaren Street & Harnett Street is activated by retail and recreational (indoor) uses with residential uses providing passive surveillance of Walker Street.
15. **Public Domain Improvements:** Pedestrian connectivity will be enhanced through the expansion (from 1.5m to 3m) of the existing through-site link connecting Walker Street and Harnett Street, improving, and promoting pedestrianisation around the site and activating Ward Street Plaza. Public domain improvements also include pedestrian upgrades to the street frontages and upgrade of Harnett Street.

This amended Planning Proposal supports the State government's current direction of increasing density in major centres with good access to public transport and facilities. It achieves the right balance of maintaining a strong community focus while also recognising the benefits of providing residential development to take advantage of the locational and amenity criteria that North Sydney has on offer.

In considering the tangible community and economic benefits of the amended Planning Proposal, it is respectfully requested that the Council resolve to forward this amended Planning Proposal to DPIE for LEP Gateway Determination.

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# APPENDIX A **URBAN DESIGN REPORT (AS AMENDED)**

# APPENDIX B **DRAFT NORTH SYDNEY DCP SUBMISSION**

## APPENDIX C **SURVEY PLAN**

# APPENDIX D **STAKEHOLDER ENGAGEMENT REPORT**

# APPENDIX E **DRAFT VPA (AS AMENDED)**

APPENDIX F **TRAFFIC IMPACT ASSESSMENT (AS AMENDED)  
REPORT (AS AMENDED)**



# APPENDIX G **VISUAL ASSESSMENT REPORT (AS AMENDED) ASSESSMENT**

# APPENDIX H **HERITAGE IMPACT ASSESSMENT**

APPENDIX I      **LANDSCAPE DESIGN REPORT (AS  
AMENDED)  
INVESTIGATION**

# APPENDIX J    **PRELIMINARY SITE INVESTIGATION**

# APPENDIX K **PEDESTRIAN WIND ENVIRONMENT STATEMENT (AS AMENDED)**

APPENDIX L **SUSTAINABILITY STRATEGY (AS  
AMENDED)  
INFRASTRUCTURE ASSESSMENT**

# APPENDIX M **HYDRAULIC SERVICES INFRASTRUCTURE ASSESSMENT**



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Australia  
T +61 2 8233 9900

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**URBIS.COM.AU**



# Voluntary Planning Agreement

DRAFT FOR EXHIBITION

North Sydney Council  
*ABN 32 353 260 317*

45 McLaren Pty Limited  
*ACN 641 204 024*

Proprietors Strata Plan 14598  
*ABN 49 980 034 036*

**Newcastle**

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PO Box 812, Newcastle NSW 2300  
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adelaide | brisbane | canberra | darwin | melbourne | newcastle | perth | sydney | upper hunter

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# Agreement

## Date

## Parties

### First party

**Name** North Sydney Council (**Council**)  
**ABN** 32 353 260 317  
**Contact** General Manager  
**Telephone** (02) 9936 8100

### Second party

**Name** 45 McLaren Pty Limited (**Developer**)  
**ACN** 641 204 024  
**Contact**  
**Telephone**

### Third party

**Name** Proprietors Strata Plan 14598 (**Landowner**)  
**ABN** 49 980 034 036  
**Contact**  
**Telephone**

## Background

- A. The Developer has the right to own the Land pursuant to an option agreement.
- B. On 22 October 2020, the Developer made an application to the Council for the Instrument Change as set out in Schedule 1 for the purposes of making a Development Application to the Council for Development Consent to carry out the Development on the Land.
- C. The Instrument Change application was accompanied by an offer by the Developer to amend the DCP to incorporate site specific controls as they apply to the Land to enable the appropriate redevelopment of the Land.
- D. The Instrument Change application was accompanied by an offer by the Developer to enter into this agreement to make Development Contributions towards the Public Facilities if that Development proceeds.
- E. The parties have agreed to enter into this agreement for the delivery of the Development Contributions, including an appropriate adjustment to the Development Contributions if more restrictive parking rates are imposed as proposed in the amendment to the DCP or if there is a requirement for the Developer to make state infrastructure contributions.
- F. The estimated value of the Development Contributions is set out in Annexure B.

## Operative part

### 1 Definitions

In this agreement, unless the context indicates a contrary intention:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW);

**Affordable Housing Unit** means a strata lot containing a 1 x two bedroom apartment in the Development to be dedicated to Council for the purposes of affordable housing in accordance with clause 6.4 of this agreement;

**Address** means a party's address set out in the Notices clause of this agreement;

**Approval** means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this agreement;

**Authority** means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person; agency or entity and includes a registered certifier under the *Building and Development Certifiers Act 2018* (NSW);

**Bank Guarantee** means an irrevocable and unconditional undertaking that is not limited in time and does not expire by one of the following trading banks:

- (a) Australia and New Zealand Banking Group Limited,
- (b) Commonwealth Bank of Australia,
- (c) Macquarie Bank,
- (d) National Australia Bank,
- (e) St George Bank Limited,
- (f) Westpac Banking Corporation, or
- (g) Other financial institution approved by the Council,

to pay an amount or amounts of money to the Council on demand and containing terms and conditions reasonably acceptable to the Council;

**Bond** means a documentary performance bond which must be denominated in Australian dollars and be an unconditional undertaking with all the following requirements. It must:

- (a) be signed and issued by an Australian Prudential Regulation Authority (**APRA**) regulated authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia;
- (b) have at all times an investment grade security rating from an industry recognised rating agency;
- (c) have no expiry or end date;
- (d) have the beneficiary as Council;
- (e) be irrevocable;
- (f) state either individually, or in total with other lodged compliant forms of security, the relevant minimum amount required to be lodged as security; and
- (g) state the purpose of the deposit required in accordance with this agreement;

**Business Day** means a day on which banks are open for general banking business in Sydney, excluding Saturdays and Sundays;

**Claim** means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this agreement;

**Common Property** means the Common Property SP14598;

**Compliance Certificate** means a compliance certificate as defined under section 6.4 of the Act;

**Construction Terms** means the terms set out in Schedule 5;

**CPI** means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics;

**Current Car Parking Rate** is the maximum number of car parks calculated for the Development in accordance with the DCP as at 22 August 2022;

**Damages** means all liabilities, losses, damages, costs and expenses, including legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

**DCP** means the *North Sydney Development Control Plan 2013*;

**Dealing**, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land;

**Development** means the redevelopment of the Land for the purpose of a multi-storey mixed residential and commercial building which relies on the Instrument Change;

**Development Application** has the same meaning as in the Act;

**Development Consent** has the same meaning as in the Act;

**Development Contribution** means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit required under this agreement;

**Dwelling** has the same meaning as in LEP 2013 and, for the purposes of this agreement, does not include any dwellings to be dedicated for Affordable Housing;

**Easement Terms** means the terms of a public access easement set out in Schedule 3;

**Future Car Parking Rate** is the maximum number of car parks calculated for the Development in accordance with the DCP as at the date the first Development Consent for the Development is determined;

**GST** has the same meaning as in the GST Law;

**GST Law** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition of or administration of the GST;

**Instrument Change** means an amendment to LEP 2013 in response to the Planning Proposal;

**Land** means Lots 1-18 (inclusive) and common property in SP 14598, known as 45 McLaren Street, North Sydney;

**Law** means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

**LEP 2013** means the *North Sydney Local Environmental Plan 2013*;

**Monetary Contribution** means a monetary contribution payable by the Developer in accordance with clause 6.1 as adjusted in accordance with clause 6.1(b) and clause 6.5;

**Occupation Certificate** means an occupation certificate as defined under section 6.4 of the Act, and includes an Occupation Certificate for part of a building;

**Planning Proposal** means a proposal to amend LEP 2013 in the manner described in Schedule 1, known as PP6/20 (Council reference) and PP-2022-1259 (Department of Planning and Environment reference) and subject to a Gateway Determination issued by the Department of Planning and Environment dated 1 June 2022 and as altered on 26 August 2022;

**Public Domain Works** means the public domain improvement works including footpaths, kerb and guttering and other Public Facilities as described in Schedule 4 and clause 6.3;

**Public Facilities** means infrastructure, facilities, amenities and services that serve a public purpose;

**Register** means the Torrens title register maintained under the *Real Property Act 1900* (NSW);

**Regulation** means the *Environmental Planning and Assessment Regulation 2021*;

**Regulation (Certification)** means the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*;

**Strata Plan** means a strata plan, a strata plan of subdivision or a strata plan of consolidation that is registered in accordance with the *Strata Schemes Development Act 2015*; and

**Through Site Link Land** means that part of the Land shown in Schedule 2 and clause 6.2;

## 2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement;
- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and



their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;

- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) **(president, CEO or managing director)** the president, CEO or managing director of a body or Authority means any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;
- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) **(rules of construction)** neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Sydney, Australia, even if the obligation is to be performed elsewhere;
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
  - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
  - (ii) on the part of two or more persons binds them jointly and severally;
- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a reference to dollars or \$ is to Australian currency;
- (t) **(month)** a reference to a month is a reference to a calendar month; and

- (u) (**year**) a reference to a year is a reference to twelve consecutive calendar months.

### 3 Planning Agreement under the Act

- (a) The parties agree that this agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) Schedule 7 of this agreement summarises the requirements for planning agreements under s 7.4 of the Act and the way this agreement addresses those requirements.

### 4 Application of this agreement

This agreement applies to:

- (a) the Land;
- (b) the Development; and
- (c) the Instrument Change.

### 5 Operation of this agreement

- (a) This agreement commences on and from the date it is executed by all parties.
- (b) Despite clause 5(a), the obligations under clause 6 to deliver Development Contributions does not operate unless the Instrument Change is made.

### 6 Contributions to be made under this agreement

#### 6.1 Monetary Contribution

- (a) Subject to clause 6.1(b), the Developer will pay a monetary contribution to Council calculated in accordance with the following formula:  
$$\text{Monetary Contribution} = (\text{total Dwellings approved} - 18) \times \$34,000$$
- (b) If the Future Car Parking Rate is less than the Current Car Parking Rate, the Monetary Contribution will be reduced by  $\$60,000 \times (\text{number of car spaces required by the Current Car Parking Rate for the Development} - \text{number of car spaces required by the Future Car Parking Rate for the Development})$ .
- (c) The Monetary Contribution will be indexed in accordance with increases in the CPI from the date of this agreement to the date of payment.
- (d) The Monetary Contribution must be paid to Council prior to the issue of an Occupation Certificate for any part of the Development.
- (e) The Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council.
- (f) The Monetary Contribution will be taken to have been made when:
  - (i) the bank cheque has been received; or
  - (ii) cleared funds or electronic funds have been deposited in the Council's bank account.
- (g) The parties agree and acknowledge that the Monetary Contribution will be used by the Council for the delivery of community infrastructure and public domain upgrades within the Ward Street Precinct, at the Council's discretion.
- (h) For the avoidance of doubt, nothing in this agreement requires the Council to:

- (i) spend the Monetary Contribution made under this agreement by a particular date; or
  - (ii) refund to the Developer any contribution made under this agreement
- (i) Any guarantee amount specified in clause 11.2 or in any other part of this agreement, is to be adjusted to reflect the monetary contribution determined in line with clause 6.1(b) and clause 6.5.

## 6.2 Through Site Link

- (a) The Developer will, at no cost to Council, register against the title to the Land:
- (i) a covenant prohibiting any building or structures, including pillars, other than structures approved by the Council (acting reasonably) for the purposes of enhancing public domain areas, to be constructed on the Through Site Link Land; and
  - (ii) an easement in gross burdening the Through Site Link Land in favour of the Council permitting public access generally in accordance with the Easement Terms.
- (b) Any requirement to register an easement, covenant or other instrument against the title to the Land will be satisfied when the Developer provides to the Council a copy of the relevant title search showing the registration of the instrument.
- (c) Any covenant required under clause 6.2(a)(i) must be registered prior to the issue of the first Construction Certificate for any building on the Land forming part of the Development.
- (d) Any easement, required under clause 6.2(a)(ii) must be registered prior to the issue of an Occupation Certificate for any building on the Land forming part of the Development.
- (e) The parties agree that the proposed covenant and easement under this clause will serve the following public purposes:
- (i) To increase the amount of and improve existing public open space areas in the vicinity of the Land.
  - (ii) To improve pedestrian circulation and the amenity of the public domain in the vicinity of the Land.
- (f) The Developer will design and construct works to the Through Site Link Land for the purposes of creating a publicly accessible walkway in accordance with:
- (i) the technical requirements in the DCP;
  - (ii) Council's *Public Domain Style Manual and Design Codes and Infrastructure Specification Guide*; and
  - (iii) any development consent granted for those works.
- (g) The works required under clause 6.2(f) will be completed prior to the issue of an Occupation Certificate for any part of the Development.
- (h) The parties acknowledge that the obligations under this clause 6.2 include essential components of the Development. The parties acknowledge that., under this agreement, the Development is required to provide a through site link in accordance with this clause 6.2.

### 6.3 *Public Domain Works*

- (a) The developer will carry out public domain improvement works including footpaths, curb and guttering to the land shown in Schedule 4.
- (b) The Developers will carry out the Public Domain Works in accordance with:
  - (i) the Construction Terms;
  - (ii) the technical requirements in the DCP;
  - (iii) Council's *Public Domain Style Manual and Design Codes and Infrastructure Specification Guide*; and
  - (iv) any development consent granted for those works.
- (c) The Public Domain Works will be taken to have been completed for the purposes of this agreement when Council issues a Compliance Certificate for those works in accordance with the Construction Terms.
- (d) The Public Domain Works must be completed prior to the issue of an Occupation Certificate for the Development or any part of the Development.
- (e) The parties agree and acknowledge that the Works serve the public purpose of providing Public Facilities and improving the public domain in the locality of the Development.

### 6.4 *Affordable Housing*

- (a) Prior to the issue of an Occupation Certificate for the Development or any part of the Development, the Developer must, at no cost to Council construct, finish and fit out the Affordable Housing Unit as part of the Development, in accordance with the Construction Terms and any Development Consent granted for the Development.
- (b) Within 20 Business Days after:
  - (i) the issue of an Occupation Certificate for the Affordable Housing Unit; or
  - (ii) the registration of a Strata Plan for any part of the Development,
 whichever occurs later, the Developer must transfer the Affordable Housing Unit to the Council and so that immediately on transfer, the Council will have an estate in fee simple in possession, freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates, strata levies and contracts, except as may be permitted by Council.
- (c) The obligations under clause 6.4(a) will be taken to have been fulfilled for the purposes of this agreement when Council issues a Compliance Certificate for the construction and fit out of the Affordable Housing Unit.
- (d) The obligation under clause 6.4(b) will be taken to have been fulfilled for the purposes of this agreement when the transfer of the Affordable Housing Unit to Council is shown on the Register.
- (e) The parties acknowledge and agree that the Affordable Housing Unit is to be constructed, finished and dedicated to Council under this agreement for the purposes of the provision of affordable housing by Council or by its chosen community housing provider, at Council's sole discretion.

- (f) The Developer must, in accordance with the provisions of the Construction Terms, ensure that, on transfer of the Affordable Housing Unit, Council will have the benefit of any defects liability warranty given by a builder for the Development and the Affordable Housing Unit, together with any other warranties and guarantees applicable to other apartments in the Development.

#### 6.5 *Additional Infrastructure Contributions*

- (a) In the event that Development Consent has not been granted and the Monetary Contributions in clause 6 of this agreement have not been made under this agreement and either:
  - (i) Any additional Special Infrastructure Contribution (SIC) or Regional Infrastructure Contribution (RIC) determination made under Part 7, Division 7.1, Subdivision 4 of the Act or any other similar state or regional infrastructure contribution applies to the Land and the Development which imposes a requirement for the Developer to pay a SIC or a RIC in relation to the Development or the Land; or
  - (ii) LEP 2013, following the Instrument Change, contains a provision requiring satisfactory arrangements for the provision of contributions to designated state infrastructure,

**(the additional infrastructure contributions)**

the total value of the Monetary Contributions under clause 6.1 of this agreement is to be reduced by an amount that is equal to the amount of the additional infrastructure contributions until the value of the Monetary Contributions provided under clause 6.1 reaches \$0.

### 7 Application of s 7.11, s 7.12 and s 7.24 of the Act

- (a) This agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of section 7.24 of the Act to the Development.
- (d) The benefits under this agreement are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.

### 8 Registration of this agreement

#### 8.1 *Landowner Interest*

- (a) The Landowner represents and warrants to the Council that on the date of this agreement it is the registered proprietor of the Common Property.
- (b) The Developer represents and warrants that
  - (i) it is entitled to become the registered proprietor of the Land in accordance with option agreements it has entered into with the owners of the lots in SP 14958;
  - (ii) it has lodged and will maintain a caveat over the Land to protect its interest under the option agreements; and

- (iii) it is entitled to require the owners of the Land to consent to the registration of this agreement against all lots comprising the Land.

## 8.2 *Registration of this agreement*

- (a) The Developer agrees to procure the registration of this agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6 of the Act.
- (b) The Developer must, at its own expense, promptly after the execution of this agreement, take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
  - (i) the consent in writing addressed to NSW Land Registry Services of each person who:
    - (A) has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
    - (B) is seized or possessed of an estate or interest in the Land; and
  - (ii) the execution of any documents,
 to enable the registration of this agreement in accordance with this clause 8.2.
- (c) The Developer must, at its own expense, take all practical steps, and otherwise do anything that the Council reasonably requires:
  - (i) to procure the lodgement of this agreement with the Registrar-General as soon as reasonably practicable after this agreement comes into operation, but in any event, no later than 20 Business Days after that date; and
  - (ii) to procure the registration of this agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this agreement is lodged for registration.
- (d) The Landowner consents to the registration of this agreement against the title to the Common Property and warrants that, as at the date of this agreement, the Landowner has resolved to enter into this agreement and consent to this agreement being registered against the title to the Common Property.
- (e) If the strata scheme SP14598 is terminated, this agreement must remain registered on any title created on termination and, if this agreement is removed from the Register, the Developer agrees to take all action without delay to have this agreement registered.

## 8.3 *Removal from Register*

The Developer may request, at its own cost, that Council provide a release and discharge of this agreement so that it may be removed from the folios of the Register for the Land (or any part of it) provided the Council is satisfied the Developer has duly fulfilled its obligations under this agreement and is not otherwise in default of any of the obligations under this agreement.

## 8.4 *Caveat*

- (a) The Landowner acknowledges and agrees that:
  - (i) when this agreement is executed, the Council will have acquired and the Landowner will have granted, an equitable estate and interest in the Land for

the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the Council will have a sufficient interest in the Land in respect of which to lodge a caveat over the Land notifying that interest;

- (ii) it will not object to the Council lodging a caveat in the relevant folios of the Register for the Land nor will it seek to remove any caveat lodged by the Council provided the caveat does not prevent registration of any dealing or plan other than a transfer.
- (b) The Council must, at the Developer's cost, register a withdrawal of any caveat in respect of the Land within five (5) Business Days after the Developer complies with clause 8.2 and must not lodge any other caveats on the titles to any of the Land, other than in accordance with clause 8.4(c).
- (c) The Developer agrees that:
  - (i) it will notify the Council that any Strata Plan for the Development has been registered within 5 Business Days of registration; and
  - (ii) it will not object to Council lodging a caveat in the relevant folios of the Affordable Housing Unit once the Strata Plan is registered, nor will it seek to remove any such caveat lodged by Council.

## 9 Review of this agreement

- (a) This agreement may be reviewed or modified by agreement between the parties using their best endeavours and acting in good faith.
- (b) No modification or review of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.
- (c) A party is not in breach of this agreement if it does not agree to an amendment to this agreement requested by a party in, or as a consequence of, a review.

## 10 Dispute Resolution

### 10.1 *Reference to Dispute*

If a dispute arises between the parties in relation to this agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.

### 10.2 *Notice of Dispute*

The party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other parties of:

- (a) the nature of the dispute,
- (b) the alleged basis of the dispute, and
- (c) the position which the party issuing the Notice of Dispute believes is correct.

### 10.3 *Representatives of Parties to Meet*

- (a) The representatives of the parties must promptly (and in any event within 14 business days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The parties may, without limitation:

- (i) resolve the dispute during the course of that meeting,
- (ii) agree that further material or expert determination in accordance with clause 10.6 about a particular issue or consideration is needed to effectively resolve the dispute (in which event the parties will, in good faith, agree to a timetable for resolution); or
- (iii) agree that the parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

#### 10.4 *Further Notice if Not Settled*

If the dispute is not resolved within 14 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (Determination Notice) by mediation under clause 10.5 or by expert determination under clause 10.6.

#### 10.5 *Mediation*

If a party gives a Determination Notice calling for the dispute to be mediated:

- (a) the parties must agree to the terms of reference of the mediation within 15 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply;
- (b) the mediator will be agreed between the parties, or failing agreement within 15 Business Days of receipt of the Determination Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) the mediator appointed pursuant to this clause 10.5 must:
  - (i) have reasonable qualifications and practical experience in the area of the dispute; and
  - (ii) have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) the mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) the parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
- (f) the parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) in relation to costs and expenses:
  - (i) each party must bear its own professional and expert costs incurred in connection with the mediation; and



- (ii) the costs of the mediator must be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

#### 10.6 *Expert determination*

If the dispute is not resolved under clause 10.3 or clause 10.5, or the parties otherwise agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) the dispute must be determined by an independent expert in the relevant field:
  - (i) agreed upon and appointed jointly by the parties; and
  - (ii) in the event that no agreement is reached or no appointment is made within 20 Business Days of the agreement to refer the dispute to an expert, appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) the expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) the determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) the expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) each party must bear its own costs in connection with the process and the determination by the expert and must share equally the expert's fees and costs; and
- (f) any determination made by an expert pursuant to this clause is final and binding upon the parties except unless:
  - (i) within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
  - (ii) the determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

#### 10.7 *Litigation*

If the dispute is not finally resolved in accordance with this clause 10, then either party is at liberty to litigate the dispute.

#### 10.8 *No suspension of obligations*

Subject to any interlocutory order obtained under clause 10.1, the referral to or undertaking of a dispute resolution process under this clause 10 does not suspend the parties' obligations under this agreement.

### 11 *Enforcement*

#### 11.1 *Default*

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this agreement, it may give notice in writing to the other party

**(Default Notice)** giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 20 Business Days.

- (b) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice it may refer the dispute to dispute resolution under clause 10 of this agreement.

## 11.2 Bank Guarantee

- (a) Prior to the issue of a Construction Certificate for any part of the Development, or within 90 days of the issue of a Development Consent for the Development (whichever occurs first), the Developer must provide to the Council a Bank Guarantee or Bank Guarantees in the amount of:
  - (i) \$2,278,000, or any adjusted amount determined in accordance with clause 6.1(b) or clause 6.5 to secure the delivery of the Monetary Contribution; and
  - (ii) \$1,000,000 to secure the works associated with the Development Contributions under clause 6.2, 6.3 and 6.4 of this Agreement.
- (b) The Council may call on a Bank Guarantee provided under this clause if:
  - (i) the Developer is in material or substantial breach of this agreement and has failed to rectify the breach within a reasonable period of time after having been given reasonable notice (which must not be less than 21 Business Days) in writing to do so in accordance with clause 11.1 of this agreement; or
  - (ii) the Developer becomes insolvent.
- (c) Within 20 Business Days of each 12 month anniversary of a Bank Guarantee provided under clause (a), the Developer must provide Council with one or more replacement Bank Guarantees (**replacement Bank Guarantee**) in an amount calculated in accordance with the following:

$$A = \frac{B \times D}{C}$$

Where:

A is the amount of the replacement Bank Guarantee,

B is the amount of the Bank Guarantee to be replaced,

C is the CPI for the quarter ending immediately before the date of the Bank Guarantee to be replaced,

D is the CPI for the quarter ending immediately before the date of the replacement Bank Guarantee,

provided A is greater than B.

- (d) On receipt of a replacement Bank Guarantee provided under clause 11.2(c), the Council must release and return to the Developer, as directed, the Bank Guarantee that has been replaced as soon as reasonably practicable.

- (e) At any time following the provision of a Bank Guarantee under this clause, the Developer may provide the Council with one or more replacement Bank Guarantees totalling the amount of all Bank Guarantees required to be provided under this clause for the time being. On receipt of such replacement Bank Guarantee, the Council must release and return to the Developer, as directed, the Bank Guarantee(s) which it holds that have been replaced as soon as reasonably practicable.
- (f) Subject to this clause and the provisions of this agreement, the Council may apply the proceeds of a Bank Guarantee in satisfaction of:
  - (i) any obligation of the Developer under this agreement to deliver the Development Contributions, and
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement;and for the purposes of satisfying any obligations of the Developer under this agreement may enter the Land and carry out any works on the Land.
- (g) The Council must promptly return a Bank Guarantee provided under this clause if requested by the Developer and the Developer has either:
  - (i) satisfied all obligations under this agreement, including any obligation to provide a defects liability security under the Construction Terms; or
  - (ii) satisfied the obligations to which the Bank Guarantee relates and received written notice from Council (acting reasonably) that Council holds sufficient Bank Guarantees to secure outstanding obligations under this agreement.
- (h) For the avoidance of doubt, the Developer may direct Council in writing to continue to hold a Bank Guarantee in satisfaction of the requirement to submit a Bank Guarantee or Bond under the Construction Terms for defects liability.
- (i) Nothing in this clause 11.2 prevents or restricts the Council from taking any enforcement action in relation to:
  - (i) any obligation of the Developer under this agreement; or
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developer to comply with this agreement,

that is not or cannot be satisfied by calling on a Bank Guarantee.

### 11.3 *Restriction on the issue of Certificates*

- (a) In accordance with section 6.8 of the Act and clause 21 of the Regulation (Certificate), a Construction Certificate for any part of the Development must not be issued unless Council has confirmed in writing that:
  - (i) the covenant required under clause 6.2(a) has been registered; and
  - (ii) Council has received the Bank Guarantee required under clause 11.2(a).
- (b) In accordance with section 6.10 of the Act and clause 48 of the Regulation (Certification), an Occupation Certificate for any part of the Development must not be issued unless the Council has confirmed in writing that:

- (i) the Monetary Contribution, calculated in accordance with clause 6.1(b) and clause 6.5 has been paid;
- (ii) the easement for public access required over the Through Site Link Land has been registered;
- (iii) the Public Domain Works have been completed;
- (iv) the works to construct the Affordable Housing Unit have been completed; and
- (v) any defects liability security required under the Construction Terms has been provided.

#### 11.4 Compulsory Acquisition

- (a) If the Developer does not grant the interest in the Through Site Link to Council as required by this Agreement, the Council may compulsorily acquire the relevant interest, in which case the Developer consents to the Council compulsorily acquiring that interest for compensation in the amount of \$1.00 without having to follow the pre-acquisition procedures in the *Land Acquisition (Just Terms Compensation) Act 1991* and may call upon any Bank Guarantee provided under clause **Error! Reference source not found.** to cover any costs, including legal costs, incurred by the Council on acquisition of the interest.
- (b) If the Developer does not dedicate the Affordable Housing Unit to Council as required by this agreement, the Council may, once the Strata Plan is registered creating the Affordable Housing Unit, compulsorily acquire the Affordable Housing Unit, in which case the Developer consents to the Council compulsorily acquiring that land for compensation in the amount of \$1.00 without having to follow the pre-acquisition procedures in the *Land Acquisition (Just Terms Compensation) Act 1991* and may call upon any Bank Guarantee provided under clause 11.2 to cover any costs, including legal costs, incurred by the Council on acquisition of the land.
- (c) Clauses 11.4(a) and 11.3(b) constitute an agreement for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (d) Except as otherwise agreed between the Developer and Council, the Developer must ensure the relevant land is freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates, strata levies and contracts, except as may be permitted by this agreement on the date that the Council will acquire the interest or land in accordance with clause 11.4(a) or clause 11.3(b).
- (e) The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the relevant interest or land under clause 11.4(a) or clause 11.3(b).
- (f) The Developer must pay the Council, promptly on demand, an amount equivalent to all costs, including legal costs, incurred by the Council acquiring the whole or any part of the relevant interest or land under clause 11.4(a) or clause 11.3(b) that are not or cannot be recovered by calling on a Bank Guarantee.

#### 11.5 General Enforcement

- (a) Without limiting any other remedies available to the parties, this agreement may be enforced by any party in any Court of competent jurisdiction.
- (b) Nothing in this agreement prevents:

- (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this agreement or any matter to which this agreement relates; and
- (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this agreement or any matter to which this agreement relates.

## 12 Assignment and Dealings

### 12.1 Assignment

- (a) The Developer is not to settle on the sale or assignment or novation of its interest under this agreement to another party (**Incoming Party**) unless before settlement the Developer:
  - (i) procures the execution by the Incoming Party of an agreement in favour of the Council on the same terms as this agreement;
  - (ii) delivers any replacement Bank Guarantees provided by the Incoming Party as required under this agreement; and
  - (iii) satisfies the Council that the Developer is not in breach of this agreement at the time of settlement of the sale, assignment or novation.
- (b) Any purported dealing in breach of this clause is of no effect.

### 12.2 Transfer of Land

- (a) Prior to any transfer, assignment or disposal of the whole or any part of their right, title or interest in the land (present and future) or in the Development to another person, the Landowner and Developer must ensure:
  - (i) they have, at no cost to the Council, first procured the execution by the Transferee of a deed of novation on reasonable terms acceptable to Council;
  - (ii) they are not in breach of this agreement; and
  - (iii) they agree to pay the Council's reasonable legal costs in relation to the transfer, assignment or disposition, including any costs in connection with legal advice about or the execution of the deed of novation.
- (b) Clause 12.2(a) does not apply to a transfer, assignment or disposition of the Landowner's interest in the Land to the Developer.

## 13 Approvals and consents

Except as otherwise set out in this agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this agreement in that party's discretion, acting reasonably, and subject to any conditions determined by the party.

## 14 No fetter

### 14.1 Discretion

This agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to the Planning Proposal, Development

Application or any other application for Development Consent (all referred to in this agreement as a “**Discretion**”).

#### 14.2 *No fetter*

No provision of this agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

- (a) They will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied,
- (b) In the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this agreement has full force and effect, and
- (c) To endeavour to satisfy the common objectives of the parties in relation to the provision of this agreement which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

## 15 Notices

### 15.1 *Notices*

Any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email at the address below, or at the address last notified by the intended recipient to the sender after the date of this agreement:
  - (i) to North Sydney Council: 200 Miller Street, North Sydney 2060  
Email: council@northsydney.nsw.gov.au  
Attention: General Manager
  - (ii) to 45 McLaren Pty Ltd Suite 506, Level 5  
55 Miller Street, Pyrmont NSW 2009  
Email: info@podia.com.au  
Attention: Michael Grassi
  - (iii) to Proprietors Strata Plan SP 14598 Suite 506, Level 5  
55 Miller Street, Pyrmont NSW 2009  
Email: info@podia.com.au  
Attention: Michael Grassi
- (c) is taken to be given or made:
  - (i) in the case of hand delivery, when delivered;
  - (ii) in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
  - (iii) in the case of delivery by email, when the sender receives an email acknowledgement from the recipient's information system showing the Notice

has been delivered to the email address stated above or when the Notice is first opened or read by the recipient, whichever occurs first; and

- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 5.00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

#### 15.2 *Address for Service*

If a party gives the other party 3 Business Days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or emailed to the latest address or email address.

## 16 General

### 16.1 *Relationship between parties*

- (a) Nothing in this agreement:
  - (i) constitutes a partnership between the parties; or
  - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
  - (i) bind another party; or
  - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

### 16.2 *Time for doing acts*

- (a) If the time for doing any act or thing required to be done or a notice period specified in this agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following Business Day.

### 16.3 *Further assurances*

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this agreement.

### 16.4 *Variation*

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

### 16.5 *Counterparts*

This agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

**16.6 Legal expenses, valuation costs and stamp duty**

- (a) The Developer must pay Council's reasonable legal costs incurred with the negotiation, preparation, execution, stamping and registering of this agreement, including the costs of obtaining any legal advice in connection with this agreement.
- (b) The costs referred to in clause 16.6(a) must be paid no later than 10 business days after receiving a demand from the Council to pay such costs.
- (c) The Developer agrees to pay Council any administrative fees as required by Council, acting reasonably, in connection with the administration of this agreement, including any fees imposed by the Department of Planning and Environment for lodgement of this agreement on the NSW Planning Portal.

**16.7 Entire agreement**

The contents of this agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this agreement, whether orally or in writing.

**16.8 Representations and warranties**

The parties represent and warrant that they have the power and authority to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

**16.9 Severability**

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

**16.10 Invalidity**

- (a) A word or provision must be read down if:
  - (i) this agreement is void, voidable, or unenforceable if it is not read down;
  - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
  - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
  - (i) despite the operation of **clause (a)**, the provision is void, voidable or unenforceable if it is not severed; and
  - (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if **clause 16.10(b)** applies.

**16.11 Waiver**

- (a) A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver



(either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

- (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

#### 16.12 GST

- (a) Words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this agreement, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

#### 16.13 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

#### 16.14 Section 10.7 Planning Certificate

- (a) The Developer acknowledges and agrees that the Council will include a notation that this agreement has been entered into on any Planning Certificate issued under section 10.7 relating to the Land.
- (b) Council will remove the notation as required under clause 16.14(a) in relation to the Land, upon the satisfactory delivery of all aspects of the contribution under this agreement.

#### 16.15 Explanatory Note

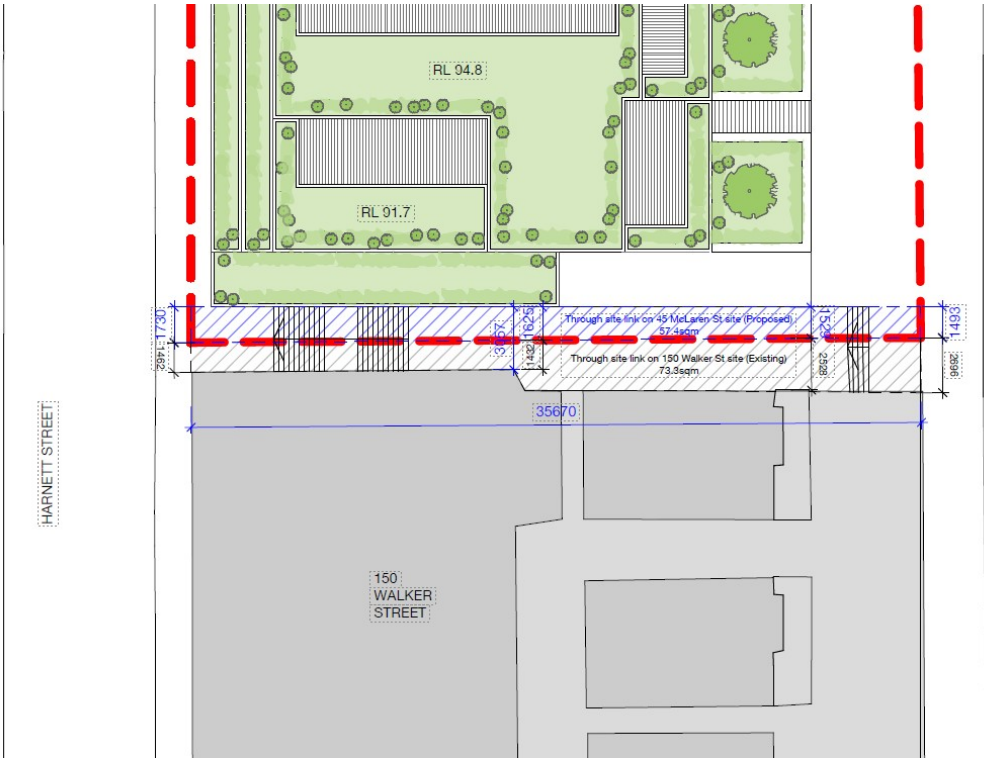
- (a) Annexure A contains the Explanatory Note relating to this agreement required by clause 205 of the Regulation.
- (b) Pursuant to clause 205(5) of the Regulation, the parties agree that the Explanatory Note is not to be used to assist in construing this agreement.

## Schedule 1 Planning Proposal

The Developer has sought the following amendments to LEP 2013:

- (a) A change to the Land Zone Map referred to in clause 2.2 of LEP 2013 from R4 High Density Residential to B4 Mixed Use for the Land (or MU1 Mixed Use if the Employment Zone Reforms are implemented prior to the finalisation of this proposed amendment).
- (b) A change to the Height of Buildings Map referred to in Clause 4.3(2) of LEP 2013 to increase the maximum building height from 12m to part RL 103 and Part RL 115 for the Land. Relevantly, clause 4.3(2) of LEP 2013 provides that a building is not to exceed the maximum height shown on the Height of Buildings Map. The map relating to clause 4.3(2) currently provides a height limit of 12m for the Development Site.
- (c) A change to the Floor Space Ratio Map referred to in Clause 4.4(2) of LEP 2013 to allow a maximum floor space ratio of 6.25:1 for the Land. Relevantly, clause 4.4(2) of LEP 2013 provides that a maximum floor space ratio for a building on any land shown on the Floor Space Ratio Map. The map relating to clause 4.4(2) currently shows no maximum floor space ratio for the Land.
- (d) A change to the Non-residential Floor Space Ratio Map referred to in Clause 4.4A(2) of LEP 2013 to require a minimum non-residential floor space ratio of 1:1 for the Land. Relevantly, clause 4.4A(2) of LEP 2013 provides that a minimum non-residential floor space ratio for a building on any land shown on the Non-residential Floor Space Ratio Map. The map relating to clause 4.4A(2) currently shows no minimum non-residential floor space ratio for the Land.
- (e) Amend Clause 4.4A of LEP 2013 to enable residential accommodation to be permitted with development consent at the ground level of a future development on the Land, where the residential accommodation fronts Walker Street.
- (f) Amend Clause 6.12A of LEP 2013 to enable residential accommodation to be permitted with development consent at the ground level of a future development on the Land, where the residential accommodation fronts Walker Street.

Schedule 2 Through Site Link Land



### Schedule 3 Easement Terms

In this Schedule **Easement Site** means the Through Site Link Land.

- 1 The owner of the Easement Site grants to the Council and members of the public full and free right to go, pass and repass over the Easement Site at all times:
  - (a) with or without companion animals (as defined in the *Companion Animals Act 1998*) or other small pet animals; and
  - (b) on foot without vehicles (other than wheelchairs or other disabled access aids), unless vehicles are being used to access the building on the Land via clearly identified entry and exit points;

for all lawful purposes.
- 2 The owner of the Easement Site must, to the satisfaction of Council, acting reasonably:
  - (i) keep the Easement Site (including any services in, on or under the Easement Site) in good repair and condition;
  - (ii) maintain and repair the Easement Site and all improvements on the Easement Site;
  - (iii) keep the Easement Site clean and free from rubbish; and
  - (iv) maintain sufficient public liability insurance with a minimum amount of \$20,000,000 per claim covering the use of the Easement Site in accordance with the terms of this Easement.
- 3 The owner of the Easement Site must ensure that any rules made by an Owner's Corporation relating to the Easement Site have been approved by the Council, acting reasonably.
- 4 If any member or members of the public loiter or congregate, for any purpose which the owner of the Easement Site, acting reasonably, considers to be a nuisance or a safety risk, the owner may either remove those members of the public, or arrange for their removal by an appropriate authority.
- 5 The owner of the Easement Site may erect safety signage and any other appropriate signage and may erect CCTV cameras in the Easement Site.
- 6 The owner of the Easement Site may engage security personnel to monitor and control the behaviour of the public including but not limited to prohibiting smoking, consumption of alcohol (except within licensed areas), passage of animals, bicycles and skateboards and the like in accordance with any rules made by an Owner's Corporation relating to the Easement Site.
- 7 The owner of the Easement Site may with the Council's prior written consent (except in the case of an emergency, in which case the Council's prior written consent is not required) temporarily close or temporarily restrict access through all or part of the Easement Site for the time and to the extent necessary but only on reasonable grounds for the purposes of:
  - (a) construction, construction access, repairs, maintenance, replacement and alteration to the Easement Site or any improvements in, on or under the Easement Site; or
  - (b) security, public safety or evacuation of the Easement Site and adjoining buildings.

- 8 Subject to ensuring the provision of access in accordance with above clause 1 of this Schedule, the owner of the Easement Site may, provided any necessary planning approvals are obtained:
- (a) Carry out works in the Easement Site for the purposes of enhancing the Easement Site;
  - (b) Install or erect works of art, street furniture, or any other similar improvements at ground level within the Easement Site; and
  - (c) Use the Easement,
- in a manner consistent with Council's *North Sydney CBD Public Domain Strategy*, or any such policy of the Council that replaces that policy.
- 9 The Council is solely empowered to release this Easement.
- 10 This Easement may only be varied by written agreement between the Council and the owner of the Easement Site.

Schedule 4 Public Domain Works

# PUBLIC DOMAIN WORKS AREA



## Schedule 5 Construction Terms

### 1 Interpretation

For the purposes of this Schedule, the defined terms in clause 1 of this agreement and the Interpretation principles in clause 2 of this agreement will apply and, unless context indicates a contrary intention:

**Builder** means any entity contracted under the Construction Contract to carry out the Works.

**Construction Contract** means the contract to carry out the Works (whether or not that is a contract for the Works only or forms part of a contract for the building of other components of the Development).

**Defects Liability Period** means in respect of each item of building works which together comprise the Works the period of 12 months from the date on which a Compliance Certificate is issued for the Works.

**Detailed Design** means the final specifications and finishes for the Works prepared in accordance with clause 5.1 of this Schedule and will include the design of the Works, the location for the Works, installation specifications and estimated costs of construction and/or installation.

**Services** means all water, gas, electricity, television, drainage, sewerage, cable TV, data communications, telecommunications and other services which are required under a development consent within the meaning of the Act or an Approval and which are necessary or desirable for the construction or operation of the Development.

**Superintendent** means the Superintendent appointed under any Construction Contract.

**Works** means the Public Domain Works and the works required to fit out the Affordable Housing Unit as required under this agreement.

### 2 Requirements of Authorities and Approvals

2.1 These Construction Terms must be read and construed subject to:

- (a) any requirements or conditions of any Development Consent;
- (b) the requirements of and conditions imposed by all relevant Authorities and all Laws relating to the Development and the construction of the Development.

2.2 If the Developer requires any Approvals in order to carry out the obligations under this agreement, then the Developer will acquire all Approvals necessary to carry out the Works at its own cost.

2.3 The Developer must ensure that the Works carried out under this agreement are carried out:

- (a) in accordance with the relevant Development Consent for the Works and all Approvals and the requirements of all Laws, including without limitation, work health and safety legislation; and
- (b) in a good and workmanlike manner and so that they are diligently progressed until completion;

AND it is acknowledged that to the extent that there is any inconsistency between this agreement and any Approval the terms of the Approval shall take precedence.

**3 Costs of Works**

All costs of the Works must be borne by the Developer.

**4 Project Management and Contractor Engagement**

4.1 The Developer will be responsible for managing the Works.

4.2 The Developer will ensure that any contractor it engages to carry out the Works agrees to:

- (a) carry out the Developer's obligations in these Construction Terms as part of any Construction Contract; and
- (b) request a Council representative to be present at each on-site meeting attended by the Superintendent and to ensure the Council representative is present at the meeting.

**5 Design Development and Approvals**

**5.1 Detailed Design**

- (a) Prior to submitting any application for Approval of the Works, the Developer must consult with Council about the proposed location for the Affordable Housing Unit and must provide a copy of the draft Detailed Design to the Council for approval.
- (b) The Detailed Design for the Affordable Housing Unit must be equivalent in quality and standard to that of other two-bedroom apartments with the same vertical location in the Development (excluding any changes to the standard design requested by a purchaser of such an apartment) and be consistent with the scope of works set out in Schedule 6.
- (c) Within 15 Business Days of receiving the Detailed Design, Council will respond to the Developer with any suggested amendments to the Detailed Design.
- (d) Council and the Developer must act promptly and in good faith to consult with each other to prepare and agree the Detailed Design and must both act reasonably and with due expedition in their consultations with each other.
- (e) If the Detailed Design is not completed and agreed within 15 Business Days of Council providing its suggested amendments in accordance with clause 5.1(c) of this Schedule, to avoid possible delays to the completion of the Works, the Council will, in its sole discretion, be entitled to decide on any outstanding or undecided matter or item relating to areas that are to be accessible to the public or transferred to Council, provided that any decision made by Council under this clause:
  - (i) is consistent with the obligation to carry out the Works under this agreement; and
  - (ii) is consistent with the Development Consent; and
  - (iii) does not materially and adversely affect the Development; and
  - (iv) is not unreasonable.

5.2 Any acceptance by the Council of the Detailed Design under this Schedule is not to be taken as approval of or to any Construction Certificate for the Works.

**6 Carrying out of Works**



## 6.1 Communication

The Developer must keep Council reasonably informed of progress of the Works and provide to Council such information about the Works as Council reasonably requests.

## 6.2 Standard of Works

- (a) Unless otherwise provided, the Developer shall, and must cause the Builder to, use suitable new materials and proper and tradesmanlike workmanship when carrying out the Works.
- (b) The qualitative standard of the design and finishes for the Works must be no less than those described in the following documents:
  - (i) Any relevant Australian Standard;
  - (ii) Any relevant design standards or guidelines and any other requirements or policies applied by the Council from time to time in assessing the adequacy of any works or improvements proposed for the public domain or to be accessible to the public in accordance with this agreement.
- (c) The Developer will obtain any relevant standards (including design standards), specifications, or guidelines and any other requirements or policies referred to in clause 6.2(b)(ii) of this Schedule from Council if the Council fails to deliver them to the Developer.

## 7 Inspection

- (a) On completion of the Detailed Design, the Council will provide a schedule of inspections to be undertaken by Council (**Inspection Schedule**) to occur at specified stages of the construction of the Works (**Inspection Stage**). If the Council does not provide the Inspection Schedule, the Developer must request the Inspection Schedule from the Council prior to the Works commencing.
- (b) Five Business Days prior to reaching an Inspection Stage as set out in the Inspection Schedule, the Developer must notify the Council of the proposed inspection date (**Inspection Date**).
- (c) On the Inspection Date, or other agreed date, the Developer must ensure that any employees, contractors, agents or representatives of Council have access to and may enter the Land to inspect the Works.
- (d) In addition to carrying out inspections in accordance with the Inspection Schedule, the Council may enter the Land or any part of the Land on which the Works are located to inspect the progress of the Works, subject to:
  - (i) the terms of the Construction Contract (save for any clause of the Construction Contract which prevents the Council from accessing the Land);
  - (ii) giving reasonable notice to the Developer;
  - (iii) complying with all reasonable directions of the Developer; and
  - (iv) being accompanied by the Developer or a nominee, or as otherwise agreed.
- (e) The Council may, acting reasonably, within 5 Business Days of carrying out an inspection (either under clause 7(c) or 7(d) of this Schedule), notify the Developer of any defect or non-compliance in the Works and direct the Developer to carry out

work to rectify that defect or non-compliance within a reasonable period of time. Such work may include, but is not limited to:

- (i) removal of defective or non-complying material;
  - (ii) demolishing defective or non-complying work;
  - (iii) reconstructing, replacing or correcting any defective or non-complying work; and
  - (iv) not delivering any defective or non-complying material to the site of the Works.
- (f) If the Developer are issued a direction to carry out further work under clause 7(e) of this Schedule, the Developer must, at its cost, rectify the defect or non-compliance specified in the Notice within the time period specified in the Notice, provided that it is reasonable having regard to the nature of the works.
- (g) If the Developer fails to comply with a direction to carry out work given under 7(e) of this Schedule, the Council will be entitled to refuse to accept that the Works (or the relevant part of the Works) meet the Council's standards and specifications and may refuse to issue a Certificate of Practical Completion, until the required Works have been completed to the Council's satisfaction, acting reasonably.
- (h) For the avoidance of doubt, any acceptance by the Council that the Developer have rectified a defect or non-compliance identified in a notice issued under 7(e) of this Schedule does not constitute:
- (i) acceptance by the Council that the Works comply with all Approvals and Laws; or
  - (ii) an Approval by the Council in respect of the Works; or
  - (iii) an agreement or acknowledgment by the Council that the Works or the relevant part of the Works are complete and may be delivered to the Council in accordance with this agreement.

## 8 Completion

### 8.1 Practical Completion

- (a) When the Developer considers that the Works, or any part of the Works, are complete, the Developer must send a Notice to the Council accompanied by complete works as executed plans, any relevant certificates or consents of any public utility authority and a request for written certification from the Council that the Works are complete.
- (b) Within 10 Business Days of receipt of the notice under clause 8.1(a) of this Schedule the Council will carry out an inspection of the Works and will, acting reasonably, either:
- (i) provide a Compliance Certificate to the Developer confirming that the Works have been completed; or
  - (ii) notify the Developer of any additional information required or matters which must be addressed by the Developer prior to the certification being issued.
- (c) If the Developer is required to provide additional information or address any matters under clause 8.1(b)(ii) of this Schedule **Error! Reference source not found.**, the Developer will provide that information to Council or address those matters within

10 Business Days of receiving the notice or within a reasonable period of time and make a further request under clause 8.1(a) of this Schedule for written certification that the Works have been completed.

- (d) Practical completion will be achieved in relation to the Works or any part of the Works when a Compliance Certificate has been issued for those Works.

#### 8.2 Delivery of documents

- (a) The Developer must as soon as practicable, and no later than 20 Business Days after the date on which the Compliance Certificate is issued in respect of the Works or any part of the Works deliver to the Council, complete and legible copies of:
  - (i) all "as built" full-sized drawings, specifications and relevant operation and service manuals;
  - (ii) all necessary certificates including the certificates of any consultants of the Developer that the Council may reasonably require, and Approvals of any public utility authority (where relevant); and
  - (iii) copies of all Approvals required for use of the land subject to the Works.
- (b) The Developer must as soon as practicable, and no later than 20 Business Days after the date on which a Compliance Certificate is issued in respect of the Works or any part of the Works, provide the Council with a tour of the land subject to the Works and provide reasonable instructions on the operation and use of the Services on that land.

#### 8.3 Assignment of Warranties and Causes of Action

- (a) The Developer must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Developer and the Builder (and capable of assignment) with respect to any material or goods incorporated in or forming part of the Works.
- (b) To the extent that any such warranties or guarantees cannot be assigned, the Developer must at the request of Council do anything reasonably required by Council to enforce such warranties or guarantees for the benefit of Council.

#### 8.4 Defects Liability Period

- (a) During the Defects Liability Period, the Council (acting reasonably) may give to the Developer a notice (**Rectification Notice**) in writing that identifies a defect in the Works and specifies:
  - (i) action required to be undertaken by the Developer to rectify that defect (**Rectification Works**); and
  - (ii) the date on which the defect must be rectified (**Rectification Date**).
- (b) The Developer must comply with the Rectification Notice by:
  - (i) procuring the performance of the Rectification Works by the Rectification Date, or such other date as agreed between the parties;
  - (ii) keeping the Council reasonably informed of the action to be taken to rectify the defect; and
  - (iii) carrying out the Rectification Works.

- (c) The Council must give the Developer and its contractors any access required to carry out the Rectification Works.
- (d) When the Developer considers that the Rectification Works are complete, either the Developer must notify the Council and provide documentation, plans or invoices which establish that the Rectification Works were carried out.
- (e) The Council may inspect the Rectification Works within 15 Business Days of receiving a Notice from either the Developer under clause 8.18.1(d) of this Schedule and, acting reasonably:
  - (i) issue a further Rectification Notice if it is not reasonably satisfied that the Rectification Works are complete; or
  - (ii) notify the Developer in writing that it is satisfied the Rectification Works are complete.
- (f) The Developer must meet all costs of and incidental to rectification of defects under this clause 8.4.
- (g) If the Developer fails to comply with a Rectification Notice, then the Council may do such things or take such action as is necessary to carry out the Rectification Works, including accessing and occupying any part of the Land without further notice to the Developer, and may:
  - (i) call upon any Bond or Bank Guarantee provided to the Council under clause 8.5 of this Schedule to meet its costs of carrying out Rectification Works; and
  - (ii) recover as a debt due to the Council by the Developer in a court of competent jurisdiction, any difference between the amount of the security deposit and the costs incurred by the Council in carrying out Rectification Works.
- (h) The Developer must request that Council inspect the Works 28 days prior to the end of the Defects Liability Period. The Council must inspect the Works at any time after receiving the request from the Developer and before the end of the Defects Liability Period.
  - (i) If, prior to the end of the Defects Liability Period:
    - (i) the Developer fails to request the inspection, or
    - (ii) the Council does not carry out the inspection,the Council may extend the Defects Liability Period so that the inspection may be carried out.

**8.5 Security for Defects Liability**

- (a) Prior to the issue of a Compliance Certificate for each item of the Works the Developer must deliver to the Council Bonds or Bank Guarantees in an amount equivalent to 2.5% of the construction costs for the particular item of Works.
- (b) The Council acknowledges that the Bonds or Bank Guarantees may be supplied by the Builder and form a part of the security held by the Developer from the Builder under the terms of the Construction Contract, provided that:
  - (i) any Bond or Bank Guarantee provided by the Builder benefits the Council and satisfies the requirements of this agreement; and

- (ii) the Developer procures an agreement from the Builder that the Council will be entitled to call on any Bond or Bank Guarantee provided by the Builder, in accordance with the terms of this agreement and the terms of any Construction Contract.
- (c) Within 10 Business Days after the Defects Liability Period for a particular item of Works has expired Council must (if it has not called on it) return the Bond or Bank Guarantee referred to in clause 8.5(a) of this Schedule for that item of Works (or any remaining balance of it) to the Developer.
- (d) Notwithstanding clause 8.4(c) of this Schedule, if during the Defects Liability Period for a particular item of Works, the Council issues a Rectification Notice and the Rectification Notice is not complied with, then the Council need not deliver the balance of any Bonds or Bank Guarantees provided to it until that defect has been rectified.
- (e) The Council must deliver the balance of any Bond or Bank Guarantee for the Defects Liability Period to the Developer within 14 days after the Defects Liability Period has ended.

**9 Risk**

The Developer undertakes the Works entirely at its own risk.

**10 Insurance**

- (a) Prior to the commencement of the construction of any of the Works, the Developer must ensure the Builder effects and the Developer must produce evidence to the Council of the following insurances issued by an insurer approved by the Council (acting reasonably) in a form approved by the Council (acting reasonably):
  - (i) construction works insurance for the value of the Works;
  - (ii) public risk insurance for at least \$20 million;
  - (iii) workers compensation insurance as required by Law.
- (b) The Developer must provide evidence of currency of insurance required by clause 10(a) of this Schedule upon request by the Council, acting reasonably, throughout the term of this agreement.

**11 Indemnities**

The Developer indemnifies the Council, its employees, officers, agents and contractors from and against all Claims in connection with the carrying out by the Developer of the Works except to the extent such Claim arises either directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.

**12 Intellectual Property Rights**

The Council acknowledges that the Developer or its contractors hold all rights to copyright and any intellectual property which may exist in the Works. To the extent the Developer has or receives intellectual property rights for the Works, the Developer shall assign those intellectual property rights to Council or permit use thereof.

**13 Risk of contamination**

The Developer acknowledges and agrees:

- (a) that it is responsible for the management and remediation of any contamination present upon or under the land on which the Works are to be carried out;
- (b) it will attend to any necessary remediation at its own costs; and
- (c) to the fullest extent permitted by Law indemnify and release the Council from any Claim which might arise from any contamination with respect to the land on which the Works are to be carried out.

**14 Plans**

The parties acknowledge and agree that further detail and refinement of plans and documents in connection with this agreement may be necessary having regard to the following matters:

- (a) matters affecting Works not capable of identification on or before the date of this agreement; or
- (b) by agreement between the parties.

## Schedule 6                      Affordable Housing Unit

### 1                      Nature

- (a)        The Affordable Housing Unit is to be a residential apartment, being a dwelling that is included in a residential apartment development within the meaning of the *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* as at the date of this agreement.
- (b)        The Affordable Housing Unit must be designed and constructed in accordance with any relevant Australian Standard and any relevant design standards or guidelines and any other requirements or policies applied by Council from time to time.
- (c)        The Developer must obtain any relevant standards (including design standards), specifications or guidelines and any other requirements or policies referred to in clause 1(b) of this schedule from Council.
- (d)        The Affordable Housing Unit must be constructed and fitted out using suitable new materials and proper and workmanlike manner so that they are diligently progressed to completion and must be constructed and fitted out to the same standard as other dwellings of a similar configuration and similar vertical location within the Development.

### 2                      Identification

- (a)        Prior to lodgement of any Development Application for the Development, the Developer must consult with Council about the location of the Affordable Housing Unit and any specific requirements for the location of the dwelling having regard to accessibility and security.
- (b)        Subject to clause 2(c) of this Schedule, the Affordable Housing Unit will be identified by the Developer in a Development Application (or, where there is a proposed relevant change to a floor plan, a Modification Application) provided that, in making that identification, this Schedule must be complied with.
- (c)        The Developer may revise the identification by written notice to the Council (and that revised identification has effect) if:
  - (i)        the Development Consent to a Development Application is granted subject to a condition that materially modifies the floor plans of the Development; and
  - (ii)       the purpose of the revised identification is to make an identification that is equivalent to the identification in the Development Application, but adjusted to address the modified floor plans; and
  - (iii)      that the Affordable Housing Unit as revised meets the criteria specified in this Schedule.

### 3                      Specifications

- (a)        Each dwelling must, at the time of dedication, be ready for occupation, including final:
  - (i)        finishes;
  - (ii)       plastering;
  - (iii)      tiling;

- (iv) windows and frames;
  - (v) cabinets and wardrobes;
  - (vi) fixtures and fittings;
  - (vii) kitchen stove and oven;
  - (viii) dishwasher;
  - (ix) sink; and
  - (x) toilet and shower facilities.
- (b) The quality (in terms of finish, fixtures and appliances) of the dwellings must be equivalent to that provided for other dwellings within the Development (or where such quality varies across the Development, such quality must be equivalent to that provided for other dwellings of a similar configuration and similar vertical location within the Development).
- (c) The dwelling must not be used as a display suite or temporary sales office prior to it being dedicated to Council.



## Schedule 7 Summary of requirements (section 7.4)

Subject and subsection of the Act	Planning Agreement
<p><b>Planning instrument and/or Development Application – Section 7.4(1)</b></p> <p>The Developer has:</p> <p>Sought a change to an environmental planning instrument</p> <p>Made, or propose to make a Development Application</p> <p>Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p><b>Description of the land to which the planning Agreement applies – Section 7.4(3)(a)</b></p>	<p>See the definition of “Land” in clause 1.</p>
<p><b>Description of proposed change to environmental planning instrument or development – Section 7.4(3)(b)</b></p>	<p>See the definitions of “Development”, “Instrument Change” and “Planning Proposal” in clause 1 and Schedule 1.</p>
<p><b>The scope, timing and manner of delivery of contribution required by the Planning Agreement – Section 7.4(3)(c)</b></p>	<p>See clause 6</p>
<p><b>Applicability of section 7.11 of the Act – Section 7.4(3)(d)</b></p>	<p>The application of section 7.11 of the Act is not excluded in respect of the Development.</p>
<p><b>Applicability of section 7.12 of the Act – Section 7.4(3)(d)</b></p>	<p>The application of section 7.12 of the Act is not excluded in respect of the Development.</p>
<p><b>Applicability of section 7.24 of the Act – Section 7.4(3)(d)</b></p>	<p>The application of section 7.24 of the Act is not excluded in respect of the Development.</p>
<p><b>Mechanism for dispute resolution – Section 7.4(3)(f)</b></p>	<p>See clause 10.</p>
<p><b>Enforcement of the Planning Agreement – Section 7.4(3)(g)</b></p>	<p>See clause 8 and clause 11.</p>
<p><b>Registration of the Planning Agreement – Section 7.4(3)(g) and section 7.6</b></p>	<p>See clause 8.2</p>
<p><b>No obligation to grant consent or exercise functions – Section 7.4(9)</b></p>	<p>See clause 14.</p>

Executed as an agreement

Executed for and on behalf of North Sydney Council by its authorised delegate in accordance with a resolution of the Council dated [date]:

.....  
Witness

.....  
Authorised Delegate

.....  
Name of Witness

.....  
Name of Authorised Delegate

[Insert further execution clauses for Developer and Landowner]

## Annexure A Explanatory Note

**Explanatory Note**  
**Exhibition of draft Voluntary Planning Agreement**  
**PP6/20: 45 McLaren Street, North Sydney**

*Environmental Planning & Assessment Regulation 2021 (section 205)*

**Planning Agreement**

The purpose of this Explanatory Note is to provide a plain English Summary to support the notification of a draft voluntary Planning Agreement (“**the Planning Agreement**”) under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (“**the Act**”).

Section 205(1) of the *Environmental Planning and Assessment Regulation 2021* (“**the Regulation**”) requires that an Explanatory Note must be prepared to accompany a planning agreement.

The Explanatory Note must address the requirements of section 205(1)(a)-(b) of the Regulation. This Explanatory Note has been prepared to address these requirements.

Additionally, in preparing the Explanatory Note, the planning authority must consider any relevant practice note prepared by the Planning Secretary under clause 203(6). The relevant practice note is *Planning agreements: Practice note – February 2021* published by the former NSW Department of Planning, Industry and Environment (now the Department of Planning and Environment).

This practice note has been considered by the parties in the course of preparing this Explanatory Note.

**Parties**

45 McLaren Pty Ltd (“**Developer**”) made an offer to North Sydney Council (“**Council**”) to enter into a Planning Agreement, in connection with a Planning Proposal for land at 45 McLaren Street, North Sydney. The Owners Corporation for the registered strata scheme SP14598 (“**Landowner**”) are also a party to the agreement.

**Description of subject land**

The land to which the Planning Agreement applies is Lots 1-18 (inclusive) and common property in SP 14598, known as 45 McLaren Street, North Sydney (“**the Land**”).

**The development**

The Planning Agreement relates to proposed development of the Land to which the Planning Agreement applies for redevelopment of the Land for the purpose of a multi-storey mixed residential and commercial building, which relies on the amendment to the planning controls set out in the Instrument Change.

**Description of the Planning Proposal to which the Planning Agreement applies**

To facilitate the Development, the Developer has lodged a Planning Proposal. The Planning Proposal (PP6/20 -Council’s reference and PP-2022-1259 Department of Planning and Environment’s reference) which was issued a Gateway Determination) by the Department of Planning and Environment on 1 June 2022 (and as altered on 26 August 2022) seeks to amend the *North Sydney Local Environmental Plan 2013* (“**NSLEP 2013**”) to:

- (a) Rezone land from R4 High Density Residential to B4 Mixed Use (or MU1 Mixed Use if the Employment Zone Reforms are implemented prior to the finalisation of this proposed amendment).
- (b) Increase the maximum building height from 12m to part RL 103 and Part RL 115 for the Land.
- (c) Allow a maximum floor space ratio of 6.25:1 for the Land.
- (d) Require a minimum non-residential floor space ratio of 1:1 for the Land.
- (e) Amend Clause 4.4A of LEP 2013 to enable residential accommodation to be permitted with development consent at the ground level of a future development on the Land, where the residential accommodation fronts Walker Street.
- (f) Amend Clause 6.12A of LEP 2013 to enable residential accommodation to be permitted with development consent at the ground level of a future development on the Land, where the residential accommodation fronts Walker Street.

## **Summary of Objectives, Nature and Effect of the Planning Agreement**

### **Objectives**

The objective of the Planning Agreement is to provide a mechanism by which contributions towards public purposes can be made in connection with the future development of the Land to benefit the community.

The public benefits include the provision of community facilities and services in the Ward Street Precinct, improvement of pedestrian amenity and the public domain within the locality of the Development and the provision of affordable housing as part of the Development.

### **Nature**

A Planning Agreement of this kind may require a developer to dedicate land free of costs, pay a monetary contribution, or provide any other material public benefit to be used for or applied towards a public purpose.

In this case, the Planning Agreement will require:

- (a) the payment of monetary contributions for each new dwelling built on the Land;
- (b) the provision of a publicly accessible through site link along the southern boundary of the site;
- (c) public domain improvement works; and
- (d) the dedication of an apartment in the Development to be used for the purposes of affordable housing.

The monetary contribution will be payable in the amount of \$34,000 per new dwelling, currently estimated to be about \$2,278,000 (plus indexation). The contribution may, however, be reduced in accordance with clause 6.1(b) and clause 6.5 of the Agreement pending the adoption of revised car parking rates in the DCP and any future additional contributions.

The monetary contribution will be used towards the delivery of community infrastructure and public domain upgrades within the Ward Street Precinct.

The monetary contribution will be payable prior to the issue of an Occupation Certificate for any part of the Development. The monetary contribution amount will be indexed in accordance with increases in the consumer price index from the date of agreement to the date of payment.

The through site link will be provided by means of a public access easement to be registered prior to the issue of an occupation certificate for the Development.

Public domain upgrade works to footpaths, kerb and guttering and improved landscaping around Walker Street, McLaren Street and Harnett Street as shown on the plans attached to the Planning Agreement will be required to be completed prior to the issue of an occupation certificate for the Development.

On completion of the Development (within 20 Business Days after an Occupation Certificate is issued or registration of a Strata Plan for any part of the Development, whichever occurs later), a two-bedroom apartment in the Development will be dedicated to Council to be provided as affordable housing.

The total value of the contributions is estimated to be \$5.8 million.

### **Effect**

In general terms, delivery of the contributions is timed in a way that is practicable for the Developer and still provides for the enhancement of public domain and open space and improvement of to meet the needs of the new residents and the community, as well as providing additional affordable housing in the area.

The Planning Agreement provides for the enforcement of the Planning Agreement by a suitable means if there is a breach by the Developer, including by calling on a bank guarantee to be provided under the agreement.

The contributions are to be delivered prior to the issue of an occupation certificate for the development or any part of the development. An occupation certificate cannot be lawfully issued if the required contributions have not been made.

The Planning Agreement is to be registered on the title to the Land.

Where it is relevant to a development application, a consent authority must take into consideration a planning agreement — or any draft planning agreement — that a developer has entered into or offered to enter into (respectively).

A planning agreement cannot impose an obligation on a planning authority to actually grant a development consent. A merit assessment of the proposed development must still be carried out.

## **Assessment of the Merits of the Planning Agreement**

### **How the Planning Agreement Promotes the Objects of the Act and the public interest**

The draft Planning Agreement promotes the following objectives of the Act:

- a. *Promotes the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources (section 1.3(a)).*
- b. *Promotes the orderly and economic use and development of land (section 1.3 (c)).*
- c. *Promotes good design and amenity of the built environment (section 1.3(g)).*

The Planning Agreement will enable the utilisation of the development potential of the Land, while requiring the Developer to make provision for public purposes. The Planning Agreement promotes the public interest because it will require the provision of public domain and open space improvements that will benefit existing and future residents and workers in the area and will provide additional affordable housing in the North Sydney Local Government Area. These contributions will have a positive impact on the public and will provide for the social and economic welfare of the community.

The contribution required under the Planning Agreement is additional to any normal contribution that will ordinarily need to be made in relation to the development.

The proposed contribution under the Planning Agreement is consistent with the Council's strategic plans and policy documents.

**The Planning Purposes served by the Planning Agreement**

The Planning Agreement facilitates the implementation of Council's strategic plans and will enable the Council to provide improved public amenities and facilities for new development in the locality of the Development.

The Planning Agreement will require development contributions that will improve public amenity and minimise development impacts.

**Whether the Planning Agreement conforms with the Council's Capital Works Program**

The Planning Agreement offers a monetary contribution that will enable the Council to embellish and maintain public open space areas in the vicinity of the Development. The Planning Agreement will enable the Council to provide public domain and open space and affordable housing to meet the current and future needs of the local community.

The contribution proposed under the Planning Agreement does not conform with the Council's capital works program. This is because the opportunity to obtain the contributions has arisen outside of the Council's capital works program.

The Planning Agreement will not have an adverse effect on this capital works program. Overall, the Planning Agreement is likely to result in more capital works (to the benefit of the community) than would be the case without the Planning Agreement.

**Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued**

The Planning Agreement requires the monetary contribution, public domain works, through site link and works to construct the affordable housing unit be delivered before the issue of an **occupation certificate**.

The Planning Agreement provides that a **construction certificate** is not to be issued unless a restrictive covenant over the through-site link has been registered and a bank guarantee to secure the delivery of all contributions has been provided.

**Status of the Explanatory Note**

This Explanatory Note has been prepared jointly between the parties.

The parties have agreed that this Explanatory Note is not to be used to assist in construing the Planning Agreement.

## Annexure B Estimated Value of Development Contributions

The Development Contributions to be delivered under this agreement have the following estimated value:

- (a) The estimated value attributed to the Monetary Contribution is \$2,278,000 subject to any adjustment determined in accordance with cl 6.1(b) and clause 6.5 (based on an additional 67 apartments);
- (b) The estimated value attributed to the extension of the through site link is \$1,800,000;
- (c) The estimated value attributed to the public domain improvement works is \$200,000; and
- (d) The estimated value attributed to the affordable housing contribution is \$1,500,000.

The values in this Annexure are estimates only and the Developer is required under this agreement to deliver the contributions even if the actual cost of the contributions is greater than the estimated value. Nothing in this Annexure may be taken as an agreement that the contributions to be delivered are capped or limited to an amount or value.

## **Draft Amendment to North Sydney Development Control Plan 2013**

**- 45 McLaren Street, North Sydney**

The following pages represent a “**tracked changes**” version of those pages within Section 2 to Part C of NSDCP 2013 which are proposed to be amended. Those parts of these sections which are not proposed to be amended have been specifically excluded.

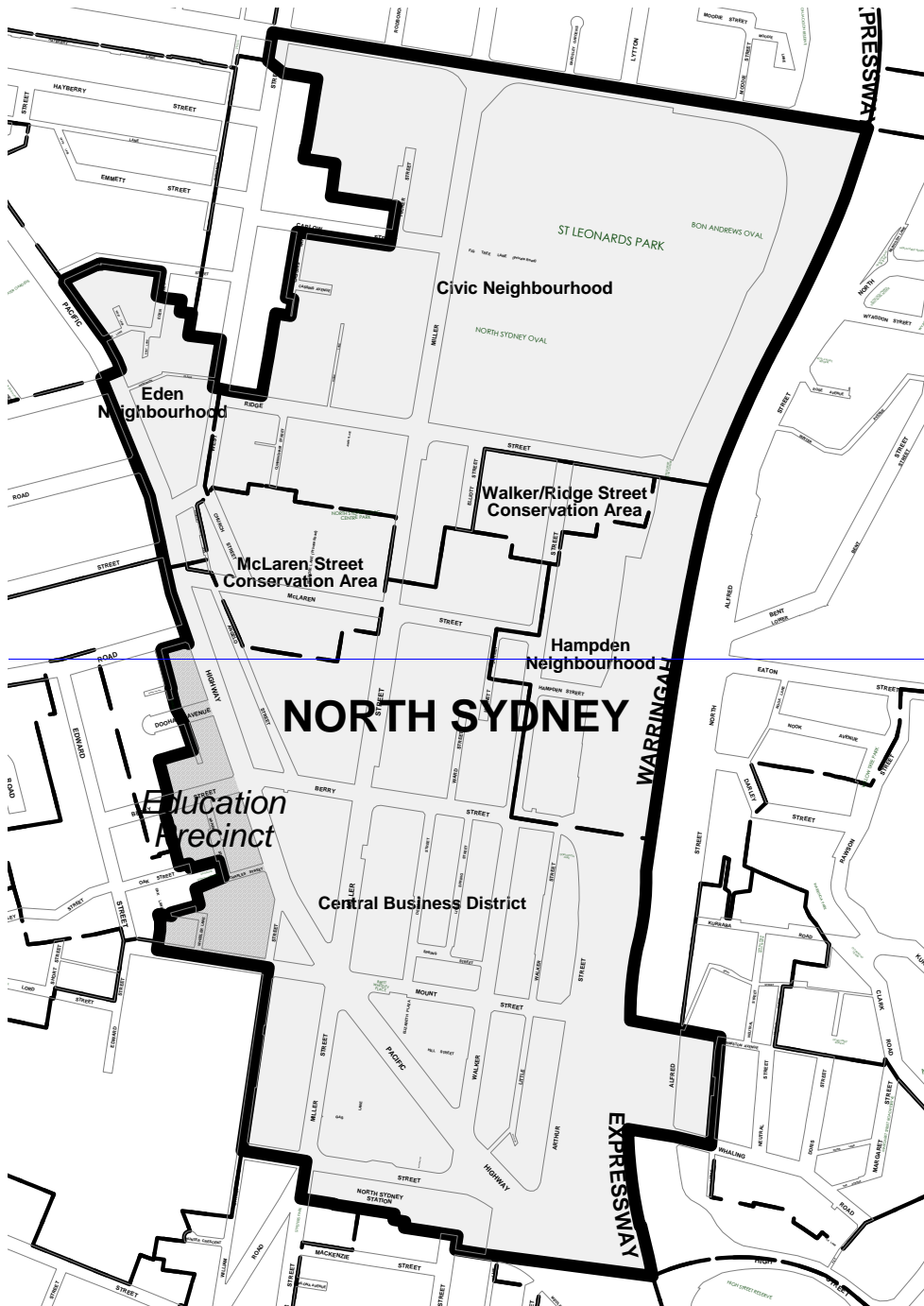


North Sydney Development Control Plan 2013 – **DRAFT AMENDMENT**

Area Character Statements - North Sydney Planning Area



**SECTION 2 NORTH SYDNEY PLANNING AREA**





**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

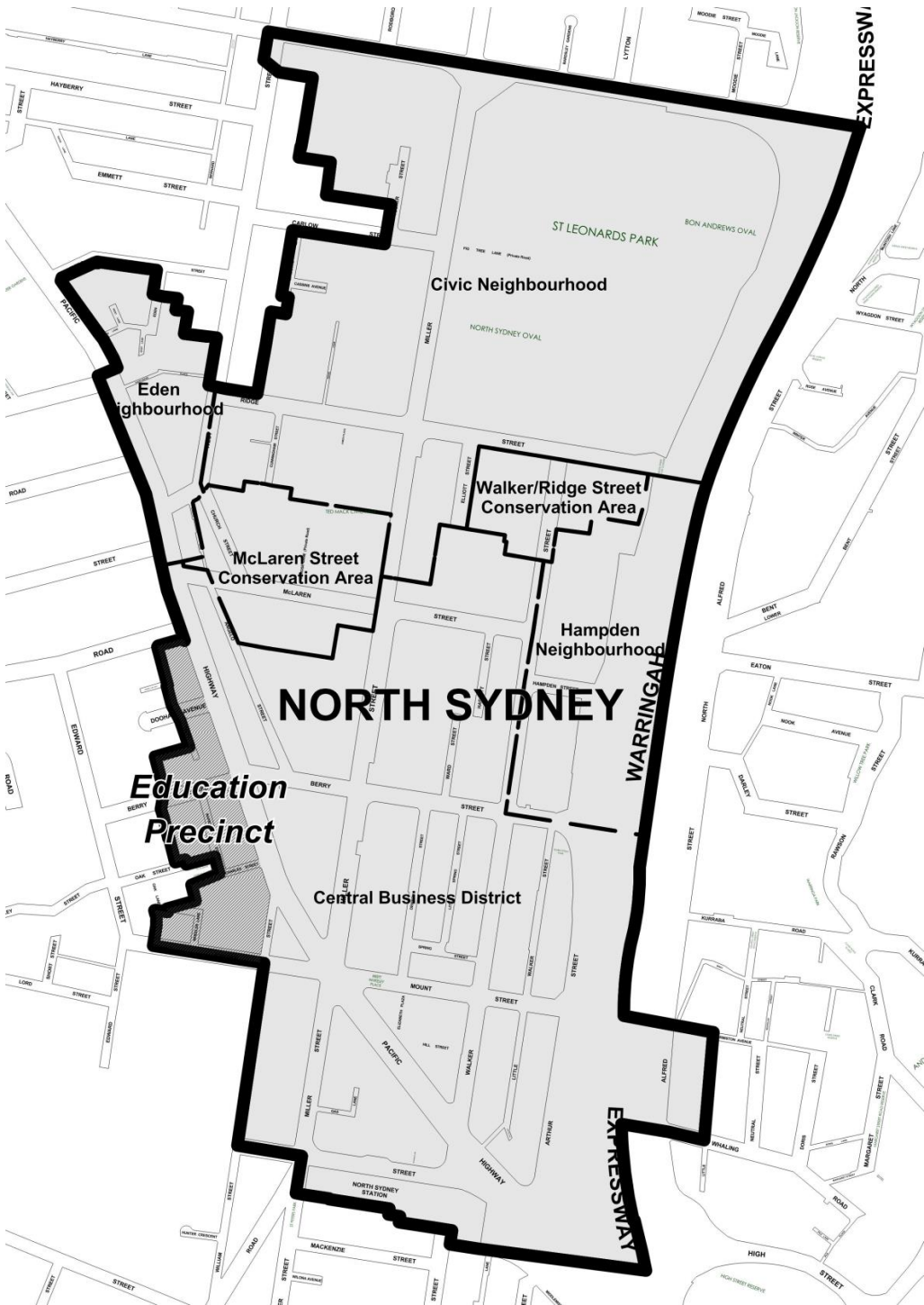
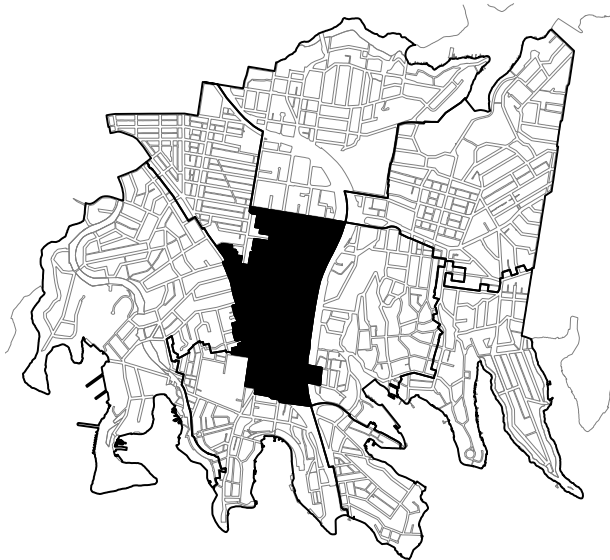


Figure C-2.1: North Sydney Planning Area and associated Locality Areas

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## 2.0 NORTH SYDNEY PLANNING AREA CHARACTER STATEMENT



The North Sydney Planning Area is an iconic, attractive, and sustainable area, with the focus on the North Sydney CBD, which is identified under the Metropolitan Strategy 2036 as a global commercial centre. A portion of the Education Precinct is located within the Planning Area on the western edge of the North Sydney CBD and the Ward Street Precinct is located within the northern portion of the Planning Area.

New development within the Planning Area should result in:

- a viable and attractive employment centre
- a diverse range of living, employment, recreation and social opportunities being provided that attract both local and regional populations which contribute to the vibrancy of the North Sydney CBD
- a vibrant and engaging Education Precinct with safe pedestrian networks and a range of formal and informal public spaces for students to study, socialise and engage with the local community
- the creation of a new vibrant public meeting place within the Ward Street Precinct for workers, residents and visitors which has high levels of amenity and is activated in the daytime, evenings and weekends
- a high level of amenity for residents, workers, students and visitors to enjoy
- a high quality built form
- a high level of public transport patronage which is easily accessible to residents, workers, students and visitors
- the area being linked to the Sydney CBD, other suburban centres and many parts of the Sydney Region by rail and bus as well as by road and is a place of interchange between the various modes



**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

and where:

**Function**

- The North Sydney CBD comprises one of Australia's largest commercial centres serving the local population and that of the Sydney region
- There is a mix of uses and activities to meet the demands of the residents, workforce, students and visitors
- There is a civic focus supported by community facilities such as North Sydney Oval, the Stanton Library and the Independent Theatre
- There is an education focus in the Education Precinct, supported by educational establishments such as the Australian Catholic University (ACU), the Sydney Church of England Grammar School (Shore) and North Sydney Demonstration School
- Creation of a new pedestrian focal point centrally within the Ward Street Precinct, through the provision of new public squares which integrate with a highly permeable pedestrian network and is activated by commercial and community frontages
- Community facilities meet the needs of the CBD's working and resident population, students, visitors, and residents of nearby neighbourhoods, in terms of wellbeing, culture and recreation, and add to the diversity and activity of the CBD
- Various grades and sizes of commercial floorspace accommodate a mix of small and larger business, services and retail
- New residential development will not occur in the commercial core, with further high density housing to be concentrated in the areas zoned mixed-use
- There is housing choice in the mix of dwelling sizes and in the range of affordability
- There are active uses outside of standard business hours
- Parks and public spaces are well used and provide for a range of social and recreational activities

**Environmental Criteria**

- The extremes of sun, wind and rain are mitigated by good building design
- Buildings, public places and streets all receive good access to natural light
- Mechanical noise and other commercial noise is controlled, to protect residential amenity
- Use of local flora extends habitats for native birds and other fauna
- Solar access to special areas and open spaces is maintained and contributes to the enjoyment of those spaces for use by the public
- There is an opportunity to enjoy the views from and within the area towards the Sydney CBD, Sydney Harbour, heritage items and surrounding areas
- Additional public open space is provided for increased worker and residential populations

**Built Form**

- There is a pleasant, well designed and well-lit series of easily accessible and connected urban plazas and gardens.
- The setback on the eastern edge of Miller Street between McLaren Street and Mount Street is maintained and incorporates landscaped areas and actively utilised open space

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**North Sydney Development Control Plan 2013 – DRAFT AMENDMENT****Area Character Statements - North Sydney Planning Area**

- Physical breaks are provided between tall commercial towers to afford occupants of commercial buildings reasonable levels amenity in terms of ventilation, daylight access, solar access and views
- Physical breaks are provided between tall commercial towers to afford users of the public domain reasonable levels of amenity in terms of daylight access, solar access, sky views and reduction in adverse wind impacts
- Avoiding continuous, uninterrupted walls of towers to reinforce a human scale when read from the public domain
- The significance of heritage items is retained, and promotes the rich development history and provides interest in the physical fabric of the area
- Heritage items are protected, and significant streetscape elements are conserved in the Walker and McLaren Street Conservation Areas
- Predominant early 20th Century character of the McLaren Street Conservation Area is maintained and protected
- Victorian and Federation character of streets in the Walker Street Conservation Area is maintained and protected
- Pedestrian connections provide alternate east/west and north/south routes through the CBD to promote pedestrian movement

**Quality Urban Environment**

- There are links to the Sydney CBD, other suburban centres and many parts of the Sydney region by ferry, rail, bus and road and the CBD is a place of interchange between the various transport modes
- Public transport, including walking and cycling, is the main form of access to the North Sydney CBD and the Education Precinct
- Traffic is managed so that pedestrians can move within the area freely and safely, and amenity is maintained
- Parking is managed in a way that maintains pedestrian safety and the quality of the public realm and minimises traffic generation
- The cumulative desired future built form outcome within the Ward Street Precinct does not result in a nett increase in traffic generation for the Precinct
- Rear lanes allow for the primary vehicular access to properties
- Limited increase to the capacity of private parking
- Pedestrians are assisted to safely cross barriers such as the Pacific Highway
- Educational establishments are oriented to the public domain to provide increased surveillance and activation
- Loading and delivery facilities should be located away from the street and where possible be located underground

**Efficient Use of Resources**

- Energy efficient design and life cycle assessment of buildings enables the conservation of natural resources and minimisation of use of non-renewable energy resources
- Stormwater runoff is minimised, and recycled on-site where possible

**Public Domain**

- Additional open space is provided to service the increased residential, working and student population of the North Sydney CBD and the Education Precinct
- A new public square/s be provided centrally within the Ward Street Precinct which is integrated with a highly permeable pedestrian network

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**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

- Streetscape improvements occur in accordance with the *North Sydney Centre Public Domain Strategy*, ~~and~~ *Education Precinct Public Domain Masterplan* ~~and~~ *Ward Street Precinct Masterplan*

In addition to the above character statement for the Planning Area, the relevant character statement for the following Locality Areas also requires consideration:

- Section 2.1: Central Business District
  - Section 2.1.4: 45 McLaren Street
- Section 2.2: Civic Neighbourhood
- Section 2.3: Eden Neighbourhood
- Section 2.4: Hampden Neighbourhood
  - Section 2.4.4 East Walker Street Precinct
- Section 2.5: Walker/Ridge Street Conservation Area
- Section 2.6: McLaren Street Conservation Area

**C** **Part**

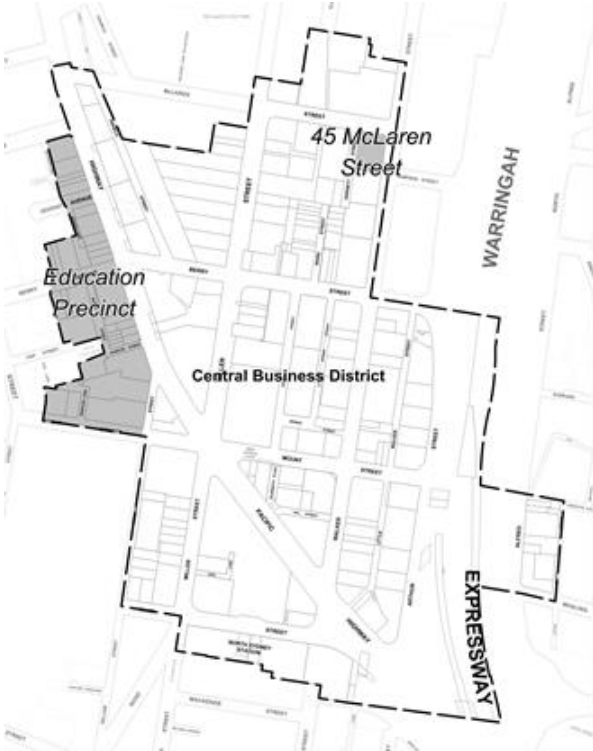
**C2-6** **Page**

North Sydney Development Control Plan 2013 – **DRAFT AMENDMENT**

Area Character Statements - North Sydney Planning Area



2.1 CENTRAL BUSINESS DISTRICT



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**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

**2.1.1 Significant Elements**

**Land Use**

- P1 Predominantly high-rise commercial development.
- P2 Medium to high rise mixed commercial and residential development at the fringes.
- P3 Educational facilities.
- P4 Regional rail and road infrastructure.

**Topography**

- P5 Typically falling from the north to the south towards Sydney Harbour.

**Natural Features**

- P6 Natural rock outcrops at 136 Walker Street.

**Views**

- P7 The following views and vistas are to be preserved and where possible enhanced:
  - (a) From the plaza at No.5 Blue Street and located over North Sydney Rail Station to the Sydney Harbour Bridge.
  - (b) From Doris Fitton Park (160-166 Arthur Street) to Sydney Harbour and Neutral Bay district.
  - (c) Views along the Pacific Highway to the Post Office on Mount Street from the south-east.
  - (d) Views along the Pacific Highway to Sydney Harbour from the intersection with Mount Street.

**Identity / Icons**

- P8 Brett Whiteley Place.
- P9 Greenwood.
- P10 Post Office and Court House.
- P11 MLC Building.
- P12 Don Bank Museum.

**Subdivision**

- P13 Predominantly large consolidated allotments within a rigid grid pattern.
- P14 Smaller allotments generally along the Pacific Highway north of Berry Street.

**Streetscape**

- P15 Wide fully paved footpaths, promoting heavy pedestrian use.
- P16 Active street frontages provided with a variety of shops, cafes and other commercial uses.
- P17 Buildings generally built to the boundary, with entry at street level.
- P18 Continuous awnings provided on commercial buildings.
- P19 Street trees.

**Public transport**

- P20 Development is to take advantage of the accessibility provided by existing and planned public transport infrastructure.

**C Part**

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**North Sydney Development Control Plan 2013 – DRAFT AMENDMENT**



**Area Character Statements - North Sydney Planning Area**

**2.1.2 Desired Future Character**

**Diversity of activities, facilities, opportunities and services**

- P1 High rise and medium density, commercial and mixed use developments.
- P2 Provision of a variety of different sized office, retail, community and entertainment spaces.
- P3 Provision of a variety of outdoor and indoor community spaces (e.g. urban plazas, gymnasium; gardens; outdoor and indoor dining areas and food courts).
- P4 The commercial focus of the CBD is to be enhanced by preventing any further residential development from occurring in its core (i.e. the *B3 Commercial Core* zone).
- P5 Development above the Victoria Cross metro station will provide significant commercial floorspace, as well as retail, dining and community uses that will contribute to the overall amenity and vitality of the CBD.
- P6 Council will pursue its vision for Miller Street as the civic heart of North Sydney. This will involve significant interventions and public domain improvements aimed at creating a vibrant place for people, with vehicle movements removed or minimised as much as practicable and both sides of Miller Street activated.
- P7 Creation of a substantial new public space within the middle of the street block bound by McLaren, Walker, Berry and Miller Streets, activated by surrounding buildings and new community facilities consistent with the *Ward Street Precinct Masterplan*. This space is to be designed to be highly adaptable for events and prominent activities and form a spill over space for other community events associated with community facilities to be located in adjacent buildings.
- P8 Brett Whiteley Place is a key public space for the North Sydney CBD which will incorporate an expanded Elizabeth Plaza, as well as portions of Denison Street and Mount Street. This expanded plaza will provide dedicated space for outdoor dining, large and small events, and other activities.
- P9 Consideration be given to expanding Berrys Square to the northern side of Berry Street.
- P10 The Central Laneways Precinct will become a major focal point of pedestrian activity and amenity.
- P11 Active frontages to the Metro site, 1 Denison Street and the MLC building will contribute to the activation of the public domain in the Central Laneways Precinct.
- P12 A new laneway is provided across the redevelopment of 1 Denison Street to link the Metro site, Denison Street, Little Spring Street and Walker Street.
- P13 Alternatives to the current entry of the commercial car park entry at 100 Miller Street (Northpoint) will be pursued to reduce or remove traffic on Miller Street and improve pedestrian amenity.
- P14 Provide roof top gardens and/or public facilities that allow the public and/or residents to access district views.
- P15 Development should maximise opportunities to incorporate retail, restaurant, bar facilities and other non-residential floor space at ground level to promote street level activation, amenity, diversity and place making objectives.
- P16 Provide a diverse mix of higher density, non-residential land uses in the *B4 Mixed Use* zone of the Education Precinct, including education, shops, cafes, gyms, entertainment and small businesses.
- P17 Provide continuous active uses such as shops and cafes at the ground level of all buildings along Pacific Highway, Berry Street and Napier Street, especially within the Education Precinct.



**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

P18 Consideration should be given to the inclusion of educational or community-related purposes in the redevelopment of 110, 112, 116 and 120 Pacific Highway and 9 Napier Street.

P19 Community facilities that are of a type that support the creation of a cultural destination which is activated in the daytime, evenings and weekends are to be incorporated into the lower levels of the redevelopment of 56-66 Berry Street and the Ward Street Carpark site and these facilities are to front onto a new public square/s consistent with the *Ward Street Precinct Masterplan*.

**Accessibility and permeability**

P20 Victoria Cross metro station is designed to enhance the North Sydney CBD as a major commercial centre and further encourage the use of public transport. Pedestrians are prioritised throughout the CBD with a number of interconnected pedestrian routes that facilitates all direction movement and encourages fine grain retail and dining uses.

P21 Consideration be given to providing a direct vertical pedestrian connection between the new public open space located centrally within the Ward Street Precinct and the Victoria Cross Metro Station concourse.

P22 Barriers to pedestrian movement, particularly within the Ward Street Precinct, Miller Street, Berry Street and the Pacific Highway, will be reimagined such that their function and treatment favour pedestrian movement and amenity.

P23 New development focuses on the use of public transport, cycling and walking.

P24 Pick up and drop off points for public transport and taxi ranks are located as close as possible to public spaces and activities, and main building entries.

P25 Loading and delivery facilities should be located away from the street and where possible be located underground.

P26 The following through site links are to be provided, retained and enhanced:

- (a) A north - south pedestrian link from McLaren Street to Elliot Street across 52 and 54 McLaren Street.
- (b) A north - south pedestrian link from McLaren Street to Ward Street across the vehicle access of 221 Miller Street.
- (c) An east-west pedestrian link of at least 3m in width is provided from Miller Street to the future public open space off Ward Street along the northern boundary of 201 Miller Street.
- (d) An east-west pedestrian link of at least 6m in width is provided from Miller Street to the future public open space off Ward Street along the southern boundary of 213-219 Miller Street.
- (e) An east - west pedestrian link from Miller Street to Ward Street across 221 Miller Street.
- (f) A north - south pedestrian link from Charles Street to Wheeler Lane across 100 Pacific Highway and 16 Mount Street.
- (g) An east - west pedestrian link from Harnett Street to Walker Street across 142 Walker Street.
- ~~(h)~~ An east - west pedestrian link from Harnett Street to Walker Street across 144-150 Walker Street.
- ~~(h)~~(i) An east-west pedestrian link from Harnett Street to Walker Street across 45 McLaren Street.
- ~~(i)~~(i) An east - west pedestrian link from Walker Street to Little Walker Street across 81-83 Walker Street.
- ~~(j)~~(k) An east - west pedestrian link from Little Walker Street to Arthur Street across 100 Arthur Street.

**C Part**

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**North Sydney Development Control Plan 2013 – DRAFT AMENDMENT****Area Character Statements - North Sydney Planning Area**

~~(k)~~(l) An east - west pedestrian link from Napier Street to Oak Street across the southern side of 8-20 Napier Street.

~~(h)~~(m) A north - south pedestrian link from the green space of 100 Pacific Highway to Wheeler Lane across the western side of 1 Wheeler Lane. The pedestrian link may be made through the building envelope or an alternative architectural treatment that gradually 'reveals' the establishments on either side.

~~(m)~~(n) An east - west pedestrian link through the Victoria Cross metro station linking Miller Street and Denison Street.

~~(n)~~(o) A new laneway is provided across the redevelopment of 1 Denison Street to link the Metro site, Denison Street, Little Spring Street and Walker Street.

~~(o)~~(p) A widened and improved pedestrian link from Little Spring Street and Walker Street across 102 Walker and 110 Walker Street.

P27 Consideration should be given to the provision of an east - west pedestrian link from the Pacific Highway to Napier Street across either the northern side of 120 Pacific Highway or the southern side of 33 Berry Street.

P28 Consideration should be given to the demolition of the single storey structure at the northern end of 105 Miller Street (MLC Building) to improve accessibility and permeability to Miller Street and the Victoria Cross metro station.

**2.1.3 Desired Built Form****Subdivision**

P1 Development sites should be of a size which enable:

- (a) the creation of large high quality floor plates which helps to reinforce the Centre's role as a Global City as identified within the Metropolitan Strategy; and
- (b) the incorporation of adequate setbacks and breaks between tall commercial towers above the podium level to maintain reasonable access to sky views and daylight to the public domain.

P2 Development on small sites should not detrimentally impact on the long-term ability of the amalgamation of sites for significant commercial development.

P3 Site amalgamation should occur generally in accordance with that identified within the Ward Street Precinct Masterplan to maximise the delivery of the desired outcomes of the Masterplan.

**Form, massing and scale**

P4 Buildings should be carefully designed to minimise the impact of their height and bulk on surrounding residential areas.

P5 Roof design contributes to building's appearance from a regional view catchment.

P6 Buildings on 116 and 120 Pacific Highway and 9 Napier Street should be designed such that their bulk steps down from the Pacific Highway to Napier Street to protect sunlight access to the Don Bank Museum and enhance pedestrian amenity to Napier Street.

P7 No part of a building located above the podium and which exceeds 45m in height may have a horizontal width of more than 60m.

P8 Development is to be designed to maximise year round solar access to the new public squares to be created centrally within the Ward Street Precinct.

P9 Development must not result in a nett increase in overshadowing to the main southern square to be created centrally within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

**Setbacks**

**Note.** Additional setbacks may be required for any part of the building located above the podium level.

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**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

- P10 Buildings are to provide a zero metre setback to all street frontages and adjacent to heritage items, with the following exceptions:
- (a) In accordance with cl.6.4 of the LEP for all properties on the eastern side of Miller Street, north of the Pacific Highway.
  - (b) 5m from the western side of Walker Street, north of 76 Berry Street.
  - (c) 5.4m from the southern side of Berry Street, between Pacific Highway and Miller Street.
  - (d) 14.5m from the western side of Miller Street, at No.60 Miller Street.
  - (e) 15m from the southern side of Mount Street, at No.60 Miller Street.
  - (f) Maintaining the setback of existing buildings to all properties comprising Monte St Angelo Convent and Girls School.
  - (g) Maintaining the setback of existing buildings to all properties on the northern side of McLaren Street.
  - (h) 1.5m whole of building setback from the eastern side of Napier Street, at No. 1-9 Napier Street and No.120 Pacific Highway.
  - (i) 2m setback to the ground level of buildings fronting Arthur Street.
- P11 Buildings must be setback to conserve views to, and the setbacks and settings of, heritage items at 86 and 144 - 150 Walker Street, 94 Pacific Highway (Post Office), 36 Blue Street (Greenwood), 153 Miller Street (MLC Building), 168 - 172 Pacific Highway and 1-7 Napier Street.
- P12 The setback of new buildings or alterations and additions to existing buildings on land fronting McLaren Street between Miller and Walker Streets are to match that existing to protect the existing fig trees. Encroachments will only be permitted where the development does not cover the drip line of any of the existing trees.

**Podium Heights**

- P13 Podiums are to be provided in accordance with the Podium Heights Map (refer to Figure C-2.2).
- P14 Despite P13, a podium of between 3 and 5 storeys above the finished level of the new public squares to be created centrally within the Ward Street Precinct, where buildings front onto those squares, maintaining a human scale to the squares.
- P15 The entirety of a podium must be setback from any street frontage if required under Provisions P10 – P12 to s.2.1.3 to this Part of the DCP.
- P16 Podiums are to be built to all side and rear boundaries that do not have a street frontage, except where the site directly adjoins residentially zoned land (i.e. *R2 Low Density Residential*, *R3 Medium Density Residential*, *R4 High Density Residential*) or requires a through site link as required under P23 to s.2.1.2 to this Part of the DCP.
- P17 Podium heights should match or provide a transition in height between immediately adjacent buildings.
- P18 Podium heights should match the height of adjacent heritage items.
- P19 Podium height may be reduced to that part of the building devoted to commercial use in mixed-use buildings.

**Above Podium Setbacks**

- P20 All parts of a building located above the podium are to be setback from the podium's frontage to a street or laneway in accordance with the Above Podium Setbacks Map (refer to Figure C-2.3). Setbacks are to be measured from the outer wall of the podium. Where a weighted setback is required, it applies to the width of the building's façade located above the podium.

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North Sydney Development Control Plan 2013 – **DRAFT AMENDMENT****Area Character Statements - North Sydney Planning Area**

- P21 Despite P20, no part of any building may be located within 3m of the outer wall of the podium level fronting a street or laneway.
- P22 Despite P20 and P21, for buildings fronting Ward Street and the new public squares to be created within the Ward Street Precinct, that part of the building located above the podium is to be setback a sufficient distance to ensure the minimising of potential wind impacts and maintaining a human scale to the squares.
- P23 Where a building is to be erected on land zoned *B3 Commercial Core* or on any other land and the building will not contain residential accommodation, all parts of the building located above the podium must be setback a minimum of 6m from any side boundary, unless:
- (a) the area of the site is less than 1,000sqm; and
  - (b) the building does not exceed 45m in height.
- P24 Despite P23, no setback is required above the podium level to:
- (a) the southern boundaries of 122 Arthur Street (SP 57439) or 100 Walker Street (Lots 1 and 2, DP 542915), if developed in isolation from sites to their north;
  - (b) the southern boundary of 90 Arthur Street (Lot 1, DP 738262), if developed in isolation from the site to the south;
  - (c) the northern boundary of 20 Berry Street (Lot 1, DP 550167) if developed in isolation from the site to the north;
  - (d) the eastern boundary of 80 Mount Street (Lot 1, DP 566189) if developed in isolation from the site to the east; and
  - (e) the southern boundary of 1 Wheeler Lane (Lot 101, DP 1076397) if developed in isolation from the site to the south.
- P25 Where a building does not contain residential accommodation, all parts of the building located above the podium must be setback a minimum of 6m from any rear boundary that does not have a street or laneway frontage.
- P26 Despite P25, no setback is required above the podium level to the western boundary of 65 Berry Street (Lot 2, DP 1230458) if developed in isolation from the site to the west.
- P27 Where there is more than one tower located above the podium level on land zoned *B3 Commercial Core* or on any other land and the building will not contain residential accommodation, the towers must maintain a minimum 12m separation from one another.

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Figure C-2.2: Podium Heights Map

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Area Character Statements - North Sydney Planning Area



Figure C-2.3: Above Podium Setbacks Map

**Building design**

- P28 Provide architectural detailing, high quality materials and ornamentation provide a rich visual texture and a symbolic/decorative reference to the history of the place, the building's use or occupant.
- P29 Provide a visually rich intimate pedestrian environment with active street frontages at ground level.



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P30 The natural rock outcrop at 136 Walker Street should be incorporated into the design of any redevelopment proposal for the site.

**Awnings**

P31 Continuous awnings must be provided to all commercial buildings, except on the eastern side of Miller Street between the Pacific Highway and McLaren Street.

P32 Consideration should be given to the provision of weather protection at the pedestrian entrances or over outdoor seating areas for buildings fronting Miller Street between the Pacific Highway and McLaren Street.

**Streetscape**

P33 A 'sense of arrival' is established at North Sydney Station with strong linkage to the north to connect with the pedestrian bridge over Pacific Highway and Denison Street.

P34 The Greenwood historic school building and large Moreton Bay Figs are retained and incorporated as the southern pedestrian gateway to the North Sydney CBD.

P35 The intersection of Miller Street and Pacific Highway forms an important focal point of the North Sydney Centre with a distinctive character reinforced by the Post Office and the MLC building.

P36 Improve amenity and safety by installing lighting, public art and/or landscape along the eastern facade of 12-14 Mount Street.

P37 Provide a consolidated green space over the Don Bank Museum and 100 Pacific Highway. Consideration should be given to extending this green space over the western side of 1 Wheeler Lane to allow for a more direct north – south pedestrian link from Charles/Napier Street to Wheeler Lane.

P38 33 Berry Street should be designed such that Napier Street is activated by non-residential tenancies such as commercial or educational facilities (At least 50% of its frontage should comprise of non-residential tenancies at the ground level).

**Public Domain**

P39 Have regard to Public Domain designed in accordance with the *North Sydney Centre Public Domain Strategy* and *North Sydney Council Infrastructure Manual*.

P40 A new multi-purpose public square with a minimum dimension of 52m by 40m is to be created in the centre of the Ward Street Precinct and integrated with a secondary public square of minimum dimension 35m by 33m consistent with the *Ward Street Precinct Masterplan*. The squares are to be designed to maximise the flexibility of uses.

P41 Consideration be given to activating the secondary northern square within the Ward Street Precinct with a café, public facilities or other active and community uses.

P42 Consideration be given to expanding Berry Square across to the northern side of Berry Street.

**Landscaping**

P43 Continued use of tree planting and use of native vegetation to enhance the urban environment and attract birdlife.

P44 Choice of trees and vegetation in accordance with *North Sydney Centre Public Domain Strategy*, *Street Tree Strategy* and *North Sydney Council Infrastructure Manual*.

**Car accommodation**

P45 Short stay parking spaces should be located within or as close as possible to meeting places.

P46 Reduce the amount of long stay commuter parking on site.

P47 Reduce the amount of non-residential parking on site.

**C Part**

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**North Sydney Development Control Plan 2013 – DRAFT AMENDMENT****Area Character Statements - North Sydney Planning Area****Vehicle Servicing**

P48 Consideration to be given to providing all vehicular access to 213-219 Miller Street, 56-66 Berry Street and the Ward Street Carpark site from Harnett Lane and underneath the proposed new public squares, to maximise pedestrian amenity within the Ward Street Precinct.

P49 Vehicular access to 76 Berry Street is to be provided from Walker Street.

**2.1.4 45 McLaren Street****2.1.4.1 Desired Future Character, Design Objectives and Key Principles**

P1 Development is to respond to the scale and character of existing development and desired future character of the surrounding area.

P2 Built form, scale and massing is to transition in scale across the site from north to south and east to west, whilst respecting the built form of adjacent and neighbouring heritage items.

P3 Deliver a mixed use development with active frontages to McLaren and Harnett Streets.

P4 Development is to maximise solar access to the proposed squares within the Ward Street Precinct.

P5 Maintaining a landscaped setback to Walker Street.

P6 An improved pedestrian through site link between Walker Street and Harnett Street.

**2.1.4.2 Desired Built Form****Objectives**

O1 To provide for increased opportunity for height and density in the North Sydney CBD, in close proximity to public transport and services.

O2 To allow an appropriate stepping down in built form between 168 and 150 Walker Street.

O3 To ensure that solar access to the proposed public spaces within the Ward Street Precinct is maximised.

O4 To achieve appropriate separation distances between existing and proposed buildings and ensure reasonable privacy and solar access is maintained to surrounding dwellings, mindful of the need for renewal at the site.

O5 To positively relate to the heritage context surrounding the site.



**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

**Provisions**

**Solar access**

P7 Despite any other provision of this DCP, any development at 45 McLaren Street must not result in a nett increase in overshadowing to the main southern proposed square to be created within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

**Building Height**

P8 Development must not exceed 14 storeys above the crown of McLaren Street as it presents to McLaren Street.

P9 Development must not exceed 10 storeys above ground level existing fronting its southern boundary.

**Street and Side Setbacks**

P10 Buildings must be setback:

- (a) 0m to McLaren Street, and
- (b) A minimum of 5.5m to Walker Street, generally consistent with the setback of buildings located at 144, 146, 148 and 152 Walker Street, and
- (c) A minimum of 1.5m setback to the southern boundary, and
- (d) A minimum of 1m setback to Harnett Street.

**Podium Height**

P11 A podium must:

- (a) Be 2-3 storeys in height fronting McLaren Street and positively relate to the height of the podium to the heritage listed commercial building at 41 McLaren Street to its west and heritage dwellings to the east on the eastern side of Walker Street, and
- (b) Be 2-3 storeys in height fronting Walker Street and positively relate to the height of the heritage dwellings at 144,146,148 and 152 Walker Street, and
- (c) Not exceed 3 storeys to the southern boundary, and
- (d) Be 2-3 storeys in height fronting Harnett Street.

**Above Podium Setbacks**

P12 The following minimum setbacks must be provided above the podium level:

- (a) 3m to the site's McLaren Street frontage, and
- (b) 10.35m to the site's Walker Street frontage, and
- (c) 4.5m from the site's southern boundary, and
- (d) 1.5m-3m to Harnett Street, unless the consent authority is adequately satisfied that the proposal can comply with the relevant Apartment Design Guidelines can be achieved with regard to building separation and privacy.

P13 Despite Provision P5(a) above, the consent authority may permit a balcony to encroach into the setback area, but only if:

- (a) The balcony is unenclosed on at least two sides, and
- (b) The balcony maintains a minimum 1m setback to McLaren Street, and
- (c) The cumulation of balconies on any one level does not exceed 50% of the façades length to McLaren Street.

**North Sydney Development Control Plan 2013 – DRAFT AMENDMENT****Area Character Statements - North Sydney Planning Area****2.1.4.3 Landscaped Area****Objectives**

- O1 To ensure that landscaping is used to provide appropriate amenity for development and soften the appearance of buildings and their interface with the neighbouring dwellings and the public domain.
- O2 To provide a quantum of landscaping reflecting the transition between the North Sydney CBD and adjoining residential areas.
- O3 To incorporate appropriate materials conducive of its heritage context.

**Provisions**

- P14 Any basement structure should be setback at least 5.5m to Walker Street, to ensure the provision of deep soil zones to accommodate trees and vegetation of a scale reflective with the scale of the proposed future development on the site.
- P15 Despite P1, a basement may be permitted within the setback area to Walker Street, but only where there is a soil depth of at least 1.5m is provided below the alignment of the adjoining footpath on Walker Street.
- P16 Consideration to be given to using sandstone or natural rock features in the landscaping or lower parts of buildings, reflective of the site's heritage context.

**2.1.4.4 Through Site Link****Objectives**

- O1 To enhance the existing through site link that runs across the northern boundary of 144-152 Walker Street between Walker Street and Harnett Street.

**Provisions**

- P17 All buildings are to be setback 1.5m from the southern boundary to enable the construction of a through site pedestrian link between Walker Street and Harnett Street which is integrated with the existing through site link across the northern boundary of 144-152 Walker Street.
- P18 Consideration is to be given to the use of sandstone to line surface or any adjacent retaining walls or walls to the through -site link.
- P19 Appropriate lighting be provided to ensure this link provides adequate safety for users.

**2.1.4.5 Vehicular Access****Objectives**

- O1 To ensure vehicular and pedestrian conflicts are minimised.
- O2 To maximise activation of street frontages.

**Provisions**

- P20 No vehicular access is to be provided from McLaren Street.
- P21 Vehicular access should be provided from Walker Street, subject to ensuring that pedestrian safety is maximised.

**2.1.4.6 Car parking****Objectives**

- O1 To minimise traffic generation in the proximity of the Victoria Cross Metro Station.

**Provisions**

- P22 Provide on-site parking, at the maximum rates stated Table C-2.1.



**DRAFT AMENDMENT - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

<b>TABLE C-2.1: Parking Rates</b>		
<b>Development type</b>		<b>Maximum Parking Rate</b>
<b>Residential accommodation</b>	<b>Studio / 1 bedroom</b>	<b>0.4 spaces / dwelling</b>
	<b>2 bedrooms</b>	<b>0.6 space / dwelling</b>
	<b>3 or more bedrooms</b>	<b>0.7 spaces / dwelling</b>
<b>Non-residential development</b>		<b>1 space / 400sqm of non-residential GFA</b>

P23 On-site car parking provision significantly below maximum rates specified in Table C-2.1 will only be considered if the proposed development has good access to public transport due to the impact that unmet on-site parking demand may have on surrounding streets, if viable alternative transport modes are not available.

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## ATTACHMENT 7

### Planning Proposal 6/20 – 45 McLaren Street, North Sydney Summary of submissions received during public exhibition period (21 November 2022 to 16 January 2023)

The following criteria are used to analyse all submissions received, and to determine whether or not the plan would be amended:

1. The Planning Proposal and draft Development Control Plan amendment **would be** amended if issues raised in the submission:
  - a provided additional information of relevance.
  - b indicated or clarified a change in government legislation, Council's commitment or management policy.
  - c proposed strategies that would better achieve or assist with Council's objectives.
  - d was an alternate viewpoint received on the topic and is considered a better option than that proposed or;
  - e indicated omissions, inaccuracies or a lack of clarity.
  
2. The Planning Proposal and draft Development Control Plan amendment **would not be** amended if the issues raised in the submission:
  - a addressed issues beyond the scope of the proposal.
  - b was already in the proposal or will be considered during the development of a subordinate plan (prepared by Council).
  - c offered an open statement, or no change was sought.
  - d clearly supported the proposal.
  - e was an alternate viewpoint received on the topic but the recommendation was still considered the best option.
  - f was based on incorrect information.
  - g contributed options that are not possible (generally due to some aspect of existing legislation or government policy) or; involved details that are not appropriate or necessary for inclusion in a document aimed at providing a strategic community direction over the long term.

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
1A 1B	Shannon Kerr 77 West Street CROWS NEST NSW 2065	<b>Overdevelopment / Amenity</b>	North Sydney is undergoing extraordinary change, some of which is great for the community and some of it is to its detriment.  Suggested that the proposal is detrimental to the community by trying to accommodate too much height and density.	The proposed development is moderate in scale when compared to other development existing and proposed within the locality.  The proposed built form envelope has been established through extensive consultation between the applicant and Council with the view to allowing some level of development uplift on the site, whilst minimising impacts to adjoining properties, especially the future public domain within the future Ward Street Plaza.	Nil	2E
2	Rod Barnier U702, 39 McLaren Street NORTH SYDNEY NSW 2060	<b>Construction Impacts</b>	There is significant development occurring in McLaren and Walker Streets. The proposal would intensify amenity impacts for residents who are already suffering.	Construction impacts are typically temporary in nature.  Whilst it is acknowledged that construction activities on multiple sites at the same time can exacerbate these issues, it can lead to an overall reduced impact in terms of time, rather than a conga line of developments that only occur one at a time or with very short periods of no development in between.	Nil	2E
		<b>Visual Context</b>	The proposal would significantly change and produce negative effects on this area of North Sydney, including the creation of an unnatural skyline.	Whilst it is recognised that the proposed built form envelope does not contribute to a cohesive built form in terms of consistent building heights and setbacks, the proposed envelope has been established with regard to providing positive transitions in building heights to neighbouring sites and maintaining solar access to adjoining residences and the future public square within the Ward Street Precinct. The managing of amenity impacts far outweighs the need for maintaining consistent heights.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Heritage</b>	<p>The proposed height limits and other features do not align with Council's previous public vision and desire to retain heritage links to North Sydney's past.</p> <p>The high rise "creep" north from the North Sydney CBD is destroying the heritage and history of this area of North Sydney.</p>	<p>The subject site does not contain any items of heritage significance. Whilst it is recognised that the site is located in the vicinity of a number of heritage items, the proposed built form envelope has been informed by the site's relationship to these neighbouring heritage items, to ensure their significance is not adversely eroded.</p> <p>Further refinement of the future redevelopment of the site can be made at the development application stage.</p>	Nil	2E
		<b>Traffic</b>	<p>The proposal would result in significant increases in vehicular traffic generation and lead to increased congestion on local roads which are already overwhelmed, without inclusion of current developments currently under construction.</p>	<p>The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.</p> <p>Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.</p> <p>Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Solar Access / Overshadowing</b>	The proposal would significantly impact on natural light to surrounding buildings.	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>In particular, the proposed built form envelope will enable that the majority of neighbouring apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing any dwellings located at 39 McLaren Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 41 McLaren Street.</p>	Nil	2E
		<b>Views</b>	The proposal will significantly impact on views from existing developments to the north, west and south of the subject site.	<p>The proposal is accompanied by a detailed Visual Assessment Report, which analyses the view impacts from surrounding development.</p> <p>This analysis indicates that the proposed built form is unlikely to have a significant effect on view loss from these neighbouring properties.</p>	Nil	2E
		<b>Privacy</b>	This proposal would create a loss of privacy for existing buildings in the surrounding area.	The proposed building envelope has been established with regard to the building separation and setback requirements under the Apartment Design Guide (ADG), which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Nil	2E



ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Loss in property value</b>	The proposal would adversely affect property prices in newly erected residential developments in Miller Street as well as 168 Walker Street.	Statements relating to a decline in property value are considered speculative and are not typically a planning matter for consideration.  Whilst it is acknowledged that the obstruction of views could potentially affect the value of a property, there is an expectation that within a dense urban environment like North Sydney that tall new buildings will be built and thereby result in potential impacts on views. In addition, it would be difficult to meet the State targets for the provision of jobs and housing without having some level of impact upon views in such a location.  Furthermore, the proposal will ultimately improve liveability in the locality by activating a number of street frontages, provision of an improved public domain and contribute to the delivery of a new public square within the Ward Street Precinct, which conversely could increase property values.	Nil	2E
		<b>Building Height</b>	Strongly concerned over the very tall developments currently being constructed and proposed in the northern part of North Sydney (e.g. 168 and 73-179 Walker Street). It is suggested that these developments are destroying the fabric of North Sydney.  Whilst supportive of the right type of development, it is requested that Council leave this area of North Sydney alone and concentrate on allowing increased height in other areas, such as within the North Sydney CBD where such heights will have minimal impact on existing surrounding properties.	Significant increases to the maximum building height controls were recently awarded (2019) to commercial building sites within the core of the North Sydney Centre. However, this did not enable an increase in residential development in close proximity to mass public transport and services.  The proposed building envelope is modest in scale in comparison to that within the immediate locality both existing and proposed), providing positive transitions in building heights to neighbouring sites whilst maintaining solar access to adjoining residences and the future public square within the Ward Street Precinct.  The proposal is considered to be consistent with best practice, by maximising density close proximity to mass public transport (approximately 100m to the northern portal to the Victoria Cross Metro Station) and existing services and facilities (within the North Sydney Centre).	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
3	Ralph Chandler U1, 45 McLaren Street NORTH SYDNEY NSW 2060	<b>Support</b>	Supports the proposal, for the reasons outlined below.	Noted	Nil	2D
		<b>Renewal</b>	The current building is outdated and given the massive amount of construction around it in very recent years has reached a point where renewal is necessary. Services within the building are aging and their maintenance costs are increasing. It would be preferable to redevelop the site using more modern materials, systems and services that reflect current building standards and methodologies. The new building should make provisions for technologies such as information technologies and energy requirements both for living (noise abatement, insulation, lighting, heating and cooling) as well as transport (EV charging).	Nothing currently prevents the wholesale redevelopment of the site utilising newer technologies and methodologies to improve the sites environmental credentials.	Nil	2F
		<b>Construction Impacts</b>	Residents in the locality have been subjected to huge amounts of disturbance from the demolition and reconstruction of sites within the immediate locality. It would make sense to allow the reconstruction of this building to occur now whilst the area is still subject to so much construction noise, vibration and heavy construction traffic as this would be one of the last sites in the locality to be redeveloped.	Construction impacts are typically temporary in nature. Whilst it is acknowledged that construction activities on multiple sites at the same time can exacerbate these issues, it can lead to an overall reduced impact in terms of time, rather than a conga line of developments that only occur one at a time or with very short periods of no development in between.	Nil	2E
		<b>Housing Supply</b>	It makes sense to accommodate more dwellings on a site that has a high level of access to existing and proposed high frequency public transport, services and facilities.	The subject site has both site specific and strategic merit and is appropriately located to accommodate increased development potential based on its accessible to existing and future high frequency public transport, services and facilities.	Nil	2D
		<b>Security</b>	The site is not secure and has been subject to criminal offences such as graffiti. Redevelopment would enable sustainable and secure perimeters to be provided that would have more resilient surfaces than the dated but attractive perimeter brush fencing that currently exists.	Amendment of the planning controls alone will not improve the safety and security of the site, which can be undertaken at any time. However, the rezoning of the site to permit mixed use would increase the activation of the three street frontages and passive casual surveillance from both visitors to the site and residents.	Nil	2E, 2F

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
4	Susan Fryda-Blackwell U203, 144-150 Walker Street NORTH SYDNEY NSW 2060	<b>Previous objection</b>	Strongly opposes significant aspects of the proposed development at 45 McLaren St.  Has expressed consistent opposition to this development on the grounds of reduced amenity, lack of privacy, diminution of solar access, loss of beautiful green canopy, traffic and parking issues and construction noise, dust and general upheaval.	Noted	Nil	2E
		<b>Cumulative impacts</b>	Consideration of this development perfectly illustrates the problem with the approach by both the Council and State Planning who look only individually at each proposal. It makes an oxymoron of the notion of town planning.  When you take into account the cumulative impacts from not only this development but also the proposed developments at 168 and 173--179 Walker Street, neither of these projects should be approved, particularly considering the construction of the enormous development at 168 Walker Street. A more holistic approach is required.	The cumulative impacts of the proposal have been considered in detail since its inception, through Council's comprehensive assessment of the initial proposal through to the consideration of issues raised during the public exhibition period. This is to ensure that the proposal fits within the context of the locality's existing opportunities and constraints. Overall, the proposal is of an appropriate bulk, scale, use and which seeks to minimise amenity impacts upon neighbouring properties.	Nil	2E
		<b>Privacy</b>	The proposal will reduce visual privacy to 144-152 Walker Street resulting from: <ul style="list-style-type: none"> <li>the setback being reduced from approximately 6m to 1.5m at the lower levels;</li> <li>removal of mature landscaping within the setback area; and</li> <li>windows proposed within the southern façade which would look directly into the extensive glass doors and windows on its northern side.</li> </ul> The following amendments are requested: <ul style="list-style-type: none"> <li>Removal, blacking-out or making all windows opaque on the southern side of 45 McLaren Street.</li> <li>Lower the height of the tower at the southern end to 8 storeys to match 144-152 Walker Street.</li> <li>A setback of at least 6 metres or more to the southern boundary and the retention of the existing 8 mature trees.</li> </ul>	It is unreasonable to require the entire building to be setback to existing alignment of the current residential flat building, given the proposed change to the zoning and prevailing built form on neighbouring properties.  The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Vegetation</b>	<p>The proposal will result in the removal of existing mature trees and vegetation which currently provide much shade, privacy and green space for the current residents of 45 McLaren Street and which are also enjoyed by the residents at 150 Walker Street</p> <p>The new building will fill most, if not all, of the available land space. Whilst it is noted that the applicant has illustrated its drawings with lots of greenery on balconies, it is questioned if that will be realised or indeed maintained, resulting in a very ordinary building with no garden.</p> <p>The applicant should be required to plant trees and shrubs around the new building to provide much needed green space and to provide privacy and a clear buffer zone for both their residents and those at 150 Walker Street.</p>	<p>The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i>. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p>	Nil	2E
		<b>Solar Access / Overshadowing</b>	<p>Despite the height of the envisaged future building being reduced from 16 to 14 storeys at the northern end and from 12 to 10 storeys at the southern end, solar access to 144-152 Walker Street will be completely obliterated, including the submitter's northern terrace garden.</p> <p>It is noted that the proposal ensures solar access to the Ward Street Precinct area. However, denying solar access to residents in favour to the Ward Street Precinct is a misallocation of priorities by Council.</p>	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Due to the majority of the apartments (approximately 80%) within 144-152 Walker Street having both eastern and western walls, ensures that the majority of the apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p>	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	<p>The current Visual Assessment Report completely ignores the impact of the proposal on 144-152 Walker Street. Any such study must carefully consider the impacts on the closest neighbour.</p> <p>Both the 2020 and the 2021 Visual Assessment Reports incorrectly refer to the proposal at 173-179 Walker Street as the “Avenor” proposal. They have not been updated to reflect the new owner and developer, Cbus, or their revised plans for a 29 storey structure.</p> <p>The Visual Assessment Report should therefore be rejected by Council and the applicant instructed to commission a new more accurate study.</p> <p>It should also be pointed out to anyone considering buying in this development that any promised views of Sydney Harbour will be non-existent as they will be blocked by the massive 29 storeys of the proposal at 173-177 Walker Street.</p>	<p>The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered.</p> <p>With regards to impacts from 144-152 Walker Street, the Visual Assessment Report states</p> <p><i>We anticipate that views from other lower residential development located along the west side of Walker Street would be unaffected by the proposed development.</i></p> <p>This is on the basis that the principal views are to the east across the subject site. Views to the north from 114-152 Walker Street are severely limited given that the proposal would fall into the foreground of the development at 168 Walker Street.</p> <p>Furthermore, impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p> <p>It would be unreasonable to require the applicant to continually update their assessments based on changes to a proposed design that is not yet approved. Notwithstanding, it assists in determining the potential impact from a future development on that site based on the controls that applied at the time.</p> <p>Further references to owners/developers of sites is not a relevant issue, but rather the location of sites that are to be developed or redeveloped.</p>	Nil	2E, 2F
		<b>Traffic</b>	<p>Objects to the analysis undertaken and conclusions made within the Traffic Impact Assessment. A new Assessment it requested to address the following:</p>			

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			<ul style="list-style-type: none"> <li>the statement made that the proposal is “a minor development and does not require referral to the RMS under the provisions of SEPP (Infrastructure) 2007” is inaccurate, as the proposal is likely to generate a significant level of traffic.</li> </ul>	<p>There appears to be some confusion about the intent of this statement.</p> <p>The proposal merely does not meet the threshold for referral to Transport for NSW for its concurrence under the Transport and Infrastructure SEPP (formerly Infrastructure SEPP). Referral is only required after a development application has been lodged.</p>	Nil	2F
			<ul style="list-style-type: none"> <li>It does not take into consideration the cumulative impact of all new neighbouring developments, including those within the CBD further to the south of Berry Street.</li> </ul>	<p>The Traffic Impact Assessment was correct based on the timing that the assessment was undertaken.</p> <p>It is difficult to determine the overall impacts from “proposed development” in the locality as there is no certainty that they will be approved and constructed.</p> <p>Notwithstanding, there is an ability to readdress these issues at the development application stage and modify the development to ensure that any impacts are minimised.</p>	Nil	2E
			<ul style="list-style-type: none"> <li>Consideration needs to be given to the proposed school at 41 McLaren Street, which will see 1500+ students and 100+ staff members with enormous pressure being placed on the neighbourhood during drop-off and pick-up times particularly in Harnett Street.</li> </ul>	<p>It is difficult to determine the overall impacts from “proposed development” in the locality as there is no certainty that they will be approved and constructed.</p>	Nil	2E
			<ul style="list-style-type: none"> <li>The analysis appears to be based on demonstrably wrong data. The Assessment assumes that 50% of vehicles will travel north along Walker Street and 50% south during the morning peak, and 63% will travel north and 37 % south in the afternoon peak. However, this does not correlate with local residents’ experiences. There are heavier flows of traffic in a north bound direction at both times of the day associated with gaining access to business premises in the North Sydney CBD.</li> </ul>	<p>The submitter appears to have confused the split of traffic volumes of the proposed development (the figures quoted) with the split of total traffic volumes on the roads.</p>	Nil	2E, 2F

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			<ul style="list-style-type: none"> <li>Suggests that the proposal's expected traffic generation is wrong and incorrectly estimates the proposal's likely impact on the local roads. The roads are already at gridlock from the operation of Wenona School during drop-off and pick-up times.</li> <li>The statement that "the subject development generates negligible impacts on the road network and proportionally would contribute negligibly to external network improvements" is false and misleading.</li> </ul>	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.	Nil	2E
		<b>Car Parking</b>	It was questioned if Council's proposal to impose reduced residential parking rates in high accessibility areas are proposed to apply to this site.	The proposed site-specific car parking rates as exhibited matched those exhibited for high accessibility areas.	Nil	2E
		<b>Through site link</b>	<p>No attempt has been made by the applicant to discuss their plans for the shared pathway between the two properties.</p> <p>Would like to remind Council and the applicant that the pathway is on 150 Walker Street and must not be used by the applicant for their own purposes.</p> <p>Objects to the pathway being given to the applicant.</p>	The proposal seeks to increase the overall width of the through-site link by extending the pathway a minimum 1.5m northwards of the applicant's land. Therefore, the applicant is not relying on use of the adjoining land at 150 Walker Street.	Nil	2E
		<b>Construction impacts</b>	<p>Residents are currently adversely impacted by the construction activities (e.g. dust, traffic, noise) at 168 Walker Street (likely to continue well into 2024 six days a week) and soon to be by the redevelopment at 173-179 Walker Street.</p> <p>Concurrent demolition and construction at 45 McLaren Street would be untenable.</p> <p>Council must ensure that the buildings are not demolished and constructed at the same time.</p>	<p>Construction impacts are typically temporary in nature.</p> <p>Whilst it is acknowledged that construction activities on multiple sites at the same time can exacerbate these issues, it can lead to an overall reduced impact in terms of time, rather than a conga line of developments that only occur one at a time or with very short periods of no development in between.</p>	Nil	2E
		<b>Construction Damage</b>	<p>There is a likelihood that the garden and building at 150 Walker Street will be damaged as a result of the demolition of 45 McLaren Street.</p> <p>Requests that Council instruct the developer to put in place measures that will protect our building from the resultant dust and other debris that will fly out during demolition.</p>	These matters can be addressed during the development application stage through the imposition of appropriate conditions to ensure that any damage that occurs to neighbouring properties is rectified by the developer of the land.	Nil	2A, 2G

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with Council resolution</b>	<p>Despite meetings with Council and the Council Officers' recommendation, the Planning Proposal still does not adequately respond to Council's position regarding this site and the endorsed Ward Street Master Plan.</p> <p>The Manager of Strategic Planning stated in their report to Council 24 June 2019:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.</i></p> <p>In addition:</p> <p><i>THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <ul style="list-style-type: none"> <li><i>i) Minimise solar reductions upon new public domain as identified in the Masterplan.</i></li> <li><i>ii) Minimise solar and privacy impacts upon existing residential development.</i></li> </ul> <p>The proposal still overshadows Central Square and privacy and overshadowing impacts on the existing development at 144-152 Walker Street are not adequately addressed.</p> <p>The proposal needs to be further reduced in height until there is no solar impact on Central Square as per Council's clearly stated position. A maximum of 8 storeys should be applied, provided that privacy and overshadowing impacts to 144 -152 Walker Street are also removed. This reduction in height will also reduce new traffic generation by the proposal which is crucial in this narrow section of Walker Street.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p>	Nil	2E



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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
5	Fabian Flintoff U1904, 138 Walker Street NORTH SYDNEY NSW 2060	<b>Traffic</b>	The Traffic Impact Assessment is inadequate and incorrect. It does not take into consideration the cumulative impacts of other new or proposed developments in the locality. Traffic in the locality is already congested and the proposal will lead to gridlock if approved. It is hard to see that there has been any degree of "planning" of the changes in McLaren Street.	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.  Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.  Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.	Nil	2E
6	John Mariano U2102, 221 Miller Street NORTH YSNDEY NSW 2060	<b>Objection</b>	Objects to the proposal for the following reasons:			
		<b>Amenity</b>	The proposal will result in a loss of amenity	Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.  The majority of these issues are addressed in detail elsewhere in this table and the main report.	Nil	2E
		<b>Privacy</b>	The proposal will result in a complete loss of privacy to 144-152 Walker Street.	The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.  There will be a negligible impact on the submitter's property due to the distance between buildings.	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Solar access / Overshadowing</b>	The proposal will result in a complete loss of solar access to the living areas of 144-152 Walker Street.	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Due to the majority of the apartments (approximately 80%) within 144-152 Walker Street having both eastern and western walls, ensures that the majority of the apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing any dwellings located at 221 Miller Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 41 McLaren Street and 168 Walker Street.</p>	Nil	2E, 2F
		<b>Vegetation / Landscaping</b>	The proposal will result in a loss of 8 mature canopy trees. The proposal does not provide a sufficient level of landscaping.	<p>The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i>. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p>	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	The Visual Assessment Report is inadequate and incorrect, by not properly assessing the view loss to surrounding apartments.	The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered. Impacts from the property at 221 Miller Street were not assessed as the primary outlook from this property is to the east out over the Ward Street carpark site and 138 and 138-152 Walker Street. Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.	Nil	2E
		<b>Traffic</b>	The Traffic Impact Assessment is inadequate and incorrect. It does not take into consideration the cumulative impacts of other new or proposed developments in the locality. Traffic in the locality is already congested and the proposal will lead to gridlock if approved.	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents. Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact. Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with Ward Street Precinct Masterplan and Council resolution</b>	<p>The Planning Proposal does not adequately respond to Council's position regarding this site and the endorsed Ward Street Precinct Masterplan.</p> <p>The Manager of Strategic Planning stated in their report to Council 24 June 2019:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.</i></p> <p>In addition:</p> <p><i>THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <p><i>iii) Minimise solar reductions upon new public domain as identified in the Masterplan.</i></p> <p><i>iv) Minimise solar and privacy impacts upon existing residential development.</i></p> <p>Therefore, Council is obliged to require a further reduction in height until there is no solar impact on Central Square as per Council's clearly stated position. A maximum of 8 storeys should be applied, provided that privacy and overshadowing impacts to 144 -152 Walker Street are also removed. This reduction in height will also reduce new traffic generation by the proposal which is crucial in this narrow section of Walker Street.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p>	Nil	2E
7	Gary Shaw U3202, 79 - 81 Berry Street NORTH SYDNEY NSW 2060	<b>Objection</b>  <b>Amenity</b>	<p>Objects to the proposal, for the following reasons:</p> <p>The proposal will result in a reduced residential amenity.</p>	<p>Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.</p> <p>The majority of these issues are addressed in detail elsewhere in this table and the main report.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Privacy</b>	The proposal will result in a loss of privacy to adjoining dwellings.	The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Nil	2E
		<b>Solar access / Overshadowing</b>	The proposal will result in a loss of solar access to adjoining dwellings.	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>In particular, the proposed built form envelope will enable that the majority of neighbouring apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing the any dwellings at 79-81 Berry Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 138 Walker Street and 76 Berry Street.</p>	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Vegetation</b>	The proposal will result in a loss of 8 mature canopy trees.	The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i> . This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets. There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site. However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.	Nil	2E
		<b>Traffic</b>	The proposal will contribute to major traffic issues.	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents. Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.	Nil	2E
8	Penelope King U302, 144-152 Walker Street NORTH SYDNEY NSW 2060	<b>Objection</b>	Objects to the proposal for the following reasons:			
		<b>Cumulative impacts</b>	The proposal needs to be read together with the considerable impacts upon our small building already suffered as a result of the Ward Street Precinct Masterplan, the completely out of place proposal at 173-179 Walker Street and the considerable development in McLaren Street already underway.	The cumulative impacts of the proposal have been considered in detail since its inception, through Council's comprehensive assessment of the initial proposal through to the consideration of issues raised during the public exhibition period. This is to ensure that the proposal fits within the context of the locality's existing opportunities and constraints. Overall, the proposal is of an appropriate bulk, scale, use and which seeks to minimise amenity impacts upon neighbouring properties.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Amenity</b>	The proposal will result in a reduced residential amenity.	Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.  The majority of these issues are addressed in detail elsewhere in this table and the main report.	Nil	2E
		<b>Privacy</b>	The proposal will result in a complete loss of privacy to 144-152 Walker Street.	The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Nil	2E
		<b>Vegetation / Landscape</b>	The proposal will result in a loss of 8 mature canopy trees. The proposal does not provide a sufficient level of landscaping.	The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i> . This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.  There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.  However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	The Visual Assessment Report is inadequate and incorrect, by not properly assessing the view loss to surrounding apartments.	<p>The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered.</p> <p>With regards to impacts from 144-152 Walker Street, the Visual Assessment Report states</p> <p><i>We anticipate that views from other lower residential development located along the west side of Walker Street would be unaffected by the proposed development.</i></p> <p>This is on the basis that the principal views are to the east across the subject site. Views to the north from 144-152 Walker Street are severely limited given that the proposal would fall into the foreground of the development at 168 Walker Street.</p> <p>Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p>	Nil	



ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Traffic</b>	The Traffic Impact Assessment does not take into consideration the cumulative impacts of other new or proposed developments in the locality. The proposal will adversely impact on the surrounding road system which is already in regular gridlock, exacerbated by traffic associated with the nearby schools.	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents. Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact. Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.	Nil	2E
		<b>On-street Parking</b>	The proposal will impact upon accessibility to limited on-street parking, which provides the ability to receive deliveries and services.	The proposal includes a loading area which has the capability to be utilised by delivery and maintenance vehicles, relieving pressure on on-street parking spaces. This issue can be future addressed and resolved at the development application stage.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Property Value</b>	The proposal will result in a decline in property value due to the proposal's adverse amenity impacts to adjoining residences.	<p>Statements relating to a decline in property value are considered speculative and are not typically a planning matter for consideration.</p> <p>Whilst it is acknowledged that the obstruction of views could potentially affect the value of a property, there is an expectation that within a dense urban environment like North Sydney that tall new buildings will be built and thereby result in potential impacts on views. In addition, it would be difficult to meet the State targets for the provision of jobs and housing without having some level of impact upon views in such a location.</p> <p>Furthermore, the proposal will ultimately improve liveability in the locality by activating a number of street frontages, provision of an improved public domain and contribute to the delivery of a new public square within the Ward Street Precinct, which conversely could increase property values.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with Council resolution</b>	<p>The proposal is inconsistent with the Council resolution of 24 June 2019 which states:</p> <p><i>THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <ul style="list-style-type: none"> <li><i>i) Minimise solar reductions upon new public domain as identified in the Masterplan</i></li> <li><i>ii) Minimise solar and privacy impacts upon existing residential development. ...</i></li> </ul> <p>The proposal will result in a complete loss of solar access to the living areas of 144-152 Walker Street, where many work from home or spend considerable hours of the day inside.</p> <p>The proposal should be further reduced in height until there is no solar impact on Central Square as per Council’s clearly stated position. A maximum of 8 storeys should be applied, provided that privacy and overshadowing impacts to 144 -152 Walker Street are also removed.</p> <p>This is consistent with the report (June 2019) of the Strategic Planning Manager which stated:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct</i></p> <p>This reduction in height will also reduce new traffic generation by the proposal which is crucial in this narrow section of Walker Street.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Further, it should be recognised that the Manager of Strategic Planning’s reference to “2-8 storeys” was a reflection of the existing heights across 3 sites and the design to proceed with Option 2 under the Masterplan. However, Council’s resolution of 24 June 2019, ultimately opened an opportunity to revisit the development potential of 45 McLaren Street subject to meeting a number of amenity criteria.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
9	Alison Graham U702, 144-152 Walker Street NORTH SYDNEY NSW 2060	<b>Objection</b>	Objects to the Proposal for the following reasons:			
		<b>Vegetation / Landscape / Privacy</b>	<p>The proposal will result in the removal of eight mature canopy trees, which will impact the privacy of the residents at 144-152 Walker Street.</p> <p>In addition, their removal will impact on the overall landscaped amenity and health of the area.</p> <p>The existing trees should be retained and the development be planned around them.</p>	<p>The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i>. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p> <p>The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.</p>	Nil	2E
		<b>Traffic</b>	<p>Objects to the analysis undertaken and conclusions made within the Traffic Impact Assessment. A new Assessment it requested to address the following:</p> <ul style="list-style-type: none"> <li>the statement made that the proposal is “<i>a minor development and does not require referral to the RMS under the provisions of SEPP (Infrastructure) 2007</i>” is inaccurate, as the proposal is likely to generate a significant level of traffic.</li> </ul>	<p>There appears to be some confusion about the intent of this statement.</p> <p>The proposal merely does not meet the threshold for referral to Transport for NSW for its concurrence under the Transport and Infrastructure SEPP (formerly Infrastructure SEPP). Referral is only required after a development application has been lodged.</p>	Nil	2F

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
			<ul style="list-style-type: none"> <li>It does not take into consideration the cumulative impact of all new neighbouring developments, including those within the CBD further to the south of Berry Street.</li> <li>Consideration needs to be given to the proposed school at 41 McLaren Street, which will see 1500+ students and 100+ staff members with enormous pressure being placed on the neighbourhood during drop-off and pick-up times particularly in Harnett Street.</li> <li>The analysis appears to be based on demonstrably wrong data. The Assessment assumes that 50% of vehicles will travel north along Walker Street and 50% south during the morning peak, and 63% will travel north and 37 % south in the afternoon peak. However, this does not correlate with local residents' experiences. There are heavier flows of traffic in a north bound direction at both times of the day associated with gaining access to business premises in the North Sydney CBD.</li> <li>Suggests that the proposal's expected traffic generation is wrong and incorrectly estimates the proposal's likely impact on the local roads. The roads are already at gridlock from the operation of Wenona School during drop-off and pick-up times.</li> <li>The statement that "the subject development generates negligible impacts on the road network and proportionally would contribute negligibly to external network improvements" is false and misleading.</li> </ul>	<p>The Traffic Impact Assessment was correct based on the timing that the assessment was undertaken.</p> <p>It is difficult to determine the overall impacts from "proposed development" in the locality as there is no certainty that they will be approved and constructed.</p> <p>Notwithstanding, there is an ability to readdress these issues at the development application stage and modify the development to ensure that any impacts are minimised.</p> <p>It is difficult to determine the overall impacts from "proposed development" in the locality as there is no certainty that they will be approved and constructed.</p> <p>The submitter appears to have confused the split of traffic volumes of the development (the figures quoted) with the split of total traffic volumes on the roads.</p> <p>The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.</p>	<p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p>	<p>2E</p> <p>2E</p> <p>2E, 2F</p> <p>2E</p>

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Privacy</b>	<p>The proposal will result in a loss of privacy to 144-152 Walker Street, due to an inadequate level of building separation.</p> <p>Requests that the proposal maintain the existing level of setback to its southern boundary to ensure the existing level of visual privacy is maintained.</p>	<p>It is unreasonable to require the entire building to be setback to existing alignment of the current residential flat building, given the proposed change to the zoning and prevailing built form on neighbouring properties.</p> <p>The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.</p>	Nil	2E
		<b>Commercial Impacts</b>	<p>Requests that the commercial element be removed as it will result in increased road traffic and noise, in particular, from early morning deliveries and garbage collections from larger vehicles accessing and servicing the proposed commercial offerings.</p> <p>Residents can readily access shops and commercial offerings in the business district of North Sydney. They do not need them impacting their residential street.</p>	<p>The subject site represents the only residentially zoned land within the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>Rezoning the land to <i>B4 Mixed Use</i>, will enable improved street activation helping to enliven the area at more times during the day.</p> <p>Associated commercial traffic will be minimal due to the overall low quantum of commercial floorspace being provided on site and very low levels of associated on-site parking. It is further contemplated that most people who will work and visit the commercial portions of the development will reside in the vicinity of the site or utilise nearby public transport infrastructure.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Solar access</b>	<p>The proposal will result in a loss of solar access to 144-152 Walker Street, due to the proposed height and an inadequate level of building separation.</p> <p>The proposal will also result in a loss of sunlight to the walkway between the two properties remaining constantly dark, damp and as such potentially dangerous for residents and visitors wishing to use it.</p> <p>Requested that the proposal be reduced in height and incorporate a sufficient setback to maintain the existing level of solar access to the residences at 144-152 Walker Street.</p>	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Due to the majority of the apartments (approximately 80%) within 144-152 Walker Street having both eastern and western walls, ensures that the majority of the apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p>	Nil	2E
10	Max Press GO1, 229 Miller Street NORTH SYDNEY NSW 2060	<b>Objection</b>	Objects to the proposal for the following reasons:			
		<b>Amenity</b>	The proposal will result in reduced amenity.	<p>Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.</p> <p>The majority of these issues are addressed in detail elsewhere in this table and the main report.</p>	Nil	2E
		<b>Privacy</b>	The proposal will result in a complete loss of privacy to 144-152 Walker Street.	<p>The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Solar Access / Overshadowing</b>	The proposal will result in a complete loss of solar access to the living areas of 144-152 Walker Street.	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Due to the majority of the apartments (approximately 80%) within 144-152 Walker Street having both eastern and western walls, ensures that the majority of the apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing any dwellings located at 229 Miller Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 41 McLaren Street.</p>	Nil	2E
		<b>Vegetation / Landscape</b>	The proposal will result in a loss of 8 mature canopy trees. The proposal has inadequate landscaping	<p>The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i>. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p>	Nil	2E



ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	The Visual Assessment Report is inadequate and incorrect, by not properly assessing the view loss to surrounding apartments.	<p>The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered.</p> <p>With regards to impacts from 229 Miller Street, the Visual Assessment Report states that the proposed development will not be visible and there will be no view impacts.</p> <p>This is on the basis that the proposal is largely hidden behind 41 McLaren Street at the lower levels and the principal views for the remainder of the building are to the east across 144-152 Walker Street and 41 McLaren Street.</p> <p>Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p>	Nil	2E
		<b>Traffic</b>	<p>The Traffic Impact Assessment does not take into consideration the cumulative impacts of other new or proposed developments in the locality.</p> <p>The proposal will adversely impact on the surrounding road system which is already in regular gridlock, exacerbated by traffic associated with the nearby schools.</p>	<p>The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.</p> <p>Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.</p> <p>Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with Council resolution</b>	<p>The Planning Proposal does not adequately respond to Council's position regarding this site and the endorsed Ward Street Master Plan.</p> <p>The Manager of Strategic Planning stated in their report to Council 24 June 2019:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.</i></p> <p>In addition:</p> <p><i>THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <ul style="list-style-type: none"> <li><i>v) Minimise solar reductions upon new public domain as identified in the Masterplan.</i></li> <li><i>vi) Minimise solar and privacy impacts upon existing residential development.</i></li> </ul> <p>The proposal still overshadows Central Square and privacy and overshadowing impacts on the existing development at 144-152 Walker Street are not adequately addressed.</p> <p>The proposal needs to be further reduced in height until there is no solar impact on Central Square as per Council's clearly stated position. A maximum of 8 storeys should be applied, provided that privacy and overshadowing impacts to 144 -152 Walker Street are also removed. This reduction in height will also reduce new traffic generation by the proposal which is crucial in this narrow section of Walker Street.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact, which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Further, it should be recognised that the Manager of Strategic Planning's reference to "2-8 storeys" was a reflection of the existing heights across 3 sites and the design to proceed with Option 2 under the Masterplan. However, Council's resolution of 24 June 2019, ultimately opened an opportunity to revisit the development potential of 45 McLaren Street subject to meeting a number of amenity criteria.</p>	Nil	2E
		<b>Views</b>	<p>It should also be pointed out to anyone considering buying in this development that any promised views of Sydney Harbour will be blocked by the large 29 storey proposal at 173-179 Walker Street.</p>	<p>This is not a planning consideration. The onus is on property buyers to be aware of development occurring in the vicinity of properties that they are seeking to purchase</p>	Nil	2A

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
11	Bernadette Degabriele U1301, 138 Walker Street NORTH SYDNEY NSW 2060	<b>Overdevelopment</b>	The inclusion of a 14 storey building at 45 McLaren Street is yet another example of over development within the North Sydney area.	The proposed building envelope enables the delivery of a building that will transition in height both in a southerly and easterly direction, taking cognisance of neighbouring development, whilst also ensuring that solar access to the future southern Central Square in the Ward Street Precinct is protected. Accordingly, the proposal is of moderate in scale when compared to surrounding development, especially to the north and south of the site.	Nil	2E
		<b>Solar Access / Overshadowing</b>	The proposal would result in the complete loss of solar access to living areas of all floors below Level 15 of 138 Walker Street.	The proposed built form envelope will enable that the majority of neighbouring apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.  The solar access analysis within the Urban Design Report accompanying the Planning Proposal clearly demonstrates that the concept proposal is incapable of overshadowing any dwelling within 138 Walker Street. This is due to its shadows falling within the shadows cast by 144-152 Walker Street.	Nil	2F

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	The proposal will result in the complete loss of northerly views for apartments below level 15 of 138 Walker Street. The Visual Assessment Report is inadequate and does not properly assess view loss to surrounding apartments.	<p>The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered.</p> <p>With regards to impacts from 138 Walker Street, the Visual Assessment Report states</p> <p><i>We anticipate that views from other lower residential development located along the west side of Walker Street would be unaffected by the proposed development.</i></p> <p>This is on the basis that the principal views are to the east across the subject site. Views to the north from 138 Walker Street are severely limited given that the proposal would fall into the foreground of the development at 168 Walker Street.</p> <p>Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p>	Nil	2E
		<b>Vegetation</b>	The proposal will result in the removal of eight mature canopy trees.	<p>The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i>. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Traffic</b>	The proposal will result in a significant increase in traffic along McLaren and Walker Streets, which at present cannot cope with the current volumes (daily at grid-lock both am and pm), let alone with impending additional high-rises and subsequent car movements on Walker Street.	<p>The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.</p> <p>Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.</p> <p>Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
12	Trevor Barkway Level 7, 8 West Steet NORTH SYDNEY NSW 2060 (owner of apartment at 229 Miller Street )	<b>Objection</b>	Objects to the proposal for the following reasons:			
		<b>Overdevelopment / Ward Street Precinct Masterplan</b>	The proposal will contribute to a recent explosion of overdevelopment within the Walker, Miller, McLaren and Berry Street quadrangle, which will negatively impact on the locality.  Strongly requests that Council reject this Proposal and return to its endorsed Masterplan for the area which supports considered development in conjunction with public access to services and lifestyle facilities, while respecting current residents and their investment in North Sydney. The current proposal and that for 173-179 Walker Street only serve to undermine the integrity of this Masterplan 'mantra' and neither should be approved	Despite being contrary to the adopted outcomes of the Ward Street Precinct Masterplan, Council had resolved to consider a proposal to redevelop 45 McLaren Street subject to meeting several criteria.  The applicant has worked collaboratively with Council to revise the proposal such that: <ul style="list-style-type: none"> <li>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</li> <li>The proposed built form envelope will have an acceptable level of overshadowing impact, which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</li> </ul>	Nil	2E
		<b>Amenity</b>	The proposal will result in reduced amenity to adjoining dwellings.	Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.  The majority of these issues are addressed in detail elsewhere in this table and the main report.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Privacy</b>	The proposal will result in a lack of privacy to adjoining dwellings.	The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Nil	2E
		<b>Solar Access / Overshadowing</b>	The proposal will result in a loss of solar access to adjoining properties.	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>In particular, the proposed built form envelope will enable that the majority of neighbouring apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing any dwellings located at 229 Miller Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 41 McLaren Street.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	The proposal will result in significant view loss to adjoining residences	<p>The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered.</p> <p>With regards to impacts from 229 Miller Street, the Visual Assessment Report states that the proposed development will not be visible and there will be no view impacts.</p> <p>This is on the basis that the proposal is largely hidden behind 41 McLaren Street at the lower levels and the principal views for the remainder of the building are to the east across 144-152 Walker Street and 41 McLaren Street.</p> <p>Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p>	Nil	2E
		<b>Vegetation / Landscape</b>	The proposal will result in a loss of 8 mature canopy trees. The proposal will reduce greenspace and landscaping	<p>The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i>. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p>	Nil	2E



ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with Council resolution</b>	<p>The Planning Proposal does not adequately respond to Council’s position regarding this site and the endorsed Ward Street Master Plan.</p> <p>The Manager of Strategic Planning stated in their report to Council 24 June 2019:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.</i></p> <p>The proposed 14-storey development is clearly in conflict with the approved Precinct Planning guidelines.</p> <p>The proposal’s excessive height creates a significant solar impact on Central Square within the future Ward Street Precinct.</p> <p>This is contrary to Council’s clearly stated position of 24 June 2019 to minimise solar and privacy impact on existing residential buildings, especially 144-152 Walker Street.</p> <p>It is requested that a maximum height limit of 8 storeys be applied to the site, provided that privacy and overshadowing impacts on 144-152 Walker Street are also removed.</p> <p>This reduction in height will also reduce new traffic generation by the proposed development, which is critical for this narrow section of Walker Street.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Further, it should be recognised that the Manager of Strategic Planning’s reference to “2-8 storeys” was a reflection of the existing heights across 3 sites and the design to proceed with Option 2 under the Masterplan. However, Council’s resolution of 24 June 2019, ultimately opened an opportunity to revisit the development potential of 45 McLaren Street subject to meeting a number of amenity criteria.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Traffic</b>	The Traffic Impact Assessment is inadequate and incorrect. It does not take into consideration the cumulative impacts of other new or proposed developments in the locality. Traffic in the locality is already congested and the proposal will lead to gridlock if approved.	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.  Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.  Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
13	Jane Harvey U 1210, 138 Walker Street NORTH SYDNEY NSW 2060	<b>Objection</b>	Objects to the proposal for the following reasons:			
		<b>Cumulative impacts</b>	<p>When considering the effect of a proposal on the immediate neighbourhood, Council must consider the proposal in the context of all the other proposals and recently approved developments in the area and not in isolation.</p> <p>The cumulative effect of all the recent developments and proposals in Walker and McLaren Streets is extremely negative for many of the current residents in the locality. The impact on these residents is huge. This is evidenced by the strident and very loud opposition by local residents to all recent developments in the area. Council must listen to the residents.</p>	The cumulative impacts of the proposal have been considered in detail since its inception, through Council's comprehensive assessment of the initial proposal through to the consideration of issues raised during the public exhibition period. This is to ensure that the proposal fits within the context of the locality's existing opportunities and constraints. Overall, the proposal is of an appropriate bulk, scale, use and which seeks to minimise amenity impacts upon neighbouring properties.	Nil	2E
		<b>Vegetation / Streetscape</b>	<p>The proposal will result in the removal of eight mature canopy trees, which contribute to the streetscape of the area. In particular, the future proposed building will fill most, if not all, of the available land space.</p> <p>The Walker Street streetscape of trees has been regularly referred to in documents relating to other development proposals in Walker Street as being a positive attribute to the area.</p> <p>These existing trees currently provide shade, privacy and green space for the current residents of 45 McLaren Street, as well as to those at 144-152 150 Walker Street.</p>	The proposal seeks to rezone the land from <i>R4 High Density Residential</i> to <i>B4 Mixed Use</i> . This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.	There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.	However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.
<b>Privacy</b>	<p>All southern facing windows of the proposed building will directly reduce the privacy of all the apartments on the northern side of 144-152 Walker Street as they will be able to see straight into those apartments.</p> <p>The proposed building will be located approximately 40m away from 138 Walker Street. All south facing dwellings within the proposal will be able to look into all north facing dwellings located above level 8 at 138 Walker Street.</p> <p>Levels of privacy will be further reduced to 138 Walker Street by the additional impacts associated with the proposed future development at 173-179 Walker Street.</p>	The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Privacy impacts to 138 Walker Street will be minimal given the excessive distance between the two buildings.	Nil	2E	

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Solar access / Overshadowing</b>	<p>The proposal will result in solar access to the apartments on the northern side of 144-152 Walker Street being completely removed.</p> <p>The proposal will result in solar access to the apartments on the northern side of 138 Walker Street be significantly diminished.</p> <p>Solar access to 138 Walker Street will also be further compromised by the future development at 173-179 Walker Street, meaning the overall loss of solar access to those apartments will be extreme.</p>	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Due to the majority of the apartments (approximately 80%) within 144-152 Walker Street having both eastern and western walls, ensures that the majority of the apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing any dwellings located at 138 Walker Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 144-152 Walker Street.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Traffic</b>	<p>The Traffic Impact Assessment is incorrect and inadequate. In particular, it fails to take into account the following:</p> <ul style="list-style-type: none"> <li>• Impacts associated with the operation of the large development under construction at 168 Walker Street,</li> <li>• Impacts associated with the operation the future proposal at 173-179 Walker Street,</li> <li>• Vehicular and pedestrian movements associated with the new Metro Station, with cars collecting and dropping off train passengers,</li> <li>• Impacts on the intersection of Berry and Walker Streets.</li> <li>• Pedestrian safety of residents, visitors and local school children.</li> </ul> <p>The Assessment also grossly misrepresents traffic volumes on Walker and McLaren Streets. These streets are heavily congested, and the width of Walker Street already creates tricky/potentially dangerous merging actions between Hampton Street and Walker Street and then to Berry Street.</p>	<p>The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.</p> <p>Given the site’s proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.</p> <p>Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with endorsed planning and development policies</b>	<p>If Council allows this proposal to proceed, Council will be ignoring and disregarding its own planning policies. The existence and publication of these policies influences people's decisions to buy property in the area as the policies supposedly should provide people with certainty as to what is going to happen in the future.</p> <p>Of particular note, the Manager of Strategic Planning stated in a report to Council on 24 June 2019:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.</i></p> <p>Furthermore:</p> <p><i>THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <ul style="list-style-type: none"> <li><i>i) Minimise solar reductions upon new public domain as identified in the Masterplan.</i></li> <li><i>ii) Minimise solar and privacy impacts upon existing residential development.</i></li> </ul> <p>This proposal does not comply with the intent behind the above resolution of Council.</p> <p>The proposal needs to be further reduced in height until there is no solar impact on Central Square as per Council's clearly stated position. A maximum of 8 storeys should be applied, provided that privacy and overshadowing impacts to 144 -152 Walker Street are also removed.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Further, it should be recognised that the Manager of Strategic Planning's reference to "2-8 storeys" was a reflection of the existing heights across 3 sites and the design to proceed with Option 2 under the Masterplan. However, Council's resolution of 24 June 2019, ultimately opened an opportunity to revisit the development potential of 45 McLaren Street subject to meeting a number of amenity criteria.</p>	Nil	2E
14	Derek To U 206, 178 Thomas Street HAYMARKET NSW 2000 (owner of apartment at 229 Miller Street)	<b>Objection</b>	<p>Supports the submission of objection made by Submitter No.12, which raises issues in relation to overshadowing, setbacks, heritage and views.</p> <p>To avoid duplication, the submitter declined to repeat these issues.</p>	Noted. Refer to Submission 12.	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Commercial Floorspace</b>	<p>The proposal will result in an oversupply of commercial floorspace. North Sydney already has a high commercial vacancy rate and will be exacerbated by the coming online of several large developments in the Core of North Sydney. Current trends have resulted in a reduced demand for commercial floor space including:</p> <ul style="list-style-type: none"> <li>• Rise of “work from home” phenomenon;</li> <li>• Automation of work functions, reducing reliance on individuals to do work;</li> <li>• Focus on delivering employment floorspace elsewhere is Sydney;</li> <li>• Challenges associated with addressing climate change.</li> </ul> <p>Questions how many residential dwellings need to be demolished to accommodate new skyscrapers.</p>	<p>The quantum of business floor space that is proposed to be delivered is relatively small (approximately 2,000sqm) in comparison to the quantum of floorspace provided within the core of the North Sydney Centre (over 200,000sqm).</p> <p>Furthermore, the proposal is seeking to deliver primarily retail floorspace, which has a very different employment density and need for on-site employees in comparison to an office environment, which the submitter’s submission is focusing on.</p>	Nil	2E
		<b>Geological suitability</b>	No proof was provided to demonstrate that the underlying geology can support a 14 storey structure.	<p>This matter is more suitable being addressed at the development application stage as there may be many engineering solutions to support a building to the scale anticipated on the site.</p> <p>Given the size of some neighbouring buildings already constructed or under construction, would generally indicate that there are no underlying issues that can not be addressed at time of approving any construction drawings.</p>	Nil	2E
		<b>Housing Affordability / Social Diversity</b>	<p>Suggested that the residents of the suburb of North Sydney are predominantly young professionals living alone and are renters and therefore is a place of housing affordability.</p> <p>Raises concern if the developer is seeking to deliver the latest in modern design, technology, energy efficiency amenities and facilities, the housing will become unaffordable. This could also result in a significant divide between high income and low income housing groups.</p>	<p>Property and rental prices within the suburb of North Sydney are high in comparison to the wider LGA and Sydney as a whole and therefore, not necessarily “affordable”.</p> <p>Despite newer development’s being valued higher than older ones, the applicant is offering to dedicate one dwelling within the development for the purpose of affordable housing.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Costs to Council</b>	The developer has not disclosed the costs of construction of necessary infrastructure and the resulting proposal's ongoing maintenance. Would not want rate payers subsidising the developer.	<p>The applicant has provided a substantial public benefit offer to enable the delivery of a number of public domain upgrades in the vicinity of the site, enhancement of an existing publicly accessible through site link and construction and delivery of an affordable housing unit within the development.</p> <p>In addition, the developer for the site will be required to pay Local Infrastructure Contributions to assist in the delivery of new or augmented services and facilities in the local government area to meet the increased demands associated with the site's redevelopment. This can be addressed at the development application stage.</p>	Nil	2E, 2F
		<b>Loss of property value</b>	Suggests that the proposal is likely to have a detrimental financial impact on their property, if the issues raised in the submission are not adequately addressed.	<p>Statements relating to a decline in property value are considered speculative and are not typically a planning matter for consideration.</p> <p>Whilst it is acknowledged that the obstruction of views could potentially affect the value of a property, there is an expectation that within a dense urban environment like North Sydney that tall new buildings will be built and thereby result in potential impacts on views. In addition, it would be difficult to meet the State targets for the provision of jobs and housing without having some level of impact upon views in such a location.</p> <p>Furthermore, the proposal will ultimately improve liveability in the locality by activating a number of street frontages, provision of an improved public domain and contribute to the delivery of a new public square within the Ward Street Precinct, which conversely could increase property values.</p>	Nil	2E



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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
15	Pauline Vamos U 1104, 229 Miller Street NORTH SYDNEY NSW 2060	<b>Objection</b>	Objects to the Proposal for the following reasons:			
		<b>Amenity</b>	The proposal will reduce amenity.	Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.  The majority of these issues are addressed in detail elsewhere in this table and the main report.	Nil	2E
		<b>Privacy</b>	The proposal will result in a lack of privacy to adjoining properties.	The proposed building envelope has been established with regard to the building separation and setback requirements under the ADG, which is deemed to be best practice. Increased levels of privacy can be provided at the development application stage through various architectural treatments, such as the absence of windows/balconies, use of opaque glazing and or privacy screens.	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Solar Access / Overshadowing</b>	The proposal will result in a loss of solar access to adjoining properties.	<p>The applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact largely achieved by stepping the building's height down towards the southern boundary, incorporating whole of building setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>In particular, the proposed built form envelope will enable that the majority of neighbouring apartments can receive in excess of 2 hours of sunlight at the Winter Solstice, which is consistent with the minimum requirement under the ADG in a dense urban area. It is possible that a higher percentage of compliance may be achieved after completing a detailed assessment at the development application stage.</p> <p>The proposal is incapable of overshadowing any dwellings located at 229 Miller Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 41 McLaren Street.</p>	Nil	2E
		<b>Vegetation Landscaping</b>	<p>The proposal will result in a loss of 8 mature canopy trees.</p> <p>The proposal has inadequate landscaping</p>	<p>The proposal seeks to rezone the land from R4 to B4. This would provide a level of consistency in zoning across the northern part of the street block bound by McLaren, Walker, Berry and Miller Streets.</p> <p>There is no minimum landscape requirement for development in the B4 zone, as development in this zone typically covers 100% of the site.</p> <p>However, a landscaped setback to Waker Street is proposed to provide a consistent streetscape along the western side of Walker Street. This requirement is reinforced in the proposed DCP controls.</p>	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Views</b>	The Visual Assessment Report is inadequate and incorrect, by not properly assessing the view loss to surrounding apartments.	<p>The purpose of the Visual Assessment Report is to give a better understanding what the likely impacts are going to be. An addendum had been prepared and exhibited with the original Visual Assessment Report to ensure that the impacts from a wider range of properties was considered.</p> <p>With regards to impacts from 229 Miller Street, the Visual Assessment Report states that the proposed development will not be visible and there will be no view impacts.</p> <p>This is on the basis that the proposal is largely hidden behind 41 McLaren Street at the lower levels and the principal views for the remainder of the building are to the east across 144-152 Walker Street and 41 McLaren Street.</p> <p>Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p>	Nil	2E
		<b>Traffic</b>	The Traffic Impact Assessment is inadequate and incorrect. It does not take into consideration the cumulative impacts of other new or proposed developments in the locality. Traffic in the locality is already congested and the proposal will lead to gridlock if approved.	<p>The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.</p> <p>Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.</p> <p>Existing traffic generation counts were undertaken prior to the redevelopment of 168 Walker Street. When this redevelopment was approved, despite a change from a fully commercial building to a mixed use building with predominantly residential floorspace, the level of traffic generation for both pre and post development outcomes remained virtually unchanged. Therefore, the Traffic Impact Assessment includes impacts from the redevelopment of 168 Walker Street.</p>	Nil	2E

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No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Consistency with Ward Street Precinct Masterplan and Council resolutions</b>	<p>The Planning Proposal does not adequately respond to Council’s position regarding this site and the endorsed Ward Street Master Plan.</p> <p>The Manager of Strategic Planning stated in their report to Council 24 June 2019:</p> <p><i>The IPC recommendation means that there is increased certainty regarding the immediate and medium-term scale of development in the north east segment of the precinct. This will range between 2-8 storeys on three significant sites including 45 McLaren Street. This decision is consistent with the preferred Masterplan Option 2 which retains low height to the north of the precinct.</i></p> <p>In addition:</p> <p><i>THAT Council notes, that despite the preferred Masterplan option, a landowner initiated Planning Proposal may be considered from 45 McLaren Street and may identify how any future redevelopment will:</i></p> <p><i>vii) Minimise solar reductions upon new public domain as identified in the Masterplan.</i></p> <p><i>viii) Minimise solar and privacy impacts upon existing residential development.</i></p> <p>The proposal still overshadows Central Square and privacy and overshadowing impacts on the existing development at 144-152 Walker Street are not adequately addressed.</p>	<p>The key premise for Council supporting the progression of the Planning Proposal was the addressing of these two specific questions.</p> <p>The proposal does not result in any overshadowing of the future southern Central Square at key times and the extent of overshadowing to the future northern Green Square is minimal. This has been achieved by stepping the building down with the fall of the land.</p> <p>Further, the applicant has demonstrated that the proposed built form envelope will have an acceptable level of overshadowing impact which complies with the solar access controls under the ADG. This has been achieved by stepping the height down towards the southern boundary, incorporating setbacks to the southern boundary, and providing a significant setback to Walker Street above the podium level.</p> <p>Further, it should be recognised that the Manager of Strategic Planning’s reference to “2-8 storeys” was a reflection of the existing heights across 3 sites and the design to proceed with Option 2 under the Masterplan. However, Council’s resolution of 24 June 2019, ultimately opened an opportunity to revisit the development potential of 45 McLaren Street subject to meeting a number of amenity criteria.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
16	Podia (applicant) Suite 506, Level 5, 55 Miller Street PYRMONT NSW 2009	<b>Support</b>	Supports the progression of the Proposal.	Noted	Nil	2D
		<b>Proposed Amendment to DCP</b>	The proposed DCP controls do not reflect the endorsed concept proposal. In particular, the following matters are requested to be revised:	These issues are addressed below		
		<ul style="list-style-type: none"> <li><b>Above podium setback to McLaren Street</b></li> </ul>	Requests the amendment of the encroachment provision, such that balconies may be built up to 900mm from the McLaren Street frontage instead of 1m and occupy up to 51% of the buildings frontage instead of 50%.	<p><b>Refer to Section 7.1.1 to the main report.</b></p> <p>The controls imposed in the draft DCP were meant to ensure that any encroachments into the setback were minor in nature.</p> <p>Despite the concept proposal's minor degree of non-compliance, any future development on the site could be made to easily comply with the DCP requirements at the development application stage.</p>	Nil	2E
		<ul style="list-style-type: none"> <li><b>Podium setback to Walker Street</b></li> </ul>	Requests that the minimum setback control to Walker Street be reduced from 5.5m to 4.95m.	<p><b>Refer to Section 7.1.2 to the main report.</b></p> <p>NSDCP 2013 was recently amended to include a revised front setback control for development on the western side of Walker Street. In particular, the setback control was reduced from 7m to 5m, to reflect the prevailing setback of buildings to Walker Street.</p> <p>It is therefore reasonable to apply a minimum 5m setback to Walker Street to ensure a more consistent alignment.</p> <p>Despite the concept proposal's minor degree of non-compliance, any future development on the site could be made to easily comply with the revised DCP requirements at the development application stage.</p>	<b>Amend the setback control to a minimum of 5m</b>	1A

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<ul style="list-style-type: none"> <li><b>Above podium setback to Walker Street</b></li> </ul>	Requests that the minimum above podium setback control be reduced from 10.35m to 9.8m.	<p><b>Refer to Section 7.1.3 to the main report.</b></p> <p>The concept proposal provides a minimum 4.85m setback above the podium level.</p> <p>Acknowledging the skewed property boundaries, it would be preferable to impose a setback control from the alignment of the podium level below to ensure a more consistent built form to the street. Accordingly, it is recommended that the minimum setback controls to the street be revised to a minimum 4.85m setback from the alignment of the podium level below.</p>	<b>Amend the setback control to a minimum of 4.85m from the alignment of the podium below</b>	1A
		<ul style="list-style-type: none"> <li><b>Landscaped setback to Walker Street</b></li> </ul>	Requests a revision to the basement setback requirements which seek to accommodate soft landscaping capable of growing vegetation consummate with the scale of the proposed development. In particular, the requested amendment seeks to remove the numerical standards and provide a more performance-based solution.	<p><b>Refer to Section 7.1.4 to the main report.</b></p> <p>The basement setback requirement requires adjustment to reflect the recommended amendments to the podium level setbacks.</p> <p>In addition, the numerical standards where an encroachment is proposed do not provide sufficient flexibility to deliver on the intent of the provision. This could subsequently create less efficient basement layouts resulting in increased building costs. It is therefore recommended that a more performance-based solution be provided.</p>	<b>Amend the first part to match the minimum podium setback to Walker Street. Amend the second part to be more performance based.</b>	1A
		<ul style="list-style-type: none"> <li><b>Above podium setback to southern boundary</b></li> </ul>	Requests that the minimum above podium setback control be reduced from 4.5m to 4.2m.	<p><b>Refer to Section 7.1.5 to the main report.</b></p> <p>The proposed setback control was established with regard to the building separation and setback controls established under the ADG.</p> <p>It is not appropriate to enable a further reduction to this minimum setback control which sets best practice for providing privacy and solar access to adjoining properties.</p>	Nil	2E

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<ul style="list-style-type: none"> <li><b>Carparking Rates</b></li> </ul>	<p>Objects to the proposed site-specific parking rates and requests the implementation of one of the following amendments:</p> <p>(a) Deletion of the site-specific car parking rates in their entirety; or</p> <p>(b) Include a further statement that allows either the site-specific DCP rates or the prevailing North Sydney DCP controls applicable at the time a development application is submitted, whichever rate delivers the higher amount of on-site car parking; or</p> <p>(c) In addition to the site-specific parking rates, incorporate:</p> <p>(i) A visitor parking rate of 0.25 spaces per dwelling; and</p> <p>(ii) A car spare space at 0.15spaces per dwelling; and</p> <p>(iii) A EV charging station at 0.1 spaces per dwelling.</p>	<p><b>Refer to Section 7.2 to the main report.</b></p> <p>The site-specific parking rates should be removed from the draft DCP amendment, on the presumption that Council will resolve to adopt the broader parking reform policy in high accessibility areas.</p> <p>However, should Council not resolve to adopt the broader parking reform in high accessibility areas, then the rates as exhibited should remain, with the minor exception that the rate for a 3+ bedroom dwelling be revised from 0.7 spaces per dwelling to 1 space per dwelling.</p>	<p><b>Remove the site-specific carparking rates</b></p>	<p>1A, 1B</p>
17	Yanshan Huang 229 Miller Street NORTH SYDNEY NSW, 2060	<p><b>Objection</b></p> <p><b>Views</b></p>	<p>Objects to the Proposal for the following reasons:</p> <p>The proposal will create significant view loss to 229 Miller Street.</p>	<p>With regards to impacts from 229 Miller Street, the Visual Assessment Report states that the proposed development will not be visible and there will be no view impacts.</p> <p>This is on the basis that the proposal is largely hidden behind 41 McLaren Street at the lower levels and the principal views for the remainder of the building are to the east across 144-152 Walker Street and 41 McLaren Street.</p> <p>Impacts to other neighbouring properties are considered reasonable in light of the efforts made to modulate the built form envelope and ensure the sharing of views in a dense urban environment.</p>	<p>Nil</p>	<p>2E</p>
		<p><b>Solar access / Overshadowing</b></p>	<p>The proposal will create significant overshadowing to 229 Miller Street.</p>	<p>The proposal is incapable of overshadowing any dwellings located at 229 Miller Street at the key hours of between 9am and 3pm at any time of the year. This is due to the distance between the two sites, positioning of the two sites and the proposal's shadow falling within the shadows already cast by 41 McLaren Street.</p>	<p>Nil</p>	<p>2F</p>

ATTACHMENT 7: Planning Proposal 6/20 – 45 McLaren Street, North Sydney SUBMISSIONS SUMMARY (Exhibition Period – 21 November 2022 to 16 January 2023)						
No.	Name and Address	Issue/Theme	Key Points Raised	Council Response	Recommended Action	Criteria
		<b>Traffic</b>	The proposal will significantly increase traffic on McLaren and Walker Streets.	The Traffic Impact Assessment suggests that the concept proposal would only contribute to less than a 2% increase to traffic volumes on the surrounding streets, well below the 10% increase which are typically felt by residents.  Given the site's proximity to the new Metro station, Council had resolved to impose more restrictive on-site parking rates to further limit this impact.	Nil	2E
		<b>Amenity</b>	There have been too many developments in the area making the area not being a pleasant place to live in anymore.	Amenity is a broad term and generally relates to higher level issues such as privacy, overshadowing, view sharing, environmental impacts through reduced landscaping, traffic generation and congestion and construction impacts.  The majority of these issues are addressed in detail elsewhere in this table and the main report.	Nil	2E



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

**- 45 McLaren Street, North Sydney**

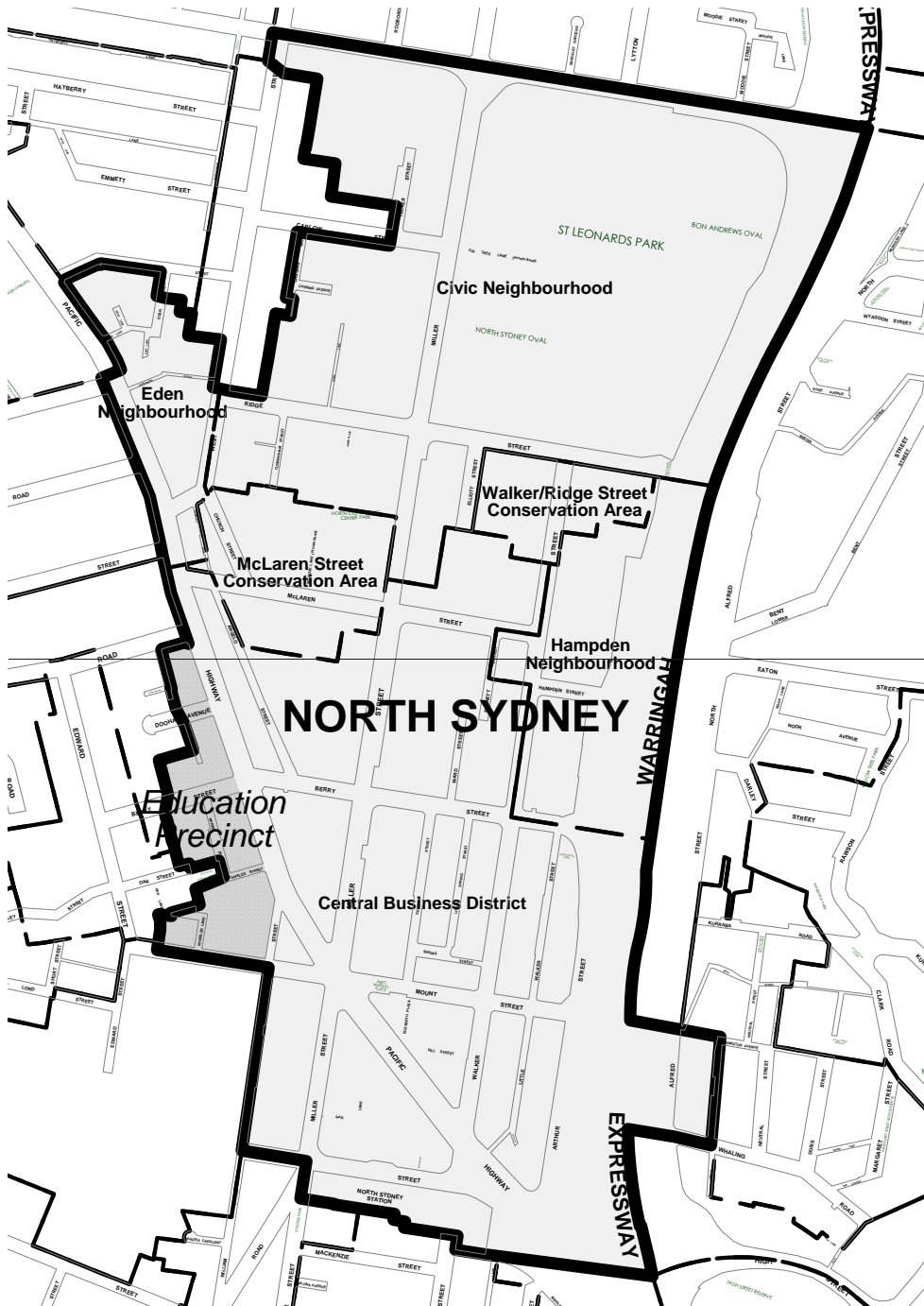
The following pages represent a “**tracked changes**” version of Section 2 to Part C of NSDCP 2013 which is proposed to be adopted post exhibition. The final version to be published on Council’s website will incorporate these tracked changes and any other minor formatting amendments.

North Sydney Development Control Plan 2013 – **AMENDMENT FOR ADOPTION**

Area Character Statements - North Sydney Planning Area



**SECTION 2 NORTH SYDNEY PLANNING AREA**





**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

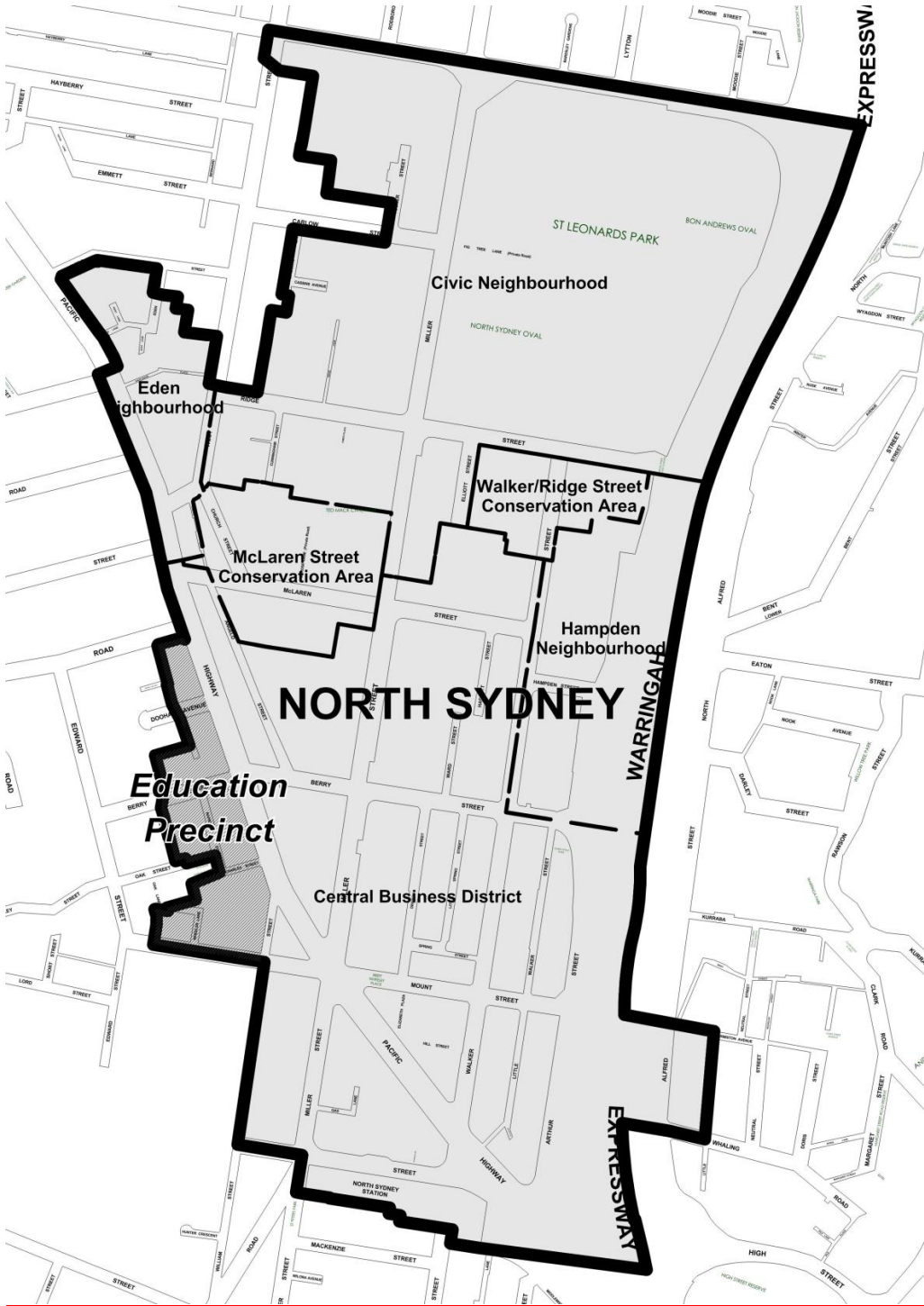
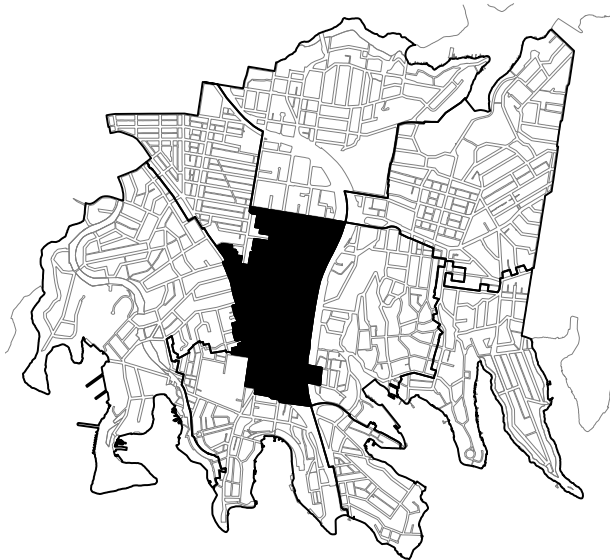


Figure C-2.1: North Sydney Planning Area and associated Locality Areas

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## 2.0 NORTH SYDNEY PLANNING AREA CHARACTER STATEMENT



The North Sydney Planning Area is an iconic, attractive, and sustainable area, with the focus on the North Sydney CBD, which is identified under the Metropolitan Strategy 2036 as a global commercial centre. A portion of the Education Precinct is located within the Planning Area on the western edge of the North Sydney CBD and the Ward Street Precinct is located within the northern portion of the Planning Area.

New development within the Planning Area should result in:

- a viable and attractive employment centre
- a diverse range of living, employment, recreation and social opportunities being provided that attract both local and regional populations which contribute to the vibrancy of the North Sydney CBD
- a vibrant and engaging Education Precinct with safe pedestrian networks and a range of formal and informal public spaces for students to study, socialise and engage with the local community
- the creation of a new vibrant public meeting place within the Ward Street Precinct for workers, residents and visitors which has high levels of amenity and is activated in the daytime, evenings and weekends
- a high level of amenity for residents, workers, students and visitors to enjoy
- a high quality built form
- a high level of public transport patronage which is easily accessible to residents, workers, students and visitors
- the area being linked to the Sydney CBD, other suburban centres and many parts of the Sydney Region by rail and bus as well as by road and is a place of interchange between the various modes



**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

and where:

**Function**

- The North Sydney CBD comprises one of Australia's largest commercial centres serving the local population and that of the Sydney region
- There is a mix of uses and activities to meet the demands of the residents, workforce, students and visitors
- There is a civic focus supported by community facilities such as North Sydney Oval, the Stanton Library and the Independent Theatre
- There is an education focus in the Education Precinct, supported by educational establishments such as the Australian Catholic University (ACU), the Sydney Church of England Grammar School (Shore) and North Sydney Demonstration School
- Creation of a new pedestrian focal point centrally within the Ward Street Precinct, through the provision of new public squares which integrate with a highly permeable pedestrian network and is activated by commercial and community frontages
- Community facilities meet the needs of the CBD's working and resident population, students, visitors, and residents of nearby neighbourhoods, in terms of wellbeing, culture and recreation, and add to the diversity and activity of the CBD
- Various grades and sizes of commercial floorspace accommodate a mix of small and larger business, services and retail
- New residential development will not occur in the commercial core, with further high density housing to be concentrated in the areas zoned mixed-use
- There is housing choice in the mix of dwelling sizes and in the range of affordability
- There are active uses outside of standard business hours
- Parks and public spaces are well used and provide for a range of social and recreational activities

**Environmental Criteria**

- The extremes of sun, wind and rain are mitigated by good building design
- Buildings, public places and streets all receive good access to natural light
- Mechanical noise and other commercial noise is controlled, to protect residential amenity
- Use of local flora extends habitats for native birds and other fauna
- Solar access to special areas and open spaces is maintained and contributes to the enjoyment of those spaces for use by the public
- There is an opportunity to enjoy the views from and within the area towards the Sydney CBD, Sydney Harbour, heritage items and surrounding areas
- Additional public open space is provided for increased worker and residential populations

**Built Form**

- There is a pleasant, well designed and well-lit series of easily accessible and connected urban plazas and gardens.
- The setback on the eastern edge of Miller Street between McLaren Street and Mount Street is maintained and incorporates landscaped areas and actively utilised open space

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area**

- Physical breaks are provided between tall commercial towers to afford occupants of commercial buildings reasonable levels amenity in terms of ventilation, daylight access, solar access and views
- Physical breaks are provided between tall commercial towers to afford users of the public domain reasonable levels of amenity in terms of daylight access, solar access, sky views and reduction in adverse wind impacts
- Avoiding continuous, uninterrupted walls of towers to reinforce a human scale when read from the public domain
- The significance of heritage items is retained, and promotes the rich development history and provides interest in the physical fabric of the area
- Heritage items are protected, and significant streetscape elements are conserved in the Walker and McLaren Street Conservation Areas
- Predominant early 20th Century character of the McLaren Street Conservation Area is maintained and protected
- Victorian and Federation character of streets in the Walker Street Conservation Area is maintained and protected
- Pedestrian connections provide alternate east/west and north/south routes through the CBD to promote pedestrian movement

**Quality Urban Environment**

- There are links to the Sydney CBD, other suburban centres and many parts of the Sydney region by ferry, rail, bus and road and the CBD is a place of interchange between the various transport modes
- Public transport, including walking and cycling, is the main form of access to the North Sydney CBD and the Education Precinct
- Traffic is managed so that pedestrians can move within the area freely and safely, and amenity is maintained
- Parking is managed in a way that maintains pedestrian safety and the quality of the public realm and minimises traffic generation
- The cumulative desired future built form outcome within the Ward Street Precinct does not result in a nett increase in traffic generation for the Precinct
- Rear lanes allow for the primary vehicular access to properties
- Limited increase to the capacity of private parking
- Pedestrians are assisted to safely cross barriers such as the Pacific Highway
- Educational establishments are oriented to the public domain to provide increased surveillance and activation
- Loading and delivery facilities should be located away from the street and where possible be located underground

**Efficient Use of Resources**

- Energy efficient design and life cycle assessment of buildings enables the conservation of natural resources and minimisation of use of non-renewable energy resources
- Stormwater runoff is minimised, and recycled on-site where possible

**Public Domain**

- Additional open space is provided to service the increased residential, working and student population of the North Sydney CBD and the Education Precinct
- A new public square/s be provided centrally within the Ward Street Precinct which is integrated with a highly permeable pedestrian network

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**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

- Streetscape improvements occur in accordance with the *North Sydney Centre Public Domain Strategy*, ~~and~~ *Education Precinct Public Domain Masterplan* and *Ward Street Precinct Masterplan*

In addition to the above character statement for the Planning Area, the relevant character statement for the following Locality Areas also requires consideration:

- Section 2.1: Central Business District
  - Section 2.1.4: 45 McLaren Street
- Section 2.2: Civic Neighbourhood
- Section 2.3: Eden Neighbourhood
- Section 2.4: Hampden Neighbourhood
  - Section 2.4.4 East Walker Street Precinct
- Section 2.5: Walker/Ridge Street Conservation Area
- Section 2.6: McLaren Street Conservation Area

**C** **Part**

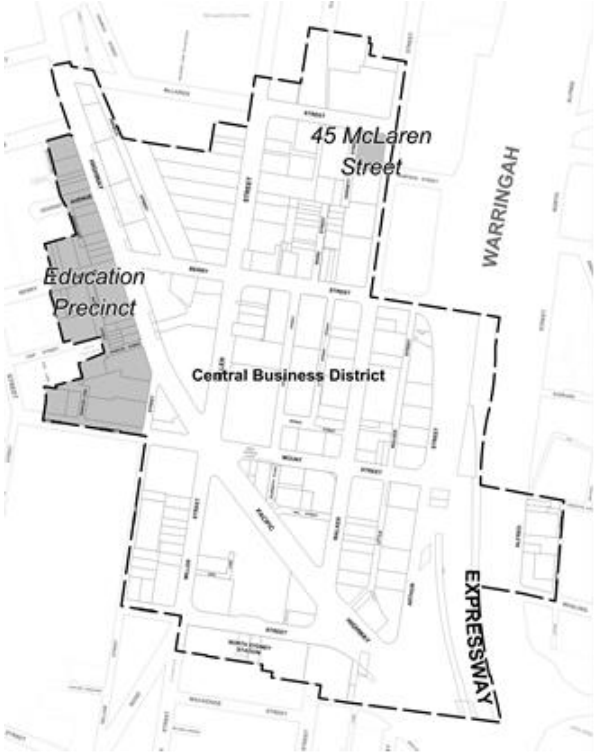
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North Sydney Development Control Plan 2013 – **AMENDMENT FOR ADOPTION**

Area Character Statements - North Sydney Planning Area



2.1 CENTRAL BUSINESS DISTRICT



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## **AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

### **Area Character Statements - North Sydney Planning Area**

#### **2.1.1 Significant Elements**

##### **Land Use**

- P1 Predominantly high-rise commercial development.
- P2 Medium to high rise mixed commercial and residential development at the fringes.
- P3 Educational facilities.
- P4 Regional rail and road infrastructure.

##### **Topography**

- P5 Typically falling from the north to the south towards Sydney Harbour.

##### **Natural Features**

- P6 Natural rock outcrops at 136 Walker Street.

##### **Views**

- P7 The following views and vistas are to be preserved and where possible enhanced:
  - (a) From the plaza at No.5 Blue Street and located over North Sydney Rail Station to the Sydney Harbour Bridge.
  - (b) From Doris Fitton Park (160-166 Arthur Street) to Sydney Harbour and Neutral Bay district.
  - (c) Views along the Pacific Highway to the Post Office on Mount Street from the south-east.
  - (d) Views along the Pacific Highway to Sydney Harbour from the intersection with Mount Street.

##### **Identity / Icons**

- P8 Brett Whiteley Place.
- P9 Greenwood.
- P10 Post Office and Court House.
- P11 MLC Building.
- P12 Don Bank Museum.

##### **Subdivision**

- P13 Predominantly large consolidated allotments within a rigid grid pattern.
- P14 Smaller allotments generally along the Pacific Highway north of Berry Street.

##### **Streetscape**

- P15 Wide fully paved footpaths, promoting heavy pedestrian use.
- P16 Active street frontages provided with a variety of shops, cafes and other commercial uses.
- P17 Buildings generally built to the boundary, with entry at street level.
- P18 Continuous awnings provided on commercial buildings.
- P19 Street trees.

##### **Public transport**

- P20 Development is to take advantage of the accessibility provided by existing and planned public transport infrastructure.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION**



**Area Character Statements - North Sydney Planning Area**

**2.1.2 Desired Future Character**

**Diversity of activities, facilities, opportunities and services**

- P1 High rise and medium density, commercial and mixed use developments.
- P2 Provision of a variety of different sized office, retail, community and entertainment spaces.
- P3 Provision of a variety of outdoor and indoor community spaces (e.g. urban plazas, gymnasium; gardens; outdoor and indoor dining areas and food courts).
- P4 The commercial focus of the CBD is to be enhanced by preventing any further residential development from occurring in its core (i.e. the *B3 Commercial Core* zone).
- P5 Development above the Victoria Cross metro station will provide significant commercial floorspace, as well as retail, dining and community uses that will contribute to the overall amenity and vitality of the CBD.
- P6 Council will pursue its vision for Miller Street as the civic heart of North Sydney. This will involve significant interventions and public domain improvements aimed at creating a vibrant place for people, with vehicle movements removed or minimised as much as practicable and both sides of Miller Street activated.
- P7 Creation of a substantial new public space within the middle of the street block bound by McLaren, Walker, Berry and Miller Streets, activated by surrounding buildings and new community facilities consistent with the *Ward Street Precinct Masterplan*. This space is to be designed to be highly adaptable for events and prominent activities and form a spill over space for other community events associated with community facilities to be located in adjacent buildings.
- P8 Brett Whiteley Place is a key public space for the North Sydney CBD which will incorporate an expanded Elizabeth Plaza, as well as portions of Denison Street and Mount Street. This expanded plaza will provide dedicated space for outdoor dining, large and small events, and other activities.
- P9 Consideration be given to expanding Berrys Square to the northern side of Berry Street.
- P10 The Central Laneways Precinct will become a major focal point of pedestrian activity and amenity.
- P11 Active frontages to the Metro site, 1 Denison Street and the MLC building will contribute to the activation of the public domain in the Central Laneways Precinct.
- P12 A new laneway is provided across the redevelopment of 1 Denison Street to link the Metro site, Denison Street, Little Spring Street and Walker Street.
- P13 Alternatives to the current entry of the commercial car park entry at 100 Miller Street (Northpoint) will be pursued to reduce or remove traffic on Miller Street and improve pedestrian amenity.
- P14 Provide roof top gardens and/or public facilities that allow the public and/or residents to access district views.
- P15 Development should maximise opportunities to incorporate retail, restaurant, bar facilities and other non-residential floor space at ground level to promote street level activation, amenity, diversity and place making objectives.
- P16 Provide a diverse mix of higher density, non-residential land uses in the *B4 Mixed Use* zone of the Education Precinct, including education, shops, cafes, gyms, entertainment and small businesses.
- P17 Provide continuous active uses such as shops and cafes at the ground level of all buildings along Pacific Highway, Berry Street and Napier Street, especially within the Education Precinct.

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**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

P18 Consideration should be given to the inclusion of educational or community-related purposes in the redevelopment of 110, 112, 116 and 120 Pacific Highway and 9 Napier Street.

P19 Community facilities that are of a type that support the creation of a cultural destination which is activated in the daytime, evenings and weekends are to be incorporated into the lower levels of the redevelopment of 56-66 Berry Street and the Ward Street Carpark site and these facilities are to front onto a new public square/s consistent with the *Ward Street Precinct Masterplan*.

**Accessibility and permeability**

P20 Victoria Cross metro station is designed to enhance the North Sydney CBD as a major commercial centre and further encourage the use of public transport. Pedestrians are prioritised throughout the CBD with a number of interconnected pedestrian routes that facilitates all direction movement and encourages fine grain retail and dining uses.

P21 Consideration be given to providing a direct vertical pedestrian connection between the new public open space located centrally within the Ward Street Precinct and the Victoria Cross Metro Station concourse.

P22 Barriers to pedestrian movement, particularly within the Ward Street Precinct, Miller Street, Berry Street and the Pacific Highway, will be reimagined such that their function and treatment favour pedestrian movement and amenity.

P23 New development focuses on the use of public transport, cycling and walking.

P24 Pick up and drop off points for public transport and taxi ranks are located as close as possible to public spaces and activities, and main building entries.

P25 Loading and delivery facilities should be located away from the street and where possible be located underground.

P26 The following through site links are to be provided, retained and enhanced:

- (a) A north - south pedestrian link from McLaren Street to Elliot Street across 52 and 54 McLaren Street.
- (b) A north - south pedestrian link from McLaren Street to Ward Street across the vehicle access of 221 Miller Street.
- (c) An east-west pedestrian link of at least 3m in width is provided from Miller Street to the future public open space off Ward Street along the northern boundary of 201 Miller Street.
- (d) An east-west pedestrian link of at least 6m in width is provided from Miller Street to the future public open space off Ward Street along the southern boundary of 213-219 Miller Street.
- (e) An east - west pedestrian link from Miller Street to Ward Street across 221 Miller Street.
- (f) A north - south pedestrian link from Charles Street to Wheeler Lane across 100 Pacific Highway and 16 Mount Street.
- (g) An east - west pedestrian link from Harnett Street to Walker Street across 142 Walker Street.
- ~~(h)~~ An east - west pedestrian link from Harnett Street to Walker Street across 144-150 Walker Street.
- ~~(h)~~(i) An east-west pedestrian link from Harnett Street to Walker Street across 45 McLaren Street.
- ~~(i)~~(i) An east - west pedestrian link from Walker Street to Little Walker Street across 81-83 Walker Street.
- ~~(i)~~(k) An east - west pedestrian link from Little Walker Street to Arthur Street across 100 Arthur Street.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION**



**Area Character Statements - North Sydney Planning Area**

~~(k)~~(l) An east - west pedestrian link from Napier Street to Oak Street across the southern side of 8-20 Napier Street.

~~(h)~~(m) A north - south pedestrian link from the green space of 100 Pacific Highway to Wheeler Lane across the western side of 1 Wheeler Lane. The pedestrian link may be made through the building envelope or an alternative architectural treatment that gradually 'reveals' the establishments on either side.

~~(m)~~(n) An east - west pedestrian link through the Victoria Cross metro station linking Miller Street and Denison Street.

~~(n)~~(o) A new laneway is provided across the redevelopment of 1 Denison Street to link the Metro site, Denison Street, Little Spring Street and Walker Street.

~~(o)~~(p) A widened and improved pedestrian link from Little Spring Street and Walker Street across 102 Walker and 110 Walker Street.

P27 Consideration should be given to the provision of an east - west pedestrian link from the Pacific Highway to Napier Street across either the northern side of 120 Pacific Highway or the southern side of 33 Berry Street.

P28 Consideration should be given to the demolition of the single storey structure at the northern end of 105 Miller Street (MLC Building) to improve accessibility and permeability to Miller Street and the Victoria Cross metro station.

### 2.1.3 Desired Built Form

#### Subdivision

P1 Development sites should be of a size which enable:

- (a) the creation of large high quality floor plates which helps to reinforce the Centre's role as a Global City as identified within the Metropolitan Strategy; and
- (b) the incorporation of adequate setbacks and breaks between tall commercial towers above the podium level to maintain reasonable access to sky views and daylight to the public domain.

P2 Development on small sites should not detrimentally impact on the long-term ability of the amalgamation of sites for significant commercial development.

P3 Site amalgamation should occur generally in accordance with that identified within the Ward Street Precinct Masterplan to maximise the delivery of the desired outcomes of the Masterplan.

#### Form, massing and scale

P4 Buildings should be carefully designed to minimise the impact of their height and bulk on surrounding residential areas.

P5 Roof design contributes to building's appearance from a regional view catchment.

P6 Buildings on 116 and 120 Pacific Highway and 9 Napier Street should be designed such that their bulk steps down from the Pacific Highway to Napier Street to protect sunlight access to the Don Bank Museum and enhance pedestrian amenity to Napier Street.

P7 No part of a building located above the podium and which exceeds 45m in height may have a horizontal width of more than 60m.

P8 Development is to be designed to maximise year round solar access to the new public squares to be created centrally within the Ward Street Precinct.

P9 Development must not result in a nett increase in overshadowing to the main southern square to be created centrally within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

#### Setbacks

**Note.** Additional setbacks may be required for any part of the building located above the podium level.

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**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

**Area Character Statements - North Sydney Planning Area**

- P10 Buildings are to provide a zero metre setback to all street frontages and adjacent to heritage items, with the following exceptions:
- (a) In accordance with cl.6.4 of the LEP for all properties on the eastern side of Miller Street, north of the Pacific Highway.
  - (b) 5m from the western side of Walker Street, north of 76 Berry Street.
  - (c) 5.4m from the southern side of Berry Street, between Pacific Highway and Miller Street.
  - (d) 14.5m from the western side of Miller Street, at No.60 Miller Street.
  - (e) 15m from the southern side of Mount Street, at No.60 Miller Street.
  - (f) Maintaining the setback of existing buildings to all properties comprising Monte St Angelo Convent and Girls School.
  - (g) Maintaining the setback of existing buildings to all properties on the northern side of McLaren Street.
  - (h) 1.5m whole of building setback from the eastern side of Napier Street, at No. 1-9 Napier Street and No.120 Pacific Highway.
  - (i) 2m setback to the ground level of buildings fronting Arthur Street.
- P11 Buildings must be setback to conserve views to, and the setbacks and settings of, heritage items at 86 and 144 - 150 Walker Street, 94 Pacific Highway (Post Office), 36 Blue Street (Greenwood), 153 Miller Street (MLC Building), 168 - 172 Pacific Highway and 1-7 Napier Street.
- P12 The setback of new buildings or alterations and additions to existing buildings on land fronting McLaren Street between Miller and Walker Streets are to match that existing to protect the existing fig trees. Encroachments will only be permitted where the development does not cover the drip line of any of the existing trees.

**Podium Heights**

- P13 Podiums are to be provided in accordance with the Podium Heights Map (refer to Figure C-2.2).
- P14 Despite P13, a podium of between 3 and 5 storeys above the finished level of the new public squares to be created centrally within the Ward Street Precinct, where buildings front onto those squares, maintaining a human scale to the squares.
- P15 The entirety of a podium must be setback from any street frontage if required under Provisions P10 – P12 to s.2.1.3 to this Part of the DCP.
- P16 Podiums are to be built to all side and rear boundaries that do not have a street frontage, except where the site directly adjoins residentially zoned land (i.e. *R2 Low Density Residential*, *R3 Medium Density Residential*, *R4 High Density Residential*) or requires a through site link as required under P23 to s.2.1.2 to this Part of the DCP.
- P17 Podium heights should match or provide a transition in height between immediately adjacent buildings.
- P18 Podium heights should match the height of adjacent heritage items.
- P19 Podium height may be reduced to that part of the building devoted to commercial use in mixed-use buildings.

**Above Podium Setbacks**

- P20 All parts of a building located above the podium are to be setback from the podium's frontage to a street or laneway in accordance with the Above Podium Setbacks Map (refer to Figure C-2.3). Setbacks are to be measured from the outer wall of the podium. Where a weighted setback is required, it applies to the width of the building's façade located above the podium.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION**



**Area Character Statements - North Sydney Planning Area**

- P21 Despite P20, no part of any building may be located within 3m of the outer wall of the podium level fronting a street or laneway.
- P22 Despite P20 and P21, for buildings fronting Ward Street and the new public squares to be created within the Ward Street Precinct, that part of the building located above the podium is to be setback a sufficient distance to ensure the minimising of potential wind impacts and maintaining a human scale to the squares.
- P23 Where a building is to be erected on land zoned *B3 Commercial Core* or on any other land and the building will not contain residential accommodation, all parts of the building located above the podium must be setback a minimum of 6m from any side boundary, unless:
- (a) the area of the site is less than 1,000sqm; and
  - (b) the building does not exceed 45m in height.
- P24 Despite P23, no setback is required above the podium level to:
- (a) the southern boundaries of 122 Arthur Street (SP 57439) or 100 Walker Street (Lots 1 and 2, DP 542915), if developed in isolation from sites to their north;
  - (b) the southern boundary of 90 Arthur Street (Lot 1, DP 738262), if developed in isolation from the site to the south;
  - (c) the northern boundary of 20 Berry Street (Lot 1, DP 550167) if developed in isolation from the site to the north;
  - (d) the eastern boundary of 80 Mount Street (Lot 1, DP 566189) if developed in isolation from the site to the east; and
  - (e) the southern boundary of 1 Wheeler Lane (Lot 101, DP 1076397) if developed in isolation from the site to the south.
- P25 Where a building does not contain residential accommodation, all parts of the building located above the podium must be setback a minimum of 6m from any rear boundary that does not have a street or laneway frontage.
- P26 Despite P25, no setback is required above the podium level to the western boundary of 65 Berry Street (Lot 2, DP 1230458) if developed in isolation from the site to the west.
- P27 Where there is more than one tower located above the podium level on land zoned *B3 Commercial Core* or on any other land and the building will not contain residential accommodation, the towers must maintain a minimum 12m separation from one another.

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Figure C-2.2: Podium Heights Map

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Figure C-2.3: Above Podium Setbacks Map

**Building design**

- P28 Provide architectural detailing, high quality materials and ornamentation provide a rich visual texture and a symbolic/decorative reference to the history of the place, the building’s use or occupant.
- P29 Provide a visually rich intimate pedestrian environment with active street frontages at ground level.





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P30 The natural rock outcrop at 136 Walker Street should be incorporated into the design of any redevelopment proposal for the site.

#### **Awnings**

P31 Continuous awnings must be provided to all commercial buildings, except on the eastern side of Miller Street between the Pacific Highway and McLaren Street.

P32 Consideration should be given to the provision of weather protection at the pedestrian entrances or over outdoor seating areas for buildings fronting Miller Street between the Pacific Highway and McLaren Street.

#### **Streetscape**

P33 A 'sense of arrival' is established at North Sydney Station with strong linkage to the north to connect with the pedestrian bridge over Pacific Highway and Denison Street.

P34 The Greenwood historic school building and large Moreton Bay Figs are retained and incorporated as the southern pedestrian gateway to the North Sydney CBD.

P35 The intersection of Miller Street and Pacific Highway forms an important focal point of the North Sydney Centre with a distinctive character reinforced by the Post Office and the MLC building.

P36 Improve amenity and safety by installing lighting, public art and/or landscape along the eastern facade of 12-14 Mount Street.

P37 Provide a consolidated green space over the Don Bank Museum and 100 Pacific Highway. Consideration should be given to extending this green space over the western side of 1 Wheeler Lane to allow for a more direct north – south pedestrian link from Charles/Napier Street to Wheeler Lane.

P38 33 Berry Street should be designed such that Napier Street is activated by non-residential tenancies such as commercial or educational facilities (At least 50% of its frontage should comprise of non-residential tenancies at the ground level).

#### **Public Domain**

P39 Have regard to Public Domain designed in accordance with the *North Sydney Centre Public Domain Strategy* and *North Sydney Council Infrastructure Manual*.

P40 A new multi-purpose public square with a minimum dimension of 52m by 40m is to be created in the centre of the Ward Street Precinct and integrated with a secondary public square of minimum dimension 35m by 33m consistent with the *Ward Street Precinct Masterplan*. The squares are to be designed to maximise the flexibility of uses.

P41 Consideration be given to activating the secondary northern square within the Ward Street Precinct with a café, public facilities or other active and community uses.

P42 Consideration be given to expanding Berry Square across to the northern side of Berry Street.

#### **Landscaping**

P43 Continued use of tree planting and use of native vegetation to enhance the urban environment and attract birdlife.

P44 Choice of trees and vegetation in accordance with *North Sydney Centre Public Domain Strategy*, *Street Tree Strategy* and *North Sydney Council Infrastructure Manual*.

#### **Car accommodation**

P45 Short stay parking spaces should be located within or as close as possible to meeting places.

P46 Reduce the amount of long stay commuter parking on site.

P47 Reduce the amount of non-residential parking on site.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area****Vehicle Servicing**

P48 Consideration to be given to providing all vehicular access to 213-219 Miller Street, 56-66 Berry Street and the Ward Street Carpark site from Harnett Lane and underneath the proposed new public squares, to maximise pedestrian amenity within the Ward Street Precinct.

P49 Vehicular access to 76 Berry Street is to be provided from Walker Street.

**2.1.4 45 McLaren Street****2.1.4.1 Desired Future Character, Design Objectives and Key Principles**

P1 Development is to respond to the scale and character of existing development and desired future character of the surrounding area.

P2 Built form, scale and massing is to transition in scale across the site from north to south and east to west, whilst respecting the built form of adjacent and neighbouring heritage items.

P3 Deliver a mixed use development with active frontages to McLaren and Harnett Streets.

P4 Development is to maximise solar access to the proposed squares within the Ward Street Precinct.

P5 Maintaining a landscaped setback to Walker Street.

P6 An improved pedestrian through site link between Walker Street and Harnett Street.

**2.1.4.2 Desired Built Form****Objectives**

O1 To provide for increased opportunity for height and density in the North Sydney CBD, in close proximity to public transport and services.

O2 To allow an appropriate stepping down in built form between 168 and 150 Walker Street.

O3 To ensure that solar access to the proposed public spaces within the Ward Street Precinct is maximised.

O4 To achieve appropriate separation distances between existing and proposed buildings and ensure reasonable privacy and solar access is maintained to surrounding dwellings, mindful of the need for renewal at the site.

O5 To positively relate to the heritage context surrounding the site.



**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

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**Provisions**

**Solar access**

P1 Despite any other provision of this DCP, any development at 45 McLaren Street must not result in a nett increase in overshadowing to the main southern proposed square to be created within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

**Building Height**

P2 Development must not exceed 14 storeys above the crown of McLaren Street as it presents to McLaren Street.

P3 Development must not exceed 10 storeys above ground level existing fronting its southern boundary.

**Street and Side Setbacks**

P4 Buildings must be setback:

- (a) 0m to McLaren Street, and
- (b) A minimum of ~~5.5m~~ 5m to Walker Street, generally consistent with the setback of buildings located at 144, 146, 148 and 152 Walker Street, and
- (c) A minimum of 1.5m setback to the southern boundary, and
- (d) A minimum of 1m setback to Harnett Street.

**Podium Height**

P5 A podium must:

- (a) Be 2-3 storeys in height fronting McLaren Street and positively relate to the height of the podium to the heritage listed commercial building at 41 McLaren Street to its west and heritage dwellings to the east on the eastern side of Walker Street, and
- (b) Be 2-3 storeys in height fronting Walker Street and positively relate to the height of the heritage dwellings at 144,146,148 and 152 Walker Street, and
- (c) Not exceed 3 storeys to the southern boundary, and
- (d) Be 2-3 storeys in height fronting Harnett Street.

**Above Podium Setbacks**

P6 The following minimum setbacks must be provided above the podium level:

- (a) 3m to the site's McLaren Street frontage, and
- (b) ~~4.35m~~ 4.85m from the eastern alignment of the podium facing to the site's Walker Street frontage, and
- (c) 4.5m from the site's southern boundary, and
- (d) 1.5m-3m to Harnett Street, unless the consent authority is adequately satisfied that the proposal can comply with the relevant Apartment Design Guidelines can be achieved with regard to building separation and privacy.

P7 Despite Provision P5P6(a) above, the consent authority may permit a balcony to encroach into the setback area, but only if:

- (a) The balcony is unenclosed on at least two sides, and
- (b) The balcony maintains a minimum 1m setback to McLaren Street, and
- (c) The cumulation of balconies on any one level does not exceed 50% of the façade's length to McLaren Street.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area****2.1.4.3 Landscaped Area****Objectives**

- O1 To ensure that landscaping is used to provide appropriate amenity for development and soften the appearance of buildings and their interface with the neighbouring dwellings and the public domain.
- O2 To provide a quantum of landscaping reflecting the transition between the North Sydney CBD and adjoining residential areas.
- O3 To incorporate appropriate materials conducive of its heritage context.

**Provisions**

- P1 Any basement structure should be setback at least 5.5m 5m to Walker Street, to ensure the provision of deep soil zones to accommodate trees and vegetation of a scale reflective with the scale of the proposed future development on the site.
- P2 Despite P1, a basement may be permitted within the setback area to Walker Street, but only where there is a soil depth of at least 1.5m is provided below the alignment of the adjoining footpath on Walker Street it can be adequately demonstrated that the setback area is predominantly soft landscaped and is capable of accommodating trees and vegetation of a scale reflective of the proposed future development on the site.
- P3 Consideration to be given to using sandstone or natural rock features in the landscaping or lower parts of buildings, reflective of the site's heritage context.

**2.1.4.4 Through-Site Link****Objectives**

- O1 To enhance the existing through site link that runs across the northern boundary of 144-152 Walker Street between Walker Street and Harnett Street.

**Provisions**

- P1 All buildings are to be setback a minimum of 1.5m from the southern boundary to enable the construction of a through site pedestrian link between Walker Street and Harnett Street which is integrated with the existing through site link across the northern boundary of 144-152 Walker Street.
- P2 Consideration is to be given to the use of sandstone to line surface or any adjacent retaining walls or walls to the through-site link.
- P3 Appropriate lighting be provided to ensure this link provides adequate safety for users.

**2.1.4.5 Vehicular Access****Objectives**

- O1 To ensure vehicular and pedestrian conflicts are minimised.
- O2 To maximise activation of street frontages.

**Provisions**

- P4 No vehicular access is to be provided from McLaren Street.
- P5 Vehicular access should be provided from Walker Street, subject to ensuring that pedestrian safety is maximised.

**2.1.4.6 Car parking****Objectives**

- O1 To minimise traffic generation in the proximity of the Victoria Cross Metro Station.

**Provisions**

- P1 Provide on site parking, at the maximum rates stated Table C 2.1.

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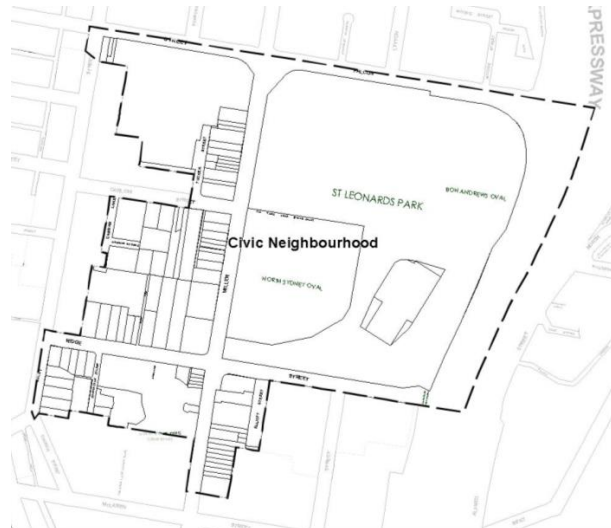
**Area Character Statements - North Sydney Planning Area**

<b><u>TABLE C-2.1: Parking Rates</u></b>		
<b><u>Development type</u></b>		<b><u>Maximum Parking Rate</u></b>
<b><u>Residential accommodation</u></b>	<b><u>Studio / 1 bedroom</u></b>	<b><u>0.4 spaces / dwelling</u></b>
	<b><u>2 bedrooms</u></b>	<b><u>0.6 space / dwelling</u></b>
	<b><u>3 or more bedrooms</u></b>	<b><u>0.7 spaces / dwelling</u></b>
<b><u>Non-residential development</u></b>		<b><u>1 space / 400sqm of non-residential GFA</u></b>

~~P2— On-site car parking provision significantly below maximum rates specified in Table C-2.1 will only be considered if the proposed development has good access to public transport due to the impact that unmet on-site parking demand may have on surrounding streets, if viable alternative transport modes are not available.~~

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area****2.2 CIVIC NEIGHBOURHOOD****2.2.1 Significant elements****Land Use**

- P1 Predominantly community based facilities such as educational establishments, places of public worship and public administration buildings.
- P2 Mixed commercial and residential development.
- P3 Passive and active recreational spaces.

**Topography**

- P4 Generally flat forming the top of the ridgeline, with a fall from the north to the south along Miller Street south of McLaren Street

**Views**

- P5 The following views and vistas are to be preserved and where possible enhanced:
  - (a) To Kirribilli and Sydney Harbour from St Leonards Park.

**Identity / Icons**

- P6 Stanton Library
- P7 St Leonards Park & North Sydney Oval
- P8 North Sydney Council Chambers
- P9 Independent Theatre
- P10 Civic Centre and Park
- P11 Warringah Freeway a major arterial thoroughfare.
- P12 Miller and Falcon Streets a major sub-arterial thoroughfare.

**Subdivision**

- P13 Regular grid pattern with rectangular lots of varying sizes.

**Streetscape**

- P14 Wide fully paved footpaths.



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P15 Buildings are aligned to the street.

P16 Awnings generally provided for shops, cafes and other commercial uses on Miller Street.

P17 A variety of street trees and shrubs.

#### **Public transport**

P18 Development is to take advantage of high accessibility to high frequency public bus services along Miller and Falcon Streets.

P19 Public transport, cycling and walking are the main forms of public transport.

P20 Traffic calming measures along Miller Street, Falcon Street, and Ridge Street.

### **2.2.2 Desired Future Character**

#### **Diversity of activities, facilities, opportunities and services**

P1 A variety of specialty uses including education, public services, community facilities and recreational parks.

P2 Active street frontages from such activities as cafes and shops at ground level on both Miller and Ridge Streets.

P3 Limited residential development in the form of dwelling houses, semi detached dwellings, multi dwelling housing and residential flat buildings according to zone.

P4 Open space used by local residents, students and the wider regional population for social and recreational purposes.

#### **Accessibility and permeability**

P5 Pedestrian connections are to be provided to Stanton Library from Ridge and Miller Streets.

P6 Pedestrian connections through Civic Park and St Leonards Park.

P7 Pedestrian routes are as direct as possible with direct through views from adjacent streets or public domain.

#### **Public spaces and facilities**

P8 Cohesiveness throughout the area is achieved through landscaping and tree planting.

P9 Safe pedestrian links with improved lighting and passive surveillance.

#### **Junction and termination of streets**

P10 Junction at Miller and Falcon Streets provides a gateway to North Sydney Centre.

### **2.2.3 Desired Built Form**

#### **Form, scale and massing**

P1 Generally 1-3 storeys in height with a strong relationship with adjacent building heights.

P2 Development is to be designed to maximise solar access year round to the new public squares to be created within the Ward Street Precinct.

P3 Development must not result in a nett increase in overshadowing to the main southern square to be created within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

#### **Setbacks**

P4 Minimum front setback of 3m for residentially zoned land with landscaping, including trees and shrubs provided at street frontage.

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**Area Character Statements - North Sydney Planning Area**

**Fences**

P5 Front fences no higher than 800mm.

**Gardens**

P6 Substantial planting including trees in front gardens to complement street trees.

**Car accommodation**

P7 Short stay metered car parking for visitors on-street.

P8 Retention and enhancement of off-street public car parking at the Ridge Street car park.

**Streetscape**

P9 Avenue of trees to line roads provides attractive streetscape and provides borders to the road.

P10 Encourage open street frontages with low fences or no fences, landscaping to complement street planting.

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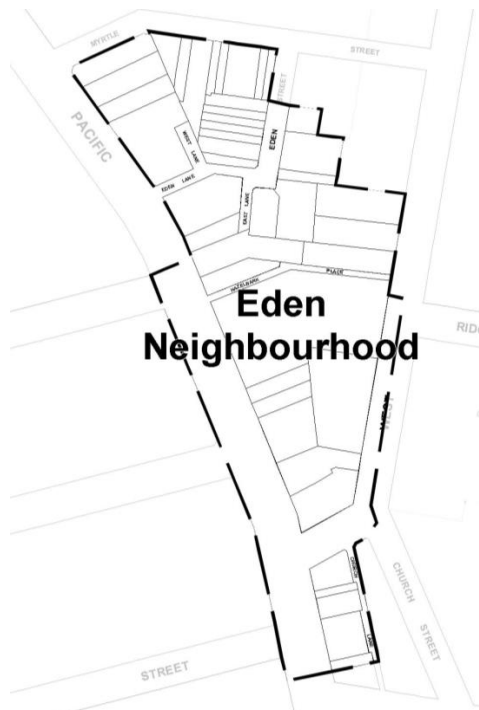




## **AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

### **Area Character Statements - North Sydney Planning Area**

## **2.3 EDEN NEIGHBOURHOOD**



### **2.3.1 Significant elements**

#### **Land Use**

P1 Predominantly commercial and mixed commercial and residential development.

#### **Topography**

P2 Slight falls to the south west from West and Myrtle Streets.

#### **Views**

P3 The following views and vistas are to be preserved and where possible enhanced:

- (a) Views to the North Sydney CBD along the Pacific Highway.

#### **Identity / Icons**

P4 Union Hotel

P5 Freemasons Hall (Wellbeing Centre)

P6 Pacific Highway, a major sub regional thoroughfare.

#### **Subdivision**

P7 Irregular grid pattern, due to the streets aligning with the topography.

#### **Streetscape**

P8 Wide fully paved footpaths.

P9 Buildings built to street along the Pacific Highway.

P10 Awnings provided along the Pacific Highway

P11 Irregular planting of street trees and shrubs.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area****Public transport**

P12 Development to take advantage of high levels of accessibility to high frequency bus services along the Pacific Highway.

**2.3.2 Desired Future Character****Diversity**

P1 Diverse range of activities including residential, public services (including the postal service and police) commercial and retail.

P2 A variety of different sized non-residential spaces (e.g. smaller showrooms, small offices).

P3 Pick up and drop off points for public transport and taxi ranks are located close to public spaces and activities, and main building entrances.

**Accessibility and permeability**

P4 The following through site links are to be provided, retained and enhanced:

- (a) An east-west pedestrian link along Hazelbank Place from West Street to Pacific Highway, with good lighting and paving.
- (b) New pedestrian links which encourage access along Eden Lane to Myrtle Street, West Street and Pacific Highway.
- (c) New pedestrian links which encourage access to and from Pacific Highway, West Street and Ridge Street.

P5 Through site links are made safe through adequate lighting and passive surveillance.

**2.3.3 Desired Built Form****Form, massing and scale**

P1 A variety of building heights in the mixed use area with the average height being 4 storeys.

P2 Buildings adjacent to conservation areas transition in height to match building height in conservation areas.

**Podiums**

P3 A podium of 4 storeys to all streets, with a weighted setback of 3m above the podium with the following exceptions:

- (a) A podium of 4 storeys to Eden Street, Eden Lane and Myrtle Street, with a setback of 1.5m above the podium.
- (b) A podium of 3 storeys to Hazelbank Lane and Church Lane, with a setback of 1.5m above the podium.

**Building Design**

P4 Building form differs throughout the area, with an emphasis on quality mixed use design to complement heritage items.

P5 Form, scale and massing reflects surrounding development to provide visual interest through a range of detailing such as recesses, balconies and a variety of materials.

P6 Ground floor commercial/retail uses to provide activity and interest along Pacific Highway, Eden Street and Eden Lane.

P7 Active uses along Eden Street and Eden Lane such as outdoor dining to encourage activity outside standard business hours.

P8 Mixed use development complements lower scale residential development in adjoining conservation areas.



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**Noise**

P9 Elevations of buildings fronting the Pacific Highway are to be designed and incorporate design features to minimise traffic noise transmission (e.g. the use of cavity brick walls, double glazing, minimal glazing, solid core doors, concrete floors, enclosed balconies etc).

**Awnings**

P10 Consistent awnings along Pacific Highway to provide shelter from weather conditions.

**Car accommodation**

P11 Short stay metered on-street parking for visitors.

P12 Access to underground car parking should be provided through a single combined entry and exit.

**Public Spaces and facilities**

P13 Footpath paving along property frontages in accordance with Council's specifications.

P14 Roof top gardens and public facilities that allow public access to district views from higher floors.

P15 Encourage active uses outside standard business hours to encourage active streets and street surveillance.

P16 Locate any outdoor dining within clearly defined areas located away from main roads; provide weather protection providing equal and unobstructed pedestrian movement.

**Streetscape**

P17 Streetscape to provide consistency with surround areas with street tree planting and use of street furniture.

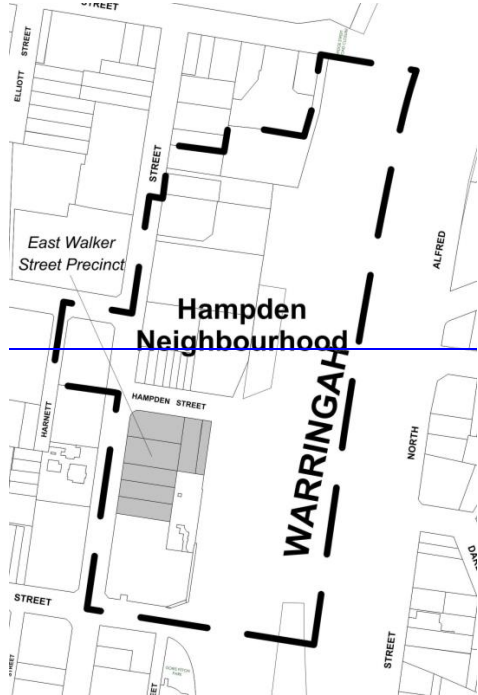
P18 Tree lined streets encourage birdlife and lessen impact to traffic noise.

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**2.4 HAMPDEN NEIGHBOURHOOD**



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**Area Character Statements - North Sydney Planning Area**



### 2.4.1 Significant elements

#### Land Use

- P1 Residential accommodation.
- P2 Educational establishments.

#### Topography

- P3 Moderate falls to the south from Ridge Street and steep falls to the east from Walker Street to the Warringah Expressway.

#### Views

- P4 The following views and vistas are to be preserved and where possible enhanced:
  - (a) Maintain views of Kirribilli and the Harbour from Walker Street.
  - (b) Strong vista along Walker Street to southern part of CBD.

#### Identity / Icons

- P5 North Sydney Club
- P6 Warringah Expressway, a major arterial thoroughfare.
- P7 Sandstone wall in the middle of Walker Street

#### Streetscape

- P8 Tree lined streets with grassed verges and concrete footpaths.
- P9 Split level streets to Hampden Street.

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area**

- P10 Landscaped medians on Hampden Street.
- P11 Double rail timber fences on Hampden Street.
- P12 Low front fences of brick or masonry on Walker Street.
- P13 Residential flat buildings are setback from the boundary and aligned with the street frontage.

**Public transport**

- P14 Development to take advantage of reasonable proximity to high levels of public bus and train services.
- P15 Public transport, cycling and walking are the main forms of public transport.

**2.4.2 Desired Future Character****Diversity**

- P1 A mixture of modern multi-level residential flat buildings with older low rise residential flat buildings.
- P2 Retention of the 2-3 storey original attached dwelling houses on Hampden Street.

**Accessibility and permeability**

- P3 Pedestrian walk along the western side of Warringah Expressway accessed from Hampden Street.

**2.4.3 Desired Built Form****Form, scale and massing**

- P1 Early and original residential buildings complement the topography to maintain views and easy access.
- P2 Ground floors may not relate to street level due to topography of the area, with high sandstone retaining walls at ground level.
- P3 Generally a maximum of 2 storeys on Hampden Street.
- P4 Development is to be designed to maximise solar access year round to the new public squares to be created within the Ward Street Precinct.
- P5 Development must not result in a net increase in overshadowing to the main southern square to be created within the Ward Street Precinct between 9am and 4pm from the March equinox to the September equinox (inclusive).

**Setbacks**

- P6 Maintain existing setbacks from property boundary along the eastern side of Walker Street and the northern side of Berry Street.

**Fences**

- P7 Low fences (max 800mm)
- P8 Small picket fences above sandstone bases

**Car parking**

- P9 Located off-street and below ground for all residential flat buildings and multi dwelling housing.
- P10 Located on-street parking for all heritage listed attached dwellings.
- P11 Short term on-street meter parking.
- P12 Existing sandstone retaining walls on street frontages must not be breached to accommodate garages or car parking spaces.

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## **AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

### **Area Character Statements - North Sydney Planning Area**

#### **Streetscape**

- P13 Heritage features such as Walker Street and Hampden Street sandstone walls.
- P14 Substantial gardens within front setback area.
- P15 Steps and pathways along Walker and Hampden Streets are maintained.
- P16 Landscaping in front gardens/private open space.
- P17 Tree lined streets and mature vegetation on median enhances area.

#### **Noise**

- P18 Elevations of buildings fronting the Warringah Freeway are to be designed and incorporate design features to minimise traffic noise transmission (e.g. the use of cavity brick walls, double glazing, minimal glazing, solid core doors, concrete floors, enclosed balconies etc).

#### **2.4.4 East Walker Street Precinct**



Where there is an inconsistency between the East Walker Street Precinct Controls and the Hampden Neighbourhood Controls, the East Walker Street Precinct Controls prevail.

#### **Building Setbacks**

##### **Front setbacks**

- P1P19 2m landscaped setback to Walker Street
- P2P20 2m landscaped setback to Hampden Street

##### **Side setbacks**

- P3P21 Nil side setbacks to the eastern side property boundary of 17 Hampden Street

##### **Rear setbacks**

- P4P22 12m for Walker Street properties (173-179 Walker Street)
- P5P23 12m for Hampden Street properties (15-17 Hampden Street)

##### **Street wall height (podium)**

- P6P24 2 storey street wall height for Walker Street
- P7P25 2-3 storey street wall height for Hampden Street
- P8P26 The Hampden Street podium is to respond to the rhythm and grain of the adjacent heritage properties through the incorporation of vertical proportions.

##### **Upper level Setbacks**

- P9P27 3m upper level podium setback

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**Area Character Statements - North Sydney Planning Area**

**Building separation**

~~P10~~P28 12m separation distance above the podium base, is to be provided between the two building forms

~~P11~~P29 The building separation is to provide a view corridor through the site.





**AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

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## 2.5 WALKER/RIDGE STREET CONSERVATION AREA



### 2.5.1 History

The Walker/Ridge Streets Conservation Area was subdivided as part of the Town Plan for North Sydney, known at the time as St Leonards, but remained largely undeveloped until the 1880s. Some of the first buildings were "Lamona", built by Dr Kelynack in 1883, "Park House" built by Francis Punch in 1886, followed by "St Helens" 1889.

Land on the western side of Walker Street was owned by Francis Lord as part of an estate surrounding his house "The Lodge". A smaller block was owned by William Tucker. Subdivision and development on the western side of Walker Street occurred in the late 19<sup>th</sup> century, mostly for private homes. The area was once comprised part of "the Macquarie Street of the north" due to the number of doctors surgeries and cottage hospitals. A portion of the area is now occupied by Wenona School.

The main building period is 1880-1900.

### 2.5.2 Description

The Walker/Ridge Streets Conservation Area includes the eastern end of Ridge Street and the sloping, northern portion of Walker Street. It is bounded St Leonards Park to the north, Elliot Street to the west and the Warringah Expressway to the east.

The landform falls to the south. Subdivision is determined by the grid pattern of the streets and lot sizes are irregular and many are developed for attached housing.

The area is characterised by intact groups of single and two storey detached and attached dwelling houses in a mix of Victorian Italianate and Federation styles with St. Helens being a remnant of the Victorian Georgian. The main buildings at the northern end of Walker Street are substantial residences in the Federation Arts and Crafts and Queen Anne styles. There is some modern residential infill and educational buildings associated with Wenona.

Street verges are 3.5 metres wide with concrete footpaths and lined with regularly spaced street trees.

The vista towards the War Memorial in St Leonards Park up Walker Street is a significant feature of the Conservation Area and there are views from the eastern edge to Sydney Harbour. Original fencing and retaining walls are important unifying elements in the streetscape.

Mature landscaping is a unifying and significant feature of the Conservation Area and the gardens to Walker Street contribute to this. There are street trees to Walker Street.

Uncharacteristic elements include contemporary multi-storey buildings; over-scaled, two storey additions; over-scaled and poorly detailed carports and garages; front and side

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION**



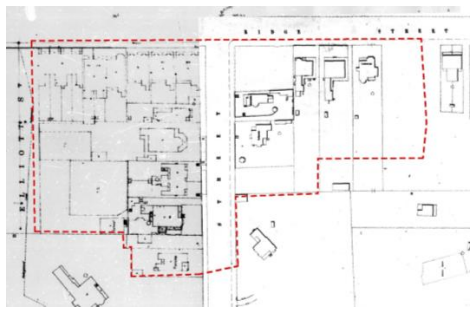
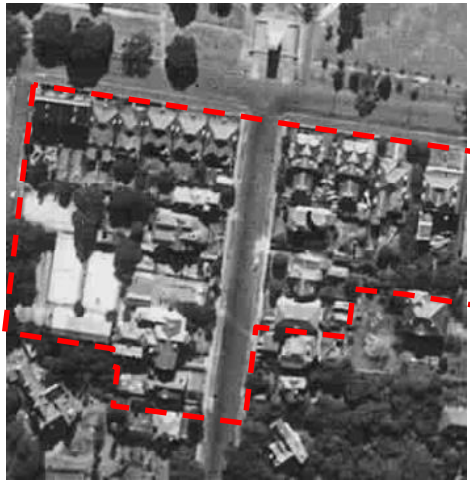

**Area Character Statements - North Sydney Planning Area**

dormers and rooflights; removal of original detailing; verandah infill; rendered and painted face brickwork; modernised facades; high walls and fences to the street.

**2.5.3 Statement of Significance**

The Walker/Ridge Streets Conservation Area is significant:

- (a) For its late 19<sup>th</sup> and early 20<sup>th</sup> century character defined by the number of intact heritage items in the area.

	<p><b>Figure C-2.5.1 (left):</b> Circa 1890</p>
	<p><b>Figure C-2.5.2 (below left):</b> Circa 1943</p>
	<p><b>Figure C-2.5.3 (below):</b> Circa 2008</p>
	

**2.5.4 Significant elements**

**Topography**

P1 Steeply sloping to the south along Walker Street from Ridge Street.

**Subdivision**

P2 Lot sizes – 700m<sup>2</sup> to 1250m<sup>2</sup>.

P3 Rectilinear with narrow boundary to street.

**Streetscape**

P4 Continuity of fences and landscaping.

**Views**

P5 Warringah Expressway Lookout at the end of Ridge Street. Towards St Leonards Park War Memorial along Walker Street.



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**Area Character Statements - North Sydney Planning Area**

**2.5.5 Characteristic buildings**

- P1 Detached and attached Victorian Italianate dwelling houses.
- P2 Detached Federation Queen Anne and Arts and Crafts style dwelling houses.

**2.5.6 Characteristic built elements**

**Siting**

- P1 Dwellings are oriented to face the street, parallel to the street alignment.
- P2 Dwellings are sited forward and middle of lot.

**Form, massing and height**

- P3 Single storey and two storey dwelling houses with hipped and gabled roofs with skillion rear wings.
- P4 Reduced height and scale to rear.
- P5 Open verandahs to front.
- P6 Projecting front gables beside recessed verandahs.
- P7 Detached and semi-detached dwelling houses of identical design often have continuous front verandahs.
- P8 Strong skyline of simple pitched roofs and chimneys visible from street and St Leonards Park.
- P9 Front setbacks generally between 4-5m.
- P10 Side setbacks of 1.5m.

**Roofs**

- P11 Pitched between 30 and 45 degrees without dormers or openings that can be seen from the street.
- P12 Hipped roofs with some gabled elements.
- P13 Gabled ends for projecting bays to the street.
- P14 Skillion roofs to rear extensions.
- P15 Brick and rendered chimneys with terracotta chimney pots.

**External Materials**

- P16 Face brick on Federation buildings with sandstone foundations.
- P17 Original rendered walls on Victorian buildings.
- P18 Slate, corrugated metal and terracotta tiled roofs.
- P19 Timber windows, doors and joinery.
- P20 Original front garden landscaping.

**Windows, doors and joinery**

- P21 Consistent with building period and style. Timber

**Fences and kerbing**

- P22 Original front fences less than 800 mm height with views to the garden.
- P23 Timber fences to rear and side.
- P24 Sandstone plinths, sandstone piers, metal palisade and gates, timber pickets, timber rails and mesh, pipe and mesh gates, original face brick with piers.
- P25 Sandstone kerbing.

**C Part**

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION****Area Character Statements - North Sydney Planning Area****Car accommodation**

P26 No garages or carports located in front of building line.

**2.5.7 Desired built form**

P1 Views to the war memorial in St Leonards Park should not be obstructed and opportunities to improve the vistas to and from the park along Walker Street should be sought.

P2 Improve the interface of the Walker/Ridge Street conservation area boundary with ST Leonards Park.

**2.5.8 Uncharacteristic elements**

P3 Modern infill development, loss of original detailing and materials on elevations visible from the public domain, dormers and skylights on front or side elevations, modified roof planes, glazed roofing, new balconies and decks above street level, infilled verandas and balconies, roof cut-outs for decks and terraces, full width roof additions, glazed balustrades, metal wall cladding, extensive glazing, infill of breezeways, paved gardens, lack of landscape setting including trees, high solid walls and fences to the street, parking except at the rear, concrete kerbing.



## **AMENDMENT FOR ADOPTION - North Sydney Development Control Plan 2013**

### **Area Character Statements - North Sydney Planning Area**

## **2.6 McLAREN STREET CONSERVATION AREA**



### **2.6.1 History**

The McLaren Street Conservation Area was subdivided as part of the Town Plan for North Sydney, known at the time as St Leonards.

The land for St Thomas' Church was allocated in 1842 and the first church erected in 1843. Further land was purchased by the Church and a schoolhouse was erected in 1848. The original Church was replaced by a larger Church erected around it between 1877 and 1884 to a design by Edmund Blacket.

A rectory, designed by E. Jeaffreson Jackson, was built to the east of the Church in 1900, and a memorial hall was added to the site in 1922. The earliest recorded occupant of adjacent land was James Husband, and plans from 1892 show "St Thomas' Terrace" fronting Miller Street.

During the 1890's a large residence and doctor's surgery, designed by E. Jeaffreson Jackson, was erected for Dr Capper at the corner of Miller and McLaren Streets. The building was acquired in 1926 and remodelled as Council Chambers for North Sydney Council.

At the turn of the 20th century Miller Street was known as the "Macquarie Street of the North Shore" because of the concentration of doctors, dentists and hospitals.

### **2.6.2 Description**

The McLaren Street Conservation Area is made up of two areas either side of McLaren Street and Church Street including the park to the north of the North Sydney Council Chambers.

The topography slopes down from Ridge Street towards McLaren Street with Church Street following the slope. The park is modelled with small rises and a terraced area towards Miller Street. The subdivision pattern relates only to McLaren Street and Church Street and the Victorian pattern has been lost in the Civic precinct.

The characteristic buildings in the area are typically Federation and Edwardian Queen Anne with pockets of Victorian dwelling houses along Church Street. The area contains several public buildings including St Thomas's Church and Hall and the North Sydney Council Chambers, a Federation building with modern extension. The buildings are typically:

- (a) single and two storey, freestanding buildings with materials relating to the age of construction,
- (b) Victorian rendered dwelling houses with verandahs and slate and corrugated metal roofs, and
- (c) Federation face brick dwelling houses with verandahs and terracotta tile roofs.

The church is a prominent, stone building with associated vestry building and halls.

**C Part**

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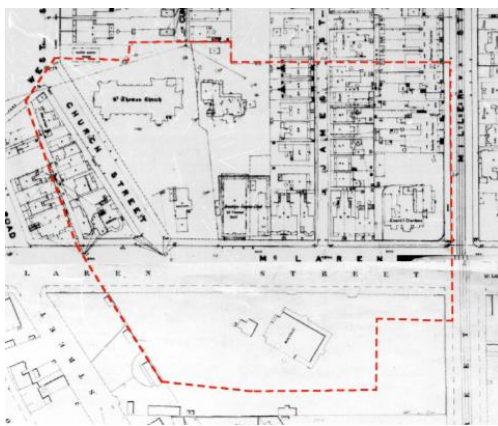
**Area Character Statements - North Sydney Planning Area**

There are street plantings along each of the streets and plantings in the park.

**2.6.3 Statement of Significance**

The McLaren Street Conservation Area is significant:

- (a) As an area that is close to the centre of North Sydney that retains representative details from its development from the late 19th and early 20th centuries, including street formation, buildings, gardens and fencing.
- (b) For its landmark qualities and associations with St Thomas’ Church, North Sydney Council buildings, park and public court



**Figure C-2.6.1 (left):**  
Circa 1890



**Figure C-2.6.2 (below left):**  
Circa 1943

**Figure C-2.6.3 (below):**  
Circa 2008



**2.6.4 Significant elements**

**Topography**

P1 Sloping to the south from Ridge Street



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**Area Character Statements - North Sydney Planning Area**

**Subdivision**

P2 Variety of lot sizes related to land use and building/dwelling type. Generally rectilinear with narrowest frontage to street for perimeter development.

**Streetscape**

P3 Buildings at street level or raised above it.

P4 Varying scale of housing facing the street in garden settings located forward on the lot.

P5 Public buildings in landscaped setting.

P6 Concrete and stone kerbs, sandstone walls, palisade fences, street gardens.

P7 Street trees and Stanton Park.

**Views**

P8 Views within area along Miller and McLaren Streets to St Thomas' Church and the Council buildings.

**2.6.5 Characteristic buildings**

P1 Victorian and Federation.

**2.6.6 Characteristic elements**

**Siting**

P1 Dwellings are oriented to face the street, parallel to the street alignment, forward on lots.

P2 Front setback 6-8m and side setbacks of 1.5-2m.

**Form, massing and height**

P3 Single and two storey, detached dwelling houses.

P4 Simple forms articulated with verandahs to front.

P5 Reduced bulk and scale to the rear.

P6 Multi-storey public buildings.

P7 Mainly gabled and hipped roofs pitched between 30 and 45 degrees.

**Materials**

P8 Walls: render, stone and face brick on sandstone foundations.

P9 Roofs: slate, terracotta and corrugated metal on rear extensions.

P10 Windows and doors: Timber.

P11 Tall chimneys with chimney pots, stucco and face brick.

P12 Tessellated tiles to verandahs.

**Windows and doors**

P13 Consistent with building period and style. Timber

**Fences**

P14 Brick or sandstone piers and base with metal palisade and timber panels.

P15 Stone boundary wall to Church.

**Car accommodation**

P16 Locate garages and carports to rear of the property.

P17 No garages or carports located in front of building line.

**C Part**

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**North Sydney Development Control Plan 2013 – AMENDMENT FOR ADOPTION**



**Area Character Statements - North Sydney Planning Area**

P18 Single driveways.

**2.6.7 Uncharacteristic elements**

P1 Modern additions and buildings; painting and rendering of face brick; high fences to street; excessive paved areas for parking; buildings built to the front boundary.

P2 Modern shopfront to 5-7 McLaren St.