

## 10.11.Planning Proposal 4/23 - 183-185 Military Road Neutral Bay

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<b>ATTACHMENTS</b>	Nil
<b>CSP LINK</b>	<ol style="list-style-type: none"> <li>1. Our Living Environment             <ol style="list-style-type: none"> <li>1.2 Environmentally sustainable community</li> <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>4.1 North Sydney is connected, inclusive, healthy and safe</li> <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 present to Council the assessment report of Planning Proposal No. 4/23 for 183-185 Military Road, Neutral Bay which seeks to amend North Sydney Local Environmental Plan 2013, following its review by the North Sydney Local Planning Panel on 25 October 2023.

### EXECUTIVE SUMMARY:

- On 6 April 2023, Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to 183-185 Military Road, Neutral Bay.
- The Planning Proposal seeks to increase the maximum building height control for the site from 16m to 43m, and increase the non-residential floor space ratio control from 0.5:1 to 2:1.
- The indicative concept scheme accompanying the Planning Proposal includes a 12-storey mixed-use development comprising retail floorspace at the ground and basement levels; a community centre on level 1; commercial floorspace on levels 2-3; and residential floorspace from levels 4-12, with approximately 57 car spaces across four basement

levels.

- The Planning Proposal is accompanied by a non-binding letter of offer to enter into a Voluntary Planning Agreement (VPA) with Council to deliver a 2.5m setback along Military Road and an increased setback along the eastern boundary to contribute (approximately 230m<sup>2</sup>) to a future public plaza fronting Rangers Road, provision of a new community facility (323m<sup>2</sup>), and 14 public bicycle parking spaces at ground level.
- On 25 October 2023, the North Sydney Local Planning Panel (NSLPP) considered the Planning Proposal and determined that the proposal should not be supported to proceed to a Gateway Determination for the following reasons:
  - *The Planning Proposal is not underpinned by an endorsed place-based strategy for the locality and is inconsistent with the North Sydney Local Strategic Planning Statement; North District Plan and Greater Sydney Regional Plan;*
  - *The Planning Proposal does not satisfy the objectives and intended outcomes of the rescinded Military Road Corridor Planning Study for this identified key site (known as ‘site 3’) and is inconsistent with the strategic objectives of Council’s renewed Strategy for the Neutral Bay Town Centre as outlined in Council’s 24 January 2022 resolution and endorsed scoping framework of May 2022 for the revised Neutral Bay Town Centre Planning Study, which sought to further engage with the community and stakeholders to prepare ‘a revised recommendation that has a better balance between development height and the provision of additional public open space’;*
  - *The Planning Proposal does not demonstrate adjacent site integration, and the overall height, bulk and scale of the proposed built form is unacceptable in terms of providing a human scale frontage to the future Rangers Road plaza; overshadowing impacts to the public and private domain; traffic impacts and delivering a genuinely ‘public’ and high amenity public domain and community facility.*
- The Panel was of the view that ‘given the imminence of the NBTCPs, any Planning Proposals/spot re-zonings before its completion would not have strategic merit in terms of the future context of the Centre, and would undermine community confidence in the planning process’.

#### **RECOMMENDATION:**

**1. THAT** Council resolves to not support the Planning Proposal proceeding to Gateway Determination, for the following reasons:

- The Planning Proposal is not underpinned by an endorsed place-based strategy for the locality and is inconsistent with the North Sydney Local Strategic Planning Statement; North District Plan and Greater Sydney Regional Plan;
- The Planning Proposal does not satisfy the objectives and intended outcomes of the rescinded Military Road Corridor Planning Study for this identified key site (known as ‘site 3’) and is inconsistent with the strategic objectives of Council’s renewed Strategy for the

Neutral Bay Town Centre as outlined in Council's 24 January 2022 resolution and endorsed scoping framework of May 2022 for the revised Neutral Bay Town Centre Planning Study, which sought to further engage with the community and stakeholders to prepare 'a revised recommendation that has a better balance between development height and the provision of additional public open space';

- The Planning Proposal does not demonstrate adjacent site integration, and the overall height, bulk and scale of the proposed built form is unacceptable in terms of providing a human scale frontage to the future Rangers Road plaza; overshadowing impacts to the public and private domain; traffic impacts, and delivering a genuinely 'public' and high amenity public domain and community facility.
- 2. THAT** Council notifies the applicant of Council's determination in accordance with section 9 of the Environmental Planning and Assessment Regulation 2021.

## **Background**

### Pre-Lodgement Meeting

On 6 October 2022, following the rescission of the Military Road Corridor Planning Study (MRCPS) in January 2022, a pre-lodgement meeting was held between Council staff and the applicant. The applicant was advised that Council is currently working on a revised planning study that seeks to achieve a better balance between height and public benefits for the locality and that in the absence of an endorsed study, a Planning Proposal would not be supported in the current policy context.

The applicant expressed concerns with the Planning Proposal lodged by Woolworths for the adjacent site to the east (1-7 Rangers Road) and its impact on the future potential redevelopment of their site. Whilst the applicant indicated that a commercial agreement with Woolworths is unlikely to be reached, they expressed interest in opening a dialogue with Woolworths to achieve a coordinated planning outcome for 'Site 3'.

Council staff reinforced that the intent of Council's rescinded and renewed Study for the precinct is to deliver public benefits and for a successful scheme to progress on 'Site 3' the rescinded MRCPS required both landowners to cooperate and collaborate. It was recommended that the applicant re-commence negotiations with the adjoining landowner (Woolworths) to achieve a coordinated design outcome particularly with respect to the delivery of the proposed public benefits, including new public domain.

### Planning Proposal

On 6 April 2023, the subject Planning Proposal (PP4/23) was lodged by the applicant (Equitibuild Pty Ltd) for 183-185 Military Road, Neutral Bay.

On 18 April 2023, a letter was sent to the applicant noting the proposal's inconsistency with Council's strategic vision for the precinct. It was recommended that a number of issues be addressed prior to Council proceeding with a more comprehensive assessment; this included a reduction to the proposed 12-storey height, reconsideration of the nil setback to the adjoining site to the south-east, evidence of collaboration with the adjoining landowner (1-7 Rangers Road) in relation to the provision of the plaza, further clarification on the proposed community facility and VPA offer, and to address a number of inconsistencies throughout the submitted documentation.

On 3 May 2023, a written response was received from the applicant which included an amended Urban Design Report. With the exception of providing some additional detail to assist Council undertake a comprehensive assessment of the proposal (i.e., the inclusion of elevation plans, concept landscape plan and schedule of floor areas) and some minor adjustments to the setbacks along Military Road and Military Lane, no material changes were made to the proposal to address the issues raised by Council.

## Ministerial Direction

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

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

The Order includes an explanatory note which states:

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

In the context of this order, Council staff have sought to finalise its assessment and reporting of the proposal with minimal delay.

## **Report**

### **1. Planning Proposal**

#### **1.1. Site Description**

The subject site comprises three (3) parcels located at 183, 183A and 185 Military Road, Neutral Bay. It is legally described as Lot A in DP 322525; Lot B in DP 322525; and Lot 1, in DP 34803.

The subject site is bound by Military Road to the north, Rangers Road to the east and Military Lane to the south. The site is irregular in shape with a 35m frontage to Military Road, 15m frontage to Rangers Road and 20m frontage to Military Lane, which functions as a service lane. The total site area is approximately 1,300m<sup>2</sup>. There is a gradual fall of approximately 0.5m across the site from north to south.

#### **1.2. Proposed Instrument Amendment**

The Planning Proposal seeks to;

- amend the Height of Buildings Map to NSLEP 2013 such that a maximum building height for 183-185 Military Road is increased from 16m to 43m; and
- amend the non-residential Floor Space Ratio Map to NSLEP 2013 such that the minimum non-residential floor space ratio for 183-185 Military Road is increased from 0.5:1 to 2:1.

### 1.3. Indicative Concept Scheme

The Planning Proposal is accompanied by an indicative concept scheme to demonstrate what could be achieved if the proposed amendments were implemented. The accompanying indicative reference design includes a 12-storey mixed-use development comprising retail floorspace at the ground and basement levels; a community centre on level 1; commercial floorspace at levels 2-3; and residential floorspace from levels 4-12, with approximately 57 car spaces across four basement levels (as per Figures 1 and 2 below).

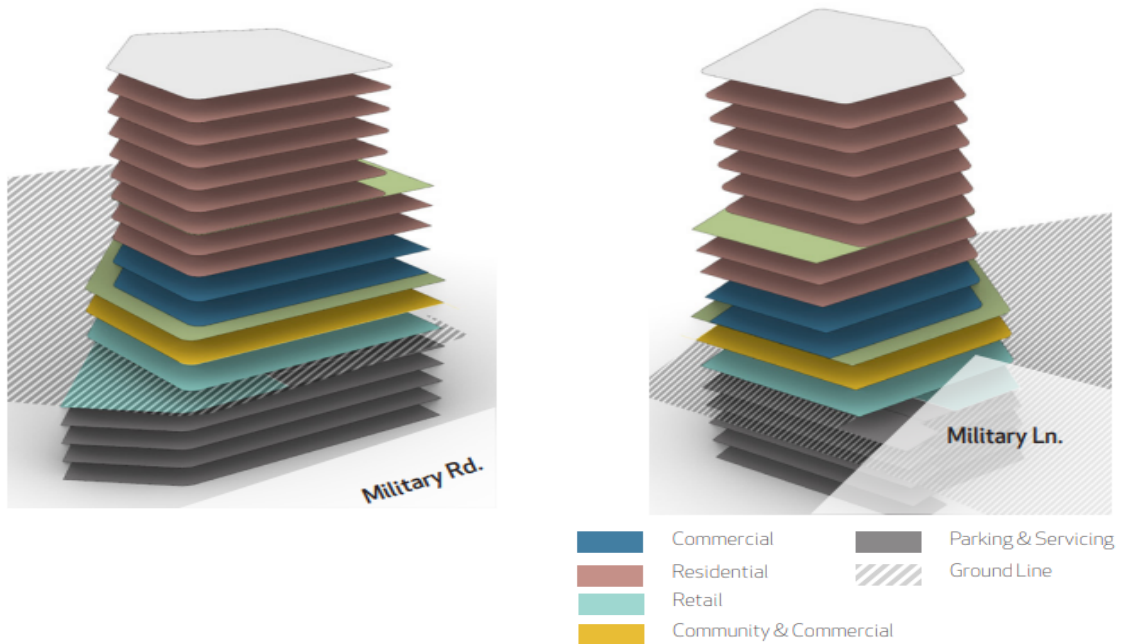


FIG 1: Proposed building envelope (northeast)

FIG 2: Proposed building envelope (southwest)

The Planning Proposal is accompanied by an indicative concept design prepared by AJC Architects Pty Ltd, with Figure 3 below showing an artist's impression of the proposed design.



FIGURE 3: Indicative Design Proposal (Urban Design Report, p. 40)

## **1.4. Voluntary Planning Agreement**

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

- a 2.5m setback along Military Road frontage measuring 95m<sup>2</sup> for public domain improvements and an increased setback along the eastern boundary measuring 135m<sup>2</sup> contributing towards a future public plaza fronting Rangers Road;
- A community facility with fit-out measuring 323m<sup>2</sup>; and
- 14 public bicycle parking spaces at ground level.

The total estimated value of the proposed public benefits is \$6,425,000. This value has been assigned by the applicant and has not been independently evaluated by Council. The offer is in addition to any applicable section 7.11 local infrastructure contributions to be levied with any future Development Application (DA) approval for the site.

## **2. Assessment**

By Ministerial Direction, all Planning Proposals are required to be referred to the Local Planning Panel for advice prior to Council determining whether the planning proposal should be forwarded to the Department of Planning (DPE) for the purposes of seeking a Gateway Determination.

A detailed assessment of the proposal is provided within the Assessment Report considered by the NSLPP on 25 October 2023, a copy of which is available at:

<https://www.northsydney.nsw.gov.au/downloads/file/2859/pp01-183-185-military-road-neutral-bay-pp4-23>.

The assessment report concluded that the Planning Proposal should not be supported.

## **3. Local Planning Panel**

NSLPP considered the proposal at its meeting on 25 October 2023, when it recommended that the Planning Proposal should not proceed to Gateway Determination as it fails to demonstrate the necessary strategic and site-specific merit. The NSLPP recommendation can be found at:

<https://www.northsydney.nsw.gov.au/downloads/file/2896/nslpp-planning-proposal-minutes-25-october-2023>.

## **4. Key Issues**

### **4.1. Strategic Merit**

The North Sydney Local Strategic Planning Statement (LSPS) was adopted by Council on 25 November 2019, and subsequently assured by the Greater Sydney Commission (GSC) on 20 March 2020. One of the key roles of the LSPS is to draw together, in one document, the priorities and actions for future land use planning, and present an overall land use

vision for the North Sydney LGA for the next 20 years. The LSPS is required to be consistent with the Regional and North District Plan and provide a clear line-of-sight between the key strategic priorities identified at the regional and district level and local neighbourhood level. The LSPS must be considered as part of the LEP-making process (planning proposals) and forms part of the strategic merit test for a Gateway Determination.

The proposal conflicts with Actions L3.2 and L1.5 of the North Sydney LSPS. These actions identify undertaking/preparing a planning study for the Neutral Bay and Cremorne Military Road Corridor and that Council only support Planning Proposals that are consistent with Council's endorsed planning studies. These actions were put in place to ensure that any proposed increase to development intensity on a site aligns with the broader strategic vision of the area, takes into consideration the cumulative impacts of such development, and ensures appropriate infrastructure is in place. These actions align with Objective 12 of the Regional Plan and Planning Priority N6 of the North District Plan, which clearly states that a place-based planning approach should be applied to local centres and that the preparation of place-based planning studies for local centres be led predominantly by local councils of which *'the resolution of which local centres are important to each council will need to be assessed as part of the preparation of local strategic planning statements'* (p. 49). As such, in the absence of an endorsed Strategy to guide and manage growth and change in the precinct, the Planning Proposal is inconsistent with the applicable strategic planning policies.

Whilst the applicant acknowledges that the MRCPS is no longer the adopted strategic framework for the precinct, the applicant contends that the MRCPS should remain a relevant consideration in the assessment of the Planning Proposal as it is a strategic planning study undertaken by Council supported by background investigations and significant community consultation. The applicant submits that the Planning Proposal demonstrates strategic merit on the basis that it would allow for the MRCPS's vision for 'Site 3' to be achieved and provide for an increased supply of jobs, housing and community benefits, as opposed to the alternate options of pursuing the existing DA approval for a 5-storey mixed-use development on the site which lapses in October 2024, or the uncertainty of a 'do-nothing' approach and waiting for a future study and its outcomes to be adopted.

The rejection of the previously adopted MRCPS was largely predicated on concerns relating to the heights identified in the Study, specifically heights of 12-storeys on select sites including the subject site, and the compatibility of such heights with the Study's solar access and local character objectives. The sensitivity to increased height in the precinct is a key driver of the renewed planning study currently being formulated for the precinct. It has been communicated to the applicant on several occasions that in order to achieve *'a better balance between development height and the provision of additional public open space,'* as per Council's January 2022 resolution, building heights of 12-storeys were no longer being contemplated in Council's renewed strategy.

The scoping framework endorsed by Council in May 2022, which forms the basis of the revised Study, retains the same objectives as the rescinded MRCPS as they remain



relevant, however, introduced a new objective with respect to more ‘targeted modest increases in height and density’. At the requested height of 43m for 12-storeys, the Planning Proposal is inconsistent with Council’s endorsed policy position and emerging strategic vision for the precinct.

On 25 October 2023, the North Sydney Local Planning Panel (NSLPP) agreed with the recommendations of the Council Officer’s detailed assessment report, stating that whilst it *...is cognizant of the need to consider the recent PP for the adjoining Woolworths site and its current position’* and that *‘if the adjoining site is developed to a height of 8 storeys, consideration for an increase in height on this corner site may be appropriate... the Planning Proposal in its current form to increase the maximum building height from 16m to 43m, 12 storeys, is not supported by the Panel, in particular in terms of the future context within the Neutral Bay centre, which remains unknown at this stage.*

The Panel was of the view that: *following the findings of the NBTCPS it would then be appropriate to progress a PP for the subject site and this should have regard to the matters as identified in the Planning Officer’s Report and the following: apartment yield and mix; key worker/ affordable housing; car spaces; quantum of non-residential floor space/estimated employment; public domain and community facilities; and urban design parameters.*

The Panel concluded that it *does not support the PP and recommends to Council that it not proceed to Gateway in the absence of the findings of the NBTCPS’* and that *‘given the imminence of the NBTCPS, any PPs/spot re-zonings before its completion would not have strategic merit in terms of the future context of the centre, and would undermine community confidence in the planning process.*

If the Planning Proposal were to proceed in its current form, it would significantly undermine the strategic planning work that has been undertaken by Council to date and, for the reasons outlined in section 4.2 of this report, the ability to achieve Council’s place-making objectives for the precinct. There is a risk, that if the proposal were to proceed, that it would lead to a disjointed and sub-optimal outcome of reduced public benefit, and further encourage spot rezonings throughout the precinct, creating uncertainty and leading to unpredictable and fragmented development outcomes that do not deliver the genuine, long-term community benefits envisaged by Council.

## **4.2. Site-specific Merit**

### Building Height

The proposal seeks to increase the building height limit from 16m under NSLEP 2013 to part 43m to accommodate a 12-storey mixed-use building across the site.

The rescission of the previously adopted MRCPS was largely due to concerns relating to the heights identified in the Study, specifically the heights of up to 12-storeys on select sites including the subject site, and the compatibility of such heights with the Study’s solar access and local character objectives. As discussed earlier in this report, the

sensitivity to increased height in the precinct is a key driver of the renewed planning study being formulated for the precinct and heights of 12-storeys are no longer being contemplated in Council's emerging vision for the precinct.

In the context of Council's rescission of the MRCPS and resolution to prepare *a revised recommendation that has a better balance between development height and the provision of additional public open space* and the current preparation of a revised Study that seeks *'targeted modest increases in height and density while maintaining and enhancing the village atmosphere of the centre*, the proposed height of 12-storeys on the site is clearly inconsistent with Council's strategic objectives for the precinct.

### Overshadowing

The proposed height of 43m (12 storeys) will result in significant and unreasonable overshadowing impacts when considered in combination with the Planning Proposal (PP1/23) recently supported by the Sydney North Planning Panel (SNPP) in September 2023 for the adjacent site at 1-7 Rangers Road and 50 Yeo Street. As previously noted, the rejection of the MRCPS was largely predicated on concerns relating to the building heights of 12-storeys identified and associated impacts.

A key design consideration for 'Site 3' in the rescinded MRCPS was that solar access be maintained to the northern facades of dwellings along the southern side of Yeo Street. It is considered that the overshadowing impact of the subject proposal should not be considered in isolation and that the cumulative impacts of future development at 'Site 3' be considered. At present, based on the information provided, it cannot be demonstrated that sufficient solar access to the properties along the southern side of Yeo Street can be achieved for the whole of 'Site 3.'

It should be noted that whilst the SNPP recently recommended PP1/23 (1-7 Rangers Road and 50 Yeo Street) progress subject to a reduction in height, the endorsed numerical height standards of 31m for eight storeys and 26m for six storeys by the SNPP will not ameliorate the proposal's significant overshadowing impacts to dwellings on the southern side of Yeo Street, which was identified by the SNPP as a key concern to be addressed via an amended site-specific DCP. Specifically, the SNPP recommended in its decision (dated 11 September 2023) that a revised site-specific DCP be prepared that includes *provisions requiring changes to the indicative Yeo Street façade to ensure no further overshadowing of any north facing windows in any residential property in Yeo Street at mid winter above and beyond that projected by Council's rescinded MRCPS including the existing building at 50 Yeo Street.*

The proposed height of 43m (12-storeys) at 183-185 Military Road would further exacerbate the overshadowing impacts to dwellings on the southern side of Yeo Street contrary to the objectives of the revised planning study, good planning practice and the recommendations of the SNPP.

On 22 September 2023, Council made a submission to the DPE raising concerns with the numerical height standards recommended by the SNPP in relation to PP1/23 (1-7 Rangers Road and 50 Yeo Street). A response is yet to be received.

### Public Benefits

Delivering a high-quality public domain and community facilities is a key objective of Council's renewed Study for the precinct and formed the basis of the height uplift identified in the rescinded MRCPS.

### Public Open Space

The rescinded MRCPS envisaged the delivery of a new public plaza fronting Rangers Road together with the adjacent site to the east (1-7 Rangers Road). A coordinated design outcome between the two landowners is critical to achieve a genuinely public, high amenity plaza of an appropriate size, proportions, visual and physical connections.

Whilst the proposal offers to contribute an additional 135m<sup>2</sup> to the plaza proposed to be delivered by the adjacent landowner and contribute toward wider footpaths along Military Road, the concept scheme is highly conceptual, does not adequately demonstrate adjacent site integration with the adjoining site (1-7 Rangers Road) or achieve the public domain objectives for the creation of the plaza at 'site 3' as outlined in the rescinded MRCPS.

As shown in Figures 4 and 5 on the next page, the proposed concept landscape plans for the subject site and adjoining site are in conflict in terms of their vision for the plaza. In particular, the proposed nil setback at the ground level along the south-eastern boundary with the adjoining site is problematic in terms of delivering active edges around the plaza. It would require entering into legal access arrangements with the adjoining landowner, which cannot be presumed at this stage of the process. The concept scheme for the adjoining site also proposes an access point/escalator from the plaza to the subterranean supermarket along the joint boundary which narrows the proportions of the plaza and inhibits any future connection to Military Lane.

No evidence has been provided that the landowner has sought to collaborate with the adjacent landowner (Woolworths) with respect to pursuing a coordinated and more holistic urban outcome for this key site. Whilst the proposed dedication of the eastern corner of the subject site is welcomed, the proposed schemes on these two sites currently present a disjointed and sub-optimal urban outcome of reduced public benefit. This is unfortunate given the unique opportunity to create a unique and memorable public domain environment in a part of Neutral Bay that is in great need of such spaces.

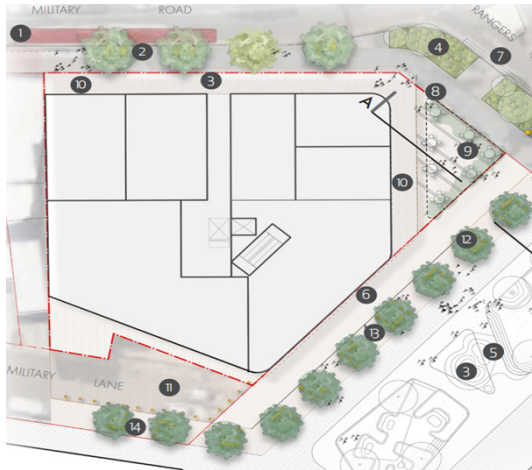


FIGURE 4: Landscape concept plan  
(Applicant's Urban Design Report p. 46)

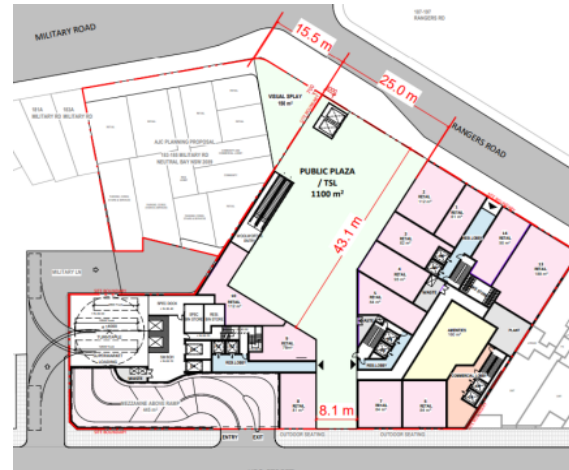


FIGURE 5: Landscape concept plan  
(PP1/23 for 1-7 Rangers Road and 50 Yeo Street)

### Community Facility

The rescinded MRCPS previously identified the delivery of a 1,000m<sup>2</sup> community facility at 'site 3'. The applicant's VPA offer includes the provision of a 323m<sup>2</sup> community facility at Level 1, which falls significantly short of the specifications in the rescinded MRCPS in terms of its size and proposed relationship to the plaza. Although it is acknowledged that this Study was rescinded, it reflects the community needs of the precinct, which will remain valid for the revised strategy.

As previously mentioned, the delivery of the public benefits identified in the rescinded MRCPS formed the basis of the height uplift identified across 'site 3' and was informed by financial feasibility testing. As such, the applicant's justification that *'the proposed public benefits are directly related to the increased height proposed on that part of site 3 identified as 183-185 Military Road'* is not accepted.

## 5. Submissions

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

At the time this report was completed, 30 submissions had been received from local residents and the Willoughby Bay, Neutral, Brightmore, and Harrison / Bennett Precinct Committees. All 30 submissions objected to the Planning Proposal. A summary of the key concerns raised is provided in the Council Officer's detailed assessment report.

The key concerns raised by Submitters are:

- the height and scale of development proposed is excessive and will result in unacceptable material impacts;

- the proposal demonstrates poor integration and collaboration with the adjoining (Woolworths) site; and
- it does not consider the cumulative impacts of a combined development for ‘Site 3’ on the locality.

The Harrison-Bennett, Brightmore, Neutral, and Willoughby Bay Precinct Committees all strongly objected to the proposal and individually raised concerns regarding any increase in height until the community has had the opportunity to provide its view on the level of ‘modest’ increase in height appropriate for the precinct, the disregard to the cumulative impacts of PP 1/23, and the subject proposal with respect to traffic generation, solar access, and overshadowing, the location of the future community centre, the VPA offer, and the plaza design. Objections were also raised with respect to the potential loss of the facades of 183 and 183a Military Road, and the lack of consultation between adjacent owners, resulting in poor public benefits to the community.

## Options

Council has the following options in relation to this matter:

1. Not support the Planning Proposal and associated VPA offer.
2. Support the Planning Proposal and associated VPA offer and forward the Planning Proposal to the Department of Planning seeking a Gateway Determination.

These options are assessed in the table below.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
1.	Not supporting the Planning Proposal will have a negligible financial impact, although from a resourcing perspective, additional staff time will be required to make representations to the State Government if a Rezoning Review is lodged by the applicant and to prepare a site-specific amendment to NSDCP 2013 to better guide and manage any future development on the site if the Planning Proposal were to progress via an alternate approval pathway.	Should the Applicant lodge a Rezoning Review and the SNPP does not support the progression of the Planning Proposal to a Gateway Determination, the SNPP’s decision is final. There is a risk, however, that the SNPP could support the progression of the Planning Proposal contrary to Council’s decision. Council would have the ability to prepare a site-specific DCP amendment to better guide and manage the bulk and scale, massing, open space, solar access, and pedestrian amenity of any future development on the site and mitigate identified adverse planning impacts.	Should the Planning Proposal be refused, no further consultation is required beyond this report and notifying the applicant and submitters of Council’s decision.  The applicant is invited to comment on the revised Neutral Bay Town Centre Planning Study.

Option	Finance/Resourcing	Risk/Opportunity	Consultation
2.	Supporting the progression of the Planning Proposal will have some financial/resourcing impact. The detailed terms of the VPA would require further resolution between the parties including agreement over the ongoing ownership and maintenance of a public plaza and community facility.	The Planning Proposal is inconsistent with Council's adopted policy position and strategic vision for the precinct and will undermine Council's renewed strategic planning work for the precinct. If progressed, the Planning Proposal will result in an overly intense built form in its context and undermine the ability to achieve Council's place-making objectives for the precinct, by facilitating disjointed and sub-optimal public domain outcomes of reduced public benefit.	If progressed, community engagement would be undertaken in accordance with Council's <i>Community Engagement Protocol</i> and the conditions of any Gateway Determination issued by the DPE.

Option 1, is recommended for the following reasons:

- The Planning Proposal is inconsistent with Council's adopted policy position and emerging strategic vision for the precinct as outlined in Council's 24 January 2022 resolution and endorsed scoping framework (May 2022) for the revised Neutral Bay Town Centre Planning Study.
- The Planning Proposal, if progressed, will result in an overly intense built form in its context with unreasonable cumulative impacts and undermine the ability to achieve Council's place-making objectives for the precinct, by facilitating disjointed and sub-optimal public domain outcomes.
- The Planning Proposal, if progressed, will further encourage spot rezonings throughout the precinct, creating uncertainty and leading to unpredictable and fragmented development outcomes that do not deliver the genuine, long-term community benefits envisaged by Council.

### Consultation Requirements

This report recommends the Planning Proposal not be supported. As such, community engagement is not required beyond this report and notifying the applicant and submitters of Council's decision.

### Financial/Resource Implications

This report recommends the Planning Proposal not be supported to proceed to a Gateway Determination. As such, there are no direct financial implications for Council. However, from a resourcing perspective, additional staff time will be required to make representations to the

State Government if a Rezoning Review is lodged by the applicant and prepare an amendment to NSDCP 2013 to better guide and manage any future development on the site if the Planning Proposal were to progress for the subject site via this alternate approval pathway.

### **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.