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173-179 Walker Street and 11-17 Hampden Street,
North Sydney

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1 Introduction

1.1 Overview

1.1.1 Planning Proposal

North Sydney Local Environmental Plan 2013 (Amendment No. 31).

The planning proposal (**Attachment A**) seeks to facilitate a residential development at 173-179 Walker Street and 11-17 Hampden Street, North Sydney (the site) by making the following amendments to the North Sydney Local Environmental Plan (LEP) 2013:

- Increase the maximum building height from 12m to RL 133 (24 storeys)
- Introduce a maximum floor space ratio (FSR) of 6.1:1
- Introduce a new Special Provisions Area Map and identify the site as 'Area 1'
- Introduce a new Special Provisions clause under Part 6 that includes the following site-specific provisions:
 - Incentivise the amalgamation of all lots within the site through a maximum building height bonus allowing for a maximum height of RL 148 (29 storeys)
 - Ensure that development consent cannot be granted to development at the site which leads to a net increase in overshadowing to Doris Fitton Park between 12pm-2pm mid-winter
 - Ensure that the consent authority must be satisfied that there is adequate provision of social and community infrastructure.

1.1.2 Site description

The site, often referred to as the East Walker Street Precinct, is zoned R4 High Density Residential and comprises seven properties between 173-179 Walker Street and 11-17 Hampden Street, North Sydney. The site has an area of 3,949sqm, and is located north of the North Sydney CBD and west of the Ward Street Precinct Masterplan area.

The existing character of the site is primarily dominated by a series of three storey walk up residential flat buildings along the Walker Street Frontage. The site also comprises two single storey detached dwellings on its Hampden Street frontage. The site also contains a range of mature trees.

Surrounding development comprises predominantly high density residential uses, with some low density residential uses, mixed use, commercial and infrastructure uses. This includes:

- A row of two storey heritage listed terrace houses on the northern side of Hampden Street
- Eight-story residential flat building to the east and adjacent to part of the site at 88 Berry Street
- On-ramp to the Warringah Freeway is found to the east
- 21-storey mixed use building comprising of commercial offices on the lower levels with residential dwellings above to the south and adjacent to the site
- Opposite the site to the west is a heritage listed stone wall providing grade separation dividing Walker Street
- A row of two storey heritage listed terrace houses on the western side of Walker Street.
- Two single storey houses towards the northern end of Walker Street
- 22-storey mixed-use building at 136-142 Walker Street
- 10-storey building at 144-150 Walker Street.

The site is approximately 600m north of the North Sydney Train Station and approximately 200m east of the proposed Victoria Cross Metro Station portal.



Figure 1 Subject site

1.1.3 Purpose of plan

The table below outlines the current and proposed and final principal development controls for the LEP.

Table 1 Current and proposed controls

Control	Current	Proposed	Final
Zone	R4 High Density Residential	R4 High Density Residential	R4 High Density Residential
Maximum height of the building	12m	Part RL 133 (Bonus RL 148)	○ Part RL 133 (Bonus RL 148) ○ Part RL 84 ○ Part RL 89
Floor space ratio	N/A	6.1:1	6.1:1

The LEP will also include an amendment under clause 4.6 Variations to Development Standards to ensure that its application is turned off for any future development at the site.

The LEP also seeks to introduce a new site specific clause under Part 6 that seeks to include the following site specific provisions:

- Incentivise the amalgamation of all lots within the site through a maximum building height bonus allowing for a maximum height of RL 148 (29 storey) for two lots
- Ensure that development consent cannot be granted to development at the site which leads to a net increase in overshadowing to Doris Fitton Park between 12pm-2pm mid-winter.

It should be noted that the previously proposed site-specific community infrastructure will no longer be incorporated into the final amendment.

The post-exhibition changes are discussed in section 4.2 of this report.

1.1.4 State electorate and local member

The site falls within the North Shore state electorate. Ms Felicity Wilson MP is the State Member.

The site falls within the North Sydney federal electorate. Mr Trent Zimmerman MP is the Federal Member.

An email was sent to the Minister's Office by Ms Felicity Wilson on 29 June 2021. In Ms Wilson's email, concerns were raised on behalf of residents who were of the view that the planning process to date was flawed and that the Panel did not acknowledge nor respond to the approximately 140 objections made by residents.

The Sydney North Planning Panel conducted a public meeting to consider the submissions raised during the exhibition period. The Department notes that all residents who made a submission were invited to register to speak at and/or attend the Post-exhibition Panel meeting. The Department and proponent both prepared respective response to submission reports which were considered by the Panel in making its determination.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Planning Background

2.1.1 Original Planning Proposal (2017-2018)

On 20 October 2017, a planning proposal was lodged with Council and proposed the following changes to the North Sydney LEP 2013:

- Increase the maximum building height to RL 210m (equivalent to 47 storeys)
- Increase the maximum FSR to 13.63:1.

On 25 January 2018, a rezoning review application was lodged with the Department as Council notified the proponent that the request to prepare a planning proposal would not be supported.

On 11 April 2018, the Sydney North Planning Panel (the Panel) considered the rezoning review request and determined that while the proposal had strategic merit, it did not have sufficient site specific merit to proceed to Gateway determination.

2.1.2 Revised Planning Proposal (2019-2020)

On 22 March 2019, following the advice and direction of the Panel, the proponent prepared a revised proposal. The proponent presented three possible schemes to Council including a base 'reference' scheme, a 'special provisions reference' scheme and a 'separate landholdings' scheme:

- The base reference scheme sought the following provisions:

- A maximum building height of RL133m (24 storeys)
- An FSR of 6.1:1
- The proposal would result in two development parcels (173-179 Walker Street and 11-17 Hampden Street) with a consistent podium, three storey street wall and two towers.
- The special provisions reference scheme sought the following provisions:
 - A maximum building height of RL 148m (29 storeys).
 - A maximum FSR of 6.9:1
 - Amalgamation of the site with a consistent podium, three storey street wall, a tower on Walker Street and 11 Hampden Street
- The separate land holdings reference scheme:
 - A maximum building height of RL 133 (24 storeys)
 - A maximum FSR of 6.1:1
 - No amalgamation of 11-17 Hampden Street, a consistent podium, three storey street wall and a tower on the Walker Street site.

On 14 August 2019, Council resolved to not support the proposal being forwarded to the Department for Gateway determination due to concerns, including excessive height; inadequate view analysis; overshadowing and traffic impacts.

On 2 September 2019, the proponent submitted a second rezoning review request as Council again did not support the proposal being forwarded to the Department for Gateway determination.

The three schemes were presented to the Panel for its consideration. On 20 February 2020, the Panel considered this second rezoning review and determined that the proposal demonstrated both strategic and site-specific merit and recommended that it proceed to Gateway determination.

In its decision, the Panel noted that the building typology and reference schemes required further work and recommended the following matters be considered by the delegate when issuing a Gateway determination:

- Consider the outcomes of Council's Northern CBD Planning Study
- Consult with the form Roads and Maritime Services (RMS) / Transport for NSW (TfNSW) regarding the impact of traffic matters and implications for the Western Harbour Tunnel Portal
- The additional FSR sought with the 'Special Provisions Clause' is undesirable. Retaining the FSR of 6.1:1 with the additional height of RL 148m would allow flexibility of the podium's built form and allow for breaks in the building
- The site specific DCP needs to be amended to address the following.
 - Reconsider the built form of the podium to better reflect the residential zoning, in a heritage precinct
 - Hampden Street frontage needs to mirror heritage items
 - Open space to be reworked to improve transition of built forms
 - Physical breaks in the built form on Walker Street to allow for public and streetscape views, and views through the site from existing residential flat buildings.

These matters were considered further through the Gateway determination process.

3 Gateway determination and Post-Gateway Changes

3.1.1 Gateway Determination

The Gateway determination issued on 6 July 2020 (**Attachment B**) determined that the proposal should proceed subject to the following conditions:

1. To be updated to consider the Sydney North Planning Panel's recommendations to:
 - a. Demonstrate a new special provisions scheme with the removal of the proposed bonus FSR provision
 - b. Reconsider the podium based built form to better respond to the site's residential zoning and impacts on nearby heritage properties
 - c. Include greater vertical building breaks with greater consideration of view impacts arising from the street level and properties located west of the site on Walker Street
 - d. Better mirror the rhythm and bulk of adjacent heritage items located on the northern side of Hampden Street
 - e. Consider the design guidelines contained in North Sydney Council's draft Civic Precinct Planning Study.

The revised proposal and design reference schemes are not to result in any greater overshadowing impact, loss of further on street parking or reduce the net proposed provision of public open space.

2. The planning proposal is to be updated to include a discussion outlining its consistency with both the North Sydney Local Strategic Planning Statement and North Sydney Local Housing Strategy.
3. Should it be determined that the proposed development requires a permit to conduct a controlled activity within the prescribed airspace under the Airports Act 1996, under section 9.1 Direction 3.5 Development Near Licensed Aerodromes, the planning proposal authority is to seek permission from the relevant Commonwealth authority prior to the commencement of public exhibition.

3.1.2 Post-Gateway Changes and Concept Design

In September 2020, following the advice and direction of the Panel and the conditions of the Gateway determination, the proponent amended the planning proposal and associated documents to satisfy the above conditions so that the proposal could proceed to exhibition.

The Department prepared an assessment of the changes at this time, which was forwarded to the Sydney North Planning Panel as the PPA for endorsement to allow the proposal to proceed to exhibition. The revised planning proposal was considered to have adequately addressed the conditions of the Gateway determination.

The revisions to the planning proposal package primarily related to changes to the reference scheme contained in the Urban Design Report (**Attachment C**) in response to the Panel's recommendations at the rezoning review stage, which were also reflected in the conditions of the Gateway determination.

A revised concept design (**Figures 2-3**) has been prepared providing a 29 storey residential tower (being the bonus height scheme), with two eight storey components and a consistent 2-3 storey podium within the site. The preferred concept design demonstrates a scheme that consists of 254 apartments, 208 car spaces and 233 bicycle spaces.

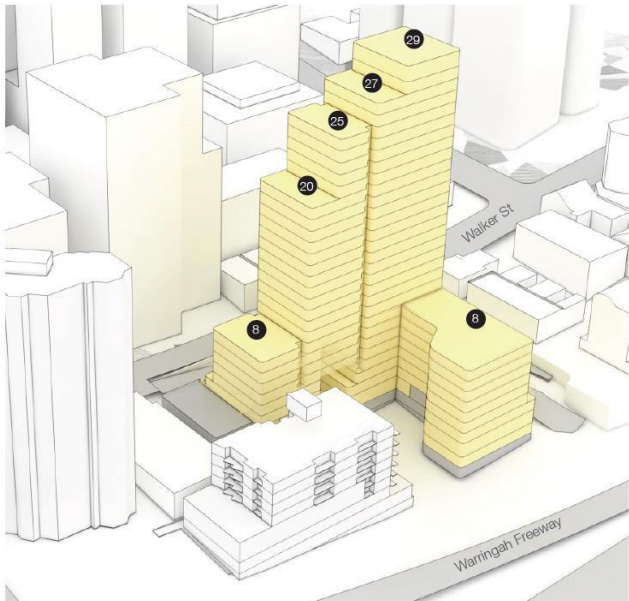
The revised concept design has significantly reduced the building bulk along the Walker Street frontage incorporating a physical building break and a consistent 2-3 storey podium throughout to

respond to surrounding heritage properties on Hampden Street. A comparison of the post-Gateway and original concept designs is provided below at **Figure 3**.



Figure 2: Concept Plan (Source:

Special provision reference design 2019



Post gateway building envelope 2020



Figure 3 Comparison of original scheme and post-Gateway scheme

4 Public exhibition and Panel Meeting

In accordance with the Gateway determination, the proposal was publicly exhibited by Panel's Secretariat for a period of 28 days from 29 October 2020 to 26 November 2020.

A total of one hundred and thirty nine (139) community submissions were received, with all submissions objecting to some aspect of the planning proposal. The Department's Summary of Submissions Table is provided at **Attachment E**.

On 17 March 2021, a Post-exhibition Public Meeting was conducted by the Sydney North Planning Panel to consider the submissions and the Department's Post-exhibition report (**Attachment D**). The Panel unanimously determined to advise the Minister that the proposal should proceed to finalisation for the reasons outlined in the Department's assessment.

The Panel also noted that the proposal has been subject to comprehensive, rigorous and transparent review over the previous two years, including public exhibition and had been refined by the proponent as a result of the process.

A copy of the Panel's record of decision is provided at **Attachment F**.

4.1 Submissions during exhibition

4.1.1 Community Submissions

There were 139 submissions received from individuals. Of the individual submissions, 139 objected to the proposal (100%). The key issues raised in submissions are as follows:

- Traffic (84%)
- View Loss (79%)
- Overshadowing (68%)
- Building height/scale (43%)
- Loss of property values (31%)
- Heritage (21%)

Prior to the public post-exhibition Panel Meeting, the Department prepared a Response to Submissions Report (RtS) which found that the proponent had appropriately responded to all submissions raised during the exhibition period.

A copy of the Department's RtS Report can be found at **Attachment D**, the Department also prepared a submissions summary table which can be found at **Attachment E**.

4.1.2 Agency Submissions

In accordance with the Gateway determination, the Panel was required to consult with the following agencies listed below:

- North Sydney Council
- Civil Aviation Safety Authority
- Sydney Airport Corporation
- Transport for NSW
- Transport for NSW (Roads and Maritime Branch)
- Ausgrid
- Sydney Water
- NSW Department of Education
- NSW Department of Health

Submissions were received from North Sydney Council and Transport for NSW. The Department has also considered the concerns raised by agencies throughout its RtS Report which can be found at **Attachment D**.

4.2 Post-exhibition changes

Following the receipt of the revised planning proposal and the Panel's consideration of submissions at the Post-exhibition public meeting, the Department has made the following changes to the proposal:

- **Split height limits:**
 - The originally sought height of RL 133 and bonus RL 148 are only to apply to the two most north western sites being 11 Hampden Street and 179 Walker Street
 - Heights of RL 84 and RL 89 have been established for the rest of the site. These portions of the site will not be subject to a building height incentive
- **Deferred Commencement**
 - The LEP will be subject to a deferred commencement to allow Council and the proponent sufficient time to develop the site specific Development Control Plan (DCP) and the opportunity to negotiate a Voluntary Planning Agreement (VPA)
 - The LEP will commence on 31 August 2021
- The site-specific community infrastructure clause has been removed
 - Due to the progression of the VPA between the proponent and Council, the Department does not consider the clause to be necessary
- Following a meeting between the Minister and the Mayor it was requested that clause 4.6 be turned off for several clauses applying to the site
 - The Department's instructions to PC requested that clause 4.6 variations be turned off for development at the site.

Discussions surrounding the justification for the post-exhibition changes are provided below. The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Provide greater certainty to surrounding residents;
- Reduce potential amenity impacts arising from an alternate development scheme; and
- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

4.2.1 Final Building Heights

Following feedback from the community during the exhibition period and consideration of the advice provided by the Panel in making its post-exhibition determination, the Department has made post-exhibition changes to the final height limits. **These post-exhibition changes seek to provide greater certainty in the final built form outcome and to ensure the preservation of view corridors that were prominent considerations in the Panel's determination.**

The primary view corridors that influenced the Panel's decision derive from the Belvedere Apartments and the future Aqualand development site which are awarded significant view sharing corridors under the exhibited reference scheme as depicted in **Figures 4-5** below.

The Department's assessment of the exhibited reference scheme found that the following pre-exhibition alterations allowed for appropriate levels of view sharing to be maintained:

- **A reduction in the maximum FSR from 6.9:1 to 6.1:1 allowing for a slender building form.**

- A reduction in the length of the tower form along the Walker Street frontage through consolidation of the tower to the north of the site on the corner of Walker and Hampden Streets.
- Inclusion of a building break along the Walker Street frontage.

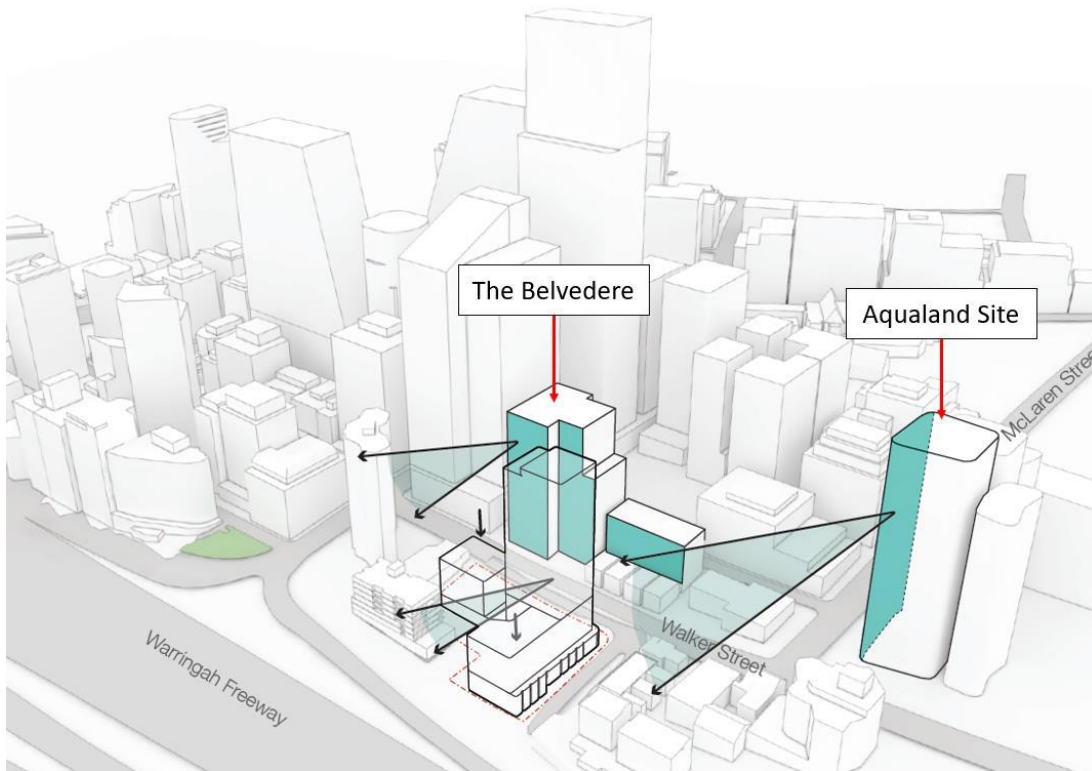


Figure 4 Significant views

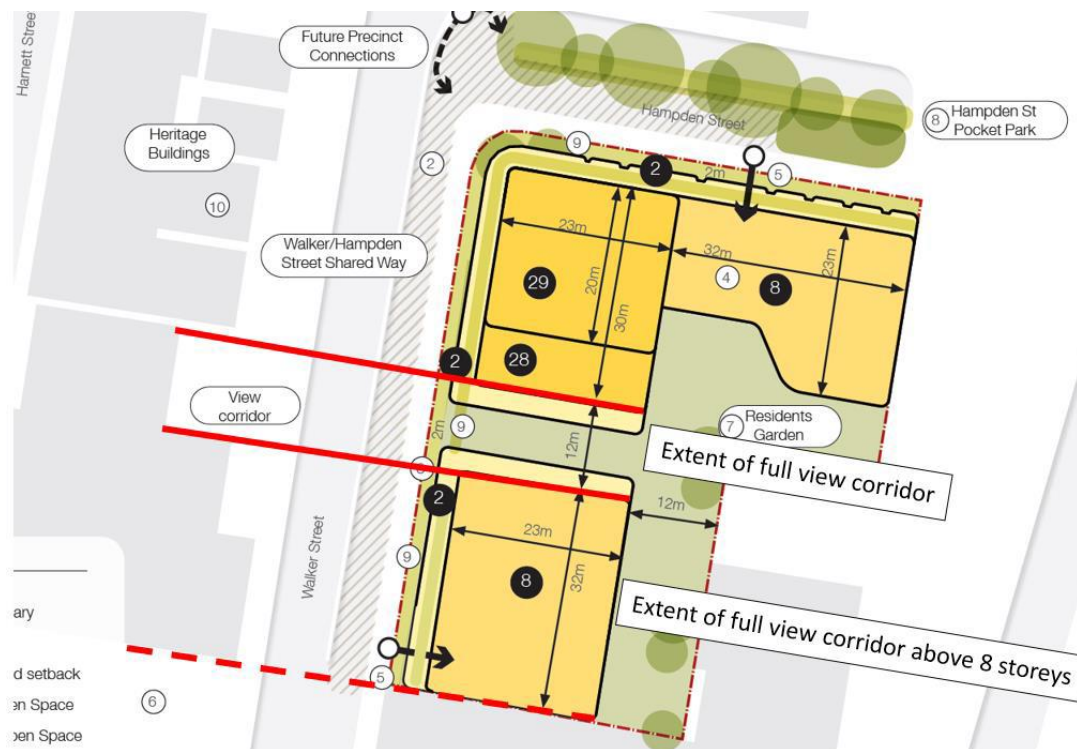


Figure 5 Extent of view corridors under concept scheme

The Department and the Panel both consider that the concentration of the building bulk on the northern portion of the site as per the exhibited reference scheme, assists in enabling view sharing for existing residents and avoids overshadowing of the area to the south. It is conceded that some views will inevitably be compromised due to the sites CBD context in a strategic centre.

However, in an effort to ensure the preservation of views from the surrounding properties located west and north west of the site and to support the delivery of the proposed 12m building separation provision under the site-specific DCP, the Eastern Harbour City Team engaged the Department's Urban Design Team to assist in determining a range of appropriate split height limits across the site.

To achieve this, the Department has analysed the survey plan and reference scheme provided by the proponent and considered the floor to floor heights provided under Section 4C of the Apartment Design Guide. The Urban Design Team has undertaken modelling which demonstrates that the proposed FSR and split height controls are appropriate and can accommodate the proposed maximum building FSR.

An extract of the model prepared by the Urban Design team is provided below at **Figure 6**.



Figure 6: Modelling prepared by Department's Urban Design team

An analysis of the reference scheme demonstrates that the proposed development can be viewed as three distinctive elements, consisting of the proposed 24 storey tower form in the north western corner of the site, and two proposed 8 storey elements fronting Walker and Hampden Street respectively. This allows the development to be viewed as three blocks which are depicted in **Figure 7** below, **Table 3** also provides a summary of the allotments and their respective height limits.

As discussed, the Department is of the view that the building bulk should be concentrated in the north western portion of the site. The Area denoted as 'Block A' will therefore retain the proposed maximum building height of RL 133 and proposed bonus height of 148 RL if amalgamated.

Block B will be subject to a maximum permitted height of RL 84, whilst Block C will be subject to a maximum building height of RL 89. These heights are intended to provide for an approximately 8-storey built form.

To determine appropriate maximum building heights for the proposed 8 storey elements, the Department has reviewed the survey plan provided by the proponent and calculated heights utilising the floor to floor heights under section 4C of the Apartment Design Guide. The Department notes that the LEP will be turning off the use of clause 4.6 variations for the site, as such the heights have been determined with the intent of providing a level of flexibility to ensure that development can still proceed in an orderly manner.

The Department has consulted with Council on the draft terms of the LEP and associated mapping amendments (**Attachment H**). Council advised that its preference was also to ensure a single tower form on the site and noted that the tower form of the reference scheme comfortably fits within the proposed height limits set by the Department. **Council also noted that any enlargement of the proposed tower area beyond these limits would exacerbate view loss concerns.**

Table 3: Proposed height limit summary

Address	Legal Description	Base Max. Height	Bonus Height	Block
173 Walker Street, North Sydney	SP 11082	RL 89	N/A	C
175 Walker Street North Sydney	SP 86752	RL 89	N/A	C
177 Walker Street, North Sydney	SP 9808	RL 89	N/A	C
179 Walker Street, North Sydney	SP 64615	RL 133	RL 148	A
11 Hampden Street, North Sydney	Lot 1 DP 119732	RL 133	RL 148	A
15 Hampden Street, North Sydney	Lot 1 DP 591516	RL 84	N/A	B
17 Hampden Street, North Sydney	Lot 2 DP 591516	RL 84	N/A	B



Figure 7: Split Building Height ‘Blocks’ (Source: Nearmap (overlay DPIE))

In response to these post-exhibition changes made by the Department, the proponent submitted a modified concept scheme prepared by FJMT Studio on 27 July 2021 (**Attachment I**). The modified concept scheme seeks to redistribute the building bulk from the podium to the upper levels of the proposed development and requests that the footprint of the tower form be expanded into the existing lots to the south and east (177 Walker and 15 Hampden Streets). **Figures 8-9** below provide a comparison of the original concept scheme as exhibited and the modified scheme.



Figure 8 – Modified Concept Scheme (Source: FJMT Studio)



Figure 9 - Original Reference Scheme (Source: FJMT Studio)

The proponent's package suggests that the scheme will include the following improvements under the modified scheme:

- Improved ground level visual permeability;
- Improved streetscape scale and height relationship with surrounding buildings;
- Improved solar access to both Walker and Hampden Streets; and
- Improved view sharing from the perspective of the Belvedere Apartments, Hampden Street properties and 88 Berry Street.

The Department notes that under the modified scheme that there may be the ability to improve amenity at the ground plane. However, the potential impacts of the relocation of the bulk of the building from the podium to the upper levels of the building has not been adequately explored.

The Department is not satisfied that the information submitted provides sufficient detail for the proposed level of change to the final LEP. The Department notes that it is unclear whether the modified concept would result in a change to the proposed GFA.

Advice on the modified scheme was provided by the Department's Urban Design team who raised particular concern with the potential for major wind impacts to be transferred to the ground floor and neighbouring properties due to the inverted podium built form. The team also raised concern with the lack of information provided regarding floor plate sizes, overshadowing impacts, solar access modelling, and other view corridors north west of the site.

The team also raised concerns with the design of the proposed envelope, noting that good design practice generally sees the bulk of the built form located within the podium and a slender built form towards the top of the envelope.

Additionally, the Department notes that the modified scheme would be inconsistent with Council's site-specific DCP for the site. Of particular relevance is the 12m building separation required between the tower form and the lower built form to the south. The extension of the upper levels into the 12m building break is not considered appropriate as it is located within an important view corridor.

Overall, the Department notes that there may be potential ground plane amenity improvements, however it is not clearly demonstrated how the modified scheme would result in a better outcome.

The Department does not support the proponent's modified concept nor its request to extend the 133 RL height limit and bonus height provision into the adjacent lots to the east and south for the reasons detailed above.

4.2.2 Deferred Commencement and Community Infrastructure Clause

In its recent determination to allow the proposal to proceed to finalisation, the Panel noted that the ongoing negotiation of public benefits is critical to achieving an optimal outcome. Additionally, in its consideration of the rezoning review the Panel also noted the importance of the site-specific DCP accompanying the proposal. As such, the Department recommended that a deferred commencement be implemented to allow enough time for Council to progress these matters.

Since the Panel's consideration of the proposal at the Post-exhibition meeting, Council and the proponent have actively been negotiating and preparing a draft DCP and VPA. At its meeting of 24 May 2021, Council formally endorsed the draft DCP for exhibition, with the intent to exhibit it alongside the VPA. The VPA which has been agreed to in principle includes the following public benefits:

- Dedication of 5% of the residential yield to affordable housing in accordance with Council's Affordable Housing Policy 2013 (or provision of a monetary contribution to go towards affordable housing)
- Monetary Contribution for the provision of community infrastructure at a rate of \$15,100 per net additional dwelling. Depending on the final design and approval process this may equate to approximately \$3.1-\$3.3 million.

The Department considers that the above matters are actively progressing and that a deferred commencement of the LEP until 31 August 2021, will provide enough time for Council to exhibit, finalise and execute the site-specific DCP and VPA.

Additionally, due to the successful progression of the VPA and the fact that the VPA does not seek to provide for any specific infrastructure uses, the need for the site-specific infrastructure clause is considered to be redundant. As such, the proposed clause does not form part of the final LEP.

4.2.3 Clause 4.6 Variations

A key concern for both Council and neighbouring residents was that the final built form could have greater amenity impacts than the scheme that was publicly exhibited. Following a meeting between the Minister's Office and North Sydney Mayor Jilly Gibson, it was requested that clause 4.6 be turned off for any future development at the site. The Department has accepted the request and incorporated it into the final LEP, the exclusions will apply to the following clauses:

- Clause 4.3 Height of Buildings;
- Clause 4.4 Floor Space Ratio;
- Clause 5.6 Architectural Roof Features; and
- Clause 6.19C Development at Hampden and Walker Streets, North Sydney.

The post-exhibition change is supported as it will ensure greater certainty for surrounding residents that the final built form will be closely aligned with the scheme that has been exhibited for the site if a development application is to be lodged for the site.

5 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment G**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the Greater Sydney Region Plan
- Remains Consistent with the North District Plan
- Remains consistent with all relevant Section 9.1 Directions
- Remains consistent with all relevant State Environmental Planning Policies (SEPPs).

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 5.1

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	☒ Yes	☐ No, refer to section 5.1
District Plan	☒ Yes	☐ No, refer to section 5.1
Local Strategic Planning Statement	☐ Yes	☒ No, refer to section 5.1.1
Local Housing Strategy	☐ Yes	☒ No, refer to section 5.1.2
Local Planning Panel (LPP) recommendation	☒ Yes	☐ No, refer to section 5.1

	Consistent with Gateway determination report Assessment	
Section 9.1 Ministerial Directions	☒ Yes	☐ No, refer to section 5.1
State Environmental Planning Policies (SEPPs)	☒ Yes	☐ No, refer to section 5.1

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	☒ Yes	☐ No, refer to section 5.1
Environmental impacts	☒ Yes	☐ No, refer to section 5.1
Infrastructure	☒ Yes	☐ No, refer to section 5.1

5.1 Strategic Assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

Condition 2 of the Gateway determination required the planning proposal to be updated outline its consistency with the North Sydney Local Strategic Planning Statement and Local Housing Strategy.

5.1.1 North Sydney Local Strategic Planning Statement (LSPS):

- Priority I1: Provide infrastructure and assets that support growth and change:
- Priority L2: Provide for a range of community facilities and services to support a healthy, creative, diverse and socially connected North Sydney community

The planning proposal outlines that it is consistent with the priority as it is accompanied by a draft VPA which will result in approximately \$3.1-\$3.3 million for Council to spend on local infrastructure and public domain improvements.

The planning proposal also states that it includes the provision for additional open space within the Hampden Street road reserve which seeks to enhance social connectivity for the North Sydney Community.

- Priority L1: Diverse housing options that meet the needs of the North Sydney Community:

The planning proposal outlines that it is consistent with the priority as the proposal will deliver approximately 254 dwellings, including 5% affordable housing and an appropriate mix of 1, 2 and 3 bedroom apartments.

However, it is also noted that Action L1.5 of the LSPS states that Council will only support proposals that are consistent with Council's endorsed planning strategies. Of relevance to the subject site is the Civic Precinct Planning Study (CPPS). It is noted that a key reason for Council's objection to the proposal is due to its inconsistency with Council's CPPS.

On 30 November 2020, Council endorsed its Civic Precinct Planning Study. It should be noted that the CPPS was endorsed by Council following the Panel's recommendation that the proposal proceed to Gateway and the Department issuing a Gateway determination for the site.

Condition 1(e) of the Gateway determination required the proponent to consider the design guidelines contained in the draft CPPS in the preparation of a revised scheme. The Department conducted an assessment and was satisfied that several key elements of the CPPS were incorporated into the revised scheme, including:

- A step down approach towards the Warringah Freeway
- Concentrated tower built form in the north western corner
- Primarily 8-storey built form fronting Walker Street
- 2-3 storey street wall
- Setbacks of 3m
- Vertical building breaks to allow for view sharing
- A new pocket park at the eastern end of Hampden Street.

The Department also notes that some aspects of the CPPS have not been incorporated into the proposed development, including a 20 storey tower form and minimum non-residential FSR of 2:1. However, the Department notes that the primarily 8 storey built form and concentration of the tower in the north western corner of the site are consistent with the desired outcome of the CPPS.

The Department has carefully considered the potential view loss and overshadowing impacts of the revised scheme at various stages of the process. In its consideration of the Department's post-exhibition report and public submissions, the Panel formed the view that a slender 29-storey tower form, if contained to the north western portion of the site, will not result in any additional impacts than the 20-storey height proposed under Council's CPPS. Additionally, the Department has made post-exhibition changes as discussed above to ensure that no additional impacts eventuate.

Notwithstanding, Action L1.5 does not preclude the Department nor the Sydney North Planning Panel from supporting planning proposals that are inconsistent with Council's local strategies, particularly in this case as the CPPS is not endorsed by the Department.

Priority L3: Create greater places that recognise and preserve North Sydney's distinctive local character and heritage:

As assessed throughout the process, the planning proposal is considered to have been designed in a manner that is sympathetic of surrounding heritage items. The post-Gateway concept design has been improved to better mirror the rhythm and bulk of adjacent heritage through the establishment of a 2-3 storey podium and 3m upper level setbacks which provide an appropriate transition to these neighbouring properties.

Priority P6: Support walkable centres and a connected, vibrant and sustainable North Sydney:

The planning proposal is considered to be consistent with the priority as the site is strategically located in walking distance to the services and facilities in the North Sydney CBD, as well as the imminent Victoria Cross Metro Station. The proposal is considered to actively support the vision for the North Sydney CBD as a walkable, connected and sustainable centre.

5.1.2 North Sydney Local Housing Strategy (LHS):

The planning proposal has been revised to include an assessment of its consistency against the North Sydney Local Housing Strategy (LHS) and Local Strategic Planning Statement which can be found at Section 7.4.2.

The proposal has provided a discussion of its consistency with the North Sydney LHS. The revised proposal notes that the North Sydney LHS states that there is sufficient capacity within the existing planning controls and within the St Leonards Crows Nest Precinct to enable the delivery of the local government area's mandated housing target. However, the proposal notes that the LHS does not identify the opportunity around the new metro entrances within the North Sydney CBD or the additional housing supply that can be delivered under the Civic Precinct Planning Study.

The proposal also notes that the Greater Sydney Commission has confirmed that Council will fall short of its minimum 5-year housing target by 170 dwellings. The proposal offers an opportunity to deliver 254 dwellings in the short-medium term which will provide a sizeable contribution to Council's 20-year target of 1.9%. With consideration of the above the proposal is considered to have provided sufficient justification for its departure from the LHS' approach to planning proposal changes.

6 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 6 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	The following three maps have been prepared by the Department's ePlanning team and meet the technical requirements: • Floor Space Ratio; • Height of Buildings; and • Special Provisions Area.	☒ Yes ☐ No, see below for details
North Sydney Planning Panel	The Panel as the PPA was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>. The Panel responded and provided no comments on the terms of the draft LEP (Attachment J).	☒ Yes ☐ No, see below for details
Council	Council was also consulted on the terms of the draft instrument. Council raised several matters throughout the drafting process including: • An objection to the inclusion of a 1m flexibility clause as it would allow for an increase of the tower elements beyond the scope of the exhibited reference scheme. • Minor administrative concerns relating to the legend and conflicting FSR values applying to sites on other FSR Map sheets. • Suggested to utilise the existing identification of Doris Fitton Park on the North Sydney Centre Map to clearly define its extent under the site specific clause. • Council also noted that it did not support the request of the applicant to enlarge the extent of the largest height	☒ Yes ☐ No, see below for details

Stakeholder	Consultation	The Department is satisfied with the draft LEP
	controls beyond 179 Walker Street and 11 Hampden Street. The Department considered Council's comments which were referred to the Department's GIS Team and Parliamentary Counsel. Following the relevant changes Council confirmed on 23/07/2021 that it was happy with the draft and that the plan should be made (Attachment H)	
Parliamentary Counsel Opinion	On 28/07/2021 , Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	☒ Yes ☐ No, see below for details

7 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

The proposal is considered to have strategic merit, particularly in relation to its consistency with objectives in the Greater Sydney Region Plan and the North District Plan in terms of increasing housing choice in a location with good access to transport, jobs and services. The proposal is also considered to be generally consistent with Council's LSPS and LHS.

The Department notes that there are inconsistencies between the proposal and Council's Civic Precinct Planning Study. However, also notes that the study was endorsed following the preparation of the proposal and Gateway determination being issued. The Department is satisfied that sufficient post-Gateway changes have been made to incorporate key elements of Council's study.

In terms of site specific merit, it is acknowledged that there will be some overshadowing and view loss, however changes have been made to the original concept design to reduce these impacts. Additionally, the Department has made post-exhibition changes to ensure that these amenity impacts are minimised.

The Department has also considered the proponent's modified concept scheme that seeks to respond to the Department's post-exhibition changes. The Department notes that the modified scheme may have the potential to improve amenity at the ground plane. However, the potential impacts of the relocation of the bulk of the building from the podium to the upper levels of the building has not been adequately explored. The Department is not satisfied that the information submitted provides sufficient detail for the proposed level of change to the final LEP and therefore does not support the proponent's request.

Given the site's location within 200m of the future Victoria Cross Metro Station it is appropriate to apply the proposed density. The site is at the edge of a major CBD, where high rise commercial and residential towers are characteristic of surrounding development.

The key issues raised have been adequately addressed and considered by the Department and the Panel at the Post-exhibition Public Meeting. These matters include:

- View loss and view sharing.
- Overshadowing.

- Traffic and pedestrian movement.
- Building height, bulk and scale.
- Heritage.
- Loss of property values.

Following consideration of these issues the Department has also made a series of post-exhibition changes that seek to provide greater certainty to residents and reduce the likelihood of greater amenity impacts arising through future development of the site. It is considered that no issues have been raised that would preclude the LEP from being made.



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Attachments

Attachment	Document
A	Planning Proposal
B	Gateway Determination
C	Urban Design Report
D	Department's Post-exhibition RtS Report
E	Response to Submissions Summary Table
F	Panel's Record of Decision (Post-exhibition)
G	Department's Gateway Assessment Report
H	Consultation with Council on Draft LEP
I	Proponent's Modified Concept Scheme Request
J	Consultation with North Sydney Planning Panel on Draft LEP
Maps	LEP Maps
Draft LEP	Draft LEP
LEP	Final LEP
PC	Final PC Opinion