



Planning

**MAJOR PROJECT ASSESSMENT
CONCEPT PLAN APPLICATION FOR A
COMMERCIAL AND RETAIL DEVELOPMENT
86-96 and 100 Mount Street, North Sydney**

***Proposed by DELMEGE COMMERCIAL and
LAING O'ROURKE Pty Ltd***

MP 08_0241

Director-General's Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

April 2010



© Crown copyright April 2010
NSW Department of Planning
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

1 EXECUTIVE SUMMARY

This is a report on a Concept Plan Application seeking approval for a commercial and retail development at 86-96 and 100 Mount Street, North Sydney. The site is located within North Sydney local government area. The Proponent is Delmege Commercial and Laing O'Rourke Holdings Pty Ltd.

Environmental Assessment (EA) (as exhibited)

The original Concept Plan Application sought approval for the following:

- Demolition of the existing buildings on the site;
- Excavation for 5 levels of basement;
- Construction of a 39 storey (to RL 200.7 metres) commercial and retail building (including 2 levels of plant) together with 5 levels of basement for 130 car parking spaces and ancillary services;
- Construction of streetscape improvements within the Mount Street and Walker Street boundaries of the site; and,
- Reconstruction of the alignment to Spring Street to provide for loading docks and basement access.

The Capital Investment Value is estimated at **\$145 million**.

Preferred Project Report (PPR)

On 14 January 2010, the Proponent submitted a response to public and agencies submissions and a Preferred Project Report.

Key revisions to the original proposal include:

- The overall building height has been reduced by 1.0 metre from RL 200.7m to RL 199.7m. This has resulted in an internal reconfiguration and reduction from 39 storeys to 38 storeys;
- The setback of Levels 17 to 36 to Walker Street has been increased by 1.5 metres from 600mm to 2.1 metres;
- The structural frame within the reverse podium between Levels 3 to 7 has been refined;
- The podium façade to Walker Street has been revised and refined to ensure a more compatible relationship to the adjacent heritage item, the Firehouse Hotel;
- The provision of a 4.4 metre wide x 2 storey high through-site link between Mount Street and Spring Street;
- The on-site setback area on Mount Street has been revised and redesigned with the removal of some stairs, all retaining walls and glass walling to improve the relationship with the public domain;
- The loading docks on Spring Street have been relocated to the basement and a truck hoist provided to Spring Street for access to allow for an increased amount of active frontage to Spring Street, a reduced number of vehicle cross-overs and has included amendments to the Spring Street façade;
- The number of carparking spaces has been reduced from 130 to 123; and,
- Provision of additional awnings and landscaping to ameliorate potential wind effects.

The changes have resulted in a reduction in 3,615sqm of GFA, and the PPR comprises a total floor area of 35,925m².

The submission of the PPR included a revised Concept Public Domain plan which detailed various elements from Council's Public Domain Strategy such as the removal of angled parking in Mount Street. However, it is noted that these indicative works do not form part of this application.

Permissibility

The site at 86-96 and 100 Mount Street is zoned "*Commercial*" pursuant to North Sydney Local Environmental Plan 2001 ("LEP 2001") and the proposed commercial and retail development is permissible with consent under this zoning. However, the Proponent has identified a potential issue with the LEP 2001 height and shadowing controls which could be interpreted to apply as a prohibition rather than a development standard. This concern has been overcome by submitting the proposal in the form of a Concept Plan application.

Public Exhibition

The EA was exhibited for a 30 day period from 28 July 2009 to 28 August 2009. During the exhibition period, the Department received 4 submissions from public authorities, 1 submission from North Sydney Council and 19 public submissions objecting to the proposal and 1 public submission in support.

To date submissions have been received objecting to the PPR from the "Beau Monde Residents Action Group" and North Sydney Council.

Key issues:

- Draft North Sydney City Centre controls and building height
- Setbacks
- Impacts on views and outlook for residents of "Beau Monde"
- Carparking and traffic generation

Assessment of Impacts:

- The building height exceeds the current LEP 2001 and North Sydney Draft Local Environmental Plan 2009 ("Draft LEP") height controls resulting in additional shadowing of public and private land, however, this shadowing is considered acceptable in the context of the site and locality, and the intent of the Draft LEP controls. The height non-compliance with the Draft LEP is 4.7 metres and relates only to the plant room levels of the PPR proposal.
- The main variation to setback compliance occurs on the Walker Street frontage where a minimum weighted average setback of 5 metres is required and only 3.58 metres is proposed. A modification is recommended to increase the setback of the upper tower by a further 2.0 metres resulting in greater compliance with the weighted average requirement.
- The height, location, bulk and scale of the proposal impacts on the Sydney Harbour and CBD views enjoyed from some apartments in the Beau Monde residential building located 120 metres to the north of the site. This impact is assessed to be reasonable considering the location of the site within the North Sydney CBD and the height and envelope controls applying in the CBD.
- The proposal provides 26 spaces in excess of Council's DCP requirement and the increased traffic flows arising from the proposal will increase demands on already congested streets at peak hour which can be managed via a reduction in parking numbers and additional traffic works.

Key Recommended Modifications & Conditions

Key recommendations made in respect to the proposal are included as conditions of approval as follows:

- Increase in setbacks to Walker Street at levels 17 to 36 to provide closer compliance with North Sydney City Centre DCP controls and ensure an appropriate response to the Walker Street streetscape;
- Construction management conditions, including restrictions on construction hours;
- Reduction in parking from 123 spaces to 97 spaces to comply with Council's DCP 2002; and,
- Additional monetary contribution of \$10,000 towards upgrading the intersection of Walker and Mount Streets.

Public Benefits

It is expected that the proposal will have some impact on the locality, including on existing views from some apartments in the Beau Monde building. However, on balance the proposal will provide significant benefits to the wider community, including:

- Realisation of additional premium grade commercial floor space in the North Sydney Centre and jobs growth;
- Achievement of 5-star Greenstar and 5-star NABERS energy ratings;
- An additional monetary contribution of \$10,000 for the upgrading of the Walker Street/Mount Street intersection in addition to the \$130,275 to be levied under Section 94 for traffic improvements;
- Contribution of \$2,974,312 to the payment of the upgraded North Sydney Railway Station;
- Contribution of 35,000sqm of additional floor area towards the achievement of the North Sydney Centre 250,000m² floor space target;
- Improvements to the relationship with the public domain in Mount Street and Walker Street, improved pedestrian through-site link and improved presentation of built form and streetscape/pedestrian safety to Spring Street; and,
- Employment opportunities through the construction and operational phase of the development.

Conclusion

The Department has assessed the merits of the proposal taking into consideration the issues raised in public submissions and is satisfied that the impacts have been addressed in the PPR, the Revised Statement of Commitments and recommended conditions of approval. The Department has determined that the proposal is appropriate and fits within the context of the North Sydney CBD, is well resolved and of a height, bulk, scale and character that is also compatible with the City Centre.

The impacts that arise from the variation to compliance with the LEP 2001 and Draft LEP 2009 height and shadow controls, and the minor variation to the Walker Street DCP 2002 setback requirement do not, on balance, result in a development which is unreasonable or out-of-character with the context of the North Sydney CBD. The loss of some southerly views over the North Sydney CBD to Sydney Harbour and the Sydney CBD from some apartments in the Beau Monde residential building to the north will result in a reduction in amenity. However, the preservation of these existing views is unsustainable having regard to the targets set for future economic and employment growth in North Sydney. Further, the recent approval of the commercial, retail and hotel redevelopment at 77 – 81 Berry Street and 88 Walker Street consistent with Council's draft LEP controls means that the impacts from the current proposal only impact the views from the upper level of the Beau Monde building.

The concepts for public domain improvements on the adjacent streets, the improved presentation of built form/streetscape to Spring Street, and provision of an improved pedestrian through-site link are of merit and will enhance the vitality of this area of North Sydney which requires renewal.

In summary, it is considered that the impacts from the proposal can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance and the Department recommends that the Concept Plan be approved pursuant to Section 75O of the Act.

Urbis, on behalf of the Proponent, has requested that the Minister determine that no further environmental assessment is required in respect of the submitted Concept Plan application pursuant to Section 75P(1)(c) of the Act. The Department considers that the documentation provided with the Concept Plan application is comprehensive and well resolved such that no further environmental assessment would be required and accordingly, it is recommended that the Minister exercise the discretion available under Section 75P(1)(c) of the Act.

CONTENTS

1	EXECUTIVE SUMMARY	3
2	BACKGROUND.....	7
2.1	The Site and locality	7
2.2	Surrounding Development	10
3	STRATEGIC CONTEXT	13
4	PROPOSED DEVELOPMENT	16
4.1	The Proposed Development (Exhibition EA and PPR)	16
4.1.1	Environmental Assessment (as exhibited).....	16
4.1.2	Preferred Project Report (PPR).....	16
4.2	Key changes between the exhibited EA and PPR	18
5	STATUTORY CONTEXT	21
5.1	Permissibility	21
5.2	Director-General's Environmental Assessment Requirements (DGRs)	22
5.3	Exhibition and Notification	22
5.4	Other Statutory Considerations	22
6	CONSULTATION AND ISSUES RAISED	23
6.1	Public Exhibition	23
6.1.1	North Sydney Council.....	23
	Preferred Project Report (PPR).....	23
6.1.2	Railcorp	24
6.1.3	Ministry of Transport (MoT)	25
6.1.4	Roads and Traffic Authority (RTA) and Sydney Regional Development Advisory Committee (SRDAC).....	25
6.1.5	Sydney Water.....	26
6.2	Public Submissions.....	26
	Exhibition of EA	26
7	ASSESSMENT OF ENVIRONMENTAL IMPACTS	27
7.1	Draft North Sydney City Centre controls - building height and overshadowing	27
7.2	Setbacks	32
7.3	Views & Outlook	35
7.4	Car Parking, Traffic and Access.....	39
7.5	Other Matters	40
8	KEY MODIFICATIONS & CONDITIONS.....	42
9	PUBLIC INTEREST/PUBLIC BENEFIT	42
10	CONCLUSION.....	42
11	RECOMMENDATION.....	44
	APPENDIX A: STATUTORY ASSESSMENT & SUMMARY	51
	APPENDIX B: DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS	51
	APPENDIX C: ENVIRONMENTAL ASSESSMENT	52
	APPENDIX D: SUMMARY OF SUBMISSIONS	53
	APPENDIX E: PREFERRED PROJECT REPORT.....	54
	APPENDIX F: REVISED STATEMENT OF COMMITMENTS.....	55
	APPENDIX G: SUMMARY TABLES - NORTH SYDNEY COUNCIL AND PUBLIC SUBMISSIONS.....	56

2 BACKGROUND

2.1 The Site and locality

The site comprises two allotments of land known as 86-96 and 100 Mount Street, North Sydney (Lot 1 in DP 702144 and Lot 100 in DP 624581 respectively). The site is located in the centre of the North Sydney CBD on the Lower North Shore of Sydney and bounded by Spring Street to the north, Walker Street to the east, Mount Street to the south and an existing development to the west (refer **Diagrams 1 and 2**).

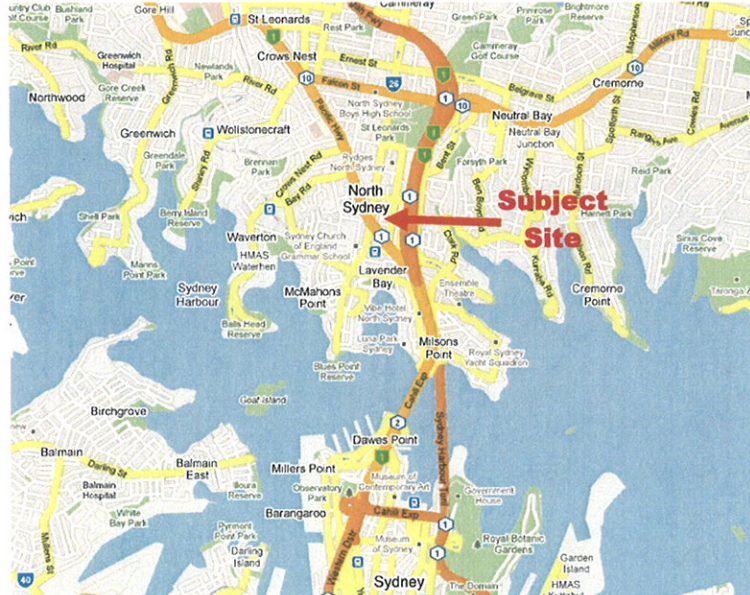
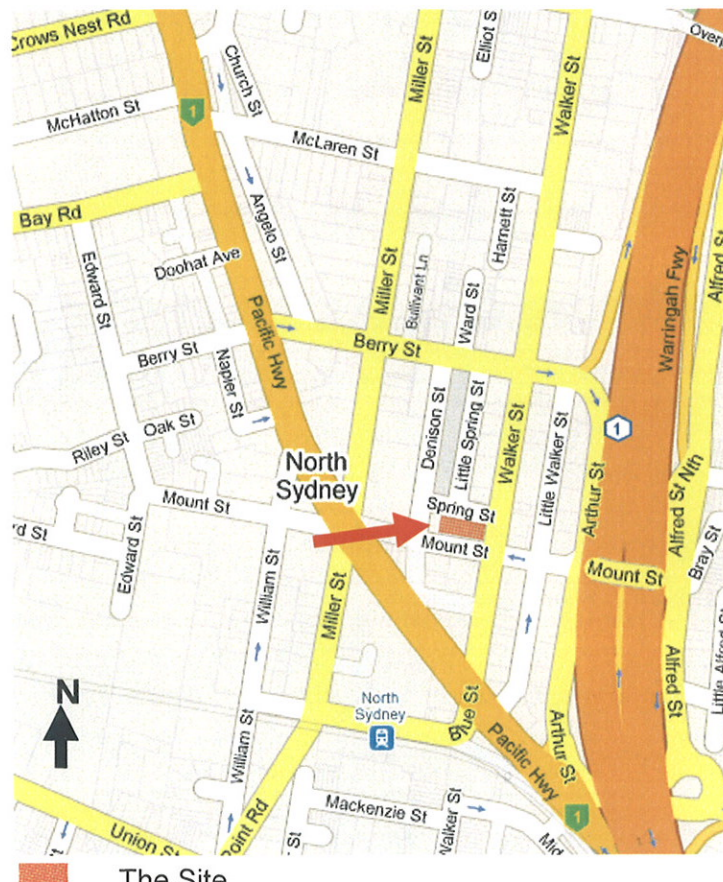


Diagram 1 – Regional Context (Source: Google Maps)



The Site

Diagram 2 – Site Plan (Source: Google Maps)

The North Sydney CBD is serviced by extensive commuter rail and bus services. North Sydney Railway Station is located 350 metres south of the site (near Blue Street) and major bus routes access the North Sydney CBD via the Pacific Highway and the Warringah Freeway located 200 metres east and west of the site respectively.

Existing Site Features

The site is rectangular in shape with dimensions of approximately 31 metres x 54.7 metres and features a fall of approximately 5 metres, generally from west to east (Walker Street). The total area of the site is 1,756m². The two existing allotments currently have separate commercial/retail buildings occupying each lot with a total existing GFA of approximately 10,390sqm (refer **Diagram 3** and **Photo 1**).

86-96 Mount Street: (1,087sqm) features a 1980's-era part9/part 10 storey mixed commercial and retail building with a split level though-site link between Mount Street and Spring Street bounded by retail tenancies on the lower level and commercial foyer/lobby on the upper level.

100 Mount Street: (669sqm) features a 1980's-era 7 storey mixed commercial and retail building.

The site has road and footpath frontages to Walker Street and Mount Street and a laneway frontage to Spring Street. All vehicular access to the site is from Spring Street, which features 6 driveways providing access to loading docks and basement car parking levels as well as at-grade access to plant rooms and fire stairs.

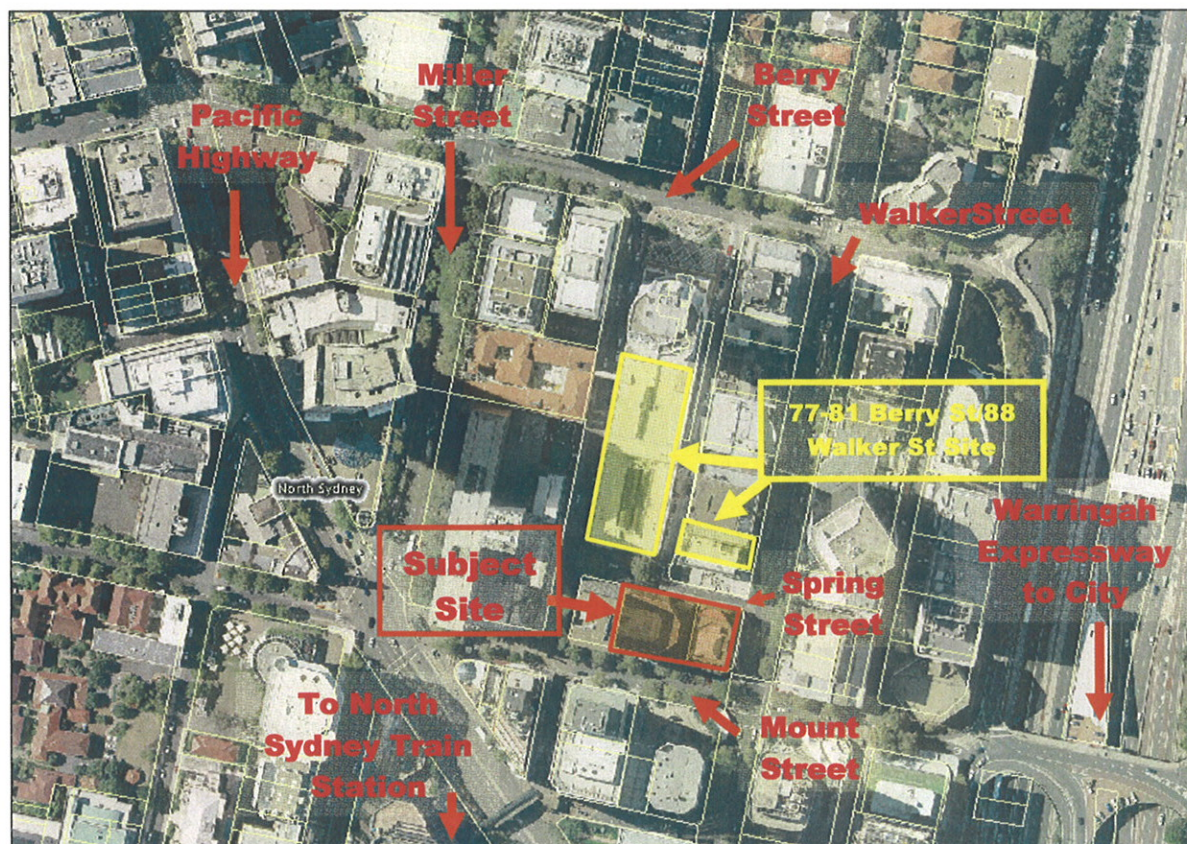


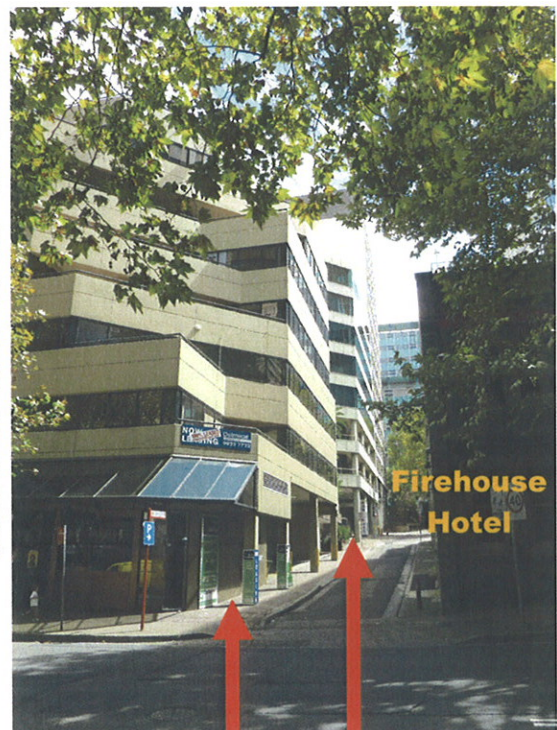
Diagram 3 – Site and Locality Plan (Source: Google Maps)



Nos. 86 – 96 No.100
Photo 1 – Looking north-west from Walker Street



Photo 2 – Looking south west at Walker Street frontage



No.100 Nos. 86 – 96
Photo 3 – Looking north along Spring Street



No.100 Nos. 86 – 96
Photo 4 – Looking north along Little Spring Street



Photo 5 – Looking south-east across the split levels of the through-site link

2.2 Surrounding Development

The immediately surrounding development comprises the following;

North of the site

To the north of the site, on the opposite side of Spring Street is a locally-listed heritage item known as the “Firehouse Hotel” which is currently being used as a restaurant/bar. Also to the north of the site is Berry Square Retail/Shopping World which occupies a large site bounded by Little Spring Street, Spring Street, Denison Street and the existing Beau Monde residential building and is the subject of a recent Part 3A approval (MP08_0238).

South of the site

To the immediate south of the site is a variety of commercial and retail buildings including an Aldi Supermarket.

East of the site

East of the site is Walker Street, predominately occupied by commercial tower development with ground floor retail.

West of the site

To the west, abutting the site is a 15 storey commercial and retail building known as 84 Mount Street. Further to the west is the Mount Street Plaza, which is North Sydney’s main outdoor pedestrian mall and extends to the Pacific Highway. To the south-west is the locally-listed heritage item known as the MLC Centre which comprises a large commercial development.

City Centre Context

The broader context of the North Sydney CBD is dominated by commercial office towers of varying heights (**Diagram 4 - site in RED**), and the immediate vicinity of the site is predominately commercial and retail buildings, with the exception of the residential tower “Beau Monde” north of the site, at 77-81 Berry Street.

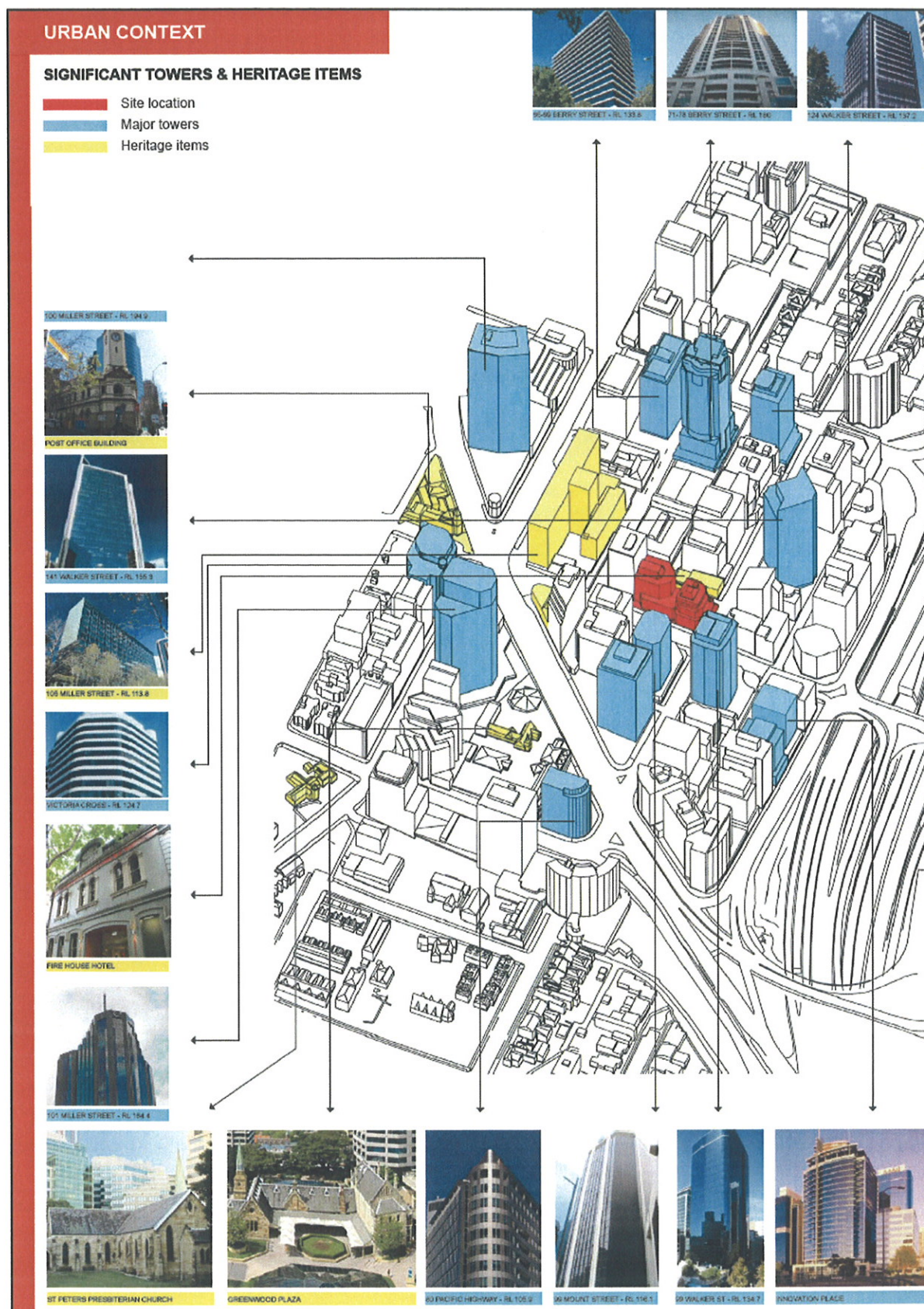


Diagram 4: Site Analysis Plan – Surrounding development (Source: EA)

Recent Approvals (MP08_0238: 77-81 Berry Street & 88 Walker Street)

On 25 February 2010, the Minister for Planning approved Major Project MP08_0238 for the development of a mixed use commercial, retail and hotel development at 77 – 81 Walker Street and 88 Walker Street, followed a review of the proposal by the NSW Planning Assessment Commission (PAC). The PAC found that the Department of Planning's assessment of the proposal and its recommendation to approve was reasonable.

This site is located generally to the north of the Mount Street site on the opposite alignment of Spring Street, and is bounded to the west and east by Denison Street and Little Spring Street. (refer **Diagram 3** above).

The proposal comprises 70,000 square metres of non-residential floor-space and includes:

- a 32 storey commercial tower with lower level retail at 77-81 Berry Street;
- a 33 storey, 200 room, 4.5 star hotel at 88 Walker Street;
- 1,100 square metres of public domain areas, including a new pedestrian plaza in Denison Street;
- other public domain improvements, including increased setbacks at ground level, in Spring Street and Little Spring Street;
- a new through-site road between Denison Street and Little Spring Street, allowing the reconfiguration of traffic in surrounding laneways and improved pedestrian connectivity;
- widening of Little Spring Street; and
- basement car parking, including a new public car park for 42 cars and 10 motorcycles.

A total of 148 conditions were attached to the Minister's approval of the project, including:

- a reduction in the height of the commercial tower by five storeys on the southern part of the site and by three storeys over the northern part;
- reduction in the footprint and setback of the two plant levels on top of the commercial tower to ensure there are no adverse impacts on the upper levels of the Beau Monde building;
- preparation and implementation of a Traffic Management Plan;
- the payment of a \$10,000 monetary contribution to North Sydney Council for the upgrade of the intersection of Berry and Walker Streets in addition to the \$275,937 to be levied under Section 94 for traffic improvements; and
- a number of construction management conditions to protect the amenity of local residents, including limits on noise and construction hours.

In addition to the conditions imposed, the proponent has committed to meeting a 5-star energy rating for the commercial building and a 4-star rating for the hotel building, and will also make a \$6.3 million contribution toward the recent upgrade of North Sydney Station.

3 STRATEGIC CONTEXT

NSW State Plan

The NSW State Plan aims to achieve improved urban environments and ensure sustainable development through reductions in greenhouse gas emissions and development in close proximity to existing centres, services and transport.

The proposal is located within the heart of North Sydney CBD and is in close proximity to existing commercial, retail, community services and transport infrastructure.

Sydney Metropolitan Strategy "City of Cities"

The Sydney Metropolitan Strategy, developed to support the continuing economic growth of Sydney and enhance its standing as a global city, places the North Sydney Local Government Area in the Inner North Subregion. The proposal will assist in contributing to several of the Metropolitan Strategy's targets by providing new jobs in both the office and hotel/tourism sectors within a strategically located centre and economic corridor, whilst efficiently utilising current infrastructure.

Draft Inner North Subregional Strategy

The Draft Inner North Subregional Strategy requires that the Inner North Subregion provide capacity for an additional 60,100 jobs by 2031, and of these, 15,000 are to be provided within the North Sydney LGA, with 12,500 jobs being provided within the North Sydney CBD.

The proposal is located within the global economic corridor and will assist in sustaining Sydney's position as the nation's global city as the proposal provides new jobs by redeveloping an otherwise under-utilised site. The proposal will provide good access to existing public transport.

The 35,925m² of commercial floorspace provided by this proposal would make a significant contribution to achieving the employment capacity target for the North Sydney LGA, especially when considered together with the recently approved 70,000m² of floorspace at 77-81 Berry Street/88 Walker Street (MP08_0238).

Implementing the Inner North Subregional Strategy

In 1998, North Sydney Council commenced a review of the North Sydney Centre to facilitate a revitalisation of the North Sydney CBD. A major component of the planning framework that arose from the review is for the Centre to accommodate an additional 250,000sqm of non – residential floor space which equates to approximately 12,500 jobs. In February 2003, the Council completed the new planning framework, known as "North Sydney LEP 2001 (Amendment 9)".

North Sydney LEP 2001 – Amendment 9

The main aim of this amendment was to integrate land use/non-residential floor space growth and expansion with improved access to public transport and restriction on car usage, to ensure that North Sydney Centre maintained its status as a major commercial centre. The relevant LEP objectives and controls allowed for an additional 250,000m² of non-residential GFA, prohibited further residential development in the core of the CBD and encouraged the provision of high-grade commercial floor plates of at least 1000m².

The LEP also required that the Council review the North Sydney Centre planning controls once the floor space growth achieves 200,000m² to ensure that the North Sydney Centre controls are capable of meeting the 250,000m² target by 2031. To date, 88,315m² of additional non - residential floor space has been approved by Council with an additional 70,000 m² having recently been approved by the Minister on 25 February 2010 in respect of 77-81 Berry Street/88 Walker Street (MP08_0238).

The 250,000m² floor space target is contained within the existing boundaries of the commercial area to ensure no expansion into surrounding residential areas.

The proposal to allow 250,000m² of floor space growth is balanced with new controls which restricted the maximum height to RL 195 metres (height of the existing tallest building) and required development to step and transition down in height to the Centre edges in the form of a "bell-curve".

The transition in height is currently controlled by a "composite shadow diagram" which effectively limits the height and bulk of development by requiring no net increase in shadowing of residential areas outside the CBD between 9.00AM and 3.00PM in mid-winter, or any net increase in overshadowing of "Special Areas" and public open space within the CBD between 10.00AM and 2.00PM at any time of the year.

Railway Contribution Deed 2003

During the course of 2000 to 2002, the Council negotiated with the Department of Planning, Transport NSW, the State Rail Authority (SRA) and the Office of the Coordinator General of Rail, a commitment to proceed with the upgrade of the North Sydney Station.

The Deed was based on the Council delivering an additional 250,000m² of commercial floor space in order that North Sydney CBD can attract employment growth of 12,500 jobs.

The rationale for jobs growth in North Sydney is based on it being an existing major business centre with good access to public transport. The figure of 250,000m² is the floorspace required to generate the additional jobs and is linked to the capacity of the North Sydney Station, in its upgraded form.

The \$88 million upgraded North Sydney Railway Station was officially opened on 20 January 2009 and is fully operational. Accordingly, the State Government has met its commitment to provide railway infrastructure in North Sydney with the capacity to accommodate the additional 250,000m² of non – residential floor space identified in LEP 2001.

The current proposal will be required to enter an agreement to pay \$2,974,512 to the Transport Administration Corporation pursuant to the Deed to contribute to the payment for the completed upgrade of the North Sydney Railway Station.

Draft North Sydney LEP 2001 - Amendment 28

In July 2005, a review of the North Sydney Centre LEP 2001 (Amendment 9) planning controls was initiated and has continued until the present time.

The review was commenced in response to widespread concerns regarding the uncertainty created by the North Sydney Centre planning controls, particularly the primary height controls being the composite shadow diagram and shadowing restrictions, and the ability of the Amendment 9 planning controls to achieve the 250,000m².

In 2006, the Council resolved to prepare Draft North Sydney LEP 2001 (Amendment 28). The last version of Amendment 28 was exhibited by the Council in February – March 2009.

The key principle of Amendment 28 was to remove the composite shadow area controls and determine building height by maximum heights with built form defined by setbacks and site amalgamation criteria. It was considered that these controls would increase development certainty. Maximum heights (RL's) were applied to every site in the North Sydney Centre, based on various studies and modelling commissioned by Council in 2005 – 2006.

In terms of the current application, the Council's modelled height for the Mount Street site is to RL 195 metres.

Generally, the main aims and principles for achieving floor space growth under Amendment 28 have remained consistent, despite a number of revisions. The latest version expressed height as RL's in metres above ground and FSR controls were added to each site in the City Centre. The addition of FSR controls was at the request of the Department of Planning.

Current Status

On 10 August 2009, the Council resolved that the Draft LEP Amendment 28 be incorporated into the Draft North Sydney Comprehensive LEP 2009.

On 30 November 2009, Council adopted the Draft Comprehensive LEP 2009 which included Draft LEP 2001 (Amendment 28). The most recently exhibited Amendment 28 provisions have been retained unchanged except for the removal of the CBD FSR controls and the re-introduction of building heights prescribed as RL's rather than height in metres above ground level.

Council also resolved to refer the adopted Draft Comprehensive LEP 2009 to the Department seeking a S.65 Certificate to allow exhibition which is planned to take place in May 2010.

Summary

The current and draft CBD controls seek to facilitate commercial and retail development in the CBD, and in doing so, prohibit any residential development in the commercial core. The proposed commercial and retail development will provide **35,925m²** of commercial GFA and would significantly contribute to the required jobs growth target for the North Sydney LGA. The proposal will also assist in the funding of the North Sydney Railway upgrade, which relies on the 250,000m² of non-residential floor space being delivered.

The aims and provisions of the Draft NSLEP 2001 (Amendment 28) now incorporated into the Draft Comprehensive LEP 2009 are consistent with a number of Draft Inner North Subregional Strategy actions including:

- Protecting existing core commercial areas in strategic centres (B3.4.1);
- Create redevelopment opportunities for business space in the global economic corridor (B3.4.2); and,
- Identify, protect and promote sites for large scale development in strategic centres (B3.4.3).

The current proposal, subject to the recommended amendments to reduce height to ensure compliance with the controls in Council's Draft Comprehensive LEP (with the exception of two plant room levels) results in a development which meets the identified strategies for the Sydney Metropolitan Area, the Inner North and the North Sydney Centre.

4 PROPOSED DEVELOPMENT

4.1 The Proposed Development (Exhibition EA and PPR)

4.1.1 Environmental Assessment (as exhibited)

The proposal as described in the Environmental Assessment sought approval for the following:

- Demolition of the existing buildings on the site;
- Excavation for 5 levels of basement;
- Construction of a 39 storey commercial and retail building (including 2 levels of plant) together with 5 levels of basement for 130 car parking spaces and ancillary services;
- Construction of streetscape improvements within the Mount Street and Walker Street boundaries of the site; and,
- Reconstruction of the alignment to Spring Street to provide for loading docks and basement access.

4.1.2 Preferred Project Report (PPR)

Following exhibition of the EA, the Department advised the Proponent of a number of issues relating to the EA and requested that a PPR be submitted.

The main issue raised related to the non-compliant height and associated impacts. In addition, issues were raised relating to some key urban design/built form matters including the need for a through-site link, the rationalisation of ground level works to Spring Street, issue of the setback to Walker Street, and, the need for cumulative wind and traffic assessments (in association with the Part 3A proposal at 77-81 Berry Street and 88 Walker Street – MP08_0238).

The PPR addressed all of the matters raised and provided further justification for the variation in height.

The Proponent's PPR seeks approval as follows (see **Table 1**):

Table 1: PPR

	Exhibited EA	PPR	LEP controls: - current - draft #	Compliance
Site area	1,756m ²	1,756m ²	Minimum 1,000 m ²	Yes
GFA	39,540 m ²	35,925m ²	Nil	N/A
FSR	22.6 : 1	20.5 : 1	Nil	N/A
Height	RL 200.7m (roof of plant room) (39 storeys inc 2 x plant levels)	RL 199.7m (roof of plant room) (38 storeys inc 2 x plant levels)	Max RL 195 m (subject to Composite Shadow Control) (NSLEP 2001)	No
			Max RL 195m (subject to no additional shadowing controls) (DLEP 2009)	No

On 30 November 2009, the Council resolved to incorporate these Draft LEP (Amendment 28) provisions into the Draft Comprehensive LEP 2009

Demolition/Excavation

Demolition of the existing buildings and excavation for 5 levels of basement.

Building

The construction of a 38 storey commercial and retail building (including 2 levels of plant room) with car parking for 123 vehicles within 5 levels of basement car parking with vehicular access via Spring Street and basement level loading/unloading and ancillary facilities (refer **Diagrams 6, 7, 8, 9, 10** and **11** below).

ESD

The commercial tower has been designed to achieve a 5-star Greenstar energy rating and 5-star NABERS rating. In addition, other initiatives are proposed, including;

- Use of central chilled water plant for air conditioning systems;
- Separate central air handling units for each thermal zone;
- Energy sub-metering of all major electrical uses in the building;
- Possible use of cogeneration including gas fired power generation;
- Provision for integration of artificial lighting and daylight compensation with appropriate controls may be incorporated to reduce or turn off entire areas upon adequate daylight.

Public Domain

In summary, the proposal includes the following;

- Improvements to the relationship with the public domain in Mount Street and Walker Street;
- Improved pedestrian through-site link;
- Improved pedestrian safety/streetscape design and presentation to Spring Street; and,
- Provision for Public Art.

Works within the site boundaries effectively become an extension of the public domain.

A 3.3m - 4.0m setback on Walker Street is provided, and together with setbacks within the Mount Street frontage of 5.2m - 8.6m, provide for extensive areas of publicly accessible space along both streets which are designed to be contiguous with the adjacent footpath. The on-site setbacks are shown in **RED** (**Diagram 5** below), while the area of works proposed in accordance with Council's Public Domain Strategy are shown in **BLUE**. The proposed 4.4 metres pedestrian through-site link shown in **YELLOW** further increases the area of accessible space.

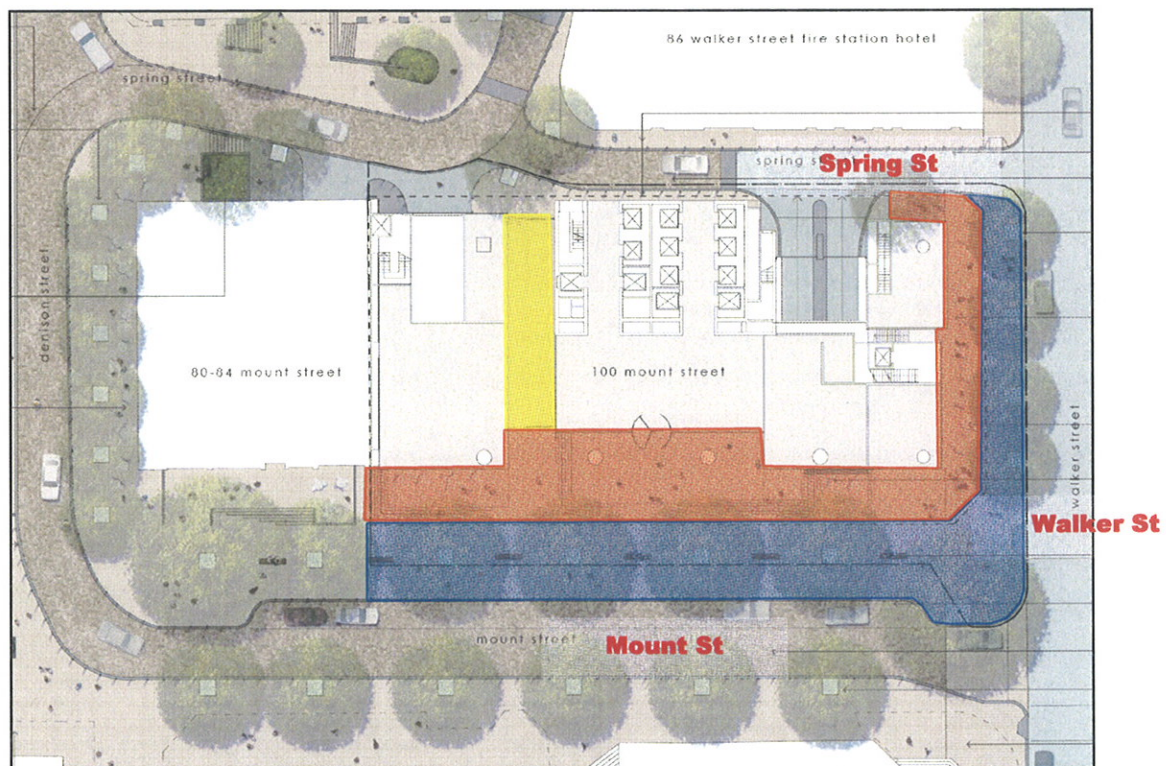


Diagram 5 – Combined public/private domain accessible to the public (Source: EA)



Diagram 6 – Perspective view looking east from the Pacific Hwy (Source: PPR)



Diagram 7 – Perspective view looking north-west from Walker Street (Source: PPR)

4.2 Key changes between the exhibited EA and PPR

Key revisions to the project as described in the PPR include:

- The overall building height has been reduced by 1.0 metre from RL 200.7m to RL 199.7m. This has resulted in an internal reconfiguration and reduction from 39 storeys to 38 storeys;
- The setback of Levels 17 to 36 to Walker Street has been increased by 1.5 metres from 600mm to 2.1 metres;
- The structural frame within the reverse podium between Levels 3 to 7 has been refined;
- The podium façade to Walker Street has been revised and refined to ensure a more compatible relationship to the adjacent heritage item, the Firehouse Hotel;
- The provision of a 4.4 metre wide x 2 storey high through-site link between Mount Street and Spring Street;
- The on-site setback area on Mount Street has been revised and redesigned with the removal of some stairs, all retaining walls and glass walling to improve the relationship with the public domain;
- The loading docks on Spring Street have been relocated to the basement and a truck hoist provided to Spring Street for access to allow for an increased amount of active frontage to Spring Street, a reduced number of vehicle cross-overs and has included amendments to the Spring Street façade;
- The number of carparking spaces has been reduced from 130 to 123; and,
- Provision of additional awnings and landscaping to ameliorate potential wind effects.

The changes have resulted in a reduction in GFA of 3,615sqm.

Diagrams 8, 9, 10 and 11 below detail some of the areas of amendment undertaken by the PPR. The submission of the PPR included a revised Concept Public Domain plan which detailed various elements from Council's Public Domain Strategy such as the removal of angled parking in Mount Street. However, it is noted that these indicative works do not form part of this application.

The PPR forms the basis of the assessment of this report.

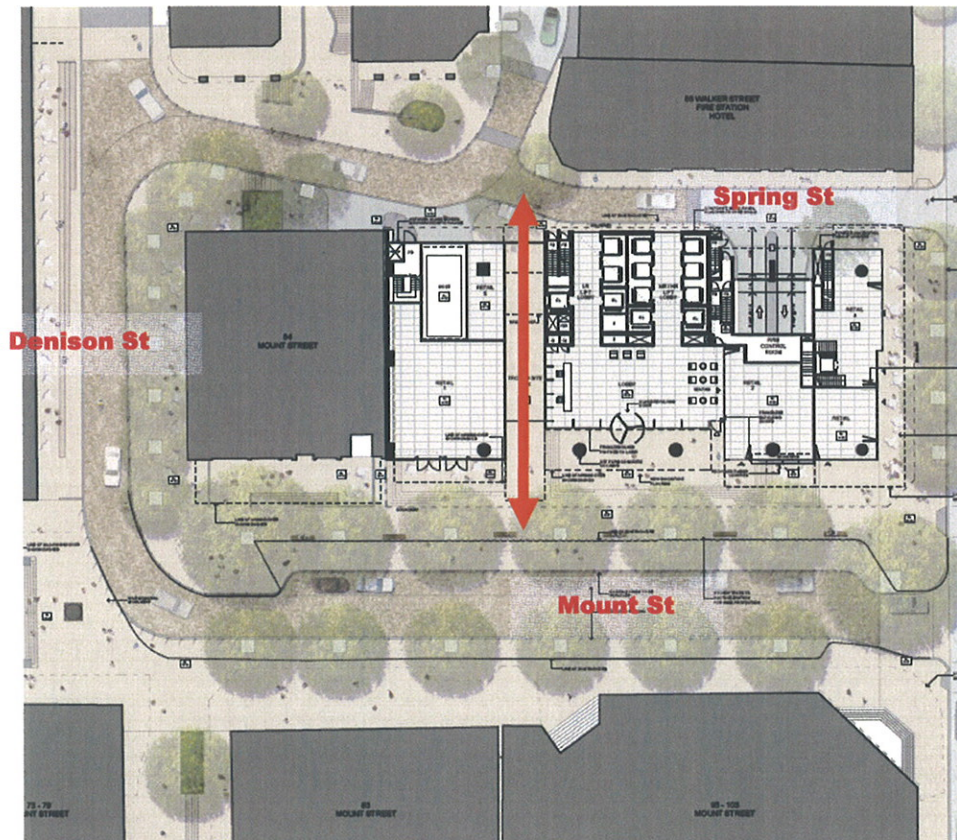


Diagram 8 – Ground level site setbacks, through-site link and resultant public domain (Source: PPR)



Diagram 9 – Perspective of entry to the through-site link on Spring Street (Source: PPR)



Diagram 10 – Perspective of revised Mount Street facade and ground plane (Source: PPR)



Diagram 11 – Perspective of revised Walker Street facade (Source: PPR)

5 STATUTORY CONTEXT

5.1 Permissibility

North Sydney LEP 2001

The site at 86-96 and 100 Mount Street is zoned "Commercial" pursuant to North Sydney Local Environmental Plan 2001 ("LEP 2001") (**Diagram 14**) and the proposed commercial and retail development is permissible with consent under this zoning. However, the Proponent has identified a potential issue with the LEP 2001 height and shadowing controls which could be interpreted to apply as a prohibition rather than a development standard.

The terms of the relevant clauses state that "*Consent **must not** be granted*", and in combination with the prohibition on the application of SEPP 1 - Development Standards to allow variations to be made to the relevant clauses of the LEP, potentially results in a prohibition.

This issue has been overcome by submitting the proposal in the form of a Concept Plan application.

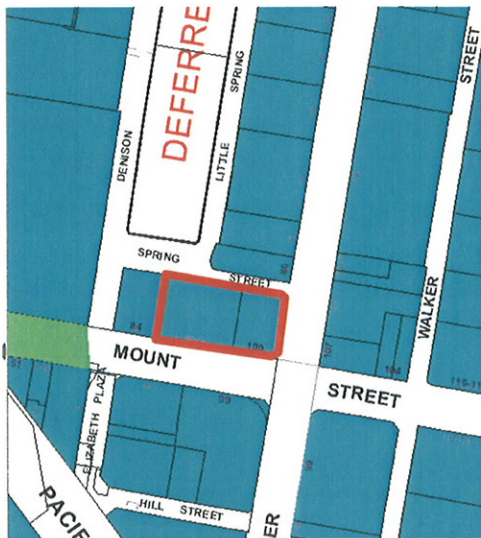


Diagram 14 - Zoning Map: NSLEP 2001

Draft North Sydney LEP 2009

The Draft North Sydney Comprehensive LEP 2009, proposes to zone the subject land "Commercial" (**Diagram 15**), and the proposed mixed use commercial and retail development is permissible with consent in the zone.

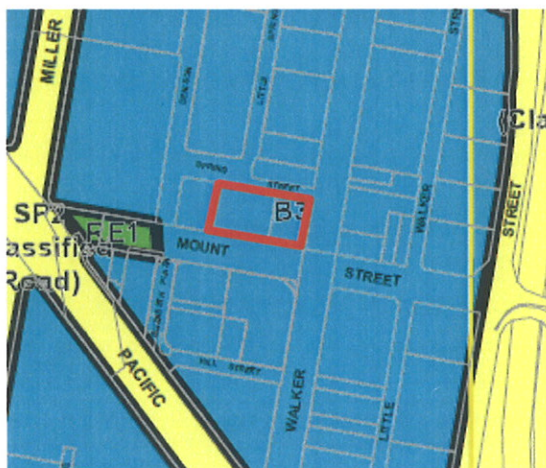


Diagram 15 - Zoning Map: Draft NSLEP 2009

5.2 Director-General's Environmental Assessment Requirements (DGRs)

On the 30 April 2009, the Director-General issued DGRs pursuant to Section 75F of the *Environmental Planning and Assessment Act 1979*. The DGR's require the following key issues to be addressed: Architectural, building and urban design impacts; Built form; Site Amalgamation; Public Domain; Transport and Accessibility (Construction and Operational); Noise and Lighting Impacts; Construction impacts; ESD; Drainage/Flooding; Contributions; Utilities; Staging and Consultation.

The DGRs have been addressed in the EA lodged and were deemed to be adequate for public exhibition. The DGR's are contained in **Appendix B**.

5.3 Exhibition and Notification

Under Section 75H of the Act, the Director-General is required to make the EA of a project publicly available for at least 30 days, and the EA was exhibited between 28 July 2009 and 28 August 2009 accordance with statutory requirements in satisfaction of Section 75H(3) of the EP&A Act.

During the assessment process the Department also made a number of documents available for download on the Department's website. These documents included the:

- Concept Plan;
- Director-General's Requirements;
- Environmental Assessment; and
- Response to issues raised in submissions (in Preferred Project Report).

5.4 Other Statutory Considerations

Appendix A contains further consideration of the following Statutory Considerations;

- Objects of the Act;
- Statement of Compliance;
- Ecological Sustainable Development; and
- Environmental Planning Instruments (EPIs) which apply to the proposal.

6 CONSULTATION AND ISSUES RAISED

6.1 Public Exhibition

The Department exhibited the EA by public notification and by sending letters to adjoining landowners and occupiers, government agencies and North Sydney Council.

During the EA exhibition period, the Department received;

- 4 submissions from public authorities,
- 1 submission from North Sydney Council;
- 19 public submissions objecting to the proposal; and,
- 1 public submission in support.

The issues raised are summarised below.

The Proponent responded to these submissions in the PPR dated 14 January 2010(**Appendix E**).

While not required to be placed on statutory exhibition, the PPR was placed on the Department's website and submissions were received from the "Beau Monde Residents Action Group" and North Sydney Council. The Council considered a report relating to the PPR at the meeting held on 1 February 2010. The further submissions oppose the development.

6.1.1 North Sydney Council

Exhibition of the Environmental Assessment

The Council considered a report relating to the EA at the meeting held on 7 September 2009 and resolved to;

- strongly object to the application on a number of grounds;
- inform the Minister that the current Council had yet to consider the provisions of Amendment 28 to North Sydney LEP and that the Draft instrument remained neither imminent nor certain; and,
- requested that the Department consider the provision of an appropriately sized cinema as part of the assessment of the proposal.

Attached to the Council report were the Minutes of the Council's Design Excellence Panel, which met on 7 July 2009. The Panel raised a number of concerns relating to built form and urban design issues including the design of the expressed structural frame at Levels 3 to 7, the relationship to the adjacent heritage item, the non-compliant setbacks of the upper tower, but supported the height as being appropriate in the context of the North Sydney CBD.

Additional submission - post exhibition

On 17 September 2009, Council submitted a separate submission reiterating the request that the Department consider the provision of an appropriately sized cinema as part of the assessment of the proposal. The Proponent has stated in the PPR that investigations have been undertaken with regard to the provision of a cinema, and design studies prepared to test the viability of such a proposal, however, the proposed development cannot incorporate a cinema that would be viable in this location.

Preferred Project Report (PPR)

The Council considered a report relating to the PPR at a meeting held on 1 February 2010 and resolved that the Council continues its strong opposition to the proposal and urges that the application be refused.

The main grounds of opposition related to;

- excessive height and overshadowing;
- non-compliant setbacks to Walker Street;
- the inappropriateness of the structural frame design to the Walker Street elevation; and,
- excessive carparking and impact from traffic generation.

Council also identified additional issues relating to a Construction Management Plan and construction hours, and, reiterated again the matter of provision of a cinema on site.

The Council's planning report notes that the Design Excellence Panel had not had the opportunity to consider the PPR, but the report did note that a number of the changes made in the PPR were in response to the Panel's previous comments/concerns. Further, the report to Council noted support for the modifications to;

- the Walker Street podium façade design;
- the revised public domain scheme;
- the through-site link;
- the revised ground plane design to Mount Street; and,
- the amendments to the Spring Street façade, alignment and streetscape presentation.

Specifically, the report to Council on 1 February 2010 noted that no issue had been raised by Council regarding the loss of views from the Beau Monde building, either in respect to the EA or the PPR.

Department Comment

The Department considers that the height of the PPR proposal is appropriate and complies with the Draft LEP height and shadowing controls except for the upper 4.7metres of the plant room and an additional 2 - 10 minutes of shadowing outside the North Sydney CBD. In respect of the issues raised regarding the form of the expressed structural frame, setbacks to Walker Street and excessive carparking provision, these matters have been addressed below in **Section 7** of this report and where appropriate, conditions are recommended requiring amendments to ensure greater compliance with Council's controls.

The issue of excessive carparking and impacts from traffic generation have been addressed below in **Section 7**.

The matter of construction hours and the requirement for a Construction Management Plan have been incorporated into the recommended conditions and are the same as those imposed in the recent approval of the Part 3A development at Walker and Berry Streets.

A detailed consideration and summary of Council's submission in response to the EA is in **Appendix G**.

6.1.2 Railcorp

Railcorp have raised no objection to the proposal, but have indicated, via the consulting engineers for the CBD Rail Project, that additional requirements will need to be imposed on any approval relating to excavation. The site is in close proximity to the proposed CBD Rail Link Mount Street Station and the deepest excavated level is within 6 metres of the top of the proposed Station cavern rather than the required minimum of 8 metres, thus necessitating additional investigations of ground conditions. The CBD Rail Link was to have provided a new underground connection beneath Sydney and the Harbour between the proposed North West Rail Link and the South West Rail Link.

Department Comment

The Department notes the comments from Railcorp and further notes that the State Government has indefinitely postponed the CBD Rail Link project. The issues raised have been addressed by conditions of approval.

6.1.3 Ministry of Transport (MoT)

The Ministry supports the proposal, but raised a number of issues:

- The Traffic Impact Study submitted does not satisfy the DGRs in relation to the consideration of transport impacts both during construction and when operational.
- The EA does not address the opportunity to maximise and encourage the use of public transport together with walking and cycling.
- Consideration should be given to measures to mitigate potential impacts for pedestrian and cyclists during the construction stage of the project, the preparation of a Workplace Travel Plan and car parking initiatives to reduce car usage to and from the site.

Department Comment

The Department notes the comments raised by the MoT. The issues raised have generally been addressed in the PPR and are also addressed by conditions of approval.

6.1.4 Roads and Traffic Authority (RTA) and Sydney Regional Development Advisory Committee (SRDAC)

The RTA has raised no objections to the proposal; however, make a number of comments and recommendations as follows:

- The traffic generation rates detailed in the Traffic Report are considered low (same as comment regarding the Walker/Berry Street Part 3A proposal).
- A Comprehensive Traffic Impact Study should be undertaken by the DoP and Council to consider traffic generated by all future developments within North Sydney CBD.
- The existing angle parking on the northern side of Mount Street (between Walker and Denison Streets) should be banned during peak hours.
- Improvements to the intersection of Mount Street/Walker Streets are required including amended traffic signal design plans to improve traffic flow and reduce queuing in these streets;
- The proposed changes and treatments on Spring Street and the potential increase in conflicts between pedestrian and trucks reversing in/out of existing loading docks requires a management plan be submitted.
- Further information/analysis is required to the satisfaction of the DoP demonstrating that the existing public transport system would cope with the increase demand generated by the proposed development.
- All future Shared Zones must satisfy RTA requirements and endorsed by North Sydney Council and submitted to the RTA for approval.
- Car parking provisions, loading bays and bicycle facilities shall be provided in accordance with Council's DCP.

Department Comment

The Department notes the comments raised by the RTA. The concerns raised have generally been addressed in the PPR including the need for design changes to improve pedestrian/traffic safety in Spring Street. Other issues relating to compliance with Council's Car Parking DCP, and for the upgrading of the Walker Street/Mount Street intersection, are the subject of recommended conditions of approval.

The matter of the management of the angled parking in Mount Street is a matter for the Council, although it is noted that Council's adopted Public Domain Strategy proposes replacement of this angled parking with parallel parking spaces. The removal of the angled parking, together with proposed changes to line marking on the approaches to the Mounts Street/Walker Street intersection, and the rephasing of the traffic lights at this intersection will improve traffic management in this area of North Sydney.

6.1.5 Sydney Water

Sydney Water has raised no objections to the proposal, however note the following:

- The Proponent should prepare a more detailed investigation in relation to stormwater issues, and the outcome of these investigations may require an On-site Stormwater Detention System.
- Implementation of best practice urban stormwater management using Water Sensitive Urban Design (WSUD) should be considered.
- Further assessment will be undertaken by Sydney Water when the proponent applies for a Section 73 certificate.

Department Comment

The Department notes the comments raised by Sydney Water and the matters raised have been addressed through conditions of approval.

6.2 Public Submissions

Exhibition of EA

The public submissions raised a number of issues, essentially focused on the height, bulk and scale of the proposal and subsequent loss of views and amenity to the nearby 'Beau Monde' apartment building. These issues are assessed in detail in **Section 7** of this report. Other issues relating to traffic generation, wind impacts, shadowing, pedestrian safety, and LEP issues have also been assessed in this Report.

A summary of key issues raised in the public submissions can be found in **Appendix D** and in the table in **Appendix G**.

PPR

There were 2 submissions received in response to the PPR from North Sydney Council and from the "Beau Monde Residents Action Group", both objecting to the PPR proposal, although as noted above, the Council supports a number of the changes made to the EA, and did not raise any concern regarding view loss.

Department Comment

The issues raised in all public submissions and in particular the submissions received from residents in the Beau Monde building have been addressed in detail in **Section 7**. Further, the matters raised by and on behalf of the "Beau Monde Concerned Residents Group", in the reports from "Ingham Planning", "Traffix Consultants" and "Dickson Rothschild Architects" have been considered in this report.

7 ASSESSMENT OF ENVIRONMENTAL IMPACTS

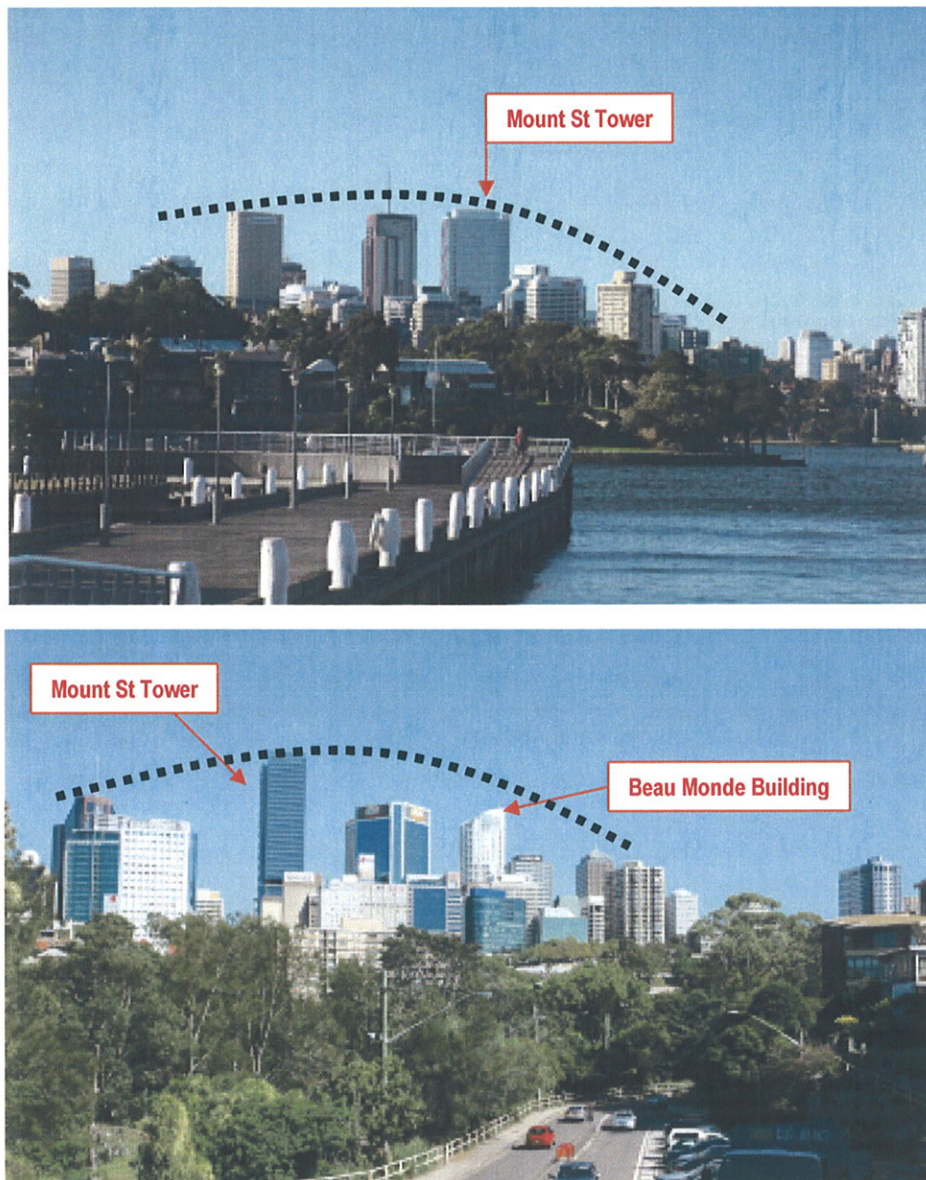
The key issues raised and considered in the Department's assessment of the application are as follows:

- Draft North Sydney City Centre controls and building height
- Setbacks
- Views & Outlook
- Car Parking, Traffic and Access

7.1 Draft North Sydney City Centre controls - building height and overshadowing

The Mount Street site is centrally located within the boundaries of the North Sydney CBD. A key control in both the North Sydney LEP 2001 ("LEP 2001") and the Draft North Sydney LEP 2009 ("Draft LEP") is that new development should not exceed the height of the existing tallest building in the centre of the North Sydney CBD (RL 195m).

Further, all new development is encouraged to step down in height towards the edges of the CBD generally to form a "bell-curve" in a north-south axis and east-west axis from this highest point. The photomontages below detail the location and form of the proposed development in relation to the existing CBD context.



Diagrams 16 & 17 – Relationship of building heights to the existing North Sydney skyline (Source: PPR)

LEP 2001 controls the degree of stepping down of built form towards the edges of the City Centre with the "*Composite Shadow Diagram*".

Draft LEP 2009 prescribes maximum heights for each site within the CBD (expressed as reduced levels - RL's) to control urban form and shadowing. The Draft LEP height controls were derived following extensive 3D site modelling commissioned by the Council and resulted in property-specific spot heights being applied to each CBD property.

The other key objective in both LEP 2001 and Draft LEP is to control the extent of additional shadowing of particular areas and sites within the CBD (special areas and public open space), and land outside the CBD on the fringe of the City Centre, particularly residential dwellings and open space areas.

The LEP 2001 CBD shadow control prohibits any net increase in overshadowing of special areas and public open space within the CBD between **10.00 AM and 2.00 PM** year round. Special Areas are prescribed in LEP 2001 and public open space areas are those zoned as such under the same LEP.

The Draft LEP height controls allow greater flexibility by amending the prohibition on any net increase of overshadowing to special areas and public open space within the CBD to between **12.00 NOON and 2.00 PM**.

Both LEP 2001 and the Draft LEP contain a second shadow control which prescribes that there should be no net increase in overshadowing to land outside the CBD between 9.00AM to 3.00PM year round, particularly residential dwellings and public open space.

The provisions of LEP 2001 and the Draft LEP permit minor variations to the overshadowing controls generally subject to:

- the variation being justified by the merits of the proposal, including building design, and, **public benefits**; and,
- any increase in **overshadowing** not reducing the amenity of any land.

Proposal's compliance with Local Planning Controls

The proposed 38 storey tower exceeds the maximum height controls under both the current LEP 2001 and the Draft LEP as detailed in **Tables 2 and 3** below.

Table 2: Height Variation - North Sydney Local Environmental Plan 2001

Provisions	Permitted/Required	PPR	Variation
Height Envelope (Clause 28D(1b))	RL131 - 155m AHD (max) [#] (20 - 27 storeys)	RL 199.7m AHD (38 storeys)	+44.7m - 68.7m
Overshadowing (Clause 28D 1c))	No net increase in overshadowing between 10.00AM and 2.00PM to Special Areas or public open space zone.	Overshadowing of the Elizabeth Street plaza, Greenwood Plaza and the Railway Station Plaza Special Areas (refer Figure 18 below) between 10.00am and 11.30am.	1.5 hours max
	No net increase in overshadowing outside of the composite shadow area outside of the CBD between 9.00AM and 3.00PM.	There will be an additional 2 – 10 mins shadowing on some dwellings (26B High Street & 49-51 High Street) and public open space in High St, Neutral Bay (Whaling Road Reserve and High Street Reserve) between 2.50 - 3.00pm in mid-winter. The additional shadowing diminishes to zero within 3 weeks either side of mid – winter.	2 - 10 minutes max

[#] Refer **Diagram 19** below for LEP 2001 envelope

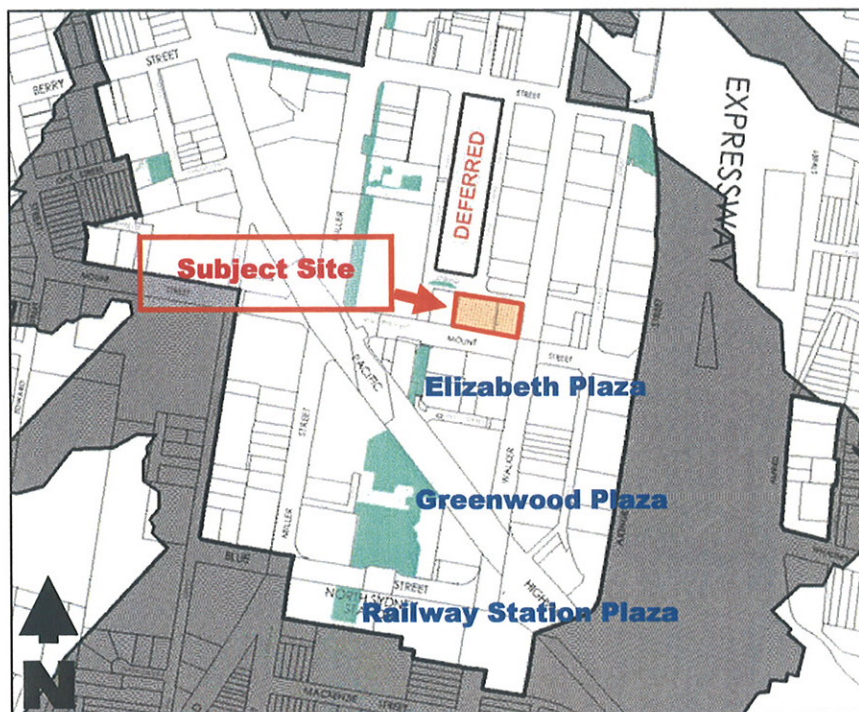


Diagram 18: LEP 2001 Map detailing location of the 3 "Special Areas" overshadowed for varying periods by the proposal between 10.00AM and 11.30AM (Source: NSLEP 2001)

Table 3: Height Variation - Draft North Sydney Comprehensive LEP 2009

Provisions	Permitted/Required	PPR	Variation
Height	RL 195m AHD (37 storeys)	RL 199.7m AHD (38 storeys)	+4.7m
Overshadowing	No net increase in overshadowing between 12.00NOON and 2.00PM to Special Areas or public open space zone.	No net increase in shadowing	Nil
	No net increase in overshadowing outside of the composite shadow area outside of the CBD between 9.00AM and 3.00PM.	There will be an additional 2 – 10 mins shadowing on some dwellings (26B High Street & 49-51 High Street) and public open space in High St, Neutral Bay (Whaling Road Reserve and High Street Reserve) between 2.50 - 3.00pm in mid-winter. The additional shadowing diminishes to zero within 3 weeks either side of mid – winter.	2 - 10 minutes max

A comparison of a complying and a non-complying building envelope of the proposal is provided at **Diagram 19** below.

The part of the diagram dotted **BLUE** shows the LEP 2001 envelope which is distorted as a result of compliance with the LEP Composite Shadow requirements which prohibits shadowing of the Elizabeth Street Plaza, Greenwood Hotel and Railway Station Plaza between 10.00AM and 12.00NOON. The distorted shape varies in maximum height between RL 131 metres to a maximum of RL 155 metres.

The Draft LEP 2009 envelope extends to RL 195m as detailed in **RED**, and as noted above, is based upon being the highest point at the top of the arc of the CBD “bell-curve” and the less restrictive CBD shadow control.

The non – compliant area of the proposal under the Draft LEP only comprises the upper level of the 2 storey plant room between RL 195m and RL 199.7m (4.7 metres).

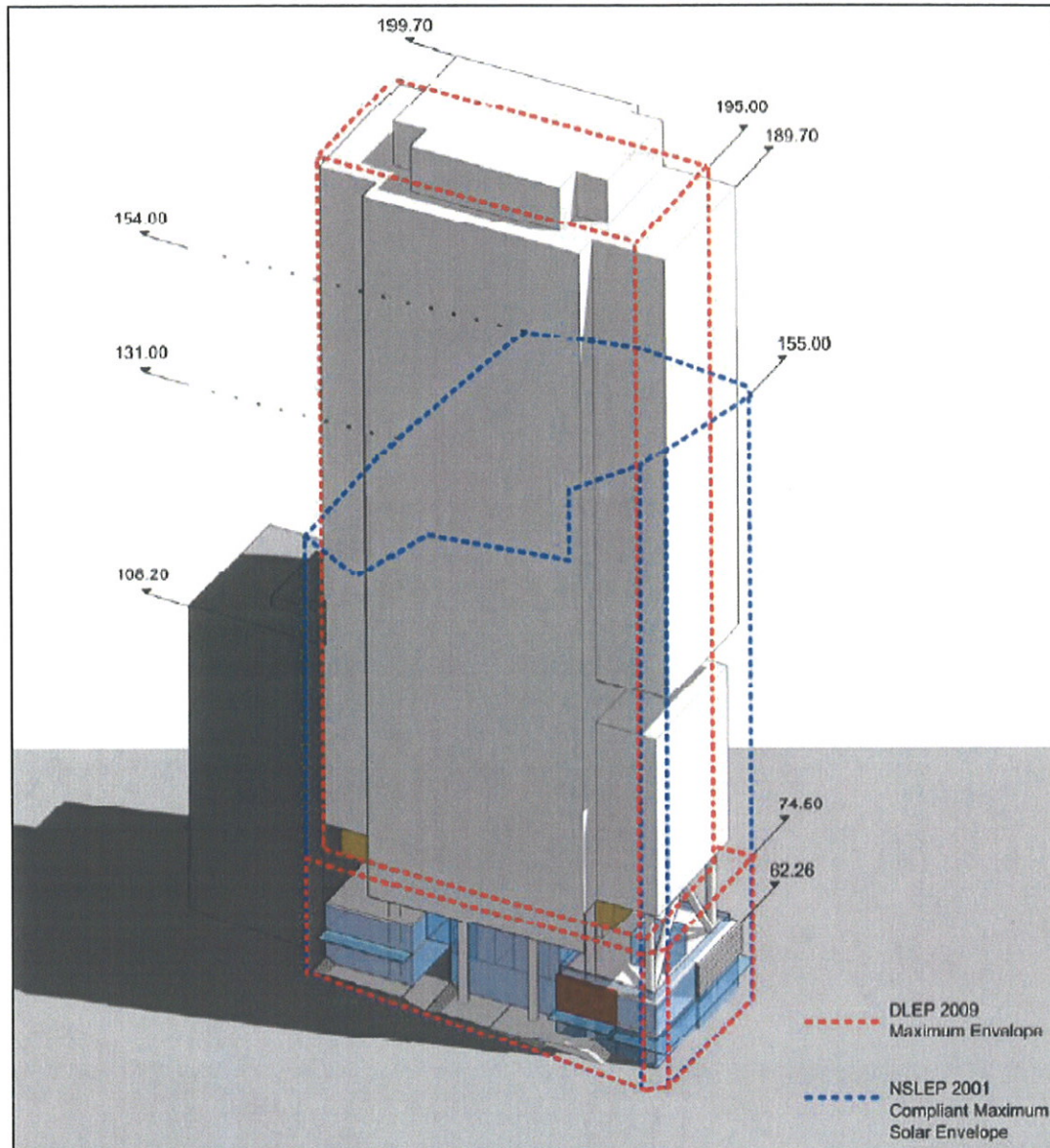


Diagram 19 – Proposed and Compliant Building Height (Source: PPR)

Proponent's Justification for variation to the Height and Overshadowing Controls

The Proponent has provided a justification for the additional height based on the following outcomes;

- Quality and quantity of **public benefit** being provided.
- **Compliance** with the Draft LEP shadow controls for the North Sydney CBD.
- A minimal increase in **overshadowing** of residential areas/open space outside the CBD.
- An **appropriate built form** outcome in respect to the CBD skyline and “bell-curve”.

Department's Consideration of the variation to the Height and Overshadowing Controls

The LEP 2001 and the Draft LEP permit variations to compliance with the height and overshadowing controls. Although the 44.7 to 68.7 metre variation to compliance with LEP 2001

is significant (refer **Table 2**), the acceptance of this variation is predicated upon the amendments contained under the Draft LEP.

The Draft LEP has been a deliberate trade-off between maintaining periods of morning sun and allowing significantly larger scale development to occur in the North Sydney CBD to achieve the regional and metropolitan outcomes as set out in **Section 3** above.

Public Benefit

The PPR provides a number of public benefits including;

- Improved at-grade through-site link 4.4 metres in width with a height of 2 storeys and activated by retail tenancies between Mount Street and Spring Street orientated to meet the Spring Street forecourt of the approved development at 77 – 81 Berry Street;
- Improvements to the relationship with the public domain in Mount Street and Walker Street, with increased setbacks;
- An improved ground plane design on the Mount Street alignment which will facilitate the implementation of Council's Public Domain strategy for the Mount Street area and improve amenity;
- Improved presentation of built form/streetscape to Spring Street with the removal of multiple crossovers and level changes, resulting in improved pedestrian and traffic safety, and, introduction of new activated facades; and,
- Provision for Public Art.

Appropriate weight has been given to these public benefits in the assessment of the variation being sought to compliance with the height and overshadowing controls.

It is noted that, the variation to height compliance does not have any impact on important North Sydney City Centre view lines or vistas as identified by the North Sydney Character Statement as prescribed in the North Sydney DCP 2002.

Overshadowing - CBD Special Areas

The difference in overshadowing resulting from the proposal under LEP 2001 and Draft LEP is an additional 1.5 hours of shadowing to the Greenwood Plaza, an additional 1 hour of shadowing to Elizabeth Plaza, and, an additional 0.5 hours of shadowing to Railway Station Plaza between 10.00AM and 11.30AM, being periods of the day when the subject areas are not under heavy usage. The proposal does not impact on these areas or any other key CBD spaces during the critical 12.00NOON to 2.00PM period.

Overshadowing - outside the CBD

The shadow diagrams illustrate that there will be an additional **2 – 10 mins** shadowing on the side elevations of 2 residential buildings (26B High Street & 49-51 High Street) and public open space (Whaling Road Reserve and High Street Reserve) in High St, Neutral Bay between 2.50 - 3.00pm in mid-winter. The additional shadowing diminishes to zero within 3 weeks either side of mid – winter.

The Department considers that the additional overshadowing has a minimal impact upon the amenity of this land and it is noted that the Council Planning report to the meeting of 1 February 2010 in respect of additional overshadowing concluded that *"this issue is therefore not considered to warrant objection to the proposal."*

Appropriate built form

The additional 4.7 metres above the Draft LEP height control comprises the upper level of the 2 storey plant room at the top of the proposal (refer **Figure 19** above) which adopts a smaller footprint than the main building below and presents a compact regular shape which will not be intrusive on the skyline of the City centre. This minor additional height and bulk is assessed to be of minimal consequence and will not generally be evident when seen from most views and public places.

On this basis, it is recommended that the non-complying height of 4.7 metres be permitted.