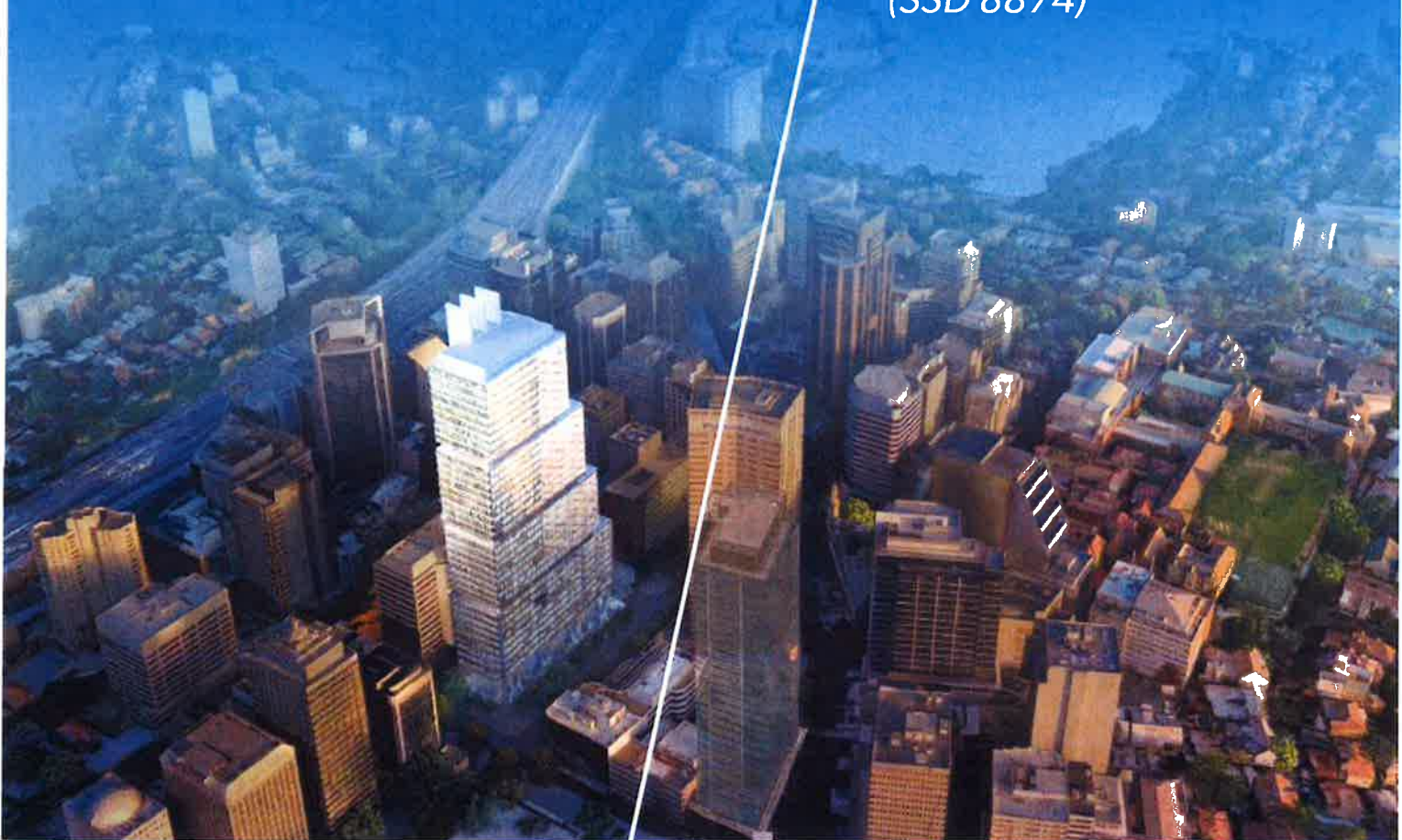




Victoria Cross over station development

*State Significant
Development Assessment
(SSD 8874)*



December 2018

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Cover photo

Indicative photomontage of Victoria Cross OSD (source: Applicant's EIS)

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
CIV	Capital Investment Value
Consent	Development Consent
Council	North Sydney Council
CSSI	Critical State Significant Infrastructure
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
GANSW	NSW Government Architect
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
OSD	Over Station Development
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
Secretary	Planning Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development



Executive Summary

This report provides the Department's assessment of a Concept Development Application seeking approval for an Over Station Development (OSD) above the southern entrance of the new Victoria Cross Metro station in North Sydney.

The application seeks concept approval for a maximum building envelope for OSD above the transfer slab level of the station. The building envelope allows for approximately 40 storeys within a high-rise portion of the envelope and approximately 13 storeys in a low-rise portion of the envelope, a maximum GFA of 60,000 m² and basement car parking for 150 spaces.

The Applicant is Sydney Metro and the proposal is located within the North Sydney local government area. The Capital Investment Value (CIV) for the proposal is \$335.8 million and would generate 4,200 operational jobs and 600 construction jobs.

The Minister for Planning is the consent authority for the application as more than 25 objections were received, and the Applicant is a public authority.

Engagement

The Department publicly exhibited the Environmental Impact Statement (EIS) between 25 May 2018 and 22 June 2018 and received a total of 59 submissions, including nine from public authorities and 50 from the public (with 34 objecting, 7 supporting and 9 providing comments). An additional three submissions from public authorities were received in response to the Applicant's Response to Submissions (RtS).

Over 50% of the public submissions said the proposal should include additional open space, wider pedestrian links and underground connection to North Sydney Railway Station. 39% of submissions also raised concern regarding overshadowing impacts of the proposal to public spaces. Their concerns were shared by North Sydney Council (Council), who recommended the proposal should accommodate a publicly accessible, sun-lit, space by increasing building setbacks at the corner of Miller Street and Berry Street.

Council also objected to the proposed 'articulation zone' of the building envelope cantilevering above the Miller Street setback area. Council recommended a more conventional built form, with the tower setback from the podium and for the proposed building envelope to align with the Miller Street setback of the adjacent local heritage item, the MLC Building.

Council's submission and public submissions raised concerns with respect to the bulk and scale of the building envelope above the public domain, the maintenance of sky views and a perception that the overhang will create a sense of visual dominance along Miller Street.

Other issues raised in the public submissions also include the bulk, scale and density of the proposed OSD and amenity impacts to surrounding residents. Two submissions raised specific concerns of loss of existing views from Alexander Apartments to the east of the site. The Department visited several apartment owners within the Alexander Apartments to inspect their views and outlook on 19 June 2018 as further discussed in **Section 6** of this report.

NSW Government Architect (GANSW) advised the Applicant's RtS addressed issues raised in their original advice, including adjustments to the proposed building envelope and changes to the proposed Design Excellence Strategy and Design Guidelines as updated in the RtS. Other public authorities provided comments and advice

for the proposal. More specifically, Heritage Council of NSW recommendations have since been incorporated into the updated Design Guidelines submitted with the RtS.

Assessment

In its assessment of the proposal, the Department has carefully considered the issues by Council and the community raised in submissions and the Applicant's response to these issues.

Building Envelope: bulk, scale and density

The building height standards for the site (from RL 80 and RL 120 to RL 135 and RL 230) was revised as part of recent amendments to the North Sydney Local Environmental Plan 2013 (NSLEP). The proposed building envelopes comply with the new NLEP standards. The increased scale and density is consistent with what is anticipated for the North Sydney Centre by Council's North Sydney CBD Capacity and Land Use Strategy which leverages increased transport and employment capacity to be delivered by the new Victoria Cross Metro station.

The Department's assessment finds the proposed envelope generally complies with the aims, objectives and standards of the NSLEP and is comparable in scale and character with other developments in the North Sydney Centre. Recommended **Conditions A15, A16 and A17** restrict future detailed design applications to be within the proposed building envelope.

Miller Street Setback: articulation zone / alignment with MLC Building

The proposed development will provide the required 6 m setback from Miller Street for its podium, consistent with the approved station below to achieve the public domain outcomes envisaged under Council's planning controls. The Department notes many recent tower developments in North Sydney Centre do not provide a 5 m setback from podiums, as recommended by Council for this proposal. The Department considers the proposed building envelope is compatible with its built context. The Department's assessment concludes the proposal's variation to the setback control above the podium is well founded as set out in **Appendix E**.

The Department also considers the proposed articulation zone above the Miller Street setback area promotes a creative approach for future detailed design to contribute to the skyline of North Sydney Centre along Miller Street and to break up the scale and massing of the western elevation of the building as supported by GA NSW and Sydney Metro Design Review Panel. Additional visual analysis was provided in the RtS to demonstrate the design of the proposed articulation zone is respectful of views to and height of the MLC Building as discussed in **Section 6.1** of this report.

The future detailed building design may utilise some but not all of the proposed articulation zone and will be required to comply with the recommended Design Guidelines (**Condition A26 - Clause 4.3 - 6**) to achieve the following:

- compliance with overshadowing requirements in NSLEP 2013
- respecting the datum of the adjoining MLC building
- maintaining sky view
- acceptable amenity and microclimate in the public domain particularly in respect to wind impacts.

Amenity impacts: overshadowing impacts and view loss

The Department considers the 18 m southern setback and tapered form of the proposed building envelope will mitigate impacts of the OSD by reducing overshadowing impacts to both public and private spaces and maximising existing views from Alexander Apartments.

The Department's assessment confirms the proposal will not increase overshadowing impacts to key public open spaces and dwellings outside of North Sydney Centre with the exception of a minor shadow falling onto an existing shop awning above Brett Whiteley Place which itself overshadows the plaza.

The reduced height of the building envelope at the south-eastern wing towards Denison Street also assists in the preservation of views from the Alexander Apartments to the south-west. The Department's assessment concludes the view impact of the proposal to limited single aspect west facing apartments is reasonable and acceptable with respect to the established planning principles for view impact assessment as detailed in **Appendix F**.

The Department also recommends future detailed design application(s) must address the following built form considerations (**Condition B3 b) c) and d)**):

- modulation and expression of built forms within the articulation zone are to break up the bulk and scale of the building and minimise visual impacts above publicly accessible space
- minimisation of privacy impacts to the adjoining Alexander Apartments.

Integration with Metro Station and related public domain

The Department notes the infrastructure approval (**CSSI 7400**), includes construction of the Victoria Cross Metro Station up to a height of approximately 4 storeys above Miller Street. The infrastructure approval also includes design of open space, public domain and pedestrian access for the site, which are subject to the Station Design Precinct Plan (Condition **E101 of CSSI 7400**) and Interchange Access Plan (**Condition E92 of CSSI 7400**).

The Department considers it is necessary for the both the over station development and the approved station to provide an integrated design resolution to positively contribute to the public domain. It is recommended the Design Guidelines be further revised in response to Council's and public concerns as outlined below (**Condition A26**):

- additional objectives and performance criteria for public domain and place integration with the approved Metro Station such as activation and innovation and any particular emphasis needed for important pedestrian connections and spaces
- amendments to Clause 4.5-4 - Public Domain and Open Space to ensure the proposal will support capacity for pedestrian access and promote active retail uses with opportunities for outdoor uses, complementary to the approved Metro station.

The Department's assessment is also satisfied with the arrangement for pedestrian movements for the OSD, which will be less than 10% of that forecast to be generated by the Metro Station. The Department accepts further details on pedestrian capacity and access along Miller Street and Berry Street can be sufficiently addressed by the future development of an Interchange Access Plan required as part of the approved station. (**Condition E92 of CSSI 7400**)

Design Excellence

GANSW and Council support the proposed Design Excellence Strategy which sets out a framework for a design review and selection process, involving representation from Council and design experts to improve the design outcomes for the future detailed design application for the OSD. The NSLEP does not include statutory requirements for design excellence, but the Department recommends endorsement of the proposed Strategy (**Condition A28**) to support the successful implementation of the recommended Design Guidelines (**Condition A26 and A27**) for the future detailed design applications.

Summary

Following detailed assessment, the Department supports the proposed OSD building envelope as the proposal is responsive to the context of the site and generally in accordance with the NSLEP development standards and desired solar access outcomes.

Issues raised by Government agencies, Council and the community have been addressed in the proposal, the Department's assessment report or by recommended conditions of consent. The key recommended conditions include:

- additional built form requirements for future detailed design applications to break up the bulk and scale of the building and to minimise visual impacts to public spaces and to mitigate amenity impacts to surrounding properties
- design guidelines setting out design parameters for future detailed applications on matters such as land use, built forms, heritage, public domain, public art and signage
- amendments to the Design Guidelines to require an integrated approach to public domain improvements in conjunction with the separate infrastructure approval for the Metro Station
- a Design Excellence Strategy requiring a design review and selection process to lift design standards and support the implementation of the required Design Guidelines
- future application assessment requirements for mitigating traffic, construction and other impacts.

The proposal is consistent with key strategic planning objectives for the site and the North Sydney Centre and will deliver a significant boost in employment generation on a site with excellent access to transport and services and is consistent with the North District Plan.

For the reasons above, the Department considers the proposal is in the public interest.

The Department concludes the proposal is approvable, subject to the conditions of consent outlined within this report.



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1. Introduction

This report provides an assessment of a Concept Development Application for State Significant Development (SSD) seeking approval for a building envelope for an Over Station Development (OSD) above the southern entrance of the new Victoria Cross Metro station in North Sydney.

Sydney Metro (the Applicant) lodged the application to seek approval for a building envelope for commercial uses with a maximum height of RL 230, or 168 m, providing:

- up to 40 commercial storeys (with two additional storeys for rooftop plant) and 13 storeys for the lower eastern portion of the building envelope at RL 118 or 55 m
- a maximum gross floor area (GFA) of 60,000 m², excluding any station floor space
- basement car parking for a maximum of 150 parking spaces.

If the Concept Development Application is approved, a State Significant Development application, or applications, will be submitted for the detailed design and construction of the OSD. The Concept DA includes a design excellence strategy and design guidelines to support the detailed design of future applications.

The Victoria Cross Metro station is one of the seven new stations approved as part of the Critical State Significant Infrastructure approval (CSSI 7400) for the Sydney Metro City and Southwest Metro between Chatswood and Sydenham. The CSSI approval provides for structural and service elements/spaces necessary for constructing the OSD.

The proposed OSD is part of the Applicant's strategy to deliver an integrated station development for the new Victoria Cross Metro station, which seeks opportunity to construct the OSD together with the station and to promote better design integration between infrastructure and development.

1.1 North Sydney Centre

The site is located within the North Sydney Centre in the North Sydney Local Government Area. It is 3km north of Sydney CBD, 5km south-east of Chatswood and 2km south-west of St Leonards.

The North Sydney Centre is a business district comprising predominantly high density commercial developments. Commercial towers are concentrated to the west of the Warringah Expressway, and to the east and west of the Pacific Highway.

The site and the approved Victoria Cross Metro station is centrally located along Miller Street, which is the main north-south connection from North Sydney Railway Station, the main shopping centre Greenwood Plaza, to Berry Street and schools further north (**Figure 1**). The site is located approximately 350m north of North Sydney Railway Station. It enjoys excellent access to existing rail, bus and taxi networks and within easy walking distance to retail services, commercial offices, education facilities and open space.

Miller Street and surrounding streets are characterised by office developments containing retail uses at their base. Although there are existing residential buildings in the centre, residential development is now prohibited within the core commercial area of North Sydney Centre.

The North Sydney Centre currently provides about 820,000 m² of non-residential floor space and approximately 45,000 jobs. The delivery of Sydney Metro City and South West will increase the transport capacity and access to

North Sydney Centre. This additional land use capacity to deliver more jobs and commercial floor space has recently been considered and incorporated into the North Sydney Local Environmental Plan 2013.

The North Sydney Centre is currently undergoing an increase in development activity where buildings with greater density, scale and footprint are being constructed. Recent developments include “1 Denison Street” to the east, a part-28 and part-37 storey commercial tower and “100 Mount Street” to the south, a 38-storey office tower (Figure 2).

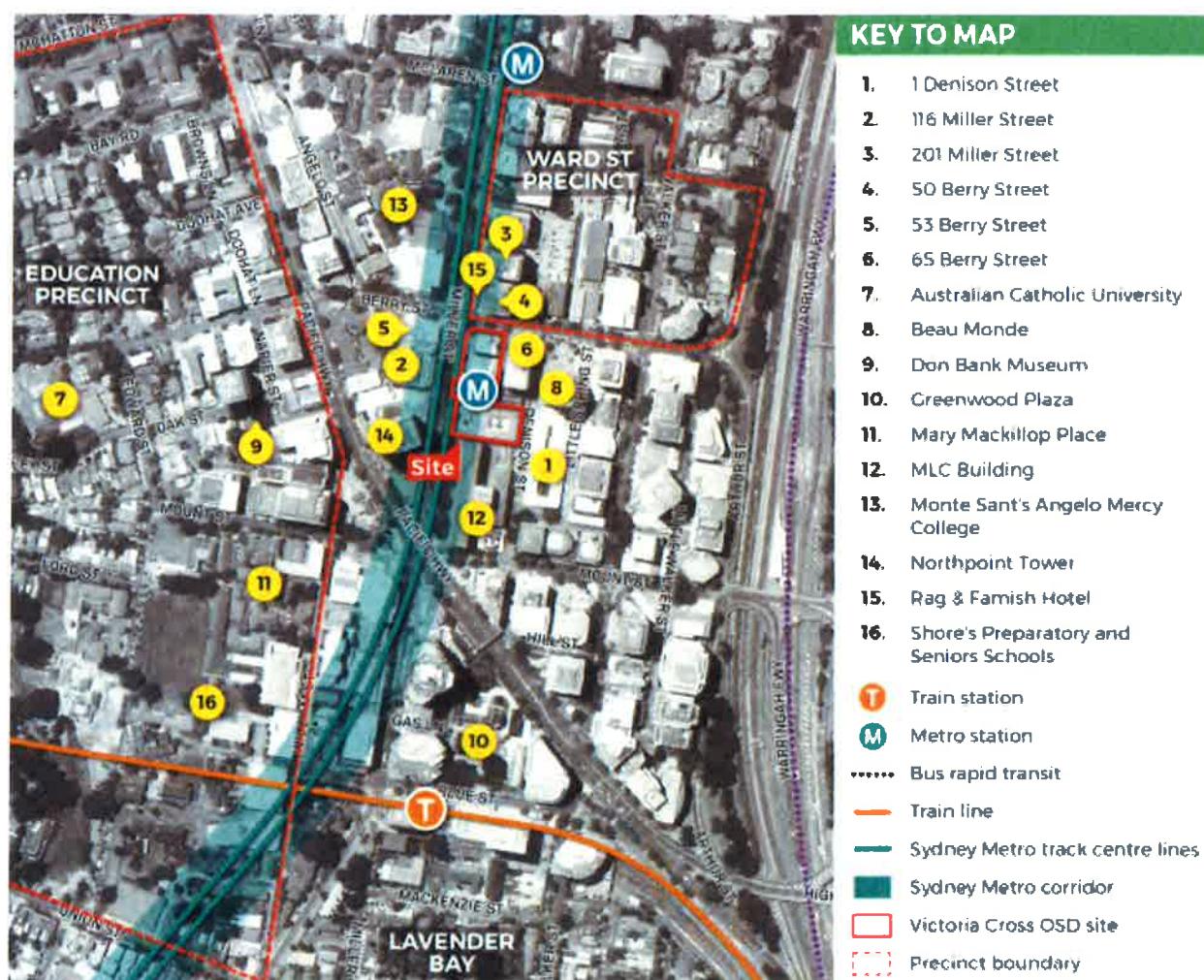


Figure 1 | Regional/Local Context Map – North Sydney Centre (Source: EIS)

1.2 The site and its surrounds

The site is located on the south-east corner of the intersection of Miller and Berry Streets, North Sydney (Figure 2), above the southern entrance to the approved Victoria Cross Metro station. The site has a total area of 4,809m² with an L-shape that also has frontage to Denison Street to the east. It falls slightly from north to south and from east to west by about 3 m in each direction.



Figure 2 | Site Location and adjoining developments

The approved Victoria Cross Metro station will have its main access from Miller Street, and will provide active retail or other commercial uses along its Miller Street frontage. A through site link is proposed between Miller Street and Denison Street from the station entrance, separating the main station building from a small two storey building with potential retail uses.

The Metro station will also have a northern entrance and service building at 50 McLaren Street near the intersection with Miller Street approximately 240 m from the site, servicing various educational and community uses to the north of North Sydney Centre. The northern entry portal is unrelated to the proposed OSD (**Figure 1**).

Adjoining the site to the north-east, at the corner of Denison Street and Berry Street, is an 18-storey office building known as 65 Berry Street (**Figure 3**). 65 Berry Street has its main pedestrian access from Berry Street and service/vehicular access from Denison Street.

Adjoining the southern boundary of the site is a 14-storey office building known as the MLC Building, which is a local heritage item (**Figure 4**). The MLC Building is characterized by its curtain wall façade with anodized aluminium spandrels, typical of the Post-War International style. It has a landscaped forecourt approximately 12 m wide fronting Miller Street, forming part of the established setback and landscaped setting along the eastern side of Miller Street between McLaren Street and Mount Street.



Figure 3 | 65 Berry Street viewed from west along Miller Street (source: DPE)



Figure 4 | MLC Building viewed from the north along Denison Street (source: DPE)

To the north of the site, on the opposite side of Berry Street is a two-storey hotel known as the Rag and Famish (**Figure 5**). To the north-west on Miller Street is the Monte Sant Angelo Mercy College comprising a large group of one and five storeys school buildings (**Figure 6**). The Rag and Famish Hotel and the Monte Sant Angelo Mercy College are both local heritage items.



Figure 5 | Rag and Famish Hotel viewed from the south along Miller Street (source: DPE)



Figure 6 | Monte Saint Angelo College to the north-west (source: DPE)

South of the MLC Building is a public plaza known as Brett Whiteley Plaza (formerly known as Mount Street Plaza), which is a well-used public open space (**Figures 7a and 7b**). The plaza provides pedestrian connection from Pacific Highway and Miller Street to Denison Street. Special planning controls apply to the plaza area protecting its solar access. Further south is Greenwood Plaza shopping centre which has pedestrian connection to North Sydney Station and public open spaces that are also protected by solar access controls.



Figure 7a and 7b | Brett Whiteley Plaza to the south of the MLC Building (source: DPE)

East of the site, on the opposite side of Denison Street, is the Alexander Apartments (formerly known as the Beau Monde Building), a 36-storey mixed use development with retail and office uses and approximately 240 apartments (**Figures 8a and 8b**), and 1 Denison Street, which is a 37-storey office tower under construction. To the south of 1 Denison Street, there is also a new 38-storey development known as 100 Mount Street nearing completion.



Figures 8a and 8b | Alexander Apartments viewed from the south along Denison Street (source: EIS and DPE)

The western side of Miller Street between Pacific Highway and Berry Street comprises commercial and office developments with ground floor retail, including the 35 storey Northpoint Tower opposite the site.

1.3 Previous approvals and related applications

Sydney Metro City and Southwest Metro (CSSI 7400)

On 9 January 2017, the Minister for Planning granted infrastructure approval (CSSI 7400) for the construction and operation of the Sydney Metro City and Southwest Metro between Chatswood and Sydenham, including approval for 16.5km of rail lines, a tunnel under Sydney Harbour, links with the existing rail network, metro stations and associated infrastructure (**Figure 9**).



Figure 9 | Metro Stations with Chatswood to Sydenham line identified opening 2024 (source: Victoria Cross OSD EIS)

The CSSI approval as it relates to the Victoria Cross Station provides for:

- demolition of existing buildings within the site, including a former shop which was a local heritage item at 187 Miller Street
- excavation of the rail tunnel, concourse and platforms and therefore the setting of surrounding structural zones, services and accesses
- the establishment of an aboveground station footprint of approximately four storeys in height (RL 82)
- non-rail related structure within the station footprint for retail premises and OSD uses
- station entry via a large pedestrian entrance on Miller Street and a smaller entrance via a through-site link from Denison Street
- a pedestrian entrance on Miller Street for OSD
- public domain works.

The CSSI approval conditions relevant to OSD at Victoria Cross include:

- Condition A4 which notes that any OSD, including associated future use, does not form part of the CSSI and will be subject to the relevant assessment pathway

- Condition E92 requires an Interchange Access Plan (IAP) to be prepared and approved for each station, in consultation with the Sydney Metro Design Review Panel (DRP), to inform the final design of transport and access facilities and services, including footpaths, cycleways, passenger facilities, parking, traffic and road closures, and integration of public domain and transport initiatives
- Condition E100 requires the Sydney Metro Design Review Panel (DRP) be established to refine the design objectives for the development and provide advice on place making, architecture, heritage, urban design, landscape design and artistic aspects. The DRP comprises five members, chaired by the NSW Government Architect and includes a representative of the Heritage Council of NSW, with the opportunity for Council or other stakeholders to be invited to attend
- Condition E101 requires the preparation and approval of Station Design Precinct Plans (SDPPs) for each station. The SDPPs are to present an integrated urban and place making outcome. The SDPPs must be prepared in collaboration and consultation with relevant stakeholders, including council, the local community and the DRP. The SDPP must identify and address specific design objectives, principles and standards as are identified in Condition E101.

Five requests to modify the CSSI approval have been determined by the Department. These requests are:

- Modification 1 – Victoria Cross Station and Artarmon Substation – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 1 determined 18 October 2017). See below for further detail.
- Modification 2 – Central Walk – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 774 Mod 2 determined 21 December 2017)
- Modification 3 – Martin Place Metro Station – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 3 determined 22 March 2018)
- Modification 4 – Sydenham Station and Metro Facility South – Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 4 determined 13 December 2017)
- Modification 5 – Blues Point construction site acoustic shed - Sydney Metro City & Southwest – Chatswood to Sydenham (SSI 7400 Mod 5 determined 2 November 2018)

Modification 1 (related to the Victoria Cross Station) included the relocation of the Victoria Cross northern entrance and services building to 50 McLaren Street, North Sydney. Sydney Metro proposed this relocation to expand the station walking catchment area to additional residents, workers, education facilities and areas of open space.

North Sydney Centre LEP amendment

The North Sydney Local Environmental Plan 2013 (NSLEP) was amended on 26 October 2018 to give effect to the recommended actions of Council's North Sydney CBD Capacity and Land Use Strategy.

The Victoria Cross Station site is part of the area subject to the NSLEP amendments.

Prior to the recent amendments, the NSLEP contained a clause which limited non-residential floor space within the North Sydney CBD to 250,000 m².

Following a review of the land use and spatial capacity for growth in the North Sydney Centre, a planning proposal was developed by North Sydney Council seeking to deliver increased floor space and improved amenity within the area.

The changes in relation to the site are as follows:

- removal of Clause 6.5 Railway Infrastructure and its associated 250,000 m² cap on non-residential floor space across the CBD

- increased building height for land in the B3 Commercial Core Zone where that height increase does not otherwise overshadow land identified as 'Special Areas', and minimises overshadowing to residential developments
- removal of Tower Square as a 'Special Area' in relation to overshadowing controls. This site formed part the Victoria Cross site
- removal of Elizabeth Plaza as a 'Special Area' in relation to overshadowing controls.

The proposed OSD is consistent with the aims and objectives of the amendments as considered in **Section 6** of this report.

2. Project

The Concept Development Application seeks approval for a building envelope for an OSD for commercial uses integrating with the southern entrance of the new Victoria Cross Metro station. The proposed building envelope is up to RL 230 or 168 m in height, providing approximately 40 commercial storeys.

The application is accompanied by a Design Excellence Strategy and Design Guidelines to provide parameters to guide the detailed design of future development application(s).

The Design Excellence Strategy describes a design review and tendering selection process utilising the Sydney Metro Design Review Panel (chaired by the Government Architect NSW) and a new Design Excellence Evaluation Panel to set design expectations, recommend the merits behind design selection and ensure ongoing design integrity.

The Design Guidelines provide design parameters on matters such as land use, built forms, heritage, public domain, public art and signage.

The application also seeks approval for:

- the use non-rail related structure within the station footprint for retail, business and commercial premises
- indicative signage zones
- future subdivision.

The key components of the Concept Proposal are provided in **Table 1** below and further illustrated in **Figures 10 - 13**.

Table 1 | Main Components of the Project

Aspect	Description
Built Form	• maximum height of RL 230 or 168 m (approximately 40-storeys and two levels for plant) on the northern part of the site, reducing in a tapered form to RL 118 toward the southern end of the site • on the south-east part of the site, toward Denison Street, a maximum height of RL 118 or 55 m, approximately 13 storeys
Gross Floor Area (GFA)	• over station development GFA of 60,000 m² • maximum floor space ratio (FSR) of 12.5:1 includes station related GFA of 6,500 m² approved under Critical State Significant Infrastructure (CSSI 7400)
Land Uses	• commercial office tower 60,000 m² • retail premises and other commercial uses within podium - 6,500 m²
Vehicular Access and Car Parking	• basement car parking accessed from Denison Street

	• 150 parking spaces located in the basement
Employment	• 600 construction jobs, 4,200 operational jobs
Capital Investment Value (CIV)	• \$335,795,932.

2.1 Site description

The site consists of eight allotments and has a total area of 4,809 m² as detailed in **Table 2** below. All previous developments at the site have since been demolished under the CSSI 7400 Approval.

Table 2 | Legal description of the site

Address	Lot(s)
155-167 Miller Street (former Tower Square Shopping Centre)	• SP 35644
81 Miller Street	• Lot 15, DP 69345 • Lot 1 & 2, DP 123056 • Lot 10, DP70667
187 Miller Street (former local heritage item – demolished)	• Lot A, DP 160018
189 Miller Street	• Lot 1, DP 633088
Land formerly part of 65 Berry Street	• Lot 1 DP 1230458

2.2 Physical layout and design

The proposed building envelope comprises a L-shaped podium up to RL 118 (approximately 13 storeys), measuring 102 m along Miller Street, 37 m on Berry Street and approximately 64 m deep between Miller Street and Denison Street. The building envelope has an 18 m setback from the southern boundary.

The main entry to the new Metro station is located near the through site link, and entrance to the OSD is proposed along Miller Street north of the station entrance.

Above the podium, the proposed building envelope takes the shape of a tower form up to RL 230 (approximately 40 storeys) at its northern end (toward Berry Street) with the height decreasing in a tapered form to RL 118 (approximately 13 storeys) to the south. The tower is setback 5 m from the podium fronting Berry Street (**Figure 10**).

The building envelope includes a 0 – 4.5 m wide “articulation zone” that steps out from the western elevation of the proposed building envelope fronting Miller Street. The articulation zone provides for building elements including floor space that overhangs the proposed Miller Street setback from RL 118 and above (**Figure 11**).

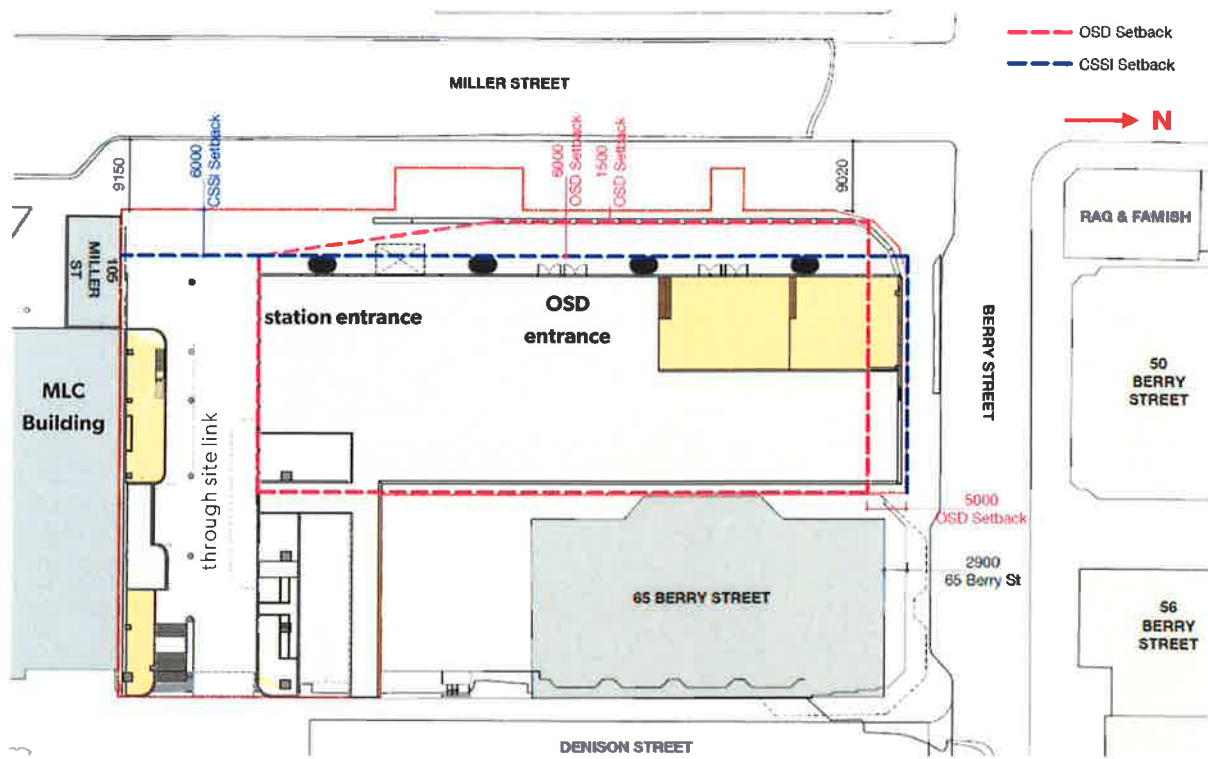


Figure 10 | Ground floor layout plan showing OSD form above (source: RtS)

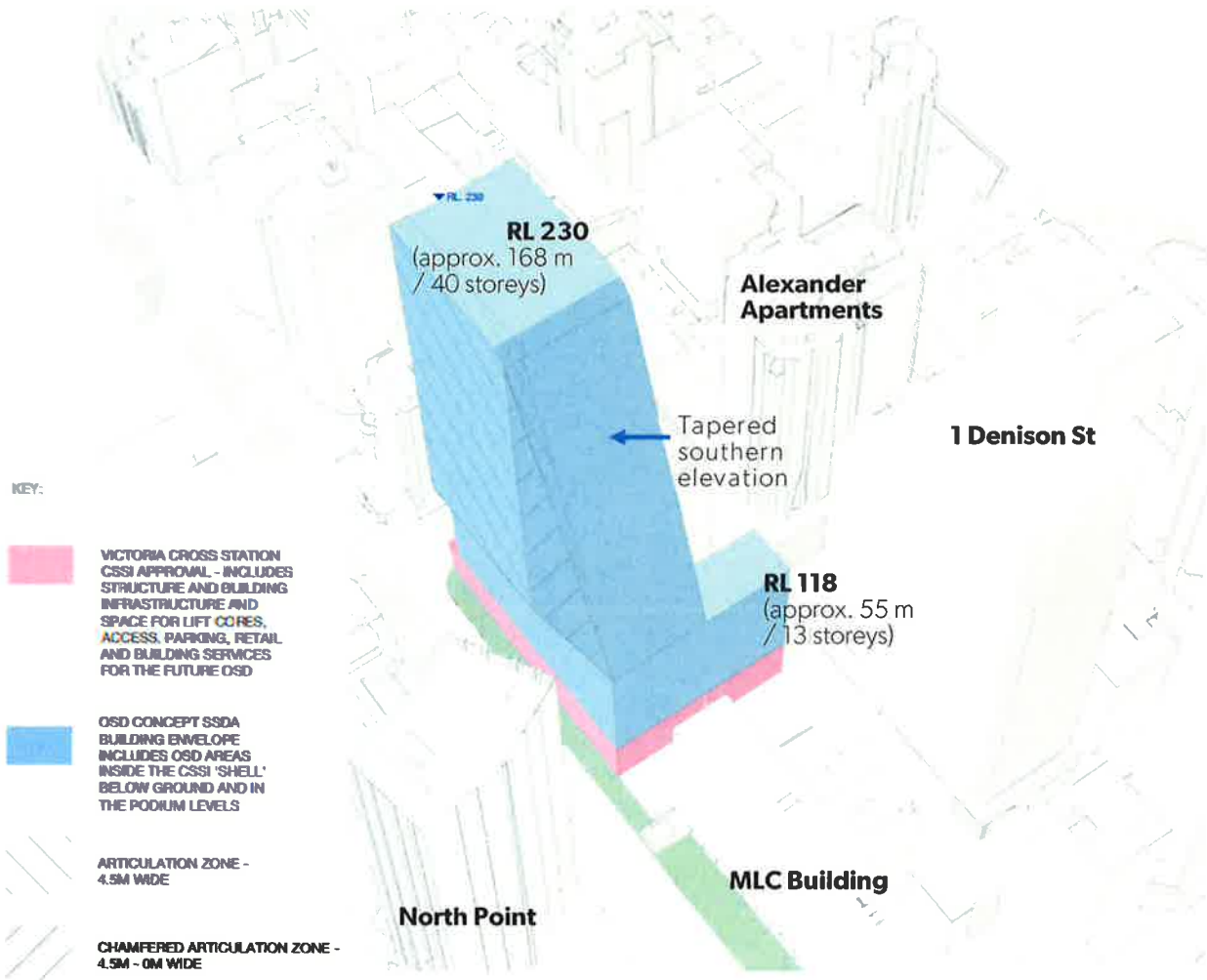


Figure 11 | Proposed building envelope – south-west axonometric (source: RtS with added annotations)

**VICTORIA CROSS STATION
CSSI APPROVAL - INCLUDES
STRUCTURE AND BUILDING
INFRASTRUCTURE AND
SPACE FOR LIFT CORES,
ACCESS, PARKING, RETAIL
AND BUILDING SERVICES
FOR THE FUTURE OSD**

**OSD CONCEPT SSDA
BUILDING ENVELOPE
INCLUDES OSD AREAS
INSIDE THE CSSI 'SHELL'
BELOW GROUND AND IN
THE PODIUM LEVELS**



**VICTORIA CROSS STATION
CSSI APPROVAL - INCLUDES
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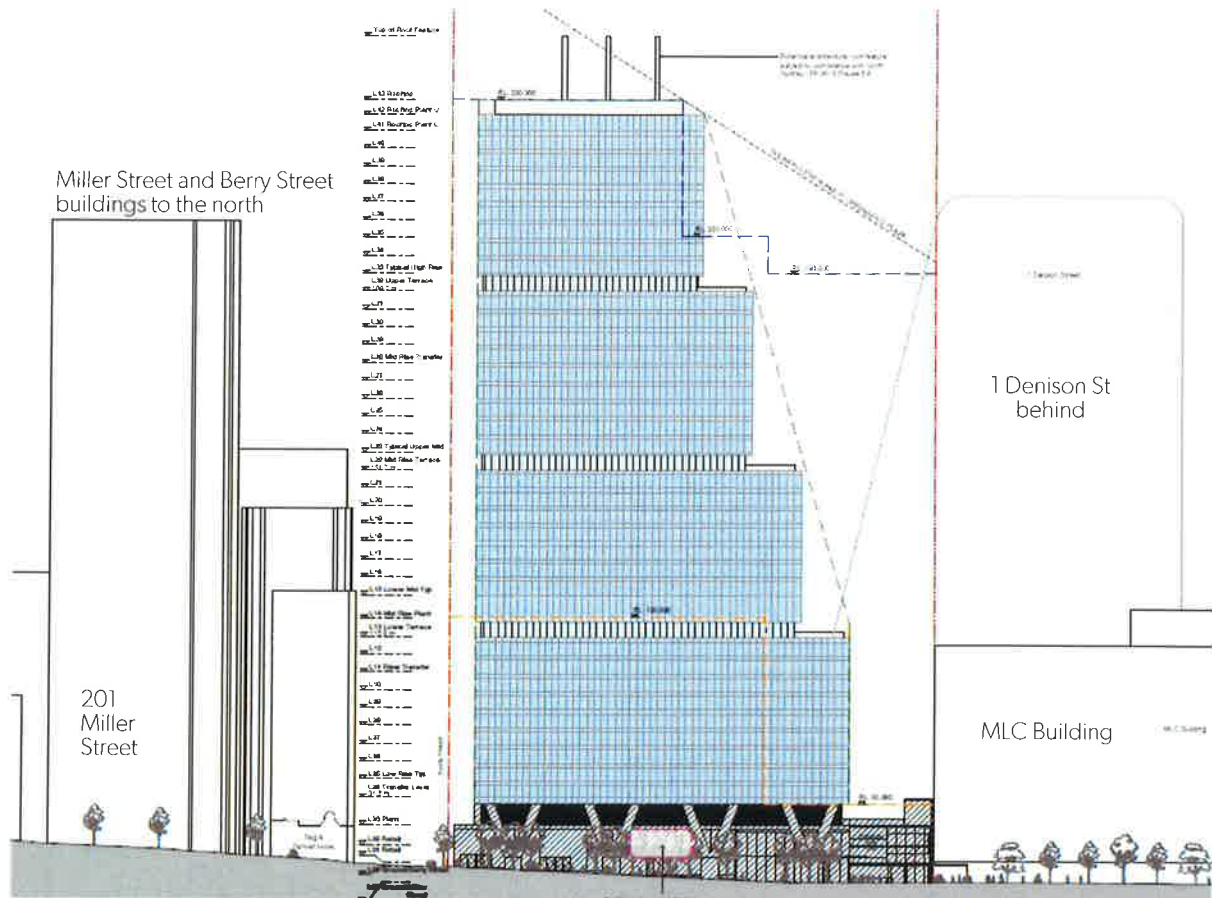


Figure 14 | Indicative design and envelope (source: EIS)

2.3 Staging and related station development

The Concept Development Application does not seek approval for construction works. Should the application be approved, a future application, or applications, would be lodged for the detailed design and construction of the development.

The Applicant is targeting concurrent construction of the station infrastructure, public domain works and the OSD. The Applicant's preferred delivery model is to seek concept approval, invite tenders for the OSD from the private sector, allow for the successful bidder to seek approval for the detailed design and construction, then build the station and OSD within one construction period. The Victoria Cross Metro station is scheduled for completion in 2024.

The Department notes that concurrent construction will likely reduce construction impacts on the surrounding community and station users and will enable earlier realisation of the employment generation of the OSD. However, as the construction of the OSD is subject to market conditions and market forces, such as levels of tenant interest and projected office yield, the Department acknowledges there may be a time lag between completion of the station and the OSD.

The following staging options have been identified in the EIS (also refer to **Figure 15**):

- Scenario 1: the station and OSD are constructed concurrently and both are completed in, or prior to, 2024. Under this scenario the construction methodology would involve the construction of the transfer slab first, then building the OSD above and partly below
- Scenario 2: the station is constructed and completed in 2024, with the OSD still under construction.

- Scenario 3: the station is constructed first and completed in 2024, with the OSD being built at a later stage.

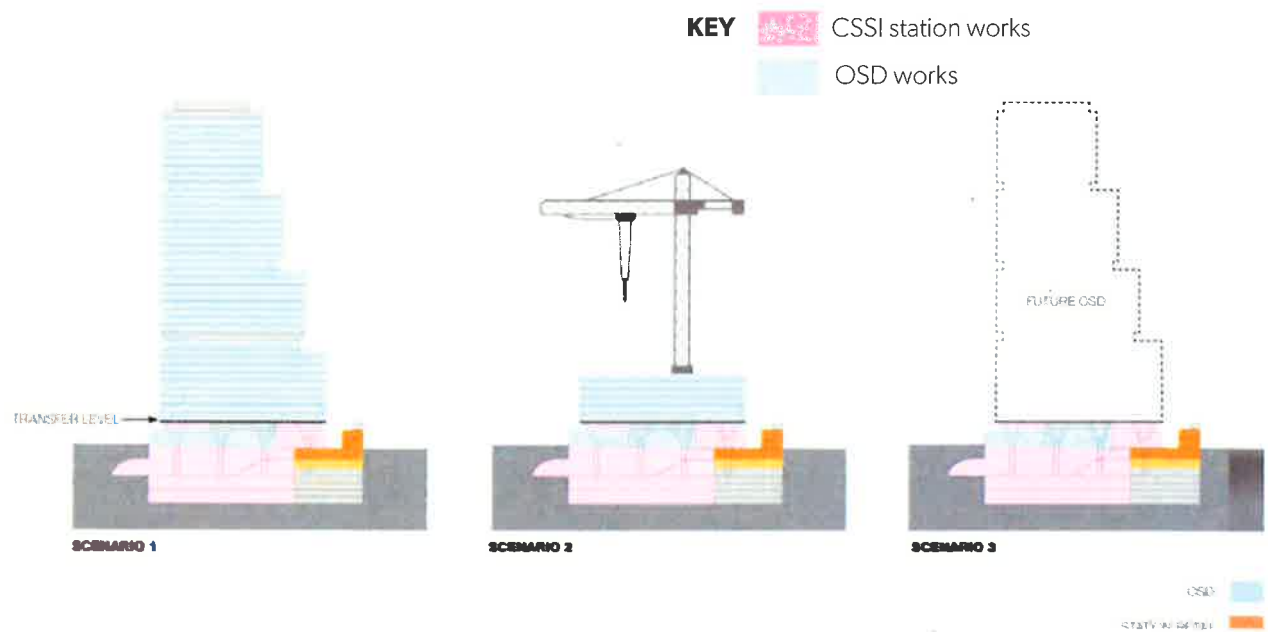


Figure 15 | Staging scenarios (source: EIS)

The vertical extent of the CSSI approved station works extends to a transfer level above which the OSD structure begins, as illustrated in thick black line in **Figure 15**. The areas highlighted pink relate to the CSSI approval for the station infrastructure. The areas highlighted blue relate to the OSD works. Structural, services and access allowances within the CSSI footprint have been made, and continue to be made in post-approval stages, for OSD. In the event that scenario 3 is adopted, with the CSSI built but the OSD to be built at a later stage, the CSSI footprint will have made spatial allowances for OSD.



3. Strategic Context

3.1 Greater Sydney Region Plan: A Metropolis of Three Cities

The *Greater Sydney Region Plan: A Metropolis of Three Cities* ('the Plan') supersedes *A Plan for Growing Sydney* and sets out the NSW Government's vision, through the Greater Sydney Commission, for Sydney to be "...a metropolis of three cities where the people of Greater Sydney live within 30 minutes of their jobs, education and health facilities, services and great places." These cities are: the Western Parkland City, the Central River City and the Eastern Harbour City.

Ten directions underpin the Plan which focus on infrastructure and collaboration, liveability, productivity, sustainability and implementation. The overall direction of which is to manage population growth and support economic growth and environmental sustainability.

The site is located within the Metropolitan Centre and the Eastern Economic Corridor. This corridor extends from Macquarie Park through the North Sydney Centre to Port Botany and Sydney Airport. It generates over 41% of the NSW Gross State Product. Sydney's knowledge jobs are heavily concentrated here including sectors such as communications, high-tech manufacturing and biotechnology.

The proposal is consistent with the Directions and Actions of the Plan, including:

- the proposal increases the national and international competitiveness of Sydney by providing additional job opportunities in strategic employment centres (Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities)
- the proposal is in the Eastern Economic Corridor and provides for the economic use of land immediately above the future metro station (Objective 15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive)
- the North Sydney Centre is an important employment centre and the proposal will expand on the supply of employment space located to the north of the harbour (Objective 18: Harbour CBD is stronger and more competitive)
- the proposed development supports the strategic goals, directions and actions of the Plan by providing commercial office space in a strategic transport corridor. The proposal underscores the concept of integrated land use and transport by linking public transport use and promoting employment opportunities in a highly accessible part of Sydney.

3.2 North District Plan

The Greater Sydney Commission has prepared District Plans to inform regional and local-level planning and assist the actions of State agencies. The aim of the District Plans is to connect local planning with longer-term metropolitan planning for Greater Sydney.

The Victoria Cross Station Precinct is located within the North District. The North District Plan contains key priorities for infrastructure that are relevant to the proposed development including:

- Planning Priority N1 - Planning for a city supported by infrastructure
- Planning Priority N8 - Eastern Economic Corridor is better connected and more competitive

- Planning Priority N10 - Growing investment, business opportunities and jobs in strategic centres
- Planning Priority N12 - Delivering integrated land use and transport planning and a 30- minute city

The proposal is consistent with the above priorities as it facilitates the construction of a high quality commercial building in an area with strong public transport connections and integrated employment opportunities. The proposal assists in meeting jobs targets for the North Sydney Centre, growing investment in the Centre and opening fresh commercial leasing opportunities to a more connected catchment along the CBD Metro and North West Metro corridors.



4. Statutory Context

4.1 State Significant Development

The proposal is SSD under Section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the development has a CIV in excess of \$30 million and is for commercial premises associated with railway infrastructure under clause 8(1)(b) of State Environmental Planning Policy (State and Regional Development) 2011.

In accordance with Section 4.5(a) of the EP&A Act, Clause 8A of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) and Instrument of Delegation dated 11 October 2018, the Minister for Planning is designated as the consent authority as the application has been made by a public authority and has received more than 25 objections.

4.2 Permissibility

Commercial premises are permissible with consent within the B3 Commercial Core zone in NSLEP. Therefore, the Minister for Planning may determine the application.

4.3 Mandatory matters for consideration

4.3.1 Environmental Planning Instruments

Under Section 4.15 of the EP&A Act, the Planning Secretary's assessment report is required to include a copy of, or reference to, the provisions of any EPIs that substantially govern the project and that have been considered in the assessment of the project. The following EPIs apply to the site:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy No. 64 – Advertising and Signage
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy (Environment) 2017
- North Sydney Local Environmental Plan 2013 (NSLEP).

The Department has undertaken an assessment of these EPIs in **Appendix F** and is satisfied the application is consistent with the requirements or provisions of these EPIs.

4.3.2 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the Objects as set out in Section 1.3 of that Act. A response to the Objects of the EP&A Act is provided within **Appendix F**.

4.3.3 Ecologically sustainable development

The EP&A Act adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of the Protection of the Environment Administration Act 1991 states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle;

- inter-generational equity;
- conservation of biological diversity and ecological integrity; and
- improved valuation, pricing and incentive mechanisms.

The development proposes ESD initiatives and sustainability measures, including targeting minimum environmental standards of 6 Green Star Office, 5-star NABERS Energy and 3.5-star NABERS Water.

The Department has considered the project in relation to the ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

4.3.4 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for Notification (Part 6, Division 6) have been complied with.

4.3.5 Planning Secretary's Environmental Assessment Requirements

On 30 November 2017, the Department notified the Applicant of the Planning Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. The Department is satisfied that the EIS and RtS adequately address compliance with the SEARs to enable the assessment and determination of the application

5. Engagement

5.1 Department's engagement

The Department publicly exhibited the EIS from 25 May 2018 until 22 June 2018 (28 days), advertised the exhibition in the North Shore Times, notified adjoining landowners and occupants and invited State and local government authorities to comment.

The application was exhibited on the Department's website, at NSW Service Centres and at North Sydney Council's office and library.

The Department inspected the site and surrounds on 19 June 2018.

The Department invited apartment owners within the Alexander Apartments to the east of the site to allow access to Department staff to inspect their dwellings and see views and outlook for the view impact assessment in this report. The Department visited several apartments across a range of levels and orientations within the Alexander Apartments building on 19 June 2018. This issue is addressed in **Section 6**.

5.2 Summary of submissions

The Department received a total of 59 submissions, comprising 8 submissions from public authorities and 51 submissions from the public (50) and Council (1). A summary of the issues raised in the submissions is provided at Tables 3 and 4 below and copies of the submissions may be viewed at **Appendix C**.

The Department has considered the submissions made by public authorities and the public during the assessment of the application (**Section 6**) and/or by way of recommended conditions in the instrument of consent at **Appendix G**.

Table 3 | Summary of Government Agency Submissions

Submitters	Number	Position
Government Agencies	8	
- Government Architect NSW - NSW Office of Environment and Heritage – Environment Division - NSW Health – Northern Sydney Local Health District - NSW Police - NSW Environment Protection Authority - Civil Aviation Safety Authority and Sydney Airport Corporation - Ausgrid		All agencies provided comments on the application

Table 4 | Summary of Council, Community and Special Interest Group Submissions

Submitters	Number	Position
North Sydney Council	1	Object
Community	37	
	25	Object
	6	Support
	6	Comment
Businesses	4	
	2	Object
	1	Support
	1	Comment
Special interest groups	9	
• Wollstonecraft Precinct Committee	7	Object
• Waverton Precinct Committee	0	Support
• Association for the Committee for North Sydney		
• Committee for North Sydney		
• Hayberry Precinct Committee		
• Milsons Point Precinct Committee		
• Lavender Bay Precinct Committee	2	Comment
• Edward Precinct Committee		
• Independent Community Voice		
TOTAL	51	

5.3 Key issues – Government agencies

The key issues raised by agencies have either been addressed through the provision of additional information or are able to be addressed through the recommended conditions of consent. **Table 5** below is a summary of key issues raised in government agencies submissions.

Table 5 | Summary of Council, Community and Special Interest Group Submissions

Government agencies and comments

Government Architects NSW

The Government Architect NSW does not object to the proposal and provides the following comments:

- the Design Excellence Strategy lodged with the application is supported
- recommend that the detailed application(s) be reviewed by the State Design Review Panel
- bulk and scale of the proposal should be balanced with benefits including improvements to amenity of the precinct
- the proposal includes architectural features which are not considered relevant at Concept Stage and should form part of a detailed application
- wind impacts particularly within the through-site link (part of the station box to be constructed under the CSSI approval) should be test through computer modelling
- guidance and strategies to support the creation of a vibrant retail hub in the through site link need further development and detail.

Heritage Council / NSW Office of Environment and Heritage

The Heritage Council and NSW OEH Heritage Branch do not object to the proposal and provide the following comments

- the building envelope should be set back in line with the MLC Building
- the geometry of the MLC Building should inform the design of the development
- the Denison Street frontage must ensure views to the MLC Building are not adversely impacted
- consider reducing the height of the envelope to reduce visual impacts to surrounding heritage items
- consider interpretation of the previous Victorian era shopfront along Miller Street.

NSW Office of Environment and Heritage – Environment Branch

NSW OEH Environment Branch advise that the proposal does not contain biodiversity, natural hazards or Aboriginal cultural heritage issues.

Sydney Airport and Civil Aviation Safety Authority

Sydney Airport Corporate comment that a previous approval was issued at the SEARs stage by the Federal Department of Infrastructure, Regional Development and Cities in relation to the proposed building envelopes. The concept proposal is within the parameters of this previous approval.

NSW Environment Protection Authority

NSW EPA comment that the proposal is not required to have an Environmental Protection Licence under the Protection of the Environment Operations Act 1997.

Health NSW, Northern Sydney Local Health District

Health NSW comment that noise associated with the construction phase is forecast to exceed guidelines in relation to two nearby child care centres and one nearby school. Health NSW recommends that feasible and reasonable noise mitigation measures be employed to comply with the relevant noise management levels.

NSW Police

NSW Police provide a series of recommendations in relation to Crime Prevention Through Environment Design considerations on matters such as access points, landscaping, lighting and emergency plan documentation.

5.4 Key issues – Council/community/special interest groups

5.4.1 Council key issues

Council's submission requested consideration of design options to provide a public plaza at the site, including an option not to develop the site for an OSD. Council also did not support the development's proposed encroachment on the 6 m Miller Street setback standard.

The submission also asked for further consideration of the alignment of the setback of any built form with the MLC Building, full and partial closure of Miller Street between Berry Street and Pacific Highway and other options to improve pedestrian amenity and connection in North Sydney Centre. Council also recommended amendments to the ground plane of the proposal, including additional setback on the ground level at the corner of Berry Street and Miller Street to provide a public forecourt.

Council noted the proposal relies on amended planning controls for the North Sydney within a draft LEP amendment. As such, Council submitted that the associated planning proposal should be finalised prior to the determination of the SSD application.

5.4.2 Community issues

Key issues raised across all community submissions at the EIS stage are summarised in **Table 6**.

Of the 50 public submissions received in response to the exhibition of the EIS, 34 objected to the proposal, seven were in support, and nine contained comments. Nine out of the 50 submissions were from groups that were either a Precinct Committee (eight) or local volunteer group (one).

The submissions from seven of the eight abovementioned Precinct Committees were objections and the remaining submission by a Precinct Committee provided comments.

Of the key issues raised by Precinct Committees are: bulk and scale of the tower, pedestrian connections and their locations, overshadowing of public space and the provision of public or civic space as outlined in **Table 6** below.

Table 6 | Summary of Council, Community and Special Interest Group Submissions. Note that the figures exceed 100% as many submissions discussed multiple issues.

Issue	Proportion of Submissions
Objections	
SSD should include pedestrian connections to Greenwood Plaza, North Sydney Station and bus interchange	55%
SSD should include additional public space	53%
Building setback does not comply	50%
Bulk, scale and footprint is excessive	49%
Miller Street should be pedestrianised, made one-way or made bus only	39%
Overshadowing of public space	39%
Consultation by the Applicant and the Department was inadequate	39%
Inadequate pedestrian space and no public domain proposals	37%
Support	
Support transport infrastructure/ Transit orientated development	10%
Concept is innovative and interesting	8%

5.5 Response to Submissions

Following the exhibition of the application the Department placed copies of all submissions received on its website, and requested the Applicant provide a response to the issues raised in the submissions.

The Applicant provided a Response to Submissions (RtS) report on 12 September 2018 and additional information for the Department's assessment on 10 October 2018 and 16 November 2018 (**Appendix D**). The RtS and additional information were accompanied by the following:

- amended architectural drawings simplifying the building envelope along the Miller Street frontage
- supplementary View Impact Study responding to views from west-facing apartments within the adjacent Alexander Apartments at 65 Berry Street
- updated Design Excellence Strategy providing further information on membership of the Design Excellence Evaluation Panel and design benchmarks from other projects that demonstrate design quality aspirations
- updated Design Guidelines with additional direction for retail and other non-office land uses and additional information on articulation of the proposed tower form.

The RtS was made publicly available on the Department's website and was referred to relevant public authorities. An additional three submissions were received from public authorities and one from Council. A summary of issues raised in submissions is provided at Tables 7 and 8 and copies of the submissions may be viewed at **Appendix C**.

Table 7 | Summary of agency submissions to the RtS

Government agency and comments

Government Architects NSW

The Government Architect NSW advised that the issues raised at the EIS stage have been addressed and has no further comments. In particular, the Government Architect NSW is satisfied by amendments to the Design Excellence Strategy in relation to membership of the Design Excellence Evaluation Panel.

Heritage Council / NSW Office of Environment and Heritage

The Heritage Council and NSW OEH Heritage Branch acknowledged that the RtS addresses its comments and recommendations from the RtS stage. The Heritage Council noted the amended building envelope along Miller Street and updates incorporated into the Design Guidelines and are satisfied that the mitigation measures within the RtS and Design Guidelines will minimise heritage impacts as part of the detailed design process.

Health NSW, Northern Sydney Local Health District

Health NSW reiterated that noise associated with the construction phase of the development is forecast to exceed guidelines in relation to two nearby child care centres and one nearby school. Health NSW continued to recommend that feasible and reasonable noise mitigation measures be employed to comply with the relevant noise management levels.

Table 8 | Summary of Council submission to the RtS

Council comments

Council confirmed the RtS has addressed some aspects of its original submission. However, Council reiterated the following comments and concerns from its original submission:

- the form of the building is inconsistent with recent development in the CBD and Council's character statement within its DCP
- the cantilevering of the articulation zone over the Miller Street setback is not supported due to the building's dominance over the public domain
- the tower above RL 118 can be setback with an average weighted 5m rather than being forward of the podium, and articulation can occur within the recommended 5m setback
- the station box and OSD should be revisited to allow for footpath widening at ground level along Berry Street where pedestrian numbers will be increased by the station. A ground level setback of 5m should be provided.
- the site has a level of natural amenity that is unmatched in the North Sydney CBD and should provide a high amenity public space
- pre-lodgement concept drawings for the site identify an open forecourt and plaza at the Berry Street and Miller Street corner. However, station box drawings lodged show a glass structure enclosing this space. The corner should be reviewed to meet future pedestrian demand and provide an outstanding urban design outcome for a prominent, sun-lit corner of the CBD
- the Miller Street setback at the ground plane should be maximized
- space could be incorporated into the SSD for civic use that is lacking in the CBD such as a town hall, performance space, meeting space, cinema, exhibition space and the like
- acquisition of 65 Berry Street would provide a superior basis for the OSD to deliver wider benefits
- streetscape sketches of the Berry Street podium frontage have not been provided and the Berry Street setback issue is of great significance and opportunity.



6. Assessment

The Department has undertaken a comprehensive assessment of the merits of the project. This report provides a detailed assessment of five key issues identified and forms the basis of the evaluation, recommendation and draft recommended conditions.

The Department has considered the EIS, the issues raised in submissions and the Applicant's RtS in its assessment of the proposal. A list of key documents that informed the Department's assessment is provided in **Appendix A**.

The Department considers the key issues associated with the proposal are:

- building envelope
- views and visual impacts
- overshadowing
- integration with approved metro station and related public domain
- design excellence

Each of these issues is discussed in the following sections of this report. Other issues were considered during the assessment of the application and are discussed at **Section 6.7**.

6.1 Building envelope

The proposed building envelope comprises a L-shaped podium up to RL 118 (approximately 13 storeys), measuring 102 m along Miller Street, 37 m on Berry Street and approximately 64 m deep between Miller Street and Denison Street. Above the podium, the proposed building envelope provides for a tower form up to RL 230 (approximately 40 storeys) at its northern end (toward Berry Street) with the height decreasing in a tapered form to RL 118 (approximately 13 storeys) to the south (**Figures 10 to 13**).

The proposed envelope also has an articulation zone projecting 0 m - 4.5 m from the western elevation (Miller Street) that cantilevers over the lower levels.

The proposed building envelope provides for a conventional podium and tower form fronting Berry Street with a 5 m tower setback from the northern podium edge.

The building envelope is setback 18 m from the south boundary and is separated from the station retail premises along the southern boundary by a pedestrian through site link between Miller Street and Denison Street to be delivered under the CSSI approval. The Metro Station entrance also occurs along this through site link (**Figures 11 to 13**).

6.1.1 Scale and density

There is no maximum floor space ratio control applying to the North Sydney Centre. The proposed building envelope will accommodate a maximum gross floor area of 60,000 m² for commercial office, retail and business uses. The proposed building envelope can cater for approximate floorplates of 2,200 m² at the base, 1,600m² at low-rise levels, 1,400m² at mid-rise levels and 1,250m² at high-rise levels.

Public objections contend the proposed building envelope is oversized and has excessive floor plates and is uncharacteristic in North Sydney Centre.

The Applicant argued that the proposed development is consistent with the aims and objectives of the North District Plan, NSLEP and the key priorities and principles of the Council's Sydney Metro Planning Study (the Metro Planning Study).

North Sydney Centre capacity and built forms

NSLEP was recently amended following the North Sydney Capacity and Built Form Study. The Department notes that the objectives of the NSLEP review are to retain and strengthen the Centre's role as a key component of Sydney's global economic arc, ensure the Centre remains the principle economic engine of Sydney's North Shore and create a more attractive, sustainable and vibrant place for residents, workers and businesses.

The Applicant's Retail and Commercial Office Study stated that the OSD targets a significant employment generation in response to:

- existing low office vacancy rates and expected demand for high quality office space through new development
- future access to rapid public transport through the CBD and North West Metro
- consistency with Council's Economic Development Strategy.

The Department notes that the Council's Metro Planning Study was guided by the building heights recommended in the North Sydney Capacity and Built Form Study. The Metro Planning Study supports the vision of a prominent corner tower and lower scale southern element and increase of significant employment floor space in the North Sydney Centre. The Metro Planning Study also specifies the following detailed recommendations for the site:

- creation of a large rectilinear commercial floor plate
- a lower scale element to the southern portion of the site to include retail activation, a through-site link and openness to the sky
- separation to the MLC Building and 1 Denison Street
- maintenance of solar access to Greenwood Plaza and Brett Whiteley Place.

The Department also notes that the North Sydney Development Control Plan sets the following principles for the site and the North Sydney Centre respectively:

- development above the Victoria Cross metro station will provide significant commercial floorspace, as well as retail, dining and community uses that will contribute to the overall amenity and vitality of the CBD
- development sites should be of a size which enables the creation of large high-quality floor plates which help to reinforce the Centre's role as a Global City as identified within the Metropolitan Strategy.

The Department finds the proposed OSD is consistent with the strategy planning framework for North Sydney Centre and appropriately responds to the increase in development capacity resulting from the recent amendments to NSLEP. The Department's assessment shows that the proposal is consistent with the aims and objectives of the amended NSLEP for North Sydney Centre (**Appendix H**).

The Department also notes seven letters of support for the proposed OSD, citing it is appropriate to plan density at a location with good access to transport and supportive of transit-orientated developments.

Towers in North Sydney Centre

The Department considers the proposed building envelope with maximum tower height at RL 230 and podium height at RL 118 is comparable in scale to other tower buildings in the North Sydney Centre. These include towers under construction up to RL 213, future towers under the recent amendments to NSLEP (up to RL 289) and towers under consideration in the Ward Street Precinct up to RL 285. Refer to **Figure 16** and **Table 9** below.

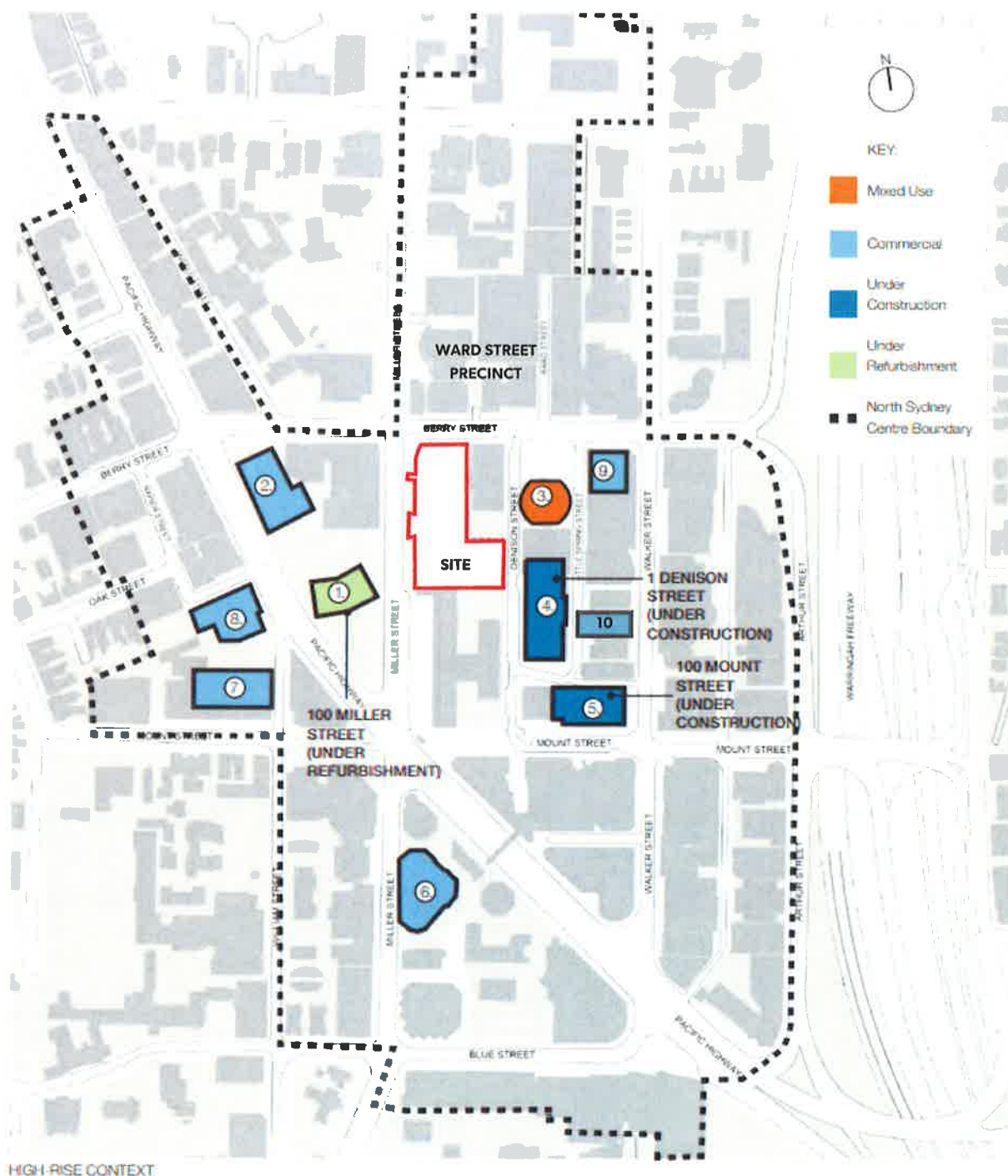


Figure 16 | Locations of other tall towers within the North Sydney Centre (source: EIS)

Table 9 | Recent development activity within North Sydney Centre

Site, including map reference from above	Description	Building Height (max)
<i>Built, approved or under construction:</i>		
1 - 100 Miller Street - south-west of site	refurbishment of existing Northpoint Tower	RL 195
2 - 177 Pacific Highway - west of site	30 storey office tower	RL 194
3 - 79-81 Berry Street – east of site	35 storey mixed use tower	RL 189

4 - 1 Denison Street - south-east of site	• part-28 and part-37 storey commercial tower	RL 213
5 - 100 Mount Street - south-east of site	• 38 storey office tower	RL 203
6 - 101 Miller Street - south of site	• 35 storey office tower	RL 180 (estimate)
7 - 40 Mount Street - west of site	• 21 storey office tower	RL 120 (estimate)
8 - 100 Pacific Highway - west of site	• 19 storey office tower	RL 115 (estimate)
9 - 124 Walker Street - east of site	• 20 storey office tower	RL 160
10 - 86-88 Walker Street - south-east of site (proposed)	• 35 storey office and hotel tower	RL 177
<i>Future buildings:</i>		
other CBD sites following recent LEP amendment with height uplift	• 35-40 storey towers to the east, including potential redevelopment of 65 Berry Street (to RL 230) and 79-81 Berry Street (to RL 289)	range from RL 227 to RL 289
Ward Street Precinct - north of the site, subject to Planning Proposal	• 20-40 storey residential, hotel and commercial towers	range from RL 144 to RL 285

6.1.2 Building height

The NSLEP contains building height standards for the site stepping from RL 193 (southern boundary) to RL 230 (Berry Street frontage) and solar access planes to maintain solar access to Greenwood Plaza and Brett Whiteley Place, which together define the maximum building heights for the site. The proposed building envelope complies with the maximum height standard at RL 230 but encroaches on the building height standard which steps from RL 230 to RL 201 in the centre of the site (approximately 48 m from the Berry Street boundary) (**Figure 17** and **Figure 18**).

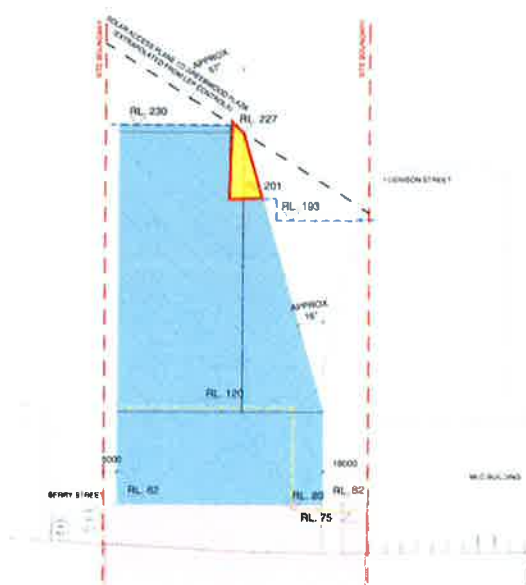


Figure 17 | West elevation showing building height standard non-compliance highlighted in yellow. (source: EIS with annotation added)

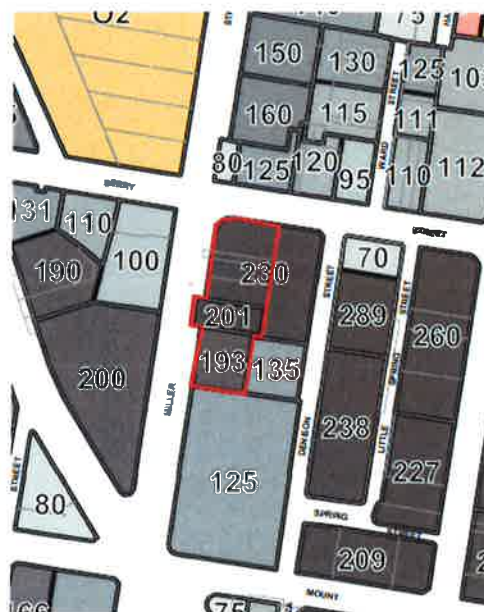


Figure 18 | Height of Building Map in NSLEP with site marked in red outline. Height in RLs. (Source: NSLEP)

The Department notes Clause 4.3 – Height of Building of the NSLEP may be varied under Clause 6.3(3) Building Heights and Massing in North Sydney Centre, without the necessity of a variation request under Clause 4.6, provided the proposal meets the specific controls relating to overshadowing of dwellings outside the North Sydney Centre.

Clause 6.3(3) creates a sun access plane across all sites in the Centre which sits above the RL height standards that otherwise apply. It enables the consent authority to grant consent to development which exceeds the maximum height standards in Clause 4.3, provided that habitable room windows and private open space of dwellings outside the North Sydney Centre do not receive less than 2 hours sunlight between 9am and 3pm at the winter solstice and the equinox. Additionally, any habitable room windows or private open space which currently receive less than 2 hours solar access at these times cannot be further overshadowed by building height above the maximum standards.

The proposed building envelope complies with the maximum RL 230 building height standard and the area of non-compliance (**Figure 17**) does not cause non-complying overshadowing to dwellings outside of the Centre. Refer to **Section 6** for detailed assessment against Clause 6.3.

The Department is satisfied that the proposal is compliant with Clause 6.3.

The Applicant however, has submitted a request under Clause 4.6 subsequent to consultation with North Sydney Council who request a Clause 4.6 request be lodged by Applicants as a matter of good practice for planning assessment.

The Department accepts the Applicant's reasons to vary the height of building standard (**Appendix E**) particularly:

- compliance is achieved with Clause 6.3(3) of NSLEP, which permits a variation to the height standard subject to specific overshadowing provisions, rendering compliance with the height standard as being unreasonable and unnecessary
- there are sufficient environmental planning grounds to vary the standard as compliance is achieved with Clause 6.3(3) as mentioned above, the additional height does not result in any non-complying overshadowing to public space, the additional height has acceptable view and privacy impacts to the Alexander Apartments to the east and the additional height has no heritage impacts
- the net effect of the proposal is a building envelope with less bulk and scale compared with that of an envelope designed to the extent of the mapped height standards in the NSLEP, and therefore reduced impacts on surrounding lands.

The Department also notes the proposed variation to the height standard does not seek to increase the overall height or scale of the development and considers the variation facilitates a better redistribution of building mass, including a tapered built form to open up view corridor from Alexander Apartments to the east of the site as further discussed in **Section 6.2 - View Sharing**.

Conclusion

The Department's assessment finds that the building envelope proposed is consistent with the increased scale and density in the North Sydney Centre permitted by the recent amendments to the North Sydney Local Environmental Plan 2013 (NSLEP). The NSLEP amendment was a response to increased transport and employment capacity which is being delivered by the new Victoria Cross Metro station. Recommended **Condition A15, A16 and A17** restricts future detailed design applications to be within the proposed building envelope.

6.1.3 Miller Street setback

The proposed development will provide a 6 m setback from Miller Street for its podium, consistent with the approved station below to achieve the envisaged public domain outcomes under Council's planning controls. However, the proposed 0 m – 4.5 m wide "articulation zone" that overhangs the Miller Street setback from RL 118 (podium/street wall height) and above requires a variation to the setback required in Clause 6.4 in NSLEP (**Figures 19 and 20**).

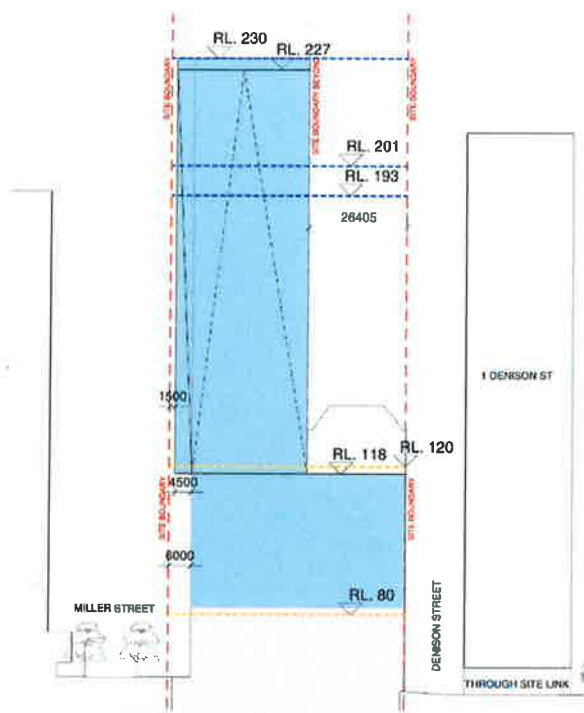


Figure 19 | South elevation showing required 6 m Miller Street Setback and Articulation Zone above. (source: RtS)

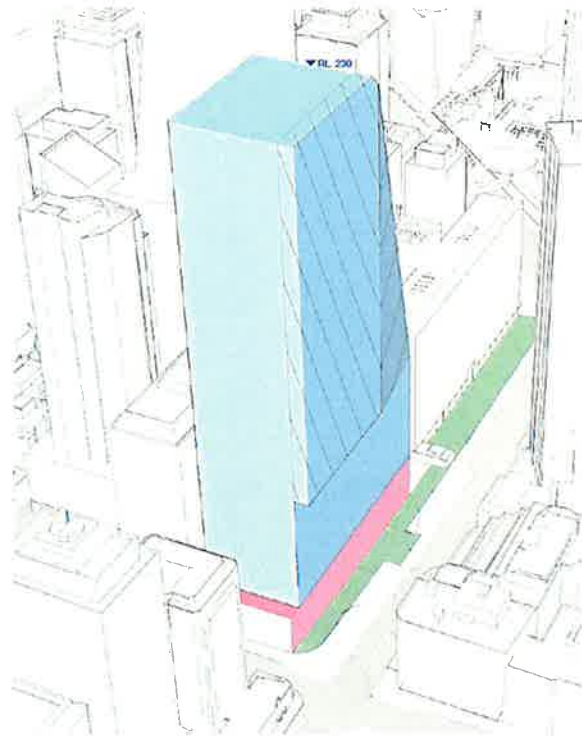


Figure 20 | Axonometric as viewed from corner of Miller and Berry Street showing Articulation Zone projecting out from western elevation. (source: RtS)

The proposed articulation zone is part of the Applicant's RtS in response to Council's concern that the proposed building envelope will result in built forms that are inconsistent with surrounding development and the future desired character. The articulation zone replaced a building envelope at the EIS stage that contained "stacked boxes" to Miller Street reflective of the architectural resolution illustrated within the Applicant's indicative scheme (**Figures 21 and 22**). The final architectural resolution of the building façade and utilisation of the articulation zone will be subject to future detailed design.

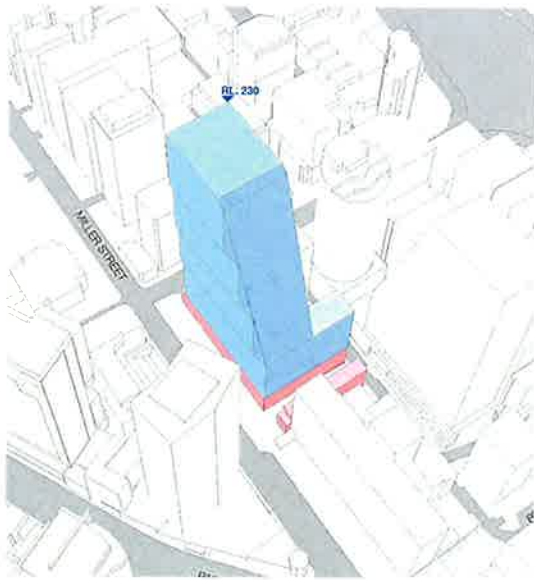


Figure 21 | Original building envelope at EIS stage
(source: RtS)

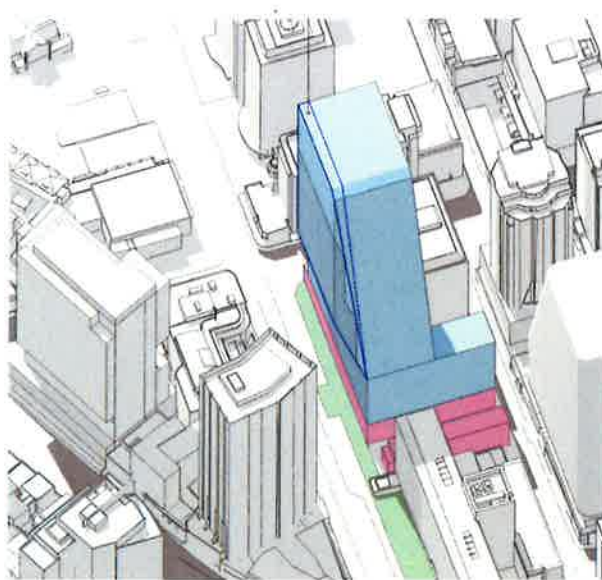


Figure 22 | Amended building envelope at RtS stage with grey areas filled in at RtS to simplify the potential articulation zone
(source: RtS)

Council did not support the proposed encroachment on the Miller Street setback. In response to the RtS, Council recommended a 5m tower setback above a podium, and allowance should be made for articulation to occur within that 5 m setback provided a compliant average setback is achieved.

Council's submission and 49% of public submissions also raised concerns with respect to the bulk and scale of the building envelope above the public domain, the maintenance of sky views and a perception that the overhang will create a sense of visual dominance along Miller Street. Council also recommended the proposed building envelope should further consider its alignment with the MLC Building.

The Applicant argued the existing built forms and character of developments along Miller Street are varied and inconsistent and there is no prevailing podium height or building form to the north or south of the site. The Applicant noted the reduced Miller Street setback commences at a point corresponding with the height of the MLC Building to the south and allows the future building to include articulation elements that reference the height of the MLC Building. The Applicant also argued that the lower element below the reduced setback is in alignment with buildings to the north of the Rag and Famish Hotel along Miller Street (**Figure 21**).

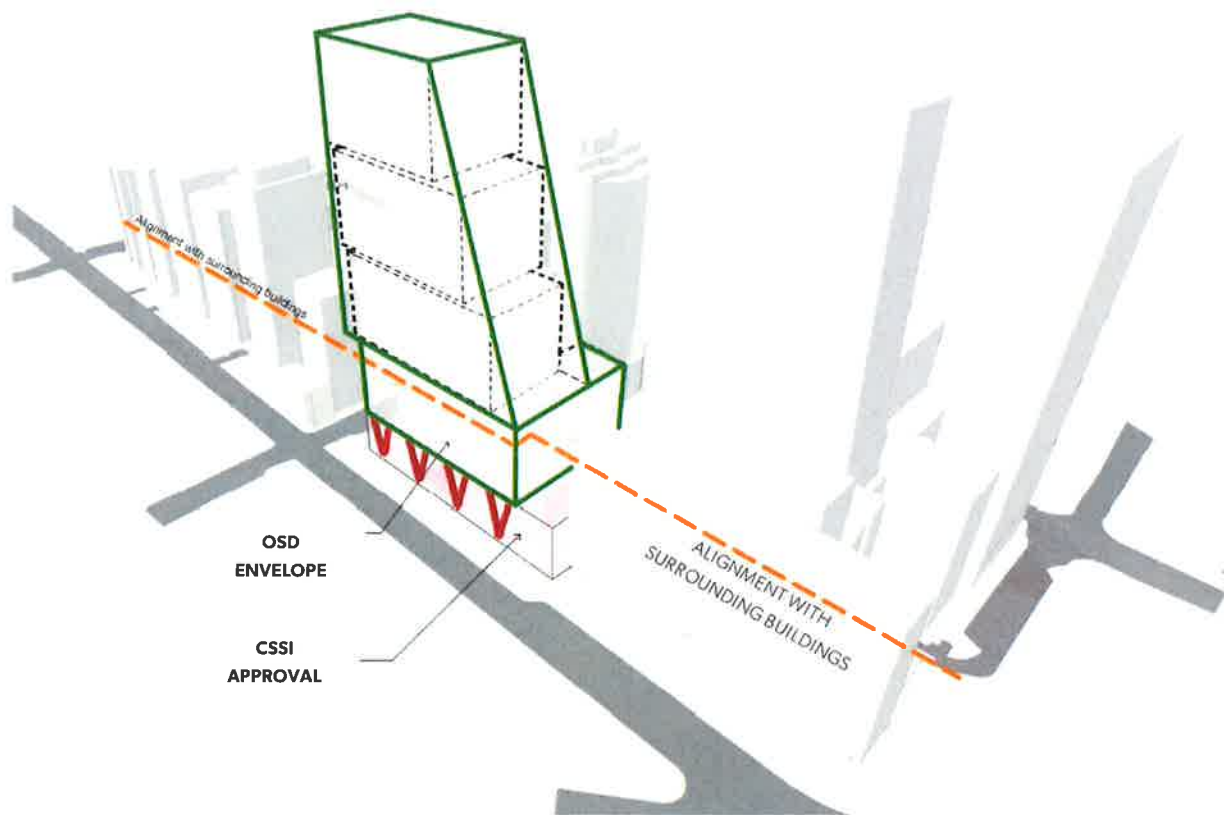


Figure 23 | Miller Street sketch showing alignment of setbacks (source: RtS)

Sydney Metro Design Review Panel advice

In the preparation of the RtS, the Applicant sought the advice of the Sydney Metro Design Review Panel (SMDRP) on the proposed articulation zone with the Miller Street setback area. The SMDRP supports the concept of an articulation zone along the Miller Street frontage noting any future building design may utilise some, but not all of the articulation zone. SMDRP supports is also subject to demonstrating design excellence, including further assessment and consideration of compliance with overshadowing requirements, respecting the datum of the MLC Building adjoining, maintaining sky view and acceptable amenity and microclimate in the public domain, particularly wind impacts.

The Applicant has adopted the advice of the SMDPR and has revised the Design Guidelines to set objectives and parameters for the detailed building design and utilisation of the proposed articulation zone. These are:

- provide massing that modulates the western facade and breaks down its scale to respond to the form and composition of neighbouring development
- provide contemporary design expression and innovation to contribute positively to the tower identity and streetscape
- contribute to the skyline and a revitalised sense of place for the North Sydney Centre
- demonstrate a cohesive, whole-of-building solution through its form, composition and materiality.

Streetscape and public domain

The stated objective of the 6 m Miller Street setback standard in NSLEP is to maintain the established setback and landscaped setting at the base of a building. The setback standard aligns with land protected from overshadowing in other controls in the NSLEP, although this sun access outcome is not explicit within the objective of the standard. The North Sydney DCP Character Statement provides “the setback on the eastern edge of Miller Street between

McLaren Street and Mount Street is maintained and incorporates landscaped areas and actively utilised open space” (Section 2.1.2).

The Applicant has submitted a request under Clause 4.6 of NSLEP to justify the variation to the Miller Street setback standard. The Department considers the Applicant’s request to vary the setback standard is well founded. Refer to **Appendix E** for the Department’s detailed consideration.

The Department considers the proposal will meet the primary objective of the control which is to provide a setback at the street level with respect to the established streetscape and to contribute to public domain along Miller Street being a highly pedestrianised north – south main street in North Sydney Centre. The proposed podium, including the approved station will provide the required 6 m setback up to a height of RL 118 (approximately 13 storeys above ground level), supporting public enjoyment and sense of space of the front setback area and contributing to the public domain, including future integration with the station entrance and active retail uses along Miller Street.

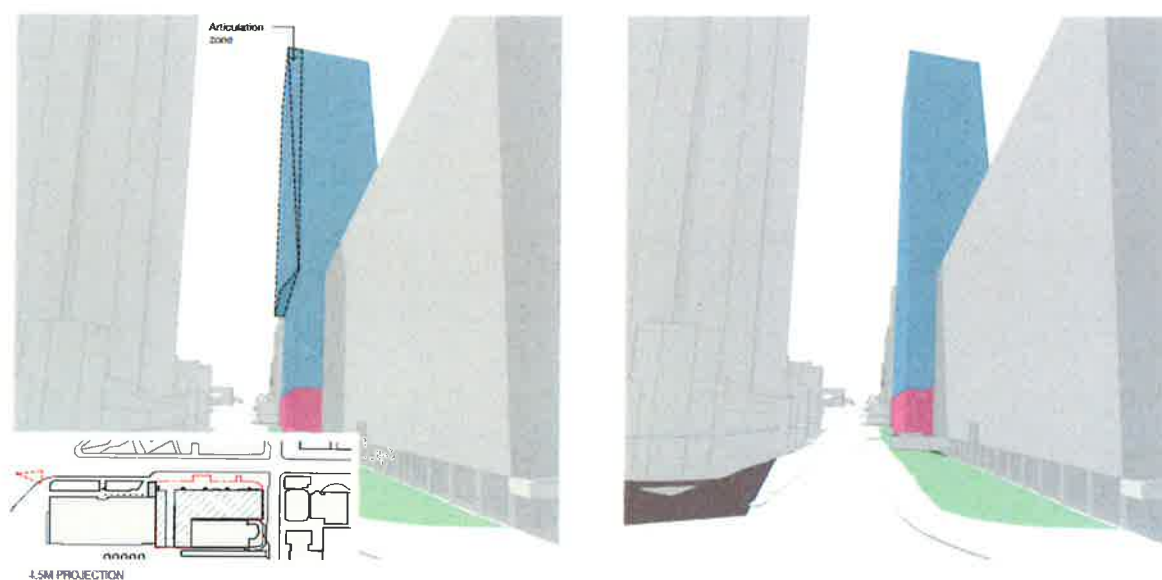


Figure 24 | Comparison of building envelope forms comprising articulation zone (left) and vertically extruded tower (right) (source: RTS)

The Department notes the articulation zone is chamfered at its southern end to ensure compliance with NSLEP sun access plane requirements to protect solar access to Greenwood Plaza and Miller Street (**Figure 25**). The submitted Shadow Study indicates 217 m² of solar access gain along Miller Street at midday winter solstice (**Figure 26**). See **Section 6.3** on further discussion on the protection of solar access to public spaces.

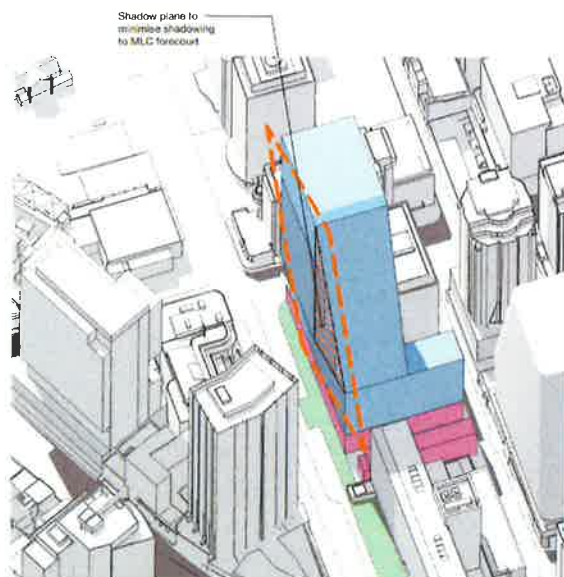


Figure 25 | south-west axonometric drawing highlighting corner chamfer for sun access protection to Miller Street

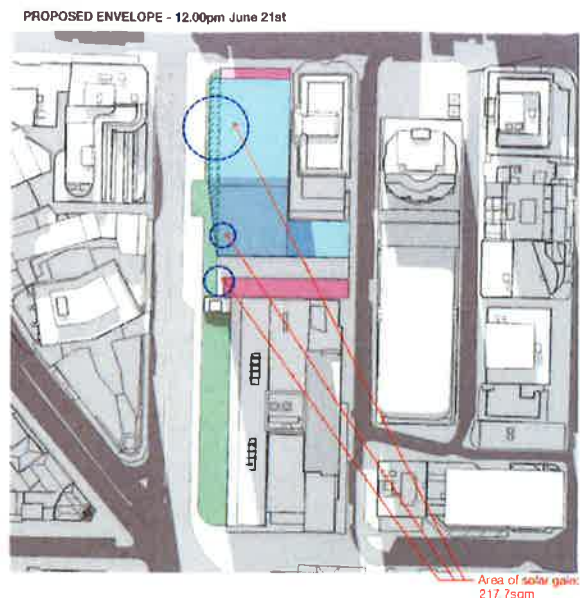


Figure 26 | South axonometric drawing identifying areas of proposed solar access gain post-development

Alignment with MLC Building

The Department accepts that the proposed articulation zone will occur above a podium height of RL 118, emphasising the height of the MLC Building as an important visual reference point. The Department notes a transition in setback from the proposed podium form to the MLC Building is to occur as part of the approved station design, including retail spaces and forecourt areas as illustrated in purple tone in the Applicant's drawing in **Figures 23 and 24**. This is an area earmarked for future retail uses in a 2 - 3 storey station structure along the east-west pedestrian through site link. It is subject to further detailed design as required by conditions of approval for the station and does not form part of the OSD. However, the Department considers this low scale southern structure and its alignment will further assist the transition of built form and setback between the proposed building envelope and the MLC Building.

The Department's consideration of the integration between the proposed OSD and the approved metro station is provided in **Section 6.4**.

The Department also refers to Council's Metro Planning Study and its exploration of setbacks and alignment with the MLC Building. The Study presents a preferred option for the site which complies with the Miller Street setback, but does not align with the MLC Building. The Study notes alignment with the MLC Building will result in unreasonably narrow tower depth for the site. Additionally, the Study reinforces the objectives of the Miller Street setback standard with respect to opportunities for retail or other activation of Miller Street, such as passive green space, pedestrian circulation and outdoor dining.

The Department agrees with the Council's Metro Planning Study that alignment with the MLC Building comprises a constraint on the development that is unwarranted in terms of public domain outcomes. The Department notes the proposed development will provide a 6 m setback from Miller Street on the ground plane and lower levels as necessary to achieve the envisaged public domain outcomes.

Building character

The Department has inspected the site and its surrounds and considered existing buildings at the locality, particularly along Miller Street. There is no consistent pattern in podium and tower forms in Miller Street and a high degree of variation across the North Sydney Centre generally. For example, there are no existing podium and tower forms within Miller Street or within Berry Street in the visual catchment of the site. Recent approvals for

large sites in North Sydney Centre are not representative of tower forms setback from podiums. These include development at 1 Denison Street, 177 Pacific Highway and 100 Mount Street (**Figures 27-29**). The Department considers the proposal's lack of tower setback is not considered to detract from the prevailing or desired future character in the North Sydney Centre.



Figure 27 | Photomontage of future 1 Denison St tower to the south-east (source: 1 Denison St Mod 10 Assessment)



Figure 28 | 177 Pacific Highway to the west, as built (source: DPE)



Figure 29 | Photomontage of future 100 Mount St looking north-west (source: Mount St EIS)

Conclusion

The Department accepts that the proposal will provide an appropriate contemporary design response to the site's context, without necessarily adopting a podium and tower form along Miller Street. The Department considers the proposed articulation zone promotes a creative approach for future detailed design to contribute to the skyline of North Sydney Centre along Miller Street, and to break up the scale and massing of the western elevation of the building.

The future detailed building design may utilise some but not all of the proposed articulation zone and will be subject to the recommended Design Guidelines (**Condition A26 - Clause 4.3 - 6**) to achieve the following:

- compliance with overshadowing requirements in NSLEP 2013
- respecting the datum of the adjoining MLC building
- maintaining sky view
- acceptable amenity and microclimate in the public domain particularly in respect to wind impacts.

The Department also notes the proposed building envelope has an 18 m southern setback and tapered form to open sky views and respect the heritage significance of the MLC Building. Subject to the future detailed design of the building complying with the abovementioned Design Guidelines, the Department considers the overall building envelope will provide a greater sense of openness to the sky above public domain areas and greater building separation from the MLC Building than a larger complying building envelope.

The Department is satisfied by the proposed approach to the Miller Street setbacks of the building envelope subject to recommended conditions to ensure the achievement of the Design Guidelines and the SMDRP's advice.

Recommended **Condition B3** requires future detailed design application(s) must address the built form considerations with respect to:

- building massing or facade detailing to provide visual reference to the height of surrounding buildings, including the MLC Building
- modulation and expression of built forms within the articulation zone are to break up the bulk and scale of the building and minimise visual impacts above publicly accessible space
- minimisation of privacy impacts to the adjoining Alexander Apartments through suitable placement of building services and lift cores and appropriate architectural treatments or devices
- wind mitigation measures
- integration with the approved Metro station.

6.2 Views and visual impacts

6.2.1 View sharing: Alexander Apartments

The Department has assessed the impacts of the proposed building envelope to existing views from the Alexander Apartments situated to the east of the site at 79-81 Berry Street. The Alexander Apartments is a mixed-use building containing retail and commercial uses from ground floor to level seven inclusive, and approximately 240 apartments on Levels 8 to 36 inclusive. Two public submissions raised concerns regarding loss of views currently enjoyed by the occupiers of Alexander Apartments.

Department staff visited 10 apartments on Levels 14, 15, 19, 21, 25, 31, 32, 33 and 35 in the Alexander Apartments, the site and its surrounds to further assess the proposal's view impacts.

Mid to high level apartments currently enjoy significant water views primarily to the east and to the south. The southern aspect will be reduced by developments at 1 Denison Street and 100 Mount Street currently under construction. Some west facing apartments also enjoy partial water views, but mostly district views, to the west and south west over the MLC Building, the rear of 65 Berry Street and the previously low scale development at No 155 Miller Street (forming the southern portion of the site).

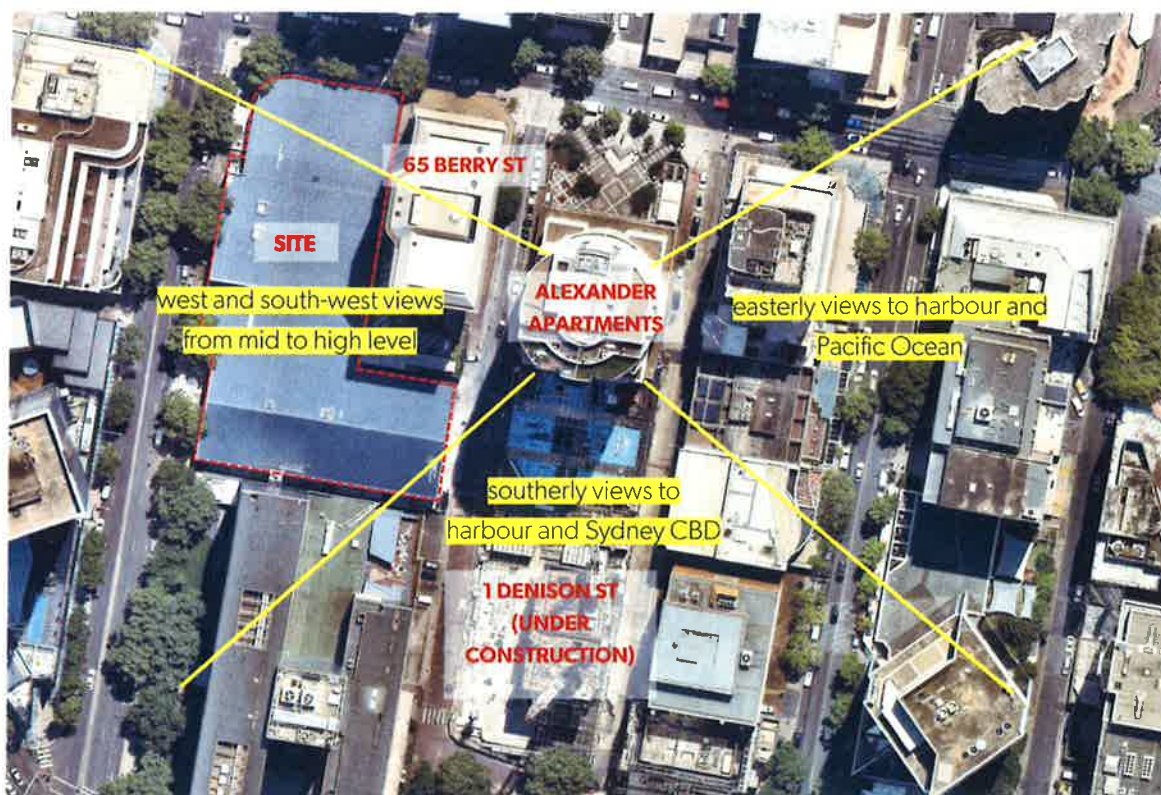


Figure 30 | Aerial photo showing view corridors from Alexander Apartments (Source: Nearmap with added annotation)

Having visited apartments, the Department finds the affected apartments for view loss are typically smaller mid-levels apartments with a single (western) aspect. The existing office building at 65 Berry Street is within the view corridor of west facing apartments and therefore only apartments at Level 23 and above have existing western views. All the affected apartments have living spaces and private open space at the western edge of the building (**Figure 31**).

Apartments with south-westerly orientation are also affected, but not to the same degree as the west facing apartments. Larger apartments from Levels 34 to 36 enjoy dual orientations providing a wide viewing arc to water and district views and will have visual relief from the view impacts of the proposal.

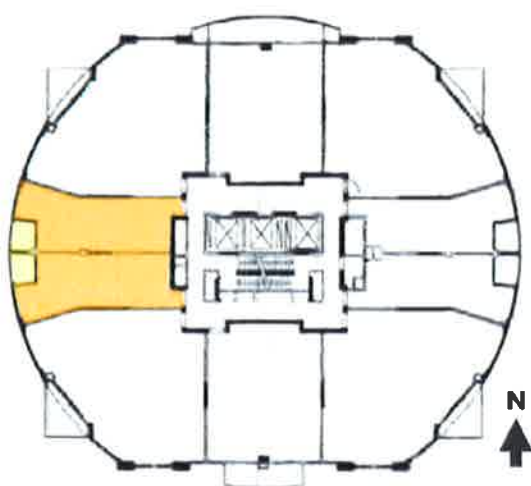


Figure 31 | Typical floor plan for the Alexander Apartments (west facing apartment most affected identified) (source: EIS)



Figure 32 | View from an apartment at Level 31 towards the west (source: DPE)

The Applicant's RtS included a Supplementary View Impact Assessment prepared by Virtual Ideas to further consider potential view impacts to Alexander Apartments. Photos taken by the Department from nine out of ten apartments were shared with the Applicant with the owners' prior permission, for analysis in the supplementary assessment.

The Supplementary View Impact Assessment identified the affected west-facing apartments currently enjoy partial district land views and glimpses of water toward the south-west through a narrow view corridor, which will be obscured or eliminated by the proposal. The affected views do not contain any iconic buildings or views characterised as highly valued (**Figure 32**).

The Applicant contends that the views are obtained across the side boundary and the expectation to retain side views is impractical. The Applicant submits that the building envelope contains a tapered southern elevation and lower south-eastern wing to open views from the south-western corner of the Alexander Apartments that would otherwise be obstructed by a complying building envelope under NSLEP. The Applicant submits that the proposed building envelope will improve for apartments with a south-westerly aspect that currently enjoy partial water views over the MLC Building (**Figures 33 and 34**).

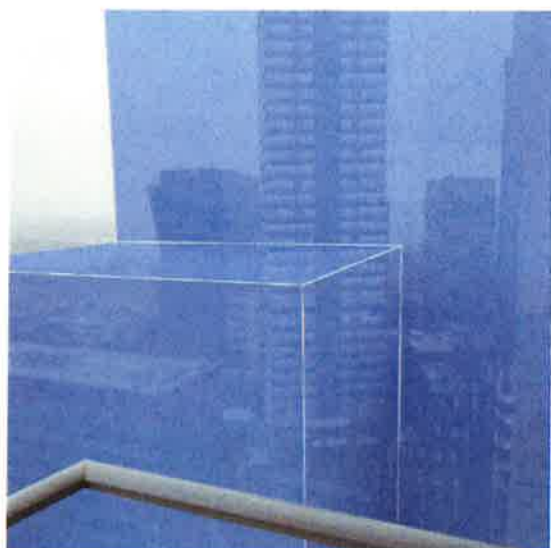


Figure 33 | Rendering of south-west view impact of building envelope under NSLEP at Level 25 (source: RtS)



Figure 34 | Rendering at Level 25 of south-west view impact of the proposed building envelope (source: RtS)

The Department has assessed the proposal and the Applicant's View Impact Assessments in accordance with the planning principles established by the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council* (2004) NSWLEC 140 (**Appendix F**).

The Department acknowledges the proposed building envelope is significantly less bulky than the maximum envelope permissible under NSLEP. The proposed envelope has an 18m setback to the south boundary, reduced height at the south-eastern wing towards Denison Street and a tapered tower south elevation. These features assist in the preservation of views from the Alexander Apartments to the south-west.

The Department considers the view loss to the single aspect west facing apartments is reasonable, as the proposed envelope is generally compliant with the NSLEP and full compliance would not have any additional view benefits. The minor height non-compliance related to a portion of the building envelope that tapers from RL 230 to RL 118 which is above the height and the view lines from the west-facing Alexander Apartments.

In the options analysis provided in the Applicant's Urban Design Report there was consideration given to splitting the LEP envelope into two tower forms to the north and south of the site. The options for two towers shown would

not provide for view retention due to the western apartments aligning with such a centralised position at the Victoria Cross site, where no relief from view impact is achievable.

Having considered the Applicant's option analysis and the reasonable development potentials of the site in terms of permissible height and floor space under the NSLEP, the Department accepts alternative design to retain views from the west-facing apartments is not feasible.

The Department therefore concludes the view impact of the proposal to the Alexander Apartments is reasonable and acceptable with respect to the established planning principles for view impact assessment (**Appendix F**).

6.2.2 Other views and visual impacts

The Department has assessed the impacts of the proposed building envelope on key public vantage points and streetscape locations around the site.

A View Impact Study was lodged by the Applicant to represent view impacts from public vantage points and streetscapes. Short, medium and long-range views have been included. Photomontages within the View Impact Study contain the existing view to the site and have superimposed the proposed envelope and the envelopes of buildings at 1 Denison Street and 100 Mount Street currently under construction.

Photomontage positions are adopted from long range distances from the site such as from Neutral Bay, the Sydney CBD (from the Opera House, Mrs Macquarie's Chair and Barangaroo) and Gladesville. These demonstrate that the building envelope will be apparent in the general skyline along with the new buildings at 1 Denison Street and 100 Mount Street. However, the scale and density of the proposal is compatible with the existing and proposed skyline.

The Applicant's View Impact Study noted the OSD will be consistent with North Sydney's role in the visual environment and will have a low impact on the Harbour's scenic quality and long-range viewpoints. The Study noted the OSD is compatible with surrounding development and will be screened by existing and proposed development situated at the southern end of the North Sydney Centre.

The Department considers the view impact from long range vantage points is acceptable, as there has been an increase in development potential for sites within the North Sydney Centre and the OSD will be one of a cluster of buildings (**Table 9**) which sit within the Centre at a greater bulk and scale than existing.

Photomontage positions from short-to-medium vantage points include:

- views obtained from the north at the corner of Miller and McLaren Streets (**Figures 35 and 36**)
- views obtained from the south at the Pacific Highway and Miller Street (**Figures 37 and 38**)



Figure 35 | Existing view from corner of Miller Street and McLaren Street (source: EIS)



Figure 36 | Proposed view from corner of Miller Street and McLaren Street (source: EIS)



Figure 37 | Existing view from corner of the Pacific Highway and Miller Street (source: EIS)



Figure 38 | Proposed view from corner of the Pacific Highway and Miller Street (source: EIS)

The Applicant submitted that the View Impact Study is based on the concept stage and that the future detailed design would be refined and likely reduced in visual scale and mass.

The Applicant acknowledged that the envelope will be visually prominent from short-to-medium viewpoints, however submitted that the envelope is not inconsistent with the scale of surrounding developments such as Northpoint Tower and 1 Denison Street and is appropriate in the CBD context.

The Department considers the proposed building envelope would be a distinct and significant new element when viewed from the streetscapes to the north and south. However, the bulk and scale when compared with the maximum envelope permissible within the NSLEP is reduced through envelope features including a large tower setback to the south, the tapered south elevation and lower elements that relate to the sites to the north (Rag and Famish Hotel and others) and south (MLC Building).

The Department considers the visual impact of the proposal from public vantage points and streetscapes around the site is acceptable and reasonable.

6.3 Overshadowing

The proposed building envelope has a tapered form and 18m setback from the site's southern boundary to minimise its overshadowing to key public spaces and to residential dwellings to the south-west of the site. The Department has assessed the proposal against the specific provisions in the NSLEP as set out in **Table 10** below.

Table 10 | Assessment of compliance with overshadowing controls in NSLEP.

Overshadowing on public space and dwellings

Area	Control	Compliance
Miller Street Special Area	No net increase in overshadowing between 12pm and 2pm at the winter and summer solstice and equinox.	Yes. The proposal results in a net improvement in solar access of 60.2m ² to the Miller Street Special Area compared to the scenario which existed prior to demolition of buildings on site.
Greenwood Plaza Special Area	No net increase in overshadowing between 12pm and 2pm at the winter and summer solstice and the equinox.	Yes. There is no overshadowing caused by the proposal to the Greenwood Plaza Special Area. The southern edge of the building envelope includes a tapered form to eliminate shadows in midwinter. Shadow impacts do not reach Greenwood Plaza at the March/September equinox.
Brett Whiteley Place – RE1 Zone	No net increase in overshadowing between 12pm and 2pm at the winter and summer solstice and the equinox.	No but acceptable. Shadow is cast for a duration of 25 minutes at the winter solstice wholly on a shopfront awning at the southern side of the Place. Shadows from the OSD in summer and the March and September equinox do not reach Brett Whiteley Place. No shadow is cast to the surface of Brett Whiteley Place at the winter solstice which satisfies the intent behind the control.
Residential dwellings to the south-east (i.e. Whaling Road)	Additional building height above the NSLEP standard can be granted as long as dwellings receive at least 2 hours solar access to habitable windows and principle private open space at the winter solstice and equinox between 9am and 3pm. Additionally, where dwellings	Yes. There is additional shadowing of the front facades or rear yards of dwellings at 1, 3, 5, 7, 9 and 11 Whaling Road in the late afternoon between 2:30pm and 3:00pm in midwinter.

already receive less than 2 hours, no additional overshadowing should be caused by building height which exceeds the standards.

However, this overshadowing is not caused by a non-compliant building height. The shadow impact is caused by the compliant upper most element of the building envelope at RL 230.

Two public submissions contend that the height of the proposal may overshadow residential properties to the west of the North Sydney Centre in the Hayberry and Edward Precincts. One public submission raised an issue with overshadowing to apartments within the Alexander Apartments to the east. The Department has reviewed these issues and its assessment of the shadow diagrams lodged confirm that the proposal provides compliant solar access. Shadow impacts do not reach residential properties to the west of the North Sydney Centre, shadow impacts to Alexander Apartments occur after 2pm in midwinter and otherwise the building enjoys excellent solar access.

Public submissions (39%) cited concerns about overshadowing of spaces used by lunchtime office workers and footpaths used by pedestrians within the Miller Street Special Area and Brett Whiteley Place.

From **Table 10** and the discussion above, the Department's assessment confirms the proposal will not increase overshadowing impacts to key public open spaces and dwellings outside of North Sydney Centre except for a shadow of a duration of 25 minutes falling onto 37 m² of an existing shop awning above Brett Whiteley Place which itself overshadows the plaza.

The Department considers the shadow impact of the OSD is acceptable. The building envelope of the OSD has been designed with overshadowing in mind and has been adjusted accordingly. The proposal is generally compliant with the maximum height standard and has a floorplate much smaller than the NSLEP building envelope.

6.4 Integration with Metro Station and related public domain

The application seeks approval for the use of non-rail related spaces within the approved Victoria Cross Metro station, but the Applicant states that the ground plane, structural grid and podium form for the site are fundamentally established as part of the approved station and is out of scope of this application. **(Figure 15)**

Public submissions (53%) said that the proposal should include additional public open space, wider pedestrian links and detailed public domain plans. The Committee for North Sydney objects to the proposal along with six other local Precinct Committee groups, raising concerns with respect to the proposal's lack of contribution to North Sydney's public open space and the proposal's impacts to existing pedestrian accessibility and public domain areas at the locality.

Public submissions (55%) argued that the Victoria Cross site should have an underground pedestrian connection to North Sydney Station and the station and bus interchange through Greenwood Plaza. There are also concerns over the amenity around the station area, including landscaping design, potential wind conditions and adequacy of natural light around the public domain and through-site link around the station.

Council also raised specific issue with the Miller Street and Berry Street corner setbacks of the proposed building envelope and the station and the impact on the public domain **(Figure 39)**. Council recommended:

- the proposal should accommodate a publicly accessible, sun-lit, space by increasing building setbacks at the corner of Miller Street and Berry Street
- the proposal should be setback further away from the Berry Street boundary by 5 m, due to insufficient footpath/pedestrian space along Berry Street

- the station footprint containing the retail spaces at the ground plane needs to be re-designed to address the provision of quality public space and cater for pedestrian pinch points.

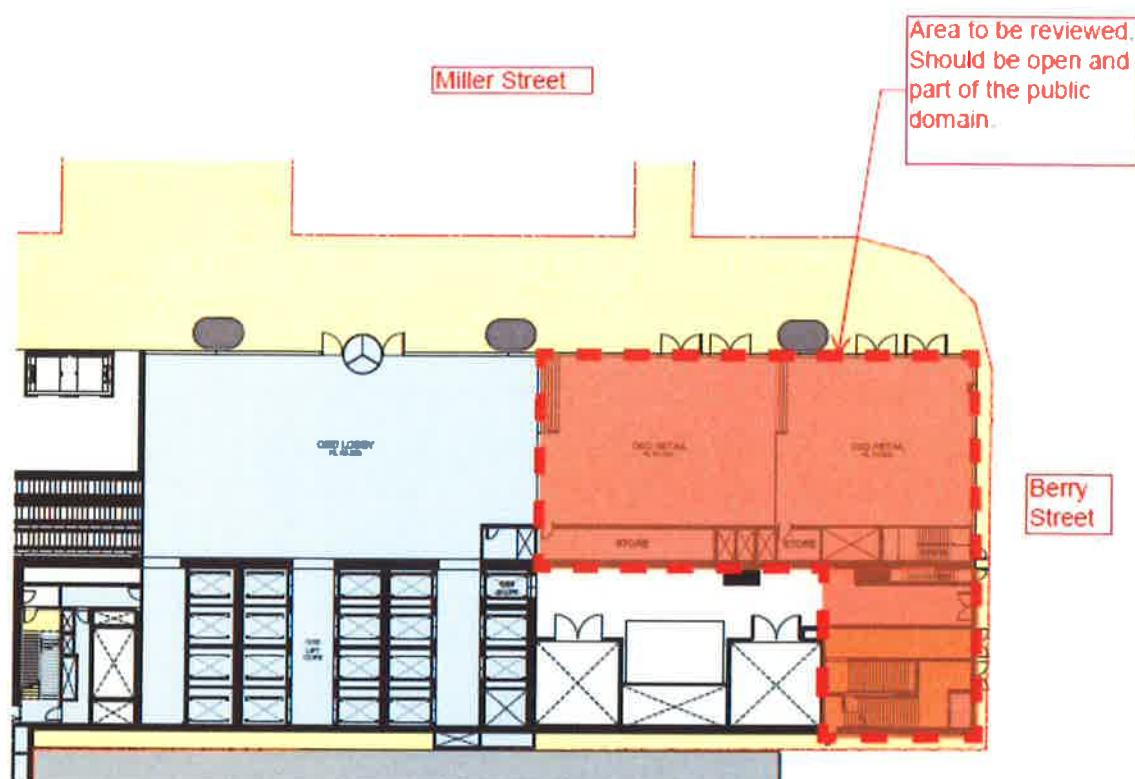


Figure 39 | Extract from Council's submission to RtS regarding corner Miller St and Berry St (source: Council submission)

Station Design Precinct Plan (SDPP) and Interchange Access Plan (IAP)

The Department notes the approval for the Metro City and Southwest (CSSI 7400), including the Victoria Cross Metro Station provides for the construction of the metro station box up to a height of approximately 4 storeys above Miller Street. The CSSI approval sets out requirements for:

- design of the metro station, including areas of the ground floor and surrounding public domain areas. (CSSI 7400 Condition E 101 – Station Design Precinct Plan SDPP)
- an Interchange Access Plan (IAP) to inform the integration of the station with surrounding public domain and transport initiatives, including pedestrian and cyclist access (CSSI 7400 Condition E 92).

The Applicant submits that the SDPP will present an integrated urban and place-making outcome and would be developed in consideration of the relevant Council policies and in consultation with Council.

The IAP and SDPP are not required to be completed prior to commencement of permanent aboveground works for the station. The IAP and SDPP also do not include requirements on how the proposed OSD integrates with the approved station and contributes to the surrounding public domain area. The Department therefore finds it is appropriate to consider, within the scope of the assessment of the proposed OSD, its impacts and its relationship to the approved station and related public domain.

Pedestrian movement and capacity

The Department notes that Council's recommendation to include additional public space at the corner of Miller Street and Berry Street is referenced to a previous station design where a northern entrance to the station was proposed at this location. This design has since been superseded by Modification 1 to the CSSI approval, which

relocated the northern entrance of the station and services building to 50 McLaren Street, North Sydney. Transport for NSW proposed this relocation to expand the station walking catchment area to additional residents, workers, education facilities and areas of open space and divert some pedestrian traffic from the station to provide relief of pedestrian space along Berry Street and Miller Street.

The submitted Transport, Traffic and Parking Assessment Report prepared by AECOM Australia Pty Ltd identified the increased number of pedestrian movements generated by the proposed OSD will be less than 10 % of that forecast to be generated by the Metro Station.

The Department accepts further details on pedestrian capacity and access along Miller Street and Berry Street can be sufficiently addressed by the future development of the IAP under the CSSI approval, and appropriate traffic and transport assessment for subsequent development applications.

Council's submission noted their intention to convert Miller Street from a heavy traffic environment to a more pedestrian friendly connection through full closure to traffic, or a bus only carriageway or a single lane configuration. The Department notes both Miller Street and Berry Street are classified State roads for which Council will need to consult with Roads and Maritime Services (RMS) for such changes. RMS does not object to the proposed OSD or specify any required road or traffic changes.

Public submissions also called for a pedestrian connection between the Victoria Cross Metro Station and North Sydney Railway Station. The Applicant stated in response that Victoria Cross Metro Station is not intended to provide a significant interchange function with the Sydney Trains network. As such, any minor interchange movements are proposed to be accommodated by the existing underground and ground level connections between the sites.

The Department considered the potential to provide a pedestrian connection to North Sydney Railway Station or any other access from the station, falls outside the scope of its assessment of the OSD and is a matter to be considered in the required IAP under the CSSI approval. The Department also notes the proposed through site link connecting from the new Metro station entrance to Denison Street will be consistent with Council's Public domain strategy to pedestrianise Denison Street which then connects to North Sydney Railway Station via an overpass across Pacific Highway and Greenwood Plaza.

Open space and community uses

Public submissions also requested a range of cultural or civic uses including exhibition space, performance spaces, meeting spaces, cinemas and the like and a wider range of retail and office offerings within the OSD. In relation to retail offering, public submissions called for diversity in retail spaces so that smaller shop owners and shops which activate the site after general working hours and on weekends can be accommodated.

The Applicant referred to the CSSI layout, including the Miller Street setback, as consolidating publicly accessible land with the existing lineal open space provided by the setback of the MLC Building and other sites north of Berry Street. In response to public submissions, the Applicant's RtS analysed the amount of publicly accessible land prior to the demolition of buildings for the CSSI and the amount of publicly accessible land expected after the construction of the station infrastructure.

Previous developments at the site, which have since been demolished, included "Tower Square" comprising a 2 and 3 storey retail centre containing shops and restaurants in a building with wide arcades, spaces open to sky and publicly accessible seating and meeting places. The Applicant calculates that some 1,717 m² of accessible public space will be included within the site boundaries on completion of the station infrastructure, or 36% of the site area. The Applicant calculated that this is approximately 200 m² more than the amount of land available to the public prior to demolition of buildings under the CSSI approval.

The Applicant's RtS is accompanied by an updated Design Guidelines which directs the detailed development application to address the provision of a range of activating land uses within the OSD including civic and community uses. The relevant extracts from the Design Guidelines are as follows:

- *Where possible the development should maximise opportunities to incorporate retail, restaurant, bar facilities and other non-residential floorspace to promote the activation, amenity, diversity and place-making objectives and contribute to the night-time and weekend economy of the CBD (Clause 4.1-4).*
- *A retail strategy should be prepared and submitted with the detailed SSD application which demonstrates how the retail opportunities proposed best respond to the market and user needs. In addition, the strategy is to demonstrate how the OSD retail fits into the overall strategy for the integrated station development and contributes to the place-making and vibrancy of the development (Clause 4.1-5).*

The Department considers there will be sufficient open space and public domain area at the site to support the proposed OSD and the revised Design Guidelines will support future applications to incorporate a mix of land uses with the aim to promote activation of the site. The NSW Government Architect supports the requirement for a retail strategy to address amenity and operational utility of retail uses at the through-site link.

The Department also accepts that the detailed area and design of open space provided at the site including the proposed publicly accessible space at the ground level along Miller Street and the proposed east-west through-site link are subject to the SDPP and IAP conditions under the CSSI approval. The Department considers that the proposed OSD will need to integrate with and help to activate these spaces and connections.

The Department also notes North Sydney Council is conducting studies and initiatives to improve public domain and increase public open space in North Sydney CBD. This includes a draft Masterplan for 'Ward Street Precinct' immediately north of the site (opposite Berry Street frontage of the site) which would seek to demolish Ward Street Car Park and replace it with a public square and community hub and a public domain strategy to pedestrianise Denison Street to the rear frontage of the site. The Applicant advised that the SDPP and IAP will be prepared in consultation with Council to ensure Council's initiatives for the surrounding area are considered.

Ground floor public domain

The Department considers that Council's recommendation to change the footprint of the proposed building envelope at the ground level to accommodate additional public domain spaces may conflict with the structural and servicing requirement predetermined by the approved station footprint.



Figure 40 | Indicative image of ground conditions with Department's annotations (Source: EIS)

The Applicant's RtS identified the opportunity to provide a significant station plaza, integrated with the public domain along Miller Street, will be considered and refined as part of the preparation of the SDPP and IAP under the CSSI conditions. The Applicant however, advised the Berry Street portion of the site is affected by services and structures of the station.

The Department notes the indicative scheme showing the base building footprint of the OSD is structurally constrained by the approved station footprint, but the detailed design of the ground plane can accommodate publicly accessible spaces that complement the development's active street frontages and surrounding public domain extending from the station entrance, along Miller Street and to the corner of Berry Street.

The Department considers it is feasible for the future detailed design of the OSD along Miller Street and Berry Street to incorporate design elements such as colonnades, forecourts and landscaping to cater for weather protection, active street frontages, connection to the station and access to the OSD.

Recommendation

Clause 4.3 – Building Design and Clause 4.5 - of the revised Design Guidelines submitted with the RtS include design principles relating to the future detailed design of the ground floor area and public domain. The Department recommends Clause 4.5-4 be amended as follows to deliver a more robust public domain outcome for the street frontages of the site (amendments shown in red). **(Condition A26 a)**

..... a continuous awning or coverings of a sufficient depth are to be provided above the Miller Street frontage and extend as far as practical to the Berry Street frontage. The covered area is to:

- *for provide protection to pedestrians from the weather*
- *provide active retail uses with opportunities for complementary outdoor uses*
- *integrate and support capacity for pedestrian access and connection to and from the station entrance and the over station development.*

The Department also recommends the Design Guidelines be further revised to support the integration of the proposed OSD with the approved station. The Department notes similar design principles have been incorporated in the Design Guidelines for the Applicant's separate applications seeking approval for OSD at Pitt Street North and Pitt Street South. The Department recommends more detail be provided in the Design Guidelines for Victoria Cross OSD on objectives and performance criteria for public domain and place integration with the CSSI works including **(Condition A26 b)**:

- shared aims and objectives between the CSSI and OSD in relation to user experience and comfort, desired quality standards and scope/range of considerations (i.e. wayfinding and signage strategies, safety and security, activation and innovation and any particular emphasis needed for important pedestrian connections and spaces)
- shared aims and objectives between the CSSI and OSD in relation to movement and connectivity.

6.5 Design excellence

The application includes a Design Excellence Strategy setting out the framework for a design review and selection process to deliver Design Excellence for the proposed OSD. The Strategy defines Design Excellence as a term used to describe the outcome of high quality architectural, urban and landscape design as well as a structured process to support high-quality design.

The NSLEP does not include statutory requirements for Design Excellence, but the Applicant intends for the Strategy to be applicable for all OSDs along the Sydney Metro City and Southwest Metro line between Chatswood and Sydenham, including sites within the City of Sydney where statutory design excellence requirements apply.

The Applicant proposed that the competitive tender process be informed by a Design Excellence Evaluation Panel (DEEP). The DEEP is to prepare a Design Excellence Report that identifies to the tender evaluation panel the elements of each tender scheme that contribute to design excellence and elements where further design refinement will be required.

The DEEP members would be design experts that are recognised as advocates for design excellence by drawing from members of the Sydney Metro Design Review Panel. The Panel would also include a member nominated by the NSW Government Architect (GANSW) on behalf of the Department and a member nominated by the local council.

The integrity of the identified design excellence and elements will then be followed by a design review process by the Sydney Metro Design Review Panel. The Sydney Metro Design Review Panel is chaired by the GANSW. The consent authority at the detailed design phase may also seek advice of the State Design Review Panel or other similar body.

One public submission questioned the independence of the GANSW in chairing the DEEP panel. The GANSW chairs several design review panels for government agencies due to their expertise in design excellence, including the Sydney Metro DRP. The Department considers the chairing of the DEEP panel by GANSW is appropriate and will help to maintain consistency in advice and design integrity between the DEEP panel and the Sydney Metro DRP through the proposed design excellence process.

The Department has reviewed Sydney Metro's pre-authorised list of Authorised Engineering Companies and notes that, in the Department's view, there are many highly regarded architectural and landscape architectural companies with Sydney Metro's pre-authorisation. The Strategy also includes project benchmarks and exemplars of the benchmark including Wynyard Place, Sydney (also known as 1 Carrington Street). In addition, the Design Excellence Strategy undertakes to encourage non-listed design companies to partner with pre-authorised design companies to promote diverse design approaches from fields outside of rail development projects.

GANSW and Council support the Applicant's Design Excellence Strategy. The Department recommends endorsement of the proposed Strategy (**Condition A28**) to support the successful implementation of the recommended Design Guidelines (**Condition A26 and A27**) for the future detailed design applications.

6.6 Other issues

The Department's consideration of other issues is summarised in **Table 11**. These are issues raised by Council or in public submissions which are not otherwise key issues addressed above.

Table 11 | Summary of other issues raised

Issue	Findings	Recommended Condition
Traffic and Transport: (a) traffic generation and associated impacts (b) number of parking spaces (c) loading and servicing (d) pedestrian and bicycle access (e) construction traffic management	- The Department procured an independent traffic assessor to undertake a peer review of the application because the Applicant is Sydney Metro operating under the Transport for NSW (TfNSW) cluster. It is noted that TfNSW, RMS and Sydney Trains did not comment on the application. - The Department's independent assessor notes that the traffic and transport assessment is thorough and covered all issues raised in the SEARs. - The Department's independent assessor has made recommendations for further analysis of	The Department's independent traffic assessor recommends conditions with respect to: (a) preparation of a Construction Traffic Management Plan with the detailed development application, once construction staging and programming is known (b) demonstration of maneuvering of larger/longer vehicles via Denison Street at detailed development application stage

	certain matters as part of the detailed design development.	(c) demonstrate wayfinding infrastructure and public exposure to bicycle parking in the basement at the detailed application stage (d) determine responsibilities, timing and commitments to development of pedestrian facilities and bicycle infrastructure to be undertaken by other parties (e) independent road safety audits be carried out throughout the duration of design development to the satisfaction of relevant roads authorities.
		(Condition B11)
Future opportunity to share loading access with between the site and the MLC Building	- The Department notes that the application includes the option of a break-through panel at the basement for a future vehicle access into the basement of the MLC Building. The intention of the panel is that these two sites share the same driveway to Denison Street and allow the street to be more pedestrian friendly, particularly at the east-west pedestrian through-site links south of the proposed driveway. - Council and several public submissions support this opportunity. - The Department notes that the application includes the ability to provide this link and that its realisation relies on a private negotiation between landowners.	No conditions are required in relation to this issue.
Construction impacts including: (a) noise impacts (b) access impacts on pedestrian and vehicles (c) cumulative construction impacts	- This concept application does not seek consent for any construction works. - The Department acknowledges the Applicant's undertakings to implement construction management strategies to mitigate impacts such as noise, vibration, dust, traffic and access disruption.	- The recommended conditions include a requirement for a Construction Impact Assessment with any detailed development application. - The Department's independent traffic assessor has recommended specific matters to be addressed in the future Construction Traffic and Pedestrian Management Plan.
		(Conditions B9 and B11)
Heritage impacts on MLC Building and Rag and Famish Hotel	- The Department notes the various design features incorporated into the concept envelope to mitigate heritage impacts on the MLC Building and Rag and Famish Hotel including: (i) an 18 m setback to the south boundary toward MLC Building to open views of that building and give "breathing space" (ii) a lower tower form along Miller Street that responds to the height of the MLC Building	No conditions are required in relation to this issue as the concept envelope and Design Guidelines include mitigation measures. The concept's approaches are appropriate.

	(iii) a lower podium form along Berry Street, within the CSSI works, that responds to the height of the Rag and Famish Hotel (iv) requirements in the Design Guidelines in relation to composition and materiality to compliment the MLC Building and Rag and Famish Hotel. - The Applicant advised that the Heritage Council of NSW has a representative on the Sydney Metro Design Review Panel (SMDRP) and this would enable continual review of heritage impacts through the detailed design phase. - The Heritage Council of NSW advised that its initial comments at the EIS stage have been addressed by the RtS	
Wind impacts within the east-west through site link and wind impacts on the surrounding area	The Department has assessed the Wind Impact Assessment and its recommendations in relation to wind mitigation to enable wind reduction to an acceptable level. This matter will also require close integration between the CSSI and OSD design processes to coordinate the effects of the OSD tower on the ground plane.	The recommended conditions include a requirement that the detailed design be subject to further wind assessment including computer modelling to demonstrate compliance with wind comfort criteria. (Condition B6)
Residential privacy impacts to Alexander Apartments (79-81 Berry Street)	- The Department notes that the building separation between the main tower element and the Alexander Apartments, above 65 Berry Street, is 40 m which is well in excess of 24 m required by the Apartment Design Guide. The separation between the lower wing of the envelope (to Denison Street) is 23 m but this part of the envelope is to the south-west of the Alexander Apartments where view angles are indirect. - The Department notes that the CSSI approval sets parameters for the placement of lift cores and services for the station and OSD. The core and services are proposed to be on the eastern side of the site alongside the Alexander Apartments where this inactive frontage will minimise overlooking potential. - The Design Guidelines submitted with the application include mitigation measures relating to the articulation and exterior design of the tower for the minimisation of privacy impacts.	The recommended conditions include a requirement that building and services be placed to minimise privacy impacts. No further conditions are required in relation to this issue as the Design Guidelines also include mitigation measures. (Condition B3)
Relationship with existing child care centre at 65 Berry Street	- The Department notes the presence of a child care centre at the south-east corner of 65 Berry Street which includes an outdoor play area. - Community submissions contend that the proposal will reduce the amenity of the centre by enclosing it. The submissions call for reconsideration of the building setbacks and call for the interface between the buildings to be reviewed.	No conditions are required in relation to this issue.

	• In addition to community submissions, NSW Health also raised issue in relation to potential construction noise affecting the centre. • Regarding amenity issues, the Department notes that the station structure approved under the CSSI extends to the property boundary alongside the centre and extends in height to above the centre. As such, the OSD occurring above the station works has minor additional enclosing impacts which are anticipated by the height and floor space controls on the site. • Although the application is for a concept application and does not involve construction at this stage, the Department acknowledges that mitigation measures in relation to the child care centre will be necessary during construction and will need to be considered at the detailed application stage.	
Determination of the application until after the gazettal of the North Sydney Centre Planning Proposal	• The Department notes Council's submission that the application should not be determined until the North Sydney Centre Planning Proposal is gazetted including increased height and floor space standards. • The Planning Proposal has since been finalised and incorporated into the NSLEP.	• No conditions are required in relation to this issue.
Validity of SSD pathway for an office tower above the station	• The Department notes that the proposal is SSD as per legislation. Refer to Section 4.1.	• No conditions are required in relation to this issue.
Negative impact on property value	• The Department has no evidence to suggest that property values surrounding the site will decrease because of the development.	• No conditions are required in relation to this issue.
Pre-lodgement consultation about the project has been inadequate	• The Department notes that the Applicant carried out a range of consultation activities before the lodgement of the application and during the exhibition of the application. (as described in Section 5 of EIS and Section 3 of the RtS). The Department notes these activities. • The Department has undertaken exhibition processes it is required to do and extended its engagement to surrounding residents of the adjoining Alexander Apartments.	• No conditions are required in relation to this issue.
Quality of application documents, specifically:	• The Department has sufficient information from the EIS and RtS on which to make its assessment and recommendation in relation to the application. The Department notes:	• No conditions are required in relation to this issue.
(a) false and misleading images within photomontages	(a) the submitted indicative design demonstrates how the proposed building envelope can be utilised to deliver an acceptable development outcome. Future detailed design will be further developed based on the submitted Design Guidelines and subject to design review process as proposed in the Design Excellence Strategy.	
(b) street level view assessment was limited		

- (b) The RtS includes additional street view/ visual impact analysis.

Air rights over part of the site have already been acquired in previous development.

- The Department notes that submissions refer to a previous sale of air rights over the former "Tower Square Shopping Centre" that was put towards other development.
- The land titles and NSLEP have no restrictions on floorspace arising from any previous air rights processes.

- No conditions are required in relation to this issue.

65 Berry Street should be included in the metro redevelopment

- The Department notes that TfNSW acquired sites in 2014 for the construction of the Victoria Cross station.
- The Applicant advised that further acquisition of land would be surplus to requirements and not in accordance with acquisition powers available.

- No conditions are required in relation to this issue.

Future detailed design matters

- The Department notes that the Concept Development Application seeks consent for indicative architectural roof features, design and use of rooftop terrace areas, indicative signage zones and future subdivision.

- The recommended conditions specify that these detailed elements are not inconsistent with the concept application and are subject to assessment with the relevant detailed development application(s).

(Condition B2)

7. Evaluation

The Department has assessed the merits of the proposal taking into consideration the issues raised in submissions, as well as the Applicant's response to these, and is satisfied the impacts have been satisfactorily addressed by the proposal and through the Department's recommended conditions.

The development supports the achievement of the strategic aims and objectives of local, regional and state planning policies. At the local and regional level, the proposal is consistent with The Greater Sydney Commission's 'A Plan for Growing Sydney', the North District Plan and North Sydney Council's recent amendments to the NSLEP. The proposal also contributes to local economic activity with approximately 4,200 new operational jobs within the commercial core of the North Sydney Centre.

The Department finds that the proposal provides for an appropriate built form in response to the development standards and environmental clauses that apply to the land and complements surrounding development which is existing, approved and under construction. The concept building envelope provides the maximum building parameters, together with detailed design considerations and a design excellence framework, to deliver a building that can exhibit design excellence in a prominent location.

The Department's assessment concludes the proposed OSD building envelope is suitable to the site opportunities and constraints, is capable of achieving design excellence and will be integrated with the design of the new Metro station and surrounds. Given the significance of the building and the need to manage the integration of the OSD with the CSSI station works to ensure desired outcomes are achieved in the detailed design phase, the application includes Design Guidelines (**Condition A26**) and a Design Excellence Strategy (**Condition A28**) to guide the OSD designers throughout the detailed design phase.

The Department notes approximately 36% of the site will be publicly accessible space. A thru-site link from the Victoria Cross Metro Station entrance to Denison Street is also proposed consistent with Council's Public Domain Strategy to pedestrianise Denison Street and to improve connectivity to North Sydney Railway Station. The design of open space, public domain and pedestrian access for the site is subject to the Station Design Precinct Plan (**Condition E101 of CSSI 7400**) and Interchange Access Plan (**Condition E92 of CSSI 7400**) of the separate infrastructure approval (**CSSI 7400**) for the Metro Station.

The Department recommends the Design Guidelines be amended to provide additional public amenity at the base of the building envelope where the OSD works are interwoven with the station infrastructure. Amendments to the Design Guidelines also need to specify shared aims and objectives between the CSSI and OSD, in relation to desired public domain and accessibility outcomes. (**Condition A26 a) & b)**).

The Department considers the impacts of the development are satisfactory and can be appropriately mitigated through the implementation of the recommended conditions of consent. The Department recommended **Condition B3** requires that future built forms must consider modulation and expression of built forms within the articulation zone are to break up the bulk and scale of the building and minimise privacy impacts to the adjoining Alexander Apartments.

The Department's Assessment concludes the proposal is approvable, subject to the conditions outlined within the report.



8. Recommendation

It is recommended that the Minister for Planning:

- **considers** the findings and recommendations of this report; and
- **accepts** and **adopts** all the findings and recommendations in this report as the reasons for making the decision to grant consent to the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** to the application in respect of the Victoria Cross OSD (SSD 8874), subject to the conditions in the attached development consent;
- **signs** the attached development consent and recommended conditions of consent (see **Appendix G**).

Recommended by:

David McNamara

Director

Key Sites Assessments

Recommended by:

Anthea Sargeant

12/12/18

Executive Director

Key Sites Assessments



9. Determination

The recommendation is **Adopted** / Not adopted by:

The Hon. Anthony Roberts

NSW Minister for Planning



Appendices

Appendix A - List of documents

The following supporting documents and supporting information can be found on the Department of Planning and Environment's website as follows.

1. Environmental Impact Statement

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

3. Applicant's Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

4. Peer Review of Transport, Traffic and Parking Assessment, Samsa Consulting, 2018

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

Appendix B - Environmental Impact Statement

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

Appendix C – Submissions

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

Appendix D – Response to Submissions Report

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874

Appendix E – Department's consideration of Clause 4.6 submissions

The Department has considered the proposed variations to the following clauses in the North Sydney Local Environmental Plan 2013 (NSLEP):

- Clause 4.3 – height of buildings standard
- Clause 6.4 - Miller Street setback standard

Clause 4.6(2) of the NSLEP permits the consent authority to consider a variation to a development standard of the LEP or any other EPI. The aims of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

As set out in **Section 6** of the Assessment Report, the proposal complies with Clause 6.3(3) of the NSLEP in relation to building height. This clause allows a building height greater than the standards contained in Clause 4.3, without needing to consider any variation from the standards under Clause 4.6. However, a Clause 4.6 submission has been made by the Applicant on advice from North Sydney Council as a matter of good planning practice. The Department has considered the Applicant's Clause 4.6 to Clause 4.3 notwithstanding that it is not determinative in the assessment of the application. Rather, Clause 4.6 consideration is useful in setting out assessment practice around the principles and merit assessment issues of building height.

When considering proposed variations, Clause 4.6 requires the following:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) (above), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained (although this is not required for SSD).*

The following provides an assessment of the proposed exceptions to the development standards under Clauses 4.3 and Clause 6.4 of the NSLEP, applying the tests arising from *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* (as summarised by *Gabriel Stefanidis v Randwick City Council [2017] NSWLEC 1307*) and *Bates Smart Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1001*.

Building height standard

Section 6.1 under the sub-heading "Building Height" of the Assessment Report sets out the extent of variation requested to the mapped height standard in the NSLEP. In summary, a portion of the southern edge of the proposed tower form exceeds a height standard of RL 201 at a point where the height standard steps from RL 230 to RL 201 (**Figure 1 below**).

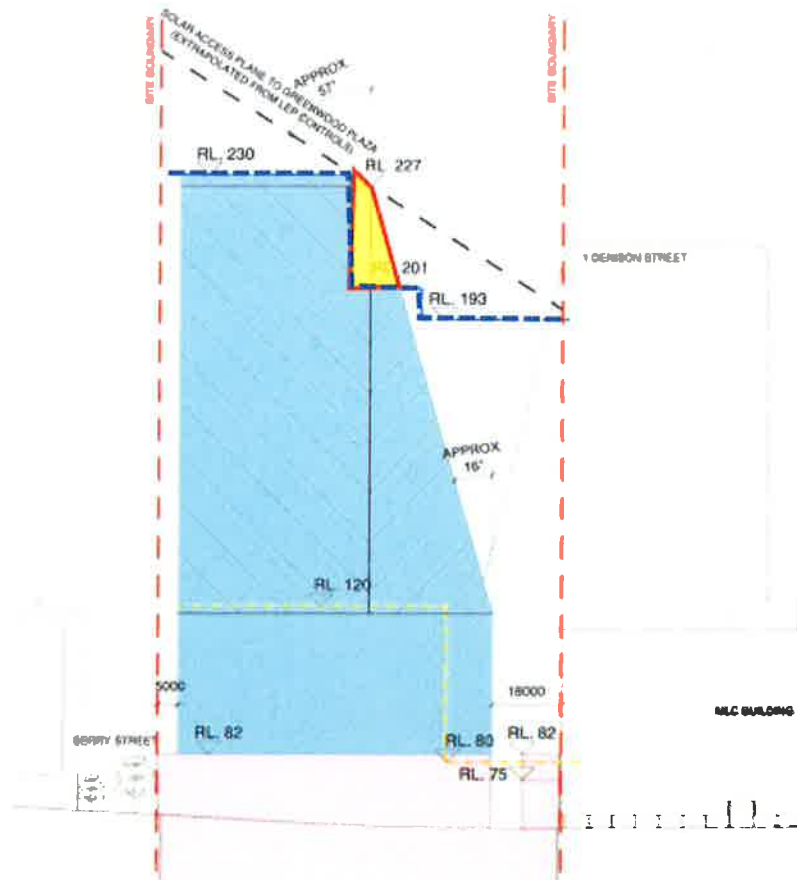


Figure 1 | West elevation showing building height standard non-compliance (source: EIS with annotation added)

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?

The Department recommends that the Minister be satisfied that the proposed development is consistent with the objectives of the B3 Commercial Core Zone within the NSLEP, as the proposed development:

- serves the needs of the local and wider community for office use, by providing an increase in commercial floor space including retail premises, business premises and office premises within the commercial core of the North Sydney Centre
- encourages employment in a highly accessible location, as it is positioned immediately above the approved Metro station and within close proximity to North Sydney Station, bus routes, taxis and active transport networks for walking and cycling
- promotes public transport use and encourages active transport use, through minimising private car parking provision on site and enabling users of the OSD to efficiently access the new Metro station and surrounding public transport and active transport options
- minimises adverse effects on residents of existing development in relation to overshadowing, privacy and visual impacts, as set out in the Assessment Report.

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?

The Department also recommends that the Minister be satisfied that the proposed development is consistent with the relevant objectives of the building height standard in the NSLEP, as the proposed development:

- responds to the existing topography of the site by positioning the greatest building height to the north of the site and stepping the lowest building height towards the south. The envelope includes a tapered built form from the high-rise element to the low-rise element at the south
- promotes the retention and sharing of existing views from the Alexander Apartments to the east by augmenting the maximum building envelope to the south of the site to minimise view loss impacts (refer Section 6.2 of the Assessment Report). The proposal, including the non-comply portion of the envelope, has acceptable view impacts
- has a height and massing that has no adverse solar access impact on land in the RE1 Public Recreation Zone and land identified as "Special Area" in the North Sydney Centre and has minimised overshadowing of land in the R2 Low Density Residential Zone to the south-east (see Section 6.3 of the Assessment Report)
- has building separation and indirect views lines to minimise privacy impacts to the adjacent Alexander Apartments building, as well as Design Guidelines that direct the architects at the detailed design phase to further consider privacy
- is compatible with existing, under construction and proposed development within the North Sydney Centre (see Section 6.1 of the Assessment Report)
- comprises an appropriate scale and density within the site in accordance with, and in promotion of, the character of the area as embodied within the development standards of the NSLEP, the aims and objectives of the North Sydney DCP and the Council's Sydney Metro Planning Study (see Section 6.1 of the Assessment Report).

3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the contravention of the development standard is included in the EIS. The Department recommends that the Minister accepts that the submitted Clause 4.6 request meet the five part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and has adequately addressed the matters required to be demonstrated under Clause 4.6(3) of the NSLEP.

The Department considers that the submitted Clause 4.6 request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, given the objectives of the standard and objectives of the zone have been achieved by the development, despite numerical variation to the standard as outlined in Points 1 and 2 above and due to the adequacy of the environmental planning grounds addressed in Point 4 below.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed?

The Department recommends that the Minister accepts that there are sufficient environmental planning grounds to justify the development's contravention of the development standard in the circumstances of the case as provided in the proponent's written request and as summarised below:

- compliance is achieved with Clause 6.3(3) of NSLEP which permits a variation to the height standard subject to specific overshadowing provisions which are satisfied in this case, rendering compliance with the height standard as being unreasonable and unnecessary

- the additional height does not result in any non-complying overshadowing to public space, the additional height has acceptable view and privacy impacts to the Alexander Apartments to the east and the additional height has no heritage impacts
- the net effect of the proposal is a building envelope with less bulk and scale compared with that of an envelope designed to the full extent of the heights permissible in the NSLEP, and therefore reduced impacts on surrounding lands.

The Department considers the Applicant's arguments above to be well founded. In supporting the above environmental planning grounds to vary the development standard, the Department considers that the development will deliver a better planning outcome for the site. In this regard, the Department notes the proposed variation to the height standard does not seek to increase the overall height or scale of the development and considers the variation facilitates a redistribution of building mass, including a tapered built form to:

- improve daylight access to the station through site link
- increase building separation to the heritage-listed MLC Building
- reduce view impacts to the Alexander Apartments to the east.

These outcomes collectively deliver an overall better planning outcome. See **Section 6.2** for further detailed discussion on view sharing.

Miller Street setback standard

Section 6.1 under the sub-heading "Miller Street Setback" of the Assessment Report sets out the extent of variation requested. In summary, the proposal provides a 6 m setback for its podium, however the proposal contains an overhang of the 6 m setback line in the form of an "articulation zone" starting at RL 118 (approximately 13 storeys above ground level). The non-compliance relates to a portion of the west elevation between RL 118 and RL 230 and the full extent of the articulation zone is not able to be used in the detailed design phase. The area of non-compliance is shown in **Figure 1** below.

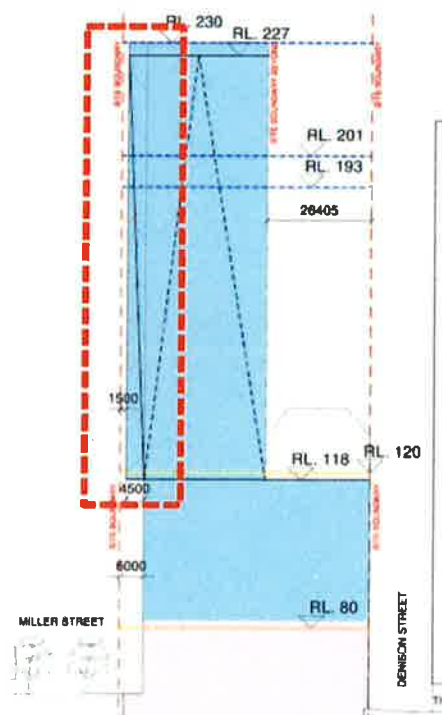


Figure 1 | Proposed Miller Street setback non-compliance highlighted in red (source: RtS)

1. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the zone?

The Department recommends that the Minister be satisfied that the proposed development is consistent with the objectives of the B3 Commercial Core Zone within the NSLEP, as the proposed development:

- serves the needs of the local and wider community for office use by providing an increase in commercial floor space including retail premises, business premises and office premises within the commercial core of the North Sydney Centre
- encourages employment in a highly accessible location as it is positioned immediately above the approved Metro station and within close proximity to North Sydney Station, bus routes, taxis and active transport networks for walking and cycling
- promotes public transport use and encourages active transport use through minimising private car parking provision on site and enabling users of the OSD to efficiently access the new Metro station and surrounding public transport and active transport options
- minimises adverse effects on residents of existing development in relation to overshadowing, privacy and visual impacts as set out in the Assessment Report

2. Is the consent authority satisfied that the proposed development will be consistent with the objectives of the standard?

The Department also recommends that the Minister be satisfied that the proposed development is consistent with the objectives of the Miller Street setback standard in the NSLEP, as the proposed development maintains the established setback and landscaped setting on the eastern side of Miller Street between McLaren and Mount Streets. The lower portions of the CSSI and OSD envelope achieve this objective.

3. Has the consent authority considered a written request that demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and they are satisfied that the matters required to be demonstrated have adequately been addressed?

The Applicant's written request seeking to justify the contravention of the development standard is included in the EIS. The Department recommends that the Minister accepts that the submitted Clause 4.6 request meet the five part tests in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and has adequately addressed the matters required to be demonstrated under Clause 4.6(3) of the NSLEP.

The Department considers that the submitted Clause 4.6 request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, given the objectives of the standard and objectives of the zone have been achieved by the development despite numerical variation to the standard as outlined in Points 1 and 2 above and due to the adequacy of the environmental planning grounds addressed in Point 4 below.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard and with the Court the matters required to be demonstrated have adequately been addressed?

The Department recommends that the Minister accepts that there are sufficient environmental planning grounds to justify the development's contravention of the development standard in the circumstances of the case, as provided in the proponent's written request and as summarised below:

- the reduced setback in the articulation zone would facilitate a creative design that would contribute to the building's design excellence. Designers at the detailed development application phase may

seek to utilise the articulation zone to create a contemporary design, contribute to the skyline and break up the scale and massing of the western elevation

- the beginning of the reduced setback corresponds with the height of the MLC Building to the south and allows the future building to include articulation elements that reference the height of the MLC Building
- the primary objective of the control is perceived to be to manage impacts at the lower levels of the building and street level rather than air space above ground. A proposal which is fully compliant with the standard for the full height would not contribute to achieving the ground plane objective of the standard
- the reduced setback will have negligible material impacts compared to a compliant scheme in terms of built form, landscaping, overshadowing, view or heritage impacts
- the intent of the articulation zone is that only a portion of the area would be occupied by built form, resulting in no significant reduction in sky views. Together with the proposed 18m setback to the southern boundary and tapered built form, the overall building envelope has greater sense of openness to the sky than a larger complying building envelope. The southern setback and tapered form of the tower are not required within the NSLEP but are included to open sky views and respect the heritage significance of the MLC Building.

The Department considers the Applicant's arguments above to be well founded. In supporting the above environmental planning reasons to vary the development standard, the Department considers that the development will deliver a better planning outcome for the site. In this regard, the Department notes:

- the purpose of the articulation zone is considered appropriate as it creates relatively greater visual interest compared to a compliant 6 m vertically extruded tower form containing a sheer wall to Miller Street
- the proposed non-compliance occurs wholly within the site boundaries and does not encroach on the public domain. It overhangs the private domain which is to be provided as publicly accessible land as part of the CSSI works. As such, the non-compliance does not have any impact on the ability of the compliant setback at the base of the envelope to perform the landscaping and activity sought by the standard. The non-compliance occurs approximately 13 storeys above ground level and does not preclude the satisfaction of the intent of the standard by the CSSI
- appropriate criteria have been included within the Design Guidelines to direct the architectural intent of the articulation zone and parameters within which the articulation zone could be pursued.

Appendix F – Department's consideration of *Tenacity* view sharing principles

The proposal affects private views from apartments to the east within the Alexander Apartments building.

The NSW Land and Environment Court in *Tenacity Consulting v Warringah Council* (2004) NSWLEC 140 established a four-step approach when considering view sharing and view loss issues with proposed development. The Department's assessment of view is structured in accordance with the Planning Principles established as follows:

- Step 1: Assessment of the views to be affected
- Step 2: Consider from which part of the property the views are obtained
- Step 3: Assess the extent of the impact
- Step 4: Assess the reasonableness of the proposal that is causing the impact.

Step 1: Assessment of views which are affected

As evident in **Figures 1 and 2** below, apartments that face due west that are at or below Level 22 of the Alexander Apartments look directly into the existing office building at 65 Berry Street to the west.



Figure 1 | View from a balcony at Level 21 towards the south-west (source: DPE)



Figure 2 | View from an apartment and balcony at Level 15 towards the west (source: DPE)

Above Level 22 within Alexander Apartments, the available westerly views (Figures 3 and 4) are to existing buildings in the foreground and gaps between towers that allow district glimpses of Waverton Peninsula, Greenwich Peninsula, water interfaces and beyond. The views are largely obstructed by office towers in the near distance including 100 Miller Street (*Northpoint*), 177 Pacific Highway (*Vodafone*), 40 Mount Street (*Coca-Cola Place*) and 8-20 Napier Street (*ACU Building*).

The westerly views do not contain any features or landmarks that may be regarded as being iconic.



Figure 3 | View from an apartment at Level 31 towards the west (source: DPE)



Figure 4 | View from an apartment at Level 33 towards to the west (source: DPE)

Based on the *Tenacity* principles, the westerly views would be regarded as not being highly valued and not in significant need of protection as the views are partial district views without iconic features.

There are also south-westerly views available across the site, above the roof level of the MLC Building and roof level of 65 Berry Street, to the land and water interface at Lavender Bay and Berrys Bay with surrounding peninsulas (**Figures 5 and 6**). These south-westerly views, as per the *Tenacity* principles are taken to be more valued. They contain partial views of land and water interface which are relatively unobscured by buildings in the foreground. There are no iconic structures or landforms to the south-west, however, views to Sydney Harbour and tributaries would be valued.



Figure 5 | View from a balcony at Level 21 to the south-west with views starting to open up (source: DPE)



Figure 6 | View from a balcony at Level 33 to the south-west (source: DPE)

Step 2: Consider from what part of the property are the views obtained

Views from the west facing apartments are obtained from the windows and balconies of the apartments, in both sitting and standing positions. The views are obtained from living rooms, dining rooms, kitchens and balconies and are regarded as more valuable than bedroom views.

The available views are across what may be regarded as the side boundary of the allotment. The construction of the Alexander Apartments has taken advantage of side elevations having exposure to views and apartments have been arranged around a central core to maximise views all around the building.

The *Tenacity* principles advise that the retention of views across side boundaries (i.e. across neighbouring properties to the side) is often unrealistic. The Department considers it unrealistic to retain these west facing views by restricting the OSD to a significant extent.

Step 3: Assess the extent of the impact

The extent of view impact is most felt for apartments which are situated above the height of the roof level of 65 Berry Street and apartments that have a west orientation only, without relief provided at a corner location.

View impacts also occur to south-west corner apartments but are limited relative to the west facing apartments.

In terms of view impact rating, the Department finds that the impact to west-facing apartments is regarded as 'moderate' having regard to the obstruction of the available views and the presence of living spaces and open space at the western elevation. The view impact is not rated as 'severe', or moreover 'devastating' as views are taken to be not highly valued as they are district glimpses between towers and obtained across a side boundary.

View impacts on south-west corner apartments are rated as being minor due to the wide arc of views available and the form of the proposed building envelope. In this regard, the envelope has been lowered and tapered at the south and south-eastern side to facilitate some view retention to south-west apartments.

The figures below are extracts from the Applicant's view impact assessment at Levels 20, 21, 25, 27, 31 and 33. The figure on the left of page is a rendering of view impact that would be experienced with a maximum

compliant building envelope under NSLEP. The figure on the right is the comparative view impact that would be experienced by the proposed envelope. The images also feature a grey building envelope showing the cumulative effect of the tower at 1 Denison Street which is currently under construction.

As is evident from the figures below, the proposed building envelope has less bulk and scale occurring within the area of the south-west views from the Alexander Apartments and those apartments facing due west have view loss under the maximum building envelope in the LEP and under the proposed development.



Figure 7 | Rendering of south-west view impact of building envelope under NSLEP at Level 20 (source: EIS)



Figure 8 | Rendering of south-west view impact of the proposal at Level 20 (source: EIS)



Figure 9 | Rendering of south-west impact of building envelope under NSLEP at Level 21 (source: RtS)



Figure 10 | Rendering of south-west view impact of the proposal at Level 21 (source: RtS)

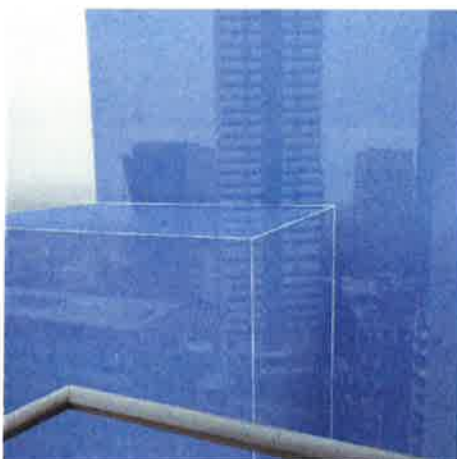


Figure 11 | Rendering of south-west impact of envelope under NSLEP at Level 25 (source: EIS)



Figure 12 | Rendering of south-west view impact of the proposal at Level 25 (source: EIS)



Figure 13 | Rendering of south-west view impact of building envelope under NSLEP at Level 27 (source: EIS)



Figure 14 | Rendering of south-west view impact of the proposal at Level 27 (source: EIS)

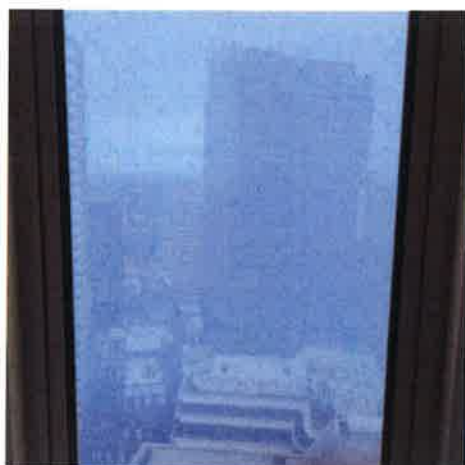


Figure 15 | Rendering of western view impact of building envelope under NSLEP at Level 31 (source: RtS)



Figure 16 | Rendering of western view impact of the proposal at Level 31 (source: RtS)



Figure 17 | Rendering of south-western view impact of building envelope under NSLEP at Level 33 (source: RtS)

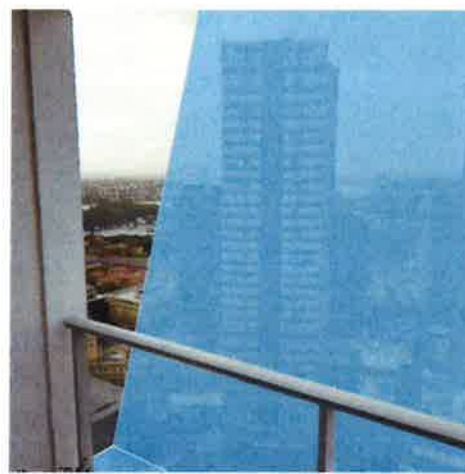


Figure 18 | Rendering of south-western view impact of the proposal at Level 33 (source: RtS)

Step 4: Assess the reasonableness of the proposal which is causing the impact

The Department has considered whether there is a more skilful design capable of delivering the same development potential with reduced view impacts on the western apartments, and consequently whether the

impact is acceptable. This analysis is contained in full in **Section 6.2** of the Assessment Report and is summarised as follows:

- the proposed building envelope is generally compliant with NSLEP and the area of the envelope which is not-compliant does not cause any view loss impact as it is above the height of the Alexander Apartments
- alternative envelope massing was considered in the Applicant's EIS and RtS. The Department notes that there are no feasible alternatives that would produce similar floorspace outcomes but have reduced view loss impacts
- the proposed building envelope is less bulky than the maximum envelope at the southern and south-eastern portions of the site specifically to minimise impacts on Alexander Apartments. The Department considers that these are key beneficial moves within the building envelope to assist in view preservation.

Appendix G – Community views for Draft Notice of Decision

Issue	Consideration
<i>Bulk, scale and density of the proposal</i> • the bulk and scale of the proposal is considered excessive above the public domain, affecting the maintenance of sky view and creating a sense of visual dominance	<i>Assessment</i> • the building envelopes proposed are in response to increased scale and density in the North Sydney Centre from recently adopted amendments to the North Sydney LEP 2013 (NSLEP) • the proposal is comparable in scale and character with other developments in the North Sydney Centre • detailed visual impact analysis concludes that the proposal will have acceptable outcomes when viewed from key public vantage points and streetscapes. <i>Conditions</i> Conditions include endorsement of Design Guidelines and a Design Excellence Strategy and requirements to address massing and modulation to reference surrounding buildings and manage bulk, scale and visual impacts.
<i>Miller Street setback</i> • the proposed 'articulation zone' cantilevers above, and does not comply, with the 6 m setback standard in the NSLEP • the building should be aligned with MLC Building to the south, creating a 12 m setback from Miller Street • a conventional built form should be adopted with the tower setback from the podium.	<i>Assessment</i> • the proposal will provide a 6 m setback to Miller Street at the ground plane and lower levels to achieve the public domain outcomes envisaged under Council's planning controls • the articulation zone was supported by the Department's assessment as it: - promotes a creative approach for future detailed design to contribute to the skyline of the North Sydney Centre along Miller Street - breaks up the scale and massing of the western elevation of the building, as supported by GANSW and the Sydney Metro Design Review Panel • recent approvals by Council and the Department for large sites in North Sydney Centre are not representative of conventional podium and tower forms. The Department did not consider the proposed building envelopes to be detractive in the built context. <i>Conditions</i> Conditions include endorsement of Design Guidelines and a Design Excellence Strategy and a requirement to modulate and express the design of the articulation zone to break up bulk and scale and minimise visual impacts. The Design Guidelines include requirements for the future detailed design to comply with overshadowing requirements, respect the height of the adjoining MLC Building, address sky views and mitigate impacts on the public domain including wind assessment.

<i>Integration with Metro station and related public domain</i> - the proposal should include additional open space, wider pedestrian links, underground connection to North Sydney Station and other improvements to the public domain - the corner of Miller Street and Berry Street should have a setback allowing for a wide public open space.	<i>Assessment</i> - the approved station is subject to a separate approval (CSSI 7400) which contains requirements for an Interchange Access Plan (IAP) and Station Design Precinct Plan (SDPP) to inform the final design of transport and access facilities, including the public domain - the Department accepts the building footprint of the OSD is structurally constrained by the approved station footprint. The Department's assessment, however, recommends the Design Guidelines be further revised to accommodate publicly accessible spaces and create active street frontages along the public domain. <i>Conditions</i> Conditions include requirements to: - revise the Design Guidelines to support pedestrian capacity, active retail uses and weather protection along Miller Street and Berry Street - revise the Design Guidelines to strengthen shared aims and objectives between the CSSI and OSD including the final integration of ground plane conditions that affect the OSD lobby and OSD retail space.
<i>Amenity impacts on public and private land</i> - overshadowing of Miller Street footpath - overshadowing of the "Miller Street Special Area" in front of the MLC Building - overshadowing of residential dwellings to the west and south-east of the North Sydney Centre - overshadowing of Alexander Apartments - view loss to Alexander Apartments.	<i>Assessment</i> - there is an 18 m southern setback and tapered form within the building envelope to mitigate impacts of the OSD by reducing overshadowing to both public and private spaces and maximise views from Alexander Apartments - there is a net gain in solar access to public open space and acceptable shadow impact to private land. <i>Conditions</i> Conditions include endorsement of Design Guidelines which require the future detailed design to comply with overshadowing requirements and minimise view and amenity impacts on the Alexander Apartments.

Appendix H - Statutory considerations

Objects of the Environmental Planning and Assessment Act

Decisions made under the EP&A Act must have regard to the objects set out in **Section 1.3** of the Act. A response to the objects is below.

Object of Section 1.3 of EP&A Act	Department's Response
a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	- the proposal promotes the social and economic welfare of the community by providing significant employment within a highly accessible site for transport and urban services, and, in doing so, contributing to the achievement of State, regional and local planning objectives - the proposal comprises development above the approved station infrastructure and does not have any impacts on the State's natural or other resources.
b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	the proposal has integrated ESD principles as discussed in Section 4.

c) to promote the orderly and economic use and development of land	the proposal represents the orderly and economic use of the land primarily as it will increase employment opportunities near services and public transport. The proposed land uses are permissible and the form of the development has regard to the planning controls that apply, the character of the locality and the context of surrounding sites.
d) to promote the delivery and maintenance of affordable housing	not applicable.
e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	the proposal, comprising commercial development above the metro station, will not have any natural environmental impacts.
f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	the Department considers that the heritage impacts of the development are acceptable, as set out in Section 6.
g) to promote good design and amenity of the built environment	the proposal demonstrates a good design approach to the relevant planning controls and local character. Amenity impacts in the locality are managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the detailed design.
h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	the application is for concept approval and does not include construction. Nevertheless, construction impacts of the concept have been taken in consideration in the assessment.
i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	the Department publicly exhibited the proposal as outlined in Section 5. This included consultation with Council and other public authorities and consideration of their responses.
j) to provide increased opportunity for community participation in environmental planning and assessment.	- the Department publicly exhibited the application which included notifying adjoining landowners, placing a notice in the local press and displaying the application on the Department's website and at the Council's office and Service NSW Centres. The Department also provided the RtS to Council and other relevant agencies and placed the RtS on its website. - the engagement activities carried out by the Department are detailed in Section 5.

Environmental Planning Instruments (EPIs)

To satisfy the requirements of Section 4.15 of the Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment of the project.

The EPIs that have been considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft State Environmental Planning Policy (Environment)
- North Sydney Local Environmental Plan 2013

State Environmental Planning Policy (State and Regional Development) 2011

The development is State Significant Development under Clause 19 of Schedule 2 of SEPP. The Minister for Planning is the consent authority for the application.

State Environmental Planning Policy (Infrastructure) 2007

The application was referred to Transport for NSW subject to the requirements of Clause 86 of the SEPP. However, no response was received within the requisite time.

State Environmental Planning Policy No. 55 – Remediation of Land

The proposed development will not affect soils on the land as the OSD occurs above the approved CSSI station box. The CSSI approval covers all demolition and excavation works on the site. Accordingly, SEPP 55 is satisfied and the proposal is suitable for the site.

State Environmental Planning Policy 64 – Advertising and Signage

The application includes conceptual signage zones at this stage. They comprise four signage zones where two are at the top of the tower for building name and two are around the OSD lobby and OSD retail for tenant identification. The EIS advises that these signage zones are indicative and that specific signage within the zones including their design and materials would be proposed and refined in a future application.

The Department has considered the proposed signage zones and finds that:

- it is not clear at this stage whether the proposed signage zones will be compatible with the CSSI Sydney Metro Wayfinding Strategy and further work on ensuring the two purposes of the signage are harmoniously integrated is necessary
- the signage zones are shown on the indicative OSD design which is specific for a concept application seeking to establish a building envelope. For example, the detailed design of the OSD in future applications may not approach the design of the podium or tower in the same or similar manner as the indicative OSD design which seeks to set the signage zones.
- signage design including its position, size and materials is best integrated into the detailed design phase of the OSD where the architecture of the building directs suitable signage placement and visual impact
- the Design Guidelines lodged with the application already include the following which is an appropriate approach:

A signage strategy should be prepared for the Over Station Development, providing the location, dimension, illumination and types of signage proposed on the building. The signage strategy should

ensure signage is of high quality, integrated with the overall building design, and compatible with, whilst not detracting from the broader Sydney Metro Wayfinding Strategy.

The Department considers it appropriate that assessment of proposed signage be carried out at the detailed development application(s) phase. The Department acknowledges that signage is part-and-parcel of, and not inconsistent with, a concept proposal. However, signage is to be assessed having regard to further information at the detailed design phase including a Signage Strategy. The recommended conditions address this.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The land is within the mapping of the Sydney Harbour Catchment REP. However, the only relevant matters for consideration are scenic quality and views to and from the Harbour. In response to these matters, the Department notes that the proposal is generally compliant with the envisaged scale, form and siting of the building envelope under the NSLEP and has no adverse impact on the maintenance or protection of views to and from the Harbour from public places, landmarks or heritage items. View impacts from key public vantage points and streetscapes are considered in detail in **Section 6.2** of the Assessment Report.

Draft State Environmental Planning Policy (Environment) (draft SEPP Environment)

Draft SEPP Environment proposes to consolidate seven existing SEPPs and SREPs including SREP (Sydney Harbour Catchment) 2005.

The proposal is consistent with the intended effect and provisions of the draft SEPP as there are no proposed changes to the content of SREP (Sydney Harbour Catchment) 2005 relating to the application.

North Sydney Local Environmental Plan 2013 (NSLEP)

An assessment of the proposal against the aims, objectives, standards and relevant provisions of NSLEP is set out in the table below.

NSLEP Clause	Relevant controls / criteria	Department's Assessment
1.2 – Aims of the Plan	The Plan aims to: • promote development that is appropriate to its context and enhances the amenity of the North Sydney community and environment • ensure development is compatible with desired future character of an area in terms of blurb, scale and appearance • maintain a diversity of employment, services, cultural and recreational activities • ensure non-residential development does not have adverse effects on amenity of residential properties and public spaces • ensure that development does not adversely affect heritage items.	The proposal is in keeping with the aims of the Plan in that the land use is compatible with the desire to ensure North Sydney CBD has high employment generating uses and compliance is generally achieved with standards governing bulk and scale, protection of solar access to public space and residential properties.
2.3 – Land use zoning	The site is within the B3 Commercial Core Zone. The objectives of the B3 Zone include the following relevant objectives: • to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community	The proposal is permissible with consent and consistent with the objectives of the zone.

	• encourage appropriate employment opportunities in accessible locations • minimise the adverse effects of development on residents and occupiers of existing and new development.	
4.3 – Height of buildings	The height of a building is not to exceed the maximum height shown on the <i>Height of Buildings Map</i>. In this case, the map identifies four height standards for the site as follows • RL 230 at the northern end of the site • RL 201 in the centre of the site • RL 193 at the south-west corner • RL 135 at the south-east corner.	The proposal complies with the maximum height standards applying to the site except for a minor proposed variation in relation to the central portion of the building envelope where RL 201 applies. This is addressed in the Issues section of the report. The proposed building heights towards the south of the site are significantly below the LEP height standards to reduce bulk and scale toward the heritage-listed MLC Building, maintain views to Alexander Apartments to the east and reduce scale at the proposed east-west through site link as part of the CSSI works.
4.6 – Exceptions to development standards	Consent must not be granted for development which contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the non-compliance. Consent must not be granted unless the consent authority is satisfied that the applicant's request has adequately address the matters required and the proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.	The proposal is not compliant with the maximum height of buildings standard and the Miller Street setback standard. The Applicant has provided a written request seeking to justify the non-compliance. The Department has assessed the Applicant's request (Appendix E) and acknowledges that it adequately addresses the matters required under Clause 4.6 and that the proposal is in the public interest as it is consistent with the zone objectives and the objectives of the height and setback standards.
5.6 – Architectural roof features	Development consent can be granted to development that includes an architectural roof feature.	The proposed building envelope does not include any allowance for architectural roof features. Although the indicative design includes architectural roof features, the recommended conditions include a stipulation that no such features are approved.

5.10 – Heritage conservation

The consent authority must consider the effect of the proposed development on the heritage significance of a heritage item or conservation area.

The consent authority may require a heritage assessment before granting consent to any development on land that is within the vicinity of a heritage item or conservation area.

The site does not contain any heritage items. However, the site is near listed items including the MLC Building, the Rag and Famish Hotel and the Monte Saint Angelo School Group. A Heritage Impact Assessment has been lodged and the Department has considered this assessment and the views of the NSW Heritage Council in its assessment of the application.

6.3 – North Sydney Centre – Building heights and massing

In relation to building height and massing, consent must not be granted if the development would increase overshadowing to land within the RE1 Public Recreation Zone or land identified as "Special Area" in the *North Sydney Centre Map*.

In this case the relevant land is the Miller Street setback area, Brett Whiteley Place and public areas in the Greenwood Plaza site.

Development may exceed the *Height of Buildings Map* if the consent authority is satisfied that any increase in overshadowing between 9am and 3pm will not result in any dwelling outside the North Sydney Centre receiving less than 2 hours sunlight to any habitable room window or principle private open space, or if a dwelling's window or open space currently receives less than 2 hours sunlight, is not reduced further.

The consent authority must consider the following when determining whether to grant consent for development in the North Sydney Centre:

- likely impact on the scale, form and massing of the locality, the natural environment and neighbouring development and, in particular, the lower scale development adjoining North Sydney Centre
- whether the proposal preserves significant view lines and vistas
- whether the proposed development enhances the streetscape in relation to scale, materials and external treatments.

The proposal has no net overshadowing impact on land in the RE1 zone or a "Special Area".

The proposal has a compliant overshadowing outcome on dwellings outside the North Sydney Centre.

The matters for consideration in relation to built form, preservation of views and streetscape enhancement have been considered through-out this assessment and are satisfied.

6.4 – North Sydney Centre – Miller Street setback

Consent must not be granted on land within the "Miller Street setback" unless the building will have a height less than 1.5m and that part of the building will only be used for access to the building or landscaping purposes.

The proposal does not comply with this standard and the Applicant has provided a written request seeking to justify the non-compliance.

The Department has assessed the Applicant's request (**Appendix E**) and acknowledges it addresses the matters required under Clause 4.6 and that the proposal is in the public interest as it is consistent with the zone objectives and the objectives of the setback standard.

6.15 – Airspace Operations

The consent authority must consult with the relevant Commonwealth body for any application which penetrates the Limitation or Operations Surface (OLS).

The consent authority may grant consent for the development if the relevant Commonwealth body advises that it has no objections to its construction.

The proposal penetrates the OLS for Sydney Airport. Approval has been granted by the Commonwealth Department of Infrastructure, Regional Development and Cities for the maximum height of the building envelope up to RL 230. Relevant conditions of the approval have been included in the recommended conditions.

North Sydney Development Control Plan (NSDCP) 2013

It is noted that Clause 11 of State Environmental Planning Policy (State & Regional Development) 2011 provides that development control plans do not apply to SSD. Notwithstanding this, consideration of relevant controls under the NSDCP is provided in the table below.

NSDCP Section	Relevant controls / criteria	Department's Assessment
Part B (Development Controls) Section 2 – Commercial and Mixed Use Development		
s.2.1.1 – General Objectives	A series of 18 general objectives are specified including how development aligns with strategic planning guidance, relates to the site and surrounds and deals with impacts on amenity within the site and surrounding sites.	The proposal complies with the objectives for commercial and mixed use development.
s.2.2 – Function	The size of spaces within a building should reflect the sites location in the commercial centre hierarchy. Large floor plates should be provided in higher order centres. There are also provisions relating to diversity and activation in ground level uses and enhancing the public domain. Development should maximise use of public transport.	The proposal includes large floor plates as desired due to the site's location in the commercial core of the CBD and above the station. The approved CSSI includes the design and construction of the station footprint below the OSD. The recommended conditions require an update to the Design Guidelines to give direction to future architects of the detailed design in regards to integrating the OSD with the CSSI.
s.2.3 – Environmental criteria	Various objectives and provisions apply in relation to environmental protection and amenity including air quality, noise and vibration, wind impacts, pedestrian comfort, solar access, views and visual privacy.	The concept design, EIS and RtS have considered the relevant environmental context. The Department is satisfied that adequate measures are incorporated into the project and within the recommended conditions to minimise and manage environmental impacts.

s.2.4 – Quality built form	Building design should respond to the context of the site and relevant character area statement in Part C including built form (i.e. podium and tower form) and setbacks. In relation to setbacks, development must consider the setbacks of adjacent buildings and heritage items.	Refer to Part C assessment below in relation to the character area statement. Section 6.1 of this report includes a detailed assessment of the building setbacks and concludes the proposal is considered suitable.
s.2.5 – Quality urban environment	The DCP sets out numerous controls in relation to ground conditions including access, safety and security, vehicle access, servicing and the like.	The approved CSSI includes the design and construction of the station footprint and public domain below the OSD. The recommended conditions require an update to the OSD Design Guidelines to give direction to future architects of the detailed design in regards to integrating the OSD with the CSSI.
s.2.6 – Efficient use of resources	The DCP specifies performance targets for energy efficiency, passive solar design, ventilation, thermal mass, water conservation, stormwater and waste.	The Department is satisfied by the targets established for the project in the Ecologically Sustainable Development Report lodged.
s.2.7 – Public domain	The DCP provides guidance on the design of public domain works, public art and encouragement of native vegetation and water.	The approved CSSI includes the design and construction of the station footprint and public domain below the OSD. The recommended conditions require an update to the OSD Design Guidelines to give direction to future architects of the detailed design in regard to integrating the OSD with the CSSI.
Part B – Section 9 – Advertising and signage	Various objectives and provisions in relation to the location, design and impacts of signage are set out.	The Department notes that indicative signage zones have been included for consent in the application and that further detail would be provided in detailed development application(s). This assessment recommends that signage be incorporated into the detailed design phase where it can be integrated with the architectural expression.
Part B – Section 10 – Car parking and transport and Section 11 – Traffic guidelines for development	The DCP prescribes the Council’s detailed requirements for car parking quantum, loading and unloading, accesses, bike parking, travel planning and construction traffic management.	The Department’s independent traffic assessor has reviewed car parking and transport issues, including compliance with the DCP, and finds the assessment satisfactory.

Part B – Section 12 – Access	The DCP sets out the Council's detailed requirements for disabled access to and within development.	The approved CSSI includes the design and construction of the station footprint and surrounding public domain below the OSD. This includes OSD lobby and OSD retail spaces.
Part B – Section 13 – Heritage and conservation	The DCP sets out requirements for a heritage impact assessment and the Council's detailed requirements for development in the vicinity of heritage item. In this case, the MLC Building, Rag and Famish Hotel and Mont Saint Angelo Group are listed heritage items.	The Department and the NSW Heritage Council are satisfied that the proposal will have acceptable heritage impacts in the locality. The detailed design phase will need to further consider the relation of the resolved building with the surrounding heritage items.
Part B – Sections 17 to 21 – Erosion, stormwater, waste, services and telecommunications management	The DCP specifies detailed controls apply to construction works such as Council's expectations for stormwater quality and engineering works.	As the application is for a concept and does not include construction at this stage, the detailed requirements of the DCP are not applicable and would be relevant to the detailed design phase.
Part C (Character Statements) – Section 2 – North Sydney Planning Area		
s.2.1.1 – Significant elements	The DCP seeks development that: - is predominantly high-rise commercial in the centre of the CBD - respects key icons and places which give identity, in this case the MLC Building, Brett Whiteley Place and Greenwood Plaza. - takes advantage of accessibility provided by existing and planning public transport.	The Department is satisfied that the concept achieves the outcomes sought in this section of the DCP.
s.2.1.2 – Desired future character	The DCP seeks the following relevant matters: - high rise commercial developments - a variety of different sized office, retail, community and entertainment spaces, - a variety of outdoor and indoor community spaces - development above Victoria Cross metro station to provide significant commercial floorspace, as well as retail, dining and community uses that contribute to the amenity and vitality of the CBD - various public domain outcomes and interventions under Council control such as Miller Street being the civic heart of the CBD and assisting key streets to be more vibrant	The Department is satisfied that the EIS and RtS address these DCP provisions. In particular, the concept design provides significant commercial floorspace and opportunities for non-office uses in retail and other land uses. The ground plane of the site is subject to the CSSI approval. However, the OSD design is consistent with the DCP provisions in relation to active frontage, use of public and active

	• active frontage at the Victoria Cross metro site • new development focusses on use of public transport, walking and cycling • loading and unloading to be underground where possible.	transport and the location of loading and unloading facilities.
s.2.1.3 – Desired built form	P1 – development sites should enable creation of large high quality floor plates which reinforce the CBD’s role as a global city. P3 – buildings should be carefully designed to minimise the impact of their height and bulk on surrounding residential areas. In relation to setbacks: P6 generally - zero setback control applies at ground floor level along Berry Street and Denison Street P6(a) - 6m setback standard applies in NSLEP to Miller Street P7 - setbacks are to conserve views to, and the setbacks and settings of heritage items – in this case the MLC Building. P9 – a maximum podium of 5 storeys to all streets with a weighted setback of 5m above the podium.	The concept allows for large, flexible floorplates at the low-rise, mid-rise and high-rise portions of the envelope to cater for A-grade office and business premises. The Department is satisfied that the concept design has been set out to minimise impacts associated with bulk, scale, overshadowing, view impact and privacy impacts to surrounding residential properties. Design Guidelines have also been prepared to further guide the detailed design phase in regard to minimising impacts. The Denison Street setbacks are consistent with the DCP at podium and tower locations, whilst noting that the podium (i.e. station box at the base of the OSD) is subject to the CSSI approval. The concept does not comply with the 6m setback for the full height of the envelope along Miller Street. This non-compliance is addressed in Section 6.1 of this report. The Department concludes the setback non-compliance is acceptable and does not frustrate the achievement of the aims and objectives of NSLEP and NSDCP. The concept design to Miller Street does not have a podium and tower form. This matter is addressed in Section 6.1 of this report and the Department finds that the proposed form of the building is acceptable.

P10 – podium heights should match or provide a transition in height between immediately adjacent buildings.

The Department is satisfied that height datum within the CSSI station box and OSD concept relates to the adjacent height datum of the MLC Building to the south and Rag and Famish Hotel to the north.

P11 – podium heights should match the height of adjacent heritage items.

The concept includes height datum reference to the MLC Building. The indicative design submitted shows one possible alternative through the use of the proposed articulation zone at RL 118 corresponding with the roof level of the MLC Building.

Appendix I – Recommended instrument of consent/approval

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8874