

Figure 16: Aerial photograph showing setbacks to the eastern side of the Pacific Highway (source: NSW LPMA).



Figure 15: Pedestrian perspective looking south along the Pacific Highway toward the CBD.

5.4. Public Domain/ Public Benefit

Berry Street Special Area

In addition to the public benefit offered in terms of the creation of the publicly accessible garden plaza, the Proponent's PPR indicates that the development will provide 'the creation of the Berry Street special area along the site's frontage'.

The LEP 2001 North Sydney Centre controls nominate the southern side of Berry Street between the highway and Miller Street as a future special area (see Composite Shadow Diagram at Figure 7, above). Unlike Miller Street and the Don Bank Museum, little of the Berry Street Special Area has actually been developed.

In light of the scale of the proposed development, and the Proponent's position that the public benefits associated with the new Berry Street special area will in part offset the impact of the development on other special areas, it is reasonable and appropriate that the embellishment of the Berry Street special area extend beyond the frontage of the site (which is approximately 40 metres wide).

A modification to the concept plan is recommended to be imposed which requires the Berry Street Special Area to be constructed to the corner with Miller Street in this regard. The additional area of streetscape upgrade would be approximately 70 metres, resulting in a total area to be upgraded of 110 metres (which would complete the Berry Street Special Area).

Proposed 'Garden Plaza'

The plaza has been designed to achieve a 'reverse podium' effect to Berry Street and the Pacific Highway. The reverse podium comprises a 4-5 storey high open void extending from ground level to the underside of the lowest habitable floor level and is to be used as a public plaza protected from the elements. This is in contrast to a traditional podium, which would have a single storey lobby area at ground floor.

The design of the space has considerable merit, balancing good solar access with weather protection and providing a generous volume, at the northern end of the CBD where there is limited public space. The internal space is proposed to be a 'garden plaza' for public use and separate commercial lobby.

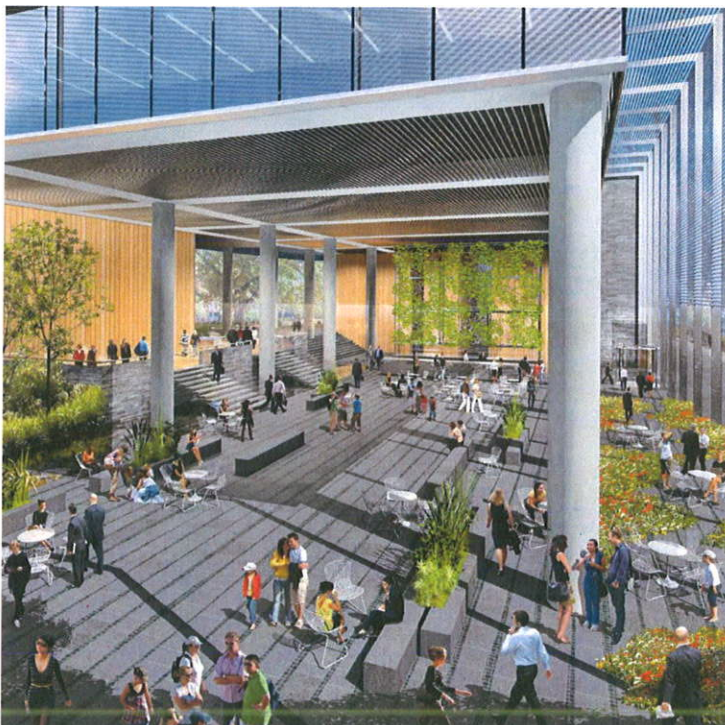


Figure 17: Indicative montage of the garden plaza (source: EA).

Although the proposal has merit in terms of offering an all-weather alternative to the outdoor Special Areas, it is noted that the outdoor areas are accessible outside of weekday business hours, whilst the garden plaza would only be accessible between 7:00am and 7:00pm weekdays, with a public easement or similar right of access created over the space.

The plaza has the potential to make a substantial contribution to street activation within the CBD, a public benefit which should not necessarily be restricted to weekdays. The North Sydney CBD is still active on weekends. In this instance, where a degree of public amenity is proposed to be 'substituted' by a plaza on private land, some provision should be made for residents and weekend workers to enjoy the public benefits being offered.

In this regard, it is recommended that a future assessment requirement be included that requires the Proponent to give consideration to the opening of the plaza outside of the proposed range of opening hours to further activate this space.

In terms of the street interface, detailed consideration should be given to the provision of disabled access and awnings. It is also recommended that a future assessment requirement be included in respect of the issues associated with the street interface of the building.

Pacific Highway Pedestrian Access

The development will generate a significant amount of pedestrian traffic in terms of workers travelling from North Sydney Railway Station and the bus terminals in the CBD. The route likely to experience the greatest volume of new pedestrian traffic is along the eastern side of the Pacific Highway, past Northpoint to the site.

There are two substantial loading dock entries located on this route at the base of the North Point building which disrupt pedestrian traffic flows. Given the large number of new workers likely to be accommodated on the site under the proposal, this presents a significant accessibility problem. The Proponent has not considered an alternative travel scheme nor proposed to upgrade the footway access as part of the development.

It is recommended that a future assessment requirement be included which requires the Proponent to consider options for a footway upgrade or an alternative travel plan for the development in this location.

Berry Street frontage

An Energy Australia substation is situated on the Berry Street frontage of the site. Inspection of the site survey indicates that the Berry Street boundary is cut-in around the (relatively small) substation. The substation would intrude upon the planned delivery of the Berry Street Special Area.

It is considered that a development of the scale proposed should make provision for the removal of this substation from the street, particularly in light of the planned Berry Street special area as described in the section above.

It is recommended that a future assessment requirement be included which requires the Proponent to investigate the relocation of the substation.

5.5. Other Issues

Traffic Issues

The RTA recommended that the Proponent investigate relocating the driveway access to the building onto the Pacific Highway, to avoid vehicles 'weaving' on Berry Street (as they access the site from the north). The Proponent has assessed this option and found it to be undesirable, with the original driveway location maintained in the PPR.

The access from Berry Street is considered acceptable as:

- a driveway on the Pacific Highway would necessitate an awkward circumnavigation of the North Sydney CBD for vehicles accessing the site from the south;
- Berry Street is one-way eastbound, so to access the highway entry from the south, vehicles would have to travel around the eastern edge of the CBD, return to the highway at the Crows Nest side of North Sydney, and then travel southbound to the site; and
- the proposed location is considered the more reasonable location in terms of convenient access to the site from both directions.

The RTA also recommended that the driveway width be increased to comply with AS2890.1-2004, which would require dual, separated 6m wide driveways for entry and exit. The PPR includes a Traffic Report which indicates that the driveway represents only a minor variation to the Australian standard and will not have a significant impact on traffic movements.

Council's formal submission did not raise any issues in relation to Traffic. Council's Traffic Engineer and Planner were satisfied that the proposed car parking levels were appropriate and compliant with relevant controls.

In urban design terms, a wider driveway is not desirable, particularly given the proposed realisation of the Berry Street Special Area. In any case, the issue is relatively minor and does not warrant a modification to the Concept Plan proposal. The issue can be resolved at the stage of a future detailed application.

Contributions

Council's submission estimated Section 94 contributions payable to be in the order of \$4 million, which has not been disputed by the Proponent. This amount includes a 'credit' for the floor space extant on the site. In any case, contributions will be levied against a future Project Application for the development. It is also noted that the development will be subject to the Railway Contribution Deed, which will require the payment of approx. \$3.4 million to the North Sydney station upgrade project.

Public Interest

It is considered the proposal is in the public interest as it will:

- make a significant contribution to the achievement of a number of the Metropolitan Plan and Draft Inner North Subregional Strategy targets, including the provision of large-scale commercial development within the strategic centre of 'global Sydney', which will provide increased employment and high-grade commercial floor space;
- contribute more than 44,000m² of additional non-residential floor area to the North Sydney Centre target of 250,000m² additional non-residential floor space;
- increase local employment opportunities throughout the construction and operational phases of the development;
- make use of existing public transport infrastructure;
- achieve 5-star NABERS and Green Star energy efficiency;
- result in the creation of a publicly accessible garden plaza and contribute public domain upgrades including to the planned Berry Street special area.

6. RECOMMENDATION

The Department has assessed the Environmental Assessment Report (EA) and Preferred Project Report (PPR) and considered the submissions in response to the proposal. The key issues raised in submissions relate to the overshadowing, built form, streetscape, public domain and public benefits.

The Department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the Environmental Assessment Report, Statement of Commitments, Preferred Project Report and the Department's recommended modifications, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, the Department is satisfied that the site is suitable for the proposed development and that the project will provide environmental, social and economic benefits to the region.

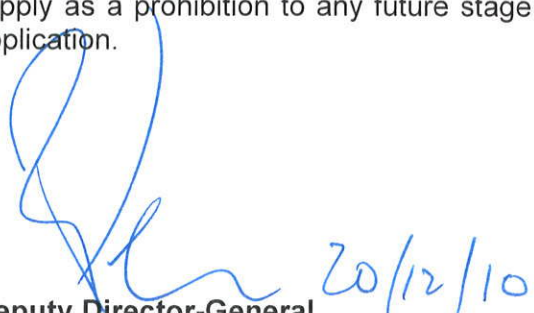
The Department recommends that the Concept Plan be approved, subject to the modifications and future assessment requirements set out in the attached instrument.

It also is recommended that subsequent project applications under this Concept Plan are determined by North Sydney Council under Part 4 of the *Environmental Planning & Assessment Act 1979*.

To facilitate the orderly development of the proposal at detailed application stage, it is recommended that the Minister make a Direction pursuant to Section 75P(2)(c1) of the *Environmental Planning and Assessment Act 1979*, that the provisions of Clause 14 of the North Sydney Local Environmental Plan 2001 (insofar as it relates to Clauses 28B(o), 28B(p), and 28D(1)(b), (c) and (d) of the LEP) and Clauses 28D(2)(b) and (c) of the North Sydney Local Environmental Plan 2001 do not apply as a prohibition to any future stage of the project the subject of a Part 4 development application.



**Director
Metropolitan Projects**



**Deputy Director-General
Development Assessment & Systems
Performance**

APPENDIX A STATUTORY ASSESSMENT

Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act 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:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration** - The proposal will have the positive economic effect of attracting significant investment in global Sydney and locating new high-grade commercial floor space within an established CBD. Increased local employment opportunities with good access to public transport are considered to be positive outcomes of the proposal. The proposal will have positive environmental effects in terms of locating employment opportunities close to public transport and providing minimal parking, and also by designing for a high level of energy efficiency. The environmental impacts of the proposal in terms of overshadowing can be appropriately mitigated as discussed in this report and, on balance, it is considered that the overall effect of the proposal will be positive.
- **Precautionary Principle** – The application is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. Mitigation measures are outlined in the proponent's Statement of Commitments and/or the recommended conditions of approval. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The site's redevelopment for commercial use, incorporating ecologically sustainable design principles and implementation of environmental management practices to be employed during construction of the new development, will ensure that the environment is protected for future generations. The location of a significant amount of new commercial floor space within an established CBD and with excellent access to public transport
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. The proposal is confined to the redevelopment of a site already completely occupied by commercial buildings within the North Sydney CBD and, as such, will not impact upon biological diversity or ecological integrity.
- **Valuation Principle** – The valuation principle is more appropriately applied to strategic planning decisions and not at the scale of an application for a single building. The principle is not considered to be relevant to this particular Concept Plan application.

The Proponent is committed to ESD principles and has reinforced this through the Statement of Commitments and the Environmental Assessment which explores key ESD opportunities, including but not limited to a black water treatment plant, use of high performance glazing with external shading, use of energy efficient air-conditioning system, energy and water sub metering, a high proportion of employees utilising public transport to and from work, the commercial tower will be a 5-star Green Star rating and 5-star NABERS office Energy rating building. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

Section 75I(2) of the Act/ Clause 8B of Regulations

Section 75I(2) of the Environmental Planning and Assessment Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director general's Report is to address a number of requirements. These matters and the Department's response are set out below:

<i>Section 75I(2) criteria</i>	<i>Response</i>
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA and response to submissions (PPR) are located at Appendices C and D to this report.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 4 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified below, including an assessment of proposal against the relevant provisions of the SEPP.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate	The environmental assessment of the project application is this report in its entirety.
A statement of compliance with the environmental assessment requirements under this Division with respect to the project.	In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.
<i>Clause 8B criteria</i>	<i>Response</i>
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Sections 5 and 6 of this report.
The suitability of the site for the project	The site is a large, relatively unconstrained and underutilised piece of land within an established CBD, with good access to transport, and is considered to be well suited to the proposed commercial building.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 4 of this report and the Proponent's response appears at in Appendices D and G .

State Environmental Planning Policy 55 – Contaminated Land

A Phase 1 Environmental Site Assessment was undertaken by Hyder in respect of the proposed development. The report concludes that the risk of contamination at the site is low, in light of the generally passive nature of current and previous land uses on the site. The report recommends that detailed contamination testing be undertaken as part of any subsequent project application and prior to the commencement of any works. Based on these recommendations it is considered that the site can be made suitable for the proposed development, subject to appropriate future assessment requirements being imposed.

State Environmental Planning Policy (Infrastructure)

The site has access to a classified road (the Pacific Highway) and more than 2,500m² of commercial floor space is proposed. In accordance with Clause 104 and Schedule 3 of the Infrastructure SEPP, the proposal was referred to the RTA as 'Traffic Generating Development'. The RTA made a number of relatively standard recommendations in addition to the recommendation that the Proponent consider relocating the vehicular access to the site from Berry Street to the Pacific Highway.

The Proponent has considered this option as requested but has elected not to relocate the driveway. As discussed in Section 5.4 above, the retention of the existing site access on Berry Street is justified by the applicant and is considered acceptable.

North Sydney Local Environmental Plan (LEP) 2001

The provisions of North Sydney LEP 2001 apply to the site. The LEP contains controls specific to the North Sydney CBD, including controls which encourage site amalgamation and larger-scale development; controls which encourage larger floor plates; and a 'composite shadow diagram' which aims to minimise overshadowing cast by the overall building mass of the CBD onto peripheral areas. The proposed development is predominantly compliant with the controls set out in the LEP, apart from the overshadowing criteria. The extent of overshadowing impacts, and proposed measures to address this issue are discussed in detail in **Section 5.1** of this report.

The North Sydney DCP 2002 contains specific controls for commercial development and a 'character statement' with specific objectives for the North Sydney Centre. These include detailed requirements for design quality, environmental performance, public domain accessibility and car parking.

NORTH SYDNEY DEVELOPMENT CONTROLS

	Permissible	Proposed	Compliance
North Sydney Local Environmental Plan 2001			
Permissibility: <i>"Commercial" Zone</i>	Commercial premises, shops	Commercial tower, 100m ² café on ground floor	Yes
Height	Must not exceed RL195 metres	Maximum RL195 metres	Yes
Site area	At least 1000m ²	2415m ²	Yes
Floor plate	At least 1000m ²	1340 - 1660m ²	Yes
Overshadowing	No more than 15min increase 10am-midday and no net increase between midday-2pm to special areas within CBD;	Up to 46mins new shadow to Miller St special area (from ~1:15pm on Spring equinox) and up to 39 mins new shadow to Don Bank Museum (from 10am-10:39am on Autumn equinox)	No
	and		No
	No new shadows outside of 'composite shadow diagram' between 9am-3pm on 21 June.	New shadow outside of composite area between 9am-10am.	No

North Sydney Development Control Plan 2002 (Sect. 20 – Commercial Development)			
Function	Diverse uses including high-grade commercial and public domain which improves social conditions; Maximum use of public transport	Commercial tower with publicly accessible garden plaza; ~450m to North Sydney station	Yes
Environmental Criteria	Air, wind, noise, reflectivity & light spill, water impacts minimised	Addressed by design or to be addressed at project stage	Yes
	Solar Access to special areas maintained as per LEP	Overshadowing to special areas exceeds LEP control	No
	Views identified in DCP character statement protected	Views in statement not significantly affected	Yes
Quality Built Form	Layout and building design to respond to context	Cut-in sections to reduce shadows	Yes
	Building contributes internal and external public spaces as part of public domain, provides active street frontage	Garden Plaza and streetscape upgrade	Yes
	Design articulation to improve skyline and minimise visual impact of plant	PPR revised profile of building, which can be further refined at project application stage	Yes
	Built form reinforces junction and termination of streets	Built form emphasises street corner and improves southward highway vista	Yes
	Setbacks comply with character statement (5m weighted average above podium to Berry St and Pacific Highway)	Compliant to Berry Street; complies above podium to level 10, then nil setback to Pacific Highway	Partially complies
	Podium max. 5 storeys	4 storeys (ground floor double-volume)	Yes
Quality Urban Environment	Car parking not to exceed DCP maximum of 112 (@ 1 space per 400m ² of GFA)	112 spaces proposed (plus service vehicle and bike parking)	Yes
	Accessibility, safety and servicing provisions are addressed	Addressed or can be resolved at project application stage	Yes
Efficient Use &	Minimum 4.5 star energy	Commitment to 5 star	Yes

Management of Resources	efficiency rating; low embodied energy materials. Stormwater and waste managed in accordance with Council requirements	rating and low embodied energy materials. Can be addressed at project application stage	Yes
Public Domain	Reinforces requirements above	As above	Yes

Draft North Sydney Local Environmental Plan 2009

The draft comprehensive North Sydney LEP 2009 is yet to be exhibited. The draft LEP maintains or reinforces many of the current LEP provisions in respect of the North Sydney Centre, but contains a number of key revisions which directly affect the site. These include reduced height controls for the site (ostensibly to align the permissible building envelope with the composite shadow diagram), a reduction in the 'critical' time range for measuring overshadowing impact within the CBD from 10:00am – 2:00pm to midday – 2:00pm and also the deletion of the 15 minute 'leeway' in the overshadowing controls. A revised section 65 certificate was issued on 1 October 2010, but does not directly affect the site.

DRAFT LEP CONTROLS

Permissibility: <i>"Commercial" Zone</i>	Commercial premises, shops	Commercial tower, 100m ² café on ground floor	Yes
Building Height	RL80 metres (northern portion of site on Berry St) RL190 metres (southern portion)	Maximum RL195 metres	No No
Site area	Minimum 1000m ²	2415m ²	Yes
Overshadowing (15min variation removed)	No net increase in overshadowing to special areas within centre between midday and 2pm No net increase between 10am-2pm to Don Bank Museum	Up to 46mins new shadow to Miller St special area (from 1:15pm on Spring equinox); Up to 39 mins new shadow to Don Bank Museum (from 10am-10:39am on Autumn equinox)	No No

APPENDIX B DIRECTOR GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3741

APPENDIX C ENVIRONMENTAL ASSESSMENT

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3741

APPENDIX D SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3741

APPENDIX E PROPONENT'S RESPONSE TO SUBMISSIONS/ PPR

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3741
