

21 December 2018

Marcus Ray
Deputy Secretary - Planning Services
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Architecture
Urban Design
Planning
Interior Architecture

RE: 41 McLaren Street, North Sydney - Gateway Review for Planning Proposal

Dear Marcus,

I write in response to your letter dated 6 December 2018 in relation to the review of the Gateway determination for the Planning Proposal for land at 41 McLaren Street, North Sydney. Architectus, on behalf of the owners of the land, Erolcene Pty Ltd and Claijade Pty Ltd, welcome the opportunity to provide comments in relation to the Gateway Review. This letter is intended as a preliminary response, identifying and responding to the key issues which have been raised by North Sydney Council ('Council'). Further consideration and discussion will be provided in a supplementary submission. The following matters are considered to be the key matters needing to be addressed in the Gateway Review from Council's perspective:

Architectus Sydney
Level 18, MLC Centre
19 Martin Place
Sydney NSW 2000 Australia
T +61 2 8252 8400
F +61 2 8252 8600
sydney@architectus.com.au
www.architectus.com.au

- Heritage considerations
- Impact on views from adjacent residential buildings
- Loss of employment floor space in the North Sydney Centre
- Overshadowing of the public domain
- Overshadowing of adjacent buildings
- Relationship with the Draft Stage 2 Ward Street Precinct Masterplan (WSPM)
- Consideration of these issues by both the Sydney North Planning Panel in the Rezoning Review and by the Department of Planning and Environment in issuing a Gateway determination.

Adelaide
Auckland
Brisbane
Melbourne
Shanghai
Sydney

An overview of each of these items is provided below. Additional information will be provided at a later date as part of a supplementary submission.

Heritage Considerations

Council have raised concerns about the impact of the proposed development on the heritage value of the existing building on the site, Simsmetal House, which was designed in 1971 by the prominent Sydney architect Harry Seidler.

The Planning Proposal is accompanied by an architectural scheme designed by Harry Seidler and Associates Architects for the addition above the existing building and by a Heritage Impact Statement prepared by GML Heritage which concludes that the proposed development represents an appropriate solution for the meaningful conservation and long-term maintenance/protection of the subject site.

It is further noted that Option 1 of the WSPM as exhibited additionally allows for a vertical extension above the existing heritage-listed building, suggesting that Council is comfortable from a heritage perspective with an addition above the existing building.

Architectus Group Pty Ltd
ABN 90 131 245 684

Managing Director:
Nominated Architect:
Ray Brown
NSWARB 6359

View Impacts

Council's assessment of the Planning Proposal which was considered at the Council meeting of 19 February 2018 included discussion of impact on views from adjacent residential buildings to the west of the subject site to Sydney Harbour.

The Planning Proposal includes discussion of this matter and presents that the building form has been specifically designed with view sharing as a key principle.

Option 1 of the WSPM would result in a similar or greater impact on views from these dwellings. An indication of the view loss from Option 1 of the WSPM is illustrated in **Figure 1** below.

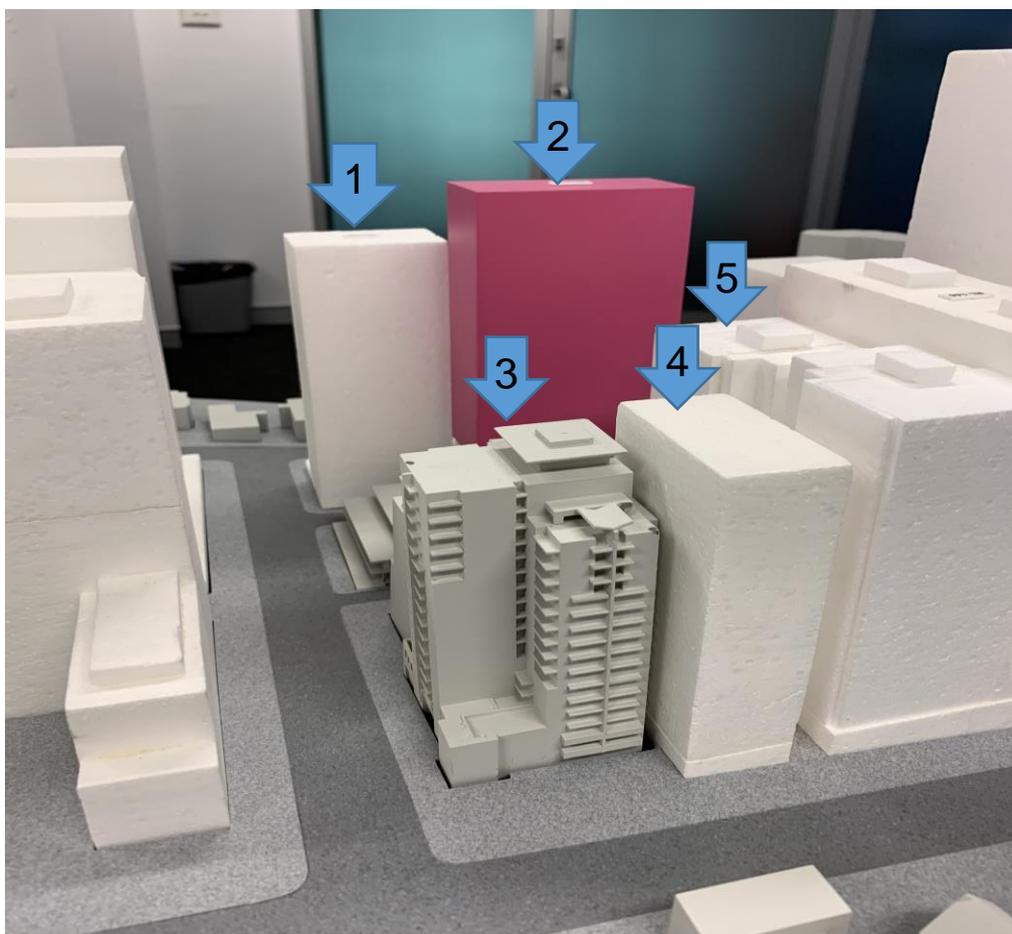


Figure 1: Photograph of physical model of the Ward Street Precinct illustrating WSPM Option 1. (sites: 1. 45 McLaren Street; 2. 41 McLaren Street; 3. 239 Miller Street; 4. 229 Miller Street; 5. 221 Miller Street)

It is acknowledged that the Masterplan options were exhibited for public consultation and community feedback will inform Council's preference for which Masterplan option should be pursued. It is additionally acknowledged that this issue will likely have drawn interest from affected landowners. It is, however, asserted that there are insufficient grounds on the principles of view sharing to preclude both 41 McLaren Street and 45 McLaren Street from any future redevelopment potential because of view loss.

Loss of employment floor space in the North Sydney Centre

Council have raised concerns about the loss of employment floor space on the site as a result of the proposed development.

While it is acknowledged that the North Sydney Centre is a strategic centre for the growth of jobs, the site is located at the very northern edge of the centre where a mix of uses within a development is appropriate.

The existing GFA of the building is 8,674 sqm, comprised entirely of commercial office and ground floor retail (Note: this is a correction to an error in the figure previously provided to DPE and included in the Gateway Determination Report). The architectural scheme submitted with the Planning Proposal provides 7,285 sqm of non-residential GFA (FSR 3:1).

There currently exists a minimum non-residential FSR of 0.5:1 on the site. Through a Development Application (DA) under the existing planning controls it would be possible to convert the existing commercial floor space to other uses, including residential, so long as a minimum of 0.5:1 of non-residential uses were provided. To provide assurance that non-residential, employment-generating land uses will be retained on the site, the minimum non-residential FSR on the site is proposed to be increased to 3:1.

Overshadowing of the Public Domain

The Architectus 'Alternative Masterplan' provided within the Urban Design Report which accompanies the Planning Proposal acknowledged that solar access to the public domain is severely limited under any development scenario for the Ward Street Precinct. In acknowledging this, the Alternative Masterplan proposed to widen the public domain 'spine' through the precinct, such that development uplift could be achieved while still maintaining solar access to parts of the spine throughout the day.

Elements of the Alternative Masterplan have been incorporated into the Stage 2 WSPM, however the spine has been narrowed by the expansion of the podium on the existing Council car park site. The result of this is that the only way that any solar access can be achieved to the public domain is to remove the ability for additional height to be achieved on 41 McLaren Street and 45 McLaren Street.

Comparatively, Architectus sees there is merit in providing an area of public open space fronting Miller Street as proposed in Option 1 of the WSPM because afternoon sun will be achieved both under the current scenario, and into the future – given it is highly unlikely that any substantial development will occur on the site of the heritage-listed Monte Sant' Angelo Mercy College opposite the proposed open space on Miller Street.

The proposed development of the subject site to a height of RL 226m will not result in any unsatisfactory impacts on the proposed Miller Street open space.

Overshadowing of Adjacent Buildings

This matter has been discussed at length in the Planning Proposal and accompanying Urban Design Report, and was a key consideration in the Rezoning Review. Any additional height on the subject site will result in overshadowing of surrounding residential buildings. This issue is largely the result of existing non-compliances of surrounding buildings, both in relation to building separation/boundary setbacks to 41 McLaren Street, and solar access which is inconsistent with the Apartment Design Guide (ADG).

The building envelope provided by the WSPM Option 1 results in only minor improvements to solar access to adjacent residential buildings which is entirely the result of shifting the building envelope towards the east and is in no way related to building height (this Masterplan option provides a tower height of RL 160m instead of the Planning Proposal seeking RL 226m).

While the tower form presented in the Planning Proposal is considered to be the most balanced proposal when considering various competing factors including:

- Heritage impacts on the existing building at 41 McLaren Street ('Simsmetal House');

- Impacts on the future development potential of 45 McLaren Street to the east of the subject site;
- Overshadowing of existing residential buildings to the west of the site; and
- Overshadowing of the public domain.

Despite the above, it is considered that resolution of the tower form is a matter which can be resolved through a future Development Application.

Relationship with the Draft Stage 2 Ward Street Precinct Masterplan

Council has raised concerns that the site-specific Planning Proposal for 41 McLaren Street would undermine the capacity for holistic outcome to be achieved through the Ward Street Precinct Masterplan. This position is strongly refuted because the development of 41 McLaren Street in no way precludes the redevelopment of the remainder of the Ward Street Precinct as envisaged by either of the Masterplan options.

Figure 2 below illustrates the proposed 41 McLaren Street development in the context of surrounding development as proposed, including the redevelopment of the Ward Street Precinct under Option 1 of the Stage 2 WSPM and the future over-station development at Victoria Cross. Red lines in the model illustrate the potential future height of developments to the south of the Ward Street Precinct following the recent amendment to the North Sydney LEP associated with the *North Sydney CBD Capacity and Land Use Strategy*. The height proposed by the Planning Proposal for 41 McLaren Street of RL 226m provides an appropriate transition in height between future development to the south of the site, including the development of the Council car park site, to lower scale development to the north of the Centre.

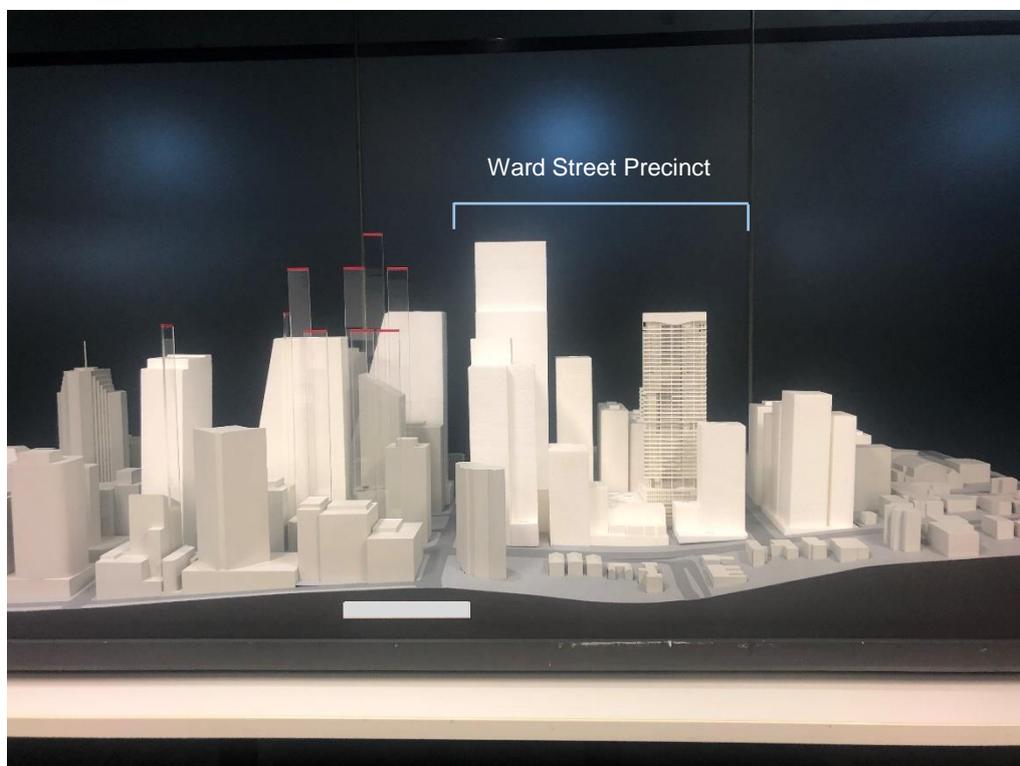


Figure 2: Photograph of physical model of the North Sydney Centre illustrating Option 1 of the WSPM with the proposed development of 41 McLaren Street.

It is Architectus' view that of the Masterplan options presented in the WSPM, a version of Option 1 which reduces the extent to which the podium of the Council car park redevelopment extends

into the central spine and allows a direct line-of-sight between Berry Street and McLaren Street as the best outcome. This relies on a through-site link provided at ground level through 41 McLaren Street, as proposed in the Planning Proposal.

It is additionally noted that it had not previously been the intent of the proponent to submit a Planning Proposal in advance of a holistic solution for the precinct, but that this approach was necessitated by the inadequacies of the Stage 1 WSPM. The proponent commenced discussions with North Sydney Council in relation to the future of the precinct and potential development options for 41 McLaren Street over 4 years ago. It is unreasonable to expect that the owners of the site would continue to wait for Council to resolve the Masterplan, particularly given the Stage 1 WSPM and Option 2 of the Stage 2 WSPM provide no uplift in development potential at all for the site, for reasons which are poorly justified and considered, despite it being located approximately 50m from the northern entry of the future Victoria Cross Metro Station.

Consideration of Council Issues in Issue of Gateway Determination

North Sydney Council, at its meeting of 29 October 2018, resolved to endorse the submission of a request for a Gateway Review. The Council report which was considered states on numerous occasions that the Department's Gateway Determination Report failed to consider Council's assessment of the Planning Proposal at its meeting of 19 February 2018 and states that in not addressing the February Council report, the Department had not followed "normal procedure". Council's October report also discusses the conditions of the Gateway determination and states *"the level of analysis and discretion required by these conditions is better conducted during the process of assessment of the Planning Proposal and certainly prior to the issue of a Gateway determination."*

The following is taken from the NSW State Government Publication 'A Guide to Preparing Planning Proposals':

"The purpose of a Gateway determination is to ensure there is sufficient justification early in the process to proceed with a planning proposal. The Gateway determination is a checkpoint for planning proposals before resources are committed to carrying out investigative research, preparatory work and consultation with agencies and the community."

A Gateway determination is intended merely to identify whether a proposal has merit. The level of detail submitted with the Planning Proposal for 41 McLaren Street was far beyond what would typically be provided with a Planning Proposal, especially prior to a Gateway determination. Through the Rezoning Review process the Sydney North Planning Panel considered Council's views presented in the February Council report in determining that the Planning Proposal had both 'strategic merit' and 'site-specific merit', and provided a series of recommendations which were then considered in the issuing of the Gateway determination. It is entirely reasonable that a Gateway determination would be subsequently issued with conditions requiring the undertaking of further analysis to assess the impacts of the proposal on the revised Ward Street options, which had not been prepared at the time of preparing the Planning Proposal.

Further, it has not been Architectus' experience that a Gateway Determination Report would include detailed consideration of Council's submission to the Rezoning Review which preceded it. The Council report related to the Rezoning Review identified the issues which were the considered by the Sydney North Planning Panel at that time. Council, in accepting the role of the Planning Proposal Authority (PPA), accepted responsibility for the progression of the Planning Proposal in accordance with the outcome and recommendations of the Rezoning Review. It is therefore reasonable for the Department to consider the contents of the Planning Proposal and supporting documentation submitted to it by Council as providing the justification for assessment when issuing a Gateway determination. The Council report which related to the Rezoning Review, in Architectus' view, did not comprise part of the Planning Proposal. If at the

first step in the process Council intended to impede the issue of a Gateway determination, it should not have accepted the role of the PPA.

Conclusion

For the reasons detailed in this letter, Architectus believes that the DPE was correct in its identification of the merit of the Planning Proposal for 41 McLaren Street, North Sydney, when issuing a Gateway determination. The matters raised by Council in relation to the Rezoning Review had been previously considered by the Sydney North Planning Panel as part of the Rezoning Review, where it was determined that the Planning Proposal should be submitted for a Gateway determination because it exhibited 'strategic merit' and 'site-specific merit'. Further, the concerns raised by Council are considered to have either been adequately addressed by the Planning Proposal and supporting documentation, or will be addressed through future refinement of the Planning Proposal and in the assessment of a future DA for the building.

We look forward to the opportunity to present the Planning Proposal to the Independent Planning Commission and are hopeful that they will agree with the position taken by both the Sydney North Planning Panel and the DPE in their decisions to progress the Planning Proposal because of its substantial merit.

Should you have any queries or wish to discuss this matter further, please do not hesitate to contact me on (02) 8252 8400 or Michael.Harrison@architectus.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Harrison', followed by a period.

Michael Harrison
Director Planning and Urban Design
Architectus Group Pty Ltd