

Item No: R1 Recommendation to Council
Subject: **PLANNING PROPOSAL FOR 80-84 AND 90 NEW SOUTH HEAD ROAD, EDGECLIFF (SC2708)**
Author: Brendan Metcalfe, Strategic Planner
File No: 15/63203
Reason for Report: To report on the planning proposal prepared by Hamptons Property Services for 80-84 and 90 New South Head Road, Edgecliff.
To obtain Council's approval to prepare a planning proposal and forward it to the Department of Planning and Environment for a gateway determination.

Recommendation:

- A That the planning proposal prepared by Hamptons Property Services for 80-84 and 90 New South Head Road, Edgecliff, as contained in Annexure 1 of the report to the Urban Planning Committee meeting of 9 June 2015 be submitted to the Minister for Planning requesting a gateway determination to allow public exhibition.
- B That prior to submission, the planning proposal is amended by:
- i. rounding the floor space from 2.87:1 to 2.9:1,
 - ii. rounding the maximum building height from 23.47m to 23.5m, and
 - iii. applying Council's planning proposal template.
- C That when requesting a gateway determination for the planning proposal at point A above, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.
- D That the applicant meets all costs associated with the preparation and completion of the planning proposal as set out in the Council's fees and charges.

1. Summary

In May 2015 a planning proposal (**Annexure 1**) was submitted to Council by Hamptons Property Services. The planning proposal would facilitate a seven storey mixed use development on 80-84 and 90 New South Head Road, Edgecliff (the site) which is comprised of Lots 4 and 5 in DP 171284, Lot 1 DP 181565 and Lot A in DP 420786.

The planning proposal is to amend the height and floor space ratio (FSR) development standards applying to the site under Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) by:

- increasing the maximum FSR from 1.5:1 to 2.87:1
- increasing the maximum height controls from 14.5m on 80-84 New South Head Road and 20.5m on 90 New South Head Road to 23.47m over the entire site.

Overall, we support this planning proposal for the purpose of obtaining a gateway determination from the Minister for Planning and Environment. However, we recommend rounding the FSR and height controls for the site. This is consistent with both Council's standard practice for development standards and the preferred approach of the Department of Planning and Environment (DPE).

The purpose of this report is to obtain Council's approval of the amended planning proposal prior to submitting it to the DPE for a gateway determination. The gateway determination will specify if the planning proposal may proceed, if any amendments are required and specify any conditions that must be satisfied prior to placing it on public exhibition.

2 The site

The site is located at the corner of New South Head Road and Mona Road as shown below in Figure 1: Local area map. The Sydney Central Business District (CBD) is approximately 2.3km to the west of the site and the Edgecliff Commercial Core is approximately 180m to the east of the site. The Edgecliff Commercial Core is zoned B2 Local Centre and includes a bus and rail interchange.



Figure 1: Local area map (refer to Figure 2 for site details)

The site forms part of the New South Head Road Corridor which is zoned B4 Mixed Use under Woollahra LEP 2014. With a total area of 1064.2m², the site comprises two properties, 80-84 New South Head Road over three lots and 90 New South Head Road which is a single lot. Figure 2: Site aerial shows the existing subdivision pattern. The site adjoins heritage items at 9, 11 and 15A Mona Road.

Nos.80-84 are occupied by a three storey commercial building which has a predominantly glazed facade. The building has frontages to Mona Road and New South Head Road and basement parking for five cars. Uses currently include offices and a recreational facility (indoor). The land slopes slightly, rising from west to east along New South Head Road by approximately 1.5m and up Mona Road from New South Head Road by less than a metre.

No.90 is occupied by a three storey Inter-war commercial building with a sub-basement level which does not include car parking. Constructed in 1928, the building has been renovated and altered numerous times but the façade remains largely original. The building is setback approximately 3m from the north western boundary. A 1.5m wide right-of-way runs along this boundary from New South Head Road which allows pedestrian access to the rear of Nos. 9, 11 and 15A Mona Road and 80-84 New South Head Road. The space created by the setback and right of way is used for servicing, deliveries and as a parking space for one vehicle.

The topography of No.90 rises 9.5m from New South Head Road to the rear of the lot. The planning proposal as submitted acknowledges that the right-of-way would need to be extinguished in a development that encompassed 80-84 and 90 New South Head Road.



Figure 2: Site aerial



Figure 3: Right of way and setback over No.90 New South Head Road

3 Existing context

The surrounding built form varies considerably as shown in Figure 4: Oblique aerial identifying the number of storeys of surrounding buildings. It includes:

- a 10 storey mixed use commercial and residential development adjoining the site to the south-east at 100 New South Head Road
- a range of two and three storey residential terraces in Mona Road adjoining the site to the north west
- a seven storey residential flat building at 6-10 Darling Point Road, Darling Point, adjacent to the building at 100 New South Head Road
- an eight storey mixed use retail and residential flat building located at 2B Mona Road
- a nine storey residential flat building at 29-33 Mona Road
- a five storey mixed use building at 58-60 New South Head Road
- a four to five storey commercial building at 34-44 New South Head Road
- a 12 storey mixed use building at 85-97 New South Head Road
- four storey Inter-war residential flat buildings at 99, 101, 109 and 113 New South Head Road
- a four to five storey commercial building at 135-153 New South Head Road
- a four to seven storey mixed use building at 161 New South Head Road.

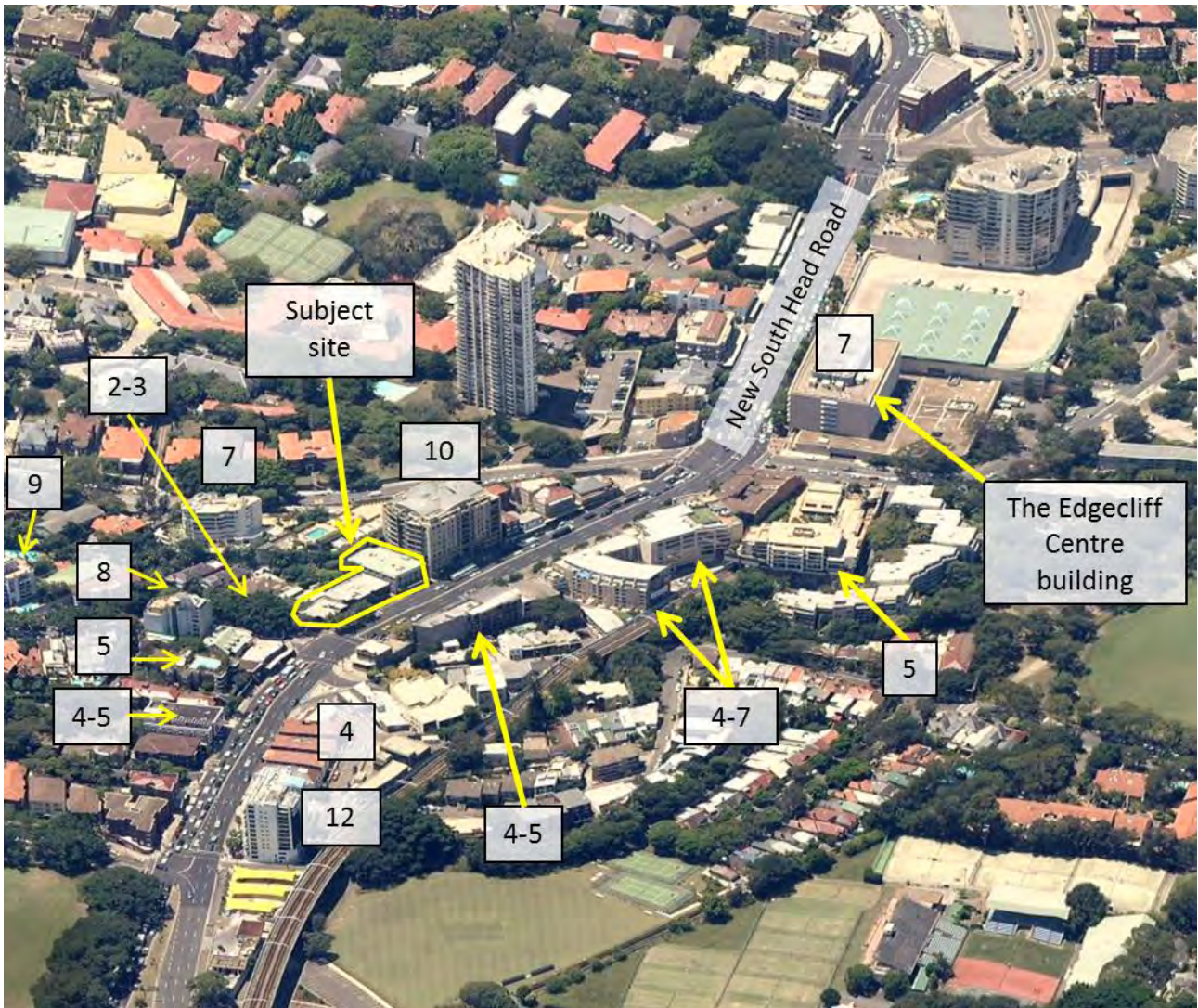


Figure 4: Oblique aerial identifying the number of storeys of surrounding buildings

4 The applicant's planning proposal

In summary, the objective of the planning proposal is to increase the height and FSR controls applying to the site to allow a seven storey mixed use commercial/residential building on the site. The existing B4 Mixed Use Zoning would remain unchanged.

The planning proposal included:

- Architectural renderings
- Concept plans including shadow modelling
- View Analyses for the public and private domain
- Statement of Heritage Impact
- A Traffic Impact Assessment.

4.1 Proposed controls

A summary of the controls under Woollahra LEP 2014 and the applicant's proposal is shown below:

	FSR	Height
Woollahra LEP 2014	1.5:1	80-84 New South Head Road – 14.5m 90 New South Head Road – 20.5m
Planning proposal	2.87:1	23.47m

4.2 Concept plans

The planning proposal included an architectural rendering of a building for this site under the proposed controls. The building shown is a three to seven storey mixed use development comprising:

- residential dwellings on levels 1-7
- commercial uses at ground floor
- one level of parking on the lower ground floor.

The concept includes three commercial tenancies on the ground floor to provide an active frontage to New South Head Road. The existing façade of 90 New South Head Road is retained, with a new three storey element setback 12m from No.100 New South Head Road. The Mona Road frontage is residential only and is the main entry point for 39 dwellings. The unit mix is:

- 12 studio
- 18 one bedroom
- nine two bedroom dwellings.

Photographs of the existing site and renderings are shown below in Figures 5 to 8. The existing built form on Mona Road is shown in Figure 9.



Figure 5: Existing perspective of the south-west corner (source PTI Architects)



Figure 6: Architectural rendering of the south-west corner (source PTI Architects)



Figure 7: Existing perspective of the western façade (source PTI Architects)



Figure 8: Architectural rendering of the western façade (source PTI Architects)



Figure 9: Existing built form as viewed from Mona Road (left to right: No.11 , No.9 Mona Road and 80-84 New South Head Road)

5. Review of the planning proposal

Section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) sets out what information a planning proposal is to include when submitted for a gateway determination. The DPE has prepared *A guide to preparing planning proposals* (the guidelines) dated October 2012 to help applicants meet the requirements of the Act.

We have reviewed the planning proposal in accordance with section 55 of the Act and the guidelines. The review identified where:

- amendments are to be made to the planning proposal, and
- additional information is to be included in the planning proposal.

5.1 Strategic merit

We identify that the planning proposal has strategic merit and provide in principle support. The proposal will facilitate increased residential density in a location that is:

- in walking distance of the Edgecliff Commercial Core
- in walking distance of the Edgecliff bus and rail interchange
- directly serviced by buses providing access to services and employment in the CBD, Double Bay and Bondi Junction
- in walking distance of recreational facilities such as parks and beaches

- zoned for mixed use development, providing opportunity for services and shops within the development.

Additionally the proposal:

- will assist Council to meet its dwelling target of an additional 2900 dwellings by 2031 under the draft East Subregional Strategy
- is consistent with A Plan For Growing Sydney which promotes urban renewal to increase housing supply
- will improve activation at street level
- will improve passive and active surveillance of the public domain throughout the day with commercial uses on the ground floor and residential uses above.

5.2 Built form

Based on the applicant's indicative concept plans, view analysis, heritage impact statement and shadow diagrams, the proposed planning controls are appropriate in the location. This opinion is not intended to represent a view or position regarding the merits of a future development application for the site.

View sharing, heritage and shadowing are discussed below.

5.2.1 View sharing

The applicant's planning proposal included analysis of views from the public domain in section 6.5 and views from the private domain in Appendix 5.

Views from the public domain

The analysis of views from the public domain was conducted under the principle set out in *Rose Bay Marina Pty Ltd v Woollahra Council and anor [2013] NSWLEC 1046 (Rose Bay)*. Council has reviewed the analysis and is satisfied that it provides sufficient information to place the planning proposal on exhibition.

The view is to the west along the New South Head Road Corridor and includes a partial view of the Harbour Bridge. Existing buildings in Potts Point and along New South Head Road obscure the view of the Harbour Bridge as shown in Figure 10.



Figure 10: View from the south-east corner of New South Head Road and New Mclean Street.

In summary, the proposal would result in approximately half of the upper span of the Harbour Bridge being obscured for pedestrians that are crossing New Mclean Street towards the CBD at the intersection of New South Head Road. The Harbour Bridge is visible again once pedestrians have crossed New Mclean Street.

Views from the private domain

The analysis of private views was conducted in accordance with the view sharing principles set out in *Tenacity v Warringah Council (1004) NSWLEC 140*. The analysis identifies that the proposed increase in maximum building height and associated concept plans would affect views from No.100 New South Head Road which adjoins the site to the east. Within No.100, the views from lots 2, 3, 7, 8, 13 and 14 of Strata Plan 54114 were assessed.

The views are a partial view of the Harbour Bridge and an oblique view of the CBD. The applicant's view analysis concludes that the proposed planning control changes will result in acceptable view sharing.

However, the applicant's view analysis states that Lot 2 and Lot 3 of Strata Plan 54114 are used for commercial purposes and therefore are 'not affected having regard to the principles of Tenacity'. The planning proposal did not include evidence of commercial use of these lots.

Council's records indicate that lots 2 and 3 are currently rated for residential purposes and no development applications or complying development certificates have been lodged for a commercial use. Therefore, the effect of the proposed planning control changes on lots 2 and 3 should have been included in the applicant's view assessment.

Despite lots 2 and 3 being omitted from the applicant's view assessment it is possible to conclude that there would be a view impact for those lots as a consequence of development on No.90 New South Head Road under the existing controls and therefore under the proposed controls. A 20.5m maximum building height currently applies to 90 New South Head Road. A building constructed to 20.5m could interrupt the outlook from lots 2, 3, 7 and 8 of Strata Plan 54114 as shown in Figure 11.

It is reasonable to expect development to occur to the existing maximum building height, particularly in a mixed-use commercial centre such as Edgecliff. In this context, despite the absence of information in the applicant's view analysis for lots 2 and 3, it is considered that the planning proposal and concept plans can be exhibited to allow public comment.



Figure 11: Comparison of concept plans, existing height limit and location of lots in SP 54114

The view analyses will form part of the planning proposal and will be placed on exhibition. They provide information for the community to assess the potential impacts on their properties and make a submission to Council for our further consideration.

5.2.2 Heritage

The site does not have any heritage significance nor is it within a heritage conservation area. However, Nos. 9, 11 and 15 Mona Road adjoin the site. Under Woollahra LEP 2014 these properties are listed as local heritage items and are in the Mona Road Heritage Conservation Area.

A Statement of Heritage Impact was submitted with the planning proposal and has been reviewed by Council. In principle, increased height and FSR across the site could be achieved without major adverse impacts on the heritage items adjacent.

Should the planning proposal proceed, further comment on the impact of the development on the heritage items and conservation area would be provided at the development application stage.

5.2.3 Shadowing

The planning proposal includes shadow diagrams in Appendix 2. The majority of additional shadowing will be on the roadway of New South Head Road. Of the surrounding buildings, additional shadowing will occur during part of the morning to Nos. 133 and 135-153 New South Road and part of the afternoon to No.100 New South Head Road.

The shadowing impacts are considered to be minor due to the site's location on the north side of New South Head Road. The shadow diagrams will form part of the planning proposal and will be placed on exhibition.

5.3 Amendment to proposed height and FSR controls

For the purpose of exhibition, an increase to the maximum building height and FSR for the site is supported, but not in the format suggested by the applicant.

Height control

The applicant's proposal is to a height of 23.47m across the site. Under Woollahra LEP 2014 heights have been rounded to the nearest 0.1m and the same approach should apply to this planning proposal. Therefore a height of 23.5m is proposed to apply across the site.

FSR control

The applicant's proposal is to apply an FSR of 2.87:1 across the site. Usually Council rounds heights to the 0.1. Therefore an FSR of 2.9:1 is proposed to apply to the site.

These changes to the height and FSR controls are a practical approach to addressing the development standards for the site. The amended FSR will slightly increase the development potential of the site by approximately 30m².

6 Additional information to be submitted with the planning proposal

Section 55(2) of the Act outlines the components a planning proposal must contain. The planning proposal submitted by Hamptons Property Services has generally been prepared in accordance with the Act. However, Council will need to prepare the relevant maps which identify the proposed planning controls for the site.

7 Options for proceeding

There are two options for responding to the planning proposal:

- prepare a planning proposal and submit it to the DPE, or
- notify the applicant that the planning proposal is not supported.

Option 1: Prepare a planning proposal subject to the amendments to height and FSR and submit it to the DPE requesting a gateway determination. This is our preferred approach.

A gateway determination would be requested under section 58(2) of the Act. The Minister, or delegate, will then issue a gateway determination specifying whether the planning proposal is to proceed and, if so, in what circumstances. The gateway determination will confirm the information and consultation required before the planning proposal can be publicly exhibited.

Under section 59 of the Act, if a planning proposal is solely of local significance Council can seek the delegation of the plan-making steps. This planning proposal is considered to have local significance only. We consider the Council should request the delegation of the plan-making steps. This delegation will be to the position of General Manager. It is sub-delegated to the position of Director, Planning and Development as provided in Council's resolution of 29 November 2012. Delegation of a planning proposal removes duplication and streamlines the plan-making process.

Option 2: Notify the applicant that the planning proposal is not supported.

In the event that Council does not support the planning proposal or does not indicate its support within 90 days, the applicant can ask the DPE for a pre-gateway review. Under this review mechanism, the Joint Regional Planning Panel will undertake an independent review of the planning proposal. This is not our recommended approach for this planning proposal.

8. Identification of income

When a planning proposal is not initiated by Council, under section 11 of the *Environmental Planning and Assessment Regulation 2000* we can request payment of all costs and expenses incurred in relation to the planning proposal. The Delivery Program 2013-2017 and Operation Plan 2014/15 sets out the fees and charges for preparing a planning proposal. We recommend that the applicant is responsible for all costs associated with the planning proposal as required by the adopted fees and charges.

9. Conclusion

In principle this planning proposal has merit and, subject to amendments, we recommend that Council forwards the planning proposal for 80-84 and 90 New South Head Road, to the Minister for Planning requesting a gateway determination so that it can be placed on public exhibition for a minimum of 28 days for comment.

As this matter is of local significance only, we recommend seeking delegation of the plan-making steps under section 59 of the Act.

If the gateway determination recommends that the planning proposal proceeds, it should be exhibited in accordance with the Act and any conditions imposed by the gateway determination. Submissions to the exhibition will be reported to the Urban Planning Committee for Council's further consideration.

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Annexures

1. Planning Proposal for 80-84 and 90 New South Head Road, Edgecliff (*circulated under separate cover*)