

Planning Services

Gateway Determination Report

LGA	Bayside
PPA	Bayside Council
NAME	To rezone the subject site from SP3 Tourist to B4 Mixed Use (2 dwellings, 0 jobs)
NUMBER	PP 2019 BSIDE 002 00
LEP TO BE AMENDED	Rockdale Local Environment Plan 2011
ADDRESS	8 Princess Street, Brighton-Le-Sands
DESCRIPTION	SP 92060
RECEIVED	5 March 2019
FILE NO.	IRF19/1928
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to rezone the site from SP3 Tourist to B4 Mixed Use under Rockdale Local Environment Plan 2011 (Rockdale LEP 2011). The proposal does not seek to introduce or amend any development standards in relation to the subject site.

The site was originally zoned SP3 to allow the expansion of the Novotel Hotel which is directly next to the site.

There is an existing shop top housing development on the site. The rezoning of the site to B4 Mixed Use zone will allow a greater range of uses on the site, including the conversion of the ground floor commercial units to residential. If the ground floor units were converted to residential the building would then be defined as a residential flat building. Residential flat buildings are not currently permitted in the SP3 zone, but are permissible with consent in the B4 zone

The SP3 Tourist zoning for the site is also considered redundant as the expansion of the Novotel on the site has been abandoned and the recently completed shop top housing development is not associated with the Novotel.

It is intended to convert the 3 ground floor commercial tenancies into 2 residential apartments (being a one bedroom apartment and a two bedroom apartment).

Site description

The site at 8 Princess Street, Brighton-Le-Sands is legally described as SP 92060 (**Figure 1**).

The site is a regular shaped block with a total site area of 1,505m² fronting Princess Street.

The site comprises a 9 storey shop top housing development approved under DA-2012/325 and completed in September 2015. This development application approved the use of the site as a shop top housing development with no other associated uses.

The shop top housing development composes 3 ground floor commercial units and 67 residential apartments on floors one to eight.

According to the planning proposal documents, the ground floor commercial units have been vacant since completion of the development.



Figure 1: Aerial photo of the subject site (*Source: Nearmaps*)



Figure 2: Site Visit photos as viewed from Princess Street

Surrounding area

The site is in the Bayside Local Government Area (**Figure 3**) and is located:

- within the Brighton-Le-Sands local centre;
- 100m to the west of The Grand Parade;
- 1.8km to the east of the Princes Highway; and
- 2km to the east of Rockdale Station.

Development within the immediate vicinity of the site comprises apartment buildings to the north, south and west and the Novotel adjacent to the east of the site. The surrounding area is zoned R4 High Density Residential to the north, B4 Mixed Use to the south and west and SP3 Tourist to the east (**Figure 4**, next page).

The planning proposal is not located within any study areas or planned precincts.



Figure 3: Surrounding locality (Source: Ethos Urban Planning Proposal)

Current planning provisions

The site is zoned SP3 Tourist under the Rockdale LEP 2011 (**Figure 4**).

The subject site is subject to following development standards:

- a maximum FSR of 3:1; and
- a maximum building height of 28m.

The site does not contain any heritage listed items. The site is proximity to locally listed street trees (Item170) located on Princess Street.

The site is not subject to any additional local provisions or an active street frontages map.

The current zoning, height, FSR and heritage maps are provided in **Figures 4 to 7** (pp 4 to 6).

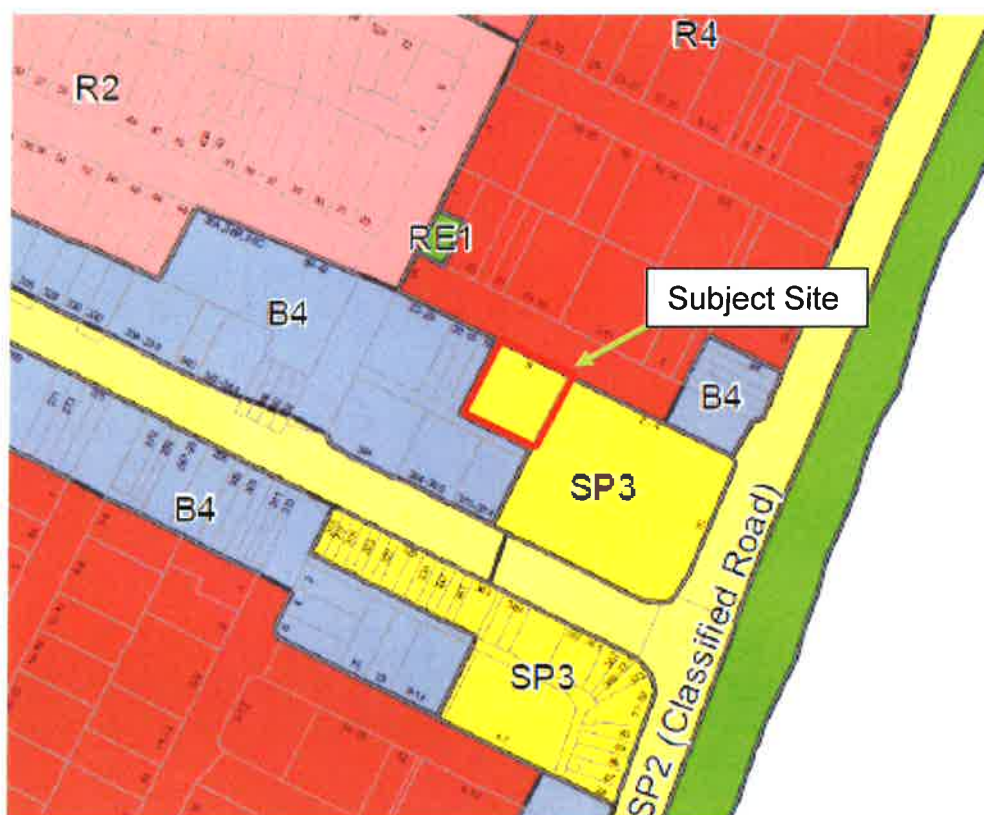


Figure 4: Current zoning map (Source: Ethos Urban Planning Proposal)

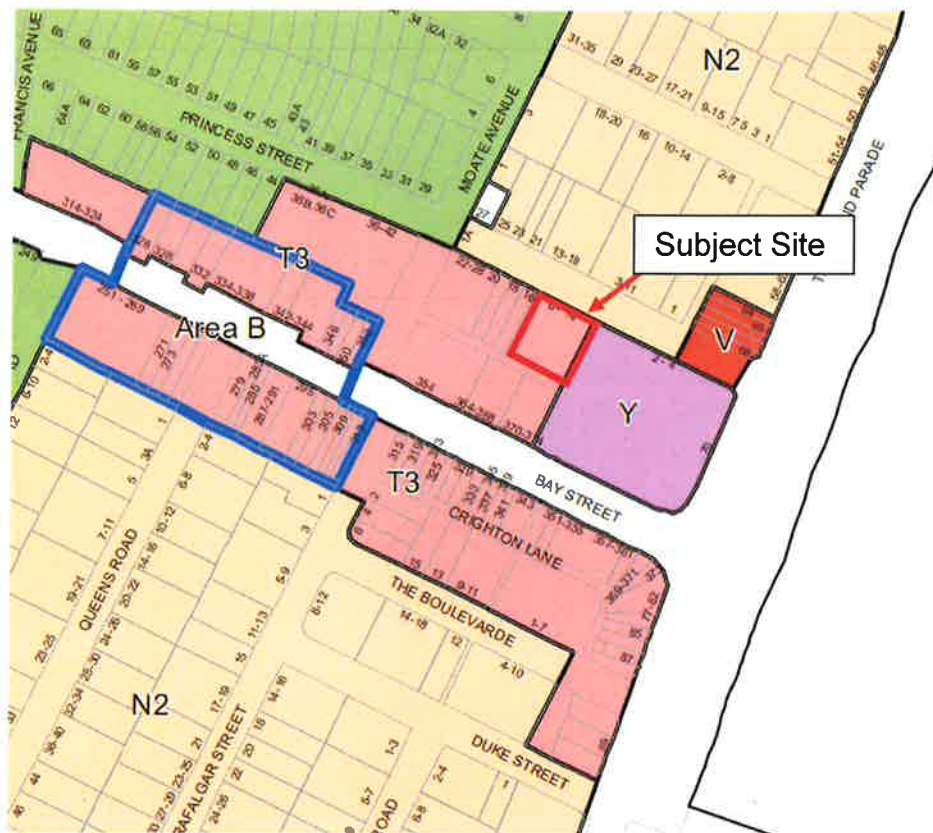


Figure 5: Current height of building map (Source: Rockdale LEP 2011)

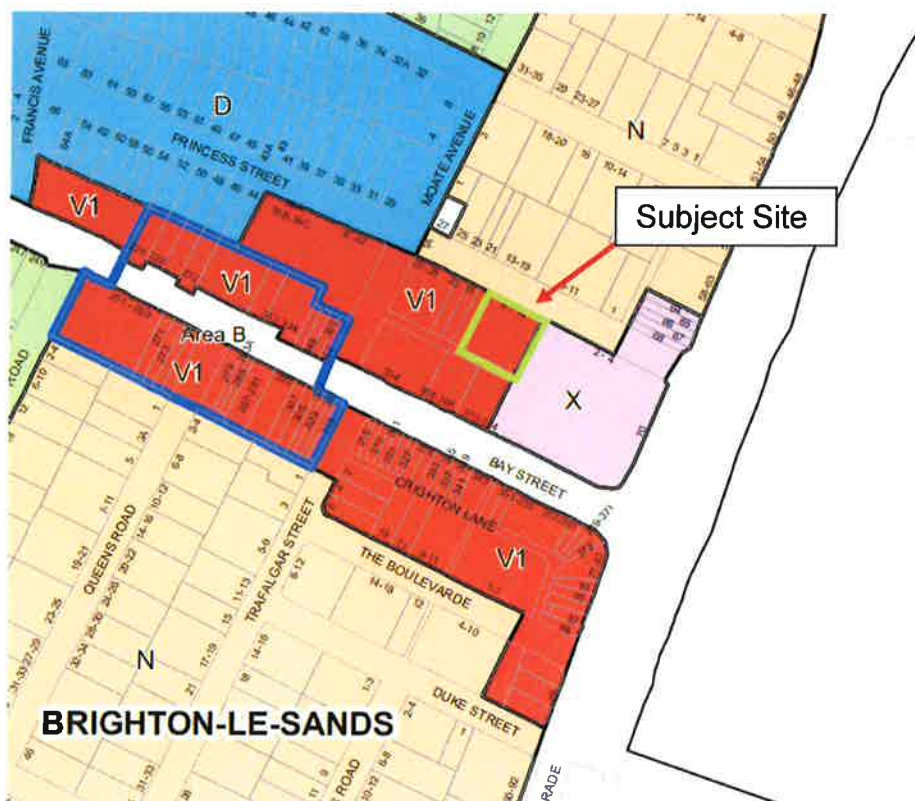


Figure 6: Current floor space ratio map (Source: Rockdale LEP 2011)

Background

- 9 April 2018 – planning proposal lodged with Council.
- 26 June 2018 – Planning Proposal reported to the Bayside Local Planning Panel where it was recommended to proceed.
- 8 August 2018 – Planning Proposal was reported to the Council where it was resolved to refer the matter back to the Bayside Local Planning Panel and all the information pertaining to the previous Development Application for this property be made available to the Panel. This was to include the breach of height and FSR controls that required variations to Clause 4.6 of the RLEP 2011. The variation to the height limit was 1.05m and contained wholly to the two lift overruns. The variation to the FSR of 3.17:1 exceeded the maximum FSR of 3:1, representing a breach of 262m².
- 28 August 2018 – Planning Proposal was reconsidered by the Bayside Local Planning Panel where it was recommended to proceed.
- 12 September 2018 – Planning Proposal was reported to the Council where it was resolved to not support the planning proposal.
- 5 October 2018 – Rezoning Review was lodged with the Department.
- 19 December 2018 – the Eastern City Planning Panel recommended that the planning proposal proceed to the Department for a Gateway determination.
- 18 February 2019 – Council confirmed that they accept the planning proposal authority role for the planning proposal.
- 5 March 2019 – the planning proposal was lodged with the Department.
- 7 March 2019 – the planning proposal was deemed adequate to assess for a Gateway determination.

Summary of recommendation

It is recommended that the proposal proceed subject to conditions given that it:

- is consistent with the Greater Sydney Region Plan, the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and state environmental planning policies;
- reflects the current uses of the site for mixed use purposes; and
- it would have minimal environmental, social and economic impacts.

PROPOSAL

Objectives or intended outcomes

The key objective and intended outcome of the planning proposal is to amend the Rockdale LEP 2011 to reflect the current mixed use development located on the site and to enable conversion of three non-residential tenancies into two residential apartments.

The broader objectives of this planning proposal are to:

- amend the zoning of the land from SP3 Tourist to B4 Mixed Use to in order to permit residential uses on the ground floor of the existing development;

- enhance the degree to which the existing building integrates with the immediate surrounds, which predominantly consists of residential uses;
- provide a comparatively enhanced level of street front activation and urban design outcome through the occupation of the lower levels of the building that is reflective of the same type of development in this part of Princes Street; and
- establish additional opportunities for housing within the Brighton-Le-Sands centre, in turn offering residents the opportunity to live within immediate access to key services, amenities, and infrastructure within walking distance.

The explanation of the objectives and intended outcomes is clear for the purposes of public exhibition. No amendment is required to the explanation of objectives and intended outcomes prior to community consultation.

Explanation of provisions & mapping

The explanation of provisions state that the only proposed change to the LEP will be the applicable land zoning map. It is proposed to rezone the subject land from SP3 Tourist to B4 Mixed Use. The proposed mapping is shown in the **Figure 8** below. The map is sufficient for the purposes of community consultation.

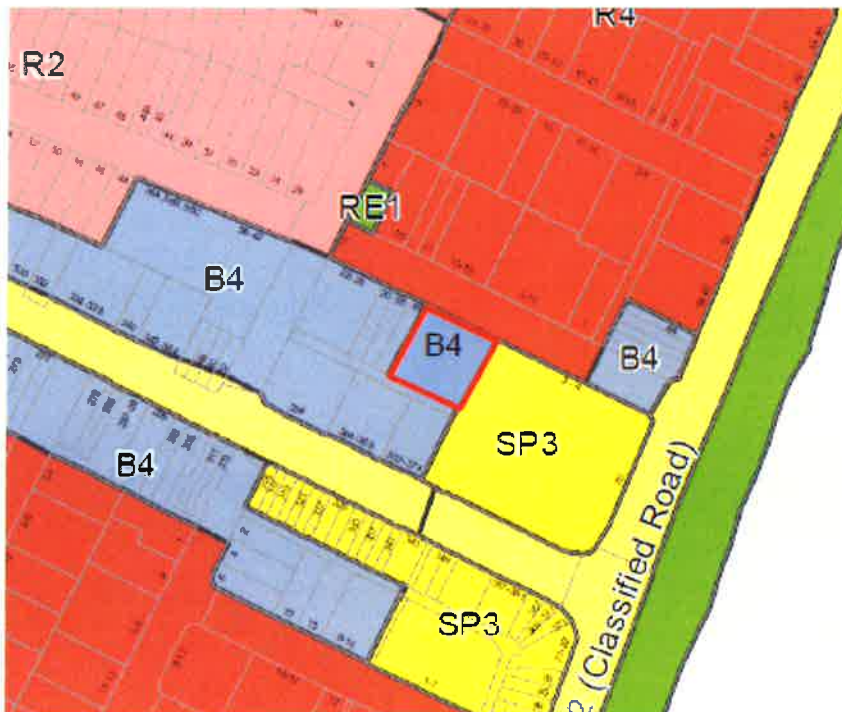


Figure 8: Proposed zoning map (Source: Ethos Urban Planning Proposal)

NEED FOR THE PLANNING PROPOSAL

The planning proposal submitted by Council considered whether the planning proposal was the result of any strategic study or report and whether a planning proposal was the best means of achieving the stated outcome.

Is the planning proposal a result of any strategic study or report?

The planning proposal is not in direct response to any strategic study or report.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

As the site has recently been re-developed into shop top housing, which is not related or used in conjunction with the Novotel, it is considered that the SP3 Tourist zoning of the site is redundant.

The need for the planning proposal has mainly arisen from a lack of interest in the non-residential tenancies, which have resulted in long-term vacancies (approximately 2.5 years). An economic assessment of the site's suitability has been submitted as part of the planning proposal. This report concluded that the subject site has a low desirability for potential tenants, poor locational attributes, which may undermine long term trading success and a high vacancy risk for commercial uses.

The surrounding centre is zoned B4 Mixed Use, and this land use zone would permit the potential conversion of the building to a residential flat building. This matter can be further considered as part of a development application as the B4 zone allows both ground floor residential as well as ground floor commercial uses. Further to this the B4 zone also allows tourist and visitor accommodation.

An alternative to the rezoning the land to B4 Mixed Use would be to amend Schedule 1 'Additional permitted uses' to insert "residential flat buildings" as a permissible use on the land without amending the existing SP3 Tourist zone. However, this would not be consistent with the SP3 zone objective of providing for a variety of tourist-orientated development and related uses when compared to a residential flat building which is intended to provide dwellings.

The rezoning of the site under the Rockdale LEP 2011 is the best means to achieve the intended outcomes and objectives of the planning proposal.

STRATEGIC ASSESSMENT

State

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released *Greater Sydney Region Plan*, which aims to coordinate and manage Sydney's growth. The plan contains objectives for the region over the next 40 years and informs the actions and directions of the district plans.

The Greater Sydney Region Plan sets out four goals:

1. Infrastructure and collaboration: securing 'a city supported by infrastructure' and 'a collaborative city';
2. Liveability: achieving 'a city for people', 'housing the city' and 'a city of green places';
3. Productivity: creating 'a well-connected city' and 'jobs and skills for the city'; and
4. Sustainability: delivering 'a city in its landscape', 'an efficient city' and 'a resilient city'.

To achieve these goals and directions, the plan proposes 40 objectives, with 15 associated actions. Objectives relevant to this planning proposal include:

- Objective 4: Infrastructure use is optimised;
- Objective 10: Greater housing supply;
- Objective 11: Housing is more diverse and affordable; and

- Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities

The planning proposal is consistent with the above objectives as it would:

- Enable development that is compatible with the remaining streetscape character for predominantly residential flat development;
- Would enable the delivery of additional dwelling supply in the local centre with good access to services and facilities;
- Better utilise vacant spaces that would better active the streetscape and provide suitable natural surveillance of the street;
- provide housing choice, supply and diversity by facilitating redevelopment of retail tenancies which have been vacant for a long period of time; and
- providing housing near existing public transport infrastructure.

It is noted that the planning proposal includes discussion on the former A Plan for Growing Sydney. For the purposes of community consultation, references to this in the planning proposal should be removed. A condition has been included in the Gateway determination to this effect.

District

Eastern City District Plan

The *Eastern City District Plan*, released in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth.

This planning proposal is consistent with the following planning priorities of the plan:

- Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport; and
- Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city;

This planning proposal is consistent with the relevant objectives in the district plan as it would:

- enable optimal use of the existing development that has good access to infrastructure, services and facilities;
- provide additional housing supply by facilitating redevelopment of retail tenancies which have been vacant for a long period of time; and
- providing housing near existing public transport infrastructure.

Local

Rockdale City Community Strategic Plan

Council's *Rockdale City Community Strategic Plan* sets out the vision for the local area until 2025, establishing four key outcomes. This planning proposal is consistent with key directions of the strategic plan as demonstrated in Table 2 below.

Outcome	Comment
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Outcome 1 – Rockdale is a welcoming and creative City with active, healthy and safe communities	The planning proposal will contribute to this outcome by facilitating residential apartments, which will allow people to live in the Brighton-Le-Sands centre with good accessibility to a good range of services and facilities
Outcome 2 – Rockdale is a City with a high quality natural and built environment and valued heritage in liveable neighbourhoods. A City that is easy to get around and has good links and connections to other parts of Sydney and beyond.	The proposal will facilitate improvements to the existing building, being the enhancement and activation of the ground floor plate. This will ultimately contribute to the quality of the built environment.
Objective 2.2 - Our City has a well managed and sustainable built environment, quality and diverse development with effective housing choice	The planning proposal will facilitate the conversion of non-residential tenancies into residential apartments, contributing to greater housing choice in the locality.
Outcome 3 – Rockdale is a City with a thriving economy that provides jobs for local people and opportunities for lifelong learning	The planning proposal seeks to permit the use of vacant non-residential tenancies for use as residential apartments. Ultimately, this will allow for a greater population in the locality, in turn enhancing the local economy.
Outcome 4 – Rockdale is a City with engaged communities, effective leadership and access to decision making.	The planning proposal will not affect the ability for effective leadership and access to decision making.

Section 9.1 Ministerial Directions

The proposal is consistent with the following section 9.1 Ministerial Directions.

- 1.1 Business and Industrial Zones;
- 3.1 Residential Zones;
- 3.4 Integrating Land Use and Transport;
- 5.10 Implementation of Regional Strategies;
- 6.3 Site Specific Provisions; and
- 7.1 Implementation of A Plan for Growing Sydney.

1.1 Business and Industrial Zones

Although a development application could be lodged for conversion of the ground floor commercial tenancies into residential apartments, the B4 zoning also allows for a wider variety of employment uses than the SP3 zone. These employment uses include commercial premises, childcare centres as well as tourist and visitor accommodation.

Finally, there are no provisions within the Rockdale LEP 2011 that are applicable to the site, or neighbouring sites, which require the retention of the ground floor commercial tenancies.

3.1 Residential Zones

The planning proposal seeks to amend the zoning of the site from SP3 Tourist zone to B4 Mixed use under the Rockdale LEP 2011. This amendment will permit provide a broader choice of residential development and make more efficient use of existing infrastructure and services being in an established centre. Likewise, the proposal will not reduce the permissible residential density of the land as no amendments to the existing planning controls are proposed.

State environmental planning policies (SEPPs)

The proposal is consistent with the application of the following SEPPs:

- SEPP No 55 – Remediation of Land;
- SEPP No 65 – Design Quality of Residential Apartment Development;
- SEPP (Building Sustainability Index: BASIX) 2004; and
- SEPP (Exempt and Complying Development Codes) 2008.

SEPP No.55 – Remediation of Land

Clause 6 of SEPP 55 requires the planning authority to be satisfied that the land is suitable, or can be made suitable, for all the uses permissible in the zone. The site was deemed suitable for residential uses under DA-2012/325. The subject site has since been subsequently redeveloped into shop top housing and occupied for residential purposes. As such, the site has been made suitable for its intended use.

SEPP No.65 – Design Quality of Residential Apartment Development

An overview of the proposal's consistency with SEPP 65 and Apartment Design Guide is set out in the planning proposal and is generally consistent with the applicable design principles and planning controls. Consistency with the principles of SEPP and Apartment Design Guide will be further demonstrated in a future development application. This is satisfactory for the purposes of the planning proposal and is thus consistent with SEPP 65.

SITE-SPECIFIC ASSESSMENT

Social

The proposal will allow for positive social and economic effects given that:

- it will increase co-working office space, which can promote collaborative and innovative working environments, accommodating start-ups and established business ventures; and
- Darlinghurst is geographically, demographically and economically well located to support co-working spaces.

Environmental

The site is occupied by a building built to boundary and does not contain any known critical habitat or threatened species, populations or ecological communities or habitats.

Residential Amenity

The planning proposal intends to facilitate the redevelopment of the existing ground floor retail tenancies into a one and a two-bedroom apartment (**Figure 9**). The planning proposal submitted by Council includes an assessment of the proposal against SEPP 65 and the Apartment Design Guide.

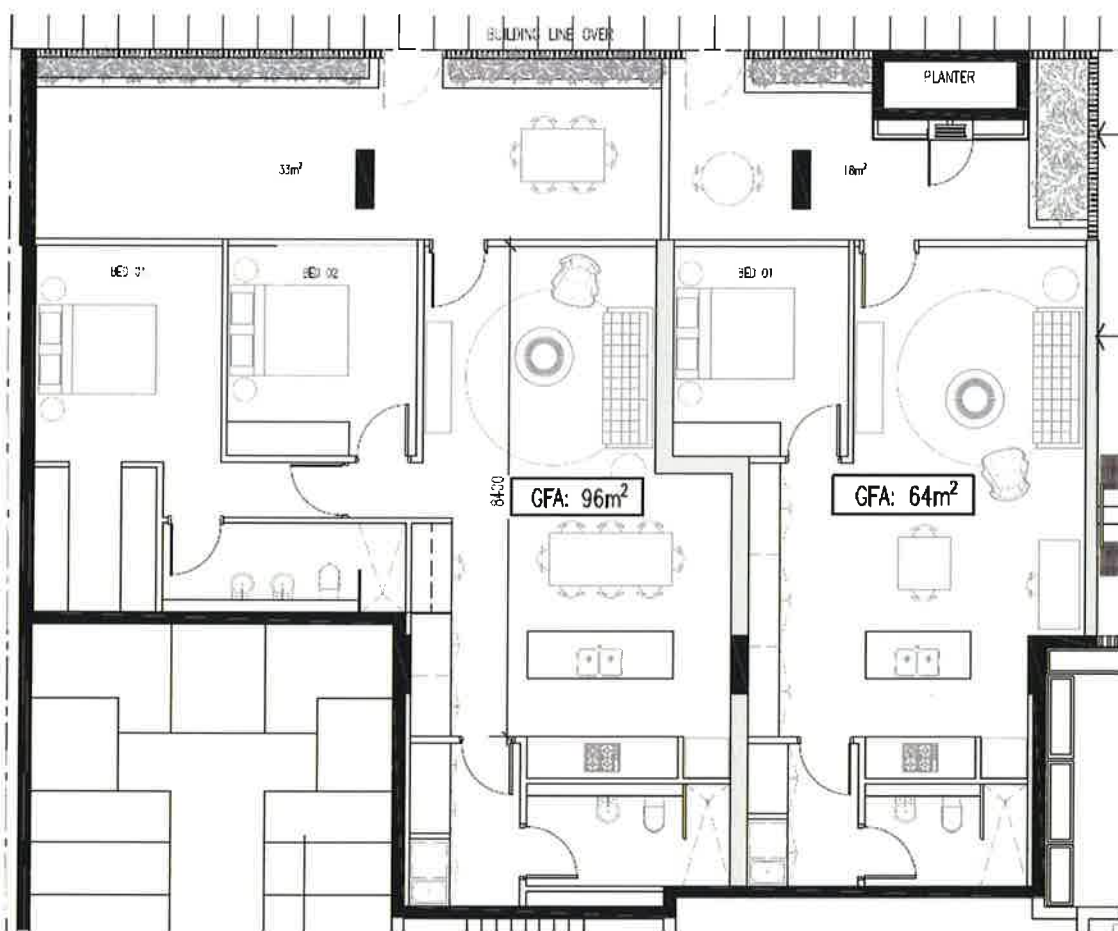


Figure 9: Apartment concept plan (Source: SJB Design Report)

The design concept achieves general compliance with the design principles and controls in SEPP 65 and the Apartment Design Guide. This includes 76% of the building's units achieving the minimum solar access requirements of 2hrs direct sunlight between 9am and 3pm mid-winter. The minimum is that 70% of the building's units achieve the solar access requirement required by the guide (**Figures 10 to 12**). The non-compliance with apartment depth is discussed with justification included.

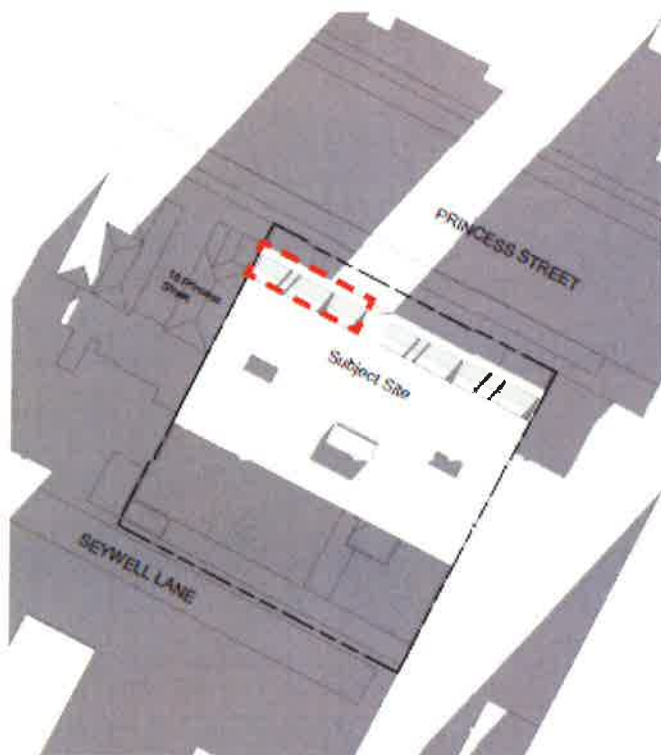


Figure 10: 9am Shadow Diagram 21 June (Source: SJB Design Report)

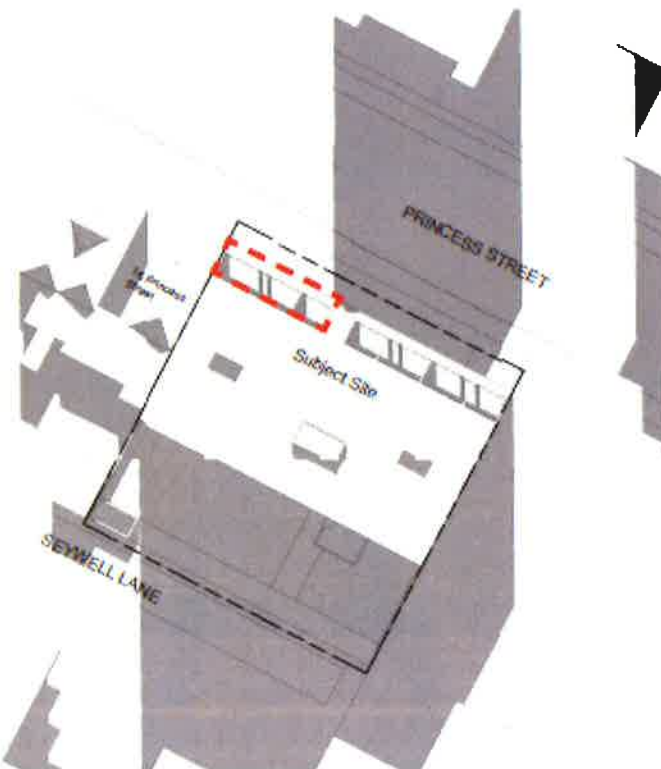


Figure 11: 12pm Shadow Diagram 21 June (Source: SJB Design Report)

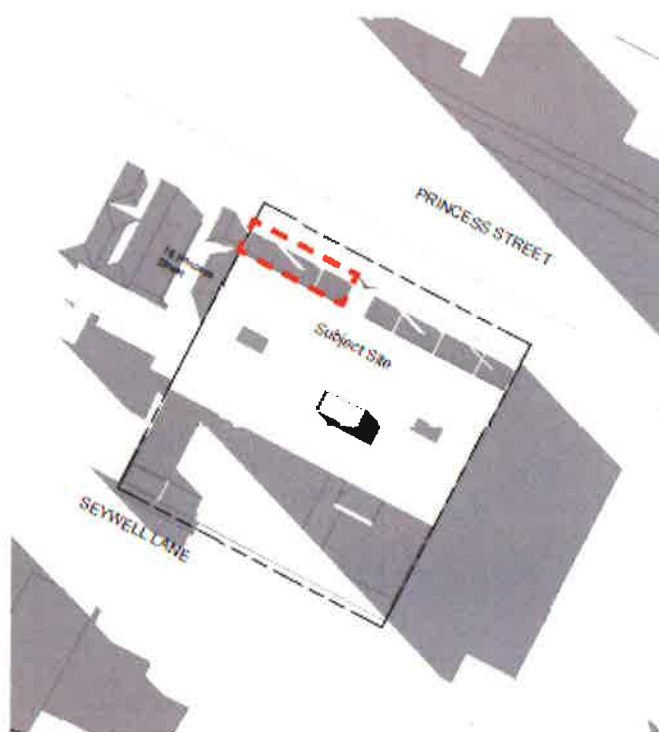


Figure 12: 3pm Shadow Diagram 21 June (*Source: SJB Design Report*)

Despite general compliance being achieved, the compliance table does not demonstrate how compliance is achieved by the concept design. It rather just states compliance is achieved. Likewise, since the preparation of the shadow diagrams, the adjoining 9 storey residential flat building at 16-20 Princess Street has been completed. Despite these issues, the final configuration, layout and size of the two units will be subject to the development application process, where compliance with these and other planning controls can be satisfactorily addressed. As such, no condition as part of the Gateway determination is required.

Traffic Impacts

The planning proposal submitted by Council for a Gateway determination includes a traffic report prepared by GTA Consultants. The existing building includes 4 car spaces allocated to the 3 retail tenancies on the ground floor. The proposed one and two bedroom units will only require 2 car spaces (**Figure 13**, next page). This matter can be satisfactorily addressed at the DA stage.

Proposal	Current	Future Expected
Land Use		
1 bedroom apartments	34	35
2 bedroom apartments	31	32
3 bedroom apartments	2	2
Total	67	69
Non-residential tenancies	3	0
Car Parking		
Residential Parking Spaces	62	66
Residential Adaptable Spaces	7	8
Residential Visitor Spaces	14 (including 1 wash bay)	14 (including 1 wash bay)
Retail Spaces	4	0
Retail Adaptable Visitor Space	1	0
Total	88	88
Motorbike Spaces	5	5

Figure 13: Carparking comparison table (Source: GTA Consultants Traffic Report)

The report reasonable concludes that the conversion to residential units will decrease traffic generation, based on the RMS Guide to Traffic Generating Development. Therefore, the proposed conversation of the ground floor retail tenancies to residential apartments will have a negligible impact on the surrounding road network.

Streetscape Impacts

The accompanying concept design proposes to convert the three ground floor retail tenancies into 2 residential apartments. Currently, the vacant tenancies present a blank response to the street with no visual interest or activity provided. The proposed residential apartments will enable a level of activation to the ground level and will ensure that the presentation of the building is purposeful rather than vacant tenancies (**Figures 14 and 15**). Neighbouring and directly opposite to the site are residential flat buildings. The conversion of these ground floor tenancies would be consistent with the existing streetscape.

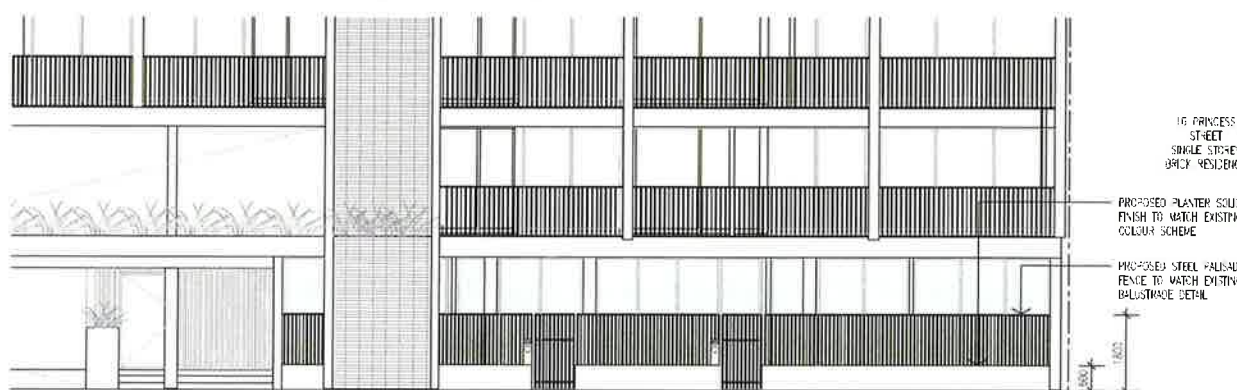


Figure 14: Princess Street elevation plan (Source: SJB Design Report)

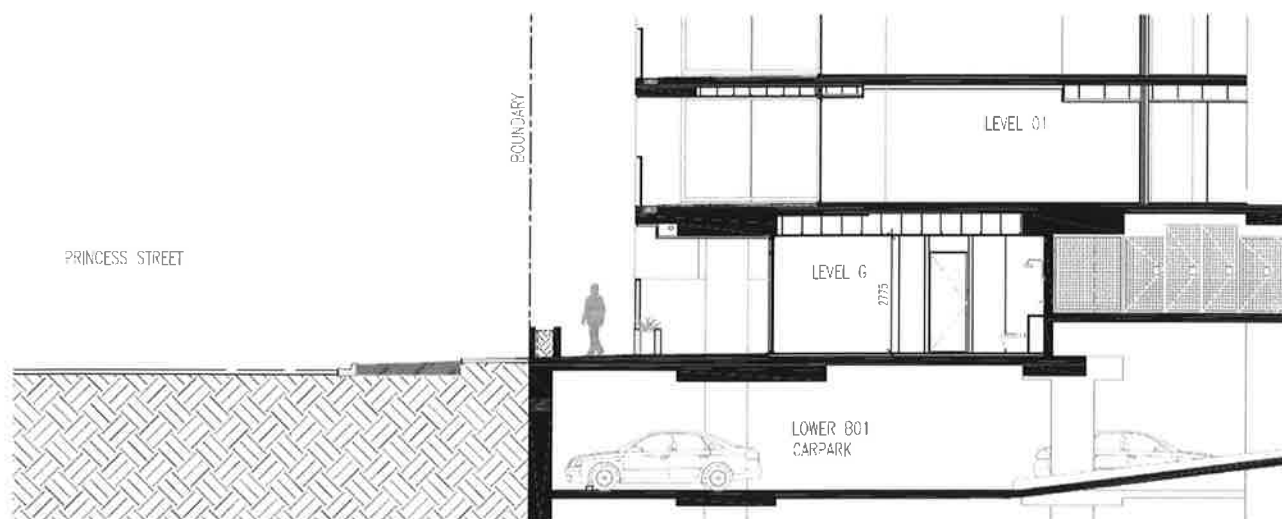


Figure 15: Cross section plan (Source: SJB Design Report)

For the purposes of the planning proposal, the detail and information provided is satisfactory. The streetscape amenity and design of any proposed ground floor residential apartments will be subject to the DA process and can be satisfactorily addressed at this stage.

Economic

The planning proposal will facilitate the delivery of housing choice and diversity. The accompanying development concept proposes to convert 3 vacant ground floor retail tenancies into 2 residential apartments. The planning proposal will have the following economic benefits and is considered acceptable as it will:

- Rezone land that facilitates an SP3 Tourist land zone which is now redundant as expansion of the Novotel on the site has been abandoned; and
- provide housing choice and diversity in an established local centre close to existing infrastructure, facilities and services.

Essential Economics Shop Tenancy Assessment

Essential Economics were engaged by the proponent to undertake an independent appraisal of the ground floor retail/ commercial space to assess the likelihood of securing long term sustainable tenancies.

The report concluded that the types of commercial uses that would be suitable for the site, such as a small convenience store, small restaurant, café, small liquor store and non-food retail such as a hairdresser or clothing store.

The report also discussed the leasing program undertaken by the land owner. The feedback received from the leasing agents considers that the site lacks the locational attributes, despite discounted rental prices in context to those on Bay Street, that can attract commercial tenants. The report supported this by stating that Princess Street has very low foot traffic and is located away from the main commercial centre of Brighton-Le-

Sands being located on Bay Street and the Grand Parade. This was confirmed during a site visit where negligible pedestrian activity was noted along Princess Street.

The report ultimately concludes that the subject site had a low desirability for potential tenants, poor locational attributes which undermine long term trading success and a high vacancy risk for commercial tenancies.

The site is the only location on Princess Street to include ground floor commercial tenancies. Adjoining and neighbouring site are residential flat building developments with no ground floor commercial tenancies. Likewise, the site is not located in the main commercial street fronts of Brighton-Le-Sands, with negligible pedestrian traffic along Princess Street to support potential business tenancies. Finally, this matter can be further considered as part of a development application as the B4 zone allows both ground floor and residential as well as ground floor commercial uses.

Infrastructure

The subject site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded where required by the developer.

CONSULTATION

Community

The planning proposal states that proposal will be exhibited to the public for a period of 28 days. This timeframe is appropriate and is reflected in the Gateway conditions.

Council, as the planning proposal authority, will be responsible for public consultation. It has been advised that this will include newspaper notification, displays at Council customer service centres, on Council's webpage and written notification to affected and adjoining property owners and occupiers.

Agencies

The planning proposal does not specify any agencies that are to be notified of the proposal.

As the proposed amendment is considered minor in nature, it is not proposed that any agencies be consulted.

TIME FRAME

The planning proposal includes a project timeline which has projected a finalisation of March 2019, indicating 7 months from an expected Gateway determination of August 2018. Consequently, the timeline needs to be updated.

A time frame of 9 months is considered appropriate. This does not prevent the proposal from being finalised sooner.

The Gateway determination will be conditioned to update the project timeline.

LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation to make the plan as planning proposal authority. However, Bayside Council did not support the planning proposal at the 12 September 2018 Council Meeting. The planning proposal was subject to a rezoning review where the Eastern City Planning Panel recommend it proceed to a Gateway determination.

Consequently, consequently the Department recommends not issuing an authorisation for Council to exercise delegation to make this plan.

CONCLUSION

The planning proposal is supported to proceed subject to conditions as:

- it is consistent with the Greater Sydney Region Plan, the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and state environmental planning policies;
- it increases housing choice and diversity in keeping with the existing residential character of the area;
- it optimises the use of existing infrastructure by being located within a local centre;
- the proposed residential development can achieve a satisfactory residential amenity; and
- it would have minimal environmental, social and economic impacts.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to community consultation as follows:
 - (a) Update the planning proposal to remove references to *A Plan for Growing Sydney*;
 - (b) update the project timeline.
2. The planning proposal must be made publicly available for a minimum of 28 days.
3. Consultation with public authorities/organisations under section 3.34(2)(d) of the Environmental Planning and Assessment Act 1979 is not required for this planning proposal.
4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be the local plan-making authority.



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