



PLANNING PROPOSAL

***Serviced apartments
in the B4 Mixed Use zone***

December 2014

1 INTRODUCTION

North Sydney Council (Council) has prepared a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013).

Clause 4.4A of NSLEP 2013 sets out requirements for the provision of non-residential floor space, including serviced apartments, for development on certain land in the *B1 Neighbourhood Centre*, *B4 Mixed Use* and *SP2 Infrastructure* zones.

The principle purposes of the non-residential floor space ratio requirements are to ensure that an appropriate mix of residential and non-residential uses and the provision of a suitable level of non-residential floor space to reflect the hierarchy of commercial centres.

In recent years there has been a surge in developments in the *B4 Mixed Use* zone which have included serviced apartments. Serviced apartments are short term accommodation for tourists and other visitors. As they are commercially operated, they are therefore considered to be a commercial use.

However the subsequent lack of viability of these serviced apartments is being used as justification for the lodgement of planning proposals to reduce the applicable non-residential floor space ratio control to enable the conversion of the serviced apartments to residential use.

This process has the potential to undermine the objectives of the mixed use zone; the objectives of the non-residential floor space ratio controls; and the future integrity of an Economic Development Strategy for North Sydney LGA.

Furthermore, whilst being a permissible and acceptable use in the *B4 Mixed Use* zone, they provide very low employment densities in comparison to other types of non-residential land uses and do not promote skilled employment, which is the primary function of employment floor space in the North Sydney LGA.

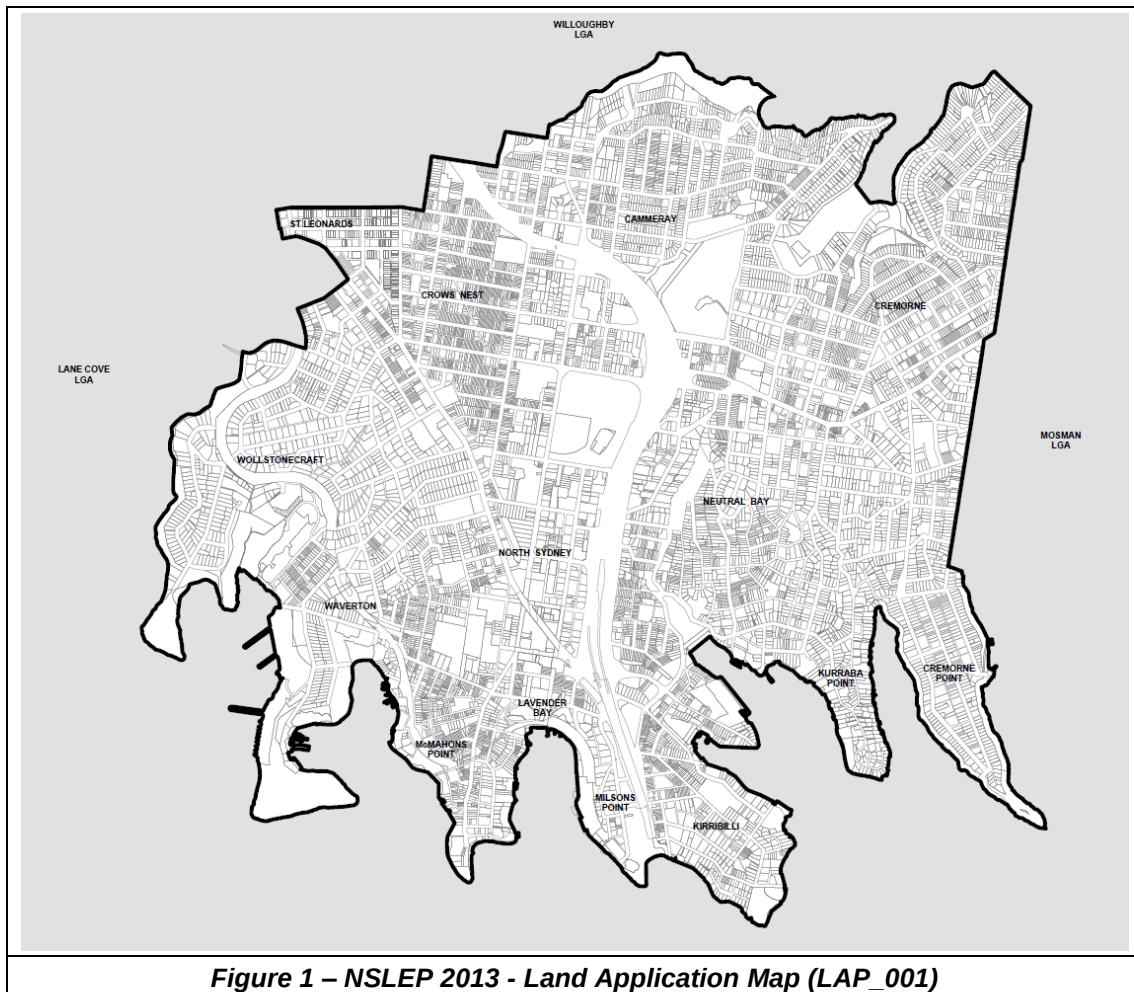
This Planning Proposal seeks to protect the provision of non-residential floor space in the *B4 Mixed Use* zone and ensure such floor space contributes to employment within the LGA.

In particular, the proposed amendment seeks to amend subclause 4.4A(8) to exclude serviced apartments from the calculation of non-residential floor space.

The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) and the Department of Planning and Environment's (DPE) document "*A guide to preparing planning proposals*" (October 2012).

2 SITE LOCALITY

The Planning Proposal applies all land zoned *B4 Mixed Use* included within the Land Application Map to NSLEP 2013.



3 BACKGROUND

Since the commencement of NSLEP 1989 on 3 November 1989, Council has imposed non-residential floor space ratio controls under its LEPs, with the aim to provide a mixture of uses and to provide a suitable level of employment floor space to assist in meeting employment targets set under regional and subregional strategies.

Council is currently receiving a number of development applications that incorporate serviced apartments within the *B4 Mixed Use* zone. However, once approval had been received, several applicants have sought to convert the serviced apartment components of those developments to residential accommodation. The primary justification for converting the serviced apartments typically related to the financial viability of this component of the development.

In many instances, the serviced apartment component of the development forms a significant portion of the minimum non-residential floor space ratio requirement applying to the subject site. Accordingly, the request to convert the serviced apartments to residential accommodation would result in a reduction in employment floor space being made available for other non-residential uses.

One of the drivers behind this trend is that it is often easier and cheaper for developers to convert the serviced apartments to residential accommodation rather than retrofit the spaces back to some other form of non-residential use.

Where the extent of conversion has been substantially more than that can be considered under section 4.6 of NSLEP 2013, the applicant has proceeded to submit a Planning Proposal to reduce the minimum non-residential floor space ratio requirement. These requests have typically been rejected by Council due to impacts on the ability of Council to meet the employment targets set by the State government.

Preliminary research has identified that serviced apartments, along with other tourist and visitor facilities do not actually contribute to the generation of a high number of jobs in comparison to the same amount of floor space occupied by office and retail premises. In particular, British research has demonstrated that serviced apartments only generate in the order of 1-2 employees per 5 bedrooms, which does not substantially contribute to the provision of jobs in employment areas.

4 STATUTORY CONTEXT

The relevant provisions of NSLEP 2013 that relate to the Planning Proposal are discussed in the following subsections.

4.1 Land Use Table

The objectives and provisions of the *B4-Mixed Use* zone to the Land Use Table under Part 2 of NSLEP 2013 state:

Zone B4 - Mixed Use

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.*
- *To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses on the lower levels and residential uses above those levels.*

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Backpackers' accommodation; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Seniors housing; Serviced apartments; Sex services premises; Shop top housing; Signage; Vehicle repair stations; Veterinary hospitals

4 Prohibited

Any development not specified in item 2 or 3

4.2 Definitions

Clause 1.4 of NSLEP 2013 makes reference to the Dictionary which provides definitions of terms used within the LEP.

In particular, the definitions of mixed use development, residential accommodation, serviced apartment and tourist and visitor accommodation are stated as follows:

mixed use development means a building or place comprising 2 or more different land uses.

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,

- (e) group homes,
 - (f) hostels,
 - (g) multi dwelling housing,
 - (h) residential flat buildings,
 - (i) rural workers' dwellings,
 - (j) secondary dwellings,
 - (k) semi-detached dwellings,
 - (l) seniors housing,
 - (m) shop top housing,
- but does not include tourist and visitor accommodation or caravan parks.

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note. Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers accommodation,
 - (b) bed and breakfast accommodation,
 - (c) farm stay accommodation,
 - (d) hotel or motel accommodation,
 - (e) serviced apartments,
- but does not include:
- (f) camping grounds, or
 - (g) caravan parks, or
 - (h) eco-tourist facilities.

4.3 Non-residential floor space ratio ranges

Clause 4.4A of NSLEP 2013 sets minimum and maximum floor space ratios for non-residential development in the *B4 Mixed Use* zone and states:

- (1) The objectives of this clause are as follows:
 - (a) to provide for development with continuous and active street frontages on certain land in Zone B1 Neighbourhood Centre, Zone B4 Mixed Use and Zone SP2 Infrastructure,
 - (b) to encourage an appropriate mix of residential and non-residential uses,
 - (c) to provide a level of flexibility in the mix of land uses to cater for market demands,
 - (d) to ensure that a suitable level of non-residential floor space is provided to reflect the hierarchy of commercial centres.
- (2) The non-residential floor space ratio for all buildings within a site on land identified on the Non-Residential Floor Space Ratio Range Map as specified in Column 1 of the Table to this subclause must not be less than the ratio shown for that land in Column 2 of that Table and must not exceed the ratio shown for that land in Column 3 of that Table.

Column 1	Column 2	Column 3
Area 2	0.75:1	2:1
Area 3	3:1	4:1
Area 4	1:1	2:1
Area 5	0.6:1	2:1
Area 6	0.5:1	2:1
Area 7	0.5:1	1:1
Area 8	3:1	4:1

- (3) *The non-residential floor space ratio for all buildings within a site on land identified as follows on the Non-Residential Floor Space Ratio Range Map must not be less than the ratio shown for that land:*
 - (a) *Area 1—3:1,*
 - (b) *Area 9—0.5:1,*
 - (c) *Area 10—1:1,*
 - (d) *Area 12—2:1,*
 - (e) *Area 13—1.5:1.*
- (4) *The non-residential floor space ratio for all buildings within a site on land identified as Area 11 on the Non-Residential Floor Space Ratio Range Map must not exceed 2:1.*
- (5) *Development consent must not be granted to the erection of a building on land identified as Area 1–13 on the Non-Residential Floor Space Ratio Range Map unless the consent authority is satisfied that the building will have an active street frontage after its erection.*
- (6) *Despite subclause (5), an active street frontage is not required for any part of a building that is used for any of the following:*
 - (a) *entrances and lobbies (including as part of a mixed use development),*
 - (b) *access for fire services,*
 - (c) *vehicular access.*
- (7) *In this clause, a building has an active street frontage if no part of the ground floor of the building facing a street is used for residential accommodation.*
- (8) *In this clause, non-residential floor space ratio means the ratio of the gross floor area of that part of a building used or proposed to be used for any purpose other than residential accommodation, a car park or a telecommunications facility, in all buildings within a site to the site area.*

Council has also prepared a Planning Proposal which is being progressed concurrently with this one that also seeks to amend clause 4.4A of NSLEP 2013. In particular, the other Planning Proposal seeks to remove the maximum non-residential floor space ratio controls.

4.4 Converting serviced apartments to residential flat buildings

Clause 6.11 of NSLEP 2013 contains provisions relating to the conversion of serviced apartments to residential flat buildings and states:

- (1) *The objective of this clause is to prevent substandard residential accommodation occurring through the conversion of serviced apartments to residential flat buildings.*
- (2) *Development consent must not be granted for the subdivision, under a strata scheme, of a building or part of a building that is being, or has been, used for serviced apartments into a residential flat building unless the consent authority has considered the following in relation to the residential flat building:*
 - (a) *the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development,*
 - (b) *the design principles of the Residential Flat Design Code (published by the Department of Planning, Infrastructure and Natural Resources, September 2002).*

5 THE PLANNING PROPOSAL

5.1 PART 1: STATEMENT OF OBJECTIVES

The purpose of this Planning Proposal is to amend NSLEP 2013 to prevent the provision of unviable serviced apartments and undermining of the objectives and controls to the provision of non-residential floor space in the *B4 Mixed Use* zone, that seek to protect and promote employment generation.

5.2 PART 2: EXPLANATIONS OF PROVISIONS

The Planning Proposal seeks to reinforce the provision of employment floor space by removing '*serviced apartments*' from the calculation of non-residential floor space. In particular, the intent of the Planning Proposal can be achieved by amending the objectives and definition of '*non-residential floor space ratio*' under Clause 4.4A to NSLEP 2013. The specific amendments sought are identified in the following subsections:

5.2.1 Objectives to clause 4.4A

Subclause 4.4A(1) of NSLEP 2013 contains the objectives to the clause. The intent of the Planning Proposal is proposed to be achieved by amending subclause 4.4A(1) as follows (~~red strike through~~ represents a deletion and blue underline represents an insertion):

- (1) *The objectives of this clause are as follows:*
- (a) *to provide for development with continuous and active street frontages on certain land in Zone B1 Neighbourhood Centre, Zone B4 Mixed Use and Zone SP2 Infrastructure,*
 - (b) *to encourage an appropriate mix of residential and non-residential uses,*
 - (c) *to provide a level of flexibility in the mix of land uses to cater for market demands,*
 - (d) *to ensure that a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of commercial centres.*

5.2.2 Calculation of non-residential floor space

Subclause 4.4A(8) of NSLEP 2013 defines '*non-residential floor space ratio*'. The intent of the Planning Proposal is proposed to be achieved by amending subclause 4.4A(8) as follows (~~red strike through~~ represents a deletion and blue underline represents an insertion):

- (8) *In this clause, non-residential floor space ratio means the ratio of the gross floor area of that part of a building used or proposed to be used for any purpose other than residential accommodation, serviced apartments, a car park or a telecommunications facility, in all buildings within a site to the site area.*

5.3 PART 3: JUSTIFICATION

5.3.1 Section A – Need for the planning proposal

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

Yes. The need for the Planning Proposal has arisen from preliminary work that has been undertaken by Council in relation to the *North Sydney Economic Development Study*.

The primary objective of the Strategy will be to outline Council's plan for economic development in a consolidated policy document. In particular, the Strategy will:

- Provide an understanding of the existing operation of all employment land in the North Sydney LGA;
- Identify recent development trends and their impact on the provision of employment generating floor space;
- Provide an understanding of the market conditions which affect existing economic activity in North Sydney LGA and greater Sydney;
- Provide an understanding of the opportunities and constraints for future employment growth in the North Sydney LGA;
- Identify the demand for employment generating floor space in the North Sydney LGA;
- Set clear employment targets which are consistent with state government targets;
- Set strategies to actively encourage the provision of additional employment generating floor space and uses.

Despite the Strategy still being in its preliminary stages, initial research undertaken to date has indicated a pressing need to strengthen mechanisms that promote the provision of employment generating uses.

In particular, it was identified that Council is in receipt of a number of development applications that incorporated serviced apartments within the *B4 Mixed Use* zone. However, once approval had been received, several applicants have sought to convert the serviced apartment components of those developments to residential accommodation. The primary justification for converting the serviced apartments typically relates to the financial viability of this component of the development.

In many instances, the serviced apartment component forms a significant portion of the minimum non-residential floor space ratio requirement applying to the subject site. Accordingly, the request to convert the serviced apartments to residential accommodation will result in a reduction in employment floor space being made available for other non-residential uses.

The proposed amendment to NSLEP 2013 has been identified as a simple measure to encourage the provision of more employment generating floor space in North Sydney.

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

Yes. There are potentially six options that could be pursued to address the intent of the Planning Proposal, including:

- Excluding serviced apartments from contributing to non-residential floor space;
- Inserting a local provision stating that serviced apartments may only be granted consent the *B4 Mixed Use* zone, but only if they form part of a wholly non-residential development;
- Removing serviced apartments from the *B4 Mixed Use* zone as a permissible use with consent;
- Requiring additional information to be provided at the Development Application (DA) stage to demonstrate that there is a demand for serviced apartments and that they are financially viable;
- Placing a minimum requirement on the number of serviced apartments being provided in a development; and
- Placing a maximum requirement on the number of serviced apartments being provided in the LGA or a specific precinct; and

Each of these options are discussed in further detail below.

Option 1 – Calculation of non residential floor space (preferred)

Clause 4.4A of NSLEP 2013 sets requirements for the provision of non-residential floor space on certain lands within the *B1 Neighbourhood Centre* and *B4 Mixed Use* zones, including its calculation.

All land uses that do not comprise residential accommodation, car parks or telecommunication facilities are excluded from the calculation of non-residential floor space. The principle purposes of the non-residential floor space ratio requirements are to ensure that an appropriate mix of residential and non-residential uses on certain lands within the *B1 Neighbourhood Centre* and *B4 Mixed Use* zones and the provision of a suitable level of non-residential floor space to reflect the hierarchy of commercial centres.

This option involves removing of serviced apartments from the calculation of non-residential floor space. Implementation of this option would ensure that truly employment generating land uses contribute to meeting of employment targets for the North Sydney LGA.

Serviced apartments, along with other tourist and visitor facilities do not contribute to a high generation of jobs in comparison to the same amount of floor space occupied by office and retail premises. British research has demonstrated that serviced apartments generate in the order of 1-2 employees per 5 bedrooms, which does not substantially contribute to the provision of jobs in employment areas.

In the current market, this option may result in no serviced apartments being provided in the *B4 Mixed Use* zone. This is because the use would be competing directly with residential uses, rather than other non-residential uses which is currently the case. However, serviced apartments would remain permissible in the zone.

This option is preferred as it results in the least amount of impact on the provision of serviced apartments in the long term. Furthermore, additional research that forms part of the *North Sydney Economic Development Strategy* may result in finding alternative options to improve the uptake of serviced apartments in an appropriate context and thereby only resulting in a short term impact.

Option 2 – Local Provision

This option involves inserting a local provision stating that serviced apartments are only permissible in the *B4 Mixed Use* zone but only if they form part of a wholly non-residential development.

Traditionally, serviced apartments are provided as a standalone development, or located in conjunction within ground level commercial uses such as retail and restaurants and cafes. However, there has been a recent trend to incorporate serviced apartments within developments that also include residential accommodation. As part of this trend some developers have merely been filling their minimum non-residential floor space requirement with no intention of using that space for serviced apartments.

This option would ensure that serviced apartments are not incorporated within a development proposal just to meet employment floor space requirements and with no intention of using them as such.

This option is not supported because it restricts the flexibility in the provision of serviced apartments within a mixed use development where there is a demonstrated demand in an appropriate location.

Option 3 – Permissibility in the B4 Mixed Use Zone

This option involves removing serviced apartments from the *B4 Mixed Use* zone as a land use that is permissible with development consent.

Pursuing this option would limit the permissibility of serviced apartments to the *B3 Commercial Core* zone only. This would represent a significant reduction in the permissibility of the development type in the North Sydney LGA. In addition, the removal of the land use type from the *B4 Mixed Use* zone could be considered to be inconsistent with the objectives, actions and directions to relevant regional and subregional planning strategies/plans in relation to employment creation. In particular, it would not support the provision of a broad range of local employment types.

Option 4 – DA requirements

This option involves requiring applicants to provide additional information at the DA stage. In particular, applications for proposals incorporating serviced apartments should be made to demonstrate that there is a demand for serviced apartments and that they are financially viable.

This could be achieved by requiring applicants of such proposals to provide:

- An economic feasibility study showing the viability of the serviced apartments in the current market; and/or
- A signed agreement between the developer and a serviced apartment management company that the serviced apartments will be owned/managed by the company once constructed.

These additional requirements could be requested for as part of a DA checklist that accompanies the DA form. Alternatively, they could form a requirement to a development application plan (DCP).

Despite requesting such information, it would be difficult to refuse such development applications where that information has not been provided or

Council does not support the arguments put forward by the applicant. This due to the lack of statutory weight that such provisions would have and would ultimately comes down to a merit assessment.

If this option is pursued, it could still result in a loss of employment floor space which is contrary to the intent of the PP.

It may also not prevent a Planning Proposal being lodged to reduce the non-residential floor space ratio control, but it would provide a little more certainty at DA stage that the use is viable.

Therefore, this option is not supported, as it cannot provide any certainty that the serviced apartment component of a development is a legitimate proposal, or merely a stop gap to have the proposal approved with the intent to convert to residential at a later stage.

Option 5 – Minimum Requirements

This option involves placing a minimum requirement on the number of serviced apartments being provided in a development.

Before a minimum requirement can be set, research would be required to be undertaken to determine if a numerical threshold exists, below which it is not viable to manage serviced apartments. If a threshold exists, it could then be incorporated into the planning controls to ensure that only applications proposing a viable number of serviced apartments are given consideration.

The suggested research above has not been undertaken to date and therefore it would be unreasonable to impose such a control at this point in time.

Option 6 – Maximum Requirements

This option involves placing a maximum requirement on the number of serviced apartments being provided in the LGA or a specific precinct.

Before a maximum requirement can be set, research would be required to be undertaken to determine the market demand for serviced apartments in the LGA. The upper level of demand could then be embedded in planning controls as a cap on floor space and/or number of serviced apartments. The cap could apply LGA wide or specific caps could be applied to different areas depending on the findings of the research. Applications for serviced apartments beyond the cap would not be supported.

In the preparation of the Crows Nest South Planning Study, it investigated the demand for serviced apartments in the LGA. It determined that there was clearly a market for them in major centres such as North Sydney and St Leonards where they support business purposes, but no quantum of demand was determined. More detailed research, as discussed above, has not been undertaken to date, and therefore it is it would be unreasonable to impose such a control at this point in time.

5.3.2 Section B – Relationship to strategic planning framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Metropolitan Plan for Sydney 2036

Released in December 2010, the Metropolitan Plan for Sydney 2036 (Metropolitan Plan) sets the planning framework for the growth of the Sydney metropolitan area over the next 25 years. The Metropolitan Plan sets targets of an additional 770,000 homes and 760,000 jobs by 2036.

Objectives and Actions identified in the Metropolitan Plan which are relevant to the planning proposal are as follows:

- Objective A3 – To contain the urban footprint and achieve a balance between greenfields growth and renewal in existing urban areas;
- Objective A4 – To continue strengthening Sydney's capacity to attract and retain global businesses and investment;
 - Action A4.1 – Protect commercial core areas in key Strategic Centres to ensure capacity for companies engaged in global trade, services and investment, and to ensure employment targets can be met.
- Objective A6 – To strengthen Sydney's position as a contemporary global tourism destination;
 - Action A6.3 – Implement the recommendations of the Joint Ministerial Taskforce on Tourism Planning and Investment, 2010.
- Objective B1 – To focus activity in accessible centres;
 - Action B1.1 – Plan for centres to grow and change over time;
- Objective B2 – To strengthen major and specialised centres to support sustainable growth of the city;
 - Action B2.2 – Provide sufficient capacity for the clustering of businesses and knowledge-base activities in Major and Specialised Centres;
- Objective E2 – To focus Sydney's economic growth and renewal, employment and education in centres;
 - Action E2.1 – Plan for more commercial and retail jobs in high accessible strategic centres
 - Action E2.2 – Ensure that an adequate supply of retail, office space and business parks;
- Objective E3 – To provide employment lands to support the economy's freight and industry needs;
 - Action E3.1 – Monitor supply and demand for employment lands, and plan for new employment lands;
 - Identify and retain strategically important employment lands

The Planning Proposal is generally consistent with the above objectives and actions of the Metropolitan Plan, as it will help strengthen the employment function of North Sydney's centres and the Mixed Use zone.

Draft Metropolitan Strategy for Sydney to 2031

Released in March 2013, the Draft Metropolitan Plan for Sydney to 2031 (Draft Metropolitan Strategy) sets the planning framework for the growth of the Sydney metropolitan area over the next 25 years. The Draft Metropolitan

Strategy sets targets of an additional 545,000 homes and 625,000 jobs by 2031.

Objectives and Policies identified in the Draft Metropolitan Strategy which are relevant to the Planning Proposal are as follows:

- Objective 2 – Strengthen and grow Sydney’s centres
 - Policy 2.C – Encourage growth in all centres and Specialised Precincts within the Global Economic Corridor and extend its overall reach to Norwest and Parramatta.
 - Policy 2.D – Mixed use development will be encouraged in all centres, including central commercial core areas, where there is market demand and complementary land uses.
- Objective 4 – Deliver strategic outcomes - nine city shapers
 - Policy 4.A – Transform the city by delivering the priorities for each city shaper.
- Objective 7 – Deliver well-designed and active centres that attract investment and growth
 - Policy 7.A – Existing centres will grow and change and new centres will be supported.
 - Policy 7.B – Retail, employment, cultural and social infrastructure will be included in centres undergoing growth and renewal.
- Objective 10 – Provide capacity for jobs growth and diversity across Sydney
 - Policy 10.A – Plan for at least 339,000 additional jobs by 2021 and 625,00 additional jobs by 2031.
- Objective 14: Provide a good supply of office space
 - Policy 14.A – Strategic Centres and Specialised Precincts that contain business parks/office clusters will be the primary location for office space.
 - Policy 14.B – Major new office developments will be supported in Global Sydney
- Objective 15 – Provide for a good supply of retail space
 - Policy 15.A – Centres of all sizes will be the primary location of retail, at a scale reflecting the level of public transport accessibility.

The Planning Proposal is generally consistent with the above objectives and policies of the draft Metropolitan Strategy as it as it will help strengthen the employment function of North Sydney’s centres and mixed use zone.

Draft Inner North Subregional Strategy

In July 2007, the NSW Government released the draft Inner North Subregional Strategy (draft INSS). The North Sydney LGA is located within the Inner North subregion with the other LGAs of Lane Cove, Ryde, Willoughby, Hunters Hill and Mosman. The Draft INSS sets targets of an additional 5,500 homes and 15,000 jobs by 2031 for the North Sydney LGA.

Directions and Actions identified in the draft INSS which are relevant to the Planning Proposal are as follows:

- Direction A1 – Provide suitable commercial sites and employment lands in strategic areas

- Action A1.1 – Provide a framework for accommodating jobs across the city
- Action A1.2 – Plan for sufficient zoned land and infrastructure to achieve employment capacity targets in employment lands
- Action A1.4 – Contain the rezoning of employment lands to residential zonings across Sydney
- Direction B1 – Provide places and locations for all types of economic activity and employment across the Sydney region
 - Action B1.1 Establish a typology of centres
 - Action B1.2 Establish employment capacity targets for strategic centres
- Direction B2 – Increase densities in centres whilst improving liveability
 - Action B3.4 – Ensure sufficient commercial office sites in strategic centres
- Direction B3 – Cluster businesses and knowledge-base activities in strategic centres
 - Action B3.2 - Strengthen centres management
 - Action B3.4 – Ensure sufficient commercial office sites in strategic centres
- Direction B4 – Concentrate activities near public transport
 - Action B4.1 – Concentrate retail activity in centres, business development zones and enterprise corridors
- Direction B5 – Protect and strengthen the primary role of economic corridors
 - Action B5.1 – Establish a stronger corridors planning and development initiative
- Direction C3 – Renew local centres
 - Action C3.1 – Renew local centres to improve economic viability and amenity.
- Direction F4 – Enhance cultural life and tourism precincts
 - Action F4.2 – Recognise the night time economy and protect entertainment and nightlife clusters.
 - Action F4.3 – Continue to coordinate and plan for the improvement of tourism precincts in Sydney to maximise the visitor experience.

The Planning Proposal is generally consistent with the above directions and actions of the draft INSS as it will help strengthen the employment function of North Sydney's centres and mixed use zone.

4. *Is the planning proposal consistent with a council's local strategy or other local strategic plan?*

North Sydney Council Delivery Program 2010/11-2013/14

The North Sydney Council Delivery Program 2010/11-2013/14 (Delivery Program) was prepared in accordance with NSW State Government's Integrated Planning and Reporting Framework requirements. The Delivery Program outlines Council's priorities and service delivery programs over four years, set out under five key Directions.

The directions and goals of the Delivery Program which are relevant to the Planning Proposal are as follows:

Direction 2: Our Built Environment

Outcomes 2.2: Improve mix of land use and quality development

Direction 3: Our Economic Vitality

- Outcomes 3.1 Ensure a vibrant, strong, and sustainable local economy
 Outcomes 3.2 North Sydney CBD is one of Australia's largest commercial centres

Direction 5: Our Civic Leadership

- Outcomes 5.5: Ensure the long term financial sustainability of North Sydney

The Planning Proposal will allow these directions and outcomes to be pursued in a robust and strategic manner.

5. Is the planning proposal consistent with applicable state environmental planning policies?

It is considered that the Planning Proposal is consistent with those State Environmental Planning Policies (SEPPs) which are relevant to the North Sydney Local Government Area, as demonstrated in TABLE 1.

TABLE 1: Consistency with SEPPs		
Direction	Consistency	Comment
SEPP No. 1 – Development Standards	N/A	This SEPP does not apply pursuant to Clause 1.9 of NSLEP 2013.
SEPP No. 19 - Bushland in urban areas	N/A	This SEPP does not apply as the lands affected by the Planning Proposal do not contain bushland or are located adjacent to land containing bushland.
SEPP No. 32 - Urban consolidation (redevelopment of urban land)	YES	The Planning Proposal is consistent with the SEPP as it will improve the opportunities for employment generating floor space B4 Mixed Use land.
SEPP No. 33 - Hazardous and offensive development	N/A	This SEPP does not apply as the Planning Proposal does not relate to land upon which hazardous and offensive development is permitted.
SEPP No. 50 - Canal estate development	YES	The Planning Proposal is consistent with the SEPP by maintaining a prohibition on canal estate development.
SEPP No. 55 - Remediation of land	YES	The Planning Proposal does not seek to alter the types of uses permissible on the subject lands. Accordingly, no detailed contamination assessments are required in this instance. Contamination can be dealt with at development application stage if required.
SEPP No. 64 - Advertising and signage	N/A	The Planning Proposal does not relate to development for the purposes of advertising and signage.
SEPP No. 65 - Design Quality of Residential Flat Development	N/A	This SEPP does not apply as the Planning Proposal does not relate to the provision of residential flat buildings.
SEPP (Affordable Rental Housing) 2009	N/A	This SEPP does not apply as the Planning Proposal does not relate to the provision of affordable housing.
SEPP (Building Sustainability Index: BASIX) 2004	N/A	The Planning Proposal does not relate to building sustainability.

TABLE 1: Consistency with SEPPs		
Direction	Consist-ency	Comment
SEPP (Exempt and Complying Development Codes) 2008	N/A	The Planning Proposal does not seek to introduce any additional exempt or complying development types.
SEPP (Housing for Seniors or People with a Disability) 2004 - <i>formerly SEPP (Seniors Living) 2004</i>	N/A	This SEPP does not apply as the Planning Proposal does not relate to the provision of housing for seniors or people with a disability.
SEPP (Infrastructure) 2007	YES	The Planning Proposal is consistent with the SEPP as it does not affect the attainment of the SEPP's aims and objectives.
SEPP (Major Development) 2005 - <i>formerly SEPP Major Projects & SEPP State Significant Development</i>	N/A	The Planning Proposal does not relate to any state significant sites identified under this SEPP and therefore does not apply.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	YES	The Planning Proposal is consistent with the SEPP as it will not impede the attainment of the aims and objectives of this SEPP.
SEPP (Miscellaneous Consent Provisions) 2007 - <i>formerly SEPP (Temporary Structures) 2007</i>	N/A	This SEPP does not apply as the Planning Proposal does not relate to development for the purposes of temporary structures.
SEPP (State and Regional Development) 2011	N/A	This SEPP does not apply as the Planning Proposal does not relate to state or regional development nor the operation of joint regional planning panels.
Sydney REP (Sydney Harbour Catchment) 2005	YES	The Planning Proposal is consistent with the SEPP as it will not impede the attainment of the aims and objectives of this SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

It is considered that the Planning Proposal is consistent with the relevant Directions issued under Section 117(2) of the EP&A Act by the Minister to Councils, as demonstrated in TABLE 2.

TABLE 2: Consistency with s.117 Directions		
Direction	Consist-ency	Comment
1. Employment and Resources		
1.1 Business & Industrial Zones	YES	The Planning Proposal does not seek to reduce any commercial or industrial zoning under NSLEP 2013 nor does it seek to reduce the level of permissible non-residential floor space achievable on the affected lands. Despite potentially restricting the provision of serviced apartments in the <i>B4 Mixed Use</i> zone, it will enable the minimum required amount of non-

TABLE 2: Consistency with s.117 Directions		
Direction	Consist -ency	Comment
		residential floor space to be occupied by non-residential land uses that have a higher density of employment and thereby reinforcing the objectives of the Direction.
1.2 Rural Zones	N/A	This Direction does not apply as there are no existing rural zones under NSLEP 2013 or proposed under the Planning Proposal.
1.3 Mining, Petroleum Production & Extractive Industries	YES	The Planning Proposal does not seek to alter the permissibility of these types of land uses.
1.4 Oyster Aquaculture	N/A	This Direction does not apply as the Planning Proposal does not propose any changes in land use.
1.5 Rural Lands	N/A	This Direction does not apply as the Planning Proposal does not propose any changes that will affect development in a rural or environmental protection zone.
2 Environmental Heritage		
2.1 Environmental Protection Zones	N/A	This Direction does not apply as the Planning Proposal does not affect land in an environmental protection zone.
2.2 Coastal Protection	N/A	This Direction does not apply as the Planning Proposal does not affect land within a coastal zone.
2.3 Heritage Conservation	YES	The Planning Proposal does not alter the existing heritage conservation provisions within NSLEP 2013 which already satisfy the requirements of the Direction.
2.4 Recreation Vehicle Areas	N/A	The Planning Proposal does not enable land to be developed for the purposes of a recreational vehicle area.
3 Housing, Infrastructure & Urban Development		
3.1 Residential Zones	YES	The Planning Proposal is consistent with the requirements of the Direction as it will not place additional restrictions on residential development within the <i>B4 Mixed Use</i> zone.
3.2 Caravan Parks & Manufactured Home Estates	N/A	This Direction does not apply as the Planning Proposal does not seek to permit caravan parks or manufactured home estates under NSLEP 2013.
3.3 Home Occupations	YES	The Planning Proposal does not alter the existing provisions within NSLEP 2013 that relate to home occupations, which already satisfy the requirements of the Direction.
3.4 Integrating Land Use & Transport	YES	The Planning Proposal is considered to be consistent with the aims objectives and principles of “ <i>Improving Transport Choice – Guidelines for planning and development</i> ” and “ <i>The Right Place for</i>

TABLE 2: Consistency with s.117 Directions		
Direction	Consist -ency	Comment
		<i>Business and Services – Planning Policy</i> ". It achieves this by maximising the provision of high generating employment floor space in highly accessible areas.
3.5 Development Near Licensed Aerodromes	N/A	This Direction does not apply as the Planning Proposal does not relate to land in the vicinity of a licensed aerodrome nor does it propose to amend a height limit that exceeds the Obstacle Limitation Surface level that applies to the North Sydney LGA.
3.6 Shooting Ranges	N/A	This Direction does not apply as the Planning Proposal does not relate to land in the vicinity of a shooting range.
4 Hazard and Risk		
4.1 Acid Sulfate Soils	N/A	This Direction does not apply as the Planning Proposal does not relate to land affected by Acid Sulfate Soils.
4.2 Mine Subsidence & Unstable Land	N/A	This Direction does not apply as the Planning Proposal does not relate to land affected by mine subsidence nor has it been identified as being unstable land.
4.3 Flood Prone Land	N/A	This Direction does not apply as the Planning Proposal does not relate to land identified as being flood prone land.
4.4 Planning for Bushfire Protection	N/A	This Direction does not apply as the Planning Proposal does not relate to land identified as being bushfire prone land.
5 Regional Planning		
5.1 Implementation of Regional Strategies	N/A	This Direction does not apply as the Planning Proposal does not relate to land affected by one of the identified strategies.
5.2 Sydney Drinking Water Catchment	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast.	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast.	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
5.8 Second Sydney Airport: Badgerys Creek	N/A	This Direction does not apply as the Planning Proposal does not relate to any of the identified LGAs.
6 Local Plan Making		
6.1. Approval & Referral Requirements	YES	The Planning Proposal does not alter any concurrence, consultation or referral requirements under NSLEP 2013, nor does it identify any development as designated development.

TABLE 2: Consistency with s.117 Directions		
Direction	Consistency	Comment
6.2 Reserving Land for Public Purposes	YES	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	N/A	This Direction does not apply, as it does not allow a particular type of development to be carried out.
7 Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	YES	Refer to question 4 to Section 5.3.2 of this report.

5.3.3 Section C – Environmental, social and economic impact.

7. Is *there* any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal relates to land in a densely urbanised area and it is unlikely that the Planning Proposal will adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The Planning Proposal merely seeks to alter the way that non-residential floor space is calculated and is unlikely to result in any adverse environmental impacts.

9. How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal in part seeks to address the issue of maintaining and promoting employment generating floor space in the B4 Mixed Use Zone. The provision of employment generating floor space is vital to overall economic vitality of the North Sydney LGA, greater Sydney and the state of NSW.

It should be noted that serviced apartments will still be permissible in the *B4 Mixed Use* zone where the development is able to meet the non-residential floor space requirements with employment floor space that does not comprise serviced apartments. They will also remain permissible in the *B3 Commercial Core* zone.

Council's concurrent proposal to remove the maximum non-residential FSR controls in the *B4 Mixed Use* zone will allow for wholly non-residential developments to be constructed anywhere in the mixed use zone. It is therefore considered that this proposal will not impact on the ability of the market to supply serviced apartments.

5.3.4 Section D – State and Commonwealth interests

10. *Is there adequate public infrastructure for the planning proposal?*

The Planning Proposal does not seek to allow an increase the overall developable yield on any site. Therefore, the Planning Proposal will not increase the demand for public infrastructure.

11. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

The Planning Proposal has not yet been considered by State or Commonwealth public authorities. Views of the State will be gained through the Gateway Determination process.

5.4 PART 4: MAPPING

No mapping is required to be prepared as part of this Planning Proposal.

5.5 PART 5: COMMUNITY CONSULTATION

Consultation will be undertaken in accordance with the requirements made by the Gateway Determination and Council's guidelines.

5.6 PART 6: PROJECT TIMELINE

TABLE 3 provides a project timeline having regard to identified milestones and estimating approximately 9 months from submitting the proposal to the DPE to the amending LEP being made.

TABLE 3 – Project Timeline									
Milestone	Dec 2014	Jan 2015	Feb 2015	Mar 2015	April 2015	May 2015	June 2015	July 2015	Aug 2015
1. Request for Gateway Determination sent to DPE									
2. DPE considers Request									
3. Gateway Determination Issued to Council									
4. Public Exhibition Undertaken									
5. Council considers post exhibition report									
6. Submission to DPE requesting making of LEP									
7. Drafting of LEP and making									