

Planning Proposal to North Sydney Council

Panorama, 200-220 Pacific Highway, Crows Nest



Prepared on behalf of B Cap 2 Pty Ltd 17 March 2014 (Rev 1) | 1020

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- B Existing and Planning Proposal version of NSLEP 2013 Non-Residential FSR Range Map -Sheet LCL_001
- C Correspondence from Mater Hospital, Waldorf Apartments, Toga Hospitality, Colliers International, Richardson & Wrench and Pharos Retail in relation to non-residential uses on the site



1.0 Preliminaries

1.1 Introduction

This Planning Proposal is submitted to North Sydney Council (the **Council**). It has been prepared by Robinson Urban Planning Pty Ltd on behalf of B Cap 2 Pty Ltd (the proponent and land owner). It relates to the mixed use development known as "Panorama" which is located at 200-220 Pacific Highway, Crows Nest (the **site**). Submission of the Planning Proposal follows a meeting between the proponent and Council Officers on 11 February 2014.

Construction of Panorama is complete, the building has been strata titled, the residential apartments have been sold and most are now occupied.

This Planning Proposal would facilitate residential use of six serviced apartments approved on the first floor of Panorama (which have been vacant since completion). As detailed in this Planning Proposal, the proponent has made considerable efforts for an extend period of time both before and after completion of the project, but failed, to find a serviced apartment operator (or alternate non-residential use for the first floor areas). There would be no change to the approved ground floor non-residential uses or Pacific Highway street activation.

The proposed amendment involves a reduction to the minimum non-residential floor space ratio (**FSR**) standard that applies to the site pursuant to North Sydney Local Environmental Plan 2013 (**NSLEP 2013**) as follows:

- Existing non-residential FSR standard 0.5:1 to 2:1
- Proposed non-residential FSR standard 0.2:1 to 2:1

The Planning Proposal explains the background to the requested amendment and consists of the following six parts (consistent with the document titled *A guide to preparing planning proposals*, by NSW Planning & Infrastructure, 2012):

- Part 1 Objectives or intended outcomes
- Part 2 Explanation of the provisions
- Part 3 Justification
- Part 4 Mapping
- Part 5 Community Consultation
- Part 6 Project timeline

It is accompanied by the following documents:

- Appendix A Building A Level 1 Plan and Building A East Elevation showing the location of the approved serviced apartments (by JPR Architects, CD 4100 and CD 4201, Rev A dated 14 March 2014)
- Appendix B Existing and Planning Proposal version of NSLEP 2013 Non-Residential FSR Range Map - Sheet LCL_001
- Appendix C Correspondence from Mater Hospital, Waldorf Apartments, Toga Hospitality, Colliers International, Richardson & Wrench and Pharos Retail in relation to nonresidential uses on the site.





Figure 1 – Location plan



1.2 Brief description of the site

The key characteristics of the site are summarised below:

Location	200-220 Pacific Highway, Crows Nest (Figure 1)		
Legal description	Lots and common property in strata plan 88890 Lots and common property in strata plan 88827 Lot 2 in DP 1183313 Lot 4 in DP 1183313		
Site area	3,352.4m ²		
Existing consent	The Sydney East Joint Regional Planning Panel (JRPP) approved development application (DA) 404/10 (2010SYE088) which operated from 30 March 2011. The consent (which has been modified) approved partial demolition of existing buildings on the site and construction of a 17 storey mixed use building containing 204 residential apartments, six serviced apartments, ground floor retail and 140 car parking spaces. The total approved non-residential FSR is 0.4:1.		
	•	sition of the approved service apartments (six) is illustrated on the id elevation at Appendix A .	
Surrounding development	North	An old warehouse style two storey building at 222 Pacific Highway is built to the site's northern boundary. A six storey mixed use building, known as "The Cosmopolitan" is further north at 236 Pacific Highway. The latter building has three non- residential tenancies at the street front on the ground level only, with residential uses above (making it <i>shop top housing</i> ¹). Further north (on the south side of Bruce Street) are older one and two storey buildings occupied by non-residential uses.	
	South	A two storey retail/commercial building is to the south on the corner of Rocklands Road and the Pacific Highway at 198 Pacific Highway. This building has a ground floor shop with a dwelling above. The opposite side of this intersection is occupied by a six storey (plus attic) apartment building at 41 Rocklands Road. Mater Hospital is to the south-west, beyond Rocklands Road.	
	East	North Sydney Girls' High School (a heritage item) and commercial/residential uses are to the east of the site, beyond the Pacific Highway.	
	West	Residential uses along Sinclair Street; comprising an apartment building (7 Sinclair St), townhouses (19-23 Sinclair Street) and semi-detached dwellings; are to the west (25-37 Sinclair Street).	

¹ Pursuant to the Dictionary to NSLEP 2013:

Shop top housing means one or more dwellings located above ground floor retail premises or business premises



1.3 Statutory context

An overview of the key planning provisions applying to the site under NSLEP 2013 follows:

• **Zone** – Zone B4 Mixed Use (refer to **Figure 2**). For Zone B4, the land use table shows the following objectives and permitted/prohibited uses:

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

- Height of buildings 16m
- Non-residential FSR Area 6 0.5:1 to 2:1 (refer to Figure 3)
- Heritage The site is not a heritage item and is not located within a conservation area. Heritage items in the vicinity of the site include the former Mater Maternity Hospital at 7 Sinclair Street, on the corner of Rocklands Road, North Sydney Girls' High School and adjoining buildings to the south (located within the Holtermann Estate Conservation Area).

NSLEP 2013 is supplemented by *North Sydney Development Control Plan 2013* (**NSDCP 2013**) which provides guidelines on detailed aspects of development. The NSDCP 2013 contains Character Statements for the various planning areas within the municipality which describe the desired future outcomes for development in the area. The site (and the block on the west side of the Highway between Rocklands Road and Bruce Street) is located within the Waverton/Wollstonecraft Planning Area which is a predominantly residential area (refer to **Figure 4**). All other parts of the mixed use centre are located in the St Leonards/Crows Nest Planning Area.



Land Zoning Map - Sheet LZN_001

Zone







Figure 2 – Extract from NSLEP 2013, Land Zoning Map - Sheet LZN_001 showing the site's location at the southern extremity of the Zone B4 lands





Figure 3 – Extract from NSLEP 2013, Non-Residential FSR Range Map - Sheet LCL_001





Figure 4 – NSDCP 2013 Waverton/Wollstonecraft Planning Area showing the location of the site



2.0 Planning proposal

2.1 Part 1 - Objectives or intended outcomes

The objective of the Planning Proposal is to reduce the minimum non-residential FSR standard applying to the site. The intended outcome is to enable residential use of the approved first floor serviced apartments constructed on the site.

2.2 Part 2 – Explanation of provisions

The objective and intended outcome set out above will be achieved by the following amendments to NSLEP 2013:

1. Map amendment

Amend the Non-Residential Floor Space Ratio Range Map - Sheet LCL_001 to nominate the site as Area 14 and add Area 14 to the Key (refer to the existing and Planning Proposal map at **Appendix B**)

2. Instrument amendment

Amend Clause 4.4A(2) - Non-residential floor space ratio ranges as follows (deleted words are shown in strikethrough and new words are shown in red bold):

4.4A Non-residential floor space ratio ranges

- (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
Area 14	0.2:1	2:1

(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 14 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.

2.3 Part 3 – Justification

A. Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report. Instead, the need for a Planning Proposal is the result of the applicant's unsuccessful efforts to find occupants for the first floor non-residential areas in the building. As detailed by the following points, there are sound justifications for a Planning Proposal:

(a) The applicant has made considerable efforts to find a productive use for the first floor non-residential floor space, but has failed to find a viable occupant.

An outline of the applicant's endeavours to make productive use of the approved ground and first floor non-residential space follows (the referenced emails/letters are attached at **Appendix C**):

- Mater Hospital As detailed in the attached emails, Barana approached Mater Hospital to see if it was interested in potentially leasing or purchasing the first floor serviced apartments to accommodate relatives, friends and carers of patients admitted from rural and regional areas and/or as specialist medical office accommodation. The hospital has advised that it has entered into leases over other properties and that it is unlikely to need any additional space in the near term.
- **Toga Hospitality** Toga Hospitality operate Adina Serviced Apartments, Medina Serviced Apartments, Vibe Hotels and Travelodge. The attached letter notes that it is not viable to operate sic serviced apartments (noting that a minimum of 40 apartments is needed to



achieve the critical mass required to support the management, marketing, maintenance and administration functions).

- Waldorf Apartments The attached letter notes that the Waldorf operates many serviced apartments on the North Shore, that Crows Nest would be of interest, but that it is not possible to run a serviced apartment operation with only six apartments.
- Colliers International Colliers reviewed the first floor non-residential space to assess its suitability for use as a commercial office. As detailed in the attached letter, it is Colliers' view that commercial space would not work in the development, noting that there are significant vacancies in the fringe North Shore market as the location is outside the main core, located too far from rail transport and not a desirable location for office occupants. It is Colliers' view that there would be little if any demand for office space in the development if it were created.
- Richardson & Wrench R&W reviewed the plans and noted that the site is not in a commercial office location, is too isolated and there is no critical mass being located in a large residential complex. R&W also noted that there are better located commercial office suites available on the North Shore.
- **Pharos Retail** Since October 2013, Pharos Retail has been responsible for leasing the approved ground floor retail tenancies on the site. They have received approximately 15 enquires from prospective tenants (including gymnasiums, cafes, retail/office tenants etc). None of the leasing enquiries has evolved into firm interest. Pharos Retail express the view that the ground floor tenancies are "vastly superior" to the Level 1 non-residential space and that there would be very little prospect of leasing Level 1 for retail or office uses.
- (b) The site has a unique location, sitting at the outer fringe of the St Leonards/Crows Nest Centre

As demonstrated by the Zoning Plan extract at **Figure 2**, the site sits at the southern extremity of lands in the Crows Nest/St Leonards Zone B4 – Mixed Use.

Unlike other lands in Crows Nest/St Leonards Zone B4, the site and properties on the western side of the Pacific Highway between Rocklands Road and Bruce Street, are located in the Waverton/Wollstonecraft Planning Area in the Character Statements for NSDCP 2013 (refer to **Figure 4**). This Planning Area is predominantly residential in use and character.

Other Zone B4 sites in the Centre are located in the St Leonards/Crows Nest Planning Area, which emphasises the Specialist Centre role of St Leonards Town Centre.

Given the location of the site at the southern edge of the Zone B4 lands and its inclusion in the Waverton/Wollstonecraft (instead of the Leonards/Crows Nest) Planning Area, the site is not part of the centre core and a reduction in non-residential FSR does not set a precedent for more centrally located sites.

(c) Mixed developments in the vicinity of the site have small ground floor non-residential activities with apartments above

The Planning Proposal would be consistent with the following mixed use developments in the vicinity of the site, on the western side of the Pacific Highway, which have small street front non-residential uses at the ground level, with apartments above:

- 236 Pacific Highway (The Cosmopolitan) which has three small ground floor shops with apartments above
- 258 Pacific Highway which has one ground floor shop (vacant) with five apartments above



• 250 Pacific Highway which has two ground floor shops (one vacant) with 28 apartments above.

These existing mixed use developments show that the mixed use character is able to be created by street/ground level activities.

(d) The Panorama development has a scale and design that will effectively create a mixed use character

Panorama incorporates the following attributes that will create a mixed use character:

- The site will have an "active street frontage" to the Pacific Highway, being addressed by at least five non-residential tenancies and having two apartment entrances (consistent with NSLEP 2013, cl. 4.4A(5))
- No part of the ground floor facing the Pacific Highway will be used for residential accommodation (consistent with NSLEP 2013, cl. 4.4A(7))
- Shops 1 to 6 (some of which may be subdivided into smaller tenancies depending on demand) have a variety of sizes and attributes and are capable of accommodating a mixture of compatible non-residential uses
- The tenancies are easily accessed and serviced with a common loading dock and retail garbage room located on the ground floor, ensuring that site conditions do not preclude any non-residential users
- The proponent is endeavouring to tenant the shops with a café, gym, medical suites etc; to achieve a complementary mix of non-residential uses on the site
- The ground floor is occupied by an internal street/laneway addressed by non-residential tenancies, accommodating an outdoor seating area and traversed by the residential lobby entrances. This characteristic adds to the mixed use character of the development and enables the wider community to access internal areas on the site.

The variety of non-residential spaces and the internal street/laneway add to the mixed use character of the site and zone. These attributes are unlikely to be replicated on other smaller sites in Crows Nest (noting that the site has an area of 3,352.4m²) including the underdeveloped properties in the subject street block on the western side of the Pacific Highway.

(e) The Planning Proposal does not compromise achievement of the Zone B4 objectives consistent

The Planning Proposal is consistent with the objectives of Zone B4 as follows:

• To provide a mixture of compatible land uses.

As noted at point (d) above, Panorama accommodates six (or more depending on demand) non-residential tenancies with apartments above. The tenancies have a variety of sizes and characteristics to cater to a mixture of compatible 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.

Retail, recreation (gym), health related office and residential uses will be collocated on the site which sits on the edge of the Crows Nest/St Leonards Centre. Efforts to promote non-car travel include constrained parking and bicycle parking.

• To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.



The site itself will become a vibrant mixed use place, sitting on the edge of the Crows Nest/St Leonards (mixed use) Centre. The internal street will be a high quality urban space, activated by non-residential tenancies, outdoor seating and two residential lobbies (as illustrated on the images at **Figure 5**). The first floor serviced apartments (or another first floor non-residential use) would make a limited contribution to this vibrant environment.

• 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.

The Planning Proposal would facilitate ground floor non-residential uses on the site with residential above.



Photograph of the internal street (non-residential tenancies are still vacant)

Photomontage of the internal street, lobby and internal non-residential tenancy

Figure 5 – Photograph and photomontage of the Panorama internal street



2. Is the Planning Proposal the best means of achieving the objective or intended outcomes or is there a better way?

Alternatives to the Planning Proposal, that are not achievable in the circumstances, include the following:

Section 96 application for modification

The applicant lodged a Section 96 application for modification seeking consent to reduce the non-residential FSR approved for the site down to 0.24:1 from 0.4:1 approved (Application No. 404/10/5).

On 30 March 2012, Council refused the Section 96 application. One of the reasons being that the variation required an amendment to North Sydney Local Environmental Plan 2009 (the applicable instrument at the time).

• Compliance with the non-residential FSR standard

The development is complete and fully utilises the site's development potential. Buildings have been strata subdivided, residential apartments have been sold and are now mostly occupied. The provision of additional non-residential GFA (to say increase the number of serviced apartments to a viable level) is impossible as the development potential of the site has been fully utilised and the site ownership is now fragmented.

Given that Council has determined that a Section 96 is not an appropriate means to achieve the objectives and intended outcome described above at Section 2.1, and that compliance with the non-residential FSR standard is impossible, a Planning Proposal is the best mechanism.

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)?

Assessment Criteria

- a. Does the proposal have strategic merit and:
 - Is consistent with a relevant local strategy endorsed by the Director General or
 - Is consistent with the relevant regional strategy or Metropolitan Plan or
 - Can it other demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)

The Planning Proposal is consistent with the *Draft Metropolitan Strategy for Sydney to* 2031 and the *Draft Inner North Subregional Strategy* (**DINSS**). The DINSS identifies housing choice as a key direction for the subregion. The DINSS also requires that an additional 5,500 dwellings be provided in the North Sydney LGA by 2031. The Planning Proposal will make a contribution to achieving local and regional residential targets.

Relevant s. 117 directions are considered later in Table 1.

- b. Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following:
 - the natural environment (including known significant environmental values, resources or hazards) and
 - the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and



• the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision

There are no natural environmental constraints or issues relevant to the Planning Proposal.

As demonstrated above in the Justification at Section 2.3, the Planning Proposal has site specific merit and is compatible with surrounding land uses noting that:

- Experts in real estate and serviced apartment operators have advised that there is very little prospects for leasing the first floor serviced apartments (refer to correspondence at **Appendix C**)
- The site is in the Waverton/Wollstonecraft Planning Area which is predominantly residential in character
- Consistent with other development sites in Zone B4, a mixed use character will be established on the site by the approved ground floor non-residential tenancies
- The site has excellent access to transport, jobs and community services. Section 94 contributions for development on the site have been paid and any additional charges that might arise from a change of use from serviced apartments to dwellings could be levied on a future change of use development application.
- 4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

Productive/residential occupation of the approved serviced apartments would make a small contribution towards achieving local residential capacity targets for North Sydney (Council's *Residential Development Strategy 2009* targets 1,453 additional dwellings in St Leonards/Crows Nest).

The Planning Proposal is also consistent with Council's *North Sydney Community Strategic Plan 2013-2023* vision to the extent that the provision of additional dwellings responds to State and regional planning initiatives.

Importantly, the Planning Proposal would not reduce the amount of non-residential GFA located on the Ground Floor of the development, ensuring that the mixed use character of the area and street activation along the Pacific Highway is retained.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent all relevant State Environmental Planning Policies (**SEPP**s), notably it promotes urban consolidation consistent with *SEPP 32—Urban Consolidation (Redevelopment of Urban Land)* which includes the following aims and objectives

2 Aims and objectives

- (1) This Policy aims:
 - (a) to promote the orderly and economic use and development of land by enabling urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development, and
 - (b) to implement a policy of urban consolidation which will promote the social and economic welfare of the State and a better environment by enabling:
 - (i) the location of housing in areas where there are existing public infra-structure, transport and community facilities, and



- (ii) increased opportunities for people to live in a locality which is close to employment, leisure and other opportunities, and
- (iii) the reduction in the rate at which land is released for development on the fringe of existing urban areas.
- (2) The objectives of this Policy are:
 - (a) to ensure that urban land suitable for multi-unit housing and related development is made available for that development in a timely manner, and
 - (b) to ensure that any redevelopment of urban land for multi-unit housing and related development will result in:
 - (i) an increase in the availability of housing within a particular locality, or
 - (ii) a greater diversity of housing types within a particular locality to meet the demand generated by changing demographic and household needs, and
 - (c) to specify:
 - (i) the criteria which will be applied by the Minister to determine whether the redevelopment of particular urban land sites is of significance for environmental planning for a particular region, and
 - (ii) the special considerations to be applied to the determination of development applications for multi-unit housing and related development on sites of such significance.
- 6. Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

It is considered that the Planning Proposal is generally consistent with the relevant Directions issued under Section 117(2) of the *Environmental Planning and Assessment Act*, 1979 by the Minister to Councils, as demonstrated in the assessment at **Table 1**.



Table 1 – Consistency with Ministerial Directions

Direction	Consistency	Comment
1. Employment and Resources		
1.1. Business & Industrial Zones	Minor inconsistency	The Planning Proposal has a minor inconsistency with this direction as the achievement of the existing non- residential FSR standard could provide employment. However, given the proponent's inability to find a viable use for the Level 1 non-residential GFA (see Section 2.3 A. 1 above), the site is not a suitable location for serviced apartments or Level 1 commercial office space. Therefore the inconsistency is of minor significance as the site is unlikely to accommodate significant employment potential.
2. Environmental Heritage	N/A	Not applicable
3. Housing, Infrastructure & Urban Development		
3.1. Residential Zones	Yes	The Planning Proposal will provide more housing and make a contribution to house choice in a location that has excellent access to existing infrastructure and services. Additionally, residential use of the Level 1 serviced apartments will not have any adverse environmental impacts.
3.4. Integrating Land Use & Transport	Yes	The Planning Proposal will facilitate additional housing in a location that has access to jobs and services that can be readily accessed by walking, cycling and public transport. The development also includes bicycle parking and space for a car share scheme.
4. Hazard and Risk	N/A	Not applicable
5. Regional Planning	N/A	Not applicable
6. Local Plan Making	N/A	Not applicable
7. Metropolitan Planning		
7.1. Implementation of the Metropolitan Plan for Sydney 2036	Yes	The Planning Proposal is consistent with the Metropolitan Strategy as discussed above in Section 2.3, B.4 above.



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?

No.

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

In theory, the proposed change of use from six serviced apartments to six dwellings will reduce the potential availability of visitor accommodation in the locality. In reality, the proponent has been unable to find a serviced apartment operator, therefore the serviced apartments have not been available to visitors to the area. Additionally, the Mater Hospital which is located very close to the site, has confirmed that it is not interested in taking up the serviced apartments for visiting specialist or for the families of patients.

9. Has the Planning Proposal adequately addressed any social and economic effects?

Potential social effects include the merit of providing additional housing in the Waverton/Wollstonecraft Planning Area which is predominantly residential in character. This positive has been addressed above.

Potential economic impacts include a diminution in mixed use character and non-residential uses in Crows Nest. These issues have been adequately addressed above.

D. State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

It is considered that the Planning Proposal will have no adverse effect on the demand or availability of public infrastructure. As noted above, additional section 94 contributions can be levied (if relevant) at the development application stage.

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

The views of State and Commonwealth agencies will be made known after the gateway determination (noting that the only agency likely to have an interest in the Planning Proposal is the Planning and Infrastructure (**P&I**)).

2.4 Part 4 – Mapping

Mapping included in the Planning Proposal comprises:

- Site location plan (Figure 1)
- Extract from NSLEP 2013, Land Zoning Map Sheet LZN_001 showing the site's location at the southern extremity of the Zone B4 lands (Figure 2)
- Extract from NSLEP 2013, Non-Residential FSR Range Map Sheet LCL_001 (Figure 3)
- NSDCP 2013 Waverton/Wollstonecraft Planning Area showing the location of the site (Figure 4)
- Building A Level 1 Plan and Building A East Elevation showing the location of the approved serviced apartments (by JPR Architects, CD 4100 and CD 4201, Rev A dated 14 March 2014) (Appendix A)
- Relevant existing and Planning Proposal version of NSLEP 2013 Non-Residential FSR Range Map - Sheet LCL_001 (Appendix B).



2.5 Part 5 – Community consultation

Community consultation will be undertaken in accordance with Council's guidelines and any specific requirement made by the P&I's gateway determination. At this stage, public exhibition of the Planning Proposal is likely to be undertaken in the following manner:

- Notification in a newspaper that circulates in the area affected by the Planning Proposal (North Shore Times)
- Notification on Council's website
- Notification in writing to affected and adjoining landowners.

It is considered that the Planning Proposal is a "low impact proposal"² requiring exhibition for 14 days.

2.6 Part 6 – Project timeline

An indicative timeline for the Planning Proposal is set out below:

•	Submission of Planning Proposal to Council	March 2014
•	Reporting of Planning Proposal to Council	April 2014
•	Referral to Minister for Gateway determination	April 2014
•	Date of Gateway determination	May 2014
•	Public exhibition period (14 days)	June 2014
•	Timeframe for government agency consultation	June 2014
•	Timeframe for consideration of submissions	July 2014
•	Reporting of exhibition of Planning Proposal	August 2014
•	Date of submission to Department to finalise LEP	August 2014
•	Anticipated date RPA will make plan	September 2014
•	Anticipated date RPA will forward to Department for notification	October 2014

² Pursuant to A guide to preparing local environmental plans p. 24 (Planning & Infrastructure, April 2013)

A 'low' impact planning proposal is a planning proposal that, in the opinion of the person making the Gateway determination is:

• consistent with the pattern of surrounding land use zones and/or land uses

- presents no issues with regard to infrastructure servicing
- not a principal LEP
- does not reclassify public land.



[•] consistent with the strategic planning framework

3.0 Summary and conclusion

This Planning Proposal relates to relates to the mixed use development known as "Panorama" located at 200-220 Pacific Highway, Crows Nest. It has been prepared by Robinson Urban Planning Pty Ltd on behalf of B Cap 2 Pty Ltd (the proponent and landowner).

The objective of the Planning Proposal is to reduce the minimum non-residential FSR standard applying to the site under NSLEP 2013 as follows:

- Existing non-residential FSR standard 0.5:1 to 2:1
- Proposed non-residential FSR standard 0.2:1 to 2:1

The intended outcome of the Planning Proposal is to enable residential use of the approved first floor serviced apartments constructed on the site.

The Planning Proposal demonstrates that the circumstances in this instance are unique and that the amendment has considerable merit as:

- The site (and the block on the western side of the Pacific Highway between Rocklands Road and Bruce Street) is located within the Waverton/Wollstonecraft Planning Area in the Character Statements to NSDCP 2013. As noted in the Character Statement, this is predominantly residential area. All other parts of the mixed use centre are located in the St Leonards/Crows Nest Planning Area which emphasises the Specialist Centre role of St Leonards Town Centre.
- The site has a unique location, sitting at the outer fringe of the St Leonards/Crows Nest Centre and at the southern extremity of lands in the Crows Nest/St Leonards Zone B4 – Mixed Use.
- 3. The applicant has made considerable efforts to find a productive use for the first floor nonresidential floor space, but has failed to find a viable occupant. Included in the Planning Proposal are letters from Mater Hospital, Toga Hospitality, Waldorf Apartments, Colliers International, Richardson & Wrench and Pharos Retail explaining that the approved serviced apartments are not viable and that there is little if any demand for first floor retail/ commercial uses in this location. (Additionally, it is proving difficult to lease the eminently more suitable ground floor retail tenancies).
- 4. The development is complete and fully utilises the site's development potential. Buildings on the site have been strata subdivided, residential apartments have been sold and are now mostly occupied. The provision of additional non-residential GFA (to say increase the number of serviced apartments to a viable level) is impossible as the development potential of the site has been fully utilised and the site ownership is now fragmented.
- 5. Mixed developments in the vicinity of the site have small ground floor non-residential activities with apartments above (including 236 Pacific Highway which has three small ground floor shops with apartments above, 258 Pacific Highway which has one ground floor shop (vacant) with five apartments above and 250 Pacific Highway which has two ground floor shops (one vacant) with 28 apartments above). These existing mixed use developments close to the site show that a mixed use character is able to be created by street/ground level activities.
- 6. Panorama has a scale and design that will effectively create a mixed use character including:
 - (a) An "active street frontage" to the Pacific Highway, being addressed by at least five nonresidential tenancies and having two apartment entrances
 - (b) No residential accommodation on the ground floor facing the Pacific Highway



- (c) Six non-residential tenancies (some of which may be subdivided into smaller tenancies depending on demand) which have a variety of sizes and attributes and are capable of accommodating a mixture of compatible non-residential uses
- (d) Tenancies that are easily accessed and serviced with a common loading dock and retail garbage room located on the ground floor, ensuring that site conditions do not preclude any non-residential users
- (e) The proponent is endeavouring to tenant the shops with a café, gym, medical suites etc; to achieve a complementary mix of non-residential uses on the site
- (f) An internal street/laneway addressed by non-residential tenancies, accommodating an outdoor seating area and traversed by the residential lobby entrances, adding to the mixed use character of the development and enabling the wider community to access internal areas on the site
- (g) Consistency with the objectives of Zone B4 noting that non-residential uses on the first floor would contribute little if any additional activity.
- 7. The scale and variety of non-residential spaces and the internal street/laneway add to the mixed use character of the site and zone. These attributes are unlikely to be replicated on other smaller sites in Crows Nest (noting that the site has an area of 3,352.4m²) including the underdeveloped properties in the subject street block on the western side of the Pacific Highway.

Given the merits and unique circumstances, the Planning Proposal is worthy of Council's support.





Appendix A

Building A - Level 1 Plan and Building A - East Elevation showing the location of the approved serviced apartments (by JPR Architects, CD 4100 and CD 4201, Rev A dated 14 March 2014)



Appendix B

Existing and Planning Proposal version of NSLEP 2013 Non-Residential FSR Range Map - Sheet LCL_001



Appendix C

Correspondence from Mater Hospital, Waldorf Apartments, Toga Hospitality, Colliers International, Richardson & Wrench and Pharos Retail in relation to nonresidential uses on the site



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Sandra Robinson

From: Sent: To: Cc: Subject: Greg Shand [greg@baranagroup.com.au] Tuesday, 11 February 2014 4:52 PM sandra@robinsonplanning.com.au Andrew Urquhart FW: Panorama"-200-220 pacific highway-serviced apartments

From: Greg Shand
Sent: Tuesday, 17 September 2013 6:51 PM
To: 'John Pitsonis'
Cc: Margaret Benjafield
Subject: RE: Panorama"-200-220 pacific highway-serviced apartments

No problem john. let me know if you want to revisit

Regards,

Greg Shand Barana Group Pty Limited

A: 3A Macquarie Street, Sydney NSW 2000 T: (612) 8272 4222 F: (612) 8272 4242 E: greg@baranagroup.com.au W: www.baranagroup.com.au

From: John Pitsonis [mailto:jpitsonis@matersydney.com.au]
Sent: Tuesday, 17 September 2013 1:50 PM
To: Greg Shand
Cc: Margaret Benjafield
Subject: RE: Panorama"-200-220 pacific highway-serviced apartments

Hi Greg. Thank you for your email. Since we last spoke, the Mater has taken leases over two apartments at the rear of our Hospital for the accommodation of relatives, friends and carers of patients admitted from rural and regional areas. We have also recently entered into the commercial lease of additional property in Rocklands Road for the purpose of providing additional specialist medical office accommodation, so, at this stage, we are probably reasonably well serviced. I was originally interested in the possibility of renting/leasing some space from you but this is now unlikely in the near term. Thank you for your follow up all the same. Regards, John



John PitsonisGeneral ManagerMater Hospital Sydney25 Rocklands Road North Sydney NSW 2060T +61 29900 7499M +61 4 1864 2739E jpitsonis@matersydney.com.auwww.materhospital.com.au

From: Greg Shand [mailto:greg@baranagroup.com.au]
Sent: Tuesday, 17 September 2013 12:40 PM
To: John Pitsonis
Subject: Panorama"-200-220 pacific highway-serviced apartments

ATTACHMENT TO PDS01 - 28/04/14

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Following our earlier correspondence ,I'm not sure whether the Mater has ongoing interest in potentially leasing or purchasing the serviced apartment component at Panorama.

You may have noticed that that the project is nearing completion and will be launched this weekend. If you do have any interest please let me know so I can organize for you to inspect and send you some details

Regards,

Greg Shand Barana Group Pty Limited

A: 3A Macquarie Street, Sydney NSW 2000 T: (612) 8272 4222 F: (612) 8272 4242 E: <u>greg@baranagroup.com.au</u> W: <u>www.baranagroup.com.au</u>

From: Greg Shand Sent: Monday, 1 July 2013 4:14 PM To Subject: 'Panorama"-200-220 pacific highway-serviced apartments

John

Thank you for your time on the phone today.

As I mentioned my company is developing the building at 200-220 pacific highway(close to the corner of Rocklands Road).Before we commenced the development we did have a meeting with one of your colleagues but unfortunately I've lost the contact details.

Our development has 3 components being residential ,retail(on the ground floor)and a dedicated area comprising 6 serviced apartments. The serviced apartments have a separate reception the ground floor and are located on and occupy the entire 1st floor of the building on the pacific highway.

Five of the serviced apartments are large 1 bed units with a separate small 2nd bed/study area and a separate wintergarden. There is also 1 larger 2 bed serviced apartment with a private garden area. All are finished to a high standard(stone bench tops/European appliances etc)

Ultimately we would be looking to selling the serviced apartments however depending on the Mater's objectives ,we could consider leasing them to the Hospital .There may be other options as well. We expect that the development will be finished in October.

I would be happy to show you through the relevant part of the development at a time which suits you .I can also give you some plans and other materials at that time.

Please let me know if you are interested in having a look.

Regards,

Greg Shand Barana Group Pty Limited

A: 3A Macquarie Street, Sydney NSW 2000
T: (612) 8272 4222
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E: greg@baranagroup.com.au
W: www.baranagroup.com.au

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

ATTACHMENT TO PDS01 - 28/04/14



1 December 2011

Mr Greg Shand Barana Group Pty Limited 3A Macquarie Street SYDNEY NSW 2000

Dear Greg,

PANORAMA DEVELOPMENT

Waldorf operates serviced apartments at many locations on the North Shore (I refer you to <u>www.waldorf.com.au</u>). Whilst Crows Nest would be of interest to us ,it is not possible to run a serviced apartment operation with only 6 apartments. Thank you for binging this opportunity to our attention however we have no further interest.

Yours faithfully

Frank Wolf

Rinbac Pty. Ltd. (ABN: 28 098 546 095) Trading as Waldorf Apartments Australia

Email: webmaster@waldorf.com.au • Website: www.waldorf.com.au P.O. Box 431 St.Ives NSW 2075 • Tel: 61 - 2 - 8356 1500 • Fax: 61 - 2 - 9356 4839

Sydney • North Sydney • South Sydney • East Sydney • Parramatta • Hornsby • Drummoyne • Carlingford •
 Randwick • Woolloomooloo • Perth • Melbourne • Canberra •

Toga Group of Companies

Toga Pty Limited ACN 000 926 947 Level 5, 45 Jones Street, Ultimo NSW 2007, Australia PO Box 1745, STRAWBERRY HILLS, NSW 2012 Australia Phone: +61 (2) 9356 1001 Fax: +61 (2) 9356 1070 Email: toga@toga.com.au



25 November 2011

Mr Greg Shand Barana Group 3a Macquarie Street Sydney NSW 2000

Dear Greg

RE: PANORAMA DEVELOPMENT, 200-220 PACIFIC HIGHWAY CROWS NEST

Thank you for giving Toga Hospitality the opportunity to consider operating the serviced apartment component of the Panorama Development.

We have reviewed the plans for the development that you have forwarded to us. As I understand it the development incorporates approximately 200 apartments and some retail space along the Pacific Highway frontage. Relevantly the plans allow for 6 serviced apartments on the first floor of the "Apartment" Building on the Pacific Highway frontage.

As you are aware as part of Toga Hospitality we operate the Medina Serviced Apartment business which is the leading operator of serviced apartments and apartment hotels around Australia (www.medina.com.au). Medina is recognised as a premier brand delivering a consistently quality product.

It is our view that it is not feasible to operate a serviced apartment complex at Panorama when it is limited to 6 apartments. To be viable, there would need to be a minimum of 40 serviced apartments so as to achieve the critical mass required to handle all the management, marketing and maintenance and administrative functions associated with the operation.

For these reasons and whilst we appreciate the opportunity very much, we have no further interest.

Yours/sincerely

ÁLLAN VIDOR Managing Director













ATTACHMENT TO PDS01 - 28/04/14

Level 42 Northpoint 100 Miller Street North Sydney NSW 2060 DX 10568 North Sydney PO Box 1351 North Sydney NSW 2059 www.colliers.com.au MAIN +61 2 9957 6611 FAX +61 2 9024 7927 MOB +61 413 054 858 EMAIL Sara.Pratt@colliers.com



23 November 2011

Mr Andrew Urquhart Barana Group Pty Ltd 3A Macquarie Street Sydney NSW 2000

Dear Andrew,

200-220 PACIFIC HIGHWAY, CROWS NEST

As requested we have reviewed the plans of the redevelopment of the above property and in particular the level 1 space located in the future front building on Pacific Highway, to assess its suitability for use as commercial office space.

As you know we have experience in commercial leasing on the north shore and in particular in the St Leonards, Crows Nest and North Sydney office markets.

It is our opinion that commercial offices will not work in your development. There is and always has been significant vacant office space available for sale and for lease in this fringe north shore market as this location is not an office market location being located outside of the main cores, it is located too far from rail public transport and is simply not a market where office occupiers wish to be located in. It is our view that there will little if any demand for office space in this development if it were to be created.

If you require any further information please contact me.

Yours sincerely,

Sara Pratt National Director Client Engagement Team





Richardson& WrorRager58 Sydney vel 1, 155 Miller Street, North Sydney, NSW 2060 PO Box 1732, North Sydney, NSW 2059 Facsimite 02 9929 5377 www.rwns.com.au Tabaana 02 9859 2425

7 December 2011

Andrew Urquhart Barana Group 3A Macquarie Street Sydney NSW 2000

Andrew

PANORAMA DEVELOPMENT AT CROWS NEST

Thanks for sending us your plans of the redevelopment of your property at Crows Nest. We have had a look at the level 1 space in the Apartments building which you suggested could be a location for commercial offices to be created. We have discussed this at length with our leasing and sales team and unfortunately we dont believe this will be a viable use due to the anticipated lack of demand from occupiers or buyers.

Whilst your development will no doubt be a successful residential development this is not a commercial office location, it is too isolated and has no critical mass being located in a large residential complex. There is also already a lot of commercial office suites available in the north shore market in much superior locations to this and such users are unlikely to view this location as a "real" option to consider to locate to and operate from. Also in our experience in residential project marketing we do not consider that the buyer market in your development will have any demand for office suites in the complex. For all these reasons we do not suggest this type of use in this location.

We wish you well with the development.

Yours sincerely

plat

David Dent Richardson and Wrench North Sydney

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suite 703 14 kings cross rd potts point nsw 2011 02 9011 7088 www.pharos.com.au Aprint 05 128 329



Andrew Urquhart Barana Group Pty Limited 3A Macquarie Street, Sydney NSW 2000

14 March 2014

Dear Andrew

PANORAMA, 200-220 PCIFIC HIGHWAY, CROWS NEST RETAIL LEASING

This is to confirm that we commenced leasing efforts to lease the ground floor retail shops at Panorama, Crows Nest in October 2013. Since that time we have had approximately 15 enquiries from a range of prospective tenants from gymnasiums, café's, quasi retail/office tenants and other traditional retail tenants, however to date there has been no firm interest in leasing any of the shops. The marketing initiatives that we have implemented include signboards on all shop windows facing pacific highway, mail outs to prospective tenants in Crows Nest, St Leonards and North Sydney, enquiries made to our own data base of retail tenants, an internet listing on realcommercial.com.au and listing the shops on our agency website.

We consider that the ground floor with its direct exposure to Pacific Highway to be vastly superior to the 1st floor space for retail uses and given the efforts to date have resulted in none of the ground floor shops having been leased there would be very little prospect of leasing level 1 for any retail or office type use.

Yours faithfully, Pharos Retail

Tom Mitsoulas



