



IRF21/4200

## Response to Submissions Report – Alfred Street Precinct

---

PP-2020-74 (PP\_2020\_NORTH\_005\_00)

November 21



Published by NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Response to Submissions Report – Alfred Street Precinct

Subtitle: PP-2020-74 (PP\_2020\_NORTH\_005\_00)

---

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 21) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Contents

1.0	Planning proposal .....	3
1.1	Site Description.....	3
1.2	Surrounding Area.....	9
1.3	Concept Scheme .....	10
1.4	Planning Context and Background.....	14
1.4.1	Planning Proposal and Pre-Gateway Review (2015) .....	14
1.4.2	Draft Alfred Street Precinct Planning Study.....	15
1.4.3	Revised Planning Proposal and Rezoning Review (2019) .....	15
1.4.4	Gateway Determination .....	16
1.5	Summary of Recommendation.....	17
<b>2</b>	<b>Public Exhibition.....</b>	<b>17</b>
<b>3</b>	<b>Summary of Submissions .....</b>	<b>18</b>
3.1	Agencies.....	18
3.2	Public Submissions.....	19
<b>4</b>	<b>Key Issues Raised in Submissions .....</b>	<b>20</b>
4.1	Traffic, Access and Parking .....	20
4.2	Western Harbour Tunnel and Warringah Freeway Upgrade.....	25
4.3	Building Height, Bulk, Scale and Design Excellence .....	28
4.4	Heritage.....	32
4.5	Overshadowing and Loss of Solar Access .....	34
4.6	Inconsistencies in the Site Specific DCP and Reference Scheme.....	38
4.7	Public Exhibition .....	39
4.8	Amenity.....	40
4.9	Overlooking and Privacy Impact .....	41
4.10	Public Benefit.....	42
4.11	Environmental Impacts .....	44
4.12	Financial Inequity.....	44
4.13	Strategic Plans, Strategies and Ministerial Directions .....	45
<b>5</b>	<b>Conclusion and Recommendation .....</b>	<b>47</b>

## Response to Submissions Report - Summary

<b>DPIE Reference Number</b>	PP-2020-74 PP_2020_NORTH_005_00
<b>Sydney North Planning Panel Reference Number</b>	2020SNH003
<b>LGA</b>	North Sydney Council
<b>LEP to be Amended</b>	North Sydney Local Environmental Plan (LEP) 2013
<b>Proposal</b>	<p>The planning proposal seeks to amend North Sydney Local Environmental Plan 2013 for the site known as Alfred Street Precinct to:</p> <ul style="list-style-type: none"> <li>• Rezone the site from B3 Commercial Core to B4 Mixed Use;</li> <li>• Increase the maximum height of buildings from 13m to: <ul style="list-style-type: none"> <li>○ 31m for 283 Alfred Street (Building A);</li> <li>○ 80m for 275 Alfred Street (Building B);</li> <li>○ 28m for 271-273 Alfred Street (Building C); and</li> <li>○ 29m for 263-269 Alfred Street/4 Little Alfred Street (Building D);</li> </ul> </li> <li>• Increase FSR provision for 275 Alfred Street (Building B) from 3.5:1 to a base of 7.3:1; and</li> <li>• Introduce a design excellence provision allowing an additional 2:1 FSR (with a total maximum FSR control of 9.3:1)</li> </ul>
<b>Address</b>	283 Alfred Street, North Sydney; 275 Alfred Street, North Sydney; 271-273 Alfred Street North Sydney; and 263-269 Alfred Street/4 Little Alfred Street, North Sydney
<b>Lot and DP</b>	Lot 14, DP 67882; Lot 15, DP 67882; Lot 16, DP 67882; Lot 3, DP 554750; Lot 1, DP 554749; Lot 1, DP 54856; SP 6830; and SP 71563 and SP 71445
<b>Applicant/Owner</b>	Benmill Pty Ltd and JB No.3 Pty Ltd (Consultant - Mecone)
<b>Submissions</b>	<ul style="list-style-type: none"> <li>• Public submissions</li> <li>• North Sydney Council submission</li> <li>• Transport for NSW</li> </ul>
<b>Recommendation</b>	<ul style="list-style-type: none"> <li>• Make submissions report publicly available</li> <li>• Conduct public panel meeting.</li> </ul>
<b>Report by</b>	Patricia Ball, Christina Brooks and Bailey Williams - Department of Planning Industry and Environment

## 1.0 Planning proposal

The purpose of this report is to provide a summary of the key matters raised in submissions during the public exhibition of the planning proposal for the site known as the Alfred Street Precinct, North Sydney (**Figure 1**).

The planning proposal seeks to amend North Sydney LEP 2013 for the subject site by:

- rezoning from B3 Commercial Core to B4 Mixed Use;
- increasing the maximum height of buildings from 13m to a range of heights including:
  - 31m for 283 Alfred Street (Site A);
  - 80m for 275 Alfred Street (Site B);
  - 28m for 271-273 Alfred Street (Site C); and
  - 29m for 263-269 Alfred Street and 4 Little Alfred Street (Site D); and
- for 275 Alfred Street (Site B):
  - increasing the maximum floor space ratio (FSR) from 3.5:1 to 7.3:1; and
  - introducing a design excellence provision allowing an additional 2:1 FSR (maximum overall FSR allowable of 9.3:1)

A concept design submitted with the planning proposal documentation indicates it will facilitate approximately 156 residential dwellings across the precinct, with approximately 10,127m<sup>2</sup> gross floor area (GFA) of commercial floorspace at ground level and basement parking for 132 vehicles. The proposal seeks to redevelop the Bayer Building which is approaching the end of its economic life. The reference scheme notes that the proposal seeks to retain the existing building frame of the Bayer building and undertake remediation works to the existing commercial floorspace, which will be offset by additional building height and residential development.

A summary of the proposed concept scheme for the Alfred Street Precinct is outlined in **Table 3** and the indicative concept is shown in **Figures 11-15**.

In response to the consideration of a previous rezoning review for 275 Alfred Street by the former Joint Regional Planning Panel, this planning proposal was submitted to provide a holistic approach to the rezoning of the entire B3 zoned land forming the Alfred Street Precinct. The proposal was considered by the Sydney North Planning Panel to have strategic and site specific merit. A Gateway was issued by the Department on 7 September 2020, to allow the proposal to proceed to exhibition.

The explanation of provisions in the planning proposal was considered to be clear and did not require updating prior to the commencement of the public exhibition.

### 1.1 Site Description

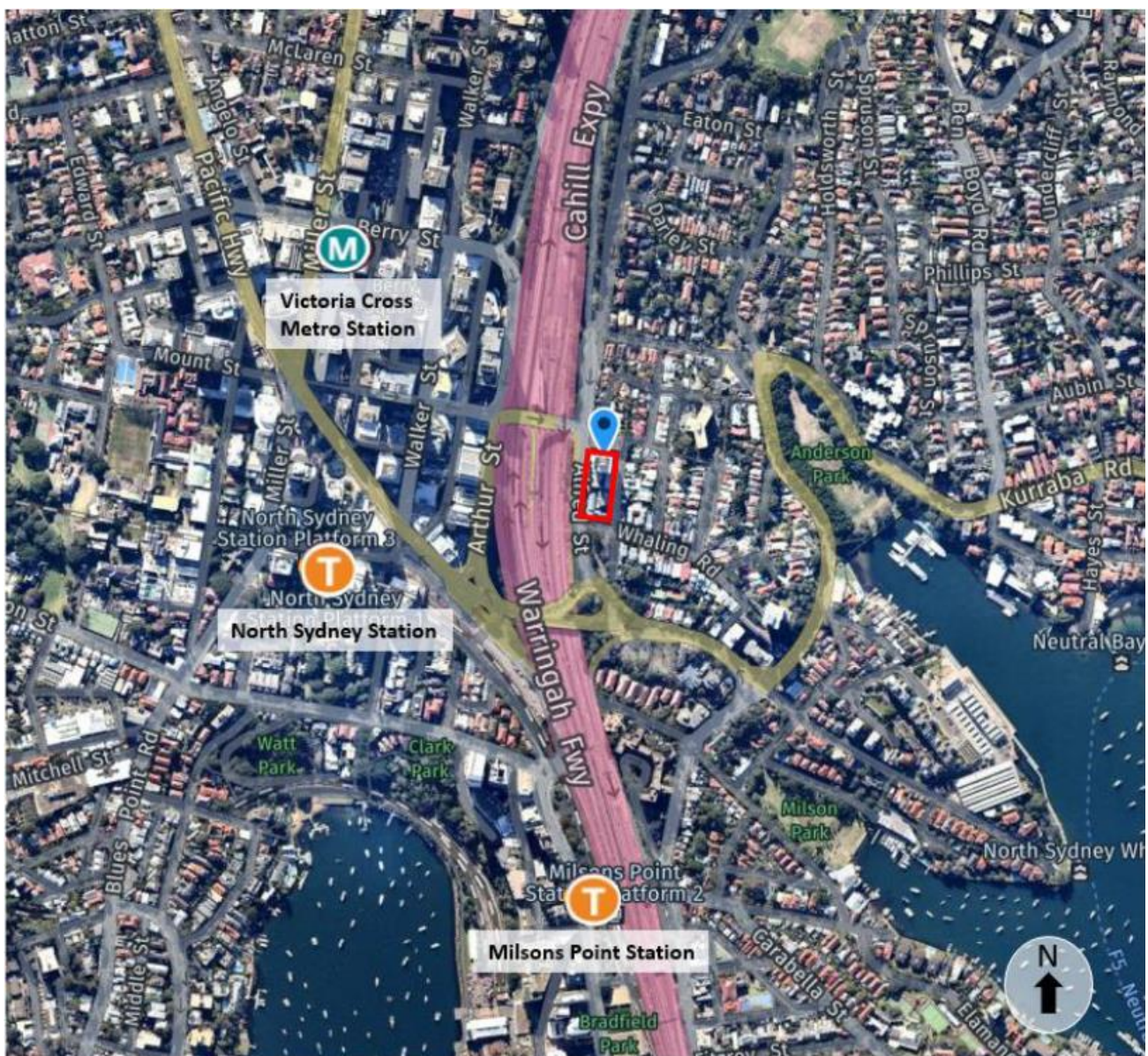
The site (**Figures 1 and 3**) known as the Alfred Street Precinct (the Precinct) comprises 4 individual properties with a total site area of approximately 5,217m<sup>2</sup>.

The Alfred Street Precinct is located on the eastern side of the Warringah Expressway (M1) and adjacent to the approach to the Sydney Harbour Bridge, which is separated from the North Sydney Commercial Centre located to the west (**Figure 2**). The precinct is occupied by a prominent landmark commercial tower known as the 'Bayer Building', surrounded by lower scale commercial buildings to the north and south and some residential dwellings on the southern site.

The Precinct is bound by a 120m western frontage to Alfred Street, 43m southern frontage to Whaling Road and a 120m eastern frontage to Little Alfred Street. The properties include

283 Alfred Street ('Site A'), 275 Alfred Street ('Site B'), 271-273 Alfred Street ('Site C') and 263-269 Alfred Street/4 Little Alfred Street (Site D') (**Figures 3 and 4 to 7**). The site falls steeply to the east from Alfred Street to Little Alfred Street by approximately 3m, while toward the middle of the eastern boundary of Little Alfred Street, there is a 7m crest with land to the south and north dipping down.

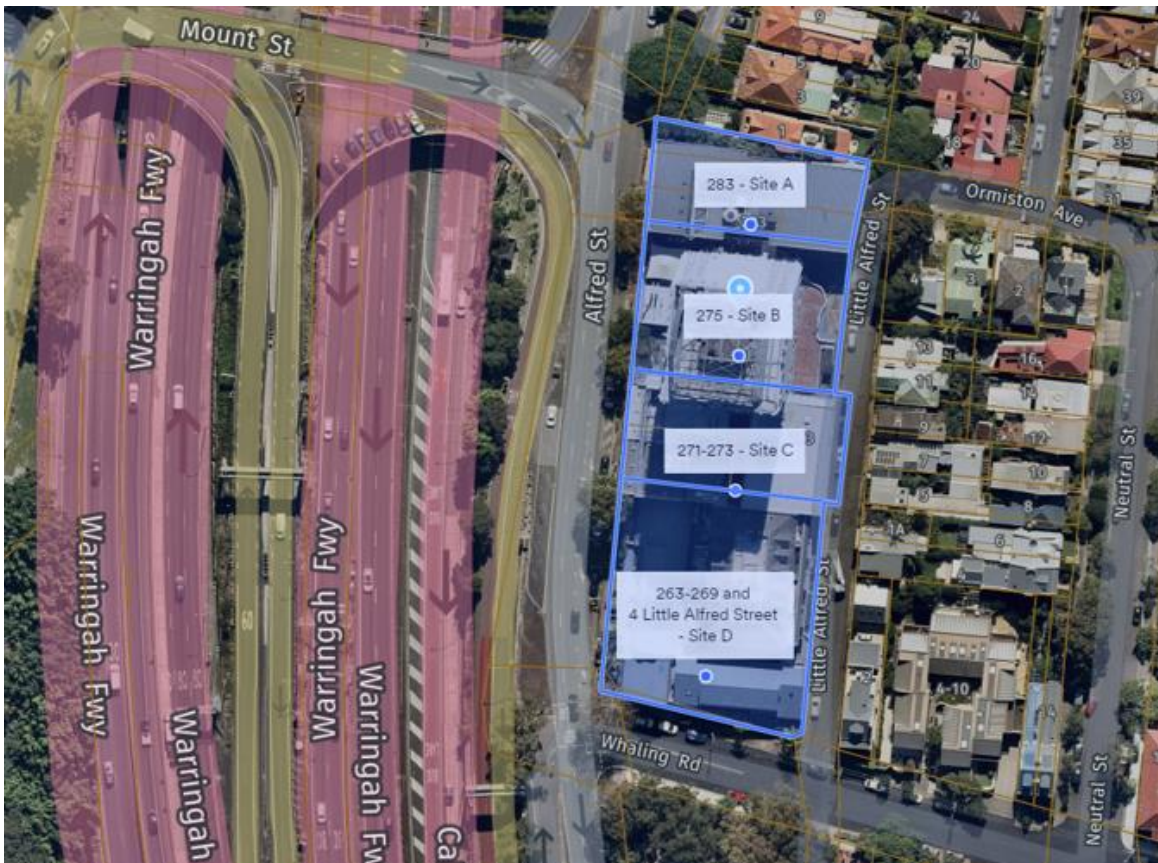
The properties within the Alfred Street Precinct are zoned B3 Commercial Core. The site is surrounded by a predominately low-density residential area to the east and north which forms part of the Whaling Road Heritage Conservation Area. A pedestrian link over the Warringah Expressway (M1) at Mount Street connects the North Sydney commercial centre with the Alfred Street Precinct and the surrounding residential area. North Sydney Station is location approximately 400m to the west.



**Figure 1:** Locality map (Source: Near Map)



**Figure 2:** Locality of the site (Source: Design Report Grimshaw, March 2019)



**Figure 3:** Site location (Source: Near Map)

#### Site A - 283 Alfred Street, North Sydney

Site A contains a 3-4 storey commercial building and is located on the northern boundary of the precinct with frontages to Alfred Street to the west and the Little Alfred Street to the east. The site has approximately 1,740m<sup>2</sup> of net lettable area (**Figures 2 and 4**).

#### Site B - 275 Alfred Street, North Sydney

Site B currently contains the 'Bayer Building' constructed in 1971 and has a primary frontage to the west to Alfred Street and vehicular access on the east side via Little Alfred Street. This is an 18-level commercial building comprising ground floor retail and 17 levels of office space with a net lettable area of approximately 7,920m<sup>2</sup>. The built form is approximately 61m in height including the Bayer signage panel above the building (**Figures 2 and 5**).

#### Site C - 271-273 Alfred Street, North Sydney

Site C comprises a 3-4 storey commercial building with a total of approximately 1,490m<sup>2</sup> of lettable floor space, adjoining the Bayer building site to the south. The site has two frontages, to the west to Alfred Street and single entry vehicular access on Alfred Street as well as basement parking via Little Alfred Street (**Figures 2 and 6**).

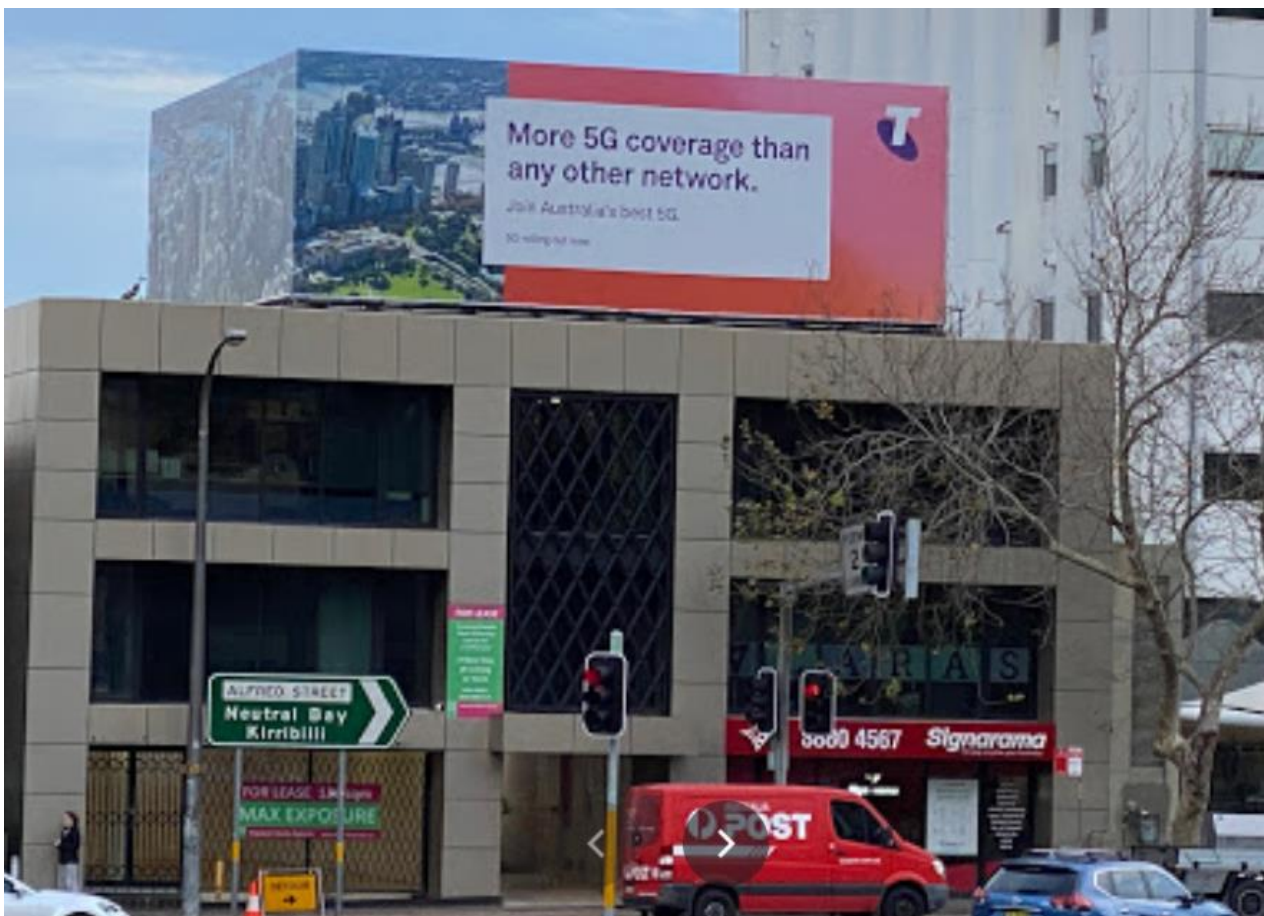
#### Site D - 263-269 Alfred Street and 4 Little Alfred Street, North Sydney

Site D is occupied by 3-5 storey strata building comprising mainly residential uses including townhouses and units, as well as some commercial uses (**Figures 2 and 7**). Residential accommodation is an additional permitted use on the site under clause 25, Schedule 1 of the North Sydney LEP 2013 for 263 Alfred Street.

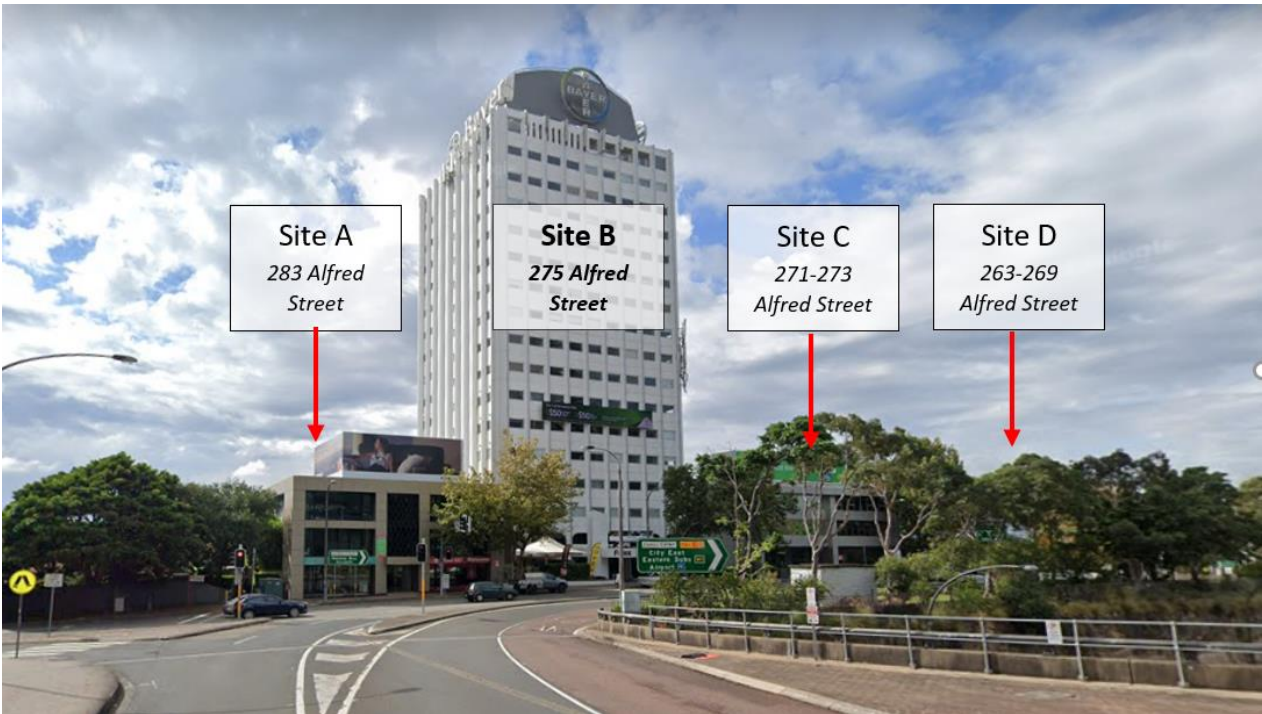




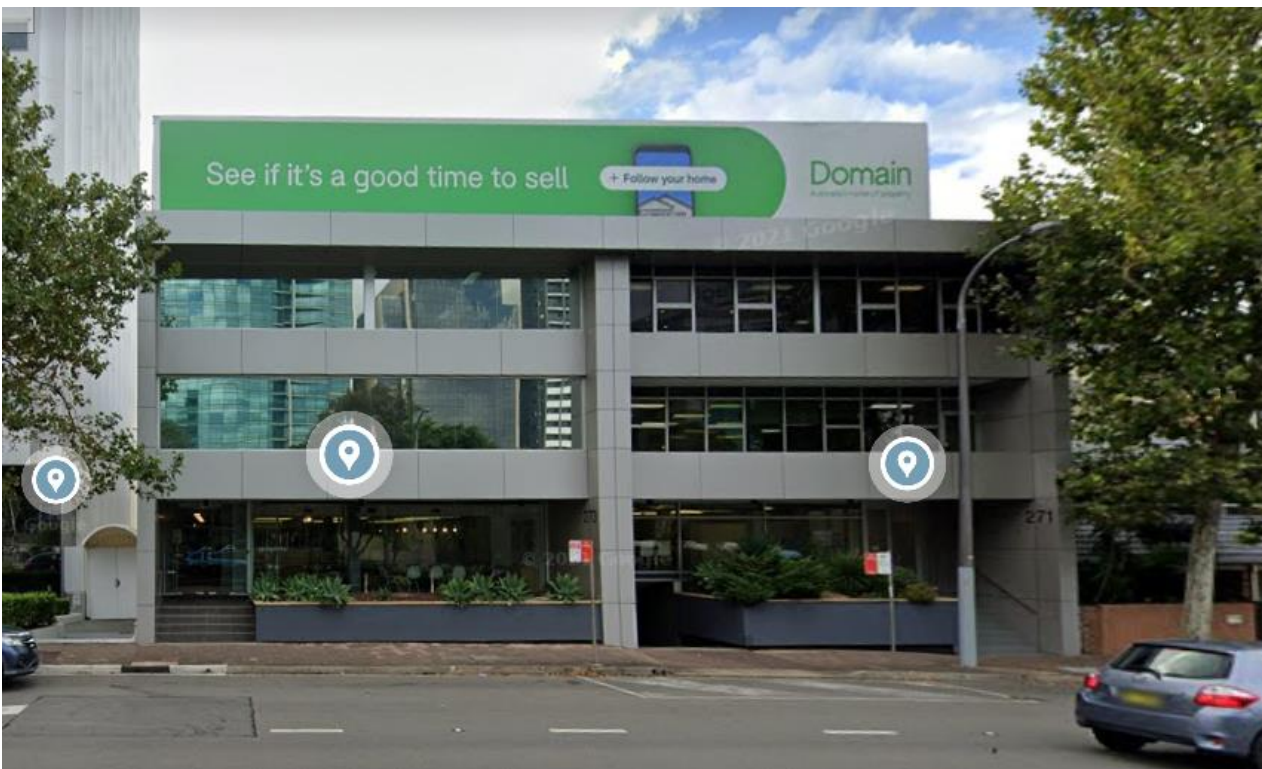
**Figure 4:** Alfred Street Precinct with Warringah Freeway and North Sydney CBD (Source: Council, overlay by DPIE))



**Figure 5:** Site A – 283 Alfred Street, North Sydney looking west from Alfred Street (Source: Google Maps)



**Figure 6:** Site B – ‘Bayer Building’ 275 Alfred Street, North Sydney looking north-west from Alfred Street (Source: Grimshaw, overlay by DPIE)



**Figure 7:** Site C – 271-273 Alfred Street, North Sydney looking west from Alfred Street (Source: Google Maps)



**Figure 8:** Site D - 263-269 Alfred Street and 4 Little Alfred Street from Whaling Road looking north (Source: Mecone)

## 1.2 Surrounding Area

To the north and east of the site is the Whaling Road Heritage Conservation Area (HCA), zoned R2 Low Density Residential and characterised by Victorian terraces, detached and attached residential dwelling of one to three storeys in height (**Figures 9 and 10**).

To the south of the site on the opposite side of Whaling Road is public open space zoned RE1 Public Recreation known as the Alfred Street North Park. This park is under the ownership of the Roads and Maritime Services (RMS) as part of Transport for NSW (TfNSW).

To the west beyond Alfred Street is the Warringah Expressway with the North Sydney CBD further west. The North Sydney CBD predominantly comprises commercial office towers with some retail and residential uses (**Figure 4**).



**Figure 9:** View along Little Alfred Street to the west of the subject site with 4 Little Alfred Street at left and part of the Whaling Road HCA at right, looking north (Source: Google Maps)



**Figure 10:** View from Neutral Street (part of the Whaling Road HCA) with the existing 'Bayer Building' – Site B, top left, looking south-west (Source: Google Maps)

### 1.3 Concept Scheme

The planning proposal is intended to facilitate the renewal of the Alfred Street Precinct as a mixed-use area, consistent with the Panel recommendation to provide a precinct wide approach.

The planning proposal also incorporates concepts from the draft Alfred Street Precinct Planning Study prepared by Council, but this was not formally adopted by Council. The proposed amendments intend to create an appropriate transition between the North Sydney CBD and the adjacent lower density zones.

In summary, for sites A, C and D the planning proposal seeks to increase heights of 8 storeys (28-31m), while retaining the maximum FSR of 3.5:1 under the current planning controls. The proposed changes for site B include an increase in height to 80m (24 storeys), from the existing 52.36m (18 storeys) which provides for an increase of 27.64m (6 storeys), and an increase in FSR to 7.3:1, with a design excellence provision that may allow an increase up to 9.3:1.

A concept reference scheme is provided that will facilitate approximately 156 residential dwellings with approximately 10,127m<sup>2</sup> GFA commercial floorspace, comprising approximately 1,122 jobs including 510 jobs directly related to commercial activity and basement parking for 132 vehicles. The proposal notes that the reference scheme will provide approximately 8,927sqm of modern commercial floor space for small business, start-ups and creative uses. This leaves approximately 1,200sqm for other commercial uses such as retail at ground level.

The proposal also notes that it will retain the existing building frame of the Bayer building and have a similar scale to the width. The additional height will provide a more tapered built form and will be subject to a design competition to exhibit design excellence.

The reuse of the structural frame provides a sustainable proposal reducing building waste and will undertake remediation works of the existing commercial floor space. It will be refurbished to provide a 3 storey commercial podium and adapted for residential above, with an additional 6 storeys.

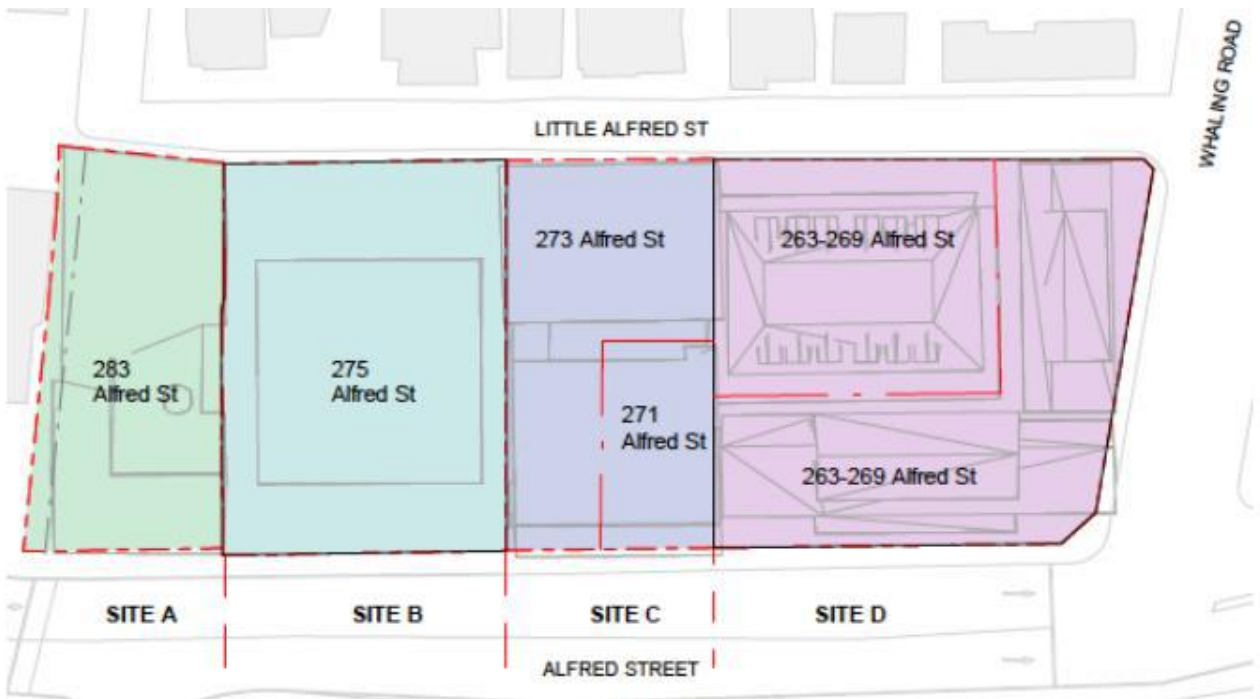
A summary of the proposed concept scheme for the entire Alfred Precinct is outlined in **Table 3** and the indicative concept is shown in **Figures 11 to 15**.

**Table 3:** Summary of the proposed concept scheme

		283 Alfred Street	275 Alfred Street (Bayer Building)	271-273 Alfred Street	263-269 Alfred Street and 4 Little Alfred Street
Site		A	B	C	D
Site Area		872m <sup>2</sup>	1,334m <sup>2</sup>	1,031m <sup>2</sup>	1,980m <sup>2</sup>
Proposed HOB		31m (8-storeys)	80m (24-storeys)	28m (8-storeys)	29m (8-storeys)
Proposed FSR		3.5:1	7.3:1 (additional 2:1 FSR for design excellence for a total of 9.3:1)	3.5:1	3.5:1
Existing HOB		13m (3-storeys)	13m (LEP) 52.36m (actual) (18-storeys)	13m (3-storeys)	13m (3-5 storeys)
Existing FSR	Total	3.5:1	3.5:1 (LEP) 7.3:1 (actual)	3.5:1	3.5:1
	Non-residential	2.5:1 (2,200m <sup>2</sup> GFA)	7.2:1 (9,700m <sup>2</sup> GFA)	2.2:1 (2,300m <sup>2</sup> GFA)	0.9:1 (1,850m <sup>2</sup> GFA)
Council's Draft Study Target FSRs HOB		1.39:1 3 & 24 storeys	10.58:1 3 & 24 storeys	1.62:1 3 storeys	3.42:1 3 storeys (Little Alfred St) 9 storeys (Whaling Rd)
Note: Council's preferred scheme configuration differs from the subject proposal					



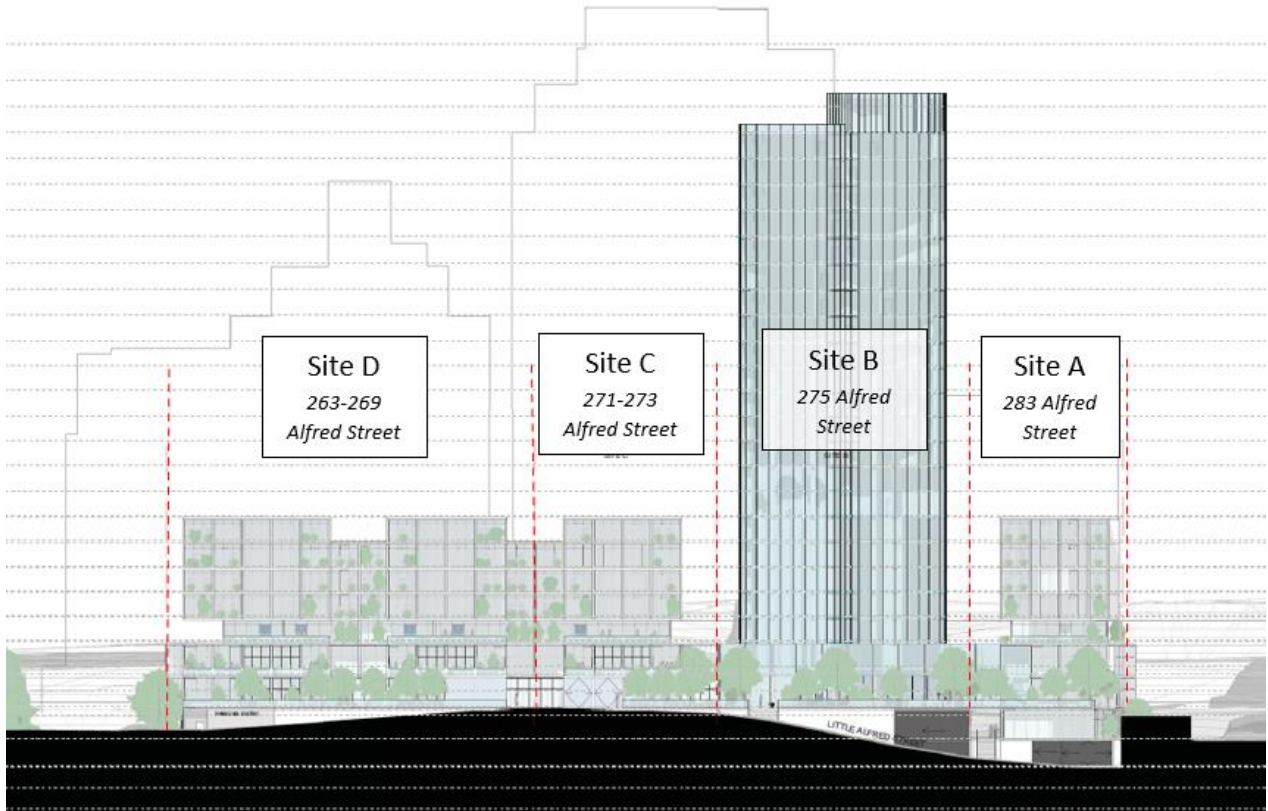
**Figure 11:** Concept eastern elevation of the proposed Alfred Street Precinct (source: Grimshaw)



**Figure 12:** The subject site (source: Proponent's site-specific draft DCP)



**Figure 13:** Concept west elevation of the proposed Alfred Street Precinct (source: Grimshaw)



**Figure 14:** Proposed West elevation of the exhibited planning proposal for the Alfred Street Precinct (source: Grimshaw)



**Figure 15:** Proposed concept of the exhibited planning proposal for the Alfred Street Precinct (source: Grimshaw)

## 1.4 Planning Context and Background

### 1.4.1 Planning Proposal and Pre-Gateway Review (2015)

On 3 September 2015, a planning proposal was lodged with North Sydney Council (Council) for the site known as the Bayer Building, 275 Alfred Street (Site B) seeking to:

- rezone from B3 Commercial Core to B4 Mixed Use;
- increase the maximum building height from 13m to 85m; and
- increase the maximum Floor Space Ratio (FSR) from 3.5:1 to 10.2:1.

On 15 February 2016, Council resolved to not support the planning proposal as:

- it was not underpinned by a comprehensive strategic planning study;
- it would set an unacceptable precedent; and
- it would isolate the immediate adjoining sites impacting on their potential development.

Mecone, on behalf of the proponent (Benmill Pty Ltd), requested a pre-Gateway review which was referred to the former Joint Regional Planning Panel (JRPP).

On 13 September 2016, the former JRPP considered the proposal and in a unanimous decision determined it should not be supported as:

- the proposal only deals with one site rather than the area zoned B3 in which it is located, and it fails to achieve separation distances between residential buildings and adversely affects the development potential of adjoining sites;
- the site and street block is closely related to the adjoining residential area rather than the commercial core and a zone change to allow residential would be appropriate; and
- any future proposal should maintain its existing density of 3.5:1 and may be combined with additional height to develop to their potential for mixed use buildings with appropriate amenity.



### 1.4.2 Draft Alfred Street Precinct Planning Study

As a result of the JRPP decision and suggestion that a planning proposal could be supported, Council resolved on 20 February 2017 to undertake a planning study for the Alfred Street Precinct.

The draft Alfred Street Precinct Planning Study (ASPS) sought a holistic approach to planning across the entire precinct and set out a preferred urban design scheme for the site and a range of built form guidelines.

On 26 March 2018, Council resolved to adopt and exhibit the draft study. The objective of Council's draft study is to guide redevelopment for the Precinct to:

- establish a liveable, high amenity precinct that supports a good mix of commercial, mixed use and residential buildings;
- ensure an appropriate transition to the surrounding low scale heritage conservation area;
- support small businesses and start-ups locate near the north Sydney CBD;
- improve the built form design, street level amenity and access across the block; and
- provide public benefits that are commensurate with the zoning uplift.

The key issues raised in submissions during Council's exhibition of the study related to:

- the impact of additional height or bulk including overshadowing and privacy;
- the feasibility of the proposed amalgamation; and
- traffic and parking impacts.

Council's post exhibition report recommended amendments to the draft study to address items such as overshadowing, privacy, traffic, public benefit improvements, heritage, feasibility and the proposed mix of commercial and residential uses.

Council staff recommended that the amended study be adopted and endorsed as Council's preferred planning framework.

On 29 January 2019, in a unanimous decision, Council resolved not to adopt the amended draft ASPS for the Precinct due to the issues raised during the public exhibition.

### 1.4.3 Revised Planning Proposal and Rezoning Review (2019)

In March 2019, Mecone submitted a revised planning proposal to Council addressing the concerns raised by JRPP in September 2016 by incorporating the remaining sites in the precinct (Sites A, C and D). Council failed to indicate its support of the proposal within 90 days and a rezoning review request was submitted to the Department.

On 5 November 2019, Sydney North Planning Panel (SNPP) considered the rezoning review request and determined the proposal be submitted for a Gateway determination as the planning proposal demonstrated strategic and site-specific merit (**Attachment H**) as follows:

- it is close to existing public transport and services;
- the visual impact of the site will be improved; and
- redevelopment of the block will not have a major adverse impact on its surroundings.

The SNPP recommended that prior to public exhibition the follow should be addressed:

- a site-specific development control plan (DCP) accompany the planning proposal to provide detail of amalgamation pattern, built form, footpath width, public domain and the provision of publicly accessible spaces on the site;
- the proposal should establish a methodology for the protection and embellishment of nearby public parks, which could be achieved as a public benefit offer;

- a more detailed review of the overshadowing impact of the proposal on surrounding public open space and residential properties to minimise overshadowing; and
- clarification of the provision of affordable housing as a public benefit.

One panel member, although agreeing that the planning proposal should proceed to Gateway, considered that the height of the Bayer Building at 275 Alfred Street (Site B) should be restricted to a maximum 70m.

#### 1.4.4 Gateway Determination

On 7 September 2020, the Department issued a Gateway determination for the proposal (**Attachment B**). In summary, it was considered that the proposal demonstrated strategic and site specific merit and recommended to proceed to Gateway as it:

- proposes 156 new residential units which will contribute to the housing target under the District Plan;
- balances the need to support the growth of the North Sydney CBD while providing an appropriate transition toward the low scale adjoining residential areas;
- will create an activated precinct that retains a level of commercial development;
- will provide for affordable rental housing;
- supports the NSW Government's investment in the Sydney Metro;
- is strategically located with access to infrastructure and services; and
- will provide public benefits including public domain improvements, an activated pedestrian arcade and through site links.

The Gateway conditions required the planning proposal to be updated prior to exhibition to:

- include a Heritage Impact Assessment (HIA) to demonstrate the proposed development will not have unacceptable impacts on the Whaling Road HCA;
- provide one consolidated document;
- demonstrate consistency with the North Sydney Local Strategic Planning Statement (LSPS) and the North Sydney Local Housing Strategy (LHS); and
- include an updated draft letter of offer to enter into a Voluntary Planning Agreement (VPA) to demonstrate the intent to negotiate with Council as the consent authority not the PPA.

The planning proposal was to be required to be made available for community consultation for a minimum of 28 days.

Consultation was required with the following agencies;

- Transport for NSW;
- Transport for NSW (Roads and Maritime Branch);
- Ausgrid;
- Sydney Water;
- NSW Department of Education;
- NSW Department of Health; and
- North Sydney Council.

The LEP was given a 12 month completion timeframe from the date of the Gateway determination. The SNPP are the Planning Proposal Authority (PPA) as Council declined the role of PPA.

In October 2020, the proponent submitted an amended planning proposal and the required associated documents according to the conditions of the Gateway determination.

On 4 November 2020, the Department reviewed the revised planning proposal and advised the SNPP Secretariat that the conditions of the Gateway determination had been addressed to the Department's satisfaction.

## 1.5 Summary of Recommendation

The Department notes that the Panel considered the proposal at the rezoning review stage and found that it had sufficient strategic and site specific merit to proceed to Gateway.

The Department is of the view that the planning proposal should not proceed to finalisation in its current state, noting that the proposal demonstrates strategic merit, but not sufficient site specific merit.

As assessed at the Gateway determination stage, the Department considers that the proposal demonstrates sufficient strategic merit particularly relating to the actions and objectives of the Greater Sydney Region Plan and North District Plan as it seeks to revitalise an underutilised site with excellent proximity to services and jobs in the North Sydney CBD.

The Department notes that in its decision at the rezoning review stage the Panel considered that the site has the potential for redevelopment of the existing Bayer building, which presents a highly visible and unattractive view, which will be modernised, provide a slimmer additional storeys and will be subject to a design excellence process. The Department agrees that the redevelopment of the site provides an opportunity to transform the site into a revitalised precinct that offers an attractive gateway to Sydney Harbour. However, it is not evident how the scheme in its current form adequately demonstrates how this will be delivered in a sympathetic and coherent manner with regard to the amenity of the surrounding heritage conservation area.

However, the Department highlights site specific concerns that the Panel should have further consideration of prior to endorsing the proposal to proceed to finalisation. It is also recommended that the draft DCP be updated to address issues raised in submissions relating to the interface with the Whaling Road Conservation area and amenity impacts to the surrounding low scale residential development. Any potential changes to the final controls should be sympathetic of the nearby Whaling Road Heritage Conservation Area and seek to reduce potential overshadowing concerns.

The Department's conclusions and recommendations are provided in Section 5 of this report.

## 2 Public Exhibition

The planning proposal was publicly exhibited for a minimum of 28 days from 10 December 2020 until 19 February 2021, in accordance with the Gateway determination.

The planning proposal and associated documents were made available on the Planning Panel's website and:

- an advertisement was placed in the Mosman Daily advising on the public exhibition;
- a letter was sent to surrounding property owners and occupiers;
- hard copies of the exhibition material were provided for display at Council's administration building and the Stanton library; and
- on the NSW Planning Portal.

The exhibition period was initially from 10 December 2020 until 29 January 2021, and was extended until 19 February 2021 due to the Christmas and New Year Holiday period, exceeding the 28-day timeframe required under the *Environmental Planning & Assessment Act 1979* (the Act).

## 3 Summary of Submissions

Submissions were received from 63 members of the community. Of these, 61 submissions objected to some aspect of the proposal, with 2 submissions were in support of the proposal.

Most submissions were received from residents of properties on Whaling Road, Doris Street and Neutral Street. Others were received from several committees of residents, prepared by consultants. Some submissions were received from committees of residents including one representing 55 landowners in the Precinct. Submissions were also received on behalf of the landowners of Sites A, B and C within proposal area for the Alfred Street Precinct (**see table 7**).

The proponent's detailed response to submissions were provided on 5 May 2021 (**Attachment G1**).

An additional response was provided to a supplementary submission received from the landowners of Site C on 8 September 2021 (**Attachment G2**). It is noted that 30 submissions that were not lodged with the Panel Secretariat during exhibition, have been recovered from the Planning portal. The proponent responded on 14 October 2021 to the additional submissions and the submission received from Transport for NSW made on 30 September 2021 (**Attachment G3**). The Department has ensured these responses have been considered in this submissions report, which has resulted in the proposal not being reported to the Panel for earlier consideration.

### 3.1 Agencies

The Panel's Secretariat consulted with the following public authorities in accordance with the conditions of the Gateway determination:

- Transport for NSW;
- Ausgrid;
- Sydney Water;
- NSW Department of Education; and
- NSW Department of Health; and
- North Sydney Council.

The Transport for NSW (TfNSW) submission (**Attachment I**) raised the following matters in its review of the proposal documentation:

- the need for coordination regarding the Western Harbour Tunnel and Beaches Link project for any future DA;
- a residential and workplace travel plan should be required as a part of any future DA;
- a request that a site specific clause be included to limit the total retail floor space area for the site to 1,200m<sup>2</sup> and
- the proposal should consider pedestrian amenity and public transport accessibility and the impact of the development in the locality. TfNSW advise that a contribution or works in kind should be provided to infrastructure improvements within the locality that is commensurate with the impact of the development and could be required through a satisfactory arrangements clause.

Council provided its submission objecting to the proposal on 18 February 2021 (**Attachment J**) and raised the following concerns with the planning proposal:

- public exhibition process;
- inconsistencies between the planning proposal, the draft DCP and the concept plans which does not clearly indicate the likely built form outcome

- overshadowing of adjoining properties and the Alfred Street North Park and requesting further analysis be required
- the impact on the adjoining Whaling Road heritage conservation area
- building setbacks and inconsistency with Apartment Design Guidelines (ADG)
- inadequate justification of the design excellence provision allowing for additional FSR
- the lack of a minimum non-residential floor space consistent with Council's B4 zone (given all other B4 zones in the LEP have a mapped minimum non-residential FSR)
- traffic, access and parking, and support for minimised vehicular entry points
- building height, the transition to development to the east, and bulk and scale
- lack of controls to require lot amalgamation of lots to improve the redevelopment outcome
- highlights that Council's draft Alfred Street Planning Study was not endorsed due to the concerns about overshadowing and visual impacts from proposed additional height
- removal of any proposed signage on residential tower component of site B
- the proposal does not align with Council's LSPS
- implications for the operation of the Western Harbour Tunnel and Beaches link and the intersection of Alfred Street and Whaling Road request for a deferred commencement date should allow for a VPA to be negotiated and
- a savings provision to ensure a DA cannot be approved prior to a DCP being adopted by Council, which has not yet been exhibited.

These issues raised by TfNSW and Council are further discussed in section 4 of this report.

## 3.2 Public Submissions

61 of the 63 public submissions objected to the planning proposal. The key issues raised from the public related to are categorised as follows:

- traffic, access and parking – 77%
- Western Harbour Tunnel and Warringah Freeway upgrade – 11%
- building height, bulk and scale – 68%
- heritage – 68%
- overshadowing and solar access – 52%
- overlooking and privacy – 23%
- Inconsistencies between planning proposal documents 14%
- Lack of public benefit – 16%
- Amenity – 24%
- Environmental Impacts 6%
- Financial Equity 6%

The issues raised in submissions are considered in detail in Section 4 of the report.

## 4 Key Issues Raised in Submissions

### 4.1 Traffic, Access and Parking

Traffic, access and parking was a concern, with 49 (77%) of the submissions raising it as the primary issue. Residents to the east and south of the Precinct (Whaling Road, Neutral Street and Little Alfred Street) raised concerns about the likelihood of increased traffic and congestion from future development.

Submissions stated that the proposal was piecemeal rather than an integrated development outcome, leading to traffic, parking and access impacts. Most existing dwellings do not have onsite parking and the proponent's planning proposal was considered by many submissions to be dismissive of the already overburdened parking situation in the area, with further redevelopment and associated construction worsening the situation.

Submissions raised concerns about noise, access and safety in Little Alfred Street especially with the increased residential traffic, construction vehicles given the gradient, width and form.

Submissions suggested that consideration should be given to a breakthrough wall within the Precinct to limit vehicular entries to no more than two, with preference given to Little Alfred Street.

#### Council Comments

Council states that the revised planning proposal includes amendments to vehicular access and the achievable density. However, it considers that the Traffic Impact Assessment (TIA) does not reflect these changes and therefore is not a clear assessment of the impacts that may arise from any future development.

Council raised concerns with the safety of the vehicular access point proposed to Whaling Road adjacent to Little Alfred Street and Alfred Street.

#### Transport for NSW Comments

TfNSW raised concerns regarding traffic, access and parking as follows:

- TfNSW requests that a site specific clause be included to limit the total retail floor space area for the site to 1,200m<sup>2</sup>;
- Any future development application for the site is likely to require coordination regarding the Western Harbour Tunnel and Beaches Link project.
- Any future development application should consider including a residential and workplace travel plan.
- The planning proposal should be subject to a satisfactory arrangements cause, noting that the proposal should consider pedestrian amenity and public transport accessibility and the impact of the development in the locality. TfNSW advise that a contribution or works in kind should be provided to infrastructure improvements within the locality that is commensurate with the impact of the development.

#### Proponent Response

The planning proposal was accompanied by a TIA (**Attachment D1**) and the Response to Submissions letter (**Attachment D2**) was provided after the public exhibition both prepared by The Transport Planning Partnership (TTPP). The Response to Submissions letter addressed both the changes to the concept design of the Alfred Precinct site since the lodgement of the planning proposal to Council and the implications of the Western Harbour Tunnel and Warringah Freeway Upgrade project.

## Traffic

The TIA accompanying the planning proposal, dated 21 March 2019 states there would be a minor increase in average delays and queues to the Little Alfred Street-Whaling Road and Neutral Street-Whaling Road intersections as a result of the proposed development.

The assessment also stated that the traffic modelling indicates that there would be a minor increase in delays to the Little Alfred Street/Whaling Road and Neutral Street/Whaling Road intersections as a result of the planning proposal. However, the intersections would continue to operate well during peak periods and the impacts on the surrounding road network is considered to be acceptable.

The traffic generation from the planning proposal is summarised in **Table 4**.

TTPP carried out a review of the EIS traffic report which provided an assessment of the roadwork performance of the Warringah Freeway and surrounds. This review identified improvements that included but not limited to:

- an upgrade of the High Street interchange including widening of the High Street bridge for an additional westbound traffic lane and new shared path on the south side and a new north bound on-ramp and south bound off-ramp to and from the Warringah Freeway;
- installation of traffic signals at the Alfred Street north and High Street intersection removing the roundabout; and
- widening of Alfred Street north between Darley Street and High Street for a two lane off ramp from the Warringah Freeway.

As a result, traffic along Alfred Street is expected to increase in the future. However, the traffic modelling undertaken previously indicates that this road network will operate at an acceptable level and will have capacity to accommodate the traffic generated by the proposed development.

The Response to Submissions letter (**Attachment D2**) states that based on the previous traffic assessment, the proposal is expected to result in a net reduction in traffic of 41 less peak AM trips and 30 less peak PM trips compared to the existing conditions on the entire site which contains 33 residential units and three commercial buildings (**Table 5**). Residential trip generations rates are lower than commercial rates.

**Table 4:** Summary of the traffic generation potential

		283 Alfred Street	275 Alfred Street (Bayer Building)	271-273 Alfred Street	263-269 Alfred Street and 4 Little Alfred Street	Total	
<b>Site</b>		A	B	C	D		
<b>Number dwellings</b>		16	83	17	40	156	
<b>Vehicle trips</b>	<b>Residential</b>	AM	3	16	3	8	30
		PM	2	12	3	6	23
		<b>Total</b>	<b>5</b>	<b>28</b>	<b>6</b>	<b>14</b>	<b>53</b>

			283 Alfred Street	275 Alfred Street (Bayer Building)	271-273 Alfred Street	263-269 Alfred Street and 4 Little Alfred Street	Total
	<b>Commercial</b>	AM	20	68	24	50	162
		PM	15	51	18	37	121
		<b>Total</b>	<b>35</b>	<b>119</b>	<b>42</b>	<b>87</b>	<b>183</b>
<b>Total Vehicle trips</b>							<b>236</b>

**Table 5:** Net changes in traffic generation in the amended proposal

Traffic Generation	AM Peak	PM Peak
Existing Traffic Generation	233	175
Future Traffic Generation	192	145
Net Change	-41	-30

### Access

The proponent's response to submissions states that the number of vehicular access points will be reduced from six to a total of three, two along Little Alfred Street servicing Site A and Site B and one to Whaling Road servicing Sites C and D.

The concept design has been amended to improve traffic flows and circulation within the development by providing two separate access points via Little Alfred Street servicing Site A and Site B and one via Whaling Road servicing Sites C and D from the previous six access points.

The response states that the change will not result in adverse traffic impacts, however, one parking space will be lost on Whaling Road.

Little Alfred Street is a public road and no works were included in the planning proposal such as widening and alteration of the gradient. There is no intention to close this road.

### Parking

The planning proposal was assessed against The North Sydney Development Control Plan 2013 (DCP 2013) and the North Sydney LEP 2013.

Reduced carparking rates may be reasonable as the site is approximately 600m walking distance from North Sydney train station with existing transport infrastructure and the proposed Victoria Cross Metro Station. Bus services run along the Pacific Highway connecting to ferry services and the Sydney CBD and beyond reducing the reliance on private vehicle usage.



The DCP 2013 requires the provision of bicycle parking for occupants, visitors and customers of the proposed development. Motorcycle parking is to be provided at one space per 10 car parking spaces.

A summary of the parking rates is in **Table 6**. Issues related to on street parking can be addressed as part of a future DA.

**Table 6:** Summary of parking rates

		283 Alfred Street	275 Alfred Street (Bayer Building)	271-273 Alfred Street	263-269 Alfred Street and 4 Little Alfred Street	Total
<b>Site</b>		A	B	C	D	
<b>Number dwellings</b>		16	83	17	40	156
<b>Commercial/retail GFA</b>		1,275m <sup>2</sup>	4,265m <sup>2</sup>	1,475m <sup>2</sup>	3,112m <sup>2</sup>	10,127m <sup>2</sup>
<b>Car parking</b>	<b>Residential</b>	11	58	12	29	110
	<b>Commercial</b>	2	10	3	7	22
	<b>Total</b>	<b>13</b>	<b>68</b>	<b>15</b>	<b>36</b>	<b>132</b>
<b>Bicycle</b>		31	132	33	73	<b>269</b>
<b>Motorcycle</b>		1	8	1	3	<b>13</b>

### Safety

As stated, the proposal will result in a net decrease in vehicular traffic compared to the existing conditions on the site (**Table 5**) due to the reduction in commercial floorspace.

Vehicular access/egress points have been reduced from five to two, improving pedestrian amenity and safety along Little Alfred Street. Access points can be further negotiated with Council as part of the final site specific DCP.

The speed limits and their non-compliance are out of the scope of the planning proposal and should be raised with Council.

### Proponent's response

On 14 October 2021, the proponent wrote to the Department responding to the submission made by Transport for NSW. The proponent raised concern with TfNSW's request to restrict the potential retail floor area to 1,200m<sup>2</sup> to ensure that trip generation impacts are managed.

The proponent is of the view that providing a restriction on the maximum retail component of the development would be difficult given the sites are in fragmented ownership and are likely to be separately developed. The proponent recommends that a provision to limit retail uses to the ground floor would be a suitable option and achieve the same desired effect when coupled with the proposed setback controls under the site specific DCP. It is noted that the retail component has been introduced as a public amenity to enable the activation of the ground floor plane.

The proponent has noted the other comments from TfNSW and accepts that the following matters can be considered at the development application stage:

- Consideration of the construction of the Western Harbour Tunnel and Beaches Link;
- The Department's *Development near Rail Corridors and Busy Roads Interim Guidelines*;
- Consideration of travel development management measures including provisions for residential and workplace travel plans.
- Ensuring that the public benefits as detailed in the planning proposal are detailed as part of a future VPA offer for individual sites.
- Consideration of pedestrian amenity and public transport accessibility of the development in the locality and to provide commensurate contributions or works in kind to support infrastructure improvements.

### Department's Comments

North Sydney has a high percentage of public transport uses with 71% of residents and workers walking or cycling to public transport or ride share to travel to and from work. The site is located within 600m of the existing North Sydney Railway Station and associated bus service with pedestrian facilities around the site, encouraging active uses. The site is also within 600m of the proposed Victoria Cross Metro Station.

The Traffic Impact Assessment (TIA) prepared by TTPP, accompanied by the letter addressing submissions, states that development can be undertaken on site which is compliant with the car parking (inclusive of motorcycle and bicycle) provisions set out in the DCP 2013 and the minimum requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and Apartment Design Guidelines (ADG).

Traffic modelling indicated that the proposed concept will not have an adverse impact on the surrounding road network with the detailed modelling in the TIA showing that local intersections would continue to function well throughout peak periods. The proposal is projected to reduce the trips generated compared to the existing conditions on the site.

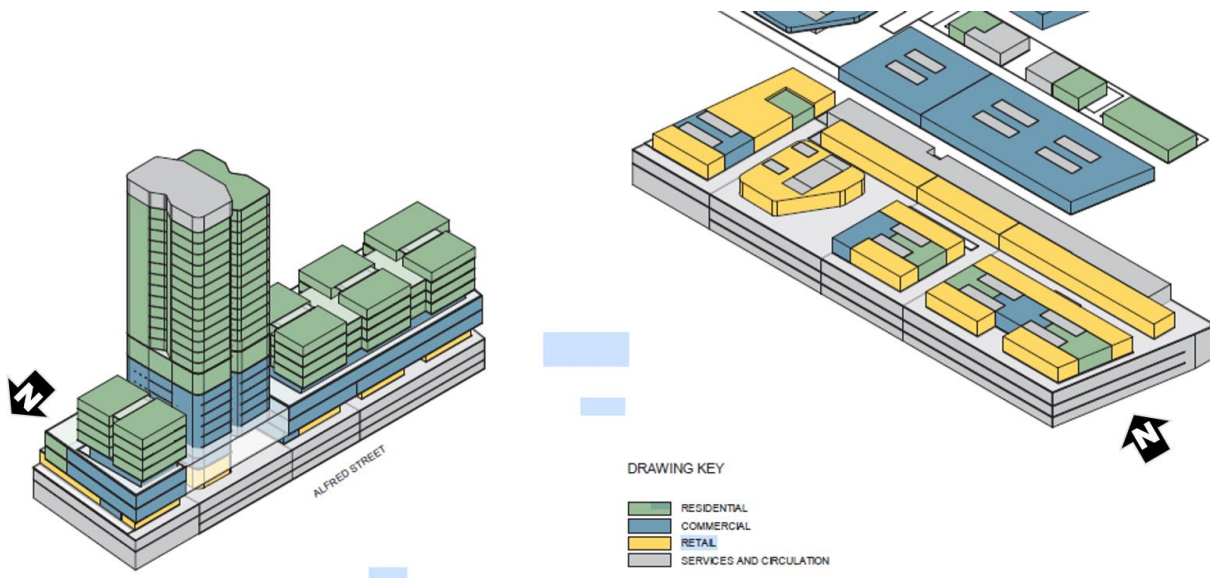
Vehicular access points have been rationalised dispersing the entry points, improving traffic flows in the surrounding street network. The loss of one parking space in Whaling Road is considered minor. However, concern has been raised with the safety around the intersection of Whaling Road and Little Alfred Street.

The Response to Submissions indicates that the proposal is not anticipated to have any adverse impacts when compared to the existing conditions on the site with a net reduction in vehicle trips compared to the existing conditions on the site (**Table 5**). The reduction in existing commercial floor space will result in a minor decrease in traffic generation from the proposed concept.

As detailed above, Transport for NSW was notified of the Planning Proposal and exhibition by the Department and a late submission was received. The Department notes that most matters raised by TfNSW have been requested to be appropriately addressed at the development application stage. TfNSW notes that the proposal should be subject to a satisfactory arrangements clause, and consider pedestrian amenity and public transport accessibility, however these contributions will need to be addressed through a VPA, as this precinct is not identified for the purposes of a State-led Precinct Plan. However, of relevance to the planning proposal, TfNSW's requests that a restriction be placed on the maximum retail floor space to be developed across the site.

The proposal includes 10,127m<sup>2</sup> GFA commercial floorspace, which is a reduction from 11,671m<sup>2</sup> currently provided on the site. The planning proposal currently provides for retail shops at the ground floor plane to activate the street frontage along Alfred Street and Little Alfred Street with through site links and some indication of retail at basement level or level 1. Limiting retail space to 1200m<sup>2</sup> would comprise approximately 12% of the non-residential floorspace.

It is considered appropriate that retail be provided at ground level for active street frontages.



**Figure 16:** Land use breakdown graphic (Source: Urban Design Report Grimshaw 2019)

The Department is of the view that the inclusion of a control in the LEP would be inappropriate as it would be overly prescriptive to be considered as part of an LEP amendment. However, it is recommended that the request is best considered for inclusion in the site-specific DCP.

## 4.2 Western Harbour Tunnel and Warringah Freeway Upgrade

Of the submissions, seven (11%) raised concerns about the impacts and implications of the Western Harbour Tunnel and Warringah Freeway Upgrade on the proposed development.

A Response to Submissions (**Attachment D2**) letter prepared by TTPP on behalf of the proponent addressed these concerns.

Submissions stated that since the planning proposal was lodged the Western Harbour Tunnel and Beaches Link has been approved inclusive of upgrades to the Warringah Freeway. The site is adjacent to the Warringah Freeway and impacts of this work need to be taken into consideration.

Compatibility with the Western Harbour Tunnel and Beaches Link and the implications for the operation of the intersection of Alfred Street and Whaling Road was also raised.

### Council Comments

Council also noted that the NSW State Government had recently approved the Environmental Impact Statement (EIS) for the Western Harbour Tunnel. This has implications on the operation of the intersection of Alfred Street and Whaling Road. As such, the proposal should not be progressed without the inclusion of the assessment of the impacts of this proposed work.

### Proponent Response

The tunnel and freeway upgrade were approved on 21 January 2021 and not considered in the original TIA which was dated 21 March 2019.

Some key changes to the road network would have an impact on the site such as:

- upgrade of the High Street interchange to the south of the site;

- conversion of the roundabout at Alfred Street North and High Street to traffic signals; and
- widening of Alfred Street North between Darley Street and High Street.

The Response to Submissions letter prepared by TTPP addresses the traffic impacts, during construction and operation of the Warringah Freeway and Western Harbour Tunnel on the proposal. The letter considered that the freeway and tunnel construction traffic travelling along Alfred Street North will be minimal and not result in any adverse impact.

The proposed development is expected to result in a net traffic reduction compared to the existing due to the significant reduction in commercial floorspace. As such, the proposed operational impacts are considered satisfactory.

#### Transport for NSW Comments:

In their response, TfNSW stated that the site is located in proximity to the Western Harbour Tunnel and Beaches Link project, and consequently any future development at the site may require construction coordination with the Western Harbour Tunnel and Beaches Link project. Transport also advised that any future development is therefore required to be undertaken in accordance with the Department's *Development near Rail Corridors and Busy Roads – Interim Guidelines*. The Department is of the view that this can be most appropriately addressed as part of any future development application for the site.

#### Department Comments

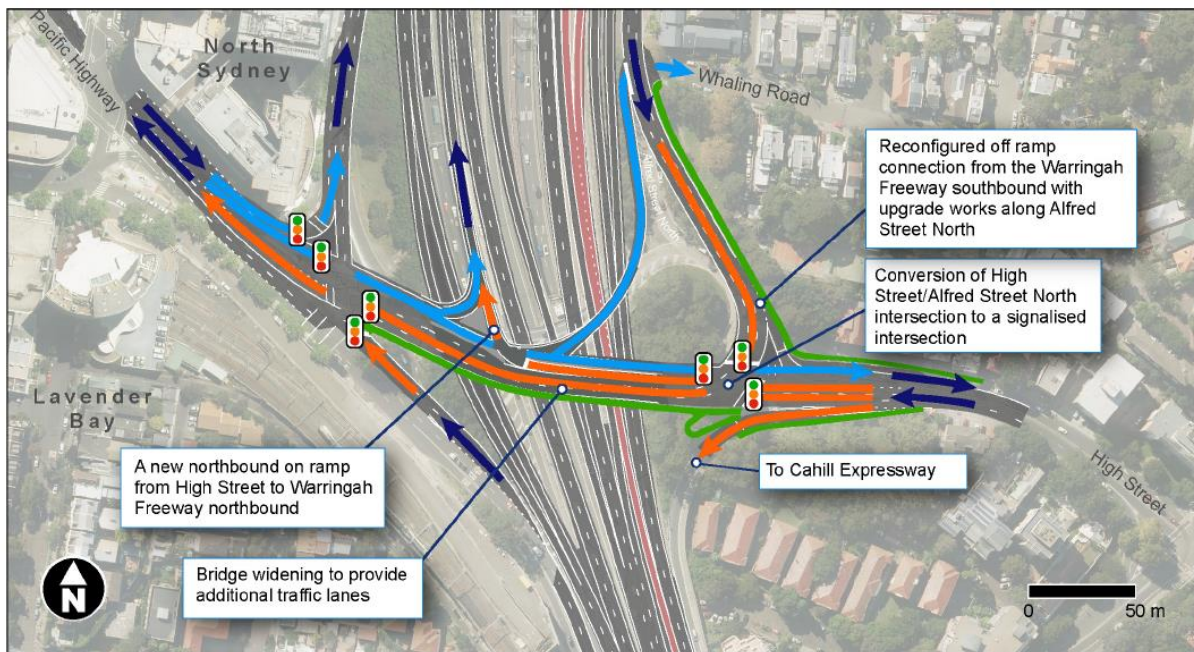
The Department notes the predicted minimal traffic generation during construction stated in the Response to Submissions with some construction vehicles would travel along Alfred Street North prior to entering construction sites.

Both the TIA and the Response to Submissions indicate a net reduction is predicted with respect to traffic generation compared to the existing site due to the reduction of commercial floorspace of approximately 6,000m<sup>2</sup>. Commercial floorspace generates higher rates of traffic compared to residential uses. It is noted that TfNSW has also requested a cap on the retail floorspace to limit traffic generation, as discussed above in Section 4.1.

On 21 January 2021, TfNSW announced that the Western Harbour Tunnel and Warringah Freeway upgrade had been approved by the Minister for Planning and Public Spaces. The EIS prepared for the project provides indicative details of the proposed changes within the vicinity of the Alfred Street Precinct, for modifications to intersections (**Figures 17 & 18**), including:

- a new southbound off ramp from the Warringah Freeway along Alfred Street North to High Street;
- the conversion of the existing High Street and Alfred Street intersection to a signalised intersection,
- a new access to/from Whaling Road via Alfred Street North.

Additionally, the EIS also indicates road bridge works will occur to the existing Mount Street Bridge to including modifications to support the new on and off ramps. Council's submission on the EIS notes that Alfred Street Park is proposed to be permanently reduced by 1,096m<sup>2</sup> due to associated road works and intersection changes. The EIS provides indicative maps (subject to design development) (**Figures 17 & 18**) that indicate a new off ramp will cut across the Transport for NSW owned land on the corner of Whaling Road and Alfred Street, known as the Alfred Street North Park.



Indicative only – subject to design development

**Legend**

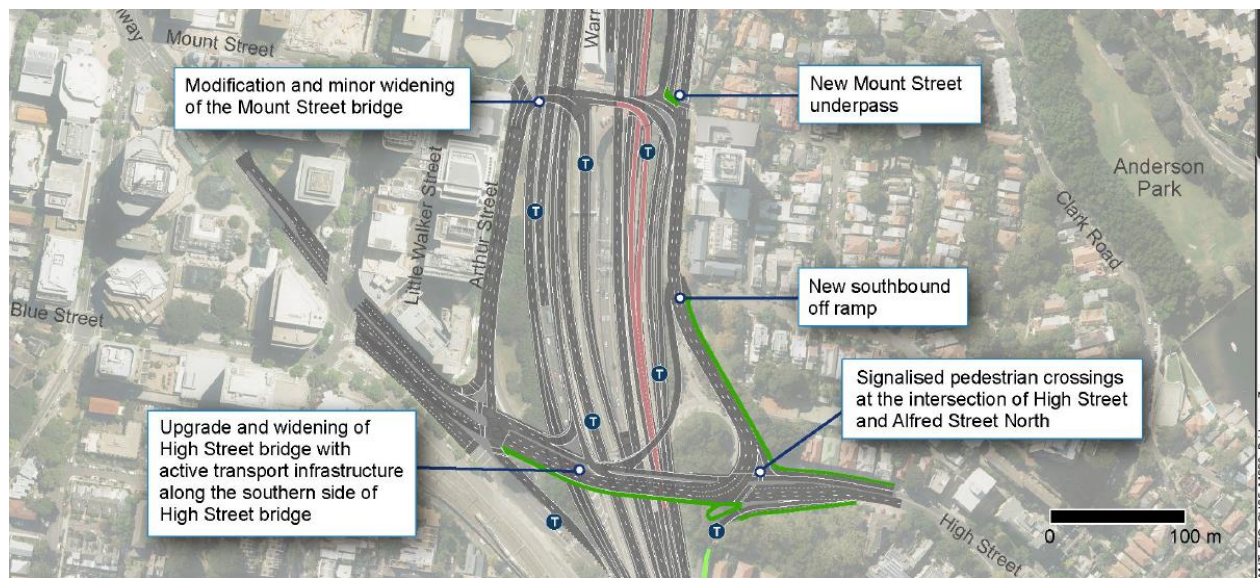
**Surface features**

- Surface road
- Bus lane
- Pedestrian / shared user path

**Traffic movements**

- Direction of travel outside the connection
- Eastbound travel
- Westbound travel
- Signalised intersection

**Figure 17:** Changes proposed to the road network in the vicinity of the Alfred Street Precinct (EIS, Western Harbour Tunnel and Warringah Freeway Upgrade)



Indicative only – subject to design development

**Legend**

**Tunnels**

- Driven tunnel
- Surface connection

**Surface features**

- Surface road
- Bus lane
- Pedestrian / shared user path

**Operational infrastructure**

- Provision for tolling gantries
- Indicative new noise barrier

**Figure 18:** New southbound off ramp across the Alfred Street Park and changes to the road network (EIS, Western Harbour Tunnel and Warringah Freeway Upgrade)

### 4.3 Building Height, Bulk, Scale and Design Excellence

Of the submissions, 43 (68%) considered that the requested heights do not provide an appropriate transition of building heights as the site connects the CBD to the nearby R2 Low Density Residential zoned land and HCA.

Dissatisfaction was expressed over Bayer Building (Site B) already exceeding the LEP height limits and that design excellence often results in increased height and bulk. Other respondents consider the proposal a gross overdevelopment of the site and an adverse visual impact on the adjoining residential area overwhelming the low-density residential area.

Submissions state that Sites A, C and D will be a visually intrusive backdrop to the residential area with more than double the height of the existing built form. The submissions suggest the concept design fails to demonstrate an acceptable development on the site that responds adequately to the local context.

One submission notes the FSR applied does not match the minimum FSR as indicated in the proponent's feasibility study. The proponent commissioned AEC to prepare an economic feasibility analysis (May 2018) (**Attachment O**), which notes Site D requires a minimum FSR of 4.0:1 for feasible development. It should be noted that the AEC report is based on a preferred option that envisages an amalgamation of Sites A, B & C as 'Site A', and Site D is referred to as 'Site B'. The AEC report advises that iterative testing shows the minimum FSR required for the properties to feasibly develop.

The submissions also note limited benefit is noted to sites A, C & D compared to B. Site B, receives an increased FSR advantage compared to the other sites. Submissions also stated that the increase in FSR is provided for the entire Alfred Street Precinct area rather than solely B.

Submissions from consultant architects and planners were received requesting modification to the concept scheme to increase the heights to Site C and Site D.

**Table 7:** Key issues raised by landowners in the Precinct

<i>Landowners</i>	<i>Summary of issues raised</i>
Site C 271-273 Alfred Street North Sydney  <i>Mayoh            Architects/DMP            Town Planning            (Attachment K1)</i>	<ul style="list-style-type: none"> <li>• Supports land use zoning for mixed use</li> <li>• The exhibited height of 28m will not enable Site C to develop to an FSR of 3.5:1, when constrained by envelope controls for mixed use development.</li> <li>• Requests an amended height of 42m to achieve a 3.5:1 FSR, as the concept scheme with the setbacks proposed will not accommodate this FSR.</li> <li>• Provides overshadowing analysis to indicate impact on adjacent properties.</li> </ul>
Site D 263-269 Alfred Street and 4 Little Alfred Street  <i>Tract Consulting            (Attachment L1)            &amp; Allen Jack and            Cottier Architects            (Attachment L2)</i>	<ul style="list-style-type: none"> <li>• Landowner agrees with proposed mixed-use zone</li> <li>• Current proposal benefits site B and the uplift is not equally shared across the sites</li> <li>• Site D cannot redevelop feasibly under the proposed FSR and height (feasibility assessment provided)</li> <li>• Requests an increase in FSR to 4:1 and height of 39m at minimum or FSR of 4.5:1 and height of 42m for optimal development provided in massing study.</li> <li>• Overshadowing may impact park to the south from 12pm to 1.30pm during mid-winter, and not substantially impact adjoining residential properties between 10am and 2pm.</li> </ul>

<i>Landowners</i>	<i>Summary of issues raised</i>
	<ul style="list-style-type: none"> <li>• Application of design excellence should extend to the whole precinct and not just to site B.</li> <li>• Vehicular access for Site C is through Site D, which has not been agreed. DCP should be amended to provided individual access for each site.</li> <li>• Improvements to urban design outcomes provide by AJ&amp; C Architects including increased setbacks, permeability from Alfred Street North to Little Alfred Street and a three to four storey townhouse built form to Little Alfred Street.</li> </ul>
Site A 283 Alfred Street	<ul style="list-style-type: none"> <li>• Proposal is designed to give 275 Alfred Street a special FSR that is unreasonable to the other properties.</li> <li>• All owners should have opportunity to present case. Unreasonable to require owner to appoint consultant.</li> </ul>

### Council Comments

Council raised concerns with the stated public benefits and proposed DCP controls, in particular:

- the built forms in the draft DCP indicate a zero setback to Little Alfred Street which already has poor pedestrian amenity;
- there are inconsistencies with Apartment Design Guidelines (ADG)
- there is inadequate justification of the design excellence provision allowing for additional FSR
- building height, the transition to development to the east, and bulk and scale with no height controls established for the proposed built form fronting Little Alfred Street
- the through site link is not well aligned with the topography resulting in the need stairs and amalgamating Sites A and B and Sites C and D would create a better outcome;
- the publicly accessible spaces are throughfares to commercial spaces with limited open space use and amenity;
- it would increase pressure on existing infrastructure such as recreational facilities; and
- the reduction of commercial floor space would result in diminished employment opportunities.

North Sydney Council's submission stated that a Voluntary Planning Agreement (VPA) was not exhibited. The letter of offer provided is limited in detail and only provides a high-level indication to enter into a VPA. The provision of a draft VPA would have provided clarity and certainty on what is proposed and what likely to be delivered.

Council also noted that should the Department support the planning proposal that a deferred commencement date be included to allow additional time for Council and the proponent to negotiate the VPA outcome.

North Sydney Council stated that the planning controls proposed where not compliant with the height of building controls under clause 4.3 and the FSR controls under clause 4.4 of the North Sydney LEP 2013.

## Proponent's Response

A proposed height of 24 storeys is consistent with Council's draft ASPS prepared as a result of the decision of the former JRPP determination. The proponent considers that draft ASPS although not formally adopted by Council created a framework for future planning proposals.

The current height allowable for Sites A, C and D of 13m cannot achieve an FSR of 3.5:1. The height would be required to be increased to 28m-29m (8 storeys). This would allow for the redevelopment of the sites in isolation to achieve the maximum FSRs.

The Bayer Building (Site B) has a base FSR of 7.3:1, not the entire Alfred Street Precinct. The proposal intends to increase the FSR for Site B only from 3.5:1 to 7.3:1 consistent with the current conditions on this site. The bonus FSR of 2:1 is triggered for a building exceeding 62m. The additional height proposed would achieve significant improvement in the appearance of the Bayer Building which is currently intrusive and requires urban renewal as a 'Gateway' to North Sydney and the Sydney CBD.

Existing built form along Little Alfred Street is generally built to the boundary and up to three to four storeys and an appropriate transition to the one to two story properties on the east side of Little Alfred Street. The proposal creates an opportunity for elevated landscaped podiums which would soften the built form to the west elevation for adjoining low density residential neighbourhoods.

The design competition process will only be applied to Site B ensuring that a high level of architecture, urban and landscape design is achieved to obtain the bonus FSR of 2:1 to a total FSR of 9.3:1. This will benefit the community to obtain optimal outcomes for a ground floor plane with through site links and interface with residential properties incorporating material and façade treatments.

The objectives outlined in clauses 4.3 and 4.4 of the LEP can be considered during the DA stage:

- overshadowing analysis generally indicated that the impact will be similar to the current conditions on the neighbouring surrounds;
- the concept scheme will provide an appropriate transition between the adjoining low density R2 zone with a three-storey podium, landscaping and a fine grain residential accommodation;
- the built form is considered reasonable and provides a suitable transition between North Sydney CBD and the adjoining Whaling Road HCA, based generally on building envelopes established in Council's draft ASPS;
- the proposal is consistent with the B4 Mixed Use zone with office, residential and retail uses compatible with its location between the high-rise North Sydney Commercial Core to the west and the low-rise residential character to the east and north; and
- the concept minimises bulk and scale incorporating a three-storey podium to the street frontages, increased setbacks, through-site links and a slimmer profile to the Bayer building.

Two through site links are provided and more would be considered excessive. Sites A and C will be oriented east and west. The sites comply with the ADG and no further setbacks are required. The proposal allows for up to three storeys to Little Alfred Street. If the setback was increased, it would reduce the width of the laneway.



### Department's Comments:

The Panel supported the planning proposal on 5 November 2019 (**Attachment H**), and a Gateway determination was issued by the Department on 7 September 2020 (**Attachment B**).

The site is within 600m of the future Victoria Cross Metro Station and the existing North Sydney Railway Station and associated bus services. As such, it is considered consistent to increase density at the location as the strategic direction of both the Sydney Region Plan and the North District Plan seek to maximise residential floorspace close to major transport infrastructure.

The Panel's previous consideration of the proposal also noted that the existing density of 3.5:1 may be combined with some additional height in a future planning proposal for the sites in the precinct to allow the sites to develop to their development potential for mixed use buildings with appropriate amenity.

Apart from the tower on Site B, the existing Bayer building, the bulk of the development is proposed to be contained within an 8-storey built form, which complies with Council's recommendation in the draft ASPs.

The built form seeks to provide a suitable transition from the North Sydney CBD to the Whaling Road HCA. The appearance of the existing Bayer building has the potential to be significantly improved by the proposed development as a design excellence process will be undertaken, although it is noted that the planning proposal concept includes an option to retain the existing building frame and provide additional height with a slimer profile at its topmost levels.

The planning proposal contains a concept scheme that proposes development controls for the individual sites. Any development would be subject to further detailed design and the sites could be developed in isolation of each other, with differing concepts applied to each site. The proposal is a concept, and the increased planning controls increase the future development potential across the entire Precinct.

### Consideration of Requests from Sites A, C & D

The requests to increase the proposed planning controls including height for Site C and height and FSR for site D has been considered by the Department. The Department's Urban Design Team have provided comments including:

- any additional height afforded to Site D will result in additional overshadowing to the RE1 zoned land known as the Alfred Street North Park to the south, as well as the residential properties on the south side of Whaling Road;
- any additional height afforded to Site C may result in additional overshadowing to the residential properties to the east in Neutral Street, however some shadow to the south will fall within the existing shadow cast onto the public open space by Site B; and
- further testing and justification will be required to increase the development potential of these sites beyond the exhibited height.

The Department notes that any proposed increases to development standards would warrant revised proposal documentation to be prepared and a re-exhibition of the planning proposal to be conducted.

The Department agrees with the Panel's determination that the ability to redevelop the site as a Precinct is integral in delivering a good planning outcome for the site. However, the Department also notes the comments provided in submissions from other landowners in the Precinct, consider there are mismatches with the proposed height and FSR controls, requesting greater height to accommodate the existing floor space ratio.

It is considered that the proponent could undertake some further built form modelling to inform and update the DCP which will address issues of overshadowing impact and amenity of the adjoining

HCA through a transition to the east of the site, which is further discussed in section 4.5 of this report.

## 4.4 Heritage

Of the submissions received, 43 (68%) raised concerns about the potential impact on the nearby Whaling Road Heritage Conservation Area (HCA).

The proposal is supported by a Heritage Impact Statement (HIS) prepared by Urbis (**Attachment E**) submitted with the amended planning proposal as a condition of the Gateway determination. The HIS considered the impacts on the adjacent Whaling Road HCA (**Figure 19**), considering the proposed building setbacks, landscaped buffers and overshadowing impacts.

Submissions stated that the proposal would result in excessive overshadowing. It would have an adverse visual impact, not compatible with the future desired character of the adjacent existing R2 Low Density Residential zoned dwellings in the Whaling Road HCA. The proposed development does not provide an appropriate transition to the low-density precinct with buildings having no setback to Little Alfred Street.

Some submissions stated that the amendments to the LEP would result in further development eroding the character and fabric of the heritage precinct and that the site specific DCP did not offer certainty to the adjoining existing residential area.

### Council Comments

Council noted that a HIA had been submitted with the exhibited planning proposal. This document was referred to Council's Conservation Planners who provided the following comments:

- It does not address the issues raised in the previous comments raised by Council referring to the 4.5m setback at Little Alfred Street altered to a nil setback compounding the impacts on the heritage context;
- the development remains isolated and the design solutions overwhelms the heritage interface rather than exhibiting a transitory solution including the reduction in access points along Little Alfred Street; and
- the issues raised in the previous advice dated 28 June 2019 and still apply for not supporting the revised planning proposal.

Council considers that the amended exhibited planning proposal results in a more significant impact on the significance of the Whaling Road HCA and cannot be supported in its current form until the issues identified are adequately addressed.

Having regard to Council's heritage comments on the draft Study it was noted that the Council report considered that to improve the relationship of the proposed uplift on the site with the Whaling Road HCA that:

- built form principles should include more architectural articulation along Little Alfred Street
- Any future development should incorporate a large tree canopy along Little Alfred Street to achieve better transition from the high rise into the more fine-grain character of the Whaling Road Conservation Area. Such trees should be established within larger ground floor setbacks.
- The potential tower should have an upper level setback to promote more of a human scale experience in the public domain.

## Proponent Response

The site falls outside the North Sydney CBD and the proposed built form provides an appropriate transition from the CBD and Warringah Freeway to the adjoining Whaling Rd HCA because it:

- steps down to a 3-storey podium along the northern and eastern boundaries, generally consistent with Council's draft ASPS, (which are included in Table 3 above);
- provides 15.5m setback to the upper levels of Sites A, C and D along eastern boundary; and
- incorporates a ground floor podium setback 6m along northern boundary, allowing for a landscaping buffer and upper levels are to be setback 6m from the boundary.

Setbacks along Little Alfred Street are consistent with the existing built form while allowing for elevated podiums which would create a landscaping buffer with the HCA.

The HIS stated that the change sought in the planning proposal respects, and in some aspects enhances the heritage significance of the Whaling Road HCA and the heritage items within as:

- the removal or alteration of existing detracting buildings which have no architectural merit;
- there would be decreased overshadowing impacts on the HCA and heritage items than Council's earlier scheme;
- rezoning the site from B3 Commercial Centre to B4 Mixed Use would result in a sympathetic transition between the North Sydney CBD and the low-density residential Whaling Road HCA; and
- fine grain elements and increased setbacks with landscaping of the development would provide a sympathetic interface between the North Sydney CBD to the east and the walkable character of the Whaling Road HCA adjoining the site to the west and north.



**Figure 19:** North Sydney Heritage map HER\_002A showing the location of the Whaling Road HCA to the north and west of the Alfred Street Precinct (source: NSW Planning Portal, overlay by DPIE)

### Department Comments

Condition 1 of the Gateway determination required the preparation of a Heritage Impact Assessment (HIA) that demonstrates that the proposed development will not have unacceptable impacts on the adjacent Whaling Road Heritage Conservation Area.

Urbis Pty Ltd prepared a HIA in support of the planning proposal (**Attachment E**). It was considered that Condition 1 had been satisfactorily addressed for the purpose of public exhibition.

A formal review/assessment of the HIA in the form of a peer review, may be considered by Panel should it be concerned that further modifications could be made to the proposal to further improve building setbacks, landscaping and overshadowing impact on the HCA than that provided by the HIA.

The HIA, prepared by Urbis refers to the Council's reference scheme stating that it responds to overshadowing, setbacks and heritage impacts on the adjoining Whaling Road HCA.

However, the planning proposal does indicate that there will be additional overshadowing to residential properties within the Whaling Road HCA and the public open space known as the Alfred Street North Park.

The Department also notes Council's comments regarding the changes to the proposal to remove proposed setbacks in the draft DCP.

It is recommended that the draft DCP should be updated to address issues raised in submissions relating to the interface with the Whaling Road Conservation area and amenity impacts to the surrounding low scale residential development including:

- to reflect the setbacks provided in the concept reference scheme from Little Alfred Street and any opportunity to provide a greater setback at ground level (by 4m), consistent with the additional landscaping proposed along Little Alfred Street and a more appropriate transition to the low density heritage conservation area.
- the ADG building separation controls be applied to ensure it is compliant with the distances required for the heights proposed.
- Whether the overshadowing impacts to the surrounding Whaling Road HCA can be minimised further through a stepping down of heights or setbacks or building articulation to provide a greater transition to the built form.

## 4.5 Overshadowing and Loss of Solar Access

The planning proposal is supported by an Urban Design Package (**Attachment C**) containing an overshadowing analysis showing the impacts the proposed development would have on the surrounding residential area and Alfred Street North Park on the 21<sup>st</sup> of June (winter solstice).

Of the submissions, 33 (52%) raised concerns with overshadowing and loss of solar access to the neighbouring low density residential area to the east.

Submissions stated that the additional height of the proposal would reduce solar access affecting the residential amenity of the precinct. Submissions noted currently residents need to use household lighting during daylight hours and limited accessibility to solar power.

The submissions note the Bayer Building already casts a large shadow over many dwellings and the proposed built form would worsen this.

Tract Consultants on behalf of the landowners of Site D stated that modelling carried out by AJ+C Architects indicated that the Alfred Street North Park may be impacted by overshadowing from 12pm to 1.30pm during mid-winter. The impact from increased height from Site D is not likely to be substantial. Any overshadowing after 2pm should be considered in conjunction with the shadows from the North Sydney CBD (**Figure 21**).

### Council Comments

North Sydney Council stated that the overshadowing analysis only covered the winter solstice not the impacts of other time periods and it was unclear if the overshadowing diagrams represented the base or the bonus case scenario.

The overshadowing appears to be from the concept as lodged not the revised one. The reduction in the proposed setback controls to Little Alfred Street depicted in the revised concept would result in an associated increase in overshadowing to the properties to the east.

Council stated that the information presented did not enable an accurate determination of the overshadowing impacts.

Council outlined further detailed impacts as a result of the concept scheme:

- the southern properties along Whaling Road will receive additional solar impact from May until June;
- the additional height applied to Site B will result in additional solar impact north of Neutral Street during the Equinox;
- additional overshadowing by Site D to the RE1 zoned land at Alfred Street North Park should be minimised; and
- the key reasons for Council not endorsing the draft ASPS was in response to feedback concerning solar and visual impacts as a result of the proposal and no justification.

Shadow diagrams are in **Figures 20 to 22** and additional diagrams prepared by the independent specialist are in **Attachments Fa** and **Fb**.

### Proponent Response

The analysis found that most residential dwellings will maintain their existing solar access conditions prior to 12pm on June 21<sup>st</sup> and will not be affected at that time by overshadowing because of the proposed concept.

There will be no change to the solar access to the residential dwellings along Little Alfred Street and they will continue to receive three hours of morning sun to their north and east facades. These properties will experience a minor impact to their solar access in the afternoon.

The studies indicate that properties to the south of Whaling Road will receive three hours of solar access in the morning to their northern rooms and maintain some solar access in the afternoon. The study notes that due to the orientation of these properties, not all rooms would currently receive any solar access.

The public open space to the south of the site will experience additional overshadowing from 11am to 2pm. It is anticipated that this area will be mostly impacted by any height increase to Site D.

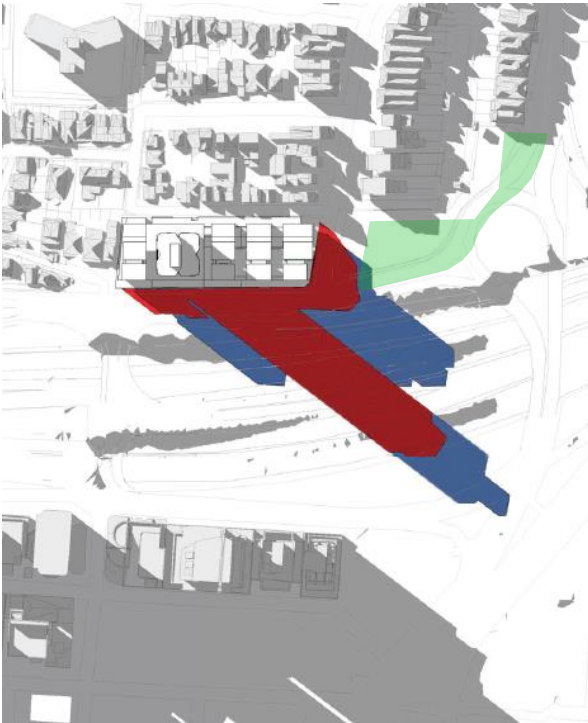
The concept was referred to an independent overshadowing specialist. The analysis indicates that:

- there will be the same or less overshadowing to the Alfred Street North Park to the south than that of the scheme presented in Council's draft ASPS;

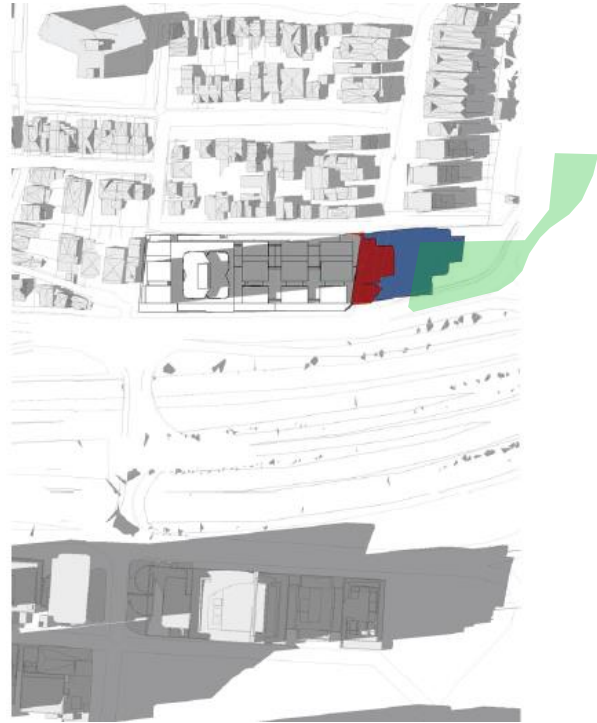
- the Alfred Street North Park will generally retain sufficient solar access between 10am and 2pm;
- the overshadowing from the Bayer Building (Site B) is fast moving and any additional overshadowing is mainly associated with Site D; and
- there will be minimal additional overshadowing between 1pm and 3pm on June 21<sup>st</sup> to the residential properties in Little Alfred Street and Whaling and less than the scheme presented in Council's draft ASPS.

The Urban Design Package provided by Grimshaw's notes 92% of the Precinct will be compliant with solar access requirements and individually;

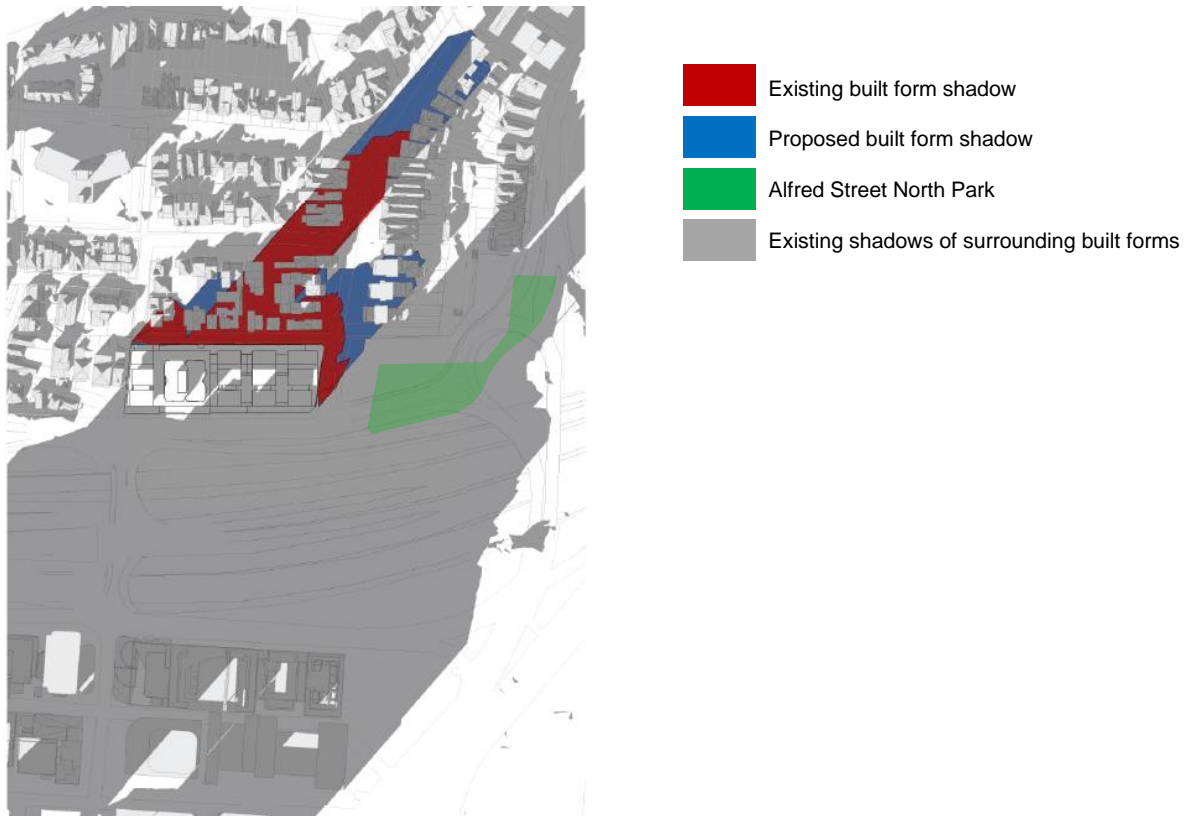
- Site A: 100%;
- Site B: 85%;
- Site C 100%; and
- Site D: 90%.



**Figure 20** Shadow diagram 9am June 21<sup>st</sup> (source: Mecone, overlay by DPIE)



**Figure 21:** Shadow diagram 12pm June 21<sup>st</sup> (source: Mecone, overlay by DPIE)



**Figure 22:** Shadow diagram 3pm June 21<sup>st</sup> (source: Mecone, overlay by DPIE)

### Department Comments

The analysis undertaken to assess impacts of the proposed development on the existing conditions as at 21<sup>st</sup> June between 9:00am-3:00pm indicates that:

- properties along Whaling Road would receive three hours of solar access in the mornings and will maintain some solar access in the afternoon;
- dwellings between Little Alfred and Neutral Streets directly to the east of the site would receive three hours of solar access in the mornings and experience some additional overshadowing compared to the existing in the afternoon from 2:00pm onwards;

The Department notes that there is existing significant overshadowing from the Bayer building (Site B). The shadow analysis indicates that the distribution of built form with increased FSR would increase overshadowing of Alfred Street Park North and surrounding residences.

The Department also notes that there is significant existing overshadowing caused by the North Sydney CBD Skyline in the afternoon to the Alfred Street Park North and surrounds, as demonstrated by Site's D submission, particularly after 3pm (**Attachments L1-L2**).

It is also noted that given the proposed location of a new southbound off ramp that will cut across the Public Open Space RE1 known as Alfred Street North Park, as part of the upgrade works occurring for the Western Harbour Tunnel, the overshadowing to this land from 12pm to 1.30pm is not likely to affect the extent of the park that will remain and most of the shadow will affect the proposed roadway.

It is recommended that should the proposal proceed to finalisation, the draft DCP should be updated to further address the built form setbacks and articulations in height that could potentially reduce overshadowing impacts to the surrounding Whaling Road HCA between 1pm and 3pm.

## 4.6 Inconsistencies in the Site Specific DCP and Reference Scheme

Inconsistencies were raised as a concern in nine (14%) submissions between the Site Specific DCP and Reference Scheme.

Submissions stated that the proposal relies on inconsistent and conflicting documentation to support it. The reference scheme prepared by Grimshaw is not consistent with more recent amendments made to the planning proposal.

Respondents expressed concern the proposal seeks rezoning of land and property within the precinct not owned by the proponent.

Some submissions stated that the planning proposal is misleading as it claims to represent an appropriate and sensitive transition to the Whaling Road HCA. In fact, it provides little or no aesthetic or functional integration between the proposal sites and the Whaling Road HCA.

### Proponent Response

Where there are inconsistencies between the Site Specific DCP 2013 and Reference Scheme in the Urban Design Report, the Site Specific DCP should be relied upon.

The Reference scheme illustrates how a mixed use development could be achieved on the site using the LEP and DCP density controls; illustrating the layout of each floor.

The Site Specific DCP is not required to be finalised during the planning proposal stage. This can be negotiated with Council once the planning proposal is finalised. The current document is a draft and subject to refinement, after which it would undergo an additional exhibition.

Issues raised in relation to the through site links and built form along Little Alfred Street and signage could be addressed when the Site Specific DCP is considered by Council.

Section 3 of the planning proposal details amendments made to scheme including all the latest revisions sent to the Department in October 2020.

### Department Comments

Although a site specific DCP is not required to be finalised at this stage of the planning proposal, the execution of a site-specific DCP is integral in ensuring a refined development outcome. The Department is of the view that a site-specific DCP should be required to be prepared between the proponent and Council prior to finalisation, and a clause in the LEP should require the draft DCP be adopted to address site-specific issues prior to any lodgement of a Development application for the site.

The Department considers that the reference scheme referred to in the proposal and supporting the planning proposal should form the basis of the draft DCP rather than the draft DCP being relied on where there are inconsistencies between the documents.

The benefits put forward in the planning proposal to provide a proposed building height transition to low scale development, increased building envelope setbacks and landscape buffer are considered by the Department to minimise amenity impacts to the surrounding HCA and should be reflected consistently in the draft DCP. The proposed setbacks, through site links and increased landscaping will improve the detracting rear entrances via Little Alfred Street.



- It is also noted that vehicle access points proposed in the draft DCP and planning proposal to provide reduced crossings and shared access may be difficult to deliver given there are no amalgamations between Sites A-D through planning controls.
- The Department supports the reduced number of access points to 3 driveways as follows:
  - 2 driveways along Little Alfred St providing separate access to site A and B.
  - 1 driveway along Whaling Road as an access point for Sites C and D.

The access point for Site C and D has been raised in submissions as site D is concerned that it will rely on Site C for access to its property. It is also considered that the move of the access point to Whaling Road from Little Alfred Street should be considered with regard to changes proposed as part of the Western Harbour Tunnel and associated upgrades, specifically with a new access proposed from the High Street overpass into Whaling Road and any safety implications for new driveways in this location.

The Department notes that the *Environmental Planning and Assessment Act 1979* (the Act) and the *Environmental Planning and Assessment Regulation 2000* (the Regulation) do not require landowners' consent to lodge or determine a planning proposal to rezone land. However, the applicant must comply with the notification process.

The Department acknowledges that the proponent attempted to obtain consent from all landowners in line with North Sydney Council's requirements for dealing with planning proposals. However, not all responded. Benmill Pty Ltd and JB No.3, owners of 275 Alfred Street provided their consent. All affected landowners were consulted during exhibition of the proposal. The proposal has been progressed to include all four sites to ensure an integrated development consent can be achieved, consistent with the recommendations of the Panel.

## 4.7 Public Exhibition

### Council Comments

North Sydney Council provided a submission raising concerns with the public exhibition of the planning proposal, with respect to the lateness of issuing the notification letters, exhibition length and the lack of organisation and quantum of exhibition documentation.

Council stated that any future LEP amendment giving effect to the planning proposal could be invalidated through the Land and Environment Court due to inconsistencies in the exhibition documents at different locations.

### Proponent Response

The Planning Panel Secretariat advised that the notifications were carried out in accordance with the Planning Panel's Operational Procedure Guidelines and the public exhibition period was from 10 December 2020 to 29 January 2021 and extended until 19 February 2021 (**Attachment I**).

The extension was due to the exhibition documentation not being available on the Department's website until 22 December 2020 and allowed for the minimum required 28 days. An additional newspaper advertisement was placed in the Mosman Daily on the 14 January 2021 which extended the notification period for the Planning Proposal from 29 January 2021 to 19 February 2021.

The Department confirmed that documentation was made publicly available on its website inclusive of the final and redundant documents. Documents such as a draft VPA can be prepared and exhibited at the DA stage. The letter of offer indicates a willingness to consult with Council on any future contributions for public benefit.

The documentation available for public exhibition was generally identical to the planning proposal lodged with Council.

### Department Comments

The Department acknowledges the concerns relating to a potential lack of clarity and delay in the visibility of the documents on the Department's Planning Portal. The exhibition period was extended in response once the Department was aware of the visibility of documents on the portal.

The documents were made publicly available online for the minimum mandatory requirement of 28 days in accordance with the Gateway determination timeframe for exhibition. The period between 20 December and 10 January (inclusive) was excluded from the calculation of the public exhibition timeframe. The extension of the exhibition to 19 February 2021 exceeded the minimum 28 day required under the Act, being on exhibition for a total of 62 days.

The Department's *A Guide to Preparing Local Environmental Plans* provides general guidance on how to conduct community consultation. However, the Act does not mandate the advertising of planning proposals in local newspapers only that the planning proposal is exhibited for 28 days. No further extension is required.

## 4.8 Amenity

The proposal is supported by an Urban Design Package (**Attachment C**) by Grimshaw and a Heritage Impact Statement (**Attachment E**) by Urbis.

Loss of amenity was raised in 15 (24%) of submissions. The main concerns centred around a lack of green space, trees and general public amenity with submissions stating that the residential amenity of the area would be destroyed.

Submissions consider the proposal is out of context with the surrounding residential area.

Submissions stated that the Alfred Street North Park, to the south of the site is identified in the documents as green space. However, this is often used by the Transport for NSW (RMS) as storage and form part of the Northern Beaches link project.

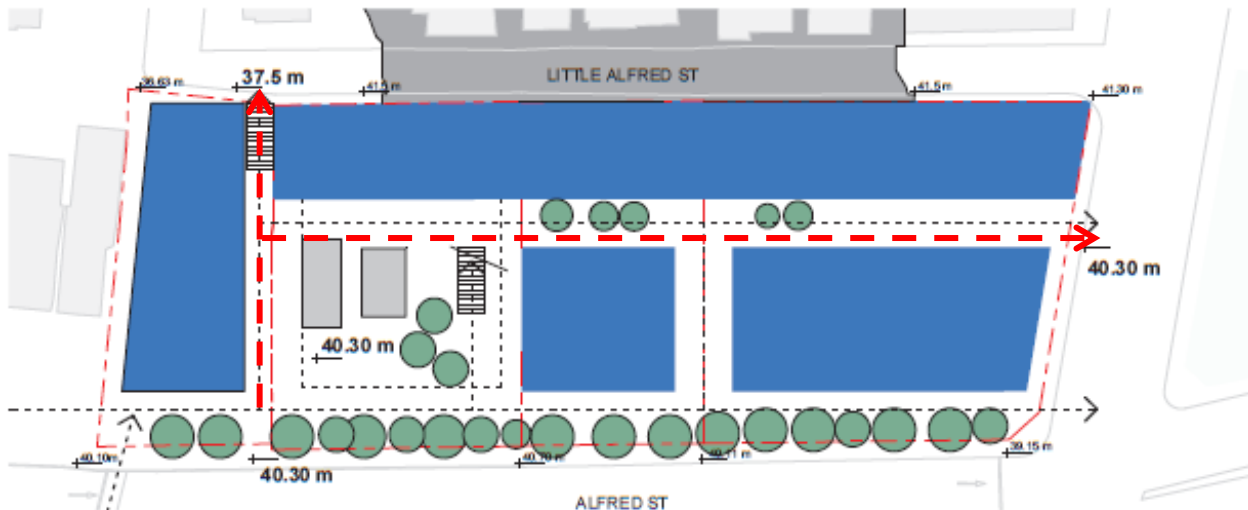
Submissions raised concern about the potential increased pressure on already overstretched local recreational resources.

### Proponent Response

The TIA states that the proposal would significantly improve pedestrian amenity and safety with the removal of two driveways and unattractive access via Little Alfred Street. The pedestrian arcade would provide access through the Precinct at ground level and be centred around the Site B (Bayer Building), 275 Alfred Street. An additional pedestrian link between Alfred Street and the north – south arcade at the junction of Site C and Site D is proposed to enhance this pedestrian arcade design.

The site slopes from east to west by approximately 3 metres and Little Alfred Street is steep to the mid-way section. Through site links have been designed with stairs to suit the sloping topography. However, the proponent is open to the possibility of considering alternate through links during site-specific DCP provisions following the finalisation of the planning proposal.

Setbacks along Little Alfred Street are consistent with the existing built form while allowing for elevated landscaping podiums creating a buffer with the Heritage Conservation Area.



**Figure 23:** Proposed pedestrian through-site links (source: Grimshaw, overlay by DPIE)

The public domain appearance would be improved by providing mature tree plantings along street frontages. The concept provides through site links and several open space opportunities are in nearby.

The proponent notes the potential increase in density would utilise and support local infrastructure including the new Victoria Cross Metro Station.

The proposed development provides an appropriate transition to the low scale development in the HCA with a residential fine grain typology along Alfred Street, increased building envelopes setbacks and a landscaping buffer.

### Department Comments

The Department considers that the proposed concept is designed to minimise amenity impacts supported by the recommendations contained within the Urban Design Package and Heritage Impact Analysis.

The proposed building height transition to low scale development with a 3 storey podium and landscape buffer may minimise amenity impacts to the surrounding HCA. The nil setbacks to Little Alfred Street provided in the draft DCP do not present a good design outcome and should be reconsidered with regard to the concept scheme submitted to support the planning proposal.

The DCP should be updated to reflect the recommendations within the Grimshaw Urban design report with regard to setbacks to reduce amenity impacts upon the surrounding Whaling Road HCA.

## 4.9 Overlooking and Privacy Impact

Of the submissions received, 15 (23%) raised concerns with overlooking and privacy. Most of these submissions were received from residents in the surrounding residential Whaling Road HCA.

Submissions stated that the proposal would create a 24 hour opportunity, lack of privacy to homes in the Whaling Road HCA.

Concerns were raised that rezoning would enable an increased height and overlooking by residents as it will be occupied 24/7 in contrast to current commercial use at the Bayer building

(Site B) where overlooking is not a privacy issue. The proposal also included balconies and open space to the east and some apartments will have views into the existing dwellings windows.

### Proponent Response

The existing dwellings along Little Alfred Street generally have garages facing this street with secondary living spaces above and the primary habitable spaces generally oriented to the rear.

The proposal will generally comply with the ADG separation guidelines. To maintain privacy and if the separation is not adequate, design elements such as privacy screens and offset windows can be used and determined at the DA stage.

The ADG requires 12m separation between habitable rooms and balconies up to four storeys and 18m for five to eight storeys within the development.

Upper level development proposed on Sites A, C and D would be approximately 23m from the Little Alfred Street boundary, which is compliant with the ADG.

As Sites A and C will contain a blank side elevation wall to the Bayer building (Site B), there will be no significant privacy issues. The residential dwellings in the Bayer building will be generally oriented to distant views rather than overlooking the existing properties along Little Alfred Street.

### Department Comments

It is acknowledged that there will be some overlooking by the proposal to the existing properties due to the increased height and the topography. This can be mitigated with the provision of design elements and implemented at the detailed design phase of the proposal.

The proposal indicates that the concept complies with the ADG and the building separation is adequate.

It is considered that the proposed uses along Little Alfred Street may be best limited to residential rather than providing retail spaces at this frontage. This was a recommendation of Council's draft Alfred Street Planning Study report to Council, as it was considered that it was more appropriate to allow for part ground floor residential use where appropriate and within the surrounding residential context along Little Alfred Street. This may also address TfNSW concerns to limit retail floorspace to 1200sqm. By locating residential dwellings at street level, the redevelopment can create a more compatible and sympathetic built form with the adjoining residential properties on the opposite side of Little Alfred Street.

## 4.10 Public Benefit

Of the submissions, 10 (16%) stated that minimal public benefit would result from planning proposal.

### Council Comments

Council states that the planning proposal is accompanied by an offer by the proponent to enter into a VPA to deliver;

- monetary contribution towards:
  - affordable housing within the North Sydney LGA;
  - embellishment of public open spaces including an option to upgrade Alfred Street North Park; and
  - the upgrade of the Mount Street overpass;
- works in kind:

- upgrade of footpaths to street frontages; and
- works for the ground floor pedestrian arcade.

A draft VPA has not been placed on exhibition. The letter of offer contains no detail and it is not possible to undertake any meaningful assessment of the value such as the amount of affordable housing or the monetary contribution towards it. It should also be noted that the Mount Street overpass is under the ownership of TfNSW not Council.

If the planning proposal was to proceed to an LEP amendment a deferred commencement is preferred to negotiate the VPA and DCP.

#### Proponent Response

The planning proposal seeks to improve the site by providing landscaping to the street frontages. No open space is provided; however, the site is in the vicinity of existing open space such as Alfred Street North Park, Warringa Park and Anderson Park.

The proposal outlines a number of public benefits including:

- the provision of generous landscaping at the ground floor and public domain, increasing setbacks and a pedestrian arcade with through-site links improving permeability;
- a mixed-use development with increased housing choices including affordable housing, employment and services will create activity day and night increasing opportunities for social interaction;
- employment and housing in close proximity to existing transport, services and infrastructure will reduce the reliance on private vehicle uses;
- upgraded commercial floorspace will create employment opportunities for start-ups, small business and creative uses;
- the provision of an appropriate transition between the low density HCA with a fine grain typology along Little Alfred Street incorporating building setbacks and a landscaping; and
- an improved appearance/design of the existing Bayer building.

A letter of offer has been prepared for the planning proposal to initiate discussion with Council for inclusions in the VPA. The VPA is currently in draft form for the provision of items such as a monetary contribution towards affordable housing, embellishment of surrounding public open space or works in kind such as upgrades to footpaths and ground floor pedestrian arcade. Negotiations will be ongoing with Council.

#### Department Comments

The site is located within 600m of the future Victoria Cross Metro Station and the existing North Sydney Railway Station. It is consistent with the strategic direction of the North District Plan to maximise residential floorspace close to major transport infrastructure.

The Department notes that a letter of offer has been prepared by the proponent and details are yet to be negotiated with Council for a range of public benefits.

Documents such as the draft DCP and any VPA are matters determined by Council and negotiations can be held independent of the planning proposal process and further refined at a later date.

A VPA is not required to be exhibited as part of a planning proposal. The Panel may consider these documents, but they will not have an impact on the final assessment of the proposed development.

It is recommended that should the proposal proceed to finalisation, a deferred commencement clause be included in the LEP to enable finalisation of Council's DCP to further refine the proposed

FSR and site-specific design provisions. This additional time would also provide Council with an opportunity to negotiate the VPA outcome and time to exhibit and execute the VPA.

## 4.11 Environmental Impacts

Of the submissions, 4 (6%) raised environmental concerns with the proposed development.

Concerns were raised about air pollution including dust and noise from construction and upgrade works to the Warringah Freeway and surrounding road network.

### Proponent Response

The issues raised during the construction phase such as air pollution, site contamination and noise can be addressed as part of a future DA and using the relevant guidelines to minimise the impact on residents and the environment in general.

### Department Comments

Construction related impacts and all associated reports requirements can be addressed as part of a future DA. Any effects from the works to the Warringah Freeway are out of the scope of the planning proposal.

Ministerial Direction 2.6 Remediation of Contaminated Land was introduced on 17 April 2020 and aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered at the planning proposal stage.

This Direction applies as rezoning and residential development is proposed and there is no knowledge or incomplete knowledge of the past historical use of that land.

A preliminary site investigation report was not submitted with the planning proposal. This should be required by the applicant prior to finalisation and could include a hazardous materials (of the existing buildings on the site. This investigation is to satisfy the PPA that the proposed site is suitable for the intended use.

## 4.12 Financial Inequity

Of the submissions, four (6%) raised concerns with the financial inequity with the development potential on the four sites.

Additionally, submissions stated that the proposed new height delivers financial gain to the future developer and does not consider the impacts to the adjacent residential areas or community.

Concern was also raised about the majority of the uplift being applied to Site B. Site B receives an increased FSR as a result of the existing conditions and further increase from design excellence.

### Proponent Response

The proposal seeks to balance amenity, building envelopes, public benefit, economic viability and development surety. The built form is generally consistent with Council's draft Precinct Planning Study.

The intent of the proposal is to rejuvenate the existing precinct and the interface with the Whaling Road Heritage HCA by incorporating public benefits such as:

- widening of footpaths and planting of mature trees along active frontages;
- mixed-usage of the site and increased permeability increasing opportunities for day and night-time activity;
- upgrade to public open spaces through financial contributions via a VPA.

The land at 271 and 273 Alfred Street (Site C) would require amalgamation and 263-269 Alfred Street and 4 Little Alfred Street to create Site D to enable the redevelopment.

### Department Comments

Density is proposed to increase across the entire precinct and all sites should experience financial benefits compared with current conditions. The increased planning controls take into consideration the potential impacts on the surrounding area, including the Whaling Road HCA adjoining the site the east and north and the public open space known as Alfred Street North Park directly to the south of the site.

Measures such as a VPA can be negotiated with Council for public benefit and can include works in kind, landscaping or the provision of affordable housing.

Council currently uses their North Sydney Local Contribution Plan 2020 to apply Sections 7.11 and 7.12 contributions of land or money from developments toward the provision, extension or expansion of local infrastructure that may be needed as a result of a proposed development.

The Department notes the proponent's attempt to obtain consent from all landowners in line with North Sydney Council's requirements. However, consent was only received from the owners of 275 Alfred Street.

It is not a requirement of the Act to obtain owners' consent to lodge or determine a Planning Proposal or rezone land.

Submissions from the landowners of Site C and Site D were considered and referred to the Departments Urban Design Team to consider the requests for additional density and height and their possible impact on the surrounding area.

Their analysis is outlined in **Attachment M** and generally indicates that the proposed additional height requested for Site C may not have a major overshadowing increased impact to the Whaling Road HCA or the Alfred Street North Park. However, any additional height applied to Site D will result in additional overshadowing the residential dwellings in Whaling Road and the park.

## 4.13 Strategic Plans, Strategies and Ministerial Directions

### Council Comments

Council raised the issue of the assessment of the planning proposal against Council's strategic documents and reference in the planning proposal to redundant documents.

Council stated that the proposal does not align with the desired outcomes of the Local Strategic Planning Statement (LSPS) as:

- the proposal will not deliver significant levels of infrastructure such as open space to cater for the increased population;
- it does not guarantee increased community facilities and services for a healthy connected community;
- the nil setback to Little Alfred Street will not improve the contextual relationship to the HCA;
- economic prosperity cannot be guaranteed with the delivery of commercial space without a minimum non-residential floorspace control;
- overshadowing will be increased over existing public open spaces;
- it will not result in an improved integrated green open space system and will not provide adequate deep soil areas to accommodate large canopy trees.

The planning proposal has not been updated to reflect current policies and some strategies have been replaced by the LSPS and the Local Housing Strategy (LHS).

Council highlighted that the planning proposal did not comply with Ministerial Direction 1.1 Business and Industrial Zones due to the reduction in commercial floorspace.

### Proponent Response

The proponent states that the proposal will:

- provide a monetary contribution as outlined in the letter of offer towards open space upgrades, through site link and upgrade to the Mount Street overpass;
- contribute to the delivery of new housing jobs and infrastructure;
- provide retail, cafes and pedestrian arcades creating opportunities for social interaction;
- provide a built form along Little Alfred Street will be of the appropriate scale with landscaping and fine grain residential accommodation;
- achieve a mixed use incorporating retail at ground level and commercial up to level three for Sites A, C and D and up to level 7 and a minimum non-residential floorspace control is not considered necessary to provide flexibility;
- retain sufficient solar access between 10am and 2pm to Alfred Street North Park during mid-winter; and
- provide mature landscaping to little Alfred Street and Alfred Street increasing the tree canopy.

The draft ASPS was prepared as a result of the former JRPP decision and though not formally adopted by Council, it created a framework for future development. The proposal is generally consistent with Council's preferred option.

The assessment of the redundant strategies was retained in the planning proposal and the planning proposal included an assessment against the LSPS and LHS.

### Department Comments

The Department notes Council's comments relating to the inadequate justification of the planning proposal against the LSPS and the LHS, and also the updates made to the proposal prior to exhibition by the proponent to address these documents. As assessed by the Panel at the Rezoning Review stage and by the Department at the Gateway determination stage, the proposal is considered to demonstrate strategic merit, particularly in relation to the actions of the Greater Sydney Region Plan and North District Plan. The proposed development seeks to revitalise an underutilised asset in a strategic location with excellent proximity to public transport and services in the North Sydney CBD.

The Department notes Council's position on section 9.1 Direction 1.1 Business and Industrial Zones. The Department is of the view that the proposal is not inconsistent with the direction as it will not reduce the potential commercial density of the site. However, it is noted that under the concept scheme it is likely that the redevelopment of the site would result in a loss of 1,544 m<sup>2</sup> commercial floor space.

The Department notes that the site is in fragmented ownership and therefore the concept scheme is only one option for the site under the proposed controls and building envelope. As such, it is difficult to determine what the final commercial floor space deriving from a future development at the site will be. A minimum non-residential FSR could be applied based on the concept.

Based on the submissions received, the Panel may wish to consider a minimum non-residential FSR to be applied to the site, to ensure future commercial use is retained and is consistent with other B4 Mixed Use zoned land within the North Sydney LEP. It is also noted that TfNSW has requested a cap of 1,200sqm on the retail component of the proposal.



## 5 Conclusion and Recommendation

The Department notes that the Panel considered the proposal at the rezoning review stage and found that it had sufficient strategic and site specific merit to proceed to Gateway.

The Department is of the view that the planning proposal should not proceed to finalisation in its current state, noting that the proposal demonstrates strategic merit, but not sufficient site specific merit.

As assessed at the Gateway determination stage, the Department is of the view that the proposal demonstrates sufficient strategic merit particularly relating to the actions and objectives of the Greater Sydney Region Plan and North District Plan as it seeks to revitalise an underutilised site with excellent proximity to services and jobs in the North Sydney CBD.

The Department notes that in its decision at the rezoning review stage the Panel considered that the site has the potential for redevelopment of the existing Bayer building, which presents a highly visible and unattractive view, which will be modernised, provide a slimmer additional storeys and will be subject to a design excellence process. The Department agrees that the redevelopment of the site provides an opportunity to transform the site into a revitalised precinct that offers an attractive gateway to Sydney Harbour. However, it is not evident how the scheme in its current form adequately demonstrates how this will be delivered in a sympathetic and coherent manner with regard to the amenity of the surrounding heritage conservation area.

The Department is of the view that the proponent has generally satisfied the following site specific concerns:

- Traffic and pedestrian safety;
- Overlooking and privacy;
- Environmental impacts; and
- Public exhibition process.

However, the Department highlights site specific concerns that the Panel should have further consideration of prior to endorsing the proposal to proceed to finalisation.

- The extent of overshadowing impacts on both public space and neighbouring properties including the Whaling Road Heritage Conservation Area;
- The timing, execution and requirement of a site-specific DCP to be prepared between the proponent and Council;
- Consideration of the Western Harbour Tunnel and Warringah Freeway upgrade, particularly with the proposed changes to nearby public open space;
- The potential for a maximum retail floor space cap to manage traffic generation, as requested by Transport for NSW; and
- The formalisation and execution of any public benefit offers with Council.

Concerns raised regarding feasibility are noted however the Department considers that providing a suitable building envelope to ensure amenity is maintained to the surrounding area takes precedence over short term feasibility. Any changes to building envelopes may require re-exhibition of the proposal.

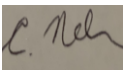
Any potential changes to the final controls should be sympathetic of the nearby Whaling Road Heritage Conservation Area and seek to reduce potential overshadowing concerns. It is also recommended that the draft DCP be updated to address issues raised in submissions relating to the interface with the Whaling Road Conservation area and amenity impacts to the surrounding low scale residential development including:

- to reflect the setbacks provided in the concept reference scheme from Little Alfred Street and any opportunity to provide a greater setback at ground level (by 4m), consistent with the additional landscaping proposed along Little Alfred Street and a more appropriate transition to the low density heritage conservation area.
- the ADG building separation controls be applied to ensure it is compliant with the distances required for the heights proposed.
- Whether the overshadowing impacts to the surrounding Whaling Road HCA can be minimised further through a stepping down of heights or setbacks or building articulation to provide a greater transition to the built form and providing a height along Little Alfred Street.

The Department recommends that the Panel consider the comments of the community, Council, public agencies and the Department. The Department also recommends that the Panel explore where there are further opportunities for amendments to the scheme to respond to the abovementioned areas of concern.

It is recommended that the Sydney North Planning Panel, as the Planning Proposal Authority:

- **Note** the matters raised in submissions;
- **Release** the submissions report publicly; and
- **Conduct** a public panel meeting.



Charlene Nelson  
Manager, Place and Infrastructure, North District



Brendan Metcalfe  
Director, North District

Assessment Officers

Christina Brooks  
Planning Officer, North District

Bailey Williams  
Planning Officer, North District

Patricia Ball  
Senior Planning Officer, Case Management Team

Attachments	
Attachment A	Planning Proposal
Attachment B	Gateway Determination
Attachment C	Urban Design Report
Attachment D1	Traffic Impact Statement
Attachment D2	RtS Traffic Addendum Letter
Attachment E	Heritage Impact Statement
Attachment F1-2	Overshadowing Analysis
Attachment G1-3	Proponent's Response to Submissions
Attachment H	Panel Determination (Rezoning Review)
Attachment I	Transport for NSW Submission
Attachment J	North Sydney Council Submission
Attachment K	Site C – Land Owner Submission
Attachment L1-2	Site D – Land Owner Submission
Attachment M	Department's Urban Design Team Advice
Attachment N	Proponent prepared Site Specific Draft DCP
Attachment O	Economic Feasibility Analysis
Attachment P	North Sydney Council Report