

## **8.2. Planning Proposal 2/19 – Alfred Street Precinct (263-283 Alfred Street North & 4 Little Alfred Street, North Sydney) – Submission to Public Exhibition**

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**ENDORSED BY:** Joseph Hill, Director City Strategy

### **ATTACHMENTS:**

1. Att\_1\_DPIE Rezoning Review Briefing Report [8.2.1 - 18 pages]
2. Att\_2\_SNRPP Recommendation Report [8.2.2 - 3 pages]
3. Att\_3\_Signed Gateway Determination [8.2.3 - 2 pages]
4. Att\_4\_DPIE Gateway Determination Report [8.2.4 - 27 pages]

### **PURPOSE:**

To seek Council's endorsement for a submission in response to the public exhibition of the Planning Proposal at 263-283 Alfred Street North & 4 Little Alfred Street, North Sydney, which was conducted by the NSW Government's Planning Panels Secretariat.

### **EXECUTIVE SUMMARY:**

On 26 August 2019, Council resolved not to support the progression of a planning proposal (PP2/19) to amend the planning controls within North Sydney Local Environmental Plan (NSLEP 2013) as it related to land at 263-283 Alfred Street North & 4 Little Alfred Street, North Sydney. The proposal sought the following amendments to the NSLEP 2013:

- Rezoning the Precinct from *B3 Commercial Core* to *B4 Mixed Use*;
- Increase the maximum building height control from 13m across the entire Precinct site to a varying range between 28m and 80m;
- Increase the maximum floor space ratio (FSR) for 275 Alfred Street only from 3.5:1 to 7.3:1; and
- Incorporate a local provision allowing a 2:1 FSR bonus on land at 275 Alfred Street only subject to a design excellence competition being held.

Following the lodgement of a Rezoning Review by the applicant and recommendation of support of the Sydney North Regional Planning Panel, a Gateway Determination was issued in relation to the Planning Proposal contrary to Council's refusal of the Proposal.

Due to its determination not to support the Planning Proposal, Council resolved on 24 February 2020 not to accept the Planning Proposal Authority role to undertake the next stages of the plan making process. Subsequently, the Planning Panels Secretariat has

been responsible for administering the public exhibition of the planning proposal and its subsequent plan making procedures.

The ensuing exhibition process has been facilitated in a manner that is less than ideal, making it difficult for the community to engage with it fully and meaningfully. This includes the timing of the exhibition beginning in mid-December 2020, letters advising of the exhibition well after the actual commencement and the presentation of material in a manner that has made understanding difficult. This is recommended to be outlined in Council's submission.

This report provides an assessment of the public exhibition documentation and the exhibition process and seeks endorsement of a submission to the Planning Panel's Secretariat raising concerns with the Planning Proposal due to:

- A less than ideal exhibition process;
- There being a fundamental problem with the Planning Proposal progressing ahead of a directly associated draft DCP amendment and draft Voluntary Planning Agreement (VPA), the former which may potentially mediate some of the bulk, scale and amenity impacts of potential outcomes;
- The Planning Proposal and some associated supporting documentation not being amended sufficiently to provide a clear representation of what could be constructed on the site in line with the proposed controls making the assessment of potential impacts difficult;
- Overshadowing remaining a key issue with increased height;
- The Floor Space Ratio (FSR) controls as outlined in the Planning Proposal being far in excess of what could be achieved if the intent of the proposed DCP built form controls was to be complied with;
- A requirement to reword the proposed bonus FSR clause to avoid ambiguity or confusion;
- The proposal lacking a minimum non-residential, floor space ratio whilst purporting to provide for employment floor space as a benefit of the development;
- Further refinement of the height controls are required to ensure that impacts to the conservation area located to the east are minimised;
- Setbacks and separation distances proposed within the draft DCP are sub optimal and are recommended to be revised, with a particular reference to the reduction in the setback to Little Alfred Street;
- An amalgamation arrangement for the future development of the Precinct has not been stipulated which would result in a more orderly and managed development outcome.

The cumulative impact of the issues raised above does not provide sufficient justification to progress the Planning Proposal in its current form and should be rejected

outright or at least subject to a new Gateway Determination addressing all issues raised in this report.

It is worth noting that the associated letter of offer to enter into a Voluntary Planning Agreement (VPA) and draft amendments to the North Sydney Development Control Plan (NSDCP) 2013 do not meet the requirements of the Environmental Planning and Assessment Act 1979 and accompanying Regulations for the purposes of public exhibition and unfortunately, will need to be carried out by Council at a later time. As indicated through this report and summarised above, the DCP amendments are critical to achieve the management of some of the associated impacts of very tall and potentially imposing structures such as overshadowing, scale, bulk, separation and setback issues and amenity.

### **FINANCIAL IMPLICATIONS:**

Progression of a draft VPA and draft amendment to NSDCP 2013 will be at the cost of Council. These processes will be required to be funded through existing budget lines.

### **RECOMMENDATION:**

**1. THAT** Council make a submission to the Sydney North Planning Panel Secretariat in response to the public exhibition of the Planning Proposal relating to land at 263-283 Alfred Street North & 4 Little Alfred Street, North Sydney. The submission is to outline Council's rejection of supporting the Planning Proposal proceeding any further in its current form as detailed in Section 8 to this report, including:

- a. Reinforcing Council's original reasons for not supporting the progression of the Planning Proposal;
- b. The Planning Proposal and associated supporting documents not being exhibited in a form to make a reasonable assessment of the potential impacts;
- c. The Planning Proposal progressing ahead of an associated draft development control plan (DCP) amendment and draft Voluntary Planning Agreement (VPA);
- d. Overshadowing remaining a key issue with increased height;
- e. The Floor Space Ratio (FSR) controls being far in excess of what could be achieved if the intent of the proposed DCP built form controls was to be complied with;
- f. The lack of inclusion of setting a minimum non-residential floor space ratio;
- g. The inclusion of sub-optimal setback and separation distances proposed within the draft DCP; and
- h. Does not encourage site amalgamation which would result in a more orderly and managed development outcome.

**2. THAT** the submission also highlights the following matters, which are elaborated upon in the Detail sections of this report:

- a. The poor handling of the public exhibition process, contrary to best practice;

- b. Revision of the proposed bonus FSR clause to avoid ambiguity or confusion;
- c. Inclusion of additional height controls along the Precinct's eastern alignment to protect the amenity of residential development to the east;
- d. Exclusion of the signage aspects of the proposed development; and
- e. That should DPIE support the progression of the Planning Proposal, that a deferred commencement date be included by DPIE to allow additional time for Council and the proponent to negotiate the proffered draft VPA and draft DCP amendment applying to the Precinct.

## LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment
  - 1.3 Quality urban greenspaces
  - 1.4 Public open space and recreation facilities and services meet community needs
2. Our Built Infrastructure
  - 2.1 Infrastructure and assets meet community needs
  - 2.2 Vibrant centres, public domain, villages and streetscapes
  - 2.4 Improved traffic and parking management
3. Our Future Planning
  - 3.1 Prosperous and vibrant economy
  - 3.4 North Sydney is distinctive with a sense of place and quality design
4. Our Social Vitality
  - 4.4 North Sydney's history is preserved and recognised
5. Our Civic Leadership
  - 5.2 Council is well governed and customer focused
  - 5.3 Community is informed and consulted

## BACKGROUND

### 1. Planning Proposal

On 22 March 2019, Council received a Planning Proposal to amend North Sydney Local Environmental Plan (NSLEP) 2013 as it relates to land located at 263-283 Alfred Street and 4 Little Alfred Street, North Sydney, also known as the Alfred Street Precinct. In particular, the Planning Proposal sought the following amendments to NSLEP 2013:

- Rezoning the Precinct from *B3 Commercial Core* to *B4 Mixed Use*;
- Increasing the maximum building height on the Height of Buildings Map from 13m across the entire Precinct to:
  - 31m (an 18m increase) at 283 Alfred Street,
  - 80m (a 67m increase) at 275 Alfred Street,;
  - 28m (a 15m increase) at 271-273 Alfred Street, and
  - 29m (a 16 increase) at 263-269 Alfred Street and 4 Little Alfred Street
- Increase the maximum floor space ratio (FSR) on the FSR Map for 275 Alfred Street only from 3.5:1 to 7.3:1; and

- Incorporate a local provision allowing a 2:1 FSR bonus on land at 275 Alfred Street only subject to a design excellence competition being held.

The Planning Proposal was also accompanied by a draft site-specific Development Control Plan (DCP) that outlines controls relating to setbacks, through site links and number of storeys.

The Planning Proposal has principally been prepared to enable the redevelopment of the Bayer Building located at 275 Alfred Street, however, has been expanded to include surrounding lands consistent with previous advice from the former Joint Regional Planning Panel.

Due to North Sydney Council determining not to endorse a Council prepared Planning Study relating to the Precinct, Council engaged Ingham Planning to undertake an independent assessment of the Planning Proposal to avoid any perceived conflicts of interest. Ingham Planning's Assessment Report recommended that the Planning Proposal should not be supported to proceed to Gateway Determination for the following reasons:

- *The indicative concept design fails to demonstrate how the site could be acceptably developed to the requested heights insofar that it does not respond adequately to the site attributes and context and will result in a significant level of public and private amenity impacts;*
- *It is contrary to objectives (c), (e) and (f) of the Height of Building controls under clause 4.3 to NSLEP 2013;*
- *It is contrary to the objectives (a) and (b) of the FSR controls under clause 4.4 to NSLEP 2013;*
- *It is inconsistent with a number of objectives and actions under the relevant Regional and District strategies applying to the land;*
- *It will have an adverse impact on the adjoining Whaling Road heritage conservation area;*
- *It will result in excessive overshadowing of adjoining properties including Alfred Street North Park;*
- *It will have an adverse visual impact and detract from the existing and desired future character of the area;*
- *It does not encourage the amalgamation of lots to:*
- *allow adequate flexibility in the manner in which built form is distributed on the site to minimise impact;*
- *minimise vehicular access points and parking related structures on Little Alfred Street and;*
- *allow an appropriate and efficient basement parking arrangement;*
- *It provides minimal public benefit in that the public accessible areas within the site are mainly thoroughfares that provide access to commercial uses and have limited potential for use as open space and limited amenity;*

- *The provision of an LEP provision allowing an additional 2:1 FSR subject to design excellence competition requirements is contrary to the existing LEP provisions, has not been sufficiently justified and would result in a building of excessive height and /or bulk.*

The North Sydney Local Planning Panel (NSLPP) considered the Assessment Report prepared by Ingham Planning on 14 August 2019, which resolved to defer making a recommendation as to whether it would support or not support the progression of the Planning Proposal to a Gateway Determination, until a number of matters had been satisfactorily addressed. The reasons for deferral, largely replicated the reasons outlined by Ingham Planning for not supporting the progression of the Planning Proposal.

On 26 August 2019, Council considered the advice of the NSLPP and the independent planning consultant and resolved:

- 1. THAT Council resolves not to support the Planning Proposal proceeding to Gateway Determination for the reasons outlined in the Assessment Report prepared by Ingham Planning, which is included as Attachment 2.*
- 2. THAT Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulations 2000.*
- 3. THAT Council advise the Department of Planning, Industry and Environment of its decision and that it be provided with a copy of this report and its resolution in support of Council's position.*

## **2. Rezoning Review**

On 27 June 2019, the applicant lodged a request with the Department of Planning, Industry and Environment (DPIE) for a Rezoning Review, due to Council not having made a determination within 90 days of the lodgement of the Planning Proposal. This was despite Council advising the applicant before its lodgement of the Rezoning Review, that the Planning Proposal was scheduled to be considered by its Local Planning Panel (NSLPP) on 14 August 2019.

Council was advised of this Rezoning Review request on 1 July 2019 and was invited to provide a response detailing why the original request to Council was not progressed. Council provided a formal response on 11 July 2019, with a further response on the 1 August 2019, following Council's request for more time to allow the matter to be reported to the NSLPP.

On 24 October 2019, Council was provided with a copy of the Briefing Paper (refer to Attachment 1) to the Sydney North Regional Planning Panel (SNRPP). It was noted that the report made reference to the NSLPP's advice, but did not provide any

commentary with respect to Council's determination of the matter on 26 August 2019, despite this being supplied to the DPIE prior to the finalisation of the Briefing Paper.

The SNRPP considered the request for the Rezoning Review on 31 October 2019 and handed down its recommendation on 18 November 2019. It recommended that the Planning Proposal proceed to Gateway Determination on both strategic and site specific merit grounds. Furthermore, it was recommended that any Gateway Determination issued should contain conditions addressing the following:

- the Planning Proposal is to be accompanied by a site-specific DCP addressing amalgamation patterns, built form outcomes, footpath widths, public domain upgrades and provision of publicly accessible space on site;
- the establishment of a methodology for the protection and embellishment of nearby public parks;
- the Planning Proposal is to contain a more detailed analysis of potential overshadowing impacts of neighbouring properties;
- Further clarification in relation to the provision of affordable housing is to be provided.

A copy of the SNRPP's letter and recommendations form Attachment 2 to this report.

In addition, the SNRPP had requested that Council indicate whether it would like to assume the role of Planning Proposal Authority (PPA) for the ongoing processing of the Planning Proposal (i.e. to undertake the public exhibition and prepare the post exhibition report) within 42 days of its letter.

### 3. PPA Role

Council considered a report at its meeting of 24 February 2020 as to whether it would accept the role of PPA role in relation to the Planning Proposal. Council subsequently resolved:

- 1. THAT Council not accept the role of the Planning Proposal Authority for Planning Proposal 2/19 – Alfred Street Precinct.*
- 2. THAT in not accepting the Planning Proposal Authority role, that Council advise the Department of Planning, Industry and Environment:*
  - a. that any recommendations of the Sydney North Regional Planning Panel form conditions to any Gateway Determination issued;*
  - b. that it consider Council's assessment report and resolution in relation to the progression of the Planning Proposal in determining the imposition of any conditions on the Gateway Determination;*



- c. *that the terms of any draft Voluntary Planning Agreement or public benefit associated with the Planning Proposal be determined prior to the public exhibition of the Planning Proposal in conjunction with Council;*
  - d. *that the responsible authority to amend North Sydney Development Control Plan 2013 be the same as the Planning Proposal Authority for the Planning Proposal.*
- 3. THAT** Council advise the Sydney North Regional Planning Panel of its decision.
- 4. THAT** once Gateway Determination be issued, the Planning Proposal, any VPA and site specific DCP controls, be placed on public exhibition concurrently.

Council advised the Sydney North Regional Planning Panel and DPIE on 2 March 2020.

#### **4. Gateway Determination**

A Gateway Determination enabling the Planning Proposal to proceed to public exhibition was issued by DPIE on 7 September 2020 (refer to Attachment 3). The Gateway Determination was subject to a number of conditions which had to be met prior to commencement of the public exhibition and during the public exhibition.

### **CONSULTATION REQUIREMENTS**

Community engagement is not required. The public exhibition was undertaken by the Planning Panel’s Secretariat. It is noted that some submissions and enquiries may be directed (or copied to Council). Any submissions received by Council were forwarded to the Planning Panel’s Secretariat to ensure they were considered before a final decision is made.

### **SUSTAINABILITY STATEMENT**

The following table provides a summary of the key sustainability implications:

<b>QBL Pillar</b>	<b>Implications</b>
Environment	<ul style="list-style-type: none"> <li>• The proposal has the ability to increase traffic congestion.</li> <li>• The proposal has the ability to compromise the quality of adjacent public open spaces, through poor solar access.</li> </ul>
Social	<ul style="list-style-type: none"> <li>• The proposal has the ability to take advantage of maximising public transport patronage, due to its proximity to a new Metro station.</li> <li>• The proposal has the potential to improve the vitality of the locality through increased activation of the public domain interface.</li> </ul>

	<ul style="list-style-type: none"> <li>• The proposal will place a substantial demand on local services and facilities, especially open space.</li> <li>• The proposal has the ability to have a negative impact upon the adjoining heritage conservation area.</li> </ul>
Economic	<ul style="list-style-type: none"> <li>• No anticipated impacts.</li> </ul>
Governance	<ul style="list-style-type: none"> <li>• No anticipated impacts.</li> </ul>

## DETAIL

### 1. Public exhibition

On 10 December 2020, the NSW Government (DPIE) placed a notice in the Mosman Daily advising of the public exhibition of the subject Planning Proposal. The notice advised that the exhibition was commencing on 10 December 2020 with written submissions to the Planning Panel Secretariat invited up until 29 January 2021. Hard copies of the exhibition material were provided to Council to display at Council's administration building and the Stanton Library.

However, notification letters had not been sent to affected residents in the vicinity of the land affected by Planning Proposal at the commencement of the public exhibition period. This is due to Council not having provided a notification list to the Sydney North Regional Planning Secretariat until the 16 December 2020, 6 days after the commencement of the public exhibition period. Notification letters dated 22 December 2020 were posted to affected residents, 12 days after the formal commencement of the public exhibition period. Many of these residents would not have received their notification letters until after the new year due to high levels of deliveries prior to Christmas and people being away between Christmas and new year. Therefore, the amount of time to respond was further reduced. Council received its notification letter via email on 22 December 2020.

Copies of the exhibition material were not made available on the Department of Planning's LEP tracking portal as indicated in their public notice of 10 December 2020 until 22 December 2020, 12 days after the public exhibition had commenced. It is noted that the Department had at this time, extended the exhibition period until 19 February 2021.

Due to the exhibition closure date occurring prior to the first Council meeting date (22 February 2021), an interim submission has been lodged as a 'draft'. Subject to Council's resolution on this matter, an endorsed version will be provided after the exhibition closure date. This is consistent with past practice.

## 2. Assessment of exhibited Planning Proposal

The following sub sections outline the key concerns arising from the publicly exhibited version of the Planning Proposal.

The overall intent of the proposal remains largely identical to that when the proposal was first lodged with Council, except that it now includes a letter of offer to enter into a Voluntary Planning Agreement and a revised site-specific DCP. Accordingly, the issues raised within Council's original assessment remain relevant. These are detailed in the report considered by Council on 26 August 2019. A copy of this report and Council resolution are available at:

[https://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/Council\\_Meetings/Council\\_Reports\\_26\\_Aug\\_2019](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_Reports_26_Aug_2019) (item CiS03).

Further to this assessment, additional issues are raised in the following subsections.

### 2.1. Concept Proposal & Built Form

At section 3.12 of the Planning Proposal, the applicant states that in response to issues raised by the SNRPP, a response package was submitted to DPIE on 5 June 2020 to address these issues which included the following amendments to the draft site specific DCP:

*Ground floor plane amendments: The ground floor plane in the DCP was revised to improve pedestrian linkages and increase building setbacks. The building setbacks along Alfred Street and Whaling Road were increased (by about 1.5m) to allow for greater landscaping opportunities and improvements to the public domain. The northern ground floor setback of Site A was increased from 2.4m to 6m which will create a better interface and provide a greater building separation with the properties to the north. Furthermore, the floor plate to the upper levels have been reduced to create a stepped built form along the northern boundary.*

*Slimmer profile for the Bayer Building: A provision in the DCP has been inserted to ensure the Bayer Building has a slimmer profile (as recommended by the NSPP) at its topmost levels which could incorporate chamfering to the edges of the building.*

*Basement entry: The DCP relocated the vehicle entry for Sites C and D from Little Alfred Street to Whaling Road to improve traffic flows and reduce traffic congestion.*

Of particular note, is that the applicant has omitted the proposed reduction in the proposed building setback from Little Alfred Street from a minimum of 4.2m to 0m.

These amendments have resulted in a significant change to the anticipated built form on the site compared to that as originally lodged. However, the images and statistics of

the concept proposal through the Planning Proposal and many of its supporting appendices have not been revised to reflect this amended built form. This has resulted in a difficult to understand proposal given that the images of the proposed built form, do not reflect the proposed amendments to the planning controls. This in turn has made it difficult to determine the potential implications of the proposed controls. The key issues are further addressed in the following subsections.

## **2.2. Floor Space Ratio**

The proposed changes to the draft DCP will have a direct impact upon the achievable FSR on the site (i.e. a substantial reduction). However, no subsequent change has been made to the concept proposal or the proposed FSR requirements. This results in an overinflated future redevelopment of the Precinct in comparison to that which is compliant with all other built form controls. This would then put pressure on breaching the built form controls other than floorspace.

Therefore, the Planning Proposal needs to be revised to reflect an achievable built form control.

## **2.3. Floor Space Ratio Bonus**

Whilst the logic behind the bonus FSR scheme is understood, it is not supportable. The justification for this, is a 2:1 FSR bonus based solely on “design excellence” alone is unacceptable. All development should strive to achieve design excellence. Any bonus should be tied to a tangible public benefit.

Despite Council’s overall objection to the inclusion of the clause, the wording of the proposed clause is also not supported. The way the proposal is currently worded, suggests that a 9.3:1 FSR can be granted in addition to a base FSR of 7.3:1, which is not the intent of the clause. Therefore, it is recommended that if DPIE is of a mind to progress the Planning Proposal, that the wording of the clause be revised similar to that as follows:

### *4.4 Floor space ratio*

...

*(2A) Despite subclause (2), the floor space ratio of a building on land identified as “Area 1” on the Floor Space Ratio Map may exceed the maximum floor space ratio for the land on that Map if the consent authority is satisfied:*

- (a) the FSR of the building does not exceed a floor space ratio of 9.3:1; and*
- (b) the building achieves design excellence in accordance with Clause # to this Plan.*

## **2.4. Non-residential Floor Space**

The Planning Proposal suggests that the concept proposal would result in a small net decrease in commercial floorspace across the entire Precinct, yet the number of jobs

would remain generally the same or increase due to better floorspace efficiencies. However, there is no guarantee that the level of total employment floorspace would be retained in practice. This is due to there being an absence of minimum non-residential floor space requirements.

The best way to protect the level of employment floorspace is to establish a minimum non-residential floorspace requirement across the Precinct. Whilst the establishment of a consistent non-residential floorspace ratio control across the entire Precinct would seem appropriate, due to the highly fragmented ownership and likely consolidation patterns, it would be more appropriate to provide more site-specific controls.

If a non-residential floorspace ratio is not applied, then there is a potential that a significant amount of jobs could be lost resulting in the proposal being inconsistent with Direction 1.1 to the s.9.1 Ministerial Directions.

Council has consistently applied a non-residential floor space ratio across all lands zoned B4 Mixed Use to ensure that it can meet employment targets set out under the Regional and District Plans.

## **2.5. Building Setbacks & Separation**

The proposed ground level and above podium setbacks, combined with nil basement level setbacks, will facilitate an overbearing built form with a poor interface to the heritage conservation area along Little Alfred Street and to the north. In addition, insufficient tower separation will ultimately result in poor amenity for future occupants. The proposed setbacks are also inconsistent with recommended setbacks under the Apartment Design Guidelines (ADG). Application of more appropriate setbacks in this context will result in a lowering of the achievable FSR than the concept design relied upon under the Planning Proposal.

The Urban Design Report (page 52 Appendix 4) sought to “enhance landscaping to the site with the implementation of green buffer zones to the eastern and western edges of the precinct”. The “Setback Strategy” on page 55 of the same report, indicates a 4m whole of building setback to the east and west. However, the draft DCP as exhibited identifies a substantially different outcome:

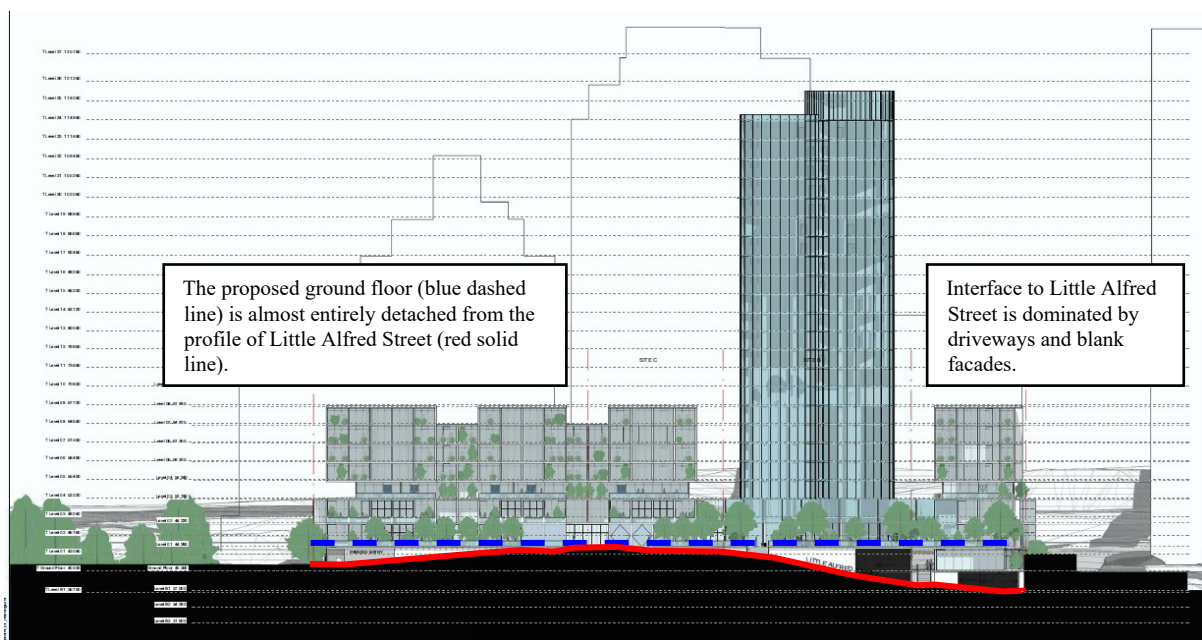
- 6.0m ground floor setback with 4.5m upper-level setback to Alfred Street;
- 0m whole of building setback to Little Alfred Street; and
- 2.4m setback to the north at Levels 2-6 and 6m setback at the ground level and levels 7-8.

However, in rationalising the built form levels across the length of the site, rather than working with the significant level changes of the street and laneway, the proposal would result in exposed basement/lower floor levels that create a hard, continuous edge along the eastern frontage to Little Alfred Street for approximately 80% of the frontage. Even

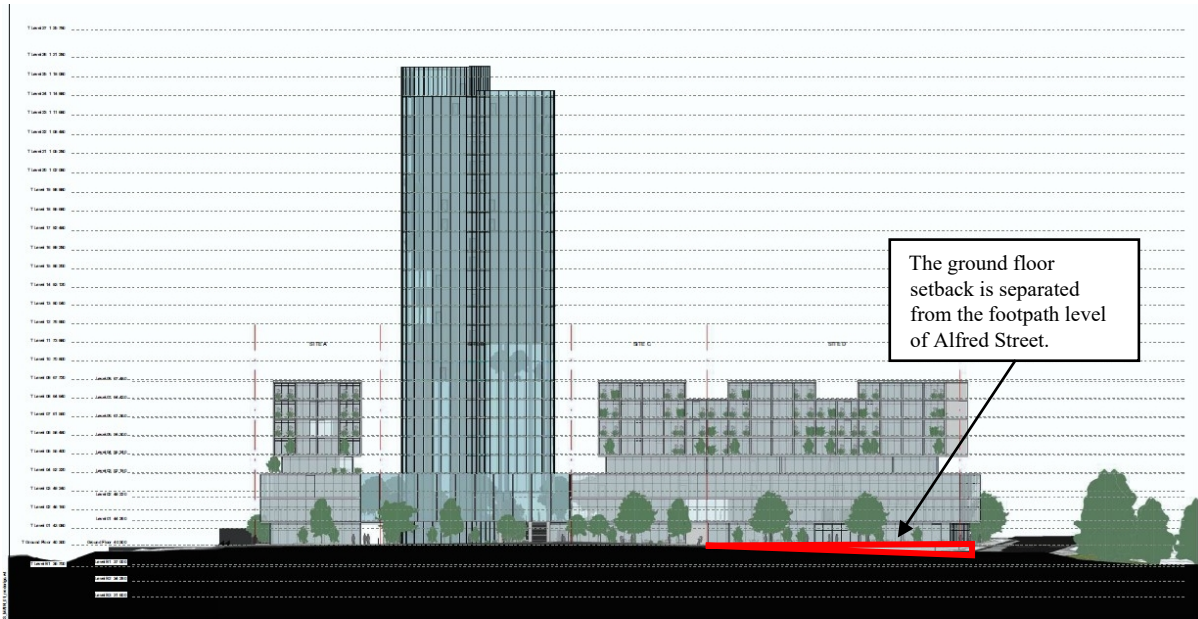
if just looking at the basement level, it rises a full floor to the southern end of Little Alfred Street and two whole floors to the north (Figure 1). Whilst less extreme, it creates an awkward interface along the southern end of Alfred Street (Figure 2).

This nil setback results in the closing in of Little Alfred Street, with no additional space for pedestrian access and no deep soil to accommodate large canopy trees, which was also identified as a desirable outcome in Council’s unendorsed Planning Study for the Precinct. In addition, it would prevent the ability to deliver a fine-grain built form to positively interface with the adjoining heritage conservation area.

Furthermore, the proposed setbacks would result in an approximately 6m deep building, fronting Little Alfred Street, which provides poor potential for use as either residential or business uses. In addition, it removes the ability to establish a landscaped buffer to the Whaling Road Conservation Area.



**Figure 1 – Interface with Little Alfred Street**



**Figure 2 - Interface with Little Alfred Street**

The Urban Design Report (p.64 to Appendix 4 of the Planning Proposal) incorrectly states that the proposal complies with ADG requirements. The majority of proposed tower setbacks to the north and south are in fact non-compliant. The non-compliance is particularly acute to the north, where the proposal provides a minimum 2.4m setback to the *R2 Low Density Residential* zone when a minimum setback of between 7.5m if non-habitable, or 12m if habitable, is required. A comparison of the proposed reference design with the ADG setback requirements is provided in Table 1.

TABLE 1 – ADG Compliance										
Side setback		Site A (PP-8st)		Site B (PP-24st)		Site C (PP-8st)		Site D (PP - 8st)		
		North*	South	North	South	North	South	North	Middle	South**
ADG requirement	Habitable façade	12m	9m	12m	12m	9m	9m	9m	18m	9m
	Unhabitable façade	7.5m	4.5m	6m	6m	4.5m	4.5m	4.5m	9m	4.5m
Planning Proposal	Residential upper floors (7+)	6m	3.6m	3.6m	2.7m	4.5m	3.6m	3.6m	7.2m	11.0m***
Compliance with ADG setback		No	No	No	No	Yes	No	No	No	Yes

\* – interface with residential conservation area – change in zoning

\*\* – interface with Whaling Road

\*\*\* – to the middle of Whaling Road

Table 1 demonstrates that most north-south facing facades are non-compliant, even when designed as non-habitable facades. Internal residential layouts are not included in the design report. It is therefore unclear whether these residential apartments achieve a satisfactory layout to support the large amount of unhabitable facades needed to achieve the minimum ADG separation requirements.

Overall, the Planning Proposal represents an exceptionally dense built form with poor separation and interface to the surrounding low density residential areas.

It is recommended that the proposed setbacks within the draft DCP be revised to:

- provide a minimum 3m whole of building setback to the lot boundary to improve pedestrian safety and amenity at ground level and achieve a landscaped green buffer to the conservation area along Little Alfred Street. This setback should extend below ground level to enable deep soil for large tree canopies.
- Provide at least a 7.5m setback from the upper levels of Site A with the conservation area to the north, consistent with the minimum ADG requirement for unhabitable facades and including an additional 3m due to the change in zoning.



This setback should provide vegetated transition to the conservation area in line with the ADG requirement.

- Strictly comply with ADG requirements across the Precinct and that further information be provided to demonstrate the feasibility of supporting non-habitable rooms to the north and south, if proposed.

Such a change to the setbacks will have an impact on the quantum of FSR achievable on the site and needs to be recalculated.

It is noted that the Planning Proposal does not propose to amalgamate sites. In addition to the built form issues outlined above, the future development of the land may result in four separate vehicle entries fronting Little Alfred Street, which is unsympathetic with the finer grain, residential frontage of the conservation area.

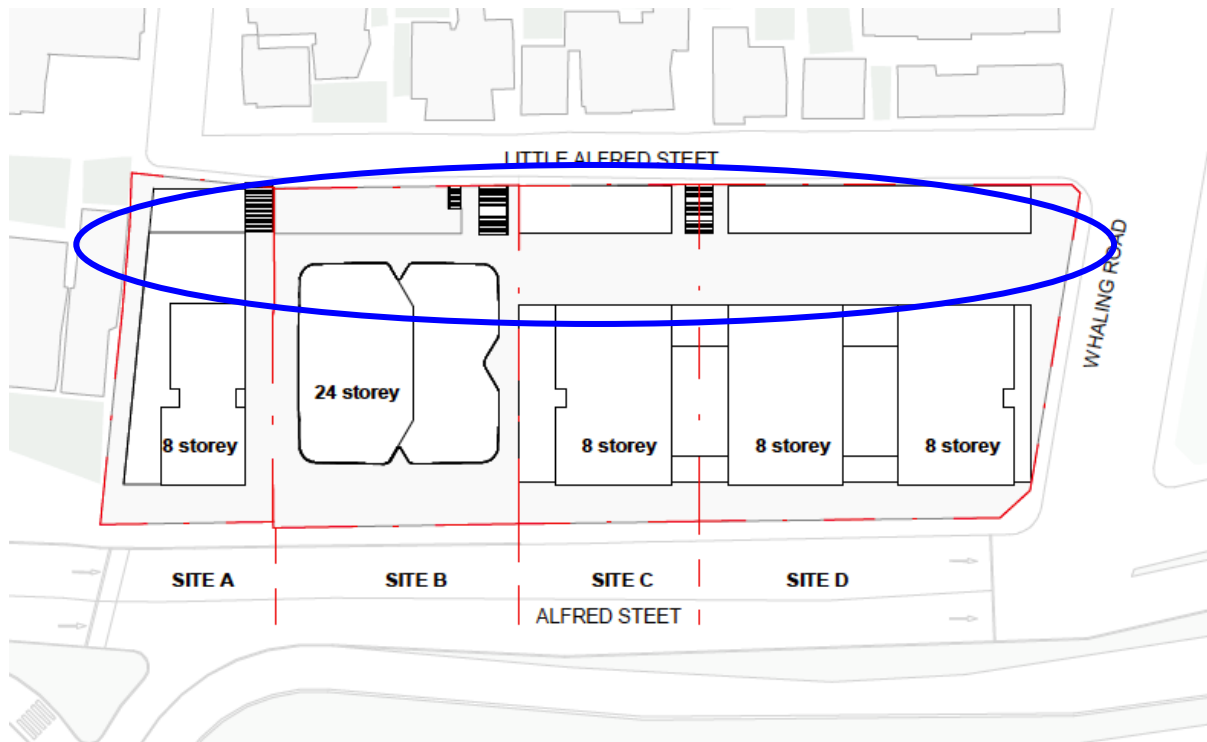
In addition to greater setbacks, it is recommended that at least Sites A&B and Sites C&D be amalgamated to:

- Avoid isolated sites;
- Minimise vehicular entries;
- Provide adequate building transition to the low density residential zone to the east and north; and
- Provide adequate building separation between individual sites within the Precinct.

Furthermore, consideration should be given to the incorporation of below ground breakthrough walls to limit vehicular entries to no more than two to the Precinct, preferably off Little Alfred Street and subject to appropriate transport impact assessments.

## **2.6. Building Height**

Whilst an FSR control will somewhat temper building heights across the Precinct, there are insufficient controls to ensure an appropriate built form transition to the east. Whilst it is noted that the proposed associated DCP amendment seeks to identify a number of storeys across the Precinct, there are no height controls for the proposed built form fronting Little Alfred Street (refer to Figure 3).



**Figure 3 – Extract of draft DCP height controls**

To ensure the greatest level of clarity, split height controls could be established across the eastern portion of the site to set depths from Little Alfred Street to ensure the desired built form outcomes are achieved. This could be reflected on a revised Height of Buildings Map to NSLEP 2013. This could also be supported by additional details in the proposed DCP amendment.

### **2.7. Overshadowing Analysis**

In accordance with recommendations of the SNRPP the Planning Proposal was amended to include an overshadowing analysis (Appendix 9 to the Planning Proposal). It provides a comparison of overshadowing impacts between the existing built form, the concept proposal as outlined in the Planning Proposal and against Council’s unendorsed Planning Study for the Precinct.

It is unclear why the overshadowing analysis only deals with the overshadowing impacts at the Winter Solstice and not extend to include impacts between the March and September equinoxes, which result in a range of different impacts. In addition, it is unclear if the concept proposal’s impact represents the base case or bonus case scenarios. Furthermore, the overshadowing analysis appears to consider the concept proposal as lodged and not as modified by the draft DCP. It is assumed with reduced proposed setback controls to Little Alfred Street, that there would be an associated increase in overshadowing impact to the properties to the east over that originally lodged.

Therefore, it is difficult to determine what the impacts of a development that complies with future controls as proposed by the DCP would result in.

The applicant's analysis was also referred to Council's Urban Design Team for comment. They subsequently advised that:

- Additional solar impact occurs on the southern properties along Whaling Road from May until July.
- The additional height on Site B will have additional solar impact north of Neutral Street during the equinox.
- The upper level setback and 8 storeys height on Sites A, C and D have only a minor solar impact on the properties north of Little Alfred Street compared to the existing overshadowing.
- Solar impact of Site D onto the RE1 zone south of the area is comparable to the unendorsed Alfred Street Planning Study. Additional overshadowing should be minimised onto RE1 zoned land including this park.
- It is worth noting that the unendorsed draft Alfred Street Planning Study was not adopted mainly due to feedback regarding the solar and visual impact arising from the additional height proposed.

The existing built form is already significantly out of scale with the local context. Any additional bulk and scale as a result of the planning proposal results in even greater solar impact on the conservation area, which is difficult to justify.

It is therefore recommended that any amendment to the controls should ensure that the bulk and impact of any new tall building in the Precinct be similar to that of the existing tall building.

## **2.8. Public Domain/Benefits**

The concept proposal proposes to provide:

- a through-site link on Site A and B.
- a retail arcade through Site C and D
- a ground floor setback along Alfred Street as a widening of the existing footpath

In addition, the draft DCP suggests further public domain works that connect the precinct with its surrounding:

- to connect the precinct with a potential improvement of the park to the south;
- provide increased landscaped buffers along Alfred and Little Alfred Streets to improve pedestrian amenity; and
- pedestrian improvements to Mount Street.

Of particular note is the absence of any setback to Little Alfred Street resulting in a poor pedestrian environment, which is already heavily compromised.

The through site link is not well aligned with the topography of Alfred Street and Little Alfred Street. This results in unnecessary stairs in the concept proposal and little to no deep soil landscaping opportunities. An amalgamation of Sites A&B and Sites C&D would create an opportunity to provide a wider, at grade, through site link, with better natural light.

The location and design of the retail arcade poses significant challenges. There's no precedent, previous studies or related analysis of this area that demonstrates that a retail arcade running parallel to Little Alfred Street and Alfred Street would be successful in this location. Half the north-south length of the internal pedestrian arcade is located adjacent to blank façade used to screen the relocated vehicular access to Whaling Road. This presents a poor outcome in terms of activation.

It is recommended:

- That the setback to Little Alfred Street be reinstated and provided at grade and be designed as a natural extension to the public domain.
- To encourage the amalgamation of sites to minimise driveways, improve setbacks and create wider through-site links, thereby improving the public domain experience.
- Exclude the internalised arcade, such that this space could be better utilised to improve the interface with Little Alfred Street.
- Provide a landscape masterplan that includes the improvements of the park and Mount Street overpass.

## **2.9. Signage**

The Planning Proposal's draft DCP includes clause 9.2 - "Advertising design Analysis" that would foreshadow rooftop signage "with business/building identification signs and roof or sky advertisements".

Rooftop signage is not in line with the change of zoning and the new character the concept proposal should aspire to align with. The view from the Warringah Expressway should clearly reflect the new predominantly residential use. Further, this would provide a better relationship with the adjoining neighbouring residential conservation area. Such roof top signage would be better aligned with the CBD location on the other side of the motorway.

Despite the inclusion of the proposed DCP amendment, there is insufficient information contained within the planning proposal to identify its need and or justification.

It is therefore recommended that all aspects relating to signage be removed from the Planning Proposal and associated DCP amendment.

## **2.10. Heritage Impacts**

In accordance with Condition 1 of the Gateway Determination, a Heritage Impact Assessment (HIA) has been submitted with the exhibited Planning Proposal.

This Assessment was referred to Council's Conservation Planners for comment. They subsequently advised:

*The heritage context and the related visual curtilage of the site as summarised in Figure 1 comprises:*

- *The immediately adjacent heritage items at:*
  - *2 Bray Street*
  - *18 and 20 Neutral Street*
  - *33, 35, 378 Neutral Street*
  - *1-31 Whaling Road*
- *The immediately adjacent contributory items along Little Alfred Street, Neutral Street, Bray Street, Ormiston Avenue and Whaling Road*
- *The Whaling Road conservation area (CA21) that is significant*
  - (a) *For its unity that relates to its subdivision history and which is evident in the development and streetscape of the area.*
  - (b) *As a consistent and intact Victorian and Federation residential area that consists of modest housing on small lots.*
  - (c) *As a largely intact late 19th and early 20th century subdivision that retains much of the urban fabric and detail associated with its development over time such the street formations, sandstone kerbing, fencing, gardens and a strong relationship to topography.*
  - (d) *For the quality and collective significance of the buildings within the area.*



**Figure 1**

*The HIS accompanying the revised PP (prepared by Urbis and dated October 2020) presents the case for changes to the current statutory controls to enable the revised PP to progress. It does not address the issues raised in the previous heritage comments raised by Council. The net result of the revised PP is that the 4.5m setback at Little Alfred Street has been altered to a nil setback, the outcome of which compounds the impacts of the proposal on the heritage context of the site. The development remains isolated and overwhelming in terms of design resolutions that do not improve the developments transitory function to achieve an appropriate and sensitive interface with its heritage context. The access points to the development from Little Alfred Street have also been reduced further cutting the site off. Also, opportunities for relevant public art should also be explored and worked through into this early design phase. The revised PP is not supported, and the issues raised in the previous advice dated 28 June 2019 still stand.*

The proposal as amended for exhibition purposes results in a more significant impact upon the heritage significance of the Whaling Road Conservation Area and therefore cannot be supported in its current form until these issues can be adequately addressed.

## **2.11. North Sydney Local Strategic Planning Statement (LSPS)**

In accordance with Condition 3 of the Gateway Determination, Table 9 to the Planning Proposal outlines the proposal's consistency with Council's LSPS. However, some of the statements are questionable or exaggerated. In particular, the proposal will not:

- Result in the delivery of significant levels of infrastructure to reflect the level of uplift within the Precinct (i.e. delivery of more open space to cater for increased population);
- create an opportunity to collaborate with the DPIE to deliver new housing, jobs and infrastructure to North Sydney (this is Council's responsibility not the applicant's);
- there is no guarantee that it will provide increased community facilities and services to support a healthy, creative, diverse and socially connected community;
- improve the contextual relationship to the heritage conservation area to the east, due to nil setback to Little Alfred Street;
- necessarily delivery a prosperous economy as the delivery of commercial floor space cannot be guaranteed without the imposition of a minimum non-residential floorspace control;
- Protect and enhance North Sydney's natural environment and biodiversity, by increasing overshadowing over existing public open spaces;
- Result in an improved integrated green space system, by not providing sufficient deep soil areas across the Precinct to accommodate large canopy trees;

### **2.12. Redundant Council Strategies**

The Planning Proposal references that it has been prepared broadly consistent with the North Sydney Local Development Strategy (2009) and North Sydney Residential Strategy (2009). Its inclusion clearly relates to the previous versions of the Planning Proposal which have not been updated to reflect current policies. By retaining these references, it creates a level of confusion as to what is relevant in the assessment of the proposal.

These strategies have since been replaced with a Local Strategic Planning Statement (LSPS) and a Local Housing Strategy (LHS) both of which were adopted by Council in November 2019. The LSPS was assured by the Greater Sydney Commission (GSC) on 20 March 2020. Whilst at the time of writing, the LHS remains to be endorsed by DPIE it represents a more contemporary strategy that accounts for the required level of population and housing growth as outlined in the Greater Sydney Commission's strategic directions.

### **2.13. Traffic**

The Draft DCP sought to change the concept proposal by revising the proposed vehicular access to the Precinct. However, the accompanying Traffic Impact Assessment has not been updated to reflect this change. It is therefore unclear as to the full impacts that might arise from any future development of the Precinct.

At a high level, there are potential safety concerns with regard to the location of the access point to Whaling Road adjacent to Little Alfred Street and Alfred Street.

It is further noted that the State Government has recently approved the EIS for the Western Harbour Tunnel proposal which includes changes to the road layout along Alfred Street. This will have implications for the operation of the intersection of Alfred Street and Whaling Road.

No decision should be made to progress the planning proposal until such impacts can be properly quantified and assessed.

#### **2.14. Council's consideration of the planning proposal**

Section 3.11 of the provides commentary on the NSLPP's consideration of the Planning Proposal. In its commentary, the Planning Proposal stated:

*The NSLPP agreed to defer its consideration of the proposal to provide the Applicant with the opportunity to address the matters raised.*

*However, the recommendations of the Independent Planning Assessment Report and the NSLPP were scheduled to be considered at Council's Ordinary Meeting held on the 26 August 2019. However, the planning proposal was not considered at the meeting. Meeting minutes dated 26 August 2019 confirmed that Council had resolved not support the Planning Proposal notwithstanding the NSLPP's recommendation to defer the matter.*

It is suggested that the matter was not considered by Council at its meeting of 26 August 2019, yet it had clearly made a resolution not to support the Planning Proposal proceeding to Gateway Determination on this date.

Whilst it is acknowledged that the NSLPP recommended to defer making a recommendation at its meeting of 14 August 2019 to enable certain matters to be satisfactorily addressed, the matter was reported to Council for its consideration at its meeting of 26 August 2019.

The legislative requirements for plan making do not specifically require a Local Planning Panel to make a recommendation to support or not support the progression of a planning proposal to Gateway Determination before a council makes its formal determination. Therefore, despite the NSLPP having resolved to defer the matter until certain matters have been satisfactorily addressed, nothing prevented Council from making a formal determination on the matter, so long as it has considered the NSLPP's advice.

The Planning Proposal is therefore partly misleading in its description of the proposal's history.



### **3. Assessment of public exhibition processes**

There are a number of key issues with the public exhibition process each of which are described in more detail in the following subsections.

#### **3.1. Notification**

A public notice within the Mosman Daily on 10 December 2020 was the only evidence of the commencement of the public exhibition of the Planning Proposal. However, this was likely to be missed by most residents, as they are not actively perusing local newspapers seeking out public exhibition notices, especially when they are not necessarily located in the same location of the paper each time. This has been a longstanding community and Councillor concern.

Despite the exhibition period commencing on the 10 December 2020, potentially affected residents were not personally informed (i.e. a notification letter) of the commencement of the exhibition until sometime after Christmas. This is due to the notification letters not being posted until 22 December 2020, 12 days after the exhibition's commencement. It is likely that many local residents did not receive a notification letter until after the 1 January 2021.

A secondary public notice was published in the Mosman Daily on 14 January 2021 advising of the revised exhibition timeframe.

This lack of initial co-ordination and notification undermines the integrity of the exhibition process and its transparency.

Both the timing of commencement of the public exhibition in late December 2020 and the lack of coordination between public advertisements being published and notification letters being sent, undermines the transparency of this process.

#### **3.2. Exhibition Documentation**

The volume and presentation of the public exhibition documentation has not assisted the wider community fully engaging with the process. More specifically, the display of documentation material on the DPIE's LEP tracker portal includes the placement of 48 separate documents in an illogical and confusing sequence, duplication of documents, confusing title references, no logical grouping of document types and inclusion of superseded information with no explanation or contextual reference. It is unclear which document comprises the actual planning proposal (including attachments) that is on public exhibition.

Furthermore, a comparison of the exhibition documents provided on the LEP tracking portal and those hard copies provided to Council for public viewing found that the LEP tracking portal contained significantly more documents (48) on exhibition than that

provided in hard copy (15). The following documents were missing from the hard copies provided to Council:

- Rezoning Review – Application Form for a Rezoning Review (21 June 2019)
- Rezoning Review - Applicant’s Rezoning Review report (June 2020)
- Rezoning Review – Applicant’s Planning Proposal as lodged to Council including appendices (March 2020)
- Rezoning Review - Record of Decision of Sydney North Regional Planning Panel (5 November 2019);
- Rezoning Review - Sydney North Regional Planning Panel Declarations (31 October 2019)
- Gateway Determination Report (IRF20/3677) – DPIE (undated)
- Gateway Determination – DPIE letter to Council (7 September 2020)
- Gateway Determination – DPIE letter to SNRPP (7 September 2020)

There is also an absence of documentation outlining Council’s assessment and consideration of the Planning Proposal. In particular, the following documents are missing:

- The assessment report prepared by Ingham Planning on behalf of Council;
- The report to the North Sydney Local Planning Panel and their recommendation of 14 August 2019;
- The report considered by Council and its resolution of 26 August 2019.

This has further impacted on the community’s ability to accurately interpret and understand the nature of the proposal. This is contrary to best practice guidelines and principles that Council seeks to employ when engaging with the community and a specific recommendation is included to also write to the Minister for Planning, to express this concern.

DPIE, in its Gateway Determination Report stated:

*The planning proposal is required to be updated to create a consolidated document combining the information contained within the original planning proposal, rezoning review, and additional information provided following the rezoning review. This is to ensure that the information displayed for public exhibition is consistent and easily legible for the community.*

This recommendation was also included as a condition of the Gateway Determination. This has clearly not occurred.

The degree of inconsistency in the documents being provided to view in different locations and missing information is unacceptable and results in low levels of transparency and accountability. On this basis alone, the entire proposal should at least

be re-exhibited in a clear and coherent manner such that the wider community can properly understand what is actually being proposed.

### **3.3. Community Submissions**

As at the 11 February 2021, the Planning Panels Secretariat advised Council staff that they had received approximately 12 submissions in response to the exhibition of the Planning Proposal. However, it was also advised as that the Secretariate typically receives the majority of submissions closer to the cessation date of the exhibition (8 days away), this number is likely to be increase. This indicates that there is likely to be a significant level of interest in the proposal given the number of submissions already received. Council staff were not made privy to the issued raised, nor was it able to access those submissions made, similar to other notifications that the DPIE undertake.

Despite this, Council did receive a copy of a submission made to the Planning Panels Secretariat by the *Bayer Building Neighbours Committee*, representing approximately 55 households in the locality. This submission objects to the planning proposal based on the following matters:

- The proposal relies on inconsistent and conflicting information making assessment difficult;
- Will result in an excessive level of development within the Precinct;
- Does not respond appropriately to the site context;
- The proposed controls do not provide a sufficiently level of certainty to determine the built form outcome;
- Will give rise to significant adverse impacts in terms of amenity, overshadowing, heritage, visual and traffic/access;
- Does not allow for a unified redevelopment of the Precinct, exacerbating impacts;
- Relies on questionable and unsubstantiated outcomes in terms of public benefits; and
- Inappropriately compares the proposal with Council's unendorsed Planning Study for the Precinct, which should be ignored.

## **4. DPIE's Gateway Determination Report**

There are a number of significant issues with the DPIE's Gateway Determination Report (refer to Attachment 4), which provides the justification as to why they have issued the Gateway Determination. Each of the issues are addressed within the following subsections.

### **4.1. Council's Position**

No consideration has been given to Council's position in relation to the Planning Proposal. Details pertaining to the assessment of the Planning Proposal prepared by Ingham Planning, the North Sydney Local Planning Panel's consideration and

recommendations and Council's consideration and resolution in relation to the Planning Proposal, are all missing.

On 2 September 2019, Council wrote to the DPIE advising it of Council's position in relation to its assessment of the Planning Proposal, well before the DPIE completed its briefing report (October 2019) to the SNRPP to inform the Rezoning Review. It is noted that this briefing report addressed Council's position on the matter.

Council wrote again to the DPIE on 2 March 2020 reinforcing its position when it declined to accept the role of PPA.

By excluding Council's documentation on the Planning Proposal, DPIE has not provided a comprehensive outline of all relevant material affecting this proposal.

#### **4.2. Housing Affordability**

The report suggests on page 9 that the proposal "will place downward pressure on housing affordability". This statement is unfounded within the report. Given the site's location, it is highly unlikely that any dwellings proposed in this location will be "affordable".

#### **4.3. Affordable Housing**

One of the reasons provided for supporting the Planning Proposal was that it includes affordable housing. This is not guaranteed. Whilst there is an offer to provide dwellings or money for affordable housing, there is no firm agreement to do so.

#### **4.4. Overshadowing of Alfred Street Park North**

It is noted that the DPIE's Gateway Determination Report states that "*the impacts of overshadowing to the Alfred Street Park North are also considered to be partially offset by the proponent's letter of offer to enter into a VPA*".

This is a poor planning outcome and would set an undesirable precedent. Firstly, there is currently no agreement with respect to the contents of the VPA as this has yet to be finalised, agreed or endorsed by the parties. Furthermore, Council does not promote the overshadowing of public open spaces in exchange for monetary compensation.

### **5. Satisfaction and Compliance with Gateway Determination Conditions**

When Council exhibits a planning proposal, it typically prepares a document outlining how the proponent has responded to and satisfied the applicable Gateway Determination conditions. This allows the community to get a more complete understanding of how the proposal may have changed and the basis of decision making.

A similar document has not been exhibited with the proposal. It is understood that due to the NSRPP undertaking the role of PPA, that upon receipt of information to address conditions, internal briefing notes were prepared (by DPIE staff) for the Panel's consideration. At the time of drafting of this report, access to this technical assessment was not available. The basis for satisfaction of the some of the Gateway Conditions remains unclear.

## **6. Proposed amendment to North Sydney Development Control Plan (NSDCP) 2013**

The Planning Proposal is accompanied by a draft amendment to NSDCP 2013. It is noted that SNRPP recommended that the proposed draft amendment to NSDCP 2013 submitted with the Planning Proposal should be further amended to address a number of additional considerations.

Amendments to DCPs are typically processed by councils. The DPIE has firmly advised that neither it nor the SNRPP will take carriage of the associated DCP amendment, despite the Minister for Planning or their delegate having the ability under the Environmental Planning and Assessment Act, 1979 (EP&A Act) to implement the proposed amendment to NSDCP 2013. However, the DPIE did indicate that it could consider including a clause within the LEP that includes guiding principles for the DCP, prevents development consent from being granted prior to the implementation of a site specific DCP and identifies a deferred commencement date to allow Council sufficient time to negotiate with the proponent.

Due to a lack of communication from the DPIE in relation to this matter, despite efforts from Council to have it addressed, Council was never in a position to obtain an endorsed draft DCP to be placed on public exhibition concurrently with the Planning Proposal.

To add clarity and transparency, any associated DCP amendments should be placed on public exhibition concurrently with the Planning Proposal. The coordination of any such DCP amendments concurrently with the progression of the Planning Proposal would be better served by the same planning authority responsible for the Planning Proposal.

The format of the proposed DCP amendment would create a new part within Council's current DCP, which is inconsistent with Council's previous approach to dealing with site specific development controls. Should the Planning Proposal be progressed, the proposed DCP amendment should be revised to sit within Part C – Area Character Statements of the DCP.

Furthermore, it is noted that the DCP contains proposed controls relating to advertising. Advertising and signage is not identified as part of the intent of the overall concept within the planning proposal. There is insufficient discussion and justification for its inclusion and its incorporation cannot be supported at this time.

It is recommended that should the DPIE be of a mind to progress the Planning Proposal that a savings provision be incorporated that prevents the determination of a Development Application within the Precinct, until such time as a DCP detailing development controls within the Precinct has been adopted.

## **7. Voluntary Planning Agreement (VPA)**

The Planning Proposal is now accompanied by an offer to enter into a VPA with Council to deliver the following benefits:

- Monetary contributions towards:
  - affordable housing and/or provision of affordable housing within the North Sydney Local Government Area;
  - embellishment of surrounding public open spaces (with the option of upgrading Alfred Street North Park;
  - the upgrade of the Mount Street overpass;
- Works in kind, including:
  - Upgrade works to the footpaths along all street frontages.
  - Works for ground floor pedestrian arcade, with the value and scope of works to be negotiated with Council.

The letter of offer provided by the applicant is very light on detail. It is acknowledged that the letter of offer is simply a high level indication to enter into a VPA. However, as a result, it is not possible to undertake any meaningful analysis of the quantum and value of the offer. In a broad sense, the matters outlined would be beneficial, but to be meaningful, a measure of value would need to be ascribed to better understand the extent of this value. For example, the offer does not identify the quantum of affordable housing units or monetary contribution towards this, nor is there any qualitative or quantitative descriptions of the open space embellishments being proposed or upgrades to the Mount Street over pass, footpaths or pedestrian arcades identified in the letter of offer. The offer simply states that the value and scope of works is to be negotiated with Council. It needs to be noted too, that the Mount Street overpass is under the ownership of Transport for NSW and that they would also need to be a party to the VPA.

The DPIE has advised Council, post the commencement of the public exhibition, that neither it, nor the SNRPP will negotiate a VPA with the proponent. It is not the Department's role to implement a local contributions scheme or developer agreements. Council should liaise with the proponent on this matter and raise in its submission to the Panel that the proponent should continue negotiating with Council on this matter.

The DPIE did indicate that should the LEP be recommended to proceed, a deferred commencement date could be included to allow additional time for Council and the proponent to negotiate the VPA and DCP. Council staff supports this approach if the planning proposal is to proceed.

## **8. Submission Recommendations**

Based on the assessment of the Planning Proposal within the proceeding sections, it is recommended that Council prepare a submission outlining that it does not support the Planning Proposal proceeding any further in its current form, based on the following reasons:

- a. Council still supports its original reasons for not supporting the progression of the Planning Proposal as outlined by Ingham Planning.
- b. The Planning Proposal and associated supporting documents have not been sufficiently amended prior to public exhibition to clearly indicate the likely built form outcome resulting from the changes to the planning controls, preventing the potential impacts of the anticipated development to be properly assessed.
- c. There being a fundamental problem with the Planning Proposal progressing ahead of an associated:
  - i. draft DCP amendment, which may potentially mediate some of the bulk, scale and amenity impacts of potential outcomes of the former; and
  - ii. draft Voluntary Planning Agreement, which could assist in understanding the public benefits being provided to somewhat offset the change to the planning controls in the Precinct
- d. Overshadowing remaining a key issue with increased height.
- e. New height limits be established across the eastern side of the Precinct on the Height of Buildings Map to NSLEP 2013 and accompanying draft DCP to ensure that adverse impacts to the residential heritage area to the east are minimised.
- f. The Floor Space Ratio (FSR) controls as outlined in the Planning Proposal being far in excess of what could be achieved if the intent of the proposed DCP built form controls was to be complied with.
- g. The proposal lacking a minimum non-residential, floor space ratio whilst purporting to provide for employment floor space as a benefit of the development;
- h. Bonus FSR controls are not supported, without some quantifiable increase in public amenity.
- i. Setbacks and separation distances proposed within the draft DCP are sub optimal and are recommended to be revised, with a particular reference to the reduction in the setback to Little Alfred Street, which will have negative impacts upon the heritage significance of the Whaling Road Conservation Area.
- j. An amalgamation arrangement for the future development of the Precinct has not been stipulated which would result in a more orderly and managed development outcome.

The submission should also highlight the following matters:

- k. The public exhibition process was conducted in a manner that is contrary to best practice that Council seeks to employ when engaging with the community which was characterised by:
  - i. Poor timing of commencement just prior to a major holiday period which is traditionally excluded from consultation by Council;
  - ii. Notification letters being sent well after the formal exhibition commencing;
  - iii. Exhibition documents not being made publicly available on the Department's website until well after the formal commencement of the exhibition; and
  - iv. material being presented in a confusing manner that has made engagement with the process less than ideal.
- l. The proposed bonus FSR clause must be revised to avoid ambiguity or confusion;
- m. Any reference to signage be excluded from this Planning Proposal as it has not been adequately discussed or justified as part of a future concept development for the site. Furthermore, it is inconsistent with the future residential use of the building and its setting in a low scale residential area with a significant Heritage Conversation Area status.
- n. That should DPIE support the Planning Proposal to progress, that a deferred commencement date be included by DPIE to allow additional time for Council and the proponent to negotiate the proffered draft Voluntary Planning Agreement and draft Development Control Plan amendment applying to the Precinct.
- o. That the DPIE be advised of its failures and omissions in its assessment of whether to issue a Gateway Determination.

## **9. Conclusion**

The Planning Proposal for the Alfred Street Precinct has been exhibited in a manner that has unfortunately, not demonstrated reasonable levels of clarity nor transparency. The exhibition commencing in mid-December, notification letters not reaching recipients until late December or possibly, even early January, online material not being available until well after the formal commencement of the exhibition commencement and online exhibition material being presented in a confusing manner have all contributed to this undermining of transparency and integrity.

The exhibition of the Planning Proposal does not formally include the proposed DCP amendments nor the VPA which are both referenced and foreshadowed by the Proposal. Importantly, the DCP amendments included in the exhibition material would have a material impact upon the built form, density and yield of the proposed development. By not formally exhibiting the DCP given its role in the refining any future development, represents an incomplete process.

Following a detailed assessment of the public exhibition documentation and the exhibition process, it is recommended that a submission be made to the Planning Panel's Secretariat raising concerns with the Planning Proposal due to:



- A less than ideal exhibition process.
- There being a fundamental problem with the Planning Proposal progressing ahead of a DCP amendment, the latter which, would potentially mediate some of the bulk, scale and amenity impacts of potential outcomes of the former.
- There being a disparity between Floor Space Ratio (FSR) controls as outlined in the Planning Proposal and DCP amendments which would require a “refinement” of the built form which would result in a reduction if achievable floor space.
- The bonus FSR provision be deleted from the proposal as it is not accompanied by a suitable public benefit.
- If retained, a rewording of the bonus FSR clause being required to avoid ambiguity or confusion.
- Insufficient height controls to minimise impacts of the residential development to the east.
- The proposal lacking a minimum non-residential, floor space ratio whilst purporting to provide for employment floor space as a benefit of the development.
- Setbacks and separation distances provided are sub optimal and recommended to be revised. This should occur through a DCP amendment as noted above.
- An amalgamation arrangement for the future development of the precinct has not been stipulated which would result in a more orderly and managed development outcome.
- Overshadowing remaining a key issue with increased height.

It is further recommended that Council request the SNRPP not progress the Planning Proposal through the LEP Making process, due to the deficiencies in the exhibition documentation which prevents a proper assessment of the likely impacts of the proposal to be adequately addressed.



### REZONING REVIEW – Briefing Report

<b>Date of referral</b>	1 July 2019	
<b>Department ref. no</b>	RR_2019_NORTH_003_00	
<b>LGA</b>	North Sydney	
<b>LEP to be amended</b>	North Sydney Local Environmental Plan 2013	
<b>Address</b>	283, 275, 271-273, 263-269 Alfred Street and 4 Little Alfred Street, North Sydney	
<b>Reason for review</b>	<input type="checkbox"/> Council notified the proponent it will not support the proposed amendment.	<input checked="" type="checkbox"/> Council failed to indicate support for the proposal within 90 days, or failed to submit the proposal after indicating its support.
<b>Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?</b>	<input type="checkbox"/> Provided	<input checked="" type="checkbox"/> Not required

## 1. SUMMARY OF THE PROPOSAL

### 1.1 Introduction

On 27 June 2019, Mecone on behalf of Benmill Pty Ltd submitted a rezoning review request to the Department as Council failed to indicate support for the proposal within 90 days.

The planning proposal seeks the following amendments to North Sydney Local Environmental Plan (NSLEP) 2013 (**Attachment F**):

- rezone the site from B3 Commercial Core to B4 Mixed Use;
- increase the maximum height of buildings from 13m to:
  - 31m for 283 Alfred Street (Building A);
  - 80m for 275 Alfred Street (Building B);
  - 28m for 271-273 Alfred Street (Building C); and
  - 29m for 263-269 Alfred Street/4 Little Alfred Street (Building D).
- increase FSR provision for 275 Alfred Street (Building B) from 3.5:1 to a base of 7.3:1 which is the existing FSR of the Bayer Building.
- insert a design excellence provision which allows for an additional 2:1 FSR (with a total maximum FSR control of 9.3:1), subject to a design competition being undertaken for the site and is triggered if the height of the building exceeds 62m.

- Introduce two new provisions:
  - Clause 4.4(2A) Floor Space Ratio
    - which allows for a maximum FSR of 9.3:1 for 275 Alfred Street, subject to achieving design excellence; and
  - Clause 6.15 – Design Excellence
    - which outlines considerations for design excellence and provides a height trigger for a design competition.

No amendment is proposed to the FSR controls for 283 Alfred Street, 271-273 Alfred Street, 263-269 Alfred Street and 4 Little Alfred Street..

## 1.2 Background

### Previous Planning Proposal - 2015

A previous planning proposal was lodged to North Sydney Council in September 2015 for the Bayer Building at 275 Alfred Street to rezone the site from B3 Commercial Core to B4 Mixed Use, increase the maximum building height from 13m to 85m and increase the maximum floor space ratio from 3.5:1 to 10.2:1.

Mecone on behalf of Benmill Pty Ltd requested a pre-gateway review (now known as rezoning review) of the planning proposal as Council resolved not to support the planning proposal at its meeting on 15 February 2016. The pre-gateway review was referred to the Joint Regional Panel (now known as the Sydney North Planning Panel) for its advice (**Attachment E**). The Panel recommended that the proposal should not be submitted for a Gateway determination and provided the following advice:

- *The Panel considers that this site and the street block zoned B3 in which it is located is isolated from the main commercial centre of North Sydney and closely related to the adjoining residential area. Therefore, a change in zoning that would allow residential use in the street block, would be appropriate;*
- *The Panel does not recommend that this planning proposal proceed to Gateway Determination as it deals with one site only rather than the area zoned B3 in which it is located. This piecemeal approach is contrary to the strategic intent of zoning decisions. In addition, the planning proposal leads to this site having three times the development potential of the other sites within the B3 zone. It fails to achieve the desirable separation distances between residential buildings and adversely affects the development potential of the adjoining sites; and*
- *The Panel considers that, in any future planning proposal for the block zoned B3, it would be appropriate to grant this site the density it now enjoys by virtue of the existing building on it, with some additional height so that a mixed use building with appropriate amenity may be developed on it. As concerns the other sites within the B3 zone, the existing density of 3.5:1 may be combined with some additional height, so that it becomes possible to develop them to their development potential for mixed use buildings with appropriate amenity.*

### North Sydney Council Alfred Street Precinct Planning Study

In February 2017, Council resolved to prepare a planning study for the precinct in response to planning proposal lodged for the Bayer Building in 2015. The draft Alfred Street Planning Study was adopted by Council for public exhibition at its meeting on 26 March 2018.

Council considered a post exhibition report and resolved not to adopt the Alfred Street Planning Study at its meeting on 29 January 2019.

Further details of the Study are discussed on page 11 of this report.

### 1.3 Locality and context

The site known as the Alfred Street Precinct is between the North Sydney Centre and low-density residential buildings to the north and east which are in the Whaling Road Conservation Area.

To the north and east of the site is the Whaling Road Heritage Conservation Area which contains residential dwellings such as terrace houses and detached dwellings of 1-3 storeys in height. There are also taller, high-density residential buildings which were built around 1970's to the north east and south east of the site, including 22 Doris Street at 9-10 storeys and 50 Whaling Road at 23 storeys (Figure 2).

West of the site is the Warringah Expressway and beyond the Warringah Expressway is the North Sydney Centre comprising of predominantly commercial offices with some retail and residential uses.

South of the site opposite Whaling Road is a public reserve owned by Roads and Maritime Services, which acts as a buffer between the highly trafficked Warringah Freeway, Alfred Street and the residential areas.

The proposed Victoria Cross Metro Station is approximately 500m to the north west. While North Sydney Railway Station is approximately 400m to the west.

The site is also approximately 500m from bus services that operate regularly along the Pacific Highway.

A locality map is provided at **Attachment A** and Figure 1 and 2.

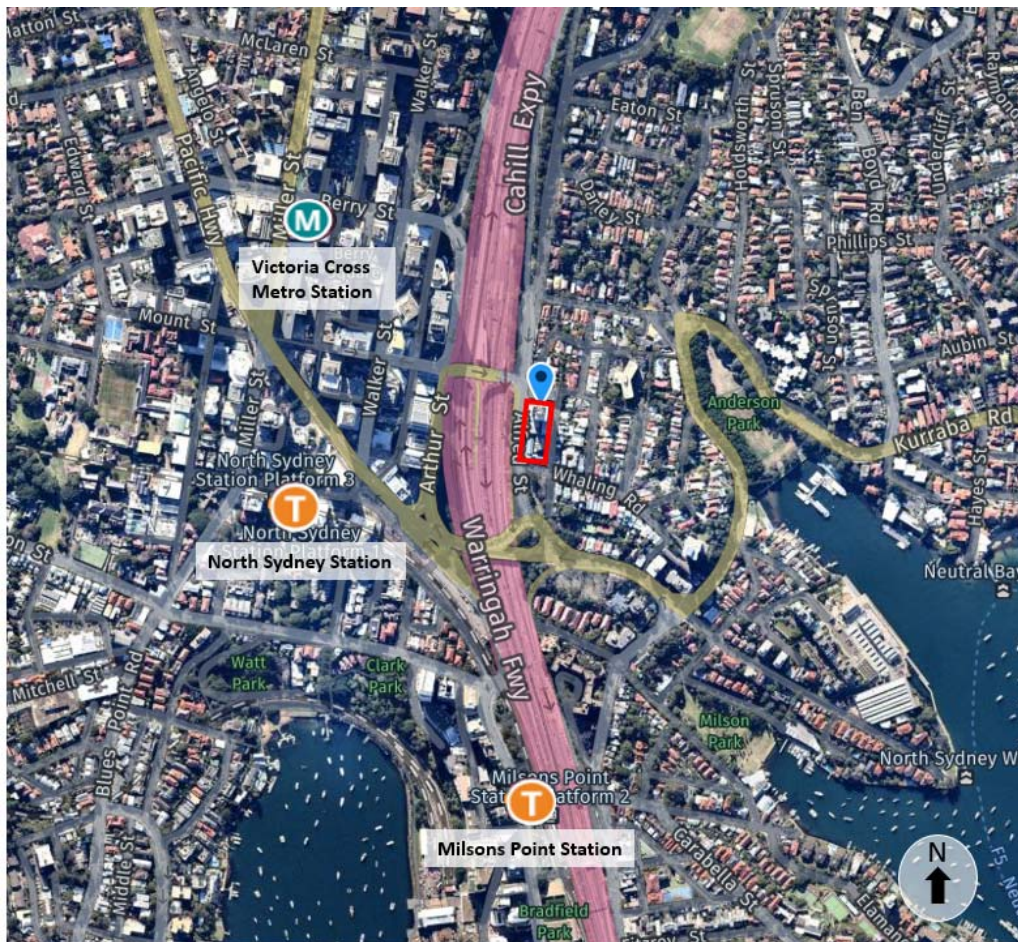


Figure 1: Locality Map (nearmap)





Figure 2: Locality Map (nearmap)

#### 1.4 Site description

The site known as Alfred Street Precinct comprises 5 lots with a combined site area of 5,217m<sup>2</sup> (Table 1). The site includes a row of commercial buildings, with the tallest being the 18 storey Bayer building at 275 Alfred Street.

The site has street frontages of approximately 120m to Alfred Street to the west, 43m to Whaling Road to the south and 120m to Little Alfred Street to the east. A site map is provided at **Attachment B** and in Figure 3 and 4.

Table 1: Site description

Street address	Lot and DP	Existing building	Existing NLA/ FSR	Site Area	Building/ Site
283 Alfred St	Lot 14 DP67882 Lot 15 DP67882 Lot 16 DP67882 Lot 3 DP554750 Lot 1 DP554749	3-4 storey commercial building, estimated 1,740m <sup>2</sup> net lettable area.	1,740m <sup>2</sup> NLA	872m <sup>2</sup>	A
275 Alfred St	Lot 1 DP54856	18 storey (61m) commercial building (ground floor retail with 17 storeys of office space with a total of 7,920m <sup>2</sup> net lettable area) also known as 'the Bayer building'.	7,920m <sup>2</sup> NLA FSR 7.3:1	1,334m <sup>2</sup>	B
271 Alfred St	Lot 1 DP532504	3-4 storey commercial building, approximately	521m <sup>2</sup> NLA	1,030m <sup>2</sup>	C
273 Alfred St	SP6830	3-4 storey commercial building, approximately	1,490m <sup>2</sup> NLA		
263-269 Alfred St & 4 Little Alfred St	SP71563 and SP71454	3-5 storey strata building with townhouses and residential units, some occupied for commercial, some converted for residential use.		1,980m <sup>2</sup>	D

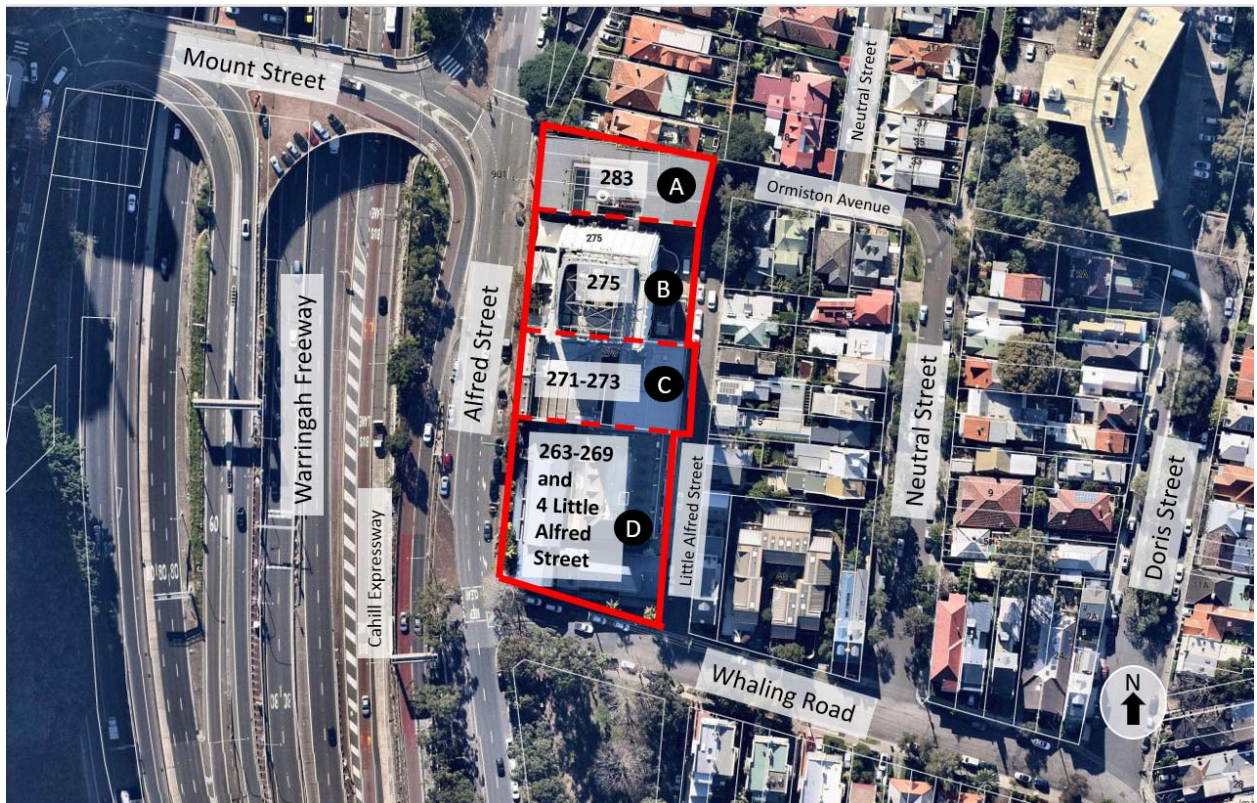


Figure 3: Site map (nearmap)

### 1.5 Current planning provisions

The site is subject to the following local controls under North Sydney LEP 2013:

- B3 Commercial Core (**Figure 5**);
- 13m maximum building height (**Figure 6**); and
- 3.5:1 maximum floor space ratio (**Figure 7**).

Part of the site at 263-269 Alfred Street and 4 Little Alfred Street currently allows residential accommodation through an additional permitted use under Schedule 1 of NSLEP 2013.

The site is not subject to a minimum non-residential FSR and is not identified as a heritage item or within a heritage conservation area.

The site adjoins Whaling Road Heritage Conservation Area to the north and east of the site (**Figure 6**).

Current LEP zoning, maximum building height, non-residential FSR and heritage maps are provided at **Attachment C**.



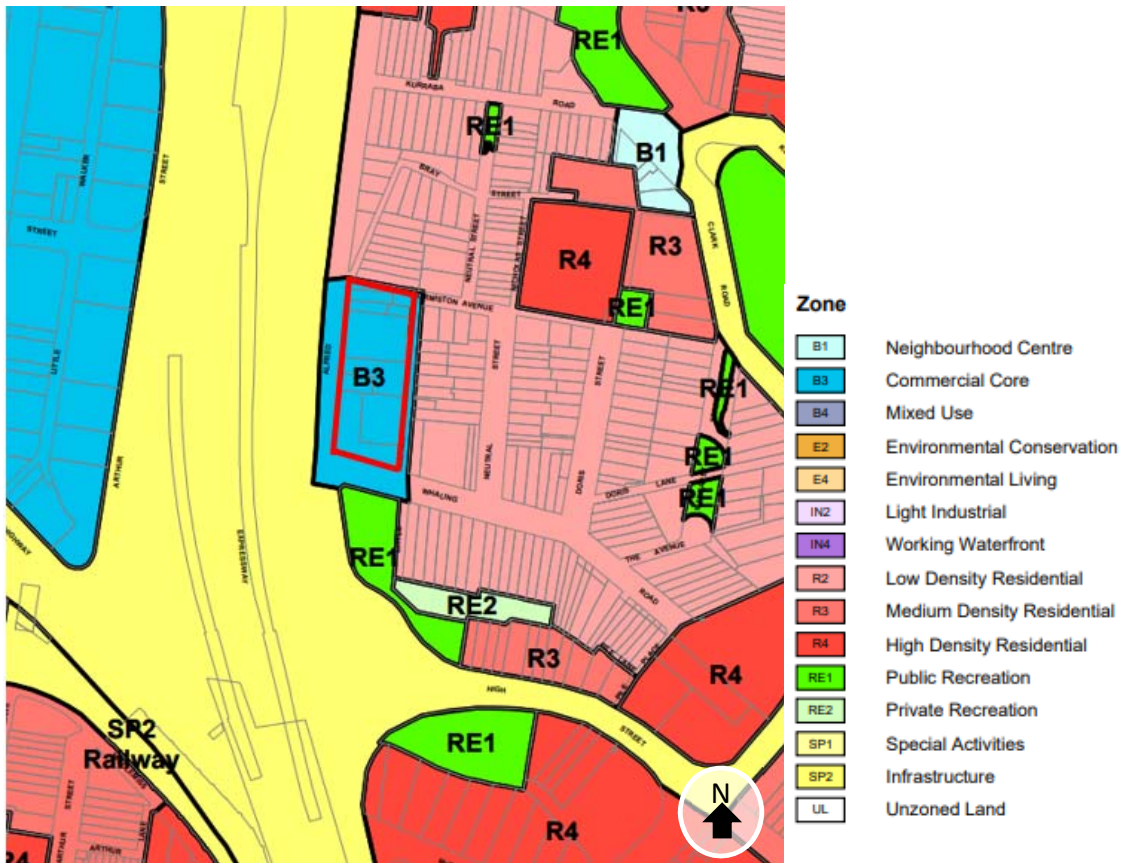


Figure 5: Land zoning map NSLEP 2013

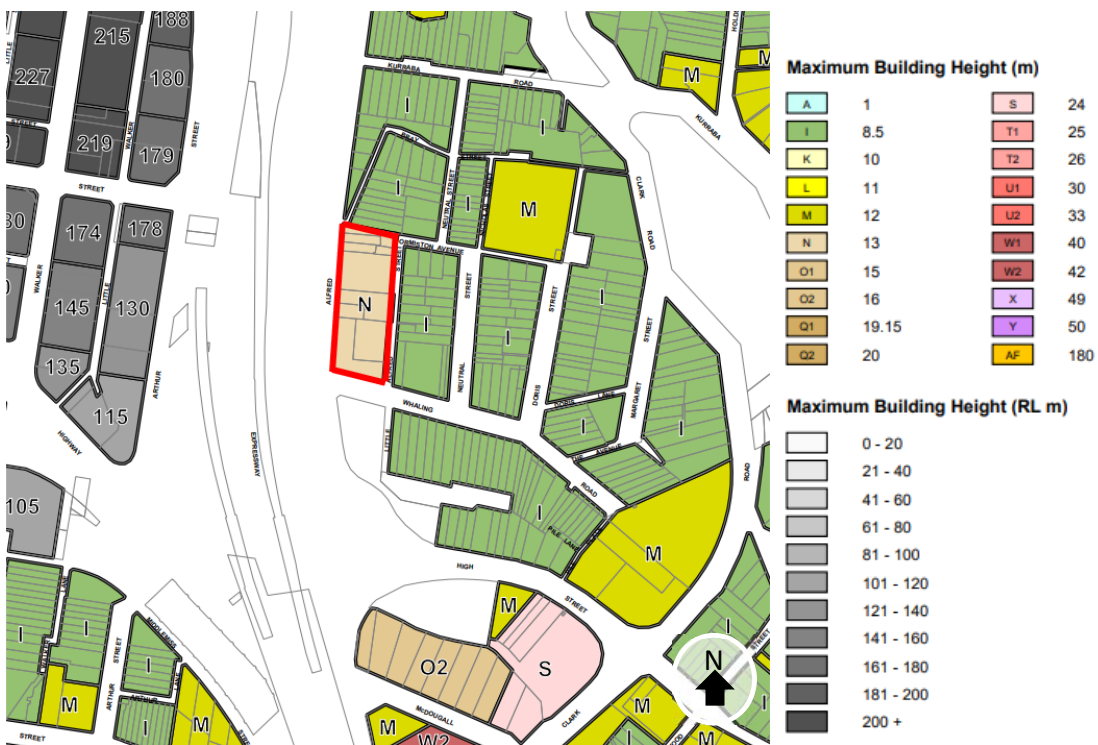


Figure 6: Maximum building height map NSLEP 2013

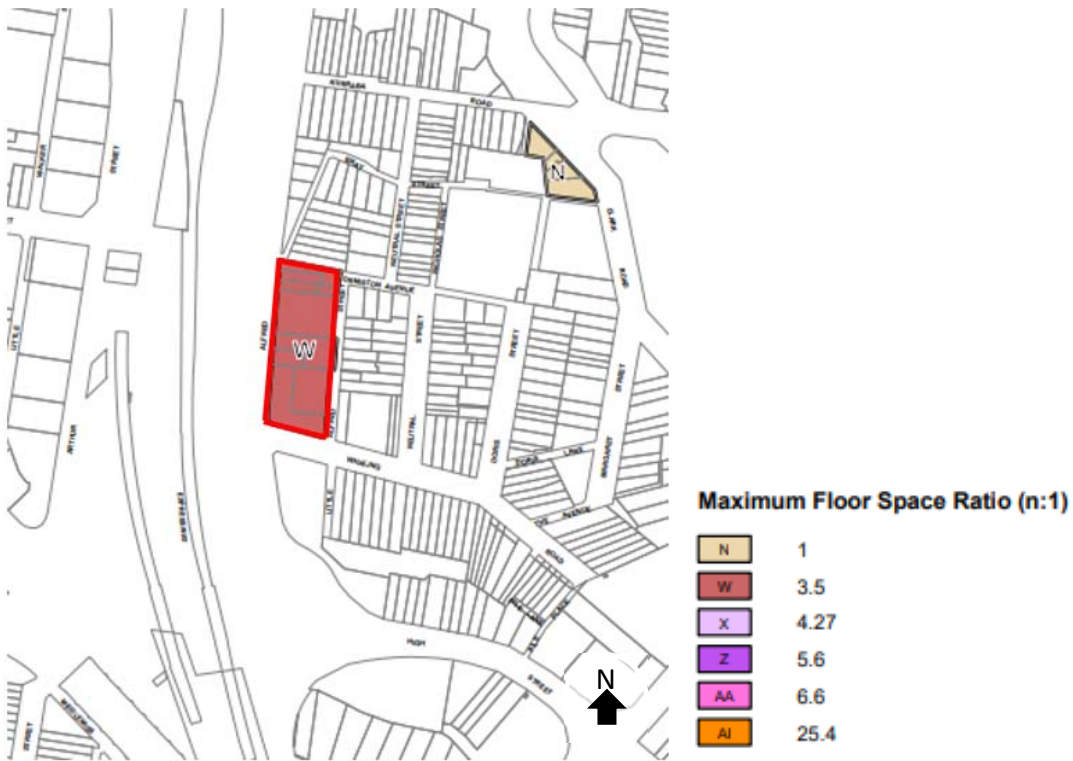


Figure 7: Maximum floor space ratio map NSLEP 2013

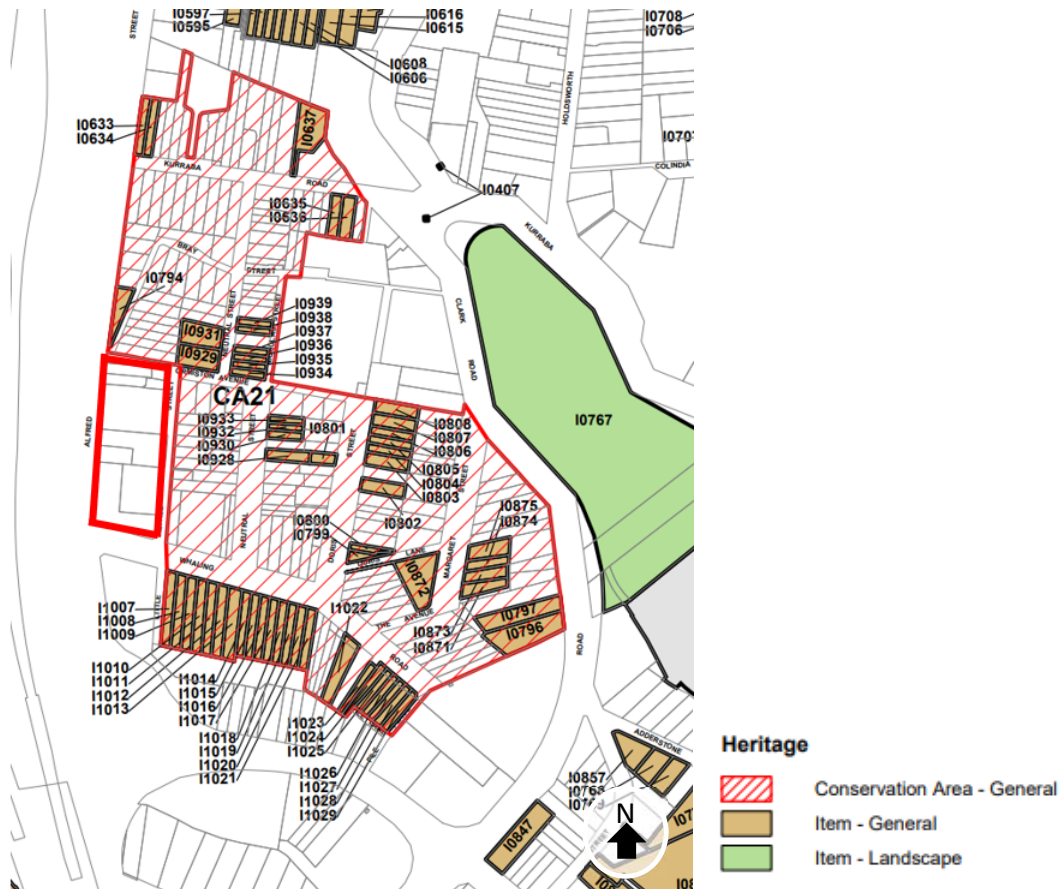


Figure 8: Heritage Map NSLEP 2013



## 1.6 Proposed planning provisions

The planning proposal seeks the following amendments to North Sydney Local Environmental Plan (NSLEP) 2013 (**Attachment F**):

- Rezone the site from B3 Commercial Core to B4 Mixed Use;
- Increase the maximum height of buildings from 13m to:
  - 31m for 283 Alfred Street (Building A);
  - 80m for 275 Alfred Street (Building B);
  - 28m for 271-273 Alfred Street (Building C); and
  - 29m for 263-269 Alfred Street/4 Little Alfred Street (Building D).
- Increase FSR provision for 275 Alfred Street (Building B) from 3.5:1 to a base of 7.3:1 which is the existing FSR of the Bayer Building.
- Insert a design excellence provision which allows for an additional 2:1 FSR (with a total maximum FSR control of 9.3:1), subject to a design competition being undertaken for the site and is triggered if the height of the building exceeds 62m.
- Introduce two new provisions:
  - Clause 4.4(2A) Floor Space Ratio
    - which allows for a maximum FSR of 9.3:1 for 275 Alfred Street, subject to achieving design excellence; and
  - Clause 6.15 – Design Excellence
    - which outlines considerations for design excellence and provides a height trigger for a design competition.
- No change to the FSR controls for 283, 271-273, 263-269 Alfred Street and 4 little Alfred Street.

The proposed amendments seek to enable approximately 14,499m<sup>2</sup> of residential gross floor area (GFA) (156 residential units) and 10,127m<sup>2</sup> of commercial (retail and office) GFA, which totals to a GFA of 24,626m<sup>2</sup>.

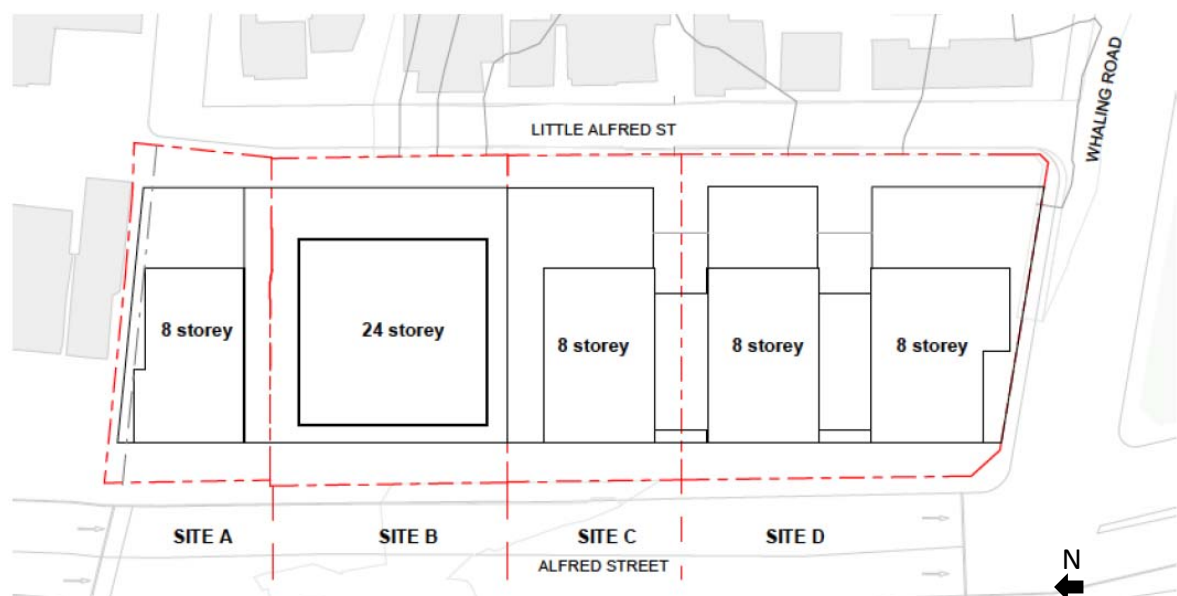


Figure 9: Proposed heights (Mecone)



Figure 10: Concept design – Alfred Street view from west (Grimshaw)



Figure 11: Concept design - Little Alfred Street view from east (Grimshaw)

## **2. INFORMATION ASSESSMENT**

*Does the proposal seek to amend a zone or planning control that is less than five years old?*

No. The proposal seeks to amend the North Sydney LEP 2013, which commenced on 2 August 2013.

## 2.1 Strategic merit test

*Consistency with the relevant regional plan outside the Greater Sydney region, district plan within the Greater Sydney region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.*

*Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning and Public Spaces or the Department of Planning, Industry and Environment have announced that such a plan will be updated before being able to be relied on.*

### North District Plan

The rezoning review application states that the proposed amendment is consistent with the following planning priorities of the North District Plan.

Planning Priority	Proponent Comment
N1 Planning for a city supported by infrastructure	It aligns with city-shaping infrastructure investment of the Sydney Metro City and South West line which will support increased demand for transport services resulting from renewal of the site.
N5 Providing housing supply, choice and affordability with access to jobs, services and public transport	The North District Plan identifies a housing supply target of 3,000 additional dwellings by 2021 in the North Sydney LGA. The site is within walking distance to jobs, health and education, retail and other services as well as a number of public transport services. The rezoning of the site to B4 Mixed Use will allow for residential accommodation to be provided in the site.
N7 Growing a stronger and more competitive Harbour CBD	The site is outside of the North Sydney CBD as defined by the North District Plan. The concept design will provide approximately 10,127m <sup>2</sup> of commercial floor space within the site, equivalent to 510 direct jobs.
N10 Growing investment, business opportunities and jobs in strategic centres	The site is located outside of the North Sydney CBD and is not within a strategic centre therefore it is not suitable for employment growth given it is isolated and dislocated from the CBD.
N12 Delivering integrated land use and transport planning and a 30-minute city	The proposal will capitalise on the investment and planned investments of the Sydney Metro City and South West, the Western Harbour Tunnel and Beaches Link.
N19 Increasing urban tree canopy and delivering Green Grid connections	The proposed concept will provide additional mature landscaping along Little Alfred Street and Alfred Street to increase the urban tree canopy and allow for further Green Grid connections.

Table 2: North District Plan Consistency

*Consistency with a relevant local strategy that has been endorsed by the Department.*

There is no local strategy endorsed by the Department that applies to the site. However, the planning proposal discusses the following strategies:

### Draft Alfred Street Precinct Planning Study

On 20 February 2017, Council resolved to prepare a planning study for the precinct in response to planning proposal lodged for the Bayer Building in 2015. The purpose of the study was to guide the preparation of any future planning proposals for the site. Council staff prepared the draft Alfred Street Planning Study, which was adopted by Council for public exhibition at its meeting on 26 March 2018.

The draft planning study was exhibited from Thursday 26 April 2018 until Friday 8 June 2018. The draft planning study recommended a preferred option which envisaged the amalgamation of sites to create two development blocks Site A and Site B (Figure 12):

- Site A comprised of 275-283 Alfred Street; and
- Site B comprised of 263-273 Alfred Street and 4 Little Alfred Street.

A comparison between the draft Planning Study's preferred option and the planning proposal is outlined in table 3 and 4.

Alfred Street Precinct Planning Study Preferred Option							
Site Address	Land Zone	Maximum FSR	Non-residential FSR	Total FSR	Maximum building height	Building	
283 Alfred Street	B4 Mixed Use	6.5:1–7.4:1	Non-residential FSR of 0.8:1 – 0.9:1 distributed across the precinct.	Total FSR of 3.93:1–4.49:1 across the precinct.	3 storey commercial podium with 21 storey tower above. The study does not indicate height in metres.	A	
275 Alfred Street:							
271 Alfred Street	B4 Mixed Use	2.1:1–2.4:1			Single storey commercial podium with 8 storeys above at the corner of Whaling Road	3 storeys of residential on the eastern half along Little Alfred Street	B
273 Alfred Street							
263-269 Alfred Street and 4 Little Alfred Street							

Table 3: Alfred Street Precinct Planning Study preferred option

Planning Proposal						
Site Address	Land Zone	Existing building FSR	LEP Maximum FSR	LEP Non-residential FSR	Maximum building height	Building
283 Alfred Street	B4 Mixed Use	Non-Residential 2.5:1	No change Existing LEP control 3.5:1	No change	31m (8 storey)	A
275 Alfred Street:	B4 Mixed Use	Non-Residential 7.2:1	7.3:1 Bonus 2.1:1 subject to design excellence	No change	80m (24 storey)	B
271 Alfred Street	B4 Mixed Use	Non-Residential 2.2:1	No change Existing LEP control 3.5:1	No change	28m (8 storey)	C
273 Alfred Street						
263-269 Alfred Street and 4 Little Alfred Street	B4 Mixed Use	Non Residential 0.9:1 Residential 1.3:1	No change Existing LEP control 3.5:1	No change	29m (8 storey)	D

Table 4: Planning proposal controls

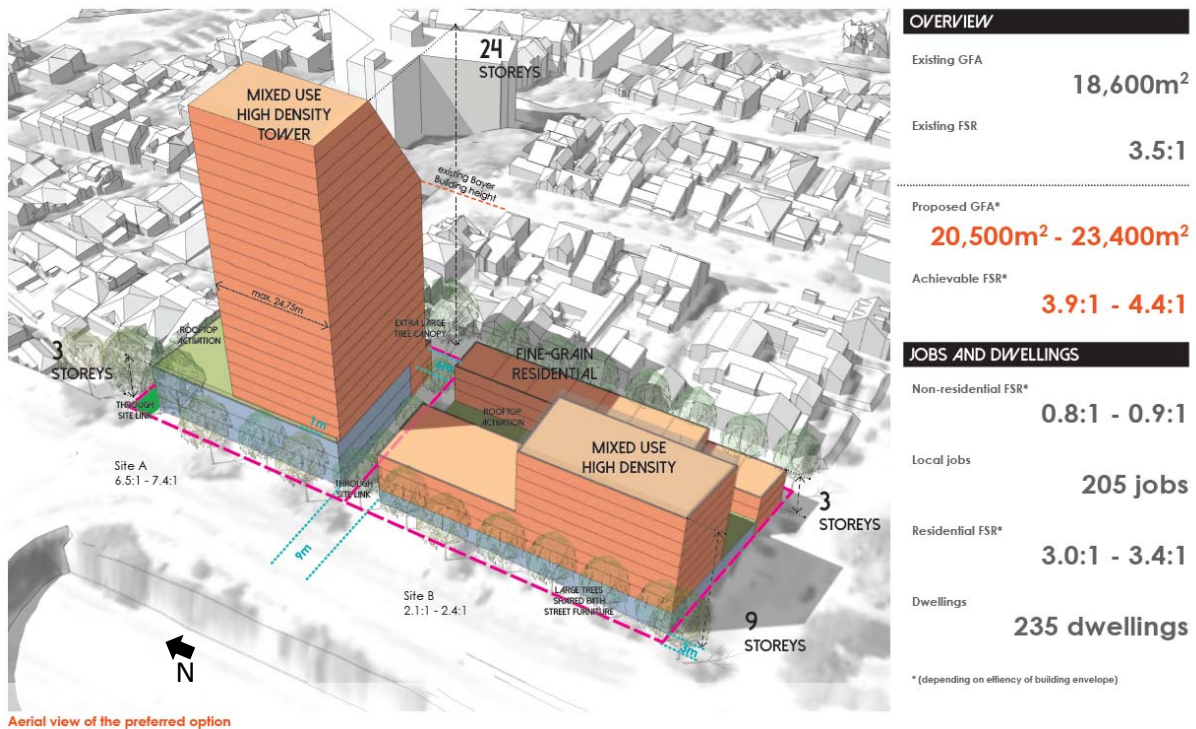


Figure 12: Alfred Street Precinct Planning Study preferred built form (North Sydney Council)

### North Sydney Centre Review – Capacity and Land Use Study and Planning Proposal

Council adopted the Capacity and Land Use Strategy at its meeting on 1 May 2017. The focus of the Capacity and Land Use Strategy was to unlock additional commercial floor space capacity within the North Sydney Centre. The site is outside of the North Sydney Centre and is not identified for change within the Strategy, however the proposal states it is consistent with the following objectives of the Strategy:

- identify residential development opportunities in mixed use periphery; and
- identify and facilitate specific land uses to contribute to the Centre's diversity, amenity and commercial sustainability.

The amendment to North Sydney LEP 2013 which gave effect to the recommended actions of the Strategy was made on 24 October 2018. These included policy amendments and increases to building height for selected sites in North Sydney Centre and B3 Commercial Core zoned land. No change was proposed for the Alfred Street Precinct, except removal of serviced apartments as permissible form of development under the North Sydney LEP 2013.





Figure 13: North Sydney Centre (Mecone)

*Responding to a change in circumstances, such as investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

The rezoning review documentation states the site is located between North Sydney CBD and the low scale Whaling Road Heritage Conservation Area (HCA) and the existing commercial floor space is in need of upgrading given it is coming to the end of its economic useful life. The rezoning review documentation states the proposed uplift in density will encourage the future redevelopment of the site, while the provision of residential accommodation will provide a more efficient floor plate.

## 2.2 Site-specific merit test

*The natural environment (including known significant environmental values, resources or hazards).*

### Heritage

The site adjoins the Whaling Road HCA which comprises of low scale residential development, 1-2 storeys in height and a number of local heritage items. The planning proposal is not accompanied by a heritage impact study.

The rezoning review states the proposed development will create a transition between the Heritage Conservation Area to the CBD in terms of heights, scale, use and connectivity.

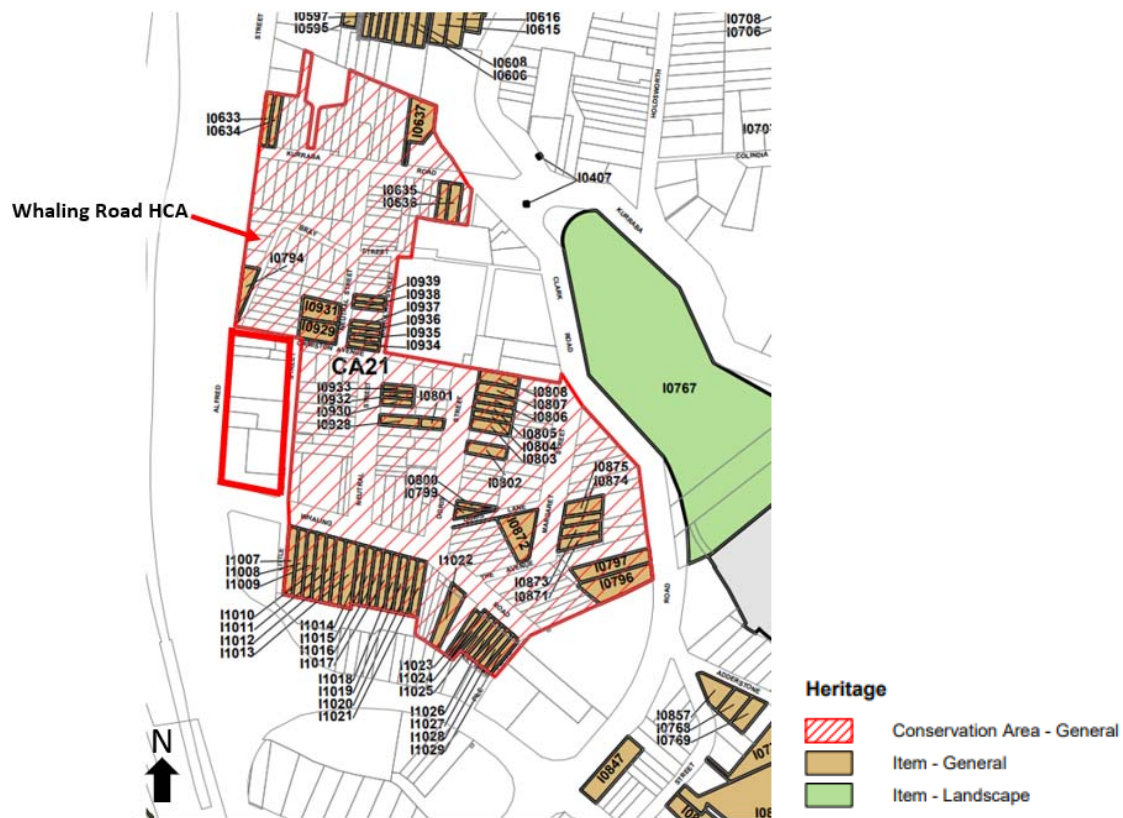


Figure 14: Heritage map NSLEP 2013

### Overshadowing

A shadow analysis was undertaken as part of the Urban Design Report prepared by Grimshaw (**Attachment F4**). The shadow analysis modelled at mid-winter, 21<sup>st</sup> June between 9:00am and 3:00pm. The shadow analysis concludes:

- all residential properties to the east maintain existing solar access conditions on the 21<sup>st</sup> June prior to 12:00pm;
- the public open space to the south of the site bound by Little Alfred Street and Alfred Street will have additional over shadowing between 11:00-2:00 PM;
- dwellings located in the adjacent residential block between Little Alfred Street and Neutral Street would receive similar conditions in the afternoon prior to 2:00pm to currently experienced; and
- dwellings along Little Alfred Street may have minor afternoon solar impact pending actual living space locations although also receive 3 hours of morning solar access to their north and east facades as per existing conditions.

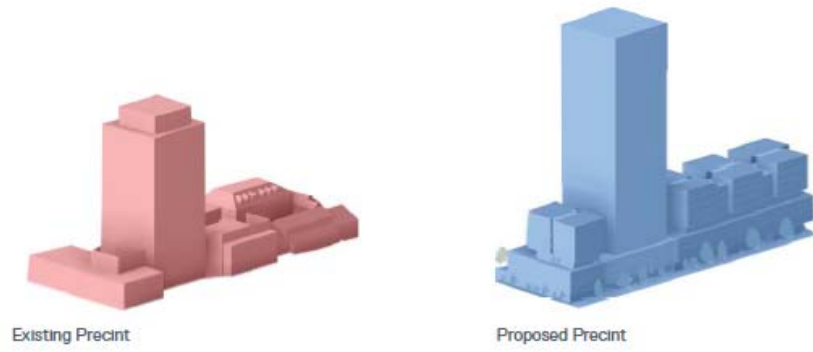


Figure 15: Existing development and proposed development (Grimshaw)

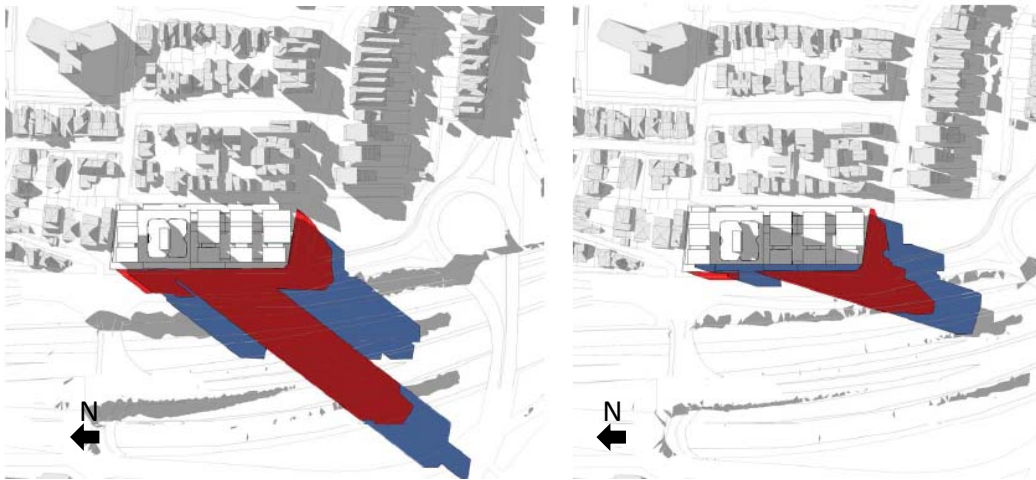


Figure 16: 21st June - 9:00am (left) 10:30am (right) proposed shadows (Grimshaw)

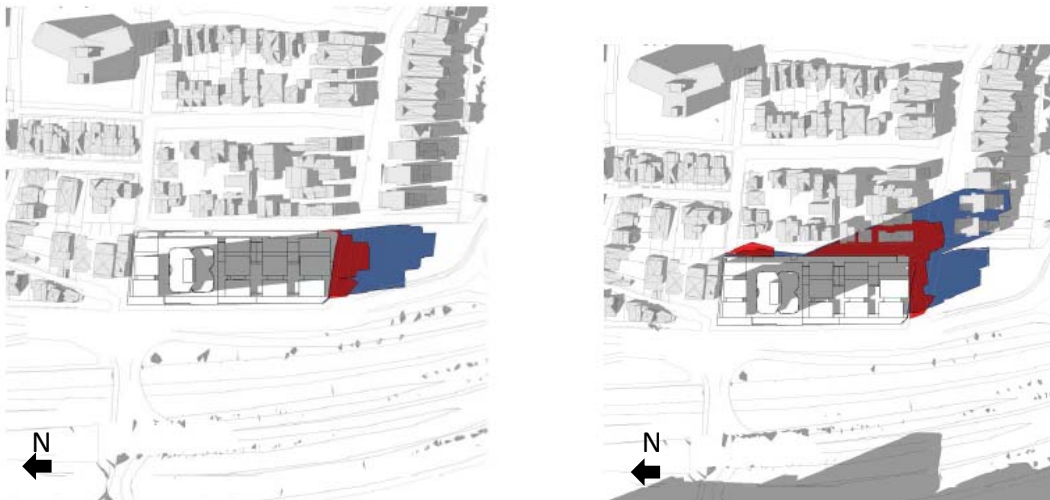


Figure 17: 21st June - 12:00pm (left) 1:00pm (right) proposed shadows (Grimshaw)



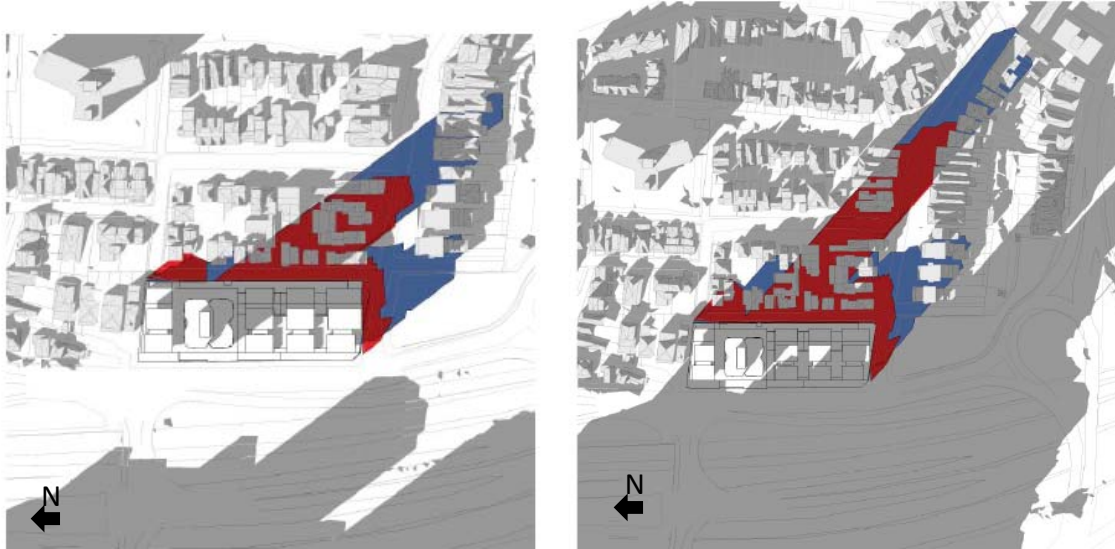


Figure 18: 21st June - 2:00 pm (left) 3:00pm (right) proposed shadows (Grimshaw)

*The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.*

The rezoning review documentation states that the site is currently zoned B3 Commercial Core and the site is primarily used for commercial purposes, except for 263-269 Alfred Street and 4 Little Alfred Street which includes residential accommodation permitted under additional permitted uses in Schedule 1 of North Sydney LEP 2013.

The rezoning review documentation states that a mixed use site will incorporate residential accommodation and ensure a more appropriate transition between North Sydney Centre and the residential Whaling Road HCA.

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

The rezoning review documentation states that the site has a number of public transport services in proximity and will be able to meet the demands of the mixed-use site being:

- 400m to North Sydney Station;
- 500m to Victoria Cross Metro Station; and
- 500m to Bus Services along Pacific Highway.

#### Traffic and Transport

The planning proposal is accompanied with a Transport Impact Assessment prepared by TTPP consultants (**Attachment F5**). The traffic study concludes the following:

- the proposed development will result in a net reduction in traffic when compared to the existing traffic generation of the site. This is a result of the proposed development significantly reducing the commercial floor area onsite that typically generates a higher rate of traffic than high density residential (Table 5); and
- the traffic modelling results indicate 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.

Traffic Generation	Vehicle trips per hour	
	AM Peak	PM Peak
Existing traffic generation	233	175
Future traffic generation as a result of proposed development	192	145
Net Change	-41	-30

Table 5: Net Traffic Generation

### **3. COUNCIL VIEWS**

The Department wrote to Council on 1 July 2019 advising of the rezoning review request. Council responded on 11 July 2019 and 1 August 2019 (**Attachment D1-D2**).

Council's independent planning consultant, Ingham Planning raised the following issues:

- *The concept fails to demonstrate how the site could be acceptably developed to the requested heights, insofar that it does not adequately respond to the site's attributes and context and is likely to result in a significant level of public and private amenity impacts;*
- *The proposed heights appear to be contrary to satisfying several of the objectives to the Height of Buildings controls under North Sydney LEP 2013;*
- *The proposed densities appear to be contrary to satisfying several of the objectives to the floor space ratio controls under North Sydney LEP 2013;*
- *The proposal has the potential to be inconsistent with a number of objectives and actions under the relevant Regional and District Strategies applying to the land;*
- *The proposal is likely to have an adverse impact on the adjoining Whaling Road heritage conservation area;*
- *The proposal heights are likely to results in excessive overshadowing of adjoining residential properties and neighbouring Alfred Street North Park;*
- *The proposal is likely to have an adverse visual impact and detract from the existing and desired future character of the area;*
- *The proposal does not encourage the amalgamation of lots, which would:*
  - *allow adequate flexibility in the manner in which built form is distributed on the site to minimise impacts;*
  - *minimise vehicular access points and parking related structure on little Alfred street and;*
  - *allow an appropriate and efficient basement parking arrangement;*
- *The proposal provides minimal public benefit, in that the publicly accessible areas within the site are mainly thoroughfares that provide access to commercial uses and have limited potential for use as open space and limited amenity; and*
- *There is no justification for the proposed FSR bonus provision of 2:1 if a proposal is made subject to a design excellence competition and likely to result in a building of excessive height and/or bulk.*

Council staff reported the planning proposal to its Local Planning Panel on 14 August 2019. The Panel recommended deferral of the planning proposal to allow the proponent the opportunity to address outstanding matters and undertake further assessment. A copy of its report and recommendation is provided in **Attachment D2**.

**ATTACHMENTS**

Attachment A – Locality Map

Attachment B – Site Map

Attachment C – Current LEP Maps

Attachment D1 – Council Comments

Attachment D2 – NSLPP Report and Minutes 14 August 2019

Attachment E – Sydney North Planning Panel Pre-Gateway Review Recommendation

Attachment F – Rezoning Review Package

- F1 – Application form
- F2 – Cover letter – rezoning review request
- F3 – Planning proposal
- F4 – Urban Design Report
- F5 – Traffic Impact Assessment
- F6 – Economic Impact Report
- F7 – Economic Feasibility Analysis
- F8 – Site Specific Development Control Plan
- F9 – Council report January 2019
- F10 – Letter of offer to purchase adjoining site

Assessment officer: Mary Su  
Title, Region: Senior Planner, North District  
Contact: 9373 2807



<b>DATE OF DECISION</b>	5 November 2019
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), John Roseth, Sue Francis, Michel Reymond, Stephen Barbour
<b>APOLOGIES</b>	Veronique Marchandeanu
<b>DECLARATIONS OF INTEREST</b>	Peter Debnam declared that he has known several of the representatives of the proponent for some time but has not been in contact with them in the last ten years. This is not considered a conflict of interest.

**REZONING REVIEW**

2019SNH034 – North Sydney - RR\_2019\_NORTH\_003\_00 at 283, 275, 271, 273, 263-269 Alfred Street and 4 Little Alfred Street North Sydney (AS DESCRIBED IN SCHEDULE 1)

**Reason for Review:**

- The council has notified the proponent that the request to prepare a planning proposal has not been supported
- The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

**PANEL CONSIDERATION AND DECISION**

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:




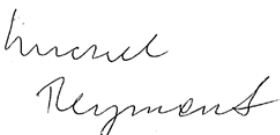

- should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- should not** be submitted for a Gateway determination because the proposal has
  - not demonstrated strategic merit
  - has demonstrated strategic merit but not site specific merit

The decision was unanimous.

**REASONS FOR THE DECISION**

- 1) The Panel considers that the proposal has strategic merit. The site is well-located to public transport and services; therefore additional development potential is appropriate. In addition, the Panel sees strategic merit in the change of the site's visual impact. The existing Bayer Building is highly visible to anyone driving south on the Harbour Bridge and it presents an unattractive view. While the proposal would still present a prominent building towards the Bridge, it is likely to be slimmer and of more attractive design.
- 2) The Panel considers that the proposal also has site-specific merit. It provides the potential for redeveloping a block on which the existing development is ripe for replacement without major adverse impact on its surroundings.
- 3) In recommending that the proposal proceed to Gateway, the Panel suggests that any Gateway contain the following conditions which should be addressed prior to the exhibition of the proposal:

- a) The proposal should be accompanied by a site specific DCP with special attention to be given to the amalgamation pattern, built form, width of footpaths and public domain, and the provision of publicly accessible spaces on the site.
  - b) The proposal should establish a methodology for the protection and embellishment of nearby public parks, which may be achieved as a public benefit offer
  - c) The proposal should provide a more detailed review of the shadow impact of the proposal on surrounding public open space and residential properties so as to minimise overshadowing.
  - d) There needs to be clarification of the provision of affordable housing in the project which may be achieved as a public benefit.
- 4) While Michel Raymond agreed with the decision to recommend that the proposal should proceed to Gateway, he considers that the height on the Bayer building site should be restricted to a maximum of 70m.

PANEL MEMBERS	
 Peter Debnam (Chair)	 John Roseth
 Sue Francis	 Michel Raymond
 Stephen Barbour	

SCHEDULE 1		
1	<b>PANEL REF – LGA – DEPARTMENT REF - ADDRESS</b>	2019SNH034 – North Sydney - RR_2019_NORTH_003_00 at 283, 275, 271, 273, 263-269 Alfred Street and 4 Little Alfred Street North Sydney
2	<b>LEP TO BE AMENDED</b>	North Sydney Local Environmental Plan 2013
3	<b>PROPOSED INSTRUMENT</b>	The rezoning review request seeks to amend the North Sydney Local Environmental Plan 2013 to rezone the site from B3 Commercial Core to B4 Mixed Use and increase the maximum building height and floor space ratio.
4	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Rezoning review request documentation</li> <li>• Briefing report from Department of Planning, Industry and Environment</li> </ul>
5	<b>BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY</b>	<ul style="list-style-type: none"> <li>• <b>Briefing with Department of Planning, Industry and Environment (DPIE):</b> 31 October 2019 at 1.30pm <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, John Roseth, Michel Reymond, Stephen Barbour</li> <li>○ DPIE staff in attendance: Nick Armstrong, Stewart Doran</li> </ul> </li> <li>• <b>Briefing with Council and Proponent:</b> 31 October 2019 at 2pm <ul style="list-style-type: none"> <li>○ Panel members in attendance: Peter Debnam (Chair), Sue Francis, John Roseth, Michel Reymond, Stephen Barbour</li> <li>○ DPIE staff in attendance: Nick Armstrong, Stewart Doran</li> <li>○ Council representatives in attendance: Marcelo Occhiuzzi, Ben Boyd, Liam Roger, Brett Brown (consultant planner for Council)</li> <li>○ Proponent representatives in attendance: Kate Bartlett, Anthony Boskovitz, Stephen Davies, Andrew Cortese</li> </ul> </li> </ul>



## Gateway Determination

**Planning proposal (Department Ref: PP\_2020\_NORTH\_005\_00): to amend North Sydney Local Environmental Plan 2013 to facilitate the creation of a mixed use precinct in Alfred Street, North Sydney**

I, the Executive Director, Eastern Harbour City at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the North Sydney Local Environmental Plan (LEP) 2013 to facilitate a mixed use development at the site known as the Alfred Street Precinct should proceed subject to the following conditions:

1. Prior to the commencement of public exhibition, a Heritage Impact Assessment (HIA) is to be prepared for the site that demonstrates the proposed development will not have unacceptable impacts on the adjacent Whaling Road Heritage Conservation Area. The HIA is to have consideration of the proposed building setbacks, landscaped buffers and overshadowing impacts.
2. The planning proposal is required to be updated to create a consolidated document combining the information contained in the original planning proposal, rezoning review and additional information provided following the rezoning review. This is to ensure that the information displayed for public exhibition is consistent and easily legible for the community.
3. The planning proposal is to be updated to outline its consistency with both the North Sydney Local Strategic Planning Statement and North Sydney Local Housing Strategy. This to be submitted to and approved by the Department prior to the commencement of public exhibition.
4. The draft letter of offer to enter into a voluntary planning agreement is to be updated to demonstrate intent to negotiate with Council and not the PPA.
5. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

6. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
- Roads and Maritime Services branch of Transport for NSW;
  - Transport for NSW;
  - North Sydney Council;
  - Sydney Water;
  - Ausgrid;
  - NSW Health; and
  - NSW Department of Education.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

7. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
9. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 7<sup>th</sup> day of September 2020



**Malcolm McDonald**  
**Executive Director, Eastern Harbour City**  
**Greater Sydney, Place and Infrastructure**  
**Department of Planning, Industry and**  
**Environment**

**Delegate of the Minister for Planning and**  
**Public Spaces**

PP\_2020\_NORTH\_005\_00 (IRF20/3677)





## Eastern Harbour City

IRF20/3677

### Gateway determination report

<b>LGA</b>	North Sydney Council
<b>PPA</b>	Sydney North Planning Panel
<b>NAME</b>	Alfred Street Precinct (156 homes, 10,127m <sup>2</sup> commercial floor space)
<b>NUMBER</b>	PP_2020_NORTH_005_00
<b>LEP TO BE AMENDED</b>	North Sydney Local Environmental Plan 2013
<b>ADDRESS</b>	<ul style="list-style-type: none"> <li>• 283 Alfred Street, North Sydney;</li> <li>• 275 Alfred Street, North Sydney;</li> <li>• 271- 273 Alfred Street, North Sydney; and</li> <li>• 263-269 Alfred Street/4 Little Alfred Street, North Sydney</li> </ul>
<b>DESCRIPTION</b>	<ul style="list-style-type: none"> <li>• Lot 14, DP 67882; Lot 15, DP 67882; Lot 16, DP 67882; Lot 3, DP 554750; Lot 1, DP 554749;</li> <li>• Lot 1, DP 54856;</li> <li>• SP 6830; and</li> <li>• SP 71563 and SP 71454</li> </ul>
<b>RECEIVED</b>	16 June 2020
<b>FILE NO.</b>	IRF20/3677
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to amend the planning controls under the North Sydney Local Environmental Plan (LEP) 2013 for the subject site known as the Alfred Street Precinct by:

- rezoning the site from B3 Commercial Core to B4 Mixed Use;
- increasing the maximum building height from 13m to a range of heights being, 28m, 29m, 31m and 80m;
- increasing the floor space ratio (FSR) control for part of the site from 3.5:1 to 7.3:1; and
- introducing a design excellence provision to allow for an additional FSR of 2:1 for the portion of the site that seeks the base FSR increase.

The planning proposal if approved would facilitate a mixed-use development comprising 156 residential dwellings and 10,127m<sup>2</sup> of commercial floor space at the site.

## 1.2 Planning Background

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

A previous planning proposal was lodged to North Sydney Council in September 2015 for the Bayer Building at 275 Alfred Street which sought to rezone the site from B3 Commercial Core to B4 Mixed Use, increase the maximum building height from 13m to 85m and increase the maximum floor space ratio from 3.5:1 to 10.2:1.

On 15 February 2016, Council resolved to not support the planning proposal. Following this decision, Mecone on behalf of Benmill Pty Ltd requested a pre-Gateway review. The pre-Gateway review was referred to the former Joint Regional Planning Panel (JRPP).

On 13 September 2016, the former JRPP considered the proposal and determined that the proposal should not be submitted for a Gateway determination. In its decision the former JRPP provided the following advice (**Attachment F**):

- *The Panel considers that this site and the street block zoned B3 in which it is located is isolated from the main commercial centre of North Sydney and closely related to the adjoining residential area. Therefore, a change in zoning that would allow residential use in the street block, would be appropriate;*
- *The main reason why the Panel does not recommend that this planning proposal proceed to Gateway Determination is that it deals with one site only rather than the area zoned B3 in which it is located. This piecemeal approach is contrary to the strategic intent of zoning decisions. In addition, the planning proposal leads to this site having three times the development potential of the other sites within the B3 zone. It fails to achieve the desirable separation distances between residential buildings and adversely affects the development potential of the adjoining sites; and*
- *The Panel considers that, in any future planning proposal for the block zoned B3, it would be appropriate to grant this site the density it now enjoys by virtue of the existing building on it, with some additional height so that a mixed use building with appropriate amenity may be developed on it. As concerns the other sites within the B3 zone, the existing density of 3.5:1 may be combined with some additional height, so that it becomes possible to develop them to their development potential for mixed use buildings with appropriate amenity.*

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

On 22 March 2019, Mecone submitted a revised planning proposal to Council. The revised proposal seeks to address the concerns raised by the former JRPP by incorporating the remaining sites in the precinct that were not subject to the original proposal.

On 27 June 2019, Mecone lodged a rezoning review request with the Department, as Council had failed to indicate its support for the proposal within 90 days (**Attachment A1**).

On 5 November 2019, the Sydney North Planning Panel considered the rezoning review request and determined that the proposal should be submitted for a Gateway determination (**Attachment G**).

In its determination the Panel recommended Gateway conditions that should be addressed prior to the commencement of public exhibition of the proposal:

- The proposal should be accompanied by a site specific DCP with special attention given to the amalgamation pattern, built form, width of footpath and 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 may be achieved as a public benefit offer.
- The proposal should provide a more detailed review of the shadow impact of the proposal on surrounding public open space and residential properties so as to minimise overshadowing.
- There needs to be clarification of the provision of affordable housing in the project which may be achieved as a public benefit.

While one panel member agreed with the decision to recommend that the proposal should proceed to Gateway, he considers that the height of the Bayer building site should be restricted to a maximum of 70m.

On 16 June 2020, following the Panel's determination, the planning proposal was lodged with the Department for a Gateway determination.

### 1.3 Site description

The site (**Figure 1**) is rectangular in shape and encompasses a total site area of approximately 5,217m<sup>2</sup>. The site 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 site comprises the following four distinct properties. A description of each of these properties and their existing developments is provided below.



**Figure 1:** Site identification map (Source: Nearmap)

#### 263-269 Alfred Street/4 Little Alfred Street, North Sydney

The property (**Figure 2**) comprises a split 3-5 storey strata building comprising a range of townhouses and residential units. The site also encompasses units that are utilised for commercial purposes.



**Figure 2:** View of 263-269 Alfred Street from west (Source: Mecone)

#### 275 Alfred Street, North Sydney

This property comprises the 'Bayer Building' (**Figure 3**) which was constructed in 1971. The development is an 18-level commercial building that comprises a ground floor retail level and 17 levels of office space providing a net lettable area of approximately 7,920m<sup>2</sup>. The existing development at the site is approximately 61m in height including the Bayer signage panel above the building.

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

The site comprises a 3-4 storey commercial building (**Figure 3**) with a total of approximately 1,490m<sup>2</sup> of lettable commercial floor space. The site has dual frontages, bounded by Alfred Street to the west and Little Alfred Street to the east.

#### 283 Alfred Street, North Sydney

The site is located at the northern boundary of the precinct with dual frontages to Alfred Street to the west and the corner of Little Alfred Street to the east. The existing development at the site comprises a 3-4 storey commercial building (**Figure 3**) with approximately 1,740m<sup>2</sup> of lettable commercial floorspace.





**Figure 3:** View from the north west 283 Walker Street (left), 275 Walker Street (centre) and 271-273 Walker Street (right) (Source: Mecone)

#### 1.4 Existing planning controls

All properties within the Alfred Street Precinct are subject to the same planning controls under the North Sydney LEP 2013. Of note are the following controls:

- The precinct is zoned B3 Commercial Core (**Figure 4**)
- The maximum height of buildings is 13m (**Figure 5**); and
- The maximum FSR control is 3.5:1 (**Figure 6**).

It should also be noted that under North Sydney LEP 2013 clause 25 of Schedule 1 Additional Permitted Uses, residential accommodation is already permissible with consent at part of the site, being 263 Alfred Street (Building D).

The site does not contain any heritage items, nor is it located within a heritage conservation area (HCA). However, the site adjoins the Whaling Road HCA to its north, east and south east. The Whaling Road HCA is characterised by low scale residential development and includes a range of heritage items as depicted in **Figure 7**.

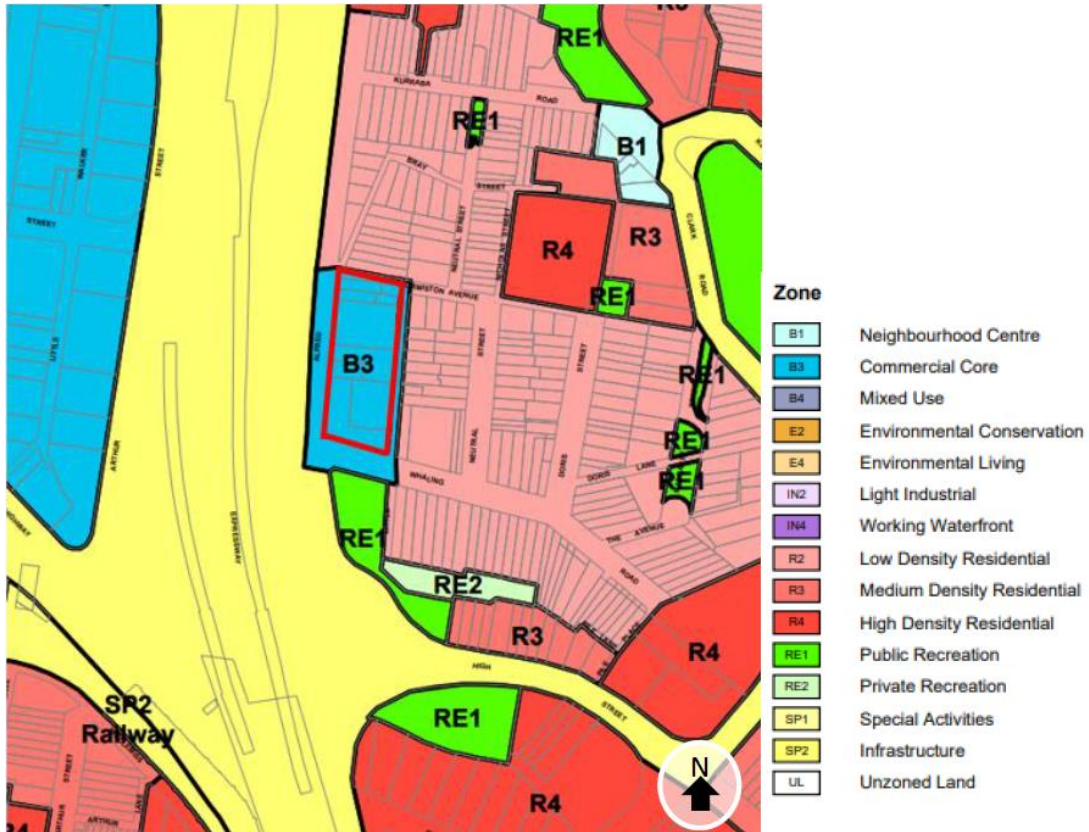


Figure 4: North Sydney Land Zoning Map (North Sydney LEP 2013)

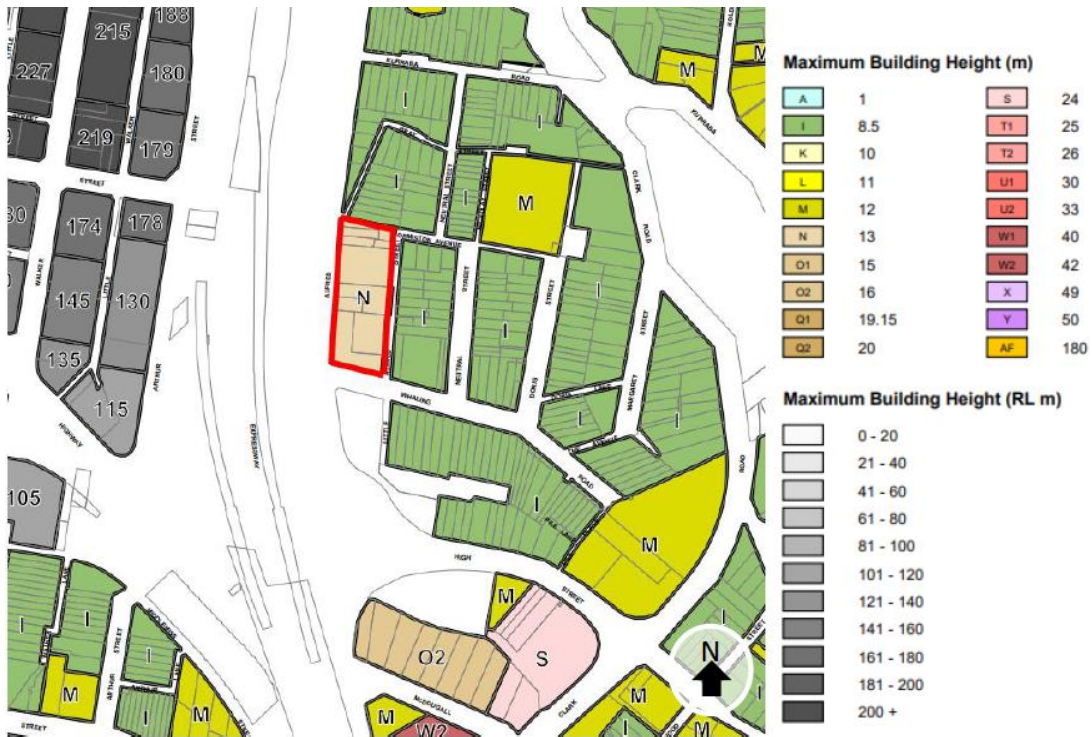


Figure 5: North Sydney Height of Buildings Map (North Sydney LEP 2013)



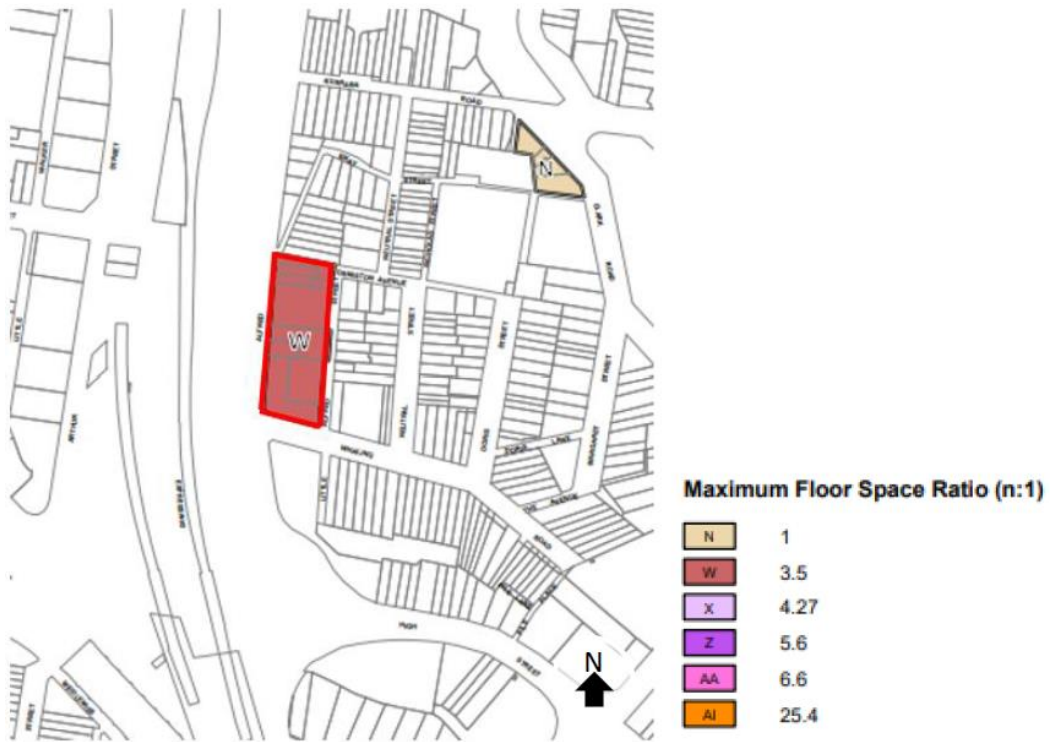


Figure 6: North Sydney FSR Map (North Sydney LEP 2013)

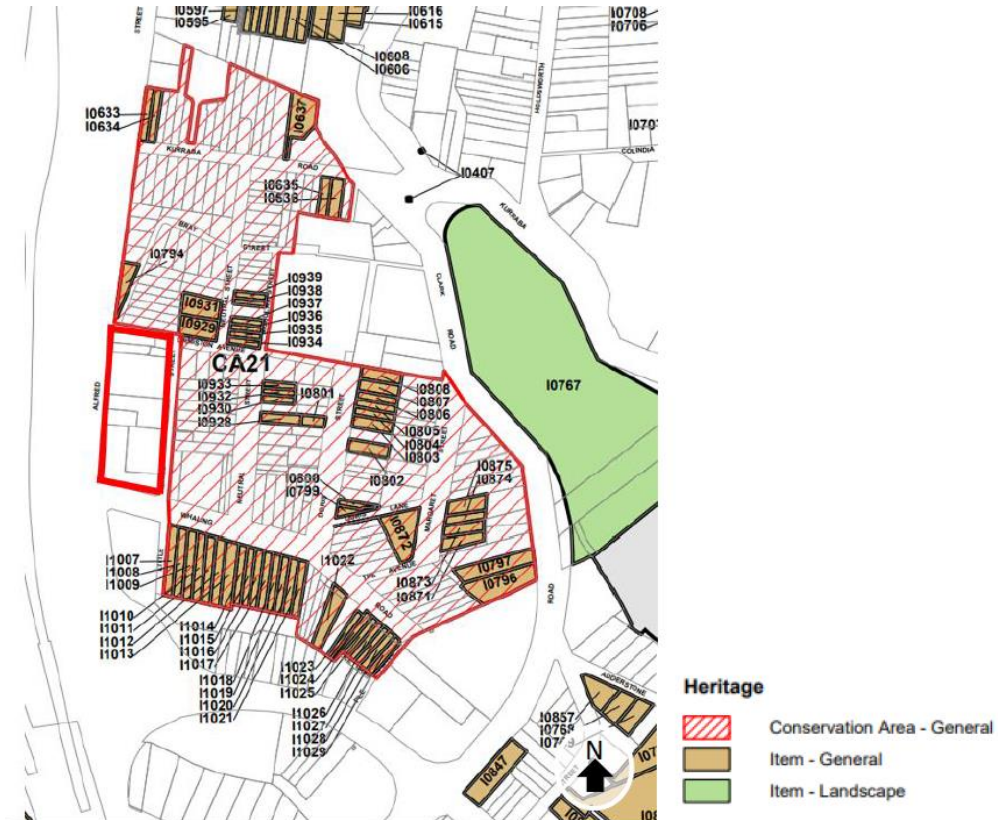


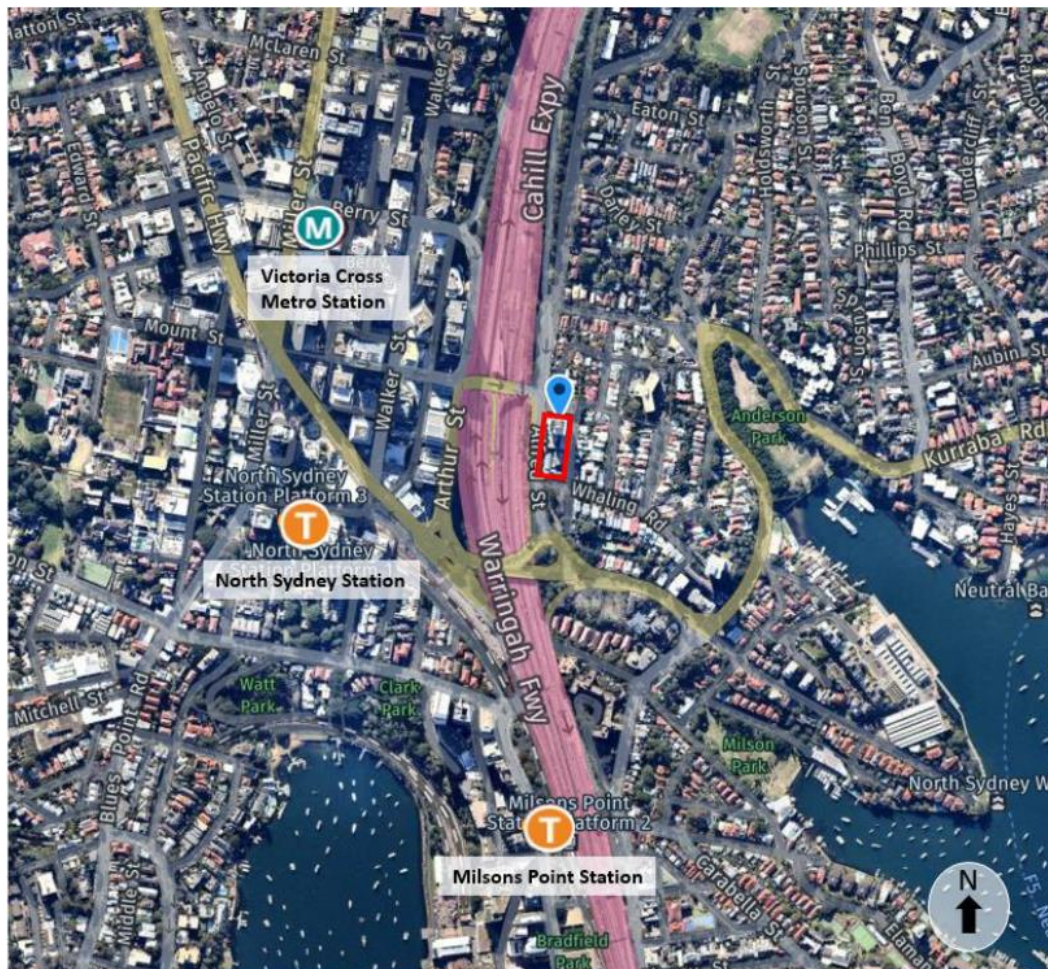
Figure 7: North Sydney Heritage Map (North Sydney LEP 2013)

### 1.5 Surrounding area

The site is situated between the North Sydney CBD and low-density residential buildings to the north and east which comprise the Whaling Road Conservation Area. The Victoria Cross Metro Station, which is due to open in 2024, is approximately 500m to the north west of the site and the existing North Sydney Station is approximately 400m to the west.

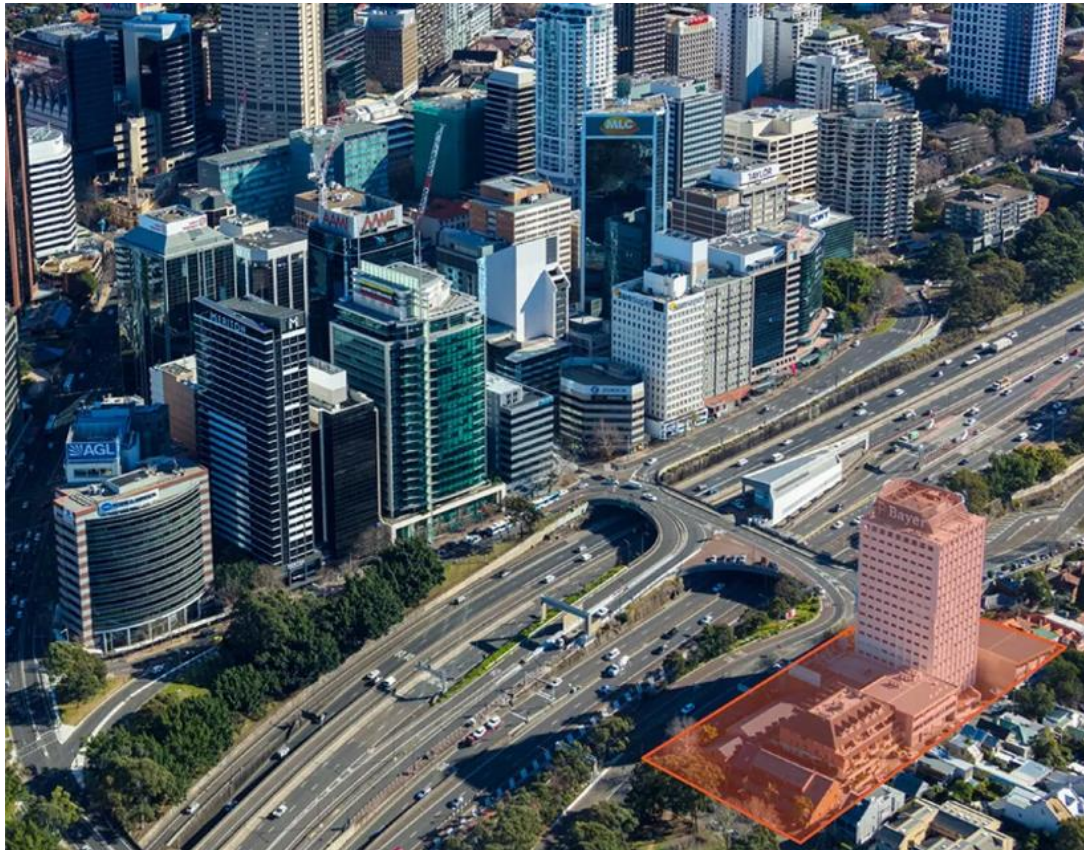
To the north and east of the site is the Whaling Road Heritage Conservation Area which is characterised by low scale residential dwellings, being primarily terrace houses and detached dwellings of 1-3 storeys in height. West of the site is the Warringah Expressway and beyond the Warringah Expressway is the North Sydney CBD comprising of predominantly commercial offices with some retail and residential uses. South of the site opposite Whaling Road is a public reserve owned by the Roads and Maritime Services branch of Transport for NSW, which acts as a buffer between the Warringah Freeway, Alfred Street and the low scale residential areas.

A site locality map is provided at **Figure 8** and an aerial photograph depicting the site's context in relation to the North Sydney CBD is provided at **Figure 9**.



**Figure 8:** Site Locality Map (source: Nearmap)





**Figure 9:** Aerial Photo view from south east (Source: Grimshaw)

### **1.6 Summary of recommendation**

The proposal is considered to demonstrate site specific and strategic merit and is recommended to proceed to Gateway as it:

- Seeks to facilitate the development of 156 new residential units, contributing to North Sydney's housing target under the North District Plan.
- Balances the need to support the growth of the North CBD whilst also providing an appropriate transition towards adjoining low scale residential areas.
- Seeks to revitalise the existing primarily commercial development at the site by creating an activated precinct that retains a suitable level of commercial offering.
- The provision of additional residential accommodation will place downward pressure on housing affordability.
- Includes the provision of affordable rental housing.
- Seeks to leverage off and support the NSW Government's investment in the Sydney Metro Project.
- Is located in a strategic location with excellent access to infrastructure and services associated with the North Sydney CBD and surrounds.

- Is anticipated to generate a range of economic benefits, through its provision of activated commercial floorspace and stimulation of the construction industry.
- Will provide public benefits including public domain improvements, a pedestrian arcade and through site links.

The proposal will be required to proceed with conditions as:

- The proposal does not address its consistency with the North Sydney LSPS or LHS.
- The proposal does not adequately demonstrate that the proposed development will not have unacceptable impacts on the adjacent Whaling Road Heritage Conservation Area.
- The planning proposal documentation is considered to be unclear due to it containing conflicting information.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The proposal outlines that its intended outcome is to facilitate the renewal of the Alfred Street Precinct in a manner which is consistent with the JRPP's recommendation and Council's draft Alfred Street Precinct Planning Study.

The proposed amendments are intended to allow for a mixed-use development at the site comprising residential and commercial uses which seek to create an appropriate transition between the North Sydney CBD and adjacent lower density residential zones.

The objectives and intended outcomes contained within the planning proposal are considered to be clear and are not required to be updated prior to public exhibition.

### **2.2 Explanation of provisions**

The proposal seeks to achieve its intended outcomes through the following amendments to the North Sydney LEP 2013:

- Rezone all properties within the Alfred Street Precinct from B3 Commercial Core to B4 Mixed Use;
- Increase the maximum height of building controls from 13m to:
  - 31m at 283 Alfred Street;
  - 80m at 275 Alfred Street;
  - 28m at 271-273 Alfred Street; and
  - 29m at 263-269 Alfred Street/4 Little Alfred Street;
- Increase the FSR control at 275 Alfred Street from 3.5:1 to a base FSR of 7.3:1, which is the FSR of the existing development at the site; and
- Insert a design excellence provision pertaining to 275 Alfred Street, allowing for an additional FSR provision of 2:1 subject to successfully undertaking a design competition. This provision is to be triggered if the height of the building exceeds 62m.

It should be noted that the proposal retains the existing FSR control of 3.5:1 for 271-273 Alfred Street, 283 Alfred Street and 263-269 Alfred Street/4 Little Alfred Street.

The explanation of provisions as detailed in the planning proposal is considered to be clear and is not required to be updated prior to the commencement of public exhibition.

### **2.3 Mapping**

The proposal will require mapping amendments to Sheets \_002A of the Land Zoning, Floor Space Ratio and Height of Building Maps contained in the North Sydney LEP 2013.

The planning proposal clearly depicts the existing and proposed controls and the maps contained within the planning proposal documentation are considered to be adequate for the purpose of public exhibition.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The proposal is required to facilitate the proposed development at the site which seeks to respond to the growth of the North Sydney CBD and the recent investment in the new Sydney Metro project. The proposed planning controls seek to respond to the former JRPP's recommendations and the Council's draft Alfred Street Precinct Study. The proposal has been determined to demonstrate both strategic and site-specific merit by the Sydney North Planning Panel.

The planning proposal is considered to be the best means of achieving its intended outcomes as the extent of the proposed provisions are considered too extensive for the use of a clause 4.6 based development application.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 North District Plan**

On 18 March 2018, the Greater Sydney Commission published the North District Plan. The District Plan establishes the planning priorities and actions to guide the growth of the district whilst seeking to improve its social, economic and environmental assets.

The planning proposal is considered to be consistent with and actively seeks to ensure the implementation and vision of the District Plan. The following planning priorities are considered to be of particular relevance to the proposal:

- ***N5: Providing housing supply, choice and affordability with access to jobs, services and public transport***

The planning proposal is considered to be consistent with the priority as it seeks to promote the delivery of housing supply in a strategic location. The proposal includes the delivery of 156 new residential apartments contributing to the District's and LGA's housing supply targets.

The site is located on the periphery of the North Sydney CBD with its range of services, allowing for increased housing supply in a location with excellent access to jobs and services.

The site is also located in proximity to transport infrastructure being 500m from the imminent Victoria Cross Metro Station and 400m from the existing North Sydney Railway Station. Additionally, the site is also serviced by bus services operating along the Pacific Highway. The proximity to transport infrastructure will provide new residents with access to the jobs and services available in the range of strategic and metropolitan centres throughout Greater Sydney.

- **N7: Growing a stronger and more competitive Harbour CBD**
- **N10: Growing investment, business opportunities and jobs in strategic centres**

The subject site is located on the periphery of the North Sydney CBD, which forms part of the Eastern Harbour CBD under the District Plan. It is noted that the proposed provision of commercial floorspace is less than the existing developments across the site. However, as outlined in the Economic Impact Assessment that accompanies the proposal (**Attachment A4**), the Bayer Building tower is coming to the end of its economically viable lifespan. The proposed development seeks to provide 10,127m<sup>2</sup> of revitalised commercial floorspace at the site, which is anticipated to create an active mixed-use precinct with a range of commercial offerings.

The mixed-use approach to the site which includes the provision of 156 new residential units is also anticipated to support the growth of the Harbour CBD through increased retail expenditure and increased demand for goods and services. The precinct is anticipated to play a supportive role which actively seeks to strengthen the competitiveness of the Harbour CBD.

- **N12: Delivering integrated land use and transport planning and a 30-minute city**

The planning proposal is considered to be consistent with the planning priority and actively supports its implementation. The proposal is considered to respond to the NSW Government's recent investment in the new Sydney Metro project and the construction of Victoria Cross Metro Station. The site is located within 500m of the new Metro Station and 400m from the existing North Sydney Station and is considered to promote the vision for a 30-minute city.

In addition to this, the site's location on the periphery of the North Sydney CBD is also considered to provide an integrated approach to land use. North Sydney is the third largest employment centre in Greater Sydney and the provision of new residential dwellings and revitalised employment floorspace in proximity to the North Sydney CBD is considered to support its growth and is considered a suitable area for the provision of additional housing.

- **N19: Increasing urban tree canopy and delivering Green Grid connections**

The proposal is considered consistent with the direction as it seeks to improve the site's tree canopy and establish green grid connections. The reference scheme and site-specific DCP demonstrate that the proposed development will incorporate mature landscaping throughout its setbacks and public arcade.

#### **4.2 Local**

##### **North Sydney Local Strategic Planning Statement Local Housing Strategy**

The planning proposal does not include a discussion of its consistency with either the North Sydney Local Strategic Planning Statement (LSPS) or North Sydney Local Housing Strategy (LHS). However, it is noted that during the preparation of the planning proposal both the LSPS and LHS were not endorsed strategic planning documents.

Despite this, prior to exhibition the proposal must be updated to demonstrate consistency with both the North Sydney LSPS and LHS. This is to be submitted to



the Department and approved prior to the proposal proceeding to public exhibition. This is reflected in the recommended conditions of the Gateway determination.

#### North Sydney Council's Draft Alfred Street Precinct Study

The draft Alfred Street Precinct Study (ASPS) was prepared by Council in response to the original 2015 planning proposal pertaining to 275 Alfred Street, North Sydney (the Bayer Building). The draft ASPS sought a holistic approach to planning across the entire precinct and sets out a preferred urban design scheme for the site and a range of built form guidelines.

On 26 March 2018, the draft ASPS was adopted by Council and endorsed to be placed on exhibition. Following exhibition, the draft ASPS was referred to the Council meeting of 29 January 2019 where Council resolved not to adopt the draft ASPS despite Council officers recommending that it be supported.

The proposal has been prepared with consideration of the draft ASPS primarily in relation to its built form. The built form of the development and comparisons to the draft ASPS are considered in Section 5.2 of this report.

#### **4.3 Section 9.1 Ministerial Directions**

The planning proposal is considered to be consistent with all section 9.1 Ministerial Directions, the following directions are considered to be of particular relevance to the proposal:

##### 1.1 Business and Industrial Zones

The direction applies as the planning proposal applies to land that is zoned B3 Commercial Core and seeks to rezone the site to B4 Mixed Use, both zones are considered to be business zones under the standard instrument LEP.

It is noted that the intended development outcome is likely to result in a net decrease in commercial floor space. As indicated in the planning proposal documentation if the proposed development at the site is to be carried out it will result in a reduction of commercial floor space from the existing provision of 11,671m<sup>2</sup> to 10,127m<sup>2</sup>.

The Economic Impact Assessment (EIA) prepared by AEC Group Pty Ltd that accompanies the proposal (**Attachment A4**) outlines that despite the proposal resulting in a net reduction of commercial floor space, it is anticipated that it will generate an additional 39 full time equivalent jobs when compared to the existing development scenario.

It should also be noted that the proposal seeks to improve the type and quality of commercial floor space provided at the site, encouraging the location of start-ups and creative industries. The proposed development also includes a greater provision of commercial floor space than is recommended by Council's draft Alfred Street Planning Study as discussed above in Section 4.2 of this report.

Despite the abovementioned reduction in commercial floor space, as the proposed amendments actually increase the potential commercial floor space across the site, the proposal is considered to be consistent with the requirements of the direction.

##### 2.3 Heritage Conservation

Although the site does not contain any items of heritage significance, the direction is relevant to the proposal as the subject site is adjoined by the Whaling Road HCA (**Figure 7**).

The planning proposal is not accompanied by a Heritage Impact Assessment. However, consideration of the adjacent HCA is evident in both the planning proposal and Urban Design Report. The proposed mitigation measures are discussed in detail throughout Section 5.2 of this assessment report.

The proposal is considered to be consistent with the direction as it contains provisions that facilitate the conservation of adjoining heritage. However, it is considered that the proposal should be supported by a HIA that is prepared by a suitably qualified professional to ascertain that the potential impacts are acceptable. This is reflected in the recommended conditions of the Gateway determination.

### 3.1 Residential Zones

The direction applies as the site seeks to rezone the site to B4 Mixed Use, which is a zone that allows for significant residential development. The planning proposal is considered consistent with the requirements of the direction as it seeks to facilitate the delivery of 156 new residential dwellings, ensuring that the locations and choices available in the housing market are broadened. This is anticipated to have a positive impact on the housing market as the sizeable increase in housing supply will assist by alleviating property prices in an inner city location. Additionally, the proposal also seeks to provide for affordable rental accommodation further alleviating stress on the housing market.

The proposal will ensure the more efficient use of existing and planned infrastructure and services due the location of the site. The proposal seeks to facilitate the intensification of residential uses in proximity to existing infrastructure and services in the North Sydney CBD, including transport and social infrastructure. Additionally, the proposal also seeks to leverage off and provide for the efficient use of planned transport infrastructure associated with the NSW Government's recent investment in the Sydney Metro project as it is located in proximity to the imminent Victoria Cross Metro Station.

The proposal is also considered to be consistent with the direction's requirement to reduce the consumption of land for housing and urban development as it seeks to intensify residential uses at a strategically located brownfield site. This will allow for a development that has minimal impact on the natural environment as the site is located in an existing urban area.

### 3.4 Integrating Land Use and Transport

As the planning proposal applies to land that is located within 500m of the imminent Victoria Cross Metro Station and 400m of the existing North Sydney Railway Station, the direction applies.

The proposed provision of revitalised commercial floor space and new residential accommodation in proximity to these high class public transport services will allow for a more efficient use of nearby existing services in the North Sydney CBD, whilst also providing excellent accessibility to other metropolitan and strategic centres located throughout the Greater Sydney Region.

The location of the site at the periphery of the North Sydney CBD and its associated infrastructure is also considered to promote the opportunity to live, work and play within a walkable neighbourhood.

The planning proposal is considered to be consistent with the direction as it seeks to undertake an integrated approach to land use and transport planning and incorporates the ideals of transit oriented development.

#### 4.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with and does not hinder the application of any SEPPs. The following two SEPPs are considered of particular relevance to the proposal:

##### SEPP 55 – Remediation of Land

As the planning proposal seeks to amend the site's zoning, the potential for contamination at the site must be considered. The planning proposal states that the site will be appropriately remediated to ensure it is suitable for residential development and that this will be further addressed at the development application stage.

It is considered that the existing commercial uses at the site are unlikely to have resulted in any major contamination. It is noted that the planning proposal seeks to rezone the site to permit residential uses. However, the land use mix at the site is unlikely to change as residential uses are already present at the site and permitted to part of the site under Schedule 1 of the North Sydney LEP 2013.

As such, it is considered appropriate to consider contamination in greater detail at the development application stage.

##### SEPP 65 – Apartment Design Guide

The Urban Design Report prepared by Grimshaw Pty Ltd (**Attachment A3**) that accompanies the planning proposal demonstrates that the concept building envelope is capable of achieving compliance with the requirements of the SEPP.

A SEPP 65 compliance table is included at Page 64 of the Urban Design Report and demonstrates that the concept envelope is capable of achieving compliance with all relevant ADG requirements, including building separation, overshadowing and solar access.

The proposal is therefore considered to be consistent with the SEPP, however it is noted that further assessment will be required at the development application stage.

## 5. SITE-SPECIFIC ASSESSMENT

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### 5.1 Social

The planning proposal is anticipated to result in a range of public benefits, primarily through the proposed provision of public domain improvements, affordable housing, landscaping and site permeability. The proposal will create an activated precinct that revitalises the existing commercial core of the site, whilst also improving its pedestrian connection between the North Sydney CBD and adjoining residential area.

As part of its determination of the recent rezoning review, the Sydney North Planning Panel recommended the following for consideration in the assessment of the Gateway determination:

- *There needs to be clarification of the provision of affordable housing in the project which may be achieved as a public benefit.*
- *The proposal should establish a methodology for the protection and embellishment of nearby public parks, which may be achieved as a public benefit offer.*



In response to the Panel's recommendation, the proposal has been accompanied by a letter of offer (**Attachment A7**) which outlines the proponent's willingness to provide the following contributions via a Voluntary Planning Agreement (VPA):

- *Either monetary contributions towards affordable housing and/or provision of affordable housing within the North Sydney Local Government Area and the monetary value will need to be negotiated with the Planning Proposal Authority.*
- *Monetary contribution towards the upgrades of surrounding public open spaces (with the option of upgrading Alfred Street Park North). The monetary value will need to be negotiated with the Planning Proposal Authority and the public open spaces to be upgraded will also need to be discussed with the Planning Proposal Authority.*
- *Monetary contribution towards the upgrade of the Mount Street overpass with the monetary value to be negotiated with the Planning Proposal Authority.*
- *Upgrade works to the footpaths along all street frontages, with the value and scope of works to be negotiated with the Planning Proposal Authority.*
- *Works for ground floor pedestrian arcade, with the value and scope of works to be negotiated with the Planning Proposal Authority.*

It is noted that the draft site-specific DCP that accompanies the proposal includes a provision that seeks to ensure that a VPA for the site is made which includes the abovementioned contributions. However, it remains uncertain if these benefits will be delivered within a future development at the site as the VPA and draft site-specific DCP are not finalised.

The potential monetary values and final VPA will need to be negotiated through a separate process to the proposal with Council as the consent authority. As Council is not the PPA for this proposal, the letter of offer should be updated prior to the commencement of public exhibition to demonstrate the proponent's intent to negotiate the specifics of the VPA with Council as the consent authority.

#### Affordable Housing:

As discussed above, the planning proposal is accompanied by a letter of offer (**Attachment A7**), which outlines the proponent's willingness to contribute a monetary contribution and/or the provision of affordable housing in the delivery of the proposed development. The original planning proposal documentation outlined that the proposal seeks to deliver approximately 10% of housing within the scheme as affordable housing.

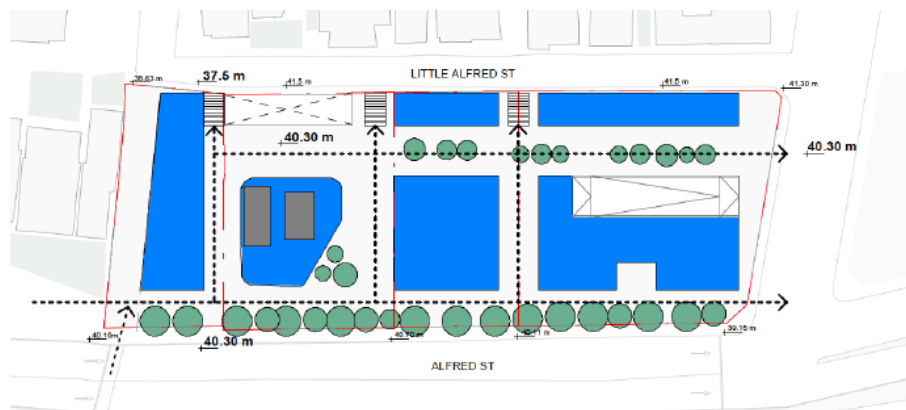
It is noted that the Panel's recommendation seeks clarification surrounding the provision of affordable housing as part of the project. However, as mentioned the specifics surrounding the negotiation of the VPA and monetary contributions will need to be settled with Council via a separate process to the planning proposal. Notwithstanding, the delivery of affordable housing as part of the anticipated future development at the site is considered to provide a significant public benefit.

#### Open Space and Public Domain Improvements:

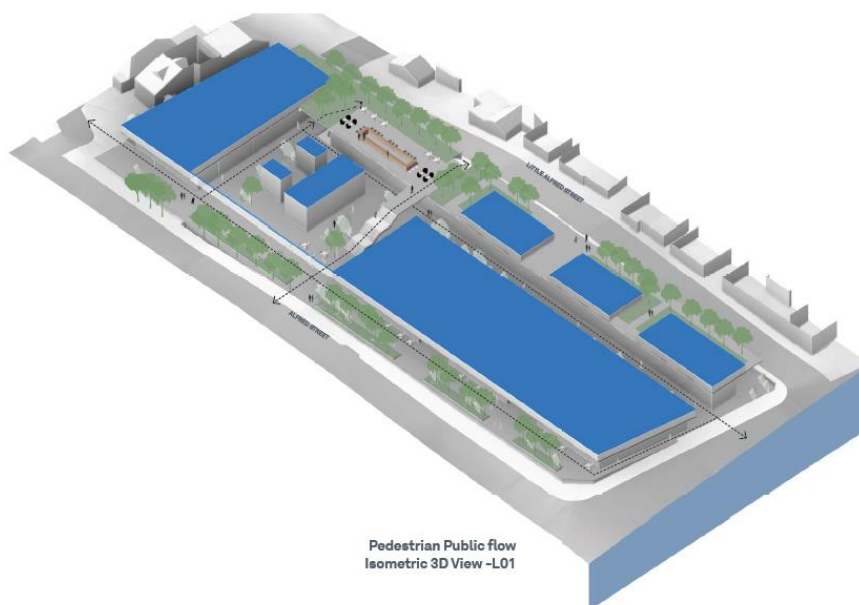
As part of its determination the Panel recommended that a site-specific DCP (**Attachment A8**) be prepared for the site which is to include consideration of the public domain and provision of publicly accessible spaces within the site.

The proposed development includes the provision of a new pedestrian arcade at the site. The arcade would be linked through the precinct at ground level and centred

around the Bayer Building tower. The first level of the tower is to be adapted to enable a central entry space and a connection to the arcade. The proposal also includes the provision of an additional north-south pedestrian link between buildings C and D. The draft site-specific DCP includes provisions at sections 1.1.7 and 1.1.9 that seek to ensure the satisfactory provision of the pedestrian arcade and public domain improvements (**Figures 10-11**).



**Figure 10:** Proposed pedestrian arcade at ground level (Source: Proponent's draft site-specific DCP)



**Figure 11:** Proposed pedestrian arcade and pedestrian flows (Source: Proponent's draft site-specific DCP)

The provision of the pedestrian arcade is considered to provide a public benefit as it will increase the permeability of the site and improve the pedestrian experience, transitioning from the North Sydney CBD to the adjacent residential areas.

The pedestrian arcade centred around the Bayer tower will also provide a range of retail offerings, which will benefit adjoining residents who currently need to cross the Warringah Expressway to access retail and service offerings.

Additionally, the proponent has demonstrated a willingness to provide monetary contributions towards the upgrade of surrounding public open space, with the option to include works to upgrade the adjoining Alfred Street Park North. The range of

public domain improvements that are anticipated to derive from the proposal are considered to provide a suitable public benefit.

## 5.2 Environmental

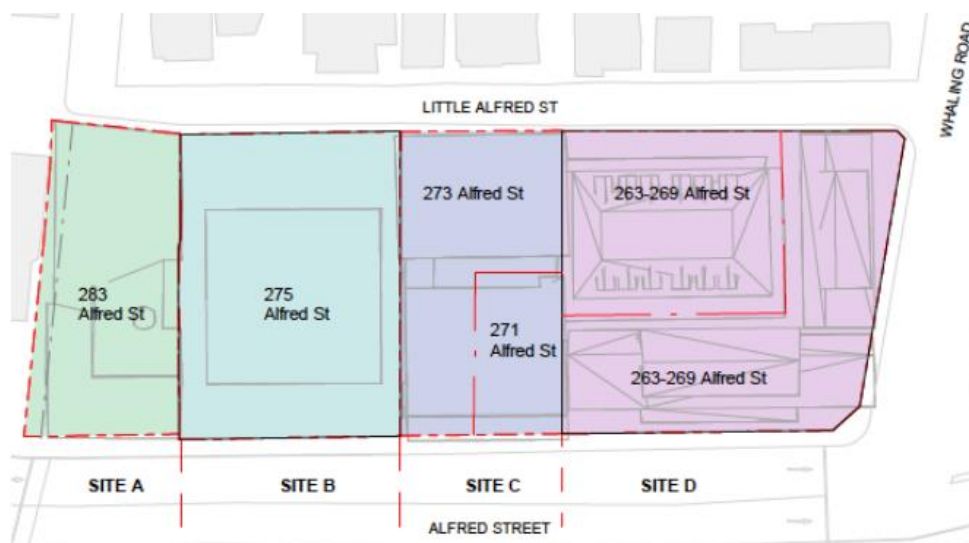
As the subject site is located in an established urban area and seeks to provide infill development, it is not anticipated to have any major natural environmental impacts. The assessment of the proposed development includes the consideration of a range of built environment elements and potential amenity impacts on surrounding development.

### Amalgamation Pattern:

The Sydney North Planning Panel recommended as part of its rezoning review determination that a site specific DCP be prepared for the site. One of the key elements identified by the Panel to form part of the site specific DCP was consideration of the site's amalgamation pattern.

The proposed amalgamation pattern is outlined in section 1.1.8 of the proposed site-specific DCP which accompanies the proposal (**Attachment A8**). The amalgamation of the precinct will include four unique sites (**Figure 12**):

- **Site A** - 283 Alfred Street;
- **Site B** - 275 Alfred Street;
- **Site C** - amalgamation of 271 and 273 Alfred Street; and
- **Site D** - amalgamation of 263-269 Alfred Street and 4 Little Alfred Street.



**Figure 12:** Proposed Site Amalgamation Pattern (Source: Proponent's site-specific DCP)

The proponent has outlined that difficulties have occurred in attempts to acquire 283 Alfred Street and amalgamate the site with 275 Alfred Street. The proponent has demonstrated that they have attempted to acquire the site at a fair market price, however, has been unsuccessful.

283 Alfred Street (Site A) is considered to be a site that can be redeveloped independently, as such the inability to amalgamate the site should not preclude the progression of the planning proposal. The proposal is also considered to satisfy the Panel's recommendation to consider the amalgamation pattern of the site in the preparation of the site specific DCP.

However, it should be noted that adoption of the site-specific DCP would still be dependent on negotiations between the proponent and Council, separately to this planning proposal process. These negotiations are able to continue for the subject site until the lodgement of a future development application.

### Built Form

As discussed, the proposal is supported by an Urban Design Report prepared by Grimshaw Pty Ltd, which outlines an indicative concept design for the site (**Attachment A3**). The proposed built form of the site has been designed with a range of mitigation measures in place and seeks to rejuvenate the site which its existing form is considered to form an unattractive element of the North Sydney skyline.

The proposed development incorporates a 3 storey podium at site's A, C and D which is consistent with the height of the existing developments at the site. The concept design also demonstrates that a fine grain residential built form will be provided at rear of site at the residential interface of the Whaling Road HCA.

The proposed development includes building heights of up to 30m on these sites allowing for a potential of 8 storeys. This height increase is considered to have minimal impact due to the prominence and existing impacts of the Bayer Building Tower and the podium based design incorporated with building setbacks that seek to mitigate the potential impacts on the adjoining low scale residential area.

As part of the Sydney North Planning Panel's determination of the recent rezoning review the following was noted as part of its recommendation:

- *While one panel member agreed with the decision to recommend that the proposal should proceed to Gateway, he considers that the height of the Bayer building site should be restricted to a maximum of 70m.*

With consideration of the above, the proponent has demonstrated that the additional height is required to ensure the economic viability of the project. The retention of the tower form at the existing Bayer Building site is considered to limit the potential for new amenity impacts on surrounding developments and the existing Bayer Building Tower is considered to form a prominent and unattractive element of the North Sydney skyline. The proposed built form will be subject to a design excellence process which will ensure the provision of a slender and more attractive tower at the site.

The proposed built form depicted in the Urban Design Report alongside the proposed controls contained in the draft site-specific DCP has demonstrated that the site is capable of achieving an attractive built form that achieves sufficient building separation, setbacks and solar access requirements whilst also providing an activated mixed-use precinct.



Figure 13: Concept scheme view from west (Source: Grimshaw)



Figure 14: Concept scheme view from west (Source: Grimshaw)

Heritage:

Figure 7 demonstrates that the site is bounded to the north, east and south east by the Whaling Road HCA. It is noted that the proposal is not supported by a Heritage Impact Assessment report, however the planning proposal and Urban Design Report (Attachment A3), outline the way in which the proposed development seeks to mitigate potential impacts on the adjoining HCA.

The northern component of the existing development at 283 Alfred Street (Site A) is built to the boundary interface of the adjoining Whaling Road HCA. The proposed development at the site seeks to improve the transition into the HCA by providing a



6m setback at the ground level which is to be filled with a mature landscaped buffer. This setback is intended to be increased from the original setback of 2.4m under the new site specific DCP. The proposed development also seeks to mitigate its impact on the adjacent heritage to the north by increasing the setbacks and reducing the floorplate at Site A from level 4 and above.

The proposed development will provide fine grain residential accommodation comprising 3 storeys across its Little Alfred Street frontage, which is consistent with Council's desired option as presented in the draft Alfred Street Precinct Study. This approach is considered to deliver an appropriate transition to the lower scale development to the east, which is sympathetic of its heritage value.

Development along the Little Alfred Street frontage will also include setbacks of 4.2m-4.85m which provides adequate space for mature landscaping. The proposal indicates that a landscape buffer will be provided along this frontage to create an appropriate buffer towards the adjoining HCA.

Although the proposal seeks to intensify development in proximity to the Whaling Road HCA, it is evident that the proposed development has been designed with consideration of adjacent heritage. Despite this, it is considered that the planning proposal should be supported by a Heritage Impact Assessment (HIA) prepared by a suitably qualified professional. It is recommended that a HIA be prepared for the proposal prior to the commencement of public exhibition, this is reflected in the recommended conditions of the Gateway determination.

#### Overshadowing:

As part of its determination of the recent rezoning review, the Sydney North Planning Panel made the following recommendation:

- *The proposal should provide a more detailed review of the shadow impact of the proposal on surrounding public open space and residential properties so as to minimise overshadowing.*

In response the proponent has commissioned CAD Draft Pty Ltd as an independent overshadowing specialist to prepare an overshadowing analysis which is provided at **Attachment A9**.

Extracts from the overshadowing analysis depicting the anticipated overshadowing generated by the proposed development are provided from **Figures 15-17**. The diagrams depict overshadowing on the 21<sup>st</sup> June between 12:00pm-2:00pm.

The overshadowing analysis provides a comparison between the following:

- Existing built form and overshadowing (Grey outline);
- The envelopes proposed under the planning proposal (Red shading); and
- The envelopes proposed under Council's former planning study for the area (Grey shading).

It is noted that the overshadowing diagrams have not considered the proposed chamfering to the top of 275 Alfred Street (Site B) and therefore demonstrate the worst case scenario.



Figure 15: Overshadowing diagram (21 June – 12:00pm) (Source: John Denton)



Figure 16: Overshadowing diagram (21 June – 1:00pm) (Source: John Denton)





Figure 17 – Overshadowing diagram (21 June – 2:00pm) (Source: John Denton)

The comparison shown in the above figures demonstrates that the planning proposal will result in lesser overshadowing impacts than was proposed under Council's draft Alfred Street Planning Study.

The proposal states that it will retain sufficient solar access between 10am-2pm at the Alfred Street Park North. The impacts of overshadowing to the Alfred Street Park North are also considered to be partially offset by the proponent's letter of offer to enter into a VPA. The offer as discussed above in section 5.1 of this assessment report, identifies the proponent's intent to provide a monetary contribution towards the upgrade of surrounding public open space or the option of upgrading the Alfred Street Park North.

The proposal states that it will result in minimal additional overshadowing between 1pm-3pm on 21 June to the properties along Little Alfred Street and Whaling Road. The elevational shadow diagrams demonstrate that it will result in less overshadowing than was proposed by Council's draft ASPS.

Although it is considered inevitable that some level of overshadowing to adjacent properties will occur, the impacts of overshadowing on the heritage significance of properties and the Whaling Road HCA has not been adequately considered. As mentioned above, the recommended conditions of the Gateway determination require the preparation of a HIA. It is considered that the impact of overshadowing on nearby heritage items and properties within the Whaling Road HCA should be considered in the preparation of the HIA, this is reflected in the recommended conditions of the Gateway determination.

#### Traffic and Parking:

The planning proposal is accompanied by a Traffic Impact Assessment (TIA) prepared by The Transport Planning Partnership Pty Ltd (**Attachment A6**). The TIA

demonstrates that the proposed development's mixed-use approach will result in a net reduction of traffic generation at the site when compared to the existing commercial development. The following table provides a summary of the trip generation rates presented in the TIA:

Traffic Generation	AM Peak	PM peak
Existing development	233	175
Proposed development	192	145
<b>Net generation:</b>	-41	-30

The reference scheme contained in the Urban Design Report (**Attachment A3**) also demonstrates that the site can adequately accommodate the required car parking within the proposed basement. It is also noted that the parking required for the site has the potential to be reduced due to the site's proximity to public transport services.

The proposal is not anticipated to have any adverse impacts when compared to the existing scenario. With consideration of the TIA and proposed parking provision it is envisioned that the proposed development will have a minorly beneficial impact on the road network.

### 5.3 Economic

The proposed development is anticipated to generate a range of economic benefits for the surrounding North Sydney locality. The proposal is supported by an Economic Impact Assessment (EIA) prepared by AEC Group Pty Ltd (**Attachment A4**).

Although the proposal and associated EIA concede that the proposed development is likely to result in a net reduction of commercial floorspace, it is considered that the mixed-use approach to the site will revitalise the site's commercial components. As outlined in the EIA the Bayer Building tower is coming to the end of its economically viable lifespan. The proposal is anticipated to generate economic benefits through the renewal of the site as it seeks to deliver contemporary commercial floorspace creating an activated precinct that attracts retail businesses to the site.

The provision of 156 new residential dwellings is also anticipated to have a positive impact on housing affordability in the area, reducing pressure on rental and mortgage stress. New residents will not only support the viability of the commercial uses on site, but also promote the growth of the North Sydney CBD through increased retail expenditure.

If a development application is lodged and approved for the site, the proposal will also provide much needed stimulation for the construction industry. The EIA outlines that a total of 258 direct jobs will be generated during the construction phase of the development. During the current COVID-19 pandemic the NSW Government has been committed to ensuring continued investment in the development industry through its Planning System Acceleration Program. The program has a strong focus on the stimulation of the construction industry and the progression of this proposal is considered to actively support this initiative.

## 6. CONSULTATION

### 6.1 Community

The planning proposal simply states that community consultation will be undertaken in accordance with the conditions of the Gateway determination. Due to the nature of the proposal a 28 day public exhibition period is considered to be appropriate, this is reflected in the recommended conditions of the Gateway determination.

## **6.2 Agencies**

The planning proposal provides a description of nearby infrastructure. However, does not clearly define the agencies it deems appropriate to consult with as part of the Gateway process. Due to the nature of the planning proposal the following government agencies and corporations are to be consulted during the public exhibition period:

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

## **7. TIME FRAME**

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The timeline contained in the planning proposal predates the submission of the proposal for a rezoning review. The timeline anticipated a 9 month timeframe for completion following the receipt of a Gateway determination.

As the Sydney North Planning Panel are the PPA for the proposal, it is considered that a 12 month timeframe is more appropriate to allow for some flexibility.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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As the North Sydney Planning Panel are the PPA for the planning proposal, Council is not authorised to be the Local Plan-making Authority.

## **9. CONCLUSION**

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The proposal is considered to demonstrate site specific and strategic merit and is recommended to proceed to Gateway as it:

- Seeks to facilitate the development of 156 new residential units, contributing to North Sydney's housing target under the North District Plan.
- Balances the need to support the growth of the North Sydney CBD whilst also providing an appropriate transition towards adjoining low scale residential areas.
- Seeks to revitalise the existing primarily commercial development at the site by creating an activated precinct that retains a suitable level of commercial offering.
- The provision of additional residential accommodation will place downward pressure on housing affordability.
- Includes the provision of affordable rental housing.

- Seeks to leverage off and support the NSW Government's investment in the Sydney Metro Project.
- Is located in a strategic location with excellent access to infrastructure and services associated with the North Sydney CBD and surrounds.
- Is anticipated to generate a range of economic benefits, through its provision of activated commercial floorspace and stimulation of the construction industry.
- Will provide public benefits including public domain improvements, a pedestrian arcade and through site links.

The proposal will be required to proceed with conditions as:

- The proposal does not address its consistency with the North Sydney LSPS or LHS;
- The proposal does not adequately demonstrate that the proposed development will not have unacceptable impacts on the adjacent Whaling Road Heritage Conservation Area.
- The planning proposal documentation is considered to be unclear due to it containing conflicting information.

## **10. RECOMMENDATION**

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Roads and Maritime Services branch of Transport for NSW;
  - Transport for NSW;
  - North Sydney Council;
  - Sydney Water;
  - Ausgrid;
  - NSW Health; and
  - NSW Department of Education.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. Prior to the commencement of public exhibition, a Heritage Impact Assessment (HIA) is to be prepared for the site that demonstrates the proposed development will not have unacceptable impacts on the adjacent Whaling Road Heritage Conservation Area. The HIA is to have consideration of the proposed building setbacks, landscaped buffers and overshadowing impacts.

6. The planning proposal is required to be updated to create a consolidated document combining the information contained in the original planning proposal, rezoning review and additional information provided following the rezoning review. This is to ensure that the information displayed for public exhibition is consistent and easily legible for the community.
7. The planning proposal is to be updated to outline its consistency with both the North Sydney Local Strategic Planning Statement and North Sydney Local Housing Strategy. This to be submitted to and approved by the Department prior to the commencement of public exhibition.
8. The draft letter of offer to enter into a voluntary planning agreement is to be updated, to demonstrate intent to negotiate with Council as the consent authority and not the PPA.



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