

REVISED PLANNING PROPOSAL

for
Units 1 and 2, 2 Bechert Road, Chiswick

prepared by
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1. INTRODUCTION

This Planning Proposal explains the intent of and justification for a proposed amendment to the statutory land use planning controls applying to a site known as Units 1 and 2, 2 Bechert Road, Chiswick. The amendment will expand the range of uses permitted on the site under *Canada Bay Local Environmental Plan 2013* (LEP 2013) to include business premises.

The Planning Proposal has had the benefit of advice from Council's planning staff following submission of an earlier version.

The subject site is a small irregularly shaped part of a large predominantly residential development constructed in or around 2002. It was last approved and used as the office of the manager during construction of the surrounding development; however, that function has been relocated and the current zoning allows only residential use, for which it is physically unsuitable.

Following the relocation of the manager's office, the site was sold to a local resident who intended to use it for his real estate agency, which he understood to be a continuation of the original use. On making a sign application, the new owner was advised by Council that his proposal involved a change of use that could not be approved.

The proposed amendment to LEP 2013 will allow the use of the site for the purpose of a real estate office or other business premises for which it is suitable.

This Planning Proposal has been prepared in accordance with the guidelines contained in *A Guide to Preparing Planning Proposals* published by the Department of Planning and Environment (the Department) in December 2018.

2. BACKGROUND

2.1 Locality and Site

Bechert Road is a local road running north from Blackwall Point Road in the area of Chiswick between Allison Park and Abbotsford Bay.



figure 1 Locality plan of Nautica development (source: RP Data)

The subject site, comprising Lots 1 and 2 in Strata Plan 69974, is on the eastern side of Bechert Road at the north-western corner of the easternmost building in the Nautica development, opposite the junction with Windward Parade. A ramped driveway to the basement parking level runs along the northern side of the building. Lot 1 is irregular but approximately trapezium-shaped at ground-floor level, with a frontage of 5 metres (m) to Bechert Road and an area of 36 square metres (m²). Lot 2, at basement level, is a rectangular store room with an area of about 8m². A parking space nearby is part of Lot 1.

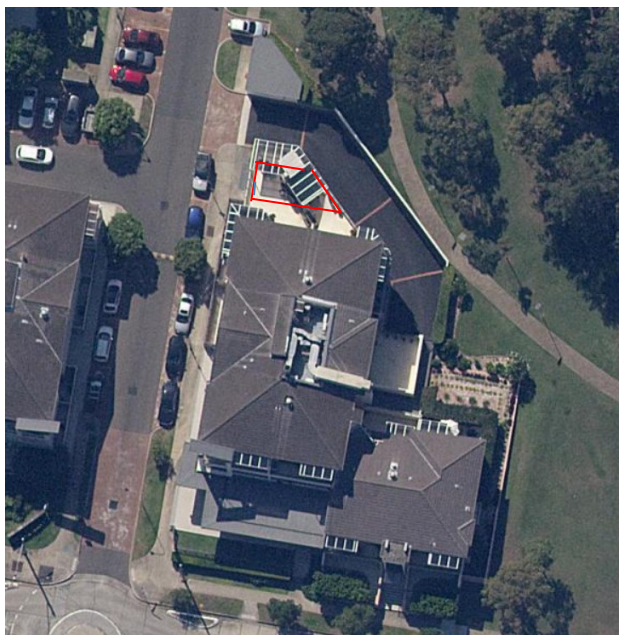


figure 2 Aerial photo showing subject site outlined in red (source: SIXMaps)



fig 3. Eastern part of Nautica development



fig 4. Subject building from Blackwall Point Rd



fig 5. Development to north of subject site



fig 6. Subject site from Bechert Road



fig 7. Subject building from Bechert Road



fig 8. Development opposite to south-west



fig 9. Development opposite to north-west



fig 10. Interior of Unit 1

2.2 Development History

The applicant has had the benefit of a GIPA application; together with information provided by Council's planning staff, the relevant development history is as follows:

The original consent to Development Application (DA) no. 364/00 described the proposal as "Construction of 258 residential units, SEPP No. 5 housing and office/retail floorspace (Stage 3 – Approved Masterplan)". In the subject building, this involved commercial use of most of the ground floor (that is, Lots 1-7; Lots 8 and 9 being residential), including use of Lot 1 as the manager's office for the whole of the Nautica and Riviera developments. (The Riviera development adjoins to the east.) At basement level, Lot 2 was shown as a maintenance store room and was used in association with the Lot 1 office. (In addition to the residential development permitted in the Residential 2(b) zone, under clause 24A of *Drummoyne Local Environmental Plan 1986*, various retail and commercial uses were permissible – subject to broad constraints on individual and aggregate area; and these provisions were essentially maintained under Schedule 6 Part 3 of *Canada Bay Local Environmental Plan 2008*.)

Plan extracts from Council's file are shown at Figures 11 and 12.

It appears that the consent was modified at some stage to allow all of the ground-floor units except Lots 6 and 7 and Lot 1 to be built as or converted to residential units. Lot 7 is currently used as a convenience store and Lot 6 as a restaurant.

Lots 1 and 2 continued to be used as the manager's office for the complex until mid-2019, when that function was relocated within the Nautica complex and Lots 1 and 2 were offered for sale. They were bought by Philmi Rentalone Pty Ltd for use by Household Properties, which trades as Nautica Real Estate.

In the meantime *Canada Bay Local Environmental Plan 2013* (LEP 2013) had been gazetted, in which the provisions allowing commercial use within the Nautica and Riviera developments were restricted to those under clause 3 of Schedule 1; that is,

3 Use of certain land at 1 and 2 Shore Road and 2 Bechert Road, Chiswick

- (1) *This clause applies to land at 1 and 2 Shore Road and 2 Bechert Road, Chiswick, being Part Lots 1, 2, 63, 64 and 73, SP 64846 and Part Lots 6 and 7, SP 69974.*
- (2) *Development for the purposes of commercial premises is permitted with development consent.*

[reference to subject building underlined]

On making an application to Council for a sign on the Nautica Real Estate office, the new owner was advised by Council that use as a real estate office represented a change of use from the original use, which was considered to have been ancillary to the predominantly residential use of the Nautica development and hence consistent with the residential zoning. Council advised that, as *commercial premises*, use as a real estate office could not be approved in the R3 Medium Density Residential zone under LEP 2013.

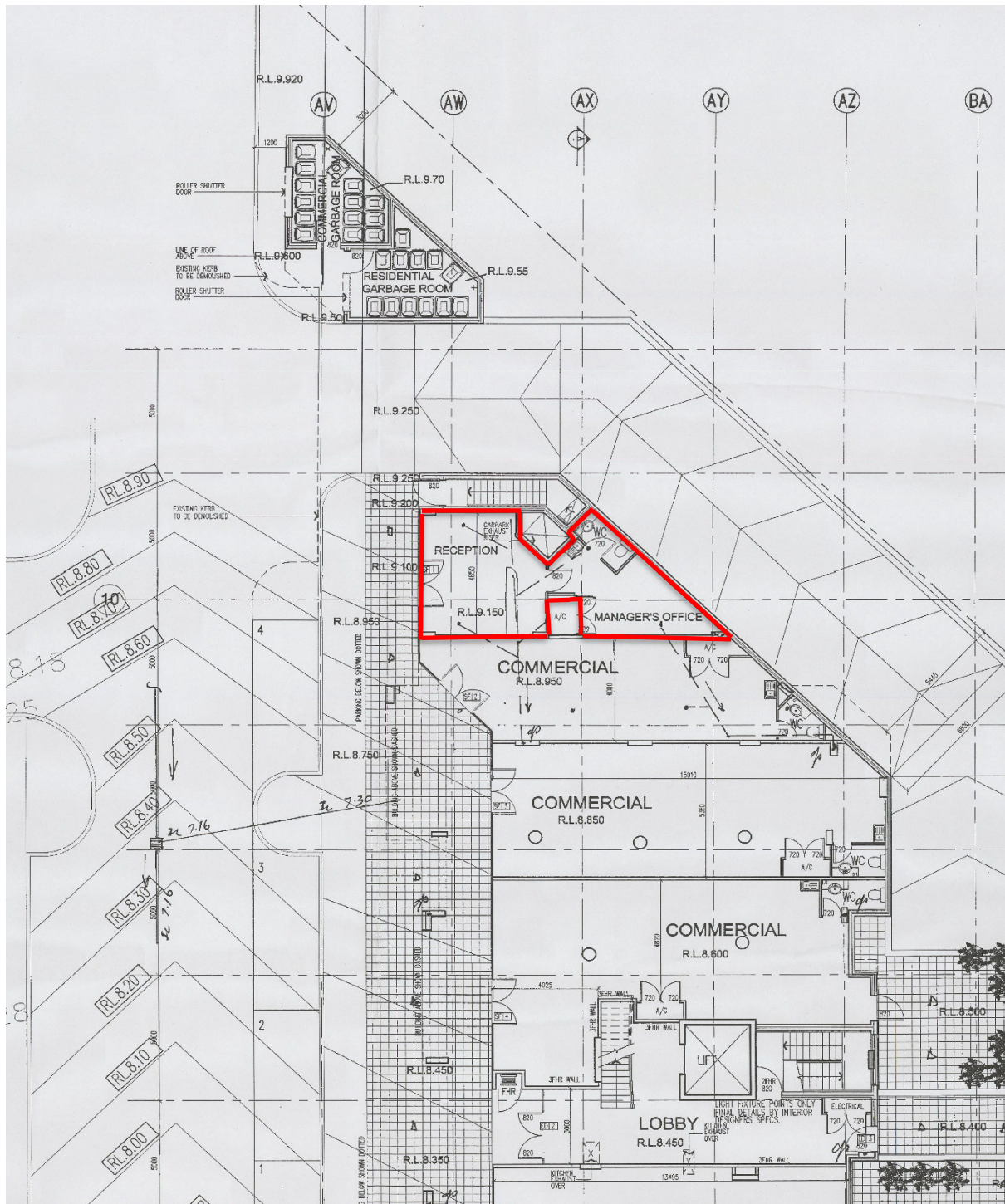


figure 11 Part ground-floor plan showing part Unit 1 outlined in red
(source: DA 364/00) SCALE ~1:250

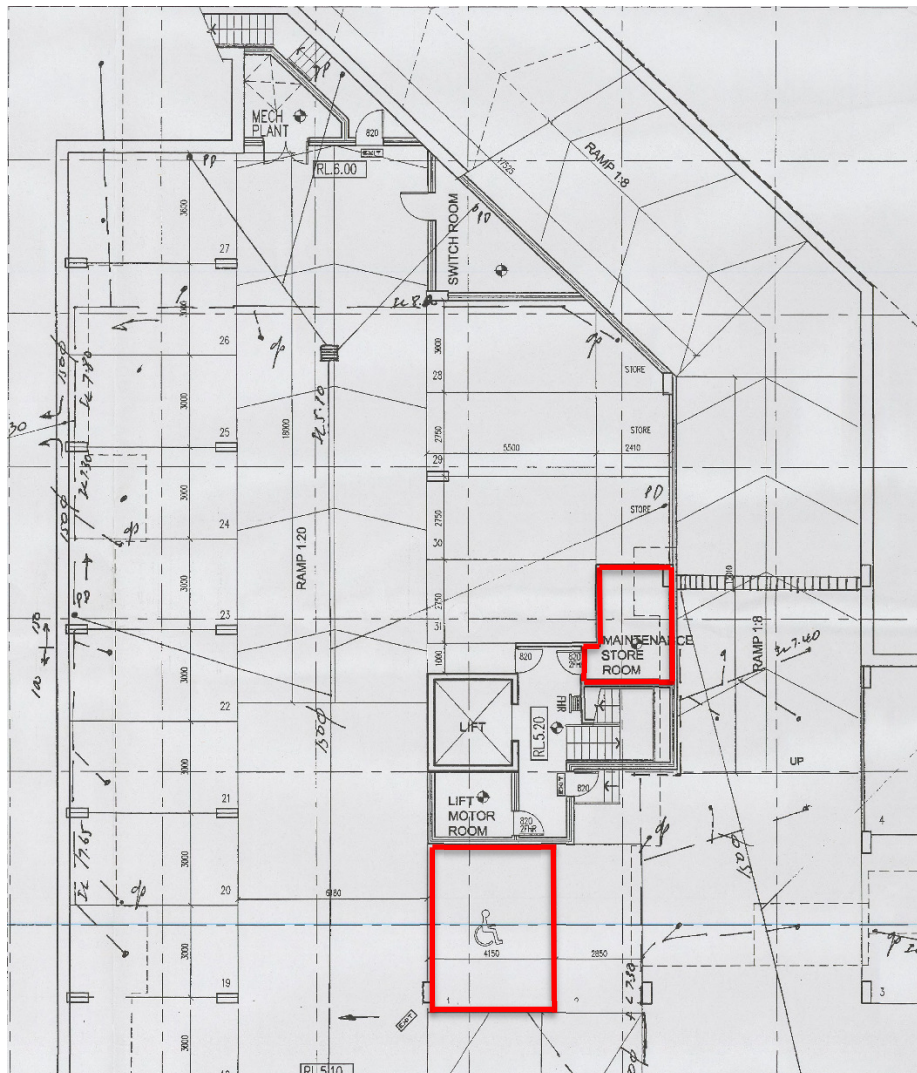


figure 12 Part basement level plan showing part Unit 1 and Unit 2 outlined in red
(source: DA 364/00) SCALE ~1:250

2.3 Planning Controls

2.3.1 Drummoyne Local Environmental Plan 1986

The site is part of the former Sydney Wire Mill site, which was zoned Residential 2(b) under *Drummoyne Local Environmental Plan 1986* but was also the subject of clause 24A inserted in 1998. As amended on 1 March 2002, clause 24A read

24A Development of the former Sydney Wire Mill site

- (1) *This clause applies to property known as the Sydney Wire Mill site, Blackwall Point Road, Chiswick, as shown edged heavy black on the map marked "Drummoyne Local Environmental Plan 1986 (Amendment No 32)".*
- (2) *Despite any other provision of this plan, the Council must not grant consent to any residential or commercial development of land to which this clause applies unless it is satisfied that not less than 5,000 square metres of the total floor space that will be created on the land will be developed for housing for older people or people with a disability in accordance with the provisions of State Environmental Planning Policy No 5 – Housing for Older People or People with a Disability.*
- (3) *Despite any other provision of this plan (except subclause (2)), development may be carried out on land to which this clause applies, but only with the consent of the Council, for the purpose of grocery stores, video shops, hairdressing salons, refreshment rooms, take-away shops, delicatessens, pharmacies, medical consulting rooms, fruit and vegetable stores, bottle shops, newsagencies, bookstores or commercial premises, if:*
 - (a) *the total floor space occupied by those uses does not exceed 1,200 square metres, and*
 - (b) *no single use occupies more than 300 square metres or, in the case of a use as commercial premises, 400 square metres.*

Under *Drummoyne Local Environmental Plan 1986* the use of Units 1 and 2 as a real estate agency office would have been permitted with consent.

2.3.2 Canada Bay Local Environmental Plan 2008

The site was zoned R3 Medium Density Residential under *Canada Bay Local Environmental Plan 2008* but was also subject to Schedule 6 Part 3, which read

Part 3 Development of the former Sydney Wire Mill site

10 Land to which this Part applies

This Part applies to the land comprising the property known as the Sydney Wire Mill site, Blackwall Point Road, Chiswick, as shown on Sheet 4 of the Special Transitional Sites Map and identified as "C".

11 Sizes applying to certain development on the site

Despite any other provision of this Plan, development may be carried out on land to which this Part applies, with the consent of the consent authority, for the purpose of neighbourhood shops, food and drink premises and office premises, but only if:

- (a) *the total floor space occupied by those uses does not exceed 1,200m², and*
- (b) *no single use occupies more than 300m² or, in the case of office premises, 400m².*

Under *Canada Bay Local Environmental Plan 2008* the use of Units 1 and 2 as a real estate agency office, which falls within the definition of "business premises" rather than "office premises", would not have been permissible.

2.3.3 Canada Bay Local Environmental Plan 2013

Under *Canada Bay Local Environmental Plan 2013* (LEP 2013) the R3 Medium Density Residential zoning of the site is maintained:

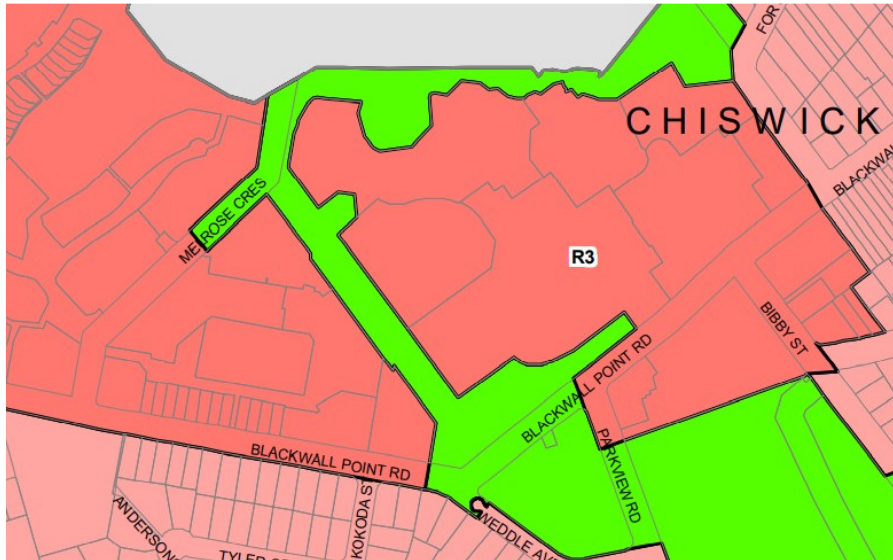


figure 13 Current zoning of locality including subject site (source: NSW Legislation)

In the R3 zone all forms of *residential accommodation* are permitted with consent except for *shop top housing*. Amongst other land uses generally allowed within residential zones, *neighbourhood shops* – defined as

premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include neighbourhood supermarkets or restricted premises –

are also permitted with consent. In addition to the uses specified in the Land Use Table given effect by clause 2.3, clause 2.5 provides

2.5 Additional permitted uses for particular land

- (1) *Development on particular land that is described or referred to in Schedule 1 may be carried out –*
 - (a) *with development consent, or*
 - (b) *if the Schedule so provides – without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.*
- (2) *This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.*

With particular reference to the subject site, clause 3 of Schedule 1 states

3 Use of certain land at 1 and 2 Shore Road and 2 Bechert Road, Chiswick

- (1) This clause applies to land at 1 and 2 Shore Road and 2 Bechert Road, Chiswick, being Part Lots 1, 2, 63, 64 and 73, SP 64846 and Part Lots 6 and 7, SP 69974.*
- (2) Development for the purposes of commercial premises is permitted with development consent.*

Under LEP 2013, as the exception allowing commercial premises other than neighbourhood shops at 2 Bechert Road applies only to Lots 6 and 7, the use of Units 1 and 2 as a real estate agency office is prohibited.

The site is subject to development standards in LEP 2013 for height of buildings and floor space ratio, but they are not relevant to this planning proposal. LEP 2013 also contains other provisions, including those relating to lot size, heritage conservation and environmental sensitivity, that do not apply to the site.

3. PLANNING PROPOSAL

3.1 Part 1: Objective or Intended Outcome

The purpose of this Planning Proposal is to allow the parts of the building comprising the subject site Units 1 and 2, 2 Bechert Road, Chiswick, (Lots 1 and 2 in Strata Plan 69974) and in particular the small and irregularly shaped part at ground-floor level, to be used as a real estate agency office or other business premises.

3.2 Part 2: Explanation of Provisions

To achieve the proposed outcome, the Planning Proposal seeks to amend the planning controls as follows:

3.2.1 Amendment to permitted uses

Clause 2.5 of the LEP allows development on particular land described in Schedule 1 to be carried out for purposes specified in the Schedule. A new clause is inserted after clause 3 of Schedule 1 as follows:

3A Use of certain land at 1/2 Bechert Road, Chiswick

- (1) This clause applies to land at 1/2 Bechert Road, Chiswick, being Lots 1 and 2, SP 69974.*
- (2) Development for the purposes of business premises is permitted in Lot 1 with development consent.*
- (3) Lot 2 may be used for storage in conjunction with the business premises in Lot 1.*

3.3 Part 3: Justification

The case for making the proposed change to the current planning controls is set out under the following headings as listed in the guidelines.

3.3.1 Section A – Need for the planning proposal

1. *Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?*

No

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

By letter dated 14 September 2020, Council has advised that use of the premises as a real estate office constitutes commercial premises and cannot be approved. Use of Unit 1 for residential purposes under the current controls is not practical because of its small size and irregular shape.

In discussion in December 2020, Council planning staff agreed that in the circumstances submission of a planning proposal as set out above would be reasonable to achieve a rational outcome. The planning proposal involves minimal amendment to the text of LEP 2013 and none to the mapping or other controls.

3.3.2 Section B – Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

District plans have been prepared to implement the directions set by *A Metropolis of Three Cities – the Greater Sydney Region Plan*, which is the applicable regional strategy for the Greater Sydney Region. Canada Bay is within the Eastern City District.

The Eastern City District Plan sets out planning priorities and associated actions under headings identified by the *Greater Sydney Region Plan*. Because of the disparity in scale between these Plans and the subject site, most are not applicable to this planning proposal. Those that could be said to have some relevance are addressed in the following table.

Table 1: How the planning proposal will give effect to the *Eastern City District Plan*

| Planning Priority | Action | Comment |
|--|--|---|
| E4. Fostering healthy, creative, culturally rich and socially connected communities | 10: Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities by: a. providing walkable places at a human scale with active street life b. prioritising opportunities for people to walk, cycle and use public transport | The proposal will contribute towards an active street life and will enhance opportunities for use of non-car-based transport. |
| E6. Creating and renewing great places and local centres, and respecting the District's heritage | 18: Using a place-based and collaborative approach throughout planning, design, development and management, deliver great places by: c. providing fine grain urban form, diverse land use mix, high amenity and walkability, in and within a 10-minute walk of centres | Although the subject site is not within a 10-minute walk of a local centre, the proposal will contribute towards a diverse land use mix and the walkability of the neighbourhood. |

4. *Will the planning proposal give effect to a council's endorsed local strategic planning statement or another endorsed local strategy or strategic plan?*

The *City of Canada Bay Local Strategic Planning Statement* dated 25 March 2020 gives effect to the Eastern City District Plan at the local government level and is also informed by other state-wide and regional policies. It sets out planning priorities and actions for a number of identified themes. Most are not applicable to the subject site and/or are for Council to implement. Those that are relevant to the site and the planning proposal are addressed in the following table.

Table 2: How the planning proposal will give effect to the *Local Strategic Planning Statement*

| Priority | Action | Comment |
|--|---|--|
| 5. Provide housing supply, choice and affordability in key locations | 5.2: Outside of the identified renewal areas, development is to be compatible with the character and prevailing density of established neighbourhoods. | The proposal will not affect existing density. It will allow a viable use of the subject site for a low-key business purpose compatible with neighbourhood character and similar to its use for most of the time since the building was constructed. |
| 6. Provide high quality planning and urban design outcomes for key sites and precincts | 6.6: Limit change for sites and precincts not identified for land use change. Where land use change is proposed outside of the identified sites and precincts, development proposals must reflect the prevailing scale and density of the established built form in the locality and be supported by an evidence-base that is equivalent to at least that undertaken for this LSPS. | The proposal will effectively allow continuation of the low-key office use historically carried out on the subject site. It will not affect the existing scale or density of established built form. |

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

Most State Environmental Planning Policies (SEPPs) and Regional Environmental Plans (REPs or deemed SEPPs) are not applicable to the planning proposal. The consistency of the proposal with those that are relevant is set out in the following table.

Table 3: Consistency with State Environmental Planning Policies

| State Environmental Planning Policy | Consistency |
|---|--|
| SEPP No. 64 – Advertising and Signage | consistent – the Planning Proposal does not contain provisions that contradict or would hinder application of the SEPP |
| SEPP (Coastal Management) 2018 | consistent – the Planning Proposal does not contain provisions that contradict or would hinder application of the SEPP |
| SEPP (Exempt and Complying Development Codes) 2008 | consistent – the Planning Proposal does not contain provisions that contradict or would hinder application of the SEPP |
| SEPP (Housing for Seniors or People with a Disability) 2004 | consistent – the Planning Proposal does not contain provisions that contradict or would hinder application of the SEPP |
| SEPP (Infrastructure) 2007 | consistent – the Planning Proposal does not contain provisions that contradict or would hinder application of the SEPP |

| Regional Environmental Plan | Consistency |
|--|--|
| Sydney REP (Sydney Harbour Catchment) 2005 | consistent – the Planning Proposal does not contain provisions that contradict or would hinder application of the SEPP |

6. *Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 directions)?*

Most of the Directions issued by the Minister under section 9.1(2) of the *Environmental Planning and Assessment Act* (the Act) are not applicable to the planning proposal. The consistency of the proposal with those that are current and relevant is set out in the following table.

Table 4: Consistency with Ministerial Directions under section 9.1

| Section 9.1 Direction | Consistency |
|--|---|
| 2 Environment and Heritage | |
| 2.2: Coastal Management | Consistent. The site is within the “coastal environment area” and the “coastal use area” under the Coastal Management SEPP. Clauses 13 and 14 of the Coastal Management SEPP set out matters required to be taken into account by the consent authority in determining a development application for land within these areas. To avoid duplication of controls, however, neither of these clauses applies to land such as the subject site that is within the Foreshores and Waterways Area under Sydney Harbour REP. |
| 3 Housing, Infrastructure and Urban Development | |
| 3.1: Residential Zones | Consistent. The proposal will not affect the potential for residential development within the R3 Medium Density Residential zone, which will continue to be consistent with the requirements relating to <i>housing choice, efficient use of existing infrastructure, good design, adequate servicing and density</i> . |
| 3.4: Integrating Land Use and Transport | Consistent. The proposal will not affect the consistency of LEP 2013 with the aims, objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001) and <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001). |
| 5 Regional Planning | |
| 5.10: Implementation of Regional Plans | Consistent as addressed above in part 3.3.2 Section B Question 3 |
| 6 Local Plan Making | |
| 6.1: Approval and Referral Requirements | Consistent. The proposal does not require any additional concurrence, consultation or referral provisions and does not identify any development as designated development. |
| 6.3: Site Specific Provisions | Consistent. The proposed amendment of LEP 2013 will allow an additional land use without imposing any additional development standard or requirement. |

3.3.3 Section C – Environmental, social and economic impact

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

The subject site is not critical habitat or part of critical habitat and is not within an area identified under LEP 2013 as “environmentally sensitive land”. The site is within a built-up suburban area and no threatened species, populations or ecological communities or their habitats are likely to be affected.

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

The proposed amendment to LEP 2013 is unlikely to result in environmental effects that cannot be satisfactorily controlled through the existing processes, regulations and standards applicable to the assessment of a DA and management of the operation of an approved use.

The key environmental considerations arising from the proposal relate to context and setting and transport and traffic. These are addressed below.

Context and setting

The subject site is a small irregularly shaped corner on the ground floor of a large predominantly residential development, together with a basement-level storage room and parking space. For most of the twenty years since its construction it has been occupied by a low-key office use. There is a convenience store and restaurant at the other end of the Bechert Road frontage of the building. Occupation as a real estate agency office (or other business premises) would be subject to development consent and is not expected to result in any material adverse impact on the residential amenity of occupants of the building or neighbourhood.

Transport and traffic

The site is located on a public transport bus route providing good access to surrounding business and service centres, to the City and to ferry services. Occupants of the building have access to basement-level car parking and visitor parking is available in Bechert Road and nearby.

Having regard to the small scale of the proposal, the level of vehicular traffic likely to be generated would be safely accommodated without adverse impacts on the capacity of the surrounding street system.

9. *Has the planning proposal adequately addressed any social and economic effects?*

The proposed amendment to LEP 2013 will not affect the type or scale of development allowed on the site to an extent that would generate any appreciable social or economic effects.

3.3.4 Section D – State and Commonwealth interests

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

The proposal effectively represents continuation of the low-key office use historically carried out within a relatively recently constructed mixed-use building. The site is well served by public transport and is located close to a range of recreational opportunities. The proposed amendment to LEP 2013 will not require any augmentation of the existing availability of infrastructure such as water, sewerage and electricity or of essential services such as health and education.

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

Given the nature and scope of the proposal, no referrals to public authorities should be necessary.

3.4 Part 4: Mapping

This Planning Proposal includes relevant aerial photographs, plans and maps as required to identify the land the subject of the proposal and the current land use zoning.

No mapping is required to implement the Planning Proposal.

3.5 Part 5: Community Consultation

In the terms of the Department's *A Guide to Preparing Local Environmental Plans*, this Planning Proposal is a "low impact proposal". As set out in part 6.5.2 of the *Guide*, the details of community consultation will be specified by the gateway determination, but are expected to include notification on Council's website and by letter to landowners in the vicinity.

3.6 Part 6: Project Timeline

A project timeline assists with tracking the progress of the planning proposal through the stages of consultation and approval. The Department's *Guide to Preparing Planning Proposals* lists the details to be provided in a project timeline as set out in the following table:

Table 5: Project Timeline

| | |
|---|--|
| Anticipated commencement date (date of Gateway determination) | Not within the control of the Applicant; however, assuming Council agrees to support the Proposal at its meeting in June or July 2021, it could be referred to the Department by August 2021 |
| Anticipated timeframe for the completion of required technical information | The Applicant is not aware that any technical information will be required; hence nil |
| Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination) | Not within the control of the Applicant / as required by Gateway determination; however, unlikely to be required; hence nil |
| Commencement and completion dates for public exhibition period | As required by Gateway determination |
| Dates for public hearing (if required) | Unlikely to be required; hence nil |
| Timeframe for consideration of submissions | Not within the control of the Applicant, but subject to Council's workload likely to be minimal |
| Timeframe for consideration of Proposal post-exhibition | Not within the control of the Applicant, but subject to Council's workload and meeting agenda, likely to be minimal |
| Date of submission to the Department to finalise the LEP | Not within the control of the Applicant, but subject to Council's workload likely to be minimal |
| Anticipated date the local plan-making authority will make the plan (if authorised) | Not within the control of the Applicant |
| Anticipated date the local plan-making authority will forward to the PCO for publication | Not within the control of the Applicant |

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4 June 2021