

REZONING REVIEW – Briefing Report

Date of referral	1 July 2019	
Department ref. no	RR_2019_NORTH_003_00	
LGA	North Sydney	
LEP to be amended	North Sydney Local Environmental Plan 2013	
Address	283, 275, 271-273, 263-269 Alfred Street and 4 Little Alfred Street, North Sydney	
Reason for review	<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.
Is a disclosure statement relating to reportable political donations under s10.4 of the Act required and provided?	<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.

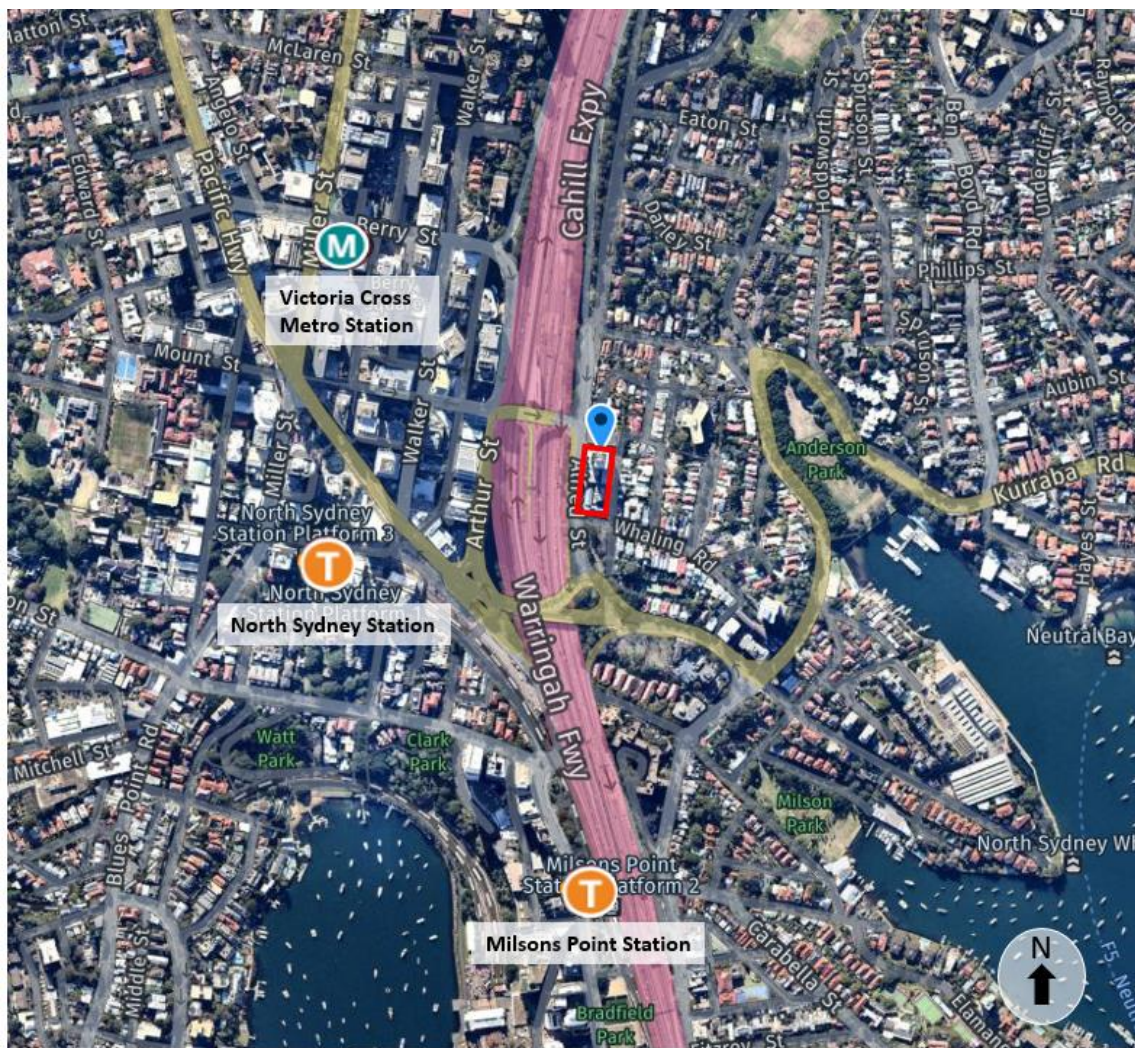


Figure 1: Locality Map (nearmap)



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 5,217m² (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 ² net lettable area.	1,740m ² NLA	872m ²	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 ² net lettable area) also known as 'the Bayer building'.	7,920m ² NLA FSR 7.3:1	1,334m ²	B
271 Alfred St	Lot 1 DP532504	3-4 storey commercial building, approximately	521m ² NLA	1,030m ²	C
273 Alfred St	SP6830	3-4 storey commercial building, approximately	1,490m ² 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 ²	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**.

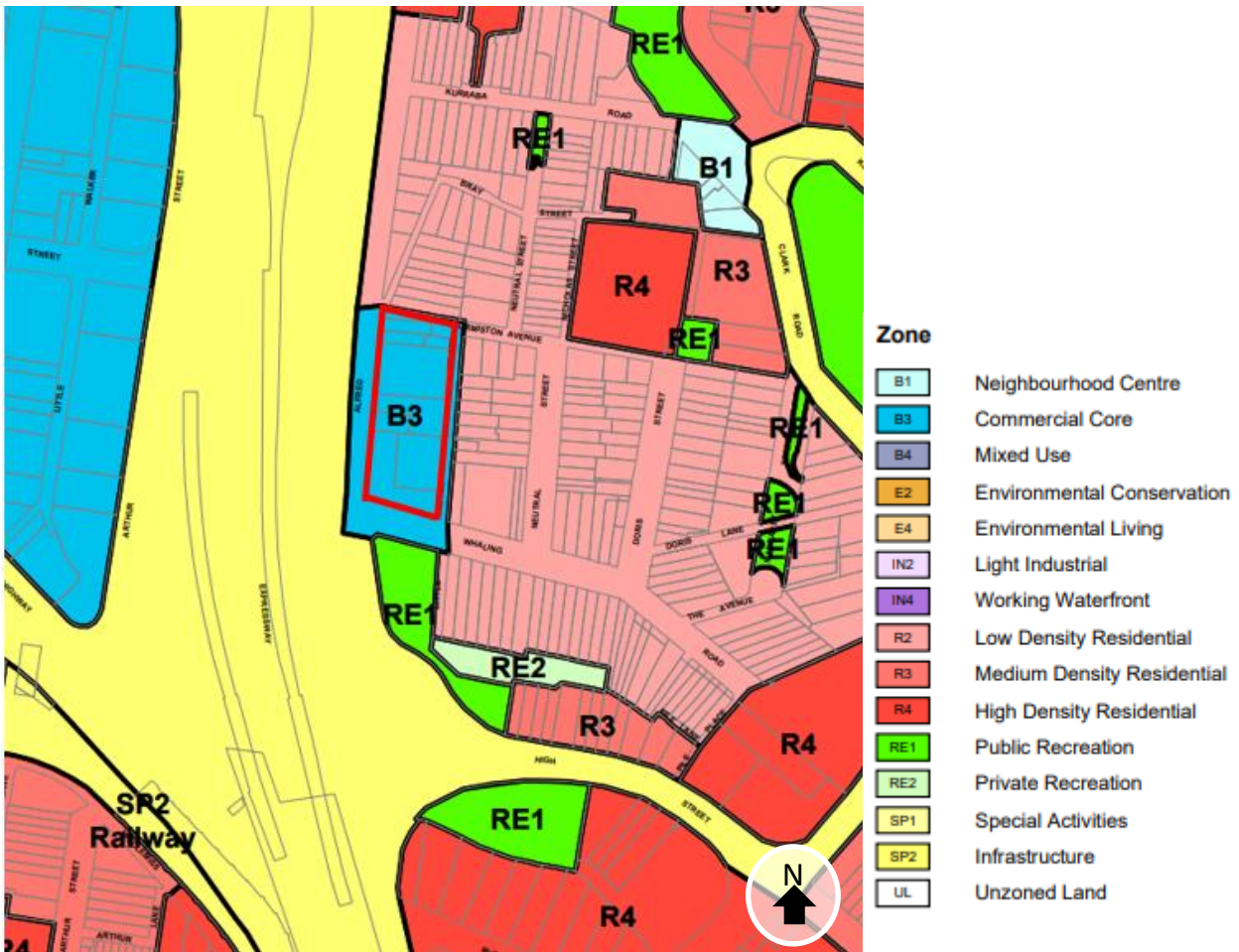


Figure 5: Land zoning map NSLEP 2013



Figure 6: Maximum building height map NSLEP 2013

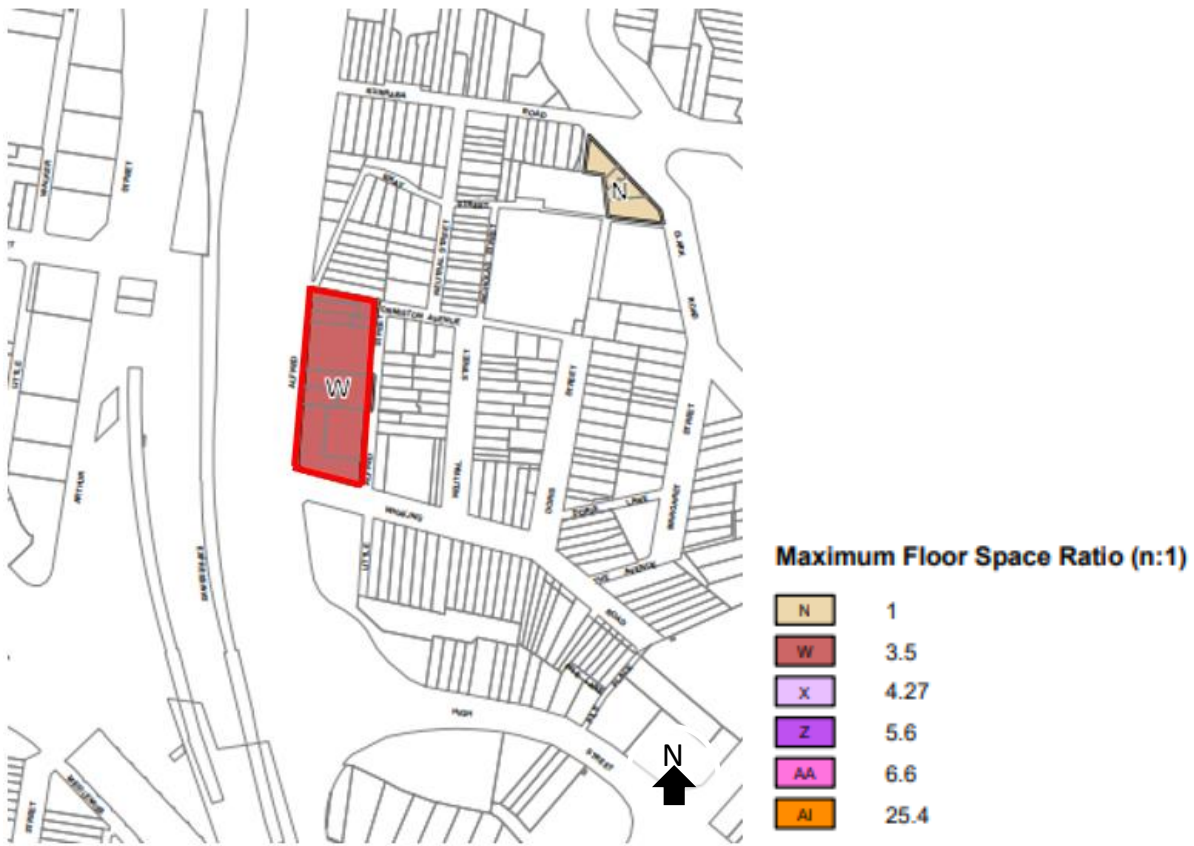


Figure 7: Maximum floor space ratio map NSLEP 2013

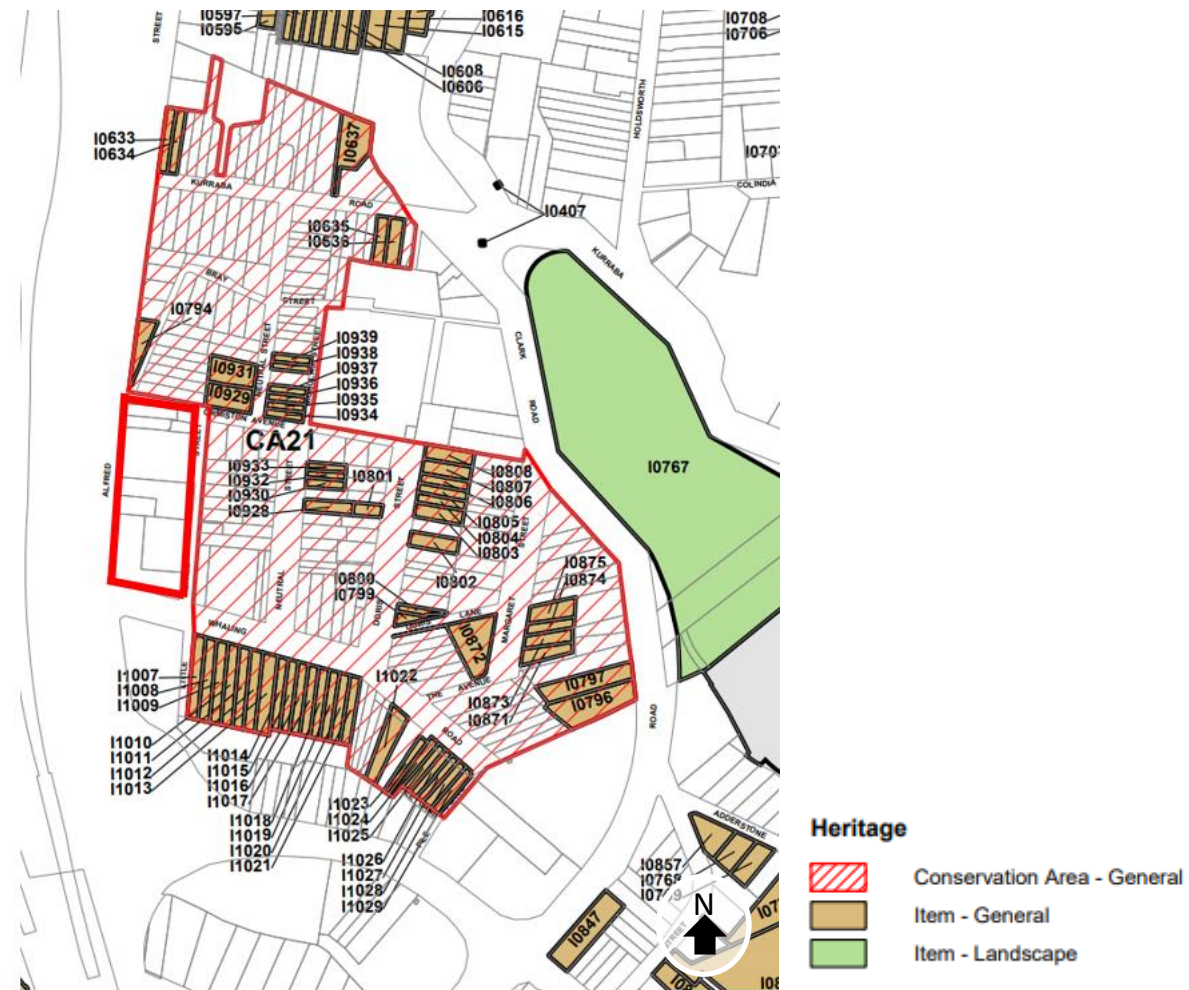


Figure 8: Heritage Map NSLEP 2013

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 14,499m² of residential gross floor area (GFA) (156 residential units) and 10,127m² of commercial (retail and office) GFA, which totals to a GFA of 24,626m².

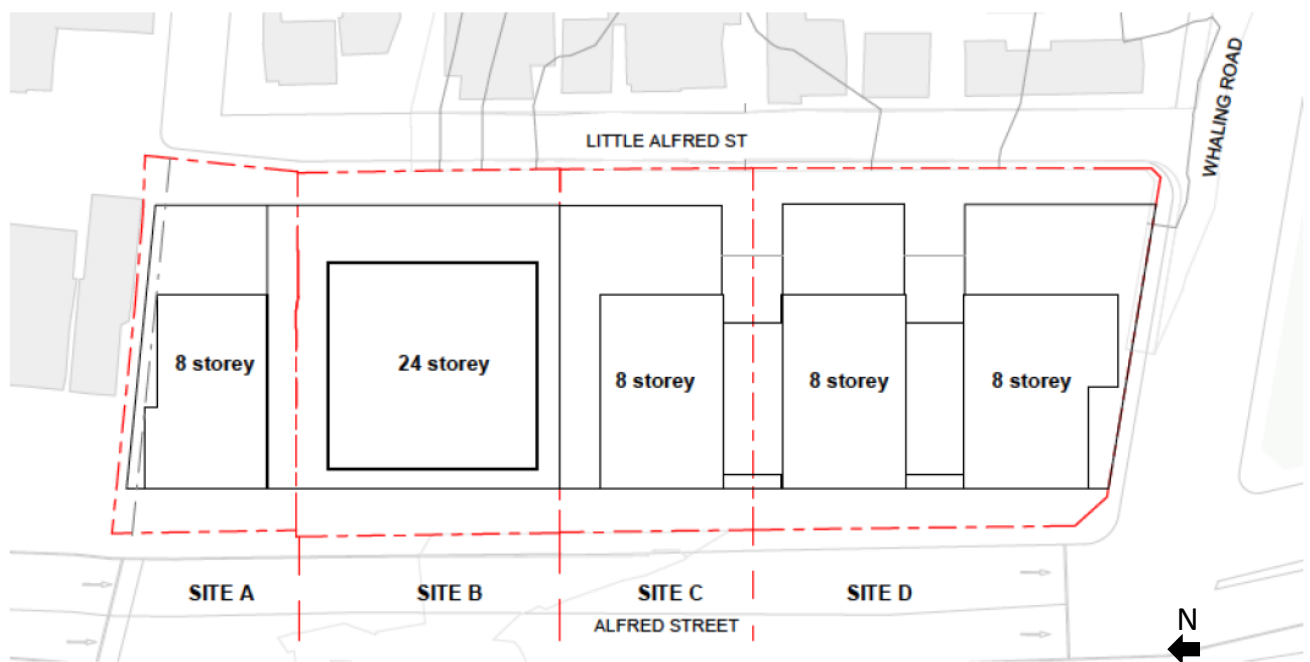


Figure 9: Proposed heights (Mecone)



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 ² 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

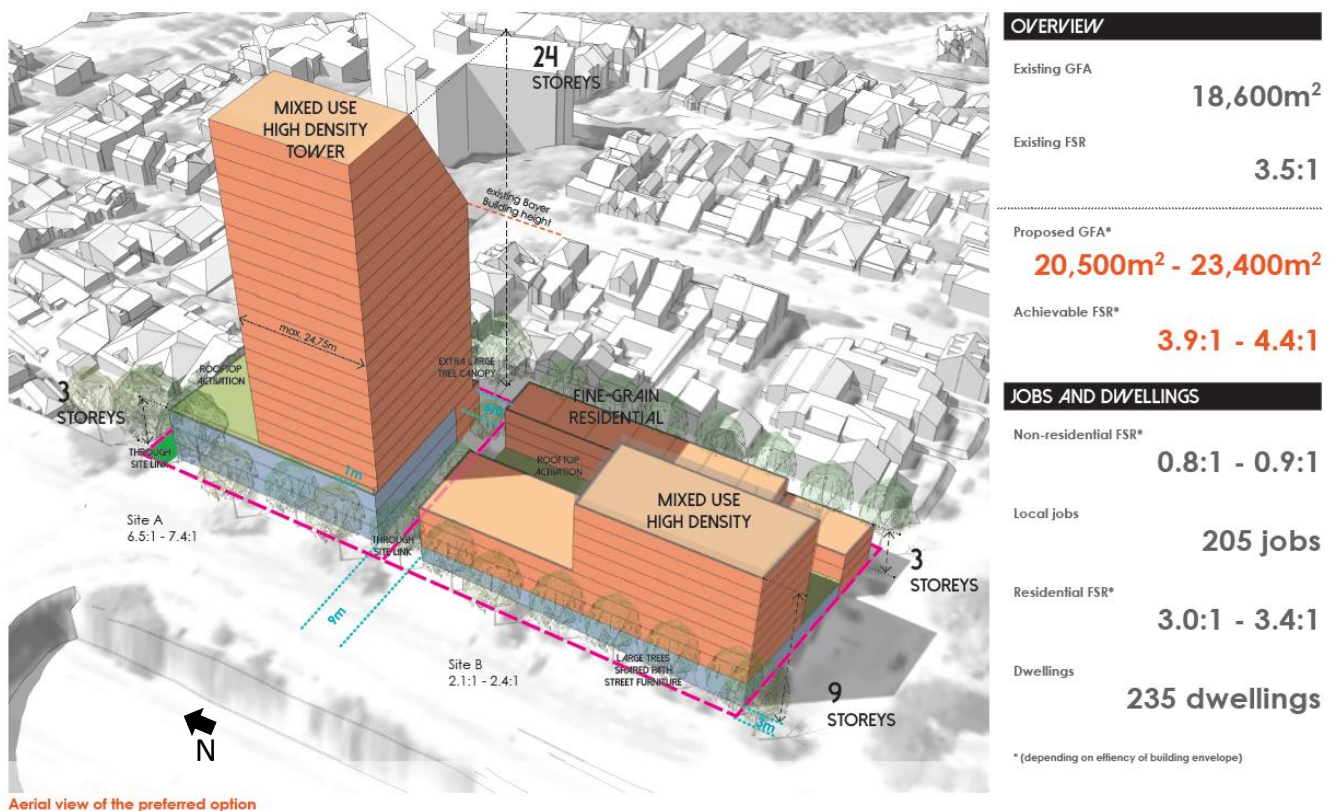


Figure 12: Alfred Street Precinct Planning Study preferred built form (North Sydney Council)

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.

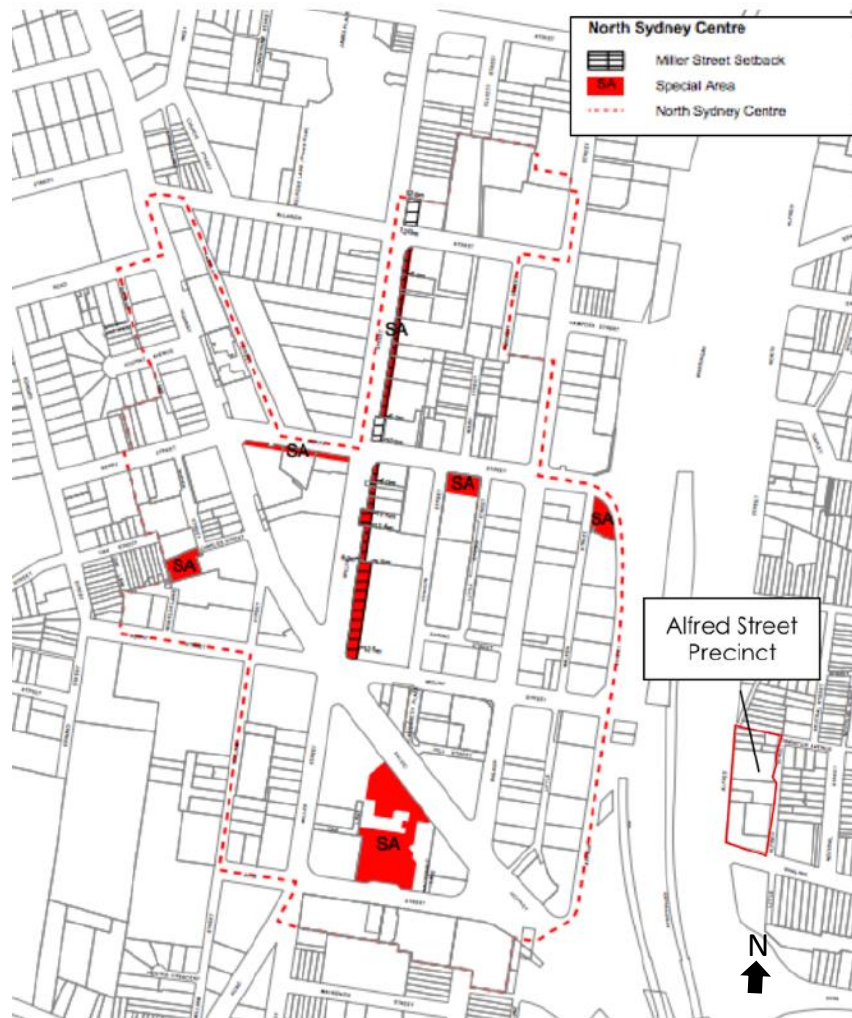


Figure 13: North Sydney Centre (Mecone)

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, 21st June between 9:00am and 3:00pm. The shadow analysis concludes:

- all residential properties to the east maintain existing solar access conditions on the 21st 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.

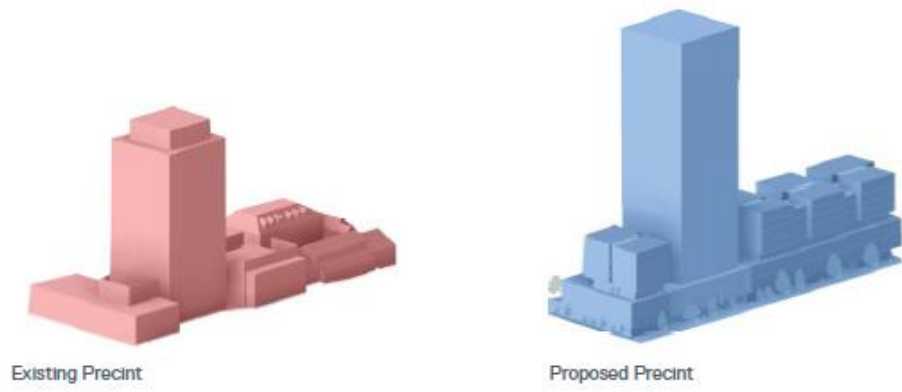


Figure 15: Existing development and proposed development (Grimshaw)

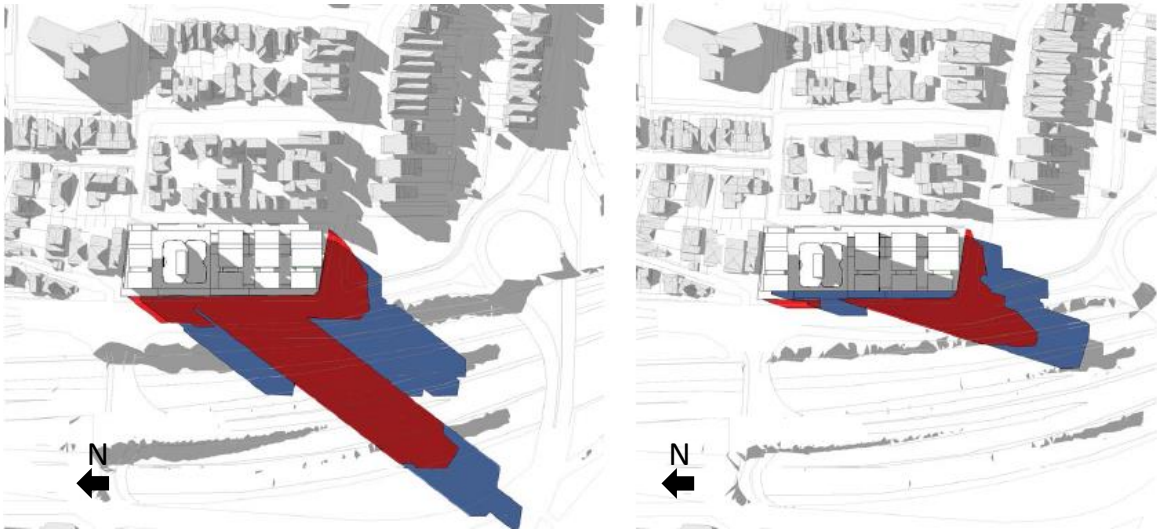


Figure 16: 21st June - 9:00am (left) 10:30am (right) proposed shadows (Grimshaw)

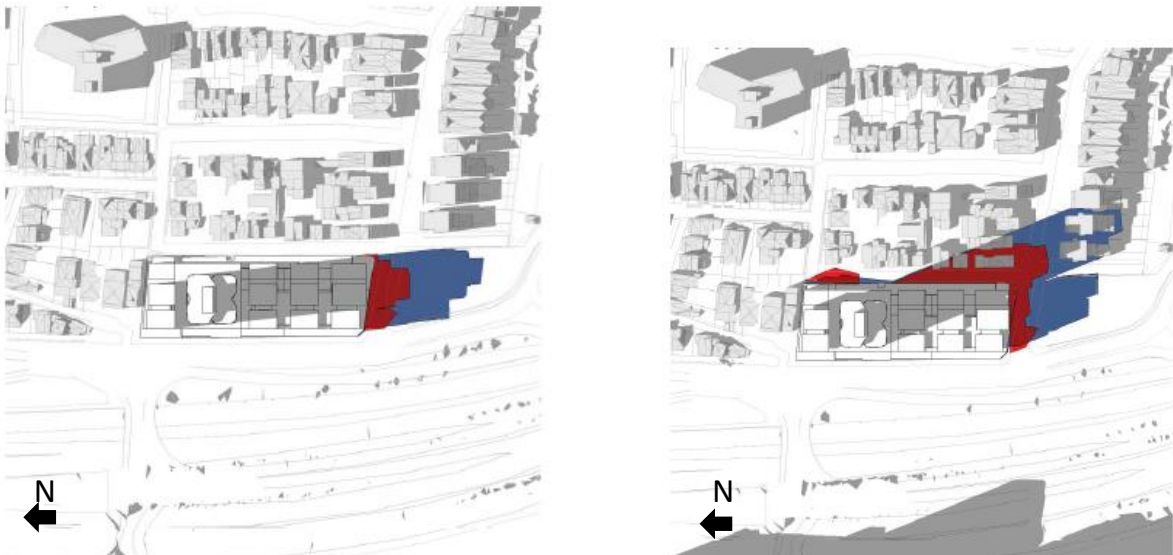


Figure 17: 21st June - 12:00pm (left) 1:00pm (right) proposed shadows (Grimshaw)

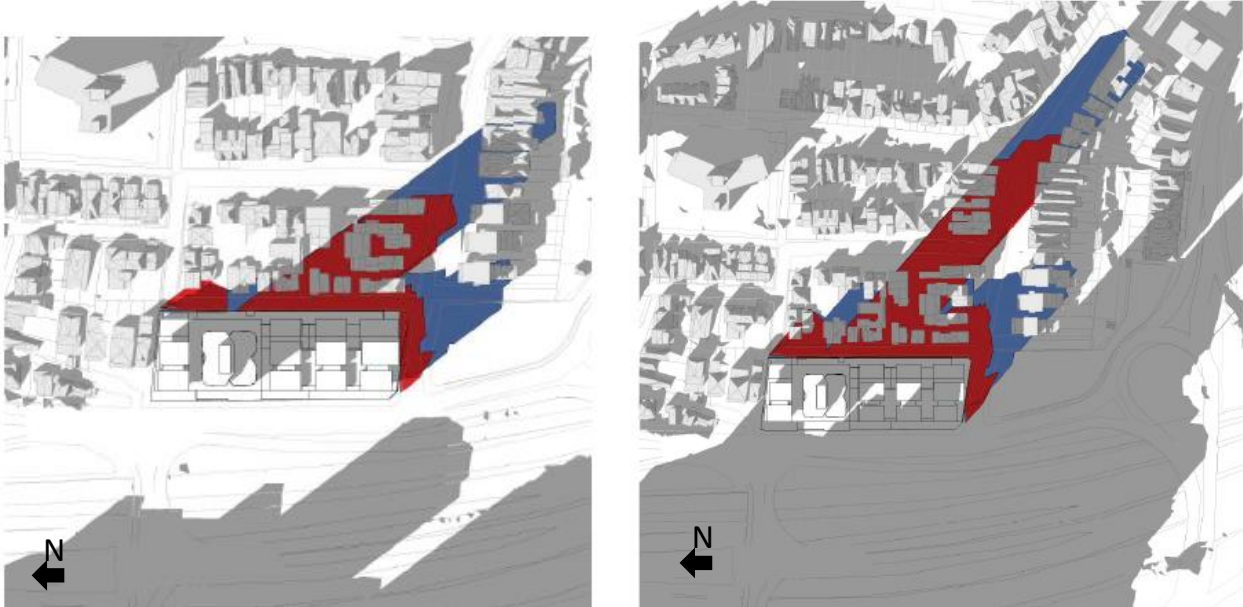


Figure 18: 21st June - 2:00 pm (left) 3:00pm (right) proposed shadows (Grimshaw)

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
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