

REZONING REVIEW – Briefing Report

Date of referral	20 April 2021	
Department ref. no	RR-2021-80 (PP-2021-2374)	
LGA	North Sydney	
LEP to be amended	North Sydney LEP 2013	
Address	1A Little Alfred Street, North Sydney	
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment	<input 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

The rezoning review application was submitted on 20 April 2021 by Ethos Urban on behalf of Tooma and Tooma Pty Ltd for 1A Little Alfred Street, North Sydney (**Attachment G**). The planning proposal seeks to amend the North Sydney Local Environment Plan (LEP) 2013 on the western portion of the site to:

- introduce a maximum height of buildings to 12.5m;
- introduce a maximum FSR to 0.9:1; and
- amend Schedule 1 Additional permitted uses to allow 'serviced apartments' and 'co-living' as additional permitted uses on the site.

The proposal intends to repurpose the existing tennis courts and provide a 3 storey building on the western portion of the site. The proposal will:

- retain the RE2 Private Recreation zoning on the site;
- retain one tennis court for public access;
- provide 11 x 1-2 bedroom serviced apartments (at levels 1-3); and
- provide an indoor and outdoor recreational space at ground level including a 38 sqm kiosk/café; 62 sqm wellness centre for activities such as a yoga and gym; and a 55 sqm of shared 'co-working' space, accommodation lobby and back of house, all at ground level. It is proposed that the whole site will be privately managed and maintained by on-site management. Ground floor uses will be commercially operated and will not be restricted to the residents of the short stay accommodation.

1.1 Background

A summary of the background of the planning proposal is in **Table 1**.

Table 1: Summary of the background of the planning proposal

Date	Event
2002	The owner at the time approached Council with concepts to develop the site but was not supported by Council.
2011	A planning proposal sought to rezone the site from RE2 Private Recreation to R2 Low Density Residential. The rezoning was supported by Council, however, after a public meeting Council resolved not to proceed with the proposal.
2014	A development application (DA) was refused by Council to construct a 4 level development containing 3,200m ² of recreational floorspace to include a bowling alley, wave pool, café, lap pool, screen golf, rifle range, rock climbing, gym, lounge and day spa including 31 car spaces. The proposal was not supported as Council considered it represented an overdevelopment of the site.
December 2017	The proponent met with Council to discuss a preliminary concept for the site with reference to previously refused concepts.
February 2018	Meeting with adjoining landowners to discuss the planning proposal.
24 March 2020	Planning proposal submitted to Council for a part four and part five storey development (21m), FSR of 1.6:1 and sought additional uses including serviced apartments, office premises and boarding house. Revised after Council feedback.
30 July 2020	Council wrote to the applicant outlining the issues with the planning proposal such as loss of recreational space, impacts on the surrounding properties and inconsistency with the objectives of the RE2 zone.
8 October 2020	Revised concept scheme submitted to Council reducing the HOB to 15m (3 storeys), reducing the FSR to 0.62:1, extending the VPA for the operation of the tennis court to 15 years and adding the proposed new 'co-living' as a permissible use.
9 December 2020	North Sydney Local Planning Panel (LPP) reviewed the revised planning proposal. The LPP resolved to support the proposed development on the western portion of the site with the additional use limited to serviced apartments only, with a maximum HOB of 12.5m and a maximum FSR of 0.9:1. The LPP also recommended that a restriction be placed on future subdivision to ensure the site remains in single ownership and the tennis court be available to the public.
4 February 2021	Applicant submitted a further amended planning proposal to Council to allow 'serviced apartments' and 'co-living' should the draft Housing Diversity SEPP introduce this as a defined use, HOB of 12.5m and FSR 0.9:1.
22 February 2021	Council recommended that the planning proposal not be supported as it was out of character with the surrounding area, will result in the loss of private recreational space and is inconsistent with the objectives of the RE2 zone.
20 April 2021	The proponent wrote to the Department requesting a Rezoning Review.
31 May 2021	The rezoning review was initiated on the NSW Planning Portal.

1.2 Locality and context

The site is located in the North Sydney Local Government Area (LGA) on the east side of the Warringah Freeway, approximately 500m south-east of the North Sydney CBD and approximately 2.5kms north of the Sydney CBD.

To the north, directly adjoining the site are the rear of detached and attached residential dwellings and terraces with a frontage to Whaling Road (**Figures 3 and 4**).

To the east, development is generally characterised by one and two storey residential dwellings with higher density at the end of Whaling Road.

To the south, directly adjoining the site are two storey attached older style dwellings with a frontage to High Street (**Figure 5**) with residential flat buildings further east (**Figure 6**).

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

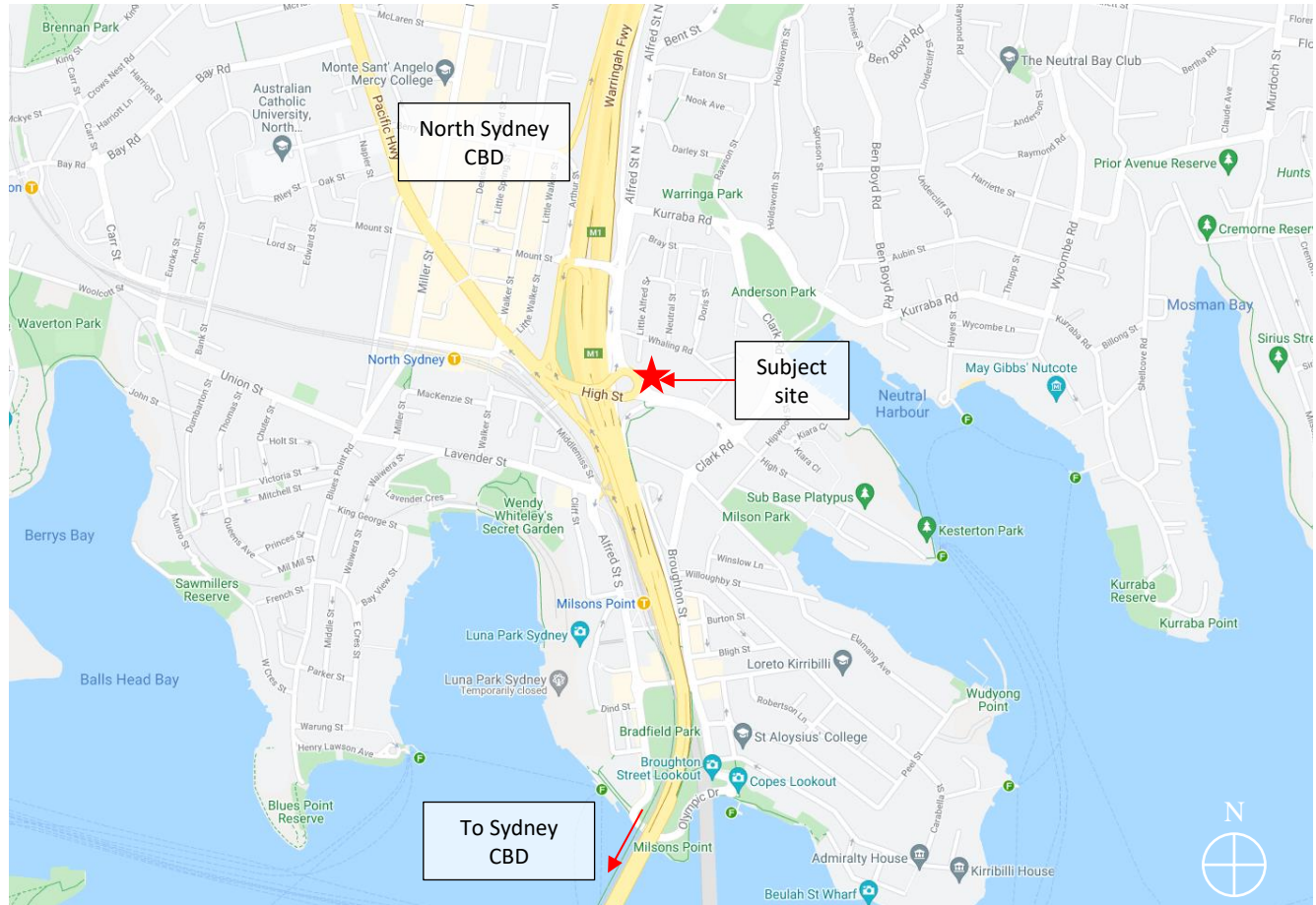


Figure 1: Locality (source: Nearmap, overlay by DPIE)



Figure 2: Subject site (source: Nearmap, overlay by DPIE)



Figure 3: Semi-detached residential dwellings directly adjoining the south end of the site facing Whaling Road (source: Google Maps)



Figure 4: Terraces directly adjoining the north end of the site facing Whaling Road (source: Google Maps)



Figure 5: Residential dwellings directly adjoining the south boundary of the site fronting High Street (source: Google Maps)



Figure 6: Residential flat buildings further east fronting High Street (source: Google Maps)

1.3 Site description

The site is an irregular shape and approximately 1,829m² in area. The site is known as the Kirribilli Tennis Centre, 1A Little Alfred Street, North Sydney and legally known as Lot 1051 DP 812614.

The existing development on the site comprises of three operational tennis courts with several small outbuildings and a hardstand carpark including three car spaces. Access to the site is via Little Alfred Street on the western boundary and a pedestrian walkway on the south boundary (**Figures 7-12**).

The topography of the site is relatively flat. The site contains no heritage items, is not within a heritage conservation area (HCA) and contains no significant trees or vegetation. The site adjoins the Whaling Road Conservation Area to the north and a number of heritage listed properties that have a street frontage to Whaling Road.

A site map is included at **Attachment B** – site map and **Figure 2**.



Figure 7: View looking south along Little Alfred Street towards the site entry (source: Ethos Urban)



Figure 8: Site entry from Little Alfred Street and carpark (source: Ethos Urban)



Figure 9: View from court 1 looking west towards the carpark and entrance and North Sydney CBD (source: Ethos Urban)



Figure 10: Looking west along the pedestrian access on the south boundary (source: Ethos Urban)



Figure 11: View from court 2 looking north with the amenity hut on the northern boundary (source: Ethos Urban)



Figure 12: View from court 3 looking east with the amenity hut on the northern boundary (source: Ethos Urban)

1.4 Current planning provisions

Under the North Sydney LEP 2013, the site is subject to the following planning provisions:

- RE2 Private Recreation zone (**Figure 13**);
- no maximum building height applicable (**Figure 14**);
- no maximum floor space ratio applicable (**Figure 15**);

The current LEP maps and the written provisions are provided in **Attachment C** – current LEP maps. Maps are also provided in **Figures 13-16**.

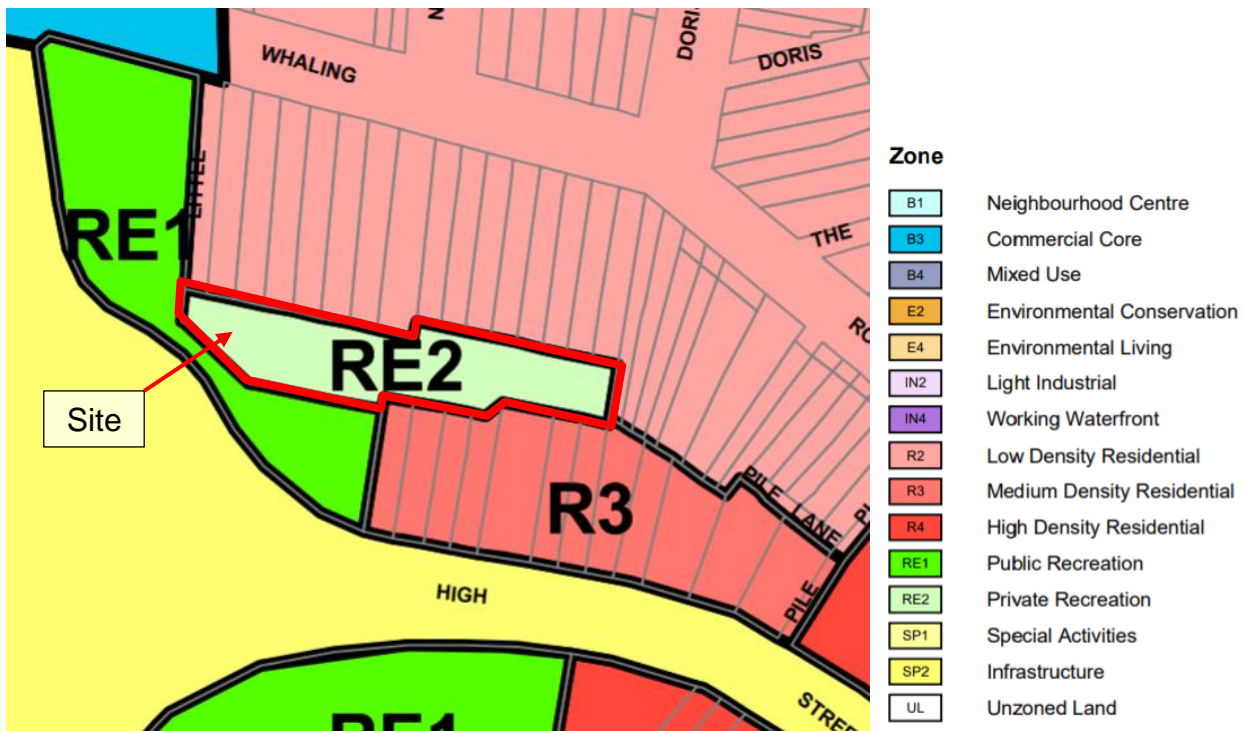


Figure 13: Land zoning map LZN_002A (source: NSW Planning Portal, overlay by DPIE)

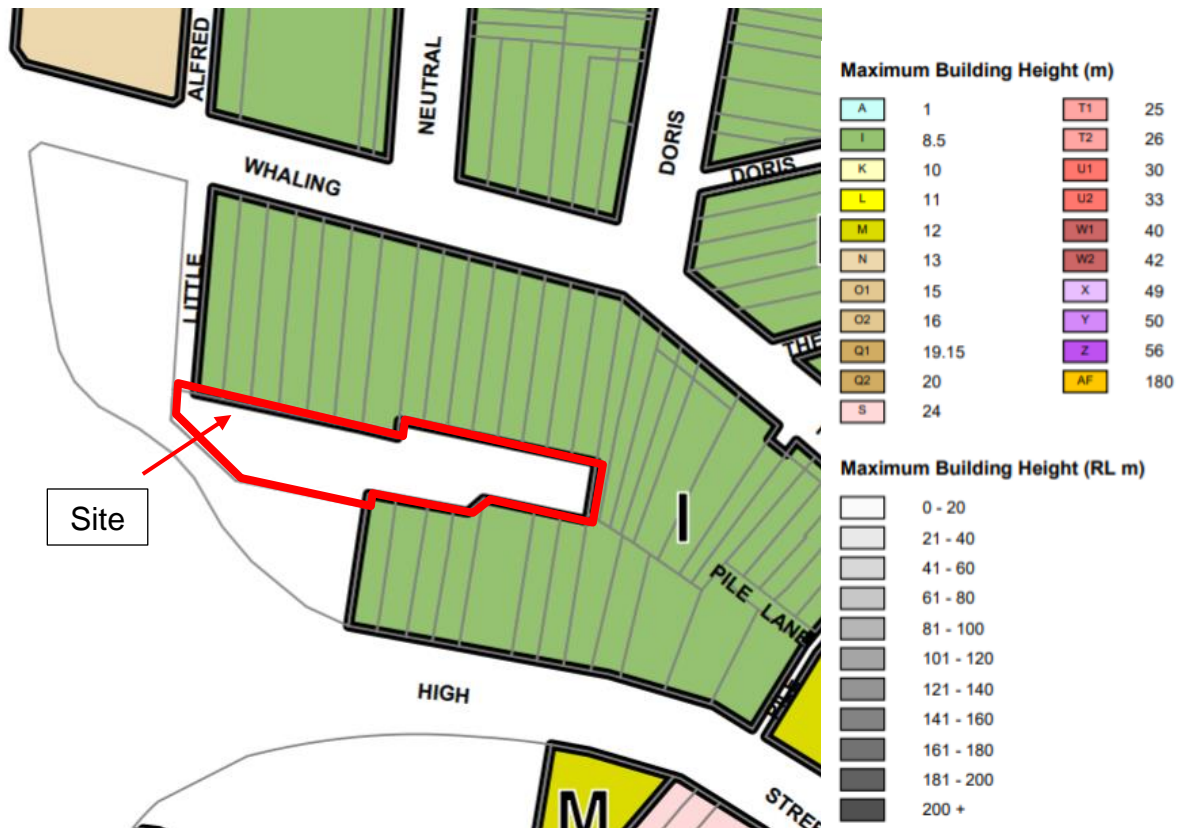


Figure 14: Maximum height of buildings map HOB_002A (source: NSW Planning Portal, overlay by DPIE)

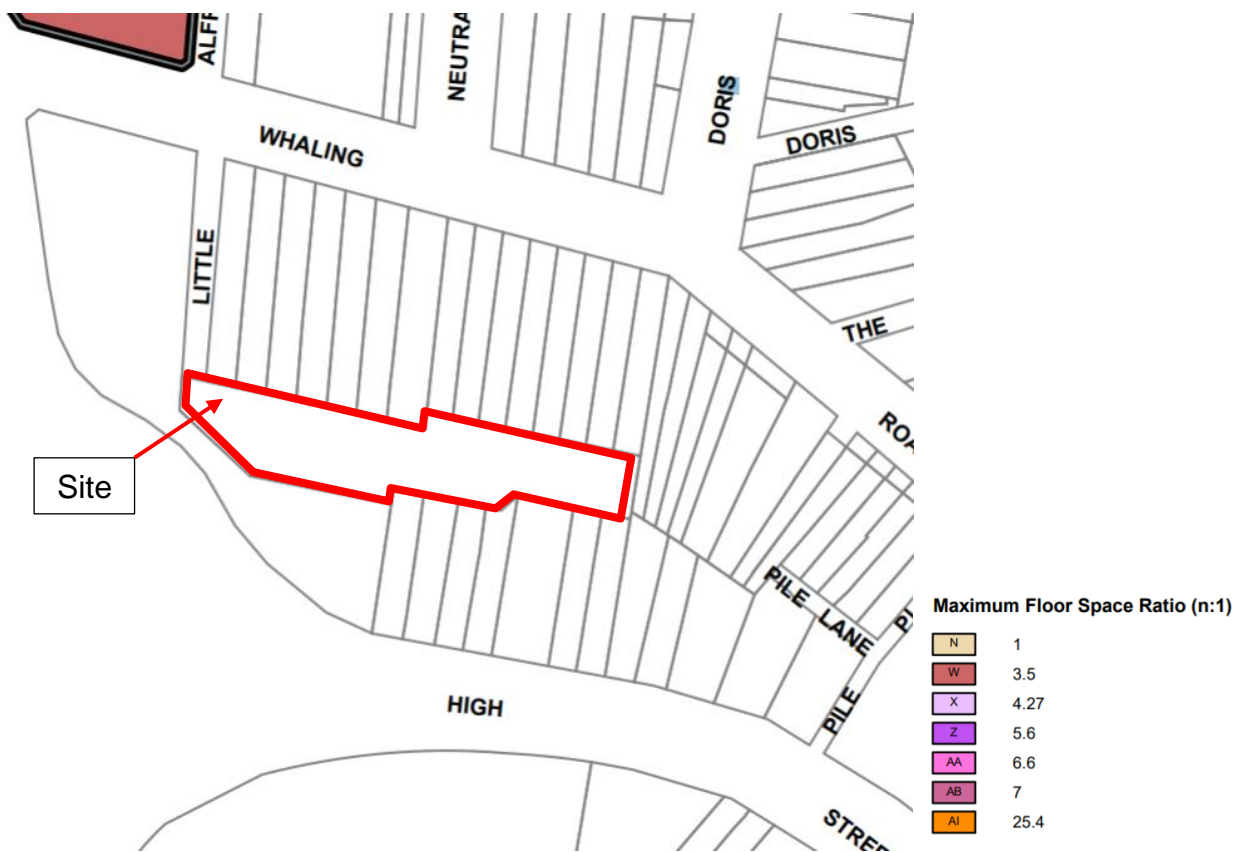


Figure 15: Maximum FSR map FSR_002A (source: NSW Planning Portal, overlay by DPIE)

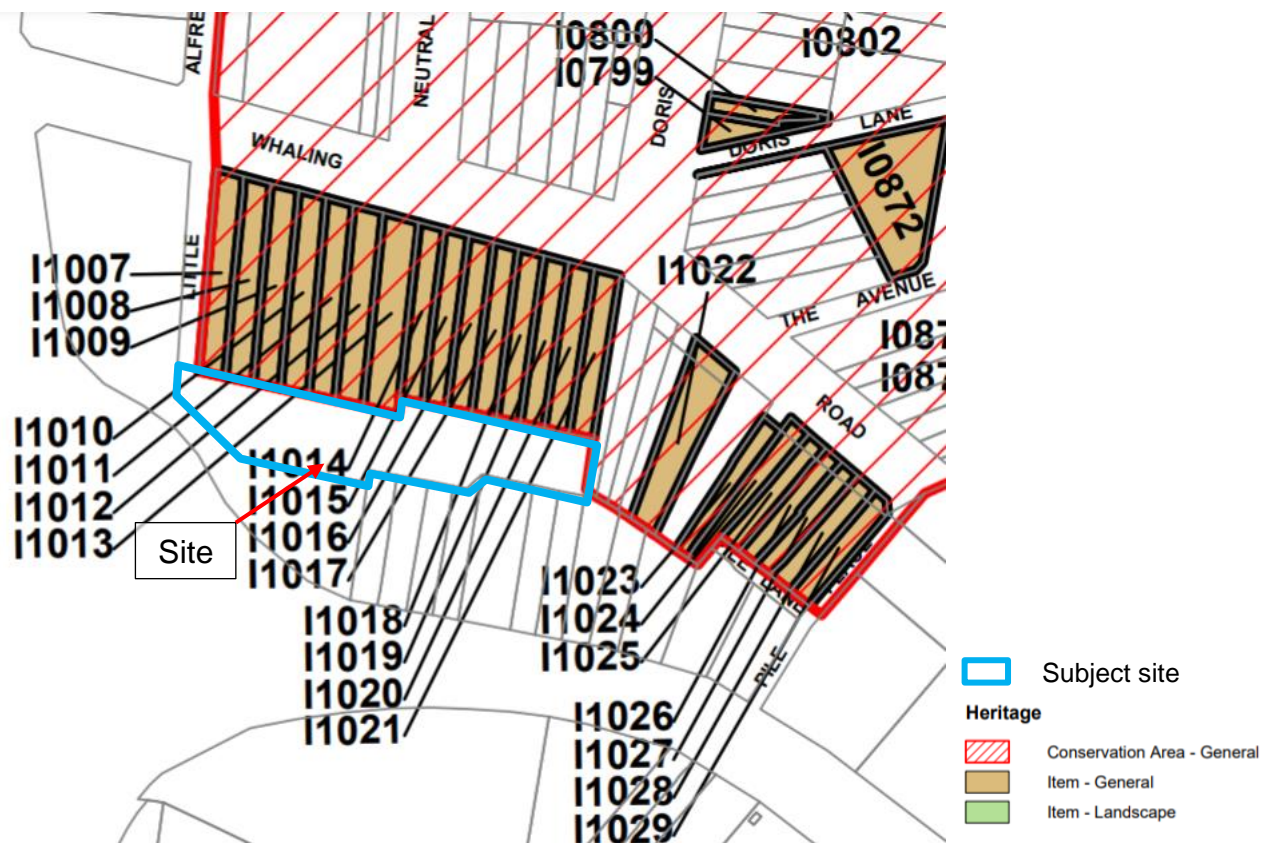


Figure 16: Heritage map HER_002A (source: NSW Planning Portal, overlay by DPIE)

1.5 Proposed planning provisions

The rezoning review documentation states that the planning proposal seeks to amend the North Sydney LEP 2013 for the western portion of the site by:

- amending Schedule 1 Additional permitted uses to allow ‘serviced apartments’ and ‘co-living’ as permitted land uses on the site;

- introducing a maximum height of buildings of 12.5m (**Figure 17**); and
- introducing a maximum FSR of 0.9:1 (figure 18).

The proposed LEP maps are provided in **Attachment D** – proposed LEP maps. Maps are also provided in **Figures 17** and **18**.

The planning proposal is accompanied by a proposed concept scheme shown in **Figures 19-27** and in the Architectural Drawings (**Attachment G5**). The concept would deliver a new three storey building on the western portion of the site comprising an overall GFA of 844m². The proposal has an FSR of 0.46:1 across the site or 0.9:1 across the western portion of the site. The roof design proposed in the concept plan may extend beyond 12.5m due to the design to the building. The proposal retains vehicular access via Little Alfred Street and will provide 7 car parking spaces along the northern boundary.

It is noted that existing permissible uses in the RE2 Public Recreation zone include (among other uses) Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor) which may accommodate the some of the proposed uses in the indicative scheme.

The proposal will include serviced apartments and ‘co-living’ as additional permitted uses on the site. Currently there is not a definition for ‘co-living’ under the Standard Instrument definitions, however it is proposed as a housing typology under the Housing Diversity SEPP. Under the draft SEPP ‘co-living’ developments will provide studio-type accommodation supplemented by access to communal facilities. The application states that it is not intended to use the site as a traditional ‘boarding house’ however this is noted as the closest definition under the currently defined terms.



Figure 17: Proposed maximum height of buildings map HOB_002A (source: Ethos Urban)

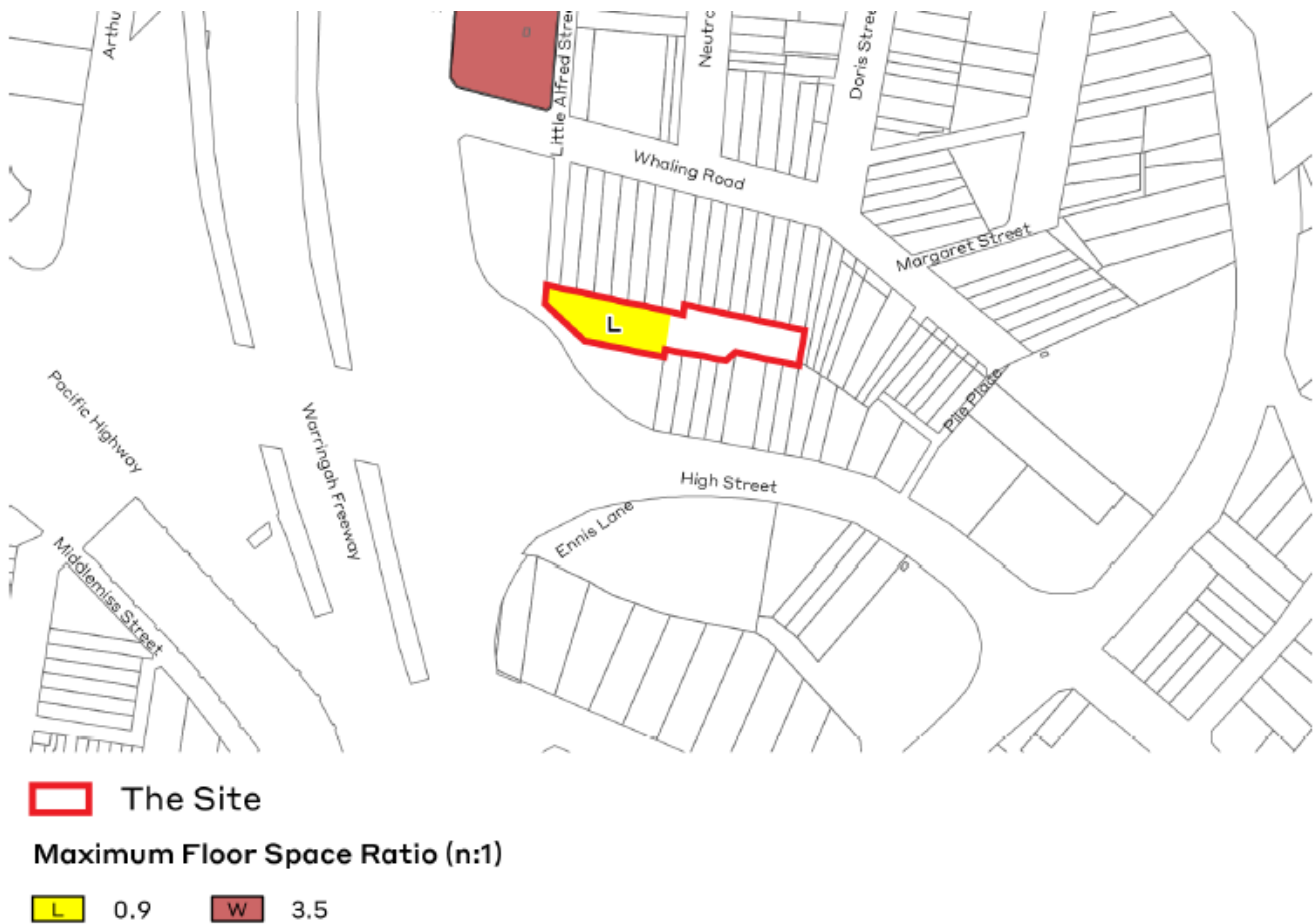


Figure 18: Proposed maximum floor space ratio map FSR_002A (source: Ethos Urban)

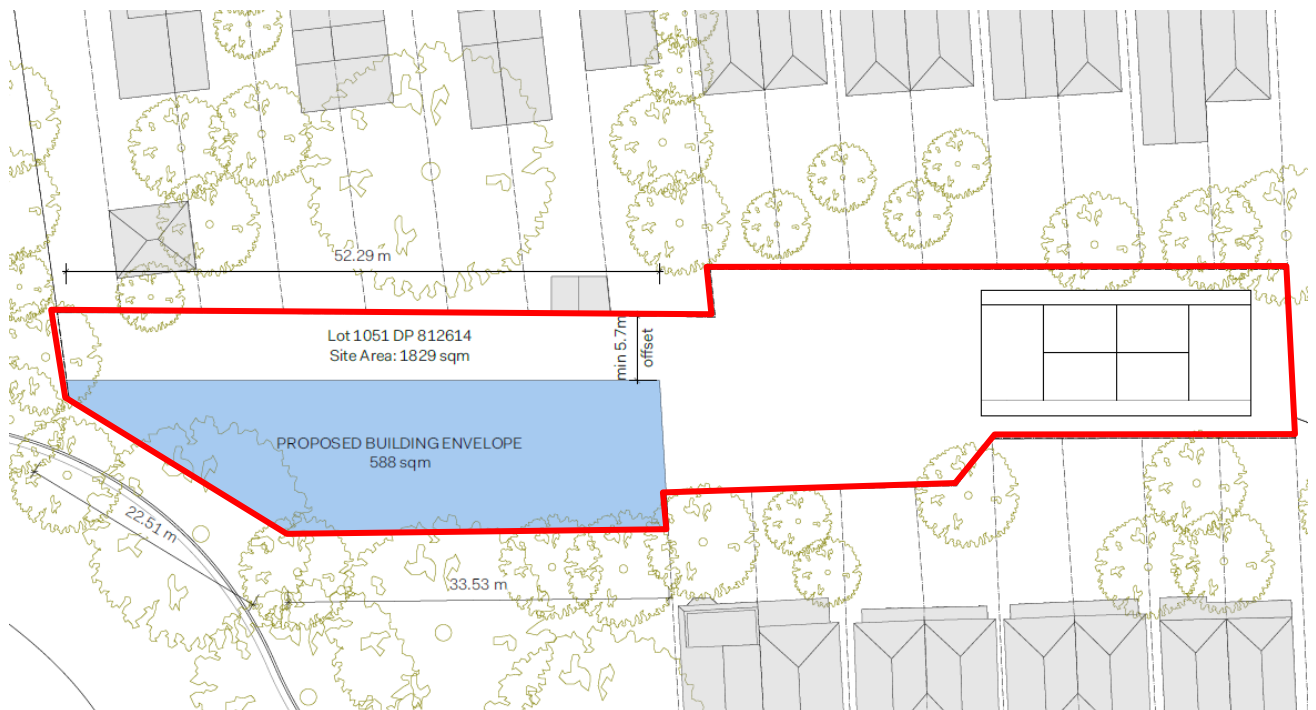


Figure 19: Proposed building envelope (source: Carter Williamson, overlay by DPIE)

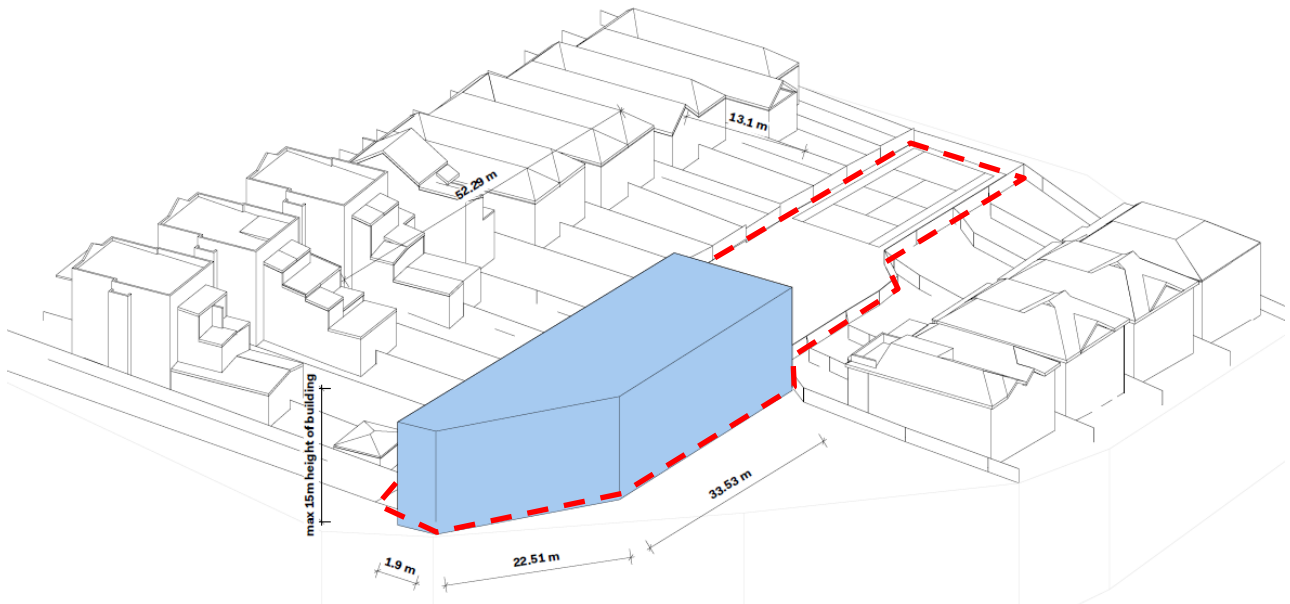


Figure 20: Proposed concept massing north (source: Carter Williamson, overlay by DPIE)

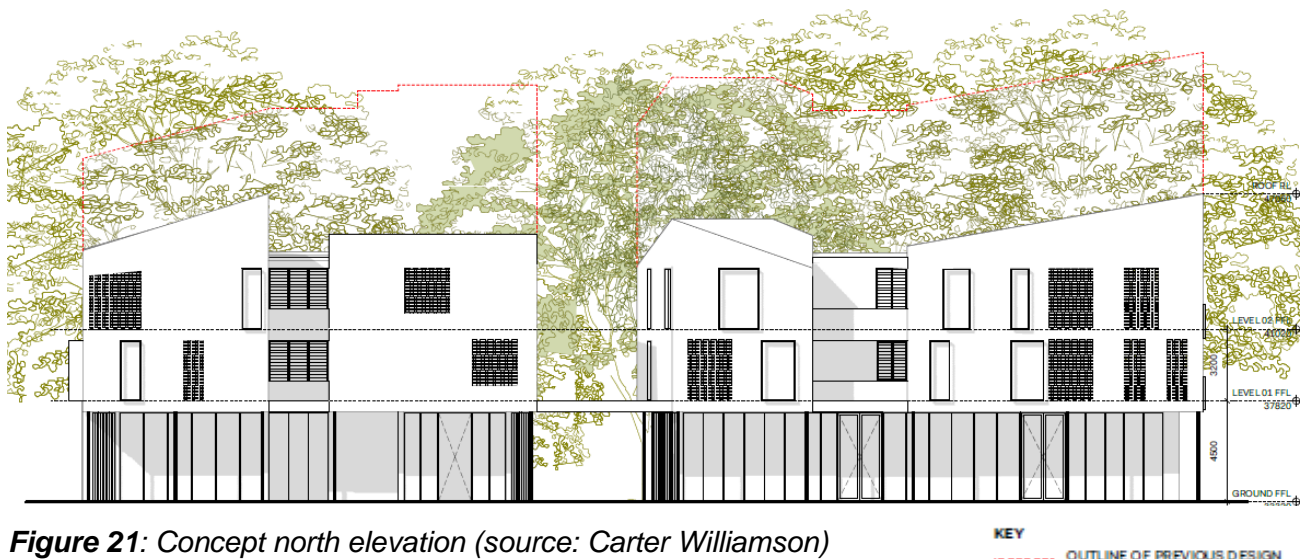


Figure 21: Concept north elevation (source: Carter Williamson)



Figure 22: Concept south elevation (source: Carter Williamson)

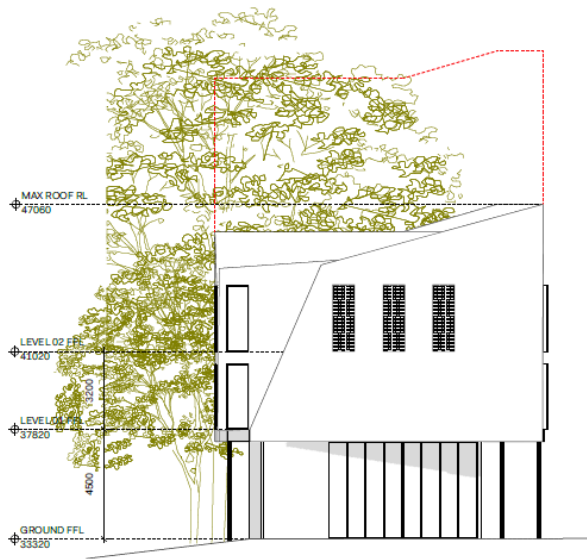


Figure 23: Concept east elevation (source: Carter Williamson)

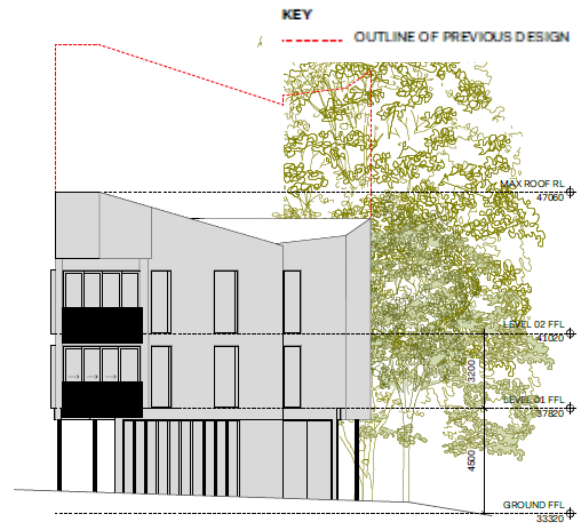


Figure 24: Concept west elevation (source: Carter Williamson)

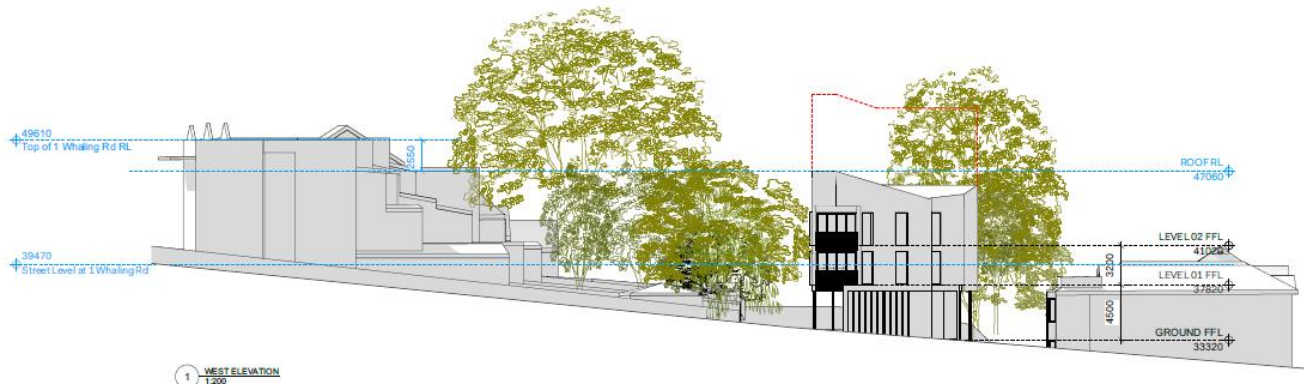


Figure 25: Concept full west elevation from Whaling Road (source: Carter Williamson)

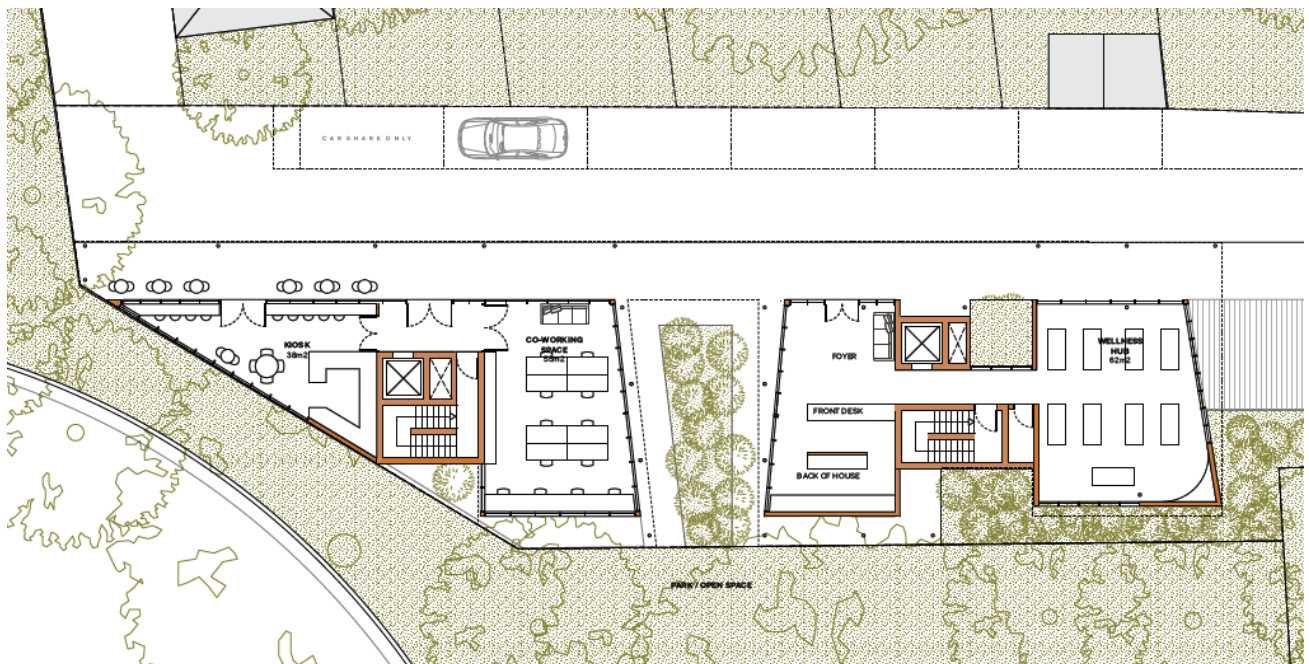


Figure 26: Concept ground floor plan (source: Carter Williamson)

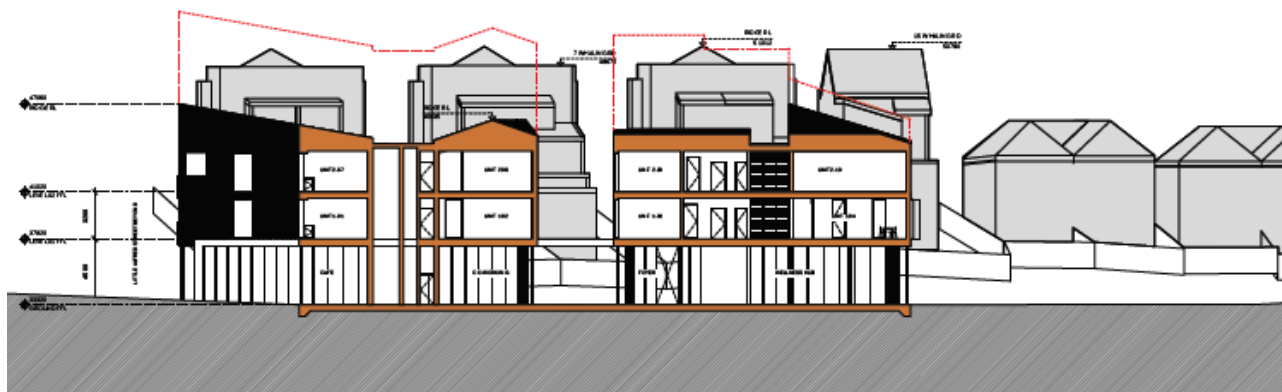


Figure 27: Concept east-west section with the existing residential dwellings along Whaling Road beyond (source: Carter Williamson)

2. INFORMATION ASSESSMENT

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

No. 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 proposal is consistent with the North District Plan as it will assist in facilitating the local visitor economy. The demand for co-working spaces will increase as will serviced apartments due to the proximity to employment and additional jobs identified in the employment targets under the District Plan.

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

Although there is no local strategy endorsed by the Department that applies to the site, the following strategies are relevant to the proposal:

North Sydney Community Strategic Plan 2018-2028

The rezoning review outlines key aspects relevant to the planning proposal:

- *Direction 1* - enhance public open space and reuse existing facilities to increase access to a range of recreation facilities such as community gardening meeting the needs of the current and future community;
- *Direction 2* – improve existing Council assets and infrastructure;
- *Direction 3* – grow and facilitate innovation, entrepreneurship and start-ups, maximise the visitor economy while minimising the impact on existing residents;

The rezoning review states that the local community had a high satisfaction with the provision of recreational facilities. Open space, recreation and general amenity are major factors in making North Sydney a great place.

The planning proposal states that the following aspects noted in the strategy are relevant to the proposal:

- there are challenges with an increasing population and limited land for the provision of open space and sporting and recreational facilities;
- a need for creative use of existing infrastructure has resulted in high-quality facilities relevant for the needs and lifestyle of the community;
- Council is to encourage community gardening, rooftop and hard surface greening;
- Council is to provide infrastructure to support physical activity and explore green open space over Warringah Freeway.

North Sydney CBD Public Domain Strategy

The rezoning review states that the North Sydney 'Place Book – Stage 1 Public Spaces Vision' identifies a framework for short and long term public domain upgrades. Council is currently investigating the future provision of new parks and sporting facilities above the Warringah Freeway to the west of the site. If developed, the overbridge will add to user demands.

North Sydney Development Control Plan 2013

The rezoning review outlines the consistency of the planning proposal against the North Sydney Development Control Plan (DCP) **Table 2**.

Table 2: Consistency of the rezoning review against Council's DCP

Description	Consistency
Views	The rezoning review states that the proposal retains existing water views from the residential properties along Whaling Road.
Solar access	The rezoning review states that there is no overshadowing to the adjoining the public park to the west as a result of the concept proposal. There is overshadowing to the RE1 Public Recreation land to the south which currently experiences overshadowing due to a dense coverage of trees. The existing tree canopy is above the proposed HOB and will not impact on their growth.
Setbacks	The rezoning review states that the proposal complies with the setbacks to the north. The detailed design of the proposed windows and balconies can mitigate privacy impact to adjoining properties.
Traffic and parking	The rezoning review states that the concept includes a turning area within the site with parking provisions of one space per five apartments, consistent with the DCP requirements.
Landscaping	The rezoning review states that the concept is confined to the western side of the site and includes a landscaped area of 43%.
Built form	The rezoning review states that the proposal is consistent with this clause in the DCP.
Neutral neighbourhood	The rezoning review states that it is consistent with the local character statement in respect to land use and recreational spaces within a small-scale commercial activity. The proposal has been designed to minimise view and vista impacts.
Development in the vicinity of heritage items	The rezoning review states that the proposal will not adversely impact on the heritage value of the nearby items and conservation area.

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 states that employment is proposed to increase, and the concept development will support start-ups and entrepreneurs. It will facilitate the visitor economy and deliver diverse recreational facilities in responding more appropriately to user needs.

The rezoning review states that the North Sydney LEP 2013 was amended in October 2018 to prohibit serviced apartments in the B3 Commercial Core as it has the potential to undermine the employment capacity of the zone.

Serviced apartments are permissible in the B4 Mixed Use zone; however, this zone is nearing development capacity. As such, the site is ideally located to provide this form of land use.

2.2 Site-specific merit test

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

The rezoning review application states the site is currently used for tennis courts for hire and is relatively flat and free from vegetation. There are no known critical habitats, threatened species or ecological communities on the site and therefore the likelihood of any negative impacts is minimal.

Arboricultural Impact Assessment

An Arboricultural Impact Assessment conducted by Australis Tree Management (**Attachment G9**) was submitted as part of the rezoning review package. The assessment states that the aim of the report is to identify and provide recommendations on the health and condition of selected trees and potential impacts as a result of the concept development.

The assessment states that the trees studied are located on properties adjoining the site. The trees are of indigenous, planted native and exotic species of varying ages and maturity. The site and surrounding area:

- contains no remnant vegetation or have any high biodiversity value; and
- the subject trees are not listed in the NSW Threatened Species Conservation Act 1995 or as noxious weeds and undesirable species.

Of the trees assessed, three are on adjoining properties and to be retained and 21 are located on the southern adjoining public park. All trees are to be retained. However, some pruning may be required due to overhanging of the boundary.

The report recommends that protection measures will be required during the construction phase to ensure their long-term survival.

Heritage Impact

The rezoning review states that the site is not a heritage item and not within a heritage conservation area. However, the properties to the North are heritage items and within the Whaling Road Conservation Area (**Figures 3, 4 and 16**).

Overshadowing Impact

The rezoning review states that the proposal does not overshadow the adjoining park to the west or the residential properties to the north of the site along Whaling Road (**Figures 28-30**).

The rezoning review states that overshadowing is limited to the properties to the south along High Street with overshadowing occurring between 1pm and 4pm but not affecting the internal living spaces (**Figures 31-33**). The impact is mostly limited to the two most westerly properties at 26b and 28 High Street (**Figures 30 and 33**).

The rezoning review states that these properties will receive the minimum three-hour solar access during winter between 9am and 3pm to:

- solar panels;
- windows of principle interior living areas; and
- communal and principle private open space.

The Design Report (**Attachment G4**) contains shadow diagrams of the proposed concept.

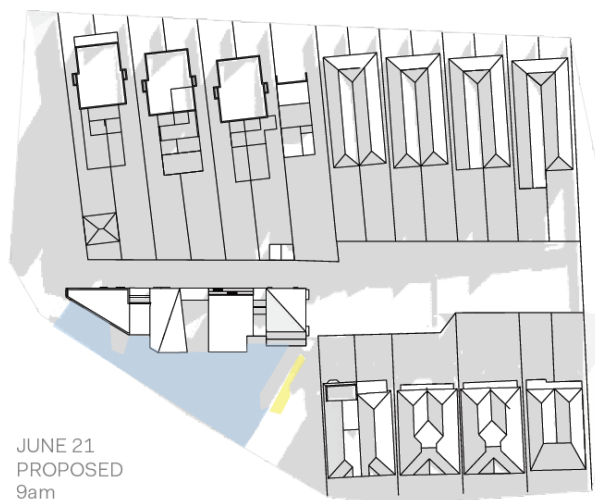


Figure 28: Proposed shadows June 21, 9am
(source: Carter Williamson)

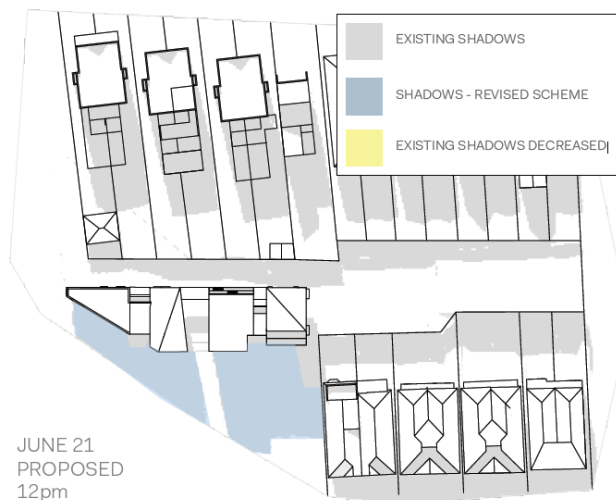


Figure 29: Proposed shadows June 21, 12pm
(source: Carter Williamson)

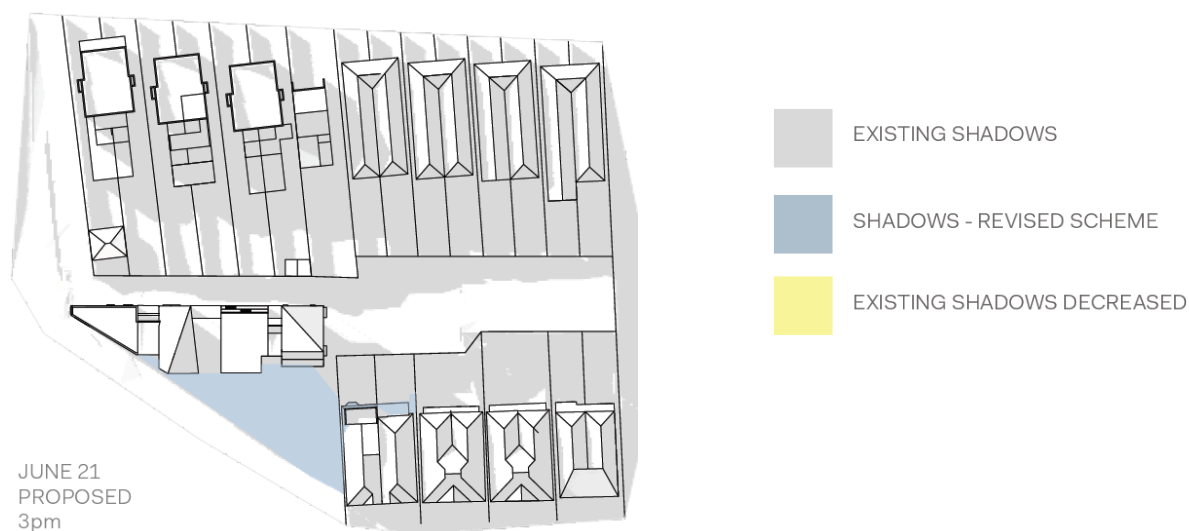


Figure 30: Proposed shadows June 21, 3pm
(source: Carter Williamson)



Figure 31: Proposed shadows June 21, 9am on neighbours to the south along High Street (source: Carter Williamson, overlay by DPIE)



Figure 32: Proposed shadows June 21, 12pm on neighbours to the south along High Street (source: Carter Williamson)



Figure 33: Proposed shadows June 21, 3pm on neighbours to the south along High Street (source: Carter Williamson)

View Impact and Privacy

The Revised Planning Proposal (**Attachment G3**) and Design Report (**Attachment G4**) contains images of the view impact on the surrounding residential residences as a result of the concept development.

The rezoning review states that the residents of the dwellings along Whaling Road do not have significant views of iconic landmarks such as the Sydney Harbour Bridge.

The planning proposal submitted with the rezoning review documentation states that the revised scheme will not result in a significant view loss currently available to the existing residential dwellings. An analysis of the view impact is shown in **Figures 34 to 36 and Attachment G3**.

Furthermore, the rezoning review documentation states that the existing vegetation will screen the proposed development and residents along Whaling Road will continue to benefit from overlooking the tree canopy. The residential dwellings will not lose their existing views of Careening Cove (**Figure 35**) and Sydney Harbour to the south-east (**Figure 36**).

The rezoning review states that the proposed height of 12.5m equating to three-storeys will limit and potential overlooking into the top levels of the adjoining residences. The building envelope is located approximately 17m from the existing residences to the north along Whaling Road with tree canopy providing additional privacy. This separation is greater than between the existing dwellings in any residential context like North Sydney.

The rezoning review states that occupants of services apartments typically spend less time in their apartments. Privacy screening and balconies and windows can be positioned to avoid direct overlooking to surrounding residences (**Figures 37 and 38**).

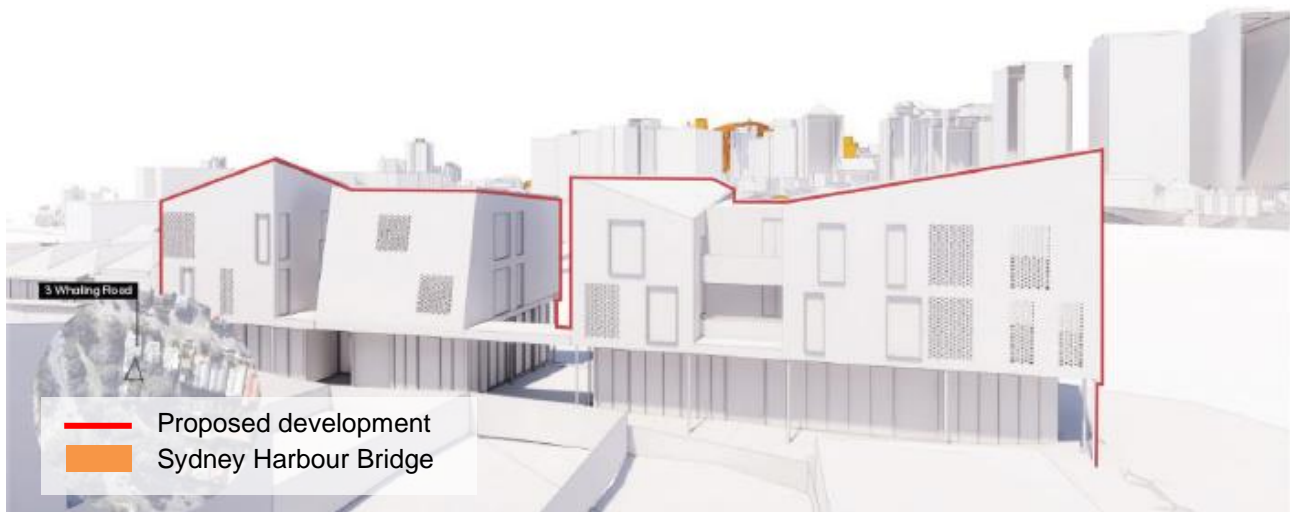


Figure 34: View from rear window of 3 Whaling Rd looking south towards the CBD (source: Ethos Urban)



Figure 35: View from rear window of 11 Whaling Rd looking south towards Careening Cove (source: Ethos Urban)



Figure 36: View from rear window of 15 Whaling Rd looking south-east (source: Ethos Urban)

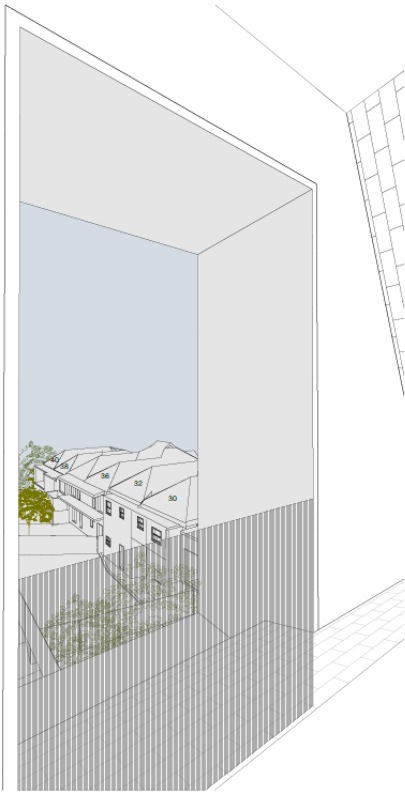


Figure 37: View from the proposed concept to the south-east from the east boundary of the site (source: Carter Williamson)

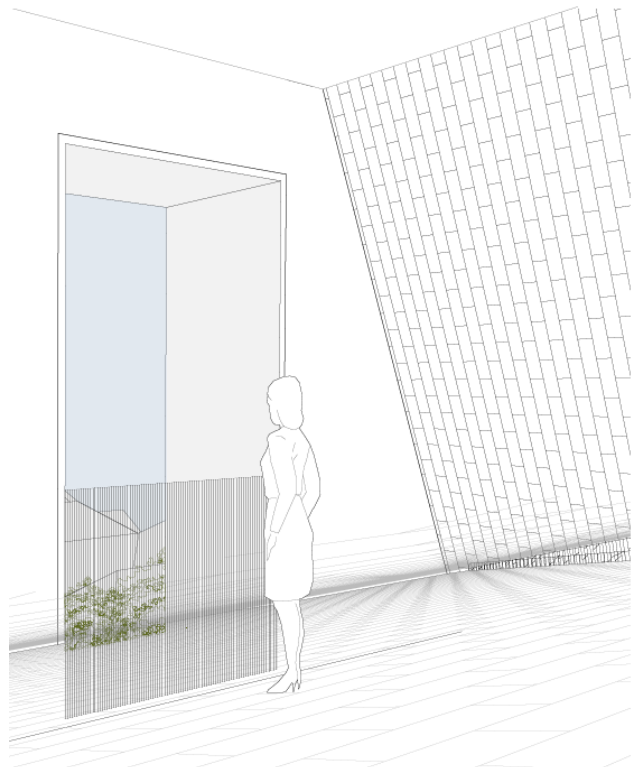


Figure 38: View from the proposed concept to the east from the east boundary of the site (source: Carter Williamson)

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

The rezoning review states that the existing RE2 Private Recreation zone is to be retained with ‘Serviced apartments’ and ‘co-living’ as an additional permitted use. The eastern most tennis court is to remain for the use of future occupants and local residents.

The rezoning review states that:

- the overall density of the revised proposed scheme would be equivalent to an FSR of 0.46:1 across the site, less than the density of the existing neighbouring buildings fronting Whaling Road and High Street;
- the height of the proposed scheme is lower than the large terrace houses fronting Whaling Road and consistent with the height transition towards High Street;

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 is well located with a number of public transport services in the proximity able to meet the demands of the proposed development being:

- bus service on High Street – 5-minute walk;
- North Sydney train station – 5-minute walk; and
- the proposed Victoria Cross Metro station – 10-minute walk;

Traffic Transport and Parking

A traffic, transport and parking assessment (**Attachment G8**) was included in the rezoning review documentation. The report states that the assessment was based on the construction of 19 serviced apartments with parking for seven vehicles at ground level.

A summary of the proposed trip generation as a result of the concept development is outlined in **Table 3** and the maximum parking provisions is outlined in **Table 4**.

The assessment states that:

- the subject site is within 350m or a five-minute walk to the nearest bus stop on High Street to the south with services to Crows Nest via Cremorne;
- the subject site is within 650m or a ten-minute walk to North Sydney Train Station providing access via the North Shore, Northern and Western Line and Carlingford Line to the Sydney CBD and other rail networks;
- the Sydney Metro Northwest will provide high frequency services every four minutes between Rouse Hill and Chatswood;
- the Sydney Metro City and Southwest expected in late 2024 including services to Bankstown with the closest Metro station at Victoria Cross approximately a 15-minute walk away;
- the site is in close proximity to the North Sydney Town Centre and commercial core with access to existing services such as shopping, healthcare, restaurants, banking, education and public open space;
- the local road network offers a high level of amenity and safety for pedestrians including refuge islands, footpaths, crossings, signage and lighting;
- the site is in the vicinity of dedicated on and off-road shared cycle paths with access to the local and greater Sydney cycle network;
- the proposal will result in 19 net vehicle trips daily and will not result in a significant impact on the local road network;
- on-site parking is to be provided for seven vehicles including one car share space;
- bicycle storage facilities for residents and bicycle racks for visitors will be provided in the basement carpark;
- a turning bay at the eastern end of the site will allow vehicles to exit in a forward direction (**Figure 39**).

Table 3: Proposed traffic generation

Component	Period	Vehicle Trip Rate	Area	Proposed Trips
Serviced Apartments	Peak hourly (PM)	0.47 per room	19 rooms	9
	Daily	5.63 per room	19 rooms	107
Commercial	Peak hourly	2 per 100m ² GFA	129m ² GFA	3
	Daily	10 per 100m ² GFA	129m ² GFA	13
Café	Peak hourly (PM)	40.75 per 93m ²	34m ² GFA	15
Tennis Court	Peak hourly (PM)	4 per court	1 court	4
	Daily	45 per court	1 court	45

Table 4: Summary of the maximum parking provisions

Component	Area	DCP Maximum Parking Rate	DCP Maximum Parking	Proposed Parking
Serviced Apartments	19	1 space per 5 apartments	4	
Commercial	129m ²	1 space per 100m ²	2	
Café	34m ²	1 space per 50m ²	2	
Tennis Court	462m ²	1 space per 100m ²	5	N/A
Total			12	7

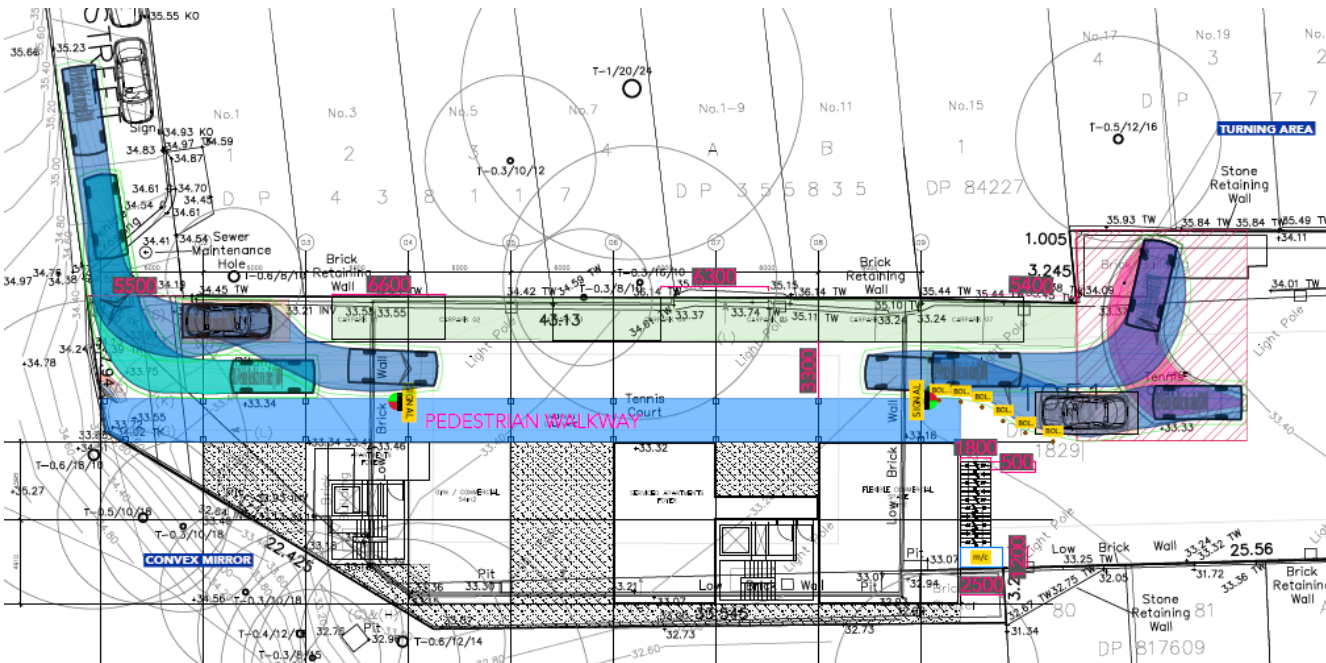


Figure 39: Extract of the parking layout with proposed turning area to the east of the site (source: PTC)

Recreational Infrastructure and Use

The rezoning review documentation included a Recreational Needs Assessment by Ethos Urban (**Attachment G11**). The assessment states that:

- there is a range of existing recreational land uses surrounding the site including playgrounds and public open space and facilities of varying sizes;
- there are a number of foreshore walks due to the site's proximity to Sydney Harbour;
- within the North Sydney LGA there are 21 public and privately operated tennis court facilities;
- Council's Recreational Need Study indicates a need for additional sports fields for hockey, soccer and football and areas for yoga, cycling, outdoor fitness and water-base activities;
- the participation in tennis as a recreational activity is declining and the provision of one tennis court on site will be complimented by other indoor/outdoor recreational opportunities increasing the viability of the remaining open space;
- 37.2% of residents are aged between 25 and 39 and will continue to be relatively active;
- 86.5% of residents live in medium or high density accommodation with limited home based recreation opportunities and an increased demand for accessible recreational space supported by public transport;
- the site is narrow and bound by residential properties with limited parking, constraining expansion and any high turnover recreation uses; and
- the proposal will deliver improved recreational benefits with the inclusion of areas for a gym, yoga and Pilates.

A Review of Recreation Use (**Attachment G12**) conducted by Otium Planning Group was submitted as part of the rezoning review documentation. The review stated that:

- the viability of the current tennis facilities is considered poor without substantial investment in upgrades to the courts, lighting and amenities;
- the loss of all three courts would have little impact on the sport and participation;
- lack of parking, poor access and site constraints such as size and the surrounding residential uses present challenges for any proposed commercial recreation use;
- uses such as parkland and community gardens are viable uses as not-for-profit but would not provide a return to the owner; and
- recreational benefits can be retained and enhanced on the site with a single court and opportunities for indoor exercise and wellness in addition to the limited residential component to provide a more viable option.

3. COUNCIL VIEWS

The Department wrote to Council on 14 July 2021 advising of the rezoning review request. Council responded on 3 August 2021 advising that the planning proposal is not supported (**Attachment E**). Council has provided the following comments, in addition to the detailed assessment report considered by Council on 22 February 2021 (**Attachment G15**):

- The planning proposal lacks strategic merit as:
 - it is inconsistent with the strategic directions and objectives of the Regional and District Plans as it will result in the net loss of recreation infrastructure and result in the degradation of the existing tree canopy and public open space;
 - the North Sydney LGA is projected to exceed its projected housing demand to 2036 and the increase in residential density is not required as demonstrated by Council's Local Housing Strategy (LHS); and

- it is not supported by a larger scale strategic study and is inconsistent with the directions and objectives of existing strategic studies (including the LSPS and Recreational Needs Study).
- The planning proposal lacks site-specific merit as:
 - it has not been the subject of any site-specific planning study recommending changes to the subject site;
 - it is out of character with the surrounding area which is characterised by low scale residential development in the adjoining R2 Low Density Residential zone, public open space and the Whaling Road conservation area directly to the north of the site;
 - the concept scheme in part indicates an approximate height of 15m which is above the proposed 12.5m maximum height sought;
 - the built form is of an inappropriate height and scale and is not compatible with the topography of the land which slopes generally to the south;
 - it will result in adverse amenity impacts including the overshadowing to the dwellings to the south and east and of the public domain to the south-west due to insufficient setbacks to the southern boundary;
 - the minimal setbacks on the southern boundary will have a negative impact on vegetation located within the nearby public domain with damage to the root system and in some instance pruning in the order of 40% required including ongoing management due to overhanging;
 - it is inconsistent with the objectives of the RE2 Private Recreation zone as it will result in a loss of private recreational space; and
 - the introduction of the additional permitted use of serviced apartments is not reflective of the existing or surrounding land use and is out of context and does not respond adequately to the amenity on the surrounding residential properties and public domain.

Council states that the documentation submitted in the rezoning review is generally consistent with that submitted to Council.

However, Council advises that three documents did not form part of the original planning proposal documents. These include the Local Planning Panel recommendation dated 9 December and Council's meeting decision and assessment report, both dated 22 February 2021.

Council raises no objection to the inclusion of the additional documents.

Council notes that the applicant's letter of request for the rezoning review is consistent with the planning proposal. However, one section states that the planning proposal seeks to amend the maximum height map on the western side to 15m when this should state 12.5m. It is assumed that the reference to 15m is an error, given other sections of the letter refer to a height of 12.5m.

Council states that they have received 75 submissions raising concerns with the planning proposal even though it has not been the subject of a formal exhibition. The proposed changes, if supported, would establish a precedent for non-compliance with established policies and strategies.

Council's assessment report also highlights Council's moratorium on residential planning proposals which seek departures from current planning controls and are not supported by an endorsed precinct wide based planning study. It is noted that also the proposal includes the introduction of strictly residential uses (serviced apartments and boarding houses are separately defined) and the principle of not supporting ad-hoc planning proposals outside of a Council endorsed study applies.

The report further notes that serviced apartments is a prohibited use in the adjoining R2 and R3 residential zones. Additionally, the proposed height of 12.5m is greater than the 8.5m height limit for the surrounding sites.

The council report notes that the retention of recreational area is of significant concern for Council, as identified in the North Sydney Recreational needs study undertaken in 2015. This is becoming increasingly important when considered in the context of a growing population and the recent demand for greater space resulting from the COVID-19 pandemic. From Council's perspective the land is currently zoned as recreation (be it private) and its loss is substantial. This also is in the context of anticipated population growth (worker and resident).

4. LOCAL PLANNING PANEL

The planning proposal was referred to the North Sydney Local Planning Panel (LPP) on 9 December 2020 (**Attachment F**).

The majority of the Panel considered that the planning proposal could only be supported in part, and subject to:

- the additional use is limited to 'serviced apartments' as this use will complement the permissible uses in the RE2 zone, and;
- the western portion of the site is limited to a maximum height of 12.5m (three storeys) and an FSR of 0.9:1; and
- a restriction being in place to prevent future Torrens Title or Strata Title subdivision to ensure that the tennis court is maintained and for public access for the life of the development compatible with the RE2 zone uses.

The Panel also recommended:

- the preparation of a DCP to be publicly exhibited with the proposal should it proceed to Gateway;
- office use should only be ancillary to the serviced apartment component and other recreational uses permitted in the RE2 zone;
- the definition of 'serviced apartments' provides for appropriate co-location with the recreational purposes and more permanent accommodation such as boarding houses would not be consistent with the objectives of the RE2 zone and may conflict with permissible land uses;
- as the site is in a unique location with constraints, complementary uses are needed to activate the site for access and safety; and
- if Council does not support the planning proposal as restricted above, then Council may in future when it undertakes a comprehensive review of the LEP rezoning the site to RE1 Public Recreation if it is considered suitable for this purpose.

The community representative was not in agreement with the recommendation for the reasons outlined in the Council report and in particular its inconsistency with the objectives of the RE2 zone and that of the adjacent area, and the loss of scarce and much needed private recreational area.

ATTACHMENTS

Attachment A – Locality map

Attachment B – Site map

Attachment C – Current LEP maps

Attachment D – Proposed LEP maps

Attachment E – Council comments

Attachment F - Local Planning Panel comments

Attachment G – Rezoning review application package

- G1 – Application form
- G2 – Cover letter – rezoning review request
- G3 – Draft planning proposal
- G4 – Design report
- G5 – Architectural drawings
- G6 – Site survey
- G7 – Landscape plans
- G8 – Traffic and parking
- G9 – Arboricultural impact assessment
- G10 – Revised VPA letter
- G11 – Recreational needs assessment
- G12 – Review of recreation
- G13 – Council decision
- G14 – Council meeting 22 February
- G15 – Council assessment report

Assessment officer: Christina Brooks
Title, Region: Planning Officer, North District
Contact: 9274 6045