

20 April 2021

15003

Jim Betts
Planning Secretary
Department of Planning, Industry and Environment
12 Darcy Street
PARRAMATTA 2150

Dear Mr Betts

REZONING REVIEW – PLANNING PROPOSAL 2/20 – 1A LITTLE ALFRED STREET, NORTH SYDNEY – REQUEST FOR A GATEWAY DETERMINATION

On behalf of our client and the proponent Tooma and Tooma Pty Ltd, we hereby seek a Rezoning Review in relation to a Planning Proposal lodged with North Sydney Council (Council) for land located at 1A Little Alfred Street, North Sydney. The Planning Proposal seeks to amend the *North Sydney Local Environmental Plan 2012* (LEP) to support a maximum building height of 12.5 metres, a maximum floor space ratio of 0.9:1 and the additional uses of 'Serviced apartments' and 'Co-living' on the site.

This request for a Rezoning Review is submitted to the Sydney North Planning Panel on the basis that Council has resolved to not support the Planning Proposal proceeding to Gateway determination after the proponent addressed previous concerns and responded to the requested design changes that were supported by the North Sydney Local Planning Panel (NSLPP). The recommendation by the NSLPP (see attached) noted that the proposal had site specific merit and responded to the difficulties of the site context appropriately and should be supported by Council following the incorporation of some minor amendments. The design was subsequently revised to incorporate these comments.

Despite the NSLPP's support of the amended proposal, Council refused the Planning Proposal at the Council meeting on 22 February 2021, citing that the proposal did not have strategic merit and failed to provide a reasonable outcome for the surrounding residential uses.

The proponent has taken on board this ongoing feedback and has revised the Planning Proposal twice to reduce the overall bulk and scale of the indicative scheme, as well as the proposed uses on the site to better respond to the site and strategic constraints of the site, as well as the concerns of the Council and Local Planning Panel. This has culminated into a well-considered scheme that appropriately responds to the site's context, constraints and opportunities.

Given Council's demonstrated lack of objectivity to date, subject to the issue of a Gateway Determination, we request that the Sydney North Planning Panel is nominated as the Planning Proposal Authority (PPA).

Please find attached to this letter:

- The original Planning Proposal report and relevant appendices (**Attachment A**);
- A completed Rezoning Review Application form (**Attachment B**);
- A cheque for \$20,000, being the relevant application fee;
- A copy of Council's decision to not proceed with the Planning Proposal (**Attachment C**);
- A copy of Council's determination from the Council Meeting on 22 February 2021 (**Attachment D**);
- A copy of the Local Planning Panel recommendation from 9 December 2020 (**Attachment E**); and
- A copy of Council's assessment report relating to the Planning Proposal (**Attachment F**).

1.0 Justification for Rezoning Review

1.1 Step 1 – Proponent seeks review

In accordance with the Guide for Preparing Local Environmental Plans, this Rezoning Review is submitted on the basis that Council has resolved not to support the Planning Proposal to proceed to Gateway Determination after several revised Planning Proposals were submitted which addressed both Council's and the NLSPP's comments.

In December 2017, the Proponent and project team met with Council officers to present and discuss the preliminary concept for the site. The following key points were discussed:

- there has been a previous planning proposal relating to the site, which was rejected by North Sydney Council for a number of reasons (despite being recommended to proceed by Council officers), including interface with surrounding residential area;
- there was also a previously submitted DA for the site, which was recommended for refusal. Some of these reasons for refusal included unreasonable impacts to neighbouring residential amenity, insufficient parking for proposed uses, and extensive excavation;
- Council will be seeking to understand impacts on neighbours, and their concerns or supporting comments;
- Council will likely not support the inclusion of standard residential apartments as it was already on track to meet its housing target elsewhere in the Local Government Area (LGA); and
- Council is conscious that the site is constrained and would be looking to see a detailed site analysis and design response to inform any future redevelopment.

Following this, a Planning Proposal was lodged on 24 March 2020, which sought approval for a part 4, part 5 storey development with an FSR of 1.62:1. Preliminary feedback was provided by Council in July 2020, which identified the following issues.

- maintaining an adequate supply of recreational areas within the LGA, in line with Council's Recreational Needs Study undertaken in 2015;
- a fear of the loss of private recreational area within close proximity to an employment area being inconsistent with Council's goal to maintain areas for sports use within the catchment of North Sydney CBD;
- a fear that the reduction of two of the three tennis courts on site would reduce opportunity for local participation in sport and physical activity which may reduce compliance with the Federal Government's 'Sport 2030 - National Sport Plan' which aims to ensure Australia is, "the world's most active and healthy nation."
- a fear that the reduction of two of the three tennis courts on site would reduce the important role recreational areas play in supporting the health and wellbeing of the local community in a post-covid recovery environment;
- the perceived 'fragmentation' of the remaining tennis court from the adjacent RE1 pocket parks being undesirable and may reduce the useability and amenity of both spaces;
- the proposal's considered inconsistency with the objectives of the RE2 zone and with the objectives of the adjacent zones in that it will result in a loss of recreational area and proposes to introduce serviced apartments which isn't reflective of the current or desired land use of the existing or surrounding properties and is out of context in the form proposed;
- the proposal's scale of development not being seen as desirable within the DCP 2013 Character Statement;
- the proposal's impact on the vegetation directly to the south of the site; and
- even though the proposal had not undergone a formal 'Public Exhibition' process, Council had received numerous submissions from residents indicating their concern with the proposal.

Following Council's preliminary feedback on the Planning Proposal outlined above, a revised Planning Proposal was submitted to Council. This revised Planning Proposal reduced the height from 21 metres to 15 metres and reduced the floor space ratio of the indicative scheme. The revised Planning Proposal was not recommended for

approval by North Sydney Council, despite the revisions made. The Planning Proposal was then forwarded to the NSLPP for review on 9 December 2020.

The NSLPP concluded that the Planning Proposal should be supported, on the basis of the following amendments:

- any additional use sought were to be limited to 'serviced apartments' only
- maximum height limit of 12.5 metres and three storeys.
- FSR of 0.9:1 confined to the western portion of the site.

The Planning Proposal was again amended to reflect the comments of the NSLPP.

Following this, the amended Planning Proposal was discussed at the Council meeting on the 22 February 2021. The Council officer's report did not recommend support of the Planning Proposal, despite the numerous amendments that had been made to respond to Council and NSLPP feedback. The Council meeting resolved to uphold the Council officer's recommendation, and the Planning Proposal was not supported by Council to proceed to Gateway Determination.

It is clear that despite the various amendments made to the Planning Proposal to respond to Council's concerns, as well as the support provided by the NSLPP, Council have not supported the proposal on their basis of neighbour objections and their standard Council policy position not to support any site-specific planning proposals. Despite this, the Proponent has continuously sought to address the Council's stated concerns. Accordingly, the proposal in its current form presents a scheme that has balanced each requirement and request of the Council and LPP, and therefore, the Proponent seeks a Rezoning Review based on the amended Planning Proposal provided to Council on the 22 February 2021.

This most recent Planning Proposal report and associated supporting studies are included at **Attachment A**.

1.2 Step 2 – Assessment by Planning Panel

In accordance with the *Guide for Preparing Local Environmental Plan*, the proposal is eligible for a Rezoning Review on the following basis:

- In response to (a) the Planning Proposal is providing additional employment capacity, visitor accommodation capacity and maintains the public benefit on site, by maintaining one of the existing tennis courts on the site. Such an outcome is entirely consistent with the strategic policy framework as set out within the Greater Sydney Region Plan and North District Plan, by providing ancillary services in line with the increase economic and employment capacity of the North Sydney CBD.
- In response to (b), the Planning Proposal has site specific merit as the existing tennis courts on site are underutilised and present challenges to ensure the long-term viability of the business. Without facilitating increased development opportunities on site, the courts are likely to eventually close due to underutilisation and high maintenance costs. A previous Council review of open space viability identified that the tennis courts were not a feasible investment for Council. By assessing the site-specific opportunities and constraints, this Planning Proposal seeks to increase the provision of recreational opportunities on the site, while ensuring the long-term commercial viability for the combined uses (including the tennis court).
- Further to point (b) in October 2018, NSLEP 2013 (Amendment No 23) was amended to prohibit serviced apartments within land in Zone B3 Commercial Core due to the view that their proliferation would undermine the employment capacity of CBD. Whilst serviced apartments are permissible within the B4 zone around the CBD fringe, the majority of this zone has now been developed out. In this regard, the site is ideally located to provide this form of land use.

The Rezoning Review process was initiated by the Department of Planning, Industry and Environment with the following objectives:

- To provide a mechanism for applicants to have Council rezoning decisions reviewed;

- To ensure decisions on planning proposals are well located, planned and ensure housing and job supply can be independently reviewed; and
- To increase transparency and provide greater certainty in plan making.

This request is considered with all these objectively, specifically we note that:

- The Planning Proposal has been considered by both Council and the NSLPP, both of which have provided several instances of feedback, all of which has been incorporated in the revised Planning Proposal and indicative scheme.
- The Planning Proposal documentation submitted to Council and discussed further in this letter, clearly demonstrate that the site has both strategic and site-specific merit. The site has a number of site-specific constraints and opportunities that mean that the site is not viable as a solely private recreation facility. The site is strategically located on the fringe of the North Sydney CBD and can provide improved provision of recreational opportunities whilst ensuring the long-term commercial viability for the combined uses (including the tennis court).

In light of the above, we request that the Planning Proposal be forwarded to the Sydney North Regional Planning Panel for a recommendation for a Gateway Determination.

2.0 Site Overview

The site is located at 1a Little Alfred St, North Sydney. It is located within the North Sydney Local Government Area, approximately 500 metres from North Sydney CBD, and two kilometres from Sydney CBD. The North Sydney CBD, separated from the site by the Warringah Freeway, is currently undergoing substantial commercial intensification, particularly with a strategic encouragement of a diverse mix of employment generating uses.

The site is located within the centre of the street block bound by Whaling Road, High Street, Pile Lane and Little Alfred Street. The site is bordered by residential properties to the north, east and south and a park on the western boundary. The site's location is shown at **Figure 1**.

The site, approximately 1,829m² in area, is legally described as Lot 1051 DP812614 and known as 1A Little Alfred Street, North Sydney. Existing development on the site comprises three tennis courts, three parking spaces, two huts and bathrooms. Site access is provided via Little Alfred Street, at the western edge of the site. The topography of the site is relatively flat, with three main levelled ground heights, due to the site's existing use comprising 3 tennis courts. There is no existing vegetation on the site. The three tennis courts are operational between the hours of 6am to 10pm, 7 days a week. Bookings and payments are made online via the facility's website.

2.1 Site Background

Part of the site was occupied by two residences prior to the construction of the existing tennis courts, which have been used as a private tennis facility since prior to 1930. Despite its current use, the site had previously been zoned Residential A under Interim Development Order 57 which allowed townhouses. It was rezoned by Council to Private Recreation under the North Sydney LEP 1989.

In 2010, Council's Division of Open Space & Environment Services considered the site for purchase and concluded that due to the site configuration, the range of court types, and therefore the range of sports that could utilise the space, would be significantly restricted. The site was considered not good value for money when measured against all the recreational needs of the community, and therefore was not acquired by Council.



 The Site

Figure 1 Locational context of the site

Source: Nearmap, Ethos Urban

3.0 The Planning Proposal

This Planning Proposal seeks to:

- allow 'Serviced apartments' and 'Co-Living (subject to the finalisation of the Draft Housing Diversity SEPP is finalised) as additional permissible uses on the site (NB: 'Kiosk' and 'Recreation facility (indoor)' uses are already permissible on the site under the existing RE2 zone).
- amend the Height of Buildings Map with a maximum height of 15m on the western portion of the site; and
- amend the Floor Space Ratio Map with a maximum FSR of 0.9:1 on the western portion of the site.

3.1 Proposed Maximum Building Height

The NSLEP 2013 does not nominate a maximum permissible building height for the site. Surrounding residential areas to the north and south of the site have a maximum building height of 8.5 metres. This application proposes a maximum height limit of 12.5 metres to respond to the indicative scheme, which provides a three storey building at its maximum height.

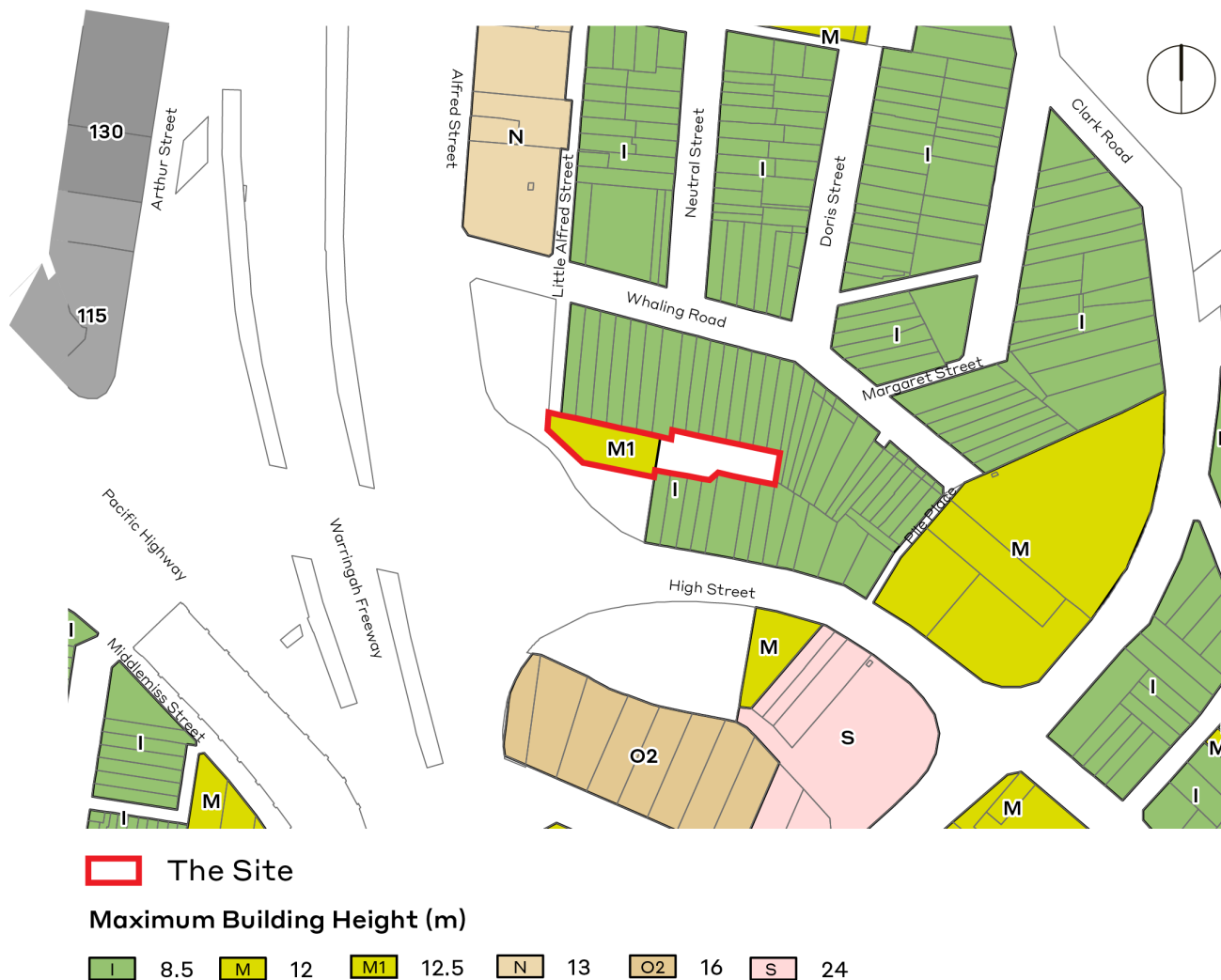


Figure 2 Proposed Maximum Building Height Map

Source: Ethos Urban

3.2 Proposed Maximum Floor Space Ratio

The NSLEP 2013 does not currently prescribe a maximum floor space ratio (FSR) for the site, nor is there a maximum FSR for the surrounding residential areas. This Planning Proposal seeks to amend the maximum FSR to 0.9:1 on the western portion of the site. This will accommodate the indicative scheme (discussed in **Section 3.4** of this letter).

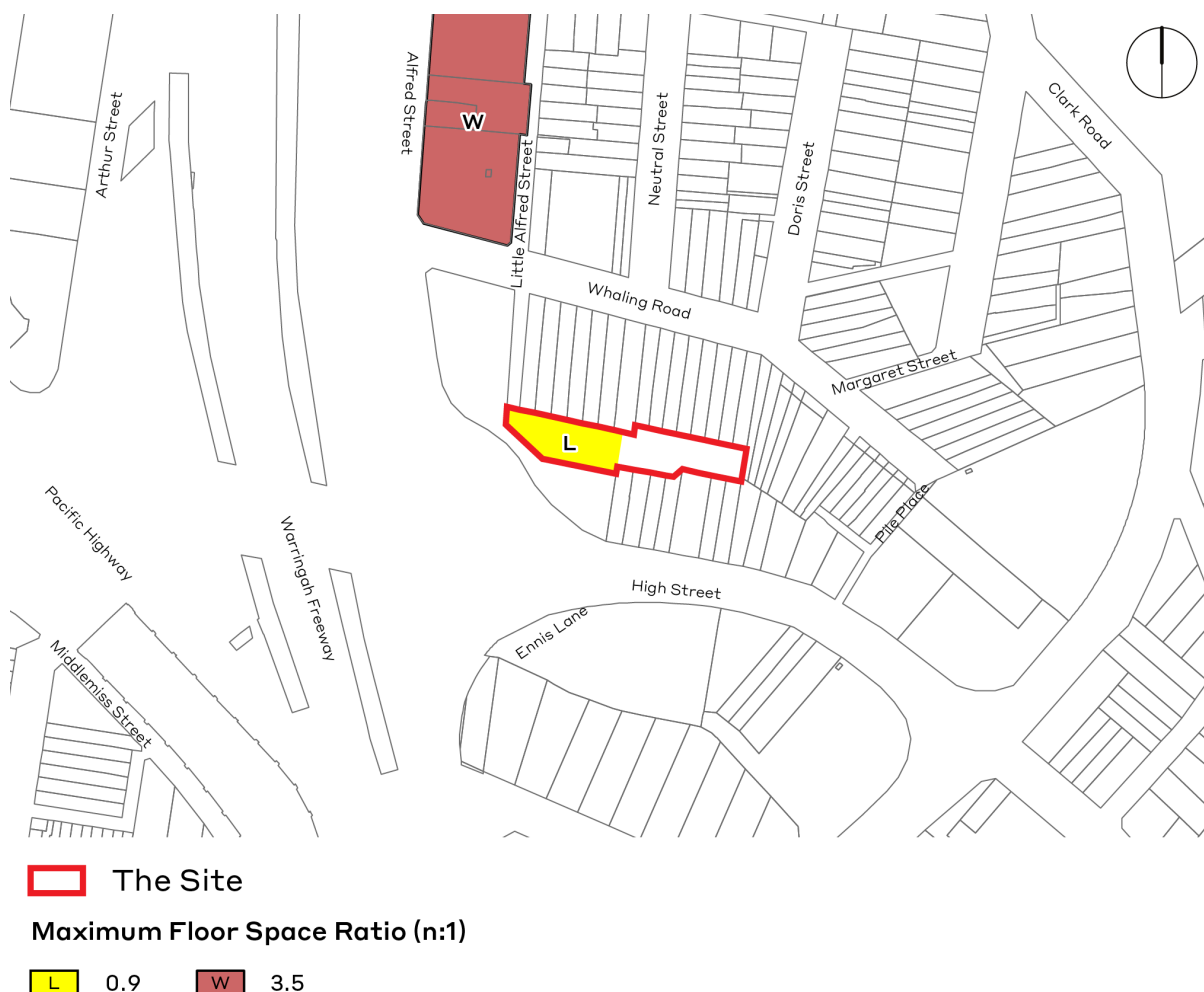


Figure 3 Proposed Maximum FSR Map

Source: Ethos Urban

3.3 Permissible Uses

The site is currently zoned RE2 – Private Recreation. Current permissible uses on the site include:

“Building identification signs; Business identification signs; Community facilities; Environmental facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Roads”

In order to accommodate the indicative scheme for the site, the Planning Proposal seeks to allow ‘Serviced apartments’ and ‘Co-Living (subject to the finalisation of the Draft Housing Diversity SEPP is finalised)’ as additional permissible uses on the site. Other uses proposed in the indicative scheme can be accommodated under the existing permissible uses of ‘Kiosk’ and ‘Recreation Facility (indoor)’.

3.4 Indicative Development Concept

The vision for the site is to create an ‘inner-city urban lifestyle retreat’ with an executive style accommodation experience – aimed primarily at business executives working in the North Sydney or Sydney CBDs. The concept includes a collection of supporting activities - a café, health/wellbeing space and co-working space, designed as complimentary services to the accommodation experience. The intended architectural design outcome focuses on quality design and finishes, sustainability and a high-quality landscape reflective of the surrounding natural environment.

This Planning Proposal aims to facilitate the concept design (provided at **Appendix B**), a new 3 storey building on the western portion of the site that will contain:

- 11 x 1-2 bedroom serviced apartments (at levels 1-3); and
- a 38m² kiosk style café, a 62m² health/wellness space that could be used for yoga, a gym space etc, and 55m² of shared 'co-working' space, accommodation lobby and back of house, all at ground level.

The eastern portion of the site will be utilised as an outdoor garden and active recreation space used in conjunction with the health/wellness space. The eastern most tennis court will be retained and will remain open to the public, via an online booking system (as per the existing arrangement).

The whole site and its uses will be privately managed and maintained by on-site management. Ground floor uses will be commercially operated, open to all, and will not be restricted to the residents of the short stay accommodation. Seven (7) car spaces will be provided on-site, including one car share space, all at grade with no excavation proposed. The site concept is illustrated at **Figure 4**.

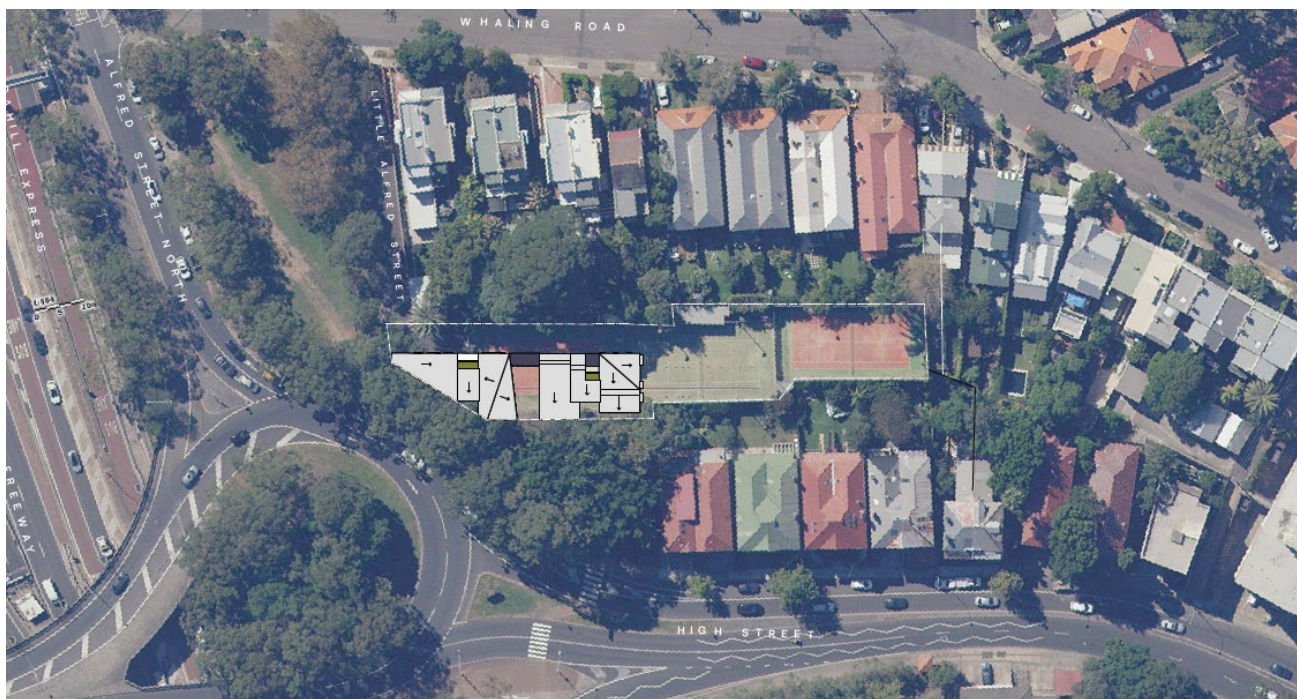


Figure 4 Proposed overall site concept

Source: Carter Williamson

3.4.1 Built Form and Density

The above indicative design and use proposed inform the maximum building envelope illustrated in **Figure 5** and **Figure 6** below. This maximum building envelope sets the maximum extent of a future building within the site so as to ensure minimal off-site impact. At DA stage, the detailed design of the building will need to be wholly contained within this envelope. Should Council require a site-specific Development Control Plan provisions, this envelope plan can form a key development control for the site.

The proposed overall GFA is 844m², representing an FSR of 0.46:1 across the whole site or 0.9:1 across the western portion of the site.

It is noted that some portions of the roof design of the proposed scheme may extend beyond the 12.5 metre height limit due to the design of the building. Any additional height will be designed as an architectural roof feature and will meet the requirements of section 5.6 of the North Sydney Local Environmental Plan 2013. This will be further investigated in the detailed design and development application stage of the development.



Figure 5 Proposed maximum building envelope plan (footprint)

Source: Carter Williamson

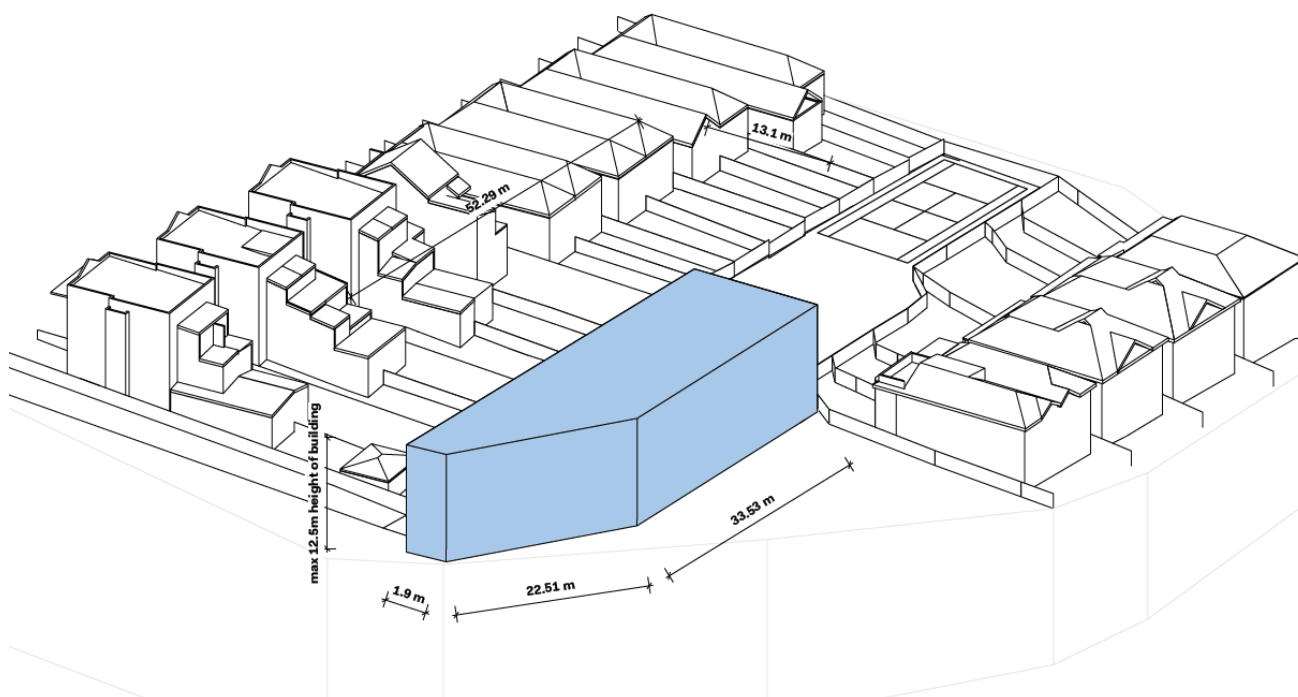


Figure 6 Proposed maximum building envelope

Source: Carter Williamson

3.4.2 Landscape Design

Detailed landscape plans have been prepared by Melissa Wilson Landscape Architect and are included at **Appendix C** of the Planning Proposal package. The proposed landscape design (**Figure 7**) incorporates a quiet reflection space located to the immediate east of the proposed building, and is designed as a flexible space, offering use by short terms residents of the proposed serviced apartments, as well as visitors of the proposed co-working space and wellness centre. The landscape space creates opportunity to provide additional spill out space for the wellness centre.



Figure 7 Illustrative landscape site plan

Source: Melissa Wilson Landscape Architect

3.4.3 Site Access and Parking

The proposal retains existing site access via Little Alfred Street and provides a total of seven spaces along the northern boundary. The proposal incorporates uses such as short stay accommodation, co-working spaces and wellbeing centre which have comparably less traffic and parking generation than standard residential accommodation. Due to the site's location in proximity to public transport and North Sydney CBD, the proposal seeks to attract executives working in the area, as well as residents within walking distance who wish to access the kiosk, co-working space, wellbeing centre or tennis courts.

4.0 Community Consultation

In February 2018, some of the neighbouring landowners fronting Whaling Road were invited to meet with the project team in regard to the preliminary scheme. The project team met individually with four households to discuss the proposal.

In December 2018, neighbours fronting High Street were likewise invited to meet with the project team to discuss the proposal. Four individual households responded to this requesting a meeting. The key points of discussions at these various meetings are summarised below.

General comments:

- Appreciated the concept of shared work space and a café, and acknowledged these facilities will contribute to the local amenity and were likely be used to immediate surrounding neighbours
- Acknowledged that there are very limited views to the city and that the proposed development will likely not impact this
- There are potential benefits that the proposed building may act as a noise buffer from the busy roads to the south and west
- An awareness that many redevelopment proposals have been sought previously and that eventually the site will likely be redeveloped. If the site is to be redeveloped, they would like to ensure a better outcome than previous schemes with less impacts
- Acknowledged that this proposal is more considerate of its surrounds than all previous proposals for the site, and overall has less of an impact
- Acknowledged that the proposed uses are more representative of the surrounding character, and will likely attract more pedestrians than cars
- Acknowledged that the concept design has carefully considered potential impacts, and siting of the proposed building seeks to minimise overshadowing and privacy impacts on the maximum number of neighbours.

Concerns:

- Potential uncertainty of development after rezoning if approved. How can the proposed outcomes be guaranteed, without relying purely on trust in the proponent?
- Concerns the land may be sold to another developer after the site has been rezoned, and that the future development will result in residential flat buildings rather than the currently proposed short stay accommodation. As such, would like to restrictive controls to ensure that uses other the proposed concept design cannot be built at later stages
- Previous development proposals explored offering rear access to the adjoining neighbours. Requested that personal access to the site would be ideal, however acknowledged that it is unfeasible to provide access to all neighbours, due to the large ground level differences and utilisation of that space to provide parking for the proposal
- Would like detailed drawings to understand intended outcomes prior to supporting any rezoning
- Concern that the proposed height to introduce privacy issues to use of back yards and rear entertaining areas, and would generally prefer a sympathetic height
- Concerns for potential impacts on the quality of life during construction
- Some were opposed to any development on the site
- Concerns relating to potential for additional parking and traffic generation impacts on Whaling Road
- Noted that waste collection occurs from Little Alfred Street, and request that the proposal seeks to minimise truck reversing and blocking of the lane
- Window/balcony placement and design must prevent overlooking into neighbour backyards and private entertainment areas. Screening methods should be used to direct views
- Noted a need to ensure box culvert along common boundary is reinstated to allow stormwater runoff.

Ongoing consultation has been undertaken with the surrounding landholders as the Planning Proposal has developed, and the design has been revised to take into consideration their concerns.

5.0 Strategic and Site Specific Justification

Strategic Merit

The proposal is:

- consistent with the North District Plan; and
- supporting the economic growth of the North Sydney CBD;
- responding to a change in circumstances, including the recent amendments to the NSLEP 2013 prohibiting serviced apartments within North Sydney CBD.

North District Plan

The North District Plan identifies employment targets in North Sydney. The plan sets a higher limit target of an additional 21,100 jobs from 2016 to 2036. With a significant target to increase employment within North Sydney by 2036, there will likewise be an increasing demand for serviced apartments and ancillary services in proximity to employment and transport, as well as increased demand for co-working space opportunities. The Planning Proposal will assist in the continued economic development of the CBD as well as assist in facilitating the local visitor economy.

Prohibition of Serviced Apartments in North Sydney CBD

In October 2018, NSLEP 2013 (Amendment No 23) was amended to prohibit serviced apartments within land in Zone B3 Commercial Core due to the view that their proliferation would undermine the employment capacity of CBD. Whilst serviced apartments are permissible within the B4 zone around the CBD fringe, the majority of this zone has now been developed out. In this regard, the site is ideally located to provide this form of land use.

Site-Specific Merit

The existing tennis courts on site are underutilised and present challenges to ensure the long-term viability of the business. Without facilitating increased development opportunities on site, the courts are likely to eventually close due to underutilisation and high maintenance costs.

As noted above, Council's Open Space & Environment Services reviewed the site in 2010 and concluded that due to the site configuration, the range of court types and therefore the range of sports that could utilise the space would be significantly restricted. The site was considered not good value for money when measured against all the recreational needs of the community. Therefore, it is likewise unlikely Council will purchase the site for the provision of public recreation.

The existing zoning permits a limited variety of options for viable development, some of which include: Environmental facilities; Indoor recreational facilities; Community facilities; Kiosk (café); and Recreation facilities (outdoor). These uses are highly unlikely to be developed and are not commercially viable given the site-specific conditions such as location, size, surrounding uses, access and parking limitations. The suitability of these uses of site has been assessed in detail within the Recreational Needs Analysis included at **Appendix H** of the Planning Proposal package.

Despite no existing maximum height or FSR controls, Clause 6.7 of *NSLEP 2013* limits development to be consistent with surrounding development. This does not provide a feasible floor space for the provision of most indoor recreational facilities such as indoor rock climbing or trampolining, and the narrow site width prevents indoor courts such as basketball, tennis, netball etc. While these uses may not be viable singularly, they become increasingly viable when combined with complimentary uses and providing increased user experience and choice for recreation activities.

By assessing the site-specific opportunities and constraints, this Planning Proposal seeks to increase the provision of recreational opportunities on the site, while ensuring the long-term commercial viability for the combined uses (including the tennis court). The site-specific controls proposed within this Planning Proposal will provide more suited development controls that ensure an environmental sensitive outcome while achieving the intended outcomes of the RE2 Private Recreation zoning under the *NSLEP 2013*.

6.0 Justification for Review

This Planning Proposal represents the third iteration for the site, which has undergone extensive deliberation between the Proponent, Council, the Local Planning Panel and surrounding residents. During this process, the design for the indicative concept scheme has evolved significantly to respond to the requests and recommendations of each authority. Such changes that occurred from the original iteration to the current scheme include:

- Reduction of the proposed maximum building height from 4 and 5 storeys (21m maximum building height control) to maximum 12.5m.
- Reduction of the proposed maximum Floor Space Ratio from 1.6:1 to 0.9:1 on the western portion of the site.
- Amendments to the proposed maximum building envelope and proposed reference scheme to reflect the revised planning controls.
- Revision to the VPA letter to extend the offer of guaranteed operation of the tennis court from a period of 5 years to 15 years.
- Proposed uses of ‘offices’ and ‘boarding houses’ were removed from the proposed additional uses.

Despite each extensive design iteration that has occurred during the development of the planning proposal, North Sydney Council have formed the view that PP2/20 should not proceed to gateway on the basis of what we consider to be an entrenched policy position on the site. A response to Council’s determination (issued in their North Sydney Council Meeting report dated 22 February 2021) is provided in **Table 1** below.

Table 1 Response to Council reasoning for refusal

Council Reason	Proponent Response
The proposal is not supported by nor is it aligned to the objectives and actions of several elements of higher-level planning strategies (including the North District Plan, Council’s GSC assured LSPS and Recreational Needs Study).	<p>The Planning Proposal (Attachment A) outlines extensive justification of the proposal against relevant state strategic planning documents, as well as Council’s LSPS and Recreational Needs Study.</p> <p>State planning strategies, including the North District Plan, identify increased employment targets in North Sydney, and the need for accompanying ancillary services, such as serviced apartments and coworking space opportunities in proximity to employment and transport, as is provided extensively in the North Sydney CBD. The Planning Proposal will assist in the continued economic development of the CBD, as well as assist in facilitating the local visitor economy.</p> <p>In October 2018, NSLEP 2013 (Amendment No 23) was amended to prohibit serviced apartments within land in Zone B3 Commercial Core due to the view that their proliferation would undermine the employment capacity of CBD. Whilst serviced apartments are permissible within the B4 zone around the CBD fringe, the majority of this zone has now been developed out. In this regard, the site is ideally located to provide this form of land use.</p> <p>The Recreational Needs Study undertaken by North Sydney Council identifies that there has been a decrease in the available sports infrastructure, including tennis courts and bowls greens. Despite this study, an independent recreational needs analysis of the existing tennis courts at 1A Little Alfred Street has found that the courts are consistently underutilised, with an average utilisation of approximately one of the three tennis courts. The Proponent and neighbours have noted that when none of the courts are in use, the site attracts anti-social behaviour within the car park, causing concern for surrounding residents. Due to this lack of utilisation of the courts, and ongoing maintenance costs, the business is not viable in the long term. Therefore, this Planning Proposal seeks to maintain one high quality tennis court to respond to the current demand of the site, as well as provide other uses on the site to make the entire operation viable.</p> <p>An independent Recreational Needs Analysis has been prepared by Otium and is provided at Appendix H of the Planning Proposal package. This is discussed further in Section 6.1 of the Planning Proposal.</p>
The loss of private recreational area within close proximity to an employment area is contrary to Council’s goal to maintain areas for sports use within the catchment of North Sydney CBD.	<p>As discussed above, there is a significant underutilisation of the tennis courts at present, with only one of the three courts being used on average. This Planning Proposal seeks to continue to maintain one tennis court, in line with the ongoing utilisation of the site.</p> <p>An independent Recreational Needs Analysis has been prepared by Otium and is provided at Appendix H of the Planning Proposal package. This is discussed further in Section 6.1 of the Planning Proposal.</p>

Council Reason	Proponent Response
<p>The proposal is of an inappropriate height and scale given its location adjacent to the Whaling Road conservation area and the R2 (Low Density) neighbouring sites and would be out of character with the immediate surroundings, with resultant adverse impacts.</p>	<p>Whilst the adjoining properties have an 8.5m maximum height limit under <i>North Sydney Local Environmental Plan 2013</i>, the vast majority of surrounding buildings exceed this height limit. The terrace houses fronting Whaling Road and High Street at typically 10-12m in height whilst that locality includes several 5-9 storey apartment buildings as well as the 22-storey tower at 50 Whaling Road.</p> <p>In terms of density, the overall proposed revised FSR across the whole site would be equivalent to 0.46:1. This is less dense than the average density of the existing buildings fronting High Street and Whaling Road within the same street block.</p> <p>View analysis has identified that neighbours on Whaling Road do not benefit from significant CBD/Harbour Bridge views due to the Greenway Towers blocking the view. However, they do enjoy views of Careening Cove and Sydney Harbour to the south-east. View impact analysis (Section 6.4 of the Planning Proposal) identifies that the scheme will not result in significant view loss, particularly after the ongoing design development has reduced the bulk and scale of the building. Further to this, existing vegetation screening will further reduce the visual impact of the building.</p> <p>The impact of the height and scale of the Planning Proposal is discussed further at Section 6.3 and 6.4 of the Planning Proposal.</p>
<p>The proposal is considered to be inconsistent with the objectives of the RE2 zone and with the objectives of the adjacent zones in that it will result in a loss of recreational area and proposes to introduce serviced apartments which isn't reflective of the land use of the existing or surrounding properties.</p>	<p>Extensive assessment of the proposal against the objectives of the RE2 zone has been undertaken in Section 5.3 of the Planning Proposal.</p> <p>It is noted that the Planning Proposal seeks to increase the viability of the site on a whole, in order to maintain and improve the recreational uses on the site. The proposed Maximum Building Height and Floor Space Ratio planning controls will only apply to the western portion of the site and will protect the eastern portion of the site to be retained as a tennis court. This will enable the ongoing viability of the private recreation use of the site.</p> <p>It is important to note that the adjoining R2 and R3 residential zones already permit boarding houses/co-living typologies as permissible uses, as well as a range of other uses such as childcare centres medical centres, churches, hostels (R3) and neighbourhood shops (R3). It is therefore considered that the proposed uses are not inconsistent with the surrounding land uses.</p>
<p>The proposal is likely to impact upon the amenity of surrounding residents through an increase in overshadowing, damage to surrounding public vegetation, reduction in solar access and increased privacy impacts.</p>	<p>Overshadowing impacts of the proposal are limited to the neighbouring properties to the south of the site fronting High Street. These properties will not be affected by any overshadowing by the during midsummer. During the Equinox (March) the private open spaces of the southern properties will be partly affected by overshadowing between 1 pm to 4pm, however the internal living space will remain largely unaffected (Figure 23).</p> <p>At mid-winter, there is no shadow impact to the High Street between 9am and 12pm. Therefore, these residential properties will retain the minimum 3-hour solar access at the winter solstice (21st June), between the hours of 9.00am and 3.00pm.</p> <p>In relation to vegetation, an Arboricultural Impact Assessment has been prepared by Australis Tree Management (Appendix F of the Planning Proposal package) to identify the health and condition of the selected trees, the potential impacts from proposed concept plan, and to provide recommendations regarding tree retention and protection. All trees assessed are located on adjoining lots, with existing trees present on the site. The assessment confirms that all trees can be retained with appropriate tree protection measures throughout the development works. It is noted that some trees will require pruning to the boundary to avoid damage to the tree.</p> <p>In relation to privacy, it is noted that the proposed building envelope is located approximately 20 metres from the existing northern residences, with heavy tree canopy and vegetation in between, providing additional privacy mitigation. This is significantly more than the average separation between the residences on Whaling Road themselves, and more than the average separation of any urban low-density residential context such as North Sydney. Further privacy measures are intended to be incorporated during detailed design development, including appropriate configuration of apartments and balconies to avoid overlooking. These measures are discussed further at Section 6.0 of the Planning Proposal.</p>

7.0 Conclusion

This request for a Rezoning Review is submitted on the basis that Council has resolved not to support the Planning Proposal proceeding to Gateway determination after the proponent updated and resubmitted the proposal to address the feedback of Council officers and North Sydney Local Planning Panel. Specifically, the proponent has reduced the height, bulk, scale and additional permitted uses on the site to address concerns raised.

As required by Section 3.33 of the EP&A Act, the strategic and site-specific merit of this Planning Proposal is demonstrated as follows:

- The Planning Proposal is consistent with the strategic planning framework, including the Greater Sydney Region Plan and North District Plan by increasing ancillary services to support the ongoing growth of employment and economic development in the North Sydney CBD, as well as to respond to the moratorium on serviced apartments in the North Sydney CBD.
- The Planning Proposal responds to significant site-specific constraints, including the loss of feasibility of the existing tennis court operations. This proposal will allow for the maintenance of one court in response to actual usage trends and allow for the operation of ancillary uses to support the private recreation use.

The Proponent has been respectful of the planning process to date and has sought to respond to all stakeholder concerns, which has culminated in a refined and responsive Planning Proposal in line with the objectives of the RE2 Private Recreation zone and considerate of the surrounding land uses.

In light of everything outlined in this submission, we strongly believe that the Planning Proposal in its current form has satisfied North Sydney Council and the Local Planning Panel's requests outlined in their prior Gateway Determination dated 22 February 2021. In this regard, the Proponent respectfully requests that the Regional Planning Panel recommend that the Planning Proposal proceed to gateway determination.

I trust this information is what you require at this stage to progress this request, however should you have any queries about this matter or require any further information, please do not hesitate to contact me via the undersigned details.

Yours sincerely,



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