

8.3. Planning Proposal PP2/20 - 1A Little Alfred Street, North Sydney

AUTHOR: Jayden Perry, Strategic Planner

ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

1. P P 2 20 - Attachment 2 - Design Report [8.3.1 - 40 pages]
2. 1 A Little Alfred Street - Revised Planning Proposal - February 2021 [8.3.2 - 48 pages]

PURPOSE:

To present an assessment report in response Planning Proposal No. 2/20 at 1A Little Alfred Street, North Sydney after its consideration by the Local Planning Panel on 9 December 2020.

EXECUTIVE SUMMARY:

Council received a Planning Proposal to amend North Sydney Local Environmental Plan 2013 (NSLEP 2013) as it relates to land at 1A Little Alfred Street, North Sydney.

The Planning Proposal seeks to make the following amendments to the North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- allow ‘Serviced apartments’ as additional permissible uses on the site (NB: ‘Kiosk’ and ‘Recreation facility (indoor)’ uses are already permissible on the site under the existing RE2 - Private Recreation zone). Should the Housing Diversity SEPP be finalised and gazetted, the proposed newly defined use of ‘co-living’ also be added to the permissible land uses;
- amend the Height of Buildings Map with a maximum height of 12.5m 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.

The indicative concept scheme accompanying the Planning Proposal includes a 3 storey building on the western portion of the site comprising:

- 11 x 1-2 bedroom apartments (at levels 1-2); and
- a 38m² kiosk style café, a 62m² health/wellness space that could be used for yoga, gym space or the like, 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 is proposed to be retained and would remain available to the public for hire.

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer which proposes to provide;

- Ongoing maintenance and operation of one tennis court [existing] for a period of 15 years, which will remain open and accessible for use by the public via an online booking system. This contribution is to commence upon release of a Construction Certificate for a future mixed-use development at the site.
- A monetary contribution of \$400,000 to go towards upgrades of local recreational or public domain infrastructure, or towards a new park above Warringah Freeway.

Having completed an assessment of the Planning Proposal and draft VPA against the Department of Planning, Infrastructure and Environments’ (DPIE) Regional and District Plans and against Council’s existing controls and policies, it is considered that the Planning Proposal is not compatible with the surrounding area nor does it align Council’s future vision for the area and as such should not be supported to proceed to Gateway Determination.

In particular, the proposal will result in a built form that is of an inappropriate height and scale, will result in the loss of private recreational area, is likely to impact upon the amenity of surrounding residents and is considered to be inconsistent with the objectives of the RE2 zone and with the objectives of the adjacent zones.

The Planning Proposal has not been prepared in response to any Council Planning Study and is therefore not consistent with Council’s assured Local Strategic Planning Statement which sets the strategic vision for the future of North Sydney. The Planning Proposal is not considered to be satisfactory for the reasons outlined above and discussed in detail in this report.

As part of the plan making process Council staff are required to report on this planning proposal to the Local Planning Panel prior to the elected Council. This took place on 9 December 2020 and the minutes of this meeting are provided at Attachment 5. The panel supported its progression in principle, contingent on meeting a range of concerns provided in the body of the report. This support was not unanimous.

It is noted that the applicant has made ongoing updates to original proposal, having submitted two revised schemes since its lodgement in March 2020. Whilst these have sought to address various concerns, it has added unnecessary complication to the

process, effectively undertaking a form of negotiation prior to the exhibition stage of the proposal.

Whilst not the subject of formal exhibition, Council has received a total of seventy-five (75) submissions raising concerns over the proposal.

FINANCIAL IMPLICATIONS:

The Planning Proposal is accompanied by an offer to enter into a draft Voluntary Planning Agreement (VPA) that proposes to provide monetary and in-kind contributions to Council. These include:

- Ongoing maintenance and operation of one tennis court [existing] for a period of 15 years, which will remain open and accessible for use by the public via an online booking system. This contribution is to commence upon release of a Construction Certificate for a future mixed-use development at the site.
- A monetary contribution of \$400,000 to go towards upgrades of local recreational or public domain infrastructure, or towards a new park above Warringah Freeway.

RECOMMENDATION:

- 1. THAT** Council resolves to not support the Planning Proposal proceeding to Gateway Determination.
- 2. THAT** Council notifies the applicant of Council's determination in accordance with clause 10A of the Environmental Planning and Assessment Regulations 2000.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment

1.1 Protected and enhanced natural environment and biodiversity

1.4 Public open space and recreation facilities and services meet community needs

2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

3. Our Future Planning

3.4 North Sydney is distinctive with a sense of place and quality design

4. Our Social Vitality

4.4 North Sydney's history is preserved and recognised

BACKGROUND

Pre-lodgement discussions

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 Council;
- there was a previously submitted DA for the site, which was recommended to be refused. Some of these reasons included unreasonable impacts to neighbouring residential amenity, insufficient parking for proposed uses, and extensive excavation;
- Council would be seeking to understand impacts on neighbours and their concerns or supporting comments; Council will likely not support residential apartments as it was already meeting its housing target; and
- Council is conscious that the site is constrained and will be looking to see a detailed site analysis and design response to inform any future redevelopment concepts.

Planning Proposal

On 24 March 2020, the subject Planning Proposal was lodged with Council, which sought to:

- allow ‘Serviced apartments’, ‘Office premises’ and ‘Boarding House’ 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 21m on the western portion of the site; and
- amend the Floor Space Ratio Map with a maximum FSR of 1.6:1 on the western portion of the site.

The indicative concept scheme accompanying the Planning Proposal sought to provide a part 4, part 5 storey building on the western portion of the site which will contain:

- 19 x 1-2 bedroom apartments (at levels 1-4); 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.

A numerical overview of the originally proposed concept scheme is provided below:

Height	21m
Gross Floor Area (GFA)	1,392m ² <ul style="list-style-type: none"> • Approximately 1237m² of residential accommodation (19 apartments) • 38m² kiosk style café • 62m² health/wellness space • 55m² of shared ‘co-working’ space
Floor Space Ratio (FSR)	1.6:1 on western portion of site
Non-Residential FSR	None formally proposed however the proposed concept scheme will include 155m ² of non-residential floor space
Whole of building setbacks	Northern boundary – 5.7m Southern boundary – Approx. 3m on ground level, Nil setback on upper levels Eastern boundary – Approx. 35m Western boundary – Nil

On 30 July 2020, a preliminary assessment letter was sent to the applicant outlining Council’s issues with the proposal relating to:

- Loss of recreational space;
- Scale of the proposal being incompatible with existing character of the area;
- Inconsistency of proposal with the objectives of the RE2 Zone;
- Concerns over amenity impacts to surrounding properties;

- Concerns over impacts on the adjoining Heritage Conservation Area;
- Concerns over the impact to adjoining landscaping to the south of the site;
- Strong community opposition received outside of any formal public exhibition.

In light of the issues raised and the strong community opposition to the proposal, it was requested that the applicant consider withdrawal of the proposal.

Revised Scheme

On 8 October 2020, Council received revised documentation from the applicant which included a reduction in the overall bulk and scale of the proposal and request for inclusion of new permissible use including the following elements:

- Reduction of the proposed maximum building height from 4 and 5 storeys (21m maximum building height control) to 3 storeys (15m maximum building height control);
- Reduction of the proposed maximum Floor Space Ratio from 1.6:1 to 0.62*:1 on the western portion of the site;
- Amendments to the proposed maximum building envelope to reflect the revised planning controls;
- Amendments to the proposed reference design scheme to reflect the revised planning controls; and
- Revision of the VPA letter to extend the offer of guaranteed operation of the tennis court from a period of 5 year to 15 years.
- Request that the newly defined use of ‘co-living’ be added to the permissible land uses should the Housing Diversity SEPP be finalised and gazetted.

** It was noted at the time of assessment that this appeared to be an error by the applicant. The total floor space proposed in the revised reference design is 844m² which would, were it to be realised, require an FSR of approx. 0.9:1 to apply to the identified area of the site.*

The revised proposal sought to make the following amendments to the North Sydney LEP:

- allow ‘Serviced apartments’, ‘Office premises’ and ‘Boarding House’ 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). Should the Housing Diversity SEPP be finalised and gazetted, the newly defined use of ‘co-living’ be added to the permissible land uses;
- 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 0.62:1 on the western portion of the site.

It is noted that upon request by Council officers, an amended cover letter and planning proposal report was submitted to Council on 2 November 2020 which included additional justification of the amended design and addressed the relevant sections under the Department of Planning, Environment and Industry's (DPIE) 'Guide to Preparing Planning Proposals' as is required under The Act.

Local Planning Panel Referral

On 9 December 2020, the Local Planning Panel considered a report on this planning proposal. The minutes of this meeting are provided at Attachment 5. The panel supported its progression in principle, however, provided the following advice:

The Panel members have undertaken independent site inspections prior to the meeting and have noted the submissions both oral and written. The Council Officer's Report is noted. The majority of the Panel considers that the Planning Proposal could only be supported in part. That is, subject to the additional use limited to 'serviced apartments' and the future built form on the western portion of the site only limited to a maximum of 12.5m with a maximum of three storeys and a FSR of 0.9:1 confined to that portion of the site. This additional use is seen to complement the permissible uses in the RE2 zone.

Furthermore, a restriction would need to be placed on the title to ensure the site is to remain in single ownership with no future subdivision, either Torrens Title or Strata Title. This is to ensure that the tennis court is maintained and available to the public for the life of the development in conjunction with the permissible RE2 uses on the site.

Only on the conditions above does the majority of the Panel consider this additional use of 'serviced apartments' has both site specific and strategic merit having regard to the zone objectives and broader relevant strategic considerations.

The Panel also recommends that a DCP be prepared to accompany the exhibition of the LEP if Council proceeds with seeking a Gateway Determination.

While the applicant seeks the use of office premises as an additional use, the Panel considers that use should only be ancillary to the serviced apartment component and other recreational uses permitted in the RE2 Zone.

The Panel considers that the definition of 'serviced apartments' provides the opportunity for appropriate co-location with the recreational purposes of the site. The Panel does not consider that more permanent accommodation such as boarding houses

would be consistent with the objectives of the zone and may conflict with the permissible RE2 uses.

The Panel notes the applicant's offer to enter into a VPA with Council.

The Panel notes the unique location and constraints of this parcel of land and the need for complementary uses to activate the site to ensure access and safety for use as a recreational area.

If the Council considers the Planning Proposal as restricted above, still does not warrant support then alternatively, the Council may in the future, when it undertakes a comprehensive review of the LEP, rezone the site for public recreation RE1 if it is considered suitable for this purpose.

The Community Representative Veronique Marchandau is not in agreement with this recommendation for the reasons outlined in the Council Officer's Report. In particular, inconsistency with the objectives of the RE2 zone and the objectives of the adjacent area and the loss of scarce and much needed private recreational area.

It is noted that the Panel voted against Council's recommendation for refusal. Notwithstanding the Panels advice, Council Officers are of the opinion that the proposal in its current form is not appropriate for the site for the reasons outlined in this report. This is consistent with the Council officers report to the Local Planning Panel.

Final Revised Scheme (the subject of this report)

Following the Panel meeting, on 4 February 2021 the applicant again submitted a further amended proposal to Council, which proposes to make the following amendments to the North Sydney LEP:

- allow 'Serviced apartments' as additional permissible uses on the site (NB: 'Kiosk' and 'Recreation facility (indoor)' uses are already permissible on the site under the existing RE2 - Private Recreation zone). Should the Housing Diversity SEPP be finalised and gazetted, the proposed newly defined use of 'co-living' also be added to the permissible land uses;
- amend the Height of Buildings Map with a maximum height of 12.5m 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.

It is noted that the reference scheme submitted on 8 October 2020 is to remain the same, with the proposed changes in controls not altering the scheme however acting to correct a discrepancy with the proposed FSR control with the previous scheme along with addressing comments made by the Panel.

A numerical overview of the revised concept scheme is provided below:

Height	Approx. 15m.
Gross Floor Area (GFA)	844m ² <ul style="list-style-type: none"> • Approximately 624m² of residential accommodation (11 apartments) • 38m² kiosk style café • 62m² health/wellness space • 55m² of shared ‘co-working’ space
Floor Space Ratio (FSR)	Approx. 0.9:1 on western portion of site
Non-Residential FSR	None formally proposed, however, the proposed concept scheme will include 155m ² of non-residential floor space
Whole of building setbacks	Northern boundary – 5.7m Southern boundary – Approx. 3m on ground level, Nil setback on upper levels excluding the eastern-most portion of the eastern building which retains a 3m setback for the entire height. Eastern boundary – Approx. 35m Western boundary – Nil



Figure 1. Site context of proposed concept design (Source: Melissa Wilson Landscape Architect).



Figure 2. Proposed concept design looking south (Source: Carter Williamson).



Figure 3. Proposed concept design as seen from the east and west (Source: Carter Williamson)

Draft Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP)

The amended planning proposal includes a request that the proposed newly defined use of 'co-living' be added to the permissible land uses. This is a newly defined term introduced under the Draft Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) and was not included in the original planning proposal lodged on 24 March 2020.

The proposed Housing Diversity SEPP and Explanation of Intended Effect (EIE) was placed on public exhibition from 29 July to 9 September 2020. The draft SEPP seeks to update some planning provisions to respond to changing housing needs, and ‘co-living’ is one of the new diverse housing types being introduced to provide more housing options.

The applicant has submitted the following justification for the addition of the term to the permissible land uses:

‘Co-living’ housing is currently defined under a boarding house use. However, the draft SEPP introduces a new separate land use definition for co-living, being: A building held in single ownership that:

- *provides tenants with a principal place of residence for 3 months or more;*
- *includes on-site management;*
- *includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and*
- *has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults.*

This Planning Proposal and reference design scheme seeks to facilitate such co-living uses on the site as it is well suited within the reference design scheme due to the synergies between the other communal recreational facilities as well as the sites proximity to public transport and North Sydney CBD.

Therefore, although it is presently in draft format, it is requested that should the Housing Diversity SEPP be finalised and gazetted, this newly defined use of ‘co-living’ be included as an additional permissible use on the site, in addition to ‘boarding house’.

Taking the above into account, it is considered that the addition of the permissible use ‘co-living’ will not significantly alter the intent or effect of the planning proposal and is largely a matter of adapting the proposal to the changes proposed under the Housing Diversity SEPP.

CONSULTATION REQUIREMENTS

Should Council determine that the Planning Proposal can proceed, community engagement will be undertaken in accordance with Council’s Community Engagement Protocol and the requirements of any Gateway Determination issued.

DETAIL

1. Applicant

The Planning Proposal was lodged by Ethos Urban on behalf applicant Tooma & Tooma Pty Ltd, the owners of the subject sites at 1A Little Alfred Street, North Sydney.

2. Site Description

The subject site comprises of one (1) allotment of land. The legal property description and existing development is outlined in Table 1 below:

TABLE 1: Property Description		
Property Description	Legal Description	Existing development
1A Little Alfred Street, North Sydney	Lot 1051, DP812614	3 tennis courts, 3 parking spaces, two huts and bathrooms. Site access is provided via Little Alfred Street, at the western edge of the site.



<i>FIGURE 4: Subject site</i>	<i>FIGURE 5: Aerial photo of subject site</i>
--------------------------------------	--

The site is located within the centre of the street block bound by Whaling Road, High Street, Pile Place and Little Alfred Street. The site is bordered by residential properties to the north, east and south and a park on the western boundary. It is irregular in shape with a frontage of approximately 60m adjoining the park and reserve to the south and west of the site, a shared boundary of approximately 110m with properties to the north of the site, a shared boundary of approximately 14m to properties east of the site, with approximately 63m of shared boundary along the southern side of the site. The site is 1,829m² in area. The land is level, with a difference of approximately 1m across the entire site.

The site contains 3 tennis courts, 3 parking spaces, two huts and bathrooms (refer to Figures 6 and 7). The site has been occupied and used as tennis courts since prior to 1930. Site access is provided via Little Alfred Street, at the western edge of the site adjacent to the existing park as shown in Figure 7.



FIGURE 6: Photo of subject site as seen from Little Alfred Street entrance.

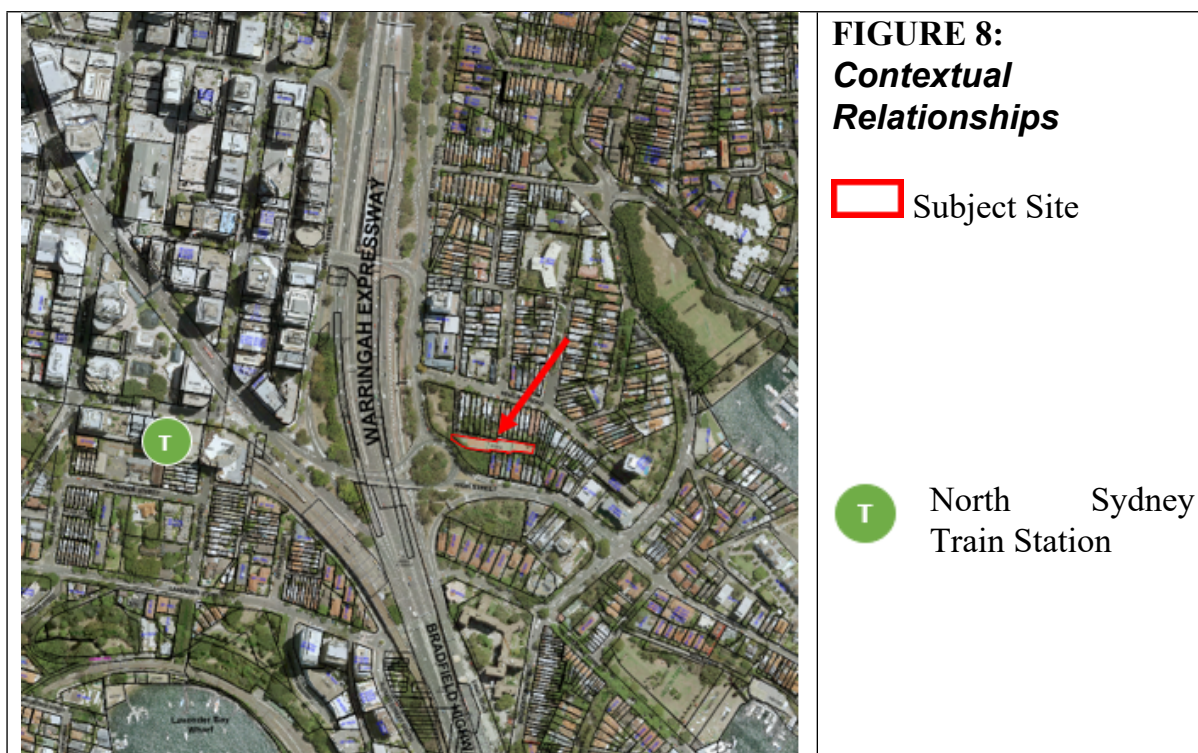


FIGURE 7: Photo of entrance to the subject site taken from park to the west of the site.

3. Local Context

The subject site is located to the south-eastern side of North Sydney, being separated from the North Sydney CBD by the Warringah Freeway.

Directly to the north of the site lies the Whaling Road Heritage Conservation Area, with all residential properties adjoining the site to the north, being listed as heritage items.



To the north of the site exists residential dwellings which generally comprise terraces and dual occupancies along Whaling Road. Land further to the north- west comprises medium to higher density residential and commercial uses within the area referred to as the ‘Alfred Street Precinct’.

Directly south of the site exists residential dwellings which generally comprise manor houses along High Street, and apartment buildings further south and to the south east of the site. Located immediately to the south-west of the site is a landscaped area containing several substantial trees providing a corridor of dense foliage.

To the east of the site are a mixture of low-density residential dwellings and high-density residential apartments.

A public park adjoins the site immediately to the west. Approximately 420m walk to the west of the subject site, beyond the Warringah freeway is North Sydney Railway Station, which provides regular services to the south to Sydney CBD, and to the north to St Leonards, Chatswood, Macquarie Park and Hornsby.

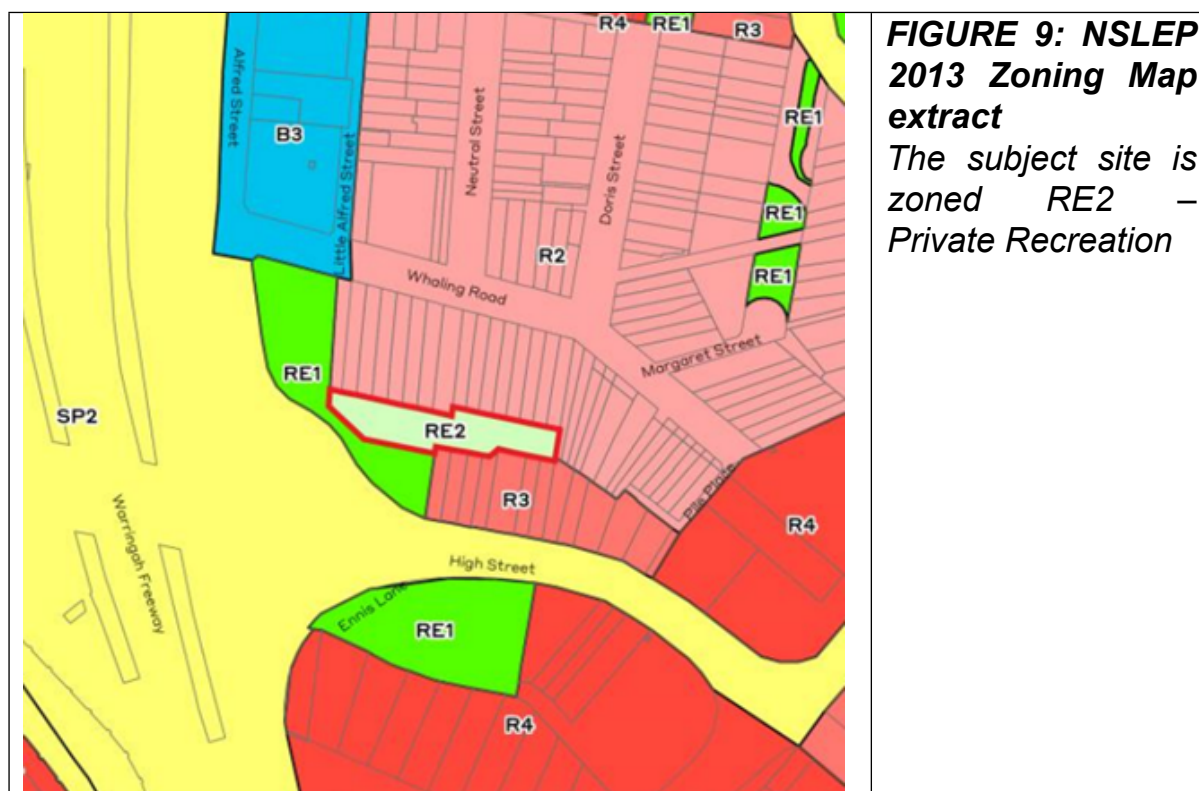
4. Current Planning Provisions

The following subsections identify the relevant principal planning instruments that apply to the subject site.

4.1 NSLEP 2013

NSLEP 2013 was made on 2 August 2013 through its publication on the NSW legislation website and came into force on the 13 September 2013. The principal planning provisions relating to the subject site are as follows:

- Zoned RE2 – Private Recreation (refer to Figure 9);
- No maximum floor space ratio (refer to Figure 10);
- No maximum building height (refer to Figure 11);
- Adjacent to heritage Whaling Road Conservation area (refer to Figure 12).



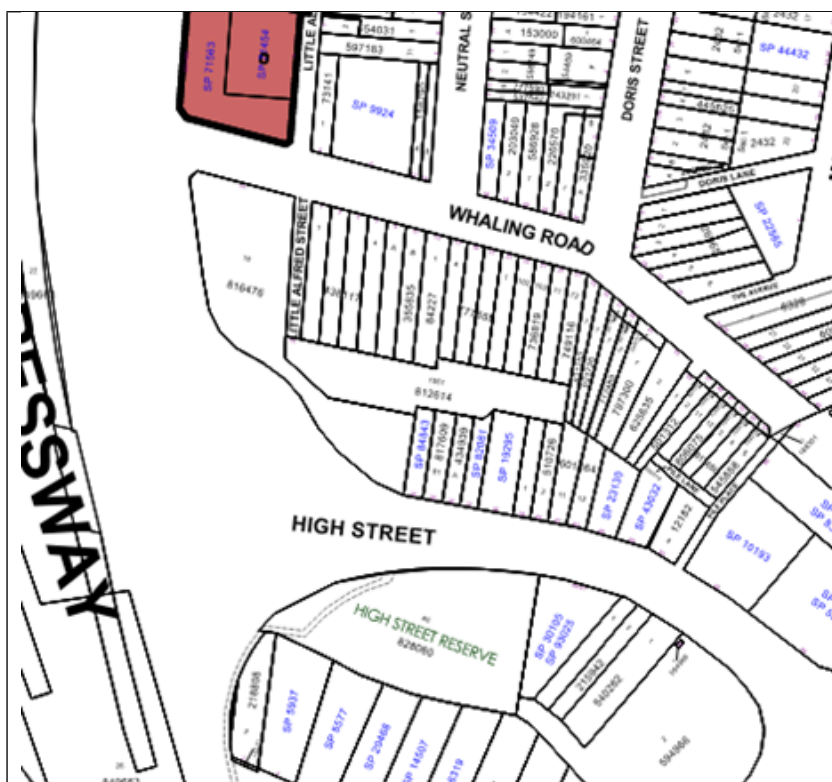


FIGURE 10: NSLEP 2013 Floor Space Ratio Map

There is currently no maximum FSR on the site.

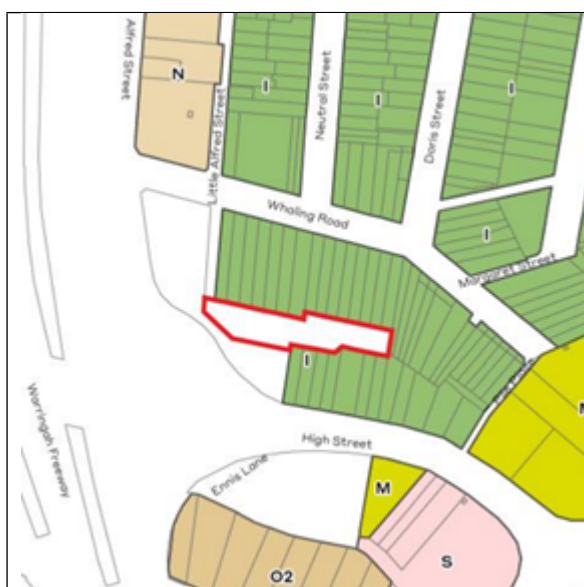


FIGURE 11: NSLEP 2013 Height of Buildings Map extract

The subject site currently has no maximum height

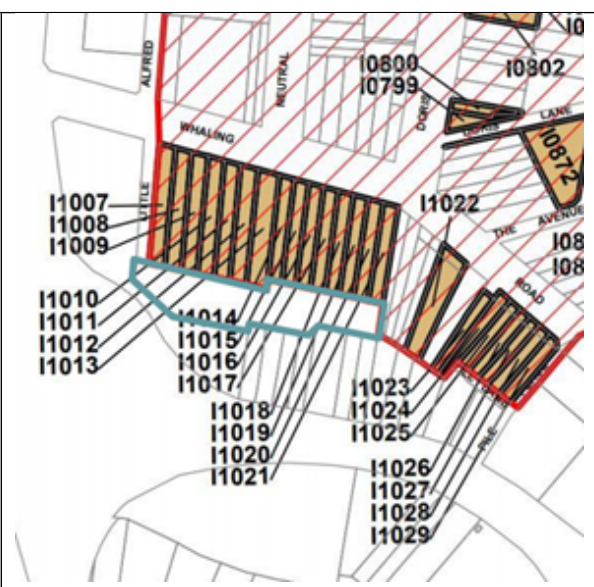


FIGURE 12: NSLEP 2013 Environmental Heritage

The subject site is outlined in grey

4.2 Moratorium on Residential Planning Proposals

Council has a long held position of not supporting the progression of planning proposals to Gateway Determination, which seek departures from current planning controls and

are not supported by an endorsed precinct wide based planning study. This position was reinforced at Council's meeting of 30 July 2018, wherein it resolved to not accept any new planning proposals involving a residential use, until the earlier of 1 July 2020 or the completion of any gazetted amendments to the North Sydney LEP in respect of any Land Use and Infrastructure Plan produced by the Department of Planning's Priority Precinct planning process.

Council received a response to its position of 30 July 2018 from the Minister for Planning dated 16 November 2018, which indicated that the Minister would seek further advice from the Greater Sydney Commission before considering their position.

As the Planning Proposal is not located within an area covered by a Council-endorsed Planning Study, and for the reasons outlined in this report, it is considered that the 'moratorium' is applicable in this instance and it is recommended that the proposal not be supported.

It is noted, however, that whilst the proposal does include the introduction of strictly residential uses (serviced apartments and boarding houses are separately defined) the principle of not supporting ad-hoc planning proposals outside of a Council endorsed study, applies.

5. Proposed Instrument Amendment

The Planning Proposal seeks to achieve the intended objectives and outcomes by amending NSLEP 2013 as follows:

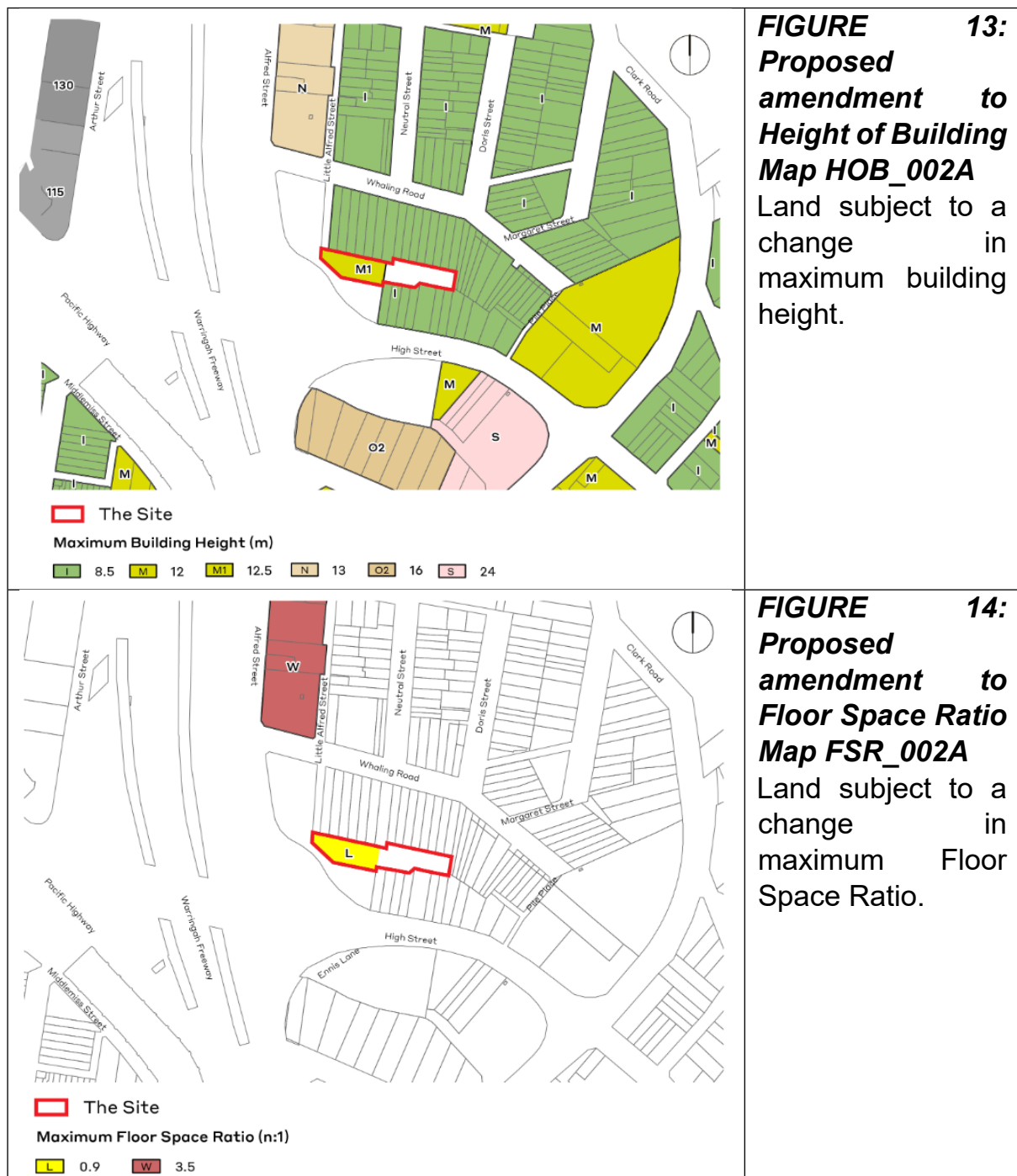
- allow 'Serviced apartments' as additional permissible uses on the site (NB: 'Kiosk' and 'Recreation facility (indoor)' uses are already permissible on the site under the existing RE2 - Private Recreation zone). Should the Housing Diversity SEPP be finalised and gazetted, the proposed newly defined use of 'co-living' also be added to the permissible land uses;
- amend the Height of Buildings Map with a maximum height of 12.5m 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.

The proposal requires a number of mapping amendments which are described below:

- amend the Height of Buildings Map (ref: 5950_COM_FSR_001_002_20190813) to NSLEP 2013 such that a maximum building height for 1A Little Alfred Street, North Sydney is increased 12.5m; and

- amend the Floor Space Ratio Map (ref: 5950_COM_FSR_001_002_20190813) to NSLEP 2013 such that a maximum FSR of 0.9:1 applies to 1A Little Alfred Street, North Sydney.

Extracts of the proposed amendments to the relevant maps are illustrated in Figures 10 and 11 below.



6. Draft Voluntary Planning Agreement (VPA)

The Planning Proposal is accompanied by a draft Voluntary Planning Agreement (VPA) offer proposes to provide;

- Ongoing maintenance and operation of one tennis court [existing] for a period of 15 years, which will remain open and accessible for use by the public via an online booking system. This contribution is to commence upon release of a Construction Certificate for a future mixed-use development at the site.
- A monetary contribution of \$400,000 to go towards upgrades of local recreational or public domain infrastructure, or towards a new park above Warringah Freeway. One hundred percent of the contribution is to be paid upon release of a Construction Certificate for a future mixed-use development at the site.

In consideration of Planning Proposals seeking uplifts in development controls, Council typically undertakes an evaluation of the value of the development extent available under the current planning controls and those being sought.

In this circumstance, having regard to Council not acting to unduly restrict the viability of re-development of the site, this is considered a reasonable VPA offer. Notwithstanding this, for reasons discussed in this report, it is recommended that the planning proposal be refused.

To allow the community a full appreciation of what is being proposed, should the application progress to a formal public exhibition, it is recommended that any draft VPA be exhibited concurrently with the Planning Proposal.

7. ASSESSMENT

7.1 Planning Proposal Structure

The Planning Proposal is considered to be generally in accordance with the requirements of s.3.33 of the Environmental Planning and Assessment (EP&A) Act 1979 and DPE's 'A guide to preparing planning proposals' (December 2018). In particular, the Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed local environmental plan;
- An explanation of the provisions that are to be included in the proposed local environmental plan;
- Justification for those objectives, outcomes and provisions and the process for their implementation; and
- Details of the community consultation that is to be undertaken on the Planning Proposal.

8. Justification of the Planning Proposal

8.1 Objectives of the Planning Proposal

The primary objective of the Planning Proposal as described by the applicant is as follows:

The objective of this Planning Proposal is to facilitate the redevelopment of the site through the addition of permissible land uses and changes to building height and floor space ratio on the western portion of the site

The proposed amendments to NSLEP 2013 generally achieve the stated objectives and intended outcomes of the Planning Proposal, however, as discussed in further detail below are not considered to be appropriate on the site.

8.2 Proposed Building Height and Scale

The proposal has a maximum height of 12.5m proposed for the western half of the site, with the concept design showing a building of 3 storeys. No specific maximum FSR currently applies to the site under NSLEP 2013 and the proposal as submitted, seeks to apply a maximum FSR of 0.9:1 to the western half of the site. It is noted that the concept scheme has an approximate height of 15m which is above the proposed 12.5m height limit. The upper portion of the structure outlined in the scheme includes architectural elements and it is understood that any future development application may seek to utilise Clause 5.6 of the North Sydney LEP 2013 which permits minor exceedances of height for the purpose of an architectural roof feature.

In the immediate vicinity of the site exists low-scale residential development, with the pattern of low scale development continuing further afield albeit with some obvious outliers including the “Bayer building” to the north of the site and a few 1960s era multi-unit developments occupying large consolidated blocks. Figures 15 and 16 below demonstrate the proposed scale of the development when compared with the property at No. 1 Whaling Road directly to the north of the site.



Figure 15. *1 Whaling Road and 1A Little Alfred Street as seen from the north-west.*



Figure 16. *Proposed concept building.*

The proposal does little to respect the existing built form surrounding the site nor does it respond to the topography of the land as sloping in a general southerly direction. This is in contention with the desired built form outlined under Section 7.2, Part C of the NSDCP 2013, which states *‘Development should be carefully designed to follow the topography of the land, with buildings on sloping sites.’*

Whilst it is acknowledged that some of the buildings to the north are in contravention of the 8.5m height limit, being upwards of 10m in height, this does not provide adequate justification for the proposed significant exceedance beyond this height being up to 12.5m. Further it is noted that these buildings are heritage listed under the North Sydney LEP 2013.

Furthermore, much of the expected impacts resulting from the proposal are directly attributable to the proposed height and massing of the buildings, particularly in regard to overshadowing and impacts on privacy and views/outlook.

In light of the above, it is considered that the proposal in its current form is not compatible with the surrounding locality and it is recommended that the planning proposal not progress.

8.3 Inconsistency with Surrounding Area

The proposal includes the inclusion of ‘serviced-apartments’, which is prohibited uses in the adjoining R2 and R3 residential zones. Additionally, the proposal includes a height of 12.5m, which is greater than the allowable 8.5m height limit for all sites surrounding the subject site. The intensity and type of uses proposed on the site is not envisaged by any existing strategic policy documents, nor has it been the subject of any site-specific planning study recommending changes to the site. As a site-specific planning proposal, the issues of compatibility and consistency with surrounding uses is paramount and as such in this instance the proposal is considered to be out of scale.

Whilst it is acknowledged that there exists outliers within the vicinity of the site, including the buildings directly to the north of the site exceeding the 8.5m height control, these are not considered to be reflective of the greater surrounding area and do not represent the desired future character of the neighbourhood. This is further supported by the recently undertaken comprehensive review of Council’s LEP which recommended the retention of existing LEP controls on the site and surrounding area.

The objectives of the RE2 (Private Recreation) zone within NSLEP 2013 are;

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To minimise the adverse effects of development on surrounding residential development.

The current 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 private

recreational area and proposes to introduce serviced apartments which isn't reflective of the land use of the existing or surrounding properties and is out of context. Furthermore, the proposal is expected to result in adverse amenity impacts on surrounding residential development.

8.4 Recreational Needs

Council as part of its preliminary assessment of the proposal identified the loss of recreational use area as being one of the issues with the proposal. 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.

The applicant, as part of the amended proposal, has engaged a recreation planning consultant to provide analysis on the current recreational needs of the area and to address Council's initial concerns. The key findings of the report include the following:

- *The viability of the current tennis operation on the subject is considered poor without substantial investment in upgrading the courts, lights and amenities. Even with this expenditure the expectation is that the overall operation as a tennis centre would be marginal;*
- *There is sufficient supply of tennis courts within the North Sydney LGA and the loss of the three courts at Kirribilli would have limited impact on the sport or tennis participation;*
- *A review of competing facilities in the LGA has identified a propensity for high levels of program provision and partnership with health and fitness programs, group fitness and adoption of new participation modes in tennis (such as Cardio Tennis);*
- *The existing site is heavily constrained for any potential viable commercial recreation use and there are limited opportunities for a standalone commercial recreation use that is viable. Lack of parking, poor access, lack of covered weather protection, site shape and size and the surrounding residential uses create multiple challenges for any proposed commercial recreation use;*
- *Community based uses such as club courts, parkland, community garden and active and passive recreation are viable uses for the site, however these are not commercial uses and would not offer a return to the owner. These uses would be viable under a not-for profit model such as council ownership and operation as park or lease to a club;*
- *Trend data and population growth do not indicate a strong need for the 3 courts to be retained for tennis use and do not support demand growth as a driver to improve viability of a commercial tennis operation;*

- *The best strategy to retain recreation use on the site, is to cross subsidise with a more viable activity such as this Planning Proposal and reference scheme; and*
- *Community recreation benefits can be retained and enhanced on the site with the retention of a single multi-use court and provision of new more viable opportunities such as an indoor exercise and wellness centre. Supporting this outcome via a residential development (this proposal) is a viable option.*

North Sydney Council's Recreational Needs Study identified a comprehensive strategy for recreational areas within the LGA. Of particular note, goal 8.5.1 of the study states that Council should, "Seek to retain the range of current sports activities in the LGA, and adopt a "no net loss" principle for sports land use," with goal 8.6 stating that Council should, "Seek to enable workers to utilise available sport and recreation facilities– during the day time on week days".

The current proposal will result in a loss of available outdoor recreational area within close proximity to an employment area which is contrary to Council's goal to maintain areas for sports use within the catchment of North Sydney CBD. Whilst it is acknowledged that the proposal seeks to retain a portion of the recreational use areas in the form of one tennis court and a wellness centre within the proposed building, there will be an overall net reduction in recreational area.

It is noted that the consultant's report identifies that there is currently an adequate amount of tennis court facilities within the vicinity of the site to not warrant their retention, with future demand also to be adequately met by alternate options. From Council's perspective the land is currently zoned as recreation (be it private) and its loss, however incremental it may seem to the current owner, is substantial. This also is in the context of anticipated population growth (worker and resident).

Generally speaking on the balance of needing to retain usable recreational open space, it is considered that the proposal is in contravention of Council's recreational needs policy. As such, in this instance the overall reduction in recreational area, particularly within proximity of the North Sydney CBD, is contrary to Council's vision and is not supportable in its current form.

8.5 Alternative Options

The DPIE's 'A Guide for Preparing Planning Proposals' (2016) requires Planning Proposals to consider if there are alternative options to achieving the intent of the proposal.

The Planning Proposal considers three alternate options, these include (as described by the applicant):

- **Option 1:** *Rezone portion of the site to R4 zone;*
- **Option 2:** *Rezone portion of the site to R4 zone, with additional prohibited use;*
- **Option 3:** *Retain RE2 zone (this Planning Proposal).*

The Planning Proposal acknowledges that whilst rezoning the site to R4 High Density Residential zone would facilitate the intended development on site, it would also allow for other development beyond what is intended, including residential flat buildings. As the intention of this proposal is not to facilitate permanent residences on the site, it is considered by the applicant that this is not the preferred option, and will require unnecessary planning assessment, for uses beyond the intention of the proposed concept plan.

Rezoning the site to R4 High Density Residential zone and including a schedule of prohibited uses would facilitate the intended development on site and limit its overdevelopment. However, as stated by the applicant, is not considered to be appropriate as it would result in the overcomplication of planning legislation, and inconsistency with Section 9.1 Ministerial Direction 6.3 – Site Specific Provision, which seeks to avoid the imposition of additional development standards.

As such, the proposed means of amending the Height of Building and FSR maps and including a schedule of additional permissible uses of ‘Serviced Apartments’, ‘Boarding House’ and ‘Office Premises on the site is considered by the applicant to be the most appropriate means of achieving the intent of the Planning Proposal.

Notwithstanding this, the proposal is generally considered to not be compatible with the existing land-use and surrounding area and would be inconsistent with objectives of the RE2 zone. As such, it is not recommended to progress to Gateway.

8.6 Environmental Impacts

The Planning Proposal identifies foreseeable impacts that will result from the proposed increase in the height and FSR controls. As outlined in sections below, the applicant has gone to some effort to document expected overshadowing and view sharing impacts as detailed within the attached Planning Proposal and accompanying Concept Design Report documents.

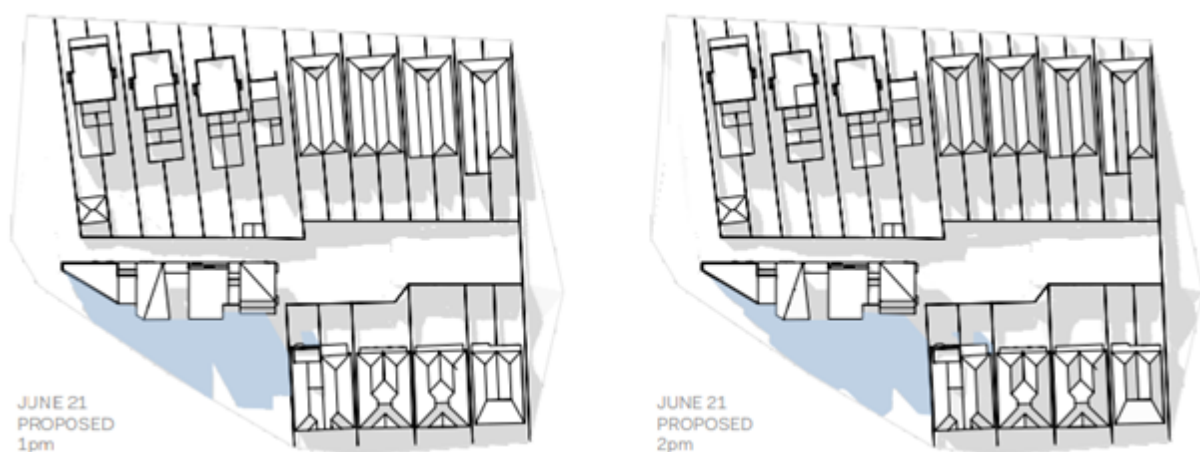
It is anticipated that the proposal will result in an increase in overshadowing, damage to surrounding public vegetation, reduction in solar access for neighbouring properties, privacy impacts, view and outlook impacts, and an inappropriate built form interface to surrounding properties and on the remaining public open space along Whaling Road, Alfred Street and High Street.

Overall, considering the residential typology in the immediate vicinity of the proposal, being of largely historical and low-scale residential development, the proposed built form and associated impacts are not considered to be appropriate within the context of the surrounding neighbourhood and are not supportable in this instance. This is discussed in further detail below.

8.6.1 Overshadowing

The applicant's Urban Design Report includes shadow diagrams which illustrate the impact of shadowing of the potential built form at the site on the surrounding public domain and buildings (refer to Figures 17 and 18 below and Attachment 2, Chapter 4). Of note is the overshadowing impact the proposal will have of buildings to the south and east of the site and the public domain to the south-west of the site. There will be some additional overshadowing impact to:

- Rear open space properties along the northern side of High Street starting sometime between 12pm and 1pm and continuing beyond 4pm, being numbers 26-34 High Street;
- Rear north-facing windows of numbers 26-28 High Street sometime after 1pm onwards;
- Vegetated area directly to the south of the site for most hours of the day, with shadow impacts being varied during the day following the movement of the sun.



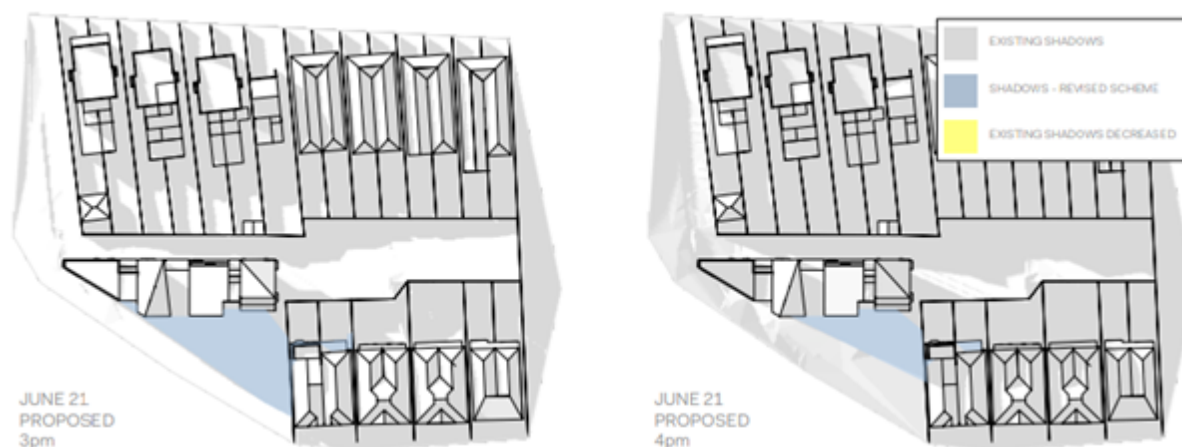


Figure 17. Overshadowing resulting from the proposal. (Source: Carter Williamson)



Figure 18. Overshadowing on north-facing façade of neighbours to the south. (Source: Carter Williamson)

The impacts to the rear open space of houses along High Street are considered to be somewhat mitigated when considering the partial overshadowing that is currently created by existing vegetation, however, the permanent reduction that arises from a structure warrants careful consideration.

With regards to the overshadowing impacts to the adjoining public vegetated area to the south of the site, the proposal will significantly increase the amount of overshadowing to the area particularly considering buildings resulting from the proposal may well be higher than some of the existing trees.

Whilst it is acknowledged that some form of development and resultant overshadowing may be expected on site, given the proposal is significantly out of context with what has been envisioned in the DCP and when compared to the urban character of the surrounding area and the minimal setback to the rear boundary, it is considered in this instance that the proposal in its current form does not do enough to adequately consider overshadowing impacts to properties to the south and as such is not supported.

8.6.2 Privacy and Visual Impact

The reference design accompanying the proposal includes serviced apartments on the upper floors of the building, with a number of windows on all elevations. Directly to the north of the site are the rear private open spaces of properties and communal areas

and strata properties along Whaling Road, with an example being seen in figure 19 below.



Figure 19. View south toward subject site property along Whaling Road.

Whilst there exists some vegetation between the site and various properties to the north which helps to provide some level of separation, the scale of the proposal and setback of 5.7m will most likely result in overlooking into the rear yards of those sites.

If the application were to proceed, it is expected, that additional privacy screening or similar measures would be considered to help mitigate any impacts on adjoining properties.

It is also observed that No's 26-28 High Street, located to the south the proposed new building, currently enjoy a reasonably open outlook noting the existing cabana/shelter. The introduction of a 15m high structure to the North/North-west of these dwellings with only a minimal separation (approximately 6-7m) would overwhelm the rear courtyards of these dwellings and have a visually dominating affect.

8.6.3 Impact on Vegetation

The proposal is likely to have a negative impact on the vegetation directly to the south of the site. This vegetation consists of several large, mature, significant, predominantly

native trees that provide a useful green buffer between the busy freeway and the built forms beyond (seen in Figure 20 below).

This proposal seeks to build with a zero or minimal setback along the southwestern and southern boundaries of 1A Little Alfred Street, with some setback on a portion of the ground-level and to the eastern-most building. Even with measures put in place to prevent damage to roots, significant pruning (in the order of 40%) would be required for the building to be constructed in the location as proposed along with ongoing management given the proximity of the building to mature vegetation adjacent to and overhanging the site.



Figure 20. Existing vegetation to the right of hut and courts.



Figure 21. Existing vegetation as seen from public footpath along High Street.

In the cover letter accompanying the amended proposal the applicant has provided justification regarding the potential impacts to the surrounding vegetation, seen below:

- *The Arboricultural Impact Assessment prepared by Australia Tree Management, submitted in support of the original Planning Proposal, does not conclude that the proposal is likely to have negative impacts. The report rather suggests that impacts are possible for some, and for some trees the impact is likely to be minimal*
- *Impacts to the root systems of adjoining trees can be assessed and protected in further detail at development application stage*
- *The Arborist concludes that protective measures can be utilised to mitigate potential impacts. Detailed root analysis can be undertaken to determine construction method and foundation design*

Council's landscape development officer provided comments on the original design and these are considered to remain valid for the amended design given the southern setback is proposed to remain the same. These comments are seen below:

Regarding the existing Tree Preservation Zone (TPZ) encroachment:

The report concludes that the existing TPZ encroachment effectively negates the impact of future encroachments despite the fact the existing encroachments are limited largely to asphalt surface, and that such encroachments were likely in place prior to the planting of the subject trees, meaning that roots may well have grown beneath them. The report claims that all trees can be retained, and that the TPZ encroachment on all council trees is 0%. It is not considered that such blanket claims can be made without detailed non-invasive root mapping.

Regarding the tree canopy:

The report also notes that extensive pruning to some trees would be required, resulting in canopy loss of up to 40%. Such canopy loss would not be supported by council, and as this report was undertaken 2 ½ years ago now, it is likely that the pruning required would now be more extensive (and SRZ & TPZ encroachments further increased).

Whilst it is acknowledged that detailed assessment of impacts is not always required at the planning proposal stage due to it being a relatively high-level conceptual exercise, it is considered in this instance that the proposal poses a real risk to the health and longevity of the vegetation and as such should be provided due consideration.

Given the potential for impact to the public vegetation and considering the lack of documentation detailing such impacts, the proposal in its current form is not considered to be acceptable.

8.6.4 Impacts on adjoining Heritage Conservation Area

The subject site is not heritage listed and is not located within a conservation area, however, it is immediately to the south of the Whaling Road Conservation Area. The conservation area is characterised by small-scale, one or two storeys, Victorian Georgian, Victorian Filigree and Federation housing in a tight street pattern. Houses have high level retention of original fabric and detail including facade elements, gardens and fencing.

Whilst not being directly within the area, the site is within the visible context and as such has significant potential to affect the heritage value of the adjoining area. The setting of the heritage items at the rear will be modified by the larger scale and massing of the proposed development as well as the lack of landscape buffer. This will negatively impact upon the character of the conservation area. As such, it is considered that the proposal in its current form is unacceptable.

8.6.5 Views

In terms of view impacts, the proposal will have some minor impacts on the local views to the south and east currently enjoyed by properties along Whaling Road, however largely retains views to Sydney Harbour to the south-east, as indicated by a view-analysis prepared by the applicant. Whilst key aspects of views (such as water, landscape elements or iconic features) are often more prized, the notion of general outlook and openness also warrants consideration. Residents of dwellings along

Whaling Road currently enjoy an open and leafy outlook to the south. The proposal would introduce a significant built form element that public submissions have raised objection to.

This matter could be addressed in greater detail in any future development application if the proposal were it to proceed in its current form.

8.6.6 Parking and access implications

The proposed concept includes a total of seven spaces, satisfying the maximum requirements of the DCP for residential, staff and visitor parking. The proposal also seeks to retain existing access via Little Alfred Street. It is noted that parking, traffic and access concerns were common issues raised in the submissions received by Council relating to the original proposal. The applicant has provided the following justification addressing these concerns:

Submissions noted a concern for increased traffic and parking impacts on the surrounding road network, as result of the proposal.

The original Traffic and Parking Assessment by PTC of the potential traffic generation as a result of the proposal, determined a net traffic generation of 19 trips during the peak hour. PTC concluded that this represents a low increase in traffic activity and therefore the original reference design scheme is not anticipated to generate any negative impacts to the local road network.

It is further noted that as this revised Planning Proposal seeks to reduce the height and floor space within the reference design scheme, the potential traffic and parking generation impacts will likewise be further reduced. This is discussed further at Section 6.7 of the Planning Proposal.

It is noted that the site is within the vicinity of multiple public transport nodes including North Sydney station, the soon to be completed Victoria Cross metro station, numerous bus routes and is within the proximity of regional cycling networks. Furthermore, a traffic assessment supplied by the applicant indicates that the development will lead to an approximate 19 trips during peak hour, which is not expected to significantly impact existing traffic levels.

Council is satisfied that the parking provided on-site and proposed access arrangements are sufficient for the proposal and will not result in significant additional adverse impacts on the surrounding area.

8.6.7 Wind

The applicant has not provided a formal wind assessment at this stage, but the Planning Proposal's Concept Plan illustrates that the intended built form will incorporate some awnings which will mitigate wind impacts on the public domain. Council is satisfied that this matter could be addressed in greater detail in any future development application if the proposal were to proceed.

8.7 Policy and Strategic Context

8.7.1 Section 9.1 Ministerial Directions

Section 9.1 of the EP&A Act enables the Minister for Planning to issue directions regarding the content of Planning Proposals. There are a number of Section 9.1 Directions that require certain matters to be addressed if they are affected by a Planning Proposal. Each Planning Proposal must identify which Section 9.1 Directions are relevant to the proposal and demonstrate how they are consistent with that Direction.

The Planning Proposal is considered to be generally consistent with all relevant Ministerial Directions.

8.7.2 Greater Sydney Regional Plan (A Metropolis of Three Cities)

In March 2018, the NSW Government released the Greater Sydney Regional Plan: A Metropolis of Three Cities (Regional Plan). The Plan sets a 40-year vision (to 2056) and establishes a 20-year Plan to manage growth and change for Greater Sydney within an infrastructure and collaboration, liveability, productivity and sustainability framework.

The Regional Plan is guided by a vision of three cities where most people live within 30 minutes of their jobs, education and health facilities, services and great places. The Regional Plan aims to provide an additional 725,000 new dwellings and 817,000 new jobs to accommodate Sydney's anticipated population growth of 1.7 million people by 2036.

North Sydney is identified as part of the 'Eastern Harbour City' within the Eastern Economic Corridor under the Regional Plan.

The Planning Proposal is generally inconsistent with the strategic directions, objectives and strategies of the Regional Plan, in that it will:

- result in the degradation of the existing urban tree canopy and public open space;

- result in the net loss of recreational infrastructure.

The Planning Proposal is likely to adversely impact upon the implementation of the directions and objectives identified in the Plan.

8.7.3 North District Plan

In March 2018, the NSW Government released the North District Plan. The Plan provides the direction for implementing the Greater Sydney Regional Plan: A Metropolis of Three Cities at a district level and sets out strategic planning priorities and actions for the North District.

The North District Plan has also established the following housing and jobs targets:

Housing Target	North Sydney LGA	North District
5 year (2016-2021)	+3,000 new dwellings	+25,950 new dwellings
20-year (2016-2036)	Council to prepare Local Housing Strategy (LHS)	+92,000 new dwellings

Jobs Target	North Sydney LGA	North District
20-year (2016-2036)	+15,600 – 21,100 new jobs	+6,900-16,400 new jobs

The Planning Proposal is considered to be inconsistent with the planning priorities of the North District Plan, in that it will:

- Result in the loss of open space and has the potential to impact upon public vegetated areas;

8.7.4 North Sydney Local Strategic Planning Statement (LSPS)

New legislative requirements introduced by the NSW Government in March 2018, require all councils prepare a Local Strategic Planning Statement (LSPS) to guide future land use planning and development. The LSPS is required to be consistent with the Greater Sydney Regional Plan ('A Metropolis of Three Cities') and the North District Plan, providing a clear line-of-sight between the key strategic priorities identified at the regional and district level and the local and neighbourhood level.

Following receipt of a Letter of Support from the Greater Sydney Commission (GSC), Council adopted the North Sydney LSPS on 24 March 2020. This document sets out Council's land use vision, planning principles, priorities and actions for the North Sydney LGA for the next 20 years. It outlines the desired future direction for housing, employment, transport, recreation, environment and infrastructure. The LSPS will

guide the content of Council's Local Environmental Plan (LEP) and Development Control Plan (DCP) and support Council's consideration and determination of any proposed changes to development standards under the LEP via Planning Proposals.

An assessment of the proposal against relevant North Sydney LSPS local planning priorities is undertaken in Table 5 below.

TABLE 5: Compliance with <i>North Sydney Local Strategic Planning Statement</i>	
Local Planning Priority	Comment
I1 – Provide infrastructure and assets that support growth and change	N/A
I2 – Collaborate with State Government Agencies and the community to deliver new housing, jobs, infrastructure and great places.	The proposal does provide housing and commercial floorspace however is incompatible with the area in which it is proposed.
L1 – Diverse housing options that meet the needs of the North Sydney community	The Planning Proposal does provide diverse housing options.
L2 – Provide a range of community facilities and services to support a healthy, creative, diverse and socially connected North Sydney community.	The proposal will result in a net loss of recreational facilities available to the community within the area.
L3 – Create great places that recognise and preserve North Sydney's distinct local character and heritage.	The proposal scheme does not conform with the character of the locality and will adversely impact local heritage.
P1 – Grow a stronger, more globally competitive North Sydney CBD	Whilst the proposal does facilitate development within the vicinity of the CBD, it is not considered to be appropriate in the context and furthermore will result in a net loss of recreational area available to the CBD.
S2 – Provide a high quality, well-connected and integrated urban greenspace system.	The proposal will result in the visual fragmentation of existing public green space and has the potential to impact existing mature vegetation on public land.
S4 – Increase North Sydney's resilience against natural and urban hazards	The proposal site is not subject to flood or bushfire risk. Potential contamination risk can be addressed

TABLE 5: Compliance with North Sydney Local Strategic Planning Statement	
Local Planning Priority	Comment
	at any development application stage. The proposal may however result in increase in urban heating resulting from the additional concrete / hard-paved area.

Identified under Liveability priority L3 is the following Action No 1.5;

Council will only support Planning Proposals that are consistent with Council's endorsed planning studies, that have identified growth being delivered in locations that support the role of centres and have critical infrastructure and services in place to support the North Sydney community."

The proposal does not meet the above criteria and for this reason should not proceed.

8.7.5 Draft North Sydney Local Housing Strategy (LHS)

The Draft North Sydney Local Housing Strategy (LHS) establishes Council's vision for housing in the North Sydney LGA and provides a link between Council's vision and the housing objectives and targets set out in the GSC's North District Plan. It details how and where housing will be provided in the North Sydney LGA over the next 20 years, having consideration of demographic trends, local housing demand and supply, and local land-use opportunities and constraints.

Following public exhibition, on 25 November 2019, Council resolved to adopt the draft North Sydney LHS with an action to forward to the DPIE for their approval.

The draft North Sydney LHS identifies the potential for an additional 11,870 dwellings by 2036 under the provisions of NSLEP 2013. Much of these dwelling targets are met by recent strategic studies undertaken by the state government in St Leonards / Crows Nest under the draft 2036 Plan and by Council under the Military Road Corridor Plan and Civic Precinct Study.

As such, Council is not obligated to further increase housing supply. Given the current proposal is not supported by a larger scale strategic study, does not reflect the character of the area in which it is proposed and has the potential to impact upon the amenity of the residents within the area, the proposal in this instance is not considered to be acceptable and does not reflect Council's vision outlined under the LHS.

8.7.6 State Environmental Planning Policies (SEPPs)

Each Planning Proposal must identify which State Environmental Planning Policies (SEPP) are relevant to the proposal and demonstrate how they are consistent with that SEPP. The Planning Proposal is considered to be generally consistent with all relevant State Environmental Planning Policies.

8.7.7 North Sydney Development Control Plan 2013 (NSDCP 2013)

The current proposal is considered to be generally inconsistent with the aims and objectives of the NSDCP 2013 in that it will negatively impact the quality of the natural and built environment within its immediate context and does not positively respond to the character of the surrounding area.

7. SUBMISSIONS

There are no statutory requirements to publicly exhibit a Planning Proposal before the issuance of a Gateway Determination.

However, Council sometimes receives submissions in response to planning proposals which have been lodged but not determined for the purposes of seeking a Gateway Determination. The generation of submissions at this stage of the planning process, arise from the community becoming aware of their lodgement through Council's application tracking webpage.

These submissions are normally considered as part of Council's assessment report for a Planning Proposal, to illustrate the level of public interest in the matter before Council makes its determination.

Council received more than 65 submissions in relation to the original proposal, which raised the following issues:

- The proposal is not in the public interest;
- The proposal is out of keeping with the RE2 zone and surrounding area;
- The adjacent affected low-rise residential properties, generally, would suffer very considerable and permanent consequential environmental, amenity, economic and other detriment;
- The heritage value of the Whaling Road Conservation Area would be compromised;
- The proposed building height fails to satisfy the building height objectives set out under Part 4.4 of NSLEP 2013;
- The proposal will result in loss of parking in the area and increased traffic to an already exacerbated intersection, being the corner of Whaling Road and Alfred Street;

- The proposal will result in the loss of open space available to surrounding residents;
- The applicant has not duly considered alternative options and uses on the site;
- Arguments were made that contested various assertions made by the applicant including the role of the RE2 zone, expectation that commercial return be considered when assessing the proposal, the extent of impacts resulting from the proposal, the claim that the applicant had undertaken meaningful consultation with the community and the role of climate change in changing the delivery of outdoor recreational area.

Following the receipt of an amended proposal, Council received an additional 10 submissions commenting on the amended proposal. These additional submissions reflected those made in relation to the original proposal including reinforcing the issues raised above and reaffirming that the reduction in scale of the proposal does little to alleviate the above concerns.

These matters have been addressed in detail in the above report.

CONCLUSION

The Planning Proposal seeks to amend NSLEP 2013 to increase the maximum building height, floor space ratio and to introduce a schedule of additional permitted uses as it relates to the subject site.

It is noted that the applicant has made ongoing updates to original proposal, having submitted two revised schemes since its lodgement in March 2020. Whilst these have sought to address various concerns, it has added unnecessary complication to the process, effectively undertaking a form of negotiation prior to the exhibition stage of the proposal.

For the reasons discussed in detail above, the Planning Proposal is not supported for the following reasons;

- 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);
- 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;
- 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;

- 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;
- 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;