

10 July 2024

Ms Kiersten Fishburn
Secretary
Department of Planning, Housing and Infrastructure
12 Darcy Street
Parramatta NSW 2150

Dear Kiersten

**RE: REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS:
132 ARTHUR STREET, NORTH SYDNEY**

This submission has been prepared by Planning & Co on behalf of Aqualand Office 1 Nominee Pty Ltd as trustee for Aqualand Office 1 Unit Trust (the Proponent) to support a request for Industry Specific Secretary's Environmental Assessment Requirements (SEARs) for a proposed mixed-use development at 132 Arthur Street, North Sydney (the site).

As part of the proposal is for the purposes of BTR housing, is located in Greater Sydney and has an Estimated Development Cost (EDC) in excess of \$50 million, and the tenanted component of the proposal is at least 60% of EDC, the proposal is classified as State Significant Development by virtue of Clause 27 of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021*. The remainder of the site will be for the purposes of tourist related purposes – however the EDC threshold of Clause 13 of Schedule 1 of SEPP Planning Systems is not met. The tourist related purpose is ancillary to the main BTR purpose.

To support the request for SEARs, this letter provides an overview of the site and proposal, as well as relevant planning context, and identifies the key likely environmental and planning issues associated with the proposal. It should be read in conjunction with the Architectural Concept Plans prepared by Smart Design Studio (**Attachment A**).

We note however that this SEARs request requests a variation to the Industry Standards SEARs by seeking a waiver for the requirement for the Aboriginal Cultural Heritage Assessment Report (ACHAR).

The Site and Surrounding Context

The site is located at 132 Arthur Street, North Sydney, within the North Sydney Local Government Area (LGA). The site is legally described as Lot 1, DP 539864 and has an approximate site area of 1,061 sqm.

The site is located within the North Sydney CBD and the surrounding context comprises high density, mixed use typologies comprising a combination of ground-floor retail, commercial office and residential development in buildings of varying heights, styles and ages. The existing building on the site is used primarily as commercial offices.

The site is located approximately 450m walking distance from North Sydney Train Station and approximately 250m to the future Victoria Cross Metro Station.

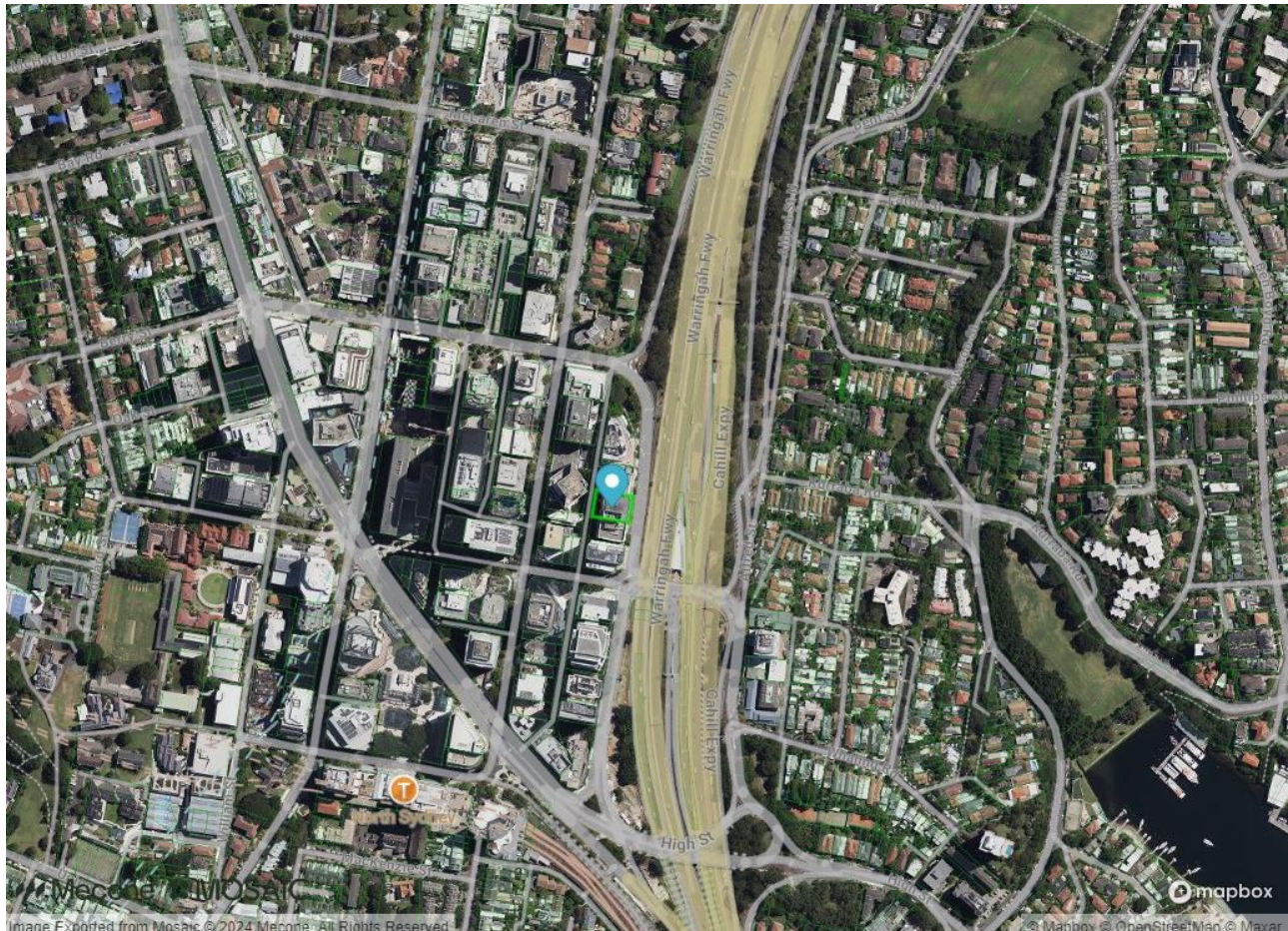


Figure 1: The site and surrounding context

The Proposed Development

The State Significant Development Approval (SSDA) will seek approval for the mixed-use redevelopment of the site including a hotel podium and BTR tower and associated amenities and basement parking. The proposal is anticipated to include the following key components:

- Demolition and site preparation works;
- Construction of three levels of basement car parking and storage areas;
- Construction of a mixed-use hotel and Build to Rent development comprising a total gross floor area (GFA) of approximately 23,000,364 sqm comprised of:
 - 13,900sqm of build to rent uses (225 BTR units),
 - 8,800sqm of hotel uses (240 hotel rooms),
 - 300sqm of Bar/Café use.
- Landscaping and associated public domain works; and
- Extension and augmentation of infrastructure and services as required.

A typical hotel podium floor plan and BTR tower floor plan is provided at Figure 2.

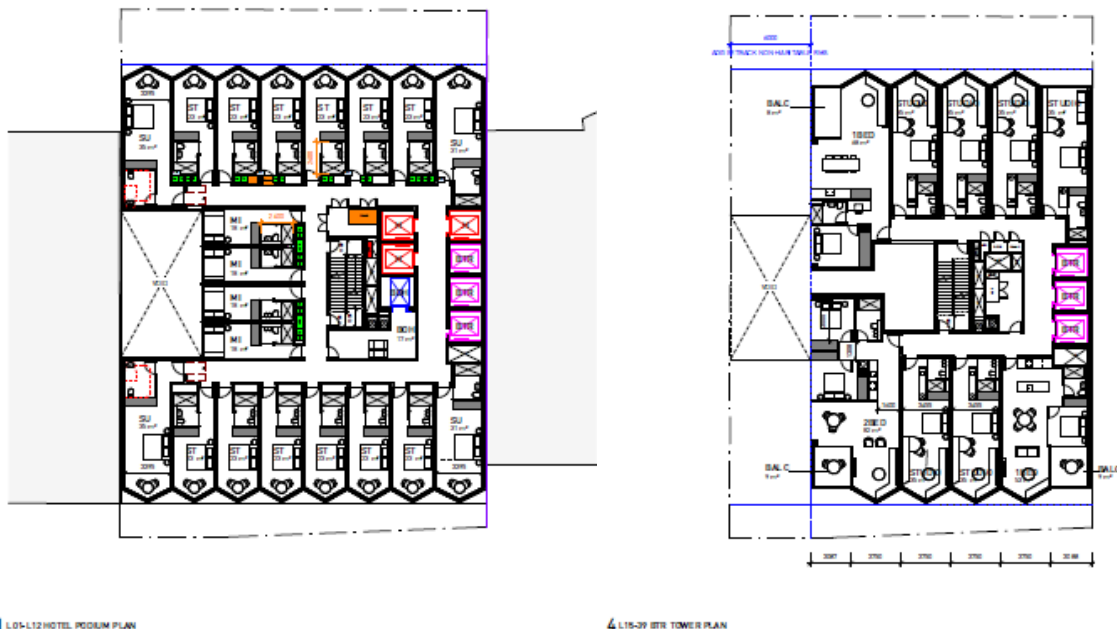


Figure 2: Typical Plans
Source: Smart Design Studio

Statutory Context

Table 1 below identifies key statutory considerations for the proposed development.

Table 1: Statutory context of proposal

Details	Comments
Power to grant approval	Section 4.36(2) of the Environmental Planning & Assessment Act (1979) states: "A State environmental planning policy may declare any development, or any class or description of development, to be State significant development."
Qualification for state significant development	Development for the purposes of BTR Housing with an Economic Development Cost (EDC) of more than \$50 million in the Greater Sydney Region is state significant development under Schedule 1, Section 27 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP). Additionally, the tenanted component of the proposed development must have a value of at least 60% of the EDC of the proposed development. The proposed works have an EDC exceeding \$50 million with more than 60% dedicated for the purpose of Build to Rent. Therefore, the development is considered state significant. 37% of the total gross floor area is for tourism related hotel uses. This is ancillary to the main BTR use and does not independently trigger the EDC threshold of Clause 13 of Schedule 1 of SEPP Planning Systems.
Permissibility	The North Sydney Local Environmental Plan 2013 (NSLEP) is the primary environmental planning instrument that applies to the site. The site is zoned E2 Commercial Centre under the NSLEP and development for the purpose of hotel or motel accommodation is permissible with consent. The NSLEP prohibits residential land uses in the E2 Zone. However, Chapter 3, Part 4, Section 72(2)(ii) and (3) of SEPP (Housing) 2021 (Housing SEPP) permits the development of build-to-rent housing in land zoned B3 (equivalent zone E2) if: - The development results in at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and - All buildings containing the dwellings are located on the same lot. Therefore, the proposed development comprising a hotel and BTR housing is permitted with consent on the site.
Key development standards	Clause 4.3 of the NSLEP sets out a maximum building height of 180m. The NSLEP does not prescribe a floor space ratio to the site. The proposed development includes a height of building of 186.11m. A height limit study showing the impact of contravention of this control is provided in Appendix A. Consideration as to NSLEP Clause 6.3 (2) with regard to overshadowing of Whaling Rd Reserve will be addressed in the Environmental Impact Statement (EIS).
Other approvals	None known. Further consideration to other approvals that may be required will be addressed in the EIS.
Pre-conditions to exercise the power to grant consent	- Biodiversity Conservation Act, 2016 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Housing) 2021
Mandatory matters for consideration	The consent authority must consider the below matters in deciding whether to grant consent to the SSDA. These matters will be addressed in the EIS. - Environmental Planning & Assessment Act - State Environmental Planning Policy (Housing) 2021 - The Apartment Design Guide (ADG) - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy (Sustainable Buildings) 2022 - North Sydney Local Environmental Plan 2013

SEARS Reporting Requirements

Aqualand are the proponent for a build-to-rent project at 146 Arthur Street, North Sydney, that received advice from the Heritage NSW in the Department of Climate Change, Energy, the Environment and Water regarding a waiver to provide an Aboriginal Cultural Heritage Assessment Report (ACHAR).

It was determined that *"in relation to the level of land use impacts, that the original soils of the subject area have been removed and the entire site is excavated into the sandstone bedrock. As such, Heritage NSW is also of view that the subject area has no archaeological potential with respect to Aboriginal cultural and that no further investigation is required."*

This is the same approach that is being taken on this site. The 132 Arthur Street site has also had original soils removed, and the entire site excavated to bedrock,. Consequently, and as per the site at 146 Arthur Street, the subject site area has nil potential for any Aboriginal objects.

We therefore request an ACHAR waiver is considered when issuing industry specific SEARs.

Engagement

Further engagement will be undertaken as the proposal progresses, which will be conducted in accordance with the *Undertaking Engagement Guidelines for State Significant Projects (2021)*. The SSDA process will provide further opportunities for community input and for the proponent to respond to any issues raised. The project team remains committed to dialogue with the relevant stakeholders and agencies throughout the development assessment process.

An engagement report will be included in the EIS.

Conclusion

As outlined in this letter, the proposal is declared State Significant Development under Schedule 1, Section 27 of *State Environmental Planning Policy (Planning Systems) 2021*.

This letter has outlined the preliminary information regarding the site, project, the statutory context and planned stakeholder engagement, which will permit DPHI and other relevant government agencies to issue industry specific SEARs.

We trust that information in this letter will assist with the preparation of the SEARs. Should you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,



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