

REPORT

PD/5.5/22.04



Subject: 20 Illawong Avenue, Tamarama

TRIM No: SF22/866

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Director: George Bramis, Acting Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council does not pursue a planning proposal to amend the zoning at 20 Illawong Avenue, Tamarama, for the following reasons:

1. The development standards and controls in place will likely ensure that any development application being submitted will be appropriate for the streetscape, regardless of the existing zoning.
2. The planning proposal process is not seen as the best avenue to ensure appropriate development would occur on site, due to the long-time frame associated with the planning proposal process in the context of the submission of any future development application.
3. Notwithstanding clauses 1 and 2 above, rezoning the parcel to the adjacent zoning would result in a relatively minor difference to height and floor space ratio standards, with a height reduction of 1 m and a floor space ratio reduction of 0.1:1.

1. Executive Summary

This report has been prepared to respond to a Council resolution made on 22 February 2022 regarding the parcel of land forming part of 20 Illawong Avenue, Tamarama, which has been advertised for sale. This report sets out the various options available to Council and recommends that no action be taken and that Council awaits a development application for the subject site, before taking further into account any impacts that any specific proposed development may have.

2. Introduction/Background

A 368 sqm rectangular-shaped parcel of land currently forming part of 20 Illawong Avenue, Tamarama, identified informally and interchangeably as 7B and 5 Tamarama Street (legal description being Strata Plan 1737) with its western boundary being Tamarama Street, known as the 'subject lot', has been advertised for sale, as identified in Figure 1. To support the sale the agent for the proposed sale commissioned the preparation of a town planning report prepared in December 2020 by Creative Planning Solutions as part of sale documentation provided to potential buyers.

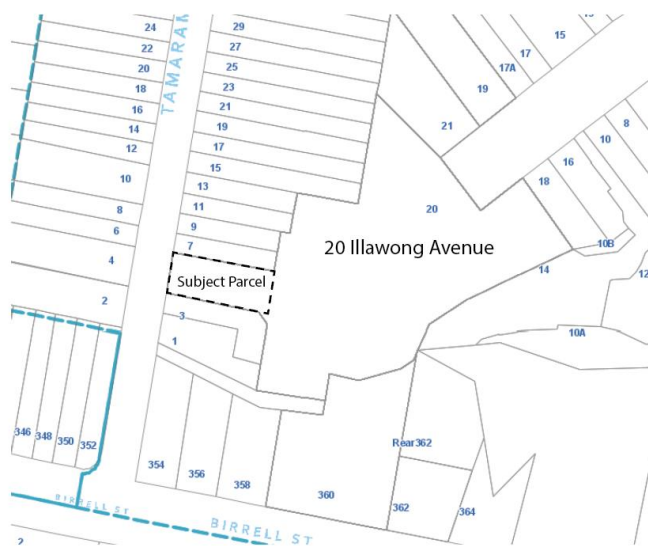


Figure 1. Subject 'parcel' portion of 20 Illawong Avenue.

Concern has been raised by members of the community about the potential for a new residential flat building (RFB) to be developed on the land, with residents believing that this would be an overdevelopment of the site. It is currently supported by WLEP characteristics that include R3 zoning, maximum height of 9.5m, and maximum floor space ratio of 0.6:1, which could be subject to a clause 4.6 variation application that may lead to an even greater height and gross floor area.

It is perceived that the maximum envelope under the current WLEP zoning would present a bulk and scale that would be out of character with the streetscape and other properties in Tamarama Street and could easily present undue impacts to neighbouring properties—noting that the rest of Tamarama Street has a maximum height limit of 8.5m and FSR control of 0.5:1.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 15 February 2022	CM/8.3/22.02	<p>That Council:</p> <ol style="list-style-type: none"> Notes that the 368 sqm rectangular-shaped parcel of land currently part of 20 Illawong Avenue, Tamarama, identified informally and interchangeably as 7B and 5 Tamarama Street (legal description being Strata Plan 1737) with its western boundary being Tamarama Street, referenced by this motion as the 'subject lot', has been advertised for sale. Notes that a town planning report prepared in December 2020 by Creative Planning Solutions is available from Sotheby's, the agent for the proposed sale, as part of sale documentation provided to potential buyers. Notes that the town planning report indicates the site is approved for subdivision to create the subject lot, but that this subdivision is yet to be registered and the land still forms part of 20 Illawong Avenue. Notes that the subject lot has different Waverley Local

		<p>Environment Plan (WLEP) characteristics to all other properties in Tamarama Street, including that the zoning is R3 rather than R2, maximum height is 9.5 m rather than 8.5 m and maximum floor space ratio is 0.6:1 rather than 0.5:1.</p>
		<p>5. With some urgency, investigates matters for the subject lot, including:</p> <ul style="list-style-type: none"> (a) The status of the subdivision referred to in the Creative Planning Solutions town planning report. (b) To what extent the floor space ratio (FSR) of the subject lot has been used in the development of 20 Illawong Avenue. (c) An avenue by which to prevent 'double-dipping' of any FSR of the subject lot that was found to be utilised in the development of 20 Illawong Avenue. (d) Confirmation, or otherwise, that a Torrens title subdivision has been approved for the subject lot. (e) Advice on whether Council should initiate a planning proposal for the subject lot if the subdivision is ratified.
		<p>6. Receives a report on the above matters as soon as possible, with an interim report to the March 2022 Council meeting with any progress achieved.</p>

4. Discussion

Subdivision

A development application (DA-125/2012) sought alterations and additions to the multi-storey residential flat building on 20 Illawong Avenue, including two new penthouses, underground carparking, new three storey block of five apartments and land subdivision to create two new lots. The DA sought the subdivision of the subject parcel of land (Lot 1), as identified as shaded in Figure 2.



Floor space ratio usage

The DA sought to further exceed the FSR of the main parcel of the site (Lot 3). Figure 3 was submitted as part of the DA package and identifies the FSR of the main parcel of the site (Lot 3) before subdivision (1.32:1) and after subdivision (1.45:1), as well as the proposed FSR as a result of the DA before subdivision (1.59:1) and after subdivision (1.74:1). Accordingly, it is clear that the subject parcel (Lot 1) was not included in the FSR calculations for the works to the existing residential flat building, nor the newer residential flat building which was proposed under the DA.

Existing site area		4353m ²
Proposed site area after subdivision		3980.5m ²
Existing Gross Floor Area		5755m ²
Existing Floor Space Ratio before subdivision		1.32:1
Existing Floor Space Ratio after subdivision		1.45:1
Proposed Gross Floor Area		6924m ²
Proposed Floor Space Ratio before subdivision		1.59:1
Proposed Floor Space Ratio after subdivision		1.74:1
Additional floor space		1169m ²
	Building A	595m ²
	Building B	574m ²
Existing maximum building height		27.06m (RL 82.64)
Proposed maximum building height		27.145m (RL 82.725)
Setbacks	Northeast	4.5m
	Northwest	3m
	Southeast	3.7m
	Southwest	19m
Existing car parking spaces		58
Proposed car parking spaces		87
Existing Landscape Area		1271m ²
Proposed Landscape Area		1189m ²

Figure 3. Numerical overview of DA-125/2012.

Options available to Council

The subject parcel (Lot 1) presents to Tamarama Street and is inconsistent with the general height and FSR controls of the remainder of Tamarama Street, as identified in Figures 5-6. The following discussion outlines the available options to Council to address the matter.

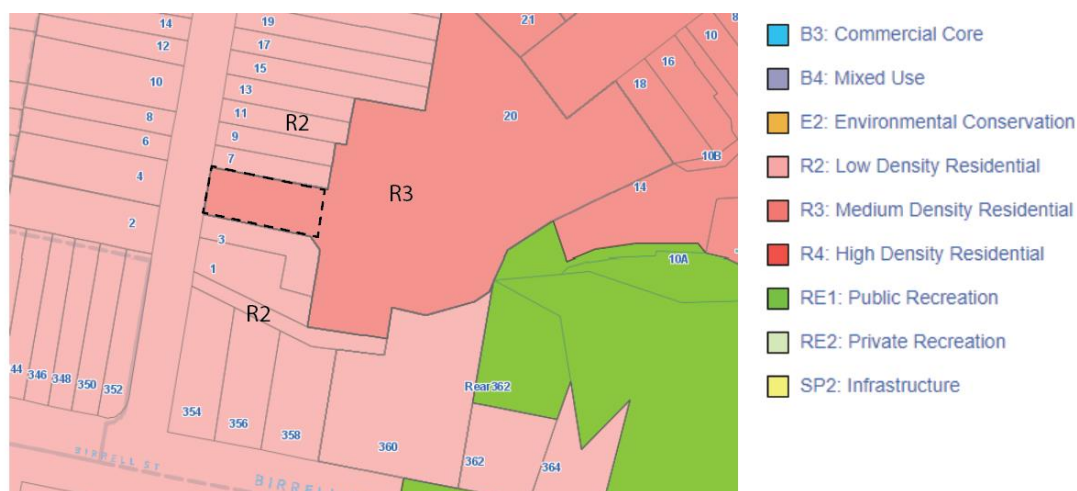


Figure 4. Land use zoning map.

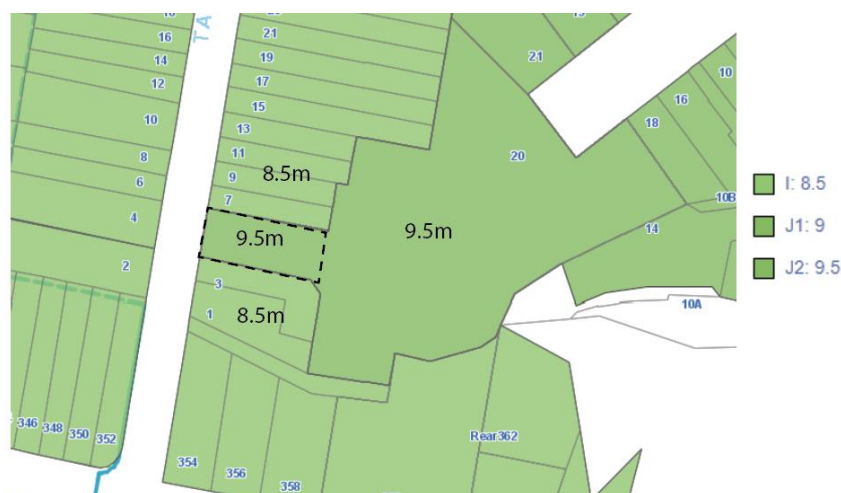


Figure 5. Height of building map.

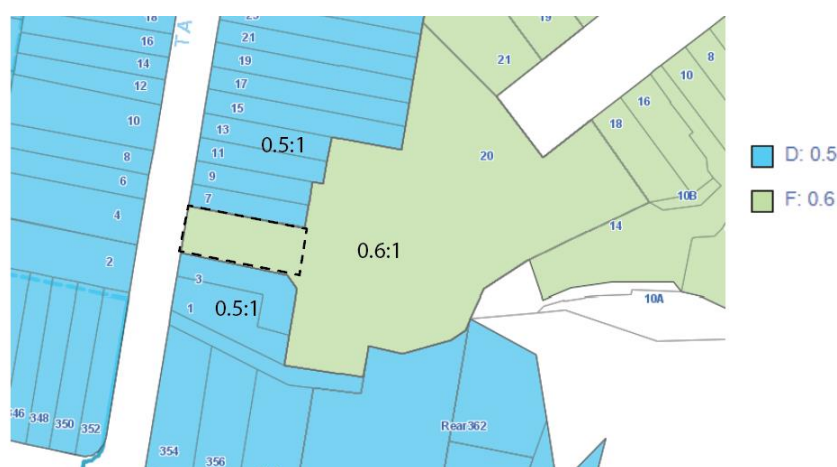


Figure 6. Floor space ratio map.

To amend the *Waverley Local Environmental Plan* and make a change to the land use zone, height of building or floor space ratio map, a planning proposal would be required. The difference in development capacity of the site under the current or changed controls is outlined in Table 1. It is noted that there may be a perception from the community that a building of the scale of the existing 20 Illawong Avenue residential flat building will be permissible and able to be built on the Lot 1 parcel. This is not the case, as the existing building is a legacy building which far exceeds the maximum Height or FSR controls available on the site in the *Waverley Local Environmental Plan* (as identified in Figure 3 previously). The difference between the controls in the R3 zone to R2 zone is comparatively minor.

Table 1. Development capacity of the site.

	Land Use Zoning	Height of Building	Floor Space Ratio
Current Lot 1 Parcel Conditions	R3 – residential flat buildings and manor homes permissible	9.5m	0.6:1 = 220sqm maximum gross floor area
Lot 1 parcel conditions if changed to match Tamarama Street	R2 – residential flat buildings and manor homes not permissible	8.5m	0.5:1 = 184sqm maximum gross floor area

Option A – Include an amendment to *Waverley Local Environmental Plan 2022*

This matter could be included in the *Waverley Local Environmental Plan 2022* (WLEP2022); however, given the stage of the WLEP2022, the proposal would have to be re-exhibited as it may result in the de-valuation of property which has not been publicly exhibited, nor notified to the relevant landowners. The re-exhibition of the WLEP2022 would jeopardise Council meeting the NSW Government imposed deadline. Accordingly, Option A is not recommended.

Option B – Site specific planning proposal (Council initiated)

It is possible that Council could seek to include the matter in a future house-keeping amendment planning proposal; however, this would likely take longer than a site-specific planning proposal, which would have a 'faster' turnaround time under the new LEP Making Guidelines that have been implemented by the NSW Government. Council could initiate a planning proposal, which would require that a Motion be put to Council to do so.

Option C – Site-specific planning proposal (owner-initiated)

The owner of the site could initiate a planning proposal to change the zoning, height and FSR development standards of the site, however given that this would potentially result in a loss of value for the property this is not probable.

Option D – Await a development application

A development application (DA) for a development on this site would be subject to the existing development standards and controls in the *Waverley Local Environmental Plan* and Development Control Plan. It is also noted that various provisions of NSW Government planning policies also apply to the site including:

- *State Environmental Planning Policy (Housing) 2021* – regarding the development of boarding houses, seniors housing, and affordable housing.
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* – regarding the development of dual occupancies or manor homes.
- *State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development)* - regarding the development of a residential flat building.

In addition to the general compliance with the above provisions, many development applications are subject to design advice from Council's Design Excellence Panel and determination by the Local Planning Panel, both of which observe the existing and desired future character of a local area. It is highly likely that a residential flat building would not be able to be accommodated on the site, given the constraints of the site itself, in combination with the low-rise character of the surrounding streetscape of Tamarama Street. There may however be other development types such as a small boarding house, co-living housing, or a manor home, which may be more appropriately scaled, that would nonetheless be required to meet the general character of Tamarama Street, regardless of the type of development.

Option D is recommended.

5. Financial impact statement/Time frame/Consultation

Should Council resolve to prepare a planning proposal, Council officers will need to prepare the planning proposal and submit this to the Department of Planning and Environment for a Gateway determination. This has no direct financial implications, however this option does have resourcing implications for the Strategic Town Planning team to prepare and prioritise against other current Council priorities.

Should any planning proposal receive a Gateway approval from the DPE, a public exhibition period would be prescribed in the Gateway.

The time frame of a planning proposal is likely to be Gazetted within 320 days, by which time a development application may already have been lodged for the site.

6. Conclusion

Given the available options to Council, Option D is recommended as, on balance, it is likely that the many development standards and controls in place, combined with the Design Excellence Panel and the Local Planning Panel, will likely result in a development application that is appropriate for the streetscape.

7. Attachments

Nil.