

Planning and Assessment

IRF20/3864

Gateway determination report

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|---------------------------------|---|
| LGA | City of Sydney |
| PPA | City of Sydney Council |
| NAME | 17-31 Cowper Street and 2A-2D Wentworth Park Road, Glebe (74 homes, 3 jobs) |
| NUMBER | PP_2020_SYDNE_006_00 |
| LEP TO BE AMENDED | Sydney Local Environmental Plan 2012 |
| ADDRESS | 17-31 Cowper Street and 2A-2D Wentworth Park Road, Glebe |
| DESCRIPTION | Lot 17 DP 244897 and Lot 18 DP 244897 |
| RECEIVED | 3 August 2020 |
| FILE NO. | IRF20/3864 |
| POLITICAL DONATIONS | There are no donations or gifts to disclose and a political donation disclosure is not required |
| LOBBYIST CODE OF CONDUCT | There have been no meetings or communications with registered lobbyists with respect to this proposal |

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Sydney Local Environmental Plan 2012 (Sydney LEP 2012) for the land at 7-31 Cowper Street and 2A-2D Wentworth Park Road, Glebe to:

- Amend the height of building map to increase the maximum building height from 9 metres to RL 36 (Approx. 8 storey);
- Amend the heritage map to remove both sites from the St Phillips Heritage Conservation Area;
- Amend clause 1.9 Application of SEPPs to ensure State Environmental Planning Policy (Affordable Rental Housing) 2009 does not apply to the site which is subject to site-specific affordable housing outcomes;
- Insert a site-specific local clause for additional floor space of:
 - a maximum floor space ratio of 3.1:1 for the southern site at 17-31 Cowper Street (Lot 17 DP 244897); and
 - a maximum floor space ratio of 4.3:1 for the northern site at 2A-2D Wentworth Park Road (Lot 18 DP 244897).
 - the proposed additional floor space ratio is only awarded if
 - a) 100% of the total floor area for the northern site, used for the purposes of residential development, is used for social housing;

- b) the development exceeding BASIX commitments for energy by at least 5 points, and
- c) removal of the capacity to award additional building height or floor space for a design excellence competition as additional design competition is not required.

A copy of the planning proposal is available in **Attachment A**.

1.2 Site description

The site consists of two lots described as Lot 17 DP 244897, known as 17-31 Cowper Street (South Site) and Lot 18 DP 244897, known as 2A-2D Wentworth Park Road (North Site).

The area of the north site is 625.7m² and the south site is 1,162.8m², which equates to a total site area of 1,788.5m². The site is owned by NSW Land and Housing Corporation (LAHC).

Existing development consists of 19 social housing dwellings. The northern site comprises of 4 two storey terrace houses. The south site comprises of a two-storey block of 15 one-bedroom units. All buildings on the site were constructed as a result of the Glebe Rehabilitation Project in the late 1980s.

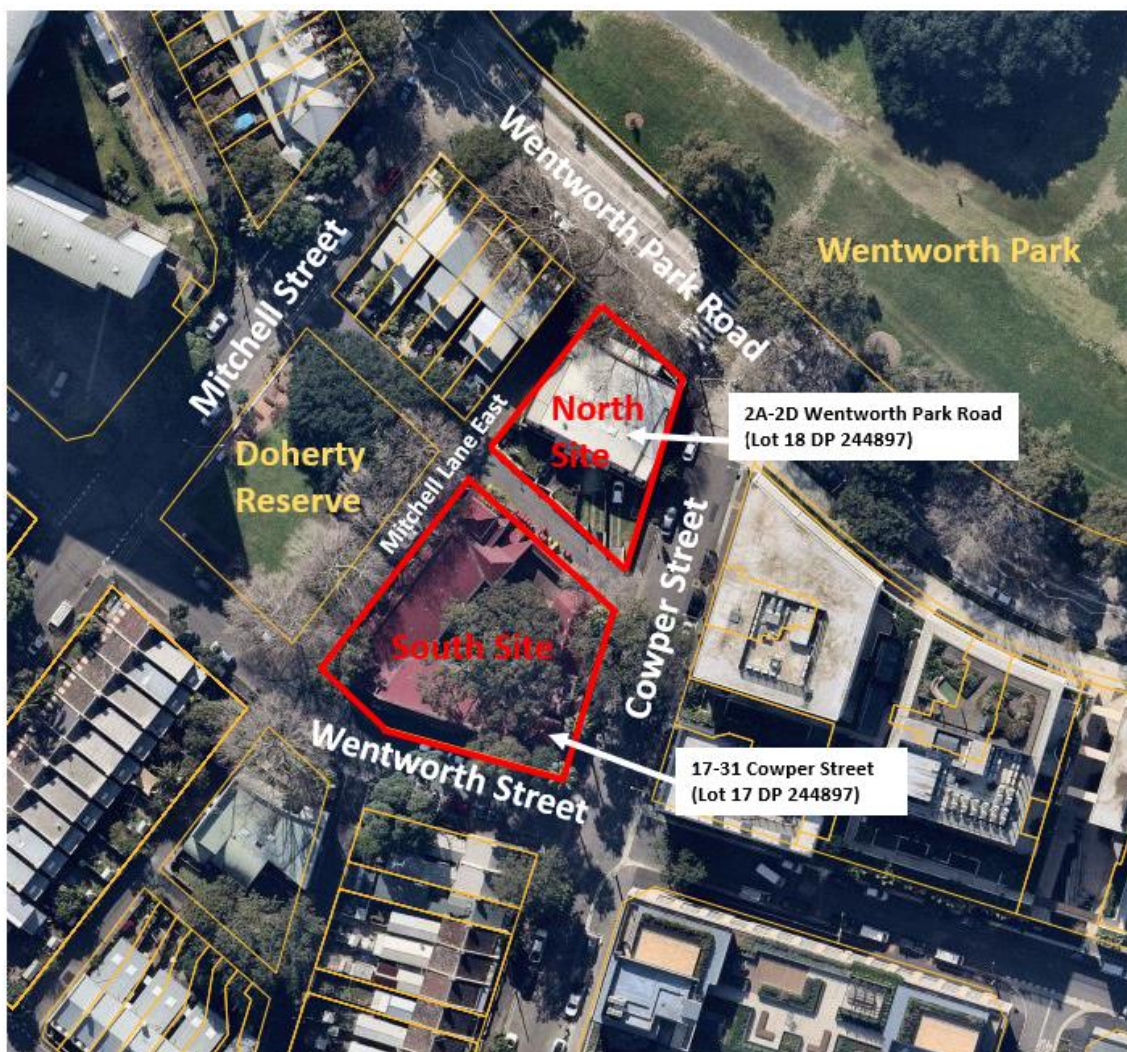


Figure 1: Site Map (site outlined in red)

1.3 Existing planning controls

The site is subject to the following development standards under Sydney LEP 2012:

- Land Use Zone R1 General Residential (Figure 2);
- Maximum Building Height of 9 metres (Figure 3); and
- Maximum Floor Space Ratio of 1.25:1 (Figure 4).

The site is not a heritage item but is within the St Phillips Heritage Conservation Area (Figure 5).

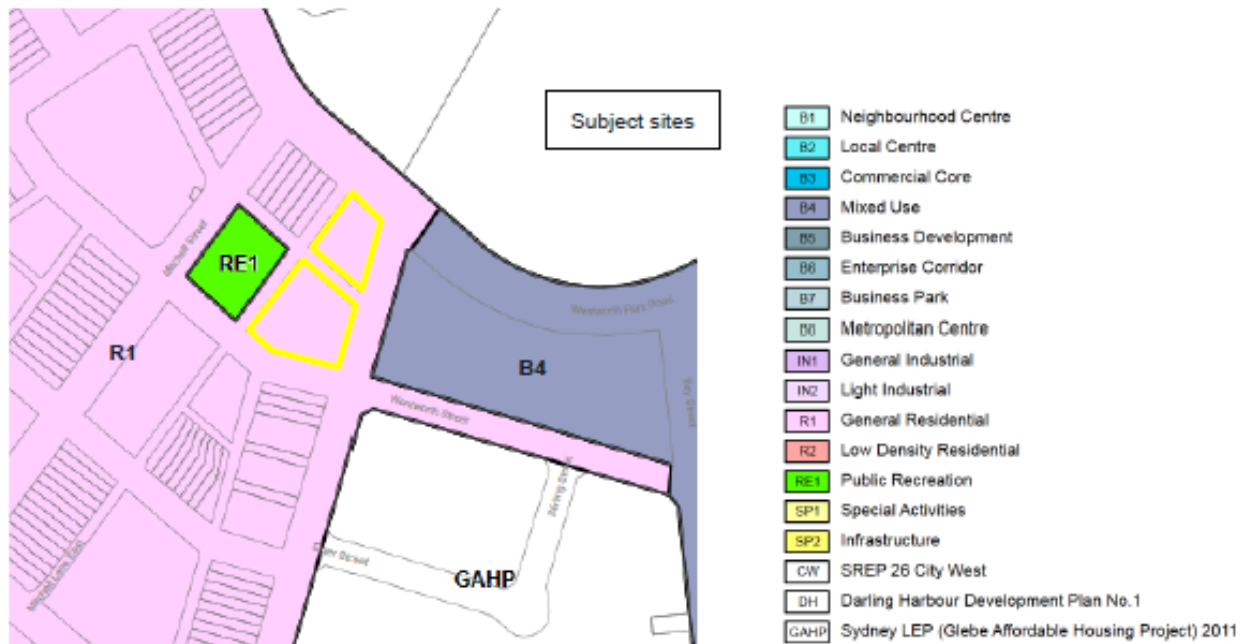


Figure 2: Land Use Zone Map

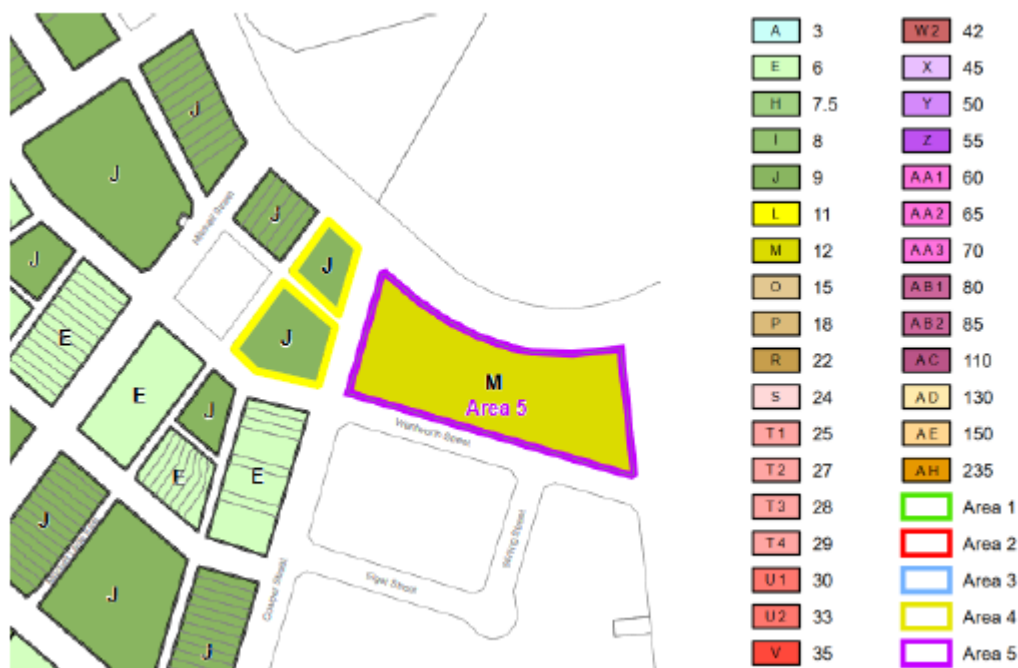


Figure 3: Maximum Building Height Map

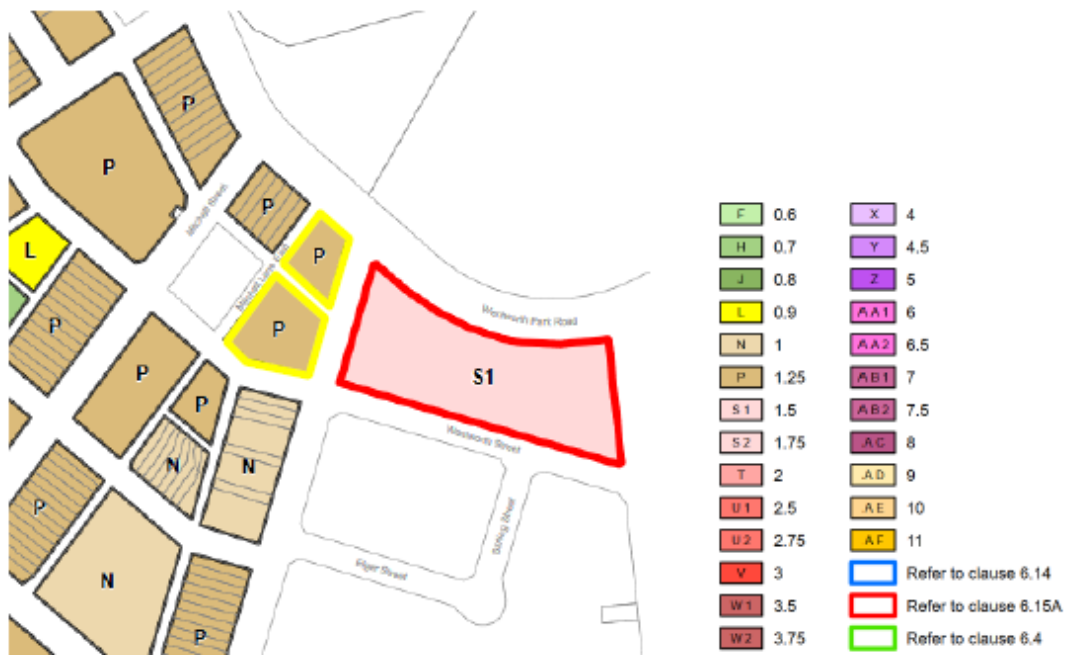


Figure 4: Floor Space Ratio Map



Figure 5: Heritage Map

1.4 Surrounding area

The land to the east of the site has undergone significant redevelopment in recent years through LAHC affordable housing projects and the Mezzo development fronting Wentworth Park Road. These redevelopments have resulted in a mix of commercial uses, social, affordable and market dwellings in mixed use buildings up to 12 storeys with ground floor commercial uses.

The land to the south and west of the site is typical of Glebe's fine-grain network of streets and lanes that is characterised by single storey terraces in relatively narrow streets with many street trees.

Open space facilities in the area include Wentworth Park immediately north of the site, MJ Doherty Reserve immediately west of the site. Wentworth Park also connects to the Glebe Foreshore Walk.

The site is 750 metres from the Wentworth Park Light Rail stop and 800 metres from the Glebe light rail stop on the Inner West Light Rail. The site is 700 metres from high frequency bus services on Parramatta Road that provide access to the Sydney Central Business District and the heavy rail network.

Broadway Shopping Centre is within 600 metres of the site and is a large subregional shopping centre providing access to a range of retail and other services. Parts of the Glebe Point Road retail strip are also within 500-600 metres of the site, which provides smaller independent retail and food options.



Figure 6: Surrounding development

2. PROPOSAL

2.1 Objectives or intended outcomes

This planning proposal will enable the redevelopment of the site to:

- Deliver a high-quality development which provides for increased social housing and private housing, as well as non-residential uses facing Wentworth Park;
- Deliver local social, retail or commercial uses;
- Deliver a built form which responds to the surrounding context including the adjacent MJ Doherty Reserve and recent development to the east of the site;
- Protect the heritage values of the local area by retaining and protecting heritage street trees and respecting the heritage values of the St Phillips Heritage Conservation Area;
- Retain the amenity of the surrounding residential uses by ensuring an adequate level of solar access and privacy is maintained;
- Maintain the amenity of adjoining streets and parks by ensuring street trees are protected and ensuring no overshadowing of the adjacent parks;
- Provide for enhanced passive surveillance and activation of the adjacent open space and public domain; and
- Deliver a sustainable outcome through identification of sustainability targets.

The intended outcome is to facilitate the redevelopment of the site to provide much more and better social housing, consistent with the strategic directions in the NSW Government's *Future Directions for Social Housing*

The proposed controls facilitate development of approximately 74 apartments, up to 235 square metres of non-residential floor space for social purposes and 40 square metres of commercial or retail space on the corner of Cowper and Wentworth Streets

2.2 Explanation of provisions

The planning proposal seeks to amend Sydney Local Environmental Plan 2012 (Sydney LEP 2012) for the land at 7-31 Cowper Street and 2A-2D Wentworth Park Road, Glebe to:

- Amend the Height of Building Map to increase the maximum building height from 9 metres to RL 36 (Approx. 8 storey);
- Amend the Heritage Map to remove both sites from the St Phillips Heritage Conservation Area;
- Amend clause 1.9 Application of SEPPs to ensure State Environmental Planning Policy (Affordable Rental Housing) 2009 does not apply to the site which is subject to site-specific affordable housing outcomes;
- Insert a site-specific local clause for additional floor space which results in:
 - a maximum floor space ratio of 3.1:1 for the southern site at 17-31 Cowper Street (Lot 17 DP 244897);
 - a maximum floor space ratio of 4.3:1 for the northern site at 2A-2D Wentworth Park Road (Lot 18 DP 244897); and
 - the proposed additional floor space ratio is only awarded if:
 - a) 100% of the total floor area for the northern site, used for the purposes of residential development, is used for social housing;

- b) the development exceeding BASIX commitments for energy by at least 5 points, and
- c) removal of the capacity to award additional building height or floor space for a design excellence competition as additional design competition is not required.

Overly restrictive site-specific controls are generally discouraged, and in this instance, the Department considers the proposed site-specific clause in Sydney LEP 2012 requiring a minimum percentage of social housing to be delivered on the subject site unnecessary. The proposed development is supported by a number of specialist studies and has undertaken a rigorous design process including a design competition which has determined the built form and tenure mix of the development. Further the planning proposal is accompanied by a draft Site-Specific Development Control Plan which outlines the detailed site-specific provisions. For these reasons, it is recommended that the proposed clause which requires 100% of the total floor area for the northern site, used for the purposes of residential development, is used for social housing be removed from the explanation of provisions as a Gateway condition.

The draft Site Specific Development Control Plan (**Attachment O**) is intended to be placed on public exhibition at the same time as the planning proposal.

The planning proposal includes draft example clauses to clarify the intended amendments to Sydney LEP 2012. It is noted that final drafting of the clauses will be subject to legal drafting by Parliamentary Counsel.

2.3 Proposed development outcome

The reference scheme facilitates a design that delivers approximately 5,800m² of residential Gross Floor Area (GFA) and 235m² of non-residential GFA for a social purpose, and up to 40m² of GFA for commercial or retail space. The development will deliver approximately 74 residential dwellings comprising of 35 for social housing and 39 for market housing. This is an increase of 16 social housing units from the existing 19 social housing units current on site.

Building Height

This planning proposal seeks to introduce a maximum building height of RL 36 (approx. 8 storeys) on both sites. This will facilitate the delivery of new residential apartment buildings and 5 two storey part attic terraces fronting Mitchell Lane East and MJ Doherty Reserve.

Floor Space Ratio

This planning proposal seeks a floor space ratio (FSR) for the north site of 4.3:1 and an FSR of 3.1:1 on the south site. Floor space incentives will be available in a site-specific local clause based on the provisions of 100 percent social housing being delivered on the north site.



Figure 7: View from Wentworth Street looking east across Doherty Reserve



Figure 8: View from Wentworth Park looking south down Cowper Street



Figure 9: Artist impression

2.4 Mapping

The planning proposal seeks to amend the following maps contained in Sydney LEP 2012:

- Height of Buildings Map - Sheet HOB_008
- Heritage Map – Sheet HER_008.

The Department considers the mapping to be adequate for public exhibition.

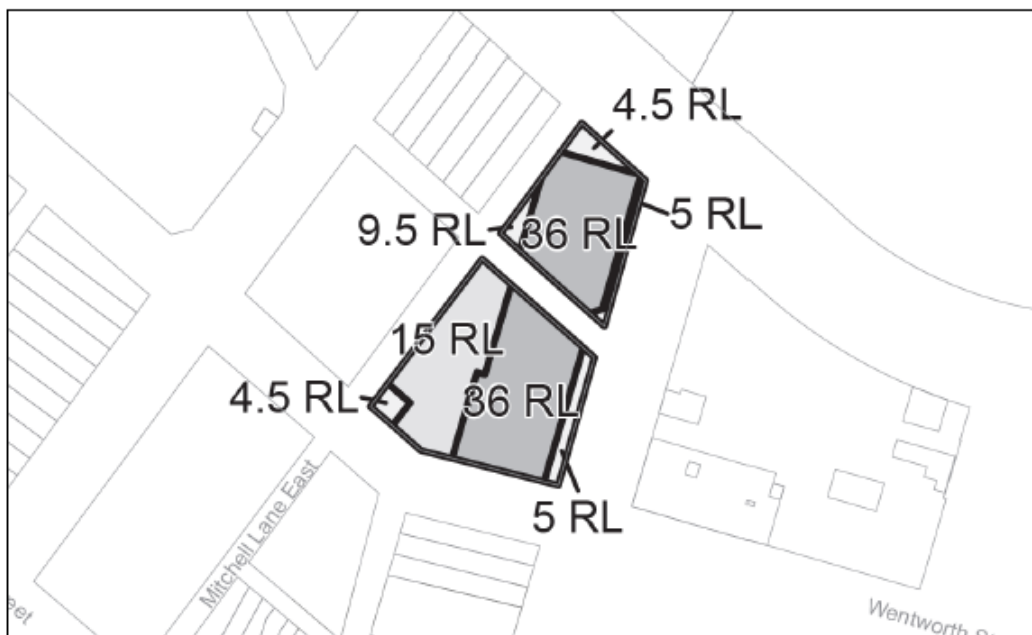


Figure 10: Proposed Building Height Map

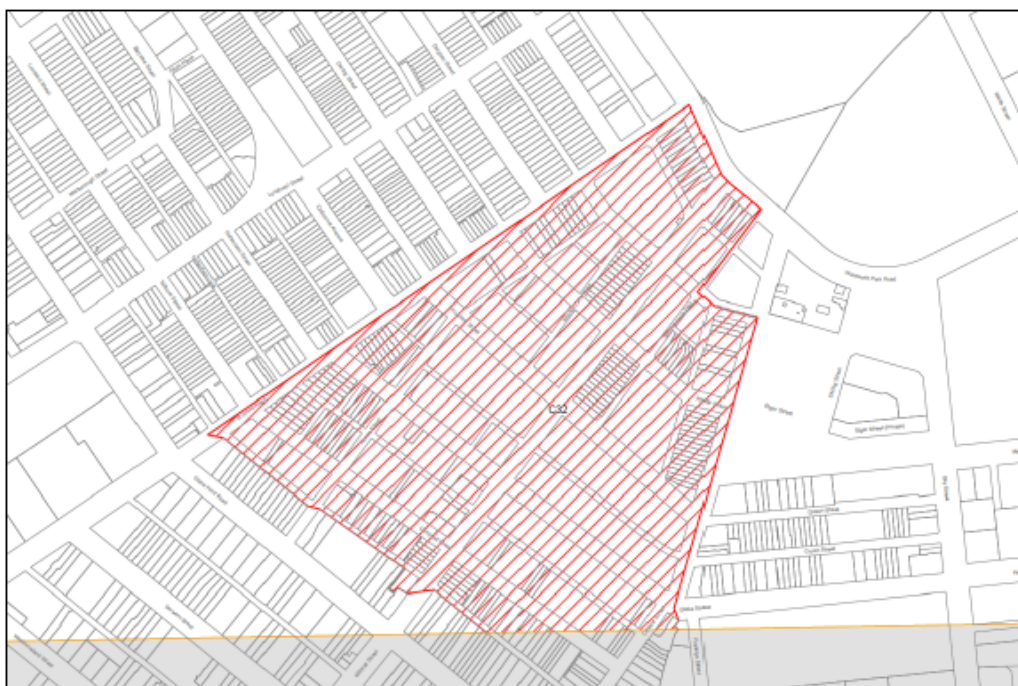


Figure 11: Proposed Heritage Map

3. NEED FOR THE PLANNING PROPOSAL

In November 2019, the Minister for Planning and Public Spaces announced a new approach to precinct planning. As a result, NSW Land and Housing Corporation sites previously announced as potential state significant precincts would now be considered through a local council plan making process with a request to amend Sydney LEP 2012.

The planning proposal was initiated by Land and Housing Corporation to change the planning proposal that relate to the site. A planning proposal is needed to amend the controls and facilitate the redevelopment of the site.

4. STRATEGIC ASSESSMENT

4.1 Eastern City District Plan

The Eastern City District Plan establishes a 20 year vision for the Eastern District which guided by associated planning priorities and actions for productivity, liveability and sustainability. The planning proposal is considered consistent with the planning priorities from the Plan, outlined in the table below:

Table 1: Consistency with Eastern District Plan

| Planning priority | Comment |
|---|---|
| Planning Priority E1: Planning for a city supported by infrastructure | This planning proposal seeks to plan for a city supported by infrastructure by increasing residential capacity of the site near to jobs, services and amenities. Future residents will be near the Inner West Light Rail and high frequency buses on Parramatta Road. |
| Planning Priority E4 – Fostering healthy, creative, culturally rich and socially connected communities | This planning proposal will provide new social housing in an area of increasing demand and support a diverse community by providing a mix of housing and new public spaces that promote social integration and connectivity. |
| Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport - | This planning proposal will provide a mix of social and private dwellings, in a highly accessible and well-served location. The site is within walking distance to public transport connections to key employment centres. |
| Planning Priority E6 – Creating and renewing great places and local centres, and respecting the District's heritage | This planning proposal seeks to renew a Government owned site to create new social and private housing. The Planning Proposal considers the local character of St Phillips heritage conservation area. The proposed built form responds to the site's heritage setting with built form transition to MJ Doherty reserve |
| Planning Priority E7 – Growing a more stronger and more competitive Harbour CBD | This planning proposal will provide ground floor non-residential uses fronting Wentworth Park Road, which could accommodate a commercial or community use that will enhance street activation and vibrancy. |
| Planning Priority E10 – Delivering integrated land use and transport planning and a 30-minute city | The site is located within walking distance from the Inner West Light Rail and high frequency buses on Parramatta Road, enabling the 30-minute city concept by way of active and public transport. |
| Planning Priority E17 – Increasing urban tree canopy cover and delivering green grid connections | The planning proposal seeks to provide enhanced tree plantings within the public domain, and retention of existing street trees. |
| Planning Priority E19 – Reducing carbon emissions and managing energy, water and waste efficiently | This planning proposal and site-specific draft DCP includes targets to exceed BASIX requirements for energy. |

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| Planning Priority S20 – Adapting to the impacts of urban and natural hazards and climate change | This planning proposal gives consideration to the relevant flood planning levels on the site and seeks to achieve an adequate level of tree canopy cover |
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4.2 Local

City of Sydney's Local Strategic Planning Statement (LSPS) was assured by the Greater Sydney Commission in March 2020. The LSPS sets out the land use planning context and 20-year vision to positively guide change towards the City's vision for a green, global and connected city. The planning priorities and actions in the LSPS are provided to achieve the vision.

The planning proposal is consistent with the following planning priorities of the LSPS:

- I3 – Supporting community wellbeing with social infrastructure
- L1 – A creative and socially connected city
- L2 – Creating great places
- L3 – New homes for a diverse community
- S2 – Creating better buildings and places to reduce emissions and waste and use water efficiently
- S3 – Increasing resilience of people and infrastructure against natural and urban hazards
- G1 – Open, Accountable and collaborative planning.

The planning proposal supports support the objective of a socially connected community, by providing a diverse range of households on the site being both social and private tenants.

4.3 Section 9.1 Ministerial Directions

The consistency with the relevant 9.1 Ministerial Directions is assessed in the table below.

Table 2: Consistency with 9.1 Directions

| Ministerial Direction | Consistency | Comment |
|--------------------------------------|-------------|--|
| 2.3 Heritage Conservation | Yes | <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The site is within St Phillips Heritage Conservation Area and it is adjacent to Heritage Item I670, being street trees along Cowper Street. This planning proposal is supported by a Heritage Impact Assessment that concludes the current development has little heritage significance and removing the site from the conservation area would be an acceptable heritage outcome.</p> <p>The proposal will retain the locally listed heritage trees located on Cowper Street.</p> |
| 2.6 Remediation of Contaminated Land | Yes | <p>The objective of this direction is to reduce the risk of harm to human health and the environment by</p> |

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| | | <p>ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The planning proposal authority must consider whether the land is contaminated and if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation)</p> <p>If the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</p> <p>A combined preliminary and detailed site assessment concludes that the site can be rendered suitable for the proposed development, from a contamination perspective, subject to the remediation and /or management of the identified contamination. The site's suitability will be demonstrated as part of a future detailed development application for the site.</p> |
| 3.1 Residential Zones | Yes | <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), b) any other zone in which significant residential development is permitted or proposed to be permitted. <p>The planning proposal is considered consistent with this direction as it will not reduce the permissible residential density on the site.</p> |
| 3.4 Integrating Land Use and Transport | Yes | <p>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> |
| 4.1 Acid Sulfate Soils | Yes | <p>This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p> <p>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by The Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>A relevant planning authority must not prepare a planning proposal that proposes an intensification</p> |

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| | | <p>of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p> <p>An Acid Sulfate Soils Management Plan has been prepared which outlines a series of acid sulfate soils management, treatment and disposal measures which would be required during construction.</p> |
| 4.3 Flood Prone Land | No | <p>This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>In accordance with the Direction, a planning proposal must not contain provisions that apply to the flood planning areas which permit a significant increase in the development of that land.</p> <p>A planning proposal may be inconsistent with this direction only if the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.</p> <p>The planning proposal is consistent with the City of Sydney Interim Floodplain Management Policy, prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.</p> |
| 6.3 Site Specific Provision | No | <p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>The planning proposal is inconsistent with this Direction as it proposes site specific controls to allow a particular development to be carried out.</p> <p>The Department notes that Division 5 of the LEP contains site-specific provisions for various sites across the City. The planning proposal introduces site-specific controls into the LEP to ensure an appropriate dwelling mix and community facilities on the site.</p> <p>The Department considers this inconsistency to be of minor significance. However, for the purpose of exhibition the planning proposal should be updated prior to community consultation to identify this inconsistency. The Department recommends this to be a condition of Gateway.</p> |

4.4 State environmental planning policies (SEPPs)

The consistency with the relevant SEPPs is assessed in the table below.

Table 3: Consistency with relevant SEPPs

| State Environmental Planning Policy | Consistency | Comments |
|---|-------------|--|
| SEPP 65—Design Quality of Residential Flat Development; | Yes | The planning proposal is supported by an Urban Design Study which concludes that the development could be compliant with the Apartment Design Guide. The Department notes that the consideration of SEPP 65 and ADG will be undertaken at DA stage. |
| SEPP (Building Sustainability Index: BASIX) 2004 | Yes | The planning proposals seeks to introduce a site-specific provision to award additional floor space if a development exceeds the BASIX targets. Incentives provisions are consistent with the SEPP. |

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

Redevelopment will allow for positive social and economic effects including increasing social and affordable housing in an area with an identified need for affordable housing.

The planning proposal is supported with a Social Infrastructure Assessment by Elton Consulting (**Attachment D**). The future population associated with the proposal is unlikely to trigger demands for new facilities or spaces, however, will contribute to existing demands for social infrastructure, open spaces, recreation, retail and other services. There could be an opportunity to activate MJ Doherty Reserve via a range of programs or events, to ensure it is seen as a lively and welcoming space for local residents and the broader community.

5.2 Environmental

Threatened species

The planning proposal will not adversely affect any threatened species, populations or ecological communities

Trees

The planning proposal is supported by a preliminary Arboricultural Report and Tree Management Plan by Arterra Design (**Attachment E**). The Arboricultural Report concludes the following:

- 23 trees are currently recorded and assessed on, or immediately adjacent to the two sites.
- 14 trees are located within the sites (with all but 1 small palm tree within the southern portion).
- 9 trees are located outside the site boundaries and are either adjoining street or park trees.

- 7 trees are palms trees that are in good condition and could potentially be transplanted and used within the site final landscaping.
- 6 trees are rated as 'high' retention value and should be targeted for protection and retention. All of these 'high' value trees are located outside the site.
- 11 trees are rated with a moderate retention value.
- 6 trees have a low retention value and should therefore not constrain the development outcomes.
- None of the trees are rated as very low retention value or with serious defects that warrant immediate attention.

The Report found that of the 23 trees assessed:

- 6 are recommended for removal due to being within the footprint of the proposed works.
- 7 palms are recommended to be considered for transplanting and use within the final site landscaping.
- 5 have no or minimal foreseeable impact from construction related activity.
- 5 have minor encroachments as defined under AS 4970.

To mitigate the loss of trees, this planning proposal provides for a minimum site canopy cover of 18 percent at ground level, with additional rooftop planting.

This planning proposal seeks to ensure the loss of trees is adequately offset and will improve landscape values and biodiversity outcomes with more appropriate tree plantings.

The Department recommends as a condition of Gateway that Environment, Energy and Science are consulted during public exhibition.

Heritage

The site is not listed as a heritage item in Schedule 5 of the Sydney LEP but is within the St Phillips Heritage Conservation Area and is located adjacent to a heritage listed (I670) street trees on Cowper Street.

LAHC Heritage and Conservation Register

Both 17-31 Cowper Street and 2A-2D Wentworth Park Road have been individually listed in the LAHC Heritage and Conservation Register.

The heritage significance of 17-31 Cowper Street Glebe is recognised as '*Of marginal heritage significance as an example of infill public housing in an older residential area. Records the historic development pattern of Glebe. Representative of last major period of development.*'

The heritage significance of 2A-2D Wentworth Park Road is recognised as '*Significant as a record of the Glebe Rehabilitation Project and an example of good contextual design in an historic townscape. Representative of late 20th century infill*'

The planning proposal is supported by a Heritage Impact Statement by Extent Heritage (**Attachment F**). The report makes the following conclusions and recommendations:

- The demolition of the structures within the area would be considered a major change to the building fabric with a moderate adverse impact on the overall heritage value of the place;
- St Phillips has aesthetic significance for its predominant Victorian character, supported by several other important historic layers and building types. The area is rare for its extraordinary degree of architectural intactness, and for the survival of early 1870s commercial and residential development so close to the city centre.
- The planning proposal to redevelop the site with mid-rise apartments is consistent already existing development impacts on the opposite site of Cowper Street and throughout other areas of Glebe, and as such will have a negligible impact on the significance of the conservation area
- The proposal to remove the both sites from the St Phillips Conservation Area curtilage would be an acceptable heritage outcome.
- The proposed works are currently not compliant with the Heritage Act 1977 as it seeks to demolish heritage items listed on the Land and Housing Corporation (NSW) Heritage and Conservation Register. In order to be compliant with the Heritage Act 1977, the properties must be removed from the LAHC Heritage and Conservation Register and notification is made to the Heritage Council
- LAHC must determine the significance of the heritage items at 17-31 Cowper Street and 2A-2D Wentworth Park Road in order to remove the items from the LAHC Heritage and Conservation Area.
- If the determination is to remove the items from the register, notification of the removal must be made to the Heritage Council of NSW, prior to demolition works.
- Any heritage items in the vicinity, in particular the 'Street Trees' along Cowper Street, should have measures put in place to ensure their retention. This has been addressed in the planning proposal and should be continued through to detailed design.

The Department recommends consultation with Heritage NSW during public exhibition as a condition of Gateway.

European archaeological heritage

A Historical Archaeological Assessment (**Attachment G**) has been undertaken to assesses the level of historical archaeological potential and its significance at the site.

The report concludes the site has potential to contain historical archaeological remains associated with the late 19th century and 20th century development of the area. The features likely to be preserved include:

- Structural remains of the c.1888 terraces, yard areas and fills associated with the demolition of these buildings c.1933.
- Structural remains of deeper features, such as the cesspits marked at the rear of the c.1880 terrace buildings, as well as any unmarked wells and cisterns.
- Construction, structural and surfacing remains associated with the 20th century use of the site.

Given that the site has generally moderate potential to contain archaeological remains of local archaeological significance, they would constitute relics in the meaning of the *Heritage Act 1977* (NSW) and as such afforded protection under the 'relics' provisions of the Act. Any ground disturbance works with the potential to disturb or destroy archaeological relics are constrained by the Act and would require an excavation permits to allow them to proceed.

Aboriginal Heritage

An Aboriginal Cultural Heritage Assessment has been prepared by Extent Heritage (**Attachment H**) to support the planning proposal. Aboriginal occupation of the study area in the past is considered likely, given that the site is located on the margins of Blackwattle Bay and an unnamed drainage channel. The report finds there is potential to contain buried Aboriginal archaeological deposits beneath historical fills and reclamation deposits. These are likely to be found within natural alluvium and/or residual soils, at depths below approximately 1.9 metres below ground surface

For any works that are likely to impact the ground surface, an Aboriginal Cultural Heritage Assessment Report must be undertaken with formal Aboriginal community consultation and may include a staged program of archaeological test excavation. It is recommended that ample time be factored into the overall construction schedule/program (between the demolition and construction phase), to enable archaeological investigation and analysis to be undertaken

Where Aboriginal heritage items were identified through the ACHAR, an Aboriginal Heritage Impact Permit would be required prior to any impact as a result of excavation or construction works.

The Department recommends consultation with Heritage NSW during public exhibition as a condition of Gateway.

Contamination

A Preliminary and Detailed Site Investigation was conducted by Douglas Partners (**Attachment I**). The report concludes site can be rendered suitable for the proposed mixed-use development, from a contamination perspective, subject to the remediation and / or management of the identified contamination, namely metals, Polycyclic Aromatic Hydrocarbons (PAH) and Total Recoverable Hydrocarbons (TRH) in soil. Whilst asbestos has not been identified in the current investigation there is considered to be a high risk of it being present based on the site history and the observation of building rubble in the site fill.

Acid Sulfate Soil (ASS) has been confirmed to be present at the site, and management will be required for any works below the groundwater table

The report recommends that the following works to address contamination and ASS management for the project:

- Supplementary investigation, including in areas not currently accessible to fill in data gaps and allow better characterisation of contamination. It is noted that current site access restrictions may limit the ability to undertake this prior to demolition, in which case this could be undertaken following preparation of the remediation action plan;
- Preparation of a remediation action plan detailing how contamination at the site is to be remediated / managed;

- Preparation of an Acid Sulfate Soil Management Plan (ASSMP) describing how ASS will be managed during development works;
- A waste classification assessment as further waste classification will be required before and / or during redevelopment works;
- Remediation and management of waste and ASS during redevelopment; and
- Validation of the successful remediation of the site to render it suitable for the proposed development.
- If contamination is to be retained on site a long-term Environmental Management Plan may also need to be prepared and implemented for the site.

The Department recommends as a condition of Gateway that NSW Environment Protection Authority is to be consulted during public exhibition.

Acid Sulfate

An Acid Sulfate Management Plan has been prepared by Douglas Partners to support the planning proposal (**Attachment J**). It is expected that more than 1,000 tonnes of ASS will be disturbed by the proposed development, triggering the requirement for a detailed Acid Sulfate Soils Management Plan (ASSMP) however, the actual mass of ASS disturbed will depend on the final development plans. The report identifies three management options to be applied for the development:

- Non-excavation or minimal works. This option involves amending the proposed works to minimise the volume of ASS which will be disturb.
- Disposal of Potential Acid Sulfate Soils (PASS) below the water table at an appropriately licenced facility. PASS can be placed beneath the water table at an appropriately licenced facility, if stringent requirements set out by the OEH are met. This option is only allowed for uncontaminated natural in situ PASS and is not available for oxidised ASS

This option is considered to be applicable for some ASS at the site, but not all ASS. This is because contamination impacts are expected in some of the ASS. This option has been covered herein.

- Treatment of the ASS. This option involves on-site or off-site treatment of the ASS, followed by on-site re-use, off-site re-use or off-site disposal to a licenced landfill facility. The treatment process is generally straightforward, and this option is feasible for most sites. However, it is noted that:
 - On-site treatment can be difficult on small sites with insufficient space/time for treatment;
 - Off-site treatment can be relatively expensive; and
 - Off-site re-use is only legal if a specific Resource Recovery Order and Exemption has been obtained from the EPA under Part 9 of the Protection of the Environment Operations (Waste) Regulation 2014.

Any off-site facilities to be used for treatment or disposal of the ASS must be appropriately licenced and have an Environment Protection Licence (EPL) issued by the EPA under the POEO Act.

Flood

A Flood Study and Stormwater Management Report (**Attachment K and L**) identify the site is affected by the 1% Annual Exceedance Probability (AEP) flood level ranging from 3.27 to 3.88 metres AHD across the both sites and the Probable Maximum Flood (PMF) level ranging from 4.24 to 4.38 metres AHD across the both sites.

Under existing conditions both north and south sites experience overland flooding on all sides. The majority of flow is north-east along Mitchell Lane East and Wentworth Park Road. It is noted that Wentworth Park has a 1 metre higher PMF level than the subject site.

The reports recommend that the development be designed to meet the following flood planning levels:

- Residential habitable rooms: 1% AEP flood level + 0.5m freeboard.
- Residential non-habitable rooms: 1% AEP flood level.
- Below-ground car parks: the higher of 1% AEP flood level + 0.5m freeboard and PMF flood level.

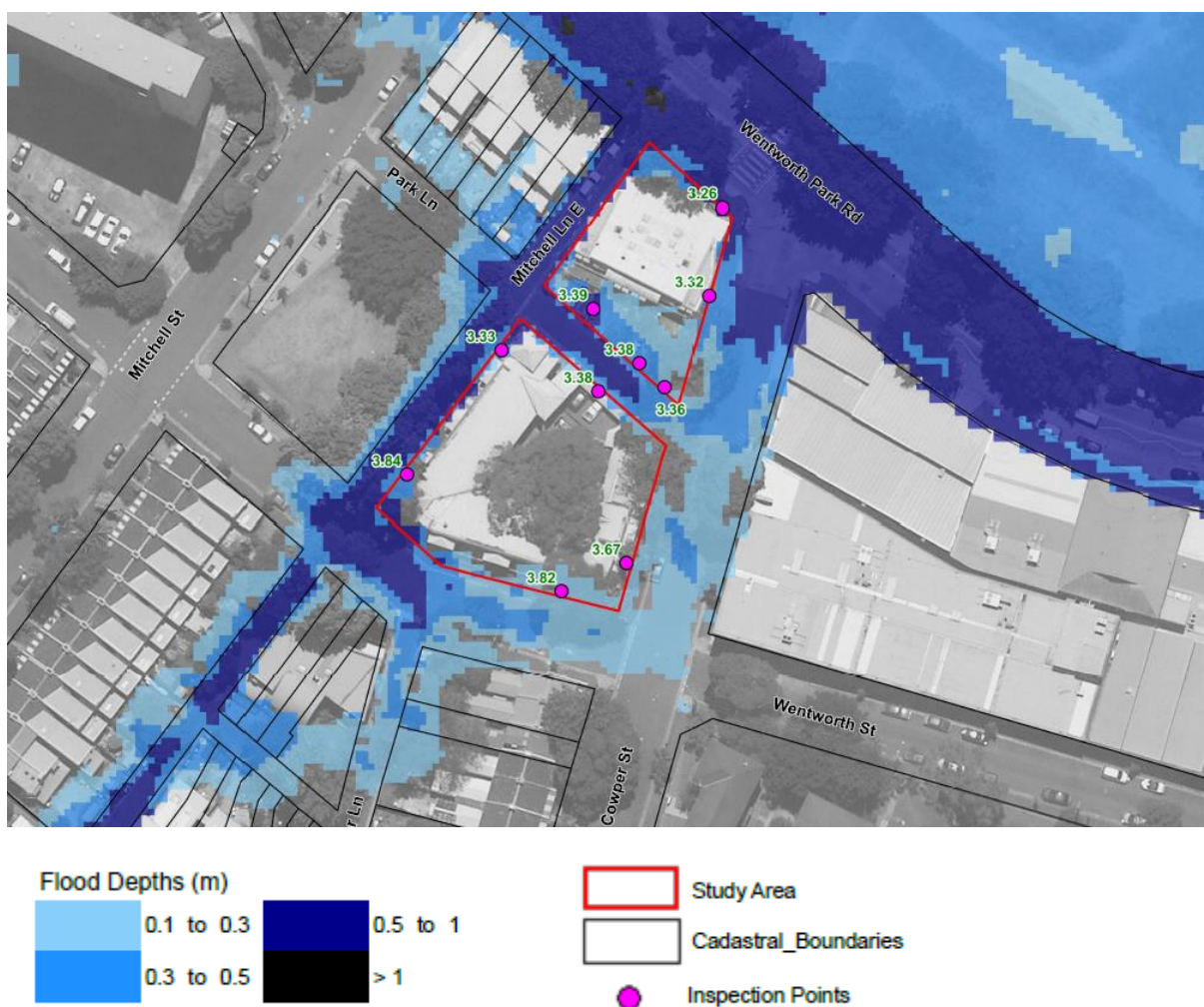


Figure 12: Existing 1% AEP (100-year ARI) Peak Flood Depths and Levels

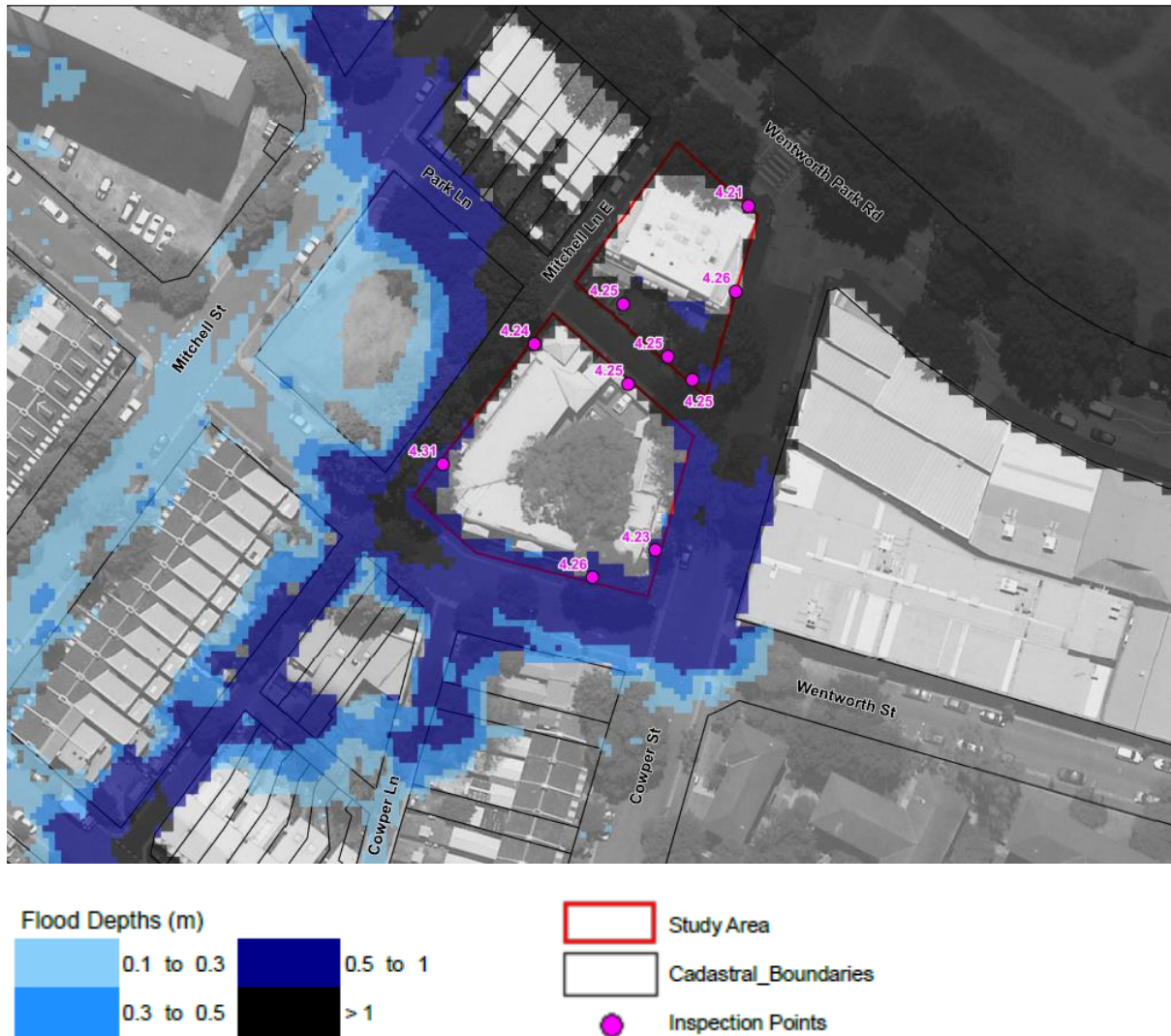


Figure 13: Existing PMF Peak Flood Depths and Levels

Overshadowing

Shadow analysis and modelling have been undertaken as part of the Urban Design Study (**Attachment M**).

The indicative reference scheme demonstrates that built form has been located to minimise overshadowing impacts on adjacent dwellings to the east of the subject site. This has been achieved by increasing setbacks along Cowper Street and changes to the building massing to reduce overshadowing on neighbouring properties.

All apartments within the Mezzo apartment building at 87 Bay Street that currently receive two hours direct solar access will do as a result of the proposal, with the exception of Apartment 1.2.10

All apartments within the 14-26 Cowper street apartment building that currently receive two hours direct solar access will do as a result of the proposal. Note, two apartments on Ground Floor are self-shading and do not currently achieve two hours solar access, despite their westerly orientation.

The proposed development will create some additional overshadowing of the terrace houses on Cowper Street between 9am and midday in midwinter. Up to 7 terraces

will be impacted by some overshadowing between 10am and midday only in midwinter. There is no solar loss for the terraces houses after midday

The solar analysis also demonstrates that there will be no overshadowing impact on the adjacent open space including MJ Doherty Reserve and Wentworth Park.

The shadow analysis was conducted mid-winter between 9am and 3pm.

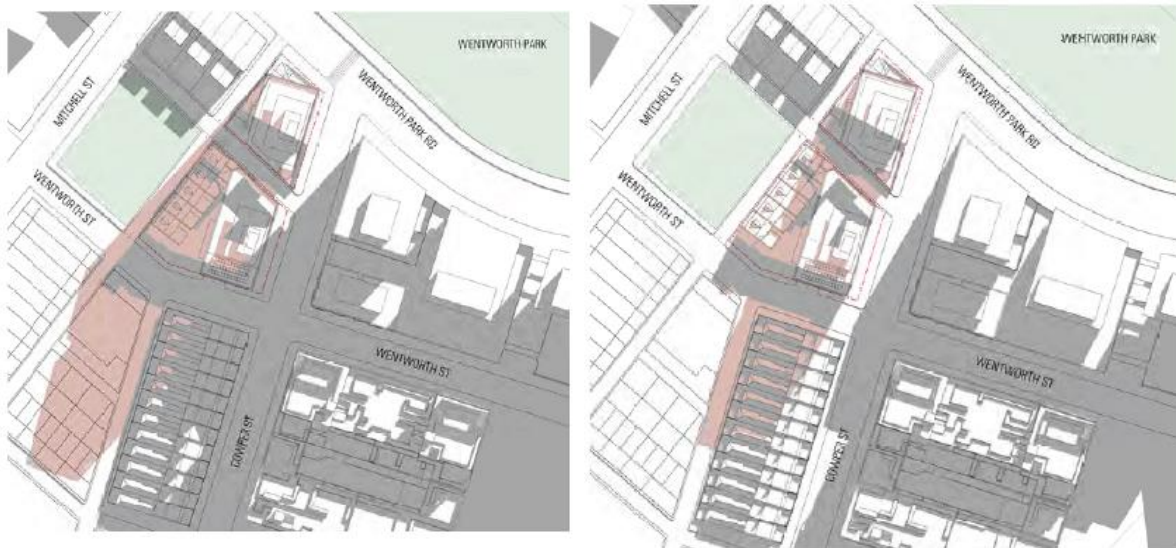


Figure 14: Shadow cast by proposal on 21st June at 9am (left) and 10am (right)



Figure 15: Shadow cast by proposal on 21st June at 11am (left) and 12pm (right)



Figure 16: Shadow cast by proposal on 21st June at 1pm (left) and 2pm (right)

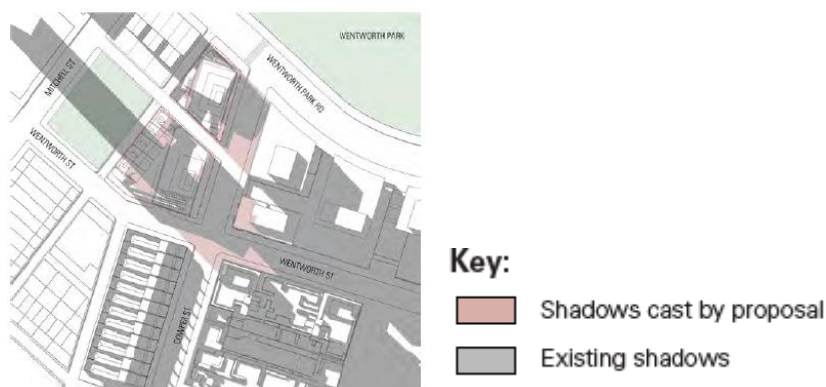


Figure 17: Shadow cast by proposal on 21st June at 3pm

5.3 Economic

The planning proposal seeks to facilitate the delivery of additional social, affordable and market housing in the Redfern locality. It is expected this will provide positive economic effects as future residents will be close to jobs in an established urban area with existing infrastructure.

5.4 Infrastructure

Traffic and Transport

The planning proposal is supported by a Traffic and Transport Report by ARUP (**Attachment N**).

The report concludes the following:

- Vehicle access to the development will be provided via Wentworth Street connecting to the basement parking within the south site;
- Thirty parking spaces including two accessible spaces are provided in the basement levels of the south site connected via two car lifts;
- Servicing of both the north site and south site will occur on-street from a Loading Zone signed on Park Lane with a capacity for one vehicle;
- The development aims to utilise the surrounding cycling routes and public transport services to encourage sustainable travel patterns; and

- Applying traffic generated by the proposed development to the surrounding road network indicates the uplift in traffic will have a negligible impact on road network operation.

Table 4 presents the person trips for the existing and proposed development and the net increase in person trips.

Table 4: Existing and proposed trip generation

| Site | Existing | | Proposed | | Difference | |
|--------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| | AM peak hour trips | PM peak hour trips | AM peak hour trips | PM peak hour trips | AM peak hour trips | PM peak hour trips |
| North site | 7 | 7 | 19 | 19 | +12 | +12 |
| South site | 8 | 8 | 21 | 21 | +13 | +13 |
| Total | 15 | 15 | 40 | 40 | 25 | 25 |

The Department recommends consultation with Transport for NSW during public exhibition as a condition of Gateway.

Utilities and servicing

All utility services including electricity, telecommunications, water, sewer and stormwater are currently available on the site. If the site is redeveloped it is expected the developer will upgrade these services to support the proposed development.

6. CONSULTATION

6.1 Community

Council has proposed a public exhibition period of 28 days. The Department considers this to be appropriate.

Council, as the planning proposal authority, will be responsible for public consultation. In accordance with section 6.5.2 of 'A guide to preparing local environmental plans notification in writing to all affected and adjoining landowners is required.

6.2 Agencies

The planning proposal does not specify any agencies that are to be notified of the proposal. The Department recommends notification and consultation with the following agencies:

- NSW Environment, Energy and Science;
- Heritage NSW;
- Transport for NSW; and
- NSW Environment Protection Authority.

7. TIME FRAME

The planning proposal provides a project timeframe with the completion date anticipated for April 2021. The Department considers a timeframe of 12 months to be appropriate. This does not preclude the planning proposal from being finalised sooner.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan making authority for this planning proposal. The Department recommends issuing an authorisation for Council to exercise delegation to make this plan.

9. CONCLUSION

The Department recommends that the planning proposal proceed subject to conditions for the following reasons:

- it is generally consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and State Environmental Planning Policies;
- consistent with City of Sydney's Local Strategic Planning Statement; and
- it will deliver positive social effects including increasing social and affordable housing in an area with an identified need for affordable housing.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 4.3 Flood Prone Land and 6.3 Site Specific Provision are justified.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be updated as follows:
 - a) Remove the proposed clause requiring 100% of the total floor area for the northern site, used for the purposes of residential development, is used for social housing from the explanation of provisions; and
 - b) identify inconsistency with 9.1 Ministerial Direction 4.3 Flood Prone Land and 6.3 Site Specific Provision.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - NSW Environment, Energy and Science;
 - Heritage NSW;
 - Transport for NSW; and
 - NSW Environment Protection Authority.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



31/08/2020

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