

**ITEM LEP MISCELLANEOUS AMENDMENTS PLANNING
PROPOSAL (PP2020/0002)**

Department Community and Environmental Planning

Author Initials: AW

EXECUTIVE SUMMARY

This report outlines proposed amendments to Canada Bay Local Environmental Plan 2013.

This LEP amendment seeks to implement changes resulting from:

- Victoria Road Urban Design Review;
- Low Rise Medium Density Study (related to the Low Rise Housing Diversity Code);
- Concord West Flood Study; and
- Other miscellaneous Housekeeping changes.

It is recommended that the Planning Proposal and supporting documents be submitted to the Department of Planning, Industry and Environment for a Gateway Determination. Should a Gateway Determination be received, it is recommended that the draft planning documents be placed on public exhibition for community and landowner feedback. Following the exhibition period, a further report will be provided to Council on the outcome of the exhibition.

STRATEGIC CONNECTION

This report supports Your Future 2030 Actions:

- IIP 1.2.4. Plan for a diversity of housing across the full range of income levels, including Affordable Housing to support people who work in essential services.

- ER 2.1.5. Manage Drainage and Stormwater infrastructure to prevent local flooding and to provide for harvesting of stormwater for water recycling.

- EFF 4.1.1. Community Engagement provides direction for planning and the two way flow of information contributes to decision making.

- EFF 4.2.1. Provide Strategic and Land Use Planning to ensure the built and natural environment is highly liveable with quality and sustainable development incorporating best practice design.

This report also relates to:

- Canada Bay Local Strategic Planning Statement
- Canada Bay Local Environmental Plan 2013
- Victoria Road Urban Design Review
- Concord West Flood Study

REPORT

Background

A Planning Proposal (PP2020/0002) has been prepared which proposes to make 22 separate amendments to the Canada Bay Local Environmental Plan (CBLEP) 2013.

The majority of the amendments are to capture changes proposed through various studies and background reports that Council has undertaken.

The proposed CBLEP amendments relate to:

- Victoria Road Urban Design Review
- Low Rise Medium Density Review (related to the introduction of the Low Rise Housing Diversity Code)
- Concord West Flood Study
- Housekeeping updates

Local Planning Panel (LPP)

On 26 August 2020 the Planning Proposal was reviewed by the Local Planning Panel (LPP), as at Attachment 14. The following table outlines the analysis and further consideration undertaken subsequent to the LPP's advice.

LPP Recommendation	Strategic Planning Response
<i>Victoria Road Urban Design Review</i>	
The proposed DCP should explain and elaborate so that it is consistent with the LEP height control, particularly so that the intended number of storeys reinforces the development standard in metres as contained in the LEP.	Amendments to the DCP have been drafted to reinforce the height controls and are discussed in a separate report.
The proposed height development standards be adopted.	Noted.
<i>Low Rise Medium Density Review</i>	
A comparative analysis be undertaken of approvals for residential flat buildings and how those approvals compare with the proposed 0.7:1 FSR in terms of equity and so that there are no unintended adverse consequences.	An analysis was undertaken to determine how the proposed floor space ratio compares with the existing envelope and density controls contained within the Canada Bay DCP for residential flat buildings and multi dwelling housing.

	<p>It was found that development which comply with the relevant development controls (height, setbacks, density and landscaping) generally result in a floor space ratio (FSR) that is equal to or less than 0.7:1.</p> <p>Where consents have been granted for development that departed from the relevant development controls, the resultant floor space ratio was more variable and sometimes exceeded 0.7:1.</p> <p>It is considered that the 0.7:1 FSR is a development standard that would be appropriate in most circumstances and is applicable to the majority of two storey residential flat buildings and multi dwelling housing.</p> <p>If it is considered appropriate for a site or an area (such as Victoria Road, Parramatta Road, Rhodes) to have a higher FSR, then this will be specifically indicated on the FSR Map following a site or precinct specific Planning Proposal process.</p>
<p>The proposed DCP should explain and elaborate the provision of private open space for each typology.</p>	<p>Amendments to the DCP have been drafted to reinforce private open space requirements for each typology and are discussed in a separate report.</p>
<p>A careful review of the proposed minimum lot size of 200sqm for terraces which, in the Panel's view, may be increased to approximately 225sqm to 250sqm.</p>	<p>Amendment H proposes to reduce the minimum parent lot size for a terrace development from 800sqm to 600sqm to encourage this new typology.</p> <p>The 200sqm terrace Torrens lot size will potentially facilitate the construction of 3 terraces on a 600sqm parent lot. If the terrace lot size is increased to 225sqm then three terraces will not be possible. It would be therefore be less likely that developers will be encouraged to deliver this typology.</p> <p>Multi dwelling housing (terraces) will only be permitted in the R3 Medium</p>

	<p>Density Residential zone, and as residential flat buildings are already a permissible use in this zone, it is considered that terraces on lots with an area of 200sqm will not be an inappropriate outcome.</p> <p>Overall, the 200sqm lot size is considered to provide sufficient area for terrace housing and resident amenity whilst encouraging a new form of medium density.</p>
<i>Concord West Flood Study</i>	
The Panel concurs with the approach that is proposed by Council	Noted.
<i>Miscellaneous Housekeeping</i>	
The Panel recommends that the Council review the heritage mapping for the LEP to ensure that it is consistent with any existing State or Regional Planning Policy mapping.	Proposed heritage amendments are consistent with State and Regional Planning Policy mapping.

Proposed amendments

Victoria Road Urban Design Review

The planning proposal seeks to make a number of amendments to the CBLEP arising from the Victoria Road Urban Design Review (as at Attachment 2).

A. Active street frontages

It is proposed that active street frontages extend along the eastern side of Formosa Street and both sides of Edwin and Church Streets. This outcome will encourage greater pedestrian movement within the study area. The proposed active street frontage complements the range of permissible uses within the B4 Mixed Use zone given non-residential uses are required to be provided on the ground floor.

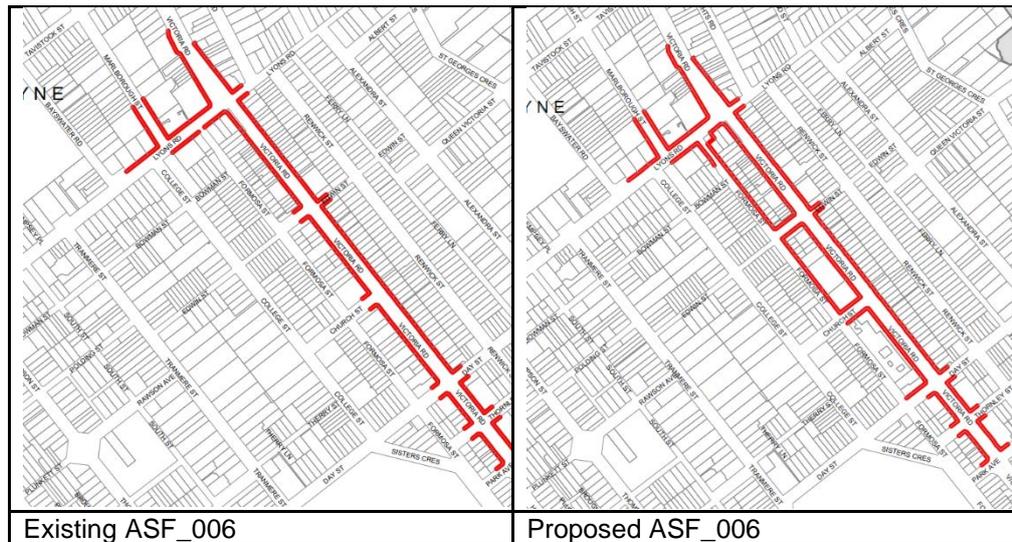


Figure 1: Existing and proposed changes to map.

B. Building height (east)

The CBLEP includes a maximum height of building of 12m along the eastern side of Victoria Road. This height was always intended to accommodate three (3) storey buildings as set out in the DCP.

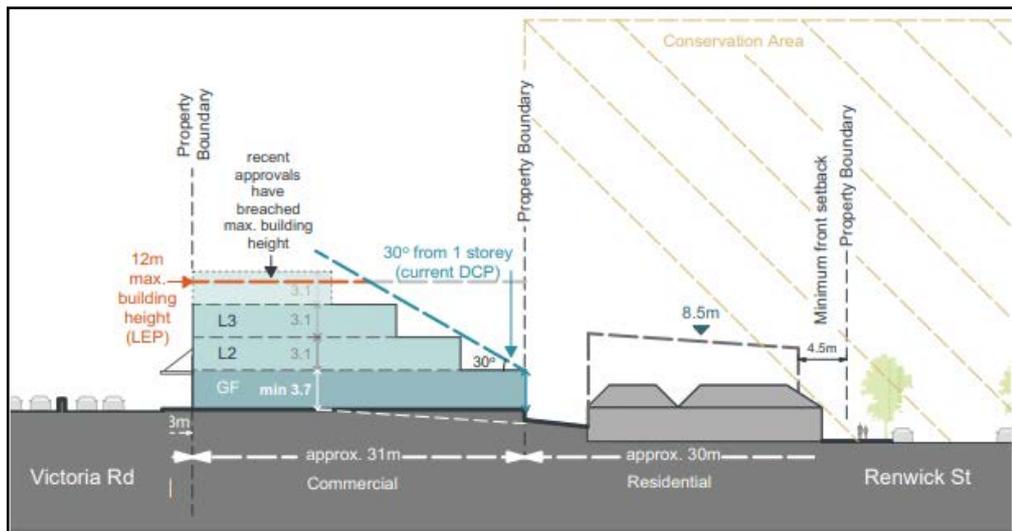


Figure 2: Sectional view showing existing LEP maximum building height controls on the eastern side of Victoria Road.

The 12m height limit sought to allow for topographical variations along Victoria Road and to facilitate taller floor to ceiling heights for the ground floor retail. However, developments have sought to “squeeze” 4 storeys within the 12 metre height limit by including partly subterranean ground floors at street level accompanied by a Clause 4.6 variation for minor departures to the permitted building height. This approach has resulted in compromised retail spaces, low floor to ceiling heights and a poorer quality streetscape.

Specific concern was also raised by the community in relation to the interface between the shop top housing fronting Victoria Road and the Heritage

Conservation Area to the rear on Renwick Street. As the diagram below illustrates, the Canada Bay DCP requires buildings to be stepped in height so as to reduce the visual and privacy impacts on adjoining properties. As the storey controls are currently contained within the DCP, they have not been strictly enforced, thereby undermining the intended planning outcome for new development.

It is proposed that the LEP height limit be reduced to 11m fronting Victoria Road and apply a new height limit of 8.5m at the rear part of the site.

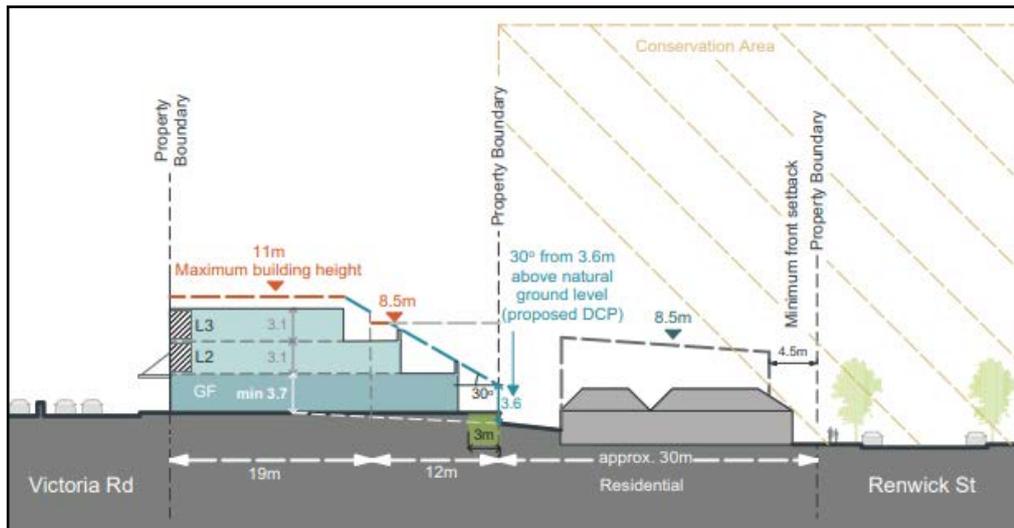


Figure 3: Proposed changes to LEP maximum building height controls on the eastern side of Victoria Road.

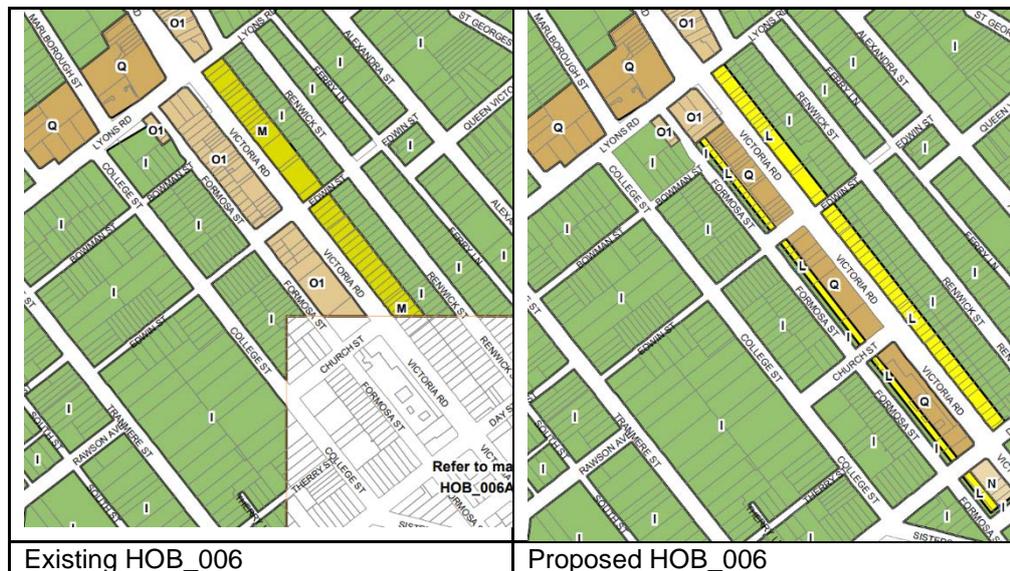


Figure 4: Existing and proposed changes to map.

C. *Building height (west)*

The CBLEP allows a maximum building height of 15m along the western side of Victoria Road, between Lyons Road and Church Street, intended for 4 storeys. The DCP further states that the four storey component is only permitted

on land with a frontage to Victoria Road and that a lower height is required fronting Formosa Street at the rear of the site.

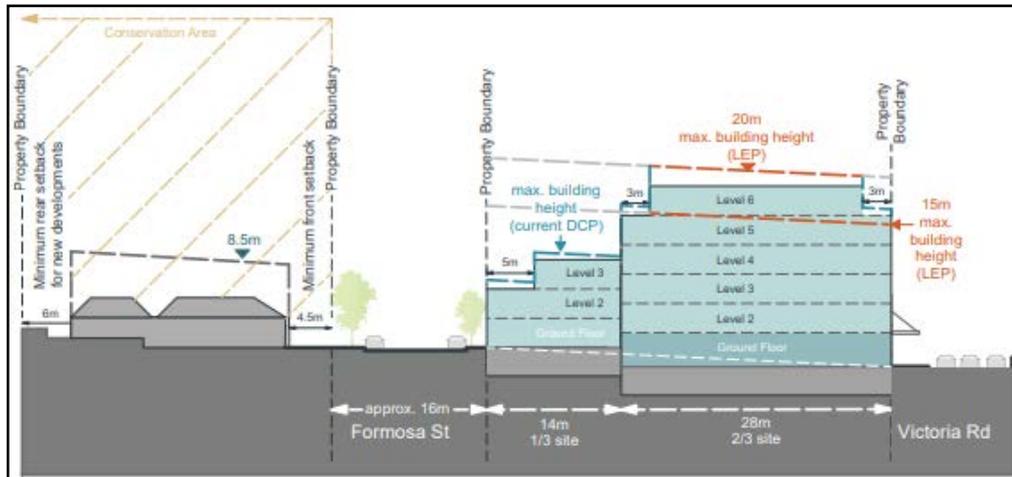


Figure 5: Sectional view showing existing LEP maximum building height controls on the western side of Victoria Road.

The maximum building height of properties along the western side of Victoria Road, between Lyons Road and Church Street (as indicated in Figure 5), is proposed to increase from 15m to 20m to match the heights permissible on the western side of Victoria Road south of Church Street and north of Lyons Road to create a more consistent height modulation along Victoria Road which follows the topography rather than emphasising the ridges.

Concerns regarding proposed height increases were raised by the community during the preparation of the Victoria Road Urban Design Review. The community was concerned that buildings were being approved over the height limit and if the height limit was increased and not upheld, then an even taller buildings would result.

In addition, the DCP stepped building height requirement had also been varied resulting in development bulk being located closer to the rear boundary impacting on the privacy, overshadowing and amenity of properties on the western side of Formosa Street.

To address these concerns, it is proposed for all of these height changes to be mapped in CBLEP to ensure that these development standards are consistently applied.

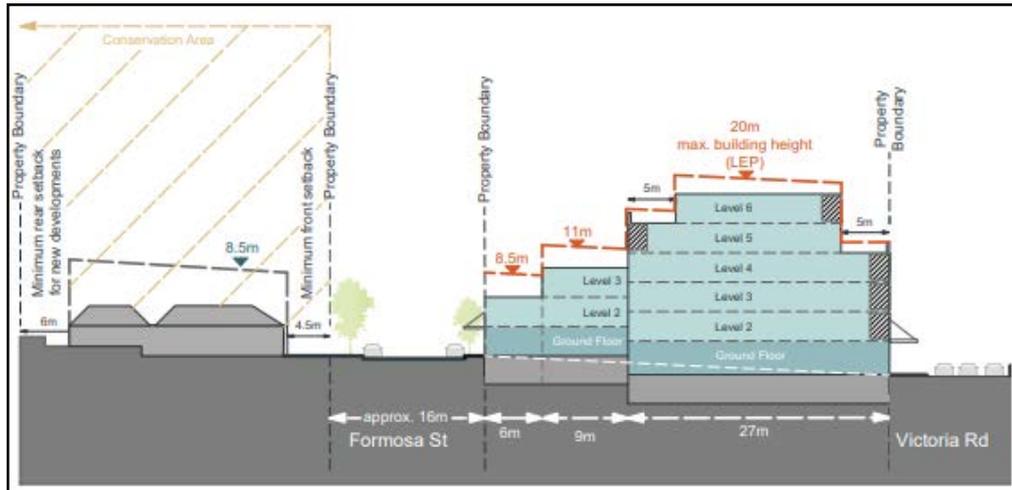


Figure 6: Sectional view showing proposed LEP maximum building height controls on the western side of Victoria Road.



Figure 7: Existing and proposed changes to map.

Low Rise Medium Density Review (relates to the Low Rise Housing Diversity Code)

The planning proposal seeks to make a number of amendments to the CBLEP to complement the introduction of the Low Rise Housing Diversity Code under SEPP Exempt and Complying Development 2008 (LR Code). The proposed amendments add new typology definitions, maps and specific controls.

D. Dual occupancy – Maximum building height

The Canada Bay LEP permits buildings with a height of 8.5m in the R2 Low Density Residential zone. This height limit also applies to dual occupancies. However, the Canada Bay Development Control Plan qualifies that the height limit for dual occupancies that are located one behind the other, should be single storey (5.4m).

It is proposed to amend the LEP to introduce a maximum height of 5.4m for a dwelling at the rear of a lot that is a secondary dwelling or part of a dual occupancy. However, if it can be demonstrated that the lot has two street frontages (corner lot or parallel road lot), but not a lane, and the dwellings each address a different street and provide vehicular and pedestrian access from a different street, then the maximum height may be 8.5m

E. Multi dwelling housing (terraces) definition

The SEPP has introduced a new housing typology for Multi dwelling housing (terraces). As it is now proposed to introduce planning controls relevant to this typology into CBLEP, it is proposed that it be defined in the LEP (consistent with the SEPP) as follows:

multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

F. Terraces – Maximum building height

Currently, the maximum building height of 8.5m makes it difficult to accommodate a third storey in terraces. To make terraces more attractive for development, a new height of 9.0m is proposed. This height will enable the construction of two habitable storeys plus an attic storey, where the attic storey may only be used for bedrooms and for non-habitable spaces.

It is proposed that the additional height only be permitted for multi dwelling housing (terraces).

In addition, it is recommended that the clause include restrictions on the building height plane. The visual impact of the additional storey on the streetscape and local character would be mitigated through a 45 degree height plane across the third storey to the front and the rear. This recommendation is in line with the Council's Local Housing Strategy, which identifies the opportunity to accommodate a third storey in medium density infill developments, subject to satisfactory urban design outcomes.

G. Manor house definition

The SEPP has introduced a new housing typology for Manor houses. As it is now proposed to introduce planning controls into CBLEP relevant to this typology, it is proposed that it be defined in the LEP (consistent with the SEPP) as follows:

manor house means a residential flat building containing 3 or 4 dwellings, where—

- (a) each dwelling is attached to another dwelling by a common wall or floor, and
- (b) at least 1 dwelling is partially or wholly located above another dwelling, and
- (c) the building contains no more than 2 storeys (excluding any basement).

H. Manor houses and terraces - Minimum lot size

The purpose of a *minimum lot size for development* clause is to ensure that development sites have dimensions that are appropriate to create outcomes that are consistent with the local context and have an acceptable impact on the amenity of the locality.

Manor houses and terraces are compact typologies deemed suitable on smaller lots. To promote these typologies under CBLEP, it is proposed to reduce the minimum lot size for a 'manor house' and 'multi dwelling housing (terraces)' from 800m² to 600m² in the R1 and R3 zones.

Multi dwelling housing (terraces) and manor houses will be added to Clause 4.1A (Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings) with a minimum site area requirement of 600sqm in an R1 General Residential and R3 Medium Residential zone.

I. Minimum subdivision lot size

Subdivision for terraces is not currently practical under the CBLEP, due to the minimum lot size of 450sqm for Torrens title subdivisions. Under the LR Code, the minimum resultant lot size for Torrens title subdivision for terraces is only 200sqm.

The 200sqm lot size for terraces can provide sufficient area for at grade parking, landscaping and a scale of development that is suitable to blend well within the local context.

It is proposed to incorporate a new clause to support the objective of the LR Code by reducing the minimum lot size requirement for Torrens title subdivision of terraces and set minimum resultant lot width requirements.

Torrens title subdivision of multi dwelling housing (terraces) will be permissible in an R1 General Residential, R3 Medium Density Residential and R4 High Density Residential zone if the following requirements can be met:

The minimum Torrens title lot size of each lot resulting from the subdivision of multi dwelling housing (terraces) is 200 square metres, but only where the width of each resultant lot has a frontage to a road and is equal to or greater than 6 metres.

J. Floor space ratio

The majority of the R3 Medium Density zoned land within Canada Bay is currently identified as 'Area 1' on the Floor Space Ratio Map. For multi dwelling housing or residential flat buildings within 'Area 1', no maximum FSR applies (Clause 4.4 (2A)). Thus, terraces, manor houses and townhouses within these areas would have no maximum FSR under the current CBLEP.

For semi-detached dwellings and dwelling houses within 'Area 1', the maximum FSR under the current CBLEP increases as site area decreases (Clause 4.4 (2B)) in a 'sliding scale'.

To encourage a variety of building types and to ensure that specific dwelling types are not substantially larger than others in the street, it is proposed to:

- Remove the FSR sliding scale (Clause 2B), ensuring that the scale of future development is proportionate to land size.
- Provide an FSR of 0.7:1 on certain R3 Medium Density Zoned land (Area 1) for Residential Flat Buildings, Multi dwelling housing and Multi dwelling housing (terraces) where the land is not affected by a heritage item or heritage conservation area.

K. Minimum lot width/frontage

Minimum lot frontages for a variety of developments are currently contained within the Canada Bay Development Control Plan instead of the Canada Bay Local Environmental Plan.

Manor house development is permissible on 15m wide sites under the LR Code. The Canada Bay DCP does not currently have a frontage width control for manor houses, however as a manor house is a type of residential flat building, a minimum frontage of 20.0m would be required. Site testing has shown that manor houses without basement car parking are difficult to achieve on sites less than 18m. It is proposed that the minimum frontage for manor houses be reduced to 18m to encourage this form of development.

The LR Code permits terrace development on lots with an 18m wide frontage compared to 20m in the Canada Bay DCP (multi dwelling housing). An 18m wide mid-block lot would allow for three attached 5m wide terraces and a 1.5m setback on each side boundary to neighbouring properties. It is proposed that the minimum frontage for multi dwelling housing (terraces) be introduced into the LEP with a minimum width of 18.0m. This width would encourage this form of development.

It is also proposed to add additional clauses to allow development of dual occupancies (detached) to be undertaken on smaller frontage lots if the following additional requirements are met:

The minimum frontage for a dual occupancy (detached) may be reduced to 14m if the lot is a corner lot or parallel road lot, not a lane, with two street frontages and each dwelling is orientated towards and provides vehicular and pedestrian access from a different street.

To reinforce the frontage controls, it is proposed they be removed from the DCP and added to Clause 4.1A of the LEP, consistent with the Standard Instrument.

Concord West Flood Study

A flood study (Draft Concord West Precinct Flood Study) was prepared for the Concord West precinct in 2015. Modelling was used to define flood behaviour and indicated that some parts of the precinct were significantly affected by flooding during frequent storm events.

A Flood Planning Area map was prepared for the precinct. The map identified that 25% of the area of the precinct is located at or below the adopted Flood Planning Level for residential development.

On 20 April 2018 Canada Bay Local Environmental Plan 2013 (Amendment No 11) introduced the first Flood Planning Map (FLD_002) which incorporated three properties (2, 2A, 4 Rothwell Street, Concord West) which were the subject of that amendment, in-line with the Concord West Precinct Flood Study.

It was subsequently determined that a Flood Planning Map would need to capture all affected properties within the Concord West Precinct Master Plan and Concord West Precinct Flood Study. This would ensure all lots affected by the 1:100 flood level and 0.5m freeboard gets captured in CBLEP consistently with the three properties already identified on the Flood Planning Map.

L. Flood Planning Areas

It is proposed that the existing Flood Planning Map be replaced with a new map to capture all of the Flood Planning Areas identified in the Draft Concord West Precinct Flood Study.

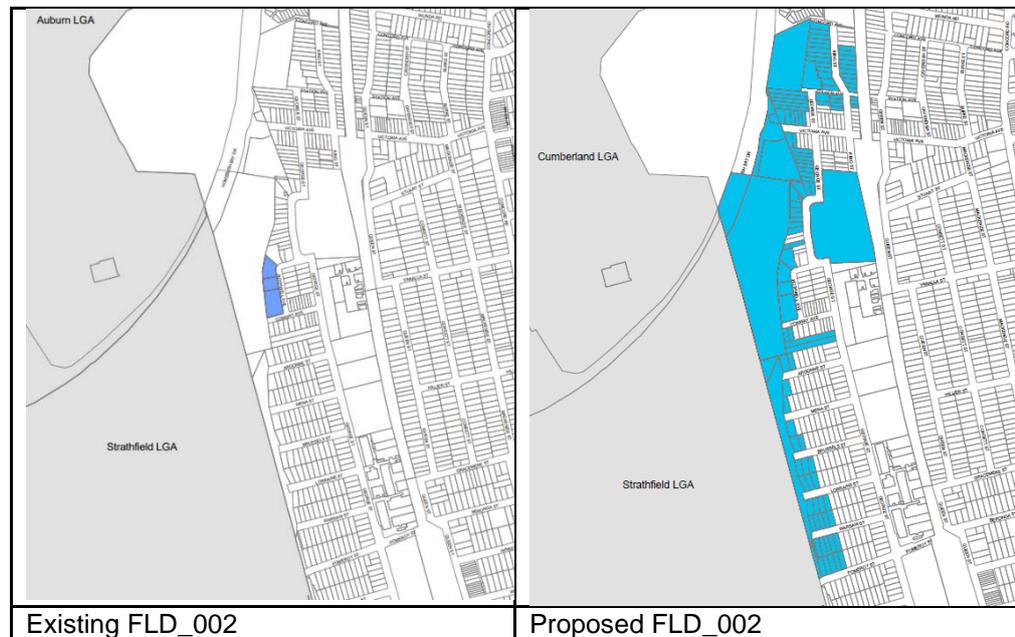


Figure 8: Existing and proposed changes to map.

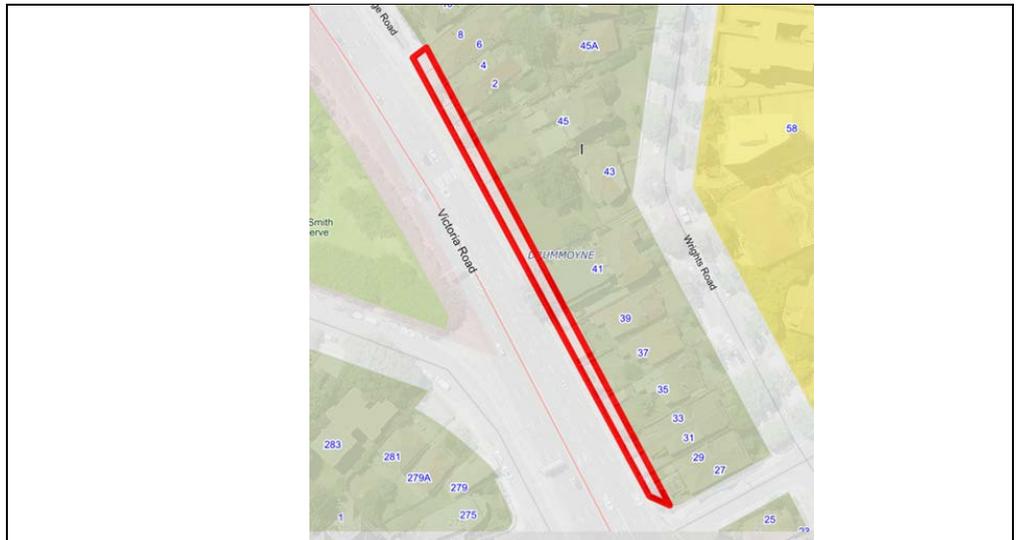
Housekeeping updates



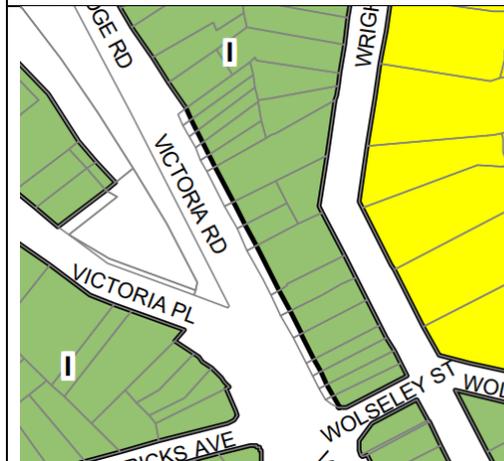
Existing HOB_006



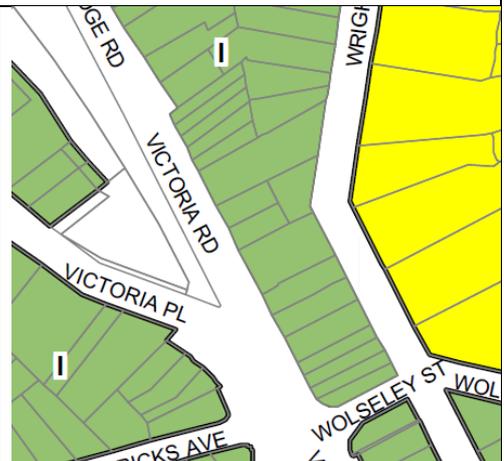
Proposed HOB_006



Red outline area above indicates location.



Existing HOB_006



Proposed HOB_006



Figure 10: Existing and proposed changes to map.

- O. *Heritage item I308 – St Luke’s Park gateway/entrance – gates and trees only*
 Schedule 5 in the LEP identifies the property upon which this heritage item is located as Lot 7077, DP 752023.

A number of subdivisions have occurred and the result of these changes is that the heritage item is now located on Lot 13, DP 1226181.

It is proposed that the map and the listing in Schedule 5 be updated to accurately reference its new Lot and Deposited Plan.



Figure 11: Existing and proposed changes to map.

P. Heritage item I474 – Gladesville Bridge abutments, Five Dock Point

It is proposed to amend the heritage listing to recognise the significance of the former road approach to the bridge. This former road approach is located within the existing park, extending from the former bridge abutment to the end of the existing road. The addition of the former road approach to the heritage listing is considered integral to the history and appreciation of the significance of the place.

It is proposed that the map be updated to accurately show the new curtilage and that the listing in Schedule 5 be updated to change the item name from Gladesville Bridge abutments, Five Dock Point to Gladesville Bridge abutments and approach, Five Dock Point

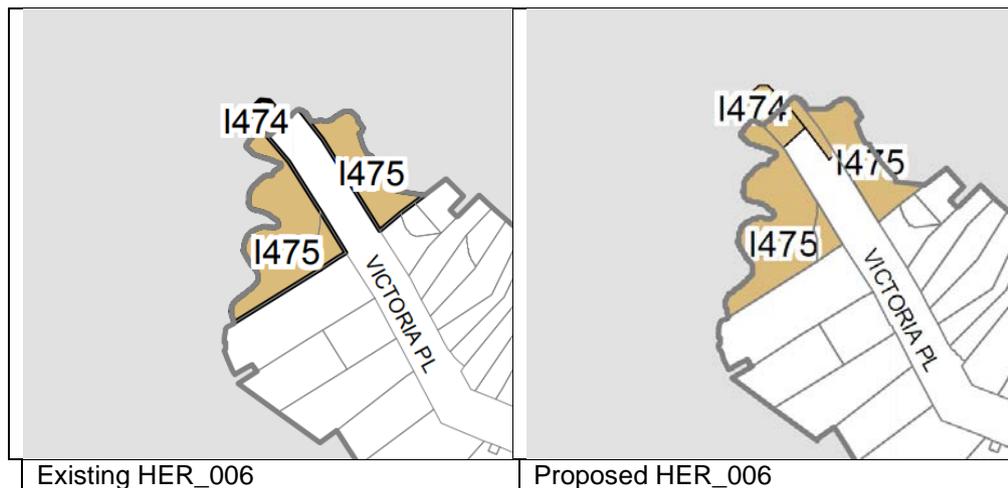


Figure 12: Existing and proposed changes to map.

Q. Heritage item I475 – Howley Park, Five Dock

It is proposed to include the foreshore areas in the heritage item, recognising the value of heritage trees in the character of the original foreshore.

The whole of the foreshore contributes to the heritage values of Howley Park. The trees contribute to the heritage values as they provide an understanding of the character of the original foreshore.

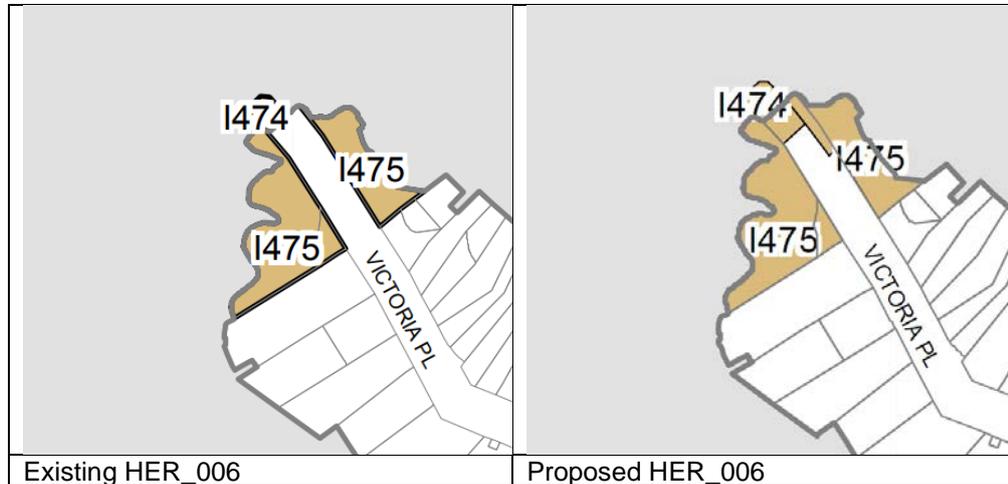


Figure 13: Existing and proposed changes to map.

R. *Gladesville Bridge*

The southern end of the Gladesville Bridge is located within Canada Bay LGA, and is a State listed heritage item (Item 22 in Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005), however the bridge is not recognised in CBLEP as a heritage item.

Gladesville Bridge, constructed in 1964 was the longest concrete arch span bridge in the world at the time of its completion at 1,000 feet. The innovative design of Gladesville Bridge set new global standards for design and construction, and it was one of the first bridges in the world if not, the first, to utilise computer programming in its construction. Gladesville Bridge is one of only two of its type in NSW. The bridge has important associations with a number of internationally acclaimed engineers and engineering firms (including G. Maunsell & Partners and Eugene Freyssinet).

It is proposed that Gladesville Bridge be added to the maps and the heritage schedule.

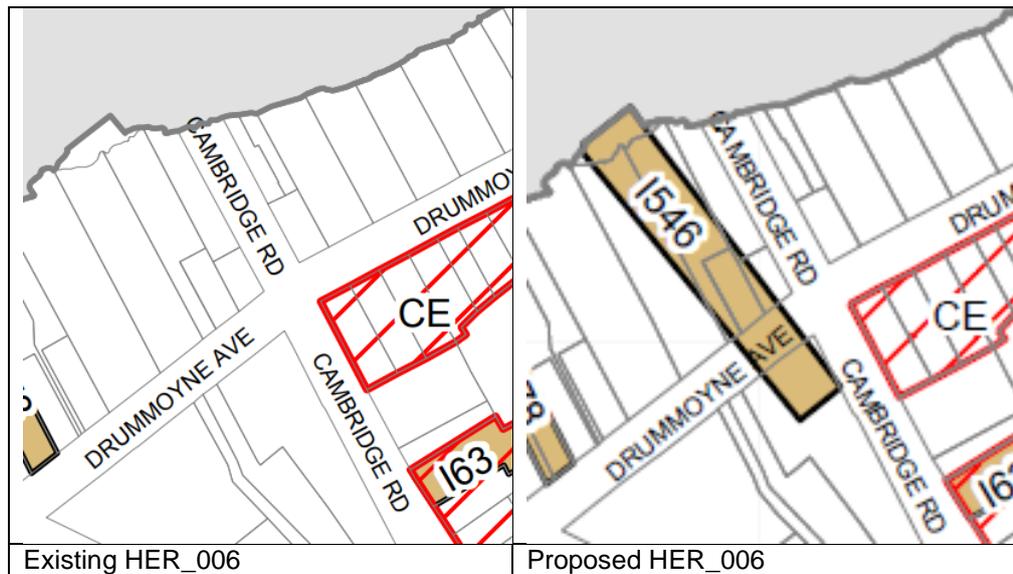


Figure 14: Existing and proposed changes to map.

S. *Heritage item I383 – AGL Power House (former)*

In 2013 the Department of Planning issued a major project approval (MP10_0206) for 'Demolition of existing Powerhouse Building and construction of 6 two storey houses'. In 2016 the residential development was subdivided and is now known as Lot 1-7 in DP 286514, 97-99 Peninsula Drive, Breakfast Point.

The heritage item no longer exists and therefore is to be removed from the maps and Schedule 5 of the LEP.



Figure 15: Existing and proposed changes to map.

T. *Heritage item I15 – Five Dock Oval and Park*

Schedule 5 of the LEP identifies the heritage item on land parcel Lot 3, DP 717249, however this is inconsistent with the map HER_005 which indicates that the item comprises three land parcels

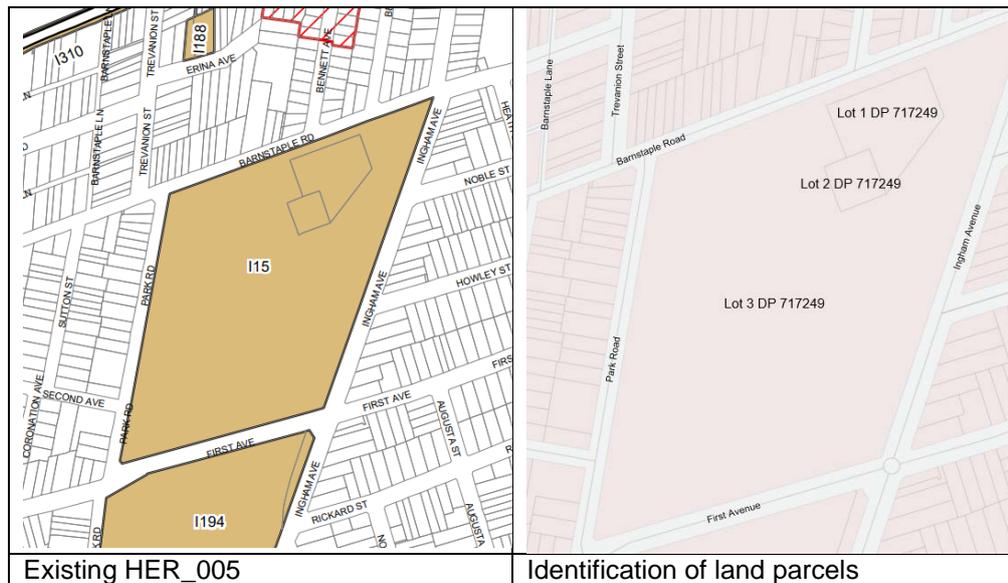


Figure 16: Existing heritage map and identification of land parcels.

Both the tennis courts and club house are mentioned in the inventory sheet and relate to the sporting function of the park. It is recommended that these lots be included in the heritage listing.

It is proposed to include Lots 1 and 2 of DP717249 into Schedule 5 of the CBLEP.

U. Heritage item 1178 – Tobique

The land originally contained one dwelling, however in 2010 a DA was approved for Torrens Title subdivision and to construct a new dwelling on the new lot at the front of the site.

The heritage significance does not extend to the new dwelling or any built or natural features within the newly created Lot 11. As such it is proposed the heritage listing be removed from Lot 11.



Figure 17: Existing and proposed changes to map.

V. Internal lot maximum building height

If a site has an area of 900sqm or greater it has the potential for Torrens title subdivision. Where the subdivision creates a battle-axe allotment, there will be one lot located behind the other lot with access via an access handle. Often this results in the rear lot (internal lot) being in a position where it is located directly adjoining the rear yards of multiple neighbouring lots. Consequently it is very difficult to minimise amenity impacts (visual impact, privacy, overshadowing etc.) arising from development on the rear lot, particularly where the development is greater than single storey.

It is proposed that a definition for an internal lot be introduced into the LEP and a clause included to limit the height of development on that lot to a maximum of 5.4m.

Conclusion

It is recommended that the Planning Proposal be endorsed for submission to the Department of Planning, Industry and Environment for a Gateway Determination.

FINANCIAL IMPACT

Nil

RECOMMENDATION

1. THAT the advice of the Local Planning Panel in relation to the Planning Proposal is noted.
2. THAT the Planning Proposal be endorsed for submission to the Department of Planning, Industry and Environment for a Gateway Determination.
3. THAT delegation be requested from the Department of Planning, Industry and Environment to manage the plan making process.
4. THAT authority be delegated to the General Manager to make any minor modifications to the Planning Proposal following receipt of a Gateway Determination.
5. THAT Council note should the Planning Proposal proceed to exhibition, following consideration of any submissions, the Planning Proposal will be reported back to Council.

Attachments:

1. Planning Proposal LEP Miscellaneous Amendments PP2020/0002 (*provided in attachment booklet*)

2. Appendix 1 - Victoria Road Urban Design Review (*provided under separate cover*)
3. Appendix 3 - Victoria Road Capacity Testing (*provided in attachment booklet*)
4. Appendix 4 - Victoria Road Traffic Assessment (*provided in attachment booklet*)
5. Appendix 6 - Low Rise Medium Density Review Recommendations Report (*provided under separate cover*)
6. Local Planning Panel Minutes, 26 August 2020 (*provided in attachment booklet*)

