

## Place, Design and Public Spaces

IRF20/5810

### Gateway determination report

<b>LGA</b>	Canterbury Bankstown
<b>PPA</b>	City of Canterbury Bankstown
<b>NAME</b>	165-169 Holden Street, Ashbury (approximately 4 dwellings)
<b>NUMBER</b>	PP_2020_CBANK_001_00
<b>LEP TO BE AMENDED</b>	Canterbury Local Environmental Plan (LEP) 2012
<b>ADDRESS</b>	165-169 Holden Street, Ashbury
<b>DESCRIPTION</b>	Lot 1 DP 911478 Lot 1 DP 115504 Lot 1 DP 711077
<b>RECEIVED</b>	29 July 2020
<b>FILE NO.</b>	IRF20/3991
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	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 (**Attachment A**) seeks to amend the Canterbury Local Environmental Plan (LEP) 2012 for part of the land at 165-169 Holden Street, Ashbury to:

- rezone part of the site from SP2 Infrastructure (Water Supply System) to R2 Low Density Residential;
- amend the curtilage of the heritage item listed in Schedule 5 of the Canterbury LEP, known as Ashfield Reservoir (WS003), item number I1 by altering the Heritage Map:
  - to remove the heritage listing on part of the land known as Lot 1 DP 911478; and
  - to extend the heritage listing to part of the land known as Lot 1 DP 115504; and
- introduce a maximum building height of 8.5 metres to part of the site.

The intent of the planning proposal is to facilitate the disposal and redevelopment of surplus land owned and managed by Sydney Water while protecting and conserving the adjacent heritage item, the Ashfield Reservoir.

As the Ashfield Reservoir is also listed on the State Heritage Register [known as Ashfield Reservoir (Elevated) (WS 0003)], item number 01622, the realignment of the curtilage to the item will require a separate application to Heritage NSW. This is outside the scope of this planning proposal.

## 1.2 Site description

The planning proposal applies to part of the land at 165-169 Holden Street, Ashbury, being legally described as:

- Lot 1 DP 911478,
- Lot 1 DP 115504, and
- Lot 1 DP 711077.

The site is known as the 'Ashfield Reservoir' and has an area of 8,225m<sup>2</sup>.

A portion of the site has been identified as surplus to the requirements of Sydney Water. This portion generally sits within the northern end of the site and presents an L-shape in plan view with an area of 2,934m<sup>2</sup>; Sydney Water's planning proposal originally sought to rezone this land (refer to **Figure 19**).

Council has resolved to modify the boundary of the area proposed for rezoning (as shown in Part A of **Figure 2**). It covers an area of approximately 2,540m<sup>2</sup> (**Figure 2**).

The primary structure of the Ashfield Reservoir is located centrally within the site. It is an elevated cylindrical steel tank sitting on an arched concrete apron supported by a steel girder frame. The area occupied by the reservoir and immediate surroundings is currently identified as the heritage curtilage and is required to be modified due to the proposed rezoning (the proposed curtilage is shown as Part B, **Figure 2**).

The remaining part of the site (Part C) is not subject to any changes to planning controls.

The site comprises open asphalt covered areas in the north and west portions with a number of structures, including:

- a small disused brick structure, formerly used as a flammable goods store (north-western corner);
- various disused sheet metal buildings, previously used for storage and workshops (western boundary);
- a brick office and amenities building (north of the elevated reservoir closer to Holden Street);
- a valve house (north-east of the elevated reservoir); and
- various other small buildings, including the pumping station and access shaft to the City Tunnel (south boundary).

**Figures 2 to 10** illustrate the existing structures on the site.

The Ashfield Reservoir has a capacity of approximately 4.6ML and is still in operation. It is supplied from the City Tunnel via a pumping station on the southern side of the reservoir.

The Ashfield Reservoir is currently subject to various heritage listing as follows:

- State Heritage Register, Item Number 01622, *Ashfield Reservoir Elevated (WS 0003)*,
- Canterbury LEP 2012, Schedule 5, Item Number I1, *Ashfield Reservoir (WS003)*, and
- Sydney Water Corporation Heritage and Conservation Register (Section 170 Register)

The site is also within the Ashbury Heritage Conservation Area, number HCA1, identified in Schedule 5 of the Canterbury LEP.

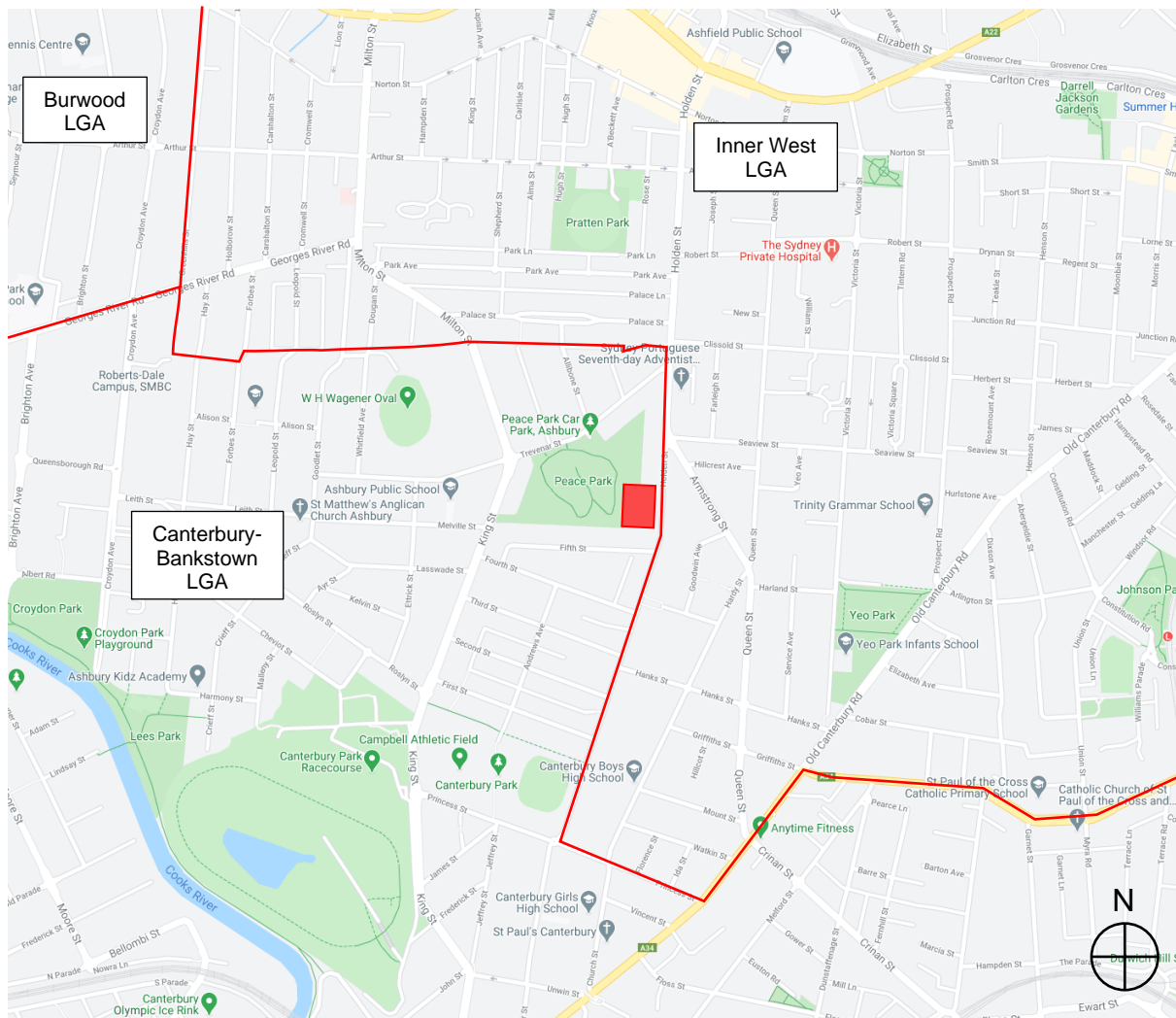
To provide clarity to the community, it is recommended that the planning proposal be updated to include the following prior to exhibition:

- a more detailed description of the site including the existing structures and features, supported by a map clearly showing the delineation of the allotment boundaries and their respective lot and DP numbers;
- clarification that the planning proposal applies to the entirety of Lot 1 DP 911478 and Lot 1 DP 115504 to reflect the proposed amendment to the heritage curtilage; and
- a clear description of all heritage listings affecting the site.

### 1.3 Existing planning controls

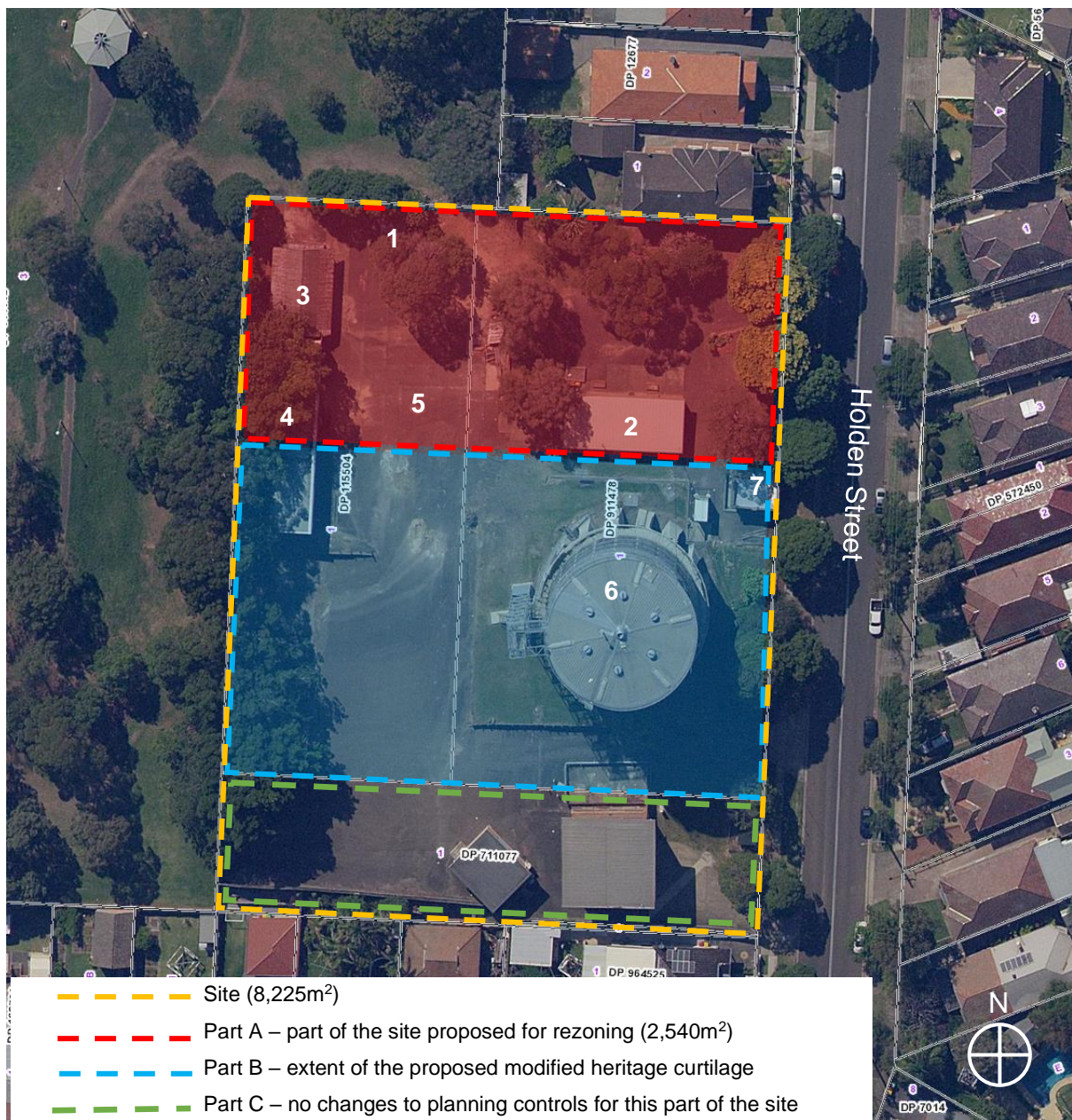
Under Canterbury LEP 2012, the site:

- is zoned SP2 Infrastructure (Water Supply System) (**Figure 11**);
- has no applicable building height (**Figure 12**);
- has no applicable floor space ratio (**Figure 13**);
- contains a heritage item of State significance, described as Ashfield Reservoir (WS003), Lot 1 DP 911478, Item Number I1 under Schedule 5 and is identified on the heritage map (**Figure 14**); and
- is within the Ashbury Heritage Conservation Area, number HCA1 under Schedule 5 (**Figure 14**).

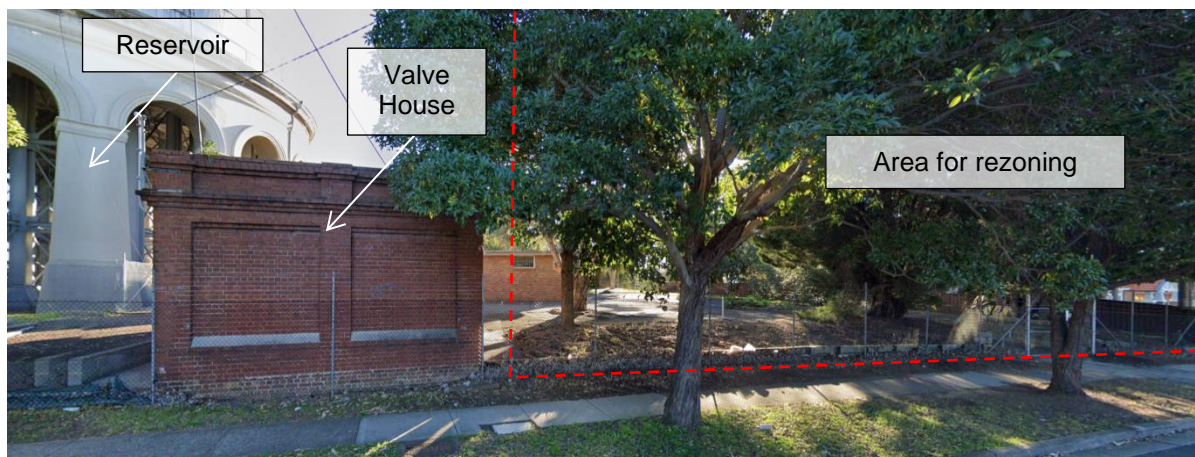


**Figure 1: Site location (Source: Nearmap)**





**Figure 2:** Aerial map of the subject site (Source: Six Maps)



**Figure 3:** View of the subject area proposed for rezoning (outlined in red) from Holden Street looking north-west. The Reservoir and Valve House are to the left (Source: Google Maps)





**Figure 4:** (No 1 in Figure 2) Disused flammable goods store near the northern boundary of the site (Source: Extent Heritage Advisors)



**Figure 5:** (No 2 in Figure 2) Depot office and amenities building on the southern edge of the area proposed for rezoning (Source: Extent Heritage Advisors)



**Figure 6:** (No 3 in Figure 2) Former workshop (Source: Extent Heritage Advisors)



**Figure 7:** (No 4 in Figure 2) Former maintenance depot (Source: Extent Heritage Advisors)



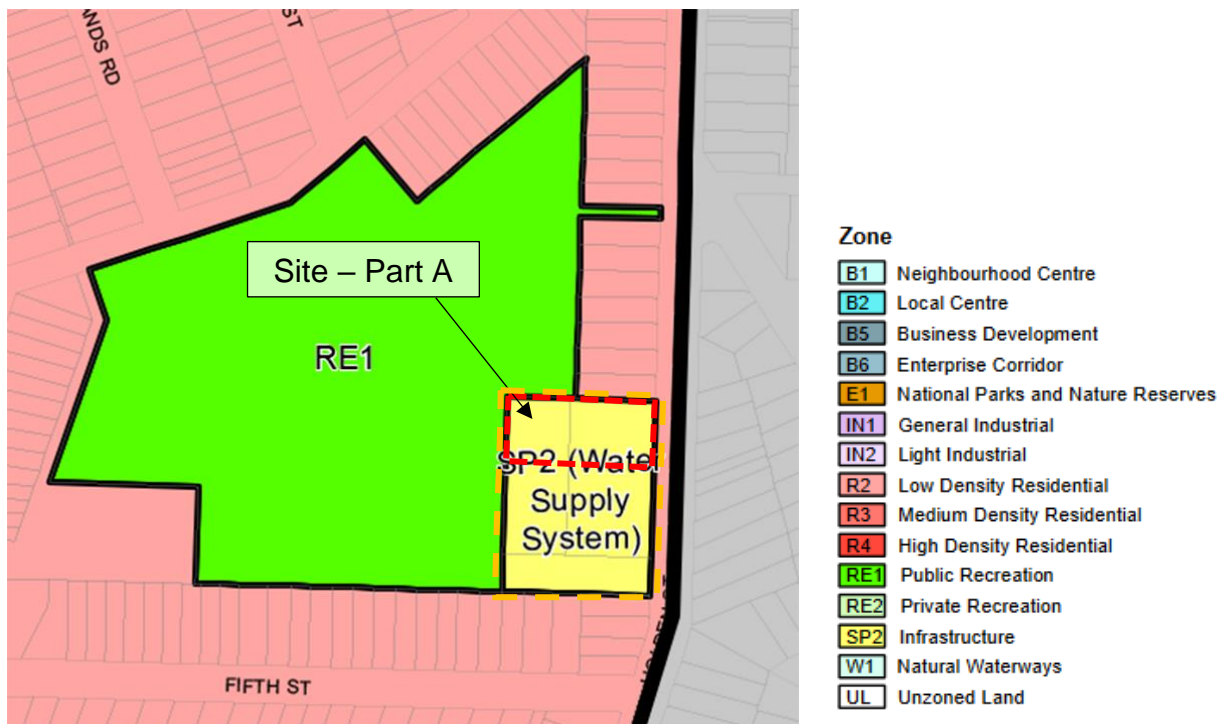
**Figure 8:** View looking north over the asphalt carpark with maintenance depot and workshop at left (Source: Extent Heritage Advisors)



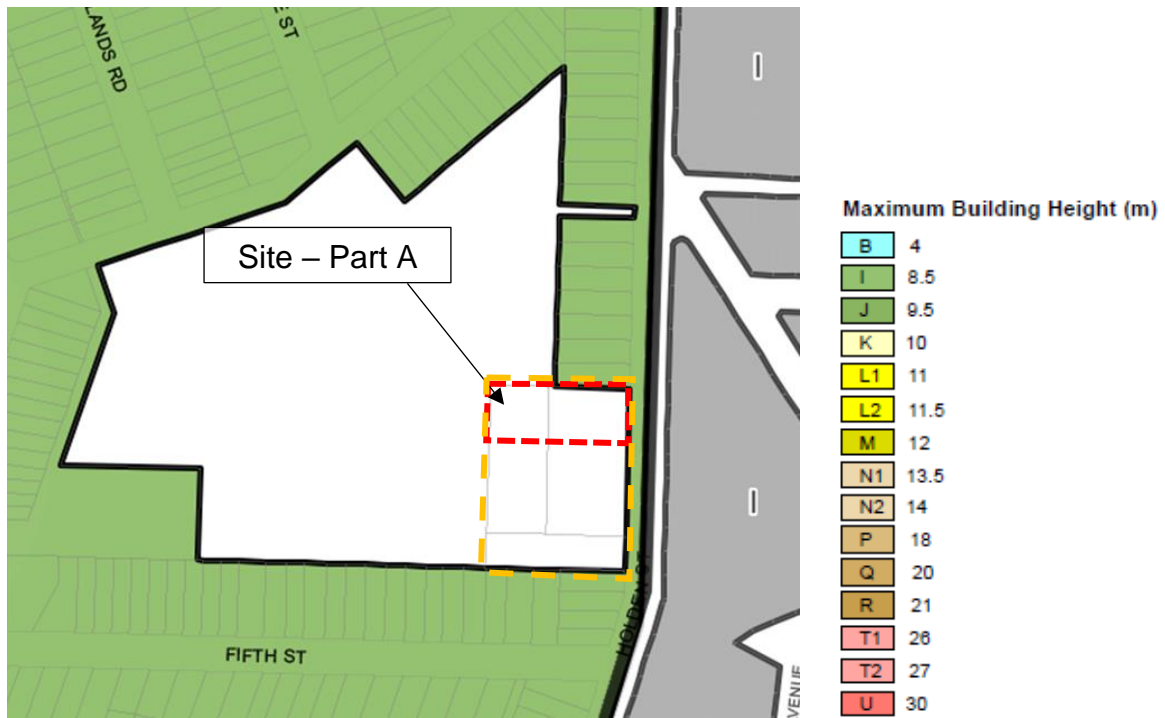
**Figure 9:** (No 6 in Figure 2) The Ashfield Reservoir adjacent to but outside the southern edge of the area proposed for rezoning (Source: Extent Heritage Advisors)



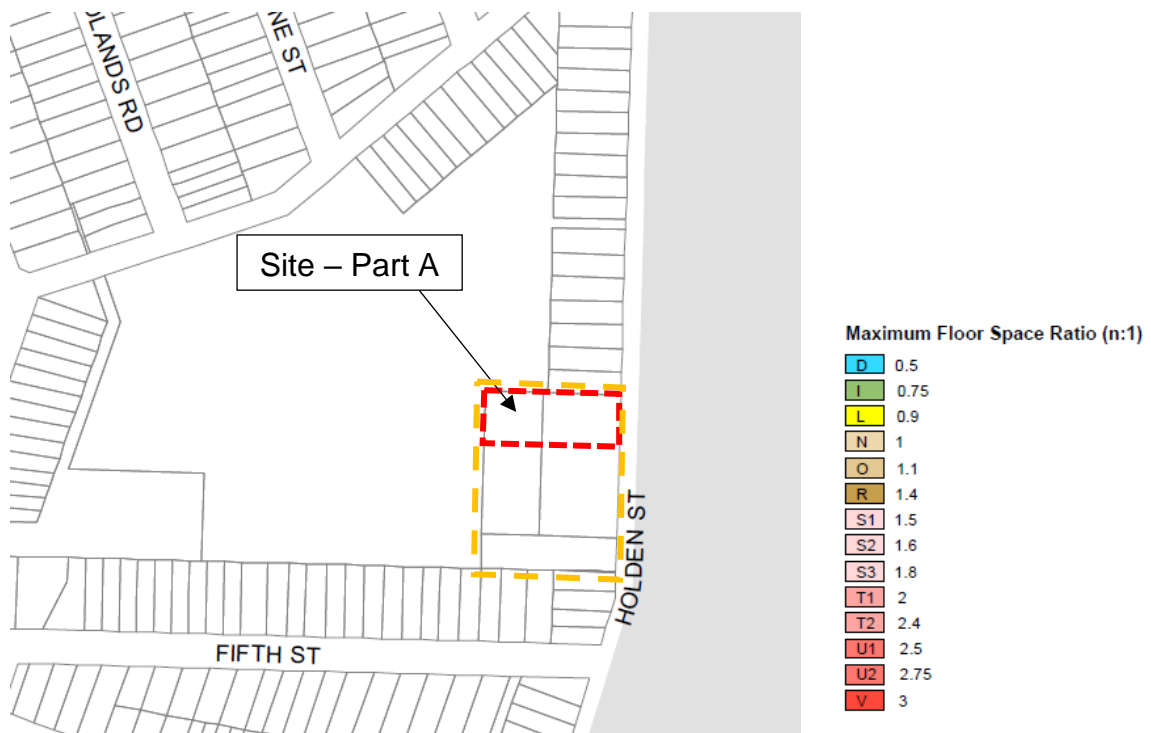
**Figure 10:** (No 7 in Figure 2) The single storey 'L' shaped brick Valve House, adjoining but outside the southern edge of the area proposed for rezoning (Source: Extent Heritage Advisors)



**Figure 11:** Canterbury LEP 2012 Land Zoning Map (LZN\_006)

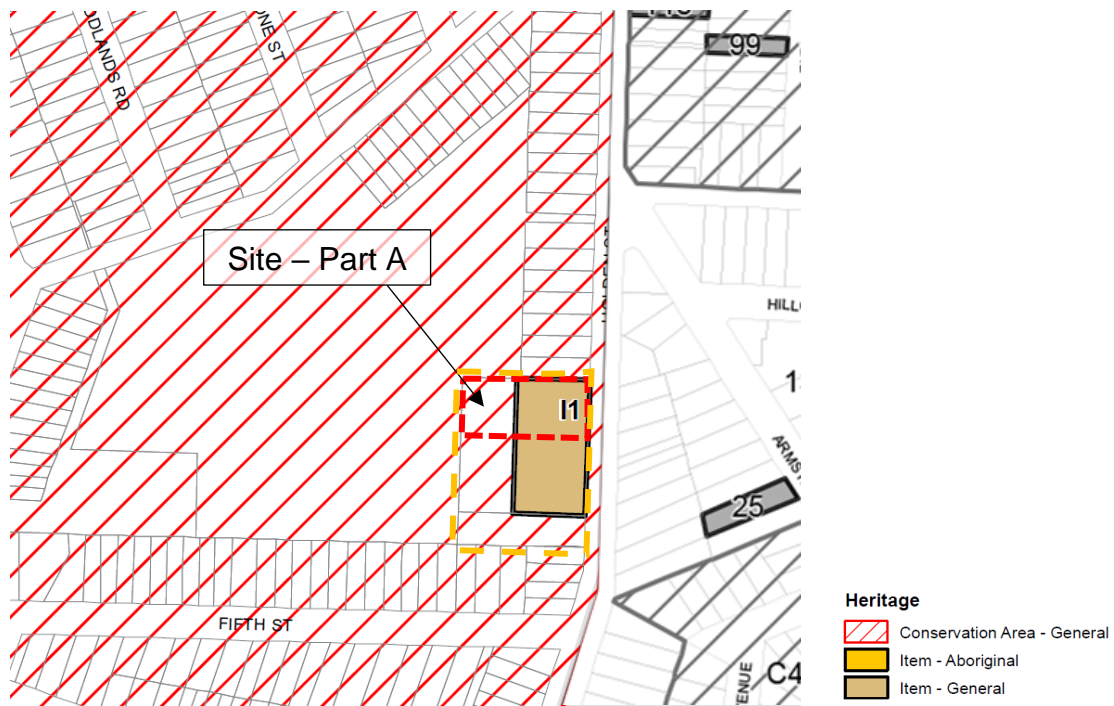


**Figure 12:** Canterbury LEP 2012 Height of Buildings Map (HOB\_006)

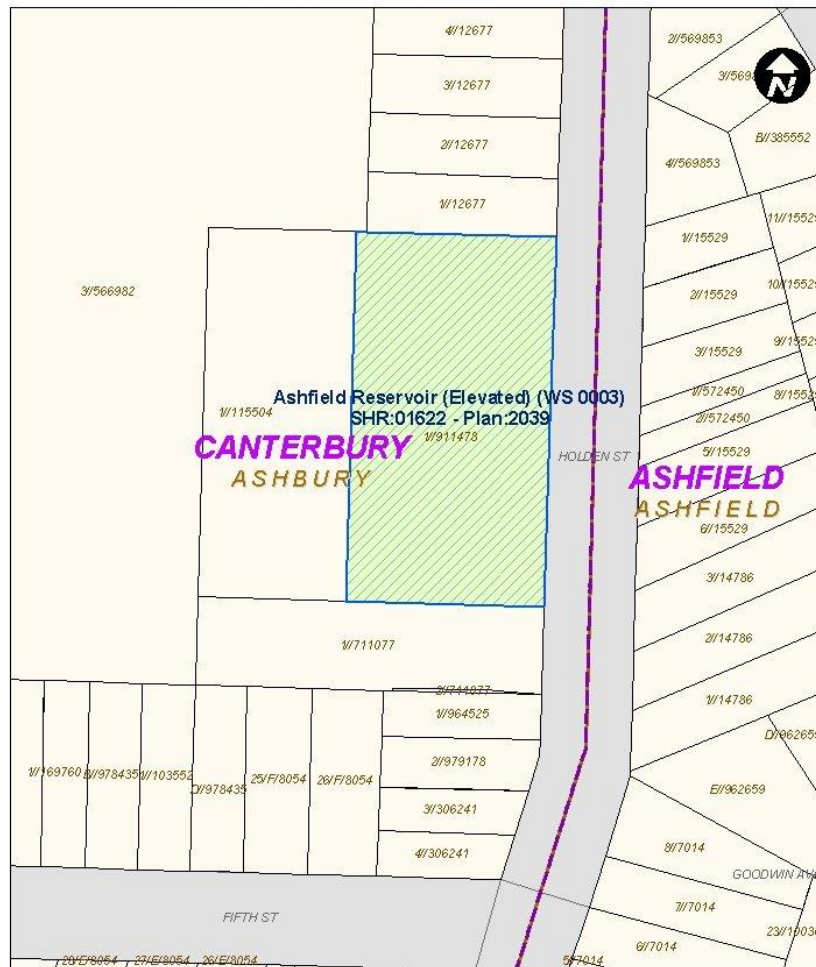


**Figure 13:** Canterbury LEP 2012 Floor Space Ratio Map (FSR\_006)





**Figure 14:** Canterbury LEP 2012 Heritage Map (HER\_006)



#### State Heritage Register

Gazetted Date: 15 November 2002

0 5 10 20 30 40 Metres

Scale: 1:1,000

Produced by: S. Watters

#### Legend

- SHR Curtilage
- Land Parcels
- Historic Regions
- Water
- LGAs
- Roads
- Suburbs
- Railways
- NSW Reserves

**Figure 14A:** Map showing the curtilage of the Ashfield Reservoir under the State Heritage Register. Note that the curtilage is confined to Lot 1 DP 911478

### 1.4 Surrounding area

The site is located in the Ashbury Heritage Conservation Area 'HCA1' (**Figure 14**). The surrounding area contains generally late nineteenth and early twentieth century single storey detached houses, constructed mainly of brick with terracotta-tiled roofs in regular lot subdivision (**Figure 15**). Some infill and modification with two storey dwellings have occurred over time (**Figures 16 and 17**).

To the north, adjacent to the site is a two-storey detached residential dwelling, constructed or altered in the 1980s or 1990s. The area to the north and west is Peace Park, a large public open space covering the site of the former South Ashfield Brickworks and Tile Company Works with residential dwellings lining most of its boundary (**Figures 15 and 18**).

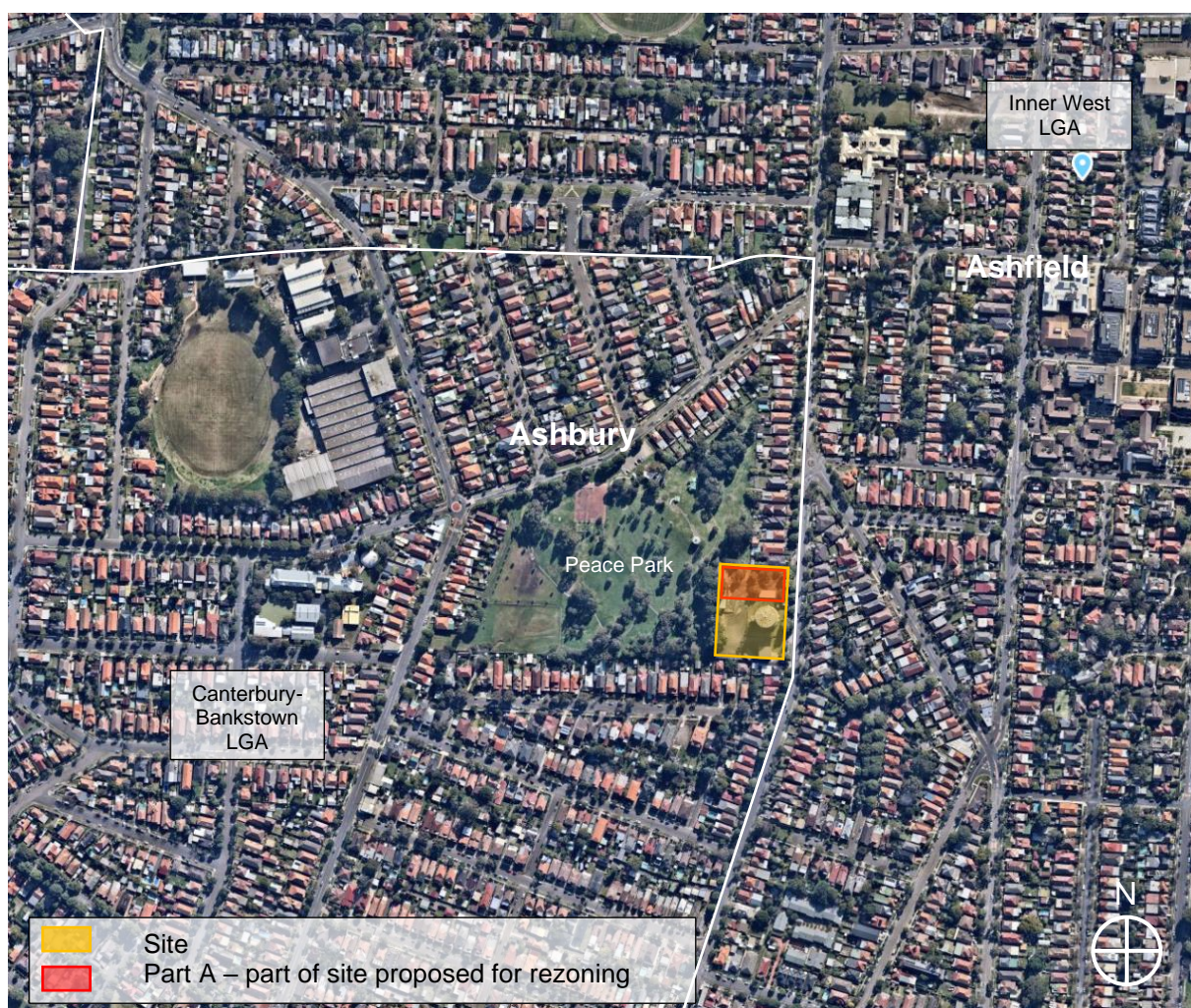


Ashbury Public School, Baptist Church and a small strip of local shops are located approximately 500 metres to the west of the site. Canterbury train station and town centre are approximately 1.6 kilometres south of the site, and the Ashfield train station and town centre are approximately 1.2 kilometres north of the site.

Trinity Grammar School and Yeo Park Infants School are approximately 500 metres east of the site. The site is close to other existing high schools such as Canterbury Boys High School and Canterbury Girls High School approximately 500 metres south of the site.

The former industrial site on Milton Street to the west of the Ashfield Reservoir has been rezoned for high density residential development.

To provide clarity to the community, it is recommended that the planning proposal be updated to include a description of the surrounding area.



**Figure 15:** Surrounding area (Google Maps)





**Figure 16:** Low density residential dwellings adjacent and to the north of the site on Holden Street (Source: Google Maps)



**Figure 17:** View looking north towards the site from Fifth Avenue (Source: Google Maps)



**Figure 18:** View of Peace Park looking south-east towards the subject site from Trevenar Street (Source: Google Maps)

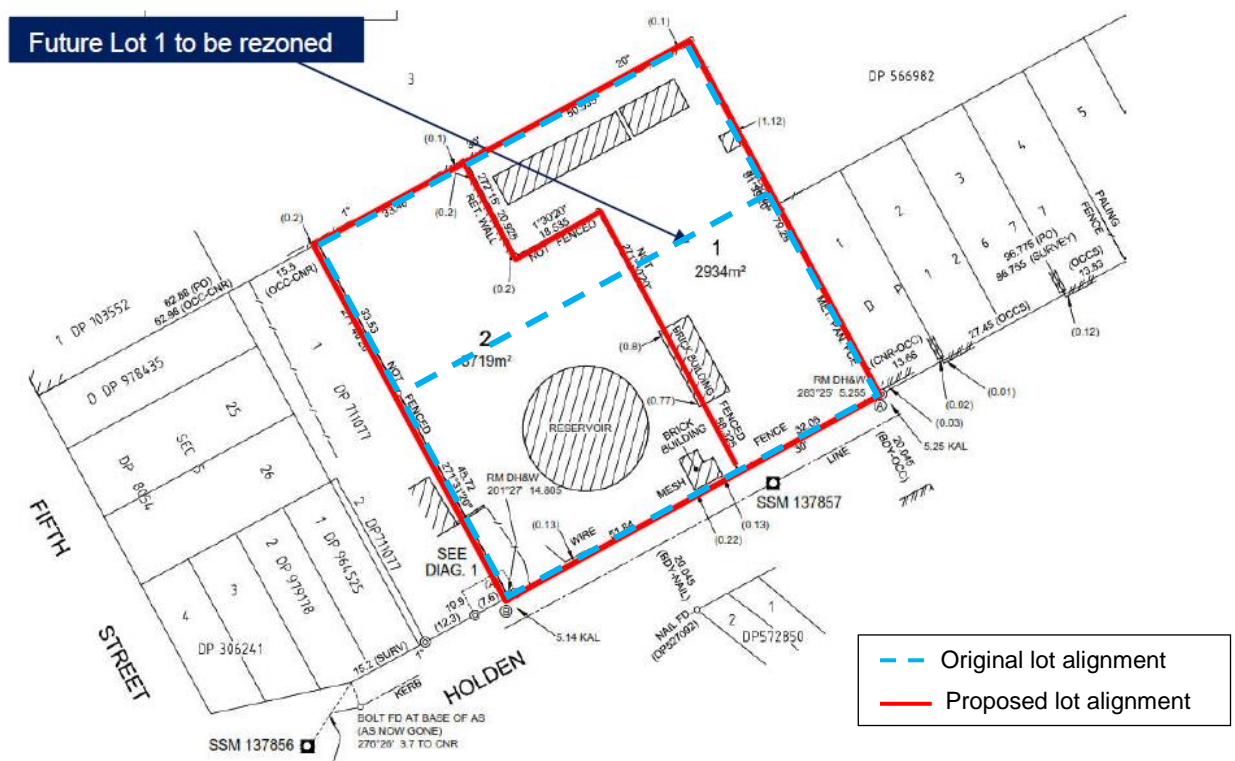
## 1.5 Background

On 18 July 2017, a development application (DA 272/2017) was lodged with Council. The DA sought approval for a two-lot subdivision at 165-169 Holden Street, Ashbury (the DA is currently active and is shown as ‘under assessment’ on Council’s website). It is noted that Council requested the proponent to submit a planning proposal prior to further consideration and determination of this DA.

In October 2017, Sydney Water submitted a planning proposal, prepared by GLN Planning (**Attachment D**), to Council.

GLN Planning's proposal provided an indicative subdivision plan for a dog-leg shaped allotment with an area of approximately 2,934m<sup>2</sup> (**Figure 19**). The proposed lot would be capable of accommodating five two-storey dwellings through rezoning from SP2 Infrastructure (Water Supply System) to R2 Low Density Residential. A concept development plan was provided by the proponent. The remainder of the land is to be retained by Sydney Water and continues to be utilised for operational purposes.

The proposal sought to remove the restrictions on the new lot resulting from the State and local heritage listing of the Ashfield Reservoir. However, the affectation of the Ashbury Heritage Conservation Area 'HCA1' would remain over the site.

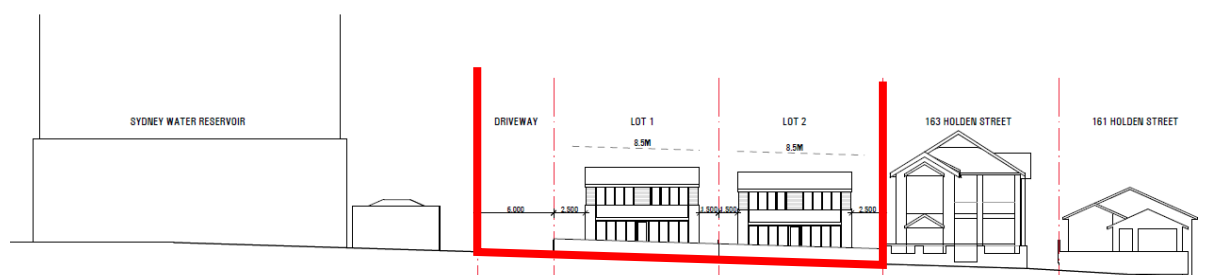


**Figure 19:** GLN Planning's proposed subdivision for the Sydney Water site (Source: GLN, overlay by DPIE)





**Figure 20:** Concept of the first floor plan (Source: Prescott Architects, overlay by DPIE)



**Figure 21:** Concept of the east elevation – Holden Street (Source: Prescott Architects, overlay by DPIE)

### Council officers' comments and recommendations

On 6 April 2020, Council officers stated in their report to the Local Planning Panel (LPP) that the planning proposal had strategic and site-specific merit. They requested that the LPP consider the planning proposal and recommend if it should be forwarded to the Department for a Gateway determination (**Attachment O**).

Council officers recommended that the planning proposal proceed to Gateway to:

- rezone part of the site from SP2 Infrastructure (Water Supply System) to R2 Low Density Residential;
- reduce the heritage curtilage of the Ashfield Reservoir (WS003, Item No.1) consistent with the recommendations of the Statement of Heritage Impacts (SHI) submitted by the proponent (**Attachment M**);



- apply a maximum building height of 8.5 metres to the portion of the site that is proposed to be rezoned; and
- apply a minimum lot size of 460m<sup>2</sup> to the portion of the site that is proposed to be rezoned.

Council officers report stated that:

- the proponent had demonstrated how the planning proposal would comply with Council's then draft Affordable Housing Strategy (since adopted);
- a site-specific development control plan (DCP) would be prepared to ensure that future development is compatible with the surrounding area and will be exhibited concurrently with the planning proposal; and
- the applicant is required to update the supporting studies including the Site Audit Report (SAR) to reflect the outcome of the remedial action plan (RAP).

#### Canterbury Bankstown Local Planning Panel (LPP) comments and recommendations

At their meeting on 6 April 2020 (**Attachment P**), the LPP agreed that a large part of the site can be rezoned for low density residential.

However, the LPP did not agree with the indicative subdivision plan (**Figure 19**) and recommended it be confined to the area of proposed lots 1, 2, 3 and 4 with a single east-west driveway to the south (**Figure 22**).

The LPP recommended a new pedestrian access to be created between Holden Street and Peace Park through the site. The LPP stated that even though access was available to Peace Park further north from Holden Street, the release of public land was an opportunity to provide additional public benefit in the form of a public access as a result of the rezoning.

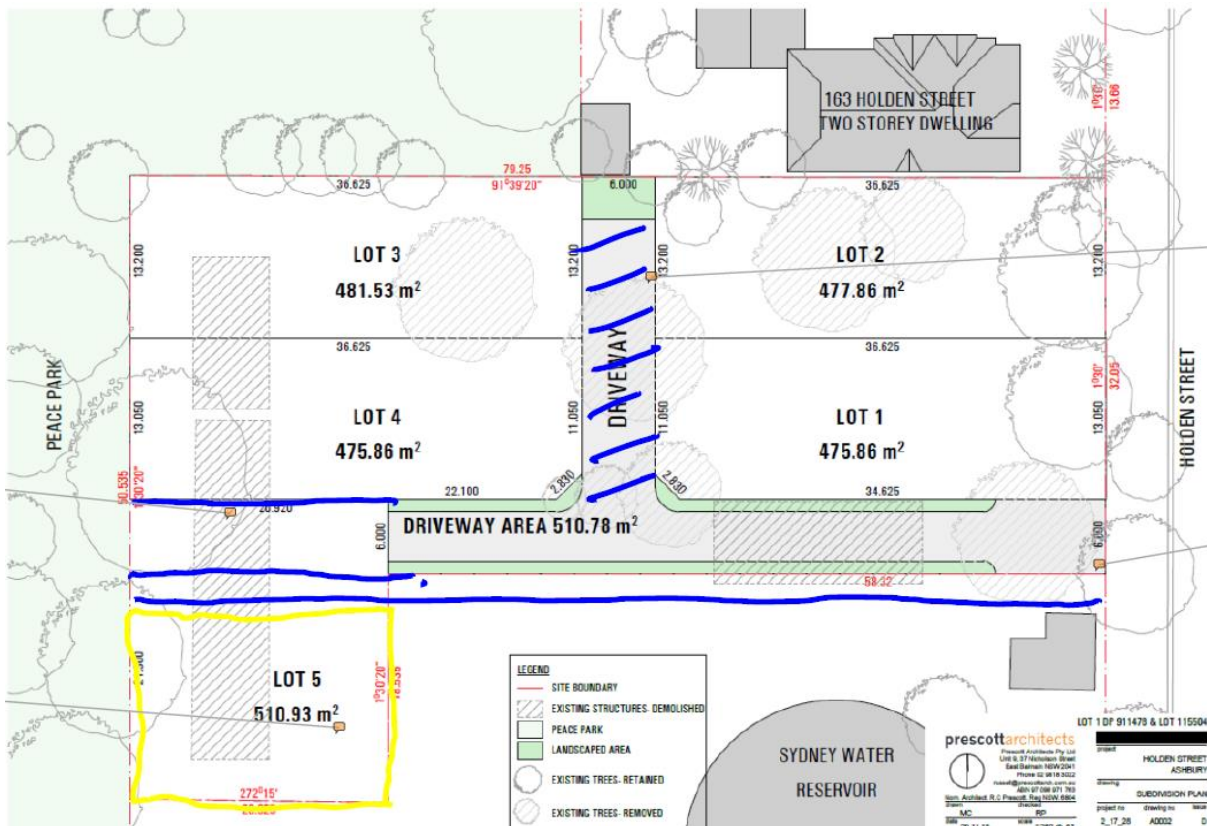
The LPP noted the former Office of Environment and Heritage provided detailed comments and recommended changes to the proposal, including the proposed allotment boundary (**Attachment F**). Council's Heritage Officer reviewed the proposal for the Sydney Water site and supported the comments received from the Office.

The LPP recommended that the application proceeds to Gateway subject to:

- the planning proposal be amended to delete most of lot 5 from the concept and the driveway be continued through from Holden Street to Peace Park;
- a separate public pedestrian access be provided from Holden Street to Peace Park over Sydney Water land within the curtilage of the Ashfield Reservoir;
- the area to be rezoned from SP2 (Water Supply System) to R2 Low Density Residential to be revised accordingly as a result of the above two points;
- apply a maximum building height of 8.5 metres to the part of the site to be rezoned to R2 Low Density Residential; and
- apply a minimum lot size of 460m<sup>2</sup> to the part of the site proposed for rezoning to R2 Low Density Residential.

The LPP also recommended that:

- a Remediation Action Plan (RAP) is required prior to the public exhibition of the planning proposal; supporting studies are to be updated to reflect the outcome of the RAP including the Site Audit Report (SAR);
- if Council's Affordable Housing strategy is adopted, then it is recommended that it be applied to the development at subdivision stage; and
- Council is to prepare a site specific DCP to be exhibited concurrently with the planning proposal to ensure that future development is sympathetic to the existing character of the surrounding area.



**Figure 22:** LPP recommended deleting lot 5, removing the north-south driveway and extending the east-west driveway from Holden Street through to Peace Park, including a pedestrian access (Source: LPP)

### GLN Planning - response to LPP

In a letter dated 30 April 2020 (**Attachment Q**), GLN Planning responded to the LPP's recommendations made on 6 April 2020 (**Attachment P**). The key concerns raised were:

- The provision of access to Peace Park across Sydney Water land is not appropriate as the land will remain as SP2 Infrastructure. Access to Peace Park currently exists further to the north from Holden Street via an access handle zoned RE1 Public Recreation adjacent to 149 Holden Street.
- The reduction in the developable areas.
- Site remediation should not be required at planning proposal stage and that an RAP could be undertaken by a future purchaser prior to construction work. The site's contamination status has been identified and it is more appropriate

to formulate an RAP in conjunction with a future DA to avoid unnecessary assumptions.

#### Council Resolution

On 26 May 2020, at their Ordinary Meeting (**Attachments R and S**), Council solved that:

- A planning proposal be prepared and submitted to the Department for a Gateway determination with a reduced area and no lot size control.
- Additional studies be undertaken after the Gateway determination and before the public exhibition, including a draft site-specific DCP, Statement of Suitability of Proposed Uses and Planning Agreement for the access way and Affordable Housing contribution;
- Council prepare and concurrently exhibit the site specific DCP to support the planning proposal; and
- Council request to be the plan making authority.

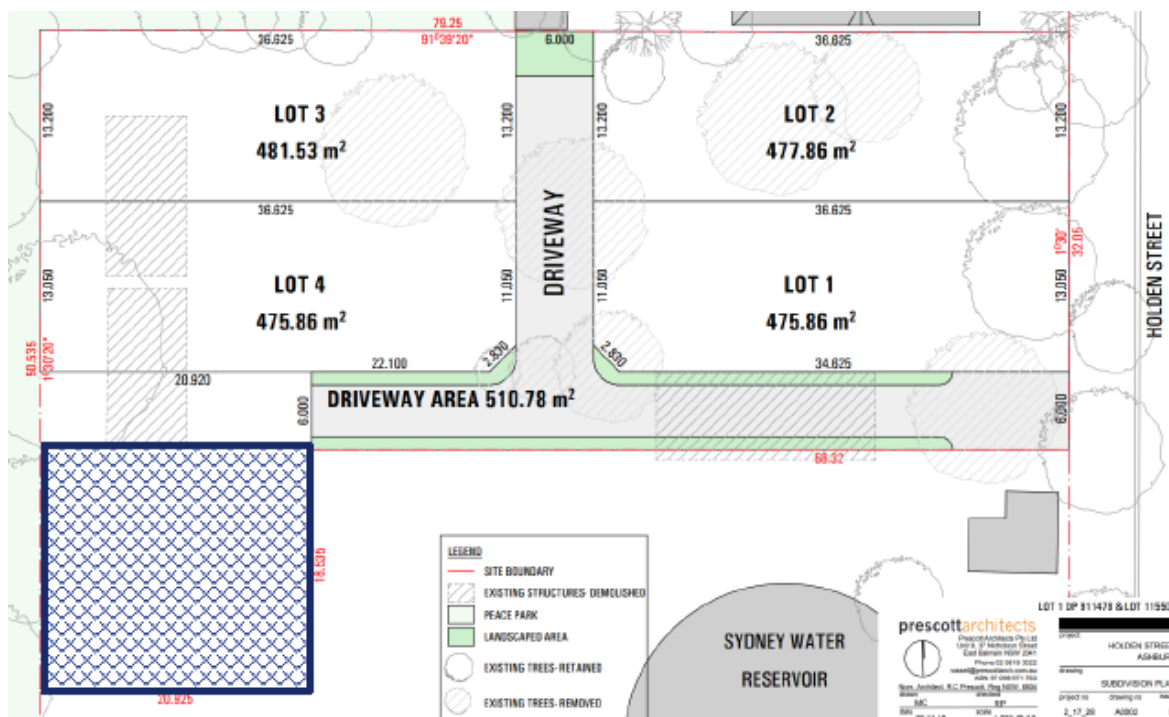
#### GLN Planning – response to Council’s changes to the planning proposal

On 8 September 2020, GLN Planning wrote to the Department (**Attachment T**) requesting that the rezoning of the site be considered based on the supporting reports as originally submitted to Council. The planning proposal was to rezone 2,934m<sup>2</sup> of land deemed to be surplus to Sydney Water’s needs.

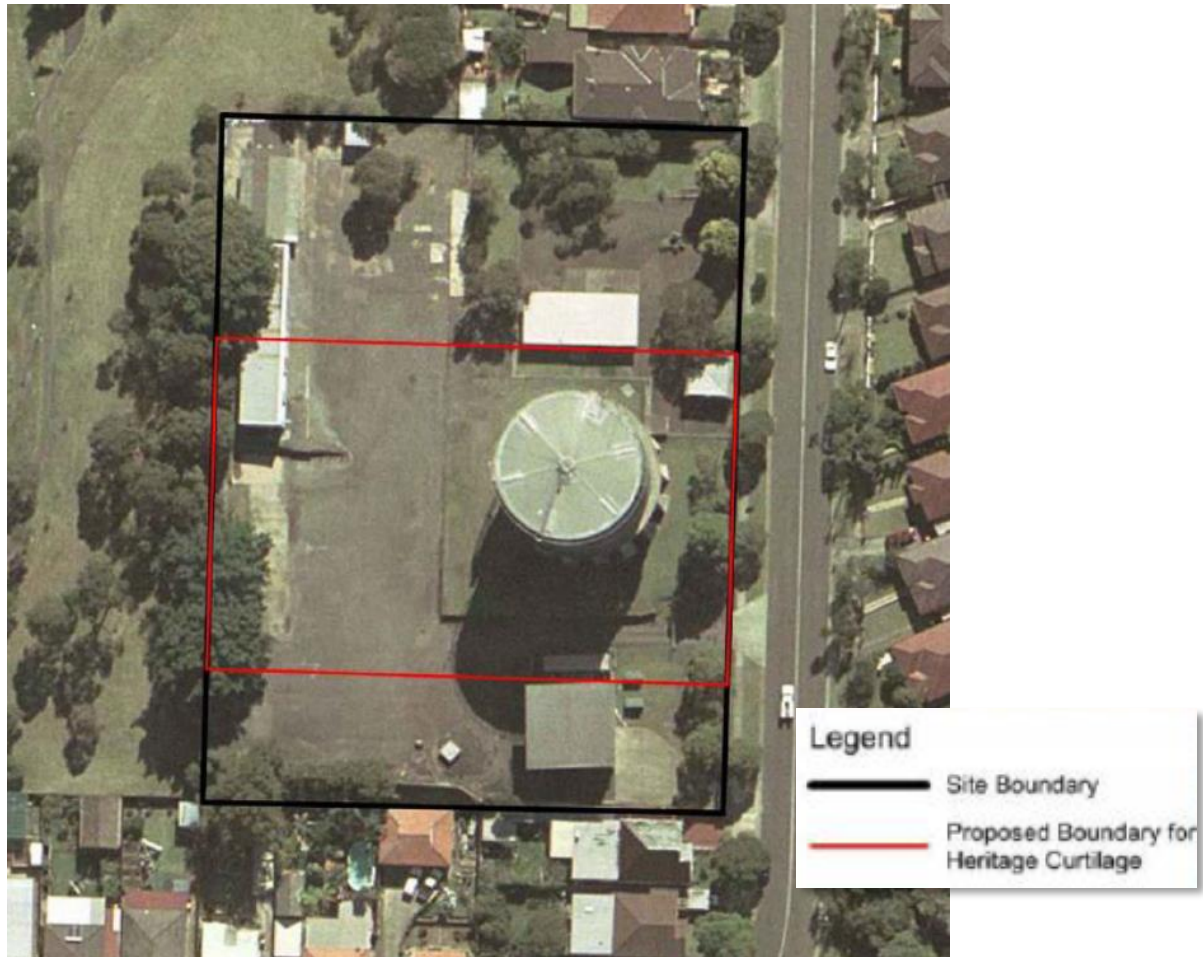
The key issues raised include:

- Council has amended the boundary of the land proposed to be rezoned (**Figure 23**), reducing the site from 2,934m<sup>2</sup> to 2,540m<sup>2</sup>, isolating approximately 20% of the site from future development and limiting the return to Sydney Water.
- The land to be rezoned has been determined as an appropriate curtilage for the heritage item.
- The issue with public access to Peace Park through the strip of land adjacent to 149 Holden Street, Ashbury should not be remedied by obtaining access over Sydney Water’s land or any other private land.





Council also discussed the opportunity for a formal through site link via the existing RE1 Public Recreation zoned land adjacent to 149 Holden Street. The land in question has been leased for over 60 years and prior to the ownership of the former brick pit was transferred to Council. The leasing arrangement would continue until a review of Peace Park has been undertaken. Council's urban design and heritage review raised concerns with access via this land due to safety consideration.



**Figure 24:** Diagram showing the recommended statutory boundary for Ashfield Reservoir under the State Heritage Register, as shown in the CMP for the heritage item (Source: Sydney Water, and shown in the Statement of Heritage Impact by Extent Heritage)

## 1.6 Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions because:

- the proposal is consistent with the objectives of the Greater Sydney Region Plan, South District Plan and local strategic plans;
- rezoning of part of the site to R2 Low Density Residential will facilitate economic and orderly use of land which is surplus to Sydney Water's requirements;
- the proposed rezoning and amendment to the curtilage of the Ashfield Reservoir are unlikely to adversely impact on the heritage significance of the item; potential impacts of future residential development could be addressed by a site-specific DCP;

- the proposed rezoning will facilitate low density residential development sympathetic to the character of the surrounding area that falls within the Ashbury Heritage Conservation Area; and
- it demonstrates strategic and site-specific merit in providing housing in an established residential area close to existing public transport, public open space and local services.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The planning proposal documentation states that rezoning of part of the land at 165-169 Holden Street, Ashbury will:

- enable low density residential development of surplus land owned and managed by Sydney Water that is compatible with the character of the Ashbury Heritage Conservation Area;
- provide housing adjacent to the public open space at Peace Park and existing local services and infrastructure; and
- enable the ongoing protection and conservation of the Ashfield Reservoir, which is listed on the State Heritage Register, Section 170 Register and the Canterbury LEP.

### **2.2 Explanation of provisions**

The planning proposal seeks to amend the Canterbury LEP 2012 to:

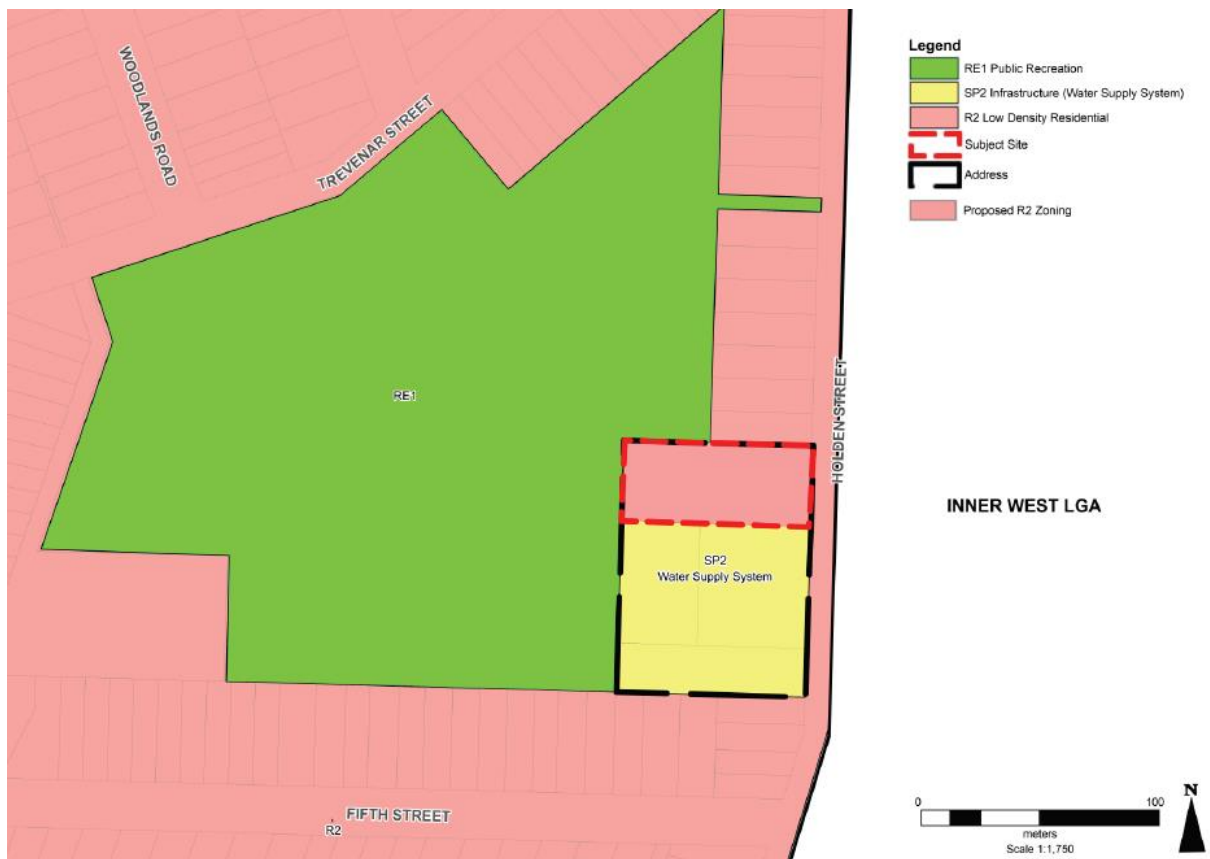
- rezone part of the site from SP2 (Water Supply System) to R2 Low Density Residential;
- introduce a maximum building height of 8.5 metres to part of the site; and
- amend the curtilage of the local heritage item listed in Schedule 5, known as Ashfield Reservoir (WS003), Item No. 11 by:
  - removing the heritage listing on part of Lot 1 DP 911478; and
  - extending the heritage listing to part of Lot 1 DP 115504.

A separate process will be initiated to amend the curtilage to the item (number 01622) listed under the State Heritage Register.

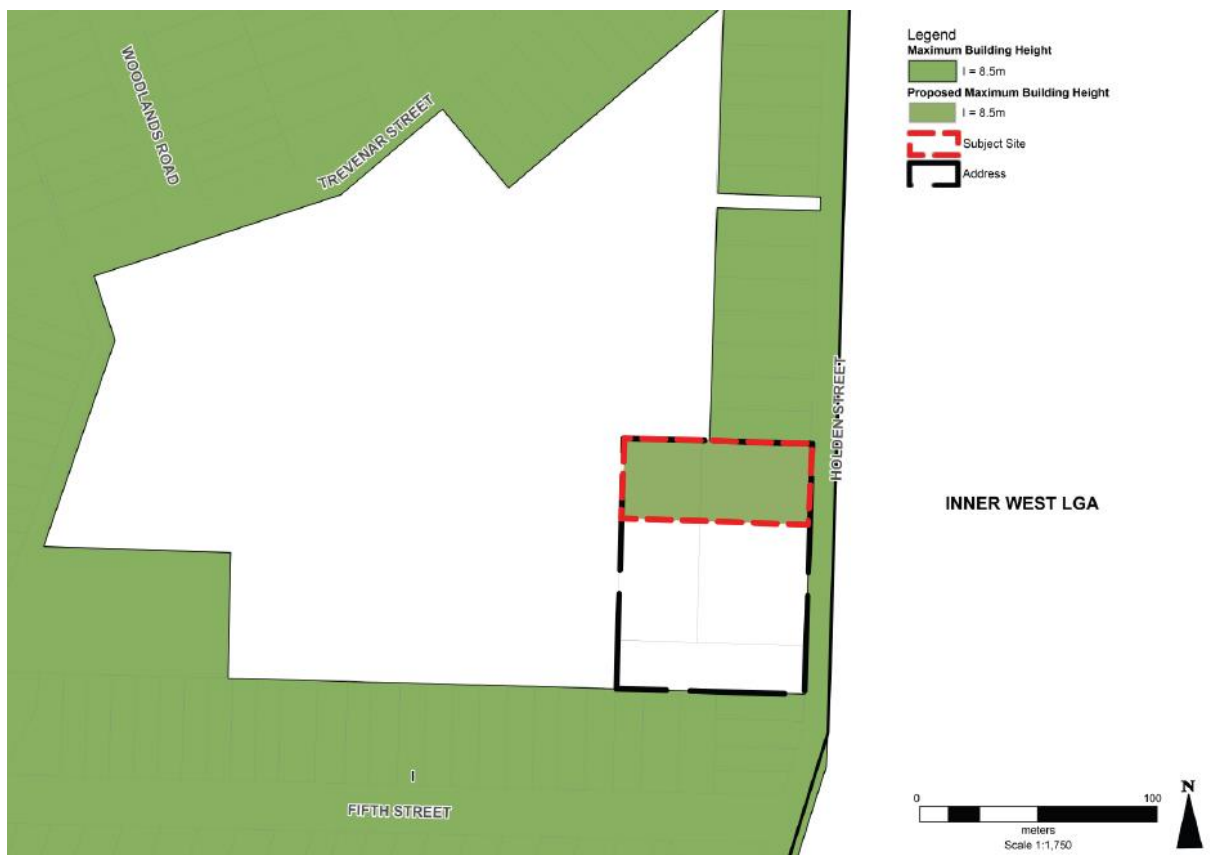
### **2.3 Mapping**

The proposal requires various amendments to the LEP maps. The proposal includes extracts from the current and proposed land zoning, height of building and heritage maps, which are adequate for the purposes of the proposal (**Figures 25 to 27**).

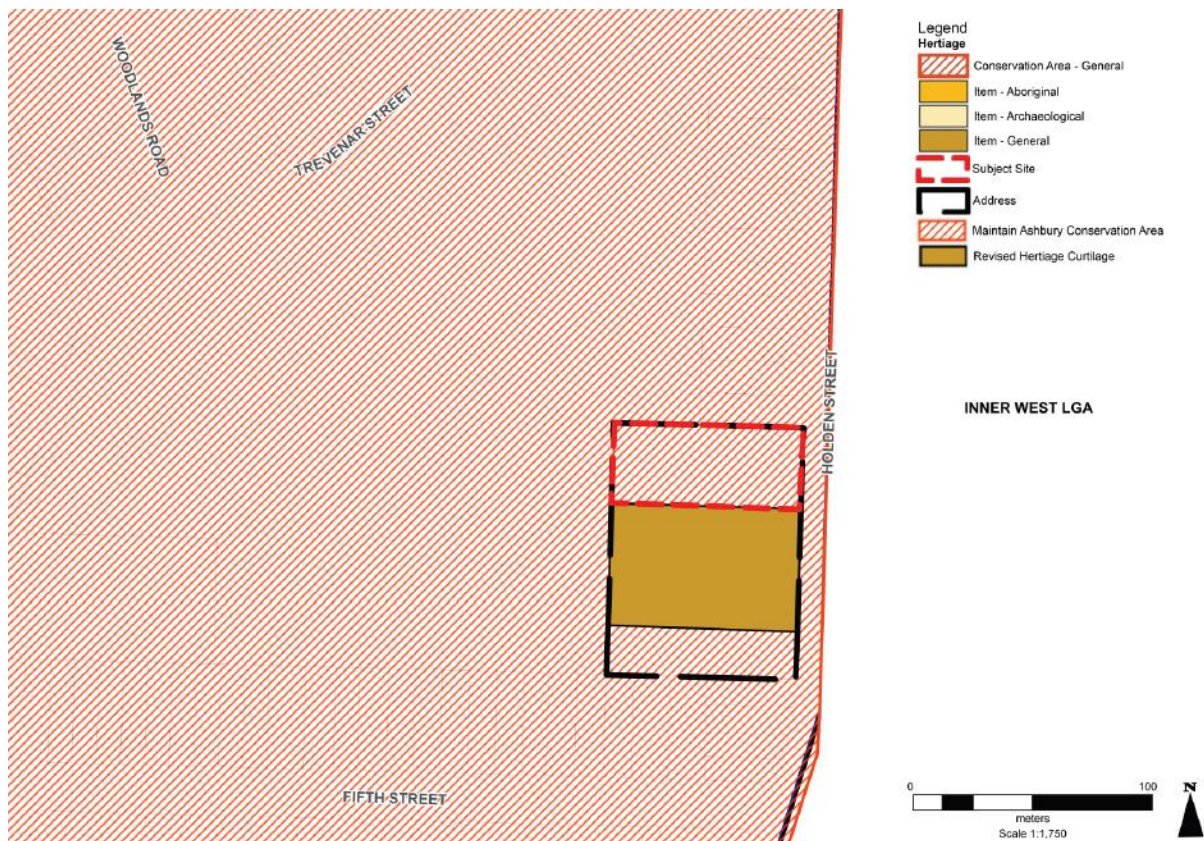




**Figure 25:** Proposed Canterbury LEP 2012 Land Zoning Map (LZN\_006)



**Figure 26:** Proposed Canterbury LEP 2012 Height of Buildings Map (HOB\_006)



**Figure 27:** Proposed Canterbury LEP 2012 Heritage Map (HER\_006)

### 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal states that it is not a result of any strategic study or report. The need to amend the Canterbury LEP 2012 has arisen to rezone surplus land owned by Sydney Water at 165-169 Holden Street, Ashbury.

The planning proposal states that it has strategic merit to proceed to Gateway subject to:

- receipt of a Statement of Suitability of Proposed Uses (SSPU) undertaken or reviewed by an accredited site auditor prior to exhibition; and
- a planning agreement and site-specific DCP to be exhibited concurrently.

The planning proposal is the appropriate means to rezone the land, introduce a building height control and adjust the curtilage of the heritage item. This will facilitate low density residential development that is compatible with the surrounding area.

Although the proposal does not specifically state that it has strategic or site-specific merit it will:

- provide low density residential development compatible with the character of the surrounding area;
- facilitate development that is sympathetic to the Ashbury Heritage Conservation Area;
- provide residential development close to existing public open space and infrastructure such as schools and sporting facilities; and
- enable the conservation and appreciation of a working heritage item.

## 4. STRATEGIC ASSESSMENT

### 4.1 District

#### South District Plan

The South District Plan, released in March 2018, contains planning priorities and actions to guide the growth of the South District while improving the district's social, economic and environmental assets.

**Table 1:** Relevant South District planning priorities

Planning Priority	Response
<i>Planning Priority S1 – Planning for a city supported by infrastructure</i>	The proposal is consistent with this priority as it will allow surplus land to be redeveloped for residential development in close proximity to existing infrastructure, including public open space, bus services, schools and utilities, in the established suburb of Ashbury.
<i>Planning Priority S5 – Providing housing supply, choice and affordability with access to jobs, services and public transport</i>	Rezoning the land will facilitate residential development to help achieve the housing targets outlined in the Greater Sydney Region Plan.  It has the potential to broaden housing diversity and choice (potentially in the form of dual occupancy and/or semi-detached dwellings) in an established area. This would be determined at the development application stage.
<i>Planning Priority S6 – Creating and renewing great places and local centres, and respecting the District's heritage</i>	The proposal is consistent with this priority as it aims to facilitate infill development which would be compatible with the character of the Ashbury Heritage Conservation Area.  The proposal would conserve and protect the Ashfield Reservoir as a functional heritage item. The curtilage to the item was considered in consultation with the then Office of Environment and Heritage.  The preparation of a site specific DCP will ensure future development will be sympathetic to the Reservoir and the surrounding dwellings. The DCP could also explore appropriate location and form of any pedestrian link from Holden Street to Peace Park.
<i>Planning Priority S16 – Delivering high quality open space</i>	The proposal will not provide additional public open space. However, a potential pedestrian connection from Holden Street to Peace Park will be explored as part of the preparation of a site-specific DCP to enhance public access to existing open space.

### 4.2 Local

#### Community Strategic Plan – CB City 2028 (CSP)

The CSP is a 10-year plan to guide the planning and development of the City of Canterbury Bankstown. This CSP will enable Canterbury Bankstown to accommodate some of Sydney's growing population while continuing to provide a thriving liveable community.



The proposal is consistent with the CSP as it will help to provide additional housing in an established area close to existing services, transport and public open space. It will facilitate housing that is sympathetic to the existing character of the Ashbury HCA.

### Connective City 2036 – Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS) is a 20-year strategic land use plan to guide Canterbury Bankstown's renewal and growth to accommodate an increased population of residents, workers and visitors by 2036. It was adopted by Council on 10 December 2019 and assented by the Greater Sydney Commission (GSC) on 16 March 2020.

The LSPS contains 10 Directions to integrate and coordinate land use and infrastructure and 10 Evolutions that detail major technical disciplines to achieve the vision of the plan.

The planning proposal is consistent with Evolution 6 – *Urban and suburban places, housing the city* and the following actions:

- Action 6.4 – *Protect the low density character of suburban neighbourhoods*
- Action 6.6 - *Protect environmental and built heritage*

The site will be rezoned for Low Density Residential, consistent with the existing zoning of the surrounding area. The proposal will also retain and conserve the Ashfield Reservoir with an appropriate curtilage.

Council intends to prepare a site-specific DCP to provide more detailed guidance for future development and the DCP would be exhibited concurrently with the planning proposal.

### Canterbury Bankstown Affordable Housing Strategy

On 23 June 2020, Council adopted the Affordable Housing Strategy. The Strategy contains a set of actions to provide affordable housing for the city.

Action 2.3 of the Strategy states:

*it is proposed to amend the Planning Agreement Policy to confirm with the Ministerial Direction (March 2019) and include a requirement for a 5% affordable housing contribution for planning proposals resulting in uplift or more than 1,000 sqm of residential floor space, unless otherwise agreed with Council.*

Council states that based on the concept, it is likely to trigger the 1,000m<sup>2</sup> threshold and the proponent would be required to meet the above provision.

The Council Resolution of 26 May 2020 states that a Planning Agreement for affordable housing contribution and the public access to Peace Park will be prepared post-Gateway and prior to exhibition. This is a matter of negotiation between Council and the proponent.

### Canterbury Bankstown Housing Strategy (CBHS)

The Canterbury Bankstown Housing Strategy (CBHS) was adopted by Council on 23 June 2020 to support the LSPS.

The planning proposal states that the R2 Low Density Residential zoning is consistent with the surrounding area in Ashbury. The proposal will deliver new

housing and potentially provide a choice of housing types. The proposal is consistent with the relevant strategic directions of the CBHS.

#### 4.3 Section 9.1 Ministerial Directions

The consistency of the proposal with the applicable section 9.1 Ministerial Directions are outlined in Table 2 below.

**Table 2:** Consistency with section 9.1 Directions

Section 9.1 Direction	Consistent	Comment
<b>2. Environment and Heritage</b>		
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 Ashfield Reservoir is listed on the State Heritage Register, Sydney Water's Section 170 Register and Schedule 5 of the Canterbury LEP.</p> <p>Council has consulted with the then Office of Environment and Heritage with regard to the planning proposal.</p> <p>The Office did not support the proponent's original scheme of having a dog-legged allotment extending to the rear of the retained Reservoir. The proposed curtilage to the Reservoir has since been amended by Council to create a uniform layout, consistent with the Conservation Management Plan for the site prepared by Sydney Water in 2005.</p> <p>The significant elements of the Reservoir, including the valve house, are located outside the land to be rezoned to R2 Low Density Residential.</p> <p>Consultation with Heritage NSW will be required by a Gateway condition. There will be opportunity for Heritage NSW to review the planning proposal and the site specific DCP which are intended by Council to be exhibited concurrently.</p> <p>It is noted that the Statement of Heritage Impact accompanying the planning proposal relates to a subdivision development application, although there is discussion on the modification to the heritage curtilage.</p> <p>It is considered that the potential impacts of the future residential development on the Reservoir could be addressed by the site specific DCP. A Gateway condition is recommended to require the DCP to be informed by specialist heritage advice. A detailed assessment of the impacts of future works will also be required at the development application stage.</p> <p>Having regard to the above, it is considered that the proposal is satisfactory having regard to the Direction.</p>
2.6 Remediation of Contaminated Land	No	<p>The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring contamination and remediation of the land are considered.</p>

Section 9.1 Direction	Consistent	Comment
		<p>A number of technical reports have been prepared to establish the contamination status of the site, including a preliminary and detailed site investigation and gap analysis, as well as a Site Audit Report.</p> <p>The above reports have confirmed that the site is not suitable for residential uses without remediation. However, the above reports do not expressly state that the site will be suitable for all the purposes permissible under the R2 Low Density Residential zoning following remediation.</p> <p>As such, the information submitted with the planning proposal is not sufficient to demonstrate consistency with this Direction.</p> <p>It is considered that a Remediation Action Plan (RAP) is required to demonstrate the land can be suitably remediated, and the method and feasibility of remediation.</p> <p>It is also recommended that the Environment Protection Authority be consulted due to the site's contamination status.</p> <p>Gateway conditions to the above effects are recommended.</p> <p>Refer to Section 5.2 for further details.</p>
<b>3. Housing, Infrastructure and Urban Development</b>		
3.1 Residential Zones	Yes	<p>Under this Direction, a planning proposal must broaden the housing choice, make efficient use of existing infrastructure, reduce the consumption of land for housing on the urban fringe and be of good design.</p> <p>The proposal is consistent with this Direction as the rezoning would allow additional dwellings in an existing, established urban area already serviced by infrastructure.</p> <p>A site specific DCP will ensure that any future development will be compatible with the surrounding residential area.</p>
3.4 Integrating Land Use and Transport	Yes	<p>The primary objectives of this Direction are to improve access to housing, jobs and services by active and public transport, reduce dependence on cars and support the efficient operation of public transport services. Under this Direction, a planning proposal must consider State government guidelines on improving transport choice.</p> <p>The planning proposal is consistent with this Direction as it will facilitate residential development in an area within walking distance from public bus services with connection to Canterbury and Hurlstone Park train stations. It is also within close proximity to local shops in Ashbury.</p>
<b>5. Regional Planning</b>		
5.1 Implementation of Regional Strategies	Yes	Refer to Section 4.1 of this report.
<b>6. Local Plan Making</b>		



Section 9.1 Direction	Consistent	Comment
6.2 Reserving Land for Public Purposes	No but minor	<p>The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and to remove reservations of land for public purposes when it is no longer needed.</p> <p>Clause (4) of the Direction provides that a planning proposal must not reduce existing zonings of land for public purposes without the approval of the relevant public authority and the Department. In this case the proponent of the rezoning is Sydney Water.</p> <p>Clause (7) provides that when a public authority requests the rezoning of land reserved for public purposes, the planning proposal authority must rezone the relevant land in accordance with the request.</p> <p>Consistent with the advice of the LPP, Council has amended the planning proposal to reduce the extent of the rezoning from 2,934m<sup>2</sup> to 2,540m<sup>2</sup>. The intent is to create a more uniform layout and to facilitate a driveway with a direct line of sight to Peace Park. The resultant reduction in land area proposed for rezoning is 394m<sup>2</sup>.</p> <p>The reconfiguration of the rezoned area is also a response to comments by the Office of Environment and Heritage.</p> <p>Based on the concept plan, the reduced extent of the rezoning could potentially accommodate 4 dwellings. Council has also removed the minimum lot size provision of 460m<sup>2</sup> from the planning proposal. The minimum lot size will be explored further as part of the preparation of the site-specific DCP.</p> <p>Despite the reduced area for rezoning to residential, the current proposal could still facilitate disposal and redevelopment of the subject part of the site, albeit in a more uniform layout. As such, the inconsistency with the Direction is considered to be minor and justified.</p>
<b>7 Metropolitan Planning</b>		
7.1 Implementation of a Plan for Growing Sydney	Yes	Refer to Section 4.1 of this report.

#### 4.4 State environmental planning policies (SEPPs)

The consistency of the planning proposal with the relevant State Environmental Planning Policies (SEPPs) is outlined in the following.

##### SEPP (Infrastructure) 2007

One of the aims of this policy is to allow the efficient development, redevelopment or disposal of surplus government owned land.

The planning proposal is consistent with the aim of this policy as the land has been determined to be surplus to Sydney Water's requirements. The rezoning of the land will enable its sale and redevelopment while providing adequate curtilage for the conservation and continued operation of the heritage listed Ashfield Reservoir.

### SEPP No 55 - Remediation of Land

The overarching objective of this SEPP is to provide a State-wide approach for the remediation of land to reduce the risk of harm to human health and the environment.

Clause 6 of the SEPP has been repealed and now forms part of Ministerial Direction 2.6 Remediation of Land. An assessment against the provisions of Direction 2.6 is provided in section 4.3 above.

The planning proposal involves rezoning of land to allow more sensitive residential uses. The site has been established as contaminated in the technical reports. Further discussion of contamination issues is provided in section 5.2 of this report.

### Other SEPPs and Regional Environmental Plans (REPs)

The planning proposal has omitted a number of SEPPs and REPs which are in force. Prior to exhibition, the planning proposal should be updated to address the following:

- SEPP (Activation Precincts) 2020;
- SEPP (Major Infrastructure Corridors) 2020;
- SREP No 8 (Central Coast Plateau Areas);
- SREP No 9 – Extractive Industry (No 2 – 1995);
- SREP No 16 – Walsh Bay;
- SREP No 20 – Hawkesbury-Nepean River (No 2 – 1997);
- SREP No 24 – Homebush Bay Area;
- SREP No 26 – City West;
- SREP No 30 – St Marys; and
- SREP No 33 – Cooks Cove.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The proposal will facilitate residential development that is in keeping with the character of the surrounding area. The heritage listed Ashfield Reservoir will be conserved and remain in operation. The proposal is not considered to result in adverse social impacts.

Council intends to negotiate with the proponent via a voluntary planning agreement to provide affordable housing and a public through-site link from Holden Street to Peace Park. While the above is outside the ambit of the planning proposal, any improved public access to the park and affordable housing would deliver social benefits.

### **5.2 Environmental**

#### **Heritage**

The Ashfield Reservoir is listed as a heritage item under the State Heritage Register, Sydney Water's Section 170 Register and Schedule 5 of the Canterbury LEP 2012.

A Statement of Heritage Impact (SHI), prepared by Extent Heritage, dated October 2018 (**Attachment M**) accompanied the proponent's planning proposal. The SHI was originally commissioned to support a development application for land subdivision, which includes a dog-legged allotment proposed for disposal and redevelopment.

The SHI states that the subdivision proposal would not result in detrimental heritage impacts as:

- The former depot on the land proposed for disposal is already obsolete and unused. The subdivision would not have substantive impact on the heritage significance of the Reservoir.
- The subject land is occupied by car parking and vacant sheds and the subdivision proposal will have no impact on the physical elements of the Reservoir and City Tunnel facilities located in the central and southern parts of the landholding.
- The subdivision proposal would not affect views and settings of the site and surrounding area.

The SHI was not prepared to assess the impacts of the subject planning proposal.

Council consulted with the then Office of Environment and Heritage (OEH) with regard to the planning proposal and a response was received by letter dated 26 April 2018 (**Attachment F**). The key matters raised are summarised below:

- The OEH did not support a dog-legged allotment (as contained in the proponent's original proposal) that extends to the rear of the retained Reservoir and the reduced curtilage. The proposed curtilage to the Reservoir and area to be rezoned have since been amended by Council. The modified curtilage to the heritage item now presents a uniform layout and no further objection was raised by OEH in this regard.
- The OEH supports the proposed residential zoning and building height and minimum allotment size controls. However, the minimum allotment size provision has been removed from the revised planning proposal submitted to the Department.
- The OEH also supports the preparation of a site-specific DCP to guide appropriate development.
- The OEH letter notes that the significant elements of the item focus on the central part of the site, including the 1910-1914 elevated reservoir and valve house as identified in the 2005 Conservation Management Plan (CMP) prepared by Sydney Water.
- The letter also notes that a Section 60 application seeking to demolish the 1967 office / depot building (within the portion of the site to be rezoned) has been approved by the Heritage Council.
- OEH considers that the planning proposal is unlikely to impact on the significance of the State listed item. It recommends that the existing 2005 CMP be updated to include policies for the management of future development on the surplus land. The updated CMP could form part of any future development application.



It is considered that the planning proposal should be supported to progress to Gateway as:

- The modified curtilage for the Ashfield Reservoir, as proposed by Council, is consistent with the 2005 CMP (**Figure 24**) and supported by OEH.
- The significant elements of the Reservoir are located outside the land to be rezoned to R2 Low Density Residential.
- Consultation with Heritage NSW could be required by a Gateway condition to provide opportunities for a further review of the planning proposal and the site-specific DCP, which are intended by Council to be exhibited concurrently.
- The potential impacts of the future residential development as a result of the rezoning could be addressed by a site-specific DCP. It is recommended that the DCP be informed by specialist heritage advice. This will be required by a Gateway condition.

### **Contamination**

The site has been used as a water storage and supply facility and is located to an old brick pit which was converted to a park. The site is considered to have contamination potential. A number of technical reports have been commissioned to assess the contamination status of the site and potential risks associated with existing and future land uses.

#### Stage 1 Preliminary site investigation, 14 May 2015, Parsons Brinckerhoff (PB)

The key findings of the Stage 1 preliminary site investigation (**Attachment G and H**) are as follows:

- The site has been in Sydney Water ownership since 1909 with the reservoir built between 1912 and 1914.
- The site is located adjacent to the former South Ashfield Brickworks, which may be the source of fill materials on site.
- The likely source of contaminants include: uncontrolled fills prior to 1912; waste dumping from demolition; storage of equipment, fuel and vehicles, with possible leaks and spills of oil and petrol; asbestos contamination from demolished and/or weathered buildings; lead paint and pesticides used to maintain the site.
- No evidence of contamination on the site or its vicinity was found in records of Council or NSW Environment Protection Authority (EPA).
- A stage 2 detailed site investigation is to be prepared.

#### Detailed site investigation – combined stage 1 and 2, 24 July 2015, Parsons Brinckerhoff

A detailed site investigation with analysis of sampling results was subsequently prepared (**Attachment I and J**). The sampling focused on that portion of the property to be subdivided and disposed (inclusive of the area to be rezoned). The key findings are as follows:

- The site meets the relevant criteria for the current commercial / industrial land use, with the exception of the presence of asbestos. Appropriate management

and removal of asbestos are recommended to meet the criteria even for the current use.

- Further assessment may be required to determine the impact of asbestos contaminated fills and their removal.
- Appropriate management and removal of asbestos, lead and polycyclic aromatic hydrocarbons (PAH) from the site are recommended to meet the criteria for the future low to medium density residential use.

The report does not provide any conclusive statement that the site will be suitable for residential purposes following remediation. It is also noted that above ground structures were not assessed as part of the study scope.

*Summary of contamination condition, 29 March 2019; Data Gap Analysis, 17 June 2019; Progressive Risk Management (PRM)*

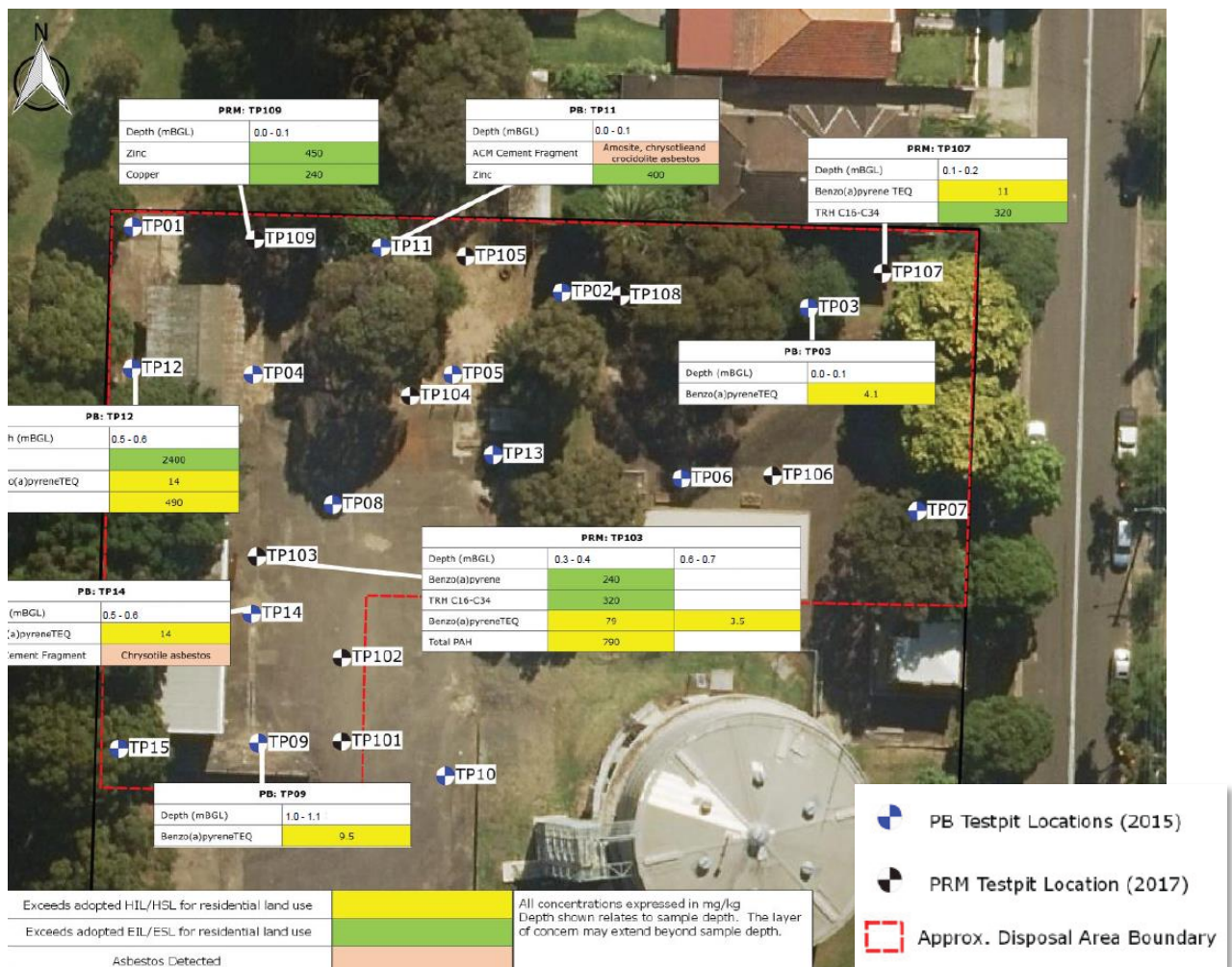
Two further reports by another consultant (**Attachment K** and **L**) were prepared which include a review of previous assessments undertaken by PB in 2015.

A data gap analysis and an assessment of hazardous ground gas (HGG) and groundwater were conducted to ascertain the suitability of the site for divestment for a residential use.

The key findings are as follows:

- With respect to HGG and groundwater quality, the site is suitable for residential purposes.
- Regarding soil/fill quality, the site is not suitable for residential uses in its current condition without remediation and/or appropriate management means. The site may contain unexpected material relating to impacted fill.

A Remediation Action Plan (RAP) should be prepared and remedial works undertaken to facilitate the proposed divestment of the site. The most effective strategy for remediation of contaminated fills would be the excavation and offsite disposal of all impacted fill, followed by site validation.



**Figure 28:** Location of test areas indicating potential contamination (Source: PRM, overlay by DPIE)

### Site audit report, 16 August 2019, JBS&G

A site audit report (SAR) and site audit statement (SAS) were prepared (**Attachment N**). The key findings of the report are summarised below:

- The SAR confirms that there are concentrations of contaminants in fill soils, which require remediation or management for the site to be suitable for residential uses, including accessible soils and gardens.
- There is potential for additional asbestos to be present in fill materials.
- The previous site investigations undertaken by other consultants (as discussed above) are considered to have met the *Contaminated Sites: Guidelines for the NSW Site Auditor Scheme* (EPA 2017). The nature and extent of contamination of soil, groundwater and ground gases on the site are considered to have been adequately assessed.

The SAR does not discuss how the site will be made suitable.

Based on the findings of various technical reports, it is considered that the nature and extent of site contamination have been appropriately established, and that the site in its contaminated state is unsuitable for the proposed residential use without remediation works.



The previous reports have not conclusively and expressly determined that the site will be suitable for the intended residential purpose, or uses that are permissible under the R2 Low Density Residential zoning after remediation.

Consistent with the recommendation of the PRM report, it is considered that a Remediation Action Plan is required to demonstrate the land can be suitably remediated for the land uses permissible under the R2 Low Density Residential zone, and the method and feasibility of remediation. This will be required as a Gateway condition.

A further condition is recommended to require consultation with the Environment Protection Authority due to the site's contamination status.

### **5.3 Economic**

The subject site is surplus to the requirements of Sydney Water and is currently underutilised. The proposal will facilitate the delivery of housing in an established residential neighbourhood in proximity to open space, public transport and local services. The proposal is considered to contribute to the orderly and economic use of land in an accessible location.

### **5.4 Infrastructure**

The subject site is located in an established area with existing utilities, schools and public transport such as buses to nearby train stations. The proposed zoning and size of the site are not expected to generate any excessive demand on existing services and infrastructure. Any required augmentation of utilities will be assessed at the development application stage.

## **6. CONSULTATION**

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### **6.1 Community**

The planning proposal states that public consultation will be carried out for a period of 28 days. An exhibition period of 28 days is considered appropriate for this proposal.

The public consultation will comprise of:

- displays on Council's website;
- notification in local newspapers; and
- written notification to affected and adjoining property owners.

### **6.2 Agencies**

The planning proposal states that consultation will be carried out with the following agencies/ public authorities:

- Ashbury Public School
- Ausgrid
- NSW Department of Education [note: the proposal should be referred to School Infrastructure NSW]
- NSW Heritage Office [note: this has been renamed as Heritage NSW]
- Transport for NSW
- Local bus operators

It is also recommended that the following public authorities be consulted with:

- Sydney Water – as landowner and operator of a functional water supply infrastructure on site
- Environment Protection Authority – due to the site’s contamination status
- Inner West Council – due to the site’s proximity to the Inner West LGA.

## **7. TIME FRAME**

Council has included a timeline for completion of the LEP by 31 weeks (approximately 7 months) after the Gateway determination is issued.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority.

As discussed above, the issue of site contamination has not been fully resolved, however, an appropriate condition could be imposed to require additional evidence to be submitted to the satisfaction of the Department as the Minister’s delegate prior to exhibition.

Given the scale and nature of the proposal, it is considered that Council should be given delegation as the local plan-making authority.

## **9. CONCLUSION**

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It is recommended that the proposal proceed subject to conditions because:

- the proposal is consistent with the objectives and priorities of the Greater Sydney Region Plan, South District Plan and local strategic plans;
- rezoning of part of the site to R2 Low Density Residential will facilitate economic and orderly use of land which is surplus to Sydney Water’s requirements;
- the proposed rezoning and amendment to the curtilage of the Ashfield Reservoir are unlikely to adversely impact on the heritage significance of the item; potential impacts of future residential development could be addressed by a site-specific DCP;
- the proposed rezoning will facilitate low density residential development sympathetic to the character of the surrounding area that falls within the Ashbury Heritage Conservation Area; and
- it demonstrates strategic and site-specific merit in providing housing in an established residential area close to existing public transport, public open space and local services.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. note that the consistency with the following section 9.1 Direction is unresolved and will require justification:
  - (a) 2.6 Remediation of Contaminated Land.

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

1. The planning proposal is to be amended to address the following matters prior to public consultation:
  - (a) Provide a detailed description of the site, including the site configuration, land area, existing structures and features, supported by a map clearly showing the allotment boundaries and their respective lot and DP numbers;
  - (b) Include a description of the surrounding area supported by photographs;
  - (c) Clarify that the planning proposal applies to the whole of Lot 1 DP 911478 and Lot 1 DP 115504 to reflect the proposed amendment to the curtilage of the Ashfield Reservoir under the local heritage listing;
  - (d) Provide a full description of all heritage listings affecting the site, including the State Heritage Register, Sydney Water's Section 170 Register and Schedule 5 of the Canterbury Local Environmental Plan 2012;
  - (e) Update the planning proposal to address the following State Environmental Planning Policies (SEPPs) and Sydney Regional Environmental Plans (SREPs) which are in force:
    - SEPP (Activation Precincts) 2020;
    - SEPP (Major Infrastructure Corridors) 2020;
    - SREP No 8 (Central Coast Plateau Areas);
    - SREP No 9 – Extractive Industry (No 2 – 1995);
    - SREP No 16 – Walsh Bay;
    - SREP No 20 – Hawkesbury-Nepean River (No 2 – 1997);
    - SREP No 24 – Homebush Bay Area;
    - SREP No 26 – City West;
    - SREP No 30 – St Marys; and
    - SREP No 33 – Cooks Cove.
  - (f) Provide details of any other heritage items in the vicinity of the proposal, including those within the neighbouring Inner West Local Government Area; and
  - (g) update the project timeline to reflect the progress of the planning proposal in Part 6.
2. A site-specific development control plan (DCP) is to be prepared to provide more detailed guidance and controls for future development on the site. In particular, the DCP is to address:
  - (a) future built form and spatial relationship with the heritage listed Ashfield Reservoir;
  - (b) compatibility with the surrounding dwellings within the Ashbury Heritage Conservation Area; and
  - (c) potential pedestrian access between Holden Street and Peace Park.

The DCP is to be informed by specialist heritage advice and exhibited concurrently with the planning proposal.

3. Prior to exhibition, further information is to be submitted to the satisfaction of the delegate of the Minister to justify inconsistency of the planning proposal with the following section 9.1 Ministerial Direction:
  - (a) 2.6 Remediation of Contaminated Land – A Remediation Action Plan (RAP) to demonstrate the land can be suitably remediated for the land uses permissible under the R2 Low Density Residential zone, and the method and feasibility of remediation.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. Consultation is required with the following public authorities:
  - Ashbury Public School
  - Ausgrid
  - Environment Protection Authority
  - Heritage NSW
  - Inner West Council
  - School Infrastructure NSW
  - Sydney Water
  - Transport for NSW
  - Local bus operator/s
6. The time frame for completing the LEP is to be **9 months** from the date of the Gateway determination.
7. Given the nature of the planning proposal, Council should be authorised as the local plan-making authority.



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