

Greater Sydney, Place and Infrastructure

IRF19/7103

Gateway determination report

LGA	Bayside
PPA	Bayside Council
NAME	Proposal to increase the maximum building height to the western part of the land from 22m to 44m.
NUMBER	PP_2019_BSIDE_005_00
LEP TO BE AMENDED	Botany Bay Local Environmental Plan 2013
ADDRESS	146-154 O'Riordan Street, Mascot
DESCRIPTION	Lot 13 DP 1232496 Lot 14 DP 1232496 Lot 15 DP 1232496 Lot A DP 402876
RECEIVED	21 August 2019
FILE NO.	IRF19/7103
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 Botany Bay Local Environmental Plan 2013 (Botany Bay LEP 2013) in the following manner:

- Increase the maximum building height permitted across the western part of the site from 22 metres to 44 metres; and
- Apply a new building height plane clause to the northern and eastern side boundaries of the site to provide appropriate building height setbacks to the adjoining land.

No changes are proposed to the existing B5 Business Development zone that applies to the site.

It is understood the planning proposal is intended to facilitate a combined hotel and serviced apartments development, although this is not adequately explained in the planning proposal. A Gateway condition will require the uses of the proposed development concept to be explained in the planning proposal prior to the commencement of community consultation (See Part 3 for more information).

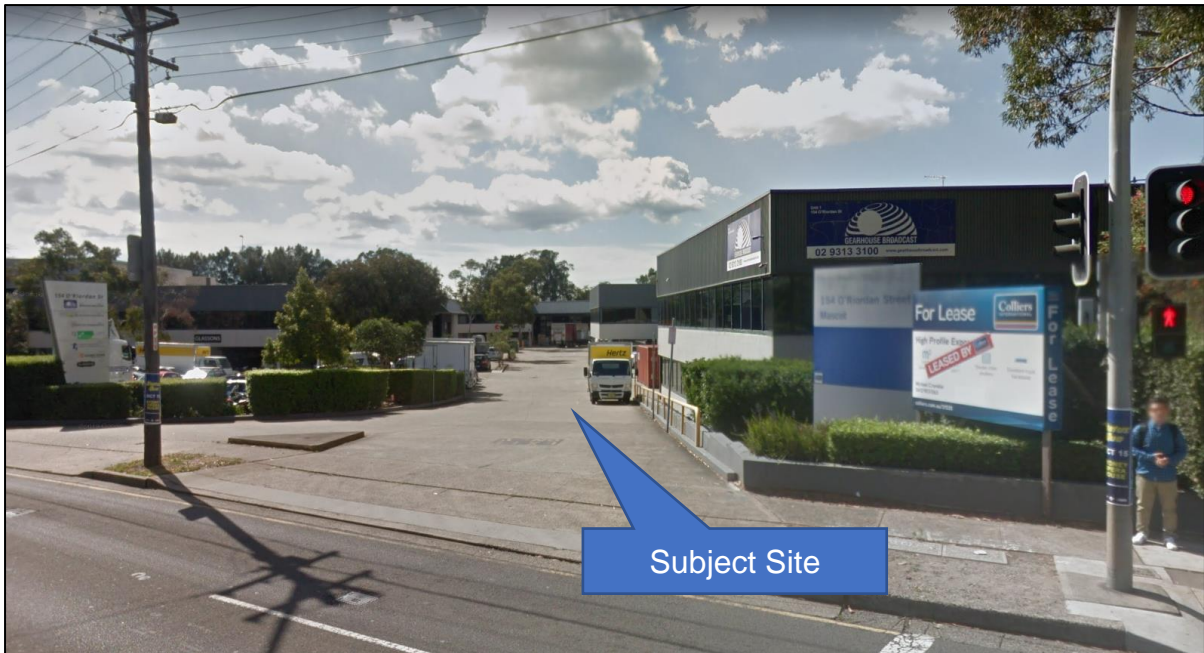


Figure 3: 154 O'Riordan Street viewed from the intersection of O'Riordan Street with Bourke Road

1.3 Existing planning controls

Under Botany Bay LEP 2013 the site:

- is zoned B5 Business Development;
- has a 22m maximum building height;
- has a 3:1 maximum floor space ratio; and
- is in the Mascot Station Precinct of the Key Sites Map.

As the site is in the Mascot Station Precinct, Clause 6.16 Design Excellence applies to the subject site. Clause 6.16(3) requires the consent authority to be satisfied that the development of a new building will exhibit design excellence.

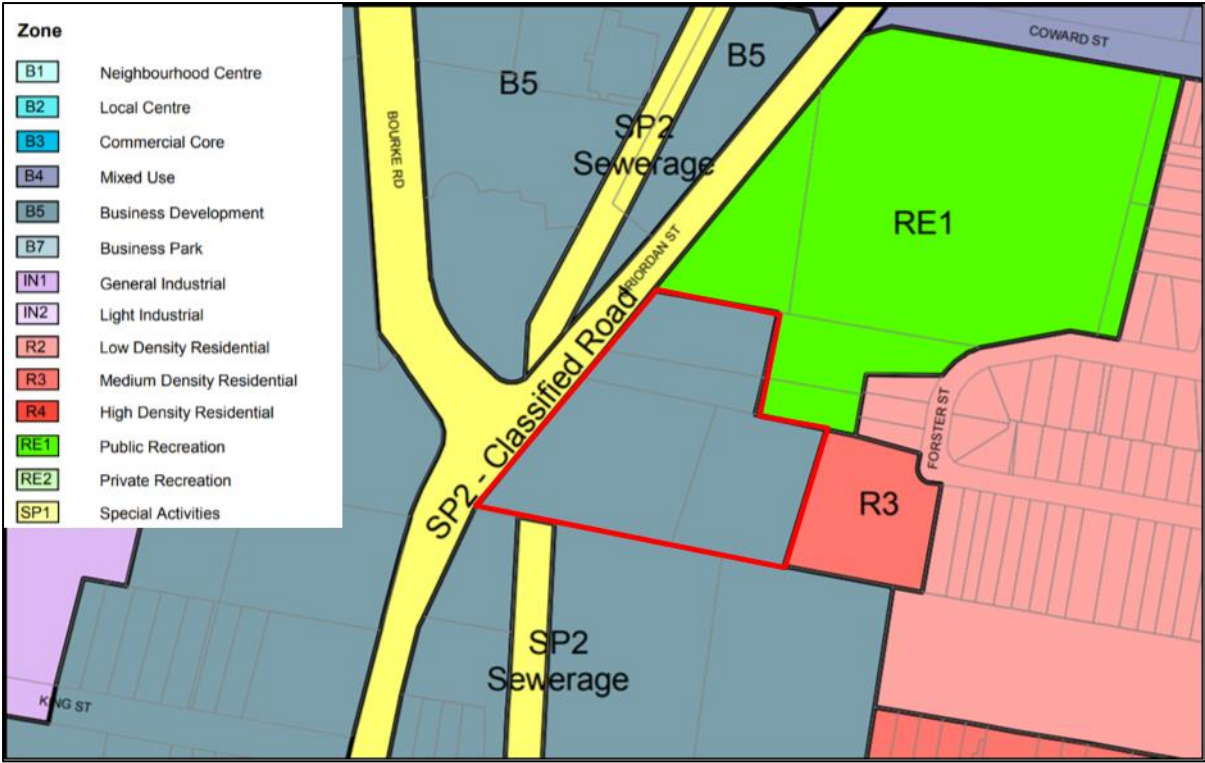


Figure 4: Land Zoning Map (B5)

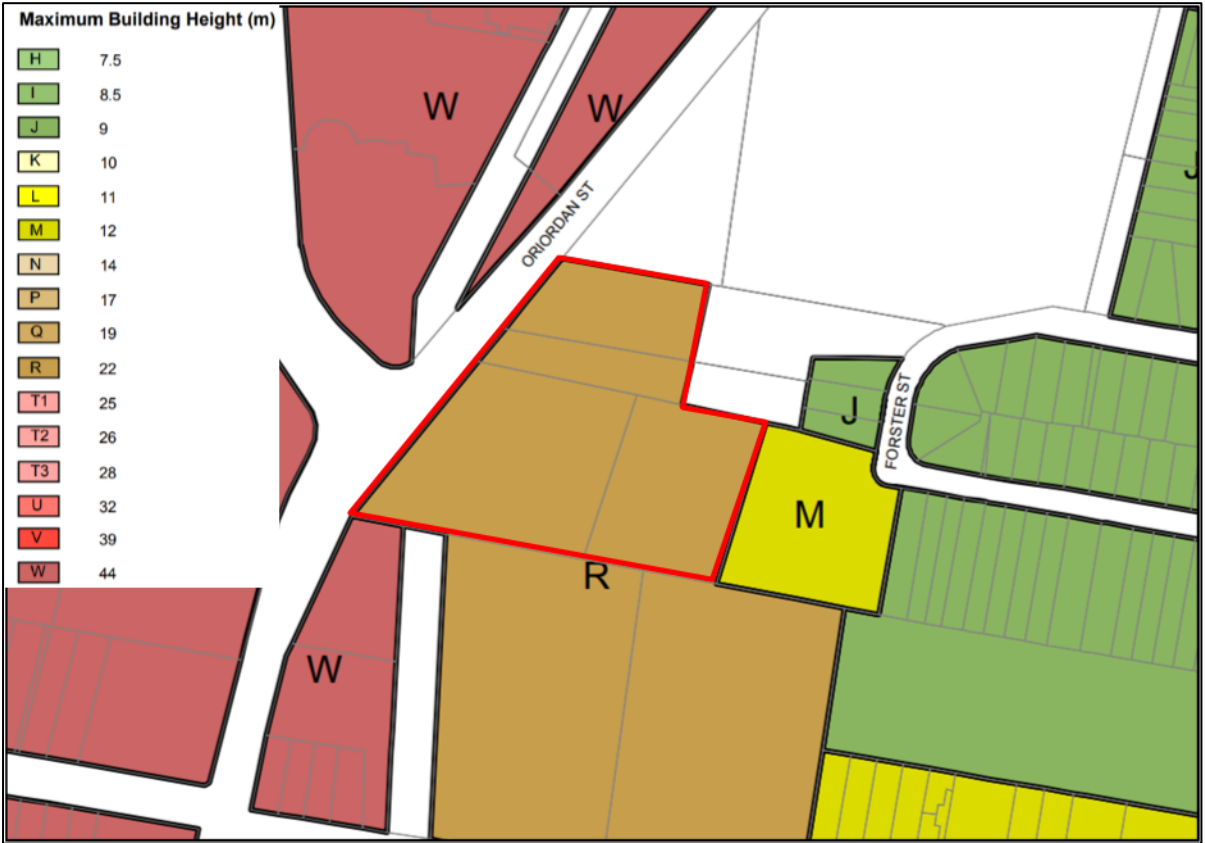


Figure 5: Building Height Map (R: 22m)

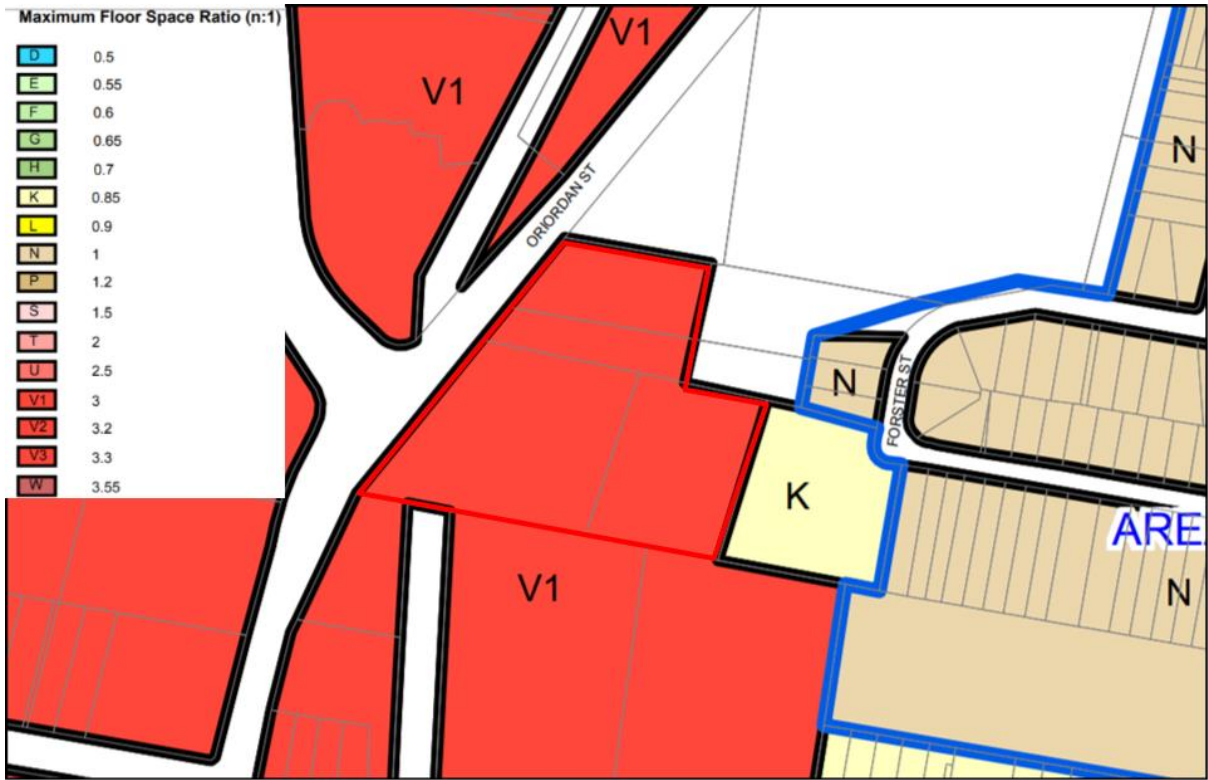


Figure 6: Floor Space Ratio Map (V1: 3:1)

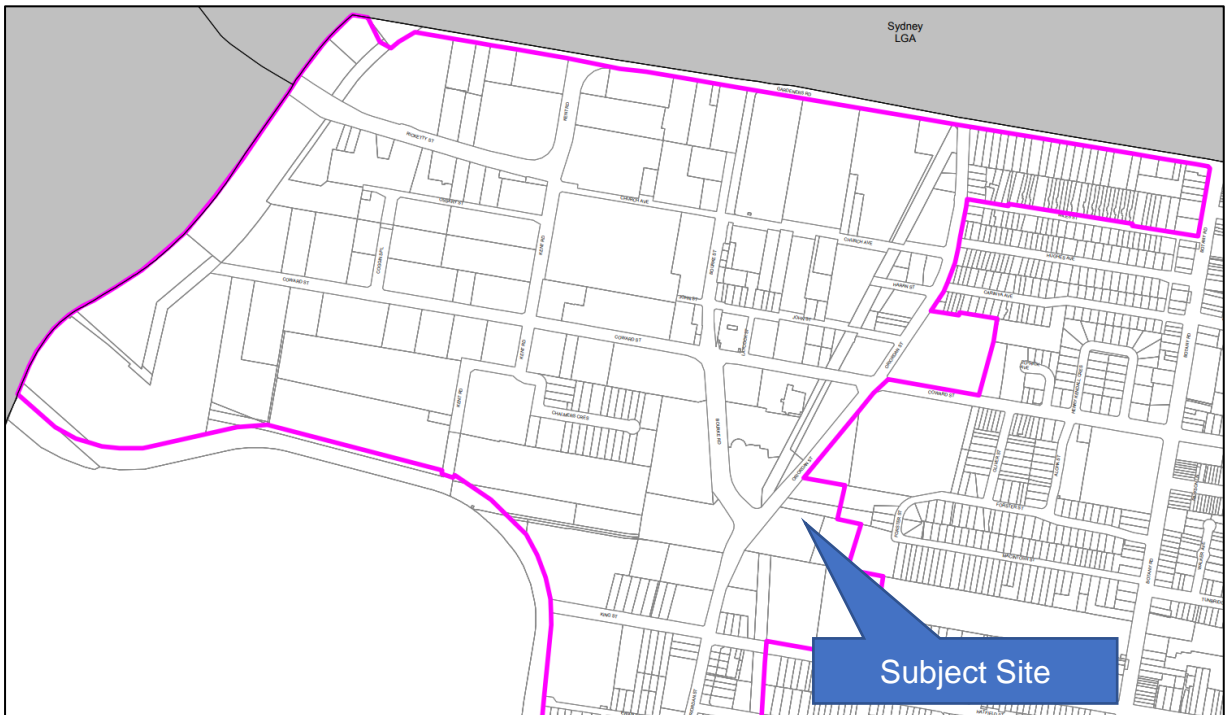


Figure 7: Key Sites Map (Mascot Station Precinct)

1.4 Surrounding area

The site is between Mascot Station and the Sydney Airport domestic terminals (**Figure 8**). It is at the eastern edge of the Mascot Station Precinct as identified in Botany Bay LEP 2013 (**Figure 7**).



Figure 8: Surrounding area

To the north of the site is Mascot Park (also known as Mascot Oval), which is identified in Botany Bay LEP 2013 as a local heritage item. The NSW State Heritage Inventory statement of significance describes the park as historically and aesthetically significant as a representative example of a traditional local oval and area of open space.

A paved Council carpark servicing the park and its access road to O'Riordan Street are located immediately to the north of the site. In addition, a paved basketball practice hoop surrounded by open grass space adjoins the north boundary to No. 146. A paved path provides pedestrian access from Forster Street along the park's southern boundary to the Council carpark and O'Riordan Street.

Adjoining the site to the east is a two storey multi-dwelling housing development fronting Macintosh Street in the R3 Medium Density Residential zone (**Figure 4**). Adjoining the site to the south are industrial warehouses which front King Street.

Both the Sydney Water stormwater easement from Mascot Park and the Southern and Western Suburbs Ocean Outfall Sewer easement traverse the site from north to south.

Transport for NSW is presently upgrading O’Riordan Street at the frontage of the site as per the Airport North Precinct project (**Figure 9**). The project involves widening O’Riordan Street, a new shared path along the site frontage and re-configuring the intersection at Bourke Road.



Figure 9: Airport North Precinct (Source: Review of Environmental Factors)

1.5 Summary of recommendation

It is recommended that the planning proposal proceed, subject to conditions for the following reasons:

- It demonstrates consistency with the planning framework for the Eastern City District Plan and SEPPs;
- The potential inconsistencies with section 9.1 Direction 3.5 and 6.3 are able to be resolved with further justification, as per the recommended Gateway conditions;
- It will assist in the delivery of additional employment opportunities in a well serviced area near Sydney Airport and other public transport infrastructure; and
- The increased height is in keeping with the built form context of the area and will have acceptable environmental impacts.

The recommended conditions include:

- Prior to community consultation, the planning proposal is to be updated and amended to:
 - (a) Identify the lots and deposited plans of the subject site;
 - (b) Provide an updated project timeline, outlining the anticipated timeframes for the plan making process;
 - (c) Clearly explain the intended use for the site as envisaged under the submitted concept design;
 - (d) Detail and justify the proposed building height plane clause;

- (e) Clearly address consistency with *Ministerial Direction 3.5: Development near regulated airports and defence airfields*.
 - (f) Provide an amended Urban Design Report which models the building height plane clause, including its visual impact and overshadowing impact.
- Prior to the commencement of community consultation, Council must consult with Sydney Airport and the Commonwealth Department of Infrastructure, Regional Development and Cities. Should Council be advised that permission is required in accordance with (5)(d) of s9.1 Direction 3.5 and/or the *Airports Act 1996*, this permission must be granted prior to the commencement of community consultation.
 - Prior to community consultation, the amended planning proposal responding to conditions 1 and 2 is to be forwarded to the Department for review and endorsement.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the planning proposal are to:

- Amend Botany Bay LEP 2013 controls to allow for more appropriate height controls along O’Riordan Street; and
- Provide for the orderly and economic development of land.

The planning proposal states that it intends to provide for a 44 metre height control which will result in a more balanced building form which transitions across the site to 22 metres to mitigate impacts towards lower density properties to the east.

The planning proposal considers it will provide for orderly and economic development by enabling the existing permitted density, a maximum FSR of 3:1, to be achieved while still maintaining a transition of building heights across the site. See Part 3 and 4 for more detail about the proposed development concept.

2.2 Explanation of provisions

The planning proposal intends to amend Botany Bay LEP 2013 by:

- Increasing the maximum building height shown for the land from 22m to 44m at the western part of the site (**Figure 10**); and
- Implementing a building height plane clause, or similar, applying to the northern and eastern side boundaries to make provision for appropriate building setbacks and height controls as they relate to the adjacent park and residential property to the east.

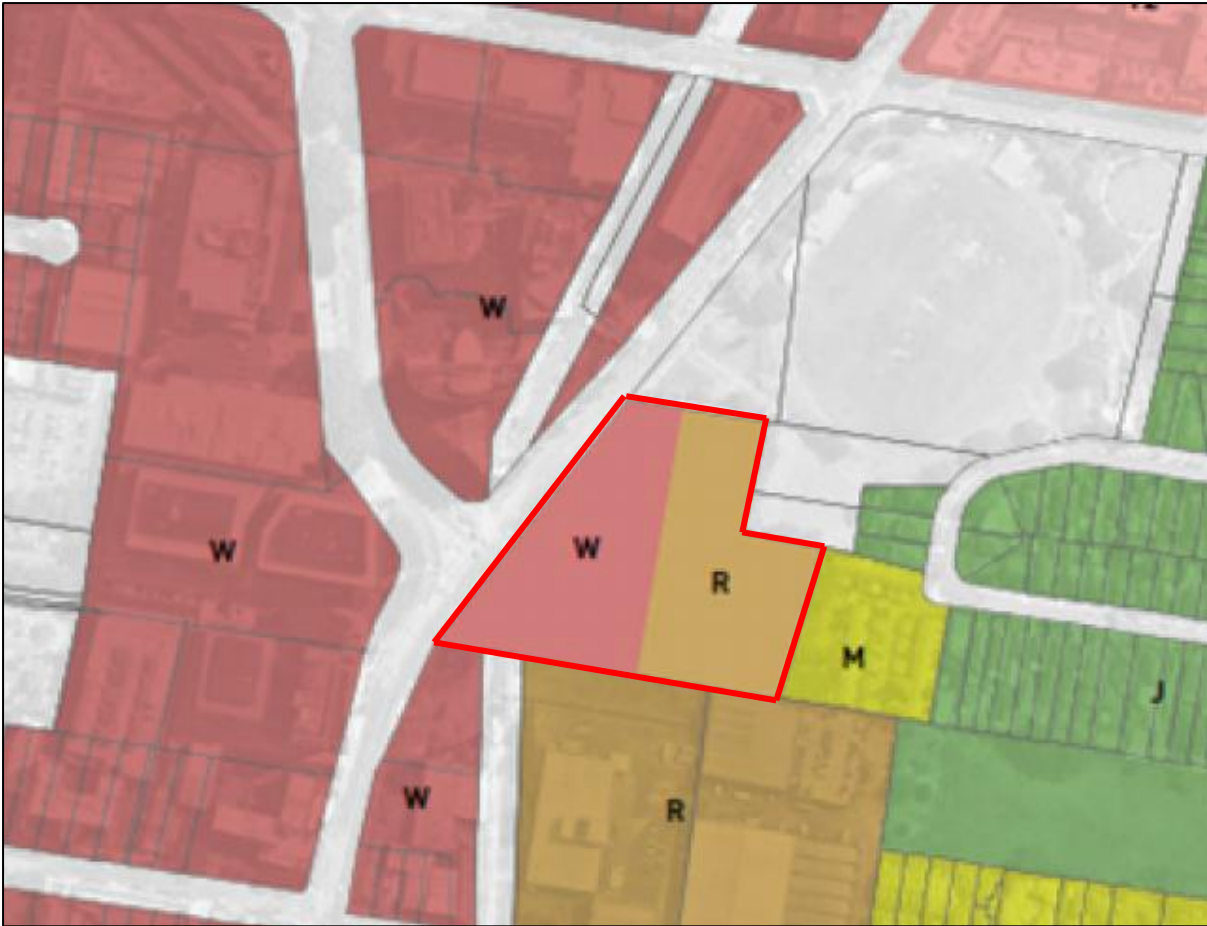


Figure 10: Proposed Height of Buildings Map (W: 44m & R: 22m)

The proposed amendment to the Height of Buildings Map is considered clear, however the proposed building height plane clause is not adequately detailed.

The planning proposal does not describe which provision of the LEP would be amended to incorporate the building height plane clause, and no detail of the plane itself is provided. It is noted that the staff report to Council (forming part of the Agenda for the meeting of 14 August 2019) recommends developing the building height plane clause in consultation with the Department following a Gateway determination.

This approach is considered acceptable, subject to Council providing detail of the proposed clause and sufficient justification for its use. This justification should include an amended Urban Design Report which models its impact upon surrounding land. These requirements form conditions of the Gateway determination to be satisfied prior to community consultation.

2.3 Mapping

The planning proposal seeks to amend the Height of Buildings Map Sheet HOB_001 in the manner depicted in **Figure 10**.

The mapping provided is sufficient for community consultation.

3. BACKGROUND

Development Application

On 10 January 2019, Toplace Pty Ltd lodged development application DA-2019/6 with Bayside Council for the demolition of existing buildings and construction of a mixed use development including two seven storey buildings and two six storey buildings containing 94 hotel rooms, 457 serviced apartments, a restaurant, commercial tenancies and basement parking. The development application has not been determined.

Planning Proposal

The planning proposal was submitted to Council in 2019 by the applicant of the DA and relates to the same site and a similar development concept. The Urban Design report submitted with the planning proposal recommends utilising the area of increased height to facilitate two 11 storey towers and one 13 storey tower rather than the three six storey towers proposed by the development application (**Figure 11**).

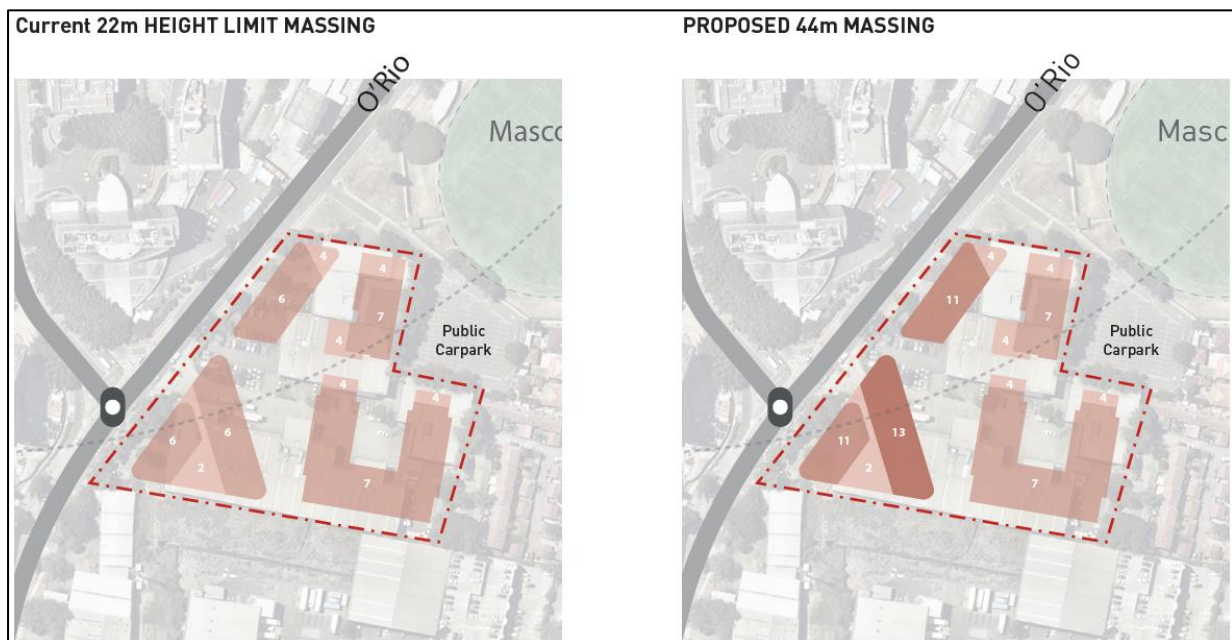


Figure 11: Proposed height of development concept compared to DA-2019/6

Bayside Local Planning Panel

The Bayside Local Planning Panel (LPP) considered the planning proposal at its meeting of 16 July 2019. It is understood that the intent of the planning proposal is to facilitate additional height to buildings in the development under consideration by Council. Should the planning proposal be supported, a second development application would be lodged with Council to propose additional height to the three western towers (as per **Figure 11**). The LPP recommended to Council that the planning proposal be submitted to the Department for Gateway determination subject to the following amendments:

- The 22m height limit be retained for 15m from the northern boundary of the site; and

- The Department be requested to include a Gateway condition requiring the applicant to prepare a site-specific DCP or to lodge a concept development application in consultation with Council staff to provide additional setbacks to O’Riordan Street and Mascot Oval, additional deep soil planting, and to achieve an appropriate relationship with the public open space.

At its meeting of 14 August 2019 Council considered an officer report that recommended implementing a building height plane clause rather than adopting the LPP’s suggested amendments. The report recommends that:

- a site specific DCP or concept DA is unnecessary as Botany Bay DCP 2013 already provides an appropriate framework to guide future development for commercial purposes and specific objectives for the Mascot Business Development Precinct;
- a building height plane clause would be more effective than a site specific DCP in applying a setback to the height of future buildings from the northern side boundary; and
- a building height plane clause would also effectively mitigate the impact of future buildings to the Council carpark and residential dwellings to the east.

Council resolved at its meeting to endorse the Council officers’ recommendation.

4. NEED FOR THE PLANNING PROPOSAL

The planning proposal is justified by an accompanying Urban Design Report by PTW Architects. The report recommends additional height be permitted at the site for the following reasons:

- By incorporating appropriate building setbacks, landscaping and external circulation areas, the existing maximum permitted FSR of 3:1 is unachievable by the proposed development within the 22m height control **(Figure 12)**;
- An increase in height limit to 44m across the western part of the site would allow approximately 14,200sqm in additional GFA to be distributed in three towers (of 11 and 13 storeys) within the 3:1 FSR control without adverse amenity impacts to the surrounding land;
- The site context includes the 14 storey Pullman Hotel, 11 storey Holiday Inn, Travelodge of 14 storeys and 10 storey commercial development **(Figure 8)**;
- The proposed 44m height is consistent with the control of sites to the south and west along O’Riordan Street, while the subject site’s 22m is an exception **(Figure 5)**;
- Taller buildings will permit views and enhanced passive surveillance of Mascot Park;
- A taller street wall will reduce traffic noise to dwellings to the east;
- A 22m height limit would be retained at the eastern part of the site to provide an appropriate transition to the adjoining medium density residential property; and
- The site’s applicability under Clause 6.16 of Botany Bay LEP 2013 ensures that a future development must demonstrate design excellence.

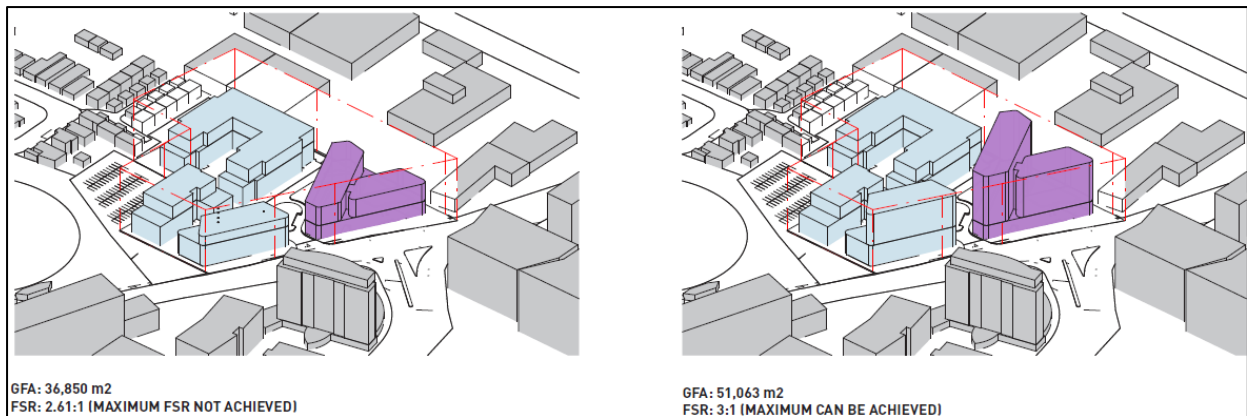


Figure 12: Comparison of GFA given appropriate building setbacks and forms between the lodged DA under the 22m height limit and a 44m limit

It is noted that the planning proposal document has not been amended to reflect the Council resolution to include a height plane control. As such, no justification for the height plane clause is provided. A condition of the Gateway determination is recommended to require Council to provide detail and justification of the proposed clause prior to community consultation, including a revised Urban Design Report.

5. STRATEGIC ASSESSMENT

5.1 District

Eastern City District Plan

The *Eastern City District Plan* gives effect to the Region Plan, *A Metropolis of Three Cities* and encompasses the Bayside LGA. Section 3.8 of the *Environmental Planning & Assessment Act 1979* requires the planning proposal authority to give effect to the relevant district plan.

The planning proposal is consistent with the relevant outcomes and directions of the District Plan in the following manner:

- The proposal is not considered to adversely impact the value of the adjoining local item of environmental heritage, Mascot Oval, consistent with Planning Priority E6;
- The proposal supports airport-related land uses by permitting a more orderly and economic use of the land, such as the hotel and serviced apartment development envisaged by the planning proposal, consistent with Planning Priority E9;
- The proposal will not allow buildings to penetrate prescribed airspace for Sydney Airport, subject to the required consultation with Sydney Airport and the Commonwealth Department of Infrastructure, Transport, Cities and Regional Development stipulated in the recommended conditions of the Gateway determination, consistent with Planning Priority E9; and
- Facilitating greater investment in business opportunities and jobs in the Green Square-Mascot strategic centre, consistent with Planning Priority E11.

5.2 Local

The planning proposal is not inconsistent with the relevant strategic directions of Bayside Community Strategic Plan 2030.

5.3 Section 9.1 Ministerial Directions

The following section 9.1 Ministerial Directions are relevant to the planning proposal:

- 1.1 Business and Industrial Zones;
- 3.4 Integrating Land Use and Transport;
- 3.5 Development Near Regulated Airports and Defence Airfields;
- 4.1 Acid Sulfate Soils;
- 4.3 Flood Prone Land; and
- 6.3 Site Specific Provisions.

The planning proposal is consistent with the relevant directions except for the following which require further information.

Direction 3.5 Development Near Regulated Airports and Defence Airfields

A preliminary Aeronautical Impact Assessment accompanies the planning proposal and concludes that the proposed building height would not penetrate the limitation or operations surfaces associated with Sydney Airport.

However, the site is located within the 51m AHD OLS contour and proposes a building height of 44m above ground level (existing). The existing ground level in the area of the proposed height increase is approximately 8-11m above AHD. As such, from the information provided it appears that the proposed building height may penetrate the OLS contour affecting the site.

Section 5(d) of Direction 3.5 requires permission to be granted from the relevant department of the Commonwealth prior to undertaking community consultation where a planning proposal seeks to allow penetration of the OLS, or other controlled activities defined in the *Airports Act 1996*.

Given the potential of the planning proposal to allow a controlled activity (regardless of the conclusion of the Aeronautical Impact Assessment), a condition of consent is included requiring Council to consult with Sydney Airport and the Commonwealth Department of Infrastructure, Transport, Cities and Regional Development prior to community consultation in accordance with section (5) of the Direction.

Should Council be advised that permission is required in accordance with (5)(d) of s9.1 Direction 3.5 or the *Airports Act 1996*, this permission must be granted prior to the commencement of community consultation.

In addition, given the discrepancy between the Aeronautical Impact Assessment and the apparent proposed allowance of a controlled activity, the planning proposal is to be updated to clearly address consistency with Direction 3.5.

A Gateway condition requires Council to re-submit the planning proposal to the Department prior to community consultation for endorsement that compliance with s9.1 Direction 3.5 has been achieved.

6.3 Site Specific Provisions

The proposed height plane clause is not adequately described in the submitted planning proposal document, however it would appear to be inconsistent with the requirements of (4)(c) of Direction 6.3:

A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- a) allow that land use to be carried out in the zone the land is situated on, or*
- b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

Should the height plane clause impose an additional development standard or requirement to those already contained in Botany Bay LEP 2013, the planning proposal will need to be amended to justify the inconsistency with Direction 6.3(c). Given that the draft clause was not included in the planning proposal, this assessment cannot be made at this time.

A planning proposal may be inconsistent with Direction 6.3 if the provisions are of minor significance. These matters should be addressed as a condition of the Gateway determination which requires Council to provide further detail and justification of the proposed height plane clause for the Department's endorsement prior to community consultation.

5.4 State environmental planning policies (SEPPs)

State Environmental Planning Policy No 55-Remediation of Land

The proposal does not involve a change to the zoning of land which would permit a change of use of the land, and as such, the provisions of Clause 6 do not apply.

However, it is noted that the planning proposal is accompanied by a Detailed Site Investigation report. The report identifies that the land is contaminated with regards to residential land use criteria. The report also identifies that Acid Sulfate Soils are likely present on the site. As such, the report advises that the site can be made suitable for a residential land use following the implementation of a remedial action plan and a data gap investigation to address parts of the site which are presently inaccessible, such as those containing buildings.

Given that the provisions of SEPP 55 do not apply to the subject planning proposal, it is considered appropriate that contamination matters be further considered at the development application stage.

The planning proposal is consistent with all other relevant SEPPs and deemed SEPPs.

6. SITE-SPECIFIC ASSESSMENT

6.1 Social

The proposal is not considered to result in any adverse social impacts because:

- No change to the permitted land uses is proposed.
- The additional proposed height will assist in the delivery of employment opportunities for the community.

- No significant impacts will occur to the adjoining area of public open space thereby not impacting on the function of the community and its sense of place (see part 6.2 below).

6.2 Environmental

Heritage

The proposal is accompanied by a Statement of Heritage Impact (SHI) which addresses the impact of the proposal upon the heritage significance of the adjoining local heritage item, Mascot Park. The SHI concedes that the increased height of buildings to the site's west would contribute to enclosing the park, but it considers that the retention of the 22m limit to the east would ensure that buildings step down in a sympathetic manner. As a result, the SHI concludes that the impact of the proposal upon the setting of the park and views from it to the surrounding land would be minor.

Council's heritage consultant reviewed the SHI and advised in the Council report:

- The park is to the north-east of the site and as such the proposed height increase would not result in additional overshadowing of the open space or oval;
- The park's existing context is highly developed;
- The proposed change in height is consistent with the heights on the western side of O'Riordan Street;
- The State Heritage Register notes that the park largely does not engage with surrounding high density housing uses and instead has an inward focus, giving it an internal integrity not common in local open space; and
- This inward focus of the park, along with its size and corner location, will ensure that the proposal will not adversely affect its heritage significance.

As such, the Department endorses the view that the proposal will not result in an unacceptable adverse impact upon the heritage significance of Mascot Park. A Gateway condition requires consultation with Heritage, Department of Premier and Cabinet to also provide comment. A detailed assessment of the interface of the proposed development with the park can be effectively undertaken at the development assessment stage.

Overshadowing

The Urban Design Report includes shadow diagrams which compare the overshadowing of the development proposed by DA-2019/6 with the development envisaged by the planning proposal. The shadow diagrams indicate no area of additional overshadowing to the residential dwellings to the east as a result of the proposed height increase of buildings. Additional areas of overshadowing would occur between 9am and 3pm to the industrial and commercial properties to the south. Since these properties are all in Zone B5 Business Development, and residential dwellings are prohibited, this overshadowing impact is considered acceptable.

The proposed building height plane control may alter or reduce the overshadowing impact of the development further. As a condition of the Gateway determination, Council is to provide an amended Urban Design Report to demonstrate the overshadowing impact of the building height plane.

Interface with public domain & visual impact

The Urban Design Report includes a number of photomontages of the proposed development (**Figure 13**). The images indicate that the impact of the proposal would be to add additional storeys to the buildings already proposed by DA-2019/6 along the O’Riordan Street frontage.



Figure 13: Render of proposed development concept looking to the south along O’Riordan Street (the proposed height increase is limited to the towers along the street frontage)

Given the proposed 44m building height is oriented along the western frontage to O’Riordan Street rather than across the northern boundary, the visual impact of the proposed building height upon Mascot Park is considered acceptable. The context of O’Riordan Street already incorporates a number of 10-14 storey commercial buildings, with further buildings of 44m permitted on both sides of the road towards Sydney Airport.

As such, the proposed building height is considered consistent with the present and desired future built form of O’Riordan Street. The detailed interface of the proposed development with Mascot Park and O’Riordan Street is an appropriate consideration at the development assessment stage.

The proposed building height plane may alter or reduce the visual impact of the proposal further. As a condition of the Gateway determination, Council is to provide an amended Urban Design Report to demonstrate the visual impact of the proposed building height plane.

Traffic and access

No change to the permitted uses or FSR is proposed. Regardless, the proposal is accompanied by a Traffic and Parking Impact Statement which concludes that ongoing traffic improvements in the airport precinct are underway in response to the projected development of the area, including the subject site. The statement concludes that the proposed development is in accordance with the existing strategic planning intent (by way of its zoning as B5 Business Development), and as such, the broader impact of development at the site has already been considered.

Given no increase in FSR or change to the permitted land uses is proposed, the Department considers the planning proposal acceptable with regards to traffic impact. Consultation with Transport for NSW is required as a Gateway condition to ensure that the planning proposal is acceptable. Further detailed consideration of the traffic impacts of the development proposal is appropriate at the development assessment stage.

Pedestrian and bicycle access will be substantially improved as a result of the Airport North Precinct project (**Figure 9**). The project involves widening O’Riordan Street, a new shared path along the site frontage and re-configuring the intersection at Bourke Road. The detailed assessment of the pedestrian and vehicular interface with the site frontage is appropriate at the development assessment stage.

Flooding

The proposal is accompanied by a Flood Report which identifies that the subject site is flood affected. The report states that stormwater runoff on the site results from catchment areas within the site and there are no significant flowpaths across the site from external catchments.

As the planning proposal does not seek to rezone the site to introduce new permitted uses, and no change to the existing flood provisions of Botany Bay LEP 2013 is proposed, further consideration of flood impacts is appropriate at the development application stage.

Aircraft noise

The planning proposal does not seek to permit the introduction of any new sensitive uses to the site that require further consideration as part of this assessment. The provisions of Clause 6.9 Development in areas subject to aircraft noise in Botany Bay LEP 2013 and the relevant Australian Standards will continue to apply to development applications relating to the site.

6.3 Economic

The proposal is considered to further the orderly and economic use of the land by enabling the existing permitted GFA to be distributed to a greater height, whilst retaining appropriate building setbacks, landscaping and circulation areas for the proposed development. This will contribute to employment growth and support airport-related land uses consistent with Planning Priority E9 of the Eastern City District Plan.

6.4 Infrastructure

The site is 400m Mascot station which provides frequent passenger train services (**Figure 8**). Transport for NSW (TfNSW) is presently upgrading O’Riordan Street and Bourke Road in the vicinity of the site, which will improve traffic, pedestrian and bicycle infrastructure (**Figure 9**). A condition of consent requires consultation with TfNSW. This will provide the opportunity for further consideration of any transport infrastructure concerns.

7. CONSULTATION

7.1 Community

Council indicates that community consultation will occur in accordance with the Gateway determination.

A public exhibition period of 28 days is considered appropriate and forms a condition of the Gateway determination.

7.2 Agencies

Council does not nominate public agencies to be consulted about the planning proposal.

A Gateway condition requires consultation with the following agencies prior to the commencement of community consultation:

- Sydney Water;
- Heritage, Department of Premier and Cabinet;
- Transport for NSW (TfNSW);
- Sydney Airport; and
- Commonwealth Department of Infrastructure, Regional Development and Cities (Should Council be advised that permission by the Commonwealth is required in accordance with (5)(d) of s9.1 Direction 3.5 and/or the *Airports Act 1996*, this permission must be granted prior to community consultation and written evidence of this permission must be submitted to the Department of Planning, Industry and Environment).

8. TIME FRAME

The timeframe proposed by Council has elapsed. As further studies and amendments must be completed and endorsed by the Department prior community consultation, a timeframe of 12 months is considered appropriate. A Gateway condition requires the planning proposal to be updated with a revised project timeline accordingly.

9. LOCAL PLAN-MAKING AUTHORITY

Council requests to be the local plan-making authority under section 3.34 of the Environmental Planning and Assessment Act 1979.

The potential inconsistency with Direction 6.3 can be adequately assessed by the Department when Council submits further information about the height plane clause for endorsement. Given that this endorsement is required by a Gateway condition to occur prior to the commencement of community consultation, and since the proposal is a local planning matter, it is considered appropriate that Council be authorised to be the local plan-making authority.

10. CONCLUSION

The planning proposal is supported to proceed subject to conditions for the following reasons:

- It demonstrates consistency with the planning framework for the Eastern City District Plan and SEPPs;
- The potential inconsistencies with section 9.1 Direction 3.5 and 6.3 are able to be resolved with further justification, as per the recommended Gateway conditions;
- It will assist in the delivery of additional employment opportunities in a well serviced area near Sydney Airport and other public transport infrastructure; and
- The increased height is in keeping with the built form context of the area and its future desired character, and will have acceptable environmental impacts.

11. RECOMMENDATION

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

- Prior to community consultation, the planning proposal is to be updated and amended to:
 - (a) Identify the lots and deposited plans of the subject site;
 - (b) Provide an updated project timeline, outlining the anticipated timeframes for the plan making process;
 - (c) Clearly explain the intended use for the site as envisaged under the submitted concept design;
 - (d) Detail and justify the proposed building height plane clause;
 - (e) Clearly address consistency with *Ministerial Direction 3.5: Development near regulated airports and defence airfields*.
 - (f) Provide an amended Urban Design Report which models the building height plane clause, including its visual impact and overshadowing impact.
- Prior to the commencement of community consultation, Council must consult with Sydney Airport and the Commonwealth Department of Infrastructure, Regional Development and Cities. Should Council be advised that permission is required in accordance with (5)(d) of s9.1 Direction 3.5 and/or the *Airports Act 1996*, this permission must be granted prior to the commencement of community consultation.
- Prior to community consultation, the amended planning proposal responding to conditions 1 and 2 is to be forwarded to the Department for review and endorsement.

- The planning proposal should be made available for community consultation for a minimum of 28 days.
- Consultation is required with the following public authorities:
 - Sydney Water;
 - Heritage, Department of Premier and Cabinet; and
 - Transport for NSW.
- The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
- Given the nature of the planning proposal, Council should be the local plan-making authority.



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17 December 2019
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