

## Place, Design and Public Spaces

IRF20/697

### Gateway determination report

<b>LGA</b>	Sydney
<b>PPA</b>	City of Sydney Council
<b>NAME</b>	4-22 Wentworth Avenue, Surry Hills and 24-44 Wentworth Avenue, Surry Hills.
<b>NUMBER</b>	PP_2020_SYDNE_001_00
<b>LEP TO BE AMENDED</b>	Sydney Local Environmental Plan 2012
<b>ADDRESS</b>	The site comprises the following: <ul style="list-style-type: none"> <li>• Lots 42-51 DP 6534 (4-22 Wentworth Avenue, Surry Hills); and</li> <li>• Lots 52-59 DP 6534 and Lot 1 DP 1031245 (24-44 Wentworth Avenue, Surry Hills)</li> </ul>
<b>DESCRIPTION</b>	The planning proposal seeks to amend Sydney Local Environmental Plan 2012 to introduce a site-specific clause to increase the maximum building height and floor space ratio for 4-22 Wentworth Avenue and maximum building height for 24-44 Wentworth Avenue.
<b>RECEIVED</b>	10 February 2020
<b>FILE NO.</b>	IRF20/697
<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 seeks to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) development controls as follows (**Figure 1**):

#### **Northern Site: 4-22 Wentworth Avenue, Surry Hills**

Introduce a new clause under Division 5 Site Specific Provisions to permit the following:

- increase the maximum building height up to a plane established by a series of coordinates which is equivalent to an increase from 22m at 4-6 Wentworth Avenue to RL 92.59 and from 18m to RL 50 at 8-22 Wentworth Avenue;
- amend the maximum floor space ratio from 6:1 and 5:1 to 5.7:1 across the site, with the proposal being eligible for up to 10% additional floor space only if the development demonstrates design excellence;

- amend clause 4.6(8) of the Sydney LEP 2012 to ensure no additional building height can be achieved by way of a variation; and
- amend clause 6.21 of the Sydney LEP 2012 to specify that development on the site which demonstrates design excellence is ineligible for additional building height.

The additional building height and FSR is only to be awarded if 4-22 Wentworth Avenue is used for hotel or motel accommodation with ancillary uses at ground floor.

The indicative plans provided as part of the planning proposal for 4-22 Wentworth Avenue, indicate the planning controls will facilitate a 202-room hotel, including rooms being located in the existing Stellar Hotel envelope and in the new building envelope proposed above. The planning proposal will facilitate approximately 7,500m<sup>2</sup> of gross floor area (GFA) dedicated to a hotel or motel accommodation use, with a restaurant at ground floor.

The indicative concept plans show a basement level which includes bicycle and motorcycle parking and end of trip facilities. Car parking is also proposed at basement level, with access being provided from Wemyss Lane.

The planning proposal will facilitate 62 to 118 full time employees across the site.

#### **Southern Site: 24-44 Wentworth Avenue, Surry Hills**

Introduce a new clause under Division 5 Site Specific Provisions to permit the following:

- increase the maximum building height from 18m at 24-38 Wentworth Avenue to RL 50 and from 18m to RL 44.26 at 40 Wentworth Avenue (as part of 40-44 Wentworth Avenue).
- amend clause 4.6(8) of the Sydney LEP 2012 to ensure no additional height can be achieved by way of a variation

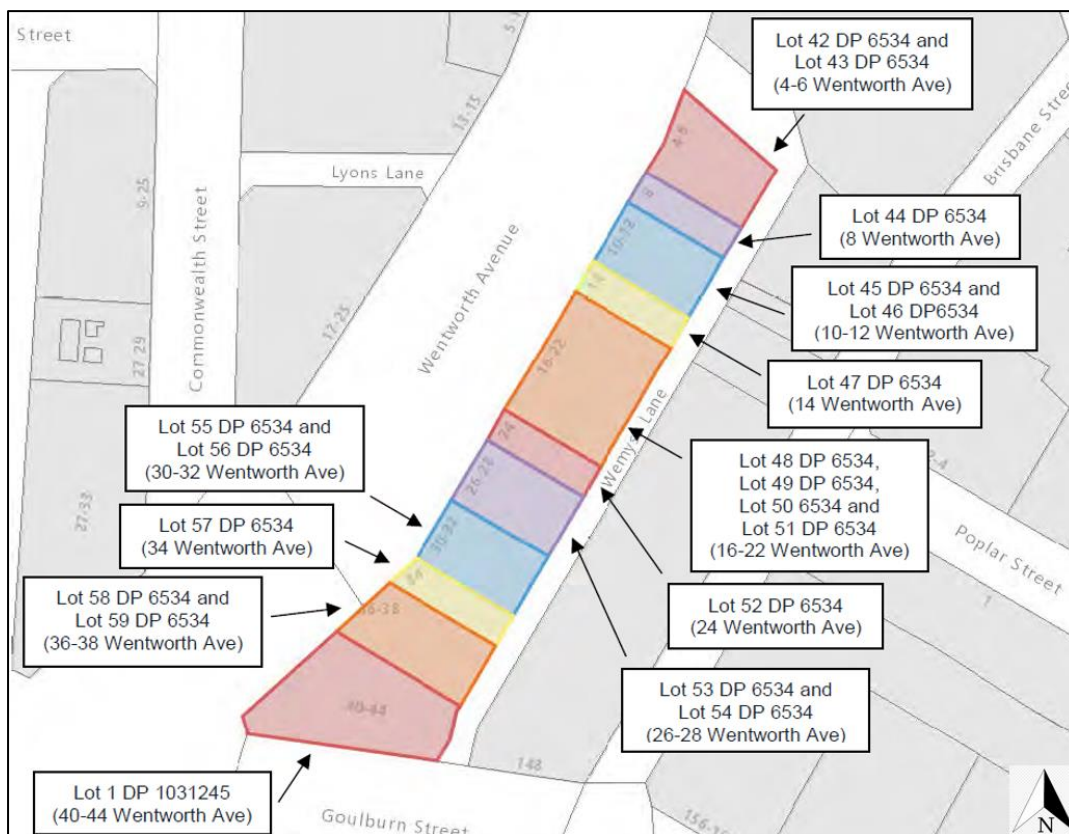
The additional building height is only to be awarded if 24-44 Wentworth Avenue is developed for commercial purposes, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry and information and education facilities.

#### **1.2 Site description**

The combined site is located at 4-44 Wentworth Avenue, Surry Hills, on the fringe of Central Sydney (**Figure 1**). The site is rectangular in shape, with a triangular end to the southern corner at the intersection of Wentworth Avenue and Goulburn Street. The site has a total area of 2,379m<sup>2</sup> and is legally known as Lots 42-51 DP 6534 (4-22 Wentworth Avenue) and Lots 52-59 DP 6534 and Lot 1 DP 1031245 (24-44 Wentworth Avenue) (**Figure 2**).



**Figure 1:** Site location (shown in red) (Source: Nearmap)



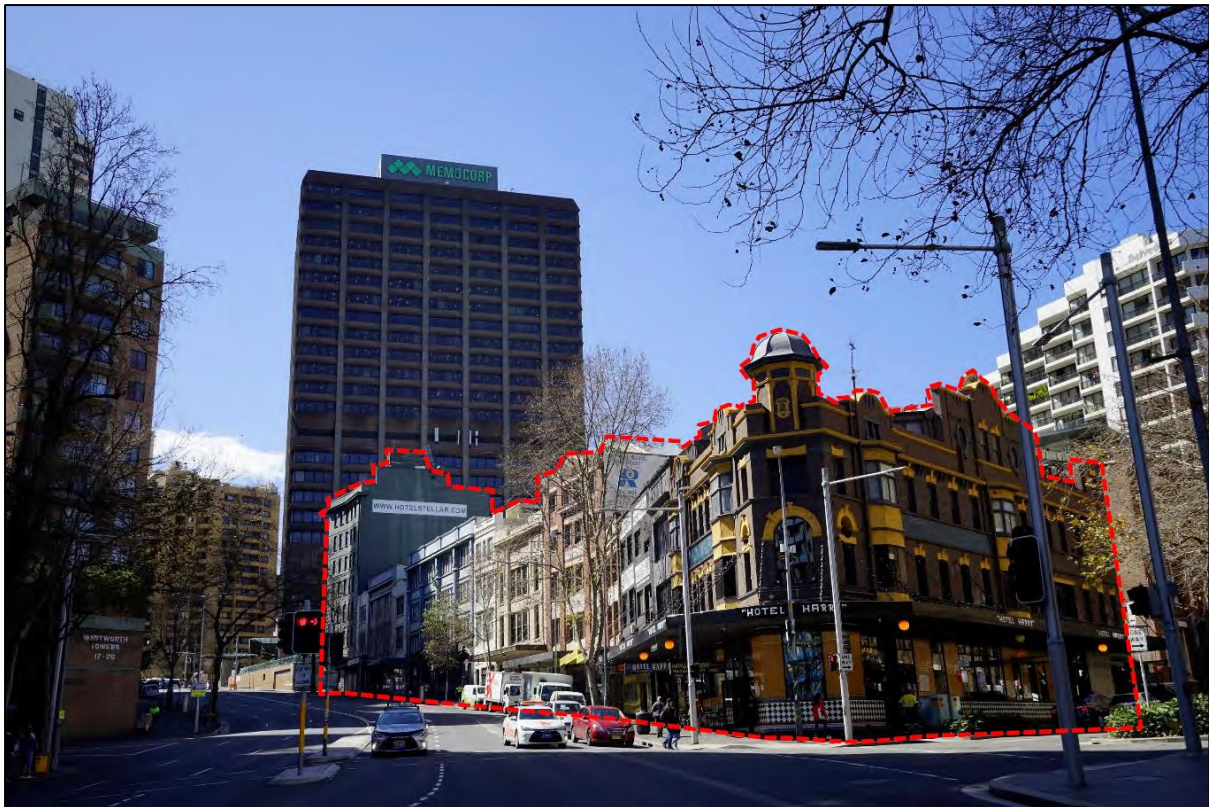
**Figure 2:** Site addresses (Source: Council's Planning Proposal)

The site currently contains 11 buildings constructed between 1915 and 1921, ranging from 3 to 7 storeys in height, as outlined in **Table 1** and **Figure 3**.

**Table 1:** Existing Buildings on Site

Address	Existing Use/s	Existing Building Height	Existing GFA (m <sup>2</sup> )
4-6 Wentworth Avenue	Hotel known as the 'Stellar Hotel'	7 storeys	1,791
8 Wentworth Avenue	Used in association with neighbouring hotel	4 storeys	404
10-12 Wentworth Avenue	Commercial uses, including a convenience store on ground level, and private college above	3 storeys	730
14 Wentworth Avenue	Commercial uses	3 storeys	303
16-22 Wentworth Avenue	Nightclub on ground floor with a private college above	4 storeys	1,879
<b>Subtotal</b>			<b>5,107</b>
24 Wentworth Avenue	Occupied by the Gemmological Association of Australia	4 storeys	401
26-28 Wentworth Avenue	Commercial office spaces	3 storeys	1,046
30-32 Wentworth Avenue	Occupied by the Real Estate Institute of NSW	5 storeys	883
34 Wentworth Avenue	Occupied by a motorcycle accessories retail store	3 storeys	373
36-38 Wentworth Avenue	Ground is occupied by a motorcycle accessories retail store with a gym above	3 storeys	890
40-44 Wentworth Avenue	Pub (known as Hotel Harry)	4 storeys	1,147
<b>Subtotal</b>			<b>4,740</b>
<b>Total</b>			<b>8,847</b>





**Figure 3:** Existing Buildings at 4-44 Wentworth Avenue (Source: Council's Planning Proposal)

The site has a significant slope from the north-eastern corner towards the intersection of Wentworth Avenue and Goulburn Street as shown in **Figure 3**.

### 1.3 Existing planning controls

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

- it is zoned B4 Mixed Use (**Figure 4**) which permits commercial premises, and tourist and visitor accommodation;
- a maximum building height of 22m for 4-6 Wentworth Avenue and 18m for 8-44 Wentworth Avenue (**Figure 5**); and
- a maximum floor space ratio of 6:1 at 4-6 Wentworth Avenue, and 5:1 at 8-44 Wentworth Avenue (**Figure 6**).

### Heritage

The site contains the following heritage items:

- 4-34 Wentworth Avenue, Surry Hills is listed under Schedule 5 of the Sydney LEP 2012 (I2271) as 'Former warehouse group including interiors' and is of local significance (**Figure 7**). The group of buildings demonstrate the growth of industry during the period of the 1909 Royal Commission on the Improvement of Sydney. The group of buildings also represent one of the first council land resumptions following the granting of these powers to Sydney Council in 1905.
- 40-44 Wentworth Avenue, Surry Hills is listed under Schedule 5 of the Sydney LEP 2012 (I1647) as 'Macquarie Hotel including interior' and is of local significance (**Figure 7**). The Macquarie Hotel, now known as Hotel Harry, was designed by prominent architect Ernest Lindsay Thomson, and has historic

significance as it provides evidence of the redevelopment of the area following the Wexford Street No 2 Resumptions by Council in the early 20<sup>th</sup> century.

The site is not located within a Heritage Conservation Area (HCA).

Clause 5.10 of the Sydney LEP 2012 applies as future development will include erecting a building on land on which a heritage item is located. Any future development applications on the site will need to consider Clause 5.10 of the Sydney LEP 2012.

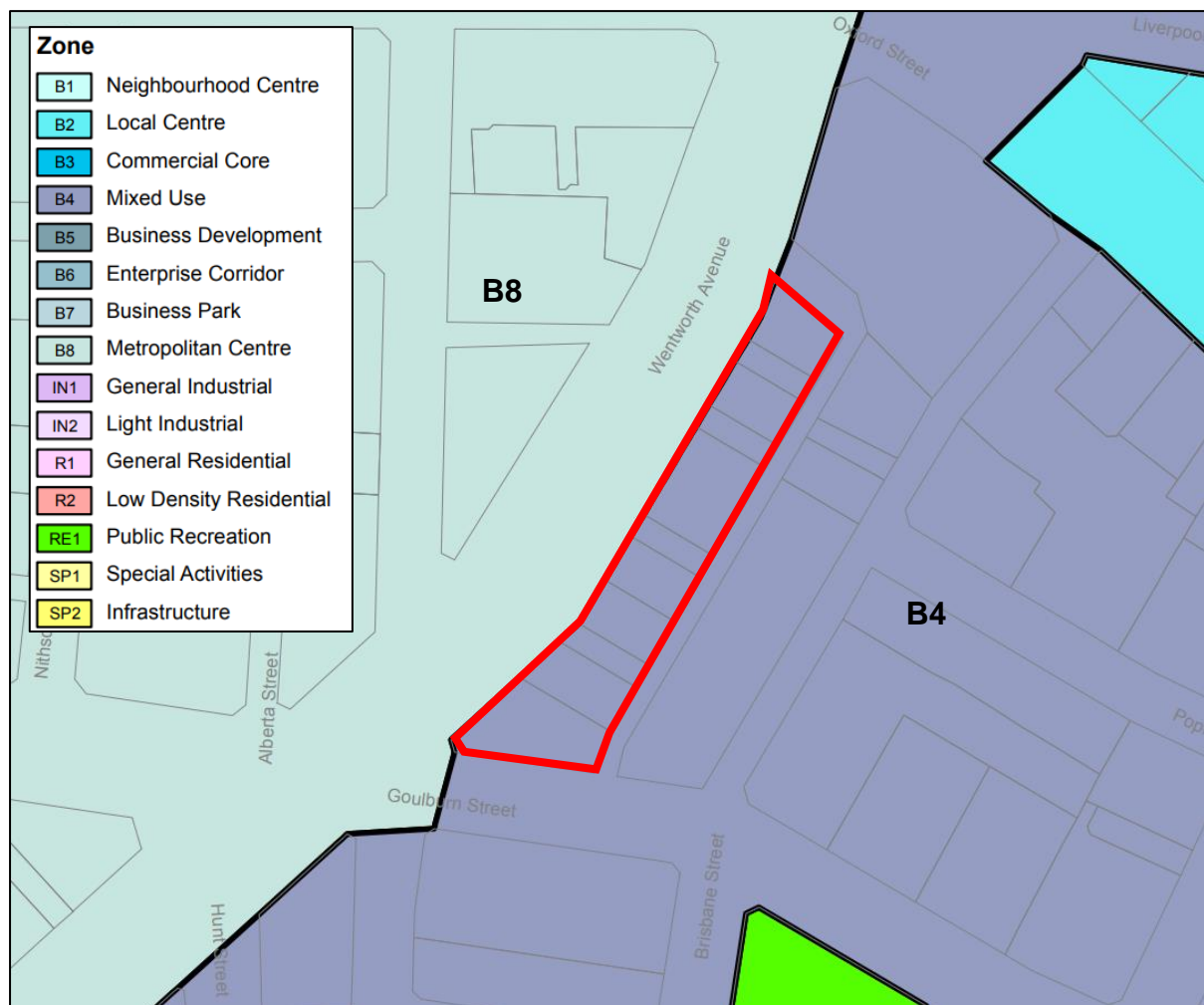
#### Land Use and Transport Integration

Clause 7.9 of the Sydney LEP 2012 applies to the site, as the site is located within Category A. Category A permits the maximum number of car parking space for a building used for the purposes of serviced apartments or hotel or motel accommodation is:

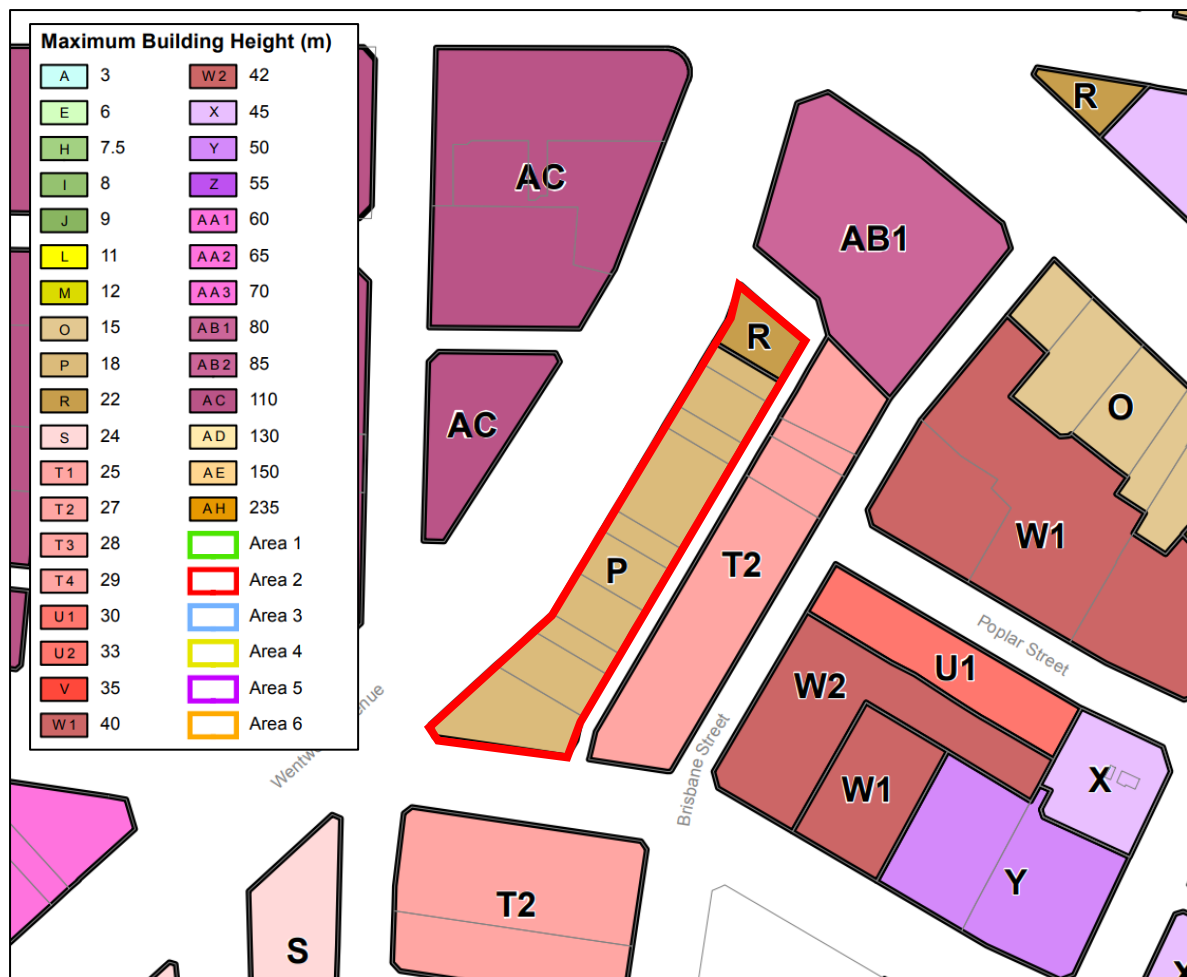
- (a) 1 space for every 4 bedrooms up to 100 bedrooms, and
- (b) 1 space for every 5 bedrooms more than 100 bedrooms.

Any future DA on the site will need to consider Clause 7.9 of the Sydney LEP 2012.

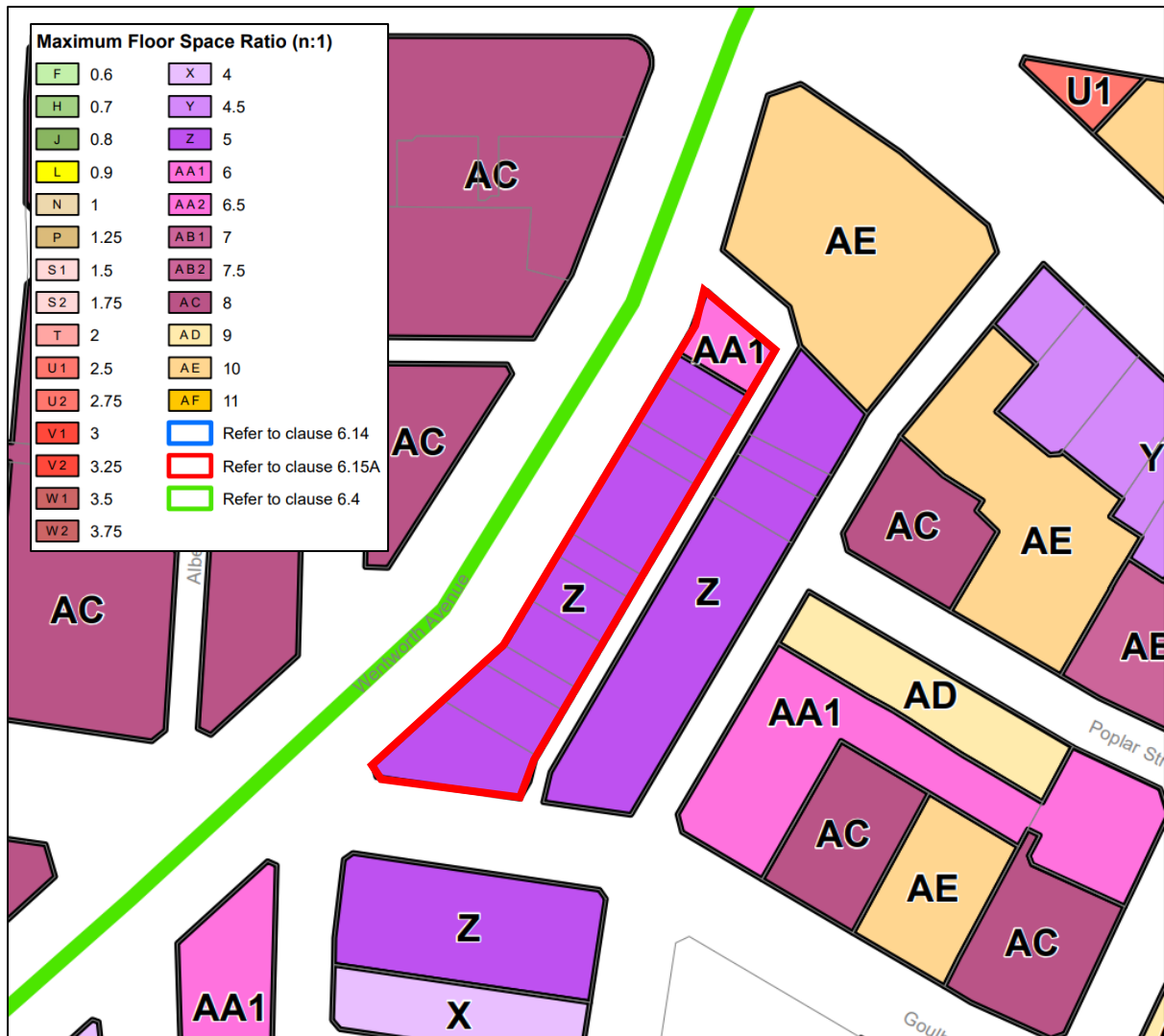
#### 1.3.1 LEP Maps



**Figure 4:** Existing Land Zoning Map (site shown in red) (Source: Sydney LEP 2012)

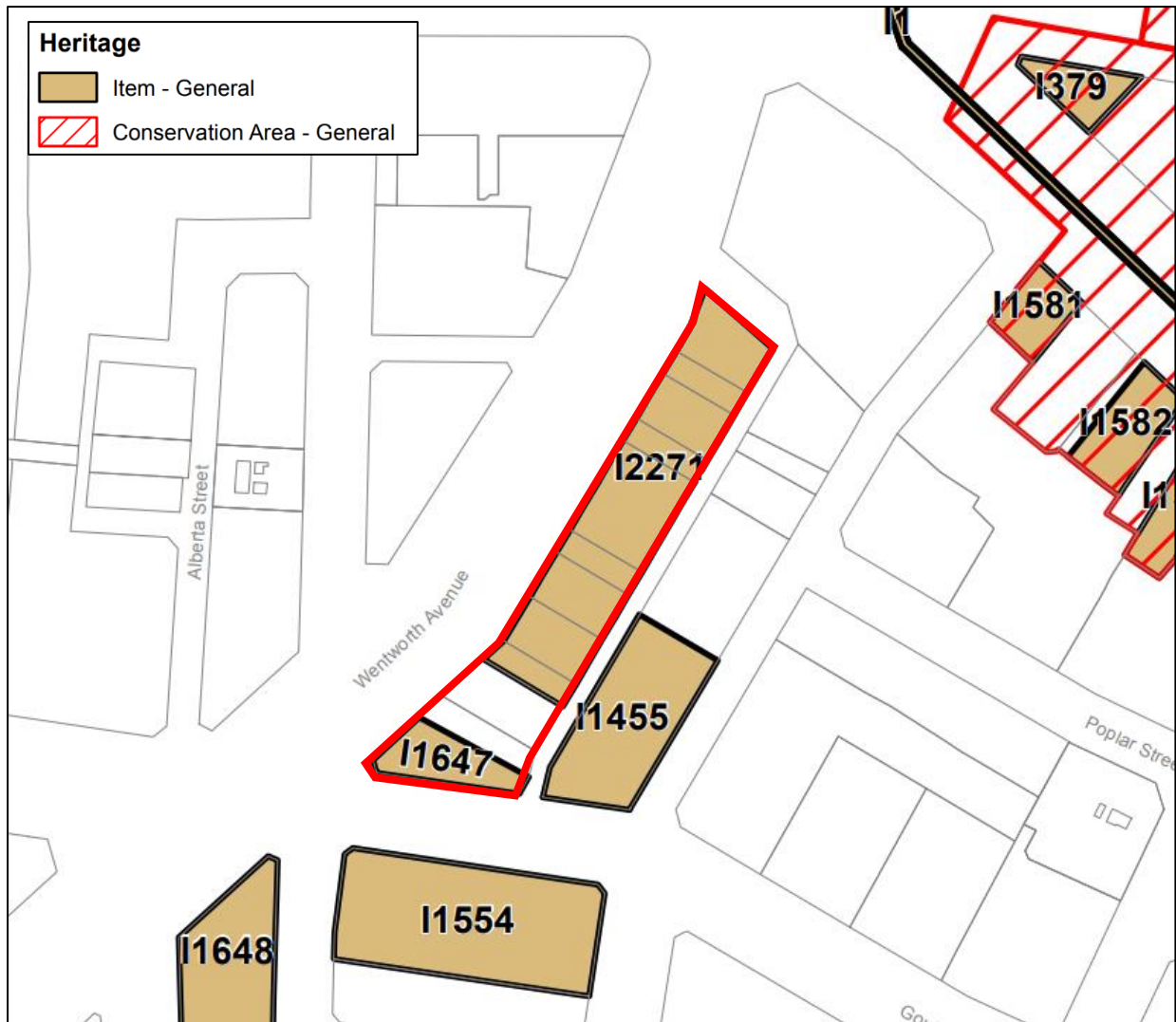


**Figure 5:** Existing Height of Buildings Map (site shown in red) (Source: Sydney LEP 2012)



**Figure 6:** Existing Floor Space Ratio Map (site shown in red) (Source: Sydney LEP 2012)





**Figure 7:** Existing Heritage Map (site shown in red) (Source: Sydney LEP 2012)

#### 1.4 Surrounding area

The site is located on the eastern fringe of the Sydney Central Business District (CBD), and on the periphery of Central Sydney. The surrounding area consists of a mix of land uses, including residential and commercial uses.

To the east of the site is a 4-6 storey residential building known as Meta apartments (**Figure 8**), a 3 storey warehouse building, which contains a liquor store/distribution centre, a 2 storey terrace containing a restaurant, and a 6 storey building owned and used by the Philatelic Association of NSW.

To the north of the site is a 24 storey commercial building, known as the 'Memocorp' Building. To the south of the site is a 9 storey residential flat building, known as the Sydney Mansion (**Figure 8**). This building is heritage listed under Schedule 5 of the Sydney LEP 2012 (I1554), known as 'Former warehouse facades "Mark Foy's"' and is of local significance.

To the west of the site on the opposite side of Wentworth Avenue, are a mix of commercial and residential buildings varying between 4 and 14 storeys. On the corner of Liverpool Street and Wentworth Avenue, is a 30 storey residential apartment tower.

The nearest public open space to the site is Hyde Park, which is located less than 100m to the north of the site.



**Figure 8:** Surrounding area (site shown in red) (Source: Nearmap)

### Transport and Access

The site is located approximately 200m from Museum Station, which provides connections to other parts of the Sydney CBD, Sydney Airport, and the greater Sydney rail network. The site is located less than 100m from Oxford Street and Liverpool Street, which provides further connections via buses to other parts of the Sydney CBD, Bondi Junction, Rozelle, Marrickville and Chatswood, as well as access to shops and entertainment precincts such as Moore Park.

Restricted parking, amidst loading zones and no stopping zones, occurs at certain times along Wentworth Avenue. It is understood vehicular access to the site can also be obtained via Wemyss Lane east of the site.

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The planning proposal's intended outcomes is to incentivise the redevelopment of the whole site for development that:

- is in an area with good access to public transport, the Sydney CBD and its attractions and its nearby villages;
- achieves design excellence and improves the site's amenity and contribution to the surrounding area;
- is sympathetic to the surrounding built form context, including height and bulk and scale, resulting in a building that is compatible with both the group heritage item and individual heritage item on site whilst limiting impacts on surrounding development;
- activates and revitalises the street block through a holistic approach;
- appropriately conserves and enhances the significant heritage fabric on site; and
- preserves adequate solar access to existing neighbouring properties.

For the northern part of the site at 4-22 Wentworth Avenue, the planning proposal is to facilitate redevelopment for hotel or motel accommodation that contributes to and enhances Sydney's diverse hotel accommodation market that caters to changing visitor demand. The proposed use is consistent with the City's Visitor Accommodation Action Plan (2015) and the Eastern City District Plan's tourism and industry objectives.

For the southern part of the site at 24-44 Wentworth Avenue, the planning proposal is to facilitate redevelopment for land uses including commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry and information and education facilities development that supports the viability of centres in the City fringe area. This is consistent with zoning objectives and the Eastern City District Plan's objectives related to strengthening the competitiveness of the harbour CBD, providing health and education services, and growing investment, business opportunities and jobs.

### 2.2 Explanation of provisions

The planning proposal seeks to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) development controls as follows:

#### 4-22 Wentworth Avenue, Surry Hills (Northern half)

Introduce a site-specific provision to permit the following:

- enable additional height up to a plane established by a series of coordinates in accordance with **Table 2 and Figure 9**;
- amend the maximum floor space ratio from 6:1 and 5:1 to 5.7:1 across the site, with the proposal being eligible for up to 10% additional floor space only if the development demonstrates design excellence;
- amend clause 4.6(8) of the Sydney LEP 2012 to ensure no additional building height can be achieved by way of a variation; and



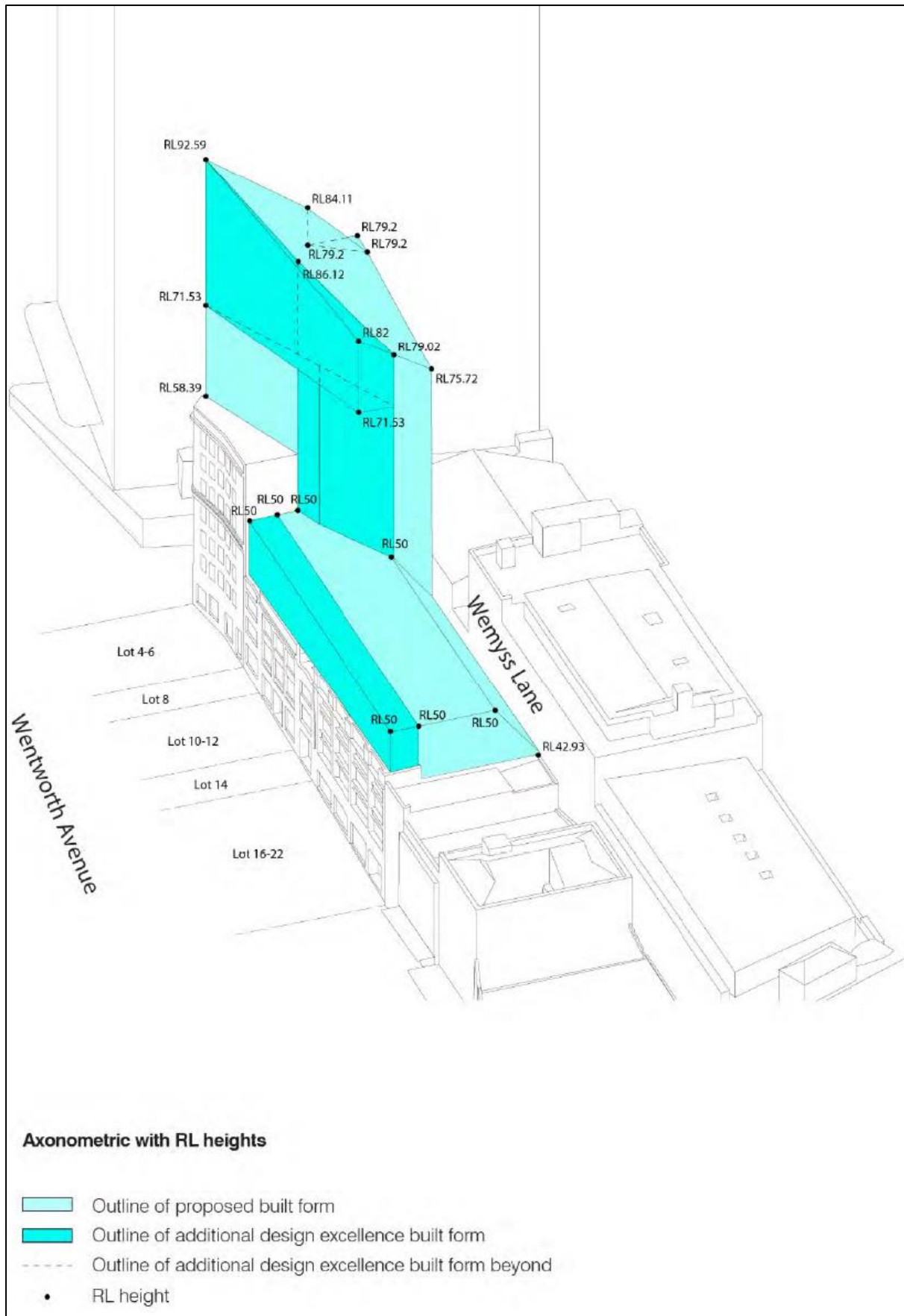
- amend clause 6.21 of the Sydney LEP 2012 to specify that development on the site which demonstrates design excellence is ineligible for additional building height.

The additional building height and FSR is only to be awarded if 4-22 Wentworth Avenue, Surry Hills is used for hotel or motel accommodation with ancillary uses at ground floor.

**Table 2:** Existing and proposed maximum building height control

Location	Coordinate	Existing control	Proposed control
<b>4-6 Wentworth Ave</b> Lots 42 and 43, DP6534	X=334635.65 Y=6249982.84	22m (7 storeys)	RL 92.59 62.25m 19 storeys
<b>8 Wentworth Ave</b> Lot 44, DP6534	X=334631.96 Y=6249967.04	18m (3 storeys)	RL 86.63 57.21m (part) 17 storeys  RL 50.00 20.58m (part) 6 storeys
<b>10-12 Wentworth Ave</b> Lots 45 and 46, DP6534	X=334630.53 Y=6249960.91	18m (3 storeys)	RL 84.60 55.60m (part) 17 storeys  RL 50.00 21.00m (part) 6 storeys
<b>14 Wentworth Ave</b> Lot 47, DP6534	X=334617.50 Y=6249954.32	18m (3 storeys)	RL 50.00 21.86m 6 storeys
<b>16-22 Wentworth Ave</b> Lots 48, 49, 50, 51, DP6534	X=334601.99 Y=6249928.24	18m (4 storeys)	RL 50.00 24.13m 6 storeys





**Figure 9:** Proposed building envelope with RL heights for 4-22 Wentworth Avenue, Surry Hills  
(Source: Council's Planning Proposal)

### 24-44 Wentworth Avenue, Surry Hills (Southern half)

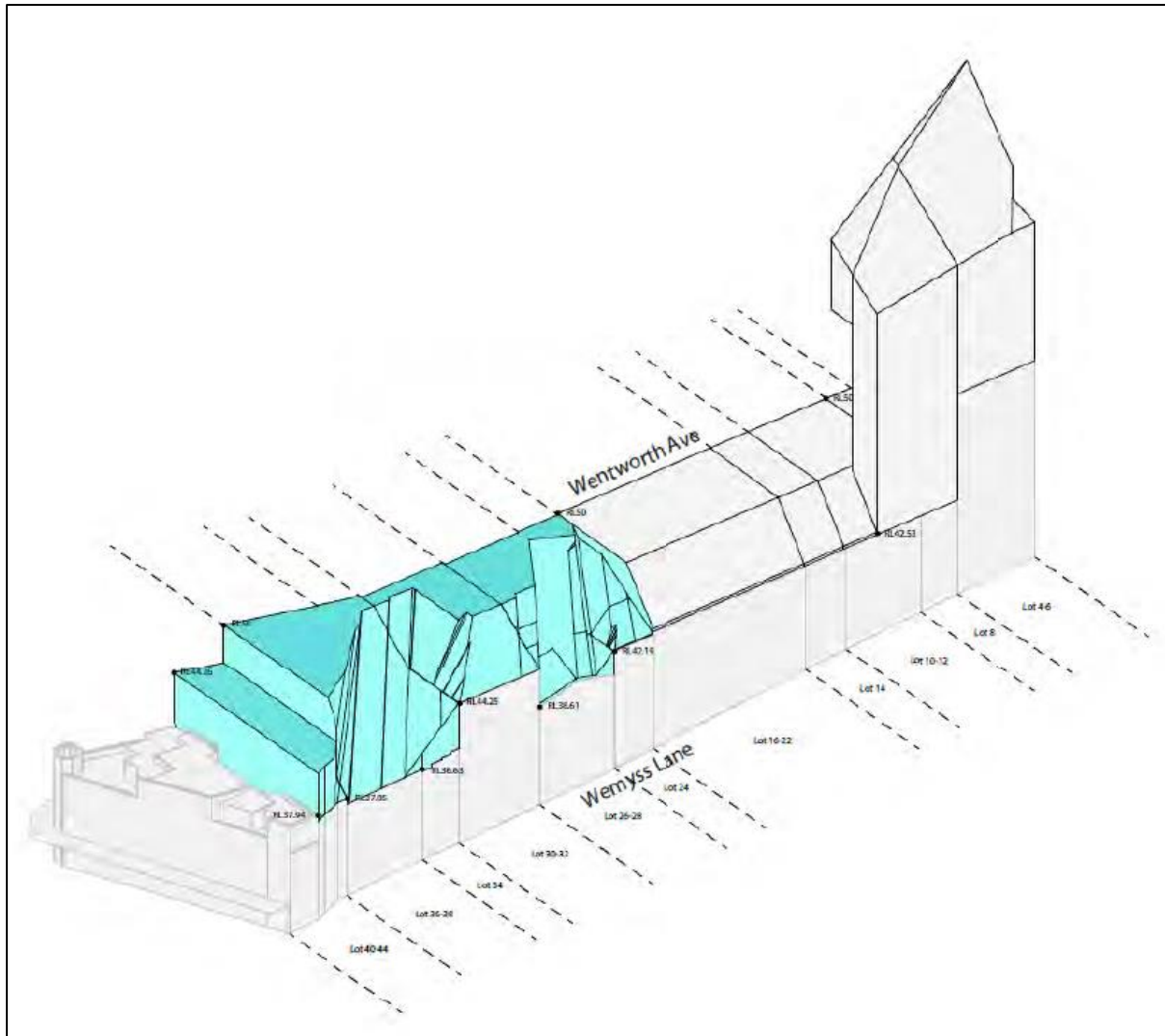
Introduce a site-specific provision to permit the following:

- increase the maximum building height from 18m at 24-38 Wentworth Avenue to RL 50 (approximately between 24.5m and 28m) and from 18m to RL 44.26 (approximately 22m) at 40 Wentworth Avenue (as part of 40-44 Wentworth Avenue) (**Figure 10 and Table 3**).
- amend clause 4.6(8) of the Sydney LEP 2012 to ensure no additional height can be achieved by way of a variation.

The additional building height is only to be awarded if 24-44 Wentworth Avenue, Surry Hills is developed for commercial purposes, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry and information and education facilities.

**Table 3:** Proposed maximum building height

Address	Existing Control	Proposed Control
24 Wentworth Avenue	18m	RL 50.00 (24.54m)
26-28 Wentworth Avenue	18m	RL 50.00 (25.44m)
30-32 Wentworth Avenue	18m	RL 50.00 (26.26m)
34 Wentworth Avenue	18m	RL 50.00 (26.63m)
36-38 Wentworth Avenue	18m	RL 50.00 (27.32m)
40-44 Wentworth Avenue (only 40 Wentworth Avenue applies)	18m	RL 44.26 (27.70m)



**Figure 10:** Proposed building envelope for 24-44 Wentworth Avenue, Surry Hills (Source: Council's Planning Proposal)

#### Draft site-specific Sydney Development Control Plan 2012 (Sydney DCP 2012)

In addition to the proposed amendments to Sydney LEP 2012, Council has prepared a draft site-specific DCP (**Attachment D**). The draft DCP controls relate to built form, overshadowing, heritage conservation, sustainability, public domain and site servicing. The draft DCP controls are reflected in the concept design submitted with the planning proposal. The draft site-specific DCP includes controls which:

- limit the maximum building envelope;
- provide measures for overshadowing of neighbouring residential properties;
- provide measures for heritage conservation;
- provide targets for ecological sustainable development; and
- provide measures for design excellence.

Through the development application process, these development controls will be applied to the proposed development.

## 2.3 Mapping

The planning proposal does not propose any mapping amendments to the Sydney LEP 2012.

## 3. NEED FOR THE PLANNING PROPOSAL

The proposed amendments for the northern half of the site has been initiated by the landowner, and is informed by concept design plans, heritage impact statement and urban design report.

At its meeting in August 2019, the planning proposal for 4-22 Wentworth Avenue was deferred by Council to enable to preparation of an amended planning proposal to account for the whole street block of 4-44 Wentworth Avenue.

The proposed amendments for the southern half of the site have been initiated by Council and are the result of an urban design study.

A planning proposal is needed to amend the development standards allowed on the site to facilitate a refurbished building as the current development standards under the Sydney LEP 2012 are not reflective of the existing building.

## 4. STRATEGIC ASSESSMENT

### 4.1 Regional / District

#### Eastern City District Plan

The Eastern City District Plan, released in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth. This planning proposal is consistent with the key planning priorities in the District Plan as demonstrated in **Table 4**.

**Table 4:** Consistency with Eastern City District Plan

Consistency with Eastern City District Plan	
Priority	Comment
Planning priority E6: Creating and renewing great places and local centres and respecting the district's heritage	The Department considers the proposal to be consistent with this priority as it will support entertainment activities within the locality. Heritage conservation considerations in the proposed site-specific clause, and the site-specific DCP will protect the heritage significance of the existing buildings.
Planning priority E7: Growing a stronger and more competitive Harbour CBD;	The Department considers the proposal to be consistent with this priority as it will contribute to the Harbour CBD's job targets and provide further visitor and tourist accommodation within close proximity to the Sydney CBD.
Planning priority E13: Supporting growth of targeted industry sectors;	The Department considers the proposal to be consistent with this priority as it will provide visitor accommodation, commercial purposes, health services facilities, educational establishments, entertainment premises, light industry and information and education facilities in close proximity to the Sydney CBD.



Consistency with Eastern City District Plan	
Priority	Comment
Planning priority E19: Reducing carbon emissions and managing energy water and waste efficiently.	The Department considers the proposal to be consistent with this priority as the controls and objectives within the site-specific DCP will encourage sustainability.

## 4.2 Local

### Sustainable Sydney 2030

Council's Sustainable Sydney 2030 Community Strategic Plan is the vision for the sustainable development of the City of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the City and 10 targets against which to measure progress. This planning proposal is consistent with key directions of the strategic plan as demonstrated in **Table 5**.

**Table 5:** Consistency with Sustainable Sydney 2030

Consistency with Sustainable Sydney 2030	
Direction	Comment
Direction 1 – A Globally Competitive and Innovative City	The Department considers the proposal is consistent with Direction 1, as it will support Sydney's tourism and contribute to the city's economy, by providing tourist accommodation and commercial uses.
Direction 2 – A Leading Environmental Performer	The Department considers the proposal is consistent with Direction 2, as the controls and objectives of the site-specific DCP will encourage sustainability.
Direction 3 – Integrated Transport for a Connected City	The Department considers the proposal is consistent with Direction 3, as it will leverage the location being within proximity to public transport links to the CBD, eastern suburbs and other centres across Sydney.

### Local Strategic Planning Statement

Council's Local Strategic Planning Statement (LSPS) has been assured by the Greater Sydney Commission. The Department considers that the principles of the planning proposal are generally consistent with the LSPS (**Table 6**).

**Table 6:** Consistency with Draft Local Strategic Planning Statement

Action	Comment	Complies
<p><b>Action P2.1:</b> Deliver diverse, suitable and well-designed spaces and places to support City Fringe's contribution to the city's and the District's economic.</p> <p><b>Action P2.2:</b> Enhance physical and technological connectivity and legibility within City Fringe to support the ability of people, businesses, institutions and clusters to interact, grow and agglomerate.</p> <p><b>Action P2.4:</b> Ensure a genuine mix of uses to support lively and thriving village economies within City Fringe, including residential development provided it does not compromise commercial or enterprise uses.</p>	<p>The Department considers the planning proposal is consistent with the LSPS as:</p> <ul style="list-style-type: none"> <li>• incentivises hotel or motel accommodation development that contributes to and enhances Sydney's diverse hotel accommodation market that caters to changing visitor demand;</li> <li>• incentivises strategic land uses including commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry and information and education facilities development that contributes to the diversity of uses in, provides a mixture of compatible land uses and supports the viability of centres in the City fringe area</li> </ul>	Yes

### 4.3 Section 9.1 Ministerial Directions

The proposal is consistent with the following applicable section 9.1 Ministerial Directions as identified in **Table 7**.

**Table 7:** Consistency with Ministerial Directions

Section 9.1 Direction	Consistent	Comment
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	Yes	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations;</li> <li>• protect employment land in business and industrial zones; and</li> <li>• support the viability of identified centres.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction as it seeks to retain the existing B4 Mixed Use zone and will provide for a range of employment uses such as tourist and visitor accommodation, commercial purposes, health services facilities, educational establishments, entertainment premises, light industry and information and education facilities.</p>
<b>2. Environment and Heritage</b>		
2.3 Heritage Conservation	Partial	<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 planning proposal is supported by a Heritage Impact Statement for the northern half of the site prepared by Weirs Phillips Heritage which finds the proposed development will be sympathetic to the heritage values of the surrounding area. There has been no heritage assessment provided for the southern half of the site.</p> <p>Detailed assessment of the heritage impact is discussed in section 5 of this report.</p>

Section 9.1 Direction	Consistent	Comment
2.6 Remediation of Land	Yes	<p>This direction applies when a planning proposal authority prepares a planning proposal applying to land which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital:</p> <ul style="list-style-type: none"> <li>i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</li> <li>ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</li> </ul> <p>The planning proposal authority must consider whether the land is contaminated.</p> <p>This planning proposal is consistent with the Direction as it does not seek to change the zoning of the land. However future DA's will need to consider SEPP 55 – Remediation of Land.</p>
<b>3. Housing, Infrastructure and Urban Development</b>		
3.4 Integrating Land Use and Transport	Yes	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction, as the site is located within proximity to the Sydney CBD and surrounded by public transport which connects to other parts of the Sydney rail network. The proposed uses on the site encourage the use of public transport by hotel visitors and employees on site.</p>
<b>4. Hazard and Risk</b>		
4.1 Acid Sulphate Soils	Yes	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.</p> <p>Any future DA will need to consider acid sulphate soils.</p>
<b>6. Local Plan Making</b>		
6.3 Site Specific Provisions	No	<p>This direction applies as the planning proposal will allow a particular development to be carried out through a site-specific planning control. The objective of the Direction is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The planning proposal seeks to establish a building envelope set by a series of coordinates. The Department considers the inclusion of coordinates within a site-specific provision in the Sydney LEP 2012</p>

Section 9.1 Direction	Consistent	Comment
		too prescriptive and restrictive, therefore not consistent with this direction.  Whilst the Department agrees with the desired future use and built form of the site, it recommends as a Gateway condition that the building height coordinates to be included in the site specific DCP rather the Sydney LEP 2012. Subject to this revision, the inconsistency with the Direction can be considered of minor significance.
<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 proposal is considered consistent with and is not expected to hinder the application of any relevant SEPPs, as outlined in **Table 8**.

No Regional Environmental Plans (REPs) for the Sydney and Greater Metropolitan regions, which are deemed SEPPs, apply to the planning proposal.

**Table 8:** Assessment of proposal against relevant SEPPs and deemed SEPPs

SEPP	Proposal	Complies
SEPP (Exempt and Complying Development Codes) 2008	Consistent. This Planning Proposal does not contradict or hinder application of this SEPP.	Yes

## 5. SITE-SPECIFIC ASSESSMENT

### 5.1 Social

#### Northern Site

The planning proposal will facilitate a hotel and motel development which contributes to the strategic outcomes envisioned in Council's *Visitor and Accommodation Action Plan 2015*.

The Department considers the planning proposal has positive social impacts as it will provide much needed visitor accommodation and hotel rooms within close proximity to the Sydney CBD.

#### Southern Site

The planning proposal will provide additional building height for the southern half of the site, to align the maximum building height with the maximum FSR on the site and enable maximum development potential.

The Department considers the planning proposal has positive social impacts as it will provide commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry and information and education facilities within close proximity to Central Sydney.

### 5.2 Environmental



## Built Form

### *Northern Site*

The planning proposal does not seek to change the zoning of the site. All proposed uses outlined in the concept design are permissible within the B4 Mixed Use zone of the Sydney LEP 2012. The Department acknowledges that the site can adequately accommodate separate access ways for the various uses.

The planning proposal seeks to amend the maximum building height and floor space ratio of 4-22 Wentworth Avenue to match a building envelope established by a series of coordinates. The building envelope has been formed to address overshadowing impacts on the adjacent residential building (**Figure 9**). The building envelope adds two storeys to the podium above 8-22 Wentworth Avenue.

Council have stated the building envelope has been developed in accordance with the provisions of the ADG to allow for solar access to be largely protected but allowing for a strategic use at the block. Council contends coordinates provide Council, the proponent and nearby residents certainty about the extent of the developable area within the Northern Site.

As per Clause 7.20 of the Sydney LEP 2012, a DCP must be prepared as the proposed development is above 25m in building height. It is important to note the role of a DCP, and what a DCP should provide and address. As per Clause 7.20(4) of the Sydney LEP 2012, a DCP should provide how a proposed development addresses any heritage issues and environmental impacts, such as overshadowing and solar access, and visual and acoustic privacy.

The Department notes that coordinates have previously been included in a site-specific provision with the Sydney LEP 2012, being Clause 6.33 – 230-238 Sussex Street, Sydney. However, the coordinates establish a plane that protects solar access to the future Town Hall Square, which is a notable future open space within the Sydney CBD. The planning report states that a key element of the proposed Town Hall Square is the protection of the solar access it currently receives. In addition, the plane established by coordinates in the clause consists of only three coordinates, creating a simpler solar access plane.

The Department considers the proposed clause and building envelope established by a series of coordinates within this planning proposal to be more perspective and detailed than Clause 6.33. The Department holds concerns it will set an undesirable precedent for future planning proposals.

For this reason, the Department considers a building envelope formed by a series of coordinates (**Figure 9**) being included in the Sydney LEP 2012 is inappropriate. The intention of placing detailed and perspective coordinates within a LEP is inconsistent with the Section 9.1 Direction 6.3 – Site Specific Provisions, as outlined in Section 4.3 of this report.

In addition, there is no structural report or assessment associated with the planning proposal which could verify the buildability aspect of the cantilever entailed within the proposed building envelope.

Whilst the Department supports the intended outcomes and desired future use of the northern site, it does not support the inclusion of coordinates within a site-specific provision within the Sydney LEP 2012. The Department therefore recommends a

condition in the Gateway determination for the coordinates to be transfer to the site-specific DCP.

It is recommended that the LEP only include a maximum RL for the site-specific provision for the Northern Site, with the maximum height being 92.59 RL for 4-6 Wentworth Avenue and 50 RL for 8-22 Wentworth Avenue. With the building envelope and coordinates being in the DCP, it will provide a consistent approach for the entire site and street block of 4-44 Wentworth Avenue, Surry Hills, as well as consistency with clause 7.20(4) of the Sydney LEP 2012.

Whilst Council contends placing the building envelope and coordinates within the DCP would place stress on the DA process and the design competition, and reduce certainty for all stakeholders, the Department considers the DCP is more appropriate to contain the building envelope and coordinates rather than the Sydney LEP 2012. The intended outcomes of the planning proposal and desired future use of the Northern Site can still be achieved.

#### *Southern Site*

While there is no concept plan proposed for the southern site, an urban design analysis has been undertaken by Council.

The planning proposal seeks to increase the maximum building height to RL 50.00 and RL 44.26 for the Southern Site, to align the maximum building height with the maximum FSR on the site and enable maximum development potential.

The Department acknowledges that a design competition process will be required for any future development with a maximum building height of above 25m.

The Department considers the increase in building height and environmental impacts to be minimal. The Department agrees with the approach of the site-specific clause containing a maximum building height, and the building envelope being placed within the site-specific DCP. With the same approach to be undertaken for the Northern Site, as outlined above, it is consistent across the entire site and street block.

#### Overshadowing

##### *Northern Site*

The planning proposal is supported by an overshadowing analysis as part of the Urban Design Study (**Attachment E**) prepared for the northern part of the site. The study finds the proposed development will affect the Meta apartment building and the Sydney Mansions building.

The planning proposal adopts the solar access requirements of the Apartment Design Guide (ADG). Council contends the ADG is more appropriate for the site than the controls outlined in Council's DCP, as the site is located within a dense and highly urbanised precinct, the residential units in the area have generally not been built to current overshadowing requirements, and the site is adjacent to Central Sydney.

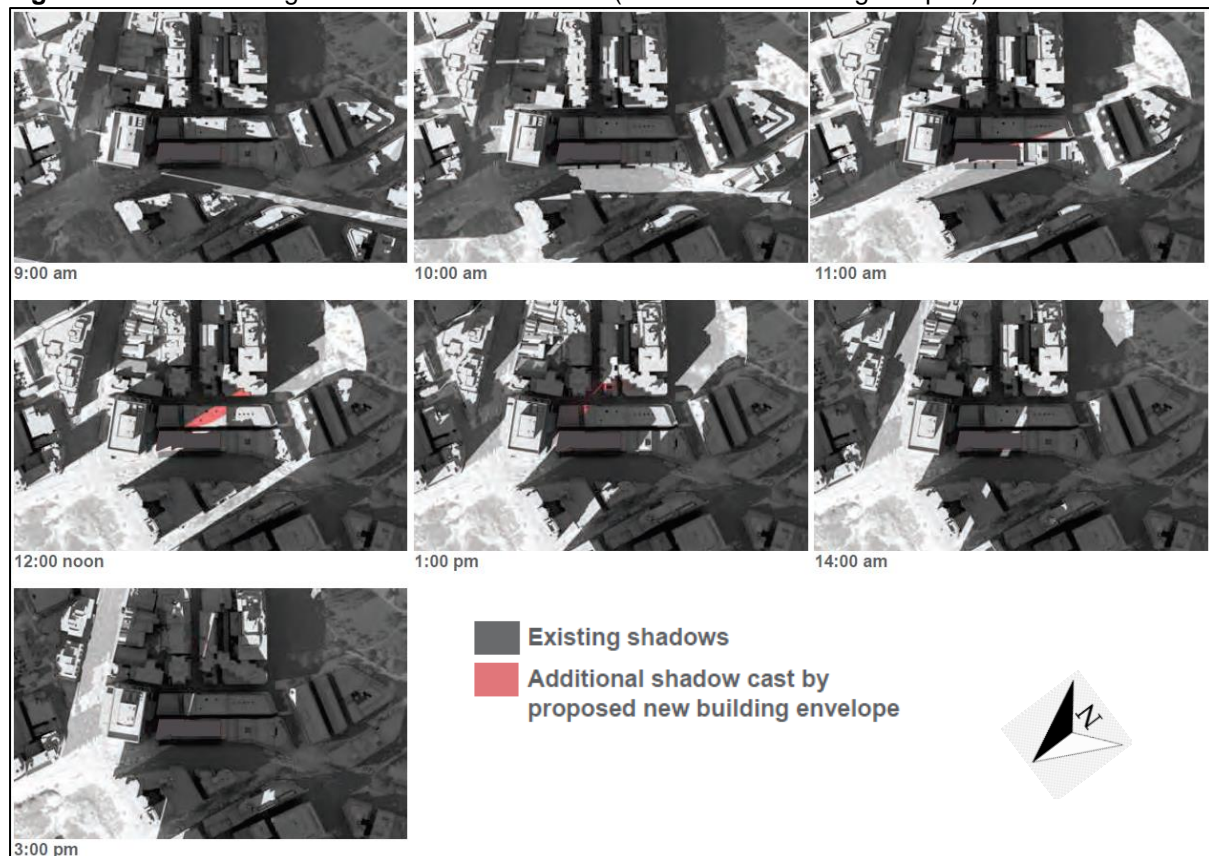
Objective 3B-2 of the ADG requires that if an adjoining property does not currently receive the required hours of access, the new development must ensure solar access to neighbouring properties is not reduced by more than 20%. The Urban Design Report outlines that the requirements of the objective can be achieved.

The Department notes that the Meta apartment building currently receives limited solar access and is already non-compliant with the ADG and Council's DCP requirements for solar access.

The shadow diagrams (**Figure 11**) show there will be minimal additional overshadowing cast by the proposed new building envelope.

Whilst there is some loss of sun to some apartments which currently receive sun, the loss is minimal and within the ADG and Council's DCP guidelines. On balance, the Department considers the minor overshadowing impacts to be reasonable.

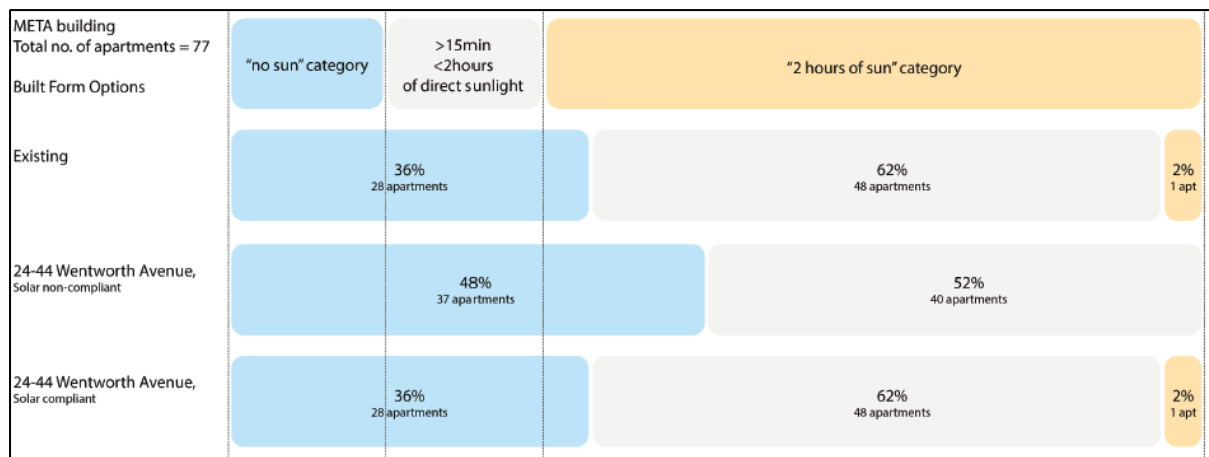
**Figure 11:** Shadow Diagrams for the Northern Site (Source: Urban Design Report)



### *Southern Site*

Council prepared a separate urban design analysis for 24-44 Wentworth Avenue. The solar access requirements of the ADG were applied to the Southern Site, consistent with the Northern Site. Whilst no shadow diagrams from an aerial view were provided, an analysis of the impacts on the adjacent Meta apartment building (**Figure 13**) and the Sydney Mansions building (**Figure 12**) were provided.

**Figure 12** illustrates that the proposed building envelope for the Southern Site has a negligible impact on the solar access for the Meta apartment building. Similarly, **Figures 13** and **14** shows the existing solar access and solar access as a result of the height increase to the Sydney Mansions building. This results in a minimal impact to solar access.



**Figure 12:** Solar Access Analysis for the Meta Building (Source: Urban Design Analysis)



**Figures 13 and 14:** Solar Access Analysis for the Sydney Mansions Building (Source: Urban Design Analysis)

## Heritage

The site at 4-34 Wentworth Avenue, Surry Hills is a local heritage item under Schedule 5 of the Sydney LEP 2012 (I2271), listed as 'Former warehouse group including interiors'

The planning proposal is supported by a Heritage Impact Statement (HIS), prepared by Weir Phillips Heritage dated June 2018 (**Attachment F**). The HIS finds the proposed hotel will have an acceptable impact on the Former Warehouse Group as it will retain the most significant components of the part heritage item from No. 4-22 Wentworth Avenue. The proposal will also facilitate the restoration of the significant elevations fronting Wentworth Avenue. The impact of the tower the site has been mitigated by increasing the setbacks between the tower and the Former Warehouse Group in plan and elevation.

The proposed works will have an acceptable impact on the heritage item, Former Warehouse Group Including Interior for the following reasons:

- the buildings retain a significant amount of original fabric. The proposal will utilise and highlight the remaining internal timber columns and floors, as well as restore the restoration of the primary elevations;



- the principal elevation to Wentworth Avenue will not be altered and will continue to read and be understood as a good example of a group of former Federation Era warehouses;
- the external works will include the repair and restoration of the Wentworth Avenue elevation including the removal of intrusive elements and replacement with materials and finishes matching the original fabric;
- the proposed works will upgrade the building and bring it in line with performance standards including equal access;
- the proposed works to the site will provide greater financial viability ensuring a long term maintenance programme to restore and conserve Former Warehouse Group Including Interior; and
- the proposed works fulfil the requirements for alterations and additions to heritage items in the vicinity of other items as set out by the Sydney LEP 2012 and the Sydney DCP 2012.

The Department notes there is no heritage impact statement undertaken for the heritage item at 40-44 Wentworth Avenue, Surry Hills. Also known as Hotel Harry, the building was designed by prominent architect Ernest Lindsay Thomson, and has historic significance as it provides evidence of the redevelopment of the area following the Wexford Street No 2 Resumptions by Council in the early 20th century.

The Department understands that there is no concept design for the southern site and that heritage conservation of the item would be required through the controls contained in the site specific DCP. Any future Development Application for the site will have to have regard to the potential heritage impacts.

However, for the purpose of exhibition and to achieve consistency between the Northern Site and the Southern Site, the Department recommends the planning proposal be updated to include a heritage assessment or study for the southern site which includes the local heritage item at 40-44 Wentworth Avenue, Surry Hills.

Furthermore, the Department recommends as a condition of Gateway that Heritage Council NSW be consulted with during public exhibition.

### Traffic and Transport

The site is located in an area that is well serviced by public transport. Frequent major bus, light rail and train services are located within walking distance of the site. These public transport services provide access to various destinations in the Sydney metropolitan area, including the CBD, the eastern and inner western suburbs, and beyond.

The planning proposal is supported by a Traffic Report, prepared by ARUP dated 6 June 2018 (**Attachment G**). The Department notes the report was prepared for a previous concept design.

The increase in hotel rooms will result in a minor increase in car drop-off and pick-up activity in Wemyss Lane utilising the 5 minute parking zone. Car parking in accordance with the DCP can be accommodated on site and there are existing public parking stations nearby for any overflow. Loading is proposed to occur on site with refuse collection occurring in Wemyss Lane.

The report concludes the traffic impacts of the proposal can be appropriately managed and can comply with the LEP and DCP requirements. Although the traffic report was prepared for a previous concept design, the land use is largely the same as the current concept design.

The Department notes the traffic report does not include an assessment for southern site. Although the future development for the southern site as a result of this planning proposal may generate less impacts than the northern site, to enable consistency across the whole site, it is recommended as a condition of Gateway that the planning proposal be updated to include a traffic assessment undertaken for the remaining southern site at 24-44 Wentworth Avenue, Surry Hills.

Furthermore, the Department recommends a condition requiring Council to consult with Transport for NSW during public exhibition.

### Wind

The planning proposal is supported by a Wind Tunnel Report prepared by Windtech (**Attachment H**) and an Environmental Wind Assessment prepared by ARUP (**Attachment I**).

The study by Windtech finds that the ground level areas along Wentworth Avenue are primarily exposed to side-streaming north-easterly winds. The side-streaming winds are also present within the existing site. As a result, the wind environment impact of the proposed development is equivalent to existing site conditions and does not affect the surrounding areas any more so than the existing site. Any down washing effects are partially blocked from the awning along the western façade of the proposed development.

The wind assessment by ARUP tested the pedestrian level wind conditions and concludes that due to the proximity of adjacent larger buildings, it is considered that the proposed development would have minimal impact on the local wind conditions in and around the site.

The Department notes that the wind studies were only undertaken for the development at the northern site. Given the wind impacts is considered minor and the proposed controls for the southern site are lower than what is proposed for the northern site, it is unlikely there will be significant impacts as a result of developments from the north and south site.

## **5.3 Economic**

The planning proposal will facilitate development which will achieve a range of land uses on the site, including visitor and tourist accommodation, commercial premises, health services facilities, educational establishments, hotel accommodation, entertainment premises, light industry and information and education facilities. The planning proposal will have the following economic benefits and is considered acceptable as it will:

- support industry sectors including commercial, education, health, tourism and cultural uses.
- contribute to the diversification of Sydney's hotel accommodation stock
- increase commercial floor space within proximity to Central Sydney.
- provide additional employment opportunities accessible by public transport.

#### **5.4 Infrastructure**

The entire site is in an area that is well serviced by public transport including trains and buses. The traffic assessment prepared by ARUP Pty Ltd found there are no traffic or transport issues for the proposed development at 4-22 Wentworth Avenue.

The entire site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded by the developer with further details provided at DA stage.

### **6. CONSULTATION**

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#### **6.1 Community**

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

Council, as the planning proposal authority, will be responsible for public consultation. Council has advised that this will include newspaper notification, displays at Council customer service centres and on Council's webpage.

#### **6.2 Agencies**

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

- Heritage Council of NSW; and
- Transport for NSW.

### **7. TIME FRAME**

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Council has included a project timeline of four months. The Department considers a time frame of 12 months to be more appropriate. This does not preclude the planning proposal from being finalised sooner.

The Gateway determination will be conditioned to update the project timeline to reflect the anticipated time frames for the plan-making process.

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

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Council has requested to be the local plan making authority for this planning proposal. The Department recommends that Council should not be the local plan-making authority for this planning proposal due to the nature and complexity of the proposal.

## 9. CONCLUSION

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

- it is generally consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and State Environmental Planning Policies;
- it facilitates the supply of new tourist and visitor accommodation which will result in additional full time employment opportunities (from 62 to 118 jobs), as well as increasing Sydney's accommodation stock.
- it provides additional commercial floor space in a highly accessible and central location, consistent with local and state strategic plans; and
- the proposed development will conserve the heritage significance of 4-34 Wentworth Avenue.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. note that the inconsistency with section 9.1 Directions 6.3 is of minor significance.

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

1. Prior to community consultation the planning proposal is to be revised as follows:
  - (a) Provide justification on the consistency with section 9.1 Direction 6.3 Site-Specific Provisions;
  - (b) Provide a heritage impact statement and traffic assessment for the site at 24-44 Wentworth Avenue;
  - (c) Transfer the proposed series of coordinates as the maximum building height control for the site at 4-22 Wentworth Avenue into the Site Specific DCP and amend the proposed maximum building height control to refer to its equivalent Reduced Levels (RL); and
  - (d) Update the project timeline to reflect the anticipated time frames for the plan-making process.
2. The revised planning proposal is to be provided to the Department for review and approval prior to public exhibition.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. Consultation is required with the following public authorities:
  - Heritage Council of NSW
  - Transport for NSW.
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

6. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



21/5/2020

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22/6/2020

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