

controls, waste management, landscaping, BASIX requirements and heritage matters. These issues of non-compliance are discussed in the body of this report.

- In accordance with our notification policy, all owners and occupiers of adjoining and affected properties were notified of the proposed development. The amended plans received were also re-notified. During this period, 53 submissions and a petition were received. The issues raised have been addressed and are discussed in greater detail in the body of this report.
- The Director City Planning has recommended the application be refused.
- The Independent Hearing and Assessment Panel has recommended the application be refused in accordance with the Director City Planning's recommendation, subject to amendment.

12 15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL TO REZONE LAND

- A planning proposal to increase the maximum building height from 10m to 18m on land at 15-23 Homer Street has been received.
- The site is zoned B1 Neighbourhood Business and is subject to a maximum height limit of 10m under the Canterbury Local Environmental Plan 2012. It is located at the junction of Homer Street, Illawarra Road and Undercliffe Road and has an area of 1,144m².
- Broad concept plans for a mixed used development up to five storeys have also been submitted.
- Previous planning studies for the site have concluded a height limit of 10m to be appropriate for the subject site and surrounding area.
- The predominant building height of approved developments in the area is three to four storeys.
- The proposed 18m height limit is not recommended to be supported, however, some increase to allow a new building to more closely match the adjoining building in terms of height and stepping down towards the river, could be considered.
- A maximum building height of 14m on part of the land at 15-23 Homer Street Earlwood is recommended.
- Consequential amendments to the Canterbury Development Control Plan 2012 to cater for the amended height will also be required.
- Given the dimensions and location of the site, it is recommended that part of the site be permitted to have ground floor residential uses.
- It is recommended that a planning proposal be prepared to amend the maximum building height and to be set at 14m on part of the land at 15-23 Homer Street Earlwood and allow ground floor residential uses on part of the site, and submitted to the Department of Planning and Environment for a Gateway Determination.

**12 15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL
TO REZONE LAND**

FILE NO: T-29-161
REPORT BY: DIRECTOR CITY PLANNING
WARD: EAST

Summary:

- A planning proposal to increase the maximum building height from 10m to 18m on land at 15-23 Homer Street has been received.
- The site is zoned B1 Neighbourhood Business and is subject to a maximum height limit of 10m under the Canterbury Local Environmental Plan 2012. It is located at the junction of Homer Street, Illawarra Road and Undercliffe Road and has an area of 1,144m².
- Broad concept plans for a mixed used development up to five storeys have also been submitted.
- Previous planning studies for the site have concluded a height limit of 10m to be appropriate for the subject site and surrounding area.
- The predominant building height of approved developments in the area is three to four storeys.
- The proposed 18m height limit is not recommended to be supported, however, some increase to allow a new building to more closely match the adjoining building in terms of height and stepping down towards the river, could be considered.
- A maximum building height of 14m on part of the land at 15-23 Homer Street Earlwood is recommended.
- Consequential amendments to the Canterbury Development Control Plan 2012 to cater for the amended height will also be required.
- Given the dimensions and location of the site, it is recommended that part of the site be permitted to have ground floor residential uses.
- It is recommended that a planning proposal be prepared to amend the maximum building height and to be set at 14m on part of the land at 15-23 Homer Street Earlwood and allow ground floor residential uses on part of the site, and submitted to the Department of Planning and Environment for a Gateway Determination.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget and supports our Community Strategic Plan long term goal of Balanced Development.

Report:**Location**

The subject site is known as 15-23 Homer Street, Earlwood, and is located on the western side of Homer Street. The property adjoins the Cooks River to the north. The land at 15-19 Homer Street is a vacant block of land which was previously owned by the Roads and Maritime Services (RMS). The land was part of the former Cooks River road corridor and has been identified to be surplus to the RMS's requirements. Land at 21-23 Homer Street comprises a two storey building with ground floor shop and a first floor dwelling.

The site comprises lots 1, 2 and 3 in DP 209918 and Lot1 DP 119762. The site is an irregular shaped site with frontages of 44.79m to Homer Street and 42.81m to the Cooks River. The land has a site area of 1,144m².

Surrounding development is predominantly mixed residential and commercial development, which includes the Adora Handmade Chocolate shop, as well as a single storey detached dwelling on the southern side of Homer Street, a property on the corner of Homer Street and Undercliffe is a light industry business. Adjoining immediately to the south-west of the site is a recently constructed residential flat building of up to four storeys in height.

The site is part of a small area of land zoned B1 Neighbourhood Business. The aerial photo below shows the subject site and local context:

**Development History**

There are three previous proposals for rezoning and/or redevelopment of land within the precinct within which the current planning proposal needs to be considered:

- The Master Plan and approved Development Application for land at 25-33 Homer Street, Earlwood.
- The proposed rezoning and approved Development Application of land at 2-16 Homer Street (Adora site), Earlwood.
- Approved Development Application for land at 15-19 Homer Street, Earlwood.

15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL TO REZONE LAND (CONT.)



Diagram showing the location of development/planning history

- **25-33 Homer Street, Earlwood: Master Plan and approved DA**

In 2002, an independent urban design and planning consultant prepared a Master Plan to provide development controls specifically for the site in response to its prominent location near a busy road junction and outlook to the Cooks River.

Apart from this Master Plan, there were at the time, no other development controls in place which the development proposed could be assessed and determined under.

The Master Plan and development controls “...are drawn from the urban design analysis of the context, a review of relevant planning controls and the specific opportunities and constraints of the site...It is proposed that a multi unit residential development up to 4 storeys in height on Homer Street and stepping down to a maximum of 2 storeys on the Cooks River frontage is an appropriate scale for the location and compatible with the surrounding area...” (pg. 3 of Master Plan).

In 2006, Council approved Development Application 1129/2001 for a residential flat building containing 21 units and a single dwelling.

At the time, the proposed development (being a residential flat building), was not permitted under the previous zone. The site, however, enjoyed existing use rights by virtue of the non-conforming use (smash repair business) that had operated on the site for many years. The development application was lodged under existing-use-right provisions which permitted the change of use from one non-conforming use to another use that would otherwise be prohibited.

The development contains three interlinked buildings. The development progressively steps down the slope of the site with a two-storey building fronting the Cooks River and a four-storey building fronting Homer Street. This building is adjacent to the subject site.



Photo of site at 25-33 Homer Street and subject site

- **2-16 Homer Street, Earlwood (Adora Chocolates Site)**

On 9 March 2006 the City Development Committee considered a rezoning proposal for 2-16 Homer Street to allow a mixed use development that incorporated the existing 'Adora Chocolates' operation as well as a refreshment room, commercial premises and medium density housing. It was resolved to engage consultants to prepare alternate planning controls and detailed design and development controls for the subject land.

Consultants were engaged to prepare alternate planning controls and a DCP for the land at 2-16 and 15-35 Homer Street Earlwood. In 2008, the land was subsequently rezoned to Neighbourhood Business 3(c) under the Canterbury Planning Scheme Ordinance (CPSO). The intention of this rezoning was to facilitate the redevelopment of the Undercliffe Bridge Precinct as a local neighbourhood centre.

On 12 April 2012, Council granted consent to Development Application 402/2011 involving the construction of a three storey mixed use development. It should be noted that the scale of the approved development had to be reduced on the site, as the application only involved part of the required amalgamated site (2-16). Therefore, full development potential (up to four storeys) of the site could not be reached.

- **15-19 Homer Street, Earlwood**

An application (DA 468/2011) for the construction of a two storey mixed use development was approved by Council on 12 April 2012. This approval is still valid.

Summary of development approvals

The table below provides a summary of the approved development applications on the sites:

	15-19 Homer St 840m ²	25-33 Homer St 1,554m ²	2-16 Homer St 813m ²
Height	7.5-9.5m	12.9m (to eaves) 17m (for small section of building)	10.34m
FSR	0.97:1	1.49:1	1.1:1
Number of storeys	Part 2 part 3	Part 2 Part 4	3
Density	7 units 2 retail	21 units 1 single dwelling	4 units 2 retail

Development Control Plan 52 – Undercliffe Bridge Precinct, Earlwood

In 2008, Development Control Plan 52 – Undercliffe Bridge Precinct Earlwood, came into effect to deal with the particular attributes of this location. The key controls from DCP 52 relating to height and building setbacks were carried forward into CDCP 2012.

There are two key controls in the DCP that are relevant to the current planning proposal:

- **Height:** A part one part two storey height limit applies to the subject site. The height limit was adopted to ensure new developments ‘step down’ towards the River, to promote green character and residential scale along the foreshore.
- **Amalgamation:** The DCP required the sites at 15, 17, 19-23 to be amalgamated. The planning proposal will meet this second requirement.

Current situation

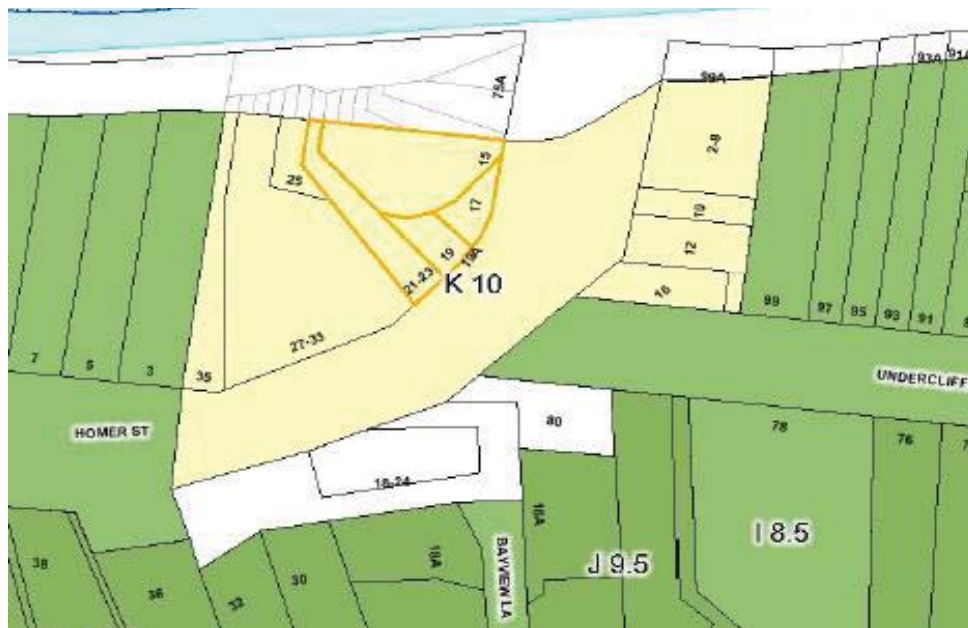
The request currently before Council for the preparation of a planning proposal seeks to amend the existing planning controls as follows:

- **Amendment to permissible use**
An amendment to the CLEP 2012 is sought in order to permit residential apartments at ground floor. These are currently prohibited in the Neighbourhood Business zone. This has been confirmed by recent Court proceedings on another site zoned B2.
- **Amendment to height of buildings map**
The planning proposal requests a height limit of 18m to apply to the site in order to facilitate a residential flat building (RFB) with commercial uses along Homer street.

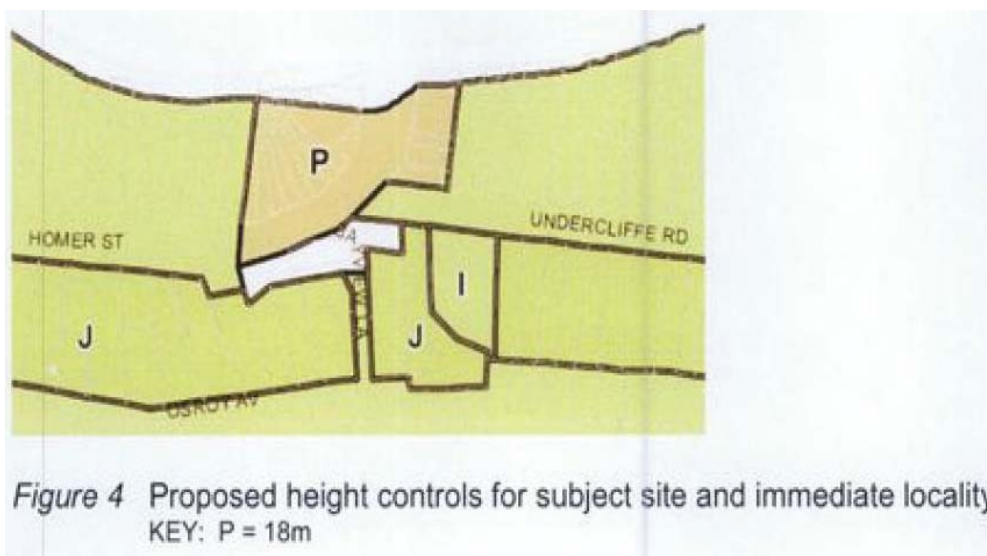
The table below shows a summary of the proposed changes being sought:

Standard	Current	Proposed
Zone	B1 Neighbourhood business	No change to zone, however, an amendment to Clause 2.5 to allow ground level residential accommodation to be permitted on the site.
Height	10m	18m
Floor Space Ratio	No FSR	No change

15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL TO REZONE LAND (CONT.)



Map showing current height



Map showing proposed height

It should be noted that the planning proposal includes increasing the heights to 18m for the surrounding sites at 2-16 and 25-33 Homer Street. The planning proposal does not provide any adequate justification to amend the height for the entire precinct and therefore we can only consider the planning proposal in the context of the subject site.

Assessment of Planning Proposal

The urban design report accompanying the planning proposal analyses the site and its context in order to determine an appropriate built form for the site.

The key findings of the urban design analysis are:

- *Gently sloping site between base of cliff and river flat – overlooks Stafford Walk and Cooks River cycleway – most visible on approach from north overlook Undercliffe Bridge;*
- *Urban streetscape character except for vegetated cliff – one and two storeys opposite (café and houses), 4-5 storey apartment building adjoining to west is strongly urban (small openings in street elevation, small setback, no planting); cliff is tallest element and dominate streetscape;*
- *Building envelope should setback 3m from street to align with apartments – active frontage with awning – 3m setback from Stafford Walk and north-western boundary to provide landscaping and retain views – central planting area and narrow building depth for high amenity – 18m/5 storey height to match apartments, stepping down as turns corner to River;*
- *Residential development with a commercial frontage will be compatible with surrounding land use, which has predominantly residential since first settlement.*

The suggested building envelope comprises a perimeter block form that runs along the northern and eastern frontages of the site.

The scheme envisages a five storey mixed use development along the Homer Street frontage, stepping down around the corner from five to four along the Cooks River and then and stepping down to three storeys along the western edge where it adjoins the residential development at 25-33 Homer Street. The majority of the development will be residential with ground floor retail uses along part of the Homer Street frontage. The applicant has estimated that the scheme would have an FSR of 2:1. It is important to note that this is significantly greater than the 1.49:1 on the existing adjoining building and 1.1:1 on the Adora Chocolates site.

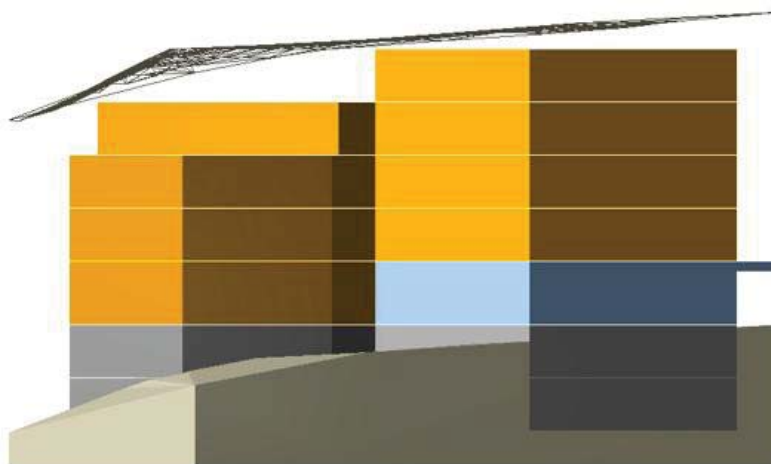


Diagram showing proposed envelope viewed from south western elevation of site

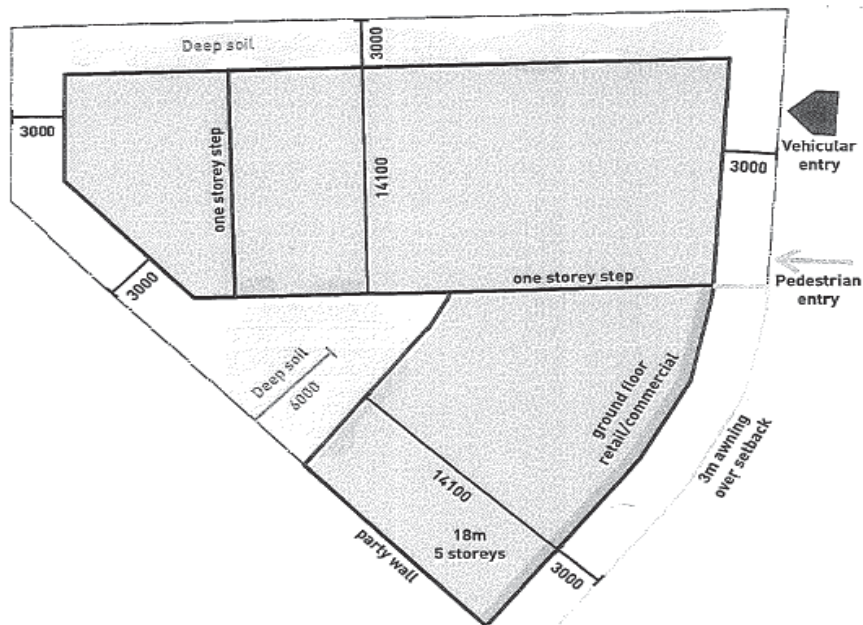


Diagram showing the proposed built form

Evaluation of the Planning proposal

- **Height**

The applicant's justification for an increased height limit is so that it can facilitate a similar scale of development to that of the adjoining development at 25-33 Homer Street.

The applicant submits that the development at 25-33 Homer Street has an overall height of approximately 17.5m and contains five storeys.

However, a review of the approved DA plans does not support this and reveals:

- At the street frontage the highest point of the building is 13m and is four storeys.
- The highest overall point of the building is the line of the skillion roof of the upper level unit which is approximately 17m and four storeys. This height occurs for a small section of the building and it is setback at least 12m from the street frontage of the building.

15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL TO REZONE LAND (CONT.)

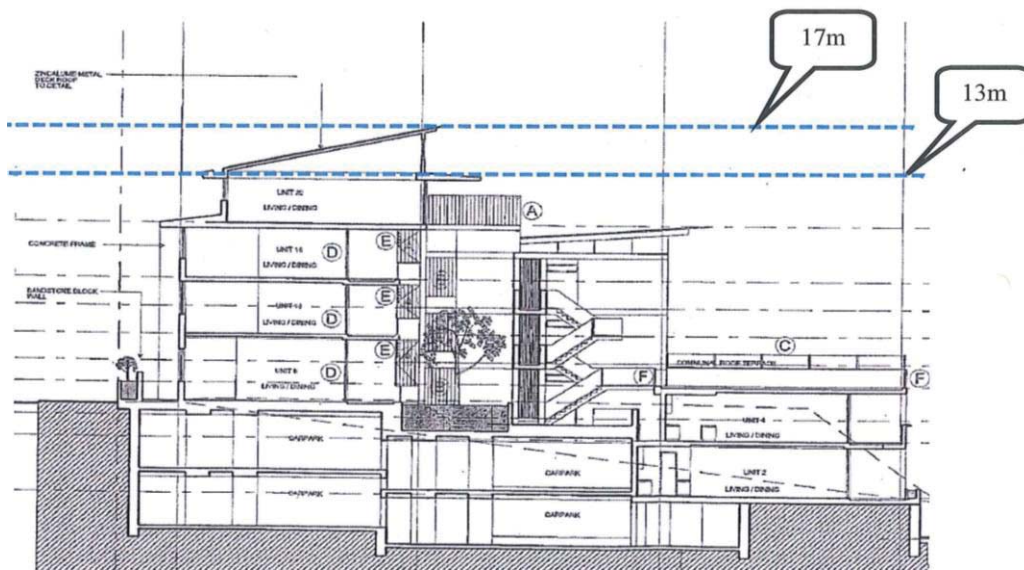


Diagram showing the heights on the building at 25-33

The applicant contends the maximum height of the subject building will be roughly at the point of the lower parapet of the building at 25-33 Homer Street. The height of the lower parapet is equivalent to 12m (from street level of subject site). A diagram showing the heights at 12m, 14m and 18m are shown (from street level) in relation to the subject site (15-23) and adjoining building at 25-33 Homer Street. The diagram shows:

- The 18m height limit would be significantly higher than the existing building and adjoining residential flat building at 25-33 Homer Street.
- A 14m height for the subject site will be approximately the eaves of the adjoining building at 25-33 Homer St, although it is acknowledged that any future adjoining buildings would have a variable height given the slope of the land.
- A 12m height would be slightly higher (approximately 3m) than the subject building at 21-23 Homer Street.

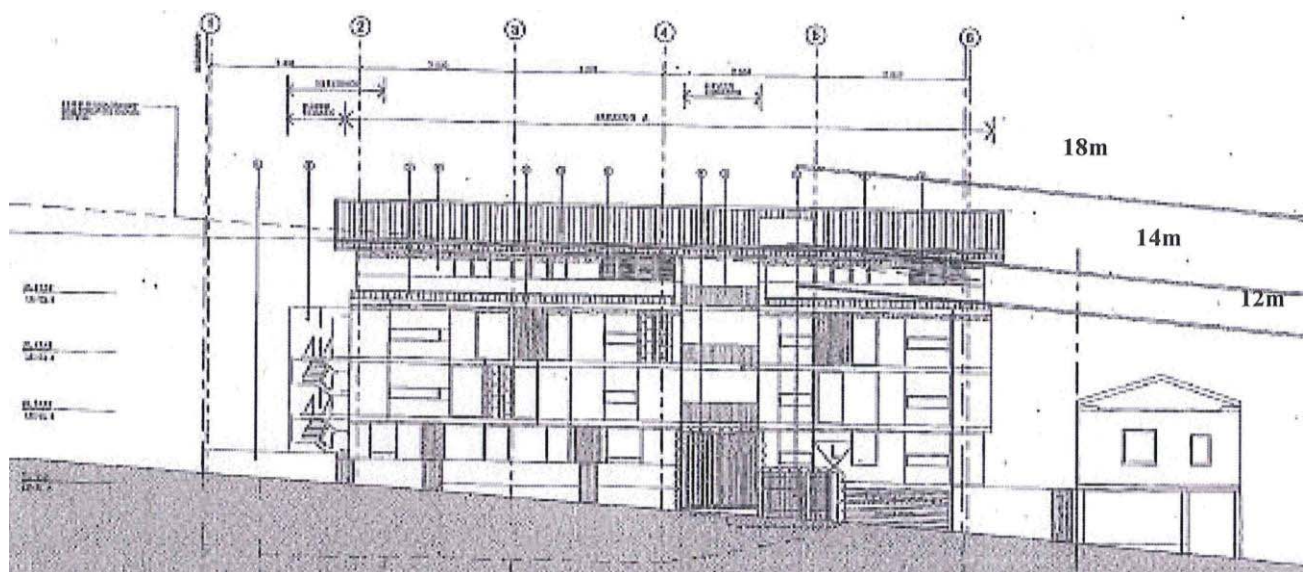


Diagram showing the heights at 12m, 14m and 18m

15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL TO REZONE LAND (CONT.)

While there is merit in allowing a height increase on the subject site so that it relates better to the completed development adjoining to the south, the proposed 18m building form with an approximate FSR of 2:1 on the site is considered to be excessive and out of scale with the predominant built form in the area. This level of development will contrast with the existing predominant building height of three and four storeys in the area. It will also be significantly out of scale with the approved, but yet to be constructed, development at 2-16 Homer (Adora) which is three storeys in height. It is reasonable to pursue a higher built form given the approval and erection of a part four storey development adjoining the subject site at 25-33 Homer Street. However, this should be moderated by an objective of stepping down towards the river.

For these reasons, it is concluded that:

- For that part of any proposed development along the Homer Street frontage, the maximum height should be limited to 14m (which could accommodate four storeys).
- The rest of the site should retain the current maximum height of 10m (which could accommodate a mix of two and three storey buildings).

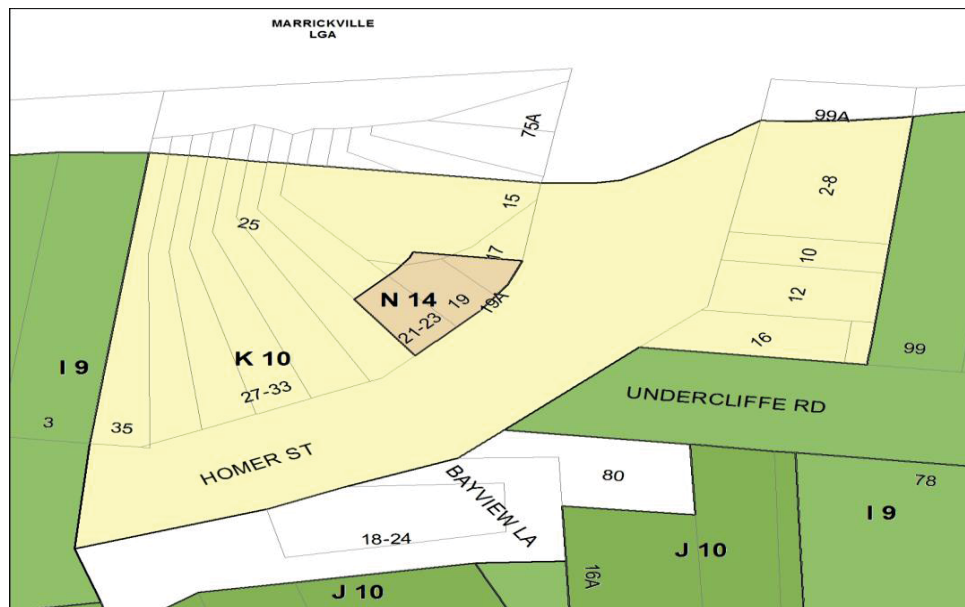


Diagram showing the recommended height for the site

It is important to note that a 14m height limit not be applied to the entire site but only part of the site where it adjoins the building to the south (25-33). This will ensure the required heights can be complied with and a future DA will not seek to attain any increased height over the entire site.

- **Amalgamation**

A key outcome of the planning proposal is that it will enable the site at 21-23 Homer Street to be included in the redevelopment of the site. This site (21-23) has become isolated as a result of the approved development at 15-19 Homer Street. The inclusion of this site (21-23) for redevelopment is important as it will enable the site to be developed as one consolidated lot (15-23). This aspect of the planning proposal is supported as it will remove a site from being potentially isolated and represents a good planning outcome.

- **Residential accommodation at ground level**

The planning proposal seeks to enable the site to allow residential accommodation at ground level. The current zoning of the land being B1 Neighbourhood Business currently prohibits residential accommodation at the ground floor. Shop top housing is permissible in the B1 neighbourhood business zones. However, the definition of shop top housing prohibits residential accommodation at ground floor.

This aspect of the proposal is only supported in part by allowing a component of the northern part of the site to be able to accommodate ground level residential uses. The remainder of the site would be required to maintain ground floor commercial floor space. The applicant has indicated a willingness to extend the commercial component along the whole of Homer Street frontage to include a component addressing Stafford Walk and the Cooks River Reserve to take advantage of orientation and outlook.

It is concluded that approximately half (21m) of the northern or Cooks River frontage be required to maintain a ground floor commercial presence.

An amendment to the CLEP 2012 would be required to support this change, it is recommended to use the additional permitted clause 2.5 in the LEP.

Canterbury Development Control Plan 2012 (CDCP 2012) Amendment

An amendment to the CDCP 2012 will be required to reflect the recommended heights for the site. Appendix 3.5 Undercliffe Bridge Precinct of the CDCP 2012 currently shows a diagram of the site as having a one and two storey height limit. For consistency purposes this map will need to be modified to reflect the heights in the revised planning proposal.

Conclusion

It is considered that the proposed 18m height is excessive for this location, it could set an undesirable precedent for other B1 zones, and as such cannot be supported.

However, an increase in height over part of the site to 14m does have some merit and can be supported. This partial height increase will enable the site to be redeveloped to an appropriate scale and will enable the site to be developed as a vibrant riverside neighbourhood centre.

Accordingly it is recommended that a Planning Proposal be prepared and submitted to the Department of Planning and Environment for a Gateway Determination.

RECOMMENDATION:**THAT**

1. A planning proposal be prepared to:
 - i. Amend the maximum building height to be set at 14m on part of the land (along Homer Street) and the current maximum height of 10m be retained for the remaining part of the land at 15-23 Homer Street Earlwood.
 - ii. Allow approximately half (21m) of the northern part of the site to accommodate ground level residential uses. The remainder of the site would be required to maintain ground floor commercial floor space, and submitted to the Department of Planning and Environment for a Gateway Determination.

15-23 HOMER STREET, EARLWOOD: PLANNING PROPOSAL TO REZONE LAND (CONT.)

2. If the Planning Proposal receives a Gateway Determination to proceed, then Canterbury Development Control Plan 2012 be amended in draft form so that it will be consistent with the proposed LEP amendment and be exhibited with the planning proposal for public comment.
3. The results of the public exhibition process be reported to Council.