



IRF23/2728

Gateway determination report – PP-2023-1805

NSW Land and Housing Corporation - 776 & 792-794
Botany Road and 33-37 Henry Kendall Crescent,
Mascot

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Urban Design Study (SJB Architects, 2021)
Transport and Movement Study (EMM Consulting, 28 November 2017)
Updated Traffic and Transport Advice (EMM Consulting, 14 October 2021 & 9 September 2022)

Relevant reports and plans

Acoustic Report (EMM Consulting, 27 November 2017)

Updated Acoustic Report (EMM Consulting, 13 September 2021)

Economic Impact Assessment (HillPDA, April 2022)

Commercial Market Study (HillPDA, September 2021)

Arboricultural Advice (Arterra Design, April 2021)

Heritage Impact Assessment (GML Heritage, 2 March 2022)

Draft Site-Specific DCP (File Planning and Development Services, 6 May 2022)

Market Needs Assessment (HillPDA, 5 September 2022)

Letter from NSW Health (11 June 2021)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Bayside
PPA	Sydney Eastern City Planning Panel
NAME	LAHC – 776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot (130-150 homes)
NUMBER	PP-2023-1805
LEP TO BE AMENDED	Bayside Local Environmental Plan 2021
ADDRESS	776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot
DESCRIPTION	Lots A, B, C, D and E of DP 36472 and Lot 1 DP 36486
RECEIVED	13/11/2023
FILE NO.	IRF23/2728
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that explain the intent of the proposal. This a proponent-initiated planning proposal to facilitate renewal of an existing social housing site by the NSW Land and Housing Corporation (LAHC).

The objectives of the planning proposal are to:

- Provide additional housing in an area with high amenity and good access to public transport services, employment opportunities, recreational spaces, community facilities and commercial and retail services.
- Allow for improved configuration of the current allowable floor space on the site by increasing the maximum height of buildings.
- Remove the active street frontages requirement on a site located on the peripheries of Mascot local centre to support the success of the local centre and ensure against long term out of centre vacancies.
- Respond to the surrounding local built form, heritage and landscape character.
- Retain the amenity of the surrounding residential uses by ensuring an appropriate built form transition and an adequate level of solar access and privacy is maintained.
- Maintain the amenity of adjoining public domain by ensuring street trees are protected and ensuring minimal overshadowing of the adjacent park.

- Protect the value of surrounding heritage items by providing an appropriate built form relationship across Botany Road.
- Enable LAHC to renew, grow and improve social housing supply in the area and deliver a mix of private and social housing on the site consistent with the Future Directions in Social Housing policy.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal will facilitate redevelopment of an existing social housing site for residential flat buildings comprising 130-150 dwellings, including a minimum of 49 new social dwellings and a potential for 35 affordable housing dwellings.

The planning proposal seeks to amend the Bayside LEP 2021 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	E1 Local Centre	R4 High Density Residential
Maximum height of the building	14m	28m
Floor space ratio	2:1	2:1 (no change)
Active Street Frontages	Applies to Botany Road frontage and Coward Street intersection.	Remove requirements.
Additional local provision – Clause 6.16 <i>Development requiring the preparation of a development control plan</i>	N/A	Apply Clause 6.16 to the site.
Number of dwellings	25 social housing dwellings	130-150 dwellings (including a minimum of 49 social housing dwellings and up to 35 affordable housing dwellings)

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.3.1 Concept scheme

A concept scheme has been prepared in support of the proposal by SJB Architects (2021). It demonstrates that the proposal could facilitate the redevelopment of the site for three residential flat buildings with heights ranging from three to eight storeys, including:

- A three-storey building on Henry Kendall Crescent, adjoining the low-rise residential area.
- An eight-storey building fronting Coward Street at the corner with Botany Road and stepping down to four storeys on the Henry Kendall Crescent frontage, with a predominately four storey street wall fronting the Mascot Memorial Park.
- A six-storey building fronting Botany Road with a four storey street wall responding to the adjacent built form and heritage context.

The concept states that basement parking would be provided in accordance with the RMS Guide to Traffic Generating Development and consistent with the DCP and the Apartment Design Guide.



Figure 1 Indicative Concept Scheme (SJB Architects, 2021)



Figure 2 Indicative Concept Scheme (SJB Architects, 2021)

1.4 Site description and surrounding area

The site comprises six lots with a total site area of approximately 5,771m². The site has street frontages to Botany Road to the east, Coward Street to the south and Henry Kendall Crescent to the west.

Existing development at the site comprises 25 social housing dwellings owned by LAHC across five two storey brick buildings including three walk up flat buildings and 2 town house buildings which were constructed in the 1950s. The site also contains an Ambulance Station at the north of the site fronting Botany Road.

The site is located approximately 800m west of Mascot town centre and Mascot train station, which provides access to services and facilities within walking distance of the subject site. Mascot Memorial Park is opposite the site to the south. Nearby is Mascot Oval to the southwest and the Mascot Police Station to its east. The site is within the catchments for educational infrastructure, including Mascot Public School 400m to the south, Gardeners Rose Public School 500m to the north and JJ Cahill Memorial School 600m to the east.



Figure 3 Subject site (source: Nearmap 2023)

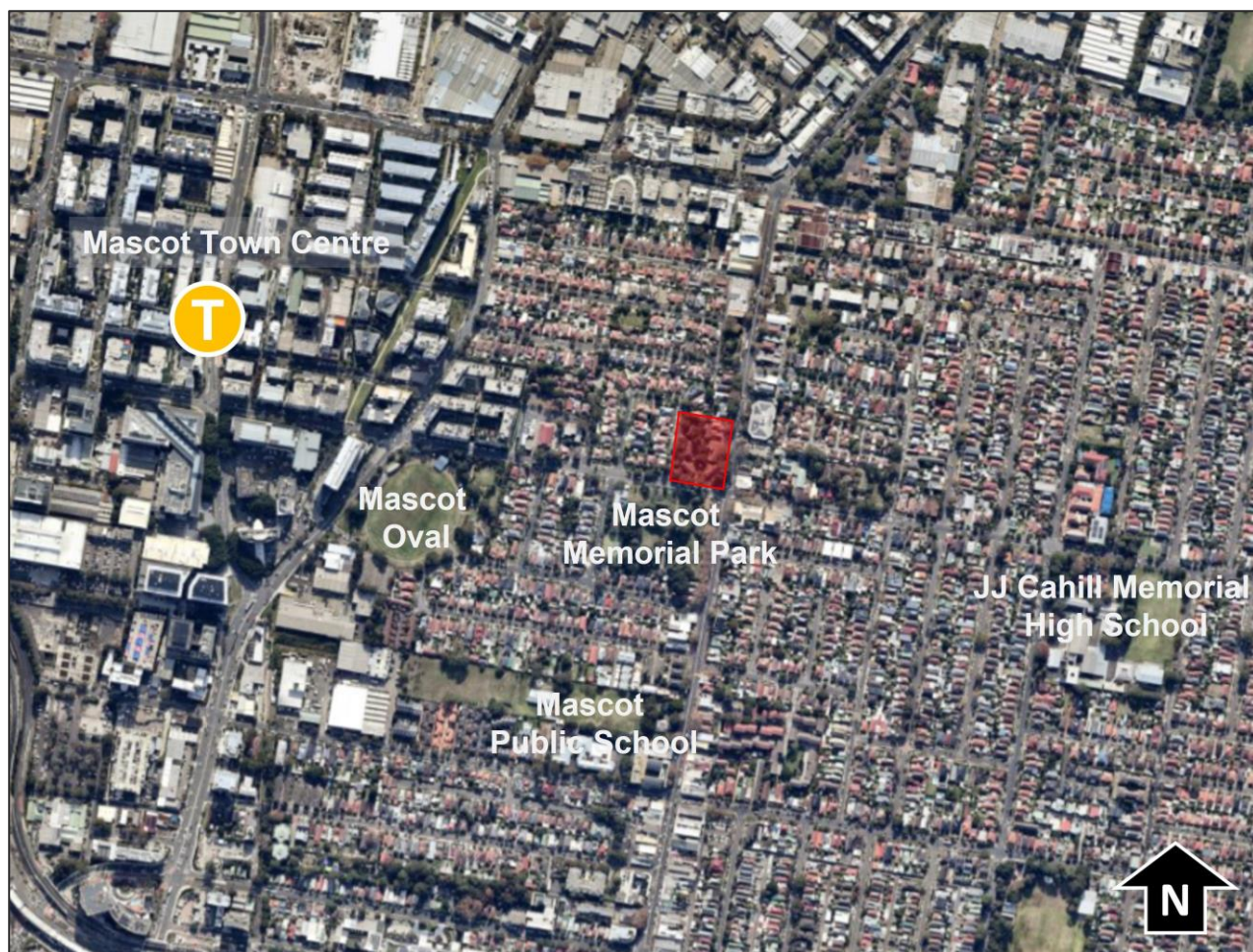


Figure 4 Site context (source: Nearmap 2023)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the following maps of the Bayside LEP 2021, which are suitable for community consultation:

- Land Zoning
- Height of Buildings
- Active Street Frontages.



Figure 5 Current Zoning Map (2023)

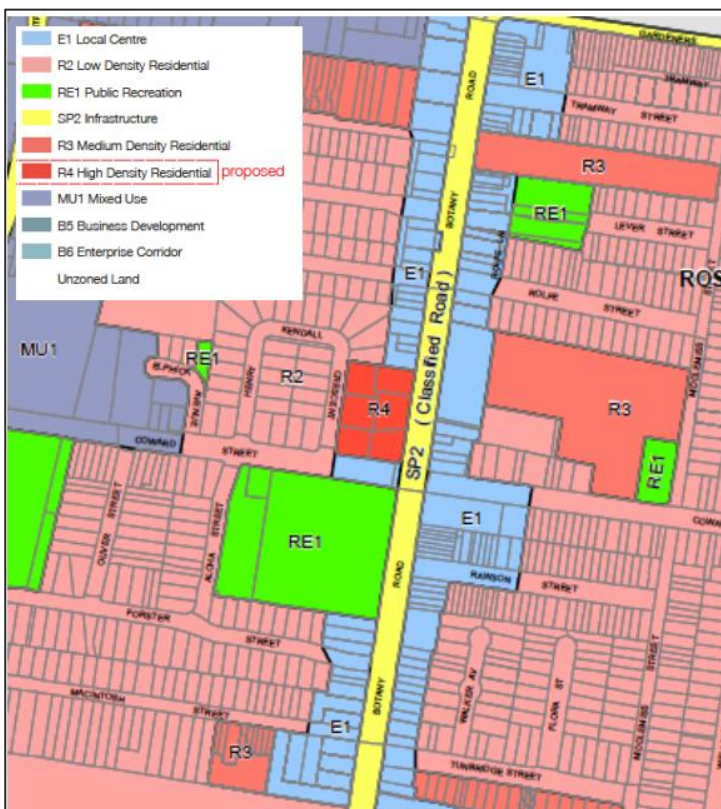


Figure 6 Proposed Zoning Map (Source: Planning proposal 2023)

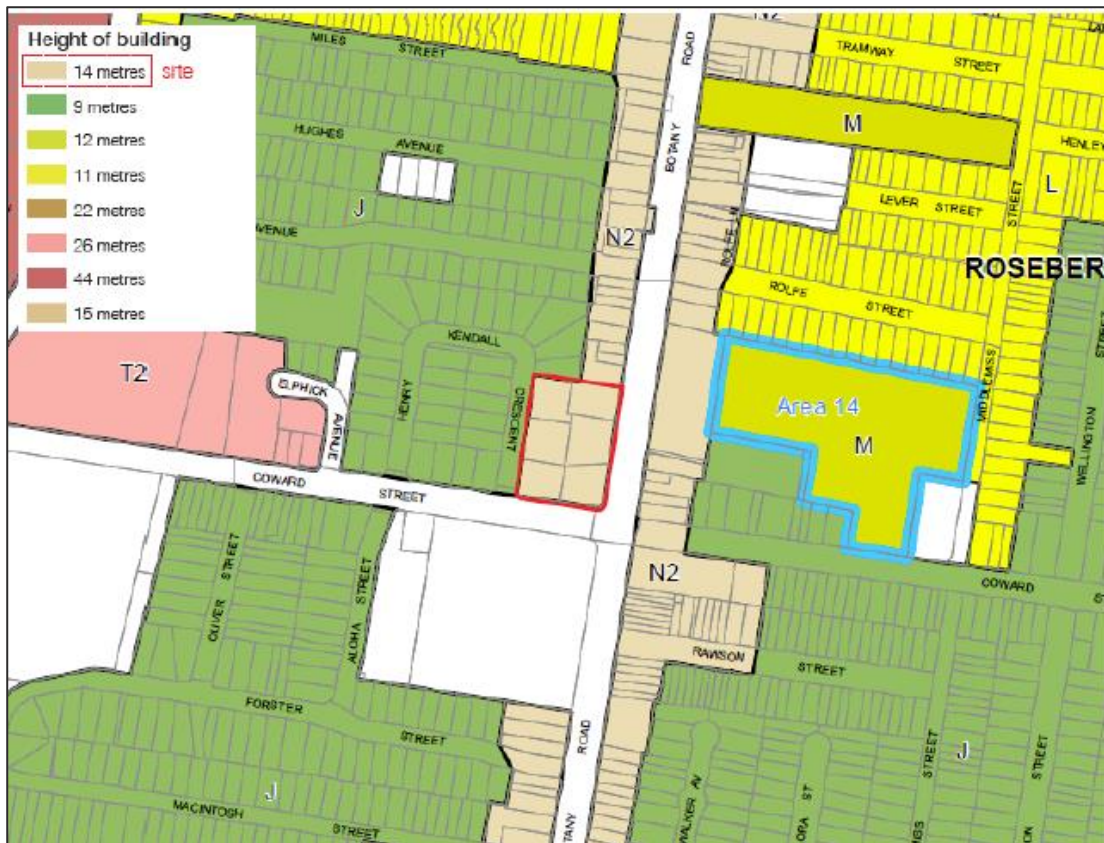


Figure 7 Current Height of Buildings Map (2023)

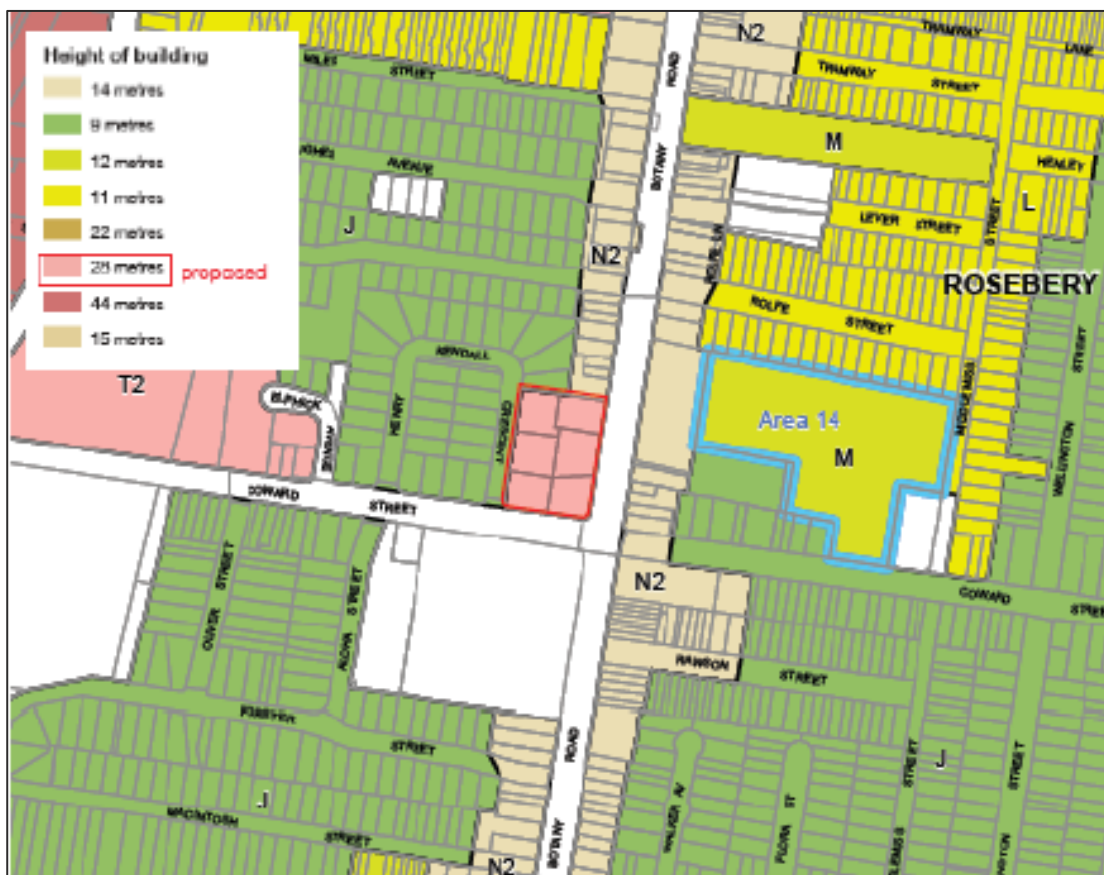


Figure 8 Proposed Height of Buildings Map (Planning proposal, 2023)



Figure 9 Existing Active Street Frontages Map (2023)



Figure 10 Proposed Active Street Frontages Map – site identified in yellow (Planning proposal)

1.6 Background

Timeline	
December 2017	Original planning proposal lodged with Council
August 2020	Council requests additional information relating to urban design concerns and traffic impacts.
14 October 2021	Revised proposal was submitted to Council.
29 October 2021	Council requests further additional information relating to heritage concerns and requests the preparation of a site-specific DCP.
20 January 2022	Council requests the preparation of an economic impact assessment.
17 May 2022	Updated planning proposal was submitted to Council.
23 June 2022	Council requests additional information relating to heritage and traffic concerns and requests the preparation of a Market Needs Assessment.
28 September 2022	An updated planning proposal package was submitted with Council.
26 October 2022	Council resolved to commence master planning of three investigation areas, including Botany Road South.
21 March 2022	The Bayside Local Planning Panel considered the proposal and recommended that it be deferred to enable master planning of the broader precinct.
24 May 2022	Council resolved to defer consideration of the proposal to enable master planning process.
1 August 2022	The proponent lodged a rezoning review request with the Department as Council had failed to make a determination on the proposal within 115 days.
15 September 2022	The Sydney Eastern City Planning Panel considered the rezoning review request and recommended that the proposal be forwarded to the Department for Gateway assessment.
27 September 2023	Council resolved to nominate itself to be planning proposal authority (PPA)
25 October 2023	Panel appointed PPA by the delegate of the Minister.
13 November 2023	Planning proposal submitted for Gateway assessment.

1.7 Rezoning review

On 15 September, the Panel considered a rezoning review request for the site. The Panel determined that the proposal should be forwarded to the Department for Gateway assessment as it demonstrates both site specific and strategic merit.

In its determination, the Panel recommended that the following updates to the planning proposal be made to address the following:

- The E1 Local Centre zoning is to be removed and replaced by a R4 High Density Residential zone over the entire site.
- The references to the proposed amendment to include residential flat buildings to be permitted with consent as an additional permitted use is to be removed.
- The revised planning proposal is to include a proposed LEP provision for a site specific Development Control Plan (DCP).

The Panel's decision also addressed the matter of the Planning Proposal Authority (PPA) role.

The Panel recommended that it be appointed as the PPA. Council resolved on 27 September 2023 to nominate itself to undertake the PPA role.

On 25 October 2023, the Panel was appointed the Planning Proposal Authority for the proposal under section 3.32(2)(c) of the EP&A Act.

2 Need for the planning proposal

The planning proposal acknowledges it is not directly derived from an endorsed LSPS, LHS or report. The planning proposal seeks to deliver Action 1.1 'Increase redevelopment of LAHC properties to renew and grow supply' of the NSW Government's *Future Directions for Social Housing Strategy*.

On 15 September 2023, the Sydney Eastern City Planning Panel's Strategic Planning Panel considered a rezoning review for the site and determined that the proposal has sufficient site specific and strategic merit to proceed to Gateway.

The planning proposal will facilitate redevelopment of an existing social housing site for residential flat buildings comprising 130-150 dwellings, including a minimum of 49 new social dwellings and a potential for 35 affordable housing dwellings. It seeks to achieve this by amending the Bayside LEP 2021 to rezone the site and increase the maximum building height. Given the long-standing residential apartment use on the land and that there is no change to the existing FSR, this is not a material change to the use of the land or the maximum permissible density.

The proposal will contribute towards Government obligations under the *National Housing Accord* by facilitating much needed social and affordable housing supply.

The planning proposal is considered the best means of achieving the intended outcomes as the proposal will align the sites zoning with the existing and proposed future residential uses to ensure that development for increased social housing supply can occur at the site.

3 Strategic assessment

3.1 Region plan

The Greater Sydney Region Plan – A Metropolis of Three Cities (the Region Plan), released by the NSW Government in 2018, integrates land use, transport and infrastructure planning and sets a 40-year vision for Greater Sydney as a metropolis of three cities. The Region Plan contains objectives, strategies and actions which provide the strategic direction to manage growth and change across Greater Sydney over the next 20 years.

Under section 3.8 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) a planning proposal is to give effect to the relevant District Plan. By giving effect to the District Plan, the proposal is also consistent with the Regional Plan. Consistency with the District Plan is assessed in section 3.2 below.

3.2 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the EP&A Act. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 4 District Plan assessment

District Plan Priorities	Justification
Planning Priority E5: Providing for housing supply, choice and affordability with access to jobs, services and public transport	<p>The planning proposal will facilitate redevelopment of the site for 152 dwellings. The area is not identified for significant development uplift in the District Plan. However, the proposal is considered consistent as it will enable LAHC to renew and grow existing housing on the site which has access to jobs, services and public transport in the Mascot centre. This is consistent with the <i>Future Directions in Social Housing Policy</i>.</p> <p>The proposal will contribute to social housing and affordable housing supply with 49 social housing dwellings and 35 affordable housing dwellings towards local housing targets.</p> <p>The proposal is consistent with this priority.</p>
Planning Priority E6: Creating and renewing great places and local centres and respecting the District's heritage	<p>The proposal has been developed to responds to the scale of nearby heritage items and the local context.</p> <p>The proposal is supported by a Heritage Impact Assessment which concludes that the proposal would result in minor visual heritage impacts and that the proposed setbacks and built form are acceptable. The proposal is also supported by a draft site-specific DCP.</p> <p>Whilst the proposed rezoning of the site from E1 Local Centre to R4 High Density Residential is a reduction in employment land zoned for a local centre, it reflects the existing long-standing use of the site for social housing. Redevelopment of the site for housing will contribute to the visual quality of the centre. Additionally, no increase in FSR is proposed. Any inconsistency is considered minor and justified.</p> <p>The proposal is broadly consistent with this priority.</p>
Planning Priority E10: Integrating Land Use Transport and delivering a 30-minute city	<p>The subject site is approximately 850m east of the Mascot Centre and Mascot Train Station, providing access to jobs, services and public transport.</p> <p>The proposal is broadly consistent with this priority.</p>

District Plan Priorities	Justification
Planning Priority E17: Increasing urban tree canopy cover and delivering green grid connections	<p>The site is located in an established urban area and opposite the Mascot Memorial Park. The proposal has demonstrated that landscaping retention of high value trees is achievable.</p> <p>The proposal is generally consistent with this priority.</p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Bayside Local Strategic Planning Statement (LSPS)	<p>The Bayside Local Strategic Planning Statement (LSPS) was endorsed by the Greater Sydney Commission in 2020. The LSPS seeks to provide a strategic land use vision for Bayside and aligns local planning and services delivery with the objectives and priorities of the Greater Sydney Region and Eastern City District Plan.</p> <p>The proposal will facilitate renewal of an existing social housing site and will deliver new affordable and social housing stock with 850m of Mascot Station and near frequent bus services. This which aligns with the following planning priorities of the LSPS:</p> <ul style="list-style-type: none"> • Planning Priority 4: Provide social infrastructure to meet the needs of the Bayside Community • Planning Priority 5: Foster healthy, creative, culturally rich, and socially connected communities. • Planning Priority 6: Support sustainable housing growth by concentrating high density urban growth close to centres and public transport corridors. • Planning Priority 7: Provide choice in housing to meet the needs of the community. • Planning Priority 8: Provide housing that is affordable. <p>The Botany Road is an investigation area and is primarily zoned for E1 Local Centre. Council did not commence work on the masterplan until late 2023 and there is no set timeframe for its completion. This planning proposal was lodged in 2017. Given that project will support the delivery of much needed new social and affordable housing, delaying this project for master planning of the area is not considered warranted or appropriate.</p> <p>The proposal also states that the LSPS identifies a short-term opportunity for “Infill development in the existing business zoned areas of Rockdale, Mascot and Botany for residential flat buildings and shop top housing” (page 56).</p> <p>The planning proposal will facilitate increase housing, including social and affordable housing, in an area with access to jobs, public transport and services consistent with the LSPS. Potential inconsistencies relating to master planning of the centre are considered justified.</p>


Local Strategies	Justification
<p>Bayside Local Housing Strategy (2021)</p>	<p>The Bayside Local Housing Strategy (LHS) plans for housing to 2036 and includes a series of priorities to help ensure affordable and diverse housing choices are provided to meet changing community needs.</p> <p>The planning proposal will contribute to the housing targets in a well-serviced location, consistent with <i>Objective 1: Increased housing supply</i> and <i>Objective 2: Well located housing supply</i> of the LHS.</p> <p>The proposal has been prepared by NSW Land and Housing Corporation and includes land owned by NSW Health for the purpose of an ambulance facility. LAHC has been working collaboratively with Council, NSW Health and the Department to deliver this important housing development since its original lodgement in December 2017.</p> <p>The proposal will facilitate an increase of a minimum of 49 social housing dwellings and up to 35 affordable housing dwellings. This is consistent with <i>Objective 3: Greater housing diversity</i> and choice and <i>Objective 4: Improved housing affordability</i>. The proposal seeks to increase the permissible maximum height to facilitate development that is consistent with the dominant existing use of the site and consistent with the existing maximum FSR which establishes the expected density. Accordingly, the proposal not considered to be materially increasing the permissible density.</p> <p>The planning proposal is broadly consistent with the LHS as the proposal will contribute to unlocking housing capacity and support delivery of needed social and affordable housing.</p>

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The planning proposal is broadly consistent with the Region Plan, Eastern City District Plan and LSPS. Refer to section 3.2 for further assessment.</p>
1.4 Site Specific Provisions	Consistent	<p>The objective of the direction is to discourage unnecessarily restrictive site-specific planning controls. The direction is applicable as the planning proposal seeks to include a site-specific provision to require the preparation of a DCP.</p> <p>The proposal has been prepared by NSW Land and Housing Corporation and includes land owned by NSW Health for the purpose of an ambulance facility. LAHC has been working collaboratively with Council, NSW Health and the Department to deliver this important housing development since its original lodgement in December 2017.</p> <p>A draft site specific DCP has been prepared by the proponent and the provisions of SEPP 65 and the Apartment Design Guide will apply to future development. Imposing an LEP provision requiring a DCP is considered unnecessary. This does not preclude Council from applying a DCP to the site.</p> <p>The Department is not satisfied that the inconsistency with the Direction is warranted with the direction in this instance. A Gateway condition is recommended to remove the proposed DCP provision from the planning proposal prior to exhibition. This approach will resolve the inconsistency.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Consistent	<p>The objective of Direction 3.2 is to conserve items, areas, objectives and places of environmental heritage significance and indigenous heritage significance.</p> <p>The site is not a heritage item or located within a heritage conservation area (HCA). There are several heritage items near the site, including:</p> <ul style="list-style-type: none"> • I266: House at 999 Botany Road, Mascot • I267: Electrical Substation No 147 at 1000 Botany Road, Mascot • I268 Former National Bank of Australasia at 1001 Botany Road, Mascot • I262: Mascot Memorial Park at 814 Botany Road, Mascot.  <p>Figure 11 LEP Heritage Map</p> <p>The proposal is supported by a Heritage Impact Assessment prepared by GML. It concludes that the proposal will result in minor visual heritage impacts and that the proposed setbacks and design will adequately address concerns.</p> <p>The Department considers that the proposal has adequately considered its surrounding heritage context and the proposal does not reduce or affect the ongoing application of existing LEP provisions for heritage conservation. Further detailed design and consideration of heritage will occur at development stage.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Unresolved	<p>This Direction seeks to ensure development of flood prone land is consistent with the Flood Risk Management Manual and ensure LEP provisions are commensurate with the flood behaviour and consider the potential impacts on and off the land.</p> <p>The planning proposal has not addressed this direction.</p> <p>Council's online flood mapping identifies the site as affected in the PMF flood event. The surrounding area is identified as being flood prone in 1% AEP and PMF flood events.</p> <p>The Mascot, Rosebery and Eastlakes Flood Risk Management Study and Plan (2017) applies hydraulic hazards maps identify the site as largely H1 (no restrictions) and the site has a flood fringe categorisation. Map extracts are provided are provided in Figures 12 and 13 below.</p> <p>Additionally, the long-standing residential apartment use on the land and that there is no change to the existing FSR, this is not a material change to the use of the land or the maximum permissible density.</p> <p>Notwithstanding this, the requirements of this Direction need to be addressed in the planning proposal prior to community consultation. The Flood Risk Management Manual (2023) and 2022 Flood Inquiry should also be addressed. A condition is recommended to this effect. After this has been undertaken the PPA should consider whether there is any increase in flood risk that would warrant consultation with the Environmental and Heritage Group (EHG) of the NSW Department of Planning and Environment and the NSW State Emergency Services (SES).</p> <p>Consistency with this Direction remains unresolved until the planning proposal is updated to address the terms of the Direction.</p>

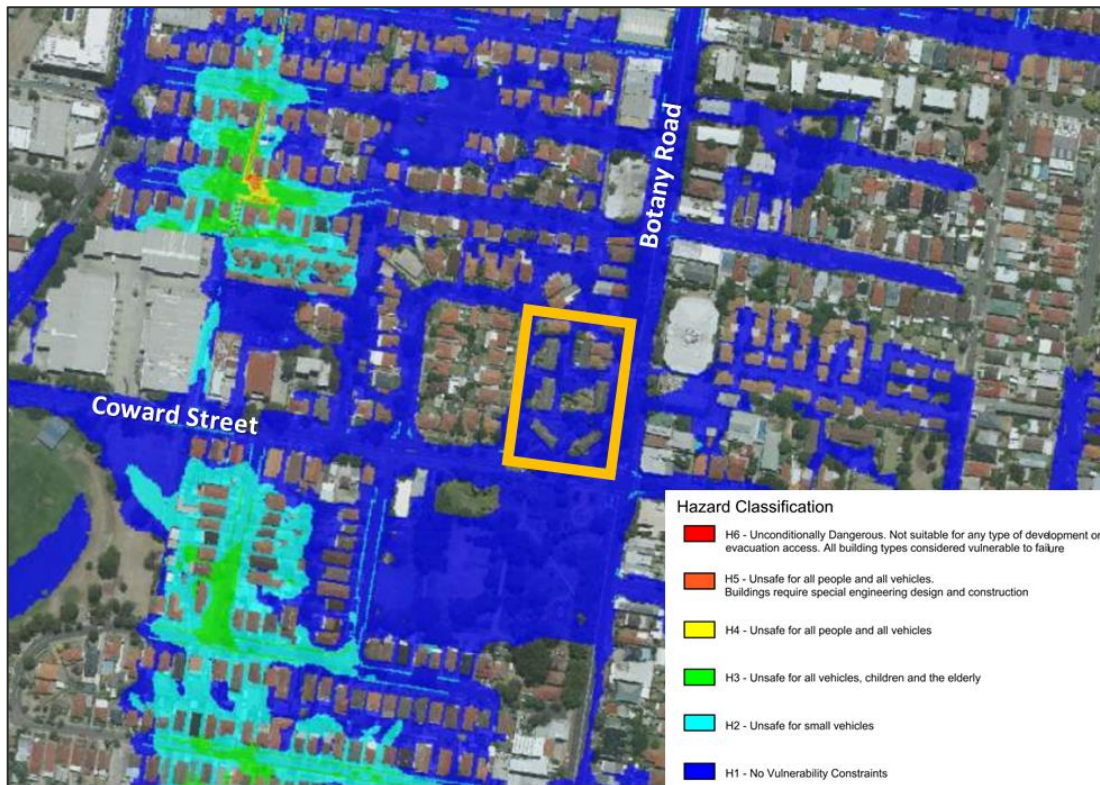


Figure 12: Hydrologic Hazard in 1% AEP Event -site outlined in orange (Source: Mascot, Rosebery and Eastlakes Flood Risk Management Study and Plan, 2017)

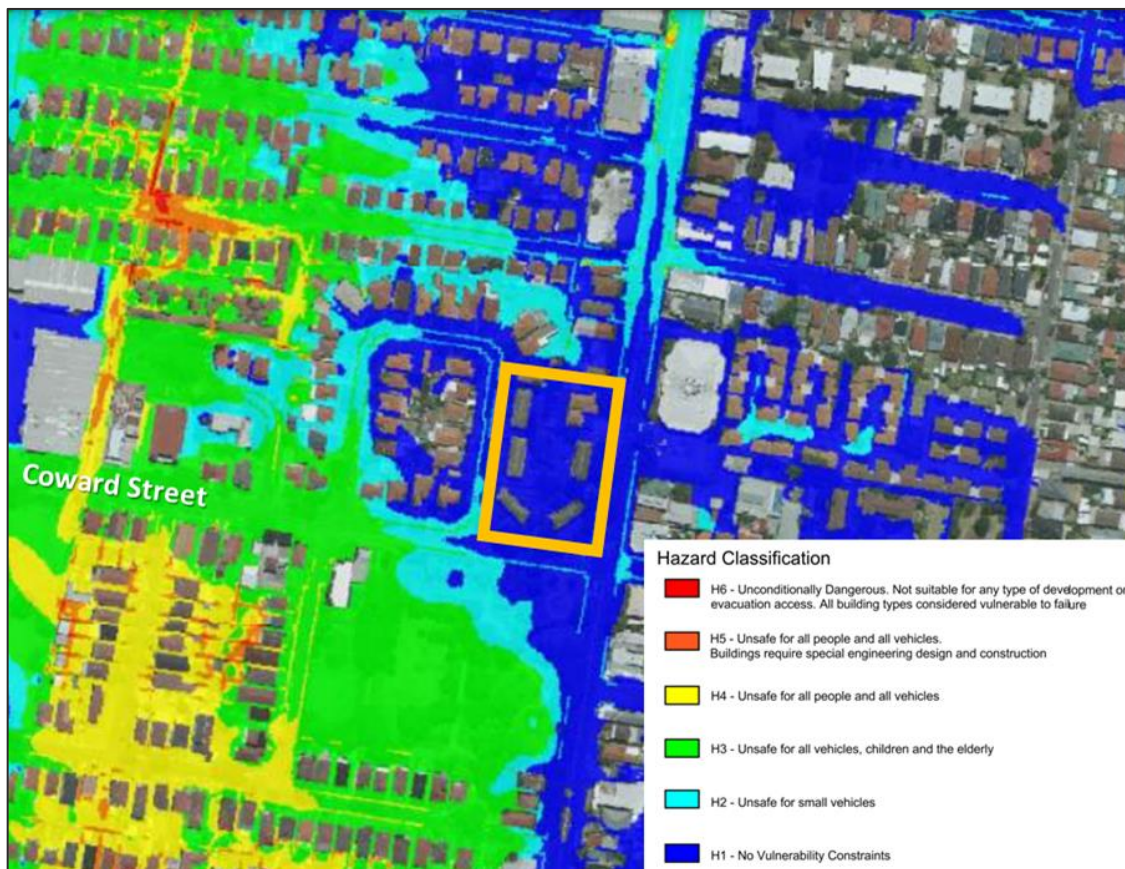


Figure 13: Hydrologic Hazard in PMF Event – site outlined in orange (Source: Mascot, Rosebery and Eastlakes Flood Risk Management Study and Plan, 2017)

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.4 Remediation of Contaminated Land	Unresolved	<p>The Direction seeks to reduce the risk of harm to human health and the environment by ensuring contamination and remediation are considered by planning proposal authorities.</p> <p>The site is occupied by residential flat buildings and an ambulance station. These uses are permissible in the existing and proposed zones.</p> <p>Chapter 4 of SEPP (Resilience and Hazards) 2021 contains suitable provisions to ensure consideration of whether land is contaminated to be adequately assessed as part of a future development application.</p> <p>Notwithstanding the above, given that the proposal would permit a change of use for the land occupied by the ambulance station, the terms of the direction require a that the PPA obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. A Gateway condition is recommended in this regard.</p> <p>Consistency with this direction remains outstanding until this matter is further addressed by the proposal.</p>
4.5 Acid Sulfate Soils	Inconsistent	<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 sulfate soils.</p> <p>The site is identified in the Bayside LEP 2021 as being affected by Class 4 acid sulfate soils. An acid sulfate soils study has not been provided.</p> <p>Clause 6.1 of the Bayside LEP 2021 contains suitable provisions to ensure that acid sulfate soils can be appropriately considered and addressed as part of any future development application involving any excavation of the site. This includes a requirement for an Acid Sulfate Soils Management Plan.</p> <p>The proposal is justifiably inconsistent with this direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
5.1 Integrating Land Use and Transport	Unresolved	<p>The direction seeks to ensure that land use and development improve access to housing, jobs and services by means of public transport and improved walkability.</p> <p>The planning proposal seeks to provide increased housing supply approximately 850m east of the Mascot commercial centre with access to public transport, services and facilities. It is approximately a 12-minute walk to Mascot Station.</p> <p>The proposal is supported by a traffic and transport report prepared by EMM Consultants. It's noted that discussions are ongoing with Transport for NSW (TfNSW) regarding suitable access arrangements. Further consultation with TfNSW is required. A Gateway condition is recommended in this regard.</p> <p>The site has access to jobs, public transport and services. Redevelopment of the site for increase social and affordable housing and market housing is an efficient use of government land. The proposal is considered broadly consistent with the aims of this Direction. However, consistency with this direction remains unresolved until consultation with TfNSW is completed.</p>
5.3 Development Near Regulated Airports and Defence Airfields	Consistent	<p>The direction seeks to ensure the effective and safe operation of regulated airports and defence airfields and ensure that development on noise sensitive land incorporates appropriate mitigation measures.</p> <p>The Inner Horizontal Surface for Sydney Airport identifies the site as having an Obstacle Limitation Surface of 51 AHD. The planning proposal seeks to increase the maximum building height to 28m. Accordingly, a controlled activity approval under the Commonwealth <i>Airport Act 1996</i> is not required.</p> <p>Clause 4(a) of the direction requires that proposals which seek to increase residential densities in areas with an Australian Noise Exposure Forecast (ANEF) of 20-25, must include provisions to ensure that development meets Australian Standard 2021:2015, Acoustics—Aircraft noise intrusion—Building siting and construction (AS 2021:2015). Clause 6.8 of the Bayside LEP 2021 applies to the site and includes this requirement.</p> <p>The proposal is considered consistent with the terms of the direction and the existing provisions of the Bayside LEP 2021 will ensure noise mitigation measures are appropriately implemented as part of any future development application process.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
6.1 Residential Zones	Consistent	<p>This Direction aims to encourage housing choice, make efficient use of infrastructure and services, and minimise the impact of residential development on environment and resource lands.</p> <p>The direction applies as the proposal applies to land which allows for significant residential development and seeks to rezone the site to R4 High Density Residential.</p> <p>The planning proposal is consistent with the terms of the direction as it seeks to increase the supply and choice of housing through the provision of a mixed housing development including social, affordable and private dwellings.</p>
7.1 Employment Zones	Inconsistent	<p>The direction seeks to encourage employment growth in suitable locations and protect employment land in existing employment zones. The direction applies as the proposal applies to land zoned E1 Local Centre.</p> <p>The proposal is inconsistent with the direction as it will reduce the potential floor space area for employment uses by rezoning the land from an employment zone to a residential zone. It will also remove active street frontage requirements.</p> <p>The site is occupied by social housing owned by LAHC. The proposed rezoning reflects the existing longstanding use of the site and will facilitate its redevelopment to deliver increase social, affordable and private market housing. This is consistent with the NSW Government's <i>Future Directions for Social Housing Strategy</i>.</p> <p>The planning proposal is supported by studies prepared by Hill PDA which concludes that the provision of commercial uses on the ground floor on the site would not be viable and would be at risk of long-term vacancies.</p> <p>The site is occupied by social housing and an ambulance station. Despite the change in zoning the proposal is not expected to materially reduce existing employment floor space. The proposal will facilitate renewal of a LAHC site to deliver much needed new social and affordable housing.</p> <p>On this basis the Department is satisfied that the inconsistency has been justified in accordance with the terms of the Direction.</p>

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs and does not hinder the application of any SEPPs.

Table 7 SEPP assessment

SEPP	Consistency	Assessment
SEPP (Housing) 2021	Consistent	<p>The SEPP seeks to provide diversity in housing and encourage affordable and rental housing. It also seeks to provide residents with a reasonable level of amenity.</p> <p>The proposal seeks to facilitate renewal of an existing social housing site through residential apartment development containing a mix of affordable, social and private dwellings.</p> <p>The planning proposal does not contain any provisions which would contravene or hinder the application of the SEPP.</p>
SEPP (Industry and Employment) 2021	Consistent	<p>Chapter 3 of the Industry and Employment SEPP aims to ensure signage is compatible with the desired amenity and visual character of an area.</p> <p>The planning proposal does not contain any provisions which would contravene or hinder the application of the SEPP.</p>
SEPP Transport and Infrastructure 2021	Consistent	<p>The SEPP aims to facilitate the effective delivery of infrastructure across the State and establishes requirements for development that is likely to increase demand for infrastructure, services and facilities.</p> <p>The site has a frontage to Botany Road, which is a Classified Road. Clauses 2.119 and 2.122 of the SEPP seek to ensure that new development does not compromise the operation and function of classified roads. Referral to TfNSW will be required for a future development application.</p> <p>The planning proposal does not contain any provisions that will impede the operation of the SEPP.</p> <p>Traffic and transport are discussed against the provisions of Section 9.1 Directions in Section 3.4 of this report and includes a recommendation for a Gateway condition to consult with TfNSW.</p>
SEPP (Biodiversity and Conservation) 2021	Consistent	<p>Chapter 2 of the Biodiversity and Conservation SEPP aims to protect the biodiversity values and preserve amenity of non-rural areas.</p> <p>The planning proposal does not contain any provisions that will impede the operation of the SEPP.</p>
SEPP (Building Sustainability Index: BASIX) 2004	Consistent	<p>The BASIX SEPP seeks to ensure sustainable residential development across the State.</p> <p>The planning proposal does not contain any provisions that will impede the operation of the SEPP.</p>

SEPP	Consistency	Assessment
SEPP 65 and Apartment Design Guidelines (ADG)	Consistent	<p>SEPP 65 aims to improve the design quality of residential apartment development in NSW.</p> <p>The planning proposal is supported by an indicative concept scheme prepared by SJB Architects which demonstrates that a development scenario under the proposed controls can be compliant with the requirements of the ADG. Detailed assessment would be undertaken at development stage.</p> <p>The planning proposal does not contain any provisions that will impede the operation of the SEPP.</p>

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 8 Environmental impact assessment

Environmental Impact	Assessment
Heritage	The site is located in proximity to several heritage items. Heritage is discussed in section 3.4 of this report.
Solar access and overshadowing	<p>The planning proposal includes a concept scheme which demonstrates potential that overshadowing to the Mascot Memorial Park south to the site on Coward Street.</p> <p>The planning proposal is supported by shadow diagrams prepared by SJB Architects for the concept scheme. It considers overshadowing impacts on Mascot Memorial Park south to the site on Coward Street. The shadow diagrams demonstrate that overshadowing will be limited the northern part of the park. The shadow diagrams also show that the ANZAC memorial statue will not be shaded by the proposed building at any time. The proposal will also result in some overshadowing of existing building frontages to the east of the site after 2pm on the Winter solstice.</p> <p>The proposal is supported by detailed analysis and has been designed to mitigate impacts. The Department is satisfied that proposal does not prevent further consideration of overshadowing impacts when a detailed design is assessed by the consent authority at the development assessment stage.</p>

Environmental Impact	Assessment
	 <p>21st June - 9am</p> <p>Figure 14: Shadow Diagram 21 June at 9am (SJB Architects)</p>  <p>21st June - 2pm</p> <p>Figure 15: Shadow Diagram 21 June at 2pm (SJB Architects)</p>

Environmental Impact	Assessment
Biodiversity and tree retention	<p>The site is located within an established urban area and is not known to contain any critical habitat or threatened species, populations or ecological communities.</p> <p>The proposal is supported by an Arboricultural Report prepared by Arterra. The development scheme demonstrates that landscaping and retention of high value trees is achievable.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 9 Social and economic impact assessment

Social and Economic Impact	Assessment
Social and Affordable Housing	<p>The provision of a mixed residential development is anticipated to result in positive social and economic impacts.</p> <p>The proposed development seeks to facilitate renewal of an existing social housing site, increasing the number of social housing dwellings from 25 to 49 and improving the quality of these dwellings. It will also provide up to 35 affordable housing dwellings. This is consistent with the <i>Future Directions in Social Housing Policy</i>.</p> <p>The proposal represents an opportunity for LAHC to progress and deliver much needed new social and affordable housing.</p>
Economic	<p>The planning proposal will result in the loss of employment zoned land as the proposal seeks to rezone the site from E1 Local Centre to R4 High Density Residential and remove Active Street Frontage requirements.</p> <p>The planning proposal is supported by the following studies prepared by Hill PDA:</p> <ul style="list-style-type: none"> • Commercial Market Assessment (September 2021) • Economic Impact Assessment (April 2022) • Market Needs Assessment (September 2022). <p>The Commercial Market Assessment examined the extent to which commercial and/or retail uses at ground level on Botany Road would be commercially viable. It found that the ground floor commercial or retail uses are unlikely to be viable at the subject site and the risk of long-term vacancies is high.</p> <p>The site is occupied by social housing and an ambulance station. Accordingly, despite the change in zoning the proposal is not expected to materially reduce existing employment floor space. The proposal will facilitate renewal of a LAHC site to deliver much needed new social and affordable housing. The economic impacts are considered justified.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 10 Infrastructure assessment

Infrastructure	Assessment
Traffic and Transport	<p>The planning proposal is supported by a traffic study prepared by EMM (2017 and updated 2021 and 2022). The Department notes that discussions are ongoing with Transport for NSW to determine the most suitable access arrangements for the site.</p> <p>Public transport and traffic are discussed against the provisions of Section 9.1 Directions in Section 3.4 of this report. The recommended conditions of the Gateway determination require consultation with TfNSW.</p> <p>In relation to parking, the indicative concept scheme demonstrates that basement car parking can be provided for a total of 135 spaces. Final provision of car parking will be resolved at DA stage based on a detailed design and occupancy modelling.</p>
Utilities	<p>The site is located within an established urban area which is serviced by water, sewer services, electricity, gas and telecommunications. The proposal reflects the existing use of the site and does not increase the FSR and is therefore not considered to be materially increasing permissible density. Consideration of servicing requirements will be subject to detailed design assessment at DA stage.</p>

5 Consultation

5.1 Community

The planning proposal is categorised as standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Bayside Council
- NSW Health (as landowner)
- Transport for NSW.

This does not prevent the PPA from consulting with additional agencies.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard.

The Department recommends an LEP completion date of 18 October 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal is the subject of a rezoning review and the Sydney Eastern Planning Panel is the Planning Proposal Authority, it is recommended that the Minister retains the local plan-making authority role for this proposal.

8 Assessment summary

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

- The proposal is generally consistent with the strategic planning framework including the Eastern City District Plan, Bayside Local Housing Strategy and Local Strategic Planning Statement.
- The proposal will allow for NSW Land and Housing Corporation to deliver on Action 1.1 of the NSW Government's *Future Directions for Social Housing Strategy*.
- The proposal will contribute to the NSW Government's targets under the National Housing Accord.
- The proposal will contribute towards housing targets providing a mix of social, affordable and market value dwellings consistent with the existing use and maximum permissible density of the site.
- is generally consistent with the section 9.1 Directions, noting Direction 4.1 Flooding and Direction 5.1 Integrating Land Use and Transport remain unresolved and that inconsistencies with Direction 4.5 Acid Sulfate Soils and Direction 7.1 Employment zones are justified.
- it is generally consistent with relevant SEPPs
- the proposal has considered the likely environmental, social and economic, and infrastructure.

Based on the assessment outlined in this report, the proposal must be updated to:

- Remove references to the proposed site specific provision which requires the preparation of a site-specific Development Control Plan (DCP).
- Provide further justification and consultation are required to address the unresolved Section 9.1 Directions and transport and traffic matters.

Gateway conditions are recommended in this regard.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 4.5 Acid Sulfate Soils and 7.1 Employment zones are justified.
- Note that the inconsistency with section 9.1 Directions 4.1 Flooding, 5.1 Integrated Land Use and Transport and 4.4 Remediation of Contaminated Land remains unresolved until further justification has been provided and consultation undertaken.
- Note that the consistency with section 9.1 Directions 1.4 Site Specific Provisions is unresolved until the proposed provision requiring a site specific DCP is removed in accordance with the Gateway conditions.

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

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:

- Remove all references to proposed site specific provision that requires the preparation of a site specific DCP prior to consultation.
 - Address Ministerial Direction 4.1 Flooding.
 - Justify consistency with Section 9.1 Ministerial Direction 4.4 Remediation of Contaminated Land, by providing a preliminary site investigation carried out in accordance with the contaminated land planning guidelines.
2. Consultation is required with the following public authorities:
- Bayside Council
 - NSW Health (as landowner)
 - Transport for NSW.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

The timeframe for the LEP to be completed is on or before 15 August 2024.



13 November 2023

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13 November 2023

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