

## Place, Design and Public Spaces

EF19/29070

### Gateway determination report

<b>LGA</b>	Waverley
<b>PPA</b>	Waverley Council
<b>NAME</b>	Waverley War Memorial Hospital site (216 self-care units, 48 aged care beds, 44 hospital beds, 226 jobs)
<b>NUMBER</b>	PP_2019_WAVER_003_00
<b>LEP TO BE AMENDED</b>	Waverley Local Environmental Plan 2012
<b>ADDRESS</b>	125 Birrell Street, Waverley 2024
<b>DESCRIPTION</b>	Lots/DPs - 1/172133, A/317831, 1/567694, 1/212655, 1/948186, 1/166786, 2/1061588, 1/1115706, 3/667555, 1/630460, 2/1061548, 2/630460, 1/1061548, 1/167332, 7/948185, 1/1098550, B/317831, 2/1098550, 3/593710 3/1098550, 4/593710
<b>RECEIVED</b>	5 May 2020 (Adequacy 12 May 2020)
<b>FILE NO.</b>	EF19/29070
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal (**Attachment A**) amends Waverley Local Environmental Plan (LEP) 2012 to enable redevelopment of the War Memorial Hospital and immediate surrounds by including new additional permitted uses, increasing the maximum building heights and floor space ratios (FSR) for the land, and applying new site-specific provisions.

### 1.2 Site description

The site (**Figure 1**) is bound by Carrington and Bronte Roads, and Birrell and Church Streets, being two arterial roads, one collector road, and a local street respectively. It currently accommodates the War Memorial Hospital (**Figure 2**) and Edina Nursing Home (aged care facility) and has a total site area of approximately 3.2 hectares (31,670m<sup>2</sup>).

The subject site takes up most of the block and is at a prominent location. The existing development on the site includes approximately 28 buildings, comprising hospital facilities, independent living units and detached dwellings. The prevailing built form on site is between 1 to 4 storeys.

There is a habitat corridor through the site identified in the Waverley Development Control Plan (DCP) 2012 (**Figure 3**), with significant trees, including two large

Norfolk Island Pine trees that are visible from some distance to the site. The site is well located within walking distance of the Bondi Junction strategic centre, which is 800m to the north west, and the Charing Cross local centre to the south.

**Figure 1** – Aerial photograph of the subject site (outlined in red) (source: Nearmap)



**Figure 2** – War Memorial Hospital building group; Edina Nursing Home is not shown (source: planning proposal)





**Figure 3 – Habitat Corridor and significant trees (Waverley DCP 2012)**



**Figure 4 – Bronte Road streetscape south view, site on left (source: planning proposal)**



**Figure 5** – Birrell Street streetscape west view, site on left (source: planning proposal)



**Figure 6** – Carrington Road streetscape north view, site on left (source: planning proposal)





**Figure 7** – Church Street streetscape west view, site on right (source: planning proposal)



**Figure 8** – War Memorial Hospital grounds; the Norfolk Island Pines are in the middle of the photograph (source: planning proposal)



**Figure 9** – Church Street Federation semi-detached houses (source: planning proposal)



### **1.3 Existing planning controls**

Under the existing Waverley Local Environmental Plan 2012, the site:

- is zoned SP2 Infrastructure (Health Services Facility) and R3 Medium Density Residential (**Figure 10**);
- has a maximum building height of 9.5m and 12.5m (**Figure 11**); and
- has a maximum FSR of 0.6:1 and 0.9:1 (**Figure 12**).

In the SP2 Health Services Facility zone the following uses are deemed permissible with consent:

- Roads;
- The purpose shown on the Land Zoning Map (Health Services Facility), including any development that is ordinarily incidental or ancillary to development for that purpose.

The site comprises three locally listed heritage items in Schedule 5 of the Waverley LEP 2012: I449 - War Memorial Hospital - Late Victorian buildings and former stables (local significance); I519 - War Memorial Hospital – landscape (State significance but not listed in State Heritage Register); and I473 – 2-8 Church Street, Federation style semi-detached residences (local significance) (**Figures 2, 8, 9 and 13**).



Figure 10 – Existing Land Zoning Map

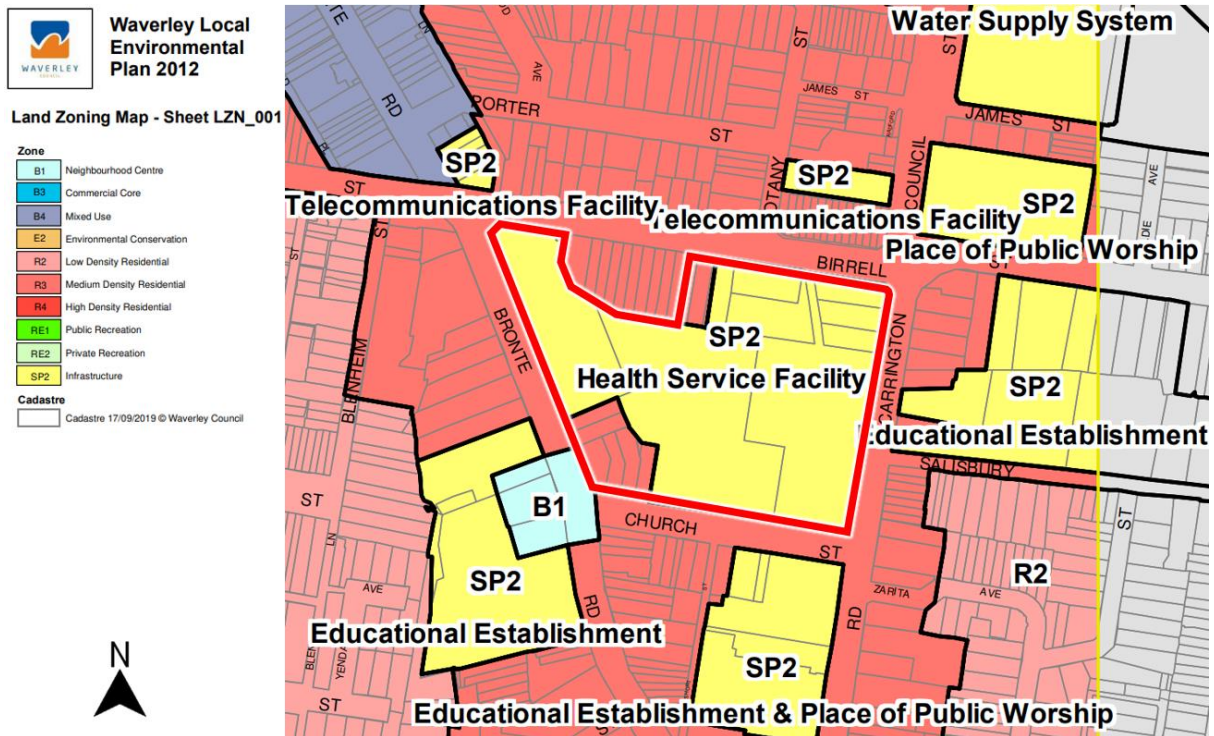
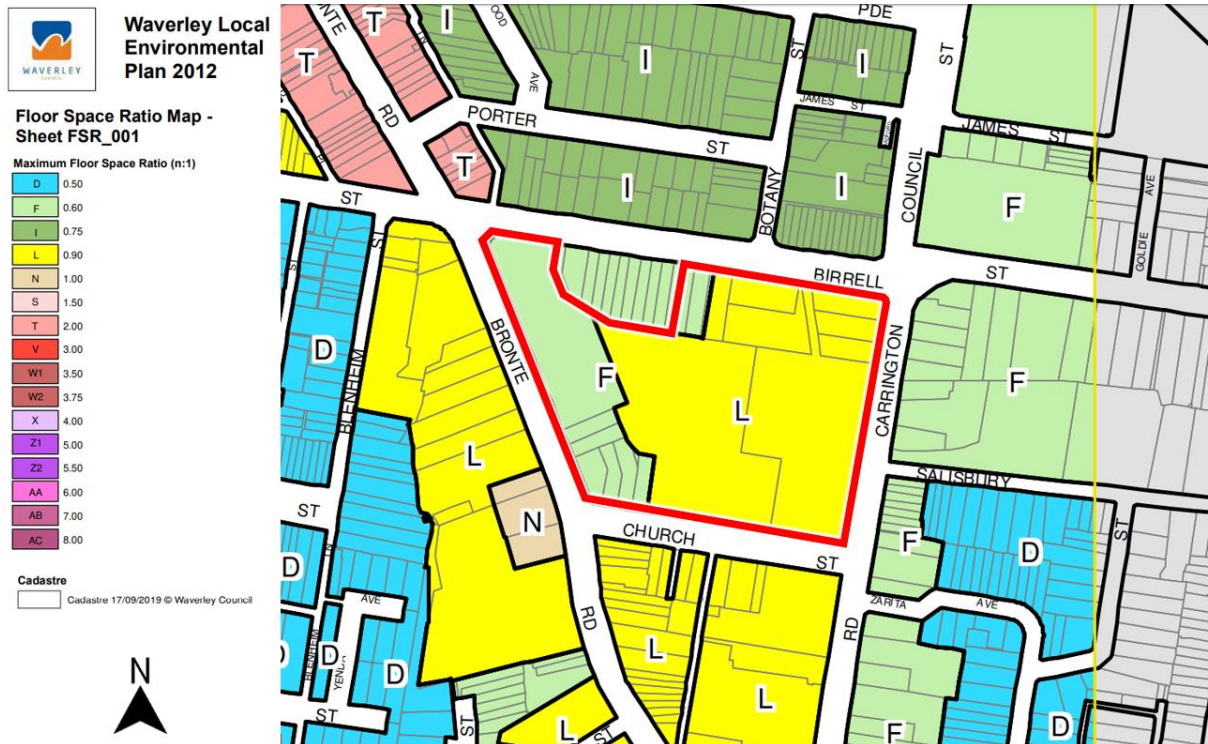


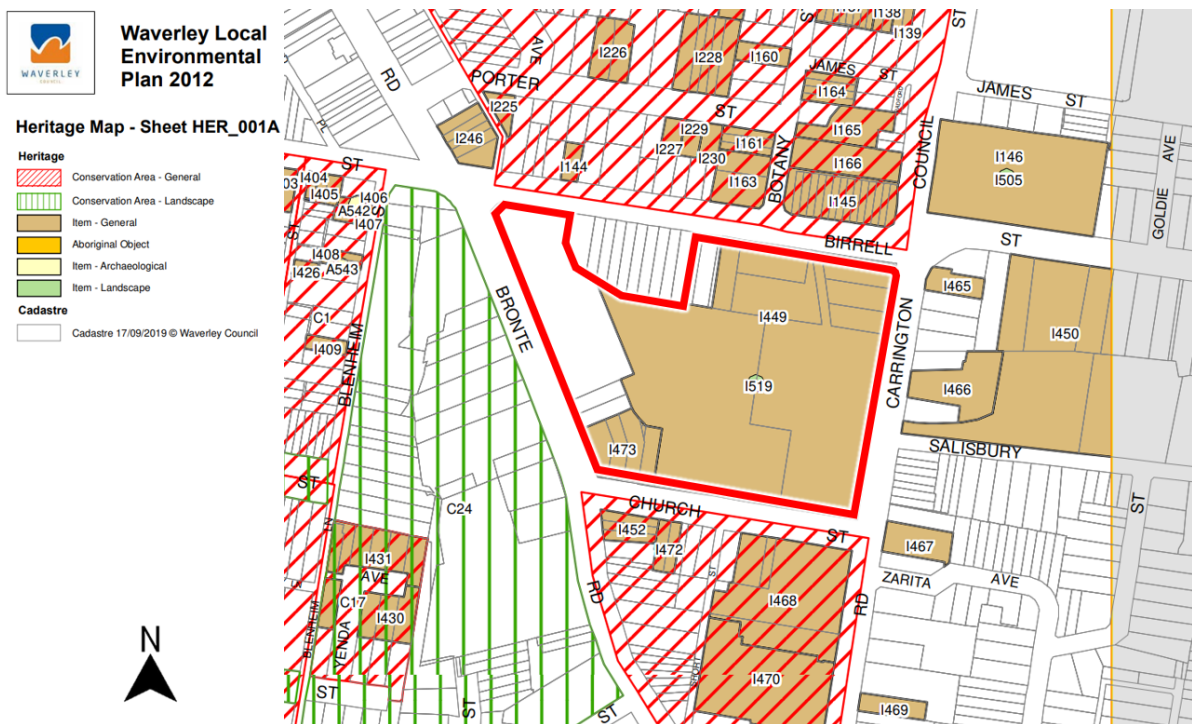
Figure 11 – Existing Height of Buildings Map



**Figure 12 – Existing Floor Space Ratio Map**



**Figure 13 – Existing Heritage Map**



**1.4 Surrounding area**

The site is located roughly midway between Bondi Junction and the Charing Cross local centre. The site is surrounded by land predominantly zoned R3 Medium Density Residential with a number of sites zoned SP2 Infrastructure nearby. It



adjoins a small B1 Neighbourhood Centre, which comprises Waverley Police Station, Waverley Court House and Waverley Public School to the south west.

The prevailing built form in the surrounding area is a mix of 1 to 2-storey dwellings, 3 to 4-storey residential flat buildings and large institutional buildings (schools and courthouse). Waverley Public School is to the south west, St Clare's Catholic College and St Charles' Primary School are to the south, and Waverley College is to the east.

The Botany Street Heritage Conservation Area adjoins the site immediately to the north. Opposite the southern side of the site on Church Street is the commencement of the Charing Cross Heritage Conservation Area.

**Figure 14** – Map showing site (outlined in red) and the surrounding context (source: Nearmap)



## 1.5 Background

### **Proponent's original proposal July 2017 and rezoning review:**

The planning proposal has undergone a number of iterations dating back to July 2017 when the proponent sought a rezoning of the whole site to R3 Medium Density Residential with a height of up to 28m.

### **November 2018 proposal:**

A modified proposal was submitted on 5 November 2018 to amend the Waverley LEP 2012 as follows:

- Alter the zoning within the site to a mix of SP2 Health Services Facility and R3 Medium Density Residential.
- Add a site-specific flexible zone boundary of 20m to enable a use in an adjacent zone to be permissible; this has the effect of permitting the R3 zone to extend 20m into the SP2 zone.
- Add Additional Permitted Uses including: seniors housing; community facilities; centre-based child care facility; retail premises; business premises; hotel or motel accommodation; serviced apartments; and function centre.
- Increase the maximum permissible building height from 9.5m and 12.5m to part 15m, 17m, 21m, and 28m.
- Increase the maximum permissible FSR from 0.6:1 and 0.9:1 to 1.5:1.

### **Council's planning proposal May 2019:**

Council resolved to prepare its own planning proposal to alter the proponent's scheme and submitted it to the Department in May 2019. This proposal did not include zoning changes or the zone boundary flexibility clause. It did include seniors housing, community facilities and centre-based child care facilities as additional permitted uses. The proposal included 15m and 21m height controls and an FSR of 1.2:1.

### **Rezoning review:**

On 22 March 2019 the proponent lodged a request for a rezoning review of Council's decision to not support its proposal.

The Rezoning Review was considered on 18 October 2019, and the Sydney Eastern City Planning Panel determined that the proposal should not be submitted for a Gateway determination because the proposal had demonstrated strategic merit but not site-specific merit. The decision was unanimous.

Most of the proposed additional uses were not supported. In particular it was considered that the 5,390m<sup>2</sup> of business premises and a hotel or motel accommodation of 127 beds appeared to be without justification and would negatively impact on the scale, character and heritage significance of the site and surrounding area.

The Panel found that many of the proposed additional uses are already permissible provided they are of a magnitude to be credible as being ancillary to the main function of the site as a health service facility. However, the Panel supported centre-based child care facilities as an additional permitted use.

The Panel considered that the proposed FSR of 1.5:1 and height of 28m (8-storey buildings) as excessive and would result in a negative impact in terms of bulk and scale. The Panel indicated support for an FSR of 1.2:1 and heights of 21m and 15m, and noted that these controls were endorsed by the Waverley Local Planning Panel.

The Panel stated that it would support a proposal that would facilitate an integration of the hospital, aged care and community uses on the site with broader uses in the



community. Future zoning should allow uses which support the desired uses of the site rather than simply being uses which are ancillary.

**Request for information December 2019:**

Following the Panel's decision, the Department conducted a preliminary assessment of Council's May 2019 planning proposal and requested further information on 5 December 2019.

Further information was requested on the following:

- supporting studies – built form modelling and analysis of the amenity and environmental impacts of the proposal;
- explanation of provisions – more detail on the site-specific provisions being sought;
- additional permitted uses – further justification for including 'health service facility' as an additional permitted use for the land zoned R3, since it would appear that health service facilities are already permissible under that zoning;
- heritage – submission of a conservation management plan prepared for the site;
- contamination – address potential site contamination; and
- transport – a traffic assessment that relates to the subject proposal.

**Current proposal:**

The current revised proposal was submitted by Council on 5 May 2020. The document includes an explanation of provisions making it clear that the planning proposal is being put forward by Council. The proposal includes additional information to address matters raised by the Department in the preliminary assessment, including:

- revised supporting studies, including built form modelling, heritage, traffic and contamination assessment;
- health service facility has been removed as an additional permitted use from Zone R3, as this is already permissible within the zone;
- heritage references were updated and the plan discusses how the two existing conservation management plans will inform a site specific DCP;
- the former clause 6 of State Environmental Planning Policy (SEPP) 55 remediation of Land has been addressed, and a phase 1 environmental assessment has been submitted;
- a revised traffic impact assessment has been prepared to support the revised development standards; and
- minor corrections have been made as required to address matters raised by the Department.

## 1.6 Summary of recommendation

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

- the proposal is consistent with the objectives and directions of the Greater Sydney Region Plan, the Eastern City District Plan and the relevant section 9.1 Ministerial Directions;
- it will provide for additional seniors housing and aged care accommodation to meet the increasing need due to the expected growth in the ageing population;
- it will ensure the retention and ongoing functioning of the hospital;
- redevelopment associated with the proposal will provide for additional social infrastructure, including a child-care centre and community facilities;
- the proposal will provide significant employment opportunities;
- it is supported by conservation management plans and a heritage impact statement that have informed built form controls to minimise detracting from the site's heritage significance;
- the height and FSR have been reduced from previous proposals to address concerns raised by the Sydney Eastern City Planning Panel regarding excessive bulk and scale; and
- the site is accessible to public transport, including the Bondi Junction transport interchange (approximately 800m to the north-west) and local buses, as well as commercial and retail services within Bondi Junction and the nearby Charing Cross local centre.

## 2. PROPOSAL

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### 2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to amend the planning controls in Waverley Local Environmental Plan 2012 to enable the redevelopment of the War Memorial Hospital site to:

- Ensure the retention and ongoing functioning of the hospital;
- Maintain the unique heritage and environmental significance of the site;
- Increase public accessibility within the site;
- Allow the expansion of the existing aged care and seniors living uses, including affordable housing options;
- Provide for additional ancillary and associated uses to support the functioning of the primary uses on site; and
- Ensure that the site achieves positive environmental outcomes.

The "Site-specific assessment" section (section 5) of this report, will discuss the concept design scheme that informs the proposed controls.

### 2.2 Explanation of provisions

The proposal seeks to amend the Waverley Local Environmental Plan 2012 as follows:

- a) Apply the following Additional Permitted Uses across the site:



- Seniors housing,
  - Community facilities, and
  - Centre-based child-care facility.
- b) Increase the maximum building height from part 9.5m and 12.5m, to part 15m and 21m.
- c) Increase the maximum FSR from part 0.6:1 and 0.9:1, to 1.2:1.
- d) Create new site-specific provisions to include:
- Requirement to provide for 5-10% of housing to be affordable.
  - Minimum deep soil areas to ensure significant trees, biodiversity corridors, and heritage landscaped areas are protected.
  - Include the site on the Key Sites Map and apply clause 6.9 Design Excellence, which contains a list of matters required to be considered by the consent authority.
  - Requirement that new buildings on site will be constructed to a high-performance building standard.

The proposed 5-10% affordable housing requirement is consistent with the Greater Sydney Region Plan, however this is unable to be implemented through this planning proposal. Affordable housing is discussed further in section 4.4 of this report.

More detail is required in the planning proposal to explain the proposed minimum deep soil area provision. The planning proposal cited the Mosman LEP as an example. Specifically, clause 6.6 of the Mosman LEP 2012 includes numerical standards, such as requiring development to provide minimum 50% of the site area as landscaped area, if the site area is 900m<sup>2</sup> or above. The planning proposal needs to be amended to describe specifically how a minimum deep soil area provision will apply to the site and include numerical standards and justification.

Further detail is also required to explain the proposed high-performance building standard, this is further addressed in section 4.4 of this report.

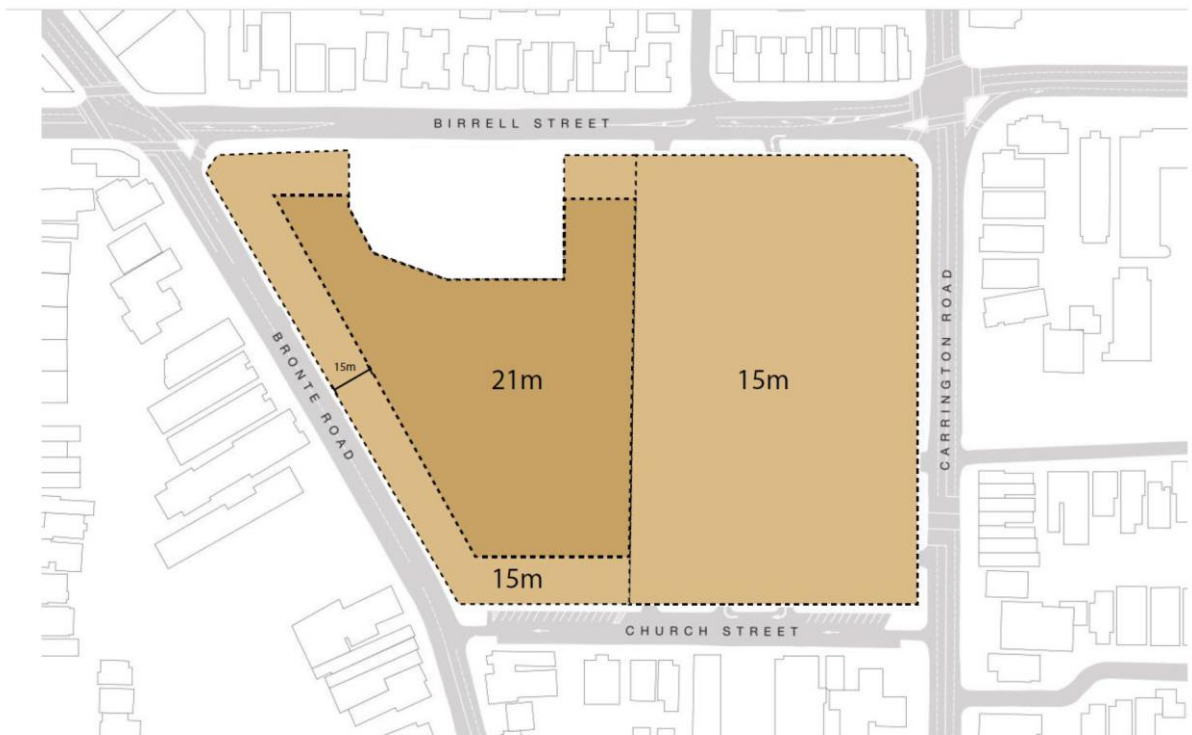
The additional permitted uses (seniors housing, community facilities and centre-based child care facility) should only apply to the SP2 zoned land, and not the R3 Medium Density Residential land as these uses are already permissible in this zone.

### **2.3 Mapping**

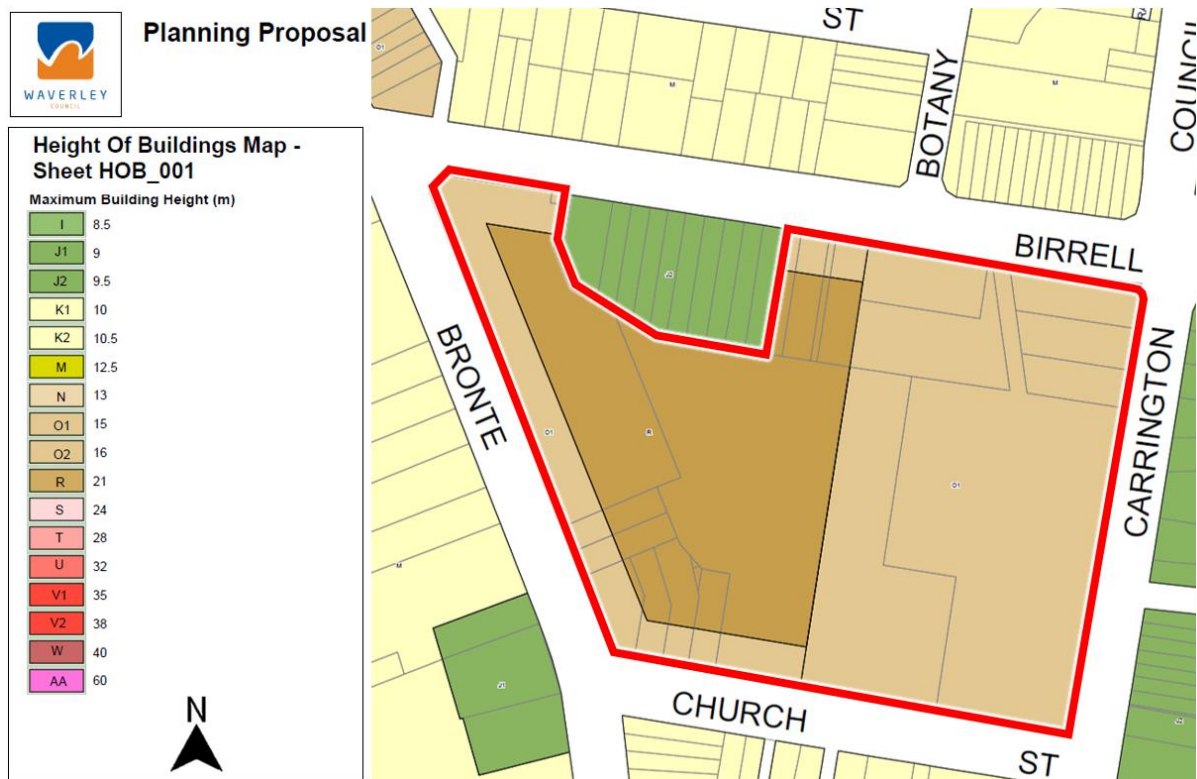
The proposed amendments to the FSR and building height controls require changes to the corresponding LEP maps. The site will also need to be included in the Key Sites Map in relation to design excellence.

The proposal includes extracts from the current relevant land zoning, FSR, building height and heritage maps, which are adequate for the purposes of the planning proposal (**Figures 3-6**). The proposed indicative maps for FSR, building height, key sites and land zoning are included as separate attachments to the planning proposal. The FSR, height and key sites maps are acceptable. However, as the proposal no longer involves a change to the zoning map, it is recommended that this map be removed to avoid confusion.

**Figure 15** – Map showing the proposed building height controls (source: planning proposal)

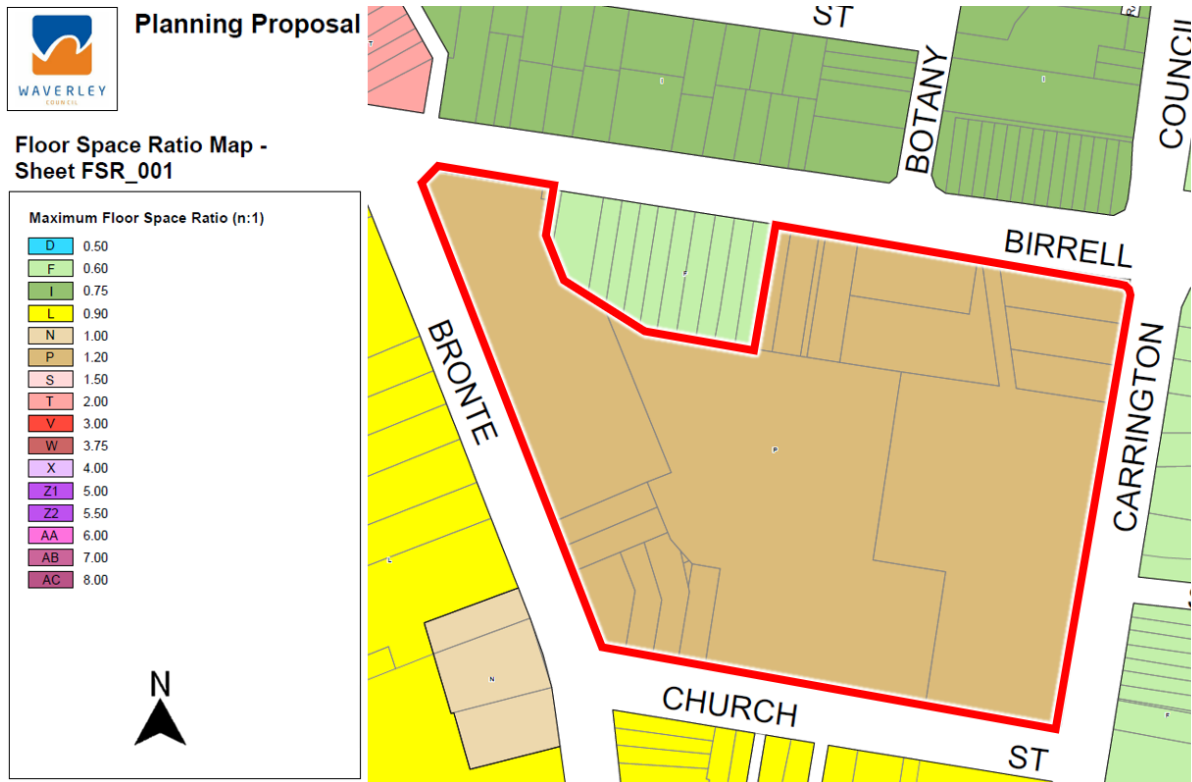


**Figure 16** – Proposed Waverley LEP 2012 Height of Buildings Map

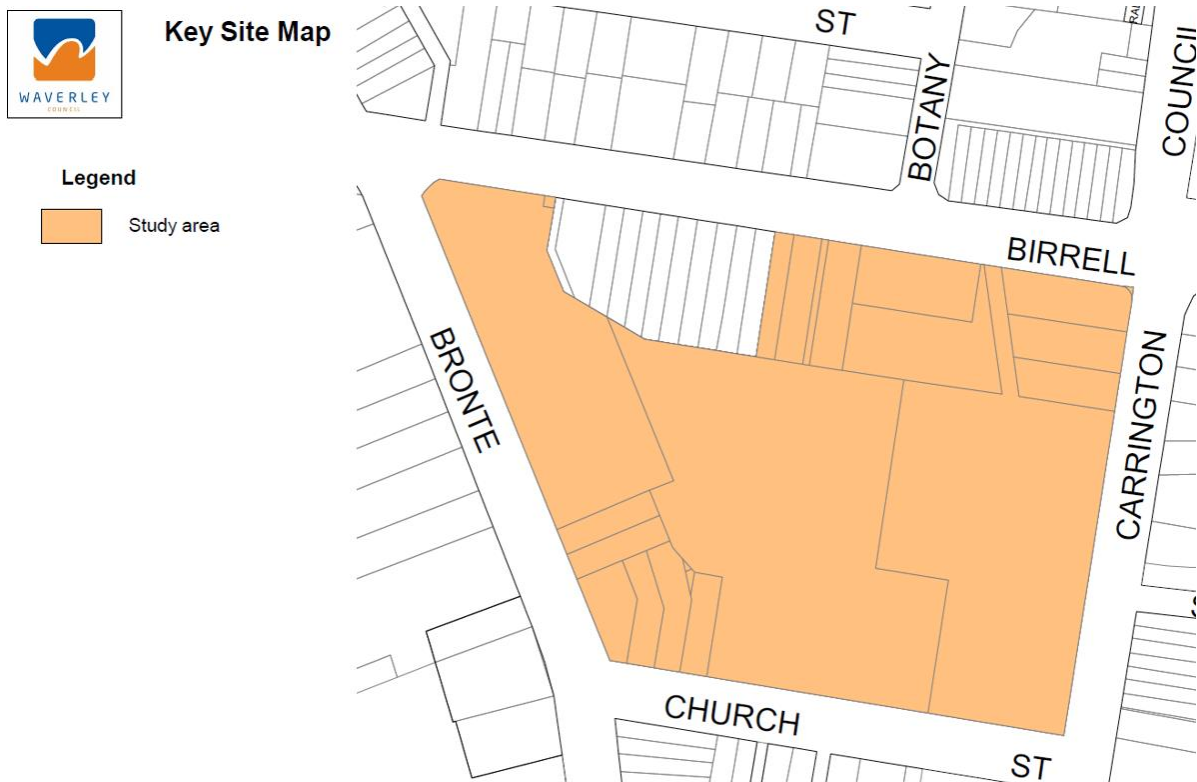




**Figure 17 – Proposed Waverley LEP 2012 Floor Space Ratio Map**



**Figure 18 – Proposed Waverley LEP 2012 Key Sites Map**



### **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is not a result of a strategic study. However, a number of technical studies have been prepared to inform and support the planning proposal, including: Built Form Assessment and Urban Design Study; Heritage Conservation Management Plan 2017; Conservation Management Plan 2005; Heritage Impact Statement; Phase 1 Environmental Site Assessment (potential contamination assessment); and Traffic and Transport Impact Assessment.

The planning proposal is the appropriate means to include the additional permitted uses and amend FSR and height controls for the site to facilitate the intended outcomes.

The proposal will support the continued and expanded use of the site as a health services facility, which is an important service to the Eastern Suburbs community. The Eastern City District Plan identifies the need for additional seniors housing due to a projected 64% increase in the number of people aged between 65-84 by 2036. The proposal contributes to meeting the seniors housing need as it will facilitate an additional 216 independent living units, and an additional 48 aged care beds on the site.

Retaining the SP2 zoning on the majority of the site with seniors housing as an additional permitted use means that there is a greater likelihood that seniors housing will be developed, as the site will not be able to be developed for standard residential housing.

The proposal will also facilitate development of an 80-place childcare centre, which will contribute to meeting the community's needs. The intent to facilitate public access and heritage conservation is also supported.

### **4. STRATEGIC ASSESSMENT**

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#### **4.1 District**

##### Eastern City District Plan

The Eastern City District Plan gives effect to the Greater Sydney Region Plan. The Eastern City District Plan encompasses the Waverley LGA. The plan identifies the nearby Bondi Junction as a strategic centre. The following planning priorities are relevant to the proposal:

*Planning Priority E1: Planning for a city supported by infrastructure.*

*Planning Priority E3: Providing services and social infrastructure to meet people's changing needs.*

- The planning proposal is consistent with the above priorities as it seeks to support and expand community infrastructure in the area, being hospital, seniors housing and child care centre. It would increase the capacity of vital social infrastructure to service the Eastern District population as it grows.

*Planning Priority E4: Fostering healthy, creative, culturally rich and socially connected communities.*

- The proposal would support and expand hospital and aged care uses on the site and foster healthy communities. The site is located approximately 800m from Bondi Junction and 200m from Charing Cross local centre and is accessible by public transport. The proposal offers the opportunity to walk to/from nearby destinations and increase active street life.



*Planning Priority E5: Providing housing supply, choice and affordability with access to jobs, services and public transport.*

- The proposal aims to increase the provision of housing for more vulnerable members of the community, particularly seniors housing, aged care and affordable housing. The site is located near Bondi Junction and is close to services, jobs and public transport.

*Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage.*

- Currently the site is privately owned and managed. The proposed redevelopment aims to open the site for public use and access, so that the community will benefit from through site links and open spaces. The proposed built form controls are designed to recognise and aid conservation of the built and landscape heritage values of the site.
- The site is within a 10- and 20-minute walk from Bondi Junction strategic centre and Charing Cross local centre respectively. The proposal would provide increased residential density within walking distance of the two centres and contribute to their viability and vibrancy.

*Planning Priority E15: Protecting and enhancing bushland and biodiversity.*

- There is a habitat corridor through the site identified in the Waverley DCP. The planning proposal seeks to include a minimum deep soil control for this site specifically to ensure that there is appropriate landscaped area to protect and retain the existing mature canopy trees.

*Planning Priority E16: Protecting and enhancing scenic and cultural landscapes.*

- The proposal seeks to protect the site's significant scenic and cultural landscape qualities. The proposed height and FSR controls are designed to retain distant views to the Norfolk Island Pines on the site.

*Planning Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections.*

- The proposal seeks to introduce minimum deep soil areas to ensure significant canopy trees and landscape planting are protected. The proposal will indirectly contribute to Green Grid connections through conserving important landscaped spaces and providing opportunity for improved site permeability.

*Planning Priority E18: Delivering high quality open space.*

- The planning proposal does not result in any new open space zone. However, the intention to allow public access to the open space within the site will be supported by DCP provisions.

*Planning Priority E20: Adapting to the impacts and natural hazards and climate change.*

- The proposal seeks to introduce a minimum deep soil area control to protect and enhance the mature tree canopy. This will contribute to mitigating the urban heat island effect.

## 4.2 Local

The planning proposal is consistent with the following relevant priorities and actions of the Waverley Local Strategic Planning Statement (LSPS):

*Planning Priority 4: Ensure the community is well serviced by crucial social and cultural infrastructure.*

- The planning proposal seeks to retain and expand crucial social infrastructure for health services, seniors housing and child care.

*Planning Priority 5: Increase the sense of wellbeing in our urban environment.*

- Public access to the green space within the site will be facilitated through new DCP provisions.

*Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community.*

- The proposal would facilitate provision of additional seniors housing in the Waverley area.

*Planning Priority 8: Connect people to inspiring and vibrant places, and provide easy access to shops, services, and public transport.*

- The site is within a 10- and 20-minute walk from Bondi Junction strategic centre and Charing Cross local centre respectively. The proposal would provide increased residential density within walking distance of the two centres and contribute to their viability and vibrancy.
- The proposal seeks to include the subject site on the Key Sites Map and apply the design excellence provisions of Clause 6.9 of the Waverley LEP. The proposal would contribute to high quality place outcomes.

*Planning Priority 9: Support and grow Waverley's local economy with a focus on wellbeing, knowledge and innovation.*

- The proposal would create employment opportunities in healthcare and aged care that contribute to the well-being of the community.
- The proposal will create more homes for additional residents, which will support businesses in the nearby Bondi Junction and Charing Cross centres.

*Planning Priority 13: Protect and grow our areas of biodiversity and connect people to nature.*

- The proposal would protect and enhance the tree canopy on site through a minimum deep soil area provision.
- The proposed height controls have been formulated to minimise disruption of distant views to the significant trees on the site.

## 4.3 Section 9.1 Ministerial Directions

The proposal is consistent with the relevant section 9.1 Ministerial Directions as follows:

### 2.3 Heritage Conservation

This Direction requires that a planning proposal contains provisions that facilitate the conservation of heritage items in relation to their historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values.



The three listed heritage items on the site are the War Memorial Hospital Group, War Memorial Hospital Grounds, and 2-8 Church Street - Federation style semi-detached residences. The proposal is considered to be consistent with this Direction as:

- the proposal is informed by a heritage impact statement and two conservation management plans, and the heritage listings are retained;
- the scale of increase in height to the eastern portion of the site (15m or four storeys) seeks to respect and conserve the heritage significance of the individual items, and the adjoining Botany Street Conservation Area; and
- Potential sites of archaeological significance have been identified in the 2017 conservation management plan.

### 2.6 Remediation of Contaminated Land

The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

This Direction was issued on 17 April 2020 and is not addressed in the planning proposal. However, the proposal does address the relevant provisions that were previously contained in SEPP 55. A condition has been included in the Gateway for the planning proposal to be updated to address the 9.1 Direction prior to exhibition.

In accordance with the requirements of State Environmental Planning Policy No 55 Remediation of Land (SEPP 55), a Phase 1 Environmental Site Assessment has been carried out. The assessment found that areas of the site have been identified as being impacted with heavy metals and polycyclic aromatic hydrocarbons (PAHs) to a varying extent as a result of past land uses. However, the scale and extent of the identified impact is not such that common remediation and/or management techniques could not render the site suitable for the future proposed uses.

The assessment makes recommendations for further detailed investigation and potential remedial action plans as part of future development application processes.

The planning proposal will need to be revised prior to exhibition to clearly address the new s.9.1 Direction 2.6 Remediation of Contaminated Land. The requirements of this Direction should be able to be satisfied once Council has updated the planning proposal as Council has considered the potential for contamination and the likely impacts on the proposed residential intensification and childcare and hospital uses, and the assessment report concludes that the land could be made suitable for all the uses.

### 3.1 Residential Zones

Under this Direction, a planning proposal is to encourage housing that will broaden housing choice, make efficient use of existing infrastructure, reduce consumption of land for housing on the urban fringe and be of good design.

The proposal is consistent with this direction as:

- It would encourage seniors housing, including aged care and some affordable housing, to contribute to the range of housing types available.
- The proposal would maintain and augment the existing social infrastructure on the site.

- The land is adequately serviced to increase the supply of residential development, and the proposed provisions will not decrease the permissibility of residential development on the site.

### 3.4 Integrating Land Use and Transport

Under this Direction, a planning proposal must consider improving access to housing, jobs and services by walking, cycling and public transport and reducing reliance on cars.

The planning proposal is consistent with this Direction as it will reduce private vehicle dependence by providing for seniors housing in an area within walking distance of jobs and services (Charing Cross and Bondi Junction) and with good existing public transport. There is a heavy rail and bus interchange at Bondi Junction and frequent bus services adjacent to the site.

The frequency of buses to Bondi Junction in the morning peak is greater than one every 5 minutes. There are also frequent weekend services with Sunday morning buses to Bondi Junction at one every 5 to 10 minutes. With multiple bus stops located along the Bronte Road and Birrell Street frontages, the bus routes provide frequent services connecting the site to Bondi Junction, Eastgardens, Coogee and Clovelly.

The expanded hospital and aged care services will also provide jobs close to the local population and public transport.

### 6.3 Site-specific Provisions

The Direction aims to discourage unnecessarily restrictive site-specific planning controls.

The proposal seeks to permit additional uses (seniors housing, community facilities and centre-based child care facilities) on the land to facilitate the redevelopment of the site. This is to be carried out by maintaining the existing zoning pattern, and adding additional permitted uses in Schedule 1 of the Waverley LEP 2012.

This approach ensures that the health facility and seniors housing focus of the site is maintained. A change in zoning to a residential zone would undermine the strategic intent to maintain and grow important community uses in the SP2 zone, as market forces would most likely result in medium density private residential development. The child care facility also fits with the social services focus of the site.

On the other hand, reliance on development which is *incidental or ancillary to a health services facility* (as permitted under the existing SP2 zoning) is not seen as the most appropriate way to achieve seniors housing on the majority of the site. It is ambiguous, is based on subjective assessment and does not provide certainty on the provision of seniors housing on the site.

The proposed site-specific provisions for affordable housing, minimum deep soil area and high performance building standard are consistent with broader regional and district policy, and are not seen to be unnecessarily restrictive.

The proposed site-specific requirement for 5-10% **affordable housing** is broadly consistent with priorities in the Greater Sydney Region Plan and the Eastern City District Plan to provide greater housing choice and affordability. However, the concern over consistency of this provision with SEPP 70 is addressed below.



The **minimum deep soil area** provision is consistent with priorities in the Eastern City District Plan for protecting biodiversity and adapting to climate change. The deep soil provision could be more broadly applied to future redevelopment sites in Waverley, and is not necessarily site specific. Similar landscaped area provisions are contained in the Sutherland, Mosman and the Blue Mountains LEPs. This provision is generally supported; however, further explanation is required including the proposed numerical standards and evidence base.

The **design excellence provision** (clause 6.9, which applies to land identified in the Key Sites Map) is not site specific as it is already established in the Waverley LEP, and applied more broadly across the LGA.

It is unclear what will be required through the proposed **high-performance building standard**. Currently the Building Sustainability Index (BASIX) SEPP applies to all residential development in NSW to improve energy, water and thermal efficiencies. Consistency with the BASIX SEPP is addressed below.

Council will need to remove the affordable housing contributions requirements and convert the high-performance building standard to an incentive clause. In order to comply with Direction 6.3, Council will also be required to demonstrate that the minimum deep soil area, design excellence, and high performance building standard provisions are, or will be more broadly applied across the LGA.

#### **4.4 State Environmental Planning Policies (SEPPs)**

SEPP (Building Sustainability Index: BASIX) 2004: The proposed high performance building standard provision could be considered inconsistent with the BASIX SEPP. Clause 8 of the SEPP states that provisions of other environmental planning instruments are of no effect where they aim to reduce water consumption and emissions and improve thermal performance.

In response to the potential inconsistency, Council provided additional information to argue that the provision could be written as an incentive for additional floor space rather than a requirement. This approach would avoid a conflict with clause 8 of the SEPP. Such a requirement would be modelled on cl. 4.4A of Bankstown LEP 2015. A Gateway condition is recommended to require revision of the planning proposal to address the above, prior to exhibition.

SEPP 70 – Affordable Rental Housing (Revised Schemes): The premise of the SEPP is that it allows Councils to levy new development in areas where significant upzoning has occurred for affordable housing contributions.

Under Section 7.32(3)(b) of the Act, a condition can only be imposed by a council to levy a developer contribution for affordable housing if the contribution requirement is in an LEP, and the condition is in accordance with an affordable housing contribution scheme.

The affordable housing contributions scheme, and associated planning proposal must be assessed and endorsed by the Department (Housing Policy) before a Gateway is issued enabling public exhibition.

Waverley Council has recently exhibited its draft Local Housing Strategy (25 March to 10 May 2020) which addresses affordable housing; however, Council does not yet have an endorsed affordable housing contribution scheme.

Given these circumstances, Council will be unable to include an affordable housing provision in the Waverley War Memorial Hospital planning proposal, until such time

as the Department has endorsed a Waverley affordable housing contribution scheme.

In response to the potential inconsistency, Council has cited other examples of affordable housing provisions, particularly in the Inner West (Ashfield and Leichardt LEPs). The Department's Housing Policy team has advised that these provisions were made prior to the release of the Department's *Guideline for Developing an Affordable Housing Contribution Scheme* (February 2019). The requirement to have an endorsed affordable housing contribution scheme applies to Waverley.

The only mechanism currently available to Council to deliver affordable housing is through a Voluntary Planning Agreement (VPA). The Waverley Planning Agreement Policy states that 10% of any planning agreement will go towards Waverley Council's affordable housing fund. The Department has no objection to the application of a VPA to deliver affordable housing on the site, however the VPA is a matter between Council and the proponent. It is noted the proponent supports entering into a VPA with Council.

Other SEPPs: The proposal does not contradict or hinder the application of other applicable SEPPs.

The following SEPPs may be relevant to a future development assessment; however they do not apply to the proposal to change the Waverley LEP.

- SEPP 65 – Design Quality of Residential Apartment Development
- SEPP (State and Regional Development) 2011
- SEPP (Educational Establishments and Child Care Facilities) 2017
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP 55 Remediation of Land

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

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### **5.1 Social**

The proposal will enhance and build opportunities in Waverley for health care, seniors housing, child care and community facilities, providing significant social benefit.

Population forecasts predict an ageing population with an increase of 38% of Waverley residents over the age of 65 years by 2036. The proposal seeks to address the changing demographics. The proposal enables residents to be able to age in place, in a community that they are familiar with, which has been shown to greatly increase the quality of life into older age.

The development is in a highly accessible area, close to the Bondi Junction strategic centre, Charing Cross local centre and public transport.

### **5.2 Environmental**

#### Biodiversity

There are no significant native biodiversity values on the site; however, the gardens and mature trees form part of a habitat corridor that would be retained and reinforced through DCP controls.

## Heritage

Two Conservation Management Plans (CMPs) have been prepared that identify the significance of buildings, trees, landscape elements and spatial arrangements across the site, and inform the proposed built form controls.

The proposed height and FSR controls allow for new buildings to be predominantly focused to the western portion and perimeter of the site (**Figures 19 & 20**). This approach would protect and enhance the heritage significance of listed buildings and gardens. The proposed maximum permissible height of 21m does not impede the view of the two Norfolk Pines from Centennial Park. The staged 15m and 21m heights allow new four-storey buildings to be located near the heritage items, and consolidate greater heights to the Bronte Road frontage to minimise adverse impact on the heritage elements.

The existing heritage listings (War Memorial Hospital Group, War Memorial Hospital Grounds, Church Street Federation residences) will continue to apply to the site. The future development application will be required to address Clause 5.10 of the Waverley LEP and ensure the heritage significance of the site will be considered as part of any future assessment process.

In addition, the site-specific DCP, as intended to be prepared by Council, will include more detailed provisions to maintain and conserve the site heritage values.

## Urban design - bulk and scale, overshadowing

The earlier proponent-led planning proposal was not supported by the Sydney Eastern City Planning Panel at the rezoning review, due to the excessive FSR of 1.5:1 and height of 28m providing a negative impact in terms of bulk and scale. The bulk and scale of buildings will now be reduced with an FSR of 1.2:1 and heights of 15m (4 storeys) and 21m (6 storeys). The 15m height at the boundaries and the eastern portion provide a more appropriate height to the surrounding built form and the immediate curtilage of the individual heritage items.

To support this planning proposal, the proponent submitted a master plan for the site in the *Built Form Assessment and Urban Design Study*, which illustrated the impacts of a layout permissible under the proposed controls. An alternative master plan option is also included in the planning proposal. These two concept plan scenarios are shown in **Figures 19 and 20**; they illustrate the potential massing options that could be delivered under the proposed controls for the site.

The proposed scenarios are considered to fit into the existing character of the area and minimise impact on the heritage buildings and landscape, by presenting a four-storey street frontage height to Birrell Street, Bronte Road and Church Street, and locating the additional height of six storeys inwards towards the centre of the site. The proposed built form is intended to minimise impacts on the amenity of neighbouring properties, particularly in regard to overshadowing and overlooking. Scenarios 1 and 2 address development feasibility and amenity at the same time, presenting development concepts that can work within the proposed controls and heritage constraints.

It is noted that the photomontages (p. 60 – 68) illustrating the potential streetscape impacts in the planning proposal have been distorted and are not legible; additionally, storey lines are not presented. A Gateway condition is recommended to require these images to be revised prior to exhibition.



The potential overshadowing (**Figures 21, 22, 23, 24, 25 & 26**) typically does not extend into the surrounding developments and their private open space for any significant length of time. It is noted that the shadows are not clearly presented in the shadow diagrams in the planning proposal, a Gateway condition is recommended to require the diagrams to be revised to ensure the shadows are legible.

**Figure 19** – Massing diagram scenario 1 aerial view (source: planning proposal)



**Figure 20** – Massing diagram scenario 2 aerial view (source: planning proposal)





**Figure 21** – Shadow Diagram Scenario 1, 21 June 9am (source: planning proposal)



**Figure 22** – Shadow diagrams Scenario 1, 21 June 9am (source: Built Form Assessment and Urban Design Study)



- Additional Shadow
- Shadow Reduction



Note: The additional and reduced shadows are in comparison with the proponent's previous planning proposal

**Figure 23** – Shadow Diagram Scenario 2, 21 June 9am (source: planning proposal)





**Figure 24** – Shadow Diagram Scenario 1, 21 June 3pm (source: planning proposal)



**Figure 25** – Shadow Diagram Scenario 1, 21 June 3pm (source: Built Form Assessment and Urban Design Study)



- Additional Shadow
- Shadow Reduction



Note: The additional and reduced shadows are in comparison with the proponent's previous planning proposal

**Figure 26** – Shadow Diagram Scenario 2, 21 June 3pm (source: planning proposal)





The existing floor space capacity on the site based on the current FSR is 28,100m<sup>2</sup>. An FSR of 1.2:1 would allow a total of 37,968m<sup>2</sup> of floor space across the site. This is considered adequate to support the delivery of an increase in development capacity, whilst balancing the expanded quantum of floor space on the site with open space, and heritage and character concerns.

The planning proposal suggests that a site-specific DCP would be required to address such matters as:

- scale/interface with the surrounding land uses;
- scale/interface with heritage buildings/gardens within the site;
- pedestrian access and through-site links; and
- provision of landscaped open space.

It is recommended that such a DCP be required to be exhibited with the planning proposal as a gateway condition.

### Traffic and transport

The proponent has provided an updated Traffic & Transport Impact Assessment (TIA) to accompany the planning proposal. Traffic movements to and from the site should be minimised due to the site's location close to Bondi Junction Interchange (approximately 800m) with train services and 29 bus routes, and within 400m of 10 bus stops servicing a variety of local and regional bus routes. The bus routes provide frequent services connecting the site to Bondi Junction, Eastgardens, Coogee and Clovelly.

The site is also well located within walking distance of Bondi Junction Strategic Centre and the Charing Cross Local Centre. As such the majority of trips are likely to be through active and public transport.

Aged care facilities are a low generator of traffic during all peak periods, including the commuter and school peak periods. The TIA concludes that the proposal '*creates only a small increase in overall average delays (15 seconds) for the intersections surrounding the site*'. Planning controls relating to reduced maximum car parking rate for the overall site and identification of appropriate vehicle entry / exit points could be addressed in the site specific DCP.

### **5.3 Economic**

The rezoning will ensure the retention and ongoing functioning of the hospital, and expand aged care and seniors living uses, including affordable housing options. The proposed redevelopment of the site will facilitate the creation of approximately 226 jobs with an estimated additional 5,286m<sup>2</sup> of commercial, medical and retail floor space.

There are expected to be an additional 216 independent living units, 48 extra residential aged care (RAC) beds, 44 additional hospital beds and a 90-place child care centre. In addition, there will be substantial construction jobs associated with the redevelopment.

Approximate yield for dwellings – 216 units, 48 RAC beds, 44 hospital beds.

Approximate yield for jobs – Total 226 – comprising 101 hospital, 25 child care, 25 RAC, 1 ILUs, 4 community/pastoral care, 70 other (retail, café, med. Centre, office, HACC).

## **5.4 Infrastructure**

The site is well serviced by public transport and is approximately 800m from Bondi Junction train station and Interchange. The proposal is unlikely to require significant increase in public transport service and infrastructure. Additional upgrades to water and power infrastructure may be required.

To ensure infrastructure needs are adequately addressed, a Gateway condition is recommended to require consultation with Transport for NSW, Sydney Water and Ausgrid.

## **6. CONSULTATION**

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### **6.1 Community**

According to the planning proposal, public exhibition is likely to include a newspaper advertisement, hard copy display in the Council's Library and Customer Service Centre, a display on the Council's website and written notification to landowners. The proposal states that public consultation will be undertaken in accordance with the Gateway determination.

An exhibition period of 28 days is considered appropriate for this proposal.

The *Environmental Planning and Assessment Act 1979* (s.10.18) has recently been amended and no longer requires exhibition documents to be made available at a physical location during the COVID 19 pandemic. Council is now able to exhibit the planning proposal and associated documents on Council's website or the Planning Portal, in lieu of displaying them in Council's Library and Customer Service Centre. A Gateway condition is recommended to require the planning proposal to be updated to reflect the above.

### **6.2 Agencies**

The planning proposal states that consultation with public authorities will be undertaken according to the Gateway determination requirements. It is recommended that the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW;
- NSW Health;
- Sydney Water;
- NSW Heritage – Department of Premier and Cabinet; and
- Ausgrid.

## **7. TIME FRAME**

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The planning proposal provides an estimated project timeline of around nine months from Gateway determination to complete the LEP. Due to the COVID 19 pandemic and likely delays as a result of this condition, it is recommended that a 12-month timeframe be applied to give Council greater flexibility.

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

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Council has not requested to be delegated as the local plan-making authority. As the planning proposal was the subject of a rezoning review, it is considered that Council should not be authorised to be the local plan-making authority.

## 9. CONCLUSION

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The planning proposal to amend the Waverley LEP 2012 for the Waverley War Memorial Hospital site is supported and should proceed subject to conditions as:

- it would provide for additional seniors housing and aged care accommodation to meet the increasing need due to the expected growth in the ageing population;
- it would ensure the retention and ongoing functioning of the hospital;
- redevelopment associated with the proposal would provide for additional social infrastructure including a child care centre and community facilities;
- the proposal would provide significant employment opportunities;
- the proposed built form controls have been informed by an urban design study, conservation management plans and a heritage impact statement to ensure future development would not detract from the site's heritage significance;
- the height and FSR has been reduced from previous proposals to address concerns raised by the Sydney Eastern City Planning Panel regarding excessive bulk and scale; and
- the site is close to public transport, including the Bondi Junction transport interchange and local buses, as well as commercial and retail services within Bondi Junction and the nearby Charing Cross local centre.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. Note that the consistency with section 9.1 Direction – 6.3 Site Specific Provisions is unresolved and will require justification, and that the proposal will need to be updated to address the new section 9.1 Direction 2.6 Remediation of Contaminated Land.

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

1. The planning proposal is to be amended to address the following matters and submitted to the Department for review and endorsement prior to public exhibition:
  - (a) the indicative zoning map is to be removed from the planning proposal to avoid confusion, as the proposal no longer involves any change to the zoning map;
  - (b) section 2.1 *Draft Development Standards* is to be revised to clearly state that the additional permitted uses (that is, seniors housing, community facilities, centre-based child care facility) only apply to the SP2 zoned land and are not “across the site”, as these uses are already permissible in the R3 zoned land;
  - (c) references to the provision of open space and public access on the site must clearly state that these will be achieved through the site-specific



Development Control Plan (DCP) and subsequent development applications, rather than a specific LEP provision or open space zone;

(d) the findings and conclusion of the Phase 1 Environmental Site Assessment regarding site contamination are to be included in the planning proposal;

(e) the affordable housing provision is to be removed from the planning proposal, as Council currently does not have an endorsed affordable housing contribution scheme;

(f) the proposed high performance building standard provision is to be revised as an incentive clause, in order to avoid potential inconsistency with clause 8 of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;

(g) a site-specific DCP is to be prepared and exhibited concurrently with the planning proposal and address such matters as: scale and interface with the surrounding land uses as well as the heritage buildings and gardens within the site, pedestrian access and through-site links, and provision of landscaped open space;

(h) further explanation is required to describe specifically how a minimum deep soil area provision will apply to the site, the proposed numerical standard and supporting analysis and justification;

(i) justifications are to be provided that the site-specific provisions for minimum deep soil area, design excellence and high performance building standard, as amended by the requirements of this Gateway determination, are, or will be more broadly applied across the LGA to be consistent with section 9.1 Direction – 6.3 Site Specific Provisions;

(j) the planning proposal is to be updated to address the new section 9.1 Direction – 2.6 Remediation of Contaminated Land;

(k) the streetscape photomontages on page 60-68 are distorted and are to be replaced; the replacement images are to show the storey line;

(l) the shadow diagrams on page 75-80 are to be revised to ensure the shadows are legible;

(m) revise Part 5 *Community Consultation* to reflect the current notification and exhibition arrangements during the COVID-19 pandemic; and

(n) include a revised project timeline.

2. The planning proposal must be made available for community consultation for a minimum of **28 days**.
3. Consultation is required with the following public authorities:

- Transport for NSW;
  - NSW Health;
  - Sydney Water;
  - NSW Heritage – Department of Premier and Cabinet; and
  - Ausgrid.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, if reclassifying land).
  5. The time frame for completing the LEP is to be **12 months** from the date of the Gateway determination.
  6. Given that the proposal was the subject of a rezoning review, Council should not be authorised to be the local plan-making authority to make this plan.



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