

ITEM 6. SECTION 96(2) APPLICATION: 1 ELGER STREET - 8 ELGER STREET - 5010 ELGER STREET - 3 WENTWORTH STREET - 83 BAY STREET AND 14 COWPER STREET GLEBE - GLEBE AFFORDABLE HOUSING PROJECT

FILE NO: D/2013/412/A

DEVELOPMENT APPLICATION NO: D/2013/412/A

SUMMARY

Date of Submission: 18 December 2015 (additional information received on 7 April 2016)

Applicant: NSW Land and Housing Corporation

Architect: DEM Architects

Developer: NSW Land and Housing Corporation

Owner: NSW Land and Housing Corporation

Cost of Works: \$152,700,656

Proposal Summary: On 25 July 2013, the Central Sydney Planning Committee (CSPC) approved a Stage 1 'conceptual' DA for what is commonly known as the Glebe Affordable Housing Project (GAHP). The consent allowed 6 building envelopes, ranging in height between 2 and 10 storeys, containing social housing, affordable housing and market housing. The consent also allowed public domain works including the extension of Elger Street, the relocation of Stirling Street and the creation of a park on Elger Street.

On 11 December 2015, a Stage 2 'detailed' DA (D/2015/1794) was lodged for the social housing component. The Council, rather than the CSPC, is the consent authority for this Stage 2 DA as the cost is approximately \$35 million. A report recommending approval of this detailed DA will be considered by the Planning and Development Committee at its meeting on 21 June 2016, and subsequently by the meeting of Council on 27 June 2016.

**Proposal Summary:
(continued)**

The Section 96 application, the subject of this report, proposes to modify the Stage 1 DA in the following manner:

- redistribution of gross floor area from Block B (which comprises both 'social' and 'affordable' housing) to Block D (which comprises 'social' housing only); and
- altering the approved building envelopes, both in height and footprint.

The necessity to modify the Stage 1 DA has come from the need to ensure consistency between the staged applications (ie. the Stage 1 'conceptual' DA and the Stage 2 'social housing' DA), as required under Section 83D of the Environmental Planning and Assessment Act 1979.

The Stage 2 DA is consistent with the modifications proposed as part of this Section 96 modification application.

Due to the scheduling of the various meetings, the modification to the Stage 1 DA will be considered between when the Stage 2 DA is first considered by the Planning and Development Committee at its meeting of 21 June, and when the Council determines the Stage 2 DA at its meeting of 27 June.

The modification application was notified and 2 submissions were received raising the following concerns:

- A wetland should be incorporated on the site as part of the public space;
- The modifications seek to increase sun access within the development, when no such provision is made for existing Queen Street properties which will receive no mid-winter sunlight; and
- The proposal does not meet the DCP sun access objectives and provisions.

It is noted that there is no planning requirement for provision of a wetland on the GAHP site within the site specific LEP and DCP or the current Stage 1 DA consent.

In terms of solar access, as outlined in the detailed Stage 2 'social housing' DA assessment, the impacts are considered to be acceptable.

Summary Recommendation: The Section 96(2) application is recommended for approval, subject to modification of Conditions (1) and (4).

Development Controls:

- (i) Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011
- (ii) Sydney Development Control Plan 2011 (Glebe Affordable Housing Project)

Attachments:

- A - Notice of Determination D/2013/412
- B - Proposed Plans

RECOMMENDATION

It is resolved that consent be granted to Section 96(2) Application No. D/2013/412/A, subject to:

- (A) the amendment of the following, with modifications shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions) -

Land to be developed

~~2-6 ELGER STREET, GLEBE NSW 2037, 83 BAY STREET, GLEBE NSW 2037, 5010 STIRLING~~ ***ELGER STREET, GLEBE NSW 2037, 1-3 ELGER STREET, GLEBE NSW 2037, 3 WENTWORTH STREET, GLEBE NSW 2037, 8 ELGER STREET, GLEBE NSW 2037, 14 COWPER STREET, GLEBE NSW 2037; and***

~~LOT 2 DP 233310 (AREA VACANT DWELLINGS DEMOLISHED), LOT 2 DP 89872, LOT 1 DP 4474653~~ ***1198169, LOT 9 DP 1195829, LOT 12 DP 1195829, LOT 11 DP 1195829, LOT 10 DP 1195829*** ~~LOT 1 DP 1171653, LOT 1 DP 233310 (AREA VACANT DWELLINGS DEMOLISHED)~~

~~Also known by the applicant as 85 Bay Street, GLEBE NSW 2037, 24-26 Cowper Street, GLEBE NSW 2037, 46-48 Cowper Street, GLEBE NSW 2037, 1 & 19 Wentworth Street, GLEBE NSW 2037, and 1, 2, & 3 Stirling Street, GLEBE NSW 2037;~~

- (B) the amendment of the following conditions (with modifications shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions), as follows

(1) APPROVED DEVELOPMENT

- (a) Stage 1 development consent is granted only for:

- (i) building envelopes for the four development blocks - Block A, Block B, Block C and Block D;
- (ii) basement car parking;
- (iii) relocation of Stirling Street; and
- (iv) a park to the south of Elger Street

as detailed in the following drawings prepared by DEM and submitted with Development Application D/2013/412 dated 1 April 2013

Drawing Number	Title	Architect	Date
Arsk 0001 (Rev A01)	Housing Type Distribution Diagram	DEM	13 March 2013
Arsk 0002 (Rev B01 B02)	GFA Distribution Diagram	DEM	31.05.14 Plotted 21.03.13 15.12.15
Arsk 1308 (Rev A03)	Maximum Number of Storeys	DEM	Plotted 10.04.13 11.04.16

and as amended by the conditions of this consent

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(4) BUILDING HEIGHT

- (a) The height of the buildings, with the exception of lift overruns and communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like, must not exceed RLs of the block as detailed in the table below. Lift overruns, **service stair cores and other essential service plant and equipment** are not to exceed the RLs detailed in the table below by more than ~~600mm~~ **1500mm**:

	RL to the top of the building
Block A1/A3	RL 28.7
Block A2	RL 33.9
Block B1/B2	<p>RL 24.85 22.00 north (central) portion facing Wentworth Street</p> <p>RL 18.90 south (central) portion at the rear</p> <p>RL 34.0 34.4 southern portion facing Bay Street</p> <p>RL 34.0 34.4 north-east corner at intersection Wentworth Street and Bay Street</p> <p>RL 34.0 34.4 north-west corner (northern portion) at intersection Wentworth Street and Stirling Street</p> <p>RL 28.20 north-west corner (southern portion) at intersection Wentworth Street and Stirling Street</p>

	RL to the top of the building
Block B3	<p>RL 28.75 south-west portion at intersection of Stirling and Elger Street</p> <p>RL 24.55 southern portion to north of Elger Street</p> <p>RL 22.0 eastern end to north of Elger Street</p>
Block C1/C2	<p>RL 26.65 south-western portion facing Cowper Street</p> <p>RL 32.75 northern portion to the south of Elger Street</p> <p>RL 20.7 southern portion of western block adjacent to southern boundary</p> <p>RL 26.65 to the eastern and western ends to the south of Elger Street</p>
Block D1/D2	<p>RL 24.8 south-east portion to the south of Elger Street</p> <p>RL 26.9 southern portion to south of Elger Street</p> <p>RL 28.4 central block to south of Elger Street</p> <p>RL 29.5 south-west end block to the south of Elger Street</p> <p>RL 30.9 south-east end block to west of Bay Street</p> <p>RL 37.0 north-east block at intersection of Bay and Elger Streets</p>

- (b) All other roof top plant and associated equipment must be integrated into the building design.

BACKGROUND

The Site and Surrounding Development

1. The site is land described by Council as the Glebe Affordable Housing Project (GAHP), which is located on the western side of Bay Street in the block bounded by Wentworth Street, Bay Street and Cowper Street (refer **Figure 1** below). The southern boundary is shared with private properties that front on to Queen Street. The total area of the GAHP site (including a current Ausgrid substation property fronting Bay Street and the former Elger and Stirling Street road reserves) is 15,944m².



Figure 1: Aerial image of the “Glebe Affordable Housing Project” site (outlined in black).

2. The GAHP land broadly slopes from the south down towards the north, with the area of greatest elevation near the south western boundary. From this point, the land falls by approximately 9 metres to the corner of Bay and Wentworth Streets (north eastern corner). A centralised ridge running south to north, results in the land also sloping towards the north western corner (Cowper and Wentworth Streets).
3. The site was previously occupied by a public housing development comprising 15 separate apartment buildings constructed in the 1950s and 1960s, and a total of 134 dwellings. All were demolished and site remediation initiated in accordance with development consent D/2010/2114.

4. The site is devoid of vegetation, with civil works currently underway in the reconstruction of Elger Street and Stirling Street. Elger Street has been extended to provide a new east-west connection through the site between Bay Street and Cowper Street. Stirling Street has been repositioned eastward, such that its intersection with Wentworth Street aligns with a new pedestrian through site link to Wentworth Park, which is to be established through the separate development of 87 Bay Street to the north.
5. The subject site is not a heritage item but is located immediately to the east of properties within the St Phillips Conservation Area (C32) and immediately north of properties within the Hughes Conservation Area (C30). The Mountain Street Conservation Area (C68) is located to the south east of the site.
6. To the north of the site occupying the block bounded by Wentworth Park Road, Wentworth Street, Bay Street and Cowper Street, are low rise industrial warehouse buildings. These buildings are currently being demolished in two stages for the construction of a mixed use commercial and residential development known as "Mezzo". Further to the north is the public reserve of Wentworth Park.
7. To the east of the site, immediately across Bay Street, is a City of Sydney works depot building.
8. To the south east of the site are a variety of residential and commercial buildings of various scales from terrace houses to residential flat buildings. To the immediate south of the site are several rows of low scale residential terraces with frontage to Queen Street. Further south, approximately 200 metres from the site, is the Broadway shopping centre.
9. To the west, on the opposite side of Cowper Street, are predominately low scale one and two storey residential terraces, and approximately 200m to the north-east a Housing NSW 13 storey development known as the "John Byrne Court" residential building.
10. Photos of surrounding development are provided below in **Figures 2 and 2a**.



Figure 2: A – City of Sydney Bay Street Depot; B – City of Sydney Bay Street Depot; C - Kerrie Murphy Building, IGS, 1-3 McArthur Street opposite the site; D – 87 Bay Street to be demolished as part of “Mezzo” apartments development



Figure 2a: E – Southern end of Queen Street viewed from Bay Street; F – Existing residential development on Queen Street (81 Bay Street); G – rear of 81 Bay Street and existing vegetation on the subject site, viewed from the Bay Street frontage of the subject site; H – Cowper Street terraces to the west of the site.

HISTORY RELEVANT TO THE APPLICATION

Glebe Affordable Housing Project

11. The Glebe Affordable Housing Project (GAHP), a joint initiative with Council and Housing NSW, was first conceived as part of Sustainable Sydney 2030.
12. On 28 April 2008, the Lord Mayor of Sydney and the NSW Minister for Housing signed a Memorandum of Understanding to commence the Glebe Affordable Housing Project.
13. They agreed to investigate the potential of redeveloping land in Glebe and Ultimo, to increase the supply of affordable housing in the City through redevelopment that incorporates a mixture of social, affordable and market housing. Two sites were identified; the first site comprising the subject site owned by Housing NSW, and the second site the City of Sydney Council depot site on Bay Street.

Planning Controls

14. In order to utilise currently available Commonwealth and NSW Government funding, Housing NSW progressed design, feasibility and technical studies for their site. On 27 May and 31 May 2010, respectively, the Central Sydney Planning Committee and Council endorsed:

- (a) "Planning Proposal" Sydney Local Environmental Plan (LEP) 2010 – Glebe Affordable Housing Project" for public authority and community consultation; and
 - (b) "Draft Sydney Development Control Plan (DCP) 2010 - Glebe Affordable Housing Project" for public exhibition.
15. On 1 July 2011, the Local Environmental Plan (Glebe Affordable Housing Project) 2011 and the Sydney Development Control Plan 2011 - Glebe Affordable Housing Project commenced operation. These plans varied the draft controls to reflect revised concept plans lodged by Housing NSW. These site specific LEP and DCP controls remain in force.
 16. Sydney LEP 2012 and DCP 2012 do not apply.

Relevant Applications

17. On 7 March 2011, Development Application D/2010/2114 was **approved**. This consent allowed demolition of all 15 existing residential flat buildings, removal of existing trees and remediation of the site associated with the Glebe Affordable Housing Project.
18. On 2 August 2011, Development Application D/2011/803 seeking consent for demolition of Elger Street, remediation of ground beneath Elger Street and sub-division of the entire site was **withdrawn**.
19. On 1 December 2011, Stage 1 Development Application D/2011/1245 was approved. This application was for the Glebe Affordable Housing Project with concept plans detailing 6 building envelopes, between 6 and 10 storeys comprising a total of 493 units (250 market dwellings, 153 social, 90 affordable) approximately 504sqm of retail space and basement parking for 175 cars. Public domain works include the extension of Elger Street, the relocation of Stirling Street and the creation of a park fronting Elger Street. This consent was subsequently **surrendered** on 1 December 2015.
20. On 19 December 2011, Development Application D/2011/1650 for demolition of Elger Street, remediation of ground beneath Elger Street and sub-division of the entire site was **withdrawn**.
21. On 8 August 2013, Stage 1 Development Application D/2013/412 was **approved**. This application was a concept proposal for the GAHP bounded by Wentworth Street, Bay Street, Cowper Street and the rear boundary of properties fronting onto Queen Street. The application comprises 6 building envelopes between 2 and 10 storeys and a total of 495 dwellings consisting of approximately 153 social, 95 affordable and 247 market dwellings (refer **Figure 3** below), and basement parking for 175 cars accessed from Elger and Wentworth Streets. Public domain works include the extension of Elger Street, the relocation of Stirling Street and the creation of a park on Elger Street. A copy of the Notice of Determination of this application may be found at **Attachment A**.

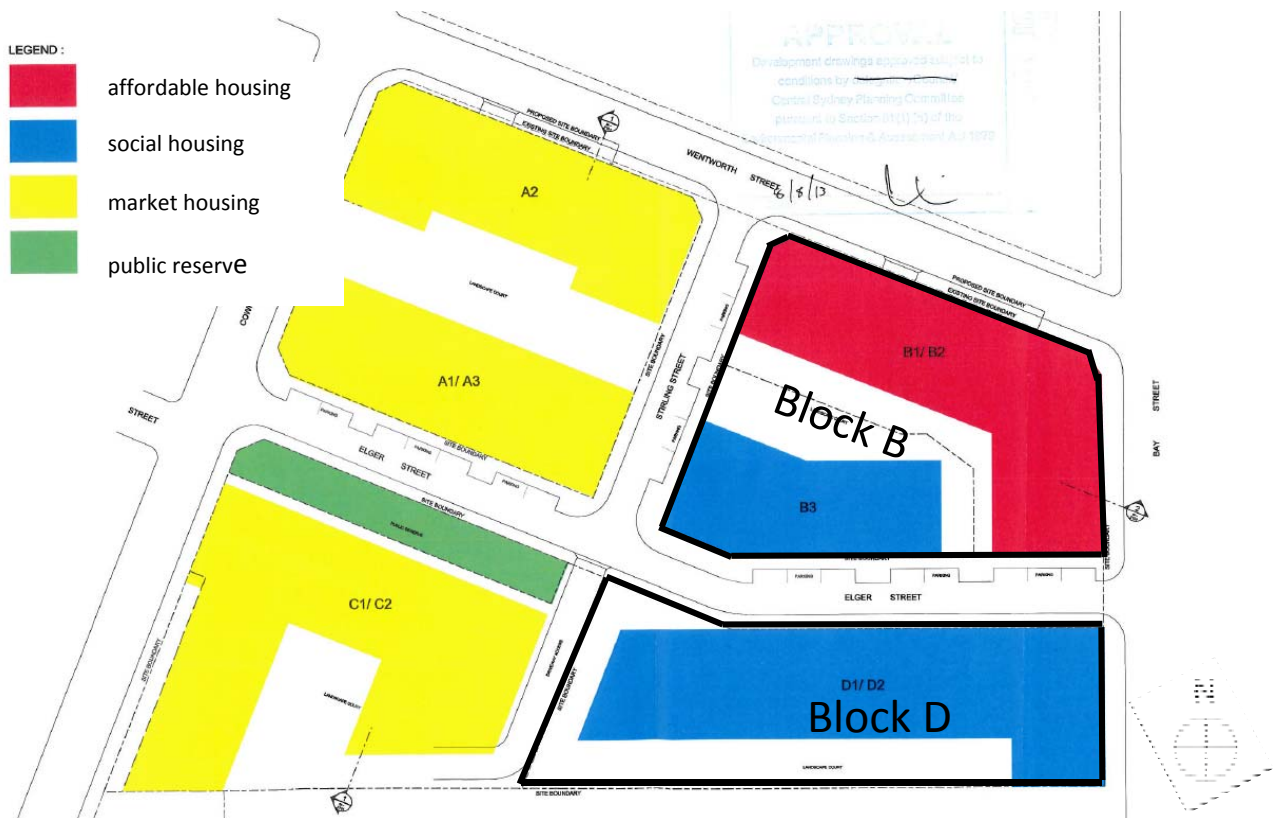


Figure 3: Approved Stage 1 DA “Housing Type Distribution” Plan and Block Diagram

22. On 16 September 2014, under delegated authority of the Land and Housing Corporation’s (LAHC) General Manager Strategy, **approval** was provided for an activity comprising subdivision of land and creation of roads under Part 5 of the Environmental Planning and Assessment Act 1979. The approval was to support the progression of works under the Stage 1 approval D/2013/412. The works included bulk earthworks, construction of stormwater and drainage, road works including the realignment of Stirling Street and extension of Elger Street to Bay Street, public domain works and landscaping, and utility services.
23. On 29 June 2015, Development Application D/2015/573 was **approved** for the removal of 13 street trees (5 in Cowper Street and 8 in Wentworth Street).

Social Housing DA

24. On 11 December 2015, Development Application D/2015/1794 was lodged. This Stage 2 DA is for ‘social housing’ and comprises excavation and construction of a part 5/part 6 storey residential flat building (Block B) comprising a total of 48 units, community room, communal open space, landscaping, and excavation, and construction of a part 6/part 9 storey residential flat building (Block D) comprising 110 apartments, community room, communal open space, and landscaping (refer **Figures 4 and 5** below). This DA relies upon the Section 96 modification application, the subject of this report. A separate report on the ‘social housing’ DA will be considered by the Planning and Development Committee at its meeting of 21 June 2016.



Figure 4: Photomontage of proposed Block D - Elger Street/north elevation



Figure 5: Photomontage of proposed Blocks B (left) and D (right) – western elevation

Affordable Housing and Market Housing

25. At the time of preparation of this report, no detailed development applications have been lodged for the affordable housing and market housing components of the GAHP site.

PROPOSAL

26. The Section 96(2) application seeks to modify the Stage 1 DA approval to bring it in line with the detailed Stage 2 'social housing' DA. The proposed modifications comprise the following changes:
- (a) redistribution of 290sqm of gross floor area from Block B (which comprises both 'social' and 'affordable' housing) to Block D (which comprises 'social' housing only);
 - (b) altering the maximum number of storeys (refer **Figure 6** below) by:

Block D

- (i) reducing the 10 storey element to 9 storeys;
- (ii) extending the 9 storey footprint further west (from an approved depth of approximately 16.5m to a maximum of 23.5m);
- (iii) extending the 8 storey footprint further west (from an approved depth of approximately 14.8m to 20m); and

Block B

- (iv) extending the 6 storey footprint further east;



Figure 6: Height in Storeys comparison between approved Stage 1 (top) and Section 96 proposal (bottom)

- (c) amendment to the 'affordable housing' building envelope (B1 and B2) to allow sufficient mid-winter solar access to the living rooms and private open space within Building B3 (social housing). This involves:
- (i) a reduction in the height of the north (central) portion facing Wentworth Street from RL 24.85 to RL 22.00;
 - (ii) the introduction of a 6m setback and further reduction in height to the top level of the central portion of the building envelope; and
 - (iii) a 3m setback to the top two levels at the western end of the building envelope (refer **Figure 7** below);

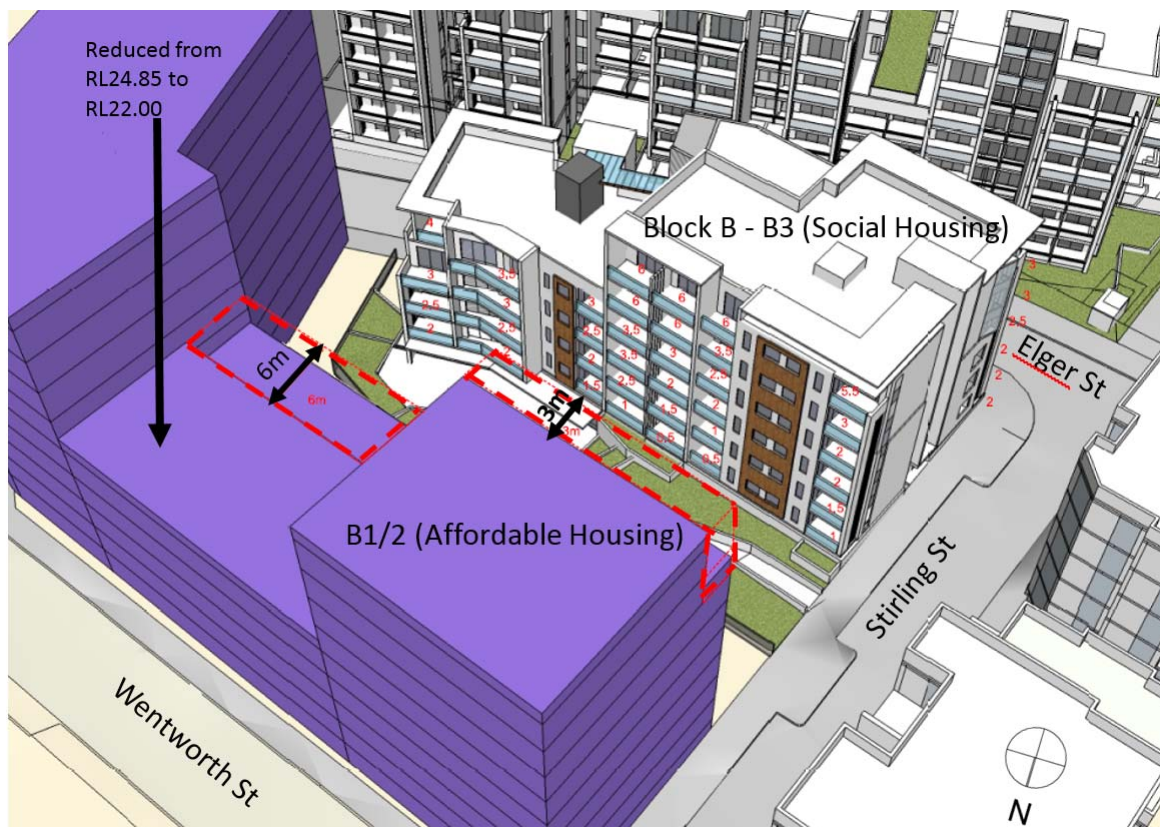


Figure 7: Aerial view generally looking south showing reduction to building envelopes for Buildings B1 and B2 (dashed lines)

- (d) provide additional height to facilitate floor to floor heights of 3100mm and a 1200mm high parapet wall to Buildings B1 and B2;
- (e) allow lift overruns, service stair cores and plant and equipment to exceed the approved height by 1500mm (rather than 600mm); and
- (f) if approval is provided to the Stage 1 modification, the description of the land to be developed will be amended to reflect the current address and legal descriptions for the site.

CROWN AS THE APPLICANT

27. The provisions of Section 89(1) of the Environment Planning and Assessment Act 1979 states:

“A consent authority (other than the Minister) must not:

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.”*

28. The recommendation is to modify the conditions, consistent with the Applicant's request. The recommended modifications as presented in this report were forwarded to the Land and Housing Corporation (LAHC), and approved.

THRESHOLD TEST

29. Section 96 of the Environmental Planning and Assessment Act 1979 states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”*.

30. In noting that the essence of the approved development is maintained, the proposed modification is considered to be substantially the same as that originally approved.

MERITS ASSESSMENT**Redistribution of Gross Floor Area (GFA)**

31. It is proposed to redistribute 290sqm of GFA from Block B (which comprises both 'social' and 'affordable' housing) to Block D (which comprises 'social' housing only). The proposed redistribution requires a modification of Condition (1) to cross reference a new GFA distribution diagram.
32. The proposed modification is a result of the development application for the detailed design of the social housing component of the GAHP site (D/2015/1794). A report on this other DA will be separately considered by the Planning and Development Committee at its meeting of 21 June 2016, where it is recommended for approval.
33. This modification is supported, particularly noting the following:
- (a) there is no change to the total GFA allowance over the entire GAHP site; and
 - (b) as LAHC owns and will oversee all development on the site, the contract for the affordable housing development on the balance of Block B will simply reflect a lesser GFA to account for the redistribution.
34. It is also noted that, as discussed below, a change to the building envelope of Buildings B1 and B2 is proposed. This also has a consequential reduction in GFA.

Amendment to the Affordable Housing Building Envelope

35. There are two distinct changes proposed to the approved building envelopes for Buildings B1 and B2 (affordable housing), as follows:
- (a) a reduction to the building envelope of the northern (central) portion of the building envelope and the upper southern edge. This is a result of the detailed assessment of the Stage 2 'social housing' DA and the need to ensure compliant mid-winter solar access to the living rooms and private open spaces of Building B3. This solar access requirement is contained within State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) and its companion document, the Apartment Design Guide. In particular, the envelope changes involve:
 - (i) reduction in the height of the north (central) portion facing Wentworth Street from RL 24.85 to RL 22.00;
 - (ii) the introduction of a 6m setback to the top level of the central portion of the building envelope; and
 - (iii) a 3m setback to the top two levels at the western end of the building envelope (refer **Figure 7** above); and
 - (b) provision of an additional 400mm of height (from RL34 to RL34.4) to select parts of the building envelope. This is necessary to facilitate floor to floor heights of 3100mm (thus ensuring that 2700mm ceiling heights are readily achievable) and a 1200mm high parapet wall to 'top off' the building, to screen any roof top plant and equipment, and to provide safe access to same (refer **Figure 8** below).

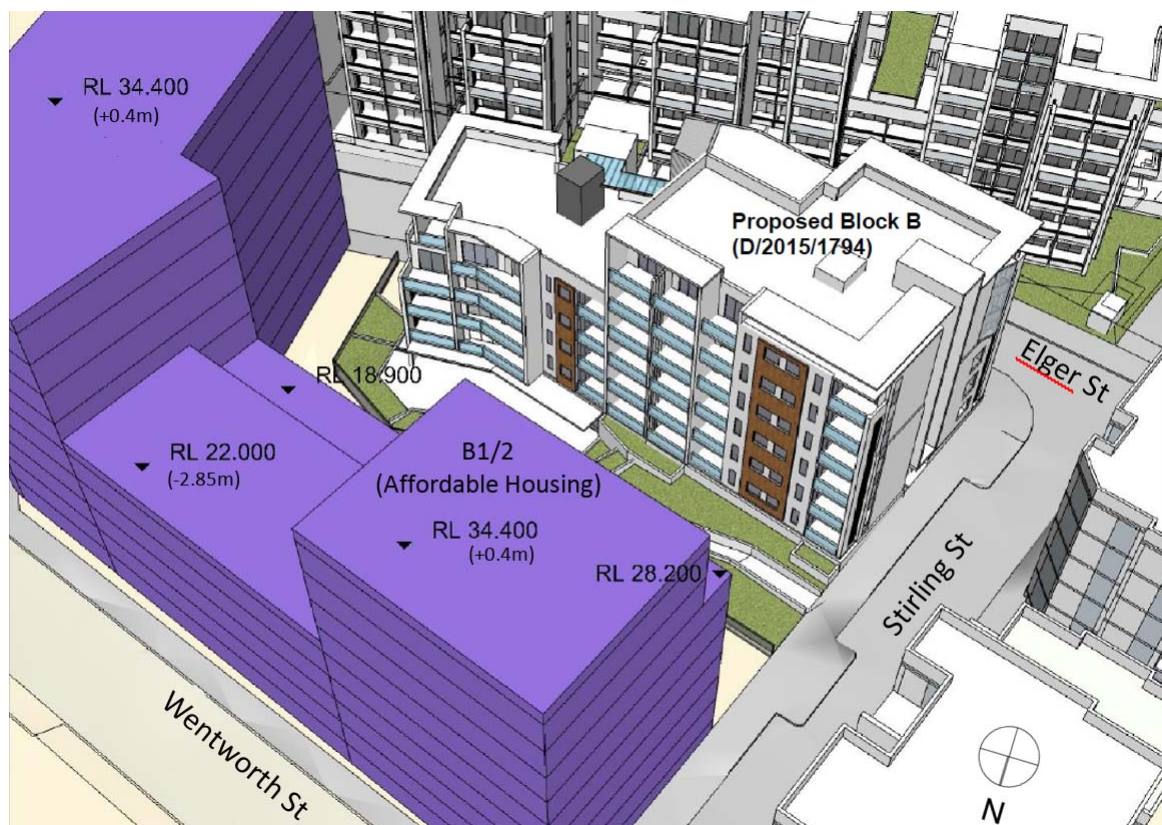


Figure 8: Aerial view generally looking south showing amended heights

36. Both modifications are supported and will require a modification to Condition (4) (Building Height).

Service Access to Roofs

37. A modification to the wording of Condition (4) is proposed to allow additional service access to the roofs, beyond the 600mm specified. In particular, the proposed modification to the first paragraph of the condition is as follows (changes shown in **bold italics** or with a ~~strike through~~):

The height of the buildings, with the exception of lift overruns and communications devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like, must not exceed RLs of the block as detailed in the table below. Lift overruns, **service stair cores and other essential service plant and equipment** are not to exceed the RLs detailed in the table below by more than ~~600mm~~ **1500mm**:

38. The Applicant indicates that the increase is based on an assumption that no communal roof terraces will be proposed for the uppermost levels of each building. Introduction of a communal roof terrace would necessitate lift access with the lift overrun thus exceed the nominated 1500mm. It is noted that as part of the future assessment of all subsequent Stage 2 DAs, detailed consideration will need to be given to the impacts (if any) of all roof top works, with the possible need for a further Section 96 application to bring the staged DAs in line.
39. This modification is reasonable and is supported.

Height in Storeys Modification

40. It is proposed to alter the maximum number of storeys by:

Block D

- (a) reducing the 10 storey element to 9 storeys;
- (b) extending the 9 storey footprint further west (from an approved depth of approximately 16.5m to a maximum of 23.5m);
- (c) extending the 8 storey footprint further west (from an approved depth of approximately 14.8m to 20m); and

Block B

- (d) extending the 6 storey footprint further east.

41. The following Figure 9 shows the extent of the changes between what was approved and what is now proposed:



Figure 9: Height in Storeys comparison between approved Stage 1 (top) and Section 96 proposal (bottom)

42. The proposed modification is considered to be acceptable. In particular, the following are noted:
- (a) the modification is a result of the design development of the project from a conceptual (Stage 1 DA) to a detailed level (Stage 2 'social housing' DA);
 - (b) the separate detailed assessment of the 'social housing' Stage 2 DA has concluded that the proposed changes to the height in storeys is acceptable and will not have unreasonable impacts on neighbouring properties. The following is a summary of the solar access assessment as part of the Stage 2 DA:
 - (i) the development will result in a loss of mid-winter solar access to the northern elevations and private open space of the properties at 81 Bay Street, which lie directly to the south of proposed Block D;
 - (ii) the currently approved Stage 1 envelope provides no direct mid-winter solar access to the rear yards and northern elevations of the dwellings on 81 Bay Street between 9.00am and 3.00pm;
 - (iii) the consideration of the original Stage 1 application included an undertaking in the assessment and discussion of the application (although no stated condition) that the detailed design would seek to improve where possible the solar access provision to the properties to the south;
 - (iv) the increased Block D 8 and 9 storey footprints allow for the re-distribution of floor area, thus enabling the inclusion of lower scale, 3 storey linkages within the building below the approved maximum building envelope. These lower scale elements will provide additional solar access and sky exposure to some Queen Street residents to the south, greater than that of the maximum approved 6 storey building envelope for the western portion of Block D, and greater than the loss attributed to the extension of the 8 and 9 storey footprints (refer **Figures 10** and **11** below).

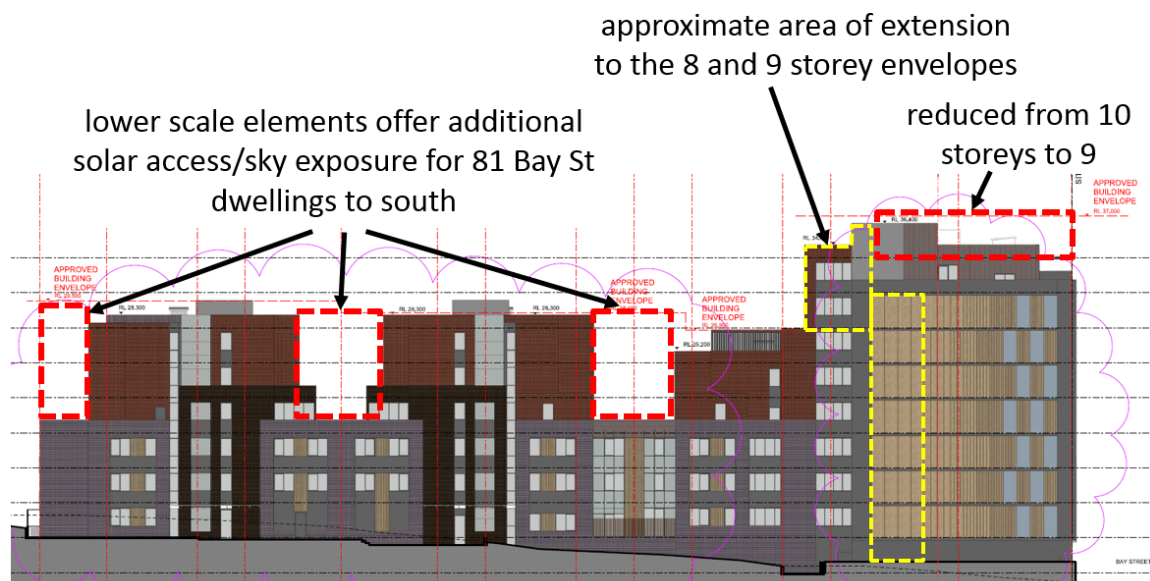
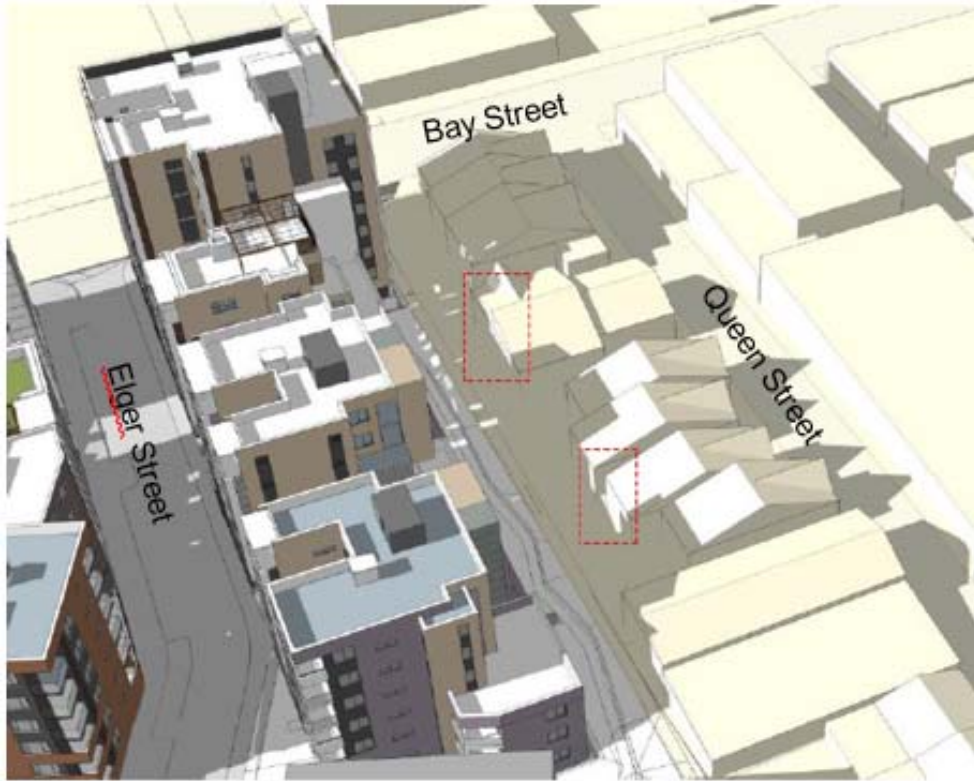


Figure 10: South elevation of Block D



Block D Post DA Option 3 - 12.00 PM



Block D Post DA Option 3 - 1.00 PM





Block D Post DA Option 3 - 2.00 PM



Block D Post DA Option 3 - 3.00 PM



Figure 11: Block D mid-winter solar access to properties along Queens Street at hourly intervals from 12 noon to 3.00pm, June 21, resulting from the Stage 2 detailed design proposed under D/2015/1794.

Amendment to the description of the land to be developed

43. Following the issue of the Stage 1 consent D/2014/412, the LAHC acquired Elger Street and Stirling Street and subdivided the site in preparation of the development of the respective social, affordable and market housing components of the approval.
44. In the event that approval is provided to the modification, it is recommended that the description of the land to be developed is updated to reflect the current legal description and address for the site.
45. The external boundaries and area of the site remain exactly the same, and the internal boundaries reflect the approved footprints for the height of building envelopes and the re-alignment of Stirling Street. As such, the description change will have no consequential planning or environmental impacts.

SECTION 79C ASSESSMENT

46. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 contained in the report to the Central Sydney Planning Committee at its meeting of 25 July 2013, are still relevant.

EXTERNAL REFERRALS**Notification, Advertising and Delegation (Submission(s) Received)**

47. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified. As such, the application was notified for a period of 14 days between 14 January and 29 January 2016. As a result of this notification, two submissions were received, raising the following issues:

- (a) A wetland should be incorporated on the site as part of the public space.

Response – There is no planning requirement for provision of a wetland on the GAHP site within the site specific LEP and DCP or the current Stage 1 DA consent.

- (b) The modifications seek to increase solar access within the development, when no such provision is made for existing Queen Street properties which will receive no mid-winter sunlight.
- (c) The proposal does not meet the objectives and provisions of the DCP including the following:

‘Part 4.5 Sun Access

Objective: Ensure new developments do not result in a deterioration of direct sunlight access to public spaces and neighbouring properties.

Provision: Development must result in neighbouring development receiving at least three hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms, or the existing levels of direct sunlight, whichever is the lesser, between 9am and 3pm on 21 June.’

Response – Provision 4.5 Sun Access also includes the alternate provision that the proposal must result in the neighbouring development receiving the existing levels of direct sunlight access. The maximum shadowing effects of the approved Stage 1 envelope result in the dwellings at 81 Queen Street receiving no solar access to the private open space and rear elevation/living room windows. The proposed modification does not result in any change to this potential overshadowing of the dwellings at 81 Queen Street. However, the detailed design proposed under D/2015/1794 results in the breaks in the building and reduced scale of the building towards the southern boundary providing solar access to some parts of dwellings at 81 Queen Street (Figure 11 above). The proposal is considered to be acceptable.

PUBLIC INTEREST

48. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

FINANCIAL IMPLICATIONS/S94 CONTRIBUTION

Section 94 Contributions

49. The application is not subject to a Section 94 Contribution as it is a modification to a Stage 1 DA. Section 94 contributions will be addressed as part of the future Stage 2 DAs.

RELEVANT LEGISLATION

50. The Environmental Planning and Assessment Act 1979.

CONCLUSION

51. The necessity to modify the approved building envelopes and redistribute GFA has come from the need to ensure consistency between the staged development applications on this site, as required under Section 83D of the Environmental Planning and Assessment Act.
52. The modification is a result of the design development between the approved conceptual Stage 1 consent and the detailed Stage 2 'social housing' DA.
53. On balance, the modifications are considered to be reasonable and are recommended to be approved.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Alistair Smith, Senior Planner)