

Item 3.**Development Application: 17-31 Cowper Street and 2A-2D Wentworth Park Road, Glebe - D/2021/493**

File No.: D/2021/493

Summary

Date of Submission:	21 May 2021 Amended plans and information 21 September 2021 and 25 October 2021
Applicant:	Land and Housing Corporation NSW
Architect/Designer:	Johnson Pilton Walker (JPW)
Developer:	Land and Housing Corporation NSW
Owner:	Land and Housing Corporation NSW
Planning Consultant:	File Planning
DAP:	15 July 2021
Cost of Works:	\$30,906,517.48
Zoning:	The site is located in the R1 General Residential zone. The proposed development is defined as residential accommodation comprising shop top housing in the form of two residential flat buildings with commercial premises/ retail premises uses at ground floor level and five dwelling houses. The proposed development is permissible with consent in the zone.
Proposal Summary:	The development seeks consent for the demolition of existing structures, remediation, excavation and construction of a mixed-use development comprising three buildings with a total of 70 apartments, five terrace houses and two commercial/ retail tenancies in total. The development is a Crown development application with the land owner being the NSW Land and Housing Corporation, and the proposed dwellings are for social housing.

In detail, the following is proposed:

- An eight storey building with one basement level situated on the northern site (Wentworth Park Road frontage) containing 35 residential apartments and one commercial/ retail tenancy;
- An eight storey building situated on the southern site (Wentworth Street frontage) containing 35 residential apartments and one commercial/ retail tenancy; and
- A contemporary terrace row situated on the southern site fronting Mitchell Lane East containing five residential terrace dwellings.

The application is referred to the Local Planning Panel for determination as the proposal is a type of development where State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development applies and as the proposed development includes a departure from the height of building development standard in Clause 4.3 of the SLEP 2012 greater than 10 per cent.

The application was presented to the City's Design Advisory Panel (DAP) and a DAP Subcommittee was subsequently convened to assist in further design refinement.

Following a preliminary assessment of the application, further information and amendments were requested to address the following matters:

- The design of the terraces was recommended to be amended in line with the comments of the DAP Subcommittee to improve amenity for occupants. Specifically, the terraces were recommended to be repositioned to the Wentworth Street and Mitchell Lane East corner to improve the separation between buildings on site and increase the size of the courtyard.
- The form, appearance and internal planning of the terraces amended to maximise amenity.
- Openings to the windows to the residential flat buildings enlarged to improve daylight and cross ventilation.
- An amended landscape plan was requested to provide for greater soft landscaping and tree planting within the ground floor courtyard.
- Additional bicycle parking for visitors

- Additional information in relation to remediation, flooding, ESD, loading and public art.

The development was publicly notified on two occasions. The first notification relates to the original proposal and was notified for 28 days between 3 June 2021 and 2 July 2021. Eight (8) submissions were received.

The second notification related to the amended proposal and was notified for 14 days between 21 September 2021 and 6 October 2021. No submissions were received.

The key issues raised in submissions related to demolition, loss of trees, bulk and scale and overshadowing.

Amended plans were received that resulted in the:

- Relocation of the terrace row to the southwest and removal of the pocket of open space and existing tree at the corner of Wentworth Street and Mitchell Lane East
- Inclusion of a pocket of open space and replacement tree at the corner of Mitchell Lane East and Park Lane
- Redesign of the terrace row to provide a contemporary infill development design and improve amenity. The form of the upper level has changed from an attic-like level to a third storey with openings.
- Replanning of terraces to improve amenity including improved cross ventilation, solar access, outlook and privacy.
- Enlargement of the communal courtyard space between the terrace row and southern residential flat building.
- Additional deep soil and soft landscaping at ground floor level.

Enlargement to the bathroom windows provided to the residential flat buildings. The proposed development is compliant with the permitted FSR control under the Sydney LEP 2012. As a result of the revised siting of the terrace houses on the southern site, the proposal results in a non-compliance with one section of the height of buildings control which is limited to the southwestern corner of the site specifically relating to the southernmost terrace dwelling.

The applicant has submitted a clause 4.6 written request seeking to vary the development standard. The request to vary the development standard is supported and the requirement of clause 4.6(4)(a)(i) of Sydney LEP 2012 is considered to have been met. The height variation will deliver significant amenity improvements for the proposed development and will not result in any unreasonable amenity impacts on the surrounding area.

The development is generally compliant with SEPP 65 and the ADG and the site-specific controls of the Sydney DCP 2012. Specifically, the proposed development provides a built form, scale and design which is anticipated by the controls and provides an array of public domain improvements required by the DCP. Overall, the development is considered to provide acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.

Overall, the proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that is considered to demonstrate design excellence.

Subject to the recommended conditions, as detailed in the report and attachment A, it is considered that the proposed development is acceptable and generally compliant with the planning controls for the site.

As the application is a Crown development application, the draft conditions were provided to Land and Housing Corporation. The Land and Housing Corporation have agreed to the recommended conditions.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) State Environmental Planning Policy No 55 - Remediation of Land
- (iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- (v) State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development
- (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vii) Sydney Local Environmental Plan 2012
- (viii) Sydney Development Control Plan 2012
- (ix) City of Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings

Recommendation

It is resolved that:

- (A) the variation requested to the 'height of buildings' development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) be upheld; and
- (B) consent be granted to Development Application No. D/2021/493 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the R1 General Residential zone pursuant to the Sydney LEP 2012.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the 'height of buildings' development standard.
- (C) The development exhibits design excellence under Clause 6.21 of Sydney LEP 2012.
- (D) The development meets the objectives of the Apartment Design Guide and is consistent with the design quality principles under State Environmental Planning Policy No 65 - Design Quality of Residential Apartments.
- (E) The development is generally consistent with the objectives of Sydney LEP 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 17 in DP 244897, known as 17-31 Cowper Street, Glebe (southern site) and Lot 18 in DP 244897, known as 2A-2D Wentworth Park Road, Glebe (northern site). The area of the northern site is 625.7sqm and the southern site is 1,162.8sqm, which equates to a total site area of 1,788.5sqm.
2. The site has four road frontages: Wentworth Park Road to the north, Cowper Street to the east, Wentworth Street to the south and Mitchell Lane East to the west. The site is dissected by Park Lane which separates the north and south sites.
3. Both sites are generally flat, with a cross fall of 0.6m on the northern site from the site's north-western frontage to Wentworth Park Road to the site's south-eastern frontage at the corner of Cowper Street and Park Lane. The southern site has a cross fall of 0.7m from the site's north-western frontage to Park Lane to the site's south-eastern frontage at the corner of Cowper Street and Wentworth Street.
4. The site is owned by NSW Land and Housing Corporation (LAHC). Existing development consists of 19 social housing dwellings; the northern site comprises four two-storey terrace houses (refer to Figures 2 and 3, below) and the southern site comprises a two-storey residential flat building accommodating 15 one-bedroom units (refer to Figures 5 to 8, below). All buildings on the site were constructed as part of the Glebe Rehabilitation Project in the late 1980s.
5. The surrounding area is characterised by a mixture of land uses, primarily being residential, recreational and commercial land uses.
6. The land to the immediate east of the site has undergone significant redevelopment in recent years through LAHC affordable housing projects and the Mezzo development fronting Wentworth Park Road. These redevelopments have resulted in a mix of commercial uses, social, affordable and market dwellings in mixed use buildings up to 12 storeys with ground floor commercial uses.
7. The land to the south and west of the site is typical of Glebe's fine-grain network of streets and lanes that is characterised by single storey terraces in relatively narrow street-lined streets.
8. Wentworth Park is located to the immediate north of the site and MJ Doherty Reserve, a small pocket park is located to the immediate west of the site.
9. The site is not located within a heritage conservation area (HCA), but adjoins the St Philips HCA (C32) to the south and west. The site is not a heritage item, but the street trees along Cowper Street to the east of the site are identified as a local heritage item. All buildings within the site are identified as neutral buildings in terms of their contribution.
10. The site is identified as being subject to flooding.
11. A site visit was carried out on 23 June 2021.
12. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Aerial view of site and surrounds



Figure 3: Rear of 2A-2D Wentworth Park Road viewed from corner of Cowper Street and Park Lane (northern site)

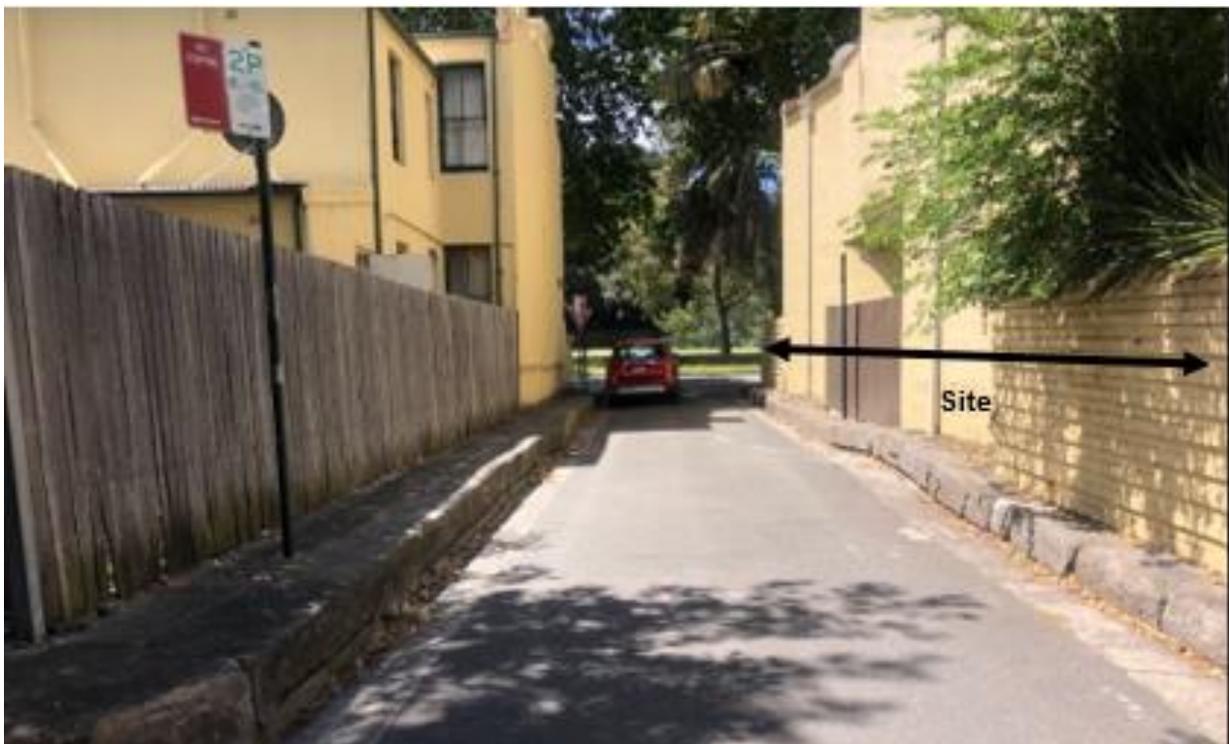


Figure 4: Western extent of 2A-2D Wentworth Park Road viewed from Mitchell Lane East (northern site), with extent of heritage kerbstones shown



Figure 5: 17-31 Cowper Street viewed from the corner of Cowper Street and Wentworth Street (southern site)

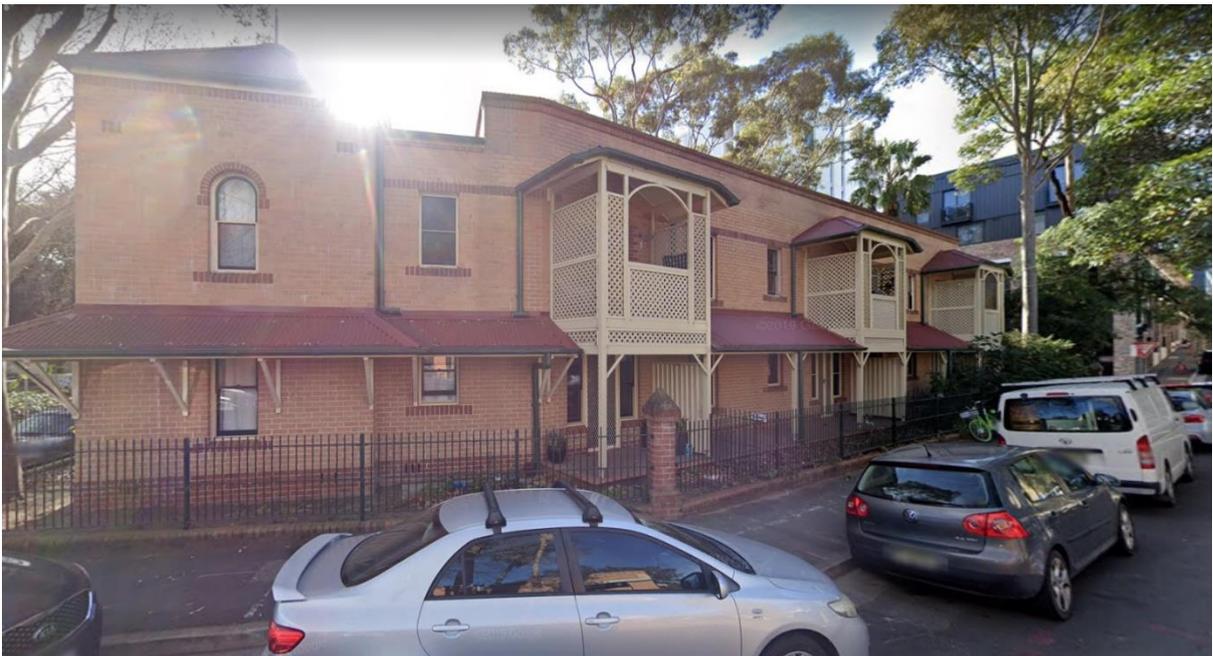


Figure 6: 17-31 Cowper Street viewed from Wentworth Street (southern site) (Source: Google Maps)



Figure 7: View of 17-31 Cowper Street looking north along Mitchell Lane East with 17-31 Cowper Street on the right-hand side and MJ Doherty Reserve on the left-hand side (southern site)



Figure 8: View of 17-31 Cowper Street looking south along Mitchell Lane East with 17-31 Cowper Street on the left-hand side and MJ Doherty Reserve on the right-hand side (southern site)



Figure 9: View looking east along Park Lane with southern site shown on right-hand side



Figure 10: View of Park Lane looking west which dissects the north and south sites



Figure 11: View of existing Mezzo development fronting Wentworth Park Road viewed from Wentworth Park. The Mezzo development is located to the immediate east of the site, on the opposite side of Cowper Street



Figure 12: View of existing 'Mezzo Apartments' development on the corner of Wentworth Park Road and Cowper Street located to the immediate east of the subject site. Subject site located on the right-hand side



Figure 13: View looking southeast along Cowper Street showing extent of new high-rise development to the immediate east and southeast of the subject site



Figure 14: View looking southwest along Cowper Street showing extent of single storey terrace dwellings located to the immediate south of the subject site



Figure 17: View of MJ Doherty Reserve looking east towards the southern site (Source: Google Maps)



Figure 18: Two storey terrace development to the immediate west of the site fronting Wentworth Park Road

History Relevant to the Development Application

Planning Proposal

13. The site was the subject of a site-specific planning proposal. The planning proposal and draft site-specific DCP were exhibited for 28 days between 9 November 2020 to 14 December 2020. Council resolved to approve the planning proposal and DCP on 29 March 2021.
14. The site-specific provisions, with amendments to the Sydney LEP 2012 and Sydney Development Control Plan 2012 (Sydney DCP 2012), came into effect on 10 September 2021. The planning proposal introduced the following controls for the site:

	Previous Control	Sydney LEP 2012 following planning proposal
Building Height	9 metres	Varying height controls from RL 4.5 to RL 36
Floor space ratio	1.25:1	Southern site - 3.1:1 Northern site - 4.3:1
Heritage	Site situated within the St Philips Heritage Conservation Area	Site excised from the St Philips Heritage Conservation Area
Site-specific provisions	N/A	Site-specific clause inserted (now clause 6.54(3) of SLEP 2012) stating that development consent is not to be granted unless the consent authority is satisfied that - <ul style="list-style-type: none"> the development includes development on the northern site for the purposes of residential accommodation, and 100% of the gross floor area of the northern site used for the purposes of residential accommodation will be used for the purposes of affordable housing, and the affordable housing will be provided by or on behalf of a public authority or a social housing provider, within the meaning of State Environmental Planning Policy (Affordable Rental Housing) 2009, and

	Previous Control	Sydney LEP 2012 following planning proposal
		<ul style="list-style-type: none"> for development that is BASIX affected development—the development exceeds the BASIX commitment for energy for the development by not less than 5 points. <p>Clause inserted that the bonus provisions available under Clause 6.21(7) do not apply to the land.</p>

15. A detailed assessment against the site-specific provisions is provided within this report.

Application Chronology

16. A chronology of key events relevant to the development application follows:
- (a) 19 November 2020: The applicant attended a pre-DA meeting with Council officers over Microsoft Teams. The applicant presented a proposal for 35 new social housing dwellings and 39 private dwellings in two eight-storey buildings and five three-storey terraces fronting Mitchell Lane East and MJ Doherty Reserve. Following the meeting, the City provided written advice dated 7 December 2021 noting the following issues:
 - (i) Concerns regarding the appearance and amenity of the terrace houses.
 - (ii) Concerns regarding the amenity of the residential flat buildings including the undesirable use of a platform lift, overshadowing impacts, the amenity of the communal room, overlooking impacts, size of some apartments and the amenity of the open corridors.
 - (iii) Further information and amendments were requested in relation to matters concerning the public domain, flooding, landscaping and environmental sustainable design.
 - (b) 21 January 2021: The applicant attended a second pre-DA meeting with Council officers over Microsoft Teams to discuss the written advice dated 7 December 2021.
 - (c) 21 May 2021: The development application was lodged.
 - (d) 3 June to 2 July 2021: The development application was notified/ exhibited for 28 days.

- (e) 8 June 2021: A first request for additional information was sent to the applicant. The request identified that a Remediation Action Plan (RAP) should be prepared in order to address SEPP 55 - Remediation of Land. The request stated the RAP is to be reviewed by a NSW EPA Accredited Site Auditor and include a Section B Site Audit Statement or letter of interim advice issued by the Auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before any consent is granted.

The request also identified that NatHERS Stamped plans should be submitted with the application and should contain annotations regarding insulation and glazing performance standards.

- (f) 1 July 2021: The NatHERS Stamped plans were received from the applicant.
- (g) 8 July 2021: The RAP and interim advice from an NSW EPA Accredited Site Auditor was received from the applicant.
- (h) 15 July 2021: The application was presented to the Design Advisory Panel (DAP). The DAP noted the amenity of the dwellings, size of window openings, opportunity for good cross ventilation and solar access and the provision of good quality open space with deep soil planting should be prioritised. At the meeting it was determined that a sub-committee of DAP would be convened to provide further input into the design.
- (i) 9 August 2021: The applicant attended the first meeting with the DAP Subcommittee and Council officers to discuss site planning, relationship between the two building types (residential flat buildings and terrace houses on the southern site), amenity and landscape..
- (j) 16 August 2021: The applicant attended a second meeting with the DAP Subcommittee and Council officers. The applicant's architect presented amended drawings to the Subcommittee.
- (k) 23 August 2021: The applicant attended a third meeting with the DAP Subcommittee and Council officers. The applicant's architect presented amended drawings to the Subcommittee.. Further discussion on the recommendations of the Subcommittee and the amendments made to the scheme is addressed in the issues section of this report.
- (l) 27 August 2021: Council officers issued the applicant with a second request for additional information and amendments. The request identified the following additional information and amendments:
- (i) Urban Design, Site Planning and the DAP Subcommittee: Option to remove the existing Red Spotted Gum considered to be preferable. A replacement mature tree is to be located within the site boundaries on the corner of Mitchell Lane East and Park Lane to provide replacement canopy coverage.

Further resolution of the landscape treatment is required, including greater soft landscaping and tree planting within the courtyard.

The following comments were made on the current concept drawings for the terraces:

- i. The internal planning of the terrace houses is to maximise opportunity for good cross ventilation and daylight.
- ii. Careful consideration of the useability and privacy of the front balconies needs to be considered.
- iii. Materials, colours and finishes of the terraces need to be reconsidered.

The following comments were provided in relation to the residential flat buildings:

- i. Openings on the windows to the residential flat buildings should be enlarged to increase the amount of glazing to improve daylight and cross ventilation. If required, external shading devices could be introduced to address issues of heat load.
 - ii. In particular, concern is raised with the balconies on level one which provide a solid balustrade and arched opening. The limited opening to these re-entrant balconies restricts daylight and outlook to these apartments.
 - iii. For improved residential amenity, consideration should be given to the enclosure of corridors within both residential flat buildings.
 - iv. From the 3D views provided, it appears the glass balustrades to the rooftops will be visible from the public domain. The glass balustrade should be replaced with a simple vertical metal palisade balustrade.
 - v. The waste room to the northern residential flat buildings should have a door providing access directly to the public domain. Access via the residential lobby is not supported.
- (ii) Floor Space Ratio (FSR): The submitted GFA plans have not included the area of the bicycle rooms and waste rooms located at ground floor level.
- (iii) Landscape: The amended proposal should be accompanied by an amended landscape plan. In accordance with the site-specific DCP provisions, at least 18% of the total site area must be covered by tree canopy when trees reach maturity. Demonstration that 18% canopy coverage can be achieved is to be shown on the amended landscape plan. The following requested amendments were made:
- i. Where possible, areas of planting to Cowper Street are to be maximised, extending them as far possible towards entries, and removing the angled design where it results in unnecessary paving.
 - ii. The raised planters to Cowper Street should be made in-ground, with lightweight seating on localised footings to replace seating walls where necessary.
 - iii. All paving within deep soil zones is to be made permeable.
 - iv. Various minor amendments to the rooftop communal open spaces.

- (iv) Tree Management: A replacement tree species is to be selected which can achieve a similar mature height to the existing Spotted Gum tree (at least 14 metres). The Washington Palms (referred as Trees 9-11) are proposed for transplantation within the Park Lane public domain. This is not supported by Tree Management. The plans are to be amended to allow these trees to be transplanted within the site boundaries.
- (v) Flooding: Confirmation is sought from Ausgrid that the proposed level of the substation is satisfactory given it is below the 1% annual exceedance probability (AEP) level. The commercial space on the corner of Cowper Street and Wentworth Street has a proposed level slightly below the 1% AEP level. The plans are to be amended to address this.
- (vi) Environmental Design: The plans were requested to be updated to clearly illustrate information relating to insulation and glazing, glazing performance and BASIX annotations. The City's ESD Template was requested to be completed.
- (vii) Transport: Additional bicycle parking for visitors and employees and customers of the proposed retail use is to be included in the proposal. A loading and service management plan is to be submitted to demonstrate how the loading and servicing, delivery, tenant move in/move out for the site can be achieved.
- (viii) Public Art: An updated Preliminary Public Art Plan was requested.
- (m) 30 August 2021: The applicant attended a meeting with Council officers over Microsoft Teams to discuss the content of the request for additional information and amendments letter.
- (n) 21 September 2021: The applicant provided an amended package including the following documentation:
 - (i) Updated architectural plans
 - (ii) Updated landscape plans
 - (iii) Loading and Service Management Plan
 - (iv) Updated Public Art Strategy
 - (v) Completed ESD Template
 - (vi) Ausgrid correspondence
- (o) 23 September 2021: Council officers requested additional information relating to environmentally sustainable design information, specifically including updated NatHERS stamped plans.
- (p) 24 September 2021, 7 October 2021, 12 October 2021, 13 October 2021: Variation iterations of amended architectural plans were received for comment and review by the DAP Subcommittee and Council staff.
- (q) 5 October 2021: An updated MUSIC Link model was received.

- (r) 11 October 2021: A Clause 4.6 report was submitted relating to the variation to the building height development standard.
- (s) 25 October 2021: Final plans were received.
- (t) 28 October 2021: The amended development application was presented to DAP.

Proposed Development

- 17. The proposal, as amended, is for the redevelopment of the site, comprising remediation, excavation and construction of a mixed use development comprising two residential flat buildings with commercial/ retail tenancies at ground floor level and a terrace row comprising five attached dwellings.
- 18. The application has been lodged by the NSW Land and Housing Corporation and all dwellings proposed as part of this application are proposed to be delivered as social housing.
- 19. Specifically, the proposal comprises the following:

Northern Site (Frontage to Wentworth Park Road)

- (a) Basement level comprising building services and plant.
- (b) Commercial/ retail tenancy at ground floor level (180sqm in size) with frontages to Mitchell Lane East, Wentworth Park Road and Cowper Street.
- (c) Waste/ recycling holding room and bicycle storage room (capacity for 38 bicycles) at ground floor level.
- (d) Residential lobby at ground floor, with stair access provided from Cowper Street and ramped access provided from Park Lane and Wentworth Park Road.
- (e) Landscaping works at ground floor level comprising a courtyard in the south-eastern corner, raised planter bed on the Wentworth Road frontage and landscaping to Cowper Street.
- (f) 35 apartments located across seven storeys comprising two studio apartments, 26 one-bedroom apartments and seven two-bedroom apartments.
- (g) Communal rooftop comprising landscaping, seating and BBQ.

South Site (Frontage to Wentworth Street)

- (a) Contemporary terrace row comprising five three storey attached dwellings with frontage to Mitchell Lane East.
- (b) Commercial/ retail tenancy at ground floor (75sqm in size) with frontages to Cowper Street and Wentworth Street.
- (c) Bicycle storage room (capacity for 50 bicycles), waste room, substation and building services and plant at ground floor level.

- (d) Landscaping works at ground floor level comprising a courtyard between the rear of the terrace row and the residential flat building, deep soil landscaped area to the Park Lane frontage and landscaping to Cowper Street.
- (e) 35 apartments located across seven storeys comprising one studio apartment, 14 one-bedroom apartments and 20 two-bedroom units.
- (f) Communal rooftop comprising landscaping, seating and BBQ.

Public Domain Works

20. The application seeks public domain works including:
- (a) 1.5m footpath widening to Cowper Street within the site boundary of both the northern and southern sites, with the land to be dedicated to Council.
 - (b) Kerb and pavement upgrades along Cowper Street across Park Lane.
 - (c) Upgrade of Park Lane as a shared zone with traffic calming measures and new paving.
 - (d) Upgrade of Mitchell Lane East to provide a painted pavement surface and signage.
 - (e) Painted pedestrian crossing on Wentworth Park Road with metal signage.
 - (f) Tree planting to Cowper Street and Park Lane.
21. Plans and elevations of the proposed development are provided below.

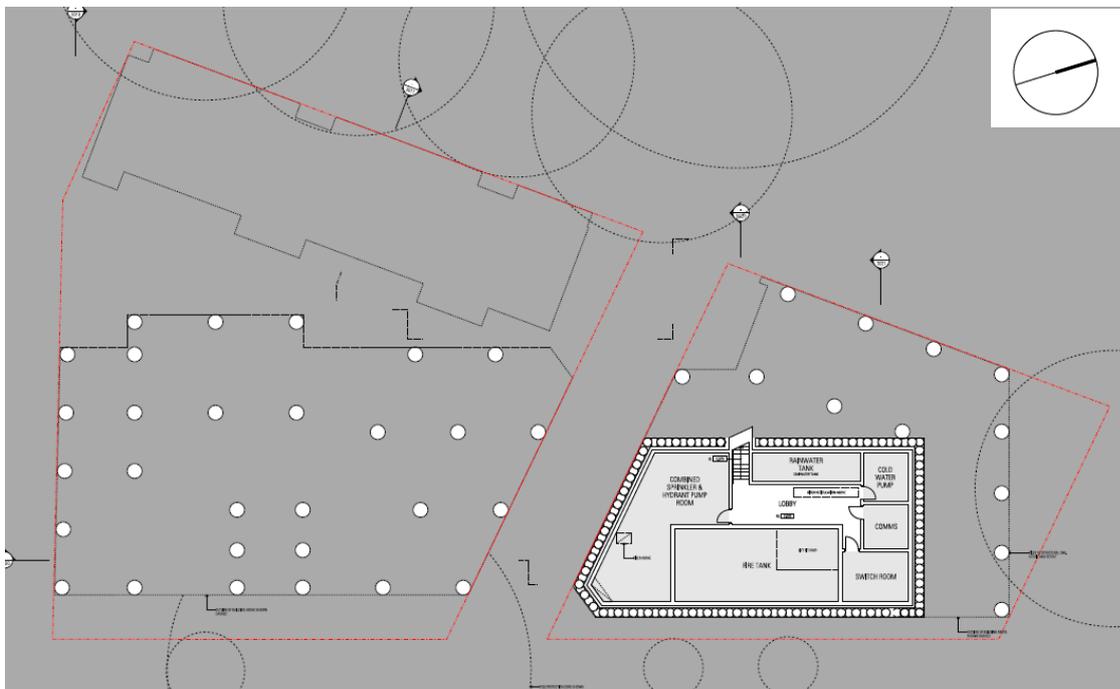


Figure 19: Proposed basement floor plan

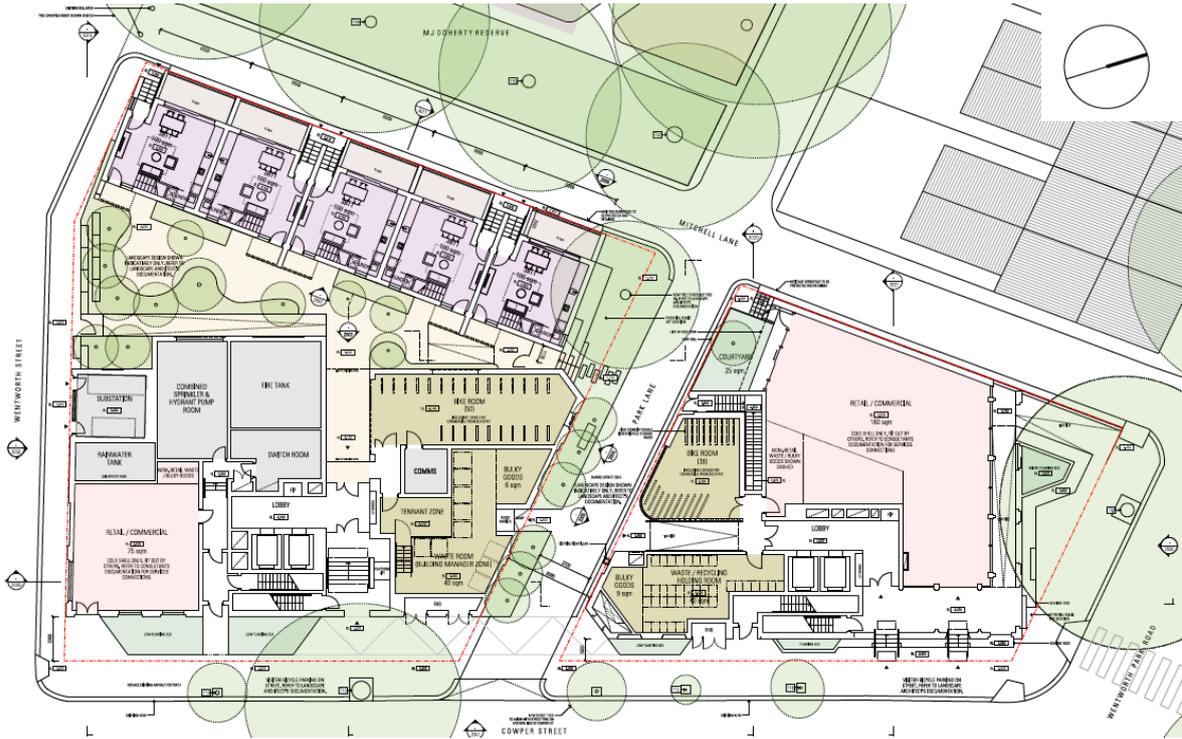


Figure 20: Proposed ground floor plan



Figure 21: Proposed level one plan



Figure 22: Proposed level two plan

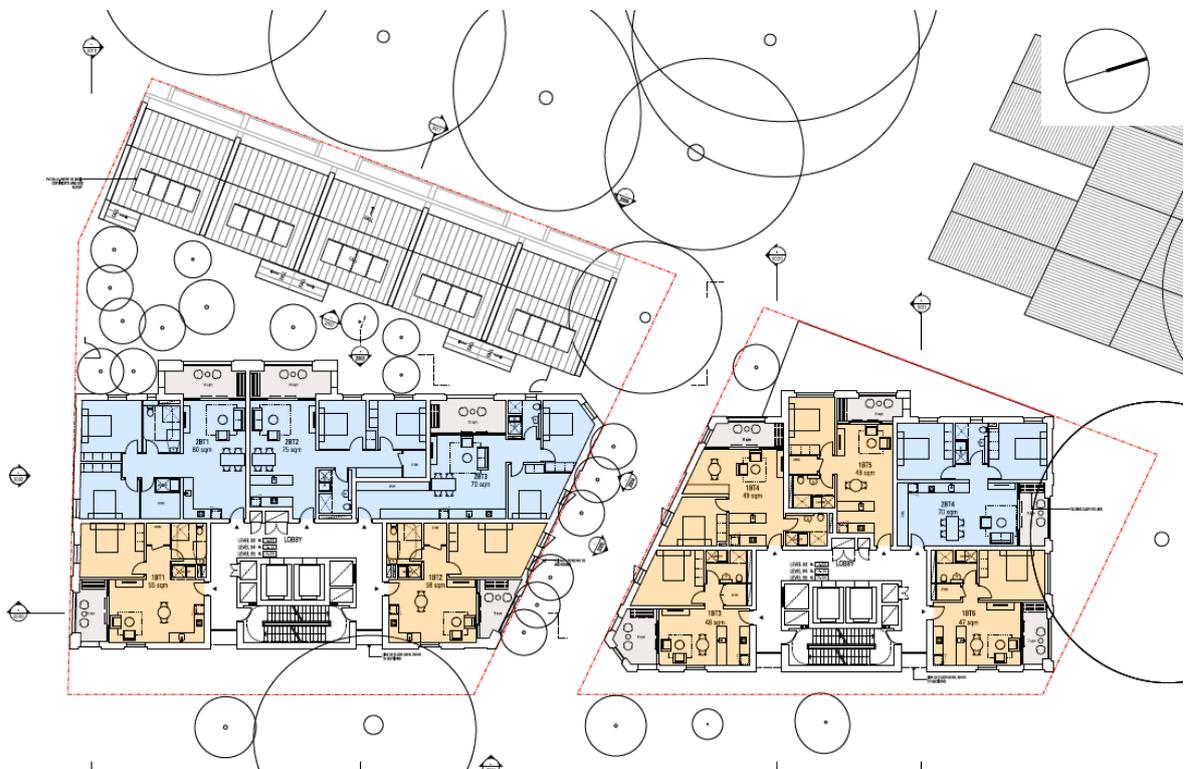


Figure 23: Proposed level three to five plan

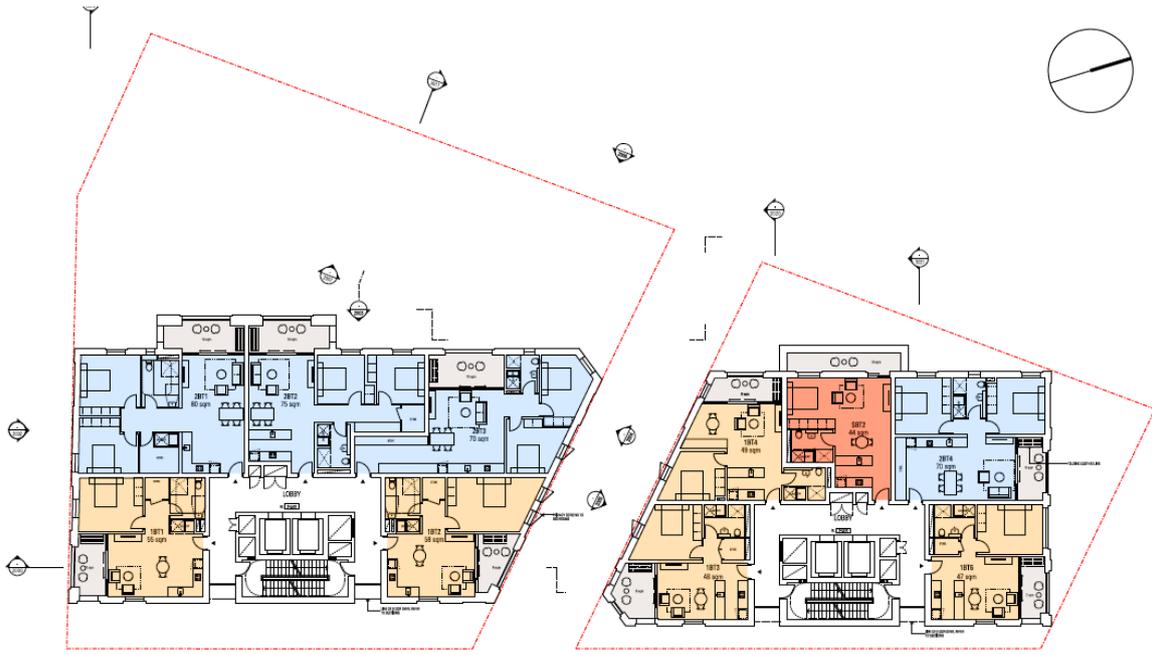


Figure 24: Proposed level six plan

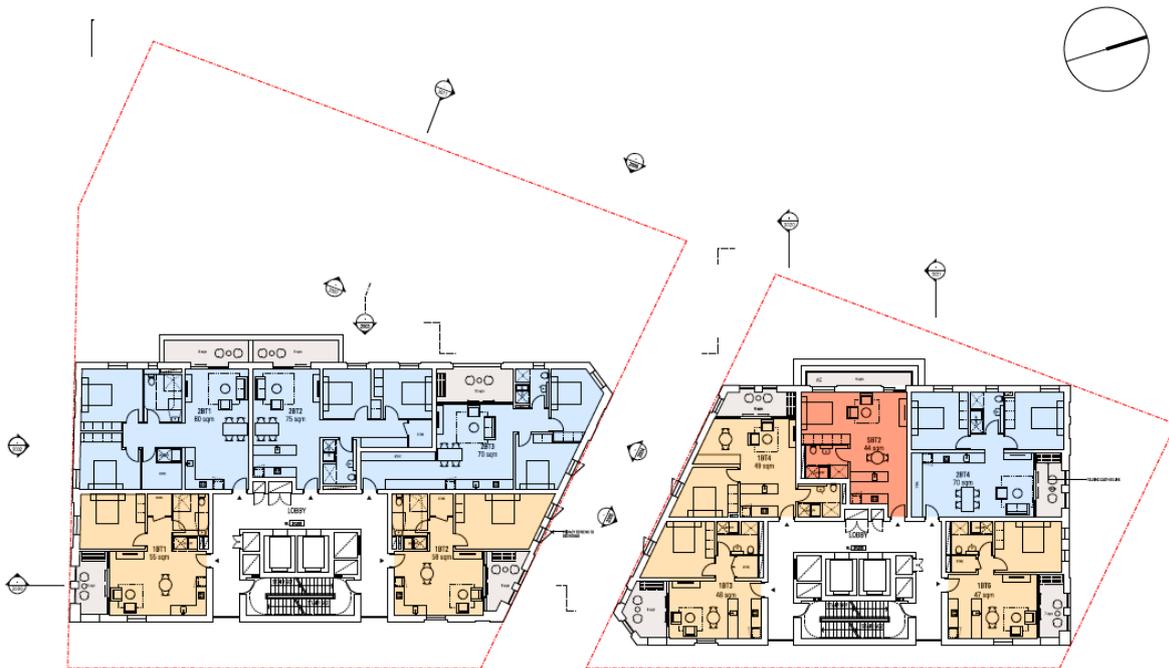


Figure 25: Proposed level seven plan

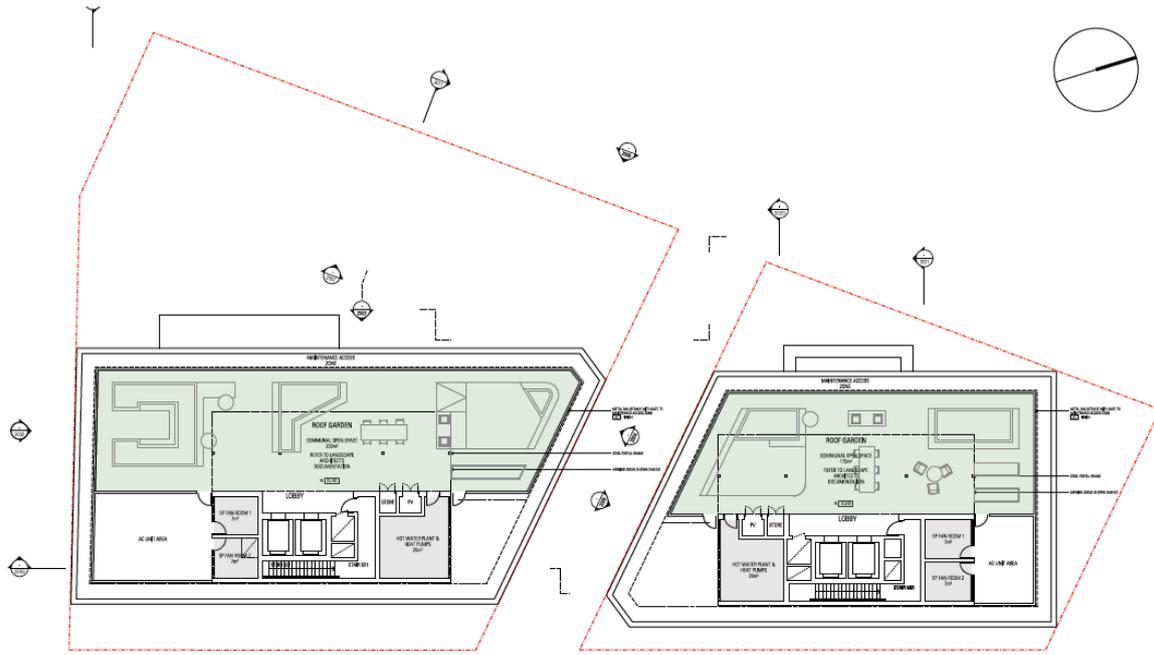


Figure 26: Proposed roof plan

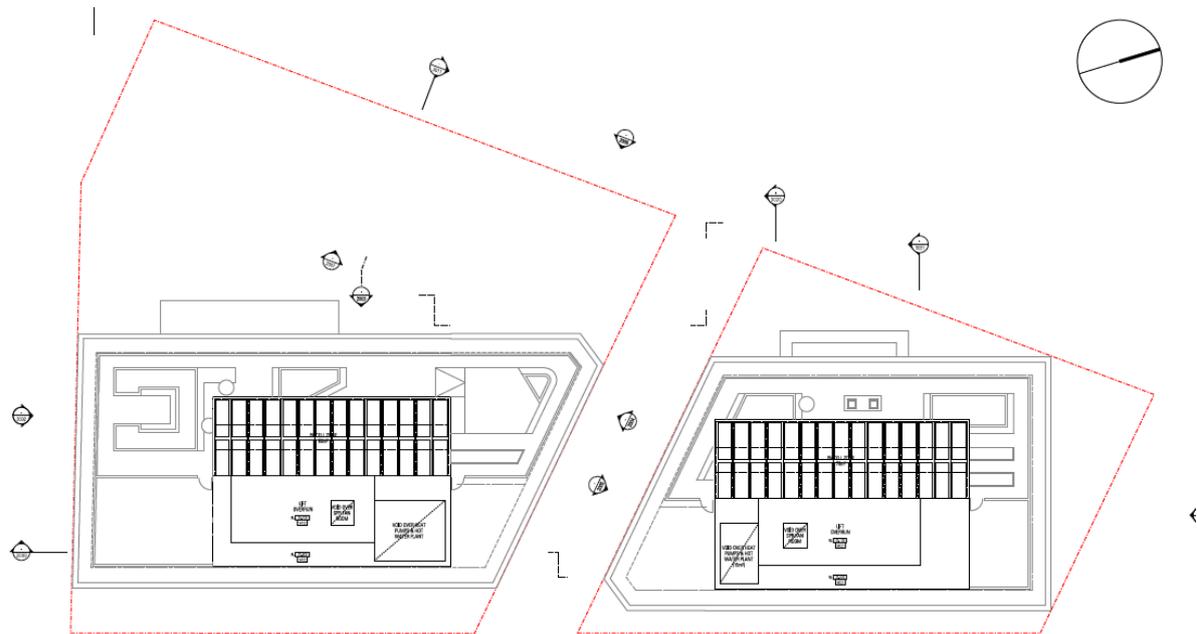


Figure 27: Proposed upper roof plan



Figure 28: North elevation (Wentworth Park Road)

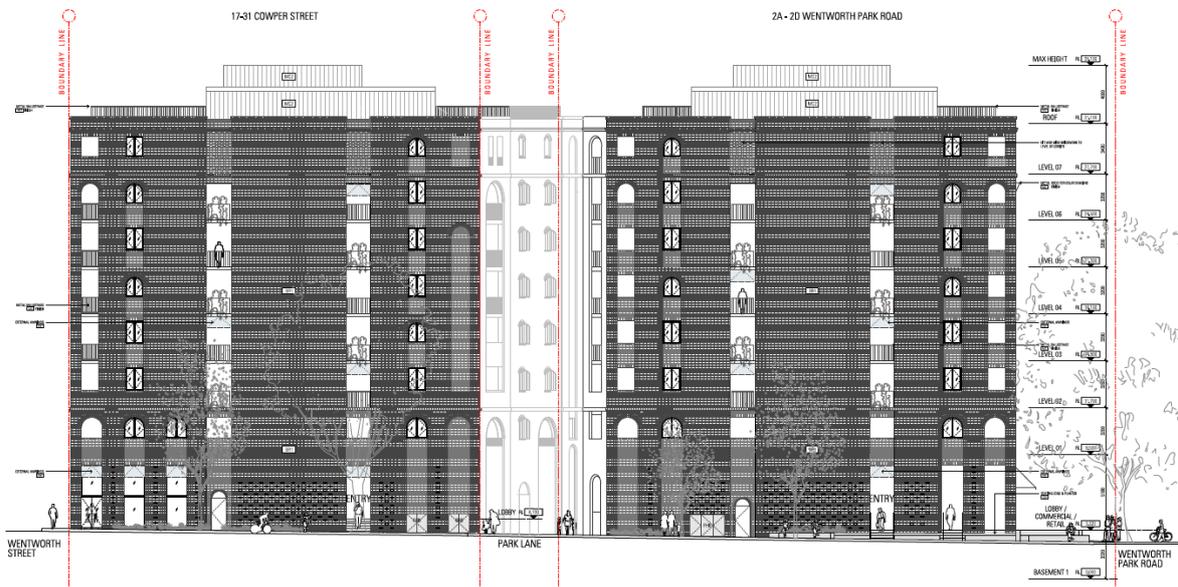


Figure 29: East elevation (Cowper Street)



Figure 30: South elevation (Wentworth Street)



Figure 31: West internal elevation

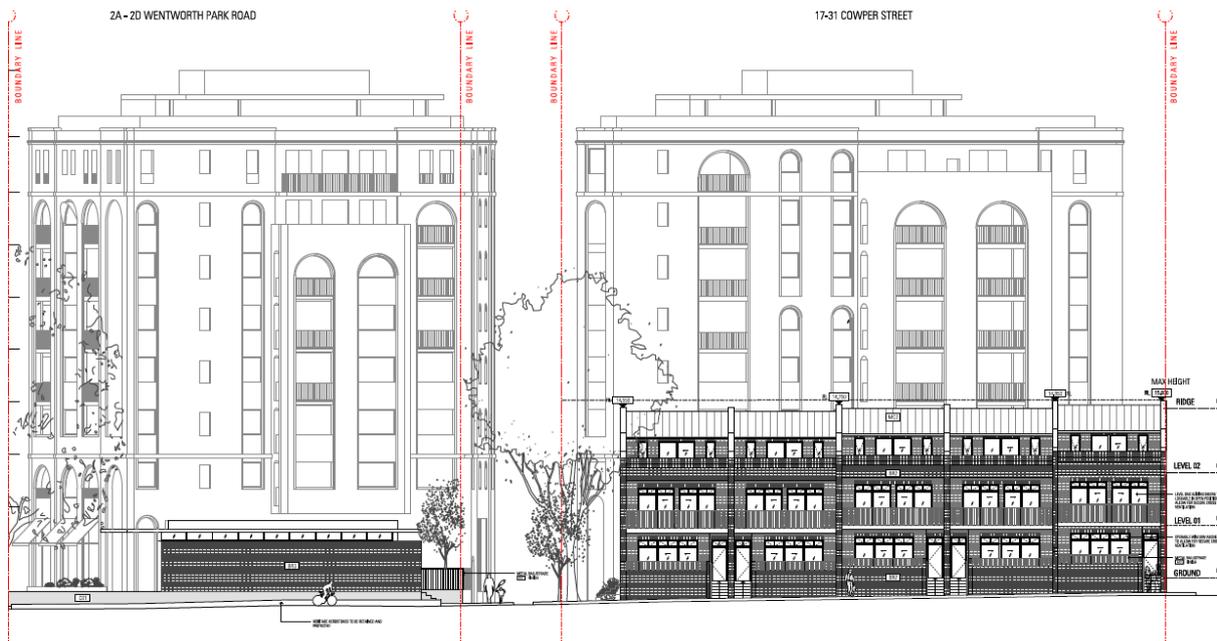


Figure 32: West elevation (Mitchell Lane East)



Figure 33: North elevation to Park Lane

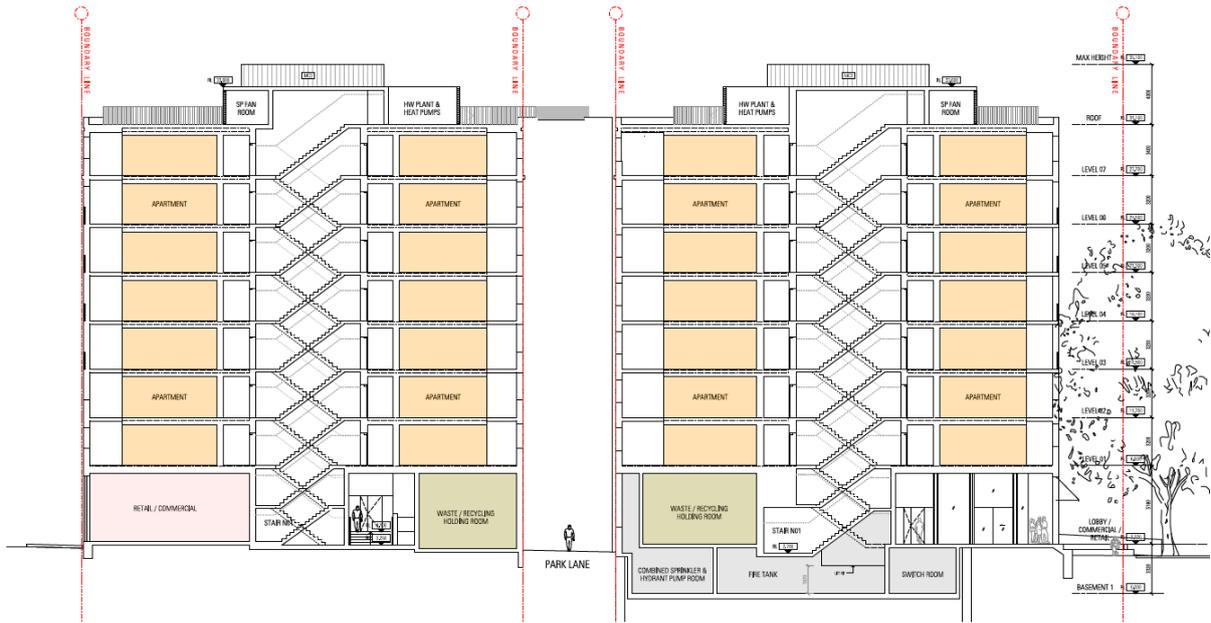


Figure 36: Section north-south through residential flat buildings

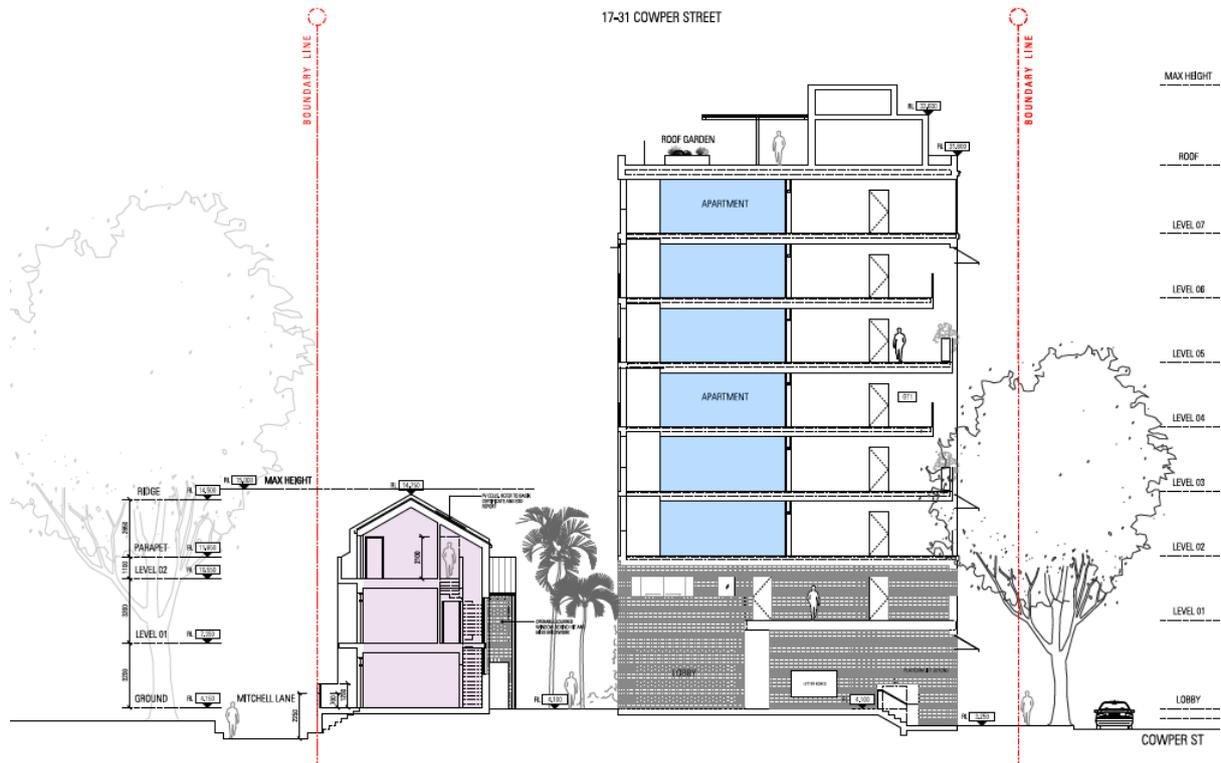


Figure 37: Section east-west through southern residential flat building and terrace



Figure 38: Section east-west through northern residential flat building



Figure 39: Photomontage of view looking northwest along Cowper Street (towards Wentworth Park)



Figure 40: Photomontage of view from Wentworth Park looking south across Wentworth Park Road



Figure 41: Photomontage of view from Wentworth Street looking north towards MJ Doherty Reserve and Mitchell Lane East



Figure 42: Photomontage of view from Park Lane looking east

Assessment

22. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Crown Development Applications

23. This application has been made by or on behalf of NSW Land and Housing Corporation (LAHC) and is therefore to be assessed as a Crown development application.
24. Pursuant to section 4.33(1) of the EP&A Act, a consent authority (other than the Minister) must not:
 - (a) refuse its consent to a Crown development application, except with the approval of the NSW Minister for Planning and Public Spaces; or
 - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant, or the NSW Minister for Planning and Public Spaces.
25. Draft conditions of consent were provided to the applicant on 2 November 2021.

26. LAHC provided their initial response on 8 November 2021 and requested the following amendments:
- Inclusion of the wording "prior to the **relevant** certification being issued" to a number of conditions to enable the staging of demolition and construction works.
 - Deletion of a small number of conditions relating to design amendments, glazing, FSR restriction, air conditioning, reflectivity, dewatering, Section 138 Roads Act Approval and the BCA.
 - Amendment to Condition 34 (Public Domain Tree Planting and Maintenance) to reduce the number of trees to be planted along Cowper Street and Wentworth Street.
 - Deletion of Condition 44 (Public Domain Lighting Upgrade).
 - Amendment to Condition 47 (Public Domain Detailed Documentation for Construction) to remove the requirement for the detailed public domain plan to be submitted to and approved by Council.
 - Amendment to Conditions 49 (Road Network and Geometric Road Design for Park Lane Between Mitchell Lane East and Cowper Street) to remove the requirement for the road work design to be submitted to and approved by Council.
 - Deletion of Condition 51 (Public Domain Works Bond) and Condition 59 (Public Domain Damage Bond) relating to the payment of monetary bonds.
 - Amendment to Condition 54 (Public Domain Works Operational Acceptance) to remove the requirement for the public domain works to be inspected by Council prior to a Certificate of Operational Acceptance being issued.
 - Amendment to Condition 72 (Site Audit Statement - Environmental Management Plan) to require the Environmental Management Plan is approved by the Site Auditor only (not Council).
 - Amendment to Condition 73 (Land Dedication - Remediation Capping Layer) to remove the requirement for a 1.5m capping layer depth.
 - Amendment to Condition 100 (Hours of Work and Noise - Outside CBD) to extend construction hours.
 - Minor rewording of Condition 109 (Dedication of Road Widening) to confirm extent of land dedication along Cowper Street.
27. Council agreed to the amendments with the exception of:
- The amendment to Condition 34 was not agreed to. The development is considered to greatly impact the existing street trees. The requested tree planting is in accordance with the City's Street Tree Master Plan and will allow for replacement canopy coverage around the perimeter of the site.

- The deletion of Condition 44 was not agreed to. The proposed public domain lighting upgrades are required given the intensification of the site. The condition was amended to confirm lighting upgrades are limited to the perimeter of the subject site.
 - The amendments to Conditions 47, 49 and 54 were not agreed to. The applicant is proposing works to Council land and Council's approval is required to ensure the works are undertaken in accordance with Council's relevant specifications and policies.
 - The deletion of Conditions 51 and 59 relating to the payment of monetary bonds was not agreed to. The wording has been amended to require the bonds to be paid by the Contractor.
 - Condition 62 (Tactile Ground Surface Indicators and Handrails) was amended to require that a deed is placed upon the title of the land requiring the owner to maintain tactile ground surface indicators.
 - The deletion of Condition 73 was not agreed to. A 1.5m capping layer depth is Council's standard requirement and allows for cabling and servicing without penetrating the capping layer.
 - The proposed amendment to Condition 100 to extend construction hours was not agreed to. The proposed hours are Council's standard construction hours.
28. LAHC provided a response on 15 November 2021 and confirmed acceptance of the draft conditions. The agreed conditions are included as Attachment A.

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

29. The aim of State Environmental Planning Policy (SEPP) No 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
30. Site investigations have identified the following contaminants as present on the site:
- Mercury
 - Polycyclic Aromatic Hydrocarbons
 - Lead
 - Total recoverable hydrocarbons
 - Possible arsenic and lead contaminants were also identified in the samples
31. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice from an accredited Site Auditor has been submitted with the development application.

32. The RAP proposes the targeted removal of 'hotspots' not suitable to be retained on-site and on-site capping of the remainder of the contaminated soils. Following completion of the remediation works the contaminated soils capped on site will require long term management in accordance with a Long-Term Environmental Management Plan.
33. The RAP has been reviewed by an NSW EPA Site Auditor accredited under the Contaminated Land Management (CLM) Act. This interim advice confirms the above approach is appropriate.
34. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
35. A condition has been recommended requiring that an Environmental Management Plan (EMP) must be approved by the Site Auditor and Council's Area Planning Manager prior to the issue of the final Site Audit Statement. The recommended condition requires the owner of the land to comply with the ongoing obligations of any EMP which forms part of the final Site Audit Statement for the site. A covenant is to be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants or for any works subsequently required by the NSW Environment Protection Authority.
36. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Affordable Rental Housing) 2009

37. State Environmental Planning Policy (SEPP) Affordable Rental Housing is not applicable to the assessment and determination of this development application. Clause 1.9(2A) of the Sydney LEP 2012 states that SEPP Affordable Rental Housing does not apply to the subject site.
38. The development has been submitted pursuant to the provisions of the Sydney LEP 2012.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

39. Two BASIX Certificates (1098708M_02 and 1131982M_03) have been submitted with the development application.
40. The BASIX certificates list measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificates are implemented.

State Environmental Planning Policy (Infrastructure) 2007

41. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.
42. The application is subject to Clause 45 of the SEPP. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

43. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The SREP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
44. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017

45. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
46. The proposed removal of seven trees is supported as is discussed under section 3.5 of the Sydney DCP 2012 below. The removal of trees will not adversely impact on the heritage significance of the subject site.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

47. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
48. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority to take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
49. The applicant has submitted a design verification statement and SEPP 65 design report prepared by JPW with the application and signed by Kiong Lee (Architect No. 7407), addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.
50. An assessment of the proposal against the design quality is provided as follows:
 - (a) **Principle 1: Context and Neighbourhood Character**

The site is located on the southern extent of Glebe, adjacent to high density development to the east and low density, fine grain development to the south and west. The demolition of the existing buildings and construction of two residential flat buildings and a terrace row responds to the varied building typologies adjacent to the site and creates an appropriate transition between the different scales and uses of the immediate locality.

(b) **Principle 2: Built Form and Scale**

The development provides an appropriate bulk and height that is suitable to the street and to the surrounding buildings. The character of the area has evolved and is characterised by one and two storey residential terraces sitting adjacent to 5-10 storey residential apartment buildings.

The land to the east of the site has undergone significant redevelopment in recent years through similar LAHC affordable housing projects and the Mezzo development fronting Wentworth Park Road. Site-specific planning controls (Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011) were made in relation to land to the immediate southeast to provide for a range of affordable and social housing options in buildings up to ten storeys in height.

The proposed development provides a three to eight storey scale, which is considered to respond appropriately to the established context. Building heights across the site transition from the heights of the conservation area to the west to the urban renewal land to the east. The proposed development is generally consistent with the site-specific planning controls in the Sydney LEP and DCP 2012 and will provide for new social housing in the area.

(c) **Principle 3: Density**

The proposal complies with the maximum FSR of the site. It provides a suitable mix and variety of apartment types, with acceptable amenity for future residents. The proposed density is appropriate in the local context, particularly in proximity to established infrastructure, public transport, community and recreational facilities. The development does not result in unacceptable amenity impacts to neighbouring properties as discussed elsewhere in this report. Overall, the proposed density is considered suitable for the site.

(d) **Principle 4: Sustainability**

The proposed development makes a significant contribution to delivering ecologically sustainable development outcomes on the site. The development has been designed to achieve the highest level of environmental performance to minimise carbon emissions and reduce water usage in the delivery and operation of the building, improve building efficiency and minimise waste. The design of the buildings optimises natural cross ventilation and sunlight for the amenity and liveability of residents and incorporates passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs for future occupants.

(e) **Principle 5: Landscape**

The site is heavily flood affected and as a result the development has been designed to meet the relevant flood planning levels. This has resulted in the buildings being elevated from street level, with a series of steps and ramped entries to the building. Consequently, the ability to achieve deep soil is constrained on the site. Notwithstanding, the proposal incorporates a variety of landscaped areas at ground floor level including a raised courtyard accessible from Wentworth Street and Park Lane, a smaller courtyard to the north of Park Lane, raised planter with seating to Wentworth Park Road, planters with seating along Cowper Street and planting to Park Lane. At rooftop level, both residential flat buildings incorporate areas of landscaping.

(f) **Principle 6: Amenity**

The proposal achieves a reasonable level of amenity for the residential occupants of the development and neighbouring properties. Compliance with the amenity controls are detailed in the ADG assessment table below.

(g) **Principle 7: Safety**

The proposal provides for passive surveillance of the adjoining streets and the communal open spaces are easily accessible, clearly defined and visible to optimise safety. The design is generally consistent with the principles of Crime Prevention Through Environmental Design.

(h) **Principle 8: Housing Diversity and Social Interaction**

The development provides an appropriate mix of dwelling types with varying sizes to accommodate different demographics. The development is also designed to provide equitable access and includes 21 adaptable units. Communal open spaces are designed to accommodate active and passive uses, to provide amenity to the residents and encourage social interaction.

(i) **Principle 9: Aesthetics**

The proposed built form presents a high-quality design, using a variety of architectural elements and materials to provide visual interest. The design draws on cues from the surrounding warehouse typologies which results in a successful presentation of the built form with detailed use of brick forms. The proposed materials are supported, and the overall design will positively contribute to the aesthetic qualities of the streetscape.

51. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney DCP 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>While each terrace dwelling is provided with a small area of private open space, it is anticipated that occupants would also use the ground floor communal open space as a supplementary space for recreation. There is a requirement for 447sqm of communal open space based on the site having an area of 1,788.5sqm.</p> <p>The proposal provides 520sqm of communal open space equating to 29% of the site area. Communal open space is provided in a variety of forms including seating nooks and landscaped areas at ground floor and communal rooftop open spaces at the rooftop level of both residential flat buildings.</p>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	In excess of 50% of direct sunlight is provided to the principal usable part of the communal open space for a minimum of two (2) hours.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m	No	Refer to the site-specific DCP provision.

2F Building Separation 3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms 	No, but acceptable	<p>Objective 2F of the ADG recommends that building separation requirements are shared between the development site and adjoining properties.</p> <p>The development complies with separation distances from adjoining properties recommended by the ADG measured from the site's northern, eastern and southern boundaries.</p> <p>There is a non-compliance in the site's north-western corner where the northern residential flat building is separated 8.4m measured to the two storey terrace at 2C Wentworth Park Road. The ADG requires a separation distance of 12m to be provided.</p> <p>The non-compliant separation is an inevitability based on the existing street width of Mitchell Lane East. The site-specific DCP anticipates there will be a non-compliance and does not require a 12m setback to be provided in this location. The siting of the northern residential flat building is in accordance with the built form and setback controls for the site prescribed under the site-specific DCP controls.</p> <p>The minor non-compliance is anticipated by the site-specific DCP and is considered acceptable in this instance.</p> <p>The northern residential flat building and southern residential flat building and terrace row are separated by Park Lane. Windows, openings and blank walls have been appropriately located on all levels to address issues of residential amenity including visual and acoustic privacy. The side elevation of the end terrace is generally blank and does not result in a privacy impact.</p>
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9m between habitable rooms / balconies 	No, but acceptable	<p>A setback of 12.3 metres and 8.4 metres is provided to the southern and western neighbouring developments, respectively.</p>

2F Building Separation 3F Visual Privacy	Compliance	Comment
<ul style="list-style-type: none"> 4.5m between non-habitable rooms 		<p>Development to the immediate south and west of the subject site has a maximum building height control of 6 metres and 9 metres (respectively) and comprises single and two storey dwelling houses. It is not anticipated that these developments would be redeveloped beyond the existing height controls prescribed in the Sydney LEP 2012. While the proposed development provides non-compliant building separation at the upper levels, the residential amenity of these developments is not compromised in respect of visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.</p> <p>The Mezzo development to the east of the site is varied in height, with a height of between four to nine storeys.</p> <p>The southern residential flat building provides in excess of 18m separation to the Mezzo building.</p> <p>The northern residential flat building provides approximately 17.1m separation to the Mezzo building. The ADG requires a separation distance of 18m to be provided.</p> <p>This separation is an inevitability based on the existing street width of Cowper Street. The site-specific DCP anticipates there will be a non-compliance and does not require an 18m setback to be provided in this location. The siting of the northern residential flat building is in accordance with the built form and setback controls for the site prescribed under the site-specific DCP controls.</p> <p>It is noted that there is a high solid to void ratio on the site's eastern frontage, with limited openings proposed.</p> <p>The minor non-compliance is anticipated by the site-specific DCP and is considered acceptable in this instance.</p>

2F Building Separation	Compliance	Comment
3F Visual Privacy		
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposal complies.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	80% (56 out of 70) of the apartments receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	No apartments receive no direct sunlight between 9am and 3pm at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	80% (56 out of 70) of the apartments achieve natural cross ventilation.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	N/A	There are no cross-over or cross-through apartments.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All habitable rooms are provided with a floor to ceiling height of at least 2.7 metres.
Non-habitable rooms: 2.4m	Yes	All non-habitable rooms are provided with a floor to ceiling height of at least 2.4 metres.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	No, but assessed as acceptable	<p>The apartments are sized as follows:</p> <ul style="list-style-type: none"> • Studios - range in size from 40sqm - 44sqm • 1 bed: range in size from 47sqm - 58sqm. There are 26 1-bedroom units located in the northern residential flat building that are marginally below the 50sqm apartment size guide of the ADG (varying in size from 47-49sqm). • 2 bed: range in size from 70sqm-80sqm. <p>It is noted that the extent of variation from the apartment size guide is minor (being between 1-3sqm) and all apartments are generally well designed, with the layout of the rooms functional and well organised. The apartments will achieve a high standard of amenity. In this instance, noting the minor extent of non-compliance, the acceptable amenity of each apartment and that the dwellings are for the purposes of social housing, the proposal is assessed as acceptable.</p>
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have access to an external window as required by the ADG.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All living spaces are less than 8m deep when measured from the inside from a ceiling height.

4D Apartment Size and Layout	Compliance	Comment
8m maximum depth for open plan layouts.		window to the kitchen cabinetry on the rear wall.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All bedrooms achieve the minimum size and dimension.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	All living rooms meet the minimum widths.
4m minimum width for cross over and cross through apartments.	N/A	There are no cross over or cross through apartments.

4E Private Open Space and Balconies	Compliance	Comment
Studio apartments are to have a minimum balcony area of 4m ² with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8m ² with a minimum depth of 2m. Two bed apartments are to have a minimum balcony area of 10m ² with a minimum depth of 2m.	No, but assessed as acceptable	The balconies of apartments are sized as follows: <ul style="list-style-type: none"> • Studio apartments range in size from 4sqm to 10sqm. The balcony 4sqm in size has a minimum depth of 0.82m (less than the recommended 1m depth). • One bedroom apartments range in size from 7sqm - 8sqm. Seven (7) apartments located on the north-eastern corner of the northern residential flat building have a balcony 7sqm in size. A number of balconies do not have a minimum depth of 2m.

4E Private Open Space and Balconies	Compliance	Comment
		<ul style="list-style-type: none"> Two bedroom apartments range in size from 8sqm - 10sqm. Nine (9) apartments have a balcony 8sqm in size. A number of balconies do not have a minimum depth of 2m. <p>All balconies open directly from living spaces and optimise daylight access into the adjoining living rooms. All balconies with the exception of the projecting western balcony on the northern residential flat building include folding clothes lines to provide a secure area for residents to dry their clothes.</p> <p>The undersized balconies are located on the northern and western sides of the building and benefit from good levels of solar access. In this instance, the extent of variation of each apartment balcony is considered to be minor and still allows each apartment a functional and useable area of open space.</p>

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of five apartments per level per core are provided.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No primary living room or bedroom windows open directly on to common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation spaces have access to natural light and ventilation.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ <p>(Minimum 50% storage area located within unit)</p>	<p>No, but assessed as acceptable</p>	<p>The apartments provide the following sized storage facilities which are all located within the unit:</p> <ul style="list-style-type: none"> • Studio - 2m³ • 1 bed - 4.5m³ - 6m³. • 2 bed - 8m³ - 12m³. <p>The majority of apartments are provided with storage requirements as required by the ADG. There are a number of smaller units that have marginally less than the ADG recommended storage, however, are still provided with adequate storage within their unit.</p>

Local Environmental Plans

Sydney Local Environmental Plan 2012

52. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
<p>2.3 Zone objectives and Land Use Table</p>	<p>Yes</p>	<p>The site is located in the R1 General Residential zone. The proposed development is defined as residential accommodation comprising shop top housing in the form of two residential flat buildings with commercial premises/ retail premises uses at ground floor level and five dwelling houses. The proposed development is permissible with consent in the zone. The proposal generally meets the objectives of the zone.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>The site has a maximum building height of RL 36m (approximately 8 storeys). The southwestern corner of the southern site has a maximum height of RL 4.5m.</p> <p>Both residential apartment buildings comply with the maximum permissible height.</p> <p>Part of the terrace house component of the development exceeds the RL4.5m height control. This has resulted from the relocation of the terrace house component of the development as originally proposed to address concerns of the DAP subcommittee. The terraces have shifted onto a part of the site that was not previously envisaged in the formulation of the site specific provisions as accommodating as significant development (and as such, has a much lower height control specified).</p> <p>Consequently, the amended proposal results in a non-compliance in the southwestern corner of the southern site. The non-compliance relates to the southernmost terrace dwelling.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	N/A	This clause is not applicable. A site-specific FSR control is provided under Clause 6.54 of the LEP.
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not located within a heritage conservation area (HCA), but adjoins the St Philips HCA (C32) to the south and west. The site is not a heritage item, but the street trees along Cowper Street to the east of the site are identified as a local heritage item.</p> <p>The proposed development is generally consistent with the site-specific built form controls set out in the Sydney DCP 2012. The proposed building height along Cowper Street creates a consistent building scale to the Mezzo development on the eastern side of Cowper Street. The contemporary terrace row fronting Mitchell Lane East provides a lower scale, more sensitive interface to MJ Doherty Reserve and the St Philips HCA to the west and south of the site.</p> <p>The proposed residential flat building on the northern site is setback 1.5m from the Cowper Street boundary and the proposed residential flat building on the southern site is setback 3m from the Cowper Street boundary. The proposed setbacks are consistent with the site-specific DCP controls and ensure minimal impact to the heritage listed street trees on Cowper Street.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the adjacent heritage conservation area.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal has been amended to address comments provided by the City's DAP and the DAP Subcommittee. The proposal is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</p> <p>As per the provisions of Clause 6.54(5) of the LEP, the development is not required to be the subject to a competitive design process and the design excellence bonus provisions under Clause 6.21(7) do not apply to the site.</p> <p>See further details in the 'Discussion' section below.</p>
<p>6.54 17–31 Cowper Street and 2A–2D Wentworth Park Road, Glebe</p> <p>(2) Despite clause 4.4, the consent authority may grant development consent to development on land to which this clause applies that will result in a building—</p> <p>(a) for the southern site—with a maximum floor space ratio of 3.1:1, and</p> <p>(b) for the northern site—with a maximum floor space ratio of 4.3:1.</p>	Yes	<p>The FSR of the proposal is compliant with the site-specific provisions of the LEP. Specifically, the southern site has a maximum FSR of 3.09:1 and the northern site has a maximum FSR of 4.03:1.</p> <p>The proposal is compliant with the provisions under Subclause (3), specifically:</p> <p>(3)(a) The development includes development on the northern site for the purposes of residential accommodation.</p> <p>(b) 100% of the gross floor area of the northern site will be used for the purposes of affordable housing. Whilst not a specific provision, it should also be noted that the intended use of the southern site</p>

Provision	Compliance	Comment
<p>(3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that—</p> <p>(a) the development includes development on the northern site for the purposes of residential accommodation, and</p> <p>(b) 100% of the gross floor area of the northern site used for the purposes of residential accommodation will be used for the purposes of affordable housing, and</p> <p>(c) the affordable housing will be provided by or on behalf of a public authority or a social housing provider, within the meaning of State Environmental Planning Policy (Affordable Rental Housing) 2009, and</p> <p>(d) for development that is BASIX affected development—the development exceeds the BASIX commitment for energy for the development by not less than 5 points.</p> <p>(4) Clause 6.21(7) does not apply to a building on land to which this clause applies.</p>		<p>(both the apartments and terraces) is also for the purposes of affordable housing.</p> <p>(c) The affordable housing is to be provided on behalf of the NSW Land and Housing Corporation, a public authority, within the meaning of State Environmental Planning Policy (Affordable Rental Housing) 2009.</p> <p>(d) The development exceeds the BASIX commitment for energy for the development by not less than 5 points.</p> <p>(4) The application has not sought to rely on the bonus provisions under Clause 6.21(7) of the Sydney LEP 2012.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.13 Contribution for purpose of affordable housing	N/A	<p>The application was lodged prior to 1 July 2021 and therefore, pursuant to the savings provisions of Clause 1.8A(4) of the LEP, the provisions of the Clause 7.13 in relation to contributions for affordable housing do not apply.</p> <p>Further, as the development is to be used as affordable housing or public housing, it is an excluded development type under this clause and no contribution would apply.</p>
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with classes 5 and 2 Acid Sulfate Soils.</p> <p>An Acid Sulfate Soils Management Plan has been submitted with the application. A condition of consent has been recommended requiring that all recommendations contained in the Management Plan must be implemented.</p>
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>A Flood Assessment has been submitted which identifies the site is affected by the 1% Annual Exceedance Probability (AEP) flood level ranging from 3.27 to 3.88 metres AHD across both sites and the Probable Maximum Flood (PMF) level ranging from 4.24 to 4.38 metres AHD across both sites.</p> <p>Under existing conditions both the northern and southern sites experience overland flooding on all sides. The majority of flow is north-east along Mitchell Lane East and Wentworth Park Road. It is noted that Wentworth Park has a 1 metre higher PMF level than the subject site.</p>

Provision	Compliance	Comment
		<p>The proposed development is generally in accordance with the City's Interim Floodplain Management Policy with the exception of three locations. These are outlined below:</p> <ul style="list-style-type: none"> - The substation on Wentworth Street has a proposed level of 3.49m AHD, slightly below the 1% AEP level at this location. Written confirmation from Ausgrid has been received confirming that the proposed substation level is acceptable. - The waste room on Park Lane has a proposed level of 3.00m AHD, slightly below the 1% AEP level. In order to achieve protection against flooding, a flood barrier is proposed to be installed at the entrance of this room, which will be activated in the event of significant flow depths on Park Lane. This was discussed with the applicant and Council staff at pre-development application stage and considered appropriate in this instance. - The commercial space on the corner of Cowper Street and Wentworth Street has a proposed level of 3.60m AHD, slightly below the 1% AEP level of 3.68 mAHD. While this is minor non-compliance with the Interim Floodplain Management Policy, this has been balanced with the desired urban design outcome to provide a floor level close to the street which will connect the commercial space to the public domain. A condition of consent has been recommended requiring that the tenancy is constructed from flood compatible materials.
7.16 Airspace operations	Yes	The height of the proposed development does not penetrate the prescribed airspace.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposed development will result in the comprehensive redevelopment of this site.

Provision	Compliance	Comment
7.20 Development requiring or authorising preparation of a development control plan	Yes	A site-specific LEP and DCP were prepared for this site. The controls are addressed in section 6 below.

Development Control Plans

Sydney Development Control Plan 2012

53. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.5 Public Art	Yes	<p>A public art plan has been submitted with this development application.</p> <p>The public art plan has identified two opportunities for public art within the site. The public art plan has been reviewed by the City's Public Art Unit who are generally supportive of the plan. A condition is recommended for the detailed public art strategy to be finalised and submitted to Council for approval prior to construction. The detailed public art strategy is to incorporate findings from the excavation of the site and the revised Heritage Interpretation Report.</p>
3.2. Defining the Public Domain	Yes	<p>The proposed building has been designed to positively address the site and maximise the number of entries, provide visible internal uses at ground floor level and include high quality finishes and public art to enhance the public domain.</p> <p>The proposed development includes upgrades works to the public domain including footpath widening to Cowper Street, the conversion of Park Lane to a pedestrian priority shared surface and the upgrade of Mitchell Lane East to provide a painted pavement surface and signage.</p> <p>The interface between the development and the public domain is attractive, comfortable, safe, function and accessible for all.</p>

Provision	Compliance	Comment
3.3 Design Excellence and Competitive Design Processes	N/A	The site is not subject to the competitive design process provisions in the Sydney LEP.
3.5 Urban Ecology	Yes	Refer to the site-specific DCP section.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to provisions in site-specific DCP.
3.7 Water and Flood Management	No	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	This development application does not propose strata subdivision.
3.9 Heritage	Yes	<p>The site is not located within a heritage conservation area (HCA), but adjoins the St Philips HCA (C32) to the south and west. The site is not a heritage item, but the street trees along Cowper Street to the east of the site are identified as a local heritage item.</p> <p>See discussion under section 5.10 above.</p>
3.11 Transport and Parking	Yes	<p>The development does not provide any car parking on site.</p> <p>The proposal provides for a total of 97 bicycle spaces in accordance with the requirements of the DCP:</p> <ul style="list-style-type: none"> - 83 bicycle spaces are provided for the residential use and 3 bicycle spaces for the commercial/ retail uses are located within secure bicycle parking rooms at the ground floor level of both residential flat buildings - 8 residential visitor spaces are provided within the public domain - 3 commercial/ retail visitor spaces are provided within the public domain <p>Conditions are recommended to ensure the proposed bicycle parking complies with the Australian Standards and Sydney DCP 2012.</p>

Provision	Compliance	Comment
		<p>A Loading and Service Management Plan has been submitted with the application. The Management Plan identifies that the servicing of the site is as follows:</p> <ul style="list-style-type: none"> All waste will be collected from Park Lane. Moving in / out vehicles for residential tenants will park in Park Lane.
3.12 Accessible Design	Yes	There are 21 adaptable apartments (28%), which exceeds the adaptable apartment dwelling mix requirement of the Sydney DCP 2012. Accessible access is provided to all communal areas.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A waste management plan has been submitted which generally complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. A condition is recommended to ensure compliance with the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising	Yes	No signage is proposed. A condition is recommended requiring that any future signage be subject to a separate application, where it is not classified as exempt development.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

54. The following section applies to the five terrace houses located on the southern site fronting Mitchell Lane East. It is noted that the provisions of the site-specific DCP prevail in the event of any inconsistency with the DCP. The site-specific DCP is silent on controls relating to private open space, visual privacy and balconies of the terrace dwellings and this section of the Sydney DCP 2012 is relevant for the assessment of these particular matters.

Provision	Compliance	Comment
<p>4.1.3 Residential amenity</p> <p>As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.</p>		
4.1.3.5 Private open space	No, but acceptable	<p>The DCP requires that 16sqm of private open space with a minimum dimension of 3m is provided at ground level.</p> <p>The terrace houses each include private open space in the form of an elevated terrace at ground floor level, 9sqm in size and smaller balconies 5.7sqm and 4.7sqm in size accessed from the bedrooms at first and second floor level, respectively.</p> <p>In accordance with the DCP, the private open space at ground level is directly accessible from the living area and is capable of serving as an extension of the living room.</p> <p>The quantum of private open space provided is less than the DCP requires, however there is a large communal open space located at the rear of the terraces. Residents of the terraces are provided with direct access to this space via a rear door entry and can use this open space as a supplementary space for recreation.</p>
4.1.3.6 Visual privacy	Yes	<p>During the assessment of this application the design of the terrace row was amended to resolve issues of visual privacy between the terrace dwellings and the residential flat building located to the east. The terraces have been replanned to relocate the bedrooms and private open space to the front of the terrace, on the Mitchell Lane East elevation. Smaller windows to non-habitable rooms (stairs, laundry) are located on the rear elevation to maintain visual privacy for occupants.</p> <p>Opportunities for overlooking between the terraces have been ameliorated by the inclusion of solid brick party walls which will restrict overlooking between openings on the Mitchell Lane East elevation.</p>

Provision	Compliance	Comment
		<p>Due to the flood affectation of the site, the terrace row is elevated from the Mitchell Lane East streetscape. As a result, opportunities for direct overlooking from the street to the ground floor level is reduced.</p> <p>A condition of consent has been recommended requiring that further information is provided to Council regarding the treatment of the ground and first floor balconies to ensure privacy is afforded to residents. The balusters are required to be angled flat bars, L-shaped balusters or a similar form that restricts views.</p>
4.1.8 Balconies, verandahs and decks	Yes	<p>The terrace dwellings incorporate three balconies to the Mitchell Lane East frontage; a 9sqm balcony accessed off the living room at ground floor level and two smaller verandah-style balconies located off the bedrooms at first and second floor levels.</p> <p>The balconies incorporate solid party walls to restrict overlooking between dwellings within the terrace row. The balconies overlook MJ Doherty Reserve to the west and do not result in any overlooking to surrounding buildings.</p> <p>The balconies are considered to be an acceptable size, location and design which are appropriate to the proportions of the building.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments

55. The following section applies to the two residential flat buildings. As mentioned above, the provisions of the site-specific DCP prevail in the event of any inconsistency with this section of the DCP.

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	N/A	N/A - refer to provisions in site-specific DCP.

Provision	Compliance	Comment
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>A floor to floor height of 5.18m and 4.9m is achieved in relation to the ground floor commercial/ retail tenancies within the northern and southern residential flat buildings, respectively.</p> <p>The residential levels above ground floor provide a floor to floor height of 3.2m, with level seven providing a floor to floor height of 3.4m.</p> <p>The proposed development achieves the minimum floor to floor heights stated in the Sydney DCP 2012.</p>
4.2.3 Amenity		
4.2.3.7 Private open space and balconies	Yes	All apartment units include private open space in the form of an open balcony which is accessible from the living area and is capable of serving as an extension of the living area.
4.2.3.8 Common open space	Yes	The development provides multiple areas of common open space at ground floor level and rooftop level. The common open space equates to 29% of the total site area. The rooftop communal open spaces achieve good levels of solar access. The communal open spaces have been designed so these spaces can be used for the recreation and amenity needs of residents.
4.2.3.9 Ventilation	Yes	Adequate ventilation is achieved in accordance with the requirements of the ADG.
4.2.3.11 Acoustic privacy	Yes	A Noise Impact Assessment has been submitted with the application. The Assessment concludes that the proposed acoustic constructions of the buildings' facade including external windows will ensure that future internal noise levels comply with the relevant noise levels of the Australian Standard and the Sydney DCP 2012.

Provision	Compliance	Comment
		<p>External noise emissions have been assessed and detailed in accordance with the NSW Environmental Protection Authorities Noise Policy for Industry and the City's noise emission criteria. The future design and treatment of all building services associated with the project can be acoustically treated to ensure all noise emissions from the site comply with the NSW Environment Protection Authority Noise Policy for Industry (NPfI) and City of Sydney Council criteria.</p> <p>A condition of consent has been recommended requiring that the development complies with the relevant performance parameters of the submitted Noise Impact Assessment. A further condition has been recommended requiring that noise from any commercial plant does not exceed the relevant noise levels of the NPfI.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The following mix of dwellings is proposed (including the terrace dwellings):</p> <ul style="list-style-type: none"> • Studio - 3 (4%) • One-bedroom - 40 (54%) • Two-bedroom - 27 (36%) • Three-bedroom - 5 (6%) <p>While the proposed mix is inconsistent with the DCP provisions, LAHC has advised that this mix reflects the social housing needs for the area. On this basis, the proposed mix is considered acceptable.</p>

Provision	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>Consistent with the site-specific DCP controls, the proposal achieves a fine grain diversity via the breakup of the development into three building forms comprising two residential flat buildings and a contemporary terrace row. The development provides varied masonry textures and colours, modulation and setbacks across all frontages to provide visual interest.</p> <p>The scale, modulation and articulation of the buildings' facades respond appropriately to the site frontages that are visible from the public domain.</p>
4.2.6 Waste and recycling Management	Yes	This is addressed under clause 3.14 above.
4.2.7 Heating and cooling infrastructure	Yes	The plans detail hot water plant, heat pumps and AC units in a centralised area on the roof of the residential flat buildings. These services are located within a plant room which integrates with the built form at rooftop level. The plant areas are set back from the edge of the building are not visible from the public domain.
4.2.8 Letterboxes	Yes	The letterboxes are provided within the lobby of the building and a condition has been recommended to ensure that they are installed with non-master key locks for security.

Section 6 – Specific Sites

Provision	Compliance	Comment
6.3.22.2 Uses and flood protection	Yes	Non-residential ground floor uses are provided in accordance with the site-specific DCP. The retail / commercial tenancy on the corner of Wentworth Park Road and Mitchell Lane East is 180sqm in size and complies with the DCP. This space is capable of being used as a space for social purposes in accordance with the DCP.

Provision	Compliance	Comment
		<p>In line with the DCP, a smaller commercial/ retail tenancy is located on the Wentworth Street and Cowper Street corner and is 75sqm in size.</p> <p>A condition of consent has been recommended stating that no consent is granted or implied for the fit out or use of the ground floor tenancies. A development consent or complying development certificate is required to be obtained for the fit out and use of each individual tenancy prior to that fit out or use commencing.</p> <p>As required by the DCP, non-residential uses are located on the ground level frontages.</p> <p>Service and waste management areas are protected from flooding by measures including flood barriers.</p>
6.3.22.3 Local infrastructure	Partial compliance	<p>In accordance with the DCP, the application proposes footpath widening to Cowper Street, the conversion of Park Lane to a pedestrian priority shared surface and a painted pedestrian crossing to Wentworth Park Road.</p> <p>A condition of consent has been recommended requiring the dedication to Council of land used for footpath widening along Cowper Street I.</p> <p>The site-specific DCP requires the conversion of Mitchell Lane East to a pedestrian priority shared surface. However, the applicant has advised that full upgrade works are not proposed as part of this application. Instead, the application proposes the upgrade of Mitchell Lane East to provide a painted pavement surface and signage. The applicant has cited the delivery of additional upgrades would be cost prohibitive.</p> <p>The proposed works to Mitchell Lane East are considered acceptable given the laneway is constrained by a 1200mm diameter wide Sydney Water pipe which runs under the laneway and would complicate any regrading, reconstruction and would likely result in a future maintenance access issue. Further, the</p>

Provision	Compliance	Comment
		<p>laneway contains heritage kerbstones greater than 200mm in height which would make any shared surface treatments difficult. The City's Public Domain Unit has advised that the applicant's proposed treatment to Mitchell Lane is acceptable.</p> <p>Conditions of consent have been recommended by the City's Public Domain Unit requiring the applicant to prepare a concept and detailed public domain plan for Council's approval.</p>
<p>6.3.22.4 Tree canopy cover, landscape, deep soil, vehicular access, loading and servicing</p>	<p>Partial compliance</p>	<p>Trees</p> <p>The proposal necessitates the removal of seven trees from within the site. Of these, three are identified as being over mature or immature with a low-medium retention value. A further three are identified as Lemon Scented Gum trees which are located within the footprint of the proposed building and have a moderate retention value. The site-specific DCP anticipates these trees will be removed to accommodate a building footprint which is compliant with the DCP.</p> <p>The proposal seeks the removal of a Spotted Gum tree located in the southwestern corner of the site. While the site-specific DCP does not anticipate the tree's removal, during the assessment of the application the layout of the terraces was reconfigured to address the concerns of the DAP Subcommittee to significantly improve residential amenity for occupants and improved separation between building on the southern site. Subsequently the amended proposal has resulted in the terrace row being repositioned further to the south, adjacent to Wentworth Street. This has resulted in the removal of the Spotted Gum tree.</p> <p>To mitigate the impact of the loss of this tree, a replacement Spotted Gum tree is proposed within the site boundary at the corner of Park Lane and Mitchell Lane East. The replacement tree is to be a species that will at maturity be of a similar size to provide replacement canopy coverage.</p>

Provision	Compliance	Comment
		<p>The existing Kentia Palms and Washington Palms are proposed for transplantation and a condition of consent has been recommended requiring this is undertaken.</p> <p>All other existing trees located within the site, the existing street trees and trees located within MJ Doherty Reserve will remain viable after the development. Conditions of consent have been recommended requiring that these trees are protected throughout construction and development. A condition has been recommended relating to an existing street tree located on Cowper Street requiring that the existing wall footing within its Tree Protection Zone (TPZ) is retained to protect its tree roots.</p> <p>In accordance with the DCP, the site provides for 18% canopy coverage.</p> <p>Landscaping and Deep Soil</p> <p>The landscape areas are generally in accordance with the figure provided in the DCP. Due to the replanning of the terraces along Mitchell Lane East, a landscape area anticipated by the site-specific DCP located at the corner of Wentworth Street and Mitchell Lane East has not been provided. A landscape area at the corner of Mitchell Lane East and Park Lane is provided instead.</p> <p>Communal rooftop areas are provided to the two residential flat buildings. The communal rooftop areas comprise landscaping in the form of lawns, raised planter boxes, planting and trees. The communal rooftop spaces will provide an amenable and comfortable place for residents to use.</p> <p>A minimum of 17.3% of the total site area is provided as deep soil, in accordance with the site-specific deep soil definition which complies with the requirements of the DCP.</p>

Provision	Compliance	Comment
		<p>It is noted there are a number of inconsistencies between the landscape documentation and the architectural documentation. A condition of consent has been recommended requiring that amended landscape plans are submitted to Council for approval.</p> <p>Vehicular Access, Loading and Servicing</p> <p>The site does not propose vehicular access or include any vehicular parking.</p> <p>In accordance with the DCP, servicing is to be undertaken from Park Lane.</p>
6.3.22.5 Height of buildings	<p>Yes</p> <p>No, but assessed as acceptable</p>	<p>Residential flat buildings</p> <p>The residential flat buildings are compliant with the height of buildings control.</p> <p>Terrace Dwellings</p> <p>The terrace dwellings generally comply with the height of buildings control, with the exception of the southernmost terrace.</p> <p>The original application proposed a terrace design which complied with the DCP to provide a terrace row two storeys in height with an attic above. However, during the assessment of the application, it was determined that the attic level constrained amenity for occupants, particularly given the only opportunity for cross ventilation and solar access was via a small dormer window.</p> <p>The design of the terraces has been amended to provide a three storey terrace row, with operable windows and doors provided at third floor level to improve cross ventilation, solar access and outlook and result in improved amenity for occupants. While the amended design is inconsistent with parts of the site-specific DCP provision, the amended design significantly improved amenity for occupants and is considered to warrant the non-compliance.</p>

Provision	Compliance	Comment
6.3.22.6 Design excellence	Yes	<p>As required by the DCP, a competitive design process is not required to be undertaken under Clause 6.21(6) of the Sydney LEP 2012.</p> <p>Section 6.3.22.6 of the DCP states that a competitive design process that satisfies the requirements of the SLEP 2012 and SDCP 2012 has been undertaken for the site with the successful architectural practice being Johnson Pilton Walker (JPW). The detailed design DA must be generally in accordance with the winning design as amended through the planning proposal process. If the detailed design DA is generally in accordance with the winning design, then it is unnecessary that a competitive design process be held under Clause 6.21 of the LEP.</p> <p>The Architects for the proposed scheme are JPW and the proposed development is generally consistent with the winning scheme, and therefore a competitive design process is not required to be undertaken.</p> <p>As detailed further in the issues section, there has been a number of amendments to the originally lodged scheme following consultation with the City's DAP and DAP Subcommittee. The amended proposal is considered to exhibit design excellence.</p>
6.3.22.7 Street trees	Yes	<p>All existing street trees can be retained. Some works will be required to existing street trees to facilitate the proposed development however these street trees will remain viable after the development.</p>
6.3.22.8 Overshadowing	Yes	<p>The application is accompanied with shadow diagrams which demonstrate there will be minimal impact on existing residential properties, with all but one neighbouring property continuing to receive more than two hours of solar access between 9am and 3pm at midwinter. This is considered to be an acceptable impact.</p>

Provision	Compliance	Comment
		<p>The detailed solar analysis confirms that Apartment 1.3.07 in the adjacent Mezzo development (87 Bay Street) will receive in excess of two hours of direct solar access on 21 June to its living room window.</p> <p>The solar analysis identifies that the proposed development will result in the reduction of solar access to Apartment 1.2.10 at 87 Bay Street. The proposed development results in the loss of approximately 2.5 hours of solar access on 21 June from four hours to 1.5 hours to the living room window. The loss of solar access to this apartment is anticipated in the Sydney DCP 2012. In order to achieve two hours of direct solar access to this apartment, the top two storeys of the northern residential flat building would have been to be removed. Whilst the loss of solar access to this apartment is undesirable, the DCP anticipates that the site-specific built form controls for the site would result in the loss of solar amenity to this apartment. On this basis, the reduction of solar access to this apartment is considered acceptable and is compliant with the solar access reductions anticipated by the Sydney DCP 2012.</p> <p>Overall, the proposed development is generally in accordance with the built form controls of the Sydney LEP 2012 and Sydney DCP 2012 and results in additional overshadowing which is anticipated by the DCP.</p>
6.3.22.9 Building typologies, visual privacy and pedestrian entries	Yes	<p>The DCP anticipates that the development will comprise a mix of private housing and social and affordable housing. The proposed development comprises 100% social housing.</p> <p>The DCP requires that the terraces have a two storey plus attic appearance or have the upper level set back. As discussed in the table above in response to section 6.3.22.5, the appearance of the terraces has been amended to provide a three storey terrace row to improve amenity for occupants. The three storey appearance is acceptable.</p>

Provision	Compliance	Comment
		<p>The proposed design of the residential flat buildings incorporates decorative face brick which draws on cues from the surrounding warehouse typologies.</p> <p>The proposed development is in accordance with the typologies and pedestrian entry locations prescribed by the DCP.</p>
6.3.22.10 Ecologically sustainable development	Yes	<p>The application is accompanied by an ESD Report, NatHERS stamped plan and BASIX Certificate.</p> <p>The proposed development meets the ESD requirements stipulated in the DCP. Specifically, the development will achieve a 5-star Green Star Design and As-Built rating. The residential development includes solar panels on the roof of the apartment buildings and exceeds the BASIX water target of 40.</p> <p>The development achieves an average 7-star NatHERS rating which exceeds BASIX minimums and has been achieved via strong passive design.</p> <p>In accordance with the DCP, no gas infrastructure or gas systems are provided as part of the development.</p> <p>The balconies to the apartments include a folding clothesline and allow for an appropriately sized cupboard for the future provision of air conditioning units. Ceiling fans are provided in habitable rooms.</p>
6.3.22.11 Heritage	Yes	<p>The acceptability of the demolition of the existing structures at the site has been established through the site-specific DCP. The existing buildings located at the site date from 1989 (17-31 Cowper Street) and 1990 (2A-2D Wentworth Street) and are identified as making a neutral contribution. Demolition of these buildings is supported subject to an archival photographic recording condition of consent.</p>

Provision	Compliance	Comment
		Other conditions of consent have been recommended in line with the provisions of the site-specific DCP. This includes conditions relating to a Heritage Interpretation Plan for the site, the protection of all street stone kerbing along Mitchell Lane East, archaeological test excavations to identify the extent, nature and level of preservation of archaeological relics that may survive at the site and a condition requiring that the recommendations of the Preliminary Aboriginal Cultural Heritage Assessment are carried out.

Discussion

Design Excellence

56. The proposed development is considered to demonstrate design excellence in accordance with clause 6.21 of the Sydney LEP 2012.

Design Competition

57. Prior to the lodgement of the site-specific planning proposal, LAHC conducted a tender/competitive design process in partnership with the Government Architect NSW in relation to the site in 2019. As part of this process four competitors were invited to prepare design proposals for the site. The tender/design competition process was conducted generally in accordance with the City of Sydney's competitive design alternatives process.
58. A Tender Evaluation Committee appointed by LAHC and comprising members from LAHC, Prince's Trust Australia and Government Architect NSW resolved that the JPW scheme best demonstrated the ability to achieve design excellence with regard to the provisions of Clause 6.21 of the Sydney LEP and the Alternative Competitive Design Process requirements in the City's Competitive Design Policy. JPW's scheme was subsequently awarded the winner of the design excellence process.
59. As per the provisions of Clause 6.54(5) of the Sydney LEP 2012, the development is not required to be the subject of a competitive design process given that a similar tender/competitive design process has been undertaken and a proposal selected which can deliver design excellence. The site-specific amendment to the Sydney LEP 2012 excludes the site from the requirements under clause 6.21(7) and the accompanying floor space or height bonus provisions for undertaking a further competition under the Sydney LEP 2012.
60. The proposed development is generally in accordance with the winning design of the tender/competitive design process. As such, in accordance with the site-specific provisions of the Sydney DCP 2012 at 6.3.22.6, it is unnecessary to undertake a competitive design process in relation to the proposed development under Clause 6.21(6) of the Sydney LEP 2012.

Design Advisory Panel

61. The application was presented to the City's Design Advisory Panel (DAP) at its meeting on 15 July 2021 where it was noted that there were opportunities for further refinement of the scheme that would improve the interrelationship between buildings on the site and improve residential amenity, particularly on the southern site. It was resolved that a DAP Subcommittee should be established to work with the architects and applicant to refine the proposal.

Design Advisory Panel Subcommittee

62. A series of three meetings took place with the DAP Subcommittee and the applicant's design team. The DAP Subcommittee recommended the following changes to be made to the original proposal:
- (a) Shift the terrace row to the south which necessitates the removal of the existing tree located on the corner of Mitchell Lane East and Wentworth Street. A replacement tree and landscaping are to be provided to the corner of Mitchell Lane East and Park Lane.
 - (b) Increase the size of the openings to the bathrooms located on the residential flat buildings to improve daylight.
 - (c) Enclose the circulation spaces in the residential flat buildings to improve amenity for occupants.
 - (d) Design the courtyard space between the terrace houses and the southern residential flat building as a semi-private space, rather than a publicly accessible space. Further resolution of the landscape treatment of this area is required including maximising the soft landscape and permeable paving components.
 - (e) The stairs at the southern end of the courtyard space could be rationalised, with the potential to provide more deep soil planting in the rear courtyard. The northern stairs could be recessed between the buildings to allow more deep soil planting to the proposed pocket park at the corner of Park Lane and Mitchell Lane East.
 - (f) Redesign the terrace houses to ensure optimal amenity can be achieved. Of importance, the internal planning of the terrace houses is to ensure there is opportunity for good cross ventilation and daylight, including the ability to have high level operable windows allowing external doors to be secured at night.
 - (g) The rear entry to the terraces from the central open space should be protected in the form of screening to give privacy as it opens directly into the living area.
63. As part of the amended plans, the following changes were made to address the above concerns:
- (a) The terraces have been made wider (6.55m width) and the terrace row has shifted south which has resulted in the removal of the pocket of open space at the corner of Wentworth Street and Mitchell Lane East.
 - (b) The relocation of the pocket of open space and a replacement tree is proposed on the corner of Mitchell Lane East and Park Lane (northern end of the terrace row).

- (c) The terraces have been redesigned to be a more contemporary infill development design. The form of the upper level has changed from an attic-like level with a small dormer window to a setback third storey with openings on the Mitchell Lane East frontage. The openings to this frontage significantly improve cross ventilation, solar access and outlook to this bedroom.
 - (d) The terraces include highlight windows to the first floor bedrooms to allow for improved cross ventilation and security at night.
 - (e) The terraces have been replanned to improve amenity for occupants. At ground floor level the revised design provides an open plan living room and kitchen with access to an elevated terrace overlooking MJ Doherty Reserve. At first floor level, to improve outlook and amenity and resolve issues of privacy with the residential flat building to the rear, bedrooms have been relocated to the Mitchell Lane East frontage. At second floor level, a bedroom and WC are provided. All bedrooms benefit from access to a balcony fronting Mitchell Lane East.
 - (f) As a result of the reconfiguration of the terrace row, the communal courtyard space has been enlarged and benefits from access from both Wentworth Street and Park Lane. The courtyard space is fenced with a gate to maintain a high level of amenity and visual connection to the surrounding public domain.
 - (g) The increase in building separation between the southern residential flat building and terrace row has resulted in a lower flood planning area of the courtyard. This has resulted in a reduction in the length of ramping required. The revised courtyard design provides for more deep soil and soft landscaping.
 - (h) The openings of the bathrooms in the residential flat buildings have been slightly enlarged to improve daylight and cross ventilation.
 - (i) The re-entrant balconies located at level one in the residential flat buildings are provided with an open metal balustrade to improve daylight and outlook to the apartments.
 - (j) The applicant has elected to retain the open corridors provided in the residential flat buildings given the enclosure of these spaces would result in an exceedance to the FSR control for the site.
 - (k) The glass balustrades to the rooftops have been replaced with a vertical metal palisade balustrade.
64. The amended plans have been provided to the DAP Subcommittee who advised that the amended proposal is generally supported. The amended plans were re-presented to the DAP on 28 October 2021 who noted the architects had responded to most of the issues raised by the DAP. The DAP noted the amenity of the apartments, the public domain and the landscaping had vastly improved. The Panel supported the removal of the existing tree to improve the quality of the shared space with new trees and better amenity to the terrace row.

65. A comparison of the revised siting the terraces and the impact on the site planning from the scheme originally lodged is provided at Figure 43 to Figure 50 below.

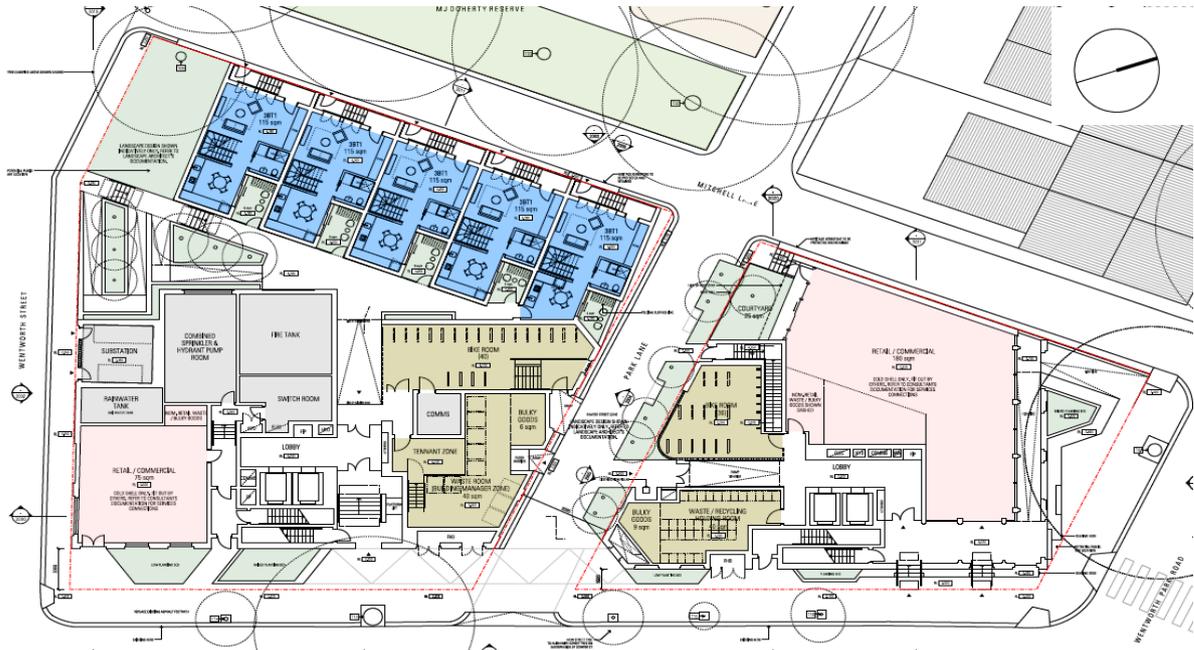


Figure 43: Original ground floor plan

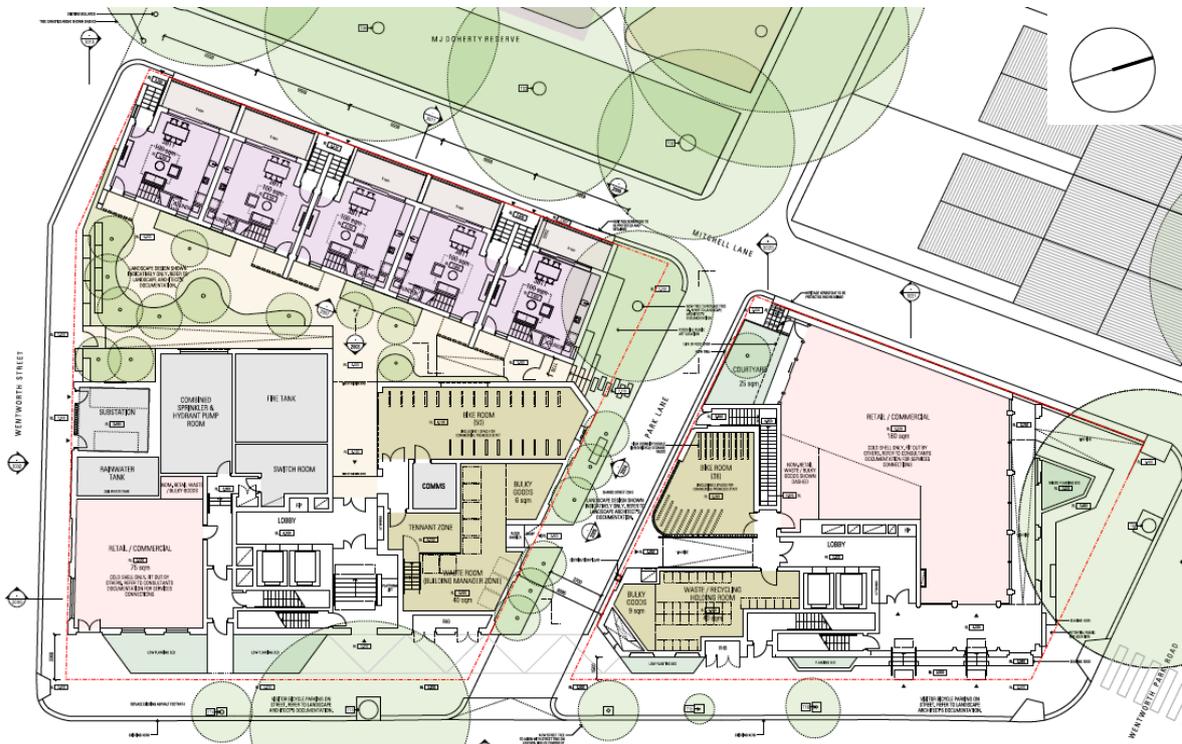


Figure 44: Amended ground floor plan



Figure 45: Original first floor plan of terrace dwellings



Figure 46: Amended first floor plan of terrace dwellings



Figure 47: Original second floor layout of terrace dwellings



Figure 48: Amended second floor plan of terrace dwellings



Figure 49: Original Mitchell Lane East elevation showing terrace row



Figure 50: Amended Mitchell Lane East elevation showing terrace row

Design excellence

66. In relation to clause 6.21(4) of the Sydney LEP 2012, the development is considered to demonstrate design excellence. That is:
- (a) The proposed development, designed by JPW, provides a high standard of architectural design, materials and detailing appropriate to the building type and location, as required by clause 6.21(4)(a) of the Sydney LEP 2012.
 - (b) The residential flat buildings incorporate red face brick with painted steel balustrades. The terraces incorporate light ("Chillingham White") face brick, with expressed reveals and sills to reference the detailing and finishes of nearby terraces. Materials and finishes have been chosen which are durable and easy to maintain and provide the buildings with character.
 - (c) The form and external appearance of the development will improve the quality and amenity of the public domain, as required by clause 6.21(4)(b) of the Sydney LEP 2012.

- (d) The development allows for meaningful landscaping to be integrated into the overall development, which will improve the quality of the interface between the buildings and the public domain.
- (e) The development provides for clear and legible entries into the buildings.
- (f) The development incorporates areas to provide public art. A condition of consent has been recommended requiring that the final details of the proposed public art are submitted to the City.
- (g) The number of storeys, bulk, setbacks and land uses are generally consistent with the site-specific planning controls in Section 6 of the Sydney DCP 2012. Where there are non-compliances with the site-specific built form controls, the non-compliances result in an improved amenity outcome.
- (h) The development is generally compliant with the ADG, providing for a reasonable level of residential amenity.
- (i) The development makes a significant contribution to delivering ecologically sustainable development outcomes on the site. The development has been designed to achieve the highest level of environmental performance to minimise carbon emissions in the delivery and operation of the building, reduce water usage in the delivery and operation of the building, improve building efficiency and minimise waste. The design of the buildings optimises natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.
- (j) The development will not detrimentally impact on view corridors as per clause 6.21(4)(c) of the Sydney LEP 2012.

Clause 4.6 Request to Vary a Development Standard

67. The site is subject to a series of height controls, ranging from RL4.5m to RL36m. The maximum height of building map for the site is shown in Figure 51 below.



Figure 51: Height of buildings map, subject site outlined in red

68. As detailed elsewhere in this report, the majority of the proposed development complies with the height of buildings development standard. However, as a result of the relocation and revised siting of the terrace houses on the southern lot, the proposed development results in a non-compliance with the RL4.5m height control which applies at the south-western corner of the southern site.
69. The proposal in this location has a maximum height of RL14.950, which equates to a 70% variation. The extent and location of the height breach is shown with the red hatching in the figure below.

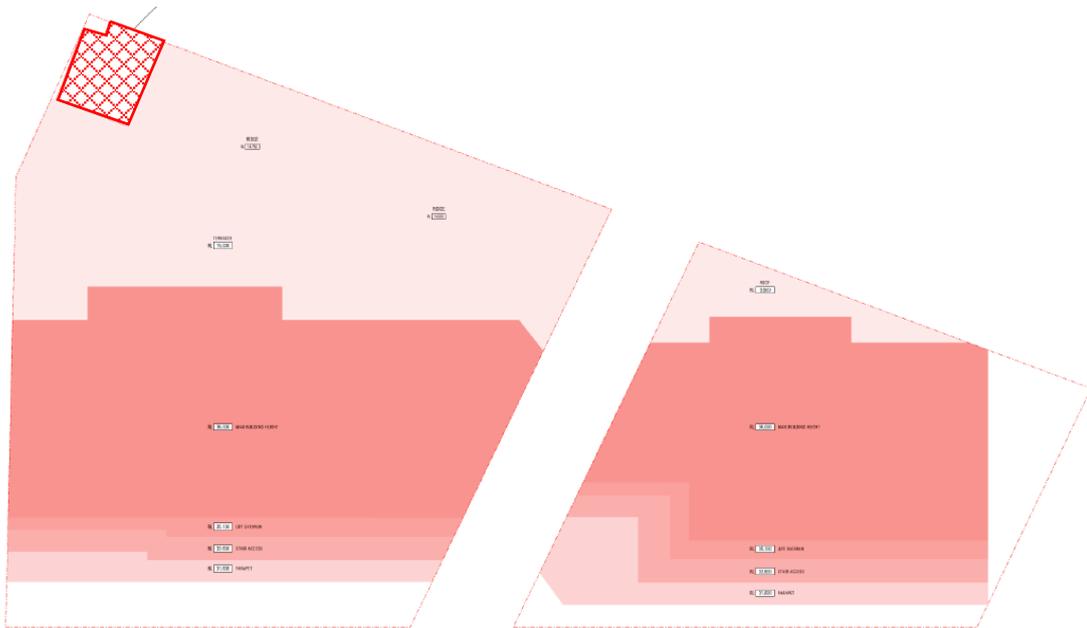


Figure 52: Height plane diagram in plan form, area of non-compliance shown as red hatched



Figure 53: Extent and location of height variation shown in white

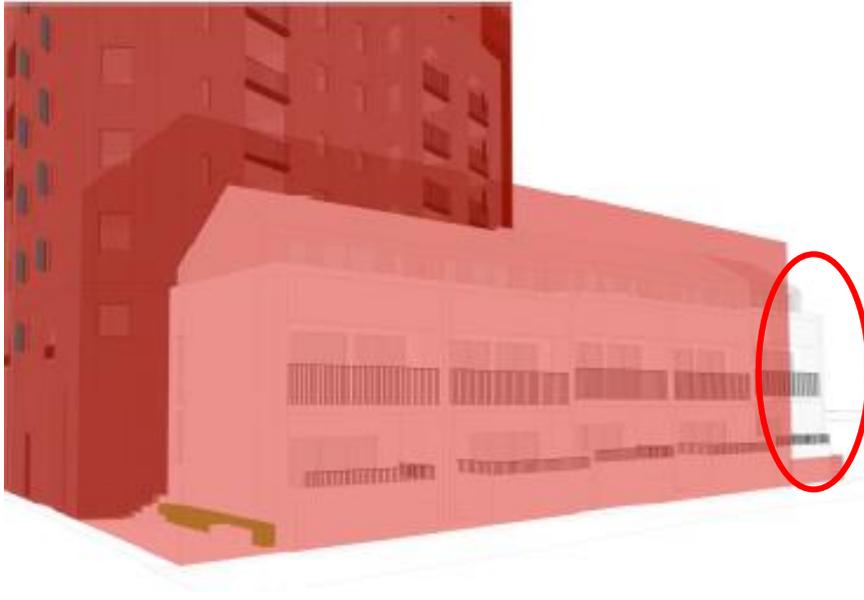


Figure 54: Extent and location of height variation shown in white and circled red

70. The breach of the height of building standard has arisen due to the replanning of the terrace houses. During the assessment of the application the layout of the terraces was reconfigured to address the concerns of the DAP Subcommittee and Council officers to improve residential amenity for occupants. Subsequently the amended proposal has resulted in the terrace row being repositioned further to the south, adjacent to Wentworth Street. The southernmost terrace dwelling encroaches into a small area which the Sydney LEP and DCP 2012 anticipates would be used as an area of deep soil planting and would accommodate a small pocket of open space.
71. A clause 4.6 variation request has been submitted to support the variation to the height standard. In summary, the overall height of the development is considered acceptable. While the massing and building location of the terrace row is inconsistent with the site-specific planning controls for this section of the site, the repositioning of the terrace row further to the south is considered to significantly improve residential amenity for occupants, result in better site planning and is considered to be an important element in the overall achievement of design excellence.

Clause 4.6 Request to Vary a Development Standard

72. A written request has been submitted in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the height development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - (b) that there are sufficient environmental planning grounds to justify contravening the standard;
 - (c) the proposed development will be consistent with the objectives of the zone; and
 - (d) the proposed development will be consistent with the objectives of the standard.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

73. The applicant seeks to justify the contravention of the height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The RL4.5m height limit was applied to respond to the planning proposal reference design, which setback the terraces from the south-western corner to allow for a small landscaped area and retention of an existing tree in this location. It is noted that the tree was originally proposed to be retained at the request of Council.
 - (ii) The Sydney LEP Height of Buildings map that approved the maximum height for the terraces was RL15m which applies adjacent to the RL4.5m height limit. The proposed height of the terraces is below the required RL15m. The exceedance within the RL4.5m area has resulted from a redesign of the terraces which was requested by Council staff and the Council's DAP Subcommittee and seeks to improve amenity for the terraces and the adjacent communal open space.
 - (iii) The height variation will deliver significant amenity improvements for the proposed development and will not result in any unreasonable amenity impacts on the surrounding area. Further it will not impact on the ability of the proposal to achieve the relevant objectives of the Sydney LEP as set out in Clause 4.3 – Height of Buildings and for the R1 General Residential zone which applies to the site.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The variation has allowed for the redesign of the location and layout of the terrace dwellings which will deliver improved amenity to the proposed development as summarised below:
 - (i) Relocation of the private open space from the rear to the front of the terraces providing greater solar access and amenity with overlooking of the park and a north east facing aspect.
 - (ii) Reduced the depth and increased the width of the terraces increasing daylight and solar access to the habitable spaces and greater outlook to the park.
 - (iii) Increased the width of the communal courtyard providing greater amenity and usability.
 - (iv) Reconfiguration of the access ramps from the street level to the courtyard maximising the usable communal space.
 - (v) Increased separation between the residential flat building and the terraces maximising privacy and amenity for residents.
 - (vi) All bedrooms now face northwest providing improved privacy and improved outlook across MJ Doherty Reserve.
 - (vii) Inclusion of a direct pedestrian connection from the courtyard to Park Lane resulting from full separation of the terrace building from the residential flat building.

- (viii) The separation of the terrace from the residential flat building has resulted in improved overland flow reducing the flood planning level for the terraces and the internal courtyard allowing for improved amenity and relationship with the adjacent street.
 - (ii) The shifting of the terrace houses to the south has resulted in the inclusion of additional landscaped area and a replacement tree on the north side of the terrace row. This has resulted in additional canopy coverage of the site.
 - (iii) The removal of the Spotted Gum tree to facilitate the revised built form and resultant height variation, is not considered to have a significant impact on the amenity of the surrounding public domain given the canopy of the existing tree is relatively small and is constrained by the adjacent trees within MJ Doherty Reserve.
 - (iv) The resultant replanning and shifting of the terrace houses to the south has meant that the built form is closer to the existing dwellings to the south and south west. While the height control anticipates that there would be no built form in the southwestern corner, it is noted that the existing two storey building is located very close to the boundary.
 - (v) In relation to overshadowing impacts, the height exceedance results in a minor increase in overshadowing to the two storey dwellings located on the southern extent of Wentworth Street. However, this is limited to part of the front private open space and the front facade between 10am and 11am on 21 June. From 12pm on 21 June the dwellings receive in excess of three hours of solar access. The solar impacts are considered to be acceptable.
- (c) The proposed development will be consistent with the objectives of the R1 General Residential zone:
- (i) The proposed development provides of the housing needs to the community, by increasing the supply of social housing within an inner-city location with good access to transport, services and facilities.
 - (ii) The proposed development supports a variety of housing types and densities by providing an increased supply of social housing.
 - (iii) The proposal supports facilities and services to meet the day to day needs of residents with ground floor non-residential uses with potential to support retail, commercial and community uses, as well as provision of communal open spaces.
 - (iv) The proposal maintains the pattern of predominantly residential uses being a largely residential use with non-residential uses limited to specified areas of the ground floor to address the public domain and provide for street activation.

- (d) The proposed development will be consistent with the objectives of the height standard:
 - (i) The development has been designed to respond to the surrounding built form context with taller buildings located at the north and west of the site adjacent to recent redevelopment sites of a similar scale. The built form steps down towards the southwest of the site to respond to the low-rise dwellings within the adjacent heritage conservation area. Whilst the proposed variation seeks to move the built form closer to the southwest corner it is noted that a two storey building is currently in this location.
 - (ii) The proposed development provides for an appropriate height transition to the adjacent heritage conservation area with the built form stepping down to three storey terrace style dwellings to this frontage.
 - (iii) The proposed development will not have any impact on significant views from surrounding buildings or the public domain noting such views are largely limited by the existing built form on the site.

Consideration of Applicant's Written Request - Clause 4.6(4)(a)(i) and (ii)

74. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
 - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

75. A detailed discussion of the applicant's submission with regard to the objectives of the development standard is provided above. The written request has adequately demonstrated that the proposed development meets the objectives of the 'height of buildings' development standard despite the non-compliance with the numerical standard. As such, to the extent of the variation proposed, compliance with the development standard is unreasonable and unnecessary.

Does the written request adequately address those issues at Clause 4.6(3)(b)?

76. A detailed discussion of the applicant's submission with regard to environmental planning grounds to justify contravening the development standard is provided above. The environmental planning grounds established are specific to the circumstances of the site to justify the extent of non-compliance with the 'height of buildings' development standard.

77. During the assessment of the application, a redesign of the terrace row was requested to improve the amenity of the terraces as well as the amenity of the adjacent communal open space to the rear and the southern residential flat building. The amended design results in a non-compliance to the height of buildings development standard which is limited to the southernmost terrace in the southwest corner of the site.
78. The amended scheme achieves a high residential amenity for the development and delivers improved amenity to the proposed development. This includes improvements to solar access, outlook, cross ventilation and privacy to the terrace dwellings, as well as improvements to the quality of the communal open space at the rear. The written request has demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest?

79. The development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
80. The written request has demonstrated that the objectives of the height of buildings standard are achieved despite the non-compliance.
81. As per clause 4.6(4)(a)(ii) of Sydney LEP 2012, the proposed development is also considered to be in the public interest because it is consistent with the objectives of the height standard and the objectives of the R1 General Residential zone. That is:
 - (a) The height of the development is considered to improve the amenity of the terrace dwellings and the overall site planning as a whole.
 - (b) The height of the development does not unreasonably compromise views or outlook.
 - (c) The height of the development provides an appropriate height transition between the new development and the heritage item and heritage conservation area in proximity of the site.
 - (d) The height of the southernmost terrace is consistent with the height in storeys and maximum height prescribed for the terrace row. The variation seeks to extend the built form into the southwestern corner and provide an area of open space on the north-western corner of the southern site. The replanning of the terrace row has resulted in improved amenity of the terraces, as well as improvements to the built form behind, including the enlargement of the courtyard space and improved separation to the residential flat building behind.
 - (e) The proposed development provides for a variety of housing types, including a range of studio, one bedroom, two bedroom and three bedroom dwellings.

Conclusion

82. For the reasons provided above, the requested variation to the height of buildings development standard is supported as the applicant's written request adequately addresses the matters in clause 4.6 of the Sydney Local Environmental Plan 2012. The proposed development is in the public interest because it is consistent with the objectives of height of buildings development standard and the R1 General Residential zone.

Consultation

Internal Referrals

83. The application was discussed with Council's Environmental Health Unit, Heritage and Access Unit, Public Domain Unit, Surveyors, Transport and Access Unit, Tree Management Unit and the Waste Management Unit who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

84. Pursuant to Section 45 of the SEPP (Infrastructure) 2007, the application was referred to Ausgrid for comment.
85. A response was received raising no objections to the proposed development.

Advertising and Notification

86. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 3 June 2021 and 2 July 2021. A total of 870 properties were notified and eight submissions were received.
87. As a result of the amended scheme to modify the siting of the terrace houses and remove a tree, the amended plans were renotified for a period of 14 days between 21 September 2021 and 6 October 2021. No submissions were received.
88. The submissions to the original notification period raised the following issues:
 - (a) **Issue:** Reduction in views and solar access impacts to adjoining properties. Loss of solar access to the corner ground floor unit in the 'Foundry' located on the corner of Wentworth and Cowper Streets.

Response: The application is accompanied with shadow diagrams which demonstrate there will be minimal impact on existing residential properties, with all but one neighbouring property continuing to receive more than two hours of solar access between 9am and 3pm at midwinter. This is considered to be an acceptable impact.

The proposed development is largely compliant with the built form controls prescribed for the site under the Sydney LEP and DCP 2012. The proposal does not result in the loss of any significant views.

- (b) **Issue:** Concerns regarding the construction process and increased noise pollution

Response: This is addressed and managed by conditions on the consent. Conditions include restrictions on hours of work and noise, a requirement for a demolition, excavation and construction noise and vibration management plan to be submitted to and approved by Council and a construction traffic and pedestrian management plan to be submitted to and approved by Council.

- (c) **Issue:** Additional traffic generation around the locality and parking issues.

Response: The proposed development does not include any provision for car parking. As a result, the development is unlikely to result in additional traffic generation.

The City adopts maximum car parking rates to encourage alternatives to private motor vehicles, such as public transport, walking and cycling. The provision of zero parking on the site is supported.

The site is located within close proximity to services and facilities and public transport. The site is within 750m of the Wentworth Park Light Rail stop, 800m of the Glebe light rail stop on the Inner West Light Rail and 700m of high frequency bus services on Parramatta Road providing access to the Sydney CBD and the heavy rail network.

The proposal includes the provision of 96 bicycle spaces to encourage residents, visitors and workers to cycle, thereby reducing road congestion and overall demand for car parking.

- (d) **Issue:** Loss of trees, including the Ghost Gum trees located within the internal courtyard at 17-31 Cowper Street and loss of biodiversity and vegetation across the site.

Response: This is discussed in the body of the report in response to Section 6.3.22.4 of the site-specific DCP. The proposal necessitates the removal of seven trees from within the site. Of these, three are identified as being over mature or immature with a low-medium retention value. A further three are identified as Lemon Scented Gum trees which are located within the footprint of the proposed building and have a moderate retention value. The site-specific DCP anticipates these trees will be removed to accommodate a building footprint which is compliant with the DCP.

The proposal seeks the removal of a Spotted Gum tree located in the southwestern corner of the site. While the site-specific DCP does not anticipate this tree's removal, during the assessment of the application the layout of the terraces was reconfigured to address the concerns of the DAP Subcommittee to significantly improve residential amenity for occupants. To mitigate the impact of the loss of this tree, a replacement Spotted Gum tree is proposed within the site boundary at the corner of Park Lane and Mitchell Lane East. The replacement tree when it reaches maturity is to be of a similar size to provide replacement canopy coverage.

- (e) **Issue:** How will waste be collected and how will materials be re-used.

Response: All waste will be collected from Park Lane. The applicant's Waste Management Plan identifies that where possible, waste generated during demolition and construction will be reused or recycled.

- (f) **Issue:** Safety concerns regarding high-rise apartments and amenity concerns in relation to the apartments.

Response: The proposal achieves a reasonable level of amenity for the residential occupants of the development and neighbouring properties. Compliance with the amenity controls of the ADG and Sydney DCP 2012 has been detailed in the above assessment.

The proposal provides for passive surveillance of the adjoining streets and the communal open spaces are easily accessible, clearly defined and visible to optimise safety. The design is generally consistent with the principles of Crime Prevention Through Environmental Design.

- (g) **Issue:** Height of building inappropriate and results in a building which is too tall and out of context with the locality.

Response: There have been site-specific planning controls gazetted for the site that allow for an increase height and FSR for these sites. The proposal complies with the maximum FSR of the site and is largely compliant with the height controls prescribed for the site. The development provides a suitable mix and variety of dwelling sizes, with acceptable amenity for future residents. The proposed density is appropriate in the local context, particularly in proximity to established infrastructure, public transport, community and recreational facilities. The development does not result in unacceptable amenity impacts to neighbouring properties as discussed elsewhere in this report. Overall, the proposed density is considered suitable for the site.

- (h) **Issue:** The development is inconsistent with the St Philips Locality Statement

Response: As part of the planning proposal process, the subject site was excised from the St Philips locality. The contemporary terrace row fronting Mitchell Lane East has been designed to provide a lower scale, more sensitive interface to MJ Doherty Reserve and the St Philips HCA to the west and south of the site. As such, the development is not required to be consistent with the character statement and supporting principles for the locality area, as required by the Sydney DCP 2012.

- (i) **Issue:** Demolition of existing buildings which are considered to have heritage significance, specifically the building located at 17-31 Cowper Street.

Response: The acceptability of the demolition of the existing structures at the site has been established through the site-specific LEP and DCP. The existing buildings located at the site date from 1989 (17-31 Cowper Street) and 1990 (2A-2D Wentworth Street) and are identified as making a neutral contribution. Demolition of these buildings is supported subject to an archival photographic recording condition of consent.

- (j) **Issue:** The built form which is based on the wool stores of Ultimo is not contextually appropriate to this site.

Response: The design and appearance of the residential flat buildings are supported. The proposed design is in accordance with the winning design of the tender/competitive design process undertaken by LAHC in partnership with the Government Architect NSW.

- (k) **Issue:** Landscape reduces opportunities for social engagement and will isolate residents.

Response: The landscape areas are generally in accordance with the locations specified in the DCP. Communal rooftop areas are provided to the two residential flat buildings. The communal rooftop areas comprise landscaping in the form of lawns, raised planter boxes, planting and trees. The communal rooftop spaces will provide an amenable and comfortable place for residents to use. In addition, communal open space is provided at ground floor and is provided in a variety of forms to encourage recreation and allow for social engagement.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

89. The development is not subject to a Section 7.11 development contribution as it is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution.
90. The applicant has detailed that the application has been lodged on behalf of the owner of the site, who is the NSW Land and Housing Corporation, who are a social housing provider. Land and Housing Corporation are specifically noted as a social housing provider in Table 2 (Development excluded from the need to pay a contribution) of Section 1.3 of the City of Sydney Development Contributions Plan 2015, and as such a development contribution is not applicable to this application.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

91. The application was lodged prior to 1 July 2021 and therefore the City of Sydney affordable housing program does not apply. Nonetheless, as the proposal is for development for the purposes of residential accommodation that is used to provide affordable housing or public housing, which is a development type that is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

92. Environmental Planning and Assessment Act 1979.

Conclusion

93. The development seeks consent for the demolition of existing structures, remediation, excavation and construction of a mixed-use development comprising three buildings with a total of 70 apartments, 5 terrace houses and two retail tenancies in total.
94. The site has been the subject of a site-specific planning proposal that has resulted in the gazettal and adoption of site specific LEP clauses and a site specific DCP that came into place in September 2021.
95. As part of the detailed assessment of the application, the proposal was presented to the City's Design Advisory Panel, who subsequently created a Subcommittee to assist in refining elements of the design to improve residential amenity.
96. The application has been amended to respond to the comments of the DAP and the DAP Subcommittee, and those matters raised by City staff including improving the overall amenity of the terrace row and improving the landscape treatment at ground floor level. The amended design has resulted in key design changes including the relocation of the terrace row to the southwestern corner of the southern site, the redesign of the terrace row to provide a more contemporary design and the internal replanning of the terraces to provide improved amenity for occupants in relation to cross ventilation, outlook and solar access. The courtyard space at the rear of the terrace row has resultantly been enlarged and the courtyard design has been amended to provide more deep soil and soft landscaping.
97. The proposed development is compliant with the permitted FSR control under the Sydney LEP 2012. As a result of the revised siting of the terrace houses on the southern site, the proposal now results in a non-compliance with one section of the height of buildings control which is limited to the southwestern corner of the site and relates to the southernmost terrace dwelling. The applicant has submitted a clause 4.6 written request seeking to vary the development standard. In this instance the request to vary the development standard is supported and the requirement of clause 4.6(4)(a)(i) of Sydney LEP 2012 is considered to have been met. The variation has allowed for the redesign of the location and layout of the terrace dwellings which will deliver improved amenity to the proposed development. .
98. The development is generally compliant with SEPP 65 and the ADG and the site-specific controls of the Sydney DCP 2012. Specifically, the proposed development provides a built form, scale and design which is anticipated by the controls and provides an array of public domain improvements required by the DCP. Overall, the development is considered to provide acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.

99. Overall, the proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that is considered to demonstrate design excellence.
100. Subject to the recommended conditions, as detailed in the report and attachment A, it is considered that the proposed development is acceptable and generally compliant with the planning controls for the site.

ANDREW THOMAS

Executive Manager Planning and Development

Lotti Wilkinson, Senior Planner