

**Submission
No 23**

INQUIRY INTO DEVELOPMENT OF THE TRANSPORT ORIENTED DEVELOPMENT PROGRAM

Organisation: Waverley Council

Date Received: 12 March 2024

Waverley Council Submission – EIE: Changes to create low- and mid-rise housing.

Foreword

Throughout 2023, the New South Wales State Government announced a series of planning reforms intended to increase housing supply in NSW. The first major broad reaching change was to the Housing State Environmental Planning Policy (SEPP) which proposed to provide a 30% increase to building height and floor space ratio (FSR) if a development provides 15% affordable housing for 15 years, as well as access to the State Significant Development approval pathway if the development met a certain threshold. The changes were finalised in late 2023.

On the 30 October 2023, the Minister for Planning and Public Spaces, the Hon. Paul Scully MP wrote to Waverley and other councils in New South Wales asking councils to review local policy settings and approaches relating to the permissibility and provision of ‘terraces, townhouses and 2 storey residential flat buildings’ (i.e. manor houses) in the R2 low density residential zone and residential flat buildings in the R3 medium density residential zone. It was requested that councils begin work identifying locations and permitting more low and mid-rise homes immediately.

Less than one month after receiving this letter, the NSW Government announced that it would push ahead with reform related to this request, however with the inclusion of a variety of proposed non-refusal standards as part of an *Explanation of Intended Effect (EIE): Changes to create low and mid rise housing*. Public exhibition of these proposed changes was to occur predominantly in December and January, a period in which many members of the community, private and public organisations take holidays or shut down and a time when councils do not typically hold meetings. The timing of the proposed changes, alongside the lack of opportunity to respond to the letter from the Minister in November is disappointing.

The changes proposed in the EIE were accompanied by an announcement of a series of accelerated planning changes around Sydney, Newcastle and Wollongong train stations as part of the Transit Oriented Development State Environmental Planning Policy (TOD SEPP) and 31 out of 38 locations would not be subject to any public consultation whatsoever. The TOD SEPP won’t apply in Waverley and Minister for Planning the Hon. Paul Scully recently said in the Sydney Morning Herald said train stations in the Eastern Suburbs had been left out of the TOD SEPP program due to a lack of infrastructure capacity:

“There are parts of Sydney’s east that are currently limited in additional growth because of limited sewer and water infrastructure. Edgecliff as just one example is one of those.”¹

Despite this statement, these areas (and train stations) have been included within the EIE. Given that a large swathe of these areas are already zoned R3, E1 or MU1, they will essentially be subject to the

¹ [Minister reveals why Sydney’s Eastern Suburbs were spared housing density push – Sydney Morning Herald, 2023.](#)

same development standards that the TOD SEPP proposes and the proposed EIE changes would facilitate changes on a very similar scale to the TOD SEPP.

The proposed changes in the EIE are a one-size-fits-all approach to be applied across variety of areas, all of which are very different to one another, inclusive of the entire Six-Cities Region which includes the Hunter area, Central Coast, Illawarra-Shoalhaven and Greater Sydney. The proposal comes as part of a staggered and seemingly ad hoc series of announcements and reforms which doesn't give the community and councils time to consider the implications and proposed changes as a whole.

On 31 January 2024, Council officers attended an online webinar about the EIE run by the DPHI, for Council staff only. The webinar gave an opportunity for council officers to ask pre submitted questions or to submit questions which could be approved to appear in the chat box and may be addressed by the DPHI. To the surprise of many attendees, many of the genuine concerns raised by council officers appear to have not been considered or thought through by DPHI staff responsible for preparing the EIE. In addition, matters of contention, such as the relationship between proposed development standards and Heritage Conservation Areas (HCAs) were not directly answered with any clarity. It appears the DPHI, in its efforts to expedite the process has not considered the full range of implications of the proposed reform and rather seeks to have most of the issues resolved via merit assessment at the Development Application (DA) process. This will add further complexities to this process and will result in drawn out assessments and councils having to spend more ratepayer's money contesting issues in the Land and Environment Court (LEC).

This submission raises concern with the proposed changes and focuses on 'mid-rise' housing (residential flat buildings and shop top housing), rather than the low-rise medium density aspect of the EIE as Council believes this will be of greatest impact to Waverley.

Broadly speaking, the submission outlines why a one-size-fits-all approach is not appropriate for Waverley and not appropriate for the Six Cities Region. Should the Government seek to provide more housing in the zones identified, councils should be given the opportunity to respond to this request, rather than forcing the amendments upon us, with potential impacts on the community, local character, amenity and infrastructure needing to be adequately considered within this process. Councils are best placed to plan and make decisions for their Local Government Areas.

Detailed feedback

1. Local government is not hindering housing supply

The EIE uses evidence from the NSW Productivity Commission (Treasury) paper *Building more homes where people want to live* which argues that local government planning has restricted housing supply in NSW and that increasing housing supply – via large-scale upzonings – above recent levels is the main instrument to reduce rents and house prices.

The NSW Productivity Commission research is conceptually flawed because it uses zoning (that is, housing capacity) as a proxy for housing supply rather than focusing on actual housing supply. The actual rate of housing delivery – typically measured in annual flow – is the supply of housing.

Supply is determined by the market – it has little to do with council approval rates or the amount of zoned land – evidenced by the fact there are always many more approvals than completions. Since 2016, the cumulative gap between approvals and completions in NSW is around 100,000 dwellings. This large buffer stock of approvals makes it clear that housing supply completions is not being hindered by slow approvals or a lack of zoned capacity.

Councils don't deliver housing targets given they don't build housing; they only determine applications lodged. Council can only determine the applications before them and if industry is lodging fewer applications because of softer market conditions, that is not councils' fault. No amount of broad scale upzoning will increase housing delivery or resolve the current housing crisis.

Falls in approvals and commencements are a result of a collapse in demand, not an excess of planning red tape. In 2023, loans for the construction or purchase of a new home were less than half the number of loans issued just two years earlier in 2021 and are the lowest since records of lending began in 2002. The main drivers of this decline in demand are steep interest rate hikes, high construction costs caused by material and labour shortages.² Moreover, the housing market is a 'build to order' market, not a build to stock product – developers don't build and stock housing waiting for demand to come along. It has even been reported that some developers have even delayed commencing approved plans in to reapply for State Government incentives, meaning that newly proposed reforms are actually slowing short term housing delivery.³

The NSW Government is striving to increase housing supply to obtain the financial incentives associated with the Housing Accord – approximately \$15,000 in funding per dwelling from the Commonwealth Government over the next 5 years. A recent article in Sydney Morning Herald outlined:

*"Fewer than 10 per cent of homes proposed under a signature housing density policy by the Minns government will be built during the National Housing Accord period, according to documents prepared by the Department of Planning."*⁴

² [New Home Lending Halves in Two Years for Record Low - The Urban Developer, 2024.](#)

³ [More delays as Balmain Leagues developer seeks extra height – Sydney Morning Herald, 2024.](#)

⁴ [Only 10 per cent of one of Labor's signature housing policies to be delivered by end of Housing Accord – Sydney Morning Herald, 2024.](#)

This raises serious questions as to why the Government is rushing through reforms which subvert local planning controls and diverge away from the existing strategic planning frameworks and also highlights that most of the housing that will be delivered in the next five years will be from development applications approved and under assessment, delivered within the sufficient capacity of existing council planning controls.

2. [A one-size-fits all approach will not create valued place outcomes, nor facilitate optimal land use and infrastructure coordination.](#)

Since the Environmental Planning and Assessment Act 1979, councils have worked with the NSW Government planning departments to regularly update their local environmental plans, via strategic studies and masterplans, to ensure that they were up to date to accommodate a growing population. While not perfect, this strategic plan-led approach has been successful, albeit subject to various NSW Government interventions over time.

The raft of recently announced planning reforms in NSW – the 30/30/15/15 bonus, the EIE and TOD SEPP – gift new apartment development significant and arbitrary bonuses that undermine the enduring strategic plan-led approach to housing delivery in NSW. Most recently this approach was typified by councils' local housing strategies, Local Strategic Planning Statement and infrastructure Contributions regimes working in concert to deliver the required housing capacity and place outcomes.

Local Housing Strategies identified where and how much growth could be accommodated led to the update of planning controls to ensure they had sufficient capacity to accommodate the identified future growth. The councils target requirement is met once a council has created capacity in its local controls. After all, councils don't build houses, they only determine the applications lodged – and over 95 per cent of those are approved.

The importance of strategic plan-led planning

Council agrees that people should have access to and be able to live in places with good quality public transport and within walking distance of local services and employment opportunities. Many parts of Waverley are the original 'transit-oriented development' created as a result of tramway expansion in the 1900s and in fact the 'missing middle' is not missing in Waverley at all. Waverley has the diverse housing that the EIE seeks to achieve ranging from detached and semi-detached houses, terrace housing, manor homes, 2 and 3 storey walk ups to larger residential or mixed-use developments (shop top housing) above 8 storeys.

In the 2021 Census, more than 83% of all dwellings in Waverley were considered medium or high density, with less than 15% of dwellings counted as separate houses. Waverley already achieves a density of 7,412 persons per square km. This is 350% of Sydney's average density of 2,135 persons per square km. In other words, many other areas in Sydney would have to increase their density by 350% to equal Waverley's. As a global comparison, Waverley's density is 180% of Berlin's density of 4,127 persons per square km, and essentially equal to London's density of 7,490 persons per square km.

The one-size fits all approach being taken by the State Government with proposed 400m and 800m walking distances identified in the reform are arbitrary in nature and does not take into account whatsoever local conditions and the place in which the development may occur. Council believes that

‘place’ is important and that place matters in planning. The broad-scale and indiscriminate upzonings proposed by these reforms will not deliver place-based outcomes and optimal infrastructure coordination. Unlike traditional strategic plan making, the proposed reforms do not balance trade-offs and there is no detailed infrastructure planning and development contributions framework in place to fund this infrastructure. Strategic plans coordinate land use and infrastructure growth to ensure that infrastructure investment is efficient and optimised, particularly transport infrastructure, but also health and education facilities as well as recreation and parklands.

3. Perverse outcomes from the proposal

Use of walking radius’ and definition of town centres

The proposal to use a definition around ‘town centres’ is incredibly problematic. The following concerns are raised with the one-size-fits-all approach:

- Using a definition around the provision of certain types of businesses and land uses which will change over time is incredibly problematic as there is no guarantee of long-term amenity for new residents. In addition, the granting of consent of specified uses may result in new town centres being added over time, with the surrounding areas then being subject to the new non-refusal standards, potentially completely unbeknown to local communities.
- If uses are not clearly defined, for example a ‘full-line supermarket’ applicants may be able to successfully argue that a combination of different small supermarkets/shops constitute the function of a full-line supermarket and therefore, gain access to the proposed standards.
- The blanket approach does not consider whether there is existing pedestrian infrastructure to make for ease of walking, such as; good quality footpaths, pedestrian crossings, shade, appropriate topography etc.

Furthermore, the lack of production and provision of maps by the DPHI to assist in the standard interpretation of the EIE is incredibly problematic. Failure to provide a land application map may lead to mapping and interpretation disputes, likely costing Council and ratepayers money in the LEC.

Lack of infrastructure co-ordination

Bondi Junction is well serviced by high frequency train services on the T4 Eastern Suburbs Line and is a major interchange for bus services. Council has taken much care in carefully planning Bondi Junction and surrounds, having previously significantly upzoned areas around the transport interchange to accommodate more housing, as well as retaining an appropriate transition scale and density maintained beyond the higher density area while preserving the heritage qualities within the heritage conservation areas.

Beyond Bondi Junction, bus services more generally around the Waverley LGA are often at capacity or suffer from poor frequencies and regular cancellations due to privatisation.⁵ The 333, the primary

⁵ [‘Abject failure’: Parliament committee wants to roll back Sydney bus privatization – Sydney Morning Herald, 2023.](#)

public transport route services Bondi Junction to Bondi Beach (starting at Circular Quay) is the **busiest bus route in Australia**.⁶ This bus service during peak is already stretched to capacity and regularly during peak periods operates on a 'set down only' system where passengers are unable to get on the bus; a problem for both residents who live in the area trying to get from A to B, as well as for the hundreds of thousands of tourists that visit Bondi Beach every year. Furthermore, this bus must travel down the extremely congested Bondi Road, further slowing the bus down to a point where it can take in excess of 20 minutes to travel the 3.4km during peak times. Other bus services from Bondi Beach and other parts of the LGA taking similar or alternative routes also get caught in surrounding congested roads. Whilst other centres in the LGA do not currently meet the proposed criteria for 'town centres' should this criterion be broadened to allow more centres to be included (for example Bondi Beach) this would result in substantial increases to dwelling numbers and population growth, which would stretch existing infrastructure beyond what Council has planned for or has the ability to fund, reducing amenity for current and future residents, as well as the huge number of visitors each year.

Substantial increases in density levels from low to mid rise in certain areas would also increase the number of cars on the road. Congestion in the eastern suburbs is already incredibly high and street access (due to parked cars on both sides of the street) is very low.

It has also been well reported that there is a severe shortage in public school places in the Eastern Suburbs⁷. The need for a new public high school has been widely reported, but there is currently no plans or even potential locations for where this school may be situated. If unplanned, substantial increases to population growth was to occur within the Waverley LGA and surrounds, it is unlikely that new families will be able to find placements for their children within their local area.

There is also no provision for public open space requirements to accommodate for the additional growth in population which may arise. Increasing densities will lower the provision of green space per capita that currently exists. Council has an adopted Open Space and Recreation Strategy based on expected growth but increased residential development beyond what has been planned may result in a lack of open and green spaces. Insufficient parks and recreational areas can negatively impact the quality of life, physical health, and mental well-being of residents.

⁶ [*Busiest Bus in Australia – Daily Telegraph, 2019.*](#)

⁷ [*'We need a plan': Push for new eastern suburbs public high school - Sydney Morning Herald, 2022*](#)

Understated nature of proposed changes

Figure 1: Depiction of built form outcomes in EIE.

Mid-rise housing

Mid-rise housing is 3–6 storey apartment buildings that can be a freestanding building or situated in a mixed-use residential development.



Source: Department of Planning, Housing and Infrastructure (2023).

The images within the EIE being used for the promotion of the proposal are somewhat misleading. The Mid-rise housing is marketed as '3-6 storeys' when realistically, the non-refusal standards of 21m (0-400m) and 16m (400-800m) are more likely to be 5-6 storeys.

In addition, the application of affordable infill bonuses of 30% height and FSR is not well communicated within the documentation or even visualised. Rather, the application of these bonuses is briefly mentioned, with no discussion of how this effects the proposed standards. An illustration prepared by Council officers (Figure 2) is provided below showing the differences in how the changes are depicted.

The application of these standards takes the proposed 16/21m and 2:1/3:1 FSR to 20.8m/27.3m and 2.6/3.9 FSR, standards at their maximum extent which are above the '3-6 storeys mid-rise apartment blocks being portrayed in the EIE and associated materials.

Figure 2: Depiction of built form outcomes in EIE factoring in AH bonuses.



The inclusion of these bonuses will push buildings suggested as 'mid-rise' under the proposed reform to actually fit into the 'High Rise' category according to the DPHI website as pictured below.

Figure 3: DPHI depiction of 'high rise' buildings in EIE.



Source: Department of Planning, Housing and Infrastructure (2023).

Impact of expanded permissibility and non-refusal standards

Impact on heritage

It is greatly concerning that HCAs and Heritage Items will be subject to the proposed non-refusal provisions. It was initially reported that HCAs would be excluded from the proposed provisions⁸. This confirmation followed much criticism from the development industry and the media and subsequently, following the release of the proposed changes, HCAs and Heritage Items have not been excluded from the proposed reforms. The EIE states:

“All other applicable planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply to the extent they are not inconsistent with these provisions”.

On numerous occasions the DPHI (including at the webinar attended by Council Officers on 31 January 2024) has not clarified its intentions for change in HCAs, however the Transit Orientated Development SEPP (TOD SEPP) which proposes the same standards (with the only point of difference between RFBs being permitted in all residential zone’s) provides the same text as mentioned above, also includes the following when discussing HCAs:

“The changes proposed will result in significant change in these locations as additional housing is delivered. But it is important to work together to embrace the transition that will occur as the character of these locations evolves.”

Given the TOD SEPP proposes the same standards to be applied in the R1, R3, E1 and MU1 zones in the EIE, it seems evident that the DPHI expects ‘significant change’ to occur in HCAs. Therefore, the retention of dwellings within HCAs would be inconsistent with the new standards and is likely to lead to the widescale demolition of heritage across Greater Sydney.

It is also noted that Ministerial Direction 3.2 requires a heritage study to ensure increased densities do not impact on the significance of existing or potential items, areas and objects. The EIE is inconsistent with the Ministerial Direction as no heritage study has been prepared to support the increased densities. On this basis, HCA and Heritage items should be removed as subject to the non-refusal standards in the EIE.

Heritage places like those identified in Waverley’s LEP Schedule 5 list are a non-renewable resource that contribute to sense of place. They enrich local environments and support jobs and investment through heritage trades and tourism Waverley retains a highly prized and high-density identity thanks to its heritage character. People want to live in the LGA because its heritage housing stock is characterful and high-quality. The push for rapid change and planning reform, ignores the fact that the most densely populated suburbs are also often heritage conservation areas.

Impacts of proposed non refusal standards

The proposed non-refusal standards are likely to result in negative un-intended outcomes for developments, neighbouring suburbs and the general surrounding areas.

⁸ [*The untouchables: swaths of Sydney protected from Labor’s-housing intervention - Sydney Morning Herald, 2023*](#)

Residential Flat Buildings and Shop Top Housing

Some of the key issues that the EIE has not adequately considered, particularly as it relates to residential flat buildings and shop top housing include:

- Orientation, topography, lots sizes, lot width and configuration.
- Main street character, street walls, setbacks and transition edges.
- Siting of building heights to allow maximum solar access to existing and proposed open spaces and school playgrounds.
- Prevalence of existing strata titled buildings as a barrier to re-development.
- Transitions between building heights in the centres.
- Building height transitions to the low-rise suburban neighbourhoods, commercial main streets and places of historic significance.
- Consideration of employment needs and the ability for centres to achieve identified job targets.

Council has serious concern with the non-refusal standards, particularly; lack of minimum lot width and lot size combined with the proposed building heights and very large floor space ratio (in particular the proposed FSR of 3:1). These factors will result in negative outcomes as it relates to the following issues:

- Apartment mix (i.e. appropriate combination of studio, 1 bedroom, 2 bedroom and 3 bedroom).
- A likely strong prevalence on smaller sites of boundary-to-boundary developments with incredibly large side walls and no side setbacks.
- Poor internal amenity for residents due to poor apartment configuration (i.e. inadequate cross ventilation, solar access and natural lighting).
- An interface and serviceability of buildings which will result in frontages dominated by driveways and an inadequate waste storage and collection outcomes. These factors would result in increased pedestrian conflicts and a reduction in pedestrian safety.
- Difficulty in retaining urban tree canopy and the provision of adequate deep soil aligned with the Government's Greener Neighbourhoods program, and recently funded Council Greening strategies.
- Less opportunity to incorporate in sustainability initiatives such as solar panels, water harvesting and passive design principles for thermal comfort.
- Undesirable visual outcomes where in which buildings are out of proportion and consequently do not integrate into their surrounding context and local character.
- Increased impacts on adjacent and surrounding properties in relation to overshadowing, privacy and overlooking and potentially view loss in scenic areas.
- Higher costs per apartment on smaller lots due to inefficiencies such as; higher ratio of external wall to floor space and potential requirements for basement traffic controls and turntables or car stackers.

To highlight some of the issues that may result, Council has undertaken an urban design modelling exercise Appendix A. This document provides an overview of some of the impacts that may result in different subject areas considered.

Changes in the R2 zones

The proposed non-refusal standards represent a departure from Council's current controls in the R2 zone as it relates to permissibility, floor space ration and minimum lot sizes. Council has concern with the introduction of mandatory permissibility of the proposed land uses and believes that councils should be given the appropriate opportunity to investigate if introducing such changes are appropriate and if so, develop controls which suit the LGA.

Notwithstanding, Council has reviewed the proposed non-refusal standards and identified the following specific issues:

- The proposed minimum lot size of 450 square metres for both detached and attached dual occupancies is problematic. For detached dual occupancies this minimum lot size is too small and has the potential to result in narrow, longer floorplates which compromise rear setbacks and therefore does not adequately provide for appropriate deep soil and private open space.
- The minimum lot width of 12m for Manor Houses is not wide enough to accommodate appropriate rear setbacks and therefore doesn't adequately provide for appropriate deep soil and private open space.

Potential application of 'pattern book' complying development

It is also noted that:

The NSW Government is developing a pattern book of endorsed building designs that can be used to guide the creation of new housing and that the collection of designs will be for low-rise housing and mid-rise apartment buildings of up to 6 storeys. Developers who use the pattern book will have access to an accelerated approval pathway. This means builders can get on site faster, and people can move into new homes sooner⁹.

It is currently proposed that low-rise housing using the pattern book will be considered complying development, but mid-rise housing will still be determined by councils. Council cautions against any substantial changes to complying development and suggests that scrutiny of proposed development via the development application process results in better, more appropriate outcomes that align with Council's well considered, contextual local planning controls.

No genuine affordable housing outcomes

The increases in development potential for sites will ultimately increase land value. Research from the Reserve Bank of Australia (RBA) who is often critical of council planning controls, suggests that land values relating to uplift of a similar scale proposed in these reforms can result in an increase upwards of 150%¹⁰. Given the proposed standards seek to essentially rezone large swaths of land across the Six Cities Region, much of which won't be able to be developed in the short term for reasons outlined in this document (lack of trades people, interest rates etc.) the Government will in the short term effectively be driving up land prices across an enormous number of properties in New South Wales. Given the large-scale application of proposed reforms, the increase value uplift for property owners will be astronomical.

⁹ [Pattern book of housing design – DPHI, 2023](#)

¹⁰ [The Effect of Zoning on House Prices – Reserve Bank of Australia, 2018](#)

Unlike the TOD SEPP (which proposes a very minor 2% contribution to affordable housing for 31/38 train stations), there is no proposal to levy affordable housing contributions for uplift sites. This will genuinely undermine councils affordable housing contribution schemes and provides no genuine public benefit from the increased property values beyond additional dwellings, none of which are guaranteed to be affordable.

Impacts on employment generating floorspace

The increased residential densities do not consider the potential loss of employment generating floor space. While Council has an additional local provision in place to maintain the amount of non-residential floor space in the MU1 Mixed Use zone in Bondi Junction, this does not apply to our other E1 centres which may be affected by the proposed reform. The Ministerial Direction 7.1 requires an employment study to ensure increased densities do not reduce the total potential floor space area for employment uses and related public services in employment zones. The EIE is inconsistent with the Ministerial Direction as there is no employment lands study or economic analysis to support the increased densities and determine the appropriate quantum of employment floor space.

4. Consultation

Engagement with Councils

Throughout 2023 Local Government New South Wales (LGNSW) actively requested the State Government work with councils more closely^{11,12}, however based on the approach of recent policy announcements and changes this does not appear to be the case. Although Council has the ability to provide feedback on the EIE, the DPHI have confirmed it is highly unlikely Council will have the ability to comment on the draft SEPP, the most important component of the proposed changes. Accordingly, it is recommended the DPHI better engage with councils both and LGNSW.

Engagement with affected landowners

When councils undertake precinct plans and upzone or rezone large areas of land, typical engagement involves notification of affected landowners (and surrounds) as well as other engagement activities such as presentations and community workshops. The State Government itself often requires a level of engagement as part of its Gateway conditions relating to Planning Proposals yet it appears the most minimal engagement is being conducted as part of the proposed reforms, despite the potential large impacts it may have.

5. Conclusion

In conclusion, the following major concerns are raised in relation to the proposed changes outlined in the relation to the EIE, which:

- Undermines strategic planning in the six cities region and in Waverley.
- Is supported by no evidence including modelling on population increases, urban design outcomes, infrastructure demand or anticipated take up and subsequent dwelling yields.

¹¹ [Housing Crisis Solution Must Involve Councils - LGNSW, 2023](#)

¹² [Councils Seek Continued Engagement Over High Density Planning Decision - LGNSW, 2023](#)

- Does not deliver any real outcomes to improve housing affordability (such as the provision of an increase supply of social and affordable housing).
- Proposes a 'one-size-fits-all' approach that undermines local planning, community participation and local decision making and does not consider infrastructure capabilities and conditions.
- Undermines heritage values via the introduction of development standards which conflict with the retention of existing buildings and landscape value.
- Proposes non-refusal standards (including no minimum lot sizes or width for residential flat buildings and shop top housing) which may result in negative outcomes such as loss of privacy, overshadowing, view loss and reduced tree canopy.
- Has not been supported by appropriate public awareness and community consultation.
- Insufficiently considers environmental impacts which will transfer the costs of merit assessment and development appeals to local councils.

It is recommended that any decision on the EIE be deferred to allow improved consultation with councils, such that a strategy led approach to addressing future housing need is incorporated into existing strategy documents such as the Regional and District Plans, and local Housing Strategies.

Waverley Council Submission: Appendix A

Explanation of Intended Effect: Changes to create low and mid-rise housing.

Potential urban design outcomes.



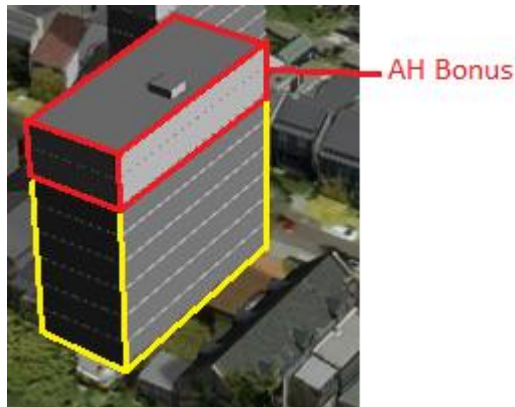
Introduction

This document has been prepared to show how the proposed non-refusal standards and changes to the Apartment Design Guide (ADG) may be implemented in the Waverley Local Government Area. The examples consider;

- proposed and existing provisions in the ADG,
- how the ADG has generally been applied with flexibility as a guideline,
- built form examples based on real approved applications, and
- the proposal in the EIE that other standards in its Local Environmental Plan (LEP) and Development Control Plan (DCP) cannot be inconsistent with the proposed non-refusal standards.

All examples factor in the proposed standards as well as the availability to apply the in-fill affordable housing provisions of 30% height and floor space ratio. These bonuses are differentiated by a different colour of grey as explained in *Figure 1*. This document should be read in conjunction with Council's submission which outlines high level feedback and concerns relating to the proposed non-refusal standards.

Figure 1: Explanation of visual application of affordable housing bonuses throughout document.



Examples include areas in Waverley such as; Mill Hill Heritage Conservation Area in Bondi Junction, Botany Street Conservation Area in Bondi Junction, Charring Cross Conservation area in Waverley, O'Brien Street in Bondi Beach and Bondi Beach Conservation Area in Bondi Beach.

1. Bondi Junction

Mill Hill Heritage Conservation Area

Overview

The Mill Hill Heritage Conservation Area comprises streetscapes, residential and retail structures recording the aesthetic character and qualities of late 19th and early 20th Century consolidation of Bondi Junction as a commuter suburb based upon improvements in transport and the rapid expansion of suburban Sydney between 1880 and 1915. Narrow fronted deep allotments are occupied by one and two storey terrace rows of late Victorian styles interspersed with grouped and single examples of worker cottages these appearing as the earliest forms of remaining residential construction. Later semi-detached and single storey attached houses of Federation style combined with retail shops featuring post supported and cantilevered awnings and ecclesiastical buildings complete the streetscapes. Residential and limited retail and other service buildings from the period 1880-1915 remain substantially intact within the Conservation area.

Existing planning controls limit the building heights to 8.5m which aligns with the existing character that proposes to be conserved. Building heights in areas adjacent and surrounding the HCA have typically been designed to provide an appropriate transition of scale. Existing building heights and floor space ratio facilitate upgrades and alterations and additions of existing built form (for example allowing a modern extension to be placed at the rear of the property, additional bedrooms to be added to accommodate more occupants for growing families etc.).

The Mill Hill HCA is included in the current proposed definition relating to both 'station' and 'town centre' precincts. Proposed standards would be 21m (27.3m with AH bonuses) and an FSR of 3:1 (3.9 with AH bonuses) for Residential Flat Buildings in the R3 Medium Density Zone. More than triple existing controls.

Discussion of impacts

The proposed standards are substantially inconsistent with the existing built form that Council seeks to preserve and enhance. Given the existing built form is not generally considered to be able to be incorporated into a new development of the scale being proposed due to the impracticalities of such a design, it is likely that the retention of existing built form would not be consistent with the proposed standards and could result in demolition on a widescale nature if there is a large uptake in the area.

In addition, given the very small lot sizes that exist and the lack of proposed minimum lot sizes, any small size development will result in:

- Suboptimal outcomes for internal amenity of any new development.
- Developments that do not align with the character of existing built form in the conservation area.
- Substantial suboptimal outcomes for the amenity of neighbours, including - given the north south street orientation (east -west lot orientation), severe overshadowing, as well as other impacts relating to privacy and overlooking.
- Loss of existing tree canopy due to the need to try and accommodate sufficient basement parking in such a small area.

Figure 2: Aerial perspective looking southwest with isolated development examples.



Figure 3: Aerial perspective looking southwest with further realisation of proposed development standards.



Figure 4: Aerial perspective looking west with isolated development examples.

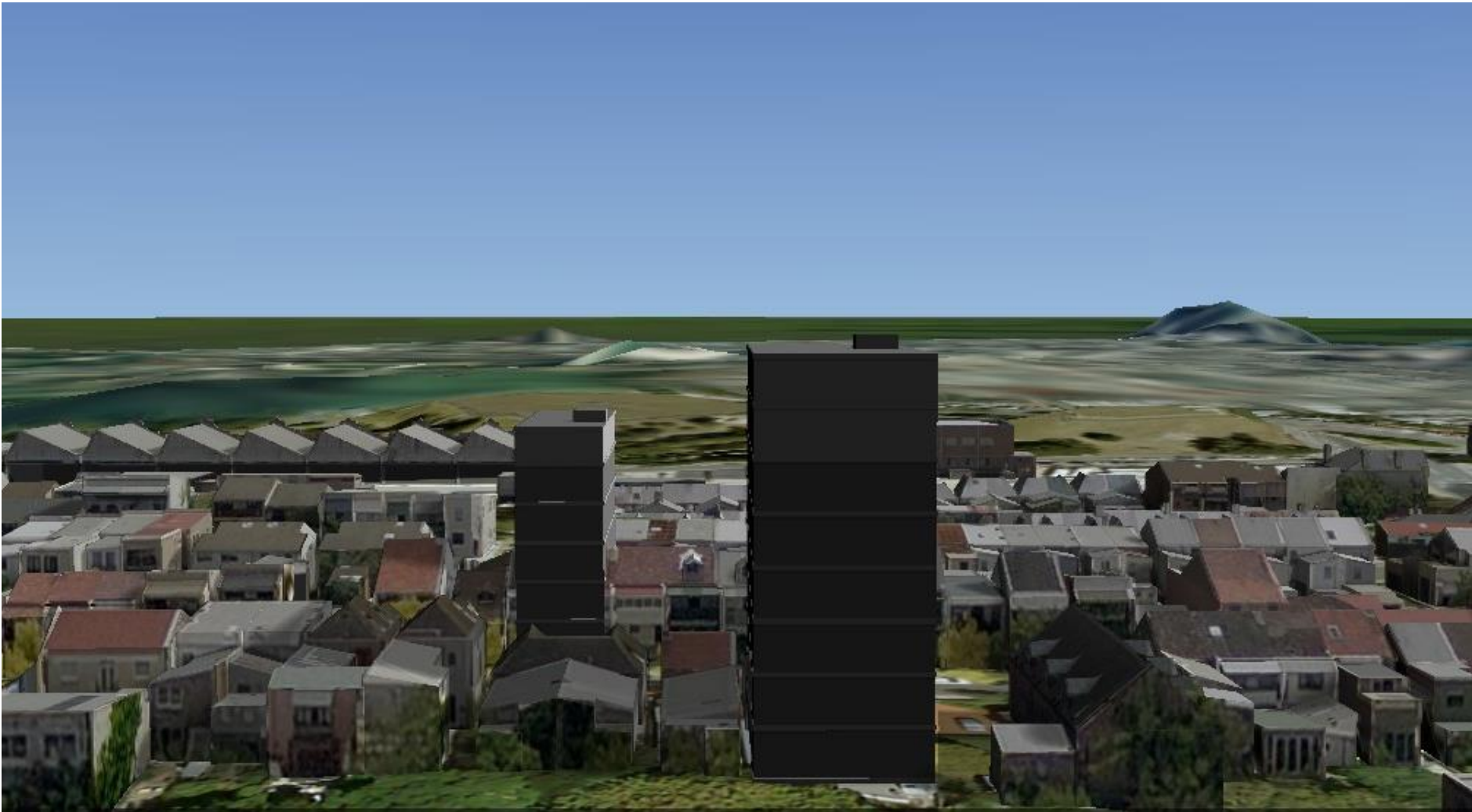
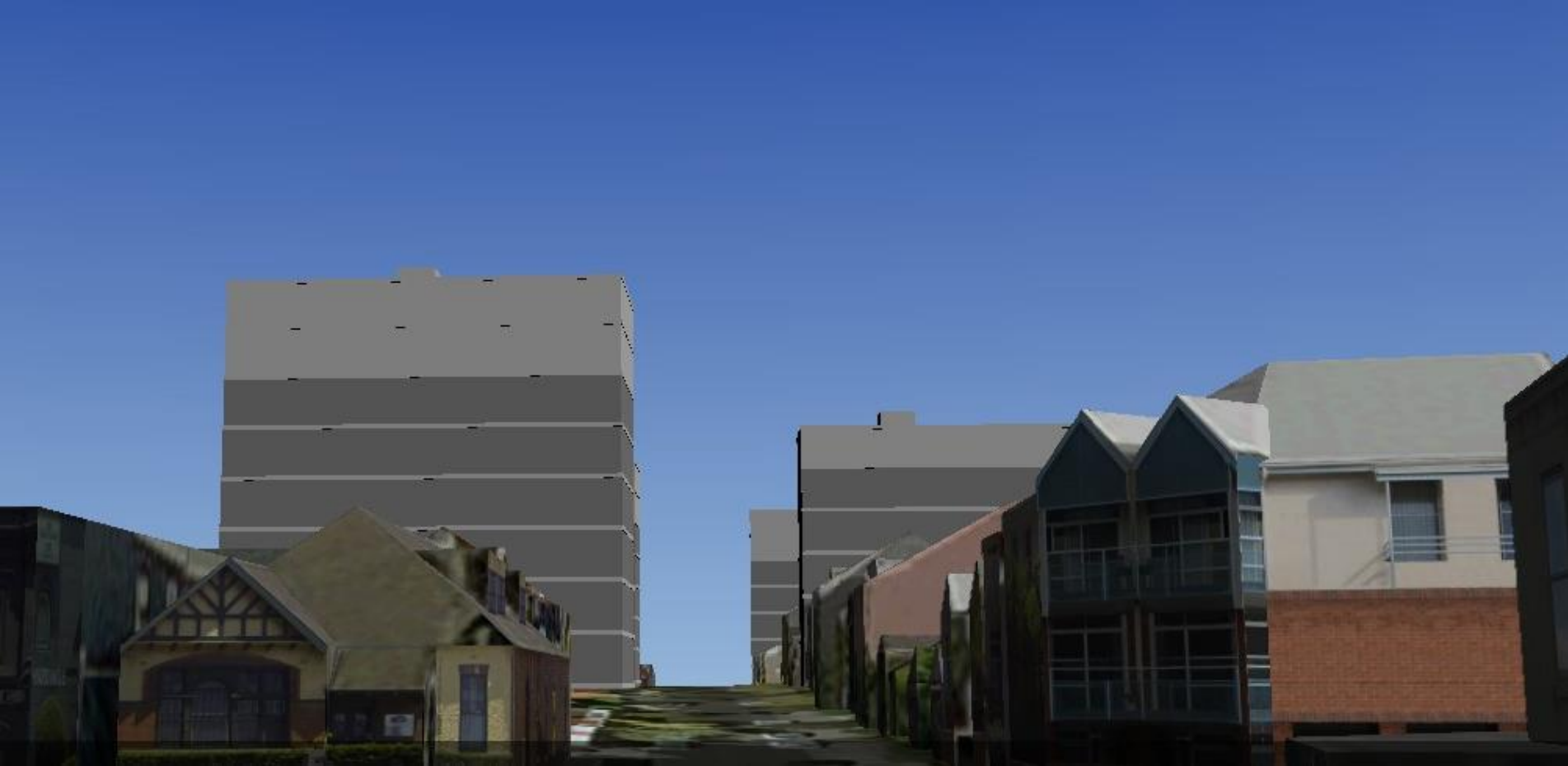


Figure 5: View from the corner of Mill Hill Road and Oxford Street looking south with isolated examples.



Botany Street Heritage Conservation Area

Overview

The urban form of the Botany Street Heritage Conservation Area is result of late 19th and early 20th Century subdivision and the building streetscape is diverse and although buildings are not consistent to adjoining developments, they form a cohesive streetscape combining a variety of styles, materials and distribution of buildings along the street. The conservation area includes representative examples of varied styles from Victorian filigree through the Inter War Art Deco. The area retains notable streetscapes, characterised by the width of road easements and the quality of residential groupings and also contains a substantial of individually listed items.

Existing height limits in the area are of 12.5m with an FSR of 0.75:1, this is based on the maximum existing built form of 4 storeys, predominantly characterised by inter-war flat buildings. This height limit allows sufficiently for changes in the area which are complementary in scale and form to its heritage character. The Botany Street HCA is included in the current proposed definition relating to both 'station' and 'town centre' precincts at a walking distance of 0-400m. Proposed standards would be 21m (27.3m with AH bonuses) and an FSR of 3:1 (3.9 with AH bonuses) for Residential Flat Buildings. This represents a substantial increase and is more aligned with the controls present R4 High Density Residential Zone which exists to the north of the Botany Street HCA on the northern side of Llandaff Street and bound by Waverley Street, Waverley Crescent and Pine Lane which has a maximum height limit of 28m and an FSR of 2:1.

Discussion of impacts

The proposed standards are substantially inconsistent with the existing built form that seeks to be preserved. Given the existing built form is not generally considered to be able to be incorporated into a new development of the scale being proposed due to the impracticalities of such a design, it is likely that the retention of existing built form would not be consistent with the proposed standards and could result in demolition of a widescale nature if there is a large uptake in the area.

In addition, as is the case in Mill Hill given the predominantly smaller lot sizes that exist and the lack of proposed minimum lot sizes, development has the potential to result in:

- Suboptimal outcomes for internal amenity of any new development.
- Development that does not align with the character of existing built form in the conservation area particularly the low-rise medium density components (such as terrace houses) and some of the low-rise low-density examples (such as bungalows).

- Substantial suboptimal outcomes for the amenity of neighbours, including overshadowing, as well as other impacts relating to privacy and overlooking.
- Loss of existing tree canopy due to the need to try and accommodate sufficient basement parking on smaller sized sites.

Figure 6: View from above Llandaff Street looking South with further realisation of proposed development standards.

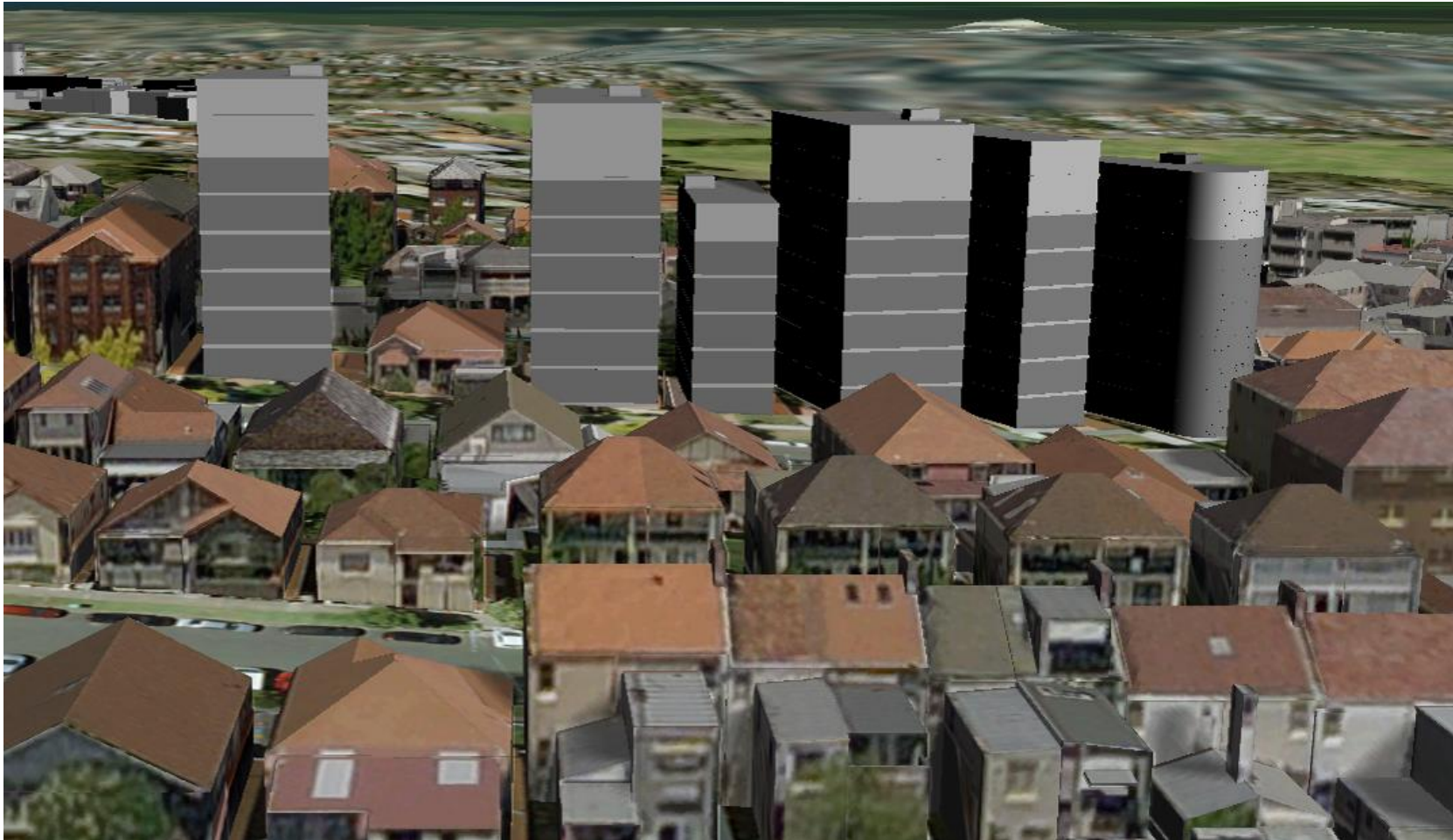


Figure 7: View from the corner of Allens Parade and Hollywood Avenue looking East with isolated development examples.



2. Waverley

Charring Cross Heritage Conservation Area.

Overview

The Charring Cross village centre is characterised by two storey retail facades of late Victorian, Federation and Inter War styles interspersed with rare early Victorian shop and residential forms and later Post War development. Peripheral streets exhibit a two-storey character with near complete rows of late Victorian and Federation Style terraces and a small number of interwar and Art Deco apartments. A number of large freestanding Victorian residences remain generally altered or within educational campuses. Buildings are of face brick, stone and rendered masonry with decorative plaster and iron filigree detailing. Earlier worker housing provides examples of vernacular and Mid-Victorian forms in timber and stone. The area contains rare examples of main Street village structures of the mid-19th Century together with rare examples of ecclesiastic architecture notably the Renaissance Styled Mary Immaculate Church.

The centre has an existing E1 Local Zoning, predominantly with a height limit of 9m and an FSR of 1:1 which aims to conserve the high quality existing built form whilst facilitating commercial outcomes and a small amount of shop top housing. The proposed standards for this area sit within the 400-800m walkable area from the MU1 Zone meaning shop top housing could achieve 16m (20.8m including AH bonuses) and an FSR of 2:1 (2.6:1 with AH bonuses), substantially above and beyond the existing controls.

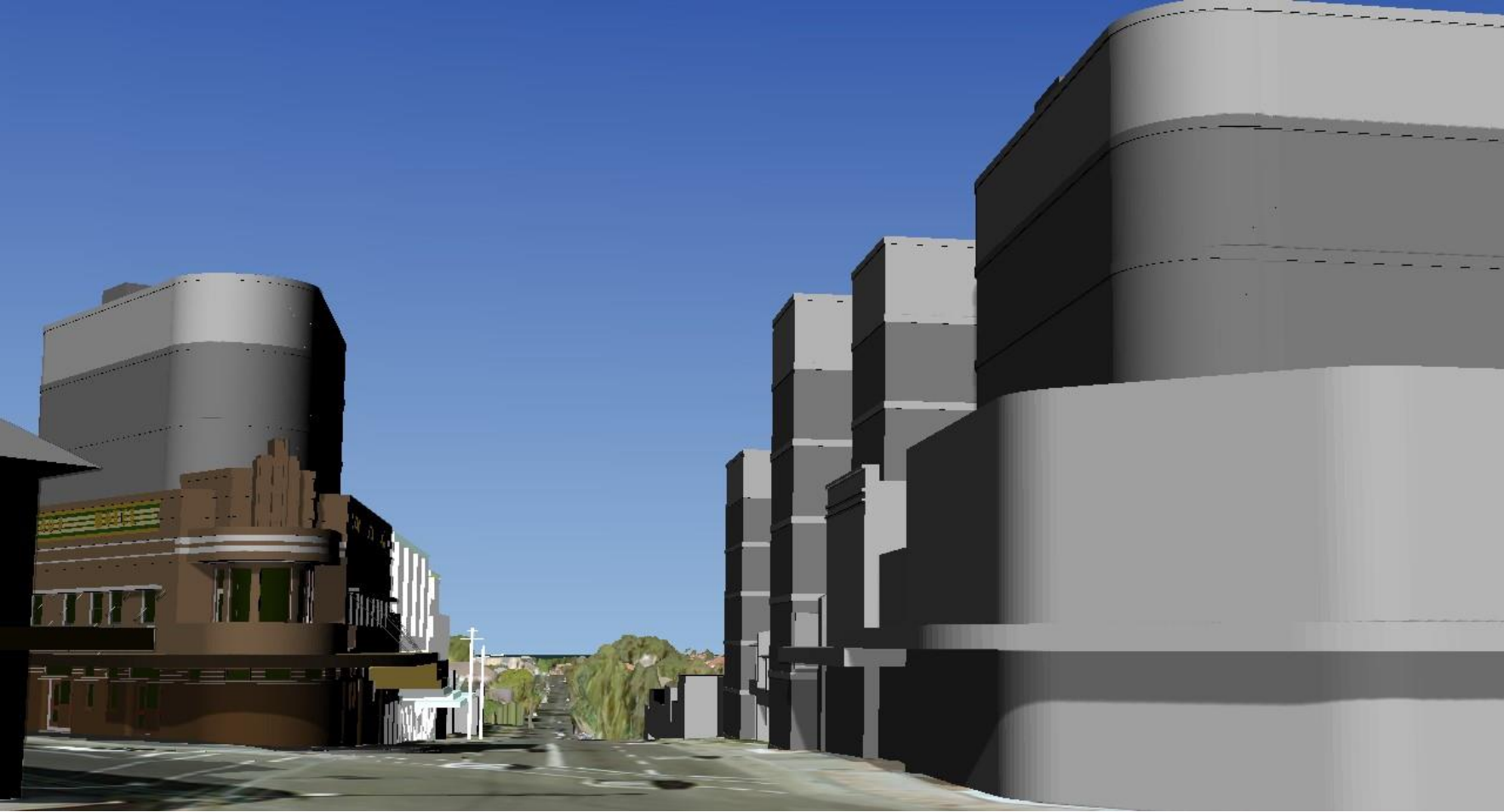
Discussion of impacts

Council does not have a full context visual model of existing built form Charring Cross so the ability to model impacts on existing built form is slightly limited. As such only one example has been provided which shows the context of the existing heritage listed Robin Hood Hotel.

The impacts on Charring Cross would greatly undermine a conservation area that as described is considered to contain rare examples of a consistent village setting with high quality architecture. Charing cross is the second oldest shopping street in Sydney. Council previously considered two planning proposals for a site within this area which proposed standards less than what is proposed by the EIE. Both planning proposals were refused and in one instance, a proponent contested the decision and was unsuccessful at a rezoning review.

Impacts would be of a similar nature described in other subject areas within this document, however of particular concern would be the substantial impact on the built heritage. The example considers the retention of at least the façade on two heritage items (Robin Hood Hotel and Charring Cross Hotel) and more substantial redevelopment/demolition of other sites pictured.

Figure 8: View of Carrington Road looking south with further realisation of proposed development standards.



3. Bondi Beach

O'Brien Street

Overview

Bondi Beach does not specifically align with the proposed definition of 'town centre precinct', however should the proposed changes go ahead with a change or broadening to the definition, or an applicant successfully argue it meets the constituted definition, these standards would apply. As such potential impacts have been investigated in this area.

The area analysed in O'Brien Street is not contained within a current HCA but forms part of the proposed O'Brien Estate HCA, part of a planning proposal which had been lodged with the DPHI currently under assessment. The subject area and surrounds include streets terraced across the south-western slopes of the Bondi Valley with streets on the valley floor aligned with the original boundaries of the former O'Brien Estate. Streets typically provide long perspectives, emphasised by cohesive building forms being substantial groupings of Federation-era freestanding and semi-detached residences interspersed with two- and three-storey Inter-War residential flat buildings and freestanding bungalows.

The illustrated area is zoned R3 Medium Density Residential and is the end of the R3 zoning, before R2 Low Density Residential Zoning is present adjacent on Lamrock Avenue. The subject area currently has a height limit of 8.5m, consistent with the existing built form. Across the street height limits are 12.5m (consistent with a large amount Waverley's R3 zoned areas), with a 13m height limit present closer to the Bondi Beach E1 Local Centre Zoning to facilitate ground floor commercial outcomes. Existing floor space ratio is 0.6:1, increasing again across the street to 0.9:1 and 2:1 in the Bondi Beach E1 Local Centre.

Discussion of impacts

Similarly, to the Mill Hill HCA, given the smaller lot sizes that exist and the lack of proposed minimum lot sizes and lot widths, any development on small lots will result in:

- Suboptimal outcomes for internal amenity of any new development.
- Poor transitional of scale with the adjacent R2 zoned area where in which an 8-storey building may be built adjacent to a single storey semi-detached house.
- Substantial suboptimal outcomes for the amenity of neighbours, including increased overshadowing, as well as other impacts relating to privacy and overlooking.
- Loss of existing tree canopy due to the need to try and accommodate sufficient basement parking in such a small area.

Figure 9: Aerial view of the corner of Lamrock Avenue and O'Brien Street looking south with isolated examples.

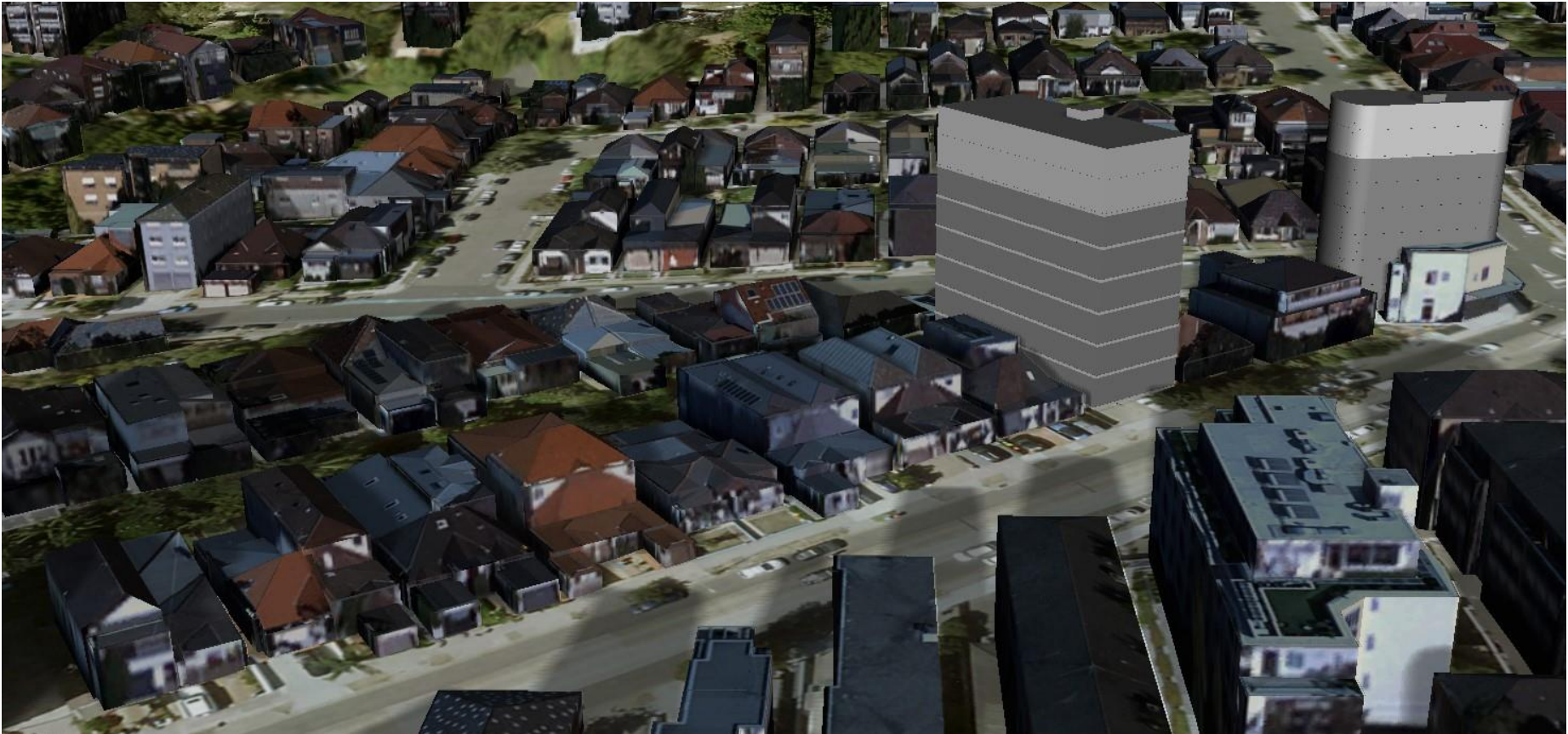


Figure 10: Aerial view of the corner of Lamrock Avenue and O'Brien Street looking south with further realisation of proposed development standards.



Bondi Beach Heritage Conservation Area

Overview

Bondi Beach does not specifically align with the proposed definition of ‘town centre precinct’, however should the proposed changes go ahead with a change or broadening to the definition, or an applicant successfully argue it meets the constituted definition, these standards would apply. As such potential impacts have been investigated in this area.

The Bondi Beach HCA has historic, social and aesthetic significance as a cohesive and well detailed streetscape in a beachside setting. The Inter-War streetscape along Campbell Parade is largely intact and is unique for a beach setting. The historic pattern of transport has concentrated mixed use buildings with shop fronts and restaurants to the south, buildings here have retained the forms and detail of late Federation and early War revival styles. Later development at the northern end of Campbell Parade has limited retail shop fronts and is dominated by apartment buildings of later Inter War Art Deco and Functionalist Styles. More recent apartments are of later 20th Century Style.

The illustrated area is zoned E1 Local Centre, having recently been rezoned from the former B4 Mixed Use zoning, to better reflect the centres hierarchy and uses. The subject area currently has a height limit of 15m, consistent with the existing built form although there are some exceptions where buildings exceed the height limit along Campbell Parade. Existing floor space ratio is 3:1 consistent with what is proposed in the EIE. Existing controls aim to facilitate the retention of the existing heritage character or to ensure that any alterations and additions are sympathetic to existing and surrounding built form.

Discussion of impacts

It would be anticipated that given the substantial profits to be made through increased opportunities for ocean views from apartments facing southeast, any new standards would substantially incentivise development which could have the proposed negative outcomes:

- Potential suboptimal design outcomes relating to existing heritage character or demolition due to inability to incorporate new development into existing built form (this has already occurred on a number of sites in Bondi Beach).
- Impacts on the largely intact interwar streetscape which contributes greatly to the state and nationally listed Bondi Beach Cultural Landscape.
- Substantial increased view loss due.
- Reduction in solar access to neighbouring properties and to pedestrian and outdoor dining areas.
- Loss of older existing modest shop-top housing units, replaced with larger luxury more expensive units.

The examples provided below has incorporated new development into existing structures and facades, however, as noted above this may not always be possible.

Figure 11: Campbell Parade looking North – further realisation of development.

