

PLANNING PROPOSAL TO AMEND
WAVERLEY LOCAL ENVIRONMENTAL PLAN 2012
AMENDMENT 1.
Macpherson and St Thomas Streets Bronte
Neighbourhood Centre

1. OBJECTIVES or INTENDED OUTCOMES of the PROPOSED LOCAL ENVIRONMENTAL PLAN

- A. To implement the adopted outcomes of the Macpherson and St Thomas Streets Bronte review of planning controls.
- B. To amend the zoning of a specific site to more accurately reflect its current use.
- C. To include a local planning provision to establish a limit on the size of Retail Premises in the Macpherson and St Thomas Streets Bronte Neighbourhood Centre that will give greater weight to the zone objectives and better reflect community expectations.
- D. To include an additional permitted use on the site of the Bronte RSL Club to encourage the continuance of this important social facility.

2. EXPLANATION of the PROVISIONS to be INCLUDED in the PROPOSED LOCAL ENVIRONMENTAL PLAN

Council considered a report on this matter at its meeting of 19th February 2013 (appended as Attachment “E”) and resolved to prepare this Planning Proposal. A copy of this resolution is appended as Attachment “F”

The proposal involves three individual amendments to Waverley Local Environmental Plan 2012 (WLEP 2012) as described below.

A. 107 Macpherson Street Bronte

- i. Amendment of WLEP 2012 Land Zoning Map in accordance with the proposed zoning maps appended as Attachments “A” and “K” which

amend the zoning of 107 Macpherson St Bronte from B1 Neighbourhood Centre to R3 Medium Density Residential.

- ii. **Explanation:** This site is occupied by Oceanview apartments which has been used primarily as a strata titled residential flat building for many years. It is very unlikely to be redeveloped to another use. As such the current zoning, being B1 Neighbourhood Centre is considered inappropriate. The zoning is proposed to be changed to R3 Medium Density Residential to reflect its ongoing and long standing use and consistency with the zoning of adjoining sites to the west.

B. Bronte RSL Sub Branch Club Site

- i. Amendment of WLEP 2012 Schedule 1 Additional Permitted Uses to allow "Registered Club (Bronte Returned Services Club only)" on the site of 113 Macpherson Street being Lots 19, 20 & 21 in DP192094 and Lot 22 in DP 72912 identified in Attachment "B" in addition to the uses permitted under the B1 Neighbourhood Centre zone as shown in Attachment "C".
- ii. **Explanation:** The RSL Club is a long standing non conforming use in the B1 Neighbourhood Centre zone. There is an expectation in the community and from the land owner for the Bronte RSL Club use to continue. The Bronte RSL club has been trading on the site since 1946.

The B1 Neighbourhood Centre zoning of the site prohibits registered clubs.

While the RSL club could apply to continue to operate under 'existing use rights', an alternative to existing use rights is to list the club as an allowable use on 113 Macpherson Street under Schedule 1 Additional Permitted Uses. This would:

- extinguish existing use rights;
- indicate Council's willingness to accept the club use on the site without expanding it to other sites within the B1 neighbourhood zone;
- give some certainty to the developer;
- set a precedent for other clubs within the LGA; and
- not allow other registered clubs to trade on the site which may be undesirable.

With certainty that the use can continue, the club will be able to continue to provide a service to veterans and ex-service men and women and the

local community will continue to benefit from a meeting place for social gatherings that provides affordable meals and entertainment.

C. Macpherson and St Thomas Streets Bronte Neighbourhood Centre

- i. Amendment of WLEP 2012 with the inclusion of an additional local provision in Part 6 – Additional Local Provisions, of the instrument as set out below and applying to the land identified in Attachments “D” and “L”:

6.7 Maximum area of retail premises in Bronte's Macpherson Street and St. Thomas Street neighbourhood centre

(1) The objectives of this clause are as follows:

- to quantify the maximum floor area of small scale retail in neighbourhood centres containing large amalgamated sites,
- ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises,
- to protect the integrity and viability of existing centres, and
- to respect the retail hierarchy of centres within the local government area.

(2) This clause applies to land located in Bronte's Macpherson Street and St. Thomas Street neighbourhood centre as shown on the Key Sites Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the Gross Lettable Area Retail of the retail premises does not exceed 400 square metres.

(4) For the purposes of this clause Gross Lettable Area Retail (GLAR) is defined by the Property Council of Australia as the aggregate of floor area contained within a retail tenancy including the thickness of external walls for single tenant buildings and half internal wall thickness for multiple tenancy buildings. Included in GLAR are window mullions and frames, structural column, engaged perimeter columns or piers, fire services and additional facilities for tenants if they are within the area of lease. Excluded from GLAR are areas set aside as public spaces, thoroughfares, accessways, fire and service passages, loading docks, toilets, stairs, utilities, lift shafts, plant rooms, etc where they are not used for the exclusive use of any one tenant. GLAR excludes balconies,

awnings, terraces and other outdoor areas and internal areas where the ceiling height is below 1.5m.

- ii. **Explanation:** Three of the most pressing issues resulting from community consultation were:
- Traffic generation as a result of the RSL site being developed as proposed by the developer (approx. 1248sqm retail, RSL club and 28 residential units). This includes issues with traffic, parking, loading and access to the site.
 - The effect on the amenity of the surrounding environment if a retailer (as proposed by the developer of the Bronte RSL) opens in the neighbourhood centre.
 - The majority do not want to see more or other types of development because there is enough retail, the centre is dense enough and buildings are at the right height.

Retaining the existing zoning and restricting the area of retail premises within the neighbourhood centre (by addition of a new control) would:

- Address several issues raised by the community;
- retain the existing long standing zoning which has been in force since at least 1985;
- retain the existing range of permissible uses;
- reinforce the objectives of the B1 neighbourhood centre zone;
- retain the hierarchy of centres within the LGA. Waverley's higher order retail centres are located on major bus or train routes and usually surrounded by higher density residential. The closest is located at Charing Cross (9 bus routes). Bronte's Macpherson and St. Thomas Street centre is serviced by one bus route (378) and surrounded by mainly low density residential; and
- reduce potential traffic generation.

The Council commissioned local village centres economic assessment by Hill PDA in 2006 recommended that a mini-mart anchor tenant for Bronte's Macpherson Street centre with an area up to 500sqm would be appropriate. It would enhance the viability of the centre and comply with the objectives of the zone. Examples of other mini-marts within the locality, their associated areas (approximate areas only) and the hierarchy of each relevant centre as outlined in the East Subregion Draft Subregional Strategy and applied to Waverley are listed below:

- IGA, Hall Street, Bondi - 400sqm – Town Centre
- IGA, 124 Curlewis Street, Bondi – 400sqm – Town Centre
- Foodworks, 1-5 Dover Road, Rose Bay – 700sqm – Small Village

- Foodworks, 43 Burnie Street, Clovelly – 400sqm (located within Randwick LGA) – Neighbourhood Centre
- 137 – 147 Kemeny's, Bondi Road, Bondi – 900sqm – Small Village
- Thomas Dux, Five Ways, Glenmore Road, Paddington – 450sqm – Neighbourhood Centre
- Harris Farm Bondi Junction – approximately 1000sqm – Major Centre

In January 2013 Council Officers engaged Hill PDA to review their 2006 study and recommend an appropriate maximum retail area. The Hill PDA review stated that construction of the proposed Bronte RSL redevelopment (1000sqm specialty fruit shop) would elevate the role of the centre to one more akin to a 'Village Centre' based on the draft East Subregional Strategy definition. This is by virtue of the extended trade area which the centre would serve if the proposed development were implemented.

The closest 'Small Village Centre' is Charing Cross, less than a kilometre away. It contains many more shops, closer to a larger population catchment and is served by 9 bus routes. Bronte's MacPherson and St. Thomas Street neighbourhood centre is located in a low density residential area, serviced by one bus route and is very unlikely to attract more in the future. Regardless, without a revised retail hierarchy study and provision of a better public transport system the centre should not be considered for intensification to that of a Small Village Centre.

3. JUSTIFICATION FOR THOSE OBJECTIVES, OUTCOMES and PROVISIONS and the PROCESS FOR THEIR IMPLEMENTATION

A. Need for the Planning Proposal

1. Is the Planning Proposal the result of any strategic study or report?

Waverley LEP 2012 was exhibited over October and November 2011 and became effective in October 2012. The need for this current planning proposal arose from submissions made during the exhibition of the comprehensive LEP but required considerable analysis and consultation with the local community to resolve. Over the course of the last six months, the following analysis and consultation took place:

Council engaged Olsson & Associates Architects to:

- consider the urban design issues in the MacPherson Street and St Thomas Street Neighbourhood Centre, focusing upon the Bronte RSL Club site;

- identify the existing character of the area;
- examine the appropriateness of the current controls for the neighbourhood centre;
- prepare a power point presentation and present it at the Council run community workshop held at Bronte RSL on 24th October 2012;
- attend the developers' information session on 1st November 2012 held at the Bronte RSL, as an observer only;
- make any recommendations regarding revisions and or refinements to the controls;
- recommend building envelopes for the Bronte RSL Club site that reinforce the character of this Neighbourhood Centre;

The key recommendations of the Consultant Architect's report (appended as Attachment "G") are that:

- The objectives of the B1 Neighbourhood Centre zone in Waverley LEP 2012 regarding commercial premises provide guidance for the size of shops and businesses permissible in the study area. For sites zoned B1 Neighbourhood Centre, land uses such as Neighbourhood Shops, Retail Premises and Business premises are permitted uses. The LEP objectives for the Neighbourhood Centre include providing a range of small scale retail, business and community uses. While Neighbourhood Shops in the LEP are limited to a maximum area of 80sqm, it does not however limit the area of Business Premises or Retail Premises. It is recommended that the permissible land uses for the sites zoned B1 be reviewed to ensure that the objectives in the Waverley LEP 2012 are achieved.
- The Waverley LEP 2012 Height of Building control for the Bronte RSL Club site of 13m and the Floor Space Ratio control of 1:1 are appropriate
- The Waverley DCP 2012 height controls of 4 storeys are appropriate
- The Waverley DCP 2012 height control is expressed as a cross section with a 45 degree angle to create upper floor set backs from Chesterfield Lane. It is recommended that the angle be reduced to 32 degrees, the sun angle at noon in mid-winter, to minimise overshadowing of properties to the south of Chesterfield Lane.
- The Waverley DCP 2012 cross-section control does not describe setbacks from side boundaries. This report recommends setbacks at upper building levels from side boundaries to retain amenity to residential buildings on both sides of the site boundaries
- Continuous small scale shopfronts on MacPherson Street with vehicular access from Chesterfield Lane are supported. It is recommended that the DCP restrict vehicular crossings on MacPherson Street.

This Urban Design Analysis report was complemented by a traffic and parking peer review prepared by GTA Consultants.

Council engaged GTA Consultants to undertake a peer review of the Traffic and Parking Study supporting the proposed development of the Bronte RSL site at 113 Macpherson Street, Bronte. The developer's *Traffic and Parking Study* was prepared by Varga Traffic Planning Pty Ltd in September 2012 for Winston Langley Burlington.

The peer review prepared by Urbis Pty Ltd comprises a transport impact review of the proposal, safety and amenity impacts of site access from Chesterfield Lane, parking review, a review of loading and servicing and a high-level review of the Economic Impact Assessment for the proposed development.

Based on the Traffic and Parking Review undertaken by GTA, the following issues were raised:

- Traffic generation
- Passing trade
- Traffic distribution
- RSL Traffic
- Schedule of traffic surveys
- Seasonality of traffic flows
- Traffic impact assessment
- Traffic impacts
- Contribution
- Site access
- Loading dock location and access
- Loading dock capacity
- Chesterfield Lane pavement condition
- Truck manoeuvres
- Truck vertical clearances
- Parking provision
- Parking layout
- Bicycle parking
- Pedestrian facilities

Further investigation on these key issues would need to be undertaken as part of the on-going approval assessment process for any development proposal. Appropriate management plans for off-street car parking and the loading dock would also need to be prepared by the proponent and submitted together with the development application.

A copy of GTA's report titled "Visioning for Bronte's MacPherson and St Thomas Street Neighbourhood Centre (which includes Bronte RSL) - Information Report" is appended as Attachment "H".

Council also engaged Hill PDA Pty Ltd to undertake a review of their 2006 Local Villages Study in relation to the Bronte Neighbourhood Centre. One of the key outcomes of the study is that a development which included a Harris Farm store as proposed by the developer would elevate the centre to "Village Centre" per the

Metro Strategy definition which is contrary to Council's and the community's vision for this local neighbourhood centre.

To gain an understanding of the community's aspirations for the centre, Council held a community workshop (on Wednesday 24 October), hosted an online questionnaire, online forum and accepted submissions.

Council officers had several meetings with community representative groups including the Bronte Precinct Committee, the Save Bronte Village group and representatives of the Oceanview apartments (107 MacPherson Street, Bronte).

The developer held a community information session on 1 November 2012.

In total 2543 interactions were recorded with the community (includes petition signatures). It is assumed that many who attended the community workshop, also filled out the online survey, posted on the forum and sent in submissions.

The most pressing issues resulting from interaction with the community were -

1. Rezone the Bronte RSL site to medium density residential (R3), reduce height limit to 9m, reduce the FSR to 0.6:1
2. Traffic generation as a result of the RSL site being developed as proposed. This includes issues with traffic, parking, loading and access to the site.
3. The effect on the amenity of the surrounding environment if a retailer (as proposed by the developer of the Bronte RSL) opens in the neighbourhood centre.
4. The majority do not want to see more or other types of development because there is enough retail, the centre is dense enough and buildings are at the right height.
5. The majority do not want to extend the neighbourhood centre zoning to allow for more shops because the existing number of shops is seen as sufficient and any increases will cause additional traffic and parking issues.
6. The communities overall vision is to retain the existing village character allowing only low rise development. They would also like to see the provision of community uses.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes. Or is there a better way?

The outcomes of the planning proposal will enact the recommendations of the studies that have been carried out. While a number of amendments will be made to the Waverley DCP 2012 dealing with urban design issues, the only way to amend matters relating to zoning and land use is through an LEP amendment of which this planning proposal is the first step.

3. Is there a net community benefit?

The net community benefit can be defined as follows:

Maintenance and Improvement to Solar Access

The amendments in this Planning Proposal are part of a suite of amendments that also include amendments to DCP controls. The controls detail building envelopes, building alignment, upper level setbacks, side setbacks and awning locations and details. The controls intend to ensure no unreasonable adverse impacts on amenity, privacy and solar access for surrounding dwellings and to facilitate high quality built form which defines the street and is in keeping with the existing and future desired character of the area.

Maintenance of Social Infrastructure

Amendments relating specifically to the Bronte RSL club sites will give the operator/owners of the site certainty that the community supports the use and encourages them to stay. With certainty that the uses can continue, the club will be able to continue to provide assistance to veterans and ex-service men and women; commemoration and remembrance and provision of moral and active support for the Australian Defence Forces. In addition, the local community will continue to benefit from a meeting place for social gatherings that provides affordable meals and entertainment.

Certainty of intended land uses

The community has been adamant and very vocal that this is a local centre which cannot cope with impacts of larger and more intense developments. The proposed cap on the size of retail area will give the community, owners and developers certainty that the community's vision and aspiration for the centre will be retained. The proposed rezoning of 107 Macpherson Street will reflect the current land use and give the apartment owners certainty on the uses to which the site can be put.

B. Relationship to Strategic Planning Framework

1. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The objectives and actions contained in the Sydney Metropolitan Strategy and East Subregion Draft Subregional Strategy (ESDSS) were comprehensively addressed during the preparation of WLEP 2012. All of the objectives and actions contained within those plans were complied with. The amendments contained in Part 2 Sections A, B & C of this Planning Proposal are considered to be a follow-on of the original comprehensive LEP. They are either minor zoning

and land use amendments or strategic in nature in order retain the centre's classification as a Neighbourhood Centre and to give weight to the zone objectives. These amendments are equally consistent with all objectives and actions contained in the Sydney Metropolitan Strategy and ESDSS.

The proposed inclusion of a cap on the size of retail premises on the subject site is designed to retain and not alter the role and function of Macpherson and St Thomas Streets centre as a Neighbourhood centre. In fact it will provide greater weight to the objectives of the zone and give greater certainty to the property owners, developers and community.

2. Is the Planning Proposal consistent with the local Council's Community Strategic Plan or other local strategic plan?

In the preparation of Waverley's comprehensive LEP 2012, detailed consideration was given to Council's Strategic Plan in force at that time "Waverley Together" and the LEP was consistent with the strategies and directions contained in that plan. Waverley Council's current Community Strategic Plan, "Waverley Together 2" covers the period 2010-2022. The plan was designed to focus Council's attention on what the community really wants; provide guidance on achieving these things sustainably; and help maximize efforts to speed up attainment of the vision.

The plan is structured according to the "Quadruple Bottom Line" and three of the four key result areas are relevant:

- Sustainable Communities which represents the "social" component of the quadruple bottom line. Relevant directions include:

C4 - Community support services continue to be targeted to and accessible by those who need them most, including children and young people, older people and people with a disability.

Response – Including "Registered Club (Bronte returned Services Club only)" in Schedule 1 as an additional permissible use on the site of the existing RSL Club will provide support to the RSL Club to continue to plan and deliver services to the community.

- Sustainable Living representing the "economic" component. Relevant directions include:

L4 The unique physical qualities and strong sense of identity of Waverley's villages is respected and celebrated.

Response – Introducing the new local provision to set a cap on the size of retail premises is designed to maintain the Macpherson and St Thomas Street Centre as a Neighbourhood and discourage its escalation. This will maintain the distinct sense of identity for this village centres which is a stated strategy of the Strategic Plan.

- Sustainable Governance representing the “governance” component Relevant directions include:

G2 Our community is consulted about Council decisions and informed about Council services and activities.

Response: Extensive community engagement has already occurred in relation to the urban design review for the Macpherson and St Thomas Street Neighbourhood Centre. The Gateway determination will specify the minimum consultation requirement for this Planning Proposal and Council will comply fully with these requirements affording an opportunity for further community engagement on all aspects of this planning proposal.

3. Is the planning proposal consistent with applicable state environmental planning policies?

This Planning Proposal is consistent with all State Environmental Planning Policy. Attachment “I” identifies all SEPPs (including former SREPs) and indicates compliance with those plans.

4. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

This Planning Proposal is consistent with all but two Ministerial Section 117 Directions where it is considered to be justifiably inconsistent. Attachment “I” indicates compliance with all Section 117 Directions. Attachment “J” contains detailed consideration of all Ministerial Section 117 Directions and provides justification for inconsistency with Direction 1.1 Business and Industrial Zones and 6.3 Site Specific Provisions.

C. Environmental, Social and Economic Impact

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal?

No. The land which is subject to this Planning Proposal does not include any land which contains critical habitat or threatened species populations or ecological communities or their habitats.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. There are no other likely environmental effects as a result of this Planning Proposal. The matters included in Part 2 of this Planning Proposal were the

subject of a comprehensive analysis involving an urban design review, traffic and parking review, economic assessment and community consultation which took into consideration impacts of any future development.

3. How has the Planning Proposal adequately addressed any social and economic effects?

The inclusion of “*Registered Club (Bronte returned Services Club only)*” in Schedule 1 in relation to Bronte RSL club sites will give the operators/owners of the site certainty that the community supports those uses and encourages them to stay.

D. State and Commonwealth Interests

1. Is there adequate public infrastructure for the planning proposal?

The matters contained in this Planning Proposal will have no impact on public infrastructure or demand on existing infrastructure. The overall outcome of this Planning Proposal will be to retain the centres role as a Neighbourhood Centre and discourage its elevation to Village Centre which is what could eventuate if no action was taken. Should that happen, public infrastructure particularly in relation to traffic management and parking could be impacted.

2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gate way determination and have they resulted in any variations to the Planning Proposal?

No consultation with State or Commonwealth Public Authorities has occurred at this stage. Consultation with relevant authorities will occur in accordance with the gateway determination.

4. DETAILS of the COMMUNITY CONSULTATION that is to be UNDERTAKEN on the PLANNING PROPOSAL

Considerable community consultation has already occurred in relation to the whole Neighbourhood Centre and specifically in relation to the Bronte RSL club site. The amendments to the planning controls relating to this site have resulted from Council's consideration of the analysis that took place and in particular comments from the community. Future community consultation will occur in accordance with the gateway determination. Notwithstanding this, Council considers that an exhibition period of 28 days would be appropriate given the interest generated in the Bronte RSL club site to allow the general public to be informed. Council also suggests that:

- Notice be given in the Wentworth Courier being the local paper that services the Waverley municipal area;
- The Planning Proposal being advertised on Council's website;
- The Planning Proposal being exhibited in Council's Customer Service Centre;
- Letters be sent to all affected property owners and adjoining property owners at Council's discretion and to all people who made a submission on the Bronte RSL club site.

5. List of Attachments

- A. Map identifying 107 Macpherson Street, proposed to be rezoned from B1 Neighbourhood Centre to R3 Medium Density Residential.
- B. Map identifying the site of the Bronte RSL Club being 113 Macpherson Street Bronte which is proposed to be added to Schedule 1 – Additional Permitted Uses.
- C. Proposed amendment to Schedule 1 – Additional Permitted Uses.
- D. Map identifying the properties in the Macpherson and St Thomas Streets Neighbourhood Centre to which the addition local provision relating to the maximum size of a retail premises is to apply.
- E. Report to Council dated the 19th February 2013.
- F. Resolution of the Council meeting of 19th February 2013.
- G. Olsson and Associates Architects Pty Ltd Urban Design Analysis.
- H. The GTA Consultants Traffic and Parking Peer Review.
- I. Section 117 Directions and SEPPs (including former REPs) Compliance Table.
- J. Detailed analysis against Ministerial Section 117 Direction.
- K. Proposed Waverley LEP 2012 (Amendment 1) Land Zoning Map.
- L. Proposed Waverley LEP 2012 (Amendment 1) Key Sites Map.
- M. Project Timeline.