

PLANNING PROPOSAL TO AMEND
WAVERLEY LOCAL ENVIRONMENTAL PLAN 2012
AMENDMENT 2.

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

- A. To implement the adopted outcomes of the Bondi Junction Urban Design Review.**
- B. To make a number of amendments to the planning provisions for certain specific sites in order to allow appropriate development outcomes and better reflect community expectations.**
- C. To make a number of amendments to planning provisions to improve the operation of Waverley Local Environmental Plan 2012.**

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

A. Bondi Junction

- 1. Amendment of the WLEP 2012 Land Zoning Map in accordance with the proposed zoning map appended as Attachment "A" which amends the zoning of:
 - 1.1 the sites west of Newland Street and
 - 1.2 the block east of Bronte Road, west of Ann Street, north of Ebley Street and south of Gray Street,from B3 Commercial Core to B4 Mixed Use.
- 2. 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.

6.7 Solar access to public spaces in Bondi Junction:

(1). The objective of this clause is to ensure that buildings maximize sunlight access to the public places set out in this clause.

(2). The consent authority must not grant development consent to development on land to which this clause applies unless the consent authority is satisfied that there is no additional shadow impact at 12 noon on 21st June on Clemenston Park, Waverley Street Mall, Eora Park, Norman Lee Place (Boot Factory), Oxford Street Mall and Rowe Street (between Oxford Street Mall and Grosvenor Lane).

(3). Development on land to which this clause applies may not be able to be developed to permitted maximum floor space ratio or height of building shown for the land on the Floor Space Ratio Map and Height of Building Map.

Explanation: The amendments in this Planning Proposal relating to the Bondi Junction Centre resulted from the Bondi Junction Urban Design Review (BJUDR) which was conducted by City Plan Pty Ltd in 2012 and was commissioned jointly by Waverley Council and the NSW Department of Planning and Infrastructure. The BJUDR is appended as attachment “K”. The review aimed to address a set of concerns about the planning environment in Bondi Junction.

The principal recommendations for change in the Bondi Junction Centre amount to a redistribution of development potential to capture opportunities and to avoid negative impacts. The review contained the following analysis to support its recommendations:

- Massing analysis to assess scale potential and shadow effects of taller buildings in the centre, particularly on the southern Westfield site;
- Mass modelling and cross section analysis that demonstrates the massing required to maintain winter lunchtime solar access to Clemenston Park;
- Analysis of potential Gross Floor Area (GFA) yields under different massing and land zoning options.

The proposed amendments to the Draft Waverley LEP 2012 resulting from this review will:

- Prevent midwinter lunchtime overshadowing of public parks and plazas by introducing a specific solar access clause;
- Reduce the commercially zoned sites located to the west of Newland Street and within the block east of Bronte Road, west of Ann Street, north of Ebley Street and south of Gray Street, are proposed to be rezoned from B3 Commercial Core to B4 Mixed Use.

The aim of rezoning this land is to stimulate development in Bondi Junction in response to demand. Council has been approached to rezone land in both of the proposed locations for the purpose of mixed use development. In fact 344-354 Oxford Street is the subject of a separate Planning Proposal to rezone the land from B3 Commercial Core to B4 Mixed Use.

Strong demand exists for residential development in Bondi Junction. A review of Council records indicated that since the commencement of the current planning controls in 2010 applying to Bondi Junction, eight applications involving major residential development have either been approved or are under consideration. These applications include 564 dwellings in either the B4 Mixed Use zone or R4 High Density Residential zone. Conversely, no applications have been considered for purely commercial development within the same period.

The zoning amendment responds to this demand and will facilitate further residential development in the centre.

In relation to solar access, there is limited public open space in the Bondi Junction Centre. Clemenston Park, Oxford Street Mall, the Boot Factory Plaza, Waverley Street Mall and Eora Reserve are the last remaining public open spaces. Overshadowing of these important public spaces should be avoided to maximise their amenity and encourage their use, especially during winter. The introduction of this new clause intends to protect these spaces by not allowing consent to be granted for development in the B3 Commercial Core and B4 Mixed Use Zone in the Bondi Junction Centre unless the Council is satisfied that there will be no additional overshadowing impacts on these spaces. The clause makes it clear to property owners and developers that the full development potential of a site may not be achievable if the proposed development produces adverse overshadowing impacts. This will lead to greater urban design consideration being given to development in order to maximise development and minimise overshadowing impacts.

B. Site Specific Amendments

1. North Bondi RSL Sub Branch Club Site

- i. Amendment of WLEP 2012 Schedule 1 Additional Permitted Uses to allow “Registered Clubs (North Bondi Returned Services Club only)” on the site of 118-120 Ramsgate Avenue North Bondi being Lots 1 & 2 of Section 6 in DP 786 identified in Attachment “B” in addition to the uses permitted under the B1 Neighbourhood Centre zone as shown in Attachment “H”.
- ii. **Explanation:** The RSL Club is a long standing non conforming use in the B1 Neighbourhood Centre zone. The trustees of the Returned & Services League of Australia (New South Wales Branch) have requested the amendment as it will provide certainty that the club will remain permissible in circumstances of the State Government reviewing existing use rights. With certainty that the uses can continue, the clubs will continue to provide their invaluable 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.

2. 91 Ebley St Bondi Junction

- i. Amendment of WLEP 2012 Land Zoning Map in accordance with the proposed zoning map appended as Attachment “C” which amends the zoning of 91 Ebley St Bondi Junction from B4 Mixed Use to R3 Medium Density Residential.
- ii. Amendment of WLEP 2012 Schedule 1 Additional Permitted Uses to allow “Office premises” on the site of 91 Ebley St Bondi Junction being Lot 91 in DP 1117372 identified in Attachment “C” in addition to the uses permitted under the R3 Medium Density Residential zone as shown in Attachment “H”.
- iii. **Explanation:** This is a standalone terrace building with two dwellings. No 91 is currently zoned B4 Mixed Use and is used as an “Office premises”. No 93 is currently zoned R3 Medium Density and is used for residential purposes. While the status quo could remain, it would be preferable to give an indication of the future development potential of the site. There is no strategic advantage in maintaining the commercial zone on No 91 or extending it to No 93. However, so as not to disadvantage No 91 it is proposed to allow “Office premises” as an additional permitted use on No 91.

3. 36A Flood St Bondi

- i. Amendment of WLEP 2012 Land Zoning Map in accordance with the proposed zoning map appended as Attachment “D” which amends the zoning of 36A Flood St Bondi from R3 Medium Density Residential to SP2 Infrastructure – Educational Establishment.
- ii. **Explanation:** 36A Flood St forms part of the Yashiva Centre which adjoins the site and which is zoned SP2 Infrastructure – Educational Establishment. The Yashiva Centre carries out a variety of educational and community services from both sites. All schools within the Waverley local government area are zoned SP2 Infrastructure – Educational Establishment and so for the purpose of consistency it is proposed to zone 36A Flood St in similar terms. The community uses carried out by the centre are permissible under this zone. Clause 28(3) of State Environmental Planning Policy (Infrastructure) states:

An educational establishment (including any part of its site and any of its facilities) may be used with consent, for any community purpose, whether or not it is a commercial use of the establishment.

4. **Rear 362 Birrell St Tamarama**

- i. Amendment of WLEP 2012 Land Zoning Map in accordance with the proposed zoning map appended as Attachment “E” which amends the zoning of the Rear 362 Birrell St Tamarama from R2 Low Density Residential to RE1 Public Recreation.
- ii. **Explanation:** Council purchased the Rear 362 Birrell St Tamarama on 22nd December 2012 in order to extend Tamarama Park and provide the community with an additional area of open space. It is now appropriate to change the zone of the land to RE1 Public Recreation to be consistent with the rest of Tamarama Park.

C. **Operational Matters**

1. **Bondi Beach Conservation Area 180 Campbell Parade**

- i. Amendment of WLEP 2012 Heritage Map in accordance with the proposed heritage map appended as Attachment “F” to include 180 Campbell Parade into the Bondi Beach Conservation Area – General, labelled “C2” on the Heritage Map.
- ii. **Explanation:** The exclusion of the rear northwest corner of this site being the corner of Beach Road and Gould Street is an anomaly that cannot be justified. Other Gould Street frontages excluded from the Conservation Area are screened by developments facing Campbell Parade, are on separate titles or are separated by service lanes. The Swiss Grand Hotel is understood to have been constructed as a singular development including the section facing the corner of Beach Road and Gould Street which is currently excluded from the Conservation Area. Therefore it is proposed that this area be included in the Conservation Area as a matter of consistency with other areas/ structures contiguous with or visible in association with Campbell Parade frontages.

2. **23 Brown St Bronte**

- i. Amendment of WLEP 2012 Heritage Map appended as Attachment “G” to delete 23 Brown St Bronte, being Item I282, from the Heritage Map.
- ii. Amendment of Schedule 5 Environmental Heritage of WLEP 2012 to delete 23 Brown St Bronte, being Item I282 from the Schedule.
- iii. **Explanation:** The Land and Environment Court approved the demolition and redevelopment of 23 Brown St Bronte and the property has now been demolished. As such Council's Heritage Advisor has advised that it is now appropriate to delete the item from the heritage list.

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 a number of different sources some of which are a result of strategic studies, some are as a result of ongoing discussions with land owners who made detailed submissions during the exhibition of the Waverley principal plan while others relate to policy or operational matters which have been identified but could not be dealt with during consideration of the principal plan.

In relation to Bondi Junction, City Plan Pty Ltd was commissioned jointly by Council and the Department of Planning and Infrastructure (DoPI) under funding received from the DoPI to address concerns about the planning environment in Bondi Junction. The review sought out issues and suggested remedies which relate to site specific items as well as generic controls. A copy of the consultant's report is appended as attachment "K".

The other amendments are either minor zoning and land use amendments or operational amendments relating to the clarification of heritage listings to improve the operation of the principal plan and did not require strategic studies. However, it is pointed out that the amendments to the heritage schedule and maps were supported by Council's Heritage Advisor.

All of the amendments are consistent with the Metropolitan Strategy, East Subregion Draft Subregional Plan and the Waverley Strategic Plan as detailed below. All of these amendments have been reported to and considered by Council and a resolution was passed to include them in this planning proposal.

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 recommendations from studies that have been carried out and implement required operational amendments to the principal plan. The only way to achieve this is through an LEP amendment of which this planning proposal is the first step.

3. Is there a net community benefit?

This Planning Proposal makes a number of varied amendments to the WLEP 2012 and as such the net community benefit is derived from a number of areas and can be defined as follows:

Expansion of Tamarama park

Council recently purchased the Rear 362 Birrell St Tamarama with the express purpose of extending Tamarama Park and providing the community with an additional area of open space. The zoning of the land to RE1 Public Recreation to be consistent with the rest of Tamarama Park will ensure the land will always be available for community and recreational purposes and will contribute to the environment of the park.

Economic Development

The amendments in this Planning Proposal particularly those contained in Part 2 Section A relating to Bondi Junction are aimed at stimulating economic activity and facilitating development to occur. While there may be a slight reduction in potential commercial floorspace as a result of changing the zoning of certain properties from B3 Commercial Core to B4 Mixed Use, the employment targets set by the East Subregion Draft Subregional Strategy will still be met. Facilitating development to occur will stimulate the local economy and provide jobs and business opportunities sooner rather than later.

Maintenance of Social Infrastructure

Amendments relating to the North Bondi RSL club sites and 36A Flood St will give the operators/owners of those sites certainty that the community supports those uses and encourages them to stay. With certainty that the uses can continue, the clubs will be able to continue to provide their invaluable 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. The Yashiva Centre will be appropriately zoned and will be able to continue to provide its valuable community services.

Clarification of the heritage values of various sites

Schedule 5 and the Heritage Maps in LEP 2012 were developed following a comprehensive heritage study involving community consultation over a number of years. In addition, a study of Aboriginal Heritage was also conducted the results of which were also included. Following completion of the comprehensive LEP, a number of anomalies were noted in the heritage schedule (Schedule 5) and Heritage Maps. This Planning Proposal makes several amendments to the heritage schedule and maps in order to rectify those anomalies and improve the integrity of the heritage listings.

Certainty of intended land uses

The zoning of 36A Flood Street from R3 Medium Density to SP2 Infrastructure and the rear of 362 Birrell Street from R2 Low Density Residential to RE1 Public Recreation will give the community certainty that these important pieces of social infrastructure being a school and community premises and public open space will be retained for their intended purposes.

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 Section A of this Planning Proposal relating to the Bondi Junction centre respond to development pressure and will stimulate development in the centre all-be-it development for mixed use development rather than purely commercial development. The amendments contained in Part 2 Sections B and 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 operational amendments relating to the clarification of heritage listings to improve the operation of the principal plan. These are equally consistent with all objectives and actions contained in the Sydney Metropolitan Strategy and ESDSS.

Notwithstanding the minor shift in potential floorspace from commercial to residential as a result of the change in zoning from B3 Commercial core to B4 Mixed Use Development, the residential and employment targets required by the East Sydney Draft Subregional Strategy can still be met. In addition, the proposed inclusion of residential uses on the subject sites will not alter the role and function of Bondi Junction as a major centre. In fact it will provide a greater diversity and mix of uses to the centre, and will encourage the growth of a night time and weekend economy in addition to the day time trade.

The land to be zoned B4 Mixed Use is within a walkable catchment of the Bondi Junction Bus/Rail interchange. The increased residential density will satisfy the objectives of the Metropolitan Strategy in providing additional housing choice in proximity to the existing centre and public transport node. In addition, the B4 zoning will still deliver employment outcomes as the ground floor and lower levels of any development will be used for commercial activities.

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 therefore has four key result areas:

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

C1 - Waverley's cultural heritage and diversity is recognised, protected and respected.

Response - Schedule 5 and the Heritage Maps in LEP 2012 were developed following a comprehensive heritage study involving community consultation over a number of years. In addition, a study of Aboriginal Heritage was also conducted the results of which were also included. Following completion of the comprehensive LEP, a number of anomalies were noted in the heritage schedule (Schedule 5) and Heritage Maps. This Planning Proposal makes several amendments to the heritage schedule and maps in order to rectify those anomalies and improve the integrity of the heritage listings.

C3 - Housing options are available to enable long term residents and those with a connection to the community to remain in Waverley.

Response – The amendments contained in Part 2, Section A of this Planning Proposal will slightly vary the potential distribution of housing and commercial office development in Bondi Junction. The amendments are being proposed in order to facilitate economic activity and improve amenity for future residents and visitors to the town centre and minimize impacts on Clemenston Park. The amendments have resulted from a comprehensive urban design review study that was conducted following completion of the comprehensive LEP. The Planning Proposal will increase the potential number of dwellings that can be built in the centre thereby satisfying this strategic direction.

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

L1 Waverley's economy is vibrant and robust and supports the creation of a variety of jobs and business opportunities.

Response – As mentioned above, the amendments in this Planning Proposal particularly those contained in Part 2 Section A relating to Bondi Junction are aimed at stimulating economic activity and facilitating development to occur. While there will be a slight reduction in potential commercial floorspace, the employment targets set by the ESDSS will still be met. Facilitating development to occur will stimulate the local economy and provide jobs and business opportunities sooner rather than later.

- Sustainable Environment representing the “environmental” component. Relevant directions include:

E6 A network of parks and coastal reserves, street trees and other plantings provides a habitat for a thriving local ecology.

Response: As stated above, the amendments contained in Part 2, Section A of this Planning Proposal will among other things improve amenity for future residents and visitors to the town centre and minimize impacts on Clemenston Park. Clemenston Park is one of the few parks available to residents and visitors to the Bondi Junction Centre and the amendments will ensure the parks amenity is maintained. In addition, Council recently purchased the Rear 362 Birrell St Tamarama with the express purpose of extending Tamarama Park and providing the community with an additional area of open space. The zoning of the land to RE1 Public Recreation to be consistent with the rest of Tamarama Park will ensure the land will always be available for community for recreational purposes and will contribute to the environment of the park.

- 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: 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 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 **not** inconsistent with any State Environmental Planning Policy. Attachment “I” identifies all SEPPs and indicates compliance with those plans.

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

This Planning Proposal is **not** inconsistent with any Ministerial Section 117 Direction. Attachments “I” and “J” identify all Section 117 Directions and indicate compliance with those directions.

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, Section A of this Planning Proposal relating to Bondi Junction were the subject of an urban design review which took into consideration impacts of the established controls and proposes amendments which protect solar access and improve amenity. The other amendments contained in Part 2 of this Planning Proposal are minor and will be managed through the general planning controls contained in the WLEP 2012.

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

In relation to the matters included in Part 2, Section A of this Planning Proposal relating to Bondi Junction, the urban design review was supported by shadow studies and yield analysis. The study states that the effect of the modifications is improved amenity without significant net loss of commercial or residential potential in the centre. Key issues that are being addressed by the Planning Proposal are overshadowing of Clemenston Park and other important open space and the lack of flexibility that flows from the B3 Commercial Core zone.

Amendments relating to the inclusion of Registered Clubs (North Bondi Returned Services Club only) in Schedule 1 in relation to North Bondi RSL club sites and 36A Flood St will give the operators/owners of those sites certainty that the community supports those uses and encourages them to stay.

Amendments relating to 91 Ebley St are consistent with the planning provisions for other nearby properties in Ebley St and will confirm future possible commercial office uses for this site. The remainder of the amendments will clarify the heritage status of various sites thus giving certainty to owners of the sites and the community regarding the protection of heritage values and development potential of those sites.

D. State and Commonwealth Interests

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

In Bondi Junction, the proposed amendments do not alter the quantum of development only the nature of development from purely commercial to mixed use. As such there will be no greater impact on public infrastructure than under the current planning regime.

All other amendments relate to existing uses or to clarifying the heritage value of the various sites and will not have any impact on public infrastructure.

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

Apart from the DoPI which was a party to the Bondi Junction Urban Design Review, 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

Future community consultation will occur in accordance with the gateway determination. Notwithstanding this, Council considers that an exhibition period of 14 days would be appropriate given the importance of the Bondi Junction centre 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 and Library;
- Letters be sent to all affected property owners and adjoining property owners at Council's discretion.

5. List of Attachments

- A. Map identifying sites west of Newland St and the block east of Bronte Road, west of Ann Street, north of Ebley Street and south of Gray Street, Bondi Junction, proposed to be rezoned from B3 Commercial Core to B4 Mixed Use Development.

- B. Map identifying the site of the North Bondi RSL Club which is proposed to be added to Schedule 1 – Additional Permitted Uses to permit Registered Clubs (North Bondi Returned Services Club only).
- C. Map identifying 91 Ebley Street, Bondi Junction, proposed to be rezoned from B4 Mixed Use Development to R3 Medium Density Residential. 91 Ebley Street is also proposed to be included in Schedule 1 – Additional Permitted Uses, to permit “Office Premises”
- D. Map identifying 36A Flood Street, Bondi, proposed to be rezoned from R3 Medium Density Residential to SP2 Infrastructure – Educational Establishment.
- E. Map identifying the Rear 362 Birrell Street, Tamarama, proposed to be rezoned from R2 Low Density Residential to RE1 Public Recreation.
- F. Map identifying 180 Campbell Pde Bondi Beach which is proposed to be included in the Bondi Beach Conservation Area – General, labelled “C2” on the Heritage Map.
- G. Map identifying 23 Brown Street Bronte which is proposed to be deleted from the Heritage Map and Schedule 5 of WLEP 2012.
- H. Properties proposed to be added to Schedule 1 – Additional Permitted Uses.
- I. Section 117 Directions and State Environmental Planning Policy Compliance Table.
- J. Ministerial Section 117 Direction Compliance Table.
- K. The Bondi Junction Urban Design Review report by City Plan Pty Ltd.