

# PLANNING PROPOSAL TO AMEND WAVERLEY LOCAL ENVIRONMENTAL PLAN 2012 AMENDMENT 11

## 1. OBJECTIVES OR INTENDED OUTCOMES OF THE PROPOSED LOCAL ENVIRONMENTAL PLAN

- A. To amend the zoning of 21-23 Niblick Street, North Bondi from R2 Low Density Residential to RE1 Public Recreation in order to more accurately reflect its historical and current use.
- B. To give the community confidence that the site will continue to be used for recreation purposes.
- C. To identify the land on the Land Reservation and Acquisition Map in order to facilitate the subject site's eventual acquisition.

## 2. EXPLANATION OF THE PROVISIONS TO BE INCLUDED IN THE PROPOSED LOCAL ENVIRONMENTAL PLAN

### A. Amendment of Land Zoning Map

The Planning Proposal seeks an amendment to Waverley Local Environmental Plan (WLEP) 2012 in order to recognise the historical and current use of 21-23 Niblick Street, North Bondi and ensure its continued use as a recreation space. This will involve amending sheet 3 of the WLEP 2012 Land Zoning Map for the site from R2 Low Density Residential to RE1 Public Recreation in accordance with the proposed zoning maps appended as Attachments A and E to this report.

**Explanation:** The site has been licensed to Council from Sydney Water for use as a park since 1956 and forms an integral part of Council's open space network in an area which is deficient in local open space. The land was rezoned from Special Uses 5(a) Sydney Water to R2 Low Density Residential during the preparation of Waverley Local Environmental Plan 2012 in accordance with LEP Planning Practice Note PN10-001. This planning practice note required land previously zoned special uses 5(a) to be zoned in a manner consistent with the zoning of adjoining properties where there is no infrastructure on the land. Sydney Water's proposal to sell the land now threatens the site's continued use for recreation purposes. The amendment of the zoning to RE1 Public Recreation is therefore required in order to guarantee the land's continued use as open space.

### B. Amendment of Land Reservation and Acquisition Map

The planning proposal also seeks to amend sheet 3 of the WLEP 2012 Land Reservation and Acquisition Map by identifying 21-23 Niblick Street, North Bondi on the map as indicated on the map appended as Attachments G to this report.

**Explanation:** While the site has been used as public recreation for more than 50 years, its continued use for recreation purposes is threatened by Sydney Water’s proposed sale of the land. Identifying the land on the Land Reservation and Acquisition Map is required in order to make clear Council’s intended acquisition of the land to ensure the land’s continued use for recreation purposes.

### 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 prepared in accordance with the Planning Practice Notes and Directives issued by the Department of Planning and Infrastructure for the preparation of Comprehensive LEPs in accordance with the Standard LEP template. The plan was exhibited over October and November 2011 and became effective in October 2012. Planning Practice Note PN10-001 required land previously zoned special uses 5(a) to be zoned in a manner consistent with the zoning of adjoining properties where there is no infrastructure on the land. Consequently the land was zoned R2 Low Density Residential.

The need for this current planning proposal arose from Sydney Water’s recent proposal to sell the land which threatens its continued use for recreation purposes. The amendment of the zoning to RE1 Public Recreation and identification of the land on the Land Reservation Acquisition Map is therefore required in order to ensure the land’s continued use as open space. Council’s Recreational Needs Study 2008 notes on page 22 that small parks “enhance visual amenity and allow respite in a dense urban environment”. Again on page 55 the study concludes that based on a standards approach “Waverley is under provided with informal open spaces”. The need to retain this site for open space/recreational purposes is therefore essential. The potential loss of this park was reported to Council at its meeting of 17<sup>th</sup> March 2015 and Council resolved that:

The Council initiates an amendment to Waverley Local Environmental Plan 2012 by proposing to rezone 21-23 Niblick Street, North Bondi from R2 Low Density Residential to RE1 Public Recreation and amending the Land Reservation Land Acquisition Map accordingly.

In addition it is noted that, at its meeting of 21<sup>st</sup> June 2011, Council considered a report on the preparation of an open space strategy and resolved:

Council endorse the preparation of an Open Space Strategy as funding becomes available, to fill the gap in planning for community needs for open space recreation and leisure.

Until such a strategy is conducted, the provision of open space should not change. This planning proposal will ensure that the status quo in regards to small parks/children’s playgrounds will be maintained.

It is also pointed out that all of the amendments are consistent with the Metropolitan Strategy, East Subregion Draft Subregional Strategy and the Waverley Strategic Plan as detailed below.

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 clarify Council's strategic intent to protect open space resources and demonstrate to the community the value that Council places on these important resources. The only way to achieve this is through an LEP amendment of which this planning proposal is the first step.

## **2. Is there a net community benefit?**

Council intends to purchase the land and zone it RE1 Public Recreation with the express purpose of ensuring the land will always be available for community and recreational purposes and will continue to contribute to the local open space network. The zoning of the land will give the community certainty that this important piece of social infrastructure being public open space will be retained for its intended purpose.

### **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 this Planning Proposal are considered minor zoning and mapping amendments relating to the clarification of Council's intent to maintain the subject land for recreation purposes. These are equally consistent with the objectives and actions contained in the Sydney Metropolitan Strategy and ESDSS.

#### **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 3" covers the period 2013-2025. The plan was designed to focus Council's attention on what the community really wants; provide guidance on achieving these things sustainably; and help maximise efforts to speed up attainment of the vision.

The plan is structured according to the "Quadruple Bottom Line". The Planning Proposal is not inconsistent with any of the strategies and is directly relevant to 3 of the strategies representing 3 of the 4 bottom line elements:

- Sustainable Communities which represents the "social" element of the quadruple bottom line:

*C7 – Health and Quality of Life is improved through a range of recreation and leisure opportunities.*

**Response** – This Planning Proposal aims to protect this parcel of land which has been used by the local community as a park for more than 50 years.

- Sustainable Environment representing the “environmental” element:

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

**Response:** This park forms an integral component of the local Open Space network and Council’s intended purchase of the land will ensure its continued use as a park in order to meet the recreational needs of the community.

- Sustainable Governance representing the “governance” element:

*G2 Our community is actively engaged in well informed decision processes.*

**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 B identifies all SEPPs and indicates compliance with those plans.

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

The Planning Proposal is justifiably inconsistent with Direction 3.1 Residential Zones. The direction aims to

- Broaden the choice of housing types.
- Make more efficient use of infrastructure.
- Be of good design.
- Not reduce the permissible residential density of any land

This Planning Proposal is of minor significance and will not impact the variety or choice of housing in the Local Government Area. While the proposal is to rezone land from R2 Low Density Residential to RE1 Public Recreation, this is only to reflect the historic and current use of the land as a local park.

This Planning Proposal is not inconsistent with any other Ministerial Section 117 Direction. Attachments B and C identify all Section 117 Directions and indicate compliance with those directions.

**5. Is the Planning Proposal consistent with A Plan for Growing Sydney, released by the Department of Planning and Environment on 14 December 2014?**

The proposal will result in retaining land currently used as open space for recreational purposes in a major centre of Sydney. This will help reach the goals of *A Plan for Growing Sydney*, specifically goal three, “A great place to live with communities that are strong, healthy and well connected,” and direction 3.2, “Create a network of interlinked, multipurpose open and green spaces across Sydney,” by protecting open space in North Bondi which will help create a healthy built environment. Therefore the Planning Proposal is consistent with *A Plan for Growing Sydney*.

**B. 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?**

Sydney Water engaged Parsons Brinckerhoff Australia Pty Limited (PBA) to test soil and groundwater on the site. A copy of the letter from PBA is appended as Attachment D. In that letter PBA advised as follows:

“The purpose of the environmental testing was to provide a more detailed understanding of potential soil and groundwater contamination at the park to assess whether any contamination clean-up was required prior to its sale.

Results showed that a soil sample collected at a depth of 0.2-0.3 metres below ground level at the centre of a small area in the north portion of the park had an elevated concentration of lead. The concentration of lead in this small area exceeded industry guidelines for soils in open spaces such as parklands.”

The study concluded that:

“For those reasons it is considered highly unlikely that the small area of the park with the lead impact would have caused an unacceptable health risk to those using the park.

It was recommended that the small area of lead-impacted soils be remediated. Excavation of impacted soil and disposal to an appropriately licensed off-site waste facility was chosen as the preferred remediation approach.

During the assessment of the park one piece of bonded asbestos cement and three small asbestos fibre bundles were identified in soil samples submitted for laboratory analysis. The quantities reported were well below the industry health guidelines and met the guidelines for open space and residential housing with gardens.”

A remediation Action Plan was also prepared and a copy submitted to Council. The plan outlines the remediation process for the land which is consistent with the recommendations of the testing.

Notwithstanding, should the planning proposal proceed and the land rezoned RE1 Public Recreation, remediation is not considered necessary as the environmental testing concluded that it is highly unlikely that the lead impact would have caused an unacceptable health risk to those using the park. Also, excavation of the impacted soil would result in the removal of a number of large trees on the site which would have a detrimental effect on the environmental and aesthetic appeal of the park.

In addition, the Planning Proposal relates to land identified as Class 5 on the Acid Sulphate Soils Map in Waverley LEP 2012. No development is proposed on the land as the purpose of the Planning Proposal is to reflect the historic and current use of the land. However, should excavation occur in order to remediate the contaminated portion of the land, this will only be to a depth of 0.5m and involve the disposal of only 37.5m<sup>3</sup> of soil and will be undertaken in accordance with the Remediation Action Plan for the site. This is also unlikely to lower the water table on the nearby Class 4 land.

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

The amendments in this planning proposal will clarify Council's strategic intent of maintaining this land for recreation purposes. Identifying the land on the Land Reservation and Acquisition Map demonstrates Council's commitment to acquire the land to ensure its continued use for recreation purposes.

### **4. Is there adequate public infrastructure for the planning proposal?**

The amendments will permit the continuation of the existing land use and therefore will not have any impact on public infrastructure.

### **5. 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?**

Council officers have initiated discussions with Sydney Water in regards to the purchase of the land however no consultation with State or Commonwealth Public Authorities has occurred in relation to this planning proposal at this stage. Consultation with relevant authorities including Sydney water 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 minor nature of the amendments and the fact that it is intended to maintain the current use of the land. 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 adjoining and affected property owners at Council's discretion.

## 5. LIST of ATTACHMENTS

- A. Map identifying the site of 21-23 Niblick Street North Bondi, proposed to be rezoned from R2 Low Density Residential to RE1 Public Recreation.
- B. Section 117 Directions and State Environmental Planning Policy Compliance Table.
- C. Ministerial Section 117 Direction Compliance Table.
- D. Letter from Parsons Brinckerhoff Australia Pty Limited regarding the environmental testing of the site.
- E. Proposed Waverley LEP 2012 Land Zoning Map – Sheet 3.
- F. Current Waverley LEP 2012 Land Zoning Map – Sheet 3.
- G. Proposed Waverley LEP 2012 Land Reservation and Acquisition Map – Sheet 3.