

## Planning and Assessment

IRF19/4674

### Plan finalisation report

Local government area: Waverley

#### 1. NAME OF DRAFT LEP

Waverley Local Environmental Plan 2012 Amendment No. 15 (draft LEP)  
(PP\_2016\_WAVER\_003\_00).

#### 2. SITE DESCRIPTION

The planning proposal (PP\_2016\_WAVER\_003\_00) applies to land at 194-214 Oxford Street (Site 1) and 2 Nelson Street (Site 2), Bondi Junction. The site is located at the western end of Bondi Junction and on the corner of Oxford Street, York Road, Syd Einfield Drive and Nelson Street (**Figure 1**). The site is located opposite the Waverley Bus Depot and is diagonally opposite Centennial Park. It is located approximately 650 sqm from Bondi Junction railway station. The site has laneway access from Osmund Lane.

The land comprises two sites with a combined site area of 2,481m<sup>2</sup>. Site 1 (western site) comprises six properties/lots with an area of 1,490 sqm and Site 2 (eastern site) has a site area of 991sqm (**Figure 1**). The western site is currently occupied by 4 x 2 storey terrace houses at 194-200 Oxford St, a car and truck hire business at 202-210 Oxford St and commercial premises at 214 Oxford Street. Existing development on the eastern site is a two-storey residential flat building comprising 6 dwellings.



**Figure 1:** Aerial view of Site 1 and Site 2 (outlined in red) and immediate surrounds (Source: Nearmaps).

#### 3. PURPOSE OF PLAN

The planning proposal (**Attachment A1**) seeks to facilitate the redevelopment of the site to provide two residential towers above a commercial /retail podium with integrated public domain.

The proposal seeks to amend Waverley Local Environmental Plan 2012 to:

- increase the maximum building height on both sites from 15 metres to 36 metres;
- increase the floor space ratio from 1.5:1 to 3.5:1;
- remove the local heritage listing of four terrace houses at 194-200 Oxford Street, Bondi Junction (Item 1212);
- correct a zoning anomaly on the corner of Syd Einfeld Drive and York Rd by rezoning a portion of the Syd Einfeld Drive road reserve from B4 Mixed Use to SP2 Infrastructure; and
- include a site specific clause to require an architectural design competition for any future development application.

The accompanying development scheme comprises 94 apartments over 11 storeys, 831m<sup>2</sup> of retail space and parking for 50 vehicles.

The land is currently zoned B4 Mixed Use under the Waverley LEP 2012. The proposal does not seek to change the existing zoning on the site, other than to make a correction to a small part of the site which is part of the Syd Einfeld Drive road reserve.

The planning proposal was accompanied by a draft Public Benefit Offer (**Attachment A3**) to provide for a public plaza and pedestrian/cycleway link from Oxford Street to Osmund Lane. The draft public benefit offer included provision for dedicating land to Council for the purpose of road/footpath widening and/or traffic improvements, along Oxford Street and public domain works set out in the public works plan and landscape plan.

#### **4. STATE ELECTORATE AND LOCAL MEMBER**

The site falls within the Coogee State Electorate. Mr Bruce Notley-Smith MP was the State Member for Coogee at the time of public exhibition of the planning proposal. Mr Notley-Smith MP does not support the proposal and wrote to the Minister on behalf of his constituents advising of Council's reasons for its unanimous rejection of the planning proposal. Mr Notley-Smith requested the Minister to reject the proposal (**Attachment B**).

Dr Marjorie O'Neill MP is the current State Member for Coogee. Dr O'Neill MP has not made written representations to the Department with regard to the proposal.

The subject land adjoins the boundary of the Vacluse Electorate. The Hon Gabrielle Upton MP is the State Member for Vacluse. Ms Upton has not commented on the proposal but has made written representations on behalf of her constituents regarding the proposal (**Attachment B**).

The site falls within the Wentworth Federal Electorate. The Federal Member for Wentworth is Mr Dave Sharma MP. Mr Sharma MP has not made any written comment on the proposal.

<b>NSW Government Lobbyist Code of Conduct:</b> There have been no meetings or communications with registered lobbyists with respect to this proposal.
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<b>NSW Government reportable political donation:</b> There are no donations or gifts to disclose and a political donation disclosure is not required.
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## 6. PRE-GATEWAY REVIEW AND GATEWAY DETERMINATION

On 11 March 2015, a planning proposal was lodged with Council seeking to increase the maximum building height from 15m to 38m and increase the maximum floor space ratio (FSR) from 1.5:1 to 5:1. The proposal was amended on 13 October 2015, reducing the building height from 38m to 36m and reducing the FSR from 5:1 to 3.5:1.

The concept design was also altered to show an increased separation between the proposed residential towers, a stepped 2 to 3 storey podium level along Oxford Street, a reconfigured public plaza, through site link and vehicular access.

On 15 December 2015, Council resolved not to support the planning proposal, seeking to reduce the height on Site 2 to 25m. Council's concerns primarily related to overdevelopment of the site, built form and overshadowing of the public domain and Centennial Park.

### Pre-Gateway Review

On 6 January 2016, a pre-Gateway review was submitted. The Sydney Region East Planning Panel considered the proposal, and unanimously recommended the proposal be submitted for Gateway determination (**Attachment C**).

The Panel considered that there was no benefit in reducing the height on Site 2 as suggested by Council, as it would reduce the public benefit that would be possible to negotiate.

The Panel recommended that a number of requirements should be met before exhibition of the proposal, including:

- the applicant is to enter into negotiations for a planning agreement with Council;
- the applicant is to prepare a site-specific development control plan (DCP) to be exhibited with the proposal; and
- a clause should be included in the draft LEP to require a design competition to be held before a development application is lodged and run in accordance with the Secretary's Design Competition guidelines.

The Panel also noted the need to consider opportunities for the co-ordination of traffic and public domain improvements at the intersection of Oxford St and York St, particularly noting the need for reprioritisation between car, bus, bike and pedestrian uses and improving the linkage between Bondi Junction and Centennial Park.

On 9 August 2016, Council accepted the role of the Principal Planning Authority (PPA) for this matter to exercise the delegations issued by the Minister under Section 3.36 of the Environmental Planning and Assessment Act 1979 (the Act).

The planning proposal was lodged with the Department by Council as the PPA requesting Gateway determination. The documentation excluded the amended LEP maps that were later received by the Department on 13 October 2016.

### Gateway determination

A Gateway determination issued on 22 December 2017 allowed the proposal to proceed subject to conditions (**Attachment D**).

Gateway conditions required the planning proposal to be updated to:

- demonstrate consistency with the Draft District Plan;
- reflect an SP2 Infrastructure zoning on a portion of the site on the corner of Syd Einfield Drive and York St on the Land Zoning Map;

- include a statement of intent regarding a local provision for an architectural design competition to apply to the site; and
- prepare and exhibit a site specific DCP with the proposal.

The Gateway gave a 12 month timeframe for completion of the plan by December 2017. A written authorisation was not issued to allow Council to exercise delegation to make the plan.

The proposal was amended prior to exhibition to address the conditions of the Gateway determination. It is considered the proposal submitted for finalisation is consistent with the Gateway determination.

## **7. PUBLIC EXHIBITION**

In accordance with the Gateway determination, community consultation was undertaken by Council from 8 February 2017 to 10 March 2017.

The proposal received 406 public submissions during public exhibition. Of the submissions, 396 submissions opposed the proposal and 10 were in support.

Council has addressed the submissions received during public exhibition in its planning submissions report (**Attachment E**). The main issues raised in submissions included:

- traffic and parking;
- height /density and urban design and amenity;
- impacts on Centennial Park;
- heritage impact and the removal of heritage items;
- the impact on the character of the area including overshadowing;
- building scale and transition; and
- the planning proposal process noting that Council have previously determined to not support the proposal and therefore it should not be progressed.

## **8. ADVICE FROM PUBLIC AUTHORITIES**

Council was required to consult the following authorities in accordance with the Gateway determination:

- Woollahra Council;
- Randwick Council;
- Office of Environment and Heritage;
- Transport for NSW;
- Roads and Maritime Services (RMS);
- Energy Australia;
- Sydney Water;
- Department of Education and Communities;
- NSW Ministry of Health; and
- Centennial Park and Moore Park Trust.



Council has confirmed it has consulted the above authorities. Sydney Water, Ausgrid and NSW Environmental Protection Agency (EPA) responded and raised no issues with the proposal.

#### Issues raised by Public Authorities

Submissions have been received by three (3) public authorities (**Attachment E**) raising concerns with the proposal.

#### (i) Roads and Maritime Services (RMS)

RMS (now known as Transport for NSW) initially indicated that support for the proposal was contingent on the correction of a zoning anomaly within the road reserve of Syd Einfield Drive and was concerned the mapping was inconsistent through the planning proposal.

RMS also provided comments regarding:

- limiting vehicular access to Osmund Lane;
- support for the proposal's offer to dedicate land to Council to enable a right turn lane on Oxford Street, and suggesting that the adjoining land (Site C) not subject to the planning proposal be required to dedicate land for consistency in any future redevelopment; and
- requesting an Infrastructure Staging Plan to identify infrastructure upgrade works and delivery mechanisms for intersection upgrade and improvements; which identify funding responsibilities, timing, cost and trigger points for the delivery of the intersection upgrade and extent of land dedication prior to the making of the plan.

#### *Council response*

Council noted that the land dedication and works would form part of any consideration in determining a planning agreement. However, as Council did not support the proposal a voluntary planning agreement had not been secured to provide for the public benefit offer in the planning proposal.

#### *Department comment*

The maps accompanying the planning proposal and land zoning map have been updated to reflect the change to a portion of the site which corrects a zoning anomaly and rezones a portion of the site from B4 Mixed Use to SP2 Infrastructure. This was also required as a condition of the Gateway determination.

RMS has provided further advice to the Department regarding the delivery of the right turn bay at the Oxford Street/York Road intersection. RMS advised the Department it does not support the making of the plan without a Voluntary Planning Agreement (VPA) in place due to the risk of not securing the land dedication for the delivery of the intersection upgrade. A VPA has now been agreed to by the proponent and Council and is discussed in Section 10.6 – Public Benefit below.

#### (ii) Office of Environment and Heritage (OEH) (Heritage Division)

The Heritage Division notes that the removal of the terrace houses is considered to be of local significance and on this basis, Waverley Council is the consent authority. The submission notes the removal of this item should be considered on the basis of its significance and that consideration should be given to alternative options such as retention of the terraces and incorporation into any new development. OEH note that the context of the heritage items on site have been affected due to the freeway development and removal of the other terraces on the western sides.

OEH noted that the overshadowing impact cannot be ascertained in the planning proposal. Detailed visual analysis of the proposed development was recommended to determine the potential impact on the key views to and from Centennial Park. The submission also suggests Council should consider any adverse impact the proposed development may have on locally listed items and the heritage conservation areas in the vicinity.

#### *Council response*

Council's submission report notes that support of the removal of the heritage listed terrace houses would be subject to replacement buildings being of higher quality, contributing to public benefit and improving the streetscape. In response to concerns for overshadowing, Council conducted their own shadow analysis. This analysis demonstrated that overshadowing cast on Centennial Park would be limited to the early morning in midwinter.

With regard to the visual impact of the proposed development from Centennial Park, the applicant submitted a report to Council, prepared by Richard Lamb & Associates, which included a Photomontage Certification Report illustrating the minimal impact on views from Centennial Park. This is discussed further in Section 9.4 - Heritage below.

In relation to the potential impact of the proposal on heritage items in the vicinity, Council has highlighted the need for reduced height at 2 Nelson Street. This is seen to allow the built form to be recessive in the streetscape, allowing the Norfolk Island Pine to dominate and complement neighbouring heritage items.

#### *Department comment*

A response to the heritage issues raised above are considered in Sections 9.4 - Heritage and 9.2 - Height and Scale.

#### (iii) Centennial Park and Moore Park Trust (the Trust)

The Trust object to the proposal due to overshadowing and visual impact to the northeast corner of Centennial Park, and increased traffic congestion and parking demand within the park. Investment in recent upgrades to the Park facilities in the vicinity with an intention to increase use for events is also noted by the Trust.

#### *Council response*

Council did not respond to the Trust's submission in isolation, and comments provided in response to OEH Heritage Division are applicable.

#### *Department comment*

An assessment of the potential impact to Centennial Park is discussed in Section 9.4 – Heritage below.

## **9. POST-EXHIBITION CHANGES**

No post exhibition changes were made to the proposal by Council.

On 18 July 2017, Council resolved not to support the proposal. This resolution was primarily based on concerns that the proposal is an overdevelopment of the site and will present an unacceptable built form scale particularly to Oxford Street, the impact on heritage items, that a public benefit had not been demonstrated and that the majority of community feedback opposed the proposal.

Council submitted the proposal to the Department on 9 August 2017, with a recommendation that the planning proposal not proceed (**Attachment E**).

Amendments have been made to the plan by the Department and include:

- the inclusion of a local clause to require a Development Control Plan (DCP) prior to the lodgement of any development application or staged development application in respect of the site; and
- a drafted design competition clause was included in the plan consistent with the intent of the provision as exhibited.

The amendments listed above are discussed further below in Sections 9.5 – Design Completion Requirements and 9.6 – Public Benefit below.

## **10. INDEPENDENT PLANNING COMMISSION REVIEW**

In May 2018, Council met with Department staff to discuss progressing the proposal to finalisation in the absence of an agreed VPA. However, on 20 June 2018 Council wrote to the Department to request that the planning proposal does not proceed until a planned meeting with the local member at the time (Bruce Notley-Smith MP) occurred **(Attachment F)**.

Bruce Notley-Smith MP, Council representatives and Department representatives met on 24 August 2018 to discuss the planning proposal. At this meeting, it was agreed that due to the level of community interest, the Department would refer the proposal to the Independent Planning Commission (IPC) for advice **(Attachment G)**.

The Department referred the proposal to the IPC on 24 October 2018 and the IPC provided its advice on 25 February 2019. The IPC recommended that the planning proposal should proceed to finalisation subject to further consideration of the inclusion of other public benefits **(Attachment H)**.

The IPC's report stated the following:

- the planning proposal has strategic merit due to its:
  - proximity to the Bondi Junction Strategic Centre and the transport and other services the centre provides;
  - contribution to achieving the Greater Sydney Region Plan objective of achieving a 30 minute city; and
  - contribution to the housing targets set out for the Eastern Harbour City in the Greater Sydney Region Plan.
- the planning proposal has site specific merit as:
  - The proposed height and FSR are appropriate given:
    - its location at the western Gateway to Bondi Junction, within 650m of the Bondi Junction town centre;
    - environmental impacts including overshadowing, visual impact, traffic and parking appear readily capable of being managed;
    - the Design Excellence Clause will require consideration of overshadowing impacts on Centennial Park, residential properties and the public domain during the development application stage;
    - podium height restrictions on Oxford Street and requirements for street frontage activation will contribute to a human scale built form and improved public domain at ground level; and
    - the site is identified in the Draft West Oxford Street Precinct Plan (2014) as a site on which increased height and FSR is appropriate.

- in the absence of a VPA, the Departments alternative mechanism of a draft LEP amendment and draft DCP are appropriate.

The IPC's report also stated that the proponent had not demonstrated that the proposed works in its draft public benefit offer, with the exception of the plazetta and Oxford Street dedication, are appropriate to consider as a public benefit. The IPC recommended that:

- further consideration be given to the inclusion of other public benefits to better justify the proposed amendments to planning controls; and
- the proponent and consent authority work together prior the planning proposal proceeding to finalisation to develop a more appropriate level of public benefit that can be captured in a DCP.

Following further negotiations, Council and the proponent reached agreement on a VPA on 13 June 2019 (**Attachment I1 and I2**). The terms of the agreed VPA are outlined in section 11.6 - Public Benefit Offer below.

## 11.ASSESSMENT

It is recommended that the draft LEP be supported as it:

- satisfies State, District and local planning objectives which encourage developments that will facilitate increased housing provision in locations well serviced by public transport and in good proximity to jobs;
- reinforces Bondi Junction's role as a Strategic Centre in the Eastern City District Plan;
- promotes the revitalisation of Oxford Street and enhanced place through improved ground floor activation and public spaces;
- the post exhibition inclusion of a local DCP clause will facilitate delivery of the desired public domain/benefit outcomes set out in the draft public benefit offer accompanying the proposal; and

An assessment of key issues raised during the review of the planning proposal and in submissions is provided below.

### 11.1 - Traffic and parking

Significant community concern was expressed for the potential impact of the proposal on existing traffic congestion and limited availability of on-street parking spaces.

Both the proponent and Council have commissioned reports detailing the potential impact of the proposal on traffic and parking. These reports conclude that the development will have a marginal effect on the performance of intersections within the local road network.

Both reports highlight improvements which could be made to alleviate existing traffic congestion, particularly with regard to queueing at the intersections of Oxford Street/Nelson Street and Oxford St/York Road. The proponent has offered to dedicate a portion of the land fronting Oxford Street to allow for the widening of the road and the creation of a right turn lane. The dedication would be secured through a VPA (see section 11.6 for further details).

A VPA has now been agreed to by the proponent and Council and is discussed in Section 11.6 – Public Benefit below. These improvements will likely assist in alleviating traffic congestion in the area. Any future development application (DA) to implement the planning proposal will also be required to address additional considerations including vehicular access to the site as it adjoins a classified road and consultation with RMS under the Infrastructure SEPP is required.



### 11.2 - Height, bulk and scale

Concern over the height, bulk and scale of the proposal, and the associated impacts, have been expressed by the community, agencies and Council. These concerns include the potential overshadowing impact on Centennial Park, residential properties and public domain resulting from the bulk and scale of the proposal and of the loss of village character within this part of Oxford Street. Concerns were raised that the proposed height is not sympathetic to the area which has a predominately low scale character and will set a precedent for future developments.

In response to Council's early concerns regarding loss of village character within Oxford Street, the concept design provided to support the planning proposal was amended to reduce the street wall height/podium height which matches the existing buildings to the east of the site. This intent is also captured through proposed draft DCP provisions **(Attachment A4)**. A consistent and reduced street wall height will help reinforce the existing character and "village feel" by maintaining the consistent scale of development at street level.

The IPC concur with this approach, as detailed in their advice **(Attachment H)** and outlined in section 10 – Independent Planning Commission Review, above.

The IPC state in their advice that *"impacts related to the proposed developments height bulk and scale are acceptable and can be adequately addressed at the development application stage"*.

Overshadowing and visual impact from Centennial Park is discussed in Sections 11.3 – Overshadowing and 11.4 - Heritage below.

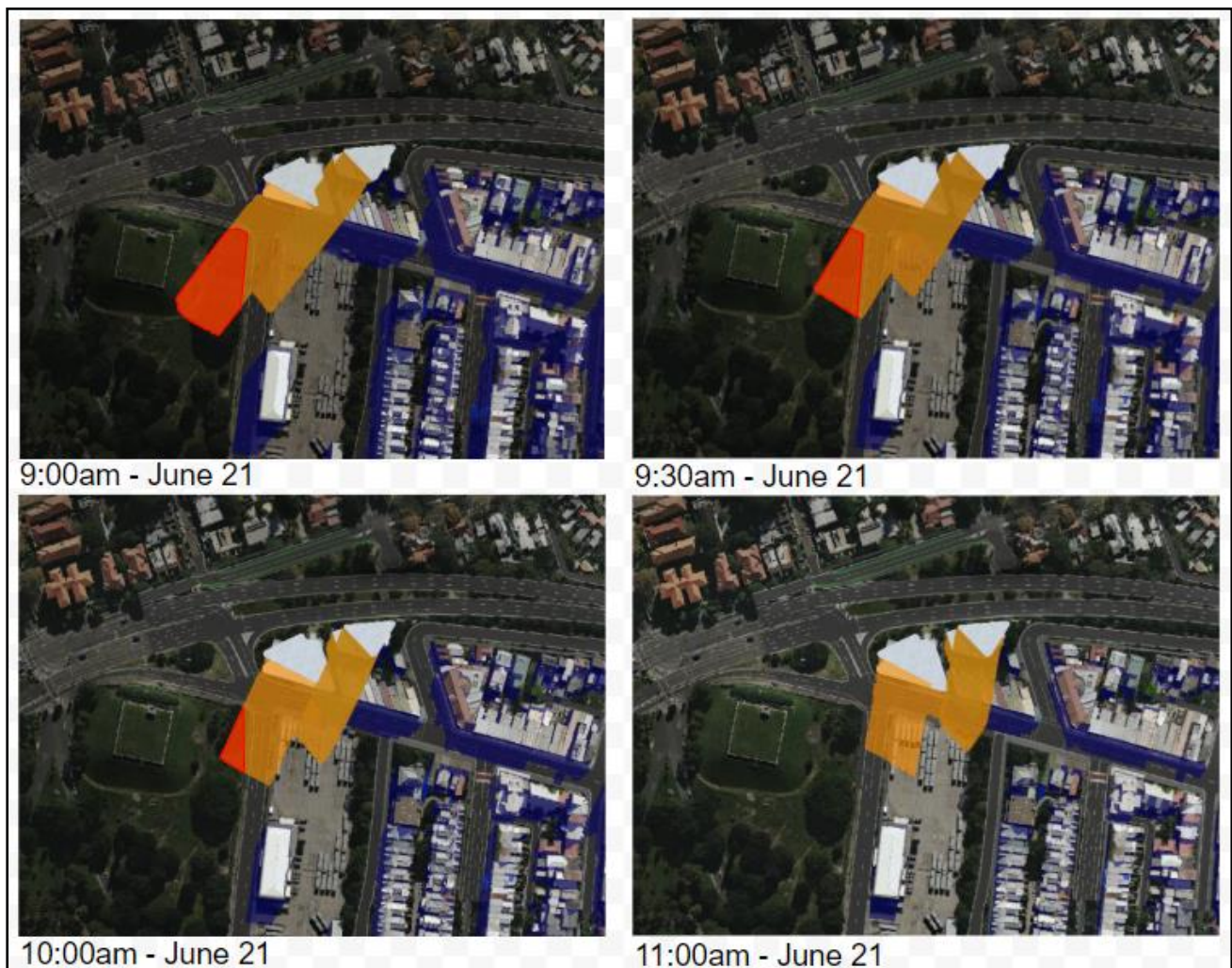
### 11.3 - Overshadowing

Council considers the most significant amenity concern raised in submissions relates to the overshadowing of Centennial Park, existing residential properties and the public domain, generated by the proposed buildings.

Council's post submissions report contains overshadowing analysis which was commissioned by Council to ascertain actual overshadowing impacts to Centennial Park, existing residential properties and the public domain **(Attachment E)**. Discussion of Council's analysis and findings is provided below.

## Centennial Park

Council's analysis concluded the proposed tower on 194-214 Oxford Street will result in a portion of the north east corner of Centennial Park being cast in shadow between 9:00am and 10.30am on 21 June (see **Figure 2** below).



**Figure 2:** Overshadowing of Centennial Park (marked in red) between 9:00am to 10.30am on 21 June (mid-winter).

In Council's report, it was noted that the extent of overshadowing is generally considered to be acceptable given that shadow impacts are for a limited period in the morning on June 21 (mid-winter) which is the worst case scenario, and negligible shadow impacts occur after this time. The Department concur with this view as does the IPC (**Attachment H**).

The Department notes that there is a group of trees located within the park towards the corner of Oxford Street and York Road that currently cast a shadow over the impacted part of the park during the same period as the proposed development would. The overshadowing as a result of the development is only marginally greater than the current overshadowing.

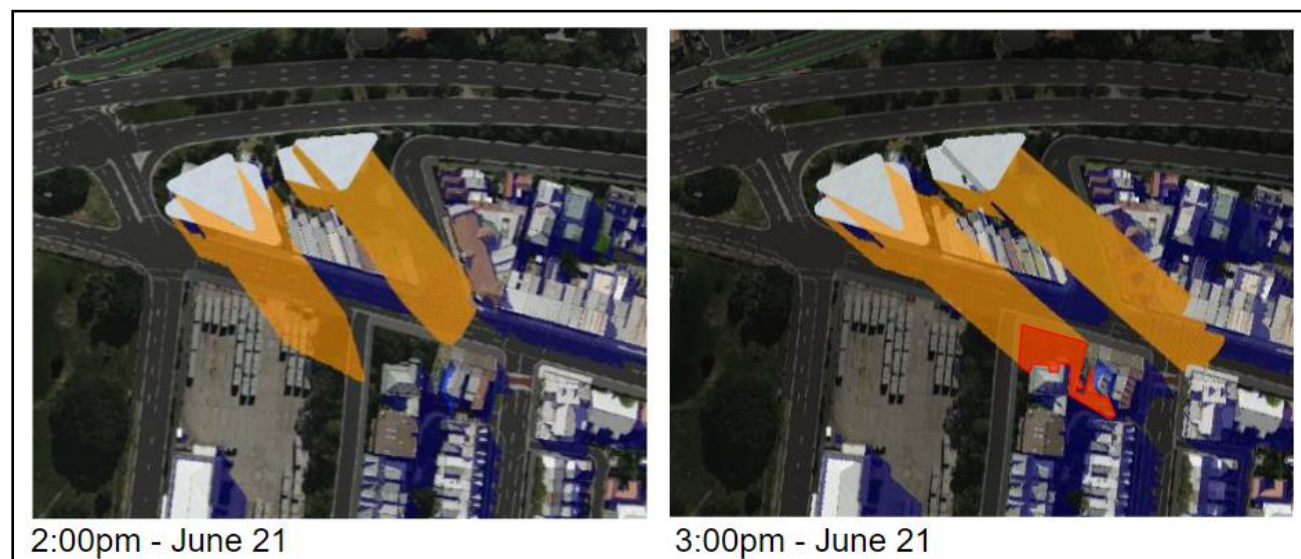
The Department also notes that the portion of the park that would experience overshadowing is relatively small and located between a fenced off water reservoir that is not accessible to the public and a busy intersection. For these reasons, this part of the park is not one of its prime passive recreation areas.

Further, both the prepared draft DCP, local clause to require a site specific DCP and the local provision to require a design competition will contain provisions having specific regard

to the overshadowing of surrounding areas, including Centennial Park. In this regard, it is considered that future design outcomes on site will be informed by further shadow analysis.

### *Residential Properties*

Council's analysis shows residential properties on the opposing side of Oxford Street will be cast in partial shadow between 2:30pm and 3:00pm on June 21 (see **Figure 3** below).



**Figure 3:** Overshadowing of residential properties on Oxford Street between 2:00pm and 3:00pm on June 21 (mid-winter).

Given that the extent of overshadowing is limited to 30 minutes, with shadows moving off residential properties after this time, shadow impacts to existing residential properties is considered minimal and acceptable in this regard. The IPC concur with this finding in their advice (**Attachment H**).

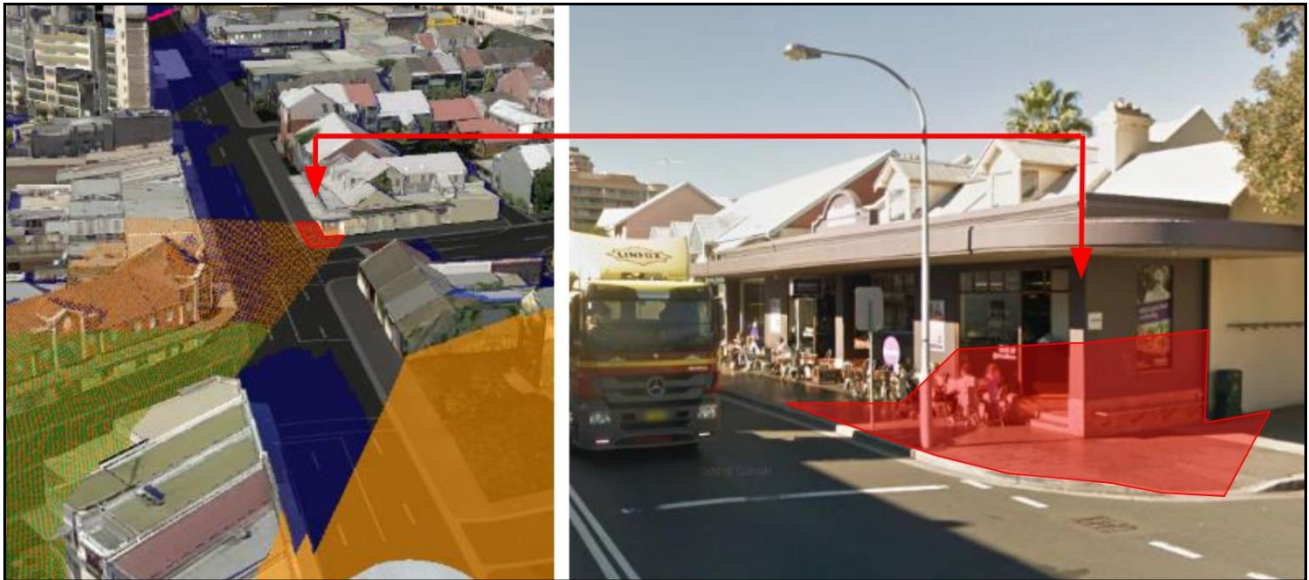
### *Public Domain*

Council maintains that uninterrupted solar access along the southern retail frontages (as shown in **Figure 4** below) and the minimisation of overshadowing of heritage items such as the Nelson Hotel is fundamental to the enjoyment of the public domain and should be protected to retain the 'village feel' within Oxford Street.

Council's analysis identified a public domain area (footpath dining associated with a cafe) that will be cast in shadow at 3:00pm on June 21 as a result of the 36 metre tower proposed for Site 2 (see **Figure 4** below). As with the residential properties, the extent of overshadowing at this location is limited to approximately between 2:30pm and 3:30pm in midwinter, with no overshadowing after this time. Shadow impacts at this location are therefore considered to be minimal and acceptable.

The south western corner of the Lord Nelson hotel would experience overshadowing as a result of the tower proposed for Site 2 at 2:00pm on June 21, with the majority of the hotel overshadowed by 3:00pm. Given this is the worst case scenario and the hotel would not experience overshadowing from the proposed development for the majority of the day, shadow impacts are considered to be minimal and acceptable.





**Figure 4:** Overshadowing of public domain space at 3:00pm on June 21 (mid winter).

#### 11.4 - Heritage

The proposal seeks to remove a local heritage item comprising 4 terrace houses. The proponent states that the altered context of the dwellings has diminished their significance. Council is generally supportive of their removal, subject to the replacement development being of higher quality. A design excellence clause has since been included in Waverley LEP 2012 which will contribute to this outcome. An amendment to this clause to include a design competition for this site will further ensure development expresses high quality design. The clause also provides that consideration is to be given to the impact on heritage items in the vicinity of the site in considering design excellence.

The proponent's heritage impact statement highlights that while the proposed development will be a departure from the existing streetscape, redevelopment would be in line with the broader Oxford Street area and clearly discernible as a contemporary addition to the streetscape.

With regard to the visual impact of the proposed development from the State Heritage Listed Centennial Park, the applicant commissioned Richard Lamb & Associates to prepare a Photomontage Certification Report to illustrate the visual impact of a potential future development. The report demonstrates the existing vegetation in Centennial Park largely dominates the skyline. While the building will be visible from the public domain, it represents the transition of Bondi Junction to an area of higher density and visual impact of the proposed buildings will also form part of the design excellence and design competition considerations. The proposal does not have an unacceptable level of impact on the park.

#### 11.5 - Design Competition Requirements

The planning proposal was exhibited with the intent to include a local provision for an Architectural Design Competition to apply to the site. Waverley LEP (Amendment 10) - Housekeeping introduced a design excellence clause into the LEP in December 2017. The clause requires consideration of design excellence criteria in the assessment of a development application and applies to land in Bondi Junction for development greater than 15m in height. The proposed development will be captured by this clause.

A site-specific design competition clause has been drafted for inclusion in the LEP to require consideration of a number of matters as part of the design competition process. These matters include overshadowing of the surrounding area particularly Centennial Park and the impact on heritage items in the vicinity of the site,

### 11.6 - Public benefit

A public benefit letter of offer was provided with the planning proposal when initially lodged which included the provision of:

1. Land dedication of 3.5m by 60m to enable the widening of Oxford Street in order to accommodate a right turn lane into Syd Einfield Drive via York Road;
2. Pedestrian/Cycle thru-site link from Oxford Street to Osmund Land;
3. Public plazetta at street level at 2 Nelson Street; and
4. Public domain works including street paving, street lighting, street furniture, public art, landscaping and stormwater drainage.

Council and the proponent agreed to a VPA to secure the public benefits outlined above on 13 June 2019 (Attachment I). The agreed terms of the VPA are summarised in Table 1.

**Table 1:** Voluntary Planning Agreement

<b>Total VPA amount</b>	<b>\$7.45 million</b>
Road / footpath dedication	\$1.6 million discounted
Public plazetta	\$1.15 million discounted
Monetary contribution	\$4.7 million

To help facilitate the delivery of the public benefits, the Department recommends a local clause be included in the LEP to require a site specific DCP to be prepared before consent can be granted to development on the land. The clause requires the DCP provide for the matters outlined in the draft Public Benefit Offer and the agreed VPA.

This approach will ensure Council is provided with a legislative mechanism to enable the assessment of public benefits associated with any future DA.

### 11.7 - Site Specific Development Control Plan

A Draft DCP was exhibited with the planning proposal (**Attachment A4**) and provides for objectives and controls relating to built form, design excellence, public domain and transport/parking. The DCP includes guidelines for a 3 storey podium along Oxford Street to reflect a terrace like subdivision at lower levels.

Council's report notes that should the Department determine to support the planning proposal, the site-specific DCP will be incorporated as an amendment into the Waverley DCP 2012 for any future DA.

Together with the local clause to require a DCP, the adoption of the Draft DCP for the site will facilitate improved place through the delivery of pedestrian and cycle connections, public open space, existing public domain improvements, landscaping, stormwater drainage and potential road widening. A site specific DCP is appropriate for the site to allow Council to consider the public domain improvement and streetscape impacts associated with future DAs on site.

### 11.8 - Section 9.1 Directions

The planning proposal was considered consistent with all section 9.1 Directions, with the exception 2.3 Heritage Conservation.

- **2.3 Heritage Conservation**

This direction requires a planning proposal to contain provisions that facilitate the conservation of items of environmental heritage significance. The planning proposal involves the deletion of a heritage listing for four terraces at 194-200 Oxford Street



(Item 1212). Council also raise concerns with regard to the impact of the proposal on the heritage significance of the Norfolk Island Pine tree and the Nelson Hotel.

Council has considered the removal of the heritage listing for 194-200 Oxford Street, should only be supported if they are replaced by a building of a substantially higher quality and provide significant community benefit and streetscape value to the locality. Waverley LEP 2012 applies a design excellence clause to this site which ensures that any proposed building will satisfy Council's concern. The proposed LEP amendment also requires a design competition.

The heritage listed Norfolk Island Pine at 2 Nelson Street is proposed to be retained through the proposal. Conceptual plans provided in support of the plan demonstrate a setback can be achieved to the pine and will allow views to be retained from Oxford and Nelson Streets. While the context and background to the tree will be altered, the impact on the item is seen to be negligible.

The inconsistency with Direction 2.3 is considered to be justified based on being of minor significance as the issue has been addressed through a site-specific clause and can be addressed further at the development application stage.

#### 11.9 State environmental planning policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs.

#### 11.10 State, regional and district plans

##### ***Greater Sydney Region Plan – A Metropolis of Three Cities***

The Greater Sydney Region Plan sets a vision up to 2056 and seeks to establish a 20-year plan to manage growth and change for Greater Sydney in the context of economic, social and environmental matters. It provides objectives and directions to inform district and local plans and the assessment of planning proposals.

Bondi Junction is located within the Eastern Harbour City and is identified as a Strategic Centre, which will contribute to jobs growth. The Eastern Harbour City will provide a proportion of 43.4% of the total dwelling growth of the Greater Sydney Region over the next 20 years. The planning proposal is consistent with the objective of providing Greater Housing Supply and will contribute to achieving the housing target of 157,500 for the Eastern Harbour City.

##### ***Eastern City District Plan***

The Eastern City District Plan identifies Bondi Junction as a Strategic Centre. The centre is well connected and provides retail and local services to the Eastern Suburbs.

Commercial and retail activities are concentrated around the bus/train interchange, Oxford Street Mall and Westfield Bondi Junction. The Eastern City District Plan highlights a need to adequately balance the pressure for residential against other desired uses such as employment to ensure new residential developments can benefit from access and services in centres.

The relevant priorities in the District Plan include:

- Planning Priority E6 - Creating and renewing great places and local centres, and respecting the District's heritage; and
- Planning Priority E11 - Growing investment, business opportunities and jobs in strategic centres.

While conceptual plans provided in support of this proposal seek a majority residential proposal, the B4 Mixed Use zoning provides opportunity for a variety of employment generating uses.

The proposal includes concept plans and a VPA which seek to provide new public spaces and improvements to the public domain. These will contribute to identified action *g. promote place making initiatives to improve the quality of public spaces* and Planning Priority E6.

The Department is therefore satisfied that the planning proposal gives effect to the district plan in accordance with section 3.8 of the Act.

## **12. MAPPING**

The planning proposal will amend the site specific Land Use Zoning Map, Maximum Height of Buildings Map, Floor Space Ratio Map and the Heritage Map. The following map sheets will be updated:

- HER\_001A
- FSR\_001
- HOB\_001
- LZN\_001

The proposal will introduce a new height in the legend of the Maximum Height of Buildings Map, as 36m currently is not in the scale. The maps associated with this amendment have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

## **13. CONSULTATION WITH COUNCIL**

Under section 3.36(1) of the Act, Council was consulted on the terms of the initial draft instrument, prior to the post exhibition addition of a local clause to require a site specific DCP. Council's response to the initial draft instrument was received on 3 May 2018 (**Attachment J1**).

On 22 June 2018, Council was consulted on the terms of the revised draft instrument, inclusive of a local clause to require a site specific DCP. Council's response to the revised draft instrument was received on 26 June 2018 (**Attachment J2**).

## **14. PARLIAMENTARY COUNSEL OPINION**

On 5 July 2018, Parliamentary Counsel provided an Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC1**.

Due to the lapse in time resulting from the IPC Review and VPA negotiations, the draft LEP was updated to include a revised amendment number (with no other changes) and re-submitted to Parliamentary Counsel. On 5 July 2019, Parliamentary Counsel provided an Opinion that the updated draft LEP could legally be made (**Attachment PC2**).

## **15. RECOMMENDATION**

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because it:

- Will facilitate up to 94 dwellings and 831m<sup>2</sup> of retail space in a well serviced location close to public transport;
- Will re-invigorate the western end of Bondi Junction and activate the West Oxford Street Precinct;
- The proposal was unanimously supported by the Joint Regional Planning Panel;
- The Independent Planning Commission recognised that the proposal has site specific and strategic merit; and

- The proponent and Council have agreed to a VPA for the delivery of public domain spaces and road widening/dedication as part of the proposal.

**Laura Locke**  
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