

Planning Proposal to Amend Waverley Local Environmental Plan 2012 – Amendment No. 8 (Overshadowing Clause and Height of Buildings)

1. Objectives or Intended Outcomes of the Proposed Local Environmental Plan

The main objective of this proposal is to amend Clause 6.7 – Solar access to public places in Bondi Junction (the clause) of Waverley Local Environmental Plan 2012 (WLEP) which imposes onerous development constraints for properties along the northern side of Oxford Street Mall in Bondi Junction and the northern side of Spring St opposite Norman Lee Place.

Secondly, the proposal seeks to amend the Height of Buildings (HOB) map of WLEP to be consistent with the amendment to Clause 6.7 and its objectives. This will change the height permitted for buildings on Rowe Street on the north side of the mall, as well as properties north of Norman Lee Place, to allow for some development on these sites while maintaining solar access to the public places south of these sites (Oxford Street Mall and Norman Lee Place).

The original intent of the clause was to maximise solar access to public spaces in the middle of the winter solstice. The final wording of the clause defines additional shadow impact to be “any overshadowing caused by the proposed development that is additional to the amount of shadow cast by existing buildings as at the date of commencement of this provision”. This results in certain sites being unable to realize any additional height.

This Planning Proposal has been prepared to correct an anomaly arising out of the drafting process of WLEP (Amendment 2) 2012 which was gazetted on 13 June 2014. The Planning Proposal seeks to correct this anomaly by amending the clause and changing the HOB map to facilitate reasonable development on sites which are considered strategically critical to the role of Bondi Junction as a major centre.

2. Explanation of the Provisions to be Included in the Proposed Local Environmental Plan

The proposed outcome will be achieved by amending the WLEP to remove three sites from subclause (2) of clause 6.7 – Solar access to public spaces in Bondi Junction, listed below:

- e) Oxford Street Mall (between Bronte Road and Newland Street);
- f) Rowe Street (between Oxford Street Mall and Grosvenor Lane); and
- g) Norman Lee Place (Boot Factory)

The following new subclause will also be inserted into the clause:

(4) In addition, despite any other provision of this Plan, development on land specified below is prohibited if the development results in any part of a building on that land projecting above the height specified on the height of buildings map:

(a) The area bounded by Oxford Street Mall, Grosvenor Street, Grosvenor Lane and Newland Street (including Rowe Street);

(b) The following properties north of Norman Lee Place (Boot Factory):

- 16 Spring Street, Bondi Junction (lot 3, DP 975587);
- 18 Spring Street, Bondi Junction (lot 4, DP 975587);

- 20 Spring Street, Bondi Junction (SP 31260);
- 87 Oxford Street, Bondi Junction (lot 1, DP 975587); and
- 89 Oxford Street, Bondi Junction (lot 9, DP 656476).

Explanation

Clause 6.7 was introduced to the WLEP on 13 June 2014 in response to the *Bondi Junction Urban Design Review Report* (BJUDRR) conducted by City Plan Pty Ltd in 2012 (see Attachment A). The BJUDRR investigated how additional development could be achieved to meet State Government employment and housing targets whilst producing a high quality built environment throughout Bondi Junction.

One of the recommendations of the BJUDRR included the introduction of a Local Provision within Part 6 of the LEP to protect solar access in public parks and plazas. However, the report did not intend for the clause to place such a significant constraint on land surrounding these public places. Sites to the north of Oxford Street Mall have been constrained to the point that any development over what currently exists on the sites is unachievable. Sites to the north of Norman Lee Place are constrained to less than half the height shown in the HOB map.

The clause unreasonably inhibits the growth of Bondi Junction and will result in parts of the Centre left undeveloped in locations where Council envisages critical improvements to public amenity and accessibility. The ability to develop new access to the Bondi Junction Transport Interchange is a key strategic direction which is now hindered by the provisions of this clause which is counterintuitive to the main aims of the BJUDRR. In addition, the subsequent improvements to the access into the Bondi Junction Transport Interchange are a significant public benefit which is now unachievable under Clause 6.7.

Oxford Street Mall

The inclusion of Oxford Street Mall (the Mall) in the clause as it currently stands unreasonably restricts land to the north. This was not the intention of the BJUDRR which aimed to investigate areas where development could increase, especially within the Commercial Core. Solar access to the Mall has already been addressed by the LEP building heights that step back on its northern side to create a height plane (see Attachments B and C). As an east-west running street, any development on the north side of Oxford Street Mall will overshadow the Mall to some extent.

It is unreasonable to completely restrict development along Oxford Street Mall, especially considering the public benefits associated with the envisaged improvements to access for the Bondi Junction Transport Interchange. The WLEP includes a form of building envelopes, expressed through specific height and floor space ratio variations which aim to maintain solar access to the Mall. These heights are designed to retain direct solar access to the southern shop-fronts of the Mall in midwinter.

The clause should therefore be amended to permit development to the carefully considered LEP height standards to ensure sites are not unduly restricted but solar access is maintained to the Mall. The clause will remain as a prohibitive clause to ensure no variations from the LEP height standards are permitted.

Rowe Street

The section of Rowe Street between Oxford Street Mall and Grosvenor Lane is currently a pedestrian ramp that provides access to the Bondi Junction Transport Interchange. Under WLEP the land is zoned B3 Commercial Core and has a height limit of 32m, but as a result of Clause 6.7, no additional height can be achieved as any development proposed would

overshadow the area (see Attachment B). This is an unintended sterilization of development potential and was not the objective of the BJUDRR.

The clause should therefore be amended here to enable development in line with the LEP HOB map. However, the height standards on Rowe Street do not include a height plane that retains solar access to Oxford Street Mall. Therefore, the HOB map should be amended so that development is stepped back to maintain solar access for the Mall. The heights should be amended to range from 12.5m at the front of the Mall up to the current 32m at the rear northern boundary (see Attachments D and E). This will generally align with the current DCP controls for the site, but the current setback from the Mall is considered unnecessary and should be removed.

Norman Lee Place

The sites to the north of Norman Lee Place have also been significantly constrained. While the height limit is 38m and the Floor Space Ratio is 5:1, these sites can currently only achieve roughly 3 storeys at their southern frontage to Spring St and some additional height closer to the sites' northern boundaries. This is particularly restrictive as the lots are very small.

The WLEP should therefore be amended to development to occur on these sites while maintaining significant solar access. This is to be done by amending Clause 6.7 to allow buildings up to LEP height standards and prohibiting any variation beyond that to protect solar access, similar to what is proposed for Oxford Street Mall and Rowe Street.

The HOB map should also be amended for these sites concurrent to an amendment to Clause 6.7 as these height standards have not been planned with regard to maintaining solar access to Norman Lee Place. The height will be reduced to 20m for the front 12m of the sites and then increase to 28m for another 15m (see Attachments D and E). This will allow development up to six storeys at the front of the site, in keeping with DCP controls for street frontage, before being set back according to the angle of solar access at midday in midwinter (32 degrees). This will result in roughly 70% direct solar access being maintained for Norman Lee Place at midday in midwinter while allowing the sites to achieve development in line with the rest of Spring Street (see Attachment F).

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?

The Planning Proposal is the result of previous amendments to the WLEP recommended by the *Bondi Junction Urban Design Review Report*. City Plan Pty Ltd was commissioned jointly by Council and the then Department of Planning and Infrastructure (DoPI) under funding received from the DoPI to address concerns about the built form and urban design outcomes for Bondi Junction. The review identified issues in relation to the development of Bondi Junction and suggested remedies for its growth. One recommendation was the implementation of a solar access clause. The sterilization of land in Bondi Junction was not intended by the report. A copy of the consultant's report is appended as Attachment A.

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

Clause 6.7 in the LEP is significantly restraining growth in Bondi Junction around the sites mentioned. The only way to achieve the objectives and intended outcomes is through an LEP amendment of which this Planning Proposal is the first step. It is noted that Clause 6.7 (2) currently overrides any applicable development standard to the site and there is also no scope for any variation under Clause 4.6. Therefore an amendment to the LEP is necessary.

A number of options were considered in relation to amending the clause in order to rectify the problem. This Planning Proposal reflects the option which is most effective in allowing crucial development in Bondi Junction while maintaining solar access to key public places in the major centre.

3. Is there a net community benefit?

The continued development of Bondi Junction Centre will result in a significant net community benefit not only for Bondi Junction, but also the broader Eastern Suburbs region. Bondi Junction is identified as a Major Centre within the Sydney Metropolitan Strategy and plays a key commercial and transport role for the East Subregion. Facilitating the growth of the centre, and allowing the planned Bondi Junction Interchange access improvements to occur, will strengthen its role as a key centre for commercial and retail activity and a destination for tourists.

Additional jobs and dwellings will be created by amending Clause 6.7 as proposed. This will benefit the local community and the wider Sydney population and contribute to the achievement of employment and dwelling targets set by the Sydney Metropolitan Strategy.

The sites in the clause affected by this proposal will retain significant solar access. There will be minor additional overshadowing of Norman Lee Place and Oxford Street Mall however solar access will still be retained through the LEP building height development standards and any assessment conducted for future development applications. The proposed amendment to the HOB map north of Norman Lee Place has been designed to ensure roughly 70% of the Place will retain direct solar access at midday in midwinter. The clause will retain solar access to the other public places listed in the clause.

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 aim of this Planning Proposal is to remove a constraint to development in Bondi Junction to allow the centre to continue to grow and reinforce its role as a Major Centre. This is crucial to achieving the dwelling and employment targets for Waverley and the broader East Subregion contained in the East Subregion Draft Subregional Strategy and the Sydney Metropolitan Strategy.

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

Waverley Council's current Community Strategic Plan, "Waverley Together 3" covers the period 2013-2025. The main direction that relates to this Planning Proposal is "*L1 Waverley's economy is vibrant and robust and supports the creation of a variety of jobs and business opportunities.*"

The amendment to Clause 6.7 and the WLEP HOB map will help to achieve this map. Land near these sites will be able to develop as intended and contribute to the employment targets for Waverley. Removing this constraint to development will also increase the amount of pedestrian traffic for businesses in Bondi Junction.

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

As a minor change to the WLEP, State Environmental Planning Policies do not affect this Planning Proposal to a great extent. An assessment of the consistency and relevance to SEPPs has been conducted (see Attachment G).

4. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

This Planning Proposal is consistent with all Ministerial Section 117 Directions. An assessment indicating compliance with Section 117 Directions has been conducted (see Attachment G).

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?

Apart from a possible minor reduction in solar access to Norman Lee Place and Oxford St Mall at the specified time in the clause, there are no other likely environmental effects as a result of this Planning Proposal. Overshadowing will be strictly limited through the LEP height standards which have been stepped back as a height plane along the northern side of Oxford Street Mall to allow solar access to the Mall, and will be stepped back north of Norman Lee Place as a result of this proposal. These height standards will also be unable to be varied in these areas as a result of the amendment to Clause 6.7

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

The Planning Proposal may result in a minor reduction in solar access to Norman Lee Place and Oxford Street Mall. However, solar access may only be reduced to the levels carefully determined and prescribed by the LEP height standards.

The positive social and economic impacts related to the removal of a significant constraint to development on land in Bondi Junction will exceed the possible minor negative impacts of the proposal. A vibrant and growing Major Centre is important to residents and visitors of Bondi Junction. The centre is the logical place to accommodate additional housing and jobs in order to meet future demand.

Furthermore, the amendments to the WLEP will encourage the Bondi Junction Transport Interchange access improvements which will provide significant social and economic benefits by providing better access to the Mall, improved amenity for the public, and new retail premises and commercial premises on Rowe Street.

D. State and Commonwealth Interests

1. Is there adequate public infrastructure for the Planning Proposal?

There will be adequate public infrastructure for the Planning Proposal. The proposed amendment will permit reasonable development that achieves a height and floor space ratio in line with the relevant LEP development standards. This is particularly important for sites along Rowe Street and Oxford Street Mall which are within close proximity to the Bondi Junction Interchange. Development of this scale was reasonably expected and planned for before the implementation of Clause 6.7.

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?

As the proposed amendment to the LEP is relatively minor, no consultation with State or Commonwealth Public Authorities has occurred at this stage. The DoPE was a party to the Bondi Junction Urban Design Review and understands the background to the proposal. State authorities will be consulted in accordance with the Gateway Determination if required.

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 relatively minor nature of the amendment and the limited number of properties affected. Council also suggests that:

- Notice be given in the Wentworth Courier being the local paper that services the Waverley municipal area;
- The Planning Proposal be advertised on Council's website;
- The Planning Proposal be 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. Bondi Junction Urban Design Review report prepared by City Plan Pty Ltd.
- B. Shadow Analysis of Rowe Street and Oxford Street Mall
- C. WLEP – Oxford Street Mall Height of Buildings Map extract
- D. Changes to Height of Buildings Map
- E. Draft Height of Buildings Map
- F. Norman Lee Place Shadow Analysis
- G. Section 117 Directions and State Environmental Planning Policy Compliance Table
- H. Draft Amendment to Clause 6.7
- I. Part 6 – Project Timeline
- J. Information Checklist