

Planning and Assessment

IRF20/937

Gateway determination report

LGA	Waverley
PPA	Waverley Council
NAME	Planning proposal to include 'recreation facilities (indoor)' as an additional permitted use on land at 201-209 Old South Head Road, Bondi Junction.
NUMBER	PP_2019_WAVER_005_00
LEP TO BE AMENDED	Waverley Local Environmental Plan 2012
ADDRESS	201-209 Old South Head Road, Bondi Junction
DESCRIPTION	SP 30764
RECEIVED	15 November 2019
FILE NO.	IRF20/937
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to include 'recreation facilities (indoor)' as an additional permitted use under Schedule 1 of *Waverley Local Environmental Plan 2012* (Waverley LEP 2012).

1.2 Site description

The proposal applies to land at 201-209 Old South Head Road, Bondi Junction legally described as strata plan 30764, located at the corner of Old South Head Road and Flood Street, Bondi Junction.

Existing development on the site comprises a four-storey mixed-use building with a ground floor commercial tenancy fronting Old South Head Road and residential apartments above street level (**Figure 3**). The site has a northern frontage to Old South Head Road of 33m, an eastern frontage to Flood Street of 42m, a southern boundary to Barnett Lane East of 28m and a western boundary of 34m, with a total site area of approximately 1,197m² (**Figures 1 and 2**).

A gymnasium / health studio, known as 'Best Life Health and Fitness', has been operating on the site since August 2015. It has a floor space of approximately 65m².

A site map is provided at **Attachment D** and in **Figures 1 and 2**.

1.3 Background

The existing gymnasium / health studio occupying the ground floor level of the building on the site commenced operation in 2015. No development approval has been obtained. Following the receipt of a complaint in early 2019, Waverley Council investigated the consent record relevant to the property and found that there has been no formal consent for the use. As 'recreation facilities (indoor)' is a prohibited use under the B1 Neighbourhood Centre zone, the operator is unable to obtain development consent from Council.

In July 2019, Council issued a Notice of Intention to Give an Order to cease operation. Council has agreed to suspend giving the Order to facilitate the lodgement and assessment of a planning proposal.



Figure 1: Aerial photograph of the subject site (outlined in red) and adjoining developments (source: Nearmap)

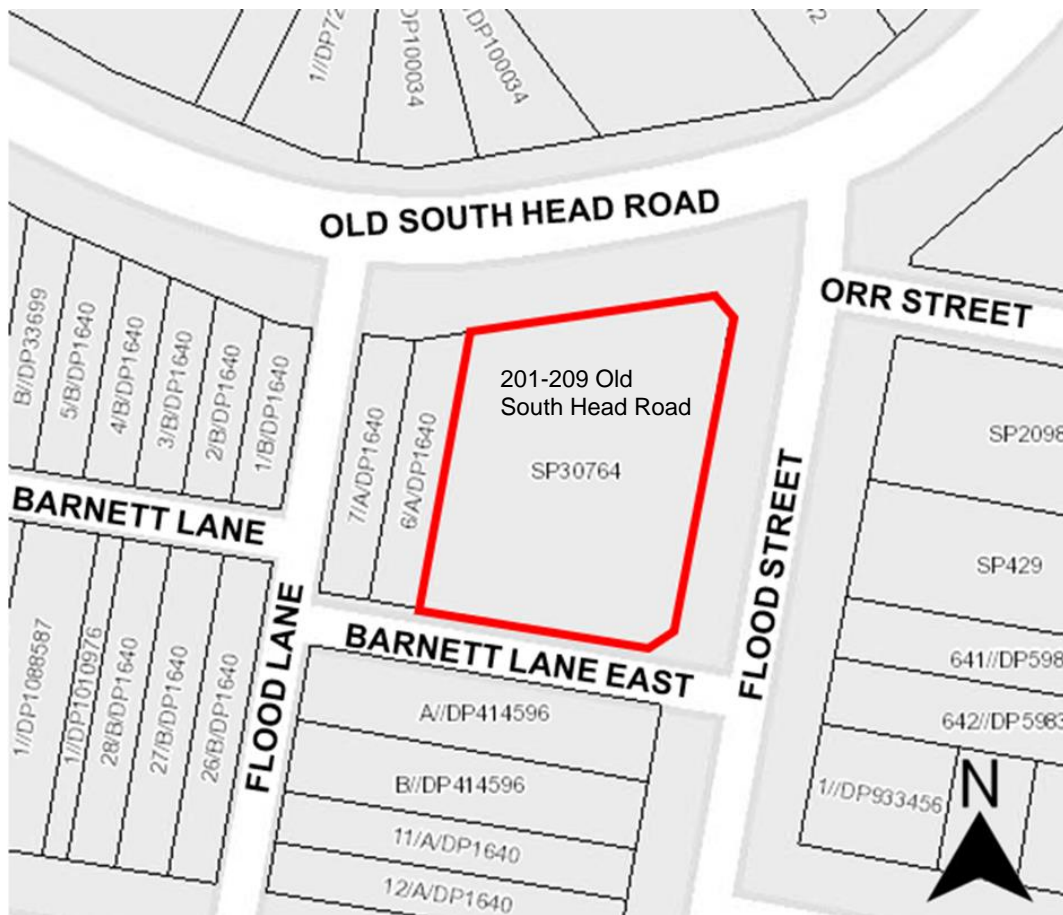


Figure 2: Property identification map with the subject site outlined in red (source: Planning Portal)



Figure 3: View south towards the site from Old South Head Road with the subject premises outlined in yellow (source: Google Maps)



Figure 4: View of the site from Barnett Lane East looking north (source: Google Maps)

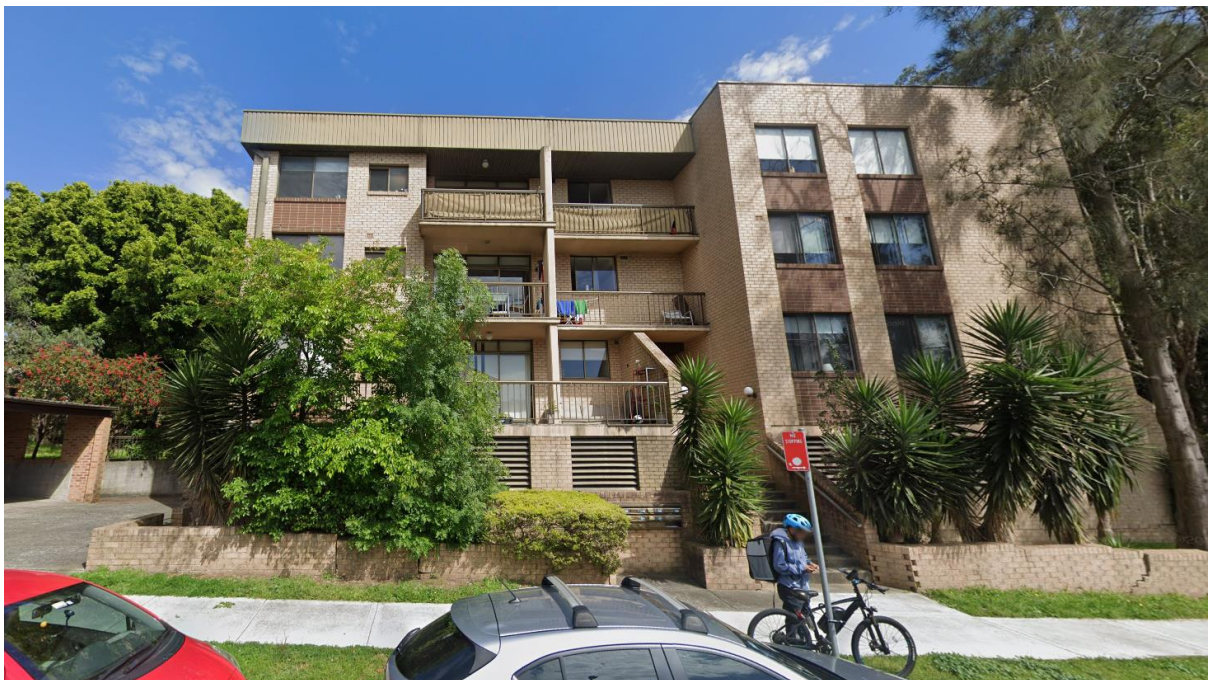


Figure 5: View west towards the site from Flood Street (source: Google Maps)

1.3 Existing planning controls

Under the Waverley Local Environmental Plan 2012, the following controls apply to the site:

- B1 Neighbourhood Centre zone (**Figure 6**);
- a maximum building height of 9 metres (**Figure 7**); and
- a maximum floor space ratio (FSR) of 1:1 (**Figure 8**).

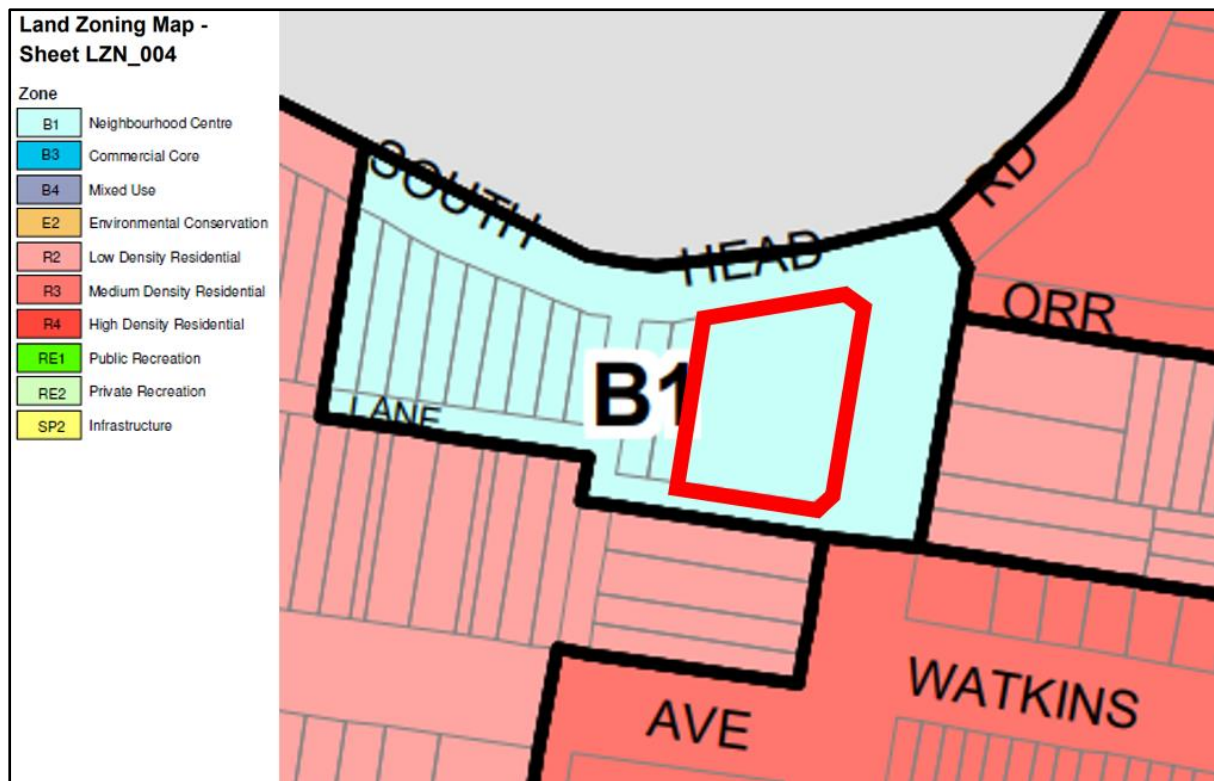


Figure 6: Waverley LEP 2012 Land Zoning Map with the site outlined in red.

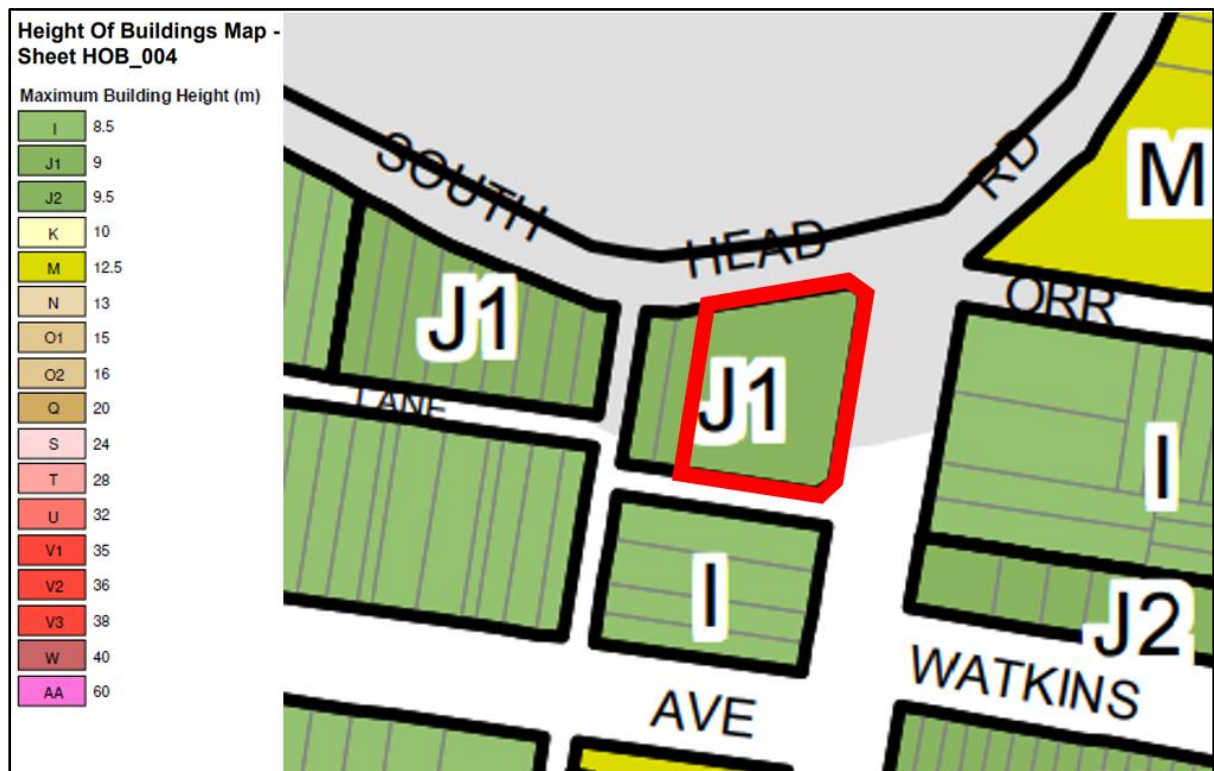


Figure 7: Waverley LEP 2012 Height of Buildings map with the site outlined in red.

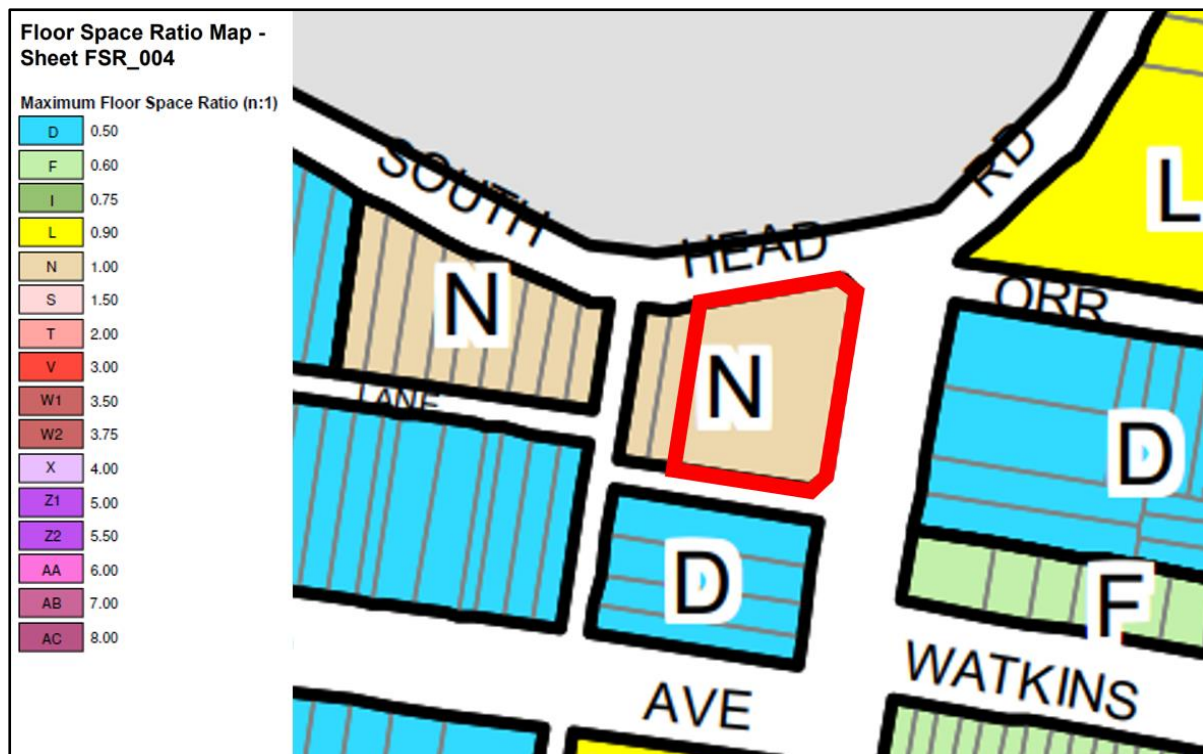


Figure 8: Waverley LEP 2012 FSR Map with the site outlined in red.

The site is not listed as a heritage item or in the vicinity of any heritage items. It is located adjacent to the Woodstock Street Conservation Area (C16) and Flood Street Landscape Conservation Area (C42) identified under the Waverley LEP 2012.

1.4 Surrounding area

The subject site has frontage to Old South Head Road, which serves as the main thoroughfare for the locality and adjoining suburbs. The Bondi Junction CBD is approximately 565 metres to the west of the site and Bondi Beach is approximately 2 kilometres to the east. While the site is located within the Waverley Council area, the opposite side of Old South Head Road falls within the Woollahra Local Government Area.

The locality is characterised by a diverse mix of uses. To the west there are several small-scale commercial premises and shop-top housing of two to three storeys in height within the Old South Head Road neighbourhood centre (**Figure 9**). Across Old South Head Road to the north are residential flat buildings of varying scale with a height of up to 8 storeys (**Figure 10**). To the south and east of the site is a mix of detached, semi-detached and attached dwellings and residential flat buildings (**Figure 11**).

The site is within walking distance from Cooper Park and Waverley Park. There are multiple places of worship in proximity to the site, including three synagogues in the surrounding blocks. The planning proposal also states that there are a number of cycling routes in the vicinity of the site.



Figure 9: Old South Head Road neighbourhood centre, looking south-west (source: Google Maps)



Figure 10: Residential flat buildings on the opposite side of Old South Head Road to the north of the site (source: Google Maps)



Figure 11: A view down Flood Street to the south-east of the site (source: Google Maps)

1.6 Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions as:

- The proposal is consistent with the objectives, directions and planning priorities of the Greater Sydney Region Plan, Eastern City District Plan and Council's local strategic plans, and relevant State Environmental Planning Policies and Section 9.1 Directions.
- The site is located within a neighbourhood centre with convenient access to public transport, including local buses and the Bondi Junction transport interchange. The proposal will broaden the range of commercial uses permissible on the site, which will serve the local community and contribute to the vibrancy of the neighbourhood centre.
- The site has a land area of 1,197m² and is already occupied by a Strata titled building. The ground floor tenancy where the existing gymnasium is located has a floor area of approximately 65m² and is a small scale operation. The proposal to permit recreation facilities (indoor) on the site is unlikely to result in significant adverse impacts on the amenity of the surrounding residences.
- The proposal will not alter the existing zoning, floor space ratio and building height controls and is unlikely to affect the character of the locality.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcomes of the planning proposal are:

- To include recreation facilities (indoor) as an additional permitted use for the site;
- To enable the utilisation and activation of the street-level tenancy fronting Old South Head Road for a small-scale indoor recreational use within an established B1 Neighbourhood Centre; and
- To enable the existing gymnasium / health studio to continue operation on the site by making it a permissible use and allowing a development application to be lodged.

The objectives described in the planning proposal are clear and do not require amendment prior to community consultation.

2.2 Explanation of provisions

The planning proposal seeks to amend Schedule 1 – Additional Permitted Uses of Waverley LEP 2012 to permit ‘recreation facilities (indoor)’ on the site.

Under the LEP, the definition for the proposed additional use is:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

Although the definition for recreation facility (indoor) encompasses a range of recreation uses, in this case, the proposed amendment to Schedule 1 is intended to permit the ongoing use of part of the site as a health studio / gymnasium. The existing business occupying the ground floor tenancy primarily provides personal training and small group training. The health studio has a floor area of approximately 65m² catering for about 10 people and 1-2 staff consistent with the small-scale use typically envisaged for a B1 Neighbourhood Centre.

The explanation of provisions in the planning proposal adequately describes the intended changes to the Waverley LEP 2012.

2.3 Mapping

The planning proposal seeks to alter Schedule 1 of the Waverley LEP 2012 to include recreation facilities (indoor) as an additional permitted use for the site. No mapping change is required.

Council’s planning proposal report incorrectly states that mapping changes will be required. A Gateway condition is recommended to require any reference to mapping changes to be removed prior to exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of an endorsed planning strategy, study or report.

The planning proposal is needed to permit recreation facility (indoor) uses on the site. This is to facilitate the continued operation of the existing gymnasium / health studio occupying the ground floor tenancy of the site, which is currently subject to Council's Notice of Intention to Give an Order to cease operation. The proposal is required to enable formalisation of the use through obtaining a development consent. The proposal is the best means to achieve the above intended outcome and would enable a timely resolution of the issue affecting the business.

A balance of business, retail, health, community and residential uses is an important factor in maintaining the amenity of local centres. It is noted that Council's Strategic Planning and Development Committee (SPDC) resolved at its meeting on 5 November 2020 to support the planning proposal being forwarded to the Department for Gateway determination. The SPDC also resolved that:

Reviews the permissibility of recreation facility (indoor) within the B1 Neighbourhood Centre zoning as part of the LEP Review and the Village Centres Study.

It is considered that the above approach would enable a strategic review of the adequacy of recreation facility (indoor) uses within B1 zoned land across the LGA.

4. STRATEGIC ASSESSMENT

4.1 Region

Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the *Greater Sydney Region Plan*, which aims to manage and coordinate growth in the Greater Sydney region. The Region Plan contains specific objectives for the region over the next 40 years and informs the actions and directions of the District Plans.

Of particular relevance in the Region Plan are:

Objective 7: Communities are healthy, resilient and socially connected

- The planning proposal seeks to enable a small-scale, commercially operated indoor recreation use on the site, which is located in a neighbourhood centre with access to a range of public and active transport options. The provision of a health studio / gymnasium on the site will contribute to creating a healthy and socially connected local community.

Objective 22 Investment and business activity in centres

- The planning proposal will facilitate the inclusion of a health studio / gymnasium use on the site, which is located in a neighbourhood centre. The proposal would contribute to the diversity of commercial uses and activities in the centre.

4.2 District

Eastern City District Plan

The Eastern City District Plan operates to give effect to the Region Plan. The Eastern City District Plan encompasses the Waverley LGA.

The planning proposal is consistent with the relevant objectives of the Plan:

E1: Planning for a city supported by infrastructure

- The planning proposal intends to permit the operation of a gymnasium / health studio on the site that will service the local community. The site is accessible with local bus services running along Old South Head Road and is approximately 565m from the Bondi Junction CBD.

E3: Providing services and social infrastructure to meet people's changing needs

- The planning proposal seeks to enable an indoor recreation use that will meet the needs of the local community. The proposal would provide greater flexibility for small-scale commercial and recreational uses on the site.

E4: Fostering healthy, creative, culturally rich and socially connected communities

- The proposal will facilitate provision of a health studio / gymnasium on the site, which will contribute to creating a healthy and socially connected local community.

E6: Creating and renewing great places and local centres, and respecting the District's heritage

- The planning proposal will contribute to the vibrancy of the Old South Head Road neighbourhood centre as it will broaden the range and diversity of commercial uses and services for the local community.

4.3 Local

Waverley Local Strategic Planning Statement

The Waverley Local Strategic Planning Statement (LSPS) has been assured by the Greater Sydney Commission and published on the Planning Portal. The planning proposal is consistent with the relevant priorities and actions of the Waverley LSPS, particularly with the following:

Planning Priority 8: Connect people to inspiring and vibrant places, and provide easy access to shops, services, and public transport

- The planning proposal will permit the operation of a gymnasium on the site, which is within the Old South Head Road neighbourhood centre with good access by public and active transport. The proposal will contribute to the viability and vibrancy of the neighbourhood centre by increasing the diversity of commercial uses and services for the local community.

Planning Priority 9: Support and grow Waverley's local economy with a focus on wellbeing, knowledge and innovation

- The proposal will enable indoor recreation uses on the site and contribute to the health and well being of the local community.

Waverley Community Strategic Plan

The Waverley Community Strategic Plan (CSP) 2018-2029 articulates the vision, values, aspirations and priorities of the Waverley community with reference to other local government plans, information and resourcing capabilities.

The planning proposal is consistent with the relevant goals and strategies in the CSP:

2.1.1 Provide a range of needs-based, flexible and accessible services, buildings and facilities

- The proposal will enable indoor recreation uses on the site and meet the health and recreation needs of the local community. The site is accessible by the local community by active and public transport.

3.2 Expand the network of parks and open spaces, sporting and recreational facilities

- The proposal will enable an indoor recreation facility to be provided on the site, which is accessible to the local community by active and public transport.

4.2 Ensure Bondi Junction and Waverley's villages continue to have a diverse range of businesses, local jobs and services

- The proposal will enable indoor recreation uses on the site and will contribute to the diversity of commercial uses and services in the Old South Head Road neighbourhood centre.

4.4 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with the applicable section 9.1 Ministerial Directions.

1.1 Business and Industrial Zones

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,*
- (b) protect employment land in business and industrial zones, and*
- (c) support the viability of identified centres.*

The planning proposal seeks to include 'recreation facility (indoor)' as an additional permitted use for the site, which is zoned B1 Neighbourhood Centre. The proposal will support the provision of a small-scale gymnasium / health studio on the site and enhance the diversity of commercial uses in the centre.

3.4 Integrating Land Use and Transport

The key objective of this direction is to improve access to housing, jobs and services by walking, cycling and public transport.

The site is well connected to public transport with frequent bus services and is approximately 1km (approximately a 10- to 15-minute walk for an average person) from the Bondi Junction train station and bus interchange. The inclusion of recreation facility (indoor) as an additional permitted use for the site will enable patrons to access the facility by active and public transport.

4.5 State Environmental Planning Policies (SEPPs)

The proposal is considered to be consistent with the applicable SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal is considered to deliver social and health benefits for the local community. The inclusion of recreation facility (indoor) as a permissible use for the site will encourage physical activity and social interactions. The proposal would also contribute to the vibrancy and activation of the Old South Head Road neighbourhood centre.

5.2 Environmental

The locality is predominantly characterised by medium density residential and commercial uses. The planning proposal is unlikely to have any adverse impacts on the surrounding built environment as it does not seek to change the zoning or increase the development standards for the site. The proposal will facilitate use of the site by a small scale gymnasium / health studio. The potential amenity impacts could be addressed in detail at the development application stage.

5.3 Economic

The planning proposal will result in positive economic impacts as it will broaden the types of commercial uses permissible for the site, and contribute to the diversity of economic activities within the neighbourhood centre.

5.4 Infrastructure

The planning proposal does not seek to increase the development standards applicable to the site. The site has convenient access to frequent local bus services. The proposal is not considered to generate any significant additional demand for utilities and infrastructure.

6. CONSULTATION

6.1 Community

The planning proposal states that public consultation will be undertaken in accordance with the Gateway determination. An exhibition period of 28 days is considered appropriate for this proposal.

6.2 Agencies

The planning proposal does not specify any requirements for consultation with public agencies. Due to the minor nature of the planning proposal, no consultation with public agencies or organisations are required as part of the Gateway determination.

7. TIME FRAME

The planning proposal includes a project timeline with an estimated finalisation date of September 2020, assuming Gateway determination would be issued in February 2020. To allow flexibility for Council to finalise the proposal, a time frame of **9 months** for completing the LEP is recommended.

A Gateway condition is recommended to require the project time line to be updated prior to exhibition to reflect the current progress.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested delegation to make the LEP amendment. Having regard to the nature of the planning proposal, it is recommended that authorisation be granted for Council to exercise the plan making functions under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* in this instance.

9. CONCLUSION

The planning proposal to amend the Waverley LEP 2012 is supported and should proceed subject to conditions for the following reasons:

- The proposal is consistent with the objectives, directions and planning priorities of the Greater Sydney Region Plan, Eastern City District Plan and

Council's local strategic plans, and relevant State Environmental Planning Policies and Section 9.1 Directions.

- The site is located within a neighbourhood centre with convenient access to public transport, including local buses and the Bondi Junction transport interchange. The proposal will broaden the range of commercial uses that provide services to the local community and contribute to the vibrancy of the neighbourhood centre.
- The site has a land area of 1,197m² and is already occupied by a Strata titled building. The ground floor tenancy where the existing gymnasium is located has a floor area of approximately 65m² and is a small scale operation. The proposal to permit recreation facilities (indoor) on the site is unlikely to result in significant adverse impacts on the amenity of the surrounding residences.
- The proposal will not alter the existing zoning, floor space ratio and building height controls and is unlikely to affect the character of the locality.

10. RECOMMENDATION

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be amended to address the following:
 - (a) include an updated project timeline; and
 - (b) remove references to mapping change in Part 4 of the Planning Proposal report prepared by Council.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A Guide to Preparing Local Environmental Plans* (Department of Planning and Environment, 2018).
3. No consultation is required with public authorities/organisations under section 3.34(2)(d) of the Act.
4. The time frame for completing the LEP is to be **9 months** from the date of the Gateway determination.
5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, if reclassifying land).

6. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.



6 May 2020
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6 May 2020
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