

Planning Services

Plan Finalisation Report

Local Government Area: Waverley

PP Number: PP_2016_WAVER_001_00

1. NAME OF DRAFT LEP

Waverley Local Environmental Plan 2012 Amendment No.10 (draft LEP) – Housekeeping Amendment.

2. SITE DESCRIPTION

The planning proposal (**Attachment B**) applies to land within the Waverley Local Government Area (LGA) and will address several housekeeping matters including minor clause amendments, introducing a design excellence clause and correcting heritage listings to various parcels of land within the Waverley LGA.

3. PURPOSE OF PLAN

The proposal is the result of a review of the Waverley LEP 2012 to ensure the plan is updated to respond to inconsistencies, errors and updates in planning policy.

The draft LEP seeks to:

- introduce a new design excellence clause;
- make minor wording changes to the height of buildings and floor space ratio (FSR) objectives to refer to desired future character;
- provide for an additional consideration of view loss in the objectives of the height of buildings and architectural roof features clauses;
- update the objectives of the B1 Neighbourhood Centre Zone; and
- amend Schedule 5 – Environmental Heritage to remove heritage items that have been approved for demolition and to correct property addresses and update the corresponding heritage maps.

4. STATE ELECTORATE AND LOCAL MEMBER

The subject land falls within the Coogee Electorate. The Hon Bruce Notley-Smith MP is the State Member for Coogee.

The Hon Malcolm Turnbull MP is the Federal Member for Wentworth.

To the regional planning team's knowledge, neither MP has made any written representations regarding this proposal.

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| NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal. |
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| NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required. |
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5. GATEWAY DETERMINATION

The Gateway determination issued on 7 March 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions. No Gateway extensions have been requested or issued for the draft LEP. The proposal was due for finalisation by 14 December 2016, within nine months of the Gateway determination. Waverley Council submitted the plan for finalisation prior to this date; however, consultation with Council on the plan as drafted by Parliamentary Counsel was protracted to ensure wording, mapping and clause changes were agreed to.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, public exhibition and agency consultation were undertaken by Council from 30 March 2016 to 29 April 2016.

Nine submissions were received (summary at **Attachment D**). Six were from residents, two were from authorities (Office of Environment and Heritage and Randwick City Council) and one was from the combined Randwick-Waverley Design Review Panel.

Although there is general support for many of the proposed amendments, several issues were raised during the public exhibition period, including:

- the removal of 21 Brown Street, Bronte as a local heritage item;
- whether the proposed design excellence clause should apply to the entire LGA;
- replacing the word 'existing' with 'desired future' character in the height of buildings and FSR objectives; and
- suggested changes to the wording of the proposed design excellence clause and the objectives in clause 4.3 (height) and clause 5.6 (architectural roof features).

Council has addressed concerns raised in submissions and is satisfied the delisting of 21 Brown Street, Bronte is justified given the item has been approved for demolition. No objections were raised by the Office of Environment and Heritage – Heritage Division regarding the removal of this listing in Schedule 5.

Council has considered the concerns raised with changing 'existing' to 'desired future character' and has addressed these concerns in its planning report. Council's intention in using 'desired future character' refers to the outcome of an area if developed in line with current development standards (height and FSR). In addition, character statements exist for Bondi Junction and Bondi Beach, and many other councils in Sydney similarly use the term 'desired future' when referring to character in clauses 4.3 and 4.4 (height and FSR).

Council has considered the suggested wording changes to the design excellence clause and made minor post-exhibition changes in response to submissions received. These do not change the intent of the clause. Parliamentary Counsel has reviewed and drafted the clause consistent with the design excellence clause model.

It is considered that Council has reviewed and addressed all issues raised in public submissions, except for concerns raised about the LGA-wide application of the design excellence clause. The Department of Planning and Environment is also concerned with this and has recommended changes to the plan to limit its application (see Section 9).

7. ADVICE FROM PUBLIC AUTHORITIES

Council consulted the Office of Environment and Heritage (OEH) in accordance with the Gateway determination. OEH raised no objection to the proposed removal of 21 Brown Street, Bronte and 32 Wallangra Road, Dover Heights as local heritage items, subject to Council ensuring it has adequately justified the deletions. Council's justification provides that these items should no longer be listed given they have been approved for demolition.

Corrections to the heritage schedule were supported.

8. POST-EXHIBITION CHANGES

Council submitted the revised planning proposal under section 58(2) of the *Environmental Planning and Assessment Act 1979* and requested the Department draft and finalise the LEP.

Post-exhibition changes made by Council in response to the submissions received include minor wording changes to the proposed design excellence clause and objectives contained in the B1 Neighbourhood Centre Zone, clause 4.3 height of buildings and clause 5.6 architectural roof features.

The Neighbourhood Centre Zone objective in the land use table has been clarified to ensure any proposed non-residential use or building is of small-scale intensity with regard to building design, operation and activities, transport, traffic generation and car parking capacity of local roads. The references to car parking and transport were made post-exhibition as a clarification to the objective.

The height of buildings objectives were updated to introduce view-sharing considerations. The objective refers to establishing limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views. The reference to public spaces was included post-exhibition and is considered a clarification of the objective.

The architectural roof features clause includes an objective to minimise the external impact of roof features, particularly with respect to solar access and views. This has been clarified by Parliamentary Counsel in the drafting of the instrument and is consistent with other LEP objectives.

Council advised these minor wording changes had been made to the planning proposal and is of the opinion that the proposal, as revised, is consistent with the Gateway determination and that no variation to the Gateway is required. The wording changes are considered minor and do not change the overall intent of clauses. Subsequent word changes have been made by Parliamentary Counsel, particularly with regard to the design excellence clause.

9. ASSESSMENT

The Department has considered agency comments, public submissions and Council's minor post-exhibition changes and recommends the draft LEP be supported. The LEP will make clarifications, corrections and housekeeping updates to improve the operation of the LEP and it will introduce design excellence considerations for significant development applications in the key precincts of Bondi Junction and Bondi Beach.

Section 117 Directions

The proposal is consistent with the relevant section 117 Directions.

State environmental planning policies

The proposal is considered to be consistent with the relevant SEPPs or deemed SEPPs.

Strategic framework

The planning proposal makes minor administrative, mapping and objective amendments to Waverley LEP 2012, which are generally consistent with the Draft Greater Sydney Region Plan and the revised Draft Eastern City District Plan.

Department changes to the plan

The Department raised concerns with Council about the draft LEP's proposed application of the design excellence clause to the entire LGA for all development, including alterations and additions.

Council provided a second preference to limit the application of the clause to land zoned B3 Commercial Core, B4 Mixed Use and R4 High Density Residential, or for development at least 15 metres in height or on a site that has an area of 10,000sqm or greater.

It was considered that Council's alternate approach was an improvement to limiting the land the clause applies to and in capturing sites in the larger centres of Bondi Junction and Bondi Beach. However, the Department considered the introduction of key sites maps to identify land to which the clause would apply would be more appropriate and provide greater clarification. The clause will not apply to all development but is limited in scope to alterations and additions and new development at least 15 metres in maximum building height. The Department has made these changes in consultation with Council and has amended the instrument to reflect these changes.

Council advised it will monitor the operation of the clause once it commences and may consider extending its application in a future planning proposal for introducing design competition provisions.

Minor changes have been made by Parliamentary Counsel to the wording of the design excellence clause and other clauses within the draft LEP.

It is recommended that these amendments be endorsed without requiring further exhibition as they do not change the intent of the planning proposal as exhibited.

10.MAPPING

There are four heritage maps and three key sites maps associated with this amendment. They have been checked by GIS staff and submitted to Parliamentary Counsel via the ePlanning Portal.

11.CONULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment D**) and confirmed on 7 November 2017 that the draft Plan should proceed to be made (**Attachment E**).

12.PARLIAMENTARY COUNSEL OPINION

On 24 November 2017, Parliamentary Counsel provided the final Opinion that the draft Plan could be legally made. This Opinion is provided at **Attachment PC**.

13.RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate determine to make the draft LEP because:

- it will correct heritage listings and make other housekeeping amendments to improve the operation of the Waverley LEP 2012; and
- it will introduce design excellence considerations in the assessment of development applications for the precincts of Bondi Junction and Bondi Beach.

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