

Planning and Assessment

Gateway determination report

LGA	Waverley
PPA	Waverley Council
NAME	Planning proposal - 84 Curlewis Street, Bondi Beach
NUMBER	PP_2019_WAVER_004_00
LEP TO BE AMENDED	Waverley Local Environmental Plan 2012
ADDRESS	84 Curlewis Street, Bondi Beach
DESCRIPTION	Lot 1 DP 1231789
RECEIVED	15 October 2019 (Revised planning proposal)
FILE NO.	IRF19/7644
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 seeks to broaden the range of commercial uses permissible within an approved and under construction mixed-use building on land at 84 Curlewis Street, Bondi Beach.

To achieve the objectives and intended outcomes, the planning proposal seeks to amend Waverley Local Environmental Plan (LEP) 2012 by rezoning the site from R3 Medium Density Residential to B1 Neighbourhood Centre.

The proposal does not seek to introduce or amend any principal development standards applicable to the site, e.g. the height of buildings and floor space ratio (FSR).

1.2 Site description

The site is known as 84 Curlewis Street, Bondi Beach and legally described as Lot 1, DP 1231789. The site has a rectangular shape with frontages to both Curlewis Street and Glenayr Avenue and a total site area of 841sqm.

An aerial photo of the locality identifying the subject site is provided below.



Figure 1 – Aerial photo of the subject site (outlined in yellow) and surrounding development (Source: Nearmap, dated 22 October 2019)

The subject site has an activated development consent (DA-334/2016) for a mixed-use development comprising a boarding house (39 rooms), kiosk and neighbourhood shop (with a combined commercial area of approximately 92sqm). The development is currently under construction and is near completion at the time of writing this report.

1.3 Existing planning controls

Waverley LEP 2012 applies to the site. Under the LEP, the site is zoned R3 Medium Density Residential and subject to the following principal development standards:

- 12.5m maximum height of buildings; and
- 0.9:1 FSR.



Figure 2 – Existing zoning of the subject site (outlined in yellow) and surrounding land (Source: Planning Proposal, dated 26 August 2019, LK Planning, extracted from Waverley LEP 2012 Land zoning map)

The approved development is also subject to *Clause 5.4 Controls relating to miscellaneous permissible uses* of Waverley LEP 2012, which restricts the size of kiosk and neighbourhood shop to 20sqm and 80sqm respectively.

The site does not have any heritage items and is not located within a heritage conservation area.

1.4 Surrounding area

Located at the eastern corner of Curlewis Street and Glenayr Avenue, the site adjoins an area currently zoned B1 Neighbourhood Centre, which forms part of the Glenayr Avenue Neighbourhood Centre.

The types of development surrounding the site are diverse and of mixed characters. Adjacent to the site are two to three-storey residential buildings. Located at the other three corners of the Curlewis Street and Glenayr Avenue intersection are mixed use buildings (with ground floor shops and housing above) of two to three storeys in height.

Refer to photos below for the subject site and surrounding land uses.



Photo 1 – Mixed use development under construction on the subject site (left) and neighbouring two-storey residential building on Curlewis Street



Photo 2 – Mixed use development under construction on the subject site (right) and neighbouring two-storey residential building on Glenayr Avenue



Photo 3 – Mixed use development under construction on the subject site (left) and existing three-storey mixed use development at the intersection located across Curlewis Street



Photo 4 - Existing three-storey mixed use development located at the southern corner of the intersection across Curlewis Street with ground floor business premises (café and hairdressing) and shop top housing



Photo 5 – Existing two-storey mixed use development located at the western corner of the intersection across Curlewis Street with ground floor business premises (convenience store)



Photo 6 - Existing mixed use development located at the northern corner of the intersection across Glenayr Avenue with ground floor business premises (café)

1.5 Summary of recommendation

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

- is consistent with the Eastern City District Plan and relevant section 9.1 Ministerial Directions and State Environmental Planning Policies; the inconsistency with section 9.1 (Direction 3.1 Residential Zones) is of minor significance and justified;
- will enable a greater range of permissible uses compatible with and complementary to the locality and provide additional services to meet the needs of the community; and
- will provide a broader range of employment opportunities and promote a vibrant, liveable and socially connected place.

2. PROPOSAL

2.1 Objectives or intended outcomes

The key objective of the planning proposal is to facilitate a broader range of commercial uses within the building beyond the currently approved neighbourhood shop and kiosk. The proposed uses are intended to complement and service the residential population on the site and within the immediate locality.

The broader objectives, as outlined in the planning proposal document, are as follows:

- 1. To enable a range of additional commercial uses on the site that will service the local community (1.2(2)(a) of WLEP 2012);*
- 2. To provide a natural transition of the commercial uses directly adjoining the subject site with due consideration for the adjoining medium density residential area; and*
- 3. To provide the capacity for additional employment on a site located in an area that enjoys high amenity, access to local services and public transport.*

Amendment to the explanation of objectives and intended outcomes is not required prior to community consultation.

2.2 Explanation of provisions

The planning proposal seeks to achieve the intended outcomes by amending the zoning applicable to the site under Waverley LEP 2012 from R3 Medium Density Residential to B1 Neighbourhood Centre.

No changes to the height of buildings or floor space ratio standards are sought.

The proposed LEP amendments are explained clearly in the planning proposal document. No amendment to the explanation of provisions is required prior to community consultation.

2.3 Mapping

The proposed LEP amendments will involve changes to the Land Zoning Map (LZN_003), as shown in the planning proposal document and below:

Property	Map Reference	Action
84 Curlewis Street, Bondi Beach (identified below)	LZN_003	Rezone from R3 Medium Density Residential to B1 Neighbourhood Centre



Figure 3 – Proposed rezoning of site (outlined in yellow) to B1 (Source: Planning Proposal dated 26 August 2019, LK Planning)

The explanation of proposed mapping changes is sufficient for the purposes of community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of an endorsed local strategic planning statement, strategic study or report. The proposal has been prepared to allow additional commercial uses on site beyond the currently approved neighbourhood shop and kiosk.

The commercial uses permissible on site under the existing R3 Medium Density Residential zone are limited (such as **neighbourhood shops** and **kiosks**) and subject to size restriction under *Clause 5.4 Controls relating to miscellaneous permissible uses* in the LEP. The planning proposal seeks to remove this limitation and restriction and to introduce uses that are complementary and suitable to the locality.

The planning proposal originally submitted by Council sought to achieve the intended outcomes by adding **commercial premises** as an additional permitted use to Schedule 1 of Waverley LEP 2012.

The planning proposal was subsequently amended to achieve the same objectives by rezoning the site to B1 Neighbourhood Centre. The amended approach is supported by the Department and consistent with LEP Practice Note PN11-001, in that consideration should be first given to appropriate zones. The Practice Note states that '*wherever possible, land uses should be governed by the Land Use Table and Schedule 1 should only be used where council has demonstrated why this cannot be achieved*'.

The planning proposal as amended is considered the best means of achieving the intended outcome. The proposed zoning provides a natural extension of the Glenayr Avenue Neighbourhood Centre and enable a greater range of small-scale commercial uses compatible with and complementary to the surrounding uses. The additional uses introduced will include **business premises, medical centres and neighbourhood supermarket**.

Further discussions relating to the planning proposal's strategic and site-specific merits are detailed below.

4. STRATEGIC ASSESSMENT

4.1 District Plan

Eastern City District Plan

The Waverley local government area is located within the Eastern District of Greater Sydney. The Eastern City District Plan, released in March 2018, identifies planning priorities and actions that are important to achieving a liveable, productive and sustainable future for the district. The District Plan is a link between regional and local planning and operates to give effect to the Greater Sydney Region Plan.

The planning proposal is consistent with relevant planning priorities of the District Plan as outlined in the following table:

Planning priorities	Response
<ul style="list-style-type: none"> Planning Priority E1: Planning for a city supported by infrastructure Planning Priority E3: Providing services and social infrastructure to meet people's changing needs 	<p>The planning proposal is consistent with these planning priorities, as it will:</p> <ul style="list-style-type: none"> provide a broader range of employment opportunities within the Glenayr Avenue Neighbourhood Centre, supported by existing infrastructure and accessible by active and public transport; provide a greater range of services to meet the needs of the existing and future community and help protect the long-term commercial sustainability of the centre.
<ul style="list-style-type: none"> Planning Priority E4: Fostering healthy, creative, culturally rich and socially connected communities 	<p>The planning proposal is consistent with this planning priority as it will:</p> <ul style="list-style-type: none"> promote walkable places, active street life and socially connected communities by facilitating ground floor commercial uses that have greater capacity to activate and connect with the streets.

<ul style="list-style-type: none"> Planning Priority E5. Providing housing supply, choice and affordability, with access to jobs, services and public transport 	<p>The proposal is consistent with this planning priority as it will:</p> <ul style="list-style-type: none"> permit residential development (e.g. boarding house and shoptop housing) to be provided on the site; provide a broader range of commercial uses and services to the local community.
<ul style="list-style-type: none"> Planning Priority E6. Creating and renewing great places and local centres, and respecting the District's heritage 	<p>The proposal is consistent with this planning priority as it will:</p> <ul style="list-style-type: none"> increase the diversity of businesses and services and promote a vibrant and liveable place.

4.2 Local

Draft Waverley Local Strategic Planning Statement

The draft Waverley Local Strategic Planning Statement (LSPS) plans for Waverley's economic, social and environmental needs over the next 20 years (2016-2036). The LSPS intends to give effect to the Eastern City District Plan. The draft LSPS was publicly exhibited from 28 June to 28 July 2019 but has not been assured by the Greater Sydney Commission.

The exhibited LSPS's vision is:

Waverley will contribute to the Eastern City District with vibrant and sustainable places that provide opportunities for a prosperous and diverse local economy, a protected and celebrated a stunning natural environment and rich cultural heritage, and a range of housing to accommodate our whole community. Waverley will continue to offer an attractive lifestyle by world-class beaches and recreation facilities, and a convenient trip to all that the Eastern Harbour City has to offer.

The planning proposal aligns with the vision by contributing to “*vibrant and sustainable places that provide opportunities for a prosperous and diverse local economy*”.

The planning proposal will encourage shops and services in a neighbourhood centre to satisfy demand and is consistent with the *planning priority 8 – Connect people to inspiring and vibrant places, and provide easy access to shops, services, and public transport.*

Waverley Community Strategic Plan 2018-2029

Waverley Community Strategic Plan 2018-2029 articulates the vision, values, aspirations and priorities of the Waverley community with reference to other local government plans, information and resourcing capabilities. It provides a direction for the future of Waverley to the year 2029.

The planning proposal contributes to the following goals of the Strategic Plan:

- 4.2. Ensure Bondi Junction and Waverley's villages continue to have a diverse range of businesses, local jobs and services; and
- 5.1. Facilitate and deliver well-designed, accessible and sustainable buildings and public places that improve the liveability of our neighbourhoods.

4.4 Section 9.1 Ministerial Directions

Direction 1.1 Business and Industrial Zones

The planning proposal is consistent with Direction 1.1 Business and Industrial Zones, which has the following objectives:

- (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 is consistent with this direction and gives effect to the objectives by:

- encouraging employment growth in a suitable area; and
- supporting the viability of the established neighbourhood centre with additional employment opportunities and services that meet the needs of the local community.

Direction 3.1 Residential Zones

As the planning proposal affects land that is currently zoned R3 Medium Density Residential, Direction 3.1 Residential Zones applies.

The objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,*
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) to minimise the impact of residential development on the environment and resource lands.*

As this direction applies, a planning proposal must include provisions that encourage the provision of housing, must contain a requirement to ensure the land is adequately serviced before permitting residential development and must not contain provisions which will reduce the permissible residential density of land.

The subject planning proposal, which aims to facilitate a greater range of commercial uses on site, does not specifically address the objective to encourage a variety and choice of housing types or the requirement to include housing related provisions. The proposed rezoning of the site to B1 Neighbourhood Centre will prohibit certain types of residential uses, such as **attached dwellings**, **multi dwelling housing**, and **residential flat buildings**, that are currently permissible on site in the existing R3 Medium Density Residential zone.

However, the inconsistency is of minor significance, considering that the planning proposal:

- does not affect the residential component or outcome (i.e. a boarding house) provided for under the existing mixed use development that has been approved for the site and is near completion;
- does not seek to change the permissible residential density;
- is consistent with objective (b) of the direction in that it would allow more efficient use of existing infrastructure and provide a broader range of services to meet the needs of the future residents; and
- will permit appropriate land uses, including residential uses (e.g. shoptop housing and boarding house, etc.), that are compatible with and complementary to the locality.

4.5 State environmental planning policies (SEPPs)

The planning proposal does not hinder or contradict the application of relevant SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal will have positive social impacts by facilitating development that provides a greater range of services to meet the needs of the local community. It will help activate street life and create vibrant and socially connected places.

5.2 Environmental

A mixed use development for the site has been approved, demonstrating its alignment with the R3 zoning objectives and reasonable impacts on neighbouring properties. The additional type of uses introduced as a result of the rezoning to B1 Neighbourhood Centre would be small scale in nature and would meet the following zoning objectives:

To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises having regard to building design, operation and activities, transport, traffic generation and the car parking capacity of local roads.

The future uses will also be subject to the development application assessment process which will involve further consideration of amenity and environmental impacts. However, no development consent is required for development of minor environmental impacts under the *SEPP (Exempt and Complying Development Codes) 2008*.

There is no heritage item located within or adjacent to the site. The site is not located within a heritage conservation area.

5.3 Economic

The planning proposal will help strengthen the role and quality of the Glenayr Avenue Neighbourhood Centre by having a greater diversity of businesses, local jobs and services. It will contribute to the centre's vibrancy as well as its long-term economic sustainability.

5.4 Infrastructure

The subject site is in a location that is well supported by active and public transport infrastructure (i.e. serviced by high frequency bus services and adjacent to the existing cycleway along Glenayr Avenue).

The future small-scale commercial uses will likely result in a minor variation to the demand on infrastructure that would otherwise be generated by the approved kiosk and neighbourhood shop. The future uses will also be subject to the development application assessment process which will further consider traffic and parking implications. However, no development consent is required for development of minor environmental impacts under the *SEPP (Exempt and Complying Development Codes) 2008*.

The planning proposal will allow more efficient use of existing infrastructure and services.

6. CONSULTATION

6.1 Community

Council has recommended the planning proposal be placed on public exhibition for a minimum of 28 days. This timeframe is adequate having regard to the nature of the planning proposal and has been reflected in the recommended Gateway conditions.

Council, as the planning proposal authority, will be responsible for public consultation, which is expected to include written notification to affected landowners, newspaper notification and displays at Council customer service centre, library and on Council's webpage.

6.2 Agencies

The planning proposal does not specify any agencies that are to be consulted.

According to the Schedule of Classified Roads and Unclassified Regional Roads published by Roads & Maritime Services, Curlewis Street and Glenayr Avenue are not Classified Roads. Curlewis Street is listed as an Unclassified Regional Road.

Given the nature of the proposal, no conditions regarding agency consultation is recommended.

7. TIME FRAME

The planning proposal includes an outdated project timeline reflecting the original planning proposal submitted in August 2019 and envisaging the LEP to be completed within 3 months of the Gateway determination.

As such, a condition is recommended in the Gateway determination to require update of the project timeline to reflect the timeframe required for the revised planning proposal.

A timeframe of **9 months** to finalise the plan is also recommended in the Gateway determination conditions. The recommended condition does not prevent the LEP from being completed sooner.

8. LOCAL PLAN-MAKING AUTHORITY

Given the nature of the planning proposal, Council should be the local plan-making authority. This is in accordance with Council's request and has been reflected in the recommended Gateway determination conditions.

9. CONCLUSION

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

- is consistent with the Eastern City District Plan and relevant section 9.1 Ministerial Directions and State Environmental Planning Policies; the inconsistency with section 9.1 direction (Direction 3.1 Residential Zones) is of minor significance and justified;
- will enable a greater range of permissible uses compatible with and complementary to the locality and provide additional services to meet the needs of the community; and
- will provide a broader range of employment opportunities and promote a vibrant, liveable and socially connected place.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that the inconsistency with section 9.1 Direction (Direction 3.1 Residential Zones) is minor.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation with the public authorities is not required.
3. The time frame for completing the LEP is to be **9 months** from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Prior to community consultation, the planning proposal is to be revised to provide an updated project timeline and to include justifications of any inconsistency with the section 9.1 Ministerial Directions (Direction 3.1 Residential Zones).



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 17 December 2019

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