



IRF22/3999

# Gateway determination report – PP-2022-3853

---

Mill Hill Heritage Conservation Area Rezoning

December 22

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Gateway determination report – PP-2022-3853

Subtitle: Mill Hill Heritage Conservation Area Rezoning

---

© State of New South Wales through Department of Planning and Environment 2022. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 22) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal.....</b>	<b>1</b>
1.1	Overview.....	1
1.2	Objectives of planning proposal .....	1
1.3	Explanation of provisions .....	1
1.4	Site description and surrounding area.....	5
1.5	Mapping.....	7
1.6	Background .....	10
<b>2</b>	<b>Need for the planning proposal .....</b>	<b>10</b>
<b>3</b>	<b>Strategic assessment .....</b>	<b>11</b>
3.1	Regional Plan .....	11
3.2	District Plan .....	11
3.3	Local.....	13
3.4	Local planning panel (LPP) recommendation.....	15
3.5	Section 9.1 Ministerial Directions .....	15
3.6	State environmental planning policies (SEPPs) .....	16
<b>4</b>	<b>Site-specific assessment .....</b>	<b>16</b>
4.1	Environmental.....	16
4.2	Social and economic.....	16
4.3	Infrastructure .....	17
<b>5</b>	<b>Consultation.....</b>	<b>17</b>
5.1	Community .....	17
5.2	Agencies.....	17
<b>6</b>	<b>Timeframe .....</b>	<b>17</b>
<b>7</b>	<b>Local plan-making authority .....</b>	<b>17</b>
<b>8</b>	<b>Assessment summary .....</b>	<b>17</b>
<b>9</b>	<b>Recommendation.....</b>	<b>18</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal
Waverley Strategic Planning and Development Committee Agenda – 5 April 2022
Waverley Strategic Planning and Development Committee Minutes – 5 April 2022
Waverley Local Planning Panel Recommendation – 26 October 2022
Proposed Mapping Amendments

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Waverley</b>
<b>PPA</b>	Waverley Council
<b>NAME</b>	Mill Hill Heritage Conservation Area Rezoning
<b>NUMBER</b>	PP-2022-3853
<b>LEP TO BE AMENDED</b>	Waverley Local Environmental Plan (LEP) 2012
<b>ADDRESS</b>	N/A
<b>DESCRIPTION</b>	N/A
<b>RECEIVED</b>	1/11/2022
<b>FILE NO.</b>	EF22/14228
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The intended outcome of the planning proposal is to amend the relevant planning controls in the Waverley LEP 2012 to better reflect and protect the character and heritage of the Mill Hill Heritage Conservation Area (HCA).

The planning proposal is the direct result of the resolution of Council's Strategic Planning and Development Committee (SPDC) of 5 April 2022.

The planning proposal contains objectives and intended outcomes that explain the intent of the proposal.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Waverley LEP 2012 with the changes below:

**Table 3 Current and proposed controls**

<b>Control</b>	<b>Current</b>	<b>Proposed</b>
Zone	R3 Medium Density Residential (and part RE1 Public Recreation, part B4 Mixed Use and part SP2 Infrastructure)*	R2 Low Density Residential (no change to the RE1, B4 and SP2 zoned land)*

Control	Current	Proposed
Maximum height of buildings	9.5m (and part 12.5m)**	8.5m (no change to the part 12.5m height control)**
Floor space ratio (FSR)	0.9:1 (and part 0.6:1 and part 1.5:1)***	0.55:1 (no change to the part 1.5:1 FSR control)***
Heritage	Heritage items, heritage conservation area (HCA) and landscape conservation areas	No change

**Figure 1** below shows the extent of the Mill Hill HCA.

#### Implications of the change in zoning

Under the Waverley LEP 2012, the R3 zone permits a broader range of residential and other land uses than the R2 counterpart.

The land use table for the R2 zone prohibits ‘multi-dwelling housing’, ‘manor house’ and ‘residential flat building’. The planning proposal notes that the housing typology in the Mill Hill HCA is predominantly ‘attached dwellings’, with ‘multi-dwelling housing’ also present. The effect of the proposal will prohibit ‘multi-dwelling housing’, which is already an existing form of development in this precinct and will render it a non-conforming land use. Furthermore, the proposal erroneously states that ‘multi-dwelling housing’ is permissible in the R2 zone (p. 4 and 7), which is not correct.

Under the R2 zone, certain commercial, tourist accommodation and recreation uses are not permissible, but are currently permissible in the R3 zone. They include: ‘advertising structure’, ‘kiosk’, ‘local distribution premises’, ‘backpackers’ accommodation’, ‘hotel or motel accommodation’, and ‘recreation facilities (indoor)’<sup>1</sup>.

The effect of the proposal Certain social infrastructure uses, such as ‘medical centre’ and ‘educational establishment’, are also prohibited under the proposed R2 zone. However, this issue is remedied by the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (SEPP), which permits ‘health services facilities’ and ‘educational establishment’ subject to consent in the R2 zone (note: R2 zone is one of the ‘prescribed zones’ for these types of infrastructure uses under the SEPP).

#### Implications of the change in development standards

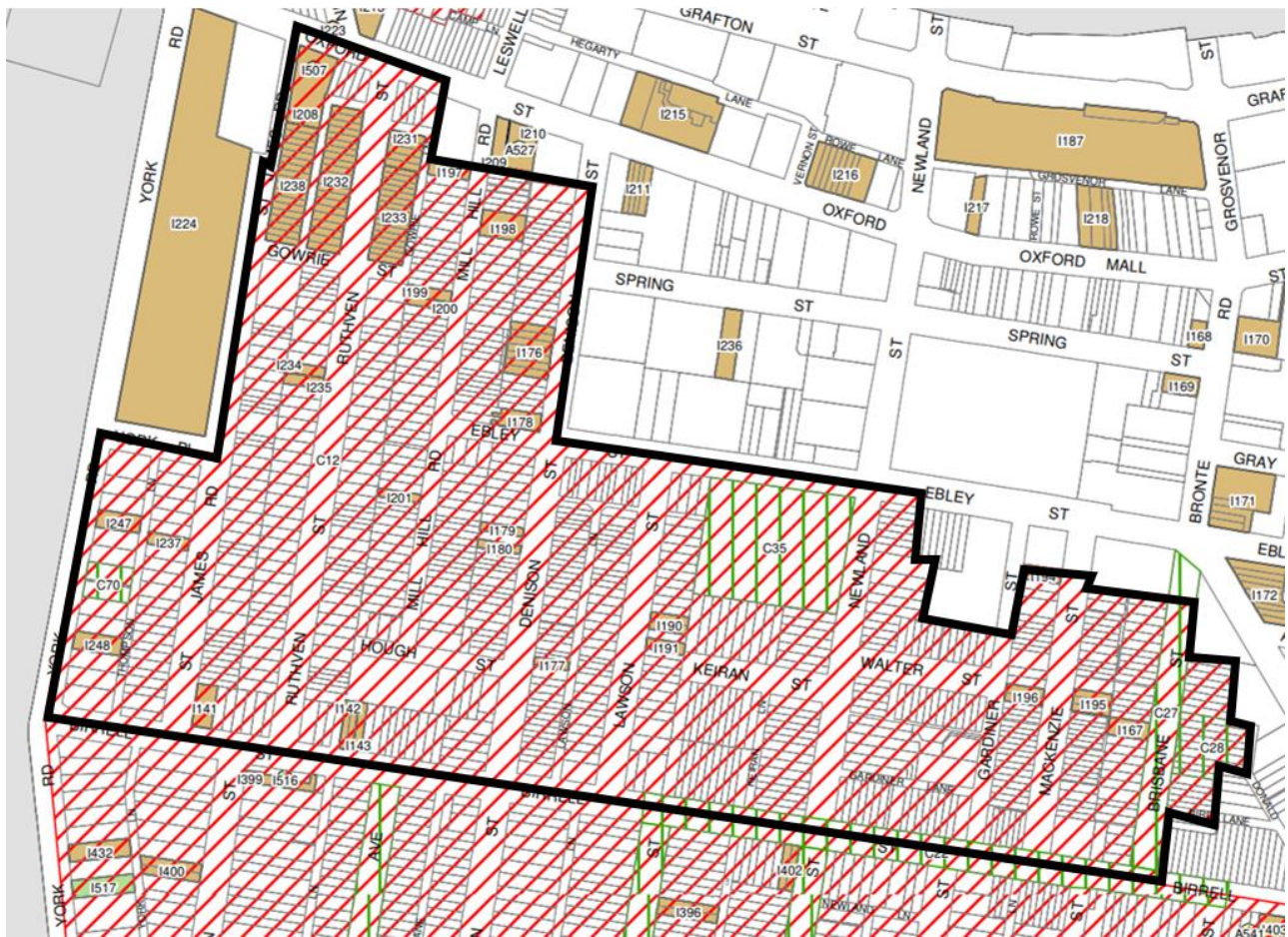
The planning proposal does not provide any information on the existing height of buildings in the Mill Hill HCA, apart from that fact that the predominant housing type is ‘attached dwellings’. There is a lack of explanation or analysis as to why a reduction in the height limit by 1m from 9.5m to 8.5m is needed and how this will ‘*better reflect the character and heritage of the local area*’ (p. 6 of planning proposal).

<sup>1</sup> Note - the Report to Council’s SPDC meeting of 5 April 2022 states that ‘attached dwellings’ are prohibited in the R2 zone. This has been changed since the gazettal of Amendment No. 24 to the LEP in September 2022, which introduced ‘attached dwellings’ as a permissible use in the R2 zone.

Similarly, the proposal does not provide any information on the average floor space of the existing buildings in the area, or any explanation as to why a reduction in the FSR by 0.35:1 from 0.9:1 to 0.55:1 is necessary.

The narrow subdivision pattern and compact attached housing form means that the proposed FSR control could be lesser than the existing developments, and as a result may restrict any alterations and additions or redevelopment with adequate amenity. There is also an absence of site testing and analysis to demonstrate how the proposed development standards would facilitate an appropriate planning outcome.

It is also noted that the staff's report to Council's SPDC meeting of 5 April 2022 states that "*The downzoning of this area to R2 Low Density Residential and commensurate FSR, would likely unreasonably limit the ability of residents to make future alterations and additions to their property*" (p. 6 of the Officer's Report).

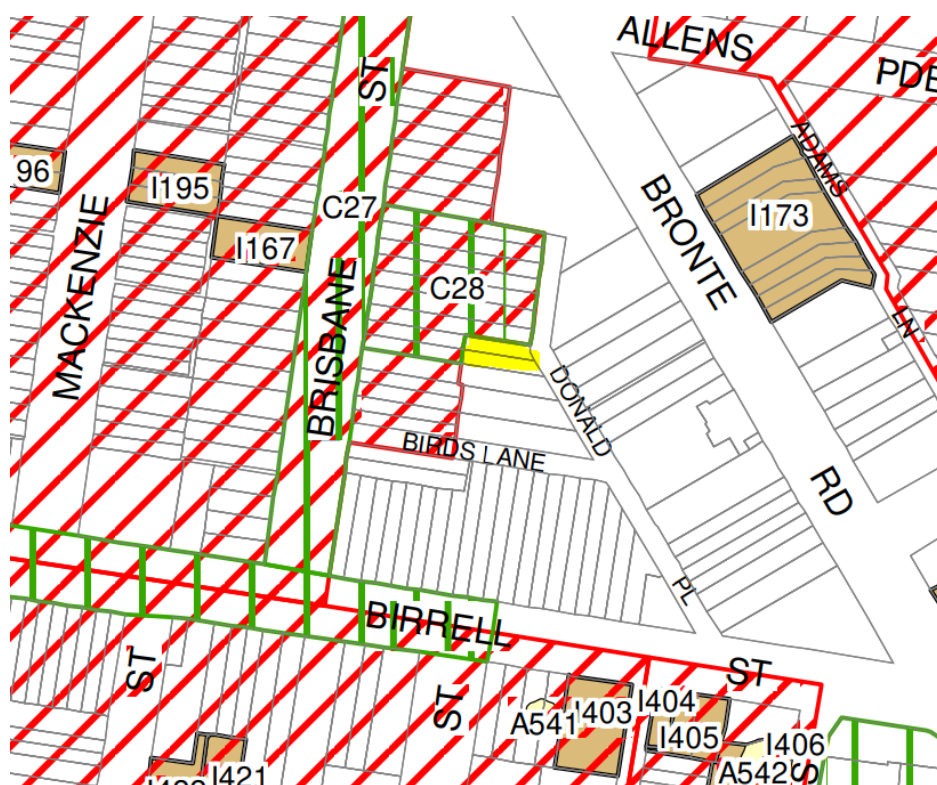


**Figure 1: Mill Hill Heritage Conservation Area – the red hatchings denote the Mill Hill HCA, and green hatchings mark the landscape conservation areas. (Source: Waverley LEP – Heritage Map with overlay by DPE)**



The planning proposal it noted to contain several errors and ambiguities as follows:

- \*The planning proposal states that the Mill Hill HCA is “currently zoned entirely R3 Medium Density Residential” (p. 5). The LEP mapping shows that the Mill Hill HCA is not entirely zoned R3 Medium Density Residential, but also contains two areas zoned RE1 Public Recreation, several land parcels along Oxford Street zoned B4 Mixed Use and a site zoned SP2 Infrastructure (see **Figure 5**). According to the mapping in the planning proposal, the RE1, B4 and SP2 zoning for the respective areas will remain unchanged (see **Figure 6**), however, the above is not explained in the proposal documentation.
- The proposal also involves rezoning two allotments (32 and 34 Brisbane Street), which are partly outside the Mill Hill HCA, from R3 to R2 (see **Figure 2**). As such, the proposed rezoning is not wholly contained within the HCA and this is not explained or addressed in the proposal.



**Figure 2: The land at 32 & 34 Brisbane Street is proposed to be rezoned from R3 to R2. Part of these lots (highlighted in yellow) is outside the Mill Hill HCA. (Source: Waverley LEP – Heritage Map, with overlay by DPE)**

- \*\*A portion of the Mill Hill HCA fronting Oxford Street is currently subject to a 12.5m height of buildings control (denoted as ‘M’ on the LEP Height of Buildings Map, refer to **Figure 5**). This control will not be changed but is not explained in the proposal.
- \*\*\*The Mill Hill HCA is currently subject to several FSR controls, being part 1.5:1, part 0.9:1 and part 0.6:1. Specifically, the land parcels fronting Oxford Street are currently subject to an FSR of 1.5:1 (denoted as ‘S’, refer to **Figure 5**) and this control is not proposed to be changed. The street block bound by York Road, York Place, St James Road and Birrell Street, which is currently subject to an FSR of 0.6:1 (denoted as ‘F’, refer to **Figure 5**), will be reduced to 0.55:1 (refer to **Figure 6**). Again, this is not explained in the proposal.

The explanation of provisions does not fully and correctly outline the proposed changes to the LEP, and as such is not considered to adequately explain how the objectives of the proposal will be achieved or why the changes are necessary.

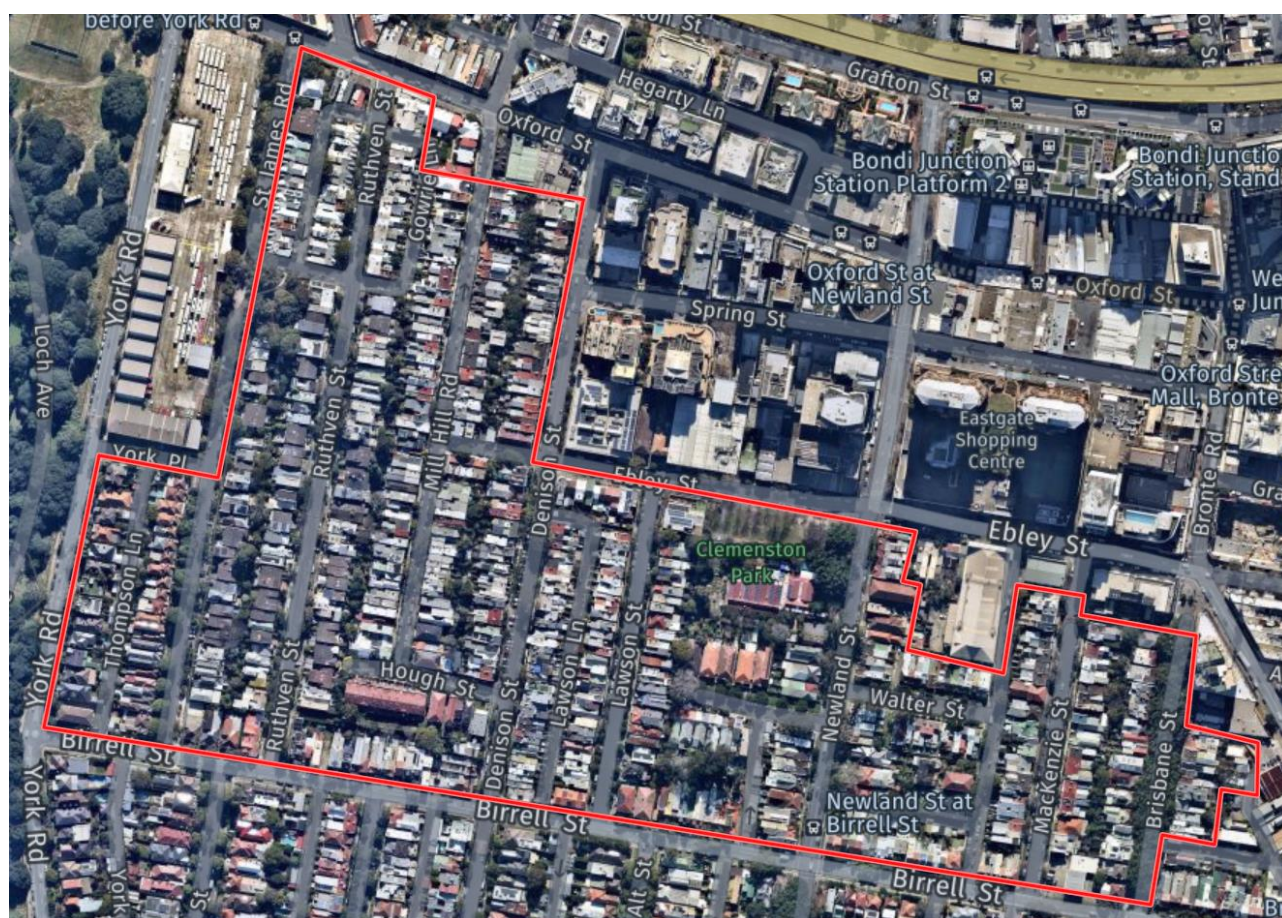


## 1.4 Site description and surrounding area

The Mill Hill HCA comprises the area south of Oxford Street and Ebley Street, east of York Road and St James Road, west of Bronte Road and north of Birrell Street in Bondi Junction (**Figure 1**). The HCA contains 28 individual heritage items and 5 landscape conservation areas of local significance.

The NSW State Heritage Inventory describes the Mill Hill HCA as consisting of “*streetscapes, residential and retail structures recording the aesthetic character and qualities of late 19th and early 20th Century consolidation of Bondi Junction as a commuter suburb... The Mill Hill Heritage Conservation [A]rea street and subdivision patterns are derived from initial land grants of the 1830’s-40’s.*” The Mill Hill HCA has evolved from the 1840’s to the present, with an increase in residential uses since the 1880s.

At present, the Mill Hill HCA is primarily zoned R3 Medium Density Residential, with two RE1 Public Recreation zoned parks and a small number of B4 Mixed Use zoned lots fronting Oxford Street. The dominating land use is residential. However, there are several commercial/retail uses within the area, such as a delicatessen, a service station, a storage facility, a dry cleaner as well as other community uses, such as childcare facilities, an early education centre and health consulting rooms. The Mill Hill HCA acts as a transition between the Bondi Junction centre, which is zoned B4 Mixed Use, and the R2 Low Density Residential zone south of Birrell Street. Most of the existing housing is attached dwellings. There is also multi-dwelling housing, semi-detached and detached dwellings in the HCA.



**Figure 3** Aerial view of the subject area (source: Nearmap 2022)



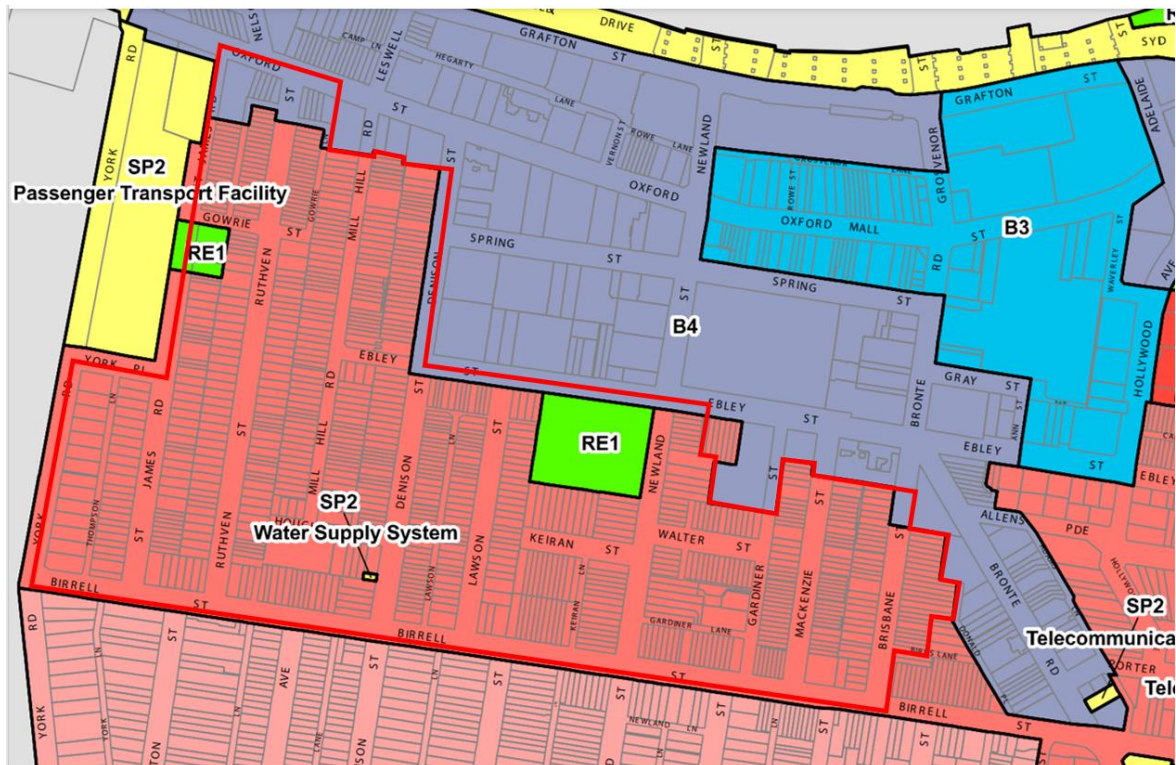


Figure 4 Site context (source: Nearmap 2022)

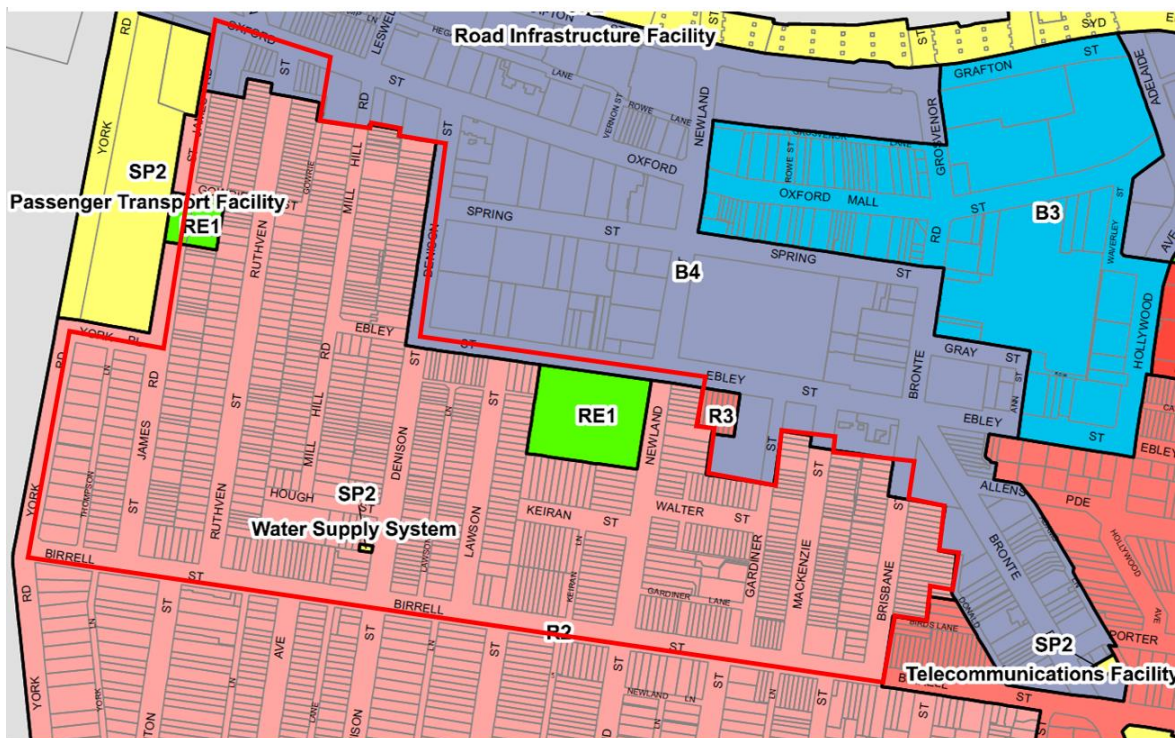


## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land zoning, height of buildings and FSR maps (**Figures 5 to 10**).



**Figure 5 Current land zoning map (boundary of the Mill Hill HCA in red)**



**Figure 6 Proposed land zoning map (boundary of the Mill Hill HCA in red)**



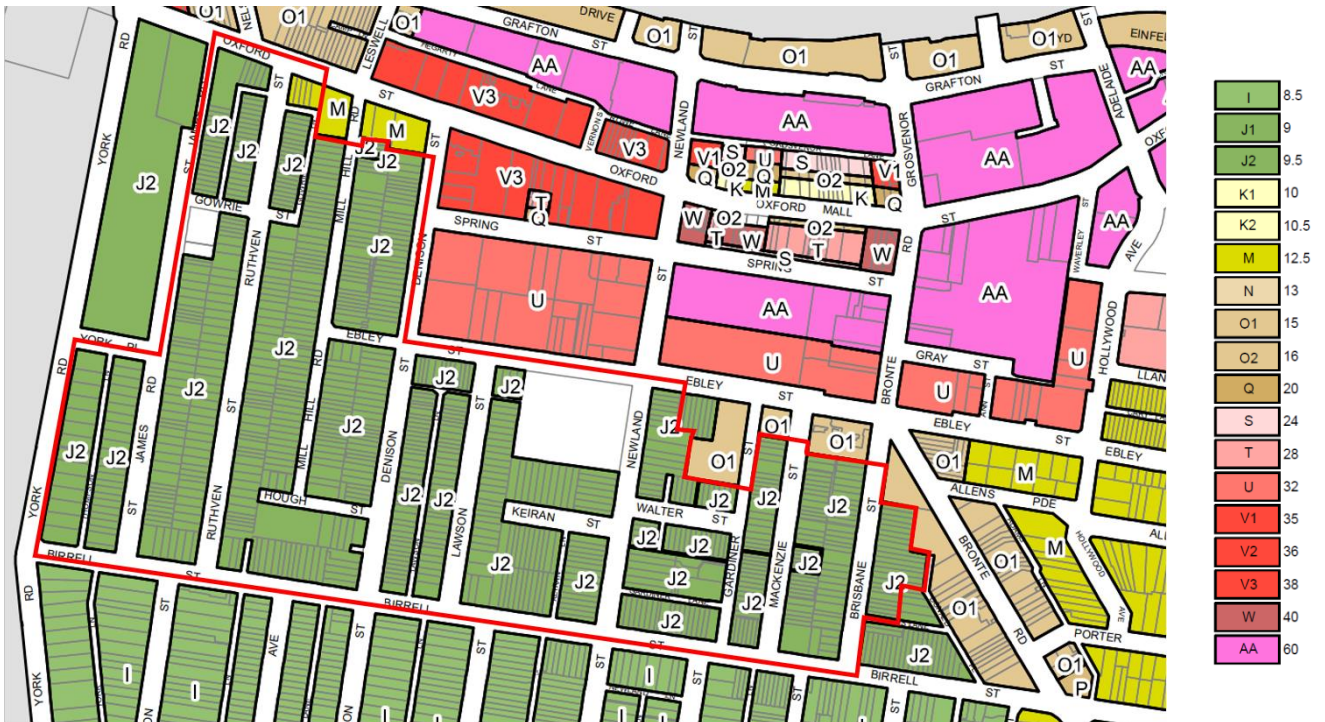


Figure 7 Current height of buildings map (boundary of the Mill Hill HCA in red)

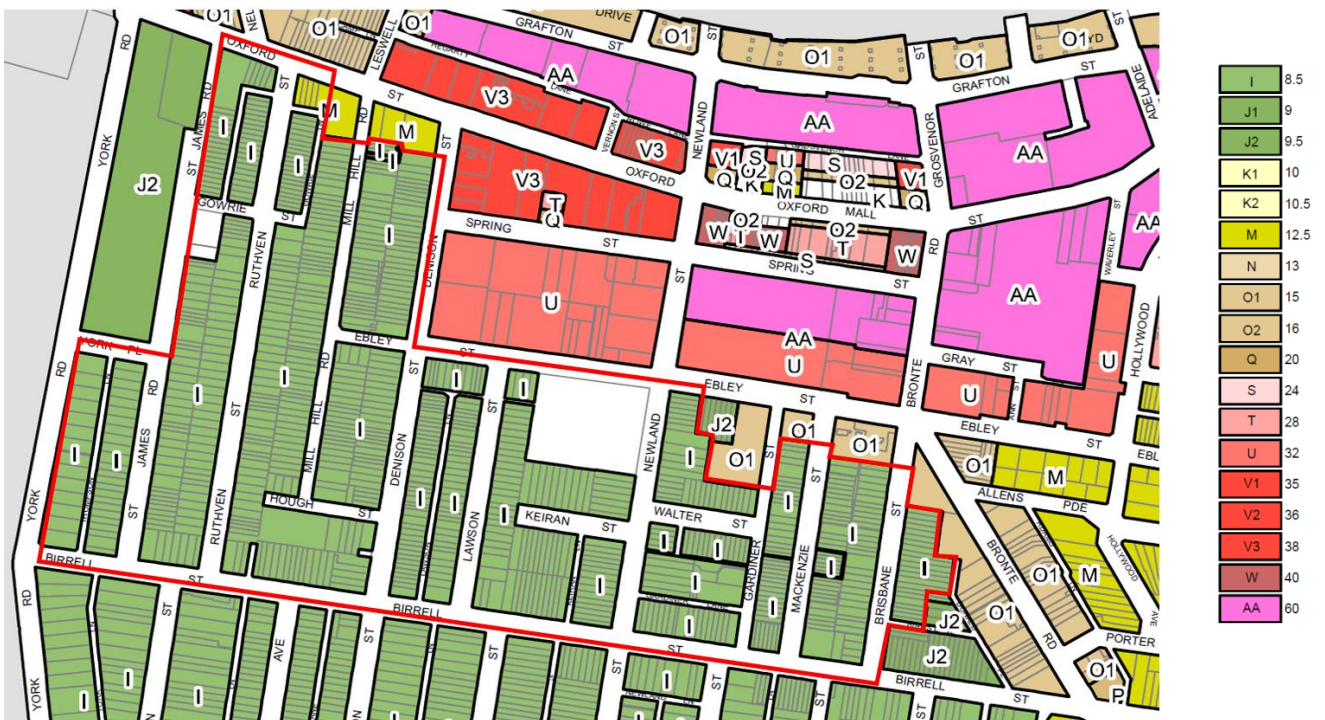


Figure 8 Proposed height of buildings map (boundary of the Mill Hill HCA in red)





Figure 9 Current floor space ratio map (boundary of the Mill Hill HCA in red)



Figure 10 Proposed floor space ratio map (boundary of the Mill Hill HCA in red)

## 1.6 Background

### 20 July 2021

Waverley Council adopted a notice of motion for officers to consider whether the current zoning of the Mill Hill HCA is adequate and whether the permissible commercial uses within the R3 Medium Density Residential zone are appropriate for the needs of the immediate community.

This resolution followed the approval of a development application (DA) within the Mill Hill HCA at 2 Birrell Street, Bondi Junction, which proposed a change of use from a dwelling house to a medical centre with internal and external alterations, car parking, signage and landscape works. The DA was approved in June 2021 by the Waverley Local Planning Panel (LPP), noting there were objections from the community.

### 5 April 2022

Council's Strategic Planning and Development Committee considered an officer's report (**Attachment E**), which recommended not pursuing the rezoning from R3 Medium Density Residential to R2 Low Density Residential, nor any changes to the permitted uses in the R3 zone. The report noted the Mill Hill HCA has a prevailing medium-density character, and any down-zoning would not reflect the current built form of the area. A down-zoning was also considered to unreasonably limit the ability of residents to make alterations and additions and is inconsistent with the recently adopted Council strategies. Notwithstanding, the Committee resolved to proceed with a planning proposal to rezone the Mill Hill HCA.

### 26 October 2022

The Waverley LPP was briefed on the proposal and resolved to advise Council that the LPP does not support the planning proposal as it lacked both strategic and site-specific merit (**Attachment D**). The LPP noted the proposal is inconsistent with the Local Strategic Planning Statement and Local Housing Strategy, which both have actions to achieve housing targets within existing planning controls.

### 1 November 2022

Council submitted the planning proposal to the Department.

## 2 Need for the planning proposal

The planning proposal states that it was prepared in response to the Council resolution to review the zoning classification for the Mill Hill HCA from R3 Medium Density Residential to R2 Low Density Residential to better reflect the character and heritage of the local area and to amend the LEP accordingly.

The intended outcomes of the proposal cannot be delivered under the current local planning framework and a planning proposal is required to amend the LEP.

The planning proposal seeks to amend the zoning, height of buildings and floor space ratio controls for the Mill Hill HCA. A planning proposal is the only means of achieving the understood but limited simple objectives.

However, the Department does not support the planning proposal to proceed as it lacks strategic and site-specific merit, and it has not demonstrated the necessity for the amendments to the LEP or its consequences if implemented. Refer to further assessment discussion is outlined below.



## 3 Strategic assessment

### 3.1 Regional Plan

In March 2018, the Greater Sydney Commission (currently Greater Cities Commission) released *The Greater Sydney Region Plan – A Metropolis of Three Cities* (the Region Plan) which aims to coordinate and manage the growth of Sydney. The Region Plan contains specific objectives for the region over the next 40 years and informs the actions and directions of the District Plan.

The planning proposal is considered generally consistent with the objectives of the Region Plan - except where discussed below under Section 3.2.

### 3.2 District Plan

The site is within the Eastern City District. The Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is satisfied the planning proposal does not give effect to the District Plan (and therefore the Region Plan) in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

The following table includes an assessment of the planning proposal against relevant priorities.

**Table 5 District Plan assessment**

District Plan Priorities	Justification
<b>E1 Planning for a city supported by infrastructure</b>	The proposal would have the effect of reducing or stymying housing renewal and development of new capacity within the Mill Hill HCA. As such, the proposal is unlikely to result in a significant increase in infrastructure demand or require major infrastructure upgrades.
<b>E3 Providing services and social infrastructure to meet people's changing needs</b>	<p>While there are many similar non-residential uses permitted in both the R3 and R2 zones, the land use table for the R3 zone provides greater flexibility by way of permitting with consent, '<i>any other development not specified in item 2 [uses permitted without consent] or 4 [prohibited uses]</i>'. However, the proposal does not explain with sufficient clarity, the consequences or need to additionally prohibit a range of non-residential uses currently permitted under the R3 zoning by rezoning by rezoning this area R2.</p> <p>Specifically, 'kiosk', 'local distribution premises', 'advertising structures', 'backpackers' accommodation', 'hotel or motel accommodation', and 'recreation facilities (indoor)' would become prohibited as consequence of rezoning from R3 to R2. These uses are compatible with the location in close proximity to a key strategic centre, Bondi Junction.</p> <p>The rezoning would also prohibit social infrastructure uses, such as 'medical centres' and 'educational establishments'. However, this issue is remedied by the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (SEPP), which permits 'health services facilities' and 'educational establishment' subject to consent in the R2 zone (note: R2 zone is one of the 'prescribed zones' for these types of infrastructures uses under the SEPP).</p>

District Plan Priorities	Justification
	<p>On this basis the proposal is not considered to result in a significant impact on the provision of social infrastructure to meet the needs of the local community. However, the proposed rezoning would reduce the diversity of supporting commercial, recreational and tourist accommodation uses, which are otherwise permissible under the existing R3 zone, and there is a lack of justification to support this change.</p> <p>Based on the current information, the Department is not satisfied that Planning Priority E3 can be satisfied.</p>
<b>E5 Providing housing supply, choice and affordability, with access to jobs, services and public transport</b>	<p>The proposal has the effect of prohibiting multi-dwelling housing and residential flat buildings, and the reduction to development standards will also affect the built form of future development through lowering the permissible FSR and building height.</p> <p>The proposal has not adequately justified the need for the 'down-zoning', considering that the prevalent existing built forms and character of the Mill Hill HCA is diverse and more consistent with the R3 zone. If finalised, the proposal will render existing multi-dwelling housing in the area as a prohibited and non-conforming use.</p> <p>The proposed change to the FSR from 0.9:1 to 0.55:1 is also a significant reduction. The proposal has not included any site testing to ascertain the existing heights and FSRs in the area to see what impact this change would have. There is an absence of analysis of whether the proposed development standards would be significantly different from the existing built forms and local character, especially given the narrow subdivision pattern and compact housing form in the HCA.</p> <p>The down-zoning of this area to R2 and the reduction of the FSR and height standards could limit the ability of residents to make future alterations and additions to their property, as pointed out by Council's staff in their report to the SPDC meeting on 5 April 2022.</p> <p>The proposal is inconsistent with this planning priority as the R2 zone does not reflect the diversity of housing types already existing in the area. Insufficient analysis has been provided to demonstrate the degree of impact on housing capacity as a result of the reduction to the development standards and rezoning to R2, which is more restrictive in terms of the range of permissible residential uses.</p> <p>The Department is not satisfied that Planning Priority E5 can be satisfied.</p>
<b>E6 Creating and renewing great places and local centres, and respecting the district's heritage</b>	<p>The proposal seeks to identify, conserve and enhance the district's heritage. The Planning Priority is proposed to be met by reducing the range of permissible land uses and the scale of development to protect and enhance the heritage values of the subject area.</p> <p>The proposal is consistent with this Priority as it seeks to retain the heritage values and character of the Mill Hill HCA, rather than facilitating new development.</p> <p>However, there is no evidence provided in the proposal to suggest that the current zoning and development standards would result in detrimental impacts on the heritage significance of the Mill Hill HCA. Potential impacts on local heritage could be addressed and resolved at the development application stage.</p>

District Plan Priorities	Justification
<b>E10 Delivering integrated land use and transport planning and a 30-minute city</b>	<p>The Mill Hill HCA is well serviced by public transport, including bus and train services to the Sydney CBD. It is within walking distance from the Bondi Junction strategic centre and transport interchange. The provision of more diverse housing and non-residential uses through maintaining the R3 zoning would facilitate the achievement of the 30-minute city.</p> <p>The proposal is inconsistent with this Priority as it would prohibit the range of residential and commercial uses currently permissible with consent under the R3 zoning. Insufficient analysis has been prepared to ascertain any potential impact on the capacity for housing delivery in an area close to the Bondi Junction strategic centre.</p> <p>The Department is not satisfied that Planning Priority E10 can be satisfied.</p>

### 3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. However, the Department considers it is largely inconsistent with relevant local strategic directions and objectives, as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	<p>The planning proposal states it achieves the following Planning Priorities:</p> <ul style="list-style-type: none"> <li><u>Planning Priority 5: Increase the sense of wellbeing in our urban environment</u> but does not provide any detail of how the proposal achieves the principles or actions of this planning priority.</li> <li><u>Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community</u>, as it will ensure there is additional R2 zoned land within Waverley LGA.</li> <li><u>Planning Priority 10: Manage visitation sustainably to protect local amenity and enhance Waverley's natural and built environment</u>, but does not provide any detail of how the proposal achieves the principles or actions of this planning priority.</li> </ul> <p>Despite this, in addition to the reasons already stated in this Report, the proposal is inconsistent with the following Priorities:</p> <ul style="list-style-type: none"> <li><u>Planning Priority 6: Facilitate a range of housing opportunities</u> as down-zoning of the Mill Hill HCA from R3 to R2, in conjunction with reducing the FSR and height controls, would not reflect the diversity of housing types and built form already existing in the HCA. The proposal would unreasonably limit the ability of residents to make alterations and additions to their property and would limit housing options in an area close to amenities and public transport.</li> <li><u>Planning Priority 8: Connect people to inspiring and vibrant places, and provide easy access to shops, services, and public transport</u> as it reduces housing diversity in an area close to public transport and services. The</li> </ul>

Local Strategies	Justification
	<p>down-zoning also has the potential to lower the capacity for housing delivery. The range of commercial uses permissible under the proposed R2 zone is comparatively more restrictive than that for the R3 zone, and hence would not facilitate easy access to shops and services by the local residents.</p> <p>On balance, the proposal does not meet key priorities of the LSPS.</p>
Waverley Local Housing Strategy (LHS)	<p>The Waverley Local Housing Strategy was adopted by Council on 2 June 2020 and endorsed by the Department on 16 July 2021.</p> <p>The planning proposal did not specifically address the Waverley LHS.</p> <p>The Waverley LHS states that the housing capacity under the existing zoning and planning controls of the Waverley LEP would be able to meet the housing target to 2036 without rezoning or intensification.</p> <p>The Department's approval of the LHS identifies that the current pipeline of housing supply in the LGA is unable to meet the 6 to 10-year target in the District Plan and the 10 to 20-year forecast housing demand. The approval requires Council, among other things, to implement its <i>Our Liveable Places Centres Strategy</i> to bring forward proponent-led or Council-led planning proposals for local centres identified in the Strategy with opportunities for growth.</p> <p>Considering the above, the proposal could further erode Council's ability to achieve the 6 to 10-year housing target. There is insufficient analysis undertaken to ascertain whether the reduction to the development standards along with the more restrictive R2 zoning would lower the capacity for housing delivery.</p> <p>The Mill Hill HCA is within walking distance from the Bondi Junction strategic centre with a range of retail and business services as well as public transport. It is also near significant open spaces of Centennial Park and Queens Park. The area is suitable for medium density housing due to its amenity and accessibility. There is no evidence to suggest that the existing zoning and development controls would result in detrimental impacts on the heritage significance of the HCA.</p> <p>The proposal's intended outcome of downzoning the Mill Hill HCA is inconsistent with the following key priorities of the Waverley LHS:</p> <ul style="list-style-type: none"> <li>• H1 <i>Manage housing growth sustainably and in the right location</i>; and</li> <li>• H2 <i>Encourage a range of housing options to support and retain a diverse community</i>.</li> </ul>
Waverley Community Strategic Plan (CSP) 2022-2032	<p>Strategy 2.6 of the Community Strategic Plan seeks to "<i>Celebrate the heritage and character of our centres and heritage sites, and protect and enhance their character</i>".</p> <p>In response, the proposal aims to rezone the subject area to one with less intensity, which may facilitate the retention of heritage and contributory items within the HCA. The proposal is not inconsistent with the above strategy in the CSP.</p>

### 3.4 Local planning panel (LPP) recommendation

The Waverley Local Planning Panel considered the planning proposal under Schedule 2, Part 5, Item 26 of the *Environmental Planning and Assessment Act 1979*. The Panel advised Council that:

1. The Panel does not support the planning proposal to down-zone the Mill Hill Heritage Conservation Area from R3 to R2 due to a lack of both strategic and site-specific merit.
2. The planning proposal lacks site specific merit due to inconsistency with the existing medium density, built form and character of the area, considering the narrow lot sizes and historical subdivision patterns within the HCA.
3. The Panel notes and agrees with the conclusion reached in the Council officer's report to the Strategic Planning and Development Committee in April 2022.

### 3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
5.1 Integrating Land Use and Transport	Inconsistent	<p>The objective of this direction is to ensure that urban land use locations improve accessibility for active and public transport and reduce car dependency. This direction applies to all planning proposals which seek to alter zoning or provisions relating to urban land, including residential and business uses.</p> <p>The subject area is well-connected to public transport, being a walking distance to rail at Bondi Junction Interchange and being served by frequent bus services.</p> <p>While the proposal does not affect the availability and accessibility of public transport services, the rezoning to R2 would reduce the range of permissible residential uses and does not reflect the existing development pattern in the area. Specifically, the planning proposal notes that 'multi dwelling housing' exists within the Mill Hill HCA, and the proposed rezoning will prohibit this type of housing and render it a non-conforming land use.</p> <p>As such, the proposed rezoning contradicts its intent to protect the character of the local area, as it serves to prohibit a form of housing which is already existing. The proposed rezoning is inconsistent with the character of the HCA which is defined by diverse types of residential uses.</p> <p>Additionally, it has not included any detailed analysis to ascertain whether it would reduce the capacity for delivering housing in the subject area, which is in proximity to existing public transport services and the Bondi Junction strategic centre. The proposal is not conducive to achieving the objectives of this direction.</p> <p>The Department is not satisfied the proposal is consistent with this direction.</p>

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
6.1 Residential Zones	Inconsistent	<p>The objectives of this Direction are to encourage a variety and choice of housing types, make efficient use of existing infrastructure and services and minimise the impact of residential development on the environment.</p> <p>The proposal states it will broaden the choice of housing types by creating additional R2 zoned land to the area, which would enable the provision of a greater diversity of housing options than is currently available in the Waverley LGA.</p> <p>However, Clause (1)(b) of the direction states that a planning proposal must include provisions to “<i>broaden the choice of building types and locations</i>”, and Clause (2)(b) also states that a planning proposal must “<i>not contain provisions which will reduce the permissible residential density of land</i>”. The down-zoning of the Mill Hill HCA from R3 to R2 and reducing the building height and FSR controls are inconsistent with the above provisions.</p> <p>The inconsistency is not justified as the proposal would unreasonably impact the ability of residents to make future alterations and additions to their property. Additionally, the proposal has not included any analysis to quantify the impact of the reduction in the capacity to deliver housing in Bondi Junction or the broader Waverley LGA, or to demonstrate whether the changes to the controls could in fact support retention of the local character as claimed by the proposal. The proposed R2 zone is more restrictive in terms of the range of residential uses permissible.</p> <p>Based on the available information, the proposal has not adequately justified its inconsistency with the Direction.</p>

### 3.6 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with the relevant State Environmental Planning Policies. Should the proposal progress through Gateway, a revision needs to be made to ensure there is sufficient information addressing consistency with the SEPPs. However, the proposal is not recommended to proceed for the reasons outlined in this report.

## 4 Site-specific assessment

### 4.1 Environmental

The proposal is unlikely to result in any adverse environmental impacts. The Mill Hill HCA is not identified to contain any critical habitat or threatened species, populations or ecological communities or their habitats.

### 4.2 Social and economic

The proposed rezoning from R3 Medium Density Residential to R2 Low Density Residential would reduce the range of permissible residential uses that is inconsistent with the established development pattern in the Mill Hill HCA. The proposal would adversely affect the ability of landowners to undertake alterations and additions to the existing building stock. The proposal



could potentially reduce the capacity to deliver housing supply and would discourage housing diversity in a locality with good access to services and public transport.

The proposal would also reduce flexibility for commercial developments by making certain non-residential uses, such as 'kiosk' and 'local distribution premises' prohibited, which could otherwise provide services to the local community.

Having regard to the above, the proposal is considered to result in adverse social and economic impacts.

## 4.3 Infrastructure

The proposal does not include any uplift and is unlikely to increase the infrastructure demand or require major utility or service upgrade for the Mill Hill HCA.

# 5 Consultation

## 5.1 Community

The planning proposal is not recommended to proceed to public exhibition.

## 5.2 Agencies

The planning proposal is not recommended to proceed to agency consultation.

# 6 Timeframe

The planning proposal is not recommended to proceed.

# 7 Local plan-making authority

The planning proposal is not recommended to proceed.

# 8 Assessment summary

The planning proposal is recommended not to proceed, as it does not demonstrate adequate strategic and site-specific merits. The key issues of the proposal are:

- The proposal does not adequately explain the amendments to the LEP being sought. Specifically, it does not explain that parts of two allotments in Brisbane Street, which are outside of the Mill Hill HCA, will be rezoned from R3 to R2 (i.e. the proposal affects land outside of the subject HCA); that the Mill Hill HCA contains pockets of land zoned B4, RE1 and SP2 which will not be rezoned; and that the HCA is currently subject to different FSR and height of buildings controls and some of these will not be changed. The scope of the proposal is unclear and is not suitable to proceed.
- The proposal has not demonstrated the need for the amendments as the prevalent character and built forms of the Mill Hill HCA are more consistent with the R3 than R2 zone.
- The proposal lacks strategic merit as the down-zoning would reduce housing diversity by prohibiting certain medium density housing form, such as multi-dwelling housing, in an area in close proximity to services, jobs and public transport within the Bondi Junction strategic centre.

- The proposal has not provided adequate analysis to demonstrate the potential impact on housing delivery and supply through the reduction to the FSR and height controls and the rezoning to R2, which permits a narrower range of housing related uses.
- The proposal is inconsistent with several planning priorities in the Eastern City District Plan, Waverley Local Strategic Planning Statement and Waverley Local Housing Strategy.
- The proposal is inconsistent with the Section 9.1 Ministerial Directions relating to integrating land use and transport and residential zones.
- The proposal lacks site-specific merit as the rezoning from R3 to R2 would prohibit certain type of medium density housing, such as multi-dwelling housing, which is already existing in the area; the proposal would render such development a non-conforming use and would introduce uncertainty to the community. The proposed reduction to the FSR and height limits would also limit the ability of landowners to make alterations and additions to the existing building stock. Furthermore, the proposal does not demonstrate that the existing zoning and development standards would detrimentally impact on the heritage significance of the Mill Hill HCA.
- The proposal would result in negative social and economic impacts by discouraging housing diversity and prohibiting certain commercial uses that could service the local community.

## 9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should not proceed because:

1. The planning proposal has not demonstrated adequate strategic merit as:
  - a) The proposal has not demonstrated the need for the rezoning and amendment to the FSR and height of buildings standards.
  - b) The inconsistency with the following Planning Priorities of the Eastern City District Plan, which gives effect to the Greater Sydney Region Plan, is unresolved due to the potential impact on housing diversity and supply in an accessible location close to the Bondi Junction strategic centre, and that a more restricted range of commercial uses would result from the rezoning:
    - i. E3 *Providing services and social infrastructure to meet people's changing needs;*
    - ii. E5 *Providing housing supply, choice and affordability, with access to jobs, services and public transport;* and
    - iii. E10 *Delivering integrated land use and transport planning and a 30-minute city.*
  - c) The proposal does not adequately address consistency with the Waverley Local Strategic Planning Statement (LSPS) with clear justifications. The inconsistency with the following Planning Priorities in the LSPS remains unresolved due to the potential impacts on housing supply and diversity in an accessible location close to the Bondi Junction strategic centre and public transport:
    - i. Priority 6 *Facilitate a range of housing opportunities in the right places to support and retain a diverse community;* and
    - ii. Priority 8 *Connect people to inspiring and vibrant places, and provide easy access to shops, services and public transport.*
  - d) The proposal is inconsistent with the following priorities of the Waverley Local Housing Strategy for the above-mentioned reasons:
    - i. H1 *Manage housing growth sustainably and in the right location;* and

- ii. H2 *Encourage a range of housing options to support and retain a diverse community.*
- e) The inconsistency with Section 9.1 Ministerial Directions – 5.1 Integrating Land Use and Transport and 6.1 Residential Zones is not adequately justified and remains unresolved.
- 2. The planning proposal has not demonstrated adequate site-specific merit as:
  - a) The proposal is inconsistent with the existing medium density residential uses, built form and local character of the Mill Hill HCA;
  - b) There is a lack of justification that the existing zoning and development standards would result in detrimental impacts on the heritage significance of the Mill Hill HCA;
  - c) The proposal would unreasonably limit the ability of landowners to make alterations and additions to their properties; and
  - d) The proposal would result in negative social and economic impacts by discouraging housing diversity and prohibiting certain commercial uses that could service the local community.
- 3. The planning proposal has not explained the intended amendments to the LEP with sufficient clarity.



24 November 2022

Simon Ip

Manager, Place and Infrastructure



28 November 2022

Laura Locke

Director, Eastern and South Districts

Assessment officer

Wayne Williamson

Senior Planning Officer, Agile Planning