



PLANNING PROPOSAL

Mill Hill Heritage Conservation Area Rezoning

Amendment to land use zoning in the Waverley Local Environmental Plan 2012.

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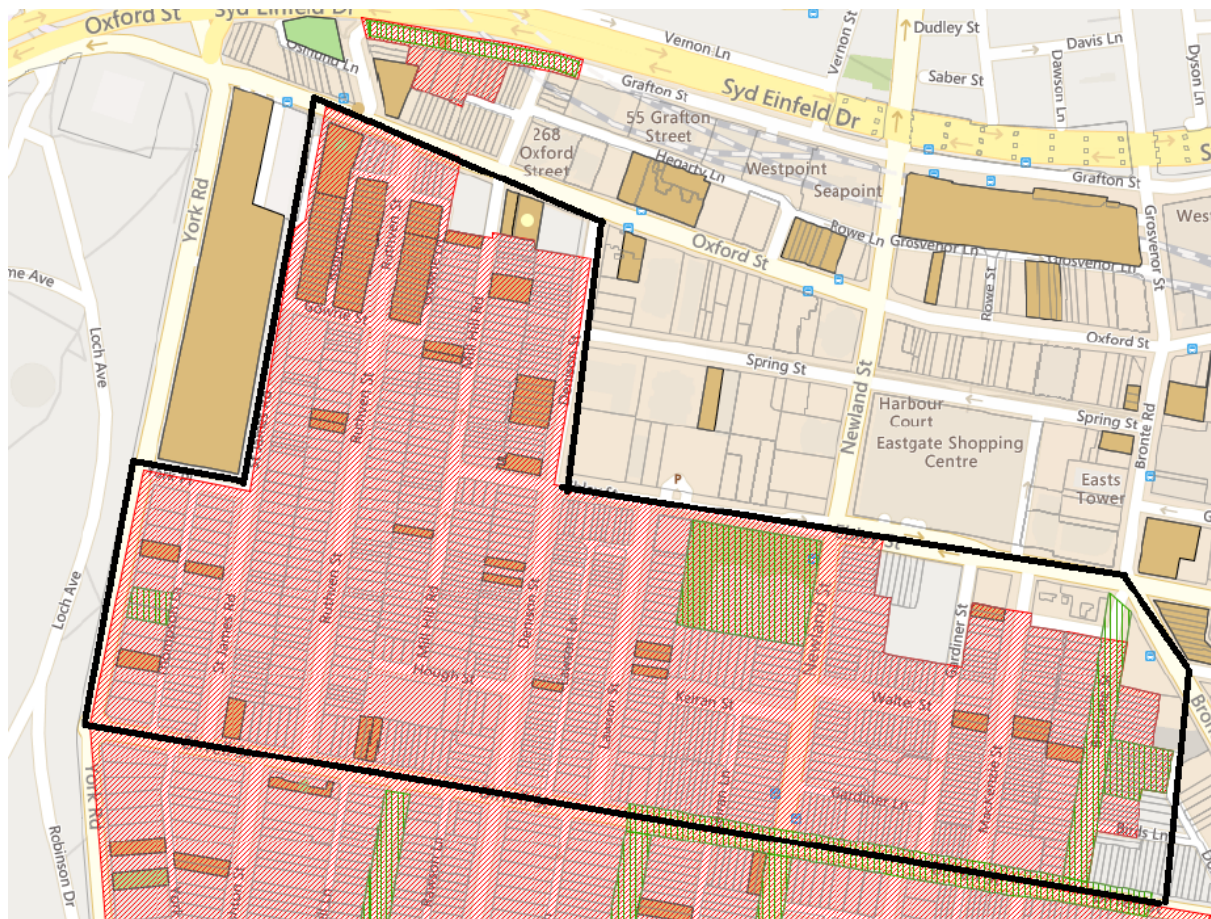
Executive Summary

The Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 (WLEP) by changing the land use zone, from Zone R3 Medium Density Residential to Zone R2 Low-Density Residential. The Proposal will change the Height or Floor Space Ratio (FSR) of the site.

The Proposal seeks to amend the WLEP2012 as follows:

1. Amend the residential zoning within the subject area from R3 Medium Density Residential to R2 Low-Density Residential
2. Amend the floor space ratio (FSR) from 0.9:1 of the subject area to 0.55:1; and
3. Amend the height of buildings development standards from 9.5 m to 8.5m.

Figure 1: Mill Hill Conservation Area (subject area)



INTRODUCTION

a. Description of the Planning Proposal

The Planning Proposal seeks to amend WLEP for the site in Mill Hill with the current zoning of R3 Medium Density Residential to R2 Low-Density Residential. The R2 Low-Density Residential Zone permits various residential accommodation types, including dwelling houses, dual occupancies, multi-dwelling housing, semi-detached dwellings and detached dwellings.

b. History of the Planning Proposal

This Planning Proposal is a result of a Council meeting a resolution by Council on 5 April 2022 which is attached in Attachment 2, the relevant Council Report is provided in Attachment 1. It is intended to amend the zoning and development standards. The proposal LEP amendment fits the category of 'Standard' planning proposal described in the Department of Planning Environment (DPE) Guidelines.

Table 1: Council Resolution 5 April 2022

Meeting and date	Item No.	Resolution
Council 20 July 2021	CM/8.7/21.07	<p>That Council:</p> <ol style="list-style-type: none">1. Proceeds with the rezoning of the Mill Hill Heritage Conservation Area from R3 Medium Density Residential to Low-Density Residential.2. Implement all necessary changes to the permitted uses in the R3 Medium Density Residential zone in the <i>Waverley Local Environmental Plan 2012</i>.

Table 2: Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 20 July 2021	CM/8.7/21.07	<p>That Council:</p> <ol style="list-style-type: none">1. Reviews the zoning classification for the Mill Hill Conservation area from R3 to R2 to better reflect the character and heritage of the local area.2. If feasible, amends the Waverley Local Environmental Plan to clarify which commercial projects can operate in a R3 zone and that must genuinely service the immediate community.3. Writes to the NSW Planning and Open Spaces Minister, Rob Stokes, local MPs Dr Marjorie O'Neil and Gabrielle Upton, and LGNSW President, Linda Scott, demanding the return of planning decisions to elected members of local

		<p>councils, as residents deserve a planning system that protects them.</p> <p>4. Notes that these changes are necessary as the current planning system takes the power away from residents and locally elected representatives and gives power over planning to developers.</p> <p>5. Officers report back to Council on the matters raised in clauses 1 and 2 above.</p>
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DESCRIPTION OF SUBJECT AREA

The Mill Hill Heritage Conservation Area (Mill Hill HCA) takes in the majority of the lots to the south of Oxford Street, east of York Road and St James Road, South of Ebley Street, west of Bronte Road and North of Birrell Street in Bondi Junction and is within a Heritage Conservation Area listed under schedule 5 part 12 (Heritage Conservation Area) in the Waverley Local Environmental Plan 2012 (WLEP).

The Mill Hill HCA (subject area) is currently zoned entirely R3 Medium Density Residential in the WLEP. The area currently acts as a transition zone between the area on Bondi Junction zoned as B4 Mixed Use and the R2 Low-Density Residential zone south of Birrell Street in Queens Park. A summary of planning controls is outlined in Table 3.

The subject area is predominantly residential; several other uses occur on properties within the area. Some examples include a delicatessen, a service station, a storage facility, childcare facilities, an early education centre, a dry cleaner and health consulting rooms. The majority of existing housing stock within the subject area comprises of attached, but also present is multi-dwelling housing, semi-detached and detached dwellings.

Existing Floor Space Ratio

The entire subject area is currently identified as having a floor space ratio (FSR) of 0.9:1.

Existing Height of Building

The maximum building height in the subject area is 9.5 meters.

Table 3: Existing and proposed development standards

WLEP 2012 Provision	Current Planning Controls	Planning Proposal
Zone	R3 Medium Density Residential	R2 Low Density Residential
Additional Permitted Use	Nil	Nil
FSR	0.9:1	0.55:1
Height	9.5 m	8.5 m
Heritage	Yes	Yes

List of Attachments

Attachment 1 –Council Report

Attachment 2 – Council Minutes Meeting

Attachment 3– Proposed Mapping

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

1.1 Description Statement

The objective of the Planning Proposal is to amend the Waverley Local Environmental Plan 2012 to rezone the subject area from R3 Medium Density Residential to R2 low-Density Residential.

1.2 Intended Outcomes

The intended outcomes of the Planning Proposal are as follows:

- Amend the zoning of the subject area from R3 Medium Density Residential to R2 Low-Density Residential.
- Amend the floor space ratio (FSR) applying to the subject area to 0.55:1; and
- Amend the height of buildings development standard to 8.5m.

The proposed amendment is consistent with Council's resolution on 5 April 2022. Part of the resolution was to review the zoning classification for the Mill Hill Conservation area from R3 to R2 to better reflect the character and heritage of the local area and amend the Waverley Local Environmental plan.

PART 2 – EXPLANATION OF PROVISIONS

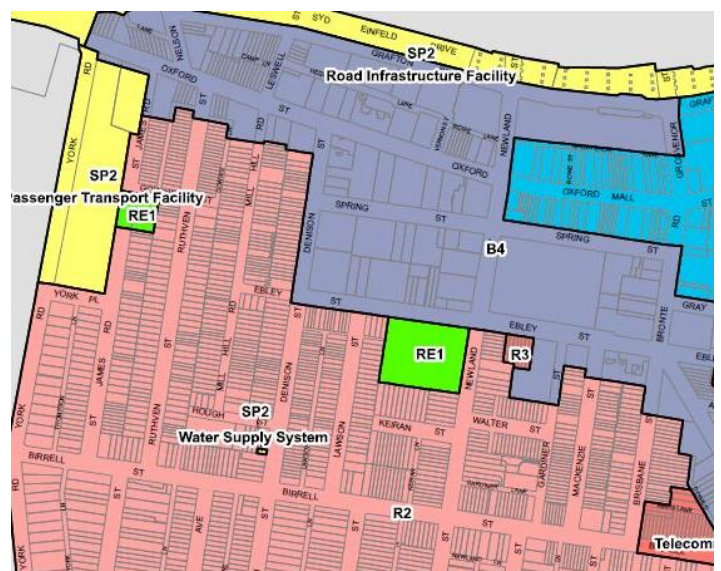
2.1 Draft Development Standards

The amendment of the Zoning from R3 to R2 with changes to the floor space ratio (FSR) applying to the subject area to 0.5:1; and the height of buildings development strands to 8.5m.

Figure 2: Current Zoning



Figure 3: Proposed Zoning



PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

3.1 Strategic Merit

This section details the reasons for the proposed LEP amendment and is based on a series of questions and matters for consideration as outlined in the LEP Making Guidelines (December 2021). The issues to be addressed include the strategic planning context of the amendments, strategic merits, site-specific merits, potential State and Commonwealth agency interests, and environmental, social and economic impacts.

Section A – Need for the planning proposal (Strategic Merit)

This section establishes the need for a planning proposal to achieve the key outcomes and objectives. The set of questions address the strategic origins of the proposal and whether amending the WLEP is the best mechanism to achieve the aims of the proposal.

1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal is the direct result of the Council's resolution on 5 April 2022 to rezone the subject area from R3 Medium Density Residential to R2 Low-Density Residential.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the Planning Proposal is the only means of achieving the stated objective to rezone the subject area from R3 Medium Density Residential to R2 Low-Density Residential, in accordance with the Council resolution. The intended outcome area is to rezone the subject area to R2 Low-Density Residential, amend the FSR to 0.55:1 and amend the height of building standard to 8.5m.

Section B – Relationship to strategic planning framework.

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes, the proposal is consistent with the objectives of a Metropolis of Three Cities. The R2 Low-Density Residential zone permits various residential accommodation types, including dwelling houses, dual occupancies, multi-dwelling housing, semi-detached dwellings and attached dwellings. Most of the existing housing within the study area are detached and semi-detached dwelling houses.

Waverley Local Strategic Planning Statement (March 2020)

The Waverley LSPS adopts the Directions and Planning Priorities, and any LEP amendments must demonstrate public benefit. The Planning Priorities of the LSPS relevant to this proposed LEP amendment are listed. The Planning Proposal does not entirely meet the Strategic Merit Test, the assessment is presented in Table 4.

Table 4: Strategic Merit Test

Strategic Merit Test	
a) Does the proposal:	
Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or corridor/precinct plans applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct, including any draft place strategy; or	<p>Yes, it is consistent with the Greater Sydney Regional Plan in regard to the following Objectives:</p> <ul style="list-style-type: none">• Objective 7: communities are healthy, resilient, and socially connected• Objective 13: Environmental heritage is identified, conserved and enhanced

	The proposal is inconsistent with Objective 10: Greater Housing Supply as the rezoning reduces the type of dwellings which can be constructed and therefore could be seen as limiting the supply of housing. A consideration however is that the subject area is currently entirely a Heritage Conservation Area, which seeks to retain heritage character and existing built form, rather than facilitate large-scale intensification through demolition and redevelopment.
Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan; or	<p>The Planning Proposal is consistent with the Waverley Local Strategic Planning Statement:</p> <ul style="list-style-type: none"> • Planning Priority 5: Increase the sense of wellbeing in our urban environment. • Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community <p>Planning Priority 10: manage visitation sustainably to protect local amenity and enhance Waverley's natural and built environment</p>
Respond to a change in circumstances that has not been recognised by the existing planning framework.	N/A

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Waverley Local Environmental Plan 2012

The Waverley LEP has seven main aims that all Planning Proposals and development should be consistent with where applicable. This Planning Proposal is consistent with the following key aims of the Waverley LEP:

- (1) This Plan aims to make local environmental planning provisions for land in Waverley in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.
- (2) to provide for a range of residential densities and range of housing types to meet the changing housing needs of the community.

Waverley Local Strategic Planning Statement (March 2020-2036)

Table 5 shows the Planning Priority and actions which are relevant or being actioned by this Planning Proposal.

Table 5: Assessment of the Proposal against the Local Strategic Planning Statement

• Direction: Housing the city	
Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community	By rezoning the area to subject area to R2, we will ensure that there is an additional R2 zone within Waverley Council, which encompasses a mixture of R2, R3 and R4 zoning, which will provide a range of different housing options to the Waverley community.

Waverley Community Strategic Plan 2022-2032

This Planning Proposal aligns with the community vision, which states:

“Waverley is a vibrant and resilient community. We take care of each other, our natural environment and local places. Our community is empowered to collaborate for a sustainable and connected Waverley for future generations.”.

The Planning Proposal also aligns with the strategies presented below:

Table 6: Assessment of Proposal against Waverley Community Strategic Plan

Relevant Directions and Strategies from the Waverley Strategic Plan	Is the Proposal consistent with Direction and Strategy?
2.6: Control and manage development to protect the intrinsic values of the community including aesthetics, size, heritage, and population	
2.6.6. Celebrate the heritage and character of our centres and heritage sites, and protect and enhance their character	This proposal aims rezone to a less intense zone which may facilitate the retention of character items within the Heritage Conservation Area.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other state and regional studies or strategies to which the proposed LEP amendment is required to align.

6. Is the planning proposal consistent with applicable SEPPs?

This Planning Proposal does not contain provisions that contradict or would hinder the application of the following SEPPs:

- Housing SEPP
- Transport and Infrastructure SEPP
- Resilience and Hazards SEPP
- Industrial and Employment SEPP
- Biodiversity and Conservation SEPP
- Building Sustainability Index: BASIX SEPP
- Precinct SEPPs
- Codes SEPP

7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The proposal is consistent with all applicable Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979, as outlined in the table below.

Table 8: Assessment of Proposal against Ministerial Direction

Section 9.1 Ministerial Direction		
Ministerial Direction	Relevance	Consistency

3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the protection and conservation of heritage significance and indigenous heritage significance.</p> <ol style="list-style-type: none"> 1) A planning proposal must contain provisions that facilitate the conservation of: <ol style="list-style-type: none"> (a) Item, places, buildings, works, relics moveable objects or precinct of the environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area. (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal area, Aboriginal objects, Aboriginal places or landscape identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. 	N/A
5.1 integrating Land Use and Transport	<p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ol style="list-style-type: none"> 1. Improving transport Choice Guidelines for planning and development and 2. The Right Place for Business and Services-Planning Policy 	<p>Yes, The objective of this direction is to ensure that urban land use locations improve accessibility for active and public transport and reduce car dependence.</p> <p>The subject area is well-connected to public transport, being a walking distance to heavy rail at Bondi Junction Interchange and also being served by frequent bus services.</p>
6.1 Residential Zones	<p>The directions are:</p> <ol style="list-style-type: none"> 1) A planning proposal must include provisions that encourage the provision of housing that will: <ol style="list-style-type: none"> (a) Broaden the choice of building types and locations available in the housing market, and (b) Make more efficient use of existing infrastructure and services, and 	<p>Yes, the Planning Proposal will broaden the choice of building types available in the housing market by adding an additional R2 Low Density Residential Zone, which can enable the provision of a</p>

	(c) Reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) Be of good design. 2) A planning proposal must, in relation to land to which this direction applies: (a) Contain a requirement that residential development is not permitted until land is adequately serviced (b) No contain provisions which will reduce the permissible residential density of land.	greater diversity of housing options than is currently available in the LGA.
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3.2 Site Specific Merit

Guide to preparing Planning Proposals

The assessment criteria outlined in the DPIE Guideline to determine if a planning proposal has site-specific planning merit is addressed in

Table 9: Assessment of Proposal against Site Specific Merit Test

Site-specific Merit Test	
b) Does the proposal have site-specific merit, having regard to the following:	
the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources, or hazards)	This Proposal will not have any impacts on the natural environment.
The existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates	This Proposal will ensure the continuation of residential land uses in the future, however existing permissible uses will be reduced by the proposed change in zoning.
The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision	Not applicable as this Proposal will not result in the increase of infrastructure demand. If anything could result in less infrastructure demand in the future as a result of the rezoning.

Section C – Environmental, social, and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. the subject area is within an established urban area and is not identified as having any ecological significance. On this basis, it's unlikely any critical habitats, threatened species, population, ecological communities or their habitats would be impacted.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are not likely to be any environmental impacts as a result of the proposal. Any issues associated with the subject area are likely to be minor and manageable at the Development Assessment stage.

10. Has the Planning Proposal adequately addressed any social and economic effects?

The Planning proposal is unlikely to affect the existing retail centres as the residential use of the subject area is to be retained. In addition, it is not anticipated that any ill social effects will arise from the Planning Proposal.

Section D – Infrastructure (Local, State and Commonwealth)

11. Is there adequate public infrastructure for the planning proposal?

This consideration is not applicable to the Planning Proposal as it is proposing to rezone the existing zoning to a less intense zone.

Section E – State and Commonwealth Interests

12. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Planning Proposal will be referred to relevant State and Commonwealth authorities as part of the public exhibition period and in accordance with any Gateway determination. The proposal does not have any impact on the interest of any State or Commonwealth authority.

PART 4 – MAPPING

Proposed mapping is attached in Attachment 3.

PART 5 – COMMUNITY CONSULTATION

Public exhibition is likely to include a newspaper advertisement, a display on the Councils Have Your Say website and written notification to landowners. The Gateway Determination will specify the level of public consultation that must be undertaken in relation to the Planning Proposal.

Pursuant to Division 3.4 of the EPA & Act, a Planning Proposal must be placed on public exhibition for a minimum of 28 days, or as specified in the Gateway Determination for the proposal. The Responsible Planning Authority must consider any submissions made concerning the proposed instrument and the report of any public hearing.

PART 6 – PROJECT TIMELINE

The following indicative project timeline will assist with tracking the progress of the Planning Proposal through its various stages of consultation and approval. It is estimated that this amendment to WLEP 2012 will be completed by January 2023.

The detail around the project timeline is expected to be prepared following the referral to DPE for a Gateway Determination.

Table 10: Project timeline

Tasks	Timeframe
Gateway Determination	November 2022
Community Consultation	January 2022
Post Exhibition Review	February 2022
Update Planning Proposal / Report to Council	March 2023
DPIE review of final Planning Proposal	April 2022
Parliamentary Counsel drafting of LEP	May 2023
DPIE to finalise LEP	June 2023

Attachments

1. Council Report
2. Council Minutes
3. Proposed mapping