



## PLANNING PROPOSAL

20 Illawong Avenue, Tamarama

Amendment to land use zoning from R3 to R2 in Waverley Local Environmental Plan 2012.

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## Executive Summary

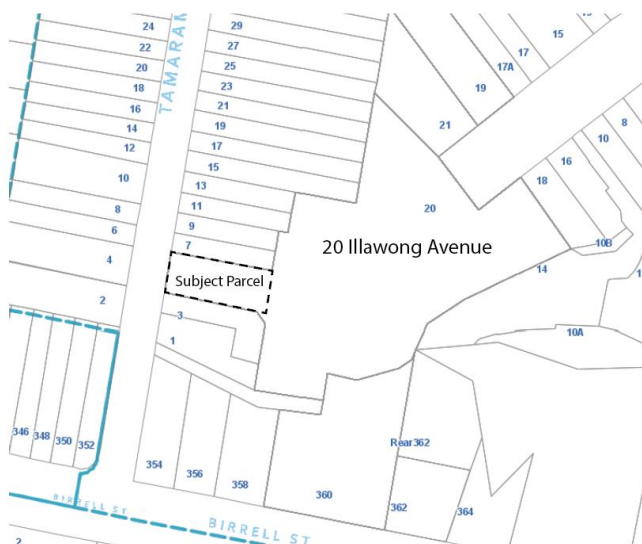
The Planning Proposal prepared by Waverley Council to amend the *Waverley Local Environmental Plan 2012* (WLEP) by changing the land use from Zone R3 Medium-Density Residential to R2 Low-Density Residential. The Proposal relates to a 368 sqm rectangular-shaped parcel of land forming part of 20 Illawong Avenue, Tamarama, Table 1. The legal description of the site is 5 Tamarama Street, Tamarama, which on 15 September 2022 was registered for subdivision under Lot 1 in DP 1188291. The land is currently supported by WLEP characteristics that include R3 zoning, a maximum height of 9.5m and a maximum floor space ratio of 0.6:1. This Proposal has been prepared in line with the LEP Making Guidelines. The intended outcomes of the Planning Proposal are as follows:

1. Amend the zoning of the subject land from R3 medium Density Residential to R2 Low-Density Residential.
2. Amend the floor space ratio (FSR) applying to the subject area to 0.5:1; and
3. Amend the height of the building's development standard to 8.5 m.

Table 1: Existing and proposed development standards

WLEP 2012 Provision	Current Planning Controls	Planning Proposal
<b>Zone</b>	R3 Medium-Density Residential	R2 Low-Density Residential
<b>Additional Permitted Use</b>	Nil	Nil
<b>FSR</b>	0.6:1	0.5:1
<b>Height</b>	9.5 m	8.5 m

Figure 1. Subject 'parcel' portion of 20 Illawong Avenue.



The Planning Proposal is considered a 'Basic' Planning Proposal, in line with the LEP Making Guidelines criteria.

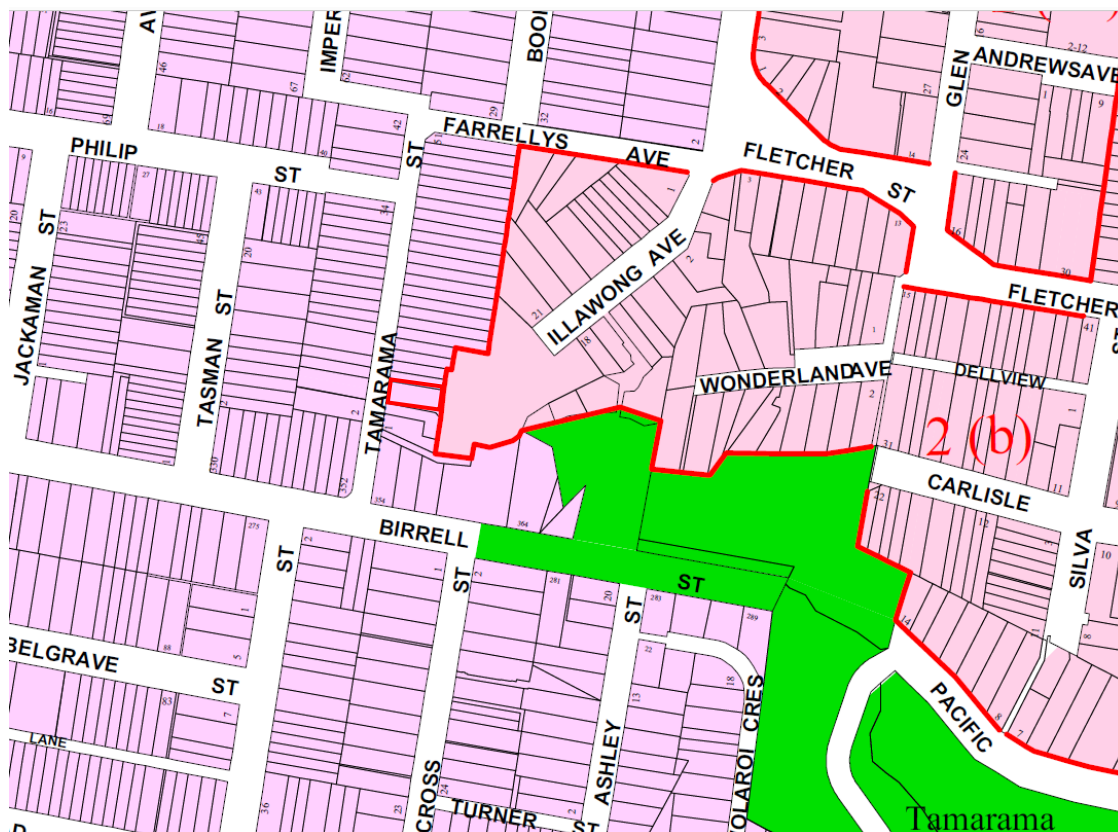
## INTRODUCTION

### a) Background to this Planning Proposal

The subject area has had a history of being zoned as Low-Density Residential and the existing built form and road network would suggest that the R2 Low-Density Residential zone is the most appropriate to the site.

Prior to the implementation of the Standard Instrument and changing of zoning codes in the Waverley Local Environment in 2012, the subject site was zoned 2(a) Low-Density Residential, with the adjacent lot (forming the rest of the original lot pre-subdivision) zones as 2(B) Medium Density Residential.

Figure 21: Waverley Local Environmental Plan 1996 land-use zoning



In 2012 when the WLEP was implemented, the subject lot, which formed part of a larger lot was zoned as R3 Medium Density Residential.

In 2012 a development application was lodged (DA-125/2012) which sought alterations and additions to the multi-storey residential flat building and including two new penthouses, underground car parking, a new three-storey block of five apartments and a land subdivision to create two new lots was subsequently approved.

### b) History of the Planning Proposal

In 2022, the landowner sought subdivision in line with the DA and consequently intended to sell the subject site as a separate parcel of land. The recent subdivision and sale have been brought to the attention of the Council by members of the community who are concerned that the zoning is inconsistent with the remainder of Tamaraka Street and that the potential for a new residential flat building (RFB) to be developed on the land, could result in development which is out of character with

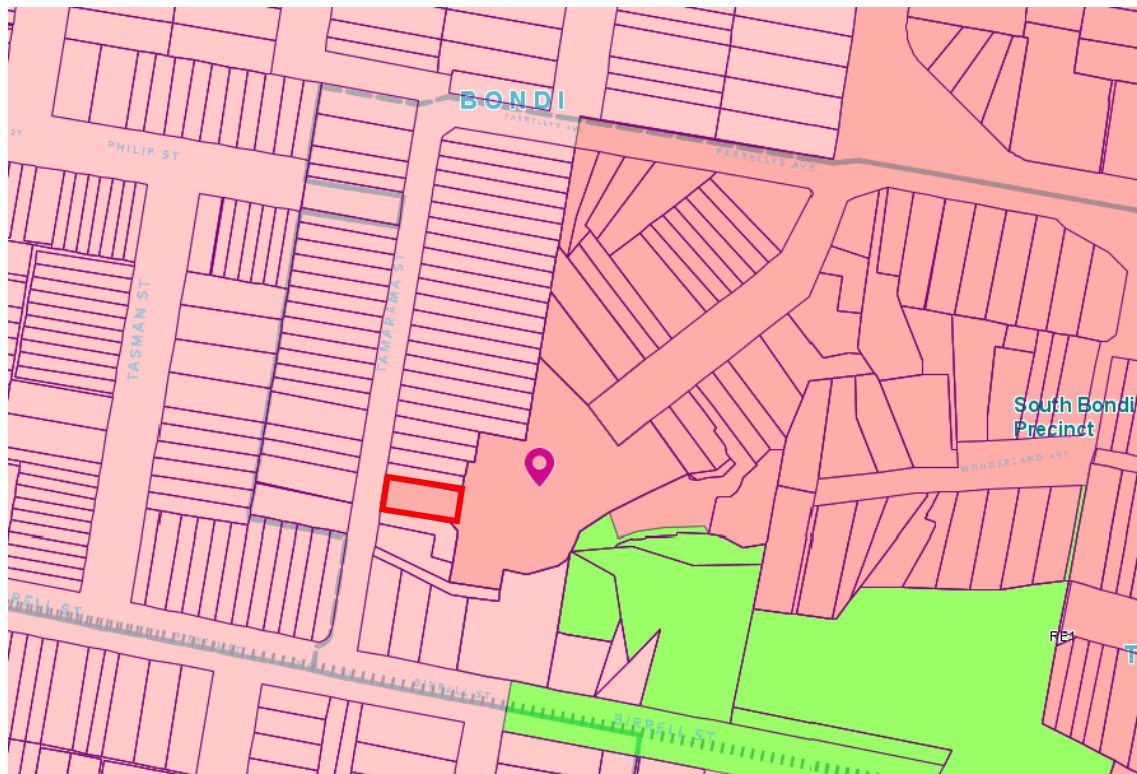
the remainder of the street, which is zoned R2 Low-Density Residential and could lead to negative impacts on the neighbouring properties.

The Planning Proposal is a result of a Council resolution 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 proposed LEP amendment fits the category of the 'Basic' Planning Proposal described in the Department of Planning Environment (DPE) Guideline.

Table 2: Council Resolution 5 April 2022

Meeting and date	Item No.	Resolution
Council 5 April 2022	PD/5.5/22.04	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Supports a Planning Proposal for the property at 7B and 5 Tamarama Street (legal description being Strata Plan 1737) to rezone the land from R3 to R2, with a maximum height of 8.5 m and FSR of 0.5:1 to match the surrounding R2 zone.</li> <li>2. Forwards the Planning Proposal to the Department of Planning and Environment (DPE) for Gateway Determination.</li> </ol>

Figure3: Waverley Local Environmental Plan 2012 land-use zoning



The subject site fronting Tamarama Street is surrounded by Low-density residential land uses and the proposed change in zoning from R3 to R2 will result in development standards more in line with the character of the area. A future development with an R3 Medium Density Residential zone could change the character and have a negative impact on the surrounding neighbourhood, such as:

- a) **Traffic and Parking;** concerns related to an increase in traffic and parking demand in the area with an increase in the number of residents.
- b) **Overshadowing:** Overshadowing from any future redevelopment of the site might have an impact on the surrounding dwellings.

### List of Attachments

Attachment A – Council Minutes Meeting

Attachment B – Council Report

## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

### 1.1 Description Statement

Historically, the subject parcel of land was in an R2 Low-Density Residential Zone, aligning with the area's character. However, the application of the R3 Medium Density Residential Zone under the LEP renewal process is inconsistent with the capacity and environmental constraints of the land, the existing road network within Illawong Avenue and Tamarama Street and the character of the current subdivision.

### 1.2 Intended Outcomes

The intended outcomes of the Planning Proposal are as follows:

- a) Amend the zoning of the subject area from R3 Medium Density Residential to R2 Low-Density Residential.
- b) Amend the floor space ratio (FSR) applying to the subject area to 0.5:1; and
- c) Amend the height of the building's development standard to 8.5m.

The proposed amendment is consistent with Council's resolution on 5 April 2022.

## 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 standards to 8.5m.

## 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 matters to be addressed include the strategic planning context of the amendments, Strategic Merit, Site-Specific Merit, and potential state and environmental, social and economic impacts.

### Building Typology Comparison

A comparison of different building typologies of existing vs proposed development standards, and car parking comparison between Low Density Residential and Medium Density Residential against the Waverley Development Control Plan (WDCP), is provided below.

Table 3: Waverley Development Control Plan comparison

Building Typology	<b>R2</b> – 8.5m height, 0.5:1 FSR	<b>R3</b> – 9.5m height, 0.6:1 FSR	Comments
Dwelling House	<ul style="list-style-type: none"> <li>8.5m height</li> <li>FSR as per Cl4.4A formula (0.7:1 for No. 5 Tamarama)</li> <li>Front setback: Average</li> <li>Rear setback: Average</li> <li>Side setbacks: 0.9m</li> </ul>	<ul style="list-style-type: none"> <li>9.5m height</li> <li>FSR as per Cl4.4A formula (0.7:1 for No. 5 Tamarama)</li> <li>Front setback: Average</li> <li>Rear setback: Average</li> <li>Side setbacks: 0.9m</li> </ul>	1m height difference
Dual Occupancy	<ul style="list-style-type: none"> <li>8.5m height</li> <li>FSR as per Cl4.4A formula (0.7:1 for No. 5 Tamarama)</li> <li>Front setback: Average</li> <li>Rear setback: Average</li> <li>Side setbacks: 0.9m</li> </ul>	<ul style="list-style-type: none"> <li>9.5m height</li> <li>FSR as per Cl4.4A formula (0.7:1 for No. 5 Tamarama)</li> <li>Front setback: Average</li> <li>Rear setback: Average</li> <li>Side setbacks: 0.9m</li> </ul>	1m height difference.  <i>Dual occ would likely not be approved at 5 Tamarama Street as our DCP stipulates a min lot size of 450sqm (attached) and 600sqm (detached).</i>
Multi-Dwelling Housing	Not Permitted	<ul style="list-style-type: none"> <li>9.5m height</li> <li>0.5:1 FSR</li> <li>Front setback: Average</li> <li>Rear setback: 6m or average</li> <li>Side setbacks: 1.5m</li> </ul>	More height, but larger setbacks and less FSR than dwelling houses.
Manor Houses	Not Permitted	<ul style="list-style-type: none"> <li>9.5m height</li> <li>0.5:1 FSR</li> <li>Front setback: Average</li> <li>Rear setback: 6m or average</li> <li>Side setbacks: 1.5m</li> </ul>	More height, but larger setbacks and less FSR than dwelling houses.
Residential Flat Building	Not Permitted	<ul style="list-style-type: none"> <li>9.5m height</li> <li>0.5:1 FSR</li> <li>Front setback: Average</li> <li>Rear setback: 6m or average</li> <li>Side setbacks: 1.5m</li> </ul>	More height, but larger setbacks and less FSR than dwelling houses.

Table 4: Car parking WDCP

Parking in DCP Parking Zone 2	Low Density Residential	Medium density residential (3-19 dwellings)	Comment
On-site parking rate per dwelling	Minimum: 0 ≤2 bedrooms: Maximum 1 3+ bedrooms: Maximum 2	Minimum: 0 Maximum: Studio: 0 1-bedroom: 1.0 2-bedroom: 1.2 3+ bedrooms: 1.5	More on-site parking spaces permitted, which is likely to result in an increase in vehicle movement on and around the site.
Visitor Parking	None	1 space per 5 units	More on-site parking spaces permitted, which is likely to result in an increase in

			vehicle movement on and around the site.
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## Section A – Need for the Planning Proposal (Strategic Merit)

This section establishes the need for a Planning Proposal in achieving the key outcomes and objectives. The set 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 0.5:1 and amend the height of the 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, detached dwellings and semi-detached dwellings. Most of the existing housing within the study area comprises of detached and semi-detached dwelling houses.

Table 5 outlines the extent of consistency between the proposal and the Eastern City District Plan.

Table 5: Eastern City District Plan

Liveability	
Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.	The proposal is inconsistent with this Planning Priority as the change in zone from R3 to R2 reduces the number of permissible residential building types for the subject land and will likely reduce housing supply.
Sustainability	
Planning Priority E16: Protecting and enhancing scenic and cultural landscapes.  Action 63: Identify and protect scenic and cultural landscapes.	Waverley LGA features dense and highly urbanised areas which means that both built structures, as well as natural features, contribute to the scenic quality of landscapes in the LGA.  5 Tamarama Street currently permits a 9.5m building height, which may visually disrupt the wider Tamarama Street streetscape that is otherwise subject to an 8.5m building height. The additional metre permitted at No. 5 might appear out of scale and disrupt the established scale of the visual landscape.



	As this proposal seeks to align the building height at 5 Tamarama Street with the rest of the streetscape, the height difference and subsequent disruption is less likely to occur – achieving consistency with this Planning Priority.
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#### 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 (Table 6).

Table 6: Assessment of Proposal against Strategic Merit Test

<b>Strategic Merit Test</b>	
<b>a) Does the proposal:</b>	
Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or a corridor/precinct plan 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>An argument could be made that the proposal is consistent with the <b>Greater Sydney Regional Plan</b> in regard to <b>Objective 7</b> which states that <i>communities are healthy, resilient, and socially connected</i></p> <p>The proposal is inconsistent with <b>Objective 10</b> Greater Housing Supply as the rezoning reduces the type of dwelling which can be constructed and therefore could be seen as limiting the supply of housing.</p>
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"> <li>• <b>Planning Priority 5:</b> increase the sense of well-being in our urban environment.</li> <li>• <b>Planning Priority 6:</b> Facilitate a range of housing opportunities in the right places to support and retain a diverse community.</li> </ul> <p>R2 Low Residential Density is the zoning of most properties on Tamarama Street. Therefore, this Planning Proposal will be consistent with all residential properties on Tamarama Street.</p>
Respond to a change in circumstances that have 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 aim of the Waverley LEP:

- (c) To provide for a range of residential densities and a range of housing types to meet the changing housing needs of the community

*Waverley Local Strategic Planning Statement (March 2020)*

Table 10 assessed the Planning Proposal against the relevant Planning Priority and actions.

Table 7: Assessment of the Proposal against the Local Strategic Planning Statement

• Direction: A city for people	
Planning Priority 5: increase the sense of well-being in our urban environment	The Planning Proposal will help to keep the character of the Tamarama Street with R2 Low Density Residential and will help the amenity of the area.
Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community	The proposal is inconsistent with the Planning <b>priority 6</b> as any rezoning from R3 to R2 will limit the range of housing opportunities.

Table 8: Waverley Local Housing Strategy

Waverley Local Housing Strategy	
Priority H2: Encourage a range of housing options to support and retain a diverse community	The Planning Proposal is inconsistent with the Priority H2 as any changes from R3 Medium-Density Residential to R2 Low-Density Residential will limit the range of housing options in Waverley LGA.
Priority H5: Ensure the new development is consistent with the future character	The current zoning for this lot is not aligned with the character of the street. An R2 Low-Density Residential zone would align with the properties surrounding the site and the broader character of the area.

*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 sustainable and connected Waverley for future generations.”*

The Planning Proposal also aligns with the strategies presented in Table 9 below:

Table 9: Assessment of Proposal against Waverley Community Strategic Plan 2022-2032

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	

2.6.2. Ensure new development provides a high standard of design quality and does not adversely impact the amenity of neighbours or the wider community	This proposal aims to rezone to a less intense zone which may facilitate the retention of the character of the area with R2 Low-Density Residential.
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## 5. Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

There are no other relevant State or 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 is consistent with applicable State Environmental Planning Policies including:

- Housing SEPP
- Transport and Infrastructure SEPP
- Reliance and Hazards SEPP
- Industrial and Employment SEPP
- Biodiversity and Conservation SEPP
- Building Suitability 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 applicable Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 as outlined in the below table.

Table 5: Assessment of Proposal against Ministerial Direction

Section 9.1 Ministerial Direction		
Ministerial Direction	Relevance	Consistency
5.1 Integrating Land Use and Transport	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: <ol style="list-style-type: none"> <li>Improving transport Choice Guidelines for planning and development and</li> <li>The Right Place for Business and Services Planning Policy</li> </ol>	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. The subject area is close to public transport and frequent bus services.
6.1 Residential Zones	The directions are: <ol style="list-style-type: none"> <li>A Planning Proposal must include provisions that encourage the provision of housing that will: <ol style="list-style-type: none"> <li>Broaden the choice of building types and locations available in the housing market,</li> </ol> </li> </ol>	(Justifiably inconsistent) This proposal involves rezoning land from R3 Medium Density Residential to R2 Low Density Residential with surrounding properties in R2 zoning. The proposal is somewhat consistent with the objectives of this direction as it will continue to provide variety and choice in housing types. However, clause (2)(b) of the direction states that

	<p>b) Make more efficient use of existing infrastructure and services, and</p> <p>c) Reduce the consumption of land for housing and associated urban development on the urban fringe and</p> <p>d) Be of good design.</p>	a Planning Proposal must “not contain provisions that will reduce the permissible residential density of land”. The down zoning of the site in Tamarama Street from R3 to R2 is inconsistent with the above provision.
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### 3.2 Site-Specific Merit

#### *Guide to preparing Planning Proposals*

The assessment criteria outlined in the DPE Guideline to determine if a Planning Proposal has Site Specific planning merit are addressed in Table 9.

Table 6: Assessment of Proposal against Site-Specific Merit Test

<b>Site-specific Merit Test</b>	
<b>b) Does the proposal have site-specific merit, having regard to the following:</b>	
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, however, will serve to protect characteristics of the natural environment such as tree canopy, setbacks, and planting.
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 have ensured the continuation of residential land uses in the future.
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 an increase in infrastructure demand.

### 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 not anticipated to have any significant social or economic effects.

## 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?

Not applicable at this stage.

## PART 4 – MAPPING

Attachment 1

## PART 5 – COMMUNITY CONSULTATION

A public exhibition is likely to include a newspaper advertisement, a display on the Council's 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 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 *October 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	January- February 2022-2023
Community Consultation	March 2023
Post Exhibition Review	May 2023
Update Planning Proposal / Report to Council	August 2023
DPIE review of final Planning Proposal	September 2023
Parliamentary Counsel drafting of LEP	October 2023
DPIE to finalise LEP	November 2023