



WAVERLEY
COUNCIL

PLANNING PROPOSAL

General LEP Update

PP-1/2024/B



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Planning Proposal Information

Table 1 – Council Versions

No.	Date	Version
1	19 February 2024	Sent to Waverley Local Planning Panel
2	08 March 2024	Sent to 19 th March Council Meeting
3	28 March 2024	Separated from C4.4A changes and submitted to DPHI
4	07 August 2024	Additional information requested from DPHI submitted

EXECUTIVE SUMMARY

This Planning Proposal prepared by Waverley Council seeks to make updates to various parts of the Waverley Local Environmental Plan 2012, including but not limited to:

- Minor housekeeping mapping amendments,
- Improvements to recently introduced clauses where they have been found to be problematic, and the
- Introduction of exempt development pathway for the display of goods on the footpath.

This Planning Proposal contains some amendments that are site specific, and some amendments that apply to the entire LGA.

The majority of changes proposed under this Planning Proposal are not a result of a strategic study or report – rather a need to provide clarification or strengthen an existing provision based on feedback since original implementation of the particular clause being altered.

The Heritage, Lot Size and Land Use map changes are a result of land consolidation and subdivision, whereby the boundary lines and cadastre of each lot have slightly changed and the mapping affectation no longer matches the outline of the property.

The proposed Terrestrial Biodiversity mapping change is a result of the findings of the *Waverley Biodiversity Action Plan: Remnant Sites 2022-2031*, which revealed remnant vegetation in North Bondi which requires consideration under any future development.

The proposed addition exempt development objective for the display of goods on the footpath is the result of a local business enquiry and subsequent internal Council review. The review found that Council's previous application process for the display of goods on the footpath had been made inaccessible to the public. This prompted the need for an updated and streamlined approach to the display of goods.

The Planning Proposal is considered a 'Principal' Planning Proposal, in line with the LEP Making Guidelines (August 2023) criteria as it contains multiple housekeeping amendments and a combination of other more significant changes.

Council requests to be appointed the Planning Proposal Authority (PPA) and Local Plan-Making Authority (LPMA).

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

1.1 Objective

This Planning Proposal seeks to amend the Waverley Local Environmental Plan (WLEP) 2012 as per Part 2.1 of this report to:

- address minor wording and mapping errors and inconsistencies,
- resolve issues related to recently introduced clauses, and
- allow for the displays of goods on the footway as exempt development and identify appropriate development standards.

1.2 Intended Outcomes

The intended outcomes of the proposed amendments to the WLEP are to:

- ensure that mapping is up to date with accurate cadastres and property affectations so that appropriate consideration can be given to properties during the development assessment process,
- provide clarity regarding the consideration of building height and waste management, and
- allow retail premises that adjoin a footpath to easily display goods on the footpath outside their shop without a Development Application or Complying Development Certificate approval subject to meeting particular design requirements contained in a local approvals policy.

PART 2 – EXPLANATION OF PROVISIONS

2.1 Intended Provisions

This Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 as follows:

Table 2 – Proposed changes to WLEP 2012

Section of the WLEP 2012	Proposal	Reason
Clause 4.3 Height of buildings	<p>Amend the clause as follows:</p> <p>a) To ensure building heights preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views, To establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces.</p> <p>b) To accommodate taller buildings on land in Zone E2 Commercial Centre in the Bondi Junction Centre and establish a transition in scale between adjoining zones to protect local amenity,</p> <p>c) To maintain satisfactory solar access to existing buildings and public areas,</p>	<p>The current wording needs to be strengthened to protect against adverse overshadowing, overlooking and view loss.</p>

	<i>d) To establish building heights that are consistent with the desired future character of the locality and streetscape.</i>	
Clause 6.14 Waste minimisation and recycling	Amend subclause (2) as follows: <i>(2) This clause applies to the alteration and addition of or the erection of a building for the following purposes— (a) mixed use development, (b) residential flat buildings, (c) shop top housing.</i>	To ensure that buildings undergoing alterations and additions are also subject to high standards of waste management.
Schedule 2 Exempt development	New objective: Use of the footpath for displays of retail goods (1) Must be on a public road within the meaning of the Roads Act 1993; (2) Must be associated with a lawful shop; (3) Must be carried out in accordance with any approval issued by Council under Division 3 of Part 9 of under the Roads Act 1993; and (4) Be carried out in accordance with any approval under section 68, or be exempt from approval under any policy adopted by Council under section 161 of the Local Government Act 1993.	To allow the operators of retail premises to place displays of goods on the footway outside of their premises without the need for Council approval. This new objective will be supported by a new Local Approvals Policy for the Display of Goods on the Footpath
Mapping – Heritage, Lot Size, Land Zone	Refer to Part 4 for details on housekeeping mapping changes.	As lots have adjusted their boundary lines some mapping affectations have not been updated accordingly to reflect the new cadastre and lot outline. This proposal seeks to amend these minor inconsistencies.
Mapping – Terrestrial Biodiversity Map	Refer to Part 4 for details on terrestrial biodiversity mapping changes.	1 Council-owned site and a minor portion along the rear boundary of 1 privately owned site has been identified on the recent 2020 remnant vegetation map (non-LEP map), so needs to be added to the WLEP Terrestrial Biodiversity Map for consistency.

Waverley Local Planning Panel

The Waverley Local Planning Panel (WLPP) considered this Planning Proposal at a meeting held on 28 February 2024 and have provided the following advice:

“Resolution

For the reasons outlined in the Council officer’s report, the Panel:

- *Recommends Council separate the Planning Proposal into two parts, with the amendments to Clause 4.4A placed into one Planning Proposal and the remaining amendments to be placed in another Planning Proposal. This is to ensure that the amendment to Clause 4.4A is expedited and not be categorised as a Principal LEP amendment.*

- *Advises Council to consider amendments to the Draft Display of Goods on the Footpath Local Approvals Policy to:*
 - *ensure that it is not too restrictive, in particular, review the 0.6m depth for goods displays to allow greater flexibility and ensure that the focus is on the outcome, being a clear path of travel of a certain width.*
 - *be consistent with the DCP controls for Footpath Dining, in particular review the 2m clear path of travel dimension to be 2.5m consistent with the DCP control for Outdoor seating*
 - *allow kerbside displays as only permitted when there is a predominance of kerbside dining / displays and a clear path of travel is maintained, and*

Subject to the above recommendations, the Planning Panel recommends to Council that the Planning Proposals should proceed to Gateway Determination and public exhibition.”

A response to the issues raised are addressed in the table below.

Table 3 – Response to WLPP Feedback

Matter	Response
<i>Recommends Council separate the Planning Proposal into two parts, with the amendments to Clause 4.4A placed into one Planning Proposal and the remaining amendments to be placed in another Planning Proposal. This is to ensure that the amendment to Clause 4.4A is expedited and not be categorised as a Principal LEP amendment.</i>	<ul style="list-style-type: none"> • Council will separate the planning proposal into two separate planning proposals, as described, following Council’s resolution and before the planning proposal is forwarded to The Department for gateway determination.
<i>Ensure that it is not too restrictive, in particular, review the 0.6m depth for goods displays to allow greater flexibility and ensure that the focus is on the outcome, being a clear path of travel of a certain width.</i>	<ul style="list-style-type: none"> • The Draft Display of Goods on the Footpath Local Approvals Policy has been amended to allow displays up to 1m deep, provided that the specified clear path of travel is maintained, along side all other hazard reduction measures of the policy.
<i>Be consistent with the DCP controls for Footpath Dining, in particular review the 2m clear path of travel dimension to be 2.5m consistent with the DCP control for Outdoor seating</i>	<ul style="list-style-type: none"> • The Draft Display of Goods on the Footpath Local Approvals Policy has been amended to increase the 2m clear path of travel to 2.5m, consistent with the DCP control for Outdoor seating. The minimum setback from the kerb has also been amended from 0.6m to 1m to be more consistent with the required 1.5m setback for Outdoor seating.
<i>allow kerbside displays as only permitted when there is a predominance of kerbside dining / displays and a clear path of travel is maintained, and</i>	<ul style="list-style-type: none"> • The Draft Display of Goods on the Footpath Local Approvals Policy has been amended to reinforce that kerbside displays are only permitted when if existing business uses on the street block, such as outdoor dining, are already located on the kerbside

Additional Explanation of Provisions – June 2024

On 18 June 2024, The Department identified a few matters requiring additional information before the proposal can be considered adequate to progress to Gateway assessment. The following addresses these matters:

Clause 4.3 Height of buildings

Under PP-2021-3272 ‘Waverley LEP 2021 / LSPS Implementation’, Council proposed amendments to Clause 4.3 Height of buildings. In the final drafting of the amendment, PCO changed the proposed wording without raising it with Council. The effect of this amendment was a watering down of Councils ability to assess non compliances to development standards, with respect to the preserve test.

Clause	Wording proposed in 2021 Planning Proposal	PCO Wording, made in the WLEP
4.3 (1) (a)	to establish height of development that preserves the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views	to ensure building heights preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
4.3 (1) (c)	To minimise the loss of solar access to existing buildings and open space,	To maintain satisfactory solar access to existing buildings and public areas,

In the application of Clause 4.3 (1) (a) in the DA process, Council has found that this objective has led to worse amenity outcomes than that being achieved under the previous clause before amendment. Council has been unable to effectively argue against the impacts of overshadowing, overlooking and unnecessary bulk.

The PCO decision to replace ‘minimise the loss’ with ‘maintain satisfactory’ in (c) impacts Council’s ability to seek the best possible solar access outcomes for all parties. Instead, the minimum 3 hours of solar access is considered ‘satisfactory’ and the solar access outcomes of the proposed development are too heavily favoured over existing development. Furthermore, the change from ‘open space’ to ‘public areas’ fails to consider the importance of maintaining solar access to private open space.

For example, in a recent court case to determine DA-57/2023 at 25 St Thomas Street, Bronte it was ruled that the additional shadow impacts to neighbouring properties caused by non-compliant additions were considered ‘not unsatisfactory’ in reference to Clause 4.6. In another recent court case for DA-285/2023 at 1-7 Andrews Avenue and 26 Glen Street, Bondi the applicant argued that as they maintain solar access therefore they don’t have to preserve environmental amenity.

For this reason, Council is seeking to update Clause 4.3 to be better placed to manage height impacts. The proposed amendments to this clause are more general in nature assisting Council in considering all aspects of a development in its impacts on amenity.

The application of this clause will not change, and will still continue to be applied to the assessment of development applications. The intended outcome is to strengthen clauses that had been weakened in previous updates.

Clause 6.14 Waste minimisation and recycling

The strengthening of CI 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management.

It is common in Waverley for large scale development to be technically classified as Alterations and Additions and not New Development, even when substantial changes to the fabric of the building are proposed. It is reasonable for all kinds of development specified in Clause 6.14 to meet the objective of this clause, regardless of scale of development.

For example, DA-246/2022 proposed “Substantial demolition (retention to a portion of boundary walls and frontage) for alterations and additions to residential flat building comprising of 10 Units and integrated basement parking”.

The application of this clause will not change and will still continue to be applied to the assessment of development applications. The intended outcome is to strengthen the clause to capture alterations and additions in the assessment of waste minimisation and recycling in large scale development.

3A Tamarama Street Lot Size and Zoning controls

The Planning Proposal recommends 3A Tamarama Street, Tamarama (Lot 2 DP 1188291) be rezoned from R3 Medium Density Residential to R2 Low Density Residential to align with the zone of 3 and 5 Tamarama Street.

This is proposed to encourage the logical consolidation and orderly development of sites, as the recent subdivision affecting adjoining properties has caused inconsistency.

In 2012 when the WLEP was implemented, 5 Tamarama Street (the northern neighbour of the subject site), which formed part of a larger lot to the east at the time, was also zoned as R3 Medium Density Residential. Later in 2012 a development application was lodged (DA-125/2012) which sought alterations and additions to the multi-storey residential flat on the now adjacent lot, including a land subdivision to create two new lots, was subsequently approved. In 2022, the landowner sought subdivision in line with the DA and consequently intended to sell what is now 5 Tamarama Street as a separate parcel of land.

Last year, Council made an LEP amendment to rezone 5 Tamarama Street from R3 to R2, with associated changes to the LEP Height of Building and FSR control.

This 2023 Planning Proposal did not consider 3A Tamarama Street. Consequently, it was logical that this site be considered in Council’s next general LEP update.

3A Tamarama Street is owned by the same owner at No. 5, so the zone alignment is logical. The site is too small (approx. 4.5 sqm) to facilitate any development by itself, so its development opportunity is largely unchanged by the land zone shift.

Rezoning 3A Tamarama Street will resolve a planning anomaly created by previous subdivisions of land as well as amendments to the WLEP, encouraging the logical consolidation and orderly development of the site.

Queens Park Landscape Conservation Area (C55)

The Rectangle in Victoria Park is the site of the former Scout Hall.

The hall building was situated on a Crown Reserve, but had been managed by the Scout Association up until the early 2010s. The Scout Hall had not been utilised for some years and slowly deteriorated.

Due to on-going complaints from the public regarding the safety and the state of the hall building, on 23 April 2013, Council's Director of Planning and Environmental Services wrote to Crown Lands and Scouts Association NSW regarding the future of the subject building.

An inspection of the subject premises was carried out by Council officers on Monday 15th April 2013 and it was found that the building was in a dilapidated state particularly on the eastern and southern elevations.

The Scouts Association no longer used the hall and in June 2013 it was required to be demolished prior to surrendering the property to Crown Lands. The Association did not plan to build anything after the demolition. The hall had been vacated for several years and has suffered extensive vandalism both externally and internally.

After demolition, the site was turf covered to blend into the surrounding parkland. As the site is now indistinguishable from the surrounding parkland and has been for 10 years, it is reasonable to include the land in the landscape heritage item. For this same reason, it is consistent with the LCA statement of significance.

Minimum lot size requirements to land at 24-32 Flood Street, Bondi

The minimum 325sqm lot size is proposed to be applied to all of 24-32 Flood Street, Bondi (Lot 1, DP 1250701).

The lot that makes up 24-32 Flood Street are the result of site consolidation in 2019, creating a discrepancy in the zoning map. On 9 April 2019, the lots at 33-53 Anglesea Street were consolidated with the lot 24-32 Flood Street.

The site is under private ownership and thus should be protected from lot fragmentation and the creation of small lots in an area zoned for medium density development. It is reasonable for the Lot Size control to apply, unifying the application of the zone control with the surrounding area and promoting the orderly development of sites.

9.1 Ministerial Directions

Refer to section 3.7 *'Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?'*

PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC 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 (August 2023). The issues to be addressed include the strategic planning context of the amendments, Strategic Merit, Site-Specific Merit, potential State and Commonwealth agency interests, and environmental, social and economic impacts.

Table 4 – Assessment of Proposal against 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 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	Yes, it is consistent with the Greater Sydney Regional Plan and Eastern City District Plan as discussed later this in this report.
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	Yes, it is consistent with the Waverley Local Strategic Planning Statement as discussed later this in this report.
Respond to a change in circumstances that has not been recognised by the existing planning framework. Factors that lead to responding to a change in circumstances may include, but not exclusively relate to: <ul style="list-style-type: none"> • Key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework • Response to key Government priorities – Premier’s Priorities, climate change, or a shift in government policy (e.g. NSW Government’s Net Zero Plan) • Changes to population and demographic trends and associated needs such as housing or jobs. 	<p>The mapping-related changes proposed by this PP respond to a change in circumstances.</p> <p>The Land Use Zone map is adjusting the zone of 3A Tamarama Street to encourage the logical consolidation and orderly development of sites, as the recent subdivision affecting adjoining properties has caused inconsistency.</p> <p>The Heritage and Lot Size Map-related changes respond to recent changes in cadastre and property boundaries produced by subdivisions and consolidations.</p> <p>The Terrestrial Biodiversity Map changes respond to newfound information relating to remnant vegetation, identifying that 5 Bay Street and adjoining Council land are in need of affectation on that map. The sites were identified within the recent <i>Waverley Biodiversity Action Plan: Remnant Sites 2022-2031</i> document. Specifically, the marked area consists of a remnant patch of Sea-cliff Grassland dominant in <i>Ficinia nodosa</i>. The patch is completely isolated and with a high density of exotic grasses.</p>

Table 5 – Assessment of Proposal against 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	The majority of changes under this Planning Proposal seek to clarify or strengthen existing clauses, or rectify inaccuracies. As such, the changes are not expected to result in any realised impact upon the

known significant environmental areas, resources or hazards).	<p>natural environment, need for services and infrastructure, or any change to the built form of development.</p> <p>The goods on the footpath local approvals policy that is supplementary to the additions to schedule 2 (display of goods on the footpath) contain display guidelines designed to minimise negative environmental impacts.</p>
Existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates	The proposed changes will not alter existing, approved or likely future uses. Whilst 3A Tamarama Street is proposed for a zone change from R3 to R2, the site is too small to facilitate any development by itself so its development opportunity is unchanged by the land zone shift.
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.	The proposal will not result in any additional use of or need for infrastructure. No changes to housing capacity are proposed.

3.1 Is the Planning Proposal a result of any strategic study or report?

The majority of changes proposed under this Planning Proposal are not a result of a strategic study or report – rather a need to provide clarification or strengthen an existing provision based on feedback since original implementation of the particular clause being altered.

The Heritage, Lot Size and Land Use map changes are a result of land consolidation and subdivision, whereby the boundary lines and cadastre of each lot have slightly changed and the mapping affectation no longer matches the outline of the property.

The proposed Terrestrial Biodiversity mapping change is a result of the findings (see figures 1 and 2) of the *Waverley Biodiversity Action Plan: Remnant Sites 2022-2031*, which identified remnant vegetation in North Bondi which requires consideration under any future development.

The planning proposal is required to implement Council’s objective of allowing displays of retail goods on the public footways without the need for any approval from Council. Council has developed a draft local approvals policy for the purposes of undertaking the legislated concurrences and other steps required to implement the exempt development pathway. One of those steps is to prepare a planning proposal to ensure that displays of goods which meet Council’s criteria to not require development consent.



Figure 1 – Page 15 of the Waverley Biodiversity Action Plan: Remnant Sites 2022-2031

February 2022

Total Earth Care Pty Ltd

TABLE 2-4 – NORTH CLIFFTOP REMNANTS MANAGEMENT ZONES AND ACTIONS – DOUGLAS PARADE, BAY STREET AND SAM FISZMAN PARK

Zone	Priority	Description of Management Zone	Management Actions	Timing	Weed density	Key Performance Indicators (KPIs)	Role
North Cliff-top Remnants – Douglas Parade, Bay Street and Sam Fiszman Park							
Remnant Z8	Medium	Douglas Parade Consists of a remnant patch of Imperata Grassland. Patch is isolated by dense exotics, and houses, however has high resilience and will need frequent maintenance.	Targeted weeding –control WONS and priority weeds such as <i>Lantana camara</i> , <i>Asparagus aethiopicus</i> and <i>Anredera cordifolia</i> . Areas of dense woody weeds should be removed gradually in patches and concurrently with replacement planting. The adjacent areas should not be removed until planted species have grown to provide sufficient fauna habitat. This will also reduce erosion risk along the cliff edge. Target annual weeds before seeding to prevent germination. Primary works to target <i>Strelitzia</i> spp. in Z8 buffer unlikely due to access, erosion and public interest.	Minimum of 4 visits per year.	5-30%	No reduction in remnant patches. Natural regeneration. Maintain weed density in core of remnant to <5%.	Trained bush regenerators
Remnant Z18	Medium	Bay Street Consists of a remnant patch of Sea-cliff Grassland dominant in <i>Ficinia nodosa</i> . The patch is completely isolated and with a high density of exotic grasses. Without management actions, the remnant may be lost due to being overrun by weeds.	Targeted weeding – control woody weeds such as <i>Coprosma repens</i> and herbaceous weeds such as <i>Parietaria judaica</i> . Areas of dense woody weeds, such as <i>Coprosma repens</i> , should be removed gradually in patches and concurrently with replacement planting to provide a similar structure of habitat. The adjacent areas should not be removed until planted species have grown to provide sufficient fauna habitat. This will also reduce erosion risk along the cliff edge. Target annual weeds before seeding to prevent germination. Alternative management – potential alternative management actions at this site are sandstone capping in halos and planting, jute matting sections and planting or clearing the present weeds to expose the rock platform below. This method protects the remnant from weed incursions but will result in a temporary loss of fauna habitat. Staged sandstone capping in halos and planting allows for the maintenance and gradual replacement of weedy habitat with habitat provided by native species.	Minimum of 3 site visits in 2022 – 2023 FY and 2 per year for the following years.	>70%	Reduction of woody weeds. Containment.	Trained bush regenerators
Remnant Z9	Medium	Sam Fiszman Park Consists of a remnant patch of Sea-cliff Grassland.	Targeted weeding – control woody weeds such as <i>Coprosma repens</i> and herbaceous weeds such as <i>Guzmania tomentosa</i> . Target annual weeds before seeding to prevent germination.	Minimum of 3 site visits in 2022 – 2023 FY and 2 per year for the following years (2024 –	30-70%	Reduce and maintain at <30%. Natural regeneration.	Trained bush regenerators

Figure 2 – Page 16 of the Waverley Biodiversity Action Plan: Remnant Sites 2022-2031

3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the identified objectives and intended outcomes as the updates largely concerns issues relating to current LEP clauses and mapping.

Not proceeding with the planning proposal would mean that to place a goods display on the public footway, a retail operator would potentially require development consent from Council. This is counter to the objective of reducing the regulatory burden on businesses in the Waverley LGA.

3.3 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)?

The proposal is consistent with the objectives of a Metropolis of Three Cities Region Plan and the Eastern City District Plan as it is consistent with the applicable objectives and planning priorities as per the following tables.

Table 6 – Metropolis of Three Cities

Relevant Objectives	Comment
Objective 12 – Great places that bring people together	<p>Allowing for the display of goods on the street as exempt development is an important way to support the place functions of streets and translate walkable environments into the desirable characteristics identified in the objective like local business success and economic participation.</p> <p>This aspect of the planning proposal supports the balanced use of streets for movement and place, with the supporting Local Approvals Policy including minimum clear path of travel and separation distances from public transport stops, street furniture and other uses. The Local Approvals Policy enables more active uses of streets by also protecting their movement function and use by people of all ages and abilities.</p>
Objective 13 – Environmental heritage is identified, conserved and enhanced	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced.
Objective 24 – Economic sectors are targeted for success	Allowing for the display of goods on the street as exempt development is related to tourism as a targeted economic sector. In line with Strategy 24.2, this aspect of the planning proposal supports the amenity, vibrancy and safety of centres, making retail high streets more interesting, vibrant and attractive for visitors.
Objective 25 – The coast and waterways are protected and healthier	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation, which also assists to provide a special scenic quality to the North Bondi coastline as the properties adjoin the coast.
Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced	
Objective 28 – Scenic and cultural landscapes are protected	
Objective 35 – More waste is re-used and recycled to support the development of a circular economy	The strengthening of Cl 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management, which may assist to encourage the re-use and recycling of waste.

Table 7 – Eastern City District Plan

Relevant Planning Priorities	Comment
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage	<p>Allowing for the display of goods on the footpath as exempt development will help reinforce the retail character of local areas, presenting more opportunities for local businesses to express their creativity and show what they have for sale. In this way the planning proposal delivers on the objectives of this planning priority to create streets that are destinations that people want to visit.</p> <p>Through the Local Approvals Policy and its clear expectations about clear path of travel and other minimum distances, the planning proposal delivers the balance of accessibility, connectivity and amenity discussed under this planning priority.</p>
Planning Priority E13: Supporting growth of targeted industry sectors	<p>Introducing an exempt development pathway for the display of goods on the footpath delivers on Action 62, which is to implement place-based initiatives to attract more visitors and improve visitor experiences.</p> <p>The visitor economy is included as a targeted industry sector in under this planning priority. The priority identifies the opportunity to support retail offerings in local neighbourhoods as a way to expand and diversify the Eastern District's tourism offering. Outdoor goods displays are a way of supporting this kind of experiential and retail-oriented tourism offering in neighbourhood shopping streets.</p>
Planning Priority E15 – Protecting and enhancing bushland and biodiversity	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.
Planning Priority E19 – Reducing carbon emissions and managing energy, water and waste efficiently	The strengthening of Cl 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management.

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

The Planning Proposal is consistent with applicable local strategies and plans, as per the following tables.

Table 8 - Waverley Local Environmental Plan 2012

Relevant Aims Cl 1.2	Comment
To promote and co-ordinate a range of commercial, retail, residential, tourism, entertainment, cultural and community uses to service the local and wider community,	<p>Updates to Cl 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote and co-ordinate development of all listed types.</p> <p>Additions to Schedule 2 allowing retail premises to display their goods on the footpath supports the aim of promoting a range of commercial, retail and tourism uses.</p>
To enhance and preserve the natural environment through appropriate planning, protecting the integrity of	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.

natural systems and by protecting existing trees,	
To identify, conserve and enhance the cultural, environmental, natural, aesthetic, social and built heritage, and existing scenic and cultural landscapes of Waverley, including the curtilage of Centennial Park, for current and future generations,	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced.
To promote waste avoidance, waste minimisation and resource recovery,	The strengthening of Cl 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management.
To achieve high quality public domain with significant tree canopy and accessible open space,	Additions to Schedule 2 allowing retail premises to display their goods on the footpath will contribute to quality public spaces, aligning with the LEP aim to achieve high quality public domain.

Table 8 – Waverley Local Strategic Planning Statement (March 2020)

Relevant Planning Priorities	Comment
5. Increase the sense of wellbeing in our urban environment	Additions to Schedule 2 allowing retail premises to display their goods on the footpath creates more vibrant and attractive streetscape, increasing the sense of wellbeing in our urban environment. The addition also aligns with the planning principle of promoting walking and cycling along key routes by improving amenity and safety.
6. Facilitate a range of housing opportunities in the right places to support and retain a diverse community.	Updates to Cl 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote suitable scales of residential and other development.
7. Recognise and celebrate Waverley's unique place in the Australian contemporary cultural landscape	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced. Doing so will preserve significant local character. Further, adding remnant vegetation to the Terrestrial Biodiversity map will protect the character and natural features of the coast, protecting scenic qualities.
8. Connect people to inspiring and vibrant places, and provide easy access to shops, services, and public transport	Additions to Schedule 2 allowing retail premises to display their goods on the footpath connects more people to more vibrant and inspiring places across the LGA.
13. Protect and grow our areas of biodiversity and connect people to nature	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.

Table 9 – Waverley Local Housing Strategy

Relevant Priorities	Comment
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H1. Manage housing growth sustainably and in the right locations	Updates to CI 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote suitable scales of residential and other development.
H5 Ensure new development is consistent with desired future character	

Table 10 – Waverley Community Strategic Plan 2022-2032

Relevant Direction or Strategy	Comment
2.4 Protect and increase our local bushland, parks, urban canopy cover and habitat areas.	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.
2.6 Control and manage development to protect the intrinsic values of the community including aesthetics, size, heritage and population.	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced. Doing so will protect the intrinsic heritage value of the LGA. Updates to CI 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote suitable scales of residential and other development.
2.6.5. Create a thriving, flourishing, accessible and liveable destination with great public spaces and buildings, public art, and walkable streets that engage and excite everyone	The introduction of the display of goods on the footpath as exempt development is consistent with this direction, as it aims to create engaging and exciting walkable public streets that maintain accessibility.
2.11. Move towards a sustainable waste community and a circular economy	The strengthening of CI 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management, which may assist to encourage the re-use and recycling of waste.

3.5 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.

3.6 Is the Planning Proposal consistent with applicable SEPPs?

This Planning Proposal is consistent with applicable State Environmental Planning Policies. Assessed the Planning Proposal against the State Environmental Planning Policies SEPPs:

Table 11 – Assessment of Proposal against the SEPPs

Title	Applicable	Comment
Housing SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Design Quality of Residential Apartment Development – SEPP 65	N/A	The PP will not impact the application of this SEPP in the LGA.

Title	Applicable	Comment
Exempt and Complying Development Codes SEPP	Yes	<p>The PP will provide an exempt development pathway for the display of goods on the footpath. This PP is consistent with the objectives of this SEPP and will not impede its application.</p> <p>Exempt and complying development was already not possible for 5 Bay Street and the adjoining Council-owned land as these sites are marked as subject to geotechnical hazard risk, so the proposed new Terrestrial Biodiversity affectation will not impact the ability to undertake exempt or complying development further.</p>
Transport and Infrastructure SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Primary Production SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Biodiversity and Conservation SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Resilience and Hazards SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Industry and Employment SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Resources and Energy SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Planning Systems SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Sustainable Buildings SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Precincts SEPPs: Eastern Harbour City SEPP, Western Parkland City SEPP, Central River City SEPP and Regional SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.

3.7 Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

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 12 – Assessment of Proposal against Ministerial Direction

Ministerial Direction	Relevance	Consistency
1.3 Approval and Referral Requirements.	<p>A planning proposal to which this direction applies must:</p> <ul style="list-style-type: none"> minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of the appropriate Minister, public authority and/or the Planning Secretary. 	<p>The proposal as it relates to exempt development provisions for the display of goods on the footpath is consistent with this direction.</p> <p>Concurrence with public authorities is required to implement a robust exempt development framework via</p>

	<ul style="list-style-type: none"> not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and <p>has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.</p>	<p>the implementation of a supplementary local approvals policy.</p> <p>Concurrence will only be sought with approval of the Department of Planning, Housing and Infrastructure.</p>
1.4 Site Specific Provisions	<p>(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.</p>	<p>This Planning Proposal will not allow a particular development to be carried out.</p> <p>This planning proposal does not contain or refer to drawings that show details of a proposed development.</p>
3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of 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,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes 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.</p>	<p>The proposal protects the conservation of significant sites by correcting boundary inconsistencies.</p>
6.1 Residential Zones	<p>A Planning Proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> Broaden the choice of building types and locations available in the housing market, Make more efficient use of existing infrastructure and services, and 	<p>The proposal is consistent with the objectives of this direction as clarity surrounding building height and lot size controls will be provided – assisting to manage the scale of housing.</p>

	<ul style="list-style-type: none"> • Reduce the consumption of land for housing and associated urban development on the urban fringe and • Be of good design. 	
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3.8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No, there are not expected to be any adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats as a result of this Planning Proposal. Rather, the addition of a new Terrestrial Biodiversity mapping affectation to cover remnant vegetation in North Bondi will improve the conditions for such species, populations and communities.

3.9 Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?

There are unlikely to be any other environmental effects as a result of the Planning Proposal.

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

The Planning Proposal has adequately addressed the relevant social and economic effects arising from the objectives and intended effects of the proposal.

In relation to the provision of goods on the footpath as exempt development, the proposal has the potential to provide numerous economic benefits by supporting small businesses in the Waverley LGA. Social benefits are likely from increased activation of streets in the LGA and include improved perception of community safety through increased activity on streets.

Potential negative impacts relate to universal accessibility, pedestrian amenity and safety due to footway congestion. These have been addressed by the approval criteria contained in the local policy supplementary to this proposal. The approval criteria preserve a clear path of travel for pedestrians, and limits the size and contents of displays to ensure they have minimal impact.

Other social and economic effects of this Planning Proposal are expected to be negligible, as the remaining changes proposed are either of a minor administrative nature or strengthen an existing control,

3.11 Is there adequate public infrastructure for the Planning Proposal?

There is adequate public infrastructure for the Planning Proposal and the planning proposal will not lead to a need for greater public infrastructure.

In relation to the provision of goods on the footpath as exempt development, the supplementary local approvals policy is designed in such a way that where there is inadequate public infrastructure (i.e. the footpath being too narrow), the exempt development of display of goods is prohibited.

3.12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

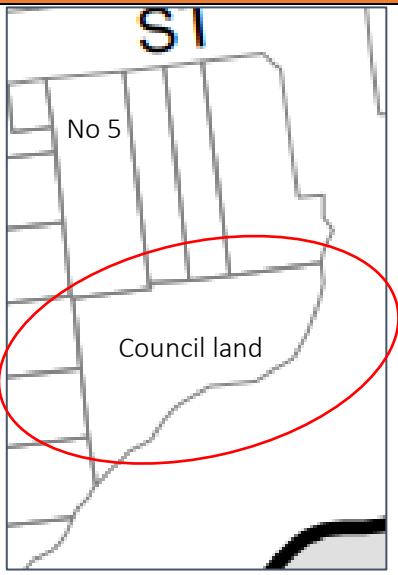
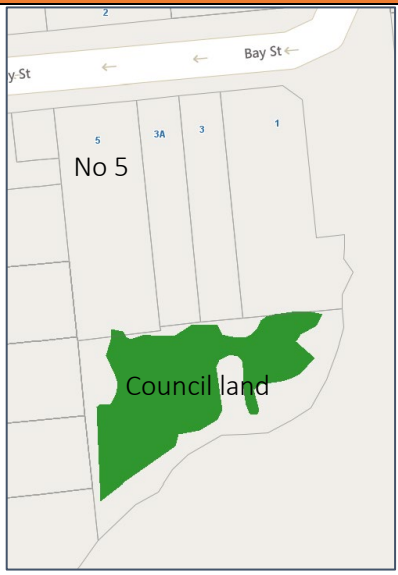
Consultation with public authorities and government agencies can be undertaken in line with the future Gateway determination, if granted.

PART 4 – MAPPING

The following mapping changes are proposed under this Planning Proposal:

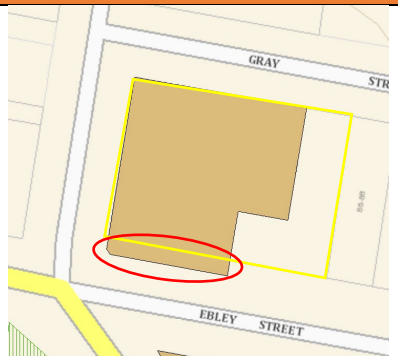
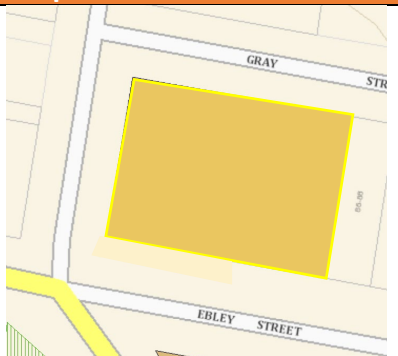
Terrestrial Biodiversity Map

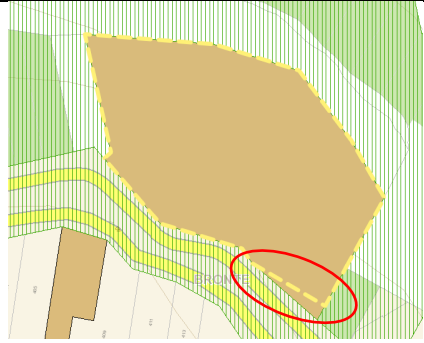
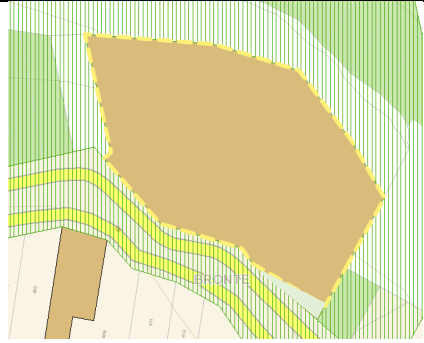
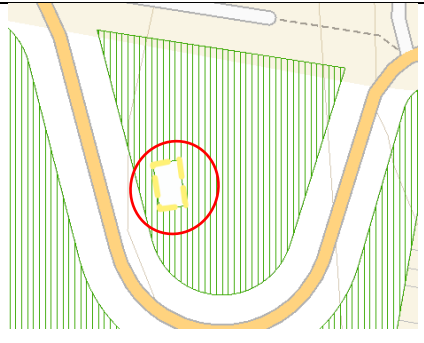
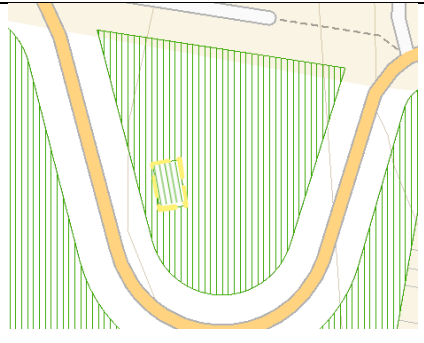
Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation, which also assists to provide a special scenic quality to the North Bondi coastline as the properties adjoin the coast.

Property and Change	Current	Proposed
<p>The <i>Waverley Biodiversity Action Plan: Remnant Sites 2022-2031</i> document identified a remnant patch of Sea-cliff Grassland dominant in <i>Ficinia nodosa</i> in North Bondi. Therefore it is proposed that the terrestrial biodiversity affectation be applied to this area, falling upon:</p> <ul style="list-style-type: none"> Lot C DP 331848 (5 Bay Street, North Bondi) Lot 2 DP 530991 (Council Land) 		

Heritage Map

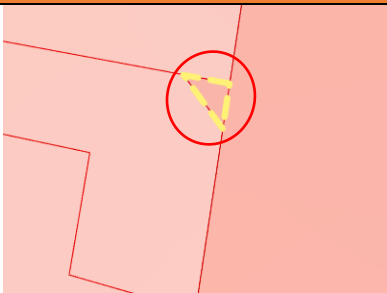
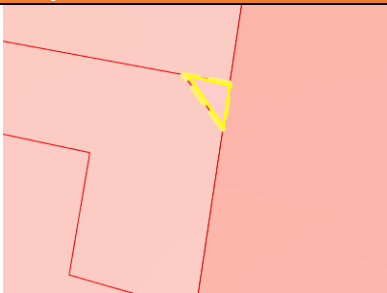
Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced.

Property and Change	Current	Proposed
<p>Adjust heritage item affectation at 30 Bronte Road, Bondi Junction (Lot 2, DP 1297720) to reflect the new lot boundaries.</p> <p>It has been skewed due to a recent subdivision of land.</p>		

<p>Adjust heritage item affectation at 470 Bronte Road, Bronte (Lot 1 DP123571) to remain inside the property boundary.</p> <p>It has been skewed due to a recent boundary realignment.</p>		
<p>Adjust the landscape heritage item at Victoria Park, Queens Park to cover the entire park. Affecting Lot 1594 DP 752011.</p> <p>The excluded area used to contain a Boy Scout Hall, however, the hall has since been demolished.</p>		

Land Zone Map

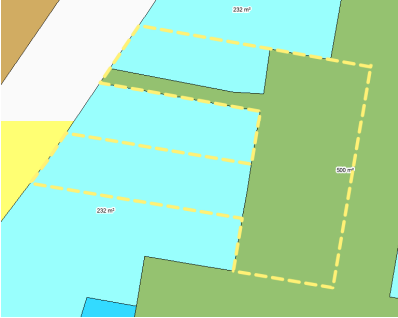

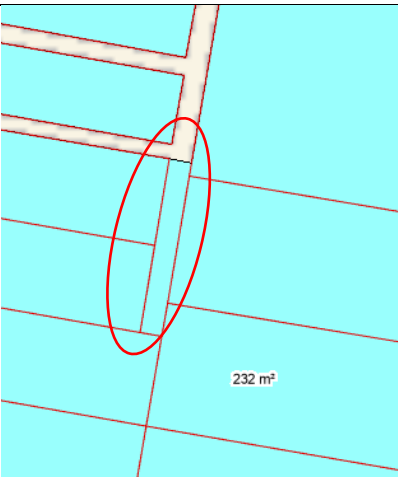
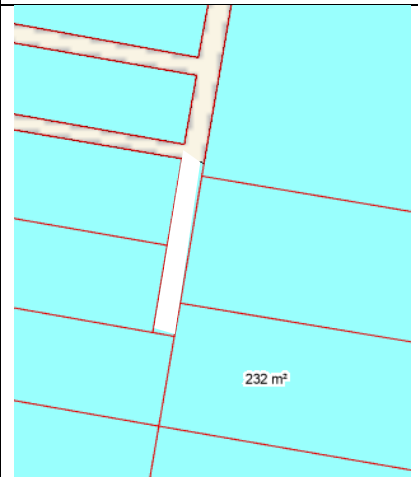
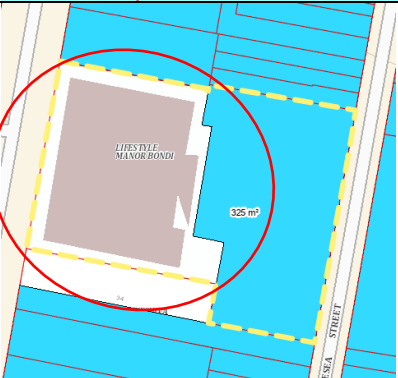
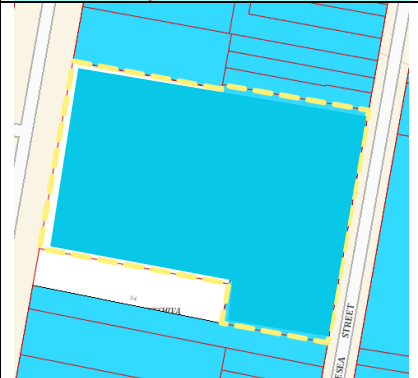
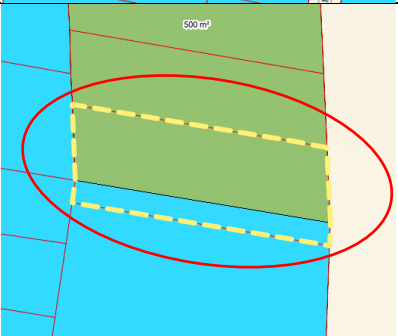
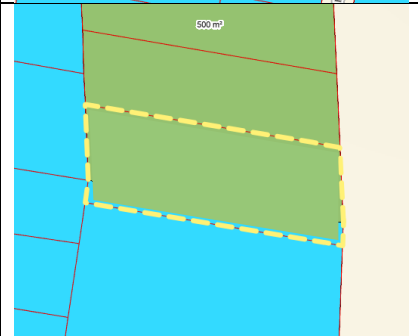
Updating the Land Zone Map in relation to 3A Tamarama Street, Tamarama will ensure for the orderly development of land.

Property and Change	Current	Proposed
<p>Change 3A Tamarama Street, Tamarama (Lot 2 DP 1188291) from R3 Medium Density Residential to R2 Low Density Residential to align with the zone of 3 and 5 Tamarama Street.</p> <p>3A Tamarama Street is owned by the same owner at No. 5, so the zone alignment is logical.</p>		

Lot Size Map

Updating the Lot Size Map will ensure that properties affected by the map will be marked in a consistent manner. Specifically ensuring that each lot is only affected by one single minimum lot size figure, rather than a combination or partially marked.

Property and Change	Current	Proposed
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<p>Apply a minimum lot size of 232sqm to all of 575 Old South Head Road, Rose Bay (Lot 1, DP 1289792).</p> <p>232sqm is consistent with all sites fronting Old South Head Road.</p> <p>This discrepancy is a result of a recent site consolidation.</p>		
<p>Remove the minimum lot size affectation to the public land behind 10 and 12 Mill Hill Road (Lot 13 DP 1054446 and Lot 1 DP 996225).</p> <p>This discrepancy is likely a result of a historical boundary adjustment.</p>		
<p>Apply the minimum 325sqm lot size to all of 24-32 Flood Street, Bondi (Lot 1, DP 1250701).</p> <p>This discrepancy is a result of a recent site consolidation.</p>		
<p>Apply a minimum lot size of 500sqm to all of 58 Military Road (SP 104691).</p> <p>This discrepancy is likely a result of a historical consolidation.</p>		

PART 5 – COMMUNITY CONSULTATION

Public exhibition is likely to include at minimum a display on the Council’s website. 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 Planning Proposal 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 will be completed by late 2024.

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

Table 13 – Indicative project timeline

Tasks	Timeframe and/or date	
Consideration by Council	February and March 2024	
Council decision	March 2024	
Gateway Determination	April 2024	Aug / Sept 2024
Pre-exhibition	April 2024	September 2024
Commencement and completion of public exhibition period	May – June 2024	Oct / Nov 2024
Consideration of submissions	July 2024	November 2024
Post-exhibition review and additional studies	August 2024	December 2024
Submission to the Department for finalisation (where applicable)	October 2024	December 2024
Gazettal of LEP amendment	November 2024	January 2025