



STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING

A meeting of the STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE will be held at Waverley Council Chambers, Cnr Paul Street and Bondi Road, Bondi Junction at:

7.30 PM, TUESDAY 5 NOVEMBER 2019

Ross McLeod
General Manager

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Delegations of the Waverley Strategic Planning and Development Committee

On 10 October 2017, Waverley Council delegated to the Waverley Strategic Planning and Development Committee the authority to determine any matter **other than**:

1. Those activities designated under s 377(1) of the *Local Government Act* which are as follows:
 - (a) The appointment of a general manager.
 - (b) The making of a rate.
 - (c) A determination under section 549 as to the levying of a rate.
 - (d) The making of a charge.
 - (e) The fixing of a fee
 - (f) The borrowing of money.
 - (g) The voting of money for expenditure on its works, services or operations.
 - (h) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment).
 - (i) The acceptance of tenders to provide services currently provided by members of staff of the council.
 - (j) The adoption of an operational plan under section 405.
 - (k) The adoption of a financial statement included in an annual financial report.
 - (l) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
 - (m) The fixing of an amount or rate for the carrying out by the council of work on private land.
 - (n) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work.
 - (o) The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*.
 - (p) The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.
 - (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) A decision under section 234 to grant leave of absence to the holder of a civic office.
 - (s) The making of an application, or the giving of a notice, to the Governor or Minister.
 - (t) This power of delegation.
 - (u) Any function under this or any other Act that is expressly required to be exercised by resolution of the council.
2. Despite clause 1(i) above, the Waverley Strategic Planning and Development Committee does not have delegated authority to accept any tenders.
3. The adoption of a Community Strategic Plan, Resourcing Strategy and Delivery Program as defined under sections 402, 403, and 404 of the *Local Government Act*.

Live Streaming of Meetings

This meeting is streamed live via the internet and an audio-visual recording of the meeting will be publicly available on Council's website.

By attending this meeting, you consent to your image and/or voice being live streamed and publicly available.

AGENDA

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair will read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies/Leaves of Absence

2. Declarations of Pecuniary and Non-Pecuniary Interests

3. Addresses by Members of the Public

4. Confirmation of Minutes

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6. Urgent Business

7. Meeting Closure

CONFIRMATION OF MINUTES PD/4.1/19.11



Subject: Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 3 September 2019

TRIM No: SF19/327

Author: Richard Coelho, Governance and Internal Ombudsman Officer

RECOMMENDATION:

That the minutes of the Strategic Planning and Development Committee Meeting held on 3 September 2019 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

Introduction/Background

The minutes of the Strategic Planning and Development Committee meeting must be submitted to Strategic Planning and Development Committee for confirmation, in accordance with clause 20.23 of the Waverley Code of Meeting Practice.

The Strategic Planning and Development Committee did not meet in October. Accordingly, the minutes of the September meeting are submitted to this meeting for confirmation.

Attachments

1. Strategic Planning and Development Committee Meeting Minutes - 3 September 2019



**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 3 SEPTEMBER 2019**

Present:

Councillor Paula Masselos (Chair)	Lawson Ward
Councillor John Wakefield (Mayor)	Bondi Ward
Councillor Dominic Wy Kanak (Deputy Mayor)	Bondi Ward
Councillor Sally Betts	Hunter Ward
Councillor Angela Burrill	Lawson Ward
Councillor George Copeland	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Marjorie O'Neill	Waverley Ward

Staff in attendance:

Ross McLeod	General Manager
John Clark	Director, Customer Service and Organisation Improvement
Peter Monks	Director, Planning, Environment and Regulatory
Emily Scott	Director, Community, Assets and Operations
Karen Mobbs	General Counsel
Darren Smith	Chief Financial Officer
Jane Worthy	Internal Ombudsman

At the commencement of proceedings at 7.30 pm, those present were as listed above.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area.

1. Apologies/Leaves of Absence

Apologies were received and accepted from Crs Lewis and Nemesh.

Cr Keenan was previously granted leave of absence by Council for this meeting.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and none were received.

3. Addresses by Members of the Public

There were no addresses by members of the public.

4. Confirmation of Minutes

PD/4.1/19.09 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 6 August 2019 (SF19/327)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Wy Kanak

That the minutes of the Strategic Planning and Development Committee Meeting held on 6 August 2019 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

5. Reports

PD/5.1/19.09 Smart Waverley Strategy 2023 (A16/0562)

MOTION / UNANIMOUS DECISION

Mover: Cr Wakefield

Seconder: Cr Wy Kanak

That Council adopts the Smart Waverley Strategy 2023 attached to this report and ensures that all projects and initiatives achieve best practice cyber security protection, and that this be included within the body of the Strategy where appropriate.

PD/5.2/19.09 Draft Community Participation Plan - Public Exhibition (SF19/3954)

MOTION / UNANIMOUS DECISION

Mover: Cr O'Neill

Seconder: Cr Copeland

That Council exhibits the draft Waverley Community Participation Plan attached to this report for a minimum of 28 days.

PD/5.3/19.09 Festive Activation Program 2019 (A18/0548)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr O'Neill

That Council:

1. Adopts the Festive Activation Program 2019 as set out in this report, subject to the Menorah installation in Oxford Street Mall being for the full eight days of Chanukah rather than the recommended six days.
2. Allocates appropriate resourcing for an annual Festive Activation program in future budgets.
3. Considers fairy lights in trees at Bondi Park for future years.

6 Urgent Business

There were not items of urgent business.

7. Meeting Closure

THE MEETING CLOSED AT 7.55 PM.

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SIGNED AND CONFIRMED
CHAIR
5 NOVEMBER 2019

REPORT PD/5.1/19.11



Subject: Waverley Community Participation Plan

TRIM No: SF19/3954

Author: Alicia Baker, Senior Strategic Planner

Director: Peter Monks, Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council adopts the Waverley Community Participation Plan attached to this report in accordance with Division 2.6 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1. Executive Summary

In March 2018, amendments to the *Environmental Planning & Assessment Act 1979* (EP&A Act) came into force. As part of these changes, Council is required to prepare and adopt a Community Participation Plan (CPP) by 1 December 2019.

The draft Waverley CPP was endorsed by Council at the Strategic Planning and Development Committee Meeting on 3 September 2019 and placed on public exhibition for a minimum of 28 days from 18 September 2019 to 18 October 2019.

The purpose of this report is to:

- Outline feedback received during exhibition of the draft Waverley CPP.
- Outline key amendments that have been made post-exhibition.
- Obtain Council resolution to adopt the Waverley CPP.

2. Introduction/Background

The requirement for all Councils to prepare a CPP was introduced following amendments to the EP&A Act in March 2018, which seek to 'provide increased opportunity for community participation in environmental planning and assessment'. The Waverley CPP has been prepared to meet Council's legislative requirements under Division 2.6 and Schedule 1 of the EP&A Act. It applies to the exercise of planning processes and decisions by Council, Council Officers and the Waverley Local Planning Panel (WLPP) only.

The Waverley CPP intends to make community participation in local planning matters clearer for the Waverley community. It does this by outlining when and how the community can participate in various statutory planning processes and decisions of Council including planning related strategy or policy development, plan making and development assessment. It also outlines opportunities for participation in planning matters external to Council led by other government agencies such as the Department of Planning, Industry and Environment (DPIE). Importantly, the Waverley CPP aims to clarify what roles and functions Council can influence, and which are external such as State and Independent Panels.

The Waverley CPP establishes community participation principles which guide Council's approach to community engagement. It also sets out the minimum public exhibition timeframes and notification

requirements for the relevant planning functions per Schedule 1 of the EP&A Act. It does not provide specific engagement strategies for specific processes or projects.

Council Officers have prepared the Waverley CPP as an easy-to-read standalone document that explains the NSW Planning System and encourages community participation in planning processes and decisions. It has been designed to be made available online and at the Customer Service Centre to assist customers in understanding the complexities of planning in NSW.

Following endorsement by Council on 3 September 2019, the draft Waverley CPP was placed on public exhibition.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Strategic Planning and Development Committee 3 September 2019	PD/5.2/10.09	That Council exhibits the draft Waverley Community Participation Plan attached to this report for a minimum of 28 days.

4. Discussion

Consultation

Public exhibition

The draft Waverley CPP was placed on public exhibition for a minimum of 28 days from 18 September 2019 to 18 October 2019. An advertisement was placed in the Wentworth Courier and the draft documentation was made available online at the Waverley 'Have Your Say' website and in hard-copy at the Customer Service Centre and Waverley Library. Council Officers were consulted throughout the exhibition period.

Submissions

Five submissions were received in total: two public submissions and three submissions from within Council. It is noted that one public submission was received following completion of the formal exhibition period. The matters raised in the submissions can be broadly summarised as follows:

- Correction of minor errors and misdescriptions,
- Council reporting on the outcome of community participation and progress of planning processes and decisions,
- Exhibition timeframes and notification requirements for development applications, including complying development,
- Process for advertising and notification of development applications,
- Involvement of built environment professionals / experts in the local planning matters,
- Legal weighting of the Waverley CPP,
- Process for future amendments to the Waverley CPP,
- Relationship of the Waverley CPP with Part A2 of the Waverley Development Control Plan,
- Role of the WLPP and Councillors in determining development applications, and
- Process for referring applications to the WLPP.

The details of each submission, and the proposed response are contained in Attachment 2.

Following public exhibition, the submissions have been considered by the Strategic Planning team and some amendments have been made to the final Waverley CPP. These post-exhibition amendments are only

minor in nature relating primarily to the correction of errors, strengthening existing content and providing further clarification on the matters raised above, and as such do not warrant re-exhibition.

Relationship to Part A2 of the Waverley Development Control Plan (Amendment No. 6)

The purpose of a CPP is to provide a single document that the community can access that sets out all of Council's community participation requirements under the EP&A Act, including the minimum mandatory exhibition timeframes and notification requirements.

Currently, Council outlines community participation requirements in multiple documents including 'Part A – Advertising and Notification' in the Waverley Development Control Plan (Amendment No.6) (WDCP). As such, Council is required to transfer these requirements into the CPP. Reflecting this expectation, the DPIE are currently preparing amendments to the EP&A Act and Environmental Planning and Assessment Regulations 2000 (EP&A Regs) to correct inconsistencies, including that development application requirements will no longer be in DCPs but rather CPPs. It is understood that the DPIE are aiming to have the amendments gazetted prior to 1 December 2019.

Part A2 of the WDCP forms Part 6 of the Waverley CPP (verbatim), therefore satisfying the requirements of the EP&A Act. However, Council Officers have not sought a concurrent amendment to the WDCP to repeal Part A2. Rather it is proposed to seek adoption of the Waverley CPP by Council and then amend the WDCP to repeal Part A2, in 2020 following the proposed changes to the EP&A Regs by the DPIE.

For this reason, Council Officers are not recommending any changes to the advertising and notification requirements, including minimum exhibition timeframes, in Part A2 of the WDCP and Part 6 of the Waverley CPP to ensure consistency between the policies and to maintain the legal weighting of the advertising and notification requirements until the amendments are gazetted.

Relationship to the Waverley Community Engagement Policy and Community Engagement Strategy

A Community Engagement Policy (CEP) and Community Engagement Strategy (CES) provide the framework for Council-wide community engagement (or participation). These documents are requirements of Council under the *Local Government Act 1993* (LG Act), whilst the CPP is a requirement of the EP&A Act and relates to Council's planning functions only.

Council is currently reviewing the Waverley CEP and CES. This review has informed the Waverley CPP. A CPP can be incorporated into the CES or be a standalone document. Various Councils have taken different approaches. Given the timing implications for the adoption of the CPP, Council Officers decided to prepare a standalone document with the view that it could be incorporated into the CES as an Appendix at a later date.

Notwithstanding, post-exhibition, it is the preference of Council Officers for the Waverley CPP to remain a standalone document, forming part of Council's suite of Planning and Community Engagement documents. A standalone document is recommended for the following reasons:

- The value of having a planning focused document that is easily located online and at the Customer Service Centre to assist the community in understanding the various planning processes, particularly as it incorporates the development notification requirements previously located in the Waverley DCP. Concern is raised that the CPP will not be as accessible if appended to another document.
- To ensure the process for future amendments to the Waverley CPP is simplified. From time to time Council may wish to make changes to the CPP as a separate policy to the CES. By keeping the documents as separate, these changes can be made efficiently and effectively. It is currently understood that amendments to the Waverley CPP can occur per the same if not similar process for

amending Development Control Plans. Council officers intend to seek further clarification from the DPIE on this matter.

5. Financial impact statement/Time frame/Consultation

Final impact statement

The cost of the exhibition and notification are available through the Urban Planning, Policy and Strategy budget. There are no ongoing financial implications.

Time frame

Following Council adoption, the Waverley CPP will be publicly available online and at Council's Customer Service Centre. The Waverley CPP will also be forwarded to the DPIE and published on the NSW planning portal prior to the 1 December 2019, as required.

Consultation

No ongoing consultation in relation to the Waverley CPP is envisaged.

6. Conclusion

The Waverley CPP has been prepared to meet Council's legislative requirements under Division 2.6 and Schedule 1 of the EP&A Act. The Waverley CPP was publicly exhibited for a minimum of 28 days. Matters raised by the Community, Councillors and Council officers have been appropriately considered in the finalisation of the plan. It is therefore recommended that Council adopt the Waverley CPP.

7. Attachments

1. Waverley Community Participation Plan [↓](#)
2. Exhibition submissions and response summary [↓](#)

A photograph of a paved path in a park, lined with trees and lush greenery. In the foreground, there are large, vibrant green palm fronds and a brick wall. In the background, several people are walking along the path, and a building is visible through the trees.

WAVERLEY COMMUNITY PARTICIPATION PLAN

ACKNOWLEDGEMENT

We acknowledge the Bidjigal and Gadigal people who
traditionally occupied the Sydney coast.

We also acknowledge Aboriginal Elders both past, present
and emerging.

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1 ABOUT THE PLAN

The Waverley Community Participation Plan (CPP) seeks to make community participation in local planning matters clearer for the Waverley community. It does this by outlining in one place how and when Council will involve the community and receive input across various planning processes and decisions.

Community participation refers to how Council engages with the community to shape the decisions and actions of Council, Council Officers and the Waverley Local Planning Panel (WLPP) in accordance with the legislative requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The level of community participation will vary depending on the community and the nature, scale and likely impact of the proposal being considered.

‘The community’ is any individual, group or organisation that is impacted by, or has an interest in, the decisions or initiatives of Council. It includes, but is not limited to, residents, landowners, business owners, community organisations, visitors and people working in the area, associations and peak bodies representing a range of issues and other levels of government, government agencies and statutory bodies.

Recent reforms to the EP&A Act require all Councils to prepare a Community Participation Plan (CPP).

The Waverley CPP has been prepared to meet Council’s legislative requirements under Division 2.6 and Schedule 1 of the EP&A Act.

The Waverley CPP identifies when and how the community can participate in various Council-led statutory planning processes and decisions, including planning related strategy or policy development, plan making and development assessment. As well as outlining opportunities for participation in matters and processes external to Council.

It also establishes Council’s community participation principles which we use to guide our approach to community engagement. It does not outline how Council will engage on specific projects.

The Waverley CPP applies to the Waverley local government area (LGA) and the carrying out of planning processes and decisions by Council, Council staff and the WLPP only.





2 OUR APPROACH TO COMMUNITY PARTICIPATION

The Waverley community is diverse, with people from various cultural and linguistic backgrounds, people with disability, younger people and older people, and Aboriginal and Torres Strait Islander people.

Council is committed to engaging with the community in an inclusive, transparent and accountable way, ensuring all groups within the community have an opportunity to participate and have a say.

Our community participation approach is underpinned by community participation principles that focus on meaningful engagement, involvement, accessibility and inclusion, to ensure transparent decision making across all planning matters.

These principles have been developed having regard to the community participation principles set out in Section 2.23(2) of the EP&A Act.

Table 1 - Our community participation principles

Principle	Our commitment
Community participation will <i>build relationships</i>	We will engage in an honest, open and respectful way to build strong relationships and trust within our community.
The community has the <i>right to be involved</i>	We believe that our community members have a right to be involved in decisions that affect them.
Community participation will <i>build capacity</i>	We will work with our community to build capacity to genuinely participate in decisions which affect their lives.
Community participation will have <i>clarity of purpose</i>	We will engage with our community with clarity around why we are engaging and what we need to know.
Community participation will be <i>accessible and inclusive</i>	Information and engagement activities will be offered in a range of accessible formats to enable fair and equal access to participation.
Community participation will be <i>timely</i>	We will engage early enough for participation to be meaningful and provide enough time for the community to provide input.
Community participation will be <i>tailored</i>	We will use a range of engagement and communication methods that suit the purpose of the project and reach the key stakeholders.
Community participation will be <i>strategic</i>	We will collaborate across Council to ensure our engagement activities are approached in a strategic way to avoid duplication and inefficiencies.
Community participation will be <i>transparent and accountable</i>	We will be open with information the community needs to be able to participate meaningfully and communicate how community input influenced the decision.
Community participation will be <i>representative</i>	We will aim to hear from all stakeholder groups, including those who face barriers to participation, to ensure we hear from a representative sample of the community being impacted by a decision or initiative.

Why is community participation important?

- it builds community confidence in the planning system and ensures the community can have a say in decisions that affect them
- it creates a shared sense of purpose, direction and understanding of the need to deliver infrastructure and services to meet the community needs, while managing change
- it develops strong relationships and partnerships between Council and the community, leading to shared understanding of our community needs, aspirations and priorities.

How we undertake community participation

Community participation (or engagement) is the act of informing, consulting, involving, collaborating and empowering individuals on relevant matters or decisions that affect their everyday lives.

There is no one-size fits all approach to community participation. The level of involvement and influence the community will have and the range of engagement methods we use will depend on the nature of the proposal being considered. This document does not outline how Council will engage on specific projects, but more broadly how Council will foster community participation in planning processes and decision making.

Council planning processes and decisions

Council has adopted the International Association of Public Participation (IAP2) 'Public Participation Spectrum' model to inform the appropriate level of community participation for various planning processes and decisions. The IAP2 model comprises five levels of engagement. Refer to Figure 1.

Council typically utilises the first three levels of the IAP2 model to guide the preparation of tailored

engagement strategies, which identify the methods and level of engagement used to engage with the community on specific planning-related projects.

It is noted that the fifth level of the IAP2 model 'Empower' is difficult to achieve within a planning system that has a multi-layered policy framework and multiple stakeholders.

Methods of community participation Council may utilise include (but are not limited to):

- Print - newspaper advertisements, flyers, notices
- Online - Have Your Say webpage, social media, emails
- Interactive - surveys, information sessions
- Face-to-face - Council and Precinct meetings, workshops.

A common way for the communities to participate in planning is during 'public exhibition' or 'public notification' of planning related documents and development applications. Refer to Part 3. The minimum mandatory statutory exhibition timeframes and the associated notification processes are outlined in Part 5 and Part 6 of this CPP. During the exhibition or notification period Council may utilise one or more of above community participation methods.



Figure 1 - The IAP2 'Public Participation Spectrum' model

There will be circumstances where we may not consult with the community, including when:

- the proposal does not require public exhibition / notification in accordance with the legislation
- the community has already had input through prior engagement
- Council is responding to an emergency and immediate action is required to rectify an issue
- technical or other expertise is the primary input to guide the decision.

External planning processes and decisions

The State Government (e.g. the Department of Planning, Industry and Environment (DPIE)) and other government agencies also develop planning related policies and assess development applications that may affect the Waverley community. These may include:

- new or amendments to existing State Environmental Planning Policies (SEPPs),
- assessment of State Significant Development (SSD), including new or alterations to existing educational institutions.

For these external planning processes and decisions there is no requirement that Council undertake community participation. However, Council may choose to keep the community informed. This can take the form of directing the community to relevant agencies webpage on Council's webpage, newsletter or social media accounts. The external agency is responsible for undertaking sufficient community engagement in accordance with their CPP.

Further, Council may choose to advocate on certain external matters to represent community interests and provide feedback to the relevant agency.

How we report on community participation

An important component of community participation is responding to and demonstrating how feedback has informed decision making.

Consideration is given to all community participation, and Council reports on how feedback has been used to inform the project. This reporting may be undertaken in multiple ways, for example:

- Council may notify those people who have been actively involved and are directly affected by the proposal of the outcomes and decisions
- Council may publicise a submissions report which outlines the scope, community input and how this input has been considered
- Council will publicise Council and WLPP meeting minutes.

Depending on the nature and timing of a decision, these reports may be published prior, at the time or following the making of a decision or finalisation of a project.

Further, the community can stay up to date on Council processes and decisions by:

- registering on the Waverley Council Have Your Say webpage - **haveyoursay.waverley.nsw.gov.au**
- tracking the progress of Development Applications through Councils Development Application tracking tool - **waverley.nsw.gov.au/building/development_applications/track_a_da**
- subscribe to planning and Development Application alerts which provides a list of planning applications in the Waverley LGA - **planningalerts.org.au/alerts/signup**.

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Table 2 - Our approach to community participation for planning processes and decisions

Level of engagement / community involvement	Process for engagement	Example methods of engagement	
INFORM 	<p>We will notify the community (one-way communication) of proposals and provide accurate and relevant information, to assist in understanding a particular matter.</p> <p>We will clearly outline how the community can get in touch and provide feedback.</p> <p>We will update the community of the proposals progress and outcome.</p>	<p>'Have your say' Waverley website updates</p> <p>Waverley Development Tracker website updates</p> <p>Media releases</p> <p>Social media announcements</p> <p>Council page in the Wentworth Courier</p> <p>Letterbox drops</p>	
CONSULT 	<p>We will consult with the community (two-way communication) and invite feedback on proposals to inform decision making.</p> <p>We will listen and consider all feedback received, and provide feedback on how input shaped the final decision or outcome through the relevant Council or Committee Meeting Reports or Assessment Reports.</p>	<p>Public exhibition</p> <p>'Have your say' Waverley website updates</p> <p>Waverley Development Tracker website updates</p> <p>Surveys</p> <p>Information sessions</p> <p>One-on-one engagement with Council planners via email or letter</p>	
INVOLVE 	<p>We engage directly with the community (participatory process) and seek specific feedback and input on proposals to inform decision making.</p> <p>We will demonstrate how the community's involvement was used.</p> <p>We will update the community of the proposals progress and outcome.</p>	<p>Precinct Committee Meetings</p> <p>Public workshops and feedback sessions</p> <p>Site visits</p> <p>Pop-ups</p> <p>Intercept surveys</p> <p>Citizen juries</p>	
RESPONSE AND DETERMINATION	<p>We notify the community of the outcomes of community participation and detail how their views were considered in the relevant Council or Committee meeting, submissions or assessment reports.</p> <p>We notify the community of the reasons for a decision.</p> <p>The ability to review or appeal a decision depends on the type of planning process and project.</p>	<p>'Have your say' Waverley website updates</p> <p>Waverley Development Tracker website updates</p> <p>Publication of community engagement reports</p> <p>Exhibition reports</p> <p>Notice of determination reports</p> <p>Council and Committee Meeting reports</p>	



3 COMMUNITY PARTICIPATION IN THE PLANNING SYSTEM

Waverley Council recognises the importance of community participation throughout the planning process. Council is committed to engaging with the community in an open, transparent and accountable way, to make fair and equitable decisions that reflect the needs of the Waverley community. No matter how big or small, it's important the community know when and how they can have their say on what is happening in Waverley.

The economic, social and environmental needs of the community are constantly changing. These needs include access to employment, housing, transport, education and health services and open space.

'Planning' is the act of researching, analysing, anticipating and influencing change in an area in response to these needs. Planning is important because it affects everyone in the community and the built and natural environments in which we live.

The 'planning system' is a framework of legislation, policy and practice, which enables and guides development to ensure we deliver these economic, social and environmental needs.

The NSW planning system

The Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) is the principal legislation governing land use planning and development in NSW – from the overarching objectives through to how controls affecting development are made and how a development is assessed against those controls.

The Act is administered by the NSW DPIE.

The EP&A Act is supported by the Environmental Planning and Assessment Regulation 2000 (EP&A Regulations), which sets out how certain functions under the EP&A Act should be carried out, fees, procedures etc.

State, regional and local plans

The planning system has a hierarchical structure with the EP&A Act providing for three levels of planning – State, regional and local. Council's role and influence across these three levels of planning varies.

Councils in NSW exercise their local planning functions within the broader legislative and policy context set by the State government. Specifically, councils have the primary responsibility for preparing and implementing local plans, however they are required to reflect State and regional planning priorities and actions.

The hierarchy of key State and local plans applying to the Waverley LGA is shown at Figure 2 and described in Table 3. These plans are prepared in accordance with Part 3 of the EP&A Act.

Table 3 - Key State and local plans applying to the Waverley LGA

Plan	Description
Strategic plans	
Greater Sydney Region Plan	A 40-year vision and 20-year strategic plan for the Sydney metropolitan area, prepared by the NSW Government (Greater Sydney Commission (GSC)). The plan outlines objectives to provide for the community's economic, social and environmental needs. Visit greater.sydney/metropolis-of-three-cities/about-plan for more information.
Eastern City District Plan	A 20-year vision plan for the Eastern City District of metropolitan Sydney, prepared by the NSW Government (DPIE). The plan guides the implementation of the Greater Sydney Region Plan at a district level. Visit greater.sydney/district-plans for more information.
The Waverley Local Strategic Planning Statement (LSPS)	A 20-year strategic plan, prepared by Council and endorsed by the NSW Government (GSC and DPIE). The plan guides the implementation of State planning priorities at a local level to deliver place-based outcomes.
Environmental planning instruments	
State Environmental Planning Policies (SEPPs)*	SEPPs are state-wide legislated plans prepared by the NSW Government (DPIE). They specify planning controls for certain areas and / or types of development. For example the provision of affordable housing or educational establishments. SEPPs have greater weight than Council's plans and policies.
Waverley Local Environmental Plan 2012	<p>A legislated plan prepared by Council and approved by the NSW Government (DPIE). An LEP:</p> <ul style="list-style-type: none"> • zones land to specify what development is permitted in a certain area • identifies special matters for consideration eg, whether an item has heritage significance or land is prone to flooding or bushfire • identifies the principal development standards eg, maximum building height and floor space ratio (FSR). <p>A Planning Proposal is required to make or amend an LEP.</p>
Local guides	
Waverley Development Control Plan	Guiding documents, prepared by Council. DCPs provide more detailed design and planning requirements for certain areas and / or types of development.

* *Regional Environmental Plans (REPs) are deemed SEPPs in accordance with the EP&A Act.*

Development approval

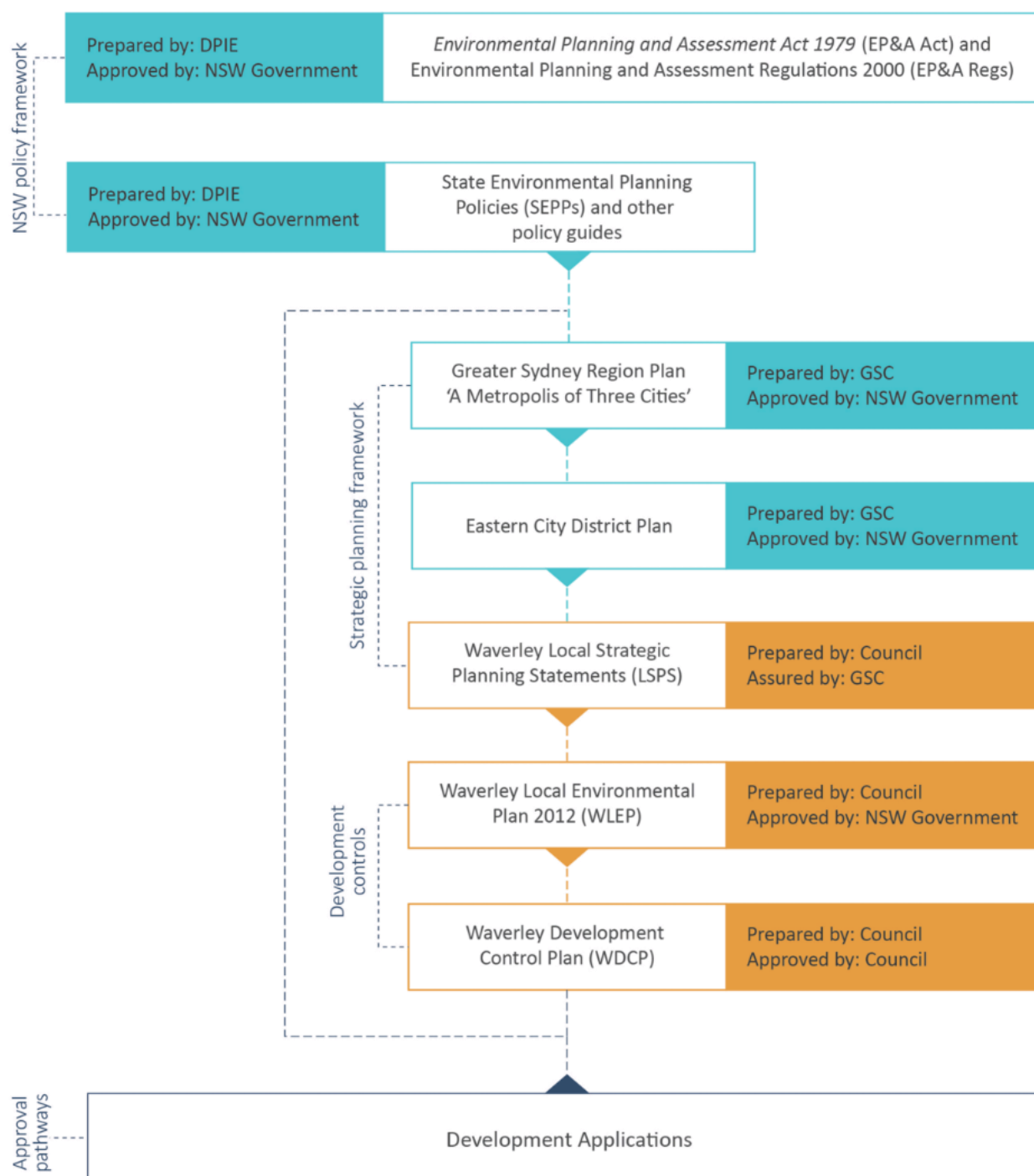
The type of approval a development requires, if any, depends upon the scale and potential impacts of the proposal. There are nine approval pathways in NSW:

- Exempt development
- Complying development
- Local development
- Regional development
- State significant development
- State significant infrastructure

- Development without consent
- Part 3A development
- Designated fishing activities.

When preparing and assessing a development application, consideration is required to be given to the EP&A Act and the relevant strategic and statutory plans. These applications are prepared in accordance with Part 4 and 5 of the EP&A Act.

Visit planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways for more information.



'NSW Government' refers to the Premier of New South Wales and / or the Minister for Planning and Public Spaces. 'GSC' refers to the Greater Sydney Commission. 'DPIE' refers to the Department of Planning, Industry and Environment. 'Council' refers to Waverley Council Officers, Councillors and / or the Waverley Local Planning Panel.

Figure 2 - The planning framework applying to planning processes and decisions in the Waverley LGA

The role of the Waverley Community Participation Plan

In March 2018, amendments to the EP&A Act introduced new requirements to make it easier for the community to participate in planning decisions.

Specifically, Council has a responsibility to deliver the objects of the EP&A Act including to “provide increased opportunity for community participation in environmental planning and assessment” (see section 1.3(j) of the EP&A Act). A tool to deliver this object is a Community Participation Plan (CPP).

The Waverley CPP has been prepared to meet Council’s legislative requirements under Division 2.6 and Schedule 1 of the EP&A Act.

The Waverley CPP seeks to make community participation in various Council-led strategic and statutory planning processes and decisions clearer for the Waverley community by outlining when and how the community can be involved.

It also outlines opportunities for participation in matters and processes external to Council, led by other government agencies e.g. the DPIE.

Further, the Waverley CPP establishes Council’s community participation principles which we use to guide our approach to community engagement.

The Waverley CPP applies to planning processes and decisions (refer to Table 4) by Council, Council staff and the WLPP only. It does not apply to other NSW planning authorities including the GSC, DPIE, IPC or other councils.

The Waverley CPP also forms Council’s approved ‘Submissions Policy’ as referenced under Council’s Local Planning Panel delegations.

The Waverley CPP has been informed by the Waverley Community Engagement Strategy (CES) and Waverley Community Engagement Policy (CEP) which are being prepared concurrently. These documents are a requirement of the *Local Government Act 1993* (LG Act) and provides the framework for Council-wide community participation.

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Who is involved in the planning system?



Figure 3 - Who is involved in the planning system?

Table 4 - What planning matters does the Waverley Community Participation Plan apply to?

Matter	Description
Planning related strategy or policy development	<p>We develop strategies and policy documents for particular matters or areas of the LGA which reflect the future needs of the community. These documents, underpinned by detailed research and analysis, establish the vision, context and strategic direction to guide planning and development decisions.</p> <p>We consult and involve the community to ensure these strategies and policies reflect their future economic, social and environmental needs.</p> <p>Example documents include: the Bondi Junction Evening, Culture and Entertainment Strategy and Waverley's People, Movement and Places.</p>
Plan making	<p>We prepare local plans for the LGA per requirements of the EP&A Act. These plans are informed by our local strategies and policies as well as State and regional strategic and statutory plans, and provide the legislative framework for planning and development decisions.</p> <p>We inform and consult with the community during the preparation of these plans to ensure they will deliver the future needs of the community.</p> <p>Plans include: Local Strategic Planning Statement (LSPS), Waverley Local Environmental Plan 2012 (WLEP), Waverley Development Control Plan and Contributions Plans.</p>
Planning proposals	<p>A Planning Proposal is a proposed amendment to the Waverley Local Environmental Plan (WLEP). Planning Proposals can be prepared by Council, or they can be proponent-led, usually for a specific site (also known as spot-zonings).</p> <p>We inform and consult with the community during the preparation and assessment of these proposals.</p> <p>Council Officers, the Waverley Local Planning Panel (WLPP), Council and the DPIE are all involved in the decision making process for Planning Proposals. Sometimes the Sydney Eastern City Planning Panel and the Independent Planning Commission (IPC) can also be involved in the process, if there is a dispute about a decision that has been made.</p> <p>When making decisions on these matters consideration is given to the proposals consistency with the requirements and objects of the EP&A Act, relevant State and local strategic priorities, plans and guidelines, community input and other technical advice.</p>
Development approvals	<p>Council Officers, the WLPP, the Sydney Eastern City Planning Panel, and the Land and Environment Court make decisions on a range of proposals, including local and regional development applications (DA), development without consent and some complying development certificates (CDC).</p> <p>We inform and consult the community during the assessment of development proposals.</p> <p>When making decisions on these matters consideration is given to the proposals consistency with the requirements and objects of the EP&A Act, relevant State and local strategic priorities, plans and guidelines, community input and other technical advice.</p>

Public exhibition and public notification of planning matters

Opportunities for community participation and the level of influence the community has in decision making will depend on the nature, scale and likely impact of the proposal being considered. A regular and valuable way for the communities to participate in the planning system is by making a submission on a proposal during the 'public exhibition' or 'public notification' period.

Public exhibition / notification can be described as:

- giving notice to individual land owners / occupiers in the vicinity of a proposal
- giving notice to the local Precinct Committees of all proposals within their area
- determining an appropriate exhibition timeframe
- advertising the exhibition notice, including how submissions can be made
- making documents, including a draft strategy, draft plan or proposed development, publicly available.

In conducting an exhibition, we receive public comments in accordance with our **Terms of Use**, **Privacy Policy** and **Moderation Policy**.

There are mandatory statutory timeframes for the public exhibition and notification of planning related documents and proposals. These are set out in the EP&A Act. These timeframes are outlined in Part 5.

An exhibition timeframe may be discretionally extended based on the scale and nature of the proposal. Re-exhibition of any amended application or matter may occur.

The period of re-exhibition, if required, will be determined by Council and based on the nature, scale and likely impact of the amended proposal.

There will be circumstances where Council may not exhibit or consult with the community, including when:

- the proposal does not require public exhibition / notification in accordance with the legislation
- the community has already had input through prior engagement
- technical or other expertise is the primary input to guide the decision
- Council is responding to an emergency and immediate action is required to rectify or remediate an issue
- decisions relate to Council's day-to-day business operations.
- legal, commercial or confidential restrictions are involved.

It is noted that the following applications will not be exhibited:

- Exempt development
- Complying development
- Section 4.55(1) application for modification of a consent to correct a minor error, misdescription or miscalculation
- DAs to strata title new buildings, which have not been occupied.

Exhibition of the above applications is not a requirement of the EP&A Act or other legislative policies.

Your privacy is important

We take your privacy very seriously. When participating in community participation you may be asked to provide personal information. The supply of your personal information is voluntary. However, if you do not provide your contact details, Council may be unable to give proper consideration to your comments, or to contact you to respond or update you on a proposal. You are entitled to access and correct the information you provide.

Personal information, including formal submissions will not be published on Council's website. However, please note that your submission, including your personal information, may be viewed and copied by, or provided electronically to, members of the public under the Government Information (Public Access) Act 2009. Questions concerning privacy or the use of your personal information should be referred to governance@waverley.nsw.gov.au.

Have your say!



How the community can participate in planning processes and decisions.

- **Make a formal submission** on Council-led proposals or local development applications by:
 - going online to the Waverley Have Your Say webpage or Development Application Tracker, or
 - by writing to The General Manager of Waverley Council, or
 - by emailing info@waverley.com.au or dasubmissions@waverley.nsw.gov.au.
- **Visit the Customer Service Centre** located at 55 Spring Street Bondi Junction, between 8.30am – 4.30pm, Monday to Friday, to access public exhibition documents.
- **Connect directly with Council staff** working on a proposal, policy, plan or project. Contact details are typically available on the Waverley Have Your Say and Development Application Tracker webpages.
- **Advocate for local issues** on State-led proposals or development applications by:
 - going online to the DPIE Have Your Say webpage or Major Projects webpage ; or
 - by writing to the Minister for Planning, the Planning Secretary or DPIE staff.

What to include in a formal submission

Should you wish to make a formal submission please consider the following requirements:

- it must be in writing
- it should indicate who is making the submission, or on whose behalf it is being made, the relevant address, contact phone number and email address
- it should be succinct – there is no need for a submission to repeat or undertake a detailed assessment of the proposal against the development standards and controls
- it should identify the reasons for support or objection and any impacts, positive or negative, that may arise from the proposal. If there is a satisfactory solution the submission should outline this
- it should only relate to 'planning issues' that are capable of being considered under the EP&A Act.

What is a relevant 'planning issue'?

Some examples of what is and what isn't considered a relevant planning issue that is capable of being considered under the EP&A Act are provided below:

✓ Relevant plans and policies,
Overshadowing / loss of light,
Overlooking / loss of privacy,
Scale / size / local character,
Safety issues, hours of operation and outdoor dining,
Traffic generation,
Removal of and works to vegetation and trees.

✗ Impact on private property values,
Personal values or religion,
Matters covered by other legislation such as the provision of a liquor licence under the *Liquor Act 2007*,
The perceived morals / future intentions of developers.

Decision-making and determination

Community participation does not replace decision making functions of Council or other planning authorities, rather it informs and guides it.

In reaching a decision on proposals, a range of factors must be balanced to ensure that decisions are in the public interest. In addition to community input, decisions are also informed by factors such as:

- consistency of the proposal with the requirements and objects of the EP&A Act
- consistency of the proposal with the relevant State and local planning controls
- technical elements of the proposal and expert advice
- other authorities and Government departments advice and approval
- regional and peak bodies with which Council is affiliated.

In most cases, the determining authority (decision-maker) will be Council Officers (under delegation), the WLPP or Council. However, the EP&A Act, the EP&A Regulations or an EPI (LEP or SEPP) can specify a different consent authority for some planning matters, such as:

- the Greater Sydney Commission (GSC)
- the Minister for Planning and Public Spaces (the Minister can delegate this function to DPIE)
- the Independent Planning Commission (IPC)
- the Sydney Eastern City Planning Panel
- a public authority (other than Council)

The determining authority for the planning matters covered by the Waverley CPP are outlined in Table 5.

Council reports on the outcomes of planning matters, including the outcomes of community participation. This may occur by:

- Council notifying people who have been involved and are directly affected by the proposal
- reporting via Council and Strategic Planning and Development Committee Meetings. Reports are made available online through the Agenda and Minutes of these meetings

- reporting via Development Assessment Reports which can be viewed on Council's Development Application Tracker webpage
- online via Have Your Say and social media.

Planning panels and other consent authorities will publish public decisions and associated assessment reports on their webpages.

Schedule 1 of the EP&A Act requires that Council provides reasons for the determination of a development application (DA). These typically form part of the Notice of Determination and development assessment report which are made available online through the Waverley DA Tracking Tool.

Part 3 Division 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Reg) requires Council to give public notice of its decision on a Development Control Plan (DCP) including Council's reasons for the decision.

Depending on the nature and timing of a decision, these reports may be published prior, at the time or following the making of a decision.

Role of Councillors in decision making

Per Division 4.2, Clause 4.8 of the EP&A Act, the functions of a Council as a consent authority for development applications are not exercisable by the Councillors. They are exercisable on behalf of the Council by the local planning panel or delegation. This allows Councillors more time to focus on strategic planning issues.

In 2013, Waverley Council implemented the Waverley Development Assessment Panel (now referred to as the Waverley Local Planning Panel) to determine certain types of development applications. Per Division 2.5, Clause 2.18 of the EP&A Act Councillors are ineligible to be panel members. Further requirements for the WLPP panel members are outlined within the 'Code of Conduct for Local Planning Members' and the 'Local Planning Panels Direction Operational Procedures'.

Table 5 - Who makes decisions on planning matters?

Matter	Determining authority	
Planning related strategy or policy development	Planning related strategy and policies are prepared by Council Officers and adopted by Council.	
Plan making	Council Officers, the Waverley Local Planning Panel (WLPP), Council and the DPIE can be involved in local plan making.	
Planning proposals	Council Officers, the Waverley Local Planning Panel (WLPP), Council and the DPIE are all involved in the decision making process for Planning Proposals. Sometimes the Sydney Eastern City Planning Panel and the Independent Planning Commission (IPC) can also be involved in the process, if there is a dispute about a decision that has been made. This is known as a Rezoning Review process.	
Development approvals	Exempt development	No development approval is required.
	Complying development	Complying development can be determined through a fast-track assessment by Council or an accredited Certifier. A Complying Development Certificate (CDC) is issued.
	Local development	<p>Local development applications (DA) are submitted to Council for assessment can be determined in the following ways:</p> <ul style="list-style-type: none"> determined by Delegated authority ie, the Assessment Officer allocated the application, or Manager. Delegation is restricted to applications where no objections have been received and / or where applications do not depart (other than a minor degree) from the statutory controls and Council policies, or determined by the WLPP* where there is a conflict of interest, contentious development, departure from development standards or sensitive development as defined by the Local Planning Panels Direction - planning.nsw.gov.au/-/media/Files/DPE/Other/local-planning-panels-direction-development. The WLPP is provided an assessment report and recommendation (instrument of approval / refusal) about the application to assist in making a determination. <p>If a local DA is refused it may be appealed in the Land and Environment Court.</p>
	Regional development	Regional DAs are submitted to Council for assessment and are determined by the Sydney Eastern City Planning Panel. Continued on next page.

* This CPP also forms Council's approved 'Submissions Policy' as referenced under Council's Local Planning Panel delegations. This allows Council (as the delegated authority) to direct certain DAs to the Local Planning Panel based on the number of submissions. Referrals to the Local Planning Panel remain as per Council's delegations unless otherwise specified in this document.

Matter	Determining authority
	<p>The panel is provided an assessment report and recommendation (instrument of approval / refusal) from the Assessment Officer to assist in making a determination. These applications are of a greater scale or value than local development (generally over \$30 million).</p> <p>If a regional DA is refused it may be appealed in the Land and Environment Court.</p>
State significant development (SDD)	<p>SSDAs are submitted to DPIE for assessment and are can be determined in the following ways:</p> <ul style="list-style-type: none"> determined by the Minister (or DPIE as delegate), or determined by the IPC if the application has received more than 25 submissions, the local council has objected or a political donation has been disclosed. The IPC may meet with the proponent, DPIE, Council or hold a public meeting. <p>These applications relate to high cost and high impact developments that are not public infrastructure projects. An assessment report and recommendation (instrument of approval / refusal) is prepared by the Assessment Officer to assist in making a determination.</p>
State significant infrastructure (SSI)	<p>SSI applications are submitted to the DPIE for assessment and can be determined in the following ways:</p> <ul style="list-style-type: none"> determined by the DPIE under delegation, or determined by the Minister, where 25 or more submissions have been received. <p>These applications relate to large, mainly infrastructure projects (eg, rail, roads). An assessment report and recommendation (instrument of approval / refusal) is prepared by the Secretary to assist in making a determination.</p>
Development without consent	<p>Applications for 'development without consent' are prepared on behalf of a public authority (ie, Council) for self-authorisation ('determination') by the authority. These applications relate to low impact works carried out by the authority eg, upgrades to public open space.</p>



4 KEY PLANNING AND APPROVAL PROCESSES

There are many pathways for planning approval. In an attempt to make it clearer for the Waverley community this Part details how and when the community can participate in the following key State and local planning and approval processes:

- A- Complying development (*no formal consultation requirements*)
- B- Local development
- C- Regional / designated development
- D- State significant development (*Consultation undertaken by the State government*)
- E- Planning proposal (*Consultation may also be undertaken by the State government*)
- F- Council strategy and policy development

Note: the following flowcharts provide a generic overview of key stages of the assessment and decision-making process for the various planning matters common to the Waverley LGA. They are intended as a guide only. Processes may vary for specific development proposals, including the level of community participation undertaken. In some instances an applicant may undertake additional non-mandatory community consultation prior to or during the assessment of a DA. Council's role and influence varies across these matters.



A - COMPLYING DEVELOPMENT APPLICATION

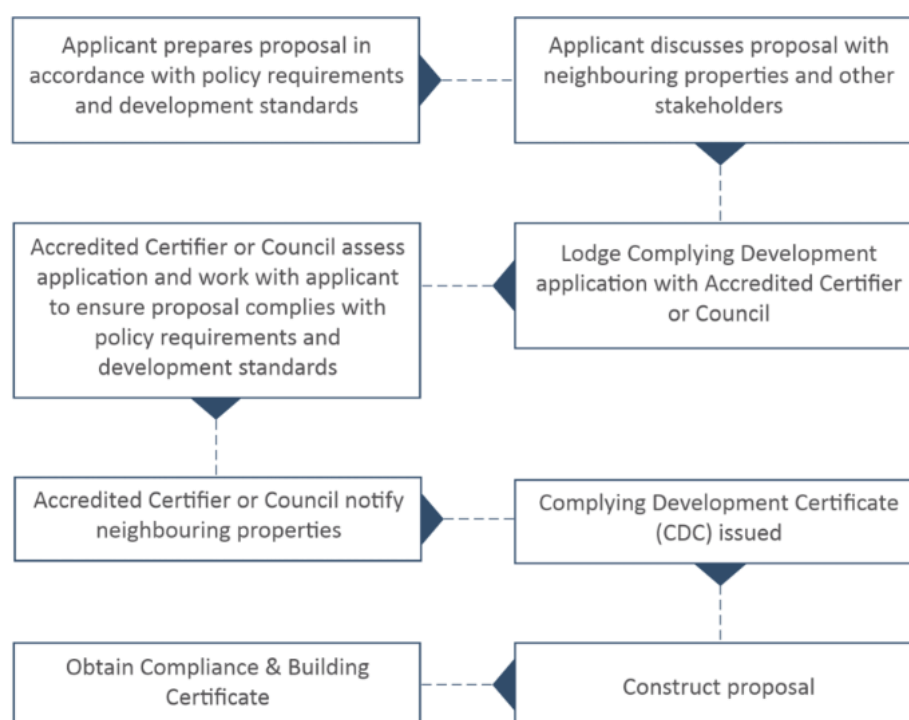
What is a complying development application?

Complying development is development that meets specific standards in the State government State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) or other SEPPs such as the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP). Complying development can be determined through a fast-track assessment by Council or an accredited Certifier.

Some categories of works that are complying development:

- construction of a new building (eg, secondary dwelling, school, hospital)
- alterations and additions to an existing building
- demolition of a building
- internal alterations (fit-outs) of commercial / retail premises.

Complying development approval process



Have your say!

Council encourages communication between complying development applicants and their neighbours. Applicants should consult with their neighbours at the earliest opportunity to help them understand the proposal. All neighbouring properties within a 20m radius of the site must be notified by an accredited certifier (Council or private) when they are processing an application. A CDC cannot be approved for at least 14 days after neighbouring properties are notified.

Neighbours have no objection rights to a complying development proposal because it meets minimum impact criteria on surrounding properties. These requirements are set out by the State government.

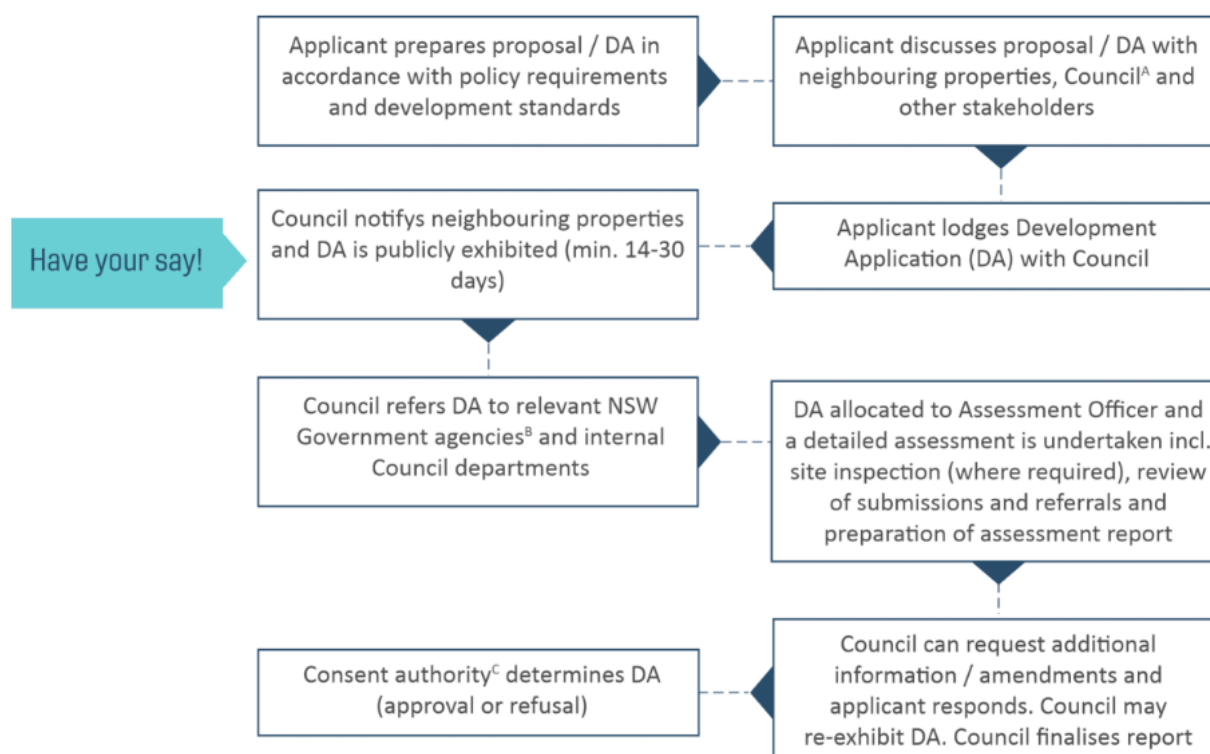
B – LOCAL DEVELOPMENT APPLICATION

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What is a local development application?

A Development Application (DA) is an application made to Council seeking consent to carry out a proposed development. This is the most common type of development in NSW and includes home renovations and extensions, new residential buildings and medium-sized commercial and retail developments. Applicants must consider the requirements and objects of the EP&A Act, relevant State and local strategic priorities, plans and guidelines. Refer to the Waverley Development Application Guide for more information.

Local Development Application approval process



Notes

^A Prior to the lodgement of a DA Council Officers may meet with an applicant to: discuss the application or proposal in terms of the type of information that will be required; to alert the applicant to relevant Council policies and strategies; or to raise potential impacts of the proposal. These meetings do not involve assessment advice or professional planning advice for the proposal.

^B Some developments require referral to a government agency for a separate approval (i.e. 'Integrated Development'), concurrence or comment.

^C The Consent Authority may be either a Council Officer (by delegation) or WLPP. Refer to Table 5 for more information.

Have your say!

- Make a formal submission on a DA whilst on exhibition / notification by visiting the Development Application Tracker, writing to The General Manager of Waverley Council, or emailing dasubmissions@waverley.nsw.gov.au.
- Visit the Waverley Customer Service Centre to access all plans and related documents for current applications.

Refer to Part 3 for more information.

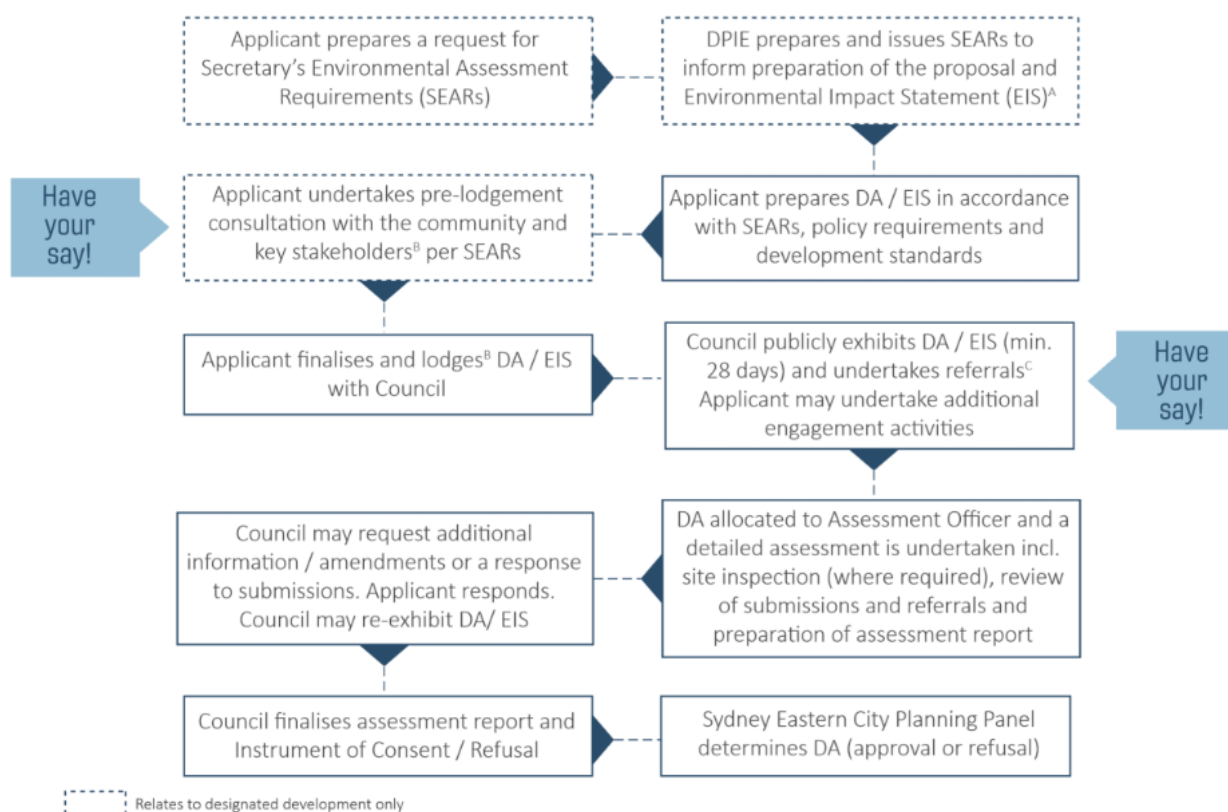


C – REGIONAL DEVELOPMENT APPLICATION

What is a regional development application?

Regional development is of a greater scale and / or value than local development (generally greater than \$30m) or of a greater impact (eg, 'designated development'). Regional development is defined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. Schedule 3 of the EP&A Regulations defines types of designated development.

Regional and designated development application approval process



Notes

^A The DPIE has 28 days to issue SEARs and must seek input from relevant agencies.

^B Prior to the lodgement of the DA an applicant will meet with DPIE and Council to discuss the proposal, relevant policies and strategies and potential impacts. These meetings do not involve assessment advice or professional planning advice for the proposal.

^C Some developments require referral to a government agency for a separate approval (ie, 'Integrated Development'), concurrence or comment.

Have your say!

- Make a formal submission on a DA whilst on exhibition / notification by visiting the Development Application Tracker, writing to The General Manager of Waverley Council, or emailing dasubmissions@waverley.nsw.gov.au. Refer to Part 3 for more information.
- Visit the Waverley Customer Service Centre to access all plans and related documents for current applications.
- Participate in Applicant initiated and led community and stakeholder engagement activities.

D - STATE SIGNIFICANT DEVELOPMENT APPLICATION

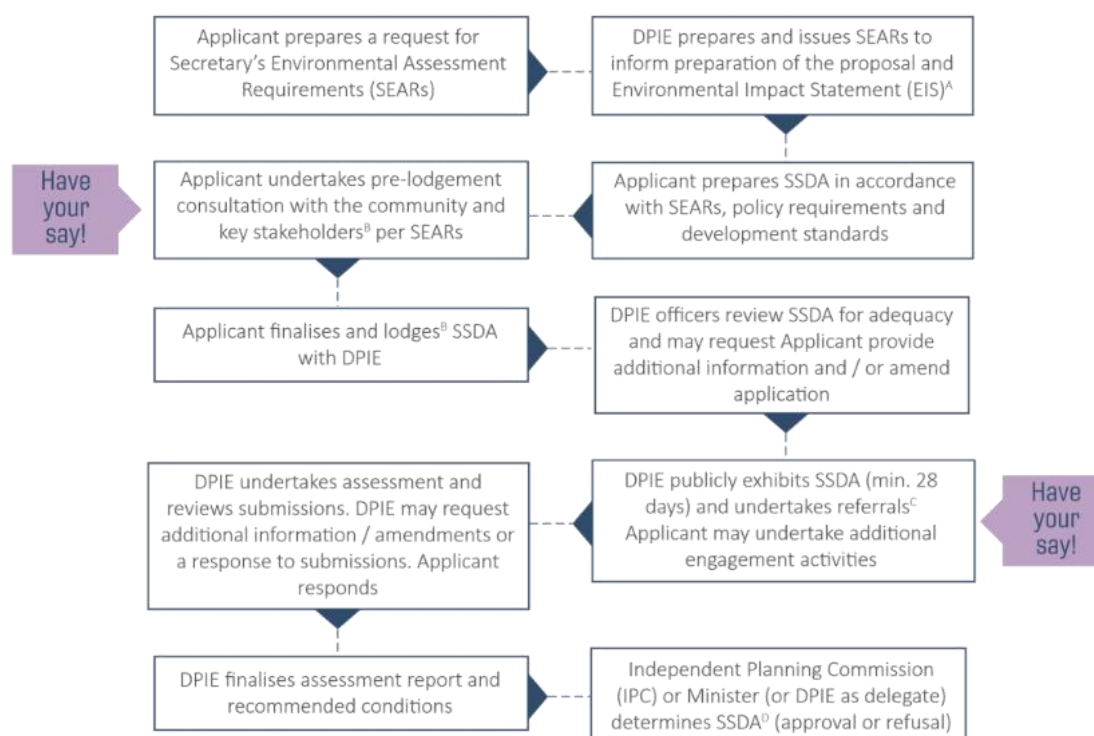
27

What is a state significant development application?

Some types of development are deemed to have State significance due to the location, size, economic value or potential impacts that a development may have. State significant development (SSD) is defined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. The Minister for Planning and Public Spaces may also 'call in' a development proposal if it is deemed to be of State significance. All SSD applications are listed on the DPIE's major projects website, planningportal.nsw.gov.au/major-projects.

Refer to planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways/State-Significant-Development for more information.

State significant development application approval process



Notes

^A The DPIE has 28 days to issue SEARs and must seek input from relevant agencies.

^B Prior to the lodgement of the DA an applicant will meet with DPIE and Council to discuss the proposal, relevant policies and strategies and potential impacts. These meetings do not involve assessment advice or professional planning advice for the proposal.

^C Some developments require referral to a government agency for a separate approval (ie, 'Integrated Development'), concurrence or comment.

^D Refer to Table 5 for further information.

Have your say!

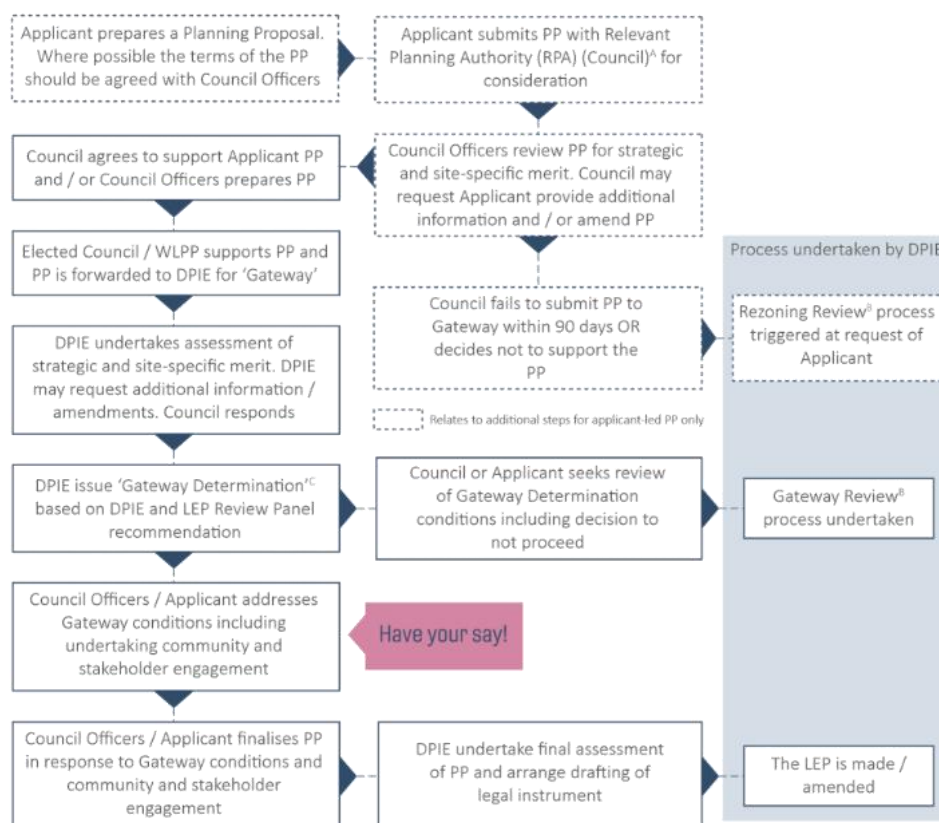
- **Consultation is undertaken by the State government.** Make a formal submission on an SSD during public exhibition by visiting the major projects website and making a submission to the relevant project or by writing to the DPIE. Refer to planning.nsw.gov.au/Contact-Us.
- Participate in Applicant initiated and led community and stakeholder engagement activities.

E - PLANNING PROPOSAL

What is a planning proposal?

A Planning Proposal is a proposed amendment to or creation of a Local Environmental Plan (LEP). An amendment may constitute a change to the land use zoning, maximum height of building or floor space ratio (FSR) or a site. Planning Proposals can be prepared by Council, or they can be proponent / applicant-led, usually for a specific site (also known as spot-rezonings). A Planning Proposal should demonstrate strategic and site-specific merit and consistency with State and local strategies and policies.

Planning proposal process



Notes

^A The planning proposal authority is usually the local council, however the Minister can appoint the Secretary of the DPIE, a regional planning panel or a Sydney planning panel to be the RPA.

^B Refer to planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning/The-Gateway-Process for more information.

^C A 'Gateway Determination' will determine whether the planning proposal can proceed (with or without variation) and subject to other matters including further studies being undertaken, public consultation, public hearings, agency consultation and time frames.

Have your say!

- Make a formal submission by visiting the Waverley Have Your Say webpage, or by writing to The General Manager of Waverley Council, or by emailing info@waverley.com.au
- Participate in Applicant initiated and led community and stakeholder engagement activities.
- Follow an PP / LEPs progress on leptracking.planning.nsw.gov.au.

F - STRATEGY AND POLICY DEVELOPMENT

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What is a strategy? What is a policy?

Council develops strategies and policy documents for particular matters or areas of the LGA. These documents, underpinned by detailed research and analysis, establish the vision, context and strategic direction to guide planning and development decisions.

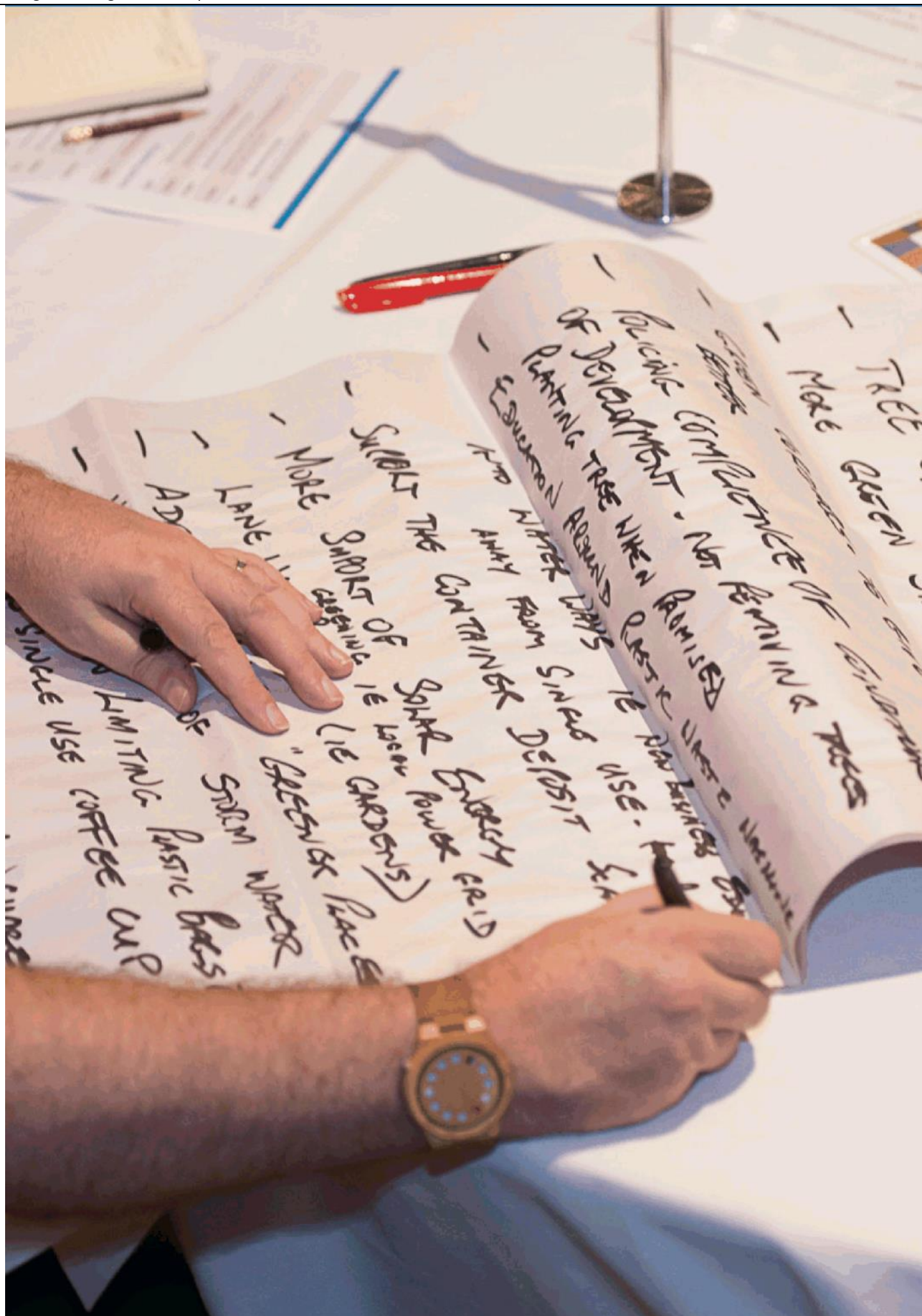
Strategy and policy development process



Have your say!

- Make a formal submission by visiting the Waverley Have Your Say webpage, or by writing to The General Manager of Waverley Council, or by emailing info@waverley.com.au. Refer to Part 3 for more information.
- Participate in Council engagement activities including workshops and surveys.





5 PUBLIC EXHIBITION REQUIREMENTS

As outlined in Part 3, public exhibition procedures vary for different planning processes and decisions. The LG Act, EP&A Act, and the EP&A Regulations detail the types of proposals and the associated mandatory minimum exhibition timeframes that must be considered in the CPP.

In line with our commitment to timely participation, we will ensure that our community has equal and adequate time to provide feedback by exhibiting proposals for the minimum statutory timeframes.

An exhibition timeframe may be discretionally extended based on the scale and nature of the proposal.

Re-exhibition of any amended application or matter may occur. The period of re-exhibition, if required, will be determined by Council and based on the nature, scale and likely impact of the amended proposal. It is noted that if an individual has provided a submission on an application which is re-exhibited, they will be notified of this.

The minimum mandatory timeframes for various planning functions are outlined in Table 6 and Table 7.

Table 6 - Plan making mandatory minimum exhibition timeframes

Type of plan	Minimum mandatory exhibition requirements
Draft Regional or District Strategic Plans	45 days <i>Note: exhibition undertaken by the NSW State Government not Council. Council will keep the community informed.</i>
Waverley Community Participation Plan	28 days (see Schedule 1 of the EP&A Act)
Waverley Local Strategic Planning Statement	28 days (see Schedule 1 of the EP&A Act)
Planning Proposals to amend the Waverley Local Environmental Plan 2012 subject to a Gateway Determination	28 days unless (as specified in the EP&A Regulation): <ul style="list-style-type: none"> • (a) if a different period of public exhibition is specified in the gateway determination for the proposal—the period so specified, or • (b) if the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition. (see Schedule 1 of the EP&A Act)
Reclassification of Land	A Public Hearing is required under the <i>Local Government Act 1993</i> and as well as public notice of a period of not less than 28 days during which submissions may be made to the Council.
Draft Development Control Plans	28 days (see Schedule 1 of the EP&A Act and Part 3 Division 2 of the EP&A Regulations)

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Type of plan	Minimum mandatory exhibition requirements
Draft Contribution Plans	28 days (see Schedule 1 of the EP&A Act and Part 4 Division 2 of the EP&A Regulations)
Voluntary Planning Agreements	28 days (see Part 4 Division 1A of the EP&A Regulations)

Table 7 - Development assessment mandatory minimum exhibition timeframes

Type of plan	Minimum mandatory exhibition requirements
Application for development consent (other than for complying development certificate, for designated development or for State Significant Development)	14 days*
Application for modification to development consent (other than for Section 4.55(1) modification applications)	14 days*
Application for designated development (specified under Schedule 3 of the EP&A Regulation)	28 days (see Schedule 1 of the EP&A Act)
Application for integrated development (specified under Clause 4.6 of the EP&A Act)	28 days
Application for State Significant Development	28 days <i>Note: exhibition undertaken by the NSW State Government. Council will keep the community informed.</i>
Application for other advertised development	30 days
Environmental impact statement obtained under Division 5.1	30 days
Environmental impact statement for State significant infrastructure under Division 5.2	28 days
Re-exhibition, if required, of any amended application or matter referred to above	To be determined by Council at time of re-exhibition, subject to nature, scale and likely impact of the amended proposal.

** It is noted Council has three (3) types of public exhibition procedures for various applications for development consent depending on the proposed use / development. Refer to Part 6 for further discussion.*

Note

- Timeframes are in calendar days and include weekends
- If the exhibition period is due to close on a weekend or public holiday we may extend the exhibition to finish on the first available work day
- The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition
- If a particular matter has different exhibition or notification periods the longer period will apply
- Council is not required to make available any part of an environmental impact statement whose publication, would be contrary to the public interest because of its confidential nature or for any other reason
- Decisions on publicly exhibited plans and applications are not to be made until after an exhibition period.



6 ADVERTISING AND NOTIFICATION REQUIREMENTS

As outlined in Part 3 and 5, public exhibition procedures vary for different DAs depending on the proposed use / development.

This part sets out the advertising and notification requirements, including the extent and type of notification required, for each type of DA and any subsequent requests for amendments, modification and review of development. It is noted that this part reflects Part A2 of the Waverley DCP.

The term 'notification' generally refers to the process of notifying affected property owners and/ or occupants of an application by way of letter and, in some circumstances, a notice on the site.

'Advertising' refers to the process of notifying the wider community by placing a notice in the local or other newspaper (this form also includes the Notification process).

Objectives

- (a) To encourage community participation in the development application process.
- (b) To set out matters for consideration on whether or not the enjoyment of neighbouring land may be detrimentally affected by a proposal.
- (c) To outline procedures for notifying owners and/ or occupiers of land affected by a Development Application.
- (d) To outline the length and type of advertising requirement for each type of proposal.

Development to which advertising and notification applies

Advertising and notification provisions apply to the following applications:

- development applications - refer to Table 8
- modifications of a development consent – Section 4.55(1A), Section 4.55 (2), Section 4.55 (AA), Section 4.55 (AB) of the EP&A Act
- requests to review a determination (eg, refusal) of a development application – Section 8.2-8.5 of the EP&A Act
- footpath seating for restaurants and cafes where, in the opinion of the Council officer, amenity impacts may arise. Examples include applications for greater than 30 seats, sites within or adjoining residential zones, and premises with a liquor license.

The following applications will not be notified by Council:

- Exempt development
- Complying development
- Section 4.55(1) application for modification of a consent to correct a minor error, misdescription or miscalculation
- applications to strata title new buildings, which have not been occupied.

Process to determine the extent of notification

Council will notify persons in accordance with Table 8 where in the authorised Council officer's opinion, the enjoyment of the adjoining or neighbouring land may be detrimentally affected. Types of issues that may be considered include the following.

- the likely impacts of the development including, but not limited to: loss of views; loss of privacy; overshadowing; noise generation; visual bulk; hours and type of use; traffic and parking impacts

- any instance that the council officer deems notification of a given DA is appropriate and required.
- the minimum extent of notification is outlined in Table 8 and may be varied where in the authorised council officer's opinion additional (or lesser) properties should be notified.

Persons to be notified

Notification will be provided to the following:

- all persons who, according to Council's property records, own or occupy land immediately adjoining the application site and any others that may (in the opinion of the Council officer) be affected by the proposal
- where the notified property comprises a strata titled building, the Owners Corporation will be notified and any units that are considered to be directly affected (in the opinion of the Council officer) by the proposal
- the owner/occupant of any other property that (in the opinion of the Council officer) may be affected by the proposal
- the elected Councillors and the relevant local precinct committee will be notified of all Advertised and Notified Development as per Table 8 in this Part.

If the land to be notified is in an adjoining LGA, names and addresses of owners shall be obtained by Council from that adjoining Council.

Method of notification

Development applications where required to be notified or advertised will be notified through all or part of the following ways:

- written notice
- email notification
- site notice
- advertisement in the local or other newspaper and/ or
- documents available on Council's website.

Designated and Advertised development will be notified in accordance with the EP&A Act.

Renotification procedures

1. Amendments prior to determination

Amendments to an application will be re-notified unless in the opinion of the Council officer the change(s) result in lesser impact.

The notification period may be reduced if in the opinion of the Council officer all persons affected by the change(s) have been given an opportunity to make a submission.

The extent of the notification may be limited to those persons who in the opinion of the Council officer may be affected.

2. Modifications and reviews

Modifications of a development consent (other than minor modifications) – Council will notify those persons who were notified of the original development application and any other person who, in the opinion of the Council Officer, may be affected by the modification.

Reviews of determinations (eg, refusal) – Council will notify any person who made a submission in respect to the original application.

3. Post-determination notification

All those that made a written submission in respect of a development application will be notified of Council's decision once that application has been determined. A list of development applications approved will be published in one of the local newspapers.

Advertising and notification requirements

Table 8 provides guidelines of the type and length of notification. The notification period may be altered at the discretion of the assessing officer following consideration of the nature and likely impact of the proposal or the circumstances of the case.

The Council, any committee of the Council, the General Manager or the responsible Council officer may direct that a development application or an application to modify a development consent be advertised and/or notified to any additional persons or the like.

Where an application does not fall into one of the categories, Council will determine the most appropriate notification period using Table 8 as a guide.

36 There are 3 types of public exhibition procedures with associated minimum mandatory notification and advertising requirements:

- **Type A** – 14 days notification
- **Type B** – 21 days notification and a site notice.
- **Type C** – 28 days notification and advertising in the local paper.

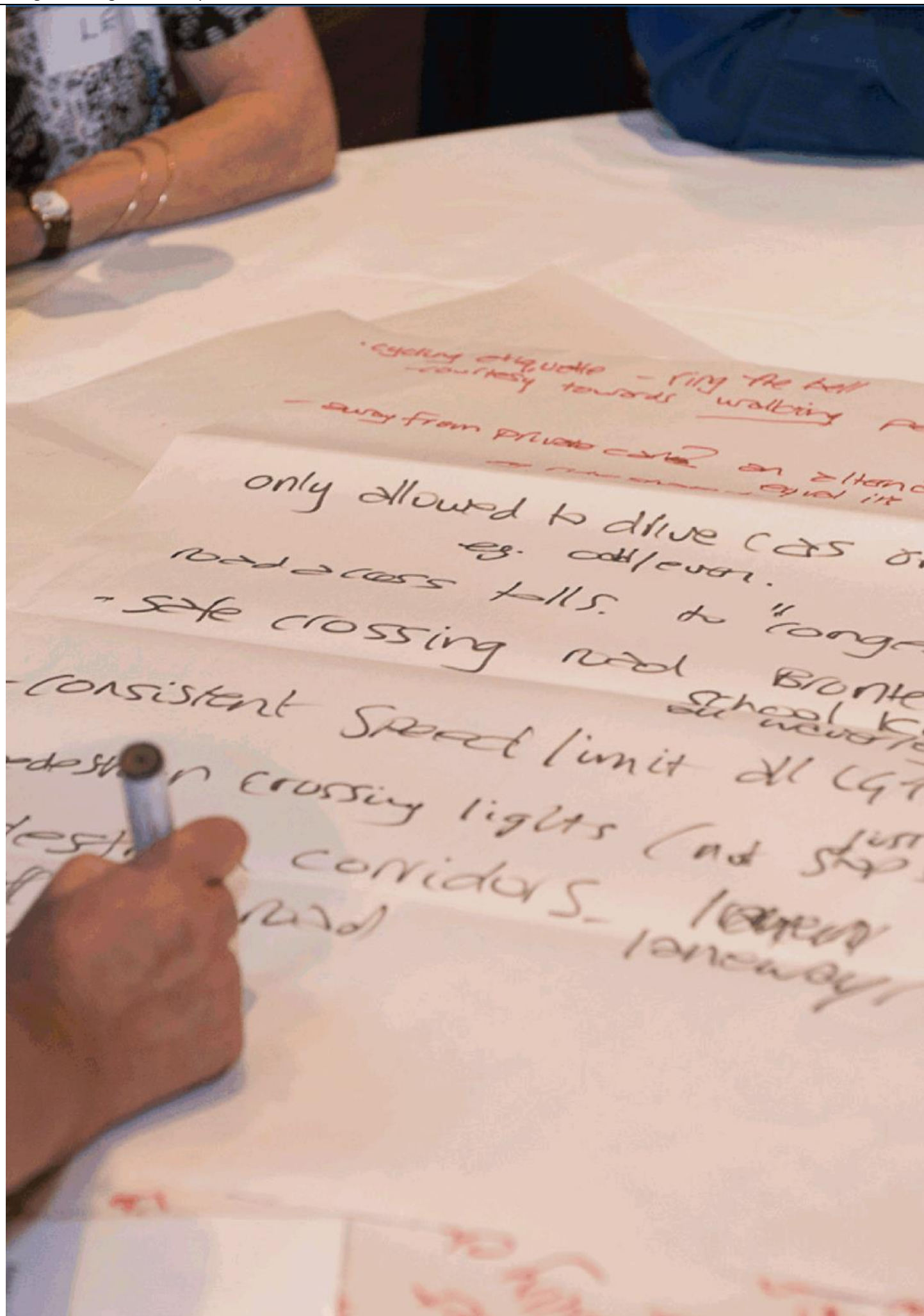
Table 8 - Advertising and notification requirements

Proposed use / development	Minimum notification / advertising requirement
Single / small-scale residential	
Dwelling Houses and Dual Occupancies – alterations, additions and new buildings, whether attached, semi-detached or detached	A
Multi-residential	
Alterations and additions to multi dwelling housing, mixed use development, residential flat buildings, shop top housing, seniors housing or housing for people with a disability	A
New multi dwelling housing, mixed use development, residential flat buildings, shop top housing, seniors housing or housing for people with a disability	B
Commercial - accommodation	
Bed & breakfast establishment	A
Alterations and additions to boarding house/group home	A
New Boarding house/group home	B
Alterations and additions to backpacker's accommodation/Hostel	A
New backpacker's accommodation/Hostel	B
Alterations and additions to hotel/motel/serviced apartment	A
New Hotel/motel/serviced apartment	B
Commercial - retail (selling products)	
Footpath seating for restaurants/cafes and/or occupation of footpaths	A
Change of use	A
Alterations and additions to bulky goods premises	A
New bulky goods premises	B
Commercial - business (selling services)	
Child care centre	A
Community facility	A
Educational establishment	A
Health consulting rooms	A

Proposed use / development	Minimum notification / advertising requirement
Home-based child care	A
Home business/industry	A
Medical centre	A
Alterations and additions to function centre	A
New function centre	B
Alterations and additions to restricted premises	A
New restricted premises	B
Alterations and additions to sex services premises	A
New sex services premises	B
Heritage	
Heritage conservation areas or minor work to heritage listed sites – all categories of development except change of use and footpath seating	A
Heritage listed sites (excluding minor works) – all categories of development except change of use and footpath seating	B
Other	
Amended plans	A
Any building/activity which in opinion of Council would detrimentally affect owners/occupiers nearby land	A
Signage	A
Subdivision (Torrens Title) and strata subdivision (except new buildings not yet occupied)	A
Alterations and additions to place of public worship	A
New place of public worship	B
Road reservation/widening	B
Designated development	C
Planning Agreement	C

Note

- In circumstances where the notification period is 14 days and would commence between the third and last week of December, that notification period shall be extended to 21 days. Notwithstanding this specified period, in certain circumstances, Council may use its discretion to allow an extension of the prescribed notification period.
- “Minor works” are works that in the opinion of the consent authority are of a minor nature or consists of maintenance.
- “Immediately adjoining properties” are those which share a common boundary with the subject property.
- Notification periods for advertised development commences on the date of notice in the newspaper.
- Site notice and newspaper provisions may not apply to modifications or amendments.
- Notification of a development application or modification will be provided to only the relevant Precinct Committee.
- Notification for Councillors and Precincts will remain for all applications in a weekly listing.



GLOSSARY

Table 9 - Glossary of terms

Planning term	Definition
Complying development	<p>Complying development is a development that meets specific standards in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) or other SEPPS such as the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP).</p> <p>Some categories of works that are complying development:</p> <ul style="list-style-type: none"> • construction of a new dwelling or secondary dwelling • alterations and additions to an existing dwelling • demolition of a building • internal alterations (fit-outs) of commercial / retail premises. <p>Applications can be determined by a council or private certifier without the need for a full development application. This provides a faster approval process, whilst ensuring stringent planning and environmental requirements are met through a set of prescribed approval conditions.</p>
Contribution plans	A plan developed by councils for the purpose of gaining financial contributions from new development towards the cost of new and upgraded public amenities and/or services required to accommodate the new development
Designated development	Designated Development refers to developments that are high impact developments (eg, likely to generate pollution) or are located in or near an environmentally sensitive area (eg, a coastal wetland). Designated Developments are listed in Schedule 3 of the EP&A Reg.
Development and Building Unit (DBU)	A staff committee who has delegated authority to make a decision about development application where objections are received and/or applications depart from statutory provisions and Council codes and policies. The General Manager may request that an application be referred to the Waverley Local Planning Panel (WLPP).
Development control plans	Designated Development refers to developments that are high impact developments (eg, likely to generate pollution) or are located in or near an environmentally sensitive area (eg, a coastal wetland). Designated Developments are listed in Schedule 3 of the EP&A Reg.
District strategic plan	A staff committee who has delegated authority to make a decision about development application where objections are received and/or applications depart from statutory provisions and Council codes and policies. The General Manager may request that an application be referred to the Waverley Local Planning Panel (WLPP).

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Planning term	Definition
Delegated authority	The Assessment Officer who has been allocated a development application and has authority (delegation) to make a decision about the application. Delegation is restricted to applications where no objections have been received and/or where applications do not depart (other than in a minor degree) from statutory provisions and Council codes and policies.
Exempt development	Some development is prescribed as exempt development under the Codes SEPP and / or the WLEP. Provided the development is in accordance with any provisions set out in the Codes SEPP or WLEP, an applicant does not need approval to undertake works.
Gateway Determination	A Gateway Determination is issued by the DPIE following an assessment of the strategic and site-specific merit of a Planning Proposal to amend or create an LEP. A Gateway Determination may set out specific requirements including additional studies or assessment, public exhibition period.
Local environmental plan (LEP)	An environmental planning instrument (EPI) developed by a local planning authority, generally a council. An LEP sets the statutory planning framework for a Local Government Area.
Regional strategic plan	20-year plans prepared by the State Government (Greater Sydney Commission) that address the community's needs for housing, jobs, infrastructure and a healthy environment for metropolitan Sydney.
State Environmental Planning Policy (SEPP)	An environmental planning instrument (EPI) developed by the DPIE, that relates to planning matters that are state significant or are applicable across the state.
State significant development (SSD)	Some types of development are deemed to have State significance due to the location, size, economic value or potential impacts that a development may have. Examples of possible SSD include: new or development of existing educational establishments and hospitals.
State significant infrastructure (SSI)	SSI includes major transport and services development that have a wider significance and impact than on just the local area. Examples of possible SSI include: rail infrastructure, road infrastructure and water storage and treatment plants.
Sydney City East Planning Panel	This is a panel of expert professionals and community representatives who have delegation to determine significant Das in the Waverley area.
Waverley Local Planning Panel (WLPP)	This is a panel of expert planning professionals, industry specialists and community representatives who have delegation to determine some DAs in the Waverley area.



Draft Waverley Community Participation Plan – Exhibition submissions and response summary

Author / date	Submission comment	Response
External submissions		
Anonymous Have Your Say online submission Received 14/10/2019	<ul style="list-style-type: none"> p.8 – Community engagement methods – add Precinct Meetings and emails (many Ratepayers emails are already stored for rate notification) 	<p>Noted.</p> <p>Emails and Precinct meetings have been listed as methods of community notification and participation (refer to p.8 of the Waverley CPP). However, it is noted that this is not meant to be an exhaustive list of all the community participation methods available to Council. The text has been amended to reflect this.</p>
	<ul style="list-style-type: none"> p.8 – "An important component of community participation is responding to and demonstrating how feedback has informed decision making" - to do this in a timely manner the council should consider having an online register for each planning matter that residents can opt in or out of for updates as well as for them to input. This will enable the council to inform all interested parties in the progress of the matter for it's complete lifecycle - inform, consult, involve, response & determination. 	<p>Noted.</p> <p>Providing the community an opportunity to stay up to date and informed on Council planning processes and decisions is a key part of our approach to community participation.</p> <p>Reporting on community consultation may be undertaken in the following ways:</p> <ul style="list-style-type: none"> Council may notify those people who have been actively involved and are directly affected by the proposal of the outcomes and decisions, Council may publicise a submissions report which outlines the scope, community input and how this input has been considered, Council will publicise Council and WLPP meeting minutes and reports. <p>Depending on the nature and timing of a decision, these reports may be published prior, at the time or following the making of a decision or finalisation of a project.</p> <p>Further, the community can stay up to date on Council processes and decisions by:</p> <ul style="list-style-type: none"> registering for specific projects on the Waverley Council Have Your Say webpage, tracking the progress of Development Applications through Councils Development Application tracking tool, subscribe to planning and Development Application alerts which provides a list of planning applications in the Waverley LGA.

		The Waverley CPP has been amended to include a section titled 'How we report on community participation' (refer to p.9 of the Waverley CPP) to provide detail of the above.
	<ul style="list-style-type: none"> p.23 – Complying Development - only need to discuss with neighbours who are in 20m radius - this should be expanded to at least 50 if not 100m or even 1km in the case of a school or hospital!! And then only 14 days for neighbours to respond!! At least 28 days. 	<p>Complying development is development that meets specific standards under State government legislation such as the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>. Development may comprise construction of a new building, alteration and / or additions to an existing building and internal alterations (fit-outs) of commercial / retail premises.</p> <p>The Department of Planning, Industry and Environment (DPIE) undertakes community consultation during preparation of such legislation, however does not require consultation to be undertaken for subsequent complying projects. Neighbours must be notified, there are no objection rights to a complying development proposal because it meets the minimum impact criteria. This requirement is determined by the State Government.</p> <p>Council encourages communication between complying development applicants and their neighbours and will continue to advocate for best practice community participation for all development proposals, particularly more significant complying development applications, such as alterations and / or additions to an educational facility.</p> <p>The Waverley CPP has been amended to provide further clarification on Council-led planning processes and decisions versus those external to Council.</p>
	<ul style="list-style-type: none"> p.24 – Local Dev Application - the definition of neighbouring properties is ambiguous. Keep it simple. E.g. 200m or 250m radius. Also, I am informed that visiting the Development desk is not much help as all that happens is they pass you the artefacts and do not discuss it. Not sure if that is the only service they are meant to provide. 	<p>Noted.</p> <p>Part 6 of the Waverley CPP, 'Advertising and notification requirements', outlines the process to determine the extent of notification and persons to be notified (refer to p. 34-35 of the Waverley CPP). The current approach provides flexibility and allows for any property / person where in the authorised Council Officer's opinion, may be detrimentally affected by a proposal, to be notified. This is often dependent on the type, scale and potential impacts of a proposal.</p> <p>All development documents are available in hard-copy at the Customer Service Centre and online via the Development Tracker. Following public</p>

		<p>notification, the community may contact the assessing Council Officer to discuss a proposal.</p> <p>During the exhibition period, formal submissions can be made to Council. Submissions made during this timeframe will be considered when determining an application. However, the community can make submissions to Council outside a formal notification period. Submissions received after the nominated timeframe will be considered where possible. Applications will not be determined prior to the expiry of the nominated notification period.</p>
	<ul style="list-style-type: none"> p.33 – Complying developments should still have a notification requirement. 	<p>Noted. Per State government requirements, neighbours must be notified of complying development applications, however, there are no objection rights because it meets the minimum impact criteria in the legislation. Council will continue to advocate for best practice for community participation, however cannot amend the consultation and notification requirements set by the State Government.</p>
	<ul style="list-style-type: none"> p.35 – In general Table 8 appears to have very little time for residents to be notified and have an opportunity to respond. A few examples: Single / small-scale residential and Multi-residential should be Type B as a minimum. New multi dwelling housing should be C. All commercial should be C. 	<p>Noted. Schedule 1 of the EP&A Act identifies a mandatory minimum 14 day exhibition period for applications for development consent (refer to Table 7, p.32 of the Waverley CPP). Council has three different public exhibition periods which meet the minimum 14 day requirement. These are applied to various applications depending on the proposed use / development (refer to Table 8, p.36 of the Waverley CPP).</p> <p>At this point in time, Council Officers are not recommending amendments to the minimum exhibition timeframes in the Waverley CPP. This is partially due to the requirements also being located (verbatim) within Part A2 of the Waverley Development Control Plan (WDCP) until such a time that the DPIE amend the Environmental Planning and Assessment Regulations 2000 (EP&A Regs) to remove the reference to notification requirements being located within a Council's DCP.</p> <p>As of 13 September, the DPIE are aiming to have amendments gazetted prior to 1 December 2019. The WDCP will therefore amended to repeal Part A2 in 2020.</p> <p>Amendments to the minimum exhibition timeframes will remain a matter for consideration for future amendments to the CPP, following repeal of Part A2 of the WDCP.</p>

<p>JOC Consulting on behalf of 23 Ebley Street, Bondi Junction</p> <p>Received by email 25/10/2019</p>	<ul style="list-style-type: none"> • Scaled notification and consideration - Our client would like the Waverley Development Assessment notification process to be scaled by proximity and risk as well as intensity of effects on nearby owners and occupiers. The extent of both notification and the weighted consideration of submissions should be explicitly dependent on the realistic extent of potential effects on an owner or occupier. • Our client would like to see an owner/occupier of an adjoining site be directly notified and their submissions given a greater weight than non-adjoining properties, and more again than those further a-field who are given a lower weight and not directly notified. This is best represented as a map in the CPP that clearly stipulates the extent of notification and consideration (see Canterbury Bankstown draft Community Participation Plan for an example of a notification map). • This amendment will provide property owners with consistency and certainty, and assist in avoiding situations where applications are notified in the same manner regardless of potential effects. Further this will also assist in avoiding situations in which submissions from those that are marginally affected are considered similarly to those of that are directly affected by a proposal. 	<p>Noted. The current advertising and notification process for development applications in the Waverley LGA (as set out in Part 6 of the CPP) requires Council to notify all persons who own or occupy land immediately adjoining the application site and others that (in the opinion of the Council officer) may be affected by the proposal.</p> <p>At this point in time, Council Officers are not recommending amendments to the advertising and notification process. As outlined above, this is partially to do with the requirements also being located (verbatim) within Part A2 of the WDCP. Amendments to the advertising and notification process will remain a matter for consideration and future amendments to the CPP, following repeal of Part A2 of the WDCP in 2020.</p>
	<ul style="list-style-type: none"> • Local experts as a resource for engagement - Our client would like to see a greater involvement of local built environment professionals/experts in the local planning system. For example, establishing a consultation panel consisting of local planners, architects, urban designers and other professionals that are used for design reviews of development applications to improve highly skilled community involvement in local decision making. 	<p>Noted. The Waverley Local Planning Panel (WLPP) is an independent panel made up of specialists from the disciplines of Architecture, Urban Design, Town planning, Heritage and Planning Law as well as elected community representatives. The WLPP determines significant development applications in the Waverley LGA (refer to p.20 of the Waverley CPP). Further, the Waverley Design Excellence Panel, provides a review role providing recommendations to the Council Officer during the assessment period. These panels allow for involvement of build environment professionals / experts in local planning matters.</p>

Internal submissions		
Development Assessment 26/09/2019	<ul style="list-style-type: none"> Clarification sought on the legal weighting / standing of the CPP. Development Assessment raised this with reference to the DA notification requirements – questioned whether they would hold the same weight being in the CPP as opposed to the DCP which is a matter for consideration under s4.15 etc. Notification requirements are often raised in Court. 	<p>Noted.</p> <p>Per Division 2.6, Clause 2.24(2) of the EP&A Act, a CPP will be considered valid if the plan has not been challenged in proceedings commenced in the Land and Environment Court (LEC) within 3 months of it being published on the NSW planning portal.</p> <p>The DPIE are currently preparing amendments to the EP&A Act and Regs to correct inconsistencies, including that development application notification requirements will no longer be in DCPs but rather CPPs. It is anticipated that once a CPP is considered to have been made validly under the EP&A Act, the CPP will hold the same weight as the current WDCP, with regard to the notification requirements. As of 13 September, DPIE were aiming for October Bill to have amendments gazetted prior to 1 December 2019. Council Officers intend to seek further clarification from the DPIE on this matter.</p>
	<ul style="list-style-type: none"> Clarification sought on the process for amending the CPP. Is it the same process as amending a DCP? 	<p>Noted.</p> <p>As of March 2019, it is understood that the DPIE is giving consideration to the creation of regulations to set requirements for reporting on implementation of CPPs. This may also include amendments to a CPP. Council Officers currently understand that the process for amending a CPP is the same if not similar to a development control plan. Council Officers intend to seek further clarification from the DPIE on this matter.</p>
	<ul style="list-style-type: none"> Consider making the Waverley CPP a 'Submissions policy' with regard to the Waverley Local Planning Panel. 	<p>Noted.</p> <p>The Waverley CPP has been amended to include a statement noting that the CPP also forms Council's approved 'Submissions Policy' as referenced under Council's Local Planning Panel delegations (refer to p.15 and p.20).</p>
	<ul style="list-style-type: none"> Preference to retain the Waverley CPP as a standalone document as opposed to appending it to the Waverley Community Engagement Policy and Strategy. 	<p>Noted.</p> <p>Refer to Council report for further discussion.</p>
Urban Planning, Policy and Strategy	<ul style="list-style-type: none"> Clarification on approach for repealing the Waverley DCP Part A2 Advertising and Notification. 	<p>Noted.</p> <p>Council Officers have not sought a concurrent amendment to Waverley DCP. Rather it is proposed to seek adoption of the Waverley CPP by</p>

06/09/2019	<ul style="list-style-type: none"> ○ Some Councils (e.g. Cumberland, Georges River, Bayside) have incorporated the CPP requirements in their main Community Engagement Plan, either including DCP notification requirements or referring to existing DCP. Assume when the Act changes, these Councils will then update their CEP and DCP to repeal and shift notification requirements across? ○ Other Councils (e.g. Canada Bay, City of Sydney) have prepared a standalone CPP with notification requirements and amending DCP concurrently. 	Council at the 5 November SPDC meeting and then amend the WDCP in 2020 following the proposed changes to the EP&A Regs by the DPIE.
	<ul style="list-style-type: none"> ● Clarification on timing and content of the EP&A Act and Regulations amendments by DPIE to reflect CPP taking effect post 1 December 2019. 	<p>Noted.</p> <p>The DPIE are working to amend the EP&A Act EP&A Regs to amend inconsistencies and provide requirements for reporting on CPPs. As of 13 September, DPIE were aiming for October Bill to have amendments gazetted prior to 1 December 2019. Council Officers intend to seek further clarification from the DPIE on this matter.</p>
<p>Peter Monks, Director, Planning, Environment & Regulatory Services Received by email 03/09/2019</p>	<ul style="list-style-type: none"> ● Clarification sought on the role of the WLPP and Councillors in determining development applications. 	<p>Noted.</p> <p>Per Division 4.2 clause 4.8 of EP&A Act - the functions of a council as a consent authority are not exercisable by the councillors. They are exercisable on behalf of the council by the local planning panel or by delegation. Per Division 2.5 clause 2.18 of the EP&A Act - Councillors are ineligible to be panel members.</p> <p>Further, per the 'Code of Conduct for Local Planning Members' approved by the Minister under clause 28 Schedule 2 of the EP&A Act -</p> <ul style="list-style-type: none"> ● panel members must disclose any lobby efforts by Councillors, property developers, real estate agents ● panel members must not approach a Councillor, or if approached by a Councillor must not discuss any application that is either before the panel or will come before the panel at some future time, except during a panel meeting where the application forms part of

		<p>the agenda and the Councillor has a right to be heard by the panel at the meeting [in the same manner as any commentator].</p> <p>Finally, per Part 4 of the 'Local Planning Panels Direction – Operational Procedures' as a Direction of the Minister under section 9.1 of EP&A Act - Panel members are not to discuss any matter to be considered (now or in the future) by the panel with Councillors, the applicant, consultants etc. outside of the panel meeting.</p> <p>The Waverley CPP has been amended to clearly outline the role of Councillors and the WLPP in decision making (refer to p.19).</p>
	<ul style="list-style-type: none"> Table 5 – clarification sought on when a development application is referred to the WLPP for determination. 	<p>Noted.</p> <p>A development application will be determined by the WLPP where there is a conflict of interest, contentious development, departure from development standards or sensitive development as defined by the Local Planning Panels Direction located at https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/local-planning-panels-direction-development.</p> <p>The Waverley CPP has been amended to reflect these requirements (refer to Table 5, p.20).</p>

REPORT
PD/5.2/19.11

Subject: Draft Waverley Development Control Plan 2012 -
Amendment - SEPP (Vegetation in Non-rural Areas) 2017

TRIM No: A19/0675

Author: Jaime Hogan, Senior Strategic Planner

Director: Peter Monks, Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council:

1. Exhibits the draft Waverley Development Control Plan 2012 attached to this report for a period of 28 days in accordance with section 3.43 of the *Environmental Planning and Assessment Act 1979* and clause 18 of the *Environmental Planning and Assessment Regulation 2000*.
2. Notes that the Waverley Tree Management Policy and the Waverley Tree Permit Application Form will be amended to reflect the Vegetation SEPP.

1. Executive Summary

As part of the Biodiversity Conservation reforms introduced by the NSW Government, *State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017* (Vegetation SEPP) now provides the statutory framework for Council to regulate clearing of vegetation and trees in Waverley. A draft amendment to Parts B3 Biodiversity and Landscaping, and B5 Tree Preservation of the Waverley Development Control Plan 2012 (WDCP) has been prepared to respond to these changes into the Waverley DCP 2012.

2. Introduction/Background

The Vegetation SEPP was introduced in 2017 and repealed clauses 5.9 *Preservation of trees or vegetation* and 5.9AA *Trees or vegetation not prescribed by development control plan* from the *Standard Instrument Local Environmental Plan* which previously set out how Council managed tree removal via the WDCP and the Waverley Tree Management Policy (WTMP).

The WDCP and WTMP are required to be amended to ensure clarity in how Council regulates and preserves vegetation (including trees) in the Waverley area on both private and public property. Attachment 1 of this report is the Draft amendment to the WDCP, which requires a longer process to be amended. The WDCP applies to private land only, and the Draft WDCP reflects this by adding some parts of the WTMP relevant to private land. The WTMP will be amended separately to reference the correct legislation and to reflect how Council regulates clearing on public land only.

3. Relevant Council Resolutions

Nil.

4. Discussion

The Draft WDCP amendment has adopted the definitions from the Vegetation SEPP as follows:

Vegetation – a tree or other vegetation, whether or not it is native vegetation.

Clearing – to cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or lop or otherwise remove a substantial part any vegetation.

The proposed draft has been internally consulted among relevant teams and has been reviewed by law firm Maddocks to ensure consistency with the Vegetation SEPP, due to the complexity of the changes. The WDCP is required to declare which land the Vegetation SEPP will apply to. The Draft WDCP proposes that the Vegetation SEPP be applied to:

1. Any vegetation on land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012.
2. Any vegetation on land identified as 'Biodiversity Habitat Corridor' in WDCP2012.
3. A tree identified on the Waverley Significant Tree Register.
4. A tree or vegetation that forms part of a Heritage Item or is within a Heritage Conservation Area.
5. Any tree with a height of five metres or greater and trunk width of 300 mm or greater at ground level.
6. Any tree with a canopy spread of five metres or greater and trunk width of 300 mm or greater at ground level.

In addition, the current Waverley Tree Permit Application Form will need to be updated to reflect the changes to the WDCP and WTMP when adopted. The new form should provide an application pathway for the clearing of vegetation that does not require development consent.

Development consent is required for the clearing of vegetation when:

1. Done in conjunction with development that requires consent under Part 4 of the EP&A Act.
2. Of a tree listed on the Waverley Significant Tree Register.
3. Of any vegetation that forms part of a Heritage Item or is within a Heritage Conservation area (refer to Clause 5.10(3) of WLEP2012).
4. Of vegetation that is an Aboriginal object or that is located in an Aboriginal place of heritage significance.

A permit for clearing vegetation is required when the proposed clearing applies to:

1. Native vegetation on land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012.
2. Vegetation larger than 500 m² on land identified as 'Biodiversity Habitat Corridor' in WDCP2012.
3. A tree with a height of five metres or greater and trunk width of 300 mm or greater at ground level.
4. A tree with a canopy spread of five metres or greater and trunk width of 300 mm or greater at ground level.

5. Financial impact statement/Time frame/Consultation

Time frame

Following adoption of the Draft WDCP, it is envisaged that public exhibition will be conducted in November/December 2019 for a minimum of 28 days. The outcome of the public exhibition is expected to be reported to Council at the earliest opportunity, which will likely be February 2020, with the amended WDCP 2012 expected to be adopted and in force by March 2020.

Relevant changes to the WTMP and the Waverley Tree Permit Application Form should be made and adopted during this time period.

Consultation

It is proposed to have the Draft WDCP and a summary of the proposed amendments placed on public exhibition for a period of 28 days in accordance with Section 3.43 of the *Environmental Planning and Assessment Act 1979* (EP&AA 1979) and clause 18 of the *Environmental Planning and Assessment Regulation 2000* (Regulation 2000).

Copies of the Draft WDCP will be made available at the Customer Service Office, Library and on Council's 'Have Your Say' website.

6. Conclusion

The Draft WDCP has been consulted on internally and has been reviewed by Maddocks to ensure consistency with the NSW Government Biodiversity Conservation legislation reform changes, including the Vegetation SEPP. The proposed changes are important and will ensure that Council can effectively regulate the clearing of vegetation in the Waverley LGA.

7. Attachments

1. Draft B3 and B5 for exhibition [↓](#)

B3 LANDSCAPING AND BIODIVERSITY

3.2 BIODIVERSITY

This Part aims to retain, protect and promote the recovery of remnant native vegetation and native flora and fauna, threatened species, populations, ecological communities and their habitats. The requirements for biodiversity provided for by this Part are to be considered in parallel with the Biodiversity Conservation Act 2016.

Waverley contains 5.9 hectares of remnant bushland, occurring as scattered pockets on cliff edges, in parklands, road reserves and within private property, providing habitat and food for native wildlife. Since European Settlement, Waverley has lost over 99% of its original vegetation. Due to their local significance, these remnants must be protected. These areas also contain the threatened plant species, Sunshine Wattle, and the threatened ecological community, Eastern Suburbs Banksia Scrub.

Areas of introduced native and non-native vegetation have also been recognised as providing important habitat for native wildlife. Habitat corridors link areas of remnant vegetation with recognised habitat areas.

Council acknowledges the intrinsic value of remnant vegetation or bushland, as well as the habitat and other environmental values of revegetated areas and the need to protect them from the degrading influences of surrounding development.

3.2.1 Remnant Vegetation

Within Waverley's remnant vegetation, the plant species Sunshine Wattle, *Acacia terminalis* subsp *terminalis*, and the ecological community, Eastern Suburbs Banksia Scrub (ESBS) are listed as threatened in the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, and in the NSW *Biodiversity Conservation Act 2016*.

The following objectives and controls relate to land identified in the Terrestrial Biodiversity Maps located within WLEP 2012 as remnant vegetation, or land adjoining remnant vegetation. Definitions are included at the end of this DCP.

Objectives

- (a) To retain, protect and enhance remnant native vegetation for local wildlife and benefits to the community.
- (b) To protect and promote the recovery of threatened species, populations, and endangered ecological communities.

Controls

- (a) A minimum of 90% of the proposed plantings (not including turfed areas) are to be indigenous or local native plants listed in *Annexure B2 - 1*.
- (b) All noxious weeds on the property at the time of development are to be removed by a suitably qualified person.

- (c) Trees with hollows are to be retained for habitat wherever possible to provide habitat for arboreal fauna. Consideration must be given to the potential risk of damage to public or private property as determined by a suitably qualified arborist.
- (d) Sites that are undeveloped should be protected to encourage regeneration from the seed bank. *Sunshine Wattle* has a persistent soil seed bank which may last for up to 50 years (DECCW, 2007:8).
- (e) Council may require additional supporting information for an application including the following:
 - (i) Vegetation management/protection plan; and
 - (ii) Flora or fauna impact assessment; and/or
 - (iii) An indication as to whether the proposed development is likely to significantly affect threatened species, populations, ecological communities or their habitat assessed in accordance with the *Biodiversity Conservation Act 2016*.
- (f) Remnant vegetation is to be protected ~~unless. However, the removal of remnant vegetation may be authorized under other legislation including:~~
 - (i) Trees and vegetation are removed/trimmed in accordance with the *Roads Act 1993*;
 - (ii) The work needs to be carried out by Council, the State Emergency Services, the Rural Fire Service of NSW, or a public authority in response to an emergency;
 - (iii) Works are carried out by State or Federal Government Departments or Authorities under current legislative requirements; or
 - (iv) The tree or vegetation is a recognised noxious weed (~~*Noxious Weeds Act 1993*~~*Biosecurity Act 2015*). The applicant must first seek advice from Council and Council must be notified in writing seven (7) days prior to the commencement of removal work.

3.2.2 Habitat Corridors and Recognised Habitat

Wildlife movement allows dispersal, interbreeding and recolonisation to occur, improving long-term viability of the species. Wildlife movement also facilitates pollen and seed dispersal, thus enhancing the viability of plant populations. Continuous Habitat Corridors are preferable, but discontinuous corridors still contribute to fauna movement and can potentially be improved through habitat enhancement.

This part refers to land identified in the 'Biodiversity Habitat Corridor' Layer on Council's mapping website.

Waverley Online Mapping Tool	
https://planning.waverley.nsw.gov.au/connect/analyst	
Map Configuration	Planning
Layer	Biodiversity Habitat Corridor

Definitions are included at the end of this DCP.

Objectives

- (a) To ensure development contributes to the landscape character of the area.

- (b) To enhance planted native vegetation and the ecological functions of habitat corridors.
- (c) To reconstruct habitat in non-vegetated areas of designated wildlife corridors that will as far as possible, represent the combination of plant species and vegetation structure of the original community.

Controls

- (a) A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in *Annexure B2-1*.
- (b) Any priority weeds as prescribed by the Biosecurity Act 2015 All noxious weeds on the property at the time of development are to be removed by a suitably qualified person.
- (c) Trees with hollows will be retained for habitat wherever possible to provide habitat for arboreal fauna. Consideration must be given to the potential risk of damage to public or property as determined by a suitably qualified arborist.
- (d) Council may require additional supporting information for an application including the following:
 - (i) Vegetation management/protection plan; and/or
 - (ii) Flora or fauna impact assessment; and/or
 - (iii) An indication as to whether the proposed development is likely to significantly affect threatened species, populations, ecological communities or their habitat assessed in accordance with the Biodiversity Conservation Act 2016.

~~3.2.3 Vegetation Requiring a Clearing Permit~~

~~State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP) regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016.~~

~~Controls~~

- ~~(a) In accordance with Part 3 of the Vegetation SEPP, a permit is required from Council to clear any vegetation in an area identified:

 - ~~(i) as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012; and/or~~
 - ~~(ii) as 'Biodiversity Habitat Corridor' in WDCP2012.~~~~

B5 VEGETATION~~TREE~~ PRESERVATION

Trees are an integral component of the urban environment. They provide habitat for animals, create a distinctive character for an area, visually soften the built environment and improve the natural environment through improved water infiltration, soil stability and air quality.

This part ~~is to be read in conjunction~~ has been developed in accordance with State Environmental Planning Policy (Vegetation *in Non-Rural Areas*) 2017 (Vegetation SEPP) which outlines additional provisions relating to the protection and preservation of trees and vegetation. The terms 'vegetation' and 'clear' have specific meanings under the Vegetation SEPP. This Part adopts the definitions as outlined in the Vegetation SEPP.

Clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process and may require further assessment and approval under the *Biodiversity Conservation Act 2016*.

This Part of the DCP regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the *Biodiversity Conservation Act 2016*, and specifies the species, kinds and size of trees protected from damage or removal in the Waverley local government area and for which Council may issue a Vegetation Clearing Permit.

For the purposes of Part 3 of the Vegetation SEPP, the following vegetation is declared to be vegetation to which the Vegetation SEPP applies:

- (i) Any vegetation on Land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012; or
- (ii) Any vegetation on Land identified as 'Biodiversity Habitat Corridor' in WDCP2012; or
- (iii) A tree identified on the Waverley Significant Tree Register; or
- (iv) A tree or vegetation that forms part of a Heritage Item or is within a Heritage Conservation Area;
- (v) Any tree with a height of five metres or greater and trunk width of 300mm or greater at ground level; or
- (vi) Any tree with a canopy spread of five metres or greater and trunk width of 300mm or greater at ground level.

In addition to this Part of the DCP, ~~the~~ the Waverley Tree Management Policy (WTMP) also outlines ~~the~~ requirements for all tree and vegetation related activity. Please refer to the WTMP for additional information relating to the protection of trees, ~~and the requirements for applicants.~~

The objectives and controls in this section apply to trees and vegetation on all land. In the first instance, ~~refer to the WTMP for the relevant requirements. Where there is any inconsistency between the WTMP and this DCP, the WTMP prevails.~~

5.1 GENERAL PROVISIONS

Objectives

- (a) To ensure the conservation of trees of ecological, environmental, heritage and aesthetic significance.
- (b) To ensure development does not impact on the health of a tree on the site or adjoining properties or street trees.
- (c) To ensure all works to trees are conducted in accordance with the relevant Australian Standards.
- (d) To increase the level of canopy cover by minimising the loss of vegetation and trees.

5.1.1 Exempt Vegetation

The trees listed in the table below are exempt and do not require a Vegetation Clearing Permit for removal. However, Council must be notified a minimum of seven days prior to removing any such trees.

<u>Botanic Name</u>	<u>Common Name</u>
<u><i>Celtis sinensis</i></u>	<u>Hackberry</u>
<u><i>Citrus spp</i></u>	<u>Citrus</u>
<u><i>Ligustrum sinense</i></u>	<u>Narrow leaved Privet</u>
<u><i>Ligustrum lucidum</i></u>	<u>Broad leaved Privet</u>
<u><i>Nerium oleander</i></u>	<u>Oleander</u>
<u><i>Olea Africana</i></u>	<u>Wild or African Olive</u>
<u><i>Salix spp</i></u>	<u>Willows</u>
<u><i>Syagrus romanzoffianum</i></u>	<u>Cocos Parlman</u>
<u><i>Toxicodendron spp</i></u>	<u>Rhus Tree</u>

Despite any other provisions in this DCP, clearing of vegetation is exempt from the requirement to obtain a Vegetation Clearing Permit in the following circumstances:

- (i) Pruning of a hedge by no more than 20 per cent of its height or width in any 12 month period;
- (ii) Removal of dead branches, palm fronds or palm fruit;
- (iii) Pruning of branches from electricity wires as required by the *Electricity Supply Act 1995*;
- (iv) If Council is satisfied that there is a risk to human life or property, e.g. in response to severe storm damage or sudden branch failure. Evidence of the tree's condition (e.g. arborist or SES report) must be produced at Council's request. Replacement native trees must be planted if tree/s are removed;
- (v) Works carried out by state or federal government departments or authorities under current legislative requirement; or
- (vi) If Council is satisfied that the vegetation is dying or dead and is not required as the habitat of native animals.

5.1.12 When consent is required Vegetation Clearing Requiring a Permit

A Vegetation Clearing Permit is required to clear:

- (i) Native vegetation on land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012; or
- (ii) Vegetation larger than 500m² on land identified as 'Biodiversity Habitat Corridor' in WDCP2012; or
- (iii) A tree with a height of five metres or greater and trunk width of 300mm or greater at ground level; or
- (iv) A tree with a canopy spread of five metres or greater and trunk width of 300mm or greater at ground level.

Note: Development consent (via a Development Application) is required for clearing:

- (i) Done in conjunction with development that requires consent under Part 4 of the EP&A Act;
- (ii) Of a tree listed on the Waverley Significant Tree Register;
- (iii) Of any vegetation that forms part of a Heritage Item or is within a Heritage Conservation area (refer to Clause 5.10(3) of WLEP2012);
- (iv) Of vegetation that is an Aboriginal object or that is located in an Aboriginal place of heritage significance.

Where a development has any potential impact on existing trees an arborist report must be submitted.

Tree Assessment

When an application for consent, or a Vegetation Clearing Permit is made, one of Council's qualified arborists will inspect any tree/s to be cleared and undertake a Visual Tree Assessment (VTA). This is a widely accepted arboricultural assessment based on the current health, condition and structure of the tree. Additional criteria are also taken into consideration including:

- the environmental, cultural and amenity value of the tree;
- the effect on the health of the tree from pruning;
- whether the tree shows poor form and shape/vigour typical of the species;
- its location within 3 metres of a residence, main building or other significant structure;
- the occurrence (or lack of) other vegetation nearby and whether appropriate replacement species can be planted;
- whether the tree is the identified cause of structural damage to a building, ancillary structure, water main or sewer and if all alternative options of remedying the damage have been considered.

After assessment, the application will either be:

- a. approved; or approved with conditions
- b. pending; awaiting further information or supporting evidence from the applicant
- c. refused; or refused with conditions.

Any application for a Vegetation Clearing Permit should be accompanied with supporting information/evidence such as documented and photographic history of branch failures, the weather conditions at the time of the branch failure; sewer blockages etc.

Presenting this evidence with the initial application can be helpful as it will provide a more complete history of the tree. If no evidence is presented it may result in the refusal of the application.

Tree Replacement

To maintain urban tree canopy cover, when a Vegetation Clearing Permit is granted to clear vegetation, the applicant may be required to replace the vegetation with an advanced approved species which is to be established on their property and maintained to maturity. Where there is insufficient space for replanting advanced vegetation the applicant may provide offset planting on public land. This may be undertaken by entering into a deed of agreement with Council. Audit checks of replacement planting will be carried out by Council.

Arborist and Other Specialist Reports

Supporting evidence for the removal or pruning of a tree/s may require a report from a consulting arborist (AQF Level 5) where there is insufficient evidence to support the removal of a tree as assessed against the above criteria. Council may request the applicant provide an arborist's report for more complex tree assessments such as an aerial inspection; root mapping or identification; fungal or pest problems; or internal diagnostic assessment.

Further supporting evidence may also be required from a structural engineer or licensed plumber if buildings or underground services are affected. Details of requirements for arborist and other specialist reports are listed in the appendices of the WTMP.

Controls

- ~~(a) — Where a development has any potential impact on existing trees an arborist report must be submitted.~~
- ~~(b) — Consent is required to do work on any part of a tree above or below ground. This applies to any tree:

 - ~~(i) — With a height of five metres or greater and trunk width of 300mm or greater at ground level; or~~
 - ~~(ii) — With a canopy spread of five metres or greater and trunk width of 300mm or greater at ground level; or~~
 - ~~(iii) — Listed on the Waverley Register of Significant Trees; or identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012; or~~
 - ~~(iv) — Identified as 'Biodiversity Habitat Corridor' in WDCP2012.~~~~
- ~~(c) — An applicant may be able to apply for a complying development certificate if the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 are satisfied.~~
- ~~(d) — If the tree or other vegetation is, or forms part of a Heritage Item or is within a Heritage Conservation Area, then development consent is required. (Refer to Clauses 5.10(3) of WLEP 2012).~~
- ~~(e) — Any person who contravenes, or causes to be contravened, the provisions of Part B5 Tree Preservation shall be guilty of an offence. In any proceedings under this~~

~~plan, it shall be sufficient defence to prove that the tree or trees and vegetation were dying or dead or had become dangerous.~~

5.1.2 Trees considered to pose an imminent danger

- (a) Except for specified emergency situations, expert advice should always be obtained with respect to hazardous trees to confirm their condition.
- (b) Where a hazardous tree is removed (in an emergency situation) due to obvious instability or hazard (e.g. following a storm), Council's Rangers must be notified prior to removal. It is recommended that evidence of the tree's condition be retained for a period of at least six (6) months after the event and produced at Council's request if needed. Such evidence might include a:
 - (i) Report by a consulting arborist including photographs; and/or
 - (ii) Written statement from the State Emergency Services, if the Service carried out the emergency work at the owner's request.
- (c) If trees are removed for the above reasons it is a requirement to plant replacement trees of a suitable native species to maintain canopy cover in Waverley.

5.2 PROTECTING TREES ON DEVELOPMENT SITES

Damage to trees on development sites is often caused because of a failure to appreciate their vulnerability, particularly the root system which can decline in health over several seasons following detrimental alterations to the soil environment. It is necessary that development takes into consideration trees both on the site and those on adjoining sites including street trees.

Objectives

- (a) To ensure development does not impact on the health of a tree on the site or adjoining properties or street trees in accordance with *Australian Standard – AS 4970 – 2009 - Protection of Trees on Development Sites*.

Controls

- (a) When a proposed development may have an impact on trees on the site, on adjoining properties or public trees within 4 metres of the site, the following information is required at these stages:
 - (i) Pre Development Application.
 - Preliminary Tree Assessment.
 - (ii) Lodgement of Development Application.
 - Arboricultural Impact Assessment (include data if previous preliminary tree assessment submitted);
 - Tree Protection Plan – for trees identified as moderate to high retention; and
 - Root mapping report if construction works will occur in structural root zone (SRZ) or there is major encroachment in the tree protection zone (TPZ) of trees to be retained.
 - (iii) Prior to Construction Certificate.
 - Final Tree Protection Plan (if modifications are required);
 - Tree Protection Certification during works.
 - (i) Prior to Occupation Certificate.
 - Tree Monitoring Report / Final Tree Protection Certification.
- (b) Details of requirements of the above reports are listed in the Waverley Tree Management Policy appendices. Development ~~proposals~~ applications must show all associated building works (including stormwater, hydraulic and sewerage works) located within any tree protection zone.
- (c) Selective pruning or removal of trees that conflict with proposed building works may be approved where redesign of the building work is not possible or will result in inferior building performance. However, Council may require the redesign of a development proposal to retain or lessen the impact on a significant or prominent tree.

5.32.1 PENALTIES

Any ~~works-clearing of vegetation~~ carried out without ~~approval~~ a Vegetation Clearing Permit, not in accordance with ~~an approval~~ a development consent, or that is not exempt will be dealt with in accordance with the relevant legislation. This may result in a Penalty Infringement Notice or legal action through either the Local Court or the Land and Environment Court against all parties involved in any breach of the WLEP, the Vegetation SEPP, or any conditions of ~~approval~~ consent.

Where a person is guilty of an offence involving the destruction of, injure or damage to ~~a tree~~ ~~or~~ vegetation, the court dealing with the offence may, in addition to or in substitution for any pecuniary penalty imposed or liable to be imposed, direct that person to:

- (a) Repair or remedially prune damaged trees;
- (b) Plant new trees and vegetation and maintain those trees and vegetation to a mature growth/or minimum height of five (5) metres; and
- (c) Provide security for the performance of any obligation imposed under paragraph (a) & (b) above.

Note: *injure a tree means but is not limited to:* poisoning; spilling or washing off toxic chemicals; applying herbicides to a tree or within its Tree Protection Zone; damage to tree roots from stockpiling materials, soil compaction, filling, excavation or altering soil levels within its Tree Protection Zone; wounding to tree trunks or the breaking or tearing of roots or branches; wounding to trunks or branches from fixing objects using nails, wires, staples or similar fastening materials e.g. attaching signs, swings, platforms or cubby houses.

REPORT
PD/5.3/19.11

Subject: 40 km/h Speed Limit Changes

TRIM No: A18/0579

Author: Amanda Tipping, Project Manager, Major Projects

Director: Emily Scott, Director, Community, Assets and Operations

RECOMMENDATION:

That Council:

1. Exhibits the concept designs for the 40 km/h Speed Limit Change Project 'Zone 1' attached to this report for a period of 28 days.
2. Notes that, following the public exhibition period, a further report will be prepared for the Traffic Committee summarising the consultation process, key feedback and recommending revision to concept design, as necessary.

1. Executive Summary

The purpose of this report is to seek Council's approval to publicly exhibit, for a 28 day period, the 40 km/h Waverley Speed Limit Change Project 'Zone 1' concept designs.

Council received funding from Roads and Maritime Services for the construction of traffic calming devices to facilitate a 40 km/h zone within the Waverley local government area (LGA). This report covers Zone 1 which is the area south of Bondi Road.

This report will provide Council with a progress update for this grant funded project including the:

- Speed Review Report, Zone 1, carried out by Bitzios Consulting Pty Ltd.
- Concept designs for traffic calming treatments for community consultation provided by Bitzios Consulting Pty Ltd. The concept designs have been developed based on the outputs from the Speed Review Report and reviewed by key internal stakeholders.

2. Introduction/Background

The preparation of Waverley's People Movement and Places (WPMP) included significant Community Consultation that found that an overwhelming proportion of residents wanted cars to travel slower in their neighbourhoods. From this community feedback the proposal to implement a Waverley-wide 40 km/h speed limit was developed as a signature project within Waverley's People Movement and Places, this signature project was adopted by Council in 2017 as part of the adoption of WPMP.

The default urban speed limit in Australia is 50 km/h. This is a blanket default across all major cities and all parts of these cities regardless of their street patterns, street widths or population density. In contrast to more recently developed areas such as Sydney's west, Waverley has a street pattern that was developed for trams, horses and walking rather than motorised transport. This, in combination with our relatively high

population density, means that the character of our neighbourhoods is more compact with more people walking, catching buses and riding bicycles than newer parts of Sydney.

All road speeds are assigned by the RMS, and this process does not require the approval of Council. As such, the default 50 km/h is applied without detailed assessment unless there is specific input from Councils.

In an effort to achieve Vision Zero, with zero road fatalities and minimal serious injuries, Council is aiming to reduce speeds across the LGA by introducing a contiguous 40 km/h speed limit. This speed limit aims to increase road safety and to improve the road environment for other road users.

The introduction of a 50 km/h default urban speed limit within Australia resulted in a 23% reduction in casualty crashes and public support for speed changes significantly increased after the introduction of the lower speed limit. The widespread introduction of 40 km/h School Speed Zones resulted in a further 24% reduction in pedestrian and bicycle crashes outside schools.

A 40 km/h reduced speed limit within the LGA may provide many benefits. Local factors that support the reduction in speed limits within the LGA include:

- The large number of high pedestrian activity areas around village centres and schools (eight secondary schools and eight primary schools within nine square kilometres).
- Narrow streets with steep grades in many locations.
- Growth in SUV registrations by 7% per annum. SUVs and trucks currently make up 32% of registered vehicles in the LGA.
- The proportion of vulnerable age cohorts, particularly children and seniors, is projected to grow significantly in the future. These age cohorts require safe access to schools, services and healthcare.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Council 12 December 2017	CM/7.11/17.12	<p>That Council:</p> <ol style="list-style-type: none"> Adopts 'Waverley's People, Movement and Places: a study of where we go and how we get there – Final Summary 2017' attached to this report. Notes the documents have been amended to reflect Council's resolution on 21 November 2017 that the light rail is not supported as a public transport option for the Bondi Road Corridor. Notes that the next stages are to develop business cases and feasibilities for the signature projects and implementation actions. Places on Council's website the following final documents: (1) Final Summary, (2) Strategy Report by Bitzios, (3) Key Issues Paper by Bitzios, and (4) Feedback on Draft Report. Notes that the Waverley Strategic Transport Working Group has been established between Council staff and relevant state government agencies (TfNSW, RMS and

		GSC) to progress projects which require partnership with state government.
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4. Discussion

In 2018, with 50% funding from RMS, Council conducted an assessment of travel speeds and the impact of applying a 40 km/h speed to all roads (except arterials) south of Bondi Road. The report is included at Attachment 1.

Some of the key findings from the report are:

- Key roads in the study area such as Bondi Road, Bronte Road, Carrington Road and Oxford Street showed high casualty crash rates.
- Many of the streets within the study area show casualty crash rates (expressed in casualties per year per km) higher than benchmark casualty rates for urban roads with a 50 km/h speed limit.
- Speed surveys also show many local streets already exhibit a slow speed environment and are suitable for application without further treatment. However, 85th percentile speeds of some local streets indicate vehicles travelling at the current posted speed of 50 km/h and would require further traffic calming measures to enable a self-enforcing 40 km/h speed zone.

The report identified specific roads that require treatments to ensure self-enforcing speeds along with the proposed treatments. The report was presented to the RMS, and subsequently \$1 million (over two financial years) was committed by the RMS Centre for Road Safety to Council for the provision of road treatments to support the change in road speed.

The impact of the change to 40 km/h will have a negligible impact upon travel times as they amount to an increase of approximately 15%. For example, a journey from Bronte Beach to Carrington Rd (an arterial road) that is 1.85 km would take 2:46 minutes, while at 50 km/h the same journey would take 2:13mins (note both of these calculations assume not stopping at intersections or traffic lights).

The benefits of the reduction in speed to 40 km/h include the significant road safety and injury reduction benefits however there are a range of additional benefits that include:

- Generally calmer traffic resulting in a calmer urban environment.
- Increasing the willingness of more people to take short trips by walking or riding a bike as a result of a safer and calmer road environment. More people choosing to get around our neighbourhoods without a car means less traffic congestion and less parking stress. This directly supports targets for improved travel options and accessibility in our Community Strategic Plan.
- 10 km/h shared zones in laneways is supported by 40 km/h speed limit as RMS only allows 40 km/h to 10 km/h not 50 to 10 km/h, this provides the potential to apply for a default 10 km/h for all the laneways south of Bondi Road.

Bondi Road and Carrington Road have been excluded from the scope of this study.

The traffic study reviews existing road conditions, including speed and traffic data. Subsequent recommendations to install new traffic calming devices to self-enforce a 40 km/h area have been created and concept designs provided. These are included at Attachment 2.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

Council has received commitment for construction of \$1 million over two financial years from the Roads and Maritime Services, NSW Safe Speeds in High Pedestrian Activity and Local Area program. The first \$500,000, must be spent or committed by 30 June 2020 and the remaining \$500,000 fully acquitted by 30 June 2021.

Consultation methodology

Community consultation will take place for 28 days during the months of November 2019 and December 2019. This is the first stage of consultation and key activities are outlined below:

Stage 1 – November to December 2019

- Notification email to all identified stakeholders, including but not limited to; Councillors, Precinct Committees, RMS, TfNSW, Sydney Buses, Ministers, Randwick Council, Woollahra Council, City of Sydney Council, Council staff.
- Notifications to community via letterbox drop.
- Phone calls and suite of marketing materials sent to intermediaries; for example, cycling clubs, Council outdoor staff, schools.
- Have Your Say page with a map where community members can identify traffic calming devices for comment.
- A range of Have Your Say stalls/days.
- Meetings with all the precincts within the zone: Bondi Junction, Waverley, South Bondi, Bronte, Bronte Beach, Charing Cross, Queens Park
- Social media campaign.
- Suitable advertising.
- Workshops/conversations as required with specific groups to see if there is a middle ground/option for traffic calming

Stage 2 – Ongoing

- Continuous Community and stakeholder updates, continuity of above activities.
- Notifications to community pre construction works via letterbox drop and council's communication channels.

Proposed Time frame (subject to decision making)

Activity	Timeframe
Community Consultation	November–Dec 2019
Traffic Committee & Council Meeting	February–March 2020
Detailed Design	March–April 2020
Traffic Committee & Council Meeting	May–June 2020
Procurement for Construction	June – July 2020
Council Meeting	July 2020
Construction	August–September 2020

6. Conclusion

It is recommended that Council exhibits the concept designs for the 40 km/h Waverley Speed Limit Change Project 'Zone 1' attached to this report for a period of 28 days.

Following community consultation, officers will proceed to Traffic Committee for approval of the concept designs, followed by detailed design of the project, refining the design to the level required for procurement and construction.

7. Attachments

1. 40kmh Zone 1 Speed Review (under separate cover) [⇒](#)
2. Consultation Concept Plans (under separate cover) [⇒](#)

REPORT
PD/5.4/19.11

Subject: Campbell Parade Shade Structures

TRIM No: A19/0169

Author: Hugh Johnston, Urban Designer

Director: Peter Monks, Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council:

1. Notes the results of the stakeholder engagement process.
2. Grants written consent to the developer to investigate temporary modifications to the current design to address some of the issues raised during the stakeholder engagement.
3. Investigates long-term modifications to the design for the future implementation, operation and maintenance of the shade structures.
4. Incorporates the shade structures into the development of the concept design for the Campbell Parade Streetscape Upgrade between Francis Street and Beach Road.

1. Executive Summary

The Campbell Parade shade structures were installed by the developer of Bondi Pacific at the beginning of 2018 as a pilot program. The shade structures were designed in collaboration with Council staff and were installed at no cost to council. Businesses have been utilising the corresponding areas to operate outdoor dining facilities for the past 20 months. As part of the pilot program, an assessment and engagement process has been undertaken to determine the suitability of the shade structures for the rest of Campbell Parade.

This report outlines the process and findings of the stakeholder engagement that was undertaken as part of the pilot project by Micromex, an external engagement consultant. The stakeholders engaged included the development team, businesses currently operating under the shade structures, other businesses along Campbell Parade (specifically food and dining premises between Lamrock Avenue and Beach Road), precinct committees, local residents, and the general public.

This stakeholder engagement along with consultation with Council staff has informed a range of short-term ideas and long-term modifications to the current design to ensure a consistent visual design for Campbell Parade that is unique to Bondi, open and light while maintaining views to the beach that contributes to an interesting and active streetscape.

2. Introduction/Background

The Campbell Parade Design Review originated in a request from Council in September 2014 to review the footpath restaurant seating arrangements on Campbell Parade (MM.15/14).

In November 2014, a Councillor workshop was held to discuss key issues with Campbell Parade and to develop the scope of the review. It was also agreed that Council would work collaboratively with the developers of Bondi Pacific to trial a new design of footpath seating which, if successful pending an internal assessment process, could potentially be implemented in key locations along Campbell Parade between Francis Street and Beach Road.

In May 2015, Council approved a three-year Pilot Project for new footpath seating and shade structures in front of Bondi Pacific. The approval was subject to a number of conditions including consultation with immediate businesses, an economic assessment and for detailed matters of the application to be determined under delegation.

In June 2015, consultation was undertaken with businesses on Campbell Parade eligible for footpath seating (i.e. food-based businesses), as well as the Bondi Beach and North Bondi Precinct Committees. At these meetings, the streetscape analysis and proposed footpath seating Pilot Project were presented, with a high level of support received. In August 2015, the economic considerations of the Pilot Project, including a discounted lease rate, were approved by Council.

In June 2017, modifications to the agreement between the developers and Council were made. This involved including the southern extent of footpath in the dining area of the Pilot Project and extending the trial period for an additional year to a total of 4 years.

The shade structures were installed in December 2017, and businesses began operating from January 2018. Since then, multiple businesses have been operating their respective outdoor dining areas under the shade structures for the past 18 months.

Council has not committed to building the same shade structures elsewhere along Campbell Parade. The purpose of the Pilot Project is to test the design and gain feedback from businesses, the community and Council officers on the design, delivery, user experience and management/leasing possibilities of the design. Following the assessment of the Pilot Project, the design may be approved, modified or completely rejected.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Council 20 June 2017	CM/7.6/17.06	<p>That Council:</p> <ol style="list-style-type: none"> 1. Revokes resolutions 1 and 4 from CM/7.2/15.08 of its meeting held on 18 August 2015 concerning the Bondi Pacific Pilot Project for outdoor dining at Campbell Parade relating to the waiving of footpath dining fees for a three year period, and which prevented the southern footpath dining area from being used or associated with any proposed hotel licensed premises within the adjacent Pacific Bondi development. 2. Endorses the Bondi Pacific footpath seating Pilot Project operating for a four-year period with footpath seating fees being waived for the duration of this period. 3. Supports, in principle, the use of the southern footpath dining area being constructed and used by the operator of the adjacent licensed hotel premises, subject to:

		<ul style="list-style-type: none"> (a) The assessment and determination of the outdoor dining development application for construction and use of the southern outdoor dining location. (b) Any approval for this location, being restricted to the nominated hotel operator and the style of premises and management of the operation as detailed by the applicant and detailed in this report. (c) The range of management and risk mitigation outlined by the applicant being enforced as conditions of consent and included in the approved Plan of Management for the Pilot Project.
Council 18 August 2015	CM/7.2/15.08	<p>That Council:</p> <ul style="list-style-type: none"> 1. Agrees to waive the "Footpath Seating" fee as outlined in Council's Pricing Policy Fees & Charges 2015/2016 up to a maximum of 40% of the total construction costs of the outdoor dining area or a maximum of \$408,000 in foregone outdoor dining licence revenue for the three year period of the Pilot Program for the footpath dining area adjacent to the Pacific Bondi development on Campbell Parade, Bondi Beach with the balance of the cost to be borne by the developers of the Pacific Bondi project. 2. Notes that the applicant has indicated that the tenancy with Pacific Bondi development on the ground floor on the corner of Campbell Parade and Curlewis Street will be the subject of a hotel liquor license although no tenant has yet been signed for this tenancy nor a development application for this tenancy yet submitted. 1. Notes that the development applications for the remainder of the ground floor tenancies in the Pacific Bondi development have been lodged and consist of a range of restaurant, café and retail tenancies. 4. Resolves that the proposed footpath seating area adjacent to the Pacific Bondi development shall not be used by or associated with any "hotel" licensed premises within the Pacific Bondi development and the assessment of the current application for formal approval of the Pilot Project three year trial under Section 125 and Section 138 of the Roads Act shall not be approved until the applicant has received a development application approval for the corner site tenancy demonstrating that the footpath seating is to

		be set up and managed in such a way that will ensure the outdoor dining area is used exclusively for dining purposes only by approved Pacific Bondi restaurant or café tenancies.
Council 16 September 2014	MM.15/14	<p>That Council:</p> <ol style="list-style-type: none"> 1. Officers conduct a workshop with Councillors to consider: <ol style="list-style-type: none"> a) A brief for the engagement of consultants to review the Footpath Seating provisions in the DCP relating to Campbell Parade. The brief might address: <ol style="list-style-type: none"> i. Allowances for inviting interest and/or a competitive process for architects to be involved in the design of the areas; ii. A review of shopfronts usage of outdoor seating; iii. A review of existing public art installations and opportunities for renewed and/or additional public art; iv. A review of the designated areas; v. Recommendations for amendments to clauses of the DCP, if required; and vi. A community engagement strategy. b) An analysis of the existing income generated by the lease arrangements associated with the existing footpath seating areas and projected future income from adjusted footpath seating areas. The analysis is to include the change of land usage along Campbell Parade. 2. Requests the Waverley Traffic Committee to investigate the area immediately adjacent to the Pacific Development at 180 Campbell Parade that is currently signposted as 'No Stopping, Buses/Coaches excluded' to be converted to allow for paid parking consistent with the adjoining spaces to the south.

4. Discussion

Stakeholder engagement overview

Micromex, an external engagement consultant, was engaged by Council to undertake the stakeholder engagement process. Along with Council staff, Micromex undertook a process to assess reactions to the design, delivery, user experience and management/leasing possibilities of the new shade structures installed outside of Bondi Pacific.

The stakeholder engagement process consisted of four stages:

- Stage 1 - telephone in-depth interviews with the nine 'immediate' stakeholders of the shade structures. This included the businesses currently operating under the shade structures and the project team that delivered the project.
- Stage 2 - a workshop at the Bondi Pavilion was conducted with local businesses from Campbell Parade. Cafes, restaurants and food outlets between Lamrock Avenue and Beach Road were invited to attend the workshop.
- Stage 3 - intercept surveys were conducted at two locations from 10-19 May.
- Stage 4 - a 'Have Your Say' survey. The survey was programmed and hosted by Micromex but promoted by Council through social media. (The intercept surveys and online questionnaire were virtually identical).

Below is a summary of the findings from stakeholder engagement.

Stage 1: 'Immediate' stakeholder telephone in-depth interviews

- There was general agreement that the aesthetics of the shade structures suited the coastal setting and contributed positively to the buildings and public domain.
- There was consensus between the developers and the operators that wind and rain resistance was needed to ensure year-round use.
- Technical issues regarding a lack of drainage on the building side along with faulty heating and lighting were raised.
- Operational issues regarding daily packing of outdoor furniture were raised.
- Maintenance issues regarding the appearance of grime and dirt on the structures and sails due to the colour and finish of the shade structures were also raised.

Stage 2: Stakeholder workshop

Overall look and feel:

- In general, the stakeholder group liked the 'overall look and feel' of the shade structures and agreed that it complemented the coastal character of Bondi Beach.
- Suggested improvements included changing the colour to reduce maintenance and the appearance of dirt and grime.

Practicality:

- The lack of protection from the elements was the biggest issue raised regarding the practical features of the shade structures.
- The lack of adaptability and flexibility of the space is also seen as a constraint. Suggestions included portable/demountable structures and greater ability to personalise the space.
- Issues regarding point of sale, heaters and lighting were raised.

User experience:

- The lack of protection from the elements was the biggest issue raised in regards to the customer comfort under the shade structures.
- Suggested improvements included the need for weatherproofing whilst retaining openness and avoiding closing the space in.

Cleaning/maintenance:

- A proper cleaning and maintenance schedule is required to ensure all the parts of the shade structures are clean. An agreement between the businesses and the Council should be devised to ensure a mutual understanding.

- As mentioned previously, changes to the colour of the sails and structures is recommended to ensure it is 'Bondi-proof'

Funding/leasing options:

- Businesses were in favour of Council funding and installing the shade structures, then Council leasing the space to businesses to cover the costs. An understanding of the construction and delivery costs is required to inform the future fees and charges of the shade structures.
- There was a suggestion of seasonal charging to accommodate the reduced patron numbers in inclement and colder weather. Some businesses said that this would not factor into their economic modelling.
- There was the suggestion of areas of temporary activation and different offerings when the shade structures are not in use.

Other Suggestions/comments:

- Most stakeholders expressed a desire to customise the area to tailor the space to their specific needs to create a personalised atmosphere related to the business.
- Issues regarding connection to utilities was raised as there are no lot numbers for the street. This issue is complex and is best resolved through the Campbell Parade Streetscape Upgrade which is currently underway.

Stage 3-4: Intercept surveys and Have Your Say

- Across both surveys, the new shade structures generated the most favourable rating. This was due to the modern, visual appeal of the structures along with their open, clean and spacious appearance.
- Respondents had similar, negative opinions of the other shade structures shown (these were the shade structures outside Lamrock café and Bavarian Bier café). This was due to their age, amount of clutter and general unattractive appearance. The Bavarian Beer café was perceived as enclosed and protected which was considered both appealing and unappealing by respondents.
- Respondents were more inclined to support social activities such as public seating as opposed to marketing/retail uses such as market stalls and buskers.
- Overall, respondents found the new shade structures an appealing place to have a meal and drink. Those who have dined there previously rated the dining area significantly higher. There was general consensus that the shade structures suited the setting of Campbell Parade and Bondi Beach.

Key findings

Technical design

- Resolution of technical issues regarding lighting, heating, power and point of sale to ensure the shade structures are safe, efficient and fit for purpose.
- Investigate the ability to demount the structures when a business is not utilising them for an extended period of time.
- Allow a level of adaptability and flexibility. There are different conditions (climate, orientation, wind exposure) along the length of Campbell Parade so a 'one-size-fits-all' approach is not advisable. The challenge is finding a balance between feeling outdoors and protection from the elements.
- That connection of the shade structures to utilities and the allocation and metering to other parts of Campbell Parade be considered as part of the Campbell Parade Streetscape Upgrade.

Business custodianship

- Allow a greater level of individuality - permit businesses to personalise the surrounding areas. Different businesses have different needs and identities. For example, glass panels may not be compulsory.

Maintenance and cleaning

- Develop a maintenance schedule/agreement to ensure the areas and structures are well maintained. Consider changing the colour of the structure and sails to an off-white to reduce cleaning and maintenance.

Implications for future implementation of shade structures

From the stakeholder engagement, it is clear that the current shade structures are a welcome addition to Campbell Parade that achieve many of the initial design principles outlined in the Campbell Parade Design Review and should be installed as part of the wider Campbell Parade Streetscape Upgrade. However, it is also clear from the engagement process that some refinement and modifications of the current design are needed to ensure the future usability and viability of the shade structures. One of the key challenges as outlined in the engagement report is the need to strike a balance between feeling 'outdoors' and providing protection from the elements.

The Bondi Pacific development team have provided three sketch designs (refer to Attachment 1) that they wish to investigate further from a structural and economic point. The intent is to test one of these temporary measures at the corner of Curlewis Street and Campbell Parade to provide protection from the elements. Pending written consent from Council as per the Terms of Agreement, modifications and alterations to the structure are permitted. This provides the opportunity for Council to conduct further tests during the pilot project to help inform long term modifications to the design. It is recommended that a condition of the written consent should ensure a high quality of material and finish for any additions to the shade structures. A baseline level of data should be gathered to understand the impacts that the additions have on the usability of the space as well as a visual impact assessment to understand the level to which the space is enclosed, and views obstructed. The modifications should be implemented for the remainder of the pilot period to allow an appropriate amount of time to understand and assess the alterations to the shade structures. After this trial period, an assessment of the environmental and visual impacts of the chosen design should be undertaken. This will help inform the future implementation of the shade structures along Campbell Parade.

The future implementation of the shade structures along the remaining blocks of Campbell Parade requires modifications to the current design to address the short comings identified in the engagement process. This involves addressing the following issues:

- Resolve the technical issues regarding heating, lighting, access and cost of utilities and Wi-Fi access.
- Consider modifying the height of curve or the curve itself to reduce drainage on the footpath side
- Increase the distance between the face of kerb and glass balustrade to improve pedestrian movement
- Investigate ways to demount the future structures when inactive for long periods of time
- Tailor the provisions of weather protection to suit the location. Attention should be paid to views to the beach, the prevailing winds, the path of the sun and pedestrian movements
- Reduce the number of bays to ensure the shade structures don't overwhelm the streetscape or buildings behind
- Provide shade structures that have public seating that are not intended for outdoor dining
- Investigate strategies and temporary ideas for the shade structures when they are not being used by businesses

5. Financial impact statement/Time frame/Consultation

The developer has designed three possible temporary measures to protect from the elements (refer to Attachment 1). Pending approval from Council, the developer is willing to investigate a practical and viable solution. They are willing to fund, design and install the preferred option. This temporary measure should be installed for the duration of the remaining trial period to properly gauge the effectiveness of the measure. After this period, it should be decided whether the temporary measures should be made permanent and incorporated into the future designs of the shade structures.

Modifications to the overall design of the shade structures should be integrated into the Campbell Parade Streetscape Upgrade. If, however the Campbell Parade Streetscape Upgrade timing does not align with the conclusion of the trial period, the shade structures could be implemented into the existing streetscape. Combining the Campbell Parade Streetscape Upgrade with the Shade Structures will however streamline the process and ensure that necessary works occur in a coordinated and considered manner. This will also permit the inclusion of the necessary infrastructure for the shade structures (POS, electricity, heating and other utilities). The modification to the design should consider all the points raised in this report.

When the shade structures are duplicated elsewhere, the footpath seating fees would be reviewed, and the revenue received from the footpath seating fees could ultimately pay back the capital expenditure. That is, the structures could effectively be paid for by the businesses that use them over a number of years. The principle would be to amortise the total cost of the structures over the life of the structures, and add the appropriate amount to the fees of users of relevant footpath seating to recoup the costs.

6. Conclusion

From the stakeholder engagement process, it is clear that the aesthetics of the shade structures are generally appreciated by the various stakeholders and suits the coastal setting. However, there were some unforeseen shortcomings in respect to technical elements and specific design decisions.

It is recommended that temporary modifications are investigated by the developer to address some of the shortcomings of the current design. It is suggested that this is to be undertaken at the corner of Curlew Street and Campbell Parade of the existing shade structures and at the expense of the developer. The preferred modifications will require consideration and approval of the relevant council departments.

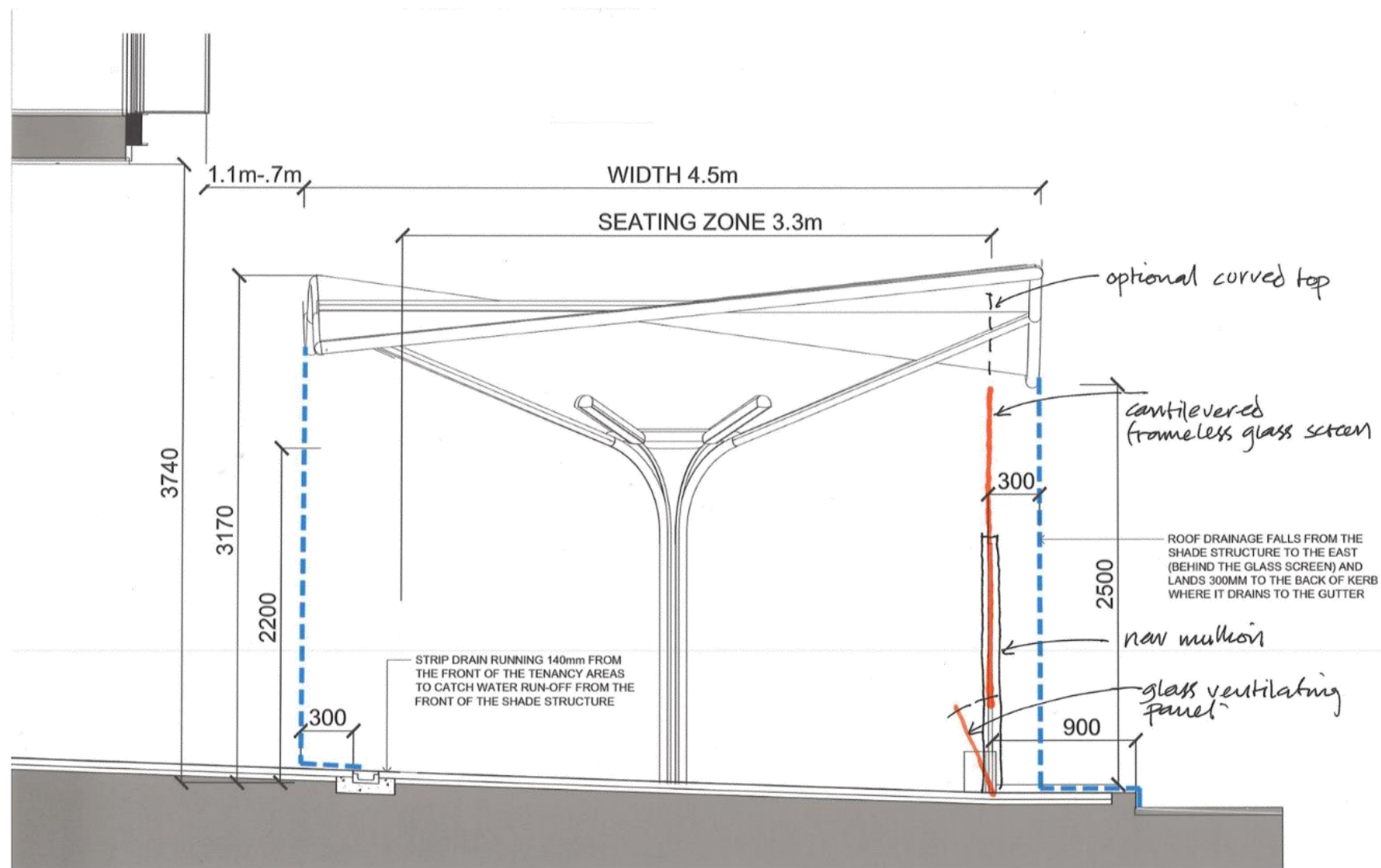
In the long-term, it is suggested that information gained from this stakeholder engagement and the modifications to the pilot project outlined above be used to inform the future design and implementation of the shade structures in key locations along Campbell Parade in line with the public domain upgrades to Campbell Parade.

7. Attachments

1. Campbell Parade Shade Structures - Short-term modifications [↓](#)

Campbell Parade Shade Structures - Short-term modifications

Option 1

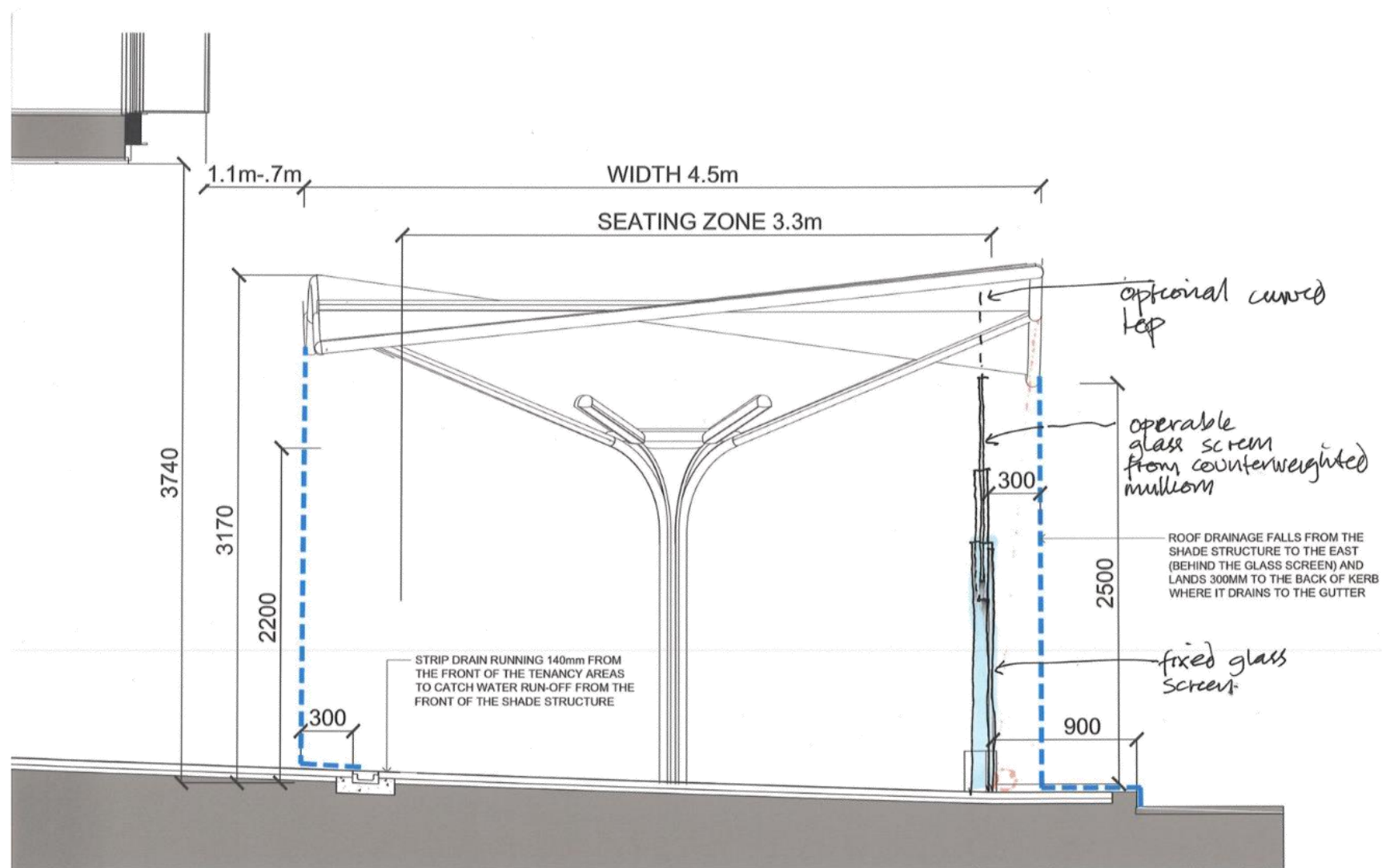


Campbell Parade Shade Structures - Short-term modifications

Option 1



Campbell Parade Shade Structures - Short-term modifications Option 2

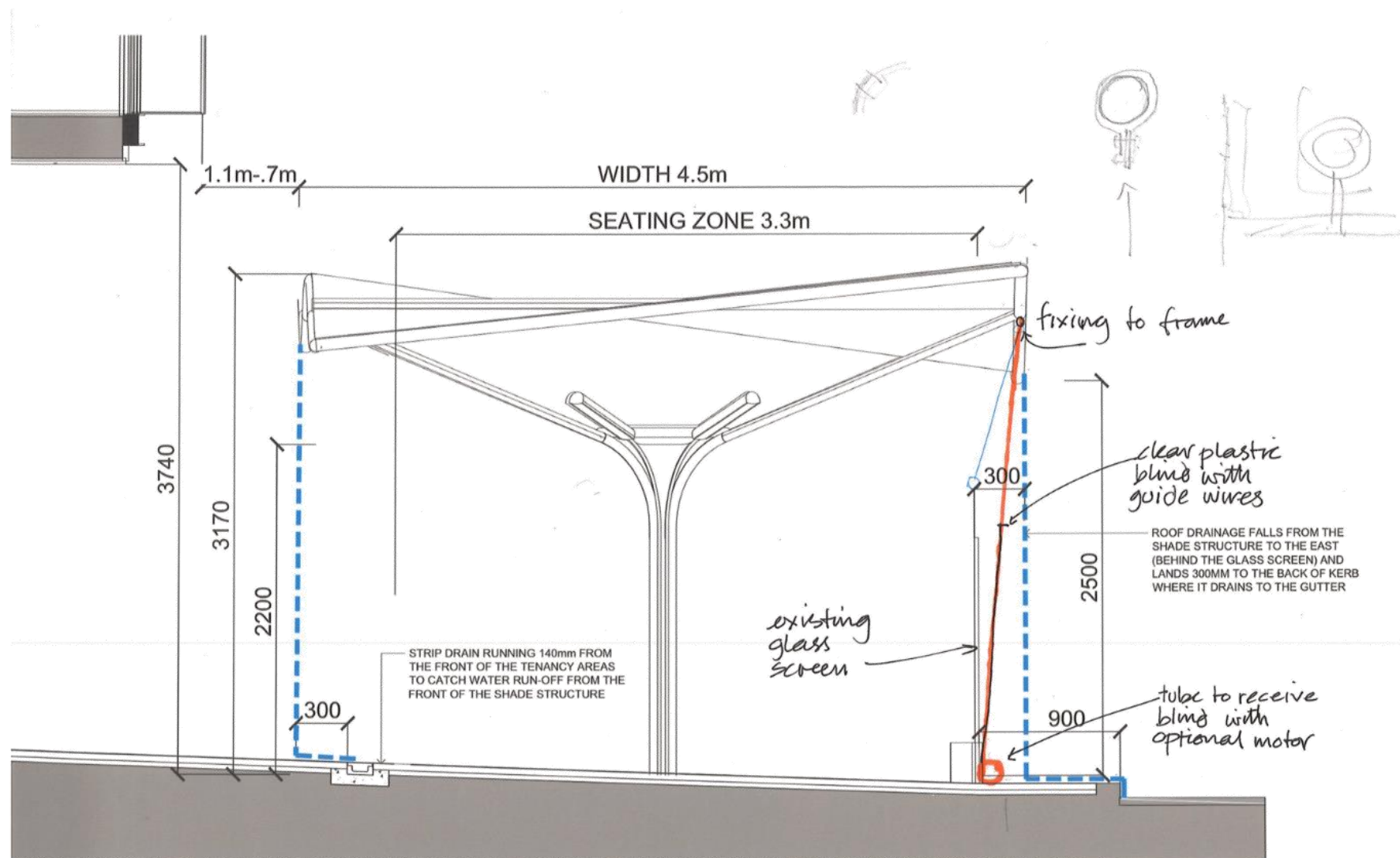


Campbell Parade Shade Structures - Short-term modifications Option 2



Campbell Parade Shade Structures - Short-term modifications

Option 3



Campbell Parade Shade Structures - Short-term modifications

Option 3



REPORT
PD/5.5/19.11

Subject: Sydney Eastern City Planning Panel - Appointment of Council Representatives

TRIM No: A16/0688

Author: Mitchell Reid, Executive Manager, Development Assessment

Director: Peter Monks, Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council:

1. Appoints Jan Murrell, Lee Kosnetter and Jeremy Swan as Council's members of the Sydney Eastern City Planning Panel for a period of four years.
2. Provides remuneration to members at a flat rate of \$1,500 per meeting.

1. Executive Summary

Sydney Planning Panels were established in November 2016, to replace the Joint Regional Planning Panels (JRPPs) which operated throughout NSW since July 2009. There are five Sydney Planning Panels and four Regional Planning Panels across NSW.

Each Planning Panel comprises five members: three appointed by the Minister of Planning and Public Spaces and two appointed by the relevant local council.

The members appointed to represent Waverley Council have been in place for approximately 10 years and in August 2019, Council resolved to seek expressions of interest (EOI) for new members.

The purpose of this report is to advise Council of the outcomes of the EOI process to appoint representatives for SECPP.

2. Introduction/Background

In the Greater Sydney Region, a Sydney Planning Panel operates for each district:

- Sydney Eastern City.
- Sydney Central City.
- Sydney Western City.
- Sydney North.
- Sydney South.

Waverley lies within the SECPP area, together with Bayside, Burwood, Canada Bay, Inner West, Randwick, Strathfield and Woollahra Councils.

The Sydney Eastern City Planning Panel comprise of five members:

- The Chair (currently Carl Scully).
- Two state appointed representatives (currently Dr John Roseth and Sue Francis).
- Two council appointed representatives.

The *Planning Panel Operational Guidelines* requires that at least one council member is required to have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

Councils are not restricted to nominating people from the local area and can appoint, terminate, and reappoint members at any time.

At the August meeting of the Strategic Planning and Development Committee, Council resolved to seek expressions of interest from suitably qualified community members to perform the role of the Waverley Council community representatives on the Sydney Eastern City Planning Panel and that officers report back to Council for the appointment of the two members after considering the nominations received.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Strategic Planning and Development Committee 6 August 2019	PD/5.4/19.08	That Council: 1. Seek expressions of interest from suitably qualified community members to perform the role of the Waverley Council community representatives on the Sydney Eastern City Planning Panel for a term of four years. 2. Officers report back to Council for the appointment of the two members after considering the nominations received.

4. Discussion

Expression of interest selection process

The EOI process seeking nominees for SECPP Council representatives was advertised in the Sydney Morning Herald, the Wentworth Courier and on Council's website between 4 September and 30 September 2019, and Council received seven nominations.

The nominations were reviewed by a staff panel comprising:

- Director Planning, Environment and Regulatory Services.
- Executive Manager Development Assessment.
- Area DA Managers.

While only two members are required for this panel, it was considered appropriate that three members should be appointed as this would provide greater flexibility and surety of availability for the Waverley representatives on the Panel. Only two members would attend any meeting.

The following nominations from the EOI are recommended for appointment:

Jan Murrell	<p>Town Planning Expert</p> <ul style="list-style-type: none"> • Commissioner in the Land & Environment Court 1998 - 2012 • Member, Planning Assessment Commission of NSW 2012 - 2016 • Chair North Sydney Local Planning Panel 2013 – current • Expert Member Waverley Local Planning Panel 2013 – current • Expert Member Sutherland Local Planning Panel 2015 – current • Expert Member Randwick Local Planning Panel 2018 – current • Bachelor of Arts – Sydney University • Masters of Town and Country Planning – Sydney University
Lee Kosnetter	<p>Town Planning Expert</p> <ul style="list-style-type: none"> • Director <i>LK Planning P/L</i> • Land & Environment Court Expert witness • Accredited Mediator • Waverley Council 2004 – 2010 & 2011 - 2018. Various positions including: Manager Development Assessment; Area DA Manager; Executive Planner; Senior Development Assessment Officer. Waverley Council <i>Employee of the Year</i> – 2012 & 2014 • City of Sydney Council 2010 – 2011. Senior Development Assessment Officer, Area Planning Manager (Acting) • Bachelor of Town Planning - UNSW
Jeremy Swan	<p>Town Planning and Economics Expert</p> <ul style="list-style-type: none"> • Director <i>The Planning Hub</i> • Land & Environment Court Expert witness • Camden Council 2010 – 2015: Manager – Development • City of Sydney Council 2005 – 2010: Area Planning Manager • Bachelor of Economics – University of New England • Graduate Diploma Urban and Regional Planning– University of New England

5. Financial impact statement/Time frame/Consultation

Remuneration for the Waverley Council representative members is determined by and paid for by Council.

Waverley members to the SECPP are only required to attend those meetings that involve a Waverley matter and there are generally only five to seven occasions per year.

It is considered appropriate to provide a flat rate of \$1,500 per meeting for Waverley members. By comparison, WLPP members receive \$2,250 per meeting. However, they deal with six to eight items per meeting and are required for a whole day.

The remuneration for Waverley panel members can be accommodated within the existing Planning, Environment and Regulatory Services budget.

6. Conclusion

The recommended panel members are considered appropriately qualified and experienced to fulfil the requirements as members of the Sydney Eastern City Planning Panel.

7. Attachments

Nil.

REPORT
PD/5.6/19.11

Subject: Planning Proposal - 201-209 Old South Head Road, Bondi Junction - Additional Permitted Use

TRIM No: PP-4/2019

Author: Patrick Connor, Strategic Planner

Director: Peter Monks, Director, Planning, Environment and Regulatory

RECOMMENDATION:

That Council:

1. Notes the submission of the planning proposal prepared by LK Planning on 11 September 2019 to add an additional permitted use of recreation facility (indoor) at 201–209 Old South Head Road, Bondi Junction.
2. Supports the planning proposal being forwarded to the Department of Planning, Industry and Environment for Gateway Determination.
3. Places the planning proposal on public exhibition in accordance with any conditions of the Gateway Determination that may be issued by the Department of Planning, Industry and Environment.
4. Accepts the role of the Planning Proposal Authority and Plan-Making Authority from the Department of Planning, Industry and Environment, if offered, to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* in relation to the making of the amendment.
5. Reviews the permissibility of recreation facility (indoor) within the B1 Neighbourhood Centre zoning as part of the LEP Review and the Village Centres Study.

1. Executive Summary

The Planning Proposal prepared by LK Planning on 11 September 2019 and submitted by Julie Stern on 12 September 2019 aims to amend the Waverley LEP by adding an additional permitted use of recreation facility (indoor) on 201–209 Old South Head Road, Bondi Junction. The intention of this additional permitted use is to give effect to a boutique gym which has been operating on site since 2015. The site is strata subdivided into 13 small lots and as such the risk of having a large use, high impact, indoor recreational facility is quite minimal. The gym has received only one complaint in its time operating and noise minimising refurbishments were made to the gym to minimise this impact as a response to the complaint. The additional permitted use is considered a simpler means to achieve this outcome than rezoning the lot to B1 Neighbourhood Centre and as such Council supports the Planning Proposal. It may be pertinent to review the permissibility of recreation facility (indoor) within the B1 Neighbourhood Centre zoning as part of the LEP Review and the Village Centres Study.

2. Introduction/Background

The planning proposal is located on 201–209 Old South Head Road, Bondi Junction (SP 30764). Figure 1 below identifies the lots involved in the PP and their respective Lot and DPs.



Figure 1. Site of the planning proposal, 201–209 Old South Head Road, Bondi Junction.

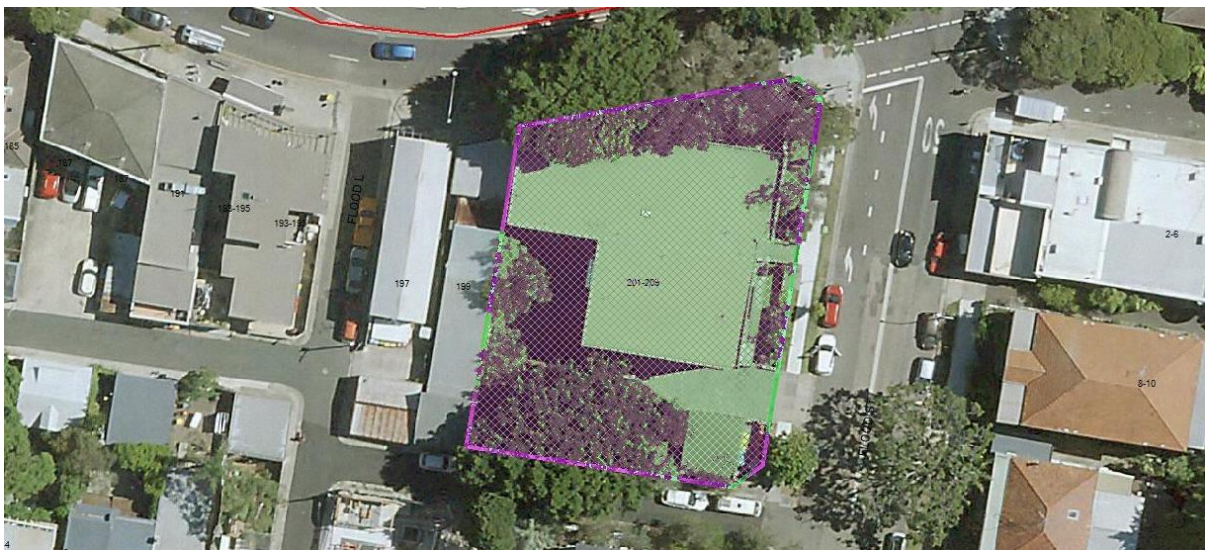


Figure 2. Aerial photograph of the site of the planning proposal.

The lot size of the subject site is 1,192 m², but the floorspace of the gym is approximately 65 m² as seen in Figure 3.



Figure 3. Location of gym within strata development.

Development on the site comprises a four-storey mixed development with a ground floor commercial tenancy fronting Old South Head Road and residential apartments above street level. The site is located approximately 565 m from Bondi Junction CBD. To the north of the site is a residential flat building. To the East of the site is the continuation of the residential flats on the site. To the west of the site is a furnishings showroom. To the south of the site is residential premises. The locality is characterised by a diverse mix of uses including small scale commercial uses, residential flat buildings, shop top housing and detached dwellings.

3. Relevant Council Resolutions

Nil.

4. Discussion

The table below outlines the LEP controls applicable to the site and what is proposed by the PP.

WLEP 2012 Provision	Current Controls	Proposed Controls
Zone	B1 Neighbourhood Centre	B1 Neighbourhood Centre
Additional Permitted Use	Nil	Recreation facility (indoor)
FSR	1:1	1:1
Height	9 m	9 m
Heritage	No	No

The proposed change to the land use table will make the gym currently operating on the site a permissible use. Further to this, any future indoor recreation facilities would be constrained by the size of the 65 m site and as such it is unlikely that larger uses with greater impacts could be accommodated at this site.

The proposal will help to enable a land use that provides facilities and services that will meet the day to day needs of the residents that would not have been possible under the existing permissible land uses. The gym

is available to a wide range of people as well as it provides specialist services for elderly as well as young children. The site is located on the 379 Bondi Junction–North Bondi bus route, which provides high frequency services throughout the day. Given the proximity of the gym to a bus stop, it is considered that the service is accessible.

Creating the ability to provide a greater range of commercial uses within the building supports walkable neighbourhoods with access to jobs, schools, open space and opportunities to optimise the use of existing infrastructure. Additionally, the proposal will provide greater capacity and opportunities for jobs and services with the Bondi Junction area and Old South Head Road neighbourhood centre.

It may be pertinent to review the permissibility of recreational facilities (indoor) within the B1 Neighbourhood Centre zoning as part of the LEP Review and the Village Centres Study. This use is currently permissible within the B1 Neighbourhood Centre zones in both neighbouring councils of Randwick and Woollahra, which have relatively similar neighbourhood centres to Waverley.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

There have been no upfront or recurrent costs associated with this planning proposal other than staff costs associated with the administration and assessment.

Timeframe

Gateway Determination	February 2020
Public Exhibition	March 2020
Report to Council	May 2020
Consideration by Minister or Delegate	August - September 2020

Consultation

If the planning proposal is supported, future community consultation will occur in accordance with the Gateway Determination. Notwithstanding this, it is considered that an exhibition period of not less than 28 days would be appropriate given the nature of the amendment. It is also suggested that:

- Notice be given in the Wentworth Courier being the local paper that services the Waverley municipal area.
- The planning proposal will be advertised on Council's website.
- The planning proposal will be exhibited in Council's Customer Service Centre and Library.

Letters will be sent to key stakeholders including all adjoining and neighbouring sites, local residents and business owners in the vicinity of the subject site.

6. Attachments

Nil.