



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:

7.30PM, TUESDAY 2 JULY 2019

A handwritten signature in grey ink, appearing to read 'R. McLeod'.

Ross McLeod
General Manager

Waverley Council
PO Box 9
Bondi Junction NSW 1355
DX 12006 Bondi Junction
Tel. 9083 8000
E-mail: info@waverley.nsw.gov.au

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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5. Reports

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6. Urgent Business

7. Meeting Closure

CONFIRMATION OF MINUTES PD/4.1/19.07



Subject: Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 4 June 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 4 June 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.

Attachments

1. Strategic Planning and Development Committee Meeting Minutes - 4 June 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, 4 JUNE 2019**

Present:

Councillor Paula Masselos (Chair)	Lawson Ward
Councillor John Wakefield (Mayor)	Bondi Ward
Councillor Sally Betts	Hunter Ward
Councillor Angela Burrill	Lawson Ward
Councillor George Copeland	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Elaine Keenan	Lawson Ward
Councillor Steven Lewis	Hunter Ward
Councillor Will Nemesh	Hunter Ward

Staff in attendance:

Peter Monks	Acting General Manager
Emily Scott	Director, Community, Assets and Operations
Karen Mobbs	General Counsel
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 Kay, O'Neill and Wy Kanak.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and the following was received:

- 2.1 Cr Masselos declared a less than significant non-pecuniary interest in Item PD/5.2/19.06 – Environmental Sustainability Advisory Committee (ESAC) – Community Members, and informed the meeting that she knows three of the six people nominated.

3. Addresses by Members of the Public

There were no addresses by members of the public.

4. Confirmation of Minutes

PD/4.1/19.06 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 7 May 2019 (SF19/327)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Keenan

That the minutes of the Strategic Planning and Development Committee Meeting held on 7 May 2019 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

5. Reports

PD/5.1/19.06 Local Strategic Planning Statement and Housing Discussion Paper - Public Exhibition (A18/0594)

MOTION / UNANIMOUS DECISION

Mover: Cr Wakefield

Seconder: Cr Lewis

That Council:

1. Endorses the Draft Waverley Local Strategic Planning Statement (Attachment 1) and Draft Waverley Local Strategic Planning Statement Summary (Attachment 2) for public exhibition for a period of no less than 28 days, subject to the following amendments:
 - (a) Provide indicative timing for short-, medium- and long-term indicators in the 'Key to actions' table (page 5).
 - (b) Amend 'About the plan' (page 4) to clarify that the scope of the LSPS addresses broader economic, social and environmental issues, as well as land use planning issues.
 - (c) Amend the list of 'Key Issues' (page 9) as follows:
 - (i) Change 'A holistic approach encompassing how climate change, biodiversity, and green space are managed' to 'A holistic approach to the management of biodiversity, green space, and adaptation and resilience to climate change.'
 - (ii) Change 'A diverse economy that is less reliant on tourism' to 'A diverse and thriving local economy that is less reliant on tourism.'
 - (iii) Add as a Challenge 'There are community concerns about how tourism is managed.'
 - (iv) Change 'Additional public schools in Waverley, particularly a secondary school' to 'Additional public schools in the Eastern Suburbs, particularly a secondary school.'
 - (v) Change 'More space in the Mill Hill Community Centre' and 'Improve use of Bondi Pavilion, including more events and activities at night' to 'Provide more space for community uses and events.'
2. Endorses the Waverley Local Housing Discussion Paper (Attachment 3) for public exhibition at the same time.

Division

For the Motion: Crs Betts, Burrill, Copeland, Goltsman, Keenan, Lewis, Masselos, Nemesh and Wakefield.

Against the Motion: Nil.

PD/5.2/19.06 Environmental Sustainability Advisory Committee (ESAC) - Community Members (SF19/1191)

Cr Masselos declared a less than significant non-pecuniary interest in this item, and informed the meeting that she knows three of the six people nominated.

MOTION / DECISION

Mover: Cr Keenan
Seconder: Cr Goltsman

That Council:

1. Appoints the following community members to the Environmental Sustainability Advisory Committee for a period of two years:
 - (a) Robin Mellon.
 - (b) Peter Cochrane.
 - (c) Gail Broadbent.
 - (d) Helen Wilson.
 - (e) Thomas Schroder.
 - (f) Esther Groennedal.
2. Writes to the unsuccessful applicants thanking them for their application.

PD/5.3/19.06 Bronte Cutting - Restoration of Fire Site (A18/0246)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos
Seconder: Cr Keenan

That Council:

1. Implements the plans for the restoration of vegetation at the Bronte Cutting attached to this report.
2. Notes the following:
 - (a) That only burnt strelitzia and burnt coral trees will be removed in a staged process.
 - (b) The largest pot size available for trees and shrubs will be installed.
 - (c) The most mature trees available will be planted.
 - (d) The fence will be extended from the top of the stairs to meet the arris rail fence further along the Cutting just to the south of the burnt area.
 - (e) Plant selection will facilitate bird habitat.
 - (f) The destruction of vegetation resulting in improvement of views is not acceptable.

**PD/5.4/19.06 Minutes - Waverley Cycling Advisory Committee Meeting -
14 November 2018 and 13 February 2019 (A18/0188)**

MOTION / UNANIMOUS DECISION

Mover: Cr Lewis
Seconder: Cr Goltsman

That Council:

1. Receives and notes the minutes of the Cycling Advisory Committee meetings held on 14 November 2018 and 13 February 2019 attached to this report.
2. Notes that the minutes are available on Council's website.

6. Urgent Business

There were no items of urgent business.

7. Meeting Closure

THE MEETING CLOSED AT 7.57 PM.

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SIGNED AND CONFIRMED
CHAIR
2 JULY 2019

REPORT
PD/5.1/19.07

Subject: Planning Proposal - 96-122 Ebley Street, Bondi Junction - Gateway Determination Alteration

TRIM No: PP-1/2016

Author: Patrick Connor, Strategic Planner

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

RECOMMENDATION:

That Council:

1. Supports the planning proposal lodged by CityPlan Services to amend the Waverley Local Environment Plan 2012 (WLEP) in respect of 96–122 Ebley Street, Bondi Junction, for the following reasons:
 - (a) The revised proposal has addressed concerns around commercial capacity and is now consistent with the Draft Waverley Local Strategic Planning Statement, Bondi Junction Commercial Centre Review, Eastern City District Plan, and Waverley Community Strategic Plan as it maintains the existing commercial floorspace capacity available on the site, and acts as a catalyst for redevelopment thereby realising this existing potential.
2. Forwards the Planning Proposal to the Department of Planning and Environment to seek a Revised Gateway Determination.
3. Places the planning proposal on public exhibition in accordance with any conditions of the Revised Gateway Determination should that be approved by the Department of Planning and Environment.
4. Officers report back to Council post-exhibition for recommendation on a final decision.

1. Executive Summary

The purpose of this report is to outline Council Officer's recommendation of support for the amendment to Planning Proposal PP-1/2016 (the Proposal) for 96–122 Ebley Street, Bondi Junction.

The revised Proposal seeks to amend the Waverley Local Environmental Plan (LEP) 2012 as follows:

- Retain the B3 Commercial Core Zone across the site.
- Retain the existing 32m height limit across the site.
- Increase the FSR to 6:1 on approximately half the site.
- Introduce a minimum non-residential floorspace requirement of 5:1 across the entire site, which could provide 16,450m² of commercial floorspace.
- Introduce 'shop-top housing' as a permissible use on this site through an additional permitted use under Schedule 1 in the Waverley LEP.
- Prohibition of serviced apartments in the non-residential floorspace component.

The Proposal was originally publicly exhibited in accordance with the Gateway Determination from 30 August 2017 to 29 September 2017. Three submissions were received in total: one in support (property owner), one objection (adjoining property) and agency feedback was received from the Office of Environment and Heritage in response to the exhibition of the planning proposal.

Since the lodgement of the original proposal and subsequent amendments, new and critical strategic planning instruments have been prepared that have influenced the assessment and recommendation of this report. These documents include the *Metropolis of Three Cities* (Region Plan), which supersedes *A Plan for Growing Sydney*, and the *Eastern City District Plan* (District Plan) both prepared by the Greater Sydney Commission, the *Draft Waverley Local Strategic Planning Statement* (Draft WLSPS), *Waverley Community Strategic Plan 2018–2029* (CSP) and the *Bondi Junction Commercial Centre Review* (BJCCR) prepared by Waverley Council. Each of these strategies stress the importance of protecting and promoting commercial floor space within the Bondi Junction Strategic Centre in order to maintain the role and function of this important commercial centre and achieve job targets set for the year 2036. The reports recommend protecting the existing B3 Commercial Centre zoning to ensure no net loss of employment floorspace.

The aim of this revised Planning Proposal is to create the provision for residential accommodation on the subject sites to facilitate the redevelopment of these sites to reach their commercial floorspace potential. The proposal intends to protect the existing B3 Commercial Core zoning and the commercial floorspace capacity of these lots. The revised proposal is now consistent with these new strategies and the strategic intent of the Bondi Junction Strategic Centre. This revision to protect commercial capacity has led Council officers to change their position from refusing the Planning Proposal to supporting the Planning Proposal.

2. Introduction/Background

2.1 The subject sites

The subject sites are located within the Bondi Junction Commercial Centre and consist of five allotments with a total site area of 3,383 m². Figures 1 and 2 illustrate the subject site.

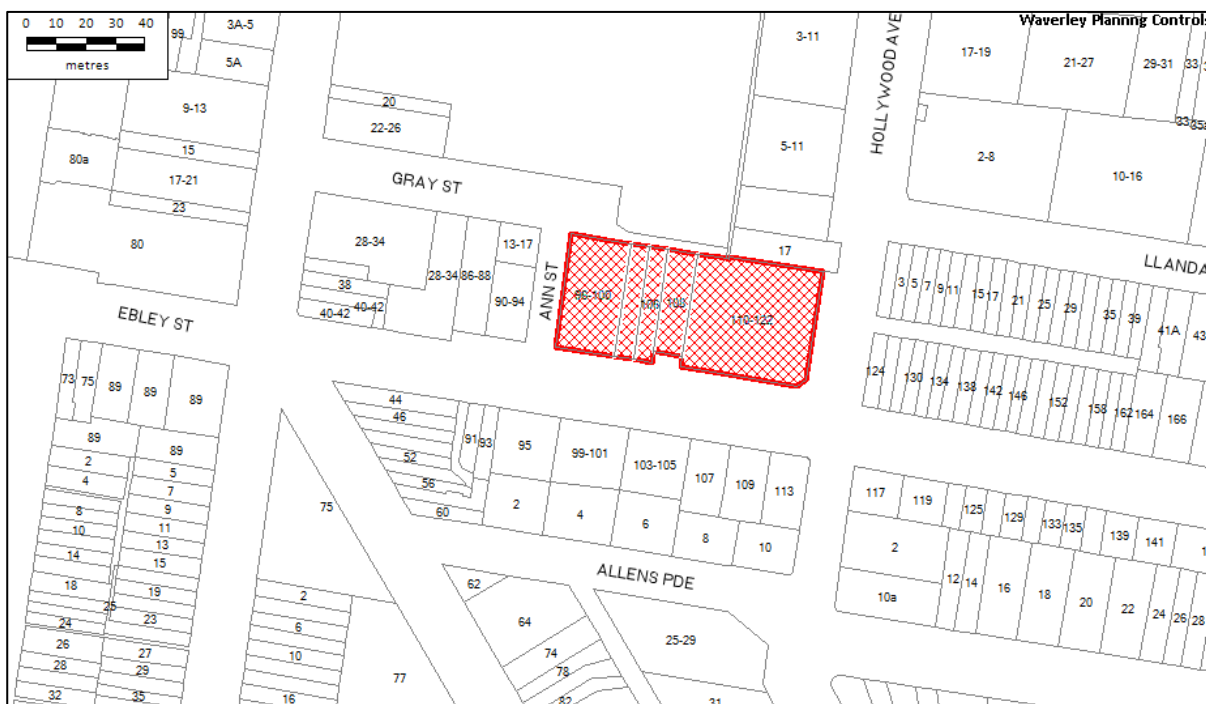


Figure 1. Site of the planning proposal, 96-122 Ebley Street, Bondi Junction.

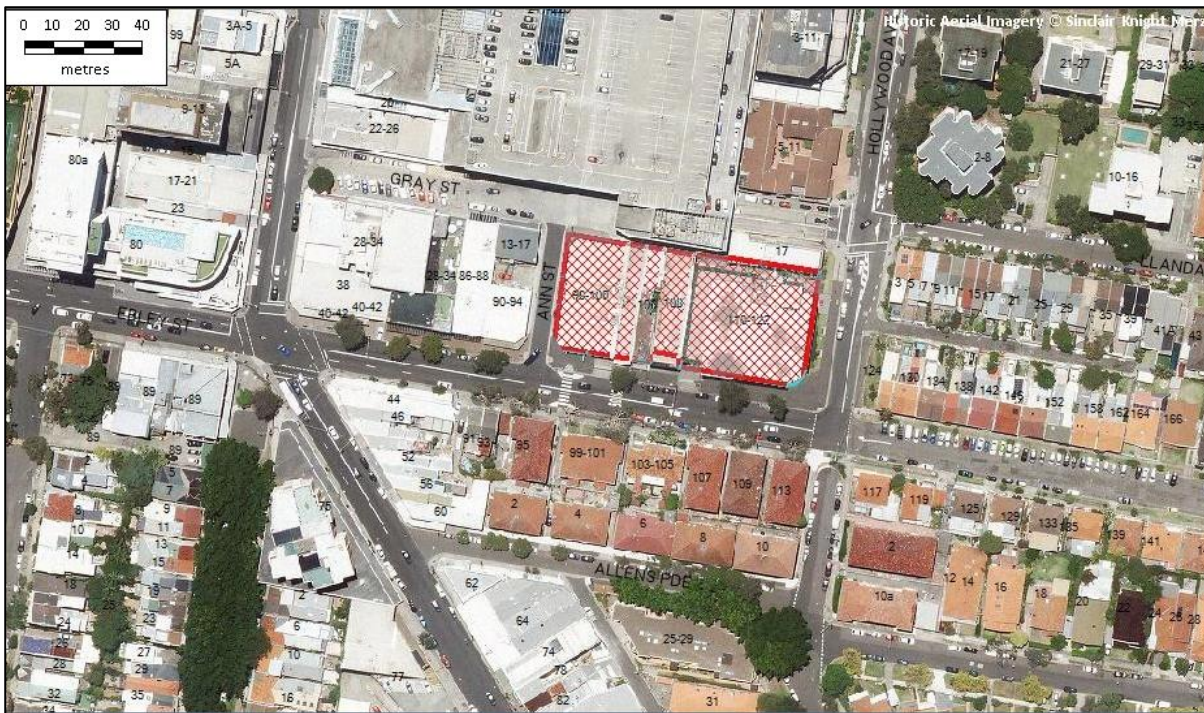


Figure 2. Aerial photograph of the site of the planning proposal, 96-122 Ebley Street, Bondi Junction.

Existing development on the site

The existing development on the site is a mix of two, three and four-storey commercial development. The existing commercial floor space on the site totals 6,739 m², with the following uses:

Table 1: Current use of site and ownership structure		
Address	Current use of site	Ownership structure
96-100 Ebley Street	Two-storey commercial building with education and gymnasium uses	Torrens title
102-104 Ebley Street	Two-storey commercial building with sex services use	Torrens title
106 Ebley Street	Three storey commercial building with retail on ground floor	Strata title
108 Ebley Street	Four-storey mixed use building with business premises on lower ground and ground floor, and residential uses on first and second floor	Strata title
110-122 Ebley Street	Three-storey commercial building	Torrens title

2.2 Current planning controls for the site

The *Waverley Local Environmental Plan 2012* (WLEP 2012) applies to the subject sites (96–122 Ebley Street, Bondi Junction), which are zoned B3 Commercial Core with a maximum height of 32m and floor space ratio of 4:1 and 6:1. The existing controls, originally proposed controls and revised controls are outlined in Table 2 below.

Table 2: Proposed changes to LEP controls			
	Current	Original Proposal	Proposed Amendments
Zone	B3 Commercial Core	B4 Mixed Use	Retain B3 Commercial Core and introduce residential development as a Schedule 1 additional permitted use
Building Height	32m	32m	32m
Floor Space Ratio	4:1	5:1	6:1
	6:1	6:1	6:1
Non-Residential Floor Space Ratio	-	Minimum 3.5:1 (excluding serviced apartments)	Minimum 5:1 (excluding serviced apartments)

Table 3: Floorspace increases from existing controls to proposed				
	Existing Controls (sqm)	Original Proposal (sqm)	Amended Proposal (sqm)	Floorspace increase (sqm) from existing to proposed
Total Floorspace	Com = 16,440	Com = 11,515	Com = 16,450	Com = 10
	Res = 0	Res = 6,575	Res = 3,290	Res = 3290
	Total = 16,440	Total = 18,090	Total = 19,740	Total = 3,300

2.3 Planning proposal history

Original planning proposal

The original planning proposal, lodged on 31 March 2016, sought the following amendments to WLEP2012:

- Rezone the subject sites from B3 Commercial Core to B4 Mixed Use.
- Increase the height standard from 32 metres to 39 metres.
- Include a non-residential FSR of 2:1.
- Increase the FSR from 4:1 to 5:1.
- The planning proposal also included a 4.5m road widening of Ann Street which would provide a public benefit by increasing the road and footpath width for improved vehicle capacity and pedestrian safety.

On 6 December 2016, Council considered that the Proposal demonstrated sufficient 'strategic merit' for the purposes of public exhibition, subject to the following:

- Not supporting the proposed increase in height (i.e. retaining the 32m height limit).
- Increasing the non-residential FSR to 3.5:1.
- Noting the importance of 4.5m road widening and extending that 4.5m setback across all floors of the development.
- Enter planning agreement negotiations to secure a public benefit.
- Restricting 'serviced apartments' on the site to increase job density.
- Placing on record the desire to further increase the non-residential FSR on the site to a minimum of 60% of the gross floor area.

The above amendments were considered an appropriate compromise in light of the significant value uplift associated with the rezoning of the subject site.

Following Council's decision of 16 December 2016 to support the planning proposal subject to amendments, the applicant advised that the proposed 4.5 m road widening could no longer be provided. The property owners of 96-100 Ebley Street, Bondi Junction, withdrew their support for the road widening given that it burdened only their land to the benefit the other property owners.

In response, Council officers requested that the applicant consider a commensurate public benefit offer that could form the basis of planning agreement negotiations. After lengthy discussions between land owners, the applicant decided to enter into negotiations. It was during this phase of negotiations that Council determined the proposal should be reassessed against the relevant planning strategies that had been made active since the lodgement of the planning proposal. As a result, no planning agreement was prepared.

Original Planning Proposal Gateway Determination

The NSW Department of Planning and Environment notified Council of Gateway Determination on 20 July 2017, the Gateway Determination allowed for the rezoning of B3 Commercial Core zoned land to B4 Mixed Use and to amend the floorspace ratio controls. It was determined at the original Gateway Determination that the proposal would have no adverse environmental impacts. The Gateway Determination required Office of Environment and Heritage to make a referral, they noted that there was no heritage items on the site but required a heritage impact statement. The proposal complied with the requirements of Gateway Determination and was subsequently put on exhibition.

During the re-assessment of the Proposal against the current planning strategies, Council Officers recommend refusal for the Proposal as it was inconsistent with key Planning Priorities and Actions in the Region Plan, District Plan, Draft WLSPS, CSP and BJCCR. This recommendation of refusal was reported to the 2 April 2019 Strategic Planning and Development Committee Meeting. The applicant addressed the Council asking for more time to work through the Proposal's identified non-compliances with the new strategies and the Proposal was deferred for further briefing of the Councillors.

Revised Planning Proposal

The applicant submitted a revised Proposal on 24 April 2019 which is the subject of this report.

As discussed previously, the aim of this proposal is to create the provision for residential accommodation on the subject sites to facilitate the redevelopment of these sites to reach their commercial floorspace potential. The proposal intends to protect the existing B3 Commercial Core zoning and protect the potential commercial floorspace of these lots.

This will be achieved through amending the Waverley LEP as follows:

- Retain the B3 Commercial Core Zone across the site.
- Retain the existing 32m height limit across the site.
- Increase the FSR to 6:1 across the site.
- Introduce a minimum non-residential floorspace requirement of 5:1 across the entire site, which would provide 16,450m² of commercial floorspace.
- Introduce "shop-top housing" as a permissible use on this site through an additional permitted use under Schedule 1 in the Waverley LEP.
- Prohibition of serviced apartments in the non-residential floorspace component.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Council 6 December 2016	CM/7.3/16.12	<p>That Council:</p> <ol style="list-style-type: none"> 1. Supports the planning proposal lodged by Xspace Design Group to amend Waverley Local Environmental Plan 2012 (WLEP 2012) in respect of 96-122 Ebley Street, Bondi Junction, being submitted to the Department of Planning and Environment for a Gateway Determination to proceed to formal public exhibition, subject to the following: <ol style="list-style-type: none"> (a) The proposed change in height from 32 to 39 metres is not supported. (b) The proposed increase in floor space ratio from 4:1 to 5:1 at 96-108 Ebley Street, Bondi Junction is supported. (c) The planning proposal is amended to provide an increased non-residential FSR from 2:1 to 3.5:1 to replace the current commercial floor space that would be lost as a result of this planning proposal and provide additional capacity for future growth in line with strategic planning objectives. (d) Restrictions be placed on the non-residential FSR to prohibit certain uses such as serviced apartments which would be inconsistent with employment generating uses. (e) The proposed land dedication to Council – a 4.5m setback from the western boundary on Ann Street is expanded so as to apply across all floors of the development. (f) The planning proposal and supporting documentation is to be updated to reflect the amendments to the initial Planning Proposal documentation received by Council on 3 and 7 June 2016 and recommended amendments as per (a) – (e) above. (g) The proponent's offer and intent to enter into Planning Agreement negotiations is noted and that Council and the proponent will engage in the planning agreement negotiation process. 2. Places the planning proposal on public exhibition in accordance with any conditions of the Gateway Determination should that be approved by the Department of Planning and Environment. 3. Accepts the role of Relevant Planning Authority from the Department of Planning and Environment, if offered, to exercise the delegations issued by the Minister under Section

		<p>59 of the <i>Environmental Planning and Assessment Act 1979</i> in relation to the making of the amendment.</p> <p>4. Investigates the potential for a non-residential FSR to be applied more broadly to B4 Mixed Use zoned land within Bondi Junction.</p> <p>5. Desires that the final development contains a minimum 60 per cent commercial floor space.</p>
Council 19 June 2018	CM/8.11/18.06	<p>That:</p> <p>1. Council recognises it must provide a minimum of 10,000 jobs in order to maintain its status as a Strategic Centre within the metropolitan centres hierarchy.</p> <p>2. Council recognises that Bondi Junction's 2016 job estimate is 13,800 jobs and that it is required to accommodate between 17,000 and 20,500 jobs forecast in the Eastern City District Plan by 2036.</p> <p>3. Council is concerned about the findings highlighted in the Bondi Junction Commercial Centre Review including:</p> <ul style="list-style-type: none"> (a) The existing re-development of commercial office and retail into residential towers has already resulted in the loss around 10,000sqm of commercial floor space in recent years. (b) The conversion of commercial office space to build residential towers, which could entail the loss of 64,000sqm of floor space (around 2,500 jobs) in the longer term and 40,000sqm of floor space (around 1,600) in the short-term. (c) The limited sites remaining in the B3 Commercial Core zone for office-only development. (d) The development of non-office uses in the B3 Commercial Core zone, such as serviced apartments. (e) Impact the lack of appropriate commercial space has on driving very high levels of commuting and the deleterious effects this has on the lifestyle of working residents. (f) Potential for a continued decline in local jobs on existing activity in the Junction and the prospect of it gaining momentum and triggering further decline. <p>4. Council acknowledges the growing concern with the ever-increasing push by developers to build higher buildings with limited setbacks that challenge LEP/DCP regulations and guidelines.</p>

		<ol style="list-style-type: none"> 5. Council undertakes a review of the Waverley LEP as a matter of urgency to introduce protections for commercial buildings 6. Council officers report back to Council as a matter of urgency. 7. A delegation of the Mayor, Ward Councillors and appropriate staff meet with the Minister for Planning, The Hon. Anthony Roberts, as a matter of urgency.
Strategic Planning Development Committee 2 April 2019	PD/5.8/19.04	<p>That Council:</p> <ol style="list-style-type: none"> 1. Refuses the planning proposal lodged by CityPlan Services to amend the Waverley Local Environment Plan 2012 (WLEP) in respect of 96–122 Ebley Street, Bondi Junction, for the following reasons: <ol style="list-style-type: none"> (a) The proposed rezoning is inconsistent with the Bondi Junction Commercial Centre Review, Eastern City District Plan, Waverley Community Strategic Plan and Local Strategic Plan, as it contributes to the loss of commercial floorspace potential within Bondi Junction. (b) The planning proposal does not protect capacity for job targets in 2036, therefore undermining the economic role of the centre. (c) The planning proposal would undermine Bondi Junction's role as a Strategic Centre. (d) The planning proposal would create a precedent for the further loss of the limited B3 Commercial Core zone in Bondi Junction. (e) The proposed rezoning will cause solar access issues for surrounding residential and would impede future development of the key commercial Westfield site to the north. 2. Advises the Department of Planning and Environment (DPE) and the applicant of Council's decision. 3. Defers this matter to a Councillor workshop to discuss changes made by officers on the position of Council in this report since the previous resolution.

4. Discussion

4.1 Public exhibition

Original Planning Proposal – Exhibition results

The original public exhibition period was open for 31 days from 30 August 2017 to 29 September 2017 inclusive. The Proposal was exhibited at the Customer Service Centre, Waverley Library and on Council's 'Have Your Say' website. Three submissions were received. A breakdown of the submissions received is noted below:

- Submissions opposing 1
- Submissions in support 1
- Agency feedback 1

Matters raised by objector

Concerns were raised in relation to a number of impacts related to the Westfield site to the north. The primary issues raised included the impact the proposal may have on the future further development of the Westfield site to the north. The proposal states that if the buildings were given residential uses to the proposed height, this would hinder the further development of the Westfield site due to issues relating to the ADG with regards to privacy and overshadowing. The submission outlines the importance of the development of the Westfield site to being able to hold the commercial floorspace requirements of Bondi Junction into 2036. This floorspace is required in order to meet the job targets of the centre of 2036.

The proponent prepared a response to the objection which outlined that residential development could still occur if the Westfield is developed further and that the dwellings could still meet the ADG requirements. The response states that solar modelling was undertaken and it reveals that the amount of apartments receiving direct sunlight doesn't change, only the time of day in which these apartments receive direct sunlight changes.

Matters raised by supporters

General support for the proposal was provided by a part owner of two of the subject sites which noted that centres such as Bondi Junction required more housing in close proximity to the Sydney CBD and the transport interchange.

Agency Feedback - NSW Office of Environment & Heritage (OEH)

OEH noted that there are no State-listed items in the vicinity of the site and that the heritage listed row of terraces along Llandaff Street have local significance. There were no objections raised in response to the Proposal, however, it was requested that a Heritage Impact Statement be prepared for the site. The potential heritage impacts of any future development on the site will be considered as a part of a development application process. It may then be determined whether preparation of a Heritage Impact Statement is required in light of the proposed built form and potential impact upon the surrounding conservation areas and heritage items.

4.2 Discussion and Assessment

Below is an assessment of the proposal against the Strategic Merit and Site-Specific Merit test from Q3 of Part 3 - Justification in *A Guide to Preparing Planning Proposals* prepared by the Department of Planning & Environment. As the revised Proposal addresses mainly development standards, the remainder of the questions from Part 3 – Justification are considered to be in-line with the original Gateway Determination.

Initial assessment of the additional FSR on sites 96-108 Ebley Street indicates that the additional impacts on residential amenity, character and streetscape are not significantly adverse. More detailed modelling will be reviewed during the exhibition period before a final determination is made in this regard.

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Table 4 - Strategic Merit Test	
a) Does the proposal have strategic merit? Is it:	
Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or	Yes. As discussed further below, the proposal is consistent with the <i>Metropolis of Three Cities</i> as it helps to protect Bondi Junction's status as a Strategic Centre.
Consistent with a relevant local council strategy that has been endorsed by the Department; or	Yes. As discussed further below, the proposal is consistent with the Waverley Community Strategic Plan, the Draft Local Strategic Planning Statement and the Bondi Junction Commercial Centre Review.
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.	It is considered that the proposal to protect the potential commercial floorspace capacity of these sites responds to the changing needs of Bondi Junction as a Strategic Centre as it now requires the protection of commercial floorspace.

Table 5 - Site-specific Merit Test	
b) Does the proposal have site-specific merit, having regard to the following:	
The natural environment (including known significant environmental values, resources or hazards); and	No. This proposal will have negligible effects upon the environment above the existing controls.
The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and	The proposal does have regard for both the existing and future uses on the site as it is maintaining the capability for commercial uses whilst also incentivising positive redevelopment with the inclusion of residential uses
The services and infrastructure that are or will be available to meet the demands arising from the proposal; and	It is envisioned that the existing services and infrastructure available to the site will be able to meet the demands of this proposal. Any specific issues relating to internal servicing to the buildings will be assessed at the DA stage
Any proposed financial arrangements for infrastructure provision.	N/A

Eastern City District Plan

Since the lodgement of this planning proposal, the District Plan was exhibited and finalised. The District Plan outlines actions that intend to protect Bondi Junction as a strategic centre and encourage commercial floorspace within the centre. The actions of this plan and how the proposal does or does not comply with them are set out below.

Table 6 – Actions and Responses	
Action	Response
46. Strengthen Bondi Junction through approaches that:	
a. protect capacity for job targets and a diverse mix of uses to strengthen and reinforce the economic role of the centre	The revised Proposal seeks to maintain the existing potential for commercial floorspace by maintaining the B3 Commercial Core zoning. The proposed 1:1 floorspace ratio of residential will act as a catalyst for redevelopment on these sites which will help the sites to reach their potential for commercial floorspace. This commercial floorspace will help protect capacity for job targets thereby reinforcing the economic role of Bondi Junction as a Strategic Centre
b. consider potential options for future public transport connections to the south east of the District to accommodate forecast population and employment growth, and better connect the District	It is not envisioned that this proposal will have an impact on future transport connections.
c. expand the centre's function and type of land uses, and knowledge-intensive jobs	Protecting the B3 Commercial Core zoning allows for a greater range land uses to accommodate knowledge intensive jobs. The FSR proposed over the sites protects the amount of commercial floorspace to available for knowledge intensive jobs whilst also

	encouraging the redevelopment to reach this potential by providing a 1:1 FSR of residential.
d. improve access from the centre of Bondi Junction to nearby open space and recreation facilities such as Queens Park, Centennial Park, Moore Park and Bondi Beach	It is not envisioned that this proposal will have an impact on the access from Bondi Junction to nearby open space.
e. recognise the centre's health attributes to support the Randwick health and education precinct and mechanisms for increasing floor space for health uses, including a health focused business incubator	Maintaining the zoning as B3 Commercial Core supports non-residential uses including the potential for health-related uses.
f. investigate opportunities to improve and diversify night-time economy offerings	Maintaining the B3 Commercial Core Zoning allows for a mix of commercial uses on the site that could be used to diversify the night time economy
g. promote place making initiatives to improve the quality of public spaces.	Commercial uses lend themselves to greater opportunities for place making initiatives than residential uses

The District Plan sets out job target projections for 2036 in Bondi Junction as seen below in Table 4. Each centre within the district is given job targets that are needed to be reached in order to help facilitate the accommodation of jobs within Greater Sydney as a whole.

Bondi Junction	Jobs
2016 estimate	13,800
2036 baseline target	17,000
2036 higher target	20,500

Figure 3. Bondi Junction job targets.

In order for these job targets to be met there is a requirement for commercial floorspace to be protected and promoted within Bondi Junction, accordingly it is imperative that no more potential commercial floorspace within Bondi Junction is lost. The revised Proposal provides no net loss of employment floorspace, and is consistent with the Eastern City District Plan.

Importantly the District Plan sets out the objective that developments create the conditions for residential development within strategic centres and within walking distance (10 minutes), but not at the expense of the attraction and growth of jobs, retailing and services. This proposal would create the conditions for residential development that sits above retailing, servicing and office space, directly aligning with the District Plan.

Council is currently working on a Planning Proposal to protect commercial floorspace capacity in Bondi Junction by implementing a minimum non-residential FSR in the B4 Mixed Use zone and restricting accommodation uses ('serviced apartments' and 'hotels') to the B4 Mixed Use zone. Therefore, ensuring the limited remaining sites in the B3 Commercial Core zone accommodate knowledge-intensive office jobs.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes, the proposal is consistent with Waverley's strategic framework as follows.

Local Strategic Planning Statement

On 4 June 2019 Council endorsed the first Draft Waverley Local Strategic Planning Statement (Draft WLSPS). The LSPS puts an emphasis on Strategic Planning and will set out the strategic direction for planning in the Waverley LGA for the next 20 years. The Draft WLSPS will be used to solidify Bondi Junction's status as a strategic centre and create mechanisms by which the required job targets can be met.

The site is identified as being in the Bondi Junction Strategic Centre on p48 of the Draft WLSPS. Planning Priority 11 is to 'Facilitate Bondi Junction as a lively and engaging strategic centre with a mix of employment, entertainment and housing options.' Action 5 of Planning Priority 11 is relevant to the Proposal: 'Maintain the existing employment floorspace in Bondi Junction.' The Proposal seeks to maintain the existing potential employment space and provide incentive for the redevelopment of the sites.

Community Strategic Plan 2018–2029

The *Waverley Community Strategic Plan (CSP)* was exhibited and adopted during the process of this planning proposal. The CSP was adopted on 19 June 2018. The CSP outlines objectives to be met by 2029, the following objectives are relevant to this proposal. The proposal is compliant with the CSP as it proposes the protection of potential commercial floorspace within Bondi Junction and therefore creates opportunity for creating a diverse range of business and services.

Bondi Junction's role as a Strategic Centre is underscored by its mix of retail, hospitality and entertainment services as well as commercial office market presence. The centre plays an important role in providing space for the Eastern Suburbs office market, with health being a larger sector occupying office space. In recent years the role of Bondi Junction servicing the surrounding area as a Strategic Centre has gradually been decreasing through the conversion of previous retail and office uses to mixed use residential buildings. Therefore, maintaining and protecting commercial floorspace on this site in the B3 Commercial Core zone is in line with the objectives of the CSP.

Specifically the proposal is compliant with the following strategies within the CSP:

4.2.1 Enhance the commercial core of Bondi Junction to increase employment

The proposal intends to enhance the commercial core of Bondi Junction by incentivising the redevelopment of these commercial sites which will provide more employment space within the Bondi Junction strategic centre. Redeveloping these sites to their full commercial potential will help to increase the employment opportunities within Bondi Junction.

4.2.2. Support the efforts of a range of stakeholders to increase the diversity of the local economy

Supporting the mix of residential and commercial uses increases the diversity of the local economy as it offers opportunity for a variety of mostly commercial developments and some residential developments to enhance the local economy.

Bondi Junction Commercial Centre Review

The *Bondi Junction Commercial Centre Review* (BJCCR) was undertaken in 2017. The BJCCR identifies the large loss of commercial floorspace as a result of the redevelopment of sites with primarily residential uses within Bondi Junction which has resulted in the erosion of employment related floorspace. The subject site of the proposal is identified as adding critical mass to the core of Bondi Junction's remaining commercial space. The recommendations coming out of the BJCCR are as follows:

- Protect the B3 Commercial Centre zone from any future rezoning.
- Implement a non-residential FSR in the B4 zone.
- Prohibit serviced apartments in the B3 Commercial Centre and B4 Mixed Use zone.
- Consider allowing differential controls for office development in the B4 Mixed Use zone.
- Consider applying incentives for office development in the B4 Mixed Use zone.
- Identify future areas for residential growth to reduce conflict with commercial.

The Proposal directly aligns with the recommendations of the BJCCR as it is protecting the B3 Commercial Core zone from any rezoning and is implementing a non-residential FSR that does not reduce any commercial floorspace. The addition of the residential FSR of 1:1 acts as an incentive to redevelop and create office development on the site.

The BJCCR outlines that while office development in Bondi Junction is feasible, there is difficulty in attracting pre-commitments and the revised proposal with a portion of residential FSR would reduce the commercial pre-commitment requirement and facilitate redevelopment of commercial floorspace on these sites.

Bondi Junction has solid market fundamentals with a vacancy rate lower than the Sydney average and other suburban and metro markets, and comparable – and in some instances higher – rents for similar grade office floor space. The balance of evidence suggests that there is strong underlying demand for commercial office floor space Bondi Junction. Feasibility testing for specific sites in Bondi Junction indicates that commercial office development is currently feasible. With vacancy levels the lowest they have been in a decade, it is likely that new commercial office development would be absorbed by the market.

However, developers face difficulty in securing financing if unable to secure 50% pre-commitments within their development. The financing climate post the Global Financial Crisis for new office buildings requires a tenant pre-commitment of approximately 50% of the total building floor space before a lender will commit to funding. This issue is the single biggest issue most adversely impacting the development of new commercial office floor space across Sydney, despite low vacancy rates. There are and have been a number of DA approved developments across major office markets in Sydney that have been sitting in a 'holding pattern' for years waiting for pre-commitments. For example, the major commercial tower development at 100 Mount Street, North Sydney took nearly three years to obtain a sufficient level of pre-commitments before finance approval was gained and construction commenced. Another example can be seen in the 6-8 Bronte Road, Bondi Junction commercial development which only developed to 50% of its possible development potential partially due to pre-commitment issues. This issue is directly related to scale, with larger developments requiring greater pre-commitments and hence being more difficult to 'get out off the ground'. A centre such as Bondi Junction, services a smaller office market than the larger, 'metropolitan' office markets like Sydney CBD, North Sydney & Parramatta and hence does not have the depth of demand that these metropolitan office markets have. Therefore it is difficult lining up tenants for large office buildings (the larger, the more difficult) particularly outside of the Sydney CBD, where the demand for office space is less.

The proposal is proposing a maximum residential FSR of 1:1 (or a non-residential FSR of 5:1). Having a residential component in future development would reduce the pre-commitment amount, as residential floorspace is much easier to finance with pre-sales. For example, a 20% residential floorspace component in

a commercial development could reduce the commercial pre-commitment requirement for commercial from 50% down to 30%; totalling a 50% combined residential and commercial pre-commitment. Therefore the residential FSR would 'cross-subsidise' the commercial component and create a lower commercial pre-commitment benchmark, meaning a smaller number of commercial tenants whose five years lease is expiring at the same time need to be found.

Overshadowing impacts

If built to the extent of the current controls applying to the sites, the development would overshadow a total of 7 buildings over the course of the equinox day (September & March 21st) and 14 buildings over the course of the winter solstice (June 21st). Increasing the FSR over the sites 96-108 Ebley St (the FSR for 110-122 Ebley St is not proposed to increase) has a minimal impact in terms of increasing the amount of buildings impacted as the additional impact is only on one building on equinox and two buildings on the winter solstice. At 9am on the winter solstice the rear of several commercial buildings fronting Bronte Road are impacted by increased overshadowing, however given these properties are used for commercial purposes the impact of additional overshadowing is not deemed to be significant (see Attachment). The overshadowing looked at likely development scenarios given a proposed 5:1 commercial floorspace podium and a setback 1:1 residential component above. A developer could produce shorter buildings with larger floorplates and further reduce the overshadowing impact under the proposed controls; however this is an unlikely development outcome given that it would diminish the residential capacity on the site.

5. Financial impact statement/Timeframe/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, assessment and exhibition of the proposal and these have been budgeted.

Consultation

Revised Gateway Determination – Public Exhibition

If supported by Council and the Department of Planning and Environment, the amended Proposal will be placed on exhibition in accordance with any Revised Gateway Determination issued by the Department of planning and Environment which is likely to require the proposal to be placed on exhibition for a minimum period of 28 days. The Proposal will be available on Council's website, at Council's Customer Service Centre and Waverley Library.

Timeframe

The estimated timeframe for completing of the LEP amendment is set out below and satisfies the requirement of nine months specified in the Gateway Determination:

Gateway Determination	July 2019
Public Exhibition	August-September 2019
Report to Council	September-October 2019
Make the Plan	October-November 2019

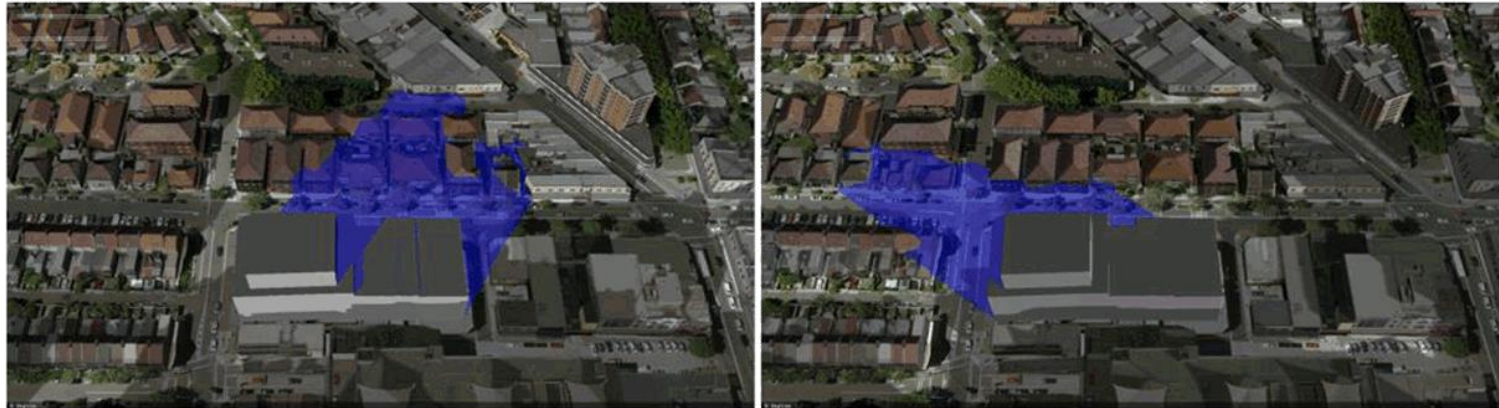
6. Conclusion

The revised Proposal is consistent with the recommendations outlined in the *Eastern City District Plan*, the *Draft Waverley Local Strategic Planning Statement*, the *Bondi Junction Commercial Centre Review* and the *Waverley Community Strategic Plan* as it protects commercial floorspace in Bondi Junction and promotes

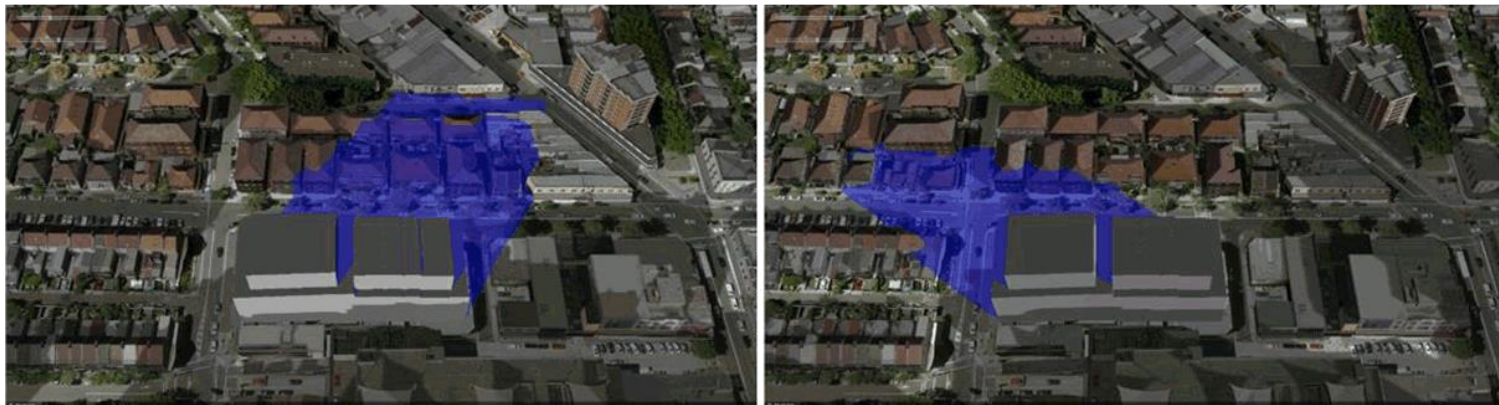
employment floorspace. The Proposal helps to protect the viability of the Bondi Junction Strategic Centre by supporting future employment growth. Providing the incentive of a 1:1 FSR of residential floorspace will act as the catalyst for redevelopment on these sites, as development becomes more viable. Redeveloping these sites will help to reach their currently unrealised commercial potential floorspace. It is these revised changes and consistency with the relevant plans that has led Council Officers to change their position from recommending refusal of the previous Proposal, to recommending support for the amended Proposal.

7. Attachments

1. Shadow Diagrams Existing & Adjusted - 96 - 122 Ebley Street PP [↓](#) .



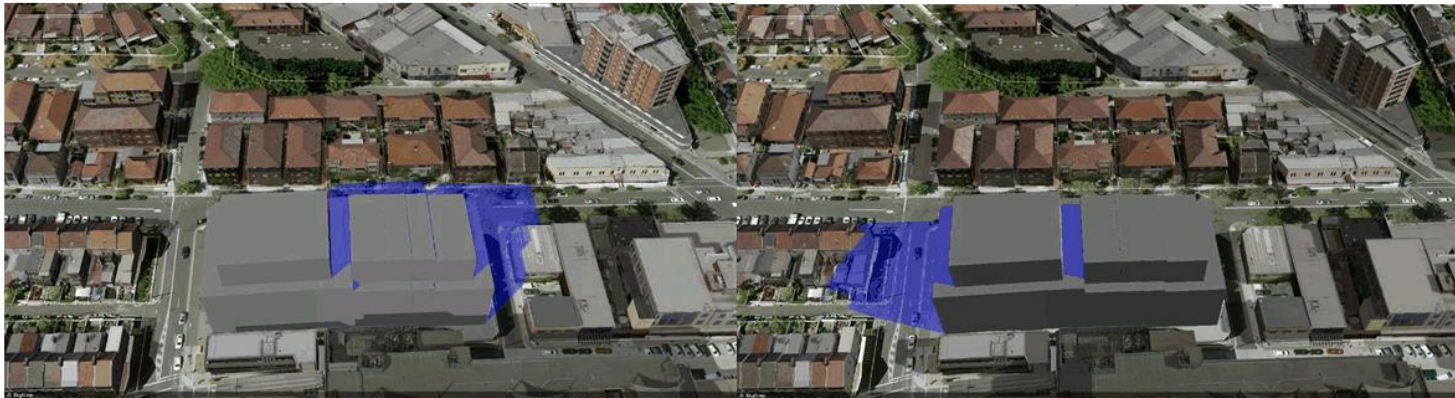
Existing Controls Winter 9am & 3pm



Adjusted Controls Winter 9am & 3pm



Existing Controls Equinox 9am & 3pm



Adjusted Controls Equinox 9am & 3pm

REPORT
PD/5.2/19.07

Subject: Planning Appeals in the Land and Environment Court

TRIM No: A17/0514

Author: Mitchell Reid, Executive Manager, Development Assessment

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

RECOMMENDATION:

That Council receives and notes this report on the status of the planning appeals currently in the Land and Environment Court.

1. Executive Summary

This report provides a summary of the status of the various planning appeals in the Land and Environment Court.

2. Introduction/Background

At the Council meeting held on 20 November 2018, Council resolved that an update be provided to the Strategic Planning and Development Committee on the status of development related legal appeals.

This report provides information for the second quarter of 2019 (1 April–30 June) as well as the first quarter (1 January–31 March) for comparative information.

It also outlines the steps involved in the normal appeal process for information.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Strategic Planning and Development Committee 5 February 2019	PD/5.1/19.02	<p>That Council:</p> <ol style="list-style-type: none">1. Receives and notes this report on the status of the planning appeals currently being defended in the Land and Environment Court.2. Receives a quarterly update report to Committee, rather than a monthly update, given that the information within the report on appeals will not change significantly from month-to-month.

4. Discussion

The tables below show the number of new appeals lodged and the number of existing appeals determined for both the first and second quarters (Q1 and Q2) of 2019.

As the handing down of judgements can take several months after an appeal is heard, the numbers of appeals lodged and the number determined for the same period do not correlate.

	Q1	Q2
Total New Appeals Lodged:	5	6
Deemed refusal:	5	3
Refused by WLPP:	0	1
Refused by DBU:	0	1
Against a condition:	0	1

Total Appeals Determined:	2	2
Win:	2	2
Loss:	0	0
By s 34 Agreement:	2	0
By hearing:	0	0
Discontinued/dismissed/withdrawn:	0	2

Total costs:	\$ 259,639	\$236,282
Legal costs (lawyers/barristers):	\$ 131,815	\$142,707
Experts' costs:	\$ 127,824	\$93,574

The status of individual current appeals is provided in Attachment 1.

The Land and Environment Court is presently dealing with an unusually large number of appeals. This is evidenced by the current delay in the allocation by the Court of hearing dates for appeals. An applicant lodging an appeal now (ie late June 2019) will be waiting until at least early March 2020 to have the matter heard.

It is also apparent that more applicants are choosing to lodge appeals under the 'deemed refusal' trigger. This is a legislative appeal provision that allows an applicant to deem their application 'refused' if the Council has not determined it within 40 calendar days and then this allows the applicant to lodge an appeal.

The high number of 'deemed refusal' appeals can be attributed to:

- Applicants anticipating a refusal from Council and wanting to have an appeal avenue ready.
- Applicants seeking to 'queue jump' their DAs. Where an undetermined DA is the subject of an appeal, staff will review the proposal to determine whether it would likely be approved and if so, endeavour to determine the application before hearing dates so as to reduce legal costs.
- Applicants refusing to make requested amendments and deciding to have the matter determined by the Court.

The development application appeal process is generally as follows

- Appeal lodged by applicant
- The Court holds a *Directions Hearing*.

This is a meeting before the Court Registrar with the solicitors for both parties to map out how the appeal will be conducted and the various dates for each step in the process.

- Council prepares the *Statement of Facts and Contentions*.
This is a paper that outlines the actions to date by the Council and the reasons (contentions) that the Council says that the application should be refused.
- The applicant provides a *Statement in Response*.
This is where the applicant will generally agree to make a change or dispute Council's contentions.
- The parties hold a *without prejudice meeting**
This is a Court mandated meeting where the parties try to resolve the issues raised in the contentions. This meeting does not include objectors or a Commissioner of the Court.
- *Experts Joint Report*
The experts engaged by the applicant and the Council meet and prepare a joint report that relates to the contentions.
- *Conciliation Conference* (section 34 of the Land & Environment Court Act)
This is a Court mandated conference that is usually held on site and includes the parties, experts, solicitors and any objectors. A Commissioner of the Court attends and assists the parties to try to resolve the issues raised in the contentions. If no agreement can be reached the conference is terminated and the matter proceeds to a full hearing.
- *Hearing*
In some matters the hearing is held immediately following the termination of the S34 conference and in others the matter will be heard at a later date. The hearing is held at the Court and objectors have the ability to attend and give evidence. The experts also give evidence and the Commissioner (or sometimes Judge) will generally give a written judgement at a later date.

*The *without prejudice meeting* is a new requirement in the usual appeal process.

It is clear that the Court is endeavouring to reduce the number of contested appeal hearings and instead strongly encourage the parties to try to achieve an agreement. The Court has now effectively mandated that the parties engage in two separate conciliation meetings (without prejudice meeting and Section 34 conference) before it will refer a matter to a contested hearing. Whilst this may, in some cases, reduce the number of hearing days and workload on the Court, it does place an additional burden on both the applicant and Council and results in greater delay and costs for both parties.

5. Financial impact statement/Timeframe/Consultation

Costs associated with planning appeals are provided for in Council's budget and expenditure is in line with budget estimates. During the financial year to date, Council has also received a total of \$107,870 in legal costs recovery. This is the payment to Council by the applicant of Council's costs as a result of the applicant amending their proposal (generally to overcome the contentions) during the course of appeals.

6. Conclusion

Development appeals are being managed in an appropriate manner and Council will continue to receive quarterly status reports for information.

7. Attachments

1. Legal Appeals Update - Q2 2019 [↓](#) .

CURRENT LEGAL APPEALS UPDATE Q2 2019 (DEVELOPMENT ASSESSMENT)					
	Date Appeal Lodged	Address	Determining Body	Proposal	Status
1	07/03/2018	63 Fletcher Street, Tamarama (formerly YHA)	DBU	Modification to approved residential flat building including change in apartment numbers, internal reconfiguration and additional upper level and additional basement car parking.	DA refused and decision appealed to Court. Conciliation phase (s34) terminated and matter set down for hearing on 23-24 May 2019. Applicant has sought leave to rely on amended plans and Council & its team are working through the issues. The Applicant has now amended their plans so that the addition now has no impacts and not visible to the streetscape. This matter will be finalised shortly.
2	28/06/2018	63 Fletcher Street (formerly YHA)	Deemed Refusal	Deemed refusal of DA for changes to approved residential flat building including change in apartment numbers, internal reconfiguration and additional upper level and additional basement car parking.	This matter will run with co-concurrently with the above 63 Fletcher St appeal matter.
3	27/07/2018	139 Oxford Street, Bondi Junction	Deemed Refusal	Deemed refusal of DA for demolition of existing building and construction of 9 storey mixed use building comprising ground level retail and hotel/motel (21 rooms) above, with basement storage.	Conciliation conference (s34) was held on 1 March 2019 and the matter was adjourned to 28 March 2019. There were issues with the hydrant booster and the Applicant put on without prejudice plans the day before the Directions Hearing to take hearing dates. Hearing dates have been set down for 13 November 2019. Council are continuing without prejudice discussions with the Applicant in an attempt to resolve this matter by Agreement.
4	01/08/2018	1 Marroo Street, Bronte	Deemed Refusal	Deemed Refusal of DA for demolition of an existing dwelling and construction of dual occupancy (semi-detached dwellings) with associated Torrens title sub-division	Conciliation conference and hearing (s34AA) was originally set down for 18-19 March 2019 but a Motion was filed to have this matter adjourned until 11-12 November 2019.
5	31/08/2018	154 Ramsgate Avenue, North Bondi	Deemed Refusal	Deemed refusal of DA for demolition of existing residential flat building and construction of a new 4 storey residential flat building with basement parking	Conciliation conference (s34) was held on 22 February 2019 and the Applicant sought adjournment in order to satisfy Council's requirements. Height poles indicated loss of views and no agreement reached. Hearing Dates set for 28-29 November 2019
6	25/09/2018	Shop 6, 767 - 771 Old South Head Road, Vaucluse (The Grumpy Baker)	DBU	Allow trial hours of 9pm to 10pm, 7 days a week permanently (Shop 6)	DA refused and decision appealed to the Court. Conciliation conference (s34) was held on 1 May 2019 and the Applicant has made a counter-offer towards its operation hours and exhaust affecting the neighbour. The offer was refused by Council and hearing dates of 16 & 17 September 2019 have been set.
7	25/09/2018	Shop 7 & 8, 767 - 771 Old South Head Road, Vaucluse (The Grumpy Baker)	DBU	Allow trial hours of 9pm to 10pm, 7 days a week permanently (Shops 7 and 8)	DA refused and decision appealed to the Court. This matter will run with co-concurrently with the above Shop 6, 767 - 771 Old South Head Road matter.
8	16/10/2018	10 Marne Street, Vaucluse	Deemed Refusal	Deemed refusal of DA for demolition of existing 3 storey residential flat building and construction of new 4 storey residential flat building and basement carparking with strata subdivision.	Conciliation conference (s34) was held on 27 May 2019 and the Commissioner ordered a site analysis inspection with further plans to be presented by the Applicant
9	02/11/2018	607 - 609 Old South Head Road, Rose Bay	Deemed Refusal	Deemed refusal of DA for demolition of 2 single dwellings and construction of 8 town houses with basement carparking and strata subdivision	Conciliation conference and hearing (s34AA) occurred on 11 June 2019. The Applicant will be providing further amended material.
10	16/11/2018	463 - 467 Bronte Road, Bronte	Deemed Refusal	Deemed Refusal of DA to provide communal rooftop terrace.	Conciliation conference (s34) terminated and hearing dates set down for 24/10/19 & 25/10/19
11	21/11/2018	9 Philip Street, Bondi	Deemed Refusal	Deemed Refusal of DA for demolition of existing semi-detached dwelling and construction of new 2-3 storey semi detached dwelling.	Conciliation conference and hearing (s34AA) set down for 2-3 July 2019
12	07/12/2018	59 Brighton Boulevard, Bondi	WLPP	Demolition of existing building and construction of a 3storey residential flat building with ground level car parking and strata subdivision	DA refused by WLPP and decision appealed to Court. Conciliation conference (s34) to be held on 20 August 2019.
13	11/12/2018	21 Busby Parade, BRONTE	Deemed Refusal	Deemed refusal of DA for alterations and additions to existing residential flat building including additional level, new garage and associated landscaping	Conciliation conference (s34) to be held on 12 August 2019. Site inspection by both parties took place on 22 May 2019.
14	12/12/2018	21 Waverley Crescent, Bondi Junction	Deemed Refusal	Deemed refusal of DA for demolition of dwelling house and construction of a 8-9 storey residential flat building with basement parking	Conciliation conference (s34) to be held on 5 August 2019

	Date Appeal Lodged	Address	Determining Body	Proposal	Status
15	12/12/2018	134 - 138 Campbell Parade, Bondi Beach	Deemed Refusal	Deemed refusal of DA to demolish the existing building and construct a 5 storey shop top housing development, comprising ground level retail, apartments above and basement carparking	Conciliation conference (s34) to be held on 21 August 2019
16	17/12/2018	20 – 24 Hall Street, Bondi	WLPP	Partial demolition of heritage listed building (Australia Post Office) and construction of a 4 storey shop top housing development comprising ground level, apartments above and basement carparking	DA refused by WLPP and decision appealed to the Court. Conciliation conference (s34) to be held on 26 August 2019.
17	19/12/2018	28-34, 36, 38, 40-42 Bronte Road & 84 Ebley Street Bondi Junction NSW 2022 (BJ RSL)	SECPP	Deemed refusal of Review application for partial demolition of existing structures and heritage listed buildings and construction of a 10 storey mixed use development containing retail, club premises and apartments above, with basement carparking.	A Notice of Motion was filed to expedite the matter directly to hearing dates being 19-20 November 2019. The Sydney Eastern Central Planning Panel have delegation over this matter and plans/docs have to be sent to the SECPP for review.
18	08/01/2019	6 Ashley Street, Tamarama	Deemed Refusal	Additional level to Court approved dwelling.	Conciliation conference and hearing (s34AA) set down for 12-13 September 2019
19	16/01/2019	657 Old South Head Road, Rose Bay	Deemed Refusal	Demolition of an existing single storey commercial building and construction of a 4 storey shop top housing development comprising ground level retail, residential above and basement carparking.	Conciliation conference (s34) to be held on 11 September 2019
NEW LEGAL APPEALS Q2 2019 (DEVELOPMENT ASSESSMENT)					
20	25/02/2019	163 Birrell Street	SECPP	Demolition of existing structures, construction of a new bowling club and two new bowling greens, a seniors living development, childcare centre and associated basement car parking and landscaping.	A Notice of Motion was filed to expedite the matter directly to hearing dates being 27-30 August 2019. We will be addressing resident objector concerns in an information session on Wednesday 24 July 2019 at 6-7pm at Council's Chambers (pending number of attendees). This matter is under the direction of the Sydney Eastern Central Planning Panel (SECPP)
21	15/03/2019	5-11 Hollywood Avenue, Bondi Junction	SECPP	Demolition of commercial building and construction of a new 11 storey hotel including basement carparking, gymnasium, cafe and common roof terrace	Conciliation conference (s34) to be held on 18 November 2019. Council need to advise SECPP before entering into an Agreement.
22	13/03/2019	28 Barclay Street, Waverley	DBU	Alterations and additions to single dwelling including construction of a hardstand carspace and associated works	Conciliation conference and hearing (s34AA) set down for 25-26 November 2019
23	01/04/2019	278 - 282 Birrell Street, Bondi	Deemed Refusal	Demolition of two boarding houses and one residential flat building and erection of a new four-storey residential flat building with basement parking.	Conciliation conference (s34) to be held on 4 December 2019
24	03/04/2019	43 – 45 Hall Street, Bondi Beach, NSW 2026	WLPP	Demolition of mixed use building and granny flat, retention and refurbishment of the listed heritage item and construction of a five storey residential flat building with integrated basement carparking	Conciliation conference (s34) to be held on 18 September 2019
25	30/04/2019	21 Thompson Street, Tamarama	Summons Commencing An Appeal - s56a of the LEC Act 1979	The plaintiff appeals the whole of the decision by C'er Bish dated 03/04/19. The Appeal be upheld and the appeal be remitted to a C'er not Bish The plaintiff seeks relief from the whole of the decision (defendant being Council pay costs)	The matter is listed for hearing on 7 August 2019. Council will be putting on a submitting appearance in this matter.
26	06/05/2019	27 Paul Street & 8-10 Council Street, Bondi Junction	Deemed Refusal	Demolition of the building fronting Council Street (8-10 Council Street) and partial demolition of the building fronting Paul Street (27 Paul Street), and construction of a two and three storey affordable housing development with a total of 18 units and basement car parking.	Conciliation conference (s34) to be held on 9 September 2019.
27	17/05/2019	463 - 467 Bronte Road, Bronte (2nd)	DBU	Refusal of Application lodged on 04/12/18 for alterations and additions to existing mixed use building including replacing balustrading to rooftop terrace. Reasons for refusal include non-compliance with maximum height standards under WLEP and adverse amenity impacts	This matter will run with co-concurrently with the above 463-467 Bronte Road Matter currently under appeal.
28	20/05/2019	5-9 Castlefield Street, Bondi	Deemed Refusal	Demolition of No.9 and alterations and part demolition to existing houses at 5 and 7, change of use, and construction of a new residential flat building with some affordable housing units, basement parking and landscaping.	Callover (to set dates for the conciliation phase) on 18 June 2019.

	Date Appeal Lodged	Address	Determining Body	Proposal	Status
FINALISED LEGAL APPEALS Q2 2019 (DEVELOPMENT ASSESSMENT)					
1	11/07/2018	625 - 627 Old South Head Road, Rose Bay	Deemed Refusal	Demolition of existing dwellings and construction of new 4storey residential flat building withbasement parking	Finalised. s34 Agreement entered into where the Applicant agreed to delete the top floor and enter into a VPA and contribute towards our costs.
2	18/07/2018	21 Thompson Street, Tamarama	WLPP	New dual occupancy.	Finalised. Court dismissed the appeal and the DA was refused.
3	22/02/2018	20 Loombah Rd, Dover Heights	DBU	Demolition of dwelling, construction of a part 2 and part 3 storey dwelling with garage and swimming pool.	Finalised. s34 Agreement entered into where the Applicant agreed to amend the design (i.e. move the building back away from the rock shelf which is also a biodiversity zone, comply with height and FSR and delete the pedestrian walkway from Loombah road which was cutting through the biodiversity zone) and contribute towards our costs.
4	26/03/2018	14 Fletcher Street, Bondi	Deemed Refusal	Deemed refusal of DA for a 4storey residential flat building with basement parking.	Finalised. S34 Agreement entered into where the Applicant agreed to amend the design and dedicate 6 units to Affordable Housing, align public domain works and contribute towards our costs.
5	10/08/2018	25 Glasgow Avenue, Bondi Beach	WLPP	Demolition of existing dwelling and construction of a dual occupancy (semi-detached dwellings) with associated Torrens title subdivision	Finalised. DA refused by the WLPP. Our contentions are minimum subdivision lot size, bulk and scale, height, setbacks, excavation, streetscape and visual impact, privacy, car parking, open space and public interest. The appeal was upheld with amended plans and conditions provided by the Applicant with seperation of prescribed matters to be carried out prior to any work and the matters to be carried out prior to the issue of a construction certificate (essentially allowing the applicant to carry out demolition prior to the issue of a CC).
6	17/08/2018	42 Bennett Street, Bondi	DBU	Construction of a secondary dwelling, associated works and extension of rear verandah of existing dwelling.	Finalised. The matter was dismissed by the Court and the Appeal refused.
7	27/07/2018	97 Glenayr Avenue, Bondi Beach	Deemed Refusal	Deemed refusal of DA for demolition of existing building and construction of a 4storey shop top housing building with ground level retail and parking, with apartments above	Finalised. S34 Agreement entered into where the Applicant agreed to delete the third floor, enter into a VPA and contribute towards our costs.
8	04/08/2017	99-111 Glenayr Avenue, Bondi Beach (Beach Road Hotel)	DBU	Modification to extend trial period for increased patron numbers	Finalised. An agreement was reached between parties for a 1 year trial period with tighter conditions of consent and revised Plan of Management. Council to enforce compliance procedures.
9	20/09/2018	18 Leichardt Street, Bronte	DBU	Appeal against condition 2 relating to rear setback and a window	Finalised. s34 Agreement entered into where the Applicant agreed to amend plans to reflect the 1st floor addition to the main roof has been setback from the northern boundary to be in line with the courtyard wall and deletion of a window to the gable end and retention of existing gable and contribute towards our costs