

# Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre (1991 EPI 442)

[1991-442]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

### Authorisation

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File last modified 11 December 2020

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New South Wales

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# Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre (1991 EPI 442)



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre*.

### 2 Aims and objectives

- (1) The general aims and objectives of this plan are—
  - (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
  - (a) to replace the existing local environmental plans and planning scheme applying to the centre with a single local environmental plan and common planning policies and controls that will be administered jointly by the Councils of the Municipalities of Waverley and Woollahra,
  - (b) to assist Waverley and Woollahra Councils in the management of the centre,
  - (c) to maintain and reinforce the centre as the sub-regional centre for the eastern region of the Sydney metropolitan area,
  - (d) to provide for an appropriate balance and distribution of land for commercial, retail, residential and tourist development and recreation, entertainment and community facilities,
  - (e) to ensure growth of the centre occurs in a planned and co-ordinated manner which will be viable in the long term,
  - (f) to provide guidance to the community in terms of growth and development opportunities and the manner in which growth is proposed to be managed,

- (g) to protect and improve the environmental amenity of the centre and adjacent areas,
  - (h) to conserve the environmental heritage of the centre,
  - (i) to provide for the safe and efficient movement of vehicles and pedestrians within and around the centre and to provide adequate access to all parts of the centre for emergency and service vehicles,
  - (j) to strengthen the role of the centre as a major public transport interchange, and
  - (k) to provide a framework for more detailed controls to be set out within development control plans.
- (2) The specific aims and objectives of this plan are—
- (a) in relation to retailing and commerce—
    - (i) to consolidate the retail and commercial core of the centre in order to benefit from access provided by the existing public transport infrastructure, and
    - (ii) to maintain and allow for an increase in the commercial and retail role of the centre,
  - (b) in relation to employment and economic development—to allow for a broad range of environmentally suitable development that will contribute towards the economic growth of the centre and will help to diversify and increase employment opportunities,
  - (c) in relation to residential development and density—
    - (i) to provide opportunities for residential development at various densities in appropriate areas, and
    - (ii) to ensure that residential development is carried out to a scale and with a character suitable for the centre,
  - (d) in relation to community services and facilities—
    - (i) to allow for the provision of new and additional community services and facilities which will meet the needs of the community, and
    - (ii) to allow for contribution towards the provision of community services and facilities,
  - (e) in relation to traffic and transport,
    - (i) to protect and enhance the efficiency of the existing and proposed road system,

- (ii) to ensure that the densities for all development reflect the capacity of the existing road system,
  - (iii) to provide employment generating development opportunities in locations in close proximity to the bus/rail interchange so as to promote the efficient use of that facility.
  - (iv) to encourage the use of the existing public transport infrastructure, particularly for people employed in the centre,
  - (v) to provide for convenient, comfortable and safe access to public transport facilities,
  - (vi) to restrict the growth of commuter traffic and parking,
  - (vii) to ensure that adequate public and private parking, vehicular servicing and emergency service access is provided for in new development,
  - (viii) to ensure that any developer contributes towards traffic management measures necessitated by any development,
  - (ix) to allow for contribution towards the provision of car parking for new development, and
  - (x) to ensure that new development does not adversely affect the operations of the bus-rail interchange,
- (f) in relation to recreation and tourism—
- (i) to maintain, protect, enhance and expand existing open space,
  - (ii) to allow for contribution towards the provision and embellishment of public open space,
  - (iii) to allow for a range of tourist accommodation in the form of hotels and serviced apartments, and
  - (iv) to provide opportunities for recreation and entertainment facilities,
- (g) in relation to heritage conservation—
- (i) to identify heritage items and heritage conservation areas and to provide measures for their conservation,
  - (ii) to encourage the recycling (adaptive re-use) and restoration of existing buildings of heritage significance,
  - (iii) to require new development adjoining identified heritage items to be compatible with those items,

- (iv) to integrate heritage conservation into the planning and development control process,
  - (v) to provide for public involvement in the matters relating to the conservation of the centre's environmental heritage, and
  - (vi) to ensure that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and their settings and heritage conservation areas,
- (h) in relation to urban design and pedestrian amenity—
- (i) to improve the amenity of the centre by urban design and landscape proposals,
  - (ii) to enhance the public environment and visual amenity,
  - (iii) to ensure that new development is sensitive to the amenity of the centre by having regard to aspects including the public environment, microclimate and views,
  - (iv) to ensure that building design is of the highest quality and that the physical character of the centre is enhanced,
  - (v) to encourage development which contributes positively to the streetscape,
  - (vi) to minimise adverse environmental impacts on the Oxford Street Mall,
  - (vii) to encourage pedestrian links at street level to facilitate pedestrian movement,
  - (viii) to minimise conflicts between pedestrians and vehicles,
  - (ix) to protect and improve the shopper and pedestrian vitality of the centre by supporting the establishment of shops and other shopper oriented uses on ground floor street frontages, particularly in the Oxford Street Mall, and
  - (x) to encourage people to circulate at street level and to discourage pedestrian overpasses and underpasses,
- (i) in relation to adjacent residential areas—to ensure that any new development in the centre does not unreasonably affect the amenity of residential areas adjoining and surrounding the centre by virtue of the nature of the use or uses, the design, bulk and scale of the development and any traffic generation.

### **3 Strategies**

The aims and objectives of this plan are to be achieved by the following strategies—

- (a) by applying land use controls and development standards in each zone,

- (b) by preparing and adopting development control plans that contain guidelines and provisions which address matters including—
  - (i) the requirement for, and location of, off-street car parking and servicing,
  - (ii) vehicle access to, and circulation within, the centre,
  - (iii) the design, scale and bulk of new development and its impact on the amenity of the centre and adjoining areas,
  - (iv) the enhancement of the public environment, including public shelter, public access and circulation and public open space,
  - (v) control over the demolition, renovation and alteration of heritage items and buildings in the conservation area,
  - (vi) control over the erection of buildings in the vicinity of heritage items and the erection and use of buildings in the heritage conservation area, and
  - (vii) the requirement, when assessed as being necessary, of contributing, by way of dedication, monetary payment or other arrangement towards the provision or embellishment of public open space, public off-street car parking and community services and facilities, works associated with town centre improvement programmes and other public and civic needs as may arise and the cost of implementing traffic management measures.

#### **4 Land to which plan applies**

- (1) Except as provided by subclause (2), this plan applies—
  - (a) to land situated in the Municipality of Waverley, as shown by distinctive colouring and edging on the map, and
  - (b) to land situated in the Municipality of Woollahra, as shown by distinctive colouring and edging on the map.
- (2) This plan does not apply to land shown edged heavy black and marked “deferred” on the map, being land excluded from the operation of this plan pursuant to section 68 (5) of the Act.

#### **5 Relationship to other environmental planning instruments**

- (1) This plan—
  - (a) amends *Waverley Local Environmental Plan 1985* in the manner set out in clause 6, and
  - (b) amends *Woollahra Planning Scheme Ordinance* in the manner set out in clause 7.



- (2) *State Environmental Planning Policy No 22—Shops and Commercial Premises* does not apply to development on land within Zone No 3 (a2) or 3 (a3) to which clause 16 applies.

## 6 Amendment of Waverley Local Environmental Plan 1985

*Waverley Local Environmental Plan 1985* is amended—

- (a) by inserting at the end of clause 3 the following subclause—

(3) Despite subclause (1), this plan does not apply to so much of the land shown on the map as is land to which *Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre* applies.

- (b) by omitting clause 32.

## 7 Amendment of Woollahra Planning Scheme Ordinance

*Woollahra Planning Scheme Ordinance* is amended—

- (a) by omitting from clause 4 the definition of **Floor space** and by inserting instead the following definition—

**Floor space** means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1400 millimetres above each floor level, excluding—

- (i) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall,
- (ii) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air conditioning ducts,
- (iii) car parking needed to meet any requirements of the Council and any internal access to the car parking, and
- (iv) space for the loading and unloading of goods.
- (b) by inserting at the end of clause 5 (2) the following words—

*Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre*,

- (c) by omitting clauses 46A, 46AA and 46AB, and
- (d) by omitting from Columns I and II, respectively, of the Table to clause 66A the

following matter—

Land known as 216–218 Oxford Street, Bondi Junction, as shown edged heavy black on the map marked “*Woollahra Local Environmental Plan No 44*” deposited in the office of the Council. Commercial premises or shops attached to or forming part of a flat.

## 8 Adoption of Model Provisions

The *Environmental Planning and Assessment Model Provisions 1980* (except the definitions of **boarding-house**, **car repair station**, **industry**, **recreation facility**, **residential flat building**, **site area** and **tourist facilities** in clause 4 (1) and clauses 5 (1), 7, 15 and 16) are adopted for the purposes of this plan.

## 9 Definitions

(1) In this plan—

**aged persons’ care centre** means a building or place used for the care of aged persons, but not involving the provision of residential accommodation, and includes a senior citizens’ centre as defined in the *State Grants (Home Care) Act 1969* of the Commonwealth.

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means—

- (a) the making of structural changes to the outside of the heritage item, building or work, or
- (b) the making of non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

**amusement centre** means a building or place used for the purpose of playing—

- (a) billiards, pool or other like games, or
- (b) electrically or mechanically operated amusement devices such as pinball machines and the like.

**appointed day** means the day on which this plan took effect.

**backpackers’ hostel** means a dwelling-house, residential flat building or hostel which provides accommodation for travellers, tourists or persons engaged in recreational pursuits and which is not used as their principal place of residence.

**bed and breakfast accommodation** means a dwelling-house which—

- (a) provides short-term accommodation for travellers and tourists,
- (b) is occupied by a permanent resident or permanent residents,
- (c) contains only one bedroom and separate bathroom facilities for the travellers and tourists, and
- (d) contains only one advertising sign which indicates the name and details of the accommodation,

but does not—

- (e) contain separate food preparation and cooking facilities for the travellers and tourists, or
- (f) cause an interference with the amenity of the neighbourhood by reason of the emission of noise, smell, fumes, smoke, vapour, steam, waste water, waste products or the like,

and does not include a building used as a backpackers' hostel, boarding-house, or serviced apartments as defined elsewhere in this plan.

**boarding-house** means a house let in lodgings or a hostel, but does not include a motel or a backpackers' hostel.

**car parking station** means a place, building or part of a building used for the purpose of accommodating vehicles as public parking but does not include parking space needed to meet parking requirements set by the Council.

**car repair station** means a building or place used for the purpose of carrying out repairs to motor vehicles.

**centre** means Bondi Junction Commercial Centre.

**community centre** means a building or place owned, leased or subleased by the Council and used to provide facilities comprising or relating to any one or more of the following purposes—

- (a) a public library,
- (b) public health and welfare services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,

- (f) child minding,
- (g) baby health centres,
- (h) exhibition spaces,
- (i) public buildings,
- (j) any other like purpose.

**Council** means the Council of the Municipality of Waverley or the Council of the Municipality of Woollahra.

**craft** means the carrying on of the practice of locksmithing, tailoring, dressmaking, boot and shoe repairing or home appliance repairing.

**demolition**, in relation to a heritage item or to a building or work within a heritage conservation area, means the damaging, defacing, destruction, pulling down or removal of the heritage item, in whole or in part.

**dual occupancy development** means a building consisting of 2 dwellings (whether or not attached) on one allotment of land.

**floor space ratio**, in relation to a building or buildings erected or proposed to be erected on a site, means the ratio of the total gross floor area of all such buildings to the area of the site.

**foreshore scenic protection area** means land shown on Sheet 1 of the map by black hatching.

**ground floor** means that floor within a building from which direct access is gained to a street and which is nearest the level of that street.

**heritage conservation area** means an area of heritage significance being the land edged heavy black and marked “Heritage Conservation Area” on Sheet 3 of the map.

**heritage item** means a building, work, relic, tree or place of heritage significance to the centre—

- (a) situated in land coloured orange on Sheet 3 of the map, or
- (b) described in Schedule 1.

**heritage significance** means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

**housing for aged or disabled persons** has the same meaning as in *State Environmental Planning Policy No 5—Housing for Aged or Disabled Persons*.

**industry** means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up, or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business.

**maintenance** means the continuous protective care of the fabric of a heritage item and its setting.

**mixed development** means a residential flat building, dwelling-house or boarding-house within the same building as or on the same allotment of land as shops, commercial premises or any other non-residential development.

**public hall** means a building or place, whether owned or controlled by the Council or otherwise, which is used or intended to be used for general public purposes such as meetings, entertainments, exhibitions, social and community activities or the like, but does not include any building or place which is operated for profit or gain.

**recreation area** means—

- (a) a children’s playground,
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by—
  - (i) the Council,
  - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or showground.

**recreation facility** means a building or place used for indoor recreation such as a table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley or any other building or place of a like character used for recreation whether or not operated for profit or gain, but does not include a place of assembly or an amusement centre.

**relic** means any deposit, object or material evidence (terrestrial or underwater) relating to the use and settlement of the Municipality of Waverley or Woollahra which is 50 or more years old.

**residential flat building** means a building containing 3 or more dwellings but not including a building defined elsewhere in this clause.

**serviced apartments** means a building containing 2 or more dwellings intended to

be used for short term accommodation of travellers and tourists and where such dwellings are cleaned or otherwise serviced or maintained by the owner or manager of the apartments or the owner's or manager's agent.

**site area**, in relation to development, means the area of land to which an application for consent to carry out the development relates, excluding therefrom any land on which the development is not permitted by or under this plan or another environmental planning instrument.

**small shop** means a shop having a floor area not exceeding 60 square metres which is used or intended to be used for retailing general merchandise.

**the map** means all sheets of the map marked "*Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre*". In so far as it relates to land within the area of Woollahra, the map is amended by the maps marked as follows—

*Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre (Amendment No 1)*

*Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre (Amendment No 2)*

*Waverley and Woollahra Joint Local Environmental Plan 1991—Bondi Junction Commercial Centre (Amendment No 3) (Sheets 1 and 2)*

**tourist facility** means an establishment providing for holiday accommodation or recreation and may include a hotel, motel, playground, refreshment room or a club used in conjunction with any such activities, but does not include serviced apartments.

- (2) In this plan, a reference to—
- (a) a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
  - (b) a map is a reference to a map copies of which are deposited in the offices of each Council, and
  - (c) land within a zone specified in the Table to clause 12 is a reference to land shown on the map in the manner indicated in clause 11 as the means of identifying land of the zone so specified.

## **10 Consent authority**

For the purposes of this plan, the consent authority—

- (a) in respect of land described in clause 4 (1) (a)—is the Council of the Municipality of

Waverley, and

- (b) in respect of land described in clause 4 (1) (b)—is the Council of the Municipality of Woollahra.

## **Part 2 General restrictions on development of land**

### **11 Zones indicated on the map**

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone—

Zone No 3 (a2) (Business General Zone)—coloured light blue with dark red edging and lettered “3 (a2)”.

Zone No 3 (a3) (Business Secondary Zone)—coloured light blue with dark red edging and lettered “3 (a3)”.

Zone No 3 (a4) (Business Special (Low Intensity) Zone)—coloured light blue with dark red edging and lettered “3 (a4)”

Zone No 3 (a5) (Business Special (Services) Zone)—coloured light blue with dark red edging and lettered “3 (a5)”.

### **12 Zone objectives and development control table**

- (1) The objectives of each zone are set out in the Table to this clause under the heading “Objectives of the zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which—
- (a) development may be carried out without development consent,
  - (b) development may be carried out only with development consent, and
  - (c) development is prohibited,
- are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the aims and objectives of the plan and the objectives of the zone within which the development is proposed to be carried out.

Table

### **Zone No 3 (a2) (Business General Zone)**

#### **1 Objectives of the zone**

The objectives are—

- (a) to establish a core business zone which provides for a wide range of retail and commercial uses, ancillary light industrial uses, entertainment, social and recreational uses and residential development mixed with those uses,
- (b) to provide the opportunity for major redevelopment to occur in the core area in order to control the overall physical form of the centre and minimise impact on adjoining residential areas,
- (c) to limit the amount of residential development and encourage employment generating uses in the interests of maintaining a strong retail and commercial core and promoting a more efficient use of the public transport infrastructure, and
- (d) to promote the retail function and vitality of the centre by supporting the retention and establishment of shops and other shopper oriented uses on ground floor frontages on certain streets.

#### **2 Without development consent**

Nil.

#### **3 Only with development consent**

Any purpose other than a purpose specified in Item 4 of the matter relating to this zone.

#### **4 Prohibited**

Amusement parks; backpackers' hostels; boarding-houses (other than mixed developments); builders' supplies establishments; builders' yards; bus depots; car repair stations; dwelling-houses or residential flat buildings (other than mixed developments); gas holders; generating works; industries (other than light industries or those ancillary or complementary to development permitted with consent by Item 3); institutions; motor showrooms; warehouses.

### **Zone No 3 (a3) (Business Secondary Zone)**



## **1 Objectives of the zone**

The objectives are—

- (a) to establish a secondary business zone which allows for a wide range of retail and commercial uses, ancillary light industrial uses and residential development mixed with those uses,
- (b) to allow for development at a less intense density and scale than that permitted in the core business zone,
- (c) to provide a transitional zone between the core business zone and the surrounding residential areas,
- (d) to allow for a range of uses which are compatible, physically and operationally, with the surrounding residential areas, and
- (e) to promote the retail function and vitality of the centre by supporting the retention and establishment of shops and other shopper oriented uses on ground floor frontages on certain streets.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Any purpose other than a purpose specified in Item 4 of the matter relating to this zone.

## **4 Prohibited**

Amusement centres; amusement parks; backpackers' hostels; boarding-houses (other than mixed developments); builders' supplies establishments; builders' yards; bus depots; car repair stations; cinemas; clubs; dwelling-houses or residential flat buildings (other than mixed developments); gas holders; generating works; hotels; industries (other than light industries or those ancillary or complementary to development permitted with consent by Item 3); institutions; motels; motor showrooms; recreation facilities; taverns; tourist facilities (other than serviced apartments); transport terminals; warehouses.

## **Zone No 3 (a4) (Business Special (Low Intensity) Zone)**

## **1 Objectives of the zone**

The objectives are—

- (a) to permit a range of residential and non-residential uses at a scale and intensity that will not prejudice the viability of the core business area and which are considered to be compatible with the adjoining and adjacent residential areas, and
- (b) to ensure that development does not detrimentally affect the heritage significance of the heritage conservation area and identified heritage items.

## **2 Without development consent**

Dwelling-houses other than those in the heritage conservation area.

## **3 Only with development consent**

Any purpose other than a purpose specified in Item 2 or 4 of the matter relating to this zone.

## **4 Prohibited**

Amusement centres; amusement parks; backpackers' hostels; builders' supplies establishments; builders' yards; bus depots; car repair stations; cinemas; clubs; gas holders; generating works; hotels; industries (other than home industries, light industries or those ancillary or complementary to development permitted with consent by Item 3); institutions; motels; motor showrooms; recreation facilities; serviced apartments; shops within the heritage conservation area; taverns; tourist facilities; transport terminals; warehouses.

### **Zone No 3 (a5) (Business Special (Services) Zone)**

#### **1 Objectives of the zone**

The objective is to provide for commercial uses (other than shops), light industrial uses and residential development mixed with those uses.

#### **2 Without development consent**

Nil.

### **3 Only with development consent**

Any purpose other than a purpose specified in Item 4 of the matter relating to this zone.

### **4 Prohibited**

Amusement centres; amusement parks; backpackers' hostels; boarding-houses (other than mixed developments); bus depots; cinemas; clubs; dwelling-houses or residential flat buildings (other than mixed developments); gas holders; generating works; hotels; industries (other than light industries or those ancillary or complementary to development permitted with consent by Item 3); institutions; recreation facilities; shops (other than take-away food shops, milk bars, confectioners, opportunity shops, second-hand goods shops, showrooms or small goods and sandwich shops); taverns; tourist facilities; transport terminals.

## **Part 3 Special provisions**

### **13 Subdivision of land**

- (1) A person shall not subdivide land to which this plan applies without the consent of the Council.
- (2) Subclause (1) does not apply to subdivision under the *Strata Titles Act 1973*, but nothing in this clause affects Part 3 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

### **14 Floor space ratios**

- (1) A building shall not be erected on land within Zone No 3 (a2), 3 (a3), 3 (a4) or 3 (a5) if—
  - (a) the floor space ratio would exceed the ratio indicated on the map in respect of that land, or
  - (b) in the case of 2 floor space ratios being indicated on the map in respect of that land, the floor space ratio would exceed the greater of the 2 ratios.
- (2) If, on the map, 2 floor space ratios are indicated for the same land—
  - (a) in respect of buildings on land within Zone No 3 (a2), the floor space ratio of a building or any part of a building used for residential purposes shall not exceed the lesser of the 2 floor space ratios, and
  - (b) in respect of buildings on land within Zone 3 (a4), the floor space ratio of a building or any part of a building used for non-residential purposes shall not

exceed the lesser of the 2 floor space ratios.

- (3) A building for the purposes of a hotel may be erected with a floor space ratio which does not exceed the maximum ratio indicated on the map for the land to which that building relates.
- (4) In determining the floor space ratio of any building or buildings for the purposes of this clause, no account shall be taken of any floor area which is part of a car parking station.

#### **15 Assessment of certain applications**

Where an application is made to the Council for consent to carry out any development—

- (a) within view of any waterway or adjacent to any main or arterial road or public reserve—the Council shall make an assessment of the probable aesthetic appearance of the proposed development when used for its proposed purpose, or
- (b) within a foreshore scenic protection area—the Council shall make an assessment of the appearance and visual quality of the proposed development when viewed from Port Jackson.

#### **16 Certain development within Zone No 3 (a2) and 3 (a3)**

- (1) This clause applies to land within Zone No 3 (a2) and 3 (a3) having frontage to Oxford Street, the Oxford Street Mall, Grosvenor Street, Bronte Road, Spring Street between Newland Street and Bronte Road, or Waverley Street Mall, Bondi Junction.
- (2) Notwithstanding clause 12, but subject to subclause (3), development at ground floor level for the purposes of commercial premises is prohibited where that development is proposed to front a street, road or mall referred to in subclause (1) and is currently used for the purposes of refreshment rooms, shops or crafts.
- (3) Subclause (2) does not apply to—
  - (a) development for the purposes of banks, building societies or co-operative societies, and
  - (b) any access at ground floor level to commercial premises, where that access, in the opinion of the Council, is consistent with the objectives of Zone No 3 (a2) or 3 (a3).

#### **17 (Repealed)**

#### **18 Amusement centres**

- (1) A person shall not, without the consent of the Council, use any premises for the purposes of an amusement centre for gain, whether or not that use is ancillary to the use of those premises for another purpose.

- (2) For the purposes of subclause (1), a person uses premises for the purposes of an amusement centre if the person installs in those premises a table for the playing of billiards, pool or other like games, or an electrically or mechanically operated amusement device such as a pinball machine or the like.

## **19 Heritage items**

- (1) Except as provided by clause 24, a person shall not, in respect of a heritage item—
- (a) demolish or alter the building or work,
  - (b) damage or move the relic,
  - (c) excavate for the purpose of exposing the relic,
  - (d) damage or despoil the place or tree,
  - (e) erect a building on or subdivide the land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,
- except with the consent of the Council.
- (2) The Council shall not grant consent to a development application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.

### **Note—**

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

- (3) The Council shall not grant consent as referred to in subclause (1) in respect of an application to alter a building that is a heritage item unless it has made an assessment of—
- (a) the pitch and form of the roof,
  - (b) the style, size, proportion and position of the openings for windows and doors, and
  - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building and the effect which the use of those materials will have on the appearance of the exterior of the building.

## **20 Development in the vicinity of heritage items**

The Council shall not grant consent to an application to carry out development on land in

the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

## **21 Heritage conservation area**

- (1) Except as provided by clause 24, a person shall not, in respect of a heritage conservation area—
  - (a) demolish or alter a building or work within the area,
  - (b) damage or move a relic, or excavate for the purpose of exposing or removing a relic, within the area,
  - (c) damage or despoil a place or tree within the area, or
  - (d) erect a building on or subdivide land within the area,except with the consent of the Council.
- (2) The Council shall not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area.
- (3) The Council shall not grant consent to a development application required by subclause (1), being an application to erect a new building or to alter an existing building, unless the Council has made an assessment of—
  - (a) the pitch and form of the roof,
  - (b) the style, size, proportion and position of the openings for windows and doors, and
  - (c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the heritage conservation area.
- (4) Nothing in clause 6, 9 or 10 of *State Environmental Policy No 4—Development Without Consent* authorises the carrying out of development referred to in subclause (1) without the need to obtain development consent.

## **22 (Repealed)**

## **23 Advertising of certain development applications**

- (1) If a development application is made for consent to carry out any development referred to in subclause (4), the Council shall, before determining the application—
  - (a) give written notice of that development application to such persons as appear to it to own or occupy the land adjoining the land to which the application relates and, where practicable, to such persons as appear to it to own or occupy land the use

and enjoyment of which, in the opinion of the Council, may be detrimentally affected if that development is carried out,

- (b) cause notice of that development application to be exhibited on the land to which that development application relates, and
- (c) cause notice of that development application to be published in a newspaper circulating in the locality.

- (2) Each notice referred to in subclause (1) shall contain a statement to the effect that the development application referred to in the notice and the documents accompanying the application and in the custody of the Council may be inspected at the office of the Council, during normal office hours, within a specified period of not less than 14 days after the notice of that development application is published in a newspaper in accordance with subclause 1 (c).
- (3) After expiry of the period allowed by subclause (2), the Council shall consider the development application having regard to any submission lodged in response to any notice referred to in subclause (1).
- (4) The following development requires advertising prior to the determination by the Council—
  - (a) the demolition of a building or work that is a heritage item or that is within a heritage conservation area,
  - (b) development which may, in the opinion of the Council, affect the heritage significance of a heritage item or a heritage conservation area,
  - (c) development on land that directly adjoins or is adjacent to land used for residential purposes.

#### **24 Exemption of minor development**

- (1) Clauses 19, 21, 22 and 23 (4) (a) and (b) do not apply where, in the opinion of the Council, the development referred to in those clauses will be of a minor nature and will not adversely affect the heritage significance of the heritage item or the heritage conservation area in relation to the environmental heritage of the centre.
- (2) Clause 23 (4) (d) does not apply if, in the opinion of the Council, the development will be of a minor nature and will have no significant environmental effect.

#### **25 Community use of certain facilities**

A person may, with the consent of the Council, use the facilities and sites of schools, colleges or other educational establishments for—

- (a) community uses,

- (b) commercial operation of both the facilities and sites, or
- (c) development for the purposes of community uses whether or not the development is ancillary to the use of those facilities and sites for the purposes of schools, colleges or other educational establishments.

## **26 Suspension of covenants**

- (1) For the purpose of enabling development to be carried out in accordance with a consent granted under the Act, any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose, shall not apply to the development.
- (2) Pursuant to section 28 of the Act, before the making of this plan, the Governor approved of this clause.

## **27 Preservation of trees**

A tree preservation order made by the Council and in force immediately before the appointed day in respect of land to which this plan applies, shall be deemed, for the purposes of clause 8 of the *Environmental Planning Assessment Model Provisions 1980* (as adopted for the purposes of this plan), to be a tree preservation order made in pursuance of this plan.

## **28 Uncoloured land**

- (1) This clause applies to all land shown uncoloured on the map.
- (2) Notwithstanding clause 12, development shall not be carried out, without the consent of the Council, on any land referred to in subclause (1).
- (3) Before determining an application made to it pursuant to subclause (2), the Council shall take into consideration the development standards and objectives applying to adjoining lands which are shown coloured on the map.
- (4) Subclause (2) shall not apply to any development by a public authority for purposes involving the construction, installation or maintenance of roads, stormwater drainage, utility installations, sewers or other like purposes or any purpose ordinarily incidental or ancillary to those purposes.

## **29 Development at No 79 Grafton Street, Bondi Junction**

- (1) This clause applies to Lot 1, DP 740936 and Lots 1-4, DP 740937, being land known as No 79 Grafton Street, Bondi Junction.
- (2) The Council shall not grant consent to an application to carry out development on land referred to in subclause (1) unless the development makes provision for a



minimum of 160 public car parking spaces within a car parking station.

- (3) *State Environmental Planning Policy No 1—Development Standards* applies to subclause (2) in the same way as it applies to a development standard.
- (4) The Council, in determining whether or not to grant consent as referred to in that policy, and the Director, in determining whether or not to grant concurrence as referred to in that policy, are to take into consideration the objectives of subclause (2) which are as follows—
  - (a) to ensure there is an adequate provision of public car parking to serve the commercial centre, and
  - (b) to control traffic generation associated with parking on the site, and
  - (c) to control the height and bulk of the podium levels to accommodate the public car parking above ground having regard to the position of subterranean rail tunnel easements.

### 30 Exempt and complying development

- (1) Development of minimal environmental impact listed as exempt development in *Waverley and Woollahra Bondi Junction Commercial Centre Development Control Plan—Exempt and Complying Development*, as approved by Waverley Council on 25 July 2000 and Woollahra Council on 10 April 2000 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Waverley and Woollahra Bondi Junction Commercial Centre Development Control Plan—Exempt and Complying Development*, as approved by Waverley Council on 25 July 2000 and Woollahra Council on 10 April 2000 is **complying development** if—
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Waverley and Woollahra Bondi Junction Commercial Centre Development Control Plan—Exempt and Complying Development*, as approved by Waverley Council on 25 July 2000 and Woollahra Council on 10 April 2000.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Waverley and Woollahra Bondi Junction Commercial Centre Development Control Plan—Exempt and Complying Development*, as approved by Waverley Council on 25 July 2000 and Woollahra Council on 10 April 2000, as in force when the certificate is issued.

### 31 Standards that cannot be used to refuse consent—playing and performing music

- (1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—
  - (a) the playing or performance of music, including the following—
    - (i) the genre of music played or performed, or
    - (ii) whether the music played or performed is live or amplified, or
    - (iii) whether the music played or performed is original music, or
    - (iv) the number of musicians or live entertainment acts playing or performing, or
    - (v) the type of instruments played,
  - (b) whether dancing occurs,
  - (c) the presence or use of a dance floor or another area ordinarily used for dancing,
  - (d) the direction in which a stage for players or performers faces,
  - (e) the decoration to be used, including, for example, mirror balls, or lighting used by players or performers.
- (2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.
- (3) In this clause—

**licensed premises** has the same meaning as in the [Liquor Act 2007](#).

## Schedule 1

(Clause 9 (1))

Address	Item and map reference
1-3 Bronte Road, Bondi Junction	Retail facade (Ox. St./Br. Rd. 2)
4A Bronte Road, Bondi Junction	Tea Gardens Hotel (Br. Rd. 1)
3A-5 Bronte Road, Bondi Junction	Retail facade (Ox. St./Br. Rd. 2)
28-42 Bronte Road, Bondi Junction	Retail facade (Ox. St./Br. Rd. 2)
44-60 Bronte Road, Bondi Junction	Retail facade (Ox. St./Br. Rd. 2)
Grafton Street between Nelson and Leswell Streets, Bondi Junction	Street planting (Gr. St. 1)

2 Nelson Street, Bondi Junction	Norfolk Island Pine (Ne. St. 1)
Corner of Nelson and Oxford Streets, Bondi Junction	Bell-type letter receiver (Ne. St. 2)
63–69 Oxford Street, Bondi Junction	Retail facade (Ox. St. 4)
314 Oxford Street, Bondi Junction	Retail facade (Ox. St. 5)
356–368 Oxford Street, Bondi Junction	Retail facade (Ox. St/Br. Rd. 2)
434–444 Oxford Street, Bondi Junction	Retail facade of the Imperial Building (Ox. St 6)
512 Oxford Street, Bondi Junction	The ground floor and first floor facade, ground floor entrance, stairway to first floor, bottle shop and first floor bar area of the Bondi Junction Hotel (Ox. St. 7)
27–33 Spring Street, Bondi Junction	Boot factory (Sp. St. 1)
Leswell and Nelson Streets, Bondi Junction	Street names to footpaths and gutters (WMC. 1)