

## Planning Proposal

**Amend Mosman Local Environmental Plan 2012 to revise the listing of archaeological heritage items A484, A485 and A488**



July 2017

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## 1.0 Introduction

This planning proposal has been prepared to amend Mosman Local Environmental Plan 2012 (MLEP 2012) in respect of the current archaeological heritage listings of Items A484, A485 and A488, identified in Table 1 below.

Suburb	Site	Address	Property description	Significance	Item No
Mosman	Former tram terminus, including enclosing sandstone walls	Avenue Road	Road reserve at end of Avenue Road	Local	A484
Mosman	Former stone quarry	65A–69A Avenue Road	Excavated indentation on eastern side of Avenue Road	Local	A485
Mosman	Site of former Harnett's Quarry	Harnett Avenue and Royalist Road	Steep escarpment between Harnett Avenue and Royalist Road from end of Calliope Street to waterfront	Local	A488

**Table 1: Extract from MLEP 2012, Schedule 5, Part 3**

The proposed amendment to MLEP 2012 will remove the archaeological heritage listing of Items A484, A485 and A488, in response to the study, *Archaeological Significance Assessment*, dated 22 February 2017 prepared by Austral Archaeology, which found that the sites do not meet the NSW Heritage Council assessment criteria at the State or local level from an archaeological standpoint.

Further, the proposed amendment will include a new heritage item (Item I483) as a general non-archaeological item in Schedule 5, Part 1 of MLEP 2012, and on the LEP Heritage Map. This new item will apply only to the enclosing sandstone wall associated with the former tram terminus, located wholly within the public road reserve at the southern end of Avenue Road. This will replace the archaeological heritage listing (Item A484) which currently applies under MLEP 2012.

Concurrent with this LEP amendment will be an amendment to Mosman's Development Control Plans (DCPs). The DCP amendment will identify the excavated quarry walls located on land listed below on the Significant Rock Faces and Retaining Walls map, and apply the DCP clause to this land:

- nos. 65A, 69 and 71 Avenue Road, and
- nos. 11, 13 and 15 Royalist Road, the access way from Royalist Road to these properties and part of Royalist Road itself.

This land is largely privately-owned and has been developed for residential use. This will replace the archaeological heritage listing (Items A485 and A488) which currently applies under MLEP 2012, and achieves a balance between recognising the history of the excavated quarry wall and the subsequent development and use of the land for housing.

It is Council's intention that the planning proposal and amendment to Mosman's DCPs be exhibited concurrently, and that the change to the DCPs occur on the date the amendment to MLEP 2012 is published on the NSW Legislation website.

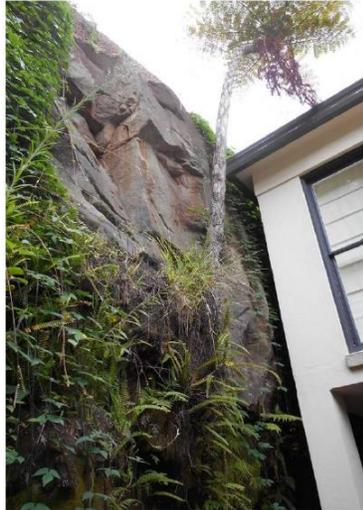


Figure 1: Location of Items in Mosman

Source: Archaeological Significance Assessment, Austral Archaeology



**Item A484:** The enclosing sandstone wall associated with the former tram terminus at the southern end of Avenue Road



**Item A485:** The excavated quarry rock face to the rear of 65A Avenue Road (left and middle) and the along the north of 71 Avenue Road (right)



**Item A488:** North facing view along the upper lip of the quarry wall at Royalist Road (left) and of the base of the quarry-face from within the accessway to no. 11 Royalist Road (right)

Source of Images: *Archaeological Significance Assessment*, Austral Archaeology



**Item A484:** *Extent of the excavated sandstone wall associated with the former tram terminus within the southern end of Avenue Road*

Source: *Archaeological Significance Assessment*, Austral Archaeology



**Item A485:** Extent of the excavated quarry wall within nos. 65A, 69 and 71 Avenue Road

Source: Archaeological Significance Assessment, Austral Archaeology



**Item A488:** *Extent of the excavated quarry wall within nos. 11, 13 and 15 Royalist Road, the accessway from Royalist Road to these properties and part of Royalist Road itself*

Source: *Archaeological Significance Assessment*, Austral Archaeology

## 2.0 Background

On 23 February 2001, former tram infrastructure, quarries and other relics of early European settlement in Mosman were identified as 'archaeological sites' and listed in the former MLEP 1998, on the basis of the 1996 Mosman Heritage Review by Godden Mackay Heritage. In total, 16 such archaeological sites were identified. Only general information about the location of sites was included in the LEP schedule and marked on the LEP Heritage Map, and was subsequently carried across into MLEP 2012 without change.

In January 2015, Council engaged heritage consultants Austral Archaeology to determine the exact location and extent of the 16 archaeological sites listed in MLEP 2012. The consultants' findings were reported to the Council Meeting of 5 August 2015, where Council resolved to prepare a planning proposal to amend the listing of sites in MLEP 2012, providing more specific site location information for some sites, and removing others found to have no heritage significance.

The planning proposal was publicly exhibited during 19 November to 10 December 2015, and subsequently reported to the Council Meeting of 3 May 2016, where Council resolved to:

- amend the LEP in respect of 13 archaeological sites located on public land, and
- defer its consideration of three archaeological sites located wholly or partially on privately-owned land. This was in response to concerns raised by landowners during public exhibition of the planning proposal questioning the basis for heritage listing and citing the discriminatory nature of listing on private land owners.

On 24 June 2016, an amendment to MLEP 2012 (Amendment no. 9) was published on the NSW Legislation Website, updating listing of archaeological sites located on public land.

In July 2016, Council engaged Austral Archaeology to undertake an assessment of the heritage significance of the three archaeological sites located wholly or partially on privately-owned land – Items A484, A485 and A488 – under current NSW Heritage Council criteria. The consultant's findings were reported the Council Meeting of 4 July 2017, where Council resolved to prepare a planning proposal to amend MLEP 2012 in the manner set out in this document.

## 3.0 The Planning Proposal

This planning proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and *A guide to preparing planning proposals*, issued by NSW Department of Planning & Environment, August 2016.

### Part 1 – Objectives or Intended Outcomes

The objective of this planning proposal is to amend MLEP 2012 to include updated heritage listing information for Items A484, A485 and A488, so as to conserve the environmental heritage of Mosman in the most appropriate manner considering the nature of the relics and subject land.

## Part 2 – Explanation of Provisions

The objectives will be achieved by amending MLEP 2012 in the following manner:

1. Removing from Schedule 5, Part 3 Archaeological sites the following:
  - a. Item A484: Former tram terminus including enclosing sandstone walls (Avenue Road)
  - b. Item A485: Former stone quarry (Avenue Road)
  - c. Item A488: Site of former Harnett's quarry (Royalist Road)
2. Including a new heritage item (Item I483) as a general non-archaeological item in Schedule 5, Part 1 of MLEP 2012, and on the LEP Heritage Map. This new item will apply only to the enclosing sandstone wall associated with the former tram terminus, located wholly within the public road reserve at the southern end of Avenue Road.
3. Amending the LEP Heritage Map accordingly.

The proposed amendments are shown in **Attachment A**.

## Part 3 – Justification

### Section A – Need for the planning proposal

#### Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is the result of the study, *Archaeological Significance Assessment*, dated 22 February 2017 prepared by Austral Archaeology, which provides an assessment of the heritage significance of Items A484, A485 and A488 under the NSW Heritage Council's *Assessing Significance for Historical Archaeological Sites and Relics* (2009).

The study found that the Items do not meet the NSW Heritage Council assessment criteria at the State or local level from an archaeological standpoint; that only limited archaeological material is likely to be present at the sites; and their archaeological significance is low. Whilst the site of Item A484 holds the potential to contain *in situ* archaeological remains associated with the former tram service, this would be very limited in its nature and unlikely to contribute to additional knowledge of the tram terminus that has not already been documented. Multiple phases of development at the former quarry sites (Items A485 and A488) over the past 90 - 125 years have most likely removed any archaeological remains once associated with the former quarries, with the exception of the excavated quarry walls visible.

The study also considered the three sites from an historical non-archaeological context, finding that the extent of visible excavated walls on the three sites met some NSW Heritage Council assessment criteria at a local level, retaining value as a direct link to the former use of the area. Council resolved to recognise the significance of the walls through the LEP (Item A484) and Mosman's DCPs (Items A485 and A488). For more information refer to the Council report of 4 July 2017 included in **Attachment D**.

#### Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The mechanism for amending MLEP 2012 is a planning proposal.

## **Section B – Relationship to strategic planning framework**

### **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)?**

#### *A Plan for Growing Sydney (2014)*

*A Plan for Growing Sydney*, released in December 2014, is the NSW Government's plan for the future of the Sydney Metropolitan Area over the next 20 years. The Plan provides key directions and actions to guide Sydney's productivity, environmental management, and liveability – including the delivery of housing, employment, infrastructure and open space.

The planning proposal is consistent with Action 3.4.4 (page 93): *"The Government is committed to identifying, protecting and managing areas with heritage significance"*.

#### *Towards Our Greater Sydney 2056 (draft)*

*Towards our Greater Sydney 2056*, publicly exhibited during November 2016 to March 2017, outlines a draft amendment to *A Plan for Growing Sydney*. The Plan, developed by the Greater Sydney Commission, draws on an emerging new vision for Greater Sydney's future, which involves a major shift in strategic planning and introduces a strategy for a metropolis of three cities. Mosman is located within the Eastern City.

The planning proposal is consistent with a Liveable Greater Sydney, Metropolitan Priority Aim (page 10): *"respect and enhance heritage areas and assets"*.

#### *North District Plan (draft)*

The *draft North District Plan*, publicly exhibited during November 2016 to March 2017, sets out aspirations and proposals for Greater Sydney's North District, which includes the local government areas of Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, Ryde and Willoughby. The Plan has been developed by the Greater Sydney Commission.

The planning proposal is consistent with Liveability Action L13: *"Conserve and enhance environmental heritage including Aboriginal, European and natural"*.

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

The planning proposal is consistent with *MOSPLAN Community Strategic Plan 2013-2023*, in particular the Built Environment Program, strategy *"Effectively manage the conservation of Mosman's heritage"*. Maintaining the accuracy of heritage content within MLEP 2012 is an essential element of this program.

### **Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Yes. Refer to **Attachment B**.

### **Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Yes. Refer to **Attachment C**.

## **Section C – Environmental, social and economic impact**

**Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No.

**Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No.

**Q9. Has the planning proposal adequately addressed any social and economic effects?**

The planning proposal will not result in detrimental social or economic effects for landowners, or the wider community. The implications of heritage listing the former quarry sites under the NSW planning system for private land-owners, and an alternative approach to recognise the walls, is addressed in the Council report of 4 July 2017 included in **Attachment D**.

## **Section D – State and Commonwealth interests**

**Q10. Is there adequate public infrastructure for the planning proposal?**

The planning proposal will not generate the need for additional public infrastructure.

**Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

No views of State or Commonwealth public authorities relevant to Items A484, A485 or A488 have been made known to Council. Relevant public authorities (including those listed below) were consulted with in March 2015 and during November to December 2015 as part of public exhibition of the previous planning proposal for archaeological sites:

- NSW Office of Environment and Heritage
- Roads and Maritime Service
- Transport for NSW

Notice was also sent to affected private landowners.

Further consultation would occur during the exhibition period for the planning proposal, to affected land owners, relevant public authorities and the community more generally.

## Part 4 – Mapping

The MLEP 2012 Heritage Map will be amended to reflect the proposed revisions to Schedule 5, in the manner shown in **Attachment A**.

The MLEP 2012 Heritage Map will be prepared consistent with the advice issued by the NSW Department of Planning and Environment (and predecessors) about the format of Standard Instrument LEPs, specifically:

- LEP practice note PN 1-001 issued 10 March 2011, *Preparing LEPs using the Standard Instrument: standard clauses*, issued by NSW Department of Planning (in particular pages 13 and 14 in relation to Schedule 5 Environmental heritage), and
- *Standard Technical Requirements for LEP Maps, Version 2.0*, issued by NSW Department of Planning & Infrastructure, November 2012.

## Part 5 – Community Consultation

Community consultation for this planning proposal would be consistent with the prescribed consultation guidelines under the NSW Department of Planning and Infrastructure's document "*A Guide to preparing Local Environmental Plans*" (April 2013).

The planning proposal would likely be publicly exhibited for a minimum period of 14 days and in the following manner:

- Notice placed in the Mosman Daily (local newspaper)
- Notice and background information to be made available on Council's websites
- Exhibition at Council offices
- Letter to affected landowners

The written notice would:

- Give a brief description of the objectives or intended outcomes of the planning proposal
- Indicate the land affected by the planning proposal
- State where and when the planning proposal can be inspected
- Give the name and address of the Council for the receipt of submissions
- Indicate the last date for submissions
- Confirm whether the Minister has chosen to delegate the making of the LEP to Council

During the exhibition period the following material would be made available for inspection by the community:

- The planning proposal, in the form approved for community consultation by the Gateway determination issued by NSW Planning and Environment
- The Gateway determination
- Any information or technical information relied upon by the planning proposal

The community consultation will be deemed complete once Council has considered any submissions made on the planning proposal.

## Part 6 – Project Timeline

The following timeline for the planning proposal is an estimation only.

<b>Task</b>	<b>Timeframe / target date</b>
Council endorsement of Planning Proposal and decision to send to NSW Planning and Infrastructure for gateway determination	4 July 2017
Referral to NSW Planning and Environment for gateway determination	Mid July 2017
Gateway determination issued by NSW Planning and Environment	August 2017
Public exhibition period (14 days)	August to September 2017
Consideration of submissions received and proposal post exhibition	October 2017
Report to Council considering submissions received	November 2017
Liaise with Parliamentary Counsel (assuming delegation)	November 2017
Anticipated date Council will make plan (assuming delegation)	November 2017
Anticipated date that plan would be forwarded to NSW Department of Planning and Environment for notification	November/December 2017

## Attachment A: Proposed Amendments to MLEP 2012

### Schedule 5 Environmental heritage

1. Remove the following Items from Schedule 5, Part 3 Archaeological sites:

Suburb	Site	Address	Property description	Significance	Item No
Mosman	Former tram terminus, including enclosing sandstone walls	Avenue Road	Road reserve at end of Avenue Road	Local	A484
Mosman	Former stone quarry	65A–69A Avenue Road	Excavated indentation on eastern side of Avenue Road	Local	A485
Mosman	Site of former Harnett's Quarry	Harnett Avenue and Royalist Road	Steep escarpment between Harnett Avenue and Royalist Road from end of Calliope Street to waterfront	Local	A488

2. Include the following new Item in Schedule 5, Part 1 Heritage items in alphabetical order of address:

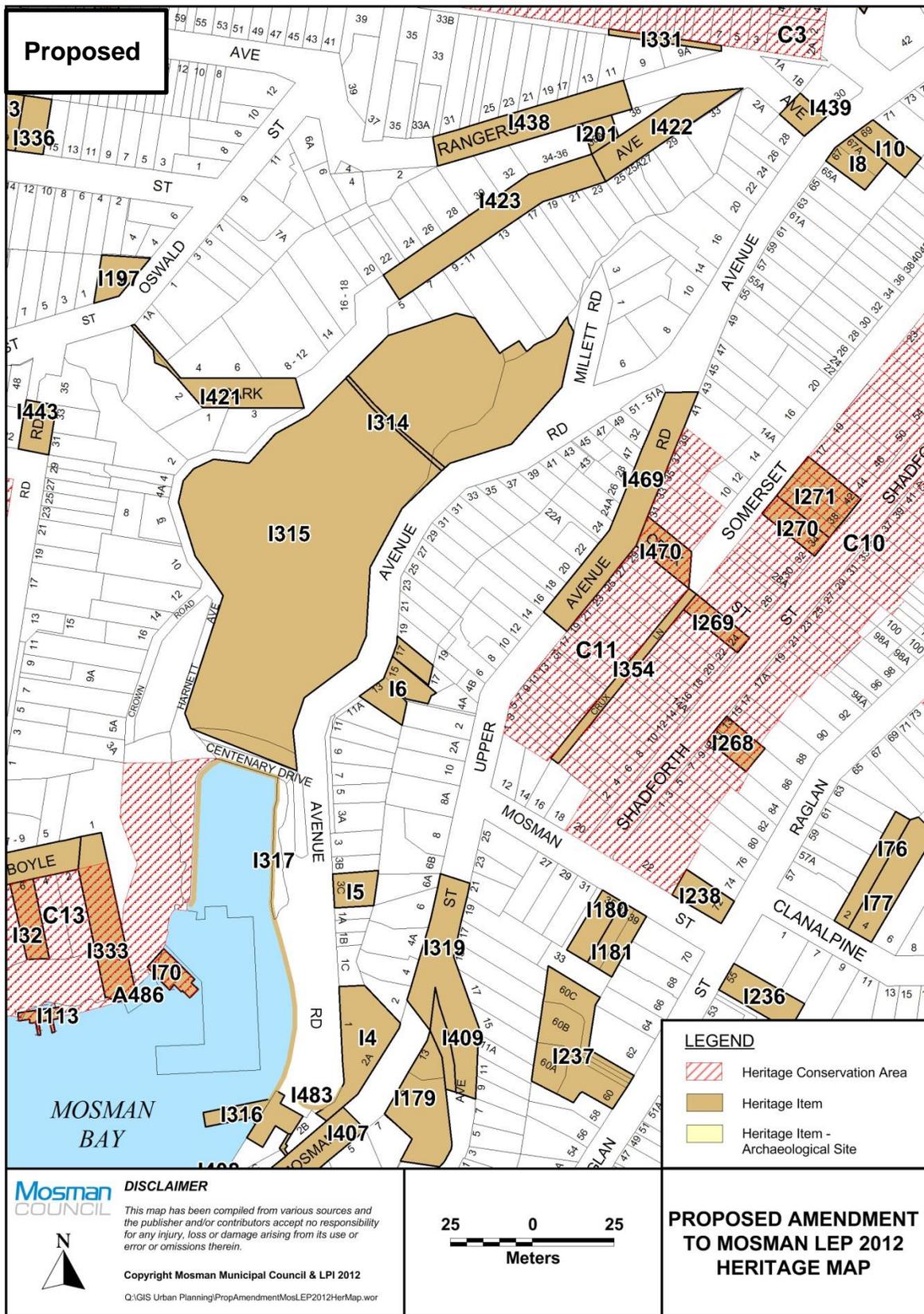
Suburb	Site	Address	Property description	Significance	Item No
Mosman	Enclosing sandstone wall associated with the former tram terminus	Avenue Road	Road reserve at southern end of Avenue Road	Local	I483

### Heritage Map

1. Remove Items A484, A485 and A488 shown as Item - Archaeological from the Heritage Map.
2. Include Item I483 as a Heritage Item – General within the road reserve at the southern end of Avenue Road.

See maps over page.





## Attachment B: SEPPs and Deemed SEPPs

State Environmental Planning Policies (SEPPs)	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
SEPP 1 – Development Standards	✓			
SEPP 14 – Coastal Wetlands	✓			
SEPP 19 – Bushland in Urban Areas	✓			
SEPP 21 – Caravan Parks	✓			
SEPP 26 – Littoral Rainforests	✓			
SEPP 30 – Intensive Agriculture	✓			
SEPP 33 – Hazardous and Offensive Development	✓			
SEPP 36 – Manufactured Home Estates	✓			
SEPP 44 – Koala Habitat Protection	✓			
SEPP 47 – Moore Park Showground	✓			
SEPP 50 – Canal Estate Development	✓			
SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	✓			
SEPP 55 – Remediation of Land	✓			
SEPP 59 – Central Western Sydney Economic and Employment Area	✓			
SEPP 62 – Sustainable Aquaculture 2000	✓			
SEPP 64 – Advertising and Signage	✓			
SEPP 65 – Design Quality of Residential Apartment Development	✓			
SEPP 70 – Affordable Housing (Revised Schemes)	✓			
SEPP 71 – Coastal Protection	✓			
SEPP (Affordable Rental Housing) 2009	✓			
SEPP (Building Sustainability Index: BASIX) 2004	✓			
SEPP (Exempt and Complying Development Codes) 2008	✓			
SEPP (Housing for Seniors or People with a Disability) 2004	✓			
SEPP (Infrastructure) 2007	✓			
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	✓			
SEPP (Kurnell Peninsula) 1989	✓			
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	✓			
SEPP (Miscellaneous Consent Provisions) 2007	✓			
SEPP (Penrith Lakes Scheme) 1989	✓			

State Environmental Planning Policies (SEPPs)	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
SEPP (Rural Lands) 2008	✓			
SEPP (State and Regional Development) 2011	✓			
SEPP (State Significant Precincts) 2005	✓			
SEPP (Sydney Drinking Water Catchment) 2011	✓			
SEPP (Sydney Region Growth Centres) 2006	✓			
SEPP (Urban Renewal) 2010				
SEPP (Western Sydney Employment Area) 2009	✓			
SEPP (Western Sydney Parklands) 2009	✓			

Deemed State Environmental Regional Environmental Plans (REPs)	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
Sydney REP 8 – Central Coast Plateau Areas	✓			
Sydney REP 9 – Extractive Industry (No. 2)	✓			
Sydney REP 16 – Walsh Bay	✓			
Sydney REP 20 – Hawkesbury-Nepean River (No. 2 1997)	✓			
Sydney REP 24 – Homebush Bay Area	✓			
Sydney REP 26 – City West	✓			
Sydney REP 30 – St Marys	✓			
Sydney REP 33 – Cooks Cove	✓			
Sydney REP (Sydney Harbour Catchment) 2005		✓		

## Attachment C: S.117 Ministerial Directions

New Ministerial Directions under s.117 of the EP&A Act	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
<b>D1. Employment and Resources</b>				
D1.1 Business and Industrial Zones	✓			
D1.2 Rural Zones	✓			
D1.3 Mining, Petroleum Production and Extractive	✓			
D1.4 Oyster Aquaculture	✓			
D1.5 Rural Lands	✓			
<b>D2. Environment and heritage</b>				
D2.1 Environmental Protection Zones	✓			
D2.2 Coastal Protection	✓			
D2.3 Heritage Conservation		✓		
D2.4 Recreation Vehicle Areas	✓			
D2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	✓			
<b>D3. Housing, Infrastructure and Urban Development</b>				
D3.1 Residential Zones	✓			
D3.2 Caravan Parks and Manufactured Home Estates	✓			
D3.3 Home Occupations	✓			
D3.4 Integrating Land Use and Transport	✓			
D3.5 Development Near Licensed Aerodromes	✓			
D3.6 Shooting Ranges	✓			
<b>D4. Hazard and Risk</b>				
D4.1 Acid Sulfate Soils	✓			
D4.2 Mine Subsidence and Unstable Land	✓			
D4.3 Flood Prone Land	✓			
D4.4 Planning for Bushfire Protection	✓			
<b>D5. Regional Planning</b>				
D5.1 Implementation of Regional Strategies	✓			
D5.2 Sydney Drinking Water Catchments	✓			
D5.3 Farmland of State and Regional Significance on the NSW Far North Coast	✓			
D5.4 Commercial and Retail Development along the Pacific Highway, North Coast	✓			
D5.8 Second Sydney Airport: Badgerys Creek	✓			

New Ministerial Directions under s.117 of the EP&A Act	(tick only one)			Comment
	Not relevant	Consistent	Justifiably inconsistent	
D5.9 North West Rail Link Corridor Strategy	✓			
D5.10 Implementation of Regional Plans	✓			
<b>D6. Local Plan Making</b>				
D6.1 Approval and Referral Requirements	✓			
D6.2 Reserving Land for Public Purposes	✓			
D6.3 Site Specific Provisions	✓			
<b>D7. Metropolitan Planning</b>				
D7.1 Implementation of a Plan for Growing Sydney		✓		
D7.2 Implementation of Greater Macarthur Land Release Investigation	✓			

## **Attachment D: Report to Council Meeting 4 July 2017 and Resolution**

Under separate cover.