

Planning proposal for minor policy and housekeeping amendments

Proposal Title : **Planning proposal for minor policy and housekeeping amendments**

Proposal Summary : **The objectives of this Planning Proposal are to amend Pittwater LEP 2014 to:**

- rectify anomalies, discrepancies, and improve the clarity of the written instrument and maps;
- implement or amend provisions consistent with the draft Pittwater LEP 2013 as publicly exhibited and /or adopted by Council, where certain provisions were altered or not included when the plan was made; and
- make other minor amendments relating to individual sites.

The proposed amendments are described in the detail in the attached Table 1.

PP Number : **PP_2016_NBEAC_004_00**

Dop File No :

16/06510

Proposal Details

Date Planning Proposal Received : **01-Jul-2016**

LGA covered :

Northern Beaches

Region : **Metro(CBD)**

RPA :

Northern Beaches Council

State Electorate : **PITTWATER**

Section of the Act :

55 - Planning Proposal

LEP Type : **Housekeeping**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Various sites throughout the LGA**

DoP Planning Officer Contact Details

Contact Name : **Tegan Park**

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Sandy Chappel**

Contact Number : **0292746591**

Contact Email : **sandy.chappel@planning.nsw.gov.au**

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Department of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with. The Sydney Region East office has not met any lobbyists in relation to this proposal, nor has the Director been advised of any meetings between other Departmental officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes : **Council first submitted the planning proposal to the Department on 26 May 2015. The Department noted a number of issues in the initial assessment of the original proposal. As detailed in Attachment 2, Council were proposing variations to clauses from the Standard Instrument LEP, some of the proposed amendments were not supported by the Department in draft Pittwater LEP, further clarification was required to justify the need for various amendment, some items did not provide a plain English explanation of the amendment and the proposed amendment would unnecessarily restrict development. Council was advised the Gateway Determination would not be issued until the Department concerns were addressed.**

On 18 April 2016, Council resubmitted the planning proposal to the Department. The proposal outlines Council's response to a number of the Department's comments. However, as detailed in Attachment 1, Council did not adequately address the Department's concerns with Clause 4.3 (Height of Buildings) or Clause 7.8 (Limited development on foreshore area). The proposal was returned to Council on 18 May 2016 to address outstanding concerns and provide further justification on the issues identified.

On 1 July 2016, Council submitted a revised planning proposal. All amendments are detailed in Attachment 1, which includes Council justification and the Department's comment.

ITEMS 1,3 AND 12 - WARRIEWOOD URBAN RELEASE AREA

Items 1, 3 and 12 in the planning proposal affect the Warriewood Urban Release Area. Item 1 introduces a two storey height control for the first 12.5 metres from the road boundary of properties facing existing residential development, stepping up to three storeys at the rear of the lot. These controls were a recommendation of the Strategic Review for Warriewood Release Area. Items 3 and 12 are to correct minor mapping errors

in the release area.

The Warriewood Residents Association (WRA) is an active residents committee established to address concerns with over development in the Warriewood Valley. The main focus of its campaign is to reduce density, prevent over development and increase public amenity in the area.

There are no known objections from the WRA on these amendments. Furthermore, item 1 will ensure future development is sympathetic to existing dwellings fronting the Release Area. The reduced density along the street front addresses the WRA's main concern.

ITEM 8 - DEVELOPMENT ON FORESHORE AREA

Item 8 is supported, subject to conditions. Item 8 intends to amend Clause 7.8 Limited Development on Foreshore Area. In the initial proposal submitted to the Department Pittwater Council proposed to permit rebuilding of dwellings, but restrict extensions and alterations, in the foreshore area. The Department requested further justification on the proposed amendment from Council and suggested Council consider Sutherland Shire LEP 2015 foreshore development controls, which restricts development in the foreshore area to the footprint of the existing dwelling, as an example.

In February 2016, Pittwater Council resubmitted the planning proposal to the Department. Council reworded the clause to be consistent with the Sutherland Shire LEP 2015 example. However, Council excluded 'alterations' as a permitted development in the foreshore area. In May 2016 the proposal was returned to Council for further clarification on the exclusion of 'alterations' in this clause.

In July 2016, the Department received a revised copy of the planning proposal. Council revised its position to restrict development beyond the foreshore development line. Rewording the amendment had not been endorsed by Northern Beaches Council, is not based on a strategic study and Council did not provide adequate justification for a change in their position.

Existing and proposed controls for the former Pittwater, Manly and Warringah Local Government Areas were compared to ensure consistency between development controls in the Northern Beaches Council. The Department has conditioned the Gateway to reword this clause. The proposed rewording will align clause 7.8 of Pittwater LEP 2014 with Manly's foreshore development control whilst realising the intent of this amendment. Note: Warringah LEP 2011 does not contain controls for foreshore development.

ITEM 9 - ADDITIONAL PERMITTED USES ADDED TO SCHEDULE 1

Item 9 is supported, subject to conditions. Item 9 intends to amend schedule 1 to permit additional uses on land zoned SP2 - Infrastructure 'Classified Road'. The amendment is supported, however, Council must consult with Transport for NSW - Roads and Maritime Services (RMS) prior to public exhibition. If any issues are raised during consultation the planning proposal must be amended to reflect the RMS's recommendations.

All other items are adequately justified and correct minor errors in the Pittwater LEP (Attachment 1). It is recommended the planning proposal proceed to Gateway Determination, subject to conditions.

External Supporting
Notes :

The planning proposal is supported as:

- it will bring into effect amendments and implement provisions with the draft Pittwater LEP 2013 as publicly exhibited and/or adopted by Council, where certain provisions were altered or not included when the plan was made;
- correct anomalies and discrepancies to the Pittwater LEP 2014, and improve the clarity of written instruments and maps; and
- make other minor amendments relating to individual sites.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objectives of this planning proposal are to amend the Pittwater LEP 2014 to:**
 - rectify anomalies and discrepancies, and improve the clarity of the written instrument and maps;
 - implement or amend provisions consistent with the then draft Pittwater LEP as publicly exhibited and /or adopted by Council, where certain provisions were altered or not included when the plan was made; and
 - make other minor amendments relating to individual sites.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal provides an adequate explanation of provisions for each amendment.**

The amendments SUPPORTED involve:

Zones/precincts:

- Heights of buildings maps
- Land zoning maps
- Lot size maps
- Land acquisition maps

Clauses:

- Cl.4.3 Heights of buildings
- Cl.6.1 Warriewood Valley Release Area

Sites:

- 1191 Barrenjoey Road, Palm Beach
- 167 Mona Vale Road
- 67A Marine Parade

Sites in Warriewood Release Area:

- Orchard Street
- 14 Orchard Street
- Macpherson Street
- 6A Macpherson Street
- Warriewood Road
- Garden Street
- 14 Walana Crescent
- 2 Fern Creek Road
- 8 Jubilee Avenue

The amendments which are SUPPORTED, SUBJECT TO FURTHER CONDITIONS include:

- Item 8: reword the amendment to Clause 7.8(Limited development on foreshore area) subclause (2); and
- Item 9: agency consultation prior to exhibition for amendment to Schedule 1.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 71—Coastal Protection**

e) List any other matters that need to be considered : **The following strategic planning documents have been considered in respect of this planning proposal:**

- **A Plan for Growing Sydney;**
- **State Environment Planning Policies; and,**
- **Section 117 Directions.**

A PLAN FOR GROWING SYDNEY

The planning proposal is considered consistent with A Plan for Growing Sydney (the Plan). The proposal will not have an adverse effect on delivery of the Plan's impact or actions.

STATE ENVIRONMENTAL PLANNING POLICY

The proposal is consistent with all SEPPs identified by Council as relevant to the planning proposal.

SECTION 117 DIRECTIONS

6.3 Site Specific Provisions

The Direction aims to discourage unnecessarily restrictive site specific planning controls. The proposal states it is considered consistent with Direction 6.3.

However, the proposed wording of Clause 7.8- Limited development on foreshore area, subclause (2)(a) has the potential to unnecessarily restrict the extension, alteration or rebuilding of an existing dwelling wholly or partly over the foreshore line.

The clause should align with the intent of Manly LEP 2013 Clause 6.10 (2)(a) as both councils are now a part of Northern Beaches Council. Amending the wording of Clause 7.8- Limited development on foreshore area, subclause (2)(a) will ensure the planning proposal is consistent with this Direction.

The proposal is consistent with all other s.117 Directions identified by Council as relevant to the planning proposal.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Council is to identify SEPP (Housing Rental Affordability) 2009 in Appendix 1 of the planning proposal.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal includes an extract from both the current and proposed zoning maps.**

Prior to public exhibition, the planning proposal is to be updated to replace map sheet 6370_COM_LSZ_012_010_20140623 in appendix 3 with map sheet 6370_COM_LSZ_012_010_20150804.

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All other mapping is considered adequate.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Pittwater Council has identified a 28 day exhibition period. The proposed 28 day exhibition period is supported.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons : **There are no additional Secretary's Requirements (formerly Director General's Requirements).**

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **May 2014**

Comments in relation to Principal LEP : **Pittwater Local Environmental Plan 2014 was notified on 30 May 2014 and commenced on 27 June 2014.**

Assessment Criteria

Need for planning proposal : **The planning proposal is needed to amend Pittwater LEP 2014, incorporating the changes introduced between Council adopting the then draft Pittwater LEP and the Pittwater LEP 2014 being made. The amendments identified in the planning proposal seek to improve the effective operation and accuracy of Pittwater LEP 2014.**

All amendments are detailed in Attachment 1, which includes Council justification and the Department's comment.

A planning proposal is an appropriate mechanism for amending inconsistencies and improving the accuracy of the Pittwater LEP 2014.

Consistency with strategic planning framework : **The planning proposal is considered consistent with A Plan for Growing Sydney as it will not have an adverse affect on delivery of the Plan's impact or actions.**

The planning proposal is consistent with the 'Pittwater Local Planning Strategy'. The changes are considered minor in nature and will not impact the delivery of the plan.

Environmental social economic impacts : **There will be no significant environmental or social effects from this proposal.**

The proposed amendments will not adversely impact critical habitats or threatened species, populations or ecological communities, or their habitats. Item 8 of the planning proposal intends to amend Clause 7.8- Limited development on the foreshore area. Restricting development along the foreshore to the footprint of the existing dwelling will help preserve the natural environment and critical habitats within foreshore areas.

There will be no major economic impacts from this planning proposal. However, item 9 which permits 'access structures ancillary to a dwelling house'(like driveways, garages and pathways) on privately-owned land zoned SP2 Infrastructure "Classified Road" will economically benefit land owners who were previously unable to access their property. Enabling land owners to access their property increases future development potential on

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the land.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority : **Transport for NSW**
Consultation - 56(2)(d) : **Transport for NSW**
: **Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **Item 9 of the planning proposal has the potential to impact funding of State infrastructure. In the planning proposal, item 9 proposes to permit 'access structures ancillary to a dwelling house' on privately owned land zoned SP2 Infrastructure.**

Roads and Maritime Services and Transport for NSW are to be consulted prior to public exhibition. The Gateway determination includes a condition requiring all comments raised throughout consultation to be addressed and the planning proposal to be updated prior to exhibition.

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

Additional Information : It is recommended that the planning proposal proceed, subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:

- include a plain English explanation of the intended effect of the proposed provisions.

2. Include the word 'alteration' to Item 8, Clause 7.8 (Limited development on foreshore area), subclause (2)(a), which will read as:

'(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:

(a) the extension, alteration or rebuilding of an existing dwelling wholly or partly on the foreshore area if the footprint of the extension, alteration or rebuild will not extend any further forward of the foreshore building line than the footprint of the existing dwelling,'

3. Replace map sheet 6370_COM_LSZ_012_010_20140623 in appendix 3 with map sheet 6370_COM_LSZ_012_010_20150804.

4. The planning proposal is to be publicly exhibited for 28 days.

5. Prior to public exhibition consultation is required with the following public authorities:

- Transport for NSW; and
- Roads and Maritime Services.

All comments raised throughout the consultation are to be considered and the planning proposal is to be updated prior to public exhibition.

6. A public hearing is not required to be held.

7. The timeframe for completing the LEP is to be 9 months.

Supporting Reasons : The planning proposal seeks to amend inconsistencies between the draft Pittwater LEP 2013 being created and the Pittwater LEP 2014 being adopted. The changes will assist more effective delivery of the Pittwater LEP 2014.

The planning proposal is SUPPORTED because:

1. It is consistent with Council's own strategic plans and the NSW strategic planning framework.
2. It makes minor changes, corrects errors and updates the Pittwater LEP 2014 in line with the changes made between introducing the draft Pittwater LEP and the Pittwater LEP 2014 being made.

The proposal is recommended for approval if the gateway conditions are met by Council.

Signature: _____

Printed Name: _____

Date: _____