

Ku-ring-gai Local Environmental Plan (Pymble Business Park) 2012

Proposal Title : **Ku-ring-gai Local Environmental Plan (Pymble Business Park) 2012**

Proposal Summary : **To amend the Ku-ring-gai Planning Scheme Ordinance 1971 to zone the Pymble Business Park to B7 Business Park and to include land to the west of West Street and Ryde Road currently zoned 3(b)-(B1).**

PP Number : **PP_2012_KURIN_001_00** Dop File No : **12/02107**

Proposal Details

Date Planning : **20-Jan-2012** LGA covered : **Ku-Ring-Gai**

Proposal Received :

Region : **Sydney Region West** RPA : **Ku-ring-gai Council**

State Electorate : **DAVIDSON** Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

Location Details

Street : **Various**

Suburb : **Pymble** City : **Ku-ring-gai** Postcode : **2073**

Land Parcel : **Various**

DoP Planning Officer Contact Details

Contact Name : **Sandy Shewell**

Contact Number : **0298738558**

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

RPA Contact Details

Contact Name : **Craige Wyse**

Contact Number : **0294240855**

Contact Email : **cwyse@kmc.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub : **Metro North subregion** Consistent with Strategy : **Yes**

Regional Strategy :

Ku-ring-gai Local Environmental Plan (Pymble Business Park) 2012

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 :	76,600.00	No of Jobs Created :	0

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

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : **BACKGROUND**

On 28 July 2011, the Land and Environment Court declared the former Ku-ring-gai Town Centres Local Environmental Plan 2010 to be of no legal force or effect.

The land included in this Planning Proposal was affected by the Land and Environment Court's decision. The land included in former Town Centres LEP was zoned B7 Business Park and included an FSR control of 3.5:1 and a height controls of 32.5 metres for the majority of the land within the B7 zone within Pymble Business Park. The objectives of the B7 zone were as follows:-

- * to provide a range of office and light industrial uses.
- * to encourage employment opportunities.
- * to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

The Planning Proposal will reinstate the zoning, FSR and maximum building height controls for the site that were established under the former Town Centres LEP as well as expand the area to which they relate to include additional land to the west of West Street fronting Ryde Road (as shown in the Figure 1 - Location Plan on page 23 of the Planning Proposal).

CODE OF CONDUCT

At this point in time, to the best of the Regional Team's knowledge, this Planning Proposal is compliant with the Department of Planning and Infrastructure's Code of Practice in relation to communications and meetings with lobbyists.

POLITICAL DONATIONS DISCLOSURE STATEMENT

The political donation disclosure laws commenced on 1 October 2008. The legislation requires public disclosure of donations or gifts for certain circumstances relating to the Planning system.

The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning means:

"A formal request to the Minister, a council or the Director-General to initiate the making of

an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

No disclosures were provided for this planning proposal.

External Supporting
Notes :

The Planning Proposal will:-

- * allow the re-development of certain identified parts of the Ku-ring-gai Local Government Area for higher-density commercial development;
- * encourage the development of buildings that achieve design excellence;
- * enhance the local environment;
- * maximise the use of public transport;
- * ensure that items of heritage significance are adequately protected;
- * support the centres hierarchy of the Metropolitan Plan for Sydney 2036 and the North Subregion Draft Subregional Strategy.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The statement of objectives is adequate (refer to page 9 of the attached Planning Proposal). The intent is to zone the precinct B7 (Business Park) which will enable the redevelopment of certain identified parts of the Ku-ring-gai Local Government Area for higher-density commercial development.

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

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions is adequate (refer to page 10 of the attached Planning Proposal). The Ku-ring-gai Planning Scheme Ordinance 1971 (KPSO) will be amended to zone the Pymble business park precinct B7 (Business Park).

However, Part 2 - Explanation of Provisions should be amended so that the new zoning, height and floor space ratio maps are referenced in this section.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 4.4 Planning for Bushfire Protection
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? Yes

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land
SEPP (Infrastructure) 2007

e) List any other
matters that need to
be considered :

S117 DIRECTIONS

1.1 BUSINESS AND INDUSTRIAL ZONES

The Planning Proposal is consistent with this Direction as the rezoning seeks to increase the potential floor space area for employment uses within the precinct by rezoning land zoned 5(a) Special Uses "A" (Commonwealth Purposes), 5(a) Special Uses "A" (Council Purposes) and 3(b)-(B1) Business - Commercial Services to B7 Business Park.

2.3 HERITAGE CONSERVATION

The Planning Proposal is consistent with this direction as it proposes to add one item of Heritage Significance to Schedule 7 'Heritage Items' of the KPSO. The property is at 982-984 Pacific Highway, Pymble and is an Energy Australia substation. It is currently on the State Heritage Register.

3.4 INTEGRATING LAND USE AND TRANSPORT

The Planning Proposal is consistent with this Direction as it seeks to improve access to employment and services within the LGA while maximising the use of public transport. The Planning Proposal will support the viable operation of existing public transport services, as the proposed rezoning will facilitate the redevelopment of higher-density commercial development within the precinct which is located in close proximity to the North Shore Railway Line, the Pacific Highway and Ryde Road (including bus services which operate along these roads).

4.3 - FLOOD PRONE LAND

The Planning Proposal is not inconsistent with this Direction as the subject land has not been identified as being constrained by flooding issues. However, it is noted in Part 3 of the Planning Proposal, that the area is affected by riparian constraints and that this issue would need to be considered in the determination of any development applications.

The riparian corridor runs along the rear of the land. A Gateway Determination has recently been issued for Council's biodiversity, riparian and heritage planning proposal. The resultant provisions will also apply to the Pymble Business Park precinct and will become matters for consideration in the future development of the site.

Council should be requested to include this s.117 Direction in the Planning Proposal.

4.4 PLANNING FOR BUSHFIRE PROTECTION

The Planning Proposal is consistent with this Direction as it includes provisions that require development to integrate bushfire risk management measures and biodiversity protection.

6.3 SITE SPECIFIC PROVISIONS

It is considered that the Planning Proposal is justifiably inconsistent with s.117 Direction 6.3, which discourages the use of unnecessarily restrictive site specific planning controls.

This Direction states that:

'A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.'

This Planning Proposal seeks to include an additional provision in the Ku-ring-gai Planning Scheme Ordinance 1971, which prescribes a maximum Floor Space Ratio of 3.5:1 on the land within the Pymble Business Park, including the land to the west of West Street fronting Ryde Road, and a maximum Floor Space Ratio of 2.5:1 on the land to the north of the Pacific Highway.

The Planning Proposal prescribes a maximum building height limit of 32.5 metres on land to the west of West Street fronting Ryde Road and a maximum building height of 17.5 metres on land to the north of the Pacific Highway.

The Department's LEP Practice note PN08-001 'Height and floor space ratio', issued in January 2008, encourages Council to set out Height and FSR controls in Local Environmental Plans rather than in Development Control Plans.

The inconsistency is considered of minor significance and is justifiable on the grounds that Council's approach is consistent with Department policy and will provide a mechanism to facilitate the incorporation of the Planning Proposal into the anticipated Ku-ring-gai principal LEP at a later date.

As such it is recommended that the Director General's delegate agree to the inconsistency with this s.117 Direction and Council be requested to revise the Planning Proposal to include consideration of this s.117 Direction.

7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036

Part 3 of the Planning Proposal identifies compliance with '7.1 Implementation of the Metropolitan Strategy'.

Direction 7.1 requires the Relevant Planning Authority to demonstrate consistency with the NSW Metropolitan Plan for Sydney 2036, which was published in December 2010, when preparing a planning proposal.

The Ku-ring-gai and Hornsby Subregional Employment Study informed the former Town Centres LEP 2010. Through this Study, it was demonstrated that the former Town Centres LEP accounted for all employment growth required in the Ku-ring-gai LEP to 2031.

HERITAGE

There is one item of heritage significance (on the State Heritage Register) within the land affected by this Planning Proposal. The Planning Proposal has been referred to the Office of Environment and Heritage and a response is anticipated prior to the Panel meeting.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council intends to advertise the public exhibition of the Planning Proposal in the local newspaper, exhibit the Planning Proposal at Council's administrative offices and libraries, notify affected landowners and adjoining land owners where relevant, notify of the exhibition of the Planning Proposal on Council's website and hold a Public Hearing if required by the Gateway determination or considered appropriate by Council.

Public exhibition for a period of 14 days is considered sufficient.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : **It is considered that the Planning Proposal has merit for progression.**

In this light, it is recommended that the Planning Proposal proceed, subject to the conditions identified in the 'Recommendations' section of this report.

Proposal Assessment

Principal LEP:

Due Date : **December 2012**

Comments in relation to Principal LEP : **It is understood that Council will soon resolve to prepare a planning proposal in relation to the Principal LEP.**

Assessment Criteria

Need for planning proposal : **The need for the Planning Proposal has been adequately addressed by Council (refer to pages 11 to 16 of the attached Planning Proposal).**

The land included in the Planning Proposal was affected by the Land and Environment Court's decision to declare the former Town Centres LEP to be of no legal force or effect.

The immediate effect of the Court's decision is that the planning controls that apply to all sites within the boundaries of the Ku-ring-gai Town Centres will revert back to the underlying planning controls contained in the Ku-ring-gai Planning Scheme Ordinance 1971. These planning controls are considered restrictive and the Planning Proposal is considered necessary to allow for the development of the business park precinct in an economic and orderly manner.

Consistency with strategic planning framework : **The Planning Proposal is generally consistent with the strategic planning framework, including the Sydney Metropolitan Plan for Sydney 2036 and the Draft North Subregional Strategy (refer pages 11 and 12 of the Planning Proposal).**

The Metropolitan Plan for Sydney 2036 seeks to contain the urban footprint; focus activity in accessible areas; strengthen major and specialised centres to support sustainable growth of the city; ensure an adequate supply of land and sites for residential development; and produce housing that suits expected and future needs.

Prior to the finalisation of the former Town Centres LEP a number of background documents were prepared to guide the LEP. The Town Centres LEP was prepared to assist Council in meeting the employment and population targets for the Ku-ring-gai Local Government Area to 2031.

The Ku-ring-gai and Hornsby Subregional Employment Study, which informed the Town Centres LEP, demonstrated that the Pymble Business Park precinct would account for all employment growth required in the Ku-ring-gai Local Government Area to 2031.

Environmental social economic impacts : **It is considered that the potential environmental, social and economic implications of the Planning Proposal have been adequately addressed (Refer pages 19 and 20 of the attached Planning Proposal).**

Section C of the Planning Proposal indicates that the precinct does not contain any critical habitats or threatened species. However, the site is partly affected by a riparian corridor, currently zoned 5(a) Special Uses "A" (Commonwealth Purposes) and part of the site is shown as bushfire prone on Council's mapping system. These issues would need to be addressed during the assessment of any development applications on the land.

The provisions contained in Council's biodiversity, riparian lands and heritage planning proposal, which is currently on exhibition, will apply to the Pymble Business Park precinct. This issue is discussed in greater detail under s117 Direction 4.3 Flood Prone Land in the Justification section.

The proposed rezoning has the potential to generate social and economic benefits as the Planning Proposal will increase the density of the Pymble Business Park thereby generating a viable employment base.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) :
Department of Family and Community Services
Department of Education and Communities
Office of Environment and Heritage
Department of Health
NSW Police Force
Department of Transport
Department of Transport - RailCorp
Adjoining LGAs
Other

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 :

Coastal Zone

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **The Planning Proposal indicates the precinct is adequately served by public infrastructure.**

Council engaged GTA Consultants to conduct a traffic assessment of three Council-developed intersection improvement options in the vicinity of Pymble Business Park.

Ku-ring-gai Local Environmental Plan (Pymble Business Park) 2012

Documents

Document File Name	DocumentType Name	Is Public
Cover_Letter.pdf	Proposal Covering Letter	Yes
Planning_Proposal_Report_to_Council.pdf	Proposal	Yes
Planning_Proposal_Transport_Assessment_of_Access_I mprovement.pdf	Study	Yes
Planning_Proposal.pdf	Proposal	Yes
Planning_Proposal_Draft_Format_of_LEP.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
 2.3 Heritage Conservation
 3.4 Integrating Land Use and Transport
 4.4 Planning for Bushfire Protection
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : It is recommended that the Planning Proposal proceed subject to the following conditions:

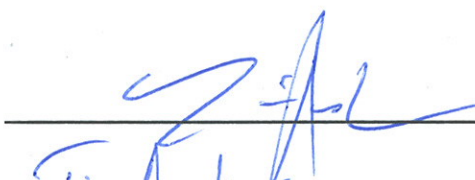
1. The Planning Proposal be publicly exhibited for 14 days;
2. The Planning Proposal be completed within 9 months;
3. Part 2 - Explanation of Provisions be revised to make reference to the zoning, height of buildings and floor space ratio maps;
4. Section 4.2.4 be revised to include consideration of s.117 Directions 6.3 Site Specific Provisions and 4.3 Flood Prone Land.
5. That the Director General's delegate agree to the inconsistency with section 117 Direction 6.3 Site Specific Provisions.

Supporting Reasons : It is considered that the Planning Proposal has merit for progression.

The proposed B7 Business Park zone will support the economic viability of the Ku-ring-gai Local Government Area and will facilitate the development of employment opportunities within the precinct.

The majority of the proposed Pymble Business Park has previously been zoned B7 Business Park by the Minister in the former Ku-ring-gai Town Centres Local Environmental Plan 2010.

Signature:



Printed Name:

Tim Archer

Date:

3/2/12