



northern
beaches
council

PLANNING PROPOSAL

Amendments to Pittwater Local Environmental Plan 2014

NOS. 2 & 4 NOOAL STREET & NO. 66 BARDO ROAD, NEWPORT

June 2019 (v.3 Incorporating DPE Feedback pre Gateway Determination)

TRIM PP0003/17 & 2019/314090

Contents

Part 1 – Intended Outcomes	3
Part 2 – Explanation of Provisions	4
Part 3 – Justification	8
Part 4 – Maps	26
Part 5 – Community Consultation.....	28
Part 6 – Project Timeline.....	29
Attachment 1 – Site Photos	30

Part 1 – Intended Outcomes

The intended outcome of the Planning Proposal is to rezone Nos. 2 and 4 Nooal Street and No. 66 Bardo Road, Newport (being Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092), from E4 Environmental Living to R2 Low Density Residential to enable 'seniors housing' on the land.

Part 2 – Explanation of Provisions

The Planning Proposal seeks to amend PLEP 2014 as follows:

- Amend Land Zoning Map (LZN_017) to rezone land known as Nos 2 and 4 Nooal Street and No. 66 (being Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092), from E4 Environmental Living to R2 Low Density Residential.

The Planning Proposal is provided in response to the decision of the Sydney North Planning Panel following a Rezoning Review request made after Council's refusal of the original application.

However, the recommendation of the Sydney North Planning Panel to investigate expanding the rezoning to include approximately 13 additional properties to the north (up to Irrubel Road) is not included within the Planning Proposal. These were not included within the original Planning Proposal and have not been investigated to understand the full extent of site constraints or hazards.

Council considers that the Sydney North Planning Panel's recommendation to include additional properties is inconsistent with the Department of Planning and Environment's 'Planning Panels Operational Procedures' document (September 2016) which on page 35 states that:

'The panel's determination should provide a clear decisions on whether the planning proposal before it should proceed, or not proceed, for a Gateway determination rather than recommending improvements'.

In addition, Council received a letter from the Department of Planning and Environment dated 22 June 2018 (reference MDPE18/1430) which states in paragraph six that:

'The planning proposal does not include the additional land referred to by the Panel and this will mean that the relevant planning and environmental studies are not available for assessment and a subsequent Gateway determination by the Delegate of the Greater Sydney Commission.'

Given the reasons above, this Planning Proposal does not include any land beyond for Nos. 2 and 4 Nooal Street and No. 66 Bardo Road, Newport.

Site Description

The land that is subject to this Planning Proposal is described as follows:

- No. 2 Nooal Street, Newport, being Lot 1 DP 540092;
- No. 4 Nooal Street, Newport, being Lot 1 DP 315279; and
- No. 66 Bardo Road, Newport being Lot 2 DP 540092.

The land has a combined area of approximately 2,927m² and is located on the north western corner of Bardo Road and Nooal Street. Directly adjoining the land to the west is Crystal Bay, forming part of the Pittwater Waterway. Crown land is located between the waterway and the land itself, creating an unofficial foreshore reserve accessed via Bardo Road. The section of Bardo Road that adjoins the land to the south is informal, having a single width carriageway.

Existing improvements on the land include three (3) dwelling houses, with associated swimming pools and gardens. A number of large trees are located within the Bardo Road and Nooal Street road reserves that directly adjoin the site. Mature vegetation is also located on the land itself.

Directly adjoining the site to the south is an existing Sydney Water Pumping station located at No. 68 Bardo Road. Surrounding development is generally characterised by one and two storey detached dwelling houses sited within a treed canopy. Princes Street Marina is located to the south west of the land.

Newport Village Centre located along Barrenjoey Road is located approximately 800m from the site (at the end of Bardo Road). A secondary neighbourhood shopping centre is located in Kalinya Street which is approximately 360m from the site as a direct line, but approximately 700m walking distance via the exiting road network.

Photos of the site and its immediate locality are provided at Attachment 1.

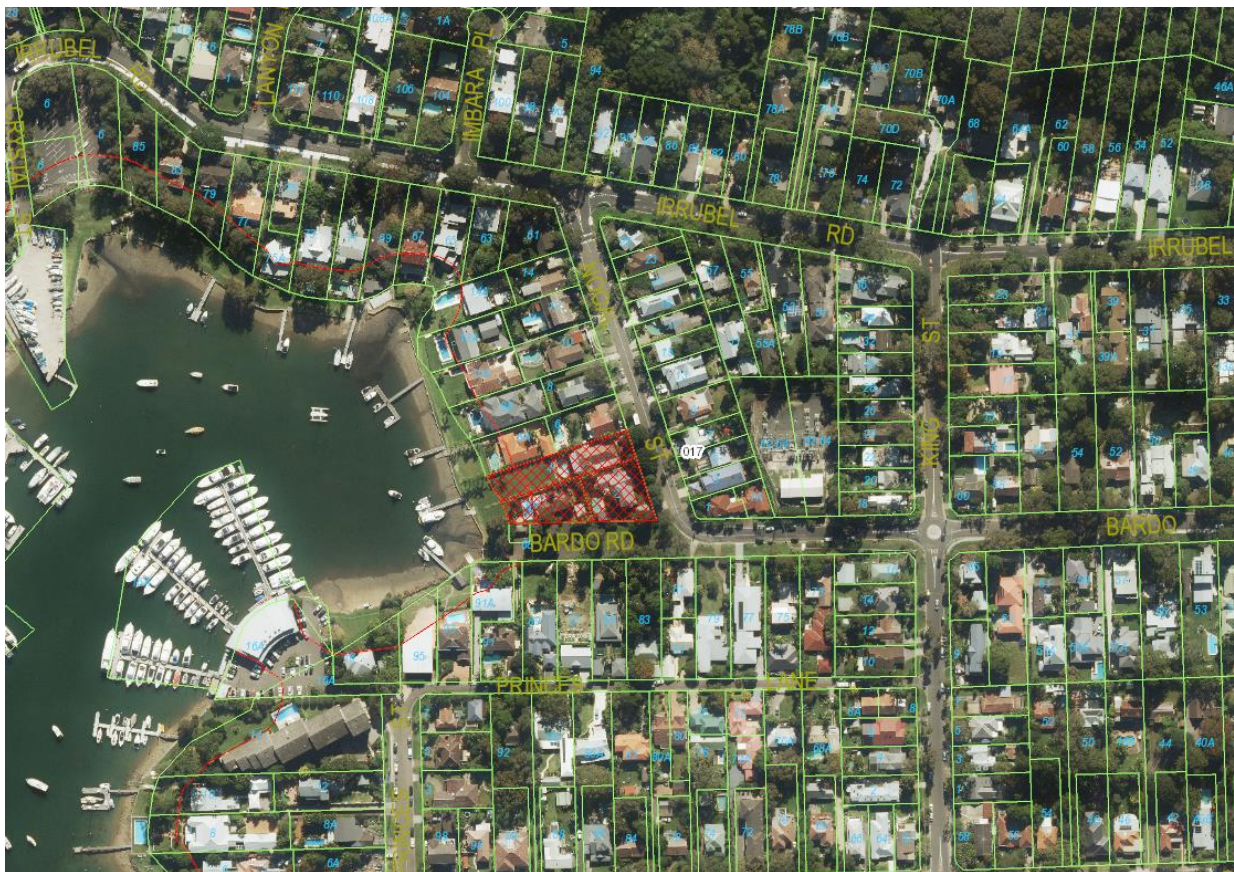


Figure 1: Aerial image of subject site and immediate locality (site shown red crossed hatched)

The Zones

The land is currently zoned E4 Environmental Living pursuant to PLEP 2014. This zoning is predominantly applied to the entire Pittwater waterfront edge from Gladstone Street all the way to Palm Beach. The zoning is the predominant zone used within this part of the Peninsula with smaller pockets of Residential and Business zonings coupled with Environmental Conservation and Public Recreation zones.

The PLEP 2014 Land Use Table for the E4 Environmental Living Zone is as follows:

Zone E4 Environmental Living

1 Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Water recreation structures

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

The PLEP 2014 Land Use Table for the R2 Low Density Residential Zone is as follows:

Zone R2 Low Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Exhibition

homes; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals; Water recreation structures

4 Prohibited

Any development not specified in item 2 or 3

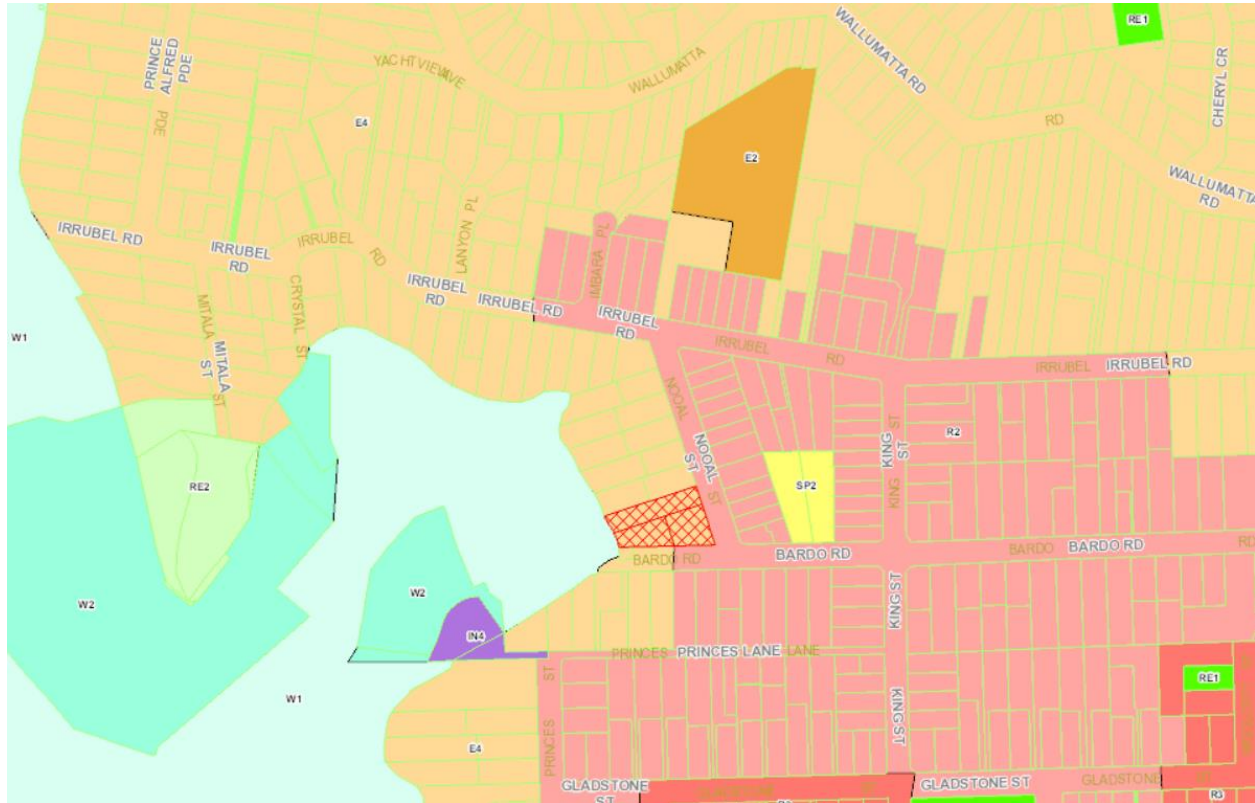


Figure 2: Existing land zoning (site shown red crossed hatched)

Part 3 – Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

This Planning Proposal is not the result of any strategic study or report. This Planning Proposal is made in response to a Rezoning Review decision of the Sydney North Planning Panel.

The Rezoning Review was made in response to Council's refusal of the applicant's original Planning Proposal which sought to enable seniors housing on the site through an amendment to Schedule 1 of PLEP 2014. The Panel's decision however was to rezone the land to R2 Low Density Residential.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The intended effect of the applicant's original Planning Proposal was to allow 'seniors housing' on the site.

Rezoning of land to R2 Low Density Residential would allow State Environmental Planning Policy (Housing for Seniors or People with a Disability) (HSPD SEPP) to apply to the land. The SEPP would enable the use of the land for seniors housing to be considered pursuant to the provisions of the HSPD SEPP only, as the term 'senior's housing' is not permitted in R2 Low Density Residential Zone under PLEP 2014.

Alternatively, an amendment to Schedule 1 of the Pittwater Local Environmental Plan 2014 to include an additional permitted use for seniors housing on the subject site would also achieve the intended effect of the Planning Proposal and would not rely upon the provisions of the HSPD SEPP. An assessment of any application made for seniors housing under PLEP 2014 would then require more rigid assessment under the provisions of both the PLEP 2014 and Pittwater Development Control Plan 21 (DCP 21) and is likely to achieve a more favourable built form outcome that is consistent with existing development in the locality. Additional site specific DCP controls may also be able to be established for the site as part of this option.

Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objective and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Greater Sydney Region Plan

The Planning Proposal has been reviewed against relevant outcomes of the Greater Sydney Region Plan “*A Metropolis of Three Cities*” published on 18 March 2018. The Plan identifies a number of strategic directions and specific policy settings transforming the Greater Sydney Region into a metropolis of three cities comprising the Western Parkland City, the Central River City and the Eastern Harbour City.

The Planning Proposal is informed by the Plan’s vision for the Eastern Harbour City. The Planning Proposal is not contrary to the broad Directions of the Plan. However there are a number of Objectives that require further analysis as follows:

- *Objective 11 - Housing is more diverse and affordable*
- *Objective 25 - The coast and waterways are protected and healthier*
- *Objective 27 - Biodiversity is protected, urban bushland and remnant vegetation is enhanced*
- *Objective 28 - Scenic and cultural landscapes are protected*
- *Objective 30 - Urban tree canopy cover is increased*
- *Objective 36 - People and places adapt to climate change and future shocks and stresses*
- *Objective 37 - Exposure to natural and urban hazards is reduced*

These objectives are discussed more broadly below under the heading *North District Plan*, with further discussion relating to housing diversity and affordability; scenic and cultural landscapes; biodiversity and tree canopy; and natural hazards and climate change. The discussion below includes recommendations on the additional information that should be required to be provided by the applicant should a gateway determination be issued.

North District Plan

The North District Plan (March 2018) is the relevant and applicable district plan. An assessment of the strategic and site specific merit of the Planning Proposal against this plan appears below.

Planning Priority N5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport

The Planning Proposal has the intended effect of increasing housing supply and choice in the form of housing for seniors or people with a disability. However, the Planning Proposal does not fulfill a holistic approach to increase housing supply or choice in strategic locations identified under the District Plan.

The Planning Proposal is unlikely to improve housing affordability within the local area given the limited market that seniors housing is available to be occupied by. Furthermore, the waterfront location is also likely to command a premium price that may reduce overall affordability.

In 2017 Northern Beaches Council adopted an Affordable Housing Policy. One of the Policy statements included a commitment toward a minimum *10% affordable rental housing target for all strategic plans and planning proposals for urban renewal or greenfield development*. Council has the opportunity to negotiate with the applicant as part of the Planning Proposal process to discuss how this may be able to be achieved. Alternatively, the applicant may wish to

enter into a voluntary planning agreement to provide a monetary contribution toward affordable housing within the Northern Beaches Local government area.

Planning Priority N17 - Protecting and enhancing scenic and cultural landscapes

The subject properties are regarded as scenic due to their environmental character and waterfront location. Any eventual redevelopment of the site will be required to respond in a way that is appropriate having regard to the character of existing development in the locality, relevant zone objectives and other planning controls.

The draft concept scheme provided with the initial planning proposal was not considered to meet the above objective. Should a gateway determination be issued by the Department, it is suggested that it be conditional on the applicant providing a more appropriate built form concept and/or site specific DCP controls that protect and enhance the scenic landscape of the area. Any DCP controls should form part of any public exhibition documentation.

Planning Priority N19 – Increasing urban tree canopy cover and delivering Green Grid connections

The Planning Proposal itself will not alter the tree canopy, however the future built form outcome will have the potential to impact upon existing and future trees on the site and within the adjoining boundary areas such as Council's roads reserves.

An appropriate architectural design could be achieved which retained existing trees on the site and adjoining properties and potentially increased overall tree canopy through additional planting. This matter could be addressed as part of a future development application which would be subject to a detailed Arboricultural Assessment.

A *Pre-development site inspection letter* dated January 2018 prepared by an Arborist (Arborsaw) provided as part of the Rezoning Review identified that the majority of trees within adjoining Council land are of high significance. The letter recommends the implementation of minimum tree protection zones and further Arboricultural Assessment prior to any further development of the land.

Planning Priority N22 – Adapting to the impacts of urban natural hazards and climate change

The subject site is impacted by natural hazards, including flooding and coastal inundation, the impact of which is anticipated to increase from climate change.

This Planning Proposal is inconsistent with Objectives 37 and 81 of the North District Plan, which aims to reduce and minimise exposure to natural hazards, and to avoid locating new development and the intensification of development in areas impacted by hazards.

It is further noted that page 118 of the North District Plan states '*placing development in hazardous areas or increasing the density of development in areas with limited evacuation options increase risk to people and property*'. It is noted that during flooding events access to the subject properties is impacted by floodwaters overtopping both road access from Nooal Street to Irrubel Road and from Bardo Road to King Street. It is further noted that the intended habitants of senior's housing developments are generally more likely to require assistance to evacuate which may increase the risk to life in emergency events.

Should a gateway determination be issued, it is suggested that it be conditional on the applicant providing a response to how the flooding and natural hazards (including the impacts of climate change) can be addressed as part of a future redevelopment of the site. Commentary from relevant State Government Authorities and the State Emergency Service should also inform the suitability of the site for senior's housing development.

This matter is addressed further under the Section 9.1 Ministerial Directions relating to Coastal Management and Flooding.

a) Does the proposal have strategic merit? Is it;

Consistent with a relevant local council strategy that has been endorsed by the Department?

The proposal is not consistent with elements of the *Pittwater Local Planning Strategy (2011)* which is discussed further below. While this strategy was not formally endorsed by the Department, it was used to inform the PLEP 2014 which was gazetted on 30 May 2014 and came into effect on 27 June 2014.

Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?

The applicant's original Planning Proposal was made in response to a change in circumstances being the change in land zoning from 2(a) (Residential "A") pursuant to Pittwater Local Environmental Plan 1993 (PLEP 1993) to E4 Environmental Living following the gazettal of PLEP in June 2014. An extract of the applicant's original Planning Proposal is provided below:

- (i) *We confirm that No's 2 and 4 Nooal Street, Newport were purchased by their current owner prior to the gazettal of Pittwater Local Environmental Plan 2014 (PLEP 2014) with the intention of developing the land for the purpose of seniors housing. At the time of purchase these properties were zone 2(a) (Residential "A") pursuant to Pittwater Local Environmental Plan 1993 (PLEP 1993) with seniors housing permissible in the zone pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).*
- (ii) *..*
- (iii) *...*
- (iv) *...*
- (v) *Following a lengthy community consultation process PLEP 2014 was gazetted in May 2014 with the instrument commencing on 27th June 2014. This had the effect of prohibiting seniors housing on the land which until this time was permissible with consent pursuant to SEPP HSPD. This was confirmed in writing by the Department of Planning and Environment in its correspondence of 9th August 2016 a copy of which is at Attachment 2.*

The *Pittwater Local Planning Strategy (2011)* which informed the existing planning controls acknowledged that the population of the local area is ageing with a need for seniors housing and 'ageing in place' to be accommodated. However this type of housing is generally best suited in close proximity to town or village centre locations to improve access to services and transport. As such the use was not applied as a permissible development within the PLEP 2014 for zones typically located outside of centre locations.

b) Does the proposal have site-specific merit, having regard to the following:

The natural environment (including known significant environmental values, resources or hazards)?

The site currently allows for residential development, however it is impacted by coastal inundation risk and flood hazards. As such the site may not be the most suitable location for additional housing, including seniors housing that is more likely to accommodate frail or disabled people who may require assistance in evacuation events.

Should a gateway determination be issued, it is suggested that it be conditional on the applicant providing a response to how the flooding and natural hazards (including the impacts of climate change) can be addressed as part of a future redevelopment of the site for intensified residential use including seniors housing.

Commentary from relevant State Government Authorities and the State Emergency Service should also inform the suitability of the site for the intended redevelopment.

The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal?

The site is surrounded by detached dwelling houses to the north, east and south. There is no rezoning proposed or anticipated in this area at a broader level.

The introduction of a senior's housing development may be inconsistent with both the established character and the desired future character of the area. However, this assessment would be dependent upon the built form outcome to be proposed on the site.

An appropriate architectural response may be able to be achieved to enable a built form outcome that is compatible with the predominant character, bulk and scale of development in the locality.

The initial concept plans provided with the applicant's original Planning Proposal were not considered to provide for a bulk and scale of development consistent with the predominant built form in the area and the underlying controls of Pittwater DCP 21 that would otherwise apply to the land.

Should gateway determination be issued, it is suggested that it be conditional on the applicant providing a site specific DCP controls to ensure a compatible design that also protects local scenic and aesthetic qualities, and that these form part of any public exhibition documentation.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?

The land is currently occupied by existing residential dwellings and is serviced by existing roads and necessary utilities.

The Planning Proposal has the intended effect of permitting seniors housing on the site. The site is located 400 metres from a bus stop and there will need to be upgraded pedestrian footpaths and facilities to ensure compliance with accessibility standards. However the cost of this would be borne by the developer and would be addressed as part of any future development application.

The concept proposal provided indicates substantial changes to the Bardo Road reserve near to the intersection with Nooal Street will be required. Currently this area serves as a driveway access to a small number of properties while the Proposal seeks to locate its primary road access here requiring upgrades to accommodate additional traffic impacts. Engineering plans and designs showing the required upgrades should be provided to understand the impact upon existing trees and potential impacts upon flood waters

From a traffic generation and demand perspective, it is reasonable to assume the Planning Proposal will have a minimum impact on existing traffic flows which is unlikely to significantly increase the anticipated peak hour traffic in the local road network.

4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

A review has been undertaken of the Planning Proposal against certain policies and plans of Northern Beaches Council as follows:

Pittwater Local Planning Strategy (2011)

The proposal is within the former Pittwater Council area and the *Pittwater Local Planning Strategy (2011)* is considered the relevant strategy. While this strategy was not endorsed by the former Department of Planning and Environment, it was used to inform the Pittwater Local Environmental Plan 2014 which has been gazetted and came into force on 27 June 2014. This Planning Proposal is inconsistent with elements of that strategy and other Council policies as outlined below.

Land Capability Mapping

The Land Capability Mapping that accompanied the Pittwater Local Planning Strategy established the classification criteria for the suitability for the intensification of land development having regard to a range of environmental, economic or social characteristic that influences land use allocation and future management of the land.

Through this process, the subject site was identified as being of environmental and aesthetic significance and not appropriate for more intensive development.

Centre Based Development

Actions contained within the strategy seek to intensify land uses within close proximity to existing centres while continuing the same land uses for land located away from services or impacted by constraints. The motivations for these actions are to contain dense development in areas that are well serviced and located close to existing centres.

The Planning Proposal is inconsistent with the strategy by rezoning land to allow for denser development more than 800m away from the Newport Village Centre away from high frequency public transport.

Dwelling Targets

Under the Northern District Plan, the Northern Beaches LGA has been assigned a target for 3,400 dwellings to 2021. Northern Beaches Council is currently working on a housing strategy to ensure that both short term and longer term housing targets can be provided in strategic locations best serviced by existing infrastructure and public transport services.

Affordable and Appropriate Housing

Key workers are an important contributor to the local economy and community; however they are increasingly locked out of accommodation on the Northern Beaches. To alleviate these problems Northern Beaches Council has adopted an affordable housing policy which commits Council to a 10% affordable housing target for all rezonings proposing new dwellings. This application has made no provisions for affordable housing.

Council has the opportunity to negotiate with the applicant as part of the Planning Proposal process to discuss how this may be able to be achieved. Alternatively, the applicant may wish to enter into a voluntary planning agreement to provide a monetary contribution toward affordable housing within the Northern Beaches Local government area.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Table 1. Compliance with State Environmental Planning Policies (SEPPs)

SEPPs (as at June 2018)		Applicable	Consistent
1	Development Standards	No Refer Cl 1.9 PLEP 2014)	N/A
19	Bushland in Urban Areas	N/A	N/A
21	Caravan Parks	N/A	N/A
33	Hazardous and Offensive Development	N/A	N/A
36	Manufactured Home Estates	N/A	N/A
44	Koala Habitat Protection	N/A	N/A
47	Moore Park Showground	N/A	N/A
50	Canal Estate Development	N/A	N/A
55	Remediation of Land	YES	YES
64	Advertising and Signage	N/A	N/A
65	Design Quality of Residential Apartment Development	YES	YES
70	Affordable Housing (Revised Schemes)	YES	YES
	(Aboriginal Land) 2019	N/A	N/A
	(Affordable Rental Housing) 2009	YES	YES*
	(Building Sustainability Index: BASIX) 2004	YES	YES
	(Coastal Management) 2018	YES	NO
	(Concurrences) 2018	N/A	N/A
	(Educational Establishments and Child Care Facilities) 2017	N/A	N/A
	(Exempt and Complying Development Codes) 2008	YES	YES*
	(Gosford City Centre) 2018	N/A	N/A
	(Housing for Seniors or People with a Disability) 2004	YES	NO
	(Infrastructure) 2007	N/A	N/A
	(Kosciuszko National Park – Alpine Resorts) 2007	N/A	N/A
	(Kurnell Peninsula) 1989	N/A	N/A
	(Mining, Petroleum Production and Extractive Industries) 2007	N/A	N/A
	(Miscellaneous Consent Provisions) 2007	N/A	N/A
	(Penrith Lakes Scheme) 1989	N/A	N/A
	(Primary Production and Rural Development) 2019	N/A	N/A
	(State and Regional Development) 2011	N/A	N/A
	(State Significant Precincts) 2005	N/A	N/A
	(Sydney Drinking Water Catchment) 2011	N/A	N/A
	(Sydney Region Growth Centres) 2006	N/A	N/A
	(Three Ports) 2013	N/A	N/A
	(Urban Renewal) 2010	N/A	N/A
	(Vegetation in Non-Rural Areas) 2017	YES	YES
	(Western Sydney Employment Area) 2009	N/A	N/A
	(Western Sydney Parklands) 2009	N/A	N/A
	Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas)	N/A	N/A
	Sydney Regional Environmental Plan No 9 – Extractive Industry (No 2 – 1995)	N/A	N/A
	Sydney Regional Environmental Plan No 16 – Walsh Bay	N/A	N/A

	Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No 2 – 1997)	N/A	N/A
	Sydney Regional Environmental Plan No 24 – Homebush Bay Area	N/A	N/A
	Sydney Regional Environmental Plan No 26 – City West	N/A	N/A
	Sydney Regional Environmental Plan No 30 – St Marys	N/A	N/A
	Sydney Regional Environmental Plan No 33 – Cooks Cove	N/A	N/A
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	N/A	N/A

* Refer further discussion below.

In relation to applicable SEPPs listed at Table 1 above, the following comments are provided regarding how the Planning Proposal is either consistent or inconsistent with the SEPPs as follows:

SEPP No. 55 - Remediation of Land

Clause 6(1) of SEPP 55 states that:

- (1) *In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:*
 - (a) *the planning authority has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
 - (c) *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

The site's history indicates that it has been used for predominantly residential purposes for the last 50+ years. The possibility of contamination is considered low. This matter could be further addressed as part of a future development application

SEPP No. 65 - Design Quality of Residential Apartments

SEPP 65 applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component that is at least 3 or more and contains at least 4 dwellings.

The concept plans provided with the original Planning Proposal may meet the criteria for the applicability of this SEPP. Any future development application that reaches this threshold would have to demonstrate consistency with the SEPP. This could be addressed at the development application stage.

SEPP No 70 – Affordable Housing (Revised Schemes)

SEPP 70 now identifies all parts of the state as having a need for affordable housing and enables the potential collection of affordable housing contribution pursuant to Section 7.32 (1) of the Environmental Planning and Assessment Act (EP&A Act) where either SEPP or local environmental plan authorises an affordable housing condition to be imposed.

Council has an adopted Affordable Housing Policy which is working toward amending relevant LEPs to impose a contribution toward affordable housing pursuant to the EP&A Act. Council's Policy also aims to achieve a minimum 10% of affordable housing for all planning proposals seeking rezoning or additional dwelling capacity. Given the intent of the SEPP and Council's Affordable Housing Policy, it is suggested that should a gateway determination be issued, that the applicant be asked to provide an affordable housing contribution in accordance with Council's Policy.

SEPP (Building Sustainability Index: BASIX) 2004

This SEPP applies to new residential development and requires a certain commitment toward water and energy efficiency. Any future development of the site for residential purposes would be required to meet the requirements of the SEPP. This could be addressed as part of a future development application.

SEPP (Coastal Management) 2018

The Planning Proposal is inconsistent with the aims and intent of this policy which is to minimise development that places more people at risk from coastal hazards. The site is identified as a property subject to coastal inundation, which is defined as a 'coastal hazard' under the *Coastal Management Act 2016*. The Planning Proposal could allow for the intensification of development on areas impacted by coastal hazards.

The Planning Proposal is inconsistent with the following objectives of the SEPP;

- (a) *To protect and manage the natural, cultural, recreational and economic attributes of the NSW Coast, and*
- (e) *to ensure that the visual amenity of the coast is protected, and*
- (k) *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic qualities of the surrounding area, and*
- (i) *to encourage a strategic approach to coastal management*

The Planning Proposal if it were to proceed could allow for development out of scale and character with the surrounding area that is generally characterised by detached dwelling houses. Future development may not protect the visual amenity of the area, or promote an approach to coastal management that is strategic or consistent with other properties that adjoin the Pittwater waterway.

Should a gateway determination be issued it is suggested that it be conditional upon address of the matters raised under the SEPP and provision of site specific DCP controls guiding future redevelopment of the site.

SEPP (Exempt and Complying Development Codes) 2008

Future redevelopment of the site may be subject to the provisions enabled by the SEPP within an R2 Low Density Residential zoning. To enable consistency with adjoining land (including the type of development that may be exempt or complying) it is preferable the E4 zoning be retained. However

Housing for Seniors or People with a Disability) 2004

Under the Standard Instrument, 'E' zones are regarded as environmental protection zones. In this regards the site is known to meet the criteria for exclusion under the SEPP for environmentally sensitive sites.

The E zones objectives include aesthetics as a valid reason for protection. Allowing the Planning Proposal to proceed would not be consistent with the aims and intent of the SEPP to exclude environmentally sensitive areas from Seniors Housing Development.

However, should the use be permitted as an additional permitted use under Schedule 1 of PLEP 2014, this would avoid the application of this SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions?

Applicable Directions are summarised in Table 2 below including comments on each. Where the Planning Proposal is deemed inconsistent with a Direction it is discussed in further detail below.

Direction 2.1 Environment Protection Zones

The objective of this Direction is *to protect and conserve environmentally sensitive areas*.

The Planning Proposal is inconsistent with part 2.1(5) of this Direction which states that:

A planning proposal that applies to land within an environmental protection zone or otherwise identified for environmental protection purposes in an LEP must not reduce the environmental standards that apply to the land (including modifying development standards that apply to the land).

The site is identified as an environmental protection zone, due to the E4 Environmental Living zoning. Under Direction 2.1(6) a planning proposal may be inconsistent if the relevant planning authority can justify an inconsistency through a strategy or study. However no strategy or study justifying the inconsistency has been prepared.

Consistency with this Direction may be able to be achieved through the retention of the existing E4 Environmental Living zoning as opposed to the blanket rezoning of the land to R2 Low Density Residential.

An additional permitted use of 'seniors housing' could be could be included in Schedule 1 subject to the continued operation of existing planning controls that protect and conserve environmentally sensitive areas.

The introduction of site specific DCP controls may also be required to address the scenic protection requirements and to address any site specific environmental factors.

2.2 Coastal Protection

The objective of this Direction is *to implement the principles in the NSW Coastal Policy*.

This direction applies to land within the coastal zone as identified under the *Coastal Management Act 2016*, including land identified as 'coastal use'. The subject properties are identified as such.

2.2(5) of the Direction states (in part) that:

A planning proposal must not rezone land which would enable increased development or more intensive land-use on land;

(b) *that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:*

(i) *By or on behalf of the relevant public authority and provided to the relevant planning proposal authority, or*

(ii) *By or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority*

The subject properties have been identified as being subject to coastal inundation, a coastal hazard as defined in the *Coastal Management Act 2016*. The proposed rezoning could enable a more intensive development outcome on the site which this Direction seeks to prevent.

While 2.2(7) allows for an inconsistency, no strategy or study has been provided with the Planning Proposal to justify an inconsistency. With regards to an inconsistency justified by a District Plan, the Planning Proposal is inconsistent with the relevant District Plan (North District Plan) as previously discussed in this Planning Proposal.

Should a gateway determination be issued it should be conditional upon the provision by the applicant of relevant technical studies to address the suitability to the site to enable more intense residential development having regard to any coastal management of natural hazard issues.



Figure 3: Coastal Use Area – shown orange hatched (site shown red crossed hatched)

3.1 Residential Zones

The objectives of this Direction are to:

- (a) *encourage a variety of choice of housing types to provide for existing and future housing needs,*
- (b) *to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and*
- (c) *to minimise the impact of residential development on the environment and resource lands*

While the proposal generally complies with this Direction it is inconsistent with objective (c) as the proposal has the potential to increase the impact of residential development on environmental land by potentially increasing the bulk and scale of development on land that is currently zoned E4 Environmental Living.

Inconsistency with this Direction could be overcome by applying site specific DCP controls to the site to limit the size and scale of future development. The preparation of appropriate DCP controls should be required as a condition of any gateway determination issued.

3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) *increasing the choice of available transport and reducing dependence on cars, and*
- (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) *supporting the efficient and viable operation of public transport services, and*
- (e) *providing for the efficient movement of freight.*

The Planning Proposal is inconsistent with the objectives of this Direction as it does not improve access via walking or cycling and does not reduce the likely extent of private vehicle trips being located 800m from the Newport Village Centre. It is also not located close to frequent high capacity public transport.

4.3 Flood Prone Land

The objectives of this Direction are:

- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

The Planning Proposal is considered to be inconsistent with this Direction. 4.3(5) of the Direction states that;

*A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or **Environmental Protection Zones** [emphasis added] to a Residential, Business, Industrial, Special Use or Special Purpose Zone.*

The properties are currently zoned E4 Environmental Living, an environmental protection zone under the Standard Instrument. Retention of the E4 zoning would remove the inconsistency with this element of the Direction.

5.5 (6) of the Direction states that:

A planning proposal must not contain provisions that apply to the flood planning areas which;

- (a) *permit development in floodway areas,*
- (b) *permit development that will result in significant flood impacts to other properties,*
- (c) *permit a significant increase in the development of that land,*
- (d) *are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services*

The Pittwater Overland Flow Mapping and Flood Study 2013 indicates that the subject sites are subject to flooding impacts including being isolated in certain flood events. Nooal Street is overtopped by flooding both near the intersection with Irrubel Road and Bardo Road. Council has also undertaken further flood studies for this area in 2018 which indicate that parts of the site and surrounding road network are subject to the impacts of flooding.

This Planning Proposal is considered to be inconsistent with the aims and intent of the Direction to avoid placing more people and property at risk. The risk is considered greater given that the intended development outcome of seniors housing is more likely to house people with mobility issues that require assistance in an evacuation event.

Should a gateway determination be issued it is recommend that it be conditional upon the applicant providing a Flood Study addressing the impacts of flooding on the site and in particular addressing the matters raised in Section 6 of the Direction as outlined above.



Figure 4: Draft Newport Flood Study 2018 high (red), medium (blue) and low (green) flood risk (site shown red crossed hatched)

Table 2: Ministerial Directions – Summary of Applicable Directions

Ministerial Direction	Comment
1 Employment and Resources	
1.1 Business and Industrial Zones	Not applicable
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable
1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
2 Environment and Heritage	
2.1 Environment Protection Zones	
The objective of this direction is to protect and conserve environmentally sensitive areas.	Applicable and inconsistent Refer detailed discussion above.
2.2 Coastal Protection	
The objective of this direction is to implement the principles in the NSW Coastal Policy	Applicable and inconsistent Refer detailed discussion above.
2.3 Heritage Conservation	Not applicable
2.4 Recreation Vehicle Areas	Not applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's	Not applicable
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	
The objectives of this direction are to: (c) encourage a variety of choice of housing types to provide for existing and future housing needs, (d) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands.	Applicable and partly inconsistent Refer detailed discussion above.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
3.4 Integrating Land Use and Transport	Applicable and inconsistent Refer detailed discussion above
3.5 Development Near Licensed Aerodromes	Not applicable
3.6 Shooting Ranges	Not applicable
4. Hazard and Risk	
4.1 Acid Sulfate Soils	
The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of	The site is identified as being Class 5 on the Acid Sulfate mapping of the Pittwater Local Environmental Plan. It is considered

containing acid sulfate soils.	that this issue could be adequately addressed at the development application stage if this Planning Proposal was to proceed.
4.2 Mine Subsidence and Unstable Land	Not applicable
4.3 Flood Prone Land	Applicable and inconsistent Refer detailed discussion above
4.4 Planning for Bushfire Protection	Not applicable
5 Regional Planning	
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking Water Catchments	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not applicable
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008 See amended Direction 5.1)	Not applicable
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable
5.10 Implementation of Regional Plans	Not applicable
5.11 Development of Aboriginal Land Council land	Not applicable
6. Local Plan Making	
6.1 Approval and Referral Requirements	
The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the terms of this direction as follows: a) provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority are minimised (b) no provisions are contained in the Planning Proposal requiring concurrence, consultation or referral of a Minister or public authority. (c) no development is identified as designated development.
6.2 Reserving Land for Public Purposes	
The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	
The objective of this direction is to discourage unnecessarily restrictive site specific planning	The Planning Proposal contains no site-specific planning controls.

controls.	
7 Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	
The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	No longer applicable. An address of the relevant Regional Plan and District Plan is provided in Section 3.
7.2 Implementation of Greater Macarthur Land Release Investigation	
7.3 Parramatta Road Corridor Urban Transformation Strategy	
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	
7.9 Implementation of Bayside West Precincts 2036 Plan	
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	

Section C – Environmental, social and economic impact

7. 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?

The Planning Proposal is unlikely to impact upon any known critical habitats, species or populations.

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

The subject sites are impacted by a number of hazards and require a number of studies or additional information for a complete assessment. A number of these issues were not previously addressed by the Planning Proposal and should be required to be provided by the applicant should gateway determination be issued.

Flooding

The subject properties are identified as being affected by flooding as well being potentially isolated in flooding events. A flood study should be provided that shows the site can be developed for seniors housing without risk to life or property on the site. The study should also

consider the impact of the property becoming isolated in flooding events and the need for the evacuation of people more likely to require assistance in doing so. It should also consider the impact of any proposed road modifications required and driveway upgrades that impact the flow of floodwaters.

Furthermore, the study should clearly outline how the proposal can ensure consistency with Section 9.1 Ministerial Direction 4.3- Flooding.

Visual impact on scenic area

Without some level of control, a proposed 'senior housing' development outcome typically provided under the HSPDSEPP could provide for a development of a bulk and scale that is out of character with the existing low density area regarded for its aesthetic qualities.

Should gateway determination be issued, it is suggested that it be conditional on the applicant providing additional information including a visual impact study and massing diagrams showing how the proposed development could fit within the low density environment. Site specific DCP controls should also be prepared to ensure a built form outcome can be achieved that protects local scenic and aesthetic qualities. This additional information should form part of any public exhibition documentation.

Coastal hazards

The property is identified as being impacted by coastal inundation. Should gateway determination be issued it should be conditional upon the provision by the applicant of a coastal hazard report that establishes the property can be safely developed without risk to property or life should be provided.

Furthermore, the study should clearly outline how the proposal can ensure consistency with Section 9.1 Ministerial Direction 2.2- Coastal Protection.

Loss of trees

An Arborist report indicating the impact of eventual development and tree loss should be provided. The report should include the impact of development on the loss of street trees affronting Nooal Street as well as required tree removal in Bardo Road to accommodate the new driveway and intersection modifications.

Access infrastructure

Based on the indicative concept plan provided require substantial changes to the Bardo Road reserve near to the intersection with Nooal Street. Currently this area serves as a driveway access to a small number of properties while the Proposal seeks to locate its primary road access here requiring upgrades to accommodate additional traffic impacts. Engineering plans and designs showing the required upgrades should be provided to understand the impact upon existing trees and potential impacts upon flood waters

9. Has the Planning Proposal adequately addressed any social and economic effects?

The proposal has not considered the impacts of the proposal on housing affordability and in particular an address of Council's adopted Affordable Housing Policy position which is to aim to achieve 10% affordable rental housing target for all strategic plans and planning proposals for urban renewal or greenfield development.

This matter can be addressed further with the applicant should a gateway determination be issued.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

This will be addressed at development application stage.

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

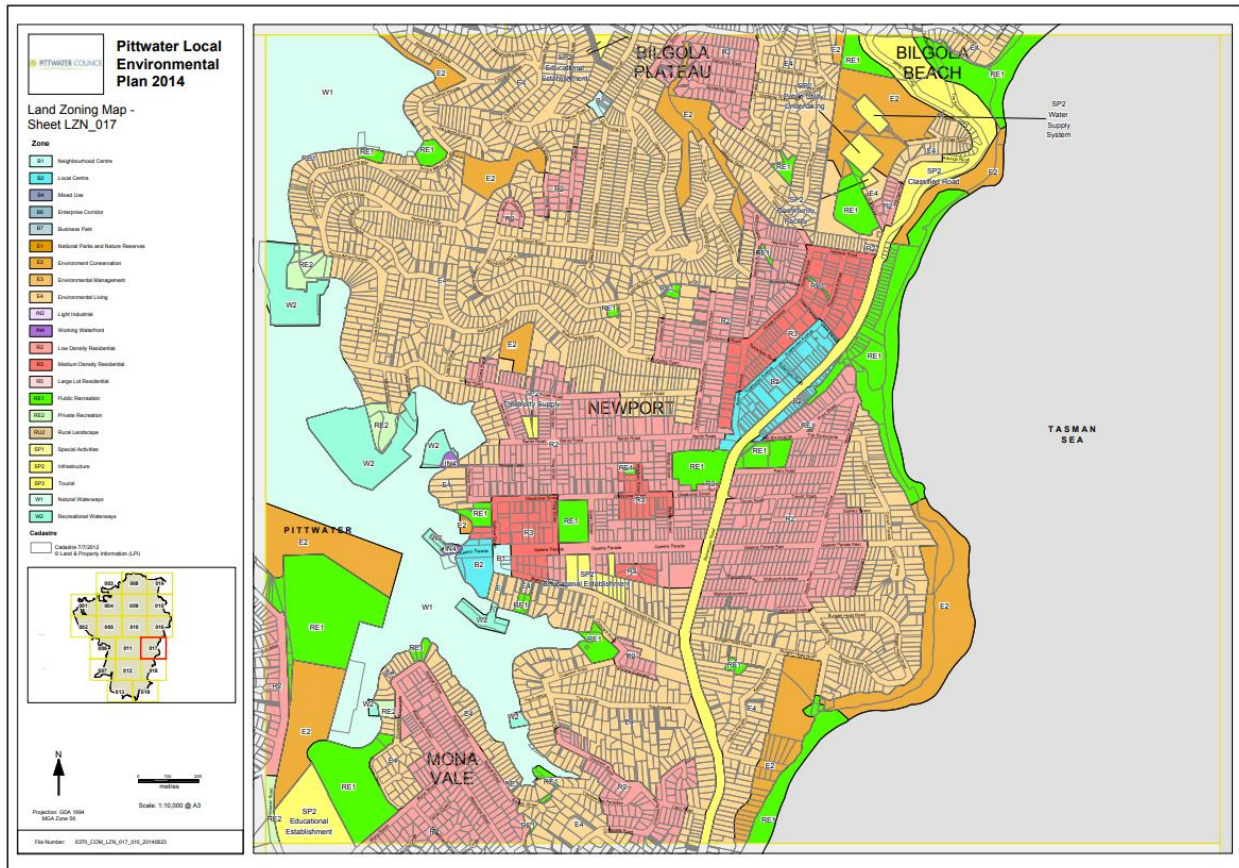
Should a gateway determination be issued the following authorities will need to be consulted.

Authority	Issues	Comment
Sydney Water	Pumping Station	The site adjoins a Sydney Water pumping station. They should be consulted in regards to impact on their asset. Sydney Water should also be contacted having regard broader impacts on water supply infrastructure.
Roads and Maritime Services NSW	Traffic Impacts	RMS should be consulted as to whether they have any concerns with any impacts on state roads
Transport for NSW	Public transport	TfNSW should be consulted as to whether they propose any changes to public transport in the area.
Department of Primary Industries – Crown Lands (NSW)	Adjoining reclaimed land	The properties adjoin Crown Land that has been reclaimed from Crystal Bay and jetties and berthing areas leased from Crown Lands.
Department of Primary Industries – Fisheries	Impacts on waterway	The property adjoins Crystal Bay and Pittwater. They should be consulted with regards to any impacts upon any local water species.
State Emergency Services (SES)	Emergencies and evacuation	Consulted with regards to flooding and sea level rise impacts and the evacuation of less mobile people.
Ausgrid	Electrical Substation	The Proposal is within proximity of the Newport substation. Ausgrid should be consulted in terms of potential impacts upon their substation or potential impacts from it on potential residents.

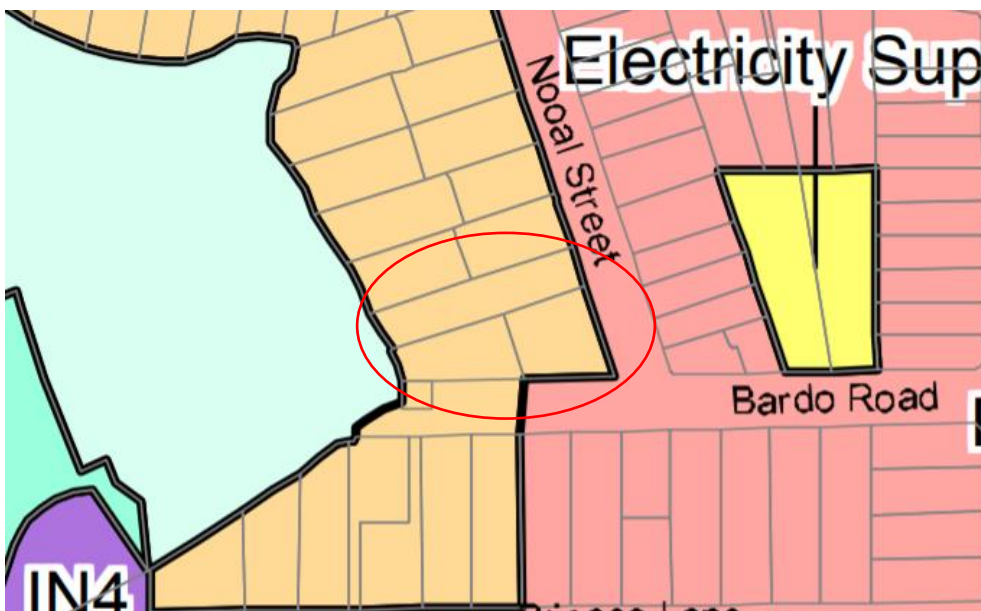
Part 4 – Maps

The following maps are associated with the Planning Proposal.

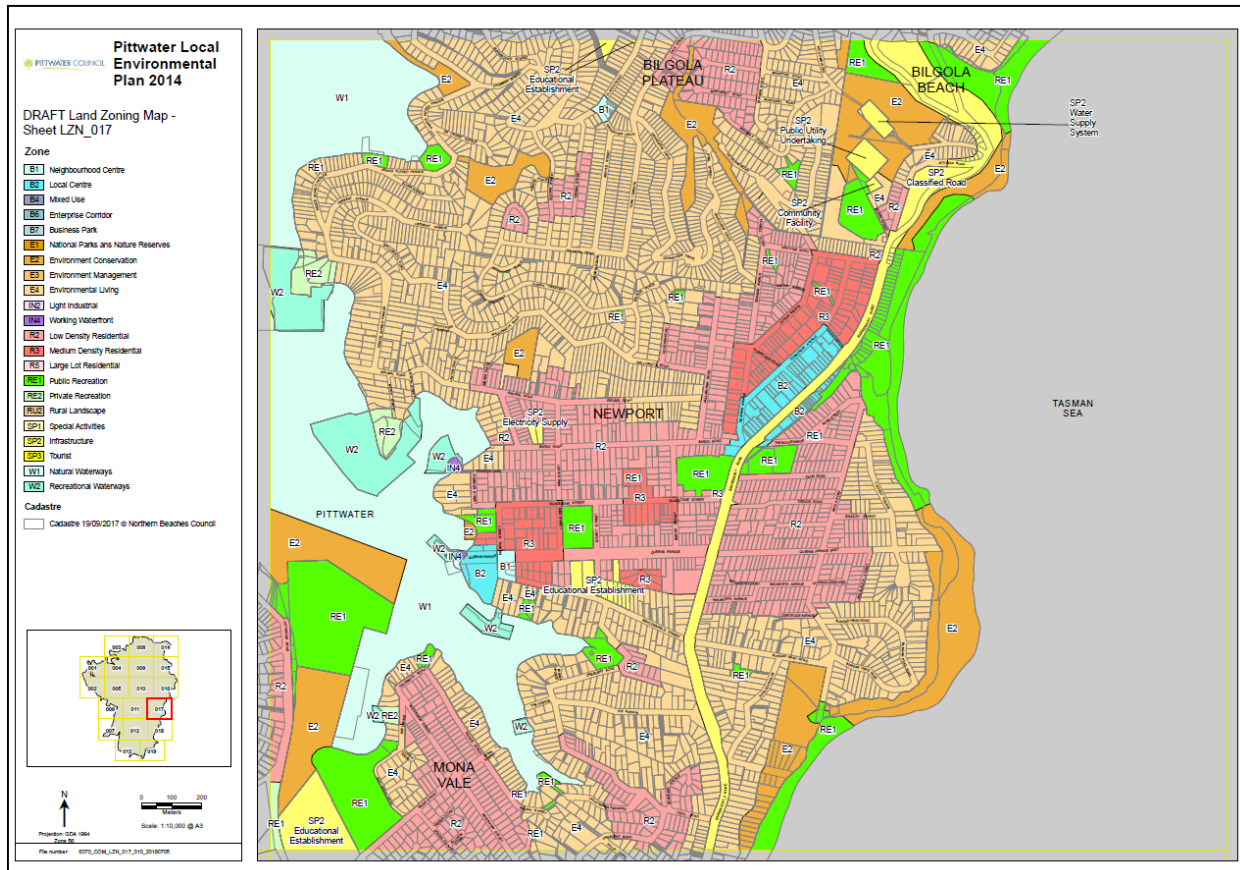
Current Land Zoning Map Sheet LZN_017



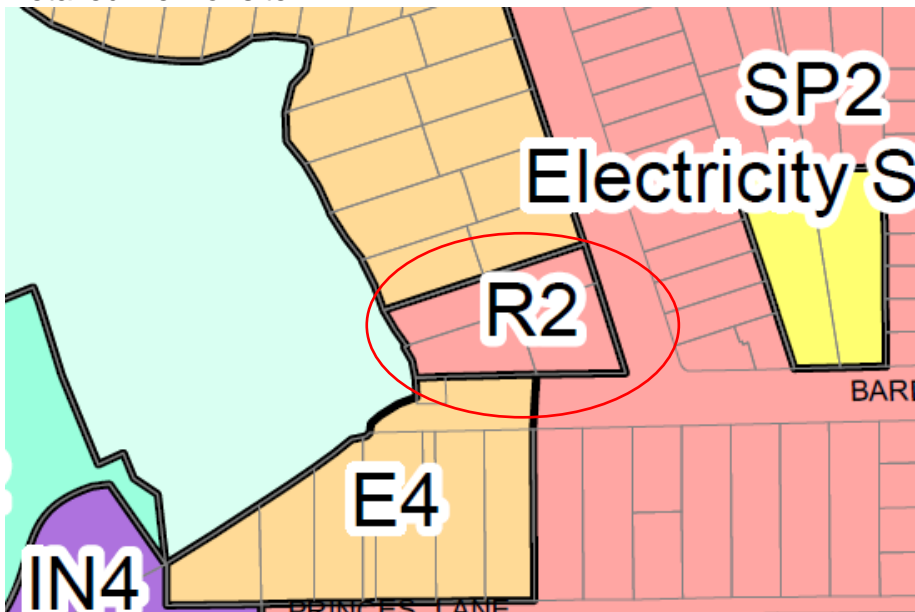
Detailed view of site



Proposed Land Zoning Map Sheet LZN_017



Detailed view of site



Part 5 – Community Consultation

Council will place the planning proposal on public exhibition in accordance with future Gateway Determination and consistent with Council's Community Engagement Policy including:

- A public notice in the Manly Daily notifying of the public exhibition;
- Letters to key stakeholders;
- Hard copies of the exhibition material at Council's offices; and
- Electronic copies of the exhibition material on Council's website.

If issued, the gateway determination will confirm the public consultation that must be undertaken.

Part 6 – Project Timeline

Task	Anticipated timeframe
Referral to Department of Planning & Environment for Gateway determination	June 2019
Issue of Gateway determination	August 2019
Government agency consultation	September 2019
Public exhibition period	October 2019
Consideration of submissions	November 2019
Report to Council to determine Planning Proposal	December 2019
Submit Planning Proposal to the Department of Planning & Environment for determination	Published January 2020

Attachment 1 – Site Photos



Image 2 – View of Bardo Road and Nooal Street intersection, facing west.



Image 3 - Intersection of Bardo Road and Nooal Street, facing north-west.



Image 4 – Properties on Nooal Street facing the subject site



Image 4 – Ausgrid Substation on Bardo Road.



Image 6 – Driveway on Bardo Road from the intersection with Nooal Street, facing east



Image 7 – Driveway on Bardo Road, facing west towards Crystal Bay



Image 8 – View north across rear of properties adjoining Crystal Bay



Image 9 – Rear of subject properties, facing north-east