

Warringah Draft LEP (Amendment 7) Correct anomalies and errors to improve the operation of Warringah LEP 2011.

Proposal Title :	Warringah Draft LEP (Amendment 7) Correct anomalies and errors to improve the operation of Warringah LEP 2011.		
Proposal Summary :	Correct anomalies and errors to improve the operation of Warringah LEP 2011 including: permitting 'boat and repair facilities' in the IN1 General Industrial zone, prohibiting registered clubs in the RE2 Private recreation zone, adding 4 registered club sites to Schedule 1, reducing the height control from 11m to 8.5m for certain land in Narrabeen, removing an acquisition from the Land Reservation Acquisition Map, updating mapping for items listed under Schedule 1 and updating Clause 6.1 Acid Sulfate Soils.		
PP Number :	PP_2012_WARRI_007_00	Dop File No :	12/16844-1

Proposal Details

Date Planning Proposal Received :	22-Oct-2012	LGA covered :	Warringah
Region :	Sydney Region East	RPA :	Warringah Council
State Electorate :	WAKEHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Warringah		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro North East subregion	Consistent with Strategy :	Yes
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 : **The Regional Team is not aware of any meetings or communication with registered lobbyists concerning this Planning Proposal.**

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

If Yes, comment : **N/A**

Supporting notes

Internal Supporting Notes : **In addition to correcting anomalies and errors to improve the operation of Warringah LEP 2011 (WLEP2011), this Planning Proposal also seeks to either:**

1) Prohibit "Registered clubs" under the RE2 Public Recreation zone, rezone 4 registered clubs RE1 Public Recreation where they would be prohibited AND add them to Schedule 1 Additional Permitted Uses; OR

2) Prohibit "Registered clubs" under the RE2 Public Recreation zone, insert the four clubs in to Schedule 1 Additional Permitted Uses AND allow existing use provisions of Part 4 Division 10 of the Environmental Planning and Assessment Act 1979 to prevail for other registered clubs.

At the time of making the Warringah LEP 2011 (WLEP2011), the Department's position was that 'Registered clubs' are not suitable in the RE1 Public Recreation zone as it is a 'public recreation zone'. The Department maintained that it is the use of the land, not the ownership, that should determine whether an RE1 or RE2 zone is applied.

For this reason, the Department's exhibition certificate to Council required Council to:

- delete registered clubs as a permitted use in the RE1 zone,
- zone 4 club sites RE2 Private Recreation, and
- permit 'registered clubs' in the RE2 Private Recreation zone.

Following exhibition, Council submitted the Draft WLEP 2011 with 'Registered clubs' permitted with consent in both the RE1 and RE2 zones with a provision in the land use table that registered clubs must be ancillary to a recreational facility. However, Parliamentary Counsel did not support Council's approach. Council then advised that it does not support the retention of registered clubs as a permissible land use in the RE2 zone if the provision to make them ancillary is not included. Notwithstanding Council's opposition, in order to not make any post exhibition changes, the WLEP 2011 was made which retained registered clubs as a permissible use in the RE2 zone.

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External Supporting
Notes :

Adequacy Assessment

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

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

Comment : Council's objective is to rectify some of the anomalies and errors under the WLEP2011.

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

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

Comment : The explanation of the provisions is adequate.

This Planning Proposal seeks to correct anomalies and errors to improve the operation of Warringah LEP 2011 (WLEP2011).

The following amendments to the WLEP2011 are proposed through this Planning Proposal:

1. Permit "Boat building and repair facilities" in the IN1 General Industrial zone;
2. Prohibit "Registered clubs" in the RE2 Private Recreation zone and either:
(a) Rezone Long Reef Golf Club; Manly Vale Bowling Club; North Manly Bowling Club and Wakehurst Golf Club RE1 Public Recreation and add four (4) registered club sites under Schedule 1 Additional Permitted Uses OR
(b) Retain the RE2 zoning and insert Long Reef Golf Club; Manly Vale Bowling Club; North Manly Bowling Club and Wakehurst Golf Club into Schedule 1;
3. Reduce the height controls for land bound by Pittwater Road and Narrabeen, Ocean and Albert Streets, Narrabeen from 11 metres to 8.5 metres to reflect like for like translation of height control from Warringah LEP 2000. This requires an amendment to the Height of Buildings Map - Sheet HOB_009.
4. Remove Lot 1 DP960506 from the Land Reservation Acquisition Map because this site has been acquired.
5. Amend Schedule 1 by mapping all additional permitted uses currently under WLEP2011 by:
 - adding to existing maps (APU_003 to APU_010A);
 - creating additional maps (APU_001 and APU_009); and
 - revising map referencing under Schedule 1 to correspond to the existing and new maps. (A detailed list of sites affected is available on pages 3 and 4 of Council's Planning Proposal report).
6. Replace Clause 6.1 Acid Sulphate Soil with the latest model clause. Detailed explanation for each of the six proposed changes is provided under this Planning Proposal.

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

3.1 Residential Zones

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

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7.1 Implementation of the Metropolitan Plan for Sydney 2036

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 6—Number of Storeys in a Building
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Infrastructure) 2007**

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

Nil

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

If No, explain :

Section 117 Directions

Council has identified the relevant section 117 Directions that apply to this Planning Proposal and has identified that the Planning Proposal is consistent with these Directions.

An review of Council's assessment on consistency with the relevant s117 Directions reveals that the Planning Proposal is consistent with the relevant Directions and that the Director General's approval is not required.

Consistency with relevant SEPPs

The Planning Proposal is consistent with the relevant SEPPs.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Council has submitted the relevant Height of Buildings Map, Land Reservation Acquisition Map and the Additional Permitted Uses Maps that will need to be amended as a result of this Planning Proposal. Council should be advised that it liaise with the Department's mapping team during the exhibition of this Planning Proposal to ensure that the maps comply with the Standard technical guidelines.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council intends to publicly exhibit the Planning Proposal but has not specified the timeframe. Given that this proposal seeks to rectify anomalies and errors made in translating WLEP 2000 into WLEP 2011, a minimum 14 day exhibition period is recommended.

Additional Director General's requirements

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

If Yes, reasons :

Nil

Overall adequacy of the proposal

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

If No, comment :

The Planning Proposal rectifies earlier errors in finalising WLEP 2011 and is considered to be acceptable. With the exception of Council's preferred approach in relation to registered clubs, the Planning Proposal is considered to be acceptable to proceed subject to the following conditions:

- 1. Public exhibition minimum 14 days**
- 2. Inserting registered clubs under Schedule 1 is not supported. The preferred approach is to rely on existing use rights and prohibit registered clubs from the RE2 Private Recreation zone.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **WLEP 2011 was notified on 9 December 2011.**

Assessment Criteria

Need for planning proposal :

The Planning Proposal is necessary to rectify minor anomalies and errors that were made in finalising WLEP2011.

The proposed changes that rectify errors in translating WLEP2000 into WLEP2011 such as the addition of "Boat repair facilities" in the IN1 General Industrial zone and reducing the height control from 11m to 8.5m are considered acceptable.

The deletion of a site from the Land Reservation Acquisition Map because it has been acquired is also supported.

Additionally, mapping all items listed under Schedule 1 Additional Permitted Uses is consistent with the Department's Draft LEP Practice Note on Additional Permitted Uses.

Updating the clause for Acid Sulfate Soils with the latest model clause is also supported.

In relation to Council's request to prohibit "Registered clubs" on land zoned RE2 Private Recreation, Council's preferred approach to rezone 4 registered clubs RE1 Public Recreation is not supported.

Council's alternative request to include the 4 registered club sites in Schedule 1 raises issues as the Department's policy position is to encourage councils to find a suitable zone for such uses. Council has consistently argued that the 4 clubs are a special case as they are located on publicly owned land and have been established as a component part of a recreation facility on that land. It has also maintained that registered clubs should be prohibited in the RE2 Private Recreation zone due to the amenity impacts on nearby residents. Any other clubs in the RE2 Public Recreation zone would need to rely on existing use provisions of Part 4 Division 10 of the Environmental Planning and Assessment Act 1979.

Although Council's preference is to make registered clubs a permissible use in the RE1 Public Recreation zone, it accepts the Department's policy position that this is not an appropriate use of this zone. Council's alternative option to include the 4 club sites into Schedule 1 Additional Permitted Uses would recognise their long term existence and expectations for future use of these sites.

The Department can either:

- 1. Support the inclusion of the 4 clubs into Schedule 1; or**
- 2. Not support this part of the Planning Proposal and require Council to undertake additional work on this issue.**

Option 1 is preferred because Council has demonstrated that it has explored alternative zoning options to address this issue, consistent with the Draft LEP Practice Note requirements. The inclusion of the 4 clubs into Schedule 1 will also allow the clubs to benefit from the Codes SEPP for minor works and will not increase the number of Schedule 1 items under WLEP 2011 to an unmanageable number.

For the above reasons, the alternative approach submitted by Council is supported.

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Consistency with strategic planning framework :

The Planning Proposal is not inconsistent with Council's strategic work.

Environmental social economic impacts :

There are no environmental, social or economic impacts that would result from this Planning Proposal.

The inclusion of the latest model clause on Acid Sulfate Soils for instance, will ensure that the latest standards on development in areas affected by acid sulfate soils are applied. In addition, the reduction of height of buildings in Narrabeen is to rectify an error in translating the height control from WLEP2000 and will not impact on the resulting development yield on these sites.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d)

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

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

If no, provide reasons : **The Planning Proposal is sufficiently justified and is acceptable to proceed to the Gateway.**

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

If Yes, reasons : **N/A**

Identify any additional studies, if required. :

If Other, provide reasons :

Nil

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Warringah Planning Team Report 26102012.pdf	Proposal	No
Planning Proposal.pdf	Proposal	Yes
Addendum to Planning Proposal - s117 Direction 3.1 Residential Zones.pdf	Proposal	Yes
Draft Minutes Council Meeting 28 August 2012.pdf	Proposal	Yes

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Ordinary Council - 20120828 - Item Number 8.5 - Planning Proposal to Amend Warringah Local Environmental Plan.pdf	Proposal	Yes
Attachment 1 - Narrabeen Land Application Map.pdf	Map	Yes
Attachment 2 - Model Local Provision 7.1 - Acid Sulphate Soils.pdf	Proposal	Yes
1800_COM_APU_001_020_20120924.pdf	Map	Yes
1800_COM_APU_003_020_20120924.pdf	Map	Yes
1800_COM_APU_004_020_20120924.pdf	Map	Yes
1800_COM_APU_006_020_20120924.pdf	Map	Yes
1800_COM_APU_007_020_20120924.pdf	Map	Yes
1800_COM_APU_008_020_20120924.pdf	Map	Yes
1800_COM_APU_008A_010_20120924.pdf	Map	Yes
1800_COM_APU_009_020_20120924.pdf	Map	Yes
1800_COM_APU_010_020_20120924.pdf	Map	Yes
1800_COM_APU_010A_010_20120924.pdf	Map	Yes
1800_COM_LRA_010_020_20120924.pdf	Map	Yes
1800_COM_LZN_008_020_20120924.pdf	Map	Yes
1800_COM_LZN_009_020_20120924.pdf	Map	Yes
1800_COM_LZN_010_020_20120924.pdf	Map	Yes
1800_COM_HOB_009_020_20120924.pdf	Map	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**
 3.1 Residential Zones
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 6.1 Approval and Referral Requirements
 6.2 Reserving Land for Public Purposes
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **1. Public consultation for a minimum period of 14 days.**
 2. 9 months to finalise the Planning Proposal.
 3. In relation to "Registered clubs" on land zoned RE2 Private Recreation, the Department supports the prohibition of "registered clubs" under RE2 Private recreation, the inclusion of four specified "Registered clubs" under Schedule 1 (and rezoning of these 4 sites to RE1 Public Recreation) and relying on existing use rights for remaining registered clubs in the RE2 Private Recreation zone.

Supporting Reasons : **The above conditions are necessary to ensure that the Planning Proposal is finalised in an orderly manner.**

Signature:



Printed Name:

DAVID PITNEY

Date:

31/10/12

