

ITEM 8.13	MINOR WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 AMENDMENTS
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2015/250390
ATTACHMENTS	1 Proposed Mapping Amendments (Included In Attachments Booklet)

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval for proposed amendments to the Warringah Local Environmental Plan 2011 (WLEP 2011) and the Warringah Local Environmental Plan 2000 (WLEP 2000).

SUMMARY

A number of minor amendments are proposed to WLEP 2011 and WLEP 2000 to correct anomalies, and bring up to date with current state legislation and previous Council resolutions. The amendments are each discussed in detail in the main body of this report.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The proposed amendments are intended to correct existing anomalies, and make other minor amendments in accordance with previous Council resolutions and state legislation.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Prepare a Planning Proposal to make the following amendments to WLEP 2011 including the attached proposed mapping amendments and WLEP 2000:
 - i. Re-Zone Cromer High School (Lots 623, 624, 625 and 626 in DP 752038) from IN1 – General Industrial to SP2 - Infrastructure
 - ii. Re-Zone 2-10 Lindrum Street, Belrose (Lot 25 DP 1179618) from R2 – Residential to RE1 - Public Recreation
 - iii. Re-Zone Lot 262 DP 1028346 (near the corner of Pitt and Playfair Roads, North Curl Curl) from R2 – Residential to B1 - Neighbourhood Centre
 - iv. Re-Zone western part of the Dee Why Post Office site (Lot B DP 350145) from RE1 – Recreation to B4 - Mixed Use
 - v. Zone southern part of Lot 2 DP 587690 (pedestrian/drainage lot in Dee Why) from B4 - Mixed Use to RE1 -Public Recreation
 - vi. Prohibit 'restriction facilities' in all business and industrial zones – zones B1, B2, B3,
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B4, B5, B7, IN1 and IN2

- vii. Amend the Heritage Map on 53 Aubreen Street, Collaroy Plateau (Lot 2, DP 1029592) and 56 Idaline Street, Collaroy Plateau (Lot 1 DP 1029592)
 - viii. Adjust the cadastre and associated LEP mapping for Glen Street Theatre (Lot 1 DP 595183) and Lionel Watts Reserve (Lot 2 DP 595183)
 - ix. Adjust the cadastre and associated LEP mapping for all properties within the blocks bounded by Adams Street, Rabbett Street and Forest Way, Frenchs Forest
 - x. Adjust the cadastre and associated LEP mapping for 34 Monserra Road, Allambie Heights (Lot 4 DP 241969), 1, 3 and 5 Cootamundra Drive, Allambie Heights (Lots 3, 2 and 1 of DP 241969)
 - xi. Delete exempt development requirements for signage in WLEP 2011 and WLEP 2000 where similar requirements apply under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
 - xii. Amend Clause 2.8 of the WLEP 2011 to increase the maximum period for which development consent may be granted for a "temporary use" from 28 days to 52 days
 - xiii. Include signage on trailers as exempt development under WLEP 2011 and WLEP 2000.
- B. Submit the Planning Proposal to the Department of Planning and Environment for Gateway determination.
- C. Publicly exhibit the Planning Proposal in accordance with any directions contained in the Department of Planning and Environment's Gateway approval.
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REPORT

BACKGROUND

The issues discussed in this report have come to Council's attention through various channels since previous amendments made to WLEP 2011 and WLEP 2000.

The proposed amendments are intended to correct existing anomalies, and make other minor amendments in accordance with previous Council resolutions and state legislation.

CONSULTATION

Public consultation will take place subject to Council's approval of the proposed changes and in accordance with the Department of Planning and Environment (DP&E) Gateway approval process.

Proposed Amendments

Re-zone Cromer High (120 South Creek Road, Cromer) from IN1 – General Industrial to SP2 – Infrastructure

Cromer High School (No. 120 South Creek Road, Cromer, Lots 623, 624, 625 and 626 in DP 752038) is currently zoned IN1 - General Industrial under WLEP 2011. The school was originally zoned IN1 as it falls within a locality characterised by industrial uses which are also zoned IN1. It is also adjacent to RE1 - Public Recreation zoned land (across South Creek Road to the south)

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) applies to the land includes a list of 'prescribed zones' under *Division 3 Educational establishments* (clauses 27-32). Neither zone IN1 or zone RE1 are listed as prescribed zones for educational establishments.

This means that Cromer High School, being in a non-prescribed zone, cannot fully operate under the provisions of SEPP Infrastructure for educational establishments. In particular, it would be required to go through the development application process for development that would normally be permitted without consent under SEPP Infrastructure, and is unlikely to cause any unreasonable impacts to its industrial neighbours.

The DP&E's Local Environmental Plan Practice Note (PN 10-001) advises that:

Most existing infrastructure lands should be zoned according to what the adjacent land use zone is, if that adjacent zone is a prescribed zone for that infrastructure type. However if none of the adjacent zones are 'prescribed zones' for that particular infrastructure type under the Infrastructure SEPP, then the site should be zoned SP2 Infrastructure.

A search has been conducted of educational establishments within Warringham, and Cromer High School is the only one identified which falls within a non-prescribed zone for the purposes of the SEPP Infrastructure. It is therefore recommended that Cromer High School, being Lots 623, 624, 625 and 626 in DP 752038, should be rezoned as SP2 Infrastructure, and the Land Zoning Map updated accordingly.

Re-zone 2 – 10 Lindrum Street, Belrose (Lot 25 DP 1179618) from RE2 – Residential to RE1 - Public Recreation.

This lot is located on the corner of Perentie Road and Lindrum Street, Belrose. It was created as part of a large residential subdivision (Council record number SC2012/0037), and was acquired by Council for the purpose of providing open space for the neighbourhood. It is approximately 4000sqm in area.

The land was acquired by Council in October 2013, and has since been developed as a public park using Section 94 funds. The site should be rezoned from the existing R2 Low Density Residential zoning to RE1 Public Recreation, consistent with its current and intended future use.

Re-zone land near the corner of Pitt and Playfair Roads, North Curl Curl (Lot 262 DP 1028346) from R2 – Residential to B1 Neighbourhood Centre.

This small parcel of land is occupied by a driveway that provides access to the rear of Lot 27 in DP13900 (known as 148 Pitt Road), and Lots 28, 29 and 30 in DP394337 (known as 142-146 Pitt Road). It is located between the lots on Pitt Road that are zoned B1 Neighbourhood Centre, and the lots to the north that are zoned R2 Low Density Residential.

The subject lot is zoned R2. However, it exists only to provide access to the B1 zoned lots listed above, along Pitt Road. The entire lot is burdened by a right of carriageway to achieve this. It is not connected in any way to the adjacent R2 zoned lot to the north (Lot B in DP 400278), except through sharing a common boundary.

It appears that in the translation from WLEP 2000 to WLEP 2011 this lot was zoned R2 in error. It is connected and provides access to the adjacent lots in the B1 zone. Therefore, this anomaly should be corrected, and the lot rezoned to B1 - Neighbourhood Centre, consistent with the zoning of the lots it serves.

Re-zone Post Office site, Dee Why, (Lot B DP 350145) from RE1 – Recreation to B4 Mixed Use and footpath (Lot 2 DP 587690) from B4 – Mixed Use to RE1 Public Recreation

The Dee Why Post Office site, 32-34 Oaks Avenue (Lot B DP 350145 and Lot 47 Sec 16 DP 8172), was subject to a Memorandum Of Understanding (MOU) between Australia Post and Council to jointly dispose of the site. The site was intended to be redeveloped as part of Site A in the Dee Why Town Centre. As part of the plans for the site, Lot B (the eastern half of the Post Office site) was zoned RE1 - Public Recreation to provide for future parkland in conjunction with the neighbouring lot to the west (Lot A DP 350145). Lot 47 (the western half of the Post Office site) remained zoned B4 Mixed Use.

Australia Post subsequently decided not to dispose of the site. The MOU was officially terminated in a letter from Council to Australia Post on 9 June 2015, and Council indicated that the site would be rezoned back to B4 Mixed Use.

The southern section of footpath that connects Oaks Avenue to Howard Avenue (Lot 2 DP 587690), running adjacent to the parkland to the west of the Post Office was reclassified as Operational Land from Community Land and had its "Public Open Space" zoning removed in 2006 (see report to Council Meeting held on 23 May 2006). The northern section of the lot, adjacent to the 'Triangle Park', was not reclassified or rezoned at that time.

This was done to allow Council to sell the southern part of the lot with the intention of facilitating a single consolidated underground car park across Site A and Site B in the Dee Why Town Centre. At the time the primary purpose of the lot was for drainage (a large pipe runs through the lot from south to north), and an overland flow path runs across the site. Development above ground would not have been permitted for this reason, and the pedestrian pathway would have remained in place. The lot subsequently received a B4 - Mixed Use zoning under WLEP 2011.

The sale of the land did not take place, and Site A and Site B were never consolidated. The land to the east of Lot 2 has now been rezoned to RE1 Public Recreation as discussed above, which would preclude any underground car park being constructed between Sites A and B. Therefore it is recommended to re-zone the southern part of the lot (Lot 2 DP 587690) RE1 - Public Recreation, consistent with the northern part of the lot, and the adjacent parkland.

Prohibit 'restriction facilities' in all business and industrial zones

'Restriction Facilities' means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

This is a rural type use, associated with Dairies and the like. The use is currently permissible in the following Business and Industrial zones under WLEP2011:

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial

The use is inconsistent with the objectives of each of these zones under WLEP 2011. It is therefore recommended that "Restriction facilities" be added to item 4 *Prohibited* in the land use tables for each of the zones B1, B2, B3, B4, B5, B7, IN1 and IN2.

Mapping amendment to the Heritage Map under WLEP 2011

Schedule 5 *Environmental Heritage* of WLEP 2011 lists Item I29 as "Elevated reservoir", being located on Lot 2, DP 1029592, known as 53 Aubreen Street. However, the heritage mapping for the item extends onto the neighbouring property to the south west (Lot 1 DP 1029592, known as 56 Idaline Street).

The actual heritage item is described correctly by Schedule 5, and the water tower is confined to 53 Aubreen Street. It is physically described by the NSW Office of Environment and Heritage as:

Elevated cast iron rectangular tank. The tank is 8.08m square by 2.78m deep and is supported by a steel framed tower some 15.85m high.

No amendment is required to Schedule 5. However, the Heritage Map should be altered to match the existing boundary line between 53 Aubreen Street and 56 Idaline Street.

Cadastre and control layer shifts

It has been identified that the cadastre on Council's mapping system needs to be adjusted to better match the actual on-the-ground lot boundaries in various places. The changes that need to be made include:

- Glen Street Theatre (Lot 1 DP 595183) and Lionel Watts Reserve (Lot 2 DP 595183)
- All properties within the blocks bounded by Adams Street, Rabbett Street and Forest Way, Frenchs Forest
- Properties on the south west side of Cootamundra Drive and Monserra Road, Allambie Heights including 34 Monserra Road (Lot 4 DP 241969), 1, 3 and 5 Cootamundra Drive (Lots 3, 2 and 1 of DP 241969).

Corresponding changes will also need to be made to the maps related to Part 4 Principal Development Standards mapping to ensure it matches the cadastre, including Minimum subdivision lot size, Height of buildings, and the Land zoning map.

These changes will not affect the zones or development controls applying to the land. They are simply minor adjustments to the position of Council's electronic mapping cadastre. Corresponding changes will need to be made to the Warringah Development Control Plan mapping; however these changes will be made under a separate report.

Delete exempt development provisions for signage from WLEP 2011 and WLEP 2000

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) establishes general requirements for exempt and complying development across the state, including provisions for signage. WLEP 2011 and WLEP 2000 also currently contain provisions identifying certain signage as exempt development.

The Codes SEPP overrides Council's LEP's. It is therefore recommended that sign types made exempt by Codes SEPP are removed from the exempt development categories in WLEP 2011 and WLEP 2000. This will reduce confusion for the community when trying to establish what can be installed without consent.

The table below shows the types of signage identified as exempt development under Codes SEPP and Council's LEP's and recommended actions to rationalise Council's LEP provisions. (Note: signage that requires development consent will still be subject to current controls on signage under WLEP 2000 and WDCP 2011.

Signage type in SEPP	Signage type in WLEP2011	Signage type in WLEP2000	Recommended Action
Wall Signs (Subdivision 3) Fascia Signs (Subdivision 4)	Walls and Fascia Signs	N/A	Remove from LEP 2011
Under Awning Signs (Subdivision 5)	Under Awning Signs	Under Awning Signs	Remove from both LEPs
Window Signs (Subdivision 7)	Window Signs	Window Signs	Remove from both LEPs
Building Identification signs (Subdivision 2) Replacement of identification signs (Subdivision 8)	Home-based child care, home businesses, home occupations and home industries	Home business signs	Remove from both LEPs
N/A	On Motor Vehicles	Signs on Motor Vehicles	Retain in both LEPs.
Real estate signs (Subdivision 12)	Real Estate	Real Estate Signs	Remove from both LEP's
Temporary Event signs (sub 11)	Temporary	Temporary Signs	Remove from both LEPs
Top Hamper Signs (Sub 6)	N/A	N/A	No action required
Internal signs (sub 9)	N/A	Signs not visible from a public place	Remove from LEP 2000
Community notice and public information signs (sub 10)	N/A	N/A	No action required
Election signs (sub 13)	N/A	N/A	No action required
N/A	N/A	Identification, Interpretive,	No action

		Directional and Advance Warning Signs	required
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Increase the maximum period a “Temporary use” may operate from 28 days to 52 days

Clause 2.8 of WLEP 2011 allows development consent to be granted to the temporary use of land for a purpose that might otherwise be prohibited under the zoning of the land, provided the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects.

The clause allows uses such as markets and other temporary uses. Temporary uses are not permitted to extend beyond a maximum of 28 days (whether or not consecutive days) in any period of 12 months.

The Standard Instrument LEP, which sets out standard provisions which Council's must include in their LEPs, contains a provision which states:

Development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 [or another number] days (whether or not consecutive days) in any period of 12 months.

Clause 2.8 of WLEP 2011 prevents temporary uses from operating on a weekly basis year-round.

The 28 day limit in WLEP 2011 was not contained in WLEP 2000, and therefore did not result from a translation of that document. It is also noted that the Manly LEP 2013 and Ku-ring-gai LEP 2015 both allow up to 52 days for temporary uses, and the Pittwater LEP 2014 allows up to 42 days.

Given that the default time period in the Standard Instrument LEP is a maximum of 52 days, that surrounding Councils have longer periods for temporary uses, and to enable temporary uses to operate once per week on a year-round basis, it is recommended that WLEP 2011 be amended to allow for a maximum of 52 days for temporary uses. Temporary uses will still be required to gain development consent before they can commence operation and that Council would not be bound to allow 52 days, the exact period would be a matter for consideration as part of the development application assessment process. Council would retain the ability to limit the number of days via a condition of consent.

Allow signage on trailers as exempt development under WLEP 2000 and WLEP 2011

Signage on trailers parked along roads has been an ongoing issue in Warringah, as discussed in the report to the Ordinary Council Meeting on 28 April 2015. At this meeting, Council made the following resolution:

That Council: Amend the Warringah Local Environmental Plan 2000 and Warringah Local Environmental Plan 2011 to include the following exempt development “Signage on trailers”.-The trailer must be principally used for the conveyance of goods and materials and if detached from a motor vehicle, not remain unmoved for more than 7 days.

Schedule 2 Exempt Development in WLEP 2011 currently contains the following provision under Signage (other):

(2)On motor vehicles

Vehicle must be able to be driven with the sign displayed and the vehicle must be used principally for the conveyance of passengers or goods (or both).

This clause is specific to motor vehicles. It is therefore recommended that a new clause (5) be inserted into Schedule 2 under Signage (other) to read as follows:

(5) *Signage on trailers*

The trailer must be principally used for the conveyance of goods and materials and if detached from a motor vehicle, not remain unmoved for more than 7 days.

A separate amendment will also be required to WLEP 2000 to implement Council's resolution. An extra row is required to be added to Schedule 1 *Exempt Development* in the "Signs" section of the table as follows:

Signage on trailers	The trailer must be principally used for the conveyance of goods and materials and if detached from a motor vehicle, not remain unmoved for more than 7 days
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FINANCIAL IMPACT

Nil

POLICY IMPACT

The proposed amendments are intended to correct existing anomalies, and make other minor amendments in accordance with previous Council resolutions and state legislation.