

Zoning land at Belrose for low density residential

Proposal Title : **Zoning land at Belrose for low density residential**

Proposal Summary : **The planning proposal seeks to zone land at Belrose to R2 Low Density Residential and allocate a minimum lot size, maximum building height and land slip risk for the subject land under Warringah Local Environmental Plan (LEP) 2011.**

The subject land is currently deferred from Warringah LEP 2011 and is located within the B2 Oxford Falls Valley locality under Warringah LEP 2000. The land was proposed to be zoned E3 Environmental Management when the Warringah LEP was exhibited in 2009.

This planning proposal will bring the land into Warringah's comprehensive LEP.

PP Number : **PP_2012_WARRI_006_00**

Dop File No :

12/12168

Proposal Details

Date Planning : **16-Jul-2012**

LGA covered :

Warringah

Proposal Received :

Region : **Sydney Region East**

RPA :

Warringah Council

State Electorate : **DAVIDSON**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **various**

Suburb : **Belrose**

City : **Warringah LGA**

Postcode : **2085**

Land Parcel : **The planning proposal includes various lots at Belrose which are located within the B2 Oxford Falls Valley locality under Warringah Local Environmental Plan (LEP) 2000**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Amber Pedersen**

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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 :

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

If Yes, comment : **The Regional Team is not aware of any meetings or communications with registered lobbyists concerning this planning proposal.**

However, as part of making of Warringah LEP 2011 a number of submissions were received which objected to the E3 Environmental Management zone proposed for the Oxford Falls Valley locality (the subject land forms part of Oxford Falls Valley) under Warringah LEP 2000 (including representations from registered lobbyist Mr Gary Punch).

Supporting notes

Internal Supporting Notes : **The subject land comprises of 19 properties and a retirement village in the vicinity of Perentie Road and Forest Way, Belrose. The land is currently within the B2 Oxford Falls Valley locality under Warringah Local Environmental Plan (LEP) 2000.**

The land forms part of the greater Oxford Falls Valley locality, which was deferred from Warringah LEP 2011.

The planning proposal seeks to zone the subject land R2 Low Density Residential and bring the subject land into Warringah's comprehensive LEP. In addition, it proposes to allocate a minimum lot size, maximum building height and land slip risk for the subject land.

The exhibited version of Warringah's Comprehensive LEP proposed to zone Oxford Falls Valley and Belrose North localities as E3 Environmental Management. The LEP was placed on public exhibition in late 2009.

Submissions were received from landowners in Oxford Falls Valley and Belrose North objecting to the proposed E3 zoning of their land and the consultation process under exhibition.

To respond to the concerns raised, the Minister for Planning and Infrastructure deferred most of the land in Oxford Falls Valley and Belrose North (i.e. land not deferred in these areas was land zoned for public recreation and special purposes) and asked that Council work in partnership with the Department of Planning and Infrastructure to undertake a strategic review of the area to determine the most appropriate zoning for Oxford Falls

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Valley and Belrose North.

The strategic review will make recommendations on the appropriate land use controls for Oxford Falls Valley and Belrose North. Once the review is completed it is intended that a planning proposal will be lodged to bring these two areas into Warringah's comprehensive LEP. The Department and Council are currently in the process of finalising the parameters of the review, which is expected to be completed in early-mid 2013.

It should be noted that on 5 June 2012, Council resolved to participate in the strategic review and a joint media release informing the community of the review was issued on 26 July 2012. Council has not identified the reasons behind progressing this proposal ahead of the review.

Council is of the view that the subject land differs from the character of the greater B2 locality, as it is located in the primarily residential suburb of Belrose and existing development on the land represents low density residential housing.

The subject land comprises of one and two storey residential dwellings, a petrol station, shop top housing and the Belrose Country Club Retirement Village which includes 298 retirement units and other facilities associated with the Village. The lot sizes of the properties ranges from 467.9sqm to 1719.1sqm.

The subject land is primarily surrounded by two storey detached dwelling houses. Land to the north and south of the subject site is zoned R3 Medium Density Residential and land to the east and west is zoned R2 Low Density Residential.

There are two options available to progress this matter which are discussed below.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The statement of the objectives advises that the planning proposal aims to zone land in Belrose to R2 Low Density Residential under Warringah Local Environmental Plan (LEP) 2011.

The statement of objectives should be amended to advise that the planning proposal also allocates a minimum lot size, maximum building height and land slip risk information for the subject land.

The statement of objectives should advise that the subject land is currently deferred from Warringah LEP 2011.

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

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions is adequate.

The planning proposal will amend Warringah Local Environmental Plan (LEP) 2011 by amending the below maps:

- Land Zoning Map to zone the subject land R2 Low Density Residential.
- Lot Size Map to provide a minimum lot size of 600sqm for the subject land;
- Height of Buildings Map to provide for a maximum building height of 8.5m for the subject land.
- Land Slip Risk Map to identify the land as part Area A – Slope <5 degrees and part Area B – Flanking Slopes 5 to 25 degrees.

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Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP (Exempt and Complying Development Codes) 2008

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

Council advises that part of the subject land (133 and 135 Forest Way, Belrose) is identified as bushfire prone land under Council's Bush Fire Prone Land Map 2010. Council has advised that it will consult the NSW Rural Fire Services following receipt of the Gateway determination, consistent with Direction 4.4 Planning for Bushfire Protection.

It is noted that Warringah LEP 2000 permits seniors housing in the locality, on land that adjoins urban land, however the proposed R2 zone prohibits this use. In Council's discussion of Direction 3.1 Residential Zones, Council is to address matters concerning the permissibility of seniors housing on the site.

The planning proposal is consistent with all other 117 Directions.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Maps provided include:

- a location map;
- map of deferred areas under Warringah LEP 2011;
- draft landslip risk map
- draft lot size map
- draft height of buildings map
- draft land zoning map

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council proposes to exhibit the planning proposal for 28 days.

Council has advised that it will advertise the planning proposal in the local newspaper and on Council's website and will notify land owners and adjoining property owners.

Additional Director General's requirements

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

If Yes, reasons :

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Overall adequacy of the proposal

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

If No, comment :

The planning proposal should be amended to justify:

(1) the reason for progressing the rezoning ahead of the strategic review for Oxford Falls Valley and Belrose North; and

(2) the R2 zone allocated to the subject land.

Matters which are to be addressed by the planning proposal are discussed in detail below.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Warringah Comprehensive LEP 2011 was made in December 2011. The planning proposal uses a standard instrument zone and is considered to be consistent with the standard instrument Order.

Assessment Criteria

Need for planning
proposal :

Council advises that there is a need for the planning proposal because it will standardise the zoning of the subject land, which is currently deferred from Warringah's comprehensive LEP and it will undertake the necessary steps towards establishing a single LEP in Warringah (currently Warringah LEP 2011 and Warringah LEP 2000 apply to the Warringah LGA).

Council's view that the subject land differs from the character of the greater Oxford Falls Valley locality is acknowledged as the land is a discrete area surrounded by the primarily residential suburb of Belrose.

Furthermore, in August 2010, Council resolved to undertake investigations into the suitability of the exhibited E3 zoning allocated to the land. Council is of the view that as the comprehensive LEP has now been made, it is appropriate to recommend a suitable zone for the site.

It is noted that the planning proposal would proceed in parallel with the strategic review for Oxford Falls Valley and Belrose North. The planning proposal is silent on the strategic review and the relationship of this rezoning to the review process. Council should amend the planning proposal to provided information regarding:

(1) the relationship of the rezoning with the strategic review,

(2) the strategic justification for undertaking this rezoning ahead of the review, and

Although the planning proposal will undertake some steps towards establishing a single LEP in Warringah, the rest of the land in Oxford Falls Valley and Belrose North will continue to be deferred until a strategic review is completed, thereby meaning that two instruments will continue to apply to Warringah regardless of this planning proposal being progressed, at this time. This should be clearly outlined in the planning proposal.

Consistency with
strategic planning
framework :

Council has advised that the planning proposal is consistent with the Strategic Community Plan (2011) which includes a goal to plan for future housing in Warringah and ensure housing development is sensitive to the natural and built environment.

The planning proposal is not inconsistent with the aims and direction of the draft North East Subregional Strategy or the Metropolitan Plan as it aims to zone land for residential purposes, within close proximity to public transport and local services.

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Environmental social
economic impacts :

Council has advised that the subject land does not contain critical habitat, threatened species populations, ecological communities or their habitats. However, part of the subject land (133 & 135 Forest Way, Belrose) is located within 40m of an identified threatened species. Any development application submitted for this land would need to consider its impacts on identified threatened species.

Under current controls the site is located with Locality B2 and the desired future character for this locality is that development will be limited to new detached style housing and low intensity, low impact uses.

The planning proposal seeks to rezone the subject land R2 Low Density Residential. Under Warringah LEP 2011 the R2 zone permits dwelling houses.

Council has advised that the planning proposal will clarify the zoning of the subject land which will benefit property owners and the wider community. Council is of the view that zoning the subject land for low density residential will result in similar residential development opportunities to current controls.

However, Council also advises that the planning proposal will result in two non-conforming uses, being the Caltex Petrol Station and ground floor restaurant, which will be prohibited in the R2 zone and rely on existing use rights. The seniors housing development on the subject land will also be a prohibited use in the R2 zone.

It is understood that restaurants and service stations are listed as Category 3 uses under Warringah LEP 2000. Category 3 includes development that is generally inconsistent with the desired future character of the locality and therefore is only permitted on the site if the recommendations of an independent public hearing are considered. Seniors housing is currently permitted only on land that adjoins land primarily used for urban purposes.

It is considered that Council has not provided adequate justification for the use of the R2 zone on the subject land, particularly as land to the site's immediate north and south (which are master planned estates) are zoned R3 Medium Density Residential. Residential flat buildings, seniors housing and neighbourhood shops are permissible in the R3 zone, while shop top housing and service stations are prohibited.

It is considered that the planning proposal should provide further justification for:
(1) zoning the land R2, and
(2) address the suitability of the R3 zone for the subject land, including addressing the site's relationship with adjoining R3 zoned land.

Council should also address the matter of non-conforming uses, given that it received submissions during the public exhibition of its comprehensive LEP, that advised that service stations in the LGA which operate under valid consents should have a zone which legitimises the use.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 Month	Delegation :	RPA
Public Authority Consultation - 56(2)(d)	NSW Rural Fire Service		

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

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

If no, provide reasons : **There are two options available to progress this matter:**

(1) The preferred option is to proceed with conditions, because the site is a discrete area surrounded by the primarily residential suburb of Belrose and it is essentially a local matter. The planning proposal should be amended to address the below matters:

- a) the relationship of the rezoning with the strategic review,**
- b) the strategic justification for undertaking this rezoning ahead of the review,**
- c) further justify zoning the subject land R2 Low Density Residential,**
- d) address the suitability of the R3 Medium Density Residential zone for the subject land, given the site's proximity to adjoining R3 zoned land, and**
- e) identify how the proposal will address the matter of non-conforming uses.**

(2) To not proceed, because the rezoning is premature before the strategic review for Oxford Falls Valley and Belrose North localities, which is to make recommendations on the appropriate controls for the deferred areas. This option will ensure that a holistic approach is undertaken to rezone all deferred land in Oxford Falls Valley and Belrose North and is consistent with community expectations.

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons : **Infrastructure provisions such as water, electricity and sewer has already been established for existing development on the subject land. The planning proposal does not allow for a greater residential density than currently permissible under Warringah LEP 2000.**

Documents

Document File Name	DocumentType Name	Is Public
Council Report.pdf	Proposal	Yes
draft Height Map.pdf	Map	Yes
draft Land Zoning Map.pdf	Map	Yes
Draft Landslip Risk Map.pdf	Map	Yes
draft Lot Size Map.pdf	Map	Yes
planning proosal.pdf	Proposal	Yes
planning proposal part 2.pdf	Proposal	Yes
Letter from Council.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

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

S.117 directions: **2.1 Environment Protection Zones**
3.1 Residential Zones
3.3 Home Occupations

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3.4 Integrating Land Use and Transport
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : It is recommended that the planning proposal proceed with conditions.

The planning proposal should be amended, prior to public exhibition, to address the below matters:

- a) the relationship of the rezoning with the strategic review,
- b) the strategic justification for undertaking this rezoning ahead of the review,
- c) further justify zoning the subject land R2 Low Density Residential,
- d) address the suitability of the R3 Medium Density Residential zone for the subject land, given the site's proximity to adjoining R3 zoned land, and
- e) identify how the proposal will address the matter of non-conforming uses.

The statement of objectives should be amended to:

- a) advise that the planning proposal also allocates a minimum lot size, maximum building height and land slip risk information for the subject land, and
- b) advise that the subject land is currently deferred from Warringah LEP 2011.

The planning proposal be exhibited for at least 28 days.

The planning proposal be completed within nine months of the Gateway Determination.

Consultation is required with NSW Rural Fire Services, consistent with Direction 4.4 Planning for Bushfire Protection.

In its discussion on Direction 3.1 Residential Zones, Council should address matters concerning the permissibility of seniors housing on the site.

No further consideration of s117 Directions is required.

Supporting Reasons : The proposal should be allowed to proceed as the site is a discrete area surrounded by the primarily residential suburb of Belrose and an urban zone is appropriate for the land. This is essentially a local matter although there are concerns about the planning proposal is premature before the strategic review has been completed.

To ensure that the R2 Low Density Residential zone is the most appropriate zone for the subject land, if the planning proposal proceeds Council should be asked to provide further justification for the proposed zoning.

Signature:

D. Pitney

Printed Name:

DAVID PITNEY

Date:

13/8/12