

Planning proposal to formalise the permissibility of 'commercial premises' at 158 Pacific Parade, Dee Why

Proposal Title :	Planning proposal to formalise the permissibility of 'commercial premises' at 158 Pacific Parade, Dee Why		
Proposal Summary :	The planning proposal seeks to formalise permissibility of 'commercial premises' for land at 158 Pacific Parade, Dee Why (Lot 1 DP 34753) under Warringah Local Environmental Plan 2011.		
PP Number :	PP_2014_WARRI_002_00	Dop File No :	14/16492

Proposal Details

Date Planning Proposal Received :	26-Sep-2014	LGA covered :	Warringah
Region :	Metro(CBD)	RPA :	Warringah Council
State Electorate :	WAKEHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	158 Pacific Parade		
Suburb :	Dee Why	City :	Sydney
		Postcode :	2099
Land Parcel :	Lot 1 DP34753 - B2 Local Centre and R3 Medium Density Residential		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	Tim Archer
Contact Number :	0285754120
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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Metro North East subregion	Consistent with Strategy :	Yes

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

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 Department is not aware of any meetings or communications with registered lobbyists with regard to this planning proposal**

Supporting notes

Internal Supporting Notes :

The site is located on the southern edge of the Dee Why Beach front retail precinct. Lawfully established on the land are three businesses, an Indian restaurant, laundromat and real estate agency.

Under the Warringah Local Environmental Plan 2011, the land has a split zoning R3 medium density residential (95% of the site) and B2 local centre.

Despite the lands predominately residential zoning, it is occupied by 'commercial premises' which are prohibited land uses in a R3 zone (i.e. real estate agent, restaurant and laundromat).

The proposal seeks to amend Schedule 1 under Warringah Local Environmental Plan 2011 to allow the following land use 'commercial premises' for 158 Pacific Parade, Dee Why.

Council resolved to support the planning proposal for 158 Pacific Parade, Dee Why, proceeding to Gateway.

Council has requested delegation to carry out the Minister's function under section 59 of the EP&A Act 1979 to progress this planning proposal.

The Department supports an amended planning proposal proceeding to Gateway determination and considers the proposal suitable for delegation to Council.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the intention of the planning proposal to amend the Warringah Local Environmental Plan 2011.**

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

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

Comment : **The explanation of provisions adequately addresses the intended changes to the Warringah Local Environmental Plan 2011.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

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 :

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

If No, explain :

S.117 DIRECTIONS 3.1 RESIDENTIAL ZONES

The proposal is inconsistent with this direction as it may impact on the permissible residential density of the land.

However, the land is predominately utilised for commercial purposes and the proposal will ensure employment on site as a permissible use.

The inconsistency with this direction is justified as the current land uses on site are compatible with the surrounding employment land uses and will allow for additional jobs on site contributing to local employment figures for the area. The Department deems the inconsistency to be minor.

SEPP (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

The proposal allows for existing and future commercial development of the site to be carried out as complying development.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A 14 day exhibition period is proposed.**

PROJECT TIMELINE

The planning proposal contains an estimated project time line for completion by April 2015.

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Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Warringah Local Environmental Plan was notified in 2011.

Assessment Criteria

Need for planning
proposal :

The planning proposal is not a result of strategic studies.

Council feels the planning proposal is the best way of providing certainty for the landowner and existing/future tenants by formalising the permissibility of commercial premises on the site.

Council considers the current land use on site to be lawfully established meaning the land use commenced with consent or was permissible without consent under the previous instrument as being protected.

Therefore the proponent has existing land use rights as the existing 'commercial premises' are permitted to continue operating (under earlier consent) and possibly expand regardless of zoning. An existing land use will only be lost if it ceases to be actually used for a period of 12 months.

Clause 2.5 of the Standard Instrument Order allows councils to permit additional uses for particular land. These uses are permitted in addition to those identified in the LEP Land Use Table. An amendment to Schedule 1 Additional Permitted Uses would ensure the planning controls most closely reflect the existing land uses on site.

Notwithstanding the above, the planning proposal offers a number of arguments in favour of a rezoning which would ensure that 'commercial premises' is a permitted use.

Ideally a Schedule 1 should only be used in exceptional circumstances, land use permissibility should preferably be controlled by the zones and Land Use Table. A rezoning consistent with the adjacent Dee Why Beach Precinct (B2 Local Centre) would be a more acceptable solution to progress this matter and provide certainty to the landowner.

It is considered that a rezoning is consistent with Council's intention for the site, and is not a significant variation from the original proposal to make commercial uses permissible via Schedule 1.

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Consistency with strategic planning framework :

The planning proposal is consistent with the Metropolitan Plan for Sydney 2036 (2010) and draft Metropolitan Strategy for Sydney 2031 (2013) as it supports growth within metropolitan Sydney and contributes to providing certainty for existing employment uses.

The proposal will ensure existing jobs are retained and allow for additional employment opportunities in the future. This is also consistent with the overall intent of the draft North East Sub-regional Strategy (2007) and supported Northern Beaches Regional Action Plan which seeks to boost the local economy by supporting small businesses to create more local employment opportunities.

Council considers that the planning proposal will also contribute to achieving the sub-regional employment targets and enhance the economic and employment role of Dee Why Beach front as a small village.

Environmental social economic impacts :

The proposal will ensure the ongoing use of the site for commercial purposes and allow for expansion of similar employment uses. In addition the proposal strengthens the economic and employment role of the Dee Why Beach front precinct.

It is therefore considered that the environmental, social and economic impacts of the proposed change are minor in nature. Although no negative impacts are envisaged from this proposal management and minimisation of such issues will be dealt with through a merit assessment at DA stage.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) :

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

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Documents

Document File Name	DocumentType Name	Is Public
Request by Council.pdf	Proposal Covering Letter	Yes
Planning Proposal May 2014.pdf	Proposal	Yes
Council Report and Resolution.pdf	Proposal	Yes
Attachement 4 - Evaluation Criteria.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

1. Prior to undertaking public exhibition, Council is to update the planning proposal to rezone the site B2 Local Centre, as opposed to using a Schedule 1.

2. Prior to undertaking public exhibition, Council is to update the planning proposal to include a Land Use Zoning Map which clearly shows both the existing and proposed controls for the site.

This map should be prepared to the standards identified in Standard Technical Requirements for LEP Maps (Department of Planning & Infrastructure 2013).

2. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:

(a) the planning proposal must be made publicly available for a minimum of 14 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons : **The Department supports the planning proposal proceeding, to allow for public exhibition and feedback on the proposal. The proposal is considered suitable for delegation to Council.**

Signature:



Printed Name:

Tim Archer

Date:

17/10/14