

**Planning Proposal to permit internal and attached Secondary Dwellings in Zone RU4 -
Primary Production Small Lots**

Proposal Title :	Planning Proposal to permit internal and attached Secondary Dwellings in Zone RU4 - Primary Production Small Lots		
Proposal Summary :	The planning proposal seeks to amend Warringah Local Environmental Plan 2011 (WLEP 2011) to permit internal and attached Secondary Dwellings in Zone RU4 - Primary Production Small Lots, if they are within or attached to the principal dwelling.		
PP Number :	PP_2015_WARRI_007_00	Dop File No :	15/16034

Proposal Details

Date Planning Proposal Received :	03-Nov-2015	LGA covered :	Warringah
Region :	Metro(CBD)	RPA :	Warringah Council
State Electorate :	DAVIDSON WAKEHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
Suburb : City : Postcode :
Land Parcel : **All land within Warringah LGA within Zone RU4 - Primary Production Small Lots**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Taylor Richardson**
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DoP Project Manager Contact Details

Contact Name : **Tim Archer**
Contact Number : **0292286592**
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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

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MDP Number :		Date of Release :	
Area of Release (Ha)		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	300
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment : The Department of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with. Metropolitan (CBD) has not met any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other Department officers and lobbyists concerning this proposal.

Supporting notes

Internal Supporting Notes : The Standard Instrument defines "Secondary Dwelling" as: a self-contained dwelling that:

(a) is established in conjunction with another dwelling (the principal dwelling), and

(b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

Clause 5.4(9) of WLEP 2011 permits Secondary Dwellings if the total floor area of the dwelling (excluding any area used for parking) does not exceed:

a) 60 square metres; or

b) 11% of the total floor area of the principal dwelling, whichever is the greater.

WLEP 2011 does not currently permit Secondary Dwellings in Zone RU4 - Primary Production Small Lots. The aim of the planning proposal is to permit Secondary Dwellings in Zone RU4, if they are within or attached to the principal dwelling.

The intent of the planning proposal will be achieved via an additional local clause in WLEP 2011. The proposed clause is based on Manly LEP 2013, Clause 6.17 Health consulting rooms and secondary dwellings in Zones E3 and E4, which reads:

(1) The objective of this clause is to ensure that certain development in certain environmental protection zones is low impact and without adverse effects on the specific ecological, social and aesthetic values of the land.

(2) This clause applies to land in Zone E3 Environmental Management and Zone E4 Environmental Living.

(3) Development consent must not be granted to development for a health consulting room or a secondary dwelling on land to which this clause applies unless the consent authority

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is satisfied that the development will be carried out within, or by alteration or addition to, a dwelling house.

Warringah Council has accepted the offer to act as the relevant planning authority for this planning proposal.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The objective of the planning proposal is to allow "internal" and "attached" Secondary Dwellings within Zone RU4 - Primary Production Small Lot.**

The intended outcome is that Secondary Dwellings will be developed on land zoned RU4, increasing housing availability and choice in this area.

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

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

Comment : **At present, it is proposed to achieve the intent of the planning proposal by:**

- inserting a clause in WLEP 2011 Part 6 Additional Local Provisions, that:

a) contains an objective to ensure that development of Secondary Dwellings in Zone RU4 - Primary Production Small Lot is low impact, with no adverse effects on the ecological, social and aesthetic values of the land;

b) ensures development consent must not be granted to development for a Secondary Dwelling in Zone RU4 - Primary Production Small Lot, unless the consent authority is satisfied that the development will be carried out within or by alteration or addition to a dwelling house.

In order to bring this clause into effect, the planning proposal will also need to amend the Land Use Table within WLEP 2011 by inserting "Secondary Dwellings" as a use "Permitted with Consent" in Zone RU4 - Primary Production Small Lot.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

7.1 Implementation of A Plan for Growing Sydney

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 (Affordable Rental Housing) 2009

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

The planning proposal is not inconsistent with relevant State Environmental Planning Policies.

SEPP (Affordable Rental Housing) 2009:

The SEPP establishes a framework for the provision of affordable rental housing and provides the mechanism to permit Secondary Dwellings in residential zones (R1 - R5). Council argues that the planning proposal is consistent with the intent of the SEPP as it

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allows for Secondary Dwellings in Zone RU4 - Primary Production Small Lot, within or attached to existing permitted dwelling houses.

Section 117 Directions:

The planning proposal is not inconsistent with Section 117 Directions - 3.4 Integrating Land Use and Transport and 7.1 Implementation of A Plan for Growing Sydney. It will allow for additional housing supply and choice and use of current infrastructure in the RU4 zone which already permits dwelling houses.

Section 117 Direction: 1.2 Rural Zones:

Zone RU4 - Primary Production Small Lot is defined as a "Rural Zone" in the Land Use Table within WLEP 2011. All land zoned RU4 in Warringah LGA is currently located in Terrey Hills and Duffys Forest. The objectives of this zone seek to enable primary industry, ensure other land-uses are low intensity, minimise land-use conflicts, and maintain the rural and scenic character of the land.

The objective of this direction is to protect the agricultural production value of rural land. It provides that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). The planning proposal could therefore be considered inconsistent with this direction.

To address any inconsistencies, the RPA must provide justification by:

- a study or strategy addressing the objective of this direction, or
- demonstrating the inconsistency is in accordance with a relevant regional or sub-regional strategy prepared by the department, or
- demonstrating the inconsistency is of minor significance.

It is therefore recommended that Council be required to address any inconsistencies and include this justification in the planning proposal prior to public exhibition.

Section 117 Direction: 4.4 Planning for Bushfire Protection:

The objectives of this direction are to protect life, property and the environment from bush fire hazards, and to encourage sound management of bush fire prone areas.

Council has indicated that initial consultation with the Rural Fire Service (RFS) about the proposal raised concerns regarding the adequacy of the existing water supply for fire fighting purposes and the ability to evacuate relevant areas in case of emergency. The RFS suggested the need for a targeted traffic study to investigate the evacuation issue.

It is recommended that, prior to public exhibition, Council consult further with the Commissioner of the NSW Rural Fire Service and undertake a targeted traffic study plus any further investigations as considered necessary by the RFS. The outcome of these investigations should be exhibited with the planning proposal.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **No mapping is required to be prepared as part of this planning proposal.**

For exhibition purposes, it is recommended that Council include in the planning proposal WLEP 2011 Zoning Maps - LZN 002 and LZN 006, and clearly identify the areas of Terrey Hills and Duffys Forest affected by the proposal.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council advise that community consultation will be undertaken in accordance with Council's Engagement Policy and the requirements of any Gateway Determination.

PROJECT TIMELINE

Council has provided an indicative project timeline with a completion date of August 2016.

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 : **December 2011**

Comments in relation to Principal LEP : **Warringah Local Environmental Plan was notified on the 9 December 2011.**

Assessment Criteria

Need for planning proposal : **The planning proposal is the result of a Council resolution made on 23 June 2015.**
This resolution was in response to a desktop review undertaken by Council investigating the appropriateness of the current proposal. Council also undertook initial consultation with State Agencies. The outcomes of this review and State Agency consultation is discussed under "Environmental, social, economic impacts" and "provision and funding of State infrastructure".

Consistency with strategic planning framework : **The planning proposal is not inconsistent with the intent of A Plan For Growing Sydney as discussed under "Section 117 Directions".**
The planning proposal is consistent with Warringah Council Community Strategic Plan by providing greater housing choice whilst maintaining the local character of areas zoned RU4.

Environmental social economic impacts : **Environmental impacts**
E4 zoned land at Duffys Forest and Terrey Hills is bordered by Zone E1 - National Parks and Nature Reserves (Ku-ring-gai Chase National Park).

Council is managing the impact on adjoining habitats by limiting the additional permissibility to lots with existing homes. As such, Council indicates that the proposal will not increase the likelihood that critical or threatened species, populations or ecological communities, or their habitats, will be adversely affected.

Council also indicates that initial consultation with the NSW National Parks and Wildlife Service (NPWS) did not raise any specific concerns regarding the proposal. The NPWS did request that existing controls regarding development next to NPWS land be enforced.

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Notwithstanding the above, it is recommended that Council consult with NPWS.

Social and economic impacts

The desktop analysis undertaken by Council found that, at the 2011 Census, the suburbs of Terrey Hills and Duffys Forest contained 1153 dwellings, 300 of which are located in the areas zoned RU4. It follows that, with a 100% take up rate, approximately 300 additional Secondary Dwellings could be built in these areas.

With an estimated occupancy of 1.8 people per dwelling, the proposal could result in an additional 540 people in RU4 zoned areas.

Council estimates that the additional impacts on Council services and existing infrastructure are likely to be marginal and spread over a period of time.

The environmental, social and economic impacts of each development application will be considered on its merits.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - s56(2)(d) :	Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Sydney Water		

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. :

Other - provide details below

If Other, provide reasons :

As recommended by the RFS, Council is required to undertake a traffic study to investigate the evacuation of relevant areas in the case of an emergency.

Undertake other studies as recommended by State Agencies as an outcome of further consultation.

Identify any internal consultations, if required :

Metropolitan and Regional Strategy

Is the provision and funding of state infrastructure relevant to this plan? Yes

If Yes, reasons : It is noted that RU4 zones in Warringah LGA currently have access to public infrastructure required to support residential development. This includes parks, roads, public transportation and some utilities.

Council has indicated that initial consultation with Sydney Water raised the following issues:

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- additional development may require water infrastructure upgrades,
- water supply needs will be reassessed if planning controls change in the area,
- no wastewater infrastructure is available in the area, with no plans to supply in the future.

The RFS also indicated to Council that additional development may require either water infrastructure upgrades or on-site water tanks.

It is recommended that, prior to exhibition, Council consult further with Sydney Water and the RFS and undertake any further investigations as considered necessary by these agencies. The outcome of these investigations should be exhibited with planning proposal.

Documents

Document File Name	DocumentType Name	Is Public
Cover letter .pdf	Proposal Covering Letter	Yes
Planning Proposal (2).pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
 3.4 Integrating Land Use and Transport
 4.4 Planning for Bushfire Protection
 7.1 Implementation of A Plan for Growing Sydney

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

1. 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 28 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).

2. 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).

3. Prior to public exhibition, the planning proposal is to be updated to:

- (a) address s.117 Direction 1.2 Rural Zones, to demonstrate how the proposal aims to protect the agricultural production value of land zoned RU4 - Primary Production Small Lots, whilst increasing the permissible density of these areas.
(b) address s.117 Direction 4.4 Planning for Bushfire Protection, including a targeted traffic study to demonstrate how the area may be evacuated during a bushfire emergency.

4. Prior to public exhibition, consultation is required under section 56(2)(d) of the Act with Transport for NSW - Roads and Maritime Services, Sydney Water, NSW National Parks and Wildlife Service, NSW Rural Fire Service.

Public authorities are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. The planning proposal should respond to this consultation.

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Council is required to undertake any further investigations requested by public authorities. The outcomes of these investigations are to be exhibited with the planning proposal.

5. Prior to public exhibition, the planning proposal is to clearly identify the areas of Terrey Hills and Duffys Forest zoned RU4 - Primary Production Small Lots where changes will apply.

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

7. Council be granted delegation to carry out the Minister's functions under section 59 of the EP&A Act to progress this planning proposal.

Supporting Reasons :

The Department supports the intent of the planning proposal given it supports the directions of SEPP Affordable Rental Housing (2009) by permitting Secondary Dwellings in Zone RU4 - Primary Production Small Lots, within or attached to existing permitted dwelling houses. The proposal is consistent with the strategic planning framework by expanding the range of residential options available in Zone RU4 and thereby cater for changing housing needs in Terrey Hills and Duffys Forest.

The planning proposal is inconsistent with s.117 Directions 1.2 Rural Zones. As a result, the Department has conditioned additional work from Council to further justify the planning proposal.

Signature:



Printed Name:

Tim ARCHER

Date:

18/12/15