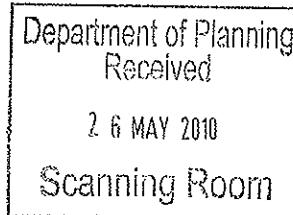




PITTWATER

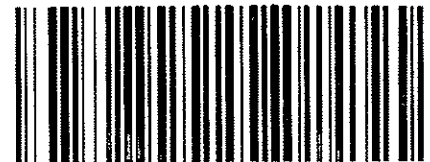
ABN61340837871
Telephone 02 9970 1111
Facsimile 02 9970 7150
Postal Address
PO Box 882
Mona Vale NSW 1660
DX 9018, Mona Vale

Joshua Real, Assistant Planning Officer
8:30am to 5:00pm Mon – Fri
Phone 9970 1233



19 May 2010

The Regional Director
Ms Roberts
Sydney East Region
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001



PCU005793

Dear Ms Roberts

Request for Gateway Determination to provide planning certainty and secure a limited scale focal neighbourhood centre

This letter is to notify the Department of Planning that at the meeting of 17th May 2010 Council endorsed amending the Pittwater Local Environmental Plan 1993 (LEP) to limit the retail floor space of any future retail facility development on 23B Macpherson Street, Warriewood.

Council resolved to progress the statutory rezoning process to amend the Pittwater LEP and endorse the planning proposal prepared in accordance with Section 55(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Council forwards the enclosed Planning Proposal for Gateway Determination, in accordance with Section 56 of the EP&A Act.

For any further information relating to this matter, please contact me on 9970 1150

Yours faithfully

Liza Cordoba
Principal Officer – Land Release

Enclosed

- Planning Proposal
- Council Minute of 17 May 2010
- Council Report of 17 May 2010

C11.5 Amend Pittwater LEP and Pittwater 21 DCP to provide planning certainty and secure a limited scale focal neighbourhood centre

Meeting: Planning an Integrated Built Environment Committee

Date: 17 May 2010

COMMITTEE RECOMMENDATION

1. That Council endorse progression of the statutory rezoning process to limit the retail floor space of any future retail facility development on 23B Macpherson Street, Warriewood, as set out in Attachment 1, subject to Point c (d) in Part 2 within the Planning Proposal (on page 193 of the Agenda) being amended to read:-

 "c. amend Schedule 11, Part 2 Zone objectives of the Warriewood Valley Urban Land Release, Zone 2(f) (Urban Purposes – Mixed Residential) to include additional objective as follows:

 '(d) to provide opportunities for a Focal Neighbourhood Centre with a limited overall retail floor space area of 855m² to 2,222m² and that large individual premises exceeding **800m²** (for example, large supermarkets) in Warriewood are generally not supported.';"
2. That Council be advised of the directions issued by the Department of Planning in relation to the Gateway Determination.
3. That Council endorse Draft Pittwater 21 DCP amendment, as set out in Attachment 2, for statutory exhibition and consultation for at least 28 days with submissions invited from the public, in conjunction with the Planning Proposal.
4. That following the period of public exhibition and consideration of any submissions received, the Planning Proposal and the draft Pittwater 21 Development Control Plan amendment be reported back to Council for further consideration.

(Cr Giles / Cr James)

Note:

Cr White left the meeting at 8.37pm and returned at 8.47pm, having declared a significant non-pecuniary interest in Item C11.5, Amend Pittwater LEP and Pittwater 21 DCP to provide planning certainty and secure a limited scale focal neighbourhood centre, and took no part in discussion or voting on this item. The reason provided by Cr White was:

"Parents live in Macpherson Street."



PITTWATER COUNCIL

SUBJECT: Amend Pittwater LEP and Pittwater 21 DCP to provide planning certainty and secure a limited scale focal neighbourhood centre

Meeting: Planning an Integrated Built Environment Committee

Date: 17 May 2010

STRATEGY: Land Use & Development

ACTION: Coordinate land use planning component of land release

PURPOSE OF REPORT

To progress the options set out by Mallesons Stephen Jacques in their advice of 25 March 2010 by amending the Pittwater Local Environmental Plan 1993 (PLEP) and Pittwater 21 Development Control Plan (P21 DCP) in accordance with Council resolution of 19 April 2010.

1.0 BACKGROUND

- 1.1 At the meeting of 19 April 2010 Council resolved to pursue the options set out by Mallesons Stephen Jacques in their advice of 25 March 2010 (Attachment 1 - Planning Proposal Appendix D) Council resolved:-

"That this item be deferred to allow Council to pursue the options set out by Mallesons in their report of 25 March 2010. "

Notwithstanding the Department of Planning's advice regarding the application of Ministerial Direction 6.3, Council is seeking to amend the Pittwater LEP 1993 and Pittwater 21 DCP to provide planning certainty and secure a limited scale focal neighbourhood centre in accordance with the Warriewood Valley Planning Framework 2010 and community expectation.

2.0 ISSUES

2.1 Pursue the options set out by Mallesons

A planning proposal to amend Pittwater Local Environmental Plan 1993 to limit the retail floor space at 23B Macpherson Street Warriewood has been prepared as directed by the Council. Council's endorsement of the planning proposal (**ATTACHMENT 1**) is required to progress the statutory process. The attached Planning Proposal will then be sent to the Department of Planning (DoP) for assessment and Gateway Determination in accordance with the requirements of section 56 of the *Environmental Planning and Assessment Act 1979*.

The wording contained within the proposed changes to the LEP and DCP have been discussed with Mallesons.

2.2 Gateway Determination

The Gateway Determination specifies whether a Planning Proposal is to proceed and, if so, in what circumstances. The purpose of the Gateway Determination is to ensure there is sufficient justification early in the process to proceed with a planning proposal.

2.3 **Proposed amendments to Pittwater LEP 1993, pursuing the options raised by Mallesons, include:**

- (a) Currently, the zone objectives for Warriewood Valley Urban Land Release are a 'consideration' for development consent. By changing the PLEP to require any future development consent to be 'consistent with' the zone objectives further strengthens Council's position to refuse applications especially with the inclusion of related zone objective (see next point (b)).

This is achieved by amending the provisions of clauses 30B (2), (2A) and (2B) within Division 7A Warriewood Valley Urban Land Release such that Council may grant consent for development that is *consistent with* the objectives of the zones 2(f), 4(b) and 3(e) respectively;

- (b) The zone objectives set out the purpose of the zone and reflect the intended strategic land use direction. It is appropriate to include an additional zone objective that articulates the strategic desire for a focal neighbourhood centre and its built form.

This is achieved by amending Schedule 11, Part 2 Zone objectives of the Warriewood Valley Urban Land Release, Zone 2(f) (Urban Purposes – Mixed Residential) to include additional objective as follows;

'(d) to provide opportunities for a focal neighbourhood centre with a limited overall retail floor space area of 855m² to 2,222m² and that large individual premises exceeding 855m² (for example, large supermarkets) in Warriewood are generally not supported.'

- (c) Currently, when issuing consent to develop land in Warriewood Valley Urban Land Release, Council 'must consider' any development control plan. By changing the PLEP to require any future development consent to be 'consistent with' the development control plan further strengthens Council's position to refuse applications that contravene the mandatory consideration of its terms.

This is achieved by amending the wording of Division 7A Warriewood Valley Urban Land Release, clause 30B(4) so that it requires any consent to development of land must be 'consistent with' rather than 'must consider' any development control plan which may apply to the land;

- (d) Currently, PLEP 1993 does not contain a stand alone development standard to limit the retail floor area of a neighbourhood shop. The inclusion of a development standard is achieved by inserting a new clause after Division 7A, 30B (4) as follows;

'(5) The Council must not grant consent for development on land within Warriewood Valley for the purposes of neighbourhood shops where the total combined retail floor space area is below 855m² or above 2,222m².'

- (e) Finally, amending the 'template' definition of 'neighbourhood shop' to limit neighbourhood shop retail floor space to 800m² would have the effect of ensuring large scale supermarkets are prohibited and size limit will not be subject to a SEPP 1 Objection. The current definition of neighbourhood shop in PLEP 1993 is

'neighbourhood shop' means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.'

The proposed definition (with the added text in underline) is

“neighbourhood shop means a retail premises not exceeding 800m² in retail floor area used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.”

Subject to Ministerial and Department of Planning approval to change the definition, the size limit of 800m² is consistent with the conclusions of the independent assessment of Warriewood Sector 8 Masterplan, commissioned by Council in 2006 and undertaken by Hill PDA. The report stated

‘A supermarket in the vicinity of 800sqm will trade sustainably over time. The success of a supermarket would be the result of greater convenience being created by the development of the shopping centre in the Valley and the existing strength of retail spending in the catchment demonstrated by the strong trade at Warriewood Centro.’

2.4 Draft amendment to Pittwater 21 Development Control Plan

A draft amendment to Pittwater 21 DCP has been prepared with the changes underlined (**ATTACHMENT 2**). The amendment aims to make it clear that only small shops and not large supermarkets are intended for the focal neighbourhood centre. Council’s endorsement of the draft amendment is required to progress the statutory process in accordance with the requirements of section 74E of the *Environmental Planning and Assessment Act 1979*.

The draft Pittwater 21 DCP amendment includes a maximum size of a shop or restaurant of 855m². This size limit is consistent with the conclusions of the independent assessment of Warriewood Sector 8 Masterplan, commissioned by Council in 2006 and undertaken by Hill PDA. The size limit is also consistent with the proposed changes to Pittwater LEP.

2.5 Exhibition of changes to PLEP 1993 and P21 DCP

To reduce confusion to the community and stakeholders it is recommended that both amendments should commence exhibition at the same time. This enables managers to adequately prepare and arrange the diversion of staff resources from programmed tasks and reduces duplication costs for advertising and mail-outs.

The proposed changes will be advertised and exhibited for at least 28 days. Copies of the planning proposal and draft development control plan will be publicly available during the exhibition at Council’s Customer Service Centres (Avalon and Mona Vale) and on Council’s website.

Notification will include the adjoining property owners (within a 400m radius of the subject site) and the Warriewood Valley Rezoning Association by letter (direct mail out) and the owners of Warriewood Square.

At the conclusion of the exhibition, a further report to Council will provide a summary of the submissions for Council’s consideration.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 Progressing the plan-making process to permit a limited scale retail facility on this site will bring to fruition development of the site as originally planned. This enables completion of the Sector 8 development, providing a retail facility limited to serving the daily shopping needs of residents in the Warriewood Valley Release Area that will enhance the health and wellbeing of the community

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 Progressing the plan-making process to permit a limited scale retail facility on this site will bring to fruition development of the site as originally planned and includes evaluating the likely impacts of future development of this site, including environmental impacts on the natural environment, economic and social impacts in the locality.

The development opportunities being provided in this sector will seek to introduce initiatives that aim to reduce our ecological footprint, protect our biodiversity.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 Progressing the plan-making process to permit a limited scale retail facility on this site will bring to fruition development of the site as originally planned. The development opportunities being provided in this sector facilitates local business and employment opportunities.

It is intended that the proposal serves the daily shopping needs of residents in the Warriewood Valley Release Area.

3.4 Leading an effective & Collaborative Council (Governance)

- 3.4.1 Progressing the plan-making process to permit a limited scale retail facility on this site will bring to fruition development of the site as originally planned under the Warriewood Valley Planning Framework 2010. Developing this site for a retail facility is generally consistent with the masterplan (for this site and Sector 8) approved by Council in 2003.

Collaboration with landowners and community participation will be undertaken to ensure that decision-making is ethical, accountable and transparent

3.5 Integrating our Built environment (Infrastructure)

- 3.5.1 Progressing the plan-making process to permit a limited scale retail facility on this site will bring to fruition development of the site as originally planned under the Warriewood Valley Planning Framework 2010.

The development opportunity being provided on this site aims to enhance the liveability and amenity of our villages by locating an appropriate mix of land use and development in well connected, effective transport route.

4.0 EXECUTIVE SUMMARY

- 4.1 At the meeting of 19 April 2010 Council directed staff to pursue the options set out by Mallesons Stephen Jacques in their report of 25 March 2010 (Attachment 1 - Planning Proposal - Appendix D) by amending the Pittwater Local Environmental Plan 1993 (PLEP) and Pittwater 21 Development Control Plan (P21 DCP).

Council are seeking to amend the Pittwater LEP 1993 and Pittwater 21 DCP to provide planning certainty and secure a limited scale focal neighbourhood centre in accordance with the Warriewood Valley Planning Framework 2010 and community expectation.

Council's endorsement of the Planning Proposal is required to progress the statutory process. The attached planning proposal will then be sent to the Department of Planning (DoP) for assessment and Gateway Determination.

A draft amendment to Pittwater 21 DCP has been prepared. The amendment aims to make it clear that only small shops and not large supermarkets exceeding 800m² are intended for the focal neighbourhood centre. Council's endorsement of the draft amendment is required to progress the statutory process.

Council, in its initial planning of the Warriewood Valley Land Release, had envisaged the provision of a retail facility (of limited scale) at a central location within Warriewood Valley. This location, being in the vicinity of the Macpherson Street-Garden Street intersection, had been expressed in the Warriewood Valley Planning Framework 2010 and subsequently, in Pittwater 21 DCP.

RECOMMENDATION

- 1 That Council endorse progression of the statutory rezoning process to limit the retail floor space of any future retail facility development on 23B Macpherson Street, Warriewood, as set out in Attachment 1.
- 2 That Council be advised of the directions issued by the Department of Planning in relation to the Gateway Determination.
- 3 That Council endorse Draft Pittwater 21 DCP amendment, as set out in Attachment 2, for statutory exhibition and consultation for at least 28 days with submissions invited from the public, in conjunction with the Planning Proposal.
- 4 That following the period of public exhibition and consideration of any submissions received, the Planning Proposal and the draft Pittwater 21 Development Control Plan amendment be reported back to Council for further consideration.

Report prepared by
David Haron, Executive Strategic Planner

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT