

SUBJECT: Report to Council/Committee**Meeting:** Planning an Integrated Built Environment Committee**Date:** 17 August 2009

STRATEGY: Land Use & Development**ACTION:** Coordinate land use planning component of land release

PURPOSE OF REPORT

The purpose of this report is to request that the rezoning application currently with Council for Sector 5 of Warriewood Valley utilise the new local plan making system to effectively and efficiently rezone the subject lots, being 4 and 8 Forest Road in Warriewood (Lot 1 DP 5055 and Lot B DP 370222) (see Attachment 1 for location map).

1.0 BACKGROUND

- 1.1 On 2 February 2005, a rezoning application was lodged for 4 and 8 Forest Road in Warriewood. These two sites make up Sector 5 of Warriewood Valley Urban Land Release Area.
- 1.2 The two sites are currently zoned 1(b) Non-urban but are proposed to be rezoned as 2(f) Urban purposes – mixed residential, which would be in line with the remaining residential areas within Warriewood Valley. Once rezoned the subject sites will allow residential development, where not less than 70 residential dwellings and not more than 75 residential dwellings will be permitted (see Attachment 2 for masterplan).
- 1.3 Since lodgement in 2005, Council has requested of the applicant several lots of additional information for clarification, and subsequently, since initial lodgement many deficiencies with the rezoning application have been resolved.
- 1.4 Prior to this report, the rezoning application has been reported to Council twice requesting that the statutory process be commenced. With regard to the first report, Council resolved, at its meeting of 18 June 2008, that the matter to be deferred to allow further consultation between the objectors and the applicant, and further consideration of a planning agreement for the remaining portion of the sensitive vegetation.

The second report went to Council on 8 October 2007 where actions undertaken in accordance with the resolution of Council on 18 June 2007 were reported. Council resolved not to commence the rezoning process '...until outstanding Bushfire and Water Management issues have been addressed so that a Masterplan and accurate associated documentation specifically relating to Bushfire and Water Management can be prepared'.

Following this a Notice of Rescission Motion went to the Council meeting of 5 November 2007 where Council resolved to adopt the alternate motion to commence the statutory process but that certain issues were to be addressed prior to progressing the application to undertake stakeholder consultation in accordance with Section 62 of the EP&A Act.

- 1.7 Subsequently, Council commenced the statutory process by notifying the Department of Planning of the rezoning application and Council's resolution. Council received Section 54 correspondence from the Department on 18 December 2007.

- 1.8 Council officers have since been working with the applicant to resolve the issues that have prevented the rezoning from progressing to Section 62 of the EP&A Act. Council officers now believe that these issues have been resolved.

2.0 ISSUES

- 2.1 Recent planning reforms, regarding the preparation of Local Environmental Plans (LEPs), were introduced on 1 July 2009. The reforms intend to simplify the local plan making process (that is, the LEP making process). A diagram of the new local plan making process is shown at Attachment 3.

Under this process, Council is required to prepare a planning proposal, which is submitted to the Department of Planning (following Council resolution) where it is put through a gateway determination process. The gateway determination process confirms certain matters including the required level of community consultation, in particular whether it is exhibited for a minimum of 14 or 28 days. Subsequently, community consultation is undertaken after Council and the Department of Planning has considered, and approved, to proceed with the rezoning.

- 2.2 In order to efficiently finalise the rezoning of Sector 5, Council officers and the applicant believe that the best way forward is to utilise the process administered under the new local plan making system. Subsequently, Council officers have prepared a planning proposal (Attachment 4), which provides justification for the rezoning and will form the basis of the LEP. The planning proposal will be the document that will be exhibited during the community consultation process.

3.0 FORWARD PATH

- 3.1 If Council agrees with the recommendation put forward in this report, the planning proposal will be submitted to the Department of Planning as a request to formally commence the LEP making process. The Department of Planning will then advise Council of the outcome of the request and subsequent community consultation requirements. If progressed, a report will be presented to Council on the outcome of the community consultation process.

4.0 SUSTAINABILITY ASSESSMENT [\(VIEW SUSTAINABILITY ASSESSMENT TOOL\)](#)

4.1 Supporting & Connecting our Community (Social)

- 3.1.1 Progressing the Sector 5 rezoning application via the new local plan making system would effectively and efficiently ensure the rezoning, which would be consistent with the remaining residential land within Warriewood Valley. This would subsequently contribute towards completing the Warriewood Valley Urban Land Release Area in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997).

Further, once rezoned, the subject sites will require Development Assessments to be lodged for all new residential dwellings. Each Development Assessment will require assessment under Section 79C of the EP&A Act including likely social impacts.

4.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 The initial rezoning application was accompanied by relevant environmental assessments and studies (detailed in the planning proposal at Attachment 4), which have been reviewed by relevant Council officers. After many additional information requests, Council officers now believe that all environmental issues have been addressed adequately.

In addition, as Sector 5 forms part of the Warriewood Valley Urban Land Release Area, all environmental elements were assessed as part of a holistic assessment undertaken prior to the land release, the same assessment that informs the Warriewood Valley Urban Land Release Draft Planning Framework (1997).

Notwithstanding this, once the subject lots have been rezoned, Development Applications will need to be lodged for all new residential dwellings, which will require assessment under Section 79C of the EP&A Act. Section 79C requires any potential environmental impacts to be addressed as part of a Development Assessment.

4.3 Enhancing our Working & Learning (Economic)

- 3.3.1 As the subject lots form Sector 5 of Warriewood Valley, there are economic benefits associated with Warriewood Valley Urban Land Release on the whole. Potential economic impact formed part of the assessment undertaken prior to the land release.

Further, Section 79C requires all Development Applications to take into consideration economic impacts, and therefore any Development Application lodged following the rezoning will require such assessment.

4.4 Leading an effective & Collaborative Council (Governance)

- 3.4.1 Progressing the rezoning of the subject lots, via the new plan making process, will be in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997) prepared by Council prior to the commencement of the land release. This supports Council as an effective governance authority.

As part of the rezoning process, Council will undertake community consultation and engage relevant stakeholders, which supports Council as a collaborative governance authority.

4.5 Integrating our Built environment (Infrastructure)

- 3.5.1 As Sector 5 forms part of the Warriewood Valley Urban Land Release Area, its rezoning will contribute to completing the land release in accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997), and subsequently contribute to integrating our built environment.

5.0 EXECUTIVE SUMMARY

- 4.1 In accordance with the Warriewood Valley Urban Land Release Draft Planning Framework (1997), Council received a rezoning application on 2 February 2005. After resolving many deficiencies with the rezoning application and two attempts at commencing and progressing the statutory rezoning process, Council officers believe the most effective way forward is to utilise the new plan making system recently introduced.
- 4.2 This report recommends the re-commencement of the rezoning process via the new plan making system, which will entail submitting the planning proposal (at Attachment 4) to the Department of Planning to undergo a gateway determination. Council officers and the applicant believe that this is the most efficient means of rezoning the subject lots.

RECOMMENDATION

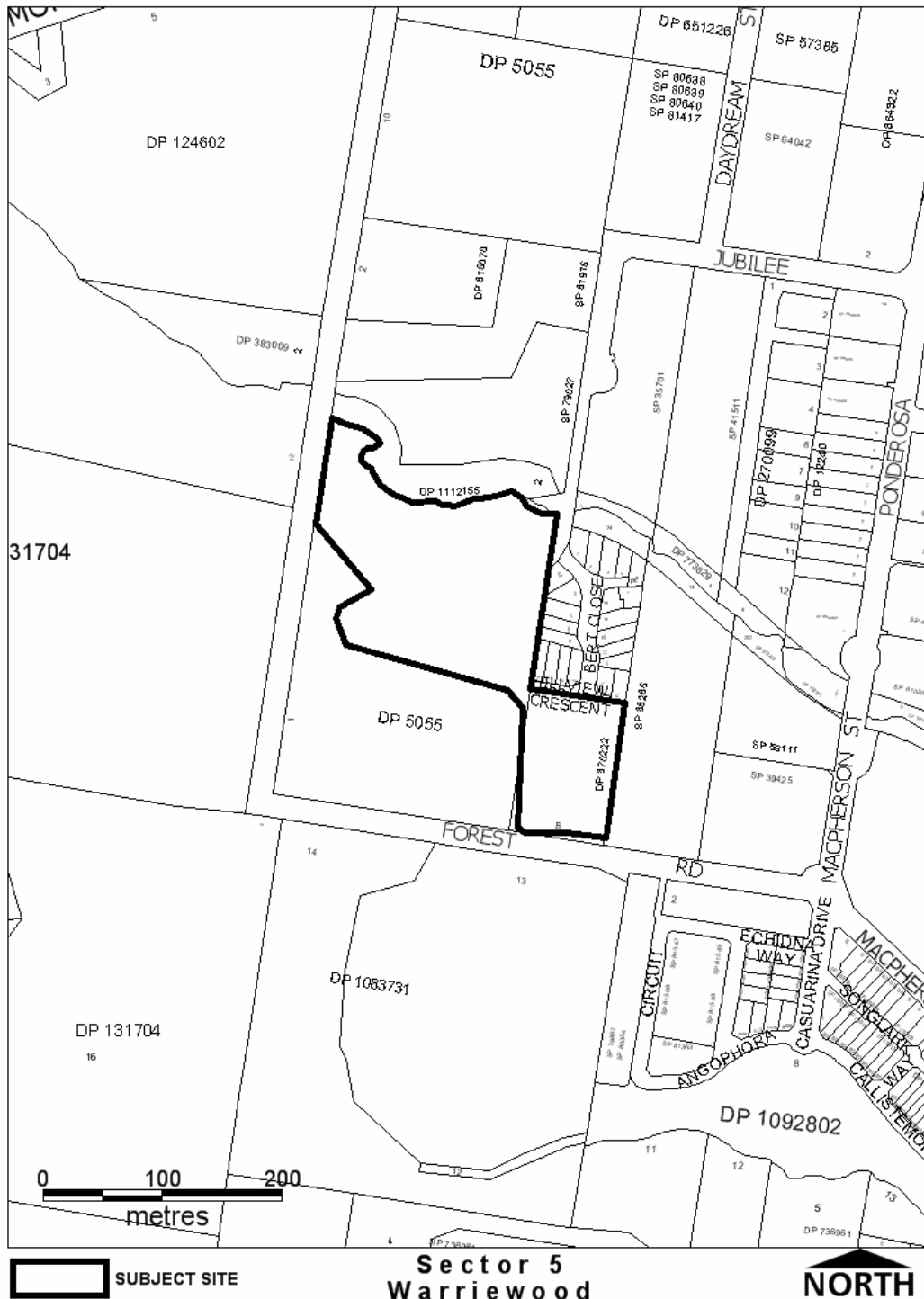
1. That Council endorse the progression of the rezoning application for Sector 5 of Warriewood Valley via the new plan making system.
2. That Council be advised of the directions issued by the Department of Planning regarding the required community consultation.
3. That the outcomes of the community consultation process be reported to Council.

Report prepared by Kelly Wilkinson

Lindsay Dyce

MANAGER, PLANNING AND ASSESSMENT

LOCALITY MAP



MASTERPLAN FOR SECTOR 5

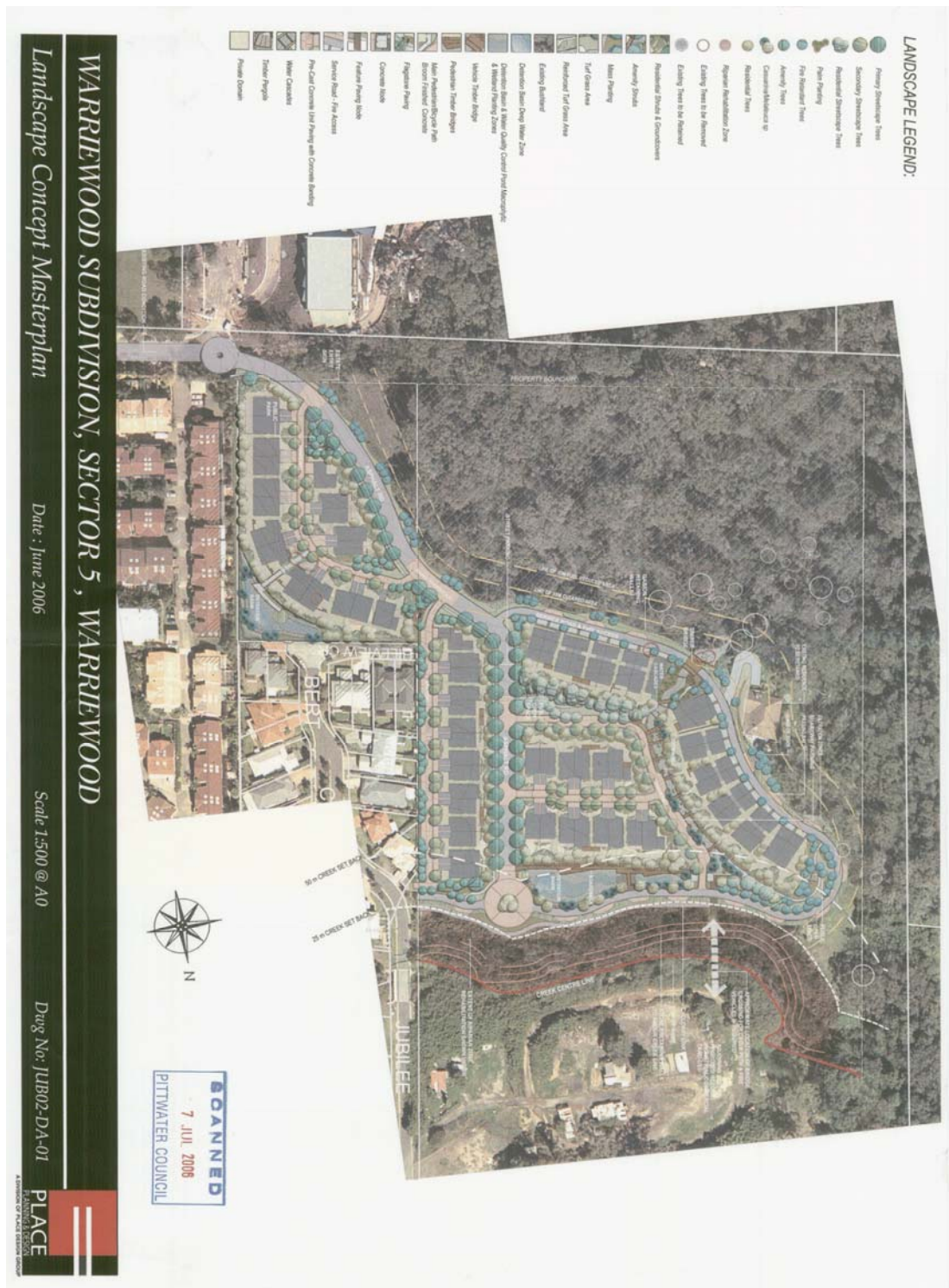
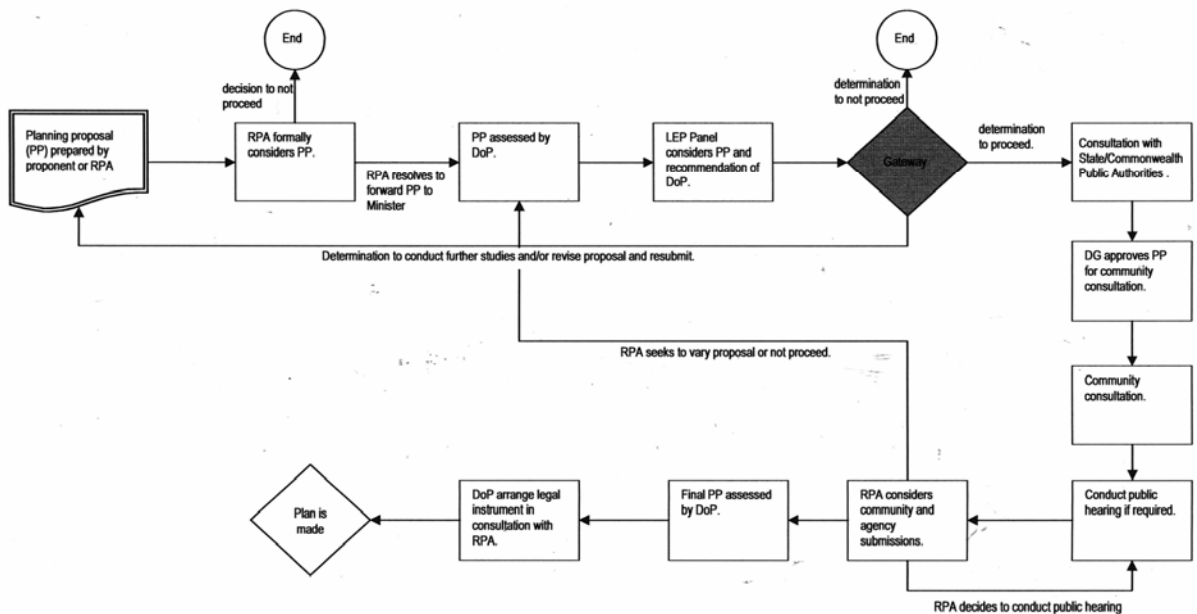


DIAGRAM SHOWING NEW LOCAL PLAN MAKING PROCESS

Figure 5 – Process to make a local environmental plan



Please note:

- RPA means Relevant Planning Authority (such as Council)
- This diagram has been extracted from *A guide to preparing local environmental plans* prepared by Department of Planning (July 2009)



PLANNING PROPOSAL

To rezone lands in Sector 5 from non-urban to 2(f) (Urban purposes – mixed residential) to enable residential development in this sector of Warriewood Valley Urban Land Release

Prepared by Pittwater Council

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To rezone the subject lots, being 4 and 8 Forest Road in Warriewood (Lot 1 DP 5055 and Lot B DP 370222), which form Sector 5 of Warriewood Valley, from non-urban land to Zone 2(f) (Urban purposes – mixed residential) to allow residential development. See Appendix 1 for location map.

Following rezoning, the subject lots will allow not more than 75 residential dwellings and not less than 70 residential dwellings.

Rezoning the subject lots will make applicable a State imposed infrastructure levy, which applies to all residential land not yet rezoned within an urban land release area. The levy, which is currently \$17 000, is applicable at the subdivision stage and is calculated by the number of allotments created.

PART 2 EXPLANATION OF PROVISIONS

Amendment of Clauses 30B, 30C and 30E(8) of the *Pittwater Local Environmental Plan 1993*.

Clause 30B(1) would need to be amended to include:

“Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. X)””

Clause 30C would need to be amended to include:

“Sector 5 not more than 75 dwellings or less than 70 dwellings”

Clause 30E(8) would need to be amended to include in the definition for “urban release area”:

“Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. X)””

PART 3 JUSTIFICATION

A Need for the Planning Proposal

(A1) Is the planning proposal a result of any strategic study or report?

Yes. The Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley to allow urban purposes in accordance with the State Government's Metropolitan Development Program (MDP).

A suite of studies undertaken in 1994, including a Bushfire Hazard Evaluation (1995), Contaminated Land Study (September 1993), Fauna Conservation Study (November 1994), Integrated Water Management Strategy (November 1997), Urban Land Capability Study (November 1993),

and Vegetation Conservation Study (July 1994), informed the Warriewood Valley Urban Land Release Draft Planning Framework.

The Warriewood Valley Urban Land Release Draft Planning Framework identifies Sector 5, which comprises the subject lots, as non-urban land within Warriewood Valley to be rezoned for urban purposes.

- (A2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The planning proposal is the best means of achieving the intended outcome as it would be consistent with land already rezoned and developed in the Warriewood Valley Urban Land Release Area, which forms part of the State Government's MDP. The rezoning is consistent with The Warriewood Valley Urban Land Release Draft Planning Framework.

- (A3) Is there a net community benefit?

If Sector 5 were to be rezoned for urban purposes, this would be consistent with the land already released for development in Warriewood Valley, and subsequently this would positively contribute to the social and economic benefit achieved by Warriewood Valley on the whole.

Additionally, by rezoning Sector 5 to allow urban purposes, new dwellings will be permitted, which will contribute to fulfilling the housing requirements imposed by the Sydney Metropolitan Strategy, Draft North East Subregional Strategy and the MDP.

B Relationship to Strategic Planning Framework

- (B1) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

This planning proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy where goals are set for housing and land supply.

In the North East Subregional Strategy, Action C1 calls for ensuring the adequate supply of land and sites for residential development, where the MDP is the State Government's key program for managing and monitoring land and housing supply. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development.

This planning proposal would also be consistent with Action C4 of the North East Subregional Strategy, which calls for improving housing affordability, would by increasing the number of new dwellings available.

As the intended outcome of this planning proposal is to allow new residential development, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

- (B2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

This planning proposal is consistent with the Warriewood Valley Urban Land Release Draft Planning Framework, which is the underlying strategic plan for the release of land within Warriewood Valley, as discussed above (A1).

- (B3) Is the planning proposal consistent with applicable state environmental planning policies?

This planning proposal is consistent with the relevant State Environmental Planning Policies (SEPPs). The relevant SEPPs apply specifically to residential zones and will therefore be assessed the subject lots are rezoned and Development Applications are lodged. See Appendix 2.

As part of the rezoning application, an Ecological Assessment Report (Place Environmental 2004) was submitted, which flagged potential koala habitat in the area. However, no koalas were spotted during the duration of the study and the report included an assessment of significance, which was undertaken in accordance with Part 5A of the EP&A Act. Subsequently, SEPP No 44 – Koala Habitat Protection does not apply to this planning proposal.

- (B4) Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

This planning proposal is consistent with the applicable Ministerial Directions (S117 Directions). See Appendix 3.

As the subject lots are bushfire prone, in accordance with 4.4 (4) of the Ministerial Directions (Section 117(2) of the EP&A Act) the Rural Fire Service must be consulted following receipt of a gateway determination.

C Environmental, social and economic impact

- (C1) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject lots border the Warriewood/Ingleside escarpment and accommodate a portion of Fern Creek. Accordingly, an Ecological Assessment Report (Place Environmental 2004) was submitted as part of the rezoning application, which assesses any potential impact on flora and fauna, including assessments of significance in accordance with Section 5A of the EP&A Act, and provides mitigation measures to ensure there is no direct impact. Subsequently, there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of this planning proposal.

- (C2) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Other likely environmental effects resulting from this planning proposal relate to water management, bushfire hazard, waste management, contamination, geotechnical considerations, heritage, and traffic.

Several specific development controls are in place for development in Warriewood Valley, including those related to, water, bushfire prone land, waste, contamination, geotech, heritage, and traffic.

The following reports were submitted with the rezoning application as environmental assessments:

- A waste management statement (United Resources Management Group 2005)
- A Preliminary Geotechnical Investigation and Slope Stability Risk Assessment (Jeffery and Katauskas Pty Ltd 2005)
- A Concept Stormwater Management Plan (Brown Consulting NSW 2004)
- A Preliminary Site Contamination and Acid Sulphate Soil Investigation (Environmental Investigation Services 2005)

With regard to heritage, there are no known heritage items on or near the subject sites, and subsequently it is not considered necessary for a heritage assessment to be undertaken at the rezoning stage.

Following review of the rezoning application and associated documents, Council staff believe there is no significant reason why the subject lots should not be rezoned.

Additionally, the planning proposal will, when lodged as a Development Application, require assessment under Section 79C of the EP&A Act.

(C3) How has the planning proposal adequately addressed any social and economic effects?

As mentioned, the subject lots make up Sector 5 of the Warriewood Valley Urban Land Release in accordance with the State Government's Metropolitan Development Program (MDP). This planning proposal will subsequently be consistent with the vast area within Warriewood Valley that has previously been rezoned from non-urban to urban purposes. This planning proposal will therefore by no means have any negative marked social or economic effects.

Further, as the Warriewood Valley Urban Land Release is underlain by the Warriewood Valley Urban Land Release Draft Planning Framework (1997), a suite of studies have already been undertaken on Warriewood Valley as a whole to address social and economic effects.

D State and Commonwealth interests

(D1) Is there adequate public infrastructure for the planning proposal?

Yes. As the subject lots form part of the Warriewood Valley Urban Land Release, public infrastructure arrangements are currently in place through the Warriewood Valley Urban Land Release Draft Planning Framework (1997), which is now imposed by controls in Pittwater 21 Development Control Plan.

The exception is the State imposed infrastructure levy that will be required if the subject lots are rezoned and subdivision is undertaken.

- (D2) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage. Council notes that this response will be amended following consultation after the gateway determination.

PART 4 COMMUNITY CONSULTATION

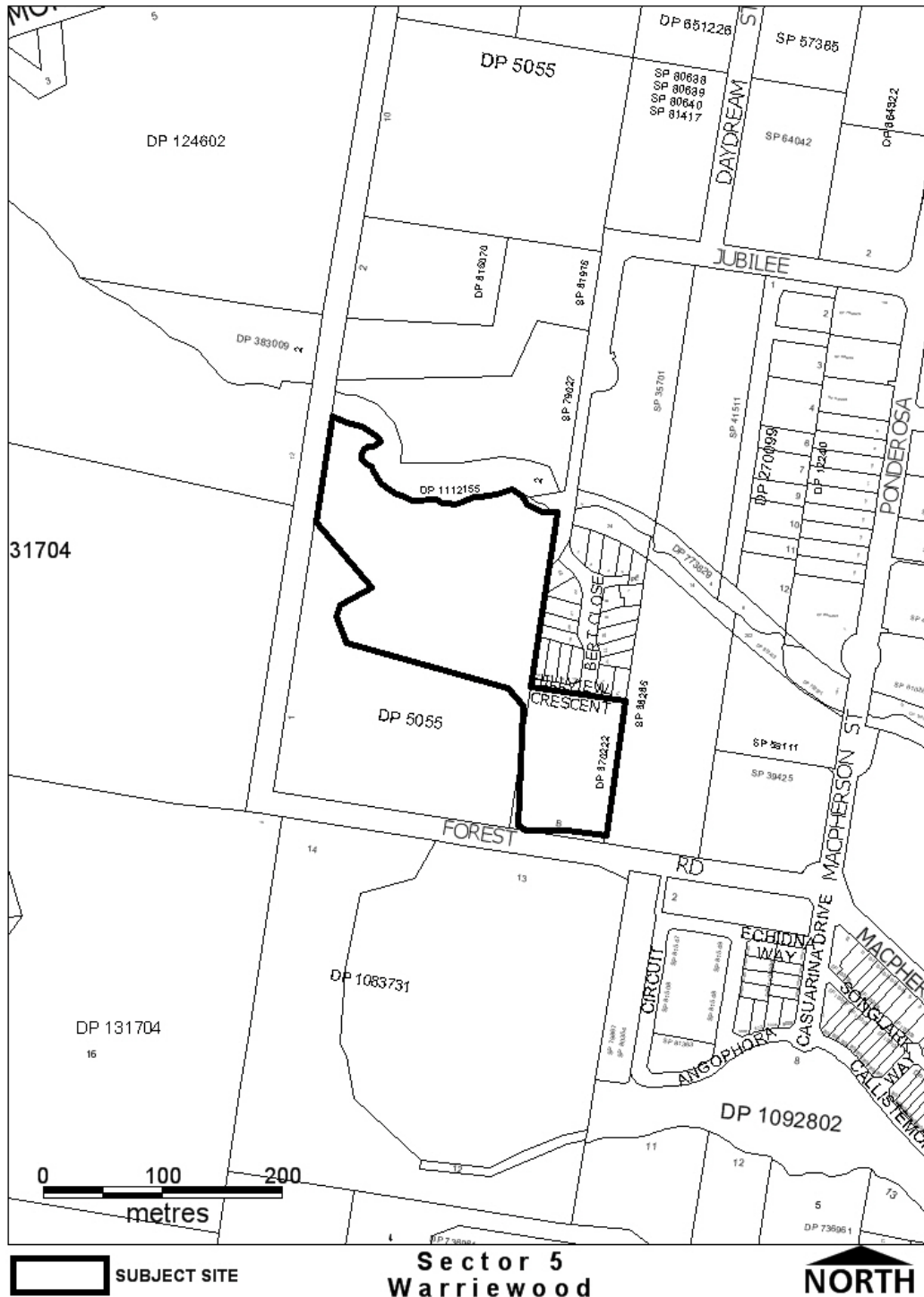
As the subject lots form Sector 5 within Warriewood Valley and is one of two Sectors still to be rezoned for residential purposes in Warriewood Valley, this planning proposal is consistent with the rezoning that has previously occurred in Warriewood Valley. Subsequently, this planning proposal is considered a 'low impact' planning proposal.

To be in keeping with *A guide to preparing local environmental plans* (Department of Planning 2009) the following community consultation is therefore considered appropriate:

- Advertising in the local newspaper at the start of the exhibition period
- Advertising on Council's website for the duration of the exhibition period
- An exhibition period of 14 days commencing the date the advertisement appears in the local newspaper
- Notifying the adjoining property owners by mail
- Notifying the Warriewood Valley Rezoning Association by mail



LOCALITY MAP



Checklist - Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development without consent...	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 10 – Retention of Low-Cost Rental Accommodation	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	YES	YES	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	NO	N/A	

SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	
SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	
SEPP No 71 – Coastal Protection	NO	N/A	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	NO	N/A	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	YES	YES	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	YES
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	YES	YES

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	YES	YES
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	YES	YES

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	YES
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development near Licensed Aerodromes	NO	N/A

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	YES
4.4	Planning For Bushfire Protection	YES	YES

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	NO	N/A

Justification for inconsistency

NIL

Note: The subject lots relevant to this planning proposal form Sector 5 of Warriewood Valley of which the Warriewood Valley Urban Land Release Draft Planning Framework (1997) is Council's adopted strategy for the release of non-urban land in Warriewood Valley for urban purposes in accordance with the State Government's Metropolitan Development Program (MDP). The framework gives consideration to the relevant directions above.