

Planning proposal to amend Warringah Local Environmental Plan 2011 for "Site B" within the Dee Why Town Centre

Proposal Title :	Planning proposal to amend Warringah Local Environmental Plan 2011 for "Site B" within the Dee Why Town Centre		
Proposal Summary :	The planning proposal seeks to amend the site specific controls for "Site B" of the Dee Why Town Centre under Warringah Local Environmental Plan 2011.		
PP Number :	PP_2015_WARRI_002_00	Dop File No :	15/01481

Proposal Details

Date Planning Proposal Received :	21-Jan-2015	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 :	9 Howard Avenue		
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot 7, DP 8172		Postcode :
Street :	11 Howard Avenue		2099
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot 1, DP 209503		Postcode :
Street :	15 Howard Avenue		2099
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot 1, DP 212382		Postcode :
Street :	17 Howard Avenue		2099
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot 2, DP 212382		Postcode :
Street :	14 Oaks Avenue		2099
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot A, DP 371110		Postcode :
Street :	16 Oaks Avenue		2099
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot B, DP 371110		Postcode :
Street :	28 Oaks Avenue		2099
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Lot 3, DP 212382		Postcode :

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Street :	884 Pittwater Road	City :	Sydney	Postcode :	2009
Suburb :	Dee Why				
Land Parcel :	Lot A, DP 339410				
Street :	888 Pittwater Road	City :	Sydney	Postcode :	2009
Suburb :	Dee Why				
Land Parcel :	Lot 11, DP 231418				
Street :	890 Pittwater Road	City :	Sydney	Postcode :	2009
Suburb :	Dee Why				
Land Parcel :	Lot 10, DP 231418				
Street :	892 Pittwater Road	City :	Sydney	Postcode :	2009
Suburb :	Dee Why				
Land Parcel :	Lot 1, DP 504212				
Street :	894 Pittwater Road	City :	Sydney	Postcode :	2009
Suburb :	Dee Why				
Land Parcel :	Lot A, DP 416469				
Street :	896 Pittwater Road	City :	Sydney	Postcode :	2009
Suburb :	Dee Why				
Land Parcel :	Lot 1 and 3, DP 307937				

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Theo Zotos**
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DoP Project Manager Contact Details

Contact Name :
 Contact Number : **0000000000**
 Contact Email :

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) :	450
Gross Floor Area :	0	No of Jobs Created :	400

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 of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with. Metropolitan Region (East) 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 :

External Supporting Notes : **THE SITE**
The site is known as "Site B" of the Dee Why Town Centre under the Warringah Local Environmental Plan 2011. The site comprises of 13 allotments with a total area of 14,466sqm.

The site has street frontages to Pittwater Road, Howard and Oaks Avenues. Existing uses include a range of retail and business premises and associated car parking.

BACKGROUND

In February 2009, a development application was approved for a mixed use development consisting of a publicly accessible plaza (DA2007/1249). The approved application consisted of a total floor area of 62,806sqm which included 300 residential units, 33,400sqm retail, 4,200sqm other business and 1,500 car parking.

The above approved controls were then translated into the Warringah Local Environmental Plan 2011, strictly enforcing the building envelopes for the site and other provisions such as land use composition, design excellence and solar access.

Council has since adopted a masterplan for the Dee Why Town Centre. The masterplan reiterated the importance of the subject site as the location for the tallest built form and a publicly accessible town centre.

Council worked with the applicant to prepare this planning proposal in order to achieve the outcomes of the masterplan.

On 25 November 2014, Council resolved to forward the planning proposal to the Department for a Gateway determination.

The Department received the package on 9 January 2015. However, Council was requested to provide further information. The additional information was received on 20 January

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2015.

DELEGATION OF PLAN MAKING FUNCTIONS

Warringah Council is seeking delegation to carry out the Minister's functions under section 59 of the Environmental Planning and Assessment Act 1979 (EP&A Act) to progress this planning proposal. Council has provided Attachment 4 - Evaluation criteria for the delegation of plan making functions. Delegation is considered appropriate.

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 permit alternative built form and composition for "Site B" within the Dee Why Town Centre.

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

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

Comment : The planning proposal seeks to amend the site specific controls for "Site B" of the Dee Why Town Centre under Warringah Local Environmental Plan 2011.

1. Height of Buildings across "Site B"

Warringah Local Environmental Plan 2011, currently stipulates the siting and bulk of future development through the use of building envelopes. These envelopes also limit the extent of buildings in a horizontal direction.

In order to achieve the desired urban form for the town centre an amendment to the Height of Buildings Map is required which will allow for a finer and more detailed design on site. The existing maximum building height of 78m across the site will remain.

2. Clause 7.3(i)(ii) - Objectives for development within the Dee Why Town Centre
Warringah Local Environmental Plan 2011, currently stipulates that ground floor addressing publicly accessible areas must provide a mix of retail land uses including shops, cafes and restaurants.

The planning proposal seeks to remove the restriction on the types of retail that can be developed at ground level. The current LEP aims to only permit shops, cafes and restaurants at ground level. It is proposed that future development will provide for a greater range of land uses.

3. Clause 7.3(j) - Objectives for development within the Dee Why Town Centre

The planning proposal seeks to amend the objective encouraging commercial premises on the first and second floor of any future development. The intended outcome is to enable residential use of the first and second floor while retaining a minimum gross commercial floor area of 12,745sqm, which is significantly less than Council's original intent for Site B.

4. Clause 7.12(2)(a) - Provisions promoting retail activity

The planning proposal seeks to broaden the range of permitted land uses for ground floor development by permitting medical centres and office premises at ground floor. The intent is to ensure consistency with clause 7.3(i)(ii) objectives for development within the Dee Why Town Centre.

5. Clause 7.12(2)(c) and (d) - Provisions promoting retail activity

Warringah Local Environmental Plan 2011 currently stipulates that ground and first floor

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premises must not be used for residential accommodation, medical centres, and office premises.

The planning proposal seeks to remove this prohibition of medical centres and office premises. The intended outcome is to allow for more flexible land uses to suit market conditions whilst still ensuring a strong commercial presence on the site.

It is noted that the planning proposal in its current form does not request the removal of site specific Clause 7.8 Site B Oaks Avenue above podium elements, however, the clause and its intent may be made redundant by the above amendments to the Plan. Should this proposal proceed to Gateway it is recommended that the planning proposal be revised to discuss the relationship with clause 7.8 (ie. does it need to be retained or amended).

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

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

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

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

d) Which SEPPs have the RPA identified?

N/A

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

SECTION 117 Direction 1.1 - Business and Industrial Zones

The planning proposal is inconsistent with this direction as it may reduce the level of floor space made available for employment purposes within the centre.

While the proposal will allow for a greater diversity of permissible land uses which may lead to future employment opportunities, the establishment of a gross floor area of not less than 12,745sqm for commercial premises has not been adequately justified.

Further evidence is required to ensure that the proposal will protect or support the viability of the commercial core within the Brookvale-Dee Why strategic centre. As such, should this matter proceed to Gateway it is recommended that the inconsistency with this direction be satisfactorily justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains indicative mapping reflecting the intent of the planning proposal. The maps submitted with the proposal are difficult to read. They need to be updated prior to exhibition to clearly and accurately reflect the existing and proposed mapping.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

A 14 day public consultation is proposed consistent with the Department's guidelines for low impact proposals. This is considered appropriate.

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Council suggested a timeframe of 18 months to completion, however, the Department considers 12 months appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **N/A**

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 :

Warringah Local Environmental Plan 2011 currently stipulates the location of residential towers and podiums. Under the LEP these cannot be varied by more than 2 metres in any horizontal direction.

In addition, the ability to consider a development application outside of the identified envelopes is prohibited under clause 4.6 of the Warringah Local Environmental Plan 2011.

Therefore a planning proposal is the only mechanism that would allow for the consideration of planning controls outside those already currently prescribed under Warringah Local Environmental Plan 2011.

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Consistency with strategic planning framework :

The planning proposal seeks to deliver the outcomes of the Dee Why Town Centre masterplan, which envisages "Site B" as a key site within the town centre.

The outcomes of this proposal will permit alternative built form and remove restrictions on permissible land use, allowing for a greater range of land uses for future development.

Council states that flexibility in land uses will promote economic viability through responsiveness to market demand. This is generally consistent with 'A Plan for Growing Sydney' (December 2014), as it establishes a minimum gross floor area of 12,745sqm for commercial premises while considering opportunities for additional mixed-use development within the strategic centre. This is significantly less than Council's original intent for Site B, which was 2 to 3 times the current proposal.

One of the State Government's key priorities for the centre is to retain a commercial core in Brookvale-Dee Why, as required for long-term employment growth. The Warringah Local Environmental Plan 2011, currently provides local provisions that accommodate employment opportunities by providing at least 3 levels (including the ground floor) of development for non-residential purposes.

In light of State Government's priorities for Brookvale-Dee Why, it is recommended that Council updates the planning proposal to demonstrate how employment opportunities will continue to be catered for within the centre, prior to public exhibition.

Ideally this would be justified through independent market advice, and it is recommended an economic/market study be prepared to justify Council's departure from the existing controls.

Additionally, it is recommended that the planning proposal be updated to generally address consistency with 'A Plan for Growing Sydney' prior to public exhibition.

Environmental social economic impacts :

Council states that the proposal is consistent with the 'Warringah Employment Study', which highlights that Dee Why is likely to become the focus for housing and convenience retail and local business.

The proposal is seeking to deliver mixed use development within a well located town for transport, infrastructure, and services.

It is therefore considered that the environmental and social 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 at development application stage.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :			

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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 :

Documents

Document File Name	DocumentType Name	Is Public
01. Letter from Council.pdf	Proposal Covering Letter	Yes
02. Minutes WDAP and Council.pdf	Proposal	Yes
03. Planning Proposal.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**
- 6.3 Site Specific Provisions**
- 7.1 Implementation of A Plan for Growing Sydney**

Additional Information :

- 1. As the planning proposal may result in a loss of commercial floor space, the planning proposal is to be updated prior to exhibition to:**
 - (a) explain how the planning proposal and broader town centre will continue to cater for future employment opportunities;**
 - (b) provide justification on the inconsistency with s117 Direction 1.1 Business and Industrial Zones, supported by an independent economic/market assessment; and**
 - (c) in the context of potential loss of commercial floorspace, demonstrate consistency with 'A Plan for Growing Sydney', released on 14 December 2014,**

- 2. Prior to undertaking public exhibition, the planning proposal is to be updated to:**
 - (a) update the Height of Building Map/s to clearly show both the existing and proposed controls for the site;**
 - (b) include a plain english explanation of the intended effect of the changes, including comment on whether existing clause 7.8 is completely superseded by this proposal, or needs to be retained or amended; and**
 - (c) demonstrate general consistency with 'A Plan for Growing Sydney', released on 14 December 2014.**

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

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

(a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning and Environment 2013) and 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 and Environment 2013).

4. 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).

5. The timeframe for completing the LEP is to be 12 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.

Signature:



Printed Name:

TIM ARCHER

Date:

26.2.15

