

ITEM 8.12	BP FORESTVILLE PLANNING PROPOSAL - 632-634 WARRINGAH ROAD, FORESTVILLE
REPORTING MANAGER	SUSTAINABLE URBAN PLANNING MANAGER
TRIM FILE REF	2016/029889
ATTACHMENTS	1 BP Forestville Planning Proposal (Included In Attachments Booklet) 2 BP Forestville Planning Proposal Submission (Included In Attachments Booklet) 3 Submission Summary - Pre Gateway Exhibition (Included In Attachments Booklet)

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval to submit the attached BP Forestville Planning Proposal (Planning Proposal) as to the NSW Department of Planning and Environment (DP&E) for a Gateway determination.

SUMMARY

Council received the attached Planning Proposal Submission on 15 December 2015 for the land known as 632-634 Warringah Road, Forestville. The submission requests the amendment of Warringah Local Environmental Plan 2011 (WLEP 2011) to permit the additional uses of 'service station' and a 240sqm 'neighbourhood shop' on the land, which comprises Lots 8 and 9 in DP 25052 (the site). The amendment would provide for the redevelopment and expansion of the existing service station and development of the vacant allotment.

The planning proposal submission was publicly exhibited from 16 January to 1 February 2016 (17 days) in accordance with Council policy. During this time four (4) submissions were received.

Following a review of the submissions made, Council has prepared an amended Planning Proposal for submission to DP&E as per attached Planning Proposal.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Approve the submission of the BP Forestville Planning Proposal to the Department of Planning and Environment for a Gateway determination.
 - B. Publicly exhibit the BP Forestville Planning Proposal in accordance with any Gateway approval granted by the Department of Planning and Environment.
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REPORT

BACKGROUND

Council received the attached Planning Proposal Submission on 15 December 2015 for the land known as 632-634 Warringah Road, Forestville. The submission requests the amendment of Warringah Local Environmental Plan 2011 (WLEP 2011) to permit the additional uses of 'service station' and a 240sqm 'neighbourhood shop' on the land, which comprises Lots 8 and 9 in DP 25052 (the site).

The proposal would require an amendment to Schedule 1 – Additional Permitted Uses of WLEP 2011 for Lots 8 and 9 in DP 25052 to allow a 'service station' and a 'neighbourhood shop' (of no more than 240 square metres) on the site. It was also agreed with the applicant that a provision should be included in WLEP 2011 which required the uses to operate concurrently (i.e. a neighbourhood shop would not be permitted to operate without a service station and vice versa).

CONSULTATION

The planning proposal submission was publicly exhibited from 16 January to 1 February 2016 (17 days). Notification included:

- A Manly Daily advertisement
- Approximately 400 letters to local land owners, residents and businesses
- Information provided on Council's website and at the Civic Centre.

During the exhibition period four submissions were received. Three of those submissions were in opposition to the proposal. A summary of submissions and Council's response can be reviewed as per attached Submission Summary - Pre Gateway Exhibition

Issues raised in the submissions focused on the potential for lighting overspill, noise, and late night activity as a result of the proposed WLEP 2011 amendments and subsequent redevelopment of the site. It is understood that these matters are an issue with the operation of the existing service station. It is considered that these issues would be addressed during consideration of any future development application for the site and do not warrant rejection of the planning proposal.

Planning Considerations**Current uses and controls**

The site comprises two lots, one vacant and the other developed with a service station. The service station consists of six pumps (including LPG and diesel), a 60sqm shop and a disused vehicle workshop.

Development consent was granted by Council in 1962 for the service station use. The service station use is, however, prohibited under the current R2 – Low Density Residential zoning applying to the site under WLEP 2011. The applicants submit that the service station is operating as an "existing use" i.e. a use that was legally established before the commencement of planning laws that subsequently prohibited the use. Existing uses may continue to operate in their current form, and may be enlarged, intensified, altered or re-built with development consent from Council. There is also capacity to change the use to another use, including a use that would otherwise be prohibited in the R2 zone.

The requested WLEP 2011 amendment would allow for an expanded service station and larger shop. Any future development of the site in accordance with the proposed amendments would have the effect of extinguishing any "existing use", meaning that development consent could not be granted in the future for any use of the site other than the service station/ neighbourhood shop use and uses otherwise permissible in the R2 zone.

Local Character

The site is adjacent to Warringah Road, the major east-west corridor between the strategic centres of Chatswood and Dee Why/Brookvale, as identified by the regional plan for Sydney - *A Plan for Growing Sydney* (2014). The land along Warringah Road in the area is primarily zoned R2 – Low Density Residential, occupied by dwelling houses (e.g. single family homes). Additional service stations are also located in the R2 zone along Warringah Road.

Given the status of Warringah Road as a major traffic corridor, the long standing use of the site as a service station, and similar uses in the area, the rebuilding of the service station together with a neighbourhood shop is considered reasonable and in keeping with the area's local character.

'Neighbourhood shop' intensification

The proposed 240sqm 'neighbourhood shop' use is significantly larger than the existing 60sqm shop and storage building currently located on the site. However the overall floor area proposed is still relatively small and is unlikely to impact upon adjoining properties and the viability of local businesses. An economic impact assessment provided by the applicant found that the increased floor space would have negligible impact on local businesses and that the shop would cater largely to customers of the redeveloped service station.

Environment

Council has been notified by the Environment Protection Authority (EPA) that the site is significantly contaminated land under the *Contaminated Land Management Act 1998*. The owner, BP Australia, is undertaking a voluntary management plan at this time. The applicant has provided a remediation action plan to Council as part of that process which forms an appendix to the applicant's submission.

It is understood that remediation activities will take place regardless of the outcome of the applicant's submission. In addition, any future construction will be required to comply with relevant environmental protection measures as part of a development application process.

Changes to Applicant's Proposal

Council has prepared the attached amended Planning Proposal addressing matters raised in the body of this report.

CONCLUSION

The Planning Proposal is considered to have merit and satisfies the pre-Gateway requirements of DP&E. It is recommended that Council resolve to submit the planning proposal to DP&E for Gateway determination. Further community consultation will be undertaken in accordance with any Gateway determination made by the DP&E and a report provided to Council.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

Manager to execute the Deed of Amendment to the Planning Agreement and Draft Explanatory Note between Karimbla Properties (No.41) Pty Ltd, Meriton Properties Pty Ltd and Warringah Council.

RESOLVED BY EXCEPTION

8.10 DRAFT WARRINGAH DEVELOPMENT CONTRIBUTIONS PLAN 2016

052/16 **RESOLVED**

Cr Harrison / Cr Kerr

That Council endorses the public exhibition of the Draft Warringah Development Contributions Plan 2016 for a period of at least 28 days and the results be reported back to Council.

RESOLVED BY EXCEPTION

8.11 PLANNING PROPOSAL - INCREASED FLOOR AREA OF SECONDARY DWELLINGS IN EXISTING DWELLING HOUSES

053/16 **RESOLVED**

Cr Harrison / Cr Kerr

That Council instruct the NSW Parliamentary Counsel's Office to draft and finalise amendments to Warringah Local Environmental Plan 2011 to give effect to the Planning Proposal to increase the maximum permissible floor area of Secondary Dwellings in existing dwelling houses in R2 and R3 zones to 75 sqm.

RESOLVED BY EXCEPTION

8.12 BP FORESTVILLE PLANNING PROPOSAL - 632-634 WARRINGAH ROAD, FORESTVILLE

054/16 **RESOLVED**

Cr Harrison / Cr Kerr

That Council:

- A. Approve the submission of the BP Forestville Planning Proposal to the Department of Planning and Environment for a Gateway determination.
- B. Publicly exhibit the BP Forestville Planning Proposal in accordance with any Gateway approval granted by the Department of Planning and Environment.

RESOLVED BY EXCEPTION