



PLANNING PROPOSAL

BP Forestville

Prepared by Warringah Council

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Acronyms used in this Report

Council	Warringah Council
CSP	Community Strategic Plan
Department	Department of Planning and Environment
SEPP	State Environmental Planning Policy
WLEP 2011	Warringah Local Environmental Plan 2011

Introduction

On 15 December 2015, Council received a Planning Proposal Application for Lots 8 and 9, DP 25052, known as 632-634 Warringah Road, Forestville (the site). The purpose of the application was to amend *Warringah Local Environmental Plan 2011* (WLEP 2011), Schedule 1 – Additional Permitted Uses to formalise the use of ‘service station’ across the site and permit a ‘neighbourhood shop’ with a floor area not exceeding 240sqm.

The site is located along Warringah Road in Forestville, the major east-west connection between the strategic centres of Dee Why-Brookvale and Chatswood. The site also lies between Chatswood and the future Northern Beaches Hospital, making the corridor of high strategic value. The site currently consists of a vacant lot (Lot 8 DP 25052) and a service station approved in the early 1960s. The land is zoned as R2 – Low Density Residential, with the service station appearing to rely on existing use rights for continued operation.

The Planning Proposal requests an amendment to WLEP 2011 to allow for a ‘service station’ and a 240sqm ‘neighbourhood shop’ on the site, with both uses occurring concurrently. In effect, the Planning Proposal formalises the service station use and allows for a larger store than currently permitted by WLEP 2011 (80sqm). This will allow for redevelopment of the site for a similar purpose and of higher quality than that which would be permitted by were the service station deemed to be an existing use.

Council has assessed the merits of the Planning Proposal Application and undertaken initial community consultation with surrounding land owners and residents. As a result of that work, Council has found that the Planning Proposal Application has merit to proceed to the Department of Planning and Environment for Gateway Determination.

Site Context and Location

Location	632-634 Warringah Road, Forestville
Legal Description	Lots 8 and 9, DP 25052
Site Area	2,850sqm
WLEP 2011 Zone	R2 – Low Density Residential

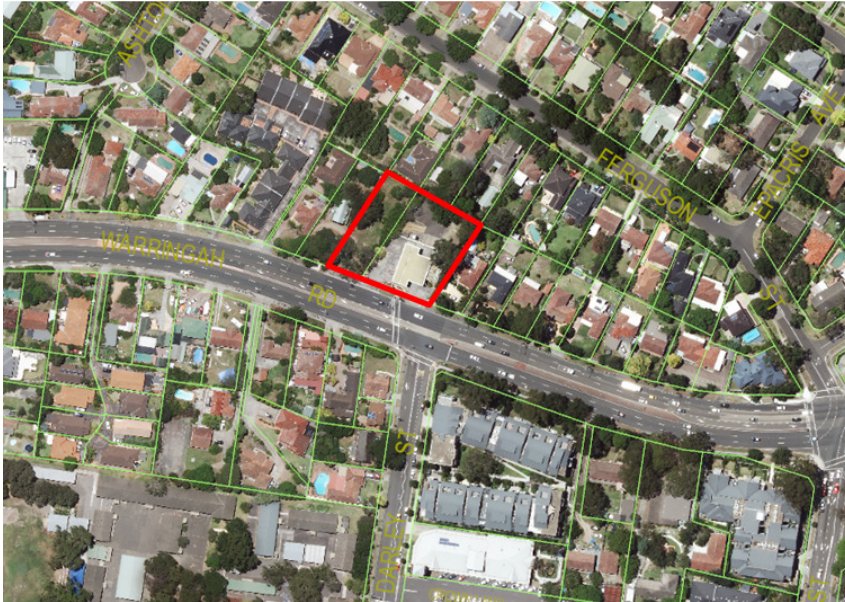


Figure A: Aerial photography identifying the site (site outlined in red)

Current Uses

634 Warringah Road (Lot 8, DP 25052): Vacant Lot

632 Warringah Road (Lot 9, DP 25052): Service station with five pumps, service station shop and storage building (60sqm), disused workshop building (120sqm).

Surrounding Uses

Development immediately surrounding the site consists predominantly of low density residential and townhouse style development. It is noted that limited commercial use, such as service stations, are also found in the R2 zone along Warringah Road. Additional land uses exist along Darley St to the south, including a B2 – Local Centre retail and service cluster (Forestville Shops) and a Primary School (Forestville Public School).

Statutory Context

The site and the majority of the surrounding area is zoned R2 – Low Density Residential. While the site's current use of 'service station' is prohibited in that zone, the use appears to rely on 'existing use rights'. Historical records include a development consent for a 'service station' dated 4 April 1962.

While the current shop associated with the 'service station' is permitted by the 'service station' definition, the Applicant's Proposal notes that a larger convenience store may not fit within the definition. In addition, WLEP 2011 Clause 5.4 states that a neighbourhood shop must not exceed 80sqm.

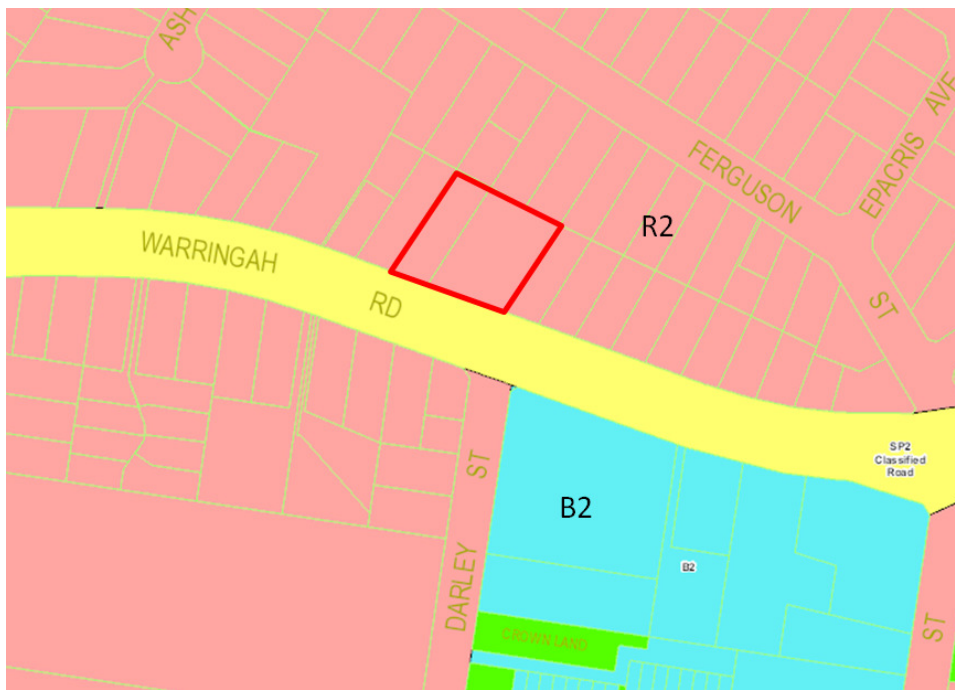


Figure B: Land Zoning Map identifying the site (site outlined in red)

The Applicant's Planning Proposal Application has requested that WLEP 2011 Schedule 1 – Additional Permitted Uses be amended to allow for the uses of 'service station' and 'neighbourhood shop no larger than 240sqm', with the uses required to operate concurrently.

WLEP 2011 contains the following relevant information:

WLEP 2011 Excerpts (Dictionary and Clause 5.4)
"service station" means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following: (a) the ancillary sale by retail of spare parts and accessories for motor vehicles, (b) the cleaning of motor vehicles, (c) installation of accessories, (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration), (e) the ancillary retail selling or hiring of general merchandise or services or both.
"neighbourhood shop" means premises used for the purposes of selling general merchandise 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. Note : See clause 5.4 for controls relating to the retail floor area of neighbourhood shops.
5.4 Controls relating to miscellaneous permissible uses (7) Neighbourhood shops If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 80 square metres.

Table 1: Warringah Local Environmental Plan 2011 excerpts

Strategic Justification

Council has undertaken a review of the Applicant's Planning Proposal Application and has found merit in advancing this Planning Proposal for Gateway Consideration. Support for this finding is outlined below.

The additional permitted use of 'service station' is suitable for the site as it:

- is the current use of Lot 9, DP 25052
- is in keeping of the character of Warringah Road as a major transport corridor
- will enable better environmental outcomes than potential expansion via existing use provisions

The additional permitted use of 'neighbourhood shop no larger than 240sqm' is suitable for the site as it:

- will lead to more multi-purpose trips in the area
- will allow for small purchases by households within a short walking distance
- will be tied to the use of 'service station', ensuring that neither use will dominate the site
- will enable modernisation of the site

Further, Council has found no inconsistency with current State Environmental Planning Policies or Section 117 Directions.

The amendments to WLEP 2011 Schedule 1 – Additional Permitted Uses recognises the validity of the existing 'service station' use on the site and the benefits of an expanded 'neighbourhood shop'. In addition to benefits for the surrounding area, it will also allow for a predictable development pathway without the need to rely on existing use provisions.

The Planning Proposal

This Planning Proposal comprises parts consistent with the *A Guide to Preparing Planning Proposals* (October 2012) and *A Guide to Preparing Local Environmental Plans* (April 2013):

Part 1 - Objectives or Intended Outcomes

Part 2 - Explanation of Provisions

Part 3 - Justification

Part 4 - Community Consultation

Part 1: Objectives or Intended Outcomes

Lot 9 DP 25052, known as 634 Warringah Road, operates as a service station, appearing to rely on existing use rights and is not permitted by Warringah Local Environmental Plan 2011. The Planning Proposal seeks to address this by acknowledging the use as compatible with the local character via the 'additional permitted use' mechanism.

The intended outcomes of the Planning Proposal are as follows:

- Formalising the use of service station on Warringah Road
- Enabling redevelopment of the site to incorporate adjacent land
- Modernisation of the site by way of a larger convenience store (i.e. neighbourhood shop)
- Ensuring that both the convenience store and service station occur concurrently, acknowledging the strategic importance of each use

Part 2: Explanation of Provisions

Subject to future consultation with Parliamentary Counsel's Office for legal drafting of the amendment, Council foreshadows that the Planning Proposal would involve the following amendments to WLEP 2011:

Relevant sections of WLEP2011	Proposed Amendments
Schedule 1 – Additional Permitted Uses	Insert new clause applying to lots 8 and 9, DP 25052, permitting development of a 'service station' and 'neighbourhood shop' with consent, if: - The neighbourhood shop is no larger than 240 square metres, and - Uses of 'service station' and 'neighbourhood shop' occur concurrently
Additional Permitted Uses Map	Identification of lots 8 and 9, DP 25052 for the purposes of the above clause

Table 2: Explanations of Provisions

Part 3: Justification

Section A - Need for the Planning Proposal.

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is the result of an application by the land owner following an initial pre-lodgement meeting in June 2015. It is not the result of a strategic study or report.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is an appropriate means of achieving the objective listed in Part 1.

As the land is zoned R2 – Low Density Residential, neither the use of ‘service station’ or ‘neighbourhood shop’ are permitted. The current usage of service station appears to rely on ‘existing use’ rights on Lot 9 DP 25052. As the applicant’s goal is to expand the service station across both Lot 8 and 9 DP 25052, this may result in issues during the development application process and with future applications.

Further, the scale of the applicant’s proposed convenience store falls outside of the small associated shop included in the service station definition.

Reliance on existing and ancillary use provisions would result in uncertain development potential for the site. Instead, formalisation of the ‘service station’ and ‘neighbourhood shop’ uses will provide more flexibility for future development applications while ensuring that other uses associated with business zones are not permitted.

Is there a net community benefit?

The Planning Proposal will deliver a net community benefit. The key community benefits include:

- Improved access to fuelling area
- Additional multi-purpose car based trips (e.g. fuel and convenience shopping), reducing kilometres driven
- Improved walkable access to convenience shopping for local residents
- Improved certainty for usage on the site with the rescinding of existing use rights for the existing service station
- Modern conditions of consent and regulatory controls for the redeveloped service station, including amenity protections for neighbouring properties

Section B - Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy, including the Sydney Metropolitan Strategy and exhibited draft strategies?

1. A Plan For Growing Sydney (2014)

A Plan for Growing Sydney (Plan) is the latest metropolitan strategy released by the Department of Planning and Environment to set the framework for Sydney’s growth to 2031 and beyond. Due to the small scale of the Planning Proposal, overlaps with the larger vision statements of the Plan are limited.

However, ‘Goal 3: A great place to live with communities that are strong, healthy and well connected’ and ‘Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources’ provide points where the Plan and Planning Proposal are aligned.

A Plan For Growing Sydney Action	Consistency
Direction 3.1 Revitalise existing suburbs	The Planning Proposal is generally in alignment with this goal, as it allows for development that will promote more street-visible (e.g. customers using the service station) and street-level (e.g. customers walking near the service station) activities. It will also enable development of a more modern and higher quality than currently exists on the site.
Direction 3.3 Create healthy built environments	The site will enable development of a convenience store on the northern side of Warringah road. While the majority of customers will be arriving by car, this will provide an option for close by residents to walk for small purchases and postpone driving for larger purchases.
Goal 4: Sydney's sustainable and resilient environment	Regulations and conditions for service stations have improved dramatically since the service station was originally approved in the early 1960s. The redevelopment and level of remediation of the site will enable these improvements to be applied to the site, resulting in better built and natural environment outcomes for the area.

Table 3: A Plan for Growing Sydney Actions Summary

2. Draft North East Subregional Strategy (2007)

The draft *North East Subregional Strategy* is not applicable as it has been made redundant by *A Plan for Growing Sydney*.

Is the Planning Proposal consistent with council's local strategy or other local strategic plan?

The Planning Proposal is consistent with the Community Strategic Plan, specifically regarding the Outcome Area 'Liveable Neighbourhoods'. The relevant Community Objective is noted in Table 4 below.

Objective	Consistency
5.2 We encourage and support a diversity of businesses that provide a range of services and employment opportunities	The Planning Proposal will allow for a preservation of the 'service station' land use on the site. It will also allow for provision of a wider array of services and employment opportunities via expansion of a convenience store.

Table 4: CSP Objective Summary

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP's)?

The Planning Proposal is consistent with relevant SEPPs, summarised below:

SEPP	Consistency
SEPP (Infrastructure 2007)	As the Planning Proposal affects the development potential of land adjacent to a classified road, Council acknowledges the Roads and Maritime Service's (RMS) interest in the matter. It is recommended that consultation with the RMS be required as part of the Gateway determination.
SEPP 55 (Remediation of Land)	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. As such, it is recommended that consultation with the EPA be required as part of the Gateway determination. Further, Council notes its responsibilities under clause 6 of SEPP 55 to be undertaken as

	part of the preparation of an environmental planning instrument.
SEPP 33 (Hazardous and Offensive Development)	The use of 'service station' is acknowledged to be a potentially hazardous industry due to the risks to the biophysical environment. However, SEPP 33 and <i>Hazardous and Offensive Development Guidelines: Applying SEPP 33</i> (2011) require consent authorities to consider matters during the development application phase.

Table 5: SEPP Summary

Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The following Ministerial Directions are applicable to the proposal:

- 1.1 Business and Industrial Zones
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Strategy

Ministerial Direction	Objectives	Comment
1.1 Business and Industrial Zones	a) encourage employment growth in suitable locations b) protect employment land in business and industrial zones, and c) support the viability of identified strategic centres	An economic impact assessment has been undertaken by the applicant. It has found that development associated with the Planning Proposal will have negligible impact on the business zoned land at the Forestville shops. As such, it is consistent with the direction.
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas	As noted above, the EPA has identified the site as being significantly contaminated. In addition, the future/continued use of the site is proposed to be a 'service station', a potentially hazardous industry. The applicant has provided a study detailing remediation activities. These activities are argued to be more effective with a comprehensive redevelopment of the site. In addition, modernisation of the site is expected to have more favourable environmental outcomes due to improvements in infrastructure, compared to the infrastructure on the site currently.
2.3 Heritage Conservation	Conserve items, areas objects an places of environmental heritage significance and indigenous heritage significance	The site is not identified as having heritage significance.
3.1 Residential Zones	(a) to encourage a variety and choice of housing types to provide for	While the Planning Proposal seeks to add business uses to the site via the

Ministerial Direction	Objectives	Comment
	existing and future housing needs (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services (c) to minimise the impact of residential development on the environment and resource lands	Additional Permitted Use process, it does not preclude future development permitted by the R2 – Low Density Residential zoning. In addition, given that the site encompasses two Low Density Residential lots, neither used for residential purposes, the outcome should be considered of minor significance and not inconsistent with the direction.
3.4 Integrating Land Use and Transport	(a) improving access to housing, jobs and services by walking, cycling and public transport (b) increasing the choice of available transport and reducing dependence on cars (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car (d) supporting the efficient and viable operation of public transport services (e) providing for the efficient movement of freight.	Due to the enhanced multi-purpose nature of development that would be enabled by the development, the Planning Proposal may lead to reduced trips for small scale purchases. While it is expected that this effect would be minimal, increasing the opportunities for multi-purpose trips is an important part of reducing vehicle trips in the local area.
4.1 Acid Sulfate Soils	avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The land is not in the vicinity of land identified as of acid sulfate soils risk in WLEP 2011.
4.3 Flood Prone Land	(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The subject land is not flood prone land.
4.4 Planning for Bushfire Protection	(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas (b) to encourage sound management of bush fire prone areas.	The subject land is not bush fire prone land.
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal does not include any provisions involving public authorities beyond those associated with the nature of the 'service station' use proposed for the site.
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls.	The purpose of the Planning Proposal is to expand planning controls on the site to include the current use on lot 9 DP 25052 (service station) and to allow for a

Ministerial Direction	Objectives	Comment
		'neighbourhood shop' beyond the floor area requirements included in WLEP 2011. For these reasons, the Planning Proposal is expanding development standards beyond WLEP 2011 and not inconsistent with the direction.
7.1 Implementation of the Metropolitan Strategy	Give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	As outlined above, the Planning Proposal is consistent with the intent of <i>A Plan for Growing Sydney</i> .

Table 6: S117 Summary

Section C - Environmental, Social and Economic Impact.

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 site is not known to include critical habitat or threatened species, populations or ecological communities, or their habitats. Given the urbanised nature of the area, it is unlikely that any of these restrictions apply to the site.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

As noted above, the site is identified as significantly contaminated land by the EPA. The need for remediation has been acknowledged by the applicant and outlined in a submitted remedial action plan. The applicant has stated that an outcome of the Planning Proposal will be a more robust remediation than a smaller redevelopment based on alleged existing use rights.

Further, the 'service station' use is highly regulated as a potential hazardous industry. Any future development application will be subject to the relevant environmental protections associated with that use.

Has the Planning Proposal adequately addressed any social and economic effects?

Due to the scale of the Planning Proposal, and the limited expansion of the existing use on the site, there are unlikely to be sizeable social or economic effects. However, the applicant has noted that an expanded development will provide neighbours with favourable outcomes, compared to the current site. This includes the opportunity for Council to ensure that negative effects, such as those associated with noise and lighting, are appropriately mitigated.

Section D - State and Commonwealth Interests.

Is there adequate public infrastructure for the Planning Proposal?

Due to the scale of the Planning Proposal, the need for the provision of public infrastructure is minor and largely associated with safe access to and from Warringah Road. This, among any other issues would be suitable for consideration at the Development Application phase.

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

The views of State and Commonwealth agencies will be known after the gateway determination.

Part 4: Community Consultation

Council will exhibit the Planning Proposal in accordance with the requirements of section 57 of the *Environmental Planning and Assessment Act (1979)*.

Council also proposes to undertake community consultation in accordance with Council's adopted Community Engagement Policy, in the following manner:

- Advertise the Planning Proposal in a local newspaper and on Council's website at the start of the exhibition period
- Exhibit the Planning Proposal for the period of time stipulated by the Gateway Determination.