northern beaches council

PLANNING PROPOSAL

Amendments to Pittwater Local Environmental Plan 2014

2 & 4 NOOAL STREET & 66 BARDO ROAD, NEWPORT

February 2021 (v.4 Incorporating Revised Gateway Determination)

TRIM PP0003/17 & 2021/079656

Contents

Part 1 – Intended Outcomes

The intended outcome of the Planning Proposal is to allow for the development of seniors housing on 2 and 4 Nooal Street and 66 Bardo Road, Newport (being Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092).

Part 2 – Explanation of Provisions

The Planning Proposal seeks to amend PLEP 2014 as follows:

- Add a new clause to Schedule 1 Additional Permitted Uses to allow for seniors housing on the land known as 2 and 4 Nooal Street and 66 (being Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092); and
- Amend the Additional Permitted Use mapping (APU_017) to map the extent of the additional permitted use area.

The proposed new clause will be as follows:

25. Use of certain land at 2 & 4 Nooal Street & 66 Bardo Road, Newport

(1) This clause applies to land at 2 & 4 Nooal Street & 66 Bardo Road, Newport being Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092 and mapped as Area 25.

(2) Development for purposes of 'seniors housing' is permitted with development consent as an additional permitted use as long as the floor space ratio does not exceed 0.5:1.

The Planning Proposal is provided in response to the decision of the Sydney North Planning Panel (SNPP) following a Rezoning Review request made after Council's refusal of the original application.

May 2018, the SNPP recommended that the Planning Proposal proceed to Gateway and sought to change the zoning of the site from E4 to R2 and expand the area of the Planning Proposal to include approximately 13 additional properties to the north of the site (up to Irrubel Road). The additional properties incorporated into the SNPP decision were not included within the original Planning Proposal and not subject to any detailed site analysis or investigation.

On 22 June 2018 Council received a letter from the Department of Planning and Environment (the Department) (reference MDPE18/1430) which states in paragraph six that:

> '*The planning proposal does not include the additional land referred to by the Panel and this will mean that the relevant planning and environmental studies are not available for assessment and a subsequent Gateway determination by the Delegate of the Greater Sydney Commission.'*

The Department confirmed that the proposal need only be revised to refer to and include the subject site (being 2 and 4 Nooal Street and 66 Bardo Road Newport) and that Council could review the zoning of the remaining land referred by the SNPP at a later time.

The Department issued a Gateway determination on 14 October 2019, reflecting the recommendation of the SNPP to rezone the land from E4 to R2

Site Description

The land that is subject to this Planning Proposal is described as follows:

- 2 Nooal Street, Newport, being Lot 1 DP 540092;
- 4 Nooal Street, Newport, being Lot 1 DP 315279; and
- 66 Bardo Road, Newport being Lot 2 DP 540092.

The land has a combined area of approximately 2,927m^2 and is located on the north western corner of Bardo Road and Nooal Street. Directly adjoining the land to the west is Crystal Bay, forming part of the Pittwater waterway. Crown land is located between the waterway and the land itself, creating an unofficial foreshore reserve accessed via Bardo Road. The section of Bardo Road that adjoins the land to the south is informal, having a single width carriageway.

Existing improvements on the land include three (3) dwelling houses, with associated swimming pools and gardens. A number of large trees are located within the Bardo Road and Nooal Street road reserves that directly adjoin the site. Mature vegetation is also located on the site itself.

Directly adjoining the site to the south is an existing Sydney Water Pumping station located at 68 Bardo Road. Surrounding development is generally characterised by one and two storey detached dwelling houses sited within a landscape setting. Princes Street Marina is located to the south west of the land.

Newport Village Centre is located approximately 800m from the site (at the end of Bardo Road). A secondary neighbourhood shopping centre is located in Kalinya Street which is approximately 360m from the site as a direct line, however this distance increases to approximately 700m when using the road network.

Photos of the site and its immediate locality are provided at Attachment 1.

Figure 1: Aerial image of subject site and immediate locality (site shown red crossed hatched)

Current Zoning

The land is currently zoned E4 Environmental Living pursuant to PLEP 2014.

The PLEP 2014 Land Use Table for the E4 Environmental Living Zone is as follows:

Zone E4 Environmental Living

1 Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Water recreation structures

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

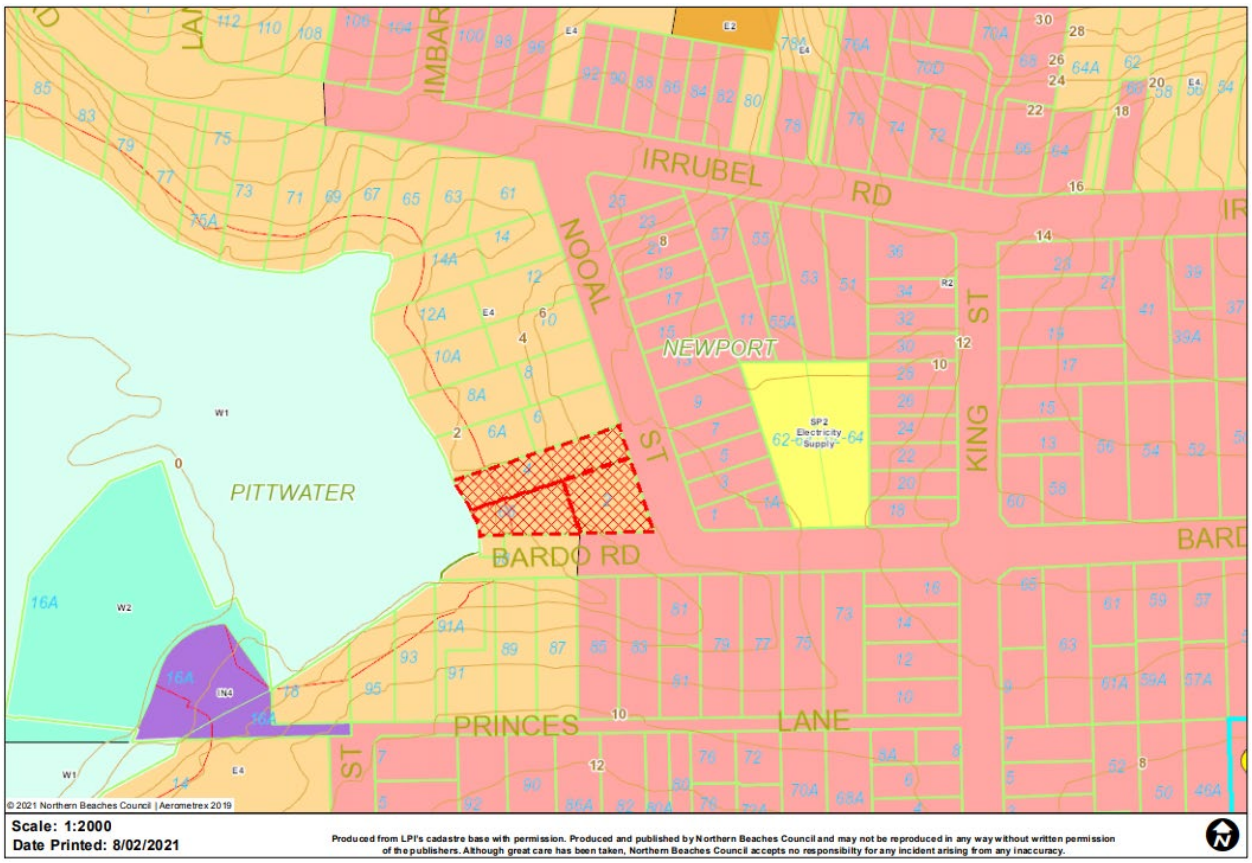


Figure 2: Existing land zoning (site shown red crossed hatched)

Part 3 – Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

No. The Planning Proposal is not the result of an endorsed local strategic planning statement, any strategic study or report. The Planning Proposal is the result of a proponent-led request and Rezoning Review decision of the SNPP.

The Rezoning Review was made in response to Council's refusal of the applicant's original Planning Proposal which sought to enable seniors housing on the site through an amendment to Schedule 1 Additional Permitted Uses of the PLEP 2014. The SNPP determined that the proposal should proceed and recommended the Planning Proposal be revised to remove the additional permitted use approach in preference for amending the zoning of the site from E4 Environmental Living to R2 Low Density Residential.

The Department issued a Gateway determination in line with the SNPP recommendation Council initiated a Gateway Determination Review and the Independent Planning Commission (IPC) recommended the Planning Proposal has merit and the reinstatement of the Schedule 1 Additional Permitted Use approach.

2. 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 to achieve the intended outcome of the Planning Proposal

Adopting this approach enables the assessment of the proposal against the PLEP 2014 and Pittwater 21 Development Control Plan rather than State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (SEPP HSPD 2004).

Section B – Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies?

Yes, the Planning Proposal gives effect to the following regional plans, district plans and strategy.

<u>Greater Sydney Region Plan</u>

The Planning Proposal has been reviewed against relevant outcomes of the Greater Sydney Region Plan "*A Metropolis of Three Cites*" (Regional Plan). The Regional Plan identifies a number of strategic directions and specific policy settings transforming the Greater Sydney Region into a metropolis of three cities comprising the Western Parkland City, the Central River City and the Eastern Harbour City.

The Planning Proposal is informed by the Plan's vision for the Eastern Harbour City. The Planning Proposal is broadly consistent with the directions of the plan including

- *Objective 11 - Housing is more diverse and affordable*
- *Objective 27 - Biodiversity is protected, urban bushland and remnant vegetation is enhanced*

- *Objective 28 - Scenic and cultural landscapes are protected*
- *Objective 30 - Urban tree canopy cover is increased*
- *Objective 36 - People and places adapt to climate change and future shocks and stresses*
- *Objective 37 - Exposure to natural and urban hazards is reduced*

These objectives are discussed more broadly below under the heading *North District Plan*, with further discussion relating to housing diversity; scenic and cultural landscapes; biodiversity and tree canopy; and natural hazards and climate change.

North District Plan

The North District Plan is the relevant and applicable district plan. The Planning Proposal gives effect to the following objectives of this plan.

Planning Priority N5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport

The Planning Proposal has the intended effect of increasing housing supply and choice in the form of housing for seniors or people with a disability. The Department of Planning and Environment has determined the Planning Proposal is consistent with this priority.

Planning Priority N17 - Protecting and enhancing scenic and cultural landscapes

The subject properties are regarded as scenic due to their environmental character and waterfront location. Future development of the site will be required to respond appropriately to the setting with regard to the character of existing development in the locality, relevant zone objectives and other planning controls. The Department of Planning and Environment has determined the Planning Proposal is consistent with this priority.

Planning Priority N19 – Increasing urban tree canopy cover and delivering Green Grid connections

The Planning Proposal itself will not alter the tree canopy, however the future built form outcome will have the potential to impact upon existing and future trees on the site and within the adjoining boundary areas such as Council's roads reserves.

An appropriate architectural design could be achieved which retains existing trees on the site and adjoining properties and increases the overall tree canopy through additional planting. This matter could be addressed as part of a future development application which would be subject to a detailed Arboricultural Assessment.

The Department of Planning and Environment has determined the Planning Proposal is consistent with this priority.

Planning Priority N22 – Adapting to the impacts of urban natural hazards and climate change

The subject site is impacted by natural hazards, including flooding and coastal inundation, the impact of which is anticipated to increase from climate change. Updated estuarine risk and overland flooding information and data was received in December 2020 which indicates the site can satisfy the relevant planning controls for seniors housing development and meet the objectives of this priority.

The Department of Planning and Environment has determined the Planning Proposal is consistent with this priority as any future development would be able to be designed to avoid these impacts.

a) Does the proposal have strategic merit?

Yes. The Department has deemed that the Planning Proposal gives effect to the relevant directions and objectives of the Greater Sydney Region Plan, specifically objectives 11,27,28,30, 36, 37 and Planning Priority N5, N17, N19, N22, of the Sydney North District Plan.

Council's Local Strategic Planning Statement, *Towards 2040 – Local Strategic Planning Statement*, was adopted in March 2020. The Department of Planning and Environment has determined that the Planning Proposal will give effect to this strategy, specifically Planning Priority 8, Planning Priority 1, Planning Priority 3, Planning Priority 15, Planning Priority 16.

The applicant's original Planning Proposal was made in response to a change in circumstances being the change in land zoning from 2(a) (Residential "A") pursuant to Pittwater Local Environmental Plan 1993 (PLEP 1993) to E4 Environmental Living following the gazettal of PLEP in June 2014. An extract of the applicant's original Planning Proposal is provided below:

(i) *We confirm that No's 2 and 4 Nooal Street, Newport were purchased by their current owner prior to the gazettal of Pittwater Local Environmental Plan 2014 (PLEP 2014) with the intention of developing the land for the purpose of seniors housing. At the time of purchase these properties were zone 2(a) (Residential "A") pursuant to Pittwater Local Environmental Plan 1993 (PLEP 1993) with seniors housing permissible in the zone pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).*

(ii) *..*

(iii) *…*

(iv) *…*

(v) *Following a lengthy community consultation process PLEP 2014 was gazetted in May 2014 with the instrument commencing on 27th June 2014. This had the effect of prohibiting seniors housing on the land which until this time was permissible with consent pursuant to SEPP HSPD. This was confirmed in writing by the Department of Planning and Environment in its correspondence of 9th August 2016 a copy of which is at Attachment 2.*

The *Pittwater Local Planning Strategy (2011)* which informed the existing planning controls acknowledged that the population of the local area is ageing with a need for seniors housing and 'ageing in place' to be accommodated. However this type of housing is generally best suited in close proximity to town or village centre locations to improve access to services and transport. As such the use was not applied as a permissible development within the PLEP 2014 for zones typically located outside of centre locations.

b) Does the proposal have site-specific merit, having regard to the following:

Yes. The Department deems the Planning Proposal has site specific merit.

The subject site is identified as being impacted by coastal inundation under the *Pittwater Estuary Mapping of Sea Level Rise Impacts* (Cardno May 2015). In December 2020, the *Updated Estuarine Risk Management Advice, and Overland Flow Flooding Advice, on Planning Proposal Application PP0003/17 to Permit Seniors Housing at 2-4 Nooal Street and 66 Bardo Road Newport* report by Horton Coastal Engineering was received which supplements the original report dated 2017 submitted with the Planning Proposal application. The report concludes that development on the site for seniors housing can be safely designed to avoid the impacts of this hazard and comply with the provisions of the State Environmental Planning Policy (Coastal Management) 2018. In this regards the proposal is considered to have site specific merit.

The subject site is also identified as flood affected during the Probable Maximum Flood in a 1%AEP event as outlined in the *Newport Flood Study* (Catchment Simulation Solutions 2019). In December 2020, the *Updated Estuarine Risk Management Advice, and Overland Flow Flooding Advice, on Planning Proposal Application PP0003/17 to Permit Seniors Housing at 2-4 Nooal Street and 66 Bardo Road Newport* report by Horton Coastal Engineering was received and has determined that the proposal can be safely designed to accommodate relevant flood standards and minimise any potential flooding impacts. Given this, the proposal is considered to have site specific merit.

The subject properties are regarded as scenic due to their environmental character and waterfront location and the E4 Environmental Living zoning was applied to the site to protect these qualities. Any redevelopment of the site will be required to respond appropriately to the = character of the locality, relevant zone objectives and planning controls including the Pittwater Local Environmental Plan 2014 and the Pittwater 21 Development Control Plan. Future development proposal will need to comply with the relevant controls and can be designed to correspond to the environmental values of the site. In this regards the proposal is considered to have site specific merit.

The subject site contains three existing residential dwellings which are serviced by necessary utilities and roads.

The Planning Proposal seeks to permit seniors housing on the site. The site is located 400 metres from a bus stop and there will be requirements as part of a future development application to upgrade pedestrian footpaths and facilities to ensure compliance with accessibility standards.

The concept proposal provided by the proponent indicates substantial changes to the Bardo Road reserve in the vicinity of the intersection with Nooal Street. Currently this section of Bardo Road is not fully formed and only services a small number of properties. The concept proposal seeks to utilise Bardo Road as the primary road access to the future seniors' housing development, therefore significant upgrades will be required to accommodate additional traffic generation and impacts associated with the development. Engineering designs and plans detailing the required upgrades will be provided at the future design stage addressing potential impacts upon existing trees in the locality and flooding impacts.

From a traffic generation perspective, it is reasonable to assume the Planning Proposal will have minimum impact on the existing road network.

4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The Planning Proposal gives effect to the following planning priorities of the Northern Beaches Towards 2040 Local Strategic Planning Statement (LSPS):

Direction & Planning Priority	Assessment
Landscape Priority 3 – Protected scenic and cultural landscapes	This priority includes enhancing and retaining views of scenic and cultural landscapes and making development visually subservient to these landscapes. The Department of Planning and Environment has determined that the Planning Proposal is able to meet this priority and its objectives as the future proposal will be assessed against the controls and provisions of the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan. Any future development can be designed so as to minimise its impact upon the scenic landscape and can be assessed at the development application stage.
Resilience Priority 8 – Adapted to the impacts of natural and urban hazards and climate change	This priority seeks to support resilience and developments that are designed to withstand the impacts of hazards and climate change and its associated changes, such as rising sea levels. The principles include minimising the risk from hazards, reducing risk to life and property and avoiding intensification and inappropriate development on land exposed to hazards. It is noted that the site is subject to coastal inundation as identified in the Pittwater Estuary Mapping of Sea Level Rise Impacts (Cardno May 2015). However an updated estuarine risk assessment provided by the applicants in December 2020 has identified the site is capable of future development without adverse impacts from hazards. Given this the Department of Planning and Environment has determined that the Planning Proposal is consistent with this priority.
Housing Priority 15 – housing supply, choice and affordability in the right locations	This priority sets out a range of principles to guide the future development and provision of housing to meet identified dwelling targets. The priority seeks to provide a mix of housing types and tenures to meet changing demographics, locating new housing in strategic and local centres near high frequency public transport, providing greater housing diversity and limiting development in areas where there is unacceptable risks. The Department of Planning and Environment has determined that the Planning Proposal is consistent with this priority as it provides additional housing supply and diversity.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Table 1. Compliance with State Environmental Planning Policies (SEPPs)

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent
SEPP No. 19- Bushland in Urban Areas	N/A	N/A
SEPP No. 21 - Caravan Parks	N/A	N/A
SEPP No. 33 - Hazardous and Offensive Development	N/A	N/A
SEPP No. 36 - Manufactured Home Estates	N/A	N/A
SEPP No. 44 - (Koala Habitat Protection) 2019	N/A	N/A
SEPP No. 47 - Moore Park Showground	N/A	N/A
SEPP No. 50 - Canal Estate Development	N/A	N/A
SEPP No. 55 - Remediation of Land	Yes	Yes
SEPP No.64 - Advertising and Signage	N/A	N/A
SEPP No.65 - Design Quality of Residential Apartment Development	N/A	N/A
SEPP No.70 - Affordable Housing (Revised Schemes)	N/A	N/A
SEPP (Aboriginal Land) 2019	N/A	N/A
SEPP (Activation Precincts) 2020	N/A	N/A
SEPP (Affordable Rental Housing) 2009	Yes	Yes
SEPP (Building Sustainability Index: BASIX) 2004	Yes	Yes
SEPP (Coastal Management) 2018	Yes	Yes
SEPP (Concurrences and Consents) 2018	Yes	Yes
SEPP (Education Establishments and Child Care Facilities) 2017	N/A	N/A
SEPP (Exempt and Complying Development Codes) 2008	Yes	Yes
SEPP (Gosford City Centre) 2018	N/A	N/A
SEPP (Housing for Seniors or People with a Disability) 2004	N/A	N/A
SEPP (Infrastructure) 2007	Yes	Yes
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	N/A	N/A
SEPP (Kurnell Peninsula) 1989	N/A	N/A
SEPP (Major Infrastructure Corridors) 2020	N/A	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	N/A
SEPP (Miscellaneous Consent Provisions) 2007	N/A	N/A
SEPP (Penrith Lakes Scheme) 1989	N/A	N/A
SEPP (Primary Production and Rural Development) 2019	N/A	N/A
SEPP (State and Regional Development) 2011	N/A	N/A
SEPP (State Significant Precincts) 2005	N/A	N/A
SEPP (Sydney Drinking Water Catchment) 2011	N/A	N/A
SEPP (Sydney Region Growth Centres) 2006	N/A	N/A
SEPP (Three Ports) 2013	N/A	N/A
SEPP (Urban Renewal) 2010	N/A	N/A
SEPP (Vegetation in Non-Rural Areas) 2017	Yes	Yes
SEPP (Western Sydney Employment Area) 2009	N/A	N/A
SEPP (Western Sydney Parklands) 2009	N/A	N/A
SEPP (Western Sydney Aerotropolis) 2020	N/A	N/A

** Refer further discussion below.*

In relation to applicable SEPPs listed at Table 1 above, the following comments are provided regarding how the Planning Proposal is either consistent or inconsistent with the SEPPs as follows:

SEPP No. 55 - Remediation of Land

The site's history indicates that it has been used predominantly for residential purposes for the last 50+ years. Based on investigations the possibility of contamination is considered low. This matter can be further addressed as part of a future development application

SEPP (Coastal Management) 2018

The Planning Proposal is consistent with the aims and intent of the SEPP. The site is subject to coastal inundation, which is defined as a 'coastal hazard' under the *Coastal Management Act 2016*. In December 2020, the *Updated Estuarine Risk Management Advice, and Overland Flow Flooding Advice, on Planning Proposal Application PP0003/17 to Permit Seniors Housing at 2-4 Nooal Street and 66 Bardo Road Newport* report by Horton Coastal Engineering was received and confirmed the subject site complies with the provisions of the SEPP.

In regards to the objectives of the SEPP, PLEP2014 and the Pittwater 21 Development Control Plan will continue to apply to the site and address issues of visual amenity, bulk and scale. Therefore any future development proposal will be required to respond to these controls in addition to the SEPP and compliance can be determined at the development assessment stage.

Any future development of the site can be appropriately designed to minimise bulk and scale to ensure the visual amenity of the coast is protected.

SEPP (Housing for Seniors or People with a Disability) 2004

In accordance with Schedule 1 (Environmentally sensitive land) of the SEPP, 'E' zones are regarded as land described as 'environmental protection' and therefore are excluded from the SEPP. Given this, the Planning Proposal will rely on a Schedule 1 Additional Permitted Use under the Pittwater LEP 2014 for its permissibility. Therefore this policy is not be applicable to this Planning Proposal.

6. Is the planning proposal consistent with applicable Ministerial Directions?

Yes, the Planning Proposal is consistent with applicable Ministerial Directions as summarised in Table 2.

Direction 2.1 Environment Protection Zones

The objective of this Direction is *to protect and conserve environmentally sensitive areas*.

Part 2.1(5) of this Direction states that:

> *A planning proposal that applies to land within an environmental protection zone or otherwise identified for environmental protection purposes in an LEP must not reduce the environmental standards that apply to the land (including modifying development standards that apply to the land).*

The land is zoned E4 Environmental Living under the PLEP2014, and is therefore deemed an environmental protection zone. In the Gateway determination report prepared for the Planning

Proposal, the Department of Planning and Environment concluded that the proposal will not reduce the environmental protection standards applying to the land, given the E4 zoning of the site will be retained. During the future development of the site, any potential environmental impacts can be assessed and addressed at the development application stage. Given this the proposal is considered to be consistent with this direction.

2.2 Coastal Management

The objective of this Direction is to protect and manage coastal areas of NSW. The Direction applies to land within the coastal zone as identified under the *Coastal Management Act 2016*¸ including land identified as 'coastal use'. The subject properties are identified as such.

2.2(5) of the Direction states (in part) that:

> *A planning proposal must not rezone land which would enable increased development or more intensive land-use on land;*
>
> *(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:*
>
> *(i) By or on behalf of the relevant public authority and provided to the relevant planning proposal authority, or*
> *(ii) By or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority*

The subject site is identified as being affected by coastal inundation under the *Pittwater Estuary Mapping of Sea Level Rise Impacts* (Cardno May 2015). In December 2020, the *Updated Estuarine Risk Management Advice, and Overland Flow Flooding Advice, on Planning Proposal Application PP0003/17 to Permit Seniors Housing at 2-4 Nooal Street and 66 Bardo Road Newport* report by Horton Coastal Engineering was received which considered this hazard. The report determined that the future development of the site can be designed to withstand the hazard. Under part (8)(a) of this direction a proposal may be inconsistent with this direction if it is justified by a study or strategy prepared for the proposal. The report prepared by Horton Coastal Engineering satisfies the provision and therefore the proposal is considered to be consistent with the direction.

3.1 Residential Zones

The objectives of this Direction are to:

(a) encourage a variety of choice of housing types to provide for 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, and
(c) to minimise the impact of residential development on the environment and resource lands

The proposal will provide a range of housing types for the existing and future housing needs of the locality. The Department of Planning and Environment in its Gateway determination has considered the proposal to be compliant with this direction.

3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

(a) improving access to housing, jobs and services by walking, cycling and public transport, and
(b) increasing the choice of available transport and reducing dependence on cars, and
(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
(d) supporting the efficient and viable operation of public transport services, and
(e) providing for the efficient movement of freight.

The Planning Proposal has been considered by the Department of Planning and Environment in its Gateway determination to be consistent with this direction as the subject site is just within 400m walking distance of a local bus service on Gladstone Street and will contribute to a reduced dependency on cars.

4.3 Flood Prone Land

The objectives of this Direction are:

(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, and
(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.

5.5 (6) of the Direction states that:

A planning proposal must not contain provisions that apply to the flood planning areas which;

(a) permit development in floodway areas,
(b) permit development that will result in significant flood impacts to other properties,
(c permit a significant increase in the development of that land,
(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services

The subject site is identified as being impacted by flooding in the *Newport Flood Study* (Catchment Simulation Solutions 2019). In December 2020, the *Updated Estuarine Risk Management Advice, and Overland Flow Flooding Advice, on Planning Proposal Application PP0003/17 to Permit Seniors Housing at 2-4 Nooal Street and 66 Bardo Road Newport* report by Horton Coastal Engineering was received which considered the proposal against the flood study. The report determined that the proposal is capable of being designed to satisfy the required flood standards and minimise potential flooding impacts. Based on the information provided, the proposal is considered consistent with the objective.

Table 2: Ministerial Directions – Summary of Applicable Directions

Ministerial Direction	**Comment**
1 Employment and Resources	
1.1 Business and Industrial Zones	Not applicable
1.2 Rural Zones	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable

1.4 Oyster Aquaculture	Not applicable
1.5 Rural Lands	Not applicable
2 Environment and Heritage	
2.1 Environment Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	Applicable and consistent
2.2 Coastal Management The objective of this direction is to implement the principles in the NSW Coastal Policy	Applicable and consistent
2.3 Heritage Conservation	Not applicable
2.4 Recreation Vehicle Areas	Not applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's	Not applicable
2.6 Remediation of contaminated land	Applicable and consistent
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones The objectives of this direction are to: (c) encourage a variety of choice of housing types to provide for existing and future housing needs, (d) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands.	Applicable and consistent
3.2 Caravan Parks and Manufactured Home Estates	Not applicable
3.3 Home Occupations	Not applicable
3.4 Integrating Land Use and Transport	Applicable and consistent
3.5 Development Near Licensed Aerodromes	Not applicable
3.6 Shooting Ranges	Not applicable
3.7 Reduction in non-hosted short term rental accommodation	Not applicable
4. Hazard and Risk	
4.1 Acid Sulfate Soils The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The site is identified as being Class 5 on the Acid Sulfate mapping of the Pittwater Local Environmental Plan. It is considered that this issue could be adequately addressed at the development application stage if this Planning Proposal was to proceed. Consistent
4.2 Mine Subsidence and Unstable Land	Not applicable
4.3 Flood Prone Land	Applicable and consistent

4.4 Planning for Bushfire Protection	Not applicable
5 Regional Planning	
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking Water Catchments	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not applicable
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008 See amended Direction 5.1)	Not applicable
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable
5.10 Implementation of Regional Plans	Not applicable
5.11 Development of Aboriginal Land Council land	Not applicable
6. Local Plan Making	
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the terms of this direction as follows: a) provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority are minimised (b) no provisions are contained in the Planning Proposal requiring concurrence, consultation or referral of a Minister or public authority. (c) no development is identified as designated development.
6.2 Reserving Land for Public Purposes The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal contains no unnecessarily restrictive site-specific planning controls.
7 Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	
The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres	No longer applicable. An address of the relevant Regional Plan and District Plan is provided in Section 3.

and transport gateways contained in A Plan for Growing Sydney.	
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Not applicable
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable
7.12 Implementation of Greater Macarthur 2040	Not applicable
7.13 Implementation of the Pyrmont Peninsula Place Strategy	Not applicable

Section C – Environmental, social and economic impact

7. 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?

No. The Planning Proposal is unlikely to impact upon any known critical habitats, species or population.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Yes. The subject site is affected by the following:

Hazards

The subject site is impacted by a number of hazards including coastal inundation and overland flooding. An updated estuarine risk report and an overland flooding report was provided by the applicant in December 2020 and confirms future development of the site can designed to minimise potential impacts and achieve required standards.

Visual Impact and Trees

The subject site is located in a visually prominent location on the edge of Pittwater waterway with established vegetation and trees. Future development of the site should seek to maintain the visual amenity of the locality and retain significant trees on site. This can be achieved through appropriate design during the development application stage.

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

Yes. The proposal will provide diversified housing supply for the localities ageing population, providing additional opportunities for the community to age in place. The proposal is not considered to have adverse social or economic effects.

No Aboriginal or European heritage sites are recorded in the vicinity of the site and the area has been subject to previous disturbance, reducing the likelihood of surviving, unrecorded Aboriginal sites.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes. The site is located within an established residential area with access to existing public infrastructure and services. Public infrastructure requirements will be addressed at development application stage.

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

In accordance with the Revised Gateway determination, Sydney Water and NSW Crown Lands will be notified of the proposal and given an opportunity to consider and comment on the Planning Proposal prior to public exhibition. In addition Council will consult a number of other public authorities and state agencies.

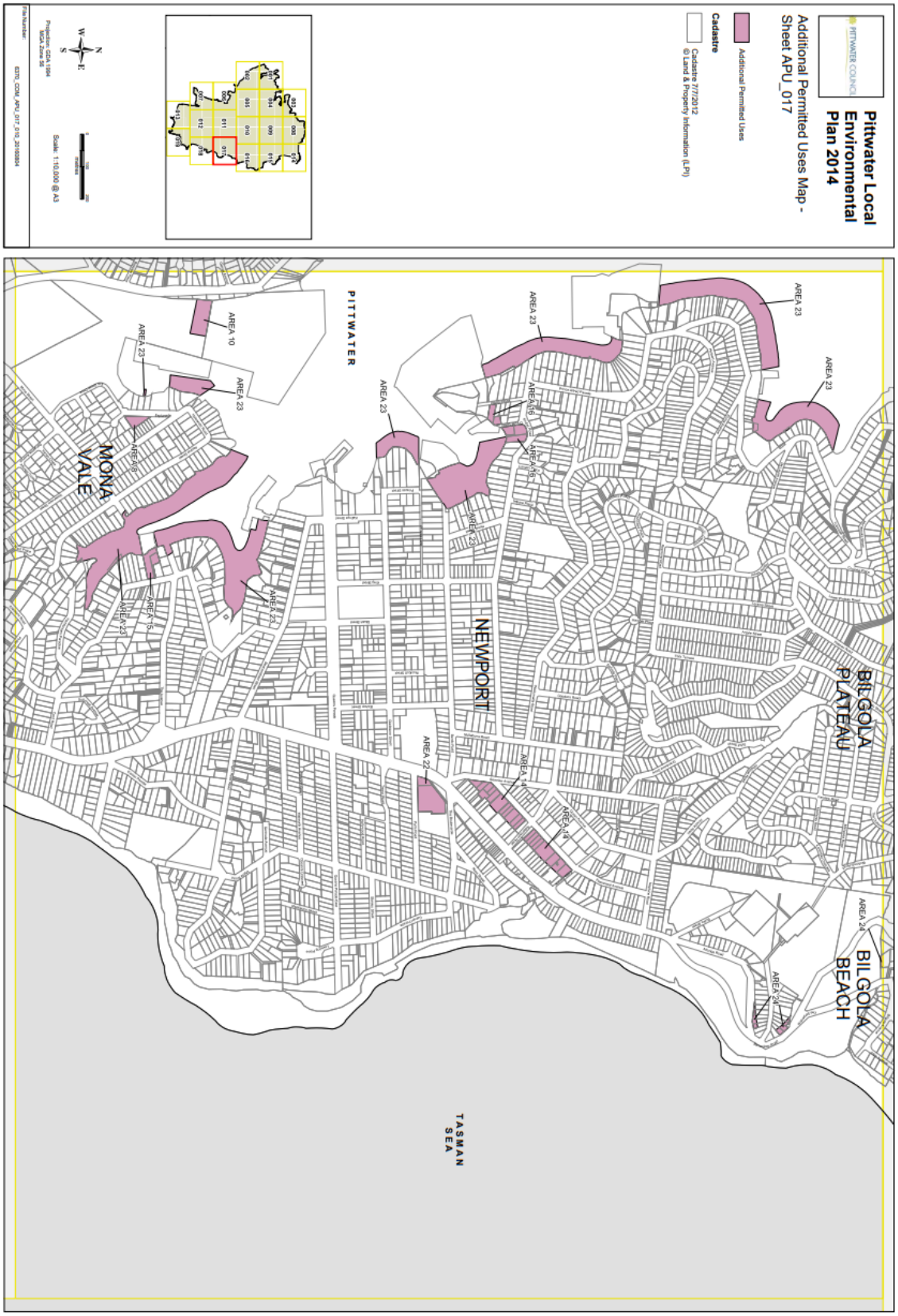
Authority	Issues	Comment
Sydney Water	Pumping Station	Given the subject site adjoins a Sydney Water pumping station, they should be consulted in regards to potential impacts on their asset and potential broader impacts on water supply infrastructure.
Roads and Maritime Services NSW	Traffic Impacts	RMS to be consulted in regard to potential impacts on state roads
Transport for NSW	Public transport	TfNSW should be consulted regarding any proposed changes to public transport in the locality.
NSW Crown Land	Adjoining reclaimed land	The properties adjoin reclaimed Crown Land and a number of jetties and berthing areas in Crystal Bay.
Department of Primary Industries – Fisheries	Impacts on waterway	The property adjoins Crystal Bay and Pittwater waterway and potential impacts upon any local water species needs to be considered.

State Emergency Services (SES)	Emergencies and evacuation	Consultation in regards to flooding and sea level rise impacts and the evacuation of vulnerable persons.
Ausgrid	Electrical Substation	The Proposal is within proximity of the Newport substation. Ausgrid should be consulted in terms of potential impacts upon their substation

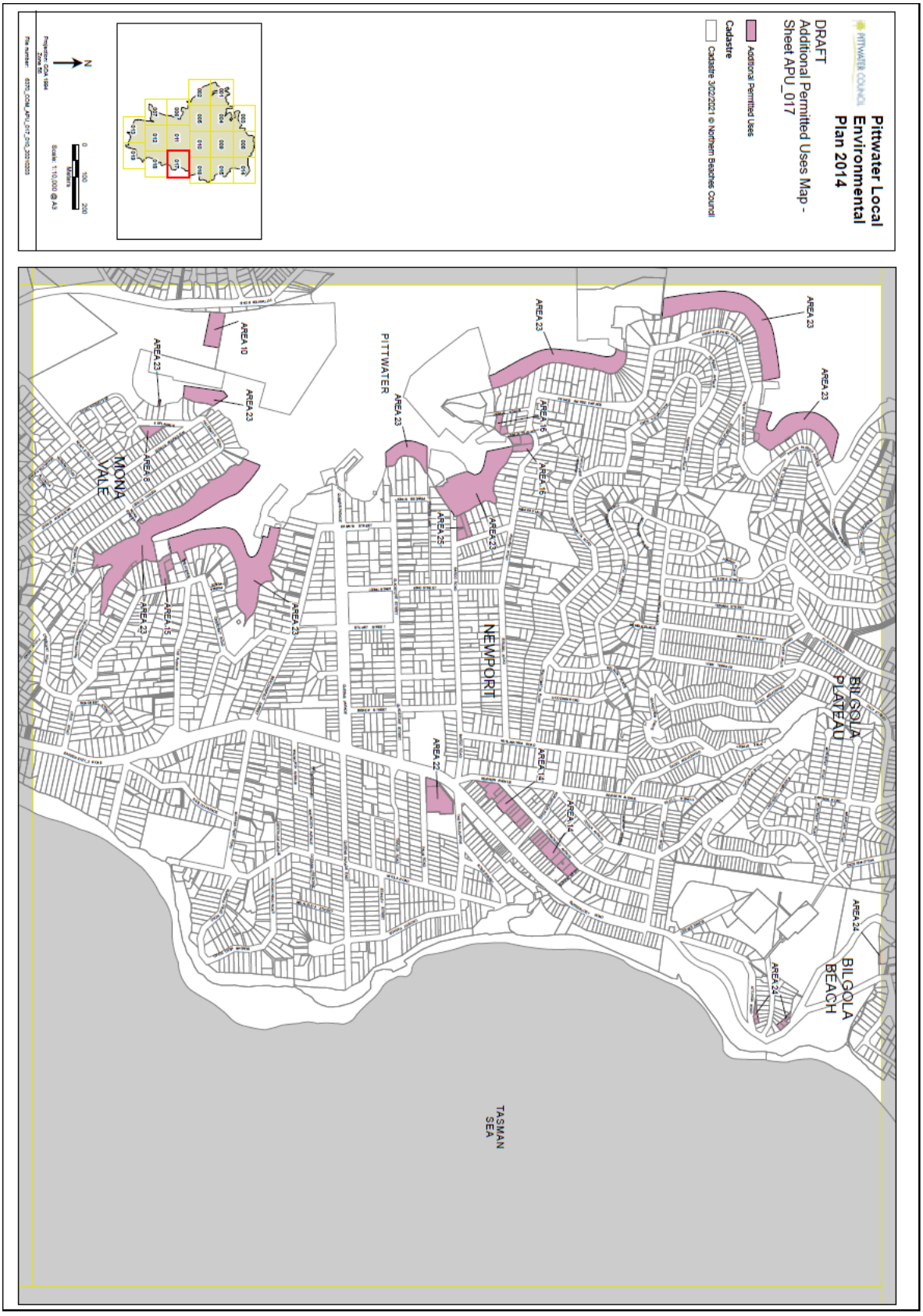
Part 4 – Maps

The following maps are associated with the Planning Proposal.

Current Additional Permitted Use Map APU_017



Proposed Additional Permitted Use Map APU _017



Part 5 – Community Consultation

Council will place the Planning Proposal on public exhibition in accordance with the Revised Gateway Determination for a minimum of 28 days, the requirements identified in Section 6.5.2 of *A guide to preparing local environmental plans* and the *Northern Beaches Community Participation Plan (Plan Making and Development Assessment)*.

Proposed consultation includes but is not limited to:

- Letters to key stakeholders and state agencies; and
- Letters to adjoining land owners and occupiers; and
- Hard copies of the exhibition material at Council's offices; and
- Electronic copies of the exhibition material on Council's website.

Part 6 – Project Timeline

Task	Anticipated timeframe
Anticipated commencement date (Gateway Determination)	September 2020
Anticipated timeframe for the completion of required technical information	January 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination)	April 2021
Commencement of public exhibition period	April 2021
Timeframe for consideration of submissions	May 2021
Timeframe for the consideration of a proposal post exhibition	May 2021
Report to Council to determine Planning Proposal	June 2021
Date of submission to the Department to finalise the LEP	July 2021
Anticipated date the local plan-making authority will make the plan (if authorised)	July 2021
Anticipated date the local plan-making authority will forward to the PCO for publication	July 2021

Attachment 1 – Site Photos

Image 2 – View of Bardo Road and Nooal Street intersection, facing west.

Image 3 - Intersection of Bardo Road and Nooal Street, facing north-west.

Image 4 – Properties on Nooal Street facing the subject site

Image 4 – Ausgrid Substation on Bardo Road.

Image 6 – Driveway on Bardo Road from the intersection with Nooal Street, facing east

Image 7 – Driveway on Bardo Road, facing west towards Crystal Bay

Image 8 – View north across rear of properties adjoining Crystal Bay

Image 9 – Rear of subject properties, facing north-east