



IRF21/3758

Plan finalisation report – PP-2021-2172

Amend Schedule 1 – Additional Permitted Uses of the Pittwater Local Environmental Plan 2014 (Pittwater LEP) to make 'seniors living' an additional permitted use for 2-4 Nooal Street and 66 Bardo Road, Newport.

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1 Introduction

1.1 Overview

1.1.1 Name of the LEP

Pittwater Local Environmental Plan 2014

1.1.2 Overview of Planning Proposal

The intended outcome of the Planning Proposal (**Attachment A**) 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).

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.

No changes are proposed to the existing development controls. While an FSR does not apply to the site, a proposed new clause states that development for the 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

1.1.3 Site description

Table 1 Site description

Site Description	The Planning Proposal applies to land at 2 and 4 Nooal Street and 66 Bardo Road, Newport (being Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092).
Type	Site
Council / LGA	Northern Beaches Council (Council)

The land has a combined area of approximately 2,927m² and is located on the north western corner of Bardo Road and Nooal Street. The site is subject to an E4 Environmental Living zoning, with land to the east of the site subject to an R2 zoning (under which seniors housing is permissible). Land to the west of the site incorporates a mix of single dwellings, multi-storey apartments, a yacht club and marina.

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.

The table below outlines the current planning controls under the Pittwater LEP 2014.

Table 2 Current planning controls

Control	Current
Zone	E4 Environmental Living
Height of Building	8.5m
Floor Space Ratio	Nil
Minimum lot size	700sqm

1.1.4 State electorate and local member

The site falls within the Pittwater State electorate. Rob Stokes MP is the State Member.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.



Figure 1 Subject site (Source: Nearmap 2021)

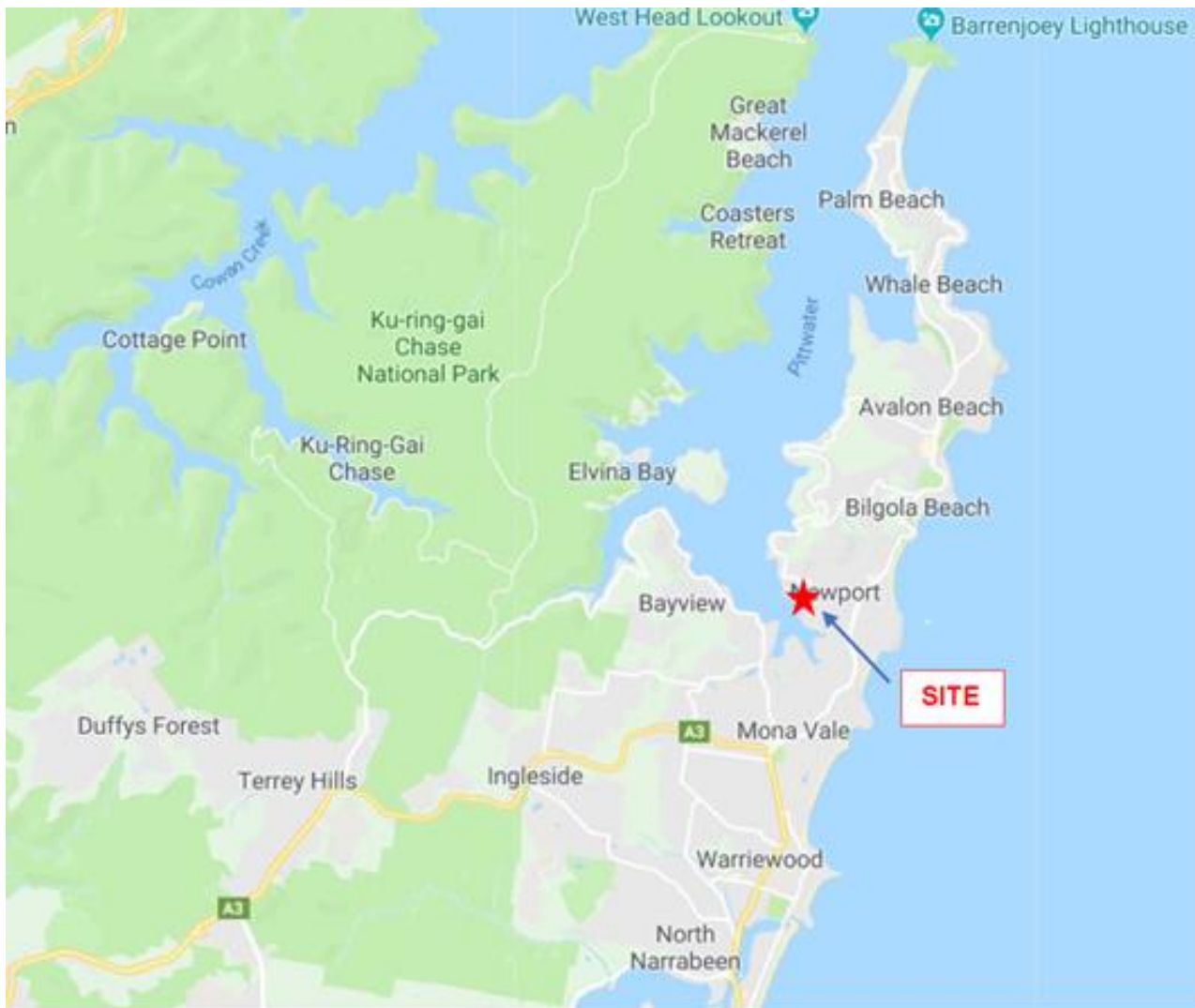


Figure 2 Subject site (Source: Nearnmap 2021)

2 Background

2.1 Gateway determination and alterations

In September 2017, Council received a Planning Proposal to amend Pittwater LEP to add 'Seniors Living' as an additional permitted use at 2-4 Nooal Street and 66 Bardo Road, Newport.

Council, at its meeting of 27 November 2017 resolved not to support the Planning Proposal. Council resolved:

That:

- A. Council does not submit the Planning Proposal lodged for 2-4 Nooal Street and 66 Bardo Road, Newport for a Gateway determination for the following reasons:
 - a. It is inconsistent with the Pittwater Local Planning Strategy (2011)
 - b. It does not have strategic merit or site-specific merit when assessed in accordance with the NSW Planning & Environment's Planning Proposal: A guide to preparing Planning Proposals (2016)
 - c. It does not align with the goals and targets of the Revised Draft North District Plan.

- d. It is inconsistent with the following State Environmental Planning Policies;
 - i. Housing for Seniors or People with a Disability
 - ii. Coastal Protection
 - iii. Draft Coastal Management
- e. Is inconsistent with the following Local Planning Directions;
 - i. 2.1 – Environmental Protection Zones
 - ii. 4.3 - Flood Prone Land
 - iii. 7.1 – Implementation of the Metropolitan Strategy
 - iv. Draft Coastal Management Local Planning Direction.
- f. It is inconsistent with the objectives of the E4 Environmental Living Zone in Pittwater Local Environmental Plan 2014.
- g. It seeks to permit medium density residential development that is inconsistent with the established low-density character of the area.
- h. It would set an unacceptable precedent.

B. The proponent and interested parties who made a submission be advised of Council's decision

2.2 Rezoning Review and Northern Beaches Local Planning Panel

Following Council's resolution to not support the Planning Proposal, the proponent lodged a rezoning review request.

On 2 May 2018, the Sydney North Planning Panel considered the rezoning review request and unanimously determined that the Planning Proposal should be submitted with amendments to the Department for a Gateway determination (**Attachment E**). Rather than pursuing an amendment to Schedule 1 of the Pittwater LEP to introduce seniors housing as an additional permitted use, the Sydney North Planning Panel supported a rezoning from E4 Environmental Living to R2 Low Density Residential and a recommendation to investigate expanding the subject area to include 13 additional properties up to Irrubel Road.

Subsequent advice from the Department of Planning, Industry and Environment (the Department) determined that the subject Planning Proposal would only relate to the three lots originally identified by the applicant. The Department also considered the two alternative mechanisms to achieve the Planning Proposal's objective and considered that amending Schedule 1 of Pittwater LEP 2014 to provide for seniors housing as an additional permitted use is the most effective and preferred approach to achieve the Planning Proposal's intended outcome.

Council, at its meeting of 28 August 2018, resolved to submit the Planning Proposal for a Gateway determination in line with the decision of the Sydney North Planning Panel.

The Department issued a Gateway determination on 14 October 2019.

2.3 Gateway determination Review

In December 2019, Council lodged a formal Gateway determination review request with the Department. In Council's Gateway determination review request a number of issues were identified as needing additional consideration, including the following:

- The inconsistency of the proposal with the North District Plan, various State Environmental Planning Policies and Northern Beaches Local Strategic Planning Statement – Towards 2040.
- The factual errors regarding the flooding and coastal inundation of the site.
- The lack of strategic merit in the proposal.
- The risk of setting a precedent for similar sites in the Northern Beaches.

The Department referred the Gateway determination to the Independent Planning Commission (IPC) who considered the proposal in August 2021 and provided advice that the Planning Proposal has merit and should proceed subject to minor amendment (**Attachment F**).

Following this, Council withdrew the old Planning Proposal and submitted a new Planning Proposal consistent with the advice prepared by the NSW IPC. The Department issued a new Gateway determination on 15 September 2020, stating that the Planning Proposal should proceed subject to a number of conditions (**Attachment G**).

At Council's request, the applicant provided the revised flood and estuarine risk report in December 2020. These reports determined that the site could be safely developed for seniors housing with acceptable risk. These reports were subsequently referred to Council's Natural Environment and Climate Change team for comment and no objections were raised.

In early 2021, Council wrote to the Department indicating that it was not possible to comply with the timeframe for completing the LEP. Council requested an administrative withdrawal of the Planning Proposal and then re-submission to allow the Department to issue a new Gateway determination. Council lodged the revised Planning Proposal during February 2021.

On 23 March 2021, the Department issued a new Gateway determination for the proposal to proceed to public exhibition with minor amendment (**Attachment B**).

2.3.1 The Department nominated as Planning Proposal Authority

Given the Planning Proposal's history and Council's original resolution that it should not proceed, the Gateway determination was conditioned so that Council was not authorised to be the local plan-making authority to make this plan.

3 Public exhibition and post-exhibition changes

3.1 Exhibited Planning Proposal

In accordance with the Revised Gateway determination, the Planning Proposal was placed on statutory public exhibition for 30 days from 28 April to 30 May 2021.

The Planning Proposal seeks to amend Pittwater LEP 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.

No changes are proposed to the existing controls. While an FSR does not apply to the site, a proposed new clause states that development for the 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 exhibited proposed new clause is 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 exhibited planning controls included a mapping amendment as shown below (Figure 3) in order to give effect to the intended outcomes of the Planning Proposal.

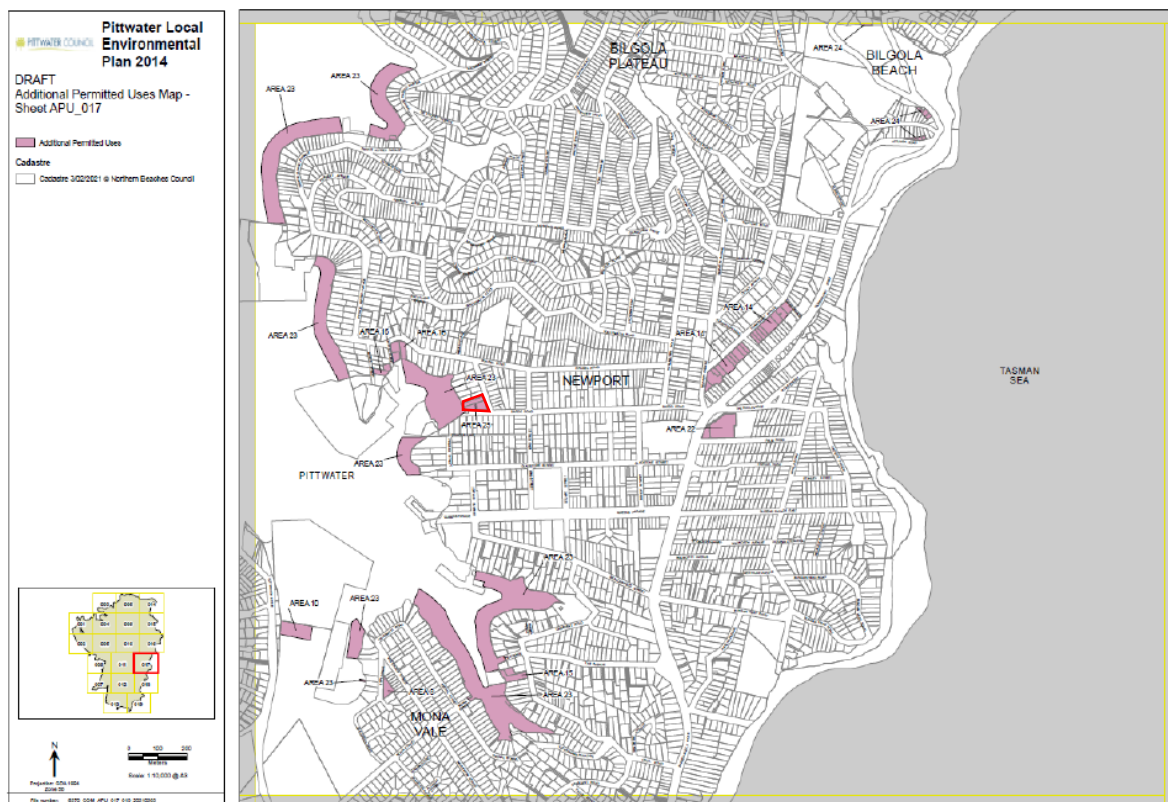


Figure 3 Proposed Additional Permitted Uses Map for public exhibition

3.2 Submissions during exhibition

A total of 59 submissions were received during the exhibition period. During the exhibition period, 43 submissions objecting to the Planning Proposal were received and 16 submissions in support. Council's summary of submissions is attached (**Attachment C**)

3.2.1 Submissions supporting the proposal

16 of the submissions received supported the Planning Proposal. Reasons for support include:

- Allowing for seniors to age in place
- The proposal is well designed
- The site is well located in terms of access to transport and services.

During the exhibition period, Council received 59 submissions from the public. One submission from the proponent of the Planning Proposal contained 29 letters of support, however it is noted 28 of the letters are dated in late 2020, i.e. before the proposal was placed on statutory public exhibition. These submissions have not been included in the summary of submission report. Only one submission was prepared and dated during the current exhibition period and was included.

A discussion of the reasons for support and Council's response is outlined in Table 4.

Table 3 Reasons for support - summary of Key Issues

Issue raised	Council response	Department response
Ageing in place	Council acknowledges the need for appropriate housing for seniors so that they can age in place. However, Council continues to contend that there is other sites that are better located to services and transport that can be developed for seniors housing already, including those that do not rely on a rezoning	<p>The Department considers that the Planning Proposal will result in moderately increasing housing supply and choice in a form specific and suited to an increasing aging demographic in the Northern Beaches LGA.</p> <p>Both the IPC and Sydney North Planning Panel determined that the proposal has strategic and/or site-specific merit as it was for development of a scale and form that was consistent with the existing built form and character for the area.</p> <p>The Department considers the proposal is consistent with the existing built form and character of the area.</p>
Well designed	Council notes that the concept plans developed for the Planning Proposal are only a concept and note the definite eventual built form outcome. Council continues to contend that the residential flat building/townhouse style development is not consistent with the current and desired future character for this area of low-density housing.	As above.
The site is well located in terms of access to transport and services	Council indicates that the Planning Proposal and the site be capable of seniors housing relies on access to the bus stop on Gladstone Street. However, they note that the applicants themselves rely on 2 Nooal Street just being within 400m of a bus stop to claim permissibility.	Noted.

3.2.2 Submissions objecting to and/or raising issues about the proposal

43 submissions objected to the Planning Proposal. The main objections include

- the proposal is inconsistent with the current and desired future character of the locality and the objectives of the E4 Environmental Living Zone;
- the proposal will create a precedent for similar E4 zoned properties in Newport;
- there are more appropriate sites for seniors housing located closer to services and transport;

- the proposal will have a negative impact on the availability of parking and local access into and around the site
- the dangerous intersection and works to Bardo Lane

The Department has considered the matters raised in submissions during the formal exhibition and no post-exhibition revisions are required. A discussion of the reasons for objection and Council's response is outlined in Table 5.

Table 5 Reasons for objection - summary of Key Issues

Issue raised	Council response	Department response
Character	Council argues that that the proposal is not consistent with the current and desired future character of the locality. The vast majority of residential properties facing Crystal Bay are low density dwellings set in landscape gardens	Both the IPC and Sydney North Planning Panel determined that the proposal has strategic and/or site-specific merit as it was for development of a scale and form that was consistent with the existing built form and character for the area. The Department supports the proposition that the proposal is consistent with the existing built form and character of the area.
Precedent	Council argues that the Planning Proposal sets a concerning precedent. Councils suggests that while other properties within Nooal Street may not be able to be developed for seniors housing as they are not within 400m of a bus stop, similar E4 zoned properties elsewhere in Newport and under the Pittwater Local Environmental Plan 2014 could be subject to a similar proposal.	The IPC found that the Planning Proposal is unlikely to create a significant precedent for similarly zoned adjoining properties because of the limited number of suitable sites in the locality due to topography, access to transport and other factors.
Hazards	As per the new 2019 flood study for Newport, only 66 Bardo Road is now deemed to be subject to flooding at a low risk level. However, the site remains subject to coastal inundation. While the applicants report indicates that a future seniors living development could be made to withstand these hazards, it does seem contradictory to place people in areas impacted by hazards.	The IPC found that only a small portion of the site is likely to be impacted by flooding and estuarine inundation. The IPC did not consider these to be significant hazards on this site to the extent that they preclude development of the majority of the site and notes these issues can be addressed at the detailed design stage. Additionally, at Council's request, the applicant provided the revised flood and estuarine risk report in December 2020. These reports determined that the site could be safely developed for seniors housing with acceptable risk. These reports were subsequently referred to Council's Natural Environment and Climate Change team for comment and no objections were raised.

Issue raised	Council response	Department response
Not well located	Council agrees with the sentiment that the site is not well located for seniors housing with only 2 Nooal Street considered to be located within 400m of a bus stop. Council believes that there are other sites already appropriately zoned and located closer to services and transport for the purpose of seniors housing.	Both the IPC and Sydney North Planning Panel determined that the proposal has strategic and/or site-specific merit as it was for development of a scale and form that was consistent with the existing built form and character for the area. However, this was prior to the release of the Draft Housing SEPP.
Sedimentation/ Siltation of Crystal Bay	Increase run off and sedimentation of Crystal Bay can be managed at the DA stage if the proposal proceeds.	Noted.
Traffic and Parking	A future DA will be subject to the parking rate provisions contained within the Pittwater DCP. In terms of traffic generation, the Planning Proposal was referred to Council's transport network business unit who raised no objections. RMS were notified of the Planning Proposal but did not provide a response.	Noted.
Against objectives of the zone	Council agrees that the outcomes of the Planning Proposal would be inconsistent with the objectives of the zone.	The Department has assessed the Planning Proposal against the zone objectives and determined that the proposal is consistent with the objectives of the E4 Environmental Living zone.
Construction impacts	Council notes that a number of submissions raised concerns around noise, dust, and parking issues during construction. These matters are better dealt with at the DA stage, potentially through a construction management plan.	Noted.
Tree loss	Potential works at Bardo Lane are likely to require removal of significant trees to ensure the development is accessible. Council will require replacement planting in any future development application to offset this loss.	Noted.

Issue raised	Council response	Department response
Density	Density in the E4 Environmental Living Zone is controlled via the minimum lot size being 700sqm per lot. At 8 dwellings on a combined land size of 2,926sqm, the average lot size per dwelling equates to 365sqm. This indicated almost a doubling of the expected density under the Pittwater Local Environmental Plan 2014.	Both the IPC and Sydney North Planning Panel determined that the proposal has strategic and/or site-specific merit as it was for development of a scale and form that was consistent with the existing built form and character for the area. The Department supports the proposition that the proposal is consistent with the existing built form and character of the area.
No footpaths	If this proposal was to proceed to a DA, the applicant would need to provide the necessary footpath access as a condition.	Noted.
Not affordable housing	Council agrees that the proposal is unlikely to yield affordable housing given the sites location adjacent to Crystal Bay.	The Department recognises that delivery of any future seniors housing in accordance with the proposal may not improve housing affordability outcomes. However, the Department considers that the Planning Proposal will result in moderately increasing housing supply and choice in a form specific and suited to an increasing aging demographic in the Northern Beaches LGA
Dangerous intersection and Bardo Laneway	A number of submitters raised the dangerous nature of Bardo Road and Nooal Street intersection, as well as the current access arrangement into Bardo Lane. If the proposal was to proceed to a DA, a condition to upgrade Bardo Lane would be imposed on the application.	Noted.

3.2.3 Advice from agencies

Council notified the following state agencies of the public exhibition of the Planning Proposal and invited them to provide comments:

- Sydney Water
- Roads and Maritime Services NSW
- Transport for NSW (TfNSW)
- NSW Crown Lands
- Department of Primary Industries – Fisheries NSW
- State Emergency Services (SES)
- Ausgrid

Responses were received from Fisheries NSW, NSW State Emergency Services, Transport for New South Wales and Sydney Water. No response has been received from the other agencies. The responses received did not provide any objection to the Planning Proposal proceeding.

The Department has considered the matters raised in submissions from public authorities during the formal exhibition and no post-exhibition revisions are required. Detailed information on the State Agency submissions is outlined in table 6.

Table 6 Advice from public authorities

Agency	Advice raised	Department response
Fisheries NSW	This site does not have an impact on fish habitat, so DPI Fisheries has no comment on the proposal.	Noted
Sydney Water	Sydney Water raises no objection to the proposal and the site can be serviced by water and sewer.	Noted
Transport for NSW	TfNSW raise no objection to the proposal. However, they note that TfNSW Maritime Division would need to be consulted as part of any future DA that required waterway access. Additionally, they note that as part of any future DA for Seniors Living on the site, pedestrian links to the nearest bus stops may not be improved in order to meet the requirements of cl 26 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.	Noted.

Agency	Advice raised	Department response
NSW State Emergency Services	<p>The consent authority will need to ensure that the Planning Proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.3 – Flood Prone Land and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005.</p> <p>Due entirely to the need to meet priorities dictated by legislated responsibilities, the NSW SES is not able to assess any detailed development proposal or to work with the developer's consultants in preparing any such proposal.</p>	<p>The Department has considered issues related to flooding and estuarine inundation.</p> <p>The IPC considered this issue in their Newport Gateway determination Review Advice Report. The report found that only a small portion of the site is likely to be impacted by flooding and estuarine inundation. The IPC does not consider these to be significant hazards on this site to the extent that they preclude development of the majority of the site and notes that these issues can be addressed at the detailed design stage of any future development.</p> <p>Additionally, the Planning Proposal notes that the site can be developed appropriately and Council's Natural Environment and Coastal Team did not raise concerns.</p>
NSW Crown Lands	There is no objection to allowing seniors living as an additional permitted use on the site at this stage.	Noted

3.3 Post-exhibition Council resolution

Council at its meeting of 27 July 2021, considered the outcomes of the public exhibition of the Planning Proposal (**Attachment D**) and resolved:

That Council:

1. Continue to maintain its objection to the Planning Proposal for the following reasons:
 - A. The Planning Proposal is inconsistent with the provisions of the North District Plan.
 - B. The Planning Proposal is inconsistent with the provisions of Council's Local Strategic Planning Statement - Towards 2040.
 - C. The Planning Proposal does not demonstrate strategic merit or site-specific merit when assessed against the NSW Planning & Environment's: A guide to preparing Planning Proposals.
 - D. The Planning Proposal is inconsistent with the objectives of the E4 Environmental Living zone.
 - E. The Planning Proposal is out of character with the surrounding locality.
 - F. The Planning Proposal may establish an unwanted precedent.
 - G. The Planning Proposal does not provide affordable housing in keeping with the requirements of Council's Affordable Housing Policy.
2. Write to the Minister for Planning requesting that the Planning Proposal not progress to finalisation in accordance with section 3.35(4) of the Environmental Planning and Assessment Act, 1979.

3. Forward the Planning Proposal with all relevant supporting information to the NSW Department Planning, Industry and Environment as the Local Planning Making Authority

Council continues to maintain that the proposal is unwarranted and unjustified due to its inconsistency with the abovementioned strategies and policies. Council argue that the exhibition period attracted a high level of community interest with a large number of submissions objecting to the Proposal. Council request that the Department does not progress the Planning Proposal to finalisation.

Council wrote to Minister Stokes on 13 August 2021 requesting that the Planning Proposal not progress to finalisation in accordance with section 3.35(4) of the *Environmental Planning and Assessment Act 1979* (**Attachment I**).

4 Department's assessment

First submitted to Council in 2017, the Planning Proposal has been subject to detailed review and assessment, including a rezoning review by the Sydney North Planning Panel (**Attachment E**) which supported the proposal and a review by the IPC (**Attachment F**) which determined that the proposed has merit and should proceed subject to minor amendment.

A new Gateway determination was issued by the Department on 23 March 2021 (**Attachment B**) recommending public exhibition of the Planning Proposal and the Department as the local plan making authority.

The Planning Proposal submitted to the Department by Council for finalisation remains consistent with:

- regional and district plans relating to the site;
- Council's Local Strategic Planning Statement;
- relevant Section 9.1 Directions; and
- relevant SEPPs currently in force.

The Department has considered the issues raised in written submissions made during the public exhibition period, as well as Council's responses, and has determined that no post-exhibition changes are required. There are also no outstanding agency objections to the proposal.

To the Department's knowledge, there have been no meetings with lobbyists.

Draft Housing SEPP 2021

A proposed new Housing State Environmental Planning Policy (SEPP) was exhibited by the Department between 29 July and 9 September 2020. This new SEPP aims to drive housing supply and deliver more diverse and affordable housing types. It is anticipated that the Housing SEPP will be in effect by the end of 2021.

The Department has considered the Planning Proposal's consistency with the proposed policy changes in the new draft Housing SEPP, specifically the prescribed land use zones for seniors housing. The E4 Environmental Living Zone is not a prescribed zone for seniors housing which is the zone proposed in the current Planning Proposal.

To provide a 'local approach' an additional provision has been inserted in the draft Housing SEPP that turns on the SEPP provisions where seniors housing is permitted with consent under another environmental planning instrument (EPI). This provision is to recognise existing situations where seniors housing has been permitted in non-prescribed zones, not to encourage consideration of these zones for seniors housing.

The Department considers that the draft Housing SEPP makes it clear which land-use zones should be used for seniors housing and as such does not support the current Planning Proposal which seeks to permit seniors housing in an Environmental Living zone.

The Housing SEPP seeks to facilitate Seniors Housing in urban centres and residential zones, clarifying what was intended by “land zoned for urban purpose” in the existing SEPP. This change provides certainty to developers and the community on where such development should be located.

Environmental zones are considered not to primarily be for urban purposes and are generally constrained by environmental matters that could render the land undevelopable or create risks to life.

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
State Environmental Planning Policies (SEPPs) currently in force	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Draft State Environmental Planning Policies (SEPPs)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

4.1 Detailed assessment of issues raised during exhibition

Council’s objections to the Planning Proposal remain the same and are outlined in section 3.3 of this report. The issues raised by Council have all previously been addressed by the Sydney North Planning Panel record of decision 2 May 2018 (**Attachment E**), the IPC Gateway determination Advice Report 20 August 2020 (**Attachment F**) and as part of the Gateway Review Justification Assessment (**Attachment H**).

The following section provides details of the Department’s assessment of key matters raised by Council.

The Planning Proposal is inconsistent with the provisions of the North District Plan

The Department has determined that the Planning Proposal is consistent with the priorities and actions of the North District Plan. In particular, the following priorities were identified as being relevant to the proposal

- Planning priority N5 – Providing housing supply, choice and affordability with access to jobs, services and public transport
- Planning priority N17 – Protecting and enhancing scenic and cultural landscapes
- Planning Priority N19 – Increasing urban tree canopy cover and delivering Green Grid connections
- Planning Priority N22 – Adapting to the impacts of urban and natural hazards and climate change

The IPC considered the Planning Proposal against provisions contained within North District Plan (**Attachment F**). The IPC found that the subject Planning Proposal is consistent with and will give effect to the strategic direction, planning priorities and actions of the North District Plan. This is because the Planning Proposal will provide senior's housing that will create opportunities for older people to continue living in their community and will also:

- Contribute to the delivery of the Plan's housing supply targets and strategy requirements (planning priority N5) while being consistent with the principles of that plan;
- Not reduce protection of the District's waterways (planning priority N15);
- Not reduce protection of scenic and cultural landscapes (planning priority N17); and
- Not be located in an area exposed to significant natural and urban hazards (planning priority N22).

Additionally, the Sydney North Planning Panel (**Attachment E**) assessed the proposal as a Rezoning Review in 2018. The Panel found the proposal had "strategic merit because it provides much needed senior living [housing], consistent with the Sydney North District Plan".

The Planning Proposal is inconsistent with the provisions of Council's Local Strategic Planning Statement (LSPS) - Towards 2040.

The Department has assessed the Planning Proposal against Council's relevant local planning policies and plans. It has been determined that the Planning Proposal is consistent with and/or helps achieve relevant aims and objectives of these local policies and plans on that basis that it:

- Will moderately contribute to housing supply to further support Council's objective to achieve its housing targets;
- Encourage construction of housing adaptable to universal design standards;
- Encourages the delivery of housing choice through the provision of small dwellings;
- Is accessible to regular bus services that are well connected to local and regional services, shops and facilities;
- Compatible with the site's good 'land capability', which has a gentle slope, is not flood prone, doesn't include endangered ecological communities, doesn't include or adjoining any heritage items, is not situated on a ridgeline and is not bushfire prone; and
- is compatible in density with existing foreshore development in the vicinity of the site, particularly as it does not seek to alter the existing building height control for the site and any future development will be required to comply with existing DCP controls for seniors housing.

The IPC considered the Planning Proposal against Council's LSPS and other relevant local planning policies and plans (**Attachment F**). The IPC found that the Planning Proposal has merit on the basis that it is consistent with and will give effect to the vision, priorities, and actions of the LSPS. This is because the Planning Proposal will:

- Not diminish the scenic landscape (Priority 3);
- Not be significantly exposed to the impacts of natural and urban hazards and climate change (Priority 8); and

- Respond to community needs by increasing housing supply and choice in an appropriate location (Priority 15).

Additionally, the Sydney North Planning Panel assessed the proposal as a Rezoning Review in 2018 (**Attachment E**). The Panel considered that “the Planning Proposal has local merit because of the scale and form of development allowed by the Planning Proposal will be consistent with the built form and character of the area”.

The Planning Proposal does not demonstrate strategic merit or site-specific merit when assessed against the NSW Planning & Environment’s: A guide to preparing Planning Proposals;

The Planning Proposal is out of character with the surrounding locality; and

The Planning Proposal may establish an unwanted precedent.

The Department previously determined that the Planning Proposal has strategic and site-specific merit as it would:

- provide for much needed seniors housing to cater for an ageing population;
- enable seniors housing in an infill location that is serviced by regular public transport less than 400m walking distance from the site;
- provide an opportunity for seniors to age in place by providing downsized accommodation within an existing community;
- allow for an additional permitted use which represents a compatible and logical extension of the residential uses in the R2 Low Density Residential land directly opposite the site on the eastern side of Nooal Street;
- will retain the scale of development currently permitted on the site and its surrounds; and
- not result in any likely detrimental environmental, social or economic impacts.

The Department does not believe the proposal is out of character with the area or that the progression of the proposal will create an undesirable precedent, as applications are assessed according to their merits.

However, the consultation draft of the Housing SEPP in August 2021 clarified that Environmental zones were proposed to be excluded from seniors housing from the SEPP as a prescribed zone.

The IPC considered whether the Planning Proposal has strategic or site-specific merit (**Attachment F**). The IPC found that Planning Proposal:

- Has site-specific merit with regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to the proposal; and
- Has site-specific merit with regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Additionally, the IPC found that the Planning Proposal is unlikely to create a significant precedent for similarly zoned adjoining properties because of the limited number of suitable sites in the locality due to topography, access to transport and other factors.

In May 2018, the Sydney North Planning Panel (**Attachment E**) considered the rezoning review request and unanimously determined the Planning Proposal should be submitted for a Gateway determination because the proposal has demonstrated strategic and site-specific merit as it was for development of a scale and form that was consistent with the existing built form and character for the area.

The Planning Proposal is inconsistent with the objectives of the E4 Environmental Living zone.

The objectives of the E4 Environmental Living zone contained within the Pittwater Local Environmental Plan 2014 are as follows:

- 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.

The Department has assessed the Planning Proposal against these objectives and determined that it is consistent with the objectives of the E4 Environmental Living zone.

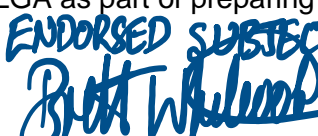
The Planning Proposal does not provide affordable housing in keeping with the requirements of Council's Affordable Housing Policy.

The Department recognises that delivery of any future seniors housing in accordance with the proposal may not improve housing affordability outcomes.

However, the Department considers that the Planning Proposal could result in moderately increasing housing supply and choice in a form specific and suited to an increasing aging demographic in the Northern Beaches LGA.

5 Recommendation

While the Planning Proposal is considered to have both strategic and site specific merit and the matters raised during public exhibition regarding traffic, environmental constraints, it is recommended that the Minister's delegate as the local plan-making authority determine not to make the draft LEP under clause 3.36(2)(a) of the Act because the Planning Proposal seeks to permit seniors housing in a land-use zone not prescribed for this use in the draft Housing SEPP 2021. Council can address the appropriate location for seniors housing in the Northern Beaches LGA as part of preparing the consolidated LEP.

ENDORSED SUBJECT TO COMMENT BELOW
 31 October 2021
 Brett Whitworth


Deputy Secretary, Greater Sydney Place and Infrastructure

Assessment officer

Luke Johnson

A/ Senior Planning Officer, North District

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While I accept the analysis and views in this report I do not agree the proposal is consistent with the objectives of the E4 Environmental Living zone. As a consequence, I do not agree the proposal has strategic merit and therefore should be refused.


31 October 2021.