

PLANNING PROPOSAL

LOCAL GOVERNMENT AREA: The Hills Shire Council

NAME OF PLANNING PROPOSAL: Proposed State Environmental Planning Policy (Sydney Growth Region Centres) 2006 (Amendment No (#)) – Proposed amendments to rezone the portion of land zoned E4 Environmental Living to R2 Low Density Residential, reduce the minimum lot size from 4,000m² to 600m² and insert a local provision that specifies a cap of 7 dwellings to the portion of the site currently zoned E4 Environmental Living at 9 Palaran Avenue, North Kellyville.

STATUS: Pre-Gateway Determination

ADDRESS OF LAND: 9 Palaran Avenue, North Kellyville (Lot 3 DP 249675)

SUPPORTING MATERIAL:

Attachment A	Assessment against State Environment Planning Policies
Attachment B	Assessment against Section 9.1 Local Planning Directions
Attachment C	Council Report and Minute (8 June 2021)
Attachment D	Local Planning Panel Report and Minute (21 April 2021)
Attachment E	Proponent's Planning Proposal and Supporting Material

THE SITE:

The subject site is located at 9 Palaran Avenue, North Kellyville, Lot 3 DP 249675. It has a total site area of approximately two hectares and currently contains a single storey residential dwelling and associated structures. The property is generally cleared, with vegetation sparsely distributed toward the site's north. The site has frontages to Palaran Avenue, Eden Road and Roland Garros Crescent (south). Sections of Barabati Road and Roland Garros Crescent (north) presently terminate at the site's northern boundary, as shown in Figure 1.



Figure 1

Aerial view of subject site (outlined in red) and surrounding locality

The site adjoins a recently constructed low density residential development to the north and east. A 21 lot community title residential subdivision is currently under construction to the south of the site. No application has yet been lodged with respect to the large lot adjoining the west of the site. At

present the site is zoned part R2 Low Density Residential (15,270m²) and part E4 Environmental Living (4,960m²).

Surrounding development activity has resulted in the isolation of the E4 Environmental Living portion of the site from Caddies Creek Riparian Corridor and effectively disassociated from the values and objectives of the E4 Environmental Living zone. The current SEPP provisions applicable to the E4 Environmental Living portion of the site would only facilitate the subdivision of the site into one Torrens Title lot or three Community Title lots.

PART 1 OBJECTIVES OR INTENDED OUTCOME

The planning proposal seeks to facilitate the subdivision of the subject site into 21 residential lots ranging in size from 465m² to 600m², one residue lot with an area of 3.1ha and associated road network (as shown in Figure 2). The residential lots would consist of 14 lots on the existing R2 Low Density Residential zoned land (which could already be achieved under the current controls) and seven (7) lots on the portion of the site currently zoned E4 Environmental Living.



Figure 2
Indicative subdivision plan and road layout

PART 2 EXPLANATION OF THE PROVISIONS

The proposed outcomes will be achieved by amending Appendix 2 North Kellyville Precinct Plan of State Environmental Policy (Sydney Growth Region Centres) 2006 as follows:

1. Rezone the portion of land currently zoned E4 Environmental Living to R2 Low Density Residential;
2. Amend the minimum lot size from part 4,000m² to part 600m²; and
3. Insert a local provision that specifies a cap of 7 dwellings over the portion of land currently zoned E4 Environmental Living as follows:

6.7 Development at 9 Palaran Avenue, North Kellyville

- (1) *This clause applies to land subject to a minimum lot size of 600m² at 9 Palaran Avenue, North Kellyville, being Lot 3, DP 249675.*
- (2) *Development consent must not be granted to development that results in more than 7 dwellings on the subject land.*

PART 3 JUSTIFICATION

SECTION A - NEED FOR THE PLANNING PROPOSAL

1. *Is the planning proposal a result of any strategic study or report?*

No, the planning proposal has been initiated by the Proponent, acting on behalf of the landowners of the subject site.

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 considered to be the best way to achieve the intended outcomes for the site. Rezoning the E4 Environmental Living zoned portion of the site to R2 Low Density Residential will allow the orderly development of the site in a manner that is consistent with the applicable zone objectives. Reducing the minimum lot size from 4,000m² to 600m² will ensure that development is consistent with the prevailing lot sizes of the adjoining R2 Low Density Residential zoned properties and E4 Environmental Living community titled properties. It is considered that the application of a dwelling cap of 7 dwellings over the portion of land currently zoned E4 Environmental Living will achieve the most effective balance between the related planning factors (that is, appropriate zoning, minimum lot size controls, density and character and streetscape outcomes).

SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes, a discussion of consistency is provided below.

▪ Greater Sydney Region Plan and Central City District Plan

The Greater Sydney Region Plan and Central City District Plan seek to provide liveable communities and protect biodiversity through various objectives and priorities. Those relevant to this planning proposal are as follows:

- Objective 10 – Greater Housing Supply;
- Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced;
- Objective 28 – Scenic and cultural landscapes are protected;
- Priority C5 – Providing housing supply, choice and affordability with access to jobs, services and public transport; and
- Priority C15 – Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.

These Plans articulate the importance of providing housing in the right locations. The North West Growth Area, including the North Kellyville release area is an identified location that will contribute to meeting housing targets. The subject site is located 320 to 500 metres walking distance from bus stops, which provide future residents access to services and jobs. It is therefore considered that the proposal is consistent with Objective 10 and Priority C5 of the Region and District plans.

Despite a portion of the site currently zoned E4 Environmental Living, the site is sparsely vegetated, is isolated from the creek corridor and no longer serves a function in contributing to the planned scenic and cultural landscape of the nearby vegetation corridor. The rezoning of this land therefore does not contravene Objective 28 and Priority C15 of the Region and District plans.

Surrounding development has isolated the site from Caddies Creek and the associated environmental corridor. Further, the subject property does not contain any threatened native species and has been biodiversity certified for development to occur. As such, the loss of vegetation on this land has already been considered and addressed through the biodiversity certification process undertaken for the broader North Kellyville Precinct. It is therefore considered that the proposal is consistent with Objective 27 and Priority C15 of the Region and District plans.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Yes, a discussion of consistency is provided below.

▪ **The Hills Local Strategic Planning Statement**

Council's Local Strategic Planning Statement (LSPS) outlines the Shire's 20 year vision regarding land use, planning, population, housing, economic growth and environmental management. The planning proposal will give effect to the following relevant planning priorities of the LSPS:

- Priority 7 – Plan for new housing in the right locations; and
- Priority 17 – Protect areas of high environmental values and significance.

The site is located within the North Kellyville Release Area, which the LSPS and supporting Housing Strategy anticipate an additional 6,500 dwellings be delivered by 2036. It further articulates the continued delivery of low and medium density housing be supported by existing and planned infrastructure. The proposed development would allow for the delivery of 21 residential lots which are consistent with the established low density character and are supported by proximate public transport options and a local park.

Although a portion of the site is currently zoned E4 Environmental Living, the subject site does not contain threatened vegetation and is biodiversity certified. It is therefore not considered to have high environmental values or significance and the surrounding development patterns have disassociated the site from its original environmental intent. Given the isolated nature of the E4 zoned portion of land, the rezoning of the land to permit further low density residential subdivision (6 additional lots) is considered reasonable and acceptable in this instance.

▪ **The Hills Future Community Strategic Plan**

The Hills Future Community Strategic Direction articulates The Hills Shire community's and Council's shared vision, values, aspirations and priorities with reference to other local government plans, information and resourcing capabilities. It is a direction that creates a picture of where The Hills would like to be in the future. The direction is based on community aspirations gathered throughout months of community engagement and consultation with members of the community.

The planning proposal will facilitate the delivery of 21 residential lots (subject to a cap of 7 dwellings on the portion of land subject to rezoning), consistent with the existing local character and adjoining subdivision layouts. It will be supported by existing public transport infrastructure and serviced by nearby open space.

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

Yes. An assessment of the planning proposal against applicable State Environmental Planning Policies is provided in Attachment A. A discussion on the consistency of the proposal with the relevant Policies is provided below.

▪ **SEPP (Sydney Region Growth Centres) 2006**

The Growth Centres SEPP aims to coordinate the release of residential land, provide for comprehensive planning of the growth centres, provide for the orderly and economic provision of infrastructure and provide land use and development controls that will contribute to the conservation of biodiversity. Specifically, the aims of Appendix 2 North Kellyville Precinct are to ensure development controls create good design outcomes and protect and enhance the environmentally sensitive areas.

It is considered that the proposal is consistent with the aforementioned objectives as the proposed subdivision layout (subject to a dwelling cap of 7) is consistent with surrounding subdivision character and will facilitate orderly development. It will also assist in delivery of the local road network identified within the North Kellyville DCP. The subject site is also not considered environmentally sensitive given it is not identified as containing native vegetation in the Native Vegetation Protection Map, is not located within the Riparian Protection Area Map under the Growth Centre's SEPP and has been Biodiversity Certified.

6. Is the planning proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Yes. The consistency of the planning proposal with the Section 9.1 Ministerial Directions is detailed within Attachment B. A discussion on the consistency of the proposal with each relevant Direction is provided below.

▪ **Direction 2.1 Environment Protection Zones**

Under this Direction, a planning proposal must not reduce the environmental protection standards that apply to the land. While it may be perceived that the subject planning proposal would reduce the relevant environmental protections applying to the land by way of the proposed rezoning, detailed consideration of the site's context demonstrates that the planning proposal will not result in any environmental impacts. The land was Biodiversity Certified at the time of rezoning the North Kellyville Precinct and the subject site itself comprises only sparse non-significant vegetation.

Given the manner in which surrounding land has been developed, the subject site is no longer associated with the nearby creek corridor and is consequently unable to carry out its function of managing and preserving the riparian corridor through a Community Title arrangement. As such, it is considered that the current environmental zoning is no longer representative of the original intent for the land and the proposed rezoning is of minor significance in this particular instance. The inconsistency with this Direction is considered justified on this basis.

▪ **Direction 2.6 Remediation of Contaminated Land**

The Proponent's planning proposal report articulates that the site is not within an investigation area within the meaning of the Contaminated Land Management Act, nor is it on land which

development is being, or is known to have been carried out. Further, the planning proposal relates to land zoned E4 Environmental Living which already permits residential living, albeit in a lower density form. The subject site already contains an occupied residential dwelling. It is therefore considered that the planning proposal is consistent with this Direction.

▪ **Direction 3.1 Residential Zones**

The objectives of this direction are to encourage a variety and choice of housing types, make efficient use of infrastructure and minimise the impact of residential development on the environment and resource lands.

The proposed rezoning to R2 Low Density Residential would facilitate a more orderly development outcome which better aligns with the zone objectives and the prevailing character of surrounding development. The proposal would also make more efficient use of public transport infrastructure and facilitate a dwelling typology that is appropriate to the local demographic. The planning proposal is consistent with this Direction.

▪ **Direction 3.4 Integrated 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;
- 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; and
- e) Providing for the efficient movement of freight.

The planning proposal is consistent with the objectives of this Direction as the site is in walking distance to public transport, which provides access to services and jobs, and thus reduces car dependency. Further, it will ensure the delivery of the local road network within this locality, including missing road links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections, in accordance with The North Kellyville DCP.

▪ **Direction 4.4 Planning for Bushfire Protection**

The objectives of this Direction are to protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and to encourage sound management of bush fire prone areas. The Direction also states that a planning proposal must have regard to *Planning for Bushfire Protection 2019*.

The site is located on the mapped Vegetation Buffer Zone and in accordance with Council's resolution, the Proponent has submitted a Bushfire Assessment Report. The report articulates that the proposal satisfies the relevant guidelines contained within *Planning for Bushfire Protection 2019*. It is considered that the proposed subdivision layout (subject to the implementation of the dwelling cap over a portion of the site) will not result in areas that are difficult to evacuate, create difficulties during a bushfire or adversely affect other bush fire protection strategies or place existing development at risk.

Should a Gateway Determination be issued, it is anticipated that consultation will be undertaken with NSW Rural Fire Service.

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. Whilst the site contains sparsely distributed vegetation, it does not contain any threatened species or native vegetation. Further, it has been biodiversity certified such that there is an expectation that vegetation would be removed from the land to accommodate urban development. The adjoining residential subdivision and developments on E4 zoned land to the site's east and south have isolated the site and effectively disassociated it from the values and objectives of the E4 Environmental Living zone, as they relate to the environmental and scenic qualities of the Caddies Creek Riparian Corridor.

Should a Gateway Determination be issued, it is anticipated that consultation will be undertaken with the Environment, Energy and Science Group.

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

No. In the ultimate developed scenario, it is anticipated that the site will generate a reasonable volume of runoff and is considered appropriate that this be addressed at the Development Application stage. Specifically, a site-specific flood study will need to be prepared as part of any future Development Application, which would need to detail the requirements of on-site stormwater detention and the incorporation of a stormwater quality treatment or water sensitive urban design strategy for the site.

9. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal will facilitate the delivery of 21 residential lots and will contribute to the Shire's housing supply. Development on the site will be supported by existing public transport infrastructure and serviced by nearby open space. Further, it will ensure the delivery of the local road network within this locality, including missing road links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections. The site is located 320 to 500 metres walking distance from bus stops, which provide future residents access to services and jobs.

SECTION D - STATE AND COMMONWEALTH INTERESTS

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

It is considered unlikely that the planning proposal will substantially increase traffic volume on local and regional road infrastructure from what has been anticipated within the North Kellyville Traffic and Transport Assessment 2008 (prepared by Maunsell Australia). The proposal will facilitate in the delivery of the missing links between Barabati Road and Roland Garros Crescent, which will service local traffic and extend existing walking path connections, in accordance with The North Kellyville DCP.

11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

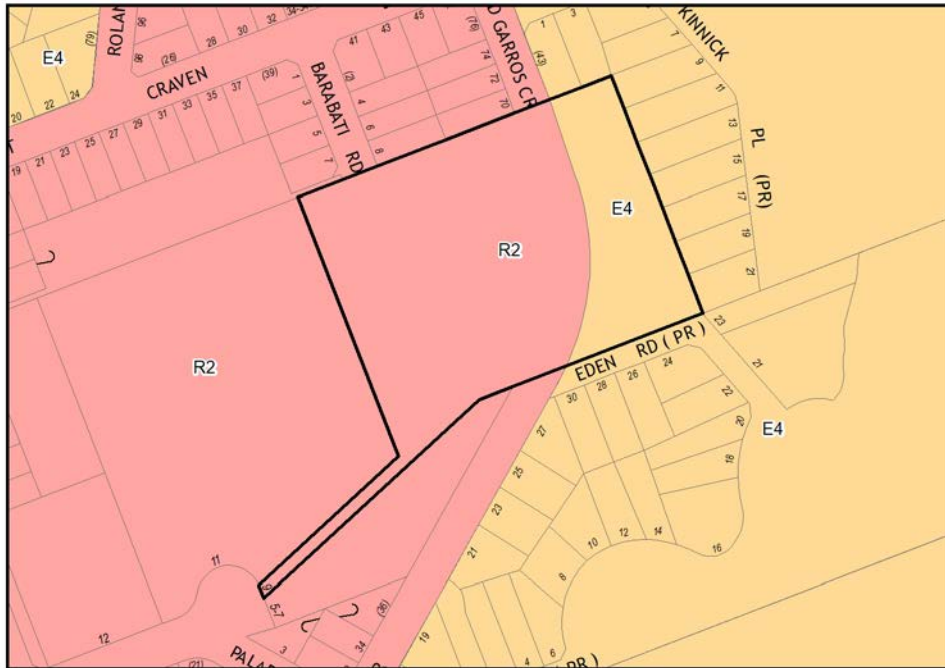
Should a Gateway Determination be issued, the public exhibition process will facilitate the opportunity to consult with relevant State agencies. It is anticipated that consultation with the following public authorities will be required:

- NSW Rural Fire Service;
- Environment Energy and Science Group; and
- Endeavour Energy.

PART 4 MAPPING

The planning proposal seeks to amend the Land Zone Map and Minimum Lot Size Map of *State Environmental Planning Policy (Sydney Growth Region Centres) 2006*.

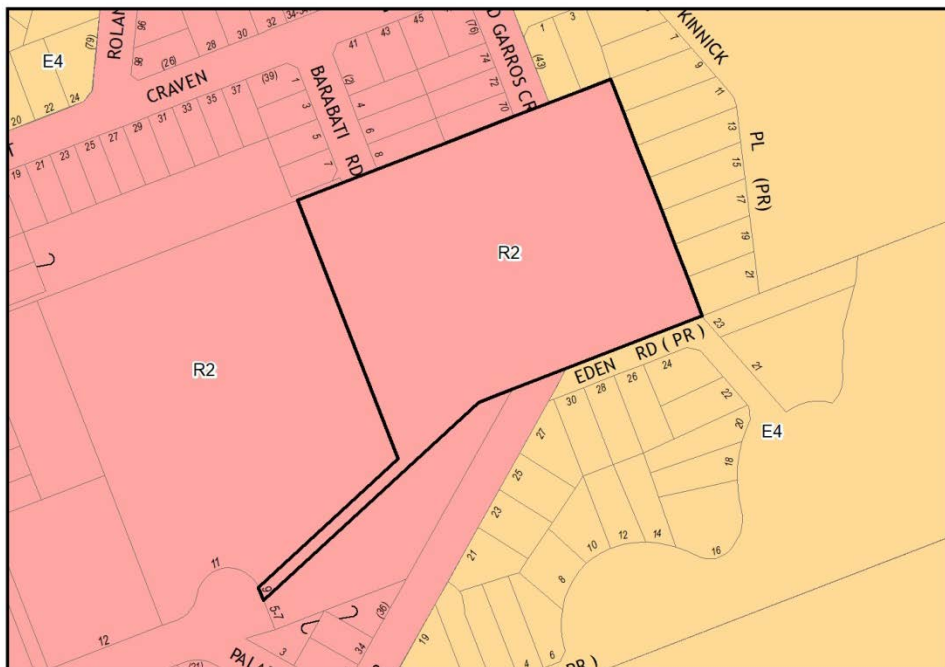
Existing Land Zone Map



Land Zoning (LZN)

E4 Environmental Living **R2** Low Density Residential

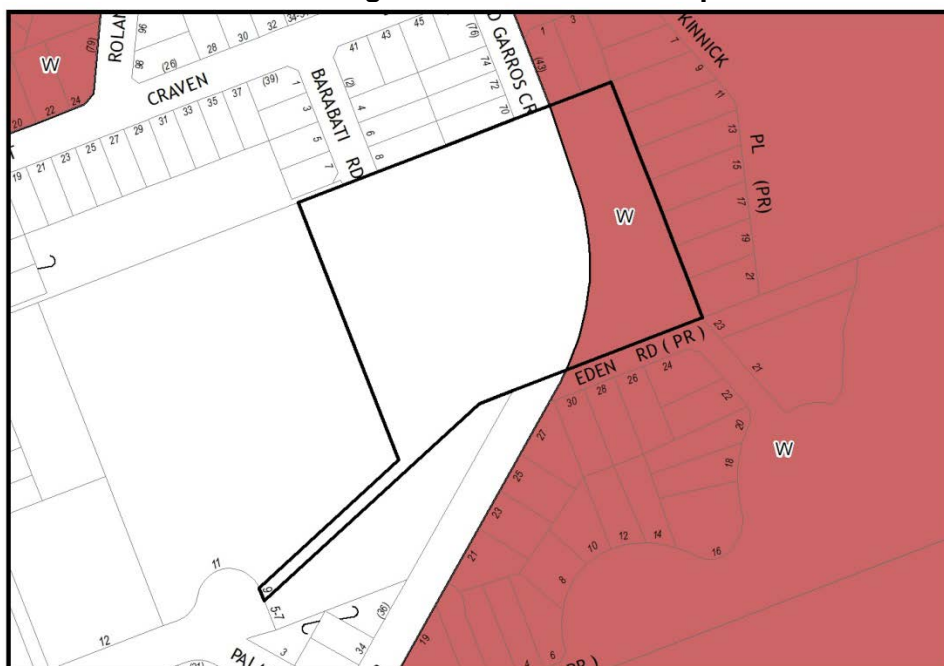
Proposed Land Zone Map



Land Zoning (LZN)

E4 Environmental Living **R2** Low Density Residential

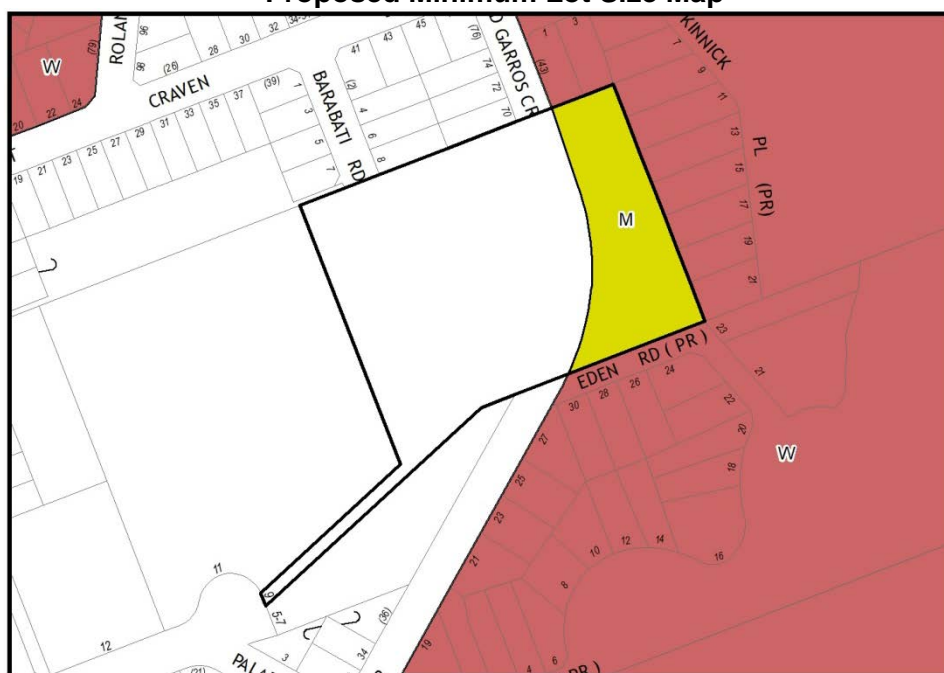
Existing Minimum Lot Zone Map



Minimum Lot Size (sq m) (LSZ)

W 4000 sq m

Proposed Minimum Lot Size Map



Minimum Lot Size (sq m) (LSZ)

M 600 sq m **W** 4000 sq m

PART 5 COMMUNITY CONSULTATION

The planning proposal will be advertised on Council's website and social media platforms. Adjoining landowners will be directly notified of the public exhibition period and will be invited to comment on the proposal.

PART 6 PROJECT TIMELINE

STAGE	DATE
Commencement Date (Gateway Determination)	July 2021
Government agency consultation	August 2021
Commencement of public exhibition period	August 2021
Completion of public exhibition period	September 2021
Timeframe for consideration of submissions	October 2021
Timeframe for consideration of proposal post exhibition	November 2021
Report to Council on submissions	December 2021
Planning Proposal to PCO for opinion	January 2022
Date Council will make the plan (if delegated)	February 2022
Date Council will forward to DPIE for notification (if not delegated)	February 2022

ATTACHMENT A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)		APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/CONSISTENT
No. 19	Bushland in Urban Areas	YES	NO	-
No. 21	Caravan Parks	YES	NO	-
No. 33	Hazardous and Offensive Development	YES	NO	-
No. 36	Manufactured Home Estates	NO	-	-
No. 47	Moore Park Showground	NO	-	-
No. 50	Canal Estate Development	YES	NO	-
No. 55	Remediation of Land	YES	NO	-
No. 64	Advertising and Signage	YES	NO	-
No. 65	Design Quality of Residential Apartment Development	YES	NO	-
No. 70	Affordable Housing (Revised Schemes)	YES	NO	-
Aboriginal Land (2019)		NO	-	-
Activation Precincts (2020)		NO	-	-
Affordable Rental Housing (2009)		YES	NO	-
Building Sustainability Index: BASIX (2004)		YES	NO	-
Coastal Management (2018)		NO	-	-
Concurrences and Consents (2018)		YES	NO	-
Educational Establishments and Child Care Facilities (2017)		YES	NO	-
Exempt and Complying Development Codes (2008)		YES	NO	-
Gosford City Centre (2018)		NO	-	-
Housing for Seniors or People with a Disability (2004)		YES	NO	-
Infrastructure (2007)		YES	NO	-
Koala Habitat Protection (2020)		NO	-	-
Koala Habitat Protection (2021)		NO	-	-
Kosciuszko National Park – Alpine Resorts (2007)		NO	-	-
Kurnell Peninsula (1989)		NO	-	-
Major Infrastructure Corridors (2020)		NO	-	-
Mining, Petroleum Production and Extractive Industries (2007)		YES	NO	-
Penrith Lakes Scheme (1989)		NO	-	-
Primary Production and Rural Development (2019)		YES	NO	-
State and Regional Development (2011)		YES	NO	-
State Significant Precincts (2005)		YES	NO	-
Sydney Drinking Water Catchment (2011)		NO	-	-
Sydney Region Growth Centres (2006)		YES	YES	CONSISTENT
Three Ports (2013)		NO	-	-
Urban Renewal (2010)		NO	-	-
Vegetation in Non-Rural Areas (2017)		YES	NO	-
Western Sydney Aerotropolis (2020)		NO	-	-
Western Sydney Employment Area (2009)		NO	-	-
Western Sydney Parklands (2009)		NO	-	-
Deemed SEPPs				
SREP No. 8 (Central Coast Plateau Areas)		NO	-	-
SREP No. 9 – Extractive Industry (No. 2 – 1995)		YES	NO	-
SREP No. 16 – Walsh Bay		NO	-	-
SREP No. 20 – Hawkesbury – Nepean River		YES	NO	-

STATE ENVIRONMENTAL PLANNING POLICY (SEPP)	APPLICABLE TO THSC	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
(No 2 – 1997)			
SREP No. 24 – Homebush Bay Area	NO	-	-
SREP No. 26 – City West	NO	-	-
SREP No. 30 – St Marys	NO	-	-
SREP No. 33 – Cooks Cove	NO	-	-
SREP (Sydney Harbour Catchment) 2005	NO	-	-

ATTACHMENT B: ASSESSMENT AGAINST SECTION 9.1 MINISTERIAL DIRECTIONS

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
1. Employment and Resources				
1.1	Business and Industrial Zones	YES	NO	-
1.2	Rural Zones	YES	NO	-
1.3	Mining, Petroleum Production and Extractive Industries	YES	NO	-
1.4	Oyster Aquaculture	YES	NO	-
1.5	Rural Lands	YES	NO	-
2. Environment and Heritage				
2.1	Environment Protection Zone	YES	YES	CONSISTENT
2.2	Coastal Protection	NO	-	-
2.3	Heritage Conservation	YES	NO	-
2.4	Recreation Vehicle Area	YES	NO	-
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	NO	-	-
2.6	Remediation of Contaminated Land	YES	YES	CONSISTENT
3. Housing, Infrastructure and Urban Development				
3.1	Residential Zones	YES	YES	CONSISTENT
3.2	Caravan Parks and Manufactured Home Estates	YES	NO	-
3.3	Home Occupations	YES	NO	-
3.4	Integrating Land Use and Transport	YES	YES	CONSISTENT
3.5	Development Near Regulated Airports and Defence Airfields	YES	NO	-
3.6	Shooting Ranges	NO	-	-
3.7	Reduction in non-hosted short term rental accommodation period	NO	-	-
4. Hazard and Risk				
4.1	Acid Sulfate Soils	YES	NO	-
4.2	Mine Subsidence and Unstable Land	YES	NO	-
4.3	Flood Prone Land	YES	NO	-
4.4	Planning for Bushfire Protection	YES	NO	-
5. Regional Planning				
5.2	Sydney Drinking Water Catchment	NO	-	-
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	NO	-	-
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	NO	-	-
5.9	North West Rail Link Corridor Strategy	YES	NO	-
5.10	Implementation of Regional Plans	YES	NO	-
5.11	Development of Aboriginal Land Council Land	NO	-	-

DIRECTION		APPLICABLE	RELEVANT? (YES/NO)	(IF RELEVANT) INCONSISTENT/ CONSISTENT
6. Local Plan Making				
6.1	Approval and Referral Requirements	YES	NO	-
6.2	Reserving Land for Public Purposes	YES	NO	-
6.3	Site Specific Provisions	YES	NO	-
7. Metropolitan Planning				
7.1	Implementation of A Plan for Growing Sydney	YES	NO	-
7.2	Implementation of Greater Macarthur Land Release Investigation	NO	-	-
7.3	Parramatta Road Corridor Urban Transformation Strategy	NO	-	-
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	YES	NO	-
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	NO	-	-
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	NO	-	-
7.9	Implementation of Bayside West Precincts 2036 Plan	NO	-	-
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	NO	-	-
7.11	Implementation of St Leonards and Crows Nest 2036 Plan	NO	-	-
7.12	Implementation of Greater Macarthur 2040	NO	-	-
7.13	Implementation of the Pyrmont Peninsula Place Strategy	NO	-	-