

23 June 2021

Mr Luke Johnson
Senior Planner
Place, Design and Public Spaces
NSW Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2001

Our Ref: 2020/051518

Dear Luke

**Planning Proposal for Gateway Determination at
1294 - 1300 Pittwater Road and 2 - 4 Albert Street, Narrabeen**

I refer to the Department of Planning, Industry and Environment's (the Department's) letter dated 5 August 2019 outlining further matters to be addressed regarding the above-mentioned Planning Proposal. Council has addressed the matters raised and has prepared a revised Planning Proposal for re-submission to the Department.

Northern Beaches Council requests that the Department provide a Gateway Determination for the attached Planning Proposal under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

The Planning Proposal seeks to amend provisions within the *Warringah Local Environmental Plan 2011* for land at 1294 - 1300 Pittwater Road and 2 - 4 Albert Street, Narrabeen. The objective of the Planning Proposal is to increase the building height (excluding the existing heritage item and its curtilage) and add additional permitted uses for part of the land for a medical centre, commercial premises and shop top housing.

The intended outcome of the development is to relocate the existing Narrabeen Family Medical Practice at 4 Albert Street, to a new building at the corner of Pittwater Road and Albert Street (Building A). The medical centre is proposed to take up two floors of Building A. Above the medical centre will be one level of apartments. In addition to the relocated medical centre, the development also proposes the provision of apartment buildings (Buildings B and C) and an attached dwelling or terrace house typology (Building D), up to three storeys in height. An additional storey may be permitted for Buildings A, B and C where largely contained within the roof form.

This site is the first site to which the Northern Beaches Affordable Housing Scheme will apply. At its meeting of 28 May 2019, Council adopted the Northern Beaches Council Affordable Housing Contribution Scheme, consistent with the guidelines developed by the Department. This planning proposal seeks an LEP provision to enable affordable housing contributions within the Northern Beaches Affordable Housing Contributions Scheme. The amended scheme has been uploaded to the portal with this Planning Proposal and is proposed to be publicly exhibited alongside the post gateway exhibition of the subject Planning Proposal and site specific DCP as per the resolution of Council on 15 June 2021.

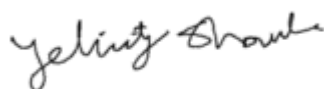
The table below outlines the enclosed documentation supporting the request for Gateway consideration.

Document	Attachment
Department letter dated 5 August 2019	1 (below)
Council response to Department letter dated 5 August 2019	2 (below)
Information Checklist	3 (below)
Evaluation for the Delegation of Plan Making Functions	4 (below)
Indicative Project Timeline	5 (below)
Report to Council and Council resolution dated 15 June 2021	6 Submitted via Planning Portal
Planning Proposal & LEP Maps	7 Submitted via Planning Portal
Draft Affordable Housing Contributions Scheme with feasibility evidence as an attachment	8 Submitted via Planning Portal
Draft DCP for 1294-1300 Pittwater Rd and 2-4 Albert St Narrabeen	9 Submitted via Planning Portal
Contamination Study - Preliminary Environmental Site Assessment	10 Submitted via Planning Portal
Urban Design Report prepared by GMU Urban Design	11 Submitted via Planning Portal
Heritage Impact Assessment prepared by NBRS Architecture and Heritage	12 Submitted via Planning Portal
Traffic Impact Assessment Report prepared by TTPP Transport Planning	13 Submitted via Planning Portal
Economic Assessment Report prepared by Location IQ	14 Submitted via Planning Portal
Flood Risk Assessment prepared by Cardno	15 Submitted via Planning Portal
Maps – Site Identification, Additional Permitted Uses and Height of Buildings	16, 17 & 18 Submitted via Planning Portal
Owners Consent Letters	19 Submitted via Planning Portal
Political Donations and Gifts Disclosure Statement	20 Submitted via Planning Portal
Survey Plan & Deposited Plans	21 & 22 submitted via Planning Portal

Council requests to exercise its delegation to make the Local Environmental Plan. The evaluation response for delegation has been enclosed as Attachment 4.

Should you require any further information or assistance in this matter, please feel free to contact me on 8495 6167 or felicity.shonk@northernbeaches.nsw.gov.au

Yours faithfully



Felicity Shonk
Planner



IRF19/4590

Ms Louise Kerr
 Director, Planning & Place
 Northern Beaches Council
 PO Box 82
 MANLY NSW 1655

Attention: Paul Christmas, Principal Planner

**Planning proposal for 1294-1300 Pittwater Road and 2-4 Albert Street,
 Narrabeen (PP_2019_NBEAC_004_00)**

Dear Ms Kerr

I refer to Council's Planning Proposal to amend *Warringah Local Environmental Plan 2011* to increase the building height shown and to add additional permitted uses for parts of the land at 1294-1300 Pittwater Road, and 2-4 Albert Street Narrabeen.

The Department has completed a preliminary review of the proposal and the following issues have been identified and need further justification from Council:

- The proposed maximum building height control of 11m for most of the site, as described in the provisions of the proposal does not appear to facilitate a part four storey and part three storey residential and shop top housing development as envisaged in the concept scheme outlined in the accompanying Urban Design Report by GMU.

This is because to achieve the minimum floor to ceiling heights and building height standards outlined in Part 2C and Part 4C of the *Apartment Design Guide* (ADG) this generally requires a floor to floor of more than 3m for each level to accommodate residential apartments and often more than 3.3m for any commercial level at the ground floor. Added to this is the likely need to raise floor levels at the corner of Pittwater Road and Albert Street so future development can comply with the flood planning level plus freeboard, which potentially further reduces the ability to achieve the desired 3 storey height sought by the proposal at this part of the site.

- The proposed site-specific provision to enable the additional uses at the corner of Pittwater Road and Albert Street appears unduly restrictive due to its confinement to one corner of the site. The reasons for this are that:
 - these additional permitted uses are wholly restricted to this small corner of the site, which is understood to overlap with the flood affected area;
 - all associated and supporting facilities for these uses such as car parking, garbage, loading and access would need to be confined to this location on the site and could not encroach into other parts of the site as these uses are not to be permitted in any other part of the site; and

- it's not clear whether the scheme for the maximum 1150m² of commercial space could be adequately accommodated in this location when included the other services, loading and access needed for these permitted uses.
- It is unclear on what basis the maximum floor space cap of 1150m² (GFA) was established for commercial/retail uses on the site and whether this includes or excludes neighbourhood shops, which are a permissible form of retail development currently in the R3 zone.
- The proposed amendments to Council's Affordable Housing Contributions Scheme and an associated economic feasibility study to support application of the scheme to the subject site are not provided with the Planning Proposal and are contrary to the *Guideline for Developing an Affordable Housing Contribution Scheme*.

This guideline outlines the steps involved in making an LEP amendment to enable affordable housing contributions. A planning proposal including an LEP provision to refer to the Scheme should be accompanied by an already exhibited Scheme, including any accompanying feasibility study. Council has not completed a feasibility study, nor has it prepared and exhibited an amended Scheme. The Scheme submitted with the Planning Proposal is the Council endorsed Scheme applying to the Frenchs Forest precinct only.

In addition, the Planning Proposal report is considered inadequate for the following reasons:

- Part 2 (6.2) makes reference to the incorrect Lot and DP for 2 Albert Street;
- Part 3 Section A (7.1(2)) does not demonstrate how reasonable alternative approaches to a site-specific provision have been investigated, such as rezoning part of the site to Zone B4 Mixed Use or other zones, nor does it explore alternative maximum building heights that are consistent with the ADG and give effect to complying scheme;
- Part 3 Section B (7.2(3)):
 - Does not explicitly address consistency of the proposed controls with Part 2 of the ADG, nor does the concept scheme show in the submitted Urban Design Report;
 - States that the Planning Proposal considers whether the land is contaminated, but no assessment in regard to the provisions of State Environmental Planning Policy No 55-Remediation of Land and the planning guidelines is included.
 - Does not address the applicability of State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes) nor State Environmental Planning Policy (Coastal Management) 2018; and
 - Makes incorrect reference to a proposed public recreational zone in addressing consistency with State Environmental Planning Policy (Infrastructure) 2007.
- Part 3 Section B (7.2(4)):
 - Does not address consistency with Ministerial Direction 2.2 – Coastal Management;
 - In addressing Ministerial Direction 4.1- Acid Sulfate Soils, the planning proposal does not consider the acid sulfate soils affectation of the land, nor the future need for an acid sulfate soils study.

- In addressing Ministerial Direction 6.3 – Site Specific Provisions, does not acknowledge that the Planning Proposal will allow a particular development to be carried out, and as such, justification for the proposed site-specific provision approach is required.
- Part 4 includes references to existing LEP and site maps, but none are provided in this section of the Planning Proposal.

I encourage Council to amend the Planning Proposal to address the above matters.

Upon receipt of Council's response to the issues raised above, the Department will continue its assessment of the Planning Proposal for a Gateway Determination.

If you have any more questions, please contact Mr Alex Hill, Planning Officer, Sydney Region East, at the Department of Planning, Industry and Environment on 8217 2069.

Yours sincerely

 5/8/19
Amanda Harvey
Director, Sydney Region East
Planning Services

Council response to Department letter dated 5 August 2019

Item	Department comment	Council response
1	<p><u>Building Height</u></p> <p>The proposed maximum building height control of 11m for most of the site, as described in the provisions of the proposal does not appear to facilitate a part four storey and part three storey residential and shop top housing development as envisaged in the concept scheme outlined in the accompanying Urban Design Report by GMU.</p> <p>This is because to achieve the minimum floor to ceiling heights and building height standards outlined in Part 2C and Part 4C of the <i>Apartment Design Guide (ADG)</i> this generally requires a floor to floor of more than 3m for each level to accommodate residential apartments and often more than 3.3m for any commercial level at the ground floor. Added to this is the likely need to raise floor levels at the corner of Pittwater Road and Albert Street so future development can comply with the flood planning level plus freeboard, which potentially further reduces the ability to achieve the desired 3 storey height sought by the proposal at this part of the site.</p>	<p>The Concept Design envisages a largely three storey-built form with the fourth storey in an attic configuration. The Proponent has demonstrated that this concept (inclusive of the flood planning level) is able to be achieved.</p> <p>Council notes that detailed design drawings are not a requirement for submission as part of the Planning Proposal process and that the Concept Designs are indicative built form outcomes</p> <p>Notwithstanding this, as part of the site-specific amendments to the Development Control Plan (DCP), Council referred the application to the Northern Beaches Design and Sustainability Panel (DSAP) to seek comment on urban design and sustainability matters.</p> <p>The DSAP recommended that Council consider increasing the building height at Building A to enable increased ceiling heights for the ground and first floor to improve the urban design and relationship with the public domain. Council has recommended a minor increase from 11 metres to 12 metres to enable this outcome. The overall number of storeys to be provided does not change.</p>

Item	Department comment	Council response
2	<p><u>Additional permitted uses</u></p> <p>The additional permitted uses at the corner of Pittwater Road and Albert Street appears unduly restrictive due to its confinement to one corner of the site.</p>	<p>The restriction was imposed in order to control the location of the additional uses to the corner site and provide street activation.</p> <p>Council is proposing to change this aspect of the Planning Proposal by extending the additional uses so that it applies to the entire lot at 1298-1300 Pittwater Road. By applying the additional uses to the entire lot as opposed to the small corner, this will allow for enough space for the additional uses (maximum 1,150 square metres) and associated supporting facilities.</p> <p>The draft DCP amendments will ensure that active frontages are provided at the corner site (Building A).</p>
3	<p><u>Maximum floor space cap</u></p> <p>Greater clarification is required on the maximum floor space cap of 1,150 square metres gross floor area (GFA) for commercial/retail uses and whether this includes or excludes neighbourhood shops, which are a permissible form of retail development in the R3 zone.</p>	<p>The maximum floor space cap of 1,150 square metres GFA applies to the additional uses of commercial premises and medical centres only. The floor space has been capped to ensure that there is minimal impact to the existing trade area. The floor space was established by the concept plans provided by the Applicant.</p> <p>The Economic Impact Assessment by LOCATIQN demonstrates that there is enough demand for large format medical centres and additional commercial floor space. The Assessment also identifies that there will not be a significant impact to the trade area as the majority of existing vacant sites have already been recently leased, with sites still for lease too small to accommodate the proposed development.</p>

Item	Department comment	Council response
4	<p><u>Draft Northern Beaches Affordable Housing Contribution Scheme</u></p> <p>The proposed amendments to Council's Affordable Housing Contributions Scheme and an associated economic feasibility study to support application of the scheme to the subject site are not provided with the Planning Proposal and are contrary to the <i>Guideline for Developing an Affordable Housing Contribution Scheme</i>.</p> <p>This guideline outlines the steps involved in making an LEP amendment to enable affordable housing contributions. A planning proposal including an LEP provision to refer to the Scheme should be accompanied by an already exhibited Scheme, including an accompanying feasibility study. Council has not completed a feasibility study, nor has it prepared and exhibited an amended Scheme. The Scheme submitted with the Planning Proposal is the Council endorsed scheme applying to the Frenchs Forest precinct only.</p>	<p>The Planning Proposal attached has been amended to seek an LEP provision to refer to the Northern Beaches Affordable Housing Contribution Scheme.</p> <p>Council proposes to exhibit the scheme alongside post-gateway exhibition of this planning proposal and DCP amendments.</p> <p>The Scheme has been amended to specifically refer to the subject site 1294-1300 Pittwater Road and 2-4 Albert St Narrabeen. A with a contribution amount of \$1,129,846 or equivalent amount at the time of payment as indexed in accordance with the Northern Beaches Council Affordable Housing Contribution Scheme and a square metre rate are supported by independent peer review of feasibility analysis.</p>
5	<p><u>Phase 1 Contamination Report</u></p> <p>An assessment is required regarding the provisions contained within <i>State Environmental Planning Policy No 55 – Remediation of Land</i> and the relevant Guidelines.</p>	<p>A Phase 1 Contamination Report has been prepared by the Applicant and the Planning Proposal has been updated to reflect the outcomes.</p>
5	<p><u>Maps</u></p> <p>Maps to amend <i>Warringah Local Environmental Plan (LEP) 2011</i> have not been submitted.</p>	<p>The relevant maps have been submitted as part of the updated Planning Proposal.</p>
5	<p><u>Information in the Planning Proposal</u></p> <p>Certain parts of the Planning Proposal require updating and further information is required regarding an assessment against the relevant statutory requirements.</p>	<p>The Planning Proposal has been updated to incorporate further information and justification where relevant.</p>

STEP 1: REQUIRED FOR ALL PROPOSALS

(under s3.33(2)(a-e) of the EP&A Act)

- | | |
|---|---|
| • Objectives and intended outcome | • Explanation of provisions |
| • Mapping (including current and proposed zones) | • Justification and process for implementation (including compliance assessment against relevant section 9.1 direction/s) |
| • Community consultation (agencies to be consulted) | |

STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

Planning Matters or Issues	to be considered	N/A		to be considered	N/A
Strategic Planning Context				Environmental Considerations	
Consistent with the relevant regional, district or corridor/precinct plans applying to the site, including any draft regional/district or corridor/precinct plans released or public comment; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Flooding	<input checked="" type="checkbox"/> <input type="checkbox"/>
Consistent with a relevant local council strategy that has been endorsed by the Department; or	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Land/site contamination (SEPP55)	<input checked="" type="checkbox"/> <input type="checkbox"/>
Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input type="checkbox"/> <input checked="" type="checkbox"/>
Seeking to update the current planning controls if they have not been amended in the last 5 years	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Sea level rise	<input checked="" type="checkbox"/> <input type="checkbox"/>
Site Description / Context				Urban design Considerations	
Aerial photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Existing site plan (buildings, vegetation, roads, etc)	<input checked="" type="checkbox"/> <input type="checkbox"/>
Site photos / photomontage	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Building mass/block diagram study (changes in building height and FSR)	<input checked="" type="checkbox"/> <input type="checkbox"/>
Traffic and Transport Considerations				Lighting impact	<input checked="" type="checkbox"/> <input type="checkbox"/>
Local traffic and transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Development yield analysis (potential yield of lots, houses, employment generation)	<input checked="" type="checkbox"/> <input type="checkbox"/>
TMAP	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Economic Considerations	
Public transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Economic impact assessment	<input checked="" type="checkbox"/> <input type="checkbox"/>
Cycle and pedestrian movement	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Retail centres hierarchy	<input checked="" type="checkbox"/> <input type="checkbox"/>
Environmental Considerations				Employment land	<input checked="" type="checkbox"/> <input type="checkbox"/>
Bushfire Hazard	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Social and Cultural Considerations	
Acid sulphate Soil	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Heritage impact	<input checked="" type="checkbox"/> <input type="checkbox"/>
Noise impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Aboriginal archaeology	<input type="checkbox"/> <input checked="" type="checkbox"/>
Flora and/or fauna	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Open space management	<input type="checkbox"/> <input checked="" type="checkbox"/>
Soil stability, erosion, sediment, landslip assessment and subsidence	<input type="checkbox"/>	<input checked="" type="checkbox"/>		European archaeology	<input type="checkbox"/> <input checked="" type="checkbox"/>
Water quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Social and cultural impacts	<input type="checkbox"/> <input checked="" type="checkbox"/>
Stormwater management	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Stakeholder engagement	<input checked="" type="checkbox"/> <input type="checkbox"/>
				Infrastructure Considerations	
				Infrastructure servicing and potential funding arrangements	<input checked="" type="checkbox"/> <input type="checkbox"/>
				Miscellaneous / Additional Considerations	
				List any additional studies that should be undertaken post Gateway determination	<input type="checkbox"/> <input checked="" type="checkbox"/>

Evaluation criteria for authorising Council to be the local plan-making authority

(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council	Response	Department assessment
	Y/N	Not Relevant	Agree / Disagree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y		
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y		
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y		
Does the planning proposal contain details related to proposed consultation?	Y		
Does the planning proposal give effect to an endorsed regional or sub-regional planning strategy or a local strategy including the LSPS endorsed by the Planning Secretary?	Y		
Does the planning proposal adequately address any consistency with all relevant s. 9.1 Planning Directions?	Y		
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	X		
Minor Mapping Error Amendments			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		N/A	
Heritage LEPs			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	Nb		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A	
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A	

Reclassifications			
Is there an associated spot rezoning with the reclassification?		N/A	
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A	
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A	
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A	
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?		N/A	
Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?		N/A	
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		N/A	
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/A	
Spot Rezoning			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A	
Does the planning proposal create an exception to a mapped development standard?	N		

Section 3.22 matters

Does the proposed instrument

- a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;
- b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or
- c) deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?

(Note – the Minister (or Delegate) will need to form an Opinion under section 3.22(1)(c) of the Act in order for a matter in this category to proceed).

N/A

Notes

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the council will be authorised to make the plan, as a matter of local planning significance
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Planning Secretary of the Department.

Matters that will be routinely delegated to a Council under administration are confirmed on the Department's website www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/

Indicative Project Timeline

It is proposed that the Planning Proposal be finalised within 8 months, as suggested below.

Task	Anticipated timeframe
Anticipated commencement date (date of Gateway determination)	August 2021
Anticipated timeframe for the completion of required technical information	August 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	September 2021
Commencement and completion dates for public exhibition period	October 2021
Dates for public hearing (if required)	October 2021
Timeframe for consideration of submissions	November 2021
Timeframe for the consideration of a proposal post exhibition	December 2021
Date of submission to the Department to finalise the LEP	December 2021
Anticipated date the local plan-making authority will make the plan (if authorised)	March 2022
Anticipated date the local plan-making authority will forward to the PCO for publication	April 2022