

Planning Services

Gateway Determination Report

LGA	Northern Beaches
RPA	Northern Beaches Council
NAME	Planning proposal to rezone deferred land within the Oxford Falls Valley & Belrose North area (0 homes, 0 jobs)
NUMBER	PP 2015 WARRI 004 00
LEP TO BE AMENDED	Warringah Local Environmental Plan 2011
ADDRESS	Oxford Falls Valley & Belrose North
DESCRIPTION	Various
RECEIVED	20 April 2015
FILE NO.	15/06998
QA NUMBER	qA385930
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to translate the planning controls for deferred lands in Oxford Falls Valley and Belrose North area under Warringah Local Environmental Plan 2000 into best fit zones and land use controls under Warringah Local Environmental Plan 2011.

Reason for deferring land

The then draft Warringah Local Environmental Plan (LEP) 2011 proposed the subject lands to be zoned E3 Environmental Management. The draft LEP was publicly exhibited from 12 October 2009 to 30 December 2009. A number of submissions were received with regard to the proposed E3 zoning for land within Oxford Falls Valley and Belrose North.

On 31 August 2011, the former Minister for Planning requested that the subject lands be deferred from Warringah LEP 2011 in response to the submissions received.

On 9 December 2011, Warringah LEP 2011 was notified, deferring the subject lands from the LEP.

Site Description

The planning proposal covers approximately 1341 hectares of land in the Oxford Falls Valley and Belrose North area located within Warringah local government area (Figure 1).

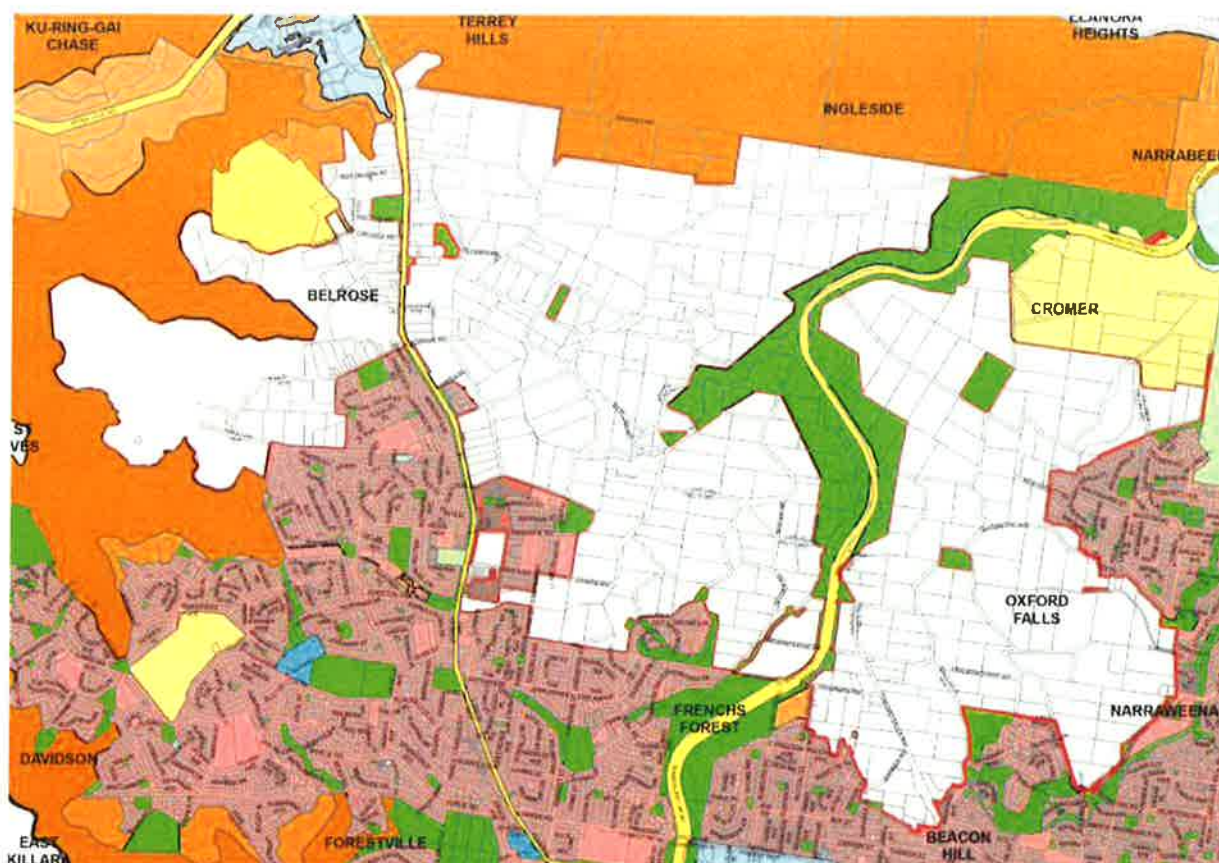


Figure 1 – Deferred land and surrounding zones

The majority of land within the subject area is characterised by large lots containing significant patches of native vegetation. Some allotments contain residential dwellings, outbuildings, educational establishments and commercial uses. Some allotments have been cleared to varying degrees.

The breakdown of land ownership within the Oxford Falls Valley and Belrose North area include:

- the Metropolitan Local Aboriginal Land Council owning approximately 37%;
- the Crown owning 24%;
- private landowners owning 28%; and
- infrastructure providers and/or various government departments owning 11%.

Warringah LEP 2000 applies to the subject lands and applies a 'place based' approach to land use planning, rather than relying on traditional land use zones. The planning controls for the subject lands are identified within the B2 Oxford Falls Valley and C8 Belrose North locality statements. These statements include the desired future character, land use, building height and housing density (**Attachment E**).

Surrounding Area

The Oxford Falls Valley and Belrose North area is bounded by Garigal National Park to the north and west, forms part of the Narrabeen Lagoon and Middle Harbour catchments and adjoins predominantly low density residential development to the south and east.

Summary of Recommendation

It is recommended the planning proposal proceed subject to the following conditions:

- Prior to community consultation, Council is to complete stage 2 of the Strategic Review. This study should also examine the environmental significance of land proposed to be

zoned E4 Environmental Living. The planning proposal must be revised to reflect any recommendations of the stage 2 study.

- Prior to community consultation, the planning proposal is to be updated to:
 - demonstrate consistency with the draft North District Plan;
 - insert a Schedule 1 Additional Permitted Uses for Oxford Falls Grammar School;
 - require home based childcare be permissible with consent in environmental zones;
 - include a sunset provision for a set timeframe of 3 years to allow land owners to seek development approval for currently permitted uses; and
 - provide a new project timeline.
- Community consultation is required for a minimum of 28 days.
- Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - NSW Aboriginal Land Council
 - Office of Environment and Heritage
 - Office of Environment and Heritage - NSW National Parks and Wildlife Service
 - Sydney Water
- A public hearing is not required to be held into the matter.
- The timeframe for completing the LEP is to be 12 months.

PROPOSAL

Objectives or Intended Outcomes

The objectives of the planning proposal as submitted by Council are:

- Transfer the planning controls for deferred land in Oxford Falls Valley and Belrose North area under Warringah LEP 2000 into best fit zones and land use controls under Warringah LEP 2011.
- Transfer planning controls in accordance with the NSW Government Standard Instrument (Local Environmental Plans) Order 2006 to eliminate duplication, management and operational cost of operating under two local environmental planning instruments.
- Consideration of the outcomes of Stage 1 of the Oxford Falls Valley and Belrose North Strategic Review 2013 (Strategic Review), with some areas of land recommended for alternative E4 Environmental Living, RU4 Primary Production Small Lots, SP2 Infrastructure, R5 Large Lot Residential, R2 Low Density Residential and additional permitted uses.

Explanation of Provisions

The planning proposal contains an adequate explanation of provisions detailing the required amendment under Warringah LEP 2011.

As the proposal is rezoning a large amount of deferred land, there are numerous LEP amendments proposed, including:

- Insert a new R5 Large Lot Residential Zone;
- expand the objectives of the E4 zone to cover land proposed to be zoned E4 in proximity to Wakehurst Parkway, not just land zoned E4 in Cottage Point;
- include the new R5 zone in clause 4.1AA Minimum subdivision lot size for community title schemes;
- include the new R5 zone in clause 4.2A Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones;

- add R5 Large Lot Residential to clause 5.3(3)(a1) Development near zone boundaries; and
- expand clause 6.6 Erection of Dwelling Houses in the Zone E3 Environmental Management zoned to zones R5, RU4 and E4.

Insert the following Schedule 1 Additional Permitted Uses:

- Use of certain land to the western side of Forest Way, Belrose for hotel or motel accommodation and recreation purposes;
- use of certain land at Challenger Drive, Belrose for extractive industries;
- use of certain land zoned E4 in proximity to Wakehurst Parkway, Oxford Falls for aquaculture, environmental facilities; extensive agriculture; farm buildings; home industries, and horticulture;
- use of certain land at Lot 100 Meatworks Avenue, Oxford Falls for industrial activity and warehouse or distribution;
- use of certain land at Wakehurst Parkway, Frenchs Forest for place of public worship; and
- use of certain land at Lot 1110 Oxford Falls Road, Frenchs Forest for recreation agriculture; home industries, and horticulture.

Update the following maps:

- remove 'deferred matter' from the Land Application Map;
- amend Land Zoning Map sheets 003, 007 and 008A;
- amend Additional Permitted Use Map Sheets 003 and 007;
- amend Acid Sulfate Soils Map sheet 007;
- amend Height of Building Map sheets 003, 007 and 008A;
- amend Lot Size Map sheets 003, 007 and 008A;
- amend Landslip Risk Map sheets 003, 007 and 008A; and
- amend Heritage Map sheet 007.

The proposed provisions are generally consistent with the recommendations of the Strategic Review and submissions report.

Mapping

The planning proposal contains proposed mapping indicating the intent of the amendment and is considered adequate for public exhibition.

NEED FOR THE PLANNING PROPOSAL

In June 2015, the former Warringah Council resolved to work in partnership with the Department to prepare the Oxford Falls Valley and Belrose North Strategic Review (Strategic Review). The Strategic Review was initiated in response to stakeholder concern regarding the adequacy of consultation during the preparation of Warringah LEP 2011. The purpose of the Strategic Review was to translate deferred lands under Warringah LEP 2000 into the best fit zones and land use controls under Warringah LEP 2011.

The Strategic Review would involve 2 stages. Stage 1 would transfer the deferred lands in Oxford Falls Valley and Belrose North into Warringah LEP 2011. Stage 2 would involve considering the future urban development potential for the area.

The Strategic Review Stage 1 identified the majority of subject lands are environmentally constrained and recommended the majority of the area should be zoned E3 Environmental Management. Subsequently, the planning proposal proposes to apply the E4 Environmental

Living zone to certain land on the southern boundary of the area, which is a departure from the Strategic Review recommendations.

The planning proposal states the proposed E4 Environmental Living zoning to certain land considers:

- the characteristics of the E4 zone, which include areas of existing residential development in a rural setting which contains some special conservation values;
- the desired future character statements for the Oxford Falls Valley and Belrose North areas under Warringah LEP 2000; and
- additional permitted uses that reflect existing development for land in proximity to Wakehurst Parkway.

The planning proposal is the result of the Strategic Review Stage 1, with some alternative zoning and additional permitted uses proposed.

STRATEGIC ASSESSMENT

State

The planning proposal states it is not contrary to the planning principles, directions and priorities of *A Plan for Growing Sydney* (Plan). In particular, the planning proposal is consistent with Direction 4.1 Protect our natural environment and biodiversity as the Oxford Falls Valley and Belrose North area falls within Sydney's Metropolitan Rural Area (MRA). The MRA is immediately beyond the urban footprint of Sydney and contains most of Sydney's conservation reserves and significant agriculture and extractive industries. By implementing predominantly environmental zones the planning proposal is consistent with the identification and management of the MRA.

Regional / District

The planning proposal was lodged with the Department for consideration at the Gateway prior to the release of the draft North District Plan. Should the planning proposal proceed, the Gateway determination will request the planning proposal be updated to address consistency with the draft North District Plan.

An initial assessment of the planning proposal's consistency with the draft North District Plan notes that *Priority 5.7 Managing the Metropolitan Rural Area* lists MRA land in the Northern Beaches local government area, including Oxford Falls. Under Priority 5.7 the following sustainability priorities may apply:

Sustainability Priority 8: Discourage urban development in the Metropolitan Rural Area –

The draft North District Plan advises any conversion of MRA land to urban residential development is not necessary in the short to medium term given the supply of land for housing in other parts of Greater Sydney. Therefore, urban development in the MRA should not be supported unless the relevant planning authority has undertaken strategic planning in accordance with Sustainability Priorities 9 and 10.

Sustainability Priority 9: Consider environmental, social and economic values when planning for the Metropolitan Rural Area asserts that agriculture and primary industries should be planned and protected to avoid their transition to suburban residential uses. Reviews of land use activities in the context of environmental, economic and social values should be undertaken to confirm the operation of MRA land in the District.

Sustainability Priority 10: Provide for rural residential development while protecting the values of the Metropolitan Rural Area states that rural landscapes provide opportunities

for housing in rural towns and villages, as well as rural residential living that is already dispersed throughout the MRA. Any plan to expand rural towns and villages or further subdivide rural residential land should seek to minimise impacts on biodiversity, ecological, scenic and productive values.

Local

Oxford Falls Valley and Belrose North Strategic Review (Stage 1)

The former Warringah Council and the Department have worked in partnership to undertake Stage 1 of the Oxford Falls Valley and Belrose North Strategic Review process (Strategic Review). The purpose of the Strategic Review was to identify appropriate zoning controls for the deferred area under Warringah LEP 2011 and to engage the community in the process.

In summary, the Strategic Review was informed by:

- information on environmental constraints and infrastructure;
- development controls that currently apply to the subject lands;
- site visits and meetings with landowners; and
- submissions received through public exhibition.

Exhibition of the Strategic Review

The Strategic Review was publicly exhibited from 22 June 2013 to 30 August 2013. A submissions report was prepared in response to submissions received.

Council received 124 submissions from the public. Key issues raised included:

- objection to the proposed E3 zoning of land;
- concern with the overall methodology used to inform the outcomes of the review;
- land uses currently permitted will be prohibited in the future;
- impact on land use rights and land value; and
- transparency and community engagement

Representations by community groups

The Warringah Urban Fringe Association (WUFA), a body representing some of the landowners in the study area, has made representations to previous Ministers and the Department regarding the matter. WUFA has questioned the ecological significance of the land and the suitability of applying the E3 and E4 zones and has raised concerns that the proposed E3 and E4 zones will prohibit seniors housing, a land use which WUFA considers is suitable on some land and is currently permitted under the Warringah LEP 2000.

WUFA requests that certain land remain deferred from the Warringah LEP 2011, pending further ecological studies. Council does not support this approach, as it does not want to maintain 2 local environmental plans.

The friends of Narrabeen Lagoon, a body representing some of the landowners in the study area, has made representations to previous Ministers and the Department regarding the matter. This group requests the proposal should proceed and the more restrictive E2 Environmental Conservation zone be considered for the more environmentally sensitive parts of the study area.

Comparison of land use objectives

The Strategic Review found the best fit zone for most of the study area is the E3 zone with some smaller pockets of land identified for alternative zonings such as SP2 Infrastructure, RU4 Rural Small Holdings, R5 Large Lot Residential and R2 Low Density Residential.

The Strategic Review identified that the E3 zone objectives are generally consistent with the Desired Future Character statements for Oxford Falls and Belrose North that apply under Warringah LEP 2000 (**Attachment F**). The Strategic Review noted that the E3 zone is not generally intended for cleared land, but it may be applied as a transition area between high conservation areas, such as Garigal National Park and land uses for urban purposes.

Comparison of land uses

The Strategic Review undertook an assessment of the existing land uses. As a consequence of no direct translation between the locality statements and a standard instrument zone, there are some changes in permissible land uses. A comparison table of land uses is at **Attachment G**.

The Warringah LEP 2000 categorises permitted land uses into three groups:

- Category One land uses are presumed consistent with the Desired Future Character statement for the locality;
- Category Two land uses may be consistent with the Desired Future Character statement for the locality; and
- Category Three land uses are generally inconsistent with the Desired Future Character of the locality.

Under the Warringah LEP 2000 almost all land uses are permitted with consent, but not always consistent with the future desired character statements. The Strategic Review found that Category One and Category Two land uses were generally consistent with the Desired Future Character statements and are permitted uses of the E3 zone.

However, under Warringah LEP 2000, landowners can apply for seniors housing, but only on land that adjoins land used for urban purposes. A seniors housing development must also meet density planning controls. The E3 zone prohibits seniors housing, although this type of development may be permitted within other zones located in the study area including R2 Low Density Residential and R5 Large Lot Residential where it adjoins urban land.

In general, Category Three land uses, such as industries, bulky goods, vehicle repair stations and warehouses are considered to be inconsistent with the Desired Future Character statements. Currently landowners can lodge a development application for Category Three land uses, however, the rigorous planning assessment makes it difficult to obtain approval. Consequently, Council has listed industries, multi dwelling housing, residential flat buildings and seniors housing as prohibited development in the E3 zone as they are considered incompatible with the surrounding natural environment.

Sunset Provision

To provide a more equitable transition from the relatively open locality statements to the E3 zone a sunset provision will be introduced which allows development applications to be made as if the land had not been rezoned.

This approach will allow currently permissible land uses to continue for private land owners for a set timeframe of 3 years. It would allow land owners to seek development approval on land which they believe a seniors living or other currently permitted development is

appropriate. Land owners would then have five years to commence development, which is considered an equitable outcome. This option acknowledges the difficulties of clearly translating the existing permissible land uses to standard instrument zones.

Finalisation of the Strategic Review

On 18 June 2014, the Strategic Review and submissions report were provided to the Warringah Development Assessment Panel (Panel) for an independent public hearing and opinion. The Panel did not support the recommendations of the Strategic Review and requested the Stage 2 detailed studies be undertaken to decide on the values of the deferred lands and their relevance for an environmental or other zoning.

On 24 February 2015, Council resolved not to undertake Stage 2 and to progress the planning proposal by seeking a Gateway determination under section 56 of the Act.

Oxford Falls Valley and Belrose North Strategic Review (Stage 2)

Stage 2 of the Strategic Review will involve an investigation into the future urban development potential of four sites (Oxford Falls West, Red Hill, Lizard Rock, Cromer Golf Club) in Oxford Falls Valley as recommended by the Planning Assessment Commission (PAC) in 2009.

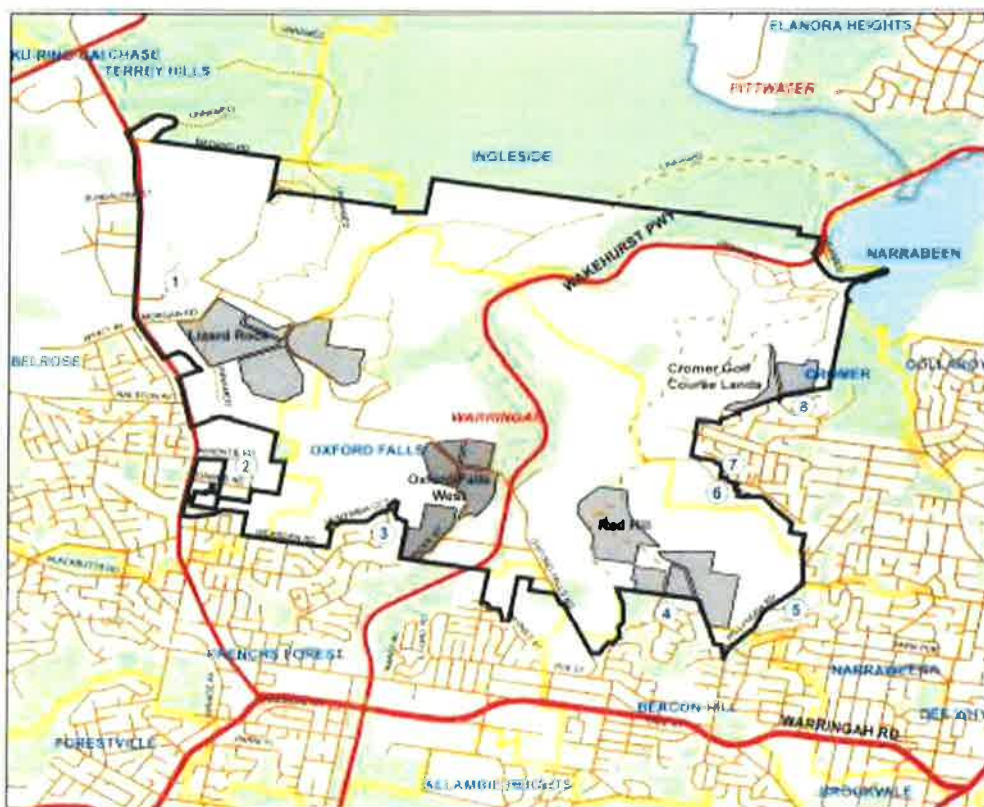


Figure 2 – Four site identified by PAC for future urban development potential

The PAC undertook an analysis and recommended the following additional studies:

- transport and accessibility;
- management of bushfire hazard;
- water quality, aquatic ecology and hydrology of Narrabeen Lagoon Catchment;
- floral and fauna;
- visual analysis; and
- satellite communication buffer zones.

The application of E zones

The final recommendations of the Northern Councils E Zone Review only apply to five Far North Coast Councils, however, in cases where a planning proposal anywhere in NSW is considering the application of E zones, the principles of the E Zone Review can be considered.

In the first instance, a planning proposal should identify the primary use of the subject land. This task has been undertaken during the preparation of Strategic Review through site visits and community and stakeholder consultation.

Site visits of private land holdings were undertaken in December 2012 by representatives of the former Warringah Council and the Department. A total of 179 sites were inspected. In addition, landholdings owned by the Metropolitan Aboriginal Land Council (MLALC), Optus, Sisters of the Good Samaritan, Belrose Country Club and the Catholic Archdiocese of Sydney were also inspected. Data gathered from the site visits assisted in generating the Land uses Map (**Attachment H**). This analysis determined the primary use of land in the study area.

Secondly, the former Warringah Council conducted an environmental constraints assessment. This assessment used data supplied by Council and considered the following environmental constraints: riparian; significant vegetation; wetland buffers; slope; designated wildlife corridor or core habitat; flooding; acid sulphate soils; and threatened species habitat. A weighted score was determined for individual environmental constraints and mapped for the area (**Attachment I**). This work partially fulfils the criteria for applying E zones. However, the map at (**Attachment I**) also highlights areas with low to moderate environmental constraints, which will be the subject of Stage 2 of the Strategic Review as they are either identified in the PAC report or proposed to be zoned E4. Stage 2 of the Strategic Review should consider the principles of the E Zone Review when choosing its methodology.

Stage 2 of the Strategic Review will be required by the Gateway determination to meet the original intent of the Strategic Review.

Section 117(2) Ministerial Directions

The proposal is considered to be consistent with all relevant s117 Directions, except Directions 2.1 and 4.4. A discussion of their inconsistencies follows.

Section 117 Direction – 2.1 Environment Protection Zones

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

As part of the Strategic Review, both primary and secondary constraints analysis was undertaken to identify land that has an environmental constraints rating of 'Prohibitive, Severe or Significant'. As a result of this analysis, an E3 zoning has been recommended for large areas of land covered by the planning proposal in accordance with the objectives of this direction, namely to protect and conserve environmentally sensitive areas within Oxford Falls Valley and Belrose North.

The E4 zone is also proposed for land in proximity to Wakehurst Parkway as the characteristics of this land aligns with the recommendations of LEP Practice Note 11-002, which notes that the E4 zone may be applicable to areas with existing residential development in a rural setting which still retains some special conservation value. In this case, low density housing with extensive tree cover and boundaries to native bushland.

The planning proposal could be considered consistent with this Direction as it includes provisions to facilitate the conservation and protection of environmentally sensitive areas. However, the application of environmental zones to land previously identified by the PAC and certain lands proposed to be zoned E4 remains unresolved until Council undertakes Stage 2 of the Strategic Review and considers the recommendations of that study. Submissions received through the exhibition of the planning proposal may identify other land that should be subject to further analysis and whether alternative zones, other than environmental zones, would be more appropriate. Consistency with this Direction remains outstanding until Stage 2 of the Strategic Review is completed.

Section 117 direction – 4.4 Planning for Bushfire Protection

This direction is applicable as the planning proposal involves land identified on Council's bushfire prone map certified by the NSW Rural Fire Service (RFS). This direction requires consultation with RFS following receipt of a Gateway determination under section 56 of the Act.

The planning proposal states the RFS provided a submission to the Strategic Review. Concern was raised about the permissibility of home based childcare without consent in the proposed E3 zone, which is considered bushfire prone.

Council advises a separate planning proposal will be prepared to undertake a local government area wide housekeeping amendment for all zones within the Warringah LEP 2011, so that home based childcare would only be permitted with consent. This proposal has not been submitted to the Department for consideration at the Gateway. A Gateway condition will require Council to amend the proposal to require home based childcare be permissible with consent in environmental zones.

Consultation is required with the RFS after the Gateway determination is issued and until this consultation has occurred the inconsistency of the proposal with the Direction remains unresolved.

State Environmental Planning Policies

The proposal is considered to be consistent with all relevant SEPPs, except the Seniors and the Infrastructure SEPPs. A discussion of their inconsistencies follows.

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

The Seniors SEPP applies to land zoned primarily for urban purposes or land that adjoins land primarily zoned for urban purposes. Clause 4(2A) of the Seniors SEPP states that land in the Oxford Falls Valley and Belrose North localities are not considered land zoned primarily for urban purposes, thus the SEPP does not currently apply.

The provisions under the Warringah LEP 2000 appear to permit seniors housing in the Oxford falls Valley and Belrose North area. This would allow a development application to be submitted with Council for the proposed seniors housing development without the requirement of a site compatibility certificate.

The planning proposal proposes the majority of the land within the subject area to be zoned E3 and some areas are proposed as E4, RU4, R5 and R2. The Seniors SEPP does not apply to environmental protection land, which includes E3 and E4 zoned land.

Therefore, the Seniors SEPP would apply to certain land in Oxford Falls Valley and Belrose North, but only if it is zoned residential or adjoins land zone primarily for urban purposes.

The Gateway determination includes a condition to require Council to update the proposal to include a sunset clause which will allow currently permissible land uses to continue for private land owners for a timeframe of 3 years. This will allow land owners to seek development approval on land which they believe a seniors living or other currently permitted development is appropriate. This approach acknowledges the difficulties of clearly translating the existing permissible land uses and is consistent with the Strategic Review.

SEPP (Infrastructure) 2007 (Infrastructure SEPP)

The Infrastructure SEPP provides for infrastructure, including educational establishments, and the provision of services across the NSW.

This SEPP applies to the planning proposal, as there are a number of existing schools in a proposed RU4 Primary Production Small Lots zone and one school located in a proposed E4 Environmental Living zone. Some of these schools are located next to a proposed E3 Environmental Management zone.

Under Warringah LEP 2011, educational establishments are not permissible in RU4, E3 and E4 zones.

Notwithstanding the above, the Infrastructure SEPP identifies RU4 and E4 as 'prescribed zones' for educational establishments. This means educational establishments would be permitted with consent in the proposed RU4 and E4 zones.

In addition, clause 28(2) of the Infrastructure SEPP allows development for the purpose of the expansion of existing educational establishments on land adjacent to the existing educational establishment. Therefore, the expansion of existing schools on any proposed E3 zone adjoining the existing school is permissible, in accordance with the provisions of the Infrastructure SEPP.

To avoid any doubt, should the planning proposal proceed, the Gateway determination will require Council to insert a Schedule 1 Additional Permitted Uses for Oxford Falls Grammar School.

SITE SPECIFIC ASSESSMENT

Social

Seniors Housing

A number of public submissions throughout the Strategic Review process raised concern about the loss of senior housing opportunities within the proposed E3 and E4 zones. It is acknowledged the proposed environmental zoning would restrict seniors housing and potentially reduce the number of seniors housing available within Warringah local government area.

As discussed previously, opportunities to provide seniors housing will continue within the proposed R2 zoned land, and certain land proposed to be RU4 and R5. In addition, a sunset clause will allow private landowners the opportunity to seek consent for seniors housing where it may be appropriate for a period of 3 years.

Educational Establishments

Another key issue raised throughout the Strategic Review process was the zoning of school sites under the proposed E3 and E4 zoned land. As highlighted previously, the proposed E4 zoning would not impact the development of schools as this is covered by the

Infrastructure SEPP. In addition, under the SEPP, the planning proposal would not impact on the ability for existing schools to expand into adjoining proposed E3 zoned land. It is noted the Gateway determination will require Council to review all land proposed to be zoned E4, which may recommend an alternative zone for Oxford Falls Grammar School site. Council's approach to school zoning in the Warringah LEP 2011 is to adopt the adjacent zone, rather than using the SP2 zone.

Environmental

The proposal seeks to apply E3 zoning in recognition of the environmental constraints affecting most of the subject lands. These constraints were identified as part of the Strategic Review, which included threatened species, flooding, and bushfire hazard. The Strategic Review found that the best fit land use zone for most of the study area is the E3 zone.

The findings of the Strategic Review do not significantly change the urban development potential of land in Oxford Falls Valley and Belrose North. A planned Stage 2 of the Strategic Review will involve commissioning studies as recommended by the PAC report (2009) for four sites (Oxford Falls West, Red Hill, Lizard Rock, Cromer Golf Club) in Oxford Falls Valley for urban development and will confirm any additional dwelling potential.

Economic

Operational benefits

The planning proposal recognises the benefits to Northern Beaches Council of operating under one environmental planning instrument for Warringah local government area. The transfer of planning controls into Warringah LEP 2011 will reduce the management and operating costs that may be associated with two local planning instruments.

Existing Use Rights

Should the planning proposal proceed, a number of existing land uses would be prohibited under Warringah LEP 2011. Lawfully established land uses will continue to be carried out or may seek to expand as an existing use under the Act. The planning proposal introduces Schedule 1 additional permitted uses for a number of existing uses and indicates any other prohibited land uses can be reviewed through a separate planning proposal in the future.

Infrastructure

Existing infrastructure servicing the site has the capacity to accommodate future development. It is expected that these services would be upgraded by the developer, where required, to support the proposed development.

CONSULTATION

Community

Public consultation will be undertaken in accordance with the Gateway determination. Council suggests an exhibition period of 28 days, which is considered adequate.

Agencies

The planning proposal states consultation will be conducted in accordance with State Government legislation requirements. The Gateway determination will specifically require agency consultation with NSW Rural Fire Service, NSW Aboriginal Land Council, Office of Environment and Heritage, NSW National Parks and Wildlife Service and Sydney Water.

TIMEFRAME

The Department considers a 12 month project timeline for completion is adequate. The Gateway determination will request the project timeline in the planning proposal be updated reflect the date the Gateway determination was issued.

DELEGATION

Northern Beaches Council is seeking delegation to carry out the Minister's plan-making functions under section 59 of the *Environmental Planning and Assessment Act 1979* (the Act).

Given the complex and sensitive nature of the proposal, the partnership between Council and the Department in the Strategic Review, and the recommended further investigation into areas proposed to be zoned E4 and certain land proposed to be zoned E3 identified by WUFA, it is recommended delegation not be granted in this instance and the Department manage the finalisation process.

CONCLUSION

The planning proposal is supported to proceed with conditions as it:

- transfers the planning controls for certain land in Oxford Falls Valley and Belrose North area under Warringah LEP 2000 into best fit zones and land use controls under Warringah LEP 2011;
- eliminates duplication, management and operational cost of operating under two local environmental planning instruments; and
- is consistent with the outcomes of Stage 1 of the Oxford Falls Valley and Belrose North Strategic Review 2013.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Note that the inconsistency with Section 117 Directions 2.1 Environment Protection Zones and 4.4 Planning for Bushfire Protection remain unresolved until further justification has been provided.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, Council must complete stage 2 of the Strategic Review. This study should also examine the environmental significance of land proposed to be zoned E4 Environmental Living. The planning proposal must be revised to reflect any recommendations of the stage 2 study.
2. Prior to community consultation, the planning proposal is to be updated to:
 - (a) demonstrate consistency with the draft North District Plan;
 - (b) insert a Schedule 1 Additional Permitted Uses for Oxford Falls Grammar School;
 - (c) require home based childcare be permissible with consent in environmental zones;

- (d) include a sunset provision for a set timeframe of 3 years to allow land owners to seek development approval for currently permitted uses; and
- (e) provide a new project timeline.

3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - NSW Aboriginal Land Council
 - Office of Environment and Heritage
 - Office of Environment and Heritage - NSW National Parks and Wildlife Service
 - Sydney Water
5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should not be authorised to exercise delegation to make this plan.



Wayne Williamson
Team Leader, Sydney Region East



Karen Armstrong 4/10/17
Director, Sydney Region East
Planning Services

Contact Officer: Wayne Williamson
Team Leader, Sydney Region East
Phone: 9274 6585