

## Appendix 9 – Section 117 Directions

The following table provides an analysis of how and if the recommended amendments to WLEP2011 via the Oxford Falls Valley and Belrose North Planning Proposal comply with relevant Section 117(2) Ministerial Directions of the Environmental Planning and Assessment Act, 1979:

Section 117 Direction	Planning Assessment	Compliance with S117 Direction? Yes or No?
1.2 Rural Zones	<p>The objective of this direction is to protect the agricultural production value of rural land.</p> <p>The strategic review recommends that an area of land west of Forest Way be zoned RU4 Primary Production Small Lots, by virtue of the areas geographical location, existing and desired future character and current land uses. This zoning will serve to protect the agricultural production value of the area. The strategic review recommendations will not rezone rural lands, or contain provisions that will increase the permissible density of land within the rural zone, in line with the objectives of this S117 Direction.</p>	Yes
1.3 Mining, Petroleum Production and Extractive Industries	<p>The objective of this direction is to ensure that the future extraction of state or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p> <p>Warringah local government area has one active quarry which is located within the Planning Proposal area at Belrose and is operated by Benedict Sand and Gravel. The quarry is considered an atypical land use in Warringah.</p> <p>The northern boundary of the quarry site adjoins the Belrose Waste Management Centre. All other boundaries of the site adjoin dense bushland. The Planning Proposal recommends that the quarry be zoned E3 Environmental Management, consistent with the recommended E3 zoning for surrounding lands to the east, south and west of the site, with the exception of the Belrose Waste Management Centre which is already zoned SP2 'Waste or Resource Management Facility', located to the north of the site.</p> <p>Considering that Extractive Industry (i.e. quarry) is prohibited in the recommended E3 zone, the Planning Proposal also recommend that a Schedule 1 Additional Permitted Use be provided under WLEP2011 for the property as follows:</p> <p><b><i>Use of certain land at Challenger Drive, Belrose</i></b></p>	Yes

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	<p>(1) <i>This clause applies to so much of the land at Challenger Drive, Belrose, that is covered by Lease RE 412 592 issued by the Department of Lands, shown as "Area (number to be confirmed)" on the <a href="#">Additional Permitted Uses Map</a>.</i></p> <p>(2) <i>Development for the purposes of extractive industries, recreation facilities (indoor), recreation facilities (outdoor), processing and recycling facility for construction and demolition waste and a concrete batching plant is permitted with consent.</i></p> <p>The recommended E3 zoning surrounding the site will not support development that would compromise the operation of the quarry and is therefore consistent with the objectives of this S117 Direction.</p>	
2.1 Environment Protection Zones	<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>A primary and secondary constraints analysis was undertaken as part of the Oxford Falls Valley and Belrose North Strategic Review in order to identify land that predominantly has an environmental constraints rating of "Prohibitive, Severe or Significant". As a result of this analysis, an E3 Environmental Management 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.</p> <p>The E4 Environmental Living Zone is also proposed for land in proximity to Wakehurst Parkway as the characteristics of this land aligns well 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 has some special conservation values. The E4 zone under WLEP2011 also aligns well with the desired future character statement of the B2 locality under WLEP2000 for the subject land, with the addition of an objective to "protect and enhance visual quality by promoting dense bushland buffers adjacent to major traffic thoroughfares".</p>	Yes
2.2 Coastal Protection	<p>The objectives of this direction are to implement the principles of the NSW Coastal Policy.</p> <p>Only one property is covered by the coastal zone, which is owned by the Minister Administering The Sporting Venues Management Act being, Part Lot 1 DP 74818 Wakehurst Parkway, Oxford Falls. This property is recommended for SP1 Special Activities Zone under WLEP2011, the same zoning as the rest of the land covered by this Lot and DP. The proposed zone will have negligible additional impact on the coastal zone and is consistent with the principles of ecologically sustainable development, additionally, coastal zone planning requirements will</p>	Yes

Section 117 Direction	Planning Assessment	Compliance with S117 Direction? Yes or No?
	continue to apply to this land under the new proposed zone.	
2.3 Heritage Conservation	<p>The objective of this direction is to conserve items, areas, objects and places of environmental and indigenous heritage significance.</p> <p>WLEP2011 was prepared to implement the objectives of this direction, namely to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance via the compulsory LEP standard instrument Clause 5.10 – Heritage Conservation, Schedule 5 and the Heritage Map. In meeting the new format requirements, the various Department of Planning Circulars and Practice Notes regarding LEP mapping requirements, and the NSW Heritage Office requirements will be complied with.</p> <p>The WLEP2000 lists as environmental heritage various local and regional heritage items and conservation areas in localities in the Warringah area. Applicable to this Planning Proposal, the WLEP2000, B2 Locality identifies a small area of land in the north east corner of the study area (adjacent to Wakehurst Parkway) as a ‘conservation area’. This is proposed to be transferred into WLEP2011 via the existing notation in Schedule 5 Environmental Heritage (C12 Oxford Falls Conservation Area) and via an update to the Heritage Map (No.007).</p> <p>Separate to the LEP Heritage Maps Council holds spatial data identifying the location of known places, objects and areas of Aboriginal heritage significance in Warringah. To date, consistent with advice from the Department of Climate Change and Sustainability and from the Office of Aboriginal Heritage, these items have not been mapped on the Warringah Heritage Map.</p> <p>These are protected under the National Parks and Wildlife Act 1974, and were identified by Council’s Aboriginal heritage survey and study of heritage significance to Aboriginal culture and people. Internal processes exist in Council and the Department to ensure management of such items in the development process. The location of these places, objects and areas of Aboriginal heritage significance were considered when undertaking the secondary constraints analysis of the Oxford Falls Valley and Belrose North Strategic Review.</p> <p>Therefore, the recommendations of the Planning Proposal satisfy this S117 Direction.</p>	Yes
3.1 Residential Zones	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access</li> </ul>	Yes

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	<p>to infrastructure and services, and</p> <p>c) to minimise the impact of residential development on the environment and resource lands.</p> <p>The Planning Proposal recommends two residential zones within the study area when determining best fit zones to translate WLEP2000 into WLEP2011 as follows:</p> <ol style="list-style-type: none"> <li>1. R2 Low Density Zone: <p>The R2 Low Density Residential zone is recommended for land that currently contains seniors housing developments and associated facilities, with existing infrastructure and services.</p> <p>It is noted that 'seniors housing' is prohibited within the R2 Zone under WLEP2011, however, the provisions of State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004 will take precedence over WLEP2011 and in this instance, the SEPP makes seniors housing permissible on the land (subject to a range of development criteria and standards specified in the SEPP), as the land would be zoned primarily for urban purposes.</p> <p>Landuses within the R2 zone that are permissible with consent and serve as ancillary uses to senior's housing developments include landuses such as: Community facilities; Health consulting rooms; Hospitals; Places of public worship; Recreation areas and Respite day care centres.</p> </li> <li>2. R5 Large Lot Residential Zone An R5 Large Lot <p>Residential Zone is recommended for properties that are currently utilised for such a purpose and that are generally located at the interface of environmentally sensitive land along one boundary and urban land along the other. The recommended zoning provides a way of minimising landuse conflicts within this zone and adjoining zones. It also supports residential housing in a rural setting whilst preserving and minimising impacts on environmentally sensitive locations and scenic quality. The recommended R5 zone also ensures that the rural residential zone does not unreasonably increase the demand for public service and public facilities and can make efficient use of existing infrastructure and services prior to the finalisation of a Warringah Housing Strategy.</p> </li> </ol> <p>It is the role of the future Warringah Local Planning Strategy to strategically determine how Warringah is to encourage a variety and choice of housing types to provide for existing and future housing needs across Warringah.</p>	

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3.3 Home Occupations	<p>The objective of this direction is to encourage the carrying out of low impact small businesses within dwelling houses.</p> <p>The Planning Proposal recommends zones that are consistent with this objective as home occupations are permissible in dwelling houses and dwellings without consent in the proposed RU4, R2, R5, E3 and E4 zones.</p>	Yes
3.4 Integrating Land Use and Transport	<p>This direction ensures that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>d) supporting the efficient and viable operation of public transport services, and</li> <li>e) providing for the efficient movement of freight.</li> </ul> <p>The Oxford Falls Valley and Belrose North Strategic Review considered the objectives of this S117 Direction when undertaking the secondary constraints analysis and more detailed analysis on an area and property basis, when determining the recommended zonings for the deferred land.</p> <p>The Integrating Land Use and Transport objectives also underlie WLEP2011 and Council's Strategic Community Plan. These plans have defined aims and goals for achieving safe, convenient and accessible transport options through local jobs, greater public transport usage, living streets, and less reliance on private motor vehicles. Council's future Warringah Local Planning Strategy will be required to more fully explore housing choices; design alternatives and wider use of the standard instrument LEP residential zones, particularly in and around various existing centres.</p>	Yes
4.1 Acid Sulfate Soils	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>Acid sulfate soils only affects a relatively small proportion of land located to the north eastern extent of the study</p>	Yes

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	<p>area. This land is recommended to be zoned E3 environmental management under WLEP2011.</p> <p>Clause 49a of Warringah LEP 2000 makes provisions with respect to managing development that is to be carried out where any disturbance to acid sulfate soils occurs. This matter continues to be of relevance in Warringah and accordingly, WLEP2011 includes Clause 6.1 'Acid Sulfate Soils' which are similar provisions to those contained in WLEP2000. Therefore, when the subject land is transferred into WLEP2011, acid sulfate soils will be appropriately managed via Clause 6.1.</p>	
4.2 Mine Subsidence and Unstable Land	<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p> <p>This direction does not apply in the Warringah area, as there is currently no known land in Warringah that is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961.</p> <p>Therefore, there is no land that has been identified as unstable land that is subject to mine subsidence.</p>	Yes
4.3 Flood Prone Land	<p>The objectives of this direction are:</p> <p>a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>In determining the best fit translation of WLEP2000 localities into WLEP2011 zones, the Oxford Falls Valley and Belrose North Strategic Review considered land that was subject to flooding as part of the Primary and Secondary Constraints Analysis.</p> <p>In addition to this Clause 47 of WLEP2000 makes provisions in relation to development of flood affected land. However, since the gazettal of WLEP2000, Council has undertaken further work to prepare new and update existing flood studies and has prepared expanded controls to manage development in flood prone land.</p> <p>Accordingly WLEP2011 includes Clause 6.3 'Flood Planning' to manage development on flood prone land that will operate in conjunction with provisions in the Warringah DCP. These provisions are in accordance with the Floodplain Development Manual 2005 and do not vary the currently permitted uses of land within flood planning</p>	Yes

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	areas.	
4.4 Planning for Bushfire Protection	<p>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.</p> <p>Warringah Council has a current Bush Fire Prone Land Map that was certified by the Commissioner of the NSW Rural Fire Service in 2010. The majority of land and properties covered by the Planning Proposal are located in bush fire prone areas. Bushfire prone land was considered during the Secondary Constraints Analysis of the Strategic Review.</p> <p>The Planning Proposal proposes no new land release areas or increases to the current development capacity of land in bushfire prone land areas. The Planning Proposal recommendations maintain existing densities, as well as environmental sensitivities in various bush fire prone areas.</p> <p>Clause 5.11 Bushfire hazard reduction of the WLEP2011 will ensure that bush fire hazard reduction is not prohibited within Asset Protection Zones as defined in the Planning for Bushfire Protection 2006. In addition, WLEP2011 includes local Clause 6.20 Subdivision of certain land in the R2 Low Density Residential Zone. Amongst other matters, this clause seeks to manage future density of development for certain parcels of land that have an interface to bushland and includes a reference to development of these lands in accordance with the provisions of Planning for Bushfire Protection 2006.</p> <p>The NSW Rural Fire Service provided a submission to the Oxford Falls Valley and Belrose North Strategic Review Report outlining a concern that the proposed E3 Environmental Management Zone permits home based childcare without consent. The RFS considers home based childcare as 'Special Fire Protection Purpose' development which requires a risk assessment by the RFS. The RFS believes home based childcare should not be permitted on bush fire prone land without consent due to the vulnerability of these types of developments to the effects of bushfires and that such a requirement may help in the reduction of potential losses from bushfires as experienced in previous fire seasons.</p> <p>The abovementioned submission from the RFS has been considered and the following recommended:</p> <ul style="list-style-type: none"> <li>• That separate to this Planning Proposal, Warringah Council undertake a Warringah wide house keeping amendment for all zones within the WLEP2011 so that 'home based childcare' is changed from 'permitted without consent' to 'permitted with consent'. This would ensure that where land is not bushfire prone, home</li> </ul>	Yes

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	<p>based child care can be carried out as exempt development under SEPP (Exempt and Complying Codes) 2008, however where land is bushfire prone a development application for home based child care would be required to be accompanied by a bushfire assessment report.</p> <p>In the preparation of a future planning proposal Council must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. Therefore, consultation with the NSW Rural Fire Service shall occur again at that stage.</p>	
6.1 Approval and Referral Requirements	<p>The Planning Proposal's recommended land use zones have been determined in accordance with this direction and its objectives, to ensure the efficient and appropriate assessment of development.</p> <p>The recommended zones are in accordance with the standard instrument LEP and do not introduce any local provisions that require concurrence, referral or consultation with public authorities or a Minister at this stage. Nor does it introduce any local provisions that identify development as designated.</p>	Yes
6.3 Site Specific Provisions	<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. WLEP2000 is a placed based rather than land use zone based planning instrument, containing 74 localities. This model allows the WLEP2000 to address specific permissibility provisions for nominated sites through the locality statements.</p> <p>The WLEP2011 uses Schedule 1 to make provisions for certain nominated sites that are consistent with the development rights that exist currently for those sites under WLEP2000. It also identifies sites to be managed as Special Purpose zones.</p> <p>The Planning Proposal recommends seven (7) additions to Schedule 1 as outlined under Part 2 of the Planning Proposal. It also identifies an additional five areas to be managed by Special Purpose zones, to cover a large electricity transmission station (public utility undertaking), three telecommunication facilities and a water supply system.</p> <p>Infrastructure including educational establishments and hospitals are to be managed by SEPP (Infrastructure) 2007.</p> <p>Generally, it is proposed that anomalous or non-conforming sites will be managed by the Existing Use provisions of the Environmental Planning and Assessment Act, 1979.</p>	Yes
7.1	The objective of this direction is to give legal effect to the planning principles; directions; and priorities for	Yes



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Implementation of A Plan for Growing Sydney	<p>subregions, strategic centres and transport gateways contained in 'A Plan for Growing Sydney'.</p> <p>The key aim of this Planning Proposal is to transfer planning controls from WLEP2000 into WLEP2011. The Planning Proposal is not contrary to the planning principles, directions and priorities of 'A Plan for Growing Sydney' in support of this S117 Direction.</p> <p>The future North Subregional Strategy and Warringah Local Planning Strategy will determine how to effectively implement the planning principles, directions and priorities such as meeting allocated housing and employment targets as outlined at a high level in 'A Plan for Growing Sydney'. This may result in future Planning Proposal amendments to WLEP2011 to achieve this.</p>	