



IRF24/2155

Plan finalisation report – PP-2021-7404

159-167 Darley Street West, Mona Vale

April 2025



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Plan finalisation report – PP-2021-7404

Subtitle: 159-167 Darley Street West, Mona Vale

© State of New South Wales through Department of Planning, Housing and Infrastructure 2025 You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Housing and Infrastructure as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing [April 25] and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Introduction.....	2
1.1	Overview	2
1.1.1	Name of draft Local Environmental Plan.....	2
1.1.2	Site description	2
1.1.3	Purpose of plan	3
1.1.4	Background	3
2	Gateway determination and alterations	4
3	Public exhibition and post-exhibition changes	4
3.1	Submissions during exhibition	4
3.1.1	Submissions supporting the proposal	4
3.1.2	Submissions objecting to and/or raising issues about the proposal.....	5
3.2	Advice from agencies	9
3.3	Post-exhibition changes.....	10
3.3.1	Proponent led changes.....	10
3.3.2	Post exhibition report recommended changes	Error! Bookmark not defined.
3.3.3	Planning Panel's post exhibition recommended changes.....	11
3.3.4	The Department's recommended changes	11
3.3.5	Justification for post-exhibition changes.....	12
4	Department's assessment.....	13
4.1	Detailed assessment	14
4.1.1	Section 9.1 Directions.....	14
5	Post-assessment consultation	15
6	Recommendation.....	16
	Attachments	17

1 Introduction

1.1 Overview

1.1.1 Name of draft Local Environmental Plan

Pittwater Local Environmental Plan 2014 (Amendment No. 13).

1.1.2 Site description

Table 1 Site description

Site Description	The draft LEP (Attachment LEP) applies to land at 159-167 Darley Street West, Mona Vale
Type	Site
Council / LGA	Northern Beaches
LGA	Northern Beaches

The site is located at 159-167 Darley Street West, Mona Vale (the site) comprising five separate parcels of land legally known as Lots 1-5 DP 11108. The site is square shaped with an approximate area of 6,120m² with north-east frontage to Darley Street West. It is currently occupied by single and double storey dwellings and zoned R2 Low Density Residential under the Pittwater LEP 2014.



Figure 1 Subject site

1.1.3 Purpose of plan

The draft LEP amendment seeks to rezone the site and introduce an affordable housing clause to enable medium density housing of various types and sizes. The draft LEP seeks to amend the Pittwater Local Environmental Plan (LEP) 2014 by:

- rezoning the site from R2 Low Density Residential to R3 Medium Density Residential;
- introducing an affordable housing clause;
- identify the site on the Biodiversity Map (Clause 7.6); and
- identify a contribution rate for the site on the Affordable Housing Contributions Scheme Map.

The table below outlines the current and proposed controls for the LEP.

Table 2 Current and proposed controls

Control	Current	Draft LEP
Zone	R2 Low Density Residential	R3 Medium Density Residential
Affordable Housing	Nil	5%
Biodiversity	Nil	Identified for consideration of clause 7.6
Density controls	Applies to all land zoned R3 Medium Density Residential	Exclude the site so density controls do not apply
Number of dwellings	5 current dwellings (10 potential dual occupancies)	41 dwellings

State electorate and local member

The site falls within the Pittwater state electorate. Jacqueline Scruby MP is the State Member.

The site falls within the Mackellar federal electorate. Dr Sophie Scamps MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

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

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

1.1.4 Background

A planning proposal for the site was lodged with Council in July 2021. In October 2021, Council resolved not to support the proposal.

In December 2021, a rezoning review was lodged (**Attachment E1**). In April 2022, the Panel deferred a decision to allow time to obtain further information from Council and the proponent (**Attachment E2**). In September 2022, the Panel supported the planning proposal subject to conditions being addressed and recommended that the proposal be submitted to the Department seeking a Gateway determination (**Attachment E3**).

Council resolved to accept the role of Planning Proposal Authority (PPA) in October 2022, and in December 2022 the proponent requested an alternative PPA given Council previously did not progress the proposal within the recommended timeframe.

In April 2023, Council considered the planning proposal, but did not adopt the recommendation to submit the proposal to the Department for Gateway determination.

In June 2023 the Planning Panel was appointed as the PPA as Council failed to submit the proposal within the 42-day timeframe (**Attachment E4**). The Panel subsequently made further recommendations on the proposal (**Attachment E5**) and the Department subsequently issued a Gateway determination on 8 September 2023 (**Attachment B**).

2 Gateway determination and alterations

The Gateway determination issued on 8/09/2023 (**Attachment B1**) determined that the proposal should proceed subject to conditions.

The Gateway determination was altered (**Attachment B2**) on 15/07/2024 to extend the timeframe to finalise the planning proposal.

In accordance with the Gateway determination (as altered) the proposal was due to be finalised on 18/11/2024.

Council adopted updates to their Affordable Housing Contributions Plan (**Attachment F**) on 18 February 2025 to ensure affordable housing could be appropriately levied in line with the Panel's recommendation. The draft LEP refers to the updated Affordable Housing Contributions Plan.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by the Department from 3/11/2023 to 1/12/2023.

A total of 43 community submissions were received including:

- 33 public submissions (**Attachment D12**), including 2 submissions that provided identical petitions, and 2 submissions that provided identical proforma letters
 - 31 of the 33 community submissions objected to the proposal
- 1 submission from the proponent during exhibition (**Attachment D4**)
- 1 Council submission from Northern Beaches Council (**Attachment D3**)
- 8 Agency submissions (**Attachments D5 to D11**), including 3 separate submissions from the Biodiversity, Conservation and Science (BCS) Group.

The Sydney North Planning Panel held an online public meeting on 3 June 2024 to hear from those who made a submission on the proposal. A record of the issues raised, and responses was considered by the Panel.

The Post exhibition report (**Attachment D1**) provides a summary of the key matters raised by public agencies, Council and members of the public during the public exhibition assess and to consider the submissions.

The proponent submitted a response to the submissions report (**Attachment D13**) which included a peer review of the flood and drainage related documents supporting the planning proposal and an additional biodiversity assessment to address issues raised during public exhibition.

3.1 Submissions during exhibition

3.1.1 Submissions supporting the proposal

Two of 33 public submissions (**Attachment D12**) supported the proposal raising the following:

- the site has already been developed and is appropriate for urban infill

- rezoning will diversify housing types, including a portion of affordable housing which results in better dwelling choice within the local area
- rezoning will assist in achieving housing targets.

One of these submissions requested the adjoining properties on Park Street (zoned R2 Low Density Residential) be rezoned to R3 Medium Density Residential as part of this planning proposal.

The proponent also made a submission reiterating the benefits of the proposal and addressing some community concerns (**Attachment D4**).

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

31 of the 33 submissions (**Attachment D12**) as well as Council's submission (**Attachment D3**) objected to the proposal.

In summary, Council does not support the proposal and raises the following matters (**Attachment D3**):

- Strategic merit assessment: the planning proposal does not demonstrate consistency with key aspects of the Greater Sydney Region Plan, North District Plan, Northern Beaches Local Strategic Planning Statement - Towards 2040 and Northern Beaches Local Housing Strategy.
- Flooding assessment: the planning proposal is inconsistent with the Local Planning Direction 4.1 – Flooding.
- Ecological assessment: entry into the Biodiversity Offset Scheme cannot be ruled out, and therefore a Biodiversity Assessment should be included as part of any future development application.
- Affordable housing: the planning proposal is inconsistent with Gateway condition 1(d) (**Attachment B1**) which requires a contribution rate of 5% of the site, meaning 5% of the total gross floor area of any development (not just the value uplift component). The planning proposal was exhibited with an affordable housing contribution rate of 5% for developments with new residential floor space and the final contribution should be subject to viability testing (**Attachments C-C2**).
- Traffic assessment: no objection to the proposal on traffic and transport grounds subject to various matters being addressed as part of a future development application (**Attachment A6**).

Table 3 under provides an assessment against the key issues raised by the public submissions which address much of Council's concerns for flooding, biodiversity, affordable housing and traffic. The Post exhibition report (**Attachment D1**) concludes no issues raised prevent the progression of the planning proposal to finalisation.

Table 3 Summary of Key Issues

Issue raised	Submissions (%)	Post exhibition report and Department assessment
Affordable Housing – disagreement on appropriate affordable housing contribution for the site.	18%	<p><u>Post exhibition report (Attachment D1):</u></p> <p>The Post exhibition report notes the differing community, Council and proponent positions regarding affordable housing contributions.</p> <p>As a result, the PPA engaged an independent peer review (Attachment C) of the affordable housing viability assessments that were prepared on behalf of the proponent (Attachment C1) and Council (Attachment C2).</p> <p>The Post exhibition report supports the peer review conclusion that 6.5% of the uplift in new dwellings (or 5% of total gross floor area) is an appropriate affordable housing contribution. The peer review recommends the Department draft the affordable housing contribution clause accordingly at the finalisation stage of the planning proposal. Consistent with the Gateway determination, Clause 6.11 of the <i>Warringah Local Environmental Plan 2011</i> should be used as the basis for the wording and structure of the clause.</p> <p>The Planning Panel agreed with the inclusion of an affordable housing contribution clause for 5% of the total gross floor area (Attachment D2).</p> <p><u>Department's Response:</u></p> <p>The Department agrees with the Post exhibition report assessment to include a 5% affordable housing contribution on total GFA, noting the proponents' comments on project viability.</p> <p>The 5% contribution is consistent with the Greater Sydney Region Plan and North District Plan affordable housing targets of 5%-10% of new residential floorspace (that is, floorspace resulting from a rezoning), subject to viability. A clause similar to that used in Warringah LEP clause 6.11, that applies to uplift is supported by the Department.</p> <p>It is noted in parallel to finalising the planning proposal, Council have updated the Northern Beaches Council Affordable Housing Contributions Scheme to include the subject site and contribution rate (Attachment F).</p>

Issue raised	Submissions (%)	Post exhibition report and Department assessment
<p>Biodiversity – the site contains small pockets of endangered communities and potential habitat of threatened species.</p>	<p>24%</p>	<p><u>Post exhibition report (Attachment D1):</u></p> <p>The Post exhibition report reviews all three Ecology Assessments prepared by Cumberland Ecology (Attachment A5) for the proponent, and considers that these assessments, particularly the Tests of Significance (which assessed likely impacts of future development on vulnerable, endangered or critically endangered species within the site), provide adequate information to support the progression of the planning proposal to finalisation.</p> <p>Specifically, the Post exhibition report notes a Biodiversity Assessment Method report (BAM) is not required at the planning proposal stage given the small area impacted, limited biodiversity values, and highly urbanised nature of the site.</p> <p>The Post exhibition report supports the Panel's recommended changes to the planning proposal to better manage biodiversity risk and to progress to finalisation including –</p> <ul style="list-style-type: none"> • Inclusion of the site in Clause 7.6 Biodiversity of the PLEP 2014 by mapping the site on the Biodiversity Map • Inclusion of a local clause, or similar mechanism, requiring the preparation of a site-specific Development Control Plan, prior to development consent being issued, which includes: <ul style="list-style-type: none"> ○ includes objectives and controls to protect, rehabilitate and conserve the site ○ requires preparation of a Vegetation Management Plan which restricts development on the southern portion of the site where the vulnerable, endangered or critically endangered species are predominantly located <p><u>Department's Response:</u></p> <p>The above recommended changes to the planning proposal are noted. It is also noted that the areas of significant vegetation are below the threshold size in the <i>Biodiversity Conservation Act 2016</i>.</p> <p>The Department agrees with the mapping of the site so as to apply Clause 7.6, but does not agree a site specific DCP is necessary in this instance given the small area impacted, limited biodiversity values, the highly urbanised nature of the site.</p> <p>It is recommended that the site be mapped in Clause 7.6 as the existing provisions of this clause are considered adequate to manage the conservation issues.</p>

Issue raised	Submissions (%)	Post exhibition report and Department assessment
<p>Flooding - The subject site is affected by Low Risk and Medium Risk flood hazards</p>	13%	<p><u>Post exhibition report (Attachment D1):</u></p> <p>The Post exhibition report reviews the Stormwater Management Strategy and peer review of this strategy (Attachments A2 and A3) and considers that the studies address compliance with Direction 4.1 as well as the flooding and drainage issues raised within public submissions.</p> <p>The Post exhibition report notes that some issues raised in submissions around flooding and drainage can be satisfactorily resolved at any future development application stage through the implementation of the peer review recommended actions.</p> <p>The Post exhibition report also identifies some technical flood modelling details that should be dealt with prior to proceeding to finalisation to comply with Direction 4.1. The proponent provided these details to the Department (Attachment A4).</p> <p><u>Department's Response:</u></p> <p>The Department agrees with the Post exhibition report and Panel that flooding issues have been addressed to satisfy the flood policy framework to enable the Proposal to progress to finalisation.</p> <p>The Department notes the Panel's recommendation that the LEP include provisions for the preparation of a site specific development control plan to manage flood patterns and ensure post development flows are not worsened by development on site.</p> <p>The Department notes clauses 5.21 and 5.22 of Pittwater LEP provide adequate measures to address the outcomes sought by the planning proposal. Further, the Panel's recommended site specific provisions relate to flood modelling of a specific concept development which may not eventuate.</p> <p>It is recommended that no further amendments to the LEP to address flooding issues are required.</p>
<p>Density & built form – not in character with the surrounding streetscape</p>	26%	<p><u>Post exhibition report (Attachment D1):</u></p> <p>The development concept is consistent with the scale and streetscape character of Darley Street West which is predominantly characterised by 2 storey medium density development residential flat buildings and townhouses to the east.</p> <p>The Post exhibition report notes the proposed rezoning and scale of the development will be consistent with the surrounding character and appropriately addresses the topography by stepping the built form with the sloping site. The matters raised do not preclude the proposal from proceeding to finalisation and the bulk and scale of the development will be addressed as part of a future development application.</p> <p><u>Department's Response:</u></p> <p>The Department agrees with the Post exhibition report assessment. Further discussion of density is under Section 3.34 of this report.</p>

Issue raised	Submissions (%)	Post exhibition report and Department assessment
Traffic – already issues at the existing traffic lights and will have impacts on street parking	65%	<p><u>Post exhibition report (Attachment D1):</u></p> <p>The Planning Panel noted the community concerns regarding traffic.</p> <p>The Post exhibition report recommends it is acceptable to evaluate the traffic impacts as part of a future development application given:</p> <ul style="list-style-type: none"> • The Traffic Impact Assessment (Attachment A6) concludes that there will be negligible impacts on the intersection and congestion. • Council (Attachment D3) and Transport for NSW (Attachment D10) do not object to the planning proposal on traffic matters. • On street parking is a matter regulated by Council – the proposal at the development application stage will be assessed with regard to compliance with the applicable development control plan's car parking rates. • The site is 400m from a bus service route <p><u>Department's Response:</u></p> <p>The Department agrees with the Post-exhibition report assessment.</p>

There are no issues raised during the exhibition process that prevents the progression of the planning proposal to finalisation.

3.2 Advice from agencies

In accordance with the Gateway determination (**Attachment B1**), Council was required to consult with agencies listed below in Table 4 who have provided the following feedback.

Table 4 Advice from public authorities

Agency	Advice raised	PPA's response
Ausgrid	No objection	Noted See Attachment D8
Sydney Water	No objection	Noted See Attachment D9

Agency	Advice raised	PPA's response
Biodiversity, Conservation and Science Group	<p><u>Flooding (Attachments D5-7)</u> – considers the proposal to be 'generally consistent with the flood risk of the land' and satisfied the Ministerial Direction 4.1 was appropriately considered, subject to further consideration of various matters.</p> <p><u>Biodiversity</u> - the ecology assessments (exhibited and attached to the proponent's response to submissions – Attachments A5) provide insufficient information to clearly indicate the extent of impacts on threatened species, populations or ecological communities as a result of the proposed development.</p>	<p><u>Flooding</u> – The flood characteristics and the hazard category, and matters contained in 9.1 Direction 4.1 have been considered and the proposal is consistent with the objectives and provisions of the Direction.</p> <p>The redevelopment of the site provides some benefits to the local area by reducing local flooding impacts on adjoining properties. The LEP proposes to ensure the appropriate flood mitigation matters are implemented via a local clause that will apply to future development.</p> <p><u>Biodiversity</u> – BCS' request to have more detailed evidence to assess the biodiversity impacts through a more thorough test of significance is noted.</p> <p>The size of the significant vegetated areas of the site are around 20% of the site area and are of such a size that impacts are typically considered at DA stage. The biodiversity values of these areas do not diminish the merits of the site being rezoned to R3 Medium density.</p>
NSW State Emergency Service	No objection, noting the planning proposal should be consistent with the flood planning framework.	The planning proposal has been updated to be consistent with the flooding framework.
Transport for NSW	No objection	Noted See Attachment D10
Greater Cities Commission	Support the proposal	Noted See Attachment D11

The Department considers the Post-exhibition report has adequately addressed matters raised in submissions from public authorities.

3.3 Post-exhibition changes

3.3.1 Proponent led changes

In response to Council's submission, the proponent proposed to remove the site from the Minimum Lot Size Map consistent with all land zoned R3 Medium Density Residential in the PLEP 2014.

It is noted the planning proposal (**Attachment A**) and covering letter (**Attachment A1**) discusses Council's resolution to remove Clause 4.5A as part of the consolidated Northern Beaches LEP planning proposal. The covering letter requests to reinstate the provision to delete application Pittwater LEP 2014 Clause 4.5A for the subject site, stating Clause 4.5A results in adverse outcomes by limiting the delivery of smaller, more affordable units.

3.3.2 Planning Panel's post exhibition recommended changes

On 3 June 2024, after considering the post exhibition report, the Panel resolved (**Attachment D2**) to progress the proposal to finalisation subject to the following:

- The planning proposal removes the provision to delete the application of Pittwater LEP 2014 Clause 4.5A Density controls for certain residential accommodation to the site and instead introduces a maximum of 1 dwelling/150m² of site area under Clause 4.5A for the subject site to deliver the proposed maximum density of 41 dwellings.
- The planning proposal includes a LEP provision for a site specific development control plan to include matters identified in the Post exhibition report as well as, in summary:
 - Objectives and controls to protect, rehabilitate and conserve the ecological values on site including endangered ecological communities, including:
 - Undertaking Stages 1 and 2 of the Biodiversity Assessment Method.
 - Preparation and implementation of a Vegetation Management Plan.
 - Site specific objectives and controls for site coverage, landscaping, overshadowing, visual impacts, privacy, bulk and scale to manage density, retention of vegetation and amenity impacts on adjoining residential properties.
 - Objectives and controls to manage flood patterns within and downstream of the site to ensure that post development flows are improved and not worsened by development, including the recommendations in the Lyall & Associates peer review (**Attachment A3**).
 - Require an updated traffic report for any future DA.

The Panel also agreed with the Post exhibition report's recommendations to:

- Include a LEP clause to require a 5% affordable housing rate to apply to the total gross floor area.
- Include the site on the Biodiversity Map and for Pittwater LEP 2014 Clause 7.6 Biodiversity to apply.
- Remove the site from the Minimum Lot Size Map consistent with all land zoned R3 Medium Density in the Pittwater LEP 2014.
- Prepare flood hazard vulnerability classification maps for existing and post development scenarios.

3.3.3 The Department's recommended changes

The Department supports the following post exhibition changes to the planning proposal:

- Include a LEP clause to require a 5% affordable housing rate to apply to the total gross floor area.
- Include the site on the Biodiversity Map and for Pittwater LEP 2014 Clause 7.6 Biodiversity to apply.
- Remove the site from the Minimum Lot Size Map consistent with all land zoned R3 Medium Density in the Pittwater LEP 2014.

The Department does not support the introduction of a maximum of 1 dwelling/150m² of site area under Clause 4.5A for the subject site or the inclusion of a LEP provision requiring the preparation of a site specific development control plan for reasons discussed below.

On 28 February 2025, the State Environmental Planning Policy (Housing) Amendment (Low and Mid Rise Housing) 2025 introduced new planning provisions for the whole of the Mona Vale town centre catchment (see **Figure 2**). Land within the Mona Vale Low and Mid Rise (LMR) catchment will now be able to be developed at greater densities than is provided for in the current LEP and those proposed in this LEP amendment by the Planning Panel.

The proposed 1 dwelling per 150sqm density control is inconsistent with the intent of the LMR policy and has not been included in the draft LEP.

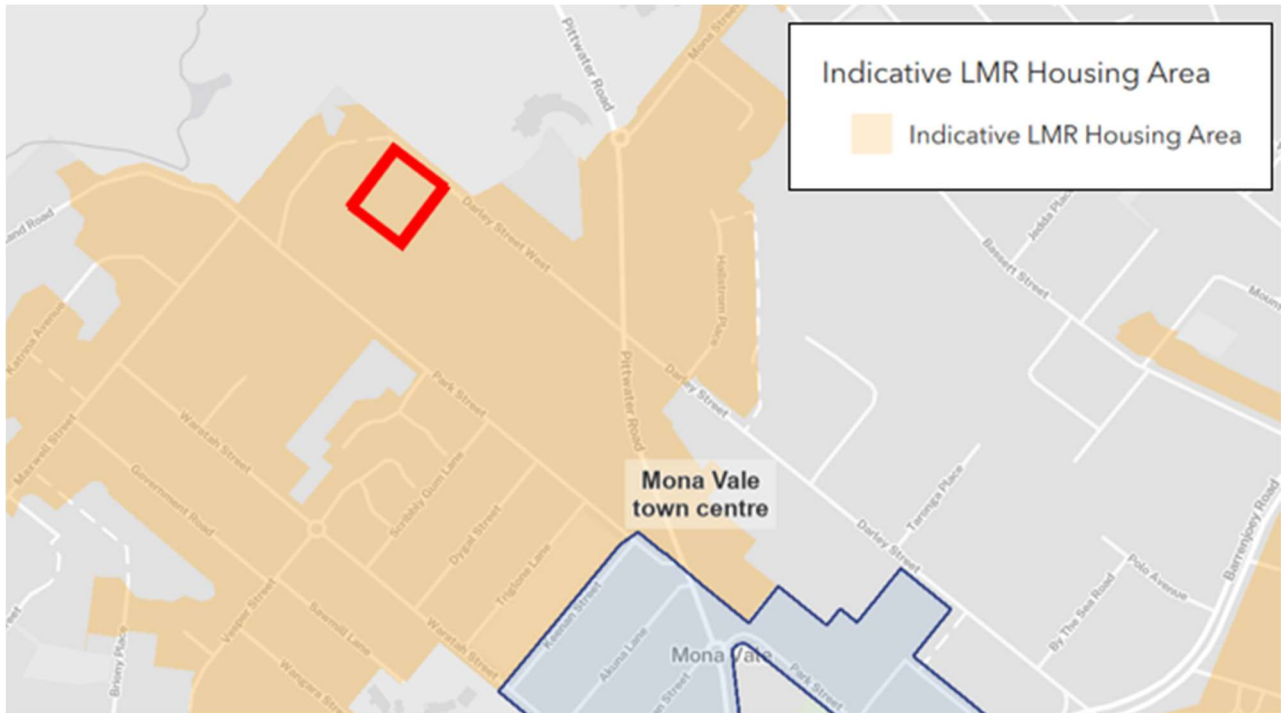


Figure 2 – Low Mid Rise Mona Vale catchment map

Regarding the requirements for a site-specific DCP, the Department notes there are sufficient existing provisions to manage and mitigate any potential vegetation and flooding impacts resulting from any future development of the subject site. These existing provisions include:

- Pittwater LEP 2014 Clause 7.6 Biodiversity (which is proposed to apply to the subject site).
- Pittwater LEP 2014 Clause 5.21 Flood planning and 5.22 Special flood considerations.
- Pittwater 21 DCP Chapters C1.1 Landscaping and D9 Landscaped Area - Environmental Sensitive Land.
- Pittwater 21 DCP Chapter B3 Hazard Controls.

The draft LEP does not include provisions requiring a site-specific DCP for the site.

3.3.4 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Are a reasonable response to comments provided by the public authorities.
- Ensure that the biodiversity and flooding matters are further addressed at the development stage.
- Respond to recent policy changes which seek to address the current housing crisis.
- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B1**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement (**Attachments D1-D13**).

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

The September 2023 Gateway determination report (**Attachment B3**), assessed the proposals consistency with the strategic planning framework, noting consistency with section 9.1 Directions 3.1 (Conservation Zones) and 4.1 (Flooding) were unresolved and required justification.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

Table 5 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

The planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Has been updated to be consistent with all relevant Section 9.1 Directions and is discussed in Section 4.1 of this report.
- Remains consistent with all relevant SEPPs, noting the removal of the proposed clause 4.5A (dwelling density) will now ensure the LEP is consistent.

Table 6 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The Department considers the draft LEP adequately addresses concerns raised during the exhibition period of the planning proposal relating to affordable housing, traffic, density and built form.

The following section provides further assessment of the proposal's consistency with Section 9.1 Directions.

4.1.1 Section 9.1 Directions

The Gateway determination report (**Attachment B3**) notes the proposal's consistency with Section 9.1 Directions 3.1 Conservation Zones and 4.1 Flooding is unresolved and requires justification. Further assessment is provided as follows.

Direction 3.1 Conservation Zones

The Gateway determination (**Attachment B1**) required updates to the planning proposal and consultation with BCS to assist with determining whether any potential inconsistency with Direction 3.1 is justified.

In summary, BCS has raised the following concerns (**Attachments D5-D7**):

- It is unclear how endangered ecological communities on site will be managed and protected in the future.
- Tests of significance do not adequately justify that there will be no significant impacts on biodiversity.
- The proposal provides insufficient information to understand the biodiversity values on the site and the potential impacts of the proposal.
- Stages 1 and 2 of the Biodiversity Assessment Method (BAM) should be undertaken for the site as part of the planning proposal.
- The draft LEP should include provisions for the preparation of a site specific development control plan with objectives and controls to protect, rehabilitate and conserve endangered ecological communities on site and to require a vegetation management plan (VMP).

The Post exhibition report concludes a BAM is not required at the planning proposal stage given the small area impacted, limited biodiversity values, and highly urbanised nature of the site. The Department notes rather, it is appropriate to prepare the BAM at Development Application stage and further the planning proposal seeks to apply Pittwater LEP 2014 Clause 7.6 Biodiversity to the site. Clause 7.6 Biodiversity sufficiently aims to protect and conserve biodiversity at the development application stage, through mapping sites with biodiversity values. This clause is an appropriate protection mechanism for the site's biodiversity values and resolving BCS concerns related to ensuring impacts are minimised and avoided.

It is noted the proposal's covering letter (**Attachment A1**) requests consideration to remove the proposed inclusion of the site on the Biodiversity Map for Clause 7.6 to apply and for any future DA to be assessed under the BC Act 2016 and Council's DCP. The letter notes Council's consolidated Northern Beaches LEP planning proposal references a new Terrestrial Biodiversity Map as part of the conservation zones review and therefore updating the biodiversity map is inconsistent with council's proposed mapping.

The Gateway assessment of the consolidated Northern Beaches LEP is still underway, hence retaining reference to Clause 7.6 of the LEP through inclusion of the site on the Biodiversity Map satisfactorily manages the consideration of Biodiversity.

The Department agrees with the Post exhibition report's (**Attachment D1**) assessment of the site's biodiversity attributes and potential impacts of future development on site. However, as discussed in Section 3.3.4 of this report, the Department does not support the recommendation to include a

LEP provision requiring a site specific development control plan to manage biodiversity impacts and to require a VMP.

The proposal is consistent with Direction 3.1 Conservation zones.

Direction 4.1 Flooding

The Gateway determination (**Attachment B1**) required updates to the planning proposal to provide further justification under Direction 4.1 Flooding. It is noted the Post exhibition report (**Attachment E1**) also provides detail on the following concerns raised by BCS:

- It is prudent to implement the recommendations of the Lyall & Associates peer review (**Attachment A3**) at the planning proposal stage.
- Flood maps should be updated to include existing and proposed development scenario hazard conditions.

The planning proposal has demonstrated consistency with the objectives of 9.1 Direction 4.1 Flooding. In particular, the planning proposal has included provisions that give effect to and are consistent with the various applicable flood planning policies, including the inclusion of the pre and post development hazard category maps. However, the Department notes that the specific provisions in the proposed local clause relate to flood modelling of a specific of development design which may not eventuate.

The Department considers a site specific clause to mitigate flooding impacts on site is not required as Clauses 5.21 and 5.22 of Pittwater LEP provide adequate measures to address the outcomes sought by the planning proposal.

The proposal is consistent with Direction 4.1 Flooding.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 7 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Four maps have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Planning proposal authority	The PPA was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> . The PPA (Attachment PPA) confirmed on 3/04/2025 that it approved the draft and that the plan should be made.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel	On 15/04/2025, Parliamentary Counsel provided the Certificate that the draft LEP could legally be made. This Certificate is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with Greater Sydney Region Plan – A Metropolis of Three Cities plan.
- It is consistent with the Gateway Determination.
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.
- It enables the delivery of housing, including affordable housing, on the subject site.
- It ensures redevelopment of the site will consider the site's biodiversity.



4/04/2025

Angela Hynes

Manager, Local Planning (North, East and Central Coast)



15 April 2025

Jazmin van Veen

Director, Local Planning (North, East and Central Coast)

Assessment officer

James Shelton

Senior Planner, North East, Central Coast

4904 2713

Attachments

Attachment	Document
A	Planning proposal
A1	Planning proposal cover letter
A2	Stormwater Management Report
A3	Flooding Peer review
A4	Flood Hazard Maps
A5	Cumberland Ecology report
A6	Traffic report
B1	Gateway determination
B2	Gateway Alteration
B3	Gateway determination report
C1	3.36(1) consultation with PPA
C2	PPA comments on draft LEP 3.36(1)
D	Affordable Housing Independent Peer review
D1	Proponents affordable housing viability assessment
D2	Council's affordable housing viability assessment
E1	Post exhibition report
E2	Public submissions Panel deferral decision (Sept 2022)
E3	Council submission
E4	Proponent submission
E5	BCD response 14.12.23
E6	BCD response 3.4.24
E7	BCD response 2.5.24
E8	Ausgrid Agency submission
E9	Sydney Water Agency submission
E10	Transport for NSW Agency submission

Attachment	Document
E11	Greater Cities Commission Agency submission
E12	Redacted public submissions
E13	Proponents response to submissions
F1	Rezoning review cover letter
F2	Panel deferral decision (April 2022)
F3	Panel deferral decision (Sept 2022)
F4	Panel appointed PPA
F5	Panel recommendation for Gateway
G	Northern Beaches Council adopted Affordable Housing Contributions Scheme
PC	PCO Certificate
LEP	Draft LEP