

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

Proposal Title :	Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre		
Proposal Summary :	The planning proposal seeks to amend the planning controls to introduce floor space ratio and maximum height of buildings for the Dee Why Town Centre under Warringah Local Environmental Plan 2011.		
PP Number :	PP_2015_WARRI_003_00	Dop File No :	14/19356

Proposal Details

Date Planning Proposal Received :	28-Jan-2015	LGA covered :	Warringah
Region :	Metro(CBD)	RPA :	Warringah Council
State Electorate :	WAKEHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	various		
Suburb :	Dee Why	City :	Sydney
Land Parcel :	Various	Postcode :	2099

DoP Planning Officer Contact Details

Contact Name :	Lee McCourt
Contact Number :	0285754129
Contact Email :	lee.mccourt@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Theo Zotos
Contact Number :	0299422111
Contact Email :	theo.zotos@warringah.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro North East subregion	Consistent with Strategy :	Yes

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

MDP Number :

Date of Release :

Area of Release (Ha) : **36.00**

Type of Release (eg Residential / Employment land) : **N/A**

No. of Lots : **0**

No. of Dwellings (where relevant) : **350**

Gross Floor Area : **0**

No of Jobs Created : **150**

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Department of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with. Metropolitan Region (East) has not met any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other Department officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

SITE

The Dee Why Town Centre is approximately 36 hectares and is predominately zoned B4 Mixed Use with some areas along the periphery zoned R3 Medium Density Residential. Other land uses that apply to the town centre include RE1 Public Recreation and SP2 Infrastructure.

Within the town centre there is a wide variety of landuses including commercial, retail, residential and council administration. The town centre is perceived to be under performing and as such this proposal is one of the measures Council is undertaking to rejuvenate the centre.

One of the most significant natural constraints to the future development of the town centre is that a large proportion of the town centre is under the flood planning level. This creates constraints for future development in terms of floor levels, roads and public domain design and construction, hazard and evacuation and basement constructions.

BACKGROUND

The Dee Why Town Centre planning proposal seeks to implement the findings of the Dee Why Masterplan. The masterplan process incorporated a review of previous design studies, an assessment of constraints and opportunities and identified the best possible way to achieve feasible and sustainable outcomes for the town centre.

The proposed amendments to the Warringah Local Environmental Plan 2011 include the introduction of:

- 1) three new 'key sites' earmarked to deliver significant infrastructure and public benefits;**
- 2) floor space ratio (FSR) development controls for land zoned B4 Mixed Use;**
- 3) refined planning controls that relate to building setbacks, building height and design; and**
- 4) an assessment framework which will allow for the provision of public benefits by developers in exchange for additional development rights.**

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

On 23 September 2014, Council resolved to forward the planning proposal to the Department for a Gateway determination.

The Metropolitan Region (East) Team, received the package on 14 November 2014. However, the Regional team has been working with Council to clarify the intent of the proposal and agree on an approach acceptable to both Council and the Department.

The Department's Regional team has advised Council that the proposal to introduce an incentive clause to allow greater variation to development standards if significant public benefits are generated by the development is not supported in its current form.

The Department's preference is for a plain English statement of the intended effect of the proposed clauses be publicly exhibited, rather than draft clauses that would be subject to change through the legal drafting process. Should the proposal proceed to Gateway it is recommended that the planning proposal be revised prior to exhibition to replace attachment 3 'Draft amendments Warringah Local Environmental Plan 2011' with a plain English explanation.

DELEGATION OF PLAN MAKING FUNCTIONS

Warringah Council is seeking delegation to carry out the Minister's functions under section 59 of the EP&A Act to progress this planning proposal. Council has provided Attachment 4 - Evaluation criteria for the delegation of plan making functions. Delegation is considered appropriate.

Note: Planning proposal (PP-2015-WARRI-002-00) is running parallel to this process and has implications for another key site within the Dee Why Town Centre. The proposal seeks to amend site specific planning controls for "Site B" to permit alternative built form and composition for the future development of the site.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective of the planning proposal is to implement the findings of the Dee Why Town Centre Masterplan and Traffic Modelling Report.

The proposal seeks to establish a planning framework which facilitates innovative outcomes in line with the overarching vision of revitalisation and rejuvenation of the Dee Why Town Centre.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal seeks to amend the planning controls for the Dee Why Town Centre under Warringah Local Environmental Plan 2011.

1. Introduce floor space ratio to regulate the density of development to suit the desired future character of the Dee Why Town Centre.

2. Amend the planning controls that relate to buildings setbacks and reduce the number of permissible 'podium' building levels.
Objective:

3. Amend the Height of Building Map to increase the maximum permissible building height across the Dee Why Town Centre (excluding Key Site A and B) by one building level (i.e. three metres).

4. Introduction of three additional 'Key Sites' (creating a total of five key sites) inclusive of

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

required 'through-site' pedestrian access ways and road network upgrades.

Site C - 33 Oaks Avenue, Dee Why (Lot 1 CP SP 15960, Lot 1 DP 539517).

Site D - 848 and 850 Pittwater Road, Dee Why (Lot CP SP 15960, Lot DP 539517).

Site E - Total of 20 lots bounded by Pittwater and Fisher Road and St David's Avenue Dee Why.

5. Specify the location of on-site car parking for 'key sites' within the Dee Why Town Centre.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

3.1 Residential Zones

* May need the Director General's agreement

4.3 Flood Prone Land

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 65—Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Infrastructure) 2007

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Direction 1.1 Business and Industrial Zones

The planning proposal is generally inconsistent with this direction as it may reduce the level of floor space made available for employment purposes.

There is no evidence to suggest that the proposal will protect or support the viability of the commercial core within the Brookvale-Dee Why strategic centre.

Should this matter proceed to Gateway it is recommended that the inconsistency with this direction be justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains indicative mapping which reflects the intent of the proposal.

The Height of Building map will need to be revised prior to exhibition to remove reference to Area 2 and clause 7.8. This is to ensure consistency with the planning proposal for "Site B" within the Dee Why Town Centre (PP-2015-WARRI-002-00).

The Key Sites Map is inconsistent with LEP mapping standards as it provides for elements usually identified in Council's master plan / development control plan (ie. location of town square, new roads, and pedestrian linkages). These elements should be removed from the Key Sites Map prior to exhibition. A supporting, non-LEP, map could be prepared to demonstrate the location of these elements for the purposes of public consultation.

The planning proposal will need to be revised to provide mapping which is to the LEP mapping standards.

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council states consultation of the planning proposal will be in accordance with the Gateway determination.**

It is recommended that the planning proposal be exhibited for a minimum of 28 days, with an estimated project timeline of 12 months.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Warringah Local Environmental Plan was notified in 2011.**

Assessment Criteria

Need for planning proposal : **The planning proposal seeks to implement the findings of the Dee Why Town Centre Masterplan and Traffic Modelling Report.**

The delivery of the planning proposal will provide the potential for growth in Dee Why Town Centre to assist in the delivery of Dee Why's and Warringah's employment and population targets.

A planning proposal is the only mechanism that would allow for the consideration of planning controls outside those currently prescribed under Warringah Local Environmental Plan 2011.

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

Consistency with strategic planning framework :

Council has identified a number of infrastructure improvements required to support the future growth and functioning of the Dee Why Town Centre. As such, Council has drafted controls and guidelines to grant additional development rights in exchange for the delivery of significant public benefit.

The introduction of an incentive clause to allow greater variation to development standards if significant public benefits are generated by the development is not supported in its current form. The draft clauses of particular concern, include clauses 7.3(k), 7.16(2)(c), 3(a) and (b), (4)(f) and (g).

For example, clause 7.16(2)(c) states:

("2) Despite clause 4.3 and 4.4 of this Plan, consent may be granted for development that exceeds the maximum building height and floor space ratio for land identified within Key Site C on the Key Sites Map only if:

(c) The proposed development includes the construction and dedication to Council of a public road reserve not less than 12 metres wide that links Oaks Avenue and Pacific Parade identified as Proposed New Road on the Key Sites Map."

Such a clause is not supported because public benefit as described in the planning proposal falls within the parameters of section 94 of the Environmental Planning and Assessment Act 1979 (EP&A Act) or via voluntary planning agreements. The proposed clauses should not require dedication of land or the undertaking of works in exchange for increased development density.

Notwithstanding the above, 'A Plan for Growing Sydney' also recognises Brookvale-Dee Why as a strategic centre. Strategic centres typically contain mixed-use activity, including commercial (office, business and retail); civic and cultural uses; government services; higher density housing and are well located to high frequency public transport. These centres have the potential to provide ongoing job growth over the long-term.

One of the key priorities for the centre, is to retain a commercial core in Brookvale-Dee Why, as required for long-term employment growth. The Warringah Local Environmental Plan 2011, currently provides local provisions for the design of Dee Why Town Centre and accommodates employment opportunities by providing at least 2 levels (excluding the ground floor) of development for non-residential purposes.

It is noted that the planning proposal may result in a loss of commercial floor space, as catered for under current LEP provisions, by removing the objective to accommodate additional employment opportunities, service functions and space for business by providing at least 2 levels (excluding the ground floor) of development for non-residential purposes (see Clause 7.3(j) in Warringah LEP 2011).

In light of the State Government's priorities for Brookvale-Dee Why, it is recommended that Council updates the planning proposal to demonstrate how employment opportunities will continue to be catered for within Dee Why Town Centre in the context of the planning proposal, prior to public exhibition.

Additionally, it is recommended that the planning proposal be generally updated to address its consistency with 'A Plan for Growing Sydney' prior to public exhibition.

Environmental social economic impacts :

The proposal details the implementation of the recommendations contained within the adopted Dee Why Masterplan and supporting studies. These studies anticipate rejuvenation of the town centre by delivering improved public domain, while catering for the expected growth in housing and employment.

The proposal is seeking to deliver mixed use development within a well located town for transport, infrastructure and services. As such it is considered that the environmental and social impacts of the proposed change are minor in nature. Although no negative impacts are envisaged from this proposal, management and minimisation of such issues will be dealt with through a merit assessment at DA stage.

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

Notwithstanding the above, there is no evidence to assist in determining the likely economic impact of the proposed planning controls. It is unclear whether the proposed controls will provide enough incentive to rejuvenate the centre in accordance with the Dee Why Masterplan.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
01.Letter from Council.pdf	Proposal Covering Letter	Yes
02. WDAP and Council Report.pdf	Proposal	Yes
03. Planning Proposal.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.1 Business and Industrial Zones**
3.1 Residential Zones
4.3 Flood Prone Land
7.1 Implementation of A Plan for Growing Sydney

Additional Information : **1. As the planning proposal may result in a loss of commercial floor space the planning proposal is to be updated prior to public exhibition to:**
(a) demonstrate how the planning proposal will continue to cater for employment

Planning proposal to amend Warringah Local Environmental Plan 2011 for key sites within the Dee Why Town Centre

opportunities within Dee Why Town Centre; and
(b) justify the inconsistency with s117 Direction 1.1 Business and Industrial Zones.

2. Prior to undertaking public exhibition, the planning proposal is to be updated to:
(a) demonstrate consistency with 'A Plan for Growing Sydney', released on 14 December 2014;
(b) replace Council's draft clauses (attachment 3) with a plain english explanation of the intended effect of the changes and remove all reference to dedication of land and/or undertaking of works in exchange for additional development density;
(c) clearly show both the existing and proposed planning controls on the Height of Building Map and remove reference to Area 2 and Clause 7.8; and
(d) include a Key Sites Map that is consistent with Standard Technical Requirements for LEP Maps.

Note: Maps should be prepared to the standards identified in Standard Technical Requirements for LEP Maps (Department of Planning & Infrastructure 2013).

2. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:

(a) must be made publicly available for a minimum of 28 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).

3. Consultation is required with Transport for NSW – Roads and Maritime Services. The agency is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons : The Department supports the planning proposal proceeding, to allow for public exhibition and feedback on the proposal.

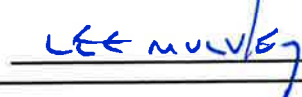
The Department supports the intent of the proposal to rejuvenate Dee Why Town Centre and the additional development intensity proposed, but does not support incentive clauses that are explicitly tied to a requirement to dedicate land and/or undertake works through a voluntary planning agreement above and beyond local development contributions. These negotiations between Council and the developer should remain voluntary and flexible to change.

There is also a concern that the proposal will result in a loss of commercial floor space in the Dee Why Town Centre and Council needs to justify any loss in the context of 'A Plan for Growing Sydney'.

Signature:



Printed Name:



Date:

