

TAB B – REVIEW OF GATEWAY DETERMINATION - DATED 1 APRIL 2015

Gateway condition	Adequacy	Council response	Department response
1. Council is to provide further justification for the inconsistency with section 117 Direction 1.1 Business and Industrial zones and demonstrate how the planning proposal will continue to cater for employment opportunities in Dee Why Town Centre.	Met	On page 31 of the planning proposal, Council comments that amending the controls for employment floor space is consistent with Direction 1.1 Business and Industrial zones, A Plan for Growing Sydney and was supported by the Department for the Meriton Site B planning proposal (PP_2015_WARRI_002_00)". On Page 22 of the planning proposal the amendment to clause 7.12 - Provisions promoting retail activity discusses further justification for the inconsistency with section 117 Direction 1.1 Business and Industrial zones. Council proposes to restrict residential development on the ground and first floor within Dee Why Town Centre to support the wider renewal and reinforce the capacity for business and employment functions in Dee Why town centre.	In the original planning proposal Council intended to reduce employment floor space controls in Dee Why Town Centre by amending clause 7.3(j) from reserving two floors of a building to only the ground floor of new buildings for employment purposes. Council has now addressed the gateway condition by revising the proposal to be consistent with controls proposed in the "Site B" planning proposal (PP_2015_WARRI_002_00). The "Site B" planning proposal addressed the issue by extending clause 7.12, which prohibits residential uses on the ground and first floor in any new development. This clause currently applies to key sites A and B in Dee Why Town Centre, but council intends to amend clause 7.12 to include key sites C-F. It is considered that the application of local provision Clause 7.12 is a reasonable solution that acknowledges the commercial situation and will adequately cater for future employment opportunities in the Dee Why Town Centre. Although deleting clause 7.3(j) from Warringah LEP 2011 was not proposed in the revised planning proposal, Council staff have verbally advised they intend to remove clause 7.3(j). Deleting 7.3(j) will remove protection of ground and first floor commercial space on all sites in the Dee Why Town Centre. However, clause 6.7 – Residential Flat Buildings in Zone B4 Mixed Use restricts residential dwellings on

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		Council believes clause 7.12 will adequately protect employment opportunities in Dee Why Town Centre. This is consistent with the objectives contained within clause 7.3 of the WLEP 2011 and the Regional Plan and was supported by the Department for the Meriton Site B Planning Proposal.	the ground floor in B4 zones. As Dee Why Town Centre is zoned B4, clause 6.7 will continue to protect ground floor commercial space for all sites in the Centre. Changes to ground floor commercial space protections should not be permitted at the drafting stage.
2a. Demonstrate consistency of the planning proposal with A Plan for Growing Sydney.	Met	On pages 24-26 of the planning proposal, Council has included an assessment of the planning proposal and its consistency with A Plan for Growing Sydney.	The planning proposal is generally consistent with <i>A Plan for Growing Sydney</i>, in respect to housing outcomes. The proposal is consistent with: • Action 1.7.1 - Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity; • Action 2.2 – Undertake urban renewal in transport corridors which are being transformed by investment, and around strategic centres; • Direction 3.1 – Revitalise existing suburbs; and • Action 3.1.1 – Support urban renewal by directing local infrastructure to centres where there is growth. The initial planning team report referred to the inconsistency of protecting the Dee Why Town Centre commercial core. In the original proposal Council intended to amend clause 7.3(j) from restricting residential space on two floors of buildings to only restricting residential uses on the ground floor of new developments in Dee Why Town Centre.

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			However, as previously discussed, proposed changes to clause 7.12 will restrict residential development on the ground and first floor of all new development on key sites in the Dee Why Town Centre in order to protect future employment opportunities. It is considered that the proposal is consistent with the residential considerations of <i>A Plan for Growing Sydney</i>.
2b. remove the draft clause for key sites from the planning proposal and replace with a plain English explanation.	Not adequately addressed	On pages 9-19 of the planning proposal, Council has explained each part of the explanation of provisions. Pages 12-14 includes a plain English Explanation of a local clause for each of the new key sites. Each site specific provision does not refer to a required specific public benefit, however, does refer to certain land, for example, which “contains land that has been dedicated to Council for a public purpose, including a new public road for vehicles and pedestrians between Pacific Parade and Oaks Avenue”.	The included “public benefit” in the explanation of provisions includes less detail than the original planning proposal. However, the planning proposal will need to simplify the explanation of provisions to remove reference to public benefits. The planning proposal which goes on exhibition will need to highlight that the final wording of a proposal is dependent on legal drafting by Parliamentary Counsel. Condition 2(b) is included in the revised Gateway. Council must remove references to draft clauses for the key sites from the planning proposal. It should be made clear that the planning proposal identifies Council intended outcomes, however, the amendment has not been determined and will be subject to drafting by Parliamentary Counsel.
2c. remove references to the provisions of contributions,	Not adequately addressed	The planning proposal does not include the same level of detail regarding the provisions of contributions.	The explanation of provisions intends to require the dedication of land for public purposes. The explanation of provisions has been amended to dedicate the land “for a public purpose, including a new public road for vehicles and pedestrians”.

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infrastructure improvements, dedication of land and/or undertaking of works in exchange for additional development density.		It still indicates the preferred contributions for the planning proposal.	The proposed public benefits for key sites C-E are consistent with the requirements identified on pages 66-67 of the adopted Dee Why Masterplan (Attachment 3). Site F has not been included because the site was not identified in the Dee Why Masterplan. It has been noted that the ‘public benefit provisions’ in the revised planning proposal have been amended from the original proposal. The use of a ‘public benefit’ provision has become more common in standard instrument local environmental plans. However, the drafting of such provisions would not include the level of detail as proposed in the planning proposal, and is outside the scope of an LEP. Ryde LEP 2014 Part 6, clause 6.9 – Development in Macquarie Park Corridor contains a similar provision outlining the public benefit which is be provided, to the satisfaction of the consent authority, for a development to be granted the incentive height or FSR bonus. When drafting the provision for the LEP, Council should consider clause 6.9 – Development in Macquarie Park Corridor, which reads as follows: <i>(3) The consent authority may approve development with a height and floor space ratio that does not exceed the increased building height and floor space ratio identified on the Macquarie Park Corridor Precinct Incentive Height of Buildings Map and the Macquarie Park</i>
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			<i>Corridor Precinct Incentive Floor Space Ratio Map, but only if the consent authority is satisfied that:</i> <i>a) there will be adequate provision for recreation areas and an access network, and</i> <i>b) the configuration and location of the recreation areas will be appropriate for the recreational purposes of the precinct, and</i> <i>c) the configuration and location of the access network will allow a suitable level of connectivity within the precinct.</i> Condition 2(c) is included in the revised Gateway. Council must remove reference to the provisions of contributions, infrastructure improvements, dedication of land and/or undertaking of works in exchange for additional development density. The mechanism for reflecting public benefit provisions in an LEP will be addressed in the drafting process. Condition 2(c) is included in the revised Gateway and the references to potential drafting are to be removed from the planning proposal.
2d. clearly articulate both the existing planning controls and the proposal planning controls for each of the key sites.	Met	On pages 15-16 of the revised planning proposal, Council has provided the existing Height of Buildings Controls and Floor Space Ratio controls, the proposed height of buildings and floor space ratio controls and the 'bonus controls' if certain conditions are met.	The table on pages 15 and 16 of the planning proposal identifies the current and proposed planning controls for each site. This Gateway determination condition has been met.
2e. ensure the key sites map is consistent with	Met	Council has provided maps with the planning proposal.	The initial planning team report identified that elements in the key sites maps are usually contained within Council

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the Department's standard technical requirements for LEP maps.		Council has not provided information explaining how the maps are consistent with the technical guidelines.	masterplans/development control plans; including location of the town square and location of a proposed new road. Some of these elements have been included in the Key Sites map since Warringah LEP 2011 was first notified. Although these provisions are more appropriate in a masterplan map, Council has not proposed to remove these references from the Key Sites maps. The latest draft maps have been reviewed by the Department's GIS team which has advised that the maps appear suitable. There will be further opportunity for the Department's GIS team to review the maps prior to notification. It is considered that this condition has been met.
3. Amend the planning proposal to reflect the proposed controls endorsed by Gateway for 'Key Site B' within Dee Why Town Centre.	Met	The planning proposal outlines that there are no proposed amendments to the planning controls that specifically relates to Sites A and B.	The planning proposal for Key Site B within Dee Why Town Centre was notified on 18 April 2016. Council's explanation of provision's relating to housekeeping amendments (pages 18-19 of the planning proposal) refers to changes made to part 7 of the Warringah LEP 2011 from the finalisation of "Site B" planning proposal. The revised planning proposal has addressed this condition by reflecting the controls endorsed for 'Key Site B' within Dee Why Town Centre.