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Gateway determination report – PP-2022-3802

Lizard Rock, Morgan Road, Belrose

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Acknowledgment of Country

The Department of Planning and Environment 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	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	4
1.6	Background	7
2	Need for the planning proposal	8
3	Strategic assessment	8
3.1	Region and District Plan	8
3.2	Local.....	10
3.3	Sydney North Planning Panel independent proposal review	12
3.4	Section 9.1 Ministerial Directions	13
3.5	State environmental planning policies (SEPPs)	16
4	Site-specific assessment	17
4.1	Environmental.....	17
4.2	Social and economic.....	25
4.3	Infrastructure	30
5	Consultation.....	30
5.1	Community	30
5.2	Agencies.....	30
6	Timeframe	31
7	Local plan-making authority	31
8	Assessment summary	31
9	Recommendation.....	32

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal - Morgan Rd, Belrose - February 2023 (includes Appendix 1-5)
Appendix 6 Urban Design Report
Appendix 7 Social Impact Assessment
Appendix 8 Preliminary Biodiversity Development Assessment Report
Appendix 9 Bushfire Protection Assessment
Appendix 10 Strategic Bushfire Study
Appendix 11 Preliminary Site Investigation
Appendix 12 Slope Risk Assessment
Appendix 13 PFAS Investigation
Appendix 14 Flood Impact and Risk Assessment
Appendix 15 Transport Assessment
Appendix 16 Preliminary Landscape Visual Assessment
Appendix 17 Stormwater Management Plan
Appendix 18 Infrastructure Delivery Plan
Appendix 19 Economic Impact Statement
Appendix 20 Aboriginal Archaeology Report
Appendix 21 Acoustic Assessment
Appendix 22 Development Delivery Plan
Appendix 23 MLALC Non Binding VPA Offer

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Northern Beaches
PPA	Sydney North Planning Panel
NAME	Planning proposal seeks to rezone land owned by the Metropolitan Local Aboriginal Land Council (MLALC) to allow residential, cultural centre and conservation uses, introduce a maximum height of 8.5m, and introduce a maximum density control of 450 lots.
NUMBER	PP-2022-3802
LEP TO BE AMENDED	Warringah LEP 2011
ADDRESS	Morgan Road, Belrose
DESCRIPTION	Lots 89, 90, 91, 92, 93, 176, 177, 178, 189, 190, 191, 196, 197, 944, 945, 946, 947, 948, 953, 2600 DP752038, Lot 2 DP1242330, and Lot 1 DP1285945
RECEIVED	1/06/2023
FILE NO.	IRF23/1388
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Connect and Design with Country to facilitate a mixture of different and compatible land uses as identified in the Northern Beaches Development Delivery Plan prepared under chapter 3 of State Environmental Planning Policy (Planning Systems) 2021;
- Conserve and protect biodiversity and important environmental values of the land;
- Conserve and protect the Site's Aboriginal heritage;
- Support MLALC achieving economic self-determination and financial stability;
- Deliver a quantum of housing that will reasonably meet the forecast housing needs of the Northern Beaches without adverse impacts to the amenity and environment of the local area;

- Provide community benefits through the provision of open space and pedestrian connections for recreation, a community cultural centre, retail services and other local neighbourhood services; and
- Ensure the use of land is appropriate to managing and minimising environmental risks.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Warringah LEP 2011 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Application	Warringah LEP 2000 controls continue to apply to land identified as 'deferred matter' in Warringah LEP 2011.	Remove 'deferred matter' status in Warringah LEP 2011.
Zone	Locality B2 – Oxford Falls under Warringah LEP 2000 Warringah LEP 2000 uses localities and permissible uses.	R2 - Low Density Residential (51 ha) C2 - Environmental Conservation (20 ha)
Maximum height of the building	N/A	8.5 m
Floor space ratio	N/A	N/A
Minimum lot size	1 dwelling per 20 hectares.	Maximum cap for 450 dwellings using a local clause.
Additional permitted use	N/A	Amendment to Schedule 1 Additional permitted uses to introduce dual occupancies, seniors housing and community facilities.
Number of dwellings	0	Maximum 450
Number of jobs	N/A	125

The planning proposal contains an explanation of provisions that explains how the objectives of the proposal will be achieved. However, the explanation proposes certain provisions subject to final selection of a zone to be applied to the site. This matter is further discussed in Section 4.2 of this report.

1.4 Site description and surrounding area

The site is an amalgamation of 22 allotments and the 2 roads on site with a total area of 71ha. All allotments are in MLALC ownership totalling a site area of 67.7ha.

The site predominately comprises disturbed bushland and is located east of Forest Way in the suburb of Belrose. The site has Aboriginal cultural significance with identified Aboriginal heritage items located on the site, including rock engravings on Lizard Rock.

The site is in the suburb of Belrose and adjoins Oxford Falls to the east. To the North of the site are large residential land holdings with cleared areas and a range of buildings. To the South and West is a mix of residential dwellings, recreation areas and seniors housing. To the East is natural vegetation and bushland and recreation areas.

The site is approximately 20km north from Sydney Central Business District and approximately 6.5km northeast from Chatswood CBD. The site has satisfactory access to a variety of services and retail facilities, including Warringah Mall (8.5 km), Forestway Shopping Centre (3.4 km) and Glenrose Shopping Centre (3km). A neighbourhood supermarket is located approximately 800m from the site's western boundary. There are 30 public and private schools within a 5km radius of the site. The Frenchs Forest Health and Education Precinct is 6km to the south and connects the community to health and education services.



Figure 1 Subject site (source: Nearmap 2023)

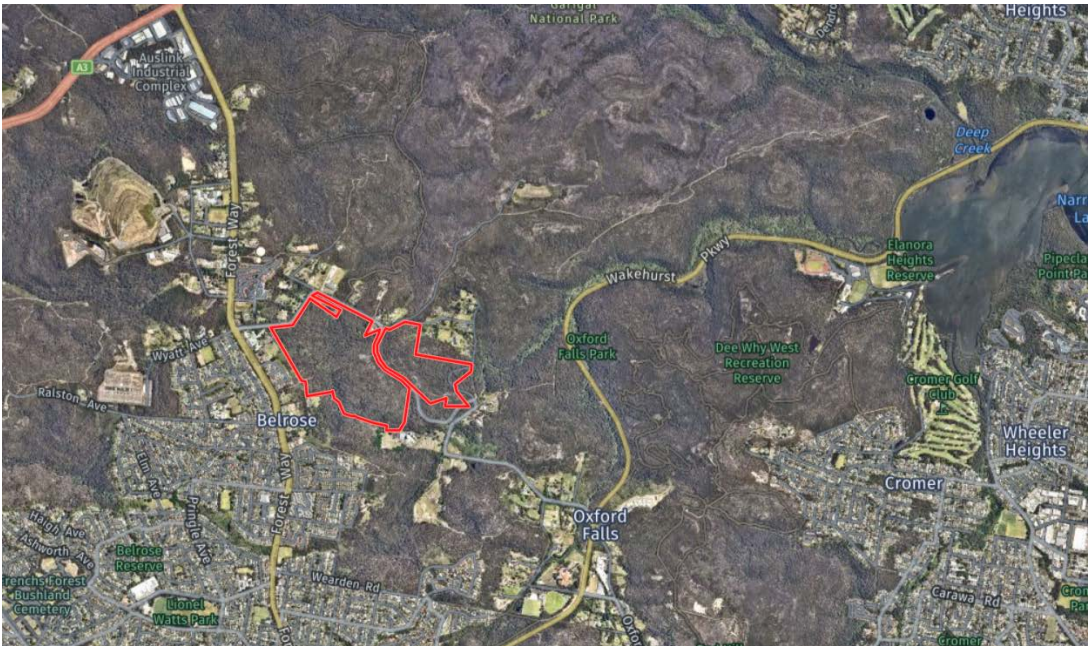


Figure 2 Site context (source: Nearnmap 2023)

1.5 Mapping

The land is a 'Deferred Matter' in the Warringah LEP 2011. Therefore, the Warringah LEP 2000 is the primary environmental planning instrument applicable to the site. The planning proposal includes mapping showing the proposed changes to the Warringah LEP 2011 maps, which are suitable for community consultation.

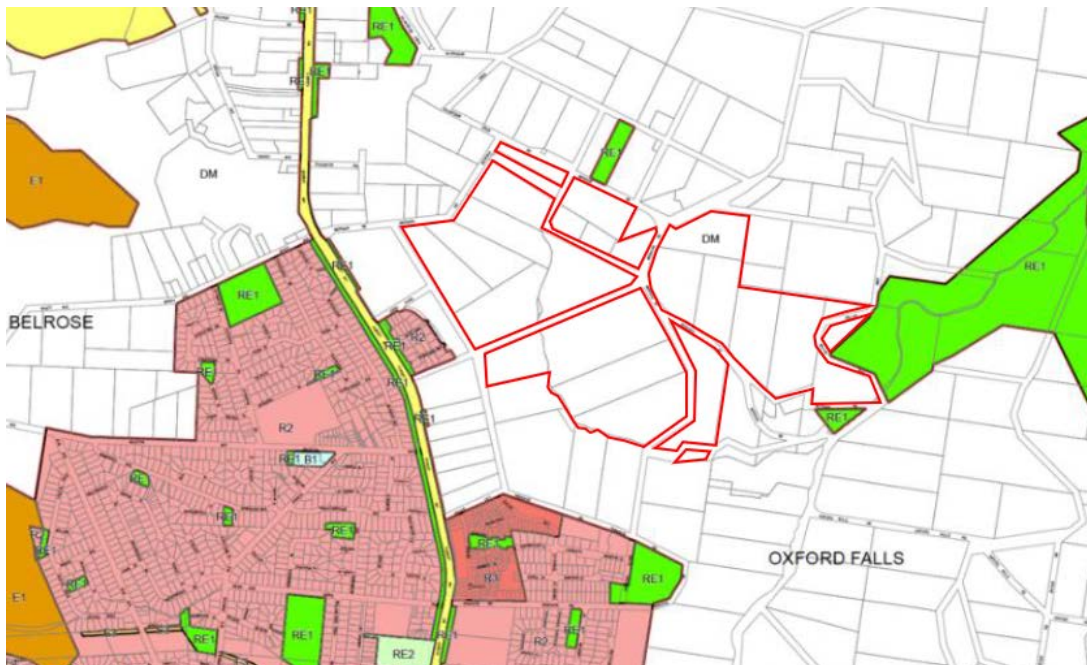


Figure 3 Current zoning map

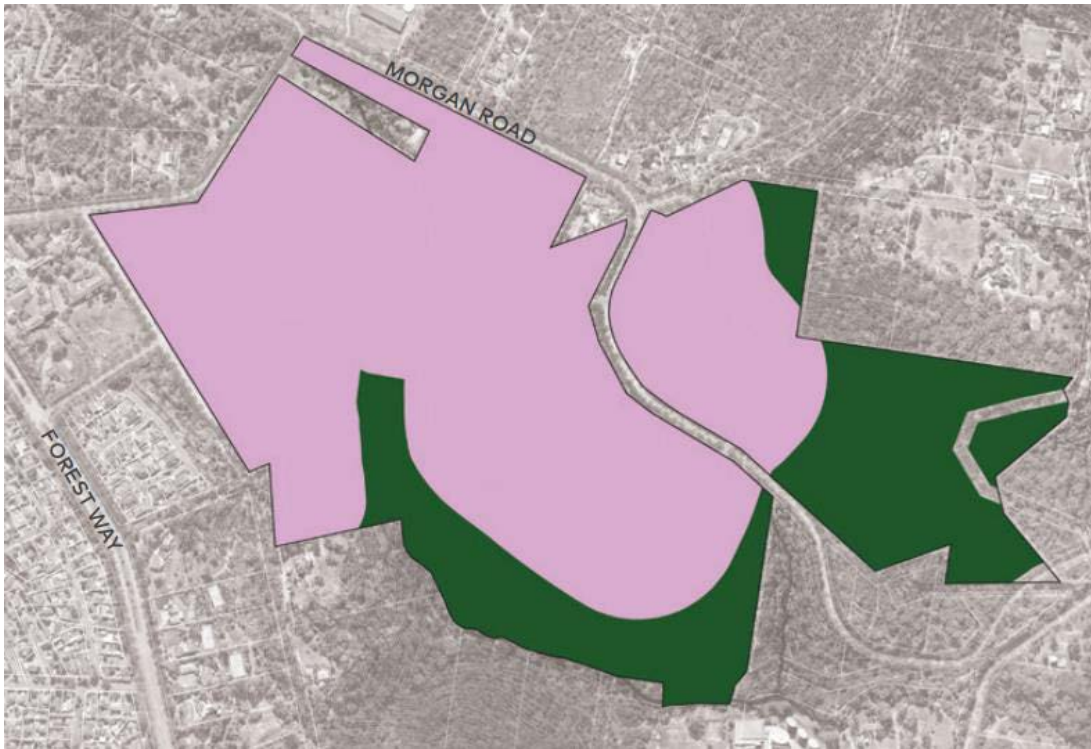


Figure 4 Proposed zoning map

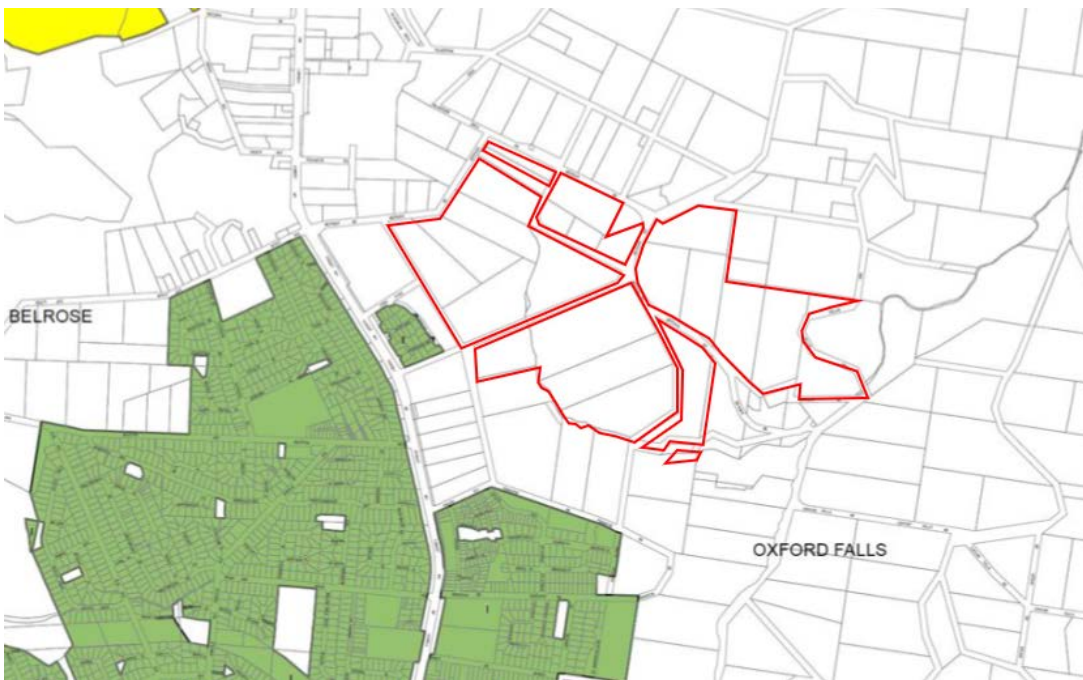


Figure 5 Current height of building map



Figure 6 Proposed height of building map

The proponent has prepared an indicative structure plan (Figure 7) that reflects the site's opportunities and constraints with regard to biodiversity, bushfire management, transport planning, Aboriginal heritage and stormwater management.



Figure 7 Indicative structure plan

1.6 Background

Metropolitan Local Aboriginal Land Council

The MLALC is a not-for-profit entity which exists to improve the lives of Aboriginal people in the Sydney Metropolitan Region. The MLALC operates in accordance with the *Aboriginal Land Rights Act 1983* (ALR Act) by utilising its land assets to meet the needs of the Aboriginal community. The MLALC's boundaries cover a large part of the Sydney basin including significant land holdings in the Northern Beaches LGA.

In accordance with Section 51 of the ARL Act, the MLALC's primary objectives are “improve, protect and foster the best interests of all Aboriginal persons within the Council's area and other persons who are members of the Council”.

Planning proposal for Oxford Falls Valley

The Lizard Rock site is located within Oxford Falls Valley, which is currently a ‘deferred matter’ in Warringah LEP 2011.

On 5 June 2012, former Warringah Council resolved to undertake a 2-stage strategic review of deferred lands in Oxford Falls Valley and Belrose North in partnership with the Department. The review was initiated in response to concerns regarding the adequacy of consultation during the preparation of Warringah LEP 2011.

On 24 February 2015, after completing the first stage of the strategic review, Council resolved to proceed with a planning proposal to transfer planning controls for land in Oxford Falls Valley and Belrose North to the Warringah LEP 2011.

On 1 November 2017, the Department issued a Gateway determination requiring Council to complete the Stage 2 Review to determine the future urban development potential of four sites, including the Lizard Rock Site, prior to public exhibition.

In March 2018, Northern Beaches Council requested the Minister for Planning to determine that the proposal should not proceed. Council noted a lack of resources to complete the required studies for stage 2 of the strategic review.

In September 2022, the Northern Beaches Council released a review of how conservation zones are applied across the Northern Beaches LGA. The review was informed by a number of studies. The conservation zones review proposes a C3 Environmental Management zone to the majority of the Lizard Rock Site, and the C2 Environmental Conservation for a small portion of the site on the eastern boundary.

Planning Systems SEPP and Development Delivery Plan

In March 2022, State Environmental Planning Policy (Aboriginal Land) 2019 (Aboriginal Land SEPP) was consolidated into State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP). Chapter 3 ‘Aboriginal Land’ in the consolidated Planning Systems SEPP includes the former provisions of the Aboriginal Land SEPP including provisions relating to the preparation of a Development Delivery Plan (DDP) and criteria for regionally significant development.

In August 2022, amendments to Planning Systems SEPP and the introduction of the Northern Beaches Development Delivery Plan (DDP) established a framework to consider the development potential of six sites owned by the MLALC in the Northern Beaches LGA, including the Lizard Rock site.

The Planning Systems SEPP identifies sites which are considered to have potential for further investigation as part of a planning proposal or development application process. The Planning Systems SEPP, in association with the DDP, establishes the first stage of the planning process. It should be noted that while the DDP establishes a pathway for this investigation, it does not

mandate a particular development outcome. Individual planning proposals are required to establish the strategic and site-specific merit of a particular site.

2 Need for the planning proposal

Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

Yes. The Planning Proposal implements the Northern Beaches DDP prepared by Department. Specifically, the proposal is consistent with the potential planning opportunities identified in the DDP including a range of uses - low density housing, new recreation areas, conservation areas, and cultural community space.

The planning proposal is aligned with the key opportunities outlined in the DDP:

- Economic self-determination;
- New housing supply and diversity;
- Biodiversity conservation; and
- Informing the review of the Metropolitan Rural Area.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, a planning proposal is the only mechanism to introduce Standard Instrument zones and associated height and lot size controls for the site.

3 Strategic assessment

3.1 Region and District Plan

The site is within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions. By giving effect to the District Plan, the proposal is also consistent with the Greater Sydney Commission's Greater Sydney Regional Plan: A Metropolis of Three Cities.

The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 5 District Plan assessment

District Plan Priorities	Justification
Planning Priority N4: Fostering healthy, creative, culturally rich and	Planning Priority N4 seeks to deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities. It seeks to incorporate cultural and linguistic diversity, consider infrastructure needs of the local population, strengthen Aboriginal self-

socially connected communities	<p>determination, facilitate opportunities for creative and artistic expression, and strengthen social connections.</p> <p>The proposal seeks to deliver housing and social infrastructure, including a cultural community facility. The proposal states that it will enable protection of Aboriginal heritage on the site, will provide employment opportunities for Aboriginal people, and will foster stronger relationships between Indigenous and non-indigenous Australians through the sharing of Aboriginal cultural knowledge and an enhanced sense of belonging and community pride.</p> <p>The proposal has also been prepared in accordance with the Northern Beaches Aboriginal Land Development Delivery Plan, which is underpinned by the principle of economic self-determination.</p>
Planning Priority N5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>Planning Priority N5 seeks to facilitate housing choice through delivery of diverse and affordable homes.</p> <p>The proposal seeks to facilitate development up to 450 dwellings on the site, including a variety of housing types, by rezoning 51ha for R2 Low Density Residential uses and introducing dual occupancies and seniors housing as additional permitted uses. It is also accompanied by a non-binding VPA offer which proposes to dedicate 10% of the saleable land by area for affordable housing.</p>
Planning Priority N6: Creating and renewing great places and local centres, and respecting the District's heritage	<p>Planning Priority N6 seeks to deliver great places which bring communities together. It seeks to identify, conserve and enhance environmental heritage, plan for centres and revitalise high streets.</p> <p>The proposal seeks to facilitate delivery of community infrastructure, including a new cultural community facility. The proposal states that this facility will celebrate the site's unique Aboriginal heritage and contribute to our understanding of the land's past Aboriginal use and its place within the broader landscape.</p>
Planning Priority N12: Delivering integrated land use and transport planning and a 30-minute city	<p>Planning Priority N12 seeks to deliver the 30 minute city through integrated land use and transport planning.</p> <p>The site is located approximately 3km north of the Frenchs Forest Shopping Centre and approximately 21km north of the Sydney CBD. The proposal is accompanied by a transport assessment which finds that the existing road network can support the intended development. It finds that the site is accessible via private vehicle and public transport. The proposal is also accompanied by a non-binding VPA offer to deliver upgrades to the Morgan Road / Forest Way intersection.</p> <p>A more detailed discussion of transport arrangements is provided in Section 4.2 of this report.</p>
Planning Priority N15: Protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways	<p>Planning Priority N15 seeks to protect and enhance environmentally sensitive waterways and coastal environments, to enhance sustainability and liveability in waterway and coastal areas, improve the health of such areas and their catchments, and work towards more natural conditions in highly modified urban waterways.</p> <p>The site incorporates most of the upper catchment of Snake Creek. The planning proposal seeks to rezone 19.8ha of the site for C2 Environmental Conservation purposes. It is accompanied by a Preliminary Biodiversity Development Assessment</p>

	<p>Report which describes stormwater designs which ensure there are no notable changes in the hydrological regime or water quality of Snake Creek.</p> <p>A more detailed discussion of environmental impacts is provided in Section 4.1 of this report.</p>
Planning Priority N16: Protecting and enhancing bushland and biodiversity	<p>Planning Priority N16 seeks to protect and enhance biodiversity.</p> <p>The proposal seeks to rezone a substantial portion of the subject site for C2 Environmental Conservation purposes. It is accompanied by a Preliminary Biodiversity Development Assessment Report which considers a range of avoidance, minimisation and mitigation options to manage biodiversity impacts.</p> <p>A more detailed discussion of environmental impacts is provided in Section 4.1 of this report.</p>
Planning Priority N17: Protecting and enhancing scenic and cultural landscapes	<p>Planning Priority N17 seeks to identify, enhance and protect scenic and cultural landscapes, and views of such landscapes from the public realm.</p> <p>The site encompasses a significant Aboriginal cultural heritage site known as 'Lizard Rock'. The planning proposal seeks to facilitate delivery of housing, environmental conservation land, public open space and community cultural facility which will celebrate and protect the cultural value of the landscape. It is accompanied by a Landscape Visual Assessment Report which finds that the site is of high scenic quality, that there are a limited number of close public and private domain view places considered to be of high sensitivity, and that the Structure Plan adequately responds to the natural and visual scenic resources of the site but would benefit from further nuanced amendments and site specific design controls.</p>
Planning Priority N20: Delivering high quality open space	<p>Planning Priority N20 seeks to maximise the use of existing open space and to protect, enhance and expand public open space.</p> <p>The proposal includes an Open Space Structure Plan which identifies areas of retained vegetation and public open space, linked by walking and active transport routes within the site.</p>

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning statement assessment

LSPS priorities	Justification
Planning Priority 2: Protected and enhanced bushland and biodiversity	<p>Planning Priority 2 seeks to protect areas of high environmental value, including threatened species habitat and native vegetation, to prioritise avoidance and mitigation over offsetting and increase local offsetting availability, and to consider climate change.</p> <p>The proposal is supported by a Preliminary Biodiversity Development Assessment that identified areas of high biodiversity value which should be avoided using the C2 Environmental Conservation zone. The biodiversity assessment also initiates</p>

LSPS priorities	Justification
	<p>the requirements and biodiversity offsets obligations in accordance with <i>Biodiversity Conservation Act 2016</i>.</p> <p>The biodiversity assessment will be referred to State and Commonwealth agencies who will provide specialist advice on biodiversity approach proposed and provide guidance on the biodiversity offsets requirements.</p>
Planning Priority 3: Protected scenic and cultural landscapes	<p>Planning Priority 3 seeks to protect against disruption of scenic views.</p> <p>The proposal is supported by a Landscape Visual Assessment Report which adopts design principles to ensure the development will have building heights below the tree canopy to protect scenic landscape and ensures the ridgelines are retained as green elements where possible.</p>
Planning Priority 4: Protected metropolitan rural area	<p>Planning Priority 4 seeks to protect biodiversity values, support sustainable primary industry, support local biodiversity offset sites, limit development and urban intensification, conserve scenic amenity and public space, and encourage indigenous vegetation.</p> <p>The site is within the Metropolitan Rural Area (MRA) and MRA investigation area map in the LSPS. While the proposal generally aligns with the principles of MRA. It is noted the proposal does not align with the principle to 'Avoid urban intensification and subdivision in the MRA and future MRA investigation area'.</p> <p>The LSPS notes for land in the MRA that is owned by the MLALC, Council will be guided by the principles established in the <i>Aboriginal Land Rights Act 1983</i> to work with the MLALC to balance environmental and rural needs with economic participation and cultural use of the land by Aboriginal people.</p> <p>As the MRA is primarily defined by the District Plan, the proposal will be referred to the Greater Cities Commission.</p>
Planning Priority 8: Adapted to the impacts of natural and urban hazards and climate change	<p>Planning Priority 8 seeks to improve natural and urban hazard management and mitigation activities and focus on compliance and enforcement, disaster risk reduction.</p> <p>The proposal suggests it has considered all necessary and relevant environmental hazards and the bushfire protection measures required for future development. The assessments have found some areas of the site are suitable for the proposed development. To confirm all relevant hazards and risks have been considered, the proposal will be referred to NSW Rural Fire Service, NSW State Emergency Service and Fire and Rescue NSW. This matter is also assessed against Ministerial Direction 4.3 Planning for Bushfire Protection.</p>
Planning Priority 9: Infrastructure delivered with employment and housing growth	<p>Planning Priority 9 seeks to collaborate across government and with the private sector to sequence development and be selective about where and when it occurs so that new infrastructure is provided in the right place at the right time.</p> <p>The proposal will deliver new infrastructure to support housing growth including an upgrade to the Morgan Rd and Forest Way intersection, a community cultural centre and stormwater management infrastructure to improve water quality flowing into Narrabeen Lagoon. All relevant utilities have been notified of the proposal and the gateway determination has been appropriately conditioned to ensure utility providers are consulted during the consultation stage.</p>

LSPS priorities	Justification
Planning Priority 13: Strong engagement and cooperation with aboriginal communities	<p>Planning Priority 13 seeks to promote, preserve and protect Aboriginal heritage, recognise, honour and protect Aboriginal culture, and engage Aboriginal and Torres Strait Islander people in planning and decision making.</p> <p>The proposal seeks to encourage collaboration between the MLALC and Northern Beaches Council to deliver tangible economic, social and cultural benefits to the Aboriginal community. The proposal gives effect to the MLALC's community land and business plan and is consistent with the Northern Beaches DDP.</p>
Planning Priority 15: Housing supply, choice and affordability in the right locations	<p>Planning Priority 15 seeks to facilitate the implementation of the local housing strategy, which will increase housing supply, choice and affordability.</p> <p>The proposal will contribute to the North District Plan's 6-10 year housing target and provide an increased supply of housing to assist in reaching the local housing targets. The site is adjacent to well serviced residential areas comprising retail, new major hospital facilities, arterial roads, schools, public transport and key utilities. The proposal seeks to deliver a range of housing lots for varying housing typologies and housing choice.</p>
Planning Priority 18: Protected, conserved and celebrated heritage	<p>Planning Priority 18 seeks to protect, conserve and celebrate local heritage.</p> <p>The proposal seeks to facilitate delivery of community infrastructure, including a new cultural community facility. The proposal states that this facility will celebrate the site's unique Aboriginal heritage and contribute to our understanding of the land's past Aboriginal use and its place within the broader landscape.</p>

3.3 Sydney North Planning Panel independent proposal review

The Metropolitan Local Aboriginal Land Council (MLALC) requested the Sydney North Planning Panel to undertake an independent Aboriginal review of the planning proposal as the land is subject to a Development Delivery Plan made under the SEPP Planning Systems 2021.

The matter was initially considered on 21 December 2022, when it was determined the site had strategic and site specific merit, and should proceed to Gateway with the following qualifications:

- The number of dwellings is to be capped at 450;
- 10% Affordable Housing is to be provided;
- The final zoning arrangements and boundaries are to be resolved to maximise the retention of important biodiversity values; and
- A site specific DCP, to guide future development to deliver on the objectives and intended outcomes of the Proposal, is to be finalised in consultation with Council and the Department of Planning and Environment before exhibition of the Planning Proposal.

On 23 May 2023, the Panel considered a revised planning proposal and independent advice by Element Environmental Pty Ltd regarding the Panel's qualifications (**Attachment D**). The Panel majority determined that the planning proposal should be submitted to the Department for Gateway Assessment.

The Panel recommended that the Gateway assessment consider the following conditions:

* Condition 1 – “*The number of dwellings is to be capped at 450*” – The Planning Proposal must address the means by which the cap will be achieved so a maximum 450 dwellings is an effective cap not an aspirational cap;

* Condition 2 – “*10% Affordable Housing is to be provided*” – The Planning Proposal must address the means by which a minimum 45 dwellings will be delivered as Affordable Housing in a manner consistent with the Northern Beaches Council Affordable Housing Policy and cl 6.11 of Warringah LEP 2011;

* Condition 3 – “*The final zoning arrangements and boundaries are to be resolved to maximise the retention of important biodiversity values*” – As noted by the Independent Review, areas identified in the Structure Plan for retained vegetation (e.g., Lizard Rock sacred site and the northwest portion of the Snake Creek riparian corridor) need to be clarified; and

* Condition 4 – “*A site specific DCP, to guide future development to deliver on*” – The Panel confirmed the draft DCP should be drafted in consultation with Council and the Department to enable its exhibition with the planning proposal.

* Additionally, the Panel noted the Proponent had offered to work with Council on a VPA. That offer should be progressed in consultation with Council and the Department advised accordingly.

It is noted one Panel member did not support the majority decision based on the revised planning proposal not adequately addressing site specific merit:

In particular, the extent of the proposed R2 zone provides an expectation that the land within this zone can be developed with permissible uses. It does not provide adequate certainty in relation to land identified in the Structure Plan, for uses such as public/private open space, riparian zone, items of aboriginal significance and the APZ, where residential and other permissible uses in the R2 zone, are not envisaged. The inconsistencies in the revised Planning Proposal also do not demonstrate the suitability of the proposal to adequately respond to the environmental and other constraints of the site.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.2 Development of Aboriginal Land Council land	Consistent	<p>The objective of this Direction is to ensure DDP's prepared under Chapter 3 of the Planning Systems SEPP are considered when a planning proposal is prepared.</p> <p>The proposal gives effect to the Northern Beaches DDP.</p>
3.1 Conservation Zones	Consistent	<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>If the site were development in accordance with the indicative structure plan, it would exceed the Biodiversity Offset Scheme Entry Threshold on both the area and map criteria. As such, the Biodiversity Offset Scheme applies. The</p>

		assessment concludes no areas are at risk of a serious and irreversible impact. The proposal conserves 19.8ha of the site identified to have high ecological, scientific, cultural or aesthetic values, by proposing to rezone this land C2 Environmental Conservation.
3.2 Heritage Conservation	Consistent	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>An Aboriginal Archaeological Assessment has been prepared by Dominic Steele Consulting Archaeology which concludes the site contains a series of rock engravings of high cultural significance which contribute to our understanding of past Aboriginal use of this part of Sydney. In particular, the site contains 3 Aboriginal Heritage Information Management Service (AHIMS) registered engraving sites.</p> <p>The Assessment recommends developing a management strategy that Aboriginal archaeological heritage sites recorded on the land should be protected and conserved. Any vegetation clearance may uncover rock engravings which should be undertaken with care and completed according to the terms of an Aboriginal Heritage Impact Permit issued for the activity under the National Parks and Wildlife Act 1974.</p> <p>This matter is further discussed in Section 4.1.</p>
4.1 Flood Prone Land	Consistent	<p>The objective of this Direction is to ensure development is consistent with the principles of the Floodplain Development Manual 2005 and provisions of an LEP are commensurate with flood behaviour both on and off the site.</p> <p>The proponent prepared a Flood Impact and Risk Assessment which has assessed the flooding conditions of the site. The report meets Councils flooding policy and NSW Floodplain Manual Recommendations and no upstream, downstream or adjacent properties are adversely affected as a result of the proposal. The report confirms the modelling indicates acceptable flood management for the site.</p> <p>Further discussion on this matter is in section 4.1.</p>
4.3 Planning for Bushfire Protection	Minor inconsistency	The objectives of this direction are to protect life, property and environment from bush fire hazards, by discouraging the establishment of incompatible

		<p>and uses in bush fire prone areas and encourage sound management of bush fire prone areas.</p> <p>The site is identified as being high hazard bushfire prone land under Northern Beaches Council Bushfire Prone Land Map.</p> <p>A Strategic Bushfire Assessment and Bushfire Protection Assessment has been prepared by Travers Bushfire & Ecology in accordance with Planning for Bushfire Protection 2019 (PBP 2019).</p> <p>In accordance with this Direction, it is recommended that a Gateway condition be imposed to consult with the Commissioner of the NSW Rural Fire Service and to consider any comments made.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The proposal is accompanied by a Preliminary Site Investigation (PSI) which concluded the site should be able to be made suitable for the proposed residential development with respect to land contamination.</p> <p>A Detailed Site Investigation (DSI) would be required as part of any future development application for the site.</p>
4.5 Acid sulphate soils	Consistent	<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 sulphate soils.</p> <p>The NSW government eSPADE website, indicates that the Site is situated outside of areas of known coastal Acid Sulphate Soils risk. The CSIRO ASRIS risk maps, indicates that the Site is located within an area of 'Extremely low probability of occurrence'.</p>
5.1 Integrating land use and transport	Consistent	<p>The objective of this direction is to ensure that new land use locations improve access to housing, jobs and services by walking, cycling and public transport and reduce dependence on cars.</p> <p>The proposal will enable residential development and in close proximity to jobs and services, encouraging walking, cycling and the use of public transport.</p>
6.1 Residential zones	Consistent	<p>The objectives of this direction are to encourage a variety and choice of housing types, make efficient</p>

use of existing infrastructure and services and minimise the impact on the environment.

The proposal will rezone the site for low density residential uses, the proposed also seeks to permit dual occupancies which would broaden the forms of housing provided, improving choice and assisting in meeting future housing needs.

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP Housing 2021	Chapter 2 identifies and addresses the need for affordable housing within each area of the State. It applies to the development stage(s) of the planning process. Chapter 3 applies to the development of secondary dwellings, group homes, co-living housing, build-to-rent housing, housing for seniors and people with a disability.	Consistent	The planning proposal seeks to introduce additional permitted uses, including dual occupancies and seniors housing. The planning proposal is also accompanied by a non-binding VPA offer which proposes to provide 10% of the saleable land area as land for affordable housing to be dedicated to the Metropolitan Local Aboriginal Land Council. The proposal is consistent with the objectives of the SEPP and does not impact its operation. The introduction additional permitted uses for dual occupancies and seniors housing are further discussed in Section 4.2.
SEPP Planning Systems 2021	Chapter 3 aims to provide for consideration of development delivery plans relating to land owned by Aboriginal Land Councils, and to declare specified development on Aboriginal Land Council owned land to be regionally significant development.	Consistent	The subject land is subject to an approved development delivery plan and the intended development is expected to have a capital investment value of more than \$5 million. Any future development application will be regionally significant development.
SEPP Transport and Infrastructure 2021	Chapter 2 aims to facilitate the effective delivery of	Consistent	The planning proposal is accompanied by a transport assessment which concludes that the surrounding road network can accommodate the expected traffic generation and that suitable access

	infrastructure across the State.		arrangements can be provided along Morgan Road. It is also accompanied by a non-binding VPA offer to upgrade the intersection of Morgan Road / Forest Way by adding a slip lane on Forest Way. The planning proposal will be referred to TfNSW.
SEPP Biodiversity and Conservation 2021	Chapter 2 aims to protect amenity and biodiversity values of vegetation in non-rural areas of the state. It applies to land within the C2 and R2 zones in the Northern Beaches LGA. Chapter 4 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas. It applies to land in the Central Coast Koala	Consistent	The planning proposal is accompanied by a preliminary biodiversity development assessment report, which finds that the project would exceed the NSW Biodiversity Offset Scheme. The proposal must therefore be referred to the Native Vegetation Panel. The site is not subject to an approved koala plan of management. The assessment concludes that koalas are not present on the site and that no further assessment of impacts is required. The proposal must be referred to the Office of Environment and Heritage to confirm consistency with the SEPP, in particular the aims and requirements of Chapter 2.
SEPP Resilience and Hazards 2021	Chapter 3 aims to amend the definitions and development consent matters relating to hazardous and offensive industries.	Consistent	The existing and intended uses of the land are unlikely to result in hazardous or offensive land uses. The planning proposal is accompanied by a preliminary site investigation which concludes the site can be able to be made suitable for residential development and salinity is not considered to be a constraint for the site.

4 Site-specific assessment

4.1 Environmental

Biodiversity

The proposal is informed by a preliminary Biodiversity Development Assessment Report (BDAR) prepared by Hays Environmental. The preliminary BDAR assesses the measures taken by the indicative structure plan to avoid and minimise impacts on native flora and fauna. The following measures were observed:

- Land in the north and west of the site were identified through preliminary biodiversity investigation as being best suited for development;
- the use of a conservation zone for approx. 19.8 ha (28%) in the south and east of the site; and

- the use of reserves and corridors for approx. 6.9 ha (10%) within the development area to preserve native vegetation in a natural condition.

Flora

The site is covered by relatively intact native vegetation consisting of coastal sandstone gully forest, exposed sandstone woodland and coastal sandstone Heath-Mallee.

The site does not contain any threatened ecological communities listed under either the NSW *Biodiversity Conservation Act 2016* (BC Act) or Commonwealth *Environment Protection & Biodiversity Conservation Act 1999* (EPBC Act). One threatened plant species, *Tetratheca glandulosa* (Glandular Pink-bell), has been recorded at several locations within the site. The *Cryptostylis hunteriana* (Terrestrial orchid), has been assumed present but has not been recorded.

Fauna

The DBAR predicts the site provides habitat for up to 35 threatened fauna species. The site provides habitat for threatened species (species credit species) that are known to be present - the Red-crowned Toadlet and the Eastern Pygmy-possum.

Biodiversity Offset Scheme

The proposed rezoning would potentially impact a number of threatened flora and fauna species. The action is likely to be a controlled action and would require a referral to the relevant Commonwealth agency.

The Commonwealth have endorsed the NSW Biodiversity Offset Scheme such that offsets for threatened species and threatened ecological communities calculated under the scheme are deemed to satisfy the provisions of the EPBC Act. All relevant threatened species are included in the Biodiversity Assessment Method (BAM) Calculator and have been assessed under the NSW Biodiversity Offset Scheme.

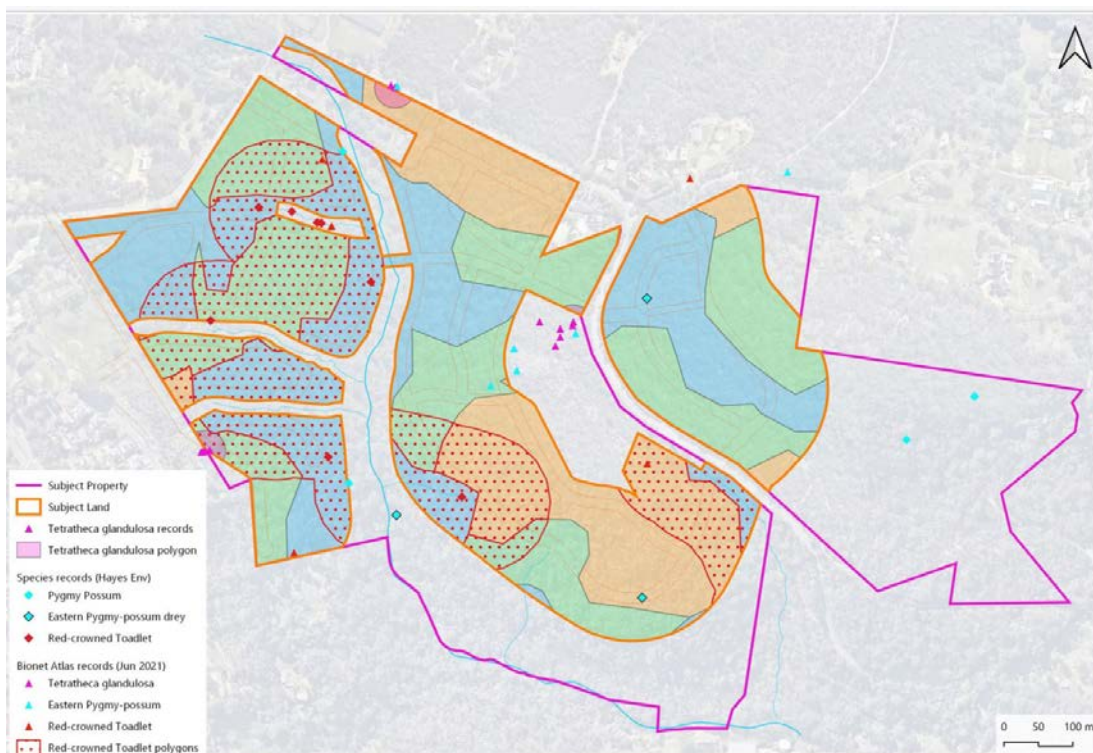


Figure 8 Species Credit Species Polygons (Source: Preliminary Biodiversity Development Assessment)

The BDAR concludes that sufficient work has been conducted to demonstrate that the indicative structure plan is substantially permissible. The proposal will be referred to the Commonwealth Department of Climate Change, Energy, the Environment and Water who will provide guidance when considering the requirements of the EPBC Act in the future.

The proposal anticipates the BDAR provides sufficient information for consideration of the proposal, and the off-set calculation set out in the BDAR would be sufficient to meet requirements under the EPBC Act. The proposal and BDAR will be referred to relevant State and Commonwealth agencies. Further investigations will be undertaken and detailed in the BDAR to support the proposal and any future DA submission.

The proposed amendments to the zoning map should be reviewed to better inform the zoning and development layout including areas of high biodiversity values and heritage sites to be avoided and conserved. As noted by the Panel, at a minimum the zoning of Lizard Rock sacred site and the northwest portion of the Snake Creek riparian corridor need to be clarified. Effectively, these areas should be distinguishable from the developable areas, as depicted in the indicative structure plan.

Bushfire

A Strategic Bushfire Study has been prepared by Travers Bushfire and Ecology, given that the site is identified as Bushfire Prone Land on Northern Beaches Council's Bush Fire Prone Land Map. This is not an LEP map but was prepared in accordance with the Guide for Bush Fire Prone Land Mapping and certified by the Commissioner of the NSW Rural Fire Service under Section 10.3(2) of the *Environmental Planning and Assessment Act 1979*.

The strategic assessment found that bushfire attack can potentially affect the site from the extensive bushland vegetation surrounding the development and would result in future buildings being exposed to potential radiant heat and ember attack.

The proposed 100m Asset Protection Zones (APZ) are contained within the developable area and zoned R2 Low Density Residential. The APZs will be managed in accordance with NSW Rural Fire Service guidelines for APZ management. Given the APZs play the role of protecting development from bushfire attack and buffering bushland from the impacts of development, the Department's preference is to apply a zone to the APZs that reflects their role, rather than applying a residential zone, given the indicative structure plan suggests the APZs are recreation areas. The land zoning map should more closely align with the indicative structure plan that has taken these physical constraints into account.

The following bushfire measures are recommended by the study:

- Asset Protection Zones (APZ) in accordance with the acceptable solutions outlined within Planning for Bush Fire Protection (PBP) 2019;
- Provision of access in accordance with the performance requirements outlined in PBP 2019;
- Water, electricity and gas supply in compliance with the acceptable solutions outlined in PBP 2019; and
- Future dwelling construction in compliance with the appropriate construction sections of AS3959-2018, and PBP 2019.

To address the requirements of Direction 4.3, the proposal will be referred to NSW Rural Fire Service.

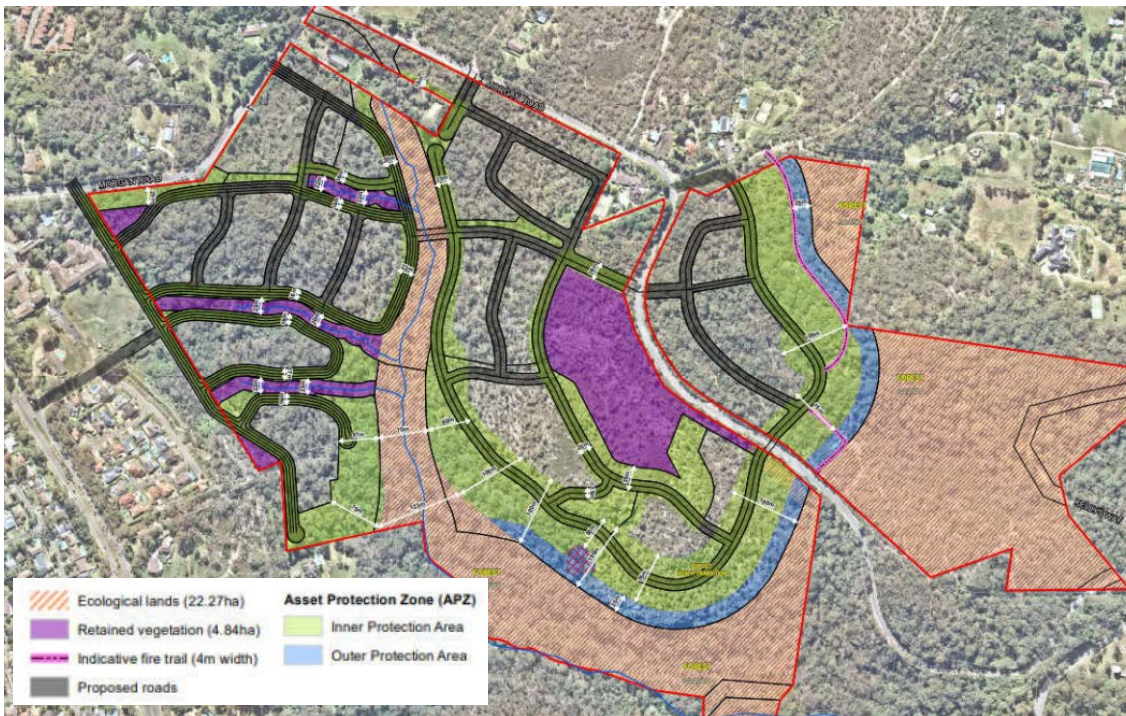


Figure 9 – Proposed Asset Protection Zones

Bushfire Evacuation

The proposal is also supported by a Bushfire Protection Assessment prepared by Travers Bushfire and Ecology. The Bushfire Protection Assessment focuses on the provision of adequate traffic access and the adequacy of APZs for future housing.

The assessment notes the structure plan creates a new road link through Oakes Place to facilitate access to Forest Way and the proposed slip lane to enable access to Forest Way for vehicles potentially banking up on Morgan Rd (See section 4.2 Traffic). There are also Neighbourhood Safer Places with 2-3 minutes drive from the site at Belrose Public School, Bambara Reserve and Belrose Community Centre.

The assessment recommends an evacuation plan be prepared consistent with the RFS Guidelines for the Preparation of Emergency / Evacuation Plans.

To address the requirements of Direction 4.3, the proposal will be referred to NSW Rural Fire Service.

Slope stability

Given the topography of the site, a Slope Risk Assessment was prepared by SMEC to assess geomorphological characteristics, evident failure mechanisms, erosion and indications of slope instability.

Based on observations by consultants and GIS information, much of the area comprises terrain with a slope angle of less than 20°. There are some areas where slopes have an angle of up to 30° and a small area with slope angles between 30° and 40°.

Six main slope instability mechanisms (i.e. Block falls, Block topples, Boulder rolls and Block slide failures) were identified and a risk analysis undertaken for each of the slope instability mechanisms based on the proposed residential, roads and recreation land uses.

For risk to loss of property, the risk assessments are classed as moderate to high for nine test sites. The assessment considers these results as unacceptable without treatments, such as

stabilisation works. The risk for loss of life is considered within an acceptable risk level for all 6 slope instability mechanisms.

The report recommends several treatments, including removal of certain rock blocks during site earthworks, rock bolts to stabilise retained rock blocks, appropriate locations for proposed buildings and subdivision design to consider areas of potential rock fall. The risk analyses are based on high level observations. A detailed slope stability assessment should be undertaken at the development application stage.

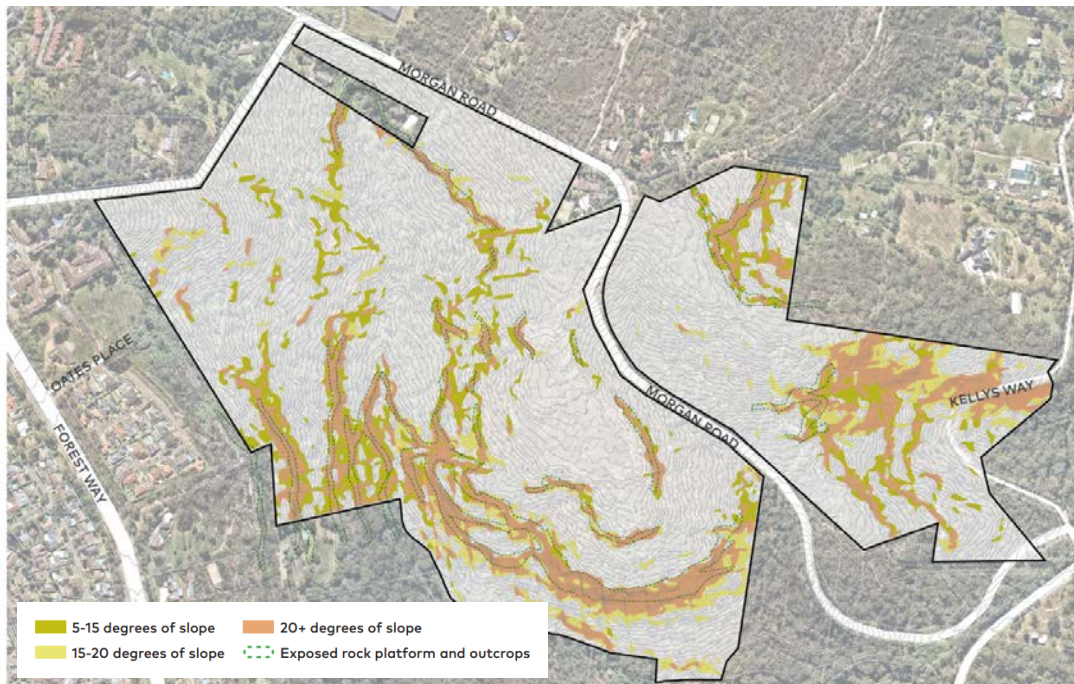


Figure 10 Topography (Source: Urban Design Framework)

Stormwater Management

A Stormwater Management Plan has been prepared by Craig & Rhodes for the Site. The site has slope gradients reaching up to 35%, with rock cliffs and ledges scattered throughout. There are a number of sub-catchments within the site. However, the entire site falls to Snake Creek which runs in a north to southeast direction through the site. Snake Creek is characterised as a seasonal stream, with intermittent creek flows throughout the year after a rain event. The site is not identified as flood prone on Council's Flood Risk Precinct Map.

The southern part of Snake Creek will be zoned conservation. According to the indicative structure plan, the remainder of the Snake Creek, in the northeast area of the site, will be reserved for riparian corridor and stormwater treatment instead of using a conservation zone.

Modelling was undertaken for the 5%, 1%, 0.5%, 0.2% Annual Exceedance Probability (AEP) and Probably Maximum Flood (PMF) storm events under existing and developed conditions. This is generally consistent with Flood Inquiry Recommendation 18 to review multiple flood levels.

The management plan does not include a climate change scenario with increased rainfall intensity. However, the modelling includes 0.5% and 0.2% AEP events which represent an increased rainfall intensity of approximately 8% and 22% above the 1% AEP event respectively. Modelling these additional flood levels demonstrates a rise in water levels in the creeks due to the increased rainfall intensity does not cause additional flood inundation of the proposed development. Thus, climate change related increased rainfall intensity is not considered to be a risk to the development.

In addition, the management plan prepared Flood Risk maps to identify areas of excessively high flood depth, flow velocity, or some combination of both. Figures 11 and 12 maps flood risk based

on the 1% AEP and PMF peak depth and velocity outputs from the hydraulic model. This risk-based approach is consistent with Flood Inquiry Recommendation 18, to understand the behaviour and risks of floodwater on site.

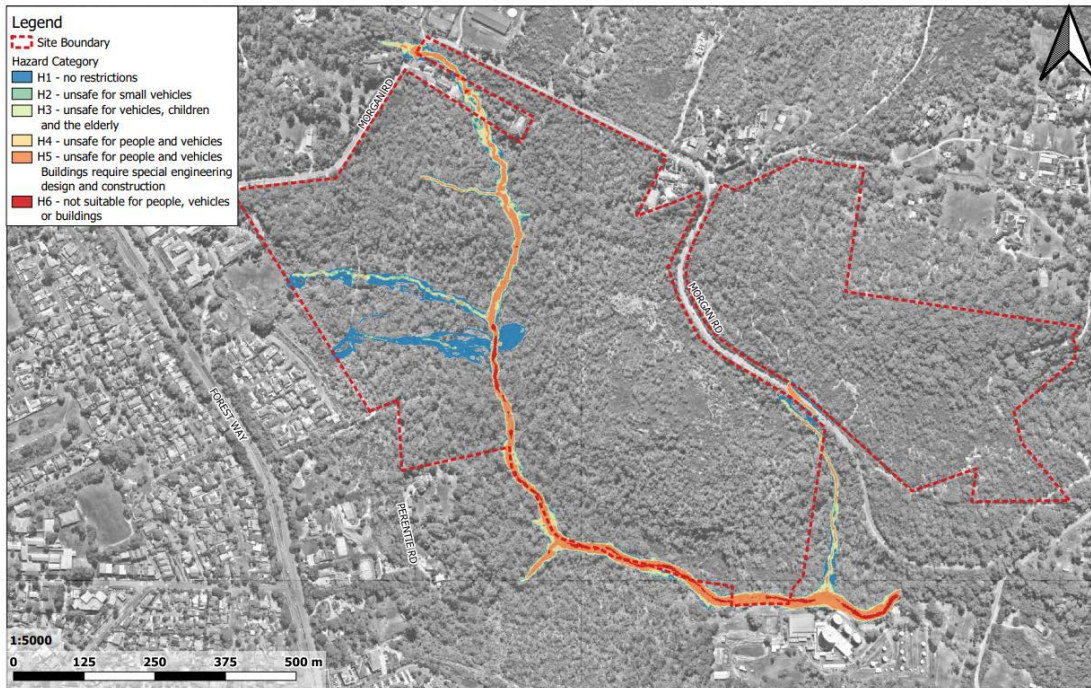


Figure 11 – Flood hazard (pre development)

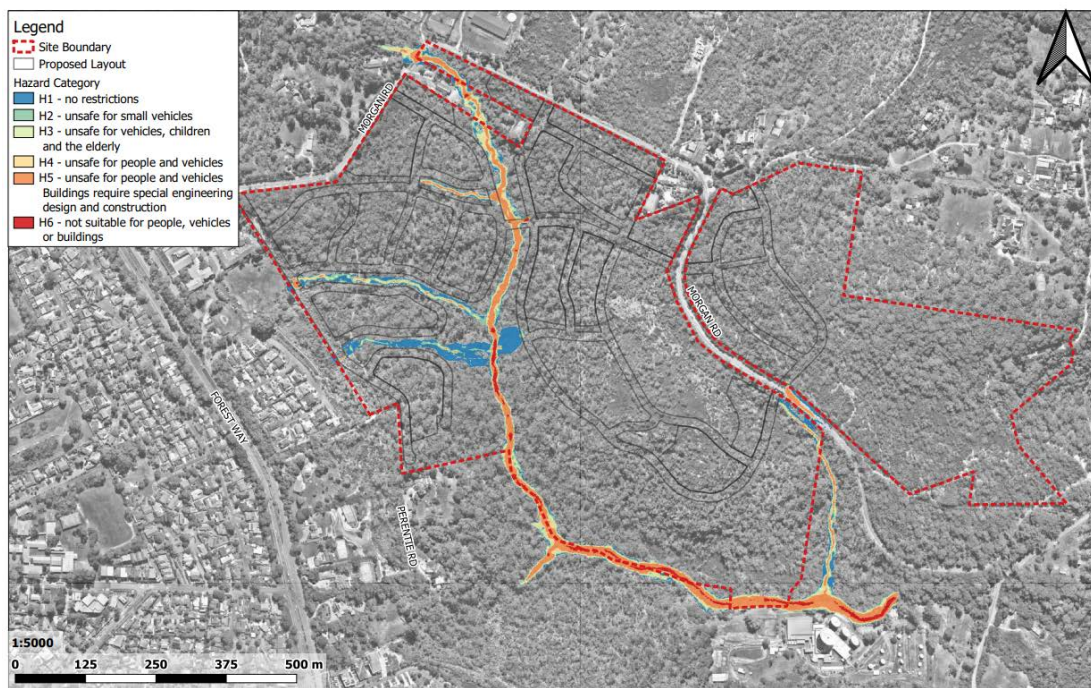


Figure 12 Flood hazard (post development)

The approach taken by the management plan is to mimic natural stormwater flows and retain the ecological values of the natural watercourses on the site. This is consistent with Flood Inquiry Recommendation 20, which suggest principles should be adopted that allows watercourses to largely flow naturally, rather than implementing engineering solutions.

The flood assessment demonstrates the site can be:

- developed in accordance with flood planning requirements will not cause adverse offsite (downstream) impacts to water levels and peak discharge.
- The proposed stormwater management features (rainwater tanks, rain gardens) within residential lots and roadside swales will reduce the post-development peak discharge to within a reasonable amount as pre-development.
- According to the concept earthworks grading, all residential floor levels are above the 1% AEP flood level plus 500mm freeboard and roads would be filled to an elevation that is above the PMF event. This is subject to detailed design at any future development assessment stage.
- The assessment recommends a shelter-in-place emergency response for all future residents as there is no risk of flood affectation for the project.

Given the assessment recommends a shelter-in-place strategy, it is recommended the proposal be referred to the NSW State Emergency Service.

Aboriginal Heritage

The proposal is supported by an Aboriginal Archaeological Heritage Assessment prepared by Dominic Steele Consulting Archaeology. The assessment report has been prepared in conjunction with ongoing consultation and fieldwork undertaken with the MLALC.

The site includes 3 AHIMS registered engraving sites. The cluster of engravings (rock carvings of a large male figure, two footprints and a kangaroo) is found on the elevated rock platform within the western precinct which can be accessed via an informal trail adjacent to Lizard Rock. The indicative structure plan provides a curtilage around the carvings that any future design must adhere to.

Any future development activities have the potential to expose previously undetected rock engravings and axe grinding grooves. It is considered unlikely that archaeological deposits (such as midden materials and/or flaked stone artefact scatters) may also be exposed on the site. An Aboriginal Heritage Impact Permit (AHIP) under the *National Parks and Wildlife Act 1974* would be required for vegetation removal and execution activities.

The assessment determines the site contains a series of rock engravings of high cultural significance. The proposal will facilitate the required economic resources to provide protection of the Aboriginal heritage sites, particularly through the proposed cultural centre which will inform the community about the site's heritage significance and protect its heritage values. This approach is supported. However, it is noted the proposed curtilage around the rock engravings is only demonstrated through the indicative structure plan, not the zoning map. As discussed above and consistent with the Panel's determination, the Department recommends the zoning of the Lizard Rock sacred site needs to be clarified to reflect its cultural significance.

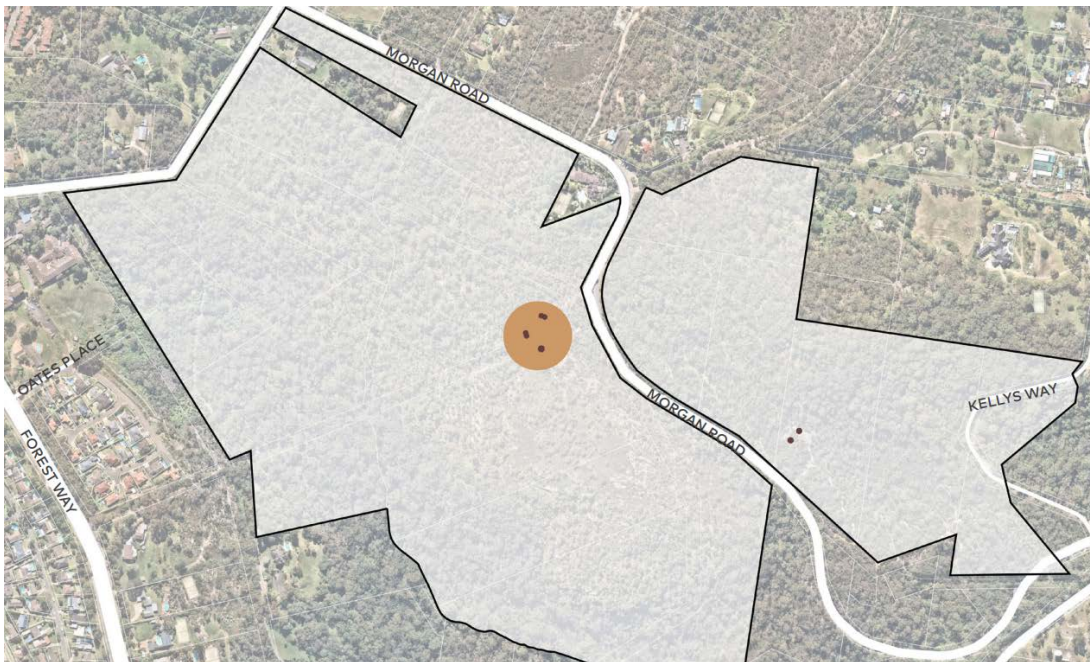


Figure 13 Indigenous Heritage Map (Source: Urban Design Framework)

Open Space

The planning proposal and Social Impact Assessment indicate the development will deliver 7 new public open spaces for a variety of uses including playgrounds, shelter, and tree reserve.

The Department supports the positive social impacts that can improve the liveability of the area by promoting healthy lifestyles through the delivery of open space and recreation areas. However, the proposed zoning uses the R2 zone for all of the proposed open spaces, which does not provide any certainty for the proposed locations and uses of the open space. It is noted that proposing to rezone land RE1 Public Recreation requires an acquisition authority, such as Council, to agree to the zoning, and then maintain the land. The Department recommends the proponent investigate appropriate zone options to identify the proposed open space.



Figure 14 Open Space Structure Plan (Source: COX Architecture, September 2022)

Visual Impacts

A Landscape Visual Assessment was prepared by Urbis to analyse the potential view impacts of the proposed development.

The majority of external views into the site are from Morgan Road and will be available for short sections of the road dependent on the retention of vegetation within the road reserve and along the site boundary. Development of the site will also create visual effects in some views, particularly those from elevated locations. The primary visual effects will be in relation to vegetation removal for road corridors and for APZs.

The visual assessment concludes future development of the site will be compatible with the visual character of the surrounding area. Visual impact mitigation recommendations provided by Urbis, including building height, green buffers, internal road locations and widths have informed the indicative structure plan and will be considered in a subsequent development application.

It is recommended that the site-specific DCP include provisions which further identify future built form controls on site.

Acoustic Impacts

An acoustic Report was prepared by Acoustic Logic to assess the noise impacts associated with the site, including noise intrusion to the site and noise emissions from mechanical plant servicing the site.

The major external noise source is from traffic movements along the Morgan Road. It is anticipated that dwelling facades facing Morgan Road will require acoustic treatment. Further assessment will be required at the detailed design stage.

The proposed uses on the site are primarily low-density residential uses, which are not noise generating. The proposed cultural facilities will not be large-scale and are not unlikely to emit noise emission to surrounding external receivers. Selection of appropriate plant, location and standard acoustic treatments will be further assessed at the detail design stage.

It is recommended that a site-specific DCP should include provisions to reflect any required the acoustic treatment.

Contamination

The proposal is accompanied by a Preliminary Site Investigation (PSI) prepared by SMEC. It is understood that the site is predominantly covered by trees and bushland with some areas subject to disturbance. During a walkover, SMEC observed waste/stockpiles of unknown origin, bare areas due to unknown activities and offsite rural fire station practices.

Based on the observation of rural fire service activities, the proponent engaged PFAS testing for the site. PFAS was not considered to be present at the site in concentrations which may pose a risk to human health and the environment.

Based on the investigations completed, the potential contamination is considered not to preclude rezoning of the site to facilitate residential uses.

The recommendations of the PSI state that further intrusive testing can be undertaken during any detailed development application stage to ensure consistency with relevant planning instruments and SEPP (Resilience and Hazards) 2021.

The Department is satisfied the site can be made suitable for future development subject to the further testing as outlined in the PSI recommendations.

4.2 Social and economic

Dwelling cap

The planning proposal seeks to rezone the site for low density residential uses. This will contribute to housing diversity in the area, improve choice and assist in meeting future housing needs. The proposal's objectives will be achieved by introducing a provision to accommodate up to 450 new residential dwellings on the site.

While a statutory control to deliver up to 450 dwellings is supported, the proposal does not provide a detailed discussion of any mechanisms for implementing the dwelling cap. The proposal should be updated to provide further details regarding how the dwelling cap will be implemented. It is noted there are similar clauses in the Pittwater LEP 2014 and Warringah LEP 2012.

The Department agrees with the Panel's suggested condition that the number of dwellings is capped at 450. This will ensure the dwelling cap is effective, rather than aspirational.

Dual occupancies

The proposal also seeks to introduce dual occupancies as additional permitted uses, subject to the final selection of zoning applied to the site. This suggests other zones have been considered. However, the current proposal proposes to rezone the site R2 Low Density Residential, which permits, dwelling houses and secondary dwellings.

The indicative structure plan proposes subdivision of the site into various lot sizes ranging from small to large lots to ensure housing choice and improved housing affordability including dwelling houses, secondary dwellings and dual occupancies. It is noted the indicative structure plan does not provide lot size details at the time of undertaking this gateway assessment. The proposal argues permitting dual occupancies will provide more diverse housing options, such as smaller households that can be a more affordable housing option.

The Department supports the delivery of housing diversity and choice. However, the proposal does not propose any minimum lot size LEP controls for dual occupancies but suggest a minimum lot size will be available in the site-specific DCP. The proposal states the site specific DCP controls will enable development to address the environmental and landscape constraints of the site. The Department's preference is for minimum lot sizes to be provided through LEP mapping, consistent with the Standard Instrument mapping guidelines. For reference, minimum lot sizes of 600sqm and 740sqm apply to residential zones in the neighbouring suburb of Belrose.

Seniors housing

The proposal states an additional permitted use for seniors housing was included to provide housing diversity in accordance with Council's LSPS and LHS. It is noted the Northern Beaches LHS identifies Belrose as an area to support housing diversity in the form of seniors housing. This is demonstrated by four seniors living villages located on Forest Way, which are near the site. Apart from this reference, the proposal offers minimal justification of permitting seniors housing on the site.

Given the site is proposed to be zoned R2 Low Density Residential, Part 5 Housing for seniors and people with a disability of SEPP (Housing) 2021 would apply to the site. The Housing SEPP provides specialised provisions for seniors housing, including minimum lot size, location and access to facilities and services and design principles.

While the site may be suitable for housing, there are additional considerations required for seniors housing. The Department recommends additional justification and reasoning to support an additional permitted use for seniors housing is provided or seniors housing as an additional permitted use is removed from the planning proposal. It is the Department's preference that any future development of seniors housing on the site should use the existing provisions in the Housing SEPP.

Affordable Housing

On 22 December 2022, the Sydney North Planning Panel determined the proposal should proceed to Gateway, if 10% affordable housing is provided.

The proposal acknowledges Northern Beaches Council adopted an Affordable Housing Contribution Scheme (AHCS) in September 2022. However, the proposal notes one of the underlying premises of the proposal is economic independence of aboriginal people is to fund housing as part of its community land business plan.

The objectives of the Northern Beaches AHCS are to boost the availability of affordable housing in the LGA to assist local residents and key workers on low to moderate incomes to enter the private rental market or home ownership by setting parameters for development contributions for the delivery of affordable housing. The AHCS currently only applies to sites in Frenchs Forest and Pittwater Road, Narrabeen. However, the AHCS can be amended to apply to other areas in the LGA that are subject to a rezoning or an increase in residential density. New sites may be added to the AHCS, subject to feasibility analysis that will determine the contribution rate.

The proponent has provided a non-binding VPA letter which outlines the following Affordable Housing contributions:

- The provision of 10% affordable housing is to be calculated on 10% of the saleable land by area.
- The provision of affordable housing contribution will be in the form of land only with no obligation for MLALC to develop the land and deliver a built form.
- The land identified as affordable housing is to be nominated by the MLALC at its absolute discretion.
- As MLALC is a not for profit and affordable housing provider, the affordable housing land allocation will be dedicated to MLALC.
- Following dedication of the land, MLALC will manage the land within the following remit:
 - Develop the land into dwellings, own and manage the land as affordable housing for MLALC,
 - Develop the land into dwellings, and outsource the management of the properties as affordable housing,
 - Sell the land as is, and the proceeds of sale are to be 100% utilised for the purposes of affordable housing, perhaps in areas where MLALC members are better located, or
 - Develop the land into dwellings, and then sell the land and dwellings. The proceeds of sale are to be 100% utilised for the purposes of affordable housing.

The Department sought independent advice on the revised Planning Proposal and the VPA (**Attachment D**). The independent advice made the following observations:

- It is unclear how many affordable housing dwellings will be provided under the Proponent's scheme.
- The proponent is silent on whether the land or dwellings sold off to fund development of affordable housing elsewhere would continue to be used as affordable housing for this site or would be rented and/or sold at market value.

The Department's Housing Policy team also provided advice on the affordable housing offer. Whilst the offer of an affordable housing on the site is supported, there is concern that the offer in its current terms does not provide suitable transparency or certainty regarding affordable housing outcomes. The affordable housing offer is comprised of options with no clear or certain outcome on whether affordable housing would be built on the land, or with the proceeds of any future sale of the land. There is also no timing identified for the delivery of any affordable housing.

The affordable housing offer is not supported by feasibility testing to confirm the appropriateness of the offer. The Department recommends a financial viability assessment be prepared by a suitably qualified person to determine a viable affordable housing contribution rate for the site. The assessment should clearly outline all underlying assumptions and use the residual land value method to determine a viable affordable housing contribution rate.

It is also noted that the preferred approach for affordable housing management and operation is through a nominated registered community housing provider. Confirmation of the status of the nominated community housing provider(s) would be required to progress consideration of the terms of any affordable housing contribution or land dedication arrangement associated with the proposal.

In line with the Panel's determination, a Gateway condition will require the planning proposal to be amended to include a discussion of how the proponent will deliver affordable housing in a manner consistent with the Northern Beaches AHCS, prior to exhibition. Additionally, given that detailed floor space and infrastructure information is required to undertake a financial viability assessment, this assessment must be completed prior to finalisation of the proposal.

Traffic

The proposal proposes an intersection upgrade to facilitate the delivery of any future development on the site.

The proponent provided a Transport Assessment prepared by JMT Consulting. The traffic modelling demonstrate that the Morgan Road / Forest Way intersection will perform acceptably following the development of the site during both AM peak hour and PM peak hour. It should be noted that the modelling is considered conservative and represents a worst case scenario for the operation of the intersection.

Proposed intersection upgrade

During the development of the proposal for the site it was identified that safe and efficient vehicle egress from the site would be required during major bushfire events. Given the likely bushfire conditions during bushfire events, all traffic would need to be directed to the west towards Forest Way to depart the area. Under current conditions traffic leaving the site via Morgan Road needs to stop at the traffic lights before turning left onto Forest Way.

The proponent has identified an upgrade of the Morgan Road / Forest Way intersection to facilitate safe and efficient evacuation from the area. The intersection upgrade would involve the creation of a slip lane from Morgan Road onto Forest Way to allow traffic leaving Morgan Road to bypass the existing traffic lights and enter directly onto Forest Way without delay (**Figure 13**).

The land required to facilitate the upgrade is partially owned by Transport for NSW and Council and currently zoned RE1. Based on the initial slipway design, 436sqm of land would need to be acquired from Council. Traffic modelling for a bushfire emergency evacuation indicates the upgrade will be required once more than 230 dwellings have been developed and occupied on the site. The proponent has indicated a willingness to enter into a VPA to address local infrastructure needs required for future redevelopment of the site.

The proponent has had a project meeting with Transport for NSW and the Rural Fire Service to discuss the transport implications for the site. It is recommended that the Transport Assessment is referred to TfNSW for consideration and comment.



Figure 15 Proposed upgrade to Morgan Road / Forest Way intersection (Source: Transport Assessment)

Local jobs creation

Economic analysis prepared by Macroplan suggests the proposal has the potential to facilitate employment floorspace and a cultural community centre, which will generate employment for approximately 125 full-time direct local and indigenous workers.

The economic analysis indicates the proposal will also support indirect employment based on a ratio of 1.66 jobs for each direct job. If the future development of the site provides 100 direct 'retail' jobs, that will generate approx. 66 indirect jobs outside the development.

The site has good access to local employment hubs, such as Austlink Business Park and Frenchs Forest Hospital Precinct. Any future development of this site will attract existing local workers to live closer to their employment and increase new local employment opportunities by the increased population contributing to new and existing businesses.

Community Facilities

The proposal is supported by a Social Impact Assessment prepared by GYDE that identifies a need to upgrade existing community facilities in the Frenchs Forest area.

The proposed concept plan includes a cultural community facility of approx. 400-500sqm to celebrate and protect the site's Aboriginal heritage and known artefacts. Currently, there are no Aboriginal cultural centres located within Belrose.

The proposed centre will be integrated with the site's Aboriginal heritage and surrounding landscape, to create a 'cultural hub' for the community which can be integrated with Council's existing community centres. The centre would positively contribute to the social and cultural needs of the community and increase the provision of community centres within the locality to support a growing population.

The proposal also seeks to introduce community facilities as an additional permitted use, subject to the final selection of zoning applied to the site. Given the proposal is proposing to zone the site R2

Low Density Residential, which permits community facilities, the Department's preference is to rely on the land use table, instead of introducing an additional permitted use.

The planning proposal describes neighbourhood services within a proposed B1 zone, including shops, food and drink premises, medical facilities, office facilities, and/or childcare facilities. The proposal does not specify where the B1 zone is proposed to be located on any maps. This should be clarified and the planning proposal updated prior to exhibition.

4.3 Infrastructure

The proposal is supported by an Infrastructure Delivery Plan for public utility services that was prepared by Craig & Rhodes. The report notes there are no existing services on the site and all services are subject to the provision of lead in services to facilitate development of the site.

The Delivery Plan notes that it relies on the provision of traditional servicing strategies of various utilities but concludes the site can be serviced adequately for potable water, wastewater, electricity and telecommunications.

Existing infrastructure

There are two 33kV overhead powerlines that run adjacent to and across the site (Figure 16). The Infrastructure Delivery Plan recommends that the development layout be coordinated to leave the overhead powerlines in their existing location due to the significant expense involved in relocation. However, the proposal states the costs associated with the relocation and undergrounding of existing overhead powerlines along Morgan Road will be the responsibility of the developer.

The proponent has indicated a willingness to enter into a VPA to address this infrastructure cost.



Figure 16 Powerlines crossing site

5 Consultation

5.1 Community

The planning proposal is complex and a community consultation period of at least 30 working days is considered appropriate and forms to the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 40 working days to comment:

- Greater Cities Commission

- Transport for NSW
- NSW State Emergency Service
- NSW Rural Fire Service
- Fire and Rescue NSW
- NSW Environment and Heritage
- NSW Environment Protection Authority
- Commonwealth Department of Climate Change, Energy, the Environment and Water
- Natural Resource Access Regulator
- Department of Education
- NSW Health – Northern Local Health District
- Sydney Water
- Jemena
- Ausgrid
- NBN Co.

6 Timeframe

The Department recommends a time frame of 12 months to ensure the planning proposal is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council is not the planning proposal authority for this planning proposal and has declined the offer of delegation to be the planning proposal authority.

As the site/planning proposal is complex and potentially contentious, the Department recommends the Minister's delegate be the local plan-making authority for this planning proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It gives effect to the objectives of the Chapter 3 of the Planning Systems SEPP and Northern Beaches Development Delivery Plan;
- demonstrates progressing development outcomes for the site which is a priority site under the Chapter 3 of the Planning Systems SEPP and Northern Beaches Development Delivery Plan;
- gives effects to the objectives of the North District Plan to strengthen the economic self-determination of Aboriginal communities in the Northern Beaches of Sydney;
- it has demonstrated strategic and site-specific merit as reviewed and supported by the Sydney North Planning Panel; and
- is consistent with relevant state environmental planning policies and strategic plans.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Adopt an appropriate residential zone, rather than proposes controls subject to final selection of a zone to be applied to the site;
- address how the dwelling cap will be achieved so it is an effective cap, rather than an aspirational cap;

- the zoning of Lizard Rock sacred site and the northwest portion of the Snake Creek riparian corridors and its tributaries should be reviewed based on biodiversity and heritage values;
- Given the APZs play the role of protecting development from bushfire attack and buffering bushland from the impacts of development, the APZs should have a zone that reflects their role, rather than applying a residential zone, given the indicative structure plan suggests the APZs are recreation areas;
- investigate an appropriate zone to identify the proposed open space;
- to be consistent with adjacent residential zones, the minimum lot size should not be provided through LEP mapping;
- provide further justification and reasoning to support seniors housing and community facilities additional permitted uses;
- clarify references to the B1 Local Centre zone; and
- address affordable housing in a manner consistent with the Northern Beaches Council Affordable Housing Scheme and prepare a financial viability assessment.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved until consultation with the NSW Rural Fire Service is undertaken, and consideration of any comments is made.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - Adopt an appropriate residential zone, rather than proposing controls subject to final selection of a zone to be applied to the site;
 - address how the 450 dwelling cap will be achieved so it is an effective cap, rather than an aspirational cap;
 - the developable area on the Land Zoning Map should reflect the physical constraints of the site through the following amendments:
 - review the zoning of the Lizard Rock sacred site;
 - review the zoning for the northwest portion of the Snake Creek riparian corridor including tributaries and retained vegetation identified on the indicative structure plan;
 - proposed bushfire Asset Protection Zones (APZ) should have a zone that reflects the role of the APZ, given the indicative structure plan suggests the APZs are open space; and
 - investigate appropriate zone options to identify the proposed open spaces.
 - introduce a discussion of how the proposal will deliver affordable housing in a manner consistent with the Northern Beaches Council Affordable Housing Contribution Scheme;
 - introduce minimum lot sizes through LEP mapping, rather than the Development Control Plan;
 - If the planning proposal adopts the R2 Low Density Residential zone, Additional Permitted Uses for seniors housing and community facilities should be removed, otherwise provide further justification and reasoning to support the introduction of these APUs;
 - clarify references to the B1 Local Centre zone that are not depicted on any maps; and
 - Prepare a site-specific Development Control Plan.

2. Prior to community consultation, the planning proposal is to be revised to address Condition 1 above and forwarded to the Minister's delegate for review and approval.
3. Prior to making the LEP, provide affordable housing commitments in a manner consistent with the Northern Beaches Affordable Housing Contribution Scheme supported by financial viability assessment to confirm the appropriateness of the offer.
4. Consultation is required with the following public authorities:
 - Greater Cities Commission
 - Transport for NSW
 - NSW State Emergency Service
 - NSW Rural Fire Service
 - Fire and Rescue NSW
 - NSW Environment and Heritage
 - NSW Environment Protection Authority
 - Commonwealth Department of Climate Change, Energy, the Environment and Water
 - Natural Resource Access Regulator
 - Department of Education
 - NSW Health – Northern Local Health District
 - Sydney Water
 - Jemena
 - Ausgrid
 - NBN Co.
5. The planning proposal should be made available for community consultation for a minimum of 30 working days.
6. Exhibition must commence within 3 months following the date of the gateway determination.
7. A site-specific development control plan must be exhibited at the same time as the planning proposal.
8. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
9. Given that the proposal has been allocated to the Sydney North Planning Panel as planning proposal authority, Council should not be authorised to be the local plan-making authority.



_____ (Signature)

7 June 2023 (Date)

Louise McMahon

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Assessment officer

Wayne Williamson

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