

Assessment of Section 117 Ministerial Directions – Appendix G

6 Jacksons Road and 3, 6, 8, 10 and 12 Boondah Road, Warriewood

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Section 117 Direction	Response	Consistency
<p>1.1 Business and Industrial Zones</p> <p>(1) The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres. <p>(4) A planning proposal must:</p> <ul style="list-style-type: none"> (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning. 	<p>The Planning Proposal generally accords with the objectives of this Direction through the encouragement of employment growth and development of a strategic town centre nominated for potential future expansion.</p> <p>The Planning Proposal will not reduce total potential floor space areas for employment uses or industrial uses and in this regard is generally consistent with a strategy approved by the Director-General (Warriewood Valley Strategic Review) to develop the Southern Buffer of the Warriewood Valley.</p>	Consistent
<p>3.1 Residential Zones</p> <p>(1) The objectives of this direction are</p> <ul style="list-style-type: none"> (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands. <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. 	<p>The Planning Proposal includes provisions for a B4 zone (which permits <i>shop-top housing</i>) and an additional permitted use for <i>residential development</i>.</p> <p>These forms of development encourage the provision of housing that broadens the choice of building types, utilise existing infrastructure and services and reduces the consumption of land on the urban fringe.</p> <p>Impact on environment lands is discussed in Section 9.2 and the Planning Proposal and Masterplan does not achieve acceptable ecological outcomes or reflect the recommendations of the Proponent's studies.</p> <p>Further discussion in regard to the provision of infrastructure and services to the site is provided at Section 12 of the Assessment Report.</p>	Consistent

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<p>3.4 Integrating Land Use and Transport</p> <p>(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. <p>(4) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001). 	<p>While the Southern Buffer is located along a public bus transport corridor (Pittwater Road), the Site is located centrally within the Southern Buffer precinct and therefore is removed from the high visibility and accessibility of land adjoining Pittwater Road. Notwithstanding, the site is within an acceptable walking distance of the transport corridor and comprises a mix of uses which would encourage increased public transport services. The concept of a mixed use town centre within the Southern Buffer is consistent with <i>Improving Transport Choice</i>.</p> <p>The Planning Proposal does not preclude new bus routes being provided to service the retail spaces and residential population.</p> <p>A net community benefit test is required to establish whether the location of the development is appropriate within a strategic/regional context (refer Section 13 of Assessment Report).</p>	<p>Generally Consistent</p>

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<p>4.1 Acid Sulfate Soils</p> <p>(1) The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>(4) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(5) When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <ul style="list-style-type: none"> (a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or (b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines. <p>(6) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.</p> <p>(7) Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).</p>	<p>The Masterplan supporting the Planning Proposal would require excavation/cut and foundation works which may be impacted by the Class 3 Acid Sulfate Soils upon which the site is located.</p> <p>If the Planning Proposal proceeds to a Gateway determination, an Acid Sulfate Soils Study will be required.</p>	<p>Can be resolved as part of Gateway determination</p>

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<p>4.3 Flood Prone Land</p> <p>(1) The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>(4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>(5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>(6) A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the development of that land,</p> <p>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</p> <p>(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>(8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>	<p>Cardno has undertaken a Flooding Peer Review (refer Appendix B) which provides an assessment of the Masterplan supporting the Planning Proposal against Section 117 Direction 4.3 Flood Prone Land.</p> <p>The Cardno Flooding Peer Review finds that the proposal is not in-line with the Floodplain Development Manual recommendations and NSW Flood Prone Land Policy. Further the Flooding Peer Review found that:</p> <ul style="list-style-type: none"> • The development should not proceed without proof that the peak flood conditions can be maintained with the proposed Masterplan. • The Planning Proposal would permit a significant increase in the development of the flood planning area, which is inconsistent with the Direction. • The Masterplan supporting the Planning Proposal relies on significant Council spending to achieve the required evacuation routes. Plans for these works do not exist. • The Masterplan should provide a PMF evacuation strategy that does not depend on government funding and will not put additional strain on Council resources and emergency services. 	Inconsistent

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<p>4.4 Planning for Bushfire Protection</p> <p>(1) The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas. <p>(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,</p> <p>(5) A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to Planning for Bushfire Protection 2006, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. 	<p>If the Planning Proposal proceeds to a Gateway determination, a Bushfire Hazard Report and consultation with the RFS will be required.</p>	<p>Can be resolved if Gateway determination is issued</p>
<p>6.1 Approval and Referral Requirements</p> <p>(1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>(4) A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 	<p>The Planning Proposal put forward by the Proponent does not propose any concurrence, approval or referral requirements.</p>	<p>Can be resolved if Gateway determination is issued</p>

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<p>6.3 Site Specific Provisions</p> <p>(1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p> <p>(4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>This Planning Proposal includes the inclusion of an additional permitted use (being <i>residential development</i>) within the proposed B4 Mixed Use Zone. Where development for the purpose of <i>shop-top housing</i> is not permissible, it is recommended that a residential zone be proposed as an alternative. This is relevant to No 12 Boondah Road. The Planning Proposal is otherwise generally consistent with this Direction.</p> <p>If the Planning Proposal achieves Gateway Determination, additional mapping should be undertaken (eg. FSR, Minimum Lot Size) but these would not be inconsistent with the Direction.</p> <p>Further, a draft LEP should include a provision that requires a DCP to address matters discussed in Section 10.1.5.</p>	<p>Generally Consistent</p>
<p>7.1 Implementation of the Metropolitan Plan for Sydney 2036</p> <p>(1) The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.</p> <p>(4) Planning proposals shall be consistent with:</p> <ul style="list-style-type: none"> (a) the NSW Government's Metropolitan Plan for Sydney 2036 published in December 2010 ("the Metropolitan Plan"). 	<p>As discussed in Section 8.1 of the Assessment Report, this Planning Proposal is generally consistent with the Metropolitan Plan for Sydney 2036.</p>	<p>Consistent</p>