

# PLANNING PROPOSAL PP0001/14

To amend the Urban Release Area Map, Land Zoning Map, Height of Buildings Map and Minimum Lot Size Map applying to the Warriewood Valley Release Area

To introduce/amend the dwelling yield provisions applying to land within the Warriewood Valley Release Area

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# PART 1: OBJECTIVES OF PLANNING PROPOSAL

The objectives of this Planning Proposal are to amend the Pittwater Local Environmental Plan 2014 to:

- 1. Amend the Urban Release Area Map by amending the boundary of various sectors within the Warriewood Valley Release Area, including adding and removing various sectors or parts thereof.
- 2. Amend the Land Zoning Map to rezone specific land.
- 3. Amend the Minimum Lot Size Map to remove the lot size applying to specific land.
- 4. Amend the Height of Buildings Map to amend the maximum height applying to specific land.
- 5. Amend/introduce dwelling yield provisions for sectors in the Warriewood Valley Release Area

Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under Section 59 of the *Environmental Planning & Assessment Act 1979* in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal

# PART 2: EXPLANATION OF PROVISIONS

	Proposed Amendments	Description	
1	Amendments to Urban Release Area Map – Sheet URA_012	Identify land as new sector: – Battle-axe portion of 4 (Lot 3 DP 736961) and 5 (Lot 4 DP 736961) Fern Creek Road (Sector 901H) Amend boundary of existing Sector 10 to excise 194 Garden Street (SP 22115) and identify as an individual sector (Sector	
		<ul> <li>10C)</li> <li>Amend boundary of existing Sector 20 to: <ul> <li>Remove 79 Cabbage Tree Road (Lot 20 DP 632081) and</li> <li>4 Walana Crescent (Lot 8 DP 1124862) from Release Area</li> <li>Excise 14 Walana Crescent (Lot 367 DP 806738) and 3</li> <li>Harrier Place (Lot 35 DP 1135383) from Sector 20 and</li> </ul> </li> </ul>	
		identify as individual sectors (Sector 202 and Sector 203) Amend boundary of Sector 8 to excise portion of 5 Forest Road (Lot 13 DP 1083731) within Release Area and identify as an individual sector (Sector 802)	
		Amend boundary of the sector identified as Clause 6.2(Lot 3 DP 124602, Lot 5 DP 124602, Lot 4 DP 124602 and Lot 1 DP 383009) to identify the two properties as two individual sectors (Sector 120 and Sector 122)	
		Amend width of area identified as 'Creek Line Corridor' within Buffer Area 1F to Buffer Area 1J to maximum of 25 metres on either side of the centre line of the creek. Amend boundary of existing Sector 3 and existing Buffer Area 2	
		to combine two sectors and identify as an individual sector ( <i>Buffer Area 2</i> )	
2	Amendments to Urban Release Area Map – Sheet URA_013	Amend boundary of existing Sector 10 to excise 194 Garden Street (SP 22115) and identify as an individual sector <i>(Sector 10C)</i>	
3	Amendments to the Land Zoning Map – Sheet LZN_012	Rezone battle-axe portion of 4 (Lot 3 DP 736961) and 5 (Lot 4 DP 736961) Fern Creek Road <i>(Sector 901H)</i> from RU2 Rural Landscape to R3 Medium Density Residential. Rezone 5 Forest Road (Lot 13 DP 1083731) from RU2 Rural	
4	Amendment to the	Landscape to SP2 Infrastructure (Educational Establishment) Remove minimum lot size applying to battle-axe portion of 4	
	Minimum Lot Size Map – Sheet LSZ_012	(Lot 3 DP 736961) and 5 (Lot 4 DP 736961) Fern Creek Road (Sector 901H) that is to be zoned R3 Medium Density Residential as part of this Planning Proposal.	
		Remove minimum lot size applying to 5 Forest Road (Lot 13 DP 1083731) (Sector 802) that is to be zoned SP2 Infrastructure (Educational Establishment) as part of this Planning Proposal.	
5	Amendment to Height of Buildings Map - Sheet HOB_012	Alter maximum height applying to battle-axe portion of 4 (Lot 3 DP 736961) and 5 (Lot 4 DP 736961) Fern Creek Road <i>(Sector 901H)</i> from 8.5 metres to 10.5 metres	
6	Amendments to Part 6, Clause 6.1(1)(a)	After "Warriewood Valley Strategic Review" insert "as amended".	
7	Amendments to Part 6, Clause 6.1(3)	The text related to Sector 20 in the table in Clause 6.1(3) is to be amended as follows:	
		Sector 20 Not more than 72 64 dwellings	

The text related to Sector 3 and Buffer Area 2 in the table in Clause 6.1(3) is to be amended as follows:		
<del>Sector 3</del> <del>Buffer area 2</del> Buffer area 2	Not more than 34 dwellings Not more than 113 dwellings Not more than 147 dwellings	
The text related to Sectors 901C and 901G in the table in Clause 6.1(3) is to be amended as follows:		
Sector 901C	Not more than 22 dwellings or less than 17 dwellings	
Sector 901G Sectors 901C and 901G	Not more than 6 dwellings Not more than 28 dwellings or less than 23 dwellings	
The following text is to be a	added to the table in Clause 6.1(3):	
Sector 901H	Not more than 3 dwellings	
Sector 10C	Not more than 17 dwellings	
Sector 202	Not more than 1 dwelling	
Sector 203	Not more than 4 dwellings	

# Section A Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is the result of the *Warriewood Valley Strategic Review Addendum Report 2014* (Addendum Report). The Addendum Report is a supplement to the adopted *Warriewood Valley Strategic Review Report 2012* (Strategic Review Report) which reviewed the appropriate height and density standards for medium density residential development within the Warriewood Valley Release Area (Release Area). The Addendum Report investigates and identifies a forward path for all other land in the Release Area that was not considered or provided with a forward path under the Strategic Review Report.

The Addendum Report is informed by an opportunities and constrains analysis undertaken by Council, and updated flooding and bushfire information, including an additional flooding analysis of the Narrabeen Lagoon Flood Study adopted in 2013 by the same consultant who produced the Warriewood Valley Strategic Review Hydrology Study 2011. Relevant environmental studies undertaken for the Strategic Review Report were also considered. Due to the significant environmental and development constraints affecting particular sectors within the Release Area, some sectors, or parts thereof, are recommended to be removed from the Release Area. The Addendum Report has also identified other relatively less constrained sectors with opportunities for development.

# 2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Progressing this Planning Proposal is the best means of achieving consistency with Council's strategic and land use planning documents.

The Planning Proposal is the only mechanism to enable land to be removed or added to the Urban Release Area Map, rezone land and enable changes to be made to the mapping and dwelling yield provisions in Clause 6.1(4) of *Pittwater LEP 2014*.

### Section B Relationship to Strategic Planning Framework

# 3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

While this Planning Proposal is largely an administrative amendment and therefore will generally only have minor impact on the objectives and actions within these strategies, it will provide for some new residential development in the Release Area and is therefore consistent with the objectives and actions within the *Draft Metropolitan Strategy for Sydney* and the *Draft North-East Subregional Strategy* where goals are set for housing delivery and land supply.

# 4. Is the Planning Proposal consistent with the council's local strategy or other local strategic plan?

The Planning Proposal is consistent with the recommendations of the *Warriewood Valley Strategic Review Addendum Report 2014.* 

# 5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see **Appendix 1**).

# 6. Is the Planning Proposal consistent with applicable Ministerial Directions (Section 117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see **Appendix 2**).

### Section C Environmental, social and economic impact

# 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This Planning Proposal is largely an administrative amendment, involving various adjustments to the boundary of the Release Area and dwelling yield provisions.

- Amalgamation of adjoining Sectors 901C and 901G,
- Amalgamation of adjoining Sector 3 and Buffer Area 2,
- Minor adjustment to sector boundaries to identify properties within existing sectors as individual sectors (Sectors 120, 122, 202, 203, 10C),
- Removal of property known as 79 Cabbage Tree Road from Sector 20,
- Adjustment of dwelling yield provisions to reflect amended sector boundary (Sectors 20, 202, 203, 901C and 90G, 10C, Sector 3 and Buffer Area 2),

Some other minor amendments are proposed, these recommendations are supported by the opportunities and constraints analysis undertaken by Council. It is therefore unlikely that this Planning Proposal will result in adverse impacts on critical habitat or threatened species, populations or ecological communities or their habitats.

The sectors proposed to be rezoned under this Planning Proposal and/or allocated a dwelling yield under Clause 6.1(4) have already been zoned for urban development, are already developed upon and/or are located within existing residentially zoned areas.

- Sector 202 and 203 are subsectors of the current Sector 20 and already zoned R3 Medium Density Residential. The Planning Proposal seeks to amend the current dwelling yield provision applying to Sector 20 by attributing a yield to each of these subsectors based on the outcomes of the opportunities and constraints analysis undertaken by Council.
- Sector 802 is already developed as a school and proposed to be rezoned to reflect its current use.
- Sector 901H consists of the battle axe portion of two properties and is situated between residentially zoned Sectors 901B and 901C. Sector 901H is proposed to be rezoned from a rural zone to R3 Medium Density Residential zone. The sector is currently utilised as a driveway and largely cleared. The rezoning of Sector 901H will allow either adjoining sector, which have already been rezoned R3 Medium Density Residential, to incorporate this additional land (approximately 1,100 square metres) into their development site.
- Sector 10C, already zoned R3, is proposed to be allocated a dwelling yield to allow the property to be redeveloped from its current use as a retirement village to an urban

residential development, similar in scale to the surrounding existing low density development.

# 8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

As outlined above, this Planning Proposal is largely an administrative amendment, however will provide for a small number of additional dwellings within the Release Area (net increase of 17 dwellings). As outlined above, the sectors proposed to be rezoned under this Planning Proposal and/or allocated a dwelling yield under Clause 6.1(4) are mostly zoned R3 Medium Density Residential, are already developed upon and/or are located within existing residentially zoned areas.

These recommendations are supported by an opportunities and constraints analysis based on mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy 2011*, which have been updated based on Council's most current flood and bush fire mapping (*Narrabeen Lagoon Flood Study 2013* and *Bush fire Prone Land Map 2013*). The recommendations are also supported by an additional analysis undertaken by the consultant who produced the Warriewood Valley Strategic Review Hydrology Study 2011.

Any future development application will require assessment under Section 79C of the EP&A Act and will be subject to the provisions and development controls under Pittwater LEP 2014 and Pittwater 21 DCP, including those related to flooding, bushfire prone land, waste management, land contamination, geotechnical hazards, heritage and traffic.

#### 9. How has the Planning Proposal adequately addressed any social and economic effects?

With the exception of the properties known as 120 and 122 Mona Vale Road (Sectors 120 and 122), the lands subject of this Planning Proposal generally comprise land originally identified for release in the early 1990s under the State Government's Metropolitan Development Program. At that time a suite of studies were undertaken for the original Warriewood Valley land release area, comprising studies which addressed the social and economic effects of the release.

The properties known as 120 and 122 Mona Vale Road (*Sectors 120 and 122*) are not proposed to be rezoned under this Planning Proposal and are only simply proposed to be identified as individual sectors within the Release Area for the purpose of aligning the properties with the referenced planning strategy in Clause 6.1(1)(a).

As this Planning Proposal is largely an administrative amendment it is concluded that it is unlikely to have any negative social or economic effects.

### Section D State and Commonwealth interests

#### 10. Is there adequate public infrastructure for the Planning Proposal?

Local infrastructure to meet the needs of the current and expected future population of the Warriewood Valley community is planned for and funded through the *Warriewood Valley Section 94 Contributions Plan.* 

Preliminary analysis indicates that the increased dwellings expected as a result of the Planning Proposal (17 additional dwellings) is unlikely to have a significant impact on the infrastructure requirements for the Release Area. Nonetheless, the additional dwellings proposed, will need to be factored into the Section 94 Plan.

# 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The *draft Warriewood Valley Strategic Review Addendum Report 2014* was placed on public exhibition between June and July 2014 and the views of Sydney Water and Crown Lands, as landowners within the Release Area, were sought.

Sydney Water supported the current zoning of their land. The Addendum Report does not recommend changing the zoning of the land comprising the Warriewood Sewerage Treatment Plant as it is already zoned SP2 Infrastructure (Sewerage System) under Pittwater LEP 2014.

When a Gateway Determination is issued, further consultation with all required public authorities will be undertaken.

# PART 4: MAPPING

The current Urban Release Area Maps (Sheet URA\_012 and Sheet URA\_013), Land Zoning Map (Sheet LZN\_012), Height of Buildings Map (Sheet HOB\_012) and Lot Size Map (Sheet LSZ\_012) are contained **Appendix 3**.

The proposed amended maps are contained in Appendix 4.

# PART 5: COMMUNITY CONSULTATION

This Planning Proposal is consistent with the pattern of surrounding land uses.

Local infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan.* Preliminary analysis indicates that the increased dwellings expected as result of the Planning Proposal (17 additional dwellings) is unlikely to have a significant impact on the infrastructure requirements for the Release Area. Nonetheless, the additional dwellings proposed and additional infrastructure requirements will need to be incorporated into the Section 94 Plan.

Subsequently, this Planning Proposal is considered to be a 'low impact' proposal. In keeping with 'A guide to preparing local environmental plans' (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period,
- Notification in local newspaper at commencement of exhibition period,
- Notification on Council's website for the duration of the exhibition,
- Notification in writing to affected landowners and the Warriewood Residents Association at commencement of exhibition period.

# PART 6: PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway Determination	6 weeks from Council decision to forward Planning Proposal to Department of Planning & Environment for Gateway Determination.	Late December 2014
Completion of required technical information	Due to nature of proposal it is not anticipated that additional technical information will be required.	-
Government agency consultation	Preliminary consultation with government landowners was undertaken as part of the exhibition of the d <i>raft Warriewood Valley</i> <i>Strategic Review Addendum Report.</i> Any formal consultation required by the Gateway Determination will occur during the statutory exhibition period.	Late January 2015
Public exhibition	14 days – Commencing in mid January 2015, following Gateway Determination	Late January 2015
Consideration of submissions	2 weeks from close of public exhibition	Mid February 2015
Consideration of proposal post-exhibition and report to Council	Report matter to Council.	Late February 2015
Submission to Department and PCO to prepare draft instrument	Following Council decision to finalise LEP.	Late February 2015
RPA to make plan (if delegated)	4 weeks from Council decision to finalise LEP.	Late March 2015
Notification of LEP/LEP comes into force	1 week from RPA making plan.	Early April 2015

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	NO	N/A	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	
SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	
SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	

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SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

### 1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	NO
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

### Justification for inconsistency with Director 1.2

The Planning Proposal, so far as it is relates to the rezoning of the battle axe portion of 4 and 5 Fern Creek Road (*Sector 901H*) and 5 Forest Road from a rural zone to another zone, is inconsistent with Direction 1.2. The proposed rezoning is consistent with State Government's Metropolitan Development Program which identified these lands for urban release in the early 1990s.

## 2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

#### Justification for inconsistency with Direction 2.3

The Planning Proposal is largely an administrative amendment therefore the inconsistences with this direction are of minor significance.

Provisions also already exist within the Pittwater LEP 2014 for the protection and conservation of environmentally sensitive areas and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

### **3** Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	NO	N/A
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

## 4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

### Justification for inconsistency with Direction 4.3

Sectors 120, 122 and 802 are traversed by sections of Narrabeen Creek and Fern Creek respectively. It is the creek sections that have been identified as flood prone land.

Development controls within Pittwater 21 DCP prohibit vertical structures to be erected on land comprising the creek line corridor. Development controls also require that the creek line corridor be engineered to convey the 1% AEP flood event. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

### Justification for inconsistency with Direction 4.4

Sector 901H, 802, 122, 120, 202, 203 and 10C are all identified as bush fire prone under Council's Bush Fire Prone Lands Map.

Sectors 120, 122, 202, 203 and 10C are already rezoned for its intended purpose and will not be altered. This Planning Proposal only seeks to amend the sector boundary/dwelling yield provision applying to this land.

Sector 901H is to be rezoned from a rural zone to R3 Medium Density Residential under this Planning Proposal. The land proposed to be rezoned does not contain Category 1 or 2 Vegetation and is not mapped as a Bushfire Buffer, but instead forms part of a parcel identified with these affectations.

Sector 801 is already developed as a school and proposed to be zoned to reflect this land use.

This Planning Proposal is inconsistent with this direction insofar as consultation has not yet occurred with the NSW Rural Fire Service. Consultation is expected to be undertaken during the statutory exhibition period.

### 5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

# 6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

#### Justification for inconsistency with Direction 6.3

The Planning Proposal seeks to incorporate new dwelling yield provisions for Sector 10C, 901H, 202 and 203 and amend the existing dwelling yield provision applying to Sector 20.

The application of the dwelling yield provisions within the Pittwater LEP is well established for the Warriewood Valley Release Area. The dwelling yield provisions in Part 6 of the Pittwater LEP 2014 were translated from Pittwater LEP 1993 and are not new provisions.

### 7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

# Appendix 3: Current LEP Maps











# Appendix 4: Proposed LEP Map Amendments









