

**SUBJECT: R0001/05 – Application to rezone Sector 5 - Warriewood
Valley Urban Land Release, 4 - 8 Forest Road, Warriewood**

Meeting: Environment and Planning Committee **Date:** 8 October 2007

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To update the Council in relation to the status of the rezoning application and actions undertaken in accordance with the resolution of Council, on 18 June 2007.

BACKGROUND

Council previously considered a report recommending the commencement of the statutory processes for the Sector 5 rezoning application on 18 June 2007, and resolved as follows:

1. *That consideration of this matter be deferred to allow:*
 - a. *further consultation with and between the applicants and the objectors, and*
 - b. *further consideration of a planning agreement for the remaining portion of the sensitive vegetation.*

In relation to the above reasons for deferral, it is advised that the following actions have been undertaken:

- a. A meeting was facilitated by Council on 16 July 2007, to allow consultation between the applicants and objectors. This meeting served to clarify concerns and issues held by the objectors and to identifying a forward path for the rezoning application. While a concern remains regarding stormwater disposal Council staff are satisfied that proposal is in keeping with Council requirements and that this application can be progressed.
- b. In relation to the “*further consideration of a planning agreement for the remaining portion of the sensitive vegetation*” that is outside of the Sector 5 boundary, a meeting was held with the applicant at Council on 28 July 2007. As an outcome of this meeting it was determined that the applicant’s surveyor was to identify opportunity (if any) for future dwellings to the west of the Sector 5 boundary and then to arrange an on site meeting between the applicants surveyor and appropriate Council staff to jointly determine any opportunities for a planning agreement.

Further to this meeting taking place, correspondence has been provided from Robert T. Dunn & Co. on 29 August 2007. This letter outlines a proposal to enter into a Memorandum of Understanding (MOU) with Council regarding the remaining portion of sensitive vegetation. In the said correspondence to Council, the context for the proposed MOU is set out as follows:

1. *We ask that Pittwater Council proceed with its consideration of the deferred application thereby to consider the staff recommendation set out in Council’s report that was considered by the above meeting. In particular, that the statutory process under the Environmental Planning and Assessment Act, for the rezoning of land the subject of the application, in respect of the proposed urban townhouse development be commenced and otherwise as in accordance with the recommendation of Mr Lindsay Dyce, Manager, Planning and Assessment, as was set out.*

2. *With regard to the remainder of the land contained in our client's title and which was referred to in subparagraph (b) of the Council resolution as noted above, this should be the subject of the MOU and it is proposed thereby as follows:*

- (i) *Our client, as a single applicant, will submit a rezoning application to Pittwater Council for the remainder of the Non-Urban 1B land as contained on the subject lot.*
- (ii) *The proposed zoning is to be primarily Environmental Protection 7(A) with three adjoining sites to be identified and zoned Residential 2(a). These identified sites are to be subdivided from the remainder of the 7(A) zone, subject to approval of those subject lots, will be dedicated to Pittwater Council as Public Protected Land.*
- (iii) *The appropriate timeframe for the above to take place will be defined.*

In accordance with the above, it is proposed to progress the rezoning application for Sector 5 and to pursue separately the proposal to rezone the remaining portion of the site.

The previous report is attached (Attachment A) and advises Council of the proposed rezoning and of the statutory rezoning process required under the EPA Act 1979 for Sector 5.

ISSUES

- Public notification
- Planning agreement

FINANCIAL IMPLICATIONS

The proposed rezoning has implications for Council's Warriewood Valley Section 94 Contributions Plan and will increase Council's rate base.

POLICY IMPLICATIONS

The rezoning proposal is consistent with the Warriewood Valley Urban Land Release Draft Planning Framework.

RECOMMENDATION

1. That the statutory process under the Environmental Planning and Assessment Act 1979, to make a draft Local Environmental Plan to amend the zoning of Lot B DP 370222 and part of Lot 1 DP 5055 at 4-8 Forest Road, Warriewood, from zone Non-Urban 1(b) to 2(f) (Urban Purposes - Mixed Residential), under Pittwater Local Environmental Plan 1993, as set out in Appendix 1 to this report, be commenced.
2. That the certified draft Local Environmental Plan be placed on public exhibition to enable any person to make a written submission to Council.
3. That as requested by the applicant, opportunities to facilitate the residual land within Lot 1 in DP 5055 being brought into public ownership be investigated separate to the progress of the Sector 5 rezoning Masterplan process.
4. That an updated Bushfire Report that addresses the requirements of Planning for Bushfire 2006 be provided to Council and comments be sought from the Rural Fire Service at Section 62 stage of the statutory rezoning process.

Report prepared by Andrew Pigott, Urban Special Projects Leader

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

Subject: R0001/05 – Application to rezone Sector 5 - Warriewood Valley Urban Land Release, 4 - 8 Forest Road, Warriewood

Meeting: Council

Date: 18 June 2007

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To recommend that Council commence the statutory process to rezone Sector 5 for residential purposes in response to a rezoning application made by Denis Leech & Associates for part of Sector 5, in particular to rezone 4 - 8 Forest Road, Warriewood of Lot B DP 370222 and part of Lot 1 DP 5055.

BACKGROUND

This report advises Council of the proposed rezoning and of the statutory rezoning process required under the EPA Act 1979.

ISSUES

- Description of land and environment
- Reasons for rezoning
- Environmental Study
- Consistency with Environmental Planning Instruments
- Public notification
- Submissions, stormwater, traffic, pedestrian safety
- Assessment

FINANCIAL IMPLICATIONS

The proposed rezoning has implications for Council's Warriewood Valley Section 94 Contributions Plan and will increase Council's rate base.

POLICY IMPLICATIONS

The rezoning proposal is consistent with the Warriewood Valley Urban Land Release Draft Planning Framework.

SUMMARY OF RECOMMENDATION

That the statutory rezoning processes to rezone Sector 5 for residential purposes be commenced.

1.0 BACKGROUND

Council has received a rezoning request with supporting consultant reports. An application has been received from Dennis Leech & Associates to rezone the subject land to permit mixed residential (medium density) development comprising 75 dwellings. The present zoning of the land under Pittwater LEP 1993 is Non-Urban 1(b).

The request has been received from Dennis Leech & Associates, on behalf of the property owners Peter Gualtieri, Teresa Gualtieri, John Gigliotti & Vincenzo Sacco, who have indicated that the site is suitable for the proposal and that the masterplan is consistent with the aims and objectives of DCP 29 as the design encourages environmental sustainability. The application with supporting documentation was lodged on 2 February 2005. The application was identified as having significant deficiencies in the level of documentation and subsequent correspondence and consultation with the proponents has resulted in the majority of the issues being resolved albeit over a considerable length of time since the application was lodged.

A brief chronology of the application process to date is detailed as follows:

APPLICANT	COUNCIL
02.02.05 – R0001/05 lodged	
	11.02.05 – Deficiencies identified and request for information made
10.03.05 – Info submission	
15.03.05 – Further info submitted	
31.03.05 – Further info submitted	
15.04.05 – Further info submitted	
	19.05.05 – Response outlining issues in need of address and request for info
	27.05.05 – Additional information request made
	21.06.05 – Update on process forwarded to owners
	24.06.05 – Applicant forwarded reminder request for info outstanding
	14.07.05 – Show cause request to applicant regarding timeframe and outstanding issues
12.08.05 - Charrette (meeting) undertaken with Applicant & consultants, and Council Officers	
21.09.05 – Meeting and revised preliminary masterplan submitted	21.09.05 - Meeting
	10.10.05 – Letter to applicant outlining unsatisfactory and/or unresolved issues
13.10.05 – Response to identified issues noting future info to be submitted	
	20.10.05 – Letter to applicant advising of issues to be resolved regarding 13.10.05 info
14.11.05 – Revised layout and	

street details submitted	
	30.11.05 – Letter to applicant identifying issues with revised layout and design
	01.12.05 – Letter to applicant identifying issues with revised information
	23.01.06 – Request to applicant for update on response to identified issues
24.01.06 – Response advising of likely timeframe for submission of info	
	24.02.06 – Request to applicant for status on info to be submitted
24.02.06 – Response advising early March submission of info	
	27.02.06 – Request for rezoning submission to address all issues from <i>Charrette</i> in August 2005
12.04.06 – Stormwater management info submission	
	10.05.06 – Letter advising applicant that rezoning application is to be set aside until requested information (30.11.05 & 01.12.05) has been submitted
05.07.06 – Rezoning application submission lodged with Council	
30.08.06 – Further info submitted	
07.12.06 – MEETING A meeting was held with applicants to clarify outstanding matters required to be satisfied prior to report going to Council.	
22.01.07 – Stormwater “technical” information submitted	
Information reviewed	
Preliminary (non-statutory) Notification 12 march – 26 March 2007	
Submissions received	
Submission issues reviewed by relevant Sections of Council	
Report completed for progress to Council	

The report advises that the masterplan concept for the rezoning is able to be supported subject to the refinement and clarification of some issues that remain outstanding. Further to this, this report identifies the status of these issues that while not fatal to the masterplan concept, will require further address within the statutory rezoning process.

To assist Council in deciding whether to prepare a draft Local Environmental Plan in support of the application, preliminary notification of the relevant public authorities (that may be affected by the proposal - preliminary S62 consultation) was undertaken and at the time of preparing this report Council had not received any formal submissions from these authorities.

2.0 ISSUES

Statutory Matters

2.1 Description of Land and Environment

The land that is the subject of this rezoning application is limited to portions of Lot B DP 370222 and part of Lot 1 DP 5055, 4 - 8 Forest Road, Warriewood. The subject parcel of land (comprising Sector 5) has an irregular shape with an approximate site area of 36,575 m². The land is situated to the north-west of Forest Road, to the east of Boundary Road (unmade section), to the south-west of the cul-de-sac end of Jubilee Avenue and is bordered by the Narrabeen Creek line to the north. The site is currently zoned 1(b) (NON-URBAN "B") under Pittwater LEP 1993.

The current land uses are consistent generally with the current 1(b) NON-URBAN zone and comprise dwellings, outbuildings and greenhouses for market gardening use. The areas of the subject parcel as defined by the Sector 5 boundaries have been generally cleared of native trees and landscape.

The site is currently served by two vehicular access points. A driveway access from the end of Forest Road serves the south eastern portion, 4 Forest Road (Lot B DP 370222). A driveway access from the end of Forest Road serves the south eastern portion, 4 Forest Road (Lot B DP 370222).

2.2 Reasons for Rezoning

The applicant has submitted the rezoning application for the land on the basis of its identified potential for mixed residential (medium density) purposes in the 1997 Warriewood Valley Urban Land Release Draft Planning Framework.

The land proposed to be rezoned includes all of Sector 5. The rezoning proposal is consistent with the findings and recommendations of the Warriewood Valley Urban Land Release Draft Planning Framework which is the agreed planning strategy for the area.

The rezoning proposal has the support of the owners of the land (Peter Gualtieri, Teresa Gualtieri, John Gigliotti & Vincenzo Sacco) that comprise Sector 5, being Lot B DP 370222 and part of Lot 1 DP 5055, also known as 4 - 8 Forest Road, Warriewood. The proposal complies with the 70% minimum required by Part 2.2 of DCP No 29 – Warriewood Valley Urban Land Release which is aimed at avoiding fragmentation of the sector by sector approach. Notwithstanding the applicant's initial request within the statement of effects seeking the rezoning to 2(a) (RESIDENTIAL "A"), the appropriate zoning to release the land for urban purposes is 2(f) (Urban Purposes - Mixed Residential).

2.3 Environmental Study

The proposal is for a site specific minor amendment to Pittwater Local Environmental Plan 1993. Should Council resolve to prepare a draft LEP the Department of Infrastructure Planning & Natural Resources (DIPNR) is not likely to require an Environmental Study to support the rezoning.

As the proposal involves all of Sector 5 of the Warriewood Valley Urban Land Release, it comprises a Category 3 Precinct LEP under the current Department of Planning Requirements for the preparation of amending LEPs.

A range of environmental studies have been prepared for the area commencing with those carried out in relation to the 1994 *Ingleside Warriewood Urban Land Release Draft Planning Strategy* in response to the then State Government's Ingleside Warriewood Urban Land Release in December 1991. When the present State Government was elected in 1995, it introduced a freeze on the Ingleside Warriewood land release. When the State Government lifted the freeze in 1997, Council prepared and adopted its 1997 *Warriewood Valley Urban Land Release Draft Planning Framework*.

The various environmental studies and reports required for Sector rezoning proposals in Warriewood Valley are outlined in DCP No 29 – Warriewood Valley Urban Land Release. The supporting documentation provided by the applicant complies with these requirements.

Should Council decide to prepare a draft LEP for this proposal, it is considered that the Department of Planning is unlikely to require an Environmental Study in support of the proposal as the Department has previously advised in relation to draft LEPs for other sectors in the Warriewood Valley Urban Land Release that an environmental study is not required.

2.4 Consistency with Environmental Planning Instruments

The rezoning is not inconsistent with any State Environmental Planning Policy, Regional Environmental Plan, Section 117(2) Directions or Section 71 Determinations.

As there are no inconsistencies Council has delegated authority, from the Director-General of NSW Department of Planning, to issue the section 65 certificate for public exhibition of the draft LEP and to prepare the Director-General's section 69 report for the Minister, recommending that the LEP be made.

2.5 Public Notification

A public notification process has been undertaken with four (4) submissions having been received and the issues raised within the submissions are discussed within Section 2.7 Assessment of this report. It is recommended that the rezoning proposal undergo the statutory notification period should Council endorse the recommendation of this report. The statutory notification process will allow for the local community to further comment upon the proposal. The rezoning proposal notification will undertake advertisement in the local newspaper and notice to adjoining residents by individual letters.

2.6 Notification of Authorities

Preliminary non-statutory notification of the rezoning application was made to public authorities including the Department of Natural Resources, Sydney Water, RTA and the Rural Fire Service.

It is noted that in accordance with the requirements of the Environmental Planning and Assessment Act 1979 that statutory notification of the application will take place at Section 62 stage of the rezoning process. The non-statutory exhibition already undertaken ensures a high level of awareness and transparency of the application.

A response in relation to the non-statutory notification was only provided by the Rural Fire Service who have advised as follows:

“The RFS supports the proposed rezoning of Lot B DP 370222 and part of Lot 1 DP 5055 otherwise known as 4-8 Forest Road, Warriewood, however note that the following should be addressed before the request for a Bush Fire Safety Authority:

- 1. Access should comply with Section 4.3 of Planning for Bushfire Protection 2001;*
- 2. Asset Protection Zones, to all dwellings, should be provided in accordance with Table A2.2 of Planning for Bushfire Protection 2001.*

Any future development applications for this land will be subject to the requirements of Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997. The requirements of Planning for Bushfire Protection 2001 should be considered in the planning stages of the development to ensure the successful issue of a Bush Fire Safety Authority under Section 100B.”

In accordance with the above, it is noted that the RFS do not object to the proposed rezoning, however additional details will be required during the rezoning process to ensure the issues raised by the RFS are addressed and to ensure that the application addresses Planning for Bushfire Protection 2006. Having regard for the above, it is considered that the statutory rezoning process can be commenced.

2.7 Assessment

An assessment of the rezoning proposal has been undertaken

The proposal

The relevant Council planning policy document for the purposes of assessing this rezoning application is DCP No 29 – Warriewood Valley Urban Land Release. The proposal will therefore be required to comply with the provisions of Part 2 – Warriewood Valley Overview and Part 3 – Sector Planning and Development of DCP 29.

The initial proposal, as detailed within the accompanying statement of effects sought the application to rezone the land to 2(a) (RESIDENTIAL “A”) for a medium density residential development comprising 55 dwellings, internal roads, two access roads from Forest Road and Jubilee Avenue. The principal means of access from Forest Road will be via an asphalt access road. The proposed dwellings will consist of a mix of predominantly attached (in pairs) dwellings and some detached single dwellings. The configuration of the site and subdivision plan results in no proposed dwellings fronting the existing access roads (Jubilee Avenue and Forest Road). The new dwellings in the subdivision layout will be fronting the new internal access road, or oriented to face the internal or external landscape areas. Garages will have access from and be located adjacent to rear access lanes that link from the main internal access road. There is also a service road and fire access that maintains a vehicular road access and buffer to the south western boundary of Sector 5.

Documentation submitted with application

Part 5 (Required Documentation) of DCP 29 outlines the documentation / plans that must be submitted with a rezoning application for a sector within the Warriewood Valley Urban Land Release.

The following documentation has been submitted with the application:

- Revised Landscape Concept Masterplan (Place) June 2006
- Stormwater Management Plan (Brown Consulting) June 2006
- Urban Design & Planning Review (Rodney Jensen & Assoc) May 2006
- Landscape Strategy Report (Place) June 2006
- Waste Management Concept (Dennis Leech & Assoc) July 2006
- Subdivision Layout (Dennis Leech & Assoc) June 2006
- Site plan, road elev & sections, house types, etc (DL & Assoc) June 2006
- Landscape Masterplan, Tree Removal/Retention, Sections (Place) June 2006
- Hydraulic Services Plans (Brown Consulting) May. 2006
- Flooding / Stormwater Concept Plans (Brown Consulting) June 2006

Masterplan & Urban Design

Part 3.2 of (Subdivision Layout) of DCP No 29 – Warriewood Valley Urban Land Release requires a Masterplan, prepared by a qualified urban designer who is a member of an appropriate professional organisation, to be submitted with the rezoning application to achieve superior design of sector development in the Warriewood Valley Urban Land Release. The applicant has engaged the services of Rodney Jensen & Associates to review and assess the proposal. The urban design and planning review report did not identify any deficiencies with the proposal.

The review report reflected that the subdivision layout and nominated housing types have satisfactorily addressed the provisions of DCP No 29 – Warriewood Valley Urban Land Release.

Subdivision Layout

The proposed subdivision layout as indicated on the revised Masterplan will comprise 68 residential allotments ranging in size from 203 sq m to 530 sq m. Such a range is consistent with the allotments provided in other residential sectors in the Warriewood Valley Urban Land Release. This will enable attached and detached housing to be provided to meet local demand for new housing designed in accordance with the principles of Ecologically Sustainable Development. It should be noted that the type of housing is predominantly attached (pairs of) dwellings.

The proposed rezoning is considered appropriate and the statutory process to facilitate the rezoning should be commenced.

Public Notification

The rezoning application and DRAFT masterplan for sector 5 underwent preliminary non-statutory notification/exhibition from Monday 12 March to Tuesday 27 March 2007 with newspaper advertisement and notification letters forwarded to adjoining and surrounding property owners. The exhibition material was available and was exhibited at Council's Customer Service Centre at 1 Park Street, Mona Vale and was also available for review at the Pittwater website at www.pittwater.nsw.gov.au under *Exhibitions* or *Tracking Development Application* (application number R0001/05).

Four (4) submissions have been received following the exhibition and notification process and these submissions have been reviewed by the relevant Council sections and officers. The issues and review comments are listed following:

❖ **Stormwater**

Submission(s) have been received from the Warriewood Grove Neighbourhood Association in relation to the issue of stormwater and more specifically the proposed downstream path for disposal of the stormwater from Sector 5 over "Bert Close". The Warriewood Grove Neighbourhood Association is comprised of approximately twenty-one (21) dwellings on a community title (development) including Bert Close, Valley Place and Hillview Crescent. The submission has been reviewed by Council's Urban Infrastructure Section and the following comments have been provided.

Reference 1 – Letter to Council from Warriewood Grove Neighbourhood Association dated 23 March 2007.

Reference 2 – Letter to Mr Robert Dunn from Warriewood Grove Neighbourhood Association dated 31 January 2007.

In respect to item 4 of the letter to Mr Robert Dunn, this has been addressed in Mark Salvaterra's memo dated 22 February 2007 and letter from Council to Robert Dunn dated 23 February 2007.

Should difficulties be encountered by the developer in securing a drainage easement through the Warriewood Grove lands, then an alternative drainage system could be constructed around the Warriewood Grove lands, at depth (up to 8 metres).

However, in a flood event above the 100 year ARI, outflow from the proposed on site Detention Basin through the Warriewood Grove lands shall be such that the stormwater outflows mimic the pre-development condition.

The current position between the parties regarding negotiation for rights of easement for stormwater through the Warriewood Grove lands does not prevent the commencement of the statutory rezoning process for Sector 5 under Section 54 (EPA Act)

❖ **Traffic & Pedestrian safety**

Three (3) submissions were received in relation to the related issues of traffic, roads, and pedestrian safety. The submissions were lodged by the Mater Maria College, and two owners (J. Jackett, & M. Jaafari) of properties within close proximity to the subject site. Council's Traffic & Transport Officer has reviewed the submissions and has provided the following responses. It is noted that the comments reflect the identified future land release implications and design outcomes.

The Warriewood Valley Roads Master Plan identifies that with the appropriate upgrade works being provided as part of the land release then both the local road system and Main Roads will be able to cater for the increased traffic volumes at an acceptable level of service.

The Warriewood Valley Roads Master Plan identified Forest Road as the primary access road for this sector and required it to be upgraded to cater for the expected traffic volumes / types of vehicles (increased road width,

footpaths, indented parking bays, roundabout and improved pedestrian facilities).

The Warriewood Valley Roads Master Plan identifies that the safest option for the whole community is for traffic to use Forest Road rather than via the commercial area along Jubilee Avenue and provides for improved pedestrian and traffic facilities in and around Forest Road to support this.

Having regard to the above comments, and notwithstanding the matters raised by the submissions indicate concern for impact(s) stemming from the rezoning and subsequent development of the land (sector 5), the review and advice clearly indicates that the rezoning and masterplan dwelling yield (and consequent additional traffic movements) were identified, envisioned and catered for in the roadway and footpath designs for the Warriewood Valley Roads Master Plan. In this regard, the submission issues are considered to have been appropriately reviewed and deemed to be satisfactorily addressed.

Internal referral comments

Urban Infrastructure

The rezoning can be supported with respect to Traffic and Transport having regard to the following comments:

Traffic

I have reviewed the plans provided and consider them to be acceptable subject to the following amendments.

- *That a standard concrete driveway/layback be provided at both ends of the short access road to Bert Close.*
- *That the path shown in the short access road to Bert Close is relocated to a position outside the indented car parking space and connecting to a path in the buffer zone leading to a future path in Bert Close.*
- *Kerb and gutter returns on all intersections are to be a minimum 6m radius.*
- *All access roads of 3.5m pavement width to be shown as 10kph shared zones as per the Warriewood Valley Roads Master Plans. They will show future traffic calming to be provided and passing bays at 40m intervals between road intersections.*
- *Certification that sufficient on street visitor parking has been provided as per the Warriewood Roads Master Plan.*

A condition of consent shall also be that vehicular access to Bert Close shall only be approved if

1. *the Bert Close private multiple access driveway is upgraded to Council requirements for local roads (street lights, road pavement and concrete footpath) between the Jubilee Road turning circle and the private dwellings off Bert Close and*
2. *Approval of the owners of the multiple access driveway for the use of the driveway (CALLED Bert Close).*

Water management

No objection is raised in principle to the master plan subject to the outstanding stormwater management issues being fully addressed prior to the next stage of the

rezoning process. The outstanding issues are contained in memo dated 8 November 2006 from the Project Leader - Stormwater Management

Issue	To be Addressed at Rezoning Stage
Water Balance	<ul style="list-style-type: none"> • It should be noted that Council has received a release from BASIX with respect to stormwater requirements. As such, stormwater reuse should be revised to ensure there is no reduction in environmental flows. • Stream gauging and infiltration testing will need to be undertaken. • A mosquito risk assessment should be undertaken for all structures and areas which will detain or store water (such as rainwater tanks, GPTs and OSD).
Water Quality Monitoring Plan	<ul style="list-style-type: none"> • A Monitoring Plan will need to be prepared and submitted. The Rezoning Checklist is to be also amended and resubmitted. • Brown Consulting is still to confirm that the wet and dry weather water quality monitoring for Narrabeen Creek has been undertaken as part of the Sector 6 Development. • Sediment quality and rapid biological assessment data will need to be collected and reported.
Water Quality Management (Pollutant Load Balance)	<ul style="list-style-type: none"> • Annual pollutant loads (not only concentrations) should be provided for the wet, average and dry years. • The developed case pollutant loads should be shown to not exceed 20% increase of forested pollutant loads, for all three rainfall years (dry, average and wet). • Details should be provided as to the means and location of disposal or recycling of material captured from GPTs.
Stormwater Quantity Management (Pipe Network and OSD)	<ul style="list-style-type: none"> • The legal right to connect to the Council drainage system must be obtain (if not already done so) and will need to be demonstrated to Council. • The capacity of the existing Council system will also need to be determined to ensure that it can accommodate the identified flow rate. • An overland flowpath needs to be identified at locations where it is proposed to connect to the Council stormwater system.

Issue	To be Addressed at Rezoning Stage
Creek Corridor Rehabilitation	<ul style="list-style-type: none"> • Clarification is required to ensure that the proposed retaining walls along the length of the creek are stabilised appropriately to withstand flood flows. • It is recommended that a single design for the proposed creekline corridor rehabilitation be prepared for both Sector 5 and 6 to ensure a consistent approach across the creekline. • Plans should be submitted which clearly indicate both the public and private buffer areas for Narrabeen Creek within Sector 5. If roads encroach on the public buffer and/or buildings on the private buffer this should be rectified.
Flood Analysis	<ul style="list-style-type: none"> • Reference is made to flood levels provided in the WMS (2001). No flood levels are provided in the WMS, this reference should be clarified. • The latest flood levels should be obtained from the Warriewood Valley Flood Study Addendum 1-V3 (Cardno Lawson Treloar, 2005). This should be clarified. • Further details are required for the proposed bund along the eastern side of the overland flow path to ensure flows do not enter properties on the eastern side of the main access road at the road to the east.

It is noted that the proposed rezoning masterplan has outstanding issues identified and that these issues will require additional information to be prepared and submitted by the applicant. Notwithstanding the status of these identified issues, the review of the Masterplan, and as commented by Council's relevant assessment sections, is able to be supported for progress to the statutory phase of the rezoning process. In this regard, it is noted that the applicant has been advised of the outstanding matters requiring further address; however Council is awaiting advice as to the intended timeframe within which the response information will be submitted.

Reserves and Recreation

No objection to the scheme as presented.

Natural Resources

Following a detailed review of the available information it is recommended that:

The rezoning application be supported. However, the location of the rezoning should clearly exclude the retained vegetation at the bottom of the escarpment. The applicant must be made aware of the information to be provided with the development application and the limitations on the proposed masterplan. None of the information request in the previous assessment in July last year has been provided making the

bushfire mitigation strategy impossible to assess. There is also no bushfire safety certificate.

Planning

The site will contain the same controls as the surrounding residential land located to the east of the site, and will be subject to the provisions of DCP 29 and P21DCP. The subject site will also be Area 3 for dual occupancy with all other identified land classifications (hazards) remaining as they are currently. As previously noted, the proposal is consistent with the *Warriewood Valley Urban Land Release Draft Planning Framework*, DCP No 29 – Warriewood Valley Urban Land Release and the Warriewood Valley Roads Master Plan.

Planning Agreement

As outlined above it is proposed to rezone only part of Lot B in DP 370222 and part of Lot 1 in DP 5055. The residual part of the said lots will remain as currently zoned 1(b) Non-Urban. Council has been approached by the applicant to investigate options to bring the residual part of the abovementioned lots into public ownership and thereby ensure that the scenic and environmental values of this land is retained for the benefit of the public. Any proposal to facilitate the passage of the residual land into public ownership would necessarily be carried out externally from the current rezoning and masterplan application process. One such option to facilitate this would involve a planning agreement. This matter is identified within this report for reference only.

Having regard to the proposal satisfying all preliminary and fundamental issues, notwithstanding identification of matters requiring further detail, the rezoning is appropriate and the statutory process to facilitate the rezoning should be commenced.

2.7 Conclusion

It is recommended that Council resolve to prepare a draft LEP as set out in the Appendix to this report and to advise the Secretary of the NSW Department of Planning (of its resolution) that Council intends to use its Section 65 and 69 Delegations from the NSW Department of Planning.

3.0 FINANCIAL IMPLICATIONS

The proposed rezoning has implications for Council's Warriewood Valley Section 94 Contributions Plan and will increase Council's rate base.

4.0 POLICY IMPLICATIONS

Rezoning under Pittwater LEP 1993, consistent with the *Warriewood Valley Urban Land Release Draft Planning Framework*.

RECOMMENDATION

1. That the statutory process under the Environmental Planning and Assessment Act 1979, to make a draft Local Environmental Plan to amend the zoning of Lot B DP 370222 and part of Lot 1 DP 5055 at 4-8 Forest Road, Warriewood, from zone Non-Urban 1(b) to 2(f) (Urban Purposes - Mixed Residential), under Pittwater Local Environmental Plan 1993, as set out in Appendix 1 to this report, be commenced.

2. That the certified draft Local Environmental Plan be placed on public exhibition to enable any person to make a written submission to Council.
3. That as requested by the applicant, opportunities to facilitate the residual land within Lot B in DP 370222 and Lot 1 in DP 5055 being brought into public ownership be investigated separate to or in conjunction with the progress of the Sector 5 rezoning Masterplan process.

Report prepared by Trevor Dunbar, Senior Planner

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

Draft Pittwater Local Environmental Plan 1993 (Amendment No)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under *the Environmental Planning and Assessment Act 1979*. (S0)

Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

Draft Pittwater Local Environmental Plan 1993 (Amendment No)

Name of Plan

This plan is Pittwater Local Environmental Plan 1993 (Amendment No).

1. Aims of plan

This plan aims:

- (a) to permit the development of the land for urban purposes in accordance with the State Government's Urban Development Program, and
- (b) to enable the Warriewood Valley Urban Land Release to be implemented in stages in accordance with a planned strategy to provide adequate physical and social infrastructure, and
- (c) to provide opportunities for a range of housing types and wider housing choice, and
- (d) to enable development to be carried out in accordance with a Planning Strategy prepared for the area.

2. Land to which plan applies

This plan applies to land within the local government area of Pittwater being Lot B DP 370222 and part of Lot 1 DP 5055 at 4-8 Forest Road, Warriewood shown edged heavy black on the map marked "Pittwater Local Environmental Plan 1993 (Amendment No ...) – Sheet 1" deposited in the office of Pittwater Council.

3. Amendment of Pittwater Local Environmental Plan 1993

Pittwater Local Environmental Plan 1993 is amended as set out in Schedule 1.

Pittwater Local Environmental Plan 1993 (Amendment No)

Schedule 1 Amendments

Schedule 1 Amendments

[1] Clause 5 interpretation

Insert at the end of the definition of *the Zoning Map* in clause 5(1):

Pittwater Local Environmental Plan 1993 (Amendment No ...-
Sheet 1.

[2] Clause 30B Development of UDP land in Warriewood Valley

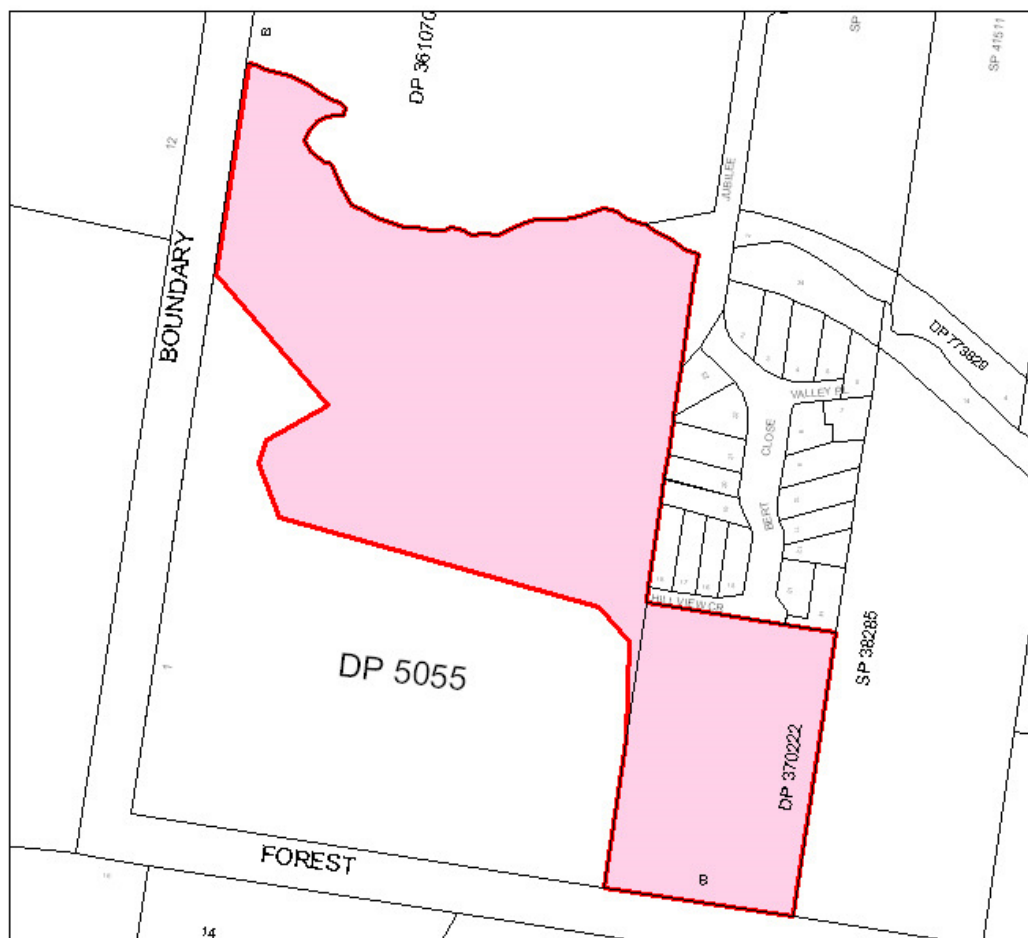
Insert at the end of clause 30B(1):

Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release
shown edged heavy black on Sheet 1 of the map marked “Pittwater Local
Environmental Plan 1993 (Amendment No ...)”

[3] Clause 30C Dwelling Yield

Insert in appropriate order:

Sector 5 - not more than 75 dwellings.



 NORTH	2(f) (URBAN PURPOSES - MIXED RESIDENTIAL)	2(f)																							
SCALE 1:2500	LOCALITY WARRIEWOOD	Sheet 2 of 2																							
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 DRAFT PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO.)																									
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Section 54(4) Notification Advice Cover Sheet

LOCAL GOVERNMENT AREA:

Pittwater Council

NAME OF DRAFT LEP:

R0001/05

ADDRESS OF LAND (if applicable):
MAPS:

- Location map showing the land affected by the proposed draft plan in the context of the LGA (tagged 'location map')
- **Existing zoning** map showing the existing zoning of the site and surrounding land and **proposed zoning** change for the site (refer to attachments A, B, & C)

PHOTOS and other visual material (if applicable):

- Aerial photos of land affected by the proposed draft plan
- Photos or plans showing relationship of land to which the plan will apply and surrounding land uses

PURPOSE OF LEP:

- The **current** zoning of the subject site is Non-Urban 1(b) and the LEP seeks to change the zoning to 2(f) (Urban Purposes - Mixed Residential), under Pittwater Local Environmental Plan 1993.
- The rezoning proposal is consistent with the findings and recommendations of the Warriewood Valley Urban Land Release Draft Planning Framework which is the agreed planning strategy for the area.
- The rezoning process will undergo preliminary non-statutory exhibition and then further exhibition/notification in accordance with the statutory requirements. All relevant statutory authorities have been notified and will undergo further notification pending the commencement of the formal statutory exhibition of the rezoning masterplan.
- The current zoning of the land under Pittwater LEP 1993 is Non-Urban 1(b).
- The proposed zoning of the land is 2(f) (Urban Purposes - Mixed Residential). Council has resolved to prepare the draft plan to implement its planned strategy for the Warriewood Valley Urban Land Release (the Warriewood Valley Urban Land Release Draft Planning Framework) to enable medium density residential development as originally proposed on the land to which the plan applies to proceed
- The draft plan will also assist in achieving the objectives of the State Government's Metropolitan Development Program as it applies to urban land releases in Pittwater
- It is not considered necessary to prepare an environmental study for the draft plan
- When certified, the draft plan will be publicly notified and exhibited in accordance with section 66 of the EP&A Act and part 2 of the EP&A Regulation. Relevant public authorities will be consulted pursuant to S62 of the EP&A Act

JUSTIFICATION FOR LEP:

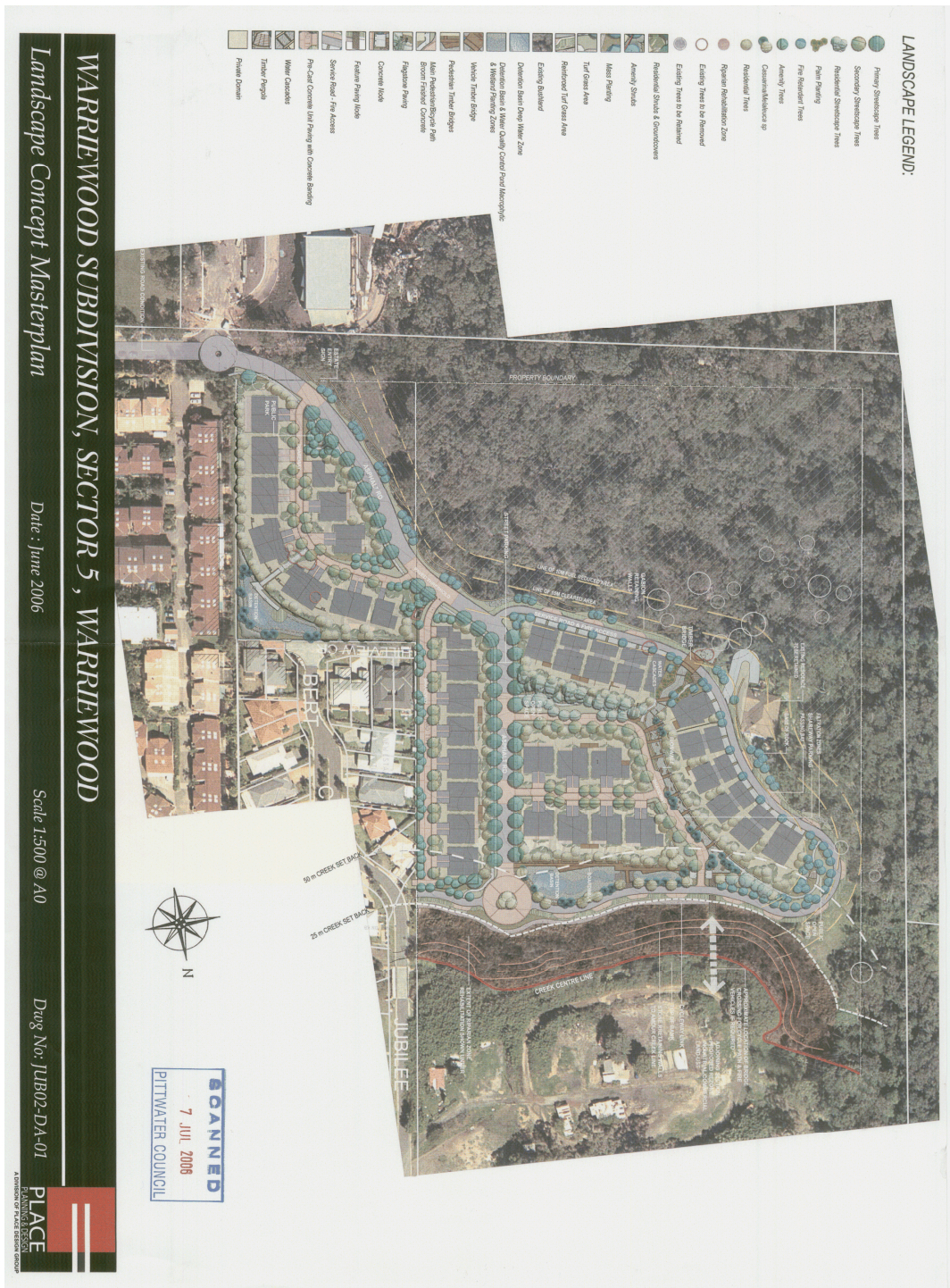
1. Policy and strategic context

- The proposed rezoning (Sector 5) is wholly consistent with State policy and Council strategy, with particular reference to the Warriewood Valley Urban Land Release Draft Planning Framework which is the agreed planning strategy for the area.
- It is in the public interest that the economic and orderly development of the land proceed in order to achieve the planned and identified outcomes for the Warriewood Valley Urban Land Release Draft Planning Framework.

2. Location context

- The proposed rezoning (Sector 5) is wholly compatible with surrounding zoning and land use patterns as identified within the Warriewood Valley Urban Land Release Draft Planning Framework.

3. The implications of not proceeding at this time will be the delayed achievement of target housing numbers for the Pittwater local government area, a delay in the implementation of S94 plan outcomes through postponement of plan payments.



LEP Pro-forma Evaluation Criteria Category 3: Precinct LEP

1.	Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?	YES
2.	Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area?	YES
3.	Is the LEP located in a regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	NO
4.	Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	NO The LEP addresses the provision of medium density housing in the Warriewood Valley land release area
5.	Will the LEP facilitate the provision of public transport?	NO The Sector will be utilising the available public transport infrastructure in Warriewood Valley
6.	Will the LEP implement studies and strategic work consistent with State and regional policies?	YES