



SUBJECT: Update on Pre Gateway Review of Planning Proposal PP0002/13 - 2 & 18 Macpherson Street and 23, 25 and 27 Warriewood Road Warriewood

Meeting: Sustainable Towns and Villages

Date: 17 February 2014

STRATEGY: Land Use & Development

ACTION: To establish land uses that respond to environmental, cultural, social and economic need in a sustainable manner.

PURPOSE OF THE REPORT

The purpose of this report is to update the Council on the outcome of the Pre-Gateway Review of the Planning Proposal PP0002/13 at 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road, Warriewood.

1.0 BACKGROUND

- 1.1 A Planning Proposal application, known as PP0002/13, was lodged with Council on 7 June 2013 for five properties in Warriewood Valley - 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road. The Planning Proposal application sought to amend the provisions of Pittwater Local Environmental Plan 1993 (Pittwater LEP 1993) to allow high density residential development up to 98 dwellings per developable hectare. The application also sought to amend Pittwater Development Control Plan 21 to allow building heights up to 4 storeys (although the concept drawings indicated building heights up to 5 storeys). The application also proposed that Council and the proponent enter into a Voluntary Planning Agreement for the funding and provision of infrastructure.
- 1.2 On 12 June 2013, following endorsement by the Director-General of Department of Planning & Infrastructure, Council unanimously endorsed the *Warriewood Valley Strategic Review Report 2012*, confirming, inter-alia, the maximum density of 32 dwellings per developable hectare. Following the adoption of the *Warriewood Valley Strategic Review Report 2012*, Council has amended its Local Environmental Plan (LEP) in line with the findings of the report. The maximum dwelling yields are now contained within Council's Pittwater LEP 1993 and Draft Pittwater LEP 2013. In regard to the subject sites, the following dwelling yield provisions apply:
- Buffer 1L – not more than 67 dwellings or less than 43
 - Buffer 1M – not more than 0 dwellings
 - Sector 302 – not more than 84 dwellings or less than 66
- 1.3 The Council Officer's assessment of the Planning Proposal application was reported to Council on 2 September 2013 recommending refusal as the proposal did not satisfy the Department of Planning & Infrastructure's (DP&I) assessment criteria as outlined in its publication *A Guide to Preparing Local Environmental Plans* (April 2013), as the proposal was unable to demonstrate strategic merit or site specific merit.

- 1.4 Council on 2 September 2013 considered the assessment of the application and resolved to refuse to progress the Planning Proposal to the DP&I for a Gateway Determination.
- 1.5 On 17 October 2013 the DP&I wrote to Council advising that an application for a pre-gateway review had been made in regard to the subject application and requesting Council provide its *'views about the proposal and/or provide a response detailing why the original request to council was not progressed'*.
- 1.6 Council's submission to the DP&I was reported to the Council meeting of 4 November 2013 and forwarded to the DP&I on 7 November 2013 for consideration.
- 1.7 On 14 January 2014 Council was advised that following consideration of the proponent's request and the comments provided by Council, that the DP&I has determined that there may be merit in the Planning Proposal application proceeding to the Gateway and that the application has been referred to the Joint Regional Planning Panel (JRPP) for its consideration.

2.0 OUTCOME OF JRPP REVIEW

- 2.1 On 5 February 2014 Council staff appeared before the JRPP to present the Council's views on the Planning Proposal application.
- 2.2 On 6 February 2014 Council was advised that the JRPP, in consideration of the request, the views of the proponent, the DP&I and Council, has recommended to the Minister that the Planning Proposal should not proceed to a Gateway Determination (the JRPP's advice and justification is contained in **Attachment 1**).

3.0 NEXT STEPS

- 3.1 The Minister for Planning & Infrastructure (or the Director-General as his delegate), will make the final decision with the respect to the Planning Proposal. The Minister may retain his discretion to proceed with the matter notwithstanding the advice of the JRPP.
- 3.2 The DP&I's flowchart of the pre-gateway review process is contained in **Attachment 2**.

4.0 SUSTAINABILITY ASSESSMENT

4.1 Supporting & Connecting our Community (Social)

The Planning Proposal refused by Council and now subject to a pre-gateway review process seeks a development that will unacceptably increase flood risk to life and property. The application proposes unacceptable and unsafe access arrangements. The application has not considered bushfire risk. The applicant's premise in their original application that public transport will provide adequate connection to centres and services is unacceptable as no commitment has been given to substantially increase bus services in region.

4.2 Valuing & Caring for our Natural Environment (Environmental)

The Planning Proposal refused by Council and now subject to a pre-gateway review process seeks to narrow the creek line corridor on the subject sites which is likely to have a number of detrimental impacts on the environment. Further studies would be required to assess the impact of the proposed development on the existing vegetation.

4.3 Enhancing our Working & Learning (Economic)

The Planning Proposal refused by Council and now subject to a pre-gateway review process does not provide any economic justification to support the inordinate increase in density sought.

4.4 **Leading an Effective & Collaborative Council (Governance)**

The Planning Proposal refused by Council and now subject to a pre-gateway review process was assessed by Council was been notified in accordance with Council's notification policy. The assessment of the original application as well as Council's response to the proponent's pre-gateway review request has been transparent.

4.5 **Integrating our Built Environment (Infrastructure)**

The Planning Proposal refused by Council and now subject to a pre-gateway review process would result in additional infrastructure demands above what Council has already planned to provide within the release area. It is uncertain whether any additional infrastructure could be accommodated within the release area.

5.0 **EXECUTIVE SUMMARY**

- 5.1 On 7 June 2013 a Planning Proposal Application, known as PP0002/13, was received by Council for five properties in Warriewood Valley – 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road. The application sought to amend the provisions of *Pittwater Local Environmental Plan 1993* (LEP 1993) to allow high density residential development up to 98 dwellings per developable hectare.
- 5.2 Council on 2 September 2013 resolved to refuse to progress the Planning Proposal PP0002/12 to the DP&I for Gateway Determination.
- 5.3 On 17 October 2013 the DP&I wrote to Council advising that the proponent has sought a pre-gateway review. Council's submission on the application was forwarded to the DP&I on 7 November 2013.
- 5.4 On 14 January 2014 Council was advised that the DP&I has determined that there may be merit in the Planning Proposal application proceeding to the Gateway and that the application has been referred to the Joint Regional Planning Panel (JRPP) for its consideration.
- 5.5 On 5 February a delegation of staff addressed the JRPP reinforcing Council's concerns for the development. On 6 February 2014 Council was advised that the JRPP had recommended to the Minister that the Planning Proposal should not proceed to a Gateway Determination.

RECOMMENDATION

- 1. That Council notes the JRPP's recommendation to the Minister in relation the Planning Proposal application PP0002/13.
- 2. That Council continues to reinforce the primacy of the Warriewood Valley Strategic Review findings undertaken by the Department of Planning & Infrastructure and Pittwater Council relating to density of future development in the Warriewood Valley.

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Joint Regional Planning Panel – Planning Assessment Commission Pre-Gateway Review

The Joint Regional Planning Panel (JRPP) has considered the request for a review of the proposed instrument as detailed below.

The Pre-Gateway Review:

Date of Review:	5 February 2014
Dept. Ref. No:	13/19498
LGA:	Pittwater
LEP to be Amended:	Pittwater Local Environmental Plan 1993 (or equivalent)
Address / Location:	2 & 18 Macpherson Street and 23, 25 & 27 Warriewood Road, Warriewood
Proposed Instrument:	Pittwater Local Environmental Plan 1993 (or equivalent)
Panel Chair:	John Roseth
Panel Members:	David Furlong, Sue Francis, Jacqueline Townsend and Julie Hegarty

Reason for review:	<input checked="" type="checkbox"/>	The council has notified the proponent that the request to prepare a planning proposal has not been supported
	<input type="checkbox"/>	The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

In considering the request, the JRPP has reviewed all relevant information provided by the proponent as well as the views and position of the Department and the relevant local government authority. Based on this review the JRPP recommends the following:

JRPP RECOMMENDATION:	<input type="checkbox"/>	The proposed instrument should be submitted for a Gateway determination, subject to the matters raised in the recommendation of the Panel
	<input checked="" type="checkbox"/>	The proposed instrument should not be submitted for a Gateway determination
Composition of Recommendation:	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Not unanimous	Comments:

JRPP Advice and Justification for Recommendation:

1. The Panel has considered the planning proposal, which would quadruple the density specified in last year's specific amendment of Division 7A of the Pittwater Local Environmental Plan 1993 (the LEP), as it proposes to increase the dwellings currently permissible on the sites subject to the proposal from 151 to 626.
2. The Panel cannot see any justification to depart, to this large extent, from a plan that was made only a few months ago and is based on the recent Warriewood Valley Strategic Review, undertaken jointly by Pittwater Council and the Department of Planning and Infrastructure.

3. The Panel notes that the densities nominated in the LEP would produce a residential character of two to three-storey medium density development of mainly townhouses. The planning proposal would produce a different and denser residential character of apartment buildings of four storeys.
4. If the proposal proceeds in its present form, and in the absence of a strategic review of the whole of the Warriewood Valley, it has the potential to set the precedent for all undeveloped residentially zoned land in the Valley.
5. For the above reasons the Panel unanimously recommends that the planning proposal should not proceed to gateway determination.

