

Planning Proposal Rezoning of Central Local Park Warriewood

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Project No 10524



**NORTHERN BEACHES
COUNCIL**

Planning Proposal Central Local Park
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PART 1 OBJECTIVES OR INTENDED OUTCOMES

The objectives of this Planning Proposal are to amend the Pittwater Local Environmental Plan 2014 to enable the creation of the southern portion of the planned Central Local Park also known as Fern Creek Park by changing:

1. The Urban Release Area Map by amending the boundary of sectors within the Warriewood Valley Release Area.
2. The Land Zoning Map to rezone the northern portions of Lots 11, 12, & 13 DP 1092788 and Lot 5 DP 736961 to Public Recreation RE1.
3. The Height of Buildings Map to amend the maximum height applying to specific land.
4. The dwelling yield provisions contained in Clause 6.1 to enable the transfer of development yield to the developable portion of 9 Fern Creek Road within Warriewood Valley Release Area.

The location of the site the subject of the Planning Proposal is depicted on **Figure 1**.

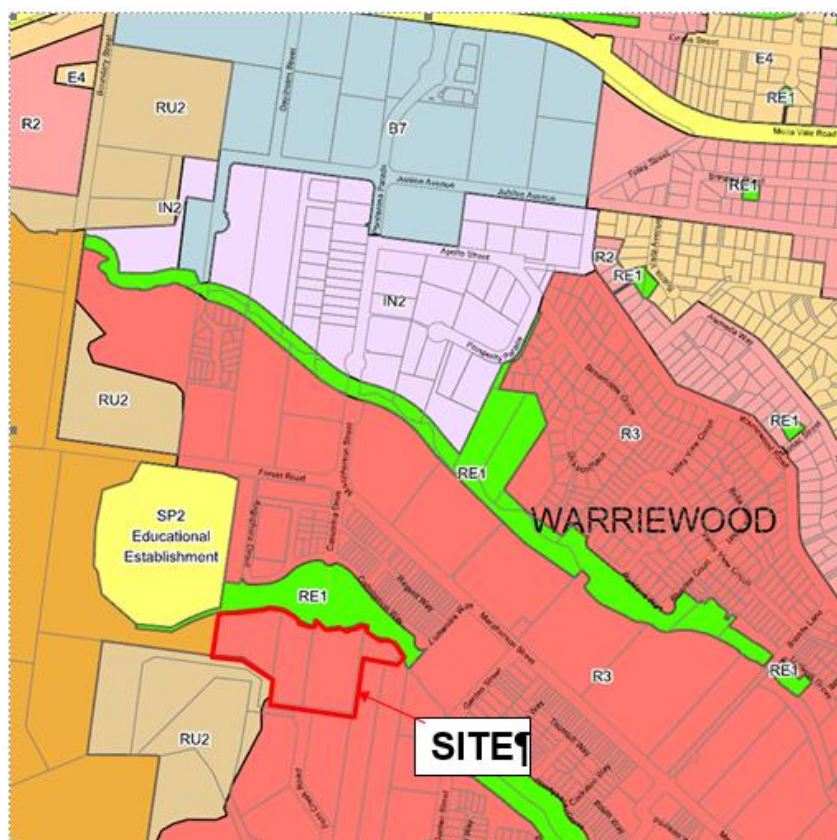


Figure 1: Subject Site: Central Local Park
Lots 11, 12, & 13 DP 1 092788 and Lot 5 DP 736961

PART 2 EXPLANATION OF PROVISIONS

- (a) The proposed rezoning would require the amendment of the Pittwater Local Environmental Plan 2014 Land Zoning Map in accordance with the proposed zoning map shown in **Part 4** Mapping of this Planning Proposal and summarised in **Table 1**.

Table 1 Proposed Zoning Changes – Pittwater LEP 2014

| Owner | Property Description | Existing LEP 2014 Zone (refer Map 1) | Proposed Zone (refer Map 2) |
|--------------------------|----------------------------------|--------------------------------------|---|
| Frasers Property Pty Ltd | Lot 11 in Deposited Plan 1092788 | R3 Medium Density Residential | Part RE1 Public Recreation and part R3 Medium Density Residential |
| Frasers Property Pty Ltd | Lot 12 in Deposited Plan 1092788 | R3 Medium Density Residential | Part RE1 Public Recreation and part R3 Medium Density Residential |
| Northern Beaches Council | Lot 5 in Deposited Plan 736951 | R3 Medium Density Residential | Part RE1 Public Recreation and part R3 Medium Density Residential |
| Frasers Property Pty Ltd | Lot 13 in Deposited Plan 1092788 | R3 Medium Density Residential | RE1 Public Recreation |

(b) The proposed amendments to Pittwater Local Environmental Plan 2014 are detailed in **Table 2** below:

Table 2 Proposed Amendments – Pittwater LEP 2014

| | Proposed Amendments | Description | | | | | | |
|---|--|---|-----------------------|---|-----------------|--------------|---|--|
| 1 | Amendments to the Land Zoning Map – Sheet LZN_012 | Rezone the northern portion of the subject land north of the proposed extension to Fern Creek Road RE1 Public Recreation adjacent to Fern Creek | | | | | | |
| 2 | Amendment to Height of Buildings Map - Sheet HOB_012 | Amend the maximum height of buildings to 8.5m for the land to be rezoned RE1 Public Recreation and 10.5m for the developable portion of 9 Fern Creek Road. | | | | | | |
| 3 | Amendments to Part 6, Clause 6.1(3) | <p>The text related to Sectors 901A, 901C 901G and 9 Fern Creek Road in the table in Clause 6.1(3) is to be amended as follows:</p> <table border="1"> <tbody> <tr> <td>Sectors 901C and 901G</td> <td>Not more than 28 dwelling or less than 23 dwellings</td> </tr> <tr> <td>9 Fern Creek Rd</td> <td>No Dwellings</td> </tr> <tr> <td>Sectors 901C and 901G and 9 Fern Creek Rd</td> <td>Not more than 33 dwellings or less than 26 dwellings</td> </tr> </tbody> </table> | Sectors 901C and 901G | Not more than 28 dwelling or less than 23 dwellings | 9 Fern Creek Rd | No Dwellings | Sectors 901C and 901G and 9 Fern Creek Rd | Not more than 33 dwellings or less than 26 dwellings |
| Sectors 901C and 901G | Not more than 28 dwelling or less than 23 dwellings | | | | | | | |
| 9 Fern Creek Rd | No Dwellings | | | | | | | |
| Sectors 901C and 901G and 9 Fern Creek Rd | Not more than 33 dwellings or less than 26 dwellings | | | | | | | |

PART 3 JUSTIFICATION

Section A: Need for the Planning Proposal

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

The release of land within the Warriewood Valley has been the subject of a number of strategic studies and reports. The most recent is the Warriewood Valley Strategic Review Addendum Report 2014 (**Addendum Report**).¹

The Addendum Report was a supplement to the adopted Warriewood Valley Strategic Review Report 2012 (**Strategic Review Report**)² which reviewed the appropriate height and density standards for medium density residential development within the Warriewood Valley Release Area (Release Area). The Addendum Report investigated and identified a path for all other land in the Release Area that was not considered or provided with conclusive direction under the Strategic Review Report.

The Addendum Report was informed by an opportunities and constraints analysis undertaken by Council, and updated flooding and bushfire information, including an additional 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. Council's property at 9 Fern Creek Road was not allocated a dwelling yield as Council recognised the property being integral to facilitating better design outcomes for the surrounding sectors by enabling the development of the southern portion of Central Local Park.

The Central Local Park has been identified in the Warriewood Valley Section 94 Contributions Plan (**Section 94 Plan**) and more recently in Warriewood Valley S94 Plan Revision 2 (**Draft S94 Plan Revision 2**) adopted for public exhibition on 2 June 2016.

The need for this Planning Proposal is driven by Council's desire to deliver the southern portion of Central Local Park.

The Planning Proposal gives effect to Council's resolution of 19 March 2016, to accept a land swap proposal from Frasers Property to enable Council to deliver the southern portion of Central Local Park. The land swap involving the subject site will enable the delivery of the southern portion Central Local Park so that it will be contiguous with the existing northern portion of the Park and the creek line.

¹ Warriewood Valley Strategic Review Addendum Report 2014

<http://portal.pittwater.nsw.gov.au/common/Output/DataworksAccess.aspx?id=Bj%252bD2MzsjRg%253d&ext=pdf>

² Warriewood Valley Strategic Review Report 2012

<http://portal.pittwater.nsw.gov.au/common/Output/DataworksAccess.aspx?id=Je%252bMze7%252fU%253d&ext=pdf>

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

A key objective of the Planning Proposal is to enable Northern Beaches Council (formerly Pittwater Council) to extend Central Local Park to the south of Fern Creek in the manner envisioned in the original planning for Sector 9.

To ensure that the wider community is not burdened as a result of the development of the Warriewood Valley Release Area, the Section 94 Plan was prepared to enable Council to impose, as a condition of development consent, a requirement to make a contribution toward the provision of public infrastructure and services. The provision of the southern portion of Central Local Park has been identified in the S94 Plan Revision 2 was adopted for exhibition purposes on 2 June 2016. The Warriewood Valley Roads Masterplan (May 2016) and Warriewood Valley Landscape Masterplan & Design Guidelines (May 2016) were also endorsed for exhibition.

The Section 94 Plan identifies a demand for a total of 18.7 hectares of open space and recreation facilities for both passive and active use to service the forecast population of Warriewood Valley. The Section 94 Plan identifies that within Sectors 8 and 9 of the Release Area, either side of Fern Creek, approximately 2.1 hectares (exclusive of creek line corridor land) of passive open space land will be delivered. This open space area is referred to as the Warriewood Central Local Park.

It is Council's intention that the Central Local Park be generally linear in shape, with a central bulge either side of Fern Creek, connected by a pedestrian/cyclist bridge, providing for passive recreation opportunities. These improvements are indicated in the most recent Warriewood Valley Landscape Masterplan & Design Guidelines (May 2016).³

The northern portion of the Central Local Park located within Sector 8 was delivered as part of the development of Sector 8 by Australand. The northern half of the park includes a playground component, a large open grassed area, picnic facilities including barbeques, a public amenities facility and associated car parking.

The southern portion of the Central Local Park is still to be delivered. On 21 April 2008 Council resolved to purchase 9 Fern Creek Road (Lot 5 DP 736951) to facilitate the delivery of the remaining portion of the park. The Council resolved that the land remain classified as Operational Land under the Local Government Act 1993 upon acquisition to retain some flexibility around the future development of Sector 9, recognising that 9 Fern Creek Road did not meet the requirements for delivery of the southern portion of the Central Local Park.

The development of Sector 9 has not been progressed via the sector approach as for other Sectors within Warriewood Valley. Council initiated the rezoning of Sector 9, enabling individual land parcels within the sector to develop independently.

³ Warriewood Valley Landscape Masterplan & Design Guidelines (May 2016) p 23

Frasers Property own three parcels of land at the northern end of Sector 9, adjoining Fern Creek – 11, 12 and 13 Fern Creek Road. All this land is zoned for residential development but the parcels are land locked and, in order to be developed, need to establish legal access. In 2013 Frasers Property (then known as Australand) put a formal land swap proposal to Council to facilitate the development of Frasers land holdings as well as to achieve Council's preferred open space layout for the sector.

Between May 2014 and May 2015, significant consultation occurred with the adjoining landowners and the Warriewood Residents Association (WRA) to examine Frasers' proposal as well as other potential options for the southern portion of the Central Local Park.

A revised concept plan with a larger area for the park was endorsed by Council for the land swap on 18 May 2015 when the General Manager was authorised to commence negotiations with Frasers. Following Council's decision of 18 May 2015, Council and Frasers have negotiated the terms of the land swap agreement. In October 2015 the respective General Managers of Frasers and Council signed a Memorandum of Understanding addressing the key aspects of the transaction.

An agreed land swap deed was reported to Pittwater Council on 19 March 2016, whereby Council resolved to:

1. *That Council note:*
 - a. *The comprehensive community engagement that has occurred in relation to this matter*
 - b. *The terms of the Memorandum of Understanding*
 - c. *The independent valuation advice*
 - d. *The terms of the Deed of Agreement*
 - e. *That the cash adjustment from the proposed land transfers will be reinvested into the Section 94 fund to implement the plan as endorsed by Council.*
 - f. *The findings of the probity report prepared by Procure Group (Attachment 6).*
2. *That Council endorse the proposed terms of the land swap and authorise the General Manager to sign the deed of agreement for the land swap (Attachment 5).*
3. *That Council support the progression of the land swap agreement, comprising:*
 - a. *Preparation and lodgement of a Planning Proposal to amend Pittwater LEP 2014 to reallocate dwelling yield and rezone the future park to a recreation zone as outlined in the Deed of Agreement,*

- b. Preparation and lodgement of a development application to subdivide/consolidate the existing land parcels to enable the transfer of land to occur.*
4. *That a future report be brought to Council at the completion of the transaction.*
5. *That Council endorse the concept masterplan for the southern component of the Central Local Park (Figure 2) to enable it to be progressed following the land swap.*
6. *That Council include stakeholders in the design of the southern component of the Central Local Park (Sector 9).*

The Planning Proposal is the only mechanism to rezone land and enable changes to be made to the mapping and dwelling yield provisions in Clause 6.1(3) of Pittwater LEP 2014. This Planning Proposal is also the only means to enable the execution of this deed of agreement with Frasers Property and facilitate the delivery of the southern portion of Central Local Park.

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)?

Metropolitan strategy

The Metropolitan Strategy for Sydney 2036 (prepared in 2010) is the current metropolitan strategy.

The Strategy aims to provide new housing stock around public transport nodes and within areas close to public transport, retail and commercial centres and community facilities.

The site is within Sector 9 of Warriewood Valley Release Area. The Planning Proposal would represent a contribution to the supply of new medium density housing in the Pittwater area and but specifically will allow for the provision of open space in accordance with the strategic planning undertaken to deliver Sector 9 within the Warriewood Valley Release Area.

The subject site is an appropriate location for open space, located adjacent to the northern portion of Central Local Park.

The Planning Proposal is consistent with the Metropolitan Strategy in a number of other ways:

- It would enable the development of zoned land to increase the availability and diversity of housing. Given the quantum of new housing required to meet demand, the release of land needs to occur in the short term and must be both meaningful and deliverable.

- The site is suitable for development as it is supported by, or abuts, existing urban infrastructure.
- The land swap will enable a contiguous land holding in single ownership, which represents a viable option for the delivery of new housing, to be developed to meet increasing need in the Northern Beaches LGA.
- The transferring of development yield will ensure dwellings proposed to be achieved under the Sector 9 Planning Proposal will be developable.
- The site is located within a release area and its redevelopment for open space purposes is compatible with the existing neighbouring land use.
- The Planning Proposal reduces the pressure on supplying further residential land, in particular for medium density residential development, elsewhere within the Northern Beaches LGA.

Draft subregional strategy

The North East Subregion Draft Subregional Strategy (**NESDSS**) sets directions and actions for the implementation of the metropolitan strategy at a more local level. The North East Sub-region comprises the former local government areas of Manly, Warringah and Pittwater, now Northern Beaches.

In terms of complying with the NESDSS the Planning Proposal achieves the following:

- The NESDSS sets targets for 17,300 new dwellings in the subregion's LGAs between 2004 and 2031.
- The Strategy identifies Warriewood as well-suited to accommodating further medium density housing.
- The rezoning of the site would be consistent with implementation of these strategies.

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

Council and the then Department of Planning and Infrastructure (**Dept**) jointly undertook the Strategic Review Report. The Planning Assessment Commission's (**PAC**) determination of the development at 14-18 Boondah Road under Part 3a of the Environmental Planning and Assessment Act 1979 was the catalyst for this review. The PAC report stated there was a likely justification for greater densities and height than enabled at the time under the effective planning controls and indicated the need for "a comprehensive strategic study for all undeveloped land in (Warriewood) Valley".⁴

The Review covered Council's dwelling density and height control for Warriewood Valley, the current transport network and infrastructure demands. The Review is supported by comprehensive environmental, social and economic data to ensure its

⁴ p. 1 PAC Report 14 – 18 Boondah Road

<http://portal.pittwater.nsw.gov.au/common/Output/DataworksAccess.aspx?id=wUCz1CJH5X4%253d&ext=pdf>

outcomes provide for sustainable development. It also considered opportunities to provide additional and varied housing and an expanded centre in Warriewood Valley to respond to the directions of the Draft North East Subregional Strategy. The Review re-examines the planning for Warriewood Valley expressed in the Warriewood Valley Planning Framework 2010 (**2010 Planning Framework**).

The Strategic Review report identified the land the subject of this Planning Proposal as having potential for intensification of development from the then applicable 25 dwellings/ha and 10 dwellings/ha based on a Composite Capability Map.⁵ The Strategic Review Report identified a new density of 32 dwellings/ha for Sectors 901C and 901G and maintaining the density of 10 dwellings/ha for Sector 901G. (Fern Creek Rd was identified within the lands capable of achieving a density of 32 dwellings/ha but was not allocated a dwelling yield in the amendments to PLEP as the land was identified as being required for future recreation needs.

Table 3 indicates the allocation of the dwelling yields.

Table 3 Dwelling Yields – Pittwater LEP 2014

| Property Description | Developable Area (m ²) | Minimum Dwelling Yield | Maximum Dwelling Yield | Adopted Dwelling Yields |
|----------------------|------------------------------------|------------------------|------------------------|-------------------------|
| Lot 11 DP 1092788 | 3174 | 3 | 3 | 10/ha min and max |
| Lot 12 DP 1092788 | 4075.8 | 10 | 13 | 25/ha min 32/ha max |
| Lot 5 DP 736951 | 5374.3 | 13 | 17 | 25/ha min 32/ha max |
| Lot 13 DP 1092788 | 0 | 0 | 0 | 25/ha min 32/ha max |
| Total | 12624.1 | 26 | 33 | |

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

⁵ Warriewood Valley Strategic Review Report 2012 p 4.

Consistency with DCP

The Planning Proposal would enable development that would be consistent with Pittwater 21 Development Control Plan.

The DCP contains details regarding the Desired Character of each locality, including Warriewood. The subject site is located in Warriewood Valley This DCP can be considered to serve as a guide to any future development.

Relevant excerpts from the character statement in Pittwater 21 DCP include the following:

Warriewood Valley is situated at the base of the escarpment, known as Ingleside Chase Reserve, between Mona Vale and Warriewood. It comprises of land known as "Stage 1 Release" and land identified as the Warriewood Valley Release Area.

The Warriewood Valley Release Area, first identified in 1997 as a Release Area, comprises of 110 hectares including 32.68 hectares of industrial/commercial land and associated community facilities and infrastructure. Two recent reviews have been undertaken, firstly the Warriewood Valley Strategic Review 2012 and secondly the Warriewood Valley Strategic Review Addendum Report 2014. The Release Area now includes land within 400m of the Warriewood Sewerage Treatment Plant (known as Buffer Areas 1, 2 and 3) encompassing an area of approximately 190 hectares.

Warriewood Valley Release Area is primarily a residential area expected to provide a total of 2,451 new dwellings (this figure includes the dwellings approved under the former Part 3A legislation but does not include development in Stage 1 Release considered to be completed in 1997.). When completed, it is anticipated to accommodate 6,618 residents (based on an average household occupancy of 2.7 persons per household).

Warriewood Valley Release Area continues to be developed as a desirable urban community in accordance with the adopted planning strategy for the area, and will include a mix of low to medium density housing, industrial/commercial development, open space and community services. The creekline corridors, roads and open space areas form the backbone of the new community, complemented with innovative water management systems, the natural environment, pedestrian/cycle path network, public transport, and recreation facilities.

Stage 1 Release, has a residential component and a business/industrial component. The residential area is characterised by two storey residential attached dwellings with the area fully developed. The industrial/business area is defined by up to three storey large complexes that generally contain smaller units. The majority of the business/industrial zoned land has been developed with some smaller parcels still to be developed in the northern industrial area.

The Warriewood Valley locality is characterised by a mix of residential, retail, commercial, industrial, recreational, and educational land uses.

Warriewood Valley is affected by various hazards and contains heavily vegetated areas, threatened species, or areas of natural environmental significance, which are identified on various maps within the Pittwater LEP 2014.

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

The Planning Proposal is consistent with all relevant State Environmental Planning Policies. Refer to checklist in **Attachment 1**.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is consistent with all relevant section 117 directions. Refer to checklist in **Attachment 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 a reduction of the area zoned R3 Medium Density, adjustments to the boundary of the Release Area and dwelling yield provisions. As detailed above, 9 Fern Creek Road was not allocated a dwelling yield under Clause 6.1(3) to enable flexibility in achieving the planning outcomes for Central Local Park.

The Planning Proposal will enable land identified with constraints adjacent to the creekline to be greater protected by the RE1 Public Recreation zone.

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.

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

The release of land in Warriewood Valley has been undertaken by a series of Planning Proposal's supported by mapping layers adopted by Council in 2011 as part of the Pittwater Local Planning Strategy. This represents the findings of several environmental studies undertaken during the Warriewood Valley Strategic Review which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

This Planning Proposal does not seek to vary the outcome for the development of the sector, other than to enable the creation of the southern portion of Central Local Park and a greater buffer to future residential development and the riparian zone of Fern Creek.

Any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP. Development planning and construction issues would be addressed in further detail in any future development application on the site. The likely issues can be managed and are not of such significance at this stage as to preclude progress of the Planning Proposal.

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

The lands subject of this Planning Proposal comprise land identified for urban 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. Council has undertaken further studies since the original release of the land for urban development.

The main social effect of the Planning Proposal, if it proceeds, would be the resultant increase of local open space.

The main economic effect is the land rezoning would enable the land swap of the site in accordance with the deed of agreement, thus allowing Council to provide the southern portion of Central Local Park. The land swap will enable the development of the remaining land in an orderly and economic manner providing contiguous development sites achieving the dwelling yields anticipated by the Sector 9 Planning Proposal.

The Planning Proposal would result in the increase of approximately 600m² of public open space available to the community than could be achieved on the current lot in Council's ownership.

The land swap will enable the delivery of infrastructure to enable the unlocking of development opportunities for the northern half of Sector 9, including:

- The extension of Fern Creek Road and the construction of a new east-west road connecting Fern Creek Road with the eastern half of Sector 9.

- The section of stormwater infrastructure within the Fern Creek Road extension.
- The capacity to underground the high voltage power lines that currently run along the boundary of 9 and 12 Fern Creek Road, with the costs agreed to be shared between Council and Frasers.

Under the former Pittwater Council's strategic land management program, Council has brought into public ownership over 145 hectares of open space, including land of high environmental value including the Warriewood Wetlands, Ingleside Escarpment, Warriewood Bay foreshore, Warriewood Valley creek line corridors, Currawong, and the like. During this time Council has either swapped or sold about 18 hectares of open space. The net result has been an increase of about 127 hectares of open space within the former Pittwater LGA.

As this Planning Proposal is to effect a land swap to enable development of open space facilities and residential development in a more practical form 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. This will continue under the May 2016 review, which has recently been exhibited.

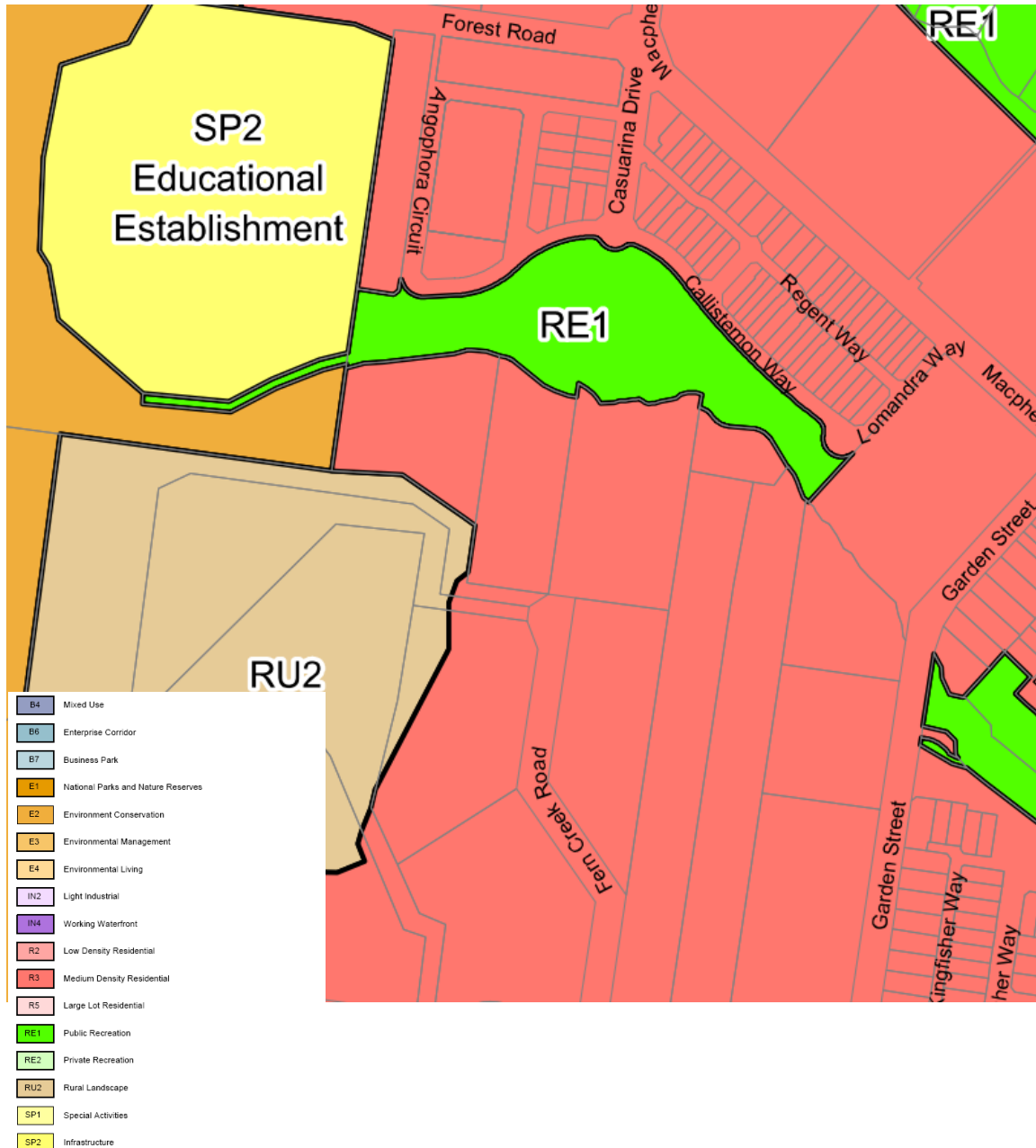
The Planning Proposal does not provide for any increase in potential dwellings beyond that anticipated by the Strategic Review Report. The development of Central Local Park and specifically the southern portion has been anticipated in the adopted and revised Section 94 Contributions Plans.

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

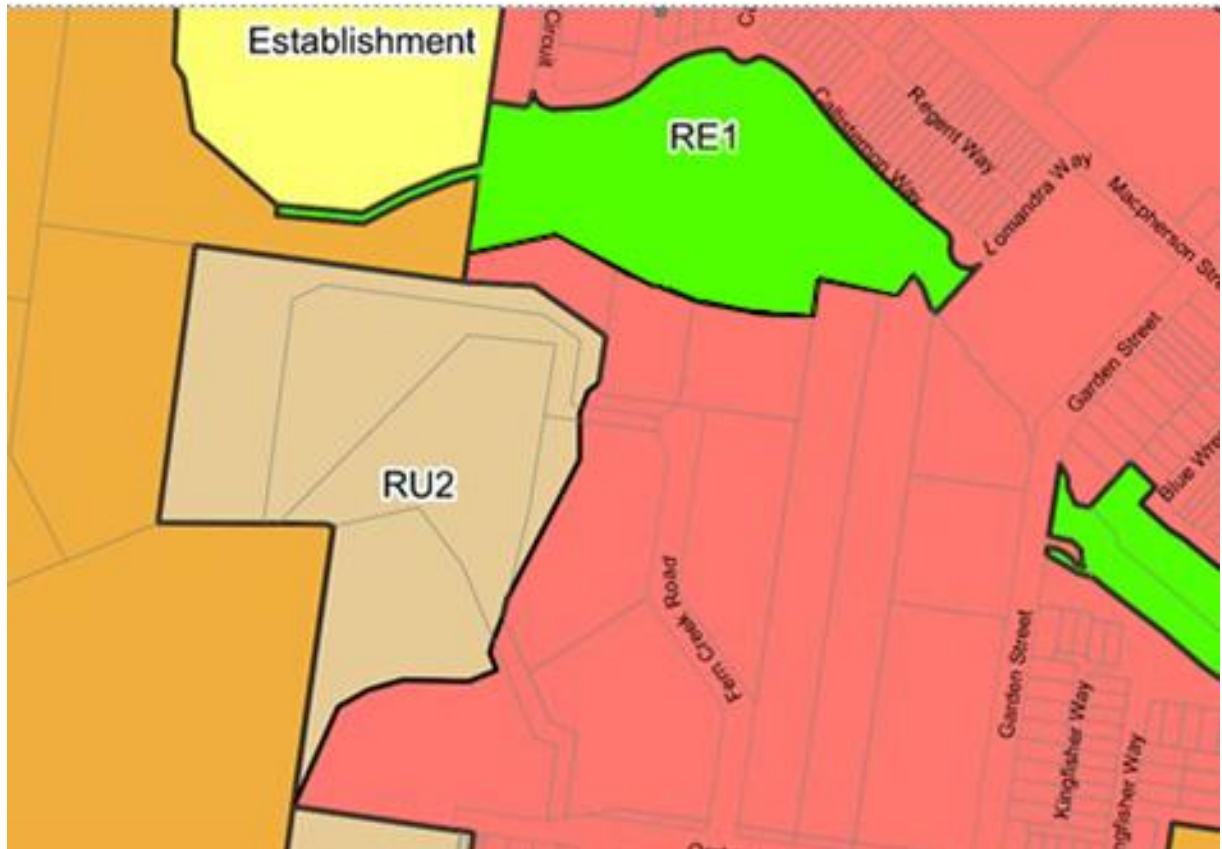
Consultation with State and Commonwealth public authorities will be required when a Gateway Determination is issued.

PART 4 MAPPING

The current Land Zoning Map (Sheet LZN_012) and Height of Buildings Map (Sheet HOB_012) will be required to be amended. Extracts of each of the existing and proposed maps are provided below.



Map 1: Extract of Existing Land Zoning Map (Sheet LZN_012)



- B4 Mixed Use
- B6 Enterprise Corridor
- B7 Business Park
- E1 National Parks and Nature Reserves
- E2 Environment Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN2 Light Industrial
- IN4 Working Waterfront
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU2 Rural Landscape
- SP1 Special Activities
- SP2 Infrastructure

Map 2: Extract of Proposed Land Zoning Map



Maximum Building Height (m)

| | |
|--------|----------------------|
| B | 4 |
| C | 5 |
| G | 7 |
| H | 8 |
| I | 8.5 |
| K | 10.5 |
| L | 11 |
| M | 11.5 |
| N | 13 |
| AREA 1 | Refer Clause 4.3(5) |
| AREA 2 | Refer Clause 4.3(5) |
| AREA 3 | Refer Clause 4.3(5) |
| AREA 4 | Refer Clause 4.3(5) |
| AREA 5 | Refer Clause 4.3(7) |
| AREA 6 | Refer Clause 4.3(10) |

Map 3: Extract of Existing Height of Buildings Map (Sheet HOB_012)



Maximum Building Height (m)

| | |
|--------|----------------------|
| B | 4 |
| C | 5 |
| G | 7 |
| H | 8 |
| I | 8.5 |
| K | 10.5 |
| L | 11 |
| M | 11.5 |
| N | 13 |
| AREA 1 | Refer Clause 4.3(5) |
| AREA 2 | Refer Clause 4.3(5) |
| AREA 3 | Refer Clause 4.3(5) |
| AREA 4 | Refer Clause 4.3(5) |
| AREA 5 | Refer Clause 4.3(7) |
| AREA 6 | Refer Clause 4.3(10) |

Map 4 Extract of Proposed Height of Buildings Map

PART 5 COMMUNITY CONSULTATION

While consultation with the community is not required prior to the Gateway Determination, Council in accordance with its standard practice will undertake a 'non statutory' exhibition of the draft Planning Proposal report.

Council has undertaken community consultation during the course of the negotiations of the land swap that has culminated in this Planning Proposal.

The matter was first considered by Council at its meeting of 19 May 2014⁶ whereby it was resolved:

1. *That Council give in principle support for the development of a large local park in Sector 9 of Warriewood Valley.*
2. *That the General Manager enter into discussions with surrounding land owners with a view to achieving an understanding of the possibilities within that area.*
3. *That Lot 5, DP 736961 be valued at its highest and best use.*
4. *That at the conclusion of discussions, and before reaching a final agreement, the General Manager is to report back to Council.*
5. *That in parallel to the General Manager's negotiations that community consultation is undertaken with residents of Warriewood Valley and any other interested parties with regard to a large local park.*

The matter was again considered at Council's meeting of 18 May 2015⁷ whereby it was resolved:

1. *That the Concept Layout Plan for the Central Local Park, in particular the southern half located within Sector 9 be endorsed as an indicative plan only and the General Manager be authorised to enter into negotiations with Australand, the owner of the adjoining lands to progress this outcome.*
2. *That the transaction be captured by a Memorandum of Understanding between the parties and be based on the following:*
 - *The creekline corridor acquisition is completed as a separate financial transaction as per the S94 Plan prior to the landswap to establish net areas of land involved.*
 - *An area for area swap of land so that the net open space compared to the current rectangle is not reduced.*
 - *The valuation of the lands to be swapped being based on highest and best use.*
 - *A financial adjustment to be made noting the difference in land valuations.*
 - *The undergrounding of the overhead power where practical as per Ausgrid requirements.*

⁶ <http://portal.pittwater.nsw.gov.au/common/Output/DataworksAccess.aspx?id=p9uNMclCgEU%253d&ext=docx>

⁷ <http://portal.pittwater.nsw.gov.au/common/Output/DataworksAccess.aspx?id=WMt6srxKyQ%253d&ext=docx>

- *That undergrounded stormwater management along the drainage easement be included.*
 - *The direct provision of full width road infrastructure (excluding parking bays on the reserve side) by Australand.*
 - *The land being swapped to be rezoned to be consistent with the intended future land use. In this regard:*
 - I. the part of the land owned by Council currently zoned residential with no dwelling yield would be rezoned to residential with a potential yield of 32 dwellings per developable hectare;*
 - II. the part of the land owned by Australand currently zoned for residential would be rezoned to recreational and the adjoining land not being swapped provided a pro-rata development potential where this is already a lower fixed yield.*
 - *That the landswap area be calculated from the edge of the riparian zone (at 25m).*
3. *That an updated valuation be obtained from an independent Valuer to ascertain the likely land values of the various parcels involved in the overall transaction.*
 4. *That a probity advisor be appointed to oversee and report on this transaction.*
 5. *That a report be brought back to Council detailing the negotiation, the Memorandum of Understanding and the financial aspects of the transaction.*

The deed of agreement was considered at Council's meeting of 19 March 2016⁸ whereby it was resolved:

1. *That Council note:*
 - a. *The comprehensive community engagement that has occurred in relation to this matter*
 - b. *The terms of the Memorandum of Understanding*
 - c. *The independent valuation advice*
 - d. *The terms of the Deed of Agreement*
 - e. *That the cash adjustment from the proposed land transfers will be reinvested into the Section 94 fund to implement the plan as endorsed by Council.*
 - f. *The findings of the probity report prepared by Procure Group (Attachment 6).*
2. *That Council endorse the proposed terms of the land swap and authorise the General Manager to sign the deed of agreement for the land swap.*
3. *That Council support the progression of the land swap agreement, comprising:*

⁸ <http://portal.pittwater.nsw.gov.au/common/Output/DataworksAccess.aspx?id=zJSXW4GJsrl%253d&ext=docx>

- a. *Preparation and lodgement of a Planning Proposal to amend Pittwater LEP 2014 to reallocate dwelling yield and rezone the future park to a recreation zone as outlined in the Deed of Agreement.*
 - b. *Preparation and lodgement of a development application to subdivide/consolidate the existing land parcels to enable the transfer of land to occur.*
4. *That a future report be brought to Council at the completion of the transaction.*
 5. *That Council endorse the concept masterplan for the southern component of the Central Local Park (Figure 2) to enable it to be progressed following the land swap.*
 6. *That Council include stakeholders in the design of the southern component of the Central Local Park (Sector 9)*

More consultation will occur following receipt of a Gateway Determination.

PART 6 PROJECT TIMELINE

Council will coordinate the public exhibition and stakeholder consultation phases of the Planning Proposal, but it will not seek delegation of the local environmental plan preparation and making functions. This is due to the perceived conflict of interest of Council having a commercial stake in the completion of the local environmental plan. Greater transparency will be achieved if the DP&E undertakes these functions.

This Planning Proposal is the result of a resolution by the former Pittwater Council to enter into a land swap to facilitate the delivery of the southern portion of Central Local Park. The rezoning proposed in this Planning Proposal is consistent with the Warriewood Valley Strategic Review Report 2012 and the Warriewood Valley Strategic Review Addendum Report 2014 as the adopted planning strategy documents for the Warriewood Valley Release Area and Council's resolution of 19 March 2016.

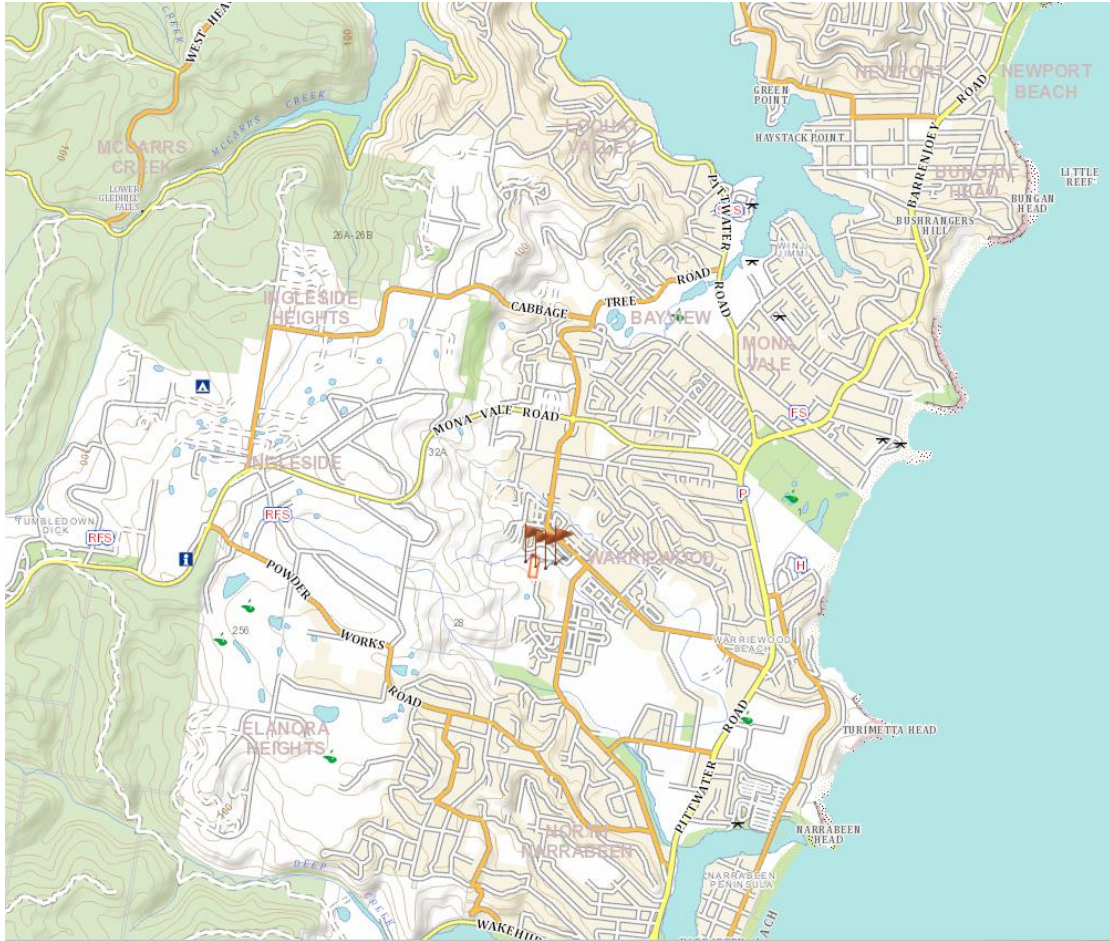
The Planning Proposal is consistent with the Guidance for merged councils on planning functions (May 2016, Dept Planning & Environment) which states the Department will continue to use the Gateway process to also authorise Council's use of its delegation. Further, noting that until elected councils are in place the Department will not be authorising council delegations unless the planning proposal is for rezonings consistent with an endorsed strategy of the (pre-merger) council.⁹

The following is an indicative timeframe based on Council not being able to account for the time it will take the DP&E to prepare the draft local environmental plan:

| | |
|---|---|
| 1. Date of Gateway Determination | 1 month from lodgement with Department of Planning & Infrastructure |
| 2. Government agency consultation (pre-exhibition as required by Gateway Determination) | Allow 3 months |
| 3. Council consideration of submissions, report from public hearing and Planning Proposal post exhibition | Allow 1 month |
| 4. LEP for rezoning prepared by DP&E. New LEP amendment gazetted | Timing subject to DP&E |

⁹ Guidance for merged councils on planning functions, May 2016, Dept P & Et

ATTACHMENT 1 – Locality Map



Source: sixmaps

ATTACHMENT 2 Checklist - Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the former Pittwater now Northern Beaches 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 | Not Applicable | - |
| SEPP No 14 – Coastal Wetlands | No | Not Applicable | - |
| SEPP No 19 – Bushland in Urban Areas | No | Not Applicable | - |
| SEPP No 21 – Caravan Parks | No | Not Applicable | - |
| SEPP No 26 – Littoral Rainforests | No | Not Applicable | - |
| SEPP No 30 – Intensive Agriculture | No | Not Applicable | - |
| SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land) | No | Not Applicable | - |
| SEPP No 33 – Hazardous and Offensive Development | No | Not Applicable | - |
| SEPP No 36 – Manufactured Home Estate | No | Not Applicable | - |

| Title of State Environmental Planning Policy (SEPP) | Applicable | Consistent | Reason for inconsistency |
|---|------------|--|--------------------------|
| SEPP No 39 – Spit Island Bird Habitat | No | Not Applicable | - |
| SEPP No 44 – Koala Habitat Protection | No | Not Applicable | - |
| SEPP No 50 – Canal Estate Development | No | Not Applicable | - |
| SEPP No 55 – Remediation of Land | ✓ | Consistent, site has been rezoned to R3 Medium Density under prior Planning Proposal. | - |
| SEPP No 62 – Sustainable Aquaculture | No | Not Applicable | - |
| SEPP No 64 – Advertising and Signage | ✓ | Consistent | - |
| SEPP No 65 – Design Quality of Residential Flat Development | ✓ | Consistent, future development of the R3 Medium Density land will be the subject of a development application addressing compliance with this SEPP | - |
| SEPP No 70 – Affordable Housing (Revised Schemes) | ✓ | Consistent | - |
| SEPP 71 – Coastal Protection | No | Not Applicable | - |
| SEPP (Affordable Rental Housing) 2009 | ✓ | Consistent | - |

| Title of State Environmental Planning Policy (SEPP) | Applicable | Consistent | Reason for inconsistency |
|--|------------|--|--------------------------|
| SEPP (Building Sustainability Index: BASIX) 2004 | ✓ | Consistent, Any future residential development will need to comply with requirements regarding building sustainability | - |
| SEPP (Exempt and Complying Development Codes) 2008 | ✓ | Consistent | - |
| SEPP (Housing for Seniors or People with a Disability) 2004 | ✓ | Consistent | - |
| SEPP (Infrastructure) 2007 | ✓ | Consistent, the Proposal does not place any restrictions on infrastructure that would oppose the intent of the SEPP | - |
| SEPP (Major Development) 2005 | No | Not Applicable | - |
| SEPP (Mining, Petroleum Production and Extractive Industries) 2007 | No | Not Applicable | - |
| SEPP (Miscellaneous Consent Provisions) 2007 | No | Not Applicable | - |
| SEPP (Rural Lands) 2008 | No | Not Applicable | - |
| SEPP (SEPP 53 Transitional Provisions) 2011 | No | Not Applicable | - |
| SEPP (State and Regional Development) 2011 | No | Not Applicable | - |

| Title of State Environmental Planning Policy (SEPP) | Applicable | Consistent | Reason for inconsistency |
|---|------------|----------------|--------------------------|
| SEPP (Sydney Drinking Water Catchment) 2011 | No | Not Applicable | - |
| SEPP (Sydney Region Growth Centres) 2006 | No | Not Applicable | - |
| SEPP (Three Ports) 2013 | No | Not Applicable | - |
| SEPP (Western Sydney Employment Area) 2009 | No | Not Applicable | - |
| SEPP (Western Sydney Parklands) 2011 | No | Not Applicable | - |
| SEPP (Urban Renewal) 2010 | No | Not Applicable | - |

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the former Pittwater now Northern Beaches 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) | ✓ | Consistent | - |

ATTACHMENT 3 - Checklist – Consideration of Section 117 Ministerial Directions

(Last updated 14 April 2016)

1 Employment and Resources

| | Direction | Applicable | Consistent |
|-----|--|------------|----------------|
| 1.1 | Business and Industrial Zones | No | Not Applicable |
| 1.2 | Rural Zones | No | Not Applicable |
| 1.3 | Mining, Petroleum Production and Extractive Industries | No | Not Applicable |
| 1.4 | Oyster Aquaculture | No | Not Applicable |
| 1.5 | Rural Lands | No | Not Applicable |

Justification for inconsistency

NIL

2 Environment and Heritage

| | Direction | Applicable | Consistent |
|-----|--------------------------------|------------|----------------|
| 2.1 | Environmental Protection Zones | No | Not Applicable |
| 2.2 | Coastal Protection | No | Not Applicable |
| 2.3 | Heritage Conservation | No | Not Applicable |
| 2.4 | Recreation Vehicle Areas | No | Not Applicable |

Justification for inconsistency

NIL

3 Housing, Infrastructure and Urban Development

| | Direction | Applicable | Consistent |
|-----|---|------------|--|
| 3.1 | Residential Zones | ✓ | Consistent. The development yields as they currently apply under Pittwater LEP will be maintained. |
| 3.2 | Caravan Parks and Manufactured Home Estates | No | Not Applicable |

| | Direction | Applicable | Consistent |
|-----|--------------------------------------|------------|----------------|
| 3.3 | Home Occupations | ✓ | Consistent |
| 3.4 | Integrating Land Use and Transport | ✓ | Consistent |
| 3.5 | Development Near Licensed Aerodromes | No | Not Applicable |

Justification for inconsistency

NIL

4 Hazard and Risk

| | Direction | Applicable | Consistent |
|-----|-----------------------------------|------------|--|
| 4.1 | Acid Sulphate Soils | ✓ | Consistent, No change to the existing mapping for Pittwater LEP 2014 proposed. |
| 4.2 | Mine Subsidence and Unstable Land | No | Not Applicable |
| 4.3 | Flood Prone Land | ✓ | The subject lands are identified as flood prone land. |
| 4.4 | Planning For Bushfire Protection | ✓ | The subject lands are partially located within a bushfire buffer area |

Justification for inconsistency

Justification for inconsistency with Direction 4.3

The site is adjoined by Fern Creek on the northern boundary which have been identified as flood prone lands.

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. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the Warriewood Valley Section 94 Contributions Plan. This portion of land is proposed to be zoned RE1 Public Recreation and will be Council land under the terms of the land swap deed.

Justification for inconsistency with Direction 4.4

The land the subject of the Planning Proposal is identified as bush fire prone under Council's Bush Fire Prone Lands Map. The land is already zoned for its intended purpose and will not be altered. This Planning Proposal would have the effect of

reducing the number of dwellings achieved within the land mapped as Bushfire Buffer relocating the dwelling yield provision applying to this land to land not identified as Bushfire Prone., This Planning Proposal is inconsistent with this direction insofar as consultation has not yet occurred with the NSW Rural Fire Service. Consultation will be undertaken during the statutory exhibition period.

5 Regional Planning

| | Direction | Applicable | Consistent |
|-----|--|------------|----------------|
| 5.1 | Implementation of Regional Strategies | No | Not Applicable |
| 5.2 | Sydney Drinking Water Catchments | No | Not Applicable |
| 5.3 | Farmland of State and Regional Significance on NSW Far North Coast | No | Not Applicable |
| 5.4 | Commercial and Retail Development along the Pacific Hwy, North Coast | No | Not Applicable |
| 5.5 | Development in the vicinity of Ellalong, Paxton and Millfield | No | Not Applicable |
| 5.8 | Second Sydney Airport: Badgerys Creek | No | Not Applicable |

Justification for inconsistency

NIL

6 Local Plan Making

| | Direction | Applicable | Consistent |
|-----|------------------------------------|------------|---|
| 6.1 | Approval and Referral Requirements | ✓ | Consistent |
| 6.2 | Reserving Land for Public Purposes | ✓ | Consistent. The subject lands, Land, have been identified for open space purposes in the Section 94 Contributions Plan which will fund the acquisition of the land. |
| 6.3 | Site Specific Purposes | ✓ | No |

Justification for inconsistency

Justification for inconsistency with Direction 6.3

The Planning Proposal seeks to amend the existing dwelling yield provision applying to the subject land. 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 | ✓ | Consistent |

Justification for inconsistency

NIL