

28 August 2017

Our Ref: 10524 flood.docx

General Manager  
Northern Beaches Council  
PO Box1336  
DEE WHY NSW 2099

Your Ref: PP\_2016\_NBEACH\_005\_00

Attention: Sylvania Mok

By email: Sylvania.Mok@northernbeaches.nsw.gov.au

Dear Sylvania,

**RE: Planning Proposal Additional information Flood Affection**

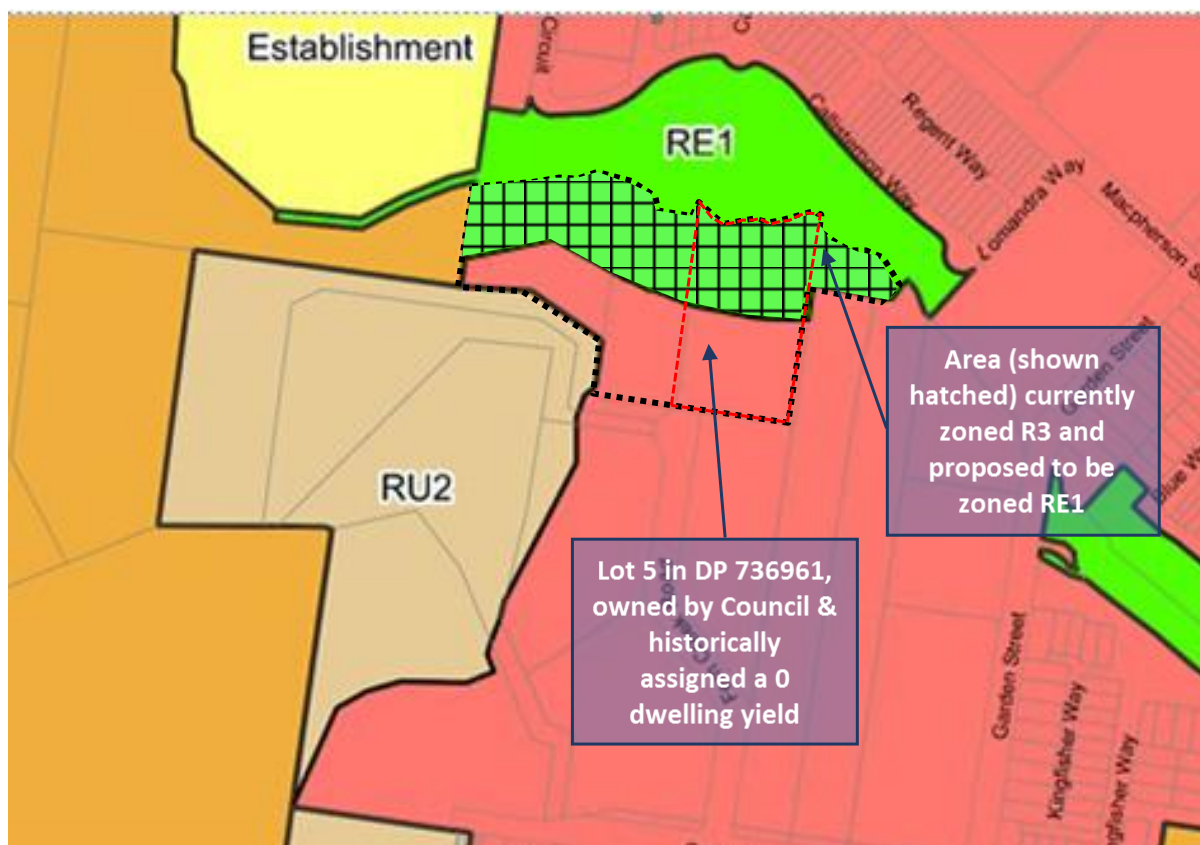
Property Lots 11, 12, & 13 DP 1092788 and Lot 5 DP 736961, Fern Creek Rd, Warriewood

This additional information is prepared in response to the Gateway Determination dated 7 July 2017 to confirm the suitability of the proposal in relation to flooding (condition 1. a))

### **The Proposal**

The primary objective of the Planning Proposal is to rezone approximately 1.85 hectares of the northern portions of Lots 11, 12, & 13 DP 1092788 and Lot 5 DP 736961 (**the site**) from R3 Medium Density Residential to RE1 Public Recreation.

As explained in the Planning Proposal, the rezoning of the site will also result in a change in the current maximum dwelling yield on the site from 30 dwellings to 33 dwellings. Despite a reduction in land zoned R3 Medium Density Residential, an increase in dwelling yield arises because part of the site (Lot 5 in DP 736961 is currently owned by Council and was historically allocated a nil dwelling yield potential on an assumption that this part of the site was to be used for public reserve purposes. However, based on the findings of the 2012 Strategic Review and the 2014 Strategic Review Addendum, Lot 5 in DP 736961 was considered to have a capacity for 29.7 dwellings, substantially less than the 3 additional proposed dwellings (refer to pages 9-10 of the Planning Proposal). The intended effect of the Planning Proposal and the position of Lot 5 within the site is depicted on **Figure 1**.



**Figure 1: Intended Effect of Planning Proposal**

### Relevant Flood Risk Management Policies

S117 Direction 4.3 (Flood Prone Land) requires:

#### **4.3 Flood Prone Land**

##### **Objectives**

(1) *The objectives of this direction are:*

(a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*

(b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

##### **Where this direction applies**

(2) *This direction applies to all relevant planning authorities that are responsible for flood prone land within their LGA. When this direction applies*

(3) *This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. What a relevant planning authority must do if this direction applies*

(4) *A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).*

(5) *A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential,*

*Business, Industrial, Special Use or Special Purpose Zone.*

*(6) A planning proposal must not contain provisions that apply to the flood planning areas which:*

- (a) permit development in floodway areas,*
- (b) permit development that will result in significant flood impacts to other properties,*
- (c) permit a significant increase in the development of that land,*
- (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or*
- (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.*

*(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).*

*(8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).*

### **Consistency**

*(9) A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:*

- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or*
- (b) the provisions of the planning proposal that are inconsistent are of minor significance.*

**Note:** *“flood planning area”, “flood planning level”, “flood prone land” and “floodway area” have the same meaning as in the Floodplain Development Manual 2005.*

Council’s Flood Information Request Report (dated 18 April 2017) shows that no part of the site is affected by the designated flood (ie 1% AEP + 0.5m freeboard) including overland flow extents.

The Floodplain Development Manual has been amended by the 2007 Flood Planning Direction (Planning System Circular PS 07-003) issued by the then Department of Planning. It states (pg.2):

*This Guideline confirms that, unless there are exceptional circumstances, councils should adopt the 100 year flood as the FPL for residential development. In proposing a case for exceptional circumstances, a Council would need to demonstrate that a different FPL was required for the management of residential development due to local flood behaviour, flood history, associated flood hazards or a particular historic flood.*

*Unless there are exceptional circumstances, councils should not impose flood related development controls on residential development on land with a low probability of flooding, that is, land above the residential FPL (low flood risk areas)*

## Review of Proposal

The Planning Proposal (GLN 17.01.17, pg.4) refers to the Addendum Report to the adopted Warriewood Valley

Strategic Review Report 2012, stating:

*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.*

The Planning Proposal (GLN 17.01.17, pg.33) addresses S117 Direction 4.3 (Flood Prone Land) as follows:

*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.*

Council has provided a 'Flood Information Request – Common' report for No.s 9, 11, 12 and 13 Fern Creek Road, Warriewood. This shows that the area that would remain zoned R3 Medium Density Residential, including Lot 5 DP 736961 owned by Council, would be totally unaffected by the Flood Planning Level (ie 1% freeboard + freeboard) main stream flooding extent (**Figure 2**) and is totally unaffected by overland flow flooding. This report also shows that the part of the site proposed to remain zoned R3 is only marginally affected by the predicted future climate change Flood Planning Level (ie 1% freeboard + freeboard + climate change) extent (**Figure 3**).



**Figure 2: Mainstream Flooding – FPL Extent**  
 (Source: Council Flood Information Request – Common’ report dated 18 April 2017)



**Figure 3: Mainstream Flooding – FPL Extent + Climate Change**  
 (Source: Council Flood Information Request – Common’ report dated 18 April 2017 as adapted by GLN)

As the site is planned for greenfield urban development, it would be reasonable to expect that the future development of the site would consider climate change flood effects. Such a precautionary approach would be consistent with clause B3.12 of the Pittwater DCP 2014, that requires a flood assessment at the Development Application stage that takes into consideration climate change effects. While the DCP does not prescribe how to apply the outcome of such an assessment to a proposed development, a strict outcome would be to require earthworks, with balanced cut and fill below the FPL, so that all land developed for urban purposes was above the FPL + climate change extent. This is a matter that can relevantly be addressed at the development applicant stage, if required.

**Conclusion**

The Planning proposal is consistent all applicable flood risk management state government policies and Directions. The proposal involves a reduction in land zoned for housing development, and the creation of an open space zoned corridor between the creek and housing. None of the land to remain zoned for housing development is within the Flood Planning Level extent. However, when climate change considerations are factored in as small part of the area to remain zoned for housing development is affected.

The Council DCP requires a consideration of climate change flood effects at the development application stage. While the DCP does not prescribe an outcome, the relatively minor affectation is a matter that could relevantly be addressed at the development application stage.

Yours faithfully

**GLN PLANNING PTY LTD**

A handwritten signature in black ink, appearing to read 'Paul Grech', is positioned below the company name.

**PAUL GRECH  
DIRECTOR**