



Mr Mark Ferguson
General Manager
Northern Beaches Council
Civic Drive, 725 Pittwater Road
DEE WHY NSW 2099

16/03109

Dear Mr Ferguson *Mark*

Planning Proposal to amend Warringah Local Environmental Plan 2011

I refer to Council's letter requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in respect of the planning proposal to amend the Warringah Local Environmental Plan 2011. The proposal seeks to transfer the existing planning controls within the Oxford Falls Valley and Belrose North area under Warringah Local Environmental Plan 2000 into Warringah Local Environmental Plan 2011.

As a delegate of the Greater Sydney Commission, I have determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant Section 117 Directions 2.1 Environmental Protection Zones and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

This Gateway determination requires Council to complete stage 2 of the Strategic Review prior to the Planning Proposal being placed on public exhibition. The stage 2 Review should investigate the future urban development potential of four sites (Oxford Falls West, Red Hill, Lizard Rock, Cromer Golf Club) as recommended by the Planning Assessment Commission (PAC) in 2009. This study should also examine the environmental significance of land proposed to be zoned E4 Environmental Living to determine whether alternative residential zones would be more appropriate.

The Review should also confirm consistency with Section 117 direction 2.1 Environment Protection Zones.

The Planning Proposal is to be revised to reflect any recommendations of the stage 2 Review. Council is also to update the Planning Proposal to include a sunset provision for a set timeframe of 3 years to allow land owners to seek development approval for currently permitted uses, and a savings provision to protect development applications lodged but not yet determined.

This approach is considered preferable, given the ongoing community interest in the proposal's intention to apply environmental zones to existing land uses and the difficulty of clearly translating the existing permissible land uses to standard instrument zones.

Plan making powers were delegated to councils by instrument of delegation dated 14 October 2012. I have considered the nature of the Planning Proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan, given the Department's request for further investigation into certain land proposed to be zoned E3 Environmental Management and E4 Environmental Living.

The amending LEP is to be finalised within 12 months of the week following the date of the Gateway determination. Council is to provide the Department with a copy of the revised Planning Proposal for approval, prior to community consultation. Council's request for the Department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Commission may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Wayne Williamson to assist you. Mr Williamson can be contacted on (02) 9274 6585.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

01/11/2017
Encl. – Gateway determination

Gateway Determination

Planning Proposal (Department Ref: PP_2015_WARRI_004_00): to transfer the existing planning controls within the Oxford Falls Valley and Belrose North area under Warringah Local Environmental Plan 2000 into Warringah Local Environmental Plan 2011.

I, the Deputy Secretary, Planning Services at the Department Planning and Environment, as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) that an amendment to Warringah Local Environmental Plan 2011 should proceed subject to the following conditions:

1. Prior to community consultation, Council is to complete stage 2 of the Strategic Review. This study should also examine the environmental significance of land proposed to be zoned E4 Environmental Living. The Planning Proposal must be revised to reflect any recommendations of the stage 2 study.
2. Prior to community consultation, the Planning Proposal is to be updated to:
 - (a) demonstrate consistency with the draft North District Plan;
 - (b) insert a Schedule 1 Additional Permitted Uses for Oxford Falls Grammar School;
 - (c) require home based childcare be permissible with consent in environmental zones;
 - (d) include a sunset provision for a set timeframe of 3 years to allow land owners to seek development approval for currently permitted uses and a suitable savings provision for development applications lodged but not yet determined; and
 - (e) provide a new project timeline.
3. Prior to community consultation, the revised Planning Proposal is to be provided to the Department for review and approval for public exhibition.
4. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the Planning Proposal must be made publicly available for a minimum of **28 days**;
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with Planning Proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2016)*; and
 - (c) write to land owners in the area effected by the proposal.
5. Consultation is required with the following agencies under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Rural Fire Service
 - NSW Aboriginal Land Council



- Office of Environment and Heritage
- Office of Environment and Heritage - NSW National Parks and Wildlife Service
- Sydney Water

Each public authority is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The Planning Proposal is to be finalised within **12 months** from the date of the Gateway determination.

Dated *1st* day of *November* 2017

A handwritten signature in blue ink that reads 'Marcus Ray'.

Marcus Ray
Deputy Secretary
Planning Services
Department Planning and Environment

Delegate of the Greater Sydney Commission