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Gateway determination report – PP-2024-1343

Northern Beaches Comprehensive Local
Environmental Plan

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Relevant reports and plans

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Attachment T: Conservation Zones Review

Attachment U: Local Environmental Plan (LEP) & Development Control Plan (DCP) Discussion Paper

Attachment V: Council's Working Draft LEP

Attachment W: Minutes - Northern Beaches Local Planning Panel

Attachment X: Council Meeting Agenda 17 June 2024

Attachment Y: Department and Environment and Heritage Group comments Aug 2023

Attachment Z: FSR - Manly LEP R1 and R3 zones

Assessment Summary

The following table provides an overview of the proposed provisions and the Department's assessment. Further detail is provided in this report.

Table 1 - Provision assessment summary

Report section	Provision	Council proposed map / clause amendment	Assessment
2.0	Preliminary Provisions	Clause – amended (savings provisions)	Not supported
		Clause – amended (SEPP application exclusion)	Not supported
3.0 Land use zones			
3.1	Conservation zones - general	Map – land zoning map amended	Conditions apply
3.2	Conservation zones – deferred lands	Map – land zoning map amended	Conditions apply
3.3	Conservation zones – recreation areas	Map – land zoning map amended	Conditions apply
3.4.1	Land use zones – advertising structures	Clause - amended	Conditions apply
3.4.2	Land use zones – SP3 tourist zone	Clause - harmonised	Conditions apply
3.4.3	Land use zones – Roadways	Map – land zoning map amended	Conditions apply
3.4.4	Land use zones – Special Purpose zones	Map – land zoning map amended	Conditions apply
3.5	Additional permitted uses	Schedule – harmonised, introduced, amended & removed	Conditions apply
4.0 Principal development standards			
4.1	Floor space ratio	Clause – harmonised and amended	Conditions apply
4.2	Minimum lot size and frontage for certain residential accommodation	Clause – harmonised (lot size)	Proceed without amendment
		Clause – introduced (lot frontage)	Not supported
4.3.1	Height of buildings – local centre	Map – Height of buildings map amended	Conditions apply
4.3.2	Height of buildings – Brookvale E4 general industrial	Map – Height of buildings map amended	Proceed without amendment

Report section	Provision	Council proposed map / clause amendment	Assessment
4.3.3	Height of buildings – Warringah Mall	Map – Height of buildings map amended	Not supported
5.0 Miscellaneous provisions			
5.1	Heritage	Schedule – harmonised, amended and removed	Conditions apply
5.2	Relevant acquisition authority	Clause – harmonised Map – amended	Conditions apply
5.3	Development near zone boundaries	Clause – removed	Proceed without amendment
6.0 Additional local provisions			
6.1	Dual occupancies	Clause – introduced	Conditions apply
6.2	Landscaped areas in certain residential and conservation zones	Clause – introduced Map – Landscaped areas map introduced	Conditions apply
6.3	Mix of dwelling sizes in residential flat buildings and mixed-use development	Clause – introduced	Conditions apply
6.4	Environmental sustainability	Clause – introduced	Not supported
6.5	Design excellence	Clause – harmonised & amended	Proceed without amendment
6.6	Coastline hazard management	Clause – harmonised & amended Map – Coastline hazards map amended	Conditions apply
6.7	Watercourses, wetlands and riparian land	Clause – harmonised & amended Map – Riparian, watercourses and wetlands map amended	Conditions apply
6.8	Bushland and biodiversity land	Clause – harmonised, amended and removed Map – Terrestrial biodiversity map amended	Conditions apply
6.9	Scenic protection	Clause – harmonised & amended	Not supported (amended provision)
6.10	Development in local centres	Clause – introduced Map – Centres map introduced	Proceed without amendment

Report section	Provision	Council proposed map / clause amendment	Assessment
6.11	Geotechnical planning	Clause – harmonised, amended and removed Map – Geotechnical map amended	Conditions apply
6.12	Noise impacts	Clause – harmonised	Not supported

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Northern Beaches
PPA	Northern Beaches Council
NAME	Northern Beaches Comprehensive Local Environmental Plan planning proposal
NUMBER	PP-2024-1343
LEP TO BE AMENDED	Manly Local Environmental Plan 2013 Pittwater Local Environmental Plan 2014 Warringah Local Environmental Plan 2011 Warringah Local Environmental Plan 2000
ADDRESS	LGA wide
RECEIVED	2/07/2024
FILE NO.	IRF25/1629
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

On 12 May 2016, the *Local Government (Council Amalgamation) Proclamation 2016* was notified. The Proclamation resulted in the creation of the new Northern Beaches local government area (LGA); an amalgamation of the former Manly, Pittwater and Warringah LGAs.

The creation of the new comprehensive Local Environmental Plan (LEP) for the Northern Beaches will provide a clear and consistent set of planning controls for the whole LGA.

1.2 Site description and surrounding area

The new LEP integrates the four LEPs in force across the Northern Beaches LGA (**Figure 3**):

- *Manly Local Environmental Plan 2013*
- *Pittwater Local Environmental Plan 2014*
- *Warringah Local Environmental Plan 2011*
- *Warringah Local Environmental Plan 2000* [deferred lands]

The Northern Beaches is a large LGA in the north of the Sydney basin, measuring 254km² (**Figures 1 and 2**). It is bound by the Pacific Ocean to the east, Ku-ring-gai LGA to the west and North Sydney LGA to the south. The Northern Beaches LGA is home to 263,554 residents (2023), with anticipated growth in its strategic centres highlighted in the Northern District Plan and Towards 2040 (Northern Beaches Council's Local Strategic Planning Statement) with 292,000 additional residents expected by 2036.

The North District Plan identifies four strategic centres in the Northern Beaches being Brookvale-Dee Why, Mona Vale, Manly and Frenchs Forest. Brookvale is a key employment hub with one-third of the LGA working in the area. These four areas and local centres will support growth and development as envisioned by the planning proposal.

Some areas of the Northern Beaches have varied topography and a heightened risk of landslides, noting controls are proposed in these areas to manage development. Natural hazards in the

Northern Beaches include bushfire, coastal erosion and flooding due to low-lying development areas. These matters are managed through LEP provisions.

Early settlement in the Northern Beaches started in Manly and generally followed the coastline and harbour. The urban development pattern west of the coastline follows the main transport spines of Warringah Road, Mona Vale Road, and Forest Way with large swathes of bushland, watercourses and golf courses forming green breaks between urban areas. The areas of highest population and employment density are in the key centres of Manly, Mona Vale, Warringah and Frenches Forest.

Other areas close to bushland in the northwest around the Duffy's Forest area have large lot residential and small rural lifestyle properties, providing a further level of housing diversity in the LGA.

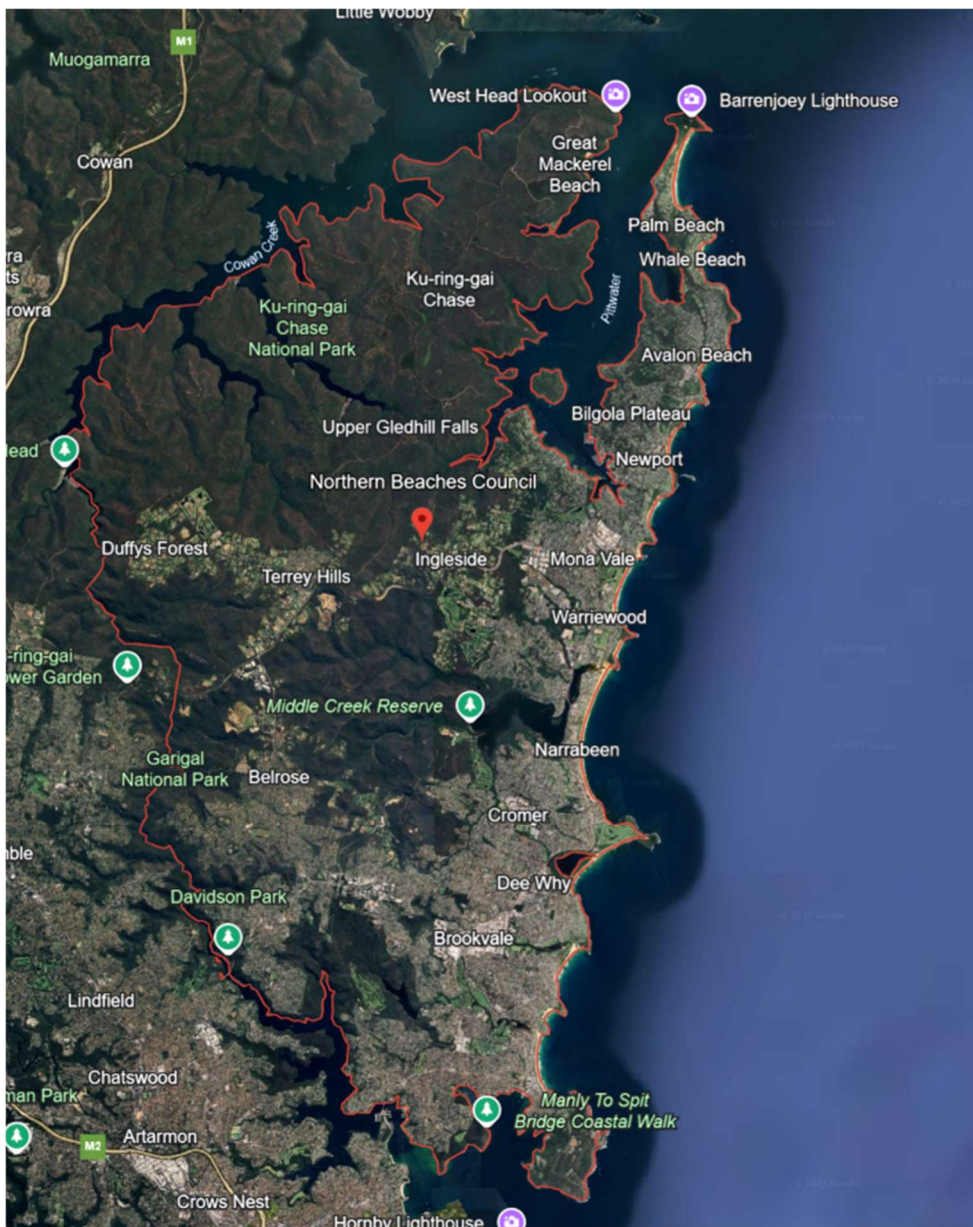


Figure 1: Subject area (source: Google Maps)

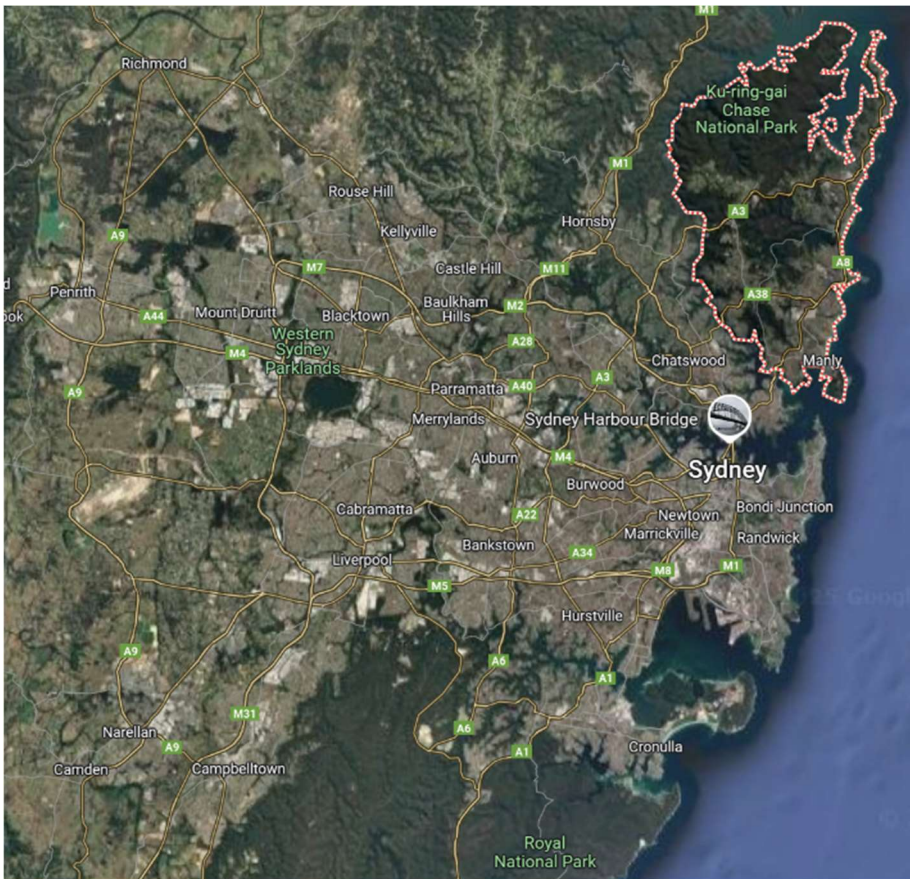


Figure 2: LGA context in Greater Sydney (source: Google Maps)

1.3 Objectives of planning proposal

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

In summary, the objectives of the planning proposal are to:

- Create a single, consolidated local environmental plan that will replace the four existing local environmental plans (LEPs) that currently apply to land in the Northern Beaches LGA – being the Manly LEP 2013, Pittwater LEP 2014, Warringah LEP 2011 and Warringah LEP 2000 [deferred lands] (**Figure 3**).
- Align with the Greater Sydney Region Plan and North District Plan.
- Implement Towards 2040 (Northern Beaches Council's Local Strategic Planning Statement (LSPS)), Local Housing Strategy and a range of supporting land use studies and strategies.

The planning proposal (**Attachment A**) notes its intended outcomes are:

- Protection of environmental, scenic and cultural values of bushland, coast, waterways.
- Avoidance of intensification, inappropriate development and incompatible land uses in hazardous areas and rural areas.
- Provision of housing in the right locations and support for a housing mix to meet diverse community needs.
- Urban design outcomes that support amenity and complement local character.

- Environmentally sustainable design and transition to net zero developments through high energy, water and waste efficiency.
- Safeguarding of employment lands from non-compatible uses, enabling holistic and integrated growth of centres.
- Provision of public benefits (open space, affordable housing, amenity) and community facilities and services that meet changing community needs.
- Support for creation of liveable communities (e.g. increasing tree canopy, reducing urban heat, delivering amenity, supporting sustainable transport).

The objectives of this planning proposal are clear and adequate.

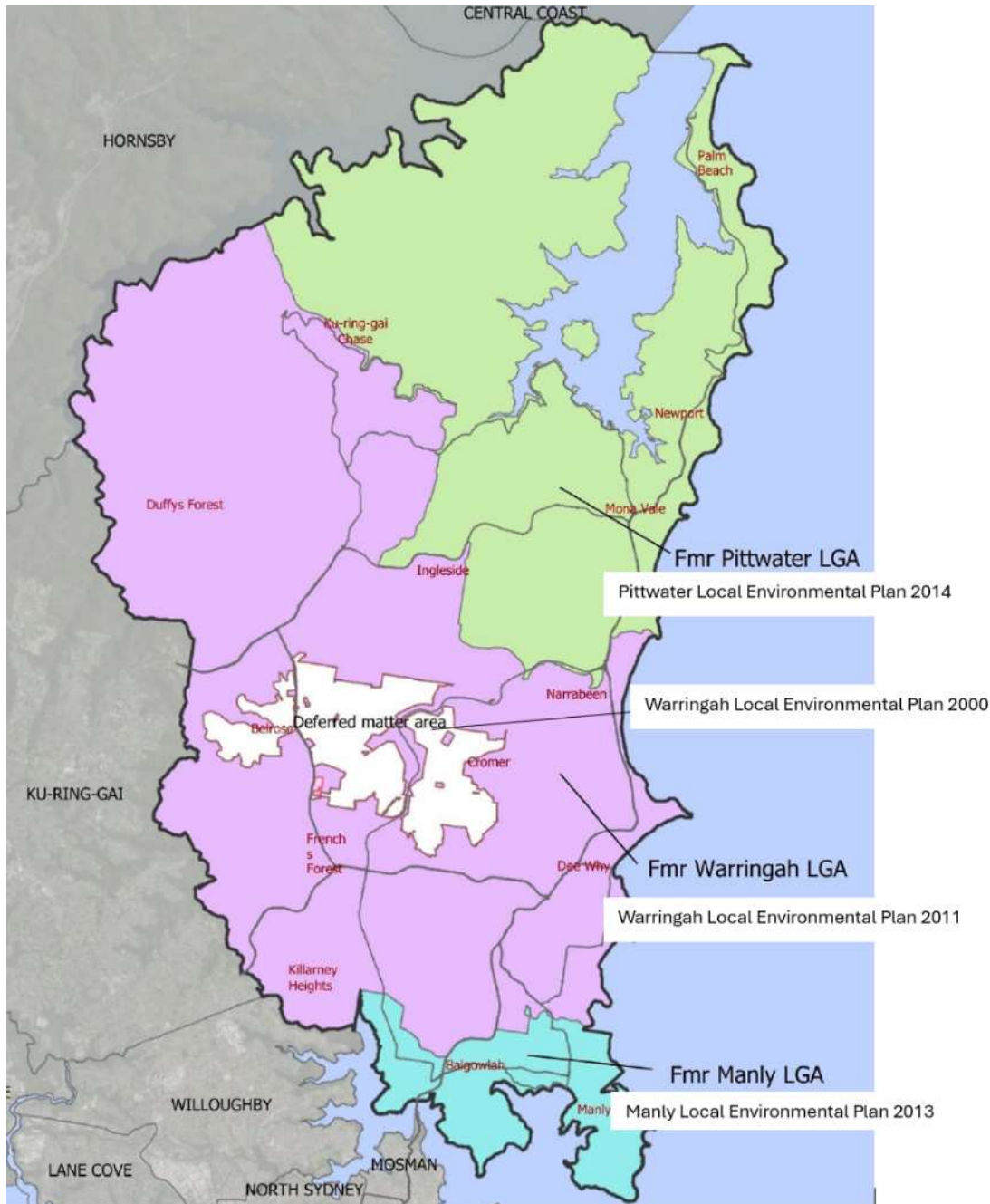


Figure 3: LEPs applying to land within the Northern Beaches LGA (source: planning proposal)

1.4 Background

1.4.1 Conservation Zones Review

In 2020 Council commenced the Conservation Zones Review to harmonise conservation zones in the comprehensive LEP and to review inconsistencies between the former Manly, Warringah and Pittwater LEPs of C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living zones. A significant part of the Conservation Zones Review includes the translation of the Northern Beaches deferred lands area to Standard Instrument zoning (as discussed in Section 3.2 of this report). In March 2021, a bushfire hazard risk assessment was completed on behalf of Council for the Northern Beaches deferred lands areas to help inform future zoning for the area.

Council subsequently exhibited a Local Environmental Plan (LEP)/Development Control Plan (DCP) Discussion Paper from June-September 2021 (**Attachment U**) to seek preliminary feedback on Council's review and proposal for a comprehensive Northern Beaches LEP and DCP. One of the key themes identified was a review of conservation zones across the LGA. In December 2021 Council completed a Biodiversity Planning Review to further inform the Conservation Zones Review.

In May 2022, the Department provided preliminary advice to Council regarding the use of natural hazard mapping to define conservation zones. The Department acknowledged at the time significant work was underway regarding the management of natural hazard risks, including the 2022 NSW Flood Inquiry and Bushfire Inquiry; as well as Council's work to date. The Department supported LEP mapping (planning overlays) and clauses to manage natural hazard risk management. However, the Department advised Council to consider multiple factors when defining conservation zones; and that if conservation was not the primary objective for subject sites, then other zones had to be considered.

Council placed their Conservation Zones Review on a non-statutory/preliminary exhibition from September to December 2022. Overall sentiment of community and stakeholder feedback included approximately 80% not in support, 5% in partial support, 5% in support and the remainder being neutral or unclear. In regard to particular provisions:

- 54% of submissions did not support decreases in conservation zones.
- 4% of submissions did support decreases in conservation zones.
- 35% of submissions did not support increases in conservation zones.
- 7% of submissions did support increases in conservation zones.

Concerns generally raised included limits to existing uses, accuracy of mapping, impact on character of a place, increasing density and the methodology. During the exhibition of Council's Conservation Zones Review, there was ongoing liaison between the Department, NSW Department of Climate Change, the Environment, Energy and Water – Conservation Programs, Heritage and Regulation (CPHR) (the former Environment and Heritage Group) and Council. In December 2022, the Department proposed a pilot program to consider and address feedback received during Council's exhibition period. The pilot program ran for the first half of 2023. At the commencement of the program, Council presented several methodology options that had been investigated in response to community and agency feedback. This included:

- Exclusion of any hazards - flood, fire, coastal and estuarine.
- Classification of foreshore scenic protection areas as a 'medium environmental value' criterion using mapping exhibited with Council's Local Environmental Plan/Development Control Plan (LEP/DCP) Discussion Paper 2021.

- Classification of biodiversity corridors comprising of native vegetation as ‘high environmental value.’

In November and December 2023, the Department provided Council their final advice on how to proceed with the Conservation Zone Review and planning proposal. This included advice from CPHR (**Attachment Y**) which provided general support to the proposed increase in conversation zonings throughout the LGA, however noted in some instances proposed conversation zonings did not align with the zone objectives outlined in the Standard Instrument. Concerns included that conservation zoning was not being sought exclusively on land with ecological, scientific, cultural or aesthetic values exist; and was being utilised to restrict land uses/development.

In summary, the Department advised Council to remove hazards, scenic value and some environmental values as criteria for triggering a conservation zone as well as to retain all existing conservation zones in the former Pittwater LGA. This informed the subject planning proposal (**Attachment A**) being assessed for Gateway.

1.4.2 *State Environmental Planning Policy (Housing) 2021* – Low and Mid-Rise Housing Policy

State Environmental Planning Policy (Housing) 2021 - Low and Mid-Rise Policy (LMR) will deliver up to 112,000 homes across the state, supporting the NSW National Housing Accord target of 377,000 new homes by 2029. Stage 1 of the policy has been in place since 1 July 2024, allowing dual occupancies and semi-detached dwellings in all R2 Low Density Residential zones across NSW, except for excluded areas. These changes made dual occupancies newly permitted with consent in the R2 Low Density Residential zone under Warringah Local Environmental Plan 2011. To prevent unintended development outcomes, complying development for dual occupancies in newly permitted R2 zones is not yet available (i.e under the Warringah LEP 2011), to enable Council to nominate appropriate minimum lot sizes for the Department to implement through an update to the Housing SEPP.

The planning proposal is consistent with Council's submission to the Department on LMR Stage 1, proposing to establish a minimum lot size of 800m² and a minimum lot frontage of 18m for dual occupancy developments in all R2 Low Density Residential zones in the Northern Beaches (resolved by Council 10 December 2024). However, as the proposed provisions for the Warringah LEP 2011 R2 areas are under review, the Northern Beaches Comprehensive LEP planning proposal may require updates as it progresses to ensure consistency.

Stage 2 of the LMR policy enables more low and mid-rise housing options by introducing new planning controls to allow terraces, townhouses, low and mid-rise apartments and shop-top housing within 800 metres of identified town centres and train or light rail stations. In the Northern Beaches this includes:

- Balgowlah Stockland shopping centre
- Dee Why town centre
- Forestville town centre
- Forestway shopping centre
- Frenchs Forest Precinct (Warringah Road)
- Manly town centre
- Manly Vale town centre
- Mona Vale town centre
- Warringah Mall shopping centre

If required, any inconsistencies with the draft planning proposal and updates to the Housing SEPP can be further scrutinised during the LEP draft process at the finalisation stage of the planning proposal.

1.4.3 Vibrancy reforms – Special Entertainment Precincts

Legislative reforms were made through the *24-Hour Economy Commissioner Act 2023* and the *24-Hour Economy Legislation Amendment (Vibrancy Reforms) Act 2024*. Part of the reforms provide councils can establish Special Entertainment Precincts (SEPs) in their local area under the *Local Government Act 1993* to encourage more live music and support their night-time economies. Sound conditions and trading hours are set by a council through a precinct management plan.

Special Entertainment Precincts (SEP) aim to support live entertainment in specific precincts through extended trading hours for live music venues. SEPs provide favourable noise controls that provide operational certainty for venues, neighbouring residents and businesses.

The Northern Beaches Council is intending to establish a Special Entertainment Precinct (SEP) in the Manly commercial centre. Council submitted an Expression of Interest application for the Special Entertainment Precinct Kickstart Grant Program. The grant will enable Council to commission an acoustic study and establish a trial in the Manly commercial centre.

Council has received a Special Entertainment Precinct Kickstart Grant and Council will submit a planning proposal to establish the trial by 31 December 2025.

1.5 Explanation of provisions

The planning proposal seeks to align the planning provisions from four LEPs into a single set of controls for the LGA. The proposed LEP generally adopts the Standard Instrument clauses. Where the planning proposal seeks to implement provisions that differ from the existing or standard format, further explanation is provided. In most cases, clauses have been harmonised across the former LEPs. However, some provisions have been informed more strongly by one LEP over the others where this approach was found to better support Council's strategic intent—for example, where Pittwater or Manly provisions have taken precedence. Details are set out in the planning proposal (**Attachment A**) and the following supporting documents:

- comparison of LEP provisions and proposed approach (**Attachment I**).
- comparison of LEP land use tables and proposed approach (**Attachment H**).
- draft land use matrix (**Attachment J**).
- mapping (**Attachments C1-24**).
- explanation of provisions summary (**Attachment K**).
- key changes summary (**Attachment L**).
- Council's working draft LEP (**Attachment V**).

Draft mapping (**Attachment C**) adequately represents proposed changes and is suitable for community consultation. Council has also prepared an Online Interactive Spatial Mapping Tool. The mapping tool will provide an overview of existing and proposed zoning and mapping across the whole LGA, while also providing information for individual properties. This will include details on the proposed rezoning methodology and land use changes for any property in the LGA.

The planning proposal is a result of background studies undertaken, including:

- Local Strategic Planning Statement 'Towards 2040' (in effect from 26 March 2020).

- Local Environmental Plan/Development Control Plan (LEP/DCP) Discussion Paper (Council exhibited June-September 2021) (**Attachment U**).
- Council's Local Housing Strategy (approved 16 December 2021).
- Conservation Zones Review and technical studies (Council exhibited September-December 2022) (**Attachment T**).

Site specific planning proposals

There are a number of site-specific planning proposals at varying stages of the plan making process that will likely need to be included in the final LEP. Council has proposed to continue these proposals independently, incorporating into either the existing or new LEP as the proposals are finalised, dependent on timing.

The following sections provide an overview of what is proposed under the draft planning proposal (**Attachment A**). These provisions are assessed later in this report.

1.5.1 Preliminary provisions

This section of the planning proposal seeks to combine and harmonise standard introductory and overarching clauses from the former Manly, Pittwater and Warringah LEPs into the Northern Beaches LEP. Most provisions represent a direct translation from the Standard Instrument and existing LEPs. However, provisions that are not a direct translation are outlined as follows.

A. Clause 1.8A Savings provisions relating to development applications

This clause specifies that development applications lodged prior to the new LEP, but not determined, must be determined as if the Plan (i.e. Northern Beaches Comprehensive LEP) had not commenced. The planning proposal seeks to include an additional subclause to retain current permitted uses of all land under Warringah LEP 2000 (i.e. Oxford Falls Valley and Belrose North) for a period of two years under a “sunset” clause in the new LEP to allow landowners to make applications for those uses during that transitional period. This provision is proposed to take precedence from WLEP2000 and is introduced into the new LEP to address changes in permissibility from the translation of zoning. This is assessed in Sections 2 and 3.2 of this report.

B. Clause 1.9 Application of SEPP

This clause outlines that the LEP is subject to any provisions of State environmental planning policy that prevails. The planning proposal seeks to exclude Chapter 2, Part 2, Division 1 In-fill affordable housing of *State Environmental Planning Policy (Housing) 2021* from applying to the land to which proposed LEP clause 6.x ‘Affordable Housing’ applies. This is a new policy-led amendment not carried over from any LEP. This is assessed in Section 2 of this report.

1.5.2 Land use zones and tables

This section of the planning proposal seeks to translate, combine and harmonise land use zones for the draft Northern Beaches LEP (refer to **Attachment J Land use matrix**). While the general approach reflects broad alignment across the former MLEP2013, WLEP2011 and PLEP2014, several provisions are informed more strongly by one LEP than others to maintain local policy intent, environmental protection or consistency. Provisions that are not a direct translation are outlined as follows.

A. General zoning changes (refer to Section 3.4 of this report).

- Prohibit advertising structures (i.e. billboards) in all zones throughout the LGA.

- Prohibit water recreation structures in the R1 General Residential, R2 Low Density Residential and R3 Medium Density Residential zones.
- Prohibit service stations in the R3 Medium Density Residential Zone (PLEP2014 and WLEP2011 take precedence and applied across LGA).
- Permit hostels and semi-detached dwellings in the R3 Medium Density Residential Zone (MLEP2013 takes precedence and applied across LGA).
- Permit roads, building/business identification signs and environmental protection works in the SP1 Special Activities and SP2 Infrastructure zones (PLEP2014 takes precedence and applied across LGA).
- Permit camping grounds, caravan parks, eco-tourist facilities, function centres, as well as information and education facilities in the SP3 Tourist zone (PLEP2014 takes precedence and applied across LGA).
- Harmonise permissibility of uses such as take away food and drink premises, horticulture, markets, car parks, public administration buildings, recreation facilities (major), and water-related structures in the RE1 Public Recreation Zone.
- Harmonise permissibility of uses such as centre based childcare facilities, respite day care centres and water-related structures in the RE2 Private Recreation Zone. Permit recreation facilities (major) in the RE2 Private Recreation Zone.
- Permit registered clubs in the RE1 Public Recreation and RE2 Private Recreation zones provided they are incidental or ancillary to a recreation facility. This is accompanied by a proposed additional local provision (outlined in Section 1.5.6 of this report).
- Prohibit community facilities, recreation areas and mooring pens in the W1 Natural Waterways Zone (MLEP2013 takes precedence and applied across LGA).
- Permit boat sheds in the W4 Working Foreshore Zone.
- Permit environmental facilities in the RU4 Primary Production lots.
- Permit dual occupancy development in all R2 Low Density Residential zones subject to minimum allotment size and frontage requirements (refer to Section 1.5.4 of this report).
- Permit a range of infrastructure related uses to align with permissibility under various State Environmental Planning Policies (SEPPs), such as SEPP (Transport and Infrastructure) 2021.
- Permit environmental facilities in the C2 Environmental Conservation Zone (PLEP2014 takes precedence and applied across LGA).
- Prohibit eco-tourist facilities and recreation areas in the C2 Environmental Conservation Zone (WLEP2011 takes precedence and applied across LGA).
- Harmonise permissibility of community facilities, water-related structures (i.e. boatsheds, jetties etc) and recreation areas in the C3 Environmental Management Zone.
- Prohibit extensive agriculture, horticulture and farm buildings in the C3 Environmental Management Zone (PLEP2014 and MLEP2013 take precedence and applied across LGA).

- Harmonise permissibility of certain uses such as group homes, secondary dwellings, home industries, centre based childcare facilities, community facilities, places of public worship and water-related structures in the C4 Environmental Living Zone.
- Harmonise prohibition of water treatment and water storage facilities in the C4 Environmental Living Zone.
- Rezone certain land to a conservation (environmental) zone, including land currently zoned R2 Low Density Residential, R5 Large Lot Residential, existing conservation zones (C2, C3, C4), rural zones (RU2 and RU4), RE1 Public Recreation, and W1 Natural Waterways. This rezoning is informed by Council's Conservation Zones Review (**Attachment T**) and is assessed in Sections 3.1 and 3.3 of this report.
- Rezone 'deferred lands' (Belrose North and Oxford Falls Valley) in WLEP2000 to RU4 Primary Production Small Lots, C3 Environmental Management, R5 Large Lot Residential, R2 Low Density Residential, RE1 Public Recreation or SP2 Infrastructure Zone. Translations of the deferred lands from WLEP2000 to the proposed Standard Instrument zonings under the planning proposal will include some changes to land use permissibility. This is assessed in Section 3.2 of this report.

1.5.3 Exempt and complying development

This section of the planning proposal seeks to combine and harmonise complying development controls and most exempt development controls. While the approach generally aligns with the Standard Instrument LEP format, some provisions have been adapted or omitted to reflect existing local controls, particularly those from MLEP2013 and PLEP2014, and to avoid duplication with state policies. Exempt development provisions that are not a direct translation are outlined as follows.

- A. New exempt development provisions for advertising signage on Council land, including bus shelters, bins, and panels (refer to Section 3.4.1 of this Report):
 - Maximum area: 4m².
 - Must not be illuminated or neon-lit.
 - Must not be located on or adjacent to heritage items or in conservation areas.
 - Only permissible when erected by or on behalf of Council.
- B. Omit 'display of goods on footpath'; 'outdoor eating areas'; 'private electricity poles' and 'signs' – as these forms of development are exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Part 2 Division 2*.

1.5.4 Principal development standards

This section of the planning proposal seeks to combine and harmonise principal development standards from MLEP2013, WLEP2011 and PLEP2014 to form a consistent set of controls across the Northern Beaches LGA. While most provisions reflect broad alignment across the former LEPs, certain clauses introduce new development standards or have been informed more strongly by one LEP over the others. Provisions that are not a direct translation are outlined as follows.

- A. Clause 4.1 Minimum subdivision lot size

The planning proposal seeks to harmonise clause 4.1 (and supporting Lot Size Map – **Attachment C-20**), providing consistent subdivision controls across the Northern Beaches LGA. While the clause is common across the former LEPs, the objectives have been updated to reflect a more integrated intent—ensuring lots are safe, environmentally suitable, consistent

with local character, and avoid land fragmentation. A key amendment is the exclusion of access corridors (e.g. battle-axe handles) from lot size calculations.

Further, a new subclause allows for the subdivision of dual occupancies, provided the following criteria are met:

- Each of the lots resulting from the subdivision will be occupied by only one dwelling.
- Within the R2 Low Density Residential zone - Minimum lot size after subdivision: 400m² per lot.
- Within the R1 General Residential and R3 Medium Density Residential zones - Minimum lot size after subdivision: 200m² per lot.
- Excludes land within the Warriewood Valley Release Area.
- The clause also excludes access corridors from lot size calculations to ensure consistency.

B. Clause 4.1AA Minimum subdivision lot size for community title schemes

This clause introduces minimum subdivision lot sizes for land in community title schemes across applicable zones (RU2 Rural Landscape, RU4 Primary Production Small Lots, R2 Low Density Residential, R5 Large Lot Residential, C3 Environmental Management, and C4 Environmental Living) to be consistent with the Lot Size Map (**Attachment C-20**). The clause extends provisions that exist under PLEP2014 and WLEP2011 to areas under MLEP2013 and WLEP2000, where no such controls applied. This ensures a harmonised approach to subdivision across the LGA and prevents ad hoc fragmentation through community title mechanisms.

C. Clause 4.1# Minimum lot size and frontage controls for certain residential accommodation

This clause seeks to provide consistent development standards across the LGA, replacing the inconsistent or absent controls in the former Manly, Pittwater, and Warringah LEPs. The planning proposal also notes these proposed provisions are to replace density controls in the Pittwater LEP 2014 (clause 4.5A) and Manly DCP (4.1.1). This provision applies to dual occupancies, manor houses, multi-dwelling housing, residential flat buildings, and seniors housing (**Table 3**). This is assessed in Section 4.2 of this report. These standards do not apply to the Warriewood Valley Release Area, which retains its own density provisions. The clause introduces new minimum lot frontage requirements and harmonises lot size standards across R1, R2 and R3 zones. Lot size controls are informed by MLEP2013 and PLEP2014, while frontage controls are new.

Development type	Zone	Minimum lot size	Minimum frontage
Dual occupancy	R1, R3	400 m ²	15 m
	R2	800 m ²	18 m
Manor house	R1, R3	800 m ²	18 m
Multi-dwelling housing / residential flat building / seniors housing	R1, R3	1,000 m ²	20 m

Table 3: Proposed minimum lot size and frontage

D. Clause 4.1# Minimum subdivision lot size for strata subdivision (certain uses in certain zones)

This clause harmonises existing provisions from PLEP2014 and WLEP2011 and introduces them to land previously not covered under MLEP2013 and WLEP2000. Specifies minimum lot sizes are to be consistent with the Lot Size Map (**Attachment C-20**) for residential, tourist and

visitor accommodation in the RU4 Primary Production Small Lots, C3 Environmental Management and C4 Environmental Living zones; and dual occupancies in the RU2 Rural Landscape, R2 Low Density Residential and R5 Large Lot Residential zones.

E. Clause 4.3 Height of buildings

PLEP2014 clause takes precedence and consolidates existing clause objectives from the WLEP2011 and MLEP2013 (discussed further in Section 4.3 of this report). Harmonises existing development standards from the PLEP2014, MLEP2013, WLEP2011 and WLEP2000 for height of buildings without change, other than:

- Height increases for notional 2 and 3 storey mixed use development in E1 Local Centres to provide greater amenity and flexibility in the use of buildings over their lifespan – from 8.5m to 9.3m, and from 11m to 12.4m (**Table 4**).
- Height increases for Brookvale E4 Productivity Support zoned land from 11m to 18m.

Zone	Existing HOB LEP development standard	Notional number of storeys	Minimum ceiling height recommendations to guide proposed HOB LEP development standards	Proposed HOB LEP development standard
E1 Local Centre	8.5m	2 storeys	• Ground level: 4m-4.5m • Level 1: 3.6m to support office • Roof: 1.2m	9.3m (sum of floor to ceiling standards)
	11m	3 storeys	• Ground level: 4m-4.5m • Level 1: 3.6m to support office • Level 2+: 3.1m to support residential • Roof: 1.2m	12.4m (sum of floor to ceiling standards)

Table 4: Existing and proposed building heights. (Source: Attachment M-4, Height of Buildings Amendments for Certain Employment Zones Supporting Research and Analysis.)

Introduce new height limits where none currently apply in LEPs:

- Frenchs Forest Business Park: 11m base limit for all SP4 Enterprise zoned land. 21m limit for specific employment generating developments permissible with consent within SP4 Enterprise zoned land. This includes office premises, health services facilities, community facilities, educational establishments, light industries, public administration buildings, warehouse or distribution centres.
- Warringah Mall: introduce a 30m maximum height across the site. The Department notes a concurrent State Significant Development under the Housing Delivery Authority pathway which proposes alternative height controls.
- Height provisions for land that is steeply sloping (>30%) or flood prone to apply more broadly across the LGA. Existing PLEP2014 clauses are applied across the LGA. For instance, development on land with a maximum building height of 8.5m may exceed 8.5m

but be no more than 10.0m when a building footprint is situated on a slope in excess of 30% to minimise cut and fill (cl4.3(2D)).

F. Clause 4.4 Floor space ratio (FSR)

- This clause seeks to apply consistent FSR controls across the LGA by retaining the existing provisions from MLEP2013, PLEP2014 and WLEP2011, except for land zoned R2 Low Density Residential and C3 Environmental Management under MLEP2013, where revised FSRs are proposed to better reflect existing built form and environmental constraints (refer to Section 4.1 of this report).
- Introduces new FSR controls for land zoned R2, C3 and C4 in four geographic areas that previously had no FSR mapped, addressing long-standing inconsistencies between the former LEPs. This approach harmonises the FSR framework while incorporating targeted updates to support consistent development outcomes across both established and environmentally sensitive areas.

1.5.5 Miscellaneous provisions

This section of the planning proposal seeks to combine and harmonise miscellaneous provisions for the Northern Beaches LEP. Provisions that are not a direct translation are outlined as follows.

A. Clause 5.1A Development on land intended to be acquired for a public purpose

Harmonise all three LEP provisions. Results in permissible earthworks development for land mapped under the Pittwater LEP 2014 Land Reservation Acquisition Map for:

- RE1 Public Recreation (local and regional open space).
- SP2 Infrastructure (classified road).

(Refer to Section 5.2 of this report).

B. Clause 5.3 Development near zone boundaries

Omit clause that currently only applies to certain land under the WLEP2011 (refer to Section 5.3 of this report).

C. Clause 5.4 Controls relating to miscellaneous permissible uses

Harmonise these provisions and set standard limits as follows:

- Bed and breakfast accommodation: 3 bedrooms.
- Home businesses: 50sqm of floor area.
- Home industries: 50sqm of floor area.
- Industrial retail outlets: 40% of gross floor area of the associated industry or 400sqm, whichever is the lesser (MLEP2013 takes precedence and replaces 33% gross floor area in PLEP2014 & WLEP2011).
- Farm stay accommodation: 3 bedrooms.
- Kiosks: 55sqm (MLEP2013 takes precedence and replaces 20sqm and 50sqm in PLEP2014 & WLEP2011 respectively).
- Neighbourhood shops: 100sqm retail floor area (PLEP2014 takes precedence and replaces 80sqm in MLEP2013 & WLEP2011).
- Neighbourhood supermarkets: 1,000sqm gross floor area.
- Roadside stalls: 20sqm gross floor area (WLEP2011 takes precedence and replaces 9sqm and 10sqm in MLEP2013 & PLEP2014 respectively).

- Secondary dwellings (not in a rural zone): 60sqm or 25% of the total floor area of the principal dwelling, whichever is the greater. (PLEP2014 takes precedence and replaces 30% and 11% in MLEP2013 & WLEP2011 respectively).
 - Artisan food and drink industry exclusions (floor area for retail sales excluding any café or restaurant): 40% of gross floor area of the industry or 400sqm, whichever is the lesser (MLEP2013 takes precedence and replaces 33% in PLEP2014 & WLEP2011).
- D. Clause 5.5 Controls relating to secondary dwellings on land in a rural zone
- This clause is currently only included in PLEP2014 and applies to secondary dwellings on RU2 Rural Landscape zoned land. This is proposed to be carried over into the new LEP, retaining maximum limits of 60sqm or 25% of the total floor area of the principal dwelling (whichever is greater), with no controls specifying the maximum distance between the secondary dwelling and the principal dwelling.

1.5.6 Additional local provisions

This section of the planning proposal seeks to combine and harmonise additional local provisions for the Northern Beaches LEP. Provisions that are not a direct translation are outlined as follows.

A. Clause 6.x Active street frontages

This clause seeks to apply consistent controls for active street frontages across key centres in the LGA to support walkability and street-level vibrancy. The clause also adds 'community facility' as a permitted ground floor use to qualify as an active street frontage. It harmonises previously inconsistent or absent provisions across the former LEPs. The clause takes precedence from MLEP2013, where a similar provision applied to centres such as Seaforth, Balgowlah and Manly and is extended to additional centres identified through Council's Urban Design Study (**Attachment P-6**).

The clause updates and extends its application to centres including Avalon Beach, Collaroy, Dee Why – The Strand, Forestville, Freshwater, Manly Vale, Narrabeen, Newport, North Narrabeen, and Seaforth.

B. Clause 6.x Development in local centres

Introduce a clause that aims to retain hierarchy of neighbourhood and local centres. Neighbourhood centres to consider the impact of development on the surrounding neighbourhood (refer to Section 6.10 of this report).

C. Clause 6.x Noise impacts – licensed premises

This clause requires the consideration of noise impacts on nearby residential accommodation when granting development consent for licensed premises under the *Liquor Act 2007* (refer to Section 6.12 of this report). Extends MLEP2013 clause application to the LGA.

D. Clause 6.x Registered clubs in recreation zones

Introduce a clause to permit registered clubs with consent in Zones RE1 and RE2 across the LGA (arising from harmonising the LEPs) and to limit the potential impact of such development. Clause seeks to ensure that recreation zoned land is primarily used for its intended purpose of recreational activity and requires that any registered club is incidental or ancillary.

E. Clause 6.x Design excellence

WLEP2011 takes precedence and integrates MLEP2013. Extend the clause application area to other centres in the LGA for consistency (refer to Section 6.5 of this report). Clause would apply to all new builds and external alterations above 12m in height. Centres include

Manly Dee Why, Frenchs Forest, Mona Vale, Brookvale, Warringah Mall, Avalon, Balgowlah, Belrose, Collaroy, Dee Why-The Strand, Elanora Heights, Forestville, Freshwater, Manly Vale, Narrabeen, North Narrabeen, Newport, Palm Beach, Seaforth and Warriewood.

F. Clause 6.x Scenic protection

Introduce a clause that protects scenic and environmental qualities of ridgelines, escarpments and natural landforms. Requires new development to integrate with natural landscape and topography with minimised visual impact. Clause integrates WLEP2000 and WLEP2011 (refer to Section 6.9 of this report).

G. Clause 6.x Bushland and Biodiversity land

Harmonise MLEP2013 and PLEP2014 and introduce some additional provisions. Apply the clause to the entire LGA based on mapping from Council's Biodiversity Planning Review and Deferred Lands Biodiversity Assessment (**Attachments R and S**) (refer to Section 6.8 of this report).

H. Clause 6.x Landscaped areas in certain residential and conservation zones

This clause introduces a new local provision supported by a Landscaped Areas Map (**Attachment C-19**) to apply minimum landscaped area requirements across the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R5 Large Lot Residential, C3 Environmental Management, and C4 Environmental Living zones (refer to Section 6.2 of this report). It includes specific provisions for Area 1 (Scotland Island and Pittwater offshore communities) and Area 2 (Warriewood area). As this clause is not carried over from any existing LEP, it represents a new policy position rather than a harmonised provision.

I. Clause 6.x Coastline hazard management

Harmonise PLEP2014 and WLEP2011 with additional provisions. Extend the application of this clause LGA wide, with approximately 14 new properties added (**Attachment C-6 Coastal Hazards Map**) (refer to Section 6.6 of this report).

J. Clause 6.x Geotechnical planning

The clause introduces seven planning classes reflecting soil and slope angle conditions to improve management of landslip risk. It also alters which clause it is applicable to under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. PLEP2014 takes precedence and integrates MLEP2013, WLEP2011 and WLEP2000 (refer to Section 6.11 of this report).

K. Clause 6.x Dual Occupancies

Dual occupancies are being introduced as 'permitted with consent' for properties throughout the LGA in the R2 Low Density Residential zone – this is a harmonisation outcome that represents a change in the WLEP2011 R2 zone where such development is not currently permitted (refer to Section 6.1 of this report). Such development is currently permitted in the R2 zone in MLEP2013 and PLEP2014, however is subject to varying density and subdivision restrictions, which are proposed to be removed and replaced with the 'Minimum lot size and frontage for certain residential accommodation' clause.

L. Clause 6.x Mix of dwelling sizes in residential flat buildings and mixed-use development

Introduce a clause to require a mix of dwelling sizes in residential flat buildings and mixed-use developments. Requires residential flat buildings and mixed-use developments containing at least 10 dwellings to provide:

- At least 20% of dwellings as studios/1-bedroom units.
 - At least 20% of dwellings as 3-bedroom units or larger.
- (Refer to Section 6.3 of this report).

M. Clause 6.x Secondary dwellings

This clause retains existing provisions from MLEP2013 (clause 6.22) and WLEP2011 (clause 6.10) and extends their application across the LGA to provide a consistent approach. It allows for additional floorspace (up to 75sqm) where the secondary dwelling is attached to the principal dwelling, consistent with existing provisions in MLEP2013 and WLEP2011. This harmonised approach also supports environmental objectives by mitigating tree loss and limits the clause to attached forms only ensuring consistency and protecting local amenity.

N. Clause 6.x Environmental sustainability

Introduce a clause to require sustainable building design requirements for developments not captured within *State Environmental Planning Policy (Sustainable Buildings) 2022* including:

- Residential flat buildings under five storeys.
- Non-residential buildings under \$5 million and alterations/additions up to \$10 million.
- Other uses such as residential care facilities, shopping centres and the like.

It is noted example provisions are provided under Georges River LEP clause 6.11 and other LEPs (refer to Section 6.4 of this report).

O. Clause 6.x Watercourses, wetlands and riparian lands

This clause aims to protect and maintain water quality, bank and bed stability, ecological process, and aquatic and riparian habitats (refer to **Attachment C-22 Riparian Lands, Watercourses and Wetlands Map**), and sets out matters the consent authority must consider before granting consent to development i.e. to avoid, minimise or mitigate any adverse impact. MLEP2013 takes precedence and integrates clauses within PLEP2014 and WLEP2000 with some additional changes (refer to Section 6.7 of this report). It is proposed to expand application of the clause to the entire LGA.

1.5.7 Part 7A French Forest Precinct

This part is a translation of the existing provisions in the WLEP2011 into this draft LEP, except for the removal of the design excellence provisions. The design excellence provisions are no longer required under this part as the provisions are proposed to be captured under the additional local provision for design excellence under Part 6 of the draft LEP.

1.5.8 Part 7B Dee Why Town Centre

This part is a translation of the existing provisions in the WLEP2011 into this draft LEP.

1.5.9 Part 7C Warriewood Valley Release Area

This part is a translation of the existing provisions in the PLEP2014 into this draft LEP, except for the removal of the design excellence provisions. The design excellence provisions are no longer required under this part as the provisions are proposed to be captured under the additional local provision for design excellence under Part 6 of the draft LEP.

1.5.10 Part 7D Development in St Patrick's Estate

This part is a translation of the existing provisions of clause 6.19 of Manly LEP 2013, with additional objectives (see (d) and (e) under), and a new heading of “Access, view and location of buildings” which incorporates the development controls for each precinct.

(d) to conserve, enhance and restore elements of built and natural heritage items of State and local significance and permit development that is compatible with the preservation, restoration and maintenance of items of environmental heritage within the zone,

(e) to protect vistas to and from heritage items of local and State significance and preserve and protect the setting, consistent with the pre-eminence of principal heritage buildings when viewed from within the setting, and surrounding areas and vantage points.

1.5.11 Schedule 1 Additional permitted uses

This section of the planning proposal seeks to harmonise additional permitted uses (APUs) for the Northern Beaches LEP (refer to Section 3.5 of this report). Provisions that are not a direct translation are outlined as follows.

- 9 APUs are removed. Intended effects of these APUs are achieved elsewhere in the proposal.
- 4 APU areas are modified. Proposed zoning changes permits uses in select areas. APUs modified to remove these areas.
- 38 APUs are introduced including:
 - Boarding houses and hostels within 400m of select E1 Local Centre zones.
 - Shops in Balgowlah E3 Productivity Support zone
 - Attached dwellings, hostels, multi dwelling housing, semi-detached dwellings, shop-top housing, indoor recreational facilities, backpacker's accommodation, hotel or motel accommodation, restaurants or cafes, service stations, serviced apartments, shop top housing, take away food and drink premises, indoor recreational facilities and boatsheds in select R2 Low Density Residential zones. Proposed land uses are not applied to all APUs and are site-specific for separate locations.
 - Attached dwellings, dual occupancies (attached), multi dwelling houses, residential flat buildings and semi-detached dwellings in select C4 Environmental Living zones.
 - Permissible land uses in RU4 Primary Production Small Lot zones currently operating under WLEP2000.

1.5.12 Schedule 5 Environmental heritage

The proposed Schedule 5 heritage listings reflect a harmonisation of all items contained in MLEP2013, PLEP2014, WLEP2011 and WLEP2000 (refer to Section 5.1 of this report). The amalgamation process incorporated a comprehensive review to ensure consistency and standardisation was achieved. In summary, these changes include:

- 37 expanded item descriptions.
- Four deleted items.
- One new item is proposed, being: Parkhill Cottage and Stables, adjacent to the former Manly Hospital site.
- Three amalgamated items.

- Expanded and reduced extents of heritage items.
- Property and mapping naming convention updates.
- Category changes, i.e. from heritage conservation area to heritage item.
- Inclusion of Aboriginal items and places.

1.5.13 Mapping

The planning proposal includes proposed maps for the draft LEP. Part 4 of the Planning proposal describes the methodology and supporting studies that have informed mapping, including the existing LEP maps from MLEP2013, PLEP2014, WLEP2011 and WLEP2000.

Throughout the report, maps associated with proposed and amended LEP clauses have been identified as requiring updates as detailed in the Gateway determination (**Attachment Gateway**) as discussed in the following sections of this report (also refer to Section 6.13 of this report). These maps include:

- Land zoning.
- Height of buildings.
- Floor space ratio.
- Landscaped area.
- Coastal hazards.
- Riparian lands, watercourses and wetlands.
- Land reservation acquisition.
- Additional Permitted Uses.

1.6 Need for the planning proposal

Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The planning proposal has been prepared as the *Environmental Planning and Assessment Act 1979* requires that all councils review their LEPs. The planning proposal arises from Northern Beaches Council's intent to create a single Standard Instrument LEP for the amalgamated local government area. The introduction of a single comprehensive LEP will give effect to the Region and District Plans as well as several strategic reports and studies which underpin the Northern Beaches Local Strategic Planning Statement.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the best means to achieve implementation of the new LEP.

The Department has undertaken an assessment of the planning proposal and supporting draft LEP provisions in the following sections of this report.

1.6.1 Local planning panel recommendation

The planning proposal was reported to the Local Planning Panel (LPP) on 23 May 2024 (**Attachment V**). The LPP did not recommend any changes to the proposal but did identify several matters that should be further considered during the drafting stage of the LEP. Key matters for consideration identified by the LPP and Council's subsequent consideration (**Attachment X – Council Meeting Agenda 17 June 2024**) include:

- Minor typographical and drafting errors – updated in planning proposal (**Attachment A**) and supporting documents submitted for Gateway.
- Ongoing discussions between Council and the Department prior to public exhibition of the planning proposal – noted.
- Concurrent exhibition of the draft Development Control Plan (DCP) and planning proposal – noted.
- Consideration of corner sites and lot width controls in relation to dual occupancies - Noted. The proposed lot width control for dual occupancies (18 metres) is based on recommendations of the Urban Design Study commissioned by Council for the new LEP and DCP. It is proposed to permit detached dual occupancies on lots with dual street frontages (includes corner lots). The DCP will provide guidance in support of the LEP clause. Final drafting of LEP clauses takes place following exhibition of the Planning Proposal. This matter will be reviewed at that time having regard to submissions and advice from the Department.
- Review of proposed content of the LEP and DCP to avoid conflict with equivalent provisions in State Environmental Planning Policies (SEPP) – noted.
- Review of LEP and DCP provisions to ensure that provisions are located within the most appropriate regulatory instrument, and to maximise complementarity – noted.
- Reconsideration of the necessity of the clause regarding noise impacts from licensed venues, including if any Special Entertainment Precincts are being considered - Noted. This draft clause currently exists in Manly LEP 2013 and has been included in the planning proposal for a consolidated LEP for the purposes of public exhibition. Further consideration will be given to this clause together with any submissions that may be received as part of the exhibition process.

Council notes the final drafting of the LEP following exhibition of the planning proposal will address most of the matters raised by the LPP.

Council notes, overall, the proposal was supported by the LPP and should proceed.

2 Preliminary provisions

The planning proposal seeks to combine and harmonise standard clauses for the proposed Northern Beaches LEP. Provisions that are not a direct translation include parts of Clause 1.8A Savings provisions relating to development applications and Clause 1.9 Application of SEPP.

Under Clause 1.8A, the planning proposal seeks to retain current permitted uses of all land under Warringah LEP 2000 (i.e. Oxford Falls Valley and Belrose North) for a period of two years under a “sunset” clause in the new LEP to allow landowners to make applications for those uses during that transitional period. This is not supported by the Department.

It is noted the proposed rezoning of land under the Warringah LEP 2000 and draft provisions have been publicly available since the planning proposal was reported to Council in June 2024 (**Attachment A**). Given the remaining steps of the planning proposal process for the draft Northern Beaches Comprehensive LEP, it is considered there is sufficient time for development applications for any permissible uses under the WLEP2000 that are not being translated to the draft LEP to be lodged with Council.

Council has provided sufficient evidence and justification for the proposed translated zoning for Oxford Falls Valley and Belrose North (**Attachment D**) and the Department considers the proposal appropriate to proceed to public exhibition. It is recommended the Gateway determination include a condition for the planning proposal and supporting documentation to remove any references to Clause 1.8A savings provisions relating to Oxford Valley Falls and Belrose North. This is assessed further in Section 3.2 of this report.

The proposed amendment to Clause 1.9 of the Northern Beaches LEP, which seeks to exclude Chapter 2, Part 2, Division 1 of the Housing SEPP, is not supported. The Housing SEPP is a state policy designed to apply uniformly across NSW to support the delivery of affordable housing. Local exclusions are generally not permitted unless explicitly allowed by the SEPP.

This exclusion would undermine key objectives of the Greater Sydney Region Plan and the North District Plan, particularly Objective 10 (increased housing supply), Objective 11 (housing diversity and affordability), and Planning Priority N6 (housing supply, choice and affordability in the right locations). These strategies emphasise the importance of delivering housing in well-located areas with access to jobs, services, and public transport.

The Northern Beaches Local Housing Strategy identifies a significant shortfall in affordable housing, with a target of 1,880 new affordable dwellings by 2036. Excluding the Housing SEPP in-fill provisions would limit opportunities to meet this target, especially in areas close to centres and transport.

No strategic justification has been provided to support the exclusion. The planning proposal does not demonstrate how the Housing SEPP would conflict with local planning objectives or result in adverse outcomes. Instead, it risks reducing housing diversity and supply in well-located areas.

Recommendation: Gateway determination to include a condition for the planning proposal and supporting documents to remove any references to amendments to:

- Clause 1.8A savings provisions seeking deferred commencement/sunset clause of 2 years for Oxford Falls and Belrose Noth under Warringah LEP 2000.
- Clause 1.9 seeking exemption from affordable housing provisions under the Housing SEPP.

3 Land use zones

The following section further details the proposed land use zoning provisions and provides the Department's assessment and recommendations. Certain provisions that are not further detailed in the following section are supported by the Department to proceed through Gateway determination without amendment.

3.1 Conservation zones – general

The planning proposal seeks to rezone certain land to a conservation (environmental) zone including land in existing Low Density Residential zones (Zone R2 Low Density Residential and R5 Large Lot Residential), Conservation zones (Zones C2 Environmental Conservation, C3 Environmental Management and C4 Environmental Living) and Rural zones (Zone RU2 Rural Landscape and RU4 Primary Production Small Lots).

As noted in section 1.4 of this report, Council had placed their Conservation Zones Review on preliminary non-statutory exhibition in 2022. **Table 5** provides a summary of the key changes to the conservation zoning methodology from what was exhibited in 2022 to what has been used to inform the current planning proposal.

Exhibited methodology	Submitted methodology
Hazard criteria = c-zone	Hazard criteria removed from methodology
Range of environmental criteria = c-zone	- Some environmental criteria removed 1 new criteria added
'Weighting' system (high, med) used to see if conservation value on site = c-zone 'Threshold' and 'split-zoning' system used	- Weighting system removed - Threshold system tweaked - Split-zoning: More proposed split-zones
- Supporting tech studies from 2021 - Limited ground-truthing (field survey) - Evidence - Aerial imagery + local knowledge	- Supporting tech studies, no new studies - Field survey conducted potentially on properties that raise an issue during exhibition - Evidence – Besides some field surveys, no change

Table 5: Summary of key changes to the conservation zoning methodology

In 2022, Council's exhibited Conservation Zones Review also proposed 3,632 properties in the former Pittwater LGA to be rezoned to a Residential Zone. However, the Department advised (20 November 2023) for Council to retain all existing C4 Environmental Living land in Pittwater. This was informed by the Department's detailed analysis of Council's framework, environmental criteria, thresholds and weighting. The Department supports the retention of existing conservation zones throughout the existing LEPs, highlighting the Pittwater area and its extensive utilisation of the C4 Environmental Living zone. The Department noted the fact that existing C4 Environmental Living zoned land may not fulfil the thresholds of Council's framework; this did not preclude a detailed assessment of the appropriateness of a residential zone for the Pittwater area, which Council had not undertaken. As such, it was recommended C4 zoned land in Pittwater should be retained. The following assesses proposed conservation rezonings (not including deferred lands or recreation areas which are discussed in the following sections of this report).

3.1.1 Assessment

Residential zones to conservation zones – partially supported

The proposed rezonings from R2 Low Density Residential and R3 Medium Density Residential to C2 Environmental Conservation (approximately 40 lots) apply to sites that are Council owned reserves comprising predominantly of native vegetation, identified in a Plan of Management, and managed as natural areas. These rezonings are supported, particularly as they are consistent with key objectives and priorities of the strategic planning framework including Greater Sydney Region Plan Sustainability Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced; and North District Plan Sustainability Priority N16 Protecting and enhancing bushland and biodiversity. The proposed rezonings are also consistent with a similar priority under Council's Local Strategic Planning Statement (Sustainability Priority 2).

It is recommended the Gateway determination to include a condition requiring the planning proposal to be updated to include specific details and analysis for the subject sites proposed to be rezoned from R2 Low Density Residential and R3 Medium Density Residential to C2 Environmental Conservation.

Residential zones to conservation zones – partially not supported

The proposed rezonings of residential zones to conservation zones as outlined in **Table 6** (R5 to C3, R2 to C4 and R5 to C4) are not supported to proceed as it will result in potential limitations and/or reduction of housing supply.

Zone Current	Zone Proposed	Number of Lots (note some lots are part of split zones)
R5 Large Lot Residential	C3 Environmental Management	19
R2 Low Density Residential	C4 Environmental Living	741
R5 Large Lot Residential	C4 Environmental Living	73

Table 6: Proposed rezonings for residential type zones to conservation zones

The following provides a strategic merit assessment regarding the proposed residential to conservation rezonings. The planning proposal includes general amendments to support delivery of a mix of housing types that respond to community needs and minimise land use conflicts in accordance with Council's Local Housing Strategy. It is noted there has been State policy changes to boost housing delivery, including State Environmental Planning Policy (Housing) 2021 – Low and Mid-Rise Housing Policy (discussed in section 1.4 of this report). However, irrespective of these other initiatives to support housing delivery, any changes that will adversely impact housing supply cannot be supported.

Although the proposal is aiming to be consistent with biodiversity priorities under the Greater Sydney Region Plan (Sustainability Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced), North District Plan (Sustainability Priority N16 Protecting and enhancing bushland and biodiversity), and Northern Beaches Local Strategic Planning Statement (Sustainability Priority 2 Protected and enhanced bushland and biodiversity), it is also inconsistent with key housing priorities.

The proposed rezoning of residential land to conservation land is inconsistent with housing priorities under the Greater Sydney Region Plan (Liveability Objective 10 Greater housing supply and Liveability Objective 11 Housing is more diverse and affordable), North District Plan (Liveability Priority N5 Providing housing supply, choice and affordability, with access to jobs, services and public transport), and Northern Beaches Local Strategic Planning Statement (Liveability Priority 15 Housing supply, choice and affordability in the right locations).

It is also noted that the proposed rezonings will adversely affect readily available land for residential development with the loss of some permissible residential uses. The **Table 7** provides an overview of the permissible residential uses that will be lost with the proposed rezonings from a residential zone to a conservation zone.

Current zone	Proposed zone	Change to residential uses
R5 Large Lot Residential	C3 Environmental Management	Loss of dual occupancies (attached) and secondary dwellings as permissible land uses.
R2 Low Density Residential	C4 Environmental Living	Loss of dual occupancies and secondary dwellings as permissible land use.
R5 Large Lot Residential	C4 Environmental Living	Loss of attached dual occupancies and group homes as permissible land uses.

Table 7: Proposed rezonings for residential to conservation zones and changes to permissible residential uses

Further, Section 9.1 Direction 6.1 Residential Zones applies to the planning proposal as it affects land within existing residential zones). Part 2(b) of the direction states a planning proposal must not contain provisions which will reduce the permissible residential density of land. The direction provides that a planning proposal may be inconsistent with the terms of the direction if the proposed provisions are adequately justified and supported by a strategy approved by the Planning Secretary, supported by studies, in accordance with the Region Plan or District Plan or if of minor significance.

The Department considers the proposed residential to conservation rezonings from R5 to C3, R2 to C4 and R5 to C4, to be inconsistent with this direction as it will result in provisions that adversely affect readily available land for residential development and is not adequately justified by strategic plans (outlined above) or studies supporting the planning proposal.

The primary objectives of the proposed conservation zones are to limit the adverse effects of development on any areas of ecological, scientific, cultural or aesthetic values. It is noted the proposed C4 Environmental Living zone includes an objective to provide for low density residential development in urban areas that integrate with the landscape. However, the existing objectives of current residential zones are primarily to provide for housing, and further it is noted an objective of the R5 Large Lot Residential zone is “*to provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*” The existing objectives of the R5 zone sufficiently achieves a similar intent for those sites proposed to be rezoned from R5 to C3 or C4.

The Department considers that insufficient justification or ground truthing has been provided in the planning proposal to support the loss of residential zoned land. The Department and NSW Department of Climate Change, the Environment, Energy and Water – Conservation Programs, Heritage and Regulation (CPHR) have previously provided advice to Council regarding the extent of ground truthing needed to demonstrate conservation and ecological value of land (as discussed in Section 1.4 of this report and at **Attachment Y**).

Irrespective of the insufficient level of justification for the proposed rezonings, the Department does not support the provisions as they adversely impact housing supply. It is recommended for the Gateway determination to include a condition requiring removal of any references to the rezoning of residential zoned land to conservation zones.

Conservation zones to other conservation zones - supported

The proposed rezoning of conservation zones to other types of conservation zones is outlined in **Table 8**. These rezonings are supported.

Zone Current	Zone Proposed	Number of Lots (some lots are split zoned)
C4 Environmental Living	C2 Environmental Conservation	5
C4 Environmental Living	C3 Environmental Management	64
C3 Environmental Management	C4 Environmental Living	413

Table 8: Proposed rezonings for conservation zones

The proposed rezonings from C4 Environmental Living to C2 Environmental Conservation are supported, particularly as these rezonings apply to undeveloped, vegetated public land as summarised in the **Table 9**.

Site	Council findings
21A Elizabeth Street, Avalon Beach (Lot 5 DP773307)	Land devolved to Council and managed as a reserve. Predominantly native vegetation and managed as a natural area.
62 Hillside Road, Newport (Lot 1 DP408800)	New reserve dedicated to Council adjacent to Attunga Reserve. Reserve predominantly native vegetation and to be managed as a natural area.
85 Hillside Road, Newport (Lot 2 DP1036400)	New reserve dedicated to Council proposed for split C2/C4. Reserve predominantly native vegetation and to be managed as a natural area.
6 Burke Street, Newport (Lot 7024 DP1059263)	Publicly owned land adjoining Porter Reserve proposed to rezone from C4 to predominantly C2 (bushland) and part RE1.

Table 9: Proposed rezonings from C4 Environmental Living to C2 Environmental Conservation (including split zones) and Council findings

The proposed rezonings from C3 Environmental Management to C4 Environmental Living and from C4 Environmental Living to C3 Environmental Management (along Cottage Point) are supported to proceed as they primarily relate to the harmonisation of these zones under existing LEPs to aligned zones and permissibility under the proposed Northern Beaches LEP (refer to **Attachment J - land use matrix**).

These rezonings are consistent with key objectives and priorities of the strategic planning framework including Greater Sydney Region Plan Sustainability Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced; and North District Plan Sustainability Priority N16 Protecting and enhancing bushland and biodiversity. The proposed rezonings are also consistent with a similar priority under Council's Local Strategic Planning Statement (Sustainability Priority 2).

Further, it is noted Section 9.1 Direction 3.1 Conservation zones applies as the planning proposal seeks to rezone some conservation zones to other conservation zones. The direction provides that a planning proposal may be inconsistent with the terms of the direction if the proposed provisions

are adequately justified and supported by a strategy approved by the Planning Secretary, supported by studies, in accordance with the Region Plan or District Plan or if of minor significance. As the rezonings only seeks to rezone existing conservation zones where there is a realignment of permissibility under the proposed Standard Instrument zonings for the draft Northern Beaches LEP or for public land, any inconsistency with Direction 3.1 is of minor significance.

It is recommended for the Gateway determination to include a condition for the planning proposal to be updated to include specific details and analysis for subject sites proposed to be rezoned from C4 Environmental Living to C2 Environmental Conservation; and a sample of sites proposed to be rezoned from C3 Environmental Management to C4 and C4 Environmental Living to C3 Environmental Management.

Non-urban, non-residential zones to conservation zones - supported

The proposed rezonings of non-urban, non-residential zones to conservation zones as outlined in **Table 10** are supported.

Zone Current	Zone Proposed	Number of Lots (note some lots are part of split zones)	Council findings
SP4 Enterprise	C2 Environmental Conservation	1	Part of Austlink Business Park. Council owned reserve predominantly comprising native vegetation.
RU4 Primary Production Small Lots	C2 Environmental Conservation	3	Council owned reserves predominantly native vegetation and managed as Natural Area. Biodiversity Core habitat identified by Council's Biodiversity Planning Review. Land primarily around Duffys Forest/Terrey Hills.
RU2 Rural Landscape	C3 Environmental Management	271	Land primarily around Ingleside containing undeveloped bushland of high environmental value as identified in the Biodiversity Planning Review.

Zone Current	Zone Proposed	Number of Lots (note some lots are part of split zones)	Council findings
RU4 Primary Production Small Lots	C3 Environmental Management	66	Land primarily around Duffys Forest/Terrey Hills containing undeveloped bushland of high environmental value as identified in the Biodiversity Planning Review.

Table 10: Proposed rezonings for other zones to conservation zones and Council's findings

It is recommended for the Gateway determination to include a condition requiring the supporting Biodiversity Planning Review be attached to the planning proposal and for the planning proposal to be updated to include details and analysis for specific sites (including all sites proposed to be rezoned from SP4 to C2, RU4 to C2 and some sample sites proposed to be rezoned from RU2 to C3 and RU4 to C3).

Recommendation:

Include a condition in the Gateway determination to require the planning proposal and supporting documentation to:

- Include the Biodiversity Planning Review as an attachment to the planning proposal.
- Include specific details and analysis for the subject sites proposed to be rezoned from C4 Environmental Living to C2 Environmental Conservation and some sample sites proposed to be rezoned from C3 to C4 and C4 to C3.
- Include details and analysis for specific sites (including all sites proposed to be rezoned from SP4 to C2, RU4 to C2 and some sample sites proposed to be rezoned from RU2 to C3 and RU4 to C3).

3.2 Conservation zones – deferred lands

The Warringah LEP 2011 includes land identified as “deferred”, being land subject to non-Standard Instrument provisions under the Warringah LEP 2000. Deferred lands cover approximately 1,341 hectares in the Oxford Falls Valley and Belrose North. Most of the land is characterised by large lots containing significant areas of native vegetation and/or bushland. Some allotments contain residential dwellings, outbuildings, educational establishments, rural and commercial uses. Many allotments have been cleared to varying degrees for rural and residential uses.

Warringah LEP 2000 uses Locality Statements that outline desired future character, land use and built form. The approach to land use permissibility differs from current approach, as it also includes a scale of assessment relative to categories of uses.

The planning proposal seeks to translate the current approach from the Warringah LEP 2000 to Standard Instrument zoning shown in **Figure 4** and discussed in **Attachment D – Deferred Lands Background and Proposed Approach**. The Warringah LEP 2000 areas being reviewed are:

- B2 – Oxford Falls Valley (land located to the eastern side of Forest Way) and
- C8 – Belrose North (land located to the western side of Forest Way).

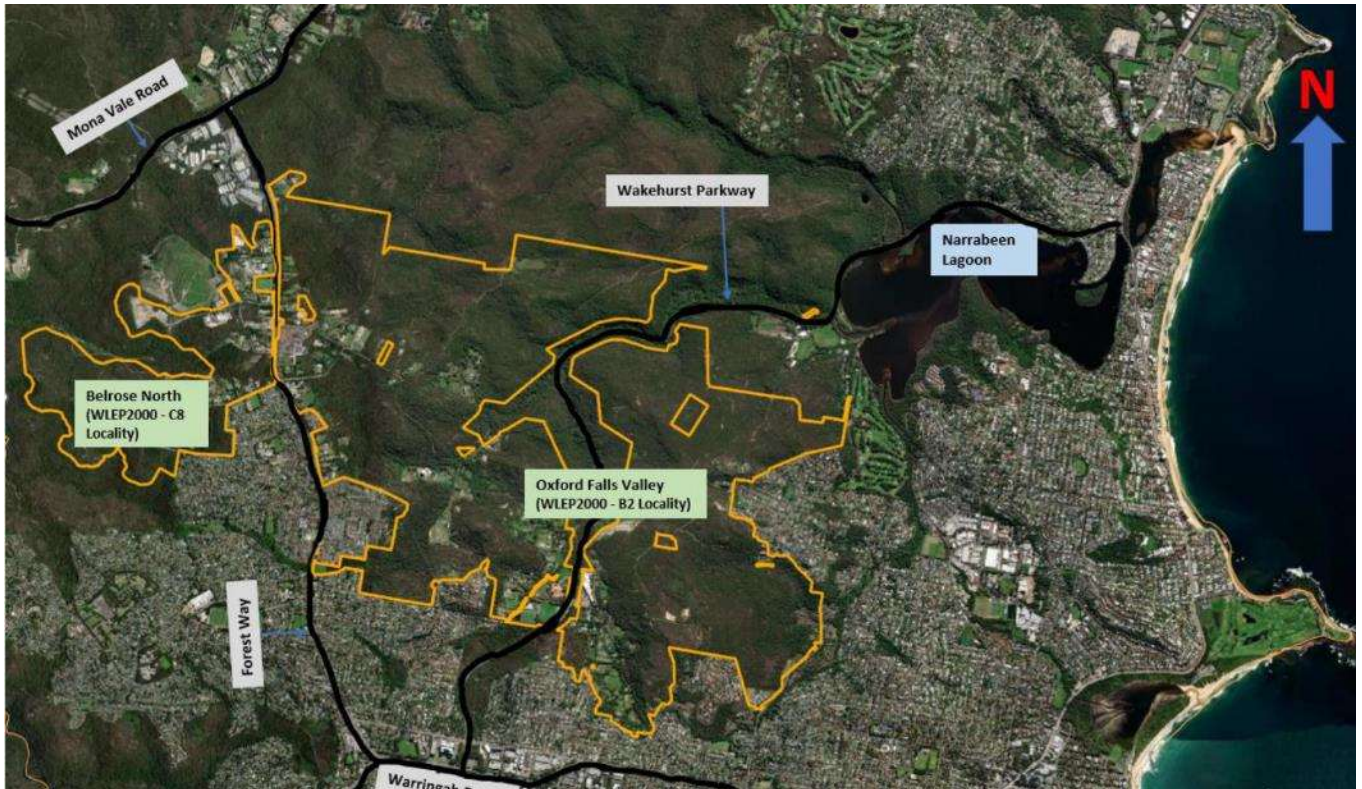


Figure 4: Deferred Lands Aerial of Oxford Falls Valley and Belrose North outlined in orange (Source: Attachment D)

3.2.1 Assessment

The planning proposal seeks to translate zoning for the deferred lands based on existing uses and the environmental values of each site on a lot-by-lot basis. The proposed zones for the deferred lands are detailed in **Attachment D – Deferred Lands Background and Proposed Approach**. It is noted the proposal:

- Maintains and expands, where appropriate, R2 Low Density Residential and R5 Large Lot Residential zoned land.
- Zones the majority of the deferred lands as C3 Environmental Management.
- Zones 'no-to-moderate' constrained land as RU4 Primary Production Small Lots.
- Specifically excludes C3 Environmental Management zoning from all cleared land/land used for agriculture or other uses.
- Is informed by Council's Biodiversity Assessment of Deferred Lands Stage 1: Review of Existing Information – Draft June 2021 by Arcadis (**Attachment S**). The study provides sufficient 'ground truthing' justification for the extent of native vegetation and presence of threatened species in the deferred lands.

- Is informed by a 2012-2014 Strategic review undertaken as a joint Department and Council project.
- Is informed by an analysis of current use of land, and of approvals granted since 2011.
- Addresses 'Key Considerations' outlined in **Attachment D – Deferred Lands (detailed background)** May 2024 (primarily around permissibility/land uses).

It is noted the translation of the deferred lands from WLEP2000 to the proposed Standard Instrument zonings under the planning proposal will include some changes to land use permissibility (**Attachment H – Land Use Tables and Proposed Approach**). It is noted seniors housing has been constructed on two sites in Belrose within the deferred lands. These sites are currently proposed to be R5 Large Lot Residential. It is recommended for the Gateway determination to include a condition requiring these sites be proposed to be zoned R2 Low Density Residential to more appropriately reflect the seniors housing use of the sites aligned to Council's approach to the remainder of the area.

The following provides a strategic merit assessment regarding the proposed rezoning of deferred matter land. The proposed rezoning gives effect to the Standard Instrument (Local Environmental Plans) Order 2006 in that it seeks to apply standard instrument zoning for lands deferred from the Warringah LEP 2011 for Oxford Falls Valley and Belrose North. The proposed rezoning is generally consistent with the overall intent of the Greater Sydney Region Plan, North District Plan. Council's Local Housing Strategy identifies strategies to meet the Department's housing targets for next 20 years within existing urban areas.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

The Codes SEPP sets out requirements for exempt development (i.e. minor development that does not require any form of approval if certain standards are met) and complying development (i.e. development that can be approved by an accredited certifier subject to compliance with the standards outlined in the SEPP). Clause 1.6(1A) of the SEPP states "*Land identified as "Deferred matter" on the Land Application Map within the meaning of Warringah Local Environmental Plan 2011 is, for the purposes of this Policy, taken to be in Zone E3 (now C3) Environmental Management.*"

It is noted some exempt development is permitted on C3 zoned land (subject to other provisions within the Codes SEPP), however complying development is not permitted. The proposal to rezone certain land to C3 Environmental Management will not result in any changes to the current permissibility for complying development.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 3 of *State Environmental Planning Policy (Planning Systems) 2021* – (previously known as the Aboriginal Lands SEPP) identifies six sites in the Northern Beaches LGA. These sites are subject to the Northern Beaches Aboriginal Land Development Delivery Plan (DDP). The SEPP was introduced to provide greater support to Aboriginal Land Councils via the NSW planning system to achieve their aspirations and realise community benefits under the *Aboriginal Land Rights Act 1983*.

Many of these sites are located within the deferred land. **Attachment D** provides an overview of these sites, detailing the planning opportunity identified in the DDP and proposed zoning under the NBLEP.

Recommendation: Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to:

- Detail zoning and land use permissibility changes for the deferred lands from WLEP2000 to the proposed Standard Instrument zonings in the planning proposal document.
- Update the proposed zone for two existing seniors living sites in Belrose from R5 Large Lot Residential to R2 Low Density Residential.

3.3 Conservation zones – recreation areas

The planning proposal seeks to rezone certain land from RE1 Public Recreation or W1 Natural Waterways to C2 Environmental Conservation where there is notable conservation value. This includes:

- Mostly Council owned/ managed reserves.
- Natural Areas under Council's Plans of Management.
- Private land where conservation mechanisms exist.
- Waterbodies where wildlife refuges or aquatic reserves exist.

There is a total of 826 sites (or approximately 1,200 hectares) currently zoned RE1 Public Recreation or W1 Natural Waterways that will be wholly or partially rezoned to a conservation zone. In a few instances, some RE1 land is also proposed to be rezoned to C3 Environmental Management or C4 Environmental Living, in accordance with the Department's Environmental Protection Zones Practice Note.

Council notes these areas will still be able to be used for public recreation with proposed split and updated zones to ensure protection of conservation value land and alignment with Council's plans of management. Council's approach assesses public recreation uses and site-specific outcomes.

The Department requested Council to provide some examples as well as an overview of their mapping. An example includes Manly Dam as shown in **Figures 5-6**.



Figure 5: Proposed rezoning of land around Manly Dam from RE1 Public Recreation to C2 Environmental Conservation.

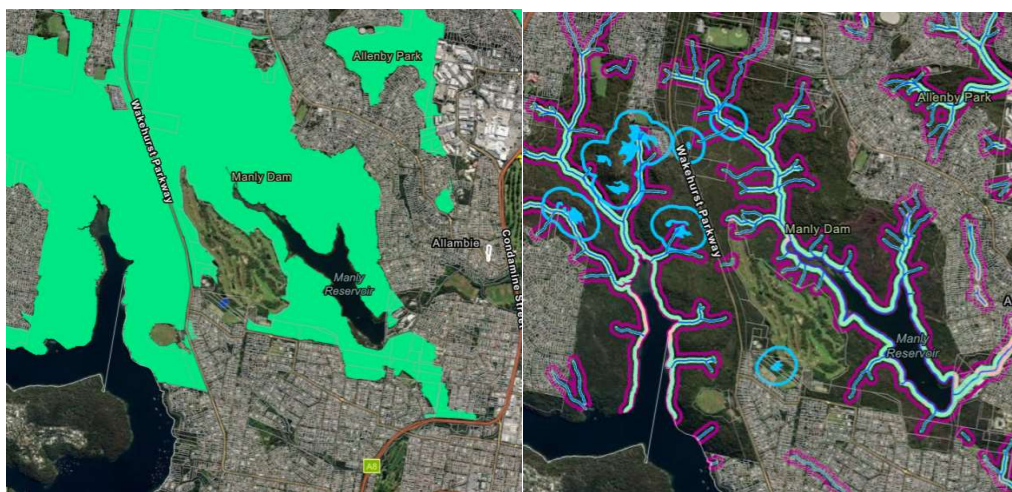


Figure 6: Council ecological value mapping informing the proposed rezoning of land around Manly Dam - Wetland area and core biodiversity habitat.

3.3.1 Assessment

As the proposed rezoning of recreational and waterway areas to conservation zones will not limit potential delivery of core land uses and is consistent with Council's plans of management for these public lands, it is consistent with the strategic framework. This includes the following key objectives and priorities.

Greater Sydney Region Plan - Sustainability objectives -

- 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced.
- 28 Scenic and cultural landscapes are protected.
- 29 Environmental, social and economic values in rural areas are protected and enhanced.
- 30 Urban tree canopy cover is increased.
- 31 Public open space is accessible, protected and enhanced.

North District Plan– Sustainability priorities -

- N16 Protecting and enhancing bushland and biodiversity
- N17 Protecting and enhancing scenic and cultural landscapes
- N18 Better managing rural areas
- N20 Delivering high quality open space

Council's Towards 2040 Northern Beaches Local Strategic Planning Statement (LSPS) contains similar priorities (namely Priority 2 and 3).

The Department considers the proposed provisions will be clearer if the planning proposal is updated to include supporting examples and further analysis.

Recommendation: Gateway determination to include a condition requiring updates to the planning proposal and supporting documentation. Planning proposal to be updated to include examples of draft amendments to rezone RE1 Public Recreation and W1 Natural Waterways sites and supporting ecological value mapping extracts.

3.4 Land use zones – general

The following details and assesses general land use zoning provisions that are not a direct translation or require further amendments are outlined as follows.

3.4.1 Advertising structures

Council proposes to prohibit advertising structures (i.e. billboards) in all zones.

3.4.1.1 Assessment

The Department does not support the prohibition of advertising structures LGA wide. The proposed prohibition has not been supported by any analysis/detailed examples of why advertising structures are not suitable across the LGA. The issue is also not contemplated in any State or local strategic planning documents.

Business identification signs and building identification signs will remain permissible throughout many zones across the LGA (including employment, residential, recreational areas). However, Council notes advertising signs (billboards) as having greater visual impacts due to their size. Council notes a key reason for this provision is to reduce visual impacts of advertising signs (billboards) in commercial areas and centres.

The Department considers advertising structures as being appropriate in employment areas, except local centres which are typically smaller and have smaller building footprints and bulk and scale. The Department notes visual impacts of advertising structures in employment areas can be adequately managed through provisions in the development control plan and the development assessment process.

The Department recommends the prohibition of advertising structures across the LGA is suitable other than in employment zones (other than local centres), subject to supporting analysis/detailed examples.

Council notes the provisions would not create any inconsistencies with *State Environmental Planning Policy (Transport and Infrastructure) 2021*, as the provisions seek imposes a prohibition for advertising structures where the SEPP does not apply, i.e. private land. The Department also notes the provisions of SEPP 2021 (Industry and Employment) in relation to advertising structures in transport corridors and on transport infrastructure.

Recommendation: Gateway determination to include a condition requiring updates to the planning proposal and supporting documentation to:

- remove any references to prohibiting advertising structures in the E2 Commercial Centre, E3 Productivity Support, E4 General Industrial, SP4 Enterprise and MU1 Mixed Use zone.
- Include examples of the visual impacts of billboards across the LGA (other than in the zones mentioned above).

3.4.2 SP3 Tourist zone

The planning proposal seeks to harmonise the land use table for the SP3 Tourist zone which primarily applies to land at the North Narrabeen Caravan Park and various locations in the Manly CBD near Manly Beach.

3.4.2.1 Assessment

Council has clarified that while recreation facilities are prohibited in the SP3 zone, they are permitted as ancillary to a primary use of the land. The Department identifies an anomaly regarding

the permissibility of kiosks in the SP3 zone. Council's intent was to permit kiosks as a permissible use in the SP3 Tourist zone and that it was an unintended oversight in preparing the planning proposal that kiosks were not listed as permissible.

Recommendation: Gateway determination to include a condition requiring updates to the planning proposal and supporting documentation to include kiosks as a permissible use in the SP3 Tourist zone.

3.4.3 Roadways

The land use zoning mapping supporting the planning proposal does not include land use zoning for roadways. It is noted, in accordance with the Department's LEP Practice Note PN 10-001 Zoning for infrastructure in LEPs, that roads should be zoned the same as adjoining land. As Council are proposing to rezone some land, the zoning of roadways adjacent to subject land will also be updated. It is recommended a Gateway condition requires the zoning maps to be updated to zone roadways the same zone proposed for adjacent land.

Recommendation: Gateway determination to include a condition requiring updates to the planning proposal and supporting documentation to include zoning of roadways.

3.4.4 Special Purpose zones

It is noted that some of the labels of Special Purpose (SP) zones on Council's draft mapping are not up to date with Standard Instrument definitions.

Recommendation: Gateway determination to include a condition requiring updates to the planning proposal and supporting documentation to include SP zone labels consistent with Standard Instrument definitions.

3.5 Additional permitted uses

A consolidated APUs LEP Schedule is proposed to harmonise and translate existing APUs from the MLEP2013, PLEP2014 and WLEP2011 (refer to **Attachment B - Additional Permitted Uses table**). APUs are generally retained when zoning changes would not permit existing land uses. Provisions that are not a direct translation are outlined as follows.

- 9 APUs removed as intended effects of these APUs are achieved elsewhere in the proposal.
- 4 APU areas modified. Proposed zoning changes permits uses in select areas. APU modified to remove these areas.
- 38 APUs introduced including:
 - Boarding houses and hostels within 400m of select E1 Local Centre zones.
 - Shops in Balgowlah E3 Productivity Support zone
 - Attached dwellings, hostels, multi dwelling housing, semi-detached dwellings, shop-top housing, indoor recreational facilities, backpacker's accommodation, hotel or motel accommodation, restaurants or cafes, service stations, serviced apartments, shop top housing, take away food and drink premises, indoor recreational facilities and boatsheds in select R2 Low Density Residential zoned areas.
 - Attached dwellings, dual occupancies (attached), multi dwelling houses, residential flat buildings and semi-detached dwellings in select C4 Environmental Living zoned areas.
 - Permissible land uses in proposed RU4 Primary Production Small Lot zones currently operating under WLEP2000.

3.5.1 Assessment

The Department supports the provision's general intention and approach. However, the Department suggests some general amendments to the APU Schedule to ensure the purpose and reason for the amendments are clear. Further, the Department does not support the APUs for boarding houses and hostels within 400m of local centres as an APU. These permissible land uses are not suitable for an APU as the condition summary for a minimum site area of 1000m² and application to land within 400m of local centres is more appropriate within a specific LEP clause.

However, the Department requires Council include the 400m APU boundary on the APU maps for the purposes of public exhibition. Final clause implementation will be subject to drafting post public exhibition.

It is noted some of the Additional Permitted Uses listed under the draft Schedule are not included in the supporting Additional Permitted Uses mapping (**Attachment C-3**). The Department recommends the APU mapping be updated.

The Department notes that the proposal is inconsistent with this Section 9.1 direction 1.4 Site specific provisions as it proposes new additional permitted uses. The Department considers the inconsistency to be of minor significance. This is because the proposed APUs either reflect existing land use entitlements carried forward from current LEPs (particularly WLEP 2000) or are strategically aligned with Council-endorsed policies such as the LSPS and Local Housing Strategy, ensuring that the additional uses are justified, limited in scope and contextually appropriate.

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to be updated:

- Proposed APU 2 (Boarding Houses and Hostels): Include the 400m APU boundary for boarding houses and hostels on the Additional Permitted Uses map. Measurement of 400m distances to be consistent with approach in Chapter 6 State Environmental Planning Policy (Housing) 2021 (using a 400m walking distance).
- To fix a mapping anomaly on the Additional Permitted Uses map for the Austlink Business Park where part of the site has been omitted.
- To map Avalon and Bayview Sailing Clubs on the Additional Permitted Uses map.
- Update the Additional Permitted Uses on Certain Land assessment table supporting documentation to clarify the need and purpose of the changes.

4 Principal development standards

The following section further details the proposed principal development standards and provides the Department's assessment and recommendations. Certain provisions that are not further detailed in the following section are supported by the Department to proceed through Gateway determination without amendment.

4.1 Floor space ratio (FSR)

The planning proposal aims to apply consistent FSR controls across the LGA by retaining existing provisions from Manly, Pittwater, and Warringah LEPs. This excludes land zoned R2 Low Density Residential and C3 Environmental Management under MLEP2013, where revised FSRs are proposed to better reflect existing built form and environmental constraints. The proposal also introduces new FSR controls for land zoned R2, C3 and C4 in four geographic areas that

previously had no FSR mapped, addressing long-standing inconsistencies between the former LEPs.

Council suggests that the existing built form planning controls (i.e. in both the LEP and DCP for setbacks, height, envelope and landscaped area) are inadequate in mitigating built form outcomes that result in bulky dwelling houses with excessive excavation. Council states FSR provisions are a necessary tool to regulate bulk and scale.

Council undertook a floor space ratio analysis of low-density residential zoned land (**Attachment M-3**) which analysed 2,177 development applications (DAs) over an 11-year period from 2011-2022. The analysis reviewed compliance of these DAs with applicable development standards for dwelling houses. The analysis also included FSR comparisons for the R2 Low Density Residential, C3 Environmental Management and C4 Environmental Living zones with 15 other Sydney LGAs. The analysis found approximately 70% of development applications complied with floor space ratio standards. It was also found approximately 30% of development applications under the Manly LEP sought clause 4.6 development standard variations.

Council notes that while varying a floor space ratio (FSR) to respond to lot size is not uncommon, the current approach under the Manly LEP significantly relies on Clause 4.6 to seek variations to the standard FSR. This process requires applicants to prepare detailed justification reports and places a significant administrative burden on both applicants and Council staff during the development assessment process. In response, the planning proposal introduces updated FSR provisions that apply a stepped scale based on lot size and character area. This approach aims to provide greater certainty, reduce reliance on Clause 4.6 variations, and deliver more predictable built form outcomes that align with local character and strategic planning objectives.

Council has identified four separate areas of the LGA and have proposed FSR provisions for these areas as follows (**Figure 7**):

- Area 1 (Bushland Suburban):
FSR ranges from 0.5:1 for small lots (under 500sqm) to 0.3:1 for larger lots (1200sqm and over).
- Area 2 (Urban Suburban):
FSR starts at 0.55:1 for smaller lots (under 500sqm) and decreases to 0.35:1 for larger lots (1200sqm and over).
- Area 3 (Denser Urban Suburban):
FSR starts at 0.65:1 for small lots (under 300sqm) and decreases to 0.4:1 for larger lots (1200sqm and over).
- Area 4 (Offshore and Isolated):
FSR starts at 0.38:1 for small lots (under 700sqm) and decreases to 0.23:1 for larger lots (1200sqm and over).

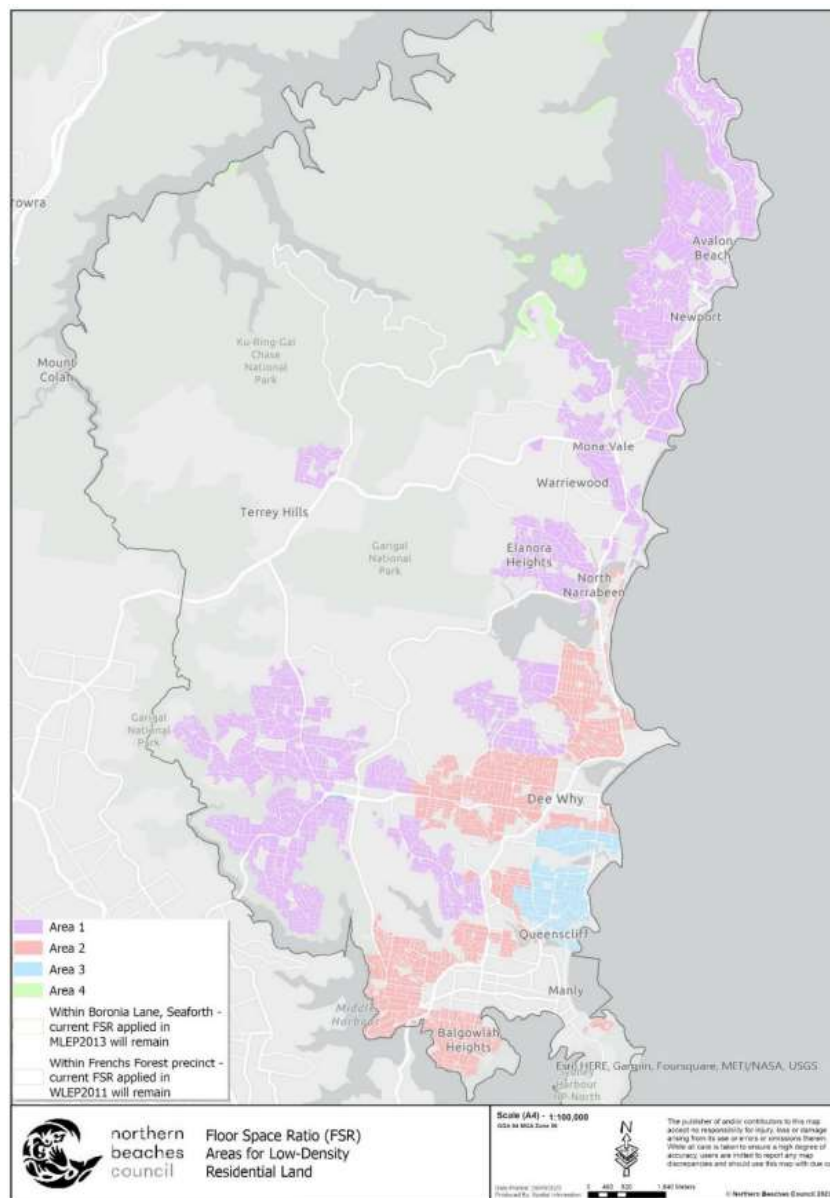


Figure 7: Floor Space Ratio (FSR) areas for Low-Density Residential Land (Attachment H-3 – Floor space ratio analysis)

Council has also prepared a draft LEP (**Attachment V**) which includes written floor space ratio provisions.

4.1.1 Assessment

Council's analysis notes recommended FSRs are aligned with lot size, reducing as lot size increases. They are mostly based on 200sqm lot size increments which results in a stepped scale (refer to **Figure 8**). A limitation with this model is that for a property with a lot size on the cusp of a lot size range, there is substantial difference in the maximum FSR that would be permitted if the lot was a few square metres larger.

The analysis notes the limitations of a stepped sliding scale FSR control and suggested applying a formula such as that in Georges River, Ku-ring-gai and Waverley LEPs to equitably manage FSR.

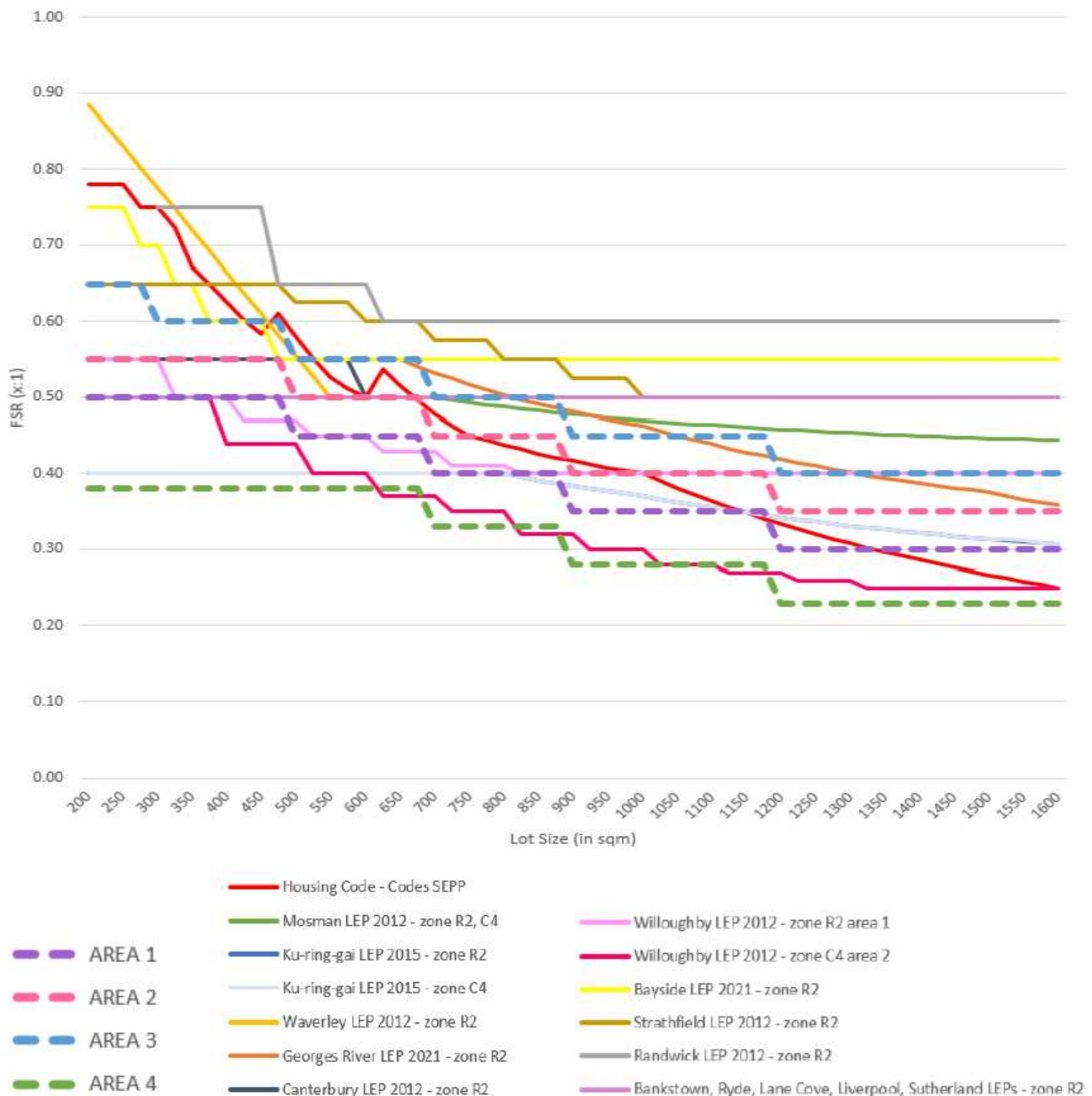


Figure 8: Comparison of Recommended FSRs (Areas 1, 2, 3 and 4) with FSRs applied by other Councils and the NSW Housing Code (source: Attachment M-3)

It is noted Council's commissioned urban design study (**Attachment P-4 Urban Design Study - Phase 1D - Built Form Control Methodology**) supports the general use of FSR to help control higher density developments, particularly residential. However, the study does not support FSR as an effective or necessary tool in lower-density environments such as areas with single-dwelling houses or medium-density residential typologies. Primary disadvantages of FSR apply to private dwelling houses, such as setting unrealistic floor space expectations where the FSR is mismatched to the site, encouraging land speculation, and reducing the viability of small or irregular sites. The urban design study concludes FSR should be used only where its benefits outweigh its disadvantages, such as in employment areas as well as those environments expected to see ratios higher than 1:1.

Council notes FSR has been consistently used in other LEPs to regulate bulk/scale.

Harmonising and updating FSR provisions are a key objective of the consolidated LEP, as it ensures a consistent and equitable approach to managing building bulk and scale across the Northern Beaches LGA. This approach replaces the current patchwork of FSR controls inherited from the former Manly, Pittwater, and Warringah LEPs, which has led to inconsistent development outcomes and administrative inefficiencies.

The Department's general analysis of proposed FSR provisions (**Table 11**) identifies the FSR areas are consistent with the outcomes of the existing provisions and may enable slightly more gross floor area.

The Department supports the inclusion of FSR provisions, however, recommends the planning proposal is updated to include sliding scale formula provisions.

FSR Area	Existing FSR	Proposed Max. permitted FSR by lot size		Analysis
Area 1: Bushland Suburban	0.3:1 to 0.4:1 (Pittwater LEP 2014 and Pittwater DCP)	Under 500sqm	0.5:1	The proposed FSRs for Area 1 are generally higher than the existing in the Pittwater LEP and DCP. This could lead to increased development intensity.
		500-699sqm	0.45:1	
		700-899sqm	0.4:1	
		900-1199sqm	0.35:1	
		1200sqm and over	0.3:1	
Area 2: Urban Suburban	0.4:1 to 0.45:1 (Manly LEP 2013 and Manly DCP)	Under 500sqm	0.55:1	The proposed FSRs for Area 2 are consistent with the existing FSRs in the Manly LEP and DCP, as well as the supporting documents. This suggests that the proposed FSRs are appropriate for supporting moderate-density residential development while maintaining the character of these neighbourhoods.
		500-699sqm	0.5:1	
		700-899sqm	0.45:1	
		900-1199sqm	0.4:1	
		1200sqm and over	0.35:1	
Area 3: Denser Urban Suburban	0.4:1 to 0.5:1 (Warringah LEP 2011 and Warringah DCP)	Under 300sqm	0.65:1	The proposed FSRs for Area 3 are in line with the existing FSRs in the Warringah LEP and DCP. This indicates that the proposed FSRs are suitable for supporting higher density development and more intensive residential and mixed-use developments.
		300-499sqm	0.6:1	
		500-699sqm	0.55:1	
		700-899sqm	0.5:1	
		900-1199sqm	0.45:1	
		1200sqm and over	0.4:1	

FSR Area	Existing FSR	Proposed Max. permitted FSR by lot size		Analysis
Area 4: Offshore and isolated	0.3:1 or lower (Pittwater LEP 2014 and Pittwater DCP)	Under 700sqm	0.38:1	The proposed FSRs for Area 4 are slightly higher than the existing FSRs in the Pittwater LEP and DCP. This could potentially lead to increased development intensity.
		700-899sqm	0.33:1	
		900-1199sqm	0.28:1	
		1200sqm and over	0.23:1	

Table 11: Analysis of proposed FSR provisions

Since lodging the planning proposal with the Department for Gateway assessment, Council have also advised of an anomaly with the existing FSR in Manly LEP for R1 General Residential and R3 Medium Density Residential zones (**Attachment Z**). The planning proposal carries over the existing Floor Space Ratio (FSR) provisions from the Manly LEP 2013. These include:

- R1 General Residential: Maximum FSR of 0.5:1, 0.6:1, or 0.75:1
- R3 Medium Density Residential: Maximum FSR of 0.75:1 or 1.5:1

Council seeks to retain the development potential currently afforded to undersized lots in the R1 and R3 zones of the former Manly LGA and seeks to translate the Manly DCP provisions to the Northern Beaches LEP

Council's proposed provisions are outlined in **Table 12** below.

FSR Area	Existing provisions	Proposed Max. permitted FSR by lot size	Analysis
FSR Manly R1 & R3 zoned land for undersized lots	Area 'C' on the LEP Lot Size map and Manly DCP – part 4.1.3.1.	LEP provision for exceptions to FSR based on 250sqm lot size/ site area	For lot size less than 250sqm, the FSR will be calculated for a 250sqm lot size despite the lot size being smaller. This allows a greater GFA to be achieved.
	Area 'D' on the LEP Lot Size map and Manly DCP – part 4.1.3.1.	LEP provision for exceptions to FSR based on 300sqm lot size/ site area	For lot size less than 300sqm, the FSR will be calculated for a 300sqm lot size despite the lot size being smaller. This allows a greater GFA to be achieved.

Table 12: Proposed Manly max permitted FSR by lot size

The Department recommends the planning proposal to be updated to include further discussion and justification for the implementation of FSRs in the LEP for smaller lots in Manly, particularly in relation to the existing DCP provisions that currently allow for increased FSRs on undersized lots.

This should include an explanation of how the proposed LEP amendments will maintain development potential for these lots without relying on clause 4.6 variations, and how this approach aligns with the strategic intent of the Northern Beaches LEP. The planning proposal is to also be updated to include examples of how FSR is calculated and applies to undersized lots.

This approach supports the objectives of the Greater Sydney Region Plan and North District Plan by enabling more predictable development capacity, reducing reliance on Clause 4.6 variations, and facilitating infill development in appropriate locations. By aligning FSR controls with lot sizes and local character, the proposal encourages a mix of housing types and supports the delivery of diverse and affordable housing. These outcomes directly contribute to:

- Greater Sydney Region Plan:
 - Objective 10: Greater housing supply.
 - Objective 11: Housing is more diverse and affordable.
- North District Plan:
 - Planning Priority N5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.

The proposed FSR framework is a key mechanism for implementing the housing-related objectives of these strategic plans, while also responding to local built form and environmental considerations.

Council's LSPS and Local Housing Strategy contains similar liveability priorities (P15). The inclusion of FSR provisions in the LEP is generally consistent with the above as it will support delivery of housing in the right locations, especially for urban renewal and local infill areas. The provisions will contribute to the achievement of the stated housing targets.

The Department recommends that the consistency of the planning proposal with Ministerial Section 9.1 Direction 6.1 Residential zones is unresolved and will require further justification – particularly in relation to implementing a recommended sliding scale formula approach and demonstrating good design outcomes in accordance with Part 1(d) under Direction 6.1.

Recommendation:

- The delegate of the Secretary agrees consistency with Section 9.1 Direction 6.1 Residential zones remains unresolved and updates to the planning proposal are required as outlined above.
- Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to:
 - remove references to the proposed FSR provisions and instead replace with a FSR sliding scale formula approach consistent with Georges River, Ku-ring-gai and Waverley LEPs and a supporting assessment.
 - Include further discussion and justification for the proposed amendments to FSR provisions in the R1 and R3 zones of the former Manly LGA, specifically in relation to undersized lots. This should include an explanation of how the proposed LEP amendments will maintain development potential for these lots without relying on clause 4.6 variations and examples of how FSR is calculated and applies to undersized lots.

4.2 Minimum lot size and frontage for certain residential accommodation

The clause introduces new minimum lot frontage requirements and harmonises lot size standards across R1, R2 and R3 zones for certain residential uses. Lot size controls are informed by MLEP2013 and PLEP2014, while frontage controls are new and take precedence over previous LEP approaches.

The intent of these particular provisions is to provide a consistent approach to the development of dual occupancies, manor houses, multi-dwelling housing, residential flat buildings, and seniors housing. Council states the proposed provisions consider the scale, streetscape and character and amenity of the locality and appropriate setbacks (based the outcomes of a report **Attachment M-1 Dual occupancy and housing density research and analysis** and **Attachment P-5 Urban design study – Phase 2A1 Residential built form controls**). Council outlines that the provisions mandate the consolidation of lots of inadequate size.

Council suggests the clauses maintain development potential for R2 zoned properties within the Pittwater LEP 2014 and Manly LEP 2013 and increases it within the Warringah LEP 2011 R2 zone (which currently prohibits dual occupancies in the zone). Council states almost 70% (or 4,494 properties) of R2 zoned properties capable of meeting the proposed dual occupancy site area and lot width requirements on the Northern Beaches fall within the Warringah LEP 2011 R2 Zone (**Attachment M-1 Dual occupancy and housing density research and analysis**).

The State Environmental Planning Policy 2021 – Low and Mid-Rise Housing (LMR) seeks to increase housing supply and diversity across NSW by enabling a broader range of housing types in well-located areas. It establishes default development standards for housing types such as dual occupancies, manor houses, and multi-dwelling housing. These standards generally allow for smaller lot sizes and frontages than those proposed by Council. For example, the LMR permits dual occupancies on lots as small as 450m² with a 12m frontage in well-located areas within R1, R2, and R3 zones, whereas Council proposes 800m² and 18m in R2 zones in certain locations.

The comparison table under (**Table 13**) identifies the existing controls, LMR standards and proposed LEP provisions.

Development Type	Existing Controls (Manly, Pittwater, Warringah)	Low Mid Rise SEPP 2021	Proposed NB LEP
Dual Occupancy	Inconsistent or DCP-only; thresholds varied	R1, R2, R3: 450 m ² / 12m frontage	R2: 800 m ² / 18 m frontage R1, R3: 400 m ² / 15 m frontage
Manor House	Not consistently defined or permitted	R1, R2, R3: 600 m ² / 12m frontage	R1, R3: 800 m ² / 18 m frontage
Multi-Dwelling Housing	Varies by zone and LEP; often unclear or DCP-based	R1, R2, R3: 500 m ² / 18m frontage	R1, R3: 1,000 m ² / 20 m frontage
Residential Flat Buildings	Generally subject to merit-based controls	R1, R2: 500 m ² / 12m frontage	R1, R3: 1,000 m ² / 20 m frontage
Seniors Housing	Often governed by SEPP and DCP	N/A	R1, R3: 1,000 m ² / 20 m frontage

Table 13: existing controls, LMR standards and proposed LEP provisions

These standards do not apply to the Warriewood Valley Release Area, which retains its own density provisions.

4.2.1 Assessment

The Department supports the intent to harmonise minimum lot sizes for certain residential accommodation provisions but does not support the inclusion of minimum lot frontage controls in the LEP.

As outlined in Section 2 of this report, the planning proposal aligns with Council's submission to the Department on the Housing SEPP Low and Mid-Rise (LMR) Stage 1, which proposed a minimum lot size of 800m² and a minimum lot frontage of 18 metres for dual occupancy developments across all R2 Low Density Residential zones in the Northern Beaches (resolved by Council on 10 December 2024).

However, the proposed provisions for the Warringah LEP 2011 R2 areas are currently under review as part of the LMR process. As such, the Northern Beaches Comprehensive LEP planning proposal may require updates as it progresses to ensure consistency with the broader policy framework.

In justifying the proposed provisions, Council has reviewed the existing LEP and DCP (minimum lot sizes and lot widths, consideration of an urban design study (**Attachment P-5**).

The Department considers it more suitable for Council to manage minimum lot widths for residential development through the DCP. DCP controls can better reflect local variation and allow for more adaptable design responses. This is consistent with other LGAs.

When the proposed LEP lot frontage controls are considered with other proposed development standards such as floor space ratio and minimum landscaped areas, the cumulative or incremental impact of all these standards can have detrimental effects on development potential and undermine other development and planning objectives. Particularly as in some cases, this could result in a reduced building footprint that limits the feasibility of typical housing forms, such as dual occupancy.

Considering this, the proposed frontage provisions are not consistent with the strategic planning framework, namely Greater Sydney Region Plan Liveability Objectives 10 Greater housing supply and 11 Housing is more diverse and affordable. The proposed minimum lot frontage provisions are inconsistent with Ministerial Section 9.1 Direction 6.1 Residential zones as they will unnecessarily restrict the design and delivery of housing.

The proposed minimum lot size provisions are generally consistent with the strategic planning framework, including:

Greater Sydney Region Plan

- Liveability Objective 10 Greater housing supply.
- Liveability Objective 11 Housing is more diverse and affordable.

North District Plan

- Liveability Planning Priority N5 Providing housing supply, choice and affordability, with access to jobs, services and public transport.

Council's LSPS and Local Housing Strategy contains similar liveability priorities (P15). The proposed minimum lot size provisions are also generally consistent with Ministerial Section 9.1 Direction 6.1 Residential zones as they encourage the provision of housing that will be of good design.

It is noted the Exempt and Complying SEPP adopts the lot sizes of certain residential uses from the relevant LEP for complying development. As such, once finalised the LEP controls will set the requirement under a complying development pathway.

A Gateway condition is also recommended seeking that the proposal be updated to include an advisory note confirming that recent State-led housing policies, particularly the NSW Low and Mid-Rise Housing Policy, applies to the subject land. The note must outline that the Stage 2 provisions in the Low and Mid-Rise Housing Areas prevail over local planning controls, and that wherever an inconsistency arises, the State Environmental Planning Policy (Housing) 2021 would apply in accordance with the statutory hierarchy of planning instruments. This reflects the shift in planning policy since Council commenced preparation of the planning proposal and provides transparency to the community on expected outcomes.

Recommendation:

- Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to remove references to proposed LEP minimum lot frontage provisions for certain residential accommodation.
- Proposed minimum lot size provisions to proceed through Gateway determination without amendment. However as noted previously, the planning proposal may need to be updated as provisions under the Housing SEPP for LMR progress. Include a condition noting that recent State-led housing policies, including Low and Mid-Rise Housing Policy applies in the LGA and prevails over Council's proposed LEP controls.

4.3 Height of buildings

The planning proposal seeks to consolidate existing clause objectives, with PLEP2014 taking precedence and consolidating existing clause objectives from the WLEP2011 and MLEP2013. Existing development standards for height of buildings are applied without change, other than:

- Height increase for mixed use development in E1 Local Centres currently subject to 8.5m and 11m limits to provide greater amenity and flexibility in the use of buildings over their lifespan, being from 8.5m to 9.3m, and from 11m to 12.4m.
- Height increase for Brookvale E4 General Industrial zoned land from 11m to 18m.
- Introduce new height limits where none currently apply in LEPs.
- New height limit of 30m for Warringah Mall based on recent studies.
- New height limit for the Frenchs Forest Business Park of a 11m base limit and 21m for employment generating developments.
- The map also sets out height provisions for land that is steeply sloping (>30%) or flood prone to apply more broadly across the LGA.

The following provides further detail and assessment on key height changes.

4.3.1 Local Centres

Within select E1 Local Centres, building heights resulting in two and three storey developments are proposed to be increased to allow greater floor heights. Existing two and three storey limits, where applicable, are retained through the WDCP2011. **Table 14** summarises proposed building heights and recommended minimum floor heights.

Zone	Existing HoB LEP Development Standard	Notional number of storeys	Minimum ceiling height recommendations to guide proposed HOB LEP development standards	Proposed HoB LEP Development Standard
E1 Local Centre	8.5m	2 storey	- Ground level: 4m-4.5m - Level 1: 3.6m to support office - Roof: 1.2m	9.3m (sum of floor to ceiling standards)
	11m	3 storey	- Ground level: 4m-4.5m - Level 1: 3.6m to support office - Level 2+: 3.1m to support residential - Roof: 1.2m	12.4m (sum of floor to ceiling standards)

Table 14: Existing and proposed building heights. Source: Attachment M-4, Height of Buildings Amendments for Certain Employment Zones Supporting Research and Analysis.

Increased floor heights aim to:

- Meet contemporary design requirements for commercial and residential land uses, as permissible within E1 Local Centre zones.
- Enable conversion opportunities between commercial and residential land uses.
- Enable a mix of land uses across different building levels.

4.3.1.1 Assessment

The Department supports the approach to increase land use flexibility while managing adverse impacts of bulk, scale and desired character within select E1 Local Centre zones. However, the Department requires the proposed heights of buildings be rounded up to the nearest 0.5m for consistent height increments. This includes:

- Rounding 9.3m up to 9.5m.
- Rounding 12.4m up to 12.5m.

The Department notes instances of lots in E1 Local Centre zones not increasing in line with this proposal and that these are intentional for areas subject to separate detailed design DCP controls.

The changes are supported as they generally provide appropriate residential floor to floor heights in well-serviced areas; mixed-use buildings; and building use conversions.

Recommendation: Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to round up proposed height of building increments (9.3m to 9.5m and 12.4m to 12.5m).

4.3.2 Brookvale E4 General Industrial

The planning proposal seeks to increase building heights for land zoned E4 General Industrial in the Brookvale Industrial Area from 11m to 18m (refer to Council's height of building mapping at **Attachment C-13**). These controls do not apply to other E4 areas in the LGA. The Department notes there are no existing or proposed floor space ratio controls applying to applicable land.

The proposal aims to accommodate industrial land use trends and challenges, which include:

- Providing additional floor area to expand existing industrial land uses without relocation.

- Providing greater flexibility for future industrial land uses, such as creative industries and last-mile delivery services.

The proposed 18m height limit is an outcome of the Brookvale Structure Plan. The increased height intends to:

- Balance increased industrial land use while retaining the area's fine-grain urban form.
- Encourage a mix of land uses such as creative industries, take away food and drink premises and neighbourhood shops.

4.3.2.1 Assessment

Floor space demand

The Department supports increased building heights to accommodate industrial land use demand. The proposed 18m height provides an appropriate height transition between increased density along Pittwater Road (up to 15 storeys) and surrounding residential areas. The Department notes there are no existing or proposed FSR controls and height will be the primary control to guide scale.

There is high demand for industrial floor space in the Brookvale Industrial Area. The Northern Beaches Employment Study – Background Report (2019) (**Attachment F**) identifies that in the LGA, Brookvale's industrial vacancy prices are the:

- Highest average price per sqm.
- Highest maximum price per sqm.
- Second highest median price per sqm.

This highlights Brookvale as a highly desirable industrial zone. Further, increased building height enables the Brookvale Industrial Area to respond to several industrial land use trends including last-mile delivery services and greater potential for the provision of dispatch centres in proximity to urban areas as Brookvale's mix of industrial and urban areas supports this potential land use.

These proposed provisions are consistent with the North District Plan, namely objective 34(g): 'retain and manage the adjoining industrial zoned land for a range of urban services.'

Increasing industrial floor area also supports Council's LSPS principle 'Support Brookvale as an employment-based centre'.

The proposal is also consistent with Section 9.1 Direction 7.1 Employment zones as it retains and expands area of employment. It is noted height increases for land zoned E3 Productivity Support proposed in the Brookvale Structure Plan are not considered in this proposal.

Traffic impacts

Council states not all sites will build to the proposed building height and Council has not conducted a precinct-scale transport study. Instead, a site-specific transport analysis in the DA process is deemed more appropriate to assess traffic impacts from increased development.

Given high demand for industrial floor space (Northern Beaches Employment Study – Background Report (2019) (**Attachment F**), there may be reasonable uptake of the proposed new building heights. This may collectively increase traffic and pressure on infrastructure. It is noted that the planning proposal is recommended to be referred to Transport for NSW for consideration.

Application to other E4 areas

Other E4 General Industrial zoned land in the Northern Beaches LGA are smaller in area and within residential contexts, such as Terrey Hills. A 18m building height may not be appropriate for these contexts and a precinct-specific approach is required for these sites.

Established E4 centres such as Warriewood and Cromer also require a coordinated and detailed urban design and precinct-wide planning approach. Controlled increased building heights should be contextually appropriate and enhance the local character.

The proposed increased height is consistent with the following relevant objectives and priorities of key strategies, through enabling greater industrial floor area to accommodate emerging industries and mitigate relocation:

Greater Sydney Region Plan

- Productivity Objective 23 Industrial and urban services land is planned, retained and managed.

North District Plan

- Productivity Priority N10 Growing investment, business opportunities and jobs in strategic centres.

Towards 2040 Northern Beaches Local Strategic Planning Statement

- Productivity Priority 24 - Brookvale as an employment and innovation centre.
- Liveability Priority 17 Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.
- Liveability Priority 28 Safeguarded employment lands.

The proposal is also consistent with Section 9.1 Direction 7.1 Employment zones as it retains and expands area of employment and does not reduce employment floor space.

Recommendation: It is recommended that the provision proceed through Gateway determination without amendment.

4.3.3 Warringah Mall

The planning proposal seeks to apply a building height limit of 30m for the Warringah Mall site (refer to Council's height of building mapping at **(Attachment C-13)**). This excludes Warringah Mall's northeast corner which is planned for 15 storeys (52m) within the Brookvale Structure Plan (**Figure 9**). The Brookvale Structure Plan does not provide height recommendations for the remainder of the Warringah Mall site.

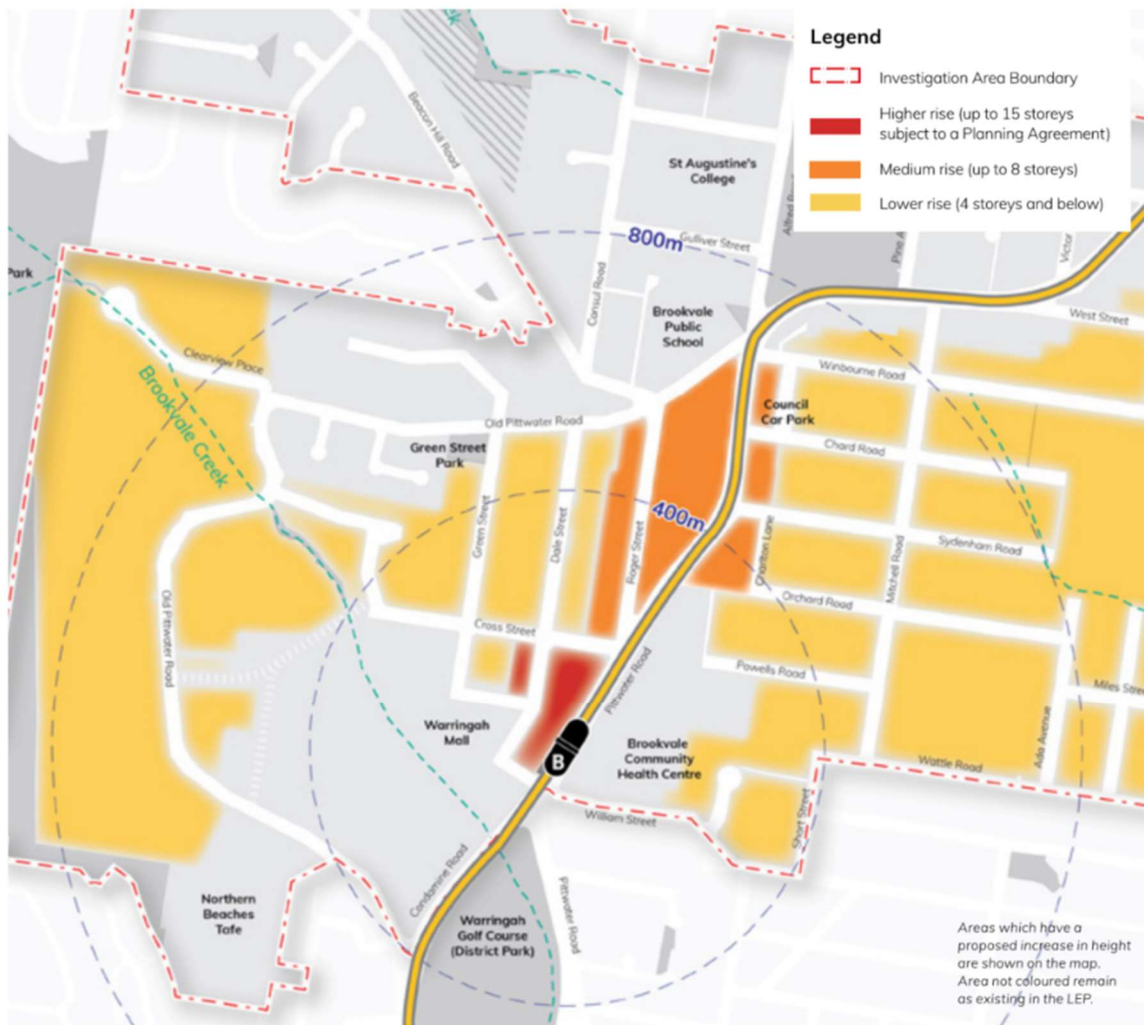


Figure 9: Proposed building heights – Brookvale town centre (source: Brookvale Structure Plan).

The WLEP2011 does not currently apply a site height limit, however the Warringah DCP (Part G4 Warringah Mall) identifies heights ranging from 25 to 30m (**Figure 10**). These DCP controls were initially developed through a 2009 masterplan process.

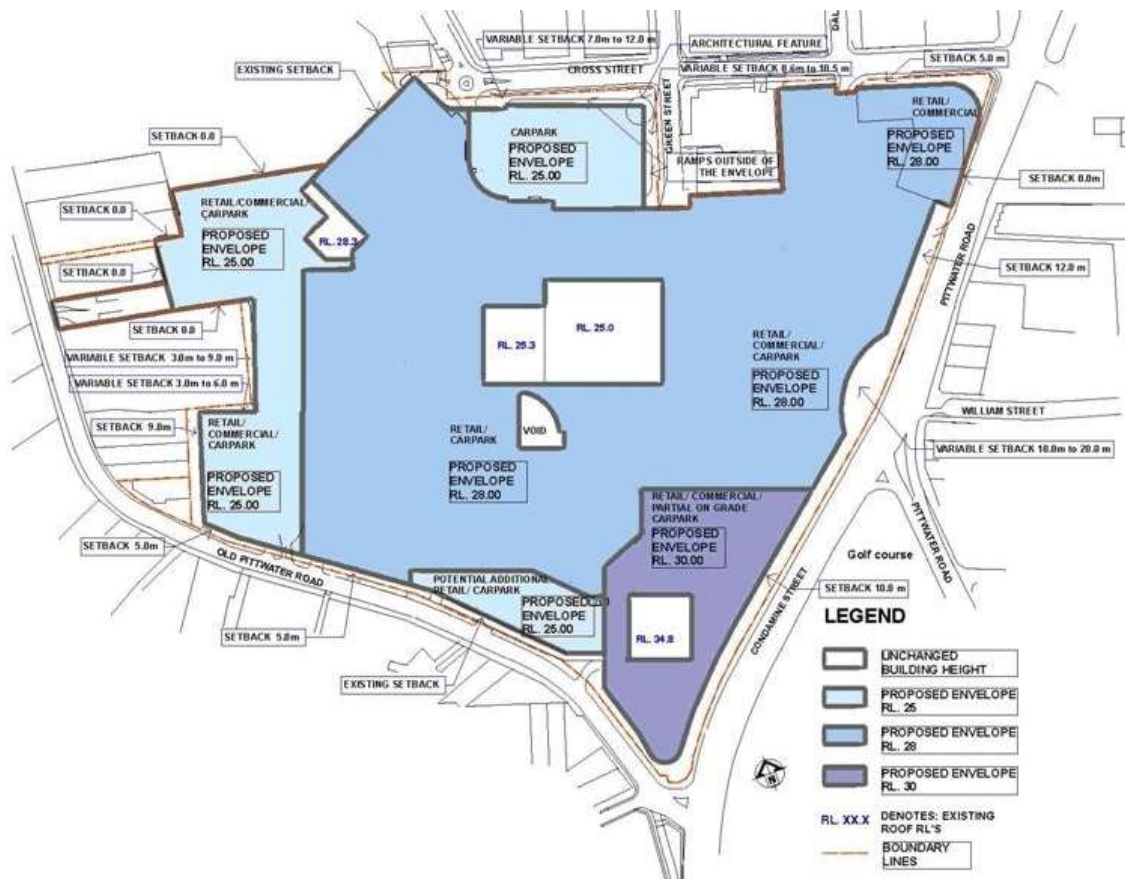


Figure 10: Proposed building heights – Warringah Mall (Source: Warringah Development Control Plan).

Council has proposed LEP building height controls following a development application analysis which found the DCP height controls are regularly exceeded. Council states these controls are outdated given the increased development focus within the Brookvale Strategic Centre alongside permissibility of additional land uses, such as build-to-rent in E2 Commercial Centre areas. The proposed 30m building height limit aims to minimise environmental impacts associated with unintended development. The height limit is proposed as an interim measure as Council notes Scentre Group (Warringah Mall asset owner) is currently collaborating with Council on future development of the site. Council's support for the development yield for the site will be dependent on various factors including community infrastructure provision, affordable housing contributions and high-quality urban design outcomes.

Scentre Group's proposal for the Warringah Mall site was declared a State Significant Development on 17 March 2025 under the Housing Delivery Authority pathway. The development proposal identified a 129m maximum building height. The proposal's yield will be subject to further assessment by the Department under the Housing Delivery Authority pathway.

4.3.3.1 Assessment

The Department does not support the 30m height limit. The Department notes the concurrent State Significant Development under the Housing Delivery Authority pathway which proposes alternative height controls to this planning proposal. The final maximum building height will be subject to reconciling this proposal and the State Significant Development process.

The existing DCP controls and LEP provisions should be retained until the final maximum building height is resolved through the State Significant Development process. This aims to:

- Provide consistency and transparency in the consideration of the site's proposed building height.
- Minimise multiple site rezonings from concurrent planning processes.

Recommendation: Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to remove any references to proposed provisions for a 30m height limit at the Warringah Mall site.

5 Miscellaneous provisions

The following section further details the proposed miscellaneous provisions and provides the Department's assessment and recommendations. Certain provisions that are not further detailed in the following section are supported by the Department to proceed through Gateway determination without amendment.

5.1 Heritage

The proposed Schedule 5 heritage listings reflect a harmonisation of all items contained in MLEP2013, PLEP2014, WLEP2011 and WLEP2000. The amalgamation process included changes to achieve standardisation of the heritage schedule and fall into consequential and inconsequential categories.

Consequential or notable changes include:

- an expansion of the item description to include other significant features which contribute to the significance of the item (e.g. fence, garden, garage, jetty/pool, interiors etc).
- an increase or reduction in the mapped area of an item.
- deletion of an item or part of an item (reduced item description).
- a change in categorisation of the item.
- addition of a new item.

Inconsequential or housekeeping changes do not result in any actual change to the extent or impact of the heritage listing but are more administrative changes, such as updates to property descriptions, or renumbering of items.

5.1.1 Assessment

The Department supports the changes to heritage schedule for the purposes of public exhibition

Attachment E outlines the justification for the changes which is supported for the purpose of public exhibition. There are a significant number of properties affected by these changes and property owners should be consulted specifically on the proposed changes that are classified as consequential.

A new local heritage item, known as Parkhill Cottage and Stables is proposed to be included in the Heritage Schedule. The item has been recommended from a Heritage Assessment for Manly Hospital, 150 Darley Road, Manly. The study "Stage 1: Heritage Assessment Report (Paul Davis Pty Ltd – April 2018)". It is recommended for the Gateway determination to require the supporting heritage report to be included as part of the planning proposal.

The Parkhill Cottage and Stables local item is part of the broader Manly health and wellbeing precinct which is currently under assessment through a State Significant Development Application. The precinct is aiming to provide for seniors housing, an aged care facility, public open spaces, a

health and wellbeing centre, community and commercial spaces and a childcare facility. The local heritage significance of the site is also recognised in Local Heritage Item I133 within Manly LEP.

The proposed approach is consistent with various strategic plans and policies, including Greater Sydney Region Plan Liveability Objective 13 Environmental heritage is identified, conserved and enhanced; North District Plan Liveability Planning Priority – N6 Creating and renewing great places and local centres, and respecting the District’s heritage and LSPS Liveability Priority 18 – Protected, conserved and celebrated heritage.

The planning proposal is also consistent with the following Section 9.1 Ministerial Directions:

- 3.2 Heritage Conservation – this direction aims to “conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.”
- 3.9 Sydney Harbour Foreshores and Waterways Area – this direction requires a planning proposal to enable the protection, maintenance and enhancement of the natural assets and unique environmental, visual, and cultural qualities of Sydney Harbour and its islands and foreshores.

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to be updated to include the supporting heritage assessment for the new local heritage listing for Manly Hospital. Department notes targeted consultation with landowners affected by consequential changes should be undertaken as part of the exhibition process.

5.2 Relevant acquisition authority

The planning proposal seeks to harmonise all three LEP relevant acquisition authority provisions and associated mapping (refer to land reservation acquisition mapping at **Attachment C-17** and summary of provisions at (**Attachment K**). **Table 15** summarises proposed clause harmonisation.

Existing Clause		Proposed Clause – Comprehensive NBLEP	
Type of land shown on map	Authority of the State	Type of land shown on map	Authority of the State
Zone RE1 Public Recreation and marked “Local open space”	WLEP2011: Council MLEP2013: Council PLEP 2014: Council	Zone RE1 Public Recreation and marked “Local open space”	Council
Zone RE1 Public Recreation and marked “Regional open space”	WLEP2011: The corporation constituted under section 2.5 of the Act MLEP2013: The corporation constituted under section 2.5 of the Act PLEP 2014: The corporation constituted under section 2.5 of the Act	Zone RE1 Public Recreation and marked “Regional open space”	The corporation constituted under section 2.5 of the Act

Existing Clause		Proposed Clause – Comprehensive NBLEP	
Zone SP2 Infrastructure and marked “Classified road”	WLEP2011: Transport for NSW MLEP2013: Transport for NSW PLEP 2014: Transport for NSW	Zone SP2 Infrastructure and marked “Classified road”	Transport for NSW
Zone R2 Low Density Residential and marked “Local road”	WLEP2011: Council MLEP2013: N/A PLEP 2014: N/A	Zone R2 Low Density Residential and marked “Local road”	Council
Zone SP2 Infrastructure and marked “Local road”	WLEP2011: N/A MLEP2013: N/A PLEP 2014: Council	Zone SP2 Infrastructure and marked “Local road”	Council
Zone C1 National Parks and Nature Reserves and marked “National Park”	WLEP2011: Minister administering the National Parks and Wildlife Act 1974 MLEP2013: Minister administering the National Parks and Wildlife Act 1974 PLEP 2014: Minister administering the National Parks and Wildlife Act 1974	Zone C1 National Parks and Nature Reserves and marked “National Park”	Minister administering the National Parks and Wildlife Act 1974
Zone C2 Environmental Conservation and marked “Local open space”	WLEP2011: N/A MLEP2013: N/A PLEP 2014: Council	Zone C2 Environmental Conservation and marked “Local open space”	Council
Zone C2 Environmental Conservation and marked “Regional open space”	WLEP2011: N/A MLEP2013: N/A PLEP 2014: The corporation constituted under section 8 of the Act	Zone C2 Environmental Conservation and marked “Regional open space”	The corporation constituted under section 2.5 of the Act

Table 15: Key changes to relevant acquisition authority provisions

The Department notes that the authority of the state for Zone C2 Environmental Conservation and marked “Regional open space” is modified to reflect changes to the Act.

5.2.1 Assessment

The Department supports the consolidated land use table. This will create a clearer and standardised framework applicable across the consolidated NBLEP.

However, the Department has identified Council’s draft mapping contains additional land parcels for acquisition (see **Figure 11** for example). Council has identified these as errors and should remove them from the public exhibition draft maps.

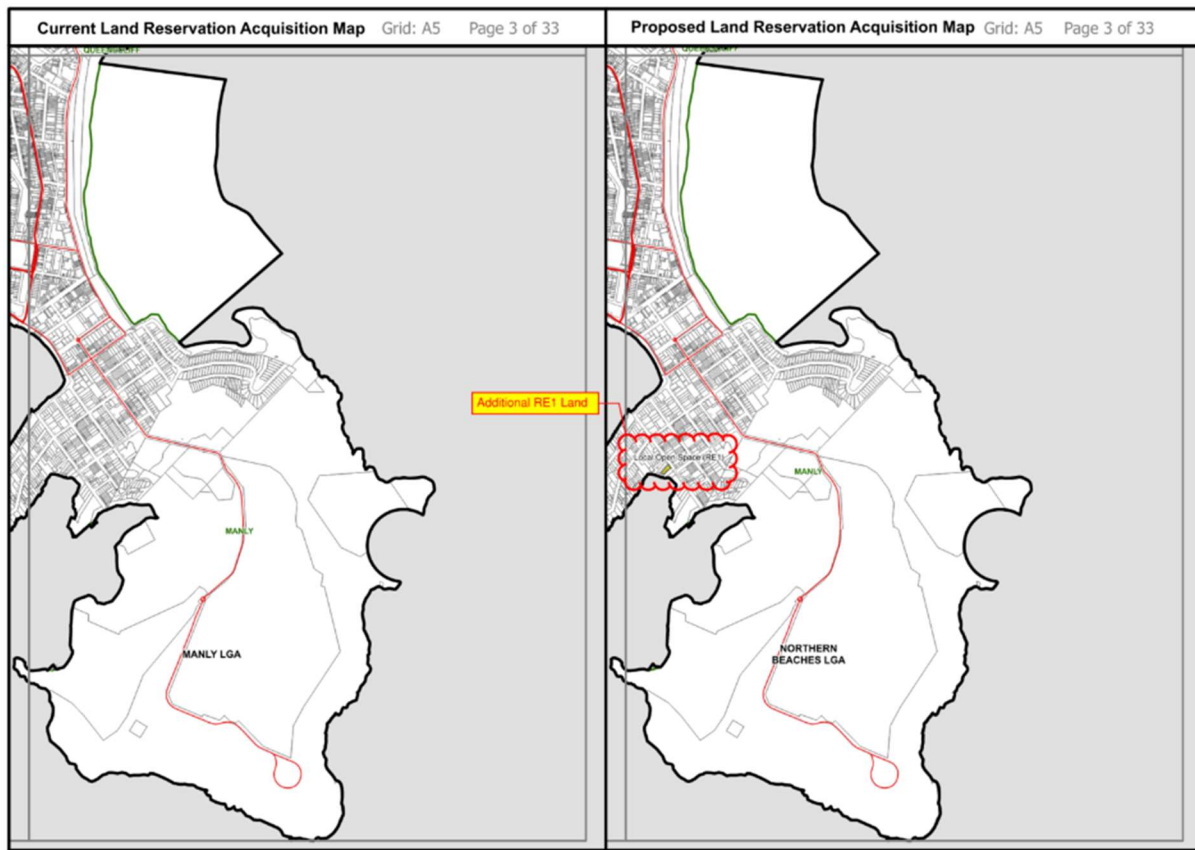


Figure 11: Example of additional proposed land. Source: Attachment C-17 Land Reservation Acquisition Map.

Furthermore, parcels in the Land Reservation Acquisition map should be zoned the same as adjoining land, in accordance with the Department's LEP Practice Note PN 10-001. For instance, land parcels in Frenchs Forest should be zoned as R2 to align with adjacent land zoned R2 Low Density Residential (Figure 12).



Figure 12: Example of land parcel zoning not corresponding with adjacent land uses. Left image: existing land reservation acquisition map. Right image: proposed land reservation acquisition map. Source: Attachment C-17 Land Reservation Acquisition Map.

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to update the draft Land Acquisition mapping to:

- Identify additional land parcels for acquisition mapped as errors and remove from the draft land acquisition maps.
- Identify land for acquisition parcels that are incorrectly zoned and update to align with adjacent land uses.

5.3 Development near zone boundaries

Clause 5.3 Development near zone boundaries currently only applies to certain land under the Warringah LEP 2011 and is proposed to be discontinued. Council has reviewed the clause and its application and found that it is no longer required. Council also notes concerns that the clause may compromise the provision of infrastructure and special activities to service the community, which is inconsistent with the intent of Council's LSPS.

Recommendation: Planning proposal's draft amendment to proceed through Gateway determination.

6 Additional local provisions

The following section further details the proposed additional local provisions and provides the Department's assessment and recommendations. Certain provisions that are not further detailed in the following section are supported by the Department to proceed through Gateway determination without amendment.

6.1 Dual occupancies

Dual occupancies are proposed to be introduced as 'permitted with consent' for properties throughout the LGA in the R2 Low Density Residential zone. This is a harmonisation outcome that represents a change in the WLEP2011 R2 zone where such development is not currently permitted. Such development is currently permitted in the R2 zone in MLEP2013 and PLEP2014, however is subject to varying density and subdivision restrictions, which are proposed to be removed and replaced with the 'Minimum lot size and frontage for certain residential accommodation' clause and a local provision.

The planning proposal seeks to introduce additional local provisions under Part 6 that relate to dual occupancies. The proposed Part 6 provisions aim to complement proposed provisions for dual occupancies under Part 4 'Minimum lot size and frontage for certain residential accommodation.' The clause aims to protect the amenity impacts of lots with a number of shared boundaries with private properties by prohibiting dual occupancies on a lot that is an existing battle-axe lot. The clause permits detached dual occupancies on properties that have two street frontages or are on corner lots. The clause also provides flexibility to properties containing a heritage item, acknowledging that flexibility of either attached or detached forms are permissible, considering unique site conditions.

6.1.1 Assessment

The provisions were drafted prior to the introduction of the *State Environmental Planning Policy (Housing) 2021* – Low and Mid-Rise Housing (LMR) Policy reforms being introduced.

Recommendation:

Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to:

- Outline and address dual occupancy provisions under the Housing SEPP 2021 - Low and Mid-Rise Housing.
- Clarify whether secondary dwellings are permissible on subdivided dual occupancy lots.

- Provide further discussion on the exclusion of battle-axe lots and the restriction on detached dual occupancies (i.e. only permitted on corner lots, dual street frontages, or where a heritage item is present) lots in the LEP or consider relocating these to the DCP.

6.2 Landscaped areas in certain residential and conservation zones

Council notes the Northern Beaches has one of the highest tree canopy coverages in the Greater Sydney area. As such, Council states inclusion of landscaped area provisions in the LEP is reflective of the importance of retaining tree canopies and provides greater statutory weight in development assessment, compared with DCP controls.

As part of the evidence base for the planning proposal, Council commissioned an urban design study (**Attachment P-4 – Phase 1D – Built Form Control Methodology**) to assess the effectiveness of existing built form controls and recommend the most appropriate planning instrument for their implementation. The study reviewed a range of development standards, including floor space ratio, site coverage, landscaped area, and building height which evaluated their impact on built form outcomes across different residential typologies. Based on this analysis, the study identifies which controls are best suited to inclusion in the LEP versus those more appropriately managed through the DCP.

Council proposes to introduce numerical standards into the LEP for landscaped areas for the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R5 Large Lot Residential, C3 Environmental Management and C4 Environmental Living zones. These minimum landscape areas are proposed to be mapped (refer to landscaped area maps at (**Attachment C-19**) and in summary are:

- R2, C4, C3 zones: 40-60% landscaped area, with 66% or more for Pittwater offshore communities
- R1, R3 zones: 40-50% landscaped area in the PLEP2014 and WLEP2011 areas consistent with existing DCPs, with an increase to 20-30% in the MLEP2013 area reflecting trends in development (**Attachment M-6 Landscaped area analysis of low-density residential zoned land**)
- Specific precincts: 30-45% Frenchs Forest precinct and 25-45% Warriewood Valley Release Area
- R5 zone: 80% landscaped area consistent with existing Pittwater DCP
- Clause 6.x(4) applies to Area 1, covering Scotland Island and surrounding offshore communities and requires a minimum landscaped area ranging from 66% to 90% depending on lot size
- Clause 6.x(5) applies to Area 2, covering part of Warriewood and specifies varying landscaped area:
 1. For precinct-scale development (i.e. sectors, buffer areas or development sites):
 - 50% of the developable area must be landscaped (excluding creekline corridors).
 - A lower percentage may be permitted if water modelling justifies a higher impervious area.
 2. For individual lots:
 - 25% for residential flat buildings and multi-dwelling housing
 - 25% for other dwellings on lots less than 9m wide
 - 35% for other dwellings on lots 9m to 14m wide
 - 45% for other dwellings on lots 14m wide or more

- 25% for non-residential development

Council's proposed provisions are supported by an analysis of the resulting average landscaped area for approximately 3,300 development applications lodged between 2011-2022 (**Attachment M-6 Landscaped area analysis of low-density residential zoned land**). The analysis found:

- There is a correlation between landscaped area and property location.
- There is some correlation between landscaped area and lot size.
- There is minimal correlation between landscaped area and land use zone within a suburb.
- There is mostly compliance on average with current DCP requirements for landscaped area.

Council references Clause 6.6 of Mosman LEP 2012 as an example clause, as well as similar clauses in Georges River, Inner West and Sutherland.

6.2.1 Assessment

The Department does not support the landscaped area provision in its current form. However, the Department supports retaining a revised, outcome-based landscaped area clause in the LEP where strategically justified.

The proposed provisions introduce mapped minimum landscaped area requirements across the R1, R2, R3, R5, C3 and C4 zones, with thresholds ranging from 25% to 80%. While Council's objective to support urban tree canopy, manage stormwater, and protect local character is supported in principle, the proposed LEP clause is highly detailed and prescriptive when compared to examples in other LEPs, such as Georges River (Clause 6.12) and Mosman (Clause 6.6), which take a more general and outcomes-based approach.

While the proposed rates reflect Council's approach to preserve tree canopy and manage built form, they are significantly higher than those applied in comparable LEPs such as Georges River (Clause 6.12), which typically require 25% to 35% landscaped area in low-density zones (**Figure 13 and Table 16**).

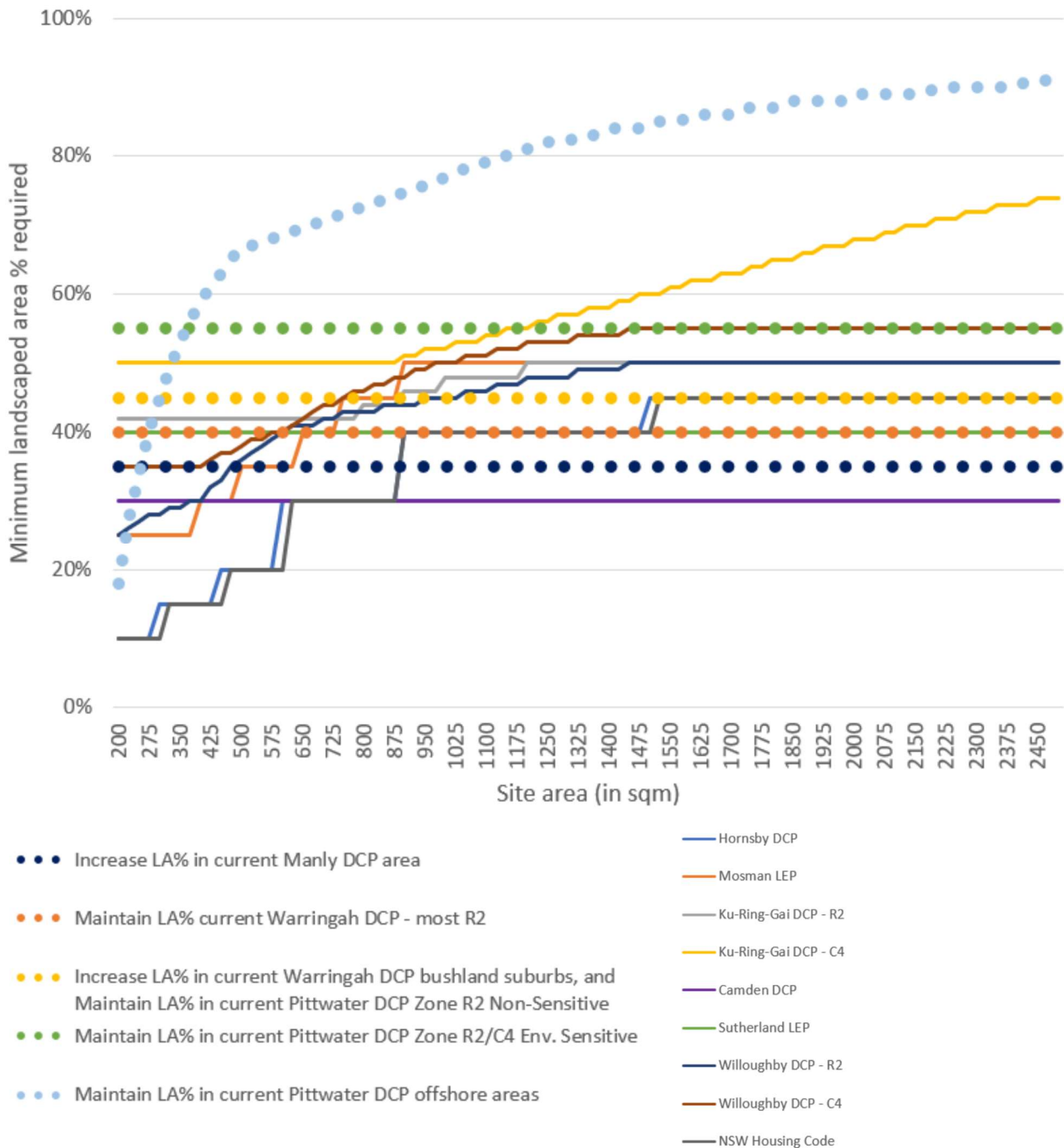


Figure 13: Comparison of Recommended Landscaped Areas (LA%) with percentages applied by other Councils and the NSW Housing Code (planning proposal).

Council / Policy	Zone	Minimum Landscaped Area (%)	Notes / Analysis
Northern Beaches (Proposed)	R1, R2, R3, R5, C3, C4	R2, C4, C3: 40-60% Pittwater offshore communities: 66% R1, R3: 40-50% Frenchs Forest precinct: 30-45% Warriewood Valley Release Area: 25-45% R5: 80%	Among the highest in NSW; based on local analysis of 3,334 DAs; aims to preserve canopy and manage built form.
Georges River	R2, C3, C4	20–30%	Included in LEP (Clause 6.12); applies to low-density zones; allows flexibility via Clause 4.6.
Ku-ring-gai	R1, R2, R3, C4	R1–R3: 50% (for <850m ²); increases with lot size C4: 65–70% depending on slope	DCP-based; higher standards in bushland areas; supports biodiversity and stormwater management.
Mosman	R2, R3, C4	25–50% depending on site size and development type	Landscaped area included in LEP; varies by lot size; supports character and amenity.
Willoughby	R1, R2, R3, C4	35% soft landscaping for R2, R3, C4; deep soil 7–15%	DCP-based; uses a sliding scale depending on lot size; supports tree canopy targets.
Camden	R1, R2, R3, R5	30% site area; 40% of front setback landscaped	DCP-based; moderate requirement; balances suburban growth with green space.
Bayside	R2	25%	One of the lowest; reflects more urbanised context and compact lot sizes.
NSW Housing Code	R1, R2, R3, R5, C3, C4	10–45% depending on lot size	State-wide baseline; varies by lot size; intended for complying development pathways.

Table 16: Proposed minimum landscaped area comparison with other councils

The supporting analysis of **Attachment M-6** confirms that:

- The average landscaped area across 3,334 properties was 46%, with most developments already meeting or exceeding current DCP requirements.
- There is a clear correlation between lot size and landscaped area, with smaller lots (<500 m²) averaging 33–39%, and larger lots (>700 m²) averaging 48–53%.
- Zoning (R2, C3, C4) had minimal influence on landscaped area within the same suburb, suggesting that a uniform control by zone may not be justified.
- The proposed rates exceed those of most LGAs, where landscaped area requirements typically range from 25% to 40%, with only a few (e.g., Ku-ring-gai, Willoughby) exceeding 50% in specific C4 zones.

LEP controls may be strategically warranted in areas where built form has a high potential to impact environmental values or where strong landscape character is critical to place identity.

These include environmentally sensitive land, bushfire-prone or foreshore locations, bushland suburbs such as Frenchs Forest, Killarney Heights and Bayview, and isolated areas with limited infrastructure such as the Pittwater offshore communities. In contrast, more urbanised areas such as Manly, Dee Why, and Brookvale are better suited to detailed and flexible DCP-based controls that can account for local variation in lot size, slope, and housing typology.

Council's analysis (**Attachment M-6 Landscaped area analysis of low-density residential zoned land**) and urban design study (**Attachment P-4 – Phase 1D Built Form Control Methodology**) found that most developments already meet or exceed current DCP requirements, and that landscaped area outcomes are more closely related to lot size and location than to zoning. For example, lots under 500m² averaged 33–39% landscaped area, while lots over 700m² averaged 48–53%. Zoning was shown to have minimal influence on landscaped outcomes within the same suburb, suggesting a zone-based control may not achieve the intended results.

The proposed thresholds for certain areas such as 40% in the Manly area, 66% in the Pittwater offshore communities, and 80% in R5 zones are among the highest in NSW. While these reflect existing DCP controls and respond to local environmental and character objectives, their inclusion in the LEP must be further justified. It is noted that the tests for landscaped area in the LEP are guided by the Standard Instrument definition and may not align to the approach under the DCP. In the case of Pittwater offshore communities, the high requirement reflects limited access, bushfire risk, high existing canopy, and proximity to environmentally sensitive areas. Similarly, the R5 zone contains large lots in semi-rural, bushland-fringe locations such as Ingleside and Terrey Hills, where high landscape coverage supports biodiversity, water quality and stormwater outcomes.

The written LEP provision for Area 1 (Clause 6.x(4)) which applies a minimum landscaped area of 66% to 90% for area around Scotland Island and offshore communities, is considered more suited to detailed guidance in the DCP. While the strategic intent to protect landscape character in this location is valid, applying such high thresholds in the LEP may unreasonably constrain development. Carrying over this provision to the DCP would better enable site-responsive design while still achieving environmental objectives.

The provision for Area 2 (Clause 6.x(5)) which introduces varying landscaped area requirements based on lot width and development type in Warriewood is more aligned with other similar LEPs such as Georges River, which adopt standards broadly in low-density contexts. However, given the level of detail in the proposed written LEP provision, these controls would be more appropriately managed through the DCP.

The Department supports retaining a landscaped area clause in the LEP in a revised, simplified form. A more appropriate approach would involve establishing baseline landscaped area requirements in the LEP only for strategic locations, such as environmentally sensitive land, bushland suburbs, Pittwater offshore communities, and R5 Large Lot Residential zones. In contrast, more detailed or variable thresholds such as those based on lot size, slope, or precinct should be managed through the DCP, where greater flexibility and merit-based assessment can be applied. This approach aligns with the structure adopted in other LEPs, including Georges River where the LEP contains a high-level provision and the DCP sets out more specific development standards.

To support this approach, the planning proposal should be updated to identify which locations require LEP-level controls, with justification based on environmental or landscape character values. The landscaped area clause should be refined to adopt a more general and flexible structure, consistent with other outcome-focused LEPs. Council should provide further evidence to support any above-average thresholds, particularly 66% in Pittwater offshore communities and 80% in the R5 zone.

As currently drafted, the clause is inconsistent with Section 9.1 Direction 6.1 Residential Zones, as it risks reducing residential density and housing diversity without sufficient strategic justification. It is also inconsistent with the following planning priorities:

Greater Sydney Region Plan

- Objective 10 – Greater housing supply
- Objective 11 – Housing is more diverse and affordable
- North District Plan

Planning Priority N5 – Providing housing supply, choice and affordability with access to jobs, services and public transport

- Northern Beaches LSPS
- Priority 15 – Housing supply, choice and affordability in the right locations

Recommendation:

Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to:

- Include an outcome focused landscaped provision (such as a clause that sets clear objectives without prescribing detailed numerical thresholds) across the LGA, consistent with comparable LEPs.
- Include a landscaped provision with general area based minimum requirements for strategic locations such as environmentally sensitive bushland areas, including Pittwater offshore communities and R5 Large Lot Residential zoned land. However, the planning proposal is to provide further justification for the increase in minimum landscaped areas rates for these areas – i.e. 66% in Pittwater offshore communities, and 80% in the R5 Large Lot Residential zone.

6.3 Mix of dwelling sizes in residential flat buildings and mixed-use development

The planning proposal seeks to introduce requirements for a mix of dwelling sizes in residential flat buildings and mixed-use developments containing at least 10 dwellings. Proposed provisions require a mix of at least 20% studio/1-bedrooms dwellings and at least 20% 3-bedroom dwellings or larger.

The clause replaces existing housing mix requirements within the Warringah DCP and Pittwater DCP. These controls are limited to Avalon Beach Village and Dee Why Town Centre only. The proposed clause seeks to expand the applicability of provisions across the entire LGA.

The clause aims to provide a mix of dwellings sizes in residential flat and mixed-use buildings. Council notes this will provide multiple housing choices for different demographics, living needs and household budgets.

6.3.1 Assessment

The Department requires further information to determine whether the clause will result in adverse development feasibility impacts. The clause has precedent in other LEPs including Canada Bay (clause 6.11) and Lane Cove (clause 7.1), however the Department notes that a more detailed LGA-specific feasibility assessment is required.

The proposed clause responds to demographic needs and trends in the LGA and Northern District including:

- Between 2016 and 2036, over-85 residents are expected to increase by 85% (North District Plan).
- Between 2016 and 2036, single-person households are expected to increase by 39% (North District Plan).
- Couples with children are the most common household type (35%), followed by couples only (25%) and lone person households (20%) (Northern Beaches Local Housing Strategy).
- Northern Beaches has a marginally greater proportion of couples with children than the Northern District or Greater Sydney (Northern Beaches Local Housing Strategy).

To support the clause, Council undertook an analysis of existing dwelling size mix in residential flat buildings and shop-top housing developments (sample size of 19 buildings, 1069 apartments) (**Attachment M-5 - Housing Mix Research and Analysis**).

One-bedroom market demand analysis (**Attachment M-5**) identified that:

- On average, at least 20% of the apartment mix were one-bedroom apartments, however 12 out of the total 19 of these buildings provided less than 20% of total apartments as one-bedroom apartments.
- Most one-bedroom apartments were accommodated within buildings that comprised over 50 apartments and within denser areas of the LGA.
- Single person households will continue to have the highest projected demand for social and affordable housing to 2036.

Three-bedroom market demand analysis (**Attachment M-5**) identified that:

- On average across all 19 apartment buildings, at least 20% of the apartment mix were three-bedroom apartments, however 9 out of the total 19 of these buildings provided less than 20% of the total apartments as three-bedroom apartments.
- Couples with children are the most common household type (35%).
- The three-bedroom shortage is demonstrated through their unaffordability for a household with two-essential worker salaries in the highest income bracket.

The Department determines that:

- One-bedroom/studio dwellings: the proposed clause relies on an assumption that single-person households would preference single-bedroom dwellings over two-bedroom dwellings or larger.
- Three-bedroom dwellings or larger: the proposed clause relies on an assumption that three-bedroom apartment prices are related to limited supply rather than targeting a higher-income market.
- The limited number of buildings achieving the 20% one-bedroom/studio benchmark and 20% three-bedroom or larger benchmark may reflect development feasibility challenges. For instance, Council notes that one-bedroom apartments are accommodated within denser LGA areas. Analysis is required to determine whether the 20% one-bedroom/studio benchmark is also feasible in low-density areas.
- Council should demonstrate that both 20% benchmarks will not adversely affect development feasibility across the LGA. Council should provide a more detailed analysis of the study including:
 - Location, number of dwellings and dwelling-mix of each building analysed.

- Whether analysed buildings are subject to existing DCP dwelling requirements (e.g. Avalon Beach Village, Dee Why Town Centre)
- Council should demonstrate examples of developments achieving the 20% benchmarks (or within a reasonable margin) within a range of higher and lower-density LGA areas.

Recommendation: Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to provide a more detailed analysis of Council's Housing Mix Research and Analysis (**Attachment M-5**) including:

- Location, number of dwellings and dwelling-mix of each building analysed.
- Whether analysed buildings are subject to existing DCP dwelling requirements (e.g. Avalon Beach Village, Dee Why Town Centre).
- Analysis that the proposed measures will not adversely affect development feasibility.

6.4 Environmental sustainability

The planning proposal seeks to implement LEP provisions that require developments over 1,500sqm GFA to meet a minimum sustainable building standard. This applies to either the:

- Erection of a new building, or
- Alterations/additions that increase GFA by 10%.

The planning proposal seeks to introduce sustainability controls for common local development types not captured within the State Environmental Planning Policy (Sustainable Buildings) 2022 and BASIX including:

- Residential buildings under 5 storeys.
- Non-residential buildings under \$5M.
- Non-residential alterations/alterations under \$10M.
- Additional land uses such as residential care facilities and shopping centres.

The clause's application to developments over 1,500sqm GFA intends to capture these common development types.

The clause applies to developments in the following land use zones:

- R1 General Residential.
- R2 Low Density Residential.
- R3 Medium Density Residential.
- E1 Local Centre.
- E2 Commercial Centre.
- E3 Productivity Support.
- E4 General Industrial.
- MU1 Mixed Use.
- SP4 Enterprise.

The proposal aims to implement best practice sustainable building design and delivery in developments. The proposal is informed by Council's Environmental Sustainability Research and Analysis (**Attachment M-2**).

The proposal aims to improve building sustainability in a range of areas including energy, water, urban heat, green canopy, transport, waste and materials.

Council notes these standards will be outlined and implemented in a Council-provided calculator with metrics to assess a development's sustainability performance. The calculator will be similar to existing calculators like the Georges River Council's Environmental Sustainability Calculator. It will assess a range of sustainable design principles and provide several compliance pathways.

The calculator intends to replace the need for development applications to include an environmental sustainability report.

6.4.1 Assessment

The Department does not support this aspect of the proposal. The Department determines that councils should defer to the State Environmental Planning Policy (Sustainable Buildings) 2022 for sustainable building standards.

The Department does not support the proposal for the following reasons:

- Residential development: The Department notes the proposal's intention to introduce higher BASIX requirements for developments under 5 stories. However, councils cannot set higher standards than stated in the State Environmental Planning Policy (Sustainable Buildings) 2022.
- Non-residential development: Similarly, for non-residential buildings of \$5M or more and alterations/additions of \$10M or more, councils cannot impose higher requirements than stated in the State Environmental Planning Policy (Sustainable Buildings) 2022.
- The Department notes the proposal's intention to introduce sustainable building requirements for non-residential buildings less than \$5M and alterations/additions less than \$10M. The State Environmental Planning Policy (Sustainable Buildings) 2022 does not apply to these developments. However, the Department notes this is a small portion of buildings. It is unreasonable to apply inconsistent and potentially higher standards for smaller developments. The Department's position is for consistency across the State.

The Department notes the need to address the urban heat island effect, identified in Council's Environmental Sustainability Research and Analysis (**Attachment M-2**). In discussion with Council the Department supports the inclusion of an urban heat clause. This clause would address proposed environmental sustainability subclauses specific to urban heat:

- *(f) the façade, roof and paved surfaces are designed to reduce adverse effects of urban heat on the surrounding land, including private open space and the public domain,*
- *(g) maximises green infrastructure by accommodating sufficient tree canopy, open space and deep soil zones to achieve urban cooling and ecological benefits,*

An urban heat clause would be consistent with the following relevant objectives and priorities of key strategies:

North District Plan

- Planning Priority N22 Adapting to the impacts of urban and natural hazards and climate change – through extending tree canopy and deep soil zones to mitigate urban heat island effect.

Towards 2040 Northern Beaches Local Strategic Planning Statement (LSPS)

- Great Places Priority 5 Greener urban environments – through reducing adverse effects of facades, roofs and paved surfaces on urban heat, and increasing urban tree canopy coverage.

In developing the clause, Council should consider developments subject to the clause including land uses and minimum lot size (if any).

Recommendation: Gateway determination to include a condition requiring the planning proposal and supporting documentation remove any references to proposed provisions relating to environmental sustainability standards. Council may consider introducing an urban heat clause that addresses the proposed Environmental Sustainability subclauses (3)(f) and (g).

6.5 Design excellence

The existing Manly and Warringah LEPs contain design excellence provisions for various centres and precincts (Manly, Seaforth and Balgowlah Centres, St Patrick's Estate, Frenchs Forest precinct and Dee Why Town Centre). It is proposed that WLEP2011 takes precedence and integrates MLEP2013 for those centres and expands application to other centres across the LGA including Mona Vale, Brookvale, Warringah Mall, Avalon, Belrose, Collaroy, Dee Why-The Strand, Elanora Heights, Forestville, Freshwater, Manly Vale, Narrabeen, North Narrabeen, Newport, Palm Beach and Warriewood. Council seeks to apply design excellence provisions to all new builds and external alterations to buildings in these centres. The clause also triggers referral to Council's Design Review Panel in these centres for any new builds and external alterations to building greater than 12 metre or 3 storeys in height.

6.5.1 Assessment

A 12-metre height trigger for referral to Council's Design Review Panel is appropriate considering the existing LEP provisions have an inconsistent application of building heights (**Table 17**).

LEP	Height Trigger (dependent on location)
Manly LEP 2013	12m or 12.5m
Pittwater LEP 2014	11.5m or 13m
Warringah LEP 2011	12m or 13m

Table 17: Existing height trigger LEP

The Department liaised with Council to outline what policies and/or guidelines are in place to govern this process and provide certainty on Council's expectations of design excellence.

Council considered the role and function of the Design and Advisory Panel and the Panel Charter, particularly in the context of the proposed design excellence provisions. Council notes the Panel has an advisory role and gives key consideration to matters that are included in the State Environmental Planning Policy (Housing) 2021. The Department recommends the Gateway includes a condition requiring Council to consult with the Government Architect of NSW on the proposed design excellence provisions. The Department notes the proposed removal of the design excellence clauses from some Part 7 Precinct LEP provisions, as provisions will be applied through this clause instead.

The proposed amendment is generally consistent with the strategic planning framework, including:

- Greater Sydney Region Plan Liveability Objective 12 Greater places that bring people together.
- North District Plan Liveability Priority N6 Creating and renewing great places and local centres, and respecting the District's heritage.

- LSPS Priority 17 Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.
- State Environmental Planning Policy (Housing) 2021 Chapter 4 Design of residential apartment development.

Recommendation: Planning proposal's draft amendments to proceed through Gateway determination without amendment. It is recommended that Council consults with the Government Architect NSW during the agency consultation period of the planning proposal.

6.6 Coastline hazard management

The planning proposal aims to avoid significant adverse impacts from coastal hazards, ensuring uses are compatible with coastal risks, enable evacuation in an emergency, and avoid development that increases the severity of coastal hazards.

Proposed coastal hazard management provisions apply to land identified on the LEP Coastline Hazard Map (**Attachment C-6**) and sets out matters that a consent authority must be satisfied of before granting consent to development, such as risks to life and property; coastal processes; and sea level rise. The clause harmonises clause 7.5 of PLEP2014 and clause 6.5 of WLEP2011, with additional consideration of the extent to which 'sensitive and hazardous development' will be impacted. These development types are defined within the clause.

It is proposed to expand application of the clause to the entire LGA based on existing adopted maps from current LEPs and DCPs, Manly Coastal Risk Planning maps and mapping identified through the Estuarine Planning Level studies for Cowan Creek and North and Middle Harbour.

6.6.1 Assessment

The Department supports the application of this clause LGA wide, with approximately 14 new properties added. The map below (**Figure 14**) illustrates gaps along the coast (14 properties) that have not been captured by the clause and associated mapping. Including the missing properties will help resolve the mapping anomaly and is supported by studies as referenced below.



Figure 14: Current mapped properties on Coastal Hazard Map (Source: Attachment C-6)

This proposal is consistent with the various strategic plans and policies, including Greater Sydney Region Plan Sustainability Objective 37 Exposure to natural and urban hazards is reduced; North District Plan Sustainability Planning Priority N22 Adapting to the impacts of urban and natural hazards and climate change; and Council's LSPS Local Strategic Planning Statement Sustainability Priority 8 – Adapted to the impacts of natural and urban hazards and climate change.

The planning proposal is also consistent with Ministerial Section 9.1 Direction 4.2 Coastal Management. This direction notes a planning proposal must include provisions that give effect to the Coastal Management Act 2016 and any relevant coastal management programs.

The planning proposal notes numerous studies that have informed the proposed clause. Council should update the planning proposal to include the relevant supporting studies (or relevant extracts) that justify the proposal, including:

- Cowan Creek Estuarine Planning Levels (Stage 1 and 2 Report) (Draft) (Rhelm Pty Ltd, 2022)
- Estuarine Planning Level Mapping Pittwater Estuary (Lawson and Treloar, 2004)
- Identification of Coastal Hazard Risk Areas to Projected Sea Level from the Manly LGA (Water Research Laboratory, 2012)
- North and Middle Harbour Estuarine Planning Levels Study (Stage 1 and 2 Report) (Draft) (Rhelm Pty Ltd, 2022)
- Pittwater Council Coastline Hazard Definition and Climate Change Vulnerability Study (Worley Parsons, July 2012)
- The Coastal Zone Management Plan for Bilgola Beach (Bilgola) and Basin Beach (Mona Vale), (Royal Haskoning HDV, 2016)
- The Coastal Zone Management Plan for Collaroy Narrabeen Beach and Fishermans Beach (Royal Haskoning HDV, 2016)

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to be updated:

- Clause mapping to be extended to include missing properties, approximately 14 new properties added.
- Include the suite of reports supporting the proposed clause as part of the public exhibition as listed above.

6.7 Watercourses, wetlands and riparian land

This clause aims to protect and maintain water quality, bank and bed stability, ecological processes, and aquatic and riparian habitats. MLEP2013 (clauses 6.6 and 6.7) takes precedence and integrates PLEP2014 (clause 7.6) and WLEP2000 (clause 60) with some additional changes. It is proposed to extend the application of the clause to the entire LGA and update associated mapping (**Attachment C-22**).

The provisions requires development consent cannot be granted unless development is designed, sited and managed to avoid, minimise or mitigate any adverse impacts on watercourses, wetlands and riparian land.

6.7.1 Assessment

The Department supports the intent of the provisions. However, it is noted the draft provisions (**Attachment V**) refer to 'associated buffers' and watercourses. Council has confirmed the buffer

does not apply to piped water courses, and it is recommended references to piped watercourses are removed from the planning proposal and supporting riparian lands watercourses and wetlands map.

The provisions are consistent with the various strategic plans and policies, including Greater Sydney Region Plan Sustainability Objective 25 The coast and waterways are protected and healthier; and North District Plan Sustainability Planning Priority – N15 Protecting and improving the health and enjoyment of Sydney Harbour and the Districts waterways. The provisions are also consistent with Council's LSPS Sustainability Priority 1 – Healthy and valued coast and waterways.

The planning proposal is also consistent with Ministerial Section 9.1 Direction 3.9 Sydney Harbour Foreshores and Waterways Area, particularly requirement (1)(b) ii being: a planning proposal must enable increased, maintained, or improved public access to and along the foreshore and to and from the waterways for public recreational purposes, while minimising impact on watercourses, wetlands, riparian lands and remnant vegetation.

The planning proposal notes numerous studies that have informed the proposed clause. Council should update the planning proposal to include the relevant supporting studies (or relevant extracts) that justify the proposal, including:

- Cowan Creek Estuarine Planning Levels (Stage 1 and 2 Report) (Draft) (Rhelm Pty Ltd, 2022)
- Estuarine Planning Level Mapping Pittwater Estuary (Lawson and Treloar, 2004)
- North and Middle Harbour Estuarine Planning Levels Study (Stage 1 and 2 Report) (Draft) (Rhelm Pty Ltd, 2022)
- Riparian Mapping Methodology for Northern Beaches Council LEP and DCP (BMT Commercial Australia Pty Ltd, 2021)
- Watercourse, wetland and riparian lands study (Draft) (Northern Beaches Council, 2022)
- Final Literature Review – Riparian Provisions and Conditions for Northern Beaches Council LEP and DCP (BMT Commercial Australia Pty Ltd, 2020)

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to be updated:

- To quantitatively define 'associated buffers' referenced in the draft provisions to provide increased certainty and transparency.
- To clarify if and how natural and piped water courses are defined and managed by the clause.
- Removed piped water courses from mapping.
- To require supporting studies (as referenced by Council) to be provided.

6.8 Bushland and biodiversity land

The clause intends to consolidate and harmonise similar clauses from the existing (PLEP2014 clause 7.6 and MLEP2013 clause 6.5).

The clause aims to protect and conserve native fauna and flora on specific land identified on the Terrestrial Biodiversity Map across the LGA (**Attachment C-23**). The key objectives of the clause are to:

- Protect native fauna and flora and the ecological processes necessary for their continued existence.

- Protect and conserve core habitat areas.
- Encourage conservation and recovery of threatened species and ecological communities and their habitats.
- Protect, restore and enhance biodiversity corridors.

The clause applies to land mapped in the Terrestrial Biodiversity Map. The map is derived from the Biodiversity Planning Review and Deferred Lands Biodiversity Assessment (**Attachment R and S**).

It is noted the Warringah LEP 2000 is being repealed. However, two existing clauses under WLEP2000— clause 58 Protection of existing flora and clause 59 Koala habitat protection has been incorporated in other proposed provisions under the Northern Beaches LEP and sufficiently covered by *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

6.8.1 Assessment

Clause

The Department supports the clause's intent. The proposed clause is largely consistent with PLEP2014 and MLEP2013 and their focus on managing impacts on flora, fauna (including native fauna), habitat, biodiversity structure and ecological processes. Key additions to the proposed clause include:

- An increased emphasis on managing threatened species, core habitat areas, protecting biodiversity corridors and native vegetation communities.
- A requirement that developments are consistent with the clause objectives.

There is no existing equivalent biodiversity clause in WLEP2011. As such the proposed clause will be newly applied to the Warringah LGA.

Maps

The Department supports the maps in principle however requires further justification of how the Biodiversity Planning Review and Deferred Lands Biodiversity Assessment (**Attachment R and S**) have informed the mapping area.

Key differences between the existing and proposed biodiversity land area include:

- MLEP2013 & PLEP2014: Largely similar mapped biodiversity area, with inclusion of land zoned RE1 Public Recreation and RE2 Private Recreation. The use of technical reports to inform the mapping marginally adds and removes from the biodiversity map area.
- WLEP2011: No mapped biodiversity areas exist in the WLEP2011. This results in a significant increase of land subject to the clause.

The Department notes that the mapped biodiversity area should have a consistent methodology across the Northern Beaches LGA. However given the Warringah LGA is not currently subject to a similar clause, the Department requires further analysis to justify expanding the applicable clause area. This includes outlining how the technical reports have been used and inform the proposed map area within Warringah LGA and the broader LGA.

Recommendation:

Gateway determination to include a condition requiring the planning proposal and supporting documentation to be updated to provide a more detailed analysis including clarification on how the technical studies have informed the map area.

6.9 Scenic protection

The planning proposal seeks to retain scenic protection provisions under Warringah LEP 2000 (deferred lands) applying to the Oxford Falls area. This includes no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

An additional clause is also introduced and applicable across the LGA. Buildings are to integrate with the natural landscape and topography, and visual impact minimised.

6.9.1 Assessment

The additional clause that buildings should integrate with natural landscape and topography, and minimised visual impact may limit development.

The Department notes Council has not provided detailed justification to support the application of this clause to the entire LGA. The Department does not support the additional clause and notes it would be more appropriate for Council to undertake further visual analysis and seek a separate future planning proposal to introduce these provisions.

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to remove any references to the expansion of the application of scenic protection clauses to the entire LGA.

6.10 Development in local centres

This proposed clause aims to require development in smaller local centres (land zoned E1 Local Centre) to consider:

- Appropriateness of scale and function for its location.
- Compatibility with desired future character and amenity of surrounding residential areas.

Council notes smaller local centres were formerly zoned B1 Neighbourhood Centre. As part of the Department's 2023 employment zones reform, the B1 Neighbourhood Centre zone was consolidated and translated to the E1 Local Centre zone. The harmonisation of LEP mapping identifies former B1 Neighbourhood Centres and the Dee Why Town Centre as 'neighbourhood centres' on Centres mapping (refer to mapping at **Attachment C-5**).

The proposed clause is a model provision provided by the Department and is included in several LEPs including Mosman, Camden and Sutherland. The clause seeks to retain part of the former B1 Neighbourhood Centre zone objectives to provide small-scale retail, business and community uses, supporting people who live and work in the neighbourhood.

Council notes it is necessary to differentiate neighbourhood and town centres within the E1 Local Centre zone on the proposed centres mapping. Particularly as accompanying DCP character statements will not have the same statutory weight as LEP provisions.

6.10.1 Assessment

The Department supports the proposed provisions, noting it is based on a model clause.

The Department recommends Council consider accompanying development control plan provisions to provide sufficient explanation of desired neighbourhood amenity, future character and centre hierarchy to guide development consideration. For instance, the Camden Council DCP (5.1 Introduction and Employment Zone Hierarchy) describes:

- Centre types and their desired character
- Specific centres, their level in the centre hierarchy, and their role.

The proposed provisions are consistent with the following relevant objectives and priorities of key strategies, particularly through celebrating character of a place and providing fine grain urban form in local centres.

Greater Sydney Region Plan

- Liveability Objective 12 Great places that bring people together.

North District Plan

- Liveability Priority N4 Fostering healthy, creative, culturally rich and socially connected communities.

Towards 2040 Northern Beaches Local Strategic Planning Statement (LSPS)

- Great Places Priority 17 Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.

The proposal is also consistent with Section 9.1 Direction 7.1 Employment zones as it retains and expands area of employment and does not reduce employment floor space.

Recommendation: It is recommended that the provision proceed through Gateway determination without amendment.

6.11 Geotechnical planning

Existing geotechnical planning clauses are proposed to be integrated. PLEP2014 (clause 7.7) takes precedence and integrates MLEP2013 (clause 6.8), WLEP2011 (clause 6.4) and WLEP2000.

The clause aims to:

- Permit development on land susceptible to geotechnical hazards that matches the land's underlying geotechnical conditions.
- Restrict development on unsuitable land.
- Not endanger life or property.

The new clause requires a consent authority to consider the management of geotechnical risk for all developments, including:

- Design.
- Siting.
- Significant adverse impacts on the development and surrounding land.
- Changes to existing subsurface flow conditions.
- Wastewater.
- Stormwater.
- Drainage.
- Stability.

The clause is supported by a geotechnical map (**Attachment C12A and C12B**) that identifies all land within the LGA as one of seven proposed geotechnical planning classes (G1 to G7). The proposed planning classes are based on an updated LGA-wide geotechnical assessment of geology, topographic position and slope (**Attachment Q Geotechnical Review – Geotechnical**

Planning Controls (Northern Beaches Council, Douglas Partners, 2022)). The proposed geotechnical planning classes aim to provide a justified and consistent land classification method, including land susceptible to landslide risk.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 includes provisions that identify and define land susceptible to landslide risk under clause 3.2 (h) as either land identified in an environmental planning instrument (i) or land identified under WLEP2011 planning classes “Area C” and “Area E” in the Landslip Risk Map (ii). As the subject planning proposal will repeal WLEP2011 and seeks to introduce a LEP clause specifying geotechnical planning classes G5 and G7 as land susceptible to landslide risk, provision 3.2(h)(ii) will no longer be relevant for land in Warringah and provision 3.2(h)(i) will prevail (being any land identified in an environmental planning instrument).

It is noted the proposed LEP clause specifies the following geotechnical planning classes as land susceptible to landslide risk:

- G5: Colluvial and residual soils & bouldery talus, with detached blocks of sandstone on steeper escarpment areas, developed on Narrabeen Group.
- G7: For areas along the coastline which have steep slopes greater than 45 degrees, a coastal cliff zone has been designated which extends 20m inland from the crest of the steep slope or cliff and downslope to the mean water level.

Council notes these classes are appropriate to define as land susceptible to landslide risk based on landslide precedent. It is noted there are current slope remediation projects funded by Transport for NSW in accordance with the Essential Public Asset Reconstruction Works Program due to a March 2022 storm event. Within this program, 65% of funded landslip sites are entirely or partially classified as G5. Class G7 largely relates to land extending beyond cliff crests, considered highly susceptible to coastal erosion impacts and subsequent landslides.

6.11.1 Assessment

The Department supports the proposed harmonised and consolidated geotechnical planning provisions. Particularly given recent landslide events, requirements for increased geotechnical assessment are appropriate in achieving the proposed clause’s objective to not endanger life and property.

The proposed provisions are consistent with Section 9.1 Direction 4.6 Mine subsidence and unstable land, which aims to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence. The Department notes that the geotechnical planning classes necessarily classify or de-classify ‘land susceptible to landslide risk’.

The Department notes that G5 and G7 land is typically (but not exclusively) identified as geotechnical or landslide risk within the existing Northern Beaches LEPs as follows:

- PLEP2014 – Pittwater Geotechnical Hazard Map: Hazard H1.
- MLEP2013 – Manly Landslide Risk Map: Landslide Risk.
- WLEP2011 – Warringah Landslip Risk Map:
 - Area C - Slopes >25°.
 - Area E – Collaroy Plateau Area Slopes more than 15.

The Department considers the proposed geotechnical planning categories provide a more considered and consistent methodology to identify and mitigate geotechnical risks across the LGA. The Department acknowledges the proposed map provides increased geotechnical hazard mapping accuracy and necessarily alters areas considered as land susceptible to landslide risk.

However, it is noted the supporting geotechnical studies which would have informed Council's proposed amendments is not attached to the planning proposal. The Department recommends the Gateway includes a condition requiring the planning proposal be updated to include relevant supporting geotechnical studies.

The clause is consistent with the following relevant objectives and priorities of key strategies:

Greater Sydney Region Plan (GSRP) Sustainability Objective 37 Exposure to natural and urban hazards is reduced and North District Plan (NDP) Sustainability Priority N22 Adapting to the impacts of urban and natural hazards and climate change – through minimising risk to public health and safety from natural hazards. The proposal is also consistent with Council's LSPS which includes a similar resilience priority (priority 8).

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to be updated to include supporting geotechnical studies that informed proposed LEP amendments.

6.12 Noise impacts

This clause requires the consideration of noise impacts on nearby residential accommodation when granting development consent for licensed premises under the *Liquor Act 2007*.

This clause extends Manly LEP clause 6.21 Noise Impacts—Licensed Premises and was proposed to be extended to apply to all licensed premises across the LGA, subject to the implementation of state-wide reform in the management of licensed premises.

This clause is now superseded by the State's 24-Hour Economy Reforms and can be omitted. Council agreed to delete this clause after reconsidering the legislative framework.

Recommendation: Gateway determination is to include a condition requiring the planning proposal and supporting documentation to remove any references to proposed provisions for licensed premises noise impacts.

7 Consultation

7.1 Community

The planning proposal is categorised as a principal proposal under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 30 working days is recommended and this forms part of the conditions to the Gateway determination.

7.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Environmental Protection Authority NSW.
- Heritage NSW.
- NSW Maritime.
- Schools Infrastructure NSW.
- Transport for NSW.

- Government Architect NSW.
- Department of Climate Change, Energy, the Environment and Water.

8 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a principal proposal.

The Department recommends an LEP completion date of 25 September 2026 In line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

9 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

As the comprehensive planning proposal is a principal proposal and affects Council owned land, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

10 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions and 3.4 Conservation Zones are minor or justified *and*
- Note that the consistency with section 9.1 Directions 6.1 Residential Zones is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
 - a. Remove any references to:
 - i. amendments to Clause 1.8A savings provisions seeking deferred commencement/sunset clause of 2 years for Oxford Falls and Belrose North under Warringah LEP 2000.
 - ii. amendments to Clause 1.9 seeking exemption from affordable housing provisions under the Housing SEPP.
 - iii. proposed rezonings from:
 - R2 Low Density Residential to C4 Environmental Living
 - R5 Large Lot Residential to C3 Environmental Management and C4 Environmental Living
 - iv. prohibition of advertising structures in the E2 Commercial Centre, E3 Productivity Support, E4 General Industrial, SP4 Enterprise and MU1 Mixed Use zone.

- v. proposed FSR provisions and instead replace with a FSR sliding scale formula approach and a supporting assessment.
 - vi. proposed provisions for a 30m height limit at the Warringah Mall site.
 - vii. proposed landscaped area provisions.
 - viii. proposed minimum lot frontage provisions for certain residential land
 - ix. proposed environmental sustainability clause
 - x. the expansion of scenic protection provisions to apply to the entire LGA
 - xi. proposed provisions for licensed premises noise impacts
- b. Include the following studies as an attachment to the planning proposal which have been referred to in Council's documentation:
- i. Biodiversity Planning Review
 - ii. Technical reports to support the proposed coastal hazard management
 - iii. Technical reports to support the proposed watercourses, wetlands and riparian land provisions.
 - iv. Geotechnical studies that have informed the planning proposal.
 - v. Heritage Assessment for Manly Hospital, 150 Darley Road, Manly - "Stage 1: Heritage Assessment Report (Paul Davis Pty Ltd – April 2018).
- c. Detail zoning and land use permissibility changes for the deferred lands from WLEP2000 to the proposed Standard Instrument zonings in the planning proposal document.
- d. Include further justification, specific details, analysis and examples/sample sites of subject sites proposed to be rezoned from:
- i. R2 Low Density Residential and R3 Medium Density Residential to C2 Environmental Conservation
 - ii. C3 Environmental Management to C4 Environmental Living
 - iii. C4 Environmental Living to C2 Environmental Conservation and C3 Environmental Management
 - iv. SP4 Enterprise to C2 Environmental Conservation
 - v. RU4 Primary Production Small Lots to C2 Environmental Conservation;
 - vi. RU2 Rural Landscape and RU4 Primary Production Small Lots to C3 Environmental Management
 - vii. RE1 Public Recreation and W1 Natural Waterways sites to conservation zones.
- e. Include examples of the visual impacts of billboards across the LGA (other than in the zones mentioned under (a)(iii)).
- f. Include kiosks as a permissible use in the SP3 Tourist zone.
- g. Include further discussion and justification for the proposed amendments to FSR provisions in the R1 and R3 zones of the former Manly LGA, specifically in relation to undersized lots. This should include an explanation of how the proposed LEP amendments will maintain development potential for these lots without relying on clause 4.6 variations and examples of how FSR is calculated and applies to undersized lots.
- h. Round up proposed height of buildings in local centres to nearest 0.5m.
- i. Outline and address dual occupancies provision under *State Environmental Planning Policy (Housing) 2021* – Low and Mid-Rise Housing.
- j. Provide further discussion on the exclusion of battle-axe lots and the restriction on detached dual occupancies (i.e. only permitted on corner lots, dual street frontages, or where a heritage item is present) lots in the LEP or consider relocating these to the DCP.
- k. Include an outcome focused landscaped provision (such as a clause that sets clear objectives without prescribing detailed numerical thresholds) across the LGA, consistent with comparable LEPs.

- l. Include a landscaped provision with general area based minimum requirements for strategic locations such as environmentally sensitive bushland areas, including Pittwater offshore communities and R5 Large Lot Residential zoned land. However, the planning proposal is to provide further justification for the increase in minimum landscaped areas rates for these areas – i.e. 66% in Pittwater offshore communities, and 80% in the R5 Large Lot Residential zone.
- m. Provide further analysis of Council's Housing Mix Research and Analysis report including:
 - i. The location, number of dwellings and dwelling-mix of each building analysed.
 - ii. Whether analysed buildings are subject to existing DCP dwelling requirements (e.g. Avalon Beach Village, Dee Why Town Centre).
 - iii. Analysis that the proposed measures will not adversely affect development feasibility.
- n. Consider introduction of an urban heat clause.
- o. Provide further detail on how technical studies have informed the bushland and biodiversity map area.
- p. Quantitatively define 'associated buffers' as referenced in the draft provisions relating to watercourses, wetlands and riparian land.
- q. Clarify if and how natural and piped water courses are defined and managed by the proposed clause relating to watercourses, wetlands and riparian land.
- r. Update the draft maps to:
 - i. Include zoning of roadways
 - ii. Identify additional land parcels for acquisition mapped as errors and remove from the Land Acquisition map
 - iii. Identify land for acquisition parcels that are incorrectly zoned on the Land Acquisition map and update to align with adjacent land uses
 - iv. Include the missing (approximately 14 new) properties on the coastline hazard management map
 - v. Remove the piped water courses from the watercourses, wetlands and riparian land map
 - vi. Provide a consistent approach to mapping roads in the Draft LEP maps in accordance with the Department's Technical Mapping Requirements
 - vii. Update the proposed zone for seniors living sites in Belrose (deferred lands) from R5 Large Lot Residential to R2 Low Density Residential
 - viii. Update the zoning of the Belrose Cemetery from SP1 to SP2 and attach an appropriate label
 - ix. Update the SP label for Bare Creek to include recreational facility (new bike park alongside Waste Transfer Station)
 - x. Update SP labels to be consistent with standard instrument definitions
 - xi. Remove building height standards from the Height of Buildings map for land rezoned to RE1, C1, C2 and W1 zones
 - xii. Include two parts of the Austlink Business Park which are shown as a gap on the Additional Permitted Uses map
 - xiii. Include the Avalon and Bayview Sailing Clubs on the Additional Permitted Uses map
 - xiv. Include the 400m Additional Permitted Uses boundary for boarding houses and hostels on the Additional Permitted Uses map. Measurement of 400m distances to be consistent with approach in Chapter 6 State Environmental Planning Policy (Housing) 2021 (using a 400m walking distance)

- s. Update the Additional Permitted Uses on Certain Land assessment table supporting documentation to clarify the need and purpose of the changes.
 - t. include an advisory note confirming that recent State-led housing policies, particularly the NSW Low and Mid-Rise Housing Policy, applies to the subject land. The note must outline that the Stage 2 provisions in the Low and Mid-Rise Housing Areas prevail over local planning controls, and that wherever an inconsistency arises, the State Environmental Planning Policy (Housing) 2021 would apply in accordance with the statutory hierarchy of planning instruments.
2. Consultation is required with the following public authorities:
 - Environmental Protection Authority NSW.
 - Heritage Council of NSW.
 - NSW Maritime.
 - Schools Infrastructure NSW (and private school operators).
 - Transport for NSW.
 - Government Architect NSW.
 - Department of Climate Change, Energy, the Environment and Water.
 3. Prior to community consultation, the planning proposal is to be revised to address conditions above and then forwarded to the Department for endorsement.
 4. The planning proposal should be made available for community consultation for a minimum of 30 working days.

As the comprehensive planning proposal is a principle LEP the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

The timeframe for the LEP to be completed is on or before 30 October 2026

Angela Hynes

Manager, Local Planning and Council Support



9 October 2025

Jazmin van Veen

Director, Local Planning (North, East and Central Coast)

Assessment officer

Max Harpandi, Robert Snelling, Andy Ng, Kai Jakobsson, James Shelton, Sarah Waterworth

Local Planning and Council Support