

Planning and Assessment

IRF19/5800

Gateway determination report

LGA	Northern Beaches
PPA	Northern Beaches Council
NAME	To permit development for the purposes of seniors housing on land at 2 and 4 Nooal Street and 66 Bardo Road, Newport
NUMBER	PP_2018_NBEAC_004_00
LEP TO BE AMENDED	Pittwater Local Environmental Plan 2011
ADDRESS	2 and 4 Nooal Street and 66 Bardo Road, Newport
DESCRIPTION	Lot 1 DP 540092, Lot 1 DP 315279 and Lot 2 DP 540092
RECEIVED	14 June 2019
FILE NO.	IRF19/5800
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.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Pittwater Local Environmental Plan (LEP) 2014 to permit development for the purposes of seniors housing on land at 2 and 4 Nooal Street and 66 Bardo Road, Newport ('the site').

The proposal is a result of a rezoning review submitted by Boston Blyth Fleming Town Planners on behalf of Crystal Apartments Pty Ltd (Dept Ref: RR_2018_NBEAC_001_00). The original planning proposal prepared by Boston Blyth Fleming was accompanied by a concept plan for eight apartments and a gym in a two-storey building with 28 car spaces.

In May 2018, the Sydney North Planning Panel considered the rezoning review request and unanimously determined the planning proposal should be submitted for a Gateway determination because the proposal has demonstrated strategic and site-specific merit (Panel Ref: 2018SNH008).

1.2 Site description

Located in the suburb of Newport the site is approximately 2.5km north of Mona Vale strategic centre, in the Northern Beaches local government area (**Figure 1**).

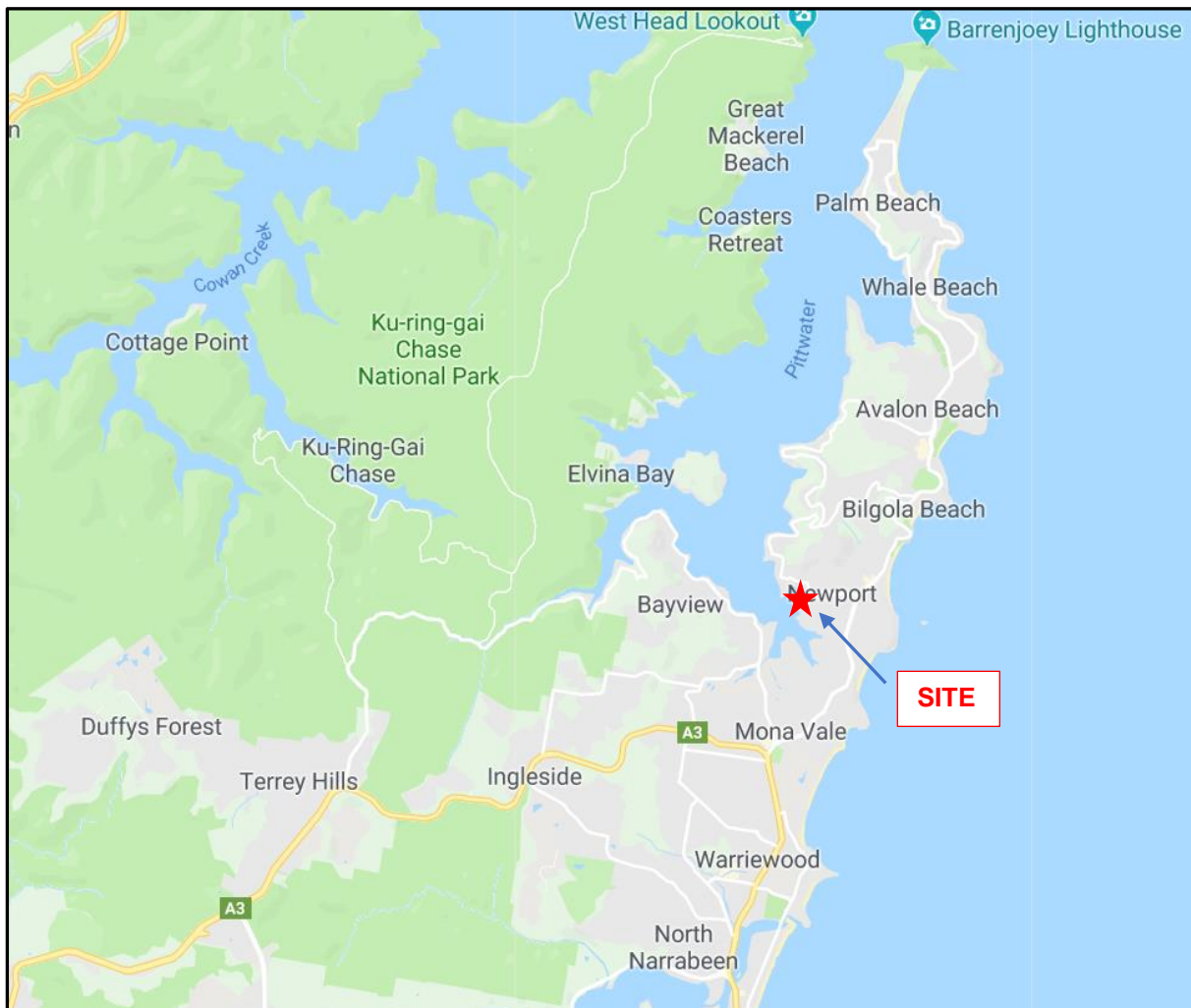


Figure 1: Context map (Source: Google Maps)

The site comprises of three parcels of land, described as:

- Lot 1 DP 540092 (2 Nooal Street, Newport)
- Lot 1 DP 315279 (4 Nooal Street, Newport)
- Lot 2 DP 540092 (66 Bardo Road, Newport) (**Figure 2**).

The combined area of these three allotments is approximately 2,927m². The site is wedge shaped with primary frontage of approximately 51m to Nooal Street, secondary frontage to an unmade section of Bardo Road of approximately 78m and a foreshore frontage to Crystal Bay of approximately 27m.

The site is currently occupied by three 1 and 2 storey detached dwelling houses with ancillary structures including garages/ carports, studios and swimming pools. The landscaped area on the site consists of mowed grass and vegetation of varying heights and maturity.

The land between the foreshore boundary and Crystal Bay has been reclaimed and is an unofficial foreshore reserve accessed from Bardo Road. A stone seawall delineates the land/ water interface between the site and Crystal Bay. No. 4 Nooal

Street has water-based structures including a concrete ramp, jetty, pontoon and birthing area. Figures 3 to 5 show the site when viewed from various perspectives.



Figure 2: Aerial view of site (outlined in red) (Source: Nearmap Imagery 2 Jul 2019)



Figure 3: Site viewed from Nooal Street facing south-west (2 Nooal Street (L) and 4 Nooal Street (R)) (Source: Google Street View photograph Dec 2017)



Figure 4: Site viewed from Crystal Bay facing east (Source: Boston Blyth Fleming planning proposal)



Figure 5: View of site from Bardo Road looking west towards Crystal Bay (2 Nooal St (L)) (Source: Google Street View photograph Nov 2013)

1.3 Existing planning controls

Under Pittwater LEP 2014 the site:

- is zoned E4 Environmental Living (**Figure 6**)
- has a maximum building height of 8.5 m applies (**Figure 7**);
- has a 700 m² minimum lot size requirement (**Figure 8**); and
- has a foreshore building line applying to the western boundary (**Figure 9**).

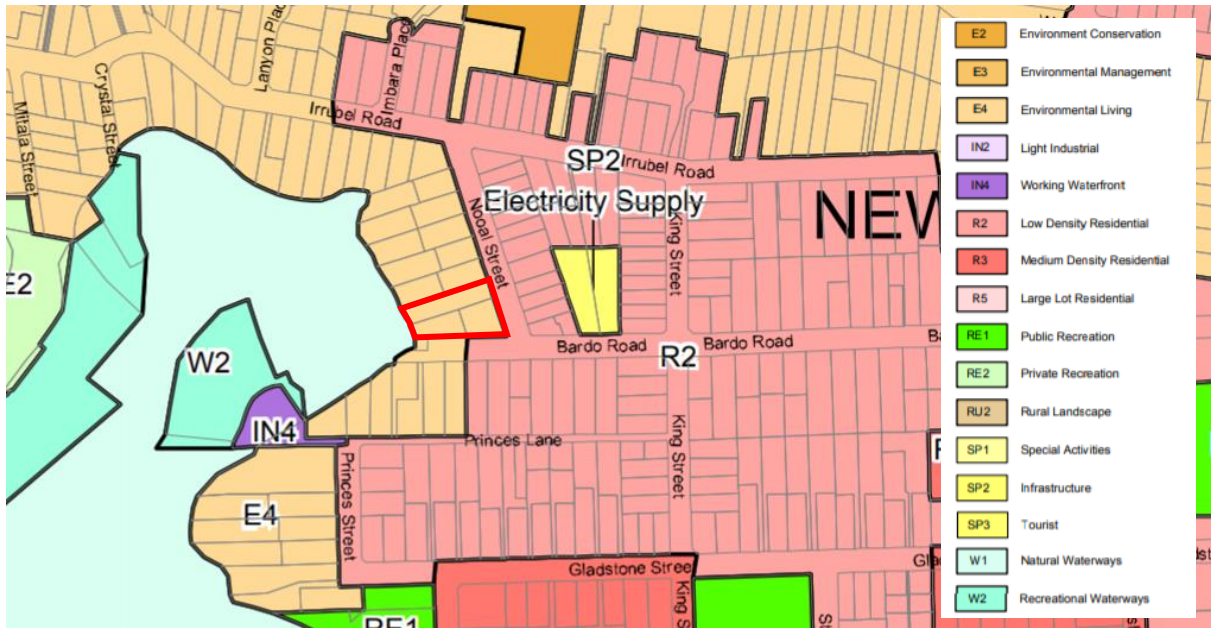


Figure 6: Existing Land Zoning Map with site outlined in red (Source: NSW Legislation)



Figure 7: Existing Height of Building Map with site outlined in red (Source: NSW Legislation)



Figure 8: Existing Lot Size Map with site outlined in red (Source: NSW Legislation)



Figure 9: Foreshore building line (Source: NSW Legislation)

1.4 Surrounding area

The follow describes and characterises the local area surrounding the site:

- to the north, are one and two storey detached dwelling houses;
- to the east, are one and two storey detached dwelling houses; and an electricity substation between Nooyal Street and King Street. Further east, approximately 800m from the site, is Newport Village Centre. In close proximity to the local centre are recreational uses, including Newport Bowling Club, Newport Community Centre and Tennis Courts, as well as the Newport Oval.
- to the south, directly adjoining the site is a Sydney Water Pumping Station at 68 Bardo Road. The area surrounding the station site is generally characterised by one, two, and three storey detached dwelling houses.
- to the west, is Crystal Bay, which forms part of the Pittwater waterway. Marina development is located approximately 125 m west and can be viewed from the site.

Newport Village is a local centre situated along the central strip of Barrenjoey Road. The local centre provides a mix of cafes, restaurants, boutique shops, a supermarket, newsagency, medical centre and pharmacy (**Figure 10**).

A neighbourhood centre is also located approximately 360 m south of the site (or 700 walking distance along the existing road network) at the intersection of Kalinya Street and Beaconsfield St (**Figure 10**).

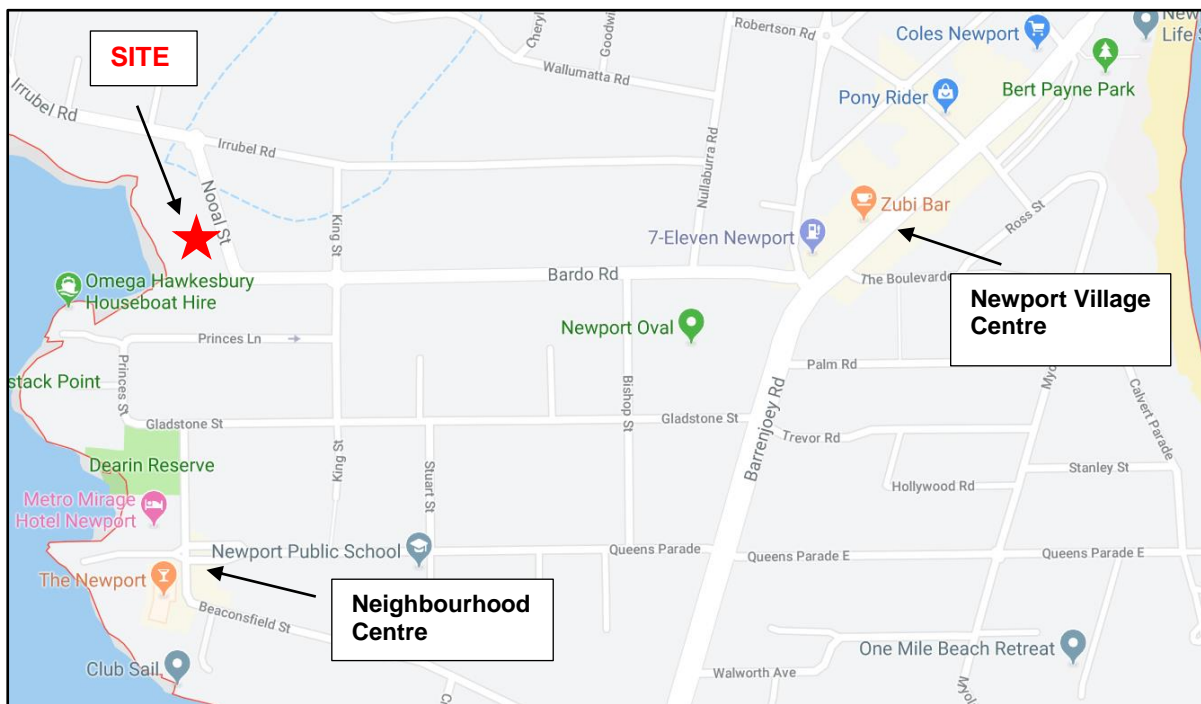


Figure 10: Surrounding land map (Source: Google Maps)

1.5 Background

The original planning proposal submitted to Council by Boston Blyth Fleming Town Planners on behalf of Crystal Apartments Pty Ltd sought to amend Schedule 1 of Pittwater LEP 2014 to permit seniors housing as an additional permitted use on the site. The supporting concept design for the proposal included eight seniors independent units with a total floor space ratio of 0.5:1 and up a height of 8.5m.

On 28 November 2017 the Council resolved not to support the planning proposal.

On 30 January 2018 the proponent submitted a rezoning review request with the Department which was referred to the Sydney North Planning Panel.

On 2 May 2018 the panel formed the view that the proposal had strategic merit as it provided much need seniors housing consistent with the North District Plan and that it had site specific merit as it was for development of a scale and form that was consistent with the existing built form and character for the area.

The Panel also indicated that it had not been justified adequately by the Council as to why this and other sites along the western side of Nooal Street were zoned E4 Environmental Living under Pittwater LEP 2014. Consequently, the panel recommended that the planning proposal be revised to include all land along Nooal Street up to Irrubel Road, and that this land be proposed to be zoned R2 Low Density Residential. This approach was recommended as being more appropriate as it also permitted for other residential uses such as dual occupancies.

The Department confirmed with Council that the proposal need only be revised to refer to and include the subject site and that Council could review the zoning of the remaining land referred by the panel at a later time.

The below table (**Table 1**) provides a timeline of the significant events in relation to the planning proposal.

Table 1 | Summary of significant events

Year	Month	
2017	Sept	Council receives a planning proposal request to permit seniors housing on the subject land from Boston Blyth Fleming Pty Ltd Town Planners on behalf of Crystal Bay Apartments Pty Ltd. The proposal is for a seniors housing development comprising eight apartments, a gym and car parking for 28 spaces.
2017	Nov	Council resolved not to support the planning proposal.
2018	Jan	The proponent submits a Rezoning Review request with the Department.
2018	May	The Sydney North Planning Panel determines that the planning proposal demonstrates strategic and site-specific merit and should be submitted for a Gateway determination.
2018	June	Northern beaches Council accepts the role of Planning Proposal Authority.
2018	Aug	Council submits a planning proposal to the Department and seeks a Gateway determination.
2018	Oct	The Department advises Council the planning proposal as submitted is inadequate for Gateway determination and requires revision.
2018	Nov	Councils submits a revised planning proposal to the Department dated November 2018 and seeks a Gateway determination.
2019	Mar	The Department advises Council the planning proposal remains inadequate and further revision is required.
2019	June	Council submits a revised planning proposal dated June 2019 (version 3).

1.6 Summary of recommendation

It is recommended the planning proposal proceed subject to conditions as the proposal will:

- provide for much needed seniors housing to cater for an ageing population;
- enable seniors housing in an infill location that is serviced by regular public transport less than 400m walking distance from the site;
- provide an opportunity for seniors to age in place by providing downsized accommodation within an existing community;
- allow for an additional permitted use which represents a compatible and logical extension of the residential uses in the R2 Low Density Residential land directly opposite the site on the eastern side of Nooal Street;
- will retain the scale of development currently permitted on the site and its surrounds; and
- not result in any likely detrimental environmental, social or economic impacts.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal states the intended outcome is to rezone land at 2 and 4 Nooal Street and 66 Bardo Road, Newport, from E4 Environmental Living to R2 Low Density Residential to enable 'seniors housing' on the land.

In accordance with the Department's *A guide to preparing planning proposals* (August 2016) the objectives or intended outcomes of a planning proposal should be a statement of what is planned or intended to be achieved by the proposal, not how it is to be achieved. The Department's guide also states that it is not necessary to identify the mechanism by which the outcomes will be achieved in the objectives or intended outcomes of the planning proposal.

The planning proposal's intended outcome is to be revised prior to community consultation to refer to permitting development for the purposes of seniors housing on the subject land, without reference to the mechanism by which this is proposed to be achieved. It is recommended the planning proposal include a concise statement about 'seniors housing' not being permitted under the site's existing E4 Environmental Living zone.

It is noted that the original planning proposal to Council by the proponent included a concept scheme for the proposed seniors housing development. Reference and inclusion of a concept scheme is to be included as part of the planning proposal to help guide the community how the development may appear and help illustrate the intended outcomes sought by the proposal.

2.2 Explanation of provisions

The planning proposal's explanation of provisions refers to rezoning the site from E4 Environmental Living to R2 Low Density Residential by amending the Land Zoning Map (map sheet LZN_017) under Pittwater Local Environmental Plan (LEP) 2014.

The explanation of provisions also discusses a recommendation of the Sydney North Planning Panel following a Rezoning Review request made after Council's decision to not support a request for a planning proposal. Council has also included reasons for limiting the scope of the planning proposal to three parcels of land, being 2 and 4 Nooal Street and 66 Bardo Road, Newport, and not including properties north of the site up to Irrubel Road.

The planning proposal includes the E4 Environmental Living and R2 Low Density Residential land use tables contained in Pittwater LEP 2014. 'Seniors housing' is an innominate use in both these zones as it is not specifically referred to in the land use table. Item 4 Prohibited in both land use tables captures 'any other development not specified in item 2 or 3', as such, 'senior housing' is a prohibited use in both the E4 and R2 zone.

The Department recommends the figure extract showing the existing land zoning be updated to ensure all map labels are legible and a legend is included. The planning proposal should also be updated to include figure extracts for any applicable development standards, such as, height of buildings and minimum lot size.

The Department has considered various options for achieving the planning proposal's intended outcome in Section 3 of this report. The best means of achieving

the planning proposal's intended outcome will ultimately determine how the explanation of provisions is addressed in the planning proposal.

2.3 Mapping

Part 4 of the planning proposal includes figure extracts showing the existing and proposed Land Zoning Maps. This part of the proposal will need to be revised to remove reference to amending the Land Zoning Map and instead show the existing and proposed Additional Permitted Uses Map as discussed further below in Section 3 'Need for the Planning Proposal'.

At the time of requesting the making of the plan, the planning proposal is to include new maps sheets to replace the corresponding SI LEP maps.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not the result of any strategic study or report. The proposal is an outcome of a Rezoning Review decision of the Sydney North Planning Panel in May 2018 (Panel reference: 2018SNH008; Department reference: RR_2018_NBEAC_001_00).

The planning proposal discusses two options for achieving the intended outcome of permitting 'seniors housing' on the site. The first option is to rezone the land to R2 Low Density Residential. The planning proposal states that if the land is rezoned to R2 then State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('the Seniors SEPP') would apply to the site and development for the purposes of seniors housing would be considered pursuant to the Seniors SEPP. Council acknowledges that rezoning the land R2 would not permit 'seniors housing' under Pittwater LEP 2014.

The second option discussed is an amendment to Schedule 1 Additional Permitted Uses of Pittwater LEP 2014 to permit seniors housing with consent on the site. This would not involve any rezoning of the land and the existing E4 Environmental Living zone would continue to apply. The proposal states that this second option would mean any future development application would be assessed under the provisions of Pittwater LEP 2014 and Pittwater Development Control Plan 21 and is likely to achieve a more favourable built form outcome that is consistent with existing development in the locality.

The Department has considered the two options discussed in the planning proposal and is of the opinion that amending Schedule 1 of Pittwater LEP 2014 to achieve the planning proposal's intended outcome is the most effective and preferred approach on the basis that:

- there is no obligation on the proponent to develop the land for seniors housing if the land were to be rezoned R2 Low Density Residential;
- seniors housing would be expressly permitted under Pittwater LEP 2014, thereby removing the need to rely upon the Seniors SEPP;
- that any future seniors housing development would be regulated by the Pittwater LEP 2014 and Council's DCP;
- rezoning the site R2 Low Density Residential would also permit the following forms of housing State Environmental Planning Policy (Affordable Rental Housing) 2009:
 - 'boarding houses';
 - 'group homes';
 - 'secondary dwellings; and

- maintaining the land's existing E4 zone is in keeping with Council's approach of predominately applying the E4 zone along the Pittwater waterfront edge from Gladstone Street to Palm Beach.

Part 2 - Explanation of provisions in the planning proposal will need to be revised prior to community consultation to refer to a proposed amendment to Schedule 1 Additional Permitted Uses. The explanation should also elaborate on the effect of Clause 2.5 and Schedule 1 of Pittwater LEP 2014, which is to permit development or activities on a particular site which would otherwise be prohibited by the site's zoning. 'Seniors housing' would be permitted on the site in addition to those identified in the E4 zone land use table. An amendment to Schedule 1 will also require an amendment to the Additional Permitted Uses Map in Pittwater LEP 2014 to clearly identify the land affected.

4. STRATEGIC ASSESSMENT

4.1 District

North District Plan

The North District Plan, released on 18 March 2019, contains planning priorities and actions to guide growth of the North District while improving the district's social, economic and environmental assets. It contains the planning priorities and actions for implementing the Greater Sydney Region Plan, *A Metropolis of Three Cities*, at a district level and is a bridge between regional and local planning.

The subject site is located within the North District and the proposal is generally consistent with the priorities and actions of the North District Plan. In particular, the following priorities have been identified as relevant to the planning proposal:

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

The planning proposal offers a diversity of housing type in an established residential area serviced a regular bus services less than 400m from the site on Gladstone Road, near King Street. This bus stop is serviced by the following buses:

- 188 - Mona Vale to City Wynyard;
- 199 - Palm Beach to Manly (and vice versa); and
- L90 Palm Beach to City Wynyard (and vice versa).

Newport Village Centre on Barrenjoey Road is approximately 800m from the site and a secondary neighbourhood shopping centre on Kalinya Street is approximately 700m walking distance south of site on the existing road network.

The Department forms the view that the proposal will result in moderately increasing housing supply and choice in a form specific and suited to an increasing aging demographic in the Northern Beaches LGA. Therefore, the planning proposal is required to be updated to reflect that the proposal will facilitate the opportunity to provide additional diverse housing in the local area with high amenity and good accessibility to services and facilities.

It is recognised that delivery of any future seniors housing in accordance with the proposal may not improve housing affordability outcomes. However, the planning proposal includes a discussion on housing affordability, including reference to

Council's Affordable Housing Policy and the opportunity for the applicant to negotiate a voluntary planning agreement for a monetary contribution to Council. As this relates to Council's policy and would result in a mandatory requirement to enter into a voluntary planning agreement, the planning proposal should be revised to wholly remove this discussion from the proposal's assessment against with North District Plan.

Planning Priority N17 – Protecting and enhancing scenic and cultural landscapes

It is recognised that the site enjoys views to the Pittwater waterway and in turn forms part of the foreshore view from the waterway. The concept scheme presented by the proposal shows a two storey integrated scheme that within the existing maximum building height controls that also steps up to Nooal Street. When viewed from the Pittwater waterway this represents a two to three storey overall built form (**Figure 12**).

On comparison to other development along this same foreshore this outcome is not out of keeping with the prevailing built form or scale of this existing development (**Figures 13-14**).

To better reflect the potential built form of the proposal in its fuller context with existing and adjoining development, the planning proposal is to be updated to include an accurate illustration or illustrations of the concept scheme and to include adjoining existing development. This could be represented in the form of a photomontage(s).



Figure 12: Western elevation of the concept scheme by the proponent (source: Richard Cole Architecture July 2017)



Figure 13: Four storey flat building situated to south of the site adjoining the Princes Street Marina (source: Planning proposal report by Boston Blyth Fleming – Town Planners)



Figure 14: Two to three storey development situated south of the Bardo Road and Princess Lane (source: Planning proposal report by Boston Blyth Fleming – Town Planners)

Planning Priority N19 – Increasing urban tree canopy cover and delivering Green Grid connections

It is noted that a 'Pre-development site inspection' report prepared by Arborsaw is referred to in the planning and proposal was submitted as part of the original planning proposal submitted for the rezoning review. However, the majority of this report assesses the most significant trees and that these are located in the public domain, being street trees along Nooal Street and Bardo Road.

Therefore, as these trees would be expected to be generally retained through any redevelopment of the site in accordance with the proposal and any impacts can be determined at the development application, the planning proposal is to be updated to remove reference to this report.

Planning Priority N22 – Adapting to the impacts of urban and natural hazards and climate change

Council's Newport Flood Study, adopted on 27 August 2019, shows the site is not flood affected in a 1% Annual Exceedance Probability (AEP) flood event (**Figure 15**). A flood with a 1% AEP has a one in a hundred chance of occurring or being exceeded in any year. Currently, the 1% AEP event is designated as having an 'acceptable' risk for planning purposes nearly everywhere in Australia.

It is noted that the original planning proposal submitted to Council included an Estuarine Risk Management report (dated 28 December 2017) prepared by the proponent. This report assessed the risk of damage to the proposed seniors housing development from estuarine inundation and found that the risk was considered to be acceptably low.

In this regard the planning proposal is to be updated to reflect the Council's flood study and to include a revised risk management report to further assess the potential risk as it relates to Planning Priority N22 under the District Plan.

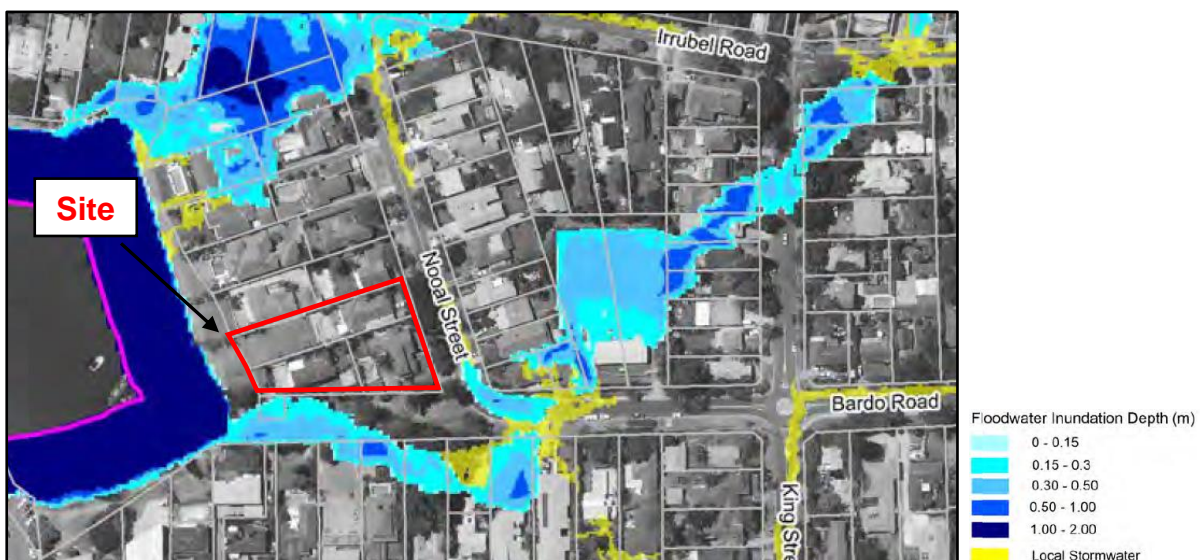


Figure 15: Extract from Council's Newport Flood Study (27 August 2019)

4.2 Local

The planning proposal includes an assessment of the planning proposal against a number of policies and plans of Northern Beaches Council, notably:

- Pittwater Local Planning Strategy (2011);
- Land Capability Mapping;
- Centre Based Development; and
- Affordable Housing.

These plans and policies have not been endorsed by the Department.

The Department notes Council's discussion of the proposal's inconsistency with some of the plans and policies due to "more intensive development". The planning proposal is not seeking to amend existing development standards that apply under Pittwater LEP 2014. Therefore, matters relating to bulk, scale and character can be addressed as part of any future development application.

Pittwater 21 Development Control Plan will apply to any future development application for seniors housing on the site. Due to limited site area and potential yield of any future seniors housing development, the Department does not consider a site-specific development control plan is necessary. Consequently, this section of the planning proposal is to be revised to remove reference to the need for a site specific DCP.

Additionally, the Department forms the contrary view that the proposal is generally consistent with or helps achieve relevant aims and objectives these local policies and plans on the basis that it:

- will moderately contribute to housing supply to further support Council's objective to achieve 4,600 dwellings in the Pittwater area by 2031;
- encourages construction of housing adaptable to universal design standards;
- encourages the delivery of housing choice through provision of smaller dwellings;
- is accessible to regular bus services that are well connected to local and regional services, shops and facilities;
- compatible with the site's good 'land capability', which has a gentle slope, is not flood prone, doesn't include endangered ecological communities, doesn't include or adjoin any heritage items, is not situated on a ridgeline and is not bushfire prone; and
- is compatible in density with existing foreshore development in the vicinity of the site, particularly as it does not seek to alter the existing building height control for the site and any future development will be required to comply with existing DCP controls for seniors housing.

For these reasons Section 4 of the planning proposal is to be updated to reflect similar views. Additionally, the planning proposal is to be updated to remove reference to the opportunity negotiate a voluntary planning agreement as this relates to Council's policy and any expectation to enter into a voluntary planning agreement is not required in support of a planning proposal.

4.3 Policy Directions for Plan Making (Section 9.1 Ministerial Directions)

The following policy directions for plan making are relevant to the planning proposal:

- 2.1 Environmental Protection Zones
- 2.2 Coastal Management
- 3.3 Residential zones
- 3.4 Integrated Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of A Plan for Growing Sydney.

It is noted that in all instances the planning proposal indicates the proposal is inconsistent with each of these Directions. The Department does not concur with this assessment. Before the planning proposal is to be updated to reflect similar assessment of the proposal.

The following discussion addresses any inconsistencies with the above Directions.

2.1 Environmental Protection Zones

The objective of this Direction is to protect and conserve environmentally sensitive areas. The Direction provides that where a planning proposal applies to land within an environmental protection zone it must reduce the environmental protection standards applying to the land.

The proposal seeks to permit seniors housing with development consent on the subject land. Achieving this outcome by allowing seniors housing as an additional permitted use with consent in the existing E4 zone will not reduce the environmental protection applying to the land. The proposal will still require development consent for this land use and therefore any potential impacts can be mitigated at development application stage.

The proposal is therefore considered to be consistent with the Direction and the planning proposal should be revised to reflect this view.

2.2 Coastal Management

The objective of this Direction is to protect and manage coastal areas of NSW. This Direction applies to land that is within the coastal zone, as identified under the Coastal Management Act 2016. The subject land is mapped as 'coastal environment area' and 'coastal use area' within the coastal zone.

This Direction provides that a planning proposal must not rezone land which would enable increased development or more intensive land-use on land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study/assessment undertaken by or on behalf of the planning proposal authority.

Council has prepared the Newport Flood Study (adopted on 27 August 2019) to document flood behaviour across the catchment for a range of historic and design floods. The Newport Flood Study acknowledges a number of different flooding mechanisms, including mainstream flooding, overland flooding and coastal

inundation. The study shows the three properties subject to the planning proposal are not affected by coastal inundation as shown in **Figure 16**.

The Department also notes Pittwater LEP 2014 contains a local provision for coastal risk planning, including a map identifying land subject to wave inundation, coastal erosion/wave inundation and bluff/cliff instability. The subject land is not identified on Pittwater LEP 2014's coastal risk planning map.

Given the land is not affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study/assessment undertaken by Council as the planning proposal authority, the planning proposal is considered to be consistent with this Direction.

To support this the Estuarine Risk Management report is provide an updated assessment of this matter and the planning proposal will need to be revised prior to community consultation to ensure statements are factually correct when addressing this Direction.

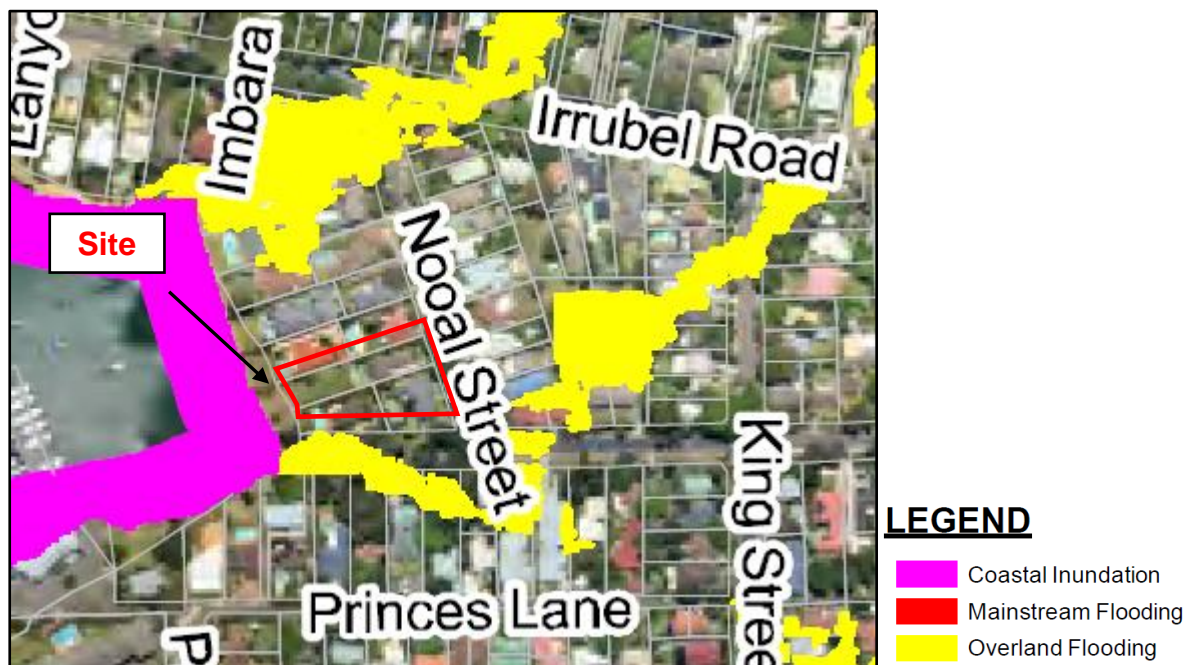


Figure 16: Areas of Overland Flow and Mainstream Flooding (1% AEP) (Source: Newport Flood Study Fig 34)

3.3 Residential Zones

The objectives of this Direction are to encourage variety and choice of housing to meet the future needs of the community, make efficient use of existing infrastructure and minimise impacts of development on the environment.

The proposal is consistent with these objectives as it delivers additional housing suited to the needs of older people, is utilising an existing urbanised site with good access to services and facilities and with application of Council's current controls supports the ability to deliver housing that compatible with the local natural and built environment.

The proposal is therefore considered to be consistent with the Direction and the planning proposal should be revised to reflect this view.

3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure planning proposals are consistent with and give effect to *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001) and *The Right Plan for Business and Services – Planning Policy* (DUAP 2001).

The planning proposal is consistent with these guidelines as it:

- encourages use of public transport as the site is good proximity and within walking distance to existing bus services and relatively close to Newport Village;
- helps support building a more compact city by increasing dwelling capacity on the site; and
- reuses existing urban land that is supported by a good road and pedestrian network.

The proposal is therefore considered to be consistent with the Direction and the planning proposal should be revised to reflect this view.

4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires the planning proposal authority to consider Acid Sulfate Soils Planning Guidelines and the appropriateness of a change of land use given the presence of acid sulfate soils.

The proposal is consistent with this Direction as the land is mapped as Class 5 Acid Sulfate Soils (ASS), the lowest risk category, and Pittwater LEP 2014 contains existing provisions to ensure the consideration of ASS during development assessment.

The proposal is therefore considered to be consistent with the Direction and the planning proposal should be revised to reflect this view.

4.3 Flood Prone Land

The objectives of this direction are:

- to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and
- to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

Pittwater LEP 2014 contains existing provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).

The Direction provides that a planning proposal must not rezone land within flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

Council’s Newport Flood Study confirms the site is not within the flood planning area. Therefore, the proposal is consistent with this Direction.

The planning proposal will need to be revised prior to community consultation to ensure statements are factually correct when addressing this Direction.

6.1 Approval and Referral Requirements

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. No new concurrence provisions are proposed by the planning proposal.

The proposal is therefore considered to be consistent with the Direction and the planning proposal should be revised to reflect this view.

6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. The planning proposal is consistent with this Direction as it will permit a specific use (i.e. seniors housing) through Clause 2.5 Additional permitted uses for particular land without imposing any development standards or requirements in addition to those already contained in Pittwater LEP 2014 and Pittwater DCP.

The proposal is therefore considered to be consistent with the Direction and the planning proposal should be revised to reflect this view.

7.1 Implementation of A Plan for Growing Sydney

This Direction provides that a planning proposal must be consistent with the NSW Government’s A Plan for Growing Sydney (December 2014). A Plan for Growing Sydney has been superseded by the Greater Sydney Commission’s Greater Sydney Region Plan and Districts Plans published in March 2018.

The consistency of the proposal with the North District Plan is discussed in Section 4.1 of this report. It is considered that the planning proposal be revised to demonstrate that is consistent with the North District Plan.

4.4 State environmental planning policies

It is noted that the assessment of the proposal against relevant State Environmental Planning Policies (SEPPs) in the planning proposal is inadequate and unbalanced. The planning proposal is to be updated to only include and asses relevant SEPPs and reflect a more balanced assessment of the proposal against these SEPPs.

In contrast the Department’s assessment of consistency of the planning proposal with relevant SEPPs is outlined in **Table 2**.

Table 2 | Assessment against relevant SEPPs

SEPP	Requirement	Planning Proposal	Complies
SEPP 55 – Remediation of Land	SEPP 55 requires a planning authority to consider whether land is contaminated, and if so, whether it is, or can be made suitable for proposed residential use.	The planning proposal states the site’s history indicates that the land has been used for predominately residential purposes for the last 50+ years. The possibility of contamination is low.	Yes

SEPP	Requirement	Planning Proposal	Complies
SEPP (Building Sustainability Index: BASIX) 2004	The aim of this Policy is to encourage sustainable residential development through establishing targets for thermal comfort, energy and water use.	Any future development application for residential development will need to comply with the targets established under BASIX.	To be confirmed at DA stage
SEPP (Coastal Management) 2018	This Policy gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone.	The subject land is mapped under the SEPP as 'coastal environment area' and 'coastal use area.' This Policy requires that consideration must be given by the consent authority when determining a development application in accordance with the provisions of the Policy. Seniors housing is not precluded in these mapped areas under this SEPP. This will need to be addressed as part of any future development application.	To be confirmed at DA stage
SEPP (Exempt and Complying Development Codes) 2008	The aims of this Policy are to provide exempt and complying development codes that have State-wide application.	The planning proposal is not inconsistent with this SEPP, which would apply to exempt development under the SEPP and internal alterations to existing residential accommodation provided requirements in the Code are met.	To be confirmed at DA stage
SEPP (Housing for Seniors or People with a Disability) 2004	The aims of this Policy are to increase the supply and diversity of housing that meets the needs of seniors or people with a disability, be of good design and make efficient use of existing infrastructure and services.	The planning proposal is consistent with these intentions as it will facilitate the delivery of additional seniors housing, that is compatible with Council's current built form design expectations under its DCP and on a site that is well serviced by transport that is accessible to facilities, services and facilities.	Yes

The planning proposal will need to be revised prior to public exhibition to remove assessments against the following SEPPs as they are considered not applicable/relevant to the planning proposal:

- SEPP 65 - Design Quality of Residential Apartments is not applicable under clause 4 of SEPP 65 as the building concerned must be at least 3 or more storeys. The concept plan submitted with the original planning proposal depicts a two-storey building.
- SEPP 70 – Affordable Rental Housing Scheme. While SEPP 70 includes the Northern Beaches LGA, it does not mean Council can automatically impose

consent conditions for affordable housing. Under Section 7.32(3)(b) of the *Environmental Planning and Assessment Act 1979*, any condition imposed on a development consent must be authorised by an LEP and must be in accordance with an affordable housing contribution scheme for dedications or contributions set out in, or adopted by, the LEP.

This means that councils included in SEPP 70 must:

- investigate the affordable housing need in their LGAs;
- identify the areas to which an affordable housing contribution scheme will apply;
- determine a viable affordable housing contribution rate;
- prepare affordable housing contribution schemes
- amend their LEPs through the planning proposal process to reference their affordable housing contribution schemes.

Council can then apply consent conditions that require contributions for affordable housing.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The NSW population is ageing. In the 2016 Census, 42,465 people or 16.8% of the Northern Beaches population were aged 65 years and over, compared to 16.2% across NSW. The NSW Government's 2016 population projections estimate this number will increase to 63,000 or 21.1% by 2036 for the Northern Beaches LGA.

The planning proposal will provide for much needed seniors housing in the Northern Beaches and offer greater housing diversity in an established residential area approximately 800m from the Newport Village Centre and within 400m of existing public transport services. The proposal will provide seniors the option to downsize and 'age in place' while remaining in the community.

As previously mentioned in this report, reference by the planning proposal that consideration hasn't been given to the impacts of housing affordability through Council's Affordable Housing Policy is not appropriate.

The planning proposal is to be revised to exclude reference to this expectation and to address social impacts and benefits of the proposal.

5.2 Environmental

The planning proposal states the subject land is unlikely to contain critical habitat or threatened species, populations or ecological communities, or their habitats.

Environmental effects related to the planning proposal have already been addressed in the strategic planning framework, such as, coastal management and flooding. Any residual environmental issues (e.g. tree removal) can be suitably addressed at the development application stage.

It is noted that Pittwater LEP 2014 contains 'Clause 7.8 Limited development on the foreshore area' and that the site is mapped on the Foreshore Building Line Map. The aim of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

This is a matter to be addressed as part of any future development application for the site.

5.3 Economic

The planning proposal is expected to have a positive economic benefit as resulting development will help stimulate employment associated with the construction phase of the future development for seniors housing. This is likely to have flow on effects to local business activity.

6. CONSULTATION

6.1 Community

Council proposes to place the planning proposal on public exhibition in accordance with the Gateway determination and ensure consistency with Council's Community Engagement Policy. The planning proposal does not specify a proposed exhibition period.

In accordance with the Department's *A guide to preparing local environmental plans* (August 2016), the planning proposal is not considered to be a 'low impact proposal'. It is therefore considered that a community consultation period of a minimum of 28 days is appropriate.

6.2 Agencies

Council proposes to consult with several public authorities. The Department considers consultation with the following public authorities / organisations is required:

- Sydney Water – as a Sydney Water asset (pumping station) adjoins the site at 68 Bardo Road, Newport.
- NSW Crown Lands – as the site adjoins Crown land that has been reclaimed from Crystal Bay.

7. TIME FRAME

The planning proposal includes a six (6) month timeframe estimating a request for plan finalisation by January 2020. This timeframe is considered appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested local plan-making authority for this proposal. As the proposal was an outcome of a Rezoning Review, it is not appropriate for Council to have plan making delegations.

9. CONCLUSION

The planning proposal to permit seniors housing on land at 2 and 4 Nooal Street and 66 Bardo Road, Newport, is supported to proceed with conditions, as the proposal will provide for much needed seniors housing to cater for NSW's rapidly ageing population; demonstrates consistency with the strategic planning framework; and will not result in any likely detrimental environmental, social or economic impacts.

10. RECOMMENDATION

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

1. Prior to community consultation, the planning proposal is to be updated to:
 - (a) revise Part 1 - Objectives or Intended Outcomes without reference to the mechanism by which the objectives / intended outcomes will be achieved and include reference to the concept scheme prepared by Richard Cole Architecture for the proponent;
 - (b) revise Part 2 - Explanation of Provisions to refer permitting 'seniors housing' as an additional permitted use on the land under schedule 1 of Pittwater LEP 2014;
 - (c) revise Part 3 - Justification by:
 - updating *Subsection 2 - Is the Planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*, to reflect that the proposal seeks to include 'seniors housing' as a permitted land use under schedule 1 of Pittwater LEP 2014;
 - revising *Section B – Relationship to strategic planning framework* to demonstrate that the proposal is consistent with the North District Plan (including Planning Priorities N5, N17, N19 and N22);
 - revising subsections a) and b) of *Section B – Relationship to strategic planning framework* to demonstrate that the proposal does have strategic and site specific merit and removes reference to the requirement for a site specific Development Control Plan (DCP);
 - revising Section 4 to demonstrate that the proposal is consistent with the Pittwater Local Planning Strategy (2011);
 - updating Section 5 to demonstrate consistency with the following SEPPs:
 - SEPP 55 – Remediation of Land
 - SEPP (Building Sustainability Index: BASIX) 2004
 - SEPP (Coastal Management) 2018
 - SEPP (Exempt and Complying Development Codes) 2008
 - SEPP (Housing for Seniors or People with a Disability) 2004
 - removing reference to the following SEPPs in Section 5:
 - SEPP 65 – Design Quality of Residential Apartments
 - SEPP 70 – Affordable Rental Housing Scheme; and
 - revising Section 6 to demonstrate that the proposal is consistent with all relevant Section 9.1 Directions;
 - (d) ensure all figures/maps clearly depict labels and include a legend;
 - (e) include figure extracts showing existing development standards that apply to the site;
 - (f) remove the proposed Land Zoning Map in Part 4 and replace this with a proposed Additional Permitted Uses Map;
 - (g) remove any discussion and reference of Council's Housing Affordability Policy;
 - (h) remove any discussion and reference to potential voluntary planning agreement;

- (i) remove unsubstantiated claims regarding the site being affected by flooding and coastal inundation;
 - (j) remove any discussion and reference to a site-specific Development Control Plan (DCP) and/or the addition of site specific DCP controls into Pittwater DCP 2014 or Pittwater DCP 21; and
 - (k) reflect the Council's 2019 Flood Study and to include a revised Estuarine Risk Management report to further assess the potential risk.
2. The revised planning proposal be forwarded to the Department for review and approval prior to exhibition.
 3. The planning proposal should be made available for community consultation for a minimum of 28 days.
 4. Consultation is required with the following public authority / organisation:
 - Sydney Water
 - NSW Crown Lands
 5. The time frame for completing the LEP is to be six (6) months from the date of the Gateway determination.
 6. Given the planning proposal is an outcome of a Rezoning Review, Council should not be authorised to be the local plan-making authority to make this plan.

Brendan Metcalfe
Manager

Amanda Harvey
Director, North District
Place, Design and Public
Spaces

Assessment officer: Yolande Miller
Senior Planner, Sydney Region East
Phone: 9274 6500