

## **Attachment Booklets 5, 6 and 7**

### **EXTRAORDINARY COUNCIL MEETING**

**8 JUNE 2010**

#### **ITEM 4.1 – Draft Warringah Local Environmental Plan 2009 – Consideration of Submissions**

- Booklet 5 – Internal Comments
- Booklet 6 – Consideration of Environmental Planning Instruments
- Booklet 7 – Consideration of Section 117 Directions for Warringah



## Attachment Booklet 5 *Internal Comments*

Item no.	Column 1 Summary of comments	Column 2 Response	Column 3 Recommendations for change
1	<p>Lot 5 DP 747057 - Bate Avenue, Allambie Heights.</p> <p>Site is proposed to be zoned R2 Low Density Residential under the draft LEP 2009. It is owned by Housing NSW and vested in Council under the Housing Act, for the purpose of Public Reserve.</p> <p>Site should be zoned RE1 Public Recreation.</p>	<p>As the land has been dedicated to Council as a public reserve by Housing NSW it is appropriate to zone the land RE1 Public Recreation.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by zoning the land identified in Column 1, RE1 Public Recreation; and</p> <p>that Council resolve to alter the draft Warringah LEP 2009 Lot Size Map and Height of Buildings Map by identifying a nil value for the land identified in Column 1.</p>
2	<p>Lot 7028 DP 1109287 - Wanniti Road, Belrose.</p> <p>Site is proposed to be zoned RE1 Public Recreation under the draft LEP. However, it lies adjacent to land to be zoned E1 National Parks and Nature Reserves and is owned by National Parks and Wildlife Service.</p> <p>The land should be zoned E1 National Parks and Nature Reserves.</p>	<p>The Department of Climate Change and Water (with its submission to the draft LEP) has supplied a web address for identification of DECCW reserves and has indicated that this data source should be used by Council in identifying land to be zoned E1 National Parks and Nature Reserves.</p> <p>The DECCW database has been reviewed and verifies that the subject site should be included within the E1 zone.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by zoning the land identified in Column 1 E1 National Parks and Nature Reserves.</p>
3	<p>Lot 1 DP 544788 - Queenscliff Road, Queenscliff.</p> <p>Site is owned by Council and is currently Public</p>	<p>Correction of error required. Alter the draft Warringah LEP 2009 Land Zoning Map by changing the zone of the subject property from R2 Low Density Residential to RE1 Public Recreation.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by zoning the land identified in</p>

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	<p>Open Space under Warringah LEP 2000. It is classified as 'community land' under the Local Government Act.</p> <p>With the initial preparation of the draft Land Zoning Map (in June 2007 and prior to its submission to the Department of Planning for certification) the site was correctly zoned RE1 Public Recreation. However, the Land Zoning Map, submitted to the Department in November 2007 zones the site R2 Low Density Residential.</p> <p>The change of zoning of the site was not intentional. An error has occurred when changes were made to the Land Zoning Map and the Land Reservation Acquisition Map in the vicinity of the subject site.</p>		<p>Column 1 RE1 Public Recreation; and</p> <p>that Council resolve to alter the draft Warringah LEP 2009 Lot Size Map and Height of Buildings Map by identifying a nil value for the land identified in Column 1.</p>
3	<p>Land identified below has been purchased by Council for public reserve purposes subsequent to Council's preparation of the draft Warringah LEP 2009.</p> <p>Nos 4 and 6 Innes Rd, Manly Vale - (Lots 3 and 4 DP 9392)</p> <p>No. 27 Old Pittwater Road, Brookvale - (Lot B DP 374942)</p>	<p><u>No.s 4, 6 and 8 Innes Rd, Manly Vale - (Lots 3, 4 and 5 DP 9392)</u> The purchase of these sites by Council is now complete. At the time of preparation of the draft LEP only no. 8 was owned by Council. Hence, no. 8 is zoned RE1 Public Recreation and no.s 4 and 6 are zoned R2 Low Density Residential. It is now appropriate to change the zone of no.s 4 and 6 to RE1 Public Recreation.</p> <p><u>No.s 25 to 31 Old Pittwater Road, Brookvale - (Lots C, B and A DP 374942 and Lot 1 Sec 1 DP 1521)</u> The purchase of these sites by Council is now complete. At the time of preparation of the draft LEP no.s 25, 29 and 31 were</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by zoning the land identified in Column 1, RE1 Public Recreation; and</p> <p>that Council resolve to alter the draft Warringah LEP 2009 Lot Size Map and Height of Buildings Map by identifying a nil value for the land identified in Column 1.</p>

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		owned by Council and zoned RE1 Public Recreation. However, no. 27 was not owned by Council and is zoned R2 Low Density Residential. It is now appropriate to change the zone of no. 27 to RE1 Public Recreation.	
4	<p>Land identified below is identified on the draft LEP Land Reservation Acquisition Map for future purchase by Council for public reserve purposes. This should now be removed from the map.</p> <p>Lot 31 Sec 4 DP 1818, no. 50 Washington Avenue, Cromer, and</p> <p>Lot 102 DP 1104837, No. 122 – 126 Old Pittwater Road, Brookvale.</p>	<p>Since preparation of the draft LEP and its submission to the Department of Planning for certification the land identified in Column 1 has been acquired by Council for the purposes of a public reserve. Hence, identification of these sites on the Land Reservation Acquisition Map is no longer required.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Reservation Acquisition Map by deleting the land identified in Column 1.</p>
5	<i>Deleted. Retained for numbering only</i>		
6	<p>Part Lot 101 DP 1043940 - Rural Fire Services Headquarters off Kamber Road, Terrey Hills.</p> <p>Zoning allocation. Site is proposed to be zoned E3 Environmental Management under the draft LEP. This zone appears to be too restrictive to accommodate the Rural Fire Service. The site also contains a combined fire spotting and telecommunications tower.</p> <p>For consistency the site should be zoned RE1 Public Recreation which is the same as other Bush Fire Brigade sites in Warringah.</p>	<p>The subject site is not currently classified as Public Open Space under Warringah LEP 2000 and lies in the B9 Mona Vale Road East locality. The proposed E3 zone for the site is consistent with surrounding and nearby land in the locality.</p> <p>The subject site is owned by Council and is classified as operational land under the Local Government Act.</p> <p>In terms of the use of the site for <i>emergency services facilities</i> or for <i>telecommunications facilities</i> State Environmental Planning Policy (Infrastructure) 2007 has greater relevance than the Warringah LEP. The provisions of neither the RE1 Public Recreation zone nor the E3 Environmental Management zone are primarily constructed for the delivery of infrastructure.</p> <p>It is noted that a large area of Council owned land surrounds the site to the north and the east. It is also noted that two adjoining sites (Lot 2 DP 577611 and Lot 10 DP 569549) are also owned by Council, are classified as operational land and are proposed</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by zoning Part Lot 101 DP 1043940; Lot 2 DP 577611 and Lot 10 DP 569549, RE1 Public Recreation, and</p> <p>that Council resolve to alter the draft Warringah LEP 2009 Lot Size Map and Height of Buildings Map by identifying a nil value for Part Lot 101 DP 1043940; Lot 2 DP 577611 and Lot 10 DP 569549.</p>

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		<p>to be zoned E3 Environmental Management.</p> <p>If the subject site is to be zoned RE1 it would seem apparent that Lot 2 DP 577611 and Lot 10 DP 569549 should also be so zoned. This matter has been discussed with officers of Property and Commercial Development who agree that the submission applies in relation to all the subject site together with the above referenced Council owned lots.</p> <p>There is no strategic planning reason why the site should not be zoned RE1 Public Recreation. In the matter of appropriate zoning for Council owned and managed land Strategic Planning should be guided by the requirements of the unit of Council responsible for management of the land.</p>	
7	<p>RE2 Private Recreation zone - registered clubs on Council owned/ managed land.</p> <p>The draft LEP is inconsistent in its application of the RE2 Private Recreation zone in respect of registered clubs on public land. That is, in some instances the club building and associated parking only is zoned RE2 whilst in others the club building and associated outdoor recreation facility are zoned RE2.</p> <p>It is further submitted that other Council owned/ managed facilities, where exclusive use of the land has been granted by a formal agreement, should be addressed through the draft LEP in the same manner. Such activities as tennis clubs and courts, surf clubs, golf courses and certain playing fields are cited as examples of facilities that have formal agreements that restrict access.</p>	<p>As a condition of certification of the draft Warringah LEP 2009 the Department of Planning removed registered clubs as a permissible use in the RE1 Public Recreation zone and advised Council that it must change the Land Zoning Map to zone the immediate location of any registered club, located on public land, from RE1 Public Recreation to RE2 Private Recreation.</p> <p>The Department stated that where the club is part of a large site, this means that the Council does not need to amend the Land Zoning Map for the whole site. In its advice the Department also referred to similar commercial uses (to registered clubs) and uses involving a long term leases.</p> <p>In response to this condition of certification Council made changes to the Land Zoning Map to zone the following registered clubs RE2 Private Recreation:</p> <ul style="list-style-type: none"> <li>• Manly Vale Bowling Club</li> <li>• North Manly Bowling Club</li> <li>• Long Reef Golf Club</li> </ul>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by reinstating the RE1 Public Recreation zone for the following sites:</p> <ul style="list-style-type: none"> <li>• Manly Vale Bowling Club</li> <li>• North Manly Bowling Club</li> <li>• Long Reef Golf Club</li> <li>• Wakehurst Golf Club</li> </ul> <p>and,</p> <p>that Council resolve to alter the land use table for the RE1 Public Recreation zone by reinstating <i>registered clubs (ordinarily incidental or</i></p>

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		<ul style="list-style-type: none"> <li>• Wakehurst Golf Club</li> </ul> <p>As these facilities lie within large areas of public open space, to meet the condition of certification, the portion of the public open space that has been zoned RE2 corresponds to the lease areas identified in Council's asset management system.</p> <p>The submission from Property and Commercial Development in relation to consistency of identification of the specific portions of each facility that should be zoned RE2 is supported. It is also supported in relation to the identification of the full range of facilities that should be so zoned for consistency in the Department's required approach.</p> <p>The advice from the Department of Planning provides little guidance in this regard and does not provide a basis for a comprehensive and thorough approach to respond to the Department's requirements. For example, in response to the Department's requirement, Council has identified the leased area associated with the Long Reef Golf Club as RE2 Private Recreation whilst the golf course itself is zoned RE1 Public Recreation. However, the golf course is subject to similar long term leasing arrangements and restrictive access arrangements giving members priority use rights. Further, the club allows access by the general community, subject to the requirements of its licence.</p> <p>It should be noted that the Department has, to date, raised no concerns with Council that would indicate any lack of satisfaction with the manner in which Council has addressed this condition of certification.</p> <p>A review of all publicly owned land and facilities thereon to develop a thorough and consistent approach in this matter will</p>	<p><i>ancillary to any type of recreation facility) as permitted uses in the zone.</i></p>

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		<p>be time and resource consuming. Any such review should not be undertaken as a component part of preparation of the draft LEP due to the delays that this will cause in the process to finalise the draft LEP. If such a project is to be undertaken it should be done with a view to including any outcomes in a future amendment to the LEP.</p> <p>It is considered that the Department of Planning's policy directive and condition of certification in this matter should be reviewed. This position is premised on the lack of clarity about the objectives of the direction, the difficulties in undertaking consistent application of the direction and the potential extent of public land/ facilities that will be identified as RE2 Private Recreation if all long term leases are similarly treated.</p> <p>It is considered that registered clubs, where these exist ancillary to a recreational use of public land (such as a golf course), should be permissible with consent and the land should be zoned RE1 Public Recreation consistent with Council's management responsibilities. This was the basis on which the draft Warringah LEP 2009 was submitted to the Department of Planning for certification.</p>	
8	<p>Lot 81 DP 852584 and Lot 71 DP 871903 - Wakehurst Parkway, Frenchs Forest.</p> <p>Both sites are zoned RE1 Public Recreation and together form an elongated portion of public land that is a buffer between residential land and Wakehurst Parkway.</p> <p>However, a discrepancy exists between the RE1 boundary and cadastre resulting in a narrow portion of each site being zoned R2 Low Density</p>	<p>Investigations indicate that it is appropriate to align the RE1 boundary with the cadastre.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 Land Zoning Map by adjusting the RE1 Public Recreation boundary to align with the lot boundaries for the land identified in Column 1; and</p> <p>that Council resolve to alter the draft Warringah LEP</p>

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	Residential.		2009 Lot Size Map and Height of Buildings Map by identifying a nil value for the land identified in Column 1, in accordance with the above zoning/ lot boundary realignment.
9	<p>Land use tables - Bulky goods premises.</p> <p>Add <i>bulky goods premises</i> as an item 3 use to the land use table for the B5 Business Development zone.</p>	<p>With the adoption of draft Warringah LEP 2009 (in November 2007) Council included <i>bulky goods premises</i> as permitted uses in the B5 Business Development zone. In June 2009 the Department of Planning re drafted the land use tables to ensure that all innominate uses in business and industrial zones are permitted uses.</p> <p>In redrafting the land use table for the B5 zone the group term <i>retail premises</i> has been nominated as a prohibited use. Department of Planning LEP Practice Note PN 06 – 003 states that, depending on the nature of the development <i>bulky goods premises</i> may be a form of <i>retail premises</i>.</p> <p>Hence, to ensure that Council's intention to allow <i>bulky goods premises</i> in the B5 zone is met it is appropriate to add the use as an item 3 use to the land use table for the zone.</p>	That Council resolve to alter the draft Warringah LEP 2009 by adding <i>bulky goods premises</i> as an Item 3 use in the land use table to the B5 Business Development zone.

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10	<p>Land use tables - Car parks.</p> <p>Add <i>car parks</i> as an Item 3 use to the land use table for the RE1 Public Recreation zone.</p> <p>Multiple public car parks are zoned RE1 Public Recreation. The land use table to the RE1 zone makes <i>car parks</i> prohibited in the zone.</p>	<p>Car parking associated with a permitted use is generally regarded as an ancillary component of that use and does not have to be separately referenced in land use tables.</p> <p>However, public car parks are not always clearly associated with a particular use and they frequently operate to serve multiple other primary uses such as commercial centres, recreation facilities and commuter needs.</p> <p>Hence it is appropriate that car parks in within the RE1 Public Recreation zone are recognised in their own right. For example, the public car park at Dee Why Beach serves both the recreational function of the area and the adjacent business area.</p> <p>State Environmental Planning Policy (Infrastructure) includes a number of provisions that allow Council to deliver improvements to its parking facilities. However, it does not address all potential situations. In the interests of optimum maintenance and improvement of public parking facilities in Warringah it is desirable that car parks are recognised as permitted uses in the RE1 Public Recreation zone.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by adding <i>car parks</i> as an Item 3 use in the land use table to the RE1 Public Recreation zone.</p>
11	<p>Land use tables – Emergency services facilities.</p> <p>Add <i>emergency services facilities</i> as an Item 3 use to the land use table for all zones except E1 National Parks and Nature Reserves, E2 Environmental Conservation and W1 Natural Waterways.</p>	<p>The draft Warringah (Standard Instrument) LEP that was adopted by Council and submitted to the Department of Planning for certification included <i>emergency services facilities</i> as a permitted use in all zones except E1 National Parks and Nature Reserves, E2 Environmental Conservation and W1 Natural Waterways.</p> <p>However, this land use was removed from all land use tables with the preparation by the Department of Planning of the first Parliamentary Counsel draft of the LEP. Whilst Council received no written advice in this regard, verbal advice was that</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by adding <i>emergency services facilities</i> as an Item 3 use in the land use table to all zones except E1 National Parks and Nature Reserves, E2 Environmental Conservation and W1 Natural Waterways.</p>

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		<p>State Environmental Planning Policy (Infrastructure) makes provisions for the establishment of <i>emergency services facilities</i> and hence, to avoid duplication, this land use should not be addressed by LEPs.</p> <p>SEPP(Infrastructure) allows the establishment of <i>emergency services facilities</i> in prescribed zones. However, not all zones that are to be used in Warringah are included as prescribed zones in the SEPP.</p> <p>In order to ensure that <i>emergency services facilities</i> can be established in suitable locations in Warringah the use should be reinstated in the land use tables to the draft LEP.</p>	
12	<p>Clause 4.2A No strata plan or community title subdivisions in certain rural and environmental zones.</p> <p>Clause title should be altered to include the correct reference to environmental protection zones.</p>	<p>Alteration is required to ensure that the legal reference to the relevant zones is correct.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by changing the title of clause 4.2A to read <i>No strata plan or community title subdivisions in certain rural and environmental protection zones.</i></p>
13	<p>Clause 4.3 Height of buildings.</p> <p>Subclause (1) of the clause establishes the objectives of the clause. Subclause (1)(a) makes reference to the desired future character of the locality that may be identified in a development control plan.</p> <p>The subclause should be re written to delete the reference to desired future character.</p>	<p>The desired future character statements of Warringah LEP 2000 are not given a place in the DCP. Rather, the content of each has been broken down into its component part and each objective expressed therein has been captured in the various objectives to the requirements of the DCP. It is therefore no longer appropriate to include this reference in the draft LEP.</p> <p>Instead, the objective contained in subclause (1)(a) should be reworded as follows:</p> <p><i>(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</i></p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by deleting subclause 4.3(1)(a) and replacing this with the following: <i>(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.,</i></p>

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14	<p>Clause 6.9 Site A proposed new road above podium elements.</p> <p>An error in the public exhibition draft of the LEP has been identified in subclause (3)(b).</p>	<p>With the public exhibition draft of Warringah LEP 2009 the Department of Planning has made a change in Clause 6.9(3)(b) whereby the word <b>west</b> has been removed and replaced with the word <b>east</b>.</p> <p>This has resulted in a changed effect of the provisions of the clause that is erroneous. It renders the clause inconsistent with Council's intentions and with the provisions of Warringah LEP 2000.</p> <p>It is appropriate that the wording of Clause 6.9(3)(b) be corrected by the deletion of the word <b>east</b> and replacement with the word <b>west</b>.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by deleting the word <i>east</i> from subclause 6.9(3)(b) and replacing this with the word <i>west</i>.</p>
15	<p>Exempt development and Complying development.</p> <p>Schedules 2 and 3 require review in response to NSW Government Planning reforms made since the preparation of the draft LEP.</p>	<p>Since Council adopted the draft Warringah (Standard Instrument) LEP and submitted this to the Department of Planning for certification multiple changes have been required to the provisions related to exempt development.</p> <p>Most recently, changes were required by the Department due to the gazettal of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Whilst the SEPP does not apply to Warringah at present, it will upon the commencement of Warringah LEP 2009.</p> <p>The Standard Instrument LEP includes compulsory provisions that allow Councils to identify exempt development (Schedule 2) and complying development (Schedule 3) in their LEPs. However, only development that is not addressed by the SEPP can be included. That is, the provisions in an LEP can only identify development as exempt or complying if this is over and above the provisions of the SEPP.</p> <p>The SEPP has been amended since its introduction resulting in the contents of draft Warringah LEP 2009 being out of date</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by:</p> <ul style="list-style-type: none"> <li>i) deleting subclause 3.1(3A)(e), and</li> <li>ii) deleting the following development from Schedule 3 Complying development. <ul style="list-style-type: none"> <li>• Building alterations (industrial and warehouse buildings)</li> <li>• Building alterations (internal for business premises, offices and shops)</li> <li>• Change of use (from one type of approved</li> </ul> </li> </ul>

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		<p>relative to the contents of the SEPP. The Department has advised that it will require the review of Schedules 2 and 3 to ensure that there is not duplication between Warringah's LEP and the SEPP.</p> <p>To remove duplication between the Warringah LEP and the SEPP the following actions are required.</p> <p>Schedule 2 Exempt development – no alterations required.</p> <p>Schedule 3 Complying development – deletion of the following development and associated development standards.</p> <ul style="list-style-type: none"> <li>• Building alterations (industrial and warehouse buildings)</li> <li>• Building alterations (internal for business premises, offices and shops)</li> <li>• Change of use (from one type of approved business, office or shop to another type of business, office or shop)</li> <li>• Change of use (from one type of approved industrial or warehouse use to another type of industrial or warehouse use).</li> </ul> <p>In addition to the above changes to Schedule 3, it is also necessary to alter Clause 3.1 Exempt development, subclause (3A). The clause contains requirements that development must meet to qualify as 'exempt development'.</p> <p>Subclause (3A)(e) provides that, <i>To be exempt development, the development must not be on land used for restricted premises or sex service premises.</i> Council included this requirement in the clause on the basis that <i>change of use of premises</i> (in relation to business, office, shop, industry and warehouse operations) is identified as exempt development in</p>	<p>business, office or shop to another type of business, office or shop)</p> <ul style="list-style-type: none"> <li>• Change of use (from one type of approved industrial or warehouse use to another type of industrial or warehouse use).</li> </ul>

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		<p>Schedule 2.</p> <p>However, change of use of premises is no longer included in Schedule 2 as this is now addressed by State Environmental Planning Policy (Exempt and Complying Development Codes). Hence, subclause (3A)(e) should be deleted.</p>	
16	<p>Activities on road reserves.</p> <p>1. A frame signs are not permitted in SP1 Special Activities and SP2 Infrastructure zones. Businesses that front main roads zoned SP2 should be able to have business identification signs in the road reserves.</p> <p>2. Display of goods within the road reserve in front of commercial premises will not be permitted when those commercial premises are located in residential zones (eg. neighbourhood shops in residential areas).</p> <p>Display of goods should be permitted in all non commercial zones.</p>	<p>1. Whilst not nominated separately in the land use tables for the SP1 Special Purpose and SP2 Infrastructure zones signage is permitted in these zones provided that the signage can be deemed to be <i>ordinarily incidental or ancillary</i> to the development nominated on the Land Zoning Map for that site.</p> <p>The issue raised by P&amp;CD relates to the fact that classified roads are zoned (compulsory under the Standard Instrument LEP) SP2 Infrastructure. Hence, any business operating within a commercial zone that aligns a classified road cannot display A frame signs in the road reserve as the signage will be located within an SP2 Infrastructure zone but is not <i>ordinarily incidental or ancillary</i> to the nominated use, that is, <i>road</i>.</p> <p>2. This issue relates to the display of goods within road reserves (usually on footpaths) in association with commercial premises. Under the Roads Act, Council can issue approvals (in respect of those roads for which it is responsible) to lease areas of the road reserve for a range of purposes.</p> <p>Both of these issues are concerned with the lease of portions of road reserves for commercial purposes. It is understood that P &amp; CD is seeking to ensure that it can issue approvals under the Roads Act to allow portions of road reserve adjacent to existing lawfully established businesses to be used for ancillary commercial purposes without any conflict with the provisions of</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by including an additional item in Schedule 2 Exempt Development as follows:</p> <p>Outdoor areas on road reserves used for the display of goods or business identification signage.</p> <p>Must be associated with a lawfully established business.</p> <p>Note. The use must be approved under section 125 of the <i>Roads Act 1993</i>.</p>

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		<p>the LEP.</p> <p>The draft LEP includes provisions for the use of outdoor areas of community land and outdoor eating areas on footpaths or on community land as exempt development. A proviso to being exempt development is that the appropriate approval under the Local Government Act or Roads Act is granted in the first instance.</p> <p>Both of the issues raised by P &amp; CD can be similarly addressed. That is, Council is able to identify the use of land in road reserves for ancillary commercial activities as an exempt activity.</p> <p>The matter of permissibility of the use in the zone does not arise as the neither the LEP nor the Act requires exempt development to be a nominated permitted use within the zone in which it is located.</p> <p>However, should this approach be adopted, it should be supported by a policy of Council that sets out parameters in relation to the type, scale and intensity of the activity and the responsibilities of the business proprietor.</p>	
17	<p>Exempt activity – Signage (Other)</p> <p><i>(1)(e) Must be attached to the ground floor façade of the dwelling within which the use is conducted.</i></p> <p>This pre condition does not take into account a business that is not located at the ground floor of a dwelling.</p> <p><i>(1)(f) If the land is located on a main road, the</i></p>	<p>Agree with comment. Change to become:</p> <p><i>(1)(e) Must be attached to the ground floor façade of the building within which the use is conducted.</i></p> <p>In developing pre conditions for exempt development it is not possible to capture every circumstance. Pre conditions (1)(e)</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by deleting the word <i>dwelling</i> within Schedule 2 Exempt development, Signage (Other), subclause (1)(e) and replacing this with <i>building</i>.</p>

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	<p><i>sign may be attached to a front fence.</i></p> <p>Comment that the lay person will not know what constitutes a main road.</p>	<p>and (1)(f) work together to manage minimising the visual impact of signage in residential areas. Some discretion will be required in interpreting this precondition.</p>	
18	<p>Schedule 2 Exempt development – error in public exhibition draft.</p>	<p>Schedule 2 Exempt development, identifies <i>Signage (Other)</i> as exempt development. The draft Warringah (Standard Instrument) LEP adopted by Council and submitted to the Department of Planning for certification included, as a development standard ((1)(d)) to this development, that the signage must be of maximum size 600cm<sup>2</sup> (approximately the size of an A4 piece of paper).</p> <p>With the public exhibition draft of Warringah LEP 2009 the Department of Planning has sought to convert this standard to be expressed in square meters and development standard (1)(d) was changed to read that the signage must be of a maximum size of 6m<sup>2</sup>.</p> <p>The conversion is incorrect and should be 0.06m<sup>2</sup>.</p>	<p>That Council resolve to alter the draft Warringah LEP 2009 by deleting from Schedule 2 – Signage (Other), development standard (1)(d), the figure of 6m<sup>2</sup> and replacing this with the figure 0.06m<sup>2</sup>.</p>
19	<p>Correction of minor typographical error.</p> <p>Spelling error - Clause 1.2 Aims of Plan, subclause (2)(f)(vi).</p> <p>Delete the word <i>sulphate</i> and replace with <i>sulfate</i>.</p>		<p>That Council resolve to alter the draft Warringah LEP 2009 by deleting the word <i>sulphate</i> from Clause 1.2(2)(f)(vi) and replacing this with the word <i>sulfate</i>.</p>

## Attachment Booklet 6 *Consideration of Environmental Planning Instruments*

STATE ENVIRONMENTAL PLANNING POLICY	COUNCIL RESPONSE
<p><b>1. SEPP No 55 – Remediation of Land</b></p> <p><b>1. Objectives</b></p> <p>(1) The objectives of this SEPP are to:</p> <p>(a) Provide for a State-wide planning approach to the remediation of contaminated land.</p> <p>(b) Promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:</p> <ul style="list-style-type: none"> <li>• By specifying when consent is required, and when it is not required, for remediation work; and</li> <li>• By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out remediation work in particular; and</li> <li>• By requiring that a remediation work meet certain standards and notification requirements.</li> </ul> <p><b>2. Where this SEPP applies</b></p> <p>(2) This SEPP applies to the whole State.</p> <p><b>3. What a council must do if this SEPP applies to the LEP making process</b></p> <p>(3) <b>Clause (6) Contamination and remediation to be considered in zoning or rezoning proposal:</b></p> <p>(1) In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used; and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.</p>	<p>Three sites are located in the LGA which have been identified as being contaminated under Section 9 (2) of the Contaminated Land Management Act 1997. The sites and proposed zoning under draft Warringah LEP 2009 are detailed as follows:</p> <p>1) <b>Site:</b> Glenrose Shopping Centre  <b>Proposed Zone:</b> B2 Local Centre  <b>Summarised Objectives:</b> To provide for a range of retail, businesses, entertainment and community uses to serve the local community.  <b>Permissible Under Zone:</b> Yes</p> <p>2) <b>Site:</b> Shell Service Station (Forestville)  <b>Proposed Zone:</b> IN2 Industrial  <b>Summarised Objectives:</b> To provide a wide range of light industrial, warehouse and related land uses.  <b>Permissible Under Zone:</b> No. (Nb: Included in Schedule 1- Additional Permitted Uses)</p> <p>3) <b>Site:</b> NSW Academy of Sport  <b>Proposed Zone:</b> SP1 Special Activities  <b>Summarised Objectives:</b> To provide for special land uses that are not provided for in other zones  <b>Permissible Under Zone:</b> Yes</p> <p><b>Comment:</b> The proposed zoning for the Glenrose Shopping Centre and NSW Academy of Sport reflect the existing use of the land. Whilst the Shell Service station is not permissible in the proposed zone, the site is included under Schedule 1 – (Additional Uses Permitted), which permits its inclusion based on</p>

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<p><b>Note. In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning Instrument.</b></p> <p>(2) Before including land in a particular zone, the planning authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p> <p>(3) If a person has requested the planning authority to include the land concerned in a particular zone, the planning authority may require the person to furnish the report referred to in subclause (2)</p> <p>(4) The land concerned is:</p> <ul style="list-style-type: none"> <li>(a) land that is within an investigation area,</li> <li>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</li> <li>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital— land: <ul style="list-style-type: none"> <li>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</li> <li>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</li> </ul> </li> </ul>	<p>existing use rights.</p> <p>Council has considered the contaminated status of each site and is satisfied that the land is suitable in its current state for the existing use of the land. Should any future development proposals arise that incorporate a rezoning and/or a change of use to another use that is permissible within the zone (such as those uses outlined in Clause (4) (c) of the SEPP), Council will re-evaluate the suitability of the sites to identify whether the land is appropriate in its existing contaminated state (or after remediation) before consent is granted for the land to be used for any new purposes.</p> <p>A review of the SEPP in conjunction with the draft LEP 2009 has identified that in the event of any inconsistency, the provisions of the SEPP generally prevail.</p> <p>It is therefore considered that the proposed zoning of the subject sites under the Comprehensive Warringah LEP 2009 are consistent with the provisions of SEPP No. 55 – Remediation of Land.</p>

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<p><b>2. SREP- (Sydney Harbour Catchment) 2005</b></p> <p><b>1. Objectives – Planning Principles</b></p> <p><b>Clause (12)</b></p> <p>(1) The objectives of the SREP are to provide a set of clear planning principles for land within the Sydney Harbour Catchment. These principles are to be considered and, where possible, achieved:</p> <ul style="list-style-type: none"> <li>a) In the preparation of environmental planning instruments and development control plans under Part 3 of the Act, and</li> <li>b) In the preparation of environmental studies and master plans for the purposes of the Act.</li> </ul> <p><b>2. Where this SREP applies</b></p> <p>(2) The SREP applies to land within the Sydney Harbour Catchment, as shown edged heavy in black on the Sydney Harbour Catchment Map, being part of the Sydney Region declared by order published in Gazette No 38 of 7 April 1989 at page 1841. Within the Sydney Harbour Catchment, particular provisions of this plan apply to:</p> <ul style="list-style-type: none"> <li>a) the Foreshores and Waterways Area, and</li> <li>b) various strategic foreshore sites, as shown on the Strategic Foreshore Sites Map, and</li> <li>c) various heritage items, as shown on the Heritage Map, and</li> <li>d) the Sydney Opera House buffer zone, as shown on the Sydney Opera House Buffer Zone Map, and</li> <li>e) various wetlands protection areas, as shown on the Wetlands Protection Area Map.</li> </ul> <p><b>3. What a council must do if this SREP applies to the LEP making process</b></p> <p>(3) Council must ensure that the following principles (in relation to the Sydney Harbour Catchment and Foreshores and Waterway Area) are taken into account in the plan making process:</p> <p><b>Clause 13- Sydney Harbour Catchment</b></p> <ul style="list-style-type: none"> <li>(a) development is to protect and, where practicable, improve the hydrological, ecological and geomorphological</li> </ul>	<p>Warringah Council's Middle Harbour, Middle Harbour Creek, Bare Creek, Frenchs Creek and Carrol Creek are affected by the provisions of the SREP as these waterways are located within the Sydney Harbour Catchment and Foreshores and Waterways Area. The subject waterways are proposed to be zoned W1 Natural Waterways under draft Warringah LEP 2009. The intent of this zone is to protect the ecological and scenic values of natural waterways whilst preventing development that would have adverse effects on such values. The zone also supports sustainable fishing industries and recreational fishing.</p> <p>Under the SREP, the subject waterways are zoned as follows:</p> <ul style="list-style-type: none"> <li>• <b>Zone W2 – Environmental Protection:</b> Provides for protection, rehabilitation and long term management of the natural and cultural values of the waterways and adjoining foreshores.</li> <li>• <b>Zone W5 – Water Recreation:</b> Public recreational zone which gives priority to public use and access to the water through appropriate water recreation facilities, including charter and tourism facilities and commercial marinas.</li> </ul> <p>When comparing the SREP zones with that of the draft Warringah LEP 2009, it is noted that the SREP's W2 Environmental Protection Zone is fairly consistent with the W1 Natural Waterways Zone under the draft Warringah LEP 2009.</p>

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<p>processes on which the health of the catchment depends</p> <p>(b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity,</p> <p>(c) decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment,</p> <p>(d) action is to be taken to achieve the targets set out in Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment (published in October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in Australian Water Quality Guidelines for Fresh and Marine Waters (published in November 2000 by the Australian and New Zealand Environment and Conservation Council),</p> <p>(e) development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the document titled <i>Floodplain Development Manual 2005</i> (published in April 2005 by the Department)</p> <p>(f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour,</p> <p>(g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased.</p> <p>(h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water,</p> <p>(i) action is to be taken to achieve the objectives and targets set out in the <i>Sydney Harbour Catchment Blueprint</i>, as published in February 2003 by the then Department of Land and Water Conservation,</p> <p>(j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment,</p> <p>(k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity,</p> <p>(l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the <i>Acid Sulfate Soil Manual</i>, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee.</p>	<p>The SREP's W5 Water Recreation Zone, however, allows for commercial water-dependant development, (where it is justified to meet demand for the general and boating public), which results in a visual outcome of a scale and size that is appropriate to the locality. The draft Warringah LEP 2009 does not contain an equivalent zone which purely supports water recreation. A potential equivalent zone under the Standard Instrument would be Zone W2 Recreational Waterways</p> <p><b>Comment:</b></p> <p>Whilst Council has the potential to amend the draft Warringah LEP 2009 to incorporate a zone which promotes water recreation such as Zone W2 Recreational Waterways, it is considered unnecessary, as Clause 7 of the SREP (relationship with other EPIs) identifies that the provisions of the SREP apply in the event of any inconsistency.</p> <p>Accordingly, despite the zone inconsistency in relation to the issue of water recreation, it is considered that draft Warringah LEP 2009 is consistent with the SREP.</p>

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<p><b>Clause 14- Foreshores and Waterways Area</b></p> <p>The planning principles for land within the Foreshores and Waterways Area are as follows:</p> <ul style="list-style-type: none"> <li>(a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores,</li> <li>(b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,</li> <li>(c) access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,</li> <li>(d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores,</li> <li>(e) adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses,</li> <li>(f) public access along foreshore land should be provided on land used for industrial or commercial maritime purposes where such access does not interfere with the use of the land for those purposes,</li> <li>(g) the use of foreshore land adjacent to land used for industrial or commercial maritime purposes should be compatible with those purposes,</li> <li>(h) water-based public transport (such as ferries) should be encouraged to link with land-based public transport (such as buses and trains) at appropriate public spaces along the waterfront,</li> <li>(i) the provision and use of public boating facilities along the waterfront should be encouraged.</li> </ul> <p><b>15 Heritage conservation</b></p>	

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<p>The planning principles for heritage conservation are as follows:</p> <ul style="list-style-type: none"> <li>(a) Sydney Harbour and its islands and foreshores should be recognised and protected as places of exceptional heritage significance,</li> <li>(b) the heritage significance of particular heritage items in and around Sydney Harbour should be recognised and conserved,</li> <li>(c) an appreciation of the role of Sydney Harbour in the history of Aboriginal and European settlement should be encouraged,</li> <li>(d) the natural, scenic, environmental and cultural qualities of the Foreshores and Waterways Area should be protected,</li> <li>(e) significant fabric, settings, relics and views associated with the heritage significance of heritage items should be conserved,</li> <li>(f) archaeological sites and places of Aboriginal heritage significance should be conserved</li> </ul>	
<p><b>3. SEPP (Affordable Rental Housing) 2009</b></p> <p><b>1. Aims</b></p> <p>(1) The aims of this Policy are as follows:</p> <ul style="list-style-type: none"> <li>(a) to provide a consistent planning regime for the provision of affordable rental housing,</li> <li>(b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,</li> <li>(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,</li> <li>(d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,</li> </ul>	<p>The SEPP provides that affordable rental housing is to be permissible in a variety of residential zones under the Standard Instrument. Accordingly in the context of Warringah, the SEPP mandates rental housing within the following zones of the draft Warringah LEP 2009 :</p> <p><b>In-fill housing</b> - R2 Low Density Residential and R3 Medium Density Residential.</p> <p><b>Secondary dwellings</b> – R2 Low Density Residential and R3 Medium Density Residential.</p> <p><b>Boarding houses</b> – R2 Low Density Residential, R3 Medium Density Residential, B1 Neighbourhood Centre, B2 Local Centre and B4 Mixed Use.</p>

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<p>(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,</p> <p>(f) to support local business centres by providing affordable rental housing for workers close to places of work,</p> <p>(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.</p> <p><b>2. Where this SEPP applies</b></p> <p>(2) This SEPP applies to the whole state.</p> <p><b>3. What a council must do if this SEPP applies to the LEP making process</b></p> <p>No specific reference is made to the plan making process under this SEPP.</p>	<p><b>Comment:</b></p> <p>This SEPP was made after the exhibited version of the draft WLEP2009. Secondary dwellings and infill housing are not included in R2 and R3 zones under WLEP2009. It is more appropriate to address such housing types and affordable rental housing through Council's Housing Strategy, currently underway, with locally appropriate controls, and make amendments to the WLEP 2009 following this process. Notwithstanding this, any development proposal for affordable rental housing in Warringah is subject to the provisions of the SEPP and once gazetted those in WLEP 2009. Clause (8) of the SEPP provides that if there is any inconsistency with an EPI (including draft Warringah LEP 2009), the provisions of the SEPP prevails to the extent of the inconsistency.</p>
<p><b>4. SEPP (Exempt and Complying Development Codes) 2008</b></p> <p><b>1. Aims</b></p> <p>(a) providing exempt and complying development codes that have State-wide application, and</p> <p>(b) identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and</p> <p>(c) identifying, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate as defined in the <a href="#">Environmental Planning and Assessment Act 1979</a>, and</p> <p>(d) enabling the progressive extension of the types of development in this Policy, and</p> <p>(e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.</p>	<p>Clause (1.9) of the SEPP identifies that in those instances where the SEPP and a LEP specify the same development as exempt development, the provisions of the SEPP prevail. If the SEPP and a LEP specify the same development as complying development, then those provisions of the LEP cease to apply after 1 January 2011.</p> <p>If the SEPP identifies development as complying development, and the same development is identified as Exempt development under an LEP, those subject provisions of the LEP cease to apply after 1 January 2011. Conversely if the SEPP identifies development as Exempt Development and the same development is identified as Complying Development under an LEP,</p>

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<p><b>2. Where this SEPP applies</b></p> <p>This Policy applies to the state except land to which the following instruments/policies apply:</p> <ul style="list-style-type: none"> <li>a) <i>State Environmental Planning Policy (Kosciusko National Park-Alpine Resorts) 2007</i></li> <li>b) <i>State Environmental Planning Policy (Western Sydney Parklands) 2009</i></li> <li>c) <i>Warringah Local Environmental Plan 2000</i></li> <li>d) <i>Bathurst Regional (Interim) Local Environmental Plan 2005</i> applies.</li> </ul> <p>The SEPP will apply to Warringah LGA following the gazettal of draft LEP 2009.</p> <p><b>3. What a council must do if this SEPP applies to the LEP making process</b></p> <p>No reference is made to the plan making process under this SEPP.</p>	<p>then those provisions under the LEP cease to apply after 1 January 2011.</p> <p>If an LEP identifies Exempt or Complying Development that is not identified in the SEPP, the provisions of the SEPP do not affect the operation of those provisions related to that particular Exempt or Complying Development under the LEP.</p> <p>Clause (3.1) (3A )of draft Warringah LEP 2009 identifies that (in addition to those provisions contained within the SEPP), to be an exempt development, the development must meet the following requirements:</p> <ul style="list-style-type: none"> <li>(a) must be at least 1 metre from any registered easement, sewer main or water main, and</li> <li>(b) must not contravene any condition of a development consent already applying to the land, and</li> <li>(c) must not alter the drainage of the site, and</li> <li>(d) must not restrict vehicular or pedestrian access to or from the site, and</li> <li>(e) must not be on land used for restricted premises or sex service premises.</li> </ul> <p>Clause (3.2) (3A) of draft Warringah LEP 2009 identifies that (in addition to those provisions contained within the SEPP), to be complying development, development must meet the following requirements:</p> <ul style="list-style-type: none"> <li>(a) be at least 1 metre from any registered easement, sewer main or water main, or, if less than 1 metre, meet the requirements of the relevant public authority relating to development over sewer mains or water mains, and</li> </ul>

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	<p>(b) not be on land used for restricted premises or sex services premises.</p> <p><b>Comment:</b> A review of the SEPP's Exempt Development and Complying Development Provisions in conjunction with those relevant provisions contained within draft Warringah LEP 2009 has identified no inconsistencies between the 2 documents.</p> <p>Draft Warringah LEP's Exempt Development Clause (3.1) (3A ) and Complying Development Clause (3.2) (3A) are considered to be 'additional provisions' as such are not replicated in the SEPP. Therefore pursuant to Clause (1.9) of the SEPP, the operation of the additional Exempt and Complying Development provisions of draft Warringah LEP 2009 are not affected by the provisions of the SEPP.</p> <p>The provisions of draft Warringah LEP 2009 are therefore considered consistent with the SEPP.</p>
<p><b>5. SEPP No 71 - Coastal Protection</b></p> <p><b>1. Aims</b></p> <p>The aims of the Policy are as follows:</p> <p>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</p> <p>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to</p>	<p>Clause (5.5) of draft Warringah LEP 2009 (compulsory clause) refers to Development Within the Coastal Zone. The Clause aims to implement the principles of the NSW Coastal Policy and promote principles of ESD.</p> <p>Upon review, it has been identified that the provisions contained within Clause 5.5 of the draft LEP are generally consistent with the relevant matters of consideration outlined with Clause (8) of the SEPP.</p> <p><b>Comments:</b></p>

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<p>the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</p> <p>(e) to ensure that the visual amenity of the coast is protected, and</p> <p>(f) to protect and preserve beach environments and beach amenity, and</p> <p>(g ) to protect and preserve native coastal vegetation, and</p> <p>(h) to protect and preserve the marine environment of New South Wales, and</p> <p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <a href="#">Protection of the Environment Administration Act 1991</a>), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(l) to encourage a strategic approach to coastal management.</p> <p><b>2. Where this SEPP applies.</b></p> <p>This SEPP applies to land the whole or any part of which is within the coastal zone. This SEPP does not apply to Lord Howe Island or in relation to SEPP No 62 - Sustainable Aquaculture for a DA for consent to carry out development to which that Policy applies, or development that is carried out in accordance with a development consent granted under that Policy.</p> <p><b>3. What a council must do if this SEPP applies to the LEP making process</b></p> <p>Clause (7) of the SEPP outlines that the following matters should (as set out under Clause 8) should be taken into consideration, when Councils prepare LEPs which apply to land which the SEPP applies:</p>	<p>Clause (5) of the SEPP identifies that in the event of an inconsistency between the SEPP and an LEP, the SEPP prevails to the extent of the inconsistency. Accordingly, it is considered that the draft LEP 2009 is consistent with the SEPP No. 71 - Coastal Protection.</p>

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<p>The matters for consideration are the following:</p> <ul style="list-style-type: none"> <li>(a) the aims of the Policy set out in clause 2,</li> <li>(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</li> <li>(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</li> <li>(d) the suitability of development given its type, location and design and its relationship with the surrounding area,</li> <li>(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,</li> <li>(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</li> </ul> <p>measures to conserve animals (within the meaning of the <a href="#">Threatened Species Conservation Act 1995</a>) and plants (within the meaning of that Act), and their habitats,</p> <ul style="list-style-type: none"> <li>(g) measures to conserve fish (within the meaning of Part 7A of the <a href="#">Fisheries Management Act 1994</a>) and marine vegetation (within the meaning of that Part), and their habitats</li> <li>(h) existing wildlife corridors and the impact of development on these corridors,</li> <li>(i) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</li> <li>(j) measures to reduce the potential for conflict between land-based and water-based coastal activities,</li> <li>(k) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</li> <li>(l) likely impacts of development on the water quality of coastal waterbodies,</li> <li>(m) the conservation and preservation of items of heritage, archaeological or historic significance,</li> <li>(n) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</li> <li>(o) only in cases in which a development application in relation to proposed development is determined: <ul style="list-style-type: none"> <li>the cumulative impacts of the proposed development on the environment, and measures to ensure that water and energy usage by the proposed development is efficient.</li> </ul> </li> </ul> <p><b>Note.</b> Clause 92 of the <a href="#">Environmental Planning and Assessment Regulation 2000</a> requires the <i>Government Coastal Policy</i> (as defined in that clause) to be taken into consideration by a consent authority when determining development applications in the local government areas identified in that clause or on land to which the <i>Government Coastal Policy</i> applies.</p>	
<p><b>6. SEPP No 19 – Bushland in Urban Areas</b></p> <p><b>1. Aims/Objectives</b></p>	<p>Warringah Council has a number of bushland areas located within its urban areas. The draft Warringah LEP 2009 provides for a range of environmental zones for such lands including,</p>

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<p>(1) The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:</p> <ul style="list-style-type: none"> <li>(a) its value to the community as part of the natural heritage,</li> <li>(b) its aesthetic value, and</li> <li>(c) its value as a recreational, educational and scientific resource.</li> </ul> <p>(2) The specific aims of this policy are:</p> <ul style="list-style-type: none"> <li>(a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,</li> <li>(b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,</li> <li>(c) to protect rare and endangered flora and fauna species,</li> <li>(d) to protect habitats for native flora and fauna,</li> <li>(e) to protect wildlife corridors and vegetation links with other nearby bushland,</li> <li>(f) to protect bushland as a natural stabiliser of the soil surface,</li> <li>(g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,</li> <li>(h) to protect significant geological features,</li> <li>(h) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,</li> <li>(j) to protect archaeological relics, <ul style="list-style-type: none"> <li>(i) to protect the recreational potential of bushland,</li> <li>(j) to protect the educational potential of bushland,</li> <li>(k) to maintain bushland in locations which are readily accessible to the community, and</li> <li>(l) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.</li> </ul> </li> </ul> <p><b>2. Where this SEPP applies</b></p> <p>The SEPP applies to a number of areas in Sydney including the Warringah Local Government Area.</p> <p><b>3. What a council must do if this SEPP applies to the LEP making process</b></p> <p>When preparing a draft LEP for any land to which the SEPP applies (other than rural land), Council must have regard to the general and specific aims of the Policy, and give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland.</p>	<p>E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management. Such zones generally aim to protect and manage areas of high ecological, cultural and aesthetic values and give priority to retaining bushland. It is considered that the environmental zoning under the draft Warringah LEP 2009, are complimentary to the aims and intents of the SEPP.</p> <p><b>Comment:</b> Clause 5 of the SEPP outlines that in the event of an inconsistency between the SEPP and an LEP, the SEPP shall prevail to the extent of the inconsistency.</p> <p>Accordingly it is considered that draft Warringah LEP 2009 is consistent with the provisions of the SEPP.</p>

STATE ENVIRONMENTAL PLANNING POLICY	COUNCIL RESPONSE
<p><b>7. SEPP (Infrastructure) 2007</b></p> <p><b>1. Aims</b></p> <p>The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by: improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</p> <p>(a) providing greater flexibility in the location of infrastructure and service facilities, and</p> <p>allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</p> <p>(b) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</p> <p>(c) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</p> <p>(d) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.</p> <p><b>2. Where this SEPP applies</b></p> <p>The SEPP applies to the State.</p> <p><b>3. What Council must do if this SEPP applies to the LEP making process</b></p> <p>No reference is made to the plan making process under this SEPP.</p>	<p><b>Comment:</b></p> <p>Clause 8 (1) of the SEPP identifies that if there is an inconsistency between the SEPP and an LEP, the SEPP prevails to the extent of the inconsistency.</p> <p>A review of draft Warringah LEP 2009 in conjunction with the SEPP has identified that there is no inconsistency between the subject documents.</p>



## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

1. Employment and Resources	Council response
<p><b>1.1 Business and Industrial Zones</b></p> <p><b>Objectives</b></p> <p>(1) The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) encourage employment growth in suitable locations,</li> <li>(b) protect employment land in business and industrial zones, and</li> <li>(c) support the viability of identified strategic centres.</li> </ul> <p><b>Where this direction applies</b></p> <p>(2) This direction applies to all councils.</p> <p><b>When this direction applies</b></p> <p>(3) This direction applies when a council prepares a draft LEP that affects land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p> <p><b>What a council must do if this direction applies</b></p> <p>(4) A draft LEP shall:</p> <ul style="list-style-type: none"> <li>(a) give effect to the objectives of this direction,</li> <li>(b) retain the areas and locations of existing business and industrial zones,</li> <li>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</li> <li>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</li> </ul> <p><b>Consistency</b></p> <p>(5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:</p> <ul style="list-style-type: none"> <li>(a) justified by a strategy which:</li> </ul>	<p>Warringah LEP 2000 is a place based rather than a land use zone based planning instrument. It contains 74 localities identified on the basis of geographical location and desired future character; each locality has its own preferred land use categories, as well as various built form controls.</p> <p>In order to determine the appropriate zone under the draft LEP, each locality statement has been reviewed in terms of its desired future character statement; the built form controls to achieve this and categorisation of land uses.</p> <p>Localities that are predominantly business or industrial in character have been identified. Also, a number of precincts within localities have been identified as either business or industrial in nature (for example: all local retail centres and the light industrial area at Tepko Road, Terrey Hills).</p> <p>These have been translated into appropriate business or industrial zones in the draft Warringah LEP 2009.</p> <p>Contrary to Section 117 Direction No 1.1 there are two instances where the Draft LEP has the potential to reduce floor space for business and industrial uses.</p> <ul style="list-style-type: none"> <li>a) Carrington Road Curl Curl. Warringah LEP 2000 identifies two (2) separate Local retail Centres on Carrington Parade. Development history reveals that there has not been recent business use of the sites and consequently the Draft LEP zones the eight allotments consistent with their current low density residential usage.</li> <li>b) 243 Fisher Road North This site is not contiguous to other proposed industrial zoned (or industrially developed ) land. Its siting in relationship to open space and residential uses has resulted in a proposed R2 Low density Residential zoning.</li> </ul>

## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

<p>(i) gives consideration to the objective of this direction, and</p> <p>(ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and</p> <p>(iii) is approved by the Director-General of the Department of Planning, or</p> <p>(b) justified by an environmental study (prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i>) which gives consideration to the objective of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) of minor significance.</p> <p><b>Note:</b> In this direction, “identified strategic centre” means a centre that has been identified as a strategic centre in a regional strategy, sub-regional strategy, or another strategy approved by the Director General.</p>	<p>In planning terms both of the above are considered to be of minor significance worthy of the Director Generals support.</p> <p>The draft LEP aims to encourage employment growth, protect existing business and industrial employment land and support identified strategic centres.</p> <p>While, the draft LEP affects land in the proposed business and industrial zones, and gives effect to the objectives of this direction, it does not significantly reduce potential floor space for employment uses, and apart from the two (2) instances discussed above it retains the potential floor space for business and industrial lands.</p> <p>The draft LEPs identification of business and industrial land is consistent with the Metropolitan and (draft) NE Subregional Strategies. Existing centres on the major north south transport corridor are maintained and the role of Dee Why as the major centre for the subregion is supported through draft LEP.</p> <p>The SHOROC Regional Employment Study has been completed and investigates and reports on current and future employment and business growth potential for the subregion. This will assist in informing future decision making in relation to new or upgraded regional business and industrial locations.</p>
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## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

### 1.2 Rural Zones

#### Objective

- (1) The objective of this direction is to protect the agricultural production value of rural land.

#### Where this direction applies

- (2) (a) Clause 4(a) of this direction applies to all councils.  
(b) Clause 4(b) of this direction applies to councils in following local government areas:

Ashfield	Holroyd	Sutherland
Auburn	Hornsby	Warringah
Bankstown	Hunters Hill	Waverley
Baulkham Hills	Hurstville	Willoughby
Blacktown	Kogarah	Wollondilly
Blue Mountains	Ku ring gai	Woollahra
Botany Bay	Lake Macquarie	Wollongong
Burwood	Lane Cove	Wyong
Camden	Leichhardt	
Campbelltown	Liverpool	
Canada Bay	Manly	
Canterbury	Marrickville	
City of Sydney	Mosman	
Fairfield	Newcastle	
Gosford	North Sydney	
Hawkesbury	Parramatta	

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

#### What a council must do if this direction applies

Warringah LEP 2000 contains a number of localities that by virtue of their geographical location, existing and desired future character and current land uses are rural localities. These include the A2 Booralie Road; A4 Myoora Road and A5 McCarrs Creek Road localities located in the Cowan Creek catchment.

The draft Warringah LEP 2009 proposes the use of the RU4 Rural Small Holdings zone to protect the agricultural production value of these areas. The draft LEP does not rezone rural lands, or contain provisions that will increase the permissible density of land within the rural zone.

## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

- (4) A draft LEP shall:
- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
  - (b) not contain provisions which will increase the permissible density of land within a rural zone (other than land within an existing town or village).

### Consistency

- (5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction,
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) is of minor significance.

**Direction 1.2 – issued 19 July 2007 revoked and reissued 9 May 2008**

## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

### 1.3 Mining, Petroleum Production and Extractive Industries

#### Objective

- (1) The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that would have the effect of:
- (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or
  - (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

#### What a council must do if this direction applies

- (4) In the preparation of a draft LEP affected by this direction, the council shall:
- (a) consult the Director-General of the Department of Primary Industries (DPI) to identify any:
    - (i) resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and
    - (ii) existing mines, petroleum production operations or extractive industries occurring in the area subject to the draft LEP, and
  - (b) seek advice from the Director-General of DPI on the development potential of resources identified under (4)(a)(i), and
  - (c) identify and take into consideration issues likely to lead to land use conflict between other land uses and :
    - (i) development of resources identified under (4)(a)(i), or
    - (ii) existing development identified under (4)(a)(ii).
- (5) Where a draft LEP prohibits or restricts development of resources identified under (4)(a)(i), or proposes land uses that may create land use conflicts identified under (4)(c), council shall:
- (a) provide the Director-General of DPI with a copy of the draft LEP and notification

Warringah LGA has one active quarry being located at Belrose and operated by Benedict Sand and Gravel. The quarry is an atypical land use in Warringah and inconsistent with surrounding land uses. The draft LEP zones the site E3 Environmental Management consistent with the zoning of surrounding land.

The draft LEP recognises the quarry use of the site and gives the use permitted status by inclusion in Schedule 1 Additional Permitted Uses (item 2 of the Schedule).

In the preparation of the draft LEP pursuant to section 62 of the Act, Council consulted with the NSW Department of Natural Resources and the NSW Department of Primary Industries (DPI). The DPI provided a response to Council which was considered with the preparation of the draft LEP for certification.

In response the public exhibition of the draft LEP pursuant to section 66 of the Act Council received a submission from Industry and Investment NSW which, amongst other matters, includes comments in relation to mineral resources. These comments have been considered by Council pursuant to section 68 of the Act.

The draft LEP has been prepared in accordance with this direction.

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of the relevant provisions,

- (b) allow the Director-General of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the draft LEP, and
- (c) include a copy of any objection and supporting information received from the Director-General of DPI with the statement to the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) under section 64 of the *Environmental Planning and Assessment Act 1979*.

### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the provisions of the draft LEP that are inconsistent are of minor significance.

## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

### 1.4 Oyster Aquaculture

#### Objectives

- (1) The objectives of this direction are:
- (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a draft LEP,
  - (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.

#### Where this direction applies

- (2) This direction applies to Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area as identified in the *NSW Oyster Industry Sustainable Aquaculture Strategy* (2006) (“the Strategy”).

#### When this direction applies

- (3) This direction applies when a council decides to prepare, or is directed by the Minister to prepare, any draft LEP that proposes a change in land use which could result in:
- (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or
  - (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.

#### What a council must do if this direction applies

- (4) In the preparation of a draft LEP affected by this direction, the council shall:
- (a) identify any Priority Oyster Aquaculture Areas and oyster aquaculture leases outside such an area, as shown the maps to the Strategy, to which the draft LEP would apply,
  - (b) identify any proposed land uses which could result in any adverse impact on a Priority Oyster Aquaculture Area or oyster aquaculture leases outside such an area,
  - (c) identify and take into consideration any issues likely to lead to an incompatible use of land between oyster aquaculture and other land uses and identify and evaluate measures to avoid or minimise such land use incompatibility,
  - (d) consult with the Director-General of the Department of Primary Industries (DPI) of the proposed changes in the preparation of the draft LEP, and

There are no known oyster aquaculture areas in Warringah LGA. Therefore, this section 1.4 does not currently apply in Warringah .

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- (e) ensure the draft LEP is consistent with the Strategy.
- (5) Where a draft LEP proposes land uses that may result in adverse impacts identified under (4)(b) and (c), council shall:
- (a) provide the Director-General of DPI with a copy of the draft LEP and notification of the relevant provisions,
  - (b) allow the Director-General of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the draft LEP, and
  - (c) include a copy of any objection and supporting information received from the Director-General of DPI with the statement to the Director-General of the Department of Planning under section 64 of the *Environmental Planning and Assessment Act 1979*.

### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.

**Note:** In this direction:

- (a) “Priority Oyster Aquaculture Areas” has the same meaning as in the NSW Oyster Industry Sustainable Aquaculture Strategy; and
- (b) an “incompatible use of land” includes access to oyster leases being limited by the change in land use or the risk of adverse impacts as a result of that change in land use on water quality and, consequently, on the health of oysters and on the health of consumers of those oysters.

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### 1.5 Rural Lands

#### Objective

- (1) The objectives of this direction are to:
- (a) protect the agricultural production value of rural land,
  - (b) facilitate the orderly and economic development of rural lands for rural and related purposes.

#### Where this direction applies

- (2) This direction applies to all councils to which *State Environmental Planning Policy (Rural Lands) 2008* applies which includes all councils in the State other than the following local government areas:

Ashfield	Holroyd	Penrith
Auburn	Hornsby	Pittwater
Bankstown	Hunters Hill	Randwick
Baulkham Hills	Hurstville	Rockdale
Blacktown	Kogarah	Ryde
Blue Mountains	Ku ring gai	Strathfield
Botany Bay	Lake Macquarie	Sutherland
Burwood	Lane Cove	Warringah
Camden	Leichhardt	Waverley
Campbelltown	Liverpool	Willoughby
Canada Bay	Manly	Wollondilly
Canterbury	Marrickville	Woollahra
City of Sydney	Mosman	Wollongong
Fairfield	Newcastle	Wyong
Gosford	North Sydney	
Hawkesbury	Parramatta	

Pursuant to subclause (2) this direction does not apply in Warringah.

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### **When this direction applies**

- (3) This direction applies when:
- (a) A council prepares a draft LEP that affects land within an existing or proposed rural or environmental protection zone (including the alteration of any existing rural or environment protection zone boundary) or
  - (b) A council prepares a draft LEP that changes the existing minimum lot size on land within a rural or environment protection zone.

### **What a council must do if this direction applies**

- (4) A draft LEP shall to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in the *State Environmental Planning Policy (Rural lands) 2008*.
- (5) A draft LEP to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

**Note:** *State Environmental Policy (Rural Lands) 2008* does not require a council to review or change its minimum lot size(s) in an existing LEP. A council can transfer the existing minimum lot size(s) into a new LEP. However, where a council seeks to vary an existing minimum lot size in an LEP, it must do so in accordance with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction,
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) is of minor significance.

**Direction 1.5 - issued 9 May 2008**

## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

2. Environment and Heritage	Council response
<p><b>2.1 Environmental Protection Zones</b></p> <p><b>Objective</b></p> <p>(1) The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p><b>Where this direction applies</b></p> <p>(2) This direction applies to all councils.</p> <p><b>When this direction applies</b></p> <p>(3) This direction applies when a council prepares a draft LEP.</p> <p><b>What a council must do if this direction applies</b></p> <p>(4) A draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(5) A draft LEP that applies to land within an existing environmental protection zone or land otherwise identified for environmental protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying any development standards or subdivision controls that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “<i>Rural lands</i>”.</p> <p><b>Consistency</b></p> <p>(6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:</p> <p>(a) justified by a strategy which:</p> <p>(i) gives consideration to the objective of this direction, and</p> <p>(ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and</p> <p>(iii) is approved by the Director-General of the Department of Planning, or</p> <p>(b) justified by an environmental study prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i> which gives consideration to the objective of this direction, or</p>	<p>The draft Warringah LEP 2009 has been prepared in accordance with the objectives of this direction, namely to protect and conserve environmentally sensitive areas in the Warringah area. These objectives have also been translated from the Warringah Local Environmental Plan 2000.</p> <p>Therefore, the draft LEP includes provisions that:</p> <ul style="list-style-type: none"> <li>• Use the E1 zone to conserve National Parks and Nature Reserves;</li> <li>• Use the E2 Environmental Conservation zones to translate Warringah LEP 2000 provisions that manage environmentally sensitive land that is currently classified as “Cross Hatched”.</li> <li>• Use the E3 Environmental Management zones to translate Warringah LEP 2000 provisions that manage, protect and conserve the environmental qualities and sensitivities of the Mona Vale Road (North, East and West); Oxford Falls Valley and Belrose North localities.</li> <li>• Use the environmental heritage protection provisions (clause 5.10 and Schedule 5) to protect various areas of high environmental heritage value throughout the local government area.</li> </ul>

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<p>(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) of minor significance.</p>	
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## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

### 2.2 Coastal Protection

#### Objective

- (1) The objective of this direction is to implement the principles in the NSW Coastal Policy.

#### Where this direction applies

- (2) This direction applies to the coastal zone, as defined in the *Coastal Protection Act 1979*.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that applies to land in the coastal zone.

#### What a council must do if this direction applies

- (4) A draft LEP shall include provisions that give effect to and are consistent with:
- (a) the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
  - (b) the *Coastal Design Guidelines 2003*, and
  - (c) the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

#### Consistency

- (5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the

The draft Warringah LEP 2009 has been prepared to implement the objectives of the NSW Coastal Policy. It carries over the coastline hazard areas and associated provisions that are similar to those contained in Warringah LEP 2000.

The draft LEP gives effect to and is consistent with the following:

- the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
- the *Coastal Design Guidelines 2003*, and
- the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

The draft LEP provisions, in conjunction with the draft Warringah DCP provisions, have been translated from the Warringah Local Environmental Plan 2000 namely:

- provisions contained in relevant locality statements; and
- Schedule 13 Development guidelines for Collaroy/ Narrabeen Beach; and

Council's Natural Environment unit has engaged consultants to review the existing coastline hazard zones and update these to address current and future hazards. The draft LEP includes a local clause for Coastline Hazards (Clause 6.17), and the Warringah DCP will contain supplementary development controls to manage development on land affected by coastline hazards. Whilst the work to review the location of the hazard zones is incomplete, the Natural Environment unit, in conjunction with its consultant, has provided input to the development of the both the draft LEP and draft DCP written provisions.

The coastline hazard areas identified through draft LEP (maps) are based on the hazard lines that currently exist within Warringah LEP 2000. However, after completion of the consultancy to review these and their adoption by

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<p>(d) objective of this direction, or of minor significance.</p>	<p>Council, it is likely that Council will seek to update the new LEP in accordance with the revised data.</p>
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### 2.3 Heritage Conservation

#### Objective

- (1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

#### What a council must do if this direction applies

- (4) A draft LEP shall contain provisions that facilitate the conservation of:
  - (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
  - (b) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
  - (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

#### Consistency

- (5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the draft LEP complies with Part 5 of the *Heritage Act 1977*, and
  - (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
  - (b) the provisions of the draft LEP that are inconsistent are of minor significance.

The draft Warringah LEP 2009 has been prepared to implement the objectives of this direction, namely to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The Warringah LEP 2000 lists as environmental heritage various heritage local and regional items and conservation areas in various localities in the Warringah area.

The standard instrument requires Council to list items of Environmental Heritage in Schedule 5. It also requires Council to implement Clause 5.10, this being a compulsory clause.

Warringah's existing heritage listings and areas of heritage significance have been translated from the Warringah LEP 2000 into the draft LEP. Council has updated its electronic heritage inventory records with photos and re-assessed various items lacking detail so that they comply with NSW Heritage Office requirements.

As well, Council has reviewed its heritage listings in the Sydney Harbour Foreshore Regional Environmental Plan (2005), and included 3 additional items of heritage significance in these listings, as well as one additional State heritage listings on the NSW State heritage register. Council has also deleted four items that lacked sufficient heritage detail to comply with the NSW heritage office requirements for heritage significance.

In meeting the new format requirements, the various Department of Planning Circulars and Practice Notes regarding LEP mapping requirements, and the NSW Heritage Office requirements have been complied with.

Separate to the draft LEP Heritage Map Council holds spatial data identifying the location of known places, objects and areas of Aboriginal heritage significance in Warringah. To date, consistent with advice from the Department of Climate Change and Sustainability and from the Office of Aboriginal Heritage, these items have

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<p><b>Note:</b> In this direction: “conservation”, “environmental heritage”, “item”, “place” and “relic” have the same meaning as in the <i>Heritage Act 1977</i>. “Aboriginal object”, “Aboriginal area” and “Aboriginal place” have the same meaning as in the <i>National Parks and Wildlife Act 1974</i>. Heritage conservation is covered by a compulsory clause in the Standard Instrument (Local Environmental Plans) Order 2006. A LEP that adopts the Standard Instrument should identify such items, areas, objects or places of environmental heritage significance or indigenous heritage significance as are relevant to the terms of this direction on the Heritage Map and relevant Schedule of the LEP.</p>	<p>not been mapped on the Warringah Heritage Map.</p> <p>These are protected under the National Parks and Wildlife Act 1974, and were identified by Council’s Aboriginal heritage survey and study of heritage significance to Aboriginal culture and people. Internal processes exist in Council to ensure management of such items in the development process.</p>
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## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

### 2.4 Recreation Vehicle Areas

#### Objective

- (1) The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

#### What a council must do if this direction applies

- (4) A draft LEP shall not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the *Recreation Vehicles Act 1983*):
- (a) where the land is within an environmental protection zone,
  - (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,
  - (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the council has taken into consideration:
    - (i) the provisions of the guidelines entitled *Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985*, and
    - (ii) the provisions of the guidelines entitled *Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985*.

#### Consistency

- (5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or

The draft Warringah LEP 2009 does not include provisions that allow land to be developed for the purposes of a recreational vehicle area.

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<p>(b) justified by an environmental study prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i> which gives consideration to the objective of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) of minor significance.</p>	
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## Attachment Booklet 7 Consideration of Section 117 Directions for Warringah

3. Housing, Infrastructure and Urban Development	Council response
<p><b>3.1 Residential Zones</b></p> <p><b>Objectives</b></p> <p>(1) The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) to minimise the impact of residential development on the environment and resource lands.</li> </ul> <p><b>Where this direction applies</b></p> <p>(2) This direction applies to all councils.</p> <p><b>When this direction applies</b></p> <p>(3) This direction applies when a council prepares a draft LEP that affects land within:</p> <ul style="list-style-type: none"> <li>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</li> <li>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</li> </ul> <p><b>What a council must do if this direction applies</b></p> <p>(4) A draft LEP shall include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>(a) broaden the choice of building types and locations available in the housing market, and</li> <li>(b) make more efficient use of existing infrastructure and services, and</li> <li>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</li> <li>(d) be of good design.</li> </ul> <p>(5) A draft LEP shall, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> <li>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other</li> </ul>	<p>The draft Warringah LEP 2009 translates the Warringah LEP 2000 with objectives that encourage and provide for a variety of housing alternatives and types in the Warringah area. The residential zones make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimises the impact of residential development on the environment and resource lands.</p> <p>The development of the WLEP 2000 was based on a thorough and lengthy assessment of current and future residential needs (via the 1998 Residential Development Strategy), and makes efficient use of existing transport corridors along Pittwater and Warringah Roads, as well as water and other infrastructure and services (gas, electricity and telecommunications). It also minimises the impact of residential development on sensitive environmental and rural based lands.</p> <p>The draft LEP separately identifies a number of areas for medium density housing in the Narrabeen, Collaroy, Cromer, Dee Why, Manly Vale, Brookvale and Queenscliff areas. These are represented in the new draft LEP in various R3 Medium Density Residential zones throughout Warringah.</p> <p>As well, Council is currently reviewing its housing strategy. This review will more fully explore housing choices; design alternatives and wider use of the standard instrument LEP residential zones, particularly in and around various existing centres.</p>

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- appropriate authority, have been made to service it), and
- (b) not contain provisions which will reduce the permissible residential density of land.

### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
- (i) gives consideration to the objective of this direction, and
  - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
  - (iii) is approved by the Director-General of the Department of Planning, or
- (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) of minor significance.

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### 3.2 Caravan Parks and Manufactured Home Estates

#### Objectives

- (1) The objectives of this direction are:
  - (a) to provide for a variety of housing types, and
  - (b) to provide opportunities for caravan parks and manufactured home estates.

#### Where this direction applies

- (2) This direction applies to all councils. This direction does not apply to:
  - (a) Crown land reserved or dedicated for any purposes under the *Crown Lands Act 1989*, except Crown land reserved for accommodation purposes, or
  - (b) land dedicated or reserved under the *National Parks and Wildlife Act 1974*.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

#### What a council must do if this direction applies

- (4) In identifying suitable zones, locations and provisions for caravan parks in a draft LEP, council shall:
  - (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and
  - (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.
- (5) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a draft LEP, council shall:
  - (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,
  - (b) take into account the principles listed in clause 9 of SEPP 36 (which councils are required to consider when assessing and determining the development and subdivision proposals), and
  - (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the *Community Land Development Act 1989* be permissible with consent.

The Warringah LGA currently contains only one caravan park that has operated for at least three decades at its present location on Mona Vale Road. It primarily serves to accommodate permanent residents.

The facility has not been separately identified by Warringah LEP 2000. Under the draft Warringah LEP 2009 the caravan park lies within the area that is proposed to be zoned RU4 Rural Small Holdings. The land use table to the zone renders caravan parks prohibited. However, the current permissibility status of the existing development will be managed through the existing use provisions of the EP and A Act.

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### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

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### **3.3 Home Occupations**

#### **Objective**

- (1) The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

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

- (2) This direction applies to all councils.

#### **When this direction applies**

- (3) This direction applies when a council prepares a draft LEP.

#### **What a council must do if this direction applies**

- (4) Draft LEPs shall permit home occupations to be carried out in dwelling houses without the need for development consent.

#### **Consistency**

- (5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent with the terms of this direction are of minor significance.

**Note:** In this direction “home occupation” has the same meaning as it has in the Standard Instrument (Local Environmental Plans) Order 2006.

The draft Warringah LEP 2009 is consistent with this objective. Home occupations are permissible in dwelling houses and dwellings without consent in RU4, R2, R3, B1, B2, B4, E3 and E4 zones.

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### 3.4 Integrating Land Use and Transport

#### Objective

- (1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:
- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
  - (b) increasing the choice of available transport and reducing dependence on cars, and
  - (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
  - (d) supporting the efficient and viable operation of public transport services, and
  - (e) providing for the efficient movement of freight.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

#### What a council must do if this direction applies

- (4) A draft LEP shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:
- (a) *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001), and
  - (b) *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

#### Consistency

- (5) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:

The development of Warringah LEP 2000 was based on a thorough and lengthy assessment of current and future residential needs (via the 1998 Residential Development Strategy), and makes efficient use of existing transport corridors along Pittwater and Warringah Roads, as well as water and other infrastructure and services. It also minimises the impact of residential development on sensitive environmental and rural based lands.

The draft Warringah LEP 2009 translates the Warringah LEP 2000 provisions that provide for a variety of housing alternatives in the Warringah area. These provisions have delivered (and will continue to deliver through the draft LEP and draft Warringah DCP) variety and choice of housing types that provide for existing and future housing needs, within existing infrastructure and services constraints. The provisions minimise impact on environmental and resources lands.

The Integrating Land Use and Transport objectives underlie the draft LEP and also Council's Strategic Community Plan. These plans have defined aims and goals for achieving safe, convenient and accessible transport options through local jobs, greater public transport usage, living streets, and less reliance on private motor vehicles.

The draft LEP identifies areas for medium density housing; business; service provisions; industry and community uses along the major transport corridors of Warringah.

As well, Council is currently reviewing its housing strategy. This review will more fully explore housing choices; design alternatives and wider use of the standard instrument LEP residential zones, particularly in and around various existing centres.

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<ul style="list-style-type: none"><li>(i) gives consideration to the objective of this direction, and</li><li>(ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and</li><li>(iii) is approved by the Director-General of the Department of Planning, or</li></ul> <p>(b) justified by an environmental study prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i> which gives consideration to the objective of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) of minor significance.</p>	
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### **3.5 Development Near Licensed Aerodromes**

#### **Objectives**

- (1) The objectives of this direction are:
- (a) to ensure the effective and safe operation of aerodromes, and
  - (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and
  - (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

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

- (2) This direction applies to all councils.

#### **When this direction applies**

- (3) This direction applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to land in the vicinity of a licensed aerodrome.

#### **What a council must do if this direction applies**

- (4) In the preparation of a draft LEP that sets controls for the development of land in the vicinity of a licensed aerodrome, the council shall:
- (a) consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,
  - (b) take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,
  - (c) for land affected by the OLS:
    - (i) prepare appropriate development standards, such as height, and
    - (ii) allow as permissible with consent development types that are compatible with the operation of an aerodrome
  - (d) obtain permission from that Department of the Commonwealth, or their delegate, where a draft LEP proposes to allow, as permissible with consent, development that encroaches above the OLS. This permission shall be obtained prior to a certificate under section 65 of the Act being issued.
- (5) A draft LEP shall not rezone land:

This direction does not apply currently apply to Warringah, as there are no aerodromes operating in the LGA. Accordingly, the draft Warringah LEP 2009 does not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.

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<p>(a) for residential purposes, nor increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25, or</p> <p>(b) for schools, hospitals, churches and theatres where the ANEF exceeds 20, or</p> <p>(c) for hotels, motels, offices or public buildings where the ANEF exceeds 30.</p> <p>(6) A draft LEP that rezones land:</p> <p>(a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25, or</p> <p>(b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30, or</p> <p>(c) for commercial or industrial purposes where the ANEF is above 30,</p> <p>shall include a provision to ensure that development meets AS 2021 regarding interior noise levels.</p> <p><b>Consistency</b></p> <p>(7) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:</p> <p>(a) justified by a strategy which:</p> <p>(i) gives consideration to the objectives of this direction, and</p> <p>(ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and</p> <p>(iii) is approved by the Director-General of the Department of Planning, or</p> <p>(b) justified by an environmental study prepared in accordance with section 57 of the <i>Environmental Planning and Assessment Act 1979</i> which gives consideration to the objective of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) of minor significance.</p>	
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4. Hazard and Risk	Council response
<p><b>4.1 Acid Sulfate Soils</b></p> <p><b>Objective</b></p> <p>(1) 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.</p> <p><b>Where this direction applies</b></p> <p>(2) This direction applies to all councils that contain land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.</p> <p><b>When this direction applies</b></p> <p>(3) This direction applies when a council prepares a draft LEP that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p> <p><b>What a council must do if this direction applies</b></p> <p>(4) Council shall consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a draft LEP that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(5) When a council is preparing a draft LEP to introduce provisions to regulate works in acid sulfate soils, those provisions shall be consistent with:</p> <ul style="list-style-type: none"> <li>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or</li> <li>(b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.</li> </ul> <p>(6) A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. Council shall provide a copy of any such study with its statement to the Director-General of the Department of Planning under section 64 of the EP&amp;A Act.</p> <p>(7) Where provisions referred to under paragraph (5) of this direction have not been</p>	<p>Warringah LEP 2000, at Clause 49a makes provisions with respect to managing development that is to be carried out where any disturbance to acid sulfate soils occurs. This matter continues to be of relevance in Warringah and accordingly, draft Warringah LEP 2009 includes a local (model) clause making similar provisions to those contained in the current planning instrument.</p>

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introduced and council is preparing a draft LEP that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the draft LEP must contain provisions consistent with paragraph (5).

### **Consistency**

- (8) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (b) of minor significance.

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### 4.2 Mine Subsidence and Unstable Land

#### Objective

- (1) The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

#### Where this direction applies

- (2) This direction applies to land that:
- (a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or
  - (b) has been identified as unstable land.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that permits development on land that:
- (a) is within a mine subsidence district, or
  - (b) has been identified as unstable in a study, strategy or other assessment undertaken:
    - (i) by or on behalf of the council, or
    - (ii) by or on behalf of a public authority and provided to the council.

#### What a council must do if this direction applies

- (4) When preparing a draft LEP that would permit development on land that is within a Mine Subsidence District a council shall:
- (a) consult the Mine Subsidence Board to ascertain:
    - (i) if the Mine Subsidence Board has any objection to the draft Local Environmental Plan, and the reason for such an objection, and
    - (ii) the scale, density and type of development that is appropriate for the potential level of subsidence, and
  - (b) incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under (4)(a)(ii), and
  - (c) include a copy of any information received from the Mine Subsidence Board with the statement to the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) under section 64 of the *Environmental Planning and Assessment Act 1979*.

This direction does not apply in the Warringah area, as there is currently no known land in Warringah that is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961. Therefore, there is no land that has been identified as unstable land that is subject to mine subsidence.

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(5) A draft LEP shall not permit development on unstable land referred to in paragraph 3(b).

### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.

**Note:** With regard to development applications, section 15 of the *Mine Subsidence Compensation Act 1961* requires approval from the Mine Subsidence Board to alter or erect improvements within a mine subsidence district or to subdivide land therein. Section 91 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) provides that approval under section 15 of the *Mine Subsidence Compensation Act 1961* is integrated development. Section 91A of the EP&A Act provides that the consent authority must obtain from the relevant approval body (Mine Subsidence Board) the general terms of any approval proposed to be granted by the approval body in relation to the development. A consent granted by the consent authority must be consistent with the general terms of any approval proposed to be granted by the approval body.

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### 4.3 Flood Prone Land

#### Objectives

- (1) The objectives of this direction are:
  - (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and
  - (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

#### Where this direction applies

- (2) This direction applies to all councils that contain flood prone land within their LGA.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision that affects flood prone land.

#### What a council must do if this direction applies

- (4) A draft LEP shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* (including the *Guideline on Development Controls on Low Flood Risk Areas*).
- (5) A draft LEP shall not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.
- (6) A draft LEP shall not contain provisions that apply to the flood planning areas which:
  - (a) permit development in floodway areas,
  - (b) permit development that will result in significant flood impacts to other properties,
  - (c) permit a significant increase in the development of that land,
  - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
  - (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.
- (7) A draft LEP must not impose flood related development controls above the residential flood planning level for residential development on land, unless a council provides

The Warringah LEP 2000 at Clause 47 makes provisions in relation to development of flood affected land. Since the gazettal of Warringah LEP 2000, Council has undertaken further work to prepare new and update existing flood studies and has prepared expanded controls to manage development.

Accordingly, draft Warringah LEP 2009 includes a local (model) clause to manage development on flood planning land that will operate in conjunction with provisions in the draft Warringah DCP. These provisions are in accordance with the Floodplain Development Manual 2005 and do not vary the currently permitted uses of land within flood planning areas.

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adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

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

### **Consistency**

- (9) A draft LEP may be inconsistent with this direction only if council can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:
- (a) the draft LEP is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
  - (b) the provisions of the draft LEP that are inconsistent are of minor significance.

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

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### 4.4 Planning for Bushfire Protection

#### Objectives

- (1) The objectives of this direction are:
  - (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
  - (b) to encourage sound management of bush fire prone areas.

#### Where this direction applies

- (2) This direction applies to all councils that are required to prepare a bush fire prone land map under section 146 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP that affects, or is in proximity to land mapped as bushfire prone land.

#### What a council must do if this direction applies

- (4) In the preparation of a draft LEP a Council shall consult with the Commissioner of the NSW Rural Fire Service under section 62 of the EP&A Act, and take into account any comments so made,
- (5) A draft LEP shall:
  - (a) have regard to *Planning for Bushfire Protection 2006*,
  - (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
  - (c) ensure that bushfire hazard reduction is not prohibited within the APZ.
- (6) A draft LEP shall, where development is proposed, comply with the following provisions, as appropriate:
  - (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
    - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
    - (ii) an Outer Protection Area managed for hazard reduction and located on

Warringah Council has a current Bush Fire Prone Land Map that was certified by the Commissioner of the NSW Rural Fire Service in August 2003. In accordance with the legislative requirements this map has been reviewed (2008/ 2009) and is awaiting certification by the Commissioner.

Warringah has a significant quantum of land and properties that are located in bush fire prone areas. These lands have been zoned in the draft Warringah LEP 2009 in accordance with Department of Planning and the NSW Rural Fire Service advice (under section 62 of the EP& A Act), and existing land use controls in the Warringah Local Environmental Plan 2000.

The draft LEP proposes no new land release areas or increases to the current development capacity of land in bushfire prone land areas. The draft LEP maintains existing residential densities, as well as environmental sensitivities in various bush fire prone areas.

Clause 5.11 Bush fire hazard reduction, of the standard instrument is compulsory and included in the draft Warringah LEP. This clause insures that bush fire hazard reduction is not prohibited within Asset Protection Zones as defined in the Planning for Bushfire Protection 2006.

In addition, the draft LEP includes local Clause 6.20 Subdivision of certain land in the R2 Low Density Residential zone. Amongst other matters, this clause seeks to manage future density of development for certain parcels of land that have an interface to bushland and includes a reference to development of these lands in accordance with the provisions of Planning for Bushfire Protection 2006.

The preparation of the draft LEP has considered the Planning for Bushfire Protection 2006 guideline, and has avoided controls that will result in inappropriate development in hazardous areas. Should such

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<p>the bushland side of the perimeter road,</p> <ul style="list-style-type: none"><li>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the draft LEP permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</li><li>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</li><li>(d) contain provisions for adequate water supply for firefighting purposes,</li><li>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</li><li>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</li></ul> <p><b>Consistency</b></p> <p>(7) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the draft LEP.</p>	<p>development be proposed through a future development application process, the provisions of Planning for Bushfire Protection 2006 guideline will apply.</p>
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6. Local Plan Making	Council response
<p><b>6.1 Approval and Referral Requirements</b></p> <p><b>Objective</b></p> <p>(1) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p><b>Where this direction applies</b></p> <p>(2) This direction applies to all councils.</p> <p><b>When this direction applies</b></p> <p>(3) This direction applies when a council prepares a draft LEP.</p> <p><b>What a council must do if this direction applies</b></p> <p>(4) A draft LEP shall:</p> <ul style="list-style-type: none"> <li>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</li> <li>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the council has obtained the approval of: <ul style="list-style-type: none"> <li>(i) the appropriate Minister or public authority, and</li> <li>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),</li> </ul>                     prior to a certificate under section 65 of the Act being issued, and</li> <li>(c) not identify development as designated development unless the council: <ul style="list-style-type: none"> <li>(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</li> <li>(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to a certificate being issued under section 65 of the Environmental Planning and Assessment Act 1979.</li> </ul> </li> </ul> <p><b>Consistency</b></p>	<p>The draft Warringah LEP 2009 has been prepared in accordance with this direction and its objectives, being to ensure the efficient and appropriate assessment of development.</p> <p>The draft LEP has been drafted in accordance with the standard instrument LEP and does not introduce any local provisions that require concurrence, referral or consultation with public authorities or a Minister. Nor does it introduce any local provisions that identify development as designated.</p>

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(5) A draft LEP must be substantially consistent with the terms of this direction.

Note: In this direction “public authority” has the same meaning as section 4 of the Environmental Planning and Assessment Act 1979.

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### 6.2 Reserving Land for Public Purposes

#### Objectives

- (1) The objectives of this direction are:
  - (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and
  - (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

#### Where this direction applies

- (2) This direction applies to all councils.

#### When this direction applies

- (3) This direction applies when a council prepares a draft LEP.

#### What a council must do if this direction applies

- (4) A draft LEP shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).
- (5) When a Minister or public authority requests a council to reserve land for a public purpose in a draft LEP and the land would be required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*, the council shall:
  - (a) reserve the land in accordance with the request, and
  - (b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and
  - (c) identify the relevant acquiring authority for the land.
- (6) When a Minister or public authority requests a council to include provisions in a draft LEP relating to the use of any land reserved for a public purpose before that land is acquired, the council shall:
  - (a) include the requested provisions, or
  - (b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.
- (7) When a Minister or public authority requests a council to include provisions in a draft LEP

The draft Warringah LEP 2009 seeks to reserve certain land for public purposes and facilitates the removal of existing reservations of land for public purposes where land is no longer required for acquisition.

As a component part of its consultation processes under sect 62 of the EP & A Act, officers of Council corresponded with the Department of Planning, Land Management Branch and the Roads and Traffic Authority, Corridors Management branch to review land reservations.

The Department of Planning has advised of various changes that it requires to Council's current reservations for Regional Open Space. Council and the Department reached an agreement in relation to all lands for which the Department currently has acquisition responsibility and this position is carried forward through the Land Zoning and the Land Reservation Acquisition Maps to the draft LEP.

Similarly, the Roads and Traffic Authority provided advice to Council in relation to land that is currently reserved for arterial road widening. This includes advice that the Authority requires three (3) additional reservations over and above the current ones. The RTAs position is carried forward through the Land Zoning and the Land Reservation Acquisition Maps to the draft LEP.

In view of the above consultation processes and subsequent concurrence(s) Council is of the opinion that Clause 11 of the EP&A Reg 2000 and 117 Direction 6.2 have been satisfied. Council notes the approval of the nominee of the Director General in this regard that was provided with the issuing of the section 65 certificate for the draft Warringah LEP 2009.

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to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the council shall rezone and/or remove the relevant reservation in accordance with the request.

### **Consistency**

- (8) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:
- (a) with respect to a request referred to in paragraph (7), that further information is required before appropriate planning controls for the land can be determined, or
  - (b) the provisions of the draft LEP that are inconsistent with the terms of this direction are of minor significance.

**Note:** Clause 11 of the EP&A Reg 2000 provides that a local environmental plan or draft local environmental plan:

- (a) may not contain a provision reserving land for a purpose referred to in section 26 (1) (c) of the EP&A Act, and
- (b) may not contain a provision in respect of that reservation as required by section 27 of the EP&A Act,

unless the public authority responsible for the acquisition of the land has notified the council of its concurrence to the inclusion of such a provision in the plan.

In this direction:

“public authority” has the same meaning as section 4 of the EP&A Act.

the use or reservation of land for a public purpose has the same meaning as in section 26(1)(c) of the EP&A Act.

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### **6.3 Site Specific Provisions**

#### **Objective**

- (1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

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

- (2) This direction applies to all councils.

#### **When this direction applies**

- (3) This direction applies when a council prepares a draft LEP to allow a particular development to be carried out.

#### **What a council must do if this direction applies**

- (4) A draft LEP that amends another environmental planning instrument in order to allow a particular development proposal to be carried out shall either:
- (a) allow that land use to be carried out in the zone the land is situated on, or
  - (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
  - (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.
- (5) A draft LEP shall not contain or refer to drawings that show details of the development proposal.

#### **Consistency**

- (6) A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are of minor significance.

Warringah LEP 2000 is a place based rather than land use zone based planning instrument, containing 74 localities. This model allows the LEP to address specific permissibility provisions for nominated sites through the locality statements.

The draft Warringah LEP 2000 uses Schedule 1 to make provisions for certain nominated sites that are consistent with the development rights that exist currently for those sites under Warringah LEP 2000. It also identifies ten (10) sites that are managed as Special Purpose zones.

Generally, it is proposed that anomalous or non conforming sites will be managed by the Existing Use provisions of the EP and A Act.

The draft LEP also includes, at Part 6 Division 1, local clauses that provide detailed development controls that are specific to the core area of the Dee Why Town Centre. Part 6 Division 1 translates the existing provisions for the E21 Dee Why Town Centre Locality of Warringah LEP 2000 into the new standard instrument format. Therefore, these provisions do not amend Council's existing planning provisions for the Dee Why Town Centre.