

5.6 Attachments

- Landscape Plan
- Copy of public liability insurance when available
- Copy of Incorporated Association documentation when available

5.7 Agreement

I/we the undersigned have read Pittwater Council's Community Gardens Policy and Guidelines and agree to establish and manage the proposed gardens in accordance with these documents.

Applicant's signature.....

Date





Figure 1. Woolcott Park, Woolcott Street, Newport



Figure 2. Narroy Park, Gondola Road, North Narrabeen

C12.2 Pittwater Local Environmental Plan (LEP) 2014

Meeting: Sustainable Towns & Villages Committee

Date: 21 July 2014

STRATEGY: Town & Village

ACTION: Prepare new Standard Instrument Local Environment Plan (LEP)

PURPOSE OF REPORT

The purpose of this report is:

- To advise Council that the Pittwater Local Environmental Plan (LEP) 2014 came into effect on 27 June 2014.
- To inform Council of the changes made to the Pittwater LEP 2014 by the Department of Planning & Environment (DP&E) and/or Parliamentary Counsel since Council resolved to forward the draft Pittwater LEP to the Minister for finalisation on 20 December 2013.
- To recommend that Council lift the moratorium that was placed on the processing of Planning Proposals during the preparation of the Pittwater LEP 2014.

1.0 BACKGROUND

1.1 In 2013, two public exhibitions of the draft Pittwater LEP were undertaken. The first public exhibition was held between 16 March and 10 May 2013 (eight weeks), and the second public exhibition was held between 2 and 29 November 2013 (four weeks). Two public exhibition periods were undertaken to enable Council to respond to relevant community concerns raised during the first public exhibition period, through changes to the draft LEP where appropriate. It was also to ensure that the community had the opportunity to review and comment on the draft Pittwater LEP prior to finalisation.

1.2 At an extraordinary meeting held on 20 December 2013, the outcome of the second public exhibition period was presented to Council, including the recommended changes to the draft Pittwater LEP as a result of the second public exhibition.

1.3 It was at the meeting of 20 December 2013 that Council adopted the draft Pittwater LEP, including the recommended changes as a result of the second public exhibition, and endorsed it being forwarded to the Minister for finalisation. Council's resolution was as follows:

1. *That Council adopt the recommended changes to the draft Pittwater Local Environmental Plan 2013, as listed in the table at Attachment 4 including the following amendment:*

(a) *Clause 7.8 limited development on foreshore area (local) (2)(a) remove "alteration" from the Clause.*

2. *That Council adopt the draft Pittwater Local Environmental Plan 2013 written instrument and maps (as tabled).*

3. *That the draft Pittwater LEP 2013 be forwarded to the Director-General of the Department of Planning & Infrastructure in accordance with Section 68 of the Environmental Planning & Assessment Act 1979.*
 4. *That the Minister be requested to make the Pittwater LEP 2013 under Section 70 of the Environmental Planning & Assessment Act 1979.*
 5. *That the General Manager be authorised to make minor content and formatting changes to the written instrument and maps in response to requests from Parliamentary Counsel and the Department of Planning and Infrastructure to satisfy legal drafting requirements.*
 6. *That Council should take an interest in the State's assessment of the impact of the draft Pittwater LEP 2013 on native title, and in any necessary compliance with the Native Title Act 1993.*
 7. *That Council note the Community Engagement Outcomes Report (as tabled and provided to Councillors on 13 December 2013) and the Addendum (as tabled).*
 8. *That the General Manager in association with the Mayor be delegated to vary the fee structure associated with a rezoning application for 39 Cabbage Tree Road. However, Council reserves its right in relation to the technical assessment of any such application.*
- 1.4 On 23 December 2013, the draft Pittwater LEP was sent to the Minister with a request that the new LEP for Pittwater be made.
 - 1.5 On 1 April 2014, a draft Opinion on the draft Pittwater LEP written instrument was received from Parliamentary Counsel. It was evident that the written instrument contained changes, however a comprehensive list of changes, including justification for such changes, was not provided. A letter (dated 11 April 2014) was sent to the Director General (at the time) regarding this (refer **Attachment 1**).

2.0 ISSUES

- 2.1 **The Pittwater LEP 2014 and amended Pittwater 21 Development Control Plan (DCP) is in effect**
 - 2.1.1 On 30 May 2014, the Pittwater LEP 2014 was published on the NSW Legislation website, incorporating a provision that states it will come into effect 28 days after it is published on the NSW legislation website.
 - 2.1.2 The Pittwater LEP 2014 came into effect on 27 June 2014. The Pittwater LEP 2014 is now the primary planning document guiding land use and development in Pittwater through zoning and planning standards. The Pittwater LEP 2014 replaces the Pittwater LEP 1993.
 - 2.1.3 The Pittwater 21 Development Control Plan (DCP) has been amended to be consistent with the provisions and terminology of the Pittwater LEP 2014. The amended Pittwater 21 DCP also came into effect on 27 June 2014.

2.2 Changes made to the Pittwater LEP 2014 by the Department of Planning & Environment (DP&E)

2.2.1 The Department of Planning & Environment (DP&E) wrote to Council in correspondence dated 29 May 2014 (received via email on 3 June 2014 and in hardcopy on 6 June 2014) to advise that the Acting Secretary had made the Pittwater LEP 2014. In this letter, the following amendments to the Pittwater LEP 2014 were noted:

- The Pittwater LEP 2014 contains a new zone being SP3 Tourist. The Sydney Lakeside Caravan Park has been zoned SP3 Tourist.
- The waterway zones adjoining 2a McCarrs Creek Road, Church Point (Holmeport Marina) and 79 Beaconsfield Street, Newport (Beaconsfield Marina) have been zoned in accordance with the draft Land Zoning Map as publicly exhibited between 2-29 November 2013.
- The clause requiring certification that odours from the Warriewood Sewage Treatment Plant have been mitigated prior to granting consent for development within a Buffer Area in Warriewood Valley has been removed (Clause 6.1(3) of the draft Pittwater LEP). The clause has been removed following consultation with Sydney Water.

2.2.2 Following a thorough review of the Pittwater LEP 2014 as published on the NSW legislation website, it is evident that further changes have been made since Council adopted the draft Pittwater LEP on 20 December 2013.

2.2.3 Key changes are as follows:

- The removal of zone objectives that addressed minimising unnecessary impacts on the natural environment and/or the desired character of the locality, in the following zones:
 - RU2 Rural Landscape
 - R2 Low Density Residential
 - R3 Medium Density Residential
 - R5 Large Lot Residential
 - B1 Neighbourhood Centre
 - B2 Local Centre
 - B4 Mixed Use
 - B6 Enterprise Corridor
 - B7 Business Park
 - IN2 Light Industrial
 - RE1 Public Recreation
 - RE2 Private Recreation
 - E3 Environmental Management
 - E4 Environmental Living
 - W1 Natural Waterways
 - W2 Recreational Waterways.
- An amendment to Clause 4.1 (Minimum subdivision lot size) that reduces clarity surrounding whether easements for access or rights of carriageway (in the absence of an access handle) are included in the calculation of the lot size.
- The removal of height controls for secondary dwellings, rural worker's dwellings and the second dwelling within a dual occupancy (detached) in Clause 4.3 (Height of buildings). A height control of 5.5m was added to Clause 4.3 following receipt of a submission raising concern with the ability to undertake such developments up to a height specified for the land on the Height of Buildings Map (e.g. 8.5m).

- The removal of the ability to undertake 'Structures associated with vehicular and pedestrian access including garages, carports, stairs, paths, inclinator and the like' on certain land intended to be acquired for public purposes, expressly land zoned SP2 Infrastructure and marked "Classified road" (Clause 5.1A Development on land intended to be acquired for public purposes). Pittwater's previous LEP (Pittwater LEP 1993) provided the flexibility for such uses to be permitted on land intended to be acquired.
- Adding the ability to do an 'extension' and an 'alteration' in the foreshore area (Clause 7.8 Limited development on foreshore area). Reference to 'alteration' was a topic of discussion by the elected Council at the meeting on 20 December 2013. The outcome was that the reference be removed from the draft clause. Reference to 'extension' is considered to raise similar concerns to those discussed at the Council meeting.
- Removing reference to the E4 Environmental Living zone from Clause 7.12 (Location of sex services premises), in relation to deciding whether to grant development consent to development for the purposes of sex services premises and considering whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land zoned E4 Environmental Living.
- The Urban Release Area Map was amended to remove the labels for the Sectors and Buffer Areas, and it does not identify the creek line corridors. The associated Part in the written instrument (Part 6) no longer functions as intended.
- The Lot Size Map was amended in accordance with the draft Land Zoning Map as publicly exhibited between 2-29 November 2013. The draft Lot Size Map as exhibited contained errors that were discovered during the second public exhibition. These errors were rectified and the proposed amendments were reported to Council on 20 December 2013.

2.2.4 It is noted that other minor changes have been made throughout the written instrument e.g. removal of subclauses, rephrasing and word changes. A comprehensive list of all the changes is at **Attachment 2**.

2.2.5 Notwithstanding a further letter sent to the DP&E on 11 June 2014 (refer **Attachment 3**) requesting a comprehensive list of all the changes made to the Pittwater LEP 2014, including justification for such changes, no further correspondence has been received from the DP&E.

2.3 **Amendment 1 to the Pittwater LEP 2014**

2.3.1 On 6 June 2014, Amendment 1 to the Pittwater LEP 2014 was published on the NSW legislation website.

2.3.2 Amendment 1 relates to 120-122 Mona Vale Road, Warriewood. It is the result of a Planning Proposal (PP0002/12), which the Joint Regional Planning Panel (JRPP) (the Relevant Planning Authority for the Planning Proposal) recommended to the Minister for Planning to progress.

2.3.3 Amendment 1 rezones the portion of 120 Mona Vale Road that is zoned 1(a) Non-urban "A" to part R2 Low Density Residential, part E4 Environmental Living and the creekline corridor to E2 Environmental Conservation. Amendment 1 also rezones 122 Mona Vale Road from 1(a) Non-urban "A" to E2 Environmental Conservation. Further, Amendment 1 identifies the minimum subdivision lot size for the properties and the land that Council intends to acquire.

2.3.4 Amendment 1 also came into effect on 27 June 2014.

2.4 Expedited amendments to the Pittwater LEP 2014

2.4.1 Three expedited amendments (under Section 73A of the *Environmental Planning & Assessment Act 1979*) to the Pittwater LEP 2014 have been initiated to remedy errors following changes made by the DP&E.

2.4.2 The expedited amendments are:

- 1) To reinstate the labels and creek line corridors on the Urban Release Area Map to ensure Part 6 (Urban Release Areas) of the Pittwater LEP 2014 written instrument functions as intended.
- 2) To amend the label of the name of the new zone for the Sydney Lakeside Caravan Park on the Land Zoning Map from 'SP3 Tourism' to 'SP3 Tourist'. This is to ensure that the Land Use Table in the Pittwater LEP 2014 written instrument is applicable.
- 3) To amend the written instrument and maps in relation to 120-122 Mona Vale Road, Warriewood as follows:
 - Only identify 122 Mona Vale Road and the area zoned E2 Environmental Conservation on 120 Mona Vale Road (the creekline corridor) on the Land Reservation Acquisition Map. This is to correctly identify the area of land that Council intends to acquire.
 - Remove the area zoned E2 Environmental Conservation from the Lot Size Map, as it is inconsistent with the Sydney East Joint Regional Planning Panel's instructions (dated 8 May 2014) relevant to the Planning Proposal for the subject land (PP0002/12) and it is unnecessary to identify a minimum subdivision lot size for E2 zoned land.
 - The label on the Urban Release Area Map for 120-122 Mona Vale Road, Warriewood should be '120-122 Mona Vale Road', rather than 'Clause 6.2'. This is to ensure consistency with the Urban Release Area Map as per the first expedited amendment request (above).
 - The Urban Release Area Map should identify the area zoned E2 Environmental Conservation on 120 Mona Vale Road as 'creek line corridor' to ensure the relevant considerations in Part 6 (Urban Release Areas) of the Pittwater LEP 2014 written instrument apply.
 - Clause 6.2(2) of the Pittwater LEP 2014 written instrument should reference '120-122 Mona Vale Road', rather than 'Clause 6.2'. This is to ensure consistency with the Urban Release Area Map as per the first expedited amendment request (above).

2.5 Moratorium on Planning Proposals submitted during the preparation of the Pittwater LEP 2014

2.5.1 At its meeting of 17 October 2011, it was recommended to Council that a moratorium be placed on the processing of Planning Proposals (except those that were already being processed) during the preparation of the Pittwater LEP 2014. It was recommended that there be exceptions to the moratorium (being demonstrated public benefit, demonstrated hardship or demonstrated environmental preservation and in the circumstance that the Warriewood Valley Strategic Review requires a review of zonings in the release area) and that any Planning Proposals submitted during such time be reported directly to Council with a recommendation to hold the application in abeyance until the Pittwater LEP 2014 is made.

2.5.2 Council subsequently resolved:

2. *That Council not process future individual Planning Proposals other than through the Pittwater Standard Instrument LEP process unless in exceptional circumstances, being demonstrated public benefit, demonstrated hardship, environmental preservation or as contained with the Warriewood Valley Strategic Review area.*
3. *All individual Planning Proposals submitted during the period of preparation of the Pittwater Standard Instrument LEP be initially reported to Council for notation in relation (2) above. Noting that it will remain open to Council to lift the moratorium in exceptional circumstances being demonstrated public benefit, demonstrated hardship or environmental preservation.*

2.5.3 As the Pittwater LEP 2014 has been made, it is recommended that the moratorium be lifted.

2.6 Forward path

2.6.1 On 16 June 2014, Council made the following resolution in relation to the Pittwater LEP 2014:

That a delegation consisting of the Mayor, available Councillors, the General Manager and staff seek an urgent meeting with the Minister for Planning and DP&I staff to gain an understanding and justification for the changes made to the draft Pittwater LEP 2014 by the DP&I and why state Government policies in regard to Local Government planning decisions, community consultation and risk management in foreshore areas have not been followed.

2.6.2 Subsequently, a meeting with the Hon. Robert Stokes MP, Minister for the Environment, Minister for Heritage, Minister for the Central Coast, and Assistant Minister for Planning has been scheduled for 15 July 2014. The deadline for the finalisation of this report meant that the meeting had not yet been held.

2.6.3 A 'house-keeping' amendment to the Pittwater LEP 2014, incorporating required amendments to the Lot Size Map (following changes made by the DP&E) and other minor mapping anomalies will be undertaken. A report on the house-keeping amendment will be presented to Council in the coming months to commence the process for amending the Pittwater LEP 2014.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

3.1.1 The Pittwater LEP 2014 considers the needs and aspirations of the community and includes consideration of social and cultural issues. It recognises the important role of community facilities and our open space network in facilitating local culture and healthy sustainable communities.

The Community Engagement Strategy prepared for the Pittwater LEP 2014 outlined the way in which it was intended to inform and consult the community, including two public exhibition periods to enable Council to respond to relevant community concerns raised during the first public exhibition period, through changes to the draft LEP where appropriate. This was also to ensure that the community had the opportunity to review and comment on the draft Pittwater LEP prior to finalisation.

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 The Pittwater LEP 2014 has regard for the protection of Pittwater's environmental assets. A number of local provisions are proposed to protect the local environment and heritage, and manage natural hazards. In addition, many of the proposed zones include objectives for protecting and enhancing the natural environment.

3.3 Enhancing our Working & Learning (Economic)

3.3.1 The Pittwater LEP 2014 recognises the importance of a strong local economy to the future sustainability of Pittwater. The Pittwater LEP 2014 protects valuable employment land and recognises the important role of Mona Vale as our town centre. The Pittwater LEP 2014 provides appropriate zoning for essential infrastructure such as schools.

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 A probity consultant was engaged to oversee the process involved in the preparation of the Pittwater LEP 2014. The Probity Plan was prepared to provide transparency and accountability by ensuring appropriate governance measures are in place throughout the preparation of this document. A Community Engagement Strategy was also prepared in consultation with Council's Community Engagement Officer. The Strategy outlined the way in which it was intended to inform and consult the community regarding the Pittwater LEP 2014. The Strategy incorporated two public exhibition periods to enable Council to respond to relevant community concerns.

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 The Pittwater LEP 2014 endeavours to retain and enhance existing and proposed infrastructure to ensure the sustainable growth of the community.

4.0 EXECUTIVE SUMMARY

4.1 The Pittwater Local Environmental Plan (LEP) 2014 came into effect on 27 June 2014. The Pittwater LEP 2014 is now the primary planning document guiding land use and development in Pittwater through zoning and planning standards. The Pittwater LEP 2014 replaces the Pittwater LEP 1993.

4.2 The Pittwater 21 Development Control Plan (DCP) has been amended to be consistent with the provisions and terminology of the Pittwater LEP 2014. The amended Pittwater 21 DCP also came into effect on 27 June 2014.

4.3 Following a thorough review of the Pittwater LEP 2014 as made, it is evident that the Department of Planning & Environment (DP&E) and/or Parliamentary Counsel have made changes since Council adopted the draft Pittwater LEP on 20 December 2013. Notwithstanding requests to the DP&E for a comprehensive list of all the changes made to the Pittwater LEP 2014, including justification for such changes, no such response has been received.

4.4 Three expedited amendments (under Section 73A of the *Environmental Planning & Assessment Act 1979*) to the Pittwater LEP 2014 have been initiated to remedy errors following changes made by the DP&E.

4.5 On 16 June 2014, Council made the a resolution to seek an urgent meeting with the Minister for Planning and DP&I staff to gain an understanding and justification for the changes made to the draft Pittwater LEP 2014 and why state Government policies in regard to Local Government planning decisions, community consultation and risk management in foreshore areas have not been followed. Subsequently, a meeting with the Hon. Robert Stokes MP, Minister for the Environment, Minister for Heritage, Minister for the Central Coast, and Assistant Minister for Planning has been scheduled for 15 July 2014. The deadline for the finalisation of this report meant that the meeting had not yet been held.

- 4.6 A 'house-keeping' amendment to the Pittwater LEP 2014, incorporating required amendments to the Lot Size Map (following changes made by the DP&E) and other minor mapping anomalies will be undertaken. A report on the house-keeping amendment will be presented to Council in the coming months to commence the process for amending the Pittwater LEP 2014.
- 4.7 At its meeting of 17 October 2011, it was recommended to Council that a moratorium be placed on the processing of Planning Proposals (except those that were already being processed) during the preparation of the Pittwater LEP 2014. As the Pittwater LEP 2014 has been made, it is recommended that the moratorium be lifted.
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RECOMMENDATION

1. That the information provided in this report be noted.
2. That the moratorium placed on the processing of Planning Proposals during the preparation of the Pittwater LEP 2014 be lifted.

Report prepared by
Kelly Wilkinson, Executive Planner (Strategic)

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

Letter sent to the Director General (at the time) regarding changes proposed to the Pittwater LEP 2014



PITTWATER COUNCIL

Steve Evans – Director, Environmental Planning & Community
8:00am to 5:30pm Monday-Thursday
8:00am to 5:00pm Friday
Phone (02) 9970 1133

ABN61 340837871
Telephone 02 9970 1133
Facsimile 02 9970 1200
Postal Address
PO Box 882
Mona Vale NSW 1660
DX 9018, Mona Vale

11 April 2014

DIRECTOR GENERAL
NSW PLANNING & INFRASTRUCTURE
23-33 BRIDGE STREET
SYDNEY NSW 2000

Attention: Director, Metropolitan Delivery (CBD)

Dear Mr Haddad

DRAFT PITTWATER LEP 2014

I refer to an email from the Metropolitan Delivery (CBD) team on 1 April 2014 in relation to the draft Pittwater LEP 2014.

While it is appreciated that finalisation of the new LEP for Pittwater is a priority for the Metropolitan Delivery (CBD) team, as it is for Council, we were only given a few days to review and comment on the draft Pittwater LEP 2014 following amendments made by the Planning & Infrastructure (P&I) Legal team. It is noted that the draft Pittwater LEP was sent to P&I on 23 December 2013 requesting that the draft Pittwater LEP be finalised. Further, the amendments made by the P&I Legal team were not outlined within the document and no justification for the amendments was provided.

Notwithstanding this, we have reviewed the draft Pittwater LEP 2014 (as provided to Council staff on 1 April 2014) and provide comments and our preference in relation to the proposed amendments for particular clauses (see Attachment 1).

It is noted that at a meeting held on 9 April 2014 with Mark Ferguson and Andrew Pigott (Pittwater Council), and Neil McGaffin and Richard Pearson (P&I), it was acknowledged that it would be acceptable for Council to provide comments by 11 April 2014.

Further, in the correspondence sent to P&I on 23 December 2013 requesting that the draft Pittwater LEP be finalised, a request was also made for the new LEP to incorporate a provision that allows it to commence 28 days after it is published on the NSW legislation website. This request remains to allow us to update our ePlanning systems. It is noted that the draft Pittwater LEP provided to Council staff on 1 April 2014 does not incorporate this request.

Please don't hesitate to contact me or Andrew Pigott (Manager, Planning & Assessment on (02) 9970 1163) should you wish to discuss any of these matters.

Yours sincerely



Steve Evans
DIRECTOR – ENVIRONMENTAL PLANNING & COMMUNITY

Attachment:

(1) Comments and preferences on the draft Pittwater LEP provided to Council staff on 1 April 2014 following amendments made by the P&I Legal team

Email pittwater_council@pittwater.nsw.gov.au Web pittwater.nsw.gov.au

Mona Vale Customer Service Centre
Village Park 1 Park Street, Mona Vale

Avalon Customer Service Centre
59A Old Barrenjoey Road, Avalon

Support Services
Units 11, 12, 13 + 16/5 Vuko Place, Warriewood

Boondah Depot
1 Boondah Road, Warriewood

Attachment 1 – Comments and preferences on the draft Pittwater LEP provided to Council staff on 1 April 2014 following amendments made by the P&I Legal team

| Clause | As adopted by Council on 20 December 2013 | As amended by Planning & Infrastructure (April 2014) | Comment/preference |
|--|---|---|---|
| 1.1AA Commencement | This Plan commences on the day on which it is published on the NSW legislation website. | This Plan commences on the day on which it is published on the NSW legislation website. | Please amend to read: This Plan commences 28 days after the day on which it is published on the NSW legislation website. |
| 1.9A Suspension of covenants, agreements and instruments | 2(c) to any conservation agreement within the meaning of the <i>National Parks and Wildlife Act 1974</i> , or the <i>Fisheries Management Act 1994</i> , or (d) to any trust agreement within the meaning of the <i>Nature Conservation Trust Act 2001</i> , or 2(h) to any heritage agreements within the meaning of Part 3B of the <i>Heritage Act 1977</i> . | 2(c) to any conservation agreement within the meaning of the <i>National Parks and Wildlife Act 1974</i> , or (d) to any Trust agreement within the meaning of the <i>Nature Conservation Trust Act 2001</i> , or Removed. | Reference to the <i>Fisheries Management Act 1994</i> was included following a request during Section 62 consultation. (h) was included following a request during Section 62 consultation. |
| Land Use Table | | Removal of some land uses from some zones. | Justification for removing some land uses from some zones is sought. |
| Zone R02 Rural Landscape | Zone R02 Rural Landscape 1 Objectives of zone • To ensure that any development minimises unnecessary impacts on the natural environment of the site and surrounding areas, and is compatible with the desired character of the locality. | Removed. | It is our preference that no changes are made to the land use table. Justification for the amendment is sought. |
| Zone R2 Low Density Residential | 1 Objectives of zone • To ensure development minimises unnecessary impacts on the natural characteristics of the site and surrounding area. • To achieve the desired character of the locality. | Removed. | It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that this objective remains an objective of the zone. Justification for the amendment is sought. |
| Zone R3 Medium Density Residential | 1 Objectives of zone • To ensure development minimises unnecessary impacts on the natural characteristics of the site and surrounding area. • To achieve the desired character of the locality. | Removed. | It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that both objectives remain an objective of the zone. Justification for the amendment is sought. |
| Zone R5 Large Lot Residential | 1 Objectives of zone • To ensure development minimises unnecessary impacts on the natural characteristics of the site and surrounding area. • To achieve the desired character of the locality. | Removed. | It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that both objectives remain an objective of the zone. Justification for the amendment is sought. |

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| | | | | and FSR. It is our preference that both objectives remain an objective of the zone. Justification for the amendment is sought. |
| Zone B1 Neighbourhood Centre | 1 Objectives of zone <ul style="list-style-type: none"> To provide for shop top housing that complements the character of the surrounding neighbourhood. To achieve the desired character of the locality. | Removed. | | It is noted that the Mosman and Ryde LEPS reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that both objectives remain an objective of the zone. Justification for the amendment is sought. |
| Zone B2 Local Centre | 1 Objectives of zone <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | | It is noted that the Mosman and Ryde LEPS reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that this objective remains an objective of the zone. Justification for the amendment is sought. |
| Zone B4 Mixed Use | 1 Objectives of zone <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | | It is noted that the Mosman and Ryde LEPS reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that this objective remains an objective of the zone. Justification for the amendment is sought. |
| Zone B6 Enterprise Corridor | 1 Objectives of zone <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | | It is noted that the Mosman and Ryde LEPS reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that this objective remains an objective of the zone. Justification for the amendment is sought. |
| Zone B7 Business Park | 1 Objectives of zone <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | | It is noted that the Mosman and Ryde LEPS reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that this objective remains an objective of the zone. Justification for the amendment is sought. |
| Zone IN2 Light Industrial | 1 Objectives of zone <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | | It is noted that the Mosman and Ryde LEPS reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR. It is our preference that this objective remains an objective of the zone. Justification for the amendment is sought. |
| | | Removed. | | It is noted that the Mosman and Ryde LEPS reference |

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| | | | <p>'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR.</p> <p>It is our preference that this objective remains an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| Zone RE1 Public Recreation | <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To ensure development minimises unnecessary impacts on the natural environment, characteristics of the site and surrounding area. | Removed. | <p>It is our preference that this objective remains an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| Zone RE2 Private Recreation | <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To ensure development minimises unnecessary impacts on the natural environment, characteristics of the site and surrounding area. | Removed. | <p>It is our preference that this objective remains an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| Zone E3 Environmental Management | <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To ensure development minimises unnecessary impacts on the natural characteristics of the site and surrounding area. To achieve the desired character of the locality. | Removed. | <p>It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR.</p> <p>It is our preference that this objective remains an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| Zone E4 Environmental Living | <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To ensure development minimises unnecessary impacts on the natural characteristics of the site and surrounding area. To achieve the desired character of the locality. | Removed. | <p>It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR.</p> <p>It is our preference that both objectives remain an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| Zone W1 Natural Waterways | <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | <p>It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR.</p> <p>It is our preference that this objective remains an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| Zone W2 Recreational Waterways | <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To achieve the desired character of the locality. | Removed. | <p>It is noted that the Mosman and Ryde LEPs reference 'desired future character' and 'desired character' in zone objectives and objectives for other clauses, such as height and FSR.</p> <p>It is our preference that this objective remains an objective of the zone.</p> <p>Justification for the amendment is sought.</p> |
| 4.1 Minimum subdivision lot size | (1) (f) to provide appropriate bush fire protection measures on land that is identified as being bushfire prone land. | Removed. | <p>It is our preference that this objective remains an objective of the zone.</p> <p>This has been discussed previously. Justification for the amendment is sought.</p> |

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| | <p>(3A) For the purpose of calculating the size of a battle-axe lot or other lot with access to a road by an access corridor (including any right of carriage way, access way or other area that provides for vehicle access), the area of the access handle is excluded.</p> | <p>(3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.</p> | <p>Justification for the amendment is sought.</p> <p>It is considered that the amendment does not articulate that easements for access or rights of carriage way (in the absence of an access handle) are not to be included in the calculation of the lot size.</p> |
| <p>4.3 Height of buildings</p> | <p>(3) Despite subclause (2), where the maximum height shown on the Height of Buildings Map is 8.5 metres, development on land at or below the flood planning level or identified on the Coastal Risk Planning Map, may exceed the maximum height shown on the Height of Buildings Map, where the height of the development is not greater than 8.0 metres above the flood planning level.</p> <p>(4) Despite subclause (2), where the maximum height shown on the Height of Buildings Map is 11.0 metres, development on land at or below the flood planning level or identified on the Coastal Risk Planning Map, may exceed the maximum height shown on the Height of Buildings Map, where the height of the development is not greater than 10.5 metres above the flood planning level.</p> <p>(5) Despite subclause (2), development in 'Area 1', 'Area 2', 'Area 3' and 'Area 4', as identified on the Height of Buildings Map, may exceed the maximum height shown on the Height of Buildings Map, where the height of the development is not greater than the limits outlined in the following table:</p> <p>Area 2 2 storeys and 8.5 metres on the street frontage, and 3 storeys and 10.5 metres at the rear</p> <p>(8) Despite subclause (2), the height of a secondary dwelling or rural worker's dwelling must not exceed 5.5 metres if it is separate from the principal dwelling.</p> <p>(9) Despite subclause (2), the height of the second dwelling within a dual occupancy (detached) must not exceed 5.5 metres.</p> <p>(11) In this clause: Flood planning level means the level of a 100 year ARI (average recurrence interval) flood event plus 0.5 metres</p> | <p>(2A) Despite subclause (2), development on land: (a) at or below the flood planning level or identified as "Coastal Forces/Wave Inundation" on the Coastline Hazard Map, and (b) that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map, may exceed a height of 8.5 metres, but not more than 8.0 metres above the flood planning level.</p> <p>(2B) Despite subclause (2), development on land: (a) at or below the flood planning level or identified as "Coastal Forces/Wave Inundation" on the Coastline Hazard Map, and (b) that has a maximum building height of 11 metres shown for that land on the Height of Buildings Map, may exceed a height of 11 metres, but not more than 10.5 metres above the flood planning level.</p> <p>(2C) Despite subclause (2), development on an area of land shown in column 1 of the following table and identified as such on the Height of Buildings Map, may exceed the maximum building height shown on the Height of Buildings Map for that land, if the height of the development is not greater than the height shown opposite that area in column 2 of that table.</p> <p>Area 2 8.5 metres on the street frontage and 10.5 metres at the rear</p> <p>Removed.</p> <p>Removed.</p> <p>(2G) In this clause: flood planning level means the level of a 1:100 ARI (average recurrence interval) flood event plus 0.5 metres</p> | <p>It is our preference that this change not be made.</p> <p>Our map is titled 'Coastal Risk Planning Map'. Please amend Clauses (2A) and (2B) accordingly.</p> <p>Justification for the amendment is sought.</p> <p>Reference to '2 storeys and 8.5 metres on the street frontage, and 3 storeys and 10.5 metres at the rear' is consistent with the Newport Village Commercial Centre Masterplan (2007) (Appendix 12 of the Pittwater 21 DCP).</p> <p>It is our preference that this change not be made.</p> <p>Justification for removing the height control for secondary dwellings, rural worker's dwellings and the second dwelling within a dual occupancy (detached) is sought.</p> <p>These controls were incorporated following a submission raising concern with the ability to undertake such developments up to a height of 8.5m. This would be inconsistent with the 'Secondary Dwelling' control (C1.11) currently contained in the Pittwater 21 DCP.</p> <p>It is our preference that the height control for secondary dwellings, rural worker's dwellings and the second dwelling within a dual occupancy (detached) remain in the clause.</p> <p>Justification for changing reference to '100 year ARI (average recurrence interval)' to '1:100 ARI (average recurrent interval)' is sought.</p> |

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| 5.1A Development on land intended to be acquired for public purposes | freeboard, or other freeboard as determined by an adopted floodplain risk management plan. | freeboard, or other freeboard determined by an adopted floodplain risk management plan. <i>floodplain risk management plan</i> has the same meaning as it has in the <i>Floodplain Development Manual</i> (ISBN 0 7347 5476 0), published in 2005 by the NSW Government. | It is considered that this could cause confusion as '1:100 ARI' is not used in the NSW Floodplain Development Manual or floodplain management. |
| <p>Column 1 Land</p> <p>Zone SP2 Infrastructure and marked "Classified road"</p> <p>Zone SP2 Infrastructure and marked "Local road"</p> <p>Zone RE1 Public Recreation and marked "Local open space"</p> <p>Zone RE1 Public Recreation and marked "Regional open space"</p> <p>Zone E2 Environmental Conservation and marked "Regional open space"</p> <p>Zone E2 Environmental Conservation and marked "Local open</p> | <p>Column 2 Development</p> <p>Earthworks, Roads, Structures associated with vehicular and pedestrian access including garages, carports, stairs, paths, inclimators and the like</p> <p>Earthworks, Recreation areas</p> | <p>Column 1 Land</p> <p>Zone SP2 Infrastructure and marked "Classified road"</p> <p>Zone SP2 Infrastructure and marked "Local road"</p> <p>Zone RE1 Public Recreation and marked "Local open space"</p> <p>Zone RE1 Public Recreation and marked "Regional open space"</p> <p>Zone E2 Environmental Conservation and marked "Regional open space"</p> <p>Zone E2 Environmental Conservation and marked</p> | <p>Column 2 Development</p> <p>Roads</p> <p>Roads</p> <p>Recreation areas</p> <p>Recreation areas</p> <p>Recreation areas</p> <p>Recreation areas</p> |
| <p>The justification for removing 'Structures associated with vehicular and pedestrian access including garages, carports, stairs, paths, inclimators and the like' is understood. However, a significant issue stands if the types of uses suggested are not provided for in the new LEP, as the Pittwater LEP 1993 currently provides the flexibility for such uses to be permitted on land intended to be acquired.</p> <p>The draft Pittwater LEP already removes the ability for discretion to be exercised for the purpose of any development on land intended to be acquired (see Clause 28 in the Pittwater LEP 1993). This restricts the ability for a handful of undeveloped properties from undertaking a number of land uses, including building a dwelling house, which numerous other properties have previously had the opportunity to do via Clause 28. This essentially reduces the development potential for such properties. It would be our preference for a clause that is similar to Clause 28 in the Pittwater LEP 1993 to be included in the new LEP, including the text at 5.1A(4) of the draft Pittwater LEP adopted by Council on 20 December 2013.</p> <p>The intention of incorporating 'Structures associated with vehicular and pedestrian access including garages, carports, stairs, paths, inclimators and the like' is to provide the ability to undertake such structures associated with existing dwelling houses (approximately 20). If any works are proposed to such properties under the new LEP, off-street parking will be required under the Pittwater 21 DCP but the new LEP will not permit such structures. It is not considered that such works can be undertaken as ancillary or incidental to the dwelling house if such structures, including a dwelling house, is prohibited in the SP2 Infrastructure zone (such structures, particularly a driveway, are likely to be located within or across the SP2 Infrastructure zone).</p> <p>This issue is exacerbated by the fact that acquisition is unlikely, particularly on Barrenjoey Road.</p> <p>In response to the suggestion that properties can rely on existing use rights; reliance on existing use rights, and undertaking ancillary or incidental work to a development that relies on existing use rights, is considered to make the approval process more complex, onerous and lengthy, and existing use rights would not apply where a dwelling house has not yet been constructed. It is not our preference for properties to have to rely on existing use rights.</p> | | | |

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| <p>_____ "space"</p> <p>(4) Before granting development consent for development in Column 2 in the Table to this clause, the consent authority must consider:</p> <p>(a) whether the development would render the land unfit for the purpose shown on the Land Reservation Acquisition Map, and</p> <p>(b) the effect of the proposed development on the cost of acquisition, and</p> <p>(c) the imminence of acquisition, and</p> <p>(d) the costs associated with the reinstatement of the land for the purpose specified on the Land Reservation Acquisition Map.</p> | <p>_____ "Local open space"</p> <p>Removed.</p> | <p>In response to the suggestion that properties can undertake such structures as exempt development under the Codes SEPP, specific requirements for carports, driveways, and pathways and paving under in the SEPP mean that such uses would not be permitted in the areas of concern e.g. driveways would not be able to be undertaken as exempt development as the topography of the subject sites would likely require cutting more than 600mm. Further, stairs and inclimators are not specified as exempt under the Codes SEPP.</p> <p>As the new LEP is intended as a 'like for like' translation of the current LEP, other suggestions for making such structures permissible (preferably through the new LEP) would be welcomed. As mentioned, it would be our preference for a clause that is similar to Clause 28 in the Pittwater LEP 1993 to be included in the new LEP.</p> <p>It is noted that other LEPs incorporate non-standard land use terms in Clause 5.1A, including:</p> <ul style="list-style-type: none"> ▪ North Sydney LEP 2013, which incorporates 'Alterations and additions to semi-detached dwellings' ▪ Tamworth Regional LEP 2010, which includes 'Car parking' ▪ Tumburumba LEP 2010, which includes 'Public carports' <p>Based on this, could we incorporate something in Clause 5.1A if it is linked to a land use term e.g. 'Access and car parking structures ancillary to a dwelling house'?</p> <p>Also, it is noted that a number of LEPs incorporate 'Earthworks' in Clause 5.1A, including:</p> <ul style="list-style-type: none"> ▪ Warringham LEP 2011 (it also contains a local provision for 'Earthworks') ▪ Wollongong LEP 2009 (it also contains a local provision for 'Earthworks') ▪ Liverpool LEP 2008 (it also contains a local provision for 'Earthworks') ▪ Port Macquarie-Hastings LEP 2011 (it also contains a local provision for 'Earthworks') ▪ Tamworth LEP 2010 (it also contains a local provision for 'Earthworks') ▪ Sydney LEP 2012 <p>Justification for specifically referencing the 'Warriewood Valley Strategic Review' is sought.</p> <p>It is our preference to maintain reference to the 'adopted planning strategy for the release area' as the title of the relevant planning strategy may change.</p> |
| <p>6.1 Warriewood Valley Release Area</p> | <p>(1) The objectives of this clause are as follows:</p> <p>(a) to permit development in the Warriewood Valley Release Area in accordance with the adopted planning strategy for the release area,</p> <p>(b) to ensure that development does not adversely impact upon waterways and creek line corridors and protects</p> | <p>(1) The objectives of this clause are as follows:</p> <p>(a) to permit development in the Warriewood Valley Release Area in accordance with the Warriewood Valley Strategic Review</p> <p>(b) to ensure that development in that area does not adversely impact on waterways and creek line corridors and</p> |

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| | <p>existing native riparian vegetation and/or rehabilitates the creek line corridors.</p> <p>(c) to facilitate the mitigation of odours from the Warriewood Sewage Treatment Plant on the users or occupiers of residential development within a buffer area.</p> <p>(3) In relation to land identified as a buffer area, Council is not to consent to development for the purpose of subdivision (being a subdivision requiring development consent) or residential accommodation (whichever occurs first) on land to which this clause applies unless the Director-General has certified in writing to the council that the impact of odours from the Warriewood Sewage Treatment Plant on the users or occupiers of the land is mitigated.</p> | <p>protects existing native riparian vegetation and rehabilitates the creek line corridors.</p> <p>(c) to facilitate the mitigation of odours from the Warriewood Sewage Treatment Plant on the users and occupiers of residential development in a buffer area.</p> <p>(3) In relation to land referred as a buffer area in subclause (4), development consent must not be granted to development for the purpose of subdivision (that requires development consent) or residential accommodation (whichever occurs first) on land to which this clause applies, unless Sydney Water Corporation has certified in writing to the consent authority that satisfactory arrangements have been made to mitigate the impact of odours from the Warriewood Sewage Treatment Plant on the users or occupiers of the land.</p> | <p>Happy with the amendment though, for consistency with subclause 1(c), 'the users or occupiers of the land' should be replaced with 'the users and occupiers of the land'.</p> |
| 7.1 (7.11) Essential services | <p>(5) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the proposed development will not have any adverse impact on:</p> <p>(a) opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors, and</p> <p>(b) the water quality and flows within creek line corridors, and</p> <p>(c) the stability of the bed, shore, and banks of a watercourse within creek line corridors.</p> <p>(1) Development consent must not be granted unless the consent authority is satisfied that the following services are available or that adequate arrangements have been made to make them available when required:</p> <p>(a) the supply of water, and</p> <p>(b) the supply of electricity, and</p> <p>(c) the disposal and management of sewage, and</p> <p>(d) stormwater drainage or on-site conservation, and</p> <p>(e) suitable access.</p> | <p>(5) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the proposed development will not have any significant adverse impact on:</p> <p>(a) opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors, and</p> <p>(b) the water quality and flows within creek line corridors, and</p> <p>(c) the stability of the bed, shore, and banks of any watercourse within creek line corridors.</p> <p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable access.</p> | <p>Justification for incorporating 'significant' is sought.</p> <p>It is our preference that 'significant' not be incorporated in the clause.</p> |
| 7.4 Biodiversity protection (7.6 Biodiversity) | <p>(1) The objective of this clause is to protect, maintain, and improve terrestrial, riparian and aquatic biodiversity, including the following:</p> <p>(a) protecting native fauna and flora,</p> <p>(b) protecting the ecological processes necessary for their continued existence,</p> <p>(c) encouraging the conservation and recovery of native fauna and flora and their habitats.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid any material adverse environmental impact, or</p> <p>(b) where materially adverse environmental impacts cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to</p> | <p>(1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:</p> <p>(a) protecting native fauna and flora, and</p> <p>(b) protecting the ecological processes necessary for their continued existence, and</p> <p>(c) encouraging the conservation and recovery of native fauna and flora and their habitats.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or</p> | <p>Justification for the following is sought:</p> <ul style="list-style-type: none"> ▪ Removing 'and' between (1)(a)-(c) ▪ Removing 'protect' and 'improve' in (1) ▪ Replacing 'material' with 'significant' in (4)(a) <p>It is our preference that the above changes not be made.</p> |
| | | <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or</p> | <p>Justification for the amendment is sought.</p> <p>It is our preference that the change not be made.</p> |

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| | minimise that impact. | (c) if that impact cannot be minimised—the development will be managed to mitigate that impact. | |
| 7.5 (7.3) Flood planning | <p>(1) The objectives of this clause are as follows:</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land's flood hazard, taking into account changes as a result of climate change,</p> <p>(c) to avoid material adverse impacts on flood behaviour and the environment.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(b) will not materially adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) is compatible with the flood hazard of the land, and</p> <p>(d) will not materially adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or waterways, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and</p> <p>(f) will not materially adversely affect the flow conveyance function of, or increase a flood hazard in, a floodway area.</p> <p>(4) Subclause (5) applies to land at or below the flood planning level plus an allowance for sea level rise (0.9m above the 1990 mean sea level) and an increase in peak rainfall and storm volume (30%), in accordance with Council's Flood Risk Management Strategy.</p> <p>(5) When determining development to which this subclause applies, Council must take into consideration any relevant matters outlined in subclause 3(a) –(f), depending on the context of the following:</p> <p>(a) the proximity of the development to land currently below the flood planning level; and</p> <p>(b) the intended design life of the development; and</p> <p>(c) the scale of the development; and</p> <p>(d) the sensitivity of the development in relation to managing the risk to life from any flood, and</p> <p>(e) the potential to relocate, modify or remove the development.</p> <p>(7) In this clause:</p> <p>flood planning level means the level of a 100 year ARI (average recurrence interval) flood event plus 0.5 metres freeboard, or other freeboard as determined by an adopted</p> | <p>(1) The objectives of this clause are as follows:</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>Removed.</p> <p>Removed.</p> <p>Removed.</p> <p>(5) In this clause:</p> <p>flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk</p> | <p>Justification for replacing 'material' with 'significant' is sought.</p> <p>It is our preference that 'material' remains in the clause.</p> <p>Justification for 'materially' with 'significantly' is sought.</p> <p>It is our preference that 'materially' remains in the clause.</p> <p>Justification for removing (f) is sought.</p> <p>It is our preference that (f) remains in the clause as it is considered that the function of floodways needs to be clearly recognised, particularly as floodway areas are recognised in the Section 117 Ministerial Direction No. 15 – Flood Prone Land.</p> <p>Justification for removing (4) and (5) is sought.</p> <p>It is our preference that (4) and (5) remain in the clause as a Drafting Director in the 'Flood Planning' Model specifies that these clauses can be included once Council has identified the 2050 and 2100 flood planning area.</p> |
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| 7.6 (7.4) Floodplain risk management | floodplain risk management plan. (1) The objectives of this clause are as follows: (a) in relation to developments with particular evacuation or emergency response issues - to enable the evacuation of land subject to flooding above the flood planning level, (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events, (c) to ensure development to which this clause applies is designed to minimise the risk to life from flood. (3) Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development incorporates appropriate measures to manage risk to life from flood: (a) seniors housing, (b) emergency services facilities, (c) group homes, (d) hospitals, (e) tourist and visitor accommodation, (f) child care centres, (g) respite day care centres, and (h) educational establishments, | management plan. floodplain risk management plan has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government. (1) The objectives of this clause are as follows: (a) in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level, (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events. Removed. (3) Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land: (a) caravan parks, (b) child care centres, (c) correctional centres, (d) educational establishments, (e) emergency services facilities, (f) group homes, (g) hospitals, (h) residential care facilities, (i) respite day care centres, (j) seniors housing, (k) tourist and visitor accommodation. (4) In this clause: flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk management plan. probable maximum flood has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government. Note. The probable maximum flood is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation. (4) Development consent must not be granted to development on land to which this clause applies unless: (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and (b) the consent authority is satisfied that: (i) the development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development, or | It is considered that this could cause confusion as '1:100 ARI' is not used in the NSW Floodplain Development Manual or floodplain management. Justification for removing (c) is sought. It is our preference that (c) remains in the clause to ensure development is designed to minimise risk to life from flooding, as this is fundamental to floodplain risk management and is recognised in the NSW Floodplain Development Manual (K4.1). Justification for replacing 'incorporates appropriate measures to manage risk to life from flood' with 'will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land' is sought. It is our preference that both be included in the clause as it is considered that these are separate matters, and the proposed changes removes reference to managing risk to life from flood. |
| 7.7 Geotechnical risk management (Geotechnical hazards) | (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that: (a) the development is designed, and will be sited, constructed and managed to avoid any geotechnical risk and potential adverse impact on the development and on land in the vicinity of the development, and (b) waste water, stormwater and drainage across the site will be managed so as to not affect the rate, volume and quality of water leaving the land. | Justification for the following is sought: ▪ Removing reference to 'constructed' in (4)(a) ▪ Replacing 'geotechnical risk' with 'landslide risk' in (4)(b)(i). It is noted that Council's 'Geotechnical Risk Management Policy' (Appendix 5 in the Pittwater 21 DCP) does not limit its application to 'landslide risk'. ▪ Adding 'significant' to before 'adverse impact' in (4)(b)(i) ▪ Adding (4)(b)(ii) and (4)(b)(iii) | It is considered that this could cause confusion as '1:100 ARI' is not used in the NSW Floodplain Development Manual or floodplain management. Justification for changing reference to '100 year ARI (average recurrence interval)' to '1:100 ARI (average recurrent interval)' is sought. It is considered that this could cause confusion as '1:100 ARI' is not used in the NSW Floodplain Development Manual or floodplain management. Justification for the following is sought: ▪ Removing reference to 'constructed' in (4)(a) ▪ Replacing 'geotechnical risk' with 'landslide risk' in (4)(b)(i). It is noted that Council's 'Geotechnical Risk Management Policy' (Appendix 5 in the Pittwater 21 DCP) does not limit its application to 'landslide risk'. ▪ Adding 'significant' to before 'adverse impact' in (4)(b)(i) ▪ Adding (4)(b)(ii) and (4)(b)(iii) |

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| 7.8 Limited development on foreshore area | <p>(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:</p> <p>(a) the rebuilding of an existing building wholly or partly in the foreshore area, if the topography, site characteristics or other exceptional features of the site make it appropriate to do so,</p> <p>(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, inground swimming pools at natural ground level, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).</p> | <p>(ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or</p> <p>(iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.</p> <p>(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:</p> <p>(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,</p> <p>(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).</p> | <p>Justification for the following is sought:</p> <ul style="list-style-type: none"> ▪ Adding 'the extension, alteration' in (2)(a) ▪ Replacing 'topography, site characteristics' with 'levels, depth' in (2)(a) ▪ Replacing 'inground swimming pools at natural ground level' with 'swimming pools' in (2)(b) <p>It is our preference that the above changes are not made.</p> <p>It is noted that reference to 'alteration' was a topic of discussion by the elected Council at the meeting on 20 December 2013. The outcome was that the reference be removed from the draft clause. Reference to 'extension' is considered to raise similar concerns to those discussed at the Council meeting.</p> |
| | <p>(3) Development consent must not be granted under this clause unless the consent authority is satisfied that:</p> <p>(a) the development will contribute to achieving the objectives for the zone in which the land is located, and</p> <p>(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and</p> <p>(c) the development will not cause environmental harm such as:</p> <p>(i) pollution or siltation of the waterway, or</p> <p>(ii) an adverse effect on surrounding uses, marine habitat, riparian land, wetland areas, or flora or fauna habitats, vegetation, or</p> <p>(iii) the removal or disturbance of remnant riparian</p> <p>(iv) an adverse effect on drainage patterns, and</p> <p>(d) the development will not cause congestion or generate conflict between people using open space areas or the foreshore (above the mean high water mark) and to the waterway will not be compromised, and</p> <p>(e) opportunities to provide continuous public access along the foreshore (above the mean high water mark) and to the waterway will not be compromised, and</p> <p>(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and</p> <p>(g) in the case of development for the rebuilding of an existing building wholly or partly in the foreshore area, the rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and</p> <p>(h) sea level rise, coastal erosion and recession, or change</p> | <p>(3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:</p> <p>(a) the development will contribute to achieving the objectives for the zone in which the land is located, and</p> <p>(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and</p> <p>(c) the development will not cause environmental harm such as:</p> <p>(i) pollution or siltation of the waterway, or</p> <p>(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or</p> <p>(iii) an adverse effect on drainage patterns, or</p> <p>(iv) the removal or disturbance of remnant riparian vegetation, and</p> <p>(d) the development will not cause congestion or generate conflict between people using open space areas or the foreshore and to the waterway will not be compromised, and</p> <p>(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and</p> <p>(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and</p> <p>(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and</p> <p>(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been</p> | <p>Justification for the following is sought:</p> <ul style="list-style-type: none"> ▪ Removing 'riparian land' in (3)(c)(ii) ▪ Removing 'the removal or disturbance of remnant riparian vegetation' in (3)(c)(iii) ▪ Adding 'alteration' in (3)(g) <p>It is our preference that the above changes are not made.</p> <p>It is noted that reference to 'alteration' was a topic of discussion by the elected Council at the meeting on 20 December 2013. The outcome was that the reference be removed from the draft clause. Reference to 'extension' is considered to raise similar concerns to those discussed at the Council meeting.</p> |

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| | <p>of flooding patterns as a result of climate change have been considered.</p> <p>New clause.</p> | <p>considered.</p> <p>(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:</p> <p>(a) continuous public access to and along the foreshore through or adjacent to the proposed development,</p> <p>(b) public access to link with existing or proposed open space,</p> <p>(c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,</p> <p>(d) public access to be located above mean high water mark,</p> <p>(e) the reinforcing of the foreshore character and respect for existing environmental conditions.</p> <p>(5) In this clause:</p> <p>foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.</p> <p>foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.</p> | <p>Justification for the additional clause is sought.</p> |
| <p>7.9 (7.5) Coastal risk planning</p> | <p>(4) In this clause:</p> <p>foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody. foreshore building line means the line shown as the foreshore building line on the Foreshore Building Line Map.</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to avoid material adverse impacts from coastal hazards,</p> <p>(b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards, in an emergency,</p> <p>(c) to enable the evacuation of land identified as coastal risk in an emergency,</p> <p>(d) to avoid development that increases the severity of coastal hazards.</p> <p>(2) This clause applies to the land identified on the Coastal Risk Planning Map as:</p> <p>(a) Wave Inundation,</p> <p>(b) Coastal Erosion/Wave Inundation, or</p> <p>(c) Bluff/Cliff Instability.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards, and</p> <p>(b) will not materially adversely affect coastal hazards, and</p> <p>(c) will not result in significant detrimental increases in coastal risks to other development or properties, and</p> <p>(d) will not materially alter coastal hazards to the detriment of the environment, and</p> | <p>(1) The objectives of this clause are as follows:</p> <p>(a) to avoid significant adverse impacts from coastal hazards,</p> <p>(b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,</p> <p>(c) to enable the evacuation of land identified as coastal risk in an emergency,</p> <p>(d) to avoid development that increases the severity of coastal hazards.</p> <p>(2) This clause applies to land identified on the Coastal Risk Planning Map as:</p> <p>(a) Wave Inundation,</p> <p>(b) Coastal Erosion or Wave Inundation, or</p> <p>(c) Bluff or Cliff Instability.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is not likely to cause detrimental increases in coastal risks to other development or properties, and</p> <p>(b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and</p> <p>(c) incorporates appropriate measures to manage risk to life from coastal risks, and</p> <p>(d) is likely to avoid or minimise adverse effects from the</p> | <p>Our Foreshore Building Line Map shows the foreshore building line; it does not map the foreshore area as it was considered unnecessary when the definition of 'foreshore area' was '...the land between the foreshore building line and the mean high water mark of the nearest natural waterbody'. With the proposed amendment to the definition of 'foreshore area', this no longer makes sense as 'foreshore area' is not shown on our Foreshore Building Line Map.</p> <p>Our preference would be to remove 'shown on the Foreshore Building Line Map' from (5).</p> <p>Justification for replacing 'material' with 'significant' is sought.</p> <p>It is our preference that 'material' remains in the clause.</p> <p>Please ensure the 'Coastal Risk Planning Map' is referenced correctly in the 'Height of buildings' clause and the Dictionary.</p> <p>Justification for amending (3) is sought.</p> <p>It is our preference that the changes not be made.</p> |