

Department of Planning and Environment

SEPP (Planning Systems) 2021 Aboriginal Lands & Northern Beaches Aboriginal Land Development Delivery Plan

Independent Planning Review

May 2022



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SEPP (Planning Systems) 2021 Aboriginal Lands & Northern Beaches Aboriginal land Development Delivery Plan Planning Advice

Department of Planning and Environment

WSP

Address line 1


Address line 1

Phone: +0 000-000-0000

Fax: +0 000-000-0000

wsp.com

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Prepared by:	Linda Rodriguez	17 June 2022	

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Glossary

Consent authority	Is the organization responsible for approving or refusing development applications. This could be a local council, a local or regional planning panel, or the Minister for Planning and Homes.
Development Application	Is a formal application for development that requires consent under the EP&A Act. A DA is usually made to the relevant local council and includes standard application forms with supporting technical reports and plans.
State Environmental Planning Policy (Planning Systems) 2021	The Planning Systems SEPP identifies State or regionally significant development and State significant infrastructure including land identified in a Development Delivery Plan (DDP) for a Local Aboriginal Land Council (LALC). The SEPP (Aboriginal Lands) 2019 was consolidated into this SEPP in March 2022.
Development Delivery Plan	Is a document approved by the relevant at the time and is requirement of the SEPP (Planning Systems) 2021 to provide an overview of land owned by a LALC and must be considered when carrying out development on that land.
Environmental Planning and Assessment Act 1979	Is the key legislation for the planning system in NSW. It establishes the planning framework for land use decisions in NSW. The EP&A Act also sets out the way that the community is informed of, and participates in, planning and development decisions. The EP&A Act establishes a hierarchy of planning instruments which control development and inform the assessment and decision-making process for development.
Planning Proposal	Is State led or prepared by a council, landowner or developer to justify the making of or amendment to a proposed local environmental plan (LEP) – where the LEP is the principal planning instrument for an area.
State Significant Development	Includes development deemed to have State significance due to its size, economic value or potential impacts State significant development is assessed by the Department.

Abbreviations

ALR Act	<i>Aboriginal Land Rights Act 1983</i>
BC Act	<i>Biodiversity Conservation Act 2016</i>
Council	Northern Beaches Council
DA	Development Application
DLALC	Darkinjung Local Aboriginal Land Council
DDP	Development Delivery Plan
DPE	Department of Planning and Environment
EIE	Explanation of Intended Effect
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LSPS	Local Strategic Planning Statement
MLALC	Metropolitan Local Aboriginal Land Council
NRNR	Natural Resources Access Regulator
PPA	Planning Proposal Authority
SEPP	State Environmental Planning Policy
WM Act	<i>Water Management Act 2000</i>

Executive summary

Background

The former *State Environmental Planning Policy (Aboriginal Land) 2019* (SEPP) amendment (now incorporated into the *State Environmental Planning Policy (Planning Systems) 2021*) and Northern Beaches Aboriginal Land Development Delivery Plan (DDP) sets up a framework to assist the Metropolitan Local Aboriginal Land Council (MLALC) understand and realise the potential economic benefit of their land. Six (6) sites have been identified for considering potential development and inclusion into the Planning Systems SEPP.

The Explanation of Intended Effect (EIE) for the proposed SEPP amendments and DDP were made available for public comment on the NSW Government planning portal from 7 February to 21 March 2022. Submissions received during the consultation period are summarised in the Consultation Outcomes Report, prepared by WSP Australia (May 2022).

It is also acknowledged that Department of Planning and Environment (DPE) have worked together with the MLALC and consulted with Northern Beaches Council (Council) during the preparation of the plans.

The DDP and SEPP amendments are the first step in the planning process. Should the DDP be finalised, planning proposals may then be lodged for the sites authorized for land dealing by members of the MLALC.

Purpose of report

WSP have been engaged by DPE to review the outcomes of the submissions arising from the exhibition, identify the planning implications and recommended actions which have emerged from the relevant key themes summarised in the table as follows:

Issues raised in submissions by the community	Proportion of Submissions %
Biodiversity and threatened species	76%
Infrastructure	60%
Strategic framework and urban development	47%
Culture and heritage	41%
Bushfire	31%
Open space and recreation	30%
Climate change	18%
Waterways	12%
Site suitability	12%
Engagement process	8%
Policy development process	7%

These recommendations will help inform the Finalisation Report to be prepared by DPE to support the implementation of the SEPP amendment and DDP.

It is noted that the proposed SEPP amendment and DDP do not propose or permit development but provide a LALC with an alternate planning pathway. The majority of the submissions raised concerns that would be relevant and subject to further investigation as a result of a possible future Planning Proposal and/or Development Application.

Summary of planning recommendations

Strategic merit

- Any future planning proposal would need to demonstrate sufficient strategic planning merit, including alignment the relevant priorities, objectives and actions in the Region and District Plan and local strategic plans as set out in the relevant DDP. In accordance with Clause 9(3) of the Planning Systems SEPP, the final DDP should be robust in outlining how these matters have been considered and incorporated to ensure consistency with broader and local strategic planning objectives for the region.

Site specific merit

- The planning advice notes that planning proposals and subsequent DAs continue to be subject to the same environmental assessment criteria and legislative requirements as any other proposal at the planning proposal stage.
- Site specific merit is to be addressed through technical reports to support future planning proposals and DAs and to ensure that any future development and or change of land use is compatible with the constraints of the site.
- It is strongly recommended that any environmental assessment is considered in both the planning proposal and DA stages and strong guidance in terms of adequacy of supporting technical documentation is provided to ensure the appropriate and efficient assessment by the relevant Planning Proposal Authority.
- Furthermore, any planned future development will require identification of the relevant funding mechanism to support additional State and local infrastructure contributions including updates to the Northern Beaches 7.12 Contributions Plan that applies to the land. This would comprise a contributions schedule including local infrastructure items, proposed timing/staging of delivery, cost of land and infrastructure works and assumptions with the planning proposal and supporting reports. This should be undertaken early in the planning process, i.e concurrent to the preparation of the planning proposal to enable effective and efficient delivery. In this regard, the DDP should include a reference to ensure that these sites are well serviced in future.

Consultation

- Exhibition material should be revised, including clarity of maps, to enable more effective consultation as part of the finalisation of the DDP and SEPP.
- It is also strongly recommended that additional community consultation is undertaken at the planning proposal stage (pre and post-gateway) to support transparency and enable further community input into the planning process progression as per the Department of Planning and Environment's *Local Environmental Plan Making Guideline December 2021*

1 Background

On 1 March 2022, the SEPP (Aboriginal Land) 2019 was consolidated into the *SEPP (Planning Systems) 2021* (Planning Systems SEPP). The consolidated SEPP identifies State or regionally significant development and State significant infrastructure including land identified in a DDP for a Local Aboriginal Land Council (LALC).

The DDP has identified sites suitable for investigation with the intent to facilitate delivery of future land uses including public benefits such as conservation of sensitive land, provision of community facilities, and educational programs/activities that promote Aboriginal cultural heritage initially within the Northern Beaches Local Government Area (LGA).

The EIE outlines a proposal to amend the Planning Systems SEPP to include six (6) sites located in the Northern Beaches LGA. If approved, the DDP may subsequently be amended to include other MLALC owned land in the Planning Systems SEPP after further assessment.

The MLALC engaged Gyde Consulting to prepare a strategic assessment of MLALC lands in the Northern Beaches LGA, consistent with the assistance provided to the Darkinjung Local Aboriginal Land Council (DLALC) in the preparation of the DDP for their land.

This strategic assessment considered nine (9) sites and examined opportunities and constraints to guide land use outcomes such as the potential for biobanking, planning proposals and DAs and informed the draft DDP as requested by the former Minister for Planning and Public Spaces. Three (3) of these sites were determined to have long-term potential only and were excluded from the DDP.

The assessment concluded that six (6) sites were suitable for one or more of the following options:

- The Lizard Rock is the highest priority with a planning proposal that can be prepared in the short-term (1-2 years).
- 5 sites are recognised for development potential in the medium term (2-5 years).
- 2 Sites are considered to have biodiversity potential

DPE commissioned a planning consultant with previous experience in the preparation of the Darkinjung DDP to peer review the strategic land holdings assessment prepared by Gyde Consulting.

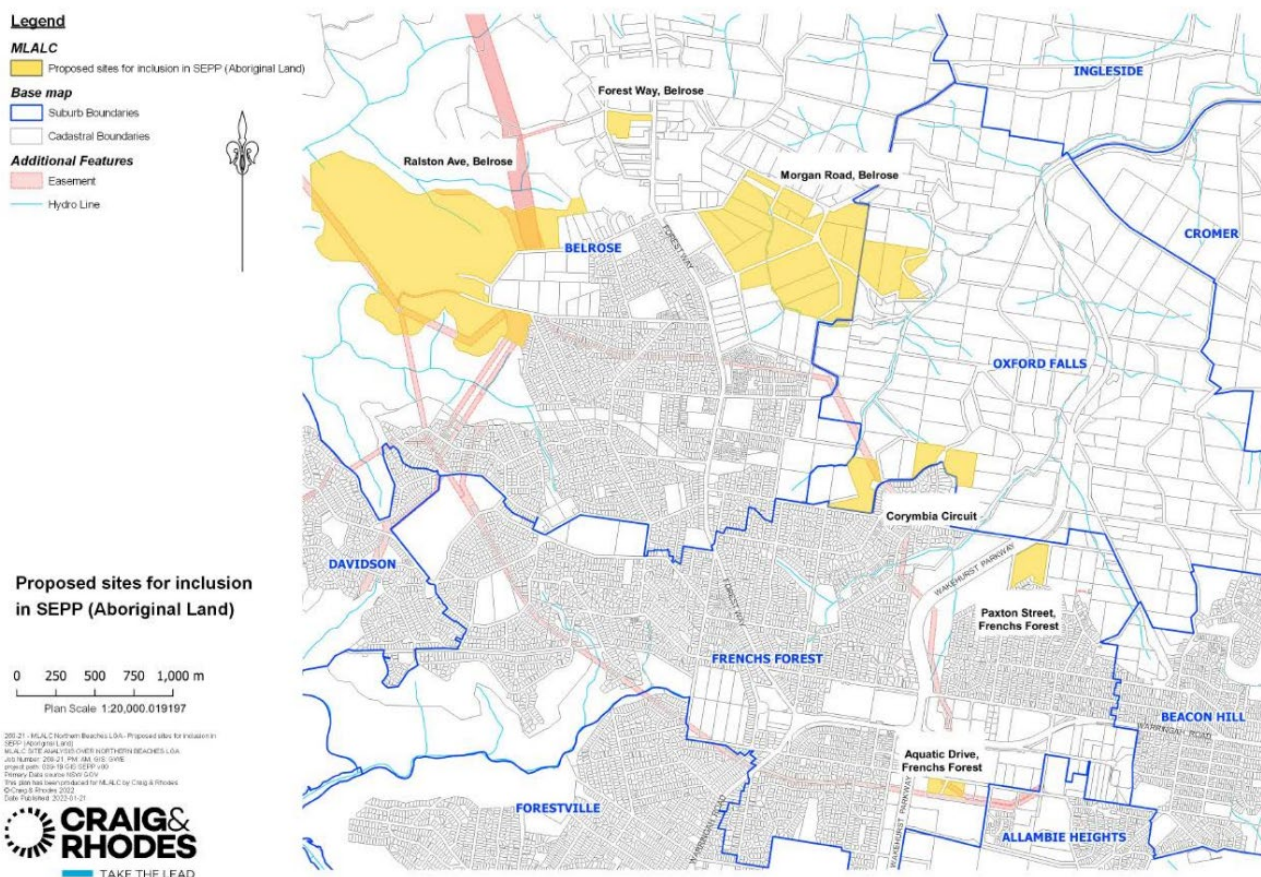
The Barr Planning peer review concluded that the assessment appropriately addressed the requirements of the framework and could be used as the basis for the preparation of a DDP.

In September 2019 the MLALC requested the former Aboriginal Land SEPP be amended to include land holdings in the Northern Beaches LGA. This process has resulted in a proposal to include six (6) sites in the Northern Beaches LGA in the Planning Systems SEPP and the preparation of a DDP.

The land audit process and assessment of the planning opportunities associated with each MLALC site identified the Lizard Rock site as the short term priority as it has the most potential for innovative, culturally and environmentally sensitive opportunities, and MLALC's best opportunity to generate an economic return that will benefit members and the broader community.

The intention is that any opportunities presented on the Lizard Rock site will provide an income stream to fund the goals identified in the Community Land and Business Plan.

Figure 1 Proposed amendments map provided in the EIE



Source: Craig and Rhodes

The EIE and DDP which was placed on public exhibition and provided a high level overview of the six sites and sets out the proposed planning pathway to deliver the intended outcomes for each site.

The EIE for the SEPP amendments and DDP were made available for public comment on the NSW Government planning portal from 7 February to 21 March 2022. Submissions received during the consultation period are outlined in the Consultation Outcomes Report, prepared by WSP Australia (May 2022). Concerns expressed in the submissions are summarised in the following emerging themes:

- Biodiversity impacts
- Adequacy of existing infrastructure
- Reduction in cultural and heritage sites
- Effect on roads and traffic
- Bushfire risk
- Reduction in open space and recreational areas

2 Aboriginal Land Planning Framework

This chapter provides a high level of overview of the Aboriginal land planning framework to provide context to this Planning Advice. A diagram illustrating the planning framework hierarchy is provided in **Figure 2**.

2.1 Aboriginal Land Rights Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) was passed by the NSW Parliament to transfer land rights to the Aboriginal people of NSW as compensation for the loss and dispossession of their land. The ALR Act recognises the traditional ownership and occupation of the land, and that land is of spiritual, social, cultural and economic importance to Aboriginal people.

The NSW Aboriginal Land Council and a network of 120 Local Aboriginal Land Councils (LALCs) were established to acquire and manage land as an economic base for Aboriginal people, laying the basis for a self-reliant and more secure economic future.

2.2 State Environmental Planning Policy (Planning Systems) 2021

Since the public exhibition of the SEPP (Aboriginal Lands) 2019 amendment and DDP package, the aforementioned SEPP has been incorporated into the *State Environmental Planning Policy (Planning Systems) 2021*. This was undertaken as part of a broader consolidation of numerous SEPPs to simplify the state planning framework.

The aims of the SEPP are:

- a) *to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and*
 - b) *to declare specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development*
-

2.3 Ministerial Direction

Ministerial Direction 1.2 Development of Aboriginal Land Council land applies to planning proposals for land mapped under the SEPP. They require consideration of any applicable DDP when Planning Proposals or development applications are prepared.

2.4 Development Delivery Plans

The DDP sets out the objectives for LALC land including land uses, size and scale of development and actions to achieve these objectives. DDPs are informed by a land audit, overview of planning opportunities, and the current LALC community and Land and Business Plans and are approved by members. DDPs provide the ongoing link between the requirements of the ALR Act, such as preparation of community, land and business plans, and the planning and development decisions that occur under the provisions of the EP&A Act. A DDP formally recognises the development pipeline for a LALC and must be considered by planning authorities in key planning assessment processes including planning proposals and development applications.

It is important to note that the DDP is a high-level strategic document that addresses Chapter 3.2 of the Planning Systems SEPP (former Clause 9 of the Aboriginal Land SEPP). The DDP looks at the strategic merits of the site to help understand if there is any potential to develop the whole or a portion of the site and the type of development considered. The detailed planning, technical studies and assessment of the strategic and site-specific merits of the proposal are undertaken at the planning proposal stage and DA stage.

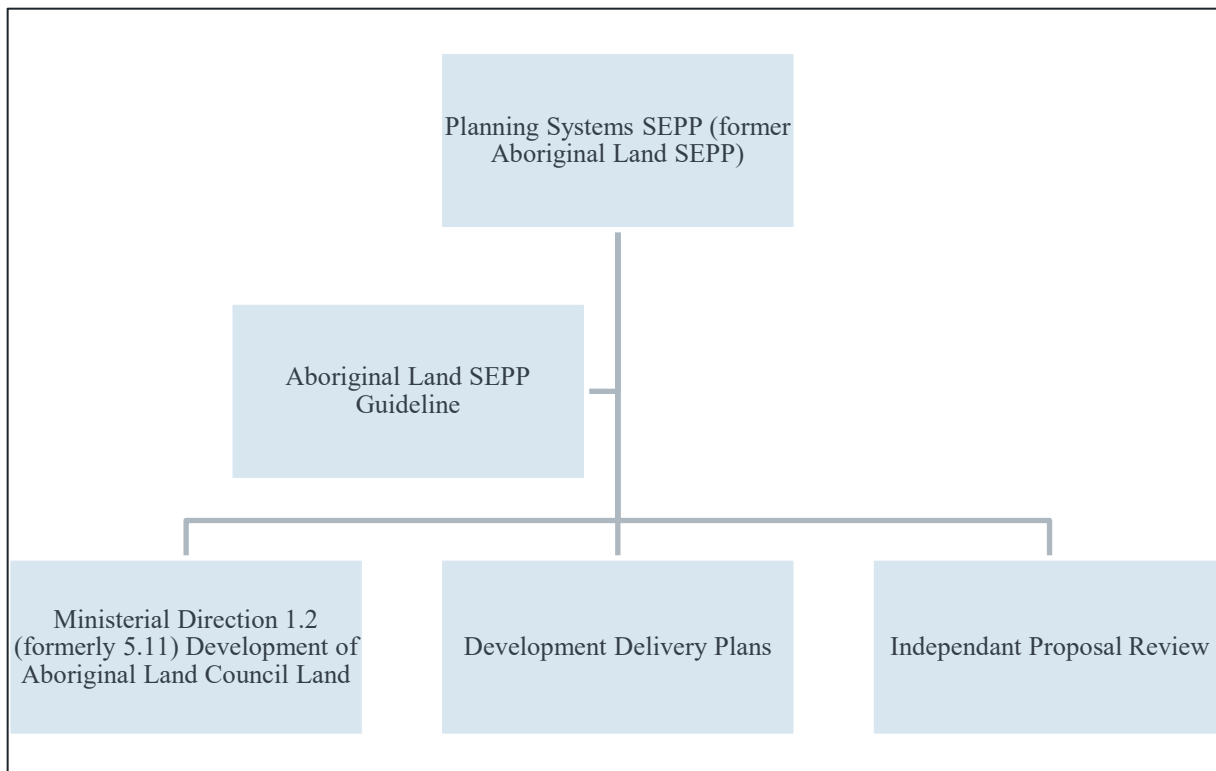
2.5 Independent Proposal Review

Planning Circular PS2022-001 establishes an independent review process available to LALC for plan making decisions. They provide LALCs with the option for an independent body to give advice on proposals for land that is identified in a DDP and assess any proposal against site-specific and strategic merit tests to determine if the proposal should proceed.

2.6 Planning Systems SEPP Guideline

The Planning Systems SEPP Guideline prepared by DPE outlines how the Aboriginal planning framework applies to LALC landholdings. It sets out key processes for LALCs to include their land in the SEPP and the preparation of a DDP.

Figure 2 Aboriginal Land Planning Framework



3 Planning Pathway Overview

The following provides a high-level overview of the relevant planning pathway application to the Aboriginal planning framework pursuant to the provisions of the EP&A Act.

3.1 Planning Proposal

Planning Proposals are to be consistent with an approved DDP. LALCs have the opportunity for an alternate planning pathway where an independent panel instead of the local council assesses proposals for land subject to a DDP and determine whether a planning proposal should proceed to Gateway.

3.2 Development Application

Development applications are also to be assessed against an approved DDP. The DA planning pathway is used for most local development in NSW, with projects ranging from home extensions to medium sized commercial, retail and industrial developments. Local development is usually assessed by the relevant council, but can also be determined by District and Regional Planning Panels.

Development is declared regionally significant development if:

- It has a capital investment value (CIV) of more than \$5 million. Land identified in the SEPP will be required to reach a lower CIV threshold
- More than 50 submissions are received after the application is placed on public exhibition
- The development application to the relevant local council has been lodged but not determined within 60 days of lodgement of the application.

4 Summary of Planning Pathway

The following Table 1 provides a review of the proposed planning pathway proposed in the exhibited EIE.

Table 1 Review of recommended actions for audited sites considered in the DDP

Site	Potential Land Uses	Proposed Actions in EIE
Morgan Rose Belrose (Lizard Rock)	Low to medium density residential, environmental and cultural heritage conservation, community centre and recreation uses pending further investigations.	<ul style="list-style-type: none"> • Include in Planning Systems SEPP • Planning Proposal • Development Application
Aquatic Drive, Frenchs Forest (Site 2)	Recreation and community uses pending further investigations. Not authorized for land dealing by members of the MLALC.	<ul style="list-style-type: none"> • Include in Planning Systems SEPP • Further investigation • Planning Proposal
Forest Way, Belrose (Site 4)	To be determined following environmental investigations Not authorized for land dealing by members of the MLALC.	<ul style="list-style-type: none"> • Include in Planning Systems SEPP • Further investigation • Planning Proposal
Corymbia Circuit, Oxford Falls (Site 5)	Residential and Environmental Conservation Not authorized for land dealing by members of the MLALC.	<ul style="list-style-type: none"> • Include in Planning Systems SEPP • Further investigation • Planning Proposal
Paxton Street, Frenchs Forest (Site 6)	Development application for residential uses pending bushfire investigations. Potential land acquisition by Council for public recreation uses Not authorized for land dealing by members of the MLALC.	<ul style="list-style-type: none"> • Include in Planning Systems SEPP • Further investigation
Ralston Avenue Belrose (Site 9)	Employment, recreation, industrial (urban services) and environmental conservation uses. Not authorized for land dealing by members of the MLALC.	<ul style="list-style-type: none"> • Include in Planning Systems SEPP • Further investigation • Planning Proposal

5 Exhibition outcomes - key planning implications

As summarised in the Exhibition Outcomes Report prepared by WSP (May 2022), The draft SEPP amendment and DDP were made available for public comment on the NSW Government planning portal from 7 February to 21 March 2022. During this consultation period, stakeholders and community members were invited to attend ‘talk to a planner’ information sessions held across two sessions via Teams as well as an online information session. 100 people took part in these events. Written comment was invited via a survey, email, webform or post.

A total of 1,132 submissions were received from stakeholders including in government, industry, local organisations, local councils, environmental organisations, local societies and advocacy groups, along with individuals from the local community and greater Sydney.

Concerns expressed in the feedback included:

- Biodiversity and threatened species
- Infrastructure
- Strategic framework and urban development
- Culture and heritage
- Bushfire
- Open space and recreational
- Climate change
- Waterways
- Site suitability
- Engagement process
- Policy development process

This review notes that the SEPP amendment and DDP look at the strategic merits of the site to help understand if there is any development potential on the whole or a proportion of the site. They do not propose that any development will take place.

Any future planning proposals and subsequent DAs will be subject to the same environmental assessment criteria and legislative requirements as any other planning proposal and development application and the adequacy of these considerations has not been considered as part of this review.

It is also important to note that the DDP is a high-level strategic document that addresses Chapter 3.2 of the Planning Systems SEPP. The DDP addresses the strategic merits of the site to help understand if there is any potential to develop the whole or a portion of the site. The detailed planning, technical studies and assessment of the strategic and site-specific merits of the proposal are undertaken at the planning proposal and DA stage.

The following chapter provides planning recommendations for further consideration which have emerged from the concerns raised in the submissions.

5.1 Biodiversity and threatened species

Summary of concerns

The majority (76%) of respondents raised concerns about the project's impact upon the biodiversity of the area. This feedback spanned a range of concerns, including:

- Preserving the region's natural environment and bushland character
- Protecting native fauna (including endangered wildlife)
- Protecting native flora (including endangered species of plants)
- Potential contamination of waterways

Planning response

If progressed, reflective of the key concerns raised above, ecological assessment considerations will need to be considered early in the planning proposal stage and strong guidance in terms of adequacy of supporting technical documentation (i.e Biodiversity Impact Assessment) should be provided to ensure efficient assessment by the relevant Planning Proposal Authority (PPA). Where relevant, these assessments should include an ecological survey of flora, fauna, watercourses and wetlands, significance of impact, any relevant offsetting (see below), avoidance actions, recommendation and any mitigation measures (if supported).

Where there are acceptable and unavoidable impacts on biodiversity, biodiversity offsets under the Biodiversity Offsets Scheme (BOS) may be required under the *Biodiversity Conservation Act 2016 (BC Act)*. Under the BOS, applications for development or clearing approvals must set out how impacts on biodiversity will be avoided and minimised. The remaining residual impacts can be offset by the purchase and/or retirement of biodiversity credits or payment to the Biodiversity Conservation Fund. The BOS provides an opportunity for LALCs to benefit from the land holdings while positively impacting environmental outcomes.

There are two main potential opportunities for LALCs under the Biodiversity Offsets Scheme:

- Support the development of other LALC land holdings by providing the biodiversity offsets credit required to offset the clearing and/or development of the land holding.
- Create a biodiversity stewardship site to generate offset credits that could be sold to another land holder who requires credits to facilitate development on their site.

Any significant impacts to nationally and internationally important flora, fauna, ecological communities and heritage places—defined in the *Environment Protection and Biodiversity Conservation Act, 1999 (EPBC Act)* as matters of national environmental significance, will require a referral to the Commonwealth Department of Agriculture Water and Environment.

Local council biodiversity protection requirements in the LEP and DCP would also apply at the DA stage.

5.2 Infrastructure

Summary of concerns

Concerns relating to infrastructure was a common concern expressed across community members and stakeholders, with over half of submissions (60%) commenting on the capacity of existing infrastructure, the cost of upgrading or installing new infrastructure, and the ability to adequately service the sites.

Planning response

Any future planning proposal and DA must provide sufficient documentation to determine accurate infrastructure requirements to support future development, including utilities, services, roads, recreational and community facilities etc.

For those sites proposing recreation and community uses, the planning proposal should also be supported by adequate strategic justification i.e Open Space and Recreational needs assessment to justify the need for these amenities and benefit for the surrounding community.

Any planned future development will require identification of the relevant funding mechanism to support additional infrastructure i.e Regional and local infrastructure contributions including updates to the Northern Beaches 7.12 Contributions Plan that applies to the land. This would include a contributions schedule including local infrastructure items, proposed timing/staging of delivery, cost of land and infrastructure works and assumptions with the planning proposal and supporting reports.

This should be undertaken early in the planning process, i.e concurrent to the preparation of the planning proposal to enable effective and efficient delivery.

5.3 Strategic framework and urban development

Summary of concerns

47% of submissions raised concerns under the theme of strategic framework and urban development. Many submissions raised concerns with the proposal's alignment with other planning frameworks such as the Greater Sydney Region Plan and Councils' Local Environmental Plans, and urban density. The concerns were particularly contextualised in relation to the:

- Northern Beaches Local Housing Strategy (Housing Strategy): stating that “development in existing non-urban areas is not required to meet Council’s housing targets and is not consistent with good planning principles as established by the Government through its strategic planning framework.” Many community submissions also cited a direct quote from an email exchange with Northern Beaches Deputy Mayor Candy Bingham to support this point.
- Northern Beaches Local Strategic Planning Statement (LSPS) – Towards 2040: specifically, objectives 1 – 4 which concerns the protection of waterways, bushland, biodiversity, scenic and cultural landscapes, the Metropolitan Rural Area and urban tree canopy.
- Greater Sydney Region Plan (Region Plan)
- North District Plan (District Plan)

Approximately one quarter of all community submissions raised increasing urban density as a concern. This included the observations such as:

- Urban sprawl can be limited by increasing development in areas that are already zoned for residential building.
- That the proposal will not address housing diversity and choice in the area.

Planning response

Any future planning proposal would need to demonstrate sufficient strategic planning merit, including alignment the relevant priorities, objectives and actions in the Region and District Plan and local strategic plans such as the Housing Strategy and LSPS as set out in the relevant DDP. The final DDP and any future planning proposal should be robust in outlining how these matters have been considered and incorporated to ensure consistency with broader and local strategic planning objectives for the region.

It should be noted that a key objective of the SEPP is to help empower local indigenous communities by supporting LALCs to more readily derive economic, social and cultural outcomes from land acquired through the ALR Act. This may result in some misalignments with Council local strategies such as Local Housing Strategies which may not traditionally consider these landholdings for further development.

5.4 Culture and heritage

Summary of concerns

Preserving sites of cultural and heritage significance was a key theme raised in the submissions. 41% of submissions noted that there was the potential for these to be lost or damaged if the sites were to be developed, and many submissions requested that a thorough culture and heritage assessment be completed to determine the extent of existing and other undiscovered Indigenous artifacts and sites in the area.

Planning response

Any future planning proposal must provide sufficient documentation to assess any potential impacts on existing cultural and heritage values. This assessment would require mitigation measures to reduce impacts and preserve any heritage or cultural significance. Any future planning proposals and/or DAs may also require a potential referral to the NSW Heritage Office for items of state heritage and/or archaeological significance.

5.5 Bushfire

Summary of concerns

31% of respondents raised concern regarding the risk of bushfire to people and property within the area. This was often discussed in the context of climate change, with 17% of submissions discussing this theme and the potential for more frequent and severe extreme weather events (i.e as result of climate change).

Ingress and egress for emergency services and residents during floods and fires was also a concern for community members. This included the identification of multiple points where roads can be cut off by either fires or floods, creating traffic choke points with only one way in and out.

Planning response

If a planning proposal is progressed on land identified as bushfire prone, the appropriate bushfire management considerations will need to be considered i.e in the form of a bushfire Management Report and referral to the Rural Fire Service. This is also the case for any future DA.

Any new development on land identified as bushfire prone must also comply with Planning for Bushfire Protection (PBP) Guidelines and requirements administered by the NSW Rural Fire Service.

5.6 Open space and recreation

Summary of concerns

30% of submissions received viewed the proposed sites as public open space and discussed the importance of maintaining the sites as such for the community to use for recreation and enjoyment.

Many submissions expressed a desire to see the sites purchased by the State Government and added to Gadigal National Park or converted into a conservation reserve to allow for recreational activities such as bushwalking and mountain biking to continue in the area.

Planning response

Any provision for public open space and recreation should be highlighted as a material public benefit in any future planning proposal to support the merits of the rezoning.

5.7 Waterways

Summary of concerns

12% of respondents raised concerns relating to the potential impact upon local waterways. The addition of hard surfaces in combination with highly erodible soils was a key issue, with the potential to negatively impact water flow and quality in creeks and lead to more frequent major flooding events.

A number of submitters viewed the conservation of hanging swamps as being of key importance to regulating hydrology throughout the region.

Planning response

Impacts on waterways and increased stormwater runoff as result of potential land clearing to accommodate future development must be considered at both the planning proposal stage and again at the detailed design stage as part of the development application process.

Any impacts on wetland communities must be assessed under the BC Act and if present, the management of wetland communities must be given due consideration in accordance with the objectives and principles of management as contained within the NSW Wetlands Policy (2010), and appropriate management as determined by NSW DPE - Office of Water in their general terms of approval. This may include but not limited to the provision of buffers, management of stormwater runoff and maintenance of natural inflows or runoff into those wetland communities.

In accordance with the *Water Management Act* (WM Act), development in vicinity to any endangered wetland communities may require referral to NSW Natural Resources Access Regulator (NRAR) for determination under the WM Act as a controlled activity. As well as protection, a buffer may be applied to these communities as specified by the NRAR. This would likely occur at the DA stage.

Local council waterway protection requirements (i.e those provided in the DCP) would also apply at the DA stage.

See also recommendations under Section 5.1 above, which recommends an ecological assessment including assessment of waterways.

5.8 Site suitability

Summary of concerns

12% of submissions raised concerns over the suitability of the land identified in the proposal for industrial and residential development.

Respondents noted that the geographic features of the sites would result in high development costs and significant flow-on effects across the ecosystem. These included:

- Steepness of gradient and uneven topography, which includes cliffs and rocky outcrops, would require substantial preparation work and clearing prior to development. This was particularly discussed in relation to the topography of Corymbia Circuit.
- Instability of ground surfaces and general erodibility of soils would be exacerbated by land clearing and an increase in hard surfaces and runoff.

Planning recommendations

Any future planning proposal would need to be assessed on its site specific merits, as well as meeting the strategic merits test.

The detailed planning, technical studies and assessment of the strategic and site-specific merits of the proposal are also undertaken at the planning proposal and DA stage to demonstrate suitability of the site to accommodate the proposed development.

5.9 Engagement process

Summary of concerns

8% of community submissions raised concerns related to the engagement process. These included:

- Lack of consultation with expert authorities, such as Rural Fire Service, TransGrid, and Sydney Water.
- Inadequate notification and promotion of the exhibition documents.
- Insufficient time to respond to provide feedback on the documents.
- No evidence of consultation with local Indigenous community members.

Planning recommendations

Referrals to the relevant agencies such as RFS, Sydney Water and TfNSW should be undertaken at both the planning proposal and detailed design stage as part of any DA.

Exhibition material should be revised, including clarity of maps, as part of the finalisation of the DDP and SEPP.

It is also strongly recommended that additional community consultation is undertaken at the planning proposal stage (pre and post-gateway) to support transparency and enable further community input into the planning process progression.

5.10 Policy development process

Summary of concerns

7% of community submissions were concerned that the policy development process and relationship between the Department of Planning and Environment and the MLALC represents a conflict of interest.

Planning recommendations

An independent assessment of any work undertaken by sub-consultants and/or the Department of Planning and Environment is encouraged to reduce any concerns relating to conflict of interest. These reviews should be made publicly available to increase transparency.

6 Conclusion

The proposed SEPP amendment and DDP do not propose or permit development but provide an LALC with an alternate planning pathway. The majority of the submissions raised concerns that would be relevant and subject to further investigation as a result of a possible future Planning Proposal and/or Development Application.

Notwithstanding, it is strongly recommended that any environmental assessment considerations are considered in both the planning proposal and DA stages and strong guidance in terms of adequacy of supporting technical documentation is provided to ensure the appropriate and efficient assessment by the relevant Planning Proposal Authority.

Any future planning proposal would need to demonstrate sufficient strategic planning merit, including alignment the relevant priorities, objectives and actions in the Region and District Plan and local strategic plans such as the Housing Strategy and LSPS as set out in the relevant DDP. The final DDP and any future planning proposal should be robust in outlining how these matters have been considered and incorporated to ensure consistency with broader and local strategic planning objectives for the region.

It should be noted that a key objective of the Planning Systems SEPP is to help empower local indigenous communities by supporting LALCs to more readily derive economic, social and cultural outcomes from land acquired through the ALR Act. This may result in some misalignments with Council local strategies such as Local Housing Strategies which may not traditionally consider these landholdings for further development.

Any planned future development will require identification of the relevant funding mechanism to support additional infrastructure i.e Regional and local infrastructure contributions including updates to the Northern Beaches 7.12 Contributions Plan that applies to the land. This would include a contributions schedule including local infrastructure items, proposed timing/staging of delivery, cost of land and infrastructure works and assumptions with the planning proposal and supporting reports. This should be undertaken early in the planning process, i.e concurrent to the preparation of the planning proposal to enable effective and efficient delivery.

7 Limitations

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