

**8.12****Recommendation for a Joint Project to Resolve the Issue of the Warringah LEP 2011 Deferred Matters**

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**EXECUTIVE SUMMARY**

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**Purpose**

To recommend to Council the preferred means of resolving the zoning issue of the Warringah LEP 2011 (WLEP2011) deferred matters at Oxford Falls and Belrose North.

**Summary**

The WLEP2011 came into force on the 9 December 2011. Lands at Oxford Falls and Belrose North localities were deferred matters from the making of the WLEP2011.

As such, Council is currently operating with both the Warringah LEP 2000 (WLEP2000), for the deferred matters, and WLEP2011 for the remaining local government area (LGA).

The New South Wales (NSW) State Government is seeking to undertake a joint project with Council to consider the appropriate zoning outcome for the deferred matters in the WLEP2011.

It is recommended that Council resolve to engage with the NSW Department of Planning and Infrastructure (DoPI) in the joint project, subject to the agreed principles and project rationale and listed Recommendations.

**Financial Impact**

The Minister of Planning and Infrastructure (the Minister) has indicated that funding and resources will be made available for Warringah Council to undertake the joint project as a partnership with DoPI. Warringah's staff resources will also be required to undertake the project.

**Policy Impact**

Resolution of the deferred matters in the WLEP2011, with the objective of achieving a comprehensive Local Environmental Plan (LEP), that is applicable to the entire Warringah local government area (LGA).

This would result for increased administrative efficiencies and total alignment with the State Government's standard instrument LEP template.

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**RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

- A. That Council agree in principle to undertaking a joint project with the Department of Planning and Infrastructure to reconsider the appropriate zoning for deferred matters in the Warringah LEP 2011 and resolve its deferred status.
- B. That Council liaise with the Department of Planning and Infrastructure to develop a sufficiently detailed Project Plan to establish the key principles, parameters, scope and methodology for undertaking the project.
- C. That Council staff work with the Department of Planning and Infrastructure to jointly develop a Project Plan based on the following principles of engagement and project rationale, which is to:
  - Maintain the existing character of the Oxford Falls and Belrose North areas (as expressed in Warringah LEP 2000) in moving towards standard instrument zoning

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for the area

- Develop a comprehensive communications and media strategy
- Undertake work in accordance with a Probity Plan and a Community Engagement Plan that establish parameters for community and stakeholder engagement
- Review existing information only, with no requirement for the preparation of detailed environmental studies (for example, Planning and Assessment Commissions (PAC) recommended studies)
- Achieve one comprehensive Local Environmental Plan for the entire Warringah local government area in the standard instrument format, as instructed by the Minister of Planning and Infrastructure on 8 November 2011
- Engage in a collaborative partnership between Local and State government.

D. That upon final drafting of the Project Plan, the matter be reported back to Council for Council's consideration and resolution prior to agreeing to undertake the project.

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## REPORT

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### Background

When commencing its preparation of the draft Warringah LEP 2009 (draft WLEP2009) Council decided to translate the WLEP2000 into the new Standard Instrument LEP format. It also decided that it would not undertake review of land use planning policy in Warringah and that the only exceptions to this would be to accommodate changes required to give effect to the NSW Government's Metropolitan Strategy. This decision underpinned the way in which the new LEP was drafted for all land in Warringah.

The draft WLEP2009 was publicly exhibited in late 2009 and, after consideration of submissions, the final draft WLEP2009 was adopted by Council on 8 June 2010. The final draft WLEP2009 was forwarded to the NSW Department of Planning and Infrastructure (DoPI) on 25 June 2010 with a request that the Minister make the plan.

During DoPI's final review, community concerns emerged in relation to the proposed Environmental Management zoned (E3) lands at Oxford Falls and Belrose North (Refer to Attachment 1 – Summary of correspondence regarding joint project). The Minister deemed it appropriate to defer these areas from the making of the WLEP2011, and requested that a joint project be undertaken to enable DoPI, Council, together with the community, to determine the most appropriate future land use controls.

The WLEP2011 came into force on the 9 December 2011. Lands at Oxford Falls and Belrose North localities were deferred matters from the making of the WLEP2011. The deferred matters are identified in Attachment 2 – Deferred Lands Map.

### Proposal for a joint project with the State Government

Council has received a number of letters from DoPI, and the Minister, suggesting and encouraging Council to enter into a joint project to resolve the zoning of the deferred matters.

Council Staff have held preliminary discussions with staff in DoPI in relation to the project. These discussions have related to the purpose and scope of the project, different options for immediately undertaking the project, timing and resources. Council staff have been clear in saying that ultimately a resolution of Council would be needed to proceed in undertaking a joint project.

In discussing how the project may be shaped to deliver a planning outcome for the deferred matter a communications/media strategy, a community engagement plan and probity plan were identified as key considerations for the project timeline.

The key considerations have evolved into agreed principles and project rationale, which were distributed to DoPI by Warringah Council on 5 March 2012. These principles are considered critical to Warringah's successful engagement in a meaningful partnership with DoPI, and will therefore inform the Project Plan.

No further work will be undertaken on the joint project until such time that Council has provided a resolution for the way forward.

### Description of the proposed joint project

The objective of the joint project is to determine the appropriate zoning of the deferred area of the WLEP2011; ensuring that the matters raised by landowners in relation to the proposed E3 zoning under the draft WLEP2009 are considered.

Some of the expected key deliverables will be:

- Community consultation;

- A Planning Report that recommends the zones to apply to the area and how community and land owner concerns have been taken into consideration in reaching those recommendations; and
- A LEP amendment to resolve the deferred matters.

There has been some discussion with DoPI surrounding preliminary project principles. Although not formally accepted by DoPI, it is anticipated that further discussion will likely occur during the Project Plan phase. The preliminary project principles are to:

- Maintain the existing character of the Oxford Falls and Belrose North areas (as expressed in WLEP2000) in moving towards standard instrument zoning for the area.
- Develop a comprehensive communications and media strategy.
- Undertake work in accordance with a Probity Plan and a Community Engagement Plan that establish parameters for community and stakeholder engagement.
- Review existing information only, with no requirement for the preparation of detailed environmental studies (for example, PAC recommended studies).
- Achieve one comprehensive LEP for the entire Warringah LGA in the standard instrument format, as instructed by the Minister on 8 November 2011.
- Engage in a collaborative partnership between Local and State government.

In relation to project scope, early dialogue with the Department has included the following limitations:

- A high-level review of existing physical constraints.
- Assessment of existing use rights.
- Analysis of land use provisions under both WLEP2000 and WLEP2011.
- Rationalise future planning controls to be included a comprehensive LEP.
- Recommend proposed land use zones and controls for inclusion in a planning proposal.

In relation to project budget:

- It is anticipated that dependent experts will not be required and the joint project, and can be completed by Council's technical resources with the support and assistance of the Department.
- The redirection of Council resources to the project may result in the need for a planning officer role at Council to be filled by a DoPI secondee for the duration of the project.
- If funds are required to procure independent experts, a funding request will be prepared and put to the Director General of DoPI. A reasonable quantum of funds will be made available from DoPI 's operating budget if required.

The following are items which need to be further discussed or determined during the Project Planning phase:

- Internal budgeting requirements or limitations within Council;
- Agreed principles of engagement; and
- Preparation of communications strategy and Probity and Communications Engagement Plans.

## **Options for resolving the issue of the WLEP2011 deferred matters**

The decision to move forward with a joint project for the resolution of the WLEP2011 deferred matters is at the discretion of Council. As such, the following three options are expressed for Council's consideration of methods to resolve the issue of the WLEP2011 deferred matters:

### **1. Planning Proposal**

That Council prepare a planning proposal seeking E3 as the preferred zone for deferred lands.

The anticipated duration of this option is approximately 12 months, and will rely solely on Warringah Council resources.

This option will reaffirm the process that Council undertook when preparing WLEP2011 and, in so doing, will ensure that the preparation of the WLEP2011 (for deferred land) is undertaken in a manner that is consistent and equitable for all land in Warringah.

This option will also address the Minister's stated concern in relation to the community consultation process.

This option threatens strong Local and State Government relations, as it contravenes requests from DoPI to engage in a joint project. In addition, there is the risk that community perception of this option gives insufficient consideration of the deferred matters.

### **2. Joint Project**

That Council engage with DoPI in a joint project, as per the agreed principles of engagement and project rationale.

The anticipated duration of this option is approximately 18 months, and will entail Warringah Council resources and support from DoPI with both staff resources and funding. Note that the level of proposed support is not yet identified.

This option excludes a comprehensive strategic assessment (for instance infrastructure, transport or other environmental constraint considerations) which would assist in defining future densities or land intensification.

The joint project will be supported heavily by a community consultation and media strategy and comprehensive probity plan.

### **3. PAC Environmental Studies**

That Council decline to resolve the deferred lands in conjunction with the DoPI, until such time that the comprehensive review of Oxford Falls Valley (consistent with the PAC recommendations) has been completed, during which time the WLEP2000 would still apply to deferred lands.

The timeframes for completing the PAC recommended environmental studies is extensive, with an anticipated duration of 3 years. The majority of environmental studies will be solely funded by Warringah Council. Stakeholder engagement would form a part of this work.

A risk associated with this option is that there will remain an administrative duplication, with two LEP's operating throughout the LGA.

### **Preferred option and recommendations**

The preferred option for resolving the issue of the WLEP2011 deferred matters is that Council engage with DoPI in undertaking a joint project to determine the most appropriate future land use controls.

This recommendation is subject to the preliminary project principles and project rationale being agreed by both parties, prior to engagement in the project:

**Justification**

The recommendation for engaging in a joint project with the DoPI is justified for the following reasons:

- The Minister has offered funding and resources for the joint project.
- Greater administrative efficiencies as the aim is to deliver one comprehensive LEP for the whole Warringah LGA.
- Reduced timeframes compared to those associated with the environmental studies as part of the PAC recommendations.
- Opportunity for community and stakeholders engagement in accordance with Probity and Community Consultation plans.
- Integral to State and Local Government ongoing work relationships.
- Objective of joint project is to maintain existing character of the Oxford Falls and Belrose North areas in moving towards standard instrument zoning for the area.
- Opportunity to ensure that the project principles satisfy Council's requirements in terms of achieving consistency with its preparation of WLEP2011 for the wider Warringah area.

**Conclusion**

It is recommended that Council resolve to engage with DoPI in a joint project to resolving the deferred matters in the WLEP2011, subject to the agreed principles and project rationale.

**Consultation**

Community consultation will be undertaken in accordance with clearly defined Probity and Community Engagement Plans and media strategy.

**Timing**

Following resolution from Council, the Project Plan phase would commence immediately. Once a suitable and agreed Project Plan has been drafted, the matter will be reported back to Council for Council's consideration and resolution prior to agreeing to undertake the project.

**Policy Impact**

The joint project will produce an outcome for the resolution to the WLEP2011 deferred matter and increased administrative efficiencies with a comprehensive WLEP2011 for the entire LGA.

**Financial Impact**

The Minister has indicated that funding and resources will be made available for Warringah Council to undertake the joint project, in partnership with DoPI.

Warringah Council's contribution to the joint project will be undertaken by staff within existing budget capacity, in addition to DoPI's resources and funding.

**Group Manager Strategic Planning****Attachments**

Attachment 1 – Summary of Correspondence

Attachment 2 – Deferred Lands map



## Summary of Strategic Review Correspondence

**SUMMARY OF CORRESPONDENCE FOR JOINT PROJECT:**31 August 2011

Letter received from the Minister advising that he was aware of concerns by residents in Oxford Falls Valley and Belrose North localities in relation to the proposed zoning of their land and that he thinks it were appropriate to defer this area from the current draft WLEP2009. The letter specifically stated that:

“This deferral will...enable Council, together with the community to undertake a strategic review of the area to determine the most appropriate future land use controls.’

13 September 2011

Letter from DoPI identifying the land to be deferred by way of an attached map.

27 September 2011

Warringah Council representatives attended meeting with DoPI in relation to the strategic review.

8 November 2011

Letter from the Minister which states:

- Minister intends to defer all land proposed to be zoned E3 in the Oxford Falls Valley and Belrose North localities
- That the Minister was advised by DoPI that at the meeting on 27 September to initiate the strategic review, general agreement on project scope was reached and that a Project Initiation document and more detailed project plan will be jointly prepared to guide the project.
- The Minister confirms resources and funding will be made available to Council to assist in completing the strategic review. The level of funding will be determined once the scope of works is identified.

8 December 2011

Letter from the from the Deputy-General Manager of DoPI confirmed that WLEP2011 is to be made under section 59(2) of the EP&A Act and that E3 zoned land at Oxford Falls and Belrose North Localities is to be deferred from the WLEP2011. The letter reiterated the Minister's request for Warringah Council and DoPI to work in partnership on the Oxford Falls Valley and Belrose North strategic review.

8 February 2012

Warringah Council met with DoPI to discuss scope, resources and principles of the strategic review. A communications and media strategy and probity plan were identified as key matters for the project lifeline.

5 March 2012

Draft list of agreed principles and rationale distributed to DoPI.



Deferred matters

