



Jonathan O'Dea MP

Member for Davidson



2 April 2015

Mr John Holman
President
Warringah Urban Fringe Association
PO Box 125
BELROSE NSW 2085

Dear Mr Holman, *John*

Please find enclosed a copy of the reply received from the Secretary, Department of Planning & Environment, Ms Carolyn McNally, in response to my representations on your behalf regarding the zoning of land in the Oxford Falls Valley and Belrose North area.

The letter discusses the process for establishing new zonings, including involvement of the Gateway Process and the opportunity for further public comment. For your information I have also enclosed information about the Gateway Process.

The Secretary has also provided the contact details of Mr Lee Mulvey, Director of the Department's Metropolitan (CBD) Team should you have any further enquiries on this matter.

I encourage you to continue monitoring progress of this issue and provide input as opportunity arises.

Yours sincerely,

Jonathan O'Dea
Member for Davidson

Encl: Copy of the reply from the Secretary, Planning & Environment
Copy of Planning & Environment Gateway Process

PC/JOD



Office of the Secretary

Mr Jonathan O'Dea MP
Member for Davidson
PO Box 209
Lindfield NSW 2070

Received

31 MAR 2015

15/03816

DAVIDSON

Dear Mr O'Dea

I am responding to your letter of 5 February 2015, on behalf of Mr John Holman, President of the Warringah Urban Fringe Association, and Mr and Mrs Hare of Belrose.

Lands within the Oxford Falls Valley and Belrose North area were deferred from the *Warringah Local Environmental Plan 2011* and rely on planning controls established 15 years ago. It is important that land within the Oxford Falls Valley and Belrose North area does not continue to remain deferred and that landowners and the broader community are provided certainty as to the zoning and longer term use of the land. Resolution of this will allow for a single local environmental plan to cover the Warringah Local Government Area.

The Department has requested Warringah Council to prepare a planning proposal seeking a Gateway determination for the deferred lands. It is anticipated the planning proposal will include adequate justification supporting all proposed zones and associated planning controls whatever zone is used. It will also address the strategic framework for Sydney, including *A Plan for Growing Sydney*.

In particular council will have to adequately justify to the Department at Gateway that the land identified as having no-to-moderate environmental development constraints should be made an environmental zone. It is expected that Council will undertake its own analysis in deciding which particular zones to adopt for this area.

If council does propose an environmental zone the Department has asked the council to consider including the broadest range of permissible uses that are consistent with the zone objectives. This will ensure that the new zoning is the best possible translation of the existing character based controls to the new zoning format.

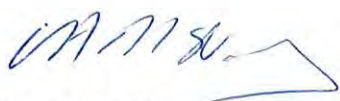
Should Council lodge a planning proposal, the Department will assess the merits of the proposal against the outcomes of the Oxford Falls Valley and Belrose North Strategic Review, before deciding whether to issue a Gateway determination.

If a Gateway determination is issued for the planning proposal to proceed, the proposal will be publicly exhibited for further consultation. I would encourage your constituents to make a formal submission at this time. All submissions will be carefully considered as part of the assessment of the planning proposal.

Finally, I would like to reiterate that this planning proposal should only seek to translate the existing controls into the format of the *Warringah Local Environmental Plan 2011*. This proposal is not expected to change other development controls applying to the land, including minimum subdivision lot sizes. The Department has encouraged Council to continue to assess the urban development capability of the land with a view to changing the planning and development controls, as necessary. This may include future amendments to zones if additional studies adequately justify a change through a later planning proposal.

If you have any further enquiries about this matter, please contact Mr Lee Mulvey, Director of the Department's Metropolitan (CBD) team, on (02) 8575 4140.

Yours sincerely



Carolyn McNally
Secretary

30.3.15



Gateway Process

The Minister for Planning [announced](#) two key changes to the plan-making process for Local Environmental Plans (LEPs) commencing on Friday 2 November 2012.

The first key change introduces opportunities for applicants (namely landowners or developers) and councils to request a review of decisions made at key stages during the process of assessing and deciding on a proposal to rezone land.

The second change will return power to councils to allow them to finalise particular kinds of LEPs.

Detailed information is available in the [Planning Circular](#) and the [Frequently Asked Questions](#) document.

About the Gateway Process

In July 2009, the 'gateway' plan-making process was introduced.

The gateway process has the following benefits:

- ▶ assists in meeting the NSW Government's target of a 50 percent overall reduction in the time taken to produce LEPs
- ▶ provides clear and publicly-available justification for each plan at an early stage
- ▶ ensures vital NSW and Commonwealth agency input is sought at an early stage
- ▶ replaces the former 'one size fits all' system under which all LEPs large and small were subject to the same rigid approval steps with one that better tailors assessment of the proposal to its complexity
- ▶ improves links between long-term strategic planning documents such as regional and metropolitan strategies

Steps in the process

The gateway process has the following steps:

- ▶ **Planning proposal** — the relevant planning authority is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Secretary of the Department of Planning & Environment or a joint regional planning panel to be the relevant planning authority.
- ▶ **Gateway** — The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.
- ▶ **Community consultation** — the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.
- ▶ **Assessment** — The relevant planning authority considers public submissions and the proposal is varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan — the legal instrument.
- ▶ **Decision** — With the Minister's (or delegate's) approval the plan becomes law and is published on the [NSW legislation website](#).

Reviews of decisions

In the interests of fairness and accountability, two review mechanisms were introduced in October 2012 in relation to the gateway process. These mechanisms allow an independent body to review some decisions by councils and the department. In particular:

- ▶ **Pre-Gateway reviews:** which may be requested by a proponent if a council has not supported, or not made a decision within 90 days, on a planning proposal. These reviews are informed by advice from joint regional planning panels (or the Planning Assessment Commission (PAC) in the City of Sydney council area).
- ▶ **Gateway reviews:** which may be requested by a council or proponent following a gateway determination by the department, but before community consultation on the proposal has commenced. These reviews are informed by advice from the PAC.

Tracking a plan or review

All planning proposals and reviews are available via the department's online tracking systems to enable the proponent, authorities and the public to track the progress of a plan or review at the following locations:

- ▶ [The LEP Tracking System database of all planning proposals](#)
- ▶ [The Pre-Gateway Review Tracking System](#)

In some instances the Joint Regional Planning Panels (JRPPs) may be appointed as the Relevant Planning Authority to finalise a Planning Proposal. In those instances, information about the planning proposal and its progress may be found on the [Regional Panels website](#).

Guides

The Department of Planning & Environment has updated and re-published two guides to assist in understanding about the gateway process and independent reviews:


- ▶ [Guide to Preparing Local Environmental Plans](#) (Department of Planning & Infrastructure - April 2013) is an overarching guide about all elements of the new system. This latest version contains additional Parliamentary Counsel's Office requirements for drafting and finalising delegated plans. Councils should ensure they comply with the updated requirements when seeking a draft of an instrument from the Parliamentary Counsel's Office as part of the plan making process. The updated document also contains revised contact details for the Parliamentary Counsel's Office.

[Guide to Preparing Planning Proposals](#) (Department of Planning & Infrastructure 2012) has been prepared specifically to assist relevant planning authorities such as local councils preparing planning proposals.

Draft LEPs begun prior to 1 July 2009

Draft LEPs notified to the Director-General prior to 1 July 2009 continue to be made under the old local plan-making system. Draft LEP amendments begun prior to 1 July 2009 must be completed within 12 or 18 months of 1 July 2009, depending on whether a section 65 certificate had already been issued. In this regard, a [historical version of the *Environmental Planning and Assessment Act 1979*](#) can be found on the NSW Legislation website, in the 'As Made' database.

Donations and gift disclosure

All planning proposals / draft LEPs must comply with State law regarding reportable political donations. For more details, including a disclosure form, read the [Development proposals and donations or gifts: guidelines](#) 

Application, reporting and tracking forms – reviews of plan making decisions and delegation of plan making

Below are the forms that will be used by applicants and councils when requesting reviews of decisions in the plan making system. Forms to assist councils request delegation to make a local environmental plan are also provided below.

Two options are provided to assist with the process:



- ▶ a pdf version of each document is provided which may be downloaded and completed manually; or
- ▶ an editable version of each document is provided which can be downloaded and completed electronically.

The information required to accompany a review request is outlined in [A guide to preparing local environmental plans](#).

Forms to be completed and submitted by councils in relation to delegated local environmental plans are explained in [A guide to preparing planning proposals](#).

- ▶ [Application form – Pre-Gateway review request](#) [DOC]
- ▶ [Application form – Pre-Gateway review request](#) [PDF]
- ▶ [Application form – Gateway determination review request](#) [DOC]
- ▶ [Application form – Gateway determination review request](#) [PDF]
- ▶ [Information checklist for planning proposal preparation](#) [DOC]
- ▶ [Information checklist for planning proposal preparation](#) [PDF]
- ▶ [Evaluation criteria for the delegation of plan making functions](#) [DOC]
- ▶ [Evaluation criteria for the delegation of plan making functions](#) [PDF]
- ▶ [Delegated plan making reporting template](#) [DOC]
- ▶ [Delegated plan making reporting template](#) [PDF]
- ▶ [Section 59 report template – delegated plan making](#) [DOC]
- ▶ [Section 59 report template – delegated plan making](#) [PDF]

Other information

- ▶ [Planning circular - PS 12-006](#)  - Delegations and independent reviews of plan-making decisions
- ▶ [Planning circular - PS 09-015](#)  - Commencement of certain provisions of the EP&A Amendment Act 2008 and EP&A Amendment (Plan Making) Regulation 2009 (issued 1 July 2009)

The Parliamentary Counsel's Office has also issued advice regarding the drafting and notification processes for making delegated plans. Links to this information are provided below.

Information about PCO's role in drafting process can be found at:

- ▶ [NSW Government Legislation Information Sheet](#) (PDF)
- ▶ [PCO Corporate Information Sheet](#) (PDF)

Information about the notification process can be found at:

- ▶ [NSW Legislation information sheet on delegated Local EPI's](#) (PDF)
- ▶ [PCO information sheet on delegated Local EPI's](#) (PDF)

Last Updated 11-Sep-2014