8.3. NSLEP 2013 Amendment No. 30 (North Sydney LEP Review 2019) – Post gazettal report

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ENDORSED BY: Joseph Hill, Director City Strategy

ATTACHMENTS:

- 1. Attachment 1 LEP Written Insturment [8.3.1 10 pages]
- 2. Attachment 2 LEP Maps [**8.3.2** 45 pages]

PURPOSE:

To inform Council of the making of Amendment 30 to North Sydney Local Environmental Plan 2013 which gives effect to Planning Proposal 7/19 – North Sydney LEP Review 2019.

EXECUTIVE SUMMARY:

On 25 November 2019, Council resolved to adopt Planning Proposal 7/19 – North Sydney LEP Review 2019 which in-principal, sought to implement the outcomes of Council's Local Strategic Planning Statement LSPS and Local Housing Strategy and to address a number of minor house-keeping amendments. It also resolved to forward the adopted Planning Proposal to the Department of Planning, Industry and Environment (DPIE) to receive a Gateway Determination.

A Gateway Determination was issued on 19 April 2020 permitting the Planning Proposal to be placed on public exhibition. Council was not granted delegation to finalise the LEP making processes for this Planning Proposal.

The Planning Proposal was subsequently placed on public exhibition from 25 May 2020 to 22 June 2020. Following this, Council considered a post exhibition report at its meeting on 24 August 2020, where it resolved to adopt a revised version of the Planning Proposal incorporating a number of minor amendments and forward it to the DPIE with a request that an LEP be made.

In accordance with Council's resolution of 24 August 2020, the Planning Proposal was forwarded to the DPIE on 28 August 2020 with a request to make an LEP giving effect to the Planning Proposal.

North Sydney Local Environmental Plan 2013 (Amendment 30) gives effect to the Planning Proposal and came into force on 30 June 2021 following its publication on the NSW legislation website. This report is for the information of the Councillors and provides a brief overview of the Planning Proposal history.

FINANCIAL IMPLICATIONS:

There are no direct financial implications arising from this report.

RECOMMENDATION: 1. THAT Council receive and note the report.								

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

- 1. Our Living Environment
- 1.1 Protected and enhanced natural environment and biodiversity
- 1.3 Quality urban greenspaces
- 1.4 Public open space and recreation facilities and services meet community needs
- 2. Our Built Infrastructure
- 2.2 Vibrant centres, public domain, villages and streetscapes
- 2.3 Sustainable transport is encouraged
- 3. Our Future Planning
- 3.1 Prosperous and vibrant economy
- 3.2 North Sydney CBD is one of NSW's pre-eminent commercial centres
- 3.4 North Sydney is distinctive with a sense of place and quality design
- 4. Our Social Vitality
- 4.4 North Sydney's history is preserved and recognised
- 5. Our Civic Leadership
- 5.1 Council leads the strategic direction of North Sydney

BACKGROUND

- <u>29 October 2018</u> Council resolved to accept funding from the Department of Planning, Industry and Environment (DPIE) to prepare:
 - A Local Environmental Plan Review "Road Map";
 - Local Strategic Planning Statement (LSPS); and
 - Local Housing Strategy (LHS).
- <u>19 November 2018</u> Council considered a report outlining a Road Map for its LEP Review, with a number of priorities identified to achieve a more holistic consistency with the North District Plan.
- 19 April 2019 The Greater Sydney commission (GSC) gave in principle support for Council's assessment under the North District Plan and identification of further work to inform its planning controls to better align with the directions of the North District Plan.
- <u>24 June– 15 August 2019</u> The Draft LSPS and LHS are placed on public exhibition for 42 days.
- 23 September 2019 Council resolved to prepare a Planning Proposal to give effect to the LSPS and LHS, and to incorporate a range of housekeeping amendments. Council also resolved to refer the Planning Proposal to the North Sydney Local Planning Panel (NSLPP) for its recommendation prior to determining whether the proposal should proceed to Gateway Determination.

- <u>23 October 2019</u> The NSLPP resolved to support the Planning proposal progressing to Gateway Determination.
- <u>25 November 2019</u> Council resolved to endorse the Planning Proposal and associated maps and forwarded it to the Minister for Planning and Public Spaces in order to obtain a Gateway Determination. At this meeting, Council also adopted the LSPS and LHS, and resolved to amend the Planning Proposal to reflect Council's adoption of these strategies and the recommendations of NSLPP.
- <u>24 February 2020</u> Council resolved to endorse draft amendments to NSDCP 2013 and publicly exhibit them concurrently with the Planning Proposal.
- <u>25 November 2019</u> Council resolved to endorse the Planning Proposal and forward it to the Minister for Planning and Public Spaces to receive a Gateway Determination and permit the proposal to be placed on public exhibition.
- <u>19 April 2020</u> A Gateway Determination was issued enabling the Planning Proposal to be placed on public exhibition.
- <u>25 May to 22 June 2020</u> The Planning Proposal and draft amendments to NSDCP 2013 were placed on public exhibition for 28 days.
- <u>24 August 2020</u> Council considers a post exhibition report and resolves to forward the Planning Proposal with minor amendments to the DPIE with a request to make an LEP giving effect to the Planning Proposal.
- <u>28 August 2020</u> Council forwards the endorsed Planning Proposal to the DPIE with a request to make an LEP giving effect to the Planning Proposal.
- <u>22 July 2021</u> Parliamentary Counsel issued an opinion that the LEP can be made. This LEP is North Sydney Local Environmental Plan 2013 (Amendment 30).

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

1. Amendment 30 to NSLEP 2013

NSLEP 2013 (Amendment No. 30) gives effect to the Planning Proposal and is now in force following its publication on the NSW legislation website on 30 June 2021. A copy of the instrument is provided in Attachment 1 and a copy of the revised maps are provided in Attachment 2 to this report.

The key amendments to NSLEP 2013 include the following:

- Permits residential flat buildings within the R3 Medium Density Residential zone;
- Permits veterinary hospitals within the *B1 Neighbourhood Centre* zone;

- Rezones two Sydney Water properties to SP2 Infrastructure located at:
 - o 74 McDougall Street, Kirribilli; and
 - o Lot 1 DP 786793 (to the rear of 33A-33B Shellcove Road, Kurraba Point).
- Rezones several properties associated with the Warringah Freeway to SP2 Infrastructure;
- Rezones a number of properties used by schools to SP2 Infrastructure (Educational Establishment) at:
 - North Sydney Girls High School;
 - o Sydney Church of England Grammar School (Shore);
 - Wenona School:
 - o Redlands Sydney Church of England Co-Educational Grammar School;
 - o St Aloysius College;
 - Monte St Angelo Mercy College;
 - o Anzac Park Public School;
 - Loreto Kirribilli.
- Rezones all land located below Mean High Water Mark to *UL Unzoned Land*;
- Corrects a number of historical zoning errors on a number of private properties:
 - o 2 Nicholson Street, Wollstonecraft;
 - o 19 Elamang Avenue Kirribilli; and
 - o 80 Bent Street, Neutral Bay.
- Rezones a number of road reserves to *RE1 Public Recreation* to reflect their current usage;
- Expands the ability to undertake functions at North Sydney Olympic Pool site by allowing functions centres as a permissible use across the entire site;
- Removal of certain land uses under clause 2.5 and Schedule 1 Additional permitted Uses of NSLEP where the use has ceased, including:
 - o 2 Thomas Street, McMahons Point;
 - o 41 Alfred Street South, Milsons Point;
 - o 88 Berry Street, North Sydney.
- Ensuring the construction of residential flat buildings do not isolate sites with semidetached dwellings;
- Removes several heritage items that have been demolished or removed;
- Revises all LEP maps to ensure that planning controls accurately align with a new State government base cadastre;
- Corrects minor errors in relation to the local government area and NSLEP 2013 boundaries;
- Removal of redundant clauses due to ceasing operation or duplication under other planning instruments;
- Renumbering clauses to align with directions under the Standard Instrument LEP Order;
- Correcting errors relating to street addresses and property descriptions;
- Correcting errors in relation to the location and extent of a number of heritage items;
- Applying height limits to privately owned land not zoned for recreation, environmental conservation or road purposes including:
 - o The Avenue, North Sydney;
 - o 25 Shirley Road, Wollstonecraft.
- Apply consequential development standard amendments to rezoned land to align with existing Council practices under the LEP; and
- Removes properties identified for land acquisition which have now been acquired by

the relevant acquisition authority.

2. Amendments not incorporated

The Planning Proposal initially sought to identify 3 Parker Street, McMahons Point as a heritage item under NSLEP 2013. However, this amendment was not incorporated within Amendment 30 to NSLEP 2013 as made.

Its exclusion is the result of a development consent to DA 103/19 being issued for the redevelopment of 3 Parker Street by the Land and Environment Court (10 November 2020–LEC 260634/19) which would result in the removal of much of the property's heritage significance.

This development consent was issued after Council had already determined to proceed with the Planning Proposal, including the heritage listing of 3 Parker Street, after considering submissions to the public exhibition of the Planning Proposal.

This consent is currently being acted upon and there are no avenues left to prevent these works from occurring and thereby there is no reason to continue pursuing the heritage listing of this property.



North Sydney Local Environmental Plan 2013 (Amendment No 30)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

BRENDAN METCALFE As delegate for the Minister for Planning and Public Spaces

North Sydney Local Environmental Plan 2013 (Amendment No 30)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is North Sydney Local Environmental Plan 2013 (Amendment No 30).

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land to which North Sydney Local Environmental Plan 2013 applies.

4 Maps

The maps adopted by *North Sydney Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of North Sydney Local Environmental Plan 2013

[1] Land Use Table

Insert "Residential flat buildings;" in alphabetical order in item 3 of Zone R3 Medium Density Residential.

[2] Land Use Table, Zone B1 Neighbourhood Centre, item 3

Insert "Veterinary hospitals;" in alphabetical order.

[3] Clause 4.3 Height of buildings

Insert after clause 4.3(1)(f)—

(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

[4] Clause 4.6 Exceptions to development standards

Omit clause 4.6(8)(ca) and (8A).

[5] Clause 5.3 Development near zone boundaries

Renumber clause 5.3(3)(a1) as clause 5.3(3)(aa).

[6] Clause 6.12 Residential flat buildings

Omit "or dual occupancies" from clause 6.12(1).

Insert instead ", dual occupancies or semi-detached dwellings".

[7] Clause 6.12(3)

Omit "or dual occupancy". Insert instead ", dual occupancy or semi-detached dwelling".

[8] Schedule 1 Additional permitted uses

Omit clauses 21 and 27.

[9] Schedule 1, clause 22

Insert after clause 22(2)(b)—

(c) a function centre.

[10] Schedule 1, clause 22(3)

Omit the subclause.

[11] Schedule 1, clause 23(2)

Omit clause 23(2). Insert instead—

(2) Development for the purposes of markets is permitted with development consent.

[12] Schedule 1, clause 24(1)

Omit "Lot 1, DP 182655". Insert instead "Lot 2, DP 1168334".

[13] Schedule 1, clause 31

Omit "part Crown land 316-3000". Insert instead "Crown Lot 7321, DP 1149783".

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[14] Schedule 1, clause 36, heading

Omit "40 Ridge Street". Insert instead "264 Miller Street".

[15] Schedule 1, clause 36(1)

Omit "40 Ridge Street, North Sydney, being Lots 8 and 9, DP 758790". Insert instead "264 Miller Street, North Sydney, being Lots 8–10, DP 1137247".

[16] Schedule 1, clause 40(1)

Omit "Lot 1, DP 115703". Insert instead "Crown Lot 1205, DP 752067".

[17] Schedule 1, clause 41, heading

Omit "Milray Avenue". Insert instead "Russell Street".

[18] Schedule 1, clause 41(1)

Omit "Milray Avenue". Insert instead "Russell Street".

[19] Schedule 1, clause 41(1)

Omit "Lot A, DP 6622". Insert instead "Lot 1, DP 134132".

[20] Schedule 2 Exempt development

Omit the matters relating to Outdoor dining areas, Signage (other than signs for home occupations (sex services), sex services premises or restricted premises) and Tree removal or pruning.

[21] Schedule 3 Complying development

Omit the matter relating to **Strata subdivision of dual occupancies** from Part 1.

[22] Schedule 5 Environmental heritage

Omit "Crown reserve (Tunks Park); Lot 1, Section 7, DP 2407" from the matter relating to item I0025 in Part 1.

Insert instead "Crown Lot 7349, DP 1166085; Lot 1, DP 1038592".

[23] Schedule 5, Part 1, item 10024

Omit "Lots 2-4, DP 244543; Closed road; Crown reserve".

Insert instead "Lot 1, DP 166171; Lots 2–6, DP 244543; Closed road; Crown Lots 7302 and 7303, DP 1136001".

[24] Schedule 5, Part 1, item 10064

Omit "219 Military Road". Insert instead "213 Military Road".

[25] Schedule 5, Part 1, item 10064

Omit "Lot 12". Insert instead "Lot 11".

[26] Schedule 5, Part 1, item 10580

Insert "; part of Crown Lot 7337, DP 113982" after "DP 974533".

[27] Schedule 5, Part 1, item I0102

Omit "Lot 7033, DP 1060232". Insert instead "Part of Crown Lot 7339, DP 1139892".

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[28] Schedule 5, Part 1, item I0129

Omit the property description. Insert instead "Part of Crown Lot 7338, DP 1139892".

[29] Schedule 5, Part 1, item I0130

Omit the property description.

Insert instead "Milson Road reserve, south of 4 Milson Road".

[30] Schedule 5, Part 1, item I0135

Omit "2 storey residence". Insert instead "Former 3 storey residence".

[31] Schedule 5, Part 1, item I0136

Omit the property description.

Insert instead "Lot 1, DP 974533; Crown Lots 7337–7341, DP 1139892; Lot 1, DP 911147; Lot 93, DP 1206495; Lot 1, DP 449844; part of Lot 1, DP 1086010; Lot 2, DP 1086010; Lot 1, DP 911459; McCallum Pool".

[32] Schedule 5, Part 1, item I0186

Omit the matter relating to the item. Insert in appropriate order—

Kirribilli	The Fantasia	5 Broughton	Lots 9 and 10,	Local	I0186
	Preschool	Street	Section B, DP		
			1537		

[33] Schedule 5, Part 1, item I0193

Omit the property description. Insert instead "Lot 101, DP 1154168".

[34] Schedule 5, Part 1, item I0194

Omit the property description. Insert instead "Lot 100, DP 1154168".

[35] Schedule 5, Part 1, item I0243

Omit the property description. Insert instead "Part of Lot 20, DP 1215745".

[36] Schedule 5, Part 1, item 10244

Omit the property description. Insert instead "Part of Lot 20, DP 1215745".

[37] Schedule 5, Part 1, item I0264

Insert "Lot 109, DP 1151872" in the column headed Property Description.

[38] Schedule 5, Part 1, item 10688

Omit the property description. Insert instead "Lot 1, DP 1196925".

[39] Schedule 5, Part 1, item 10736

Omit "(19 Wycombe Road)".

Insert instead "(17 Lower Wycombe Road and 3 Warringah Avenue)".

[40] Schedule 5, Part 1, item 10736

Insert "SP 84353;" after "SP 75886;".

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[41] Schedule 5, Part 1, item 10740

Omit the matter relating to the item. Insert in appropriate order—

Kurraba Point House 23A Lower Lot 33, DP Local 10740 Wycombe Road 3183; Lot 31, DP 68342

[42] Schedule 5, Part 1, item I0322

Omit the matter relating to the item. Insert in appropriate order—

Lavender Bay Stone retaining wall 2, 4, 6, 10, 12, Lots 101 and I0322 12A, 12B, 16, 102, DP 18 and 38 Bay 1248227; Lot 2, View Street and DP 312181; Lot 21 King George 10, DP Street 1196777; SP 10075; Lot 5, DP 11282; SP 75267; Lot 1, DP 810493; Lot 1, DP 316373; Bay View Street road reserve; Lot 7, DP 520996

[43] Schedule 5, Part 1, items I0314, I0315, I0316, I0317, I0318, I0319, I0320 and I0321

Omit "Bayview Street" wherever occurring. Insert instead "Bay View Street".

[44] Schedule 5, Part 1, item 10385

Omit "Crown Land Plan No 2137–3000; unidentified Crown land". Insert instead "Lot 11, DP 1165235; Crown Lots 7325 and 7326, DP 1165248".

[45] Schedule 5, Part 1, item 10360

Omit the matter relating to the item. Insert in appropriate order—

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I0360 Lavender Bay Brett Whitely House 1 Walker Street Lot 1, DP State 931832; Crown Lots 1–3, DP and visual curtilage 931990; Crown Lots 7325 and 7326, DP 1165248; part of Lot 1, DP 917865; part of Lot 62, DP 3756; part of Lot 123, DP 870371; Lot 1, DP 1220077; part of Lot 2, DP 1220077; part of Lot 100, DP 1103512; part of Lot 1187, DP 48335; Lot 1136, DP 752067; Lot 1, DP 175422; part of Lot 1, DP 868707; Lot 31, DP 12668; Crown Lot 11, DP 1165235; Lot 1, DP 599474

[46] Schedule 5, Part 1, item 10387

Omit the property description.

Insert instead "Lot 100, DP 1103512; Lot 123, DP 870371; Lot 1187, DP 48335; Lots 1 and 2, DP 1220077".

[47] Schedule 5, Part 1, item 10423

Insert "; Lots 1 and 2, DP 230594; Lot 1, DP 902933; Lot 1, DP 1159898; Lot 1, DP 581992; Lots 1 and 2, DP 1146537; Lot 14 and part of Lot 15, Section D, DP 8; Crown Lots 1007, 1008, 1134 and 1135, DP 752067" after "(southern end)".

[48] Schedule 5, Part 1, item 10483

Insert "; Lot 1, DP 449731" after "DP 775853".

[49] Schedule 5, Part 1, item 10484

Omit the matter relating to the item. Insert in appropriate order—

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McMahons Point 6 John Street I0484 Stannard Bros Lots A and B, Local Shipyard and and 16-18 DP 420377; Lot associated industrial Munro Street, 1, DP 127195; buildings Boatbuilders Lots 1-4, DP Walk 179730; Lot 1, DP 182585; Lot 1, DP 449731; Lot 1, DP 849188; Lot 2, DP 77853; Lot 987, DP 752067; Lot 102, DP 1005413; SP 63626

[50] Schedule 5, Part 1, item 10522

Omit the property description. Insert instead "SP 83350".

[51] Schedule 5, Part 1, item I0523

Omit the property description. Insert instead "SP 83350".

[52] Schedule 5, Part 1, item 10530

Omit "2-4 Ennis Road and 2-74 Middlemiss Street".

Insert instead "2-44 Ennis Road and 32-76 Middlemiss Street".

[53] Schedule 5, Part 1, item 10554

Omit the matter relating to the item. Insert in appropriate order—

[54] Schedule 5, Part 1, items 10737, 10738 and 10741

Omit the matter relating to the items. Insert in appropriate order, respectively—

Neutral Bay	House	2 Lower Wycombe Road	SP 41344	Local	10737
Neutral Bay	Flat building	18 Lower Wycombe Road	SP 13441	Local	10738
Neutral Bay	Wycombe Private Hotel	28 Lower Wycombe Road	SP 22240	Local	I0741

[55] Schedule 5, Part 1, items I0796 and I0797

Omit the matter relating to the items.

Insert in appropriate order, respectively—

North Sydney House 14 The Avenue Lot 1, DP Local 10796 940094

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North Sydney House 16 The Avenue Lot 5, DP Local 10797 940093

[56] Schedule 5, Part 1, item 10864

Omit the property description. Insert instead "Lot 100, DP 1233008".

[57] Schedule 5, Part 1, item 10865

Omit the property description. Insert instead "Lot 101, DP 1233008".

[58] Schedule 5, Part 1, item 10866

Omit the property description. Insert instead "Lot 102, DP 1233008".

[59] Schedule 5, Part 1, item 10867

Omit the property description. Insert instead "Lot 103, DP 1233008".

[60] Schedule 5, Part 1, item 10868

Omit the property description. Insert instead "Lot 104, DP 1233008".

[61] Schedule 5, Part 1, item 10869

Omit the property description. Insert instead "Lot 105, DP 1233008".

[62] Schedule 5, Part 1, item 10870

Omit the property description. Insert instead "Lot 106, DP 1233008".

[63] Schedule 5, Part 1, item I1125

Omit "Local". Insert instead "State".

[64] Schedule 5, Part 1, item 10916

Omit "Part Crown Land Plan 316-3000".

Insert instead "Lot 1, DP 560566; Lot 7321, DP 11497983".

[65] Schedule 5, Part 1, item 10916

Omit "Local". Insert instead "State".

[66] Schedule 5, Part 1, item 10893

Omit "Local". Insert instead "State".

[67] Schedule 5, Part 1, items 10898, 10922 and 11030

Omit the items.

[68] Schedule 5, Part 1, item 10961

Omit the property description. Insert instead "Lot 1, DP 1244831; SP 96408".

[69] Schedule 5, Part 1, item I1123

Omit the property description. Insert instead "Part of Crown Lot 7321, DP 1149783".

[70] Schedule 5, Part 1, item I1124

Omit the property description. Insert instead "Part of Crown Lot 7321, DP 1149783".

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[71] Schedule 5, Part 1, item I1051

Omit the property description. Insert instead "Part of Lots 80 and 81, DP 1208186".

[72] Schedule 5, Part 1, item I1055

Omit the address and property description.

Insert instead "37 Carr Street" and "Lot 1, DP 1138299", respectively.

[73] Schedule 5, Part 1, items I1070 and I1071

Omit "House" wherever occurring. Insert instead "Flat building".

[74] Dictionary

Omit the definition of *Exceptions to Development Standards Map*.

























































































