



REPORT

# Conservation Zones Review Consultation Report

MERIDIAN URBAN AND NORTHERN BEACHES COUNCIL

March 2023



## QUALITY STATEMENT

### PROJECT MANAGER

Kim Kirstein

### PROJECT TECHNICAL LEAD

Kim Kirstein

### PREPARED BY

Ryan McNeilly Smith

15/02/2023

### CHECKED BY

Sam Evans

9/02/2023

### REVIEWED BY

Kim Kirstein

15/03/2023

### APPROVED FOR ISSUE BY

Kim Kirstein

15/03/2023

## REVISION SCHEDULE

Signature or typed name (DOCUMENTATION ON FILE)

Rev No.	Date	Description	Prepared by	Checked by	Reviewed by	Approved by
1	8/02/2022	Consultation report	RMS	SE	KK	KK
2	15/02/2023	Updates to include Council comments and updated statistics	RMS		KK	KK
3	15/03/2023	Final report	KK		KK	KK

# Meridian Urban and Northern Beaches Council

## Conservation Zones Review Consultation Report

### CONTENTS

<b>1</b>	<b>Overview .....</b>	<b>1</b>
1.1	Engagement approach .....	1
<b>2</b>	<b>Summary of submissions .....</b>	<b>4</b>
2.1.1	Technical studies .....	2
2.1.2	Top 10 themes .....	2
<b>3</b>	<b>Overview of themes raised in submissions .....</b>	<b>4</b>
3.1	Concerns with the changes from C zones to Residential zones .....	4
3.2	Disagree with zoning to C Zones.....	10
3.2.1	Proposed approach for zoning land in the deferred lands .....	13
3.2.2	Site specific property concerns .....	16
3.3	Comments on the approach for C2 zoning .....	19
3.4	Disagree with the methodology .....	21
3.5	Concerns with the hazard criteria .....	24
3.6	Concerns with the accuracy of the mapping.....	26
3.7	Concerns with the proposed land uses.....	28
3.8	Petitions .....	31
3.9	Key Stakeholders.....	32
3.9.1	Community groups.....	32
3.9.2	Government agencies .....	34
<b>4</b>	<b>Next steps .....</b>	<b>37</b>

### LIST OF TABLES

Table 1-1: Summary of engagement .....	2
Table 2-1: Submitters and submissions .....	4
Table 2-2: Submission source .....	4
Table 2-3: Top 10 themes from all submissions .....	2
Table 3-1: Top 10 themes from submissions which do not support a decrease in C Zones ....	4
Table 3-2: Top 10 themes from submission which do not support an increase in C Zones ...	10
Table 3-3: C2 zone themes .....	19
Table 3-4: Methodology theme .....	22
Table 3-5: Hazard criteria themes.....	24
Table 3-6: Themes from submissions which do not support an increase in C Zones.....	27

---

Table 3-7: Themes relating to proposed land uses.....	28
Table 3-8: Summary of feedback on certain land uses and Council response.....	29
Table 3-9: Community group and zoning sentiment .....	33

## LIST OF FIGURES

Figure 2-1: Technical studies.....	2
Figure 3-1: Draft map, foreshore scenic protection.....	6

# 1 Overview

Council commissioned planning consultants Meridian Urban to undertake a review of its conservation zones to establish a consistent approach to their application in the new Northern Beaches LEP (Conservation Zones Review).

The Conservation Zones Review examines the current conservation zones, identifies a methodology for the creation of a consolidated set of conservation zones based on land use, environmental, and hazards criteria, and maps the outcomes from this work, creating a draft conservation zones map for the entire Local Government Area (LGA).

The Conservation Zones Review and its recommendations are based on several technical studies that provide up-to-date research and analysis across the LGA, including:

- Deferred Lands Strategic Bush Fire Assessment;
- Deferred Lands Biodiversity Assessment;
- Watercourse, Wetlands and Riparian Lands Study;
- Biodiversity Planning Review;
- Cowan Creek Estuary Planning Level Study (coastal inundation);
- North and Middle Harbour Estuary Planning Level Study (coastal inundation);
- Stormwater Management Study; and
- Geotechnical Review - Geotechnical Planning Controls.

## 1.1 Engagement approach

Given the scope and complexity of this work, the draft C Zones Review report and associated mapping and technical studies were exhibited for public comment separately from the legislated LEP-making process to enable the views of the community and all stakeholders to be considered.

Community and stakeholder engagement was conducted between **Friday 2 September 2022 and Friday 2 December 2022**.

For the public exhibition, Council provided a mix of high-level and detailed information to allow for different needs and to simplify the sometimes technical nature of the NSW Planning system and studies.

Letters were sent to over 17,000 properties that were either currently in a conservation zone, proposed to be within a conservation zone, or proposed for removal from a conservation zone, and all properties in the deferred lands.

High level information included an overview video, an Easy Read document summary, frequently asked questions, and summary information sheets on the online webtool.








Several webinars were held (5 community webinars and 3 community group presentations) where participants were able to ask questions.




Detailed information included the individual studies, with the outcomes presented in an online mapping tool that presented the results at a property level and allowed comparisons between existing and proposed zones.


A team of planners were available on the phone, via email and in person at the Dee Why office throughout the entire exhibition period.

A summary table of how Council engaged is provided in Table 1-1.

**Table 1-1: Summary of engagement**

	<b>Have Your Say</b>	Visitors: 10,511 (C zones site) Visits: 17,009 (C zones site)	Average time onsite: 1 min 42 secs (C zones)
	<b>Online search tool</b>	Unique property specific information including: <ul style="list-style-type: none"> <li>• 27 Review recommendations;</li> <li>• 50 land use comparison tables; and,</li> <li>• 40 thresholds and criteria descriptions.</li> </ul>	Number of views: 35,000 Average views per day: 950 (Proposed changes map)
	<b>Social media - paid</b>	Posts: 3 ads across Facebook & Instagram Generated Impressions: 107,492 Reach: 53,666	Post/ad clicks: 2,064
	<b>Social media</b>	Organic posts: 4 Generated Impressions: 116,0627 Reach: 61,499	Clicks: 3,657
	<b>Videos</b>	Overview – <a href="#">Northern Beaches Conservation Zones Review</a> Webinars (5 – see breakdown) Tutorial – <a href="#">Online walkthrough of web tool</a>	Views: 1.2K Views: 497 Views: 91
	<b>Online media</b>	Manly Observer – 1 editorial Pittwater online news – 1 editorial Northern Beaches Advocate – 2 editorials North side Living News – 1 editorial	
	<b>Print media and collateral</b>	Media Release: 1 Pittwater Life: 2 editorials Peninsula Living: 1 ad Peninsula Living (south ed.): 1 ad Letters sent to affected rate payers	News Stories: 1 Distribution: 32,000 Distribution: 87,000 Distribution: 57,000 Distribution: 17,000

	Collateral availability: Service Centres and Libraries	Number: 8
 <b>Electronic direct mail</b>	Community Engagement (fortnightly) newsletter: 6 editions	Distribution: 22,000 subscribers
	Council (weekly) e-News: 4 editions	Distribution: 60,650 subscribers
	Stakeholder emails (including report to Council): 5	Distribution: approx. 900 to 1,000 (additional registrations received during exhibition)
 <b>Live online sessions</b>	Webinars: 5	Attendance: 117 across 5
	Community Group Sessions: 3	Attendance: 14
 <b>Key stakeholder engagement</b>	Meetings between Snr Mgmt and Community: 10	Attendance: 38

 <b>Webinars</b>	<b>Registrations</b>	<b>Attendees (Approx)</b>	<b>Video views (12 Jan 23)</b>
<a href="#">Manly LEP 2013</a> – 19 Sep 22	13	10	104
<a href="#">Pittwater LEP 2014</a> – 26 Sep 22	84	56	191
<a href="#">Warringah LEP 2011</a> – 28 Sep 22	23	15	120
<a href="#">Warringah LEP 2000</a> – 29 Sep 22	16	15	69
<a href="#">Pittwater LEP 2014 2 (repeat)</a> – 13 Oct 22	51	21	13
<b>TOTALS</b>	<b>187</b>	<b>117</b>	<b>497</b>

## 2 Summary of submissions




This section of the report provides an overview of results from the public exhibition of the draft C Zones Review report, associated mapping and technical studies.

During the public exhibition period, 935 submissions were received from approximately 863 unique submitters. Three (3) petitions were submitted with a total of 738 signatures. Most responses were received via the *Have Your Say* webform.

**Table 2-1: Submitters and submissions**

	<b>Submitters</b>	837
	<b>Submissions</b>	935
	<b>Petitions</b>	3

**Table 2-2: Submission source**

	<b>Web forms</b>	700
	<b>Emails</b>	225
	<b>Letters</b>	10
	<b>TOTAL</b>	935



### 2.1.1 Technical studies

Respondents had the option to comment on the technical studies which informed the C Zones Review. These were:

- Deferred Lands Strategic Bushfire Assessment;
- Deferred Lands Biodiversity Assessment;
- Watercourse, Wetlands and Riparian Lands Study;
- Biodiversity Planning Review;
- Cowan Creek Estuary Planning Level Study (coastal inundation);
- North and Middle Harbour Estuary Planning Level Study (coastal inundation);
- Geotechnical Review - Geotechnical Planning Controls; and
- Storm Water Management Study.

Figure 2-1 shows the number of submissions which included comments on the technical studies.

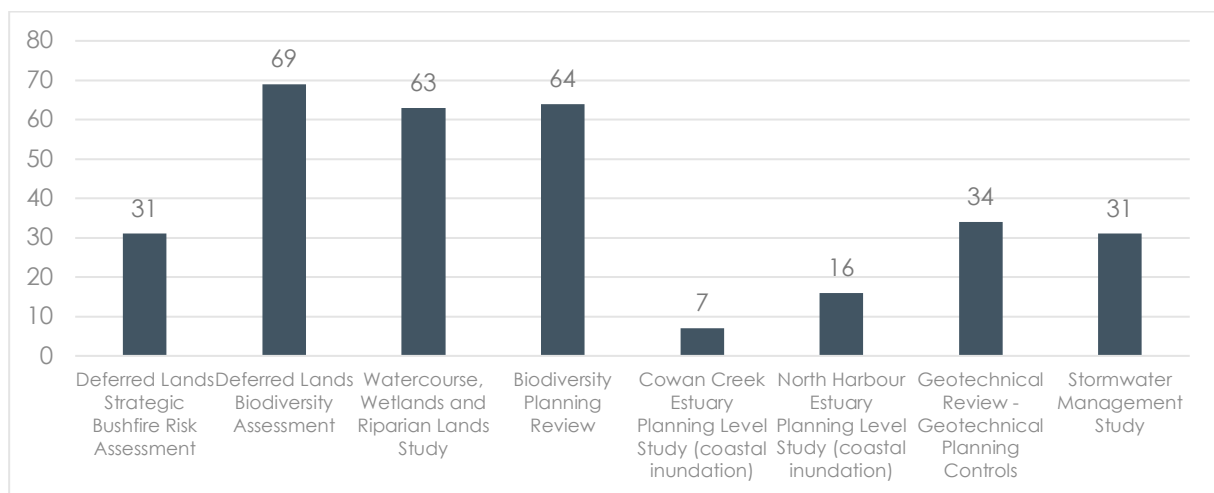


Figure 2-1: Technical studies

### 2.1.2 Top 10 themes

Each submission was reviewed and coded against relevant themes.

The top ten themes to emerge from the public exhibition are shown in Table 2-3.

Table 2-3: Top 10 themes from all submissions

Top 10	Themes	No. (n)	Perc. (%)
1	General comments on the environment / flora and fauna in their locality	302	32.30%
2	Concern about limiting existing uses	222	23.74%
3	Concern with accuracy of mapping	212	22.67%

4	General comments on the character of a place / concern with the impact on the character of a place	163	17.43%
5	Concern about increasing density	157	16.79%
6	Support for corridor / tree canopy as a criteria. Some submissions requested an increase in its environmental protections i.e., from Medium Environmental Value (MEV) to High Environmental Value (HEV) criteria	146	15.61%
7	Concerns with the methodology and application of a consistent approach	125	13.37%
8	Concerns with accuracy of environmental (including transition areas) mapping. Some submissions requested use of the Biodiversity Values map (BV map) instead, which is routinely subject to review and amendment	109	11.66%
9	Support for secondary dwellings / attached dwellings / concern for loss of secondary dwellings	101	10.80%
10	General comments on bush fire in their locality	99	10.59%

### 3 Overview of themes raised in submissions

This section of the report provides an overview of the themes raised in the submissions.

Several distinct clusters of comments emerged from submissions. These are detailed in the following sections and include:

- Concern with the changes from C zones to Residential zones (*primarily in Pittwater*);
- Disagree with zoning to C zones, including:
  - Proposing an approach for zoning land in the deferred lands;
  - Site specific property concerns across the LGA;
- Comments on the approach for C2 zoning;
- Disagree with the methodology;
- Concerns with the accuracy of the mapping; and
- Concerns with the proposed land uses.

#### 3.1 Concerns with the changes from C zones to Residential zones

A set of submissions expressed concern or objection to the proposed zoning changes involving rezoning of properties from a C4 zone to a Residential zone (*primarily in the Pittwater LEP area*).

The top themes to emerge from a review of this sub-set of submissions are provided in Table 3-1.

**Table 3-1: Top 10 themes from submissions which do not support a decrease in C Zones**

Top 10	Themes	No. (n)	Perc. (%)
1	General comments on the environment / flora and fauna in their locality	221	23.64%
2	General comments on the character of a place / concern with the loss of impact on the character of a place	144	15.40%
3	Concern about increasing density	138	14.76%
4	Support for corridor / tree canopy as a criterion. Some submissions requested an increase in its environmental protections i.e., from MEV to HEV	114	12.19%
5	Support for scenic protection criterion, including comments about the importance of protecting scenic values	76	8.13%
6	Concerns about allowing new uses	67	7.17%
7	General comments about local traffic issues and congestion	65	6.95%

8	Support increasing environmental criteria weighting (e.g., from medium environmental value to high environmental value)	64	6.84%
9	Concerns with the methodology and application of a consistent approach	63	6.74%
10	Concerns about the capacity of infrastructure, with some submissions noting that there is insufficient capacity currently	59	6.31%

A breakdown of the themes to emerge from engagement and Council's response are provided below.

### Character and amenity

#### Issues raised in submissions

Loss of the C4 zone to R2 zone will change the character of the area – the bushland landscape should remain the predominant feature, with dwellings and development secondary (Palm Beach / Whale Beach and Bilgola Plateau were areas of particular concern).

#### Council response

- This methodology is not final, and the purpose of the exhibition was to seek feedback on the draft methodology and approach.
- Council is considering changes to the methodology which may increase the number of properties zoned C4 Environmental Living in these areas and in other parts of the LGA based on additional or varied criteria.
- The character of an area is established by a range of development controls included in Council's Local Environmental Plans and Development Control Plans, including height, building set-back, landscaping and floorspace controls. Zoning only sets out the range of permissible and prohibited development types in an area.

### Issues raised in submissions

Concerns about lack of emphasis on scenic preservation.

### Council response

- Council's [LEP/DCP Discussion Paper](#) provided a draft map for foreshore scenic protection areas to be considered in the draft LEP (page 54 - see Figure 4), as part of the Local Character Study.
- In preparing the draft methodology, Council was advised by the Department of Planning and Environment that scenic values/ protection should not be used as a criterion to establish Conservation Zones.
- Regardless, the strong community response supporting character and scenic amenity will provide a focus for Council's discussions with DPE, to consider as a conservation zone criterion.
- It is noted that DPE has recently supported Mosman Council's reliance on Foreshore Scenic Protection Areas to inform the distribution of the C4 zone in their LEP.
- The draft character study may also be considered further in updates to the methodology.

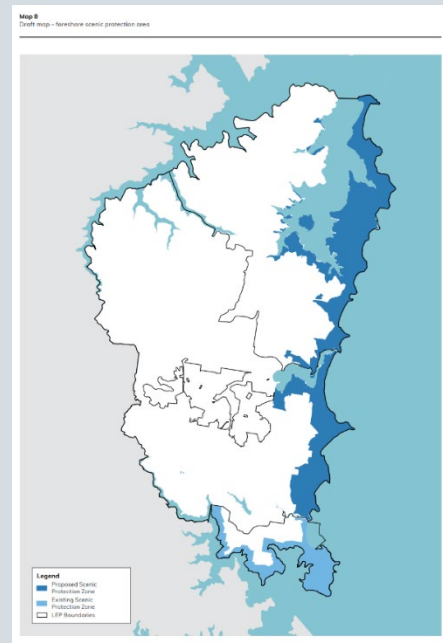


Figure 3-1: Draft map, foreshore scenic protection area within Council's LEP/DCP Discussion Paper

## Biodiversity

### Issues raised in submissions

Greater emphasis should be placed on corridors and tree canopy, which should be split and included as a high environmental criterion.

### Council response

- The tree canopy cover analysis was based on the City of Sydney's 'Urban Tapestry' method in the [Greener Neighbourhoods Guide](#) (pg. 46), which allowed Council to measure an even tree canopy cover at a fine grade.
- Tree canopy was measured along with the biodiversity corridor to avoid double counting, as on private land, biodiversity corridors are usually areas with high tree canopy.
- Council is reviewing the use of these criteria in response to submissions.



**Issues raised in submissions**

Concern that new areas proposed for a Residential zone will result in a reduction of environmental protection.

**Council response**

- Zoning only controls permissible uses. Key controls for development are not based on zones.
- In addition to the work being done for the Conservation Zones Review, staff are also preparing a range of environmental controls that will apply to new development on both Residential and Conservation zoned land, some of which were discussed in Council's [LEP LEP/DCP Discussion Paper](#), exhibited in 2021, including:
  - Biodiversity controls (see [map](#)), informed by the [Biodiversity Assessment of Deferred Lands](#) and the [Biodiversity Planning Review](#);
  - Waterways, wetlands and riparian lands (see [map](#)), from the [Watercourse, Wetlands and Riparian Lands Study](#);
  - Geotechnical Requirements (see [map](#)), from the [Geotechnical Review - Geotechnical Planning Controls](#);
  - Coastal and Estuarine Hazards (see [map](#)), from the [Cowan Creek Estuarine Planning Levels Study - North and Middle Harbour Estuarine Planning Level Study](#) and existing adopted LEP and DCP controls;
  - Tree canopy, landscape open space and deep soil requirements, including provisions in the LEP which are currently not included. These will be based on up to date research from the State Government's [Greener Neighbourhoods Guide tailored to our area from a data analysis of local conditions](#);
  - Stormwater- based on the [Stormwater Management Study](#);
  - Controls to limit building bulk including floor space ratios and excavation controls; and
  - Local Character Statements in the DCP, based on a Character Study which also includes draft foreshore scenic protection areas.
- As above, Council is reviewing several proposed changes to the methodology which may support the application of the Environmental Living zone to more properties.

**Issues raised in submissions**

General discussion of environment and flora and fauna, and bush fire in submissions.

**Council response**

- As above, Council is reviewing several proposed changes to the methodology which may result in the application of the C4 Environmental Living zone to more properties.
- Council will consult with the Department of Planning and Environment (DPE) and the NSW Rural Fire Service (RFS) regarding the use of bush fire mapping data.

### Issues raised in submissions

Pittwater is part of the Ku-ring-gai Geo-region, a special natural and cultural heritage region which contains a large range of native plant and animal species, including threatened species which need to be protected.

### Council response

- Council has been supporting a Geo-region initiative as an educational program for the community. Representatives from Council have met with a Geo-region project working group and have a further meeting arranged for early next year.
- In relation to the Conservation Zones Review, Council has used geology generally as criteria for Conservation zones for steep slopes i.e., Geotechnical Planning Class: C3 Hawkesbury Sandstone with Slope >25 degrees or C5 Narrabeen Group with Slope >15 degrees (medium value criteria) or coastal cliffs (high value criteria).
- Geotechnical controls are proposed to be incorporated in the LEP and DCP to ensure that adequate consideration is had with respect to geotechnical hazards and site stability.
- Mapping that categorises land within the Northern Beaches into different Geotechnical Classes is contained within the proposed DCP controls and is based on the Sydney 1:100,000 Geological Map. This is the same map shown in the Ku-ring-gai Geo-region project.
- Information regarding the proposed geotechnical controls was exhibited concurrently with the Conservation Zones Review.

## Increased density, traffic, and lack of infrastructure capacity

### Issues raised in submissions

Concern that proposed changes would result in an increase in density, leading to increased pressures on existing infrastructure, which some argue is at capacity.

### Council response

- The [Zoning Methodology for Low Density Residential Areas](#) is not intended to increase densities.
- Town houses or other medium density housing (e.g., boarding houses, multi-dwelling housing, attached dwellings or semi-detached dwellings) would not be permitted within the residential zone.
- It is also Council's preference to prohibit dual occupancies in this zone, pending approval by DPE (noting that dual occupancies are currently permitted within the PLEP and MLEP R2 residential zone).
- Although seniors housing may be permitted in the residential zone under [State Environmental Planning Policy \(Housing\) 2021](#), it would need to meet site related requirements including access to facilities and services and suitable access pathways that exclude steeply sloping areas.
- The Local Housing Strategy identifies potential areas for growth as follows:
  - Housing Diversity Areas – within 400m of identified local centres including Avalon Beach, Newport, Warriewood, Belrose, Freshwater, Manly and Balgowlah; and
  - Centre Investigation Areas – within 800m of Brookvale, Dee Why, Mona Vale, Manly Vale, and Narrabeen, and in Forestville and Beacon Hill subject to the future B-Line route.
- We are not investigating growth options elsewhere in the LGA.

- The Local Housing Strategy was approved by the Department of Planning and Environment and prepared in line with the State Government's Greater Sydney Region Plan, North District Plan, and Council's Local Strategic Planning Statement, Towards 2040.

## Hazards

### Issues raised in submissions

Concern that new proposed Residential zone areas are isolated, have restricted access and are subject to hazards including bush fire and landslip.

### Council response

- Council is in consultation with DPE regarding the use of hazards as criteria within C zones.
- Council is reviewing several proposed changes to the methodology which may support the retention of the existing C4 Environmental Living zone on more properties.
- Changes to the methodology are subject to consultation and approval by DPE.

### Issues raised in submissions

A strategic bush fire assessment should be undertaken for the whole of Northern Beaches Local Government Area and there should be a consideration for areas with limited evacuation, access limitations, ember attack and slope.

### Council response

- Council will consult with DPE and the Rural Fire Service regarding the use of bush fire mapping data and associated inputs.

### Issues raised in submissions

Some submissions raised concerns that ridgelines were not accurately mapped, were not adequately considered and/or should be a high environmental criterion.

### Council response

- For the conservation zones, a 50-metre buffer of ridgelines or escarpments was mapped which provides scenic landscape values. These can be viewed on the 'Geotech' map, by switching on the layer 'Ridgelines and Escarpments'.
- The ridgelines and buffer were considered 'Medium Value Criteria', meaning that they would not trigger inclusion in a conservation zone on their own but would, together with another Medium Value Criteria, trigger inclusion.
- We will also review our data to identify any ridgelines that may not have been accurately mapped.
- Ridgelines not identified as Conservation Zones will be protected by other measures in our LEP and DCP which will be placed on public exhibition in 2023.

## 3.2 Disagree with zoning to C Zones

A set of submissions expressed concern or objection to proposed zoning changes which would increase the C Zone protection in their area.

The top themes to emerge from review of this sub-set of submissions are provided in Table 3-2.

**Table 3-2: Top 10 themes from submission which do not support an increase in C Zones**

Top 10	Themes	No. (n)	Perc. (%)
1	Concern about limiting existing uses	170	18.18%
2	Concerns with the accuracy of the mapping	94	10.05%
3	General comments about support for secondary dwellings or concerns about loss of secondary dwellings	81	8.66%
4	Concerns with accuracy of environmental (including transition areas) mapping. Some submissions requested use of BV map instead, which is routinely subject to review and amendment	69	7.38%
5	Concern with accuracy of bush fire mapping	54	5.78%
6	Concerns about decreased housing prices / property values because of the zoning changes	52	5.56%
7	Concern with a loss of rural uses	51	5.45%
8	Concern with accuracy of waterway mapping	50	5.35%
9	Concern with the use of flood hazard as a criterion	48	5.13%
10	Concern with a lack of public notification	45	4.81%

A breakdown of the themes to emerge from engagement and Council's response is provided below.

### Land use permissibility

#### Issues raised in submissions

No land should have current permitted land uses reduced or removed.

#### Council response

- Changing of zones and permissible land uses is a process facilitated via the NSW Planning System and is not an uncommon occurrence over time. Changes of zoning can occur because of better information e.g., flooding or bushfire data, or because an area is proposed to change or grow e.g. French Forest Town Centre.
- In the deferred lands (Oxford Falls Valley and Belrose North) in particular, the proposed move to a "standard instrument" LEP means that Council must carefully consider the range of permitted landuses. This work has yet to be finalised and will be exhibited with the draft LEP.

- Compensation or land acquisition is generally not required unless land is rezoned for a public purpose e.g., a park or road. Equally, Council does not tax any gains made by landowners because of land re-zoning.

#### Issues raised in submissions

Concern with the sterilisation of the Exempt and Complying Development SEPP.

#### Council response

- The Exempt and Complying Development State Environmental Planning Policy permits a range of development without development consent. It does not currently apply to land zoned "Conservation" e.g., C4, C3, C2, C1.
- Council's first responsibility is to zone land appropriately. If it is determined that a Conservation zone is appropriate for a parcel of land one of the consequences is that the SEPP will not apply.
- The Code can facilitate development with less landscaped area, less canopy tree retention, higher GFA, and no consideration of view sharing or protecting scenic amenity.
- The requirement for a Development Application will result in a more thorough assessment and better development outcomes in Conservation zones.

### Affordable housing and housing diversity

#### Issues raised in submissions

Some support for new residential zones to support housing affordability and/or access to a diverse range of housing options.

#### Council response

- Council's plan for addressing Housing Diversity and affordability is outlined in the Local Housing Strategy, in areas close to centres and transport (see above).
- The [Zoning Methodology for Low Density Residential Areas](#) is not premised on increasing densities or addressing Housing Diversity.

### Environmental criteria

#### Issues raised in submissions

Promote Conservation zoning of publicly owned land.

#### Council response

- This is consistent with Council's [Zoning Methodology for Parks or Conservation Areas](#) which proposes a C2 Environmental Conservation zone on Natural Areas and State Parks identified in Council's Open Space and Recreation Strategy (see [Criteria Definitions](#)).
- Unfortunately, a mapping error resulted in number of sites identified as natural areas not being zoned as C2 in the exhibited map.
- Council is undertaking a review to fix any known errors and will also update in response to submissions.



#### Issues raised in submissions

Concerns with inaccurate environmental values mapping – the State's Biodiversity Values (BV) map should be used, which is routinely subject to review and amendment.

#### Council response

- The BV map was developed for a specific purpose – as a trigger into the Biodiversity Offsets Scheme (BOS), it is not designed to be an exhaustive map of all biodiversity values that may be present at a particular location. Other biodiversity values may be present on a site but are not included on the BV map. For example, many Threatened Ecological Communities listed under the *Biodiversity Conservation Act 2016* are not included on the BV map, even though they may contain high biodiversity values.
- Council Local Environmental Plans (LEP) do not need to be consistent with the BV Map. Councils may choose to zone land under their LEP where they have evidence that land has important biodiversity values for their area, even though it does not meet the criteria for inclusion on the BV Map.

#### Issues raised in submissions

Disagree with including riparian corridors as a criterion – riparian zones should not burden properties.

#### Council response

- Council has a commitment in Towards 2040, which includes the principle to:
  - Protect and enhance the ecological condition of coastal areas, catchments (including groundwater aquifer,) waterway (wetlands watercourses, lagoons, and estuaries) and their riparian areas.
- Watercourses, wetlands, and the riparian land surrounding them are important ecological systems that support aquatic and terrestrial habitat and wildlife, provide connectivity and biodiversity, reduce impacts from stormwater runoff and pollution, and contribute to the character, aesthetics, and recreational value of the local area.
- It is important to protect these areas not only for their own intrinsic significance, but also for the benefits they provide in terms of the quality of downstream waterbodies and in modulating flood response.
- It is imperative that Council consider the environmental impacts and risks associated with development adjacent to watercourses and wetlands prior to granting development consent.

## Hazards

#### Issues raised in submissions

Do not support rezoning to C zones based on natural hazards (i.e., bush fire, flooding and coastal hazards) which already have appropriate planning controls and processes in place, and will lead to an increase in insurance costs.

#### Council response

- Council has commitments in Towards 2040, which include principles to:
  - Avoid intensification of development, inappropriate development and incompatible land uses in areas exposed to natural hazards; and

- Ensure development is avoided in high-risk areas that are difficult to evacuate or would be occupied by at risk members of the community (including schools, hospitals, and nursing homes).
- Best practice planning dictates that it is not appropriate to facilitate increased development in areas we know are subject to the devastation wrought by natural hazards.
- Presently, hazards are managed using 'overlays' in LEPs and other Environmental Planning Instruments, which trigger certain requirements (e.g., development on flood prone land must be built above a certain floor level). However, these 'overlays' do not allow Council to prohibit certain hazard-sensitive development types. Under the Standard Instrument - Principal Local Environmental Plan 2006 (Standard Instrument), Land Use Zones are the only mechanism by which we can limit unsuitable developments and further intensification of development in low density residential areas subject to natural hazards.
- Council therefore considers natural hazards as an important criterion to inform conservation zones. This approach sets a clear direction for future land use and simplifies requirements and reduces uncertainty and high costs and time to applicants and assessment authorities.
- The use of hazards as criteria is consistent with the Departments guidelines. Council has commenced further discussions with DPE regarding the use of hazards for C zones criteria.
- Insurance premiums are affected by many factors. Hazards mapping undertaken by Council and other authorities is already considered by insurance providers.

### 3.2.1 Proposed approach for zoning land in the deferred lands

Of the submissions which expressed disagreement with the zoning of land to a C zone, some of those submissions expressed concern or objection to proposed zoning changes within the deferred lands area and recommended a proposed approach for zoning the land. A breakdown of the themes to emerge from engagement and Council's response are provided below.

#### Proposed C zone approach

##### Issues raised in submissions

Environmental mapping criteria should be based on the BV map.

##### Council response

- See 3.2.

##### Issues raised in submissions

C Zones should only be on land where the primary purpose is for the conservation and / or management of environmental values, otherwise a different zone should apply.

##### Council response

- This is consistent with Council's Zoning Methodology for Rural Areas.
- However, hazards have also been considered in accordance with DPE guidelines. Council is meeting with DPE to discuss the appropriateness of the methodology as it relates to hazards.

- As part of this process, environmental values generated from technical studies were considered on parts of 'undeveloped bushland,' identified from an analysis of aerial photography.

#### Issues raised in submissions

All land identified for future urban release in the Warringah Non-Urban Lands Study should be zoned R2 – Low density residential.

#### Council response

The Warringah Non-Urban Lands Study (NULS) was undertaken prior to the adoption of Warringah LEP2000. It was not adopted as the policy position of Council for that LEP. Since then, planning for the area has significantly progressed, including:

- The Oxford Falls Valley and Belrose North Strategic Review 2017 – A joint project undertaken by Council and the NSW Department of Planning
- The Oxford Falls Valley and Belrose North Planning Proposal (withdrawn by the Minister for Planning and Public Space on 5 May 2020)
- The Greater Sydney Regional Plan, 2018 and North District Plan, 2018 which identified Oxford Falls Valley as part of the Metropolitan Rural Area (MRA), stating further urban development is not consistent with the values of the MRA – a clear State-level direction to avoid housing growth in these areas.
- The Northern Beaches Local Strategic Planning Statement, Towards 2040, which was supported by the NSW Government for consistency with the Region and District Plans. This Plan outlined Council's intent to use outcomes from the technical studies to inform the future LEP and DCP controls for the MRA and the 'Future MRA investigation area' (Parts of Oxford Falls south, Cromer Heights west and Belrose North).
- The Northern Beaches Local Housing Strategy, 2021 - that illustrates how housing targets can be met without developing non-urban land.
- The Conservation Zones Review including supporting technical studies including the Deferred Lands Strategic Bush Fire Assessment and the Deferred Lands Biodiversity Assessment.

#### Issues raised in submissions

Any land that has been approved for a Boarding house should be zoned R3 – Medium density residential due to the approved increased density.

#### Council response

- This is inconsistent with Council's Housing Strategy
- The Local Housing Strategy identifies the following options for housing growth:
  - Housing Diversity Areas – within 400m of identified local centres including Avalon Beach, Newport, Warriewood, Belrose, Freshwater, Manly and Balgowlah; and
  - Centre Investigation Areas – within 800m of Brookvale, Dee Why, Mona Vale, Manly Vale, and Narrabeen, and in Forestville and Beacon Hill subject to the future B-Line route.
- Council is not investigating options for growth beyond these areas.

#### Issues raised in submissions

All remaining land should be zoned RU4.

#### Council response

- The range of permitted uses in the Rural zone in the deferred lands has not yet been finalised – this will occur as part of the broader Northern Beaches LEP work.
- Council currently uses two Rural zones: RU2 – Rural Landscape under the Pittwater LEP 2014, and RU4 – Primary Production Small Lots under Warringah LEP 2011.
- The previous Planning Proposal for the Deferred Lands proposed an RU4 zoning for rural areas.
- This zone permits fewer uses than the RU2 zone used in the Pittwater LEP.

#### Issues raised in submissions

Sites with schools and churches contain a mix of land uses and should not be zoned SP2.

#### Council response

- Land uses for the Deferred Lands have not yet been finalised and will be informed by the Deferred Lands Strategic Bush Fire Risk Assessment.
- This Assessment analyses the nature of existing and potential future risk, such that land use planning controls are identified to avoid, and otherwise mitigate, the potential emergence of unacceptable future risk through inappropriate and incompatible land uses which may otherwise establish.
- It is important to note this Assessment found that schools, childcare facilities and seniors living are vulnerable facilities in the event of a bush fire, and are referred to under Planning for Bushfire Protection 2019 as Special Fire Protection Purposes (SFPPs).

### Minimum lot sizes

#### Issues raised in submissions

Minimum lot sizes should be changed to be consistent with other areas of Northern Beaches.

#### Council response

- A reduction of minimum lot size in the deferred lands would increase residential density in the area which could expose more people to hazards e.g., bushfire.
- The proposal is also inconsistent with Council's Local Housing Strategy which proposes that growth should occur closer to existing centres.
- Minimum allotment size and subdivision controls will be considered in the draft LEP to be placed on public exhibition in 2023.

### Planning proposals for urban development

#### Issues raised in submissions

The Metropolitan Local Aboriginal Land Council (MLALC) land is subject to a Planning Proposal which is proposing urban development.

### Council response

- The Conservation Zones Review is a separate process to the Development Delivery Plan process under the Chapter 3 of State Environmental Planning Policy (Planning Systems) 2021.
- The Metropolitan Local Aboriginal Land Council has prepared a Planning Proposal to rezone land at Morgan Road for redevelopment.
- As a landowner in the Deferred Lands, the Metropolitan Local Aboriginal Land Council has been notified of the Conservation Zones Review.

## 3.2.2 Site specific property concerns

A set of submissions expressed concern or objection to site-specific proposed changes. A breakdown of the themes to emerge from engagement and Council's response are provided below.

### Methodology

#### Issues raised in submissions

Concerns with inaccurate mapping, that the methodology was based on a desktop review and there has been a lack of site inspections and ground truthing.

#### Council response

- The Conservation Zones Review is based on a comprehensive evidence base that has included several technical studies and inputs such as a biodiversity planning review, biodiversity assessment of deferred lands, flood studies, bushfire prone land map, deferred lands strategic bushfire assessment, geotechnical review and planning controls, watercourse wetlands and riparian study and tree canopy data.
- All the above studies were based on the best information available.
- For example, the Biodiversity studies include consideration of the NSW Government vegetation mapping and detailed mapping and studies developed by the former Pittwater, Warringah, and Manly Councils. The current study and previous studies also included on ground verification of biodiversity values. The current study also used remote sensing including recent high resolution aerial photography and airborne laser imaging, detection, and ranging (LIDAR). Consultant and Council technical experts working on the project also have substantial local knowledge which has helped improve accuracy of the draft mapping.
- All the above maps have been made available for public consultation. Council has also committed to further "ground-truthing" of land where specific concerns are raised about the accuracy of mapping.

### Land use permissibility

#### Issues raised in submissions

Concern for the loss of existing use rights.

#### Council response

- Existing legal development consents will not be invalidated by any change of zoning. Existing buildings and land uses can remain, provided they were lawfully established. Any proposed changes to zoning will not come into effect until they are approved by



the NSW Department of Planning and Environment. As this is unlikely to occur until 2024, opportunities exist to apply for development consent under the current planning rules until the new Local Environmental Plan commences.

#### **Issues raised in submissions**

Concern Exempt and Complying Development SEPP will not apply to land in C zones, resulting in increased development costs.

#### **Council response**

- The C zones review makes zoning recommendations based on the environment and hazard attributes of land. The subsequent interplay with State Policy is beyond Council control.
- The Exempt and Complying Development SEPP has the potential for significant impacts on environmentally significant or hazardous lands.
- For example, the Code can facilitate development with less landscaped area, less canopy tree retention, higher GFA, and no consideration of view sharing or protecting scenic amenity.
- Development costs in these lands may already be increased due to the presence of environmental significance or hazards identified in the supporting technical studies and inputs.

#### **Issues raised in submissions**

Additional studies will be required to undertake development on land in C zones, resulting in increased development costs (for land that is currently R zone).

#### **Council response**

- Development on land in a C zone may not require any additional studies. It depends on the site and the development proposed.

#### **Issues raised in submissions**

Restriction on secondary dwellings and/or bed and breakfasts in C3 zone is not supported (reasons included loss of use rights, loss of future income opportunity, affordable housing issues, need for intergenerational living options).

#### **Council response**

- Existing development consents will not be invalidated by any change of zoning. Existing buildings and land uses can remain, provided they were lawfully approved.
- In accordance with relevant State policies, Airbnb, Stayz etc. is defined as “short term rental accommodation” which is separately defined and controlled under State Environmental Planning Policy (Housing) 2021, see (see the NSW Government website). “Bed and Breakfast accommodation” is separately defined as a commercial operation.
- Any proposed changes to zoning will not come into effect until they are approved by the NSW Department of Planning and Environment. As this is unlikely to occur until 2024, opportunities exist to apply for development consent under the current planning rules until the new Local Environmental Plan commences.

- Council has not yet determined the final range of permissible land uses for each zone or area.

#### Issues raised in submissions

Concern with the use of C zones in areas characterised by residential flat buildings i.e., Manly.

#### Council response

- The Manly LEP 2013 currently permits residential flat buildings in land zoned C4 Environmental Living. The proposed Northern Beaches C4 Environmental Living Zone prohibits residential flat buildings in this zone.
- Existing buildings and land uses can remain, and be extended or rebuilt, provided they were lawfully established. Existing development consents will not be invalidated by any change of zoning.
- Any proposed changes to zoning will not come into effect until they are approved by the NSW Department of Planning and Environment. As this is unlikely to occur until 2024, opportunities exist to apply for development consent under the current planning rules until the new Local Environmental Plan commence.

### Decrease in property values

#### Issues raised in submissions

Rezoning to a C zone will decrease property values. Properties identified for a C zone should be acquired or property owners compensated.

#### Council response

- Changing of zones and permissible land uses is a process facilitated via the NSW Planning System and is not an uncommon occurrence over time. The zoning framework doesn't remain static forever.
- Where land zoning changes, the range of permissible uses change. Compensation or land acquisition is generally not required unless land is rezoned for a public purpose e.g., a park or road.
- Equally, Council does not tax any gains made by landowners because of land re-zoning.

### Illegal clearing

#### Issues raised in submissions

Submitters feel they are being penalised for not clearing their land (hence triggering C4 or C3), yet neighbours that have illegally cleared their land are given additional use rights through a residential zoning.

#### Council response

- The guidelines provided by the NSW Department of Planning and Environment (DPE) prevent us from applying a conservation zone to properties unless they have been identified as having either environmental values or hazard criteria.

- Council will proceed with compliance and enforcement activities where we have evidence of illegal clearing.
- As outlined in Priority 2 of the Local Strategic Planning Statement (Towards 2040), Council will Investigate options for funding, acquisition and reservation of urban tree canopy and bushland with biodiversity, habitat, recreational and scenic values, including incentives or assistance to private property owners. This is further outlined in the adopted Bushland and Biodiversity Policy, which states Council will *"Identify options for funding, acquisition, and reservation of bushland with significant biodiversity, habitat, recreational and scenic values. AND Investigate options for the provision of incentives/assistance to property owners to conserve bushland on private land, provided bushland reserves are of a viable size and shape with vegetated linkages to other bushland in secure tenure."*

### 3.3 Comments on the approach for C2 zoning

A set of submissions expressed support for and / or concern or objection to proposed zoning changes to existing C2 zones and the proposed C2 zones.

The top themes to emerge from review of this sub-set of submissions are provided in Table 3-3.

Table 3-3: C2 zone themes

Top 8	Themes	No. (n)	Perc. (%)
1	Suggested additional C2 zoning of land for public reserves / public areas like coastal foreshore / dunes	61	6.52%
2	Identification of land that should be C2 / RE1, request for additional C2 zoning over private property	49	5.24%
3	Support for the inclusion of non-urban bushland areas as a criterion for the C zones	34	3.64%
4	Support the use of the C2 zone provided there are no limits on existing recreational use of the land i.e., Manly Dam	16	1.71%
5	Support for retaining land with an existing C2 zone, in a C2 zone	8	0.86%
6	Support for conservation mechanism protection criterion	6	0.64%
7	Object to rezoning land adjacent to conservation / bushland areas to a C2 zone / object to C2 zoning	3	0.32%
8	Non-support for conservation mechanism protection criterion	2	0.21%

A breakdown of the themes to emerge from engagement and Council's response are provided below.

## Support for use of the C2 zone

### Issues raised in submissions

Identification of publicly owned properties zoned C3, C4, Residential or similar that should be zoned C2.

### Council response

- Land ownership was not considered a criterion for the application of a C2 Environmental Conservation Zone in the draft methodology.
- Council will consider this issue further in a review of the draft methodology.

### Issues raised in submissions

Land subject to covenants should be zoned C2, with some submissions identifying land subject to an existing covenant or court agreement that should be included.

### Council response

- This is consistent with Council's [Zoning Methodology for Parks or Conservation Areas](#) which proposes a C2 Environmental Conservation zone on land subject to a 'Conservation Mechanism' which include conservation covenants (see [Criteria Definitions](#)).
- The draft Conservation Zones Review maps were based on Council records of known Biobank Sites and Biodiversity Stewardship sites; however, Council did not have an up-to-date consistent data set for Covenants.
- Properties identified through this exhibition as being subject to Covenants will be considered in the next revision of mapping for C2 Environmental Conservation lands, including split zones where appropriate.
- Note also that properties subject to conservation covenants are intended to retain conservation values irrespective of zoning. Only the designated authority (Council, DPE or the LE Court) can overturn the covenant.

### Issues raised in submissions

Support for the use of C2 zone on public reserves proposed RE1 i.e., War Memorial State Park (Manly Dam), Oxford Falls Crown reserve, bushland areas of Narrabeen Lagoon, Porter's Reserve, Attunga Reserve and surrounds, Mermaid Pools, Stony Range Regional Botanic Garden, Sydney Water surplus land (next to Wakehurst Pk and Bantry Reserve), Parts of golf course etc.

### Council response

- This is consistent with Council's [Zoning Methodology for Parks or Conservation Areas](#) which proposes a C2 Environmental Conservation zone on Natural Areas and State Parks identified in Council's Open Space and Recreation Strategy (see [Criteria Definitions](#)).
- Unfortunately, a mapping error resulted in number of sites identified as natural areas not being zoned as C2 in the exhibited map.
- Council is undertaking a review to fix any known errors and will also update in response to submissions.

#### Issues raised in submissions

Support for including Manly Dam in a C2 zone, however concerns about limiting recreation uses, including the waterway.

#### Council response

- Council does not propose limiting recreation uses at Manly Dam or other Council managed reserves.
- Where required, Council may consider adding an additional permitted use to ensure the LEP articulates the current and proposed use of reserves.
- Note that most public works on Council managed land is managed through a State Environmental Planning Policy which is separate to the LEP, called: [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#) that permits public authorities to carry out a wide range of recreational works.

#### Issues raised in submissions

Support for increasing C zones from the C3 to the C2 zone in non-urban bushland areas, including the deferred lands to ensure the high ecological values of the land are protected.

#### Council response

- Council did not consider a C2 Environmental Conservation zone for private lands in non-urban areas, due our understanding that Council may have to compulsorily acquire these sites if they were zoned C2.
- A C2 Environmental Conservation zone was considered under the [Zoning Methodology for Parks or Conservation Areas](#).
- For non-urban land that did not meet the above methodology, a C3 zone was considered (see [Zoning Methodology for Rural Areas](#)).
- Council will discuss this issue further with DPE.

#### Issues raised in submissions

Support for private property adjoining national parks and nature reserves to be included in a C2 zone.

#### Council response

- Council did not consider a C2 Environmental Conservation zone for private lands in non-urban areas, due our understanding that Council may have to compulsorily acquire these sites if they were zoned C2.
- Also, it is considered that rural zones in some cases provide a restriction in land uses that provides a level of protection for adjoining National Parks.

## 3.4 Disagree with the methodology

A set of submissions expressed concern or objection to the methodology used in the Conservation Zones Review. A breakdown of the themes to emerge from engagement and Council's response are provided below.

The top themes to emerge from review of this sub-set of submissions are provided in **Table 3-4**.

Table 3-4: Methodology theme

Top 6	Themes	No. (n)	Perc. (%)
1	Concerns with the methodology and application of a consistent approach	125	13.37%
2	Concern with patchwork approach/ uniformity of the mapping i.e., why is my neighbour included in a different zone?	95	10.16%
3	Concern with a lack of public notification	67	7.17%
4	Concern with a lack of Residential zone definitions being included in the proposed zoning changes	47	5.03%
5	General comments about split zone, principally relating to proposed split zones on the submitters property	36	3.85%
6	General comments expressing a desire for more community education about conservation and environmental management	4	0.43%

A breakdown of the themes to emerge from engagement and Council's response are provided below.

### Concerns with public exhibition process

#### Issues raised in submissions

Some submissions raised concerns with the public exhibition process, including:

- The highly technical nature and high volume of information;
- The letter was too high level and/or was not clear enough on the implications;
- The letter was not received;
- The online maps and information were highly technical and not easily understood;
- The exhibition period was too short to review all information (even with the extension)
- Difficulty in comprehension including older people and or those who do not have a computer and/or are computer illiterate;
- Difficulty in finding information on the website and online map tool and requests for hard copies of information; and
- Requests for a public meeting.

#### Council response

- Council's engagement approach is summarised at the commencement of this report.
- Due to the complexity of detail associated with individual properties, it was not possible to provide too much detail in letters. Where letters were alleged to have not been received, Council's records indicated they had been sent.
- Council provided hard copies of the interactive maps and information that related to proposed changes to individual landowners.
- One on one time with staff was prioritised over a public meeting due to the detailed, technical, and site-specific nature of the information.
- The public exhibition was non-statutory, and this exhibition formed an early stage of resolving the future Conservation Zones approach.



- Lessons learnt from this exhibition will be implemented in the next further exhibition period in 2023 after the draft Northern Beaches LEP and DCP is reported to Council.

## Methodology

### Issues raised in submissions

Objections to the need to apply the same methodology across the LGA.

### Council response

- The State Government requires Council to have one Local Environmental Plan (LEP) for our Local Government Area (LGA). Therefore, we need to establish a consistent approach to the use of conservations zones (as well as all other zones) across the Northern Beaches.
- The LEP is based on a standardised framework, called the [Standard Instrument—Principal Local Environmental Plan](#) (Standard Instrument LEP).
- While development of a single LEP and DCP for the Northern Beaches will provide our community with a clearer, simpler and fairer set of planning rules, we are committed to developing and implementing a planning framework that supports the community's values and aspirations for our area.
- It is noted that a consistent zoning approach still allows for a differentiated set of planning controls to be applied that have regard for local character and local circumstances.
- The draft methodology has been prepared with regard for the practice notes and guidance of the State Government and contemporary best practice in resilience and strategic planning.
- This methodology is not final, and the purpose of the exhibition was to seek feedback on this methodology and approach.

### Issues raised in submissions

Concern with patchwork approach/ uniformity of the mapping i.e., why is my neighbour included in a different zone?

### Council response

- The draft methodology assigned conservation values on a site-by-site basis.
- For example, if a property had been identified for a conservation zone, it meant that the Conservation Zones Review has identified either environmental and/or hazard criteria on the site, and that criteria has met the required thresholds to apply a conservation zone.
- For a neighbouring property however, the Review may have either not identified any environmental or hazard criteria, or if it did, that criteria did not meet the required thresholds.
- Council has received a significant amount of feedback and is reviewing several proposed changes to the methodology which may result in a change to this outcome.

### Issues raised in submissions

There is a lack of definition of the Residential zones and what land uses will be permitted

#### Council response

- The Review identifies some areas as a generic 'Residential zone' for sites that were previously a Conservation zone in the Pittwater and Manly areas.
- Council has not specified the range of land uses for this zone because this work has not yet been finalised.
- However, for areas in the Pittwater and Manly LEPs, a 'Residential zone' is likely to become an R2 Low Density Residential zone to maintain the low-density nature of the neighbourhood. It will differ from the existing R2 Low Density Residential zones within these LEPs, which is why the R2 zone has not been specified.
- Land uses permitted in proposed 'residential zones' will be considered in the draft LEP to be on public exhibition in 2023.

### DPE support

#### Issues raised in submissions

Questions as to whether DPE had approved the process.

#### Council response

- Council consulted the Department of Planning and Environment (DPE) and has taken into consideration relevant Departmental guidance in preparing the methodology.
- Council received a formal submission from DPE dated 16 December 2022.
- The Department noted Council's approach may influence the way conservation zones are applied by councils across New South Wales, and suggested they work with Northern Beaches Council to finalise the work as part of a pilot project.
- Council will continue to work with the Department on the next steps of progressing this project.
- The Department of Planning and Environment must approve a new Northern Beaches LEP.

## 3.5 Concerns with the hazard criteria

A set of submissions expressed concern or objection to the hazard criteria used in the C Zones Review.

The top themes to emerge from review of this sub-set of submissions are provided in **Table 3-5**.

**Table 3-5: Hazard criteria themes**

Top 12	Themes	No. (n)	Perc. (%)
1	Concern with the use of bush fire hazard as a criterion	57	6.10%
2	Concern with the use of flood hazard as a criterion	52	5.56%
3	Support for the use of bush fire hazard as a criterion	40	4.28%
4	Concern with the use of land with steep slopes (geotech layer) as a criterion	40	4.28%
5	Concern with the use of coastal and estuarine hazards as a criterion	37	3.96%

6	Concern with the use of hazards as a criterion	36	3.85%
7	Concern with the use of coastal cliff zones as a criterion	36	3.85%
8	Support for the use of hazards as a criterion	35	3.74%
9	Support for the use of land with steep slopes (geotech layer) as a criterion	28	2.99%
10	Support for the use of flood hazard as a criterion	6	0.64%
11	Support with for the use of coastal cliff zones as a criterion	5	0.53%
12	Support for the use of coastal and estuarine hazards as a criterion	3	0.32%

A breakdown of the themes to emerge from engagement and Council's response are provided below.

## Bush fire

### Issues raised in submissions

- Questions around the accuracy of bush fire mapping (specifically the Bush Fire Prone Land Map 2020).
- Some support for including a greater amount of bush fire criteria (i.e., buffer zones, areas with limited access, evacuation risk, areas prone to ember attack in addition to vegetation category 1).
- Objection to the use of bush fire as criteria in Ingleside and the deferred lands. Some submissions noted that bush fire is sufficiently managed currently through other mechanisms such as Asset Protection Zones (APZs).

### Council response

- The findings from the final report of Planning for Bush Fire Protection 2019, and the NSW Bush Fire Inquiry 2020, have informed our work in the C zones.
- Council will consult further with DPE and the RFS regarding the use of bush fire mapping data before finalising a position for the draft LEP.

## Flooding and stormwater

### Issues raised in submissions

- Contesting flood mapping based on personal experience.
- Blaming Council for flooding or stormwater due to lack of infrastructure and/or maintenance of infrastructure.

### Council response

- The findings from the NSW Independent Flood Inquiry have informed our work on the C zones.
- Flood mapping and analysis is based on extensive modelling and studies and is a current consideration in development applications (see [website](#)).
- A Stormwater Management Study was undertaken to identify priority catchments and develop stormwater targets based on catchment condition and waterway health. The

outcomes of the study were too broad to help inform Conservation Zones however, due to its links with watercourses and wetlands and the future LEP, the Study was included as part of this community consultation.

- Council will consult with DPE regarding the use of flooding data.

## Coastal hazards

### Issues raised in submissions

Objection to the application of the C3 zone on sites subject to coastal hazards or steeply sloping sites where the coastal hazard only affects the lower portion of the site. Some submissions also noted that existing controls adequately compensate for coastal hazards, such as the foreshore building line and/or foreshore scenic protection.

### Council response

- Council will consult with DPE regarding the use of coastal hazards data

## Geotechnical

### Issues raised in submissions

- Support for retention of C zones on steeply sloping sites.
- Geotechnical inputs do not take into consideration land slips.
- Support for all Geotechnical inputs to be considered as high environmental value criteria, rather than medium environmental value criteria.

### Council response

- Council exhibited a technical study named the [Geotechnical Review - Geotechnical Planning Controls](#).
- Two Geotechnical Planning Classes were identified as Medium Environmental Value (MEV) Criteria: C3 Hawkesbury Sandstone with Slope > 25 degrees or C5 Narrabeen Group with Slope > 15 degrees. Two or more MEV criteria were required to allocate a C4 Environmental Living zone in urban areas.
- Geotechnical Coastal Cliffs were identified as Hazard Criteria for consideration of the C3 Environmental Management zone in urban areas.
- Land slip issues were not considered as a criterion for the establishment of the current C4 zone under the Pittwater LEP.
- Council will consult with DPE regarding the use of geotechnical data.

## 3.6 Concerns with the accuracy of the mapping

A set of submissions express concern or contests the accuracy of mapping. The top themes to emerge from review of this sub-set of submissions are provided in Table 3-6.

**Table 3-6: Themes from submissions which do not support an increase in C Zones**

Top 8	Themes	No. (n)	Perc. (%)
1	Concern with accuracy of mapping	212	22.67%
2	Concerns with accuracy of environmental (including transition areas) mapping. Some submissions requested use of the Biodiversity Values map (BV map) instead, which is routinely subject to review and amendment	109	11.66%
3	Contest accuracy of waterways / riparian mapping	68	7.27%
4	Contest accuracy of bush fire mapping	67	7.17%
5	Concern with accuracy of corridor / tree canopy mapping	49	5.24%
6	Contest accuracy of geotech / landslip / ridgelines mapping	33	3.53%
7	Contest accuracy of flood mapping	29	3.10%
8	Contest accuracy of coastal mapping	12	1.28%

A breakdown of the themes to emerge from engagement and Council's response are provided below.

#### Issues raised in submissions

Some submissions contest aspects of the mapping:

- Some submissions noting that there are no environmental values on their properties and others requesting identification given proximity to bushland areas;
- Some submissions noting that they should not be mapped for bush fire and others requesting a LGA wide bush fire study with consideration of access limitations and evacuation risks;
- Some submissions noting that they do not have a riparian corridor over their property;
- Some submissions noting that their property does not have trees on it / vegetation to warrant its protection and others contesting that corridor / tree canopy data is insufficient and protections need to be increased;
- Some submissions noting that there are ridgelines in their area that have not been mapped;
- Some submissions noting that they do not experience flooding; and
- Some submissions noting that coastal impacts are only experienced at the back parts of properties and therefore should be split zoned.

#### Council response

- Council will review the mapping in response to submissions and investigate changes to the methodology.
- In some cases, site visits may be conducted, including where changes to the methodology do not address concerns raised.
- Inspection details will be determined once Council has confirmed the number of site visits required, locations, and the matters to be addressed. Council must also engage

consultants with the required expertise to undertake the inspections, together with relevant Council staff.

- The outcome of the public exhibition will inform the development of a draft Northern Beaches Local Environmental Plan and Development Control Plan which will be presented to Council next year before going on public exhibition for community feedback.

### 3.7 Concerns with the proposed land uses

A set of submissions raised concerns or objections to the proposed land uses and land use tables on exhibition. A breakdown of the themes to emerge from engagement and Council's response are provided below.

The top themes to emerge from review of this sub-set of submissions are provided in **Table 3-7**.

**Table 3-7: Themes relating to proposed land uses**

Top 5	Themes	No. (n)	Perc. (%)
1	Support for secondary dwellings / attached dwellings, or concern for loss of secondary dwellings	101	10.80%
2	Concern for the loss of rural uses	56	5.99%
3	Concern for the loss of boat sheds and jetties	22	2.35%
4	Concern for the inclusion of other urban uses (i.e., community facilities, child-care centres, AirBnB, holiday resorts etc.)	8	0.86%
5	Concern about the loss of miscellaneous land uses (i.e., road stall / beekeeping)	7	0.75%

A breakdown of the themes to emerge from engagement and Council's response are provided below.

#### Land use permissibility

##### Issues raised in submissions

In response to the proposed land uses presented in the land use tables on the online webtool, there was:

- Some misunderstanding in land use terminology, e.g., group homes;
- Concern about allowing new uses, including dual occupancies in the residential zone;
- Objections to prohibiting certain land uses, including:
  - Category 2 and 3 developments in the deferred lands;
  - Community facilities on Scotland Island, including health consulting rooms, home-based childcare, and community facilities;
  - Horticultural type uses in non-urban areas, including the need to permit ducks, chickens, horses, nurseries;
  - Developments that support multigenerational housing in non-urban areas (e.g., secondary dwellings and dual occupancies);



- o Water related structures such as boat sheds, boat launching ramps, jetties, and water recreation structures; and
- o Desire to be compensated for any loss in permissible land uses.

#### Council response

- Definitions of the terms within the land use table are outlined in the [Dictionary](#) of the [Standard Instrument—Principal Local Environmental Plan](#) (Standard Instrument LEP), unless if they relate to the Warringah LEP 2000 (see [separate dictionary](#)).
- Table 3-8 includes feedback on specific terminology referenced in submissions.
- Changing of zones and permissible land uses is a process facilitated via the NSW Planning System and is not an uncommon occurrence over time. The current engagement process is a non-statutory community engagement process being undertaken to provide residents with the opportunity to review the draft material and provide comment prior to any formal statutory process commencing.
- Existing development consents will not be invalidated by any change of zoning. Existing buildings and land uses can remain, be extended, and rebuilt, provided they were lawfully established. Any proposed changes to zoning will not come into effect until they are approved by the NSW Department of Planning and Environment. As this is unlikely to occur until 2024, opportunities exist to apply for development consent under the current planning rules until the new Local Environmental Plan commences.
- Compensation or land acquisition is generally not required unless land is rezoned for a public purpose e.g., a park or road. Equally, Council does not tax any gains made by landowners because of land re-zoning.

**Table 3-8: Summary of feedback on certain land uses and Council response**

Term	Community feedback	Council response
<b>Group home</b>	Submissions objected to permitting this land use in certain zones, presumably on the basis this would result in increased density.	<b>Group homes</b> are a form of assisted living designated for people in need, including those with a disability.  They are also mandated permitted uses in all residential zones.
<b>Bed and breakfast accommodation</b>	Submissions objected to prohibiting bed and breakfast accommodation in the C3 Environmental Management zone. There was concern that this would impact the ability to conduct Airbnb.	Airbnb, Stayz etc. is defined as “short term rental accommodation” which is separately defined and controlled under State Environmental Planning Policy (Housing) 2021, see (see the NSW Government website).  “Bed and Breakfast accommodation” is separately defined as a commercial operation. It is proposed to be prohibited in a C3 Environmental Management zone as it is a form of tourist and visitor accommodation which is not considered suitable in areas identified as having hazards, or in non-urban areas with high environmental values.

<b>Water recreation structures</b>	Some questioned whether swimming pools would still be permitted if water recreation structures were prohibited.	Swimming pools are ancillary to a dwelling house and are permitted in the C3/C4 zones subject to development consent. They are not a “water recreation structure” as defined under the <a href="#">Standard Instrument—Principal Local Environmental Plan</a> .
<b>Water storage facilities and water treatment systems</b>	Concerns were raised these uses were proposed to be prohibited in Manly where they were previously permitted. Also, questions were raised as to whether this related to water tanks.	<p>Council is not proposing any changes to the following through this process:</p> <ul style="list-style-type: none"> <li>• <b>Water Tanks</b> – are generally not managed through the LEP but instead in the State wide <a href="#">State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</a>; and</li> <li>• <b>Grey Water Tanks</b> are also not managed through the LEP. You can read more about the process for approvals on Council's <a href="#">website</a>.</li> </ul> <p>Council is proposing to prohibit <b>water storage facilities</b> and <b>water treatment facilities</b> but will permit <b>water reticulation systems</b>. These are all types of <b>Water Supply Systems</b> (a group term in outlined in the <a href="#">Dictionary</a> of the <a href="#">Standard Instrument—Principal Local Environmental Plan</a> (Standard Instrument LEP). The definitions for these can be viewed on these links but are also copied below and a link is provided under the land use table in our online tool. As they are a form of infrastructure, they generally relate to works undertaken by public authorities or utilities on a larger scale but can also apply to works by private developers. They are also generally managed through a different planning instrument called <a href="#">State Environmental Planning Policy (Transport and Infrastructure) 2021</a>.</p>
<b>Deferred lands – Category 2 and 3 Developments</b>	Concern was raised regarding the loss of permissible uses in the deferred lands.	<p>The Warringah Local Environmental Plan 2000 is a place based LEP that is very different to contemporary “standard instrument” LEPs (see <a href="#">information sheet</a>).</p> <p>Developments must be consistent with the Desired Future Character Statements, which include the following statements:</p> <ul style="list-style-type: none"> <li>• Locality C8 Belrose North - Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses; and</li> </ul>

		<ul style="list-style-type: none"> <li>Locality B2 Oxford Falls Valley - Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.</li> </ul> <p>If property owners wish to undertake Category 2 and 3 developments, they can lodge a submission prior to the implementation of the draft LEP.</p>
<b>Community facilities</b>	Concern was raised regarding the prohibition of community facilities on Scotland Island, including health consulting rooms, home-based childcare and community facilities, given the isolated nature of the land.	Council will consider additional permitted uses to facilitate the retention of those uses on Scotland Island and the western foreshores.
<b>Rural type uses</b>	Concern was raised that a C3 zone would result in an inability to undertake horticultural type uses in non-urban areas, including the desire to keep ducks, chickens, horses, nurseries	<p>Some commercial rural land uses are proposed to be prohibited in the C3 zone, including extensive agriculture (including bee keeping and dairy), intensive plant agriculture (horticulture, turf farming and viticulture), animal boarding and training establishments, farm buildings, and commercial landscaping material supplies, plant nurseries, roadside stalls, and rural supplies.</p> <p>However, rural land uses such as the keeping of horses, bees and ducks etc. would remain permissible provided they are not run for commercial purposes, as they would be ancillary to the residential use of the land.</p> <p>It must be noted this proposal has significantly extended the proposed RU4 zoned areas in the deferred lands compared to the Planning Proposal previously withdrawn by Council. By using split zones, we have been able to separate cleared areas with existing rural / residential uses from those areas with significant vegetation and biodiversity.</p>

### 3.8 Petitions

During the public exhibition period, Council was made aware of several community petitions related to the C Zones Review. These are described below.

### Residents of Ebor Road Palm Beach

A petition from residents on Ebor Street in Palm Beach was received during the public exhibition period. The 11 signatories do not support the proposed zoning of properties on Ebor Road from C4 to R2 due to the potential bush fire hazard present in the location.

The submission associated with the petition describes recent experiences with bush fire incidents, and seeks that Council conduct a site visit on Ebor Road.

### Online petition - Pittwater Conservation Zones need to Stay

The *Pittwater Conservation Zones need to Stay* petition hosted on [ipeitons.com](https://www.ipeitons.com) received 709 signatories as of 22 February 2023. The petition calls on Council to, quote:

1. Rule out rezoning of C4 land to residential;
2. Apply conservation zonings to properties where any significant environmental values or hazards are present;
3. Create Scenic Foreshore Protection Areas from shorelines to ridgelines; and
4. Retain all Heritage Conservation Areas and investigate those proposed - but not yet implemented - by the former Pittwater Council.

### Rignold Street Seaforth and surrounding area

A petition from residents on Rignold Street in Seaforth and the immediate surrounding area was submitted to Council during the public exhibition period.

This petition has 18 signatories and was attached to a submission which sought Council to consider the rezoning of a number of properties from C3 to C2. Specifically, the submission seeks that:

- C2 zone is extended to be consistent with adjacent properties via a split zone;
- Council consider applying C2 to zoning the entire area of the relevant lots on Rignold Street;
- the waterway within the middle of the Rignold Street lots be zoned C2, in line with other riparian zones in Seaforth;
- Council buy-back these lots on the grounds of their high biodiversity and ecological significance; and,
- a local flora and fauna survey is undertaken.

## 3.9 Key Stakeholders

A range of stakeholders have provided submissions on the C Zones Review.

### 3.9.1 Community groups

During the public exhibition process, Council actively engaged with a range of local community groups from across the LGA.

**Table 3-9: Community group and zoning sentiment**

<b>Support an increase in conservation protections</b> (i.e., use of C2 zoning over land in non-urban areas instead of C3)	
<ul style="list-style-type: none"> <li>• Friends of Bungan &amp; Kierans Creek Landcare Group Terrey Hills</li> <li>• Save Manly Dam Catchment Committee</li> <li>• Curl Curl Lagoon Friends</li> </ul>	
<b>Concern with the changes from C zones to Residential zones</b> (primarily in Pittwater)	
<ul style="list-style-type: none"> <li>• Australian Conservation Foundation Northern Beaches</li> <li>• Avalon Surf Club</li> <li>• Avalon Preservation Association</li> <li>• Balgowlah Residents Group and North Harbour Community Group</li> <li>• Bayview Church Point Residents Association</li> <li>• Baringa Bush Resident Group</li> <li>• Belrose Rural Community Association</li> <li>• Bilgola Surf Lifesaving Club</li> <li>• Canopy Keepers</li> <li>• Friends of Mona Vale</li> <li>• Friends of Narrabeen Lagoon Catchment</li> <li>• Garigal Landcare</li> <li>• Manly Lagoon Friends (MLF)</li> </ul>	<ul style="list-style-type: none"> <li>• Mona Vale Residents Association</li> <li>• Natural Areas Pty Ltd</li> <li>• Northern Beaches Envirolink</li> <li>• Northern Beaches Greens</li> <li>• Northern Beaches Strategic Community Group</li> <li>• Palm Beach &amp; Whale Beach Association</li> <li>• Palm Beach Protection Group</li> <li>• Pittwater Community Alliance</li> <li>• Pittwater Environmental Heritage Group</li> <li>• Pittwater Natural Heritage Association</li> <li>• Save the Northern Beaches Bushlands</li> <li>• Saving Sydney's Trees</li> <li>• Stony Range Regional Botanic Garden</li> </ul>
<b>Disagree with down zoning to C zones</b> (primarily in non-urban areas)	
<ul style="list-style-type: none"> <li>• Bayview Ingleside Residents Association (BIRA)</li> <li>• Warringah Urban Fringe Association (WUFA)</li> </ul>	

Other community groups which made a submission, but did not express a sentiment towards the zoning changes included the:

- Bilgola Beach Residents Association;
- Duffys Forest Residents Association;
- Cottage Point Community Association;
- Australian Plant Society - Northern Beaches Branch; and
- Newport Residents Association.

The Metropolitan Local Aboriginal Land Council (MLALC) also made a submission requesting Council work with MLALC and DPE to ensure that the C Zone Review outcomes are aligned with the planning proposal relating to the Morgan Road site, which includes a significant area of land identified for a C2 zone, and a R2 zoned area (rather than a blanket C3 zone across the entire site). The submission asserts that this will enable the preservation and protection of significant bushland areas within the C2 zone without direct and indirect impacts.

### 3.9.2 Government agencies

Three government agencies provided a submission:

#### Department of Planning and Environment

##### *NSW Planning*

The Department of Environment and Planning (DPE) state their formal position on conversation zones is that the identification of a significant natural hazard may be a secondary consideration to the primary objective of a conservation zoning being to conserve environmental values. Their response also notes Council's 'general intent to limit the potential for more intense development on land identified as having significant hazards is something the Department considers to be good strategic planning.'

DPE note that policy reform is expected in 2023 in response to recommendations from both the NSW Flood Inquiry 2022 and NSW Bushfire Inquiry 2020. DPE would like to collaborate with Council on a pilot project that recognises recent events and ongoing policy reform.

DPE state that they are open to the use of C3 and C4 to manage significant hazards, as well as acknowledging that the proposed use of C3 for land affected by flooding aligns with ongoing policy reform.

DPE recommend that Council review the currency and validity of its hazard mapping, in consultation with EHG and RFS. DPE further ask Council to undertake a risk-based assessment to support the use of hazard criteria.

##### *Environment and Heritage Group*

The Environment and Heritage Group (EHG) of DPE provided a response. The method of using high and medium environment value criteria to inform conservation zoning decisions is supported by EHG. However, they raise concern with the use of hazard criteria; specifically flood hazard on sites where there is a lack of associate with environmental value criteria.

#### Council Response

Council has been in consultation with DPE regarding the above correspondence on the following matters:

- Clarification of the scope of the proposed pilot project, including timeline, project plan, DPE commitments, negotiables/non-negotiables;
- Preference to expediate requested consultation with RFS and EHG on the currency and validity of hazard mapping;
- Acknowledging DPE support for the mapped environmental values; and,
- Acknowledging DPE support to limit the potential for more intense development identified on land identified as having a significant hazards as good strategic planning.

#### Department of Planning and Environment – Crown Land

The Department of Planning and Environment's Crown Land Office made a submission regarding two parcels which are managed under the *Crown Land Management Act 2016*.

- **Peninsular Firearm Academy** – Lot 101 DP1106750 of 3.901 hectares – Club House, Pistol Range, 100m Rifle Range.



- **St Ives Pistol Club** – Lot 1 DP1282737 of 2.546 hectares - Four existing fully baffled safety ranges, indoor air pistol range, club house kitchen, training room, c/w audio visual room.

The pistol range facilities in the western part of the current Lot 1 DP1282737 will be expanded, accommodating new pistol ranges funded by a NSW Office of Sport grant.

DPE seek the rezoning of Lot 101 DP1106750 and Lot 1 DP1282737 in their entirety to reflect current and proposed built recreational use.

#### Council Response

Council will review this request following investigations into changes to the methodology.

#### Transport for NSW

Transport for NSW (TfNSW) has no preliminary comments on the C Zone Review and stated that, '[TfNSW] will provide a more detailed response during the public exhibition of the draft LEP, DCP and accompanying land use maps in 2023'.

#### Council Response

Council reached out to all authorities as part of the public exhibition and will again seek feedback on the exhibition of the draft LEP and DCP.

#### NSW Rural Fire Service

The NSW Rural Fire Service (RFS) states that an LGA wide strategic bushfire study should be prepared, addressing the Planning for Bush Fire Protection (PBP) 2019 and the minimum components as listed in PBP 2019 Chapter 4 Sections 4.1 Strategic principles, Section 4.2 Strategic planning in bush fire prone areas Table 4.2.1, Section 4.3 Regional Strategies and Section 4.4 Local Environmental Plans (LEPs).

#### Council Response

Council has responded to the RFS to seek clarification on the following matters:

- The desire to work with RFS on the DPE Pilot project, and potential opportunity to integrate and complement the work being undertaken by the NSW Bush Fire Inquiry – Recommendation 27 Implementation Working Group led by DPE and RFS;
- The potential for amendments to the Standard Instrument LEP like the standard flood considerations that limit certain land uses (clause 5.22 Special flood considerations [optional]);
- Clarification of the scope and methodology of an LGA wide study to limit unnecessary spending and preventing further delays, including feedback on the following matters:
  - Specific feedback on the suitability of Meridian Urban's study for the Deferred Lands, and any areas that require further detail;
  - A preferred methodology or template for the LGA wide study taking into consideration the approach taken by Meridian Urban for the Deferred Lands, and approaches undertaken in other local planning proposals (Ingleside, Ralston Avenue, Lizard Rock), or in other Council areas including recent comprehensive LEPs (Georges River, Willoughby, Shoalhaven) or the Ku-ring-gai LEP;

- Whether any LGA wide study could use the risk maps and Phoenix modelling methodology being prepared by the NSW Rural Fire Service on behalf of the Northern Beaches Bush Fire Management Committee to inform the draft Bush Fire Risk Management Plan, noting the need for Council to access higher resolution mapping than previously supplied (500m grids);
- What type of development scenarios should be considered, given that no growth is proposed in areas exposed to Hazards as per our Local Housing Strategy; and
- Whether the RFS would support changing the zone of any areas identified as high risk through any LGA wide study.

## 4 Next steps

The below figure shows a general outline of the next steps in the Conservation Zones Review and Technical Studies.

