



AGENDA

Notice is hereby given that an Ordinary Meeting of Council will be held at the Civic Centre, Dee Why on

Tuesday 22 March 2016

Beginning at 6:00pm for the purpose of considering and determining matters included in this agenda.

Rik Hart
General Manager

Issued: 16/03/2016

OUR VISION

A vibrant community, improving our quality of life by living and working in balance with our special bush and beach environment

OUR VALUES

Respect

Integrity

Teamwork

Excellence

Responsibility

ORGANISATIONAL STRUCTURE



**Agenda for an Ordinary Meeting of Council
to be held on Tuesday 22 March 2016
at the Civic Centre, Dee Why
Commencing at 6:00pm**

ACKNOWLEDGEMENT OF COUNTRY

1.0 APOLOGIES

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 Minutes of Ordinary Council Meeting held 16 February 2016

2.2 Minutes of Extraordinary Council Meeting held 23 February 2016

3.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST

4.0 PUBLIC FORUM

5.0 MAYORAL MINUTES

Nil

6.0 GENERAL MANAGER'S REPORTS.....2

6.1 Monthly Funds Management Report February 20162

6.2 Draft Delivery Program 2016-2020, Operational Plan and Budget 2016/17
(Report not available at the time of publishing and will be circulated prior to the
meeting)

7.0 COMMUNITY DIVISION REPORTS.....4

7.1 Audit and Risk Committee Charter and Internal Audit Charter – Review4

7.2 Lot 21 DP 819277 - Parcel of Council Land adjacent to Oxford Falls Grammar
School7

7.3 Proposed Acquisition of Land for Manly Vale Public School's Asset Protection
Zone15

8.0 ENVIRONMENT DIVISION REPORTS.....20

8.1 Adoption of Pesticide Use Notification Plan 2016.....20

8.2 Minutes of Strategic Reference Groups33

8.3 Minutes of the Manly Lagoon Catchment Coordinating Committee held 29
October 2015.....35

8.4 Annual Report (including Minutes of Meeting) of the Narrabeen Lagoon State
Park Advisory Committee38

8.5 Amendments to Policy on Applications for Development - Handling of Unclear,
Non Conforming, Insufficient and Amended Applications.....41

8.6 Draft Amendments to Warringah Development Control Plan 2011 in regards to
Waste Management.....43

| | | |
|-------------|---|------------|
| 8.7 | Delegation Under the Noxious Weeds Act 1993 | 48 |
| 8.8 | 2016 National General Assembly of Local Government - Australian Local Government Association (ALGA) | 50 |
| 8.9 | Meriton Draft Voluntary Planning Agreement Amendment and Draft Explanatory Note | 59 |
| 8.10 | Draft Warringah Development Contributions Plan 2016 | 63 |
| 8.11 | Planning Proposal - Increased Floor Area of Secondary Dwellings in Existing Dwelling Houses | 69 |
| 8.12 | BP Forestville Planning Proposal - 632-634 Warringah Road, Forestville | 72 |
| 8.13 | Minor Warringah Local Environmental Plan 2011 Amendments..... | 75 |
| 8.14 | Voluntary Planning Agreement - 184 Wyndora Avenue, Freshwater | 83 |
| 8.15 | Planning Proposal - 184 Wyndora Avenue, Freshwater | 87 |
| 9.0 | NOTICES OF RESCISSION | |
| | Nil | |
| 10.0 | NOTICES OF MOTION..... | 92 |
| 10.1 | Notice of Motion No 2/2016 - Removal of Trees on the Pedestrian Crossings in Freshwater Village | 92 |
| 10.2 | Notice of Motion No 3/2016 - Illegal Works | 93 |
| 11.0 | QUESTIONS ON NOTICE | 94 |
| 11.1 | Question On Notice No 4/2016 - Payments by Warringah Council to Councillor Sue Heins' Private Company | 94 |
| 11.2 | Question On Notice No 5/2016 - Warringah Council Mailouts Regarding Amalgamation..... | 95 |
| 11.3 | Question On Notice No 6/2016 - Warringah Council Advertising in Manly Daily Regarding Amalgamation | 96 |
| 12.0 | RESPONSES TO QUESTIONS ON NOTICE | 97 |
| 12.1 | Response to Question On Notice No 1/2016 Warringah Council's Website | 97 |
| 12.2 | Response to Question On Notice No 2/2016 – Expenditure on Warringah Council's Executive Legal Counsel/In house Legal Unit | 98 |
| 12.3 | Response to Question On Notice No 3/2016 - Warringah Council's Expenditure on External Legal Firms and Barristers | 99 |
| 13.0 | MATTERS PROPOSED TO TAKE PLACE IN CLOSED SESSION | 101 |
| 13.1 | RFT 2016/001 - Construction of Walter Gors Park | |
| 13.2 | RFT 2016/010 Fishermans Beach Bank Stabilisation | |
| 13.3 | RFT 2016/011 - South Curl Curl Seawall Works | |
| 14.0 | REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION | |

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 16 FEBRUARY 2016

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 16 February 2016, copies of which were previously circulated to all Councillors, be confirmed as a true and correct record of the proceedings of that meeting.

2.2 MINUTES OF EXTRAORDINARY COUNCIL MEETING HELD 23 FEBRUARY 2016

RECOMMENDATION

That the Minutes of the Extraordinary Council Meeting held 23 February 2016, copies of which were previously circulated to all Councillors, be confirmed as a true and correct record of the proceedings of that meeting.

6.0 GENERAL MANAGER'S REPORTS

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| ITEM 6.1 | MONTHLY FUNDS MANAGEMENT REPORT FEBRUARY 2016 |
| REPORTING MANAGER | CHIEF FINANCIAL OFFICER |
| TRIM FILE REF | 2016/070166 |
| ATTACHMENTS | 1 Application of Funds Invested (Included In Attachments Booklet) 2 Councils Holdings as at 29 February 2016 (Included In Attachments Booklet) 3 Investment Portfolio at a Glance (Included In Attachments Booklet) 4 Monthly Investment Income vs. Budget (Included In Attachments Booklet) 5 Economic Notes (Included In Attachments Booklet) 6 Investment Strategy and Portfolio Review 2015-16 Financial Year to Date (Included In Attachments Booklet) |

REPORT

PURPOSE

To report the balance of investments held as at 29 February 2016.

Certification – Responsible Accounting Officer

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government General Regulation 2005 and Council's Investments Policy number FIN-PL-215.

REPORT

The following attachments are provided as part of the Report:

1. Application of Funds Invested
2. Council's Holdings as at 29 February 2016
3. Investment Portfolio at a Glance
4. Monthly Investment Income vs. Budget
5. Economic Notes
6. Investment Strategy and Portfolio Review 2015-16 Financial Year to Date

FINANCIAL IMPACT

Actual year to date investment income to 29 February 2016 was \$1,868,480 compared to budgeted income of \$1,637,424, a variance of \$231,056.

POLICY IMPACT

The investment strategy was reviewed by our Investment Advisors Laminar Capital Pty Ltd in February 2016. They confirmed that Council's investment portfolio is prudently managed and consists of assets appropriate for a Local Government entity and fully comply with legislation and Investment Policy limits.

Performance over the 2015/16 financial year to date, February 2016, is strong having exceeded the benchmark: 3.00%pa vs. 2.40%pa. Council has been proactive in sourcing opportunities in the market whilst investing prudently and managing cash flow.

RECOMMENDATION OF GENERAL MANAGER

That Council note:

- A. The report indicating Council's Funds Management position as at 29 February 2016.
 - B. The Certificate of the Responsible Accounting Officer and that the report be adopted.
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7.0 COMMUNITY DIVISION REPORTS

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|--------------------------|--|
| ITEM 7.1 | AUDIT AND RISK COMMITTEE CHARTER AND INTERNAL AUDIT CHARTER – REVIEW |
| REPORTING MANAGER | DEPUTY GENERAL MANAGER COMMUNITY |
| TRIM FILE REF | 2016/061643 |
| ATTACHMENTS | 1 Audit & Risk Committee Charter - DRAFT - 201602 (Included In Attachments Booklet) 2 Internal Audit Charter - DRAFT - 201602 (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To present the Audit and Risk Committee Charter and the Internal Audit Charter to Council for their consideration and adoption.

SUMMARY

Since 2006, Council has had an Internal Audit function, and also an Audit Committee. The activities, scope and responsibilities of these functions have been governed by their respective charters. Over time the Audit Committee has increased its scope, consistent with better practice, to encompass having oversight over audit and risk activities. In 2014, the Internal Audit function shifted models from being an inhouse (specialist employee) to being fully outsourced. The current outsourced internal auditor is Ernst & Young.

Both charters require periodic review to ensure they remain current with better practice and industry standards, and that they reflect what is happening.

A review of each Charter has been undertaken by Group Manager Business and Enterprise Risk, and some updates are proposed. These updates were discussed at the recent Audit and Risk Committee meeting (March 2016), where some further updates were proposed by the Committee. The nature of all of the proposed updates are explained in this report.

The Charters are presented to Council for consideration and adoption.

FINANCIAL IMPACT

All costs associated with the review of the Charters are included within the existing 2015/2016 operational Internal Audit budget allocation.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER COMMUNITY

That Council adopt the revised Internal Audit Charter and Audit and Risk Committee Charter.

REPORT

BACKGROUND

Since 2006, Council has had an Internal Audit function, and also an Audit Committee. The activities, scope and responsibilities of these functions have been governed by their respective charters.

Internal Audit Charter (IA Charter)

The IA Charter was first established at Warringah in 2006. The current IA charter requires that the ARC periodically review it to ensure that it remains current and reflects the better practice and industry standards. The IA Charter was last reviewed and endorsed by the ARC and Council in November 2010.

In 2014, the Internal Audit function shifted models from being an in-house (specialist employee) to being fully outsourced. The current outsourced internal auditor is Ernst & Young.

In February 2016, Group Manager Business and Enterprise Risk reviewed the IA Charter for its relevance and effectiveness. In short, the Charter is generally considered current, robust and very effective in setting out the role of the IA function. In coming to this conclusion, reference was made to internal audit guidelines provided by the Department of Local Government, recommendations from the Institute of Internal Auditors Australia, and also to the charters of other public organisations. Some minor improvements and updates were recommended as part of this review.

The proposed updates were presented to the ARC at their March 2016 meeting. All updates were discussed, and some additional updates were proposed by the ARC members. These were accepted by Management and have been incorporated into the attached revised IA Charter that is tabled for Council adoption.

All of the proposed updates to the ARC Charter are shown in the attached report, using Track Changes. The proposed updates are broadly summarised below:

- Acronyms, formatting and re-ordering of sections to help improve readability
- Acknowledging that the Internal Audit function is outsourced, and is governed by the Internal Audit Services contract
- Clarifying 'reporting lines' for Internal Audit
- Streamlining of previous sections – e.g. Code of Conduct was very detailed in the previous version
- Establishing the integrated relationship and roles of the Internal Auditor and Group Manager Business & Enterprise Risk
- Clarifying that any consultancy work that is provided by the Internal Auditor is subject to their primary responsibility to remain independent and objective
- A requirement for a minor charter review by the IAMC annually and biannually by the ARC
- Undertaking a fully independent review of the Internal Audit function and arrangements on a 5 yearly basis.

Audit and Risk Committee Charter (ARC Charter)

The Audit and Risk Committee (and its Charter) was first established at Warringah as the 'Internal Audit Review Committee' in 2006, and has been active since then. Over time this Committee increased its scope, consistent with better practice, to encompass having oversight over audit and

risk activities. In 2012, the Committee adopted its current name – the Audit and Risk Committee (ARC).

The ARC Charter requires that the ARC periodically review it to ensure that it remains current and reflects the ARC's roles and responsibilities. The ARC Charter was last reviewed and endorsed by the ARC and Council in October 2013.

In February 2016, Group Manager Business and Enterprise Risk reviewed the ARC Charter for its relevance and effectiveness. In short, the Charter is generally considered current, robust and very effective in setting out the role of the ARC and its Members. In coming to this conclusion, reference was made to internal audit guidelines provided by the Department of Local Government, recommendations from the Institute of Internal Auditors Australia, and also to the charters of other public organisations. Some minor improvements and updates were recommended as part of this review.

The proposed updates were presented to the ARC at their March 2016 meeting. All updates were discussed, and some additional updates were proposed by the ARC members. These were accepted by Management and have been incorporated into the attached revised ARC Charter that is tabled for Council adoption.

All of the proposed updates to the ARC Charter are shown in the attached report, using Track Changes. The proposed updates are broadly summarised below:

- Acronyms, formatting and re-ordering of sections to help improve readability
- Acknowledging that the Internal Audit function is outsourced
- Acknowledging how councillors are appointed to the ARC (i.e. by way of Council resolution)
- Change 'obtain external advice' to read 'request external advice', given that the ARC is advisory only and does not have delegation to commit Council funds.
- New responsibility included under 'scope' – reviewing management's arrangements and approach to embedding a culture of continuous improvement which in turn drives productivity and efficiency gains.
- Wording change so that meetings are 'ordinarily' held in person. Previous wording did not indicate a preference for meetings to be in person.
- Undertaking a fully independent review of the Internal Audit function and arrangements on a 5 yearly basis.

CONSULTATION

The proposed updates were discussed in detail at the March 2016 Audit and Risk Committee Meeting.

FINANCIAL IMPACT

All costs associated with the review of the Charter are included within the existing 2015/2016 operational Internal Audit budget allocation.

POLICY IMPACT

Nil

| | |
|--------------------------|--|
| ITEM 7.2 | LOT 21 DP 819277 - PARCEL OF COUNCIL LAND ADJACENT TO OXFORD FALLS GRAMMAR SCHOOL |
| REPORTING MANAGER | GROUP MANAGER BUILDINGS, PROPERTY AND SPATIAL INFORMATION |
| TRIM FILE REF | 2016/065285 |
| ATTACHMENTS | 1 Plan of Lot 21 DP 819277 Wakehurst Parkway Oxford Falls adjacent to Oxford Falls Grammar School 1078 Oxford Falls Road Oxford Falls 2 Plan of Land Proposed to be Sold - Part Lot 21 DP 819277 Wakehurst Parkway Oxford Falls |

EXECUTIVE SUMMARY

PURPOSE

To consider the proposed sale of part of the subject land.

SUMMARY

Oxford Falls Grammar School has approached Council seeking to acquire the operational land portion of subject land as a long-term solution to its current encroachment on the subject land by its sportsfield.

FINANCIAL IMPACT

Council proposes to sell the Operational Land part Lot 21 DP 819277 Wakehurst Parkway Oxford Falls to the adjoining land owner for an amount in accordance with independent valuation advice received by Council. A copy of the independent valuation advice will be available at the Council meeting.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER COMMUNITY

That:

- A. Council authorises the sale of the Operational Land part Lot 21 DP 819277 Wakehurst Parkway Oxford Falls to the adjoining land owner Oxford Falls Grammar School at 1078 Oxford Falls Road Oxford Falls (Lot 1 DP 1046451) in accordance with independent valuation advice received by Council, conditional upon the land to be sold being consolidated with the adjoining land parcel and an appropriate Restriction on Use of Land by a Prescribed Authority being registered on the land prohibiting vehicular access to Wakehurst Parkway.
- B. Item A of this resolution is also subject to Oxford Falls Grammar School (OFGS) participating in negotiating an agreement with Council for community access to the sportsground on the southern side of the creek which traverses the School and the subject land, when not used by OFGS, for sport and recreation use. As part of this agreement Council will consider an appropriate and reasonable contribution to on-going costs such as maintenance.

-
- C. Council grant owners consent to the adjoining land owner Oxford Falls Grammar School at 1078 Oxford Falls Road Oxford Falls (Lot 1 DP 1046451) to lodge a Development Application/Subdivision Certificate Application for the subdivision of Lot 21 DP 819277 Wakehurst Parkway Oxford Falls and a Planning Proposal for the rezoning of this land.
 - D. Council authorises an Easement and associated Positive Covenant for the underground stormwater detention tanks and associated drainage infrastructure within the remainder of Lot 21 DP 819277 and adjoining Lot 2 DP 881167 (Community Land) subject to statutory notification in accordance with the Local Government Act and subject to compensation being paid to Council in accordance with Council's adopted Fees & Charges.
 - E. Council prepare an amendment to the relevant Plan of Management for the Community Land part of Lot 21 DP 819277 and adjoining Lot 2 DP 881167 Wakehurst Parkway Oxford Falls authorising any future lease of the Community Land by Oxford Falls Grammar School for school recreation purposes.
 - F. Any enclosed use of Council's public reserve or road reserve by Oxford Falls Grammar School be authorised in a lease in accordance with the Local Government Act or Roads Act with annual rent based on 5% of the Valuer General's land assessment value for that year per metre squared of the land or directly adjoining land.
 - G. Authorises the General Manager to negotiate and execute all documentation necessary in order to give effect to this resolution.
 - H. All costs associated with the items in the resolution, including but not limited to, Council's legal costs, GST if applicable, document registration etc., be funded by the applicant.
 - I. Funds received from the sale of land to be allocated to the capital improvements works being undertaken at the Warringah Aquatic Centre.
-

REPORT

BACKGROUND

Lot 21 DP 819277 (the subject land) is Council owned land situated between Wakehurst Parkway and Oxford Falls Grammar School (the School) at 1078 Oxford Falls Road, Oxford Falls.

The dimensions of the land are 15 metres wide X 285 metres in length totalling 4,275 metres squared.

The subject land is currently zoned RE1 – Public Recreation and is partly classified Community Land (northern half) and partly classified Operational Land (southern half approximately 2,223sqm). Plans of the subject land are included in this report as Attachments 1 & 2.

The subject land was dedicated at no cost to Council in 1992 for the purpose of a Public Reserve as a condition of development consent for DA1990/351 (for the development of a new primary and infants school comprising nine classrooms with associated library, hall and administration offices, a playing field and associated landscaping at the School site).

The 15m wide strip was previously zoned Proposed Recreation 6(c) adjoining Wakehurst Parkway and it was Council's usual practice that when a development was proposed which results in a permanent use of a structure, both in terms of its current non-urban zoning and any potential future urban zoning, Council seek the dedication of the 6(c) zoned land as a condition of development consent. This would allow Council's aim of providing a parkway vista along main roads throughout the area to be achieved by including the land in the ownership of Council (Source - Development Unit Report for DA1990/351).

The subject land was also required by Council as a buffer strip to Wakehurst Parkway, preventing access directly onto the road by the land owner.

The subject land was then classified as "Community Land" under the Local Government Act 1993 and "Public Open Space" under Warringah Local Environmental Plan 2000 (WLEP). As such, use of the land was to be managed in accordance with a Plan of Management (POM). The applicable POM was the General Community Use Plan of Management (GCU).

The GCU identified encroachments on the subject land by the School and actioned for them to be removed in line with a strategic framework. Additionally, it appears the school, following lodgement of DA2002/1347 (for alterations to internal layout and external openings of Block A, new Block B2, associated access ways and reconfiguration of approved extension of carpark which was approved by the Land & Environment Court on 17 February 2004), also constructed underground concrete On-site Stormwater Detention (OSD) tanks with dimensions of approximately 20m X 10m X 1.9m depth (380m³ storage) and associated pollution control devices on the northern end of the subject land (Community Land).

These OSD tanks and associated pollution control devices are not Council assets.

The future of the subject land was also considered in detail in a report to Council on 25 October 2005 where it considered three options available to Council to rectify the situation as follows:

- “1. *Reclassify the subject land and lease back to Oxford falls Grammar School for a limited period.*
2. *Rezoned and Reclassify the subject land and dispose of the land to Oxford falls Grammar School.*
3. *Enforce the recommendation of the GCU via compliance action to have the encroachments removed.*”

The preferred option in the Council report dated 25 October 2005 was Option 1 above as:

"it enables Council to generate an income from an underutilised parcel of land, whilst still maintaining ownership and control over the future management of the parcel. Council will no longer be encumbered by the existing maintenance liability, and the buffer between the School and Wakehurst Parkway will be preserved in addition to allowing additional sporting uses of the existing school oval.

Whilst not a directly related issue it is noted that the student numbers have progressively grown over time and the site is becoming increasingly crowded for the site it occupies. It is also noted that the present use of the site is inconsistent with the desired future character as stated in Warringham Local Environmental Plan 2000, as it is not "low intensity and low impact" use. The school site provides insufficient area for a school of this size, potentially requiring that the school prepare a future growth plan that may involve the acquisition of additional lands or a new site.

This further adds to the argument that rezoning of a small piece of Council land will not address the future growth of the Oxford Falls Grammar School.

Conclusion

The community land in question has been the subject of encroachments for a long period of time. The land serves a primary purpose of separation of Wakehurst Parkway from the school and denying access to an arterial road. It is clear that the school has acted in a manner contrary to both the Local Government Act and Environmental Planning and Assessment Act by encroaching on the land not with-standing the reclassification of part of the subject land and leasing back to the school would provide an income stream for use on other community land parcels.

After considering the three options above, Council resolved on 25 October 2005 as follows:

- "1. That Council in principle endorse the preparation of a draft LEP for reclassification of that part of the site that is presently encroached upon by the playing field as shown in Attachment 3 to this report.*
- 2. That prior to the commencement of any process under Part 3 of the Environmental Planning and Assessment Act to reclassify the land shown in Attachment 3 the following matters be addressed to Council's satisfaction;*
 - a) The removal of the play equipment that encroaches upon the land*
 - b) The removal of the Oxford Falls Grammar School Information sign on the road reserve at the corner of Dreadnaught Road and Wakehurst Parkway*
 - c) The submission of a plan prepared by a registered surveyor detailing that encroachments detailed in (a) and (b) above have been removed*
- 3. That upon Council's satisfaction as to the compliance with 1 and 2 above;*
 - (a) That Council advises the Department of Planning of its intention to prepare a draft LEP in accordance with Section 54 of the EP&A Act 1979.*
 - (b) That Council refer the draft amendment to the various authorities and neighbouring Councils as required under section 62 and section 64 of the EP&A Act.*
 - (c) That following items 3(a) and 3(b) being completed the matter be reported back to Council for endorsement and exhibition."*

Consequently, Council actioned the above resolution including the reclassification process for the southern half of the subject land (approximately 2,223sqm) and on 4 July 2008 this part of the land was formally gazetted as Operational Land.

In accordance with the preferred option in the previous Council resolution, Council has requested the School lease the area of Operational Land for its encroachment of its sportsfield on the subject land.

However, the School has now approached Council seeking to acquire the Operational Land portion of subject land (the Operational Land) as a long-term solution to the current encroachment on the subject land.

The School has stated it wishes to purchase the Operational Land portion of the subject land in order to develop and improve the School's current sport's facilities so that both the School and the Warringah area have a high quality sporting venue participation in sport and fitness. The School has also indicated that the current sportsfield dimensions do not allow for a full sized playing pitch.

The School has indicated the proposed purchase of the land in question will:

1. *Allow the oval precinct to be enlarged so that a range of various sports, including Soccer, Rugby Union, Rugby League and Hockey can be played on a field that meets the necessary standard pitch dimensions. This will expand and improve the School's current sports programs, including our Soccer Academy.*
2. *Allow enough space for the future development of high quality facilities for use by the School and community sporting groups.*
3. *Allow a much needed upgrade to the oval precinct with;*
 - a. *The development of an underground rainwater storage and drainage system so the playing surface can be used by both the school and community sporting groups during wet weather.*
 - b. *The installation of a new and more suitable turf surface.*
 - c. *Improved irrigation systems.*

CONSULTATION

The application by the School to purchase the Operational Land has been referred to the relevant Council departments and Roads & Maritime Services (RMS) for comments.

Council's Parks Reserves & Foreshores (PRF) Group has not raised objections to the proposed sale of the Operational Land to the School and has also requested a condition of the proposed sale which requires the School to allow community access to the sportsground, on the southern side of the creek which traverses the School and the subject land, when not used by OFGS. Subject to reaching an appropriate agreement, Council could consider an appropriate and reasonable contribution to on-going costs such as maintenance. This proposed arrangement will assist Council in meeting increasing demands for access to sportsgrounds for recreation and sport.

Council's Strategic Planning Group has not raised objections to the proposed sale of the Operational Land to the School; however, any sale of the Operational Land to the School would be in the knowledge that they may not be able to develop the land in future without rezoning the land. Additionally, there would be no guarantee that a planning proposal to rezone the land would be successful. This does not prevent the sale of the land by Council; however, the land will be sold without guarantees that a rezoning will be successful.

Council's Natural Environment Unit (NEU) has not raised objections to the proposed sale of the Operational Land to the School, however, it has indicated that any future development of this land will be required to address its standard requirements for development as although the Operational Land is mainly cleared, it adjoins a creek, therefore, due to its location it is likely that any future development should consider relevant biodiversity, flooding and riparian considerations in accordance with Council's LEP.

Additionally, NEU will require an appropriate Easement and associated Positive Covenant by the School to formalise its OSD tanks and associated pollution control devices within Council's Community Land.

RMS has confirmed it has no objections to the proposed sale of the Operational Land to the School.

PROPOSED ADDITIONAL CONDITIONS FOR SALE OF LAND

It is Council's practice to condition any sale of a relatively small parcel of land so that it is consolidated with the adjoining land parcel. This will apply for this proposed sale of land.

Additionally, Council will require an appropriate Restriction on Use of Land by a Prescribed Authority being registered on the land prohibiting vehicular access to Wakehurst Parkway.

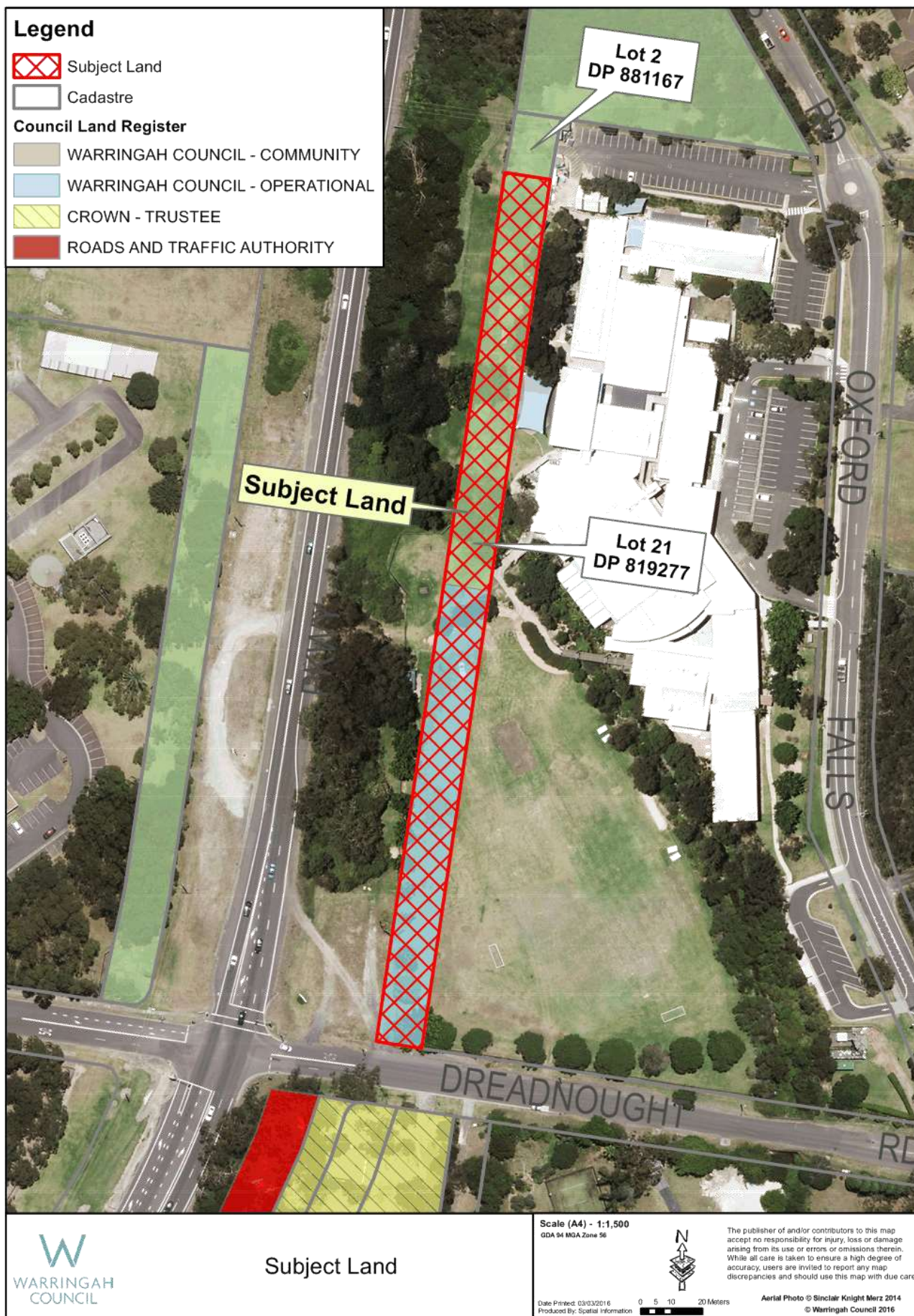
Council's PRF Group has also requested a condition of the proposed sale which requires the School to allow community access to the sportsground, on the southern side of the creek which traverses the School and the subject land, when not used by OFGS. Subject to reaching an appropriate agreement, Council could consider an appropriate and reasonable contribution to on-going costs such as maintenance.

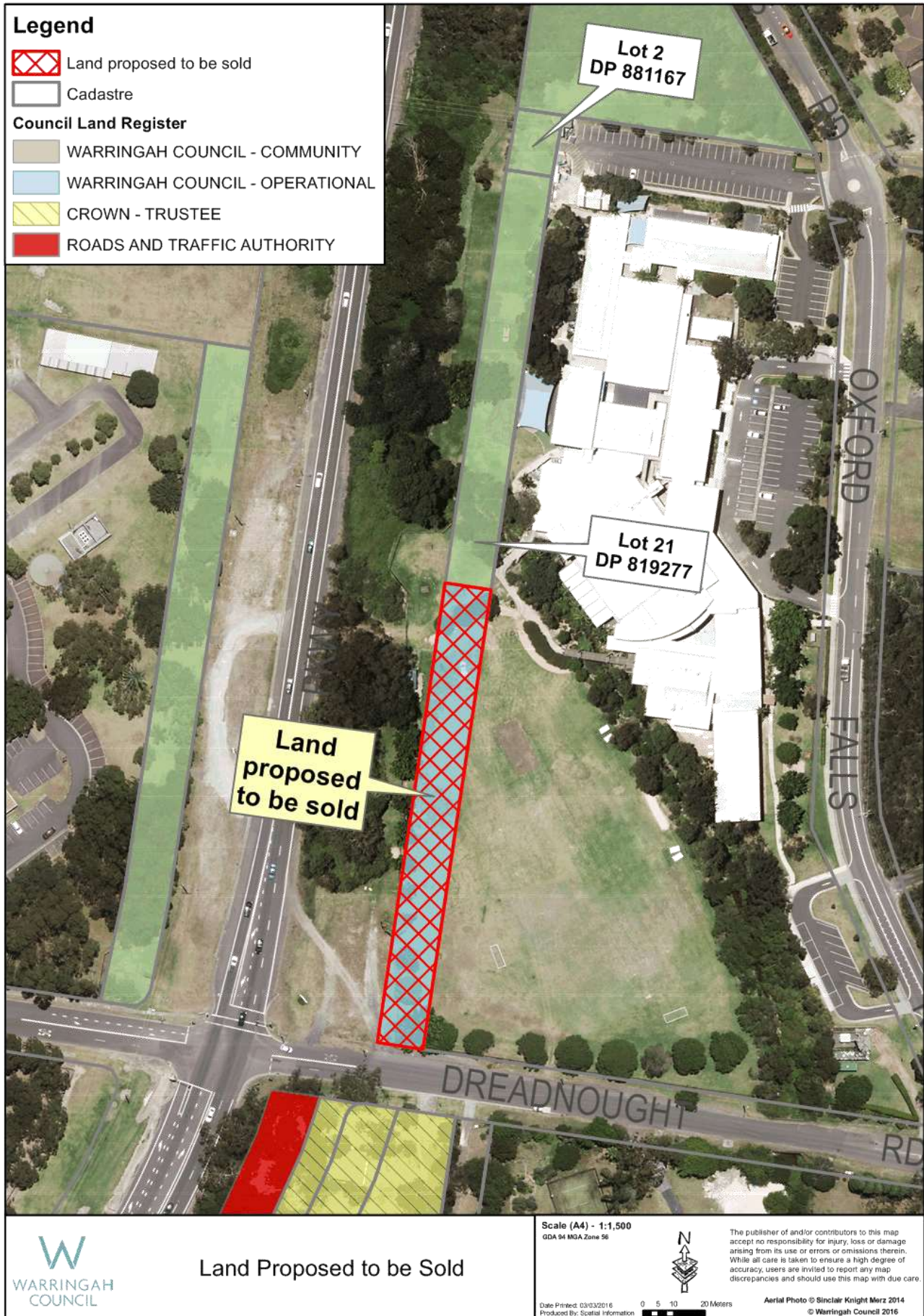
FINANCIAL IMPACT

Council has received independent valuation advice on the value of the Operational Land. The School concurs with the valuation assessment and wishes to proceed with purchasing the Operational Land. A copy of the independent valuation advice will be available at the Council meeting.

POLICY IMPACT

Nil





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| ITEM 7.3 | PROPOSED ACQUISITION OF LAND FOR MANLY VALE PUBLIC SCHOOL'S ASSET PROTECTION ZONE |
| REPORTING MANAGER | DEPUTY GENERAL MANAGER COMMUNITY |
| TRIM FILE REF | 2016/069463 |
| ATTACHMENTS | 1 Compulsory Acquisition - Manly Vale Public School - NSW Department of Education Letter dated 25 February 2016 |

EXECUTIVE SUMMARY

PURPOSE

To consider the request by the NSW Department of Education to compulsorily acquire 16,000sqm of Council Land for an Asset Protection Zone (APZ) relating to planned additional school buildings within the grounds of the Manly Vale Public School.

SUMMARY

The NSW Department of Public Works, on behalf of the Department of Education (DoE) has submitted a development application (DA2015/0597) to construct additional school buildings within the grounds of the Manly Vale Public School to deliver capacity for additional school students into the future.

The development, as currently proposed, requires a bushfire Asset Protection Zone (APZ) that extends outside the land parcel owned by the DoE and into land owned and managed by the Crown and Warringah Council. As such, the DoE have noted their intent to compulsorily acquire the impacted land and have sought to confirm that Council does not object to the proposed acquisition. The proposed land for acquisition forms part of the biodiversity and wildlife corridor contiguous with the Manly Warringah War Memorial Park.

FINANCIAL IMPACT

The acquisition valuation proposes compensating Council as noted in the attachment.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER COMMUNITY

That Council object to the request by the NSW Department of Education to compulsorily acquire part parcels of land within Lot 1 DP433773 and Lot 1 DP1146289.

REPORT

BACKGROUND

The NSW Department of Public Works, on behalf of the Department of Education (DoE) has submitted a development application (DA2015/0597) to construct additional school buildings within the grounds of the Manly Vale Public School to deliver capacity for additional school students into the future.

The development, as currently proposed, requires a bushfire Asset Protection Zone (APZ) that extends outside the land parcel owned by the DoE and into land owned and managed by Crown and Warringah Council.

The applicant has previously been informed by Council staff that Council will not grant owner's consent for the creation of this APZ on Council land. Further, Council's Natural Environment Unit (NEU) has also objected to the proposal due to biodiversity impacts within the proposed APZ and development area.

As such, to progress the development the DoE have proposed that the land impacted by the APZ (approximately 16,000sqm) be acquired from Council and the Crown to enable the development to progress.

The subject land, being part parcels of land within Lot 1 DP433773 and Lot 1 DP1146289, proposed to be acquired forms part of the biodiversity and wildlife corridor contiguous with the Manly Warringah War Memorial Park. Additionally, the parcel of land Lot 1549 DP 752038 proposed to be acquired from the Crown is under council Reserve Trust Management and forms part of the Manly Warringah War Memorial Park.

The process proposed is compulsory acquisition by agreement as detailed in the attached letter and the DoE have sought to confirm that Council does not object to the proposed acquisition as part of this process.

CONCLUSION

Given the previous recommendation that the development be deemed for refusal based on biodiversity and other impacts, and given the fact that the subject parcels of land are either in the Manly Warringah War Memorial Park or adjacent and form an important natural link to the park, it is recommended not to agree to the compulsory acquisition by agreement process as requested by the DoE.

FINANCIAL IMPACT

The acquisition valuation proposes compensating Council as noted in the attachment.

POLICY IMPACT

Nil



The General Manager
Warringah Council
Civic Centre
725 Pittwater Road
DEE WHY NSW 2099

Attention Mr Peter Robinson

Our Reference: File15/36418, DOC16/90500

Dear Mr Robinson,

Manly Vale Public School – Proposed Capital Works – DA 2015/0597

To meet future enrolment demand of the Manly Vale Public School, the Department of Education (DoE) proposes to undertake capital works to construct additional school buildings within the grounds of the Manly Vale Public School at Sunshine Street, Manly Vale.

The proposal will necessitate a bushfire Asset Protection Zone (APZ) to be established and maintained by DoE in the surrounding Crown and Council owned bushland. The APZ will comply with recommendations made by consultants Kleinfelder in their report dated 22 June 2015 for an APZ that extends out from the proposed new buildings 60m – 85m to the west and 100m to the south and will require the selective clearing of vegetation. The APZ will affect approximately 16,000 sqm of Council owned land as shown coloured purple on the attached diagram. The following lots owned by Council are partially affected.

- Lot 1 DP 433773
- Lot 1 DP1146289

Additionally Crown Land including part of Lot 7074 DP 1029974, Lot 1549 DP 752038 and an area of Crown Reserve Road will be affected as shown on the attached plan. It is understood that Council is the Reserve Trustee of Lot 1549, however in respect to the lands held in Trust, Sec. 106 of the Crown Lands Act limits compensation to the value of improvements on the land.

To ensure the APZ can be accessed by DoE, it is intended to seek the Ministers approval to Compulsorily Acquire the necessary land. To facilitate the compulsory acquisition process pursuant to Section 30 of the Land Acquisition (Just Terms Compensation) Act 1991, DoE seeks the Council to confirm :-

1. that it does not object to the proposed acquisition in its capacity as both Owner and Reserve Trustee, and
2. it agrees to accept market value compensation of \$288,126 as assessed in the attached valuation report by Challoner Valuations dated 20 January 2016.

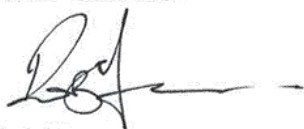
Additionally the Department will meet Council's reasonable disturbance, "out of pocket" expenses in processing this matter.

The Department now intends to arrange the necessary survey of the APZ in both the Crown and Council owned land. Slight adjustments may be made to the compensation amount based upon final survey, at the rate per metre.

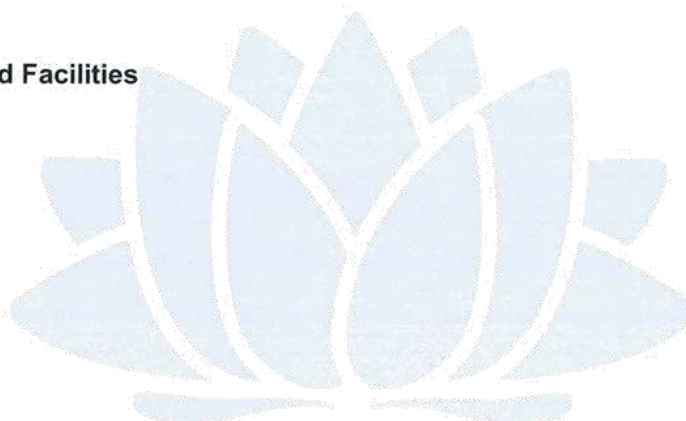
Should you have any questions regarding this matter please contact Mr Martin Bramble, Property Officer on telephone 9561 8045 or email martin.bramble5@det.nsw.edu.au

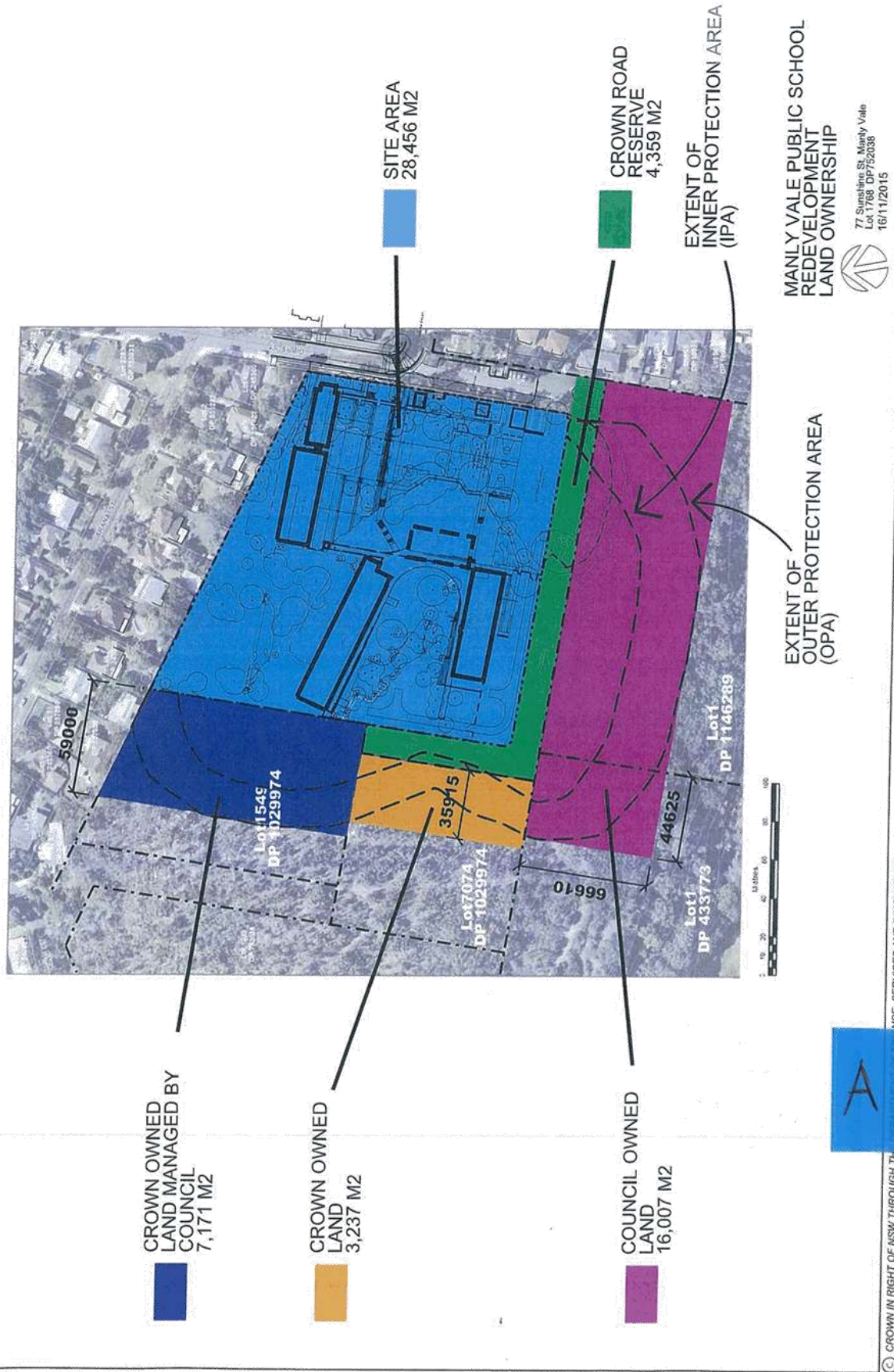
I look forward to Council's favorable reply at the first convenience.

Yours sincerely,



Rob Fraser
Director, Property and Facilities
25 February 2016





8.0 ENVIRONMENT DIVISION REPORTS

| | |
|-------------------|--|
| ITEM 8.1 | ADOPTION OF PESTICIDE USE NOTIFICATION PLAN 2016 |
| REPORTING MANAGER | GROUP MANAGER PARKS RESERVES & FORESHORES |
| TRIM FILE REF | 2016/029552 |
| ATTACHMENTS | 1 Pesticide Use Notification Plan 2016 |

EXECUTIVE SUMMARY

PURPOSE

To recommend adoption of the Pesticide Use Notification Plan 2016 following exhibition.

SUMMARY

The draft Pesticide Use Notification Plan was placed on public exhibition from 5 December 2015 to 31 January 2016 following a review and update of the previous plan. It was advertised in the Manly Daily on 5 December 2015 and through the Your Say Warringah page. Two submissions were received during the exhibition phase and a third tabled at the Council meeting of 16 February 2016. Staff also visited, or discussed the plan with appropriate representatives of specific sensitive facilities adjacent to sportsfields to identify their preferred notification requirements.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The *Pesticide Regulations 2009* require Councils to have a Pesticide Use Notification Plan.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council adopt the Pesticide Use Notification Plan 2016.

REPORT

BACKGROUND

At its meeting of 25 November 2014 Council resolved to approve an amended Pesticide Use Notification Plan to apply until February 2016 and required staff to undertake a comprehensive review and prepare an updated Plan by February 2016.

On 16 February 2016 Council deferred the report on the Adoption of Pesticide Use Notification Plan 2016 to a Councillor Briefing. The item was then to be brought back to the next available Council meeting. The matter was discussed at the Councillor Briefing of 1 March 2016. As a result of the discussion the draft Pesticide Use Notification Plan 2016 has been updated and additional information provided in this report.

The main changes to the previous plan include:

- Amendments to the description of areas in which pesticides are used, to be consistent with the *Local Government Act 1993* Community Land categories, such as Parks, Sportsgrounds and Natural Areas;
- Addition of requirement to mix dyes with pesticides in certain situations; and
- Addition of the use of social media to provide notifications of pesticide use.

Councils are required to have a Pesticide Use Notification Plan in accordance with the *Pesticide Regulations 2009*. These plans outline the process Councils take to notify the community about the use of pesticides in public places under their care, control and management. This is not the only documentation that controls the use of chemicals.

To systematically manage hazardous chemicals and their associated risks, Council has developed a Hazardous Chemicals Program. The program, as outlined in WHS Management System Procedure 609 Workplace Chemicals Risk Management, comprises, but is not limited to:

- Training on hazardous chemicals;
- Hazardous chemicals purchasing controls;
- Hazardous chemicals registers;
- Safety Data Sheet folders;
- CHEMWATCH;
- Hazardous Chemicals Risk Assessments;
- Hazardous Chemicals controls review;
- Contractor Hazardous Chemicals controls;
- First Aid and Emergency provisions for hazardous chemicals;
- Labelling and storage controls;
- Manual handling and transfer controls;
- Chemicals Disposal controls.

The Hazardous Chemicals Program provides the framework for the safe management of hazardous chemicals. A risk management approach is used within Council to eliminate or control hazards arising from the selection, use, handling and storage of hazardous chemicals. For example, a risk assessment is to be conducted on any new pesticides used by staff.

From a practical perspective awareness and management of pesticide use for staff, volunteers and contractors is delivered through:

- Sign off and operation in accordance with Safe Work Procedures which outline controls when using pesticides;

- Site talks being undertaken and documented on a regular basis to address safety issues for staff and the public;
- Requirements for staff and contractors to be certified in the application of pesticides; and
- Workplace Pesticide Application Records are completed to track chemicals used, volume, area and site of application, time and date, target species, and weather conditions at the time of application.

The Hazardous Chemicals Program, Work Health and Safety Procedures and the Notification Plan all contribute to minimising issues and the exposure of the community to pesticide use across Warringah.

Historically, staff have not received many complaints in relation to pesticide use. For example Council received less than five queries during the 2015 spring planned maintenance program regarding pesticide application. Many of these queries resulted from our notification procedures and not from issues with application of the chemicals. The public called in response to advertisements outlining our program rather than negative experiences or concerns regarding exposure to chemicals or similar. It is considered our programs are delivered in accordance with best practice and therefore do not cause significant public concern.

CONSULTATION

The draft Pesticide Use Notification Plan was placed on public exhibition from 5 December 2015 to 31 January 2016. It was advertised in the Manly Daily on 5 December 2015 and through the Your Say Warringah page. An extended exhibition period was undertaken due to the impact of the Christmas period.

The Maintenance Delivery Manager Park Reserves and Foreshores visited and discussed pesticide use and notification with childcare providers including private facilities, such as the Manly Vale Early Learning Centres adjacent to David Thomas Reserve, and Council's Group Manager Children's Services and staff at specific facilities including the Brookvale Children's Centre, opposite Brookvale Oval. These discussions revealed that notification as identified in the draft Plan was considered appropriate, including direct email contact 48 hours prior to applications. This notification can then be provided to parents that may be accessing the childcare buildings through adjacent sportsfields. This notification is in addition to signage installed in such reserves.

Other sensitive locations such as hospitals and health care facilities are not impacted by our planned pesticide programs as they are not located within 150 metres of relevant sites. Therefore there was no direct contact made with these facilities.

A central register of email contacts will be used to notify childcare facilities adjacent to fields, as well as existing contacts of sportsfield users held by council. This will include emails to all schools and sporting groups that use Warringah sportsgrounds as well as individuals who have requested such prior notification.

Additionally, internal consultation with staff resulted in a new condition being attached to booking confirmations which will alert hirers to the website address to check for any planned pesticide applications. This has not been included in the Plan as it is not a notification method as such, but is part of an improved process being implemented by staff.

Two submissions were received during the exhibition phase. They appear essentially as they were received, however references that could identify the person or their property have been removed.

| Submission | Response |
|---|---|
| <p>I think it's wrong. Pesticides cause cancer, poison our environment, water and animals and us. Owner of my previous house, used pesticide to kill a tree, within 12 weeks my dog developed lymph node cancer. I always used vinegar and salt and it does a great job and doesn't kill anyone. If you care about your kids and our environment our suggest to use natural products.</p> | <p>Frequently Asked Questions (FAQs) were included on the Your Say Warringah Page for the public exhibition. These FAQs addressed the need for Council to use pesticides as part of a holistic approach to pest management.</p> <p>Given the broad scale nature of our pest control programs, we would not achieve appropriate levels of pest control without pesticides as one of our options for control. Staff are qualified to apply pesticides, monitor weather patterns and use products in accordance with label directions and Material Safety Data Sheets. This minimises the likelihood of any off site or off target impacts of pesticide use.</p> |
| <p>I have just read your draft 'Pesticide Use Notification' Plan. I live adjacent to a road reserve, in Cromer, which is located between residences. I obviously do not know if you have any plans to use pesticide on this reserve as it has only been rarely done and it is many years since it was used. In my opinion, it does currently require pesticide use as it is quite prolific with Bidens weed which is mostly adjacent to our property. While I am very grateful for Council's prompt response to my recent request to reduce this particular weed, it now, nonetheless, is growing healthily once again. Although I, personally, prefer not to use pesticides, it would appear this is the only solution in this case. Secondly, if spraying is to take place at any time, I would prefer prior notification, as proposed in your draft plan, as I would prefer to not be at home. As I mind grandchildren after school and during school holidays, I would prefer them not to be present as well. Thank you for your consideration.</p> | <p>This submission supports notification as proposed in the plan.</p> <p>The job described is of a reactive nature and the pesticide used was Schedule 5 or lower. Notification in this scenario included placement of a sign at entry points to the public space, however there is no prior notification.</p> <p>The plan does provide for persons or organisations to nominate for inclusion on a register for prior notification. This resident who made the submission will be added to this register and will therefore be notified in advance of pesticide application in the reserve adjacent to their property. The notification will be built into the reactive maintenance process.</p> |

This number of submissions is consistent with the submission numbers received during the development of the original Pesticide Use Notification Plan in 2006. Three submissions were received at that time.

A third submission was table at the Council meeting of 16 February 2016. The items raised related to three themes, being use of dyes, additions to the notification register and utilising alternative methods to pesticides for weed control. The items are listed in the table below.

| Items | Response |
|---|---|
| <p>That dye, a notification in itself, is to be always added to herbicides, prior to their use</p> <p>That the dye used is harmless, biodegradable, non-irritant vegetable dye (costing about 1/3 more than chemical dye)</p> <p>That the colour of the dye is consistent</p> | <p>Dyes can be useful for identifying locations of pesticide application. Dye is not appropriate however to be used at all times. When applications occur across large areas, dye would impact the appearance of entire sportsfields and reserves. Notification methods including signage, 48 hours before and after work, as well as advertising through print and social media are preferred. Dyes can reactivate under moist conditions and mark animals or people. Another impact is that dye can cause medium to long term marking to civil infrastructure such as paving or concrete structures.</p> <p>Where small volumes of pesticides are applied using hand held equipment in garden or turf settings, the use of dyes is beneficial. The Pesticide Use Notification Plan has been updated to include this.</p> <p>The dye to be used will be assessed in accordance with our Hazardous Chemicals Program. Any new product used will need to undergo a risk assessment and any appropriate controls identified for use. Staff can consider vegetable dyes as suggested. As part of Safe Work Procedures we are required to select least hazardous substances. Where possible dyes of consistent colour can be used, however there may be times when different colours are used due to incompatibility with different pesticide products.</p> |
| <p>That notifications to sensitive and registered users are issued at the same time as public notices and media are informed</p> <p>That members of bushcare groups are added as sensitive users</p> | <p>The timing of notifications to those on the register can be adjusted to the same times as public and media notifications. Presumably this is in reference to the notification 1 month in advance of applications. The detail of dates of applications at specific sites however is more accurate closer to the time of application and it is considered this is more important, relevant information to those included on the register.</p> <p>In accordance with the <i>Work Health and Safety Act 2011</i>, Council do not distinguish between bushcare volunteers and employees for the purposes of workplace safety as these volunteers are participating in Council managed activities, projects, or events. As such, bushcare volunteers are obligated to work under similar procedures and safety management systems that Council requires of all staff, including those for chemical use and safety controls</p> |
| <p>That pesticide use is restricted to areas where simple methods like mowing are impossible</p> <p>That new methods like direct flame application or spraying with boiling water are investigated as a possible alternative to pesticide use</p> | <p>Staff currently use a variety of methods to control pests and minimise the use of pesticides. Beyond mechanical methods as suggested, there are programs for mulching in garden beds each winter to assist in weed control throughout summer. Bush regeneration staff, contractors and volunteers primarily do the majority of their work using manual techniques such as hand weeding and cutting. There are many other scenarios of alternatives being used across Council.</p> <p>Alternative methods such as steam or flame controls can be explored. They may have applications in certain scenarios.</p> |

FINANCIAL IMPACT

Nil

POLICY IMPACT

The *Pesticide Regulations 2009* require Councils to have a Pesticide Use Notification Plan.



Draft Pesticide Use Notification Plan

2016

▼
WARRINGAH.NSW.GOV.AU


WARRINGAH
COUNCIL

1. Introduction

This pesticide use notification plan has been prepared in accordance with the requirements of the Pesticides Regulation 2009 (the Regulation).

The aim of this plan is to meet the community's general right to know about pesticide applications made to public places that are owned, managed or controlled by Council. The plan provides opportunity for members of the community to take action to avoid contact with pesticides as they wish. It is Council's intention to ensure that pesticides are applied to public places in accordance with the regulation in a safe, responsible manner, minimising harm to the community and the Environment.

The plan sets out how Warringah Council will notify members of the community of pesticide applications it makes or allows to be made to public places that it owns, manages or controls.

The plan describes:

- what public places are covered by the plan
- who regularly uses these public places and an estimate of the level of use
- how and when Council will provide the community with information about its pesticide applications in public places (i.e. what notification arrangements will be used)
- how the community can access this plan and get more information about Council's notification arrangements
- how future reviews of the plan will be conducted
- contact details for anyone wishing to discuss this plan with Council.

Council is committed to an environmental best practice approach to managing public land and the environment. Use of pesticides is an important option in controlling pests to protect public property and open space assets from pest damage and to protect the users of public places from nuisance or danger. Where possible, alternative methods to control pests are utilised. New techniques are also investigated when they become available or when situations require innovative solutions.

The majority of pesticide use consists of programmed and supplementary reactive application of herbicides for control of weeds, such as Bindii and Clover, in developed park settings as well as the use of bush regeneration weed control techniques such as cutting-and-painting, stem injection of woody weeds and spot-spraying in bushland settings. Bait insecticides are used for termite and ant control to protect structures and public safety wherever this is considered an effective solution. Other pesticides used may include fungicides, algicides, insecticides, rodenticides, bird baits and large vertebrate baits.

Further information on Council's pesticide use can be obtained by calling Council's Customer Service on 9942 2111 or by visiting warringah.nsw.gov.au.

2. Public places covered by this plan

Council proposes to use or allow the use of pesticides in the following categories of outdoor public places that it owns, manages or controls within the Warringah Local Government Area.

- **Community Land – park and general community use including:**
 - » Gardens
 - » Playgrounds
 - » Picnic areas
- **Community Land – natural area including:**
 - » Bushland reserves
 - » Foreshore areas such as sand dunes
 - » Wetlands
 - » Watercourse
- **Community Land – sportsground including:**
 - » Playing surfaces
 - » Surrounds
- **Other public land owned, managed or controlled by Warringah Council, including:**
 - » Crown land reserves
 - » Road verges and reserves
 - » Laneways and pathways
 - » Drains
 - » Roads, fire trails, utility or other easements accessible to the public
 - » Outdoor and indoor public space associated with Council buildings and community facilities

The main user groups of, and types of pesticide use in each of the categories of public place are summarised in the following table on the next page.

| PUBLIC PLACES | REGULAR USER GROUPS | LEVEL OF USE OF PUBLIC PLACE | TYPE OF PESTICIDE USE |
|--|--|--|---|
| Community Land – Park and community use <ul style="list-style-type: none"> » Gardens » Playgrounds » Picnic areas | The local community (all ages), visitors, recreational users, school groups, contractors and Council employees | Seasonally variable, high level of use in regional and district locations, low levels of use in local reserves | <ul style="list-style-type: none"> • Spot spraying of non selective herbicides and insecticides • Broad scale applications of programmed selective pesticides (weed control in high use areas eg parks adjacent to beaches) • Spray and bait ant control and termiticides • Baiting for rodents |
| Community Land – Natural Area <ul style="list-style-type: none"> » Bushland » Foreshore » Wetlands » Watercourse | Friends of the Bush groups, volunteers, general public, contractors, bushwalkers | Medium to low use, generally restricted or limited to walking trails | <ul style="list-style-type: none"> • Vertebrate baiting (eg fox control) • Spot spraying of non selective herbicides and insecticides • Cut and paint techniques, stem injection |
| Community Land – Sportsground <ul style="list-style-type: none"> » Playing surfaces » Field surrounds | The general public including recreational users, sporting clubs and school groups, contractors and Council employees | Very high | <ul style="list-style-type: none"> • Spot spraying of selective and non selective • Broad scale applications of programmed selective pesticides for weed and insect control |
| Other public land <ul style="list-style-type: none"> » Crown land reserves » Road verges and reserves » Laneways and pathways » Drains » Roads, fire trails, utility or other easements accessible to the public » Outdoor and indoor public space associated with Council buildings and community facilities | The general public, contractors, utility companies and Council employees | High to low use depending on space eg council buildings are high use, laneways may be low | <ul style="list-style-type: none"> • Spot spraying of selective and non selective herbicides and insecticides • Spray and bait ant control and termiticides • Rodenticides in or near facilities • Vertebrate baiting |

3. Notification arrangements - general

This section of the plan describes how and when Council will provide notice of pesticide use in public places covered by this plan. It also considers notification for particular situations including:

- **sensitive places that are adjacent to public places**
- **arrangements for emergency pesticide applications and**
- **circumstances where notice will not be given**

These notification requirements are based on Council's consideration of the following parameters within a framework of risk assessment:

- The level of usage and accessibility of public places where pesticides may be used (noting that some sites are less used and less accessible reducing the likelihood of contact if any ie bushland sites undergoing regeneration)
- The capacity of Council to control access to public places during pesticide applications
- The extent to which activities generally undertaken in these areas could lead to some direct contact with pesticides or the action of applying pesticides
- The extent to which members of the general public, contractors and Council staff are sensitive to pesticide applications, in particular young, sick, pregnant and elderly people
- The type, volume, toxicity and residual capacity of pesticides used

Notice of pesticide use will be provided through a communications package including one or more of the following:

- Information on Council's website
- Messages through appropriate social media such as Twitter
- The erection or placement of signs at entrances of public places
- Postage of letters and letterbox drops where appropriate
- Through the media via Council's notice pages and Administrators message
- By telephone, email or personal contact; and
- Phone contact to primary users of areas.

Council will also allow persons and organisations to nominate to have their details placed on a central register which would allow them to be notified of certain types of pesticide uses in particular places, as described in this section of the plan.

4. Notification arrangements - detailed

Community Land

Park and general community use including gardens, playgrounds, and picnic areas

A list of all sites scheduled for programmed pesticide applications will be advertised on Council's website and in local print media approximately 1 month prior to application. In addition temporary signs will be placed at entrances to parks, playgrounds and picnic areas categorised as regional and sub-regional, where visitation is high, at least 48 hours prior to application and remain on site for an additional 48 hours afterwards.

For pesticide treatment of areas that are used infrequently, or where a pesticide is Schedule 5 or lower in accordance with the Poisons Standard, signs will be restricted to that required during application and remain until such time that the pesticide has dried following contact with target species. Further information is available by contacting Council's Customer Service Centre as detailed on signage and elsewhere in this notification plan.

Dye will be added to herbicides applied by way of aerosol spray cans and spot weed/grass control using a wand or backpack/handheld spray bottle and low voltage ute pack sprayer, hand-held applicator, or by cut-and-paint or stem injection techniques. Dye will only be used in vegetated areas (eg gardens, grass, bushland). They will not be used on hard surfaces such as footpaths, drains or other civil infrastructure.

Where the community has nominated to be contacted when applications are made at certain locations, this will be done via social media messaging, email or other preferred form of contact 48 hours prior to application.

Community Land

Natural area

In these areas the method of notification will vary. For pesticide treatment in frequently used locations, signs will be placed at the major entrances to the area to be treated as described above.

For pesticides covered by a Pesticide Control Order, notification will be as specified in the relevant Order, unless the Order does not specify all of the

information required by the Pesticides Regulation. If the latter occurs, signs and/or notices will also provide the information required by the Pesticides Regulation or other relevant legislation.

For pesticide treatment of areas that are used infrequently, or where a pesticide is Schedule 5 or lower in accordance with the Poisons Standard, signs will be restricted to that required during application and remain until such time that the pesticide has dried following contact with target species. Further information is available by contacting Council's Customer Service Centre as detailed on signage and elsewhere in this notification plan. Dye will also be added to sprays in situations described above.

Community Land

Sportsground

The majority of pesticide applications occur as part of Council's planned maintenance programs. A list of all sites scheduled for programmed pesticide applications will be advertised on Council's website and in local print media approximately 1 month prior to application. In addition temporary signs will be placed at entrances of sportsfields, ovals and other sporting facilities including hard courts categorised as regional and sub-regional, where visitation is high, at least 48 hours prior to application and remain on site for an additional 48 hours afterwards.

For pesticide treatment of areas that are used infrequently, or where a pesticide is Schedule 5 or lower in accordance with the Poisons Standard, signs will be restricted to that required during application. This signage will remain in place whilst application activities occur and until such time that the pesticide has dried following contact with target species. Further information is available by contacting Council's Parks Reserves and Foreshores Maintenance Delivery Team as detailed on signage and elsewhere in this notification plan.

Where the community has nominated to be contacted when applications are made at certain locations, this will be done via social media messaging, email or other preferred form of contact 48 hours prior to application.

Other public land owned, managed or controlled by Warringah Council

A list of all sites scheduled for programmed pesticide applications will be advertised on Council's website and in local print media approximately 1 month prior to application. In addition temporary signs will be placed at entrances of Council facilities where visitation is high, at least 48 hours prior to application and remain on site for an additional 48 hours afterwards.

For pesticide treatment of areas that are used infrequently, or where a pesticide is Schedule 5 or lower in accordance with the Poisons Standard, signs will be restricted to that required during application and remain until such time that the pesticide has dried following contact with target species. Further information is available by contacting Council's Customer Service Centre as detailed on signage and elsewhere in this notification plan. Dye will also be added to sprays in situations described above.

Where the community has nominated to be contacted when applications are made at certain locations, this will be done via social media messaging, email or other preferred form of contact 48 hours prior to application.

Sensitive places adjacent to public places

Clause 18 of the Pesticides Regulation defines a sensitive place to be any:

- » school or pre-school
- » kindergarten
- » childcare centre
- » hospital
- » community health centre
- » nursing home
- » a place declared to be a sensitive place by the Environment Protection Authority (EPA).

Where pesticide application is programmed or scheduled for application within 150m of places described above, the occupiers will be provided with 48 hours prior notice by social media, phone, email or letterbox drop (whichever is most practicable).

Arrangements for emergency pesticide applications

In cases where emergency pesticide applications are required to deal with biting or dangerous pests such as wasps, bees, venomous spiders, fleas, bird mites or rodents (that pose an immediate health hazard or risk to the general public, contractors and Council employees), the risk will be controlled and may involve isolation and restricted access of the site. Where practicable, signage and or on site management or signage will be implemented.

Instances where Council will not give notice of pesticide application

With the exception of persons and organisations who have nominated for inclusion in Council's central notification register, Council will not provide notification where the following applies:

- the use of small quantities of pesticides that are widely available in retail outlets and ordinarily used for domestic purposes (including home gardening)
- public places that have been closed temporarily to the public where the closure is unrelated to the pesticide use
- remote areas where there is little likelihood of them being encountered by the public ie areas where there is no vehicular access and low public visitation

5. Information to be provided

In accordance with clause 20(1)(h) of the Pesticides Regulation, notice of pesticides uses will include the following information:

- the full product name of the pesticide to be used, and
- the purpose of the use, clearly setting out what pest or pests are being treated, and
- the proposed date/s or date range of the pesticide use, and
- the places where the pesticide is to be used, and
- contact telephone number and email address of the Council officer who people can contact to discuss the notice, and
- any warnings regarding re-entry to or use of the place, if specified on the pesticide product label or the Australian Pesticides and Veterinary Medicine Authority permit.

6. Informing the community

Council will advise residents of this plan and its contents by:

- placing a copy of the plan on public display, available for viewing, free of charge during office hours, at its main office at the Civic Centre, 725 Pittwater Road, Dee Why 2099
- placing a copy of the plan on the Council website (warringah.nsw.gov.au) on the Your Say Warringah page
- placing a notice in the Manly Daily newspaper
- placing a notice in the NSW Government Gazette

7. Future reviews of the plan

Unless there is a specific need for an earlier review, this notification plan will be reviewed within five years of the adoption date.

The review will include:

- a report on progress of implementing the plan;
- public consultation on the notification methods outlined in the plan; and
- recommendations for alterations (if applicable) to the plan

Contact details

Anyone wishing to contact Council to discuss the notification plan or to obtain details of pesticide applications in public places should contact:

Maintenance Delivery Manager

Parks Reserves and Foreshores
725 Pittwater Road
Dee Why, NSW 2099

9942 2111

council@warringah.nsw.gov.au

warringah.nsw.gov.au

| | |
|--------------------------|--|
| ITEM 8.2 | MINUTES OF STRATEGIC REFERENCE GROUPS |
| REPORTING MANAGER | DEPUTY GENERAL MANAGER ENVIRONMENT |
| TRIM FILE REF | 2016/065815 |
| ATTACHMENTS | <ol style="list-style-type: none"> 1 Draft Minutes of the Open Space and Recreation SRG Meeting held 17 February 2016 (Included In Attachments Booklet) 2 Draft Minutes of A Connected Environment SRG Meeting held 17 February 2016 (Included In Attachments Booklet) 3 Notes of the Meeting of the Vibrant Connected Communities SRG Meeting held 17 February 2016 (Included In Attachments Booklet) 4 Draft Minutes of the Environment, Conservation and Overall Sustainability SRG Meeting held 17 February 2016 (Included In Attachments Booklet) |

REPORT

PURPOSE

To report the minutes and notes of the four Strategic Reference Group (SRG) meetings held on 17 February 2016.

SUMMARY

At these meetings strategic workshops and project updates were presented to the groups.

In accordance with the SRG Guidelines the draft minutes of the meetings are reported to Council and the following documents are now presented:

| Strategic Reference Group | Meeting Date |
|--|------------------------------------|
| Open Space and Recreation | 17 February – Draft Minutes |
| A Connected Environment | 17 February – Draft Minutes |
| Vibrant Connected Communities | 17 February – Notes of the Meeting |
| Environment, Conservation and Overall Sustainability | 17 February – Draft Minutes |

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council note the draft minutes and notes of the meeting from the following meetings:

- A. Open Space and Recreation Strategic Reference Group meeting held 17 February 2016
 - B. A Connected Environment Strategic Reference Group meeting held on 17 February 2016
 - C. Vibrant Connected Communities Strategic Reference Group meeting held 17 February 2016
 - D. Environment, Conservation and Overall Sustainability Strategic Reference Group meeting held 17 February 2016.
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|--------------------------|--|
| ITEM 8.3 | MINUTES OF THE MANLY LAGOON CATCHMENT COORDINATING COMMITTEE HELD 29 OCTOBER 2015 |
| REPORTING MANAGER | GROUP MANAGER NATURAL ENVIRONMENT |
| TRIM FILE REF | 2016/048301 |
| ATTACHMENTS | 1 Minutes of the Manly Lagoon Catchment Coordinating Committee held 29 October 2015 (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To report the minutes of the Manly Lagoon Catchment Coordinating Committee meeting held 29 October 2015.

SUMMARY

Mayor Michael Regan and Councillor Heins represented Warringah Council. Councillor Burns chaired the meeting and represented Manly Council with Councillor Bingham. Reporting of these minutes has been delayed due to correction of the recommendations and subsequent endorsement by Committee members.

The key items discussed at this meeting were:

- Crown Land owned lots adjacent to Mermaid Pool
- Update on the Manly Lagoon Floodplain Risk Management Study and Plan
- Overview of the Manly West Park Sediment Basin Project and other Burnt Bridge Creek water quality improvement programs
- Update on the Manly Lagoon Integrated Catchment Management Strategy Action Matrix
- Update on possible threats to bushland surrounding Manly Warringah Memorial Park (Manly Dam)
- Assistance with bush regeneration in the Mermaid Pool Precinct.

The minutes of the previous meeting held 30 July 2015 were confirmed by the Committee.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council note the Minutes of the Manly Lagoon Catchment Coordinating Committee meeting held on 29 October 2015.

REPORT

BACKGROUND

The main function of the Manly Lagoon Catchment Coordinating Committee (MLCCC) is as an advisory body to both Warringah and Manly Councils on matters concerning the management of Manly Lagoon and its catchment. Membership of the Committee comprises representatives from the elected Councils of Warringah and Manly, local community, State Government and Council Officers. Meetings are held quarterly.

Mayor Michael Regan and Councillor Heins represented Warringah Council. Councillor Burns chaired the meeting and represented Manly Council along with Councillor Bingham. Reporting of these minutes has been delayed due to correction of the recommendations and subsequent endorsement by Committee members at the meeting of 28 January 2016.

The key issues discussed at this meeting are summarised below:

Crown Land Owned Lots Adjacent to Mermaid Pool

Options for the MLCCC to lobby for land zoning changes with greater environmental protections was discussed for the following four lots identified as Lots 7369 and 7370 in DP 1165551, Lot 7371 in DP 1165577 and Lot 2501 in DP 752038. A number of management options were discussed by the Committee, and it was resolved that the two Mayors write on behalf of the Committee to the Minister for Planning to seek that the four lots be rezoned from R2 to E1 or E2 using Department of Planning resources.

Update on the Manly Lagoon Floodplain Risk Management Study and Plan

Duncan Howley provided an update on the Manly Lagoon Floodplain Risk Management Study and Plan. The project has experienced some delays due to data validity issues stemming from a software update; however this issue has been overcome to the satisfaction of all project partners. It was noted a sensitivity analysis will be undertaken on model parameters including sea level rise and other climate change assumptions.

Allison Flaxman provided an update on the Northern Beaches Local Flood Sub-plan, which is being developed by the SES and will include the Manly Lagoon Catchment.

Overview of the Manly West Park Sediment Basin Project and Other Burnt Bridge Creek Water Quality Improvement Programs

Patrick Stuart provided a presentation on the Manly West Park Pollutant Interception Basin Project in lower Burnt Bridge Creek, and a brief summary of other water quality improvement projects. The basin is designed to capture sediment, organic matter and attached heavy metals and nutrients, before it smothers sea grass and contaminates Manly Lagoon. It was noted that the rate of sediment refilling of the 2.2m deep basin will be monitored. Maintenance budget had been allocated though Manly Council's Environment Levy for one cleanout per year (subject to approval each subsequent year).

Update on the Manly Lagoon Integrated Catchment Management Strategy (ICMS) Action Matrix

Jodie Crawford informed the committee about the review process Warringah and Manly staff undertook to assess the progress of actions identified in the Manly Lagoon Integrated Catchment Management Strategy (2005). Significant progress has been made with 79 of the 84 actions completed or underway by 2015. The remaining five actions are tasks which have been considered non-viable.

In light of the success of the Strategy and the high number of completed actions, the Committee recommended that Warringah and Manly Councils consider the ICMS complete, and initiate discussion on a new iteration for future management of the Manly Lagoon Catchment. The Committee recommended the new management document have a catchment focus, and that objectives are values based and evidence driven.

Update on Possible Threats to Bushland Surrounding Manly Warringah Memorial Park

Committee members expressed their concerns over the loss of bushland and biodiversity related to the potential sale of Sydney Water land in Seaforth, leasing of land at Aquatic Reserve and the proposed Manly Vale School development. The Committee recommended that a letter expressing concern for the Proposed Manly Vale School Development be sent to a number of Ministers.

Assistance with Bush Regeneration in the Mermaid Pool Precinct.

Dr Helen Wilkins advised the Committee that the Bushlink Organisation had been contacted regarding bushland management in the lots surrounding Mermaid Pool, however, Bushlink have initially advised that management of bush regeneration on this land by them was not viable and that seed funding needed to be sought.

A recommendation that the Manly Environment Centre seek grant funding for an on-going restoration program covering the four sites was deemed inappropriate by the General Manager of Manly Council.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

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|--------------------------|---|
| ITEM 8.4 | ANNUAL REPORT (INCLUDING MINUTES OF MEETING) OF THE NARRABEEN LAGOON STATE PARK ADVISORY COMMITTEE |
| REPORTING MANAGER | GROUP MANAGER NATURAL ENVIRONMENT |
| TRIM FILE REF | 2016/037745 |
| ATTACHMENTS | 1 Narrabeen Lagoon State Park Advisory Committee Annual Report including Minutes of Meetings (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To deliver the Annual Report of the Narrabeen Lagoon State Park Advisory Committee including the minutes of meetings held since inception.

SUMMARY

The Narrabeen Lagoon State Park was established in 2014 in recognition of the area's important public recreation, tourism and environmental qualities. As part of the governance arrangements, the Narrabeen Lagoon State Park Advisory Committee was established to help steer the management and direction of the new State Park. There are eight Committee members, representing a range of community and stakeholder groups. The Committee, which is chaired by Warringah Council Mayor, Michael Regan, has met five times since November 2014.

The Committee has advised the Narrabeen Lagoon State Park Trust (Warringah Council) on sustainable funding options for the State Park, recommending additional land parcels for inclusion into the State Park, and advising on appropriate current and potential future uses of the State Park. The Annual Report and its attachments contain more details on these matters.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council note the Annual Report of the Narrabeen Lagoon State Park Advisory Committee.

REPORT

BACKGROUND

The creation of the Narrabeen Lagoon State Park was announced by the Deputy Premier in April 2014 in recognition of the area's important public recreation, tourism and environmental qualities. Warringah Council was announced as the Reserve Trust Manager.

As part of the governance arrangements, the Narrabeen Lagoon State Park Advisory Committee (the Committee) was established. The purpose of the Committee is to act in an advisory role to the Narrabeen Lagoon State Park Reserve Trust. Specifically, the Committee was to advise on sustainable funding options for the State Park, potential expansion of the State Park, appropriate current and future use of the State Park and oversight of the implementation of the Plan of Management.

There are eight Committee members, representing a range of community and stakeholder groups. Mayor Michael Regan was appointed by the Deputy Premier to chair the meetings. There are three community members who have knowledge of the State Park, being a community representative, a recreation user group representative and a representative of the Chair of the Metropolitan Local Aboriginal Land Council.

There are representatives of the main land owner groups, one from Warringah Council (Trust Manager) and one from NSW Trade & Investment (Crown Lands). There are also representatives from NSW Department of Primary Industries (Fisheries) and NSW Office of Environment and Heritage (National Parks) with expert technical and policy information regarding the overall management of the lagoon environment.

Five meetings have been held, and the minutes of each of these meetings are attached. The first Annual Report for the Committee, which outlines the establishment, purpose and membership of the Committee and summarises the issues discussed by the Committee, is also attached.

The key issues discussed by the Committee are summarised below:

Sustainable Funding

The Committee agreed that there are opportunities to increase income by looking at licences within the State Park, and also potentially from the business catchment that derives income from the State Park. However they also agreed that the main purpose should not be raising money but instead offsetting costs associated with new activities or responsibilities. For example, the Committee agreed that the inclusion of additional land parcels within the State Park must be accompanied by additional funding and agreed management arrangements.

Potential Expansion

The State Park currently includes Jamieson Park and Sanctuary Island as well as the lagoon itself. The Committee discussed future expansion and approved a multi-criteria assessment matrix for prioritising potential land for inclusion. They agreed that an increased number of land parcels would be beneficial to the State Park and resolved to support the inclusion of high priority NSW Government land parcels into the State Park as a first priority. Crown Lands will facilitate the addition of NSW Government land parcels to the State Park in consultation with Warringah Council.

Appropriate Use of the State Park

The Committee agreed on a number of key principles to be considered for all development or activities within the State Park. Future uses must be sympathetic with the lagoon environment, should be focussed on accessing the Park at times of low usage, seek a balance between commercial return and community events and seek a balance between organised events and

public walk-up users. A Recreation Decision Support Matrix was developed by staff based on these principles and was supported by the Committee.

Oversight of Plan of Management Implementation

The Committee reviewed and accepted an action audit outlining Council's progress with the actions in the Narrabeen Lagoon Plan of Management. The Committee requested to receive the audit update each year, but will raise any major issues as they arise throughout the year.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

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|--------------------------|--|
| ITEM 8.5 | AMENDMENTS TO POLICY ON APPLICATIONS FOR DEVELOPMENT - HANDLING OF UNCLEAR, NON CONFORMING, INSUFFICIENT AND AMENDED APPLICATIONS |
| REPORTING MANAGER | DEPUTY GENERAL MANAGER ENVIRONMENT |
| TRIM FILE REF | 2016/052258 |
| ATTACHMENTS | <ol style="list-style-type: none"> 1 Draft DCS-POL140 Applications for Development - Handling of Unclear, Non Conforming, Insufficient and Amended Applications Policy (Included In Attachments Booklet) 2 PDS-POL140 Applications for Development - Handling of Unclear, Non Conforming, Insufficient and Amended Applications Policy (Included In Attachments Booklet) |

RI

REPORT

PURPOSE

To seek Council's endorsement to exhibit amendments to the *Applications for Development – Handling of Unclear, Non Conforming, Insufficient and Amended Applications Policy* ("the Policy").

REPORT

The policy for *Applications for Development – Handling of Unclear, Non Conforming, Insufficient and Amended Applications* is very prescriptive, detailed and reads more like an information guideline and internal procedure rather than a policy.

The Policy contains many legislative references that can be deleted without affecting the legislation that governs the lodgement and assessment of development applications, modifications and reviews.

A policy is defined by Council's Policy Development & Management as:

"A Policy is a formal statement of Council's position covering the principles it will adopt in administering its statutory responsibilities and promotes consistency of approach and administrative efficiency."

Considering the above, a policy should provide clarity of direction through adopted principles and enable appropriate efficiency and flexibility to keep up with changing legislation and best practice.

Accordingly, to best suit Council's operational purposes and for ease of access to relevant information, the draft Policy has been amended to broadly cover the principles adopted in administering the statutory responsibilities under the *Environmental Planning and Assessment Act, 1979* and Regulations.

The attached draft policy *Applications for Development – Handling of Unclear, Non Conforming, Insufficient and Amended Applications* has been developed to be consistent with Council's *Policy Development & Management Policy* and the requirements of the *Environmental Planning and Assessment Act, 1979* and Regulations.

The current policy and proposed amended policy are included as attachments with the proposed changes highlighted.

TIMING

After the 28 day public exhibition period is completed the amended Policy will be reported back to Council for adoption.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council place the amendments to the *Applications for Development – Handling of Unclear, Non Conforming, Insufficient and Amended Applications Policy* on public exhibition for a period of 28 days.

| | |
|--------------------------|--|
| ITEM 8.6 | DRAFT AMENDMENTS TO WARRINGAH DEVELOPMENT CONTROL PLAN 2011 IN REGARDS TO WASTE MANAGEMENT |
| REPORTING MANAGER | DEPUTY GENERAL MANAGER ENVIRONMENT |
| TRIM FILE REF | 2016/020867 |
| ATTACHMENTS | <ol style="list-style-type: none"> 1 Current Waste Management Plan (Included In Attachments Booklet) 2 New Waste Management Guidelines- Introduction (Included In Attachments Booklet) 3 New Waste Management Guidelines - Chapter 1 Demolition (Included In Attachments Booklet) 4 New Waste Management Guidelines - Chapter 2 Construction (Included In Attachments Booklet) 5 New Waste Management Guidelines - Chapters 3 to 7 Ongoing Use (Included In Attachments Booklet) 6 New Waste Management Guidelines - Appendices A to H (Included In Attachments Booklet) 7 New Waste Management Plan (Included In Attachments Booklet) 8 Current and Amended Parts C8 and C9 of the Warringah Development Control Plan (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To gain endorsement to exhibit an amendment to Warringah Development Control Plan 2011 (WDCP) in regards to waste management relating to the demolition, construction and on-going phases of developments within Warringah.

SUMMARY

The current Waste Management Plan (WMP) and Parts C8 – Demolition and Construction and C9 – Waste Management in the WDCP are complex, unclear and result in poor outcomes for Council, land owners, developers, residents and the environment. A new set of Waste Management Guidelines (WMG) have been developed to replace the existing WMP, along with a new Waste Management Plan that will replace the form imbedded in the current WMP and will be required to be submitted with all relevant Development Applications. Parts C8 and C9 of the WDCP (C8 and C9) are proposed to be amended to remove specific requirements and to direct applicants to comply with the WMG.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council endorse the exhibition of draft changes to the Warringah Development Control Plan 2011 for a period of 28 days involving:

- a) Amendments to Parts C8 – Demolition and Construction and C9 – Waste Management
 - b) The removal of Appendices 3, 4 and 13.
-

REPORT

BACKGROUND

A large amount of demolition and construction waste, generated from building sites, is sent to landfill instead of being reused or recycled. Many waste processing centres can process and recycle a large number of different building materials. These centres can often do so at a greatly reduced cost when compared to a load of mixed landfill waste.

Having large amounts of demolition and construction waste being sent to landfill is a poor outcome for the long term sustainability of the environment and puts an added strain on our already limited landfill facilities.

Council's current Waste Management Plan (WMP) is not designed as well as it could be to make the current process efficient for all stakeholders. The current WMP is complex, at times unclear and contains requirements, information and a form for applicants to complete. The form is not contiguous and is spread out amongst the document making it difficult to complete efficiently. This has resulted in a portion of Development Applications (DAs) being lodged without a form or with only a partially complete form. These forms/plans cannot then be consistently relied upon to manage the demolition and construction phases of a development and so are often not included as part of the conditions of consent by Council's Development Assessment Team.

The Warringah Development Control Plan (WDCP) plays an important role in the waste management process for residents, applicants and staff. Important information for applicants, residents and staff is contained in three separate places within the WDCP, being Part C8 – Demolition and Construction, Part C9 – Waste Management and in three appendices attached to the WDCP. The WDCP also does not adequately refer to the current WMP or form.

This dispersal of information and inadequate references to other documents causes confusion for residents and applicants, can result in poor planning outcomes, and consequently wastes time and money for both Council and our customers.

The Project

In July 2013 Council began a business improvement project aimed at eliminating demolition and construction waste (generated from building sites across Warringah) from being sent to landfill. The project intended to use the existing Development Application and Certification processes to achieve this. The specific aims at the start of the project were:

*"The aim of this initiative is to develop a mechanism which is part of the DA Certification process which ensures that all certifiers (internal and external) are monitoring and validating the waste management components of the DA's. In particular, managing the waste aspect of the **demolition and construction** phases.*

The lack of such a control in place means that thousands of tons of materials that could potentially be re-used are being dumped (as well as other issues like asbestos not being properly disposed of)."

During the initial project stages, the issues outlined in the Background section above were identified and the project was expanded to find solutions to those problems as well.

The project team began by conducting a review of the current WMP, Parts C8 – Demolition and Construction, C9 – Waste Management and the appendices in the WDCP.

The team spoke to various stakeholders including Planners, Building Certifiers, Demolition Contractors, the Environmental Protection Agency, Planning Consultants, Architects, Project Managers, Environmental Health Officers and Waste Processing Centres, before developing solutions.

The Proposed Solution

New Waste Management Guidelines (WMG) were created to clearly outline requirements for waste management throughout the life of a development (demolition, construction and on-going phases). These new guidelines combined the information currently spread between the current WMP, the WDCP and the WDCP appendices, into one document.

In order to make it easier for residents and applicants, the project team split the guidelines into chapters that each addressed a specific development type (for example: Applications for One or Two Dwellings, Commercial Development or Residential Flat Buildings). Keeping these chapters separate will allow residents and applicants to quickly access the parts of the guidelines that specifically relate to their development type.

The three appendices (Nos. 3, 4 and 13) in the WDCP were removed and included in the WMG. These appendices can be subject to changes outside of Council's control (eg: new requirements from the Environmental Protection Agency or changes to Council's waste contractors) and by removing them from the WDCP, Council staff will be able to quickly and effectively amend them without needing to go back to Council to exhibit and adopt the changes (this is required to change an appendix in the WDCP). This will reduce the size and complexity of the WDCP, will allow for a more efficient change for staff and customers, and will allow changes to Council's waste contracts to be free from the risk of requiring more complex WDCP changes.

A new WMP was also developed as a stand-alone document that only contains the form for the applicants to fill out and is linked to the WMG to make it simpler and easier for residents and applicants to complete. The new WMP has a number of sections but only relevant sections depending on each type of development need to be completed and submitted by the applicant for a DA.

As online lodgement for development applications approaches, the new WMG and the new WMP were designed so that they can be easily transitioned into online documents and a web-form. This will help applicants and residents streamline this part of the development application process and help staff ensure all required information is submitted.

The above new documents and the problems with the current process described earlier will require a new process for the lodgement and assessment of development applications in relation to waste management.

All relevant DAs (i.e. involving demolition, construction or on-going waste disposal) will be required to include a completed WMP at the time of lodgement.

For developments that do not need to be referred to Council's Waste Management Team (for example: single residential dwellings), this plan will then become part of any conditions of consent.

Developments that are referred will be reviewed by Council's Waste Management Team who will check that the WMP meets the requirements within the WMG and matches the proposed plans for the development.

Once a consent that includes conditions addressing waste management is issued, the Principal Certifying Authority (PCA) for the development will then be responsible for ensuring that all waste is reused, recycled or disposed of, during the demolition and construction phases, in accordance with the assurances given by the applicant in the WMP. The PCA will also be responsible for ensuring that the on-going waste management of the development are constructed in accordance with the approved plans and any conditions of consent.

Details demonstrating compliance will then be submitted to Council by the PCA when they send in a copy of the occupation certificate.

Council will collect and monitor this data to assess the effectiveness of these changes and to assist in any future review of the process.

CONSULTATION

The project team then began a consultation process to obtain feedback on the proposed solutions.

A Your Say Warringah page, for members of the public to have their say, was set up and a drop in workshop was also held to discuss any potential impacts of the changes. Both these avenues of consultation received minimal interest.

The project team also created a list of private certifiers who do the majority of the private certification work within Warringah. They were contacted directly via email, provided with an outline of the proposal and asked for feedback. The project team wanted to know whether they thought the changes were a good idea, what the changes would mean for their roles and if they could improve the solutions. Council's own certifiers were also consulted and were asked the same questions.

A number of responses from private certifiers were received that provided useful answers and advice. These, along with the feedback from Council's Certification Team helped finalise the proposed changes.

Formal consultation for 28 days is required to amend a DCP. Council's endorsement is required to exhibit the changes.

Proposed Changes

The project team recommends that the following draft changes to the WDCP 2011 be placed on public exhibition:

- Parts C8 – Demolition and Construction and C9 – Waste Management be amended as per Attachment 8
- Appendices 3, 4 and 13 in the WDCP2011 be removed, (to be included as appendices in the new WMG (Attachment 6))

TIMING

Following 28 days public consultation, a report will be prepared for Council with final recommendations.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

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|--------------------------|--|
| ITEM 8.7 | DELEGATION UNDER THE NOXIOUS WEEDS ACT 1993 |
| REPORTING MANAGER | GROUP MANAGER NATURAL ENVIRONMENT |
| TRIM FILE REF | 2016/040113 |
| ATTACHMENTS | NIL |

EXECUTIVE SUMMARY

PURPOSE

To delegate powers under Section 68 of the *Noxious Weeds Act* 1993 to enable Council staff to issue notices requiring owners or occupiers of land to control noxious weeds.

SUMMARY

Under Section 68 of the *Noxious Weeds Act* 1993 (the Act), delegation of powers under the Act must be by Council resolution. The delegation of powers to Council staff is required in order to fulfil Council's obligations as a local control authority under the Act. This report has been prepared to update delegations under the Act to reflect changes in position titles. It is important to note that there are no changes to the powers being conferred on staff, just an update to the position titles that have changed since the last delegation was issued in July 2012.

The powers include but are not limited to: entry to property, issue of notices, undertaking inspections and investigations, charging of expenses and application of penalties. It is recommended that the Council delegate these powers to the position titles as shown in Schedule 1 - Positions requiring delegation of powers under the *Noxious Weeds Act* 1993.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council delegate authority pursuant to Section 68 of the *Noxious Weeds Act* 1993 to the holders (from time to time) of the positions outlined in Schedule 1 – Positions requiring delegation of powers under the *Noxious Weeds Act* 1993 of this report, and authorise them to exercise any of the Council's functions under that Act.

REPORT

BACKGROUND

Under the *Noxious Weeds Act 1993* (the Act), Council is designated as a local control authority. This designation obliges Council to undertake a number of actions to manage and control noxious weeds on public and private property. Some of these actions require staff to have certain powers, however under the Act such delegations can only be conferred by a decision of Council. This report has been prepared to update delegations under the Act to reflect changes in position titles.

The powers that may be exercised by staff under this delegation include but are not limited to:

- Entry to property
- Issue of notices requiring owners or occupiers of land to control noxious weeds
- Inspections and investigations
- Charging of expenses and applying penalties

Authorisation from Council is sought for a number of positions to most effectively exercise Council's obligations under the Act. It is important to note that there are no changes to the powers being conferred on staff, just an update to the position titles that have changed since the last delegation was issued in July 2012. Accordingly Council is requested to delegate authority to the holders (from time to time) of the positions outlined in Schedule 1 - Positions requiring delegation of powers under the *Noxious Weeds Act 1993*.

Schedule 1 – Positions Requiring Delegation of Powers under the *Noxious Weeds Act 1993*

| Position | Service | Division |
|---|-----------------------------------|-----------------|
| Bushland & Biodiversity Manager | Natural Environment | Environment |
| Senior Environment Officer Biodiversity | Natural Environment | Environment |
| Senior Environment Officer Bushland | Natural Environment | Environment |
| Environment Officer Biodiversity | Natural Environment | Environment |
| Park Co-ordinator Manly Dam | Parks Reserves and Foreshores | Environment |
| Senior Ranger Manly Dam | Parks Reserves and Foreshores | Environment |
| Environmental Investigation Officers | Development & Compliance Services | Environment |
| Environmental Investigations Coordinator | Development & Compliance Services | Environment |
| Regulation and Enforcement Manager | Development & Compliance Services | Environment |
| Coordinator Rangers | Development & Compliance Services | Environment |
| Building Investigations Coordinator | Development & Compliance Services | Environment |
| Planning Assessments Manager | Development & Compliance Services | Environment |
| Health and Building Certification Manager | Development & Compliance Services | Environment |
| Coordinator Environmental Health | Development & Compliance Services | Environment |

CONSULTATION

Internal consultation has been undertaken with the relevant service areas involved.

TIMING

The powers under this delegation will take immediate effect.

POLICY IMPACT

Nil

FINANCIAL IMPACT

Nil

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|--------------------------|--|
| ITEM 8.8 | 2016 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (ALGA) |
| REPORTING MANAGER | DEPUTY GENERAL MANAGER ENVIRONMENT |
| TRIM FILE REF | 2016/058390 |
| ATTACHMENTS | 1 National General Assembly of Local Government 2016 - Provisional Program |

EXECUTIVE SUMMARY

PURPOSE

To determine Councillor attendance at the 2016 National General Assembly of Local Government being held in Canberra from Sunday 19 June 2016 to Wednesday 22 June 2016, and to determine any Motions to be submitted by Warringah Council to this conference.

SUMMARY

The National General Assembly of Local Government is the major event on the annual events calendar for the Australian Local Government Association (ALGA). It is convened by the Australian Local Government Association for local councils across Australia to develop and express a united voice on the core issues affecting local government and their communities. Council has been asked to nominate representatives at the Conference, as well as to submit Motions, by 22 April 2016.

FINANCIAL IMPACT

Funds are available in the 2015/2016 budget for conference attendance by Councillors.

POLICY IMPACT

Attendance by Councillors at the National General Assembly of Local Government and payment of expenses is in accordance with Council's Policy GOV-PL 130 Payment and Reimbursement of Expenses Incurred by, and the Provision of Facilities to, the Mayor, Deputy Mayor and Councillors.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Authorise nominated Councillors to attend the National General Assembly of Local Government to be held in Canberra from 19-22 June 2016;
 - B. Determine any Motions to be put forward by Warringah Council to the 2016 National General Assembly of Local Government.
-

REPORT

BACKGROUND

The National General Assembly of Local Government is an annual conference convened by the Australian Local Government Association for local councils across Australia to develop and express a united voice on the core issues affecting local government and their communities.

The 2016 conference is in Canberra from 19-22 June 2016. Council has been invited to nominate representatives at the National General Assembly of Local Government, as well as to submit Motions by 22 April 2016.

This year's theme is 'Partners in an Innovative and Prosperous Australia'. The theme reflects the renewed focus across all levels of government on the roles and responsibilities of the public sector and the challenge of meeting our communities' needs.

A discussion paper compiled by ALGA was previously distributed to Councillors.

A Motion to be submitted must have the support (i.e. by resolution) of the full Council and meet the following criteria:

- Be relevant to the work of local government nationally
- Be consistent with the theme of the NGA
- Complement or build on the policy objectives of the NSW Local Government Association.
- Propose a clear action and outcome and
- Not be advanced on behalf of external third parties which may seek to use the NGA to apply pressure to Board members, to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, the local government sector.

The ALGA requires that any Motions be submitted by Friday 22 April 2016. If Council is to submit Motions by the due date, it will be necessary for Council to resolve to lodge the Motions at tonight's Council Meeting to ensure enough time for staff to submit the details prior to the due date.

CONSULTATION

Councillors have been consulted regarding the submission of Motions to the conference.

TIMING

The conference runs from 19-22 June 2016 inclusive.

POLICY IMPACT

Attendance by Councillors at the National General Assembly of Local Government will be dealt with in accordance with Council's Policy GOV-PL 120 Payment and Reimbursement of Expenses Incurred by, and the Provision of Facilities to, the Mayor, Deputy Mayor and Councillors.

The National General Assembly of Local Government is included in the list of conferences to which this policy applies. The policy covers conference costs, registration, accommodation, travel and out of pocket expenses.

FINANCIAL IMPACT

The approximate cost of attendance per delegate is:

| Item | \$ |
|--|-------------------------|
| Registration Fee (early bird (including function dinners x 2) | \$1159.00 |
| Return Air Fare (Virgin Airlines Saver Fare –baggage allowance) | \$254.00 |
| Accommodation for x 3 nights (at \$295 per night) | \$885 |
| Total (excluding out-of-pocket expenses) | <u>\$2298.00</u> |

Note: Carbon offsets are available with flights through Virgin Blue and Qantas at a cost to be determined when the booking takes place.

There are alternative travel provisions for travel to Canberra by bus, train or car as per the schedule below:

| Mode of Travel | Cost | Carbon Offset |
|-----------------------|--|---|
| Bus | \$72 return | Available for an extra \$1.00 on the ticket price |
| Train | \$80 return | Not available |
| Car | For the journey (600km return), where the current cost of fuel is approximately \$1.50 per litre based on an approximate consumption of 8.4-9.9L/ 100km or 9.9-10.8L/ 100km for a standard 4 and 6 cylinder sedan respectively, the cost of petrol would be \$76-89 for a 4 cylinder vehicle and \$89-97 for a 6 cylinder vehicle. | Not available |

2016 PROVISIONAL PROGRAM

| Sunday 19 June 2016 | | Tuesday 21 June 2016 | |
|----------------------------|---|-------------------------------|---|
| 8.00am | Registration Opens | 8.00am | Registration Opens |
| 5.00pm | WELCOME RECEPTION | 9.00am | Minister for Major Projects, Territories and Local Government, the Hon Paul Fletcher MP (invited) |
| | | | Keynote Speaker |
| | | 9.30am | |
| | | | Pip Marlow, Managing Director, Microsoft |
| | | 10.00am | Innovation Discussion |
| | | 10.30am | MORNING TEA |
| | | 11.00am | Panel Session |
| | | | – Innovation through digital transformation |
| | | 12.30pm | LUNCH |
| | | 1.30pm | Concurrent Sessions |
| | | | <ul style="list-style-type: none"> • Transforming Australian communities • The infrastructure challenge • Innovative approaches to the environment • Northern Australia |
| | | 3.00pm | AFTERNOON TEA |
| | | 3.30pm | Debate on Motions |
| | | 4.30pm | Leader of the Opposition, the Hon Bill Shorten MP (invited) |
| | | 5.00pm | Close Day 2 |
| | | 7.00pm | OFFICIAL DINNER, Parliament House |
| Monday 20 June 2016 | | Wednesday 22 June 2016 | |
| 8.00am | Registration Opens | 9.00am | Shadow Minister for Regional Development and Local Government, the Hon Julie Collins MP (invited) |
| 9.00am | Opening Ceremony | 9.30am | – Debate on Motions |
| 9.20am | Prime Minister, the Hon Malcolm Turnbull MP (invited) | | |
| 10.00am | Keynote Speaker | 10.30am | MORNING TEA |
| | Innovation and its role in prosperity | 11.00am | Panel Session |
| 10.30am | MORNING TEA | | Facilitating prosperity |
| 11.00am | Panel Session | 12.30pm | Keynote Speaker |
| | The future of Local Government | | Robert de Castella |
| 12.30pm | LUNCH | 1.00pm | LUNCH/CLOSE |
| 1.30pm | Debate on Motions | | |
| 2.30pm | Leader of the Australian Greens, Senator Dr Richard Di Natale (invited) | | |
| 3.00pm | AFTERNOON TEA | | |
| 3.30pm | Debate on Motions | | |
| 5.00pm | Close Day 1 | | |
| 7.00pm | BUFFET DINNER, National Convention Centre | | |

2015 SPEAKER PROFILES



Robert de Castella AO MBE

Robert de Castella is recognised as one of Australia's greatest athletes after dominating the world in the gruelling event of the marathon. He was the first person to win the Commonwealth Games marathon twice and set the course record at the Boston Marathon. From 1990 to 1995, he was the Director of the Australian Institute of Sport.

Robert started running aged eleven at Xavier College in Melbourne, where one of his teachers was 1962 Commonwealth Games athlete Pat Clohessy. Pat continued as his coach throughout his career. Robert won the Canberra Pan Pacific Conference Games in 1977 over 10,000m and the 1978 Australian Cross-Country title. He finished 10th at the Moscow Olympics in 1980, then won Gold at the 1982 Commonwealth Games in a tight battle with Juma Ikangaa from Tanzania. He soon won the Rotterdam marathon and the IAAF World Championships in Holland but finished in fifth place in the 1984 Olympics. In the 1988 Olympics he finished fourth, then at the 1992 Olympics finished in 26th place.

Robert became Director of the Australian Institute of Sport from 1990 to 1995, and has since continued his advocacy and support for athletics and marathon running in particular. He was awarded the Australian Sports Medal in 2000.

In 2003 Robert launched "Deeks," a chain of gluten free bakeries and cafes. He has also been a central part of Centrum's multivitamin advertising campaign.

Robert is the Managing Director of his own company specialising in children's health, SmartStart (Australia). SmartStart is committed to making the health and fitness of students just as important as their literacy and numeracy and has developed the largest longitudinal database of children's health and fitness statistics in Australia, to enable the production of reports and a range of services for students, parents, schools and government.

Robert's family home, along with his medals and citations were lost in the 2003 Canberra bushfires. He helped with the taskforce established for the rebuilding.



Pip Marlow, Managing Director, Microsoft Australia

As Managing Director, Pip Marlow is responsible for Microsoft's overall business in Australia. She ensures the company meets the needs of its customers and more than 11,000 partners and independent software vendors that sell or build on the Microsoft platform.

Pip began her 18-year career with Microsoft in 1995, working in the Australian partner team on anti-piracy efforts, and the system builder channel and distribution strategy. She then moved to Microsoft's head office in Seattle, US, where she held a succession of senior roles, including General Manager for US channel sales.

After eight years in the US, Pip returned to Microsoft Australia. She worked in various positions across the business, including as Director of Small and Medium Business Solutions, and Partners. Before being appointed Managing Director in January 2011, Pip held the joint role of Enterprise and Partner Group Director and Public Sector Director.

Pip has a long history in the IT industry. One of her first roles was at Samsung Information Systems, where she was responsible for building the company's semiconductor distribution business. Before joining Microsoft, she was part of the founding team at Agate Technology, which became one of Australia's largest storage distributors. Pip enjoys working in a vibrant, collaborative environment, and is an advocate for flexible workplaces that empower people through trust and accountability.

Born, raised and educated in Palmerston North, New Zealand, Pip lives in Sydney with her Scottish husband and two daughters, Sophie and Lucy.



The Hon Malcolm Turnbull MP, Prime Minister

Malcolm Turnbull was sworn in as the 29th Prime Minister of Australia on 15 September 2015.

Malcolm was a Cabinet Minister in the Howard and Abbott Governments. He served as Minister for the Environment and Water Resources in the Howard Government and Minister for Communications in the Abbott Government.

Malcolm also served as Leader of the Opposition from 2008 to 2009.

Malcolm was educated at Vaucluse Public School and Sydney Grammar School. Malcolm's high school education at Sydney Grammar was assisted by a scholarship. In later life Malcolm arranged for an additional means-tested scholarship to be established at Sydney Grammar in memory of his late father. Malcolm graduated from Sydney University with a BA LLB. He won a Rhodes Scholarship and completed a further law degree at Oxford.

During and after his studies at Sydney University, Malcolm worked as a journalist with The Bulletin, 2SM, TCN 9 and The London Sunday Times.

After a successful career in journalism Malcolm began practicing law in 1980. He quickly established a reputation as an effective advocate, most notably when he successfully defended former MI5 agent Peter Wright against the British Government in the "Spycatcher" trial.

Malcolm left law for business in 1987 where he has since been responsible for the establishment and success of many Australian businesses. In particular he has been a determined supporter of Australian technology. He co-founded OzEmail in 1994. His software companies have won many awards for exporting Australian technology.

In 1997 Malcolm was elected to attend the Australian Constitutional Convention. He led the republican case in that Convention and in the subsequent referendum.



The Hon Bill Shorten MP, Leader of the Opposition

Bill Shorten is the Federal Member for Maribyrnong and was elected leader of the Australian Labor Party and Leader of the Opposition on 13 October 2013.

Mr Shorten completed a Bachelors degree in Arts and Law from Monash University, as well as an MBA from the Melbourne Business School.

Bill has since worked as a union organiser, union secretary, as a member of the ACTU executive, as a Member of Parliament and as a Minister in a Labor Government.

As a senior member of the Rudd/Gillard Labor Government, Bill played a key role in securing a number of historic reforms including establishing DisabilityCare and increasing universal superannuation to 12 per cent.

As Minister for Workplace Relations, Bill continued the Labor Government's ongoing commitment to a fair and productive workplace relations system and during his time as Minister for Education helped secure the Better Schools reforms.

Prior to entering Parliament, Bill worked at the Australian Workers Union, holding key leadership positions including State Secretary of the AWU Victoria Branch from 1998 to 2006 and the National Secretary from 2001 to 2007.

Bill has an enduring interest in social justice issues such as domestic violence, equal opportunity at work, and as a father of three and a stepdad the increasing diversity of families in Australia.



Senator Dr Richard Di Natale, Leader of the Australian Greens

Dr Richard Di Natale is the leader of the Australian Greens. He was elected to the Federal Parliament in 2010 and is the Greens' first Victorian senator. His portfolios include health, multiculturalism, youth, gambling and sport.

Prior to entering parliament, Richard was a general practitioner and public health specialist. He worked in Aboriginal health in the Northern Territory, on HIV prevention in India and in the drug and alcohol sector. His key health priorities include preventative health, public dental care and responding to the health impacts of climate change.

Richard's achievements in parliament so far include securing almost \$5 billion towards Medicare-funded dentistry, winning a campaign to divest \$250 million worth of tobacco stocks from the Future Fund, and spearheading senate inquiries into many issues of public significance such as dying with dignity, superbugs, hospital funding, budget cuts, medicinal cannabis, air pollution, pharmaceutical transparency, sports science and gambling reform.

Richard is also fighting hard for human rights in West Papua, greater transparency in the pharmaceuticals industry and timely access to cost-effective drugs through the Pharmaceutical Benefits Scheme. He believes in public health policies that put science and evidence above politics.

Richard is the Chair of the Senate Select Committee into the Abbott Government's Budget Cuts and Deputy Chair of the Senate Select Committee into Health.



The Hon Paul Fletcher MP, Minister for Major Projects, Territories and Local Government

Paul Fletcher is the Minister for Territories, Local Government and Major Projects.

He entered parliament in December 2009 as the Member for Bradfield, was appointed Parliamentary Secretary to the Minister for Communications in September 2013, and was appointed to his present role in September 2015.

Before entering parliament, Paul was Director, Corporate and Regulatory Affairs at Optus for eight years; established a consulting firm serving the communications sector; and in 2009 his book about broadband, *Wired Brown Land* was published by UNSW Press.

Earlier in his career Paul was Chief of Staff to the Minister for Communications in the Howard Government, Senator Richard Alston.

He has dual first class honours degrees in law and economics from The University of Sydney and an MBA from Columbia University in New York where he was a Fulbright Scholar.

Paul has been politically active since the age of 16 and was active in student politics at Sydney University. He was a champion university debater, twice reaching the finals of the World Universities Debating Championship.

Paul lives in oseville with his wife Manueia, step son Gabriel and son Hugo.



The Hon Julie Collins MP, Shadow Minister for Regional Development and Local Government

Julie Collins was born in Hobart. She was State Secretary of the Tasmanian Labor Party between 2006 and 2007.

Ms Collins was first elected the Member for Franklin in 2007. She successfully held her seat in the 2010 federal election and was sworn in as Parliamentary Secretary for Community Services on 14 September 2010 in the first Gillard Ministry. In 2011, Ms Collins became Minister for Community Services, Minister for Indigenous Employment and Economic Development, and Minister for the Status of Women in the second Gillard Ministry. In 2013, she gained additional responsibilities as the Minister for Housing and Homelessness and promoted to the Cabinet in the second Rudd Ministry.

Ms Collins now serves as Shadow Minister for Regional Development and Local Government and Shadow Minister for Employment Services.

Ms Collins' priorities are ensuring equal access to a quality education, decent health services and fairness in the workplace, issues she cares about due to her own life experiences. She is an active local Member and was humbled to have been made the first Tasmanian Cabinet Minister since 2001.

She lives on the Eastern Shore with her husband Ian and their three children.

| | |
|--------------------------|---|
| ITEM 8.9 | MERITON DRAFT VOLUNTARY PLANNING AGREEMENT AMENDMENT AND DRAFT EXPLANATORY NOTE |
| REPORTING MANAGER | GROUP MANAGER STRATEGIC PLANNING |
| TRIM FILE REF | 2016/062411 |
| ATTACHMENTS | 1 Draft Deed of Amendment to Planning Agreement (Included In Attachments Booklet) 2 Draft Explanatory Note (Included In Attachments Booklet) 3 Independent Valuation (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To seek endorsement of the attached Draft Deed of Amendment to the Planning Agreement and Draft Explanatory Note between Karimbla Properties (No.41) Pty Ltd, Meriton Properties Pty Ltd and Warringah Council, relating to 890-896 Pittwater Road, 9-17 Howard Avenue, 14-16 and 26 Oaks Avenue, Dee Why (commonly referred to as Site B).

SUMMARY

At the 22 September 2015 Council meeting, Council resolved to work with Karimbla Properties (No. 41) Pty Ltd to prepare a Deed of Amendment to make changes to the Voluntary Planning Agreement (VPA) between Karimbla Properties (No.41) Pty Limited and Warringah Council, relating to 890-896 Pittwater Road, 9-17 Howard Avenue, 14-16 and 26 Oaks Avenue, Dee Why. Council also resolved to place the Draft Deed of Amendment on public exhibition for 28 days.

The Draft Deed of Amendment to the VPA includes the transfer of land (in stratum) on Pittwater Road to Council for road widening to facilitate a future bus stop, and a monetary contribution of \$300,000 to be put towards Council's capital works program. These amendments will replace the requirement to construct a bus bay outlined in Schedule 3 of the VPA.

The Draft Deed of Amendment to the VPA and Draft Explanatory Note (collectively known as Meriton VPA amendment) was prepared by the Applicant's solicitor and publicly exhibited by Council. One submission was received. The Meriton VPA amendment is supported.

FINANCIAL IMPACT

The Meriton VPA amendment will provide additional funds to undertake civic improvements.

POLICY IMPACT

The Meriton VPA amendment complies with Council's *Voluntary Planning Agreements Policy PL 600*.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Endorse the Draft Deed of Amendment to the Planning Agreement and Draft Explanatory Note between Karimbla Properties (No.41) Pty Ltd, Meriton Properties Pty Ltd and Warringah Council.
- B. Pursuant to s377 of the *Local Government Act* 1993, delegate authority to the General Manager to execute the Deed of Amendment to the Planning Agreement and Draft Explanatory Note between Karimbla Properties (No.41) Pty Ltd, Meriton Properties Pty Ltd and Warringah Council.

BACKGROUND

Location

The site comprises 13 individual parcels of land at 890-896 Pittwater Road, 9-17 Howard Avenue, 14-16 and 26 Oaks Avenue, Dee Why (commonly referred to as Site B).

The cross hatched area below shows an aerial view of the site.



Voluntary Planning Agreement (VPA)

In 2008, Multiplex and Warringah Council entered into a VPA involving the construction of a Town Square, construction of a Pedestrian Connection Area (between the Town Square and Oaks Ave), construction of a bus bay on Pittwater Rd and monetary contributions for the construction of a road between Oaks Ave and Howard Ave through Council's car park. Karimbla Properties (No. 41) Pty Ltd purchased the property from Multiplex on 29 November 2013. Obligations under the VPA have been assigned to Meriton and Karimbla. Properties (No. 41) Pty Ltd.

In 2014 the State Government announced the Northern Beaches B-Line project along Pittwater Road to the city. This placed responsibility on the State Government (Transport for NSW), to construct the bus bay on Pittwater Road. As Meriton is no longer responsible for the construction of the bus bay, the amendment to the VPA will provide Council with the equivalent value in monetary contributions. These contributions will be applied to Council's capital works program.

Deed of Amendment to Planning Agreement (Meriton VPA amendment)

The parties to the Meriton VPA amendment are Karimbla Properties (No.41) Pty Ltd, Meriton Properties Pty Ltd and Warringah Council.

The Meriton VPA amendment includes dedicating relevant land in stratum on Pittwater Road to Council for road widening to facilitate a future bus stop, and a monetary contribution of \$300,000 to Council. The amendments will replace the bus setback works to include a bus bay outlined in Schedule 3 of the VPA, which is now being provided by the NSW State Government.

An independent valuation (see attachment 3) prepared by FPV Consultants was commissioned by Council to assess the current market value of the land that will be dedicated to Council in stratum for the purpose of road widening. The land was valued at \$600,000. This valuation assisted Council staff in determining the proposed public benefit of the dedication of land (in stratum) for road widening, to facilitate a future bus stop.

CONSULTATION

The Draft Deed of Amendment to the VPA was placed on public exhibition for 28 days between Saturday 12 December 2015 and Monday 25 January 2016. Due to an administrative error, the Meriton VPA amendment was placed on public exhibition for a further 28 days between Friday 5 February and Thursday 3 March 2016.

The exhibition included the following:

- Public notices in the Manly Daily newspaper on 12 December 2015 and 9 January 2016
- Hardcopies of the exhibition material available for viewing at Council's Customer Service Centre
- Electronic copies of the exhibition material available to download from Council's website.

Submissions

One submission was received during the first exhibition. No submissions were received for the second exhibition. The key relevant issues raised and Council's responses are detailed below.

Issue: Adequacy of bus setback to service double decker buses.

Response: Council confirms that the site will cater for a bus bay and is large enough for double-decker buses.

Issue: Adequacy of the monetary contribution.

Response: Council commissioned an independent valuation of the site and considers the monetary contribution to be adequate.

Next Steps

Should Council endorse and execute the Draft Deed of Amendment to the Planning Agreement and Draft Explanatory Note as per attached, the VPA will be amended and Meriton will then make the development contributions to Council according to the delivery mechanisms stipulated in the VPA.

FINANCIAL IMPACT

The Meriton VPA amendment will provide additional funds to undertake civic improvements.

POLICY IMPACT

The Meriton VPA amendment complies with Council's *Voluntary Planning Agreements Policy PL 600*.

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| ITEM 8.10 | DRAFT WARRINGAH DEVELOPMENT CONTRIBUTIONS PLAN 2016 |
| REPORTING MANAGER | SUSTAINABLE URBAN PLANNING MANAGER |
| TRIM FILE REF | 2016/065133 |
| ATTACHMENTS | 1 Draft Warringah Development Contributions Plan 2016 (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To seek Council's endorsement to publicly exhibit the *Draft Warringah Development Contributions Plan 2016* (Draft Plan) and update the Section 94 (S.94) works program and Section 94A (S.94A) works program.

SUMMARY

Council has undertaken an annual review of its Development Contributions Plan and has identified proposed changes to the Draft Plan. These include administrative updates and updates to the S.94 and S.94A Works Schedules to align with Council's *Operational Plan and Budget 2016/17*.

The Draft Plan must be exhibited in accordance with the *Environmental Planning and Assessment Regulation 2000* prior to adoption.

The outcomes of the exhibition period will be reported to Council in May 2016.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council endorses the public exhibition of the Draft Warringah Development Contributions Plan 2016 for a period of at least 28 days and the results be reported back to Council.

REPORT

BACKGROUND

Council's Development Contributions Plan is updated annually. The Draft Plan incorporates funds collected between 2001 and 2006 under the *Warringah Section 94 Development Contributions Plan 2001* and funds collected since 2006 under the 'Fixed' development consent levies system under S.94A of the *Environmental Planning and Assessment Act, 1979*.

Draft Warringah Development Contributions Plan 2016 (Draft Plan) (attachment 1) makes minor administrative changes and revises the current Section 94 (S.94) and Section 94A (S.94A) Schedule of Works. The purpose of the review is to:

- Remove projects that have or will be completed within the 2015/16 financial year
- Remove projects that have exhausted their S.94 or S.94A funding
- Identify new S.94A projects for the 2016/17 financial year
- Ensure that the works program for S.94A and S.94 aligns with Council's budget, Capital Expenditure Plan and Community Strategic Plan.

Section 94A

The Draft Plan updates the works program consistent with Council's annual budget/financial planning cycle and incorporates minor administrative changes.

The following administrative amendments were made to the Draft Plan:

- References to Council and State strategies have been updated
- Map sheets have been updated to identify the location of the S.94A projects in Table 1.

The Draft Plan's S.94A Schedule of Works incorporates approximately \$4.4 million worth of projects for the 2016/17 financial year. The assessment of individual projects has been undertaken on the basis of community need, safety and risk to Council. Table 1 below provides a summary of those projects:

| Project No. | Project Title | Description |
|--------------------|--|--|
| BN5845 | St Matthews Farm Reserve, Cromer – Skate Park | Design and construction of a skate park in St Matthews Farm Reserve. |
| BN5856 | Walter Gors Reserve New Works and Dee Why Parade Shared Walk | Construction of a reserve, embellishments and associated facilities to serve the Dee Why Area. |
| BN5881 | Sports Capital Assistance Program | Grant funding to assist with embellishment of reserves within Warringah. |
| BN6022 | Footpath Program – New Works | Ongoing construction of new footpaths as prioritised by the Pedestrian Access Mobility Plan (PAMP). |
| BN6027 | Bike Plan Implementation Program | Ongoing construction for new bike paths as prioritised by Warringah Bike Plan (2010). These include pedestrian/bicycle shared paths, and on road bicycle facilities. |

| | | |
|--------|--|---|
| BN6039 | Berry Reserve and Jamieson Park Upgrades | Implementation of the Berry Reserve Masterplan, providing additional new infrastructure to support anticipated demand. |
| BN6061 | Dee Why Town Centre – Design of New Traffic Facilities and Streetscape | Multi-phase project designing upgrades to the Dee Why Town Centre streetscape and public domain as identified in the Dee Why Town Centre Masterplan. |
| BN6225 | Traffic Works Program | Construction of new traffic facilities as identified in Council's traffic facilities program. |
| BN6429 | Dee Why Town Centre – Streetscape Improvement Works | Multi-phase project delivering upgrades to the Dee Why Town Centre streetscape and public domain as identified in the Dee Why Town Centre Masterplan. |
| BN6433 | Birdwood Park, Narrabeen – New Works | Implementation of the Birdwood Park section of the North Narrabeen Beach Masterplan, raising the quality of service to the community and increasing capacity in the area. |
| BN6455 | Narrabeen Beach Lifeguard viewing tower | Delivery of a lifeguard tower at Narrabeen Beach to improve the level of service to beach goers and to reduce WHS risks to professional lifeguards. |

Table 1 – Proposed 2016/17 S.94A Projects

Current Section 94A Works - Completed or on Track for Delivery Prior to 1 July 2016

Table 2 below provides a summary of the S.94A projects that have or will be completed during the 2015/16 financial year.

| Project No. | Project Title | Description |
|--------------------|------------------------|---|
| BN3304 | Narrabeen Lagoon Trail | The Narrabeen Lagoon Trail was completed and opened to the public in February 2015. Remaining work on the project is expected to be completed by 1 July 2016. |
| BN6553 | New Library Technology | The New Library Technology project is on track for completion by 1 July 2016. It will deliver technologies to enhance customer service delivery and increase the range of digital services available to customers whilst enabling the development staff digital capability. |

Table 2 – S.94A Projects to be completed in 2015/16 financial year

Current Section 94A Works – Extended

Table 3 below provides a summary of projects that have been extended beyond their previous scheduled end date.

| Project No. | Project Title | Description |
|--------------------|---|---|
| BN5845 | St Matthews Farm Reserve, Cromer – Skate Park | Project was scheduled to conclude in 2015/16. Project has been expanded to include construction as well as design. This will extend the project into 2016/17. |
| BN5881 | Sports Capital Assistance Program | Program has been extended beyond its scheduled conclusion in 2016/17 to be an ongoing program due to benefits of matching funds accessed by the program. |
| BN6061 | Dee Why Town Centre | Program was initially scheduled to conclude in 2015/16. |

| | | |
|--|--|--|
| | – Design of New Traffic Facilities and Streetscape | Project has been expanded to include design for all Dee Why Town Centre projects. As such, the project has been extended to 2019/20. |
|--|--|--|

Table 3 – Extended S.94A Projects

Projected Balance of Section 94A Reserves

As noted above, the works program for S.94A incorporates approximately \$4.4 million for the 2016/17 financial year.

It is noted that the amount of funds collected is variable and relies solely on the amount of development within Warringah in any year. This, in turn, is dependent on market conditions.

Section 94

The purpose of updating the S.94 works program is to enable the effective delivery of outstanding S.94 projects in-line with funding sources.

Formal exhibition of the revised S.94 works program will occur as part of the exhibition of the updated works program under the Draft Plan.

Section 94 Proposed Works Program Projects (2016/17)

The S.94 works program incorporates approximately \$5.7 million for the 2016/17 financial year. Table 4 below provides a summary of those projects:

| Project No. | Project Name | Description |
|--------------------|--|---|
| BN5856 | Walter Gors Reserve New Works and Dee Why Parade Shared Walk | Construction of a reserve, embellishments and associated facilities to serve the Dee Why Area. |
| BN6061 | Dee Why Town Centre – Design of New Traffic Facilities and Streetscape | Multi-phase project designing upgrades to the Dee Why Town Centre streetscape and public domain as identified in the Dee Why Town Centre Masterplan. |
| BN6429 | Dee Why Town Centre – Streetscape Improvement Works | Multi-phase project delivering upgrades to the Dee Why Town Centre streetscape and public domain as identified in the Dee Why Town Centre Masterplan. |

Table 4 – Proposed 2016/17 S.94 Projects

Projects Exhausting S.94 Funding Prior to 1 July 2016

Table 5 provides a summary of projects that have exhausted their S.94 funding, as allocated by *Warringah Development Contributions Plan 2015*.

| Project No. | Project Name | Description |
|--------------------|--|--|
| BN5800 | Dee Why Town Centre Parking and Community Facility | S.94 funds for this project have been exhausted and the project has been removed from the Schedule of Works. Completion of the project itself is scheduled for the 2016/17 financial year. |

Table 5 - S.94 Completed Projects

Consolidated S.94 Projects

Table 6 below provides a summary of projects that have been removed from the S.94 Schedule of Works. These projects have been consolidated into BN6061 – Dee Why Town Centre - Design of New Traffic Facilities and Streetscape and BN6429 – Dee Why Town Centre – Streetscape Improvement Works.

In turn, those projects have been extended in order to deliver the scope of the projects.

| Project No. | Project Name |
|--------------------|---|
| BN5908 | Pittwater Road, Dee Why – Widening and Signal Adjustment Works |
| BN6062 | St David's Reserve, Dee Why – Bus Interchange and Reserve Works |
| BN6430 | Dee Why Town Centre – Construction of New Traffic Facilities |

Table 6 – S.94 consolidated projects

Projected Balance of Section 94 Reserves

The Draft Plan's 2016/17 S.94 Schedule of Works incorporates approximately \$5.7 million worth of projects. The existing reserves are unlikely to grow via contributions, but will continue to earn interest.

The S.94 Reserve funds are committed to supporting the increased development that is occurring within the Dee Why Town Centre. Council's objective is for the funds in these reserves to be spent and the reserves closed upon completion of the projects.

Closure of S.94 Reserves

The following S.94 Reserves are expected to be exhausted before 1 July 2016 based on S.94 funding as allocated by *Warringah Development Contributions Plan 2015*:

- E5 – Community Centre Dee Why
- E10 – Carpark Dee Why

The following S.94 Reserves are expected to be exhausted before 1 July 2017, pending adoption of *Warringah Development Contributions Plan 2016*:

- E6 – Open Space Medium Density
- E8 – Roads and Traffic Management

The reserves will be closed either upon completion of the projects (with remaining funds redirected to S.94A reserves), or upon exhaustion of the reserves.

CONSULTATION

Clause 32 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation) states that a Council may only amend a Contributions Plan by adopting a new Contributions Plan.

Clause 26(4) of the Regulation requires Council to exhibit the Draft Plan for a minimum of 28 days. It is proposed that the Draft Plan be placed on public exhibition for a period of at least 28 days to invite public comment.

Consultation will include:

- Notification in the Manly Daily
- Information at the Civic Centre

- Information on Council's website

TIMING

Following a review of all submissions received during the public exhibition period, the Draft Plan will be reported to the 24 May 2016 Council Meeting.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

| | |
|--------------------------|--|
| ITEM 8.11 | PLANNING PROPOSAL - INCREASED FLOOR AREA OF SECONDARY DWELLINGS IN EXISTING DWELLING HOUSES |
| REPORTING MANAGER | SUSTAINABLE URBAN PLANNING MANAGER |
| TRIM FILE REF | 2016/023349 |
| ATTACHMENTS | 1 Planning Proposal - Increased Floor Area for Secondary Dwellings (Included In Attachments Booklet) 2 Gateway Determination (Included In Attachments Booklet) 3 Submission Summary - Post Gateway Exhibition (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To report the outcomes of the public exhibition of the Planning Proposal to increase the maximum floor area of Secondary Dwellings in existing dwelling houses in R2 and R3 zones (Planning Proposal) as per attached Planning Proposal – Increased Floor Area for Secondary Dwellings and to seek Council's approval to implement the changes.

SUMMARY

On 25 November 2014, Council resolved to prepare a Planning Proposal to amend Warringah Local Environmental Plan 2011 (WLEP 2011) to increase the maximum permissible floor area of Secondary Dwellings in existing dwelling houses in the R2 – Low Density Residential and R3 – Medium Density Residential zones to 75 sqm. The Department of Planning and Environment (DP&E) subsequently issued the attached Gateway determination for the planning proposal on 27 November 2015.

The Planning Proposal was placed on public exhibition for a period of 31 days, between 16 January and 15 February 2016. During this time 12 submissions were received, with 7 submissions supporting the planning proposal and 3 opposing it. Following a review of all submissions made, no changes are recommended to the Planning Proposal.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council instruct the NSW Parliamentary Counsel's Office to draft and finalise amendments to Warringah Local Environmental Plan 2011 to give effect to the Planning Proposal to increase the maximum permissible floor area of Secondary Dwellings in existing dwelling houses in R2 and R3 zones to 75 sqm.

REPORT

BACKGROUND

Council considered a report investigating the feasibility of increasing the maximum floor area of Secondary Dwellings constructed within existing dwelling houses in the R2 – Low Density Residential and R3 – Medium Density Residential zones from 60 sqm to 75 sqm at its meeting on 25 November 2014. The change was proposed to allow the construction of two bedroom Secondary Dwellings to assist in the provision of a greater range of affordable housing in Warringah.

Council subsequently resolved to:

- *prepare a planning proposal for the changes*
- *forward it to the DP&E for Gateway determination; and,*
- *publicly exhibit the planning proposal in accordance with the Gateway determination.*

Council also resolved to undertake additional research into allowing Secondary Dwellings in the RU4 – Primary Production Small Lot zone. A separate planning proposal is being prepared in relation to that resolution.

Council submitted the Planning Proposal to the DP&E for Gateway determination on 26 October 2015. The DP&E issued a Gateway determination for the planning proposal on 25 November 2015 (attachment 2). The Gateway determination required the Planning Proposal be placed on public exhibition for a period of 28 days.

CONSULTATION

The Planning Proposal was placed on public exhibition for a period of 31 days, between 16 January and 15 February 2016. The public exhibition comprised:

- A Manly Daily advertisement
- A Yoursay Warringah webpage
- Publicly available documents at the Civic Centre.

A total of 12 submissions were received during the exhibition period. Seven (7) of the submissions supported the Planning Proposal on grounds of the need for a greater range of more affordable housing in Warringah. Three (3) submissions objected to the Planning Proposal on grounds that it would allow development which would negatively impact on local parking and traffic, place extra pressure on existing infrastructure, increase run-off from hard surfaces, be aesthetically displeasing, and be used illegally for short-term accommodation.

Secondary Dwellings of up to 60 sqm are currently permissible in Warringah under *State Environmental Planning Policy (Affordable Rental Housing)*. The proposal for 75sqm Secondary Dwellings relates to existing dwelling houses only in the R2 and R3 zones, and would not result in an increase in the floor area of those dwelling houses. As such, it is considered that the changes would not significantly impact upon traffic, on-street parking, infrastructure demand, or the potential for unauthorised uses.

A detailed assessment of submissions is provided in the attached Submission Summary – Post Gateway Exhibition.

Conclusion

Following a review of submissions received, no changes are recommended to the Planning Proposal. It is recommended that Council endorse the Planning Proposal and prepare a

submission to the Parliamentary Counsel's Office to amend Warringah Local Environmental Plan 2011 to give effect to the Planning Proposal.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

| | |
|--------------------------|---|
| ITEM 8.12 | BP FORESTVILLE PLANNING PROPOSAL - 632-634 WARRINGAH ROAD, FORESTVILLE |
| REPORTING MANAGER | SUSTAINABLE URBAN PLANNING MANAGER |
| TRIM FILE REF | 2016/029889 |
| ATTACHMENTS | 1 BP Forestville Planning Proposal (Included In Attachments Booklet) 2 BP Forestville Planning Proposal Submission (Included In Attachments Booklet) 3 Submission Summary - Pre Gateway Exhibition (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval to submit the attached BP Forestville Planning Proposal (Planning Proposal) as to the NSW Department of Planning and Environment (DP&E) for a Gateway determination.

SUMMARY

Council received the attached Planning Proposal Submission on 15 December 2015 for the land known as 632-634 Warringah Road, Forestville. The submission requests the amendment of Warringah Local Environmental Plan 2011 (WLEP 2011) to permit the additional uses of 'service station' and a 240sqm 'neighbourhood shop' on the land, which comprises Lots 8 and 9 in DP 25052 (the site). The amendment would provide for the redevelopment and expansion of the existing service station and development of the vacant allotment.

The planning proposal submission was publicly exhibited from 16 January to 1 February 2016 (17 days) in accordance with Council policy. During this time four (4) submissions were received.

Following a review of the submissions made, Council has prepared an amended Planning Proposal for submission to DP&E as per attached Planning Proposal.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Approve the submission of the BP Forestville Planning Proposal to the Department of Planning and Environment for a Gateway determination.
 - B. Publicly exhibit the BP Forestville Planning Proposal in accordance with any Gateway approval granted by the Department of Planning and Environment.
-

REPORT

BACKGROUND

Council received the attached Planning Proposal Submission on 15 December 2015 for the land known as 632-634 Warringah Road, Forestville. The submission requests the amendment of Warringah Local Environmental Plan 2011 (WLEP 2011) to permit the additional uses of 'service station' and a 240sqm 'neighbourhood shop' on the land, which comprises Lots 8 and 9 in DP 25052 (the site).

The proposal would require an amendment to Schedule 1 – Additional Permitted Uses of WLEP 2011 for Lots 8 and 9 in DP 25052 to allow a 'service station' and a 'neighbourhood shop' (of no more than 240 square metres) on the site. It was also agreed with the applicant that a provision should be included in WLEP 2011 which required the uses to operate concurrently (i.e. a neighbourhood shop would not be permitted to operate without a service station and vice versa).

CONSULTATION

The planning proposal submission was publicly exhibited from 16 January to 1 February 2016 (17 days). Notification included:

- A Manly Daily advertisement
- Approximately 400 letters to local land owners, residents and businesses
- Information provided on Council's website and at the Civic Centre.

During the exhibition period four submissions were received. Three of those submissions were in opposition to the proposal. A summary of submissions and Council's response can be reviewed as per attached Submission Summary - Pre Gateway Exhibition

Issues raised in the submissions focused on the potential for lighting overspill, noise, and late night activity as a result of the proposed WLEP 2011 amendments and subsequent redevelopment of the site. It is understood that these matters are an issue with the operation of the existing service station. It is considered that these issues would be addressed during consideration of any future development application for the site and do not warrant rejection of the planning proposal.

Planning Considerations**Current uses and controls**

The site comprises two lots, one vacant and the other developed with a service station. The service station consists of six pumps (including LPG and diesel), a 60sqm shop and a disused vehicle workshop.

Development consent was granted by Council in 1962 for the service station use. The service station use is, however, prohibited under the current R2 – Low Density Residential zoning applying to the site under WLEP 2011. The applicants submit that the service station is operating as an "existing use" i.e. a use that was legally established before the commencement of planning laws that subsequently prohibited the use. Existing uses may continue to operate in their current form, and may be enlarged, intensified, altered or re-built with development consent from Council. There is also capacity to change the use to another use, including a use that would otherwise be prohibited in the R2 zone.

The requested WLEP 2011 amendment would allow for an expanded service station and larger shop. Any future development of the site in accordance with the proposed amendments would have the effect of extinguishing any "existing use", meaning that development consent could not be granted in the future for any use of the site other than the service station/ neighbourhood shop use and uses otherwise permissible in the R2 zone.

Local Character

The site is adjacent to Warringah Road, the major east-west corridor between the strategic centres of Chatswood and Dee Why/Brookvale, as identified by the regional plan for Sydney - *A Plan for Growing Sydney* (2014). The land along Warringah Road in the area is primarily zoned R2 – Low Density Residential, occupied by dwelling houses (e.g. single family homes). Additional service stations are also located in the R2 zone along Warringah Road.

Given the status of Warringah Road as a major traffic corridor, the long standing use of the site as a service station, and similar uses in the area, the rebuilding of the service station together with a neighbourhood shop is considered reasonable and in keeping with the area's local character.

'Neighbourhood shop' intensification

The proposed 240sqm 'neighbourhood shop' use is significantly larger than the existing 60sqm shop and storage building currently located on the site. However the overall floor area proposed is still relatively small and is unlikely to impact upon adjoining properties and the viability of local businesses. An economic impact assessment provided by the applicant found that the increased floor space would have negligible impact on local businesses and that the shop would cater largely to customers of the redeveloped service station.

Environment

Council has been notified by the Environment Protection Authority (EPA) that the site is significantly contaminated land under the *Contaminated Land Management Act 1998*. The owner, BP Australia, is undertaking a voluntary management plan at this time. The applicant has provided a remediation action plan to Council as part of that process which forms an appendix to the applicant's submission.

It is understood that remediation activities will take place regardless of the outcome of the applicant's submission. In addition, any future construction will be required to comply with relevant environmental protection measures as part of a development application process.

Changes to Applicant's Proposal

Council has prepared the attached amended Planning Proposal addressing matters raised in the body of this report.

CONCLUSION

The Planning Proposal is considered to have merit and satisfies the pre-Gateway requirements of DP&E. It is recommended that Council resolve to submit the planning proposal to DP&E for Gateway determination. Further community consultation will be undertaken in accordance with any Gateway determination made by the DP&E and a report provided to Council.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

| | |
|--------------------------|--|
| ITEM 8.13 | MINOR WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 AMENDMENTS |
| REPORTING MANAGER | GROUP MANAGER STRATEGIC PLANNING |
| TRIM FILE REF | 2015/250390 |
| ATTACHMENTS | 1 Proposed Mapping Amendments (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To seek Council approval for proposed amendments to the Warringah Local Environmental Plan 2011 (WLEP 2011) and the Warringah Local Environmental Plan 2000 (WLEP 2000).

SUMMARY

A number of minor amendments are proposed to WLEP 2011 and WLEP 2000 to correct anomalies, and bring up to date with current state legislation and previous Council resolutions. The amendments are each discussed in detail in the main body of this report.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The proposed amendments are intended to correct existing anomalies, and make other minor amendments in accordance with previous Council resolutions and state legislation.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Prepare a Planning Proposal to make the following amendments to WLEP 2011 including the attached proposed mapping amendments and WLEP 2000:
 - i. Re-Zone Cromer High School (Lots 623, 624, 625 and 626 in DP 752038) from IN1 – General Industrial to SP2 - Infrastructure
 - ii. Re-Zone 2-10 Lindrum Street, Belrose (Lot 25 DP 1179618) from R2 – Residential to RE1 - Public Recreation
 - iii. Re-Zone Lot 262 DP 1028346 (near the corner of Pitt and Playfair Roads, North Curl Curl) from R2 – Residential to B1 - Neighbourhood Centre
 - iv. Re-Zone western part of the Dee Why Post Office site (Lot B DP 350145) from RE1 – Recreation to B4 - Mixed Use
 - v. Zone southern part of Lot 2 DP 587690 (pedestrian/drainage lot in Dee Why) from B4 - Mixed Use to RE1 -Public Recreation
 - vi. Prohibit 'restriction facilities' in all business and industrial zones – zones B1, B2, B3, B4, B5, B7, IN1 and IN2

-
- vii. Amend the Heritage Map on 53 Aubreen Street, Collaroy Plateau (Lot 2, DP 1029592) and 56 Idaline Street, Collaroy Plateau (Lot 1 DP 1029592)
 - viii. Adjust the cadastre and associated LEP mapping for Glen Street Theatre (Lot 1 DP 595183) and Lionel Watts Reserve (Lot 2 DP 595183)
 - ix. Adjust the cadastre and associated LEP mapping for all properties within the blocks bounded by Adams Street, Rabbett Street and Forest Way, Frenchs Forest
 - x. Adjust the cadastre and associated LEP mapping for 34 Monserra Road, Allambie Heights (Lot 4 DP 241969), 1, 3 and 5 Cootamundra Drive, Allambie Heights (Lots 3, 2 and 1 of DP 241969)
 - xi. Delete exempt development requirements for signage in WLEP 2011 and WLEP 2000 where similar requirements apply under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
 - xii. Amend Clause 2.8 of the WLEP 2011 to increase the maximum period for which development consent may be granted for a “temporary use” from 28 days to 52 days
 - xiii. Include signage on trailers as exempt development under WLEP 2011 and WLEP 2000.
- B. Submit the Planning Proposal to the Department of Planning and Environment for Gateway determination.
- C. Publicly exhibit the Planning Proposal in accordance with any directions contained in the Department of Planning and Environment’s Gateway approval.
-

REPORT

BACKGROUND

The issues discussed in this report have come to Council's attention through various channels since previous amendments made to WLEP 2011 and WLEP 2000.

The proposed amendments are intended to correct existing anomalies, and make other minor amendments in accordance with previous Council resolutions and state legislation.

CONSULTATION

Public consultation will take place subject to Council's approval of the proposed changes and in accordance with the Department of Planning and Environment (DP&E) Gateway approval process.

Proposed Amendments

Re-zone Cromer High (120 South Creek Road, Cromer) from IN1 – General Industrial to SP2 – Infrastructure

Cromer High School (No. 120 South Creek Road, Cromer, Lots 623, 624, 625 and 626 in DP 752038) is currently zoned IN1 - General Industrial under WLEP 2011. The school was originally zoned IN1 as it falls within a locality characterised by industrial uses which are also zoned IN1. It is also adjacent to RE1 - Public Recreation zoned land (across South Creek Road to the south)

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) applies to the land includes a list of 'prescribed zones' under *Division 3 Educational establishments* (clauses 27-32). Neither zone IN1 or zone RE1 are listed as prescribed zones for educational establishments.

This means that Cromer High School, being in a non-prescribed zone, cannot fully operate under the provisions of SEPP Infrastructure for educational establishments. In particular, it would be required to go through the development application process for development that would normally be permitted without consent under SEPP Infrastructure, and is unlikely to cause any unreasonable impacts to its industrial neighbours.

The DP&E's Local Environmental Plan Practice Note (PN 10-001) advises that:

Most existing infrastructure lands should be zoned according to what the adjacent land use zone is, if that adjacent zone is a prescribed zone for that infrastructure type. However if none of the adjacent zones are 'prescribed zones' for that particular infrastructure type under the Infrastructure SEPP, then the site should be zoned SP2 Infrastructure.

A search has been conducted of educational establishments within Warringah, and Cromer High School is the only one identified which falls within a non-prescribed zone for the purposes of the SEPP Infrastructure. It is therefore recommended that Cromer High School, being Lots 623, 624, 625 and 626 in DP 752038, should be rezoned as SP2 Infrastructure, and the Land Zoning Map updated accordingly.

Re-zone 2 – 10 Lindrum Street, Belrose (Lot 25 DP 1179618) from RE2 – Residential to RE1 - Public Recreation.

This lot is located on the corner of Perentie Road and Lindrum Street, Belrose. It was created as part of a large residential subdivision (Council record number SC2012/0037), and was acquired by Council for the purpose of providing open space for the neighbourhood. It is approximately 4000sqm in area.

The land was acquired by Council in October 2013, and has since been developed as a public park using Section 94 funds. The site should be rezoned from the existing R2 Low Density Residential zoning to RE1 Public Recreation, consistent with its current and intended future use.

Re-zone land near the corner of Pitt and Playfair Roads, North Curl Curl (Lot 262 DP 1028346) from R2 – Residential to B1 Neighbourhood Centre.

This small parcel of land is occupied by a driveway that provides access to the rear of Lot 27 in DP13900 (known as 148 Pitt Road), and Lots 28, 29 and 30 in DP394337 (known as 142-146 Pitt Road). It is located between the lots on Pitt Road that are zoned B1 Neighbourhood Centre, and the lots to the north that are zoned R2 Low Density Residential.

The subject lot is zoned R2. However, it exists only to provide access to the B1 zoned lots listed above, along Pitt Road. The entire lot is burdened by a right of carriageway to achieve this. It is not connected in any way to the adjacent R2 zoned lot to the north (Lot B in DP 400278), except through sharing a common boundary.

It appears that in the translation from WLEP 2000 to WLEP 2011 this lot was zoned R2 in error. It is connected and provides access to the adjacent lots in the B1 zone. Therefore, this anomaly should be corrected, and the lot rezoned to B1 - Neighbourhood Centre, consistent with the zoning of the lots it serves.

Re-zone Post Office site, Dee Why, (Lot B DP 350145) from RE1 – Recreation to B4 Mixed Use and footpath (Lot 2 DP 587690) from B4 – Mixed Use to RE1 Public Recreation

The Dee Why Post Office site, 32-34 Oaks Avenue (Lot B DP 350145 and Lot 47 Sec 16 DP 8172), was subject to a Memorandum Of Understanding (MOU) between Australia Post and Council to jointly dispose of the site. The site was intended to be redeveloped as part of Site A in the Dee Why Town Centre. As part of the plans for the site, Lot B (the eastern half of the Post Office site) was zoned RE1 - Public Recreation to provide for future parkland in conjunction with the neighbouring lot to the west (Lot A DP 350145). Lot 47 (the western half of the Post Office site) remained zoned B4 Mixed Use.

Australia Post subsequently decided not to dispose of the site. The MOU was officially terminated in a letter from Council to Australia Post on 9 June 2015, and Council indicated that the site would be rezoned back to B4 Mixed Use.

The southern section of footpath that connects Oaks Avenue to Howard Avenue (Lot 2 DP 587690), running adjacent to the parkland to the west of the Post Office was reclassified as Operational Land from Community Land and had its "Public Open Space" zoning removed in 2006 (see report to Council Meeting held on 23 May 2006). The northern section of the lot, adjacent to the 'Triangle Park', was not reclassified or rezoned at that time.

This was done to allow Council to sell the southern part of the lot with the intention of facilitating a single consolidated underground car park across Site A and Site B in the Dee Why Town Centre. At the time the primary purpose of the lot was for drainage (a large pipe runs through the lot from south to north), and an overland flow path runs across the site. Development above ground would not have been permitted for this reason, and the pedestrian pathway would have remained in place. The lot subsequently received a B4 - Mixed Use zoning under WLEP 2011.

The sale of the land did not take place, and Site A and Site B were never consolidated. The land to the east of Lot 2 has now been rezoned to RE1 Public Recreation as discussed above, which would preclude any underground car park being constructed between Sites A and B. Therefore it is recommended to re-zone the southern part of the lot (Lot 2 DP 587690) RE1 - Public Recreation, consistent with the northern part of the lot, and the adjacent parkland.

Prohibit 'restriction facilities' in all business and industrial zones

'Restriction Facilities' means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

This is a rural type use, associated with Dairies and the like. The use is currently permissible in the following Business and Industrial zones under WLEP2011:

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B7 Business Park
- IN1 General Industrial
- IN2 Light Industrial

The use is inconsistent with the objectives of each of these zones under WLEP 2011. It is therefore recommended that "Restriction facilities" be added to item 4 *Prohibited* in the land use tables for each of the zones B1, B2, B3, B4, B5, B7, IN1 and IN2.

Mapping amendment to the Heritage Map under WLEP 2011

Schedule 5 *Environmental Heritage* of WLEP 2011 lists Item I29 as "Elevated reservoir", being located on Lot 2, DP 1029592, known as 53 Aubreen Street. However, the heritage mapping for the item extends onto the neighbouring property to the south west (Lot 1 DP 1029592, known as 56 Idaline Street).

The actual heritage item is described correctly by Schedule 5, and the water tower is confined to 53 Aubreen Street. It is physically described by the NSW Office of Environment and Heritage as:

Elevated cast iron rectangular tank. The tank is 8.08m square by 2.78m deep and is supported by a steel framed tower some 15.85m high.

No amendment is required to Schedule 5. However, the Heritage Map should be altered to match the existing boundary line between 53 Aubreen Street and 56 Idaline Street.

Cadastre and control layer shifts

It has been identified that the cadastre on Council's mapping system needs to be adjusted to better match the actual on-the-ground lot boundaries in various places. The changes that need to be made include:

- Glen Street Theatre (Lot 1 DP 595183) and Lionel Watts Reserve (Lot 2 DP 595183)
- All properties within the blocks bounded by Adams Street, Rabbett Street and Forest Way, Frenchs Forest
- Properties on the south west side of Cootamundra Drive and Monserra Road, Allambie Heights including 34 Monserra Road (Lot 4 DP 241969), 1, 3 and 5 Cootamundra Drive (Lots 3, 2 and 1 of DP 241969).

Corresponding changes will also need to be made to the maps related to Part 4 Principal Development Standards mapping to ensure it matches the cadastre, including Minimum subdivision lot size, Height of buildings, and the Land zoning map.

These changes will not affect the zones or development controls applying to the land. They are simply minor adjustments to the position of Council's electronic mapping cadastre. Corresponding changes will need to be made to the Warringah Development Control Plan mapping; however these changes will be made under a separate report.

Delete exempt development provisions for signage from WLEP 2011 and WLEP 2000

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) establishes general requirements for exempt and complying development across the state, including provisions for signage. WLEP 2011 and WLEP 2000 also currently contain provisions identifying certain signage as exempt development.

The Codes SEPP overrides Council's LEP's. It is therefore recommended that sign types made exempt by Codes SEPP are removed from the exempt development categories in WLEP 2011 and WLEP 2000. This will reduce confusion for the community when trying to establish what can be installed without consent.

The table below shows the types of signage identified as exempt development under Codes SEPP and Council's LEP's and recommended actions to rationalise Council's LEP provisions. (Note: signage that requires development consent will still be subject to current controls on signage under WLEP 2000 and WDCP 2011.

| Signage type in SEPP | Signage type in WLEP2011 | Signage type in WLEP2000 | Recommended Action |
|--|--|---------------------------------------|---------------------------|
| Wall Signs (Subdivision 3) Fascia Signs (Subdivision 4) | Walls and Fascia Signs | N/A | Remove from LEP 2011 |
| Under Awning Signs (Subdivision 5) | Under Awning Signs | Under Awning Signs | Remove from both LEPs |
| Window Signs (Subdivision 7) | Window Signs | Window Signs | Remove from both LEPs |
| Building Identification signs (Subdivision 2) Replacement of identification signs (Subdivision 8) | Home-based child care, home businesses, home occupations and home industries | Home business signs | Remove from both LEPs |
| N/A | On Motor Vehicles | Signs on Motor Vehicles | Retain in both LEPs. |
| Real estate signs (Subdivision 12) | Real Estate | Real Estate Signs | Remove from both LEP's |
| Temporary Event signs (sub 11) | Temporary | Temporary Signs | Remove from both LEPs |
| Top Hamper Signs (Sub 6) | N/A | N/A | No action required |
| Internal signs (sub 9) | N/A | Signs not visible from a public place | Remove from LEP 2000 |
| Community notice and public information signs (sub 10) | N/A | N/A | No action required |
| Election signs (sub 13) | N/A | N/A | No action required |
| N/A | N/A | Identification, Interpretive, | No action |

| | | | |
|--|--|---------------------------------------|----------|
| | | Directional and Advance Warning Signs | required |
|--|--|---------------------------------------|----------|

Increase the maximum period a “Temporary use” may operate from 28 days to 52 days

Clause 2.8 of WLEP 2011 allows development consent to be granted to the temporary use of land for a purpose that might otherwise be prohibited under the zoning of the land, provided the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects.

The clause allows uses such as markets and other temporary uses. Temporary uses are not permitted to extend beyond a maximum of 28 days (whether or not consecutive days) in any period of 12 months.

The Standard Instrument LEP, which sets out standard provisions which Council's must include in their LEPs, contains a provision which states:

Development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 [or another number] days (whether or not consecutive days) in any period of 12 months.

Clause 2.8 of WLEP 2011 prevents temporary uses from operating on a weekly basis year-round.

The 28 day limit in WLEP 2011 was not contained in WLEP 2000, and therefore did not result from a translation of that document. It is also noted that the Manly LEP 2013 and Ku-ring-gai LEP 2015 both allow up to 52 days for temporary uses, and the Pittwater LEP 2014 allows up to 42 days.

Given that the default time period in the Standard Instrument LEP is a maximum of 52 days, that surrounding Councils have longer periods for temporary uses, and to enable temporary uses to operate once per week on a year-round basis, it is recommended that WLEP 2011 be amended to allow for a maximum of 52 days for temporary uses. Temporary uses will still be required to gain development consent before they can commence operation and that Council would not be bound to allow 52 days, the exact period would be a matter for consideration as part of the development application assessment process. Council would retain the ability to limit the number of days via a condition of consent.

Allow signage on trailers as exempt development under WLEP 2000 and WLEP 2011

Signage on trailers parked along roads has been an ongoing issue in Warringah, as discussed in the report to the Ordinary Council Meeting on 28 April 2015. At this meeting, Council made the following resolution:

That Council: Amend the Warringah Local Environmental Plan 2000 and Warringah Local Environmental Plan 2011 to include the following exempt development “Signage on trailers”.-The trailer must be principally used for the conveyance of goods and materials and if detached from a motor vehicle, not remain unmoved for more than 7 days.

Schedule 2 *Exempt Development* in WLEP 2011 currently contains the following provision under *Signage (other)*:

(2)On motor vehicles

Vehicle must be able to be driven with the sign displayed and the vehicle must be used principally for the conveyance of passengers or goods (or both).

This clause is specific to motor vehicles. It is therefore recommended that a new clause (5) be inserted into Schedule 2 under *Signage (other)* to read as follows:

(5) *Signage on trailers*

The trailer must be principally used for the conveyance of goods and materials and if detached from a motor vehicle, not remain unmoved for more than 7 days.

A separate amendment will also be required to WLEP 2000 to implement Council's resolution. An extra row is required to be added to Schedule 1 *Exempt Development* in the "Signs" section of the table as follows:

| | |
|---------------------|--|
| Signage on trailers | The trailer must be principally used for the conveyance of goods and materials and if detached from a motor vehicle, not remain unmoved for more than 7 days |
|---------------------|--|

FINANCIAL IMPACT

Nil

POLICY IMPACT

The proposed amendments are intended to correct existing anomalies, and make other minor amendments in accordance with previous Council resolutions and state legislation.

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|--------------------------|--|
| ITEM 8.14 | VOLUNTARY PLANNING AGREEMENT - 184 WYNDORA AVENUE, FRESHWATER |
| REPORTING MANAGER | SUSTAINABLE URBAN PLANNING MANAGER |
| TRIM FILE REF | 2016/070547 |
| ATTACHMENTS | 1 Planning Agreement - 184 Wyndora Avenue, Freshwater (Included In Attachments Booklet) 2 Explanatory Note (Included In Attachments Booklet) 3 Site Development Plans (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To seek Council's endorsement to execute a Voluntary Planning Agreement (VPA) between Council and Peninsular 1 Pty Ltd as per attached Planning Agreement relating to 184 Wyndora Avenue, Freshwater (the site).

SUMMARY

The VPA has been proposed in conjunction with the current Planning Proposal for 184 Wyndora Avenue, Freshwater (the site). The Planning Proposal, which is the subject of a separate report (titled Planning Proposal - 184 Wyndora Avenue, Freshwater) on this business paper, proposes to make "attached dwellings" a permissible use on the site and allow the subdivision of the site into no more than 14 allotments. The VPA is intended to provide a suite of additional site-specific development controls to guide future development of the site. This report should be read in conjunction with the report on the Planning Proposal for this site.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The VPA will not alter any policy, but will supllment existing developments controls for site.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Endorse execution of the Voluntary Planning Agreement and Explanatory Note between Warringah Council and Peninsular 1 Pty Limited.
 - B. Resolve to place a notation on the section 149(5) certificate for Lots 1, 2, 33, 34 and 35 of DP 7912 in relation to the Voluntary Planning Agreement and Explanatory note once the agreement is executed.
-

REPORT

BACKGROUND

A Planning Proposal (refer supporting report on this business paper titled titled *Planning Proposal - 184 Wyndora Avenue, Freshwater*) was submitted to Council on 27 June 2014 seeking amendments to Warringah Local Environmental Plan 2011 (WLEP2011) to permit the construction of “Attached Dwellings” on the site, and allow the subdivision of the site into no more than 14 allotments. If approved, the Planning Proposal would allow the development of the site for 14 attached dwellings, with shared basement car parking for 28 vehicles (2 spaces per dwelling).

The Planning Proposal was considered by the Warringah Development Assessment Panel (WDAP) in December 2014 following initial public consultation. The WDAP supported the overall concept subject to alterations to the concept design to better reflect the low density character of surrounding development. The WDAP also recommended that a suite of more detailed controls be developed for the site. Council subsequently endorsed the recommendation of the WDAP at its meeting on 10 February 2015.

The applicant submitted the attached draft VPA on 3 September 2015 including written controls and the attached concept plans for the development of the site. The controls and plans were further amended in consultation with Council staff to address issues raised by the WDAP and to provide greater certainty with respect to any future development. This included dividing the built form of the above-ground buildings into five distinct groups to be more in keeping with detached dwellings in the surrounding area.

The VPA does not involve a monetary/land contribution offer from the applicant. Rather, it is intended to give Council a high degree of certainty as to the overall shape and impacts of the proposed attached dwellings. The public benefit arises out of the VPA providing Council a mechanism to implement controls to ensure a good planning outcome for the site.

The Leadership Group endorsed the draft VPA and attached Site Development Plans on 18 September 2015.

CONSULTATION

The Planning Proposal and VPA were publically exhibited for a period of 28 days from 4 January 2016 to 1 February 2016. The application was advertised in the Manly Daily on 9 January, and letters were mailed to surrounding properties. The relevant documents have also been made available on the YourSay Warringah website. A further consultation period of 28 days was undertaken from 4 February 2016 to 3 March 2016, due to failure to include an ‘Explanatory Note’ (attachment 2) for the VPA, as required by the *Environmental Planning and Assessment Act, 1979* (EP&A Act), in the first consultation period.

During the first consultation period, four submissions were received (two of which were from the same property). No further submissions were received during the second consultation period. The submissions generally focussed on the Planning Proposal. These concerns are addressed separately in the report relating to the Planning Proposal. The concerns raised in relation to the VPA are discussed below:

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|---|--|
| <p>Objection to Voluntary Planning Agreement if the agreement is not legally enforceable or has been agreed by Council officers and will be enforced by those Council officers without oversight and capacity for independent enforcement powers.</p> | <p>Council has sought legal advice to ensure that the VPA will be legally enforceable. The terms of the agreement have been negotiated between Council staff and the applicant, as must necessarily be done before a draft agreement can be publicly advertised and reported to Council.</p> <p>Public exhibition of the VPA did not result in any submissions which would warrant re-drafting of the conditions of the VPA.</p> <p>Any future development application would be assessed by different officers to the officers dealing with the current planning proposal and VPA. The size/cost of the future development would require it to be reported to Council's independent panel (WDAP) for determination.</p> <p>The existence of the VPA will be recorded on the title of the site and be included on any s149 (5) certificate issued by Council. The VPA will also be available on Council's website on its public VPA register.</p> |
| <p>No access to proposed plans or VPA</p> | <p>The site development plans and the draft VPA were both publicly exhibited, and have been made available on Council's Yoursay Warringah web page. They have also been made available upon request at the front counter of the Civic Centre.</p> |
| <p>Future impacts on surrounding residents</p> | <p>The detailed impacts of any future development can only be assessed at the development application stage. However, the planning proposal, site development plans, and VPA, significantly limit potential impacts by providing a set of principles and standards for future development of the site.</p> |

Voluntary Planning Agreement

The VPA is intended to provide site specific development controls to help ensure that subdivision of the site into allotments smaller than currently permitted cannot occur unless carried out in conjunction with a single development of the entire site for 14 attached dwellings, including basement car parking. The VPA will sit on the title of the land, and will exist as a contract between Council and the developer. The VPA includes built form controls which:

- Limit the maximum number of dwellings on the site to 14 dwellings
- Require a minimum of 30 sqm of private open space per dwelling
- Require 2 on-site car parking spaces per dwelling in a basement car park with single driveway access from Wyndora Avenue
- Require buildings to be sited and separated so as to be more in-keeping with surrounding low-density residential development
- Limit the extent to which the basement car parking structure can protrude above natural ground level
- Provide for the treatment of the walls of the basement car parking structure above ground level
- Require a high level of architectural design, building modulation and material quality

- Require the incorporation of appropriately designed and located planter boxes to enhance landscape quality
- Require the planting of semi-advanced street trees in McDonald Avenue
- Require a single on-site bin storage room adjacent to the basement driveway.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The VPA will not alter any policy, but will supplement existing developments controls for site.

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| ITEM 8.15 | PLANNING PROPOSAL - 184 WYNDORA AVENUE, FRESHWATER |
| REPORTING MANAGER | GROUP MANAGER STRATEGIC PLANNING |
| TRIM FILE REF | 2016/019010 |
| ATTACHMENTS | 1 Planning Proposal - 184 Wyndora Avenue, Freshwater (Included In Attachments Booklet) 2 Gateway Determination (Included In Attachments Booklet) 3 Amended Additional Permitted Uses Map (Included In Attachments Booklet) |

EXECUTIVE SUMMARY

PURPOSE

To report to Council the outcomes of the exhibition of the Planning Proposal for 184 Wyndora Avenue Freshwater (the site), and to seek Council's approval to amend Warringah Local Environmental Plan 2011 (WLEP2011) in accordance with the Planning Proposal.

SUMMARY

The Department of Planning and Environment (DP&E) issued the attached Gateway Determination for the Planning Proposal to permit "attached dwellings" and allow subdivision of the site into no more than 14 allotments on 3 December 2015. The applicant subsequently prepared a Voluntary Planning Agreement (VPA), to provide more detailed controls for the development of the site. The attached Planning Proposal and VPA were publicly exhibited from 4 January 2016 to 1 February 2016, and for a further 28 days from 4 February 2016 to 3 March 2016. The VPA is the subject of a separate report to Council on this business paper. This report should be read in conjunction with that paper.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The Planning Proposal impacts the site only and has no implications for other Council policy.

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

- A. That Council amend the following within Warringah Local Environmental Plan 2011:
- Clause 6.8 Subdivision of Certain Land to allow subdivision of the site into allotments smaller than the current minimum permitted allotment size, but only in conjunction with a single development of the site with 14 attached dwellings.
 - Schedule 1 - Additional Permitted Uses, to allow "attached dwellings" as an additional permitted use for the site.
 - Additional Permitted Uses Map to include the site.
- B. That Council forward the Planning Proposal to Parliamentary Counsel's Office.
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REPORT

BACKGROUND

Council received a planning proposal on 27 June 2014 seeking amendments to Warringah Local Environmental Plan 2011 (WLEP2011) to allow "Attached dwellings" as a permissible use on the site, and to permit the subdivision of the site into 14 allotments. The planning proposal would permit the development of the site for 14 attached dwellings, with shared basement car parking for 28 vehicles (2 spaces per dwelling).

Following initial public exhibition, the planning proposal was considered by the Warringah Development Assessment Panel (WDAP) in December 2014. WDAP supported the overall concept subject to alterations to the concept design to better reflect the low density character of surrounding development. WDAP also recommended that a suite of more detailed controls be developed for the site. Council subsequently endorsed the recommendation of WDAP at its meeting on 10 February 2015.

The applicant submitted a draft VPA on 3 September 2015 including written controls and plans for the development of the site. The controls and plans were further amended in consultation with Council staff to address issues raised by WDAP and to provide greater certainty with respect to future development of the site.

The Planning Proposal was subsequently submitted to DP&E for Gateway Determination on 21 September 2015. DP&E issued the attached Gateway Determination on 3 December 2015 subject to conditions

CONSULTATION

The attached planning proposal and draft VPA were publically exhibited for a period of 28 days from 4 January 2016 to 1 February 2016. The application was advertised in the Manly Daily on 9 January, 2016 and letters were mailed to surrounding properties. The relevant documents were also made available on the YourSay Warringah website. A further consultation period of 28 days was undertaken from 4 February 2016 to 3 March 2016, due to a failure to include an 'Explanatory Note' for the VPA, as required by the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

During the first consultation period, four submissions were received (two of which were from the same property). No further submissions were received during the second consultation period. The submissions, together with Council responses, are summarised below:

| Submission | Response |
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| Incompatibility with low density character of the area / Precedent of medium density housing in an R2 low density area / inconsistent with present zoning / Failure to acknowledge history of Freshwater, where controls have been adopted to protect existing low density character. | <p>The design of the development has been altered since first proposed to divide the built form into distinct elements, separated by at least 2.2 meters. This design change is intended to ensure that the development is more reminiscent of detached dwellings.</p> <p>The proposal adds to housing diversity by providing a housing type not commonly available in the area.</p> <p>The site is somewhat unique in the area in that it is a large consolidated parcel of land with 3 street frontages. Each planning proposal received by Council is assessed on its merits and having regard to the particular</p> |

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| | <p>circumstances of the site. The current planning proposal will therefore not set a precedent for future development.</p> |
| <p>Existing use as disabled housing creates public benefit which will be lost / Existing residents difficulty in finding alternative accommodation / Site is a consolidated block that provides a unique opportunity for range of uses complementing the low density residential / Planning proposal would allow higher profit and disincentive to utilise site for a more appropriate use / Unfair to surrounding property owners / Freshwater/North Manly area has a shortage of sites suitable for social infrastructure</p> | <p>The existing building requires extensive refurbishment to meet current legislative requirements under <i>The NSW Disabilities Services Act 1993</i> and <i>the Disability Services Act 1993</i>. A report provided by the applicant's consultants also states:</p> <ul style="list-style-type: none"> • The current service operates under a special "Minister's exemption" rather than a normal license. This carries commercial and regulatory risks. • The layout of the building is inefficient for the provision of 24/7 care, as it is large and additional staff need to be employed to properly monitor residents • The retro-fitting of required technology is not commercially viable in such an old building in the context of the current 18 room configuration. • The building needs significant upgrade works to make it compliant with its current use (Group Home – BCA class 3, compared to hospital BCA class 9a), principally relating to the provision of fire sprinklers and the compartmentalisation of residential accommodation units. • Options such as aged care development and a psychiatric facility were also investigated and found to require significant capital works to bring the existing building up to standard. • The new service provider on the site, Nextt Group, has recently met with Family and Community Services and Ageing, Disability and Home Care to discuss support needs of clients and their desires for alternative accommodation. Nextt is working with these state government authorities to relocate residents to suitable alternative accommodation by 30 June 2016. |
| <p>Proposal would provide only 4 additional dwellings compared with low density residential including secondary dwellings / Additional strain on local facilities / Community's best interests</p> | <p>The site could potentially be subdivided into 6 allotments (with 6 dwellings) under current planning controls. There is also potential to seek approval for secondary dwellings on each of those allotments.</p> <p>The current proposal provides benefits over this development form, in that it includes on-site parking for all 14 dwellings, accessed via a single driveway, meaning more on-street</p> |

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| | <p>parking will be available. It increases housing diversity in the area. Waste collection will be consolidated into one bin room adjacent to the driveway.</p> <p>The proposal will not result in a significant increase in number of residents or strain on local facilities. If the planning proposal is approved, and a subsequent development application is also approved, the developer will be required to pay development contributions under the Warringah Section 94A plan, which helps to pay for infrastructure and facilities as set out in the plan.</p> |
| View loss | <p>View loss is an issue that would be assessed at the Development Application stage. However, the planning proposal does not involve an increase to the current 8.5m height limit on the site. The site could currently be redeveloped up to that limit. The attached dwellings will be grouped and the groups separated to create view corridors between the dwellings.</p> |
| Construction noise/nuisance | <p>This will be an issue for the Development Application stage. However, some level of noise and nuisance is unavoidable in any redevelopment. Council attaches conditions on all development consents to minimise noise and nuisance as much as possible.</p> <p>Any future development of the site will be constructed as a single development, potentially resulting in fewer nuisances than smaller separate redevelopments which could take place under the current planning controls.</p> |
| People buying nearby properties may be unaware of proposal | <p>The proposal has been publicly exhibited in accordance with the relevant legislation. Council is not able to notify potential new buyers beyond having all information publicly available to anyone who makes a request. The Yoursay Warringah web page will remain and continue to be updated until the planning proposal process is completed.</p> |
| No access to proposed plans or VPA | <p>The site development plans and the draft VPA have both been publicly exhibited, and have been made available with the other documents on Council's Yoursay Warringah web page. They have also been made available upon request at the front counter of the Civic Centre.</p> |
| Future impacts on surrounding residents | <p>The detailed impacts of any future development of the site will be assessed at the development application stage. However the planning proposal, site development plans, and VPA, will</p> |

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| | help to limit the impacts of future development by setting additional site-specific standards. |
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Warringah Local Environmental Plan 2011

The Planning Proposal will result in the following changes to WLEP 2011 (subject to Parliamentary Counsel's Office approval):

Part 6 Additional local provisions**6.8 Subdivision of certain land**

- (5) Without limiting clause 4.1(3) the subdivision of Lots 1, 2, 33, 34 and 35 of DP 7912, bounded by Wyndora Avenue, McDonald Street and Coles Road, Freshwater:
- (a) may result in lots smaller than the minimum size shown on the Lot Size Map, but only if the subdivision is in conjunction with a single development of 14 attached dwellings with basement car parking, as referred to in Schedule 1 Additional Permitted Uses, and
 - (b) must not result in the creation of more than 14 lots.

Schedule 1 Additional Permitted Uses**21 Use of certain land at 184 Wyndora Avenue, Freshwater**

- (1) This clause applies to land at 184 Wyndora Avenue, Freshwater, being Lots 1, 2, 33, 34 and 35 of DP 7912, shown as "Area 21" on the Additional Permitted Uses Map.
- (2) Development for the purposes of up to 14 attached dwellings including a single basement car parking structure servicing all dwellings on site is permitted with consent.

Additional Permitted Uses Map

The site will be included on the attached Additional Permitted Uses Map.

FINANCIAL IMPACT

Nil

POLICY IMPACT

The Planning Proposal impacts the site only and has no implications for other Council policy.

10.0 NOTICES OF MOTION

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| ITEM 10.1 | NOTICE OF MOTION NO 2/2016 - REMOVAL OF TREES ON THE PEDESTRIAN CROSSINGS IN FRESHWATER VILLAGE |
| TRIM FILE REF | 2016/061341 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Bob Giltinan

MOTION

That Council remove all trees planted on the pedestrian crossings in Freshwater Village.

BACKGROUND FROM COUNCILLOR BOB GILTINAN

Some time ago I lodged a Councillor Request to remove the trees from the pedestrian crossings in Freshwater Village however, they were only cut back.

FUNDING SOURCE

I have been advised by staff that this motion can be carried out within current operational budget.

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| ITEM 10.2 | NOTICE OF MOTION NO 3/2016 - ILLEGAL WORKS |
| TRIM FILE REF | 2016/080221 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Roslyn Harrison

MOTION

- A. That Council write to the Minister for Planning, Rob Stokes, seeking his support and assistance in:
- a) Changing legislation to deter illegal developments that are built without appropriate approvals;
 - b) Increasing sanctions for illegal works and commencement of building works without appropriate consent.
- B. That Council write to other Councils in our area asking them to pass similar resolutions to highlight the growing problem of illegal developments in the northern beaches area.
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FUNDING SOURCE

I have been advised by staff that this motion can be carried out within current operational budget.

BACKGROUND FROM COUNCILLOR ROSLYN HARRISON

There are an increasing number of illegal works being reported across the Warringah LGA. Council staff issue Notices of Intention Orders but the developer can put in a Building Certificate, for retrospective approval.

Currently, when the development approval process is not followed, surrounding residents are not informed of the proposed plans and they have no opportunity to comment on the proposed plans before building works commence. Often when Council intervenes with a Notices of Intent the developer is then able to submit a Building Certificate. In doing this the developer has been able to avoid an important part of the DA process.

There is minimal recourse for residents affected by illegal development and history with Land and Environment Court shows that once a structure is up, it is rarely given an order to demolition.

This type of development is occurring due to the current planning legislation. There may be a need for some form of retrospective approval to prevent problems in future with insurance, conveyancing etc, or where development would have been compliant if they lodged their application. However, this should not be the easier path for gaining a development approval.

There needs to be stronger legislation which protects the rights of residents where works have been undertaken illegally, especially where they are non-compliant with planning controls and result in a negative impact on surrounding properties. It should also serve as a deterrent for people who may consider trying to go around the appropriate processes and approvals.

11.0 QUESTIONS ON NOTICE

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| ITEM 11.1 | QUESTION ON NOTICE NO 4/2016 - PAYMENTS BY WARRINGAH COUNCIL TO COUNCILLOR SUE HEINS' PRIVATE COMPANY |
| TRIM FILE REF | 2016/080235 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Vincent De Luca OAM

QUESTION

Other than the \$5,279 already paid by Warringah Council to Cr Sue Heins' private company, what is the total amount of money Council paid to the company to purchase tickets to the company's event on 8 March 2016?

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| ITEM 11.2 | QUESTION ON NOTICE NO 5/2016 - WARRINGAH COUNCIL MAILOUTS REGARDING AMALGAMATION |
| TRIM FILE REF | 2016/080254 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Vincent De Luca OAM

QUESTION

What are the total costs (printing, delivery and return postage) so far in 2016, of all materials that have been delivered to residences regarding the proposed amalgamation?

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| ITEM 11.3 | QUESTION ON NOTICE NO 6/2016 - WARRINGAH COUNCIL ADVERTISING IN MANLY DAILY REGARDING AMALGAMATION |
| TRIM FILE REF | 2016/080269 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Vincent De Luca OAM

QUESTION

What are the total costs (including the Saturday Warringah Council column in the Manly Daily) so far in 2016, of all advertising in the Manly Daily by Warringah Council on the amalgamation?

12.0 RESPONSES TO QUESTIONS ON NOTICE

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| ITEM 12.1 | RESPONSE TO QUESTION ON NOTICE NO 1/2016 WARRINGAH COUNCIL'S WEBSITE |
| TRIM FILE REF | 2016/052776 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Vincent De Luca OAM

QUESTION

Noting that as at 26.8.2014 (QoN 17/2014) Warringah Council's website cost \$605,634.00 what is the total cost of the website to date?

RESPONSE

The total cost of the website to date is \$640,264.20.

Since launched, 31 May 2013 the new website has won two international awards and has had over 8.4 million page views by the community. The extra cost of \$34,630.20 is for enhancement of website functionality including the Community Engagement Calendar and Your Say Projects.

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| ITEM 12.2 | RESPONSE TO QUESTION ON NOTICE NO 2/2016 – EXPENDITURE ON WARRINGAH COUNCIL'S EXECUTIVE LEGAL COUNSEL/IN HOUSE LEGAL UNIT |
| TRIM FILE REF | 2016/052792 |
| ATTACHMENTS | NIL |

Submitted by: Councillor Vincent De Luca OAM

QUESTION

What is the total expenditure on Warringah Council's Executive Legal Counsel/In house legal unit for 2015 (excluding expenditure on external lawyers and Mercedes for Executive Legal Counsel)?

RESPONSE

\$52,503. This amount does not include employee costs as these are not relevant for the budget oversight responsibilities of councillors.

ITEM 12.3**RESPONSE TO QUESTION ON NOTICE NO 3/2016 -
WARRINGAH COUNCIL'S EXPENDITURE ON EXTERNAL
LEGAL FIRMS AND BARRISTERS****TRIM FILE REF****2016/008441****ATTACHMENTS****NIL**

Submitted by: Councillor Vincent De Luca OAM

QUESTION

What is the total amount of money expended by Warringah Council in 2015 on external legal firms and Barristers?

RESPONSE

\$1,043,735

13.0 MATTERS PROPOSED TO TAKE PLACE IN CLOSED SESSION

RECOMMENDATION

- A. That, in accordance with the requirements of Section 10 of the *Local Government Act 1993* as addressed below, Council resolve to close the meeting to the public to consider and discuss:
- a Item 13.1 RFT 2016/001 - Construction of Walter Gors Park on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993].
- This report discusses the commercial information of companies who tendered on this contract and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would confer a competitive advantage to the competitors of the tendering companies.
- b Item 13.2 RFT 2016/010 Fishermans Beach Bank Stabilisation on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993].
- This report discusses commercial in confidence information from companies who have tendered on this contract and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would confer a competitive advantage to the competitors of the tendering companies.
- c Item 13.3 RFT 2016/011 - South Curl Curl Seawall Works on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993].
- This report discusses commercial in confidence information from companies who have tendered on this contract and the disclosure of this matter in open meeting would, on balance, be contrary to the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would confer a competitive advantage to the competitors of the tendering companies.
- B. That the resolutions made by the Council in Closed Session be made public after the conclusion of the Closed Session and such resolutions be recorded in the Minutes of the Council Meeting.
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