



# SNAPPERMAN BEACH RESERVE~PALM BEACH

*Plan of Management*

Under the Local Government Act, 1993

Prepared by Pittwater Council

July 2006

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# FORWARD

A Plan of Management (POM) is a document that provides the framework for managing a land resource. It explains the 'why, how and whom' of how the subject area should be managed.

Council as land manager has prepared a POM for Snapperman Beach Reserve, being community land following agreement by a working party comprised of council and community members

The main reason for preparing the POM for the Reserve is to deal with issues affecting the study area and to ensure that the POM complies with the *Local Government Act 1993* (LGA 93). This POM will replace the previous chapter on Snapperman Beach Reserve within the generic '*Parks and Playgrounds Plan of Management*', which was adopted in November 2000.

The POM describes acceptable development of the Reserve, including alterations to any structures and usage. After Council approves the Draft Plan of Management (DPOM), it will then be placed on public exhibition for public comment and then recommended back to Council for adoption. Once adopted by Council, Council should only undertake uses, activities, or developments consistent with the adopted POM.

# ACKNOWLEDGEMENTS

Acknowledgement is given to the members of the Snapperman Beach Reserve Working Party, and other members of the community who contributed comment and direction for this POM.

Official members of the working party and their affiliations at the time of preparing the POM (January 2006) included: -

- Mrs. Anne Spencer – *Pittwater Council's Land, Water and Coastal Portfolio Committee Representative (Community Representative)*
- Mr. Henry Wardlaw – *Pittwater Council's Urban Consolidation and Planning Portfolio Committee (Community Representative)*
- Ms. Kit Moore – *Boating Owners Representative*
- Ms. Samantha Gazal – *Local Residents and Community Representative*
- Mr. Storm Jacklin – *Palm Beach & Whale Beach Association Representative*
- Mr. Mark Eriksson – *Pittwater Council*
- Ms. Sarah Rees – *Pittwater Council*

# EXECUTIVE SUMMARY

Based on the vision statement presented in the Public Hearing Report by Mr. Peter Walsh (refer **Appendix A**), the vision of the Snapperman Beach Reserve Working Party, for the Reserve is:

*‘Snapperman Beach Reserve continues to present and be managed essentially ‘as is’ to ensure that the natural beauty of the reserve is retained, that it be a place for access to the beach and low key and informal enjoyment (e.g. viewing the seascapes, low key picnics on the grass, place for all - younger kids to older people) to sit and play without significant disturbance to others. Dinghy storage continues with the number of dinghies limited to around that occurring now, and that a simple system be maintained to make sure dinghy storage is not a problem’.*

The objectives of this POM are to: -

- Identify and assess the values and local significance of the Reserve;
- Define the Reserve’s role as a local recreational resource;
- Address current and future permitted uses and purposes for the Reserve;
- Address future leases/licences attached to the Reserve;
- Identify and assess key management issues affecting the Reserve;
- Establish management strategies and address resource implications;
- Meet legislative and policy requirements for the preparation of POM’s for community land.

# 1

## INTRODUCTION



*Picture looking north at Snapperman Beach Reserve*

## LAND TO WHICH THIS PLAN APPLIES

This Plan of Management (POM) applies to the land known as Snapperman Beach Reserve (the 'Reserve'), 100A Iluka Road Palm Beach being Lot 36 Section B DP 12979. The Reserve is a narrow and relatively flat strip of land located along the north-eastern foreshore of Pittwater within the suburb of Palm Beach, between Sand Point and Observation Point. **(Refer Figure 1 - Location Plan & Figure 2 – Site Plan).**

The area included in this POM incorporates the manicured lawn area, which contains a seat, reserve signage, two large Screw Pines (*Pandanus tectorius*) and a sea wall. The adjoining land on the eastern boundary is residential and access to the Reserve is via a laneway six (6) metres wide between numbers 100 and 102 Iluka Road.

The Reserve offers opportunities for low key and informal recreational use e.g. picnics, filming, and the storage of dinghies. It is highly valued as one of only a few public access points to the Pittwater estuary in this locality.

## PURPOSE

The main purpose of this POM is to provide the community, Reserve users and Pittwater Council ('Council') with a clear direction regarding future use and management of the Reserve. The effective management of the Reserve is essential if its significant value to the community is to be maintained and enhanced.

Thereby the purpose of preparing this POM is to:

- Provide a framework for consistent management of the Reserve over the next ten (10) years by Council.
- Provide a basis for effective day-to-day and longer-term decision making regarding the use and management of the Reserve.
- Set guidelines for permissible and prohibited uses of the Reserve.
- Accommodate and integrate the needs of Council (as land owner/manager), residents (as neighbours / Reserve users), current and future users of the Reserve.
- Comply with the *Local Government Act, 1993* (the 'Act') and recent amending legislation regarding preparation of POM's for community land.



Figure 1 | Location Plan



Figure 2 | Site Plan



## PROFILE OF SNAPPERMAN BEACH RESERVE

A description of the Reserve, related features and its existing features and management is summarised in the table below.

Table 1

<b>Site Name</b>	Snapperman Beach Reserve
<b>Address:</b>	100A Iluka Road, Palm Beach
<b>Reserve:</b>	Community Land
<b>Ownership:</b>	Pittwater Council
<b>Management:</b>	Dedicated as a Public Recreation Area from the estate of the late Charles John Edward Forssberg. The Reserve was transferred to the then Warringah Council on 5 October 1927 (Title Vol. 4061 Folio 122 – Transfer B 543232). It was then transferred into Pittwater Council's name on 8 August 2000.
<b>Manager:</b>	Pittwater Council
<b>Open Space Hierarchy:</b>	Local Foreshore Reserve
<b>Area:</b>	1,116 square metres
<b>Zoning:</b>	6(a) Existing Recreation – Pittwater LEP
<b>Conditions:</b>	The foreshore reserve is well maintained and considered to be in an overall good condition.
<b>Maintenance:</b>	Pittwater Council: <ul style="list-style-type: none"> <li>- Arboriculture work</li> <li>- Graffiti removal</li> <li>- General repairs</li> </ul> Local Residents: <ul style="list-style-type: none"> <li>- Grass mowing &amp; weed removal</li> <li>- Rubbish removal</li> </ul>
<b>Assets:</b>	Large mature male and female Screw Pines Seawall Foreshore steps Seat Reserve signage
<b>Existing Uses:</b>	Informal recreation area
<b>Leases/ Licences:</b>	Nil
<b>Income:</b>	Nil



# 2

## VALUE STATEMENT



*Locality Photo - View from Barrenjoey looking South c.1912*

## **ABORIGINAL HISTORY IN PITTWATER**

Prior to European settlement, the Guringai tribe inhabited the foreshores and headlands of Pittwater's beaches, as the area would have provided an abundance of shellfish, fish and bush foods.

There is now little evidence of this earlier indigenous occupation, nor the methods of sustainable land management practised by aboriginal tribes in the region. The fire and food management regimes of local Aborigines were extinguished and were replaced with an initial focus on the eradication of fire as a management tool, together with the wholesale removal of vegetation, to provide for housing, subsistence farming and grazing of livestock.

Pre-European archaeological sites include rock engravings, shelters and midden deposits. A total of 73 Aboriginal heritage sites have been recorded in the Pittwater Local Government Area under the NSW National Parks and Wildlife Service Aboriginal Sites Register. Archaeological surveys have been conducted at numerous midden sites along the Pittwater coastline, including several significant sites at Palm Beach and Careel Bay.

## **EUROPEAN HISTORY IN PITTWATER**

During the latter part of the nineteenth century, as Sydney grew rapidly south of the harbour, the north shore remained largely undeveloped, and the northern Peninsula remained even more remote and isolated. Commercial market gardening and small-scale dairying were the main land uses on the Barrenjoey Peninsula, prior to the invention of the car.

In the early years of the 20th century, settlement from Manly to Palm Beach was sparse, due to transport difficulties. At the time, Narrabeen was "the end of the line", as the tram terminated at this point, and further transport north was difficult because of the need to cross Narrabeen Lagoon. The far northern beaches were becoming a natural drawcard for those fortunate day-trippers with access to a motor vehicle. In 1928 when the bridge opened across Narrabeen lagoon at Ocean Street, Pittwater became even more accessible.

In the intervening years between the world wars, a social and recreational revolution in ocean bathing had occurred, and beachside “fibro” holiday cottages began to make an impact on the Sydney coastline.

The end of World War II heralded a development boom period, which saw broad-scale residential and commercial development throughout the northern beaches and the Peninsula. This period was also marked by development of an improved transportation network, better roads and widespread ownership of the family car. For the first time, the northern beaches were within the range of the average family day-trippers, who were increasingly travelling from further afield within the Sydney Metropolitan Area in pursuit of water-based recreational opportunities.

## LOCAL HISTORY

‘The original Napper grant of 400 acres, apart from the sand peninsula leading to Barrenjoey Head acquired by the Government in 1881, remained intact until 1900 when a group of Sydney businessmen purchased the majority of the land now known as Palm Beach for £500 in the name of the Barrenjoey Land Company Ltd. The company divided the Palm Beach Estate into eighteen large blocks, some extending upwards of 74 acres. The blocks were put up for auction on 5 June 1900, but few attracted a buyer.

The area around Sand Point remained in the Wentworth Estate until the 23 August 1900 when Charles John Edward Forssberg purchased over 30 acres of the original Napier Grant fronting Pittwater. (Noel Bell Ridley Smith & Partners Architects Pty Ltd, *Heritage Assessment 2003*, p. 3) .

Forssberg, who was a furniture dealer with offices in William Street in the city, and his family, did not occupy the land at Palm Beach instead residing at their home in Manly. When C.J.E Forssberg died in 1921 the Palm Beach land passed to his wife and two daughters who subdivided the land for sale in 1922 (Noel Bell Ridley Smith & Partners Architects Pty Ltd, *Heritage Assessment 2003*, p. 5) .

Snapperman Beach Reserve, which was a part of this estate, was dedicated as a Public Recreation Area (refer **Figure 3** – Certificate of Title) in 1927. The Reserve was transferred to the then Warringah Council on 5 October 1927. It was then transferred into Pittwater Council's name on 8 August 2000.

It is thought that the Pittwater foreshore between Sand Point and Observation Point became known as 'Snapperman Beach' after a group of Chinese fisherman who caught and dried snapper there.

The Reserve area, a narrow rectangular strip of land adjoining residential lots on the eastern boundary provides one of only a few remaining public access points to the Pittwater estuary along Snapperman Beach.

Being a non-surf beach, it is well used by families with young children, picnicking and other such recreational pursuits. Likewise, its deep protected waters are very attractive to the boating community and as such there is a long history relating to the use of Snapperman Beach to access moorings directly off the beach. **Figure 4** shows the existence of boats moored off Snapperman Beach in the 1920's.

Over time and in conjunction with surrounding development the Reserve has been altered. The Reserve contains a broad open Kikuyu lawn, which is well tended by local residents and a large clump of Pandanus Palms that have been planted on the northern end of the Reserve. A hardwood timber sea wall has been constructed along the western boundary and retains the reserve behind the Beach area.

The Reserve is well used for the storage of dinghies, picnics, filming/still photography, children's play, scenic viewing and access to the foreshores of Snapperman Beach.

Figure 3 | Certificate of Title

Appt. No. 20996  
Reference to last Certificate,  
Vol. 3429 Fol. 234  
2570 184

New South Wales.  
[CERTIFICATE OF TITLE.]  
REGISTER BOOK.  
Vol. 4061 Fol. 122

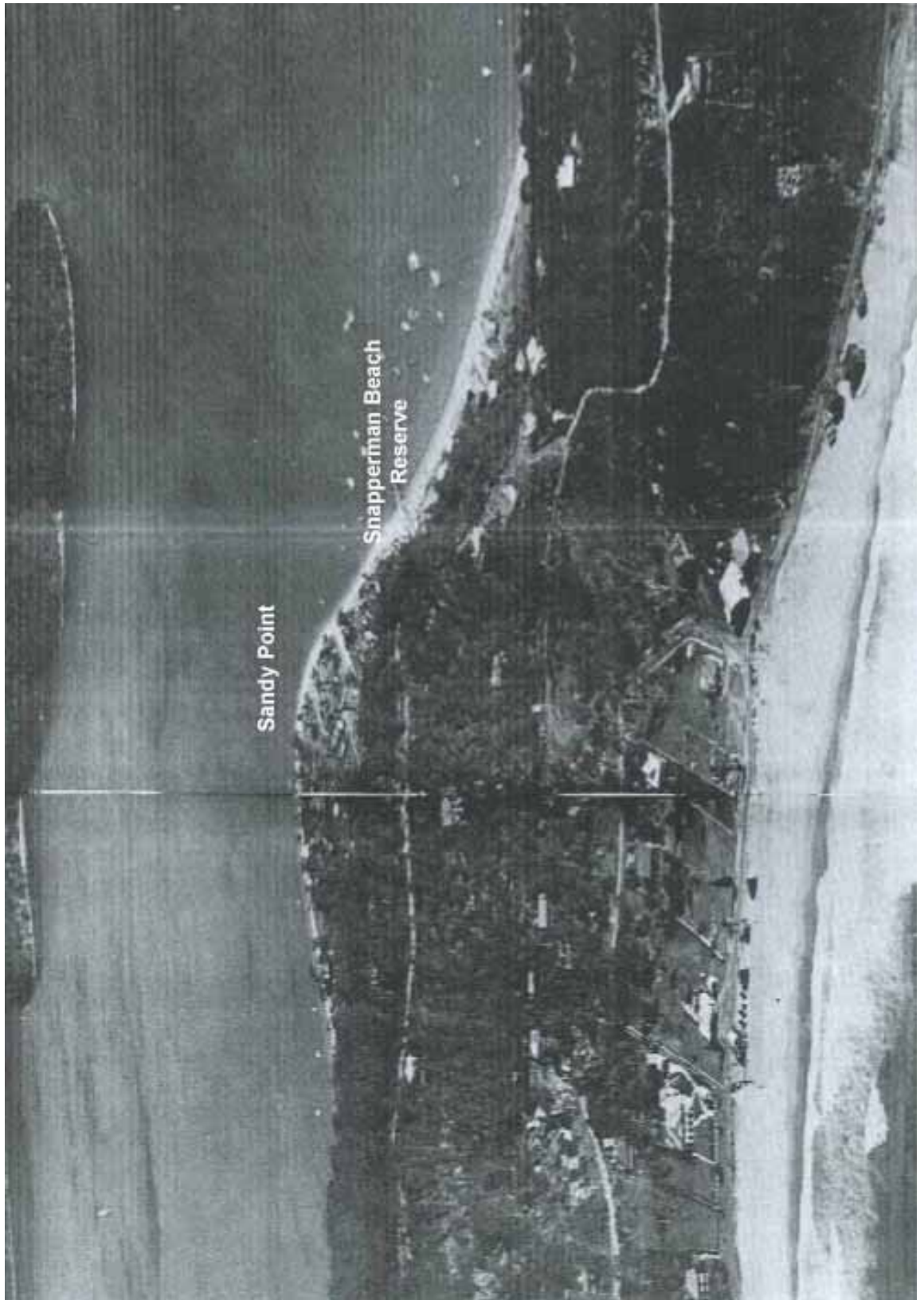
The Council of the Shire of Warrington do hereby under instrument of transfer to B545202  
is now the proprietor of an estate in fee simple  
subject nevertheless to the reservations and conditions, if any, contained in the Grant hereinafter referred to, and also subject to such  
encumbrances, liens, and interests, as are notified hereon, in Three pieces of land situated  
in the Shire of Warrington Parish of Carraburn, and County of Cumberland  
containing two acres two rods thirteen and three quarters perches or thereabouts as shown in the plan hereon and  
therein referred to being the Reserve Thirty feet wide for Public Recreation in a plan deposited in the Land  
Titles Office Sydney in 1899 and the Public Recreation Reserve about thirty feet wide and the reserve for Public  
Recreation in another plan deposited in the said Office in 1862 and being parts of 400 acres (being 11 of parcels)  
situated in the public map of the said Parish in the Department of Lands originally granted to private parties  
by Crown Grant dated the 16th day of March 1816.

In witness whereof, I have hereunto signed my name and affixed my Seal, this fifth day of October 1921.

Signed in the presence of R. J. J. J. } C. J. J. J.  
Registrar General.



Figure 4 | Pittwater c.1920



# 3

## LEGISLATION AND POLICY

# BARRENJOEY PALM BEACH ESTATE PITTWATER

**The Last of the Ocean Beaches.**

**TERMS.**  
 £2 Per Lot Deposit.  
 Balance in monthly instalments of £1 per lot for every £30 of purchase money.  
 Interest to be charged on the unpaid balances at the rate of 5% per annum payable quarterly.

**Local Sketch.**

**E.E. G. de Gyulay.**  
 Secretary to the Vendors  
 1 Moore St. Sydney.

**TITLE will be TORRENS**

**FOR AUCTION SALE ON THE GROUND,**

**ANNIVERSARY DAY,**

**FRIDAY 26<sup>TH</sup> JANUARY 1912**

**AT 3 O'CLOCK**

**RAINE & HORNE**  
 Auctioneers.  
 86 Pitt St, Sydney.

**Fisher & Nott.**  
 Licensed Surveyors and R.P.S.  
 86 Pitt St Sydney.

**A. W. Wootenholme.**  
 Auctioneer to the Trusts  
 14 Moore St. City.

All dimensions subject to Surveyed Plan & approved only.

**In January 1912, this sale brought real results.**

Early indication of subdivision layout for Palm Beach

## LAND OWNERSHIP, TENURE AND MANAGEMENT

This POM applies to the land known as Snapperman Beach Reserve (refer to **Figure 2**). The legal description of the land comprising the Reserve is Lot 36 Section B DP 12979. Access to the Reserve is via a laneway six (6) metres wide off Iluka Road between numbers 100 and 102 Iluka Road, Palm Beach.

Pittwater Council owns the land in Fee Simple. The adjoining land on the eastern boundary is residential (Lots 12 – 18 DP 12979). The land to the west is the foreshore transition zone to the Pittwater estuary, being unreserved Crown land. At the present time the recognised boundary between the Reserve and Crown Land remains 'High Water Mark' as per DP 12979.

The Reserve was originally known as Forssberg Reserve and was dedicated as a Public Recreation Area from the estate of the late C.J.E Forssberg (Refer **Figure 3** – Certificate of Title). The original certificate of title transferred to the then Warringah Council is Title Vol. 4061 Folio 122 (transfer B 543232, dated 5 October 1927). It was then transferred into Pittwater Council's name on 8 August 2000.

Charles John Edward Forssberg originally purchased over 30 acres of the land around Sand Point, which was a part of the original Napier Grant fronting Pittwater, on the 23 August 1900. (Noel Bell Ridley Smith & Partners Architects Pty Ltd, *Heritage Assessment 2003*, p. 3).

Forssberg, who was a furniture dealer with offices in William Street in the city, and his family, did not occupy the land at Palm Beach instead residing at their home in Manly. When C.J.E Forssberg died in 1921 the Palm Beach land passed to his wife and two daughters who subdivided the land for sale in 1922 (Noel Bell Ridley Smith & Partners Architects Pty Ltd, *Heritage Assessment 2003*, p. 5) .

## LEGISLATION APPLYING TO STUDY AREA

### **ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

The *Environmental Planning and Assessment Act, 1979* (EPA) (which can be accessed at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)) forms the basis of statutory planning in New South Wales, including the preparation of Local Environmental Plans (LEP) by Councils which regulate land use and development.

#### **Local Environmental Plan (LEP)**

Pittwater Council, as the consent authority under the current *Pittwater Local Environmental Plan 1993*, and the *Pittwater 21 draft Local Environmental Plan* controls development and activities on parks and reserves in Pittwater.

The purpose of the LEP is to define what purpose land may be used for and how permission (consent) can be obtained for the use. The LEP expresses the Council's broad land use strategy.

The current *Pittwater Local Environmental Plan 1993*, and the *Pittwater 21 draft Local Environmental Plan* (refer Section 3.3 and Section 5.22) require POM's to define developments, activities and uses within the 6(a) zone that are permissible with and without development consent, as well as those activities and land uses that are prohibited.

This POM defines permissible activities and developments, and establishes a structure that identifies when development consent is required in Section 5 'Future Use, Development and Management'.

#### **Zoning**

The land is zoned 6(a) – Existing Recreation "A" under the current *Pittwater Local Environment Plan* (LEP) and *Pittwater 21 draft Local Environmental Plan* (P21). (Refer **Figure 5** – Zoning Map).



Figure 5 | Zoning Map



## **LOCAL GOVERNMENT ACT 1993**

### **Community Land**

The *Local Government Act, 1993* (LGA) requires that all public land owned by Council be classified as either 'community' or 'operational' land.

Snapperman Beach Reserve is classified as community land, which means that it is intended to be managed for use by the community and may not be leased for more than 21 years and cannot be sold.

### **Preparing a Plan of Management**

Section 36 of the LGA requires Council to prepare a DPOM for community land. This Act provides Councils with a specific approach to the management of community land. The preparation and contents of this POM is in accordance with the requirements of the LGA and the *Local Government (General) Regulation, 1999*. Refer to [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) for access to these Acts and Regulations. (Refer **Appendix B** for relevant information on the Act)

A range of legislation, policies and other planning instruments are relevant to the management of the Reserve and have been considered in the formulation of the DPOM, as detailed below.

The DPOM must be placed on public exhibition for a minimum period of 28 days, with a further 14 days permitted to enable all interested members of the community to make written submissions to Pittwater Council.

Council may then adopt the final plan of management, having regard to the relevant provisions contained in the LGA.

### **Land Categorisation**

The LGA requires that a category be allocated to all Community Land (refer **Appendix B**). Categorisation of the subject land is required to be carried out as part of the process of preparation of plans of management.


Section 40A of the LGA requires that Council conduct a Public Hearing with regard to categorisation of the land.

For the purposes of the DPOM, and its public consultation a category of 'Park' has been applied to the reserve at Snapperman Beach (Refer **Figure 6** – Proposed Categorisation Map). This is in accordance with the recommendation of the Independent Chairperson's Report from a preliminary Public Hearing held in May 2005 (refer **Appendix A**). For the core objectives under the LGA of each category refer to **Appendix B**. The permissible uses for the Reserve have been set out in a table, refer Section 5.

Figure 6 | Categorisation Map

Proposed Categorisation Map



 Snapperman Beach Reserve area proposed to be categorised as 'Park'

N. T. S



**Snapperman Beach Reserve**  
100A Iluka Road **Palm Beach**



## **COUNCIL'S LAND MANAGEMENT POLICIES AND PLANS**

### **Open Space, Bushland & Recreation Strategy, 2000**

POM's for parks and reserves in Pittwater are also guided by various plans, strategies and policies prepared by Council. The *Open Space, Bushland and Recreation Strategy* for Pittwater local government area, sets out priorities for future provision of open space, bushland and recreation facilities and opportunities. The Section 94 Contributions Plan for Open Space, Bushland and Recreation (2000) draws on these identified priorities and outlines how they can be funded by developer contributions.

## **ADDITIONAL STUDIES RELATED TO THIS PLAN**

### **Pittwater Estuary Processes Study**

This study provides a long-term management framework for the ecologically sustainable use of each estuary and its catchment.

### **Sydney Regional Coastal Management Strategy**

The Sydney Regional Coastal Management Strategy (1998) includes the following primary objectives, to:

- Ensure that ecological integrity is maintained, and that, when available, coastal zone resources are fairly and equitably used by the public and commercial interests alike, so that the long-term benefits derived by the community can be optimised.
- Maintain adequate and appropriate access to the coast, so that it is possible to enjoy a range of recreational opportunities. Public access should be managed to protect coastal resources, ecosystems and public safety.
- Conserve and manage areas and features of significant ecological, physical, cultural, historical, landscape and scientific importance, so that their values are maintained.

### **NSW Coastal Policy 1997**

The Coastal Policy 1997 applies to the coastal zone as defined under the *Coastal Protection Act 1979*. The policy responds to the

fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values at risk. The policy document is intended to guide decision-making and has a strong integrating philosophy based on the principles of ecologically sustainable development (Coastal Council of NSW).

# 4

## MANAGEMENT ISSUES



*View of the Screw Pines from Snapperman Beach*

This section of the POM identifies and discusses the key management issues for Snapperman Beach Reserve.

These issues provide the basis for the direction of future management of the Reserve. Each issue is then outlined and developed into management strategies.

The intent of the Management Policy is to:

- Identify and discuss the **key management issues**;
- Identify the desired outcomes or **objectives** with regard to each issue;
- Develop **actions** for the achievement of these objectives;
- Develop **performance measures** or mechanisms for the measurement of success.

## KEY MANAGEMENT ISSUES

Key management issues are addressed in detail below:

### LANDSCAPE CHARACTER Discussion

Snapperman Beach Reserve consists of a narrow rectangular strip of land (approximately nine (9) metres wide and one hundred and two (102) metres long). The Reserve contains open manicured lawn, two large Screw Pines (*Pandanus tectorius*), a seat, reserve signage and a seawall.

The western side of the reserve fronts the sandy beach and waters of Pittwater and the remaining sides are bound by residential properties. It has a predominantly open and relaxed character and a 'natural beauty', which is highly valued and consistently identified by the local community as an element that should be retained by maintaining the status quo and avoiding formal landscaping or development.

In a report prepared by the Royal Botanic Gardens (refer **Appendix C**), the Screw Pines were identified as extraordinary species because they are extremely large specimens in the Sydney area and because they are a pair, one male and one female. To ensure the trees are managed correctly for their preservation and protection an independent arborist has prepared a management plan (refer **Appendix D**).

Running east-west through the middle of the Reserve is a stormwater outlet pipe which juts out into the water, approximately ten (10) metres from the foreshore line. This current system could be improved from both an aesthetic and environmental perspective.

#### **Objective**

- To maintain the existing open landscape character and 'natural beauty' of the Reserve.
- To improve the current stormwater system at the Reserve.

#### **Action**

- Prepare a master plan for the Reserve in accordance with the objectives of this POM, specifically the vision statement for the reserve.
- Ensure appropriate management of the Reserve in accordance with the community land category (Refer Section 3).
- Ensure appropriate management of the Screw Pines in accordance with the tree report (refer **Appendix D**).
- Investigate stormwater system and look at possible solutions to improve the aesthetics and environmental aspects of the system.

#### **Performance Measure**

- Community expresses satisfaction with ongoing management of the reserve.
- Landscape features maintained in accordance with the master plan.
- Solution developed, using coastal engineering expertise to improve the environmental and aesthetic aspects of the storm water system.
- All uses and activities meet the requirements of Council's development guidelines and relevant legislation.

### **RECREATIONAL VALUES**

#### **Discussion**

Shorelines, with beaches, are the most preferred recreational setting of Pittwater residents (mentioned in *Open Space and Recreation Plan, 1997*).

Snapperman Beach Reserve provides a range of recreational opportunities, including children's play, picnicking, relaxing, scenic

viewing and fishing. The Reserve is also highly valued as one of only a few direct public access points along the Pittwater foreshore. Its deep protected waters are very attractive to the boating community (WBM Oceanics Australia, 2003).

Snapperman Beach Reserve presents an opportunity for appropriately designed dinghy storage given its ideal location, directly opposite the moorings and also given the long history of continuous usage for the informal storage of dinghies there. A low-key facility that limits the available storage accommodation number would prevent further alienation of the Reserve due to uncontrolled dinghy storage and would allow effective management of the boats.

Council Policy – No. 26 '*Storage of Craft – Dinghies/Boats*' provides guidelines, conditions and controls related to the storage of craft on foreshore reserves. Council's Policy Register available on [www.pittwaterlga.com.au](http://www.pittwaterlga.com.au) contains more information.

#### **Objective**

- To allow continued access by all to the beach and Reserve for low key and informal enjoyment.
- To address the issue of dinghy storage.

#### **Action**

- Ensure continued management of the reserve, which allows for access by all for low key and informal enjoyment.
- Provide a properly managed but unobtrusive dinghy storage facility limited to a maximum of 13 dinghies.
- Design of Dinghy Storage facility as outlined in the Master Plan.

#### **Performance Measure**

- Reserve can be accessed by all for enjoyment.
- Dinghy storage facility installed and managed in accordance with Council Policy – No. 26 '*Storage of Craft – Dinghies/Boats*'.

### **GENERAL FACILITIES AND AMENITY**

#### **Discussion**

Foreshore reserves are highly valued by local residents, with a high proportion being regular users (Minter Research, 1994). There has been

clear and consistent community feedback in regards to this reserve being left as natural and undeveloped as possible to allow for open space recreation such as children's play and picnics on the grass. It is recognised that any need for structured facilities and amenities is satisfied at adjacent reserves such as Pittwater Park and Lucinda Park.

A seat currently exists on the Southern end of the Reserve. The community has identified an opportunity for one additional seat on the Northern end of the Reserve. The seat would both provide a viewing opportunity and clearly identify the Reserve as Public land.

#### **Objective**

- To ensure that facilities are well maintained.
- Maintain the reserve as an undeveloped, open space, with one additional seat only.

#### **Action**

- Maintain cleanliness and ensure repair and maintenance of facilities.
- Provide one additional seat at the Reserve in accordance with the Master Plan.

#### **Performance Measure**

- Reserve users express satisfaction with appearance, cleanliness and maintenance of facilities.
- Additional seat installed in accordance with the Master Plan.

### **PRIVATE AND PUBLIC OPEN SPACE**

#### **Discussion**

Much of the Pittwater foreshore is in private ownership, so access is restricted to a series of defined locations only (with little or no linkages between them). The wider community of Pittwater has expressed concern that the access around the foreshores of Pittwater should be improved. Snapperman Beach Reserve provides one of only a few direct public access points to Snapperman Beach and the Pittwater waterway.

The delineation between private residential and the public open space is not clearly identified by a physical boundary. Whilst there are currently no major encroachments onto the Reserve, this has been an issue in the past.

Creeping or incremental development onto a public reserve or alienation of the reserve by illegal storage of dinghies or other vessels or structures such as at Snapperman Beach needs to be regulated to ensure fair and equitable access, and ensure that the broader community has the opportunity to enjoy the coastal recreational amenity.

**Objective**

- Ensure that public access to the foreshore reserve is maintained.
- Oppose the alienation of the foreshore Reserve.

**Action**

- Maintain fair and equitable access to the Reserve through standard signage as is already provided.
- Continually monitor the area of public open space to ensure fair and equitable access and use.

**Performance Measure**

- Access to the public reserve maintained.
- Area of public open space is maintained.
- Public use of open space.

**PEDESTRIAN & VEHICULAR ACCESS**

**Discussion**

Access to the Reserve is via a laneway six (6) metres wide between numbers 100 & 102 Iluka Road. This is mainly used for emergency vehicles, as a drop off point for boat users and pedestrian access to the beach. A slip rail has been installed at the western end of the laneway. No parking is allowed in the laneway. Parking is available in the street as well as at Lucinda Park 200m to the south of the Reserve. The Reserve is in close proximity to public transport along Barrenjoey Road.

**Objective**

- Ensure that the lane way access to the Reserve is maintained at all times.

**Action**

- Monitor laneway to ensure access is maintained.



**Performance Measure**

- Public access and use of the reserve is maintained.

**RESERVE BOOKINGS**

Foreshore reserves are recognised as having significant potential as venues for public and private special events of various size and scale. Pittwater's foreshore reserves are the venue for filming, weddings and family and corporate picnics just to name a few.

These bookings attract fees and are subject to special conditions. Council's Reserves and Recreation Officer is responsible for booking and monitoring reserve and beach bookings in Pittwater.

It is necessary to manage these activities to minimise the risks of overuse of the foreshore reserves, conflicts with casual users, damage or threat to the natural environment and impacts on adjoining land uses. Similarly, since Snapperman Beach Reserve is a narrow reserve adjacent to residences, it is important to ensure that residential and user amenity is preserved.

Council Policy – No. 93 '*Reserves, Beaches & Headlands Booking Policy*' provides guidelines, conditions and controls related to permissible temporary uses and events on beaches and beach reserves. Council's Policy Register available on [www.pittwaterlga.com.au](http://www.pittwaterlga.com.au) contains more information.

**Objective**

- Recognise the demand for booking of foreshore reserves however, ensuring that residential amenity is maintained as is the amenity of casual users of the reserve.

**Action**

- Limit bookings as per permissible uses table.

**Performance Measure**

- Reserve managed to cater for appropriate Reserve bookings in accordance with this Plan of Management and Council Policy – No. 93 '*Reserves, Beaches & Headlands Booking Policy*'.

- Positive comments to Council from residents adjoining the reserve regarding booked activities.
- Positive comments to Council from organisations of booked activities and the community.

## **SIGNAGE**

### **Discussion**

The provision of quality information about the recreational opportunities available, as well as hazards that may be encountered at Pittwater's foreshore reserves has several benefits. These benefits include, the potential to improve access, expand knowledge and raise awareness levels, encourage safe and sensitive use of foreshore reserve areas, and guide visitors to maximise enjoyment of their recreational experiences.

Presently, Council does not have an overall signage and interpretive system, however Council has adopted Council Policy No. 129, '*Signs – Council's Facilities*' which will see the systematic introduction of appropriate information and hazard warning signage to all Council reserves and facilities. The signs will be designed around internationally accepted and recognised pictograms in accordance with the guidelines contained in '*Signs as Remote Supervision – Best Practice Manual*' prepared by Statewide Mutual.

It has been recognised that the current signage identifying the reserve itself and directing users to the reserve is adequate. There is an opportunity to exchange the positions of current Snapperman Beach reserve sign and seat to enhance user amenity of the reserve.

### **Objective**

- Establish an effective signage and interpretive system.
- Maintain current naming and directional signage.

### **Action**

- Rationalise signage and integrate directional, safety and interpretive signage, placing one low sign post next to the cycad bush on the southern side of the entrance to the reserve from the reserve laneway.

**Performance Measure**

- High quality but low-key signage implemented as per Master Plan .

**RISK MANAGEMENT****Discussion**

Risk management is a significant issue for Council in formulating management practices for public land. Council has developed a strategy of asset inspections and targeted actions at the reserves to minimise risk and discharge Council's duty of care to reserve users.

In June 2002 the NSW Government enacted the first piece of Legislation to implement reforms to personal injury claims – the Civil Liability Act 2002. Together with the Civil Liability Amendment (Personal Responsibility) Act 2002 the legislation is designed to effect civil liability reforms that reinstate the responsibility of individuals for their actions, reduce the culture of blame and attendant litigation. The Act strikes a balance that does not disadvantage people with legitimate negligence claims but arrests the recent trend of ever increasing public liability payouts.

The illegal storage of the dinghy boats on Snapperman Beach Reserve is a concern in regard to the potential public liability risk it presents to Council.

**Objective**

- To adequately address risk management issues, such as the proper storage of dinghy boats on the Reserve.
- To ensure the highest foreshore safety standards.

**Action**

- Formulate and implement a regular inspection checklist to identify potential safety issues.
- Provide dinghy storage to accommodate a maximum of 13 dinghies.
- Refine current maintenance practices to meet risk management requirements and relevant standards.

**Performance Measure**

- Improved public safety and risk management.
- Dinghy Boat storage facility implemented.
- Area considered safe and accessible at all times.
- Maintenance audit conducted on a regular basis.

**MAINTENANCE****Discussion**

The general maintenance regime at Snapperman Beach Reserve includes: -

- Removal of litter;
- Repair of vandalism as required;
- Repair / maintenance of the seawall and steps as required;
- Mowing and turf maintenance ;
- Maintenance of existing vegetation.

Local residents contribute to the maintenance of the reserve by mowing and generally cleaning up litter found on the Reserve.

Council's Reserves Department is otherwise responsible for maintenance standards and priorities.

Maintenance of the Screw Pines are as per the management plan (refer **Appendix D**) as discussed above.

**Objective**

- Ensure that best practise methods are used for all maintenance procedures and where necessary make suggestions for the improvements in the ongoing maintenance of areas.

**Action**

- Review current work practices and procedures for maintenance operations through bench marking and adoption of industry best standards.

**Performance Measure**

- The Reserve area is considered safe and well maintained at all times.

# 5

## FUTURE USE, DEVELOPMENT & MANAGEMENT



*Looking South from Snapperman Beach to the Reserve*

This section defines the range of activities that can occur and the facilities and structures that can be constructed at the Reserve. It specifies the leases, licences and other interest in the land, which are expressly authorised and also identifies the need for development consent for a proposed activity, and provides guidelines to assist Council in determining any development application required for proposed structures and activities.

This section of the POM outlines the direction for the management of Snapperman Beach Reserve.

## PERMISSIBLE USES

### Community Land

Both the current *Pittwater Local Environment Plan* and *Pittwater 21 draft Local Environmental Plan* require POM's for community land to specify the uses, activities and developments that will be permitted on the subject land that is zoned 6(a) (Existing Recreation "A"), both with and without development consent as well as those activities and developments that are prohibited.

Community land must also be managed in accordance with its objectives. The State government through the provisions of the LGA established core objectives for the different categories of community land – refer **Appendix B** for the list of core objectives for the management of community land of each category.

### Permissible Uses Table

A Permissible Uses Table has been prepared for the Reserve and outlines the permissible and prohibited activities and developments on the subject land. Whilst the Permissible Uses Table cannot specify every likely proposed activity, the listed land use types will determine whether an activity is appropriate at the subject area.

The Permissible Uses Table outlines:

- 'Permissible Uses Exempt' which do not require development consent through the Development Assessment process outlined in Part 4 of the Environmental

Planning and Assessment Act 1979, but may, nevertheless, require assessment under Part V of the Environmental planning and Assessment Act 1979.

- 'Permissible Use only with Development Consent' requires Development Assessment in accordance with Part 4 of the Environmental Planning and Assessment Act 1979.
- 'Prohibited Uses' include all those land uses listed as prohibited as well as any purpose other than a purpose for which development may be carried out without development consent or only with development consent.

'Developments' and 'activities' that will be considered at the Reserve will be those that are listed as permissible (with or without development consent) in the Permissible Uses Table (refer **Table 2**).

**TABLE 2 PERMISSIBLE USES TABLE**

<b>PERMISSIBLE USES NOT REQUIRING DEVELOPMENT CONSENT</b> <b>(These may require approval under Part V of the EPA Act 1979)</b>	
USE/ ACTIVITY	POLICY DETAILS / EXAMPLES
<p>Alcohol-free zones requiring consent of Council and consent of other relevant committees i.e. Traffic Committee</p> <p>Consumption of alcohol in alcohol-free zones (providing appropriate signposting e.g. "The consumption of alcohol is prohibited without the express permission of Pittwater Council" is in existence).</p>	<p>In accordance with <i>Council Policy No. 93. 'Reserves, Beaches and Headlands Booking Policy'</i></p>
Maintenance / minor works	<p>Examples (including but not limited to the following):</p> <ul style="list-style-type: none"> <li>- Bush regeneration (including weed removal)</li> <li>- Foreshore protection / Sea wall maintenance</li> <li>- Earthworks to construct structures identified on the Master Plan, including filling, levelling, grading and topdressing (e.g. installation of seating as per master plan)</li> <li>- Temporary fencing</li> <li>- Fire hazard reduction activities</li> <li>- Upgrade and Maintenance of steps as per this Plan of Management</li> <li>- Land restoration works, including mounding – in accordance with the Master Plan</li> <li>- Minor drainage, stormwater, erosion and sediment control works</li> <li>- Provision of one additional seat – in accordance with the Master Plan.</li> </ul>
Dinghy Storage Facility to a maximum of thirteen (13) dinghies	Design to be the sunken timber log and boltholes as specified in the Master Plan
Feral animal control and eradication	Treat as required
<p>Filming and still photography for no more than two (2) consecutive days and which does not:</p> <ul style="list-style-type: none"> <li>o Occur outside the hours of 8:30am to sunset;</li> <li>o Require the construction of temporary facilities or structures;</li> <li>o Occur on a public holiday or weekend.</li> </ul>	<p>In accordance with <i>Council Policy No.96 'Film Permit Policy and Conditions – Amended September 2005'</i> and additional requirements as specified in this table.</p>
<p>Temporary activities or events that require a casual booking or permit from Council, or a lease or licence under the <i>Local Government Act, 1993</i>, that are consistent with the <i>Local Government Act, 1993</i> core objectives for land categorised as 'Park' and Council criteria for approvals, which does not exceed one of the following criteria:</p> <ul style="list-style-type: none"> <li>o The number of participants and/or spectators on any one-day of an event does not exceed 100;</li> <li>o Activities occurring between the period of 8.30am to sunset;</li> <li>o Activity over the period of one day;</li> <li>o Does not involve the consumption of alcohol;</li> <li>o Does not require the construction of temporary facilities or structures; and</li> <li>o Does not occur on a Sunday or public holiday</li> </ul>	<p>In accordance with current <i>Council Policy No. 93 'Reserves, Beaches and Headlands Booking Policy'</i> unless otherwise prohibited by this Plan of Management</p> <p>The reserve is small, narrow and adjoins residences. Temporary activities will be vetted to ensure that the amenity of adjoining residences and of casual users to the reserve is maintained at all times.</p>
Signage – compliance, directional, interpretive, identification	In accordance with <i>Council Policy No. 129 'Signs – Council's Facilities' and only as specified in the Master Plan</i>
Utility installations	
Vehicular access subject to Council approval	



PERMISSIBLE USES REQUIRING DEVELOPMENT CONSENT	
USE/ ACTIVITY	POLICY DETAILS / EXAMPLES
<p>Filming and still photography for more than two consecutive days and which :</p> <ul style="list-style-type: none"> <li>Occurs outside the hours of 8:30am to sunset;</li> <li>Requires the construction of temporary facilities or structures;</li> <li>Occurs on a public holiday or weekend.</li> </ul>	<p>In accordance with <i>Council Policy No.96 'Film Permit Policy and Conditions – Amended September 2005'</i> and additional requirements of this table.</p>
Major Works	<p>In accordance with the Master Plan (including but not limited to the following): -</p> <ul style="list-style-type: none"> <li>Drainage and stormwater works (major, such as detention basin)</li> <li>Filling or cutting greater than 500mm in depth</li> </ul>
<p>Temporary activities or events that require a casual booking or permit from Council, or a lease or licence under the <i>Local Government Act, 1993</i>, that are consistent with the <i>Local Government Act, 1993</i> core objectives for land categorised as 'Park' and Council criteria for approvals, that exceed one of the following criteria:</p> <ul style="list-style-type: none"> <li>The number of participants and/or spectators on any one-day of an event exceeds 100;</li> <li>Activities occurring outside the period of 8.30am to sunset;</li> <li>Activity over the period of one day;</li> <li>Involve the consumption of alcohol;</li> <li>Require the construction of temporary facilities or structures;</li> <li>Occurs on a Sunday or public holiday.</li> </ul>	<p>In accordance with current <i>Council Policy No. 93 'Reserves, Beaches and Headlands Booking Policy'</i>.</p> <p>The reserve is narrow and adjoins residences. Temporary activities may require development consent to ensure that the amenity of adjoining residences and of casual users to the reserve is maintained at all times.</p>
Tree and Shrub Planting	Only upon the request of key stakeholders and agreement of adjoining land owners

PROHIBITED USES (Including but not limited to the following)	
<ul style="list-style-type: none"> <li>- Advertising – permanent and temporary</li> <li>- Agriculture</li> <li>- Animals on the beach with the exception of Guide Dogs for the visually impaired</li> <li>- Boat ramps</li> <li>- Busking</li> <li>- Dinghy storage greater than the 13 dinghies specified in this Plan of Management and any Dinghy storage facility design other than that specified in this Plan of Management.</li> <li>- Domestic drainage outlets</li> <li>- Equestrian activities</li> <li>- Erection of permanent structures other than specified in this Plan of Management</li> <li>- Erection of temporary facilities or structures other than for the casual, passive enjoyment of the reserve during the daylight hours</li> <li>- Extractive industries</li> <li>- Gaming</li> <li>- Lighting and/or floodlighting of Reserve</li> <li>- Private alienation or encroachment</li> <li>- Recreational motor vehicles, including four-wheel driving, motorbike or trail bike riding, or similar, other than use for surf life saving</li> <li>- Residential</li> <li>- Showground</li> <li>- Storage of watercraft or equipment below Mean High Water Mark</li> <li>- Storage of any water craft or equipment (e.g. kayaks, catamarans etc) other than the dinghies specified</li> <li>- Unauthorised dumping of refuse including building materials, soil, fill, garden wastes and the like (other than importing of fill for permitted works)</li> <li>- Vegetation removal not in accordance with Council's Tree Preservation and Management Order, or this POM</li> <li>- And otherwise any activity or structure not specified in the Master Plan</li> </ul>	

## LEASES, LICENCES AND OTHER ESTATES

### **What are leases, licences and other estates?**

A lease will be typically required where exclusive use or control of all or part of a reserve is desirable for effective management. A lease may also be required due to the scale of investment in facilities, the necessity for security measures, or where the relationship between a major user and facilities in the Reserve justify such security of tenure.

*Licences* allow multiple and non-exclusive use of an area. A licence may be required where intermittent or short-term use or control of all or part of an ocean beach reserve is proposed. A number of licences for different users can apply to the same area at the same time, provided there is no conflict of interest.

An assessment of each Lease, Licence or other estate granted would be carried out in terms of environmental quality and public access.

### **Existing Leases, Licences & Other Estates**

At the time of preparing this POM there are no existing leases or licence agreements for Snapperman Beach Reserve.

### **Authorisation of Future Leases, Licences & Other Estates**

To comply with the LGA, a POM for community land must clearly specify the leases, licences and other estates that are authorised on the land. Terms and conditions of a lease or licence should reflect the interest of the Council, protect the public, and ensure proper management and maintenance of Snapperman Beach Reserve.

### **Proposed Future Leases, Licences and Other Estates**

This POM specifically authorises the leasing, licensing or granting of an estate in the land that is the subject of POM, as follows:

#### Proposed Dinghy Storage Facility

This POM expressly authorises Council to grant permits for the use of the dinghy storage facility (as shown on the Landscape Master Plan – refer **Figure 7**) limited to a maximum of 13 dinghies.

### Temporary Activities

This POM expressly authorises Council to grant permits for the temporary use of the reserve only as specified in the Permissible and prohibited Uses table (refer **Table 2**).

## **MASTER PLAN**

The Master Plan (refer **Figure 7**) has been developed to illustrate the works and improvements to the Reserve that are required to address the key management issues and objectives.

The main elements of the master plan include:

- Dinghy storage facility limited to a maximum of 13 dinghies;
- Interchange of positions of existing sign and seat and upgrade of existing seat;
- Installation of an additional seat at Southern side of the Reserve;
- Upgrade of existing steps to beach;
- Addition of one sign next to cycad;
- Investigation into upgrading existing stormwater system.

## **WORKS PROGRAMME**

Priorities for implementation of the master plan and indicative costs are outlined in the Works Programme below:

Item	Cost*
Dinghy Storage Facility	\$10,000
Relocation, upgrade of existing seat and installation of additional seat	\$7,500
Upgrade of existing steps	\$15,000
Upgrade of existing signage **	\$5,000
Stormwater system upgrade investigation	\$20,000

\* Probable cost estimated at time of drafting this POM

\*\* Based on a ten (10) year period

## **IMPLEMENTATION**

On adoption of the POM by Council, it is incumbent on Council to implement the POM. Council may not allow any operations or development that is not permitted by the POM.

Alteration of the adopted POM may be undertaken under s.40 of the LGA and may be required after a period of five (5) years to keep abreast of government policy, to cater for the

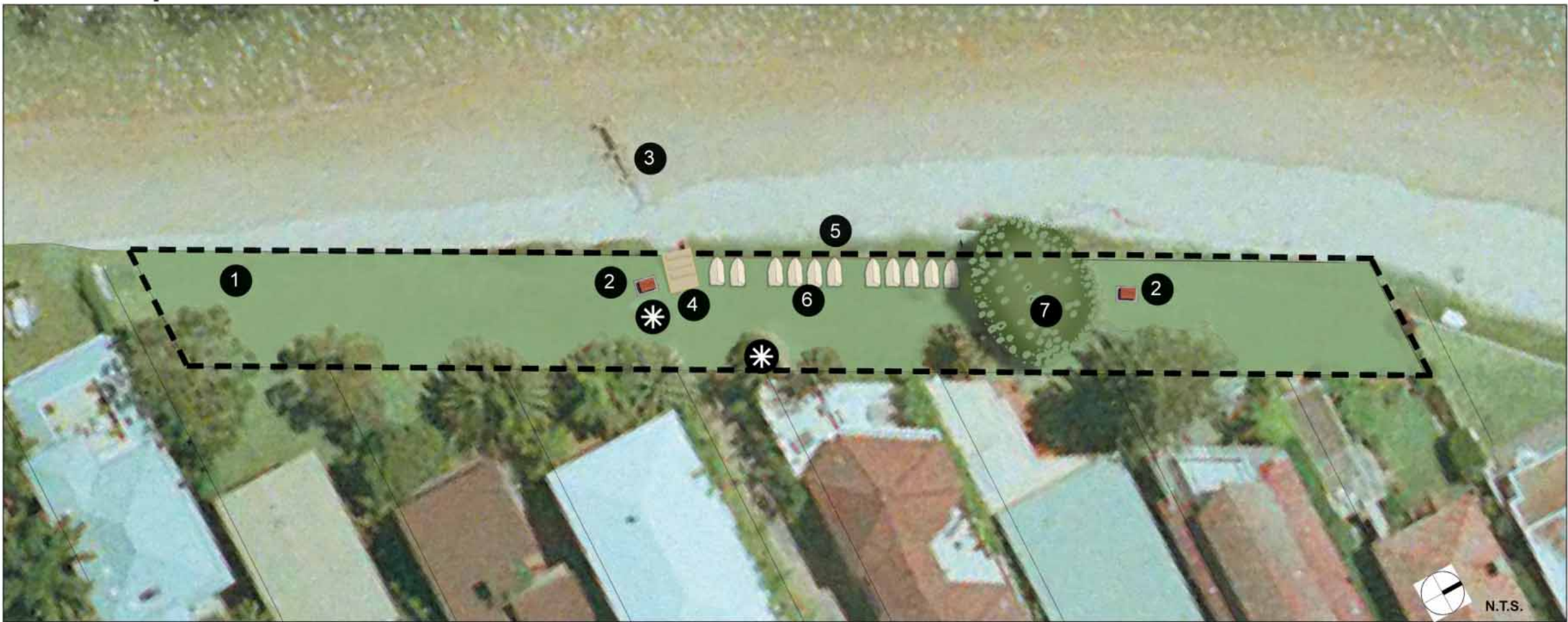
changing expectations and requirements of the community and to ensure the POM remains useful and relevant.

It should be recognised however, that the commencement and completion of actions identified in the master plans and Action Table are dependent on available Council resources and funding. Funding for management of the reserve will be sought from a range of government, Council and community sources.



Figure 7 | Concept Master Plan

master plan



notes

- 1 Open Grass Area**  
Maintain existing open grassed area.
- 2 Proposed Seating**  
Upgrade existing central seat in the reserve and move to the position of the existing sign. Additional seat to be positioned at the northern end of the reserve - 2m north of the Screw Pines and 2m west of the retaining wall.
- 3 Stormwater System**  
Engage a qualified engineer to investigate upgrading the existing stormwater system.
- 4 Steps**  
Repair and upgrade existing steps in consultation with adjoining residents.
- 5 Existing Sea Wall**  
Monitor the stability and safety aspects of the existing seawall. Implement maintenance and remediation measures as required, in same fashion as existing, namely timber palings.
- 6 Dinghy Storage Facility**  
Proposed facility to involve the installation of a sunken timber log directly adjacent to existing retaining wall with brass rings for the storage of up to 13 dinghy boats (refer Details Plan for position of facility).
- 7 Screw Pines**  
Male and Female Screw Pines to be managed in accordance with Tree Management Plan - Appendix D.
- \* Signage**  
Existing reserve sign to be relocated to position of existing seat and the compliance signage to be updated and re-located to the north-western corner of the access lane to the reserve.

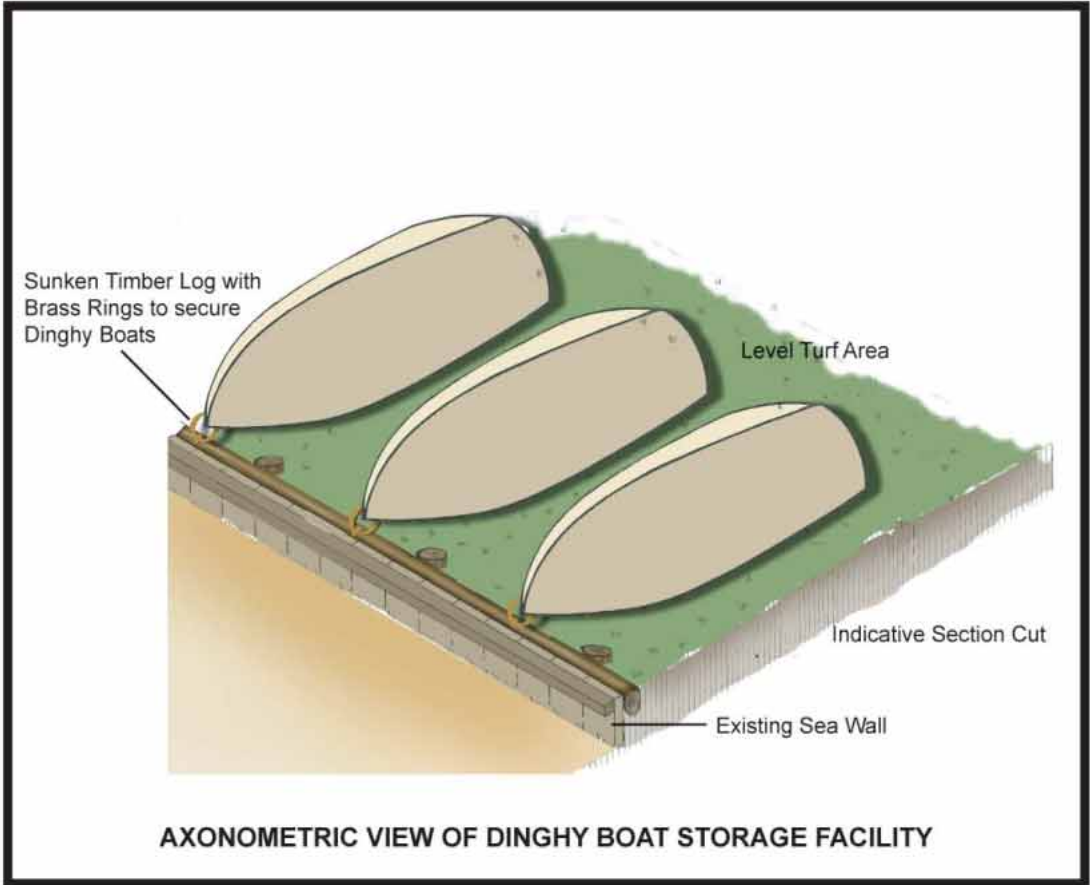
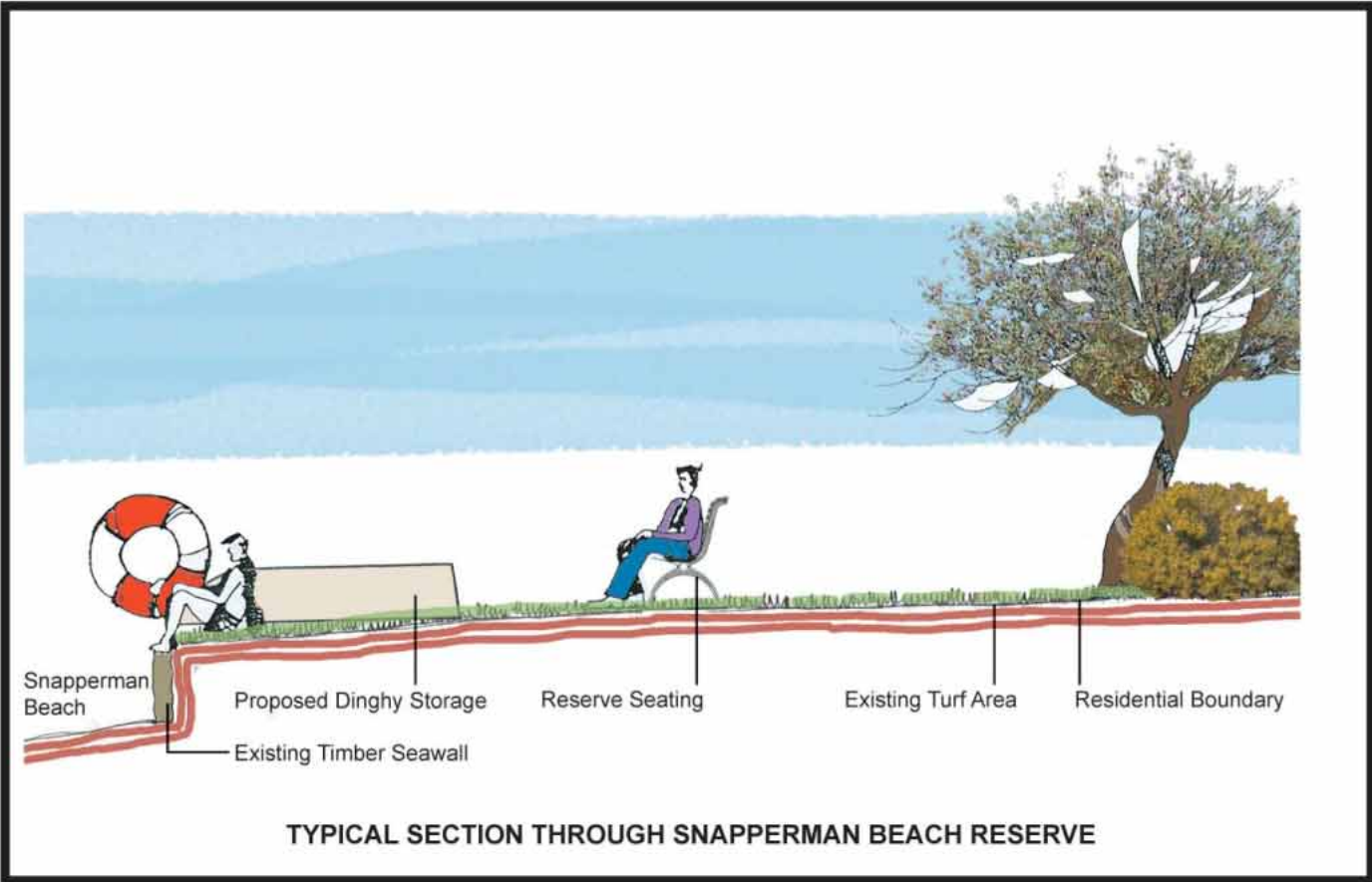
legend

- Reserve Boundary Area
- Existing Grassed Area Refer Note # 1
- Proposed Seating Refer Note # 2
- Proposed Platform Steps Refer Note # 4
- Proposed Dinghy Storage Facility Refer Note # 6 & Details
- Existing Vegetation Refer Note # 7

**SNAPPERMAN BEACH RESERVE - CONCEPT MASTER PLAN**  
100A Iluka Road PALM BEACH  
February 2006



Figure 8 | Details Plan



**SNAPPERMAN BEACH RESERVE - DETAILS PLAN**  
100A Iluka Road PALM BEACH

February 2006

# **APPENDIX A**

PUBLIC HEARING REPORT - MAY 2005 - P & A WALSH CONSULTING



## **REPORT TO PITTWATER COUNCIL**

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### **CATEGORISATION OF SNAPPERMAN BEACH RESERVE**

Report on a Public Hearing Held in Accordance with the Provisions of  
Section 40A of the Local Government Act 1993

**Prepared by**

Peter Walsh  
Independent Chairperson

**MAY 2005**

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## ABBREVIATIONS USED IN REPORT

Council	Pittwater Council
DA	Development Application
Act	Local Government Act 1993
Regulation	Local Government General Regulation 1999
Reserve	Snapperman Beach Reserve

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## 1. INTRODUCTION

### 1.1 The Proposal

Pittwater Council (Council) has before it a proposal which would provide for a change to the categorisation of Snapperman Beach Reserve (the Reserve). The proposal would provide for the Reserve to be categorised as *park* under the public land management regime set in train by the Local Government Act, 1993 (the Act).



**Figure 1.1** – Site environs and area proposed to be categorised as “Park”  
(Source: Public hearing background information kit prepared by Pittwater Council)

According to the provisions of the Act, plans of management are the instrument by which the categorisation of land is effected. Section 40A of the Act provides as follows:

***Public hearing in relation to proposed plans of management***

*(1) The council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).*

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There is a proposed plan of management which has been put to Council by its officers and which includes the proposed amendment to the categorisation of the Reserve. In its deliberations on this matter, Council considered it appropriate that a public hearing be held to focus on the categorisation of the subject lands. Further analysis of the draft plan of management could occur after feedback from the hearing.

Section 47G(2) of the Act provides as follows:

*The person presiding at a public hearing must not be:*

- a) a councillor or employee of that council holding the public hearing, or*
- b) a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.*

In accordance with the above provisions I was subsequently appointed as independent chair for the public hearing. This document is intended to comprise the report of the public hearing.

## **1.2 The Hearing**

The hearing was held on the evening of 5 April 2005 at Avalon Recreation Centre. The general administration of the Hearing was undertaken by Council officers under my instruction. Some 48 persons were in attendance according to the attendance records.

The hearing opened with an address from myself outlining procedural details. Oral or written submissions were received from some twenty parties.

## **1.3 This Report and Future Council Decisions**

This Report is intended to provide a summary of the submissions to the hearing and an examination of what are seen to be the key points raised in submissions. Conclusions are drawn and recommendations are provided.

While the Report is intended to be of assistance, ultimately Council is responsible for making a determination of the next steps which it sees to be appropriate in the circumstances.

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## 2. SUBMISSIONS

### Council Officers' Submission

The submission to the hearing from Council's administration was provided by Mr Mark Eriksson, it was supported by a written information kit which was available at the hearing. The following points were made:

- In the recent past the NSW government has introduced legislation requiring preparation of plans of management for all community land vested in Councils.
- A particular requirement is that such lands be "categorised". The use and management of community land is directed by its categorisation and the other provisions of the site's plan of management.
- Under the legislation community land is to be categorised as one or more of the following:
  - Natural area.
  - Sportsground.
  - Park.
  - An area of cultural significance.
  - General community use.
- The Act and regulations nominates core objectives, and guidelines for each category of land. The core objectives outline the approach to management of the land covered by the particular category.
- It is proposed to categorise the subject lands as "park" (details on guidelines and core objectives for this category are outlined below).
- The Local Government (General) Regulation 1999 (the Regulation) provides guidelines on the categorisation of community land.
- Categorisation of community land in Pittwater needs to be considered in a "global" sense, looking across all of Council's reserves, and adopting a consistent approach responsive to the context of the reserves.
- Snapperman Beach Reserve is a small local park. The Reserve was originally dedicated from the Forestry estate in the early 1920's specifically for the purpose of public recreation.
- Over the ensuing years it has had two major public uses:
  - Access and use of the park/foreshore of itself
  - Use of the park/foreshore as a place to store dinghies, for access to watercraft in Pittwater.
- Of the categorisation options, Council's officers view is that *park* is the most suitable option and preferred over the *natural area* category, as the Reserve has been modified over the year by both local residents and Council. Modifications have included construction of a timber seawall, mounds, turfing and planting of the Pandanus Palm (indigenous to Northern Australia but not endemic to Pittwater).
- Council has no other management issues with the park excepting access to the foreshore/park and long-term responsible management of the dinghies.
- Categorisation of the land as *natural area* would, in principle, require Council to manage the area as a natural area including reinstatement of local endemic species indicative of other natural foreshores around Pittwater.
- Categorisation of the land as *park* is seen as the best way to allow Council to conserve and manage the area exactly as it is, and to ensure access and use remains exactly as is, with ongoing responsible management of dinghies.

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**Mr Sam Gazal**

Mr Gazal made the following points in his oral submission:

- Residents of Iluka Road do recognise that the site is a public reserve, and are happy to acknowledge the boundary between private and public space.
- Residents are “more than happy” to have some dinghy storage on the Reserve.
- Mr Gazal is concerned that this number of dinghies will increase in time as urbanisation increases and could only be managed as long as the categorisation remained as *natural area-foreshore*.
- Mr Gazal believes a compromise can be made on the number of dinghies provided the land remains *natural area – foreshore* in its categorisation.
- Mr Gazal has lived at his residence (adjacent to the Reserve) for the last eighteen (18) years. In this time he has never seen Council manage the Reserve and has only ever observed the residents do any mowing, removal of rubbish etc.
- The site is already categorised as *natural area*, the circumstances are such that the site is not open to re-categorisation.

In response to a question from the Chair, Mr Gazal made further comment that he did not want any significant changes to the Reserve. He stated that he had seen a draft plan produced by Council for the Reserve and that it had proposed further trees and barbeques. He further explained that the reason for wanting to keep it categorised, as *natural area-foreshore* is that he believed it would be less likely the Reserve would be tampered with under that category.

**Iluka Properties Pty Limited, Dr Ross Jones and Mr J McNiven**

Mr Gazal provided a copy of a written submission prepared by Garland Hawthorne Brahe Solicitors (GHB). This submission was prepared on behalf of Iluka Properties Pty Limited, Dr Ross Jones and Mr J McNiven. There are three core objections raised in this submission, as follows:

**Uncertainty of the true location of the western boundary of the reserve**

The submission on this point is accompanied by copies of earlier survey reports which point out that there is a discrepancy between, in particular, the western boundary of the reserve as shown in plans prepared by Council, and the “actual” western boundary of the reserve. A copy of a letter from the Department of Lands<sup>1</sup> was provided which provides in part as follows:

*It is noted that a recent survey of the site indicates that the physical MHW (Mean High Water Mark) is now some distance seaward of the “High Water Mark” boundary shown in DP 12979 (title plans to the subject lands). Council’s proposed dinghy storage facility development appears to extend beyond the MHW boundary as shown in DP 12979, ostensibly onto Crown land. This may or may not be true – depending on a determination of the position of the current MHW boundary.*

GHB points out there is a process for the redefinition of a “natural boundary” such as that involving the definition of MHMW contingent upon a survey to be undertaken by a registered surveyor. It is submitted by GHB that the proposed re-categorisation should not proceed any further before a redefinition of the title boundary is undertaken in that:

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<sup>1</sup> Correspondence from Department of Lands to Council dated 17 July 2003

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*Until that is achieved it is impossible to (determine) what parcel of land Council is proposing to re-categorise*

The reserve is part of the transition zone

It is submitted that the site qualifies as *natural area* and *foreshore* categorisation.

It is submitted that from time to time the “level of inundation” exceeds MHWL, and “by definition the inundation intrudes onto the Reserve itself” In turn it is submitted that:

*If ... parts of the Reserve are subject to inundation from time to time by wave action ... it is not open to Council or any other person to assert that the Reserve does not form part of the transition zone.*

*... the whole of the reserve should be considered to form part of the “transition area between aquatic and terrestrial environment.*

As this accords with the Act’s nominated core objectives for foreshore category land, Council should “recognise this, in priority to any proposed re-categorisation as a Park” according to the submission.

It is submitted that under the Act:

*If a parcel of land, of itself, clearly meets the requirements of the categorisation of the refined category of foreshore, it is not open to Council to purport to take action which would damage the core value which the legislation is endeavouring to preserve.*

Inappropriate alienation of community land

This point refers to the limitations on leases and licenses for community land. It is noted that under s46(2) of the Act:

*... a lease, licence or other estate in respect of community land may be granted (relevantly) ... only if the purpose for which it is granted is consistent with the core objectives, ... of its categorisation.*

It is submitted that with the parcel meeting the *foreshore* categorisation requirements a lease or licence could not be granted inconsistent with the core objectives of *foreshore* land, and that a lease over the proposed dinghy storage facility would be so inconsistent. The concern is the intended dinghy storage facility “will be used to determine a category, rather than the true category, determining the permitted improvements”.

**Mr Michael Molesworth**

Mr Molesworth made an oral submission and provided follow-up written notes. Mr Molesworth suggested that he was new to the argument, however not new to the area – as has lived in Palm Beach for 30 years and has had a boat moored across from Palm Beach in Pittwater and a dinghy on Snapperman Beach Reserve for most of that time. He suggested many people “enjoy the (local) seascapes with dinghies on the foreshore”.

Mr Molesworth’s submitted that existing usage of the Reserve should remain including:

- Access to the beach and boating activities
- Storage of dinghies



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- Relatively passive public uses (eg picnics on the grass, sunbathing, watch water activities and sunsets).

Other points included:

- Belief that there should be enhancements to provide a “disciplined approach to the management of the dinghies” and that there could be better policing of the dinghy storage area.
- Agreement with Mr. Gazal that the Reserve is kept in a beautiful state by the residents and residents only.
- Reserve is regularly used by a great number of people and that ultimately he would hate to see any change happen to the Reserve, which would affect any of the activities currently permissible on the Reserve.
- Believed that the Reserve was probably one of the best around for locals to use and that he is fearful of any change at that Reserve. Supported addition of a bench or two, but no “picnic tables, BBQs, dinghy racks”.

#### **Mr Storm Jacklin**

Mr Jacklin submitted that he was a representative of the Palm Beach Association. He said that it was important that support be given to the residents and that the Reserve be left “as is”, and believes that the category of *natural area-foreshore* should be kept.

Mr Jacklin suggested that the reason for provision of proposed dinghy storage was so that Council could collect revenue from the dinghy users and use of the Reserve. Mr Jacklin referred to the Act’s nominated core objectives for *park*, and in referring to the storage of dinghies with a lease or licence arrangement, expressed the view that “storage for reward” may not be permissible for land categorised as *park* in any event.

#### **Dr Ross Jones**

Dr Jones stated that he has lived adjacent to the Reserve for thirteen years, and indicated his view that:

- there should be no change to the categorisation
- the Reserve should be managed just as it is currently
- both residents and boat owners happy with around 15 boats
- he feared the plan of management will be done within Council and that there will be no community consultation – in particular with the ratepayers, who are the ones who care for the Reserve at present.

#### **Ms Kit Moore**

Ms Moore made an oral and written submission. Ms Moore submitted that she was a representative of a group comprising “boat owners, Palm Beach Kindergarten parents, St. David’s Church, several members of the Palm Beach community and Pittwater Palms Retirement Village”.

Ms Moore indicated that she had lived in the area (Palm Beach) for sixteen (16) years and has also had a dinghy on Snapperman Beach for this same amount of time. Ms Moore referred to what was seen as the origin of the current action, whereby a dispute had arisen associated with the unauthorised removal of dinghies from the Reserve. Her concern was essentially to retain the Reserve as is, maintaining dinghy storage and allowing minor additional seating.

Ms Moore expressed the view that:

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- The number of dinghies on the Reserve had increased over time.
  - Dinghies should remain on the Reserve, but a properly managed area is needed with around 15-20 boats managed through a plan of management.
  - Agreed that Reserve should stay as is, but that it isn't a natural foreshore area.
  - The category of *park* is appropriate and that *natural area-foreshore* is not as the Reserve contains exotic grass and a seawall.
  - Another seat should be put in at the park to help identify the Reserve as public space, and to meet the needs of local people attending the site including the elderly who have problems sitting on the grass.

**Mr Frank Puddick**

Mr Puddick stated that he wanted the existing use of the Reserve to remain in tact. He believes that:

- The Reserve comprises a natural area.
- The number of swing moorings, across from Snapperman Beach, registered with Waterways would be at capacity already – so therefore there shouldn't be an increase in the number of dinghies on the beach.
- A simple system should be set in place to manage the problems.

Mr Puddick suggested that the Reserve be categorised so that everyone can share the area.

**Mr John McNiven**

Mr McNiven stated that he wanted the category of *natural area-foreshore* to be continued for the Reserve, and believes that:

- Reserve is a very much "untouched area" and has been that way for a number of years, referring to old photos which were available showing a grassed area at the Reserve.
- Reserve has attributes of a natural area and that it has characteristics of a foreshore, as it is subject to tidal inundation.

Mr McNiven said the Snapperman Beach Reserve issue had been on the agenda now since 1999 and that there was "no community support" for change. He tabled a letter to Council wherein he detailed requests that information on the costs the Council has incurred associated with the planning and categorisation of the Reserve be made public. He said this information has not been forthcoming to date.

Mr McNiven stated his concern that if the land were categorised as *park* Council could "do what it likes", and was not at all convinced of the view expressed by Council representatives that recategorising the Reserve would mean no further development.

Mr McNiven suggested that the speakers who state that they are here representing other individuals or groups show evidence of this.

**Ms Samantha Gazal**

Ms Gazal made both oral and written submissions. Her contention was that there were two reasons for the *natural area – foreshore* category to remain. The first was that legally this was the correct approach. The second was that this category reflected what the overall majority of the community wants.

Ms Gazal believes that a key reason for the proposed categorisation was to allow the continuing storage of dinghies, and that Council had taken the view that storage was not

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legally allowed on *natural area – foreshore* land. Mr Gazal indicated that she had legal advice to suggest the dinghies can in fact remain on the Reserve under this category, provided that Council forgoes any licensing fees.

The view was expressed that from a legal perspective, the Reserve must be categorised as *natural area – foreshore* as the Act's guidelines for this category indicate incorporation of transition areas between the aquatic and the terrestrial environments. This was characteristic of the Reserve as it is subject to tidal inundation. Ms Gazal believes that Council has acknowledged this by placing the Reserve on its 'Estuarine Hazard Map'.

Ms Gazal presented photographs "taken last year during a high tide (which show) waves splashing up on the reserve and clearly shows the mean high water mark is the retaining wall of the Reserve". The Reserve therefore serves as a buffer between the water and the terrestrial environment and must be considered a transition area".

Further on the point on whether the site met criteria as a *natural area*, Ms Gazal refuted the view that *park* was the appropriate category. After referencing what was suggested a quote from Council which was intended to justify *park* categorisation, as follows "(the Reserve) has been altered from its natural state ... and has been cleared of all remnant vegetation ...", Ms Gazal presented photos which she suggested were from the early 1900s and she suggested indicated that "grassy foreshore is the original and natural state of the Reserve".

Apart from the legal position, it was Ms Gazal's view that the suitable category for this Reserve is *natural area – foreshore* as it is what the "overwhelming majority" want, and that the "clear unequivocal message" message to Council was to "leave this reserve in its natural unspoilt state". She referred to, and provided copies of many letters of objection, a petition, and a number of submissions prepared by technical experts which had been sent to Council regarding this matter.

Ms Gazal believes Council administration is looking to undertake unwanted development on the Reserve, against the clearly stated wishes of the majority of residents and community members. She believes that the "only way that this reserve (can remain) unspoilt and that community wishes (can be) respected is to maintain the current categorisation of *natural area – foreshore*."

In referring to previously exhibited Council plans for a dinghy storage facility, Ms Gazal raised concern about the sensitivity of the site and the "coastal forces at work here". She referred to submissions from planners and a coastal engineer, raising concern about the physical impacts of what were seen as the proposed works, and erosion which had already occurred.

#### **Ms Caressa Crouch**

Ms Crouch said that she has represented the Palm Beach Association in the past on this issue, and presented her view on the recent history of Council and dinghy storage facilities in the Palm Beach area, including the provision of the dinghy storage facility at Lucinda Park which was seen as a more suitable area.

Ms Crouch referred to the proposed structure at Snapperman Beach and understood that the plans produced by Council in 2003 for a dinghy storage facility meant excavating substantially into the Reserve by some 3m and expressed the view that it had been indicated by a Council officer that the structure may be two (2) levels high.

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She repeated the strong community objections to any such works, and submitted that Council development proposals for a facility had only been stopped because of the current *natural area-foreshore* category assigned to the Reserve.

Ms Crouch also referred to:

- Flaws in the argument that the area was not natural area because there was mown grass on the site. She referred to photographs from the 1940s which she believed proved that the area was a grass reserve at that point in time as well.
- Serious concerns about the continuing expenditure of ratepayers money on this matter when money should be spent on more useful things like “steps to the beach”.
- Her belief that the dinghies as they appear now are picturesque, however putting them into a structure would ruin that - just as swing moorings are picturesque but marinas are not.
- Her concerns that residents are not being listened to.

**Mr Con Haralambis**

Stated that he was speaking on behalf of his family members Mr and Mrs Peter and Ruth Simon, owners of a property adjacent to the Reserve and who had not been able to attend this evening. Mr Haralambis expressed the view that:

- The core objectives of *natural area-foreshore* category would allow the current use of the Reserve to continue, based on his reading of the Act provisions.
- The Reserve is a beautiful spot much enjoyed, managed well as it is a delicate strip of land.
- Any dinghy structure placed on the land is only going to be a litter trap.
- The Reserve should be left alone.
- Ratepayers money shouldn't be wasted further on this matter, and resources should be spent on looking for better spots to house the dinghies instead (eg Pittwater Park).

**Mr Roberts**

Mr Roberts expressed the view that the arguments had been well covered in his view. He stated that he and his wife had lived in Iluka Road for forty (40) years, and dinghies have been there for over thirty (30) years. Mr Roberts expressed his belief that:

- No changes should be made (he questioned why it was that as residents haven't complained about the current situation, why change?).
- The category should remain as *natural area-foreshore*.
- Changes require actions by Council which, on the past record, does not give confidence as to the result (referred to problems with construction of seawall, and suggested that residents look after the Reserve now themselves).
- The proposed changes were inconsistent with council's "Pittwater 21" planning document and its references to retaining the natural characteristics of Palm Beach.
- The proposed changes to the Reserve were “regressive”.

Mr Roberts referred to historical photos and stated that people used to be able to walk right around the beach area, and that works like the installation of the stormwater pipe has harmed the beach. This indicates that the Reserve is a very fragile area. He believes that the construction of any structure on the beach will do more damage and gave the example of Lucinda Park where he believes the nature of the area has changed with development.

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**Councillor Alex McTaggart**

Councillor McTaggart acknowledged the presence of Cr Natalie Stevens, another North Ward Councillor and submitted an apology on behalf of Cr. Bob Grace who could not attend. Cr McTaggart stated that he has lived here in Pittwater for all of his life and feels as though he understands the issues, which he believes is to predominantly keep the area as natural as possible.

Cr McTaggart submitted that it was a serious responsibility for Council to manage the risk at the Reserve. Dinghies in present situation were seen to propose a risk, and that unless Council acts responsibly then there can be heavy financial implications should an accident occur, as demonstrated by recent court cases with findings against councils and large payouts, ultimately of significance to the local ratepayers.

Cr McTaggart stated that contrary to the suggestions from previous speakers, this was not at all about raising revenue. Rather it was about managing risk and community issues.

Indicating his understanding of the history, Cr McTaggart suggested the matter had started as a neighbourhood dispute, which has now escalated into a much bigger issue, which now needs to be resolved thoughtfully and sensibly and will ultimately give guidance to Council as to how to manage other like issues. He noted that despite what we may wish, times were changing in Pittwater and Palm Beach with increasing population and visitation and we need to be mindful of the potential spillover effects and manage them in a careful manner.

On a question as to "what the risks could possibly be?". Cr McTaggart replied by suggesting that the dinghies could be a trip hazard and that once Council's insurers have identified such a risk, Council is then obliged to manage that risk. He then gave the example of a swimmer at the beach on the eastern suburbs of Sydney who sued Waverley Council after he became a paraplegic and that now it is the ratepayers who have to foot the bill for the millions of dollars in compensation.

**Mr Tom Wenicart**

Mr Wenicart said that the issues brought forward at the hearing had importance beyond Snapperman Beach Reserve, and that what happens here will influence other areas.

In Mr Wenicart's view:

- Available categories under the Act were not sufficient
- Reserve needs to be categorised as something in between *park* and *natural area-foreshore*
- The situation which presented itself here was actually a matter for State government resolution by amendments to the applicable legislation to make a more fitting category.

Mr Wenicart referred to the potential physical impacts of works which had been raised by others, and agreed that this warranted further consideration as in his view there had been impacts as a consequence of the developments in the vicinity of Lucinda Park, with what were seen as changes to the ecology under water and sand build-up on the southern side.

Mr Wenicart said it was an advantage that there was no urgency as to the resolution of the issues here. He believed that further community dialogue was needed before further actions, and suggested that a plan of management be prepared for the whole area of Snapperman Beach and not just the Reserve, as the area needs to be considered as a whole.

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In my Mr Wenicart's view a small working party (joint council/community representatives) should be formed to develop the plan of management and believes that that it is the only way for this issue to move forward.

**Councillor Officer Mr Les Munn**

In response to a question on whether it would not have been better to have a more detailed plan for consideration, Mr Munn indicated that Council's administration had intended to place a draft plan of management out on public exhibition with such detail, however Council had determined not to take this step at this point, and to focus on the categorisation only at this stage, following submissions from residents.

On a further question on how work was programmed for Council administration. Mr Munn stated that Council's administration was required to act in accordance with the direction given by the elected Council and its overall plans for the area, and senior management's instructions to this effect. Mr Munn said that any suggestion that the advancement of proposals for the subject site where within the ambit of control an individual officer of Council was incorrect and unfair.

Mr Munn further stated that it was important that Council and the community act together in the resolution of the issues surrounding the Reserve including managing risk, and to try and come to some sort of solution.

**Peter and Ruth Simon**

Owners of an adjacent property, Peter and Ruth Simon made a written submission which included the following points:

- The Reserve is a fragile and beautiful setting which is in a "pristine condition" due to "intense" care of the community and surrounding owners.
- The Reserve is extensively used and works wonderfully as it is.
- The proposed dinghy rack would be an eyesore and a trap for litter and vermin, and "with a reasonable height and fall" would create greater risks of accidents (especially for children as a "climbing frame") compared to the existing dinghies which lie low on the grassy foreshore and beach.
- Have received legal advice that dinghies can remain even with the *natural area – foreshore* category in place, and prepared at their expense to provide this legal advice in written form.
- Believes it is not "bona fide" for Council to say it needs to categorise the Reserve as *park* to manage the dinghies as there are other ways to limit the number of dinghies (eg through requiring dinghies to be marked with a mooring number and removing them after reasonable inquiries if no legitimate markings).
- Notes that there are some 128 moorings off the beach between Pittwater Park and Lucinda Park, and there is a significant shortfall of dinghy storage facilities. This is a problem which requires thorough investigation and community consultation to arrive at a long term solution without damaging the "idyllic foreshore" (at the Reserve). Suggests that more work needed in examining southern Pittwater Park for dinghy storage, seeing this as a viable alternative given existing infrastructure, and concerning which there is no apparent examination in the documents made available to the public. Supports more rigorous examination of such options as there are better solutions than that proposed here.
- Emphasises importance of listening to local community members who are in "daily contact with the Reserve and who know and look after (it)".

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**Ms Elsie Bailey**

A written submission was provided by Ms Elsie Bailey. Ms Bailey indicated that she had resided adjacent to the Reserve for 49 years and asked that this Reserve be environmentally protected. Ms Bailey indicated that prior to the installation of the retaining wall, “periodic high tides literally washed away reserve frontage and regularly inundated our front yard”. Ms Bailey submitted that:

*Whilst the retaining wall has prevented the complete erosion of the reserve, we are still prone to tidal inundation and some wave action. In particular, the tides between the period May to July each year regularly inundate the length of the reserve to reach our boundary. On occasion the tides make their way to our front yard.*

**Ms Jennifer Greaves**

A written submission was provided by Jennifer Greaves. Ms Greaves submitted her objections to a change to the categorisation due to the following points.

- In view of the “delicate environmental nature of the this small strip of land and its consequent vulnerability to any development at all”.
- No need for change as people like the reserve as is.
- Need to recognise development pressures on Palm Beach and it is a responsibility of Council to preserve this Reserve for future generations.
- Proposed re-categorisation would expose Reserve to environmental dangers.

**A M Morrison**

A written submission was provided by A M Morrison which made the following points:

- Doesn’t want any change as it is a “beautiful natural strip in an unspoiled state” and should be left in its natural state for the enjoyment of visitors and residents.
- Changes may result in natural beauty being destroyed due to development
- Changes could affect adjacent property values which could result in legal action against Council.



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### 3. KEY ISSUES

#### 3.1 What Changes are Proposed and What Need is Seen to be Driving the Changes?

##### **Change to Category of Community Land**

It is proposed to re-categorise the Reserve under the Local Government Act. It is presently categorised *natural area – foreshore*. It is proposed to categorise the land as *park*.

##### **Drivers for the Proposed Change**

In my understanding the arguments driving the proposed change of category are:

1. Reserve is better characterised as *park* under the guidelines contained in the Act, due to the modifications to the prior natural characteristics of the area which have occurred over the years, and due to the areas use characteristics as a local park.
2. There is a long term use of the Reserve as a place for storage of dinghies. It is in the interests of good governance and management of public risk, that the dinghy storage arrangements be formalised. In formalising an arrangement between dinghy owners and Council some form of lease or licence would be required. *Park* category is more suitable in respect of setting in place leasing or licensing arrangements, while *natural area-foreshore* category brings constraints in respect of leasing and licensing which may prevent the required management regime being set in place for the dinghy storage.

##### **Proposed Physical Works**

Council determined that the public hearing would focus on the categorisation of the Reserve. While this hearing report does consider the Reserve's categorisation, prospective physical works underpin the categorisation and associated decisions in this instance and need to be given some consideration, albeit mindful of the tentative nature of any proposed works.

While a draft plan of management, which would detail such proposed changes, is not before the hearing, there is an understanding that the principal works proposed on the part of the Council administration is to formalise the dinghy storage. The number of dinghies which would be allowed to be stored was suggested as 15 or 15-20 by various parties at the hearing. The actual works required were described by Council officers as "low level" so as not to affect outlooks from properties and generally in the location of the existing informal dinghy storage.

There was also some discussion on matters such as whether there would be one or two additional seats in the Reserve. There seemed to be agreement that there should not be tables or barbeques. The view expressed by Council officers was that any physical improvements, including the dinghy storage, would be modest not changing the Reserve's character.

#### 3.2 Considering the Arguments Raised

Considering the arguments against the proposed changes allows an identification of the potential problems. In the following section these potential problems are identified and balanced against any potential benefits. The arguments objecting to the proposal were centred on both the proposed re-categorisation and the anticipated physical works which would subsequently occur.

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### Arguments Objecting to Proposed Categorisation

1. Retention of *natural area-foreshore* is the surest way to ensure that area does not change for the worse

My interpretation is that there was a strongly held view that the local community would lose its voice in the planning and management decisions for the Reserve with a change to a *park* category ("with a *park* category council can do what it likes). This was seen to be partly evidenced by a recent development application (DA) lodged by Council's administration which would, in the view of some, have constituted an inappropriate overdevelopment of the Reserve. It was suggested that it was the existing *natural-foreshore* category which protected the status quo at that time. It was further suggested that even if the current Council and administration expressed commitment to what may be described as modest changes at the point, there was no guarantee that a future Council/administration would not take a different view.

#### Comment

The legislative requirements provide for public scrutiny of any future decision. Public notification of a DA, and/or a plan of management variation if a proposed development was inconsistent with the provisions of the plan of management, would reasonably be expected to draw public attention to the matter, and thus subject the Council to this scrutiny as decisions are taken. Under the legislation an amendment to a plan of management needs to work through the same process as the original preparation of the plan:

- (1) *A council must give public notice of a draft plan of management.*
- (2) *The period of public exhibition of the draft plan must be not less than 28 days.*
- (3) *The public notice must also specify a period of not less than 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to the council.*

It is acknowledged that the re-categorisation process itself draws into play the extra provisions of a public hearing. However, ultimately a council is not obliged to follow or adopt any recommendations which may be forthcoming from such a hearing.

While this may set out the likely community consultation procedures for any unexpected future development on the Reserve, it is one of the challenges for representative democracies like local government to attend to the sceptical views of local community members on their decisions. These sceptical views can indeed be well founded. There is a significant level of local interest in this matter and it is suggested that local community members are hands-on in managing the Reserve at present which brings with it perhaps a stronger than usual sense of ownership, and interest.

The consideration of actions to reduce scepticism and gain trust on the part of local community members, for the proposed changes, is one of the key matters at hand here.

2. The characteristics of the Reserve are such that it is better characterised as *natural area-foreshore* than *park* under the Act.

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Clause 10 of the Regulation provides guidelines for categorisation of land as *natural area*:

*Land should be categorised as a natural area... if the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36 (5) of the Act.*

Clause 19 provides guidelines for further categorisation of land as *foreshore*:

*Land that is categorised as a natural area should be further categorised as foreshore ... if the land is situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment.*

Submissions suggest that the Reserve is from time to time inundated including at times of high tides, and therefore it is part of the transition zone between "aquatic and terrestrial environment". As a consequence the Reserve meets the *foreshore* categorisation guidelines and in turn or therefore *natural area* categorisation.

Comment – Transition Zone

The term *transition zone* is not included in the Act's definition. According to the Macquarie Dictionary "transition" means:

*Passage from one position, state, stage, etc, to another.*

While I agree it can be argued as such, it is not clear to me that the Reserve constitutes a transition zone *between the aquatic and terrestrial environment*. My own view is that it constitutes *moreso part of the terrestrial environment* and that this is evidenced from its presentation, largely, as an area of lawn, separated from the sandy beach area by a low retaining wall. Indeed it would seem that one of the purposes of the retaining wall was to establish the Reserve as part of the terrestrial environment *moreso* than as a transition area. The fact that the Reserve may be subject to inundation on relatively infrequent occasions would not alter its status as part of the terrestrial environment in my own view.

Comment – Prior natural status as a grassed area

A number of photos from times of early settlement were tabled indicating that the environs had previously comprised a grassed foreshore area, presumably with native species, and that this was evidence that the Reserve comprised a *natural area*. First, I would note that community land could still be categorised as *natural area* even if it were disturbed from its former state as a *natural foreshore area of grassland*. But to me, of relevance here, *moreso*, is the fact that the Reserve presents now as a small area of land principally for human enjoyment, essentially unencumbered by what seems to have been a former *more natural open foreshore characterisation*.

Comment – Act's nominated core objectives relating to categorisation

I am further persuaded against the definition of *natural area-foreshore* by the core objectives of this category as defined in the Act. Section 36E of the Act nominates the following core objectives for management of land categorised as a *natural area*:

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*(a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and*  
*(b) to maintain the land, or that feature or habitat, in its natural state and setting, and*  
*(c) to provide for the restoration and regeneration of the land, and*  
*(d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and*  
*(e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994 .*

Section 36N of the Act nominates the core objectives for management of land categorised as *foreshore*:

*(a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and*  
*(b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.*

The existing management regime of the Reserve, as suggested to me from submissions, is more in keeping with it as a place for the quiet enjoyment of locals and visitors, than focused on maintaining the area in its natural state or setting, or natural resource management generally.

Comment - Considering the proposed *park* categorisation

Clause 12 provides guidelines for categorisation of land as *park*:

*Land should be categorised as a park if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.*

The land is, apparently, "improved", to the extent that it is now mostly comprised of a kikuyu lawn, and there is a clump of Pandanus Palms at the north of the Reserve. Equipment and physical facilities are limited to a single timber seat. A dinghy storage facility is apparently proposed. The Reserve is, according to submissions, commonly used for passive recreation by way of casual seating, picnics on the grass and the like. It seems to me that the Reserve sits reasonably comfortably within the guidelines for the category of *park*.

Section 36G of the Act then nominates the following core objectives for management of community land categorised as a *park*:

*(a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and*

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*(b) to provide for passive recreational activities or pastimes and for the casual playing of games, and*  
*(c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.*

A number of those making submissions to the hearing would be concerned about what may be seen as an overemphasis at subparagraph (c) on “improving” the Reserve in such a way as to “promote and facilitate its use”. That is, many of those making submissions were concerned that the Reserve stay basically as it is now, with no particular “improvements” to encourage further use. Indeed it seems to me that the common view expressed at the hearing was that any such improvements should be modest indeed, with some suggesting provision of another seat only.

My own interpretation of the documented core objectives of *park* category does bring forward some anomalies. Success in “encouraging” and “promoting” use of a particular park, without regard to its character and setting, could have the effect of reducing its intrinsic value. This situation would not be uncommon. It seems to me that this is the case with regard to the Reserve, wherein its value lies partly in its somewhat hidden away, low key, informal character. In my view these concerns are manageable and it seems to me not be unreasonable to assume that a plan of management could introduce limits to the types of improvements which would reasonably occur. That is if Council were supportive of the Reserve staying largely as it is, the plan of management would make clear the limits on improvements and that while “activities and pastimes” would be encouraged, promoted and facilitated this would not occur to an extent that they would take away from the intrinsic value of the area.

3. The “overwhelming” community view is that the category should not change  
This argument brings forward the debate about participatory versus representative democracy. My own interpretation is that it is a principal of our representative system that the community hands over responsibility for making decisions on public policy to those elected to do so. However, it is crucial that the decision makers have close regard to the opinions of those affected, with a suitably deliberative process with, in my opinion, influence ultimately based on the merit of argument.

In a sense, the more local the sphere of influence of a decision the more opportunity for collaboration or “empowerment” of a local community in a decision<sup>2</sup>. This decision does have particular local dimensions, with it seems a group of people very close to the Reserve, among other things this is evidenced by the taking on responsibility for maintaining the Reserve, and long term storage of their dinghies on the Reserve by community members.

But it is apparent from submissions from Council representatives at the hearing that Council’s interests in this matter also go to wider than local concerns. It appears that concerns about possible future public liability claims are a key driver, with associated concerns that Council’s powers to appropriately police dinghy storage, and thus respond to its duty of care for those using the Reserve, are limited as things stand. A public liability claim which happened to find liability against Council in respect to this

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<sup>2</sup> See, International Association of Public Participation “Spectrum” as cited in DIPNR, *Community Participation in the Planning System*, p62.

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would be, all other things being equal, the responsibility of Council and therefore ratepayers as a whole.

4. The argument that re-categorisation is needed to manage risk is flawed

The Act gives direction to leasing and licensing on community land and nominates limitations. Section 46(2) indicates that leases and licences notwithstanding other restrictions, can only be granted:

*... if the purpose for which it is granted is consistent with the core objectives, as prescribed in this Part, of its categorisation.*

The core objectives for the categorisation of *natural area-foreshore* and *park* are outlined above.

In my view this is a matter for which legal interpretation would be useful, but on my plain reading of the core objectives it seems to me reasonable to argue that a lease which resulted mitigation of impacts which may be caused by dinghy storage, would be consistent with core objectives of *natural area-foreshore* as nominated at s36E.

The more significant reason which is problematic with the proposed arrangement for dinghy storage on land categorised as *natural area-foreshore* is related to the proposed facility which would accommodate the dinghy storage. Section 47B provides additional limits in respect of leases or licences on *natural area*.

*(1) A lease, licence or other estate must not be granted, in respect of community land categorised as a natural area:*

- (a) to authorise the erection or use of a building or structure that is not a building or structure of a kind prescribed by this section or the regulations, or*
- (b) to authorise the erection or use of a building or structure that is not for a purpose prescribed by this section or the regulations.*

The “buildings or structures” which are prescribed relevant to s47B are limited to: walkways, pathways, bridges, causeways, observation platforms, signs. The prescribed “purposes” are: information kiosks, refreshment kiosks (but not restaurants), work sheds or storage sheds required in connection with the maintenance of the land, toilets or rest rooms.

The objectives with regard to dinghy storage seem to be essentially about delineation of spaces, limiting numbers, tenure arrangements, good management generally etc. However, it is my understanding that some form of structure, albeit low key, would be required to delineate spaces and fix dinghies. Based on my plain reading of the above provisions, and subject to any legal advice, it seems unlawful to issue any lease, licence or other “estate” which would allow the use of such a structure on *natural area-foreshore* land.

5. The true reason for re-categorisation is to generate revenue through fees

In my interpretation there are land management considerations surrounding the present and future storage of dinghies on the site which are problematic at present. I accept the submissions from Council representatives at the hearing that it is the management of the public asset rather than the generation of revenue which is driving the proposal.

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6. The boundaries of the land proposed to be re-categorised are unclear and therefore it is not possible to interpret which land is proposed to be re-categorised

The uncertainty as to the status of the western boundary of the Reserve as a “natural boundary” but with now a constructed timber retaining wall does warrant consideration in my view. I am not aware if this matter has been attended to by Council. The physical question is whether there would be any requirement to locate the dinghy storage facility significantly further east of the retaining wall as a consequence of the boundary delineation. This would seem a matter for consideration at the plan of management stage.

**Arguments Objecting to Prospective Physical Works**

While the public hearing was into the categorisation of the Reserve and a draft plan of management is still to be released for public comment, there is merit in giving initial consideration to the points raised in submissions on this matter as it may assist Council in its deliberations on next steps.

1. Site sensitivity - works on Reserve have potential to create environmental risks

Numerous submissions considered that great care was needed with any decision to undertake building works in this sensitive setting. The lack of surety that any proposed work would not result in greater erosion or accretion at unknown points along Snapperman Beach was seen as a reason that any such works not be undertaken. Reference was made to the works at Lucinda Reserve and it was suggested by some that this work had resulted in some effects on the natural systems.

Clearly, the case has to be proven that any proposed works can be undertaken safely and consciously of sound environmental management principles. There is a need for greater clarity on the proposed works, and for such works to be subject to due environmental investigation. It may be the case that there would be some iteration on the concept designs to develop a solution which meets required environmental standards. This matter requires further investigation which should be undertaken in parallel with the preparation of the draft plan of management. That is, it would seem worthwhile to prove up the case for the construction of any proposed works and to open this detail to the community at the time of exhibition of any draft plan of management, rather than at the DA stage.

2. Provision of a dinghy storage facility would create greater risks of accidents and increase rather than decrease public risk

It seems reasonable to conclude that as a consequence of the haphazard nature of storage of dinghies at present there are some risks to members of the public. However, I agree with this point to the extent that there would also be some risks with more formalised storage. Given the statements to the hearing, it would be the intent of Council to design any such facility with a view to minimising risk. It is a matter for Council to demonstrate the specifics of this, and how it is better addressing its “duty of care”, as any further detailed plans are prepared and placed on exhibition.

3. Dinghy storage facility would result in increased litter and vermin on the Reserve



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The present informal nature of dinghy storage does itself result in what may be termed litter traps and areas which may be attractive to vermin. It is unclear to me why this would be increased as a consequence of a proposed facility. However, it is a matter which should be considered as any detailed plans for a dinghy storage facility are advanced.

#### **Other Arguments**

##### 1. Not sufficient, relevant, planning for broader locality

There are two related dimensions to this argument:

- Further analysis of other dinghy storage opportunities was required before any further commitments from Council at the Reserve.
- It would be worthwhile to investigate and prepare a plan of management not just for Snapperman Beach Reserve, but for the whole Snapperman Beach vicinity.

##### Comment

Dinghy storage obviously presents as a vexed issue for Council, and one with which it has much experience. The numbers suggest that based on the number of nearby berths Council will be faced with dinghy storage problems into the future in the vicinity. What seems to me to be proposed here though is the legitimisation and in effect limitation of, dinghy storage to levels existing at this point on the Reserve itself. While it is apparent that some parties are not happy with the continuing storage, there was a reasonable strongly supported view that storage should continue at around existing levels into the future. I see no reason to delay a move to legitimise what has been long term (albeit apparently unlawful) storage of dinghies on the Reserve on the basis that further planning is required to address additional dinghy storage demands.

The consideration of a broader plan of management for Snapperman Beach was partly in consideration of the environmental and ecosystem management concerns. It would seem to me that this is only necessary if it was the case that any proposed dinghy storage works had the potential to affect the natural environmental settings in a significant manner. While it is a matter for any proposed plan of management and potentially a future DA, the first intent should be that the proposed facility not have any significant effect on the natural environment, and that this be proven up in the analysis work for the project. If significant risks become evident then issues associated with the wider Snapperman Beach environs would warrant consideration.

##### 2. Problems with the need to react to legislation which does not suit circumstance

##### Comment

I have much sympathy with this point, which is essentially suggesting that the categorisations as described in the legislation do not particularly suit the circumstances of the Reserve, and what is important is to get planning for the Reserve right. It is useful to be cautious to the danger that interpretation of provisions can get more attention, and possibly inappropriately direct, well founded decision making on community land planning and management<sup>3</sup>.

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<sup>3</sup> Of note here, paradoxically, is the provisions of Clause 9(2) providing that in determining a category for community land, a council must "have regard to" the Act's categorisation guidelines. While this is a matter which would warrant legal interpretation, a plain reading of this term suggests that in "having regard" a council must consider the guidelines, but the flexibility would appear to be open as to what weight is given.

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**Legal Opinions**

It is noted that some of the submissions to the hearing were founded on legal advice. It emphasised that the comments provided in this report cannot proffer anything but a plain reading of the legislation. I am not a legal practitioner and do not profess expertise to address any legal opinions. It is recommended that Council seek legal advice in response to the legal opinions provided.

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#### 4. CONCLUSIONS AND RECOMMENDATION

##### 4.1 Well Shared View on How the Site Should Look and Feel into the Future

Based on the submissions to the hearing it can be said that there is wide agreement on how the Reserve should be used and managed into the future. A snapshot of what I have heard this vision to comprise is as follows:

*Snapperman Beach Reserve continues to present and be managed essentially “as is”, that it be a place for access to the beach and low key and informal enjoyment (eg viewing the seascapes, low key picnics on the grass, place for all (young kids to older people) to sit and play without significant disturbance to others. Dinghy storage continues with numbers of dinghies limited to around that occurring now, and that a simple system be maintained to make sure dinghy storage is not a problem.*

My interpretation is that this is a very common view, albeit a view not necessarily held by all.

Within this vision there are some differences. They include (but are not necessarily limited to):

1. Whether there should be another seat or two put in place, particular for, say, older people to use
2. Whether there are any other minor improvements that meet the vision, eg pedestrian access improvements, providing additional shading by way of a tree or two, while ensuring the Reserve retains its open landscape character
3. Whether, and if so how, sensibly, the public land can be delineated from the private land so the boundaries are clear to all
4. How to legitimise and manage the storage of dinghies (eg location of storage, tenure, public risk and liability) while not prejudicing the inherent values of the Reserve.

The differences are limited in number and not major in their dimensions it seems to me (albeit the dinghy storage issue brings some complexities). They are typically matters that would be addressed in the preparation of a plan of management for a reserve.

It seems to me that the key actions are that Council:

- move down a path of embedding a vision for the Reserve consistent with this widely held view
- work through the issues above to a well conceived plan and provisions which secure the future of the Reserve, and are seen to do so by the community.

The categorisation of the land is ancillary to these key steps.

##### 4.2 Categorisation

The legislation does of course require Council to categorise the land. My own view is that the preferred category is *park*. The key reasons for this are as argued in **Section 4.2** and summarised as follows:

- The Reserve, staying “as is”, sits more comfortably with the objectives and guidelines for *park* than *natural area-foreshore* contained in the legislation.

- 
- With the Act's provisions, a categorisation of *natural area-foreshore* appears to bring with it responsibilities to manage the land with natural resource management considerations at the forefront, whereas the Reserve is actually valued by the community as a place for more human-centred enjoyment.
  - It is likely that some form of lease, licence or "other estate" would be the required instrument to ensure the storage of dinghies is well managed into the future, and that as some form of structure would be involved to delineate the dinghy storage points and fix dinghies, any such form of "estate" would not be permissible on *natural area-foreshore* land under the Act.

On the final point above, it is the "use" of a "structure" by future lessees that is the principle legislative concern. It may be the case that dinghy storage can be well managed without any structure whatsoever, however it seems to me unlikely that this would be the case.

The more popular view expressed at the hearing was that the land should stay categorised as *natural area-foreshore*. I have considered these views closely, and it seems to me that the most persuasive argument to support this view is that it is less likely that changes would occur, outside the quite commonly agreed vision for the Reserve, if the land stays categorised as is. But even on this point it is not clear to me that there is a substantial difference were the land to be categorised *park* or *natural area-foreshore*. A future council could amend a plan of management and/or approve a DA whichever category is set in place. To do so it would be required to undergo the public consultation processes of the legislation and what could be expected to be substantial public outcry.

In my view, the primary challenge for Council now is to determine how it may best embed the quite commonly held vision for the Reserve, into its plans and provisions for the site, doing its best to gain the confidence of the local community in so doing. The idea expressed at the hearing that a small advisory group comprising a representative of the various interests seems to me to be a good way to move forward to the preparation of the draft plan of management, prior to its more formal and comprehensive exhibition to the public.

#### 4.3 Recommendations

1. The submissions to the public hearing be noted.
2. Council consider adoption of a preliminary vision statement for the Reserve (see **Section 4.1** for some initial thoughts) to direct the preparation of a draft plan of management for the site.
3. Council consider forming a small advisory group (no more than about 4-5 persons) to work constructively with Council officers, mindful of how the local vision for the Reserve is set within a context of Council's wider governance and public risk management responsibilities, and:
  - a. Finalise a draft vision for the Reserve for public comment
  - b. Work towards resolving the points of difference regarding site management (four points listed at **Section 4.1** provide a suggested initial agenda)
  - c. If differences remain consider placing a number of options up for public comment in the public notification of the draft plan of management required under s38 of the Act.
4. With regard to dinghy storage management (point 4 of the list at **Section 4.1**):

- 
- a. Council give due consideration to the potential environmental impacts of any proposed dinghy storage facility and associated mitigation requirements, at this point, and information in regard to this be included in parallel with the exhibition of the draft plan of management.
    - b. Council further detail the need for potential public risk considerations to be addressed and the particulars in regard to the situation facing the Reserve, and document/highlight this with the exhibition of the draft plan of management.
  5. For the purposes of the draft plan of management, and its public consultation, a category of *park* be adopted for the reasons outlined in this report.
  6. The bounds of the Reserve be clarified in the process of preparation of the draft plan of management, mindful of the submissions regarding the natural boundary location.
  7. This report be exhibited for public consideration.

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## Annexure A

### List of Persons Attending the Hearing<sup>4</sup>

Mr Sam Gazal  
Mr Robert Parsonage  
Ms Sandra Parsonage  
Mr Mitchell  
Susan Gould  
Noelene Green  
Mr Michael Molesworth  
Mr. Storm Jacklin  
Dr. Ross Jones  
Mr Chris Molesworth  
Ms Kit Moore  
Mr Peter Stern  
Mr Frank Puddick  
Ms Mary-Anne Gueran  
Ms Gabrielle Hogan  
Ms Jennifer Greaves  
Mr. John McNiven  
Mr Donald Ewen  
Ms Denise Denovan  
Mr Ken Mansergh  
Ms Margot Mansergh  
Ms Samantha Gazal  
Ms Spring  
Ms Caressa Crouch  
Lesley Garrett  
Ms Karen Henry  
Mr Craig Henry  
Mr Con Haralambis  
Mr Joseph Chetcuti  
Mr Paul Simpson  
Mr Roberts  
Mrs Roberts  
MB Streamer  
Mr Maurice Green  
Ms Christina Green  
Ms Jennifer Wilson  
Ms Alison Copeman  
Mr Garth Wilson  
Cr Steven  
Cr McTaggart  
Mr John Puddick  
Mr Tom Wenicart  
Mr T Smyth  
Mr John Baird.  
Council officers: Mr Less Munn, Mr Mark Eriksson, Ms Sarah Lees

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<sup>4</sup> Names according to the written attendance sheet. Apologies for any misspellings in the interpretation of this record.

## APPENDIX B

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### RELEVANT SECTIONS OF THE LOCAL GOVERNMENT ACT 1993

Sections of the *Local Government Act 1993* that relate to community land, Plans of Management, categorisation of community land and public hearings are provided below.

For more information on the Local Government Act and other NSW government legislation, refer to [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au), [www.austlii.edu.au/au/legis/nsw](http://www.austlii.edu.au/au/legis/nsw), or contact the NSW Government Bookshop.

#### LOCAL GOVERNMENT ACT 1993 -SECT 25

All public land must be classified in accordance with this Part.

#### LOCAL GOVERNMENT ACT 1993 -SECT 26

There are 2 classifications for public land "community" and "operational".

Note. On the commencement of this Part, certain land that is vested in or under the control of a council is taken to have been classified as community land by the operation of clause 6 of Schedule 7.

#### LOCAL GOVERNMENT ACT 1993 -SECT 35

What governs the use and management of **community land**?

Community land is required to be used and managed in accordance with the following:

"the plan of management applying to the land

"any law permitting the use of the land for a or otherwise regulating the use of the land

"this Division.

#### LOCAL GOVERNMENT ACT 1993 -SECT 36

**Preparation** of draft plans of management for community land:

(1) A council must prepare a draft plan of management for community land.

(2) A draft plan of management may apply to one or more areas of community land, except as provided by this Division.

(3) A plan of management for community land must identify the following:

(a) The category of the land;

(b) The objectives and performance targets of the plan with respect to the land.

(c) The means by which the council proposes to achieve the plan's objectives and performance targets

(d) The manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets, and may require the prior approval of the council to the carrying out of any specified activity on the land.

(3A) A plan of management that applies to just one area of community land:

(a) Must include a description of:

(i) The condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and

(ii) The use of the land and any such buildings or improvements as at that date, and

(b) Must:

(i) Specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and

(ii) Specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and

(iii) Describe the scale and intensity of any such permitted use or development.

(4) For the purposes of this section, land is to be categorised as one or more of the following:

(a) A natural area, (b) a sportsground, (c) a park,

(d) An area of cultural significance, (e) general, community use.

(5) Land that is categorised as a natural area is to be further categorised as one or more of the following:

- (a) Bushland
- (b) Wetland
- (c) Escarpment
- (d) Watercourse
- (e) Foreshore
- (f) A category prescribed by the regulations.

(6) The regulations may make provision for or with respect to the categorisation of community land under this section, including:

- (a) Defining any expression used in subsection (4) or (5), and
- (b) Prescribing guidelines for the categorisation of community land and the effect of any guidelines so prescribed.

### **LOCAL GOVERNMENT ACT 1993 -SECT 36G**

**Core objectives** for management of community land categorised as a **park**. The core objectives for management of community land categorised as a park are:

- (a) To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
- (b) To provide for passive recreational activities or pastimes and for the casual playing of games, and
- (c) To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

### **LOCAL GOVERNMENT ACT 1993 -SECT 40**

#### **Adoption of plans of management**

(1) After considering all submissions received by it concerning the draft plan of management, the council may decide to amend the draft plan or to adopt it without amendment as the plan of management for the community land concerned.

(2) If the council decides to amend the draft plan it must either:

- (a) Publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans, or:
- (b) If it is of the opinion that the amendments are not substantial, adopt the amended draft
- (c) Plan without public exhibition as the plan of management for the community land concerned.

(2A) If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.

(3) The council may not, however, proceed to adopt the plan until any public hearing required under section 40A has been held in accordance with section 40A.

### **LOCAL GOVERNMENT ACT 1993 -SECT 40A**

#### **Public hearing** in relation to proposed plans of management

(1) The council must hold a public hearing in respect of a proposed plan of management if the proposed plan would have the effect of categorising or recategorising community land under section 36(4) or (5).

(2) However a public hearing is not required if the proposed plan would merely have the effect of recategorising the land under section (5).

### **LOCAL GOVERNMENT ACT 1993 – SECT 47G**

In this section, public hearing means any public hearing required to be arranged under this Part.

The person presiding at a public hearing must not be:

- A councillor or employee of the council holding the public hearing, or



- A person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.

Not later than 4 days after it has received a report from the person presiding at the public hearing as to the result of the hearing, the council must make a copy of the report available for inspection by the public at a location within the area of the council.

### **LOCAL GOVERNMENT (GENERAL) REGULATION 1999-SECT 9**

Application of this Division

(1) This Division sets out guidelines for the categorisation of community land.

(2) A council that is preparing a draft plan of management under section 36 of the Act must have regard to the guidelines set out in this Division.

(3) Although this clause imposes a duty on councils, thing in this clause gives rise to, or can be taken into account in, any civil cause of action. -

### **LOCAL GOVERNMENT (GENERAL) REGULATION 1999 -SECT 12**

**Guidelines** for categorisation of land as a **park**.

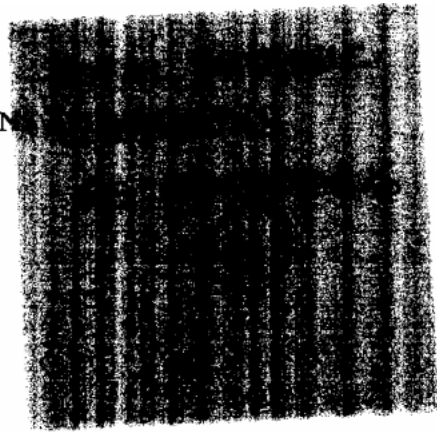
Land should be categorised as a park under section 36 (4) of the Act if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.

## **APPENDIX C**

ROYAL BOTANIC GARDENS – TREE REPORT – JULY 2003



## ROYAL BOTANIC GARDEN



29 July 2003

Ms Samantha Gazal  
100 Iluka Rd  
Palm Beach NSW 2108

Dear Ms Gazal

Thank you for asking me to provide independent expert opinion on a tree on Snapperman Beach Reserve. The trees concerned, for there are two together, are *Pandanus tectorius* or "Screw Pine" (Family Pandanaceae). This species grows naturally on exposed coastal headlands and along beaches in Queensland and in New South Wales, north from Port Macquarie.

These trees are extraordinary because they are extremely large (and in the case of the male almost certainly the largest) specimens in the Sydney area and because they are a pair, one male and one female.

They are about 40 years or more old and have an unbroken connection with two generations of local resident, planted, I understand, by Mr Doug Robertson's father.

Horticulturally they are extremely well suited to the location they are in, and provide a dramatic and interesting architectural form. Environmentally they are safe, as there is no indication of seedlings. Although with toothed edges, the leaves are a comparatively low-risk hazard, as they are quite flexible and do not have tip-spines which may be dangerous to eyes. Indeed this species could be considered for more extensive use in suitable areas such as this, in which it is often very difficult to establish trees because of the very close proximity to salt water.

Educationally they are valuable because there are interesting stories to tell around them concerning Indigenous usage, their peculiar reproduction, their capacity for dispersal by sea and colonisation of beaches and the local connection. Indeed if it were up to me I would interpret them as plants of particular local interest.

Mrs Macquaries Road Sydney NSW 2000 Australia  
Telephone (02) 9231 8111 • Fax (02) 9251 4403 • [www.rbgsyd.nsw.gov.au](http://www.rbgsyd.nsw.gov.au)  
ABN 22 988 772 206

DataWorks Document Number: 2145942

2.

In summary I would hope that the trees are preserved, protected and interpreted. It is unfortunate that the female tree has been vandalised in the past, but with suitable protection it should recover and fill out in time. It would be a great mistake to give them any further 'pruning' which completely undermines their shape and exposes them to infection.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Alistair Hay', written over a horizontal line.

Dr Alistair Hay  
Director, Botanic Gardens and Public Programs

## **APPENDIX D**

### **TREE MANAGEMENT PLAN**

12th of February 2006



To Ms Sarah Rees  
C-O Pittwater Council  
P.O Box 882  
Mona Vale NSW 1660

## **Arboricultural Report -- Plant Maintenance Plan**

### **Site: Snapperman Beach- Palm Beach**

#### **1.0 Scope:**

The following report outline best practices for maintaining two *Pandanus tectorius* – Coastal Screw Pine, occurring on Snapperman Beach. The report considers pruning and soil management for the plant to maintain it in good condition.

The report was undertaken at the request of Mark Erickson of Pittwater Council, in order to maintain the plant in an orderly and tidy manner.

#### **2.0 Material of Research Sites:**

One problem encountered is that there is little or no researched material available with regard to the plants physiological growth patterns. Assumptions have been made by the author that is assumes the plant has similar woody characteristics of palms and other Pachycauls (Palms, Draceana & Cordylines).

#### **3.0 Tree No. 1: *Pandanus tectorius* var "australianis" – Coastal Screw Pine**

This is a specimen plant of approximately 5m in height with a crown diameter of at least 8m in circumference with a secondary plant arising approximately 2m x 4m in diameter. Both plants are treated as one, despite their different sexes, because of their close proximity and crown and root relationship to each other.

The tree is an uncommon an excellent example specimen of some age comprising of at least 10 stems emerging from a common base or root structure. At the time of inspection it was displaying full terminal growth with its canopy extending all the way to the ground on the tree's north - eastern to north - western exposures. Such is the growth form the plant, having external foliage to ground level that offers considerable internal shelter for its structure.

The plant was displaying vigorous growth with fruit apparent throughout its crown, free of any major structural defects, debilitating pests or diseases. The plant is highly visible from the surrounding areas including North Snapperman Beach and visible to any passer by across Pittwater.

*Pwc Pandanus Tmp 150206*

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**Sydney Arboricultural Services Pty Ltd** – ACN - 068 420 155 ABN - 75 826 831 363  
P.O Box 7201, Leura, NSW 2780  
Phone: (02) 4784 3677 Fax: (02) 4784 3688 Email: [imenglish@optusnet.com.au](mailto:imenglish@optusnet.com.au)  
A Member of the National Arborists Association of Australia & The International Society of Arboriculture

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DataWorks Document Number: 2463315



### 3.1 Cultural Preferences:

The plant is described as a widely distributed coastal littoral species occur on islands and the east coast of Australia from Cape York to Port Macquarie. Such a distribution including Lord Howe Island, indicates that the plant may have naturally sown itself in this location.

Elliot and Jones<sup>1</sup> note, "Plants also colonise the shores of Coral Islands", and environment not dissimilar from its current location. The species does not tolerate frosts or waterlogging, therefore its cultural preference is for moist but sharply draining soils.

### 4.0 Maintenance Parameters:

#### 4.1 Pruning

Over pruning any plant can be deleterious, firstly by depriving the plant of its stored starch reserves. Secondly removal of large branches can create wounds that could be prone to fungal infection. The plant is not a true tree, nor palm and does not have the same organised cell structure or woody tissue as do with trees.

Although some wounds will in part compartmentalise, it will not be as strong or effective as with CODIT<sup>2</sup>. Wound closure may also be very slow, as the plant has no true vascular cambium. In the case of this plant pruning can also create exposure predisposing the sheltered foliage to dehydration and salt or sun scalding of the stems if the pruning exposes previously sheltered stems.

Pruning involving the careful selective removal of growth that is dead or declining may be beneficial if done correctly. Removal of single leaves will not adversely affect the plant provide it is limited to internal growth that is becoming redundant and less functional that peripheral growth.

#### 4.2. Soil Treatment:

As the plant occurs in sub-tropical communities it assumes that it's cultural preferences will require a consistent soil moisture level. For the plant to in such good condition those moisture levels and drainage must already occur on the site, probably through natural ground water flows.

Mulching and conservation of soil moisture must also be an essential part of the plants ongoing care. The natural accumulation of its own organic matter is beneficial and excessive removal of the organic mulch layer must be avoided.

Replenishing mulch, woodchip or leaf matter may not be as beneficial as the rhizobium or mycorrhiza fungi needed to break down wood mulch may not be abundant in the soil profile considering the unique locality.

<sup>1</sup> Jones, David & Elliot, Rodger (1997) Encyclopaedia of Australian Native Plants Volume 7, Lothian Press  
<sup>2</sup> CODIT- Compartmentalisation of Decay Organisms in Trees.



#### 4.2. Soil Treatment:

Soil levels around the plant should be maintained and not time should trenches or a reduction in soil levels occur up slope of the plant without any prior testing on ground water movement to be satisfied that the any ground water available to the tree shall not be altered.

At no time should structures or construction occur close to the plant that could adversely affect natural soil percolation or drainage patterns. Compaction of the soil around the plant should also be avoided.

#### 5.0 Maintenance Recommendations:

Any pruning should involve the removal of dead or declining branches only. The peripheral growth, particularly on the plants northern side should be conserved. Internal dead leaves, or severely conflicting internal growth can also be selectively thinned out.

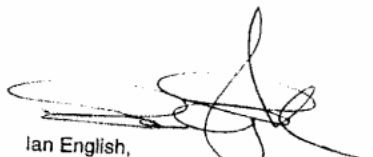
Weakened, diseased or degenerating stems that are removed should be cut cleanly at the junction or their natural abscission point.

All pruning should be undertaken by a suitably qualified arborist (Level 4), and should not exceed 15% active living tissue at any one time. Pruning should also be undertaken in accordance with the guidelines outlined in AS4373 Amenity Tree Pruning Standard.

Pruning to that creates any internal exposure must be avoided at all times and could induce sun scalding of the stems and predispose the plant to dehydration.

Accumulated debris should be removed but an organic layer of between 75-100mm of mulch should be retained under the crown of the plant.

Soil levels should remain unchanged around the plant for at least a 1.5 metre radius. A 4.5 metre radius around the plant should be conserved or not altered without first undertaking ground water testing.



Ian English,  
Hort Cert. Termite Cert. Tree Care Cert.  
A Member of the National Arborists Association