



PITTWATER COUNCIL

Agenda

Council Meeting

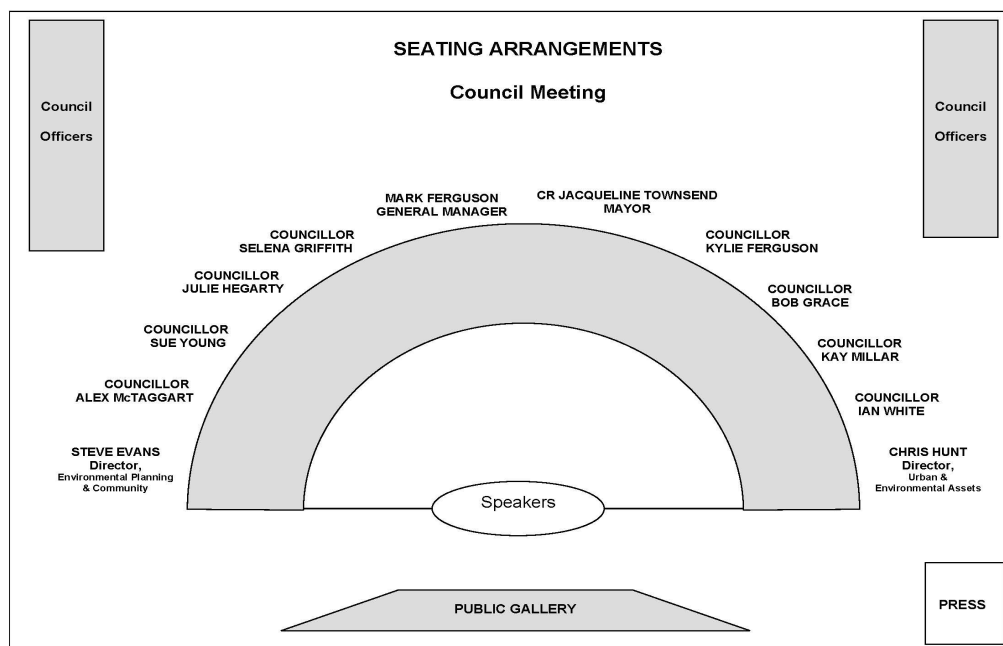
Notice is hereby given that a Council Meeting of Pittwater Council will be held at Mona Vale Memorial Hall on

21 October 2013

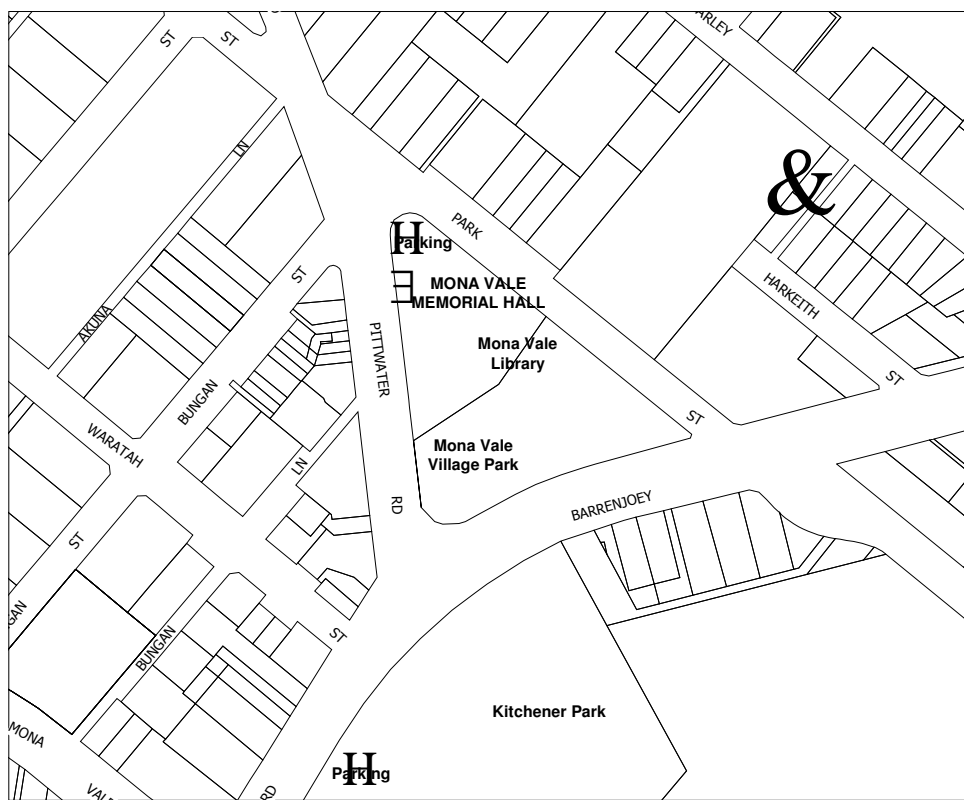
Commencing at 6.30pm for the purpose of considering the items included on the Agenda.

Mark Ferguson
GENERAL MANAGER

Seating Arrangements



Meeting Location



All Pittwater Council's Agenda and Minutes are available on the Pittwater website at www.pittwater.nsw.gov.au

Acknowledgement of Country

**Pittwater Council honours and respects the spirits of the
Guringai people.**

**Council acknowledges their traditional custodianship of
the Pittwater area.**

Statement of Respect

**Pittwater Council promotes and strives to achieve a climate of respect
for all and endeavours to inspire in our community shared civic pride by
valuing and protecting our unique environment, both natural and built,
for current and future generations.**

**We, the elected members and staff of Pittwater Council, undertake to
act with honesty and integrity, to conduct ourselves in a way that
engenders trust and confidence in the decisions we make on behalf
of the Pittwater Community.**

IMPORTANT NOTE FOR COUNCILLORS

The Council has received Confidential Advice in relation to the matters listed below which is attached as **Appendix 1 to Councillor's Agenda on yellow paper**. It is important that Councillors read these documents prior to determining the matters. Should the Council wish to consider the Confidential Advice during the course of the meeting, the following procedure should be followed:

1. Any persons wishing to address the Council are invited to address the Council in Open Session, so that the general (non-confidential) issues relating to the matter are debated in Open Session.
2. Should the Council wish to consider the Confidential Advice at any time during the debate, the Council should resolve into Committee of the Whole in Closed Session in accordance with Section 10A(2)(c) of the Local Government Act 1993, and debate the Confidential Advice and any related issues in a Closed Forum, with the Press and Public excluded. The Council does not have to make any resolution whilst in Committee of the Whole in Closed Session.
3. Following conclusion of the Confidential discussion concerning the Confidential Advice the Council should resolve back into Open Session to continue the debate as required, excluding any reference to the Confidential Advice. Once again it is noted that the debate in Open Session should centre around the general (non-confidential) issues associated with the matter.
4. The Council should then determine the matter in Open Session.

The Reports on the items below are listed in Open Session in the Agenda:

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Mark Ferguson
GENERAL MANAGER

Council Meeting

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Appendix 1 – Confidential Advice

CONFIDENTIAL CLAUSE

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the Council to close the meeting to the public for business relating to the following: -*

- (c) Information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting business or proposes to conduct business.*

Commercial in Confidence Tender T05-13 - Management of Avalon Golf Course and Narrabeen Golf Driving Range

**The Senior Management Team
has approved the inclusion of
all reports in this agenda.**

Council Meeting

Presentation of Subsidies to Pittwater Surf Clubs

As in previous years, the Mayor will present a cheque to a representative of each of the Surf Life Saving Clubs, being the annual subsidy by Council of Surf Clubs in the Pittwater area.

1.0 Public Forum

GUIDELINES FOR RESIDENTS - PUBLIC FORUM

Objective

The purpose of the Public Forum is to gain information or suggestions from the community on new and positive initiatives that Council can consider in order to better serve the Pittwater community.

- The Public Forum is not a decision making forum for the Council;
- Residents should not use the Public Forum to raise routine matters or complaints. Such matters should be forwarded in writing to Council's Customer Service Centres at Mona Vale or Avalon where they will be responded to by appropriate Council Officers;
- There will be no debate or questions with, or by, Councillors during/following a resident submission;
- Council's general meeting procedures apply to Public Forums, in particular, no insults or inferences of improper behaviour in relation to any other person/s is permitted;
- No defamatory or slanderous comments will be permitted. Should a resident make such a comment, their submission will be immediately terminated by the Chair of the Meeting;
- Up to 20 minutes is allocated to the Public Forum;
- A maximum of 1 submission per person per meeting is permitted, with a maximum of 4 submissions in total per meeting;
- A maximum of 5 minutes is allocated to each submission;
- Public submissions will not be permitted in relation to the following matters:
 - Matters involving current dealings with Council (eg. development applications, contractual matters, tenders, legal matters, Council matters under investigation, etc);
 - Items on the current Council Meeting agenda;
- The subject matter of a submission is not to be repeated by a subsequent submission on the same topic by the same person within a 3 month period;
- Participants are not permitted to use Council's audio visual or computer equipment as part of their submission. However, photographs, documents etc may be circulated to Councillors as part of the submission;
- Any requests to participate in the Public Forum shall be lodged with Council staff by 12 noon on the day of the Council Meeting. To register a request for a submission, please contact Warwick Lawrence, phone 9970 1112.

Mark Ferguson
GENERAL MANAGER

2.0 Resident Questions

RESIDENT QUESTION TIME

Objective

The purpose of Resident Question Time is to provide the community with a forum to ask questions of the elected Council on matters that concern or interest individual members of the community.

The following guidelines apply to any person addressing a Council / Committee meeting in relation to a Resident Question:

- 1. Residents Question Time is conducted at the commencement of the second Council Meeting of the month and prior to the handling of General Business.*
- 2. A maximum of 10 minutes is allocated to Residents Question Time.*
- 3. Each Resident is restricted to two (2) questions per meeting.*
- 4. All questions are to be in writing or made electronically and lodged with the General Manager no later than 6.15pm on the day of the Council meeting at which it is to be considered.*
- 5. Questions must be precise and succinct and free of ambiguity and not contain any comments that may be offensive, defamatory or slanderous in any way.*
- 6. A brief preamble may accompany the question to clarify the issue however only the actual question will be included in the minutes of the Council meeting.*
- 7. Responses to residents questions made at the meeting will also be included in the minutes of the Council meeting.*
- 8. Resident's questions taken on notice shall be the subject of a report to Council setting out both the question and response and shall be included in the agenda at the second meeting of the month following the resident's question.*
- 9. There will be no debate or questions with, or by, Councillors during / following a resident question and response.*

3.0 Apologies

Apologies must be received and accepted from absent Members and leave of absence from the Council Meeting must be granted.

4.0 Declarations of Pecuniary and Conflict of Interest including any Political Donations and Gifts

Councillors are advised of the following definitions of a "pecuniary" or "conflict" of interest for their assistance:

- * Section 442 of the Local Government Act, 1993 states that a "pecuniary" interest is as follows:

- "(1) **[Pecuniary interest]** A Pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.
- (2) **[Remoteness]** A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter."

Councillors should reference the Local Government Act, 1993 for detailed provisions relating to pecuniary interests.

- * Council's Code of Conduct states that a "conflict of interest" exists when you could be influenced, or a reasonable person would perceive that you could be influenced by a personal interest when carrying out your public duty.

Councillors are also reminded of their responsibility to declare any Political donation or Gift in relation to the Local Government & Planning Legislation Amendment (Political Donations) Act 2008.

- * A reportable political donation is a donation of:
- \$1,000 or more made to or for the benefit of the party, elected member, group or candidate; or
 - \$1,000 or more made by a major political donor to or for the benefit of a party, elected member, group or candidate, or made to the major political donor; or
 - Less than \$1,000 if the aggregated total of the donations made by the entity or person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) is \$1,000 or more.

5.0 Confirmation of Minutes

"Councillors are advised that when the confirmation of minutes is being considered, the only question that can arise is whether they faithfully record the proceedings at the meeting referred to. A member of a council who votes for the confirmation of the minutes does not thereby make himself a party to the resolutions recorded: **Re Lands Allotment Co (1894) 1 Ch 616, 63 LJ Ch 291.**"

Minutes of the Council Meeting held on 16 September 2013.

6.0 Public Addresses

The following guidelines apply to any person addressing a Council / Committee meeting in relation to an item on the Council / Committee meeting agenda:

1. *A member of the public may be granted leave to address a meeting of Council or a Committee, where such a request is received by the General Manager no later than 3.00pm on the day of the meeting. This is subject to:*
 - (a) *A maximum of up to six speakers may address on any one item, with a maximum of three speakers in support of the recommendation in the report, and three speakers in opposition.*
 - (b) *A limitation of three minutes is allowed for any one speaker, with no extensions.*
 - (c) *An objector/s to a development application is to speak first with the applicant always being given the right to reply.*

Exceptions to these requirements may apply where:

- (a) *The Meeting specifically requests that a person be interviewed at a meeting.*
 - (b) *The Meeting resolves that a person be heard at the meeting without having given prior notice to the General Manager*
2. *Once a public/resident speaker has completed their submission and responded to any Councillor questions, they are to return to their seat in the public gallery prior to the formal debate commencing.*
3. *No defamatory or slanderous comments will be permitted. Should a resident make such a comment, their address will be immediately terminated by the Chair of the meeting.*
4. *Council's general meeting procedures apply to Public Addresses, in particular, no insults or inferences of improper behaviour in relation to any other person is permitted.*
5. *Residents are not permitted to use Council's audio visual or computer equipment as part of their address. However, photographs, documents etc may be circulated to Councillors as part of their address.*

7.0 Councillor Questions on Notice

Nil.

8.0 Mayoral Minutes

Nil.

9.0 Business by Exception

Items that are dealt with by exception are items where the recommendations contained in the reports in the Agenda are adopted without discussion.

10.0 Council Meeting Business

C10.1	Appointment of Councillor Delegates to Special, Joint and External Committees and Boards 2013/14
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Meeting: Council

Date: 21 October 2013

STRATEGY: Corporate Management

ACTION: Maintain and Service Council's Range of Committees.

PURPOSE OF REPORT

To consider the reappointment of delegates to Special, Joint and External Committees and Boards for the period October 2013 to September 2014.

1.0 BACKGROUND

- 1.1 As has been the practice for a number of years, the reappointment of the various Committees and appointment of Councillor delegates to serve on the Special, Joint and External Committees and Boards for the next twelve (12) month period is submitted for the Council's consideration.
- 1.2 A Draft Register of Committees proposed for reappointment for the next twelve (12) month period has been circulated to all Councillors under separate cover. The Register sets out the functions, membership and structure of each Committee. The Register provides details of Committees and Boards proposed for reappointment and includes the names of the previous Councillors that served on each Committee or Board.
- 1.3 In addition to the above Committees Council has in the past appointed the Mayor as its delegate to the Friends of the Bible Garden Memorial Inc. This is not a committee of the Council but an incorporated body and Council needs to appoint a delegate as the Council's representative.

2.0 ISSUES

- 2.1 Council is currently involved in the following Special, Joint and External Committees and Boards:

Council Appointed Special Committees

Traffic Committee
Traffic (Development) Committee
Coastal Zone Management Community Working Group
Careel Creek Catchment Flood Study Community Working Group
McCarrs Creek, Mona Vale and Bayview Flood Study Community Working Group
Pittwater Overland flow Risk Management Community Working Group
Special Rate Variation Advisory Committee
Audit and Risk Committee
Enliven Pittwater Committee
Conduct Review Committee (no Councillor representation required)

Council Joint Committees

Manly Warringah & Pittwater Local Emergency Management Committee
Sydney Coastal Councils Group Inc.
Warringah Pittwater State Emergency Service Advisory Committee
Warringah Pittwater Bush Fire Risk Committee
Warringah Pittwater District Service Agreement – Liaison Committee
Narrabeen Lagoon Floodplain Risk Management Working Group
Kimbriki Sub-Committee

External Committees/Organisations (with Pittwater Council affiliation)

Floodplain Management Association
Roads and Traffic Consultative Forum
Local Government Advisory Group for Hawkesbury Nepean CMA
Public Libraries NSW – Metropolitan Association Inc.
Joint Regional Planning Panel
Club Grants Committee
Friends of the Bible Garden Memorial Inc.

Directorships/Boards and Companies

SHOROC Board
Northern Beaches Indoor Sports Centre Board (NBISC)

- 2.2 Managers have been consulted in relation to the current status of each committee and it should be noted that Mrs Shirley Phelps has been Council's representative on the Northern Beaches Indoor Sports Centre Board (NBISC) for a number of years and she has indicated that she would once again accept that appointment should Council so resolve.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

No Social Impact

3.2 Valuing & Caring for our Natural Environment (Environmental)

No Environmental Impact

3.3 Enhancing our Working & Learning (Economic)

No Economic Impact

3.4 Leading an Effective & Collaborative Council (Governance)

Councillors involvement in joint and external Committees is indicative of Council's commitment to the principles of good governance. These Committees allow the opportunity for increased community participation in the decision making processes of Council.

3.5 Integrating our Built Environment (Infrastructure)

No Infrastructure Impact.

4.0 EXECUTIVE SUMMARY

- 4.1 Council is currently represented on nine (9) Special Committees, seven (7) Joint Committees, seven (7) External Committees/Organisations and two (2) Directorships/Boards or Companies. Each year Council determines its delegates to these organisations for the next 12 months. (refer **Attachment 1**)

RECOMMENDATION

1.0 SPECIAL PITT WATER COMMITTEES

- 1.1 That Council appoint the **Pittwater Council Traffic Committee** for the period October 2013 to September 2014 in its current form with its existing membership, and that one (1) Councillor and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.
- 1.2 That Council appoint the **Pittwater Council Traffic (Development) Committee** for the period October 2013 to September 2014 in its current form with its existing membership, and that one (1) Councillor and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.
- 1.3 That Council appoint the **Coastal Zone Management Community Working Group** for the period October 2013 to September 2014 in its current form with its existing membership, and that one (1) Councillor and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.
- 1.4 That Council appoint the **Careel Creek Catchment Flood Study Community Working Group** for the period October 2013 to September 2014 in its current form with its existing membership, and that one (1) Councillor and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.
- 1.5 That Council appoint the **McCarrs Creek, Mona Vale and Bayview Flood Study Community Working Group** for the period October 2013 to September 2014 in its proposed form and membership, and that one (1) Councillor and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.
- 1.6 That Council appoint the **Pittwater Overland Flow Risk Management Community Working Group** for the period October 2013 to September 2014 in its current form and membership, and that one (1) Councillor and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.
- 1.7 That Council appoint the **Special Rate Variation Advisory Committee** for the period October 2013 to July 2014 in its current form with its existing membership pool of three (3) Councillors, one from each ward.
- 1.8 That Council appoint the **Audit and Risk Committee** for the period October 2013 to September 2014 in its current form with its existing membership pool of two (2) Councillors.
- 1.9 That Council appoint the **Enliven Pittwater Committee** for the period April 2013 to September 2014 in its current form and that two (2) Councillors and one (1) Councillor as an alternate delegate be appointed to serve on the Committee for this period.

2.0 JOINT COMMITTEES WITH OTHER COUNCILS

- 2.1 That Council appoint one (1) Councillor delegate and one (1) Councillor as an alternate delegate to the **Manly, Warringah & Pittwater Local Emergency Management Committee** for the period October 2013 to September 2014.
- 2.2 That Council appoint one (1) Councillor delegate and one (1) Councillor as an alternate delegate to the **Sydney Coastal Councils Group Inc** for the period October 2013 to September 2014.
- 2.3 That Council appoint two (2) Councillor delegates to the **Warringah Pittwater State Emergency Service Advisory Committee** for the period October 2013 to September 2014

- 2.4 That Council appoint one (1) Councillor delegate and one (1) Councillor as an alternate delegate to the **Warringah Pittwater Bush Fire Risk Committee** for the period October 2013 to September 2014.
- 2.5 That Council appoint one (1) Councillor delegate to the **Warringah Pittwater District Services Agreement – Liaison Committee** for the period October 2013 to September 2014.
- 2.6 That Council appoint three (3) Councillor delegates to the **Narrabeen Lagoon Floodplain Risk Management Working Group** for the period October 2013 to September 2014.
- 2.7 That Council appoint one (1) Councillor delegate to **Kimbriki Sub-Committee** for the period October 2013 to September 2014.

3.0 EXTERNAL COMMITTEES

- 3.1 That Council appoint two (2) Councillor delegates to serve on the **Floodplain Management Authorities** for the period October 2013 to September 2014.
- 3.2 That Council appoint one (1) Councillor delegate and one (1) Councillor as an alternate delegate to the **Roads & Traffic Consultative Forum** for the period October 2013 to September 2014.
- 3.3 That Council appoint one (1) Councillor delegate and one (1) Councillor as an alternate delegate to the **Local Government Advisory Group for Hawkesbury Nepean CMA** for the period October 2013 to September 2014.
- 3.4 That the Council appoint one (1) Councillor delegate to the **Public Libraries NSW – Metropolitan Association Inc.** for the period October 2013 to September 2014.
- 3.5 That Council appoint two (2) Councillor delegates and two (2) Councillors as alternate delegates to the **Joint Regional Planning Panel (JRPP)** for the period October 2013 to September 2014.
- 3.6 That Council appoint one (1) Councillor delegate and one (1) Councillor as an alternate delegate to the **Club Grants Committee** for the period October 2013 to September 2014.
- 3.7 That Council appoint one (1) Councillor delegate to **The Friends of the Bible Garden Memorial Inc.** for the period October 2013 to September 2014.

4.0 DIRECTORSHIPS/BOARDS & COMPANIES

- 4.1 That the Mayor & General Manager be confirmed as Pittwater Council's delegates to the **SHOROC Board** for the period October 2013 to September 2014.
- 4.2 That Mrs Shirley Phelps be appointed as Council's delegate to the **Northern Beaches Indoor Sports Centre Board** for the period October 2013 to September 2014.

Report prepared by
Gabrielle Angles – Principal Officer, Administration

Warwick Lawrence
MANAGER, ADMINISTRATION & GOVERNANCE

SCHEDULE OF COMMITTEES

1.0 Special Committees

Special Committees	Comments	Delegate/s Appointed 15/10/2012	Frequency and timing of meetings
Pittwater Council Traffic Committee	1 Councillor and 1 alternate Councillor delegate to be appointed.	Cr Young (delegate & Chair); Cr Hegarty (alternate delegate)	Bi-monthly or as otherwise required, 1.00pm-3.00pm Tuesdays
Pittwater Council Traffic (Development) Committee	1 Councillor and 1 alternate Councillor delegate to be appointed.	Cr Young (delegate & Chair); Cr Hegarty (alternate delegate)	As required
Coastal Zone Management Community Working Group	1 Councillor and 1 alternate Councillor delegate to be appointed.	Cr Townsend (delegate); Cr Griffith (alternate delegate)	As required
Careel Creek Catchment Flood Study Community Working Group	1 Councillor and 1 alternate Councillor delegate to be appointed.	Cr McTaggart (delegate & Chair); Cr Grace (alternate delegate)	As required
McCarrs Creek, Mona Vale and Bayview Flood Study Community Working Group	1 Councillor and 1 alternate Councillor delegate to be appointed.	Not Applicable	At least twice during project timeframe
Pittwater Overland Flow Risk Management Community Working Group	1 Councillor and 1 alternate Councillor delegate to be appointed.	Cr Grace (delegate); Cr McTaggart (alternate delegate)	At least quarterly
Special Rate Variation Advisory Committee	1 Councillor from each Ward to be appointed.	Cr McTaggart Cr Millar Cr White	Two per annum
Audit and Risk Committee	2 Councillors	Cr Hegarty Cr Grace	Quarterly
Enliven Pittwater Committee	2 Councillors and 1 alternate Councillor delegate to be appointed.	Cr Townsend Cr Griffith (delegates) Cr Ferguson (alternate delegate) Appointed 15 April 2013	6 weekly during first 12 months followed by 4 meetings per annum

2.0 Joint Committees

Joint Committees	Comments	Delegate/s Appointed 15/10/2012	Frequency and timing of meetings
Manly Warringah & Pittwater Local Emergency Management Committee	1 Councillor delegate and 1 alternate Councillor delegate to be appointed.	Cr White (delegate); Cr McTaggart (alternate delegate)	No less than 4 times each year. Additional meetings as required.
Sydney Coastal Councils Group Inc.	1 Councillor delegate and 1 alternate Councillor delegate to be appointed.	Cr Townsend (delegate); Cr Griffith (alternate delegate)	Quarterly at different venues hosted by member councils; 12pm on Saturdays
Warringah Pittwater State Emergency Service Advisory Committee	2 Councillor delegates to be appointed.	Cr White Cr McTaggart	Every 2 months at Fire Control Headquarters Terrey Hills, 7.30pm on Wednesdays
Warringah Pittwater Bush Fire Risk Committee	1 Councillor delegate and 1 alternate Councillor delegate to be appointed.	Cr White (delegate); Cr McTaggart (alternate delegate)	4 meetings per annum usually March, June, September and December
Warringah Pittwater Services Agreement – Liaison Committee	1 Councillor delegate to be appointed.	Cr Townsend	Two per annum
Narrabeen Lagoon Floodplain Risk Management Working Group	The Mayor and 2 Councillor delegates to be appointed.	Cr Townsend Cr Millar Cr Griffith	Quarterly; 5pm on Thursday
Kimbriki Sub-Committee	1 Councillor delegate to be appointed.	Cr Ferguson	Quarterly

3.0 External Committees

External Committees	Comments	Delegate/s Appointed 15/10/2012	Frequency and timing of meetings
Floodplain Management Authorities	2 Councillor delegates to be appointed.	Cr Townsend Cr Griffith	Quarterly, 11.00am McKell Building (Central) Sydney, Thursdays
Roads & Traffic Consultative Forum	1 Councillor delegate and 1 alternate Councillor delegate to be appointed.	Cr Young (delegate); Cr Hegarty (alternate delegate)	Held by RTA in locations across Sydney, usually evenings
Local Government Advisory Group for Hawkesbury Nepean CMA	1 Councillor delegate and 1 alternate Councillor delegate to be appointed.	Cr Griffith (delegate); Cr Townsend (alternate delegate)	Quarterly
Public Libraries NSW – Metropolitan Association Inc.	1 Councillor delegate to be appointed.	Cr Hegarty	Quarterly in various locations
Joint Regional Planning Panel	2 Councillor delegates and 2 alternate delegates	Cr Townsend Cr Hegarty (Delegates) Cr Young Cr Griffith (alternate delegates)	As required
Club Grants Committee	1 Councillor delegate and 1 alternate Councillor delegate to be appointed	Cr Hegarty (delegate) Cr Millar (alternate delegate)	As required, usually 1 – 3 meetings per year
Friends of the Bible Garden Memorial In	1 Councillor delegate	Cr Grace (delegate)	As advised

4.0 Directorships/Boards & Companies

Boards	Comments	Current Delegate/s Appointed 15/10/12	Frequency and timing of meetings
SHOROC Board	The Mayor & the General Manager are Pittwater Council's delegates to SHOROC.	Mayor & General Manager	Quarterly – generally Friday mornings
Northern Sports (NBISC) Beaches Centre Indoor Board	The Council should appoint one delegate as Director on the Board of NBISC who may or may not be a Councillor.	Mrs Shirley Phelps	As required

C10.2 2012/2013 Annual Report

Meeting: Council

Date: 21 October 2013

STRATEGY: Business Management

ACTION: Produce Council's quarterly and annual report and management plan

PURPOSE OF REPORT

To report on the 2012/2013 Annual Report for the 2011/2015 Delivery Program.

1.0 BACKGROUND

- 1.1 Council is required to prepare and publish an annual report within five months of the end of financial year. The 2012/2013 Annual Report outlines the Council's achievements and progress in implementing the 2011-2015 Delivery Program. As such, the Annual Report is one of the key accountability mechanisms between Council and the community.
- 1.2 The requirements for preparing the Annual Report and the matters which must be reported on are prescribed by the Local Government Act 1993 and Local Government (General) Regulation 2005.
- 1.3 Copies of the Annual Report must be sent to the Minister, provided on Council's website and at libraries and customer services centres at Mona Vale and Avalon. Copies are also available for purchase.

2.0 ISSUES

- 2.1 The production of an Annual Report is a legislative requirement and provides Councillors and members of the public with useful information about the Council's achievements throughout the previous year.
- 2.2 The contents of the Annual Report are structured as follows:
 - Section 1 – Overview of the community, Pittwater Council and the Community Strategic Plan
 - Section 2 – Progress against the 2011-2014 Delivery Plan
 - Section 3 – State of Pittwater Environment report, which provides a snapshot of the condition of the environment and Council's response to pressures impacting on the environment (this is in a similar format to previous State of Environment reports prepared with other SHOROC Councils)
 - Section 4 – Statutory statements – this is information that is not directly relevant to the Delivery Program but is required by the Act and Local Government (General) Regulation 2005 because the Government believes it is important for the community to know about it
 - Section 5 – Financial statements from the Council's year-end audited accounts.
- 2.3 Under the new planning and reporting framework for Councils introduced by the Local Government Amendment (Planning and Reporting) Act 2009, there are now fewer statutory matters (Section 4 of the report) which Councils must report on. In addition, the State of Environment report, previously prepared in conjunction with other SHOROC Councils, is now required to be prepared by Councils once every four years (in the year in which an ordinary election). However, to maintain continuity the 2012/2013 Annual Report continues to report on environmental matters previously reported in the State of Environment report.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

The Annual Report reflects the strategic actions contained in the Key Directions of the Community Strategic Plan, Pittwater 2020.

3.2 Valuing & Caring for our Natural Environment (Environmental)

There is no environmental impact

3.3 Enhancing our Working & Learning (Economic)

There is no economic impact.

3.4 Leading an Effective & Collaborative Council (Governance)

There is no Governance impact.

3.5 Integrating our Built Environment (Infrastructure)

There is no infrastructure impact.

4.0 EXECUTIVE SUMMARY

4.1 The Annual Report has been prepared in accordance with the requirements of Section 428 of the Local Government Act 1993 and Section 217 of the Local Government (General) Regulation 2005.

4.2 Council's Annual Report will be forwarded to the Minister and copies made available for the public as indicated above.

RECOMMENDATION

That the 2012/2013 Annual Report (**as tabled**) for the financial year ending 30 June 2013 be noted.

Report prepared by
Paul Reid, Manager Corporate Strategy

Mark Ferguson
GENERAL MANAGER

Leading and Learning Committee

11.0 Leading and Learning Committee Business

C11.1 Investment Balances as at 30 September 2013

Meeting: Leading and Learning Committee

Date: 21 October 2013

STRATEGY: Business Management

ACTION: To Provide Effective Investment of Council's Funds

PURPOSE OF REPORT

To advise on the status of Council's Investment Balances as at 30 September 2013.

1.0 BACKGROUND

- 1.1 As provided for in Regulation 212 of the Local Government (General) Regulation, 2005, a report listing Council's investments (refer **Attachment 1**) must be presented.

2.0 ISSUES

2.1 MONTHLY RETURN

Investment return for the month of September 2013:

Term deposits interest income:	<u>\$131,894</u>
Net investment return for September 2013:	\$131,894

YEAR TO DATE RETURN

Investment return year to date September 2013:

Term deposits interest income:	<u>\$369,771</u>
Net investment return year to date:	\$369,771

Projected investment return budget for financial year: \$1,225,000

2.2 PERFORMANCE OF COUNCIL'S PORTFOLIO FOR THE LAST FIVE YEARS

Annual returns of Council's portfolio for the last five years:

Year to	Net Return	Return on average funds invested
June 2010	\$ 1,364,315	6.1%
June 2011	\$ 1,521,223	5.9%
June 2012	\$ 1,679,693	6.4%
June 2013	\$ 1,656,908	4.8%
September 2013	\$369,771	4.0%
Projected Budget	\$ 1,225,000	3.9%

Note: Net investment return includes interest income and capital movements.

3.0 RESPONSIBLE ACCOUNTING OFFICER CERTIFICATION

- 3.1 The Responsible Accounting Officer certifies that all investments have been made in accordance with Section 625 of the Local Government Act, 1993, the Local Government (General) Regulations, and Council's Investment Policy (No 143).
-

4.0 SUSTAINABILITY ASSESSMENT

This report does not require a sustainability assessment.

5.0 EXECUTIVE SUMMARY

- 5.1 The net investment return as at 30 September 2013 is \$369,771.
-

RECOMMENDATION

That the information provided in the report be noted.

Report prepared by
Renaë Wilde, Senior Project Accountant

Mark Jones
CHIEF FINANCIAL OFFICER



PITTWATER COUNCIL

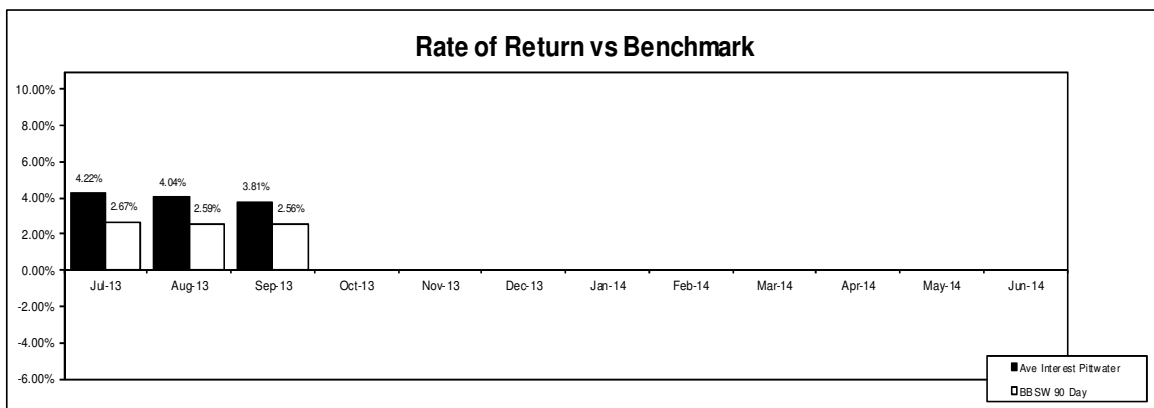
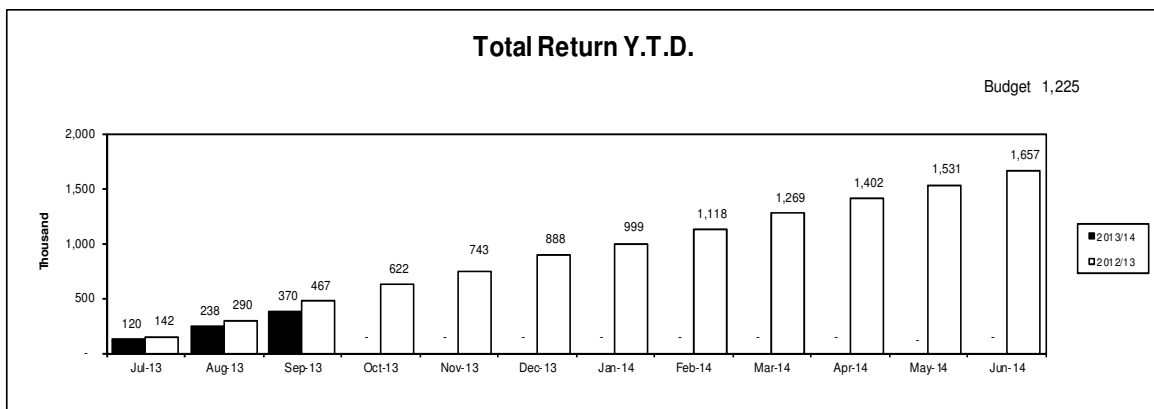
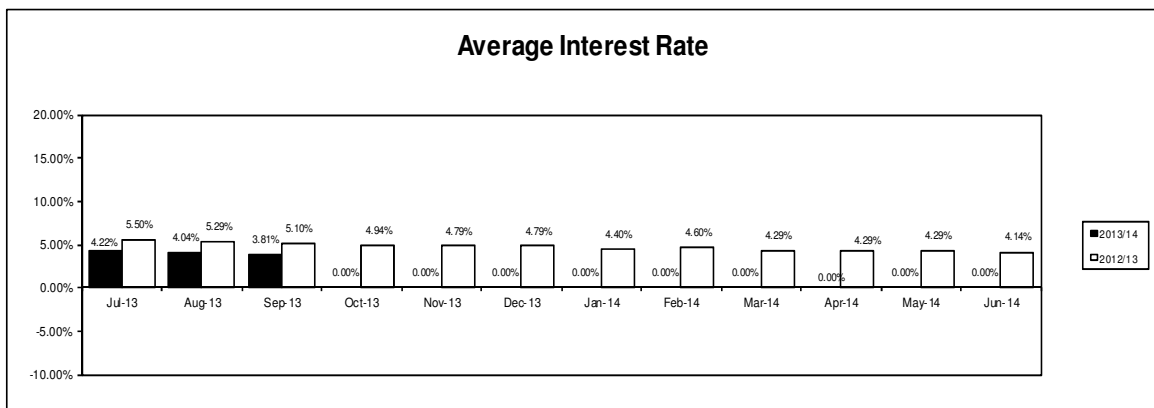
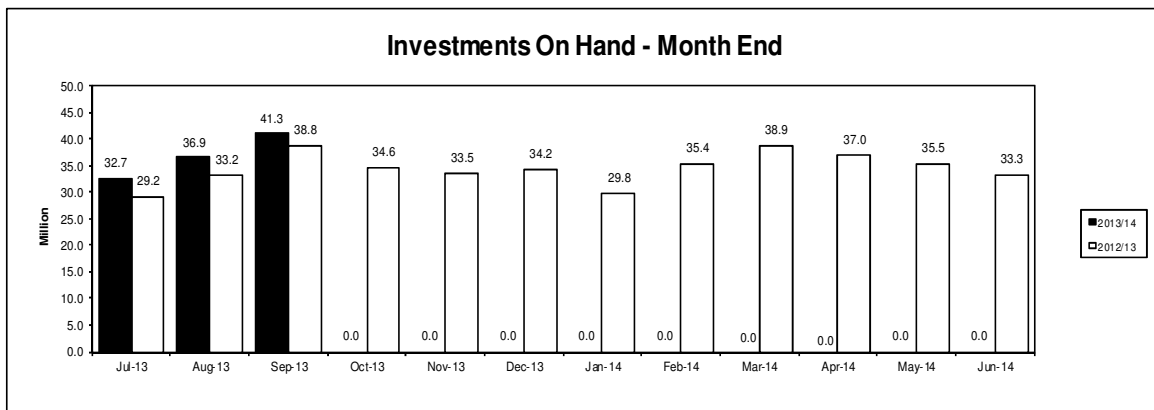
INVESTMENT BALANCES

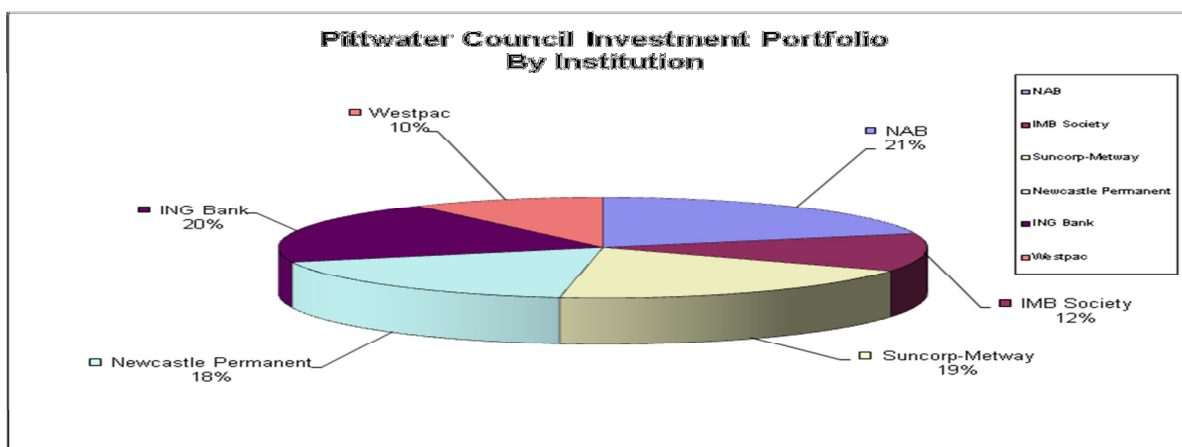
As at 30th September 2013

TYPE	INSTITUTION	Rating	AMOUNT \$	DATE INVESTED	MATURITY DATE	TERM (DAYS)	INTEREST RATE
At Call	NAB	AA-	2,000,000.00 *	At Call	At Call	1	3.00%
At Call Total			2,000,000.00				
Term Dep	IMB Society	BBB	1,000,000.00	15-Apr-13	14-Oct-13	182	4.20%
Term Dep	IMB Society	BBB	1,000,000.00	3-Sep-13	2-Dec-13	90	3.70%
Term Dep	IMB Society	BBB	1,000,000.00	9-Sep-13	9-Dec-13	91	3.70%
Term Dep	IMB Society	BBB	1,000,000.00	10-Sep-13	11-Dec-13	92	3.70%
Term Dep	IMB Society	BBB	1,000,000.00	17-Sep-13	17-Dec-13	91	3.70%
Investee Total			5,000,000.00				
Term Dep	Suncorp-Metway	A+	1,000,000.00	3-Jun-13	4-Nov-13	154	4.05%
Term Dep	Suncorp-Metway	A+	1,000,000.00	4-Jun-13	2-Dec-13	181	4.12%
Term Dep	Suncorp-Metway	A+	1,000,000.00	26-Aug-13	28-Oct-13	63	3.40%
Term Dep	Suncorp-Metway	A+	1,000,000.00	26-Aug-13	20-Jan-14	147	3.80%
Term Dep	Suncorp-Metway	A+	1,000,000.00	29-Aug-13	16-Dec-13	109	3.75%
Term Dep	Suncorp-Metway	A+	1,000,000.00	3-Sep-13	3-Mar-14	181	3.75%
Term Dep	Suncorp-Metway	A+	1,000,000.00	3-Sep-13	2-Jun-14	272	3.80%
Term Dep	Suncorp-Metway	A+	1,000,000.00	3-Sep-13	10-Jun-14	280	3.80%
Investee Total			8,000,000.00				
Term Dep	Westpac	AA-	1,000,000.00	8-Jul-13	9-Dec-13	154	4.14%
Term Dep	Westpac	AA-	1,000,000.00	28-Aug-13	28-Jan-14	153	3.69%
Term Dep	Westpac	AA-	1,000,000.00	2-Sep-13	11-Feb-14	162	3.68%
Term Dep	Westpac	AA-	1,000,000.00	3-Sep-13	10-Mar-14	188	3.68%
Investee Total			4,000,000.00				
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	12-Aug-13	11-Nov-13	91	3.75%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	12-Aug-13	18-Nov-13	98	3.75%
Term Dep	Newcastle Permanent	BBB+	500,000.00	19-Aug-13	25-Nov-13	98	3.75%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	26-Aug-13	26-Nov-13	92	3.75%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	3-Sep-13	3-Dec-13	91	3.70%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	3-Sep-13	10-Dec-13	98	3.70%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	9-Sep-13	9-Dec-13	91	3.70%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	16-Sep-13	16-Dec-13	91	3.70%
Investee Total			7,500,000.00				
Term Dep	ING Bank	A	500,000.00	8-Jan-13	27-Jun-14	535	4.47%
Term Dep	ING Bank	A	750,000.00	6-Aug-13	3-Feb-14	181	3.87%
Term Dep	ING Bank	A	1,000,000.00	15-Jul-13	17-Feb-14	217	4.10%
Term Dep	ING Bank	A	1,000,000.00	22-Jul-13	17-Feb-14	210	4.09%
Term Dep	ING Bank	A	500,000.00	19-Aug-13	21-Oct-13	63	3.49%
Term Dep	ING Bank	A	500,000.00	19-Aug-13	10-Feb-14	175	3.97%
Term Dep	ING Bank	A	1,000,000.00	27-Aug-13	24-Feb-14	181	3.93%
Term Dep	ING Bank	A	1,000,000.00	2-Sep-13	3-Mar-14	182	3.91%
Term Dep	ING Bank	A	1,000,000.00	9-Sep-13	17-Mar-14	189	3.75%
Term Dep	ING Bank	A	1,000,000.00	16-Sep-13	31-Mar-14	196	3.72%
Investee Total			8,250,000.00				
Term Dep	NAB	AA-	1,000,000.00	29-Jul-13	17-Dec-13	141	4.00%
Term Dep	NAB	AA-	1,000,000.00	28-Aug-13	1-Sep-14	369	3.90%
Term Dep	NAB	AA-	1,000,000.00	2-Sep-13	6-Jan-14	126	3.80%
Term Dep	NAB	AA-	1,000,000.00	3-Sep-13	3-Jun-14	273	3.84%
Term Dep	NAB	AA-	1,000,000.00	9-Sep-13	13-Jan-14	126	3.80%
Term Dep	NAB	AA-	1,000,000.00	10-Sep-13	24-Mar-14	195	3.80%
Term Dep	NAB	AA-	500,000.00	23-Sep-13	26-May-14	245	3.79%
Investee Total			6,500,000.00				
September BBSW Close							2.56%
TOTAL INVESTMENTS			\$41,250,000.00				

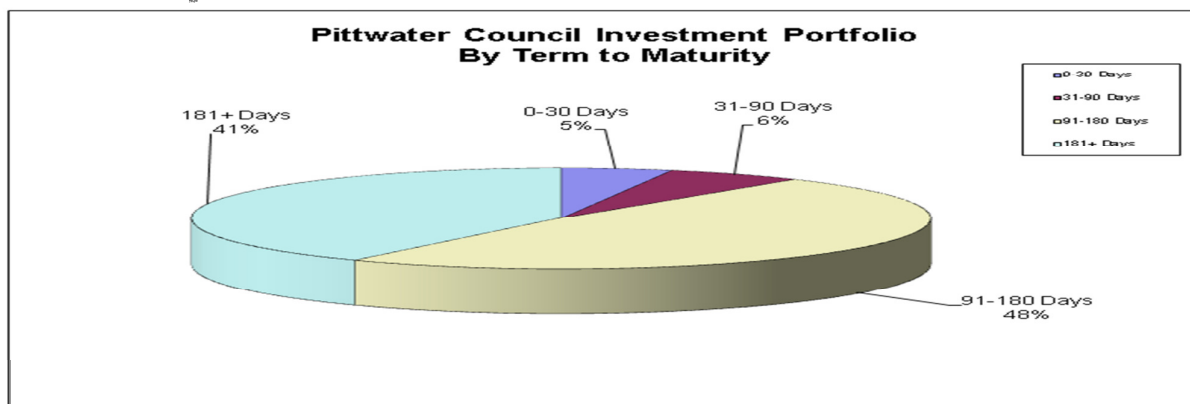
Note: Investments denoted with an * are held in Cash and Cash Equivalents in Council's Balance Sheet along with Cash at Bank and Floats.

All other investments are held as Investment Securities in Council's Balance Sheet

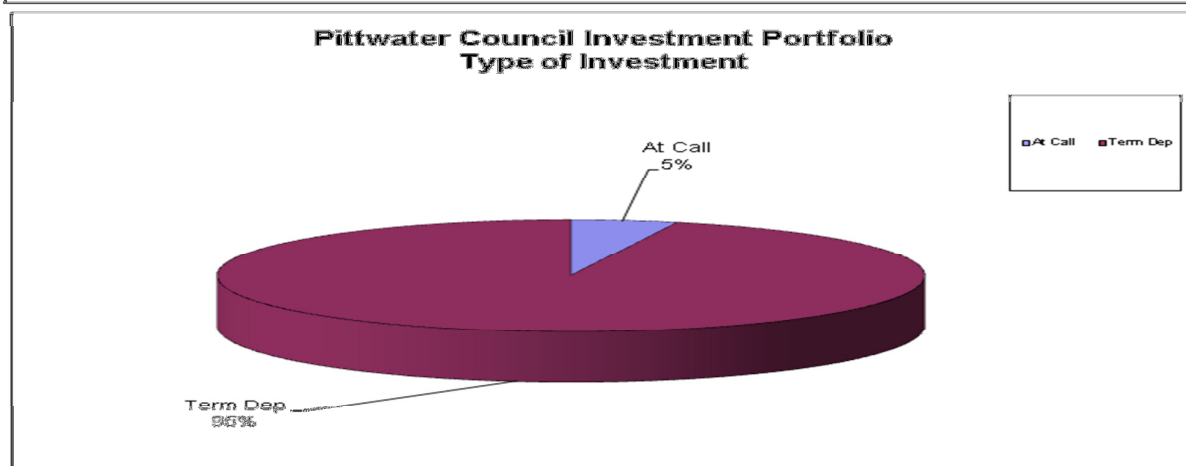
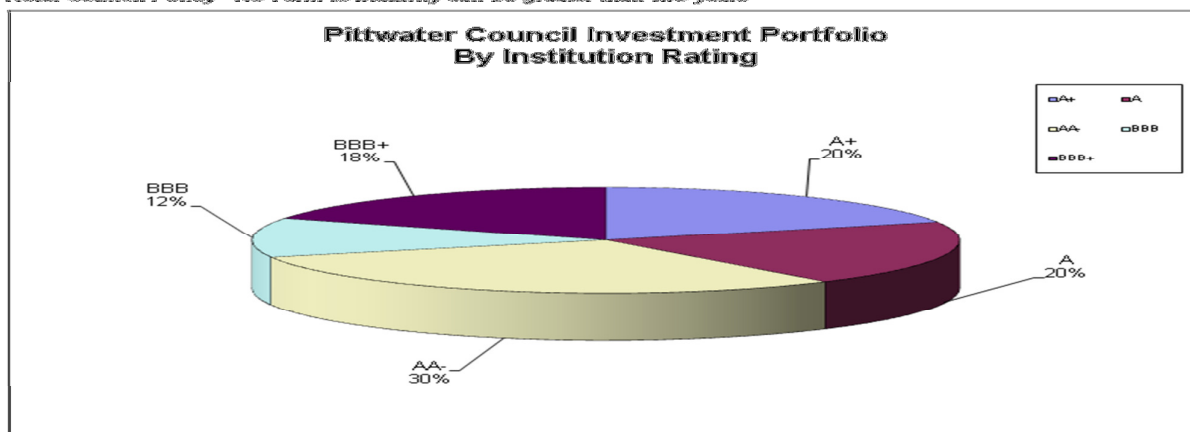




Note: Council Policy - No Institution can hold more than 25% of Council's Total Portfolio



Note: Council Policy - No Term to Maturity can be greater than two years



Investment Information:

Types of Investments -

At Call refers to funds held at a financial institution and can be recalled by Council either same day or on an overnight basis.

A **Term Deposit** is a short term deposit held at a financial institution for a fixed term and attracting interest at a deemed rate.

Credit Rating Information -

Credit ratings are generally a statement as to the institutions credit quality.

Ratings ranging from BBB- to AAA (long term) are considered investment grade.

A general guide as to the meaning of each credit rating is as follows:

AAA	<i>Extremely strong capacity to meet financial commitments (highest rating)</i>
AA	<i>Very strong capacity to meet financial commitments</i>
A	<i>Strong capacity to meet financial commitments, but somewhat more susceptible to adverse economic conditions and changes in circumstances</i>
BBB	<i>Adequate capacity to meet financial commitments with adverse economic conditions or changing circumstances more likely to lead to a weakened capacity of the obligor to meet its financial commitments</i>
BB	<i>Less vulnerable in the near term, but faces major ongoing uncertainties and exposures to adverse business, financial, and economic conditions</i>
B	<i>More vulnerable to non-payment than obligations rated 'BB', but the obligor currently has the capacity to meet its financial commitment on the obligation</i>
CCC	<i>Currently vulnerable, and is dependent upon favourable business, financial, and economic conditions to meet its financial commitments</i>
CC	<i>Currently highly vulnerable</i>
C	<i>Highly likely to default</i>
D	<i>Defaulted</i>

The **Bank Bill Swap Rate (BBSW)** is the average mid rate, for Australian Dollar bills of exchange, accepted by an approved bank, having regard to a designated maturity.

C11.2 Nomination of "Designated Persons" - Disclosures of Pecuniary Interest

Meeting: Leading and Learning Committee

Date: 21 October 2013

STRATEGY: Business Management

ACTION: Effectively manage Council's corporate governance responsibilities

PURPOSE OF REPORT

To review the positions within Council's Organisation Structure nominated as "Designated Persons" under the Pecuniary Interest provisions of the Local Government Act.

1.0 BACKGROUND

The General Manager is required under the provisions of section 449(1) of the Local Government Act, 1993 to receive returns disclosing interests of Councillors and Designated Persons. The purpose of this report is to review those positions defined as 'Designated Persons' pursuant to section 441 of the Local Government Act, 1993.

2.0 ISSUES

2.1 For the purpose of the Local Government Act, 1993, section 441 defines 'Designated Persons' as follows:

- *The General Manager*
- *other senior staff of the Council*
- *a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest*
- *a person (other than a member of the senior staff of the Council) who is a member of a Committee of the Council identified by the Council as a Committee whose members are designated persons because of the functions of the Committee involve the exercise of the Council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the Committee and the member's private interest."*

2.2 At its meeting held on 15 October 2012, the Council determined those positions within its organisation structure that it wished to be classified as 'Designated Persons.' A list of those positions is attached at **Attachment 1**.

2.3 It is considered appropriate that the Council now review those positions classified as 'Designated Persons' due to the amendments that have occurred to Council's organisation structure since October 2012.

2.4 A revised list of positions recommended for classification as 'Designated Persons' is listed at **Attachment 2**.

- 2.5 The staff in the positions of Principal Officer Strategic Planning in Reserves, Recreation and Building Services and Senior Development Officer in Environmental Planning and Assessment are currently on extended leave and have not had the opportunity to complete their returns. Upon their return to work they will be required to complete the necessary form.
- 2.6 One Councillor, currently on leave, has also not completed her return. This Return will be sought when she returns from leave.
-

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

This Report will have no impact on this Strategy

3.2 Valuing & Caring for our Natural Environment (Environmental)

This Report will have no impact on this Strategy

3.3 Enhancing our Working & Learning (Economic)

This Report will have no impact on this Strategy

3.4 Leading an Effective & Collaborative Council (Governance)

This Report is in response to the requirements of Section 441(1) of the Local Government Act 1993.

3.5 Integrating our Built Environment (Infrastructure)

This Report will have no impact on this Strategy

4.0 EXECUTIVE SUMMARY

- 4.1 The General Manager is required under the provisions of section 449(1) of the Local Government Act, 1993 to receive returns disclosing interests of Councillors and Designated Persons. The purpose of this report is to review those positions defined as 'Designated Persons' pursuant to section 441 of the Local Government Act, 1993.
- 4.2 At its meeting held on 15 October 2012, the Council determined those positions within its organisation structure that it wished to be classified as 'Designated Persons.' A list of those positions is attached at **Attachment 1**.
- 4.3 A revised list of positions recommended for classification as 'Designated Persons' is listed at **Attachment 2**.
-

RECOMMENDATION

That all employees of Pittwater Council holding the positions listed in **Attachment 2** to this report, be nominated as 'Designated Persons' in accordance with section 441 of the Local Government Act, 1993.

Report prepared by
Gabrielle Angles, Principal Officer Administration

Warwick Lawrence
MANAGER ADMINISTRATION

DESIGNATED PERSONS - As at 15 October 2012

<p><u>General Manager</u></p> <ul style="list-style-type: none"> General Manager Director - Environmental, Planning and Community Director - Urban and Environmental Assets <p><u>Corporate Strategy and Commercial</u></p> <ul style="list-style-type: none"> Manager - Corporate Strategy and Commercial Corporate Planner Internal Auditor Principal Officer Commercial Senior Property Officer Principal Officer - Community Engagement <p><u>Administration & Governance</u></p> <ul style="list-style-type: none"> Manager - Administration and Governance/Public Officer Principal Officer Administration Principal Officer Risk and Developer Contributions Group Leader Customer Service Group Leader Records <p><u>Catchment Management & Climate Change</u></p> <ul style="list-style-type: none"> Manager - Catchment Management and Climate Change Principal Officer Coast and Estuary Principal Officer Floodplain Management Project Leader Water Management <p><u>Community, Library & Economic Development</u></p> <ul style="list-style-type: none"> Manager - Community, Library and Economic Development <p><u>Corporate Development</u></p> <ul style="list-style-type: none"> Manager - Corporate Development <p><u>Environmental Planning & Assessment</u></p> <ul style="list-style-type: none"> Manager - Environmental Planning and Assessment Principal Officer Development Principal Strategic Planner Principal Officer Land Release Principal Officer Land and Planning Information Senior Land and Planning Information Officer Executive Strategic Planner Executive Development Officer Senior Development Engineer Senior Development Officer Development Officer Senior Strategic Planner Strategic Planner Assistant Planning Officer Development Assistant Planning Officer Land Release Land Release Planner Development Officer Building Certificates 	<p><u>Environmental Compliance</u></p> <ul style="list-style-type: none"> Manager- Environmental Compliance Principal Officer Development Compliance Principal Officer Environmental Health Education & Enforcement Supervisor Development Compliance Officer Environmental Health Officer Principal Officer Development Compliance, Land Use Team Leader Ranger Ranger's Supervisor Senior Ranger Trainee Ranger Ranger Administration Officer, Pay and Display <p><u>Finance & IT</u></p> <ul style="list-style-type: none"> Chief Financial Officer Principal Officer Revenue Controller Assistant Revenue Controller Principal Officer Financial Accountant Principal Officer Management Accountant Principal Officer IT Team Leader <p><u>Natural Environment & Education</u></p> <ul style="list-style-type: none"> Manager, Natural Environment & Education Principal Officer, Natural Environment & Education <p><u>Reserves, Recreation & Building Services</u></p> <ul style="list-style-type: none"> Manager - Reserves, Recreation & Building Services Principal Officer Strategic Planning Principal Officer Operations Building Services Group Leader Reserves Supervisor Senior Tree Preservation and Management Officer Tree Preservation and Management Officer <p><u>Urban Infrastructure</u></p> <ul style="list-style-type: none"> Manager - Urban Infrastructure Principal Engineer Works Principal Engineer - Strategy, Investigation and Design/LEMO Project Leader Streetscape and WH&S Project Leader Stormwater Management Project Leader Road Reserve Management Project Leader Asset Management System Senior Officer Procurement and Fleet Management Procurement and Contracts Officer Team Leader - Asset Management Senior Works Engineer
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DESIGNATED PERSONS - As at 21 October 2013

<p><u>General Manager</u></p> <ul style="list-style-type: none"> General Manager Director - Environmental, Planning and Community Director - Urban and Environmental Assets <p><u>Corporate Strategy and Commercial</u></p> <ul style="list-style-type: none"> Manager - Corporate Strategy and Commercial Corporate Planner Internal Auditor Principal Officer Commercial Senior Property Officer Principal Officer - Community Engagement <p><u>Administration & Governance</u></p> <ul style="list-style-type: none"> Manager - Administration and Governance/Public Officer Principal Officer Administration Principal Officer Risk Group Leader Customer Service Group Leader Records Senior Officer Procurement and Fleet Management Procurement and Contracts Officer <p><u>Catchment Management & Climate Change</u></p> <ul style="list-style-type: none"> Manager - Catchment Management and Climate Change Principal Officer Coast and Estuary Principal Officer Floodplain Management Project Leader Water Management Senior Officer Development Engineering <p><u>Community, Library & Economic Development</u></p> <ul style="list-style-type: none"> Manager - Community, Library and Economic Development <p><u>Corporate Development</u></p> <ul style="list-style-type: none"> Manager - Corporate Development <p><u>Environmental Planning & Assessment</u></p> <ul style="list-style-type: none"> Manager - Environmental Planning and Assessment Principal Planning Officer Development Principal Planning Officer Strategic Principal Planning Officer Urban Land Release Principal Officer Land & Information & Development Application Process Administration Senior Officer Land & Planning Information/GIS Executive Planning Officer Development Senior Planning Officer Development Planning Officer Development Assistant Planning Officer Development Senior Planner Strategic Strategic Planner Assistant Strategic Planner Senior Planner Land Release 	<ul style="list-style-type: none"> Planner Land Release Assistant Planning Officer Land Release Senior Officer Building Certificate Assessment <p><u>Environmental Compliance</u></p> <ul style="list-style-type: none"> Manager- Environmental Compliance Principal Officer Development Compliance Principal Officer Environmental Health Education & Enforcement Supervisor Development Compliance Officer Environmental Health Officer Team Leader Ranger Education and Enforcement Supervisor Senior Ranger Trainee Ranger Ranger Administration Officer, Pay and Display <p><u>Finance & IT</u></p> <ul style="list-style-type: none"> Chief Financial Officer Principal Officer Revenue Controller Assistant Revenue Controller Principal Officer Financial Accountant Principal Officer Management Accountant Principal Officer IT Team Leader <p><u>Natural Environment & Education</u></p> <ul style="list-style-type: none"> Manager, Natural Environment & Education Principal Officer, Natural Environment & Education <p><u>Reserves, Recreation & Building Services</u></p> <ul style="list-style-type: none"> Manager - Reserves, Recreation & Building Services Principal Officer Strategic Planning Principal Officer Operations Building Services Group Leader Reserves Supervisor Senior Tree Preservation and Management Officer Tree Preservation and Management Officer <p><u>Urban Infrastructure</u></p> <ul style="list-style-type: none"> Manager - Urban Infrastructure Principal Engineer Works Principal Engineer - Strategy, Investigation and Design/LEMO Project Leader Streetscape and WH&S Project Leader Stormwater Management Project Leader Road Reserve Management Project Leader Asset Management System Team Leader - Asset Management Senior Works Engineer
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C11.3 Tender T05-13 - Management of Avalon Golf Course and Narrabeen Golf Driving Range

Meeting: Council

Date: 21 October 2013

STRATEGY: Corporate Management

ACTION: To effectively manage and maximise returns from commercial enterprise

PURPOSE OF REPORT

To consider in accordance with Clause 177 of the Local Government (General) Regulation, the Tender Evaluation Panel's (TEP) recommendations following its assessment of the tenders received for Tender T05/13 – For Management of Avalon Golf Course and Narrabeen Golf Driving Range.

1.0 BACKGROUND

Avalon Golf Course and Narrabeen Golf Driving Range are Council owned facilities and are operated by two separate management companies. Income received from both sites is instrumental in supplementing the funds used to provide services throughout Council.

A tender for Management Services was required for both the management of Avalon Golf Course and Management of Narrabeen Golf Driving Range was required to fully leverage the opportunity provided by both sites with tender documents, on-line, being prepared with a preference for a single operator to manage both facilities.

2.0 ISSUES

Council was seeking Management Agreement(s) for the provision of the following general scope of Management Services for both sites:

- operation and management of the Golf Course and Driving Range;
- management of the Avalon Clubhouse facilities (restaurant and commercial kitchen)
- management of the Narrabeen Golf Driving Range facilities
- management of the pro-shops at both the Golf Course and Driving Range
- management and functioning of the kiosk facility at the Driving Range
- collection of Green Fees and Driving Range user fees;
- promotion of the facilities (including advertising and marketing activities)
- other services which enhance the income generated from Council's investment in the Golf Course and Driving Range.
- production of monthly and annual reports addressing financial, operational, marketing and promotions in a form prescribed by Council

2.1 Tender Release

Tender documents were available for sale via Mona Vale Customer Service and through the Electronic tender portal Tenderlink on Tuesday, 14May 2013.

2.2 Tender Close

As per the call for tenders, the tenders could be received via the official Tender Box or via Tenderlink prior to the closing specified tender closing time/date of 10.30 a.m. Thursday, 6 June 2013.

2.3 Tender Opening & List of Tenders Received

At the specified tender opening time, five (5) tenders were collected from the tender box, or received via Tenderlink and were duly registered by Council. Tenderers are listed as follows:

Tenderers

- TCOB Consulting trading as Teed Up Pty Ltd
- Northern Beaches Golf Centre No. 2 Pty Ltd
- Hodson & Hodson Management Pty Ltd
- ClubLINKS Pty Ltd
- Golf Worlds Pro Shop Pty Ltd

2.4 Outline of Tender evaluation process

Tenders contain commercial in confidence information. As such under Section 10A(2) of the Local Government Act the detailed assessment of tenders is included in the confidential section of this Agenda.

A Tender Evaluation Panel (TEP) was specifically formed to confidentially assess the tenders received. The TEP has provided a confidential assessment with covering report and recommendations for formal consideration by Council. The TEP takes into consideration the following steps as part of its confidential assessment:

- Probity checks including a declaration as to any conflict of interest or pecuniary interest associated with the tender
- Initial assessment & cull – this assesses compliance with the call for tender requirements and any company not conforming is culled (not considered further) from the next stages of the tender assessment process
- Detailed assessment of remaining tenders then takes place, including performance against the tender evaluation criteria. The tender was assessed using the following criteria, in order:

CRITERIA	SCORE
Financial Offer & Organisational capacity	25%
Environmental Sustainability	10%
Experience in Managing Similar Operations	20%
Services Offered	20%
Ability to Meet Key Strategic Objectives	10%
Net Community Benefit	15%
TOTAL	100%

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

This tender and the provision of this infrastructure will assist the Pittwater community in accessing essential services and enhancing the usability of recreational facilities

3.2 Valuing & Caring for our Natural Environment (Environmental)

The tender documentation also included a questionnaire covering aspects of environmental sustainability. Tenderers provided information relating to products used, waste management, energy and water efficiency as well as recycling and were scored accordingly.

3.3 Enhancing our Working & Learning (Economic)

This tender supports the Council and the communities' economic outcomes by providing residents better access to sporting facilities.

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 Council provides a range of services for the community and resources these through a combination of internal and external providers

3.4.2 The tender process enables Council to seek competitive prices from the market for the project.

3.4.3 The calling for and assessment of Tenders is in accordance with Section 55 of the Local Government Act and the Local Government (General) Regulation.

3.4.4 Members of the Tender Evaluation Panel (TEP) are required to make a declaration in regard to any conflict or pecuniary interest

3.4.5 The tenders received are assessed by a specifically convened Tender Evaluation Panel against the pre-determined mandatory criteria

3.4.6 The Tender assessment and recommendations are reported to Council for formal consideration and are assessed against organisational and product information, systems, policy, capacity to deliver and experience.

3.5 Integrating our Built Environment (Infrastructure)

This tender will secure the future use of the site as a recreational hub.

4.0 EXECUTIVE SUMMARY

4.1 Pittwater Council prepared a Request for Tender T05/13 – Management of Avalon Golf Course and Narrabeen Golf Driving Range

4.2 Five (5) Tender submissions were received from:

- TCOB Consulting trading as Teed Up Pty Ltd
- Northern Beaches Golf Centre No. 2 Pty Ltd
- Hodson & Hodson Management Pty Ltd
- ClubLINKS Pty Ltd
- Golf Worlds Pro Shop Pty Ltd

4.3 The Tender Evaluation is presented to Council for consideration in the confidential section of this Agenda.

RECOMMENDATION

That Council consider the Confidential Tender Assessment and adopt the recommendations for tender T05/13 – Management of Avalon Golf Course and Narrabeen Golf Driving Range as contained within the Confidential Section of this Agenda.

Report prepared by

Paul Reid
MANAGER, CORPORATE STRATEGY & COMMERCIAL

C11.4 Adoption of Swimming Pools Inspection Program

Meeting: Leading & Learning Committee

Date: 21 October 2013

STRATEGY: Community, Education & Learning

ACTION: Provide community education programs on a range of topics

PURPOSE OF REPORT

To advise Council of the outcome of the exhibition and community consultation process of the draft Swimming Pools Inspection Program and to seek adoption of the program, in accordance with the requirements of the Swimming Pools Act 1992 (the Act).

1.0 BACKGROUND

The draft Swimming Pools Inspection Program was considered by Council on 5 August 2013 and was subsequently placed on public exhibition for 28 days.

2.0 ISSUES

2.1 Community Engagement

The document was placed on public exhibition for 28 days (10 August 2013 to 9 September 2013) and submissions were invited from the community.

The following actions were undertaken to facilitate engagement with the community concerning the public exhibition of the draft swimming pools inspection program:

- Notification placed in 'Community News' page of Manly Daily
- Paid advertisement in Manly Daily
- Council's webpage information – documents on exhibition
- Online Pittwater Report
- Media releases
- Articles in Manly Daily, Peninsular Living and Pittwater Life
- Printed flyer mailed out with Rates notice
- Displays in Mona Vale and Avalon customer service, Mona Vale and Avalon libraries and CEC
- Flyers distributed to Reference Groups
- Posters and flyers to local pool supplies shops and swim schools
- Flyer placed in local school newsletters and childcare newsletters

As a result of the community engagement initiatives listed above, there is a raised level of awareness in the community. Over the public exhibition period there was an increase in public access to Council's website, with 1020 webpage views of the draft swimming pools inspection program and 928 webpage views of general swimming pool information. There has been an increase in the number of telephone enquiries handled concerning swimming pool matters and residents seeking assistance from Council to register swimming pools and spa pools.

2.2 Submissions

There were two (2) written submissions received from residents which raised the following issues:

- a) Concerns about 'private inspectors' not adhering to the same rules as Council imposes.
- b) Unfair to charge an inspection fee for a random audit or as the result of a complaint which is out of the control of the pool owner. However, it is fair to charge the pool owner for all other inspections.

2.3 Comments on issues raised in submissions

- a. One of the recent changes to the Act enables private Accredited Certifiers to carry out swimming pool inspections and issue a Certificate of Compliance. Where a swimming pool owner requires a Certificate of Compliance, it is the choice of the pool owner to make an application to either Council or a private Accredited Certifier. Private Accredited Certifiers are legally obliged to comply with the legislation and are ultimately accountable to the Building Professionals Board and ICAC as they are considered 'public officials'. There is no justification to make changes to the Swimming Pools Inspection Program.
- b. The Act does not permit Council charging any inspection fees for investigating a complaint. The Act regulates all other swimming pool inspection fees to be charged by Council at \$150 for an initial inspection and a one only reinspection of \$100. These fees are considered modest and would not cover the costs to Council involved with the physical site attendance, inspection time and the subsequent administrative support required to provide the necessary documentation. It is reasonable that the swimming pool owner is required to contribute to the costs of Council inspecting their swimming pool as detailed in the swimming pools inspection program. Further, it is relevant to note that where legal enforcement of a Direction is required through an application to the Land and Environment Court, Council will be required to meet its own legal costs. There is no justification to make changes to the Swimming Pools Inspection Program.

2.4 Submissions acknowledged and advised of Council meeting

The two (2) residents whom made the written submissions mentioned above have been notified in writing that this matter would be considered at the Council meeting on 21 October 2013 and of the opportunity to attend the meeting.

2.5 Promoting the Message

Council's webpage has been updated to provide current information on the changes to the swimming pool laws and direct links to relevant websites, including the State Government Swimming Pool Register (www.swimmingpoolregister.nsw.gov.au)

Information stalls have been held at the Pittwater Food and Wine Fair on 5 May 2013 and at the Northern Beaches Expo held at NBISC on 25 and 26 May 2013. Both events were well attended by members of the public. Further information stalls will be held at other community events during the remainder of 2013, including the Beaches Market, Palm Beach Market Day, Mona Vale Market, Avalon Beach Market Day, Newport Beach Festival and Pittwater Place shopping centre.

2.6 Responsibilities

Council has a statutory obligation under the Act to inspect swimming pools in its area, in accordance with the adopted swimming pools inspection program. All inspections carried out on behalf of Council will be undertaken by authorised officers under the Act.

It is the responsibility of all swimming pool owners to register their swimming pool and spa pool on the swimming pool register operated by the NSW Department of Local Government. Council will use the information contained in this register as reference material to assist in the operation of the swimming pools inspection program.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

The swimming pools inspection program will have a significant effect on not only raising the level of awareness of swimming pool safety issues within the community, but also to provide a practical continuing improvement in the level of safety for young children with increased number of compliant swimming pools in the Pittwater community.

3.2 Valuing & Caring for our Natural Environment (Environmental)

This proposal will not have any impact on our natural environment.

3.3 Enhancing our Working & Learning (Economic)

The implementation of the swimming pools inspection program will be underpinned by various educational opportunities with the development of educational information and direct contact through information stalls. There would be economic benefits for those local businesses and tradespeople who are engaged in the manufacture of swimming pool fencing and the installation and ongoing maintenance of fencing and associated gates.

3.4 Leading an Effective & Collaborative Council (Governance)

The swimming pools inspection program meets the Council's statutory obligations under the Swimming Pools Act. It provides the opportunity for Council to raise the community's awareness and compliance with backyard swimming pool safety as an essential part of living in the Pittwater community. Council's Community Engagement Policy has been used as a guide to informing the community of the development of the swimming pools inspection program.

3.5 Integrating our Built Environment (Infrastructure)

This proposal will not have any impact on the built environment or infrastructure.

4.0 EXECUTIVE SUMMARY

4.1 In response to recent changes in the Swimming Pools Act 1992, a swimming pools inspection program has been developed, undergone public consultation and is proposed to be adopted.

RECOMMENDATION

1. That the swimming pools inspection program (refer **Attachment 1**) be adopted.
2. That the strategies to raise community awareness of the ongoing responsibilities of swimming pool and spa ownership be continued.
3. That a reply letter be sent to the two (2) residents whom made submissions, acknowledging the issues and the reasons why the swimming pools inspection program was unaltered and subsequently adopted.

Report prepared by
Darren Greenow, Principal Development Compliance Officer

Jeff Lofts
MANAGER, ENVIRONMENTAL COMPLIANCE

Subject: Swimming Pools Inspection Program**Date:** 21 October 2013

This inspection program is relevant to all swimming pools regulated under the Swimming Pools Act 1992. A reference to a swimming pool in this document also includes a spa pool.

The inspection program is designed to provide measures to identify non-compliant swimming pools, ensure upgrade works are carried out and in the process raise swimming pool safety awareness.

An inspection of a swimming pool is to be carried out by Council, where any of the following circumstances exist:

1. Complaints

On receipt of a complaint by Council concerning an alleged defective swimming pool barrier, a written request will be forwarded to the owner of the swimming pool to arrange access for an inspection. Where a complaint is substantiated after an inspection, a Notice of Proposed Direction will be issued to the owner of the swimming pool.

2. Certificate of Compliance Applications

Section 22D of the Act provides for a swimming pool owner to make application to Council or an Accredited Certifier for a Certificate of Compliance. On receipt of an application and payment of the inspection fee, Council will undertake an inspection of the swimming pool. Where the application form indicates that it relates to the sale or lease of the premises, the inspection will be undertaken within ten (10) business days after receiving the application and inspection fee. Where a defective barrier has been identified, a Notice of Proposed Direction will be issued to the swimming pool owner. After a period of fifteen (15) calendar days, a final Direction will be issued to the swimming pool owner.

A re-inspection will be undertaken by Council and the appropriate re-inspection fee will be paid by the swimming pool owner. A certificate of compliance will be issued in respect of a swimming pool that is registered on the Department of Local Government Swimming Pools Register and that complies with the requirements of Part 2 of the Act.

3. Exemption Applications

Section 22 of the Act provides for a swimming pool owner to make application to Council for an Exemption from all or any of the requirements of Part 2 of the Act, in certain circumstances. On receipt of an application and the appropriate fee, Council will undertake an inspection of the swimming pool. After determination of the Exemption Application, where further works are necessary to make the swimming pool barrier compliant, Council will issue a Notice of Proposed Direction to the swimming pool owner.

4. Other inspections at request of owner

Section 22C of the Act provides for a swimming pool owner to make application to Council for an inspection, which includes advice about swimming pool compliance. On receipt of an application and payment of the inspection fee, an inspection of the swimming pool will be undertaken. Where a defective barrier is identified, a Notice of Proposed Direction will be issued to the swimming pool owner.

5. Notices issued by an Accredited Certifier

Section 22E of the Act requires that an Accredited Certifier must provide a Notice to the owner of a swimming pool after inspection, if not satisfied that the swimming pool is compliant. A copy of the Notice is required to be provided to Council. On receipt of a notification from an Accredited Certifier, a written request will be forwarded to the owner of the swimming pool to arrange access for an inspection to be undertaken and payment of the inspection fee in accordance with Section 22F of the Act. Where a defective barrier is identified, a Notice of Proposed Direction will be issued to the swimming pool owner.

6. The development certification role and Building Certificate applications

Where Council is engaged as a Certifier and/or on receipt of an application for a Building Certificate for a property which has a swimming pool, arrangements will be made with the swimming pool owner for an inspection to be undertaken of the swimming pool. Where a defective barrier is identified, a Notice of Proposed Direction will be issued to the swimming pool owner.

7. Tourist and visitor accommodation or premises with more than two dwellings

‘Tourist and visitor accommodation’ means a building or place that provides temporary or short term accommodation on a commercial basis and includes any of the following; backpacker’s accommodation, bed and breakfast accommodation, farm stay accommodation, hotel or motel accommodation, service departments, but does not include camping grounds, caravan parks or eco tourist facilities.

‘Dwelling’ means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. Premises containing more than two dwellings would include a residential flat building, town houses, villas or the like.

These categories of premises are to be inspected at least once every three years. A written request will be forwarded to the owner of the swimming pool to arrange access for an inspection to be undertaken and payment of the inspection fee in accordance with Section 22F of the Act. Where a defective barrier is identified, a Notice of Proposed Direction will be issued to the swimming pool owner.

8. Random audit

Where inspection resources permit, the swimming pool register will be reviewed to identify swimming pools where there is not a valid Certificate of Compliance or a relevant Occupation Certificate in existence and Council has not carried out an inspection of the swimming pool in the past 5 years. A written request will be forwarded to the owner of the swimming pool to arrange access for an inspection to be undertaken and payment of the inspection fee in accordance with Section 22F of the Act. Where a defective barrier is identified, a Notice of Proposed Direction will be issued to the owner of the swimming pool.

➤ **Notice of Proposed Direction**

Where a defective swimming pool barrier has been identified, the non-compliant aspects will be notified to the swimming pool owner, initially as a Notice (covering letter) with a copy of a draft Direction. The purpose of the Notice is to encourage the swimming pool owner to bring the swimming pool into compliance with the Act, before a formal Direction is subsequently issued. After a period of fifteen (15) days from the issue of the Notice, Council will forward the final Direction to the swimming pool owner. The Direction is a legally enforceable document and provides the swimming pool owner with a right of appeal to the Land and Environment Court.

After the time period for compliance with the Direction has expired, a reinspection of the swimming pool would be carried out by Council to determine if compliance has been achieved. Given the safety issues, any failures to comply would result in Council seeking legal enforcement of the Direction through an application to the Land and Environment Court.

➤ **Inspection and re-inspection fees**

Section 22F of the Act allows Council to charge an inspection fee for all inspections carried out under Division 5 of the Act.

An initial inspection fee will be payable by the swimming pool owner at the time of making an application or request to Council for an inspection of a swimming pool. An application will not be taken as being lodged until payment of the application fee has been received by Council.

Where Council has initiated the need for an inspection in accordance with this program, other than for a complaint, an invoice will be forwarded to the owner of the swimming pool.

Where a re-inspection is necessary, a once only re-inspection fee will be payable by the swimming pool owner. In such cases, Council will issue an invoice to the swimming pool owner.

All inspection fees will be charged in accordance with the Council's schedule of fees and charges.

➤ **Penalty Infringement Notices**

There are a range of Penalty Infringement Notices (on the spot fines) that will be issued by Council for non-compliance with the requirements of the Act. Such penalties are not used as an initial response by Council but rather as a deterrent for continued failure to comply. Any fines collected through this process will be directed towards the funding of this swimming pools inspection program.

C11.5	Adoption of amendments to Appendix 8 of the Pittwater 21 DCP - Flood Risk Management Policy for Development in Pittwater
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Meeting: Leading & Learning Committee

Date: 21 October 2013

STRATEGY: Disaster, Emergency and Risk Management
Land Use and Development

ACTION: Develop plans to mitigate/control, wherever possible, risks associated with hazards
Implement and periodically review plans to mitigate/control wherever possible, risks associated with natural hazards

PURPOSE OF REPORT

1. To ensure compliance with the NSW Government Flood Prone Land Policy and accompanying Floodplain Development Manual (2005)
2. To provide Council with the results of the public exhibition of Appendix 8 of the Pittwater 21 DCP – Flood Risk Management Policy for Development in Pittwater,
3. To recommend the adoption of the changes to the Flood Risk Management Policy for Development in Pittwater.

1.0 BACKGROUND

1.1 NSW Government Flood Prone Land Policy and Floodplain Development Manual (2005)

Under the NSW Government's Flood Prone Land Policy, management of flood prone land is primarily the responsibility of Councils. The primary objectives of NSW Government Flood Prone Land Policy are to:

- reduce impact of flooding on owners and occupiers of flood prone property;
- reduce existing and future private and public losses resulting from floods;

The NSW Government's Floodplain Development Manual (April 2005) details the Flood Prone Land Policy and establishes the Floodplain Risk Management Process followed by Council. Provided Councils utilise the framework provided by the Floodplain Risk Management Process and they have acted in good faith, Councils can receive indemnity under Section 733 of the Local Government Act, 1993.

This responsibility extends to preparing Flood Studies and Floodplain Risk Management Studies and implementing Floodplain Risk Management Plans. Management actions include applying flood-related planning controls, raising flood awareness and supporting flood emergency responses.

Council's flood-related planning controls, including the Flood Risk Management Policy for Development in Pittwater, are contained in Pittwater 21 Development Control Plan (DCP). The key outcomes of the Pittwater Flood Risk Management Policy are as follows:

- protection of people;
- protection of the natural environment;
- protection private and public infrastructure and assets

1.2 **Proposed amendment to Pittwater 21 DCP Appendix 8 — Flood Risk Management Policy for Development Types of Flooding in the Local Government Area**

The Pittwater 21 DCP Appendix 8 — Flood Risk Management Policy for Development was updated to reflect the new definitions of overland flow path – major and overland flow path – minor.

During the finalisation of the Pittwater Overland Flow Mapping and Flood Study, the definitions of overland flow path – major and overland flow path – minor were changed in order to make it easier for the community to understand. The definitions now only relate to the predicted depth of floodwaters, as opposed to the impact of velocity and hazard.

The new definitions as stated in the Pittwater 21 DCP Appendix 8 — Flood Risk Management Policy for Development are as follows:

- Overland Flow Path – Major – is defined as any land that has a 1% AEP peak flood depth of overland flow greater than 0.3m
- Overland Flow Path – Minor – is defined as any land that has a 1% AEP peak flood depth of overland flow greater than 0.15m and less than 0.3m.

2.0 **ISSUES**

2.1 **Statutory Exhibition and Community Consultation**

At the meeting of 6 May 2013 Council resolved that the proposed amendments to Pittwater 21 DCP Appendix 8 — Flood Risk Management Policy for Development in Pittwater be placed on statutory public exhibition for a minimum 28 days with submissions invited from the community.

The Flood Risk Management Policy for Pittwater – Appendix 8 of Pittwater 21 DCP was placed on exhibition for 28 days, with the exhibition period formally closing on Monday 17 June 2013. An advertisement was placed in the Manly Daily inviting residents to view the proposed changes to the Flood risk management Policy for Pittwater and make a submission. Copies of the proposed amendments to the policy were available for public inspection through displays at Council offices, libraries, and the Pittwater website.

2.2 **Outcomes of the Public Exhibition – Appendix 8 for Pittwater 21 DCP – Flood Risk Management Policy for Pittwater**

No submissions were received during the exhibition period of the Flood Risk Management Policy for Pittwater.

In accordance with Environmental Planning and Assessment Regulation 2000, after considering any submissions about the draft development control plan that have been duly made, the Council may:

- (a) approve the plan in the form in which it was publicly exhibited, or
 - (b) approve the plan with such alterations as the council thinks fit, or
 - (c) decide not to proceed with the plan.
- The Council must give public notice of its decision in a local newspaper within 28 days after the decision is made.
 - Notice of a decision not to proceed with a development control plan must include the Council's reasons for the decision.
 - A development control plan comes into effect on the date that public notice of its approval is given in a local newspaper, or on a later date specified on the notice.

Council is now in receipt of the amended Flood Risk Management Policy for Development in Pittwater (**Attachment 1**).

2.3 Forward Path – Appendix 8 of Pittwater 21 DCP – Flood Risk Management Policy for Development in Pittwater

It is recommended that Council adopt the recommended changes to the Flood Risk Management Policy for Development in Pittwater.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

The overarching aims of this project have been to:

- increase safety for residents and businesses during large flood events;
- increase the community's resilience and reduce the social dislocation that can be caused by large flood events.

3.2 Valuing & Caring for our Natural Environment (Environmental)

The Flood Risk Management Policy for Pittwater – Appendix 8 of Pittwater 21 DCP aims to provide suitable provisions to ensure the risk to property and the protection of the natural environment is achieved within Pittwater. The updates to this policy ensure best practice in environmental management with respect to flood risk can be achieved.

3.3 Enhancing our Working & Learning (Economic)

One of the key outcomes of the NSW Government Flood Prone Land Policy and espoused in Council's Flood Risk Management Policy is the 'protection of private and private infrastructure and assets'. By ensuring that properties impacted by flooding are identified, and that there are adequate flood-related development controls in place, this will reduce future flood damages across the whole of the Pittwater community.

3.4 Leading an Effective & Collaborative Council (Governance)

The review of Council's policy has been carried out in accordance with the NSW Flood Prone Land Policy and accompanying Floodplain Development Manual. This can provide Council with indemnity under Section 733 of the Local Government Act.

3.5 Integrating our Built Environment (Infrastructure)

The update of the policy relating to development within flood risk areas to account for the updated definitions of overland flow path – major and minor, properties impacted by flooding can ensure a suitable flood compatible design is used which aims to reduce future damages when flooding occurs.

4.0 EXECUTIVE SUMMARY

4.1 The NSW Government Flood Prone Land Policy highlights that the primary responsibility for floodplain risk management rests with Local Councils. The NSW State Government has prepared the *Floodplain Development Manual* (2005) in accordance with its Flood Prone Land Policy to guide Local Councils in the management of their flood risks.

The Floodplain Development Manual states that both 'mainstream' flooding and 'overland' flooding should be considered together in floodplain risk management.

Provided Councils utilise the framework provided by the Floodplain Development Manual, and they have acted in good faith, Councils can provide themselves with indemnity under Section 733 of the Local Government Act, 1993.

4.2 The draft changes for the Flood Risk Management Policy for Development in Pittwater – Appendix 8 of Pittwater 21 Development Control Plan were exhibited for 28 days from 18 May to 17 June 13, no submissions were received during the exhibition period.

RECOMMENDATION

1. That the new version of Appendix 8 of Pittwater 21 Development Control Plan – Flood Risk Management Policy for Development in Pittwater as per **Attachment 1** be adopted and replace the current version.
2. That a public notice of the decision to approve the amendment to Pittwater 21 Development Control Plan – Appendix 8 – Flood Risk Management Policy for development in Pittwater be placed in the Manly Daily in accordance to the EP&A Regulation 2000.
3. That a copy of Pittwater 21 Development Control Plan as amended be forwarded to the Director-General of the Department of Planning, pursuant to section 25AB of the EP&A Regulation 2000.
4. That the changes to Pittwater 21 Development Control Plan be notified on the Pittwater website.

Report prepared by
Melanie Schwecke, Project Leader – Water Management

Jennifer Pang
MANAGER – CATCHMENT MANAGEMENT AND CLIMATE CHANGE

PITTWATER 21 DEVELOPMENT CONTROL PLAN

Appendix 8

Flood Risk Management Policy for Development in Pittwater

October 2013

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1.0 INTRODUCTION

The Flood Risk Management Policy for Development in Pittwater (the Policy) establishes the flood risk management approach for development or activities on land affected by flooding within the Pittwater Local Government Area (LGA).

At the strategic level, it enables the consideration of social, economic, ecological, cultural and flooding issues to determine actions for **strategic management** of flood risk, through the formulation and implementation of Floodplain Risk Management Plans.

At the property-specific level, the Policy sets **development controls**, such as minimum floor levels, building location within the site, structural stability, and flood proofing etc. to manage flood risk.

2.0 THE POLICY STATEMENT

Development must be undertaken in accordance with the acceptable risk management criteria defined in this document for a design project life, taken to be 100 years, unless otherwise justified by the applicant and acceptable to Council. These criteria are based on those contained in the NSW Government Floodplain Development Manual (April 2005), and Planning Circular PS07-033 (January 2007) which supports the NSW Government's Flood Prone Land Policy.

The primary method of flood risk management for development in the Pittwater LGA is through the application of development controls under Part 4 and environmental assessment under Part 5 of the Environmental Planning and Assessment Act 1979 (EP&A Act) (a Part 5 Assessment). A flood risk management review may also be generated by an application for a Building Certificate for any development on lands that have been identified as being flood prone.

Once the flood risk management measures have been identified on the land, it is the owner's responsibility to ensure that these measures are properly maintained for the design project life of the development.

3.0 OBJECTIVES

The objectives of this Policy are:

- (a) to ensure that flood processes (affecting development or likely to be affected by development) are adequately investigated and documented by applicants or proponents of activities prior to the lodgement of any development application or Part 5 Assessment to carry out any development/activity subject to this Policy, or wherever an application is lodged for a Building Certificate; and
- (b) to establish whether or not the proposed development or activity is appropriate to be carried out having regard to the results of flooding investigations; and
- (c) to ensure effective controls exist to guarantee that a development is carried out in accordance with the requirements of this policy; and
- (d) to ensure that the preparation of flood related information and certificates required to be lodged by this Policy are carried out by suitably qualified professionals with appropriate expertise in the applicable areas of engineering; and
- (e) that developments are only carried out if flood processes and related structural engineering risks are identified and can be effectively addressed and managed for the life of the development at an acceptable level of risk.

4.0 APPLICATION OF THIS POLICY

- a) The **strategic management** component of this Policy relates to all people, private and public companies, public authorities, whom interact, practise, reside, or own assets within flood prone land in the Pittwater LGA, and Council in its management of its flood prone lands.

The **development controls** in this Policy address both flood and structural engineering requirements relating to flood issues only. (Separate structural requirements will also apply to the erection of any structure in accordance with the Building Code of Australia (BCA) and best engineering practice).

- b) The development controls apply to each of the following:
- (i) Land identified on Council's Flood Hazard Maps
 - (ii) Utility companies, public authorities or their agents, where designing and undertaking works within the Pittwater LGA that may be affected by flood processes, or which may impact upon flood processes.
 - (iii) Development Applications that include properties not identified on the Flood Hazard Map but lie within 10m from the bank or edge of a major drainage system, creek, local overland flooding area, overland flowpath or drainage easement.

5.0 DEFINITIONS

5.1 Definitions

Note: For an expanded list of definitions, refer to:

- (i) *the Glossary contained within the NSW Government Floodplain Development Manual – April 2005 edition.*
- (ii) *Pittwater 21 Development Control Plan.*

Annual Exceedance Probability (AEP) - The chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage. The 1% AEP means that there is a 1% chance (that is, one-in-100 chance) of the corresponding flood discharge or larger occurring in any one year. In relation to the economic life of structures, there is a 26% chance of the 1% AEP event occurring in a 30 year period, a 40% change of occurrence in a 50 year period and a 63% chance within a 100 year period.

Architect – An architect who is a Registered Architect with The Royal Australian Institute of Architects, with at least 5 years of relevant professional experience, and has an appropriate level of professional indemnity insurance.

Average Recurrence Interval (ARI) – The long-term average number of years between the occurrence of a flood as big as or larger than a particular flood. ARI is an alternative to AEP to express the likelihood of occurrence of a flood event. For example, a 100 year ARI will occur, on average, every 100 years.

Australian Height Datum (AHD) - A common national surface level datum approximately corresponding to mean sea level. All flood levels and ground levels are quoted based on Australian Height Datum.

Australian Rainfall and Runoff – A Guide to Flood Estimation – published by the Institution of Engineers, Australia (1998).

Basement Carpark - Carpark set below natural ground level.

Carport – Carport structure having at least one side open to allow the ingress of water.

Council's Web Site – www.pittwater.nsw.gov.au

First Floor Additions - The next building level above the Ground Floor.

Flood Advice for Property – Refers to the information available from the 'Flood and Estuarine Levels Tool' on Council's Web Site for each Flood Affected Property in Pittwater and may include levels for the 1% AEP flood, the Probable Maximum Flood (PMF) and the Flood Planning Level, together with the Flood Category, Provisional Flood Hazard Classification and flood velocities for the 1% AEP flood and the PMF.

Flood Affected Properties - Properties on land susceptible to flooding up to the Probable Maximum Flood.

Flood Category - The three Flood Category Areas within the Pittwater LGA are determined as follows:

- **Flood Category 1 Areas-** Properties identified on the Flood Hazard Maps and located within Primary Floodplain Areas where the lowest point of the property is affected by the Flood Planning Level (FPL) (1% AEP flood level plus 500mm Freeboard). *Flood Category 1 areas are further defined under flood hazard subcategories.*
- **Flood Category 2 Areas-** Properties identified on the Flood Hazard Maps where the lowest point of the property lies above the Flood Planning Level but below the level of the Probable Maximum Flood.
- **Flood Category 3 Areas-** Properties generally located outside or adjacent to the Primary Floodplain Areas that are affected by flooding hazards associated with major stormwater drainage systems, local overland flow paths or drainage easements. *Flood Category 3 Areas are further defined under the subcategories of Overland Flow Path – Major and Overland Flow Path – Minor.*

Flood Hazard – Flood Hazard is a term used to determine the safety of people and property and is based on a combination of flood depth (above ground level) and flood velocity for a particular sized flood. Flood Hazard is classified as either Low Hazard or High Hazard.

In **High Flood Hazard** areas, there is a possible danger to personal safety, able-bodied adults would have difficulty wading and there is the potential for significant structural damage to buildings. In **Low Flood Hazard** areas, able-bodied adults would have little difficulty wading and nuisance damage to some structures would be possible.

The method for determining Provisional Low and High Hazard Categories is outlined in the NSW Government's Floodplain Development Manual (2005)(the Manual). Figures from The Manual have been reproduced in this Policy as Figures 1 and 2. Figure 1 shows approximate relationships between depth and velocity of floodwaters and the resulting risks. The information shown on Figure 1 has been used to determine the Provisional Low and High Hazard Categories shown on Figure 2.

Flood Hazard Classification – Council can apply either a Low Flood Hazard Classification or a High Flood Hazard Classification:

- (High Hazard)-some part of the property is subject to High Flood Hazard in a 1% AEP flood;
- (Low Hazard)-no part of the property is subject to High Flood Hazard in a 1% AEP flood;

The Flood Hazard Classification is determined using the method for calculating 'Provisional Hydraulic Hazard Categories' outlined in the NSW Government's Floodplain Development Manual, as shown on Figure 2. The 'Transition Zone' shown on Figure 2 is considered to be High Hazard in Pittwater. The 1% AEP flood is used to determine Council's Flood Hazard Classification. The term 'Undefined Hazard' is used for Category 1 Properties where the Flood Hazard Classification has not been determined.

Flood Level – the height of a flood quoted to Australian Height Datum (AHD). The depth of floodwaters as a particular location can be calculated by the difference between the flood level (height of a flood) (in AHD) and the ground level (in AHD).

Flood Hazard Maps – Maps that depict Flood Categories and Hazard Classifications for all identified properties within the Pittwater LGA. The maps form part of the Pittwater 21 Development Control Plan and are available on Council's Web site.

Flood Planning Level (FPL) - Flood levels selected for planning purposes, as determined in Floodplain Risk Management Studies and incorporated in Floodplain Risk Management Plans. For Pittwater, from the Flood Planning Level is the 1% AEP flood level, plus the addition of a Freeboard (refer Figures 3 and 4) as follows:

- a) For Flood Categories 1 and 2 – 500mm Freeboard
- b) For Flood Category 3 – Overland Flow Path - Major – 5m horizontal buffer, with minimum floor level to be at or higher than 500mm above the 1% AEP plus the 5m horizontal buffer
- c) For Flood Category 3 – Overland Flow Path - Minor – no Flood Planning Level but minimum floor level to be at or higher than 300mm above the 1% AEP

Flood Prone/Liable Land - Land susceptible to flooding up to Probable Maximum Flood (PMF) event.

Flood Proofing – Dry - Measures that protect a building from the entry of floodwaters by sealing a building's exterior walls and other floodwater entry points.

Flood Proofing – Wet - A combination of measures incorporated into the design, construction and/or alteration of buildings, structures and surrounds, to enable a building or structure to withstand forces due to floodwater ingress and passage, whilst remaining structurally sound, to mitigate flood damages.

Flood Risk Management Report - A technical report of adequate qualitative and quantitative detail addressing the management of flood risk, *emergency response* and other criteria (where applicable) as it affects the subject property and its surrounds within the floodplain. The report is to be prepared by a suitably qualified Water Engineer and in conjunction with a Structural Engineer (where necessary) to satisfy the requirements as set out by this Policy.

Flood Storage Area - Those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of a flood. The extent and behaviour of flood storage areas may change with flood severity, and loss of flood storage can increase the severity of flood impacts by reducing natural flood attenuation.

Flood Study – A technical study that defines the nature and extent of the flood problem, including flood flows, flood depths, flood hazards, flood extents, flood behaviour and other flood risks.

Flood Velocity – The speed of floodwaters, usually quoted in metres per second (m/s). A flood velocity of 2m/s (about 7km/h) relates to a High Flood Hazard regardless of the depth of the floodwaters.

Floodplain Risk Management Study and Plan – A study, which follows the Flood Study that determines and considers options and measures to manage the flood risk, taking into account social, economic and ecological factors. The Floodplain Risk Management Plan publicly exhibits the preferred options and measures and is formally adopted by Council after public exhibition (incorporating any necessary revisions due to public comments).

Floodplain Volume – The volume of water (in cubic metres) occupied by a flood over a particular area.

Floodway - Those areas of the floodplain where a significant discharge of water occurs during floods and are often aligned with naturally defined channels. Floodways are areas that, even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels.

Freeboard - The factor of safety usually expressed as a height above a particular flood level. Freeboard tends to compensate for factors such as wave action, localised hydraulic effects and sensitivity of flood modelling data.

Local Overland Flooding - Inundation by local run-off rather than overbank discharge from a creek, estuary or lake.

Major Drainage System - The major drainage system conveys stormwater flow from major catchments and may involve:

- The floodplains of original watercourses (which may now be piped, channelised or diverted), or sloping areas where overland flows develop along alternative paths once system capacity is exceeded; and/or
- Water depths generally in excess of 300mm in a 1% AEP design storm (as defined in Australian Rainfall and Runoff — A Guide to Flood Estimation). These conditions may result in risks to personal safety and/or property damage to assets; and/or
- Major overland flowpaths through developed areas outside of defined drainage systems.

Minimise Risk - It is recognised that, due to the many complex factors that can affect a site within the floodplain, the flood risk for a site and/or development cannot be completely removed. It is, however, essential that risk be minimised to at least that which could be reasonably anticipated by the community in everyday life. Further, landowners should be made aware of the reasonable and practical measures available to them to minimise risk as far as possible. Hence where the Policy requires that “an acceptable level of risk “be achieved or where measures are to be taken to “minimise risk” it refers to the process of risk reduction. The Policy recognises that development within a risk-managed floodplain does not lead to complete risk removal as this is not meaningfully achievable.

Open Carpark Areas – Carparking facilities that are not enclosed so as to allow the free flow of floodwaters.

Overland Flow Path – Major - *is defined as any land that has a 1% AEP peak flood depth of overland flow greater than 0.3m.*

Overland Flow Path – Minor - *is defined as land that has a 1% AEP peak flood depth of overland flow greater than 0.15m and less than 0.3m.*

Probable Maximum Flood (PMF) - The largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation. (refer Figures 3 and 4)

Primary Floodplain Areas - Identified flood prone areas within the catchments of: Narrabeen Lagoon (foreshore), Nareen Creek (North Narrabeen), Warriewood Valley, Mona Vale/Bayview, Newport Beach, Careel Creek(Avalon), and Great Mackerel Beach.

Special Flood Protection Land Use – Includes land uses that would be particularly vulnerable during a flood. Special Flood Protection Land Use includes Seniors Housing – SEPP (Seniors Living) 2004, child care facilities, hospitals, nursing homes, and educational facilities.

Structural Engineer - A structural engineer who is a registered professional engineer with chartered professional status (CP Eng) with structural engineering as a core competency, and has an appropriate level of professional indemnity insurance.

Water Engineer - A civil or environmental engineer who is a registered professional engineer with chartered professional status (CP Eng) specialising in the field of hydrology/hydraulics, as it applies to floodplain management, and has an appropriate level of professional indemnity insurance.

5.2 Figures – Diagrammatic Representation of Hazard Classification.

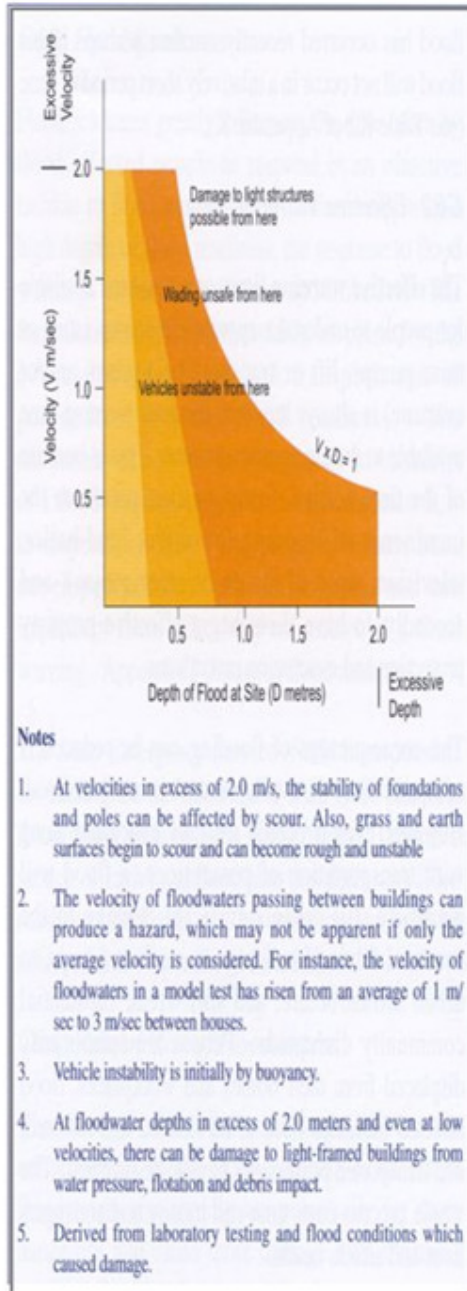


Figure 1: Depth versus Velocity Relationships and Resulting Flood Risk

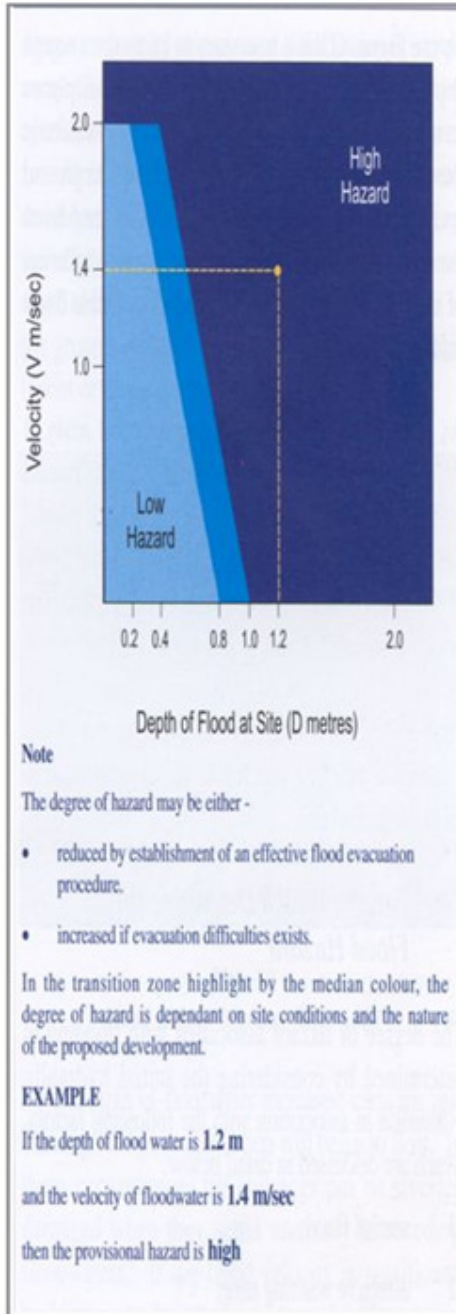


Figure 2: Provisional Flood Hazard Categories – used to determine Council's Flood Hazard Classification

(Source: Floodplain Development Manual (NSW Government, 2005))

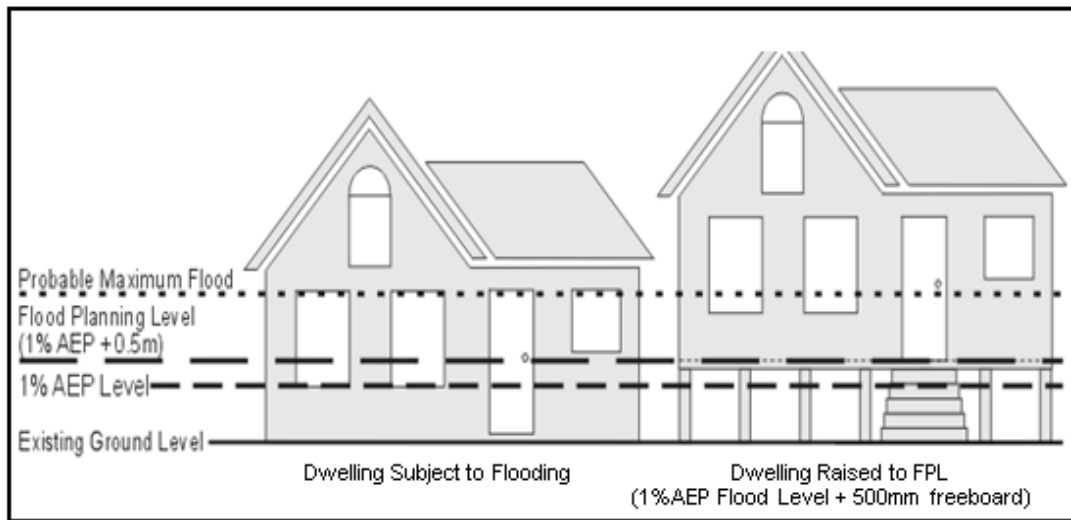


Figure 3: Diagrammatic Representation of Flood Levels – Property in Floodplain – Flood Category 1 (Not to Scale)
 — lowest point of the property is affected by the Flood Planning Level (FPL).

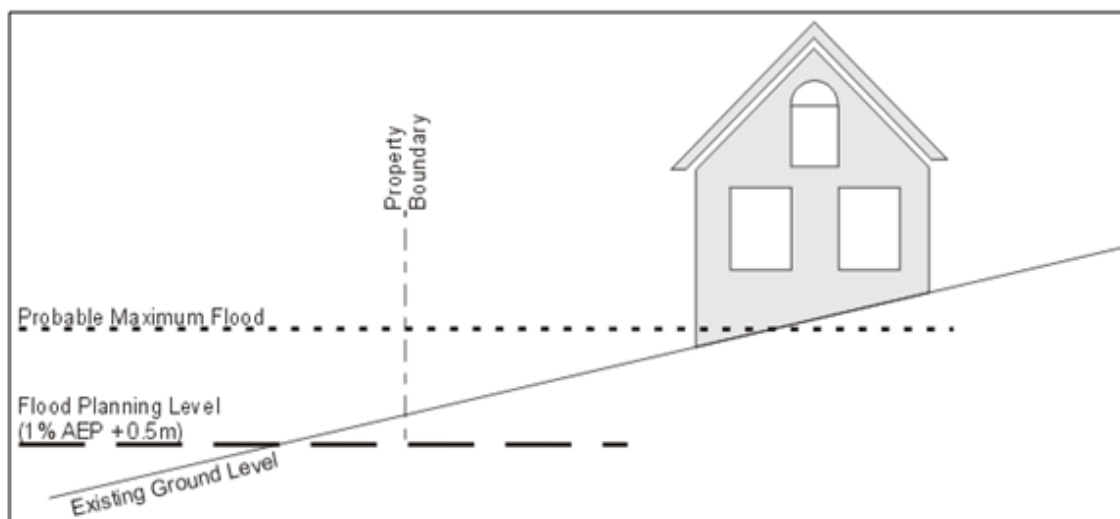


Figure 4: Diagrammatic Representation of Flood Levels – Property in Floodplain – Flood Category 2 (Not to Scale)
 — lowest point of the property lies above the Flood Planning Level (FPL) but below the level of the Probable Maximum Flood (PMF).

6.0 FLOOD INFORMATION

6.1 Council Held Flood Information

Flood information is available from Council as follows:

(i) Flood Hazard Maps – available from Council's website

Properties defined as being flood affected have been mapped for Pittwater LGA's floodplain areas:

- Narrabeen Lagoon (foreshore)
- Nareen Creek – North Narrabeen
- Mona Vale/Bayview
- Newport Beach
- Careel Creek - Avalon
- Great Mackerel Beach
- Warriewood Valley
- *Overland Flow*

For the purposes of flood planning, the mapping of flood affected properties is defined in the following way:

- **Flood Category 1 Areas-** Properties identified on the Flood Hazard Maps and located within Primary Floodplain Areas where the lowest point of the property is affected by the Flood Planning Level (FPL), (1% AEP flood level plus 500mm freeboard). Within Flood Category 1 areas, a Flood Hazard Classification of **high hazard** and **low hazard** areas is assigned for planning purposes.
- **Flood Category 2 Areas-** Properties identified on the Flood Hazard Maps where the lowest point of the property lies above the Flood Planning Level but below the level of the Probable Maximum Flood.
- **Flood Category 3 Overland Flow Path – Major Areas-** Properties identified on the Flood Hazard Maps that have a 1% AEP peak flood depth of overland flow greater than 0.3m.
- **Flood Category 3 Overland Flow Path – Minor Areas-** Properties identified on the Flood Hazard Maps that have a 1% AEP peak flood depth of overland flow greater than 0.15m and less than 0.3m.
- **Warriewood Valley -** Flood-properties within the Warriewood Valley land release subject to the Warriewood Valley Water Management Specification.

Some properties may be affected by more than one Flood Category. If this occurs, the Flood Category that takes precedence for the purposes of satisfying the development controls is as follows:

- *Flood Category 1 (all subcategories) takes precedence over Flood Category 3 (all subcategories) and only Flood Category 1 development controls need to be satisfied.*
- *Flood Category 3 (all subcategories) (for Dwelling House, Secondary Dwelling, Dual Occupancy, and Multi-Unit Housing Development) takes precedence over Flood Category 2 (for Dwelling House, Secondary Dwelling, Dual Occupancy, and Multi-Unit Housing Development) and only Flood Category 3 development controls need to be satisfied.*
- *Flood Category 2 (all Development **except** Dwelling House, Secondary Dwelling, Dual Occupancy, and Multi-Unit Housing Development) takes precedence over Flood Category 3 – Overland Flow Path – Minor for floor levels of Special Flood Protection uses only. Both Flood Category 2 and Flood Category 3 – Overland Flow Path – Minor development controls need to be satisfied.*

Applicants will need to seek their own professional advice to determine flood levels and flood hazards for these areas.

Council progressively updates further detailed mapping for all flood affected properties as the information becomes available.

(ii) Flood and Estuarine Enquiry Service (Flood Advice for Property) – available from Council's website

Flood Advice for Property information for individual land identified on the Flood Hazard Maps is available on Council's web site, using the 'Flood and Estuarine Levels Tool'.

Applicants may also seek their own professional advice on flood levels. For land of a complex nature in terms of topography or existing development, applicants may also need to seek their own professional advice.

Council is progressively seeking the best available flood information through the process of updating of its flood studies using the latest technology and improved survey data. This will enable the database to be reviewed and updated, as required, to reflect the most up to date outcomes and best available information.

(iii) Flood Studies, Floodplain Risk Management Studies and Plans – available from Council's Library

There are various Flood Studies, Floodplain Risk Management Studies and Flood Risk Management Plans adopted by Council for the Primary Floodplain Areas in the Pittwater LGA. A number of new documents are also in preparation as well as further updates to existing documents to incorporate latest technology for flood assessments, improved survey data, changes within the floodplain, and other information that was not previously available for the original studies.

(iv) NSW Government Floodplain Development Manual (April 2005) – available from Council's Library.

6.2 Council Issued Certificates Under Section 149, EP&A Act

Council issues Section 149 certificates under the Environmental Planning and Assessment Act 1979 [Clause 279 and Schedule 4(7A) of the Regulations to the EP&A Act]. The primary function of the Section 149 Certificate Notation is as a planning tool for notification that the land is affected by a policy that restricts development due to the likelihood of a risk, in this instance, flood hazard.

Part of Council's statutory responsibility is to update Section 149 Certificates as new information, that poses a risk to the community, becomes available.

6.3 Independently Derived Flood Information

Independent flood information may be sought from a suitably qualified Water Engineer, at the expense of the individual applicant, in relation to any of the information currently available from Council, or on information not currently provided by Council.

It is the responsibility of the applicant to submit the independent flood information and assessment to Council in the form of a technical Flood Risk Management Report of adequate qualitative and quantitative detail addressing flood level information, the management of flood risk and other criteria (where applicable) as it affects the subject land and its surrounds.

6.4 Independently Derived Flood Information

Independent flood information may be sought from a suitably qualified Water Engineer, at the expense of the individual applicant, in relation to any of the information currently available from Council, or on information not currently provided by Council.

7.0 FLOOD RISK MANAGEMENT MEASURES

The management of flooding and its impacts in the Pittwater Local Government Area is undertaken through the implementation of Flood Risk Management Measures as developed within Floodplain Risk Management Plans.

These measures can apply broadly to all flood prone land in Pittwater and have specific requirements for the individual floodplain areas as detailed in the individual Floodplain Risk Management Plans.

The Floodplain Risk Management Plans, as they are developed for each catchment, will provide specific implementation strategies for each floodplain.

Examples of Flood Risk Management measures are as follows:

(i) Property Modifications Measures

- Identification of flood affected properties through the production and implementation of the Flood Hazard Maps (also referred to as Flood Affected Property Maps).
- Section 149 Certificate notations for flood affected properties.
- Development Controls through Pittwater 21 Development Control Plan and this Policy.

(ii) Community Awareness and Emergency Response Measures

- Provision of Flood Level information to property owners and prospective purchasers.
- Community Flood Information through media releases, Information Brochures and Workshops.
- Assist combat agencies (such as the State Emergency Service) in Emergency Response Management through emergency planning.

(iii) Flood Modification Works

- Implementation of flood modification works (e.g. detention basins, levees, drainage amplifications etc.) as developed within specific Floodplain Risk Management Plans, depending on the availability of Council funding and resources.

C11.6	Final Adoption of the Careel Creek (Avalon) Catchment Flood Study
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Meeting: Leading & Learning Committee

Date: 21 October 2013

STRATEGY: Disaster, Emergency and Risk Management
Land Use and Development

ACTION: Develop plans to mitigate/control, wherever possible, risks associated with hazards
Progress and implement program for flood risk management studies
Implement and periodically review plans to mitigate/control wherever possible, risks associated with natural hazards

PURPOSE OF REPORT

1. To ensure compliance with the NSW Government Flood Prone Land Policy and accompanying Floodplain Development Manual (2005)
2. To provide Council with the results of the public exhibition of the Draft Careel Creek (Avalon) Catchment Flood, including a comprehensive list of submission received by Council
3. To recommend the adoption of the Final Careel Creek (Avalon) Catchment Flood Study.

1.0 BACKGROUND

1.1 NSW Government Flood Prone Land Policy and Floodplain Development Manual (2005)

Under the NSW Government's Flood Prone Land Policy, management of flood prone land is primarily the responsibility of Councils. The primary objectives of NSW Government Flood Prone Land Policy are to:

- reduce impact of flooding on owners and occupiers of flood prone property;
- reduce existing and future private and public losses resulting from floods;

The NSW Government's Floodplain Development Manual (April 2005) details the Flood Prone Land Policy and establishes the Floodplain Risk Management Process followed by Council. Provided Councils utilise the framework provided by the Floodplain Risk Management Process and they have acted in good faith, Councils can receive indemnity under Section 733 of the Local Government Act, 1993. The Policy specifies a staged process:

- Establish a Floodplain Working Group – *Careel Creek Floodplain Working Group*
- Data Collection – *Completed – integrated into flood study*
- Flood Study – *in Draft awaiting Final adoption by Council*
- Floodplain Risk Management Study – *Grant funding has been sought from the state government*
- Floodplain Risk Management Plan Study – *Grant funding has been sought from the state government*
- Implementation of the Floodplain Risk Management Plan

This responsibility extends to preparing Flood Studies and Floodplain Risk Management Studies and implementing Floodplain Risk Management Plans. Management actions include applying flood-related planning controls, raising flood awareness and supporting flood emergency responses.

Council's flood-related planning controls, including the Flood Risk Management Policy for Development in Pittwater, are contained in Pittwater 21 Development Control Plan (DCP). The key outcomes of the Pittwater Flood Risk Management Policy are as follows:

- protection of people
- protection of the natural environment
- protection private and public infrastructure and assets.

The Careel Creek Floodplain Working Group has been set up to satisfy the first stage of Floodplain Risk Management Process. Pittwater Council has followed this process for the Careel Creek catchment in order to manage the risk from flooding and is currently nearing completion of the Flood Study phase.

1.2 Types of Flooding in the Local Government Area

Flooding is defined as all types of inundation including the overtopping of natural or artificial banks of streams, rivers, estuaries, lakes or dams (i.e. mainstream flooding) and overland flooding, tidal flooding and coastal inundation from raised sea levels. The Floodplain Development Manual recognises that both 'mainstream' flooding and 'overland' flooding should be considered together in floodplain risk management.

The Draft Careel Creek Flood Study (2013) has identified properties affected by 3 types of flooding:

1. Fluvial flooding from Careel Creek,
2. Tidal flooding from Pittwater Estuary and
3. Flooding from Overland Flow Paths.

1.3 Previous flood Studies and flooding in the Careel Creek Catchment

In 1999 a Drainage Catchment Flood Study was completed by Lawson and Treloar and a Floodplain Risk Management Study was completed in 2000, followed by the Floodplain Risk Management Plan in 2002. A Blockage and Development Scenarios Floodplain Modelling Study in 2005 to determine the effect that culvert blockage and increased development could potentially have on the flood behaviour within the Careel Creek catchment.

Pittwater Council has updated the 1999 Careel Creek Drainage Catchment Flood Study, which is now more than 13 years old. The updated Careel Creek Catchment Flood Study has been carried out by flood specialist consultants WMAwater.

The updated flood study utilises the most up-to-date topographical data and floodplain modelling techniques and identifies the flood risk of the current catchment conditions, the potential impacts of climate change and flooding from overland flow paths.

In the past, flooding in the Careel Creek catchment has caused property damage and posed a hazard to people around the Avalon shops. There have been several recorded instances of flood-producing storms in the Careel Creek Catchment, including those that occurred in 1973, 1975, 1984, 1987, 1989, 1990, 1997, 1998 and 2008.

2.0 ISSUES

2.1 Methodology

In accordance with the Floodplain Development Manual, Council is completing the Careel Creek (Avalon) Catchment Flood Study Update (with WMA Water). This study used two-dimensional (2-D) hydraulic computer modelling to calculate flood levels, flood depths, flow velocities, flood hazard, and hydraulic categories for a range of design flood events within the Careel Creek (Avalon) Catchment up to the Probable Maximum Flood (PMF), this included overland flow paths. The impacts of climate change were also analysed.

Using the results from this study, flood hazard maps, flood levels and velocities and Flood Planning Levels were calculated for each property in the Careel Creek catchment to be used in the development assessment process.

Following the public exhibition of the Draft Careel Creek (Avalon) Catchment Flood Study, as well as a presentation to the Careel Creek Floodplain Working Group, Council is now in receipt of the Final Report for the Careel Creek Catchment Flood Study Update (July, 2013) for adoption.

2.2 Study Findings

The updated flood study has identified 920 properties at risk in the 1% AEP flood event (These numbers are however, reduced further when the 0.15m minimum 1% AEP peak flood depth is placed on flooding identified as overland flow).

One of the evacuation centres has also been identified as being inundated in the 1% AEP flood event. The critical duration for the majority of the catchment was also found to be 2 hours, however the 1 hour storm duration was found to be critical in the PMF event, therefore the catchment (along with the village centre) is prone to flash flooding.

Table 1 summarises the number of properties that are predicted to be flooded within the Careel Creek Catchment for different design flood events.

Design Events	Number of Properties Impacted by Flooding within the Careel Creek Catchment			
	Residential	Commercial	Industrial	TOTAL For each Design Flood Event
PMF	939	90	5	1034
0.2% AEP (500yr ARI event)	871	80	8	956
0.5% AEP (200yr ARI event)	862	79	5	946
1% AEP (100yr ARI event)	838	77	8	920
5% AEP (20yr ARI event)	838	78	5	921
20% AEP (5yr ARI event)	815	74	4	893

Table 1: Properties Affected By Flooding within the Careel Creek Catchment (any depth)

These numbers are reduced further when the 0.15m minimum 1% AEP peak flood depth is placed on flooding identified as overland flow.

2.3 At the meeting of 6 May 2013 Council resolved as follows:

1. That the Careel Creek Flood Study – Draft for Public Exhibition — Volume 1: Report and Volume 2: Maps and Figures (WMA Water, April 2013 (tabled at meeting)) be placed on public exhibition for a minimum period of 28 days with submissions invited from the community.
2. That the Section 149 Planning Certificate for the properties identified as flood prone as a result of the Draft Careel Creek Flood Study Update, are updated for those identified as Category 1, Category 2 and Category 3.
3. That relevant registered community groups within the Careel Creek Catchment and the owners of properties identified as being Flood Prone as a result of the Draft Careel Creek Flood Study be notified in writing advising them of the following information:
 - the Careel Creek flood study and mapping;
 - the inclusion of a notation on their Section 149 Planning Certificate advising that the land is subject to flood-related development controls.;
 - the inclusion of a Frequently Asked Questions Brochure and links to the relevant pages on Council's website to provide additional information about the project;
 - the period of public exhibition and the invitation to provide written comments by the close of the exhibition period;
 - details of the community information sessions to be held during the exhibition period.

2.4 Community Consultation and Public Exhibition

In accordance with the Floodplain Development Manual and Council's community consultation policy, a rigorous community engagement strategy was developed as part of this project. This aimed to achieve the following:

- community understanding of the potential flood damage that can be caused from flooding;
- community acceptance for the need to identify the potential for flooding and the need to apply appropriate flood-related development controls;
- community understanding of the reason for the changes;
- the reduction of the potential for misinformation and community angst;

For the draft flood study, the following community engagement activities have been undertaken:

- an initial letter of introduction was sent to residents, property owners and stakeholders within the catchment on the 8 June 2012. Accompanying the letter was a copy of Council's existing Flood Hazard Map for the Careel Creek Catchment (from the original Flood Study, 1999) and an information brochure. The letter also called for Expressions of Interest for community members to become involved with the Careel Creek Floodplain Working Group to be established to assist Council with the Flood Study.
- a website has been developed by WMAwater to outline the latest information and progress on the flood study, as well as ways that the community can get involved.
- establishment of a Careel Creek Floodplain Working Group comprising four community members with a number of state agencies including, Office of Environment and Heritage (OEH) and State Emergency Services (SES) and Sydney Water. The initial meeting was held on 30 October 2012.
- brochure/flyer and questionnaire to residents and stakeholders in June 2012.

- Careel Creek Floodplain Working Group meeting on 21 March 2013 to present the Draft Report.
- Careel Creek Floodplain Working Group meeting on 20 June to present the outcomes of the public exhibition and Final Report.

The following tasks were carried out during the public exhibition period of the draft Flood Study:

- public exhibition of the Draft Careel Creek (Avalon) Flood Study Report for 5 weeks,
- development of 'Frequently Asked Questions and Answers'.
- development of specific page on Council's website with relevant intra and external links.
- written correspondence from Council to all affected landholders advising them of the Draft Flood Study and how to view the maps and submit comments. This written correspondence would include a copy of the Frequently Asked Questions together with links to the relevant page on Council's website.
- three days of telephone call-back facility which allowed one-on-one answering of questions.
- three days of community one-on-one information sessions, where property owners sat down face-to-face with a member of the Project Team to discuss any issue they have on the Careel Creek (Avalon) Flood Study report, and/or changes to their 149 certificates.
- notice in Manly Daily and associated media release.

2.5 Outcomes of the Public Exhibition – Draft Careel Creek (Avalon) Catchment Flood Study

In total 52 residents attended the one on one information sessions, and 12 for the phone call back sessions.

18 submissions were received during the exhibition period of the Draft Careel Creek Catchment Flood Study. Each of the issues raised have been summarised and addressed in **Attachment 1**.

In addition to the submission received during the public exhibition period, another 14 submissions have been transferred from the 2012 Draft Overland Flow Public exhibition as they relate to the Careel Creek catchment. Each of the issues raised have been summarised and addressed in **Attachment 2**.

As shown in **Attachments 1 and 2**, the community provided comments and suggestions regarding the draft Flood Study. Council has provided a response to each issue raised within the submissions also within **Attachments 1 and 2**.

The information received from the public exhibition has been acknowledged. No changes to the Final Careel Creek Catchment Flood Study (July 2013) were required as a result of the submissions received during the public exhibition.

The main concerns raised in the public exhibition submissions included:

- would increase insurance premiums
- perceived decreases in property values
- concerns about changes to S149 Certificates
- wanting to know what Council was going to do to fix the problem/stop the flooding
- concerns about lack of historical evidence of 1% AEP (100 year flood event)
- accuracy of topographic survey (ALS) used.

These concerns have been addressed in **Attachments 1 and 2** but did not require changes to the Careel Creek Catchment Flood Study Report (July 2013).

2.6 Section 149 Certificate Notifications

All modifications, being additions to or deletion of Section 149 Certificate Notifications for flood affected properties was dealt with at the time the draft flood study was placed on public exhibition in May 2013. All affected property owners were notified in writing of the changes to their Section 149 notations.

No further changes to the flood mapping was required as a result of the public exhibition, therefore there are no changes to the Section 149 notations.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

The overarching aims of this project have been to:

- increase safety for residents and businesses during flood events;
- increase the community's resilience and reduce the social disruption that can be caused by flood events.

3.2 Valuing & Caring for our Natural Environment (Environmental)

Flood Studies details the flood behaviour and natural hazard of the catchment. By understanding where the risks are likely to occur, Council can undertake the necessary steps to mitigate and manage the risk.

3.3 Enhancing our Working & Learning (Economic)

One of the key outcomes of the NSW Government Flood Prone Land Policy and espoused in Council's Flood Risk Management Policy is the 'protection of private and private infrastructure and assets'. By ensuring that properties impacted by flooding are identified, and that there are adequate flood-related development controls in place, this will reduce future flood damages across not on the Careel Creek Catchment, but the whole of the Pittwater community.

3.4 Leading an Effective & Collaborative Council (Governance)

This project has been undertaken to ensure compliance with the requirements of the NSW Government Flood Prone Land Policy and accompanying Floodplain Development Manual (2005). By undertaking this process, this can provide Council with indemnity under Section 733 of the Local Government Act.

3.5 Integrating our Built Environment (Infrastructure)

Following adoption of the Careel Creek Flood Study, development controls can be implemented to ensure new development is compatible with the flood behaviour and subsequent risks that this flooding poses.

4.0 EXECUTIVE SUMMARY

- 4.1 Pittwater Council has updated the 1999 Careel Creek Drainage Catchment Flood Study. The Careel Creek Catchment Flood Study (WMAwater, July 2013) looks at current catchment conditions, overland flow, incorporates climate change and utilises the most up-to-date topographical data and floodplain modelling techniques.
- 4.2 The NSW Government Flood Prone Land Policy highlights that the primary responsibility for floodplain risk management rests with Local Government. The NSW State Government has prepared the *Floodplain Development Manual* (2005) in accordance with its Flood Prone Land Policy to guide Local Councils in the management of their flood risks.

The Floodplain Development Manual states that both 'mainstream' flooding and 'overland' flooding should be considered together in floodplain risk management.
- 4.3 The primary aim of the Careel Creek Catchment Flood Study was to prepare a map of all properties predicted to be affected by all types of flooding, within the Careel Creek Catchment.
- 4.4 The draft Careel Creek (Avalon) Catchment Flood Study was exhibited for 5 weeks from 11 May to 14 June 2013. A total of 18 submissions were received during the exhibition period. An additional 14 submissions have been transferred across from the Draft Overland Flow Flood Study (Cardno, 2012) as they relate to properties within the Careel Creek Catchment. Each of the issues raised have been included and addressed in **Attachments 1 and 2**. Where appropriate, the final Flood Study has been updated.

RECOMMENDATION

1. That the Final Report for the Careel Creek (Avalon) Catchment Flood Study (WMAwater, July 2013), as tabled, be adopted.
2. That letters be forwarded to all persons who have made submissions and community groups advising of Council's decision on the Careel Creek (Avalon) Catchment Flood Study.
3. That the adoption of the Careel Creek Catchment (WMAwater, July 2013) Flood Study be notified on the Pittwater website.

Report prepared by
Melanie Schwecke, Project Leader – Water Management

Jennifer Pang
MANAGER – CATCHMENT MANAGEMENT AND CLIMATE CHANGE

Draft Careel Creek Catchment Flood Study - Table of Submissions

Issue Raised (submission have either been quoted or summarised to capture the key issue)	General response
<ul style="list-style-type: none"> That property does not have any overland flow or pooling problems, and heavy rain drains away. 	<ul style="list-style-type: none"> Many private property drainage systems are not designed to drain flows up to the 1% AEP flood event, normally the capacity is approximately the 20% or 5% AEP. It is also important to note that the amount of rain that Avalon needs to produce a 1% AEP flood event has not yet been experienced in this area. However, it is still the NSW Government standard for managing the risk to property from flooding.
<ul style="list-style-type: none"> Council should upgrade its draining to cater for the 100 year flood The flooding is caused by councils infrastructure failure Council should spend money on maintaining and developing stormwater drainage facilities rather than classifying properties in those streets as flood prone 	<ul style="list-style-type: none"> Council's older, inherited storm water drainage system has generally not been built to drain a 100 year ARI flood event (1% chance of this kind of event happening in any given year) and as a result once available capacity is exceeded, any additional stormwater will become overland flow. This has been identified in the Careel Creek Flood Study. <p>Council has a significant investment in its drainage network, representing some 10,000 pits and pipes. The current value of the network is around \$142M and consequently is being managed both operationally and strategically.</p> <p>At a strategic level, Council has been progressively collecting drainage condition data through CCTV recordings over a number of years. Operationally, Council undertakes upgrades and maintenance to ensure to pits and pipes are fully functioning.</p> <p>Council's stormwater drainage is not intended to convey the 1% AEP flow as identified in the study. Generally, Councils stormwater network is able to convey around the 20% AEP (or 5yr) event, which minimises the impact of disruption during smaller nuisance flood events.</p>
<ul style="list-style-type: none"> Completed a flood study of property in 1996 that outlined flood level at 13.8mAHD, in 1999 Council completed the original Careel Creek Flood Study that identified FPL at 13.9mAHD, whilst the current study has now identified the FPL at 14.1mAHD 	<ul style="list-style-type: none"> The 1996 Flood Study undertaken by a flood specialist consultant is likely to have been changed as a result of the more detailed information now available to hydraulic engineers. The 1999 Flood Study was the first Flood Study undertaken for the Careel Creek catchment and utilised a 1-dimensional model to detail the flood behaviour from the creek. The WMA Draft Careel Creek Flood Study (2013) used a 2-dimensional model and investigated all sources of flooding that could affect the catchment, such as creek, estuarine and overland flow. The difference between the two studies has shown some areas have had an increase in their flood levels, however generally this has resulted in a difference of only 0.2mAHD at this location.

Issue Raised (submission have either been quoted or summarised to capture the key issue)	General response
<ul style="list-style-type: none"> Purchased the property prior to any Council flood study being completed so s149 stated property not subject to flooding 	<ul style="list-style-type: none"> Following the Careel Creek Flood Study in 1999, a Section 149 (2) notation was added to advise if flood related development controls were applicable to the property. This notation was added to properties identified as flood affected from Careel Creek. Council's Section 149 (5) Certificate contains a notation stating "If the land is in the vicinity of a watercourse, drainage system, drainage easement, low point in the road or associated floodways and floodplains then flood related development controls may be imposed by Council on development of the land. Information in this regard should be sought from Council" This was brought into effect in 2007
<ul style="list-style-type: none"> The s149 notification will impact on his property prices 	<ul style="list-style-type: none"> The Section 149 Certificates are required under the <i>Environment Planning and Assessment Act, 1979</i> and advise residents of the development controls applicable to the property. Council is therefore required by law to advise residents whether a flood related development control is applicable to their property or not. This is also the case for other natural hazards such as bushfire and coastal erosion.
<ul style="list-style-type: none"> The study will affect insurance premiums 	<ul style="list-style-type: none"> With regards to insurance premiums, this is outside Council's control and is a decision of the Insurance Companies and their commercial interests. Insurers may, or may not choose to rely on Council mapping and modelling to determine their risk return business models. To date, Pittwater Council has not provided any Flood Study data to the insurance companies Pittwater Council has also been advised that different insurance companies offer different products and residents need to check with their own insurance companies to ensure that adequate cover is being provided for their needs bearing in mind the predicted risk to their property. Councils have also been advised that the insurance premiums are set based on the predicted depth of flooding in 1% AEP over the floor level. Therefore, if you were to provide the floor level and 1% AEP flood level, this may affect your premiums. It should be noted that through the <i>Local Government Act 1993</i>, Council has a duty of care to notify residents and future residents of the risks applicable to the area. If Council were to ignore such studies and failed to notify residents of the risks, Council would not be carrying out its duty of care.
<ul style="list-style-type: none"> Many properties have safe-guarded themselves from flash floods, and it should not be up to them to employ suitably qualified hydraulic engineers to outline to Council that the property has no flood affectation in order to remove their s149 notifications 	<ul style="list-style-type: none"> The Section 149 Certificates simply advise if flood related development controls apply to a particular parcel of land, it does not necessarily reflect the risk or amount of flood water that could impact the dwelling. The extents as identified in the Careel Creek Catchment Flood Study are used to determine which properties may be subject to flood related development controls. Upon receipt of a Development Application, Council refers to the extent based map and topography and assesses the need for these development controls. Generally the best way to mitigate a dwelling from flooding is by raising the floor level. The Careel Creek Catchment Flood Study modelled buildings and the impact of flow around these buildings in order to determine the flood behaviour, but the Study did not take into account floor levels and depth of floodwater through homes, as this is undertaken in the subsequent Floodplain Risk Management Study.

Issue Raised (submissions have either been quoted or summarised to capture the key issue)	General response
<ul style="list-style-type: none"> Floor height is above the ground and has adequate drainage to direct flow back onto the road 	<ul style="list-style-type: none"> A flood study does not take into consideration floor heights, but rather the building footprints. There are several methods to modelling the flood behaviour surrounding buildings as specified in the updated Australian Rainfall and Runoff. In the Careel Creek Flood Study permanent buildings and other significant structures were removed from the model as they were identified as impermeable obstructions to the flood flow. Typically, the floor heights of specific properties and the subsequent risk to these properties is investigated under Flood Risk Management Study stage. Council has applied to NSW Government for grant funding to commence this.
<ul style="list-style-type: none"> Only a small portion of the land is impacted, Council to consider only tagging properties with an affect greater than 10% 	<ul style="list-style-type: none"> Council's current policy does not allow for properties affected by less than 10% to be removed from flood related development controls, as the flood extents determined used the standard flood modelling best practice and the final flood mapping is deemed appropriate for use. Through the finalisation of the concurrent Overland Flow Mapping and Flood Study, Council is investigating the principle of removing properties only affected by a small amount of flood affectation.
<ul style="list-style-type: none"> Sent links to daily rain gauges 	<ul style="list-style-type: none"> Daily rain gauges provide the amount of rainfall within a 24hour period. Unfortunately, due to the flash flood nature of Pittwater these daily read gauges do not provide rainfall intensity data that is needed for the calibration of Flood Studies. Only records using pluviometers can give an accurate account of the amount and intensification of flooding. The Careel Creek Flood Study used the pluviometer gauge located within the catchment at Avalon.
<ul style="list-style-type: none"> Like Council to rethink the wording or not refer to the word 'flood' in category 3 and maybe use 'risk of water inundation', due to the fact that all the properties will not be affected by long term flooding 	<ul style="list-style-type: none"> Overland Flow is a type of 'flood' and is recognised by the NSW Government in the Floodplain Development Manual. Pittwater Council has used the Floodplain Development Manual (2005) to determine the categories used within the DCP. Overland flow flooding is referred to as Category 3 within the Pittwater 21 DCP, which incorporates the flooding hazard associated with major stormwater drainage systems, drainage easements and/or local overland flow paths. It should be noted that properties identified by the Careel Creek Catchment Flood Study are statistically predicted to experience flooding
<ul style="list-style-type: none"> The catchment is too small to have water to flow at a depth of 0.15m 	<ul style="list-style-type: none"> The catchment size is used in the hydrological modelling and the size of the catchment often reflects the amount of flows. The flood maps within the Careel Creek Catchment Flood Study show a range of various design flood events, including the 1% AEP that is currently used for planning purposes. Overland Flow affected land is defined as any land affected by a peak flood depth greater than 0.15m. This means the model has predicted only those areas and catchments where this may occur. For several small catchments the flow is likely to be less than 0.15m and these areas have not been included in the Overland Flow mapping.

Issue Raised (submission have either been quoted or summarised to capture the key issue)	General response
<ul style="list-style-type: none"> • Council created the rubbish tip at Hitchcock park and council used an excavator to deepen the creek after the 70's flood and the spoil was dumped beside the creek which is now stopping the surface water running off. • The widening of the culverts under Barrenjoey Road has given the creek a larger throat, and the creek quickly narrows after the culvert and is now meters higher than it was due to Councils actions • Council has the obligation to remedy the flood situation 	<ul style="list-style-type: none"> • The Flood Study has investigated the historical, existing and future events. In undertaking this, historical flood events included the 1987, 1989, 1998 and 2008 events. The existing risk took into account the current catchment conditions (including the impact of the Barrenjoey Road culvert enlargement). The future risk looked at the impact climate change may have on the catchment, this included the increase in sea level rise and rainfall intensity. • The subsequent Floodplain Risk Management Study and Plan will investigate suitable management options to manage the flood risk of the catchment. Council has applied to NSW Government for grant funding to commence this study. Following the completion of the Floodplain Risk Management Study and Plan, Council will endeavour to implement the actions with funding from NSW Government.
<ul style="list-style-type: none"> • Natural watercourse is apparent at the back of our properties and not where the buildings are located or could be located. The Category 2 classification is grossly misleading. 	<ul style="list-style-type: none"> • Category 2 is defined as the Probable Maximum Flood, which is defined by the Floodplain Development Manual (2005) as is the largest flood that could conceivably occur at a particular location. The Probable Maximum Flood is modelled using a range of calculations identified in Australian Rainfall and Runoff (Engineers Australia). • The Category 2 classification is used predominately by the NSW SES to ensure risk to life can be adequately managed and safe evacuation routes are catered for. There are also some planning related purposes to this area, including ensuring critical infrastructure such as hospitals and childcare centres are not located in these areas.
<ul style="list-style-type: none"> • There has been several 1 in 100 year or greater events over the time the resident has lived on the property and the water has never backed up to affect any of the properties in the area 	<ul style="list-style-type: none"> • Rainfall data from pluviometer gauges over the last 40 years has shown that for the Careel Creek Catchment, there has not been a 1 in 100 year rainfall event in the Careel creek catchment. • The most recent flood event in February 2008 has been calculated by this study as being approximately a 5 year – 10 year flood event (20% -10% AEP). This flood event was used to calibrate the model and ensure it was accurately representing what happens during heavy rain.
<ul style="list-style-type: none"> • Accuracy of the ALS survey data 	<ul style="list-style-type: none"> • Airborne Laser Scanner (ALS) is a form of survey that produces a dense amount of data points, very closely spaced together for large expanses of land, making it the most appropriate survey data flood modelling on a catchment wide scale. • The surveying companies who supply the data conduct analysis of the data to verify its accuracy to real life terrain surfaces.
<ul style="list-style-type: none"> • Council has a responsibility to ensure the flood data available to residents is accurate and representative of the scenario being communicated. 	<ul style="list-style-type: none"> • Council endeavours to provide best available flood information for each property. However as each Flood Study is updated or undertaken Council does not release the new information until it has been fully verified. • Property owners can contact Council at any stage to obtain Flood Planning Levels. If the property owner does not agree with the flood level provided by Council they can engage a hydraulic engineer to conduct their own property specific flood assessment, Council will then review the assessment report.

Issue Raised (submission have either been quoted or summarised to capture the key issue)	General response
<ul style="list-style-type: none"> • Displaying the maps which use the same colours for major and minor overland surface flows • At the public information session it was made clear to the resident that the purple shading inside at the top of the property was actually Minor Overland Flow less than 5cm deep. We believe that the purple area should therefore be updated to orange to show that it is Minor Overland Flow and all hazard maps should be clarified to distinguish between Major and Minor Overland Flows 	<ul style="list-style-type: none"> • Overland Flow Path – Major is presented as a purple colour, whilst Overland Flow Path – Minor is presented in an orange colour. This has not changed since the public exhibition. • Overland Flow Path - Minor is defined as flow above 0.15m deep. However it was outlined that there may still be overland flows less than 0.15m occurring during very heavy rainfall, although these are not highlighted on Councils maps.
<ul style="list-style-type: none"> • Using category naming that appears to be a 1-3 scale, when it is actually describing different types of flow. Request that the flood category naming is clarified, using a number – based categorisations implies a scale that is misleading • Request that the provisional hazard classification label should be removed as it doesn't apply under Councils naming standards. 	<ul style="list-style-type: none"> • In Council's Flood Policy it clearly outlines what each of the Categories represent. Council categories have never represented a 1-3 scale, but are used in the DCP to name the different types of flooding that can occur in Pittwater, not the risk. • Flood Classifications are not in a ranking order, but represents the different types or sources of flooding that occurs in Pittwater. • Category 1 – mainstream flooding, • Category 2 - any flooding from the FPL to the PMF, and • Category 3 properties which are generally located outside or adjacent to Category 1 and 2 properties that are affected by flooding hazards associated with major stormwater drainage systems, local overland paths or drainage easements.
<ul style="list-style-type: none"> • Overland flow has been added to the flood model but changes have not been made to the website to allow overland flow to be accurately presented. • The FPL has been increased by 3m, and that the modelling methodology has been updated but Councils' flood and estuarine tool has not. 	<ul style="list-style-type: none"> • Council is currently in the process of updating the flood and estuarine planning tool to provide the data in a more user friendly interactive method. It is anticipated this will be available again by the end of 2013.
<ul style="list-style-type: none"> • Presenting Flood Planning Levels that are much higher than the actual modelled overland flows 	<ul style="list-style-type: none"> • The Flood Planning Levels are defined as the 1% AEP peak flood water level plus a freeboard of 0.5m. Therefore, the flood planning levels are generally higher than the actual modelled flood extents because it contains the freeboard. This process of mapping the Flood Planning Level for planning purposes is in accordance with the Floodplain Development Manual (2005) and Pittwater's Draft Local Environment Plan (2013). • The FPLs are determined through the Flood Study for each property and are likely to differ from house to house. • For sloping blocks, the provided level is a conservative level based on the most highest (most upstream) point of the land, this does not necessarily correspond with the maximum peak depth that the property may experience.

Issue Raised (submission have either been quoted or summarised to capture the key issue)	General response
<p>It is requested that Council present a more accurate picture of the modelled 1% AEP by:</p> <ul style="list-style-type: none"> • Returning the published FPL to that of the 1999 flood study, by ignoring the Minor Overland Flow • Adding a new field that specified that the site may be subject to overland flows for DA planning purposes • Council should remove surface flows from its flood models, and • Update its published property data with FPLs that represent the scenario modelled by ignoring Minor Overland Flows when identifying FPLs 	<ul style="list-style-type: none"> • Council has updated the Flood Study as there has been some significantly changes in the catchment that results in the old Flood Study data not necessarily accurately representing the flood behaviour. As such, this information is now the latest available information. By returning to the 1999 published FPL level, it does not accurately represent the level of flood risk on the property and Council can not undertake any management options for the catchment. • Surface flows are another name for overland flows, which is included in the Floodplain Development Manual (2005) as a source of flooding that Council should be managing. Therefore these have been included in the Careel Creek Catchment Flood Study. In reviewing the model results, any “puddles” of overland flow smaller than 25m² were removed in order to ensure the risk of overland flows is clearly identified and therefore managed appropriately.

Table of Submissions

Submissions from the 2012 Draft Overland Flow Mapping and Flood Study public exhibition that relate to the Careel Creek Catchment properties

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
<ul style="list-style-type: none"> • Council needs to provide infrastructure to accommodate the stormwater inundation • Council should upgrade existing pipes to deal with the flooding issue • Council pipes are inadequate to carry the volume of the 100year flood event, and should be resized • Inaccurate positioning of easement and pipe lines • Concerns regarding the assumptions made due the limited data available for pits, pipes, channels and culverts 	<ul style="list-style-type: none"> • Council's older, inherited storm water drainage system has generally not been built to drain a 100 year ARI flood event (1% chance of this kind of event happening in any given year) and as a result once available capacity is exceeded, any additional stormwater will become overland flow. This is the overland flow flood maps as identified by the Pittwater Overland Flow Flood Study and the Careel Creek Flood Study. <p>Council has a significant investment in its drainage network, representing some 10,000 pits and pipes. The current value of the network is around \$142M and consequently is being managed both operationally and strategically. At a strategic level, Council has been progressively collecting drainage condition data through CCTV recordings over a number of years. Operationally, Council undertakes upgrades and maintenance to ensure to pits and pipes are fully functioning. Council's stormwater drainage is not intended to convey the 1% AEP flow as identified in the study. Generally, Councils stormwater network is able to convey around the 20% AEP (or 5yr) event, which minimises the impact of disruption during smaller nuisance flood events.</p> <ul style="list-style-type: none"> • In some cases the perceived reoccurrence of flooding on properties is not the result of mainstream or overland flow flooding, but rather from neighbouring properties discharging their stormwater, this is an inter-allotment drainage issue and not included as part of the Flood Study as Council has no records of these systems. • The progression to the Floodplain Risk Management Study and Plan would result in a list of prioritised options based on cost/benefits, and significant infrastructure may result from the Plan. • Local stormwater drainage is not intended to convey the amount of flow identified in the study and this is recognised in engineering practice, and as such, a component of overland flow will occur.

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
	<ul style="list-style-type: none"> • With much of the Pittwater LGA (about 1 in 5 properties) at risk of flooding, it would be unreasonable to expect that large scale drainage retro-fitting of drainage infrastructure to the 1 in 100 year flood event would be feasible. There are practical limitations in terms of having greater drainage capacities due to the space requirements for larger pipes, ensuring that all downstream pipe systems are of similar or greater capacities, and the costs involved for land acquisition and construction works. However, the progression to the Floodplain Risk Management Study and Plan would result in a list of prioritised options based on cost/benefits, and significant infrastructure may result from the Plan. • The pits and pipes on the GIS system are limited to the accuracy of the GIS system +/- 5m, which accounts for the indicative location of the pit and pipe on the maps supplied to the resident. • The 2013 Careel Creek Catchment flood study unlike the 2012 Draft overland flow flood study did include Council's stormwater assets in the model
<ul style="list-style-type: none"> • How was the overland flow path determined given lack of historical evidence 	<ul style="list-style-type: none"> • The NSW Government states that Councils are to plan for and manage the 100 year ARI flood event regardless of whether this has occurred or not from past records. Although this event to date has not been recorded in the Pittwater LGA, the maps presented in this Draft Overland Flow Flood Study show the predicted flood extents for a storm of this nature. <p>A review of the recorded rainfall across the LGA was incorporated into the Study. As the Pittwater area has no recorded 100 year ARI flood events using pluviometer rainfall data, the design rainfall used standard techniques provided in Australian Rainfall and Runoff (Engineers Australia, 1999).</p>
<ul style="list-style-type: none"> • Slab on ground construction 	<ul style="list-style-type: none"> • To comply with BCA, the builder needs to ensure that no stormwater up to 100year flood event enters the dwelling. Building Codes of Australia P2.2.1 Surface Water – <ul style="list-style-type: none"> ○ A) surface water, resulting from a storm having an average recurrence interval of 20 years and which is collected or concentrated by a building or sitework, must be disposed of in a way that avoids the likelihood of damage or nuisance to any other property. ○ B) Surface water, resulting from a storm having an average recurrence interval of 100 years must not enter the building.
<ul style="list-style-type: none"> • The Overland flow path would pass behind the property in question and flow to land further down the street. • Only a few properties are identified on the street as being impacted by Minor Overland Flow Paths. Due to the fall in the land, shouldn't properties further down the street also be impacted? 	<ul style="list-style-type: none"> • The Overland Flow Paths originate from rain falling on the catchment and flowing down the hill, generally at the lowest point in the land. • The Minor Overland Flow classification has been triggered as a result of local topographic features (such as small depressions) which indicate that there are peak flow depths of greater than 0.15m in these areas. Other areas outside of these localised topographic features still have overland flow but the peak flow depth is less than 0.15m and therefore the area does not receive an overland flow classification based on Council's current overland flow definition.

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
<ul style="list-style-type: none"> Does not believe the overland flow could reach the extent outlined on the property in question In the 2012 Overland Flow Flood Study (which looked at only overland flow paths, the property was identified as only partially impacted by Overland flow). 	<ul style="list-style-type: none"> The property in question is not impacted by the 5m horizontal buffer that is applied consistently to the edge of the 1%AEP Major Overland Flow extent. The buffer accounts for any inconsistencies – such as increased blockage, wave impact (from vehicles driving through flood waters), impact of climate change, cumulative development impacts and slight changes to local topographic features. As a result of the revised modelling from the 2013 Careel Creek (Avalon) Catchment Flood Study this property is no longer identified as being impacted by just Overland Flow Path – Major, but has as a result of the revised creek modelling identified as also being impacted by Category 1 – Mainstream flooding.
<ul style="list-style-type: none"> The study states that buildings are not taken into account 	<ul style="list-style-type: none"> A flood study does not take into consideration floor heights, but rather the building footprints. There are several methods to modelling the flood behaviour surrounding buildings as specified in the updated Australian Rainfall and Runoff. The Careel Creek Flood Study permanent buildings and other significant structures were removed from the model as they were identified as impermeable obstructions to the flood flow. Typically, the floor heights of specific properties and the subsequent risk to these properties this is investigated under Flood Risk Management Study stage. Council has applied to NSW Government for grant funding to commence this.
<ul style="list-style-type: none"> No satisfactory warning that this study was underway The reports are difficult for the average rate payer to understand 	<ul style="list-style-type: none"> All property owners within the Careel Creek Catchment were notified at the beginning of June 2012 that the study was being undertaken. Advertisements were also placed within the Manly Daily as well as the project specific webpage to provide details on the details and progress of the Flood Study. Community consultation also occurred at the commencement of the Pittwater Overland Flow Flood Study, via the Pittwater report sent to all rate payers in July 2012 The flood study reports are 'fit for purpose' they are a highly technical document required by developers and consultants as well as for the flood risk management study and plan.
<ul style="list-style-type: none"> Accuracy of the ALS data 	<ul style="list-style-type: none"> Airborne Laser Scanner (ALS) is a form of survey that produces a dense amount of data points, very closely spaced together for large expanses of land, making it the most appropriate survey data flood modelling on a catchment wide scale. The surveying companies who supply the data conduct analysis of the data to verify its accuracy to real life terrain surfaces.
<ul style="list-style-type: none"> No indication on minimum and maximum depth 	<ul style="list-style-type: none"> The maximum depth data can be obtained from Council, it is also displayed in the report maps particularly Figure 13 of the 2013 Careel Creek (Avalon) Catchment Flood Study report

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
<ul style="list-style-type: none"> Council has no rectification plan 	<ul style="list-style-type: none"> As stated in the Floodplain Development Manual (2005) the Flood Study provided technical details on the flood behaviour. The investigation of the management and mitigation options is undertaken through the subsequent Floodplain Risk Management Studies and Plans. Currently, Pittwater Council has applied for grant funding from the NSW government for this project. A Floodplain Risk Management Study and Plan will typically involve the investigation of options that involve: <ul style="list-style-type: none"> flood modifications — modifying the behaviour of the flood itself; property modifications — modifying or purchasing existing properties and/or imposing controls on property and infrastructure development; response modifications — modifying the response of the population at risk to better cope with a flood event. Once the Floodplain Risk Management Plan is adopted, Council can implement the management options with NSW Government funding.
<ul style="list-style-type: none"> Level of the road and the property across the road are lower than any point of the property in question, therefore water could not back up on the property Poor transition from minor to major flooding areas 	<ul style="list-style-type: none"> Water is running down from the hills behind the property, and being caught in localised depressions at the back and side of the property and not backing up from the lower properties in front The transition of Minor to Major overland flow paths is influenced by the 5m horizontal buffer applied to the 1%AEP on Major Overland Flow Paths
<ul style="list-style-type: none"> Influence of detention tanks installed in the catchment area 	<ul style="list-style-type: none"> Detention tank are not generally designed to cater for 1% AEP flood events, and are designed mainly for smaller more frequent events.
<ul style="list-style-type: none"> The report is based on computer modelling rather than property surveys, the source data and methodology for the model is questionable The model is unproven and its accuracy unknown Complete a detailed accurate flood report 	<ul style="list-style-type: none"> The basis of the study and its methodology were guided by a workshop held in 2009 with the Office of Environment and Heritage (OEH) (the then Department of Environment, Climate Change and Water) along with a number of other Councils to establish the data parameters, model methodologies and the suitability of mapping outcomes. <p>The workshop informed a 'best practice' approach to then inform the specialist flood consultancy, Cardno to develop the draft Pittwater Overland Flow Mapping and Flood Study for Pittwater Council. The methodology employed for Pittwater Council's Overland Flow Flood Study was 'Direct Rainfall' (also known as 'rainfall on the grid'), using a 2D SOBEK model to simulate the hydrological and hydraulic processes of the Pittwater LGA. The 'Direct Rainfall' methodology has been identified by OEH as being suitable in identifying Overland Flow Paths. As such, this approach is being utilised by many Sydney Councils in identifying flood risk areas, including overland flow paths.</p>

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
	<ul style="list-style-type: none"> • Council's flood studies are 'fit for purpose'. They outline the potential area that maybe impacted by flooding and overland flow paths, to inform both current and future property owners on the potential risk of flooding that may occur over the property. Councils flood studies are 'fit for purpose'. They outline the potential area that maybe impacted by flooding and overland flow paths, to inform both current and future property owners on the potential risk of flooding that may occur over the property. The primary reasons for Council undertaking the Study is about risk identification and then through the next stage – the Flood Risk Management Study and Plan implementing suitable management options in order to protect people, property and the environment. • The basis of the study and its methodology were guided by a workshop held in 2009 with the Office of Environment and Heritage (OEH) (the then Department of Environment, Climate Change and Water) along with a number of other Councils to establish the data parameters, model methodologies and the suitability of mapping outcomes. <p>The workshop informed a 'best practice' approach to then inform the specialist flood consultancy, Cardno to develop the draft Pittwater Overland Flow Mapping and Flood Study for Pittwater Council. The methodology employed for Pittwater Council's Overland Flow Flood Study was 'Direct Rainfall' (also known as 'rainfall on the grid'), using a 2D SOBEK model to simulate the hydrological and hydraulic processes of the Pittwater LGA. The 'Direct Rainfall' methodology has been identified by OEH as being suitable in identifying Overland Flow Paths. As such, this approach is being utilised by many Sydney councils in identifying flood risk areas, including overland flow paths.</p>
<ul style="list-style-type: none"> • Council is shifting its responsibilities to ratepayers 	<ul style="list-style-type: none"> • Council as part of its responsibilities is required to identify flood prone land and provide specific planning controls for those areas. Under the NSW Government's <i>Floodplain Development Manual (2005)</i>, Councils must develop a Floodplain Risk Management Plan and incorporate its requirements into relevant local environmental plans. The Manual recognises overland flooding as a problem that needs to be considered along with mainstream flooding. The flood study constitutes the major technical foundation from which a floodplain risk management plan is developed under the Floodplain Risk Management process. <p>The development of flood studies and flood risk management plans are necessary not just only to private landowners, but also to emergency services and other various agencies. Council has been involved in key projects that work towards improved flood awareness and communications, which are vitally important to emergency response planning.</p>

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
<ul style="list-style-type: none"> Devaluation of property prices 	<ul style="list-style-type: none"> The Section 149 Certificates are required under the <i>Environment Planning and Assessment Act, 1979</i> and advise residents of the development controls applicable to the property. Council is therefore required by law to advise residents whether a flood related development control is applicable to their property or not. This is also the case for other natural hazards such as bushfire and coastal erosion.
<ul style="list-style-type: none"> Impact on insurance premiums 	<ul style="list-style-type: none"> With regards to insurance premiums, this is outside Council's control and is a decision of the Insurance Companies and their commercial interests. Insurers may, or may not choose to rely on Council mapping and modelling to determine their risk return business models. To date, Pittwater Council has not provided any Flood Study data to the insurance companies Pittwater Council has also been advised that different insurance companies offer different products and residents to check with their own insurance companies to ensure that adequate cover is being provided for their needs bearing in mind the predicted risk to their property. Councils have also been advised that the insurance premiums are set based on the predicted depth of flooding in 1% AEP over the floor level. Therefore, if you were to provide the floor level and 1% AEP flood level, this may affect your premiums. It should be noted that through the <i>Local Government Act 1993</i>, Council has a duty of care to notify residents and future residents of the risks applicable to the area. If Council were to ignore such studies and failed to notify residents of the risks, Council would not be carrying out its duty of care.
<ul style="list-style-type: none"> Changes to the s149 planning certificates will impose significant cost on any future development 	<ul style="list-style-type: none"> The Section 149 Certificates are required under the <i>Environment Planning and Assessment Act, 1979</i> and simply advise residents of the flood related development controls applicable to the property. Council is therefore required by law to advise residents whether a flood related development control is applicable to their property or not. This is also the case for other natural hazards such as bushfire and coastal erosion. The key outcomes of the development controls are to protect people, protect the natural environment, and to protect private and public infrastructure and assets. Whilst the flood related development controls may result in a small increase in cost during construction, it has been shown that this cost is minimal when compared to the damages to a property after flooding has occurred. For more information, please see Pittwater Council's Flood Compatible Building Guidelines (available on the internet at http://www.pittwater.nsw.gov.au/environment/natural_hazards/flooding/flood_links)

Issue Raised (submission issues have either been quoted or summarised to capture the key issue)	General Response
<ul style="list-style-type: none"> Bought the property and no indication of possible flood affectation. 	<ul style="list-style-type: none"> Following the Careel Creek Flood Study in 1999, a Section 149 (2) notation was added to advise if flood related development controls were applicable to the property. This notation was added to properties identified as flood affected from Careel Creek. Council's Section 149 (5) Certificate contains a notation stating "If the land is in the vicinity of a watercourse, drainage system, drainage easement, low point in the road or associated floodways and floodplains then flood related development controls may be imposed by Council on development of the land. Information in this regard should be sought from Council" This was brought into effect in 2007.
<ul style="list-style-type: none"> Concerns about using different modelling software and engaging different consultants 	<ul style="list-style-type: none"> Council undertook separate tender processes for the Pittwater Overland Flow Flood Study and the Careel Creek Flood Study. Each successful consultant was selected on their merits against the criteria as specified in the tender documents. Both Cardno and WMAwater are specialist flood consultants who have undertaken numerous Flood Studies and overland flow mapping.

C11.7 Careel Bay Tennis Club - Amendment to Lease Boundary

Meeting: Leading & Learning Committee

Date: 21 October 2013

STRATEGY: Corporate Management

ACTION: Managing Council's Lease Portfolio

PURPOSE OF REPORT

To advise Council of the results of the public exhibition of the subject lease boundary variation.

1.0 BACKGROUND

- 1.1 At its meeting on 1 July 2013 Council resolved to grant approval in principle to amending the existing lease to the Careel Bay Tennis Club to allow an increase in the lease area to accommodate additional court space and, if approved and viable, a café. It further resolved to place the proposal on public exhibition for 28 days with a further report to be brought back to Council for final approval. A copy of the resolution is at **Attachment 4**.
- 1.2 The club's request is at **Attachment 1**, a plan showing the additional area required is at **Attachment 2** (shown as the hatched area). The original letter from the Club refers to a third area for increased parking. This is not reflected in the plan attached as Council's Reserves Unit felt it to be an unnecessary incursion into the Reserve and was removed from the new lease area.
- 1.3 Because the lease is over part of Crown Land (Reserve Trust No R70736) the proposal was submitted to the Land & Property Management Authority for comment in the first instance. Their comments are at **Attachment 3** and they have no objections to the proposal.
- 1.4 The request to extend the term of the lease was not considered as part of this lease area amendment.
- 1.5 No submissions were received from the public during the exhibition period.

2.0 ISSUES

2.1 Amendment of existing lease between Council and Careel Bay Tennis Club.

The amendments proposed above are consistent with the existing lease between Council and the club. The crown has no objections to the variation.

2.2 Effects on rental.

Tennis club rents are based on membership fees and court hire so there will be no effect on rents unless the sixth tennis court is installed (which will increase income for the club) or the café proposal is reactivated in which case Council would receive 20% of the income from the facility.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

The granting of the additional lease area to increase the number of playing surfaces will benefit the community into the future increasing the facilities available for Pittwaters tennis community.

3.2 Valuing & Caring for our Natural Environment (Environmental)

There is no environmental impact

3.3 Enhancing our Working & Learning (Economic)

All costs involved will be the responsibility of the Club.

3.4 Leading an Effective & Collaborative Council (Governance)

There is no Governance impact.

3.5 Integrating our Built Environment (Infrastructure)

There is no infrastructure impact.

4.0 EXECUTIVE SUMMARY

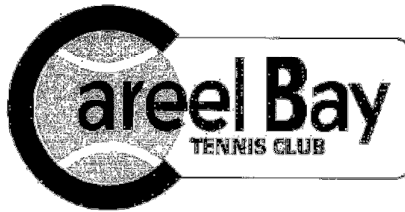
- 4.1 Granting the Club an increase in its lease area will provide the opportunity for the Club to improve and expand its facilities to better cater for community needs.

RECOMMENDATION

1. That Council grant approval to an amendment to the existing lease to the Careel Bay Tennis Club to allow an increase in the lease area.
2. That the General Manager be authorised to execute any relevant legal documentation under power of attorney.

Report prepared by
George Veness, Senior Property Officer

Paul Reid
MANAGER, CORPORATE STRATEGY & COMMERCIAL



POSTAL ADDRESS:
P.O. BOX 294, AVALON BEACH 2107
COURTS: BARRENJOEY ROAD, NORTH AVALON
(Opposite Whale Beach Road) ABN 67 002 687 694


Pittwater Council
Att: George Veness
PO Box 822,
Mona Vale NSW 1660
(sent via email)
22nd May, 2013

RE: Amendments to Careel Bay Tennis Club Lease

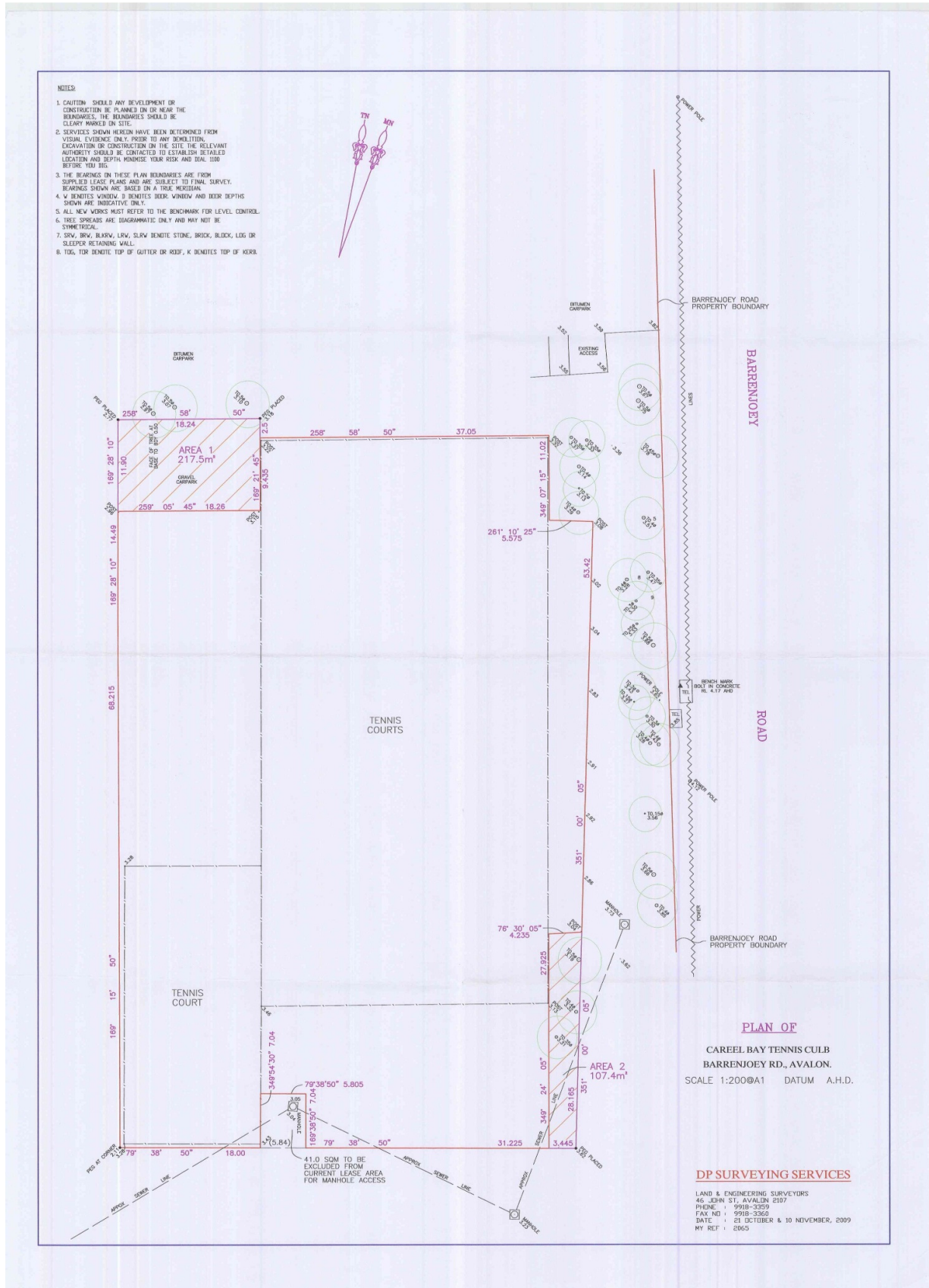
Dear George,

Further to your conversation with James Channon, please find following further explanations regarding our request to alter two sections of the current lease area of the Club –

- The area currently used for parking by users of the facility is on the north west corner of the premises adjacent to the paved Council car park. This area is not paved and does not form part of either the Council car park or the Club lease area and is in fact not zoned for parking at all making all current uses in breach of regulations. We would like to incorporate this area into our lease to create a space where facility users can park legally which is badly needed when there are football or cricket games on Hitchcock Park and the council parking is full. Further, it is possible that the Club may revisit the previous café proposal in the future and this area of land has been deemed the most appropriate for this purpose and as such the Club would like to have the area available to us if we choose to proceed.
- The minor boundary changes on the southern and south eastern borders are to incorporate an additional area into the Club lease to allow the potential to construct an additional court behind courts 2 and 4 if this was deemed viable in the future. We currently have sufficient land under lease for this purpose, however this area includes a Council storm water inspection point. We propose to remove a small section of our lease area on the southern side to allow Council perpetual access to the manhole and to add a small section on the south eastern side to allow enough space for this potential new court.
- We would also like to have the term of the lease extended as the current term would be inadequate to attract any commercial café operator should the proposal be revisited in the future.


Regards,
Roland McAdam
President

Cc Les Munn ~ Pittwater Council





Land and Property
Management Authority

Mr George Veness
Senior Property Officer
Pittwater Council
PO Box 882
MONA VALE NSW 1660

PO Box 3935 PARRAMATTA NSW 2124

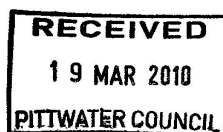
Level 12, Macquarie Tower
10 Valentine Ave, PARRAMATTA 2150

Telephone 8836 5305

Fax 8836 5362

Email Shane.Connolly@lpma.nsw.gov.au

www.lpma.nsw.gov.au



17 March 2010

Our Ref MN83R13

Dear Mr Veness,

Re Careel Bay Tennis Club – Request to increase Lease Area over Crown Reserve

I refer to your letter dated 9 March 2010 regarding a request Council received from Careel Bay Tennis Club to increase their Lease area in part to accommodate a sixth court and a commercial café

The Authority has reviewed the request, along with accompanying plans, and we have no objections with the Lease area being increased in accordance with the area's detailed in their request

Once Council has come to a formal agreement and if it intends on proceeding with extending the Lease area, a copy of any draft Lease should be submitted to our office for consideration of Minister's Consent

Yours sincerely,

A handwritten signature in black ink, appearing to read "Joel Chianese".

Joel Chianese
for Program Manager, Land Administration
Sydney Region
Crown Lands Division

C9.2 Careel Bay Tennis Club - Amendment to Lease Boundary

Meeting: Community, Recreation & Economic
Development Committee

Date: 1 July 2013

COMMITTEE RECOMMENDATION

1. That Council grant approval in principle to an amendment to the existing lease to the Careel Bay Tennis Club to allow an increase in the lease area to accommodate additional court space and, if approved and viable, a cafe.
2. That the proposal be placed on public exhibition for 28 days with a further report to be brought back to Council for final approval.

(Cr Townsend / Cr Grace)

C11.8 Resident question taken on notice - 16 September 2013

Meeting: Leading and Learning Committee

Date: 21 October 2013

STRATEGY: Corporate Management

ACTION: Effectively manage Council's corporate governance responsibilities

PURPOSE OF REPORT

To report to the Council and the community any subsequent response to those resident questions taken on notice at a Meeting.

1.0 BACKGROUND

- 1.1 At its meeting held on 15 October 2012, in response to a Mayoral Minute, the Council resolved as follows:

"That Pittwater Council establish a report to Council which sets out the questions and responses to resident and Councillor questions taken on notice, which is to be submitted at the second meeting of the month following resident questions."

- 1.2 At the Council meeting held on 16 September 2013 one (1) question from a resident was taken on notice.

2.0 ISSUES

2.1 Question 1 – Ms Marcia Rackham

To the General Manager: What Capital Sales are Council anticipating in 2014/2015? And if this involves the proposed sale of community land can Council specify which parcels of land this may be?

Answer:

The General Manager advised he would have to take this question on notice.

Subsequently, the Chief Financial Officer advised Ms Rackham in a letter dated 8 October 2013 that the capital sales anticipated for 2014/15 are \$527,273 for Lakeside cabin sales, \$1,478,253 for plant sales (cars, trucks and machinery etc.) and \$4,500,000 for land sales thus totalling \$6,505,526. In terms of proposed land sales, this is associated with Lot 2 and 3 Pittwater Road, Mona Vale.

3.0 SUSTAINABILITY ASSESSMENT

A sustainability assessment is not required for this report.

4.0 EXECUTIVE SUMMARY

4.1 At its meeting held on 15 October 2012 the Council resolved as follows:

"That Pittwater Council establish a report to Council which sets out the questions and responses to resident and Councillor questions taken on notice, which is to be submitted at the second meeting of the month following resident questions."

4.2 At the Council meeting held on 16 September 2013 one (1) question from a resident was taken on notice.

4.3 A report therefore is submitted outlining the relevant question and subsequent response provided to the resident.

RECOMMENDATION

That Council note the responses subsequently provided by the Chief Financial Officer, to the resident question taken on notice.

Report prepared by
Gabrielle Angles, Principal Officer – Administration

Warwick Lawrence
MANAGER, ADMINISTRATION & GOVERNANCE

Sustainable Towns and Villages Committee

12.0 Sustainable Towns and Villages Committee Business

C12.1	N0021/13 - 1858 Pittwater Road Church Point - Alterations and additions for adaptive re-use of the existing building to include a café, restaurant, bar, shop and motel uses
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Meeting: Sustainable Towns and Villages Committee

Date: 21 October 2013

STRATEGY: Land Use & Development

ACTION: Provide an effective development assessment and determination process

PURPOSE OF REPORT

To inform the Committee of the Development Unit's recommendation following consideration of development application N0021/13 for alterations and additions for adaptive re-use of the existing building to include a café, restaurant, bar, shops and motel uses at 1858 Pittwater Road Church Point.

1.0 BACKGROUND

- 1.1 The Development Unit, at its meeting held on Thursday 3 October 2013, considered development application N0021/13 for alterations and additions for adaptive re-use of the existing building to include a café, restaurant, bar, shops and motel uses at 1858 Pittwater Road Church Point. The Development Unit resolved to endorse the Assessing Officer's recommendation of refusing development consent (subject to clarification of Councillor Interest) subject to the reasons for refusal contained in the draft determination.

2.0 REASON FOR REFERRAL TO COUNCIL

- 1.2 This Development Application is the subject of a Land and Environment Court Appeal and under the Authority and Terms of Reference of the Development Unit any application that is the subject of an appeal to the Land and Environment Court is referred to Council for determination.

3.0 DEVELOPMENT UNIT DELIBERATIONS

- 3.1 The Development Unit resolved to endorse the Assessing Officer's recommendation of refusal of development consent (subject to clarification of Councillor Interest) subject to the reasons for refusal contained in the draft determination.

4.0 ISSUES

- Abandonment of Existing Use Rights
- Development on unzoned land
- Existing Use Rights and Derogation
- Height, Bulk and Scale
- Inadequate Information
- Notification
- Adaptive Re-Use versus New Development
- Parking
- Noise
- Heritage
- Foreshore Access

- Views
- Illegal Building Works
- Intensification of Use
- Hours of Operation
- D9.11 Site coverage - Environmentally Sensitive Land

5.0 SUSTAINABILITY ASSESSMENT

5.1 Supporting & Connecting our Community (Social)

The relevant environmental, social and economic issues have been addressed within the attached report.

6.0 EXECUTIVE SUMMARY

- 6.1 The application was considered by the Development Unit at its meeting held on 3 October and endorsed the Assessing Officer's recommendation for refusal subject to the reasons for refusal in the draft determination.

RECOMMENDATION

That the recommendation in the Development Officer's report be endorsed (refer **Attachment 1**) and development application N0021/13 for alterations and additions for adaptive re-use of the existing building to include a café, restaurant, bar, shops and motel uses at 1858 Pittwater Road Church Point be refused development consent subject to the reasons for refusal contained in the draft determination.

Report prepared by
Gabrielle Angles, Principal Officer - Administration

Warwick Lawrence
MANAGER, ADMINISTRATION & GOVERNANCE

SUBJECT: N0021/13 - 1858 Pittwater Road, Church Point (Lot 142 DP 752046)
Alterations and additions for adaptive re-use of the existing building to
include a cafe, restaurant, bar, shop and motel uses

Determination Development Unit
Level:

Date: 3 October 2013

SUMMARY OF RECOMMENDATION**REFUSAL**

REPORT PREPARED BY:	Gordon Edgar
APPLICATION SUBMITTED ON:	5 February 2013
APPLICATION SUBMITTED BY:	BOSTON BLYTH FLEMING 1/9 NARABANG WAY BELROSE NSW 2085
OWNER(S):	ALTIUS PTY LTD (Own)

This application is the subject of an appeal to the Land and Environment Court based on the deemed refusal of the application.

1.0 ISSUES

- Abandonment of Existing Use Rights
- Development on unzoned land
- Existing Use Rights and Derogation
- Height, Bulk and Scale
- Inadequate Information
- Notification
- Adaptive Re-Use versus New Development
- Parking
- Noise
- Heritage
- Foreshore Access
- Views
- Illegal Building Works
- Intensification of Use
- Hours of Operation

2.0 SITE DETAILS

The subject site is known as 1858 Pittwater Road, Church Point. It is comprised of 2 allotments including Lot 142 in DP 752046 and Lot 3 in DP 1148738. It is located on the north-eastern corner of the intersection of Pittwater Road, McCarrs Creek Road and the unformed section of Quarter Sessions Road.

Lot 142 DP752046 ("the Site") is a rectangular-shaped parcel of land that contains the subject building, known as the 'Pasadena'. This building is a part 2 storey / part 3 storey commercial building. The lower two floors of this building are constructed of rendered concrete and the smaller upper floor constructed of weatherboard with an iron roof. The existing building is currently vacant and in a dilapidated state.

The boundaries of the Site approximate the building footprint of the existing Pasadena building. The Site has an area of 634.4sqm and a frontage to Pittwater Road of 32.685m. It has an eastern boundary of 19.595m, a northern boundary of 32.64m and a western boundary of 19.27m.

The Site is zoned 3(c) Neighbourhood Business under PLEP 1993.

Lot 3 in DP 1148738 ("Lot 3") is an irregular shaped parcel of land under lease from the Crown. It has a total area of 811.9sqm and adjoins the north-eastern and south-eastern boundaries of the Site. The portion of Lot 3 to the south-east of the Site currently contains 7 long stay visitor car parking spaces. The portion of Lot 3 to the north-east of the Site currently contains a stair well and paved area that was formerly used as an outdoor cafe.

Lot 3 is unzoned land under PLEP 1993.

Under Draft Pittwater Local Environmental Plan 2013, the Site is zoned B1 Neighbourhood Centre. Within this zone, restaurants and cafes are permissible although motels, which would come under the definition for 'tourist and visitor accommodation', are prohibited. Lot 3 is zoned RE 1 Public Recreation. Under this zone, restaurants and cafes would be permissible with consent.

The immediate previous use of the Pasadena building was as a licensed restaurant with indoor and outdoor eating areas, bar and bottle shop, real estate agent office and motel accommodation on the first floor with 15 suites.

The existing Pasadena building is located in close proximity to the water's edge of Pittwater at its northern corner with public access between this building and the Pittwater waterway only being achieved at this point via an adjacent timber boardwalk.

The subject site is completely surrounded by the public domain. The subject site as a whole is generally flat and contains no canopy trees or other significant landscape items.

To the immediate west of the subject site is Thomas Stephens Reserve, which is a paved public space with outdoor seating and tables in-between the Pasadena building, the Church Point Post Office, General Store and restaurant building and the Church Point Wharf. Both the Church Point Post Office and Store, as well as the Church Point Wharf are listed heritage items under Schedule 9 of PLEP 1993. Thomas Stephens Reserve is an important and frequently used public space, particularly for off-shore residents. Thomas Stephens Reserve is zoned 6(a) Existing Recreation under PLEP 1993. Its legal description is Lot 319 in DP 824048.

To the east of the Site is land known as Church Point Reserve. This land is legally identified as Lot 321 in DP 824048 and is zoned 6(a) Existing Recreation under PLEP 1993.

To the south of the Site, between the Pasadena building and Pittwater Road, is land zoned 9(d) Local Road Reservation. This land is currently being used as a pedestrian way and perpendicular car parking adjacent to the Pasadena building. This land is indicated by this zoning as required for the widening of Pittwater Road. In Draft Pittwater Local Environmental Plan 2013, this land is zoned SP1 as part of McCarr's Creek Road / Pittwater Road. It is therefore likely that, at some point in the future, the existing perpendicular parking spaces adjacent to the Pasadena building will be lost to road widening.

The adjoining built form in the vicinity of the subject site consists of the Church Point Post Office, General Store and Cafe to the north-west adjacent to Thomas Stephens Reserve.

To the east of the Site there is an existing Council owned carparking area predominately utilised by off shore residents but open to the general public.

The closest residential properties to the Site are to the south east on the opposite side of Pittwater Rd. There is also the heritage listed Church Point Graveyard Site and an existing reserve located adjacent to the residential properties.

The site is identified as being subject to Wave Action and Tidal Inundation, within the vicinity of heritage items and located in a Coastal Zone as defined by SEPP 71.

3.0 PROPOSAL IN DETAIL

The Applicant seeks consent for the adaptive re-use of the existing part 2 storey / part 3 storey building for the purposes of a café, restaurant, bar, retail, and motel uses and involving alterations and additions to this existing building including the following:

- (a) Raise the floor level of the ground floor from RL 2.15m AHD to RL 2.5m AHD.
- (b) Demolish existing external stairs at northern corner of building.
- (c) Provision of 10 car parking spaces on the south-eastern side of the existing building and outdoor dining area, including 1 disabled space and associated disabled access ramp and pathways/stairs. All of this work is within land referred to in this statement of facts and contentions as 'Lot 3'.
- (d) Reconfigure the ground floor plan of the existing building to incorporate the following: a kitchen with associated store, garbage store, staff room, office and loading dock external to the building adjacent to the southern corner; 125sqm restaurant internal dining area with associated 118sqm covered outdoor dining area adjacent to the northern elevation; reception and waiters' station; a commercial bar servery of 23.4sqm; a café with an internal dining area of 96sqm with associated outdoor dining areas of 9.4sqm and 11.5sqm adjacent to the western elevation, and additional associated outdoor dining areas adjacent to the northern elevation of 68sqm and 16.69sqm; a retail shop of 58sqm with associated storage; 2 sets of male and female toilets and a disabled toilet; new internal fire stairs and; a stair and lift entry foyer with new lift to access upper floors. All of the outdoor dining areas adjacent to the northern elevation of the building mentioned above are located on land referred to as 'Lot 3' in this statement of facts and contentions.
- (e) Extend the first floor at the southern corner of the building to enclose 7.95sqm of existing front balcony space and use it as additional internal floor area.
- (f) Reconfigure the first floor plan of the existing building to incorporate 8 motel rooms of varying sizes, all with their own ensuites and bathrooms, plus separate common male and female toilets, a store room, lift/stair foyer and circulation corridor.
- (g) Completely demolish the existing second floor including all existing internal and external walls, the floor and the roof.
- (h) Raise the floor level of the second floor from RL 8.94m AHD to RL 9.43 AHD.
- (i) Construct a new second floor over a larger footprint than the existing second floor that will include 3 motel rooms and a lift/stair foyer. Balconies are proposed on the northern side of the 3 motel rooms for each of these rooms. Planter boxes are proposed along the northern, eastern and southern external edges of the roof at this level.
- (j) Various changes to the sizes and location of windows.

4.0 BACKGROUND

Prior to 1961, the building on the subject site was known as 'the Pasadena Road House'. It was used for the sale of petrol, as a dance hall and as a cafe/restaurant.

In November 1961, Warringah Council approved an application for the conversion of the building into a guesthouse or boarding house with three shops with store rooms attached and an estate agent's office, also a restaurant and kitchen and toilets on the ground floor. The first floor was approved for use as a caretaker's flat of 2 bedrooms and 13 guesthouse bedrooms, each containing a bathroom and W.C. In addition, 2 laundries and a storeroom were approved "on the roof" (i.e. second floor).

In 1961, the subject site was zoned 'Living Area' under the County of Cumberland Planning Scheme Ordinance. In the Living Area zone, all uses were permissible with or without consent other than generating works, warehouses, bulk stores, industries other than local light industries, mines, institutions and drive-in theatres.

It was confirmed in the Land and Environment Court judgement for *Romeo, Guiseppe and Romeo, Anna Maria v Pittwater Council* [2006] NSWLEC 645 in paragraph 3 of that judgement that there was no surviving copy of the actual 1961 development consent granted nor any plans as follows:

"The council's records confirm that in November 1961 the Warringah Shire Council resolved to approve an application for alterations and additions to the premises then referred to as Church Point Store (Pasadena). Neither party is in a position to produce the original approval granted in 1961. Minutes of the meeting of the Health and Building Committee held on 7 November 1961 have been produced together with a report to the Town Planning Committee dated 15 November 1961. Both parties are prepared to rely upon the abovementioned records to understand the terms of the approval granted in 1961...."

Building Approval A212/63 was subsequently issued by Warringah Shire Council in March 1963 for 3 shops, an estate agent's office, 3 storerooms, toilets, vestibule, restaurant, kitchen and storeroom and a concrete terrace area (which later formed part of the covered eating area on the northern side of the building), 13 motel rooms on the first floor and common laundry, plant room, private laundry and store on the second floor.

On 7 June 1963, the Warringah Planning Scheme Ordinance 1963 was gazetted. Under this planning instrument, the subject site was zoned Neighbourhood Business "C". In this zone, restaurants and shops were permissible with development consent however, motels, hostels and guesthouses were prohibited. Part IV of the Warringah Planning Scheme Ordinance 1963 authorised the continued use of the motel component of the development notwithstanding that it was a prohibited use. Motels continue to be prohibited development under the current PLEP 1993 in the 3(c) Neighbourhood Business zone.

On 1 September 1980, the Environmental Planning and Assessment Act, 1979 (EPA Act) came into effect. Under this act, the continued use of the Pasadena building for the purposes of a motel, hostel or guesthouse was authorised by Division 10, Part 4 of the EPA Act. However, this authorisation was subject to this prohibited use not being abandoned (i.e. the prohibited use ceases for a continuous period of more than 12 months).

In November 1990, Warringah Shire Council granted development consent No.90/393 for a covered outdoor eating area (already constructed) and an extension to the restaurant/kitchen storeroom (already constructed) on the ground floor on the north side of the building on permissive occupancy 1965/326.

In granting this consent, contrary to the recommendation for refusal of the Development Unit, Warringah Shire Council advised:

"That in doing so, (i.e. approving the development) Council wishes to inform the applicant and place on record, that such leniency as now extended, on the basis of claimed but unsubstantiated existing use, and indeed having regard to the present chaotic parking situation and the informality of the reserve parking area (as recently provided by the tolerant attitude adopted by the Department of Land) would be highly unlikely that any intensification of the existing use could be justified."

A modification of this consent was approved by Warringah Shire Council in August 1991, permitting the enclosure of the covered outdoor eating area and an extension of the paved floor area to the west and north for landscaping purposes only. Consent No. 90/393 included a condition that sought to limit the available outdoor dining area that had been constructed illegally from 190sqm of available area down to 120sqm of available outdoor dining area by requiring a permanent landscaped area 70sqm.

A section 102 (now known as section 96) application to modify Consent No.90/393 was lodged to replace the requirement for a fixed landscaped area to moveable pots. Pittwater Council refused the application to modify the Consent. The Applicant lodged an appeal against this refusal with the Land and Environment Court (M.Romeo and Anor. v Pittwater Council, Appeal No. 10261 of 1997). This appeal was upheld by the Court, subject to a new condition that limited the seating of the restaurant (including both indoor and outdoor dining areas) to a maximum number of 138 persons, consistent with the relevant liquor license restriction on the premises that had been granted by the Liquor Licensing Board in January 1990.

As this judgement has significant relevance to the current assessment of whether the currently proposed development is an intensification of use and also in the assessment of the likely generation of additional demand for car parking resulting from the development, relevant sections of the Land and Environment Court judgement, dated 13 August 1997 are quoted below:

"..The expert town planner in the Council's case, Mr H. Sanders stated that the Council was concerned that the seating capacity of the restaurant was being increased by stealth. It was stated that the Council was not concerned whether the seating was inside the building or in the terraced eating area but that the seating capacity should not be increased...In my opinion, the reason for the fixed landscaping is clear....to restrict the floor area of the restaurant....There are strong planning reasons why any intensification of the restaurant should not flow from this application. Mr Rennard gave evidence that parking could be a problem in the area particularly on certain evenings and during summer. The Council's resolution of 13 November 1990 makes reference to "the chaotic parking situation" and the observations from the view showed little parking available relatively early on a Friday morning in winter. It is therefore of some importance that the use is not intensified, if for only this reason..."

.. ..I am very mindful of the need to have conditions that can be monitored and enforced with minimal effort. The use of portable landscaping does not achieve this, in my view.....The On-License for the restaurant pursuant to the Liquor Act 1982... provided a maximum seating capacity for the restaurant of 138 persons. Mr Maston indicated that this was the number of seats available at the restaurant. It is noted that the license was issued on 3 January 1990.

I am of the view that the most appropriate means of limiting the operation is through the number of seats rather than the use of portable landscaping. I accept that the permanent landscaping originally in development consent No. 90/373 would have gone further in ensuring this, than the portable landscaping....

*. I agree with Mr Hemmings when he stated that the planning controls and seating limits under the liquor Act 1982 are different, but it is inescapable that they both seek to limit the scale and operation of the restaurant. I cannot see any good reason why they should not work in concert, particularly as the planning controls are far less precise through the use of floor area limitations. **Using controls based on floor space, the number of patrons is only limited by the degree of comfort acceptable by patrons.....***

CONCLUSION *It was common ground that the s.102 modification satisfied s.102(1)(a) as being substantially the same if the patronage stayed at current levels.... **When asked about limiting the capacity of the restaurant it was considered by the Council to be best achieved using restrictions on the areas that may be used for restaurant purposes. This approach is used by Council as it was felt that there was no simple correlation between the area available for restaurant purposes and the number of patrons who may be served.** The applicant was willing to accept a condition restricting the seating capacity to that specified in the Liquor License*

In my opinion, a condition restricting the number of seats provides the most practical and effective way to limit the patronage at the restaurant and accordingly the following condition is imposed:

..The seating of the restaurant is to be limited to 138 persons as contained within the On-License (Restaurant) Number 462049 pursuant to the Liquor Act 1982."
(emphasis added)

In 2002, DA N0550/02 for a 4 storey shop top housing development on the Site was refused by Council and subsequently also refused by the Land and Environment Court on 17 October 2003. The judgment of this decision confirmed that the property benefitted from existing use rights at that time. At this time, shop top housing was a prohibited development but the EPA Act permitted the conversion of a prohibited development to another prohibited development under existing use rights provisions. Thus, in lodging this DA in 2002 and subsequently lodging an appeal against its refusal in 2003, the Applicant clearly intended to abandon the motel use in this period but retain existing use rights for the site in order to carry out another prohibited use.

A further development application (DA N0051/05) was lodged on 4 February 2005 for the demolition of the existing Pasadena building and the construction of a 3 storey shop top housing development over a basement car park was refused by Council but approved by the Land and Environment Court on 12 January 2007. The ground floor included a restaurant with overall indoor/outdoor seating capacity for 138 patrons as well as 3 shops. 6 residential units were proposed on the first and second floors. Notably, the proposal also included a basement car park with 14 car spaces. The Court issued a deferred commencement approval to the development. In the judgement, Commissioner Watts made the following pertinent comments and conclusions (*Romeo, Guiseppe and Anna Maria v Pittwater Council* [2007] NSWLEC 15):

"46. I accept the water view over the top of the eastern section of the 'Pasadena' is less significant in Tenacity terms than the view over the western section of roof and I would not require the removal of Apartment No.6 or refuse the development for reason of the view loss occasioned by that part of the proposal.

47. With Apartment 5 removed and the parapet lowered to 10.1m AHD and taking into account the setback from the main walls of Apartment No.6, I consider the view loss to be not unreasonable and the impact of bulk within reasonable limits. Whilst I acknowledge that the existing building is already bulky and uncharacteristically large, the architect has done much to disguise the bulk of the new (development) and the design is of high quality. The sloping louvred walls is an inspired solution to the constraints of the land and allow for generous access for pedestrians around the proposal. Mrs Romeo assured the Court that Mr Stutchbury would be commissioned to complete the building where it approved and I consider this important as the building is a focal point in this part of Pittwater and to be successful it should be well detailed."

An amendment to the EPA Act in March 2008 removed the ability to lodge a development application relating to a site where existing use rights applied for conversion of that prohibited use into another prohibited use. The existing prohibited use could still be extended or an application for a permissible use could still be lodged.

A subsequent Section 96(8) application to modify the approved shop top housing development (N0051/05) was lodged on 4 August 2008 to reduce the total number of residential units from 5 to 3, delete a pool, changes to the basement carpark and add an outdoor spa to one of the units. This Section 96(8) application was approved by the Land and Environment Court on 24 October 2008. In the same Orders of the same date of this approval, the Court ordered that the deferred commencement consent conditions had been satisfied and that the Consent had been activated. **Given that Consent N0051/05 was activated on 24 October 2008, this Consent remains valid and does not lapse until 24 October 2013.**

A further Section 96(8) application to modify Consent N0051/05 was lodged on 7 July 2010. This modification included the return of the unit deleted by condition by the Court on the top floor, regularised the sloping external walls by making them more traditional vertical walls and changed the finished materials by replacing approved materials with cheaper materials to reduce construction costs. This appeal was dismissed by the Court on 5 April 2011. Commissioner Dixon, in her judgement (*Guiseppe and Maria Romeo v Pittwater Council* 10536 of 2010) determined that the modified building was not substantially the same as the original approved development. In addition, the following conclusions concerning the merits of the development were held:

"36. Based on the evidence, I accept Mr Moore's opinion that the modified development will lessen the successful contribution of the approved design to the Church Point setting and the modified development will not sit positively beside the old Post office and Store, which are heritage items...Given the landmark site, and after a consideration of the objections raised by local residents at the site inspection and in the written submissions...I accept that it is not in the public interest to approve a modified development, which detracts from the amenity and sense of place.

37. The additional residential apartment on the western side of Level 2 will have an impact on water views from 2195 Pittwater Road opposite the site. I accept the evidence of Mr Edgar...that the proposal does not provide reasonable view sharing. The northern view corridor over the Pasadena building is the most highly valued view from 2195 Pittwater Road because water views from this dwelling are relatively limited...the owners of 2195 Pittwater Road have already suffered view loss from their balcony/living areas as a result of the granting of consent to the original approved development.....it would be unreasonable to impose a further view loss impact on this property.....

38. I accept the evidence of Professor Webber, Mr Moore and Mr Edgar that the addition of the residential unit on the western end of Level 2 will result in an unacceptable impact on the amenity and scenic quality of the surrounding public domain due to the additional height, bulk and scale. The site is prominent within the locality and is completely surrounded by the public domain."

The lodgement of Development Application N0051/05 in 2005, the subsequent lodgement of an appeal against the refusal of this application in 2006, the lodgement of a S96 application in 2008 and the lodgement of a further S96 application to this consent in 2010 and its refusal by the Court in 2011 also provides indication that the owners of the Site had the continued intention in this period of 2005 to 2011 of abandoning the motel use with the construction of a new shop top housing development that did not include a motel use.

The subject application was submitted on the 5th February 2013 and notified for a period of 31 days with an advertisement in the Manly Daily. During the notification period 136 submissions were received from local property owners and resident associations. The application was referred to Council's Senior Development Engineer, Principle Natural Resources officer, Environmental Health officer, Reserves and Recreation department, Strategic Planning (Heritage), Community Services department, Department of Water and Energy, Department of Planning and Infrastructure (SEPP 71) and NSW Police.

Height poles were requested to be erected and certified on 4th April 2013 and inspected by the assessing officer from potentially affected properties on 14 May 2013. A number of outstanding issues were raised and additional information requested in a letter from the assessing officer to the applicant dated 23 May 2013. Additional information was received from the Applicant on 25 July 2013.

5.0 NOTIFICATIONS

The Application was advertised and 544 property owners and local resident and community groups were notified of the receipt of the Application between 15 February 2013 and 18 March 2013. As a result of this advertising and notification process, 133 objections from residents and community groups were received and 5 submissions in support of the development.

Amended plans and additional information received in July 2013. All those originally notified plus objectors were notified of the receipt of this additional information and 14 day period was provided to receive and additional submissions between 30 July 2013 and 13 August 2013. 18 further objections were received and one submission in support were received as a result of this re-notification process.

6.0 STATUTORY CONSIDERATIONS

6.1 Work on Unzoned Land

The proposal involves the construction of various structures and the use of Crown land that is unzoned for purposes associated with the restaurant/cafe/bar uses on the ground floor of the building. PLEP 1993 is completely silent on the facilitation of the approval of such uses (or any uses, for that matter) on unzoned land. The Applicant has not addressed this issue but it is likely that the work proposed on the unzoned land will need to be assessed and approved under Part 5 of the Environmental Planning & Assessment Act, 1979 (EPA Act) rather than Part 4. This would be a completely different process and application that would be independent of the subject application.

Notwithstanding this, the work proposed on the unzoned land is clearly occurring in association with the work proposed to the existing Pasadena building. As a consequence, this work must be taken into consideration in the Part 4 assessment of the subject application. This assessment report has been prepared on this basis.

6.2 Abandonment of Existing Use Rights

The relevant provisions relating to existing use rights are contained within Division 10 of Part 4 of the EPA Act.

The proposal involves the re-use of an existing building on 3(c) Neighbourhood Business zoned land as a motel on the first and second floors. A motel is a prohibited use in the 3(c) zone under PLEP 1993, thus, this aspect of the proposal must rely on existing use rights being established for this use.

In the Land and Environment Court Judgement dated 12 October 2006 for Guiseppe and Anna Maria Romeo v Pittwater Council [2006] NSWLEC 645, Talbot, J. confirmed that the whole of the Pasadena building and site enjoyed existing use rights encompassing a number of uses that could all generally be regarded as being associated with and directly related to the overall development of the building for accommodation purposes (i.e. use as a motel). In Paragraph 12 of this judgement, the site was identified as follows:

"12. The subject land is comprised within Lot 142 DP 752046 and Permissive Occupancy No. 1965/326. The building effectively occupies the whole of Lot 142. The Permissive Occupancy is used as an outdoor eating area."

Based on this decision, it is clear that the Pasadena site, including Lot 142 DP 752046 and that part of Lot 3 DP 1148738 used as an outdoor eating area (i.e. the land subject to Permissive Occupancy 1965/326), benefitted from existing use rights for uses associated with a motel use in October 2006. What is not clear is whether these existing use rights have been abandoned since this time. This issue was raised with the Applicant during the assessment process as an issue requiring additional evidence to demonstrate that the motel use has not been abandoned. In response to this request for additional information, the town planning consultant has merely stated that it was never the intention of the owner of the property to abandon such rights.

It is not known when the operation of the motel use of the Pasadena building ceased and the Applicant has not been forthcoming in providing that information other than confirming that it has not been operating for a period of more than 12 months. Due to the involvement of the assessing officer in the assessment of a previous section 96(8) application considered by the Land and Environment Court and personal observations made during inspections carried out at that time, it appeared that the motel was not operating on the premises in December 2010. No information has been offered by the Applicant to either confirm or deny this.

From more recent observations of the premises in May 2013, the Pasadena building has been gutted with the majority of windows being removed and is not in a condition for such a business to operate from it. It is also known that the current property owners purchased the property at an auction on 28 March 2013.

The relevant sections in the EPA Act governing existing use rights, their continuance and abandonment are as follows:

"106 Definition of "existing use"

In this Division, existing use means:

- (a) *the use of a building, work or land for a lawfully commenced purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting the use, and*
- (b) *the use of a building, work or land:*
 - (i) *for which development consent has been granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

107 Continuance of and limitations on existing use

- (1) *Except where expressly provided in this Act, noting in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*
 - (a) *any alteration or extension to or rebuilding of a building or work, or*
 - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
 - (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A(1)(b), or*
 - (e) *the continuance of the use therein mentioned where that use is abandoned.*
- (3) ***Without limiting the generality of subsection (2)(e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*** (emphasis added)

It is noted that an appeal has been lodged to the Land and Environment Court which effectively makes this court the consent authority for this application. Notwithstanding the very clear wording in the EPA Act, the Land and Environment Court tends to take a very liberal approach to the abandonment of existing use rights and would be likely to accept the confirmation from the Applicant of their intention to maintain their existing use rights.

On this basis, this issue is not recommended as a reason for refusal and the assessment of this Application is made on the premise that existing use rights still apply to the Site.

6.3 Assessment of Existing Use Rights Applications and Derogation

Section 108 of the EPA Act sets out how the Environmental Planning & Assessment Regulation ('the Regulations') can make provisions for respecting existing use rights as follows:

"108 Regulations respecting existing use

- (1) *The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*
 - (a) *the carrying out of alterations or extensions to or the rebuilding of a work being used for an existing use, and*
 - (b) *the change of an existing use to another use, and*
 - (c) *the enlargement or expansion or intensification of an existing use.*
 - (d) *(Repealed)*
- (2) *The provisions (in this section referred to as **the incorporated provisions**) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*
- (3) *An **environmental planning instrument** may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any **provisions** (other than incorporated provisions) in such an instrument **that**, but for this subsection, **would derogate** or have the effect of derogating from the incorporated provisions **have no force or effect** while the incorporated provisions remain in force...." (emphasis added)*

The Land and Environment Court Planning Principle established by the judgement by Senior Commissioner Roseth in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71 confirms that the provisions of environmental planning instruments (and DCP's) that derogate or detract from the benefit endowed on a site by existing use rights do not apply to the assessment of applications on sites where existing use rights apply. Thus, zone objectives and planning controls that limit the size of a proposal (i.e. floor space ratio, height, setbacks) have no application if existing use rights apply. This includes qualitative provisions as well as quantitative provisions.

In view of the above, a DCP compliance table is not relevant to the assessment of the Application and is, therefore, only included as a record of the nature of issues raised in objections but not as a compliance table. Likewise, the provisions of environmental planning instruments that might otherwise have applied, were it not for the application of existing use rights (such as SEPP 71 and PLEP 1993) also do not apply. Instead, this report includes a pure merits assessment based upon the matters for consideration set out under Section 79C of the EPA Act.

In addition, the Planning Principle in *Fodor Investments* provides guidance in the merits assessment of existing use rights applications in paragraph 17 of that judgement by setting out the following considerations:

- "(1) *How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites? ...planning controls, such as height...and setbacks have relevance to the assessment of applications on such sites....because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped.*

*The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment. (refer to assessment of height, bulk and scale in **section 7.1** of this report).*

- (2) *What is the relevance of the building in which the existing use takes place? Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision. (refer to assessment as to whether the proposal is a demolition and rebuilding or alterations and additions in section 7.2 of this report).*
- (3) *What are the impacts on adjoining land? The impact on adjoining land should be assessed as it is assessed for all development.....the...impact....should be reasonable. (refer to the assessment of the potential impacts of the development under section 7.3 of this report).*
- (4) *What is the internal amenity?..." (this is not considered relevant to the subject proposal as no dwellings are proposed).*

Further guidance in the assessment of existing use rights proposals and the application of the planning principles in *Fodor Investments* is provided in the Land and Environment Court judgement by Pain J. in *Stromness Pty Ltd v Woollahra Municipal Council* [2006] NSWLEC 587 with relevant paragraphs quoted below.

"86.....The planning principles (in Fodor Investments) are intended as guidelines to assist resolution of issues that commonly arise in merits cases reviews....."

*87....there is no presumption that an existing use which can continue under s.107(1) can be rebuilt...There is no entitlement to a development consent for a rebuilding, only an entitlement to make a development application. **No case to which I have been referred has said that in the assessment of a development application to rebuild or intensify an existing use it is a given that the new proposal must be assessed as against what it replaces to determine if it is satisfactory.** Principle 2 in Fodor states that where an existing building is proposed for demolition there is no automatic entitlement to another building of the same floor space ratio, height or parking provision. That is correct in my view....If a merit assessment under s.79C is applied to a new building which is a rebuilding for the purposes of continuing an existing use, **it is possible that the existing use holder will not be allowed to build something identical to that which already exists if a merits assessments results in the conclusion that the impacts under s.79C are unacceptable.** (emphasis added)*

88. That is not to say that the building intended to be replaced is irrelevant...It may well be appropriate depending on the circumstances that the building intended to be replaced is considered...The merits assessment is not confined to that comparison only however, it is also necessary to consider the development application more broadly under s.79C...

89. Principle 1 in Fodor states that it is acceptable to consider the relevant planning instruments as these apply to the area surrounding the proposed development because they determine the nature of development in that area. That principle is not inconsistent with s.108(3) (i.e. does not derogate existing use rights)...Care must be exercised, however against the possibility that such an assessment leads to a de facto application of standards in environmental planning instruments to the existing use rights site.

Failure to comply with standards in an environmental planning instrument cannot be a consideration in the assessment of the application based on existing use rights. The same can be said in relation to Principles 3 and 4 but these can clearly otherwise apply to assist in the merit review under s.79C.

90. *I do not agree that matters such as the context of the proposed development cannot be taken into account.....If the assessment under s.79C is to be adequate it must consider the proposal in its surroundings, and that is clearly a fundamental part of any analysis required under s.79C(1)(b) and (c). In this case the primary issue is the bulk and scale of the development and consideration of the proposal in its surroundings which would appear necessary given the requirement of s.79C(1)(b) and (c)...."* (emphasis added)

Accordingly, the merits of the subject development application are assessed in accordance with the planning principles relating to existing use rights applications established in *Fodor Investments* and *Stomness Pty Ltd* below.

7.0 MERITS ASSESSMENT

7.1 Planning Principle 1 – How Does the Bulk and Scale of the Proposal Relate to what Exists on Surrounding Sites and what is Permissible on Surrounding Sites?

Planning Principle 1 of the *Fodor* judgement makes it clear that, whilst an existing use rights development cannot be assessed against numerical controls governing bulk and scale, such controls still need to be taken into account in order to gain an informed understanding of the future context of the character of surrounding development. *Stomness* warns that care must be taken in this assessment to avoid any de facto application of these standards and that failure to comply with these standards cannot be a consideration in the assessment. To draw these points out further, the focus of the assessment is to draw a comparison between the bulk and scale of the development and the bulk and scale of what is around it and what is likely to occur in the vicinity in the future, based on the applicable building envelope controls.

Surrounding Development

What is unusual about the subject site is that there are not that many other properties in the vicinity of it that are able to be developed. The Site is surrounded to the west, north and east by public reserves zoned 6(a) Existing Recreation, unbuilt upon Crown land or by the Pittwater waterway. This makes the existing Pasadena building a very prominent building in the locality, particularly when viewed from the Pittwater waterway and Scotland Island. Development that would be permissible in the surrounding public reserve and Crown land would be required, under the relevant Plan of Management, to be consistent with the purpose of the reserve or any lease or license granted within the Crown land. Given this, the possibility of the construction of buildings and structures in the open space around the Pasadena site is likely to be ancillary in nature and fairly limited.

The only nearby property in the vicinity of the Site that is able to be developed with a commercial building is the General Store site at 1860 Pittwater Road on the opposite side of Thomas Stephens Reserve from the subject site. The existing building on this nearby property is a part 1 / part 2 storey building constructed of lightweight materials including weatherboard and a pitched iron roof. The first floor has a reduced floor plate compared to the ground floor and is contained within the roof form. The General Store building is heritage listed. There is also a small single storey building associated with the Church Point Ferry Wharf. The ferry wharf is also heritage listed.

To the south of the Site and across the other side of Pittwater Road is another small reserve and low density residential properties that are of a sufficient distance from the Site and vertically separated from the Site and screened by vegetation such that these dwelling-houses are not considered to be a significant part of the visual catchment of the Site for comparative purposes of bulk and scale. The general lack of other buildings in the vicinity of the Site actually places a higher focus on the relationship visual between the existing Pasadena building and the nearby heritage listed General Store and ferry wharf building.

There are two 3(b3) Waterfront Business zoned properties in the locality including 1856 Pittwater Road, Church Point and 2A McCarrs Creek Road, Church Point containing 1-2 storey marina-related buildings. These buildings would be in the general visual catchment of the setting of the Pasadena building when viewed within the Pittwater waterway from a distance. These marinas are, respectively, 350m and 800m from the Pasadena building. Both marina sites are locally less prominent sites when viewed from the Pittwater waterway compared to the Pasadena site as the Pasadena property is located at the tip of a peninsula.

Building Height

The maximum height controls for the General Store site and the marina sites described above is 8.5m, or 8m above any applicable Estuarine, Flood and Coastline FPL. Other than public toilets and the like, no buildings or structures of any note are likely to be erected within the public reserves that immediately adjoin the Site. It is noted that the same height controls apply to the subject site. Without the benefit of scaled plans of the General Store, it is likely that the General Store building complies with the maximum 8.5m height control.

The maximum height of the existing Pasadena building is approximately 10.0m. The maximum building height of the proposed development is 11.3m above natural ground level scaled off the plans to the top of the lift over-run and 10.7m to the roof ridge.

Given the heritage listing of the General Store building and the applicable height control affecting the few other business-zoned properties adjacent to the foreshore in this locality, it is highly unlikely that there would ever be a building of a comparable height to that being proposed in the foreseeable future.

Building Setbacks

Front Setback

The minimum front setback control that would be applicable to the business-zoned sites along the foreshore in this locality would be 3.5m. Both the existing Pasadena building and the General Store building have nil setbacks to Pittwater Road. The existing second floor of the Pasadena building has a front setback of between 4.5m and 5.5m. In comparison, the proposed second floor has a front setback of between 2.2m and 3.5m. There is also additional floor area proposed to the front of the first floor in the southern corner of the building. This proposed additional floor area on the first and second floors adds additional visible bulk to the development compared to the existing development when viewed from the street.

Side Setback

A 3m side setback control is applicable for commercially zoned land that adjoining is immediately adjoining land zoned as public open space. This would apply to both the Pasadena site and also to the General Store in relation to the setbacks of development on these sites to Thomas Stephens Reserve. The existing General Store building has a 1m setback to the ground floor to Thomas Stephens Reserve and 3.2m to the first floor of this building. This results in a low profile and human scale to this building when viewed from the popular and well-used Thomas Stephens Reserve. Such a presentation is considered to be respectful and appropriate for the relatively intimate public space to which it presents, notwithstanding the non-compliance of the ground floor with the setback control.

In comparison, the existing Pasadena building is setback 2.078m to Thomas Stephens Reserve and is a full 2 storey height. This results in this side of the existing Pasadena building having a bulky, unarticulated and overwhelming appearance when viewed from the quite confined public space within Thomas Stephens Reserve.

There is a sharp contrast between how these 2 opposing buildings currently present to this important public open space. The proposed development adds additional outdoor dining areas within the 2.078m side setback area with sandstone walling and planter boxes addressing the level change between the ground level of Thomas Stephens Reserve (RL 1.53 – RL 1.75) and the new finished floor level of the ground floor of the proposed development (RL 2.5). The proposal also includes a larger, higher second floor that has a setback to Thomas Stephens Reserve of 8.5m. Whilst this is well over the required 3m side setback it is noted, based on the height poles erected on the Site, that this new second floor will be plainly visible to a viewer standing adjacent to the General Store in Thomas Stephens Reserve. Consequently, this new second floor further exacerbates the lack of any 'human scale' to the Pasadena building that is exhibited in the General Store building opposite.

Foreshore Building Line (FBL)

Whilst the FBL appears to make allowances for the existing location of the marina buildings in the general vicinity of the Site it cuts across both the General Store and the Pasadena buildings such that these existing buildings encroach over the FBL. Thus, any future re-development of these two sites would involve smaller buildings set further back from the water's edge than the existing buildings are located. With the exception of the existing marina-related buildings on the foreshore, it would appear that it would be unlikely that there would be any development in the future in the vicinity of the Site involving a large building of 2 or more storeys in close proximity to the foreshore. The application of an FBL on the residential zoned land adjacent to the foreshore in Church Point, Scotland Island and the western foreshore is also likely to prevent the occurrence of any significant building in close proximity to the foreshore other than boatsheds, jetties and the like. It is therefore likely that the foreshore in this locality will remain legible and relatively uncluttered by large buildings of the scale of the existing Pasadena building.

Relationship of Proposal to Existing and Likely Future Context

When viewed from both Pittwater Road and also from the Pittwater waterway, the height difference and the disparity of bulk and scale between the General Store building and the existing Pasadena building is marked to the extent that there is a clearly perceivable visual incongruence between them. This incongruousness is intensified by the disparity in height, scale and built form, as well as the disparity in the materials and construction of these buildings.

The proposed development will involve a second floor that is higher and has a larger floor plate than the existing Pasadena building and this will intensify the already disharmonious relationship between the General Store building and the Pasadena building. The proposal incorporates a larger second floor that is closer to Pittwater Road than the existing second floor, making it more visually prominent and dominating when viewed from Pittwater Road and Thomas Stephens Reserve.

The unusual height of the proposed building on the Site cannot be 'hidden' by adjoining development, nor can it be softened by immediately adjoining development having a slightly lower height and providing some form of visual transitioning up to the higher proposed building. The Site is surrounded by the public domain with each of the 4 elevations of the building being highly visible from the public domain, thus, a building that is unusually high on this site will be highly prominent and create a visually jarring impact for a viewer standing in the public domain at ground level or travelling by boat along the Pittwater foreshore.

The proposed building would become even more visually dominant as a feature within this locality, contrasting with the natural topography, the coast and water, the native tree canopy and landscape, which are the primary features that make up the general character of Church Point and are highly valued by the community.

The building envelope restrictions discussed above that would apply to the few other commercial sites in the locality and the FBL restrictions to residential sites in the locality are such that it would be extremely unlikely for any future development of a similar bulk and scale as the 3 storey proposal to ever occur as close to the foreshore as is proposed under the subject application.

It is not considered acceptable for this proposal to add additional height and bulk to an already visually dominant and bulky building that does not sit sensitively within its prominent natural setting immediately adjacent to the foreshore. There is little evidence in the proposed plans of any attempt by the architect to somehow reduce the apparent visual bulk of the existing Pasadena building and improve its relationship to its surroundings. Consequently, the development is recommended for refusal due to its excessive and unacceptable height, bulk and scale.

7.2 Planning Principle 2: What is the relevance of the Existing Building in which the Existing Use Takes Place?

Although the proposal is for “adaptive re-use” of the existing building, there is very little of the existing building that is actually being proposed to be retained. The proposed demolition of the existing building includes the following:

- a. demolition of a significant proportion of the internal walls at ground and first floor levels;
- b. demolition of significant portions of the external walls at both ground and first floor levels, including:
 - i. almost the entire walls facing the Thomas Stephens Reserve and the outdoor eating and drinking areas at ground floor level, and
 - ii. the entirety of the wall facing the Thomas Stephens Reserve at the first floor level;
- c. complete demolition of the existing second floor including all existing internal and external walls and the roof
- d. complete demolition of the floor of the second floor (being the entire roof of the first floor)
- e. complete demolition of the existing external stairs at the northern corner of the building, and
- f. construction of a new ground floor level.

In view of the significant extent of demolition proposed, the Proposal does not involve “adaptive re-use” of the existing building on the Site. Rather, the Proposal involves the substantial demolition of the existing building on the Site. The Applicant has not demonstrated any environmental benefits associated with the proposal to retain limited elements of the existing building. Based on the Land and Environment Court Planning Principle in *Michael Hesse v Parramatta City Council* [2003] NSWLEC 313, the Proposal does not require any different assessment from a proposal that does not involve adaptive reuse as it has not been established that the proposed adaptive re-use has any major benefit that is in the public interest.

More than half of the existing external fabric of the building is proposed to be demolished. Given this and taking into account the Land and Environment Court Planning Principle in *Edgar Allan Planning Pty Limited v Woollahra Municipal Council* [2006] NSWLEC 790, the Application should therefore be assessed as a new development.

The above points need to be considered in association with the *Fodor* Planning Principle 2 which states that, where the existing building is proposed for demolition, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision. The Planning Principle in *Stromness* expands on this principle by stating that it is possible that the existing use holder will not be allowed to build something identical to that which already exists if a merits assessment results in the conclusion that the impacts under s.79C are unacceptable.

It is not known what the Applicant's true motive in deciding to retain the existing building actually is but it is evident that, by retaining this building (or at least appearing to), the possibility of providing basement car parking (which was included in the previous shop top housing development for this site) is avoided on the premise that it would be too difficult to construct whilst still retaining the existing building above. It also retains the envelope of the existing building whereas a new development may not necessarily achieve this same envelope, due to the excessive height, bulk and scale detailed under **section 7.1** of this report. It cannot be said that the existing Pasadena building is attractive and fits very successfully into its particular context. Thus, there is no real public benefit in retaining this building. A recommended reason for refusal is that the development is not 'adaptive re-use' as proposed. The proposal is for demolition and construction of a new development. This building has unacceptable impacts in its existing form and the proposal exacerbates these unacceptable impacts. With the extent of demolition proposed there are opportunities to improve the relationship this building has with its surroundings but this has not occurred.

7.3 Planning Principle 3: What are the Impacts on Adjoining Land?

Car Parking Impact

The subject site and the locality surrounding it has a long history of parking issues. This is confirmed by the 133 objections received, many of which included details of the day to day difficulties faced by local residents in finding a car park in the locality. The history of the use of the Site is detailed in the 'Background' section of this report (**section 4**).

In particular, it is clear that when Warringah Council granted consent for the use/extension of the covered outdoor dining area to the restaurant in 1990, it was also conscious of the lack of a sufficient supply of public and on-street car parking to meet demand in the area ("*the chaotic parking situation...*") and puts its concern on the record that any further intensification of the use of the Site could not be supported due to this existing parking problem. This was more than 20 years ago and there is no evidence currently before Council to suggest that the chaotic parking situation in this locality has improved since that time. Even with the Pasadena building lying completely vacant and unused today, there still appears to be a significant parking problem in the area.

It is in the context of this significant and long-standing chaotic parking situation that the parking impacts of the development are assessed. It is noted that in the submitted Statement of Environmental Effects and in the Traffic and Parking report submitted in support of the development, this significant and long-standing problem has neither been mentioned nor taken into account. This is in spite of the issue having been raised in a public consultation session with local residents held by the Applicant prior to submission of the Application, at 2 meetings between Council's Executive Planner and the Applicant and in a letter from Council's Executive Planner dated 23 May 2013 to the Applicant requesting additional information including a parking survey that assesses the current parking conditions and availability in the locality.

In essence, the Applicant has been made aware of the problem on numerous occasions but has deliberately completely ignored it. No parking survey has been provided. As a result, the proposed utilisation of the adjacent public car park and surrounding streets for overflow parking demand generated by the proposal has not been justified as being feasible without significant detrimental impacts. In response to the request for a parking survey the traffic engineer for the Applicant stated:

“...the existing approval with the parking circumstances as they are prevail and there is no relevance in the results of any parking surveys.”

According to figures provided by the Traffic Consultant for the Applicant, (these are disputed as not being correct later in this report under **section 7.5** 'Intensification of Use' but are adopted for the purposes of parking assessment) the Pasadena building was last used as a 138 person restaurant with an indoor dining area of 240sqm and an outdoor dining area of 200sqm, 3 shops with total area of 205sqm and 14 motel rooms. It provided 7 parking spaces exclusively for these uses on the adjoining Crown land to the east known as Lot 3.

In order to gain an understanding of the likely parking impact of the development on the locality, the parking generation rates of section B6.6 of Council's PDCP 21 need to be referred to. This development would have generated a total demand for 36 car spaces. Thus, under these terms, the existing development has historically had a shortfall of approximately 29 car spaces.

It is presumed by the town planning consultant and traffic engineer for the Applicant that any excess demand for parking generated by the development will be absorbed by whatever parking spaces were available in the adjoining public car park and in the surrounding street network, based on the assumption that this happened in the past and was deemed acceptable. However, it is questionable as to whether the locality can successfully or adequately absorb this parking shortfall in the future and whether it is appropriate or reasonable to discount any parking shortfall from the previous use in the parking assessment of the current proposal. In failing to provide any acknowledgement or assessment of the existing parking issues in the locality at all, the submitted "Assessment of Traffic and Parking Implications" dated July 2013 can only be regarded as misleading and grossly inadequate for the purposes of assessing the true likely parking impact of the development on the locality.

As demonstrated above in **section 7.2** of this report, it is considered that the extent of the existing building that is actually being retained within this proposal is minimal to the extent that the proposal is effectively for a new development rather than additions and alterations to the existing building, as proposed. This is a relevant consideration in regard to the *Fodor* Planning Principle 2 where it states that there is not necessarily an automatic entitlement to the same parking provision as the existing development in the new development. The *Stomness Pty Ltd* Planning Principle expands on this point where it states that it is possible that the existing use holder will not be allowed to build something identical to that which already exists if a merits assessment results in a conclusion that the impacts under s.79C are unacceptable. In failing to deliver the requested parking survey and providing a clear indication of the anticipated maximum patron capacity of the restaurant/café/bar functions, as requested, the Applicant is obstructing the necessary merits assessment from being made.

Notwithstanding the failure of the Applicant to co-operate by providing the necessary information, a merits assessment of parking impact is provided below, based on the information currently before Council.

The proposed development includes a restaurant with an indoor dining area of 125sqm and an outdoor dining area of 118sqm, a café/bar with an indoor dining area of 96sqm and total outdoor dining area of 105.59sqm, a shop of 58sqm and 11 motel rooms. Under the terms of section B6.6 of PDCP 21, this development would generate a demand for 27 car spaces.

It provides 10 spaces on Lot 3 resulting in a parking shortfall of 17 car spaces, if assessed strictly against Council's DCP.

Whilst the Applicant's parking and traffic report claims that there is no intensification of use and the parking demand assessment of the proposal under the DCP creates this appearance, this is not considered to be an acceptable assessment of the parking impact for two reasons. Firstly, the Applicant has not demonstrated that the locality has the capacity at this time to absorb this additional parking demand, as indicated above. Secondly, the unique circumstances of the history of the use of this site warrant a parking impact assessment based primarily on patron numbers, not on floor space.

The Pasadena building and adjoining Lot 3 has historically been used for the purposes of a restaurant with a combined indoor dining / outdoor dining / reception area / staff capacity of 138 persons. This restriction in capacity, based on maximum number of persons was imposed by the Land and Environment Court in a judgement of *M.Romeo & Anor v Pittwater Council [Proceedings No.10261 of 1997]* (see details in 'Background' section of this report (section 4) in preference to restricting capacity by setting maximum floor areas for indoor and outdoor dining, which was Council's stated preference at the time. The Court recognised the need to restrict capacity mainly because of the *"chaotic parking situation"*. The judgment noted that:

"..Using controls based on floor space, the number of patrons is only limited by the degree of comfort acceptable by patrons...."

In making this decision, the Court over-ruled Council's desire to contain the intensity of use of the restaurant by setting maximum permitted dining areas. The containment of the intensity of the restaurant use was considered necessary by both Council and the Court in order to restrict the parking demand that it generated. Future increases in both the internal and external dining areas of the restaurant were therefore possible and have occurred as it was the maximum patron capacity that limited the intensity of the restaurant use on this site.

It is therefore questionable to allow the Applicant to claim the benefit of the existing outdoor and indoor dining areas when these areas were not limited in the relevant development consent. Instead, the maximum number of patrons was limited. For this reason, the parking assessment of the use of this Site needs to be based on the likely number of patrons if this assessment is going to involve any comparison to the previous use. The Applicant's parking and traffic report relies heavily on a comparison between the dining areas of the previous restaurant use of the Site and the current restaurant/café/bar proposal to justify the assertion that there is no change in parking demand. Given the above, this comparison of areas is irrelevant and a totally inaccurate assessment of what the true parking impact is likely to be.

The RTA's 'Guide to Traffic Generating Developments' ('GTGD') recommends a parking generation rate for restaurants of 1 car space per 3 seats. If the GTGD is used to assess parking impact, this would increase the potential parking generation of the existing restaurant from 14.67 car spaces (as assessed against PDCP 21) to 46 car spaces (as assessed against GTGD). This would increase the overall parking shortfall of the previous use of Pasadena from 29 to 60 car spaces.

A GTGD parking assessment based on patron numbers would increase the parking generation of the currently proposed restaurant/bar/café outdoor and indoor areas from 14.82 car spaces (as assessed against PDCP 21 and based on dining area) to 126.67 car spaces (based on an estimated maximum number of 380 patrons and using the GTGD criteria, maximum patron number assumption explained in this section of the report under 'Intensity of Use'). The overall parking shortfall of the proposal using patron numbers would then increase from 17 car spaces to 130 car spaces. This is considered to be a much closer reflection, in this instance, of the likely parking impact of the development than an assessment against the floor area based parking criteria of section B6.6 of PDCP 21.

It should be noted that, once the Applicant was aware that the parking assessment and intensity of use assessment of this proposal would be based on the number of patrons rather than floor areas of indoor and outdoor dining areas, the seating plans that formerly appeared in the original plans were subsequently removed from the amended plans to obscure the intended maximum number of patrons and make such an assessment more difficult. Despite requests, the Applicant has not provided any detail on the anticipated maximum number of patrons this proposal is designed to cater for. This is not considered to be a particularly transparent or co-operative approach and leaves Council with the only option of refusing the development. A reason for refusal, based on inadequate information submitted to enable a proper assessment is recommended.

In addition, given the significant existing parking problems in the Church Point locality and the likely significant increase in the demand for parking in the area that this development will create, the development is not considered to be satisfactory having regard to section 79C(1)(b) and (c) of the EPA Act as the Site is not suitable for a development of this magnitude. A reason for refusal on this basis is recommended.

Noise Impacts

Numerous objections received have raised concern regarding the impact of additional noise arising from the proposed use at the proposed operating hours.

The originally submitted development application was accompanied by a noise impact assessment report prepared by Atkins Acoustics. Council arranged to have this report assessed by independent acoustic experts who made a number of comments and raised some concerns regarding the content and methodology of this report. These concerns were included in the letter of issues prepared by the assessing officer and sent to the Applicant on 23 May 2013. The letter provided Council's independent acoustic consultant's comments and specifically requested that issues raised be addressed in any revised noise impact assessment report. In response to the letter of issues, the Applicant has amended the plans and provided a revised noise impact assessment report by Atkins Acoustics dated July 2013 which appears to have responded to the issues raised.

The revised noise report makes a number of recommendations regarding the noise attenuation measures that would be required to be made to the construction of the building and its internal fitout. The report indicates that the predicted cumulative noise levels with the northern and western outdoor terraces occupied prior to 10pm satisfy the relevant noise assessment criteria. However, after 10pm, with the western terraces closed and with doors to the restaurant open and amplified music internally, noise levels are predicted to exceed the assessment criteria by 1dB.

It states that, without amplified music, noise from the restaurant and northern terrace patrons is predicted to satisfy the post 10pm noise criteria for Pittwater Road and Scotland Island residential properties. The report recommends options to control the predicted exceedence include reducing the level of amplified music or closing the northern facade doors and windows to the Restaurant and Bar. However, with no access to the bar from the northern terrace, it is likely that patrons on the northern terraces would be frequently opening the northern facade doors to gain access to the bar. Thus, closing the northern facade doors and windows to the bar would be unlikely to be all that effective in restricting noise escaping from the premises. A more certain option would be to close the northern terraces at 10pm at the same time as the recommended closure of the western terraces. This could be required by a condition of consent, should the development be approved.

Notwithstanding the submission of the above acoustic report that concludes that with the appropriate management of the restaurant/café/bar uses and appropriate acoustic insulation work being carried out to the existing building, the noise impacts of the uses would be within generally acceptable limits, it is considered that the likely number of patrons and proposed operating hours are two factors that could be more easily and appropriately limited and more effectively reduce the potential for the proposed operations on the premises to create noise disturbance. The acoustic report does not consider whether or not capacity or opening hours should be limited to achieve more acceptable noise impacts.

The tolerance and expectations of residents relating to noise impacts varies between an urban town centre and a predominantly low density residential area with a small neighbourhood centre such as Church Point. Clearly, in a low density residential area, it would be reasonable for residents to expect some relief from ANY potential noise impacts at certain times, such as Sunday evenings, weekday evenings after 10pm and also early in the mornings. Thus, the acoustic report is noted but it is questioned as to whether the capacity and opening hours proposed are appropriate for a low density residential locality such as Church Point.

The inappropriate patron capacity and opening hours and the potential of these elements of the proposal to lead to potentially unreasonable noise impacts are recommended as a reason for refusal.

Impacts on Heritage Items in the Vicinity of the Site

The closest buildings/structures to the Pasadena building are the heritage-listed Church Point Post Office and General Store (a part 1/part 2 storey building of lightweight weatherboard construction with a colorbond roof) and the heritage-listed Church Point Ferry Wharf (also a structure that is low-scale and lightweight construction).

The Pasadena building is in the vicinity of these heritage buildings and makes up a prominent part of their visual setting, particularly when viewed from the Pittwater waterway and from Pittwater Road.

The proposed additions and alterations add highly visible bulk to the Pasadena building, exacerbating its existing overbearing scale in relation to the setting of these heritage items. The construction of the new work is predominantly heavy masonry construction rather than lightweight materials. Unsympathetic and unnecessary alterations such as widening the existing masonry supporting columns along the front elevation, extending the height of the masonry external wall on the southern corner of the building and introducing high stone walls at ground level to raised planter boxes along the water's edge further enhance the solid and bulky appearance of the Pasadena building compared to the heritage items. This detracts from the quality of the setting of these heritage items.

The unsympathetic bulk, design and construction of the proposed additions to the existing building and their impact on the heritage value of the adjacent heritage items is recommended as a reason for refusal.

Impacts on Saltmarsh Endangered Ecological Community

Comments by Council's Natural Resources section provided below:

"The property contains a modified landscape located on the foreshore of Pittwater estuary. The proposed works involve alterations and additions to the existing Pasadena building to upgrade the restaurant facilities."

*No native trees or significant vegetation occurs in the vicinity of the works, and as a sea wall is present (which will not be altered) there is no saltmarsh vegetation in the vicinity which could be impacted. Seagrass beds occur offshore, however will not be impacted if sedimentation fencing is implemented (as conditioned). Landscaping on the site will be enhanced, and a landscape plan (Jane Britt Design Drawing No. L01A January 2013) has been submitted. The Planting schedule includes a some species deemed undesirable in Pittwater due to being invasive in natural environments. These are Tuckeroo (*Cupaniopsis anacardioides*), Indian Hawthorn (*Rhaphiolepis indica* 'Cosmic White') and Treasure Flower (*Gazania* spp).*

Therefore, an amended landscape plan is required prior to the issue of the Construction Certificate which deletes these undesirable species and replaces them on the Planting Schedule with more appropriate locally native species selected from the relevant lists in the Native Plants For Your Garden guide on Councils website at http://www.pittwater.nsw.gov.au/environment/species_lists."

Impacts on the Public Domain – Prevention of Land-Based Foreshore Pedestrian Access

The development involves the removal of external stairs that currently prevent land-based pedestrian foreshore access in-between the Pasadena building and the water's edge but then replace this structure with planter boxes and raised outdoor dining areas that will continue to prevent the achievement of land-based foreshore access. These new structures would obstruct the natural pedestrian desire line that follows the line of the seawall. Accessing the boardwalk requires a deviation away from this pedestrian desire line and a change in the construction of the footpath from gravel to timber. This deviation in terms of the direction of travel and construction of the footpath is not desirable for a vision impaired person or a person in a wheelchair to navigate. There is clear potential to improve the existing foreshore access.

The provision of land-based access along the foreshore for pedestrians is considered preferable to continuing to rely on the timber boardwalk that protrudes over the water as it would be more accessible and reduce the visual clutter and obscuring of the legibility of the foreshore caused by the current boardwalk. It would also remove the future maintenance costs associated with the boardwalk. The proposed planter boxes are not essential elements to the proposal and it is considered that there is a higher value to the public in deleting these planter boxes and reducing the outdoor dining areas as necessary, in order to achieve the land-based foreshore access.

View Impacts

Submissions received raised concerns regarding view loss as a result of the proposed development from the public domain (Church Point Graveyard and adjoining reserve) as well as from private properties, in particular, 2195 Pittwater Rd.

The view loss impact on the dwelling at 2195, Pittwater Road, Church Point is assessed below in accordance with the procedure established by the relevant Planning Principle in the judgement of *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 which sets out a four step assessment procedure to determine the reasonableness of a development in terms of achieving view sharing.

"The first step is to make an assessment of the views to be affected. Water views are more highly valued than land views. Iconic views are more highly valued than views without icons. Whole views are valued more highly than partial views, for example, a water view where the interface between land and water is visible is more valuable than one in which it is obscured."

With specific reference to the existing views from 2195 Pittwater Road, Church Point, this property is on the opposite side of Pittwater Road from the Site. This dwelling is a 2 storey dwelling with garaging on the ground floor and living areas are on the first floor. There is a first floor balcony on the north-eastern side (front) of the dwelling and directly off the living room/dining room.

Although the dwelling at 2195 Pittwater Road is in reasonable proximity to the Pittwater waterway, water views from this dwelling are surprisingly limited. Partial views of the Pittwater waterway, Scotland Island and the interface between this land and water are available to the north-east of the house from the front first floor balcony and internal living areas from both a standing and a seated position. These partial views are heavily filtered by trees located in-between the dwelling and the foreshore of Pittwater. The existing Pasadena building is located to the north of the dwelling at 2195 Pittwater Road. Water views toward the north and north-west from both the internal living areas and balcony of 2195 Pittwater Road are also predominantly heavily filtered by existing vegetation. Potential water views northwards are also obscured by the existing Pasadena building.

Unobscured water views appear to be only available from the interior of the first floor of the dwelling at 2195 Pittwater Road and its balcony in two locations. The first and smallest unfiltered water view corridor toward the north-west ('north-west view corridor') can be seen from a seated and standing position from the dining room and through the dining room window on the north-east elevation of the dwelling. It is also visible from a standing and seated position from the north-western edge of the balcony. This view corridor includes a small water view of Pittwater and a small pocket of land/water interface with the western foreshore.

The second water view corridor is much larger than the north-west view corridor and is toward the north and over the first and second floor rooftops of the existing Pasadena building ('northern view corridor'). It does have some minor filtering of vegetation but this is not considered to be overly disruptive. The extent of the length of the existing Pasadena building approximates the width of the northern view corridor. This view corridor is available from both a seated or standing position from most locations on the front balcony and from a standing position from the living room. This northern view corridor over the existing Pasadena building includes water views of Pittwater and land/water interface views of Pittwater, the western foreshore and Scotland Island.

In accordance with the Tenacity Planning Principle, the northern view corridor over the existing Pasadena building is considered to be the most highly valued view available from the dwelling at 2195 Pittwater Road as it includes an appreciably larger amount of water view and land/water interface view than the north-west view corridor. The northern view corridor over the Pasadena building would also be highly valued as water views from this dwelling are relatively limited. The north-western view corridor described above would also be valued but to a much lesser extent.

The second step in the Tenacity Planning Principle is to consider the part of the property from which the views are obtained. The Planning Principle notes that the "protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries."

The vantage points from which the views are available have already been discussed above. These views are over a side boundary however, the adjoining land to the north-west of 2195 Pittwater Road is 2199 Pittwater Road, which is vacant parcel of land that is zoned 6(a) Existing Recreation and is unlikely to be developed. The protection of views from 2195 Pittwater Road over its side boundary is considered to be a reasonable expectation in these circumstances.

The third step in the Tenacity Planning Principle is to assess the extent of the impact arising from the development. The Planning Principle notes that the impact on views from the living areas of a dwelling is more significant than from bedrooms. It suggests that view loss should be assessed qualitatively as negligible, minor, moderate, severe or devastating. All of the northern view corridor views are from living areas or outdoor living areas immediately connected to the internal living areas.

Based on the height and location of height poles erected on the Site that have been duly certified by a surveyor, it is considered that the majority of the water view available to this dwelling in its most valued northern view corridor will be lost although the land water interface view should still be visible from a standing position but not a seated position from either the internal living area or the front balcony. It is considered that this view impact is moderate to severe.

It should be noted that the previous shop top housing development (Consent N0051/05, detailed under **section 4.0** of this report) and the view impacts it may have caused has not been taken into account in this view impact assessment. This is because it is clear in the Land and Environment Court judgement of this case that the exceptionally high standard of design and finishing of this development was given some weight by the Court that to the extent that a greater level of impact was permitted than would have otherwise been considered acceptable for a more ordinary style of development.

The fourth step in the tenacity Planning Principle assessment of view impact is to assess the reasonableness of the proposal that is causing the view impact. It notes that a development that complies with all of the planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.

In the case of the subject proposal, the proposed new second floor has been identified as contributing to an unacceptable height, bulk and scale that has unacceptable impacts on the surrounding public domain and the setting of the heritage items. In **section 7.2** of this report, it is established that the subject development amounts to a demolition and rebuilding of the Pasadena building. The *Fodor* and the *Stromness Pty Ltd* Planning Principles establish that there is no automatic entitlement to another building of the same floor space ratio, height and parking if the merits assessment results in the conclusion that the impacts of such a building are unacceptable.

Given the above cumulative impacts, it is not considered that the further impact of the proposed development on views from 2195 Pittwater Road is reasonable or supportable.

With regard to the potential view impacts from the public domain (i.e. the Church Point Graveyard and adjoining reserve), it is considered that the proposal has the potential to obscure some water views and some land/water interface views, depending upon where the viewer is standing within the reserve. These views are considered to be important and valuable public assets and the erosion of the quality of these views is not considered reasonable in circumstances where the offending elements of the building obscuring these views are also having numerous other unacceptable impacts.

For the above reasons, the view impacts from both 2195 Pittwater Road, Church Point and also from the adjoining public reserve are considered to be unreasonable. This is a recommended reason for refusal.

7.4 Planning Principle 4 – What is the Internal Amenity?

As the proposal does not include dwellings, this planning principle is not relevant in the assessment of this Application.

7.5 Section 79C(1)(d) – Any Submissions Made

This section of the report covers issues raised in submissions and not addressed elsewhere in the body of this report.

Illegal Building Works

Objections raised concern that illegal building works were being undertaken on the Pasadena building. Council's Compliance Officers responding to a complaint raising this issue on 11 April 2013 and determined by inspection of the building that the works being undertaken were exempt development not requiring consent as it included minor internal building alterations.

Intensification of Use

Concern has been raised in objections that the proposal represents a significant and unacceptable intensification of the use of the building and site, compared to the previous use.

The Applicant maintains that there is no intensification of the use of the Site and bases this assertion on a comparison of “approved” floor areas for indoor and outdoor dining between the former restaurant use and the proposed restaurant/bar/café use. The legitimacy of this assertion and the comparisons made are rejected because of the unique history of the development assessment and control of the use of this Site. This is detailed in **section 4.0** of this report.

The restaurant that formerly operated on the Site was restricted in terms of its maximum capacity for patrons and staff in both indoor and outdoor dining areas of 138 persons at any one time. This restriction in capacity, based on maximum number of persons was imposed by the Land and Environment Court in a judgement of *M.Romeo & Anor v Pittwater Council* [Proceedings No.10261 of 1997] (detailed in **section 4.0** of this report) in preference to restricting capacity by setting maximum floor areas for indoor and outdoor dining, which was Council's stated preference at the time.

The Court recognised the need to restrict capacity mainly because of the “chaotic parking situation”. The judgment noted that “Using controls based on floor space, the number of patrons is only limited by the degree of comfort acceptable by patrons....” In making this decision, the Court over-ruled Council's desire to contain the intensity of use of the restaurant by setting maximum permitted dining areas. The containment of the intensity of the restaurant use was considered necessary by both Council and the Court in order to restrict the parking demand that it generated.

Following this decision, increases in both the internal and external dining areas of the restaurant were possible and occurred as it was the maximum patron capacity that limited the intensity of the restaurant use on this site. Notably, as a result of this Court decision, the operators of the restaurant were able to extend the effective area of the outdoor dining area from 120sqm to 190sqm on the basis that removable pots be placed on 70sqm rendering this portion of the covered outdoor dining space unusable for additional seating and the maximum capacity for the entire premises remain at 138 persons.

The Applicant now claims that the previous restaurant had an outdoor dining area of 200sqm and that they are actually providing less than that with only 186sqm of total outdoor dining area being proposed. This calculation appears to include the restaurant outdoor dining area noted as being 118sqm and the café/bar outdoor dining area noted on the plans as being 68sqm.

The Applicant's calculations of outdoor dining area are disputed as, scaling off the plans, the restaurant outdoor dining area is actually 127.72sqm. The café/bar outdoor dining area is actually 71.78sqm. There is a second outdoor space on the northern side of the café that is identified in the Site plan (Drawing Number 03, Issue B, dated July 2013) as being "Café Outdoor Seating". This space has an area of 16.69sqm. Then, there are additional outdoor dining areas on the western side of the café of 11.5sqm and 9.4sqm. In total, it is calculated that the actual proposed outdoor dining area is 237.09sqm. Thus, the Applicant's claim that less outdoor dining area is proposed than what is existing is false. It is based on the false assumption that the claimed 200sqm of previously used outdoor dining area was approved. The relevant comparison would be 120sqm of approved outdoor dining area versus 237.09sqm of proposed outdoor dining area. This is clearly an intensification of the use.

A further point of concern regarding the increased intensity of the use of the Site that would result from the proposal is the fact that the Applicant maintains that, based on the floor area of indoor and outdoor dining areas, there is no intensification of use compared to the previous use of the Site. It is not agreed that this is the case. The previous use included 3 retail shops that covered the entire western half of the ground floor and (based on floor areas provided by Applicant's traffic report) and totalled 205sqm. These are being replaced by a single shop of 58sqm and a licensed café of 96sqm of indoor seating and 109.37sqm of outdoor seating. Based on the plans submitted to the Section 102 Application to modify Development Consent 90/393 in 1996, the indoor dining area of the previous restaurant measured approximately 9m x 15m giving a total approved dining area of 135sqm. The traffic and parking report for the Applicant states that the approved dining area for the original restaurant was 240sqm. These discrepancies result in a significant difference between the calculation of the approved total indoor and outdoor dining spaces for the previous restaurant given by the traffic consultant for the Applicant (440sqm) and that calculated by Council's Executive Planner (255sqm). If the combined indoor and outdoor dining areas of the proposed café/bar/restaurant (458.09sqm) is compared to the combined area actually approved then the proposal represents an intensification to this previous use of indoor/outdoor dining space of approximately 179.6%.

As long ago as 1990, when Warringah Council granted consent to the outdoor dining area and expressed concern over the "chaotic parking situation" and stated that any further intensification of the use "could not be justified" (as detailed under section 4.0 of this report), there has been a very clearly expressed concern that the premises had reached its maximum capacity that could be reasonably tolerated. In the Land and Environment Court proceedings in 1997 (*M.Romeo & Anor v Pittwater Council* [Proceedings No.10261 of 1997] as detailed in section 4.0), Council's expert planning witness expressed concern that "the seating capacity of the restaurant was being increased by stealth". This concern has subsequently been realised and is evident in the claims of what has been previously "approved" and the incorrectly stated areas proposed made by the Applicant.

The Applicant states on page 3 of their letter dated 4 July 2013 and responding to Council's intensification of use concerns that:

"...Council is entitled to impose a condition restricting the number of restaurant/café seats to 138 being a condition ordinarily imposed and enforced for this form of development."

Whilst Council has the option of imposing such a condition, this would be entirely at Council's discretion and there is no onus placed on Council, as the responsible consent authority to address this concern by imposing such a condition. In this case and noting the significant increase in the combined indoor/outdoor dining area proposed, it is considered that such a condition would be inappropriate as there would be considerable friction between the arbitrary imposition of a maximum capacity of 138 persons, set for a restaurant with much smaller dining area, and the much greater potential comfortable seating capacity that the premises has been clearly designed for.

This would inevitably result in enforcement issues as there are multiple entry/exit points to the premises that would have to be monitored in a co-ordinated way to ensure that the maximum capacity was not breached.

What can be learned from the years since the 1997 decision by the Court to restrict intensity of use purely by setting a maximum seating capacity is that it needs to be imposed in concert with other measures such as a maximum floor area and maximum amenities capacity to avoid the gradual creep over ensuing years of a greater indoor/outdoor dining capacity than what had been formerly deemed appropriate. Restricting floor area and toilets is considered to reduce the comfort level of patrons once numbers exceed the set maximum capacity, such that patrons would be more likely to leave or not stay once the capacity is reached. Thus, the maximum capacity is, in part, self-enforced.

There were indications in the seating plans provided with the original architectural plans and the assumptions by the Applicant's Acoustic Engineer of patron numbers in the external dining areas that suggest the more realistic capacity of the ground level uses of the development is about 380 persons. Based on BCA requirements, there are enough toilets provided on the ground floor for in excess of 350 persons. If over 350 persons is the designed for capacity then it is highly likely that there would be regular breaches of a condition limiting numbers to 138. If the Applicant is legitimate about 138 being the maximum number of patrons then the dining floor areas should be reduced such that it is comfortable for this number and the number of toilets is limited to cater only for this number.

No conditions can be recommended at this time that restrict both indoor/outdoor dining areas and setting an acceptable maximum capacity for the restaurant/café/bar uses because insufficient information has been submitted by the Applicant (particularly regarding the availability of parking in the area) to enable Council to make any informed decision on what (if any) level of intensification of the Site could be considered acceptable.

Concern is raised in relation to the nature of the uses proposed on the Ground Floor. The Application states that the café component of the development is to be a "licensed café". It is noted that the indoor café space (and associated outdoor areas) do not have their own kitchen facility. Food would have to come from the kitchen connected to the restaurant, should it be legitimately used for a café. This kitchen is some distance from the café space on the other side of the building and would necessitate staff regularly carrying plates of food from the kitchen, through the restaurant indoor dining area, past the bar to the indoor and outdoor dining areas for the café. Conversely, there is a large commercial bar servery that has serving counters opening directly onto the indoor dining area for the café and also the outdoor dining area for the café. The fact that this space is nominated as a "bar" and not a "kitchen", "food servery" or "barista's station" implies that it is ultimately more likely to be used primarily for serving alcohol in these spaces. The proposed hours of operation for the licensed café are 6am until 11pm 7 days per week. It is considered that, should the café be used primarily for the sale of alcohol to its patrons, as is likely, particularly during the evenings, then the number of patrons at peak times (when patrons may quite readily stand while they drink, leading to greater potential numbers fitting into the same space) could easily creep over a maximum capacity of 138 persons for all of the indoor and outdoor dining areas and staff. In addition, a pub is likely to be a greater noise generator than a café as intoxicated persons may unintentionally raise their voices during conversation.

380 persons is more than two and a half times the maximum permitted capacity for the previous restaurant/bar use at Pasadena. This significant increase in capacity at the premises, where capacity has been strictly limited by both Council and the Land and Environment Court for over 20 years to minimise the impacts of its operations, is likely to have numerous detrimental impacts on the character and amenity of Church Point. These impacts are discussed under **section 7.3** of this report.

The combination of various impacts arising from the increased number of patrons, greater demand for parking for extended periods coinciding with the operating hours, increased traffic, more noise over longer business hours and greater numbers associated with the restaurant/café/bar uses will erode the quality of residential amenity in the area.

Taking into account the proposed building additions to accommodate the intensification of the use of the Site, this new work will add height and bulk to the existing and already bulky building, it will erode the quality of the character and aesthetics of the locality, erode the quality of the setting to adjacent heritage items and erode the scenic quality and natural character of the foreshore of Pittwater.

Given the above, the proposal is considered to represent a clear and significant intensification of the previous use of the Site. This intensification is not considered to be reasonable or supportable due to the numerous detrimental impacts that it would have on the amenity, scenic quality and character of Church Point and its surrounds. Consequently, this is recommended as a reason for refusal.

8.0 PITTWATER 21 DCP TABLE

Note: The table below has been included within this report to maintain consistency with other Council reports in terms of report structure. It does not include any assessment of compliance against the DCP but merely acknowledges the nature of issues raised in objections received and includes comments against DCP headings where they are relevant .

- T - Can the proposal satisfy the technical requirements of the control?
- O - Can the proposal achieve the control outcomes?
- N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
REF - Development Engineer					
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development			-	-	Y
B3.22 Flood Hazard - Flood Category 3 - All Development			-	-	-
B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)			-	-	Y
B3.24 Interim Draft - Flood Hazard - Flood Category 3 - Overland Flow Path - Minor			-	-	Y
B5.4 Stormwater Harvesting			-	-	Y
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development			-	-	Y
B5.9 Stormwater Management - Water Quality - Other than Dwelling House, Dual Occupancy and Secondary Dwellings			-	-	Y
B5.10 Stormwater Discharge into Public Drainage System			-	-	-

Control	Standard	Proposal	T	O	N
B5.11 Stormwater Discharge into Waterways and Coastal Areas			-	-	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.12 Interim Draft - Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.13 Development on Waterfront Land			-	-	-
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)			-	-	-
B6.2 Access Driveways and Works on the Public Road Reserve- All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			-	-	-
B6.4 Internal Driveways - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			-	-	Y
B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		All 133 objections received from the original notification process and 18 further objections received following notification of the amended plans have raised concern over the lack of on-site parking provided and the existing parking shortfall within the locality. This issue is discussed in section 7.3 of this report. It is concluded that the proposed on-site parking provision is inadequate and that, as a result, this development is likely to have significant unacceptable and unreasonable impacts on the availability of parking in the public car park adjacent to the Site and in surrounding streets.	-	-	N
B6.9 On-Street Parking Facilities - All Development other than Dwelling Houses, Secondary Dwellings and Dual Occupancy			-	-	-

Control	Standard	Proposal	T	O	N
B6.10 Transport and Traffic Management - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		The submitted "Assessment of Traffic and Parking Implications" report supporting this application provides no detail on the anticipated increase in patronage arising from the proposal. It makes no assessment whatsoever of the likely increase in vehicle trips to and from the Site. It merely states " <i>The upgrading of the building/uses will attract some increased patronage...</i> " There is no detail on what increases will occur but, based on the parking impact assessed above, it is likely to be significant. The submitted traffic assessment is inadequate for the purposes of assessment and this inadequacy is recommended as a reason for refusal.	-	-	N
B8.1 Construction and Demolition - Excavation and Landfill			-	-	-
B8.2 Construction and Demolition - Erosion and Sediment Management			-	-	Y
B8.3 Construction and Demolition - Waste Minimisation			-	-	Y
B8.4 Construction and Demolition - Site Fencing and Security			-	-	-
B8.5 Construction and Demolition - Works in the Public Domain			-	-	Y
B8.6 Construction and Demolition - Traffic Management Plan			-	-	-
REF - Health					
B5.2 Wastewater Disposal			-	-	Y
B5.3 Greywater Reuse			-	-	-
C2.10 Pollution Control		Numerous objections received have raised concern regarding the impact of additional noise arising from the proposed use at the proposed operating hours. This issue is discussed in section 7.3 .	-	-	N
C2.21 Food Premises Design Standards			-	-	Y
D15.20 Commercial waterfront development - pollution prevention		From the information in the acoustic report, it is evident that music may be played externally to the proposed outdoor dining areas. This could be prohibited, in accordance with this DCP control, by a condition of consent. Objections have raised noise as a concern. This is discussed under section 7.3 .	-	-	N
REF - Heritage					
B1.1 Heritage Conservation - Items and areas listed in Pittwater Local Environmental Plan 1993			-	-	-

Control	Standard	Proposal	T	O	N
B1.2 Heritage Conservation - Items in the vicinity of a heritage item, heritage conservation areas, archaeological sites or potential archaeological sites		Objections raise concern over the impact of the development on the heritage significance of the heritage items in the vicinity of the Site. This is discussed in more detail under section B1.2	-	-	N
REF - Natural Resources					
B1.4 Aboriginal Heritage Significance		<i>"There are known heritage sites (middens) recorded in the locality however the subject site is highly modified with a seawall present and altered soil levels. There is no apparent evidence of any items on the surface of the site and therefore due to the highly modified nature of the landscape a referral to the Aboriginal Heritage Office is not considered to be necessary. The standard condition is to be applied."</i>	-	-	Y
B3.5 Acid Sulphate Soils		Acid Sulphate Region 2 ...only minor excavation which is within previously disturbed soils, and is unlikely to extend to the natural ground level. Condition recommended.	-	-	Y
B4.15 Saltmarsh Endangered Ecological Community		Refer to section 7.3 .	-	-	Y
B4.16 Seagrass Conservation		Refer to B4.15	-	-	Y
B4.19 Estuarine Habitat		Refer to B4.15	-	-	Y
B4.20 Protection of Estuarine Water Quality		Refer to B4.15	-	-	Y
REF - Planner					
EPA Act Section 147 Disclosure of political donations and gifts			-	-	Y
3.1 Submission of a Development Application and payment of appropriate fee		The letter request for additional information sent to the Applicant on 23 May 2013 required confirmation that all of the proposed work on Crown Land had owners consent. An email has been received from the relevant NSW government department however, it is not formal land owner's consent and actually states that a more detailed response will be submitted. This has not been submitted and is a recommended reason for refusal.	-	-	Y
3.2 Submission of a Statement of Environmental Effects			-	-	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings		Although a revised survey plan was requested and submitted, the amended survey is dated from 2009 and still does not accurately show the boundaries of part of the subject site identified as Lot 3 in DP 1148738. In addition, the submitted survey is not to scale. This is a recommended reason for refusal.	-	-	Y

Control	Standard	Proposal	T	O	N
3.4 Notification		Concern was raised in objections received during the re-notification of additional information that 14 days was not sufficient time in which to respond to this new information. This was considered to be adequate and in accordance with Council's Notifications policy given the nature and extent of the additional information and the time constraints imposed by the operations of the Land and Environment Court, noting that an appeal has been lodged with this court based on the deemed refusal of the application.	-	-	N
3.5 Building Code of Australia			-	-	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)			-	-	-
3.7 Designated Development			-	-	-
4.1 Integrated Development: Water Supply, Water Use and Water Activity		Comments from the Office of water have been provided dated 14th March 2013. If the application were to be approved, conditions of consent have been recommended by the Office of Water that can be incorporated into the consent.	-	-	Y
4.5 Integrated Development: Aboriginal Objects and Places			-	-	-
4.6 Integrated Development - Protection of the Environment			-	-	-
4.7 Integrated Development - Roads			-	-	-
4.8 Integrated Development - Rivers, Streams and Foreshores		Application was referred to the NSW Office of Water and comments were received on 14th March 2013 with recommended conditions of consent.	-	-	Y
5.1 Referral to the Roads and Traffic Authority under SEPP (Infrastructure) 2007			-	-	-
5.2 Referral to the NSW Police Service		The Application was referred to NSW Police Service. The Police have made a number of recommendations which can be made conditions of consent. In addition, the Police have objected to the proposed operating hours as they are contrary to the current standard trading hours are set out in the Liquor Act 2007 No.90. This is recommended as a reason for refusal.	-	-	Y
5.3 Referral to NSW Department of Environment and Climate Change (DECC)			-	-	-

Control	Standard	Proposal	T	O	N
A1.7 Considerations before consent is granted		Issues raised in objections and not addressed elsewhere in this report under the relevant headings are addressed in section 7.5 . Objections have been received regarding the intensity of the use of the proposal as well as concern over potential illegal work carried out on the premises.	-	-	N
B2.3 Subdivision - Business Zoned Land			-	-	-
B3.6 Contaminated Land and Potentially Contaminated Land			-	-	Y
B5.1 Water Management Plan			-	-	-
B5.2 Wastewater Disposal			-	-	Y
B5.3 Greywater Reuse			-	-	-
B5.11 Stormwater Discharge into Waterways and Coastal Areas		Application was referred to the NSW Office of Water and response with recommended conditions received 14th March 2013.	-	-	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.12 Interim Draft - Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.13 Development on Waterfront Land			-	-	Y
C2.1 Landscaping		The Application was referred to Council's Landscape Architect who recommended a number of conditions as well as raised concern over land-based pedestrian access which is addressed in section 7.3 of this report.	-	-	Y
C2.2 Safety and Security		Safety and security issues are able to be addressed by conditions of consent.	-	-	Y
C2.3 Awnings		No awnings are provided as part of the proposal. The existing first floor balcony over the pathway fronting Pittwater Road provides weather protection to pedestrians at this location.	-	-	Y
C2.5 View Sharing		Submissions have been received regarding the expected view loss as a result of the proposed development, particularly in relation to a nearby dwelling at 2195 Pittwater Road. Height Poles have been erected to enable an assessment of the impact of the proposed development in terms of view loss from both the public domain and private properties. Detailed discussion of this issue is provided under section 7.3 of this report.	-	-	N

Control	Standard	Proposal	T	O	N
C2.6 Adaptable Housing and Accessibility		The proposal goes some way toward improving the accessibility of the existing building including the provision of a lift, accessible toilets and disabled access ramps. A disabled car space is also provided that is non-compliant with applicable provisions. This issue could be addressed by a condition. Whilst no Accessibility Report has been provided, a condition of consent could require one prior to the issue of CC.	-	-	Y
C2.7 Building Facades			-	-	Y
C2.8 Energy and Water Conservation			-	-	Y
C2.9 Waste and Recycling Facilities		Waste and recycling facilities have been incorporated into the development. In response to Council's concerns, the Applicant has relocated the commercial garbage store area from the Crown land adjacent to the southern corner of the existing building to a store room located inside the building and adjacent to the kitchen. This is considered to be an acceptable location.	-	-	Y
C2.11 Business Identification Signs			-	-	Y
C2.12 Protection of Residential Amenity	The relevant outcome of this section of PDCP 21 is as follows: Business development that does not have an adverse impact upon adjoining residential development.	Noise issues are discussed under section 7.3 .	-	-	Y
C2.14 Commercial Swimming Pools			-	-	-
C2.15 Car/Vehicle/Boat Wash Bays			-	-	-
C2.16 Undergrounding of Utility Services			-	-	-
C2.20 Public Road Reserve - Landscaping and Infrastructure			-	-	Y
C2.22 Plant, Equipment Boxes and Lift Over-Run		The proposal includes a lift over run and ventilation stack which protrude above the proposed roof line of the development and add to the height and bulk of the development. Height and bulk is discussed under section 7.1 .	-	-	Y
C5.20 Liquor Licensing Applications		Objections have raised concern over the proposed hours of operation. the NSW Police have objected to the proposed hours of operation as they are inconsistent with the current standard trading hours are set out in the Liquor Act 2007 No.90. This is a reason for refusal.	-	-	N

Control	Standard	Proposal	T	O	N
D4.1 Character as viewed from a public place		Concern has been raised in objections regarding the visual impact of the proposed development on the amenity of the adjoining public domain and visual character of the locality. The bulk and scale of the development is not considered to be adequately or reasonably minimised, as discussed under section 7.1 .	-	-	N
D4.2 Scenic protection - General		Submissions have been received regarding the visual impact of the proposal when viewed from the Pittwater waterway. It is agreed that the development results in unacceptable impacts in this regard as discussed under section 7.1 .	-	-	N
D4.3 Building colours and materials		The proposal includes dark and earthy colours.	-	-	Y
D4.4 Height		Numerous objections received raised concern in relation to the excessive height and bulk and scale of the proposed development. These issues are discussed in more detail later in section 7.1 of this report.	-	-	N
D4.5 Front building line	3.5m	Front building line is discussed under section 7.1 of this report.	-	-	Y
D4.6 Side and rear building line		Side setback is discussed under section 7.1 of this report.	-	-	N
D4.7 Foreshore building line		The foreshore building line is discussed in section 7.1 of this report.	-	-	N
D4.12 Fences - Flora and Fauna Conservation Areas			-	-	Y
D4.14 Scenic Protection Category One Areas			-	-	-
D15.1 Character as viewed from a public place		See D4.1	-	-	N
D15.2 Scenic protection - General		See D4.2	-	-	N
D15.3 Building colours and materials		See D4.3	-	-	Y
D15.5 Height - Seaward of mean high water mark		No works are proposed seaward of the MHWM	-	-	-
D15.9 Public foreshore access		Public foreshore access is discussed under section 7.3 of this report.	-	-	N
D15.11 Waterfront lighting		A submission has been received regarding light shine across the water to Scotland Island. If the development were to be approved a condition of consent could require any lighting to be designed and installed such that it does not create glare nuisance.	-	-	N
D15.12 Development seaward of mean high water mark			-	-	-
D15.13 Lateral limits to development seaward of mean high water mark		No works proposed seaward of the MHWM	-	-	-

Control	Standard	Proposal	T	O	N
D15.14 Minimum frontage for marine facilities		No marine facilities proposed	-	-	-
D15.15 Marine facilities			-	-	-
D15.18 Seawalls		No seawalls proposed	-	-	-
D15.19 Dredging			-	-	-
D15.21 Charter boat facilities			-	-	-
SEPP No 71 Coastal Protection		SEPP 71 is not applicable due to the application of existing use rights.	-	-	N

*Issues marked with an **x** are discussed later in the report.
Issues marked with a - are not applicable to this Application.

9.0 CONCLUSION

In response to a very detailed request for additional information vital to any possibility of Council supporting the Application, the Applicant has either ignored the requests or asserted that the information is irrelevant and not required. Most notably, this includes a parking survey and full details of the anticipated maximum capacity of patrons that the proposal has been designed for.

Notwithstanding the above, this Development Application has been assessed objectively, based on the information provided to Council by the Applicant, a detailed examination of the assessment history of the use of the Site and in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.

The proposal seeks to benefit from the retention of the existing building and maintaining a similar height, floor space, setbacks and general lack of on-site parking or opportunity for new on-site parking. However, an assessment against the relevant Land and Environment Court Planning Principles has established that the proposal is a new development, it is not 'adaptive re-use' and does not constitute alterations and additions to an existing building. Consequently, the poor manner in which the existing building relates to its surroundings is a highly relevant consideration in concluding that it already has excessive height, bulk and scale and that any new development on this site does not have any automatic entitlement to the same building envelope and should certainly not increase this envelope, as is proposed. Most importantly, a new development on this site should seek to provide as much on-site parking as possible, including a basement car park.

Numerous significant shortcomings have been identified in this proposal such that it cannot be supported in its current form. These include the excessive additional intensification of use proposed, the excessive generation of car parking demand and significant inadequacy in terms of the on-site provision of parking to cater for the additional parking demand it will create. In an area where parking is already clearly a problem this impact is totally unacceptable. The proposal also will result in a building that will be excessive in height, bulk and scale and result in numerous unacceptable impacts on its surroundings, including view loss, the degradation of the quality of the surrounding public domain and heritage impacts. Furthermore, it will prolong the life of an unattractive, bulky and undesirable building on a prominent and important landmark site. This would be a poor outcome for the community of Church Point and the offshore community.

Consequently, the only recommendation that can be made with respect to this application is that it be refused for the reasons given in the attached draft determination.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council, as the consent authority, pursuant to section 80 of the Environmental Planning and Assessment Act, 1979, refuse Development Application N0021/13 for adaptive re-use of the existing building to include a café, restaurant, bar, shop and motel uses at 1858 Pittwater Road, Church Point for the reasons contained in the attached draft determination.

Report prepared by

Gordon Edgar
EXECUTIVE PLANNER

DRAFT DETERMINATION

REFUSAL

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicants Name and Address:

BOSTON BLYTH FLEMING
1/9 NARABANG WAY
BELROSE NSW 2085

Being the applicant in respect of Development Application No **N0021/13**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of the Development Application for:

Adaptive re-use of the existing building to include a café, restaurant, bar, shop and motel uses

At:

1858 PITTWATER ROAD, CHURCH POINT (Lot 142 DP 752046) AND ADJOINING CROWN LAND IDENTIFIED AS LOT 3 in DP 1148738

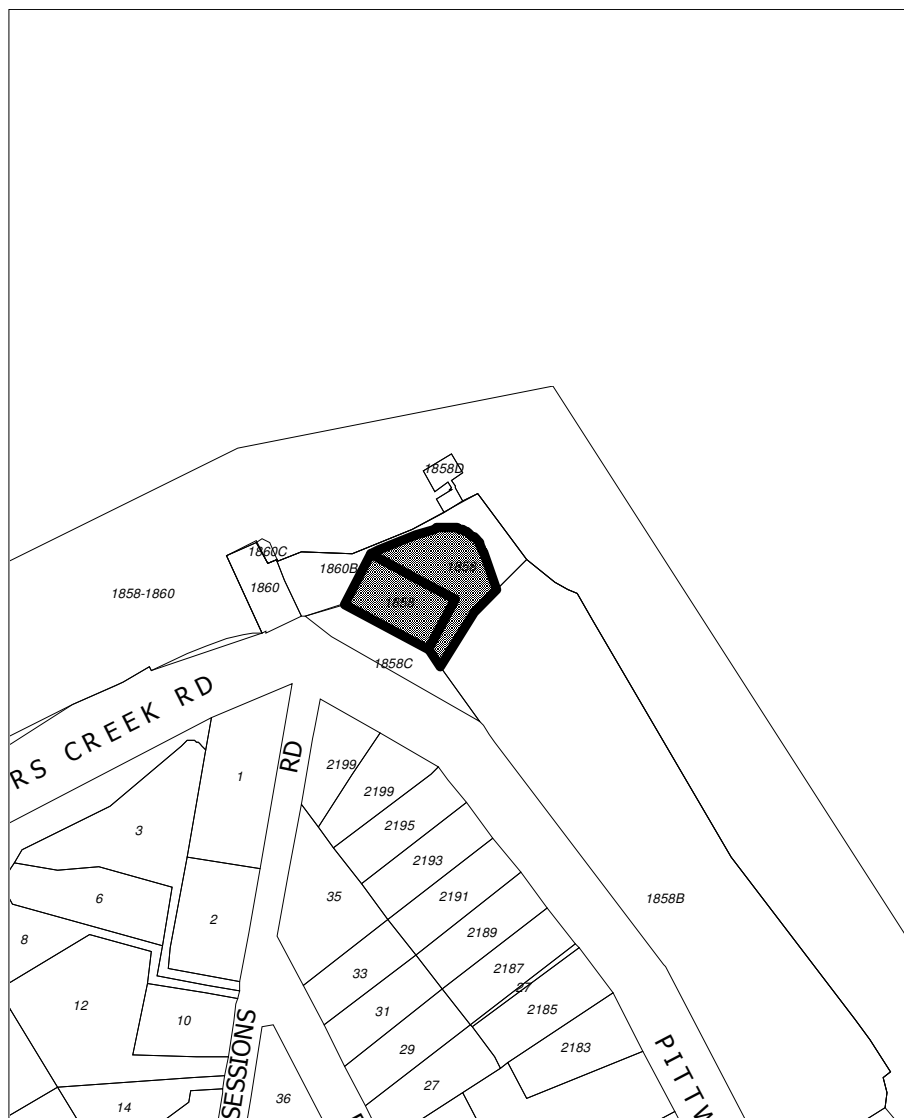
Decision:

The Development Application has been refused for the following reasons:

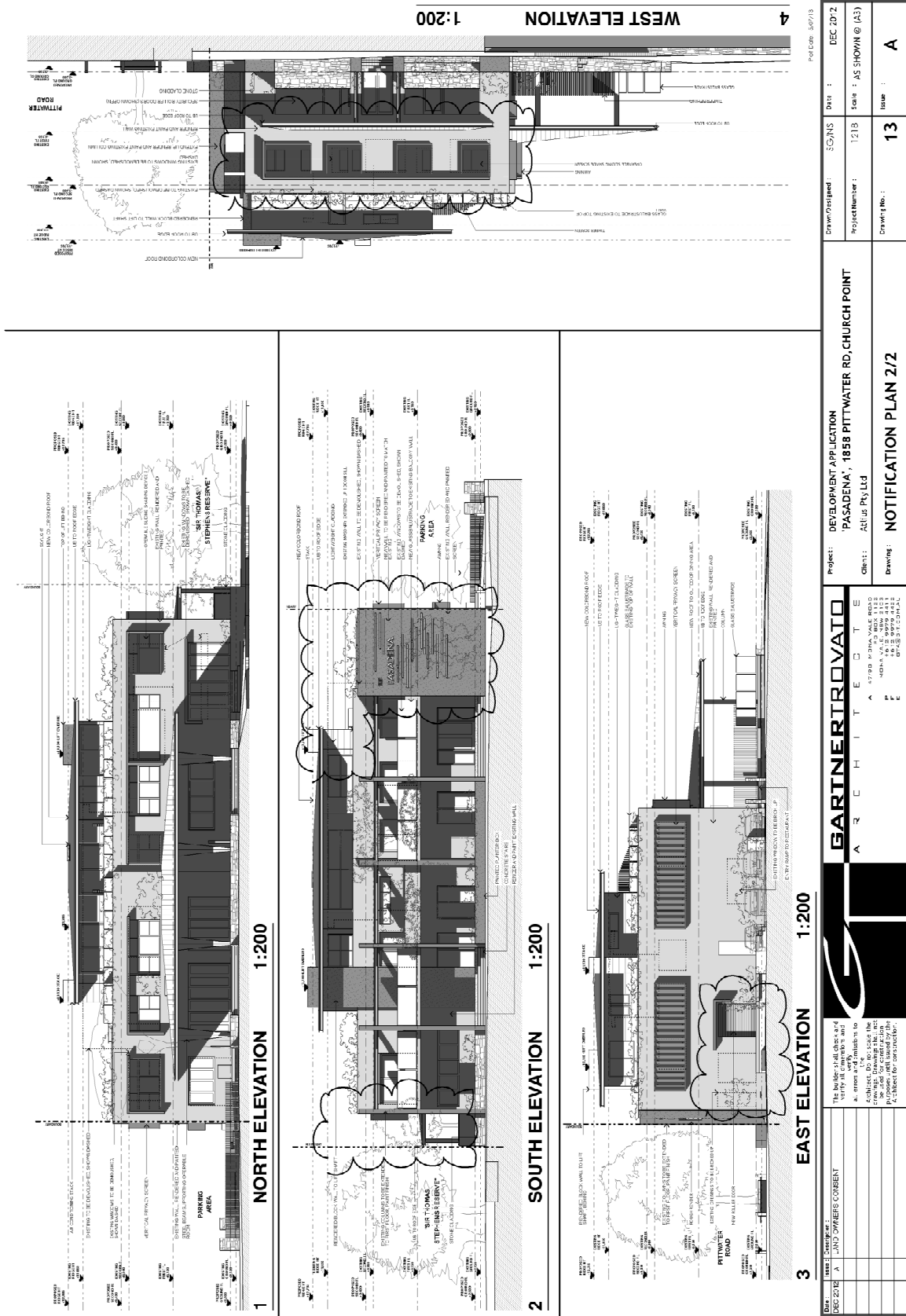
1. The development will have an excessive and unacceptable height, bulk and scale for the locality generally and compared to surrounding development. Consequently, it is likely to have unreasonable detrimental impacts on the scenic quality, character and amenity of the surrounding public domain.
2. The development fails to provide sufficient on-site car parking to cater for the likely parking needs generated by the proposed uses. This is likely to have an unacceptable and unreasonable impact on the demand for car parking in the area, where there is a history of an inadequate supply of parking to meet the current needs of the local community.
3. Noting the inadequate car parking provided to service the proposed use of the Site and the lack of options to provide additional car parking on-site, the subject site is not considered to be suitable for a development of this magnitude.
4. The development application fails to include adequate information to demonstrate that the proposal will not have an unacceptable detrimental impact on the demand and supply of parking in the locality as it fails to include a parking survey to indicate what capacity the adjacent public car park and adjoining streets may have to absorb the likely additional demand for parking generated by the development, particularly during peak periods. Furthermore, the submitted "Assessment of Traffic and Parking Implications" report does not acknowledge or take into account the historic and existing parking problems experienced in the area in its parking impact assessment or make any assessment of the parking demand generated by the likely patronage of the development.

5. The submitted "Assessment of Traffic and Parking Implications" report accompanying the development application fails to provide any information regarding the likely traffic generation that may arise from the proposal and the potential impact of this additional traffic on the local road network. This is inadequate for the purposes of the proper assessment of the likely traffic impacts of the proposal.
6. The proposed increase in the intensity of use of the Site is excessive and unsupportable. This intensification is represented by the likely additional patron capacity of the restaurant/café/bar use, the additional indoor/outdoor dining areas if the restaurant/café/bar uses beyond that which has been previously, the extended hours of operation and the excessive additional height and bulk proposed to the existing building. The cumulative impacts of this proposed intensification of use will cause unreasonable impacts on residential amenity, the scenic quality of the foreshore, the heritage value of the adjacent heritage items and the character of the Church Point locality generally. The development is therefore not satisfactory having regard for section 79C(1)(b) and (c) of the EPA Act.
7. The development will have a detrimental impact on the setting of the two adjoining heritage items, including the Church Point Post Office and General Store and the Church Point Ferry Wharf due to the unsympathetic bulk, design and construction of the proposed additions.
8. The development application does not include formal landowner's consent from the NSW Department of Trade & Investment / Crown Lands for all of the proposed work on Crown land.
9. The Application is not supported by an adequate survey as the submitted is not up to date, it is not to scale and it does not show a parcel of land affected by proposed works and identified as Lot 3 in DP 1148738.
10. The proposed hours of operation are excessive and not respectful or sympathetic to the predominantly low density residential character of the locality. Furthermore, the NSW Police has objected to the proposed hours of operation as they are inconsistent with the current standard trading hours are set out in the Liquor Act 2007 No.90.
11. The development is not considered to be satisfactory having regard to section 79C(1)(b) of the EPA Act as a reasonable sharing of views has not been achieved from both the dwelling at 2195 Pittwater Road, Church Point and also from the adjoining public reserve located immediately to the north-west of this dwelling.
12. More than half of the existing external fabric of the building is being demolished. As a consequence, the proposal is a new development and should be treated as such. It does not constitute 'adaptive re-use' and should not be assessed any differently to a proposal that does not involve adaptive re-use.
13. The development is not in the best interests of the public and is not satisfactory having regard to section 79C(1)(e) of the EPA Act.

LOCALITY MAP



[illegible]



DATE: DEC 2012 ISSUE: A		PROJECT: DEVELOPMENT APPLICATION 'PASADENA', 1858 PITTWATER RD, CHURCH POINT		PROJECT: DEC 2012 DATE: AS SHOWN @ (A3)	
CLIENT: Adlur Pty Ltd		PROJECT NUMBER: 1218		SCANS:	
DRAWING: NOTIFICATION PLAN 2/2		DRAWING NO.: 13		ISSUE: A	

C12.2	N0092/13 - 1468-1470 Pittwater Road North Narrabeen - Demolition of existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision
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Meeting:	Sustainable Towns and Villages Committee	Date:	21 October 2013
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STRATEGY:	Land Use Development
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ACTION:	Provide an effective development assessment and determination process
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PURPOSE OF REPORT

To inform the Committee of the Development Unit's recommendation following consideration of development application N0092/13 for demolition of the existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision at 1468 and 1470 Pittwater Road North Narrabeen.

1.0 BACKGROUND

- 1.1 The Planning and Integrated Built Environment Committee, at its meeting held on Monday, 16 September 2013 considered a recommendation by the Development Unit (refer **Attachment 1**) that the subject application be approved subject to amended conditions.

Council resolved that the application be deferred to allow the applicant to provide the following:

1. A full heritage assessment of the Moreton Bay Fig Tree.
2. An arboreal investigation into further growth potential of the Moreton Bay Fig Tree and any associated and ongoing maintenance requirements into the future.
3. An opportunity to amend the design to provide for increased spatial separation of the built form from the heritage listed tree.
4. Amendments to the built form around the Moreton Bay Fig Tree to provide for an increased area of open space and recreation for the residents.
5. Reconsideration of the setbacks from the front, side and rear boundaries including decks.

Minutes of the Planning and Integrated Built Environment Committee meeting is attached (refer **Attachment 2**).

- 1.2 Council received additional information from the applicant on 2 October 2013 responding to the minutes of the meeting of 16 September 2013.

2.0 NOTIFICATION

- 2.1 A submission was received from a resident in relation to the notification of the amended plans which respond to the issues raised at the Council meeting held on 16 September 2013. He requested that the amended plans be re-notified for 28 days.

The submission was received prior to Council providing the objectors with a letter identifying that amended plans had been lodged with Council. The letter sent to the objectors also included notification sized plans and elevations.

- 2.2 Councils control 3.4 of the Pittwater 21 DCP states under the variation clause that minor amendments to in progress applications may not require re-notification. Council determined that a full notification of the development for 14 days was not required as the development had been amended to result in increased amenity to the surrounding neighbours as a result of the increased setbacks to the proposed decks. Given this, it was considered that formal re-notification of the amended plans was not necessary as the amendments did not have the potential to detrimentally affect the surrounding neighbours as they were minor and did not significantly alter the siting and configuration of the buildings or alter the height.

- 2.3 In regards to his concern relating to the objectors notification of the Development Unit Meeting and Council meeting, the objectors were notified in accordance with Councils standard practice.

3.0 REASON FOR REFERRAL TO COUNCIL

- 3.1 The application is referred to Council on the basis of its previous deferral.

4.0 HERITAGE ASSESSMENT OF THE MORETON BAY FIG TREE

- 4.1 The applicant provided Council with a full heritage report in relation to the Morton Bay Fig Tree prepared by Richard Lamb and Associates.
- 4.2 The heritage report was referred to Councils Heritage Architect for their comments. He was supportive of the application subject to the recommendations of the report being included in the consent, and provided the following comments inter alia:

I have read the amending information submitted by the applicants after the site meeting I attended with the project architects and their advising arborist Ms. Mackenzie.

The heritage impact assessment prepared by Mr. Richard Lamb, the amending plans and the further statement by Ms. Mackenzie are consistent with the amendments agreed to be explored at that meeting. They support the reasonability and acceptability of the proposed management of the site, the listed tree and the new buildings.

The historic and aesthetic significance of the tree should be maintained by the proposed management actions, and the implementation of a condition of consent condition requiring the proposed tree management plan. This should ensure its continued beneficial management within the developed property.

It may be necessary to formally advise the eventual purchasers of the houses within the development of their responsibilities for management of the tree, and the need to ensure it has continuing proper maintenance and care into the future, including the proper perspective for any minor pruning.

The last issue raised by Councils Heritage Architect is considered to be dealt with via the recommendations of the original Arborist Report which forms part of the consent. The arborist recommended that monitoring and management of the tree inclusive of re-assessment by a qualified arborist occur once work is complete for the long term safety of the residents.

5.0 ARBOREAL INVESTIGATION REGARDING THE MORTON BAY FIG TREE

- 5.1 Ms Catriona MacKenzie of Urban Forestry Australia provided a detailed analysis of the likely future growth of the Moreton Bay Fig Tree. The report found that the tree is unlikely to increase in spread and height over its remaining expected lifespan. The arborist recommended that a Tree Plan of Management be prepared and implemented to ensure that the tree is appropriately managed over its remaining lifespan.
- 5.2 The report was referred to Councils Natural Resource officer who provided the following comments and was supportive of the proposal:

Upon discussion of this DA at a recent Council meeting, it was requested that a further arborist investigation into the likely future growth of the large and significant Moreton Bay Fig (Tree 11) known as "Almas Tree" and the implications of this in relation to the proposed works be undertaken. An additional report (Urban Forestry Australia 26th September 2013) has been submitted as a result. This report discusses the likely future growth of this specimen, based on similar specimens growing elsewhere in Sydney in urban situations. The arborist has determined that although this tree has a probable Useful Life Expectancy of another 40 years, it is unlikely to have an appreciable increase in crown spread over its remaining lifespan and it will unlikely exceed 20 metres in height at most. It is noted that Site Plans for the development have now been amended and the proposed Houses 5 and 7 have been moved further away from this tree. The estimated building encroachment will now be 14.3% within the tree's Tree Protection Zone, however much of this built form will be above ground allowing for any future root growth. In light of this, the recommendations on Page 5 of the additional report are supported and are to be conditioned.

6.0 AMENDED DESIGN TO PROVIDE INCREASED SPATIAL SEPERATION TO THE MORETON BAY FIG TREE AND INCREASED OPEN SPACE FOR THE RESIDENTS

- 6.1 The applicant amended the proposal to provide greater spatial separation between the heritage Moreton Bay Fig Tree and the proposed dwellings through the following means:
- A reduction in the building footprint of dwelling 7 by 12m² ;
 - Dwellings 1, 3 and 5 have moved 1m towards the west.
- These two amendments have reduced the encroachment of built form within the trees protection zone (TPZ) from approximately 19% to 14.3%.
- 6.2 Both Councils Natural Resource officer and the applicants Arborist are satisfied with the proposal and the amount of built form located within the TPZ.
- 6.3 The SEPP (Housing for Seniors and People with a Disability) 2004 does not include a requirement for the provision of communal open space. However the SEPP requires that 30% of the site is landscaped and 15% of the site is deep soil zones. SEPP (HSPD) also states that the consent authority must not refuse a development based on the landscaped area and deep soil zones if the development complies with the SEPP's standards.
- 6.4 The amendments to the proposal results in a reduction of hard surface on the site by 27m². This in turn increases the landscape area from 35.5% to 36.6%. Additionally the deep soil zone will increase from 22.8% to 23.7%. Both of these percentages comply with the SEPP (HSPD) requirements.

7.0 RECONSIDERATION OF SETBACKS

- 7.1 The applicant has submitted amended plans detailing the following:
- Dwellings 1,3 and 5 have been moved towards the front boundary by 1m providing greater spatial separation to the Moreton Bay Fig Tree;
 - The setback to the decks of dwellings 7-11 have been increased from 0.5m to 1m which has been accommodated through a reduction in the size of the dwellings.
 - Brush Cherry Trees (a type of Lilly Pilly) have been provided within the now increased setbacks. The Brush Cherry Trees have a mature height of 3.5m.
- 7.2 The reduction in the front setback of dwellings 1, 3 and 5 has been undertaken to provide a greater spatial separation between the dwelling 5 and the heritage Moreton Bay Fig Tree. This modification results in the front setback of dwelling 1 being reduced from 10m to 9m. This front setback complies with the control which requires a minimum front setback of 6.5m.
- 7.3 The applicant has removed the roof of the garbage collection area which reduced the height of the structure to 1.8m from 2.4m. This results in a reduced amount of built form in the front setback. As discussed further in the report the location of the garbage enclosure forwards of the front setback is considered acceptable as it is in the most suitable location in terms of accessibility requirements, amenity for the future residents and access for garbage collectors and the bulk and scale of the structure is considered to be minimal.

8.0 SITE CONTAMINATION REPORT

- 8.1 The applicant submitted a preliminary site investigation report in relation to site contamination. The report found that there was a low risk the site was contaminated except for one location which included lead contaminants and another location that included concentrations of TRH that exceeded the criteria. The report recommended that the lead "hot spot" be treated through the removal of approximately 15m² of material around the sample location. Additionally it was considered that the site could be remediated through the removal of the soil containing TRH.
- 8.2 The report was referred to Councils Health officer for their review. They provided the following comments:

I have read the report as submitted to me and agree with the findings and recommendations as listed:

1. No Contaminated Land (low risk)

2. No Soil Salinity

3. Recommend a further report be submitted for Acid Sulphate Soils prior to the Construction Certificate being issued or commencement of any site excavations.

4. Remediation through the removal and treatment of soils containing lead in the sampling area known as S5

5. Remediation through removal and treatment of soils with detected concentrations of TRH which exceeded the Ecological Screening Level at sampling area known as S4.

9.0 SUSTAINABILITY ASSESSMENT

- 9.1 The relevant Environmental, Social and Economic issues have been addressed within the attached report.

10.0 EXECUTIVE SUMMARY

- 10.1 The application was considered by the Planning and Integrated Built Environment Committee at its meeting held on the 16 September 2013 and deferred to allow the applicant to submit a heritage impact report, amended arborist report and give further consideration to the spatial separation between the Heritage Moreton Bay Fig Tree and the dwelling and the setbacks of the development to the boundaries.
- 10.2 The applicant provided a formal response including amended plans, a full heritage report of the Moreton Bay Fig tree, an amended arborist report and a site contamination report.
- 10.3 Councils Heritage officer reviewed the heritage report and was satisfied with the proposal subject to the recommendations of the report being included in the consent.
- 10.4 Council's Natural Resource officer reviewed the amended arborist report and was satisfied with the proposed amendments.
- 10.5 Staff's assessment of the issues in response to the Committee's deferral of the matter at the 16 April meeting is contained within this covering report.

RECOMMENDATION

That the recommendation in the Development Officer's report be endorsed and development application N0092/13 for demolition of the existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision at 1468 and 1470 Pittwater Road, North Narrabeen be granted development consent subject to the conditions contained in the draft determination and the following conditions:

Additional documents to be referenced in the consent:

- Drawings numbered DA 000, DA 001, DA 100, DA 101, DA 102, DA 103, DA 104, DA 200, DA 201, DA 202, DA 203, DA 300, all revision C, dated 26.9.2013, drawn by Playoust Churcher Architects.
- Statement of Heritage Impact prepared by Richard Lamb and Associates.
- Landscape plan numbered LPDA13-267/1, revision C, dated September 2013, drawn by Conzept Landscape Architects.
- Arborist prepared by Urban Forestry Australia dated March 2013 further amended by letter dated 26 September 2013.
- Stage 1- Preliminary Site Investigation report prepared by DLA Environmental dated September 2013.

Include the following condition in Section C:

- A report assessing potential acid sulphate soils is to be prepared by a suitably qualified engineer and submitted to the principal certifying authority prior to the issue of the construction certificate.

Include the following condition in Section E:

- **Evidence that the demonstrates the remediation through the removal and treatment of soils containing lead in the sampling area known as S5 as recommended in the report Stage 1- Preliminary Site Investigation prepared by DLA Environmental dated September 2013 is to be submitted to the principal certifying authority prior to the issue of the occupation certificate.**
- **Evidence that the demonstrates the remediation through removal and treatment of soils with detected concentrations of TRH which exceeded the Ecological Screening Level at sampling area known as S4 identified in the report Stage 1- Preliminary Site Investigation prepared by DLA Environmental dated September 2013 is to be submitted to the principal certifying authority prior to the issue of the occupation certificate**

Report prepared by
Anja Ralph, Planner

Steve Evans
DIRECTOR ENVIRONMENTAL PLANNING & COMMUNITY

SUBJECT: N0092/13 - 1468 Pittwater Road, North Narrabeen (Lots B and G, DP 20399, Lot Q, DP 389573), 1470 Pittwater Road, North Narrabeen (Lot F, DP 20399) Demolition of the existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision

Determination Level: Development Unit

Date: 5 September 2013

SUMMARY OF RECOMMENDATION

CONSENT WITH CONDITIONS

REPORT PREPARED BY:	Anja Ralph
APPLICATION SUBMITTED ON:	19 April 2013
APPLICATION SUBMITTED BY:	Playoust Churcher Architects
OWNER(S):	ATTENTUS SUBDIVISION PTY LTD (Own) CREWS, GAVIN JOHN (Own) CHESTER, TRACEY ANNE (Own)

1.0 DEVELOPMENT CONTROLS

The sites are zoned 2(a) Residential under the provisions of Pittwater Local Environmental Plan 1993. A group of self-contained dwellings is not permitted within zone 2(a) under Council's planning provisions except for the internal southern block which is zoned for multiunit housing. The State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP) applies to the land and allows a group of self-contained dwellings in zones where they would not otherwise be permitted. Clause 15 of the SEPP allows any form of seniors housing on the land despite the provisions of any other environmental planning instrument. Therefore as the application is made in accordance with the State Environmental Planning Policy the proposal can be considered permissible.

The following planning legislation, environmental planning instruments, development control plans and policies apply to the Site:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Protection of the Environment Operations Act, 1997
- State Environmental Planning Policy (Building Sustainability Index: BASIX)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Seniors Living Policy: Urban Design Guidelines For Infill Development 2004
- Pittwater Local Environmental Plan 1993
- Draft Pittwater Local Environmental Plan 2013
- Pittwater 21 Development Control Plan (Amendment 9)
- Flood Risk Management Policy for Development in Pittwater.

2.0 NOTIFICATIONS

- Nineteen (19) property owners notified.
- Five (5) submissions were received as follows:
 - 48 Collins St:
 - Bulk and scale of the development
 - Access to the site from Pittwater Rd.
 - 1466 Pittwater Rd:
 - Permissibility
 - Front, side and rear setbacks
 - Heritage
 - Solar access
 - Access to the site from Pittwater Rd
 - Cost of works
 - Visual Privacy
 - Acoustic Privacy
 - Compliance with the SEPP.
 - 8 Walsh St (two submissions received from different owners):
 - Site Compatibility Statement
 - Front, side and rear setbacks
 - Heritage
 - Solar Access
 - Access to the site from Pittwater Rd
 - Visual Privacy
 - Acoustic Report
 - Bulk and scale
 - Character as viewed from a public place
 - Accessibility
 - Undergrounding of utility services
 - Stormwater management.
 - 4 Walsh St:
 - Height of development
 - Impact on view of sky
 - Solar access
 - Visual privacy
 - Rear setback
 - Height of planting.

3.0 ISSUES

- B3.14 Flood Hazard - Flood Category 1 - Low Hazard - Other Development
- B1.1 Heritage Conservation - Items and areas listed in Pittwater Local Environmental Plan 1993
- B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land and C1.1 Landscaping
- C1.3 View Sharing
- C1.4 Solar Access
- C1.21 SEPP (Housing for Seniors or People with a Disability) 2004 and SEPP (Seniors Living) 2004
- D14.1 Character as viewed from a public and D14.7 Front building line
- D14.8 Side and rear building line
- D14.12 Site coverage - General

4.0 COMPLIANCE TABLE

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
REF - Development Engineer					
B3.14 Flood Hazard - Flood Category 1 - Low Hazard - Other Development		The application was referred to Councils Catchment Management and Climate Change team. See their comments further in the report.	Y	Y	Y
B3.15 Flood Hazard - Flood Category 1 - Low Hazard - Land Subdivision			Y	Y	Y
B3.21 Flood Hazard - Flood Category 2 - All Development except Dwelling House, Secondary Dwelling, Dual Occupancy, and Multi-Unit Housing Development			Y	Y	Y
B3.22 Flood Hazard - Flood Category 3 - All Development			-	-	-
B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)		The floors levels of the development are at the PMF plus climate change level of 5.4m AHD. This complies with the control.	Y	Y	Y
B5.4 Stormwater Harvesting			Y	Y	Y
B5.9 Stormwater Management - Water Quality - Other than Dwelling House, Dual Occupancy and Secondary Dwellings		Concern has been raised been raised by the owners of 8 Walsh St in regards to the management of stormwater as they believe there is "no proper provision". The application includes a stormwater management plan for the development which utilises an onsite stormwater detention system. The application has been assessed by Councils engineer who is satisfied with the stormwater management.	Y	Y	N
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B5.12 Interim Draft - Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)			-	-	-

Control	Standard	Proposal	T	O	N
B6.2 Access Driveways and Works on the Public Road Reserve- All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			-	-	-
B6.4 Internal Driveways - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B6.7 Access driveways and Works on Road Reserves on or Adjacent to a Main Road			Y	Y	Y
B6.9 On-Street Parking Facilities - All Development other than Dwelling Houses, Secondary Dwellings and Dual Occupancy			-	-	-
B6.10 Transport and Traffic Management - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill			-	-	-
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			-	-	-
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan			-	-	-

Control	Standard	Proposal	T	O	N
C4.1 Land Subdivision - Protection from Hazards			Y	Y	Y
C4.2 Land Subdivision - Access Driveways and Off-Street Parking Facilities			Y	Y	Y
C4.3 Land Subdivision - Transport and Traffic Management			Y	Y	Y
C4.4 Land Subdivision - Public Roads, Footpath and Streetscape			Y	Y	Y
C4.5 Land Subdivision - Utility Services			Y	Y	Y
C4.6 Service and delivery vehicle access in land subdivisions			-	-	-
REF - Health					
B5.2 Wastewater Disposal		The site can be connected to the Sydney Water Reticulated Sewage System.	Y	Y	Y
B5.3 Greywater Reuse		None proposed.	Y	Y	Y
C5.17 Pollution control			Y	Y	Y
C5.19 Food Premises Design Standards		None proposed.	Y	Y	Y
REF - Heritage					
B1.1 Heritage Conservation - Items and areas listed in Pittwater Local Environmental Plan 1993		Concern was raised in regards to the proposals impact on the heritage fig tree. The application was referred to Councils Heritage officer. See their comments further in the report.	Y	Y	N
B1.2 Heritage Conservation - Items in the vicinity of a heritage item, heritage conservation areas, archaeological sites or potential archaeological sites			Y	Y	Y
REF - Natural Resources					
B1.4 Aboriginal Heritage Significance		No apparent issues. The site is highly modified.	Y	Y	Y
B3.5 Acid Sulphate Soils		No issues- Acid Sulphate Region 5 only.	Y	Y	Y
B4.5 Landscape and		The application was referred to Councils Natural	Y	Y	N

Control	Standard	Proposal	T	O	N
Flora and Fauna Enhancement Category 3 Land		Resource officer. See their comments further in the report. Concern was also raised in relation to the height of the planting adjacent to 4 Walsh St. As discussed with the objector, screen planting has been conditioned to a height of 3.5m along the boundary closest to the objector's property. The height of the planting took into account the solar access impact if the landscaping were higher.			
C1.1 Landscaping			Y	Y	Y
REF - Planner					
EPA Act Section 147 Disclosure of political donations and gifts			Y	Y	Y
3.1 Submission of a Development Application and payment of appropriate fee		Correct owners consent was submitted for all properties. Concern has been raised that the estimation of the cost of works is not reflective of the size of the development. The application is accompanied by a qualified builders cost estimate. Council requires either a cost estimate undertaken by a builder or a cost estimate based on the Councils spread sheet is provided with the application. Therefore the requirement is fulfilled and the cost of works is considered acceptable.	Y	Y	N
3.2 Submission of a Statement of Environmental Effects		The application is supported by a Statement of Environmental Effects.	Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings		The application includes development drawings, survey and technical reports.	Y	Y	Y
3.4 Notification		The application was notified for 31 days with an advertisement in the Manly Daily in accordance with Councils notification policy. The amended plans were notified for 14 days also with an advertisement in the Manly Daily.	Y	Y	Y
3.5 Building Code of Australia		It will be conditioned that the development complies with the BCA.	N	Y	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)		The application includes satisfactory development drawings and includes discussions around the proposals compliance with the relevant legislation and controls.	Y	Y	Y
4.1 Integrated Development: Water Supply, Water Use and Water Activity		The proposal does not involve water extraction or storage (pumps, bores, dams etc).	Y	Y	Y
4.5 Integrated		There is no evidence or knowledge of aboriginal	Y	Y	Y

Control	Standard	Proposal	T	O	N
Development: Aboriginal Objects and Places		artifacts/relics on the site.			
4.6 Integrated Development - Protection of the Environment			Y	Y	Y
4.7 Integrated Development - Roads		The proposal was referred to the RMS under section 138 of the Roads Act 1993. The RMS was satisfied with the proposal subject to conditions of consent.	Y	Y	Y
5.1 Referral to the Roads and Traffic Authority under SEPP (Infrastructure) 2007		Concern was raised in regards to the proposal locating its driveway on Pittwater Rd, a classified road and the impact on traffic. The application was referred to the RMS who was satisfied with the application subject to conditions of consent.	Y	Y	N
5.3 Referral to NSW Department of Environment and Climate Change (DECC)			Y	Y	Y
6.2 Section 94 Contributions - Open Space Bushland and Recreation		As there are four blocks of land the applicant will receive exemption for four dwellings. (11-4) x \$9000= \$63,000. A contribution of \$63,000 is to be paid for Open Space Bushland and Recreation.	Y	Y	Y
6.3 Section 94 Contributions - Public Library Services		As there are four blocks of land the applicant will receive exemption for four dwellings. (11-4) x \$2000= \$14,000. A contribution of \$14,000 is to be paid for Public Library Services.	Y	Y	Y
6.4 Section 94 Contributions - Community Service Facilities		As there are four blocks of land the applicant will receive exemption for four dwellings. (11-4) x \$3500= \$24,500. A contribution of \$24,500 is to be paid for Community Service Facilities.	Y	Y	Y
6.5 Section 94 Contributions - Village Streetscapes		As there are four blocks of land the applicant will receive exemption for four dwellings. (11-4) x \$5000= \$35,000. A contribution of \$35,000 is to be paid for Village Streetscapes.	Y	Y	Y
A1.7 Considerations before consent is granted			Y	Y	Y
B2.2 Land Subdivision - Residential Zoned Land		No land subdivision is proposed. However a strata subdivision is proposed. It will be conditioned that the existing lots are consolidated prior to the issue of a strata subdivision.	Y	Y	Y
B2.5 Dwelling Density	Density= 1 Dwelling per	Total area of the four sites combined= 2971.5m ²	Y	Y	Y

Control	Standard	Proposal	T	O	N
and Subdivision - Multi-Unit Housing	<p>200m²</p> <p>Multi-unit housing must not be carried out unless the street frontage is greater than or equal to one third of the length of the longest side boundary.</p> <p>Subdivision can be applied for as part of the application.</p>	<p>Street frontage (combined length of both lots)= 34.775m²</p> <p>Proposed density= 1 dwelling per 270.1m². This is compliant with the control.</p> <p>The site does not have a clearly defined side boundary. However if it is assumed that the longest side boundary is the combined length of the northern boundaries, the length would be 58.11m. The site has a frontage that is greater than one third the longest side boundary (1 third of 58.11= 19.18m. Street frontage = 34.775m).</p> <p>The proposal includes the strata subdivision of the development. The application includes a draft strata subdivision plan which clearly identifies the common property and the individual lots.</p>			
B3.6 Contaminated Land and Potentially Contaminated Land		There is no evidence of past land uses which may have contaminated the site or unapproved land filling.	Y	Y	Y
B5.1 Water Management Plan			Y	Y	Y
B5.2 Wastewater Disposal		The site can be connected to the Sydney Water Reticulated Sewage System.	Y	Y	Y
B5.3 Greywater Reuse		None proposed.	Y	Y	Y
B5.12 Interim Draft - Stormwater Drainage Systems and Natural Watercourses			Y	Y	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses			Y	Y	Y
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing		<p>Views available from surrounding and nearby properties and those available to the public from nearby public domain areas will be maintained.</p> <p>Concern has been raised in regards to the impact on the view of the sky from 4 Walsh St. See the comments further in the report.</p>	Y	Y	N
C1.4 Solar Access	The primary living areas and principle private open space of the adjoining dwellings and proposed dwellings are to receive three hours solar access between 9am and 3pm on the winter solstice.	<p>Concern has been raised in regards to the proposals overshadowing of the adjoining properties. See the discussion further in the report.</p> <p>See the discussion further in the report regarding the solar access received by the proposed dwellings.</p>	N	Y	N
C1.5 Visual Privacy	Overlooking within 9m is to	Concern has been raised in regards to the visual	Y	Y	N

Control	Standard	Proposal	T	O	N
	be mitigated.	<p>privacy impact the proposed dwellings will have on the surrounding properties. The proposed dwellings include privacy screens and screen planting. Privacy screens have been applied to the elevations of the decks that face the adjoining properties. In addition screen planting is proposed along the boundary fences. These overlooking mitigating devices are considered sufficient to address the overlooking however the inclusion of these will be conditioned to ensure their specifications thoroughly maintain privacy to the adjoining properties.</p> <p>The upper level of house 9 has windows that overlook the rear proportion of the rear yard of 8 Walsh street. The area that is within 9m of the dwelling 9 is not considered to be a primary living area or principle private open space and therefore satisfies the requirements of the control.</p> <p>Privacy is maintained between the proposed dwellings through the inclusion of fences and privacy screens.</p>			
C1.6 Acoustic Privacy		<p>Concern has been raised in regards to the proposals impact on the acoustic privacy of the adjoining dwellings. The application does not include an acoustic report. Whilst it is acknowledged that there will be an increase in the noise generated from the new dwellings, it is considered that the noise will be typical residential associated noise which will not be excessive. Therefore there is an expectation that where residential development is permissible that noise associated with residential living will transfer across boundaries and is acceptable.</p> <p>It will be conditioned that the walls and/or ceilings of attached dwellings have a noise transmission rating in accordance with Part F(5) of the Building Code of Australia and noise generating plants including pool/spa motors, air conditioning units are located and insulated so they do not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.</p>	Y	Y	N
C1.7 Private Open Space	<p>A minimum private open space area of 15% of the floor area of the dwelling (not including the floor area of garages or internal laundries), with no dimension less than 2.5 metres and a grade no steeper than 1 in 10 (10%) is to be provided.</p> <p>The private open space is to achieve solar access.</p>	<p>All dwellings achieve the required minimum 15% of the floor area of private open space.</p> <p>All dwellings, except for 4,6 and 9, rear private open space achieve the required amount of solar access. Dwellings 4, 6 and 9 also have court yards on the northern sides of their dwelling which can be accessed from their primary living areas. Therefore these dwellings will be provided with two areas of private open spaces that will achieve solar access.</p>	Y	Y	Y
C1.9 Adaptable Housing		Concern has been raised in regards to the proposals	Y	Y	N

Control	Standard	Proposal	T	O	N
and Accessibility		<p>accessibility. The application has been supported by an access report prepared by an accredited access consultant. The report identifies that the proposal can achieve full compliance with the standards as long as the recommendations of the report are implemented into the development. This will be conditioned.</p> <p>Additionally the application has been referred to Councils Community Services who has no issues with the development as per the following comment.</p> <p><i>Based on revised Access Report and the revised floor levels Council's Community Services section supports the application.</i></p>			
C1.10 Building Facades		The mailboxes have been orientated obliquely to the street to reduce visual clutter and the perception of multiple dwellings.	Y	Y	Y
C1.12 Waste and Recycling Facilities		The proposed garbage enclosure is not located behind the front building line and does not achieve the requirements of the control. However whilst it does not achieve the setback requirements there is sufficient room to include screen planting to reduce the visual impact of the structure when viewed from the street. This is the most suitable location on the site for the garbage enclosure as it is close to the street allowing easier waste collection, is a minimal structure and will not impact on the proposed dwellings in terms of smells as it would if it were located behind the front building line. Additionally it can be conditioned to be designed in accordance with the control. Once the condition has been applied it is considered that the garage enclosure is acceptable.	N	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures		None proposed.	Y	Y	Y
C1.15 Storage Facilities	A lockable storage area of a minimum 8 cubic metres per dwelling is to be provided. (This may form part of a carport or garage)	The garage of each dwelling includes a storage area that has a volume of at least 8m³.	Y	Y	Y
C1.18 Car/Vehicle/Boat Wash Bays		The application does not propose a designated wash bay which is to be incorporated on the site as there are more than ten units. There is the possibility to include a wash bay on the site as one of the visitor car parks could also be used as a wash bay. Therefore it will be conditioned that a designated wash bay is to be included in one of the visitor parking bays on the site and the wash bay must be designed and constructed so as to not allow polluted waters to enter the stormwater drain and stormwater not to enter the sewer.	N	Y	Y
C1.19 Incline		None proposed.	Y	Y	Y

Control	Standard	Proposal	T	O	N
Passenger Lifts and Stairways					
C1.20 Undergrounding of Utility Services		Concern has been raised in regards to the utility services not being located underground. It will be conditioned that all utility services are to be placed underground for the total frontage of the site to any public road.	Y	Y	N
C1.21 SEPP (Housing for Seniors or People with a Disability) 2004		See the discussion further in the report.	N	Y	N
C1.23 Eaves	The development is to include 450mm eaves to all elevations.	The proposal includes 300mm eaves to all elevations. It can be conditioned that all eaves are to be a minimum of 450mm in width to achieve the requirements of the control.	N	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure		It will be conditioned that street trees are to be included in the road reserve. There is an existing footpath located in the road reserve.	Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run		It has not been indicated on the plans if the proposal will utilise air-conditioning and if so where the units are to be located. It will be conditioned that the proposal is to locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar as to protect the acoustic privacy of workers, residents and neighbours.	N	Y	Y
C4.7 Land Subdivision - Amenity and Design		No land subdivision is proposed.	Y	Y	Y
C4.8 Land Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots		No land subdivision is proposed.	Y	Y	Y
C5.19 Food Premises Design Standards		None proposed.	Y	Y	Y
D14.1 Character as viewed from a public place		The proposal includes three visitor parking hard stand areas within the front setback. Concern has been raised in regards to the character as viewed from a public place and bulk and scale of the proposal. See the discussion further in the report.	N	Y	N
D14.2 Scenic protection - General			Y	Y	Y
D14.3 Building colours and materials	Dark and earthy tones.	Roof- Dune- Non compliant Walls-Range from light grey (non compliant) to mid brown (compliant) The proposed colour scheme is non compliant with the control. It will be conditioned that a compliant colour schedule is to be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.	N	Y	Y
D14.4 Height - General	Maximum height-8m	Concern has been raised in regards to the height of	Y	Y	N

Control	Standard	Proposal	T	O	N																																				
	As site is affected by flooding a variation can be applied allowing a height 8m above the minimum floor level required by the flooding controls. As seniors living is classified as "special flood protection" development it is required to be located at or above the PMF plus climate change. For this site this level is 5.4mAHD.	the proposal. Maximum proposed height- 7.5m above the PMF plus Climate change of 5.4mAHD. This complies with the control.																																							
D14.7 Front building line	Front setback to land zoned residential- 6.5m	Proposed front setback- 9m to the development. Concern has been raised in regards to the front setback of the dwellings. The proposal is compliant with the front setback control except for the garbage area and visitors parking area. See the discussion further in the report.	N	Y	N																																				
D14.8 Side and rear building line	As the height of the walls are greater than 3m above natural ground level the following calculation applies: S= 3+ ((H-2)/4) S= side distance in metres H = the height of the wall at that point measured in metres above existing ground level.	Concern has been raised in regards to the side and rear setbacks. See the discussion further in the report. <table><tr><th>Dwelling</th><th>Setback Required</th><th>Setback provided to dwelling</th></tr><tr><td>1</td><td>3.78 – 3.7</td><td>2</td></tr><tr><td>2</td><td>3.62 – 3. 53</td><td>3</td></tr><tr><td>3</td><td>3.71 – 3.62</td><td>2</td></tr><tr><td>4</td><td>3.53 – 3.51</td><td>3</td></tr><tr><td>5</td><td>3.61 – 3.56</td><td>2</td></tr><tr><td>6</td><td>3.51 – 3.5</td><td>3</td></tr><tr><td>7</td><td>3.53 – 3.53</td><td>2.5</td></tr><tr><td>8</td><td>3.52 – 3.56</td><td>1.7</td></tr><tr><td>9</td><td>4.28 – 4.25</td><td>3</td></tr><tr><td>10</td><td>3.58 – 3.65</td><td>2.9</td></tr><tr><td>11</td><td>3.65 - 3.68</td><td>2</td></tr></table>	Dwelling	Setback Required	Setback provided to dwelling	1	3.78 – 3.7	2	2	3.62 – 3. 53	3	3	3.71 – 3.62	2	4	3.53 – 3.51	3	5	3.61 – 3.56	2	6	3.51 – 3.5	3	7	3.53 – 3.53	2.5	8	3.52 – 3.56	1.7	9	4.28 – 4.25	3	10	3.58 – 3.65	2.9	11	3.65 - 3.68	2	N	Y	N
Dwelling	Setback Required	Setback provided to dwelling																																							
1	3.78 – 3.7	2																																							
2	3.62 – 3. 53	3																																							
3	3.71 – 3.62	2																																							
4	3.53 – 3.51	3																																							
5	3.61 – 3.56	2																																							
6	3.51 – 3.5	3																																							
7	3.53 – 3.53	2.5																																							
8	3.52 – 3.56	1.7																																							
9	4.28 – 4.25	3																																							
10	3.58 – 3.65	2.9																																							
11	3.65 - 3.68	2																																							
D14.11 Building envelope	4.2m measured up from the side boundary and projected in at 45 degrees.	All dwellings comply with the building envelope.	Y	Y	Y																																				
D14.12 Site coverage - General	Allowable site coverage- 50%	Proposed site coverage- 77.2%. See the discussion further in the report.	N	N	Y																																				
D14.15 Fences - General		No front fence is proposed. However the Statement of Environmental Effects identifies that other fencing is proposed but no elevations of the fencing have been provided. It will therefore be conditioned that all fencing behind the front building line is to be a maximum of 1.8m in height.	N	Y	Y																																				
D14.17 Construction, Retaining walls, terracing and undercroft areas		None proposed.	Y	Y	Y																																				
SEPP (Seniors Living)		See the discussion further in the report.	N	Y	N																																				

Control	Standard	Proposal	T	O	N
2004					
SEPP (Building Sustainability Index: BASIX) 2004		The application is supported by a BASIX Certificate numbered 475605M.	Y	Y	Y
Other State Environmental Planning Policies (SEPPs)			Y	Y	Y

Issues marked with a - are not applicable to this Application.

5.0 SITE DETAILS

The sites are legally known as Lot B and G in DP 20399 and Lot Q in DP 389573, 1468 Pittwater Rd, North Narrabeen and Lot F in DP 20339, 1470 Pittwater Rd, North Narrabeen. The combined block is irregular in shape and has an area of 2971.5m². The site has a frontage on Pittwater Rd of 34.78m. The properties currently consist of two single storey residences, six sheds and multiple aviaries. The surrounding built form of the adjoining residents consists of one and two storey dwellings. The south western corner of North Narrabeen Reserve ("Rat Park") which comprises of landscaping, access way and car parking adjoins the sites to the north. The site has Reduced Levels (RL) ranging from 2.86m Australian Height Datum (AHD) to 4.23mAHD with the site sloping upwards from Pittwater Rd, the south and east to have the highest point where the 3 sites of 1468 Pittwater Rd meet. There is a mix of native and exotic vegetation existing on site, with a large heritage Morton Bay fig in the most north east corner. The properties are identified as being flood prone.

6.0 PROPOSAL IN DETAIL

The applicant seeks consent for the following development at 1468-1470 Pittwater Rd, North Narrabeen:

- Demolition of the existing dwellings and ancillary structures
- Construction of a SEPP (Housing for Seniors and People with a disability) development comprising of:
 - 11 x two bedroom self contained dwellings;
- Ground level car parking comprising of:
 - 11 standard garages;
 - 3 visitor car spaces;
- Waste garbage room;
- Landscaping works to the site including fencing and tree removal;
- Strata subdivision of the resultant development.

7.0 BACKGROUND

Development Application N0092/13 for demolition of the existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision was lodged on 19 April 2013. The application was notified to adjoining property owners between 27 April 2013 and 29 May 2013 and in accordance with Council's notification policy. The application was referred to Council's Engineer, Natural Resources, Heritage, Reserves and Recreation and Community Services officer for comment. The application was also referred to the RMS.

Additional information was submitted on the 2 July 2013. The additional information was re notified between 5 July 2013 and 23 July 2013. The additional information was referred to Councils Engineer, Catchment Management and Climate Change team and Councils Community Services manager.

8.0 STATE ENVIRONMENTAL PLANNING POLICY NO. 1 - DEVELOPMENT STANDARDS (SEPP No. 1)

The application of SEPP NO. 1 is not required.

9.0 EXISTING USE RIGHTS

The proposal does not rely on Existing Use Rights.

10.0 DISCUSSION OF ISSUES

• B3.14 Flood Hazard

The site is flood affected and falls within Flood Category 1 - Low Hazard. The proposed use of Seniors Living is considered a "Special Flood Protection" development under the relevant controls of the Pittwater 21 DCP. Therefore the site is required to have a floor level at or above the Probable Maximum Flood level inclusive of the factor for climate change. The climate change control B3.23 is triggered as the development is an intensification of development on the site. For this site the minimum floor level is to be 5.4mAHD. Additionally the site is identified as part of a low flood island.

Councils Catchment Management and Climate Change team provided the following comments in relation to the floor level required:

Land Use and Flood Risk

Senior living development is recognised as a "Special Flood Protection" development in Pittwater 21 DCP. The Floodplain Development Manual recognises that the degree of hazard to be managed is also a function of the type of development and resident mobility. Older occupants of floodplains are considered vulnerable to flooding hazards and may have a limited ability to self evacuate in a flood emergency and be subject to risks of flood isolation.

Council's draft LEP recognises the need to meet floodplain risk management objectives for senior housing uses, namely:

- "(a) to ensure emergency response needs are adequately addressed on land to which this clause applies,*
- (b) to maintain the operational capacity of emergency services and developments with particular evacuation or emergency response issues during extreme flood events,*
- (c) to avoid material adverse impacts on flood behaviour and the environment,*
- (d) to ensure development to which this clause applies is designed to minimise the risk to life from flood. "*

The flood emergency response strategy for the site needs to consider the risk to life for occupants of the proposed development for the full range of flood events up to the PMF including the additional impact of sea level rise. It is recommended that on-site vertical refuge (sheltering-in-place) should be considered as a secondary or method of last resort only.

Climate Change Impacts

The proposed development triggers Climate Change considerations in the flood risk assessment process as a result of an intensification of development (Pittwater 21 DCP control B3.23).

The 2100 climate change scenario (i.e. 30% rainfall increase and 0.9 metres sea level rise) adds another 0.4 m above the minimum floor level resulting in a PMF (with Climate Change) of 5.4mAHD.

The application was originally submitted with a floor level below the required level of 5.4m AHD. The applicant amended the design to provide the required floor level. The following is a response from the Catchment Management and Climate Change team on the revised plan:

I have reviewed the additional information submitted. I also note that we discussed the impact of flood risk on the proposals at our meeting on 19 June 2013.

It is acknowledged that the applicant has now raised the floor level to the requirements within Pittwater DCP. As such, the floor level is now compliant and satisfies Councils requirements with respect to flood risk management.

The following conditions were also recommended to be applied to the consent by the Catchment Management and Climate Change team.

- 1. The floor level of all habitable areas is to be set at a minimum level of 5.4m AHD.*
- 2. The floor levels are to be raised via piers and must not decrease floodplain storage or impact on surrounding properties. Details of this are to be provided with the construction certificate by a certified hydraulic engineer.*
- 3. All structural elements below 5.4m AHD shall comprise of flood compatible materials.*
- 4. All structures below 5.4m AHD must be designed and constructed to achieve low risk of damage and instability from the flood hazard.*
- 5. All electrical equipment, wiring, fuel lines or any service pipes and connections must be waterproofed up to a level of 5.4m AHD.*
- 6. The storage of toxic or potentially polluting goods, materials or other products which may be hazardous or pollute floodwaters is not permitted below 5.4m AHD.*
- 7. Any fencing on the site must allow for the movement of floodwater and should not adversely affect the flow of floodwaters on adjacent properties.*
- 8. Prior to the issue of an Occupation Certificate a Flood Evacuation Plan prepared by a certified hydraulic engineer is to be submitted to the Principal Certifying Authority. The Plan should consider where and how the residents will evacuate.*

Given the above, the proposal now complies with the required floor level and the requirements of the relevant controls of the PCDP. Additionally the conditions recommended by the Catchment Management and Climate Change team are considered reasonable and will be applied to the draft conditions of consent.

- **B1.1 Heritage Conservation - Items and areas listed in Pittwater Local Environmental Plan 1993**

1468 Pittwater Rd contains a heritage Moreton Bay fig tree commonly known as "Alma's Tree". The item is identified in the Pittwater LEP Schedule 9 Heritage Inventory and in the heritage database as 2270331. The fig tree was originally planted by Alma Adams from a seedling that came from "Colins Tree" which was a stand of three trees on 1462 Pittwater Rd. The mature tree is a local landmark and is associated with the settlement in rural Warringah in the 1920's.

Concern was raised by the surrounding residents in relation to the impact the proposal would have on the heritage Morton Bay Fig tree. Councils Heritage Architect originally also had some concern relating to the proposed lopping of branches and disruption around the roots of the tree. Their comments were as follows:

A potential heritage issue arises through the proposed lopping of the tree to allow the new buildings to fit in upon the site. The aesthetic and historic values of the tree must not be compromised by detracting from its appearance as a grand, mature tree which has stood in this locality for enough time to be regarded importantly by the local community. While it may sustain lopping in terms of its health as a tree, the lopping proposed must respect its general habit and aesthetic appearance.

The building of new floor area over the tree's root spread is also an important issue going directly to its sustainability into the future. The hand digging of footings, placed to avoid major roots, and the reticulation of the rainwater which would normally fall upon the site of the tree but would now be intercepted by the building's roof, are very common requirements in such circumstances.

To allow Councils Heritage Architect to fully understand the proposed works to and around the tree a meeting was arranged with Councils Natural Resource officer, the Architect and Applicant's arborist on the site to discuss the issues. The following comments were made by Councils Heritage Architect following the meeting.

Having seen the affected parts of the listed tree, and agreeing that the measures to be taken are sensible in the planned context of the tree, I am prepared to support the application's reasonableness in context. The extent of pruning to the two major branches discussed in the application is acceptable, and the removal of smaller lower branches as discussed would not seem problematic.

Council's Heritage Architect also provided further comments around the construction of footings and the fence adjacent to the tree. Councils Heritage Architect was satisfied with these proposed works subject to conditions of consent.

As a result of the clarification of the proposed works to and around the tree, Councils Heritage Architect was satisfied subject to further conditions of consent, which have been included in the attached draft conditions.

- **B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land and C1.1 Landscaping**

The site currently contains little significant landscaping. The majority of the site is covered with grass and includes sporadically placed predominantly exotic plants. The site of 1468 Pittwater Rd, does however contain a significant heritage listed Moreton Bay Fig Tree.

Councils Natural Resource officer provided the following comments on the proposed landscaping:

The properties contain a modified landscape typical of a suburban garden. The proposed works involve demolition of existing dwellings and construction of a seniors living development comprising 11 in-fill self-care dwellings each with a single garage and strata subdivision. As trees exist within the vicinity of the proposed works, an arborist report (Urban Forestry Australia March 2013) has been submitted.

The report assesses sixteen (16) trees, of which five (5) are locally native specimens, and eight (8) are species listed as exempt from protection under Council's DCP Control B4.22 Protection of Trees and Bushland Vegetation. The report recommends removal of nine (9) trees, which are located within or too close to the proposed building footprint. Of these only one (1) is protected, however it is an exotic Frangipani (Tree 12).

A large and significant Moreton Bay Fig (Tree 11) known as "Almas Tree" is listed as a Heritage Item in the Pittwater LEP 1993. The report determines that the proposed works do encroach into the trees Tree Protection Zone but not within the Structural Root Zone.

Two branches on the south and west sides of the tree are recommended for removal to accommodate the proposed buildings however the report recommends that the tree can be safely retained and will not suffer any long-term adverse impact. Specific tree protection measures are to be adopted as specified in the report. The recommendations of the report are supported and the report is therefore approved.

The landscape plan (Concept Landscape Architecture Drawing No. LPDA 13-267/1 April 2013) submitted indicates all existing trees and retention/removal actions are consistent with the arborist report which is referenced on the plan. The Plant Schedule provides a number of new canopy trees, shrubs and groundcovers most of which are locally native species and the proposed vegetation will enhance the habitat and amenity value of the site as well as effectively screening the built form upon maturity. The landscape plan is considered to be acceptable and is therefore approved.

- **C1.3 View Sharing**

Concern has been raised in regards to the loss of the view of the sky from 4 Walsh St.

The Pittwater 21 DCP defines views as "a mid to distant view containing an attractive feature including bushland (particularly escarpments and skylines), water bodies and geographical features including beaches, islands, headlands etc. It may include built form but is predominately natural in character."

The objector does not define from where on the site the view of the sky will be lost from. It is expected that the view of the sky will be lost to the north east where the south west corner of the subject site and north east corner to the site meet. The subject site and the objector's property do not have a common boundary. The view does not include features such as beaches, water bodies or escarpments and therefore it would be considered to be a vista. Councils control for view sharing and the planning principle *Tenacity Consulting v Warringah [2004] NSWLEC 140* do not address vistas and only relates to views. Therefore the impact on the vista is not considered to have determining weight. Additionally it is considered that the objectors will still receive the view of the sky to the north, east, south and west, with only a small proportion of their aspect being impact upon.

- **C1.4 Solar Access**

Concern has been raised in regards to the overshadowing of the adjoining properties. In particular concern has been raised by 4 and 8 Walsh St and 1466 Pittwater Rd. The control requires that principal living areas and primary private open spaces receive three hours solar access between 9am and 3pm on the winter solstice.

Whilst 8 Walsh St will be overshadowed throughout the day, their primary living areas and principle private open space will receive the required amount of solar access. There will be overshadowing of 8 Walsh Streets rear yard, however their primary private open space in the form of a pool and covered areas connected to their dwelling will receive full solar access between 9am and 12pm, in accordance with the control.

1466 has two windows on their northern elevation. These windows are to bedrooms which are not considered to be areas of primary living. Their primary living areas therefore must be located on the southern side of their dwelling and have windows to the east and west that will not be overshadowed by the proposed development. The rear yard of 1466 Pittwater Rd will receive solar access to at least 50% of this area between the hours of 12pm and 3pm.

4 Walsh St will receive full solar access to their rear yard between the hours 12pm and 3pm in accordance with the control. As identified in the submission the property will be overshadowed in the afternoon however this is not the result of the proposed development and therefore is not a matter for consideration.

There is a structure at the rear of 6 Walsh St that has two northern windows. These windows will be overshadowed throughout the entire day. This structure is not the principal dwelling on the site which is located towards the south. Therefore these windows are not considered to be windows that are required to receive three hours solar access.

All other adjoining properties will receive 3 hours solar access between 9am and 3pm on the winter solstice.

The following is an assessment of the solar access received by the proposed dwellings:

House		9am	12pm	3pm	Complies
1	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✓	✓	✓	Yes
2	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✗	✓	✓	Yes
3	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✓	✓	✓	Yes
4	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✗	✓	✓	Yes
5	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✓	✓	✓	Yes
6	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✗	✓	✓	Yes
7	Primary living areas	✓	✓	✓	Yes
	Private Open Space	✓	✓	✗	Yes
8	Primary living areas	✓	✓	✗	Yes
	Private Open Space	✓	✓	✗	Yes
9	Primary living areas	✗	✗	✗	No
	Private Open Space	✗	✗	✗	No
10	Primary living areas	✓	✗	✓ (Through kitchen window)	Yes
	Private Open Space	✓	✓	✗	Yes
11	Primary living areas	✓	✗	✓ (Through kitchen window)	Yes
	Private Open Space	✓	✓	✗	Yes

The SEPP requires that at least 70% of the dwellings primary living areas and private open space receive three hours solar access between 9am and 3pm. The proposed development achieves this requirement.

- **C1.21 SEPP (Housing for Seniors or People with a Disability) 2004 and SEPP (Seniors Living) 2004**

Clause	Standard	Proposal	C
CHAPTER 1 & 2 – PRELIMINARY AND KEY CONCEPTS			
2 Aims of Policy	<p>(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:</p> <ul style="list-style-type: none"> (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and (b) make efficient use of existing infrastructure and services, and (c) be of good design. <p>(2) These aims will be achieved by:</p> <ul style="list-style-type: none"> (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes. 	<p>The proposal increases the supply of residences, makes efficient use of existing infrastructure and services and is considered to be an acceptable design.</p> <p>The development is consistent with the aims of SEPP HSPD.</p>	Y
4 Land to which Policy applies	This Policy applies to land within New South Wales that is land zoned primarily for urban purposes but only if the development for the purpose of dwelling-houses is permitted on the land.	The Policy applies to this land as it is land zoned primarily for urban purposes and development including dwelling houses is permitted on the land.	Y
13 Self-contained dwellings	<p>In-fill self-care housing:</p> <p>Seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.</p>	The proposal is for a group of 11 self-contained dwellings (in-fill self-care housing) used permanently for seniors or people with a disability.	Y
CHAPTER 3 – DEVELOPMENT FOR SENIORS HOUSING			
Part 1 – General			
14 Objectives	The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.	The development has been designed to complement people who are elderly or who have a disability. The development is also located in a position that is conducive to these people.	Y
15 What Chapter does	<p>This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy:</p> <ul style="list-style-type: none"> (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing 	The proposed senior's housing development is permitted under this clause despite the provisions of PLEP.	Y

Clause	Standard	Proposal	C
16 Development consent required	Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.	The proposed senior's housing development requires development consent from Pittwater Council.	Y
18 Restrictions on occupation of seniors housing	<p>(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:</p> <ul style="list-style-type: none"> (a) seniors or people who have a disability, (b) people who live within the same household with seniors or people who have a disability, (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy. <p>(2) A consent authority must not consent to a development application made pursuant to this Chapter unless:</p> <ul style="list-style-type: none"> (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1). <p>(3) Subclause (2) does not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.</p>	Appropriate conditions can be applied to the consent to ensure that the proposal is consistent with the requirements of Clause 18.	Y
21 Subdivision	Land on which development has been carried out under this Chapter may be subdivided with the consent of the consent authority.	Strata Subdivision has been proposed as part of this application. A draft strata plan was submitted with the application.	Y
Part 1A - Site compatibility certificates			
24 Site compatibility certificates	<p>Applicable where:</p> <ul style="list-style-type: none"> (a) the site adjoins land zoned for urban purposes, special uses or used for the purposes of an existing registered club; or (b) applies for buildings with a floor space ratio which requires consent under clause 45 	<p>Concern has been raised in regards to the lack of a site compatibility certificate. A site compatibility certificate is not required as the subject site is land zoned for urban purposes and adjoins land zoned for urban purposes.</p> <p>Clause 45 does not apply as the application is not for a vertical village.</p>	-

Clause	Standard	Proposal	C
Part 2 - Site-related requirements			
26 Location and access facilities	<p>The consent authority must be satisfied, by written evidence, that residents of the proposed development will have compliant access to:</p> <ul style="list-style-type: none"> (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner. 	<p>The applicant has provided written confirmation that the proposal can satisfy the requirements of this clause.</p> <p>The proposal is located within 200m of major bus stops providing access both north and south. The bus stops are accessible by footpaths which have been assessed by an accessibility consultant who have deemed them acceptable.</p> <p>The bus stop services buses that would provide access to Warriewood Square, Narrabeen and Mona Vale town centres. These bus services are provided at least once between 8am and 12pm per day and at least once between 12pm and 6pm, Monday to Friday.</p>	Y
28 Water and Sewer	The consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage	The applicant has provided written confirmation that the proposal can be connected to the existing reticulated water and waste water system.	Y
29 Site compatibility criteria to which clause 24 does not apply	<p>Applies to development not subject to clause 24.</p> <p>A consent authority must take into consideration and have regard for the criteria referred to in clause 25 (5) (b) (i), (iii) and (v) which states:</p> <ul style="list-style-type: none"> • 25(b)(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development, • 25(b)(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision, • 25(b)(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development. 	<p>The proposal is not subject to Clause 24.</p> <p>It is deemed that the consent authority has taken into consideration the criteria within clause 25 and is satisfied that the development is of a design, scale and character consistent with existing uses, approved uses and future uses of land in the vicinity of the development through the assessment of the application</p>	Y
Part 3 – Design requirements			
30 Site analysis	The consent authority must not grant consent unless satisfied the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.	The application is supported by written and drawn documentation that provides a site analysis that is in accordance with the requirements of the clause.	Y
31 Design of in-fill self-care housing	The consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	The assessing officer has taken into consideration the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> which is addressed in detail in further in this report.	Y

Clause	Standard	Proposal	C
32 Design of residential development	A consent authority must not consent to a development application unless satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.	The consent authority is satisfied that the design of the development has had regard for the principles set out in division 2. Discussion under each principle is provided under clauses 33 – 39 below.	Y
33 Neighbour-hood amenity and streetscape	<p>The proposed development should:</p> <ul style="list-style-type: none"> (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and (c) maintain reasonable neighbourhood amenity and appropriate residential character by: <ul style="list-style-type: none"> (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and (f) retain, wherever reasonable, major existing trees, and (g) be designed so that no building is constructed in a riparian zone. 	<p>The proposal is consistent with the desired future character of the locality in that the built form draws on style characteristics of the area and is located appropriately near the commercial centre.</p> <p>The proposal provides a front setback consistent with other dwellings along the street.</p> <p>The locality includes multiple sites that are zoned for multiunit housing and there is an expectation that these sites will be developed in the future. Therefore the proposal is consistent with the desired future character for the locality.</p> <p>The proposal maintains the heritage fig tree. The proposal also includes other landscaping on the site which will significantly enhance the ecological value of the site from the existing vegetation.</p> <p>Overall the development is considered to have an acceptable impact upon the streetscape amenity and visual amenity from neighbouring properties as discussed elsewhere in the report.</p>	Y
34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <ul style="list-style-type: none"> (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths. 	<p>The proposed dwellings include screen planting and privacy screens to minimise visual and acoustic impacts. The proposal is satisfactory subject to conditions of consent.</p>	Y
35 Solar access and design for climate	<p>The proposed development should:</p> <ul style="list-style-type: none"> (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction. 	<p>The proposal provides the surrounding properties with adequate solar access to their primary living areas and principle private open space.</p> <p>The proposed dwellings will also achieve adequate solar access.</p>	Y

Clause	Standard	Proposal	C
36 Stormwater	The proposed development should: (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	The proposed development will collect the stormwater and direct it into a discharge outlet and a high early discharge pit. The proposal has been assessed by Councils Engineer who is satisfied with the proposed stormwater management scheme. Therefore it is considered that the development minimises the disturbance and impacts of stormwater runoff on adjoining properties.	Y
37 Crime Prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The design of the dwellings allows observation of the public area and/or persons approaching the entry door. No shared entries are proposed.	Y
38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	A Disability Access Report prepared by Lindsay Perry Access and Architecture dated 5 April 2013 and an updated report dated 28 June 2013, was submitted with the development application. The report concludes that safe and convenient pedestrian links have been provided to the site and within the site and appropriate parking for residents and visitors can be achieved.	Y
39 Waste Management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	A garbage and recycling enclosure has been provided within the site that is accessible.	Y
Part 4 – Development Standards to be complied with			
40 Development standards – minimum sizes and building height	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.		
	(2) Site size The size of the site must be at least 1,000 square metres.	The site has an area of 2971.5m ² and satisfies this requirement.	Y
	(3) Site frontage The site frontage must be at least 20 metres wide measured at the building line.	The site has a street frontage of 34.78m and satisfies this requirement.	Y

Clause	Standard	Proposal	C
	<p>(4) Height in zones where residential flat buildings are not permitted. If the development is proposed in a residential zone where residential flat buildings are not permitted:</p> <ul style="list-style-type: none"> (a) the height of all buildings in the proposed development must be 8 metres or less, and (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and (c) a building located in the rear 25% area of the site must not exceed 1 storey in height. 	<p>a) The proposal has a maximum height of 6.97m in accordance with the definition of height in the SEPP.</p> <p>b) The buildings are no more than 2 storeys in height adjacent to the side boundaries.</p> <p>c) It is considered that no building with more than one storey is located in the rear 25% of the site. The applicant calculated the rear 25% (742.8m²) of the site by dictating that all of lot Q (540.8m²) was within the rear 25% as it was surrounded by residential properties on three sides. Therefore an additional 202m² was to be excluded from the eastern proportion of lot G. The proposal complies with this method of calculation of the rear 25%.</p> <p>Due to the unusual shape of the site consideration should be given to the potential impact of the two storey component. As discussed elsewhere in the report there is overshadowing and overlooking of the adjoining properties, however these impacts are considered to be in accordance with the control and considered acceptable. The bulk and scale of the additional storey is not considered unreasonable. Therefore, it is considered that this method used by the applicant to calculate the rear 25% of the site is acceptable.</p>	Y
41 Standards for hostels and self-contained dwellings	A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.	<p>The proposed self-contained dwellings can comply with the standards specified in Schedule 3.</p> <p>See Schedule 3 assessment at the end of this table.</p>	Y

Clause	Standard	Proposal	C
Part 7 – Development standards that cannot be used as grounds to refuse consent			
46 Inter-relationship of Part with design principles in Part 3	Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.	<p>Design Principles</p> <ul style="list-style-type: none"> ○ Neighbourhood amenity and streetscape ○ Visual and acoustic privacy ○ Solar access and design for climate ○ Stormwater ○ Crime prevention ○ Accessibility ○ Waste management <p>The principles have been addressed in the application documentation and assessed in detail in the report. The consent authority is satisfied that adequate regard has been given to each of the principles set out in Division 2 of Part 3.</p>	Y
50 Standards that cannot be used to refuse development consent for self-contained dwellings	<p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds:</p> <p>(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),</p> <p>(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.</p> <p>(c) landscaped area: if:</p> <ul style="list-style-type: none"> (i) in the case of a development application made by a social housing provider-a minimum 35 square metres of landscaped area per dwelling is provided, or (ii) in any other case-a minimum of 30% of the area of the site is to be landscaped. <p>(d) Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone).</p> <p>Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres</p>	<p>The proposal has a maximum building height of 6.97m (in accordance with the definition under the SEPP. The proposal also complies with Councils height limit which also has to take into consideration flooding.</p> <p>The proposal has a FSR of 0.38:1 and complies.</p> <p>The proposal achieves a landscaped area of 35.5% and satisfies this requirement.</p> <p>(Note: SEPP HSPD definition of landscaped area used)</p> <p>The proposal achieves a deep soil zone of 22.8% and satisfies this requirement.</p> <p>Approximately 57.4% of the deep soil zone is in the rear of the site and predominately in the rear yards of the dwellings. This does not achieve the preferable 66% to be located in the rear of the site; however the deep soil zone is close to compliance, evenly distributed around the site and provides a generous communal area.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>N</p>

Clause	Standard	Proposal	C
50 <i>Standards that cannot be used to refuse development consent for self-contained dwellings Continued...</i>	(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	The living rooms and private open spaces of at least 70% of the dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	Y
	(f) private open space for in-fill self-care housing: if: (i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area.	All dwellings comply with the required private open space area. Each dwelling has an elevated deck that is accessed directly of the principle living areas. Not all of these decks achieve the size of 3m x 3m. However there are further private open spaces in the form of courtyards that can contribute to achieve the size requirements.	Y
	(h) parking: if at least the following is provided: (i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or (ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider. (iii)	The development provides 1 car space for each dwelling in addition to 3 visitor spaces. The 11 spaces satisfy the requirement of 0.5 car spaces for each bedroom (11 x 2 bed dwellings = 11).	Y
Schedule 3 – Standards concerning accessibility and useability for hostels and self-contained dwellings			
2 Siting standards	(1) Wheelchair access If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road. (2) If the whole of the site does not have a gradient of less than 1:10: (a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and (b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents. For example, if 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by this subclause. If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is likely to be unable to meet these requirements. (3) Common areas Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.	As the dwellings have to be raised for flooding the driveway and dwellings have similar RLs resulting in 100% of the dwellings having wheelchair access by a continuous accessible path of travel. There is an accessible path from Pittwater Rd to the highest level of the driveway providing an accessible path from the site entry. Additionally an accessible pathway has been provided to the common area under the heritage fig tree.	Y

Clause	Standard	Proposal	C
3 Security	Pathway lighting: (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) must provide at least 20 lux at ground level.	The development is capable of compliance subject to recommended conditions.	Y
4 Letterboxes 4 Letterboxes (Continued)	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.	The development is capable of compliance subject to recommended conditions.	Y
5 Private car accommodation	If car parking (not being car parking for employees) is provided: (a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and (b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.	The application proposes a total of 14 parking spaces (11 resident spaces and 3 visitor spaces). It will be conditioned that 11 car parking spaces comply with AS2890.6. The car parking of dwelling 6 is able to be increased in width to 3.8m. The development is capable of compliance subject to recommended conditions regarding the garage doors.	Y
6 Accessible entry	Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.	The development is capable of compliance subject to conditions.	Y
7 Interior: general	Widths of internal corridors and circulation at internal doorways must comply with AS 1428.1.	The development is capable of compliance subject to conditions.	Y
8 Bedroom	At least one bedroom within each dwelling must have: (a) an area sufficient to accommodate a wardrobe and a bed sized as follows: (i) in the case of a dwelling in a hostel-a single-size bed, (ii) in the case of a self-contained dwelling-a queen-size bed, and (b) a clear area for the bed of at least: (i) 1,200 millimetres wide at the foot of the bed, and (ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and (e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and (f) wiring to allow a potential illumination level of at least 300 lux.	The development is capable of compliance subject to conditions.	Y

Clause	Standard	Proposal	C
9 Bathroom	<p>(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1 :</p> <ul style="list-style-type: none"> (a) a slip-resistant floor surface, (b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1 , (c) a shower that complies with AS 1428.1 , except that the following must be accommodated either immediately or in the future: <ul style="list-style-type: none"> (i) a grab rail, (ii) portable shower head, (iii) Folding seat, (d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it, (e) a double general power outlet beside the mirror. <p>(2) Subclause (1) (c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.</p>	The development is capable of compliance subject to conditions.	Y
10 Toilet	A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	The development is capable of compliance subject to conditions.	Y
11 Surface finishes	Balconies and external paved areas must have slip-resistant surfaces.	The development is capable of compliance subject to conditions.	Y
12 Door hardware	Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS 4299.	The development is capable of compliance subject to conditions.	Y
13 Ancillary items	Switches and power points must be provided in accordance with AS 4299.	The development is capable of compliance subject to conditions.	Y
15 Living room and dining room	<p>(1) A living room in a self-contained dwelling must have:</p> <ul style="list-style-type: none"> (a) a circulation space in accordance with clause 4.7.1 of AS 4299 , and (b) a telephone adjacent to a general power outlet. <p>(2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.</p>	The development is capable of compliance subject to conditions.	Y
16 Kitchen	<p>A kitchen in a self-contained dwelling must have:</p> <ul style="list-style-type: none"> (a) a circulation space in accordance with clause 4.5.2 of AS 4299 , and (b) a circulation space at door approaches that complies with AS 1428.1, and (c) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299 : <ul style="list-style-type: none"> (i) benches that include at least one work surface at least 800 millimetres in length that comply with clause 4.5.5 (a), (ii) a tap set (see clause 4.5.6), (iii) cooktops (see clause 4.5.7), except that an isolating switch must be included, (iv) an oven (see clause 4.5.8), and 	The development is capable of compliance subject to conditions.	Y

Clause	Standard	Proposal	C
16 <i>Kitchen (Continued)</i>	(d) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and (e) general power outlets: (i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and (ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.		
17 Access to kitchen, main bedroom, bathroom and toilet	In a multi-storey self-contained dwelling, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	The proposal complies with this requirement as dwelling 9 has the kitchen, main bedroom and bathroom on the ground floor.	Y
18 Lifts in multi-storey buildings	In a multi-storey building containing separate self-contained dwellings on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with clause E3.6 of the <i>Building Code of Australia</i>	N/A	-
19 Laundry	A self-contained dwelling must have a laundry that has: (a) a circulation space at door approaches that complies with AS 1428.1, and (b) provision for the installation of an automatic washing machine and a clothes dryer, and (c) a clear space in front of appliances of at least 1,300 millimetres, and (d) a slip-resistant floor surface, and (e) an accessible path of travel to any clothes line provided in relation to the dwelling.	The development is capable of compliance subject to conditions.	Y
20 Storage for linen	A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299	The submitted plans indicate storage for linen in each dwelling and are capable of compliance subject to conditions.	Y
21 Garbage	A garbage storage area must be provided in an accessible location.	A garbage area has been provided at the front of the site that has an accessible ramp leading to it from the dwellings.	Y

Design of in-fill self-care housing

Clause 31 of SEPP HSPD provides that a consent authority must take into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development. Below is an assessment of the chapters of the policy, each corresponding to a key issue.

1) Responding to Context

The aim of this chapter is to indicate specific areas which need to be considered in order to effectively respond to the local context. The policy proposes key questions which are under the following headings:

- Street layout and hierarchy
- Block and Lots
- Built environment
- Trees
- Policy environment

The site is located on Pittwater Rd, one of the classified roads in the Pittwater Local Government area. On the southern end of the block the street is characterised by single dwellings with some having the possibility to develop multi-unit housing. Further to the south Pittwater Rd is characterised by commercial premises and shop top housing. The adjoining sites on the block to the east are characterised by single dwellings, again with some having the possibility to develop multi-unit housing. The result is a mixture of architectural styles and forms across the locality including single storey cottages to large contemporary residences and multi-unit and shop top housing.

Generally the development complies with the 6.5m front setback requirement, with the three dimensional mass exceeding the required setback. The dwellings to the south of the subject site on Pittwater Rd generally comply with the 6.5m setback requirement. However further to the south, the shop top housing development and commercial premises have significantly reduced front setbacks.

The block specifically related to this development does not have a general lot size or orientation. The block contains two land locked sites which form part of the subject site. Overall, given the zoning within the block and the size of some blocks amalgamation may be necessary for the sites to be developed in the future.

The locality contains landscaping however it would not be described as offering significant ecological diversity. The subject site contains a large Morton Bay Fig which is a heritage item and is well regarded in the community. This fig is to be retained and the proposal offers additional landscaping which will increase the environmental diversity of the sites.

It is considered that the proposal is consistent with the desired future character of the locality whilst being reflective of the current character in terms of the individual dwelling design. Therefore the proposal is considered to be consistent with the section on responding to context of the Seniors Living Policy.

2) Site planning and Design

The aim of this chapter is to develop a design for a specific site in an effort to optimise internal amenity and minimise impacts to neighbours. These requirements should dictate the maximum development yield.

The development is made up of three buildings, two with three attached single storey dwellings and one with four attached dwellings of which one is two storeys and the rest single storey. The buildings are located around a central driveway.

The majority of the development is located towards the front of the site. Each front blocks have three dwellings whereas the rear blocks have a total of four dwellings across two blocks.

The majority of the rear facades of the buildings and all living areas have been orientated to either the north or north east to maximise solar access. Some dwellings have double frontages to provide sufficient solar access. The proposed dwellings achieve the required amount of solar access.

The development retains the large heritage fig tree. There is limited other vegetation existing on the site. The proposal does not conform to the general vegetation/open space pattern of the surrounding developments due to the need to provide access to the two rear land locked blocks, which are located perpendicular to the adjoining blocks. The design provides the deep soil zones around the fig tree and the edges of the development resulting in the opportunity to use landscaping to screen the development from the adjoining properties and provide spatial separation. There is also a large communal landscape area around the fig tree which increases the deep soil zones and reduces stormwater runoff.

The siting of the driveway is appropriate considering the need to reduce the amount of hard surface contributed by the driveway and provide access to the rear land locked blocks.

It is considered that the design and layout of the development is acceptable for the site considering the issue of providing access to the two rear sites. The requirements of the section on site planning and design are considered to be achieved.

3) Impacts on Streetscape

The aim of this chapter is to respond to the desired streetscape character through sympathetic design.

The proposed development addresses Pittwater Rd as two buildings with a similar scale and design type of the dwellings to the south which is characteristic of the undeveloped area of the locality. Whilst the proposal includes attached dwellings they are broken up into three buildings. The facades that face onto the driveway are quite similar but utilise modifications to windows and landscaping to break up the repetition.

The proposal maintains the large heritage fig tree on the site. This is the limit of the significant vegetation on the site currently. The proposal includes a significant tree with in the front setback and screen planting.

The proposal clearly delineates communal and private open space within the front setbacks site through the use of fences. Rear yards are also defined through fences and vegetation which also provides increased amenity for the occupants and surrounding neighbours. The entries into the dwellings are clearly defined and are separate from the garages.

No front fences are proposed providing an open street frontage. A garage area is located within the front setback however the location is the most suitable on the site and its presence will be reduced through the use of screen planting. The letter boxes have been located perpendicular to the street to reduce visual clutter.

Whilst the driveway is long and unrelieved when viewed from the street, the driveway is designed to have intrusions by landscaping which provides curves creating visual interest and softening of the edges. The use of a single driveway down the middle of the site is necessary as it provides access to the rear two blocks which are land locked whilst reducing the amount of hard surface created by the driveway on the site. The garages are included in the dwellings to reduce the amount of built form relating to the driveway and parking.

Accordingly the proposal is considered to achieve the requirements and objectives of the impacts on streetscape section within the guidelines of the Seniors Living Policy.

4) Impacts on Neighbours

The aim of this chapter is to establish design principles to minimise impacts on neighbours.

Dwellings have been orientated perpendicular to the adjoining dwellings. Whilst this is not consistent with the layout for the locality, the proposal reduces the impact of the development when viewed from the street and allows access to the central blocks. As discussed in the guideline, whilst this orientation is not preferable, it is considered that as the proposal includes privacy screens and screen planting to maintain visual privacy to the adjoining residents, the development is sensitive to the adjoining properties amenity.

The proposal reflects the character of the existing development with almost all dwellings being single storey. The roof form further reduces the bulk and scale of the development on the outer edges of the dwelling by being a pitched roof in the centre.

Vegetation is used to create a buffer between the new and adjoining development with a deep soil zone running around the perimeter of the site. This helps to locate planting to further reduce the amenity impacts on the neighbouring properties. The species are predominantly those that are indigenous to the area.

A variety of measures including spatial separation, fixed screens and landscaping have been incorporated into the design to minimise overlooking impacts and maintain amenity to the neighbouring properties. The location of the private open space adjacent to the neighbouring properties provides spatial separation for natural ventilation and deep soil zones to provide screen planting. The development does not unreasonably overshadow any neighbouring dwellings.

The driveway has been located in the centre of the development which will mitigate any amenity impacts that would arise from vehicular movements.

It is therefore considered that the development achieves the design principles in relation to the impact of the development on the neighbouring properties and in turn achieves the required objectives.

5) Internal Site Amenity

The aim of this chapter is to provide design guidelines to ensure that the development provides an optimal amenity within the site for future occupants.

The dwellings have been designed to maximise solar access to living areas and private open space. Where dwellings have not been oriented to the north they have been provided with multiple facades that provide additional solar access. Additionally where dwellings have south facing primary private open space the design includes a secondary area of private open space.

Whilst dwellings do not have individual style, at most three dwellings are connected with articulation and modulation included to delineate the separate dwellings. All dwellings include planting to provide a sense of separation for adjoining dwellings and communal areas.

Entries have been set into the dwellings to provide a buffer between them and the driveway. They are clearly identifiable and will not look directly into other dwellings.

Not all bedrooms have not been located away from the driveway and garages. However where bedrooms adjoin the driveway the design includes screen planting, privacy screens or highlight windows. The central driveway has planting around its edges to break up the connection with the dwellings.

The development provides a combined pedestrian and vehicular circulation space. The minimum width of driveway is 3m which does not achieve the requirements of the design guidelines which requires a width of 4.2m. The access consultant has provided a report that considers this acceptable as there are areas such as dwelling entries and driveways for a person to wait whilst a car passes. Councils Community Services manager has assessed the application and considers it acceptable. The driveway also includes intrusions of vegetation to soften the edge of the driveway and provide a curved driveway with visual interest. Single garages have been connected to the dwellings and located so that they are not visible from the street.

Private open space allocated to each dwelling is generous and is mostly orientated to the north and where it is not, a secondary area of private open space has been provided so that maximum solar access can be enjoyed. All dwellings private open space is screened providing maximum privacy to the occupants.

The communal open space is largely within the structural root zone of the heritage fig tree. This provides occupants an area to enjoy the heritage item and engage with each other. This area has been provided with an accessible ramp.

The garbage area is located in close proximity to the street, which is located away from communal areas and dwellings. The proposal includes an accessible ramp to the letter boxes and garbage area. Whilst it is prominent when viewed from the street it is in the most suitable location, which will be convenient for garbage collection and reduce the smell and pest impact on the dwellings. The garbage area will be finished in stone to increase its ability to blend with the natural environment.

It is therefore considered that the requirements and objectives of the Internal Site Amenity section of the Seniors Living policy are achieved.

- **D14.1 Character as viewed from a public and D14.7 Front building line**

Concern has been raised in regards to the character as viewed from a public place and bulk and scale of the development and the front setback requirements. The character as viewed from a public place control requires the bulk and scale of development to be reduced, garages to be located behind the front building line and not be the dominant feature from the street and the development includes architectural elements to create visual interest. The front setback control requires development to be located at least 6.5m from the front boundary.

The proposal does not comply with the front setback requirements as the garbage enclosure and visitor hard stand parking areas are located forwards of the front building line. Besides these encroachments all other built form complies with the front setback requirements, with the garages being located well behind the front building line. It is considered through the use of screen landscaping and natural materials the location of the garbage enclosure is considered to be acceptable. This is especially given the advantages of locating the garbage enclosure close to the street such as ease of collection and removal of smells and pests associated with garbage away from dwellings. The visitor's parking spaces are located within the front setback area.

These areas will not result in additional bulk and scale and will be able to be screened from the street through the use of landscaping. Whilst it does reduce the opportunity to landscape the front setback area, the proposal is a significant improvement on the existing landscaping and it also reduces the hard surface further in the site allowing deep soil zones to be located around the heritage fig tree and boundaries. All other aspects of the character as viewed from a public place control are achieved.

The majority of the development is single storey and is orientated so that it is read as a single storey dwelling on each block when viewed from the street. This is in keeping with the character of the local area which comprises mainly of single storey dwellings to the south of the site. Whilst it is acknowledged that the density on the site will increase, resulting in more bulk and scale the density, this is in accordance with Councils controls and the associated legislation. Due to the flooding nature of the site the development is required to be elevated resulting in the perception of additional bulk and scale when viewed from the adjoining dwellings. This is a requirement that has to be achieved and therefore the additional bulk and scale resulting from this is considered acceptable. Furthermore pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on the scale of the development. Therefore the proposal is considered acceptable in terms of bulk and scale.

- **D14.8 Side and rear building line**

The control requires a setback to the side and rear boundaries to be in accordance with the following: $S=3+((H-2)/4)$. Concern has been raised in regards to the setbacks of the dwellings.

The following table demonstrates the setbacks required and provided to the dwellings:

Dwelling	Side setback required	Setback provided to dwelling
1	3.78 – 3.7	2
2	3.62 – 3.53	3
3	3.71 – 3.62	2
4	3.53 – 3.51	3
5	3.61 – 3.56	2
6	3.51 – 3.5	3
7	3.53 – 3.53	2.5
8	3.52 – 3.56	1.7
9	4.28 – 4.25	3
10	3.58 – 3.65	2.9
11	3.65 - 3.68	2

As displayed, the dwellings do not achieve the required setbacks. However the control allows a variation to the setbacks where site constraints make compliance unachievable and the outcomes of the control can be achieved. It is to be noted that decks of each dwelling have a reduced setback from the setback provided in the table.

Due to the site being flood prone the development is required to be elevated to the PMF plus Climate change level of 5.4mAHD. This results in the calculation of the dwellings heights being greater than if the sites were not flood prone. This then directly affects the setback required. For example dwelling one requires a setback of 4.5m currently. If the height was to be measured from the level required for flooding the setback would be 3.9m. Whilst the proposal still does not achieve compliance with the required setback, the setback is closer to the required setback.

Whilst the setbacks are not achieved it is considered for the following reasons the proposal is acceptable:

- All dwellings except for one are single storey with their roofs significantly contributing to the height as they are designed to be pitched which is reflective of the locality;
- The bulk and scale of the development is considered to be consistent with the locality and desired future character of the area, which allows multiunit housing on some sites;
- The reduced setbacks will not unreasonably impact on views or vistas from the adjoining dwellings;
- The reduced setbacks will not result in solar access impacts that prohibit the adjoining dwellings receiving the required amount of solar access;
- The proposal includes screen planting and privacy screens to address overlooking;
- The provided setbacks allow for substantial landscaping within the rear yards of the proposed dwellings;
- The decks are required to be located at the level required by the flood controls to provide accessible private open space that is safe from hazards. If this was not required the development would be able to utilise the garden as the private open space reducing the breach.

- **D14.12 Site coverage - General**

The proposed site coverage is 2295.0m² or 77.2% and landscaped area of 676.5m² or 22.7% which does not comply with the PDCP control for dwellings allowing maximum site coverage of 50% and minimum landscaped area of 50%. The proposal complies with the standards for deep soil zones and scale/density under SEPP HSPD and pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on the scale of the development and landscaped areas. However to reduce the site coverage to be closer in line with Council's policy, it will be conditioned that the paved areas within the rear yards are to be comprised solely of soft landscaping.

11.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan 1993 and Pittwater 21 DCP and other relevant Council policies.

As a result of the assessment it is considered that the proposed development is consistent with the aims of the State Environmental Planning Policy (Housing for Seniors and People with a disability) as it increases the housing stock within the area, has the necessary infrastructure and while it has a different built form and scale in the existing context, it responds to it and is sympathetic to the desired future character for the Warriewood locality. Numerically, the design falls within the development standards prescribed in the policy and generally reflects the PDCP controls and objectives.

The likely amenity impacts have been addressed and overall the development affords a good level of privacy, solar access and amenity to the neighbours and future occupants.

The development includes the retention of the heritage fig tree on the site and includes a substantial increase in vegetation from the existing.

Accordingly, the application is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to development application N0092/13 for the demolition of the existing dwellings, construction of a SEPP (Housing for Seniors and People with a Disability) development and a strata subdivision at 1468-1470 Pittwater Rd, Warriewood subject to attached draft conditions of consent.

Report prepared by

Anja Ralph
PLANNER

DRAFT DETERMINATION

CONSENT NO: N0092/13 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicants Name and Address:

Playoust Churcher Architects
11 Marian St
Killara NSW 2071

Being the applicant in respect of Development Application No **N0092/13**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0092/13** for:

Demolition of the existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision.

At: 1468 Pittwater Road, North Narrabeen (Lot B Dp 20399), 1470 Pittwater Road, North Narrabeen (Lot G DP 20399)

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- **Drawings numbered DA 000, DA 001, DA 100, DA 101, DA 102, DA 103, DA 104, DA 200, DA 201, DA 202, DA 203, DA 300, all revision B, dated 26.6.2013, drawn by Playoust Churcher Architects.**
- **Landscape plan numbered LPDA13-267/1, revision B, dated April 2013, drawn by Conzept Landscape Architects.**
- **BASIX Certificate numbered 475605M dated 17 April 2013.**
- **Water Management Plan prepared by Craig and Rhodes dated 8 March 2013 and further amended by report dated 25 June 2013.**
- **Traffic and Parking Assessment report prepared by Terraffic Pty Ltd dated 17 April 2013 and further amended by report dated 31 July 2013.**
- **Disability Access report prepared by Lindsay Perry Access and Architecture dated 5 April 2013 and further amended by report dated 28 June 2013.**
- **Arborist prepared by Urban Forestry Australia dated March 2013.**
- **Flood Risk Advice report prepared by SGS Economics and Planning dated February 2013.**
- **BCA Compliance report prepared by BCA Vision dated 14 March 2013.**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent _____

Mark Ferguson
GENERAL MANAGER
Per:

CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

5. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a. in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b. in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

6. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
7. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

B. Matters to be incorporated into the development and maintained over the life of the development:

1.
 - a. All structural elements below 5.4m AHD shall be of flood compatible materials.
 - b. All structures must be designed and constructed to achieve low risk of damage and instability due to flood hazard.
 - c. All foundation structures, where the floor level is greater than 500mm above the existing ground level are to incorporate a suspended floor on open pier/pile footings to allow the flow of surface water and flood storage.
 - d. All electrical equipment, wiring, fuel lines or any service pipes and connections must be waterproofed to 5.4m AHD.
 - e. The storage of toxic or potentially polluting goods, materials or other products which may be hazardous or pollute floodwaters is not permitted below 5.4m AHD.
2. The floor level of all habitable areas is to be set at a minimum level of 5.4m AHD.
3. Any fencing on the site must allow for the movement of floodwater and should not adversely affect the flow of floodwaters on adjacent properties.
4. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted design, Environmental and Health Risk Management Plan, Operation and Maintenance Plan, Manufacturer's Specifications and associated operational guidelines.
5. The internal driveway is to be constructed to an all weather standard finish to be of dark or earthy tones, line marked and signposted.
6. To satisfy the off-street vehicle parking requirements for the development, the minimum number of vehicle space requirements shall be as follows: Residential Parking 11 vehicle spaces. Visitor Parking 3 vehicle spaces. These spaces are to be provided and retained over the life of the development.
7. All utility services including overhead power supply and communication cables located in the public road reserve adjacent to the development site are to be placed and/or relocated underground for the total frontage of the development site at the full cost to the developer.
8. Where waste water is directed to the Sydney Water sewerage system the installation of in-sink food waste disposal units is prohibited due to the increased loading placed on the Warriewood Sewage Treatment Plant particularly during wet weather.
9. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and Department of Environment & Climate Change (DECC) are to be notified.

10. At least ten (10) locally native canopy trees are to be planted onsite to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and the Native Plants for Your Garden link on Council's website http://www.pittwater.nsw.gov.au/environment/species_lists. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
11. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
12. Any vegetation planted onsite outside approved landscape zones is to be consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website http://www.pittwater.nsw.gov.au/environment/species_lists
13. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
14. No environmental weeds are to be planted on the site. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
15. Any new fencing is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at a maximum of 6 metre interval.
16. Screen planting is to be provided, which after three years will, in conjunction with existing vegetation and canopy planting, screen at least 50% of the built form when viewed from the street and/or neighbouring properties. Species selection is to incorporate locally native species. The screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies or is destroyed or removed.
17. In accordance with Pittwater Councils DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
18. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
19. The design and construction of the proposed new driveway on Pittwater Road shall be in accordance with AS2890.1-2004 and RMS requirements.
20. The existing driveways located on the western property boundaries shall be removed and replaced with kerb and gutter to match existing.

21. Details of the requirements of the proposed driveway and kerb and gutter works can be obtained from RMS Project Services Manager, Traffic Projects Section, Parramatta (phone: 028849 2496).
22. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the works and as required by the various public utility authorities and/or their agents.
23. All works/regulatory signage associated with the proposed development are to be at no costs to the RMS.
24. All vehicles are to enter and leave the site in a forward direction.
25. The required sight lines to pedestrians or other vehicles in or around the car park or entrances should not be compromised by landscaping, signage, fencing or display materials.
26. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) are to be in accordance with AS 2890.1-2004.
27. Where waste water is directed to the Sydney Water sewerage system the installation of in-sink food waste disposal units is prohibited due to the increased loading placed on the Warriewood Sewage Treatment Plant particularly during wet weather.
28. Screen planting having a maturity height of 3.5 m is to be provided to all boundaries except the northern boundary. Species selection is to incorporate locally indigenous species.
29. Privacy screens are to be provided to the following:
 - the entire southern elevation of the decks of dwellings 2, 4 and 6,
 - the entire north eastern elevation of the decks of dwellings 7, 8, 10 and 11,
 - the entire south eastern elevations of the deck of dwellings 9

The privacy screens are to have a height of 1.8m above the finished floor level of the deck and are to be in accordance with the following:

 - i. solid translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:
 - permanent and fixed
 - made of durable materials, and
 - designed and painted or coloured to blend in with the house.
30. Walls and/or ceilings of attached dwellings have a noise transmission rating in accordance with Part F(5) of the Building Code of Australia.
31. The development is to comply with the standards outlined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
32. Mailboxes are to be orientated obliquely to the street to reduce visual clutter and the perception of multiple dwellings.

33. Garbage enclosures/stores shall be provided and maintained in accordance with the following:

- a. A separate room or an appropriately constructed area is to be provided for the storage of garbage and recyclables.
- b. The walls of the enclosure shall be cement rendered and steel trowelled to a smooth, even surface.
- c. The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.
- d. Stormwater shall not enter the floor of the garbage enclosure such that the sewer system may be contaminated by rainwaters.
- e. Garbage and recycling rooms shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.
- f. The room used for the storage and washing down of garbage and recycling receptacles shall be constructed of solid material (brick, concrete blocks, structural fibrous cement or similar homogeneous material) so as to prevent the formation of cavities which become possible harbourages for insects and vermin. Framing in timber is not permitted.
- g. The garbage and recycling room shall be made vermin proof.
- h. Hot and cold water hose cocks shall be located within a garbage enclosure or in close proximity to Councils satisfaction.
- i. The enclosure shall be of adequate size to accommodate the following bins numbers and capacity per dwelling:
 - i. 80 litres per household per week of garbage, and
 - ii. 70 litres per household per week of paper recyclables, and
 - iii. 70 litres per household per week of container recyclables.

The residential waste and recycling enclosure is to be physically separated from the commercial waste and recycling enclosure.

34. No water pollution shall result from the operation of any plant or equipment or activity carried out.

35. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.

36. No odour nuisance to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedure carried out at the premises.

37. No emissions causing air pollution shall be created by the operation of any plant equipment or any procedure carried out at the premise.

38. The operation of any plant or equipment or any procedure carried out at the premises shall not cause land pollution.

39. Street trees to be planted to the road reserve frontage placed at 6m centres. Tree species are to be as per the adjacent street trees or native species to the area and must not interfere with existing power lines or obstruct the free passage of pedestrians along the road verge. The plantings to be 35 litre in size with 1m x1m hole and backfilled with planting medium. All grassed areas to be turfed with Couch species (weed free) and even grade to a maximum 4% grade.

40. The proposal is to locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar as to protect the acoustic privacy of workers, residents and neighbours.
41. All fencing behind the front building line is to be a maximum of 1.8m in height.
42. The fence adjacent to the heritage fig tree is to be of an open nature, similar to metal palisade fencing, to increase airflow and daylight to the tree.
43. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
44. All paving/stepping stones/pebbles in the rear gardens of the proposed dwellings (as indicated on the landscape plan) are not to be included in the development and are to be replaced with soft landscaping.
45. Screen planting is to be provided along the western elevation of the garbage enclosure to screen the structure from the street.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Engineering details showing the stormwater quality treatment system are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified practicing Water Engineer with corporate membership of the Institute of Engineers Australia (MIE Aust), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.10 of Pittwater 21 DCP.
2. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

3. The floor levels are to be raised via piers and must not decrease floodplain storage or impact on surrounding properties. Details of this are to be provided with the construction certificate by a certified hydraulic engineer.

4. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
 - a. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
 - b. A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
 - c. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 - d. Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.
5. An approval under Section 138 of the *Roads Act* to construct an access driveway to the main road is to be submitted to the Accredited Certifier.
6. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on the Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works on the road reserve including Access Driveways.
7. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
8. The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the *Sydney Water Act, 1994*. A copy of any Notice of Requirements letter which may be issued by Sydney Water is to be provided to the Private Certifying Authority with the Construction Certificate application.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

9. Structural Engineering details relating to the approved works are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
10. Detailed design plans of the proposed gutter crossing are to be submitted to RMS for approval prior to the issue of the Construction Certificate and commencement of any road works. It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.

11. A contribution of \$63,000 is to be made to Cashier Code SOPS, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for Embellishment of Open Space, Bushland and Recreation in accordance with Section 94 Contributions Plan No.2. The Contributions Plan may be inspected at Pittwater Council, No 1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.

Where rates payable under Section 94 Contributions Plan No 2 are reviewed and varied, the applicant is to pay the contribution rate as specified in the plan as it exists at the time of contribution.

12. A contribution of \$14,000 is to be made to Cashier Code SLEL, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for Public Library Services in accordance with Section 94 Contributions Plan No.3. The Contributions Plan may be inspected at Pittwater Council, No 1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.

13. A contribution of \$24,500 is to be made to Cashier Code SCSF, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for Community Services Facilities in accordance with Section 94 Contributions Plan No.18. The Contributions Plan may be inspected at Pittwater Council, No 1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.

14. A contribution of \$35,000 is to be made to Cashier Code SVSS, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for providing improved Village Streetscapes in accordance with Section 94 Contributions Plan No.19. The Contributions Plan may be inspected at Pittwater Council, No1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.
Where rates payable under Section 94 Contributions Plan No 19 are reviewed and varied, the applicant is to pay the contribution rate as specified in the plan as it exists at the time of contribution.

15. Prior to the issue of a Construction Certificate written confirmation is to be submitted to the principal certifying authority by the Accredited Access Adviser identifying that the design details and technical specifications relevant to recommendations in the Access Report prepared by Lindsay Perry Access and Architecture have been included in the technical drawings.

16. Certification from the Accredited Access Adviser that design details and specifications comply with the Accessibility Control, must be submitted to the Accredited Certifier or Council with the Construction Certificate application.

17. Amended plans are to be submitted to the principle certifying authority identifying a designated wash bay has been included in a visitor parking space and that the wash bay has been designed and will be constructed so as to not allow polluted waters to enter the stormwater drain and stormwaters do not enter the sewer.

18. Where the building does not provide minimum 450mm eaves to any roof form, the proposal is to be modified to provide eaves a minimum of 450mm in width.

19. The finished surface materials, including colours and texture of any building, shall blend with the surrounding and/or natural materials. Colours and materials shall be non-glare and of low reflectivity. A satisfactory specification which complies with Councils colour schedule is to be submitted to the Accredited Certifier or Council with the Construction Certificate application in the form of a *Schedule of Finishes*.

20. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.
21. All provisions of the SEPP (Housing for Seniors or People with a Disability) 2004 Schedule 3, Parts 1 & 2 Self-contained dwellings - standards concerning access and useability and additional standards for self-contained dwellings are to be satisfied and achieved through the construction and installation details.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
2. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
3. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.
All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal. The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.
4. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
5. The site is to be fully secured by a fence to all perimeters to the site to prevent unauthorised access both during the course of the works and after hours.
6. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
7. No skip bins or materials are to be stored on Council's Road Reserve.
8. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - The builder's name, builder's telephone contact number both during work hours and after hours.
 - That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - That no skip bins or materials are to be stored on Council's Road Reserve.
 - That the contact number for Pittwater Council for permits is 9970 1111.

9. All construction in the public road reserve must be undertaken by a Council authorised contractor.
10. Demolition works must be carried out in compliance with WorkCovers *Short Guide to Working with Asbestos Cement* and Australian Standard AS 2601 2001 *The Demolition of Structures*.

The site must be provided with a sign containing the words *DANGER ASBESTOS REMOVAL IN PROGRESS* measuring not less than 400mm x 300mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

11. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Urban Forestry Australia dated March 2013 are required to be complied with before and throughout the development period, particularly with regard to the following:
 - i. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - ii. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - iii. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - iv. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - v. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
12. During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.
13. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 *The Demolition of Structures*.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

1. Protection of site workers and the general public.
2. Erection of hoardings where appropriate.
3. Asbestos handling and disposal where applicable.
4. Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

14. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
15. Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.
16. All demolition and construction vehicles should be contained wholly within the site and vehicles must enter the site before stopping. If this is not possible for all construction activities, the applicant will be required to obtain a Road Occupancy Licence by contacting RMS Transport Management Centre (phone: 02 8396 1513 or Fax: 8396 1530) ten working days prior to the commencement of work.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. Prior to the issue of an Occupation Certificate a certificate by a Registered Surveyor stating the floor levels are at the PMF plus climate change level of 5.4m AHD is to be submitted to the Private Certifying Authority.
2. Prior to the issue of an Occupation Certificate a Flood Evacuation Plan prepared by a certified hydraulic engineer is to be submitted to the Principal Certifying Authority. The Plan should consider where and how the residents will evacuate.
3. Certification is to be provided to a Private Certifying Authority by an experienced Water Engineer who is NPER accredited by the Institution of Engineers, Australia that the stormwater treatment system has been completed in accordance with the engineering plans and specifications required under this consent.
4. Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer, with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this consent.
5. A Certificate is to be submitted to the Principal Certifying Authority with the Subdivision Certificate application by a qualified practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Private Certifying Authority that the driveway has been constructed in accordance with the approved plans and relevant conditions of Development Consent.
6. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

7. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (Urban Forestry Australia March 2013) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.
8. A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the landscape working drawings and specifications.
9. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
10. All proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
11. Street numbers are to be affixed to the building or a structure within the site which is visible from the public domain prior to occupation.
12. Address street numbering can only be authorised by Council. Before proceeding to number each lot/occupancy in your development, approval must be sought from Councils Planning and Assessment Business Unit.
You are advised to contact Australia Post regarding the required size and location of letterboxes.
13. An acoustic engineer is to certify that noise generating plants including air conditioning units are located and insulated so they do not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.
14. Prior to the release of the occupational certificate, documentation is to be submitted by a licensed plumber to the private certifying Authority confirming that the car wash bay waste waters drain into the sewer.
15. Prior to occupation a covenant is to be created on the title of the land, at the applicants expense, the terms of which state that the ownership of the individual dwellings to be constructed on the property cannot be individually assigned by any agreement, dealing or instrument based on the ownership of company shares. Proof of the creation of the covenant is to be provided to the Private Certifying Authority with the Occupation Certificate application.
16. All external face brick walls are to be properly cleaned down following completion of the wall and prior to occupation.

17. A restriction on use of the land is to be created on the title of any new lots, the terms of which burden the said lots, benefit Council and restrict the occupancy of the lot to persons defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as to "older people" or "people with a disability" or people who live with older people or people with a disability. All matters relating to this restriction on use of the land are to be finalised prior to release of the Occupation Certificate.
18. Any lease or tenancy or agreement prepared for a residence within this development is to contain terms which prohibit occupation of the residence by persons other than those specified in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as aged or disabled persons together with any person who live with aged or disabled person(s). Further the "by-laws" of anybody corporate created through strata subdivision of the development are to contain terms which prohibit the use of any strata unit other than by persons specified in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as aged or disabled together with any bona fide carer(s).
19. An Accredited Access consultant is to certify that the development has complied with the construction certificate details and the design details and technical specifications relevant to recommendations in the Access Assessment Report, dated 28 June 2013 prepared by Lindsay Perry Access and Architects in accordance with all relevant accessibility provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
20. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
21. The consolidation of Lots B and G in DP 20399 and Lot Q in DP 389573, 1468 Pittwater Rd, North Narrabeen and Lot F in DP 20339, 1470 Pittwater Rd, North Narrabeen must be undertaken and formalised (created and registered) prior to issue of the occupation certificate.

F. Matters to be satisfied prior to the issue of Subdivision Certificate:

1. Plans and cross sections, signed by a qualified practicing Civil Engineer with corporate membership of the Institution of Engineers Australia (M.I.E) or is eligible to become a corporate member and has appropriate experience and competence in the related field, showing AHD levels to establish finished ground levels of building platforms and residential allotments to comply with the probable maximum flood levels.
2. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Subdivision Certificate application.
3. Appropriate Rights of Way and Rights of Carriageway are to be created over the common driveway burdening and benefiting the proposed lots, to provide for suitable legal pedestrian access to the dwellings and appropriate vehicular access and maneuvering to the parking areas on both lots. These can be created by the Subdivision Plan and an accompany 88B Instrument.
4. Appropriate easements are to be created where service lines or drainage lines pass through private property other than the lot which they benefit. This can be advised through the registration of the Plan of Subdivision.

5. A Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act 1994 is to be provided to the Principal Certifying Authority with the Subdivision Certificate application.
6. The following documents and payments are to be submitted to Council in a single package to ensure the efficient release of the Subdivision Certificate:
 - i. Evidence of Payment of the Section 94 Contribution.
 - ii. A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994.
 - iii. Copies of the Subdivision Plans (original plus 6 copies).
 - iv. The Private Certifying Authority Compliance Certificate. Each component of the works as outlined above are to be certified as being carried out in accordance with the relevant plans and documentation by suitably qualified professional persons as outlined in this development consent.

The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:

- Boundary layout;
 - Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - Easements, survey numbers and marks, reduced levels and co-ordinates;
 - Stormwater drainage, pipe sizes and types, pit sizes and types, subsoil drains;
 - Significant landscaping.
7. The applicant is to lodge an application for a Subdivision Certificate with Council or an accredited certifier. The Subdivision Certificate is to be obtained prior to lodgement of the plans with the Land Titles Office.

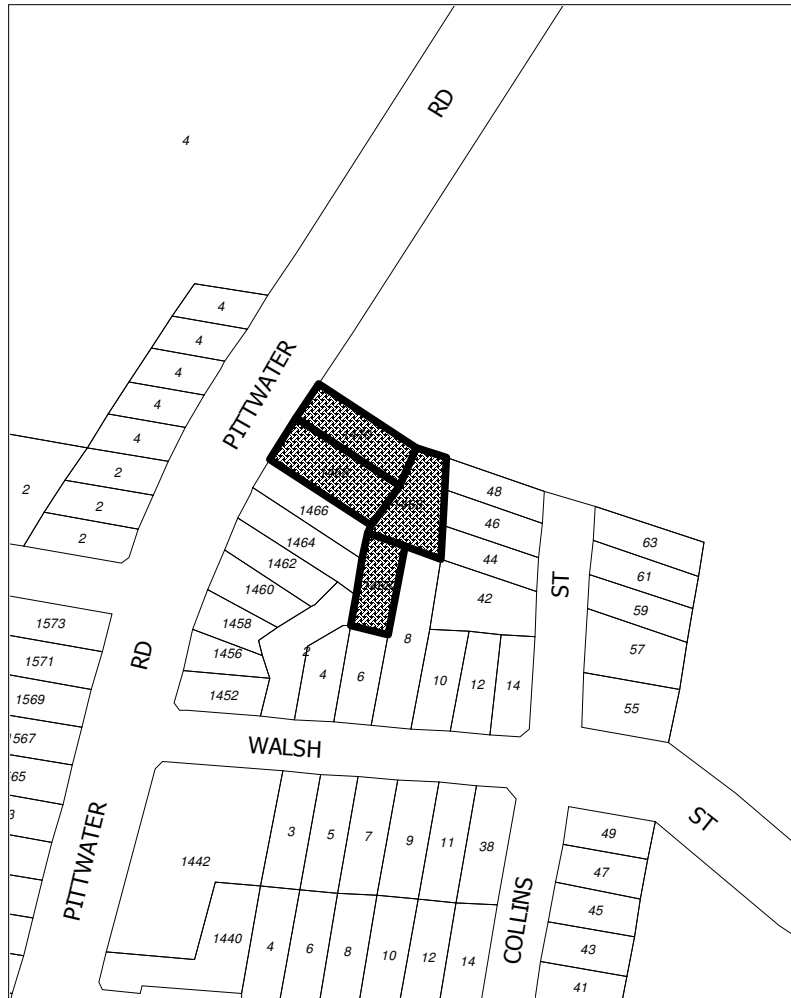
Note: In the case of Strata Subdivision Plans the Subdivision Certificate may also be issued by an accredited certifier.

G. Advice:

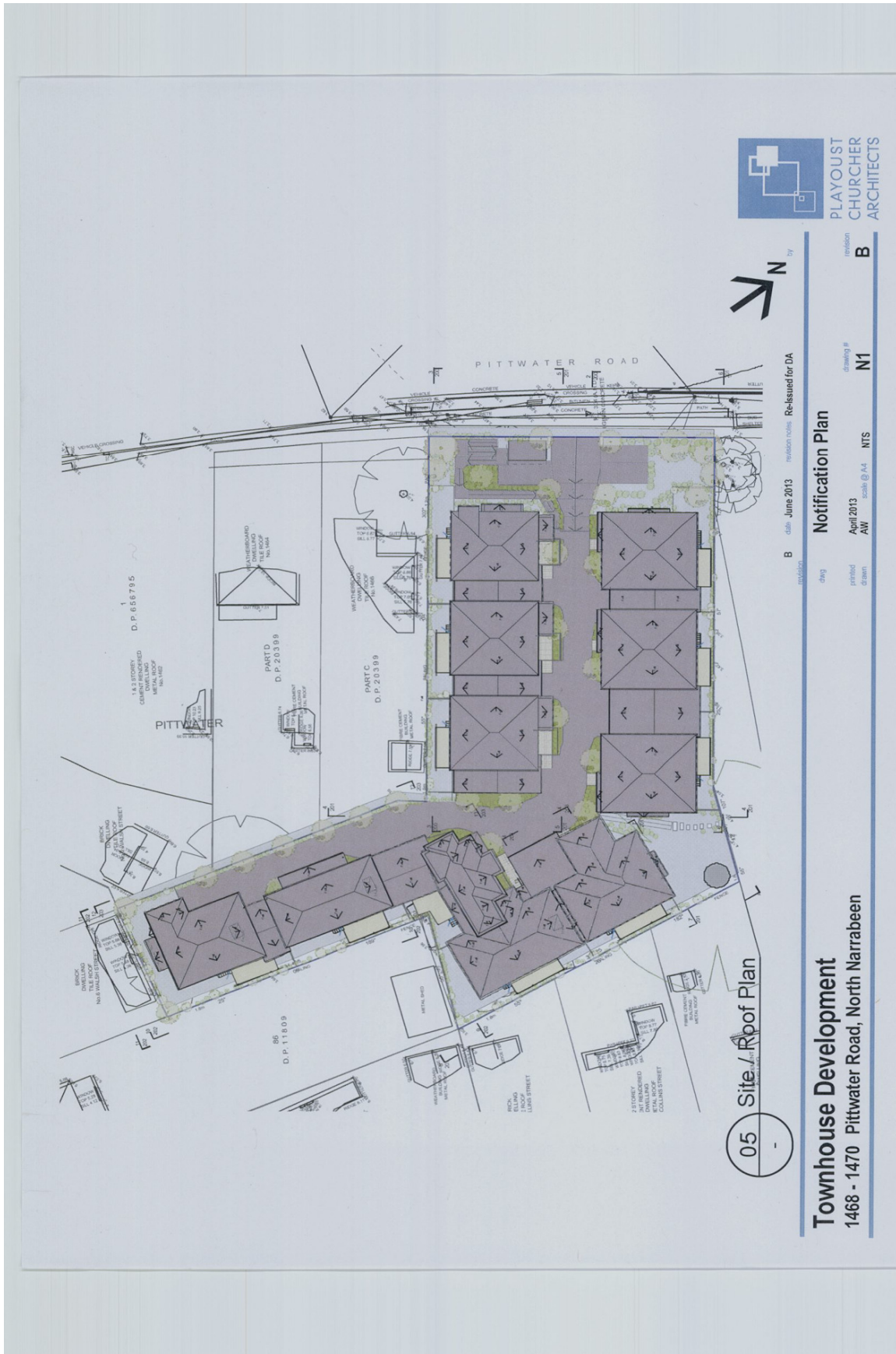
1. Portions of the site may be liable to flooding from the 1% AEP and the PMF (Probable Maximum Flood) and effective precautions should be taken by the owner(s) and/or occupier(s) of the building to reduce any potential risk to personal safety and to minimise any property damage to the structure, its fixtures and contents.
2. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
3. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.

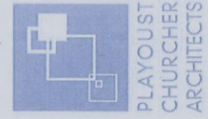
4. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
5. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
6. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
7. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the *Environmental Planning and Assessment Act, 1979*. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
8. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act, 1979*, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
9. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
10. You are reminded of your obligations under the objectives of the Disability Discrimination Act (DDA) 1992.

LOCALITY MAP



NOTIFICATION PLANS



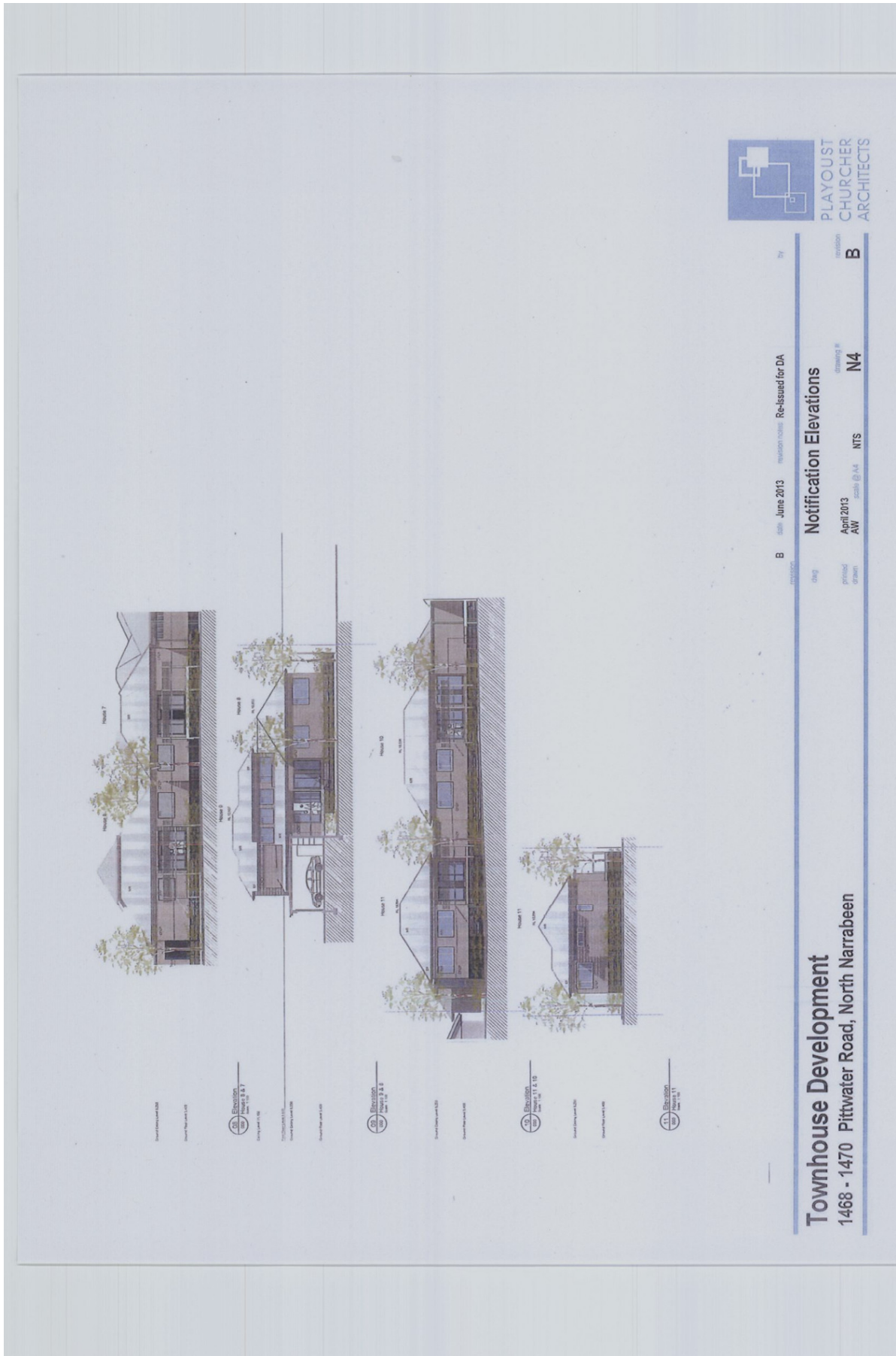


revision B date June 2013 revision notes Re-issued for DA

Notification Elevations

drawn by N2
checked by MTS
approved by AW
date 20/04/13

Townhouse Development
1468 - 1470 Pittwater Road, North Narrabeen





- 11. Elevation 11
A.S. 1/4" = 1'-0"
- 12. Elevation 12
A.S. 1/4" = 1'-0"
- 13. Elevation 13
A.S. 1/4" = 1'-0"

Townhouse Development

1468 - 1470 Pittwater Road, North Narrabeen

A 05/06 June 2013 Re-Issued for DA

Notification Elevations

original
printed
drawn
scale @ 1:4
NTS
drawing #
N5
revision
B



MINUTE ITEM

C12.1	N0092/13 - 1468-1470 Pittwater Road North Narrabeen - Demolition of existing dwellings and construction of a SEPP (Housing for Seniors and People with a Disability) development and strata subdivision
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Meeting: Planning an Integrated Built Environment Committee

Date: 16 September 2013

COMMITTEE RECOMMENDATION

That this matter be deferred to allow the applicant to provide the following:

1. A full heritage assessment of the Moreton Bay Fig Tree.
2. An arboreal investigation into further growth potential of the Moreton Bay Fig Tree and any associated and ongoing maintenance requirements into the future.
3. An opportunity to amend the design to provide for increased spatial separation of the built form from the heritage listed tree.
4. Amendments to the built form around the Moreton Bay Fig Tree to provide for an increased area of open space and recreation for the residents.
5. Reconsideration of the setbacks from the front, side and rear boundaries including decks.

(Cr White / Cr Ferguson)

Note:

A division was duly taken resulting in the following voting:

Aye (For)	No (Against)
Cr Ferguson	Nil.
Cr Griffith	
Cr Grace	
Cr Hegarty	
Cr McTaggart	
Cr Millar	
Cr Townsend	
Cr White	
Cr Young	

C12.3	Development Application to be referred to the Joint Regional Planning Panel - N0195/13 - 12 Jacksons Road Warriewood - Extension to Warriewood Centro to provide additional retail floorspace and multilevel carpark
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Meeting: Sustainable Towns & Villages Committee

Date: 21 October 2013

STRATEGY: Land Use & Development

ACTION: Provide an effective development assessment and determination process.

PURPOSE OF REPORT

The purpose of this report is to provide an outline to Council of Development Application N0195/13 for development at 12 Jacksons Road Warriewood which is to be assessed by Council and determined by the NSW Sydney East Joint Regional Planning Panel.

1.0 BACKGROUND

- 1.1 At its meeting of 3 August 2009, Council noted a report outlining the assessment procedures for development applications required to be determined by the NSW Sydney East Joint Regional Planning Panel (JRPP). This outline report is in accordance with the assessment procedures.
- 1.2 On 12 July 2013, Council received Development Application N0195/13 for an extension to Warriewood Centro Shopping Centre at 12 Jacksons Road Warriewood. The proposal comprises the following:
 - Demolition of part of the existing at grade carpark and replacement with a multistorey carpark with parking for 815 vehicles.
 - Construction of an extension to the east of the existing building comprising an additional 8015m² Gross Leasable Area. This has been designed to accommodate a discount department store and a variety of smaller tenancies.

2.0 ASSESSMENT OF THE DEVELOPMENT APPLICATION TO DATE

- 2.1 The development application lodged with Council constitutes Integrated Development for the purposes of the EPA Act, being words which require approval from the NSW Department of Primary Industries (Office of Water). The application was also referred to the RMS in accordance with the requirements of SEPP Infrastructure, the RFS as the site adjoins land classified as bushfire prone and the NSW Police Service for Crime Prevention Assessment.
- 2.2 The NSW Department of Primary Industries (Office of Water) has advised Council of their General Terms of Approval (GTAs) for the proposal. The Roads & Maritime Service and Rural Fire Service have no objections to the proposal subject to the imposition of conditions of consent.

- 2.3 The Development Application was exhibited and notified to 176 residents, including the Warriewood Residents Association, in accordance with the requirements of the EPA Act and Pittwater 21 DCP. The period for receipt of submissions by Council closed on 20 August 2013. To date, four (4) submissions have been received including a petition from the residents of Oak Street North Narrabeen. Issues raised relate to an increase in traffic congestion, potential impacts of flooding and lack of strategic planning in the locality.
- 2.4 A request for Additional Information was sent to the applicant on 4 September 2013 regarding the provision of traffic infrastructure, additional documentation supporting the proposed floor level and an accessibility report.
- 2.5 Council Officers attended a briefing session for members of the JRPP on 12 September 2013
- 2.6 Additional information regarding the above was received by Council on 30 September 2013 and is being assessed.

3.0 FORWARD PATH

- 3.1 Following completion of the assessment process, the Development Application will be reviewed by Council's internal JRPP Review Unit. A report outlining the assessment and recommendation of the Review Unit will be sent to the JRPP for consideration.
- 3.2 The JRPP meeting to determine the application has been listed for 20 November 2013.

4.0 SUSTAINABILITY ASSESSMENT

- 4.1 This report does not require a sustainability assessment.

5.0 EXECUTIVE SUMMARY

- 5.1 In accordance with the procedures for Development Applications to be determined by the JRPP, this report advises Council of the lodgment of Development Application N0195/13 and outlines the administrative and assessment process undertaken to date with respect to the Development Application

RECOMMENDATION

That the report outlining Development Application N0195/13 and the assessment process prior to determination by the JRPP be noted.

Report prepared by
Gina Hay - Executive Planning Officer

Steve Evans
DIRECTOR, ENVIRONMENT PLANNING & COMMUNITY

C12.4	Warriewood Valley Planning Proposals - PP0003/12, PP0004/13 & PP0005/13
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Meeting: Sustainable Towns and Villages Committee

Date: 21 October 2013

STRATEGY: Land Use & Development

ACTION: To complete Warriewood Valley Strategic Review (2013/14 Action – completed)
To implement recommendations from the Warriewood Valley Strategic Review (2014/15 Action)

PURPOSE OF REPORT

- To inform Council of the outcome of the public exhibition of the Planning Proposals PP0003/13, PP0004/13 & PP0005/13 to amend the *Pittwater Local Environmental Plan 1993* consistent with the recently adopted *Warriewood Valley Strategic Review Report 2012* and Council's resolution of 12 June 2013.
 - To seek Council's endorsement of the subject Planning Proposals (contained in **Attachments 8, 9 & 10**) to facilitate the proposed amendments to the *Pittwater Local Environmental Plan 1993*.
-

1.0 BACKGROUND

1.1 Adoption of Warriewood Valley Strategic Review Report 2012 and Resolution of 12 June 2013

- 1.1.1 The Warriewood Valley Strategic Review project (the Strategic Review) was commenced in May 2011 and was a joint undertaking between the Department of Planning & Infrastructure (the DP&I) and Council. The main premise of the Strategic Review was to investigate all undeveloped residential sectors in Warriewood Valley as to their potential to accommodate medium density housing.
- 1.1.2 Council at its meeting of 12 June 2013 unanimously endorsed the *Warriewood Valley Strategic Review Report 2012* as the planning framework for the undeveloped residential sectors of Warriewood Valley (Council's resolution is contained in **Attachment 1**).
- 1.1.3 The key recommendations of the adopted *Warriewood Valley Strategic Review 2012* were:
 - Residential development up to a density of 32 dwellings per developable hectare can be accommodated in Warriewood Valley (an increase from generally 25 dwellings per developable hectare under the previous *Warriewood Valley Planning Framework 2010*)
 - Residential developments 2 storeys at the primary street front and up to 3 storeys behind the street front are suitable for Warriewood Valley
 - Some sectors due to significant environmental constraints are unable to be developed within the medium density range (25 to 60 dwellings per developable hectare)
 - Developer contributions should be set at \$50,000 per lot/dwelling to ensure that the economic viability of the development is not undermined.

- 1.1.4 In adopting the *Warriewood Valley Strategic Review Report 2012*, the Council endorsed the progression of the following Planning Proposals to the DP&I for Gateway Determination:
- PP0003/13 – for rezoning of sectors recommended for an increase in density and with a PMF evacuation route
 - PP0004/13 – for rezoning of sectors recommended for an increase in density without a PMF evacuation route
- 1.1.5 While the *Warriewood Valley Strategic Review Report 2012* did not recommend rezoning/dwelling yield for all sectors in the release area due to significant environmental constraints, Council Officers recognised that there was likely to be potential for low density residential development on some of these sites. In a process undertaken separate to Strategic Review, an assessment of constraints and opportunities relevant to these sectors was carried out.
- 1.1.6 Following this process, Council Officers identified potential for low density residential development on Sectors 901D, 901E and 901G. For these sectors the Council officers' report of 12 June 2013 recommended rezoning and a maximum dwelling yield contingent upon development controls being incorporated into Pittwater 21 Development Control Plan (DCP) to facilitate suitable residential form and retention of significant vegetation.
- 1.1.7 Council's resolution of 12 June 2013 also endorsed the progression of Planning Proposal PP0005/13 for the rezoning of Sectors 901D, 901E and 901G to the DP&I for Gateway Determination.
- 1.1.8 The subject Planning Proposals seek to amend the provisions relating to Warriewood Valley in the current *Pittwater Local Environmental Plan 1993* (LEP 1993).
- 1.2 Proposed amendments to *Pittwater 21 Development Control Plan***
- 1.2.1 Following the adoption of the *Warriewood Valley Strategic Review Report 2012* a review of the relevant sections of *Pittwater 21 Development Control Plan* (DCP) has been undertaken to ensure consistency with the outcomes of the Strategic Review.
- 1.2.2 A number of provisions of the DCP are proposed to be amended consistent with the Strategic Review's recommendations, to facilitate:
- Residential development up to 2 storeys at the primary street frontage and 3 storeys at the rear of the site
 - Access/road and pedestrian/cycleway connectivity and delivery of water cycle management facilities on individual land parcels
 - Suitable residential form and retention of significant vegetation in various land parcels of former Sector 9.
- 1.2.3 At Council's meeting of 16 September 2013, the Council agreed to place these amendments on public exhibition. These amendments were exhibited for a period of 4 weeks, between 21 September 2013 and 19 October 2013.
- 1.2.4 A report will shortly be brought back to Council on the outcomes of the exhibition and recommending a forward path.

2.0 PLAN MAKING PROCESS

2.1 Progression of Planning Proposals – Resolution of 17 October 2011

2.1.1 At its meeting of 17 October 2011, Council in considering the Pittwater Standard Instrument Local Environmental Plan, resolved inter-alia:

2. *That Council not process future individual Planning Proposals other than through the Pittwater Standard Instrument LEP process unless in exceptional circumstances, being demonstrated public benefit, demonstrated hardship, environmental preservation or as contained with the Warriewood Valley Strategic Review area.*
3. *All individual Planning Proposals submitted during the period of preparation of the Pittwater Standard Instrument LEP be initially reported to Council for notation in relation (2) above. Noting that it will remain open to Council to lift the moratorium in exceptional circumstances being demonstrated public benefit, demonstrated hardship or environmental preservation.*

2.1.2 In relation to the above resolution, it is noted that the subject Planning Proposals recommended to be endorsed, all concern land within the Warriewood Valley Strategic Review study area and should therefore be progressed by Council.

2.2 Relationship to Draft Pittwater Local Environmental Plan 2013

2.2.1 In accordance with Council's resolution of 12 June 2013 (**Attachment 1**) the proposed amendments to LEP 1993 have been incorporated into the *Draft Pittwater Local Environmental Plan 2013* (DLEP 2013). In addition, the Height of Buildings Map in the DLEP 2013 incorporates provisions which will allow buildings up to 3 storeys to be built in the Warriewood Valley, consistent with the outcomes of the Strategic Review.

2.2.2 The DLEP 2013 was presented to Council on 5 August 2013 and is shortly expected to be placed on exhibition for the second time.

2.3 Gateway Determination and Plan-Making Delegation

2.3.1 On 31 July 2013 a Gateway Determination by the DP&I was issued for Planning Proposal PP0005/13 (**Attachment 2**). On 7 August 2013 Gateway Determinations were issued by the DP&I for Planning Proposals PP0003/13 (**Attachment 3**) and PP0004/13 (**Attachment 4**).

2.3.2 The Gateway Determination for PP0004/13 notes Council's concerns in relation to emergency evacuation and the intra-government review of state-wide flood evacuation policy during the undertaking the Warriewood Valley Strategic Review, however supports Council's intentions to progress the subject Planning Proposal based on an evacuation routes being provided at the 1% AEP level.

2.3.3 The Gateway Determinations also set the following consultation requirements for each Planning Proposal:

- Public exhibition for a minimum of 14 days
- Consultation with the NSW Rural Fire Service who are to be given a minimum of 21 days to provide comments on the proposal.

2.3.4 In addition, authority to exercise the plan-making functions of the Minister for Planning and Infrastructure in relation to all three Planning Proposals has been issued to the Council (the written authorisation for each Planning Proposal is contained in **Attachment 2, 3 & 4**).

2.3.5 In accordance with Council's resolution of 18 March 2013 (**Attachment 5**), the General Manager is the nominated Council sub-delegate with the authority to exercise the delegation to liaise with Parliamentary Counsel and finalise any delegated Planning Proposal.

3.0 PUBLIC EXHIBITION PROCESS AND RESPONSES RECEIVED

3.1 Public Exhibition Process

- 3.1.1 In accordance with the Gateway Determinations, the Planning Proposals were publically exhibited for 14 days, between 17 August 2013 and 31 August 2013.
- 3.1.2 All landowners and registered community groups in Warriewood Valley, including the Warriewood Residents Association and Warriewood Valley Rezoning Association were notified in writing of the exhibition.
- 3.1.3 In accordance with the Gateway Determination's requirement for consultation with the NSW Rural Fire Service, the exhibition period for all state agencies and servicing authorities was extended until 17 September 2013.
- 3.1.4 An advertisement also appeared in the Manly Daily on 17 September 2013.
- 3.1.5 In accordance with Council's resolution of 15 July 2013, 12 notification signs were placed on a number of properties throughout Warriewood Valley that are the subject of these Planning Proposals. Given the extent of properties involved, it was not practical to place a notification sign on all 55 properties.

3.2 Submissions from the Community

- 3.2.1 A total of four submissions were received from the community. The main issues raised were:

- Condition of local roads in Warriewood Valley
- Impact of future development on native fauna in Sector 5
- Objection to restriction to only low-medium density development
- Objection to exclusion of some sectors from the Release Area

- 3.2.2 The submissions received are summarised and responded to in **Attachment 6**.

3.3 Submissions from State Agencies and Servicing Authorities

- 3.3.1 The following comments were provided by state agencies:

- **Fire and Rescue NSW**

- The vast majority of areas for development fall within the Fire and Rescue NSW fire district. Some areas west of Boundary Street and Jubilee Avenue are within the NSW Rural Fire Service district
- The proposed development does not appear to pose any significant additional resource limitations for Fire and Rescue NSW

- **Hawkesbury-Nepean Catchment Management Authority**

- No comments on the matter

- **NSW Education & Communities (DEC)**

- DEC notes the net increase in dwellings under the subject Planning Proposals
- Primary and high schools located in the area has been assessed and will have capacity to cater for enrolment demand by building additional classrooms
- DEC requests that provision be made to seek contributions from the developer to contribute to the cost of providing additional permanent classrooms in nearby schools.
- **Note:** No such mechanism exists to enable Council to seek contributions from the developer to contribute to the cost of the DEC providing additional classrooms

- **NSW Health, Northern Sydney Local Health District**
 - Such a marginal increase in dwellings as a result of the subject Planning Proposals is unlikely to have a significant impact on health service demand in the area
 - Specific roads (identified in the Warriewood Valley Strategic Review Hydrology Study, AECOM 2011) may need upgrading to facilitate evacuation to Mona Vale Hospital
 - **Note:** The newly provided and upgraded roads within Warriewood Valley have been and will continue to be developed at the 1% AEP level, enabling flood free evacuation in events up to the 1% AEP. The upgrading of the remaining roads in Warriewood will occur as the development proceeds.
- **NSW Office of Environment and Heritage (OEH)**
 - OEH initially raised issues in regard to the likelihood of adverse impacts on threatened species and their habitats as a result of the proposed LEP amendments
 - Council staff have revised the Planning Proposals in response to these issues
 - At the time of writing this report, a revised response from the OEH was still to be finalised
 - See **Attachment 7** for response from the OEH
- **NSW Police Force, Northern Beaches Local Area Command**
 - Given the nature of the development a Crime Risk Assessment and CPTED (Crime Prevention through Environmental Design) is not required.
- **NSW Rural Fire Service (RFS)**
 - Future development will be subject to the requirements of Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997
 - Consideration must be given to ensuring appropriate access and water. Roads should provide a satisfactory level of service for evacuation of occupants while at the same time allowing access by emergency service's vehicles and under conditions of reduced visibility. Water pressure must be available for the duration of a fire emergency.
- **NSW State Emergency Service (SES)**
 - The issues that the SES has raised relating to emergency management matters and community safety for development in this area are still of a concern.
 - Notwithstanding the adoption by Council of the Warriewood Valley Strategic Review Report 2012, the SES's position on such matters, as communicated in writing and verbally to the NSW Department of Planning and Infrastructure and Pittwater Council over the past two years remain unchanged.
- **NSW Transport, Roads and Maritime Services (RMS)**
 - No objection is raised to the subject proposals

3.3.2 The following comments were provided by servicing authorities:

- **Ausgrid**
 - Additional work may be required at the existing zone substations to augment capacity in order to cater for increased electricity demand
 - It will be necessary to establish an 11kV network from Mona Vale and Narrabeen substations to and also within the proposed development sites. This will require provision to be made for cable systems in the proposed bridges and roads within the development.
- **Telstra**
 - No comments were received
- **Jemena**
 - No comments were received

4.0 AMENDMENTS TO PLANNING PROPOSALS FOLLOWING PUBLIC EXHIBITION

- 4.1 Following the public exhibition, minor amendments have been made to the Planning Proposals in response to issues raised by the OEH.
- 4.2 The issues raised by OEH related to the detail provided in the Planning Proposals in regard to the likelihood of adverse impacts on threatened species and their habitats as a resulting from the proposed LEP amendments, particularly in regard to Sectors 901D and 901E.
- 4.3 Following discussion between Council staff and the OEH, it was agreed to amend the Planning Proposals by providing a greater level of detail regarding the condition of the native vegetation within the sectors proposed to be rezoned and provide a more thorough justification for the proposed LEP amendments.
- 4.4 The amended Planning Proposals are contained in **Attachments 8, 9 and 10** (see underlined text in Question C7 of **Attachment 8, 9 and 10**).
- 4.5 The changes to the Planning Proposals do not alter the intent or original purpose of Council's decision of 12 June 2013.

5.0 FORWARD PATH

5.1 Finalisation of LEP Amendments

- 5.1.1 If Council agrees to adopt the subject Planning Proposals (**Attachment 8, 9 & 10**), Council's General Manager as the Council's sub-delegate, will liaise with Parliamentary Counsel to draft the legal instrument which will bring into effect the proposed LEP amendments.
- 5.1.2 Once signed by the General Manager the draft instrument will be forwarded to the DP&I who will arrange for notification of the LEP in the Government Gazette. The LEP will take effect on notification in the Government Gazette.

5.2 Concurrent DCP Amendments

- 5.2.1 The public exhibition of the Warriewood Valley specific DCP Amendments reported to Council at its meeting of 16 September 2013 recently concluded. Following review of submissions, a report will be brought back to Council in November/December 2013 advising of any revisions and recommending adoption of the proposed DCP amendments.
- 5.2.2 It is intended that the proposed DCP amendments will be brought into force to coincide with the gazettal of the proposed LEP amendments.

6.0 SUSTAINABILITY ASSESSMENT

6.1 Supporting & Connecting our Community (Social)

- 6.1.1 The subject Planning Proposals, being consistent with the adopted *Warriewood Valley Strategic Review Report 2012*, take into consideration infrastructure, land capacity, urban form, social fabric and the area's current character.

6.2 Valuing & Caring for our Natural Environment (Environmental)

- 6.2.1 The intention of the subject Planning Proposals is not to result in an unacceptable impact to the natural environment. Ecological values will continue to be valued in the development process in Warriewood Valley.

6.3 Enhancing our Working & Learning (Economic)

- 6.3.1 The intention of the subject Planning Proposals is to continue the orderly planned development of Warriewood Valley. The subject Planning Proposals, if adopted, will help to ensure the delivery of a viable land release.

6.4 Leading an Effective & Collaborative Council (Governance)

- 6.4.1 Landowner and community participation was facilitated during the exhibition period of the subject Planning Proposals and the now adopted *Warriewood Valley Strategic Review Report 2012* to ensure that decision making is ethical, accountable and transparent.

6.5 Integrating our Built Environment (Infrastructure)

- 6.5.1 The subject Planning Proposals, if adopted, will result in an additional number of dwellings contributing financially to infrastructure in the Release Area. This additional number of dwellings will help to ensure that necessary infrastructure is able to be delivered within the Release Area.

7.0 EXECUTIVE SUMMARY

- 7.1 The Warriewood Valley Strategic Review project was commenced in May 2011 and investigated the potential for intensified residential development within the Warriewood Valley Release Area. The *Warriewood Valley Strategic Review Report 2012*, which recommended an increase in dwelling density for the majority of the undeveloped sectors in the Release Area, was adopted by Council on 12 June 2013. Council at its meeting of 12 June 2013 endorsed the progression of draft Planning Proposals PP0003/13, PP0004/13 and PP0005/13 to the DP&I for Gateway Determination.
- 7.2 The subject Planning Proposals seek to amend *Pittwater Local Environmental Plan 1993*, consistent with the recommendations of the adopted *Warriewood Valley Strategic Review Report 2012*.
- 7.3 Gateway Determinations for the subject Planning Proposals were issued by the DP&I in late July/early August 2013 allowing the Planning Proposals to be publicly exhibited. Authority to exercise the plan-making functions of the Minister for Planning and Infrastructure has been delegated to the Council's General Manager in relation to subject Planning Proposals.
- 7.4 Following the public exhibition of the Planning Proposals, where comments were sought from the community and relevant state and servicing agencies, minor amendments have been made to the Planning Proposals.
- 7.5 This report recommends the adoption of the amended Planning Proposals (contained in **Attachments 8, 9 & 10**) to enable the progression of the statutory rezoning process.

RECOMMENDATION

1. That Council note the responses to the public exhibition.
2. That Council endorse the progression of the statutory rezoning process by adopting the amended Planning Proposals PP0003/13, PP0004/13, PP0005/13 (**Attachments 8, 9 & 10** respectively).
3. That those persons, organisations, state agencies and servicing authorities that made a submission or provided comments during the public exhibition of the Planning Proposals PP0003/13, PP0004/13 and PP0005/13 be advised of Council's decision.
4. That the Council and all landowners in the Warriewood Valley Release Area be advised in writing upon gazettal of the LEP amendments.

Report prepared by
Tija Stagni, Senior Planner – Land Release

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

C5.1 Warriewood Valley Strategic Review Report - Outcomes of public exhibition and final report**Meeting:** Council**Date:** 12 June 2013

COUNCIL DECISION

1. That Council note the following:-
 - (a) The responses to the exhibition process detailed in the Analysis of Submissions Report (tabled separately).
 - (b) The attached Final Probity Report prepared by Procure Group for the Warriewood Valley Strategic Review (see Attachment 3).
2. That Council, subject to correcting of the typographical mistakes detailed in 7.8 of this report and noting that the attached Planning Proposals are to be amended to reflect the dwelling yields nominated in actions 5 and 6 of this recommendation, adopt the Warriewood Valley Strategic Review Report.
3. That Council in adopting the Warriewood Valley Strategic Review Report, totally rejects the Director-General's comments in paragraph 4 of his letter dated 1 May 2013 (see Attachment 6) as the comments have no legal effect.
4. That Council endorse progression of the statutory rezoning process to increase the maximum dwelling yield permitted for the sectors listed below, which have a PMF free evacuation route, as set out in the attached Planning Proposal which is to be forwarded to the Department seeking Gateway Determination (see Attachment 7).
 - Sector 101, having a maximum 4 dwellings
 - Buffer 1b, having a maximum 24 dwellings
 - Buffer 1c, having a maximum 18 dwellings
 - Buffer 1d, having a maximum 1 dwelling
 - Buffer 1e, having a maximum 15 dwellings
 - Buffer 1f, having a maximum 21 dwellings
 - Buffer 1g, having a maximum 23 dwellings
 - Buffer 1h, having a maximum 1 dwelling
 - Buffer 1i, having a maximum 39 dwellings
 - Buffer 1j, having a maximum 40 dwellings
 - Buffer 1k, having a maximum 21 dwellings; and
 - Buffer 1L, having a maximum 67 dwellings.

5. That Council endorse the progression of the statutory rezoning process to rezone Sectors 901A (including 9 Fern Creek Road) and Orchard Street Road Reserve (north-east portion), 901B, 901C, 901F and 9 Fern Creek Road to 2(f) (Urban Purposes – Mixed Residential); and to increase the maximum dwelling yield permitted for the sectors listed below which have a Flood Planning Level free evacuation route but are isolated during the PMF event, subject to the NSW Government agreeing to emergency flood response being facilitated by an evacuation route at the 1% AEP, as set out in the attached Planning Proposal which is to be forwarded to the Department seeking Gateway Determination (see Attachment 8).
 - Sector 301, having a maximum 53 dwellings
 - Sector 302, having a maximum 84 dwellings
 - Sector 303, having a maximum 29 dwellings
 - Sector 501 (also known as Sector 5), having a maximum 94 dwellings
 - Sector 801, having a maximum 38 dwellings
 - Sector 901A (excluding 9 Fern Creek Road) and Orchard Street Road Reserve (north-east portion), having a maximum 192 dwellings
 - Sector 901B, having a maximum 36 dwellings
 - Sector 901C, having a maximum 22 dwellings
 - Sector 901F, having a maximum 14 dwellings
 - Sector 10B, having a maximum 45 dwellings
 - Buffer 2a, having a maximum 29 dwellings; and
 - Buffer 3b, having a 9 dwellings.
6. That Council endorse the progression of the statutory rezoning process to rezone the sectors listed below and where applicable establish a maximum dwelling yield permitted which have a Flood Planning Level free evacuation route but are isolated during the PMF event, subject to the NSW Government agreeing to emergency flood response being facilitated by an evacuation route at the 1% AEP, as set out in the attached Planning Proposal which is to be forwarded to the Department seeking Gateway Determination (see Attachment 10)
 - Sector 901D, 901E and Orchard Street Road Reserve (north-west portion), having a maximum of 16 dwellings
 - Sector 901G, having a maximum of 6 dwellings.
7. That Council incorporate the proposed amendments set out in actions 4, 5 and 6 above into the draft Pittwater Local Environmental Plan 2013 prior to its second exhibition.
8. That Council confirm that Sectors 901H (portion of 4 & 5 Fern Creek Road), 10A.1 (portion of 115 Orchard Street) and 10A.2 (portions of 111, 111a & 113 Orchard Street) have no further development opportunity due to existing environmental constraints considers that these sectors may be removed from the Warriewood Valley Release Area.
9. That Council is willing to give further consideration to the inclusion of Sectors 901H, 10A.1 and 10A.2 subject to the landowners demonstrating that their sites have development potential.
10. That landowners in the Southern Buffer be advised of the opportunity to make a rezoning application for their properties, collectively or individually. Such application is to address the development constraints and opportunities that affect those lands.
11. That Council note that the Pre-Gateway Review process requested by landowner of 120 Mona Vale Road has progressed to the Joint Regional Planning Panel for its recommendation to the Minister for Planning.

12. That Council note that affordable housing provision cannot be achieved and agree it will not be included in the new Section 94 Plan for Warriewood Valley.
13. That a future report be provided to Council following a review of the following documents relating to Warriewood Valley:
 - Warriewood Valley Water Management Strategy
 - Warriewood Valley Water Management Specification, following release of the Narrabeen Lagoon Flood Study update
 - Applicable development controls within Pittwater 21 Development Control Plan
 - Warriewood Valley Section 94 Contributions Plan, Roads Masterplan and Landscape Masterplan (Public Domain)
 - Warriewood Valley Planning Framework 2010 in relation to the Southern Buffer lands and those lands not covered under the Strategic Review
 - Narrabeen Lagoon Floodplain Risk Management Study & Plan
14. In accordance with 14.4 of this report, affected landowners are to also be advised that, in the interim, the Warriewood Valley Planning Framework 2010 continues to be the adopted planning strategy applying to their lands.
15. That those persons and organisations that made a submission on the Draft Warriewood Valley Strategic Review Report be advised of Council's decision.

(Cr White / Cr Griffith)

Procedural Motion (COUNCIL DECISION)

That Cr Grace be granted an extension of time to complete his address to the meeting on this item.

(Cr McTaggart / Cr Griffith)

Procedural Motion (COUNCIL DECISION)

That Cr Townsend be granted an extension of time to complete her address to the meeting on this item.

(Cr Grace / Cr Millar)

Notes:

1. A division was duly taken resulting in the following unanimous vote:

Aye (For)	No (Against)
Cr Griffith	Nil
Cr Grace	
Cr McTaggart	
Cr Millar	
Cr Townsend	
Cr White	
Cr Young	

2. Cr Hegarty retired from the meeting at 7.04pm, having declared a pecuniary interest in Item C5.1 – Warriewood Valley Strategic Review Report – Outcomes of public exhibition and final report - and took no part in discussion and voting on this item. The reason provided by Cr Hegarty was:

“My mother has a property within the Warriewood Valley and I have previously abstained on items of consideration near her property.”

3. Cr White had declared a less than significant non-pecuniary interest in Item C5.1 – Warriewood Valley Strategic Review Report – Outcomes of public exhibition and final report. The reason provided by Cr White was:

“Parents live opposite Meritons. Area around them developed. No real pecuniary interest.”

Cr White elected to remain in the meeting and participate in both discussion and voting on this matter. The reason provided by Cr White was:

“Remote – No chance than any decision tonight would have any effect.”

4. Cr Millar submitted to the meeting a Schedule 3A Form of Special Disclosure of Pecuniary Interest in accordance with Section 451(4) of the Local Government Act 1993, and elected to remain in the meeting and participate in discussion and voting on the matter. Cr Millar declared an interest in land at 7 Orchard Street Warriewood.



Gateway Determination

Planning proposal (Department Ref: PP_2013_PITTW_003_00): to make various amendments to the Pittwater Local Environmental Plan 1993.

I, the Regional Director, Sydney East Regional Planning Team at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Pittwater Local Environmental Plan (LEP) 1993 to rezone and introduce maximum number of dwellings permitted on various sectors (901D, 901E & 901G) within the Warriewood Valley Urban Land Release Area should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to make clear that Clause 30E(4) pertaining to a State Infrastructure Contribution does not apply to current or future residential development in the Warriewood Valley Urban Release Area.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
3. Consultation is required with NSW Rural Fire Service under section 56(2)(d) of the EP&A Act and to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 31st day of July 2013.

Juliet Grant
Regional Director
Sydney Region East Planning Team
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Pittwater Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_PITTW_002_00	Planning proposal to rezone and introduce maximum dwellings permitted on various sectors (901D, 901E & 901G) within the Warriewood Valley Urban Land Release Area.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 31 July 2013

Juliet Grant
Regional Director
Sydney Region East
Planning Operations and Regional Delivery
Department of Planning and Infrastructure



Gateway Determination

Planning proposal (Department Ref: PP_2013_PITTW_003_00): to make various amendments to the Pittwater Local Environmental Plan 1993.

I, the Regional Director, Sydney East Regional Planning Team at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Pittwater Local Environmental Plan (LEP) 1993 to amend the minimum and maximum dwellings permitted in Sector 1 and Buffer 1a-1l of the Warriewood Valley Urban Land Release Area should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to make clear that Clause 30E(4) pertaining to a State Infrastructure Contribution does not apply to current or future residential development in the Warriewood Valley Urban Release Area.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
3. Consultation is required with NSW Rural Fire Service under section 56(2)(d) of the EP&A Act and to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 7th day of August 2013.

Juliet Grant
Regional Director
Sydney Region East Planning Team
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

**Delegate of the Minister for Planning and
Infrastructure**



Planning & Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Pittwater Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_PITTW_003_00	Planning proposal to amend the minimum and maximum dwellings permitted in Sector 1 and Buffer 1a-1l of the Warriewood Valley Urban Land Release Area.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 7 August 2013

Juliet Grant
Regional Director
Sydney Region East
Planning Operations and Regional Delivery
Department of Planning and Infrastructure



Gateway Determination

Planning proposal (Department Ref: PP_2013_PITTW_001_00): to make various amendments to the Pittwater Local Environmental Plan 1993.

I, the Regional Director, Sydney East Regional Planning Team at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Pittwater Local Environmental Plan (LEP) 1993 to rezone parts of Sector 901 and increase the maximum dwellings permitted on various sectors including Sectors 301-303, 5, 801, 901A and adjoining Orchard Street road reserve, 901B, 901C, 901F, 10B, Buffer 2a and Buffer 3b sectors within the Warriewood Valley Urban Land Release Area should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal as follows:
 - (a) to make clear that Clause 30E(4) pertaining to a State Infrastructure Contribution does not apply to current or future residential development in the Warriewood Valley Urban Release Area.
 - (b) to amend the planning proposal to reflect Council's resolution of 12 June 2013 to proceed with the planning proposal with a flood free evacuation route at the 1% AEP.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
3. Consultation is required with NSW Rural Fire Service under section 56(2)(d) of the EP&A Act and to comply with the requirement of S117 Direction 4.4 Planning for Bushfire Protection. NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).



Planning & Infrastructure

5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 7th day of August 2013.

Juliet Grant
Regional Director
Sydney Region East Planning Team
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

**Delegate of the Minister for Planning and
Infrastructure**



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Pittwater Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_PITTW_001_00	Planning proposal to rezone parts of Sector 901 and increase the maximum dwellings permitted on various sectors including Sectors 301-303, 5, 801, 901A and adjoining Orchard Street Road Reserve, 901B, 901C, 901F, 10B, Buffer 2a and Buffer 3b of the Warriewood Valley Urban Land Release Area.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 7 August 2013

Juliet Grant
Regional Director
Sydney Region East
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

C12.6: Changes to Local Environmental Plan Making Procedures Regarding Delegations and Independent Reviews of Plan-Making Decisions

Meeting: Planning an Integrated Built Environment Committee

Date: 18 March 2013

COUNCIL DECISION (By Exception)

1. That the delegation of the Minister under section 59 of the Environmental Planning and Assessment Act 1979 for the making of Local Environmental Plans be accepted.
2. That the General Manager be given the authority to exercise the delegation to liaise with the Parliamentary Counsel and finalise Planning Proposals in accordance with Council's decision.
3. That the Independent Review process within the plan making process be noted.

(Cr White / Cr Griffith)

Notes:

1. Cr Hegarty left the meeting at 7.16pm and returned at 7.17pm, having declared a significant non-pecuniary interest in this Item and took no part in discussions or voting. The reason provided by Cr Hegarty was:

"I sit as a delegate on the JRPP and one of the applications before the JRPP is mentioned in the body of the report."

2. Cr Townsend left the meeting at 7.16pm and returned at 7.17pm, having declared a significant non-pecuniary interest in this Item and took no part in discussions or voting. The reason provided by Cr Townsend was:

"I am a Delegate on the Joint Regional Planning Panel who will be determining an application referred to in the item."

Submission No.	Issues Raised	Response
1	<p>Objection to PP0003/13, PP0004/13, PP0005/13.</p> <p>No information seems to be presented concerning improvement to road access to Warriewood Valley.</p> <p>Very little work done on any of the access roads - importantly Warriewood Rd (Pittwater Rd end), Macpherson & Garden Streets. The present roads cannot possibly handle all the traffic.</p> <p>Vuko Place has also become a dangerous intersection with Warriewood Road.</p>	<p>The roads within Warriewood Valley are all scheduled to be upgraded over time. These upgrades are funded in two ways. Firstly, developers adjoining a road must reconstruct half the road including shared paths, drainage etc. The second method is for Council to reconstruct the roads using Section 94 funds. These funds are collected from developers and are dependent on the rate of development.</p> <p>At the conclusion of the construction of the roundabout at Macpherson Street and Boondah Road, Council will commence upgrading Macpherson Street between Boondah Road to Warriewood Road.</p> <p>In regard to the intersection of Vuko Place and Warriewood Road, Council's Principal Officer – Strategy, Investigation and Design has advised that except for short delays to traffic in Vuko Place during the PM peak the intersection functions effectively and safely.</p>
	<p>Where can I view the plan on proposed road improvements & traffic management?</p>	<p>Planned road improvements and traffic management, delivered through the development process (either directly by the developer or through developer contributions), are identified under the Warriewood Valley Roads Masterplan and the Warriewood Valley Section 94 Contributions Plan (Plan No. 15 Amendment 16).</p> <p>Both Warriewood Valley Roads Masterplan (1999 and 2006 Review) and the Warriewood Valley Section 94 Contributions Plan (Plan No. 15 Amendment 16) are available to view via the Council's website.</p>

<p>2</p>	<p>Objection to PP0004/13.</p> <p>Sector 5 is a corridor and buffer between suburban areas and the bush as it currently exists, and should be protected as much as possible, or even enhanced with further native plantings.</p> <p>Sector 5 is part of an essential habitat for local native flora and fauna and should be investigated by appropriately trained independent ecological consultants. I believe the biodiversity needs to be properly assessed as to whether increasing housing density in Sector 501 would impact on the immediate area; particularly bird species as they have a greater range. One of the most significant is the Powerful Owl.</p> <p>A long list of native fauna species were observed by the submitter, including birds, reptiles, invertebrates, marsupials and other vertebrates.</p> <p>The following list of locally and regionally significant fauna species were observed:</p> <ul style="list-style-type: none"> • Brush Turkey • Brown Goshawk • Pheasant Coucal • Superb Lyrebird – Note: Population is in decline • Long-nosed Bandicoot – Note: Population is in decline 	<p>Sector 501, formally known as Sector 5, adjoins the escarpment. This sector was rezoned from a non-urban to a residential zone in July 2010. At the time, Council and the State Government concluded that the proposed residential zoning would not have a significant impact on the neighbouring native fauna.</p> <p>All of the species claimed to have been observed in the sector are known by Council to be present in the locality and are likely to utilise the subject property at times. However, the core habitat is located mainly on the escarpment, outside the boundary of Sector 501. The Planning Proposal PP0004/13 does not seek to rezone or apply to land comprising this core habitat. None of this core habitat will be cleared and therefore will not be directly impacted.</p> <p>An ecological assessment will be required as part of any future subdivision application. At that time ecologists have the benefit of plans showing proposed lot layout, as well as other reports, to allow an accurate assessment of the potential issues and impacts arising.</p>
	<p>Allowing more houses to be developed in Sector 5 will increase the chances of negative threatening processes taking place, e.g.: domestic cats and dogs accessing the escarpment, weeds establishing in the escarpment, higher frequency of fires.</p>	<p>These concerns are valid, however much of these concerns can be mitigated by imposing appropriate conditions. This may include prohibiting the keeping of cats and dogs by any resident living in this sector (as has been done in other sectors in Warriewood Valley).</p> <p>In regard to weed infestation, any future development would be required to control all weeds as part of a landscape masterplan and bushland management plan. This will greatly assist with controlling future weed spread downstream in Narrabeen Creek for example. In addition the planting of native vegetation throughout the sector, as required by condition, will encourage wildlife to utilise the developed area in the sector.</p> <p>Any future development application will also require the portion of Narrabeen Creek adjoining the sector to be rehabilitated. The restoration of Narrabeen Creek would improve the existing water quality and environmental condition of the riparian corridor.</p> <p>Road kill could be mitigated by installation of exclusion fencing in places as well as traffic calming devices and signage.</p>

<p>3</p>	<p>Objection to PP0003/13 and PP0004/13 as they relate to the sites 2 and 18 Macpherson Street and 23, 25 and 27 Warriewood Road.</p> <p>Objection to the limit placed on density. The Planning Proposals represent a missed opportunity to deliver more diverse housing in Pittwater.</p> <p>The exhibited Planning Proposals represent a very modest proposed increase in density and there is potential risk of sterilising land of residential development.</p> <p>The exhibited Planning Proposals place an unnecessary constraint on developers by limiting development to generally low densities. This represents an inefficient use of land and jeopardises the potential to adequately satisfy the objectives of the Sydney Metropolitan Plan and draft Sydney Metropolitan Strategy.</p>	<p>The issues raised in this objection relate largely to the now adopted <i>Warriewood Valley Strategic Review Report 2012</i> and the Planning Proposal PP0002/12, now refused by Council, and not the subject Planning Proposals. These issues were addressed and dealt with as part of the assessment report put to Council on 2 September 2013 for the Planning Proposal Application PP0002/13 for the rezoning of 2 & 18 Macpherson Street and 23, 25 & 27 Warriewood Road, Warriewood.</p> <p>The <i>Warriewood Valley Strategic Review Report 2012</i> and the subject Planning Proposals are supported by a range of technical studies, including Urban Design and Economic Feasibility studies. The subject Planning Proposals seeks a modest increase in dwelling density up to 32 dwellings per hectare to facilitate a financially viable and sustainable development.</p> <p>Development of 4 and 5 storey apartment buildings at a density of 98 dwellings per developable hectare proposed under the now refused application PP0002/13 is totally inconsistent with the findings of the <i>Warriewood Valley Strategic Review Report 2012</i>, the technical studies that informed the review process and the community's expectations for the development of the Release Area.</p>
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<p>4</p>	<p>Objection to adopted <i>Warriewood Valley Strategic Review Report 2012</i> and the subject Planning Proposals as they relate to the site 4 Fern Creek Road, Warriewood.</p> <p>Objection to 4 Fern Creek Road not being allocated a density or yield under the <i>Warriewood Valley Strategic Review Report 2012</i> and not being rezoned under the subject Planning Proposals.</p> <p>Objection to break-up of Sector 901 into subsectors.</p>	<p>This objection relates primarily to the <i>Warriewood Valley Strategic Review Report 2012</i>, now adopted by Council, and not the subject Planning Proposals. Nonetheless the following response is provided:</p> <ul style="list-style-type: none"> • Sector 901H, of which a small portion of 4 Fern Creek Road forms part was identified during the Strategic Review as highly constrained and unlikely to achieve any additional yield. • It is also noted that less than half of 4 Fern Creek Road is actually in the Warriewood Valley Release Area, including only a small proportion of the battle-axe handle (providing access into the main part of the property). • Council in adopting the <i>Warriewood Valley Strategic Review Report 2012</i>, considered this objection and the address made by this landowner. Part of Council's resolution of 12 June 2013 was that Council give further consideration to the site's capacity for intensified development subject to landowners demonstrating their site's development potential. To date, no information has been supplied by the landowners of Sector 901H or Council's invitation to meet. • The <i>Warriewood Valley Strategic Review 2012</i> recommended that in order to facilitate timely development, Sector 901 be broken up into sub-sectors based on various environmental constraints affecting parts of the sector and in recognition of the past difficulty to reach consensus on a masterplan for the sector as a whole.
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**Office of
Environment
& Heritage**

Your reference: PP0003/13, PP0004/13,
PP0005/13
Our reference: DOC13/46560
Contact: Rachel Lonie, 99956837

The General Manager
Pittwater Council
PO Box 882
MONA VALE NSW 1660

Attention: Andrew Pigott – A/Manager Planning and Assessment

Dear General Manager

I refer to previous correspondence from the Office of Environment and Heritage (OEH) dated 20 September 2013 regarding three planning proposals (PP0005/13, PP0004/13 and PP0005/13) in Warriewood Valley.

Further advice has been provided by Pittwater Council on the environmental impacts of the planning proposals under section C. Environmental, social and economic impacts. OEH considers that these now adequately address the concerns raised and OEH has no further issues to raise in regard to these planning proposals.

If you require further details or clarification on any matters raised in this response please contact me on 9995 6837 or by email at rachel.lonie@environment.nsw.gov.au (please note work days are generally Mondays and Wednesdays).

Yours sincerely

S. Harrison 14/10/13

SUSAN HARRISON
Senior Team Leader, Planning
Greater Sydney
Regional Operations



PLANNING PROPOSAL PP0003/13

To amend/introduce the minimum & maximum number of dwellings permitted in Sector 1 and Buffer 1a-1m of the Warriewood Valley Release Area

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To amend the minimum and maximum numbers of dwellings permitted in Sector 1 and Buffer Area 1 of the Warriewood Valley Release Area, representing an increase in dwelling density from 25 to 32 dwellings per developable hectare.

To confirm that Buffer 1M has no residential density potential due to significant environmental constraints.

Developable hectare refers to the total area of the site exclusive of environmentally sensitive land, including the creek line corridor land (as measured 25 metres, either side of the creek centreline) expressed in hectares.

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- A series of new maps are provided for this Planning Proposal (See **MAP 3 and 5**) and will require amending Clause 30B of the *Pittwater Local Environmental Plan 1993* as follows:

Insert at the end of subclause (1), this paragraph:

Land at Warriewood within Buffer 1a to Buffer 1m inclusive of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)"

Land at Warriewood within Sector 1 including Sector 101 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)"

- Amending Clause 30C of the *Pittwater Local Environmental Plan 1993* as follows:-

Sector 1 (including Sector 101) – not more than ~~210~~ 213 dwellings or less than ~~195~~ 210 dwellings

~~Buffer Area 1 – not more than 176 dwellings or less than 167 dwellings~~

Buffer 1a – not more than 17 dwellings or less than 15 dwellings

Buffer 1b – not more than 24 dwellings or less than 17 dwellings

Buffer 1c – not more than 18 dwellings or less than 13 dwellings

Buffer 1d – not more than 1 dwelling

Buffer 1e – not more than 15 dwellings or less than 11 dwellings

Buffer 1f – not more than 21 dwellings or less than 14 dwellings

Buffer 1g – not more than 23 dwellings or less than 17 dwellings

Buffer 1h – not more than 1 dwelling

Buffer 1i – not more than 39 dwellings or less than 27 dwellings

Buffer 1j – not more than 40 dwellings or less than 26 dwellings

Buffer 1k – not more than 21 dwellings or less than 14 dwellings

Buffer 1l – not more than 67 dwellings or less than 43 dwellings

Buffer 1m – no dwellings

- A new map is provided for this Planning Proposal (See **MAP 3**) and will require amending Clause 30D of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

- (a) This clause applies to land shown edged heavy black on the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #) – Sheet 1.

- A series of new maps are provided for this Planning Proposal (See **MAP 4 and 5**) and will require amending Clause 30E of the *Pittwater Local Environmental Plan 1993* as follows:-

Amend subclause (5) as follows and at the end of subclause (5) insert this paragraph:

- (c) a subdivision for the purpose only of rectifying an encroachment on any existing lot, or
- (d) any current or future residential development in the Warriewood Valley Urban Release Area.

Insert at the end of subclause (8), this paragraph:

Buffer 1a to Buffer 1m inclusive of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 2 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”

Sector 1 including Sector 101 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”

PART 3 JUSTIFICATION

Section A Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

Yes. The recently adopted *Warriewood Valley Strategic Review Report 2012* was the result of a joint undertaking by the Department of Planning & Infrastructure and Council to review the height and density standards for residential development within the Release Area. The Strategic Review Report has been endorsed by the Director-General of Planning & Infrastructure.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is the best means of achieving the intended outcome as the subject lands are already rezoned and the range of dwellings numbers permitted in the subject lands are already stipulated in Clause 30C of Pittwater LEP 1993. Progressing the Planning Proposal is the only mechanism of enabling changes to be made to Clause 30C of Pittwater LEP.

Section B Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

This Planning Proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy, where goals are set for housing and land supply.

Action C1 in the Draft North-East Subregional Strategy calls for ensuring the adequate supply of land and sites for residential development through the MDP. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development. This Planning Proposal will increase housing supply and is therefore consistent with such an action.

This Planning Proposal would also be consistent with Action C4 of the Draft North-East Subregional Strategy, which calls for improving housing affordability. Once again, by increasing housing supply the Planning Proposal is consistent with such an action.

As the intended outcome of this Planning Proposal is to allow more dwellings to be built in the Warriewood Valley Release Area, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?

This Planning Proposal is consistent with the recently adopted *Warriewood Valley Strategic Review Report 2012* which recommends an increase in the numbers of dwellings in the Warriewood Valley Release Area.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see Appendix 1).

6. Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see Appendix 2).

C Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The lands subject of this Planning Proposal known as Sector 101 (residue of Sector 1) and Buffer 1a to Buffer 1l (formally known collectively as Buffer Area 1) have already been zoned for urban development, already having a maximum dwelling yield applying to each sector. The subject Planning Proposal seeks amend the PLEP 1993 to increase the maximum dwelling yield permitted in the sectors, consistent with the adopted and endorsed *Warriewood Valley Strategic Review Report 2012*.

The lands subject to this Planning Proposal were previously used for horticulture and are largely cleared. Buffers 1a to 1l are traversed by Narrabeen Creek at their rear boundary. This creek line contains a mixture of native and exotic vegetation. Within the creek line of some properties is known remnant Swamp Sclerophyll Forest (indicated as 'High Biodiversity Value' on Council's adopted Biodiversity Map).

Any future development of these sites is restricted to the 'developable area' of the site, situated outside of this creek line (as shown on Map 3). Development of properties containing Swamp Sclerophyll Forest will also be subject to an assessment of significance under Part 5A of *Environmental Planning and Assessment Act 1979* at the development application stage. Conditions of any future development approval will also require the creek line to be rehabilitated and revegetated with native endemic species.

During the earlier rezoning of Sector 1 and Buffer Area 1 from non-urban to residential the likelihood of threatened species and habitats being adversely affected by the rezoning was considered. At this point, it was concluded that there was little likelihood of adverse impacts as a result of the rezoning on threatened species or their habitats. It is concluded that this Planning Proposal, in seeking to amend the provisions PLEP 1993 to increase the maximum dwelling yield permitted in these sectors, is unlikely to result in any adverse impacts to threatened species or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

This Planning Proposal seeks a modest increase in the number of dwellings permitted in these sectors as forecast under *Warriewood Valley Planning Framework 2010* (adopted by Council on 3 May 2010).

This Planning Proposal is consistent with the recommendations of the *Warriewood Valley Strategic Review Report 2012* which is supported by mapping layers adopted by Council in 2011 as part of the Pittwater Local Planning Strategy and the findings of several environmental studies which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

Further, any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP.

9. How has the planning proposal adequately addressed any social and economic effects?

The lands the subject of this Planning Proposal comprises existing residential sectors within the Warriewood Valley Release Area, which are identified in the State Government's MDP. A suite of studies were undertaken for the original Warriewood Valley urban land release, including consideration of social and economic effects. This Planning Proposal will therefore not have any marked negative social or economic effects.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

As the subject lands form part of the Warriewood Valley Land Release, public infrastructure is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)*. Council has commenced a review of this plan to account for the additional infrastructure required as a result of the additional dwellings now anticipated in the release area.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The following preliminary views were expressed by state and service agencies during the public exhibition of Warriewood Valley Strategic Review prepared by the Department of Planning and Infrastructure and Council which recommends an increase in the numbers of dwellings in the release area.

Response from Department of Education & Communities (DEC):

- Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students.
- For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

Response from Roads & Maritime Services (RMS):

- The RMS has advised that it supports the Strategic Review's recommendations, provided that:-
 - The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and
 - No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

Response from Department of Health – Northern Sydney Local Health District (NSLHD):

- NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.
- NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycleways be separated from traffic to allow for safe, active transport and to increase participant numbers.

Response from Office of Environment & Heritage (OEH)"

The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

Response from Sydney Water:

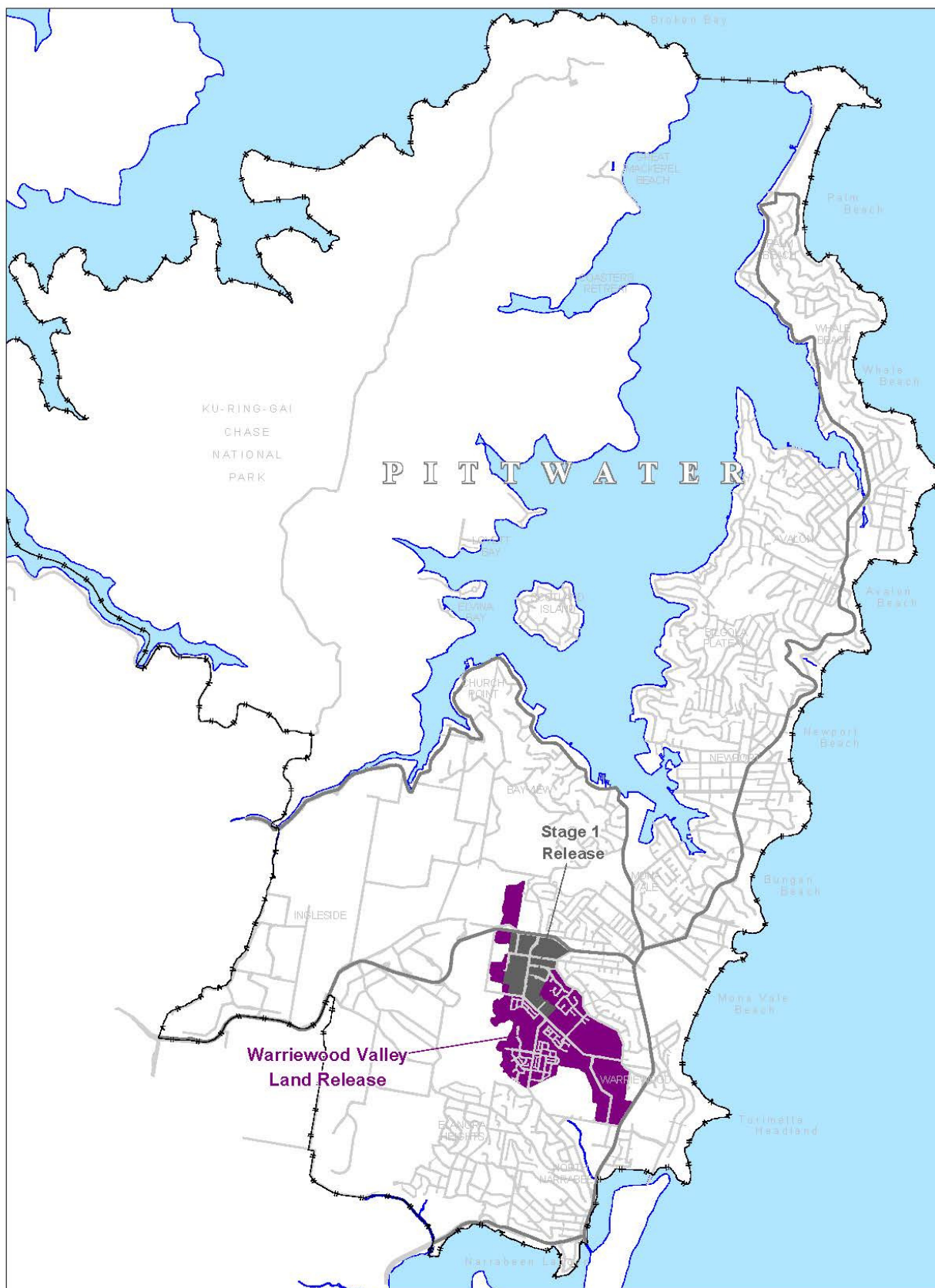
- Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

Response from Ausgrid:

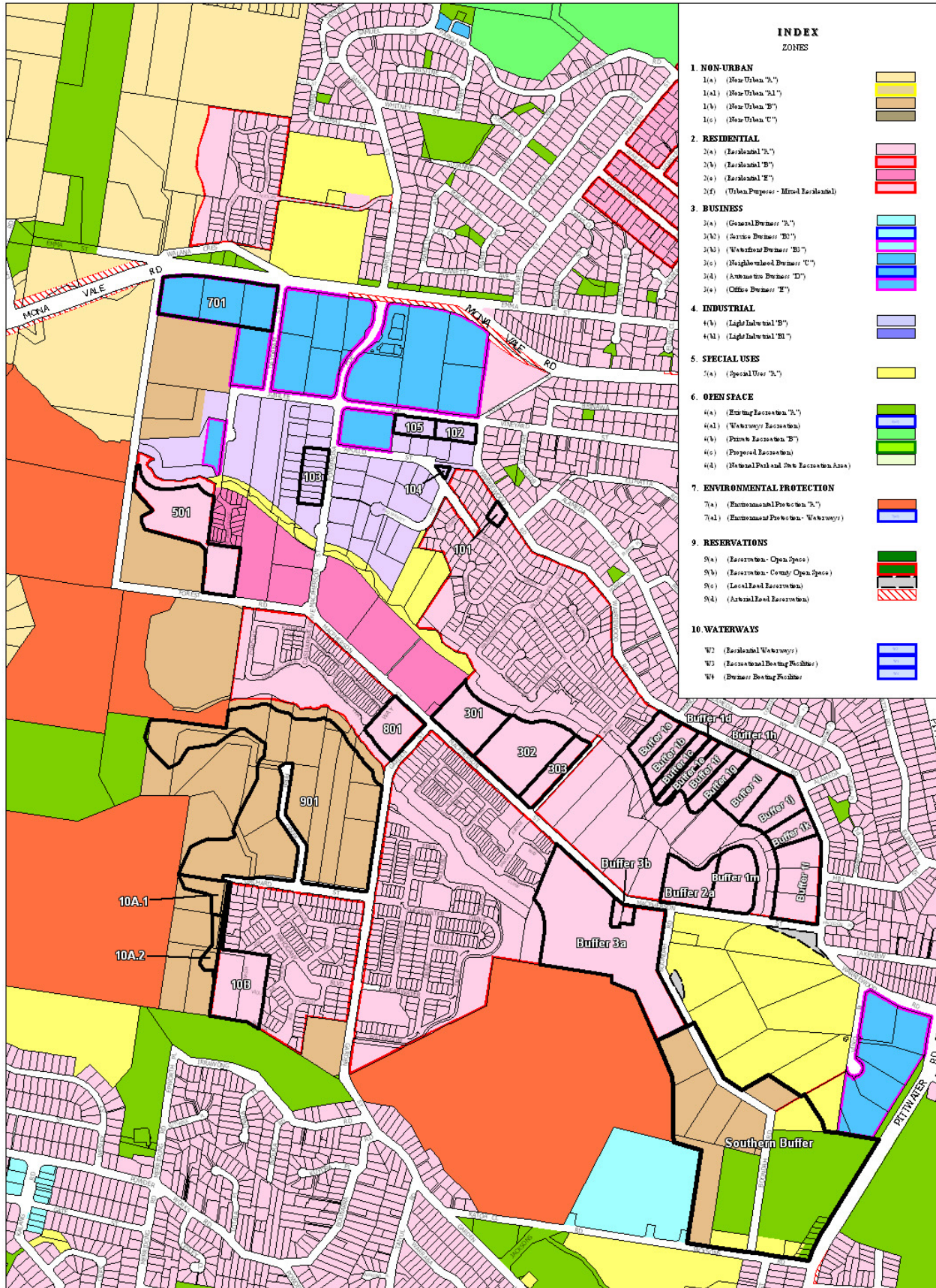
- Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

PART 4 MAPPING

Map 1: Location Map – Warriewood Valley Release Area



Map 2: Current Sectors – Warriewood Valley Planning Framework 2010



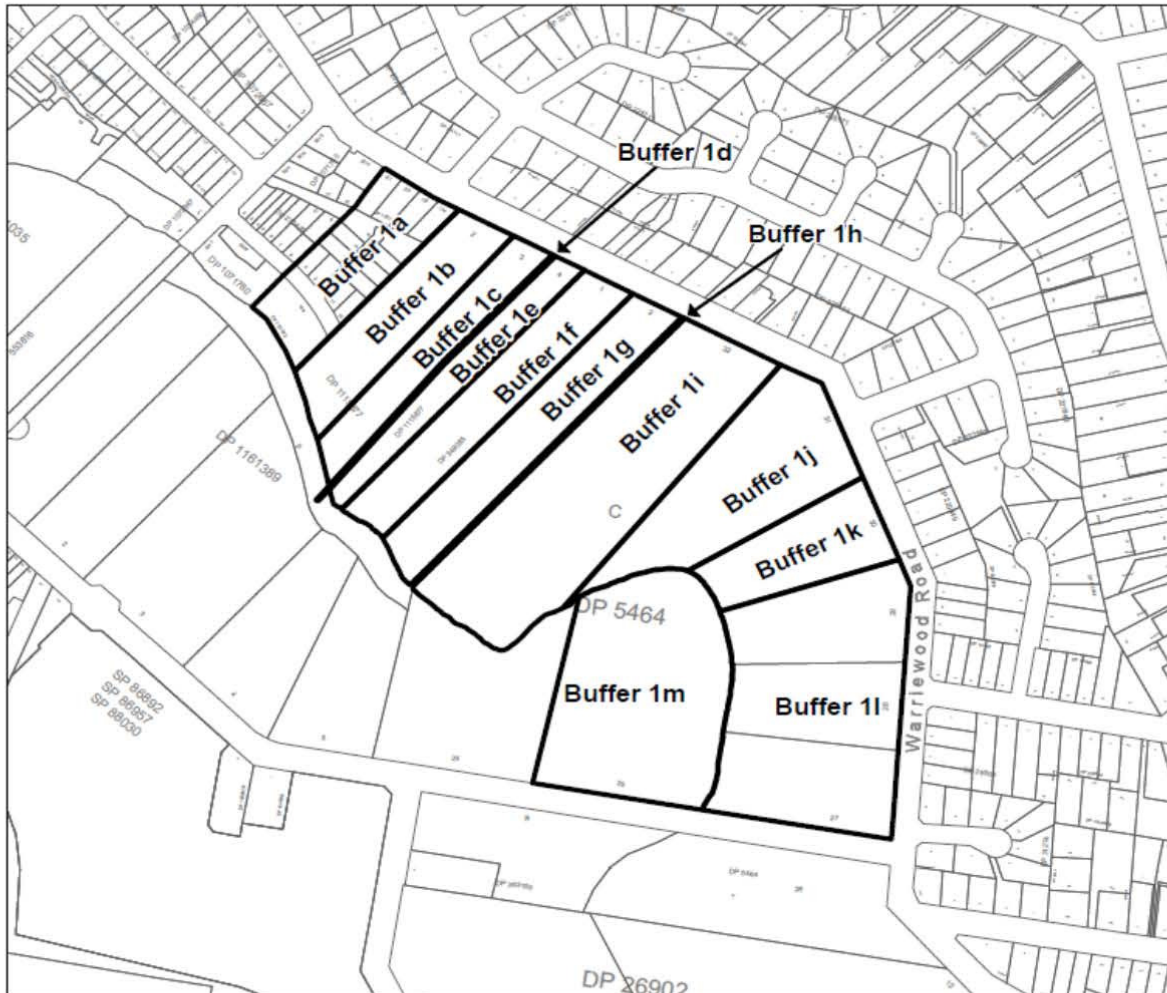
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL	DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30B - "Development of UDP land in Warriewood Valley" CLAUSE 30C - "Dwelling Yield" CLAUSE 30D - "Mitigation of odours from the Warriewood Sewerage Treatment Plant"
PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP830		
COUNCIL FILE NO.		
DEPT. FILE NO.		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION
GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		
		GENERAL MANAGER DATE:

Map 4: Pittwater Local Environmental Plan 1993 Sheet 2



SCALE 1:5000

SUBJECT LAND SHOWN THUS



LOCALITY WARRIEWOOD

Sheet 2 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP830

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

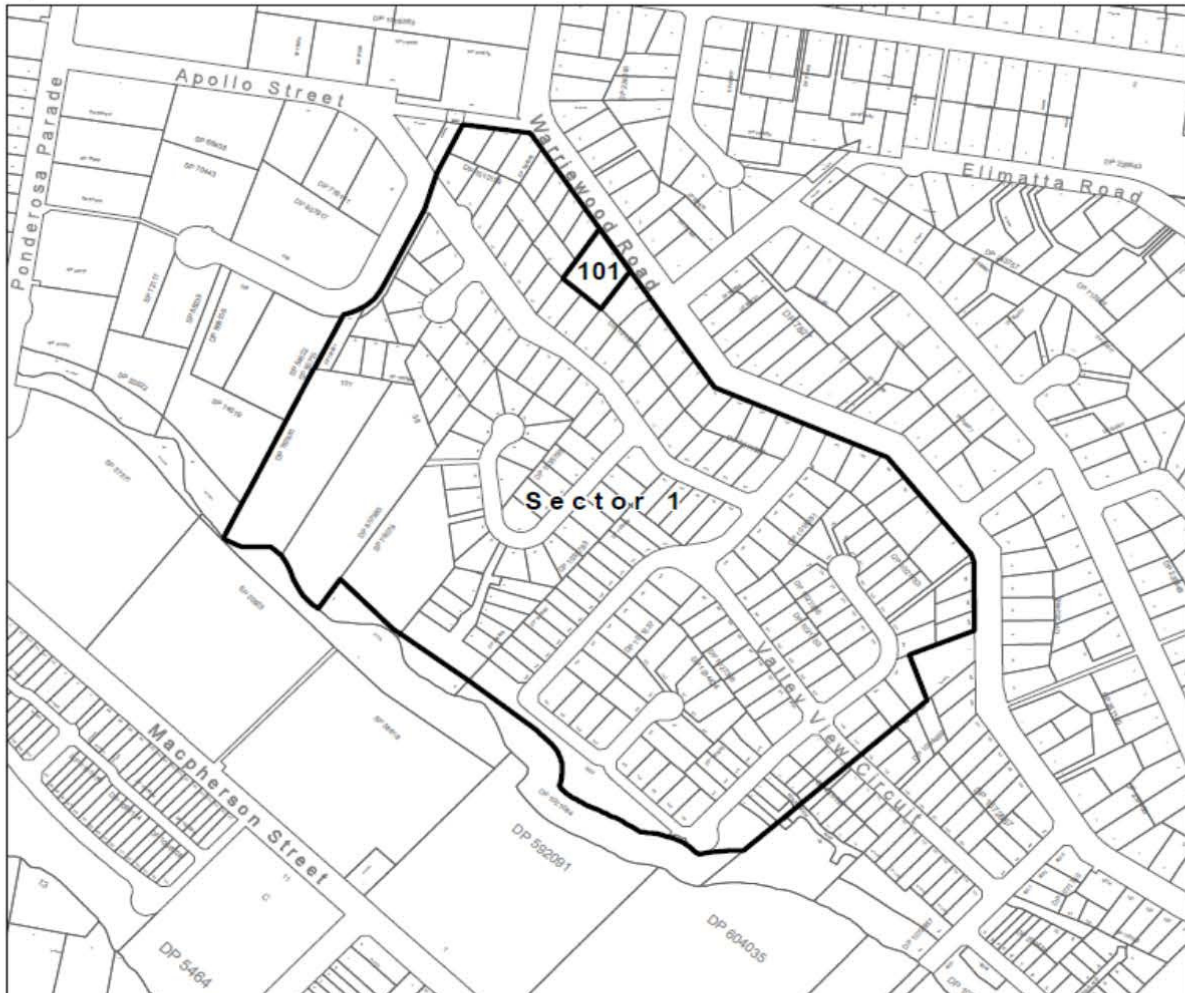
CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

Map 5: Pittwater Local Environmental Plan 1993 Sheet 3



SUBJECT LAND SHOWN THUS



SCALE 1:5000

LOCALITY WARRIEWOOD

Sheet 3 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP830

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 30B - "Development of UDP land in Warriewood Valley"

CLAUSE 30C - "Dwelling Yield"

CLAUSE 30E - "Public infrastructure in urban release areas"

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

PART 5 COMMUNITY CONSULTATION

The lands the subject of this Planning Proposal has already been zoned for urban development, already having a maximum dwelling yield applying to each sector. This Planning Proposal relates to changes to the maximum dwelling yields permitted in Sector 1 and Buffer Area 1 in Warriewood Valley, consistent with the maximum dwelling yields under the recently adopted *Warriewood Valley Strategic Review Report 2012*. The Warriewood Valley Strategic Review Report was the subject of a comprehensive community consultation process and was endorsed by the Director-General of the Department of Planning & Infrastructure.

Infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)* which is currently being reviewed to account for additional infrastructure required as a result the additional dwellings now anticipated in the release area.

Subsequently, this Planning Proposal is considered a 'low impact' proposal.

In keeping with *A guide to preparing local environmental plans* (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period (*this may need to be extended if the exhibition occurs during the December to January school holiday period*)
- Notification in local newspaper at commencement of exhibition period
- Notification on Council's website for the duration of the exhibition
- Notification in writing to affected and adjoining landowners at commencement of exhibition period
- Notification in writing to the Warriewood Residents Association Incorporated at commencement of exhibition period

PART 6 PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Mid July 2013
Completion of required technical information		COMPLETED 2012
Government agency consultation		Pre-exhibition consultation COMPLETED 2012
Public exhibition	14 days (<i>pending school holiday period</i>)	August 2013
Consideration of submissions	4 weeks from close of public exhibition	Early September 2013
Consideration of proposal post-exhibition and report to Council	6 weeks from close of public exhibition	October 2013
Submission to Department to finalise LEP		Late October 2013 following Council decision
*RPA to make plan (if delegated)	6 weeks from Council decision	December 2013

**Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under section 59 of the Environmental Planning & Assessment Act in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal.*

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

(Last updated 20 August 2010)

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	
SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	
SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Justification for inconsistency

NIL

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	NO	N/A
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

Justification for inconsistency

NIL

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

Justification for inconsistency with Direction 2.3

The Planning Proposal relates to changes to the maximum dwelling yield permitted in Sector 1 and Buffer Area 1 of the Warriewood Valley Release Area. Provisions already exist in Pittwater LEP 1993 for the protection and conservation of environmentally sensitive area and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	NO
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

Justification for inconsistency with Direction 3.2

The Planning Proposal relates to changes to the maximum dwelling yield permitted in Sector 1 and the former Buffer Area 1 of the Warriewood Valley Release Area. The subject lands are already zoned 2(f) (Urban Purposes – Mixed Residential) and have been identified in the MDP. The planning and development of Warriewood Valley is based on a suite of environmental studies and objectives relating to environmental issues, community facilities and infrastructure, heritage, urban design and financial viability. These objectives form the basis for the planning and implementation of development in Warriewood Valley and have been consistently applied by Pittwater Council and agreed to by the Department of Planning and Infrastructure over the years. In this regard, it did not contemplate opportunities for caravan parks and manufactured home estates.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

Justification for inconsistency with Direction 4.3

Sections of Narrabeen Creek traverse Buffer 1a to 1m (former Buffer Area 1). The planning and development of Warriewood Valley is based on utilising the creek line corridor to convey the 1% AEP flood event. The subject lands are already zoned 2(f) (Urban Purposes – Mixed Residential) which allows for development to occur on the land. Despite this, no vertical structures are permitted on that part of the land comprising the creek line corridor. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

Justification for inconsistency with Direction 4.4

The subject lands are already zoned 2(f) (Urban Purposes – Mixed Residential) which allows for residential development to occur on the land. This Planning Proposal is inconsistent with the direction insofar as the NSW Rural Fire Service has not yet been consulted.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

Justification for inconsistency with Direction 6.3

The Planning Proposal seeks to amend the maximum permissible dwelling yield provisions contained in Clause 30C of the Pittwater LEP. The application of Clause 30C, stipulating the maximum number of dwellings, is well established for the Warriewood Valley Release Area and is not a new provision.

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL



PITTWATER COUNCIL

PLANNING PROPOSAL PP0004/13

To rezone Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C, and 901F of the Warriewood Valley Urban Land Release Area to a residential zone

To introduce/increase the maximum dwellings permitted in Sectors 301-303, 5, 801, 901A and adjoining Orchard Street road reserve, 901B, 901C, 901F, 10B, Buffer 2a and Buffer 3b of the Warriewood Valley Release Area

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To rezone specific land 2(f) (Urban Purposes – Mixed Residential) under Pittwater LEP, being:

- Lot 13 DP1092788, 9 & 10 Fern Creek Road, 2, 4, & 6 Orchard Street, 204 & 206 Garden Street, Warriewood and north-west portion of Orchard Street Road reserve (*identified as Sector 901A and adjoining Orchard Street Road Reserve*)
- 2 Fern Creek Road (*identified as Sector 901B*),
- 12 Fern Creek Road Warriewood (*identified as Sector 901C*),
- 14 Orchard Street Warriewood (*identified as Sector 901F*).

To introduce/amend the minimum and maximum numbers of dwellings permitted in:

- Sector 301, 302 and 303,
- Sector 5,
- Sector 801,
- Sector 901A and adjoining Orchard Street Road Reserve, 901B, 901C and 901F
- Sector 10B,
- Buffer 2a and
- Buffer 3b.

of the Warriewood Valley Release Area, representing an increase in dwelling density from 25 to 32 dwellings per developable hectare.

Developable hectare refers to the total area of the site exclusive of environmentally sensitive land, including the creek line corridor land (as measured 25 metres, either side of the creek centreline) expressed in hectares.

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- An amended zoning map is provided for this Planning Proposal (See **MAP 3**) and will require amending Clause 5 of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of definition of “the Zoning Map” contained in subclause (1), this paragraph:

[Pittwater Local Environmental Plan 1993 \(Amendment No. #\) – Sheet 1](#)

- A series of new maps are provided for this Planning Proposal (See **MAP 4, 6, 8, 9, 11, 12, 14**) and will require amending Clause 30B of the *Pittwater Local Environmental Plan 1993* as follows:-

Delete at end of subclause (1), these paragraphs:

~~Land at Warriewood within Sector 3 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (amendment No 87)”~~

~~Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (amendment No 91)”~~

Insert at the end of subclause (1), this paragraph:

Land at Warriewood within Sector 301, 302 and 303 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 4 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 5 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 6 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 8 including Sector 801 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 7 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 901A and adjoining Orchard Street Road Reserve, 901B, 901C and 901D of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 2 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Sector 10 including Sector 10B of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 9 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Buffer 2a of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 10 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

Land at Warriewood within Buffer 3b of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 12 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

- Amending Clause 30C of the *Pittwater Local Environmental Plan 1993* as follows:-

~~Sector 3 – not more than 165 dwellings~~

Sector 301 – not more than 53 dwellings or less than 42 dwellings

Sector 302 – not more than 84 dwellings or less than 66 dwellings

Sector 303 – not more than 29 dwellings or less than 23 dwellings

Sector 5 – not more than ~~75~~ 94 or less than ~~65~~ 75 dwellings

Sector 8 (excluding Sector 801) – not more than 159 dwellings

Sector 801 – not more than 38 dwellings or less than 19 dwellings

Sector 10 (excluding Sector 10B) – not more than ~~164~~ 134 dwellings ~~or less than 147 dwellings~~

Sector 10B – not more than 45 dwellings or less than 28 dwellings

Sector 901A (including adjoining road reserve) – not more than 192 dwellings or less than 156 dwellings

Sector 901B – not more than 36 dwellings or less than 12 dwellings

Sector 901C – not more than 22 dwellings or less than 17 dwellings

Sector 901F – not more than 14 dwellings

Buffer 2a – not more than 29 dwellings or less than 20 dwellings

Buffer 3b – not more than 9 dwellings or less than 7 dwellings

- A series of new maps are provided for this Planning Proposal (See **MAP 12 & 14**) and will require amending Clause 30D of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

- (b) This clause applies to land shown edged heavy black on the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #) – Sheet 10”.
- (c) This clause applies to land shown edged heavy black on the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #) – Sheet 12”.

- A series of new maps are provided for this Planning Proposal (See **MAP 5, 7, 10, 11, 13 & 14**) and will require amending Clause 30E of the *Pittwater Local Environmental Plan 1993* as follows:-

Amend subclause (5) as follows and at the end of subclause (5) insert this paragraph:

- (c) a subdivision for the purpose only of rectifying an encroachment on any existing lot, or
- (d) any current or future residential development in the Warriewood Valley Urban Release Area.

Delete at end of subclause (8), these paragraphs:

~~Land at Warriewood within Sector 3 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked “Pittwater Local Environmental Plan 1993 (amendment No 87)”~~

Insert at the end of subclause (8), these paragraphs:

Sector 301, 302 and 303 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 5 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Sector 8 including Sector 801 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 8 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Sector 901A and road reserve, 901B, 901C and 901F of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Sector 10 including Sector 10B of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 9 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Buffer 2a of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 11 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

Buffer 3b of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 12 of the map marked “Pittwater Local Environmental Plan 1993 (Amendment No. #)”.

PART 3 JUSTIFICATION

Section A Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

Yes. The recently adopted *Warriewood Valley Strategic Review Report 2012* was the result of a joint undertaking by the Department of Planning & Infrastructure and Council to review the height and density standards for residential development within the Release Area. This report also confirmed those sectors, prepared to be rezoned 2(f) are capable of residential development and is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

The Strategic Review Report has been endorsed by the Director-General of Planning & Infrastructure.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is the best means of achieving the intended outcome as Council is only able to grant consent for residential development on lands in Warriewood Valley listed in Clause 30B. Progressing the Planning Proposal is also the only mechanism of enabling changes to be made to Clause 30C of Pittwater LEP and amending/introducing maximum dwelling numbers for Sector 301, 302, 303, 5, 801, 901A and adjoining Orchard Street Road Reserve, 901B, 901C, 901F, 10B, Buffer 2a and Buffer 3b.

Section B Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

This Planning Proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy, where goals are set for housing and land supply.

Action C1 in the Draft North-East Subregional Strategy calls for ensuring the adequate supply of land and sites for residential development through the MDP. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development. This Planning Proposal will increase housing supply and is therefore consistent with such an action.

This Planning Proposal would also be consistent with Action C4 of the Draft North-East Subregional Strategy, which calls for improving housing affordability. Once again, by increasing housing supply the Planning Proposal is consistent with such an action.

As the intended outcome of this Planning Proposal is to allow more dwellings to be built in the Warriewood Valley Release Area, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?

This Planning Proposal is consistent with the recently adopted *Warriewood Valley Strategic Review Report 2012* which recommends an increase in the numbers of dwellings in the Warriewood Valley Release Area. This review report is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

This report also confirmed those sectors, prepared to be rezoned 2(f) are capable of residential development and also consistent with Council's adopted *Warriewood Valley Planning Framework 2010* (adopted 3 May 2010) insofar as these sectors to be rezoned are designated for medium density form of residential development.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see Appendix 1).

6. Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see Appendix 2).

C Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Sectors 301, 302 and 303 (formerly known collectively as Sector 3), Sector 5, Sector 801 (residue of Sector 8), Sector 10B (residue of Sector 10), Buffer 2a (residue of Buffer Area 2) and Buffer 3b (residue of Buffer Area 3), have already been zoned for urban development, already having a maximum dwelling yield applying to each sector.

Sectors 901A, 901B, 901C and 901F are the only sectors proposed to be rezoned from non-urban to residential under this Planning Proposal. The Planning Proposal also seeks to apply a maximum dwelling yield for each of these sectors.

This Planning Proposal, in seeking to rezone and apply a maximum dwelling yield, is consistent with the adopted and endorsed *Warriewood Valley Strategic Review Report 2012*.

The lands subject to this Planning Proposal were previously used for horticulture and are largely cleared. Sectors 301, 302, 302, 5 and Buffer 2a are traversed by Narrabeen Creek at their rear boundary. Sectors 801, 901A and 901C are traversed by Fern Creek at their rear boundary. The adjoining sections of Narrabeen Creek and Fern Creek contain a mixture of native and exotic vegetation, with the native vegetation only in moderate condition.

Any future development of these sites is restricted to the 'developable area' of the site, situated outside of this creek line (as shown on Map 4, 6, 8, 9 and 12). Conditions of any future development approval will also require the creek line to be rehabilitated and revegetated with native endemic species.

During the earlier rezoning of Sectors 3, 5 8, 10 and Buffer Area 2 and 3 from non-urban to residential the likelihood of threatened species and habitats being adversely affected by the rezoning was considered. At this point, it was concluded that there was little likelihood of adverse impacts as a result of the rezoning on threatened species or their habitats. It is concluded that this Planning Proposal, in seeking to amend the provisions PLEP 1993 to increase the maximum dwelling yield permitted in these sectors, is unlikely to result in any adverse impacts to threatened species or their habitats.

During the undertaking of the Warriewood Valley Strategic Review the likelihood of adverse impacts as a result of the rezoning of 901A, 901B and 901C was considered. The rezoning of these sectors is consistent with the recommendations of the recently adopted Warriewood Valley Strategic Review Report 2012 which is supported by mapping layers adopted by Council in 2011 as part of the Pittwater Local Planning Strategy and the findings of several environmental studies. During the undertaking of the Strategic Review it was concluded that there was little likelihood of adverse impacts as a result of the rezoning of these sectors on threatened species or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

This Planning Proposal seeks a modest increase in the number of dwellings permitted in these sectors as forecast under *Warriewood Valley Planning Framework 2010* (adopted by Council on 3 May 2010).

This Planning Proposal is consistent with the recommendations of the recently adopted *Warriewood Valley Strategic Review Report 2012* which is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy* and the findings of several environmental studies which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

Any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP.

9. How has the planning proposal adequately addressed any social and economic effects?

The lands the subject of this Planning Proposal comprises identified residential sectors within the Warriewood Valley Release Area (land release identified in the State Government's MDP). A suite of studies were undertaken for the original Warriewood Valley urban land release, including consideration of social and economic effects. This Planning Proposal will therefore not have any marked negative social or economic effects.

The north-east portion of Orchard Street Road Reserve to be rezoned does not require reclassification under the Local Government Act. It will however need to be "closed" under the Roads Act and subsequent subdivision, to be undertaken separate to this Planning Proposal.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

As the subject lands form part of the Warriewood Valley Land Release, public infrastructure is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)*. Council has commenced a review of this plan to account for the additional infrastructure required as a result of the additional dwellings now anticipated in the release area.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The Department of Planning & Infrastructure is attending to a review of flood evacuation requirements in regard to emergency flood evacuation policy and the requirements of the NSW State Emergency Service (SES) which arose during the investigative stages of the Warriewood Valley Strategic Review. It is understood that this intra-government review of its flood evacuation policy to resolve a consistent approach to land release development and flood evacuation requirements is due for completion in 2013.

Council's resolution of 12 June 2013 is to progress this Planning Proposal subject to the NSW Government agreeing to an emergency response policy being facilitated by an excavation route at the 1% AEP.

The following preliminary views were expressed by state and service agencies during the public exhibition of Council's local strategic plan for Warriewood Valley which recommends an increase in the numbers of dwellings in the release area.

Response from Department of Education & Communities (DEC):

- Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students.
- For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

Response from Roads & Maritime Services (RMS):

- The RMS has advised that it supports the Strategic Review's recommendations, provided that:-
 - The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and
 - No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

Response from Sydney Water:

- Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

Response from Ausgrid:

- Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

Response from Department of Health – Northern Sydney Local Health District (NSLHD):

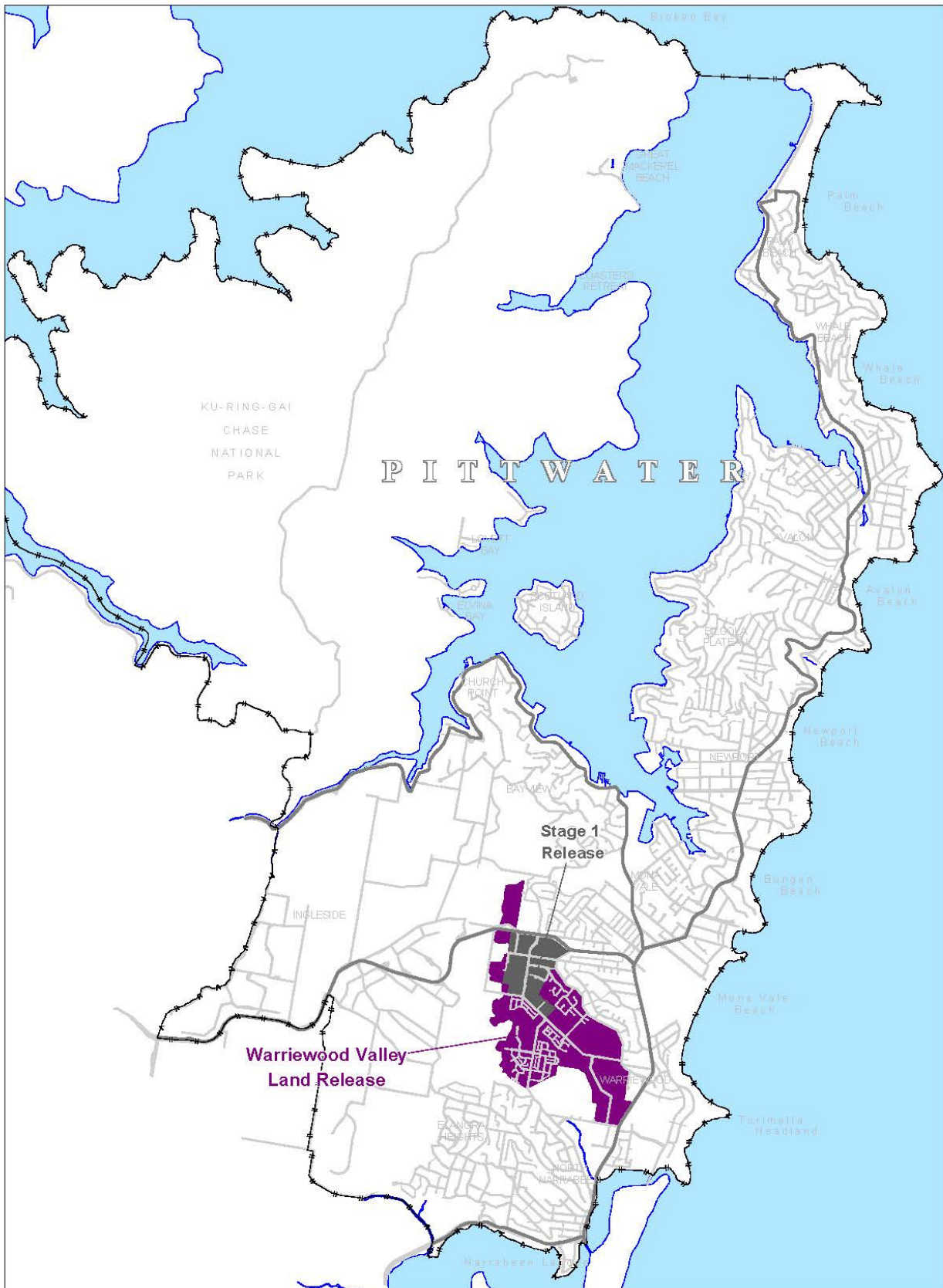
- NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.
- NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycleways be separated from traffic to allow for safe, active transport and to increase participant numbers.

Response from Office of Environment & Heritage (OEH):

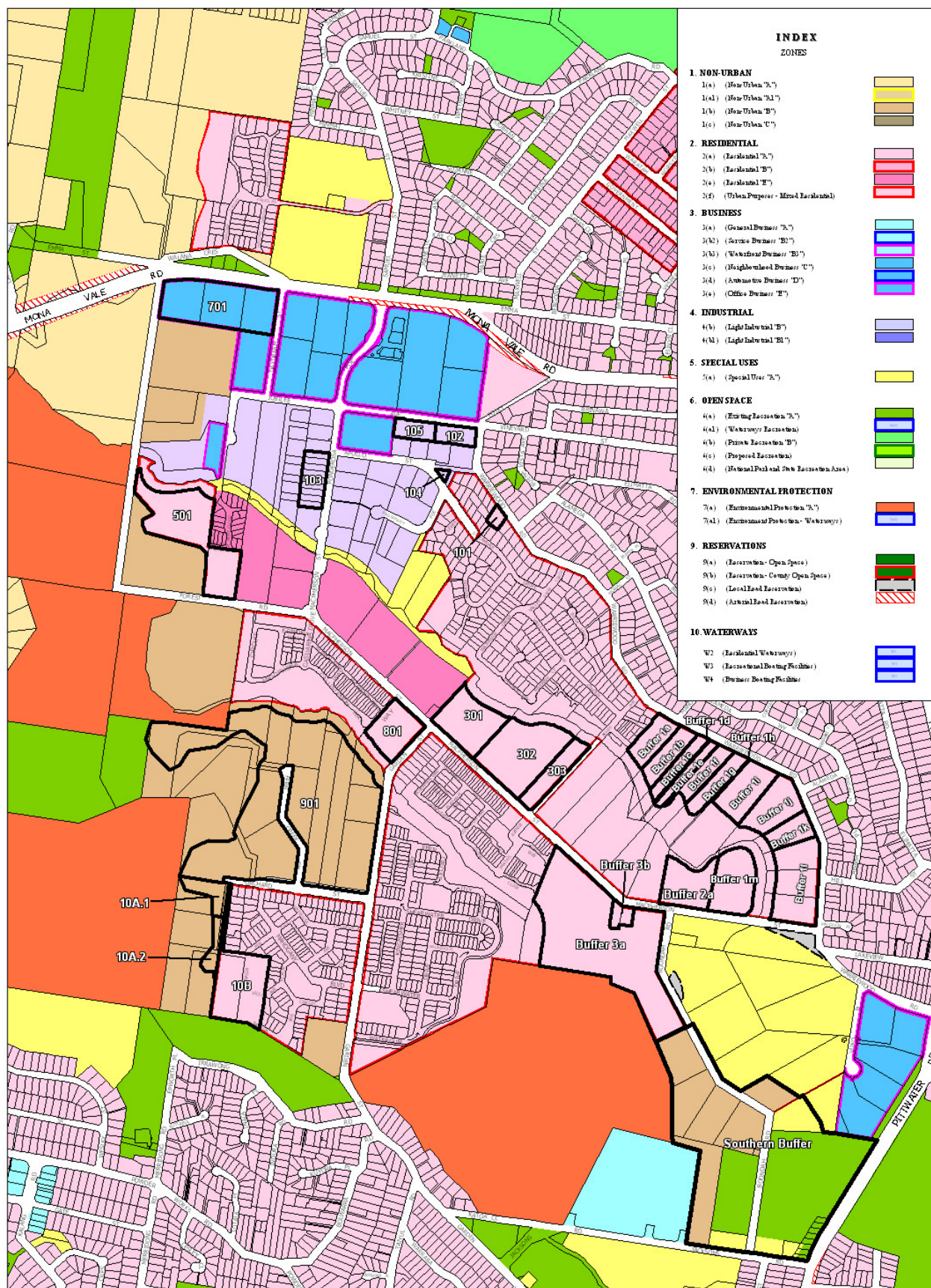
- The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

PART 4 MAPPING

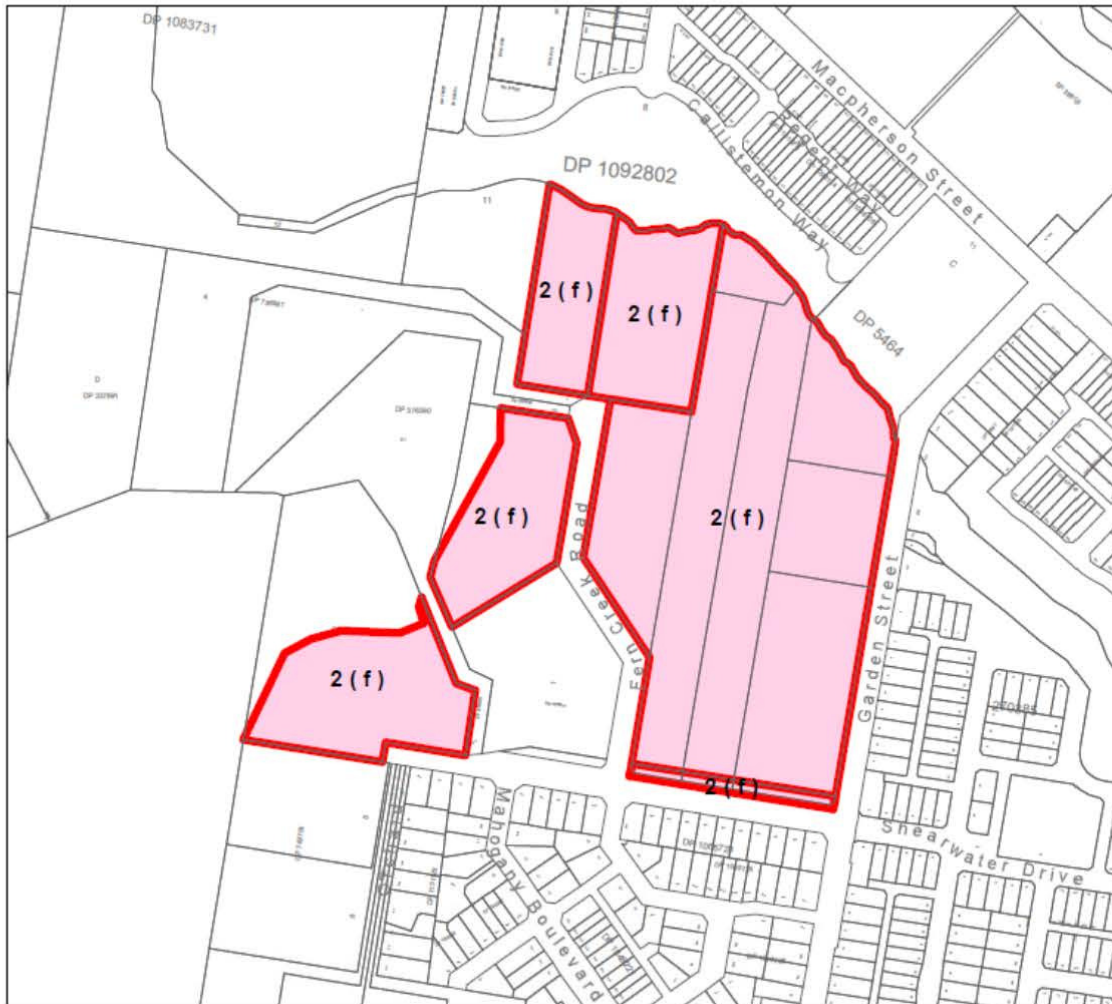
Map 1: Location Map – Warriewood Valley Release Area



Map 2: Current Sectors – Warriewood Valley Planning Framework 2010



Map 3: Pittwater Local Environmental Plan Sheet 1



2(f) - Urban Purposes - Mixed Residential

2 (f)

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LOCALITY WARRIEWOOD

Sheet 1 of 12

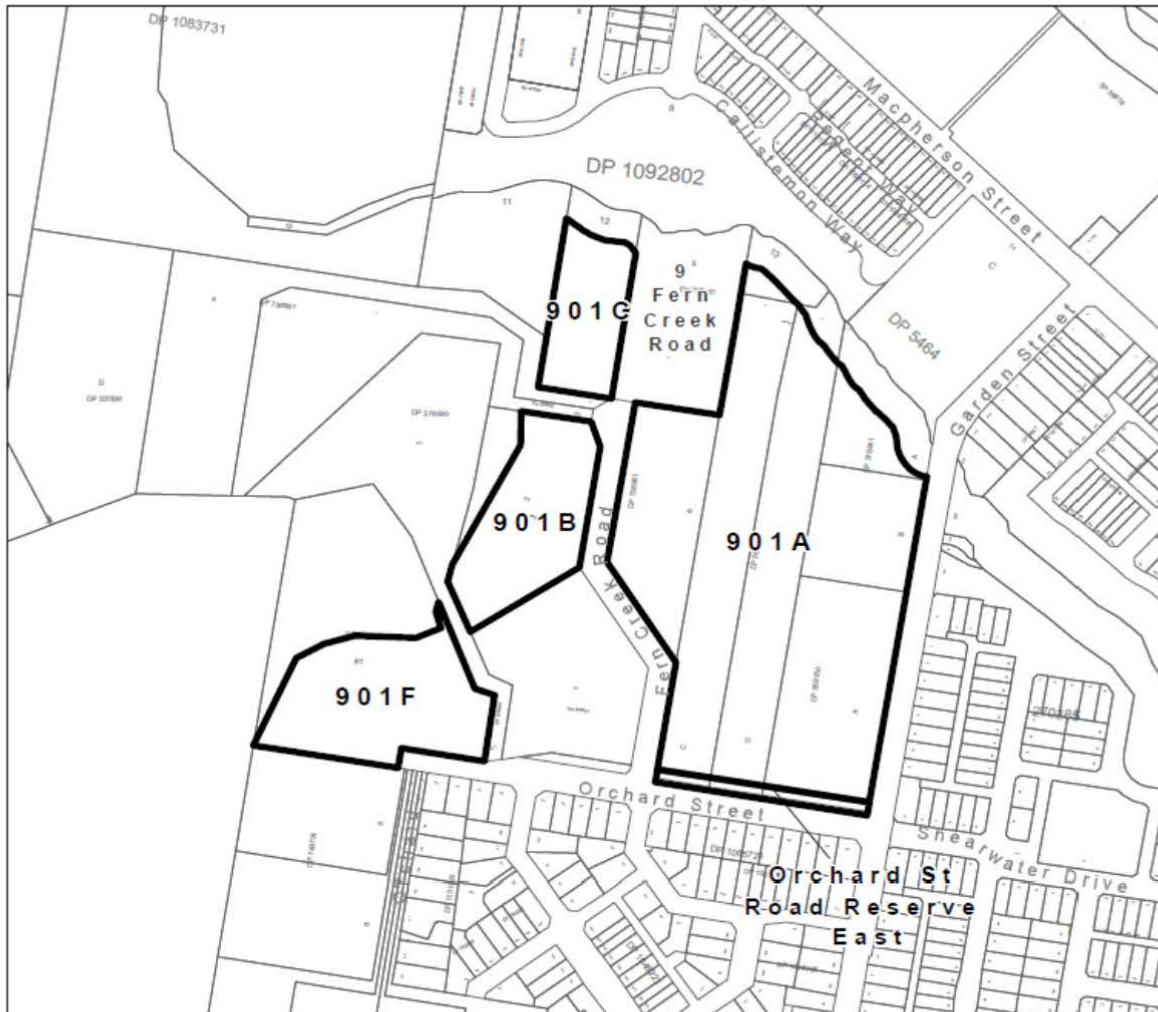
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979



PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

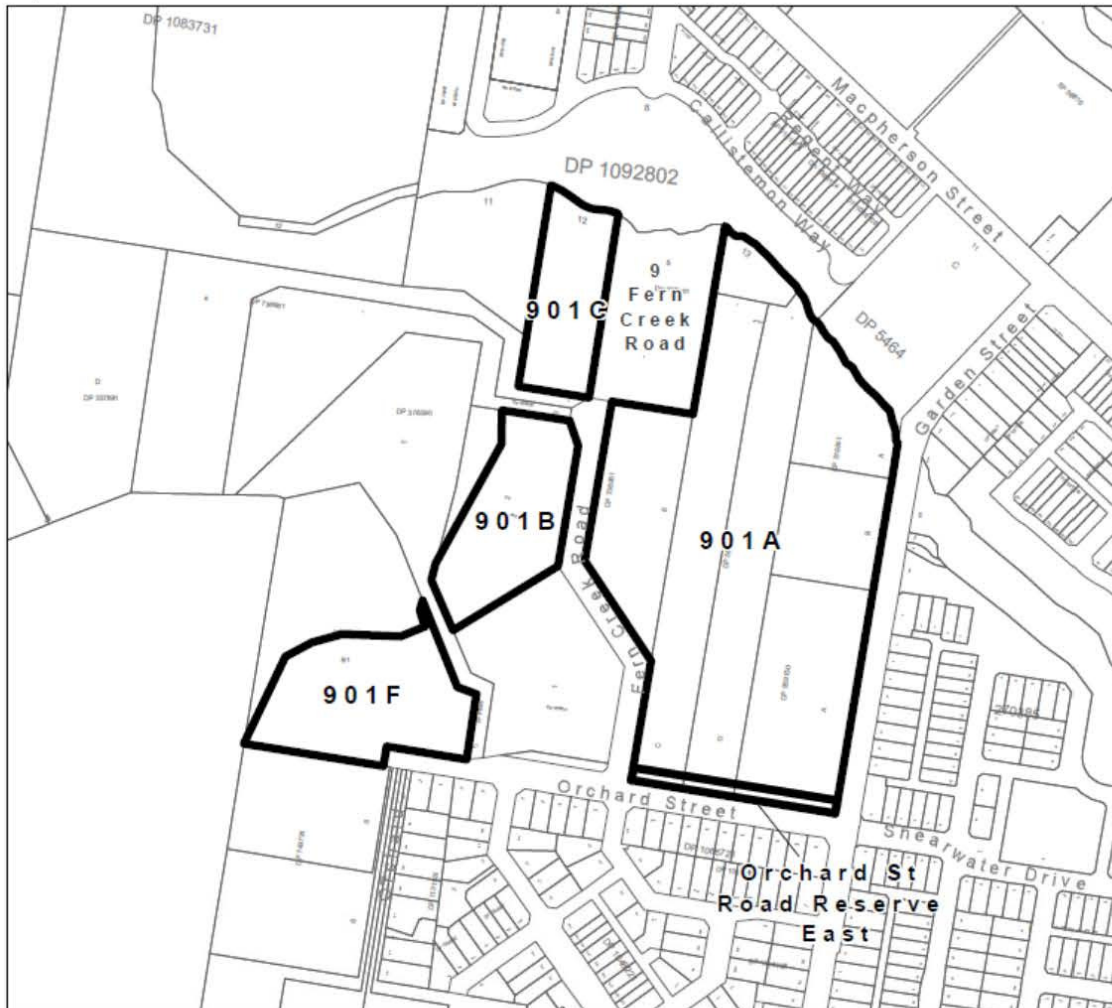
DRAWN BY M TURNBULL	DATE: 10.07.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 5 - "The Zoning Map"
PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP831		
COUNCIL FILE NO.		
DEPT. FILE NO.		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION GENERAL MANAGER DATE:
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Map 4: Pittwater Local Environmental Plan 1993 Sheet 2



 NORTH	SUBJECT LAND SHOWN THUS 	
SCALE 1:5000	LOCALITY WARRIEWOOD	Sheet 2 of 12
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)		
DRAWN BY M TURNBULL DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30B - "Development of UDP land in Warriewood Valley" CLAUSE 30C - "Dwelling Yield"	
PLANNING OFFICER T. STAGNI		
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Map 5: Pittwater Local Environmental Plan 1993 Sheet 3



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DRAWN BY M TURNBULL	DATE: 10.07.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30E - "Public infrastructure in urban release areas"
PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP831		
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Map 6: Pittwater Local Environmental Plan 1993 Sheet 4



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STATEMENT OF RELATIONSHIP WITH OTHER PLANS

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CLAUSE 30B - "Development of UDP land in Warriewood Valley"
CLAUSE 30C - "Dwelling Yield"

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Map 7: Pittwater Local Environmental Plan 1993 Sheet 5



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ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

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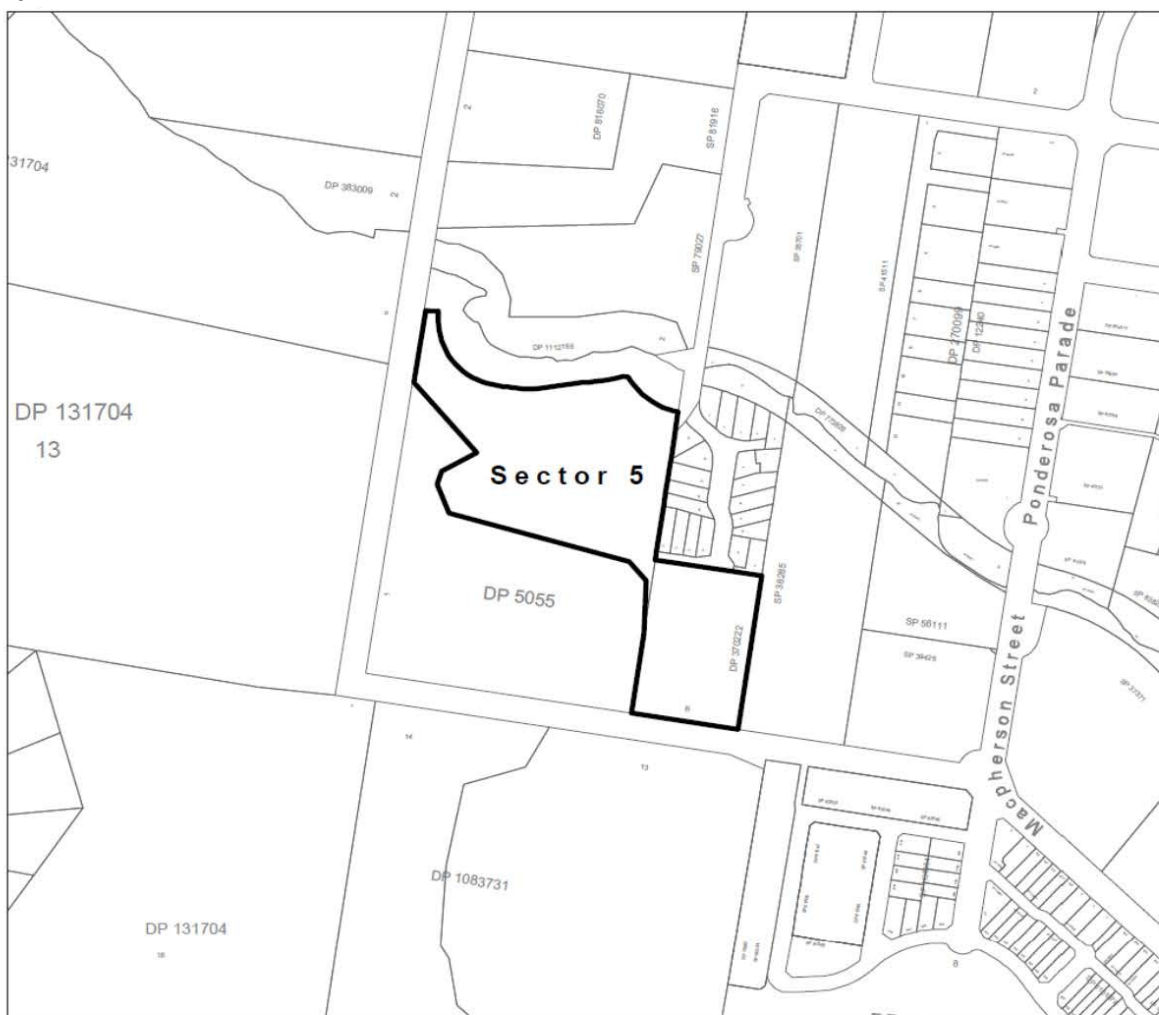
CLAUSE 30E - "Public infrastructure in urban release areas"

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Map 8: Pittwater Local Environmental Plan 1993 Sheet 6



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PLANNING OFFICER T. STAGNI

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COUNCIL FILE NO.

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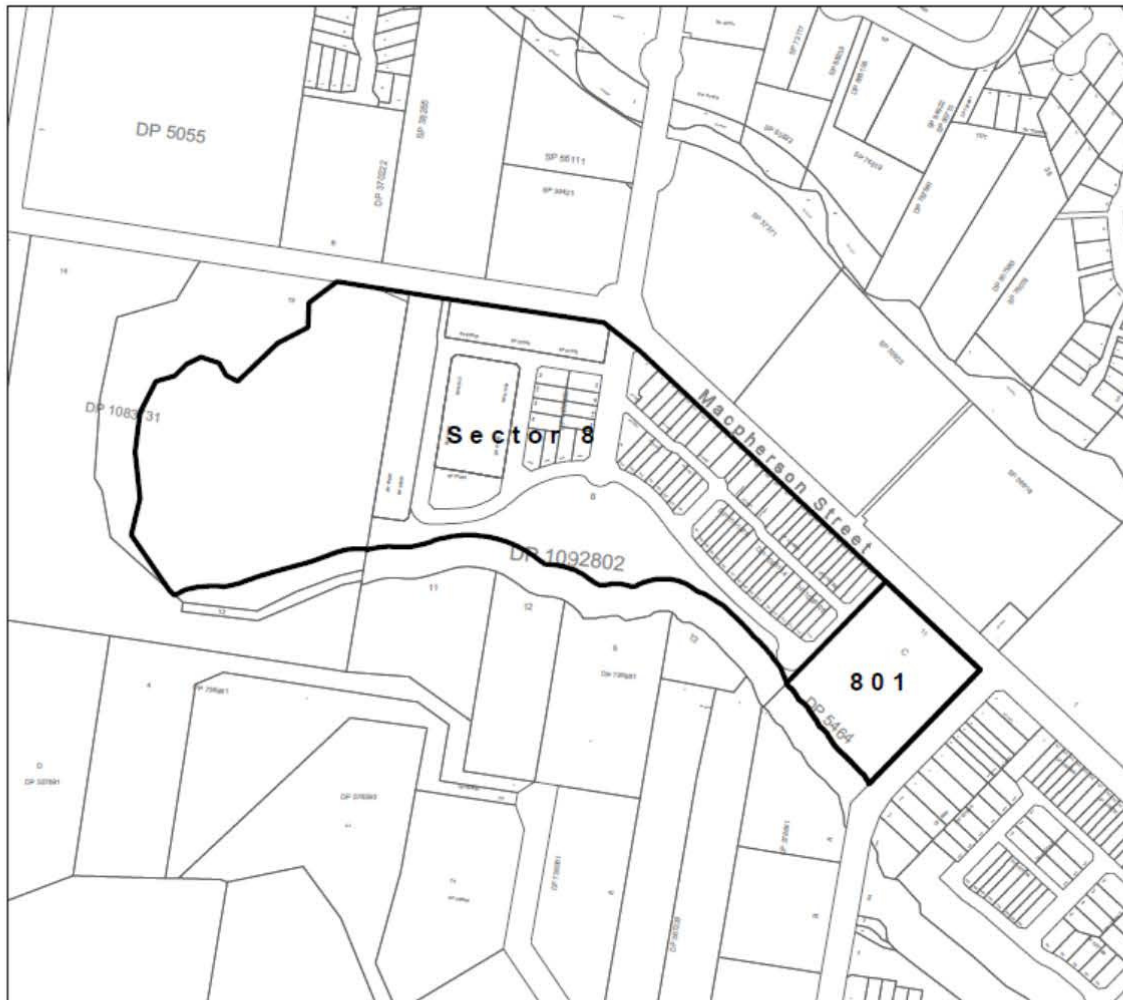
CLAUSE 30B - "Development of UDP land in Warriewood Valley"
CLAUSE 30C - "Dwelling Yield"

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Map 9: Pittwater Local Environmental Plan 1993 Sheet 7



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ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

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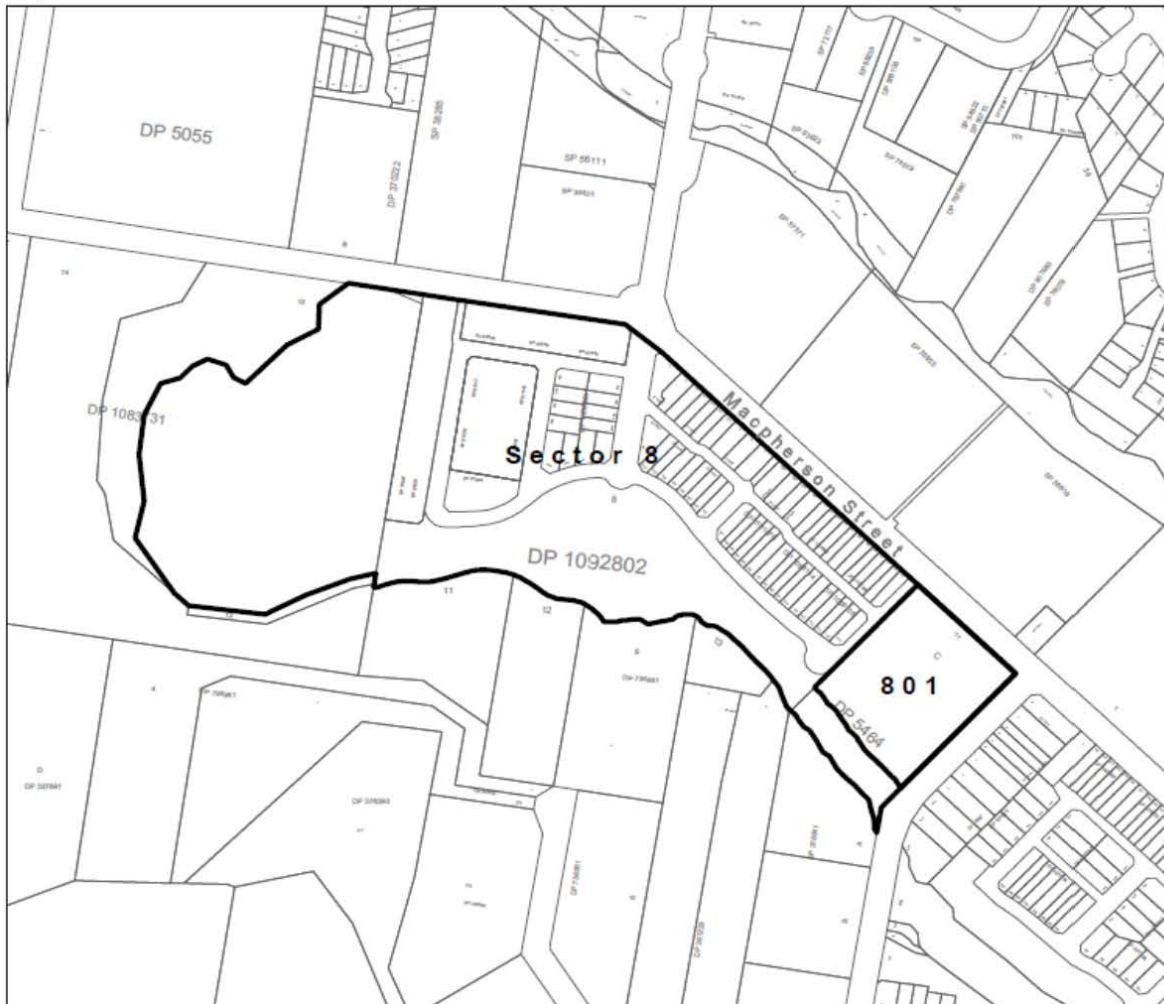
CLAUSE 30B - "Development of UDP land in Warriewood Valley"
CLAUSE 30C - "Dwelling Yield"

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Map 10: Pittwater Local Environmental Plan 1993 Sheet 8



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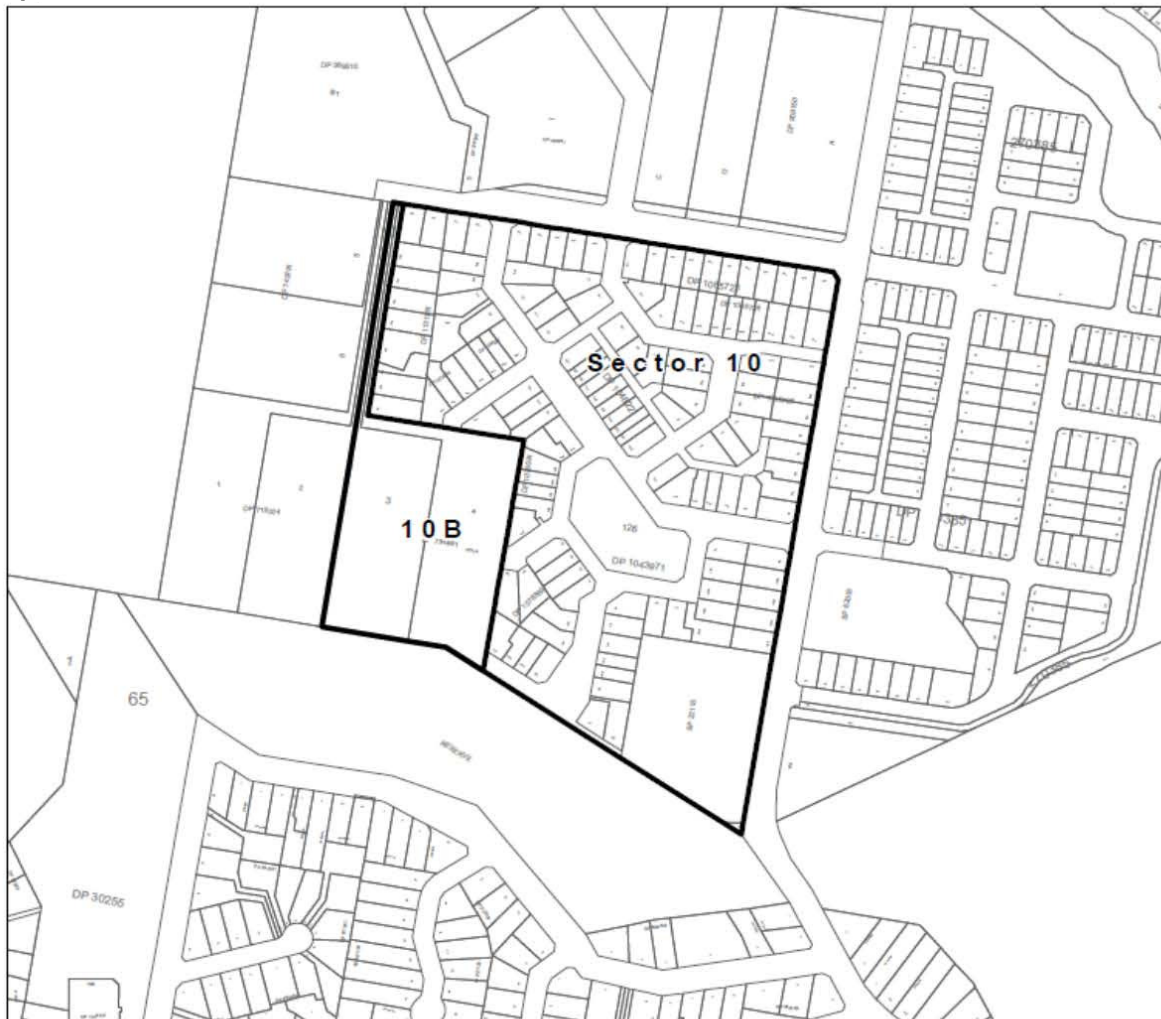
CLAUSE 30E - "Public infrastructure in urban release areas"

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Map 11: Pittwater Local Environmental Plan 1993 Sheet 9



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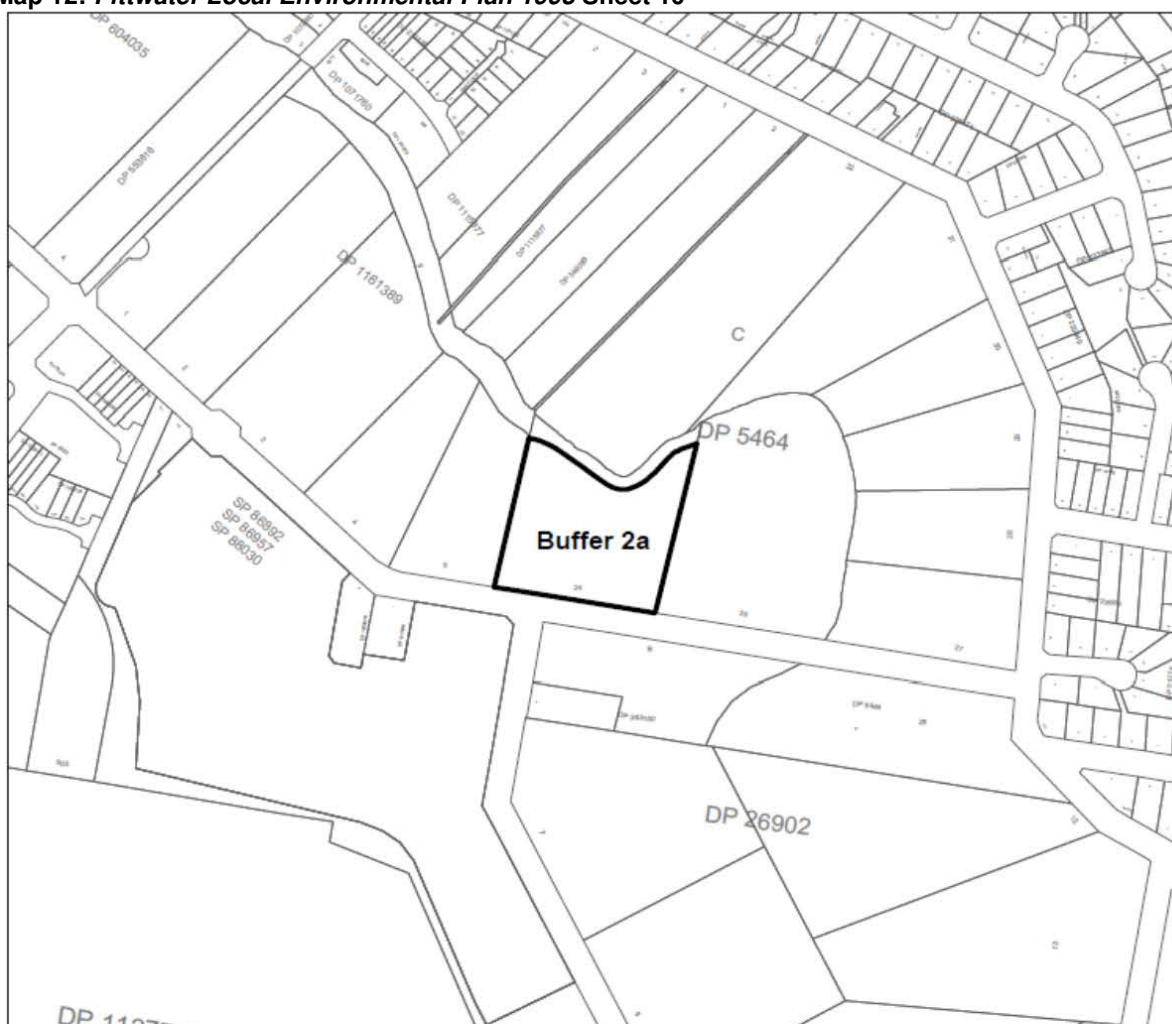
CLAUSE 30E - "Public infrastructure in urban release areas"

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Map 12: *Pittwater Local Environmental Plan 1993* Sheet 10



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CLAUSE 30C - "Dwelling Yield"

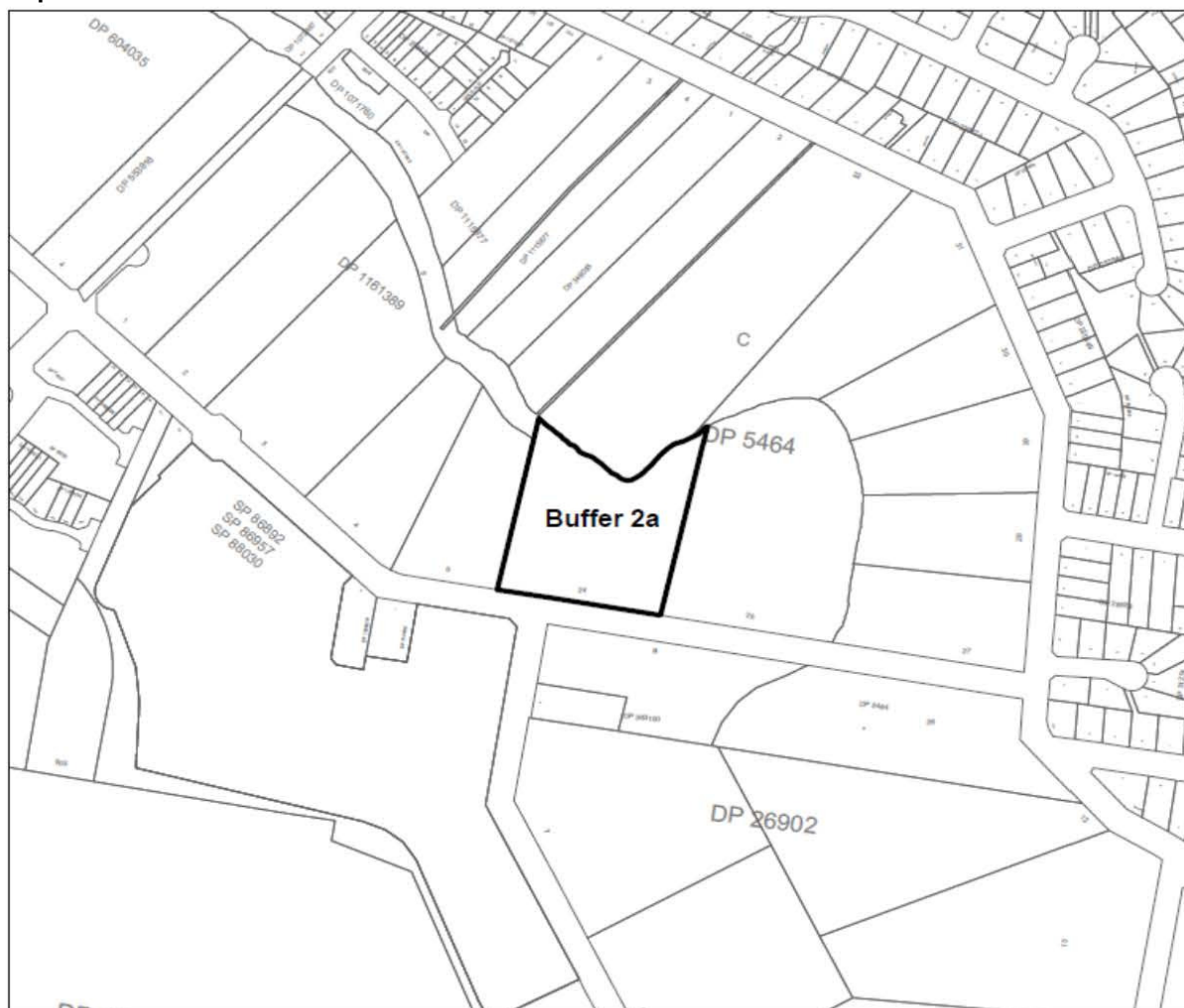
CLAUSE 30D - "Mitigation of odours from the Warriewood Sewerage Treatment Plant"

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Map 13: Pittwater Local Environmental Plan 1993 Sheet 11



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Map 14: Pittwater Local Environmental Plan 1993 Sheet 12



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LOCALITY WARRIEWOOD

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ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

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PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP831		
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PART 5 COMMUNITY CONSULTATION

The recently adopted *Warriewood Valley Strategic Review Report 2012* identifies increased development capacity, up to 32 dwellings per hectare, for Sectors 301, 302, 303; 5; 801 901A, 901B, 901C, 901F and Orchard Street road reserve and Buffer 2a & 3a.

The *Warriewood Valley Strategic Review Report 2012* was the subject of a comprehensive community consultation process and was endorsed by the Director-General of the Department of Planning & Infrastructure.

Infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)* which is currently being reviewed to account for additional infrastructure required as a result the additional dwellings now anticipated in the release area.

Subsequently, this Planning Proposal is considered a 'low impact' proposal.

In keeping with *A guide to preparing local environmental plans* (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period (*this may need to be extended if the exhibition occurs during the December to January school holiday period*)
- Notification in local newspaper at commencement of exhibition period
- Notification on Council's website for the duration of the exhibition
- Notification in writing to affected and adjoining landowners at commencement of exhibition period
- Notification in writing to the Warriewood Residents Association Incorporated at commencement of exhibition period

PART 6 PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Mid July 2013
Completion of required technical information		COMPLETED 2012
Government agency consultation		Pre-exhibition consultation COMPLETED 2012
Public exhibition	14 days (<i>pending school holiday period</i>)	August 2013
Consideration of submissions	4 weeks from close of public exhibition	Early September 2013
Consideration of proposal post-exhibition and report to Council	6 weeks from close of public exhibition	October 2013
Submission to Department to finalise LEP		Late October 2013 following Council decision
*RPA to make plan (if delegated)	6 weeks from Council decision	December 2013

**Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under section 59 of the Environmental Planning & Assessment Act in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal.*

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	
SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 70 – Affordable Housing (Revised Schemes)	YES	YES	
SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Justification for inconsistency

NIL

Checklist – Consideration of Section 117 Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	NO
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

Justification for inconsistency with Director 1.2

The Planning Proposal so far as it is inconsistent with Direction 1.2 relates to the rezoning of Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C & 901F in the Warriewood Valley Release Area from a rural zone to a residential zone.

Warriewood Valley is identified in the State Government's MDP. The proposed rezoning is consistent with recommendations of the *Warriewood Valley Strategic Review Report 2012* which has been endorsed by the Director-General of Planning & Infrastructure.

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

Justification for inconsistency with Direction 2.3

The Planning Proposal rezones Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C & 901F from a rural zone to a residential zone and introduces/amends the maximum dwelling yield permitted in Sectors 301, 302, 303; 501; 801; 901A, 90B, 901C & 901F; 10B; and Buffer 2a & 3a. Provisions already exist in Pittwater LEP 1993 for the protection and conservation of environmentally sensitive area and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	NO
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

Justification for inconsistency with Direction 3.2

The Planning Proposal relates to lands in the Warriewood Valley Release Area, identified in the State Government's MDP.

The Planning Proposal rezones Sectors 901A and adjoining Orchard Street Road Reserve, 901B, 901C & 901F from a rural zone to a residential zone and to the introduces maximum permitted dwelling yields in these sectors.

An amendment is also proposed to the maximum dwelling yield permitted in Sectors 301, 302, 303; 5, 801; 10B; and Buffer 2a & 3a, being lands are already zoned 2(f) (Urban Purposes – Mixed Residential).

The planning and development of Warriewood Valley is based on a suite of environmental studies and objectives relating to environmental issues, community facilities and infrastructure, heritage, urban design and financial viability. These objectives form the basis for the planning and implementation of development in Warriewood Valley and have been consistently applied by Pittwater Council and agreed to by the Department of Planning and Infrastructure over the years. In this regard, it did not contemplate opportunities for caravan parks and manufactured home estates.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

Justification for inconsistency with Direction 4.3

Sections of Fern Creek traverse Sectors 901A and 901C. The planning and development of Warriewood Valley is based on utilising the creek line corridor to convey the 1% AEP flood event. Development Controls prohibit vertical structures to be erected on that part of the land comprising the creek line corridor. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

Justification for inconsistency with Direction 4.4

This Planning Proposal is inconsistent with the direction insofar as consultation has not occurred with the Rural Fire Service.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

Justification for inconsistency with Direction 6.3

The Planning Proposal seeks to introduce/amend the maximum permissible dwelling yield provisions contained in Clause 30C of the Pittwater LEP. The application of Clause 30C, stipulating the maximum number of dwellings, is well established for the Warriewood Valley Release Area and is not a new provision.

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL



PLANNING PROPOSAL

PP0005/13

To rezone Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G and 9 Fern Creek Road of the Warriewood Valley Urban Land Release Area to a residential zone

To introduce maximum dwellings permitted in Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G of the Warriewood Valley Release Area

PART 1 OBJECTIVES OR INTENDED OUTCOMES

To rezone specific land 2(f) (Urban Purposes – Mixed Residential) under Pittwater LEP, being:

- 1 Fern Creek Rd (Lot 1 DP 736961) and adjoining Orchard Street Road Reserve (*identified as Sector 901D and adjoining Orchard Street Road Reserve*)
- 12 Orchard Street (Lot C1 DP 373690) - *battle axe portion only (identified as Sector 901E),*
- Lot 11 DP 1092788 (*identified as Sector 901G*),
- 9 Fern Creek Road (*Lot 5 DP736961*)

To introduce maximum numbers of dwelling number permitted in:

- Sector 901D and adjoining Orchard Street Road Reserve and Sector 901E
- Sector 901G

of the Warriewood Valley Release Area.

It is not intended to state a dwelling yield for 9 Fern Creek Road.

PART 2 EXPLANATION OF PROVISIONS

The proposed outcome will be achieved by:

- An amended zoning map is provided for this Planning Proposal (See **MAP 3**) and will require amending Clause 5 of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of definition of “the Zoning Map” contained in subclause (1), this paragraph:

[Pittwater Local Environmental Plan 1993 \(Amendment No. #\) – Sheet 1](#)

- A new map is provided for this Planning Proposal (See **MAP 4**) and will require amending Clause 30B of the *Pittwater Local Environmental Plan 1993* as follows:-

Insert at the end of subclause (1), this paragraph:

[Land at Warriewood within Sector 901D including north-west portion of road reserve, 901E and 901G of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 2 of the map marked “Pittwater Local Environmental Plan 1993 \(Amendment No. #\)”.](#)

- Amending Clause 30C of the *Pittwater Local Environmental Plan 1993* as follows:-

[Sectors 901D and 901E including adjoining Orchard Street road reserve – not more than 16 dwellings](#)

[Sector 901G – not more than 6 dwellings](#)

- A new map is provided for this Planning Proposal (See **MAP 5**) and will require amending Clause 30E of the *Pittwater Local Environmental Plan 1993* as follows:-

Amend subclause (5) as follows and at the end of subclause (5) insert this paragraph:

- (c) a subdivision for the purpose only of rectifying an encroachment on any existing lot, or
- (d) any current or future residential development in the Warriewood Valley Urban Release Area.

Insert at the end of subclause (8), these paragraphs:

Sector 901D including northern portion of road reserve, 901E and 901G of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 3 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. #)".

PART 3 JUSTIFICATION

Section A Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The recently adopted *Warriewood Valley Strategic Review Report 2012* was the result of a joint undertaking by the Department of Planning & Infrastructure and Council to review the height and density standards for medium density residential development (being 25 to 60 dwellings per hectare) within the Release Area. The Strategic Review Report, endorsed by the Director-General of Planning & Infrastructure, however identified Sectors 901D including adjoining Orchard Street road reserve (north-west portion), 901E and 901G as not capable, due to environmental constraints, of development above 25 dwellings per hectare.

Council's adopted Warriewood Valley Planning Framework 2010 (adopted 3 May 2010) identified these lands had capacity for development at a lower density, and was further confirmed in Council's report of 12 June 2013 namely:

"Although the Final Draft Strategic Review Report recognised no development potential greater than 25 dwellings per hectare for some sectors, potential capacity for low density development (less than 25 dwellings per hectare) on Sector 901D, 901E, 901G is noted.

Sector 901D, 901E and Orchard Street road reserve

The Urban Design Consultant recommended Sector 901D be set aside as a park and lookout. Council staff have identified that Sector 901D is constrained by biodiversity, visual impact issues and high voltage overhead cables while Sector 901E comprises a battle-axe handle only. There is potential for Sectors 901D and 901E including the Orchard Street road reserve (north-east portion) to conglomerate, enabling more appropriate setbacks to constraints whilst maximise development potential across the two sectors.

Development controls will be developed to be incorporated into Pittwater 21 DCP as a future amendment to facilitate suitable residential form and retention of significant vegetation.

Sector 901G

Sector 901G adjoins Sector 901C which was recommended for development at 32 dwellings per hectare under the Strategic Review. The Urban Design Consultant recommended Sectors 901G and 901C be amalgamated for development (with the majority of the development placed on 901C, recognising asset protection zone and creek line buffer requirements constraining development on Sector 901G). Although Sector 901G is land-locked and constrained by biodiversity and the creek line corridor, this sector is owned by the same entity as Sector 901C, increasing likely opportunity of both sectors to be developed together...

Orchard Street Road Reserve

Council's Urban Infrastructure Unit advised that the Orchard Street road reserve, being 30 metres wide, is unnecessarily wide and can be narrowed to a local street with designated on-street parking in accordance with the adopted Warriewood Valley Roads Masterplan (2006). The 30m road reserve width could be reduced to:-

- 20 metres between to Fern Creek Road and Garden Street, and
- 16 metres, west of Fern Creek Road.

The unnecessary portions of the Orchard Street road reserve... comprise approximately 2,825 square metres of additional land that can be utilized, for residential development, subject to rezoning, if amalgamated with the already closed road reserve parcels and adjoining privately owned properties fronting Orchard Street.

If agreed, administrative provisions to "close" the two portions of road reserve under the Roads Act and subsequent subdivision need to be undertaken separate to rezoning."

This Planning Proposal is the outcome of the recommendation of Council staff to rezone this land to residential to facilitate low density development, consistent with Council's adopted Warriewood Valley Planning Framework 2010. These lands would be the last remaining parcels identified for residential development under the *Warriewood Valley Planning Framework 2010* and the recently adopted 2012 Strategic Review Report required to be rezoned. Rezoning of these lands will facilitate residential development that in turn, enables a range of densities and housing forms to occur in the Warriewood Valley Release Area.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is the best means of achieving the intended outcome as Council is only able to grant consent for residential development on lands in Warriewood Valley listed in Clause 30B. Progressing the Planning Proposal is also the only mechanism of enabling changes to be made to Clause 30C of Pittwater LEP and introducing maximum dwelling numbers for Sector 901D and road reserve, 901E and 901G.

Section B Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

This Planning Proposal is consistent with the objectives of the Sydney Metropolitan Strategy, in line with the State Plan, and the Draft North-East Subregional Strategy, where goals are set for housing and land supply.

Action C1 in the Draft North-East Subregional Strategy calls for ensuring the adequate supply of land and sites for residential development through the MDP. As Warriewood Valley forms part of the MDP, it is subsequently identified for accommodating new residential development. This Planning Proposal will increase housing supply and is therefore consistent with such an action.

This Planning Proposal would also be consistent with Action C4 of the Draft North-East Subregional Strategy, which calls for improving housing affordability. Once again, by increasing housing supply the Planning Proposal is consistent with such an action.

As the intended outcome of this Planning Proposal is to allow more dwellings to be built in the Warriewood Valley Release Area, it is subsequently consistent with the objectives and actions contained within the relevant strategic planning framework.

4. Is the planning proposal consistent with the council's local strategy or other local strategic plan?

This Planning Proposal is the outcome of the recommendation of Council staff to rezone this land to residential to facilitate low density development, supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy*.

The Planning Proposal is consistent with Council's adopted *Warriewood Valley Planning Framework 2010* (adopted May 2010) insofar as it identified these lands to be designated residential under the Warriewood Valley Release Area, and Council's report of 12 June 2013 (agreed to by Council resolution) which detailed the development potential of these sectors.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This Planning Proposal is generally consistent with the relevant State Environmental Planning Policies (see Appendix 1).

6. Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is generally consistent with the applicable Ministerial Directions. Where there are inconsistencies, justification has been provided addressing how the inconsistency can be waived consistent with the Directions (see Appendix 2).

C Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject Planning Proposal proposed to rezone Sectors 901D and 901E, adjoining Orchard Street Road Reserve and 901G from a non-urban to a residential zone. The Planning Proposal also seeks to apply a maximum dwelling yield for each of these sectors (yield allocated to 901D and E is contingent upon the sectors amalgamating).

During the undertaking of the Warriewood Valley Strategic Review it was identified that these sectors, due to their environmental attributes, would only have capacity for low density development, less than 25 dwellings per hectare. The aim of the Strategic Review was to identify sectors with capacity for intensified development, generally over 25 dwellings per hectare and as result Sectors 901D, E and G were not examined further as part of the review process.

Sector 901D currently contains a large dwelling, paddock and concrete driveway and 901E is only a battle axe handle which provides access to the rear property. While both sectors do contain a number of native canopy trees and as a result are currently mapped as having high biodiversity value the vegetation on the ground has been substantially disturbed and there is no understorey layer.

Council is aware of historical records which listed threatened species, including the Regent Honeyeater, Little Lorikeet, Little Bentwing Bat and Eastern Bentwing Bat in this vicinity of Sector 901D and E, however these sectors in their current state are not considered by Council to provide core habitat for these listed threatened species, which in the case of the two bird species are very rare and infrequent visitors to the Pittwater LGA, and therefore these sectors are unlikely to support these species apart from possibly the occasional passing through.

Sector 901G it is mapped as having medium biodiversity value and is traversed by Fern Creek at its rear boundary. The creek line contains a mixture of native and exotic vegetation however the rest of the site has been largely cleared. The native vegetation in the creek line is in only in moderate condition.

Any future development of Sector 901G is restricted to the 'developable area' of the site, situated outside of this creek line (as shown on Map 4). Conditions of any future development approval will also require the creek line to be rehabilitated and revegetated with native endemic species.

Council staff have identified that Sector 901D, while constrained by biodiversity issues, if amalgamated with Sector 901E, would have potential for low density development (approximately 10 dwellings per hectare and subject to further ecological and arboricultural assessment to determine appropriate building envelope location). Similarly, Council staff identified Sector 901G as constrained by biodiversity and the creek line corridor limitations; however has potential for low density development (approximately 10 dwellings per hectare).

It is concluded that this Planning Proposal is unlikely to result in any adverse impacts to threatened species or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

This Planning Proposal is supported by mapping layers adopted by Council in 2011 as part of the *Pittwater Local Planning Strategy* and the findings of several environmental studies undertake during the *Warriewood Valley Strategic Review* which considered flooding and water management, traffic and transport, urban design and economic feasibility issues.

Any future Development Application will require assessment under Section 79C of the EP&A Act and will be subject to several provisions and development controls, including those related to flooding, bushfire prone land, waste, land contamination, geotechnical hazards, heritage and traffic, through the Pittwater LEP and Pittwater 21 DCP.

Additionally site specific development controls subservient to statutory provisions, will be incorporated into Pittwater 21 DCP to facilitate suitable residential form and retention of significant vegetation.

9. How has the planning proposal adequately addressed any social and economic effects?

The lands the subject of this Planning Proposal comprises identified residential sectors within the Warriewood Valley Release Area (land release identified in the State Government's MDP). A suite of studies were undertaken for the original Warriewood Valley urban land release, including consideration of social and economic effects. This Planning Proposal will therefore not have any marked negative social or economic effects.

The north-west portion of Orchard Street Road Reserve to be rezoned does not require reclassification under the Local Government Act. It will however need to be "closed" under the Roads Act and subsequent subdivision, to be undertaken separate to this Planning Proposal.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

As the subject lands form part of the Warriewood Valley Land Release, public infrastructure is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)*. Council has commenced a review of this plan to account for the additional infrastructure required as a result of the additional dwellings now anticipated in the release area.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The Department of Planning & Infrastructure is attending to a review of flood evacuation requirements in regard to emergency flood evacuation policy and the requirements of the NSW State Emergency Service (SES) which arose during the investigative stages of the Warriewood Valley Strategic Review. It is understood that this intra-government review of its flood evacuation policy to resolve a consistent approach to land release development and flood evacuation requirements is due for completion in 2013.

Council's resolution of 12 June 2013 is to progress this Planning Proposal subject to the NSW Government agreeing to an emergency response policy being facilitated by an excavation route at the 1% AEP.

The following preliminary views were expressed by state and service agencies during the public exhibition of Council's local strategic plan for Warriewood Valley which recommends an increase in the numbers of dwellings in the release area.

Response from Department of Education & Communities (DEC):

- Based on up to an additional 500 dwellings, the DEC advises that there is adequate capacity at Narrabeen Sports High School to accommodate senior students.
- For primary students, the Department expects that there would be a need to increase capacity at either Narrabeen North Public School or Mona Vale Public School.

Response from Roads & Maritime Services (RMS):

- The RMS has advised that it supports the Strategic Review's recommendations, provided that:-
 - The maximum number of approved dwellings in the Warriewood study area does not exceed 2544 dwellings, and
 - No further development is approved for the area identified as the Southern Buffer until further traffic modelling is carried out on the Pittwater Road/Warriewood Road and Pittwater Road/Mona Vale Road intersections.

Response from Sydney Water:

- Sydney Water advises there is capacity in both water and wastewater systems to service the proposed density increase in Warriewood Valley.

Response from Ausgrid:

- Ausgrid expects that supply to the proposed development would be able to be provided from the electricity substations at Mona Vale or Narrabeen.

Response from Department of Health – Northern Sydney Local Health District (NSLHD):

- NSLHD notes that the northeast is Sydney's most car dependent subregion and recommends that the frequency and the capacity of the public transport system be improved to accommodate the proposed increase in density.

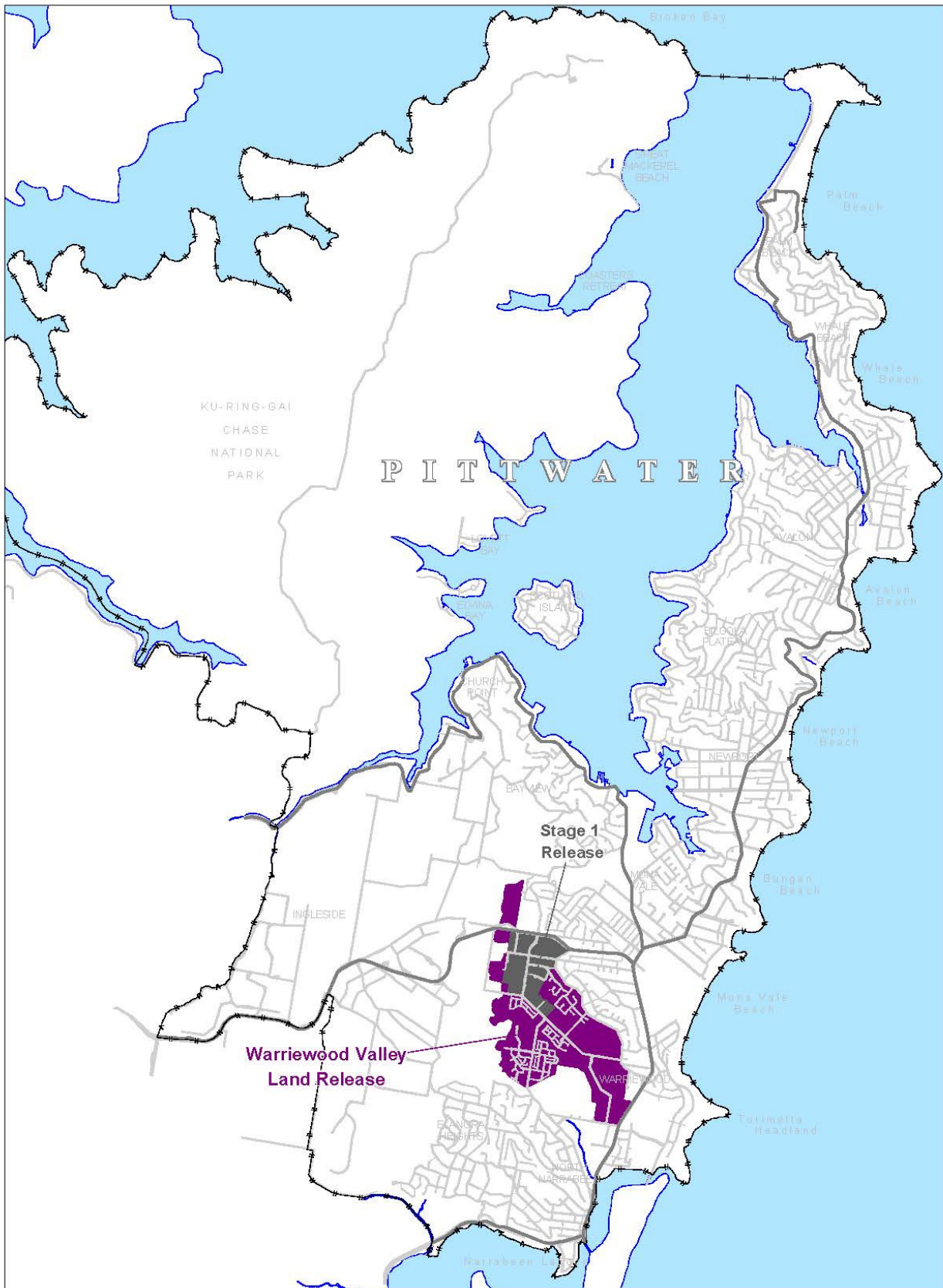
- NSLHD commends the inclusion of pedestrian and cycle links throughout Warriewood, but recommends that cycle ways be separated from traffic to allow for safe, active transport and to increase participant numbers.

Response from Office of Environment & Heritage (OEH)”

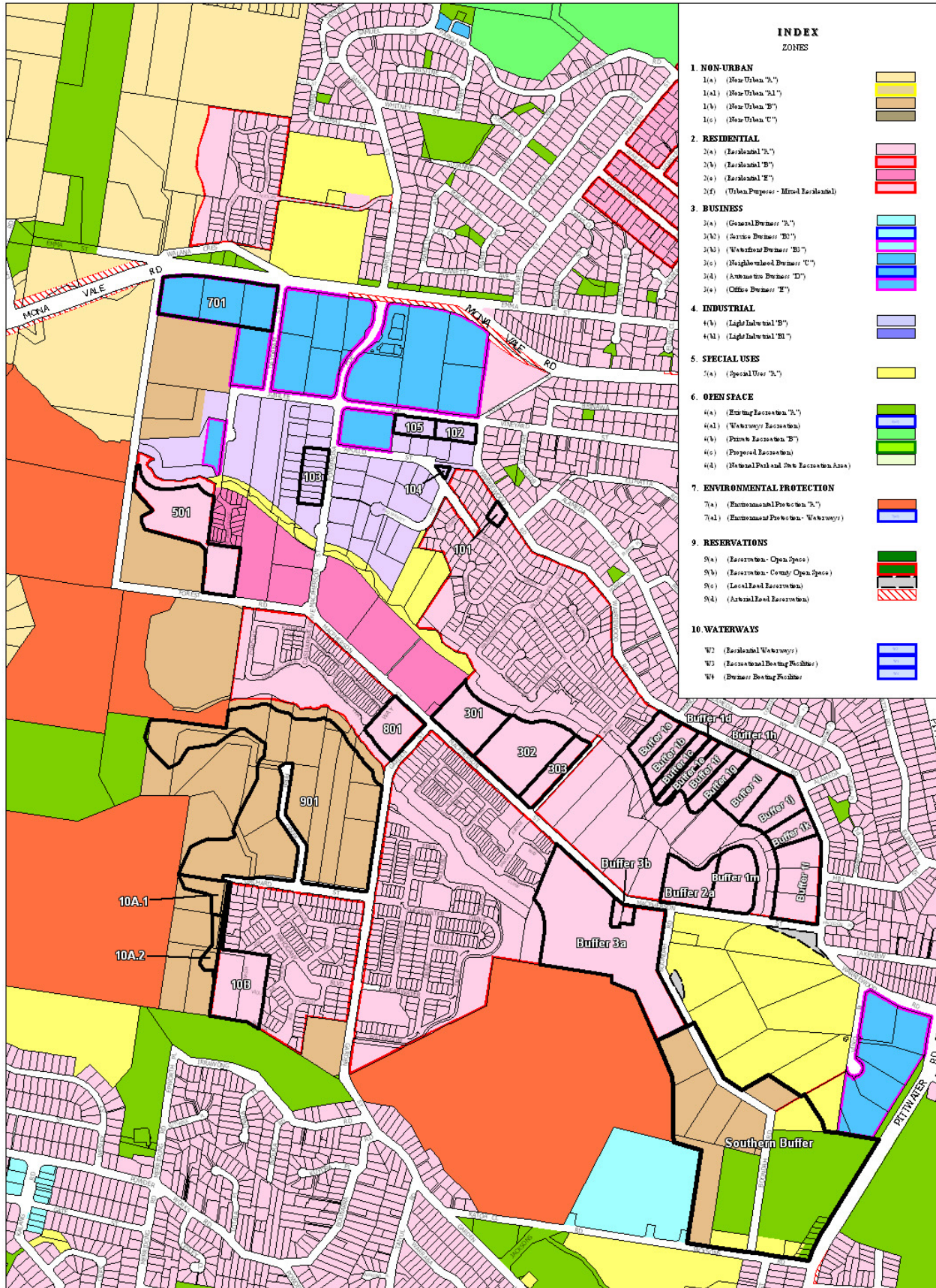
- The OEH generally supports the proposed increase in residential density, provided that flooding issues and bushfire protection issues are adequately considered and that riparian corridors can be retained and protected.

PART 4 MAPPING

Map 1: Location Map – Warriewood Valley Release Area



Map 2: Current Sectors – Warriewood Valley Planning Framework 2010



Map 3: Pittwater Local Environmental Plan 1993 Sheet 1



2(f) - Urban Purposes - Mixed Residential

2 (f)

SCALE 1:5000

LOCALITY WARRIEWOOD

Sheet 1 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL DATE: 21.05.13

PLANNING OFFICER T. STAGNI

CERTIFICATE PLAN NO. PP832

COUNCIL FILE NO.

DEPT. FILE NO.

GATEWAY DETERMINATION DATE

PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

CLAUSE 5 - "The Zoning Map

CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION

GENERAL MANAGER

DATE:

Map 4: *Pittwater Local Environmental Plan* Sheet 2



NORTH CAROLINA STATE UNIVERSITY

SUBJECT LAND SHOWN THUS



SCALE 1:5000

LOCALITY WARRIEWOOD

Sheet 2 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL	DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30B - "Development of UDP land in Warriewood Valley" CLAUSE 30C - "Dwelling Yield"
PLANNING OFFICER	T. STAGNI	
CERTIFICATE PLAN NO.	PP832	
COUNCIL FILE NO.		
DEPT. FILE NO.		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION
GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		
		GENERAL MANAGER DATE:

Map 5: Pittwater Local Environmental Plan Sheet 3



SUBJECT LAND SHOWN THUS



SCALE 1:5000

LOCALITY WARRIEWOOD

Sheet 3 of 3

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

PITTWATER

LOCAL ENVIRONMENTAL PLAN 1993 (AMENDMENT NO. XX)

DRAWN BY M TURNBULL	DATE: 21.05.13	STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMEND PITTWATER LOCAL ENVIRONMENTAL PLAN 1993 CLAUSE 30E - "Public infrastructure in urban release areas"
PLANNING OFFICER T. STAGNI		
CERTIFICATE PLAN NO. PP832		
COUNCIL FILE NO.		
DEPT. FILE NO.		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATION GENERAL MANAGER DATE:
GATEWAY DETERMINATION	DATE	
PLAN PUBLISHED ON NSW LEGISLATION WEBSITE ON		

PART 5 COMMUNITY CONSULTATION

This Planning Proposal is consistent with the pattern of surrounding land uses.

Infrastructure within the Warriewood Valley Release Area is provided through the *Warriewood Valley Section 94 Contributions Plan No. 15 (Amendment 16)* which is currently being reviewed to account for additional infrastructure required as a result the additional dwellings now anticipated in the release area.

Subsequently, this Planning Proposal is considered a 'low impact' proposal.

In keeping with *A guide to preparing local environmental plans* (Department of Planning & Infrastructure, 2012) the following consultation is considered appropriate:

- 14 day exhibition period (*this may need to be extended if the exhibition occurs during the December to January school holiday period*)
- Notification in local newspaper at commencement of exhibition period
- Notification on Council's website for the duration of the exhibition
- Notification in writing to affected and adjoining landowners at commencement of exhibition period
- Notification in writing to the Warriewood Residents Association Incorporated at commencement of exhibition period

PART 6 PROJECT TIMELINE

Planning Proposal Milestone	Timeframe	Anticipated Completion Date
Date of Gateway determination	6 weeks from Council decision to forward Planning Proposal to Gateway	Mid July 2013
Completion of required technical information		COMPLETED 2012
Government agency consultation		Pre-exhibition consultation COMPLETED 2012
Public exhibition	14 days (<i>pending school holiday period</i>)	August 2013
Consideration of submissions	4 weeks from close of public exhibition	Early September 2013
Consideration of proposal post-exhibition and report to Council	6 weeks from close of public exhibition	October 2013
Submission to Department to finalise LEP		Late October 2013 following Council decision
*RPA to make plan (if delegated)	6 weeks from Council decision	December 2013

**Council's General Manager (Council's sub-delegate) seeks to exercise the LEP making powers delegated under section 59 of the Environmental Planning & Assessment Act in regard to this Planning Proposal. Council's General Manager requests that a Written Authorisation to Exercise Delegation be issued in regard to this Planning Proposal.*

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	YES	YES	
SEPP No 4 – Development Without Consent and Miscellaneous Exempt and Complying Development	YES	YES	
SEPP No 6 – Number of Storeys in a Building	YES	YES	
SEPP No 14 – Coastal Wetlands	NO	N/A	
SEPP No 21 – Caravan Parks	NO	N/A	
SEPP No 22 – Shops and Commercial Premises	NO	N/A	
SEPP No 26 – Littoral Rainforests	NO	N/A	
SEPP No 30 – Intensive Agriculture	NO	N/A	
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	NO	N/A	
SEPP No 33 – Hazardous and Offensive Development	NO	N/A	
SEPP No 44 – Koala Habitat Protection	NO	N/A	
SEPP No 50 – Canal Estate Development	NO	N/A	
SEPP No 55 – Remediation of Land	NO	N/A	
SEPP No 60 – Exempt and Complying Development	YES	YES	
SEPP No 62 – Sustainable Aquaculture	NO	N/A	
SEPP No 64 – Advertising and Signage	YES	YES	
SEPP No 65 – Design Quality of Residential Flat Development	YES	YES	

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
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SEPP 71 – Coastal Protection	NO	N/A	
SEPP (Affordable Rental Housing) 2009	YES	YES	
SEPP (Building Sustainability Index: BASIX) 2004	YES	YES	
SEPP (Exempt and Complying Development Codes) 2008	YES	YES	
SEPP (Housing for Seniors or People with a Disability) 2004	YES	YES	
SEPP (Infrastructure) 2007	YES	YES	
SEPP (Major Development) 2005	NO	N/A	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	N/A	
SEPP (Rural Lands) 2008	NO	N/A	
SEPP (Temporary Structures) 2007	NO	N/A	
SEPP (Urban Renewal) 2010	NO	N/A	

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	N/A	

Justification for inconsistency

NIL

Checklist – Consideration of Section 117 Ministerial Directions**1 Employment and Resources**

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	NO	N/A
1.2	Rural Zones	YES	NO
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	NO	N/A

Justification for inconsistency with Director 1.2

The Planning Proposal so far as it is inconsistent with Direction 1.2 relates to the rezoning of Sectors 901D and adjoining Orchard Street road reserve, 901E and 901G in the Warriewood Valley Release Area from a rural zone to a residential zone. The subject lands have been identified in the State Government's MDP. The proposed rezoning is consistent with Council's Warriewood Valley Planning Framework 2010 (adopted May 2010).

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	NO	N/A
2.2	Coastal Protection	NO	N/A
2.3	Heritage Conservation	YES	NO
2.4	Recreation Vehicle Areas	NO	N/A

Justification for inconsistency with Direction 2.3

The Planning Proposal seeks to rezone Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G from a rural zone to a residential zone and seeks to introduce to maximum permissible dwelling yield provisions in regard to these sectors.

Provisions already exist in Pittwater LEP 1993 for the protection and conservation of environmentally sensitive area and the conservation of heritage items, areas, objects and places. These provisions will continue to apply to the lands the subject to this Planning Proposal.

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	NO
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	NO	N/A
3.6	Shooting Ranges	NO	N/A

Justification for inconsistency with Direction 3.2

The Planning Proposal seeks to rezone Sectors 901D and adjoining Orchard Street Road Reserve, 901E and 901G from a rural zone to a residential zone and seeks to introduce to maximum permissible dwelling yield provisions in regard to these sectors.

The subject lands have been identified in the State Government's MDP. The planning and development of Warriewood Valley is based on a suite of environmental studies and objectives relating to environmental issues, community facilities and infrastructure, heritage, urban design and financial viability. These objectives form the basis for the planning and implementation of development in Warriewood Valley and have been consistently applied by Pittwater Council and agreed to by the Department of Planning and Infrastructure over the years. In this regard, it did not contemplate opportunities for caravan parks and manufactured home estates.

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	NO	N/A
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	NO
4.4	Planning For Bushfire Protection	YES	NO

Justification for inconsistency with Direction 4.3

Sections of Fern Creek traverse Sector 901G and 9 Fern Creek Road. The planning and development of Warriewood Valley is based on utilising the creek line corridor to convey the 1% AEP flood event. Development Controls prohibit vertical structures to be erected on that part of the land comprising the creek line corridor. This land is required to be rehabilitated and subsequently dedicated to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan*.

Justification for inconsistency with Direction 4.4

This Planning Proposal is inconsistent with the direction insofar as consultation has not occurred with the NSW Rural Fire Service.

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	YES	NO

Justification for inconsistency with Direction 6.3

The Planning Proposal in rezoning specified lands in the Warriewood Valley Release Area seeks a maximum permissible dwelling yield be applied. The application of Clause 30C, stipulating the maximum number of dwellings, is well established for the Warriewood Valley Release Area and is not a new provision.

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL

C12.5	Mining SEPP Amendment and coal seam gas exclusion zones
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Meeting: Sustainable Towns and Villages Committee

Date: 21 October 2013

STRATEGY: Land Use & Development

ACTION: Monitor legislative and regulatory reforms relating to land use planning and respond and advocate on behalf of Council

PURPOSE OF REPORT

This report is to inform the Council of recent amendments and proposed draft amendments to *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (known as the Mining SEPP). This report seeks Council's resolution to forward the attached submission to the NSW Department of Planning & Infrastructure.

1.0 BACKGROUND

- 1.1 On 4 October 2013 amendments to the Mining SEPP were made. The primary purpose of these amendments was to prohibit coal seam gas development in certain exclusion zones and provide additional protection for 'biophysical strategic agricultural land' and 'critical industry cluster land'.
- 1.2 The introduction of exclusion zones means that coal seam gas development is now prohibited on or under the following land:
 - land zoned R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential or RU5 Village (or the equivalent zones).
 - land in future residential growth areas as shown on the Future Residential Growth Areas Land Map, and
 - land within two kilometres of the abovementioned zones and future residential growth areas.
- 1.3 When the amendments to the Mining SEPP were made on 4 October 2013, the Future Residential Growth Areas Land Map identified only the North West Growth Centre and the South West Growth Centre.
- 1.4 A further amendment to the Mining SEPP is now on public exhibition until 8 November 2013, which aims to identify other areas to be added to the Future Residential Growth Areas Land Map, on and under which coal seam gas development is prohibited.

2.0 ISSUES

2.1 The Ingleside Release Area

- 2.1.1 The amendments to the Mining SEPP currently on public exhibition identify future residential growth areas in 56 council areas across NSW. The NSW Department of Planning & Infrastructure state that the future residential growth areas on exhibition are those that have to be identified in planning instruments or Government endorsed planning strategies.

- 2.1.2 The Ingleside release area, which is currently zoned 1(a) (Non-urban “A”) and proposed to be zoned RU2 Rural Landscape in the draft Pittwater LEP 2013, has not been included as a future residential growth area in the documents on public exhibition.
 - 2.1.3 Ingleside was identified in 1992 as a release area by the Metropolitan Development Program (MDP). The draft North East Subregional Strategy published in 2007 by the then Department of Planning, identified Ingleside as a land release area in the MDP and stated that it was originally estimated that the area could provide an additional 4,900 dwellings. The draft North East Subregional Strategy describes Ingleside as the only major land release area on the MDP within the North East subregion yet to be released and states that it is expected to be the primary source of greenfield housing development for the subregion to 2031.
 - 2.1.4 At its meeting on 18 February 2013, Council resolved to participate with the Department of Planning & Infrastructure and UrbanGrowth NSW in the Precinct Planning process for the Ingleside Release Area, which officially commenced in July 2013 and is scheduled to be completed by the end of 2014 (<http://www.pittwater.nsw.gov.au/ingleside>).
 - 2.1.5 Considering the process underway to plan for future residential development in Ingleside, the attached submission (**Attachment 1**) suggests that the Ingleside Study Area should be included as a future residential growth area where coal seam gas development is prohibited.
- 2.2 **The new E4 Environmental Living zone**
- 2.2.1 The NSW Government has stated that they are committed to making residential areas ‘off limits’ to coal seam gas activity. However, the amendments to the Mining SEPP that were made on 4 October 2013 only exclude land zoned R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential or RU5 Village (or the equivalent zones) from coal seam gas development.
 - 2.2.2 Under Council’s draft Standard Instrument LEP exhibited from March-April 2013, the E4 Environmental Living zone is proposed to cover a significant portion of residential land in the Pittwater Local Government Area, or approximately 9,870 residential allotments. The use of the E4 zone for Pittwater’s residential areas is consistent with the objective of the E4 zone ‘to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values’.
 - 2.2.3 The attached submission (**Attachment 1**) suggests that the definition of a ‘residential zone’ should be expanded to include the E4 Environmental Living zone which is designed to provide for low-impact residential development.
 - 2.2.4 In advocating for Ingleside to be included as a future residential growth area, and the E4 Environmental Living zone to be considered a ‘residential zone’, it is important to note that the potential or feasibility of coal seam gas development in the area has not been considered, and at present Council is not aware of any identified plans for any such development in the Pittwater Local Government Area.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 It is considered that the recent and proposed amendments to the Mining SEPP have little direct social impact on the Pittwater community.

3.2 **Valuing & Caring for our Natural Environment (Environmental)**

- 3.2.1 It is considered that the recent and proposed amendments to the Mining SEPP provide improved environmental protection from coal seam gas activities across the State. However, as specified in the submission at Attachment 1, additional residential areas of Pittwater should also be excluded from coal seam gas activities.

3.3 **Enhancing our Working & Learning (Economic)**

- 3.3.1 The recent and proposed amendments to the Mining SEPP provide increased certainty in an area that has been the subject of ongoing controversy throughout the State. However, as specified in the submission at Attachment 1, the Precinct Planning process is underway to plan for future residential development in Ingleside. Providing certainty that future residential development in Ingleside will not be impacted by coal seam gas activity is important to the Pittwater economy as it is expected to be the primary source of greenfield housing development for the subregion to 2031.

3.4 **Leading an Effective & Collaborative Council (Governance)**

- 3.4.1 Council is currently participating with the Department of Planning & Infrastructure and UrbanGrowth NSW in the Precinct Planning process for the Ingleside Release Area, which is scheduled to be completed by the end of 2014. The attached submission advocates for assurances that the work Council is undertaking on this project will not be undermined by coal seam gas activity.

3.5 **Integrating our Built Environment (Infrastructure)**

- 3.5.1 It is considered that the recent and proposed amendments to the Mining SEPP provide improved protection from coal seam gas activities for residential areas across the State. However, as specified in the submission at Attachment 1, all residential areas in Pittwater should be excluded from coal seam gas activities including land zoned E4 Environmental Living.

4.0 **EXECUTIVE SUMMARY**

- 4.1 On 4 October 2013 amendments to the Mining SEPP were made. The primary purpose of these amendments was to prohibit coal seam gas development in certain exclusion zones, including land zoned R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential or RU5 Village, and land in future residential growth areas.
- 4.2 A further amendment to the Mining SEPP is now on public exhibition until 8 November 2013, which aims to identify other areas to be added to the Future Residential Growth Areas Land Map.
- 4.3 The Ingleside release area has not been included as a future residential growth area in the documents on public exhibition. The submission at **Attachment 1** suggests that this area should be mapped as a future residential growth area for the purposes of the Mining SEPP, on and under which coal seam gas development is prohibited.
- 4.4 The submission at **Attachment 1** also suggests that the E4 Environmental Living zone should also be included as a residential zone where coal seam gas development is prohibited.
- 4.5 The closing date for submissions is 8 November 2013.

RECOMMENDATION

1. That Council note the contents of the above report and submission in relation to *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.
2. That Council endorse the attached submission for forwarding to the NSW Department of Planning & Infrastructure.

Report prepared by
Monique Tite, Senior Strategic Planner

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

Submission on the proposed amendments to the Mining SEPP - Stage two coal seam gas exclusion zones – by Pittwater Council

Pittwater Council welcomes the opportunity to comment on the draft amendments to *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (the Mining SEPP). Council has two key issues with the Mining SEPP which are described below.

KEY ISSUES

The Ingleside area should be included as a 'future residential growth area' on the Future Residential Growth Areas Land Map.

The proposed amendments to the Mining SEPP currently on public exhibition identify future residential growth areas in 56 council areas across NSW. The NSW Department of Planning & Infrastructure state that the future residential growth areas on exhibition are those that have to be identified in planning instruments or Government endorsed planning strategies.

The Ingleside release area has not been included as a future residential growth area in the documents on public exhibition.

Ingleside was identified in 1992 as a release area by the Metropolitan Development Program (MDP).

The draft North East Subregional Strategy published in 2007 by the then Department of Planning, identified Ingleside as a land release area in the MDP and stated that it was originally estimated that the area could provide an additional 4,900 dwellings. The draft North East Subregional Strategy describes Ingleside as the only major land release area on the MDP within the North East subregion yet to be released and states that it is expected to be the primary source of greenfield housing development for the subregion to 2031.

At its meeting on 18 February 2013, Council resolved to participate with the Department of Planning & Infrastructure and UrbanGrowth NSW in the Precinct Planning process for the Ingleside Release Area, which officially commenced in July 2013 and is scheduled to be completed by the end of 2014 (<http://www.pittwater.nsw.gov.au/ingleside>).

Considering the process underway to plan for future residential development in Ingleside, it is considered that the Ingleside Study Area (see attached map) should be included as a future residential growth area where coal seam gas development is prohibited.

The definition of a *residential zone* should be expanded to include the E4 Environmental Living zone.

Under Council's draft Standard Instrument LEP exhibited from March-April 2013, the E4 Environmental Living zone is proposed to cover a significant portion of residential land in the Pittwater Local Government Area, or approximately 9,870 residential allotments (see attached maps and land use table). The use of the E4 zone for Pittwater's residential areas is consistent with the objective of the E4 zone 'to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values'.

The 9,870 lots proposed to be zoned E4 Environmental Living have an average lot size of 898.8 square metres.

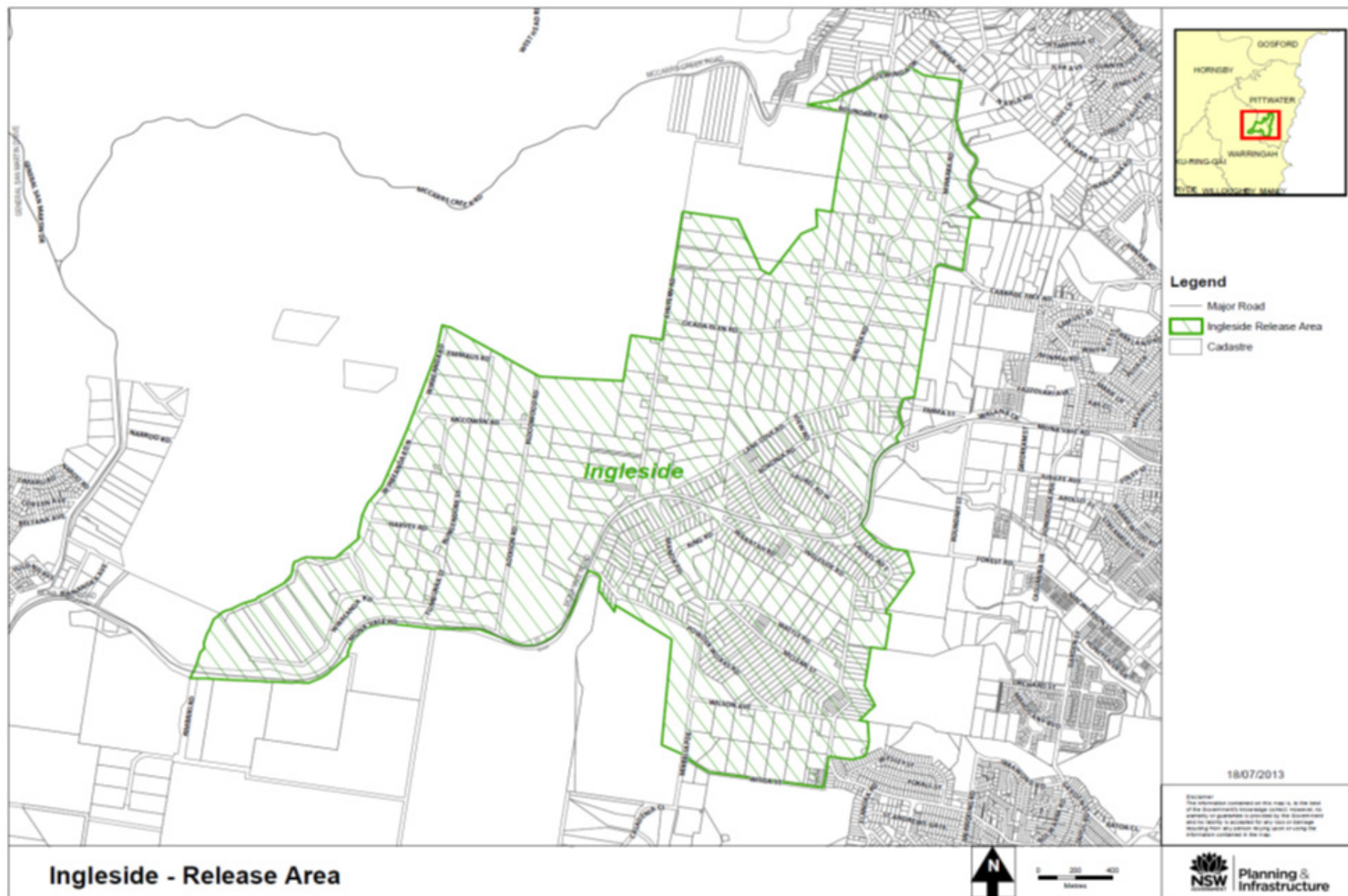
As the E4 Environmental Living zone is designed to provide for low-impact residential development and the NSW Government has stated they are committed to making residential areas off limits to coal seam gas activity, the E4 Environmental Living zone should be considered a 'residential zone' for the purposes of the Mining SEPP.

CONCLUSION

If the issues raised in this submission are not addressed through amendments to the Mining SEPP, it would leave most of Pittwater, which is predominately a residential suburban area, open to potential coal seam gas development despite the commitment of the NSW Government make residential areas 'off limits'.

Attachments to this submission:

- Map of Ingleside Release Area
- The draft Pittwater LEP 2013 Zoning Map and E4 Environmental Living land use table



C12.6	Minutes of the Pittwater Traffic Committee Meeting held on 10 September 2013
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Meeting: Sustainable Towns & Villages

Date: 21 October 2013

STRATEGY: Traffic and Transport

ACTION: Provide planning, design, investigation and management of traffic and transport facilities.

PURPOSE OF REPORT

To present to Council for consideration, the Traffic Committee Minutes of 10 September 2013.

1.0 BACKGROUND

- 1.1 The Traffic Committee recommendations for the Traffic Committee of 10 September 2013 (refer **Attachment 1**) are referred to Council for consideration. In accordance with the delegation of the Roads and Maritime Services (RMS) of NSW to Council, Council must consider the advice of the Traffic Committee before making a decision with respect to the management of traffic in Pittwater.

2.0 ISSUES

- 2.1 **Item 4.1: Walworth Road, Newport - Proposed Double Separation Lines - Supported**
- 2.2 **Item 4.2: Governor Phillip Park Access Road, Palm Beach - Proposed 'No Stopping' Restrictions - Supported**
- 2.3 **Item 4.3: Elanora Road, Elanora Heights - Parking Restrictions around the Elanora Public School**

Support for implementation of proposed parking restrictions and traffic chicane to improve road user safety and resident amenity around the Elanora Public School following consultation with affected property owners (refer **Agenda Item C12.7 Elanora Heights Public School - Traffic & Parking Improvement Scheme**).

- 2.4 **Item 4.4: Warraba Road, North Narrabeen - Changes to Parking Restrictions**

Proposal to change the operating restrictions of the existing 1 hour parking outside No.2 Warraba Road, from '8.30am-6pm Mon-Fri and 8.30am-12.30pm Sat' to '8.30am-6pm' applying everyday. **The Traffic Committee decision supported the proposal including an amendment to the existing 30 minute parking '8.30am-6pm' in front of No.3 Warraba Road to apply everyday to implement consistent parking times in this area.**

- 2.5 **Item 4.5: Whale Beach Road, Whale Beach - Proposed Double Separation Lines**

Proposed double separation lines along Whale Beach Road to restrict parking and enable road narrowing for footpath construction. **The Traffic Committee decision supported a proposal to amend the existing 'No Parking Saturday, Sunday or Public Holiday' restrictions on the south side of Whale Beach Road between No. 281 and Norma Road, to apply at all times instead of the provision of double separation lines.**

2.6 **Item 4.6: Pittwater Road, Mona Vale - Temporary Bus Zone for Mona Vale Market Day**

Provision of a Temporary Bus Zone to facilitate the operation of Forest Coach Lines bus services during the closure of Park Street for Mona Vale Market Day - **Supported**

2.7 **Item 4.7: Darley Street, Mona Vale - 1 Hour Parking Restrictions - Supported**

2.8 **Item 4.8: Dygal Street, Mona Vale - Proposed 'No Stopping' and Parking Restrictions**
Item deferred by Council for further consideration by the Traffic Committee **following additional submissions (Public Addresses) received at Council Meeting of 16 July 2012.**

The proposed changes to parking restrictions to improve overall safety in Dygal Street was developed following further consultation between residents, Mona Vale Chamber of Commerce, local schools and interested parties – **Supported**

2.9 **Item 4.9: Newport Market Day - Sunday 24 November 2013**

Street closures to allow the Newport Market Day to proceed - **Supported**

3.0 **SUSTAINABILITY ASSESSMENT**

A sustainability assessment is not required for Minutes of Meetings.

4.0 **EXECUTIVE SUMMARY**

4.1 To present to Council the recommendations of the Traffic Committee contained in the minutes of the meeting of 10 September 2013 for Council's consideration.

RECOMMENDATION

That the Traffic Committee recommendations contained in the Minutes of the Meeting of 10 September 2013 be adopted (refer **Attachment 1**).

Report prepared by
Ricky Kwok - Civil Design & Traffic Engineer - Strategy, Investigation and Design

Mark Shaw
MANAGER, URBAN INFRASTRUCTURE

Minutes

Pittwater Traffic Committee Meeting

Held in the Level 3 Large conference room, Vuko Place, Warriewood on

10 September 2013

Commencing at 1.00pm for the purpose of considering the items included in the Agenda

Attendance

Voting Members of the Committee are invited to attend, namely:

Chairperson, Cr Susan Young
Representative on behalf of Member for Pittwater, Ms Jill Dubois
Roads and Maritime Services (RMS) – Mr John Begley
Roads and Maritime Services (RMS) – Mr Alex Coates
Traffic Sergeant, NSW Police (Northern Beaches) – Matthew Paterson

And Non Voting Representatives from Bus Providers including State Transit Authority

State Transit Authority – Mr Wade Mitford

Council Staff:

Manager, Urban Infrastructure, Mark Shaw
Principal Engineer, Strategy Investigation and Design, Paul Davies
Civil Design & Traffic Engineer, Ricky Kwok
Road Safety Officer, Michelle Carter
Administration Officer / Minute Secretary, Sherryn McPherson

All Pittwater Council's Agenda and Minutes are available on Pittwater's website at
www.pittwater.nsw.gov.au

PITTWATER TRAFFIC COMMITTEE MEETING

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1.0 Apologies

COMMITTEE RECOMMENDATION

That apologies be received and accepted from Mr Aaron Cutugno of Forest Coach Lines and leave of absence be granted from the Traffic Committee Meeting held on 10 September 2013.

(Cr Young / Mr John Begley)

2.0 Declarations of Pecuniary Interest

Cr Young declared a less than significant non-pecuniary interest in Item TC4.1 – Walworth Avenue, Newport – Proposed Double Separation Lines and remained in the meeting and took part in discussion on this item. The reason provided by Cr Young was:

“Friends live in Walworth Avenue”

3.0 Confirmation of Minutes

COMMITTEE RECOMMENDATION

That the Minutes of the Traffic Committee Meeting held on 11 June 2013, be confirmed as a true and accurate record of that meeting.

(Sgt Matthew Paterson / Ms Jill Dubois)

4.0 Committee Business

TC4.1 Walworth Avenue, Newport - Proposed Double Separation Lines**COMMITTEE RECOMMENDATION**

1. That the Traffic Committee supports the proposal to install double separation lines along the centre of Walworth Avenue between No.19 and No.27.
2. That the adjacent property owners be notified of the Traffic Committee's recommendations prior to consideration of the matter by Council.

(John Begley / Matthew Paterson)

Note:

Cr Young declared a less than significant non-pecuniary interest in this Item and remained in the meeting and took part in the discussion on this item. The reason provided by Cr Young was:

"Friends live in Walworth Avenue"

TC4.2 Governor Phillip Park Access Road, Palm Beach - No Parking Restrictions**COMMITTEE RECOMMENDATION**

That the Traffic Committee supports the proposed 'No Parking' restrictions on the western side of the access driveway in Governor Phillip Park, from the angled parking area north of the Barrenjoey Boathouse to the existing 'No Parking' sign located on the curved approach, to improve traffic safety in the area.

(Cr Young / Ms Jill Dubois)

TC4.3 Elanora Road, Elanora Heights - Parking restrictions around Elanora Public School**COMMITTEE RECOMMENDATION**

That the Traffic Committee recommends approval of the following amendments to the parking restrictions in Elanora Road supported by the Committee at the meeting of 12 February 2013 (Council Plan no. 2013-12):

- a. That the proposed 'No Stopping (school days 8:30am – 9:30am, 2:30pm – 3:30pm)' on the western side between No. 72 (speed hump) and Woorarra Avenue be changed to 'No Stopping'.
- b. That the proposed 'No Stopping' on the eastern side between No. 35 and No. 27 be changed to 'No Stopping (school days 8:30am – 9:30am, 2:30pm – 3:30pm)'.
- c. That 1/4P parking spaces (school days 8:30am – 9:30am, 2:30pm – 3:30pm) be provided in lieu of portion of the previously supported P2 school zones as follows:
 - Two spaces be provided in front of No. 39
 - Four spaces be provided between the reopened school pathway adjacent to No. 25 and No. 27.

(Mr John Begley / Sgt Matthew Paterson)

TC4.4	Warraba Road, North Narrabeen - Changes to parking restrictions
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COMMITTEE RECOMMENDATION

1. That the Traffic Committee supports the request to change the operating restrictions of the existing 1 hour parking outside No.2 Warraba Road, from '8.30am-6pm Mon-Fri and 8.30am - 12.30pm Sat' to '8.30am-6pm' applying everyday (shown on Council Plan No.16-TC-2013).
2. That the adjacent property owners be advised of the Traffic Committee's recommendations prior to consideration of the matter by Council.
3. That the existing untimed 30min parking in front of 3 Warraba Road be made to apply between '8.30am-6pm' everyday to implement consistent parking times in this area.

(Mr John Begley / Cr Young)

TC4.5	Whale Beach Road, Whale Beach - Proposed Double Separation Lines
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COMMITTEE RECOMMENDATION

1. That the Traffic Committee does not support the proposal to install double separation lines along the centre of Whale Beach Road between No.281 Whale Beach Road and its intersection with Norma Road (shown on Council Plan 17-TC-2013).
2. That the Traffic Committee supports amending the existing "No Parking Saturday, Sunday or Public Holiday" restrictions on the south side of Whale Beach Road between 281 and Norma Road to apply at all times.
3. That the adjacent property owners be notified of the Traffic Committee's recommendations prior to consideration of the matter by Council.

(Ms Jill Dubois / Cr Young)

TC4.6	Pittwater Road, Mona Vale - Temporary Bus Zone for Mona Vale Market Day
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COMMITTEE RECOMMENDATION

1. That the Traffic Committee supports the location of a temporary Bus Zone (approx.18m), in the section of 1 hour parking south of the driveway to the Mona Vale Telephone Exchange, on the western side of Pittwater Road.
2. That Forest Coach Lines advertise the temporary Bus Zone restrictions 1 week prior to the event.
3. That the Mona Vale Chamber of Commerce be advised of the Traffic Committee's recommendations prior to consideration of the matter by Council.

(Cr Young / Sgt Matthew Paterson)

TC4.7	Darley Street, Mona Vale - Proposed 1 Hour Parking Restrictions
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COMMITTEE RECOMMENDATION

1. That the Traffic Committee supports the provision of 1 hour parking restrictions (8.30am-6pm Mon-Fri, 8.30am-12.30pm Sat) between the driveways of No.52 and 54 Darley Street, to provide additional short term parking for businesses and customers in the area.
2. That the adjacent property owners be advised of the Traffic Committee's recommendations prior to consideration of the matter by Council.

(Ms Jill Dubois / Mr John Begley)

TC4.8	Dygal Street, Mona Vale - Proposed 'No Stopping' and Parking Restrictions
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COMMITTEE RECOMMENDATION

That the Traffic Committee supports the following proposal agreed by residents of Dygal Street to improve traffic safety (shown on Council Plan No.14-TC-2013):

1. Provide 'No Stopping' signs on both sides of the road for the statutory 10m restrictions south of the Dygal Street/Park Street intersection.
2. Provide 'No Stopping' restrictions from the driveway of No.5 to 7 (western side of Dygal Street).
3. Provide 15 minute parking (8-9.30am 2.30-6pm Mon-Fri) outside No.2 Dygal Street to the driveway to No.48 Waratah Street (approximately 4 car spaces), which revert to 3 hour parking (9.30am-2.30pm Mon-Fri).
4. Provide 3 hour parking (8.30am-6pm Mon-Fri), south of the driveway to No.48 Waratah Street to the existing 'No Stopping' restrictions (eastern side of Dygal Street).
5. Provide 3 hour parking (8.30am-6pm Mon-Fri), between the driveways of No.2 and 4 (eastern side of Dygal Street).
6. Provide 3 hour parking (8.30am-6pm Mon-Fri) between driveways of No.1A and 3 (western side of Dygal Street).
7. That the affected residents be advised of the Traffic Committee's recommendations prior to consideration of the matter by Council.

(Sgt Matthew Paterson / Mr John Begley)

TC4.9 Newport Market Day 2013 - Sunday 24 November 2013

COMMITTEE RECOMMENDATION

1. That the Traffic Committee supports the temporary closure of Robertson Road (between Barrenjoey Road and Foamcrest Avenue), and of the public carpark off Bramley Lane from 4am - 9pm on Sunday 24 November 2013 to enable the Newport Market Day to proceed.
2. That the approval would be subject to:
 - (i) the TMP being implemented by persons with Traffic Control qualifications acceptable to the RMS.
 - (ii) any traffic control to only be carried out by persons with appropriate Traffic Control qualifications acceptable to the RMS.
 - (iii) approvals being granted by Council for the use of the public reserves specified in the application and for the use of the public roads for stalls, etc.
 - (iv) barriers and signs to be used in the road closures are to be to RMS standards.
 - (v) any Variable Message Sign (VMS) advertising used for the event is to be in accordance with RMS guidelines.
 - (vi) the applicant advises the various emergency services of the closure.
 - (vii) the closure be advertised in "The Manly Daily" the week prior to the event.
 - (viii) that two (2) additional VMS signs be provided in accordance with RMS requirements as per their letter dated 3 September 2013.
3. That the applicant be advised accordingly.

(Ms Jill Dubois / Cr Young)

5.0 General Business

Parking and Trailer Advertising in Newport – Council staff tabled correspondence from a resident complaining about organisations using VMS for advertising and requesting that Council enforce parking restrictions and issue infringement notices.

Action: RMS to provide advice with regards to this matter so that Council Rangers and Police can enforce Policy restrictions and take appropriate action.

Joseph Street, Avalon – Council staff tabled correspondence from a resident suggesting parking restrictions at the end of the cul-de-sac preventing residents parking vehicles/boats in this area for long periods as it could affect emergency evacuation procedures and obstruct vehicle access to the Avalon House Nursing Home.

Action: Council Rangers have addressed this complaint with the resident. The Police have also investigated the matter and the boat trailer has been moved.

Speed Restrictions – Pittwater Road, Bayview Church Point – Councillor Young raised concerns for residents safety due to drivers continuing to speed in the area and sought advice from the RMS as to the status of Council's request to reduce the speed limit to 50kph.

Action: RMS to advise status of Council's previous requests to reduce speed limit to 50kph in Pittwater Road (Barrenjoey Road to McCarrs Creek Road).

Trailer Parking and Advertising, Pittwater – Council staff tabled correspondence from Bayview Church Point Residents raising concerns about the prevalence of boat trailers parked on Pittwater Road at Roland Reserve carpark/boat launching area and suggested the area be rezoned as a “No Boat Trailer” parking zone.

Action: RMS Traffic Management section is not currently taking any action in relation to trailer parking. This matter will be referred to their Policy department to advise Council the RMS guidelines and relevant Act which Council’s Rangers can administer in relation to trailer parking.

Ponderosa Parade / Jubilee Avenue and Garden Street / Mahogany Boulevard Roundabouts – Warriewood – Council staff tabled correspondence from residents regarding poor visibility of roundabouts and requested that reflective chevron signs be installed.

Action: Council has been in contact with the resident and has advised that chevron signs were removed when works were undertaken on the Garden Street / Mahogany Boulevard roundabout and will be reinstated. The Ponderosa Parade / Jubilee Avenue roundabout has sufficient lighting and signage and therefore no additional signs are proposed at this location.

Cicada Glen Road, Ingleside – Council staff tabled correspondence from a resident raising concerns that motorists travelling west along Cicada Glen Road do not give way at the intersection to vehicles in Chiltern Road, and also requested that double separation lines be provided on the two curves.

Action: Council to investigate provision of a holding line in Cicada Glen Road at its intersection with Chiltern Road. Future Agenda item to reinforce existing give way control applicable to ‘T’ intersections. Council will only undertake further investigations for the provision of double separation lines on the two curves, subject to road widening of Cicada Glen Road at these locations.

Jacksons Road and Oak Street, Warriewood – Council staff tabled correspondence from local residents requesting ‘Keep Clear’ markings in Jacksons Road at the intersection with Oak Street to allow vehicles in Oak Street to turn right into Jacksons Road when the intersection is blocked by traffic queues.

Action: Council to investigate provision of ‘Keep Clear’ markings. Future Agenda item.

Turimetta Street, Mona Vale – RMS raised concerns on the crash history related to right turn movements from Barrenjoey Road into Turimetta Street due to vehicles undertaking U-turns at this location.

Action: Council to investigate provision of double separation lines at the intersection. Future Agenda item.

6.0 Next Meeting

That the next meeting of the Traffic Committee Meeting will be held on 12 November 2013 in the Level 3 Conference Room, 5 Vuko Place, Warriewood commencing at 1.00pm.

**THERE BEING NO FURTHER BUSINESS
THE MEETING CONCLUDED AT 2.42PM ON
TUESDAY 10 SEPTEMBER 2013**

C12.7	Elanora Heights Public School - Traffic & Parking Improvement Scheme
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Meeting: Sustainable Towns & Villages Committee

Date: 21 October 2013

STRATEGY: Traffic & Transport

ACTION: Provide planning, design, investigation and management of traffic and transport facilities

PURPOSE OF REPORT

To consider and seek approval for:

1. Parking restrictions in Elanora Road and Georgina Avenue to improve pedestrian safety and traffic management in the vicinity of the Elanora Heights Public School, and
2. The construction of a chicane in Woorarra Avenue to improve traffic safety at the intersection with Elanora Road.

1.0 BACKGROUND

- 1.1 Council, at its meeting of 20 May 2013, considered a report on a proposed traffic and parking scheme around the Elanora Heights Public School (see **Attachment 1**) and resolved as follows:

“That this item be deferred for a period of one month to allow for clarification in regards to opening the top track adjacent to No. 25 and clarification of the processes surrounding the construction of the new footpath.”

- 1.2 Whilst awaiting advice from the Department of Education in respect to any approval of funding to re-open the pedestrian access path to the school adjacent to No 25 Elanora Road, a further public meeting was held on 24 July 2013.
- 1.3 This meeting resulted in an agreement on a minor modification to the original proposal in respect to parking restrictions in Elanora Road, which had to be considered by Council's Traffic Committee prior to this report being presented to Council.
- 1.4 This report provides Council with information regarding the public meeting of 24 July 2013, the Traffic Committee support for the amended traffic and parking improvement scheme, the Department of Education advice regarding the pedestrian access path, the processes surrounding the construction of the proposed path in Elanora Road and how the overall project is to be implemented if approved by Council.

2.0 ISSUES

2.1 Pedestrian Access Path to the school adjacent to No 25 Elanora Road

- This pathway is currently closed as it deteriorated to an unsafe condition.
- To support Council's proposed traffic and parking improvement scheme, the school applied for funding from the Department of Education in 2013/14 to allow reconstruction of the pathway. This pathway would provide direct access to the proposed new footpath and P2 student stop off/collection zone.
- The school principal has now advised Council that the Department of Education has provided the necessary funds in 2013/14 to allow this pathway to be re-opened. The work will likely proceed in the second half of the financial year.

2.2 **Process surrounding the construction of the footpath in Elanora Road**

- The construction of a section of footpath (Woorarra Avenue to existing footpath adjacent to the school) is included in Council's adopted Schools Footpath Plan and funding has been provided for Stage 1 in Council's 2013/14 Delivery Plan.
- Stage 1 required narrowing of the existing road to allow for the construction of a path directly behind the kerb between Nos 35 and 29. The road narrowing is necessary as it is not possible to adjust the driveways at Nos 29 and 35 to suit the path located behind the existing kerb.
- Once the road has been narrowed, it is essential that permanent 'No Stopping' restrictions be implemented on at least one side of the road to ensure that one clear traffic lane is preserved at all times. Without such a restriction, it is not possible to narrow the road and therefore not possible to provide the footpath.

2.3 **Outcome of public meeting held on 24 July 2013**

- Minutes of the public meeting attended by residents and members of the school community are attached (**see Attachment 2**).
- The outcomes of the meeting in respect to this proposal were as follows:
 - Overall concept, with modifications to the parking restrictions in Elanora Road – supported
 - That implementation of the parking restrictions be staged to link to the opening of the school pathway and construction of the footpath (Stage 1).
 - That "No parking, school days in front of No 55 Elanora Road" be deferred pending a review of the effectiveness of installation of new "No Stopping" signs to be erected either side of this section of road.

2.4 **Traffic Committee review of amended parking restrictions in Elanora Road**

- The amended parking restrictions agreed to at the public meeting of 24 July 2013 were considered by the Traffic Committee at its meeting of 10 September 2013 where the recommendation was in support of Council's approval of them.
- The minutes of the Traffic Committee meeting are a separate item for consideration by Council on this agenda.

2.5 **Traffic and Parking Improvement Scheme**

- The amended proposal, as supported by the Traffic Committee, is as follows: (refer **Attachment 3**)
 - “1. Elanora Road
 - “No Stopping” (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
 - “No Stopping” (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the western side between the existing ‘No Stopping’ restriction at No. 88 and No 72, to replace all existing parking restriction in this section.
 - Extension of the existing P2 zone on the eastern side to No. 39.
 - New P2 zone (same restrictions as existing zone) on the eastern side from No. 25 (adjacent to pedestrian access to the school) to the northern side of the speed hump.
 - “No Stopping” on the eastern side between the Weeroona Avenue intersection and the northern side of the speed hump.
 - “No Stopping” (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the eastern side between the 1/4P zone at No 27 to the “No Stopping” zone at No 35.

- “No Stopping” on the eastern side between the statutory ‘No Stopping’ zone on the south side of Weeroona Avenue intersection and the driveway to No 1 Weeroona Avenue.
 - “No Stopping” on the western side from Woorarra Avenue to No 72.
 - ¼ P Zone (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the eastern side between No 37 and the extended P2 zone (No 39).
 - 1/4 P zone (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the eastern side between the new P2 zone near No 25 and new “No Stopping School Days” zone (outside No 27).
 - “No Stopping” on the eastern side between No 35 and No 39 (spanning the speed hump).
2. Georgina Avenue
 - ‘No Stopping’ (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory ‘No Stopping’ limit at Anana Road.
 3. Woorarra Avenue
 - Proposed kerb blister/median island (chicane) adjacent to No. 174 Woorarra Avenue. “

2.6 Implementation

- **Woorarra Avenue** – funding has been allocated for this project in Council’s 2013/14 Delivery Plan and can proceed (subject to design approval by the Traffic Committee) if approved.
- **Georgina Avenue** – parking restrictions to be implemented immediately if approved.
- **Elanora Road** – parking restrictions to be implemented in stages to reflect the timing of the construction of the school access path, of a 6 month review of the scheme’s effectiveness and of the need for path construction to occur during a school holiday period.
 - Stage 1 – immediately implement the parking restriction in Georgina Avenue and those in Elanora Road (both sides of the road) between Anana Road and the end of the “No Stopping” restrictions south of the speed hump outside No 33.
 - Stage 2 – following the reconstruction of the kerb and gutter between Nos 33 and 27 to provide for a footpath, implement all parking restrictions between Woorarra Avenue and No 33.
 - Stage 3 – undertake a review (minimum 6 months following implementation of Stage 2 restrictions) of the effectiveness of the parking restrictions that shall also include consideration of the need to implement “No Stopping” restrictions (school hours) in Elanora Road between Nos 53 and 57.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The proposed parking restrictions, traffic chicane and construction of a footpath in Elanora Road will improve the safety and amenity of both children walking to Elanora Heights Public School and carers who drive their children to the school.
- 3.1.2 The proposal results from requests to Council by the school community for assistance and in response to concerns expressed by residents of Elanora Road in respect to traffic congestion and pedestrian safety around the school at school drop off/collection times.

- 3.1.3 The proposal will rationalise on-street parking which in turn will significantly improve public amenity and safety, in particular for school children and also encourage more carers/children to walk (with positive health outcomes).
- 3.2 **Valuing & Caring for our Natural Environment (Environmental)**
- 3.2.1 The proposal will encourage children/carers to walk to school rather than drive, which would result in positive environmental benefits.
- 3.3 **Enhancing our Working & Learning (Economic)**
- 3.3.1 The proposal will improve access for the customers of the businesses located adjacent to the school.
- 3.4 **Leading an Effective & Collaborative Council (Governance)**
- 3.4.1 The proposal responds to requests from the Elanora Road community for assistance to improve pedestrian and traffic safety/amenity around the Elanora Heights Public School during student drop off/collection times.
- 3.4.2 The development of the proposal included extensive consultation with the school community, the Department of Education and the owners of properties affected by the proposal.
- 3.4.3 Funding has been allocated in Council's 2013/14 Delivery Plan to provide all components of the components of the proposal:
- parking restrictions in Elanora Road;
 - traffic chicane in Woorarra Avenue; and
 - Stage 1 of footpath construction in Elanora Road.
- 3.4.4 Future maintenance of infrastructure provided to be undertaken using funding allocated for this purpose in the delivery plan.
- 3.5 **Integrating our Built Environment (Infrastructure)**
- 3.5.1 The proposal will significantly improve pedestrian and vehicular access to the school and residents of Elanora Road, in particular at school drop off and pick up peak times.
- 3.5.2 The proposal improves community safety overall.

4.0 EXECUTIVE SUMMARY

- 4.1 Council, at its meeting of 20 May 2013, considered a report on a proposed traffic and parking scheme around the Elanora Heights Public School (see **Attachment 1**) and resolved as follows:
- “That this item be deferred for a period of one month to allow for clarification in regards to opening the top track adjacent to No. 25 and clarification of the processes surrounding the construction of the new footpath.”*
- 4.2 Whilst awaiting advice from the school in respect to the re-opening of the school access path, Council undertook a further public meeting, the outcome of which was agreement to some minor changes to the parking restrictions in the original proposal. These were recommended for approval to the Traffic Committee of 10 September 2013 as follows:
- “1. That the Traffic Committee recommends approval of the following amendments to the parking restrictions in Elanora Road supported by the Committee at the meeting of 12 February 2013 (Council Plan no. 2013-12):
- a. That the proposed ‘No Stopping (school days 8:30am – 9:30am, 2:30pm – 3:30pm)’ on the western side between No. 72 (speed hump) and Woorarra Avenue be changed to ‘No Stopping’.

- b. *That the proposed 'No Stopping' on the eastern side between No. 35 and No. 27 be changed to 'No Stopping (school days 8:30am – 9:30am, 2:30pm – 3:30pm)'.*
 - c. *That 1/4P parking spaces (school days 8:30am – 9:30am, 2:30pm – 3:30pm) be provided in lieu of portion of the previously supported P2 school zones as follows:*
 - *Two spaces be provided in front of No. 39*
 - *Four spaces be provided between the reopened school pathway adjacent to No. 25 and No. 27."*
- 4.3 The principal of Elanora Heights Public School has now advised that the Department of Education has provided funding in the 2013/14 financial year to enable the pedestrian access path to the school in Elanora Road (adjacent to No 25) to be re-opened.
- 4.4 Funding has been allocated in Council's 2013/14 budget for construction of the chicane in Woorarra Avenue and Stage 1 of the school footpath project in Elanora Road. It is necessary to narrow Elanora Road by reconstruction sections of the kerb and gutter between Nos 29 and 35 to enable the footpath Stage 1 works to proceed.
- 4.5 It is recommended that any approved parking restrictions be implemented in stages subject to the Stage 1 footpath works being constructed and a review of their effectiveness a minimum of 6 months after all restrictions are in place.
- 4.6 This report presents the amended traffic and parking scheme for the consideration of Council.

RECOMMENDATION

1. That the following parking restrictions be implemented:

A. Elanora Road

- "No Stopping" (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
- "No Stopping" (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the western side between the existing 'No Stopping' restriction at No. 88 and No 72, to replace all existing parking restriction in this section.
- Extension of the existing P2 zone on the eastern side to No. 39.
- New P2 zone (same restrictions as existing zone) on the eastern side from No. 25 (adjacent to pedestrian access to the school) to the northern side of the speed hump.
- "No Stopping" on the eastern side between the Weeroona Avenue intersection and the northern side of the speed hump.
- "No Stopping" (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the eastern side between the 1/4P zone at No 27 to the "No Stopping" zone at No 35.
- "No Stopping" on the eastern side between the statutory 'No Stopping' zone on the south side of Weeroona Avenue intersection and the driveway to No 1 Weeroona Avenue.
- "No Stopping" on the western side from Woorarra Avenue to No 72.
- 1/4 P Zone (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the eastern side between No 37 and the extended P2 zone (No 39).
- 1/4 P zone (8.30 to 9.30am and 2.30 to 3.30pm, school days) on the eastern side between the new P2 zone near No 25 and new "No Stopping School Days" zone (outside No 27).

- “No Stopping” on the eastern side between No 35 and No 39 (spanning the speed hump).

B. Georgina Avenue

- ‘No Stopping’ (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory ‘No Stopping’ limit at Anana Road.
2. That the construction of a chicane in Woorarra Avenue (adjacent to No 174), in the location shown on Council's Plan 30-TC-2012, be supported and referred to the Pittwater Traffic Committee for consideration.

Report prepared by
Paul Davies – Principal Engineer – Strategy, Investigation and Design

Mark Shaw
MANAGER, URBAN INFRASTRUCTURE

C12.4 Elanora Heights Public School - Traffic and Parking Improvement Scheme

Meeting: Planning an Integrated Built Environment Committee

Date: 20 May 2013

STRATEGY: Transport & Traffic

ACTION: Providing planning, design, investigation and management of Traffic and Transport Facilities

PURPOSE OF REPORT

To consider and seek approval for:

1. parking restrictions in Elanora Road around the Elanora Heights Public School to improve pedestrian safety and traffic management; and
2. the construction of a chicane in Woorarra Avenue to improve traffic safety at the intersection with Elanora Road.

1.0 BACKGROUND

- 1.1 At the request of the Parents and Citizens Association of the Elanora Heights Public School, Council and Department of Education representatives attended a series of meetings to discuss the Association's concerns regarding pedestrian and traffic safety around the school.
- 1.2 A Safety and Amenity Audit was carried out and this was compiled into the "Traffic, Pedestrian and Infrastructure Review" and the "Report – Elanora Road, Elanora Heights – Parking Restrictions around the Elanora Heights Public School". These documents provided a number of recommendations and proposed actions.
- 1.3 A proposal for parking restrictions and the provision of a chicane, were subsequently referred, as agreed, to the owners of properties adjacent to the proposed restrictions seeking their comments in respect to the proposal. The proposal and resident comments were then referred to the Traffic Committee held on 12 February 2013 (copy of report at **Attachment 1**),
- 1.4 At its meeting of 4 March 2013, Council considered the Minutes of the Traffic Committee and resolved, in relation to *Item TC4.10 – Elanora Road, Elanora Heights – Parking Restrictions around the Elanora Heights Public School*, as follows:

"That the Traffic Committee recommendations contained in the Minutes of the Meeting of 12 February 2013 be adopted, save for item TC4.10 for further discussion with the Community"
- 1.5 The reason for the deferral was that a resident identified a typographical error in one of the documents distributed by Council to the residents and suggested that some other sentences could have been misinterpreted.
- 1.6 In accordance with Council's resolution, the consultation documents were revised (see **Attachment 2**) and redistributed to the same residents seeking any further comments. The outcome of this further consultation is provided in this report.

2.0 ISSUES

2.1 On-Street Parking around Schools

- The demand for parking around all schools to allow carers to collect/drop off students far exceeds that which is available. Any actions by Council are aimed at improving safety and resident amenity as it is not possible to eliminate the problem.
- It is essential that school management also take action to assist Council to alleviate these problems. Elanora Primary School, through the Department of Education, is seeking funding in 2013/2014 to re-open the pedestrian access pathway adjacent to No 25 Elanora Road, which leads to the proposed new P2 drop off/pick up zone.
- The current proposal for Elanora Heights Public School is just a further project of many that have been undertaken by Council staff (in consultation with school communities) in recent years around all public schools in Pittwater. These projects have included education of carers, parking restrictions, pedestrian facilities, 'stop & drop' zones, footpaths and traffic calming.
- Any adopted parking restrictions would be reviewed to assess their effectiveness after at least 6 months of operation as per normal procedures.

2.2 Elanora Road Footpath Construction Proposal

- The construction of a footpath on the eastern side of Elanora Road in the immediate vicinity of Elanora Heights Public School (from existing footpath at No 37 to Weeroona Avenue), is included in Council's adopted Schools Footpath Plan. Funding for Stage 1 has been included in Council's draft 2013/14 Delivery Plan.
- Stage 1 requires the existing kerb and gutter between Nos 37 and 27 to be reconstructed such that the road pavement width becomes 6m (currently 7.3m) to allow the construction of a path directly behind the kerb. This is necessary as the steepness of the existing concrete driveways does not allow for them to be adjusted and retain the existing road width.
- Narrowing the road to allow the construction of a footpath is a standard Council construction technique (used in roads such as Grandview Drive, Newport and Whale Beach Road) where driveways cannot be reconstructed if a path is constructed behind the existing kerb and gutter. This preserves vehicular access to adjacent properties.
- Once reconstructed, it is essential that 'No Stopping' be implemented on the eastern side as proposed to ensure one (1) clear traffic lane remains available at all times, with maximum sight distances around the curves.
- Extension of this footpath would need to be considered as a further stage under the School Footpath Program.

2.3 Second Round Consultation Undertaken

- Letters were sent to all property owners who received letters in the first round of consultation (107 letters) containing the revised information (typographical error corrected and wording clarified) **Attachment 2**.
- Letters were sent in March with written responses requested by 14.4.13.
- Consultation with the school community was again the responsibility of the Parents and Citizens Association and school administration. The previous response from Elanora Heights Public School is included as **Attachment 3**.

2.4 Assessment of Responses from Second Round

- Four (4) written responses were received from the 107 letters sent out (less than 4% response rate).
- Additionally, eight (8) responses were received from residents who did not receive a letter from Council but live in Elanora Heights.

(a) Responses to Council Letter

Of the four (4) responses received:

- Three (3) responses opposed the footpath construction in Elanora Road and one (1) supported it.
- One (1) response supported both the proposed new P2 zone and the extension of the existing P2 zone in Elanora Road.
- Three (3) responses opposed the proposed 'No Stopping' restrictions and one (1) supported them.
- No responses were received in respect to the proposed chicane.

Given that no new issues were identified, issues remain as described and assessed in results of original consultation (see Traffic Committee Report – **Attachment 1**).

Of the four (4) responses, one (1) respondent requested that, in addition to the proposed 'No Stopping' restriction, a 'No Stopping' restriction be provided in Elanora Road to the south of the Weeroona Road (east side) intersection as far as the driveway to No 1 Weeroona (approximately 20m beyond the statutory 10m restriction).

- In this location there is no area behind the kerb for pedestrians who are forced to walk on the roadway. The restrictions would improve pedestrian safety by providing excellent traffic sight distances.
- The provision of a footpath at this location is not included in the schools program as it does not satisfy the selection criteria.
- This suggestion was considered and the 'No Stopping' restriction supported by Council's Traffic Committee at its meeting of 9 April 2013 and is included in the Committee Minutes.

(b) Responses from other Residents

Of the eight (8) responses received:

- Five (5) responses supported the construction of the footpath in Elanora Road and none opposed.
- Four (4) responses supported both the extension of the existing P2 zone in Elanora Road and creation of a new P2 zone. None opposed.
- Three (3) responses supported the provision of a chicane in Woorarra Avenue and none opposed.
- Two (2) responses supported the 'No Stopping' restrictions and three (3) opposed.

Again, given that no new issues were identified, issues remain as described and assessed in results of original consultation (see Traffic Committee Report – **Attachment 1**).

2.5 Elanora Heights Public School – Traffic & Parking Improvement Scheme

- The proposal remains as per the original put to consultation in December 2012/January 2013 with the addition of the 'No Stopping' restrictions in Elanora Road to the south of Weeroona Avenue. The full scope of recommended traffic management measures, as supported by the Pittwater Traffic Committee, are as follows (see Plan at **Attachment 4**):

“1. Elanora Road

- 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
- 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the western side between the existing 'No Stopping' restriction at No. 88 and Woorarra Avenue, to replace all existing parking restriction in this section.
- Extension of the existing P2 zone on the eastern side to No. 37.
- New P2 zone (same restrictions as existing zone) on the eastern side from No. 27 (at end of 'No Stopping' zone) to the statutory 'No Stopping' limit at Weeroona Avenue.
- 'No Stopping' on the eastern side between the extended P2 zone (No. 37) and the new P2 zone (No. 27).
- 'No Stopping' on the eastern side between the statutory 'No Stopping' zone on the south side of Weeroona intersection and the driveway to No 1 Weeroona Avenue.

2. Georgina Avenue

- 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory 'No Stopping' limit at Anana Road (see **Attachment 5**).

3. Woorarra Avenue

- Proposed kerb blister/median island (chicane) adjacent to No. 174 Woorarra Avenue. “
- All parking restrictions and the proposed chicane in Woorarra Avenue have been considered and supported by the Traffic Committee.

Based on the significant improvements to safety for children and carers attending the Elanora Heights Public School, and the detailed report and assessment of issues raised, along with the support for the recommended actions by the Pittwater Traffic Committee, it is the recommendation of this report that Council approve the parking restrictions in Elanora Road and Georgina Avenue as well as the construction of a chicane in Woorarra Avenue.

Funding has been allocation in Council's 2013/14 Deliver Plan to deliver all components of the traffic management scheme as well as Stage 1 footpath construction along Elanora Road.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The proposed parking restrictions, traffic chicane and construction of a footpath in Elanora Road will improve the safety and amenity of both children walking to Elanora Heights Public School and carers who drive their children to the school.

- 3.1.2 The proposal results from requests to Council by the school community for assistance and in response to concerns expressed by residents of Elanora Road in respect to traffic congestion and pedestrian safety around the school at school drop off/collection times.
- 3.1.3 The proposal will rationalise on-street parking which in turn will significantly improve public amenity and safety, in particular for school children and also encourage more carers/children to walk (with positive health outcomes).
- 3.2 **Valuing & Caring for our Natural Environment (Environmental)**
 - 3.2.1 The proposal will encourage children/carers to walk to school rather than drive, which would result in positive environmental benefits.
- 3.3 **Enhancing our Working & Learning (Economic)**
 - 3.3.1 The proposal will improve access for the customers of the businesses located adjacent to the school.
- 3.4 **Leading an Effective & Collaborative Council (Governance)**
 - 3.4.1 The proposal responds to requests from the Elanora Road community for assistance to improve pedestrian and traffic safety/amenity around the Elanora Heights Public School during student drop off/collection times.
 - 3.4.2 The development of the proposal included extensive consultation with the school community, the Department of Education and the owners of properties affected by the proposal.
 - 3.4.3 Funding has been allocated in Council's 2013/14 Delivery Plan to provide all components of the components of the proposal:
 - parking restrictions in Elanora Road;
 - traffic chicane in Woorarra Avenue; and
 - Stage 1 of footpath construction in Elanora Road.
 - 3.4.4 Future maintenance of infrastructure provided to be undertaken using funding allocated for this purpose in the delivery plan.
- 3.5 **Integrating our Built Environment (Infrastructure)**
 - 3.5.1 The proposal will significantly improve pedestrian and vehicular access to the school and residents of Elanora Road, in particular at school drop off and pick up peak times.
 - 3.5.2 The proposal improves community safety overall.

4.0 EXECUTIVE SUMMARY

- 4.1 A proposal for parking restrictions in Elanora Road and Georgina Place and the construction of a chicane in Woorarra Avenue (developed by Council in consultation with the Elanora Heights Public School and Department of Education) to improve student safety and traffic congestion around the school was considered by Council (when considering the minutes of the Traffic Committee) at its meeting of 4 March 2013.
- 4.2 Council, noting resident comments that minor typographical errors existed in the consultation documentation distributed to residents, resolved that further resident consultation occur. Further consultation took place during March/April with letters being sent to the same 107 affected property owners who received the initial letter, with 12 responses received.
- 4.3 Council received four (4) written responses to the letters, three (3) of which opposed the proposed 'No Stopping' restrictions and one (1) in support. There was majority support for the other components of the proposal.

- 4.4 Council also received eight (8) responses from the residents of Elanora Heights. These responses also opposed the 'No Stopping' restrictions but supported the other components.
 - 4.5 No new issues were raised as a result of the second round consultation and as such, the previous detailed assessment of issues and recommended actions remain valid.
 - 4.6 One resident requested a minor extension of the 'No Stopping' restrictions in Elanora Road (adjacent to their property) south of Weeroona Avenue to increase pedestrian safety as they have to walk for a distance of about 30m on the road pavement and the location. This proposal is supported by Council staff and is now included in the proposal.
 - 4.7 All components of the proposal have been considered and supported by the Pittwater Traffic Committee.
 - 4.8 Funding has been allocated in Council's 2013/14 Delivery Plan to implement all components of the scheme.
 - 4.9 Based on the significant improvements to safety for children and carers attending the Elanora Heights Public School, and the detailed report and assessment of issues raised, along with the support for the recommended actions by the Pittwater Traffic Committee, it is the recommendation of this report that Council approve the parking restrictions in Elanora Road and Georgina Avenue as well as the construction of a chicane in Woorarra Avenue.
-

RECOMMENDATION

1. That Council approve the following parking restrictions:
 - “1. Elanora Road
 - 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
 - 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the western side between the existing 'No Stopping' restriction at No. 88 and Woorarra Avenue, to replace all existing parking restriction in this section.
 - Extension of the existing P2 zone on the eastern side to No. 37.
 - New P2 zone (same restrictions as existing zone) on the eastern side from No. 27 (at end of 'No Stopping' zone) to the statutory 'No Stopping' limit at Weeroona Avenue.
 - 'No Stopping' on the eastern side between the extended P2 zone (No. 37) and the new P2 zone (No. 27).
 - 'No Stopping' on the eastern side between the statutory 'No Stopping' zone on the south side of Weeroona intersection and the driveway to No 1 Weeroona Avenue.
 2. Georgina Avenue
 - 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory 'No Stopping' limit at Anana Road.
2. That Council approve the construction of a chicane in Woorarra Avenue in the location shown on Council's Plan 30-TC-2012.

Report prepared by
Paul Davies – Principal Engineer – Strategy, Investigation & Design

Mark Shaw
MANAGER, URBAN INFRASTRUCTURE

TC4.10: Elanora Road, Elanora Heights - Parking Restrictions around the Elanora Heights Public School

1.0 BACKGROUND

- 1.1 Following a meeting between Council staff, Councillors and representatives of the Elanora Heights Public School, the school's Parents & Citizens' Association and the Department of Education it was agreed that Council staff would investigate possible actions (on the public roads surrounding the school) to further ameliorate the existing adverse traffic/safety impacts on the local community resulting from students being dropped off and collected by carers in vehicles. The school representatives agreed to investigate what actions could be undertaken by themselves to also assist in alleviating the adverse impacts.
- 1.2 Council staff investigated the existing traffic situation and potential actions, including seeking feedback/suggestions from local property owners and the school community. A report was produced for a further meeting with school stakeholder representatives (report to be tabled at this meeting) at which several specific actions suggested in the report were supported.
- 1.3 Those actions supported at the meeting (from the list of options considered) were then provided to the local affected property owners (see **Attachment 1** plan of proposed parking restrictions) seeking their comments prior to their consideration by the Traffic Committee and Council.

2.0 ISSUES

2.1 Elanora Road, Elanora Heights - Proposed Parking Restrictions and Traffic Facilities

The significant components of the proposal are:

1. Elanora Road
 - 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
 - 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the western side between the existing 'No Stopping' restriction at No. 88 and Woorarra Avenue, to replace all existing parking restriction in this section.
 - Extension of the existing P2 zone on the eastern side to No. 37.
 - New P2 zone (same restrictions as existing zone) on the eastern side from No. 27 (at end of 'No Stopping' zone) to the statutory 'No Stopping' limit at Weeroona Avenue.
 - 'No Stopping' on the eastern side between the extended P2 zone (No. 37) and the new P2 zone (No. 27).
2. Georgina Avenue
 - 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory 'No Stopping' limit at Anana Road.
3. Woorarra Avenue
 - Proposed kerb blister/median island (chicane) adjacent to No. 174 Woorarra Avenue.

2.2 Consultation Process

- Consultation was undertaken from 3 December 2012 to 14 January 2013.
- Letters were sent to affected property owners seeking written comments on the proposal.

2.3 Assessment of Responses

- Refer to **Attachment 2** for a summary of residents' comments and Council responses to them.
- Assessment of the responses in respect to the components of the proposal are as follows:

1. **Elanora Road** - proposed parking restrictions (Georgina Avenue to Marinna Avenue).

- Vehicles are able to legally park on the northern side of Elanora Road between Nos. 53 and 57, in a short 20 metre section of the road where there are no double separation lines. Vehicles parked here during school drop off/collection times impede the flow of traffic and force overtaking vehicles into potential conflict with the opposing heavy traffic flow.
- Imposing 'No Stopping' restrictions at this location during school drop off/collection times would improve traffic amenity/safety with minimum impact on parking for adjacent property owners as parking would remain available at all other times.
- The existing school bus zone immediately to the east of this area is of a shorter length than the current standard and would be upgraded in conjunction with the provision of any new 'No Stopping' signs. This would be for purely technical reasons as the existing separation lines already prevent parking.
- Council received four responses in respect to the proposal to implement 'No Stopping' restrictions. One was in support and the other three against on the basis of loss of parking. One resident opposing 'No Stopping' restrictions stated they would accept the restriction if it applied only during school drop off and collection times, which is what has now been recommended.

Elanora Road - proposed parking restrictions (Anana Road to Woorarra Avenue)

- This section of road experiences the worst traffic impacts due to the desire of carers to drop off and collect students as close as possible to the school pedestrian access gates. Impacts arise from the volume of traffic, cars parked both sides of the street restricting the road to one traffic lane for the two way flow of traffic, parked vehicles blocking driveways, drivers doing multi-point turns (or using driveways), students crossing the street amidst manoeuvring traffic and pedestrians have to walk on the road pavement (of particular concern in the section of curves between Nos. 25 and 29).
- Parking restrictions implemented on both sides of the street in the past (including P2 student collection/drop off zones) have had a limited effect in reducing adverse traffic impacts.
- It is considered that existing traffic impacts would be significantly ameliorated if the following system of parking restrictions were implemented:
 - a. 'No Stopping' on the eastern side of Elanora Road from No. 37 to No 27, to ensure one clear traffic lane is maintained at all times in this section of road (S curve) that has to be narrowed to approximately 6 metres to allow Council to construct a footpath. No restrictions exist at present on the existing 7.2 metre wide roadway.
 - b. 'No Stopping' on the western side of Elanora Road from No 88 (existing 'No Stopping' restriction) to Woorarra Avenue during school drop off/collection times (8.30 to 9.00am and 2.30 to 3.30pm) on school days, to ensure two traffic lanes are available at these times. This replaces existing parking restrictions between Nos. 88 and 70. This would reduce congestion, encourage circulation of traffic around the block and place all school drop off zones on the school side of the road.

- c. P2 parking zones (school drop off areas). Extend the existing P2 zone to No. 37 (start of 'No Stopping' zone) and create a new P2 zone between No. 27 and the statutory 'No Stopping' restriction at Weeroona Avenue. The new zone would be usable now with students being able to walk to the school gate and also serve the school access steps adjacent to No. 25 when this pathway is reopened by the school in the future.
- Council received nine responses, three in support and six against principally on the basis of loss of on-street parking (cannot park for 24 hours on school days) and that the school should provide sufficient parking on school property for carers to drop off/collect students.

2. **Georgina Avenue** - proposed parking restrictions

- When dropping off students or collecting them carers park their vehicles on both sides of the road, as close as possible to the intersection with Anana Road. This results in the obstruction of driveways and in reducing vehicular access to one traffic lane serving two way traffic, causing extensive traffic congestion at these times only.
- To improve safety and reduce congestion it is proposed to extend the statutory 'No Stopping' zone on the eastern side of Georgina Avenue (on approach to the intersection) up to No. 21 (approximately 35 metres) by creating a 'No Stopping' zone (school days only) between the hours of 8.30 to 9.00am and 2.30 to 3.30pm. These periods are when the worst congestion occurs.
- This proposal leaves the existing parking situation unchanged outside these hours and means that carers would have to either park further along Georgina Avenue (away from Anana Road) where parking exists or in another local street. Both would require them to walk a short additional distance to the school, which is considered acceptable as a footpath exists in Elanora Road and the nature strips are generally even in the other low traffic streets.
- Three resident responses received with one in support and two opposing this proposal principally on the basis that parking would be lost for 1.5 hours on school days and that they doubted this would improve the situation.

3. **Woorarra Avenue** - proposed kerb blister/median island (chicane)

- Some residents and carers of school students have expressed concern when travelling south along Elanora Road turning right into Woorarra Avenue due to the limited traffic sight distance available and perceived excessive speed of approaching traffic.
- As a result they choose to undertake multi-point turns in Elanora Road (or use driveways) rather than circulate around the block, as promoted by the school. This further aggravates the existing traffic congestion in Elanora Road near the school and adversely impacts traffic and pedestrian safety.
- The provision of a kerb blister and median island to form a chicane in Woorarra Avenue (in front of No. 174) as shown in concept plan (30-TC-2012) **Attachment 3**, would both slow approaching vehicle speeds and improve the traffic sight distance for vehicles exiting Elanora Road.
- The resulting improvement in perceived safety would encourage additional numbers of carers to circulate around the block and ease congestion in Elanora Road.
- Council has received no responses from any resident in Woorarra Avenue in respect to this proposal. One response from a resident of Elanora Road did not support the proposal as they considered that no problem exists at this intersection.

3.0 TRAFFIC COMMITTEE CONSIDERATIONS

3.1 A report was considered by the Traffic Committee on 12 February 2013 presenting the outcomes of the consultation with affected property owners with the following recommendations:

1. That Council supports the approval of the following parking restrictions to improve road user safety and resident amenity around the Elanora Heights Public School
 - a. Elanora Road – provide ‘No Stopping’ (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the western side between the existing ‘No Stopping’ restriction at No. 88 and Woorarra Avenue, to replace all existing parking restriction in this section.
 - b. Elanora Road – provide ‘No Stopping’ (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
 - c. Elanora Road – extend the existing P2 zone on the eastern side to No. 37.
 - d. Elanora Road – create a new P2 zone (same restrictions as existing zone) on the eastern side from No. 27 (at end of ‘No Stopping’ zone) to the statutory ‘No Stopping’ limit at Weeroona Avenue.
 - e. Georgina Avenue – provide ‘No Stopping’ (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory ‘No Stopping’ limit at Anana Road.
 - f. Elanora Rd – provide ‘No Stopping’ on the eastern side between the extended P2 zone (No. 37) and the new P2 zone (No. 27).
2. That Council supports the approval of a kerb blister and median island adjacent to No. 174 Woorarra Avenue as shown on plan 30-TC-2012, subject to approval by the Traffic Committee of a construction plan for the work prior to its construction.
3. That all property owners who received consultation letters from Council be advised of the Traffic Committee recommendations prior to their consideration by Council.
4. That Council suggests that the Elanora Heights Public School and the P & C provide a letter of support for the proposed scheme prior to consideration of the matter by Council.

Consultation responses/comments – proposed parking restrictions in Elanora Road between Anana Road and Woorarra Avenue

1. Summary of responses received

- A total of 107 letters were sent to affected property owners and only their responses to be considered.
- Responses received (total of 16) generally focussed on proposal for their street, rather than the overall scheme and are summarised as follows:

Street	No. letters sent	No. responses received	Support overall scheme		Support proposal for their street	
			Yes	No	Yes	No
Georgina Avenue	21	3	0	0	1	2
Elanora Road (Georgina Ave to Marinna Rd)	12	4	2	2	1	3
Elanora Road (Anana Rd to Woorarra Ave)	58	9	3	6	3	6
Woorarra Avenue	5	0	0	0	0	0
Anana Road (sign post existing 'No Stopping' restrictions)	11	0	0	0	0	0
Total	107	16	5	8		

2. Council response to comments received

Street respondent resides	Resident comment	Council response
Georgina Avenue	<ul style="list-style-type: none"> • Parking problem in Georgina Avenue only exists during the afternoon collection period 	<ul style="list-style-type: none"> • Observations show problems are worse in the afternoon but do also occur in the mornings
	<ul style="list-style-type: none"> • Putting 'No Stopping' in Georgina Ave on a short length of one side will increase extent of parking over the rest of the length of street 	<ul style="list-style-type: none"> • Agreed. However, traffic congestion in Georgina Avenue will be decreased and amenity/safety improved for both residents and students
	<ul style="list-style-type: none"> • School to provide parking on school property to ease problems 	<ul style="list-style-type: none"> • Possible but would create additional student safety and traffic issues at the school.
	<ul style="list-style-type: none"> • 'No Stopping' restrictions over short length of Georgina Place would prevent resident's visitors/service people parking for 1.5 hours each school day 	<ul style="list-style-type: none"> • Current demand for public parking during school drop off/collection times would already make it near impossible for resident's visitors to park during these times
	<ul style="list-style-type: none"> • Cannot park in front of their property for 1.5 hours each school day 	<ul style="list-style-type: none"> • On-street public parking is available to any person and parking is available at other locations in Georgina Avenue

Street respondent resides	Resident comment	Council response
Georgina Avenue	<ul style="list-style-type: none"> Provide resident parking permit to allow parking in proposed no stopping zone 	<ul style="list-style-type: none"> Such permits are not approvable under RMS guidelines and would defeat the purpose of the restrictions, to reduce traffic congestion
	<ul style="list-style-type: none"> Greater level of ranger enforcement of parking regulations, especially parking across driveways 	<ul style="list-style-type: none"> Rangers provide enforcement within the limits of their resources
	<ul style="list-style-type: none"> School to educate carers as to parking requirements and consideration of school neighbours 	<ul style="list-style-type: none"> School currently undertakes regular parent/carers education in respect to collection/drop off of students
Elanora Road – Georgina Avenue to Marinna Road	<ul style="list-style-type: none"> Remove kerb blisters on marked pedestrian crossing at Georgina Ave to allow traffic to pass vehicles turning right into Elanora Rd and Anana Rd at pedestrian crossing in Elanora Rd 	<ul style="list-style-type: none"> Not supported. RMS guidelines do not permit two traffic lanes (same direction) across pedestrian crossings and crossing cannot be relocated
	<ul style="list-style-type: none"> Proposed 'No Stopping' between Nos 53 and 57 Elanora Road not supported due to loss of parking. At most, should only apply during school drop off/collection times. 	<ul style="list-style-type: none"> 'No Stopping' during school collection/drop off times necessary for student safety and traffic efficiency. Support limited time for restriction to apply.
	<ul style="list-style-type: none"> 'No Stopping' restriction would result in cars parking in other places in local roads. 	<ul style="list-style-type: none"> On street public parking in any street is free for anyone to use and ample parking exists within streets 500 metres of school gates. Walking to school is to be encouraged.
	<ul style="list-style-type: none"> Council to construct additional parking areas on the nature strip for residents affected by 'No Stopping' restrictions. 	<ul style="list-style-type: none"> Not supported for financial and practical reasons and as Council is not responsible to provide parking for private vehicles. Residents to provide sufficient parking on their own properties where public parking is limited.
	<ul style="list-style-type: none"> Make a section of Elanora Road one way traffic from the school gate to Woorarra Ave. 	<ul style="list-style-type: none"> Not supported. This suggestion not approvable and previous consultation showed that the local community does not support a one way traffic option.
	<ul style="list-style-type: none"> Residents should provide parking for their own vehicles on their own properties so Council only has to provide roads for traffic. 	<ul style="list-style-type: none"> Roads are constructed to cater for vehicular and pedestrian traffic first and to provide for parking only where practical. Development controls require property owners to provide at least two parking spaces on their own property.
	<ul style="list-style-type: none"> Greater enforcement of existing parking regulations by rangers (especially P2 areas) would overcome problems 	<ul style="list-style-type: none"> Rangers provide enforcement within their available resources but cannot be there every day
	<ul style="list-style-type: none"> No stopping restrictions will increase speeding on approach to pedestrian crossing 	<ul style="list-style-type: none"> Possible, but increased traffic volumes and the 40kph school speed zone would make this unlikely

Street respondent resides	Resident comment	Council response
Elanora Road – Georgina Avenue to Marinna Road	<ul style="list-style-type: none"> Implement all proposed no stopping restrictions except at this location and see what happens before considering it 	<ul style="list-style-type: none"> Not supported as part of an overall traffic scheme
	<ul style="list-style-type: none"> Should not reduce parking spaces for carers who want to drop off/collect students near the school 	<ul style="list-style-type: none"> Parking near schools is highly desirable, but other options (walk, ride, bus) exist where this is not possible.
	<ul style="list-style-type: none"> Do not support loss of parking in front of their properties for amenity reasons 	<ul style="list-style-type: none"> Prime function of roads is to facilitate a safe traffic flow, with on street parking being provided only where appropriate
Elanora Road – Anana Road to Woorarra Road	<ul style="list-style-type: none"> Support proposed scheme 	<ul style="list-style-type: none"> Noted
	<ul style="list-style-type: none"> Support provision of footpath and associated 'No Stopping' restrictions 	<ul style="list-style-type: none"> Noted
	<ul style="list-style-type: none"> School to provide parking and drop off/collection area on school site and not use road 	<ul style="list-style-type: none"> Not supported. Creates additional student safety and traffic issues without eliminating problems in Elanora Road
	<ul style="list-style-type: none"> Construct a carpark in Elanora Rd where a playground now exists in public reserve (adjacent to No 92) 	<ul style="list-style-type: none"> Not supported
	<ul style="list-style-type: none"> P2 zone and other parking restrictions ignored. Need enforcement by rangers 	<ul style="list-style-type: none"> Rangers enforce regulations within the limits of their available resources
	<ul style="list-style-type: none"> School to reopen closed access path adjacent to No. 25 	<ul style="list-style-type: none"> Supported
	<ul style="list-style-type: none"> Move the bus stops in Elanora Road and replace with parking 	<ul style="list-style-type: none"> Not supported. Safest location is near an intersection and the marked pedestrian crossing
	<ul style="list-style-type: none"> Allow parallel parking in Elanora Rd opposite the 90° parking area near Anana Rd 	<ul style="list-style-type: none"> Not supported. Inadequate pavement width to meet legal minimum distances
	<ul style="list-style-type: none"> Widen road to construct the footpath and avoid need for no parking restrictions 	<ul style="list-style-type: none"> Not a practical option due to the standard of construction of some adjacent driveways/garages on the eastern side and the rockface on the western side
	<ul style="list-style-type: none"> Proposals not necessary for problems that only exist for 1.5 hours each school day 	<ul style="list-style-type: none"> Safety and amenity of road users at any time is paramount
	<ul style="list-style-type: none"> Meeting between school and resident representatives, Council and other stakeholders is necessary to discuss possible options. 	<ul style="list-style-type: none"> Not required for consultation carried out to date and Council has responsibility for final decision for benefit of the whole community
	<ul style="list-style-type: none"> Proposed chicane in Woorarra Ave not necessary as not aware of speeding problem and do not want any impediment of access to Wakehurst Parkway 	<ul style="list-style-type: none"> Many drivers perceive speeding to be an issue at the Woorarra/Elanora intersection and chicane will alleviate this without impeding access to Wakehurst Parkway.

Street respondent resides	Resident comment	Council response
Elanora Road – Anana Road to Woorarra Road	<ul style="list-style-type: none"> Want no stopping the full length of the western side of Elanora Rd between 8.30 and 3.30 on school days 	<ul style="list-style-type: none"> Not supported as monitoring has not shown that cars parked outside of the collection/drop off times do not cause any traffic problem
	<ul style="list-style-type: none"> Traffic calming required in Anana Rd to assist use of private driveways 	<ul style="list-style-type: none"> Speed monitoring has not shown any problem in Anana Rd and traffic calming not to be considered. It is responsibility of property owner to provide a safe driveway and use it safely
	<ul style="list-style-type: none"> Do not want no stopping in front of nos. 25 – 37 (where road proposed to be narrowed to provide a footpath) as needed to park their vehicles that cannot be parked within their properties 	<ul style="list-style-type: none"> Public on street parking is provided by Council wherever possible, for use by any member of the public. It is only provided after provision has been made for the safe flow of traffic and pedestrians and only where possible. Council is not responsible for providing public on street parking for residents to garage vehicles; as such parking always remains the responsibility of the vehicle owners.

Paul Davies, Principal Engineer – Strategy, Investigation & Design/LEMO
Phone 9970 1177 Mobile 0408 490 966

15 March 2013

Dear Sir/Madam

Re: Elanora Road, Elanora Heights – Proposed Parking Restrictions around the Elanora Public School

Council, at its meeting of the 4 March 2013, considered the recommendation of Council's Traffic Committee in respect to item TC4.10 Elanora Road, Elanora Heights - Parking Restrictions around the Elanora Public School (copy attached) and resolved that item TC4.10 be deferred for further discussion with the Community.

This decision for deferral is based on advice that discrepancies existed between the Traffic Committee recommendation, and some of the information enclosed with the letter dated 3 December 2012 sent to residents seeking comments on the proposal. Council would like to clarify that the diagrammatic plan of proposals shown in the Traffic Committee report is essentially the same plan which was sent to the residents. The typographical errors in the summary table accompanying the plan have been corrected and updated to correspond to the plan. Corrections or clarification to the text have been underlined for your convenience.

Council is re-issuing the amended supplementary information to residents should they wish to provide further comments regarding the proposal. Residents are requested to further submit their comments (if any) on the proposals for Elanora Road and Woorarra Road, noting that all previous comments will be retained and considered as part of the overall consultation process. It is requested that all written comments be received by 12 April 2013. Submissions are to be marked to the attention of Paul Davies and either emailed to paul_davies@pittwater.nsw.gov.au or posted to Pittwater Council, PO Box 882 Mona Vale 1660.

All comments will be summarised in a report to be presented to Council (anticipated to be in May 2013). The proposal does not need to go to the Traffic Committee for reconsideration as a technical review of the same recommendations undertaken previously was supported and no new restrictions are proposed. You will however be advised when the report will be considered by Council so that you may, if you wish, address Council in respect to the proposal prior to Council making a decision.

Should you have any enquiries please contact Paul Davies, Principal Engineer Strategy Investigation and Design, on 9970 1177.

Yours sincerely



Mark Shaw
MANAGER, URBAN INFRASTRUCTURE

TC4.10 Elanora Road, Elanora Heights - Parking Restrictions around the Elanora Public School

COMMITTEE RECOMMENDATION

1. That the Traffic Committee recommends approval of the following parking restrictions to improve road user safety and resident amenity around the Elanora Public School:
 - a. Elanora Road – provide 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the western side between the existing 'No Stopping' restriction at No. 88 and Woorarra Avenue, to replace all existing parking restriction in this section.
 - b. Elanora Road – provide 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the northern side between Nos. 53 and 57.
 - c. Elanora Road – extend the existing P2 zone on the eastern side to No. 37.
 - d. Elanora Road – create a new P2 zone (same restrictions as existing zone) on the eastern side from No. 27 (at end of 'No Stopping' zone) to the statutory 'No Stopping' limit at Weeroona Avenue.
 - e. Georgina Avenue – provide 'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) on the eastern side between No 21 and the statutory 'No Stopping' limit at Anana Road.
 - f. Elanora Rd – provide 'No Stopping' on the eastern side between the extended P2 zone (No. 37) and the new P2 zone (No. 27).
2. That the Traffic Committee recommends approval of a kerb blister and median island adjacent to No. 174 Woorarra Avenue as shown on plan 30-TC-2012, subject to approval by the Traffic Committee of a construction plan for the work prior to its construction.
3. That all property owners who received consultation letters from Council be advised of the Traffic Committee recommendations prior to their consideration by Council.
4. That the Committee suggests that the Elanora Public School and the P & C provide a letter of support for the proposed scheme prior to consideration of the matter by Council.

(Sgt Matthew Paterson / Ms Nazli Doraji Sabi)

At the meeting held between Pittwater Council, Department of Education and Communities and Elanora Heights Public School on Thursday 15 November 2012, Council has agreed to the following proposals to be put forward for consultation with residents and businesses in Elanora Road, Anana Road, Georgina Avenue and Woeroona Avenue.

	Footpath and pedestrian access	Cost estimate
1	<p>Construction of a footpath on Elanora Road has the highest priority in Council's Schools Footpath Program. A footpath between Woeroona Road to the existing footpath at the school has been scheduled to be built in four stages.</p> <p>A short section of Elanora Road in Stage 1 will have to be narrowed to accommodate a footpath on the eastern side. To ensure one traffic lane remains available at all times <u>through this section of road following the construction of the footpath</u>, 'No Stopping' restrictions will be implemented on the <u>eastern</u> side of Elanora Road in this section (Nos. 27 to 37)</p> <p>Stage 1 has been listed in Council's draft 2013/2014 Delivery Plan and will be subject to adoption by Council. Stages 2, 3 and 4 are included in Council's Schools Footpath Program and will be undertaken in future years subject to funding.</p>	
	<p>Stage 1 Anana Road to <u>Woeroona Avenue</u>, reconstruct 85m of kerb and gutter <u>through</u> curves – Nos, 27-35.</p>	\$60,000
	<p>Stage 2 Construct <u>part length</u> of retaining walls and handrail from No. 27 Elanora Road <u>to No.2 Woeroona Avenue</u>. Create 1.2 m wide level grassed area for future concrete path.</p>	\$85,000
	<p>Stage 3 Construct <u>remaining length</u> of retaining walls and handrail from No. 27 Elanora Road <u>to No.2 Woeroona Avenue</u>. Create 1.2 m wide level grassed area for future concrete path.</p>	\$85,000
	<p>Stage 4 Construct concrete footpath East side 1.2m wide by 231m.</p>	\$60,000
	Preliminary estimate for total footpath	\$290,000

	Footpath and pedestrian access	Cost estimate
2	Existing 'No Parking' (8am – 9.30am and 2.30pm – 4pm, school days) restrictions on Elanora Road between No. 37 – 41 be removed and replaced with an extension of the P2 drop off and pick up zone.	
3	'No Stopping' to be installed on the western side of Elanora Road (Woorarra Avenue to opposite school driveway) between 8.30am – 9am and 2.30pm – 3.30pm, school days only. This will ensure that there are two through traffic lanes for vehicles moving along the street and to encourage drivers to circulate around the block rather than undertake 3 point turns using private driveways.	
4	Install 'No Stopping' on the eastern side of Georgina Crescent up to No. 21 between 8.30am – 9am and 2.30pm – 3.30pm, school days only to ensure two clear traffic lanes remain available. 'No Stopping' signs also to be placed on the corner of Georgina Avenue and Anana Road (existing statutory restrictions) to discourage illegal parking.	
5	Construction of a chicane to the west of the Woorarra Ave and Elanora Road intersection to slow the average traffic speed so as to encourage around the block traffic circulation during school drop off/collection times. This item is to be included in Council's draft 2013/2014 Delivery Plan and will be subject to adoption by Council.	\$40,000
6	Install a new P2 school drop off and pick up zone in Elanora Road from 'No Stopping' zone in front of No 27 to Weeroona Avenue. This zone to be accessed via new path to existing school gate entrance and to serve future reconstructed school access adjacent to No 25 (school to apply to Department for funding in 2013.2014 to construct the access).	
7	<u>'No Stopping' (8.30 to 9.00am and 2.30 to 3.30pm, school days) restrictions to be installed on the northern side of Elanora Road between Nos. 53 and 57.</u>	



Elanora Heights Public School

RESPECT ACHIEVEMENT RESPONSIBILITY

Wednesday, 20 February

Mr Mark Ferguson,
General Manager,
Pittwater Council,
PO Box 882,
Mona Vale,
NSW 1660

Dear Mr Ferguson,

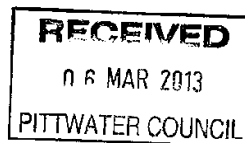
Thank you for the copy of the Traffic, Pedestrian and Infrastructure Review and the Report – Elanora Road, Elanora Heights – Parking Restrictions around the Elanora Public School. On behalf of Elanora Heights Public School could you please thank Mr Paul Davies and his staff for the very comprehensive and informative reports that they prepared.

After detailed analysis of the reports the school would like to support the recommendations of the Traffic Committee. Those recommendations being:

- Elanora Road – provide 'No Stopping' (8:30 – 9:00 am and 2:30 – 3:30pm, school days) on the western side between the existing 'No Stopping' restriction at no. 88 and Woorarra Ave, to replace all existing parking restriction in this section.
- Elanora Road – provide 'No Stopping' (8:30 – 9:00 am and 2:30 and 3:30pm, school days) on the northern side between Nos. 53 and 57.
- Elanora Rd – extend the existing P2 zone on the eastern side of No. 37
- Elanora Rd – create a new P2 zone (same restrictions as existing zone) on the eastern side from No. 27 (at end of 'No Stopping' zone) to the statutory 'No Stopping' limit at Weeroona Ave.
- Elanora Rd – provide 'No Stopping' on the eastern side between the extended P2 zone (No. 37) and the new P2 zone (No. 27)
- Georgina Ave – provide 'No Stopping' (8:30 – 9:00 am and 2:30 -3:30 pm, school days) on the eastern side between No. 21 and the statutory 'No Stopping' limit at Anana Rd.
- Woorarra Ave – approval of a kerb blister and median island adjacent to No. 174 as shown on plan 30-TC-2012, subject to approval by the Traffic Committee of a construction plan for the work prior to its construction

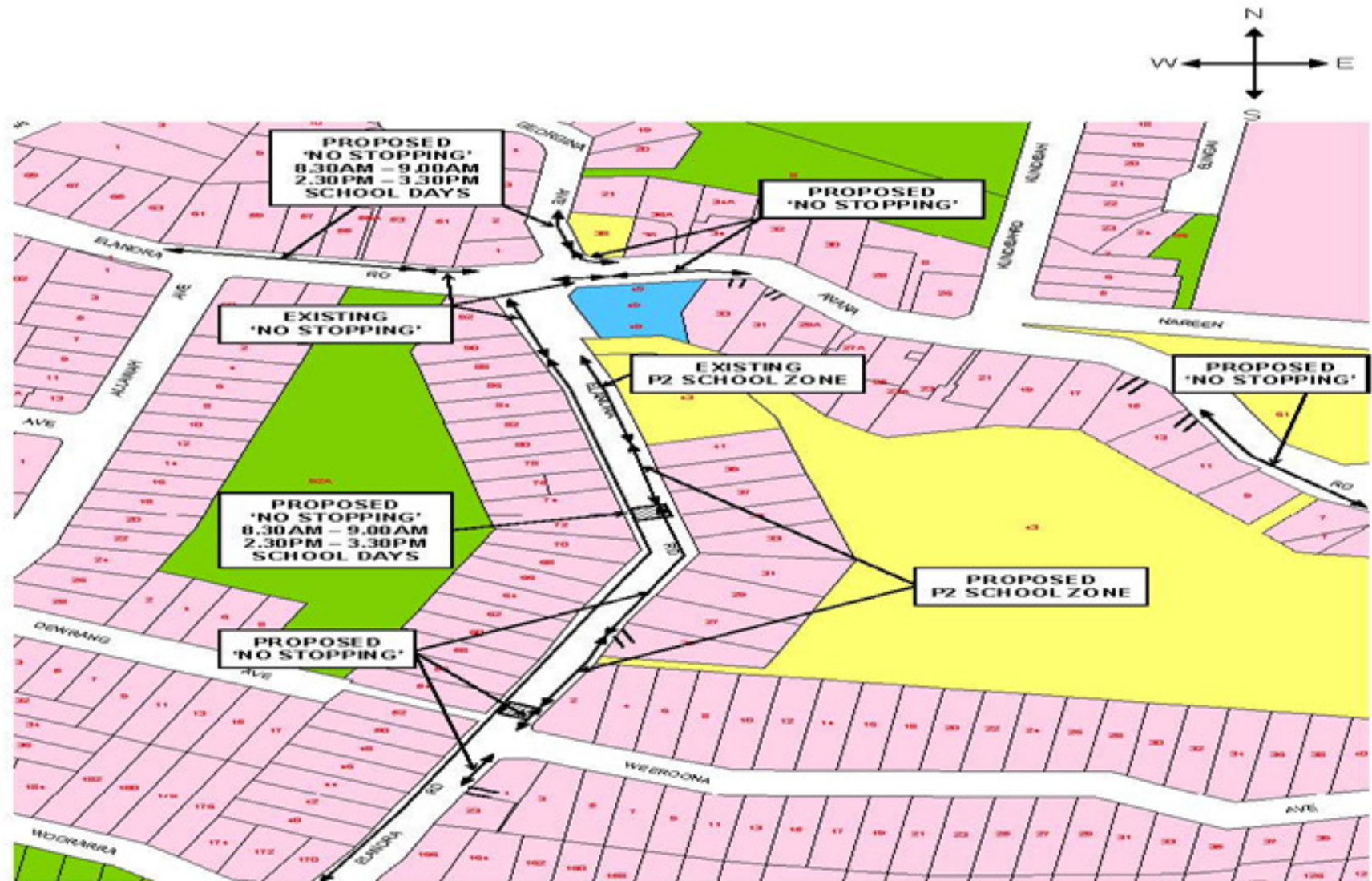
Yours faithfully,

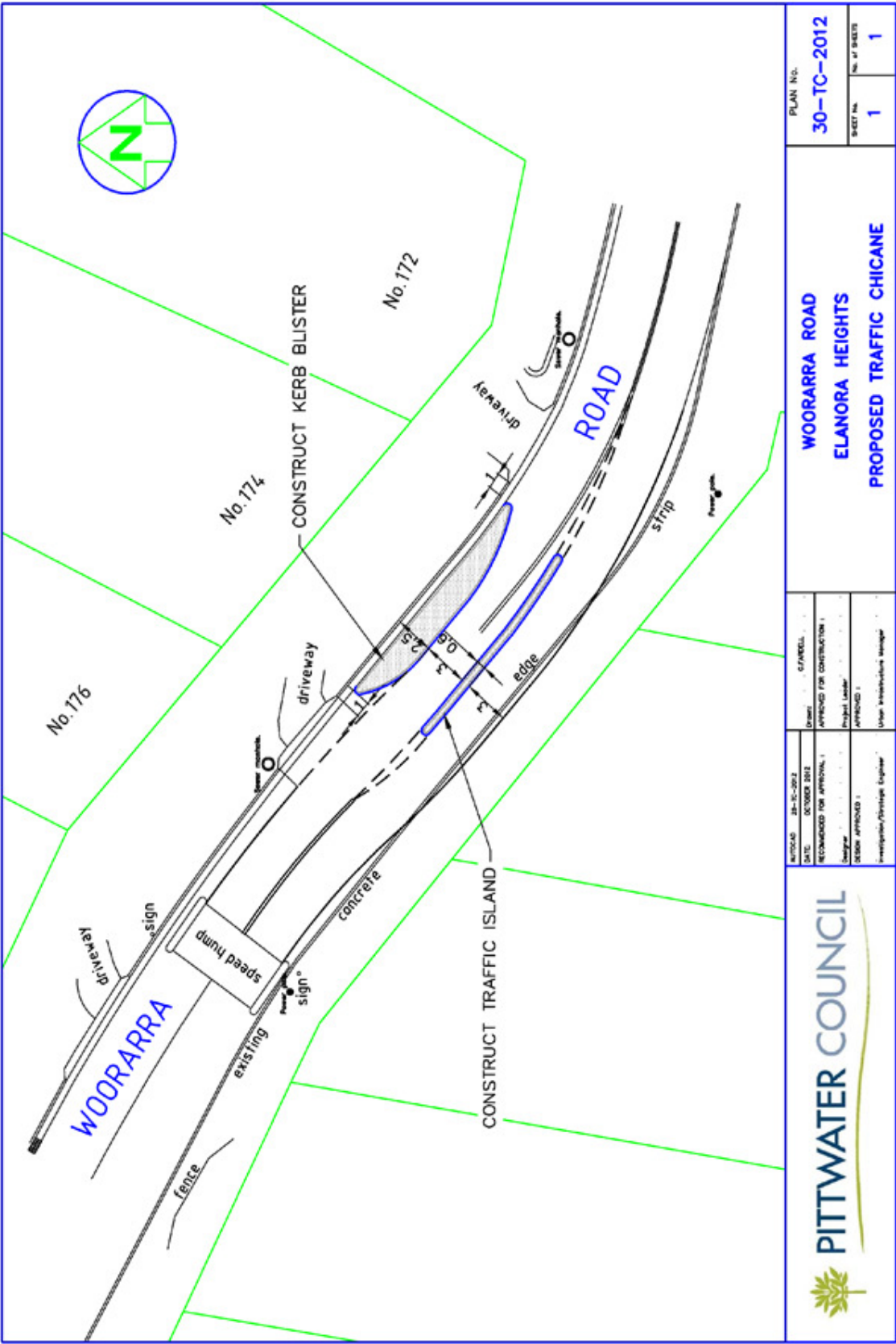
Bill Gillespie
Principal



www.elanorahts-p.school.nsw.edu.au

43 Elanora Rd, Elanora Heights NSW 2101 P:02 9913 7283 / 02 9913 7229 F:02 9913 3749
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Elanora Heights Community Forum

Minutes of Meeting

Wednesday 24 July 2013

North Narrabeen Community and Tennis Centre, Woorarra Avenue, North Narrabeen

Attendance

Council Staff

Paul Davies, Principal Engineer, Strategy, Investigation & Design

Michelle Carter, Road Safety Officer

Ashleigh Sherry, Administration Officer (minute taker)

Councillors

Deputy Mayor, Cr Bob Grace

Cr Julie Hegarty

Cr Kay Millar

Elanora Heights Public School

Bill Gillespie, Principal, Elanora Heights Public School

Justin Wolfe, P&C President, Elanora Heights Public School

Apologies

Rob Stokes, Member for Pittwater

Dean White, Director, Department of Education & Communities, Northern Region

Mark Shaw, Manager of Urban Infrastructure

Mayor, Cr Jacqueline Townsend

Cr Ian White

Cr Alex McTaggart

Cr Selena Griffith

Cr Kylie Ferguson

Cr Sue Young, Traffic Committee Chair Person

Community members signed the attendance sheet.

Meeting commenced at 7.05pm

Michelle Carter, Road Safety Officer, welcomed attendees and introduced Councillors, Council staff and representatives from Elanora Heights Public School. There was an acknowledgement of the Guringai people and their traditional custodianship of the Pittwater area.

Michelle explained that tonight's community forum had been called to discuss the parking, traffic and pedestrians problems around Elanora Heights Public School. The purpose of the meeting was also to seek resident support for a proposal to improve traffic, safety and amenity around Elanora Heights Public School (particularly during the peak drop off and pick up periods) on Elanora Road.

It was also an opportunity for all related issues to be discussed with residents, Elanora Heights Public School, Pittwater Council and business owners so that we can come to an understanding of the issues and a direction to move forward.

Department of Education and Communities update

NSW Government Minor Capital Works Program funding has been confirmed for the re-opening of the bush track on Elanora Road. The Principal of Elanora Heights Public School advised that he is meeting with the relevant departments shortly and that works to be completed in the 2013/2014 FY. Works are expected to commence soon with no impact on the school traffic.

Roads and Maritime Services update

Confirmation of the school zone to be extended on Anana Road. RMS will be letter box dropping information to residents and the change will come in to place 30 July 2013. The school will also be informed.

Pittwater Council

The Road Safety Officer, Michelle Carter, provided a presentation on the proposal to improve the road environment around Elanora Heights Public School.

Michelle confirmed that the issues that will be discussed tonight are parking, traffic, pedestrian access and road safety around the school.

There was a group discussion and the following matters were raised by attendees:

- Bus transport.
- Nowhere safe for the parents to wait for their children.
- Fire hazard on the vacant land next to the school's driveway (Residents suggested that the land at the front of the school be better utilized).
- Widening of the school's driveway.
- Speed of vehicles.
- Traffic management around other schools, such as private and Catholic schools, was discussed.
- Increase access points into the school (as currently four access points have been reduced to two) and continue the road going right down through the school and to have it come up into Weeroona Avenue.
- Public transport, including a safe access point for a bus to pick up their children and a review of the bus timetables.
- Meeting point areas – car pool system run between parents to reduce the number of cars coming into the vicinity of the school.
- Staggered school finish and start times to assist with traffic flow.

A summary of questions and answers can be found as attachment one.

The plan referred to as option two (as modified) can be found as attachment two.

STAGES OF THE PROJECT

1. Georgina Avenue (current proposal)

- No stopping on eastern side from corner of Anana Road to number 21 Georgina Avenue
- 8.30am – 9.00am
- 2.30pm – 3.30pm

There was a group discussion and the following matters were raised:

- No stopping zone. Paul Davies addressed residents' concerns as to the exact location of the end of the No Stopping restrictions by advising that the No Stopping zone is to the boundary of 21 Georgina Avenue.

2. Anana Road (current proposal)

- Existing double separation lines in place preventing legal parking.
- No stopping signs in place outside retail shops, south side of Anana Road to reinforce existing No Stopping restrictions.
- No stopping signs installed at school pedestrian entrance 7-13 Anana Road to enforce existing road rule regarding double center separation lines.

A resident asked Council to consider a pedestrian crossing to replace the current pedestrian refuge at the bottom of Anana Road.

Council advised that as part of the recent review that Council carried out around Elanora Heights Public School, a count of traffic and pedestrians at this location was conducted. It was determined that the counts do not meet RMS guidelines at this stage but may be reviewed due to increase in enrolments at Elanora Heights Public School in future years.

Woorarra Avenue (current proposal)

- Kerb blister/median island to form a chicane

Residents were in favour for the construction of a chicane. It was discussed if a chicane was the best engineering solution and it was asked if Council had considered speed bumps.

Paul Davies explained that speed bumps are not as effective as chicanes to reduce traffic speed as drivers tend to drive over speed bumps and not reduce their speed. With a chicane, the driver has to change the direction of the vehicle to travel through a chicane, therefore reducing the speed of the vehicle to allow the vehicle to pass through.

3. Elanora Road – between Georgina Avenue and Marinna Road (current proposal)

- No stopping on northern side between 53-57 Elanora Road.
- 8.30am-9.00am, school days only.
- 2.30pm-3.30pm, school days only.
- No double white lines between 53-57 Elanora Road.

Residents discussed issues of illegally parked vehicles beside the double centre separation lines and Michelle reinforced that Rangers and Parking Officers have been advised to monitor illegal parking in this area.

4. Elanora Road - option one (not supported by residents)

- Re-opening of bush track next to 25 Elanora Road and creation of new P2 zone.
- Construction of footpath to Weeroona Avenue.
- Extension of existing P2 zone on eastern side of Elanora Road and remove the No Parking area.
- No stopping on eastern side – footpath to Weeroona.
- Removal of 15 minute parking on west side between 70-88 Elanora Road (opposite the school).

5. Elanora Road - option two (refer to attachment two)

- Re-opening of bush track next to 25 Elanora Road and creation of new P2 zone.
- Construction of footpath to Weeroona Avenue.
- Remove 15 minute parking on West side between 70-88 Elanora Road (opposite school).
- Extension of existing P2 zone on eastern side of Elanora Road and remove the No Parking area.
- No stopping on western side, opposite footpath.
- No stopping east side at the curves for school times.
- Creation of two 15 minute parking spaces on eastern side of Elanora Road.

Paul explained the reasons for the removal of the 15 minute parking and explained that if the community would like more 15 minute parking then Council could consider this request. Suggestion of additional 15 minute parking spaces to replace portion of the new P2 zone, adjacent to numbers 25 and 27 Elanora Road.

Residents then asked for clarification as to the differences between option one & two, which Paul Davies explained. Residents expressed that they are in support of option two with the amendments (additional 15 minute parking spaces) agreed to at the community forum.

Pittwater Council, with the support of the residents and Elanora Heights Public School, will proceed with the amended option two plan and will prepare a report for the Traffic Committee (technical assessment of changes from option one plan to amended option two plan) to be held on Tuesday 10 September 2013.

Residents will be advised of the Traffic Committee recommendation and will have the opportunity to address Council on this issue at a future Council Meeting when the proposal is being considered for final approval by Council.

Should the Traffic Committee recommendations support the amended option two plan, all components of the proposal will be placed on the agenda for a future Council meeting for consideration and approval.

Footpath construction – Elanora Road

- Pittwater Council has established a Schools Footpath program which lists schools in the Pittwater Local Government Area requiring footpaths to be constructed immediately adjacent to schools. In this plan, Elanora Heights Public School has been listed as a priority above any other school.

Paul Davies confirmed to the residents that the cost of the footpath being built will be approx \$300,000. These funds have been allocated to Elanora Heights Public School in the Schools Footpath program.

The footpath will be built over four stages with stage one commencing in the 2013/2014 Financial Year.

- There was some community discussion about the allocation of these funds to build this footpath in favour of other footpaths in the Pittwater LGA.

Councillor Hegarty confirmed that the community communicated to Council that the footpath was essential to improve pedestrian access to the school.

Pittwater Council has elected to allocate funding to Elanora Heights Public School for these reasons. These funds would be allocated to another school on the Schools Footpath Program if the footpath on Elanora Road was not constructed.

Bill Gillespie, Principal of Elanora Heights Public School, explained the importance of improved pedestrian access to the school by a providing a footpath on Elanora Road to Weeroona Avenue.

General discussion

Cr Kay Millar raised several items:

- The school has a responsibility to accept enrolments from all children in its enrolment area and cannot turn away any local children. This is a directive from Department of Education & Communities and applies to all school zone areas.
- Concerns regarding staggering finish times due to multiple children from one family.
- Investigate areas outside of the school zone where parents can park their vehicle and walk to the school using upgraded paths through existing reserves.
- Discuss amendments to the current bus timetable to improve the existing service.

Cr Kay Millar addressed residents' concerns regarding the vacant block as being a bushfire hazard area. Cr Millar explained that the Rural Fire Service has visited the site and graded the school as a bushfire hazard category 3 as opposed to a category 1, which is major fire hazard level. There were concerns for surrounding houses being at risk during a bush fire.

Residents pushed to have this area further investigated for potential parking or as parent/student waiting area. Steep terrain of this site severely limits potential for either proposal.

Agreed Actions

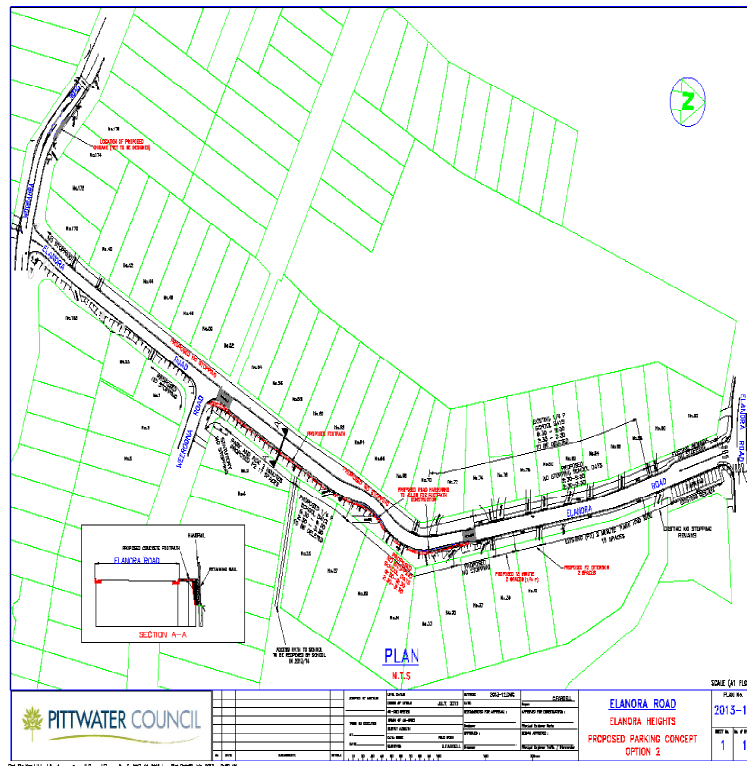
1. The plan titled 'option 2' (as modified at the forum) will be presented to Pittwater Council for approval (following consideration by the Traffic Committee).
2. Following support at a future Council Meeting, works will be completed in stages subject to funding. Should Council support the proposal, works will be carried out with minimal disruption to school traffic (where possible).

Attachment One: Question and answer session

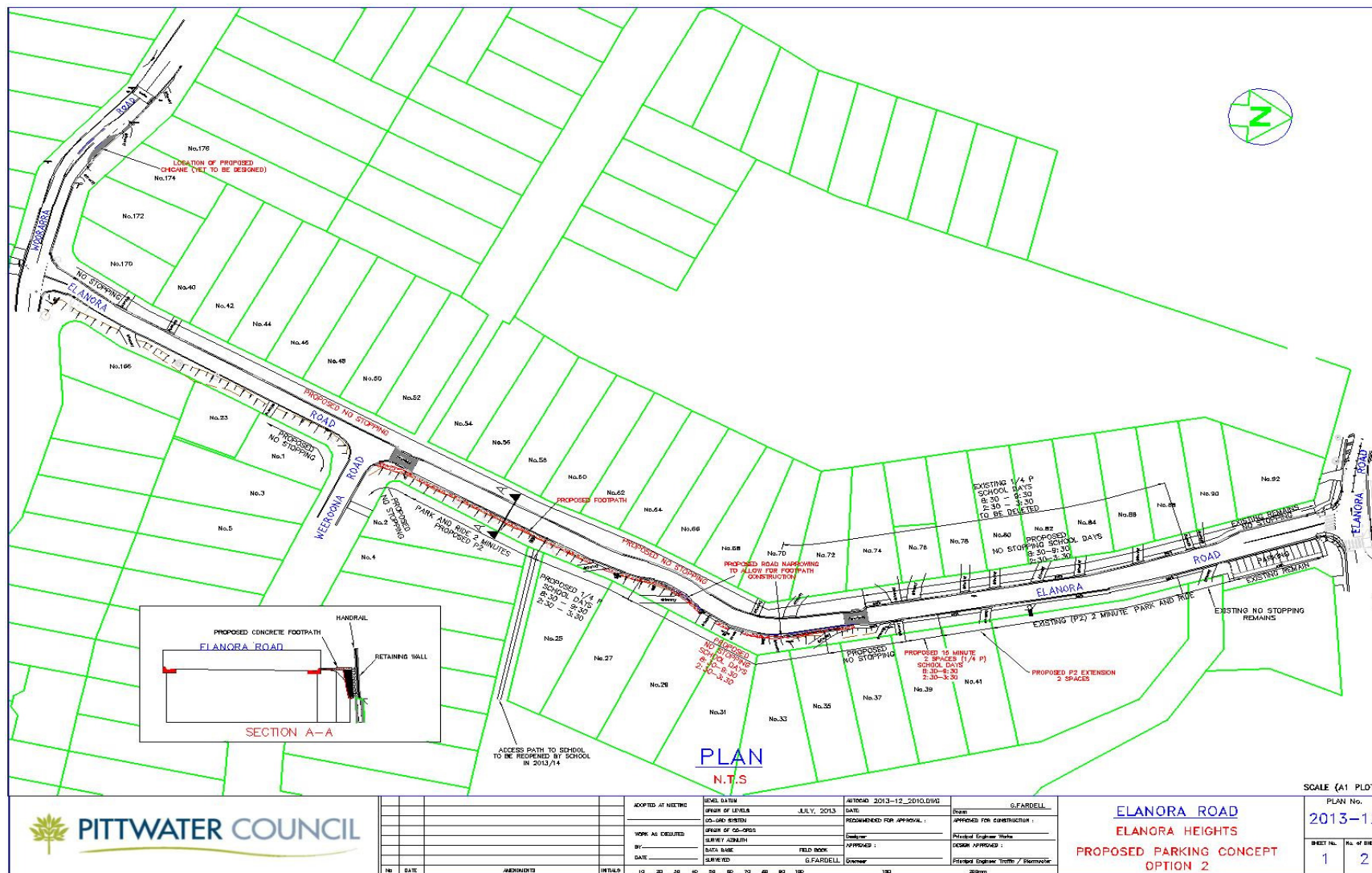
Name	Question / remarks	Response
Resident	If there was a safe access point for a bus to pick up the children, then it would reduce the number of parents collecting their children. If the bus service was better it would improve the situation greatly. Resident asked if it be renegotiated with NSW Transport, that children within a short distance be provided with a bus pass.	Pittwater Council, EHPS and bus companies to investigate further. Under the School Student Transport Scheme, infant students in K-2 are eligible for free bus transport to school, regardless of the distance between their home and school.
Resident	It was suggested that a drop off and pick up area be installed at the end of the bush track at Weeroona Street. It was requested that this access track be improved so that it can be used more frequently as it is currently susceptible to flooding.	Council advised that this would be the responsibility of EHPS as the sole purpose of the path would be to provide access to the school for its students.
Resident	Do not put the No Stopping signs at 53-57 Elanora Road. Request that this be tested before implementing the timed no stopping area in this area. The resident explained that there has never been a crash in this area and requested that we trial leaving the parking spaces between 53-57 Elanora Road and only installing No Stopping signs at the existing double centre separation lines.	Council agrees to support trial of new No Stopping signs at existing double centre separation lines before considering implementing No Stopping at school times between 53-57 Elanora Road.
Resident	School staggered start and finish times and to consider having school events such as cross country, grandparents day and Education Week start at a later time, to assist with traffic flow.	School to consider later start times for events and to further investigate staggered finish times.
Resident	A resident suggested that 15 minute parking be allowed outside their home. The area in question was demonstrated to Paul Davies on the map.	Council to provide 15 minute parking in this area (refer to the plan attached).
School	Produce a booklet to be part of every child's induction package which will educate the parents as to what different ways children can enter and exit the school.	Michelle Carter to produce a guide, similar to what she already produces on parking, for the school. This will be held off until all the changes are complete and access path has been constructed.
Resident	A resident requested Council monitor the safety of the children around Allawah Avenue.	Pittwater Council to monitor the area following implementation.

Resident	Resident concerns about number of cars passing their house every morning and is worried that as Council are proposing to remove parking, this will cause traffic to 'go around in circles' therefore doubling the amount of traffic flow. The resident questioned whether the traffic is travelling faster as there is more traffic.	Traffic volumes are currently low. Any increase in traffic generally reduces traffic speeds.
Principal	Requested that any trial period go for longer than six months.	Council will monitor traffic and parking in this area and will review as necessary. This is a continuous process which can be reviewed and amendments can be made to the adopted parking scheme at a future date.
Resident	Concerns that the school needs to take responsibility for keeping the children off the footpath and introducing a standing area for the children to wait, supervised by the school, to keep them off the road or footpath. An elevated deck was suggested.	Elanora Heights Public School to investigate further.

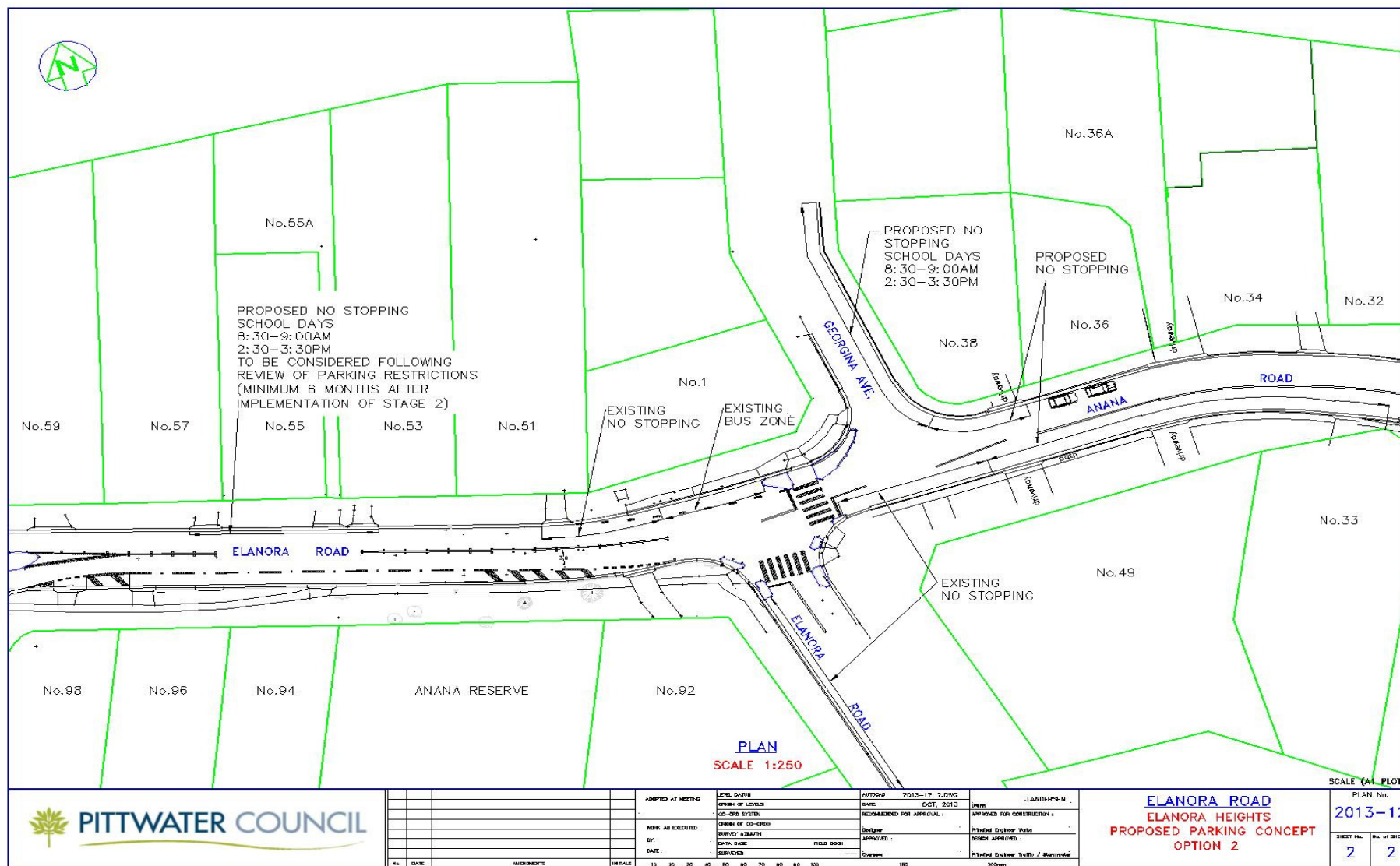
**THERE BEING NO FURTHER BUSINESS
THE MEETING CONCLUDED
AT 9.10PM ON THURSDAY 24 JULY 2013**



Attachment Two



oad File No. Urban\Drawings - Current\TRAFFIC COMMITTEE\2013\ 2013-12_2013.dwg Plot Date: 06 October, 2013 - 1:25 PM



Cad File No: Urban\Drawings - Current\Elanora\Elanora Road\ 2013-12-20.dwg Plot Date: 09 October, 2013 - 1:29 PM

C12.8	Minutes of the Ingleside Community Reference Group Meeting held on 25 September 2013
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Meeting: Sustainable Towns & Villages Committee
October 2013

Date: 21

STRATEGY: Corporate Management

ACTION: Maintain and Service Council's Range of Committees

PURPOSE OF REPORT

To present to Council the Minutes of the first Ingleside Community Reference Group Meeting which was held on 25 September 2013 (refer **Attachment 1**).

1.0 BACKGROUND

1.1 The Ingleside Community Reference Group was established by Council to provide a forum for discussion between Council, the Ingleside Project Control Group and Precinct Working Group (comprising officers from the Department of Planning and Infrastructure, UrbanGrowth NSW and Pittwater Council), the community and other interested groups on a range of issues throughout the various stages of the Precinct Planning Process. The reference group brings together the expertise and diverse community knowledge required to suitably manage any potential release of land in Ingleside.

1.2 To fulfil its role, the Ingleside Community Reference Group is to:

- provide a safe and equitable forum where members, derived from registered community groups, community organisations and Pittwater residents, have equal opportunity to contribute and be involved in discussions with the Ingleside Project Team on relevant issues;
- complement other elements of the broader consultation framework established for the Ingleside Precinct Planning project;
- act as another mechanism through which Council and the Ingleside Project Team can bring items where consultation is required;
- be a means of identifying innovative ideas that can enhance the precinct planning for Ingleside.

2.0 ISSUES

2.1 The first meeting was an induction for Reference Group members and invitations were extended to their nominated alternates.

2.2 Probity and conflict of interest issues were raised by Reference group members, and will be addressed by the probity advisor who will attend the next Ingleside Community Reference Group on 30 October 2013.

3.0 SUSTAINABILITY ASSESSMENT

This report does not require a sustainability assessment.

4.0 EXECUTIVE SUMMARY

- 4.1 To present to Council the outcome of the first meeting of the Ingleside Community Reference Group held on Wednesday, 25 September, 2013.

RECOMMENDATION

That the Minutes of the Ingleside Community Reference Group meeting of 25 September 2013 be noted.

Report prepared by
Liza Cordoba – Principal Officer Land Release

Steve Evans
DIRECTOR, ENVIRONMENTAL PLANNING & COMMUNITY

MINUTES

Ingleside Community Reference Group

held in the Conference Room, Mona Vale Customer Service Centre,
Village Park, 1 Park Street, Mona Vale on

25 September 2013

Commencing at 4:08pm

Attendance:

Cr Julie Hegarty, Chairperson
Ms Nadia Aivazian, Bayview & Ingleside Residents Association
Mr Dick Clarke, Elanora Heights Residents Association
Mr Antony Edge, Climate Action Pittwater (Alternative Representative)
Mr Conrad Grayson, Pittwater Resident Representative
Ms Linda Haefeli, Climate Action Pittwater
Mr Chris Hornsby, Warriewood Valley Residents Association
Mr Glen Ilic, Wilga Wilson Residents Association
Ms Anne Jeffrey, Bayview Heights Estate Owners Group
Mr Brad Jeffrey, Bayview Heights Estate Owners Group (Alternative Representative)
Mr Ian Longbottom, Galstaun College
Ms Margaret Makin, Bayview–Church Point Residents Association (Alternative Representative)
Ms Jacqui Marlow, Friends of Narrabeen Lagoon Catchment
Mr David Palmer, Pittwater Natural Heritage Association
Mr Philip Rosati, Pittwater Resident Representative
Mr David Seymour, Katandra Bushland Sanctuary
Mr John Simmonds, Sydney Conference Training Centre
Mr Dennis White, Wirreanda Valley Residents Association (Alternative Representative)
Mr Lee Mulvey, Project Manager, DP&I
Mr Steve Evans, Director, Environmental Planning & Community
Ms Liza Cordoba, Principal Officer – Land Release
Ms Tija Stagni, Senior Strategic Planner – Land Release
Mr Robbie Platt, Assistant Strategic Planner – Land Release
Ms Jane Mulroney, Principal Officer - Community Engagement
Ms Pamela Tasker, Minute Secretary / Administration Officer

Ingleside Community Reference Group Meeting

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2.0	Declarations of Pecuniary Interest / Non Pecuniary Conflict of Interest	
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3.1	Reference Group Induction & Code of Conduct	
3.2	The Ingleside Precinct Planning Process and the role of the Reference Group	
4.0	Business Arising	
5.0	Next Meeting	

1.0 Apologies

The following apologies were received and leave of absence was granted from the Ingleside Community Reference Group (ICRG) Meeting held on 25 September 2013.

- Ms Roberta Conroy, Bayview–Church Point Residents Association
- Mr Stephen Smith, Wirreanda Valley Residents Association
- Mr Stephen Choularton, Bayview & Ingleside Residents Association

Notes:

1. Ms Margaret Makin attended as the alternative delegate representing the Bayview–Church Point Residents Association.
 2. Mr Dennis White attended as the alternative delegate representing the Wirreanda Valley Residents Association.
 3. Ms Nadia Aivazian attended as the alternative delegate representing the Bayview & Ingleside Residents Association.
-
-

2.0 Declarations of Pecuniary Interest/Non-Pecuniary Conflict of Interest

Cr Hegarty declared a Pecuniary Interest as follows:

“I am the owner of 12 Minkara Road Bayview.”

Mr Glen Ilic (Wilga Wilson Residents Association) declared a Pecuniary Interest as follows:

“I am the owner of 13 Wilga Street Ingleside.”

Mr Dennis White (Wirreanda Valley Residents Association) declared a Pecuniary Interest as follows:

“Landowner Wirreanda Valley.”

Mr David Palmer (Pittwater Natural Heritage Association) declared a Pecuniary Interest as follows:

“Owner of 26 Cicada Glen Road Ingleside.”

Ms Anne Jeffrey (Bayview Heights Estate Owners Group) declared a Pecuniary Interest as follows:

“I am the owner of 29 Walter Road Ingleside.”

Mr Brad Jeffrey (Bayview Heights Estate Owners Group) declared a Pecuniary Interest as follows:

“I am the owner of 29 Walter Road Ingleside.”

Mr John Simmonds (Sydney Conference Training Centre) declared a Pecuniary Interest as follows:

"I am a Director and Landowner of the Sydney Conference & Training Centre which is located within the Ingleside Land Release Area."

Ms Nadia Aivazian (Bayview & Ingleside Residents Association) declared a Pecuniary Interest as follows:

"Landowner of 3 (Lot 13) Walter Road Ingleside (DP30325)."

Note:

Mr Ian Longbottom (representing Galstaun College) advised in the interests of full disclosure that he chairs the NSW Property Services Advisory Council, one of a number of Ministerial Advisory Councils established to act as a source of advice to the NSW Minister for Fair Trading. No potential conflicts of interest relating to participation on this Advisory Council, now or in the future, were foreseen.

Ingleside Community Reference Group Charter (Amended):

The following changes to the Ingleside Community Reference Group Charter were noted. Ms Mulroney will effect these changes administratively and the amended Charter will be circulated to members for their information prior to the next meeting.

1. Function – delete first paragraph as follows:

"To consider and resolve on matters involving goals and initiatives contained in the key direction of Council's Strategic Plan – Land Use & Development."

2. Composition/Membership – amend first dot point as follows:

Where it currently reads *"The Chairperson elected by Council and the Chairperson of the corresponding Principal Committee of Council."*

it should now read *"The Chairperson elected by Council on 24 June 2013."*

3. Reporting procedures – amend Principal Committee name:

Council resolved at its meeting on 16 September 2013 to amend Principal Committee names, so that the *Planning an Integrated Built Environment Committee* is now known as the *Sustainable Towns and Villages Committee*.

3.0 Discussion Topics

3.1 Reference Group Induction & Code of Conduct

Proceedings in Brief

Presentation by Ms Jane Mulroney, Principal Officer – Community Engagement. Ms Mulroney provided members with an induction kit which included a copy of the power point presentation and other relevant documents such as Pittwater Council's Code of Conduct.

Ms Mulroney discussed administrative arrangements including the need to contact the Minute Secretary when members could not attend the meeting. All representatives of registered community groups needed to have an identified alternate delegate to attend meetings when they were unable to attend. Members need to provide the names of their alternate delegate as soon as possible.

Other items covered by the presentation included:

- Responsibilities of members were clearly outlined.
- Code of conduct issues were discussed including the expectation that members will conduct themselves in a way which enhances public confidence in the reference group
- Members agreed to abide by Council's core values of service, communication, integrity, leadership, respect, wellbeing
- Business papers will be distributed to members approximately two weeks prior to each meeting
- The Agenda prepared for the Ingleside Community Reference Group is agreed to by the Project Control Group, the body which oversees the precinct planning and is the decision making body for the process.

3.2 The Ingleside Planning Process and the role of the Project Control Group

Proceedings in Brief

Presentation by Mr Lee Mulvey, Project Manager – Department of Planning & Infrastructure (DoPI), and Ms Liza Cordoba, Principal Officer – Land Release. The induction kit contained the PowerPoint presentation (hard copy) on the Ingleside Planning Process and included the Ingleside Project Plan, program of key milestones and Ingleside Community Participation Plan.

- There are no examples of how similar reference groups function as this is the first one of this nature that the DoPI has been involved with. This form of community consultation is expressed in the White Paper, however, so we might see them become more common.
- The public exhibition of the Precinct Planning Package is scheduled for four weeks in July 2014.
- The Reference Group will be provided with information as it becomes available and as agreed to by the Project Control Group.
- Continued consultation with landowners and stakeholders is planned throughout the entire process.
- Post public exhibition it should be 3 to 6 months until the rezoning stage.
- All submissions will be published online and included in the Submissions Report.
- The Submissions Report will identify all of the issues raised and how they were addressed.
- In the coming months the Precinct Working Group will be working to develop a Structure plan for Ingleside. The first step in its development is reviewing existing technical reports and commissioning new ones as required, assessing potential across the site and broadly identifying different usage, and working with the various authorities such as Sydney Water and Roads & Maritime Services to identify infrastructure issues.
- A report on the development of the overarching Structure plan will be discussed at the October meeting. Consultants are reviewing existing consultant studies to identify gaps in the existing data. This gap analysis may not be completed in time for the October meeting, but a spreadsheet summarising the work done to date will be

provided for that meeting. It is anticipated that the completed gap analysis and additional information will be provide to members in November prior to the December Workshop.

- Council's flood study will be one of the studies under consideration.
- NSW State Government is covering the cost of Consultants Reports and technical data analysis. Pittwater Council will peer review the Consultants Reports.

- The Project Control Group (PCG) will be the executive body overseeing the Precinct Working Group (PWG).
- The PWG will engage the consultants, review the work and make recommendations to the PCG. PWG personnel are Liza Cordoba (Pittwater Council), Lee Mulvey (DoPI) and Nick Chandler (UrbanGrowth NSW).
- Council staff will be responsible for ensuring the peer review process. A technical team is already established.
- The Reference Group does have scope to investigate and discuss alternative options for issues such as the provision of infrastructure. Alternative technologies / solutions are included in the brief to consultants.
- There is likely to be a residential focus, although proposed housing densities and other land uses such as industrial or retail are not yet known.
- The PWG recognises there are constraints on sewerage infrastructure and are starting to work through these issues with Sydney Water. The Implementation Plan will identify all infrastructure constraints and the way forward.
- The timing of the release of consultants' reports is the issue, rather than the confidentiality of the reports. As reports are cleared for release they will be made available to the public via various websites. The final consultants' reports may not be available until just before exhibition of the Precinct Planning Package, however specific issues and recommendations from consultants' reports may need to be released to the Reference Group for discussion purposes. It is reiterated that any release of information will need the prior approval of the PCG.
- The NSW State Government and Pittwater Council are both significant landowners in Ingleside which raises probity issues. State and Local Government landowners do have a right to consultation and participation the same as any stakeholder, however a probity plan will have to be put in place that will ensure a clear separation of planning function and corporate property function for both institutions.
- A Probity Advisor is due to be appointed and will be invited to attend ICRG meetings. It is anticipated that the Probity Advisor will be available to attend the meeting on 30 October.
- The Probity Plan to be prepared by the Probity Advisor will also consider risk analysis and the ongoing management of any risks identified.
- The PWG will consult with the Green Building Council of Australia (GBCA) throughout the process. UrbanGrowth NSW also has its own green star rating system for new communities (called Precinx) and we will be briefed on this system as well.
- The Reference Points made by the Reference Group will be passed on to the PCG and to Pittwater Council. The Reference Group Minutes will be reported to Council as soon as possible following the meeting.
- Mr Mulvey is to ask the PCG if the ICRG can have copies of any PCG/PWG Minutes.
- As the Minister is the final authority, it was seen as useful to secure a letter of support from the Minister demonstrating good faith with the landowners. Mr Mulvey responded that there was a letter of support from the Director-General of Planning on Council website. He further undertook to request a letter of support from the Minister during an upcoming Ministerial briefing.

4.0 Business Arising

Nil.

5.0 Next Meeting

The next meeting of the Ingleside Community Reference Group is scheduled to be held on Wednesday, 30 October, 2013 commencing at 4.00pm.

As that meeting is scheduled after receipt and analysis of various consultant reports, it is hoped to have some form of gap analysis of the various reports and recommendations available for the consideration of the members.

The probity advisor will be appointed by 30 October and will hopefully be available to attend the meeting for discussion on the probity plan.

**THERE BEING NO FURTHER BUSINESS THE MEETING
OF THE INGLESIDE COMMUNITY REFERENCE GROUP
CONCLUDED AT 5.28PM ON WEDNESDAY 25 SEPTEMBER 2013.**

C12.9 Update on Ingleside Precinct Planning

Meeting: Sustainable Towns and Villages

Date: 21 October 2013

STRATEGY: Land Use & Development

ACTION: Commence and progress the Ingleside Precinct Planning Process with the State Government
Effectively manage the Ingleside Land Release process

PURPOSE OF REPORT

- To advise Council of the members selected into the Ingleside Community Reference Group in accordance with Council's resolution of 19 August 2013.
- To update Council on progress of the precinct planning for Ingleside.

1.0 BACKGROUND

- 1.1 At its meeting of 24 June 2013, Council adopted the Terms of reference for the Ingleside Community reference Group including the calling of nominations via an Expression of Interest process for membership into this Reference Group.
- 1.2 At that meeting, Council resolved inter-alia:
- "2. That the establishment of the Ingleside Community Reference Group for the Ingleside Precinct Plan in accordance with 3.5 of this report be endorsed and the attached Terms for Reference (Attachment 3) be adopted.*
 - 3. That an Expression of Interest for the membership of the Ingleside Community Reference Group be called.*
 - 4. That the following three (3) Councillors be nominated to participate in the selection panel for the Ingleside Community Reference Group:*
 - *Cr Ferguson*
 - *Cr Millar*
 - *Cr McTaggart*
 - 5. That Cr Hegarty be nominated to Chair the Ingleside Community Reference Group...*
 - 8. That a report be presented to Council on the outcome of the Expression of Interest process and selection of Community Members for the Ingleside Community Reference Group."*
- 1.3 At its meeting of 19 August 2013, Council was advised that the Project Control Group had adopted the Ingleside Project Plan and Community Participation Plan. Council resolved as follows:
- "1. That the information in this report be noted.*

2. *That a further report on the progress of the Ingleside Precinct Planning be presented to Council in the second quarter of 2013-2014 including:*

- *the outcome of the Expression of Interest process and selection of Community Members for the Ingleside Community Reference Group and*
- *the Probity Plan for Ingleside."*

2.0 EOI & SELECTION OF REFERENCE GROUP MEMBERS

- 2.1 The Expression of Interest (EOI) process sought nominations for membership into the Ingleside Community reference group and commencing on 24 August 2013, the day of the first Landowner Information Session for Ingleside. The EOI period closed on 13 September 2013.
- 2.2 All registered community groups were invited to make an application. An advertisement for the Expression of Interest was placed in the Manly Daily on 24 August 2013.
- 2.3 A total of 26 applications were received for 15 positions. 8 of the 26 applications received came from 4 registered community groups.
- 2.4 The panel of Councillors Ferguson, Millar and McTaggart, Lee Mulvey of the Department of Planning and Infrastructure and Liza Cordoba of Council met on 19 September 2013 to select the reference group members.
- 2.5 Councillor Hegarty is the Chairperson, appointed under Council resolution of 24 June 2013. Listed below are the Ingleside Reference Group Members, representing a range of registered community groups including business interests representation in Ingleside:

Anne Jeffrey	Bayview Heights Estate Owners Group
Glen Ilic	Wilga Wilson Residents Association
Stephen Chourlarton	Bayview & Ingleside Residents Association
Stephen Smith	Wirreanda Valley Residents Association
Chris Hornsby	Warriewood Valley Residents Association
David Palmer	Pittwater Natural Heritage Association
David Seymour	Katandra Bushland Sanctuary
Dick Clarke	Elanora Heights Residents Association
Jacqui Marlow	Friends of Narrabeen Lagoon Catchment
Linda Haefeli	Climate Action Pittwater
Roberta Conroy	Bayview-Church Point Residents Association
Ian Longbottom	Galstaun College
John Simmonds	Sydney Conference Training Centre
Conrad Grayson	Pittwater Resident representative
Philip Rosati	Pittwater Resident representative

- 2.6 The Ingleside Community Reference Group held its first meeting on 25 September 2013. The minutes of that meeting are also reported elsewhere in tonight's Agenda.

3.0 COMMUNITY ENGAGEMENT SO FAR

3.1 Landowner information sessions were held on Saturday afternoon 24 August and Tuesday evening on 27 August 2013. Each session was well attended by Ingleside landowners. The purpose of the information sessions was to inform landowners of:

- the precinct planning process and program
- the project team
- how the project team will be engaging with landowners and the broader community
- the dedicated website, www.inglesideplanning.com.au
- designated enquiry lines at 1300 730 550 and community@planning.nsw.gov.au
- updates to the precinct planning process by subscribing to the email subscription mailing list.

4.0 OTHER MATTERS

4.1 Probity Issues

- 4.1.1 A probity advisor, engaged to oversee the precinct planning process, is preparing a Probity Plan and will audit the process.
- 4.1.2 The probity advisor will discuss probity and conflict of interest issues with members of the Ingleside Community Reference Group at its meeting of 30 October 2013.
- 4.1.3 The Probity Plan will be finalised following the Reference Group meeting and forwarded to the PCG for its adoption. The Probity Plan, following PCG adoption, will be provided to Council for its information.

4.2 Development of a Structure Plan for Ingleside

- 4.2.1 A key outcome of the process is the Structure Plan, prepared by a masterplanning consultant through a collaborative process with landowners, community and stakeholders including the Ingleside Community Reference Group.
- 4.2.2 The Structure Plan is a visual representation that details the land use arrangements on a map of Ingleside.
- 4.2.3 The Structure Plan will be informed by a suite of consultant studies, following a review of the existing studies. Studies will include but not limited to:
 - land capability assessment
 - biodiversity, bushfire and riparian
 - water cycle management and flooding
 - transport and assessment of traffic impact
- 4.2.4 Dialogue has commenced with state agencies and servicing authorities to gain an understanding of their specific requirements and issues regarding the future development of Ingleside.
- 4.2.5 State agencies and servicing authorities will be invited to participate in the development of the Structure Plan.

5.0 SUSTAINABILITY ASSESSMENT

5.1 Supporting & Connecting our Community (Social)

The Ingleside Precinct Planning process seeks to examine how any new community will be integrated into the wider Pittwater community.

5.2 Valuing & Caring for our Natural Environment (Environmental)

The precinct planning will evaluate likely impacts of a land release development for Ingleside, including environmental impacts on the natural environment, creek systems including receiving water. Best practice must be employed to lessen ecological footprint and protect biodiversity.

5.3 Enhancing our Working & Learning (Economic)

The precinct planning investigation must evaluate likely impacts of a land release on employment containment initiatives and the attraction of employment opportunities. Conversely, the precinct planning process will consider the economic viability of development in Ingleside together with affordability to deliver the necessary services and infrastructure commensurate with future land release in Ingleside.

5.4 Leading an Effective & Collaborative Council (Governance)

Overseeing the precinct planning investigation will be a probity plan being prepared by a probity advisor (recently engaged) and through implementation of the community participation plan developed by this project, aimed at ensuring decision-making is ethical, accountable and transparent and that stakeholders and the wider community are aware of the decisions/next steps throughout the relevant stages of the precinct planning process.

5.5 Integrating our Built Environment (Infrastructure)

Important infrastructure and design matters are to be investigated in line with the potential for any increase in dwelling yields.

RECOMMENDATION

That the update on the progress of the precinct planning for Ingleside be noted.

Report prepared by
Liza Cordoba, Principal Officer Land Release

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

Council Meeting

13.0	Adoption of Leading and Learning Committee Recommendations
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14.0	Adoption of Sustainable Towns and Villages Committee Recommendations
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Confidential Advice

Commercial in Confidence Tender T05-13 - Management of Avalon Golf Course and Narrabeen Golf Driving Range

CONFIDENTIAL 'COMMERCIAL IN CONFIDENCE' ADVICE

Item No:	C11.3
Matter:	Tender T05/13 Management of Avalon Golf Course and Narrabeen Golf Driving Range
From:	Paul Reid MANAGER – CORPORATE STRATEGY & COMMERCIAL
Meeting:	Leading & Learning Committee
Date:	21 October 2013

The abovementioned matter is listed as Item No. C11.3 in Open Session in the Agenda.

The detailed analysis of the tenders is circulated separately.

Paul Reid
MANAGER, CORPORATE STRATEGY & COMMERCIAL

Commercial in Confidence Tender T05-13 - Management of Avalon Golf Course and Narrabeen Golf Driving Range

CONFIDENTIAL 'COMMERCIAL IN CONFIDENCE' ADVICE

The Tender Evaluation Panel (TEP) for this tender comprised the following:

Role	Name	Position
Chair	Mark Jones	CFO – Finance & IT
Member	George Veness	Senior Property Officer, Corporate Strategy & Commercial
Member	Les Munn	Manager, Reserves & Recreation
Independent	Peter Baartz	Senior Officer Procurement and Fleet - Urban Infrastructure

Note: Each panel member was required to declare any conflict of interest or pecuniary interest associated with the tender or any of the Companies that have submitted a tender.

1.0 SCOPE

Scope of Services required is as follows:

1. operation and management of the Golf Course and Driving Range;
2. management of the Avalon Clubhouse facilities (restaurant and commercial kitchen)
3. management of the Narrabeen Golf Driving Range facilities
4. management of the pro-shops at both the Golf Course and Driving Range
5. management and functioning of the kiosk facility at the Driving Range
6. collection of Green Fees and Driving Range user fees;
7. promotion of the facilities (including advertising and marketing activities)
8. other services which enhance the income generated from Council's investment in the Golf Course and Driving Range.
9. production of monthly and annual reports addressing financial, operational, marketing and promotions in a form prescribed by Council

2.0 TENDERS RECEIVED

As per the call for tenders, the tenders could be received via the official Tender Box or via Tenderlink prior to the closing specified tender closing time/date of 10.30 a.m. Thursday, 6 June 2013. At the specified tender opening time, five (5) tenders were collected from the tender box, or received via Tenderlink and were duly registered by Council. Tenderers are listed as follows:

- TCOB Consulting trading as Teed Up Pty Ltd

- Northern Beaches Golf Centre No. 2 Pty Ltd
- Hodson & Hodson Management Pty Ltd
- ClubLINKS Pty Ltd
- Golf Worlds Pro Shop Pty Ltd

3.0 TENDER EVALUATION

3.1 Stage 1: Tender Compliance and initial cull

An initial review was conducted by the Tender Evaluation Panel (TEP) to identify any non-conforming tenders. During this process two (2) tenderers were deemed to be non-conforming as listed and detailed below and where not progressed.

- The tender received from Hodson & Hodson Management Pty Ltd did not submit in the required format (no returnable schedules supplied) and was subsequently culled from further consideration.
- The tender received from Golf World Pro Shop Pty Ltd did not contain the required level of insurances and contained no certificates of currency. The Form of Tender Compliance was also not witnessed.

Submissions received from three (3) tenderers were determined to be conforming and covered the specification to sufficient degree to allow further assessment, these tenderers were;

- TCOB Consulting trading as Teed Up Pty Ltd
- Northern Beaches Golf Centre No. 2 Pty Ltd
- ClubLINKS Pty Ltd

3.2 Stage 2: Financial Evaluation of Remaining Tenders

The tender was assessed using the following criteria, in order:

	CRITERIA	SCORE
1	Financial Offer & Organisational capacity	25%
2	Environmental Sustainability	10%
3	Experience in Managing Similar Operations	20%
4	Services Offered	20%
5	Ability to Meet Key Strategic Objectives	10%
6	Net Community Benefit	15%
	TOTAL	100%

The first step in this process was to assess the financial offerings from each of the conforming tenderers. This assessment was carried out with the assistance of CFO and finance staff.

During this first step the competitiveness of the rates offered by each was unable to be properly assessed due to the unavailability of base numbers to compare against and differing assumptions being made by each tenderer.

Conforming tenderers were then asked to submit further financial information that was to be received at Council no later than 4.30 p.m., Friday 28th June, 2013. This information was forwarded to the Chief Financial Officer for assessment and upon further review it was decided that the financial return or cost to Council could not equitably be determined due to the varied nature of the tenderers financial proposals.

The TEP convened after this final financial assessment to determine the outcome of the financial evaluation. The Panel's assessment was to stop the assessment process and not award the tender as the financial information provided by the compliant tenderers listed above was not sufficient to conclusively award the tender and thus a comparison of finances could not be done fairly and equitably.

No further assessment of the tenderers was conducted after the financial review was completed.

3.5 Disqualification of Tenderers

Subsequent to the three conforming tenderers supply of additional financial information it has been brought to the attention of the Tender Evaluation Panel that one of the tenderers has indirectly tried to influence the tender outcome.

Pursuant to PART B Clause 22 the Tender Evaluation Panel determined to disqualify Northern Beaches Golf Centre No. 2 Pty Ltd due to indirect communication with Councillors in an attempt to gain a favourable outcome. Councillors have received a number of emails and phone calls supporting the incumbent management company, requesting Council to support the management company in the tender process. This was following requests from the incumbent management company with their customers urging them to contact Councillors to seek a favourable outcome of the tender process. Legal advice was sought by the TEP to ensure the Panel's interpretation of Clause 22.

Legal advice confirmed the TEP determination to disqualify Northern Beaches Golf Centre No. 2 Pty Ltd.

PART B Clause 22 of the tender documents read;

22. DISQUALIFICATION OF TENDERERS

During the tender process (i.e. from the call for tenders until contract award) Tenderers who directly or indirectly contact or communicate with, or attempt to canvass for support from an elected member or servant of the Council will be automatically disqualified from the tender process.

The Tenderer confirms that its tender is a genuine submission, intended to be competitive and that the Tenderer has not adjusted the amount of the submission in accordance with any agreement with any other person. The Tenderer also declares that it has not done or will not do at anytime for the return of the submission any of the following:

- a. Communicate to any person the amounts contained within the submission except where the disclosure, given in confidence, was necessary to obtain insurance details for the submission.*
- b. Enter into an agreement with any other person so that person shall refrain from providing a submission.*
- c. Receive advice from any other person the amounts contained within another submission.*

Any breach of the above will lead to the tenderer being disqualified from the tender process.

3.4 Proposed Forward Path

The TEP recommends that Council proceed under Clause 178(3e) of the Local Government (General) Regulation 2005. This Clause states *“A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*

- (a) postpone or cancel the proposal for the contract,*
- (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
- (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
- (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
- (f) carry out the requirements of the proposed contract itself.*

The TEP recommends that we enter into negotiations with the remaining two tenderers:

- TCOB Consulting trading as Teed Up Pty Ltd
- ClubLINKS Pty Ltd

The proposed negotiation process will include;

1. Holding a meeting with all conforming tenderers to explain the negotiation process and to answer any questions
2. Provide all the tenderers with financial information and assumptions from which to inform their financial offerings
3. Provide all tenderers with a pre-formatted financial spreadsheet to fill out with specific details relating to the offer
4. Provide all tenderers with a deadline to submit all required information two weeks from the time of the meeting held, as per item 1 above

Once these financial offers are received the TEP will convene to continue the tender assessment on the two (2) remaining tenders. It should be noted that;

- The tender assessment criteria listed in 3.2 will be used during the assessment process by the TEP
- The TEP will use all information that was previously submitted during the tender process to assess tenders
- The ONLY information that will be accepted from Tenderers during the negotiation process will be the financial information spreadsheets that they are given during the initial meeting. No other information will be accepted at this stage.
- Once a tender has been selected, the TEP will put the recommendation of the selected tenderer to Council for consideration.

4.0 RECOMMENDATION

1. That pursuant to Clause 178(1b) of the Local Government (General) Regulation 2005, that no tenders be accepted for T05/13 - Management of Avalon Golf Course and Narrabeen Golf Driving Range
2. That pursuant to Clause 178(3e) that the General Manager be authorised to enter into negotiations with:
 - TCOB Consulting trading as Teed Up Pty Ltd
 - ClubLINKS Pty Ltd

Clause 178(3e) has been used due to the fact that the financial information provided by the compliant tenderers, even after a request for further information, listed above, was not sufficient to conclusively award the tender and thus a comparison of finances could not be done fairly and equitably to continue the assessment process.

3. That once final negotiations with the two remaining tenderers are completed that a report be brought back to Council for consideration to a Council Meeting in December 2013 with the intention of new operators taking over from 1 February 2014.
4. That the non-conforming and disqualified tenderers be notified of the tender outcome and thanked for their participation.