

Agenda

Council Meeting

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

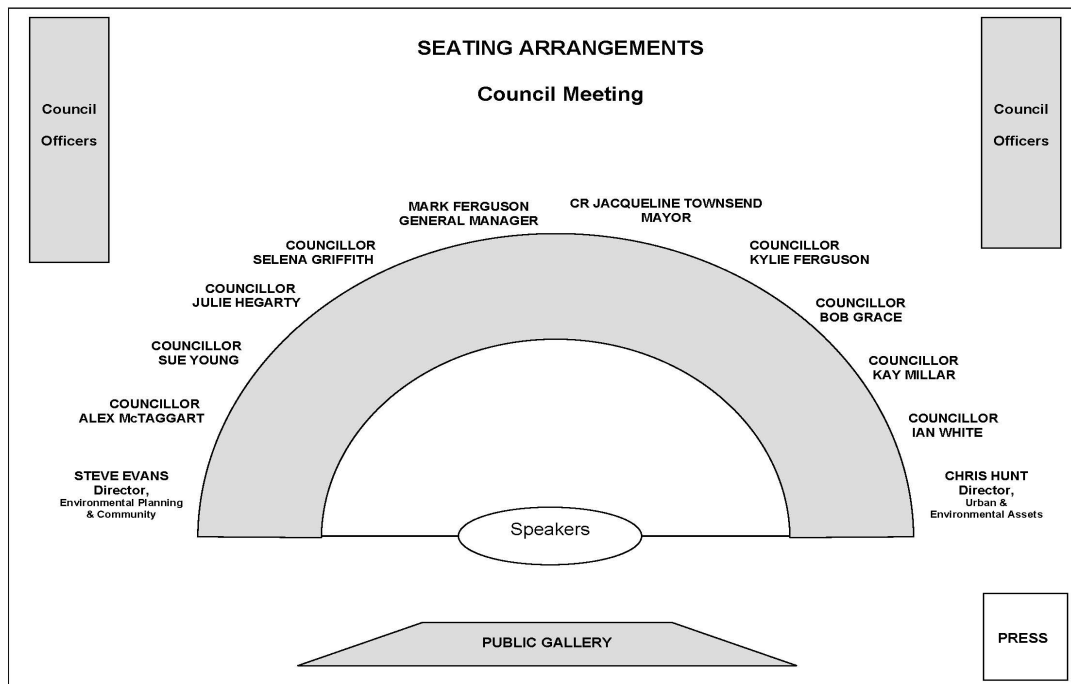
4 February 2013

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

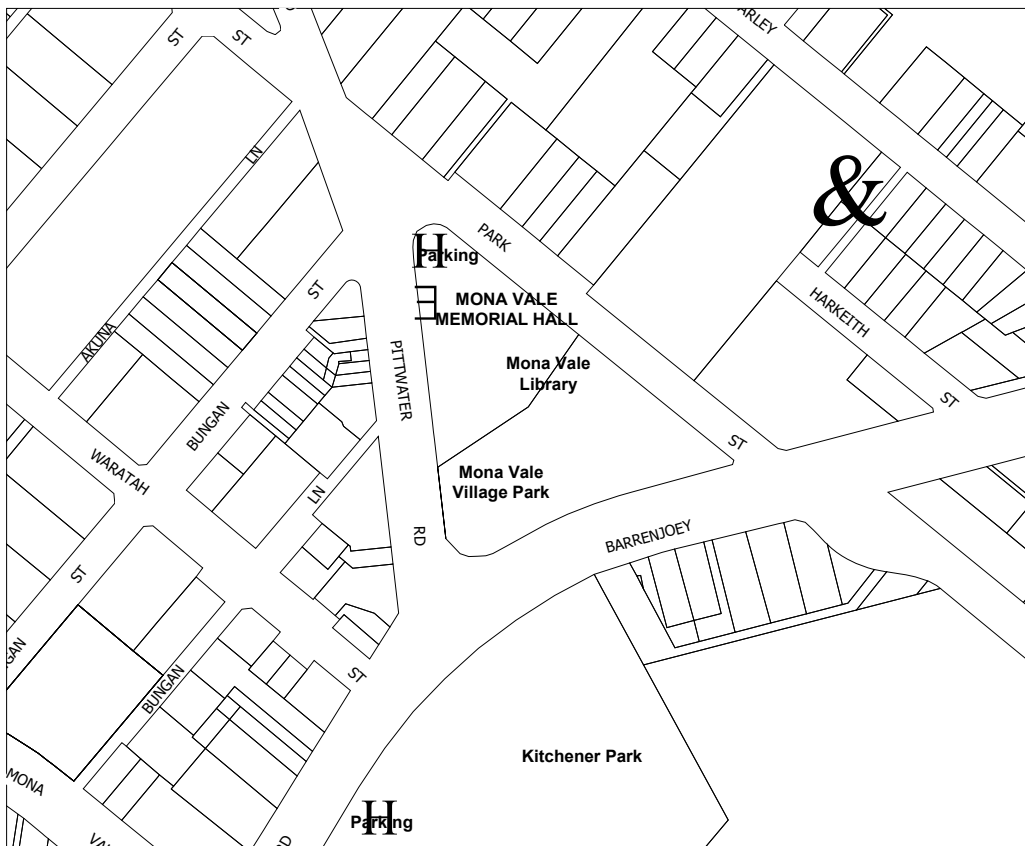
Mark Ferguson
GENERAL MANAGER



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.**

Council Meeting

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

Council Meeting

1.0 Apologies

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

2.0 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.

3.0 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 17 December 2012.

4.0 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 four speakers may address on any one item, with a maximum of two speakers in support of the recommendation in the report, and two 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.*

5.0	Councillor Questions on Notice
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Nil.

6.0	Mayoral Minutes
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Nil.

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

8.0	Council Meeting Business
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C8.1 Delegations over Christmas New Year Recess

Meeting: Council

Date: 4 February 2013

STRATEGY: Business Management

ACTION: Effectively manage Council's corporate governance responsibilities

PURPOSE OF REPORT

To report to the Council instances where the Mayor and/or the delegated Committee appointed by the Council on 17 December 2012 have been required to exercise delegated authority over the 2012/2013 Christmas - New Year recess period.

1.0 BACKGROUND

1.1 At its meeting held on 17 December 2012 the Council noted and approved delegations to the Mayor (in relation to the policy making functions of the Council) and a Committee of Council (in relation to the regulatory functions of the Council) over the Christmas - New Year recess period. The Council resolved as follows:

1. *That the Council note the delegation to the Mayor of its policy-making functions in accordance with section 226 of the Local Government Act, 1993 over the Christmas – New Year recess period.*
2. *That the Council also note delegations to the Mayor as outlined in paragraph 1.4 of the report.*
3. *That pursuant to section 379(1) of the Act, authority be delegated to a Committee of the Council, comprising the Mayor or nominee (who shall be Chairperson), the 3 relevant ward Councillors if available, and any other Councillor who has an expressed interest in a particular matter or application if available, to carry out and resolve upon the regulatory functions of the Council, including the determination of development applications, S96 modifications and S82A Review applications during the 2012/2013 Christmas - New Year recess period. The Committee shall be appointed for the recess period only.*
4. *That all Councillors be provided with copies of any reports dealing with regulatory matters, including the determination of development applications, S96 modifications and S82A Review applications prior to the delegated Committee determining such matters.*
5. *That a report be submitted to the first Council meeting of 2013 outlining all matters and decisions taken by the Mayor or nominee (with respect to any policy making functions) and/or the above-mentioned Committee (with respect to any regulatory functions) under delegation during the Christmas - New Year recess period.*

2.0 ISSUES

2.1 Exercise of delegation by the Mayor – Policy making functions

The Mayor exercised the policy making functions of the elected Council on two occasions during the recess period.

Two Licence Agreements were entered into with the Department of Education; one for the operation of Elanora Heights Out of School Hours Care; the other for the operation of Narrabeen Vacation Care.

Both these services have operated under an annual agreement between the School and Council.

Over recent years the Department of Education has implemented a Template Licence Agreement for an extended period of three plus five years. This provides added security to Council to continue to provide the services. The previous arrangement of one year hiring agreements was never ideal. The new Licence Agreement formalises the important partnership between the School and Council and provides increased certainty for both parties.

Over the past 12 months, Council have been working closely with the Principal of Narrabeen Sports High School, Barry Miller, and the Principal of Elanora Heights Public School, Bill Gillespie, and representatives of the Assets Division of the Department of Education (DEC), in developing the Agreements to meet the increasing needs of Out of School Hours Programs.

The Principals have been very supportive throughout this long period. Unfortunately the progress of the agreement has been slow but an agreement was reached while Council was in recess.

Both Licence Agreements were executed by the Mayor in an effort to have the Department of Education sign, execute and finalise the Agreements prior to the commencement of the new school term on 30 January 2013.

2.2 Exercise of delegation by Committee of Council – Regulatory functions

There were no regulatory functions of the elected Council exercised by a delegated Committee of Council during the recess period.

3.0 SUSTAINABILITY ASSESSMENT

A sustainability assessment is not required for this report.

4.0 EXECUTIVE SUMMARY

4.1 Historically Pittwater Council has delegated its policy-making functions during the Christmas - New Year Recess to the Mayor and a Committee of Council comprising delegated councillors.

4.2 A report therefore is submitted outlining all matters and decisions taken by the Mayor (with respect to any policy making functions) and/or the above-mentioned Committee (with respect to any regulatory functions) under delegation during the Christmas - New Year recess period.

- 4.3 There were no regulatory functions undertaken by the delegated Committee of Council during the 2012/2013 recess period.
- 4.4 The Mayor exercised the policy making functions of the elected Council on two occasions during the 2012/13 recess period.

RECOMMENDATION

1. That Council note and endorse the policy making function undertaken by the Mayor during the 2012/2013 recess period.
2. That Council note there were no regulatory functions undertaken by the delegated Committee of Council during the 2012/2013 recess period.

Report prepared by
Gabrielle Angles, Principal Officer – Administration

Warwick Lawrence
MANAGER, ADMINISTRATION & GOVERNANCE

C8.2 Review of Code of Meeting Practice

Meeting: Council

Date: 4 February 2013

STRATEGY: Business Management

ACTION: Review format, location and information provided at Council Meetings

PURPOSE OF REPORT

To amend Council's Code of Meeting Practice following the Council meeting of 3 December 2012.

1.0 BACKGROUND

- 1.1 Council reviewed its Code of Meeting Practice at its meeting held on 3 December 2012 where it adopted amendments in relation to Members standing when addressing both Council and Committee, the Order of Business in relation to Councillor Questions and resident questions taken on notice requiring a report back to Council at the second meeting of the month following the question.
- 1.2 At that meeting Council also resolved the following:
 - That Section 5.1(a) on Page 7 of the Code of Meeting Practice be amended to provide for three (3) speakers in support and three (3) speakers against each item on the Agenda.
 - That these proposed amendments be placed on public exhibition for a period of 28 days and a further report be brought back to Council at the end of the exhibition period.
- 1.3 The Code is prepared and adopted in accordance with the requirements of Section 360 of the Local Government Act 1993, the Local Government (General) Regulations 2005 and by resolution of the Council.
- 1.4 In amending its Code of Meeting Practice Council must ensure that policy decisions are not in conflict with the requirements of the Local Government Act or Regulation.
- 1.5 The requirements of the Code of Meeting Practice are also supported by the Department of Local Government's "Meetings Practice Note No 16" which is a guide to understanding the legislative requirements set out in the Act and regulations.
- 1.6 Council's Code of Meeting Practice incorporates three distinct provisions, Part 1 - Supplementary Provisions (ie procedures adopted by resolution of the Council), Part 2 - Provisions as set out in the Regulations and Part 3 – Provisions set out in the Act.
- 1.7 The amendments proposed are contained in Part 1 of the Code.
- 1.8 The amended Code was placed on public exhibition for a period of 28 days.
- 1.9 No submissions were received.
- 1.10 Council now needs to adopt the amended Code of Meeting Practice following the exhibition period.

2.0 ISSUES

- 2.1 Proposed amendments to Council's Code of Meeting Practice are highlighted in yellow (see **Attachment 1**) and are as follows:
- That Section 5.1(a) on Page 7 of the Code of Meeting Practice be amended to provide for three (3) speakers in support and three (3) speakers against each item on the Agenda.
- 2.2 Attached to this report is the amended policy recommended for adoption (refer **Attachment 1**).
-

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 No effect on this assessment

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 No effect on this assessment

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 No effect on this assessment

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The review of the Code of Meeting Practice is required to ensure current practices are relevant and in accordance with best practice principles. The document provides the Mayor, Councillors, staff and the community a guide on how Council and committee meetings are to be conducted.

3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 No effect on this assessment
-

4.0 EXECUTIVE SUMMARY

- 4.1 As a result of Council's Meeting on 3 December 2012 a change was proposed to Council's Code of Meeting practice providing for three (3) speakers in support and three (3) speakers against each item on the Agenda.
- 4.2 The Code incorporates three distinct provisions, Part 1 - Supplementary Provisions (ie procedures adopted by resolution of the Council), Part 2 - Provisions as set out in the Regulations and Part 3 – Provisions set out in the Act.
- 4.3 The attached Code of Meeting Practice is recommended for adoption.

RECOMMENDATION

That the attached Code of Meeting Practice be adopted.

Report prepared by
Gabrielle Angles, Principal Officer - Administration

Warwick Lawrence
MANAGER, ADMINISTRATION & GOVERNANCE



PITTWATER COUNCIL

Code of Meeting Practice

Administration and Governance

DataWorks Doc Set #4253420

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CODE OF MEETING PRACTICE

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EXPLANATORY NOTE

CLAUSES INCORPORATED IN CODE OF MEETING PRACTICE

Source

Local Government Act, 1993 as amended
Local Government (General) Regulation, 2005 (Part 10 – Meetings)
Supplementary Provisions

Amendments Incorporated

Council Meetings:	20/12/1993	
	04/07/1994	
	08/08/1994	
	07/11/1994	
	29/05/1995	
	28/08/1995	
	18/09/1995	
	23/10/1995	Supplementary Provisions
	26/08/1996	
	04/11/1996	
	25/11/1996	
	05/05/1997	
	25/08/1997	
	02/02/1998	
	23/03/1998	
	29/03/1999	
	12/11/2001	
	11/03/2002	
	15/04/2002	
	13/05/2002	
	14/04/2003	
	12/05/2003	
	11/08/2003	
	13/02/2006	
	03/09/2007	
	22/10/2007	
	24/04/2008	
	03/11/2008	
	05/09/2011	
	03/12/2012	

PART ONE – SUPPLEMENTARY PROVISIONS

1. Public Addresses on Whether to Close a Meeting (or part of a meeting)

- (i) *After a motion to close part of a meeting to the public has been moved and seconded, the chairperson would ask the general manager if there are any written representations from the public on the proposed closure;*
- (ii) *The general manager (or nominee) would read out any written representations (if any)*
- (iii) *The Chairperson would ask if any persons wish to make verbal representations;*
- (iv) *The opportunity to speak would be given (on an item by item basis) to each person who wishes to comment, chosen in random order;*
- (v) *Each person addressing the Council in this regard be allowed to speak for a maximum period of 2 minutes per person;*
- (vi) *The Council would then consider in open council whether part of the meeting should be closed to the public to consider the subject item (OM 23/03/98)(OM 20/06/11)*

2. Council and Principal Committee Meetings - Cycle

- (1)
 - (a) *The Ordinary Meetings of Council or of Council's Principal Committees of which all members are Councillors, shall be held on a Monday in the Mona Vale Memorial Hall, in accordance with Council's adopted meeting schedule (See OM 6/3/2000)*
 - (b) *That Council meetings be held on a fortnightly basis (1st and 3rd Mondays of the month, maximum of 2 per month) incorporating the Principal Committees of Council (OM 13.02.06)*
- (2) *Subject to Clause 9(3) Council Meetings or of each such Committee shall not be held on the following:*
 - *Public Holidays in New South Wales; and*
 - *Christmas/ New Year recess period (the Christmas/ New Year recess period is taken to commence the Tuesday immediately prior to Christmas Day and to conclude on the last Friday in January the following year).*
- (3) *Council reserves the right to cancel or to vary the date, time or location of a meeting or meetings of Council or of each such Committee, if a motion to that effect is carried. (OM 7/11/94), (OM 18/9/95) and (OM 6/3/2000)*
- (4)(a) *That, as a matter of practice, where a rescission motion is lodged, whether it be at a principal committee meeting or a meeting of the full Council, that the motion not be put into affect until Council has an opportunity to deal with the rescission motion, and the rescission motion be considered at the next available meeting of the full Council, unless a motion is carried at the time of lodging the rescission motion, to hold a extra-ordinary meeting of the Council to consider the rescission motion before the next scheduled ordinary meeting of the Council.(OM 20/06/11)*

3. Notice of Motion

"Notices of Motion clearly stating the terms of the proposed motion shall be lodged with the General Manager by a member of Council, either by signature or by electronic means, not later than 5.00pm on the Monday prior to the Council meeting at which it is to be considered.

Any Notice lodged by electronic means without a signature is not to be included on a Council or Committee meeting agenda unless the relevant member of Council has been previously contacted by a Council Officer to verify the authenticity of the Notice."
(OM 03/08/98) (OM 20/06/11)

4. Notices of Motion/ Rescission – Inclusion on the Agenda

That provision be made in all future Principal Committee Meeting Agendas for Notices of Motion/ Rescission to be dealt with, provided that such Notices strictly relate to the business of the relevant Committees and do not include the voting of funds or create financial ramifications that exceed the Committees' legitimate powers as provided in the Local Government Act, 1993. (OM 05/05/97) (OM 20/06/11)

5. Public attendance - leave to address Council and Meetings of Principal Committees

1. *A member of the public may be granted leave to address any item on the agenda of a meeting of Council (OM 03/12/12) or a Committee of which all the members are Councillors, where such a request is received by the General Manager no later than 3.00pm on the Monday of the meeting. This provision 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, and three speakers in opposition. (OM 13/02/06) (OM 20/06/11)*
- (b) *A limitation of three minutes is allowed for any one speaker, with no extensions. (OM 13/02/06)*
- (c) *An objector to a development application is to speak first with the applicant always being given the right to reply.*

All requests by persons to address Council or Committee meetings are to be referred to the Mayor or Chairperson for determination immediately prior to the meeting.

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 (OM 20/12/93)*

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. (OM 13/02/06).*
3. *The Chairperson is to rule on matters concerning resident speeches. No procedural motions in this regard are to be moved. (OM 13/02/06).*

6. Tabling/ Handing Up of Documents

1. *Subject to clause 2 below, persons with an interest in an item on the agenda or persons invited to address any meeting of the Council or its Committees may either hand up or table documents in relation to their address or in support of their position, however, the handing up or tabling of any documents once the debate has commenced is not permissible."*
2. *Documents of a technical nature requiring detailed assessment by a Council officer, as determined by the General Manager, will not be considered or accepted for tabling/ handing up to any meeting of the Council or its Committees."*
(OM 29/3/99)
3. *"That the chairperson if requested by a Councillor, be required to temporarily adjourn the meeting in order to provide sufficient time for councillors to read documents tabled and/or circulated at the meeting, such as internal memos/reports from Council officers, and to provide the opportunity for councillors to ask questions of relevant staff to ensure that the contents of the tabled documentation is fully understood by councillors prior to voting on the item". (OM 12/5/03)*

7. Attendance during Council and Principal Committee Meetings

Councillors should be in attendance at all times during the course of Council and Principal Committee meetings unless domestic or other pressing necessity requires a Councillor to leave the meeting.

Exceptions to these requirements will apply when a Councillor has declared a pecuniary interest or a conflict of interest in an agenda item and leaves the meeting while the item is debated and voted upon. (OM 11/10/99)

8. Mode of Addressing Council

A member shall on all occasions when in both Council (OM 03/12/12) and Committee, address and speak of other members by their official designations, as Mayor, Chairperson or Councillor, as the case may be; and with the exception of the Chairman, shall (except when prevented by bodily infirmity) rise in his/ her place and stand while speaking (OM 20/12/93).

The Mayor shall vacate the Chair and the Chair of each Committee assume the Mayor's chair at the meeting table when chairing Committee meetings. (OM 03/12/12)

9. General Order of Business - Council Meetings

The general order of business at Council Meetings shall be as follows:-

- 1) *Public Forum (Second Council meeting of the month only)
- 2) *Residents questions (Second Council meeting of the month only)
- 3) Apologies
- 4) Declarations of Pecuniary and Conflict of Interests including Political Donations and Gifts
- 5) Confirmation of Minutes
- 6) Public Addresses
- 7) Councillor Questions with Notice
- 8) Business by Exception
- 9) Council Meeting Business
- 10) Principal Committee Business
- 11) Confidential Matters

(OM 20/12/93, OM 4/11/96, OM 6/3/2000 and OM.16.4.07) (OM 20/06/11) (OM 03/12/12).

10. Notice of Rescission Motion

- (a) *A Notice of Motion to alter or rescind a resolution which has been passed by Council shall be lodged with the General Manager in writing not later than 5.00pm on the Monday prior to the meeting at which it is to be considered. (OM 20/06/11)*
- (b) *A Notice of Motion to alter or rescind a resolution which has been passed by Council shall be lodged with the General Manager either:*
 - (i) *by written notice signed personally by three (3) or more members of Council*

OR

- (ii) *by facsimile transmission of a duly signed notice bearing the signatures of three (3) or more members of Council:*

Provided that either personal verification as to the intention of each of the three signatories is conveyed to the General Manager or the original signed notice is lodged with the General Manager prior to consideration of the Rescission Motion by Council.

The provisions of subclauses (a) and (b) above are also to apply, mutatis mutandis, to the lodging of a Notice of Motion which has the same effect as a Motion which has been negated by Council. (OM 20/12/93) (OM 23/10/95).

11. Closing Time - Meetings

All Ordinary and Extraordinary Meetings of Council shall conclude at midnight or at the conclusion of the item then being discussed, provided that such item then being discussed can be concluded by 12.10am. If such item has not been concluded by 12.10am the meeting is then to be closed. That item and any other items still to be dealt with to be deferred to a later meeting as resolved by Council (OM 20/12/93).

12. Motions for Adjournment of Council

Discussion shall not be permitted upon any Motion, which can be moved with notice, for adjournment of the Council Meeting. If upon the question being put on any such Motion the same is negated, the subject then under consideration, or next on the business paper, shall be discussed; and it shall not be competent for any member again to move a Motion for adjournment of the Council until half an hour has elapsed from the time of moving the one that has been negated (OM 20/12/93).

13. Recording of Decisions – Development Applications

- 1. *Where the Council/Committee makes a resolution in relation to a development application contrary to a recommendation of its staff, the detailed reasons for the decision and the reason/s for the deviation from the staff recommendation shall be recorded in the minutes of the meeting and notices of determination. (OM 11/8/03)*
- 2. *All Councillors voting on development matters shall be recorded in the minutes of each Council/Committee meeting (following the call of a Division on voting) except where a development matter has been determined by "exception". (OM 7/4/2008) (OM 20/06/11)*

14. Unopposed Notices of Motion

The Chairperson may call over the Notices of Motion on the business paper, in the order in which they appear thereon; and if objection is not raised to a Motion, may call for the Motion to be moved and seconded and, without discussion may put the Motion to the vote (OM 20/12/93).

15. Unopposed General Business (Business by Exception)

The Chairperson may call over the items of general business on the business paper, in the order in which they appear thereon; and if objection is not raised to a report and recommendation, may call for a Motion for the adoption of the report and recommendation to be moved and seconded and, without discussion, put the Motion to the vote (OM 20/12/93).

16. Correspondence

Letters shall not be presented or read by members at meetings of the Council (OM 20/12/93).

17. Supplementary Motion

At a meeting of Council, a Councillor may move a supplementary Motion concerning an item of business which has been dealt with by Council.

The Supplementary Motion is to relate directly to the item of business with which it is concerned, must be of a purely supplementary nature, and must not introduce any new matter (OM 20/12/93).

18. Councillor Questions with Notice

- (1) *At all Council meetings, each Councillor may ask up to three questions provided prior notice has been given in accordance with the provisions of Clause 241 of the Regulations.*
- (2) *All Councillor questions with notice are to be submitted in writing, or electronically to the General Manager or his representative not later than 5pm on the Monday prior to the Council meeting at which the question is to be considered.*
- (3) *Only the question as submitted will be included in the Council meeting agenda.*
- (4) *The General Manager or relevant officer will endeavour to provide a verbal response at the meeting to which the question has been referred and any such response will be recorded in the minutes of that meeting.*
- (5) *Should the question be taken on notice a response will be provided in writing to that Councillor and the response will also be included on the agenda of the next available Council meeting.*
- (6) *The response provided is for information purposes only and as such no debate or motion on the matter will be permitted.*
- (7) *Councillors are encouraged to ask questions of the responsible staff members between meetings, on matters which are of concern to them.*

(OM 20/06/11)

19. Extensions of Time for Councillors Speeches

That an additional period of 2 minutes be permitted for extensions of time for Councillor speeches with the consent of the Council at Council Meetings (OM2/2/98)

20. Recommendations of Committee of the Whole

The Chairperson is to call for a motion to adopt recommendation/s of the Committee of the Whole in closed session as provided on computer screens in front of Councillors/public screen. (13/02/06)

21. Communications by Committee

A Committee of the Whole or a committee of the Council shall not communicate with any outside person or authority except through the General Manager, as the employee of the Council duly authorised for the purpose (OM 20/12/93).

22. Misuse of Confidential Information

Councillors, staff and delegates must always respect the confidentiality of items which are properly considered confidential pursuant to Clause 10A(2) of the Local Government Act. (OM 23/10/95)

23. Councillors, Staff or Delegates must not bring Council into Disrepute

"That Councillors, staff or delegates must make every effort to ensure the reputation of Council is maintained and enhanced subject only to their duty to act at all times in the public interest, which is paramount." (OM 23/10/95).

24. General Manager Comments during Debate

That the General Manager or his nominee, with the Chair's permission, be allowed to comment during debate to assist Councillors decision making. (OM 3/9/07)

25. Public Forums

That 'Public Forums' be conducted on the second Council meeting of each month. (OM 20/11/06 and 16/4/07)

- (1) The Public Forum is not a decision making forum for the Council;
- (2) 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;
- (3) There will be no debate or questions with, or by, councillors during/following a resident submission;
- (4) 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;

- (5) 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;
- (6) Up to 20 minutes is allocated to the Public Forum;
- (7) A maximum of 1 submission per person per Meeting is permitted, with a maximum of 4 submissions in total per Meeting;
- (8) A maximum of 5 minutes is allocated to each submission;
- (9) 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;
- (10) 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;
- (11) 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;
- (12) Any requests to participate in the Public Forum shall be lodged with Council staff by 12 noon on the day of the Council Meeting.

26. Councillor Questions on Motions at Principal Committee Meetings

That the standard procedure for the Principal Committees be that questions by Councillors be put to staff prior to the matter being moved and seconded. (OM 3.11.08) (OM 20/06/11)

27. Attacks on Councillors and Staff members at meetings

That every effort be made to prevent the discrediting of Councillors and staff members of this Council, either directly or by innuendo, during debate in the Council Chamber or through statement appearing in the press, and if any Councillor or staff members considers they have been unfairly attacked and they wish to reply, they be given the opportunity without interruption, to defend themselves immediately or at the next meeting. (OM 20/06/11)

28. Residents Questions – Council Meetings

- (1) That residents Question Time be conducted at the commencement of the second Council Meeting of the month and prior to the handling of General Business.
- (2) That a maximum of 10 minutes be allocated to residents Question Time
- (3) That Residents be restricted to two (2) questions per meeting
- (4) That all questions 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. (OM 03/12/12)
- (9) There will be no debate or questions with, or by, Councillors during / following a resident question and response.

29. Submission of Large Documents to Councillors

- (1) That any document in excess of 10 typed A4 pages that is proposed to be listed on a Council agenda or provided to Council as an annexure to the report or to be tabled at a meeting of the Council, be submitted (in draft form if necessary) to Councillors at least 14 days in advance of the date of the Council meeting.
- (2) Exceptions to (1) are permitted in instances where a shorter review period is necessitated by a requirement to meet a statutory deadline or in matters of an urgent nature as determined by the General Manager. (OM 20/06/11)

PART TWO – STATUTORY PROVISIONS OF LOCAL GOVERNMENT (GENERAL) REGULATION 2005

Note: Numbering of Clauses replicates numbering of legislation.

Part 10 – Meetings

DIVISION 1 – PRELIMINARY

231 Definitions

In this Part:

"amendment", in relation to an original motion, means a motion moving an amendment to that motion.

"chairperson":

- (a) in relation to a meeting of a council--means the person presiding at the meeting as provided by section 369 of the Act, and
- (b) in relation to a meeting of a committee of a council--means the person presiding at the meeting as provided by clause 267.

"committee", in relation to a council, means a committee established under clause 260 or the council when it has resolved itself into a committee of the whole.

"councillor" includes a member of the governing body of a county council.

DIVISION 2 – CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

232 Notice of meetings

- (1) This clause prescribes the manner in which the requirements outlined in section 9 (1) of the Act are to be complied with.
- (2) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.
- (3) The notice must specify the time and place of the meeting.
- (4) Notice of more than one meeting may be given in the same notice.
- (5) This clause does not apply to an extraordinary meeting of a council or committee.

233 What happens when a quorum is not present

- (1) A meeting of a council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting, or
 - (b) at any time during the meeting.

- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the chairperson, or
 - (b) in his or her absence--by the majority of the councillors present, or
 - (c) failing that, by the general manager.
- (3) The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

234 Minister to convene meetings in certain cases

- (1) Whenever an area is constituted or reconstituted, the Minister is required:
 - (a) to convene the first meeting of the council of the area, and
 - (b) to nominate the business to be transacted at the meeting, and
 - (c) to give the councillors notice of the meeting.
- (2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.
- (3) The council must transact the business nominated by the Minister for a meeting convened under this clause.

235 Presence at council meetings

A councillor cannot participate in a meeting of a council unless personally present at the meeting.

DIVISION 3 – PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

236 Councillor to be elected to preside at certain meetings

- (1) If no chairperson is present at a meeting of a council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- (2) The election must be conducted:
 - (a) by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election, or
 - (b) if neither of them is present at the meeting or there is no general manager or designated employee--by the person who called the meeting or a person acting on his or her behalf.
- (3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of subclause (3), the person conducting the election must:

- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- (5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

237 Chairperson to have precedence

When the chairperson rises during a meeting of a council:

- (a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat, and
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

238 Chairperson's duty with respect to motions

- (1) It is the duty of the chairperson at a meeting of a council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

239 Order of business

- (1) At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.
- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

240 Agenda and business papers for council meetings

- (1) The general manager must ensure that the agenda for a meeting of the council states:
 - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council, and
 - (b) if the mayor is the chairperson--any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) subject to subclause (2), any business of which due notice has been given.

- (2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.
- (3) The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- (4) The general manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- (5) Nothing in this clause limits the powers of the chairperson under clause 243.

241 Giving notice of business

- (1) A council must not transact business at a meeting of the council:
 - (a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and
 - (b) unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
 - (a) is already before, or directly relates to a matter that is already before, the council, or
 - (b) is the election of a chairperson to preside at the meeting as provided by clause 236 (1), or
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or
 - (d) is a motion for the adoption of recommendations of a committee of the council.
- (3) Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.

- (4) Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

242 Agenda for extraordinary meetings

- (1) The general manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

- (3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

243 Official minutes

- (1) If the mayor is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.

244 Report of a Departmental representative to be tabled at council meeting

When a report of a Departmental representative has been presented to a meeting of a council in accordance with section 433 of the Act, the council must ensure that the report:

- (a) is laid on the table at that meeting, and
- (b) is subsequently available for the information of councillors and members of the public at all reasonable times.

245 Notice of motion - absence of mover

In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of a council:

- (a) any other councillor may move the motion at the meeting, or
- (b) the chairperson may defer the motion until the next meeting of the council at which the motion can be considered.

246 Motions to be seconded

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243 (2) and 250 (5).

247 How subsequent amendments may be moved

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

248 Motions of dissent

- (1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (2) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- (3) Despite clause 250, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

249 Questions may be put to councillors and council employees

- (1) A councillor:
 - (a) may, through the chairperson, put a question to another councillor, and
 - (b) may, through the general manager, put a question to a council employee.
- (2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The councillor must put every such question directly, succinctly and without argument.
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this clause.

250 Limitation as to number of speeches

- (1) A councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

- (3) A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite subclauses (1) and (2), a councillor may move that a motion or an amendment be now put:
 - (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
 - (b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.
- (5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
- (6) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
- (7) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.

251 Voting at council meetings

- (1) A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- (2) If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.
- (3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.
- (4) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.
- (5) Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

252 Representations by members of the public--closure of part of meeting

- (1) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

253 Resolutions passed at closed meetings to be made public

If a council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

254 Matters to be included in minutes of council meeting

The general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment is passed or lost.

DIVISION 4 – KEEPING ORDER AT MEETINGS

255 Questions of order

- (1) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- (2) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- (3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

256 Acts of disorder

- (1) A councillor commits an act of disorder if the councillor, at a meeting of a council or a committee of a council:
 - (a) contravenes the Act or any regulation in force under the Act, or
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or

- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or
 - (d) insults or makes personal reflections on or imputes improper motives to any other councillor, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.
- (2) The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or
 - (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation, or
 - (c) to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).
- (3) A councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

257 How disorder at a meeting may be dealt with

- (1) If disorder occurs at a meeting of a council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.
- (2) A member of the public may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.

258 Power to remove persons from meeting after expulsion

If a councillor or a member of the public fails to leave the place where a meeting of a council is being held:

- (a) immediately after the council has passed a resolution expelling the councillor or member from the meeting, or
- (b) where the council has authorised the person presiding at the meeting to exercise the power of expulsion--immediately after being directed by the person presiding to leave the meeting, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.

DIVISION 5 – COUNCIL COMMITTEES

259 Committee of the whole

- (1) All the provisions of this Regulation relating to meetings of a council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches.
- (2) The general manager or, in the absence of the general manager, an employee of the council designated by the general manager is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- (3) The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

260 Council may establish committees

- (1) A council may, by resolution, establish such committees as it considers necessary.
- (2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- (3) The quorum for a meeting of a committee is to be:
 - (a) such number of members as the council decides, or
 - (b) if the council has not decided a number--a majority of the members of the committee.

261 Functions of committees

A council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

262 Notice of committee meetings to be given

- (1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:
 - (a) the time and place at which and the date on which the meeting is to be held, and
 - (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency.

263 Non-members entitled to attend committee meetings

- (1) A councillor who is not a member of a committee of a council is entitled to attend, and to speak at, a meeting of the committee.
- (2) However, the councillor is not entitled:

- (a) to give notice of business for inclusion in the agenda for the meeting, or
- (b) to move or second a motion at the meeting, or
- (c) to vote at the meeting.

264 Representations by members of the public--closure of part of meeting

- (1) A representation at a committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

265 Procedure in committees

- (1) Subject to subclause (3), each committee of a council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of a council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

266 Committees to keep minutes

- (1) Each committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
 - (a) details of each motion moved at a meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment is passed or lost.
- (2) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

267 Chairperson and deputy chairperson of committees

- (1) The chairperson of each committee of the council must be:
 - (a) the mayor, or
 - (b) if the mayor does not wish to be the chairperson of a committee--a member of the committee elected by the council, or
 - (c) if the council does not elect such a member--a member of the committee elected by the committee.
- (2) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- (3) If neither the chairperson nor the deputy chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- (4) The chairperson is to preside at a meeting of a committee of a council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

268 Absence from committee meetings

- (1) A member (other than the mayor) ceases to be a member of a committee if the member:
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply in respect of a committee that consists of all of the members of the council.

269 Reports of committees

- (1) If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.
- (2) The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.
- (3) If a committee of a council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson must:
 - (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and
 - (b) report the resolution or recommendation to the next meeting of the council.

270 Disorder in committee meetings

The provisions of the Act and of this Regulation relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

271 Certain persons may be expelled from council committee meetings

- (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10A of the Act, any person who is not a councillor may be expelled from the meeting as provided by section 10 (2) (a) or (b) of the Act.
- (2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

DIVISION 6 – MISCELLANEOUS

272 Inspection of the minutes of a council or committee

- (1) An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.
- (2) The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

273 Tape recording of meeting of council or committee prohibited without permission

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or a committee of a council only with the authority of the council or committee.
- (2) A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council or a committee of a council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, "tape recorder" includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

PART THREE – STATUTORY PROVISIONS OF LOCAL GOVERNMENT ACT 1993 AS AMENDED

Note: Numbering of Clauses replicates numbering of legislation.

Part 1 – Open meetings

9 Public notice of meetings

- (1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.
- (2) A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2A) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:
 - (a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
 - (b) the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.
- (3) The copies are to be available to the public as nearly as possible to the time they are available to councillors.
- (4) The copies are to be available free of charge.
- (5) A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form.

10 Who is entitled to attend meetings?

- (1) Except as provided by this Part:
 - (a) everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and
 - (b) a council must ensure that all meetings of the council and of such committees are open to the public.
- (2) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such a committee if expelled from the meeting:
 - (a) by a resolution of the meeting, or
 - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

10A Which parts of a meeting can be closed to the public?

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
 - (a) the discussion of any of the matters listed in subclause (2), or
 - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following:
 - (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (3) A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (4) A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.
- (5) (Repealed)
- (6) (Repealed)

10B Further limitations relating to closure of parts of meetings to public

- (1) A meeting is not to remain closed during the discussion of anything referred to in section 10A (2):
 - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and

- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret--unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- (2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A (2) (g) unless the advice concerns legal matters that:
 - (a) are substantial issues relating to a matter in which the council or committee is involved, and
 - (b) are clearly identified in the advice, and
 - (c) are fully discussed in that advice.
- (3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A (3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A (2)).
- (4) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
 - (a) a person may misinterpret or misunderstand the discussion, or
 - (b) the discussion of the matter may:
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the council or committee.
- (5) In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General.

10C Notice of likelihood of closure not required in urgent cases

Part of a meeting of a council, or of a committee of the council of which all the members are councillors, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A (2), and
- (b) the council or committee, after considering any representations made under section 10A (4), resolves that further discussion of the matter:
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public.

10D Grounds for closing part of meeting to be specified

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.

- (2) The grounds must specify the following:
 - (a) the relevant provision of section 10A (2),
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

10E (Repealed)

11 Public access to correspondence and reports

- (1) A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This section does not apply if the correspondence or reports:
 - (a) relate to a matter that was received or discussed, or
 - (b) were laid on the table at, or submitted to, the meeting,when the meeting was closed to the public.
- (3) This section does not apply if the council or committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10A (2), are to be treated as confidential.

DIVISION 1 – CODE OF MEETING PRACTICE

360 Conduct of meetings of councils and committees

- (1) The regulations may make provision with respect to the conduct of meetings of councils and committees of councils of which all the members are councillors.
- (2) A council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.
- (3) A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

DIVISION 2 – OTHER PROVISIONS CONCERNING COUNCIL MEETINGS

365 How often does the council meet?

The council is required to meet at least 10 times each year, each time in a different month.

366 Calling of extraordinary meeting on request by councillors

If the mayor receives a request in writing signed by at least 2 councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable but in any event within 14 days after receipt of the request.

367 Notice of meetings

- (1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- (2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.
- (3) A notice under this section and the agenda for, and the business papers relating to, the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and business papers in that form.

368 What is the quorum for a meeting?

The quorum for a meeting of the council is a majority of the councillors of the council who hold office for the time being and are not suspended from office.

369 Who presides at meetings of the council?

- (1) The mayor or, at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.
- (2) If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

370 What are the voting entitlements of councillors?

- (1) Each councillor is entitled to one vote.
- (2) However, the person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

371 What constitutes a decision of the council?

A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

372 Rescinding or altering resolutions

- (1) A resolution passed by a council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council's code of meeting practice.
- (2) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- (3) If a motion has been negated by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the council's code of meeting practice.
- (4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the council, must be signed by 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (5) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- (6) A motion to which this section applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.
- (7) The provisions of this section concerning negated motions do not apply to motions of adjournment.

373 Committee of council

A council may resolve itself into a committee to consider any matter before the council.

374 Certain circumstances do not invalidate council decisions

Proceedings at a meeting of a council or a council committee are not invalidated because of:

- (a) a vacancy in a civic office, or
- (b) a failure to give notice of the meeting to any councillor or committee member, or
- (c) any defect in the election or appointment of a councillor or committee member, or
- (d) a failure of a councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with section 451, or
- (e) a failure to comply with the code of meeting practice.

375 Minutes

- (1) The council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the council.
- (2) The minutes must, when they have been confirmed at a subsequent meeting of the council, be signed by the person presiding at that subsequent meeting.

376 Attendance of general manager at meetings

- (1) The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all the members are councillors.
- (2) The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.
- (3) However, the general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of the employment of the general manager.

451 Disclosure and presence in meetings

- (1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- (2) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:
 - (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- (3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.

The code of conduct adopted by a council for the purposes of section 440 may also impose obligations on councillors, members of staff of councils and delegates of councils.

452 (Repealed)

453 Disclosures to be recorded

A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.

454 General disclosure

A general notice given to the general manager in writing by a councillor or a member of a council committee to the effect that the councillor or member, or the councillor's or member's spouse, de facto partner or relative, is:

- (a) a member, or in the employment, of a specified company or other body, or
- (b) a partner, or in the employment, of a specified person, is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

455 (Repealed)

456 Disclosure by adviser

- (1) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- (2) The person is not required to disclose the person's interest as an adviser.

457 Circumstances in which secs 451 and 456 are not breached

A person does not breach section 451 or 456 if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

458 Powers of Minister in relation to meetings

The Minister may, conditionally or unconditionally, allow a councillor or a member of a council committee who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

Community, Recreation and Economic Development Committee

**9.0 Community, Recreation and Economic Development
Committee Business**

C9.1	Submission to the Roads & Maritime Services regarding Mona Vale Road Upgrade Proposal
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Meeting: Community, Recreation & Economic
Development Committee

Date: 4 February 2013

STRATEGY: Recreational Management
Beach and Coastal Management
Biodiversity
Sustainability and Climate Change
Traffic and Transport
Town & Village
Risk Management

ACTION: Provide Infrastructure renewal

PURPOSE OF REPORT

1. To present to Council a submission sent to the Roads & Maritime Services regarding Council's comments on the upgrade of Mona Vale Road proposal.
2. Due to lack of time and in response to a Notice of Motion – Council Submissions submitted by Cr. Julie Hegarty *'that submissions invited and made by Council staff on legislative or policy review matters be first referred to Council for adoption or in the event of an urgency due to restricted time frames be referred to Council for notation'* to have this report referred to Council for notation.

1.0 BACKGROUND

- 1.1 Council has received a request from the Roads & Maritime Services to make submissions to the Mona Vale Road upgrade proposal.
 - 1.2 In May 2011, the Member for Pittwater, Rob Stokes, announced that the Roads & Maritime Services would begin preliminary investigation work to develop a proposal to upgrade Mona Vale Road between McCarrs Creek Road, Terrey Hills and Powderworks Road, Ingleside. The upgrade of the existing single lanes in this section has been identified as a strategic priority due to the current levels of congestion and delays, particularly during peak periods.
 - 1.3 Pittwater Council's submission to the proposed upgrade is included in this report as **Attachment 1**.
-

2.0 ISSUES

- 2.1 Mona Vale Road passes through both Pittwater and Warringah Council areas. Pittwater Council covers a mostly coastal area; featuring nine beaches. This area predominantly consists of semi-rural properties and bushland, with planned future housing developments. The Northern part of Ingleside is within Pittwater Council. Warringah Council contains the suburbs of Terrey Hills and the southern part of Ingleside.

2.2 Desired outcomes from the upgrade will be to:

- Improve road safety for all road users.
- Enhance the efficiency and reliability of moving people and goods.
- Address travel demand generated by growth at Ingleside and Warriewood Valley.
- Maintain and enhance road asset conditions to an acceptable standard.
- Enhance public transport accessibility between centres and neighbourhoods.
- Improve the efficiency of travel for heavy vehicles and the reliability of travel for other vehicles where there are steep grades.
- Preserve the quality of the diverse natural, built and community environments in the corridor.
- An upgrade of Mona Vale Road will benefit both the local and the wider community.
- Recognising the importance of road network connectivity and makes every effort to minimise any cumulative impact of nearby developments on the community

3.0 SUSTAINABILITY ASSESSMENT

This report does not require a sustainability assessment.

4.0 EXECUTIVE SUMMARY

4.1 To present to Council a submission sent to the Roads & Maritime Services regarding Council's comments on the upgrade of Mona Vale Road proposal.

4.2 Due to lack of time and in response to a Notice of Motion – Council Submissions submitted by Cr. Julie Hegarty *'that submissions invited and made by Council staff on legislative or policy review matters be first referred to Council for adoption or in the event of an urgency due to restricted time frames be referred to Council for notation'* to have this report referred to Council for notation.

RECOMMENDATION

That the submission sent to the Roads & Maritime Services regarding the upgrading of Mona Vale Road be noted.

Report prepared by

Mark Shaw
MANAGER, URBAN INFRASTRUCTURE

Mark Shaw – Manager Urban Infrastructure
Phone 9970 1188

6 December 2012

Ms Nina Kilpinen
Project Development Officer
Roads & Maritime Service
monavaleroad@rms.nsw.gov.au

Dear Ms Kilpinen

Re: Pittwater Council comments on Mona Vale Road upgrade proposal

Thank you for the opportunity to provide comment on the proposed upgrading of Mona Vale Road.

Pittwater Council along with Warringah Council and SHOROC (our Regional Organisation of councils) have been strong advocates for safety and amenity improvements to Mona Vale Road to address a number of major concerns, including:

- Mona Vale Road has a poor 'Black Spot' crash history with numerous fatalities and serious accidents.
- Mona Vale Road is already at peak capacity, not only during weekdays for commuting but also at weekends with high visitations to the Northern Beaches seriously affecting travel times.
- As part of Ring Road 3, the east/west link is growing rapidly as centres such as Macquarie Park and Ryde further develop.
- The Ingleside land release will need to plug into a suitably upgraded Mona Vale Road.
- Native fauna road kill is a continuing problem placing native species under significant survival threat.
- Provision for cyclists and pedestrians is poor or non-existent.

In addition, to improve current road safety and facilitate a future Mona Vale Road upgrade, Pittwater Council, based on a safety audit by the RMS closed a number of minor intersections a number of years ago. This has helped to reduce traffic conflict and hence improve motorist safety.

The proposed dual carriageway upgrade from Powderworks Road west to Terrey Hills is therefore fully supported. However, it is only half of the required works. The upgrade obviously needs to extend all the way through to Mona Vale in the east. Pittwater Council therefore again requests that the design and funding be for dual carriageway upgrade for the entire remaining length of Mona Vale Road from Terrey Hills through to Mona Vale. This full upgrade will positively address most of the above concerns, in particular:

- greatly improve safety and amenity, in particular reduced accidents and reduced travel times.
- strengthen cross linkages with other centres and hence add to the economic viability of a number of regions as identified in Pittwater's Economic Development Plan, Sub-Regional Plans and SHOROC Transport Action Plan.
- support the Ingleside land release development that involves significant holdings of State Government land.

- improve public transport along with improved safety for cyclists and pedestrians.
- reduce fauna road kill through the provision of suitable fauna road crossing opportunities between wildlife corridor and habitats, noting large tracts of adjoining National Parks and bushland reserves.

Further, Pittwater Council will not agree to the progress of the Ingleside land release until a commitment to the full upgrade of Mona Vale Road is provided. In addition, intersecting roads that have been previously closed with RMS agreement along Mona Vale Road and options for the future upgrade must consolidate these closures.

The specific alignment options at the rock formation mainly relate to:

- environmental impact considerations, in particular native flora and fauna associated with the road corridor and adjoining National Parks.
- cost of the works.
- adjoining resident amenity.
- impact on through traffic during construction.

The objective of this and for the whole route should be to:

- maximise safety and amenity.
- minimise environmental impact/disturbance and provide suitable offsets for that disturbance.
- provide suitable connectivity for wildlife.
- minimise impacts on adjoining residents.
- minimise disturbance to an already constrained road during its reconstruction.
- be cost effective to enable the full length upgrade to be funded.

In this regard the RMS in conjunction with other specialist agencies, in particular the National Parks & Wildlife Service, is best placed to determine the best option for the road alignment.

Should you wish to further discuss this submission please contact me on 99701188.

Yours sincerely



Mark Shaw
MANAGER URBAN INFRASTRUCTURE

C9.2 Boondah Road, Warriewood - Road Reconstruction

Meeting: Community, Recreation and Economic Development Committee

Date: 4 February 2013

STRATEGY: Business Management

ACTION: To effectively manage Council's Corporate Governance responsibilities

PURPOSE OF REPORT

1. To seek an exemption from the requirement to separately go to tender for the construction of the eastern half road construction of the subject section of Boondah Road on the basis of extenuating circumstances provisions under Section 55(3)(i) of the Local Government Act, as detailed in this report.
2. In lieu, and in response to those extenuating circumstances, to consider entering into a Formal Agreement and Contract with Meriton to expand the scope of its works to include Council's part of the construction of Boondah Road that will involve:
 - Meriton, as part of the one operation, constructing the full width of Boondah Road over the specified length utilising Meriton's construction contractor which will then also include the eastern half and bulk filling to raise road levels not directly associated with the Meriton development consent requirements.
 - Council via the Warriewood Valley s94 Developer Contributions Plan paying Meriton for the cost of the eastern half of the road and drainage construction works as well as the full width bulk filling to raise part of the road subgrade to accommodate the 1% flood level and the transition at the southern end to ramp back down to existing road levels i.e. additional works not associated with the western half road works fronting the Meriton development that Meriton is directly providing and funding.
3. To undertake an alternate procurement process due to the extenuating circumstances as detailed in this report

1.0 BACKGROUND

- 1.1 Developments within the Warriewood Valley urban land release are required to directly fund and construct, as part of the development consent, the half road width fronting their development, including pavement strengthening, kerb & gutter, parking indents, footpath, landscaping, street lighting and service adjustments, etc. This converts the current rural roads to the required urban standard. A number of Sectors have completed this requirement and as more sectors come on line, the remaining half road widths will be completed.

- 1.2 Consistent with the above, the current Meriton development at the corner of Macpherson Street and Boondah Road that was approved by the Planning and Assessment Commission (PAC) in February 2011, has a Stage One requirement to construct the half road width for the full frontage of this development i.e. Macpherson Street (including 5 & 7 Macpherson Street) and Boondah Road and this needs to be completed prior to the final occupation of Stage One. Meriton has constructed part of this length (part Macpherson) and is in the process of gearing up for construction of the remaining length noting that its building construction for Stage One is nearing completion and again these road works need to be completed to gain final occupation.
- 1.3 Half width road construction along Macpherson Street links with the northern half width already constructed by the ARV development and as such there is no requirement to change road levels. Boondah Road is more problematic and is the subject of this report. Boondah Road has the Meriton development half width on the western side and the Sydney Water STP that is not part of the active land release on the eastern side. Over part of this length the road also needs to be raised to the 1% flood level. The eastern half of this section of Boondah Road construction as well as the bulk filling to raise the sub-grade of Boondah Road to the 1% flood level is being funded by the Warriewood Valley s94 Developer Contributions Plan. Given the current condition of the existing road and the level changes it is best to construct the full width of the road at the one time using the one contractor.
- 1.4 If Meriton constructs only its half of the road in isolation of the remainder (eastern half) then there will be a number of residual issues, including safety, amenity in particular added disruption to the public and added construction difficulty and cost to subsequently complete. Alternatively, if the works are carried out concurrently there are a number of advantages.
- 1.5 In this regard Meriton has, via letter dated 9 January 2013, agreed in principle to construct the full width of Boondah Road using its contractor subject to Council funding its share of the works involved. The funding for Council's component of the works is from the Warriewood Valley Section 94 Developer Contributions Plan.
- 1.6 Under Section 55 of the *Local Government Act*, Council is required to tender for works over \$150,000. The cost of the subject works will be greater than \$150,000. However Section 55(3)(i) provides for extenuating circumstances and recent legal advice has indicated that this provision could be applied in this case noting the safety, amenity, cost and practical advantages of utilising the one construction contractor, in this case Meriton, for the full scope of works. This would not be via a Material Public Benefit but via a Formal Agreement and Contract.

2.0 ISSUES

2.1 The Works and Costs of Construction

Following discussions with Council staff, Meriton has agreed in principle to undertake the construction of the eastern half of Boondah Road in conjunction with its already required western half works subject to Council funding its share of the cost. This would result in a seamless construction that in turn should be safer, more efficient, faster and more cost effective and introduce additional cost advantages compared to constructing each half at separate times via separate contracts/contractors. In particular it would be far less disruptive to the public if carried out all at the one time.

Concurrent construction introduces the need for a single contractor to carry out the works and Meriton is best placed to provide this aspect noting that it is already at the construction stage and the eastern 'half' has significantly less of the infrastructure involved.

2.2 Concurrent construction will:

- Enable both halves of the road to be constructed by the one contractor at the one time which requires only the one establishment and hence is far more efficient and should be quicker, less disruptive and more cost effective compared to separate half road constructions through potentially separate contractors at different times. It should be noted that it would be extremely difficult for potentially two different contractors to construct their separate halves of the same road at the one time.
- Require only the one road closure and detour arrangement for a shorter timeframe and hence be less disruptive to the travelling public.
- Remove the safety concern of having a significant level difference at both the road centreline and at the southern end of the works which would require interim transition works that potentially would need to be partially removed and replaced if the eastern half is separately carried out adding to the cost. There is also the ability to place the majority of the new pavement over the top of the existing pavement rather than boxing out and replacing unnecessarily.
- Enable Meriton, as per its development consent, to complete its required half road construction prior to final occupation of its Stage 1 development and Council end up with a full width reconstructed road asset to replace the very poor current asset thereby removing the current need for ongoing patching and shoulder maintenance.

2.3 Extenuating circumstances for not going to separate tender for Council's component of the works include:

- Meriton has/is in the process of engaging a civil contractor to undertake its half road construction works (western half) and there is a time imperative for Meriton to complete these works to meet its development consent requirement for Stage One of its development noting that its building construction for Stage One is nearing completion and final occupation is contingent upon these road works being completed. Hence time is of the essence for Meriton.
- For Council to separately tender for its half of the road will take a considerable time to document and procure via a tender process given that it has not commenced this process. This process requires detail design, detail specification, tender documentation, call for tenders, tender assessment, report to Council, contractual documentation and formal engagement. This would result in a significant time delay and could potentially result in a different contractor to the Meriton works and as mentioned above it would be extremely difficult to administer separate contractors, particularly if they are out of sequence with the other half. Hence Council would not be able to meet Meriton's time imperative. As separate contracts the only practical outcome would be to separately construct the works which then introduces the significant safety, amenity, disruption and cost implication concerns already discussed.
- Utilising Meriton's contractor will be on the basis that the Council's eastern half of the works along with the bulk filling to raise the road level and southern transition will be detail designed, an independent Quantity Survey carried out and the scope of works cost estimated. Meriton will be separately requested via its contractor to supply a formal quotation for the Council component of the works in the context of the overall scope of works being carried out concurrently and hence seamlessly with the western half. On this basis, if the quotation is reasonable (compared to the cost estimate) then this will become part of the Contract arrangement. This provides the necessary rigour to demonstrate value for money noting again that separate construction will entail additional direct cost (future construction and interim patching maintenance) and indirect cost (more disruption and residual safety concerns).

- The existing Boondah Road over the subject length is a former rural road in very poor condition. The prompt full width reconstruction to an upgraded urban standard will significantly improve safety and amenity. This would be more difficult and potentially more costly to achieve through a separate tender and construction process. The existing road is in need of constant patching to hold it over and hence its reconstruction will also remove this current requirement by providing a new road facility to current urban standards.
- Tenders are geared to achieving the required project outcome in a safe, efficient, cost effective and competitive manner. Given the need to construct the subject road works concurrently using a single contractor, the extenuating circumstances provisions need to be applied. Legal advice has indicated that these provisions could be considered and it is not inappropriate for Council to enter into a contract for Meriton to construct the road as long as Council determines that it is appropriate to not tender for the project due to extenuating circumstances under Section 55(3)(i) of the Local Government Act 1993 (attached).
- Section 55(3)(i) states that a tender process does not have to be entered into where :-

“A contract where, because of extenuating circumstances , remoteness of locality ,or the unavailability of competitive or reliable tenderers a Council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders ”
- Given the need to carry out the full width road works as part of the one construction operation the best way forward is to utilise Meriton's contractor already engaged for the western half to also construct the eastern half and ancillary works involved. The intended alternate procurement process and contractual arrangement with Meriton therefore needs to be endorsed by Council.

2.4 Financial Implications

- The construction of the eastern portion of Boondah road and bulk filling to achieve an evacuation level of 1%, is in accordance with the expectations of the Warriewood Valley Section 94 Contributions Plan.
- Entering into a contract with Meriton for them to undertake full construction of the road will provide an ungraded road more expeditiously, will be a more efficient construction program, will alleviate the potential for a split road at different levels and provide a safer road network for motorists and pedestrians. The contract will facilitate provision of infrastructure in accordance with the Plan.
- For the above reasons Council should resolve that due to the extenuating circumstances that under Section 55(3)(i) that a tender process is not appropriate.
- Council's current works program proposed for the Valley will be adjusted to accommodate these works at the next quarterly review.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 An improved intersection and reconstruction of Boondah Road will improve the safety and amenity of this section of the Valley as envisaged by the Roads Masterplan for the release and the s94 Developer Contribution Plan.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 Appropriate construction of the road will improve connectivity, amenity, safety and drainage in the area.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 The PAC approval requires Meriton to construct, by direct provision the half width of Boondah Road for the length of the site. The Section 94 plan, to which developers contribute, has programmed half road construction of Boondah except those parts to be directly provided by sector development (Developer direct provision).
- 3.3.2 The ongoing pothole and shoulder maintenance of this section of Boondah Road will be overcome by the new construction.

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 Under section 55(3)(i) of the LG Act it is appropriate to not go to tender for the proposed works in Boondah road due to extenuating circumstances.

3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 The concurrent construction of the eastern and western sections of Boondah Road is more efficient, less disruptive, and will provide a safer road and improved connectivity in accordance with the Roads Masterplan and Section 94 plan.

4.0 EXECUTIVE SUMMARY

- 4.1 The PAC approved in February 2011 the construction of 445 Residential Units and ancillaries. Conditions of the Project Approval required Meriton, in part, to, by direct provision, construct a round about and half of Boondah Road for its site length.
- 4.2 The Section 94 Plan for the Valley is to fund the other sections of the road
- 4.3 It is proposed to enter into an agreement with Meriton to achieve concurrent construction of both sides of Boondah Road over the frontage to this development as well as a suitable ramp transition at the southern end.
- 4.4 This work to be carried out by Meriton on the basis of the Section 94 contribution plan contributing to the cost of the eastern half of the work.
- 4.5 These construction works and its funding to be the subject of a Formal Agreement between Meriton and Council , such to be signed and finalised by the General Manager.
- 4.6 Pursuant to Section 55(3)(i) of the *Local Government Act 1993*, a separate tender is not being sought due to extenuating circumstances as detailed in this report.

RECOMMENDATION

1. That pursuant to Section 55(3)(i) of the *Local Government Act 1993*, Council not seek separate tenders for the construction of its component of the Boondah Road roadworks (eastern half along with full width bulk filling of the sub-grade to raise part of the road levels and suitable ramp down to existing road levels) on the basis of extenuating circumstances as detailed in this report and summarised below:
 - Meriton ,the adjacent developer , is obliged to construct half the road as a result of the determination by the Planning Assessment Commission in February 2011 and is committed to finalising construction of Boondah road prior to final occupation of its Stage 1 development, has offered to construct all of the road including the western half which Council is obliged to construct concurrently (half road cost and bulk filling at Council's cost).
 - The concurrent construction will provide a quicker finalisation of construction.
 - The concurrent construction will achieve a safer road at a faster rate.
 - The concurrent construction will facilitate both sides of the road being constructed to the same level at the same time obviating any centre line road level disparity if constructed separately.
 - The concurrent construction will lessen disruption to traffic flow, as two separate construction period s would otherwise have to take place.
 - The concurrent construction would be more efficient and potentially less costly.
2. That in lieu, the offer from Meriton to construct via its contractor the eastern half of Boondah Road in conjunction with its western half road construction subject to Council via the Warriewood Valley Section 94 Developer Contributions Plan funding and paying to Meriton the reasonable cost of these additional works be accepted
3. That the alternate procurement be based on detail design and independent quantity survey to establish detail estimates of cost for the Council component of the project and for Meriton's contractor to independently provide a Lump Sum quotation for the works involved in the context of constructing the project as part of the one full width operation, including any cost savings associated with that increased scope and potential changes to construction technique. The Meriton Lump Sum will be compared with the detail cost estimates and if reasonable will form the basis of the intended contract.
4. That the General Manager be authorised to enter into a contract with Meriton for the subject works if these pre-requisites are satisfied and authorised to affix the Seal of Council to all necessary documentation as required.
5. That the Council be updated as to the outcome of this intended contractual engagement for notation.

Report prepared by

Steve Evans

DIRECTOR, ENVIRONMENTAL PLANNING & COMMUNITY

Chris Hunt

DIRECTOR, URBAN & ENVIRONMENTAL ASSETS

C9.3	Draft Policy on leases over Council owned or controlled land
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Meeting: Community, Recreation & Economic Development Committee

Date: 4 February 2013

STRATEGY: Business Management

ACTION: Managing Councils Lease Portfolio

PURPOSE OF REPORT

To place the draft Pittwater Leasing Policy on public exhibition for a period of 28 days.

1.0 BACKGROUND

- 1.1 Pittwater Council presently has no written and adopted policy on leases over Council owned or controlled land.
- 1.2 There is a need for uniformity and consistency in the way Council deals with leases it administers for the reasons of fairness and efficient lease management practices.
- 1.3 This policy aims to standardise leases for both commercial and community type leases to the point that the use of legal assistance will be rendered unnecessary or at the least minimised thereby reducing Councils costs overall in the leasing process.
- 1.4 It is proposed to have four categories of leases as follows:
 - Community Based (e.g. Surf Clubs, Scout and Guide organisations)
 - Sporting Clubs – Non Commercial (e.g. Football Clubs, Equestrian, Swimming)
 - Sporting Clubs – Commercial (e.g. Golf Clubs, Bowling Clubs)
 - Full Commercial (e.g. Restaurants, Kiosks and any other fully commercial enterprise run for commercial gain)
- 1.5 There will be only two lease formats with minor term and condition variations to suit the appropriate lease category utilising two lease formats
- 1.6 A copy of the draft policy is at **Attachment 1**.
- 1.7 A Copy of the draft lease format for Category 1 & 2 leases is at **Attachment 2** and the draft lease for category 3 & 4 leases is at **Attachment 3**.
- 1.8 This Policy has been prepared in response to Councils Internal Auditors report of 21 November 2012 in which recommendation was made for a consistent approach to lease management.

2.0 ISSUES

- 2.1 The application of this policy will result in a more efficient lease management system and reduce costs associated with the process of granting leases to both community groups and commercial operators. Councils internal auditor conducted a Lease Management Audit in November 2012 and noted that at the date of the audit Council did not have a policy or procedure on commercial activities including leasing. The auditor has reviewed this draft policy and in the auditors report to the Audit and Risk Committee on 21 November 2012 noted that the draft policy was satisfactory.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The application of this policy will put all leaseholders in Pittwater on an equal footing in term of their rental obligations, conditions of use and obligations to Council.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 Not applicable

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 Not applicable

3.4 Leading an effective & Collaborative Council (Governance)

- 3.4.1 The application of this policy will result in a more efficient lease management system and reduce costs associated with the process of granting leases to both community groups and commercial operators.

3.5 Integrating our Built environment (Infrastructure)

- 3.5.1 Not applicable

4.0 EXECUTIVE SUMMARY

- 4.1 There is a need for a consistent and balanced approach to the use of public land for community and commercial purposes and to ensure the legal occupation of public spaces.

RECOMMENDATION

That the draft Policy on leases over Council owned or controlled land be placed on public exhibition for a period of 28 days.

That at the completion of the public exhibition period a further report be presented to Council addressing any issues raised.

Report prepared by
George Veness, Senior Property Officer

Paul Reid
MANAGER, CORPORATE STRATEGY & COMMERCIAL

Council Policy – No	Adopted:	OM:
	Amended	

TITLE: Leases over Council Owned or Controlled Land

STRATEGY: Business Management

BUSINESS UNIT: Corporate Strategy & Commercial

RELEVANT LEGISLATION: Nil

RELATED POLICIES: Nil

Objective

To provide a consistent approach to the leasing of public land to community, sporting and commercial Organisations.

Policy Statement

There is a need for a balanced approach towards the use of public land for community purposes with respect to leases and licences and to ensure the legal occupation of such land for community, private or commercial purposes.

The policy relates to all community, sporting and commercial entities that have or are required to have a formal leasing agreement with Council for facilities on public land.

It should be noted that in some cases a lease will not be the appropriate form of tenure and that a licence agreement will be used instead. The principles set out below will apply equally to leases and licences.

Where premises are located on Crown Land additional provisions in lease documents will be inserted to ensure compliance with the Crown Lands Act including the Crown Policy on 'Food and Beverage Outlets on Crown Reserves'.

Categories

1. Community Based Services.

Examples: Surf Clubs, Scout and Guide organisations.

2. Sporting Clubs – Non Commercial

Examples: Football clubs (all codes), Equestrian, Swimming,

3. Sporting Clubs – Commercial

Examples: Golf Clubs, Bowling Clubs.

4. Commercial.

Examples: Restaurants, Kiosks and any other fully commercial enterprise run for commercial gain.

Commercial Enterprises within otherwise non-commercial club premises.

Council may approve the construction and operation of commercial enterprises such as kiosks or café's within or adjoining club premises at its discretion.

Any approval must be consistent with the relevant Plan of Management.

Should such a facility be approved by Council then 20% of the income from the business shall be returned to Council as a contribution to the maintenance of the facility and/or adjoining public facilities.

As of the date of adoption of this policy clubs running commercial facilities without prior formal Council approval shall, at Councils discretion, be required to either cease the operation or enter into an Agreement with Council to return 20% of the income received from the facility to Council as above.

Formal sub-lease documentation will also need to be completed and executed for all such activities.

All and any Development Consents required to effect the establishment of new premises or modification of existing premises for the purposes of running commercial enterprises shall be the responsibility of the applicant organisation. There will be no obligation on Council to grant owners consent to such applications.

Where the proposal affects crown land all necessary crown lands approvals must be obtained by the applicant organisation.

Fee Structure and Responsibilities for Maintenance and Operating Costs

The table below sets out the respective general rental rates and basic responsibilities of the various categories of Clubs. The actual pro forma lease documents annexed to and forming part of this policy contain the detail of arrangements. It should be noted that lease terms need to reflect the condition and age of the building.

Category 1. Community Based Services.

RENT	Nil
MAXIMUM TERM	Twenty One Years
OTHER COSTS	All outgoings, including but not limited to telephone, electricity (where separately metered), cleaning, repairs and maintenance to the interior part of the tenancy including hard wired electrical appliances.
BUILDING INSURANCE	Council
CONTENTS INSURANCE	Community Organisation
PUBLIC LIABILITY INSURANCE	Community Organisation
LEGAL COSTS	Each party to bear their own legal costs.

Category 2. Sporting Clubs, Non Commercial.

RENT	\$500.00 (subject to annual CPI increases and inc GST)) to partly offset Councils administration costs.
MAXIMUM TERM	Ten Years (5 + 5) however terms greater than ten years can be sought with the provision of a business plan that demonstrates capital expenditure that may need to be amortised over a period greater than ten years.
OTHER COSTS	All outgoings, including but not limited to telephone, electricity (where separately metered), cleaning, repairs and maintenance to the interior part of the tenancy including hard wired electrical appliances.
BUILDING INSURANCE	Council
CONTENTS INSURANCE	Club
PUBLIC LIABILITY INSURANCE	Club
LEGAL COSTS	Each party to bear their own legal costs.

Category 3. Sporting Clubs Commercial.

ANNUAL LEASE FEE	At commercial valuation based on comparable rents paid by similar clubs in the Sydney metropolitan region.
MAXIMUM TERM	Ten Years (5 + 5) however terms greater than ten years can be sought with the provision of a business plan that demonstrates capital expenditure that may need to be amortised over a period greater than ten years.
OTHER COSTS	All outgoings
BUILDING INSURANCE	Tenant
CONTENTS INSURANCE	Tenant
PUBLIC LIABILITY INSURANCE	Tenant
LEGAL COSTS	Each party to bear their own legal costs

Category 4. Commercial.

ANNUAL LEASE FEE	At commercial rates determined by market valuation.
MAXIMUM TERM	Twenty Years (10 + 10)
OTHER COSTS	All outgoings
BUILDING INSURANCE	Tenant
CONTENTS INSURANCE	Tenant
PUBLIC LIABILITY INSURANCE	Tenant
LEGAL COSTS	Own and Councils

The lease template for Categories 1 and 2 are Attachment A of this policy and the lease template for Categories 3 and 4 are at Attachment B of this policy.

Form: 07L
Licence: 98M111
Edition: 0308

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Office of State Revenue use only

(A) **TORRENS TITLE**

Property leased: if appropriate, specify the part or premises

(B) **LODGED BY**

Delivery Box	Name, Address or DX and Telephone	CODE
	Reference (optional):	L

(C) **LESSOR**

--

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable): 1. 2. 3.

(E) **LESSEE**

--

(F)

TENANCY:

- (G) 1. **TERM**
2. **COMMENCING DATE**
3. **TERMINATING DATE**
4. With an **OPTION TO RENEW** for a period of set out in
5. With an **OPTION TO PURCHASE** set out in
6. Together with and reserving the **RIGHTS** set out in
7. Incorporates the provisions or additional material set out in **ANNEXURE(S)** hereto.
8. Incorporates the provisions set out in **MEMORANDUM** filed / **LEASE** registered in the Department of Lands, Land and Property Information Division as No.
9. The **RENT** is set out in item / clause of

ALL HANDWRITING MUST BE IN BLOCK CAPITALS.

Page 1 of

A set of instructions for completing this form is available from the Department of Lands, Land and Property Information Division.

DATE / /
dd mm yyyy

(H) I certify that the lessor, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this lease in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the lessor.

Signature of witness:

Signature of lessor:

Name of witness:

Address of witness:

Note: where applicable, the lessor must complete the statutory declaration below.

I certify that the lessee, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this lease in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the lessee.

Signature of witness:

Signature of lessee:

Name of witness:

Address of witness:

(I) **STATUTORY DECLARATION ***

I
solemnly and sincerely declare that—

1. The time for the exercise of option to renew / option to purchase in expired lease No. has ended;
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900.

Made and subscribed at in the State of
on in the presence of—

Signature of witness: Signature of lessor:

Name of witness:

Address of witness:

Qualification of witness: *[tick one]*

☐ Justice of the Peace

☐ Practising Solicitor

☐ Other *[specify]*

* As the Department of Lands may not be able to provide the services of a justice of the peace or other qualified witness, the statutory declaration should be signed and witnessed prior to lodgment of the form at Land and Property Information Division.

ALL HANDWRITING MUST BE IN BLOCK CAPITALS.

Page 2 of

TechnologyOne ECM Document Number: 4369984

PITTSBURGH COUNCIL as Lessor and _____ as Lessee in relation to
Lease of the premises known as

This is the Annexure "B" to the Lease between

PITTWATER COUNCIL as Lessor and _____ as Lessee in relation
to Lease of the premises known as

dated the _____ of _____ 2011

being the Survey Sketch prepared by _____ **Surveyor**

TechnologyOne ECM Document Number: 4369984

And

CONTENTS

1 Interpretation including definition of Permitted Use
2 Rent and Community Net Benefit
3 Rates and Taxes, outgoings
4 Insurances
5 Indemnities and releases
6 Use
7 Lessee's additional obligations
8 Cleaning the Premises, repair and replace
9 Lessee's works
10 Transfer and other dealings
11 Lessor's additional obligations and rights
12 Expiry and termination
13 Holding over
14 Damage to Premises
15 Default
16 Costs and expenses
17 Notices
18 Miscellaneous
19 Disputes
20 Crown Land

Reference Schedule

Item 1	Rent \$	including GST, reviewable annually according to increases in the Consumer Price Index (Sydney – All Groups)
(definition of rent in clause 1.1 and clause 2)		
Item 2	Annually in advance	

- | | |
|--------|---|
| Item 3 | <p>Permitted Use
 Sporting, youth training and development facility, storage of sporting equipment, hire of space as community meeting rooms and all uses incidental to and associated with aclub including the hiring of the hall and kitchen (if any) for functions such as engagements, weddings, day time children's birthday parties, night time adult birthday parties
 PROVIDED THAT the Lessee shall not hire out the premises for any function where loud noise or disturbance to neighbours can reasonably be expected.</p> |
| Item 4 | <p>Public liability insurance
 \$20,000,000 for any one claim</p> |
| Item 5 | <p>Lessor's address for service
 PO Box 882, Mona Vale NSW 1660
 Fax (02) 9970 7150
 Lessee's address for service</p> |

The Lessee further agrees with the Lessor as follows

1 Interpretation

- 1.1 The following words have these meanings unless the contrary intention appears. Item numbers referred to are those in the reference schedule. Other definitions are on the cover sheet.
- Common Areas** means those parts of the Land or buildings which the Lessor intends for common use including public amenities.
- Land** means the land described on the cover sheet on which the Premises are situated.
- Lessor's Property** means all plant, equipment, fixtures, fittings, furnishings, furniture and other property the Lessor has provided or provides on the Premises.
- Maintenance Schedule** means the schedule of 3 pages annexed to this Lease
- Minister** means the Minister responsible for the administration of the Crown Lands Act, 1989.
- Outgoings** means
- (a) cleaning, repairs and maintenance to the interior of the premises including hard wired electrical appliances.
 - (b) electricity and gas consumption, including electricity consumed for external security lighting (incl. flood lighting) and telephone.
- Permitted Use** means the use in Item 3.
- Plan of Management** means the Plan of Management current at the date of this Lease.
- Premises** means the land and all improvements erected on the Land including fittings and fixtures necessary for community use. Premises includes the Lessor's Property.

Rent means the yearly amount in Item I as varied under this Lease.

Rules means the Rules as set out in Annexure 1 as varied or added to under this Lease.

Services means the services to the Land provided by authorities or the Lessor.

Lessee's Activities means the sporting, youth training and development activities carried on from the premises from time to time.

Lessee's Employees and Agents means each of the Lessee's employees, officers, agents, contractors and invitees.

Lessee's Property means all property on the Premises and/or the Land which is not Lessor's Property or property, or property stored on the Premises on behalf of another community organisation.

Term means the period from and including the Commencement date to and including the Expiry date. The maximum Lease Term under this Lease is 21 years

1.2 Unless the contrary intention appears:

- (a) the singular includes the plural and vice versa; and
- (b) "person" includes a firm, a body corporate, an unincorporated association, an association or an authority; and
- (c) an agreement, representation or warranty-
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons is for the benefit of them jointly and severally; and
- (d) a reference to
 - (1) a person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns; and
 - (2) a document includes any variation or replacement of it; and
 - (3) a law includes regulations and other instruments under it and; and amendments or replacements of any of them
 - (4) a thing includes the whole and each part of it; and
 - (5) a group of persons includes all of them collectively, any two or more of them collectively and each of them individual; and
 - (6) the president of a body or authority includes any person acting in that capacity; and
- (e) "include" (in any form) when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;

1.3 If the Lessee proposes to amend the Permitted Use or to make any alterations, additions or modifications to the improvements on the Land the Lessee will give the Lessor not less than 28 days prior notice in writing giving particulars of such proposal; The Lessor shall within 28 days of receipt of the Lessee's written notification provide the Lessee with all necessary information as to the statutory approvals relevant to the Lessee's proposal. The Lessor may within 28 days of receipt of the Lessee's proposal give notice that the Lessor intends to amend the community net benefit requirements set out in clause 7.5 as a result of the Lessee's proposal. If the Lessor gives such notice, the Lessee will be at liberty within 28 days thereafter to withdraw the Lessee's notice of the Lessee's proposal in which case

the Lessor's intended amendments to the community net benefit requirements set out in clause 7.5 will not apply.

2 Rent and Community Net Benefit

- 2.1 The Lessee must pay the Rent annually in advance.
- 2.2 The Lessor and Lessee acknowledge that the Lessor has granted this Lease for a nominal rent in consideration for the Lessee's contribution to the Community Net Benefit comprising:-
- (a) On-going operation of the community facility within the Premises;
 - (b) The expenses incurred and the benefit of person hours expended by members in improving and maintaining the Premises and surrounds in accordance with clause 7.5;
 - (c) The benefit of making the Premises or part thereof available for reasonable use by local community and other sporting groups in accordance with clause 7.5;
 - (d) The benefit of providing reasonable storage space in the Premises to local community and sporting groups in accordance with clause 7.5, if requested and if such request is supported by the Lessor and subject to available space at the discretion of the Lessor;
 - (e) The benefit of providing youth training and development programs to the youth of the area in accordance with clause 7.5;
 - (f) The benefit of person hours expended by members in providing training and development of youth in the area.

3 Rates and taxes, outgoings

- 3.1 The Lessee shall pay Council rates in accordance with Council's Rates Policy, Category C-Community Service/Public Benefit, as amended from time to time.

The Lessee shall pay Sydney Water Corporation service charges and shall pay all charges for water consumed on the Premises.

- 3.2 In addition to the obligations in Clause 3.1 above, the Lessee will pay Outgoings as defined in this Lease as and when they fall due.

4 Insurances

- 4.1 The Lessee will indemnify and keep indemnified the Lessor and the Minister against all actions, suits, claims, debts, obligations and other liabilities arising out of the Lessee's use and occupation of the Premises during the continuance of this Lease and further the Lessee must:-
- (a) in connection with the Premises maintain with insurers on terms (including a cross liability clause) approved by the Lessor (who may not unreasonably withhold its approval) in the Name of the Lessor and Tenant;

- (i) public liability insurance for at least the amount in Item 4 as varied by notice from the Lessor; and
 - (ii) workers compensation insurance; and
 - (iii) other insurances which are required by law or which in the Lessor's reasonable opinion a prudent Lessee would take out including those in connection with Lessee's works on the Premises; and
 - (b) give the Lessor evidence that it has complied with clause 4.1 (a) when asked to do so; and
 - (c) notify the Lessor immediately if an insurance policy required by this clause 4.1 is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the Premises, the Building or Property in or on them.
- 4.2 The Lessee may not enforce, conduct, settle or compromise claims under any insurance policy required by this Lease even if that policy also covers other property, if the Lessor gives the Lessee a notice that the Lessor wishes to do these things.
- 4.3 The Lessee may not do anything which may affect rights under any insurance which may increase an insurance premium payable in connection with the Premises, the building or property in them.
- 4.4 Insurance proceeds (even if of a policy in the Lessee's name only in breach of clause 4.1 (a)) which the Insurer does not require to be used for replacement or reinstatement must be paid into a separate joint account in the names of the Lessor, the Lessee and, if required, by the Lessor, any other person. The money must be used to settle claims in connection with the event insured against or to replace or reinstate the insured item and then any surplus shared between the account holders having regard to their respective interests in that item.
- 4.5 The Lessee shall take out and maintain building insurance in respect of the Premises.

5 Indemnities and releases

- 5.1 The Lessee is liable for and indemnities the Lessor and the Minister against liability or loss arising from, and cost incurred in connection with:
- (a) damage, loss, injury or death caused or contributed to by the act, negligence or default of the Lessee or of the Lessee's Employees and Agents; and
 - (b) the Lessor doing anything which the Lessee must do under this Lease but has not done or which the Lessor considers the Lessee has not done properly.
- 5.2 The Lessee releases the Lessor from, and agrees that the Lessor is not liable for, liability or loss arising from, and cost incurred in connection with;
- (a) damage, loss, injury or death unless it is caused by the Lessor's act, negligence or default, and

- (b) anything the Lessor is permitted or required to do under this Lease, and
- (c) if the Lessor has complied with clause 11.2;
 - (i) a Service not being available, being interrupted or not working properly, and
 - (ii) the Lessor's plant and equipment not working properly, and

5.3 Each indemnity is independent from the Lessee's other obligations and continues under this Lease and after it expires or is terminated. The Lessor may enforce an indemnity before incurring expense.

6 Use

- 6.1 The Lessee must use the Premises only for the Permitted Use.
- 6.2 Use of the Premises shall at all times be governed by this Lease and the Lessor's Plan of Management current as at the date of this Lease (as amended from time to time) and published on the Lessor's website, together with any applicable development controls (a copies of which have been provided to the Lessee).

7 Lessee's additional obligations

- 7.1 The Lessee :
 - (a) must not alter the Lessor's Property or remove it from the Premises; or
 - (b) must not store or use flammable, volatile or explosive substances on the Premises provided that if these substances are essential for the Permitted Use of the Premises and are used and stored in accordance with current safety standards at the sole discretion of the Lessor; or
 - (c) must not do anything in or around the Premises which in the Lessor's reasonable opinion may be annoying, dangerous or offensive; or
 - (d) must not do anything to overload the services to the Premises nor use them for anything other than their intended purpose.
 - (e) must install and maintain an appropriate type of security access system and provide details and independent access availability to the Lessor, the security system shall be in accordance with the Lessor's master key system; and
 - (f) must comply on time with all laws, regulations and requirements of authorities in connection with the Premises, the Lessee's activities, the Lessee's Property and the use or occupation of the Premises (including obtaining all permits); and
 - (g) must inform the Lessor of damage to the Premises or of faulty services immediately after it becomes aware of it; and
 - (h) must comply with all Rules in Annexure 1.
- 7.2 The Lessee must ensure that the Lessee's employees and agents comply, if appropriate, with the Lessee's obligations under this Lease.

- 7.3 The Lessee must provide to the Lessor the Lessee's Annual Report including audited or signed financial statements showing income and expenditure and gross turnover. The report may contain such information as is referred to in Clause 7.5 below in this Report, as applicable, at the discretion of the Lessee.
- 7.4 The Lessee must ensure the the Lessee's employees, servants and agents comply, if appropriate, with the Lessee's obligations under this Lease.
- 7.5 The Lessee acknowledges that the continued payment of the nominal rental under this lease is subject to the following conditions:-
- (a) that the Lessee maintains the interior and exterior of the Premises to the reasonable satisfaction of the Lessor; and
 - (b) that the Lessee makes the Premises available for other local sporting or bona fide community groups, as appropriate and within reason; and
 - (c) that the Lessee provides training and development of skills for young people in the area of endeavour for which the Premises are being used; and
 - (d) That appropriately informed and authorised representatives of the Lessee meet with an officer of the Lessor within seven days of each anniversary of the commencement date of this Lease (or at the discretion of the Lessor) to prove to the reasonable satisfaction of the Lessor that the obligations contained in this Clause 7 have been met and the financial capacity of the Lessee to meet the obligations.
- 7.6 The Lessee and the Lessor will review the Community Net Benefit requirements set out in clause 7.5 at intervals at the Lessor's discretion to assess whether there is a need for a variation to meet changing community expectations and having regard to the Lessee's financial standing and ability to provide such benefits.

The Lessee agrees from time to time as required by the Lessor to arrange for an officer of the Lessor to visit the Premises to discuss these issues.

8 Cleaning the Premises, repair and replace

- 8.1 The Lessee must keep the Premises tidy, weed free and free of vermin and comply with the Lessor's directions about refuse removal and recycling.
- 8.2 The Lessee must keep clean or provide a cleaning service for the Premises and remove or arrange for refuse to be removed from the Premises regularly.

- 8.3 The Lessee must keep the Premises and the Lessee's Property in good repair and promptly replace worn or damaged items with items of similar quality.

9 Lessee's works

- 9.1 The Lessee may not carry out works to or construction on the Premises without the prior approval of the Lessor; if the Lessor gives approval it may impose conditions. These conditions may include specifying:-
- (a) which part of the Premises may not be reinstated and which parts must be, and
 - (b) which items of Lessee's Property installed as part of the works may not be removed when the Lessee vacates the Property.
- 9.2 The Lessor will advise the Lessee if proposed works or construction require development/building approval and will provide appropriate information and advice.
- 9.3 The Lessee must ensure that any works are in accordance with any plans, specifications and schedule of finishes required and approved by the Lessor (who may not unreasonably withhold its approval).

10 Transfer and other Dealings

- 10.1 The Lessee may not transfer this Lease or sub-let or part with possession, other than as specifically provided for in this Lease, without the prior approval of the Lessor and the Minister (where applicable).
- 10.2 The Lessee shall not carry on or permit any person, organisation or corporation to carry out, any commercial activity (excluding fundraising activities) on the Premises without the prior written approval of the Lessor. Such approval shall not be unreasonably withheld.

11 Lessor's additional rights and obligation

- 11.1 Subject to the Lessor's rights, while the Lessee complies with the obligations under this Lease, it may occupy the Premises during the Term without interference by the Lessor
- 11.2 The Lessor may:
- (a) carry out any works on the Land or the Premises (including alterations and re-development), limit access if the Lessor takes reasonable steps (except in emergencies) to minimise interference with the Lessee's use of the Premises; and
 - (b) exclude or remove any person from the Land; and

- (c) install and use a public address system and other activities on the Land, and change the direction or flow of pedestrian access into, out of or through the Land; and
 - (d) change or vary car parking arrangements including implementation of pay and display adjacent to the Land; and
 - (e) change or vary car parking arrangements and car parking fees.
- 11.3 The Lessor may enter the Premises at reasonable times on reasonable notice to see if the Lessee is complying with its obligations under this Lease or to do anything the Lessor must or may do under this Lease; if the Lessor decides there is an emergency, the Lessor may enter at any time without notice and if the Lessor decides there is an emergency, the Lessor may stop the Lessee from entering the Land and/or the Premises at any time;
- 11.4 The Lessor may sub-divide the Land or grant easements or other rights over it or the Premises unless this would have a substantial or adverse affect on the Lessee's use of the Premises;
- 11.5 After giving the Lessee reasonable notice, the Lessor may do anything which the Lessee should have done or which the Lessor considers has not been done properly;
- 11.6 The Lessor may appoint agents or others to exercise any of its rights or perform any of its duties under this Lease;
- 11.7 The Lessor may vary Rules or make Rules which are consistent with this Lease in connection with the operation, use and occupation.

12 Expiry or termination

- 12.1 Two (2) years prior to the date of termination of the Term the Lessor and Tenant
- (a) will inspect the Premises and the Lessor will inform the Lessee in writing of any remedial work to bring the Premises to a reasonable condition; the Lessee shall complete such works no later than twenty-eight (28) days prior to the date of expiration of the Term;
 - (b) discuss the opportunity for a new lease and the Lessor will give an indication of its intentions and any likely change in conditions;
- 12.2 The Lessee must vacate the Premises on the earlier of the expiry date and the date this Lease is terminated and leave them in a condition satisfactory to the Lessor acting reasonably;
- 12.3 The Lessee may not remove the Lessee's Property which:
- (a) the Lessor has stated (as a condition to giving approval to works) may not be removed; or
 - (b) is part of structural work done by the Lessee to the Premises unless the Lessor gives the Lessee notice requiring the Lessee to remove the Lessee's Property.

- 12.4 Subject to 12.3 and 12.5 the Lessee must remove the Tenant's Property from the Premises during the seven (7) days immediately before the day the Premises must be vacated;
- 12.5 If the Lessor terminates this Lease by re-entry, the Lessee may give the Lessor a notice within seven (7) days after termination that it wants to remove the Lessee's Property which it may or must remove from the Premises;
- 12.6 Within seven (7) business days after the Lessee gives its notice, the Lessor must give the Lessee a notice stating when and how the Lessee's Property is to be removed from the Premises and by whom.
- 12.7 The Lessor may treat the Lessee's Property as abandoned and deal with it in any way it sees fit at the Lessee's expense if the Lessee does not:
 - (a) give its notice on time; or
 - (b) remove the Lessee's Property in accordance with this clause 12 or a notice given under it.
- 12.8 The Lessee's Property is at the Lessee's risk at all times;
- 12.9 The Lessee must promptly make good any damage caused by the Lessee's Property being removed from the Premises;
- 12.10 On the day the Lessee must vacate the Premises, the Lessee must give the Lessor the key to the Premises held by the Lessee and by any other person to whom they have given any set of keys to the Premises.

13 Holding over

- 13.1 If the Lessee continues to occupy the Premises after the Expiry date with the Lessor's approval, it does so under a monthly tenancy:
 - (a) which either party may terminate on one (1) month's notice ending on any day; and
 - (b) at a rent which is one twelfth of the Rent, including Community Net Benefits.
- 13.2 Subject to clause 13.1, the monthly tenancy is on the same terms as this Lease except for those changes which:
 - (a) are necessary to make this Lease appropriate for a monthly tenancy; or
 - (b) the Lessor requires as a condition of giving its approval to the holding over.
- 13.3 Any holding over period shall not exceed twelve (12) months.

14 Damage to Premises

- 14.1 If the Premises are damaged so that the Lessee's use is substantially adversely affected, the Lessor must give the Lessee a notice within a reasonable time after the damage occurs either:
- (a) terminating this Lease on a date not less than two (2) weeks after the date the Lessor gives the notice; or
 - (b) stating that the Lessor intends to make the Premises fit for the Lessee's use.
- 14.2 The Lessor may not terminate this Lease if:-
- (a) the damage is caused or contributed to or by, or
 - (b) rights under an insurance policy in connection with the premises are prejudiced or a policy is cancelled or payment of a premium or claim is refused by the insurer because of the act or default of the Lessee or of the Lessee's Employees and Agents. This does not affect the rights the Lessor may have in connection with the events specified in this clause 14.2.
- 14.3 This clause does not oblige the Lessor to restore or reinstate the Premises to the condition prevailing at the commencement date.

15 Default

- 15.1 Each obligation of the Lessee to pay money and its obligations under clauses 2,3,4,6,7, and 8 are essential terms of this lease.
- 15.2 The Lessor may terminate this Lease by giving the Lessee notice or by re-entry if the Tenant:
- (a) repudiates its obligations under this Lease, or
 - (b) does not comply with an essential term of this Lease, or
 - (c) does not comply with an obligation under this Lease (which is not an essential term) and, in the Lessor's reasonable opinion:-
 - (i) the non-compliance can be remedied, but the Lessee does not remedy it within a reasonable time after the Lessor gives the Lessee notice to remedy it, or
 - (ii) the non-compliance cannot be remedied or compensated for, or
 - (iii) the non-compliance cannot be remedied but the Lessor can be compensated and the Lessee does not pay the Lessor compensation for the breach within a reasonable time after the Lessor gives the Lessee notice to pay it.
- 15.3 If this Lease is terminated under this clause 15:
- (a) the Lessee indemnifies the Lessor against any liability or loss arising and any cost incurred (whether before or after termination of this Lease) in connection with the Lessee's breach of this Lease and the termination of this Lease including the

Lessor's loss of the benefit of the Lessee performing its obligations under this Lease from the date of that termination until the Expiry Date, and

The Lessor must take reasonable steps to mitigate its loss.

16 Costs and expenses

- 16.1 In connection with this Lease the Lessee must pay:-
- (a) registration fees;
 - (b) its own legal costs.

17 Notices

- 17.1 A notice or approval must be:-
- (a) in writing, and
 - (b) left at or posted by certified post to the address or sent to the facsimile number of the party in Item 5, as varied by notice.
- 17.2 A notice or approval is taken to be given:
- (a) if posted, on the third day after posting, and
 - (b) if sent by facsimile, on the next business day after it is sent; unless the sender is aware that transmission is impaired.

18 Miscellaneous

- 18.1 A provision of or a right under this Lease may not be waived or added except in writing signed by whoever is to be bound.
- 18.2 The covenants, powers and provisions implied in leases by sections 8A, 84A, 85 and 86 of the Conveyancing Act 1919 do not apply to this Lease.
- 18.3 In this Lease words used in any of the forms of words in the first column of part 2 of schedule 4 to the Conveyancing Act 1919 do not imply a covenant under section 86 of that Act.
- 18.4 Expiry or termination of this Lease does not affect any rights in connection with a breach of this Lease before then.
- 18.5 The Lessee warrants that it:-
- (a) has relied only on its own enquiries in connection with this Lease and not on any representation or warranty by the Lessor or any person acting or seeming to act on the Lessor's behalf, and
 - (b) was made aware of the Rules then current when signing this Lease.
- 18.6 The Lessee must comply on time with undertakings given by or on behalf of the Lessee in connection with this Lease.

19 Disputes

- 19.1 A party may not begin legal proceedings in connection with a dispute under this Lease (except a dispute because the Lessee has not paid Rent or other money it owes under this Lease) unless the dispute has first been decided by a person appointed under this clause 19;
- 19.2 If there is a dispute under this Lease to which this clause 19 applies, either party may give the other a notice requiring the dispute to be decided under this clause 19;
- 19.3 The dispute must be referred to a person agreed on by the parties but if the parties do not agree on a person within seven (7) days after the notice is given, then to a person appropriately qualified to deal with the dispute appointed at the request of either party by the chair of LEADR (Lawyers Engaged in Alternative Dispute Resolution);
- 19.4 The Person acts as an expert and not as an arbitrator and must give a written decision including reasons. Unless there is a manifest error, that person's decision is final and binding;
- 19.5 The person may enquire into the dispute as that person thinks fit including representations and taking advice from people that person considers appropriate;
- 19.6 The parties may make submissions and must give every assistance that person requires, including providing copies of relevant documents;
- 19.7 Each party must pay its own costs in connection with the dispute. The parties will share the cost of referring the dispute and the person's costs.

20 Crown Land

- 20.1 This Lease may be subject to the provisions of the Crown Lands Act 1989 including section 109 of that Act and if so, its provisions will be at the discretion of the Minister for Lands for the time being.

The Lessee will comply with and direction or condition imposed by the Minister for Lands pursuant to the Crown Lands Act.

These are the Rules referred to in the Lease between:

And

Of the premises known as

1. The Lessee may not:-

2. The Lessee must:-

- TechnologyOne ECM Document Number: 4369984

- (e) Ensure that there are no containers or rubbish bins or receptacles including skip bins to be placed in or around the area surrounding the Premises. All rubbish and associated materials are to be stored safely within the Premises or in a designated area in the surrounding the Premises, as appropriate; and
 - (f) Be responsible for the cleaning of the Premises, to the reasonable satisfaction of the Lessor, from time to time.
- 3 The Lessee agrees to ensure that all contracted users of the Premises abide by the above Rules or any other specific directions provided by the Lessor to the Lessee from time to time.

Form: 07L
Release: 2.8
www.lpmma.nsw.gov.au

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Office of State Revenue use only

(A) **TORRENS TITLE**

Property leased

(B) **LODGED BY**

Document
Collection
Box

Name, Address or DX, Telephone, and Customer Account Number if any

CODE

Reference:

L

(C) **LESSOR**

PITTWATER COUNCIL

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) **LESSEE**

(F)

TENANCY:

(G) 1. **TERM**

2. **COMMENCING DATE**

3. **TERMINATING DATE**

4. With an **OPTION TO RENEW** for a period of _____
set out in clause _____ of _____

5. With an **OPTION TO PURCHASE** set out in clause _____ of _____

6. Together with and reserving the **RIGHTS** set out in clause _____ of _____

7. Incorporates the provisions or additional material set out in **ANNEXURE(S) A, B & C** hereto.

8. Incorporates the provisions set out in _____ with the Land and
Property Management Authority as No. _____

9. The **RENT** is set out in _____ No. _____ of _____

ALL HANDWRITING MUST BE IN BLOCK CAPITALS.
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Page 1 of _____

LAND AND PROPERTY MANAGEMENT AUTHORITY

TechnologyOne ECM Document Number: 4369983

DATE

- (H) I certify that the person(s) signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the person(s) named below who signed this instrument pursuant to the power of attorney specified.

Signature of witness:

Signature of attorney: **see execution annexure**

Name of witness:

Attorney's name:

Address of witness:

Signing on behalf of:

Power of attorney-Book:

-No.:

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Corporation:

Authority: **section 127 of the Corporations Act 2001**

Signature of authorised person:

Signature of authorised person:

Name of authorised person:

Name of authorised person:

Office held:

Office held:

Director

Director

(I) STATUTORY DECLARATION *

I

solemnly and sincerely declare that—

1. The time for the exercise of option to _____ in expired lease No. _____ has ended; and
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at _____ in the State of New South Wales

on _____ in the presence of—

Signature of witness:

Signature of lessor:

Full name of witness:

Address of witness:

Qualification of witness: *[tick one]*

☐ Justice of the Peace

☐ Practising Solicitor

☐ Other qualified witness *[specify]* _____

* As the Land and Property Management Authority may not be able to provide the services of a justice of the peace or other qualified witness, the statutory declaration should be signed and witnessed prior to lodgment.

ALL HANDWRITING MUST BE IN BLOCK CAPITALS.

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PITTWATER COUNCIL EXECUTION ANNEXURE

I CERTIFY THAT THE PERSON(S) SIGNING
OPPOSITE, WITH WHOM I AM PERSONALLY
ACQUAINTED OR AS TO WHOSE IDENTITY I
AM OTHERWISE SATISFIED, SIGNED THIS
INSTRUMENT IN MY PRESENCE.

CERTIFIED CORRECT FOR THE PURPOSES OF
THE REAL PROPERTY ACT 1900 BY THE PERSON(S)
NAMED BELOW WHO SIGNED THIS INSTRUMENT
PURSUANT TO THE POWER OF ATTORNEY SPECIFIED.

SIGNATURE OF WITNESS

SIGNATURE OF ATTORNEY

NAME OF WITNESS

Mark Ferguson
NAME OF ATTORNEY

ADDRESS OF WITNESS

SIGNING ON BEHALF OF PITTWATER COUNCIL
POWER OF ATTORNEY – BOOK NO.

ANNEXURE A to the Law Society Lease

Landlord: **Pittwater Council**
Tenant:

This annexure consists of 2 pages.

NOTE: Any alterations and additions to Lease Covenants in Annexure B must be made by additional clauses in Annexure A and C.
The printed clauses in Annexure B are to remain in their copyright form without alteration.

SCHEDULE OF ITEMS (continued)

Item 9 (cl 2.3)	The guarantors:	
(cl 13.7)	Limit of guarantors' liability:	
Item 10 (cl 3)	Additional leased property:	
Item 11 (cl 4)	Option to renew	
Item 12	Rent	
(cl 5)	For the lease period:	
	From the commencement date 2011
	to the first rent review date2012
		\$..... plus GST per year by
		monthly instalments of \$..... plus
		GST
	Afterwards	Annually during the term by increases
		according to the Consumer Price Index.
	For the further period in item 11:	
	From the commencement date	
	to the first rent review date:	

Item 13 **GST**

This Lease provides for payment by the Lessee of GST in addition to any amounts payable to the Lessor pursuant to this lease. See Clause 14.7 of Annexure "C".

Item 14 **Outgoings paid by Lessor**

(cl 5)

Lessee's share of outgoings:

Item 14 **Interest rate: Twelve percent per annum (12% p.a)**

(cl 5.1.5)

Item 15 **Rent review**

(cl 5.4)

Rent review date	Method of rent review
------------------	-----------------------

.....
-------	-------

Method 1 is a fixed amount or percentage.
Method 2 is Consumer Price Index.
Method 3 is current market rent.

Item 16 **Permitted use:**

(cl 6.1)

Item 17 **Amount of required public liability insurance:**

(cl 8.1.1)

Twenty million dollars \$20,000,000

ANNEXURE B to the Law Society Lease

Landlord: **PITTWATER COUNCIL**

Tenant:

This annexure consists of 12 pages.

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NOTE: Any alterations and additions to Lease Covenants in Annexure B **must** be made by additional clauses in Annexure A. The printed clauses in Annexure B are to remain in their copyright form without alteration.

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CLAUSE	SUBJECT	PAGE	CLAUSE	SUBJECT	PAGE
1.	Form of this Lease	2	8	Insurance and Damage	7
2	Parties	2	9	Access	8
3	The Property	2	10	Transfer and Sub-Lease	8
4	Lease Period	2	11	Landlord's other Obligations	9
5	Money	3	12	Forfeiture and End of Lease	10
6	Use	6	13	Guarantee	11
7	Condition and Repairs	6	14	Exclusions, Notices and Special clause	11

RETAIL LEASE CERTIFICATE

If section 16 of the Retail Leases Act 1994 applies to this lease, and the term plus any further terms are less than 5 years, the term will be extended unless a section 16 certificate is given. Sections 16(1) and (2) provide -

- 16(1) The term for which a retail shop lease is entered into, together with any further term or terms provided for by any agreement or option for the acquisition by the lessee of a further term as an extension or renewal of the lease, must not be less than 5 years. An agreement or option is not taken into account if it was entered into or conferred after the lease was entered into.
- 16(2) If a lease is entered into in contravention of this section, the validity of the lease is not thereby affected but the term of the lease is extended by such period as may be necessary to prevent the lease contravening this section.

I certify that I am a solicitor not acting for the landlord and that at the request of the tenant I explained to the tenant before the tenant entered into this lease -

- the effect of sections 16(1) and (2); and
- that the giving of this certificate would result in section 16 not applying to this lease.

Date

Signature

NAME (BLOCK LETTERS)

Page of

CLAUSE 1 FORM OF THIS LEASE

What are the parts to this lease?

- 1.1 There are three parts to this lease - a lease form, Annexure A and this annexure.
- 1.2 This lease is a deed even if it is not registered.

CLAUSE 2 PARTIES

Who are the parties to this lease?

- 2.1 The landlord. The landlord is also called the lessor (or in the case of a sublease, the sublessor) and is named on page 1 of this lease.
- 2.2 The tenant. The tenant is also called the lessee (or in the case of a sub-lease, the sub-lessee) and is named on page 1 of this lease.
- 2.3 The guarantor, if a guarantor is named in item 9 in the schedule.
- 2.4 If a party consists of two or more persons, obligations of that party can be enforced against any one or more of them.

CLAUSE 3 THE PROPERTY

What property is leased?

- 3.1 The property leased is described on page 1 of this lease.
- 3.2 The landlord's fixtures are included in the property leased.
- 3.3 If anything else is leased (such as furniture belonging to the landlord) and is described in item 10 in the schedule it is included in the property.
- 3.4 If the property has facilities and services shared in common with other persons in the same building as the property, clause 11.3.2 applies to those common facilities. The tenant shares the common facilities with the landlord, and with other tenants of the landlord. The landlord can set reasonable rules for sharing these common facilities.

CLAUSE 4 LEASE PERIOD

How long is this lease for?

- 4.1 This lease is for the period stated in item 1 in the schedule, commences on the date stated in item 2 in the schedule and ends on the date stated in item 3 in the schedule.
- 4.2 If a further period, commencing when this lease ends, is stated in item 11A in the schedule then the tenant has the option to renew this lease for that period.
- 4.3 The tenant can renew this lease more than once if that is stated in item 11B in the schedule. However the period of tenancy under this lease and under any renewal(s) is, in total, not longer than the maximum period stated in item 11C in the schedule.
- 4.4 The tenant can exercise the option only if -
 - 4.4.1 the tenant serves on the landlord a notice of exercise of option not earlier than the first day stated in item 11D in the schedule and not later than the last day stated in item 11E in the schedule;

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- 4.4.2 there is at the time of service no rent or outgoing that is overdue for payment; and
- 4.4.3 at the time of service all the other obligations of the tenant have been complied with or fully remedied in accordance with the terms of any notice to remedy given by the landlord.

If this lease is extended by legislation, items 11D and 11E in the schedule are adjusted accordingly

- 4.5 After exercising the option the tenant must continue to pay all rents and outgoings on time and continue to comply with all of the tenant's obligations under this lease. If the tenant does not do so, the landlord may treat any breach as being a breach of the new lease as well as of this lease.
- 4.6 A new lease will be the same as this lease except for -
 - 4.6.1 the new rent;
 - 4.6.2 the commencement date and the termination date;
 - 4.6.3 the omission of clauses 4.2, 4.3, 4.4, 4.5 and 4.6 and items 11A and 11B in the schedule in the last lease allowed in item 11 in the schedule;
 - 4.6.4 item 11B becoming item 11A;
 - 4.6.5 adjustment of item 11C in the schedule; and
 - 4.6.6 adjustment of items 11D and 11E in the schedule. The number of days between the dates stated in items 11D and 11E in the schedule of the new lease and the termination date of the new lease and the number of days between each date stated in items 11D and 11E in the schedule of this lease and the termination date of this lease are to correspond.

If the new rent is to be current market rent it will be decided in the same way that current market rent is to be decided under Method 3 stated in clause 5 assuming that this lease and the new lease were one continuous lease and the commencement date of the new lease was a rent review date.

CLAUSE 5 MONEY

What money must the tenant pay?

- 5.1 The tenant must pay to the landlord or as the landlord directs -
 - 5.1.1 the rent stated in item 12 in the schedule;
 - 5.1.2 the share stated in item 13A in the schedule of those outgoings stated in item 13B in the schedule;
 - 5.1.3 the reasonable cost to the landlord of remedying a default by the tenant;
 - 5.1.4 the reasonable cost to the landlord of dealing with any application by the tenant for the landlord's consent under this lease (whether or not it is given);
 - 5.1.5 interest on these moneys at the rate stated in item 14 in the schedule when payment is more than 14 days overdue, calculated from the due date to the date of payment;
 - 5.1.6 registration fee for registration of this lease at the Land Titles Office (payable on delivery to the landlord's solicitor of the executed lease);
 - 5.1.7 stamp duty on this lease (payable on delivery to the landlord's solicitor of the executed lease) if not previously paid by the tenant to the Office of State Revenue;
 - 5.1.8 if the tenant defaults, the landlord's reasonable legal costs relating to the default; and
 - 5.1.9 the landlord's reasonable costs and expenses in connection with the preparation of this lease.
- 5.2 The first month's instalment of rent is to be paid by the commencement date. Each later month's instalment of rent is to be paid in advance.

5.3 A payment under clause 5.1.2 must be paid on the next rent day after a request for payment is made by the landlord.

A request for payment can be made –

5.3.1 after the landlord has paid an outgoing; or

5.3.2 after the landlord has received an assessment or account for payment of an outgoing.

If item 13B in the schedule refers to land tax –

- if the property is a strata lot, the relevant land tax is land tax on that lot;
- if the property is not a strata lot but is part of a building, the relevant land tax is land tax on the land on which the building is situated, plus any land of the landlord used or available for use by or for the benefit of tenants conducting business in the building or in connection with trading in the building; and
- in either case, the land tax must be calculated as if the land was the only land owned by the landlord and there was no special trust or non-concessional company involved.

When and how is the rent to be reviewed?

5.4 The rent is to be reviewed on the rent review dates stated in item 15 in the schedule.

If this lease is extended by legislation, the rent review dates include each anniversary of the latest rent review date stated in item 15 in the schedule (or if none is stated each anniversary of the commencement date) which falls during the extension.

5.5 The tenant must continue to pay rent at the old rate until the new rate is known. After that, the tenant is to pay the new rent from the next rent day. By that rent day the tenant is also to pay any shortfall between the old and new rate for the period since the rent review date. Alternatively, the landlord is to refund to the tenant any overpayment of rent.

5.6 There are three different methods described here for fixing the new rent on a rent review date. The method agreed by the landlord and the tenant is stated at item 15 in the schedule. The tenant is entitled to a reduction if the method produces a rent lower than the rent current just before the review date.

Method 1. By a fixed amount or percentage.

5.7 In this case the new rent beginning on each review date is stated in item 15 in the schedule.

Method 2. By reference to Consumer Price Index.

5.8 In this case –

- take the yearly rent as of the last review date or if none, the rent at the commencement date (\$X),
- divide that rent by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before that date (CPI 1),
- multiply the result by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the review date (CPI 2).

The product is the new rent for the year beginning on the review date (\$Y), written as a formula –

$$\frac{\$X}{CPI1} \times CPI2 = \$Y$$

5.9 The landlord must calculate the new rent after each review date and give the tenant written notice of the new rent.

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- 5.10 If the Australian Bureau of Statistics makes a change in the reference base of the index and there is a published co-relation between the old and new base then the published co-relation is to be applied to convert the CPI I figure to the new reference base. If there is none then the landlord and the tenant agree to accept the calculations of the landlord's solicitor who must be retained to determine a fair co-relation between the old and the new series of numbers.
- 5.11 If the index used to calculate the new rent is discontinued the landlord may substitute another index that, as nearly as practicable, serves the same purpose and, if there is no such index, then the rent will be fixed by Method 3.
- Method 3. By reference to current market rent.**
- 5.12 In this case the rent is to be the current market rent. This can be higher or lower than the rent payable at the rent review date and is the rent that would reasonably be expected to be paid for the property, determined on an effective rent basis, having regard to the following matters :-
- 5.12.1 the provisions of this lease;
 - 5.12.2 the rent that would reasonably be expected to be paid for the property if it were unoccupied and offered for renting for the same or a substantially similar use to which the property may be put under this lease;
 - 5.12.3 the gross rent, less the landlord's outgoings payable by the tenant;
 - 5.12.4 where the property is a retail shop, rent concessions and other benefits that are frequently or generally offered to prospective tenants of unoccupied retail shops; and
 - 5.12.5 the value of goodwill created by the tenant's occupation and the value of tenant's fixtures and fittings are to be ignored.
- 5.13 The landlord or the tenant can inform the other in writing at least 60 days before the rent review date of the rent that the landlord or tenant thinks will be the current market rent at the review date.
- 5.14 If the landlord and the tenant agree on a new rent then that rent will be the new rent beginning on the rent review date and the landlord and the tenant must sign a statement saying so.
- 5.15 If the landlord and the tenant do not agree on the amount of the new rent 30 days before the rent review date -
- 5.15.1 the current market rent will be decided by a valuer appointed under clause 5.16;
 - 5.15.2 the current market rent is the rent that, having regard to the terms and conditions of this lease and such other matters as are relevant to the assessment of current market rent, would be reasonably expected to be paid for the property if it were unoccupied and offered for renting for the use to which the property can be put in accordance with this lease;
 - 5.15.3 rent concessions and other benefits that are frequently or generally offered to prospective tenants of unoccupied retail shops, where the property is a retail shop, and otherwise of unoccupied comparable premises, are relevant matters; and
 - 5.15.4 the value of goodwill created by the tenant's occupation and the value of tenant's fixtures and fittings are to be ignored.
- 5.16 The landlord and the tenant can either agree upon a valuer or can ask the President of the Law Society of New South Wales to nominate a person who is a licensed valuer to decide the current market rent.
- 5.17 The valuer will act as an expert not an arbitrator. The landlord and the tenant can each make submissions in writing to the valuer within 14 days after they receive notice of the valuer's appointment but not later unless the valuer agrees.
- 5.18 The valuer's decision is final and binding: The valuer must state how the decision was reached.
- 5.19 If the valuer -

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- 5.19.1 does not accept the nomination to act; or
- 5.19.2 does not decide the current market rent within 60 days after accepting the nomination; or
- 5.19.3 becomes incapacitated or dies; or
- 5.19.4 resigns,

then another valuer is to be appointed in the same way.

5.20 The landlord and tenant must each pay half the valuer's costs.

5.21 If the landlord and the tenant do not agree upon a valuer and neither asks for a valuer to be nominated before -

- 5.21.1 the next rent review date passes; or
- 5.21.2 this lease ends without the tenant renewing it; or
- 5.21.3 this lease is transferred after the rent review date with the landlord's consent; or
- 5.21.4 the property is transferred after the rent review date then the rent will not change on that rent review date.

CLAUSE 6 USE
How must the property be used?

6.1 The tenant must -

- 6.1.1 use the property for the purpose stated in item 16 in the schedule and not for any other purpose;
- 6.1.2 open for business at times usual for a business of the kind conducted by the tenant;
- 6.1.3 keep the property clean and dispose of waste properly; and
- 6.1.4 comply with all laws regulating how the property is used, obtain any consents or licences needed, comply with any conditions of consent, and keep current any licences or registrations needed for the use of the property or for the conduct of the tenant's business there.

6.2 The landlord can consent to a change of use and cannot withhold consent unreasonably.

6.3 The tenant must not -

- 6.3.1 do anything that might invalidate any insurance policy covering the property or that might increase the premium; or
- 6.3.2 use the property as a residence or for any activity that is dangerous, offensive, noxious, illegal or immoral or that is or may become a nuisance or annoyance to the landlord or to the owner or occupier of any neighbouring property; or
- 6.3.3 hold any auction, bankrupt or fire sale in the property; or
- 6.3.4 display signs or advertisements on the outside of the property, or that can be seen from the outside, unless the landlord consents (but the landlord cannot withhold consent unreasonably); or
- 6.3.5 overload the floors or walls of the property

CLAUSE 7 CONDITION AND REPAIRS
Who is to repair the property?

7.1 The landlord must -

- 7.1.1 maintain in a state of good condition and serviceable repair the roof, the ceiling, the external walls, and the floors of the property and must fix structural defects;
- 7.1.2 maintain the property in a structurally sound condition; and
- 7.1.3 maintain essential services.

7.2 The tenant must otherwise maintain the property in its condition at the commencement date and promptly do repairs needed to keep it in that condition but the tenant does not have to -

- 7.2.1 alter or improve the property; or
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- 7.2.2 fix structural defects; or
- 7.2.3 repair fair wear and tear.
- 7.3 The tenant must also -
- 7.3.1 reimburse the landlord for the cost of fixing structural damage caused by the tenant, apart from fair wear and tear;
- 7.3.2 maintain and decorate the shop front if the property has one; and
- 7.3.3 decorate the inside of the property in the last 3 months of the lease period (however it ends) - 'decorate' here means restoring the surfaces of the property in a style and to a standard of finish originally used e.g. by repainting.
- 7.4 If an authority requires work to be done on the property and it is structural work or work needed to make the property safe to use then the landlord must do the work unless it is required only because of the way the tenant uses the property. But if it is any other work or is required only because of the way the tenant uses the property then the tenant must do the work.
- 7.5 If the tenant fails to do any work that the tenant must do the landlord can give the tenant a notice in writing stating what the tenant has failed to do. After the notice is given the tenant must -
- 7.5.1 do the work immediately if there is an emergency; and
- 7.5.2 do the work promptly and diligently in any other case.
- If the tenant does not do the work, the landlord can do it and the tenant must reimburse the landlord for the cost of the work.
- 7.6 The tenant must not make any structural alterations to the property. Any other alterations require the landlord's consent in writing (but the landlord cannot withhold consent unreasonably).

CLAUSE 8 INSURANCE AND DAMAGE

What insurances must the tenant take out?

- 8.1 The tenant must keep current an insurance policy covering -
- 8.1.1 liability to the public in an amount not less than the amount stated in item 17 in the schedule (for each accident or event); and
- 8.1.2 damage or destruction from any cause to all plate glass in the windows and other portions of the property
- and must produce to the landlord, upon request, the policy and the receipt for the last premium.

What happens if the property is damaged?

- 8.2 If the property or the building of which it is part is damaged (a term which includes destroyed) -
- 8.2.1 the tenant is not liable to pay rent, or any amount payable to the landlord in respect of outgoings or other charges, that is attributable to any period during which the property cannot be used under this lease or is inaccessible due to that damage;
- 8.2.2 if the property is still usable under this lease but its usability is diminished due to the damage, the tenant's liability for rent and any amount in respect of outgoings attributable to any period during which usability is diminished is reduced in proportion to the reduction in usability caused by the damage;
- 8.2.3 if the landlord notifies the tenant in writing that the landlord considers that the damage is such as to make its repair impracticable or undesirable, the landlord or the tenant can terminate this lease by giving not less than 7 days notice in writing of termination to the other and no compensation is payable in respect of that termination;

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- 8.2.4 if the landlord fails to repair the damage within a reasonable time after the tenant requests the landlord to do so the tenant can terminate this lease by giving not less than 7 days notice in writing of termination to the landlord; and
- 8.2.5 nothing in clause 8.2 affects any right of the landlord to recover damages from the tenant in respect of any damage or destruction to which the clause applies.

CLAUSE 9 ACCESS

What are the landlord's rights of access to the property?

- 9.1 The tenant must give the landlord (or anyone authorised in writing by the landlord) access to the property at any reasonable time for the purpose of -
- 9.1.1 inspecting the condition of the property, or how it is being used; or
 - 9.1.2 doing anything that the landlord can or must do under this lease or must do by law; or
 - 9.1.3 viewing the property as a valuer, prospective buyer or mortgagee; or
 - 9.1.4 fixing a notice in a reasonable position on the outside of the property saying that it is for sale; or
 - 9.1.5 viewing the property as a prospective tenant not earlier than 6 months before the lease period ends; or
 - 9.1.6 fixing a notice not earlier than 6 months before the lease period ends in a reasonable position on the outside of the property saying that it is to let; or
 - 9.1.7 inspecting, cleaning or repairing another property or any services to another property.
- 9.2 The landlord must give the tenant at least 2 days written notice for access (except in an emergency). The day of the giving of the notice and any Saturday, Sunday or public holiday on which the property is not open for business are not counted.
- 9.3 The landlord must promptly make good any damage caused to the property and to any of the tenant's belongings which results from exercising these rights.
- 9.4 The tenant must give to the landlord a copy of any notice relating to the property or relating to any neighbouring property immediately after receiving the notice.

CLAUSE 10 TRANSFER AND SUB-LEASE

Can this lease be transferred or the property shared or sub-let?

- 10.1 The tenant must not transfer this lease without consent.
- 10.2 The landlord can withhold consent only if -
- 10.2.1 the proposed transferee proposes to change the use to which the property is put; or
 - 10.2.2 where the property is a retail shop, the proposed transferee has financial resources or retailing skills inferior to those of the proposed transferor and otherwise the proposed transferee has financial resources or business experience inferior to those of the proposed transferor; or
 - 10.2.3 the tenant has not complied with clause 10.3 and, where the property is a retail shop, clause 10.4.
- 10.3 A request for the landlord's consent to a transfer of lease must be made in writing and the tenant must provide the landlord with such information as the landlord may reasonably require concerning the financial standing and business experience of the proposed transferee.

- 10.4 Where the property is a retail shop, before requesting the consent of the landlord to a proposed transfer of this lease, the tenant must furnish the proposed transferee with a copy of any disclosure statement given to the tenant in respect of this lease, together with details of any changes that have occurred in respect of the information contained in the disclosure statement (being changes of which the tenant was aware or could reasonably be expected to be aware). For the purpose of enabling the tenant to comply with this obligation, the tenant can request the landlord to provide the tenant with a copy of the disclosure statement concerned and, if the landlord is unable or unwilling to comply with such a request within 14 days after it is made, this clause 10.4 does not apply.
- 10.5 Where the tenant has complied with clause 10.3 and where required to do so clause 10.4 and the landlord has not within 42 days after the request was made given notice in writing to the tenant either consenting or withholding consent the landlord is taken to have consented.
- 10.6 The tenant has to pay in connection with any consent the landlord's reasonable legal costs, the reasonable costs of obtaining any mortgagee's consent, the stamp duty and the registration fee for the transfer.
- 10.7 Where the property is a retail shop, the tenant can sublet, grant a license or concession, share or part with the possession of the whole or any part of the property or mortgage or otherwise charge or encumber the tenant's estate or interest in this lease only with the written consent of the landlord which can be refused in the landlord's absolute discretion. Otherwise, the tenant cannot do any of these things.

CLAUSE 11 LANDLORD'S OTHER OBLIGATIONS

What are the landlord's other obligations?

- 11.1 So long as the tenant does all the things that must be done by the tenant under this lease the landlord must allow the tenant to possess and use the property in any way permitted under this lease without interference from the landlord, or any person claiming under the landlord or having superior title to the title of the landlord.
- 11.2 The landlord must pay all outgoings for the land or the building of which the property is part when they fall due.
- 11.3 If the property is part of a building owned or controlled by the landlord –
- 11.3.1 the landlord must maintain in reasonable structural condition all parts of the building that the tenant can use under this lease; and
- 11.3.2 if the property has facilities and service connections shared in common with other persons the landlord must –
- 11.3.2.1 allow reasonable use of the facilities and service connections including:
- the right for the tenant and other persons to come and go to and from the property over the areas provided for access;
 - access by the tenant to service connections; and
 - the right for the tenant's customers to park vehicles in any area set aside for customer parking, subject to any reasonable rules made by the landlord.
- 11.4 maintain the facilities and service connections in reasonable condition.
- 11.5 The landlord must ensure that this lease is registered.
- 11.6 If a consent is needed for this lease, from someone such as a mortgagee or head landlord of the property, then the landlord must get the consent.

CLAUSE 12 FORFEITURE AND END OF LEASE

When does this lease end?

- 12.1 This lease ends -
- 12.1.1 on the date stated in item 3 in the schedule; or
 - 12.1.2 if the landlord lawfully enters and takes possession of any part of the property; or
 - 12.1.3 if the landlord lawfully demands possession of the property.
- 12.2 The landlord can enter and take possession of the property or demand possession of the property if:
- 12.2.1 the tenant has repudiated this lease; or
 - 12.2.2 rent or any other money due under this lease is 14 days overdue for payment; or
 - 12.2.3 the tenant has failed to comply with a landlord's notice under section 129 of Conveyancing Act 1919; or
 - 12.2.4 the tenant has not complied with any term of this lease where a landlord's notice is not required under section 129 of the Conveyancing Act 1919 and the landlord has given at least 14 days written notice of the landlord's intention to end this lease.
- 12.3 When this lease ends, unless the tenant becomes a tenant of the property under a new lease the tenant must -
- 12.3.1 return the property to the landlord in the state and condition that this lease requires the tenant to keep it in; and
 - 12.3.2 have removed any goods and anything that the tenant fixed to the property and have made good any damage caused by the removal.
- Anything not removed becomes the property of the landlord who can keep it or remove and dispose of it and charge to the tenant the cost of removal making good and disposal.
- 12.4 If the landlord allows the tenant to continue to occupy the property after the end of the lease period (other than under a new lease) then -
- 12.4.1 the tenant becomes a monthly tenant and must go on paying the same rent and other money in the same way that the tenant had to do under this lease just before the lease period ended (apportioned and payable monthly);
 - 12.4.2 the monthly tenancy will be on the same terms as this lease, except for
 - clause 4;
 - clauses 5.4 to 5.21 inclusive;
 - clause 6.2 unless consent has previously been given; and
 - clause 8 except for the provisions relating to rental suspension;
 - 12.4.3 either the landlord or the tenant can end the monthly tenancy by giving, at any time, one month's written notice to the other expiring on any date; and
 - 12.4.4 anything that the tenant must do by the end of this lease must be done by the end of the monthly tenancy.
- 12.5 Essential terms of this lease include -
- 12.5.1 the obligation to pay rent not later than 14 days after the due date for payment of each periodic instalment (and this obligation stays essential even if the landlord, from time to time, accepted late payment);
 - 12.5.2 the obligations of the tenant in clause 5.1.2 (dealing with outgoings);
 - 12.5.3 the obligations of the tenant in clause 6.1 (dealing with use);
 - 12.5.4 the obligations of the tenant in clause 7 (dealing with repairs); and
 - 12.5.5 the obligations of the tenant in clause 10 (dealing with transfer and sub-lease).
- 12.6 If there is a breach of an essential term the landlord can recover damages for losses over the entire period of this lease but must do every reasonable thing to mitigate those losses and try to lease the property to another tenant on reasonable terms.

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- 12.7 The landlord can recover damages even if -
- 12.7.1 the landlord accepts the tenant's repudiation of this lease; or
 - 12.7.2 the landlord ends this lease by entering and taking possession of any part of the property or by demanding possession of the property; or
 - 12.7.3 the tenant abandons possession of the property; or
 - 12.7.4 a surrender of this lease occurs.

CLAUSE 13 GUARANTEE

What are the obligations of a guarantor?

- 13.1 This clause applies if a guarantor of the tenant is named in item 9A in the schedule and has signed or executed this lease or, if this lease is a renewal of an earlier lease, the earlier lease.
- 13.2 The guarantor guarantees to the landlord the performance by the tenant of all the tenant's obligations (including any obligation to pay rent, outgoings or damages) under this lease, under every extension of it or under any renewal of it or under any tenancy and including obligations that are later changed or created.
- 13.3 If the tenant does not pay any money due under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must pay that money to the landlord on demand even if the landlord has not tried to recover payment from the tenant.
- 13.4 If the tenant does not perform any of the tenant's obligations under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must compensate the landlord even if the landlord has not tried to recover compensation from the tenant.
- 13.5 If the tenant is insolvent and this lease or any extension or renewal of it is disclaimed the guarantor is liable to the landlord for any damage suffered by the landlord because of the disclaimer. The landlord can recover damages for losses over the entire period of this lease or any extension or renewal but must do every reasonable thing to mitigate those losses and try to lease the property to another tenant on reasonable terms.
- 13.6 Even if the landlord gives the tenant extra time to comply with an obligation under this lease, under any extension of it or under any renewal of it or under any tenancy, or does not insist on strict compliance with the terms of this lease or any extension of it or renewal of it or of any tenancy, the guarantor's obligations are not affected.
- 13.7 If an amount is stated in item 9B in the schedule the guarantor's liability under this clause is limited to that amount.
- 13.8 The terms of this guarantee apply even if this lease is not registered, even if any obligation of the tenant is only an equitable one, and even if this lease is extended by legislation.

CLAUSE 14 EXCLUSIONS, NOTICES AND SPECIAL CLAUSES

- 14.1 No covenant or power is implied in this lease by section 84 or 85 of the Conveyancing Act 1919.
- 14.2 A document under or relating to this lease is -
- 14.2.1 served if it is served in any manner provided in section 170 of the Conveyancing Act 1919; and
 - 14.2.2 served on the tenant if it is left at the property.
- 14.3 This lease is subject to any legislation that cannot be excluded.
- 14.4 In this lease, 'retail shop' means premises to which the Retail Leases Act 1994 applies.

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IMPORTANT NOTES

The following notes are for guidance and do not form part of this lease.

If you are a landlord, a solicitor will prepare this lease for you.

If you are a tenant, a solicitor can advise you about it.

1. This document creates legal rights and legal obligations.
2. Failure to register a lease can have serious consequences.
3. If an option for renewal is not exercised at the right time it will be lost.
4. The tenant can exercise an option for renewal even if there has been a breach of this lease in a case where section 133E of the Conveyancing Act 1919 applies. The landlord must give a prescribed notice within 14 days after the option is exercised if the landlord wants to rely on the breach to prevent the exercise of the option.
5. The Law Society of New South Wales is not to be responsible for any loss resulting from the use of this lease as printed whether authorised or not.

_____	_____
_____	_____
_____	_____

I certify that this and the preceding eleven pages are in exactly the same wording as Annexure B of the copyright Law Society Lease.

Solicitor for the Landlord

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ANNEXURE C to the Law Society Lease

BETWEEN:

Lessor: **PITTWATER COUNCIL**
AND
Lessee:

DATED

This Annexure "C" consists of 10 pages

Notwithstanding any other contrary provision elsewhere in this Lease, the following conditions will apply: -

- 14.5 The rent commencement date is The Lessee will pay Rent and any other amounts due to the Lessor pursuant to this Lease, in advance.
- 14.6 The amounts due to the Lessor under this lease are exclusive of goods and services tax. The parties acknowledge that the law may change during the term of this lease and therefore, the following is agreed between the parties :-
 - a) If necessary, the Lessee will re-imburse the Lessor for any increased amount for goods and services tax from time to time incurred or payable by the Lessor over and above the amount stated in this lease for rent, so that the Lessor will always receive the base rent to which the Lessor is entitled under this Lease.
 - b) The details stated in tax invoices from time to time issued by the Lessor to the Lessee will in the absence of manifest error be conclusive evidence of their correctness.
- 14.7 The Lessee agrees that all its business activities are to be conducted solely within the leased premises.
- 14.8 In the event that any other government duty or levy imposed on the Lessor during the term of this Lease, the Lessee will be responsible for it and will pay the Lessor the amount specified in any written notice from the Lessor, within 14 days of receiving such a notice. A breach of this condition by the Lessor will be considered a breach of an essential term of this Lease.
- 14.9 The Lessee will enter into a separate Car Park Licence with the Lessor simultaneously on entering into this Lease, on terms agreed between the parties.
- 14.10 This Lease is/is not subject to the Retail Leases Act 1994 as amended.

- 14.11 If this Lease is a retail lease as defined in the Retail Leases Act, the parties will pay their own legal costs and expenses except that the Lessee will be responsible for registration fees and the fees of the law agent for the Lessor to lodge the Lease for registration. If this is not a retail lease, the Lessee will pay the Lessor's fees and expenses to prepare and register the Lease (if applicable).
- 14.12 As at the Terminating Date, the Lessee will remove any fitout installed at the Premises (unless required by the Lessor). The Lessee must return the Premises to its condition at the Commencing Date, fair wear and tear excepted.
- 14.13 If this is a retail lease, the Lessee warrants that the retail services that it or they provide to the public will be of a high standard and suitable for the purposes of and to meet the objectives of the Lessor as set out in Schedule 1 annexed.
- 14.14 In relation to the services it offers the Lessee as far as reasonably practicable perform these personally with its own staff. However, if the Lessee engages a subcontractor it must:
- a) Notify the Lessor and provide the Lessor with the name of the subcontractor and will make sure that the services to be performed by the subcontractor be undertaken with due care and diligence and in accordance with the best practice standard in providing the services
 - b) The Lessee shall make sure that the sub-contractor is accredited by or holds necessary licence or membership of a professional or other body in relation to the provision of the services, and will remain to its best ability such accreditation or membership during the terms of providing the service and complies with and maintains during the term of the lease the terms of the Management Plan and the Performance Standards and Quality Assurance System set out in Schedule 1.
 - c) The Lessee will be responsible for any act or omission of any subcontractor as if such act or omission was an act or omission of the Lessee.
- 14.15
- a) The Lessee shall produce a Management Plan for the Leased premises and business and if changes are required by the Lessor or discussed with the Lessor, shall adjust the Management Plan accordingly.
 - b) The Management Plan shall set out the services provided by the Lessee and shall be subject to audit and incremental improvement in consultation with the Lessor.
 - c) The Management Plan shall be forwarded to the Lessor for its review and comments within one month of the commencement of the lease.

- d) The Management Plan is to specify the procedure for Performance Standards and Quality Assurance as set out in Schedule 1.
- 14.16 The Lessee shall co-operate fully with the Lessor, the Contract Manager, the Lessor's maintenance staff and the general public. The Lessee shall also carry out any subsequent duties as directed by the Council.
- 14.17 The Lessee will prepare reports and attend meetings with the Lessor as required by the Lessor, no more than once every six months.
- 14.18 The Lessee shall carry out promotional and recreational activities to promote the retail premises in consultation with the Lessor.
- 14.19 a) All advertising and marketing shall be the sole responsibility of the Lessee.
- b) Approval or input from the Lessor is not necessary, however the Lessor maintains the discretion in order that any advertising or marketing materials be removed. If such an order is made by the Lessor for removal of any advertising or marketing materials, the Lessee shall remove the material within 48 hours. Should the material not be removed within 48 hours the cost of any removal shall be borne solely by the Lessee
- c) All advertising and marketing materials of the Lessee's business excluding signage shall comply with development consent conditions and plans of management for the premises and all Council regulations and policies in relation to advertising and marketing.
- d) All signage is subject to the Lessee's approval.
- 14.20 a) If any dispute arises out of this Lease ("Dispute") a party to the Lease must not commence any court or arbitration proceedings unless the parties to the Dispute have complied with the following paragraphs of this clause except where a party seeks urgent interlocutory relief.
- b) A party to this Lease claiming that a Dispute has arisen out of or in relation to this Lease must give written notice (Notice) to the other party specifying the nature of the Dispute.
- c) If the parties do not agree within 7 days of receipt of the Notice (or such further period as agreed in writing by them) as to:
- (i) The dispute resolution technique (e.g. expert determination) and procedures to be adopted;
- (ii) The timetable for all steps in those procedures; and;

- (iii) The selection and compensation of the independent person required for such technique;
 - (iv) The parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales, and, the President of the Law Society of New South Wales or the President's nominee will select the mediator and determine the mediator's remuneration.
- 14.21
 - a) The Lessee shall provide to the Lessor all plans and specifications of any further fit out of the Premises for the approval of the Lessor, which approval will not be unreasonably withheld.
 - b) The Lessee shall complete any fit out and upgrades consistent with the age and utility of the Premises as required by the Lessor.
- 14.22
 - a) The Business shall not operate outside the hours of 7.00 a.m. to 9.00 p.m. Monday to Sunday (inclusive).
 - b) The Council will provide toilet facilities for the Park for use by the customers of the Lessee. The toilet facilities for the Park shall not operate outside the hours 7.00 a.m. to 9.30 p.m.
- 14.23
 - a) The Lessee must comply with all requirements of the Lessor in any application to the Lessor for operating the Business with any type of liquor licence.
 - b) The Lessee must at its own expense do all acts and things necessary for obtaining and keeping the liquor licence current including the making of applications for reinstatement if necessary and must not without the prior written consent of the Lessor part with possession of or in any way encumber the licence and must on demand produce on the Premises the licence for inspection by the Lessor or by any person duly authorised on the Lessor's behalf.

At all times, the Lessee will be responsible for the behavior of the persons attending private functions at the Premises including but not limited to the Premises and the surrounding area.
 - d) The Lessor shall not be responsible in any way for the conduct of any liquor licence granted to the Lessee.
- 14.24 The Lessee shall be solely responsible for keeping the premises clean and tidy at all times.
- 14.25 The Lessee shall store and deliver all waste in the garbage in accordance with Lessor's requirements.

- 14.26 The Lessee shall be responsible for any pest control measures carried out on the Premises.
- 14.27 a) The Lessee may make a development application to the Lessor (as consent authority) for additional seating, if applicable.
- b) The granting of any application for additional seating is at the discretion of the Lessor (as consent authority), and will be in accordance with the Council's policy and current fees.
- 14.28 a) The Lessee indemnifies and keeps indemnified the Lessor and the Minister against all actions, suits, debts, claims, costs, expenses, obligations and other liabilities during this Lease, for which the Lessor is liable in relation to any death, person injury or property damage to the extent caused by any act or failure to act by the Lessee or because of the Lessee's use of the Premises except to the extent that any claims, costs or expenses are caused by the Lessor's negligence.
- b) The Lessee indemnifies the Lessor and the Minister against all loss or damage caused by the Lessee's failure to notify the Lessor of any major or continuing defect in the Premises of which the Lessee is aware or ought reasonably to have been aware.
- c) The Lessor is not liable for any damage caused to the Premises or to the Lessee's goods or equipment by burglary, theft or malicious damage except to the extent that such damage is caused by the Lessor's negligence.
- e) The Lessee shall indemnify the Minister and the Lessor in respect of any claims, suits, debts, obligations and other liabilities which may arise out of the Lessee's use and/or occupation of the Premises.
- f) The Lessee shall take out a public risk insurance policy with a reputable insurance office approved by the Lessor on terms approved by the Lessor, in the names of the Lessee, the Lessor and the Minister insuring them against such of the said matters as can be insured against in such office in the sum of not less than twenty million dollars (\$20,000,000.00) and shall produce at any time when required by the Lessor or the Minister the last renewal receipt for payment of such premium. The Lessee shall provide a copy of the policy and a certificate of currency annually to the Lessor or at the Lessor or Minister's request. The Lessee shall maintain the policy during this Lease.
- 14.29 a) The Lessee in operating the Business on the Premises must ensure that:-
- (i) If applicable, that the food on offer to the public is at all times fresh, palatable, well presented and in keeping with current acceptable hospitality standards;

- (ii) If applicable, the selection of food and beverages both for take away consumption from the café facility and for consumption upon the Premises that is available from the café facility at any given time caters for the reasonable tastes and needs of persons of all ages including infants, children and senior citizens from a diversity of cultural backgrounds, be they able-bodied or disabled persons;
 - (iii) The selection of food and beverages on offer for sale to the public from the café facility must be reflective of and in keeping with the recreational activities pursued by persons attending the precinct and in keeping with the nature of the general area surrounding the Premises itself;
 - (iv) The selection and price of food and beverages will be commensurate with the events, entertainment and all other activities being carried on in and around the Premises and adjacent land.
 - (v) The price of the food and beverages for sale to the public from the café facility must not be excessive and must be fairly comparable to the average food and beverage prices charged in other café facilities within the commercial centre of
 - (vi) Commercially produced "fast foods" (e.g. meat pies, icecreams, yoghurt, soft drinks, etc) may be offered for sale, in particular as take away items from the café facility, but such items must not out market the selection of food and beverages prepared on the Premises and offered for sale in the café facility;
 - (vii) Compliance with all relevant health regulations and standards in respect to the storage, preparation and service of food and beverages on and from the Premises.
- b) The Lessee must regularly update and vary the range and style of food and beverages on offer for sale to patrons of the café facility and in so doing take into account changes in food trends and public demands.
 - c) The Lessees will upon reasonable request supply the Lessor with a copy of the then current menus of food and beverages on offer at the café facility.
 - d) Lessor may prohibit the sale of one or more food or beverage items or the articles in which such food or beverage are supplied (in particular glass or polystyrene) if such item or article would create a nuisance within the Premises, or on adjacent land.

-
- e) The Lessee must at all times ensure that the needs of the general public are met by always providing service to the general public during the hours in which the café facility is open for trading.
- 14.30 Lessee shall prevent access to the Premises by the Lessee or its agents and servants and all other persons via the access ramp on the north western side of the main deck after 5.00 p.m. Monday to Sunday (inclusive).
- 14.31 The Lessee shall use the storage shed for the purpose of storing the Lessee's chattels related to the operation of the Lessee's business on the Premises. The Lessee shall not use the storage shed for storage of perishable goods, waste (putrescible or non putrescible), garbage or hazardous products or materials.
- 14.32 a) The Lessee may provide at its own cost and expense Security Services for the Premises, subject to obtaining the Lessor's written approval which shall not be unreasonably withheld.
- b) The Lessor may in its discretion and at its own cost and expense provide Security Services for the Premises and areas around the Premises but the Lessee shall not make any objection, claim for compensation or terminate this Lease for any matter arising out of or associated with the Lessor's provision of Security Services.

FOR THE LESSOR:

FOR THE LESSEE:

C9.4 Sydney Lakeside Holiday Park - Proposed Changes to Fees and Charges

Meeting: Community Recreation and Economic Development Committee

Date: 4 February 2013

STRATEGY: Business Management

ACTION: Managing Councils Commercial Activities

PURPOSE OF REPORT

To recommend to Council changes to the fees and charges at Sydney Lakeside Holiday Park.

1.0 BACKGROUND

- 1.1 To ensure that Council can deliver enhanced financial outcomes on an ongoing basis from Sydney Lakeside the fees and charges of the Park need to be competitive with other parks that offer similar facilities, services and products. Benchmarking against other holiday parks of a similar standard is one tool used to identify a complete and effective pricing policy. This policy has been reviewed in conjunction with council officers by the Park managers, Australian Tourist Park Management (ATPM) who have made certain recommendations for pricing which are shown at **Attachment 1**.
- 1.2 In addition to benchmarking, other factors to be considered include things such as:
- Economic climate
 - Current fees and charges
 - The current quality of each park
 - Perceived demand and future supply
 - Any additional services and facilities recently or proposed to be introduced at the park
 - Industry trends
 - Historical occupancy, and
 - Yields achieved.
- 1.3 In the case of Sydney Lakeside, the benchmarking exercise has indicated the Park currently offers rates similar to its competitors. However, as the benchmarked parks do not offer truly comparable facilities or locations, this benchmarking exercise should be used for information purposes and a general guideline only on this occasion.

2.0 ISSUES

2.1 Rates for various classes and types of accommodation.

Lakeview Cabins:

Given the aging condition of the Lakeview Cabins and the plan to remove these later this year it is recommended that fees continue at the current level pending their retirement.

Rates for the anticipated new Lakeview Villas are shown at **Attachment 1**.

Villas and Bungalows:

Whilst there are many similarities between the current pricing structure of villas and bungalows, there are significant differences between the quality of these two lodging types. Considering this variance of quality it is recommended that the standard villa prices be increased by a greater percentage than the bungalows to reflect the difference in quality / standard. Once the new Lakeside Villas are open it is recommended that the tariff on standard villas be pushed slightly higher again resulting in an offering of three very distinct accommodation types and relative price points.

Bunkhouses:

Since siting this new group accommodation, demand has been high due to limited availability of accommodation in the area. While there are already a number of group bookings for the 2013/14 period that will attract the introductory rate of \$35 per person implemented to assist with establishing a new client base, it is recommended that this rate be increased to \$40 per person or \$160 per bunkroom per night for all new business from April 2013, excluding Low and High periods.

Studio Rooms:

The new studio room pricing is currently set between \$100 and \$150 per night. This price point was again adopted to enable the market to be tested and to establish a client base for this particular accommodation style that had not previously been offered at the Park. It has been found that this style of accommodation is typically slower in Peak periods as it is targeted at the short stay transient market as opposed to the family market. As such, the current price point for the High season is dictated by this. That being said, it is considered the pricing is relatively low for a brand new, motel style room located on the Northern Beaches and consequently it is recommended that the price increases of around 10%. This is also reflective of the significant interest already shown in this style of accommodation.

Unpowered Sites:

On analysing demand for unpowered sites it is evident that trade continues to be quite slow. These sites are quite small and a greater price differential between these and powered sites should be considered. As other parks in the area offer unpowered sites at a rate of \$39 per night year round, it is recommended pricing on unpowered sites be reduced in the Low and Mid season to encourage greater utilisation.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

3.1.1 No impact

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 No impact

3.3 Enhancing our Working & Learning (Economic)

3.3.1 No impact

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 These revised rates will, if adopted result in increased revenue and occupancy rates for Sydney Lakeside Holiday Park

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 No impact

4.0 EXECUTIVE SUMMARY

- 4.1 In order to maximise the available revenue from Sydney Lakeside Holiday Park it is necessary to periodically review all rates and charges especially in view of the vast capital improvements carried out in 2012 and future improvements. To this end it is recommended that the fees nominated in the attachment to this report be adopted.

RECOMMENDATION

That Council resolve to adopt the recommended fees and charges for Sydney Lakeside as set out in **Attachment 1** of this report.

Report prepared by
George Veness, Senior Property Officer

Paul Reid
MANAGER, CORPORATE DEVELOPMENT & COMMERCIAL

BIG4 Sydney Lakeside Fees and Charges Recommendations 2013/14

Current Pricing				Recommended 13/14 Pricing				Percentage Increases			
Rates for 4 people				Rates for 4 people				Rates for 4 people			
Low	Mid	High		Low	Mid	High		Low	Mid	High	
New Lakeview Villas (Christmas 2014)											
Sunday to Thursday				\$220.00	\$245.00	\$385.00					
Friday and Saturday				\$270.00	\$295.00	\$385.00					
Weekly				\$1,320.00	\$1,470.00	\$2,695.00					
Lakeview Villa											
Sunday to Thursday	\$185.00	\$205.00	\$330.00	\$185.00	\$205.00	\$330.00		0.00%	0.00%	0.00%	
Friday and Saturday	\$230.00	\$255.00	\$330.00	\$230.00	\$255.00	\$330.00		0.00%	0.00%	0.00%	
Weekly	\$1,110.00	\$1,230.00	\$2,310.00	\$1,110.00	\$1,230.00	\$2,310.00		0.00%	0.00%	0.00%	
Standard Villa											
Sunday to Thursday	\$170.00	\$190.00	\$305.00	\$180.00	\$205.00	\$315.00		5.88%	7.89%	3.28%	
Friday and Saturday	\$215.00	\$240.00	\$315.00	\$230.00	\$260.00	\$315.00		6.98%	8.33%		
Weekly	\$1,020.00	\$1,140.00	\$2,135.00	\$1,080.00	\$1,230.00	\$2,205.00		5.88%	7.89%	3.28%	
Bungalow											
Sunday to Thursday	\$160.00	\$180.00	\$285.00	\$165.00	\$190.00	\$295.00		3.13%	5.56%	3.51%	
Friday and Saturday	\$200.00	\$225.00	\$315.00	\$210.00	\$235.00	\$295.00		5.00%	4.44%		
Weekly	\$840.00	\$1,080.00	\$1,995.00	\$990.00	\$1,140.00	\$2,065.00		3.13%	5.56%	3.51%	
Studio/Motel Cabin (Sleeps 2)											
Sunday to Thursday	\$100.00	\$120.00	\$150.00	\$110.00	\$135.00	\$165.00		10.00%	12.50%	10.00%	
Friday and Saturday	\$120.00	\$145.00	\$180.00	\$130.00	\$155.00	\$165.00		8.33%	6.90%		
Weekly	\$600.00	\$720.00	\$1,050.00	\$660.00	\$810.00	\$1,155.00		10.00%	12.50%	10.00%	
Ensuite Bunkhouse (sleeps 4, rate for 4)											
Sunday to Thursday	\$140.00	\$140.00	\$180.00	\$140.00	\$160.00	\$195.00		0.00%	14.29%	8.33%	
Friday and Saturday	\$150.00	\$160.00	\$180.00	\$150.00	\$180.00	\$195.00		0.00%	12.50%		
Weekly	\$840.00	\$840.00	\$1,260.00	\$840.00	\$960.00	\$1,365.00		0.00%	14.29%	8.33%	
Extra (4yrs & over)											
Daily	\$24.00	\$24.00	\$24.00	\$24.00	\$24.00	\$24.00		0.00%	0.00%		
Weekly	\$168.00			\$168.00	\$168.00						

New Lakeview Villas (Christmas 2014)											
Sunday to Thursday				\$220.00	\$245.00	\$385.00					
Friday and Saturday				\$270.00	\$295.00	\$385.00					
Weekly				\$1,320.00	\$1,470.00	\$2,695.00					
Lakeview Villa											
Sunday to Thursday	\$185.00	\$205.00	\$330.00	\$185.00	\$205.00	\$330.00		0.00%	0.00%	0.00%	
Friday and Saturday	\$230.00	\$255.00	\$330.00	\$230.00	\$255.00	\$330.00		0.00%	0.00%	0.00%	
Weekly	\$1,110.00	\$1,230.00	\$2,310.00	\$1,110.00	\$1,230.00	\$2,310.00		0.00%	0.00%	0.00%	
Standard Villa											
Sunday to Thursday	\$170.00	\$190.00	\$305.00	\$180.00	\$205.00	\$315.00		5.88%	7.89%	3.28%	
Friday and Saturday	\$215.00	\$240.00	\$315.00	\$230.00	\$260.00	\$315.00		6.98%	8.33%		
Weekly	\$1,020.00	\$1,140.00	\$2,135.00	\$1,080.00	\$1,230.00	\$2,205.00		5.88%	7.89%	3.28%	
Bungalow											
Sunday to Thursday	\$160.00	\$180.00	\$285.00	\$165.00	\$190.00	\$295.00		3.13%	5.56%	3.51%	
Friday and Saturday	\$200.00	\$225.00	\$315.00	\$210.00	\$235.00	\$295.00		5.00%	4.44%		
Weekly	\$840.00	\$1,080.00	\$1,995.00	\$990.00	\$1,140.00	\$2,065.00		3.13%	5.56%	3.51%	
Studio/Motel Cabin											
Sunday to Thursday	\$100.00	\$120.00	\$150.00	\$110.00	\$135.00	\$165.00		10.00%	12.50%	10.00%	
Friday and Saturday	\$120.00	\$145.00	\$180.00	\$130.00	\$155.00	\$165.00		8.33%	6.90%		
Weekly	\$600.00	\$720.00	\$1,050.00	\$660.00	\$810.00	\$1,155.00		10.00%	12.50%	10.00%	
Ensuite Bunkhouse (sleeps 4, rate for 4)											
Sunday to Thursday	\$140.00	\$140.00	\$180.00	\$140.00	\$160.00	\$195.00		0.00%	14.29%	8.33%	
Friday and Saturday	\$150.00	\$160.00	\$180.00	\$150.00	\$180.00	\$195.00		0.00%	12.50%		
Weekly	\$840.00	\$840.00	\$1,260.00	\$840.00	\$960.00	\$1,365.00		0.00%	14.29%	8.33%	
Extra (4yrs & over)											
Daily	\$24.00	\$24.00	\$24.00	\$24.00	\$24.00	\$24.00		0.00%	0.00%		
Weekly	\$168.00			\$168.00	\$168.00						

BIG4 Sydney Lakeside Fees and Charges Recommendations 2013/14

SITES	
Ensuite Sites	
Daily	\$55.00 \$63.00 \$84.00
Weekly	\$330.00 \$378.00 \$588.00
Powered Van / Tent Site	
Daily	\$43.00 \$51.00 \$72.00
Weekly	\$258.00 \$306.00 \$504.00
Unpowered Site	
Daily	\$40.00 \$48.00 \$65.00
Weekly	\$240.00 \$288.00 \$455.00
Extra Child(4yrs to 15 years)	
Daily	\$8.00 \$8.00 \$8.00
Extra Adult (16yrs & over)	
Daily	\$13.00 \$13.00 \$13.00

SITES	
Ensuite Sites	
Daily	\$57.00 \$46.00 \$89.00
Weekly	\$342.00 \$396.00 \$589.00
Powered Van / Tent Site	
Daily	\$45.00 \$54.00 \$76.00
Weekly	\$270.00 \$324.00 \$516.00
Unpowered Site	
Daily	\$39.00 \$45.00 \$66.00
Weekly	\$234.00 \$270.00 \$462.00
Extra Adult (16yrs & over)	
Daily	\$8.00 \$8.00 \$8.00
Extra Adult (16yrs & over)	
Daily	\$13.00 \$13.00 \$13.00

SITES	
Ensuite Sites	
Daily	3.51% 4.55% 5.62%
Weekly	
Powered Van / Tent Site	
Daily	4.44% 5.56% 5.26%
Weekly	
Unpowered Site	
Daily	-2.56% -6.67% 1.52%
Weekly	
Extra Adult (16yrs & over)	
Daily	0.00% 0.00% 0.00%
Extra Adult (16yrs & over)	
Daily	0.00% 0.00% 0.00%

Seasons

HIGH

24th Dec 2013 to 27 Jan 2014 inclusive (all sites).
 26 Dec 2013 to 15 Jan 2014 inclusive (All onsite accommodation).
 October long weekend 4th to 6th October 2013 inclusive.
 Easter Thurs 17 Apr to Sun 20 Apr 2014 inclusive.
 All other special events

MID

1 Apr 2013 to 28 Apr 2013 inclusive (excludes Easter).
 20th Sept 2013 to 23rd Dec 2013 inclusive.
 16 Jan 2013 to 27 Jan 2014 (inclusive) mid season weekend rate. (Accommodation only)
 28th Jan 2014 to 31st March 2014

LOW

All other periods.

Recommendations from ATPM

C9.5 62A Rednal Street Mona Vale - Offer to purchase

Meeting: Community, Recreation & Economic
Development Committee

Date: 4 February 2013

STRATEGY: Business Management

ACTION: Effectively Manage Councils Property Portfolio

PURPOSE OF REPORT

For Council to authorise the potential sale of Council land at 62A Rednal Street Mona Vale which is currently classified as Community land (Waterfront Access Reserve).

1.0 BACKGROUND

- 1.1 Council has been approached by the owners of No 62 Rednal Street Mona Vale with an offer to purchase a strip of land adjoining their property. Their offer was initially in the amount of three hundred thousand dollars (\$300,000). Further negotiations resulted in that offer being increased to three hundred and three thousand dollars (\$303,000). A copy of those offers is at **Attachment 1** and a plan of the area is shown at **Attachment 2**.
- 1.2 The matter went before the Pittwater Asset Management Panel (PAMP) at its meeting on 13 July 2011 where the proposal was endorsed with a recommendation that the proposal be put to Council for consideration. An independent valuation of the land places its value at \$ 260,000. A copy of that valuation is at **Attachment 4**.

2.0 ISSUES

2.1 Reclassification and Rezoning

The land would need to be reclassified by LEP to operational and be rezoned Residential 2(a) as part of that process prior to any transfer. In view of the substantial public benefit that that the proceeds of sale will provide it is recommended that the reclassification and rezoning be exempted from the current moratorium on spot rezonings as provided for in point three of the Council Decision of 17 October 2011 being demonstrated public benefit.

2.2 Current Use

The access appears to be rarely used and does not provide any linkages to adjoining Reserves.

2.3 Community Amenity

This area of Mona Vale is well served with waterfront access and recreation space with three Reserves within 120 metres of the subject land being 4A Edwin Ward Place *Edwin Ward Reserve* (630 m²), 85A Rednal Street *Rednal Street Reserve* (564 m²) and 18A Yachtsmans Paradise *Yachtsmans Paradise Reserve* (2000 m²). In addition Winji Jimmi Reserve is 500m to the north of the site. The subject land does not provide access to useful recreation space or boating facilities. A plan of the surrounding recreation space is shown at **Attachment 3**.

2.4 Potential for disposal

The subject land is comprised of two lots roughly separated by a stormwater drain over which the applicant is prepared to create an easement in favour of Council. The effect of such an easement would be to prevent any future construction over the land. There are no legal issues or encumbrances to the reclassification and sale of the land. Reserves & Recreation have advised they have no objection to the proposed sale. The owner of the adjoining property at no 64 Rednal Street is aware of the proposal and has no interest in purchasing part or all of the subject land.

2.5 Community Consultation

Apart from the adjoining owners the broader community consultation will be dealt with as part of the LEP process.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

3.1.1 There will be no adverse effect on the community

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 Not applicable

3.3 Enhancing our Working & Learning (Economic)

3.3.1 Not applicable

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 The sale of this land will result in income to Council in the amount of \$303,000 and also eliminate costs involved in maintaining the land. The sale proceeds will be allocated to projects such as improvements to nearby reserves, improvements to pedestrian infrastructure such as cycleways and footpaths, improvements to waterfront reserves and other priority infrastructure.

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 Not applicable

4.0 EXECUTIVE SUMMARY

4.1 Council has been offered the sum of \$303,000 for a piece of public land in Mona Vale, the amount offered is in excess of the lands true value and it is considered that the land has no general public benefit. To dispose of this property the land will first need to be reclassified and rezoned. Funds from the sale will be allocated to high priority infrastructure programmes.

RECOMMENDATION

1. That staff prepare a Planning Proposal for the re-classification and rezoning of lot 11 DP 221626 and lot 30 DP 24428. That having regard for the status of the draft Pittwater Standard Instrument LEP, this process not commence until such time as the draft Pittwater Standard Instrument is adopted and in force.

2. That upon completion of the matter in 1 above Council accept the offer made by the adjoining owners to purchase the land for the sum of \$303,000.
3. That the General Manager be authorised to execute under power of attorney all legal documentation associated with sale of the property

Report prepared by
George Veness, Senior Property Officer

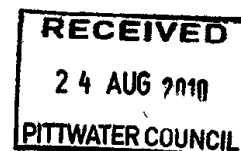
Paul Reid
MANAGER, CORPORATE STRATEGY & COMMERCIAL

**DG BRIGGS AND ASSOCIATES***Solicitors • Town Planners • Building Consultants*

Ref DGB 10450

16 August 2010

The General Manager
Pittwater Council
PO Box 882
MONA VALE NSW 1660

**Commercial and In Confidence**

Dear Sir,

OFFER TO ACQUIRE COUNCIL LAND
LOT 11 DP 221626 & LOT 30 DP 24428
PROPERTY KNOWN AS 62A REDNAL STREET MONA VALE

We act for Mr Tim and Mrs Helen Anderson, the owners of land situated at and known as 62 Rednal Street, Mona Vale

Our clients acquired their land in July 2007

Adjoining our clients' south-eastern side boundary are two small triangular shaped parcels of land vested in the Council. That land is zoned Open Space 6(a) Existing Recreation and measures approximately 4 metres wide x the depth of our client's land – an area of approximately 250m². That land is accessed by an informal timber and earth stairway from the street.

Since acquiring their land, our clients have maintained the Council's land. This has involved the regular mowing of the flatter portion of the Council's land and weeding/trimming of vegetation and removal of leaf litter from the steeper portion of the Council's land towards the street frontage.

From a site view, it is not possible to discern what land belongs to our clients and what land belongs to the Council. This has been problematical.

Over the years, trespassers have used our clients' driveway (which is of a lesser gradient than the informal steps upon the Council's land) and their land generally in person and by vehicles in order to gain access to the Council's land. Indeed, there have been occasions when our clients have returned home to find that vehicles have driven down their driveway, across their land and parked cars and trailers upon their land. Our clients' land is often damaged by vehicles/trailers manoeuvred across lawn areas.

During the warmer months, residents of the immediate local neighbourhood and their guests often trespass our clients' land to access to the Council's land. Indeed, on occasions people have gathered on our clients' land on public holidays consuming alcohol and barbeques - treating the private land as a public park.



P O Box 250 West Pennant Hills NSW 2125
Telephone 9872 9633 • Facsimile 9872 9699 • Email services@dgbri.gs.com.au
www.dgbri.gs.com.au

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Commercial and In Confidence

The General Manager
Pittwater Council

2

16 August 2010

The Council will be aware that this strip of land does not provide immediate access to the water but rather, terminates at a sea wall some 1.5 to 2.0 metres above the Mean High Water Mark. From the position above the sea wall, the only means of access to the water is to trespass over our clients' approved boat ramp and pontoon or to gain similar access from the similar facilities upon neighbouring land.

The Council's land appears to have been reserved as part of the original subdivision for the purposes of stormwater drainage. A 450 mm pipe passes through the Council's land connecting the Council street drainage system to its point of discharge through the sea wall into the water.

The area is also traversed by a Sydney Water sewer main.

The only proper access to the Council's land from the road reserve is via a series of informal timber-reinforced steps down the steeper portion of that land at the street frontage. It is this difficult access gradient that results in the general public trespassing our client's land via their driveway.

Our clients enjoy the open aspect of their land; however, the passage of time and ever increasing public use of our clients' land is of real concern. There is the continued risk of accident or injury by the public whilst on our clients' land which could potentially have very serious consequences for the Council and our clients. It seems to us that there is a duty upon the Council to prevent the risk arising and ensure that the public cannot simply trespass our clients' land.

For reasons of both public liability and privacy, our clients wish to secure their land and it appears that the only reasonable means by which that might be achieved is by the construction of appropriate security fencing.

But for the conduct of a small number of persons, our clients would refer to maintain the status quo.

Before taking any steps, our clients respectfully enquire as to whether the Council would be prepared to sell that strip of land to our client subject to an easement of an appropriate size to accommodate access to the Council's drainage infrastructure.

Our clients have sought advice from local real estate agents with the view to determining an appropriate value of that land vested in the Council. Enclosed herewith are copies of correspondence from McGrath Avalon dated 12 May 2010 and LJ Hooker Mona Vale dated June 15 2010. Council will see that these agents value this strip of land (unencumbered) in the range of \$230,000-\$250,000.

With the view to securing its interest in the land, our clients would be prepared to pay \$300,000.00 for that land.

We would be grateful if you could contact us to advise of the Council's position in respect to our clients' offer.

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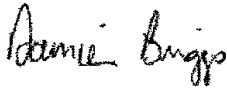
The General Manager
Pittwater Council

3

16 August 2010

We would be happy to discuss this matter on a without prejudice basis and for that purpose, Council's officers should feel free to telephone the writer

Yours faithfully
DG Briggs and Associates



Damien Briggs
Solicitor/Town Planner
Encl

June 15, 2010

COPY

Mr T & Mrs H Anderson
62 Rednal Street
MONA VALE NSW 2103

THIS IS NOT A VALUATION

Dear Mr & Mrs Anderson,

**RE: MARKET APPRAISAL OF ADJOINING LAND – 62A REDNAL STREET
MONA VALE LOT 11 IN DP 221626 AND LOT 30 IN DP 24428**

You have asked us to provide you with advice on our estimate of the value of the narrow parcel of land which adjoins the full length of your south-south-eastern (side) boundary

You have advised us that the area of the parcel is approximately 250 square metres.

On our assessment, a reasonable market appraisal for that parcel of land is in the order of \$230,000 to \$250,000.

Please note that this appraisal is undertaken in our capacity of real estate agents not as registered valuers. If you require a valuation, we are happy to arrange that on your behalf.

Our appraisal is based upon recent sales and we feel that it would be a realistic base upon which to determine the valuation. We have enclosed a Comparative Market Analysis to give you an idea of the activity in the immediate neighbourhood.

Please feel free to contact me if you have any questions or wish to discuss the matter further.

Yours faithfully
L J HOOKER MONA VALE

**ROSS EWINGTON****LAUREN POWELL****Third Party Disclaimer**

This letter has been prepared for and under instructions of T & H Anderson and is not for the use of any other party. We accept no responsibility or liability, whether such liability would have arisen as a result of negligence or otherwise, for/to any other party/person who might use or rely upon this letter.

19 Burgan Street
Mona Vale NSW 2103 Australia
Lachlan Elder Realty Pty Ltd ABN 35 002 332 247

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nobody does it better

McGrath

COPY

To Whom It May Concern

Tuesday 12th May 2010

Re. 62A Rednal Street, Mona Vale - zoned "Open Space 6(a) Existing Recreation"

Lot 11 in Deposited Plan 221626

Lot 30 in Deposited Plan 24428 Total area is = 252.8 sq m

Dear

Dear Sir / Madam

I was recently called in by the owners of 62 Rednal Street Mona Vale to provide an idea of valuation for the adjoining council land to their existing property

As a waterfront specialist for McGrath Northern Beaches I value the council land site for \$250,000

This valuation is based on what I would consider a current market price for a council strip like this

Do not hesitate to contact me should you require any additional information

Kind Regards,

Noel Nicholson

McGrath Estate Agents

P 02 9918 6700

F 02 9973 1175

M 0411884290

AVALON

33 Avalon Parade
Avalon NSW 2107
T +61 2 9918 6700
F +61 2 9973 1175

NB Property Pty Ltd ABN 17 878 145 882 (an independently owned and operated Franchised business) T/as McGrath Avalon

Senior Property Officer From: "Damien Briggs"
<services@dgbiggs.com.au>
Sent: 14/12/2011 03:14:16 PM
To: <george_veness@pittwater.nsw.gov.au>
Subject: RE: 62 Rednal Street Mona Vale

Hi George.

I have held a number of discussions with my clients since our last telephone discussions.

Having met our clients you will be aware that they are in their later years and (I suspect) their means are limited. The offer our clients have put to the Council is at the upper limit of their capacity to pay. It was my recommendation that the offer already made was above the valuations provided to our clients on the basis that the offer might be more reasonably accepted by the Council in that the additional sum would include any incidental costs of the Council.

As discussed today, our clients instructions are that an offer of a few thousand dollars more than the original offer is the extent that they are able to pay. On that basis, our clients' offer is now increased to \$303,000.00.

Kind regards
Damien Briggs
Solicitor and Certified Practising Planner
DG BRIGGS AND ASSOCIATES
Solicitors * Town Planners * Building Consultants
PO Box 250 WEST PENNANT HILLS NSW 2125
Telephone: 9872 9633 Facsimile: 9872 9699

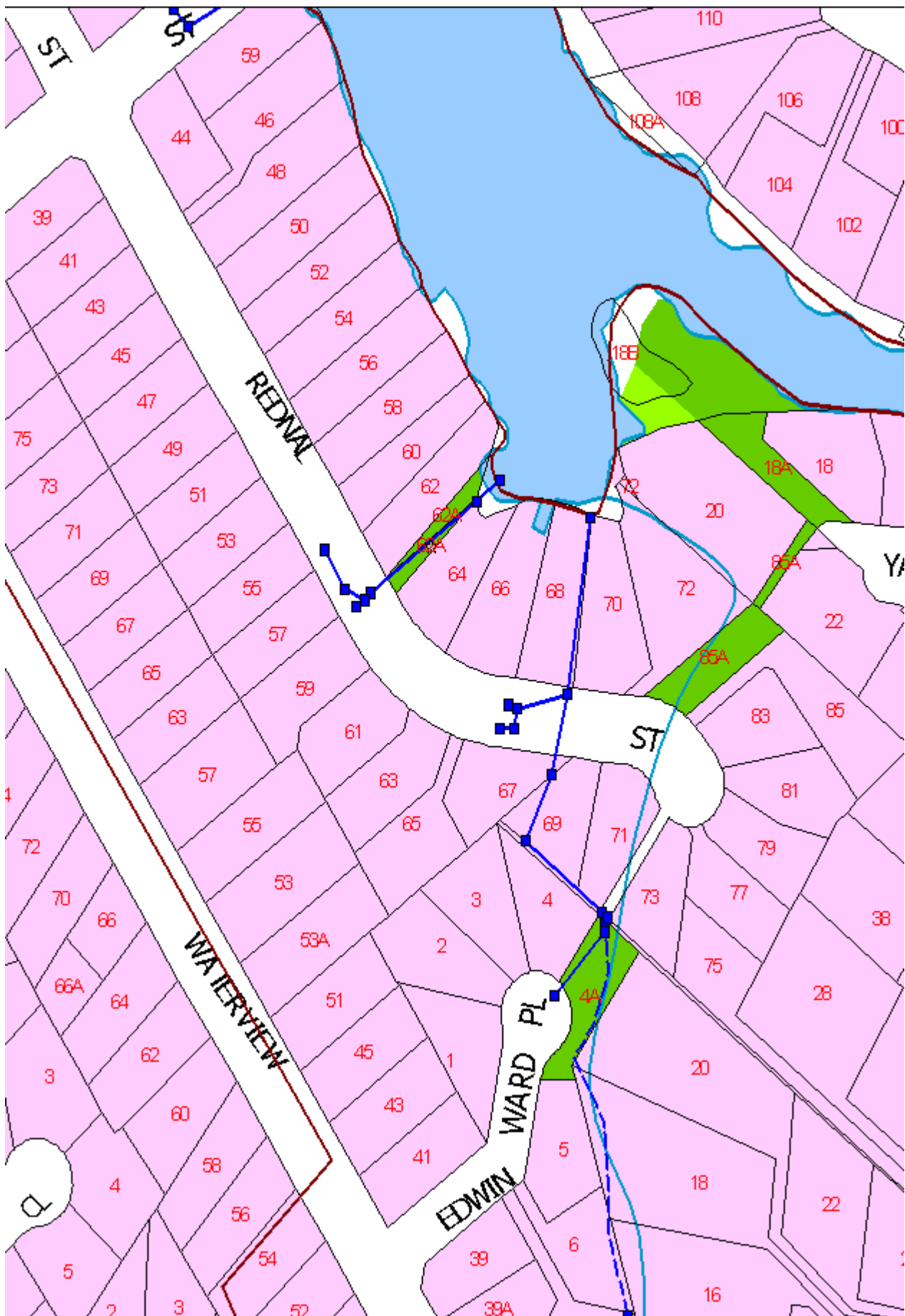
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-----Original Message-----

From: george_veness@pittwater.nsw.gov.au
[mailto:george_veness@pittwater.nsw.gov.au]
Sent: Wednesday, 14 December 2011 3:01







Valuation Report

PREPARED

BY

John Fawcett & Associates

REAL ESTATE VALUERS
AND CONSULTANTS

P.O. BOX 711 MANLY, N.S.W. 1655
SUITE 29A, LEVEL 4, 22 DARLEY ROAD MANLY
TELEPHONE 9977 3111
FAX 9977 8388

TechnologyOne ECM Document Number: 4375341

John Fawcett & Associates

REAL ESTATE VALUERS AND CONSULTANTS

PRINCIPALS:
J.H. FAWCETT, F.A.S.
J.M. FAWCETT, B.A. (COPE)

P.O. BOX 711, MANLY, N.S.W. 1655

SUITE 29A, LEVEL 4,
22 DARLEY ROAD, MANLY

PHONE: 9977 3111
FAX: 9977 8388
EMAIL: jhfawcett@iprimus.com.au

VALUATION SUMMARY

PROPERTY:

62A Rednal Street
Mona Vale NSW 2103

INSTRUCTIONS:

Instructions for this Valuation and
Report were given by:

Pittwater Council
Attention: Mr George Veness

PURPOSE OF VALUATION:

The purpose of this Valuation and
Report is to assess the value of a strip of
land having an area of 276.1 sqm zoned
open space and situated between 62 and
64 Rednal Street, Mona Vale.

BRIEF DESCRIPTION:

Rectangular shaped lot which is steep at
the street frontage although level for the
most part, containing a total area 276.1
sqm.

DATE OF VALUATION:

8th November, 2011

VALUATION:

Two Hundred and Sixty Thousand
Dollars plus all associated costs.

\$260,000 plus all associated costs

J. H. FAWCETT PTY LTD A.B.N. 88 002 149 481
Trading as
JOHN FAWCETT & ASSOCIATES

TechnologyOne ECM Document Number: 4375341

John Fawcett & Associates

REAL ESTATE VALUERS AND CONSULTANTS

PRINCIPALS:
J.H. FAWCETT, F.A.R.S.
J.M. FAWCETT, OF A.C.C.O.N.

P.O. BOX 711, MANLY, N.S.W. 1555

SUITE 23A, LEVEL 4,
22 DARLEY ROAD, MANLY

PHONE: 9977 3111
FAX: 9977 8388
EMAIL: jhfawcett@primus.com.au

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1.0.....	PROPERTY
2.0.....	INSTRUCTIONS
3.0.....	PURPOSE OF VALUATION
4.0.....	TITLE PARTICULARS
5.0.....	LOCATION & ENVIRONMENT
6.0.....	REDNAL STREET
7.0.....	DESCRIPTION OF ROAD RESERVE
8.0.....	VALUATION APPROACH
9.0.....	GENERAL
10.0.....	VALUATION

ANNEXURES

1. Photographs
2. Copy of Deposited Plans 221626 & 24428
3. Location Plan

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J.M. FAWCETT, B.A. ECON

P.O. BOX 711, MANLY, N.S.W. 1655
SUITE 29A, LEVEL 4,
22 DARLEY ROAD, MANLY

PHONE: 9977 3111
FAX: 9977 8388
EMAIL: jhfawcett@iprimus.com.au

VALUATION AND REPORT

1.0 THE PROPERTY: 62A Rednal Street,
MONA VALE NSW 2103

2.0 INSTRUCTIONS: Given by:-

Pittwater Council
PO Box 882
MONA VALE NSW 1660

Attention: Mr George Veness
Senior Property Officer

3.0 PURPOSE OF VALUATION:

3.1 Purpose We are instructed that the purpose of this Valuation and Report is to assess the value of a strip of land zoned 'Open Space' for possible sale to an adjoining owner.

4.0 TITLE PARTICULARS:

4.1 Title Details The property consists of two separate adjoining lots viz:-

Lot 11 in Deposited Plan 221626
And
Lot 30 in Deposited Plan 24428

4.2 Site Details The lots are irregular as shown on the attached Deposited Plans.

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Trading as
JOHN FAWCETT & ASSOCIATES

TechnologyOne ECM Document Number: 4375341

Lot 30 has an area of 151.2 sqm and Lot 11 contains an area of 129.9 sqm.

Total area is therefore 276.1 sqm.

4.3 Zoning

The lots are zoned 'Open Space (6a) - Existing Recreation'

5.0 LOCATION & ENVIRONMENT:

5.1

Mona Vale is a northern Beach suburb of Sydney located approximately 28km from the Sydney GPO by road.

5.2

The subject strip of land is on the northern side of Rednal Street about 150 metres south east of Mona Street.

5.3

The surrounding area is residential and the northern side of Rednal Street consist of waterfront homes adjoining Pittwater.

6.0 REDNAL STREET:

Rednal Street is tar sealed with concrete kerbing and guttering.

7.0 DESCRIPTION OF LAND:

The two lots combined result in a rectangular shape as shown on the attached plans with a frontage or width of 6.096 metres, extending to high water mark. According to the Deposited Plans the total area is 276.7 sqm.

The land is steep at the street frontage and access is by timber stairs to the main body of land which is level and grassed.

8.0 VALUATION METHODOLOGY:

8.1 Before and After

The generally accepted valuation approach is the "before and after" method which involves calculating the value of 62 Rednal Street, as it now stands, that is, a home on 784 sqm and calculating the value after, which is the home on 1,060 sqm.

62A Rednal Street, Mona Vale

The significance of this strip of land to 62 Rednal Street is that it increases the area by some 35% and the frontage from 15.24 metres to a little over 21.3 metres.

In this assessment we have considered the benefits to 62 Rednal Street in addition to the increased area and frontage. These include improved driveway access, the privacy aspect of not having a strip of land open to the public and improved street scape by having a wide frontage. It is noted that a drainage easement traverses the land and this will be retained and encompasses the restrictions, particularly regarding access that this entails.

Sales of waterfront properties in Rednal Street have ranged from \$1,700,000 up to \$3,500,000. Based on this, our calculation of land value is in the order of \$2,360 per square metre.

This amount applied to the 276.1 sqm produces an amount of \$650,000. This amount however would account for unencumbered freehold land without restrictions for which a discount must be considered.

There is no definitive evidence in the market to measure the quantum and in the circumstances we have adopted 60% as being a reasonable discount. The calculation is:-

Unencumbered freehold value	\$650,000
Less discount of 60%	<u>\$390,000</u>
Assessed value	\$260,000

We are mindful of the considerable costs associated with such a transaction.



STEEP FRONT SECTION OF THE LAND



62 REDNAL STREET

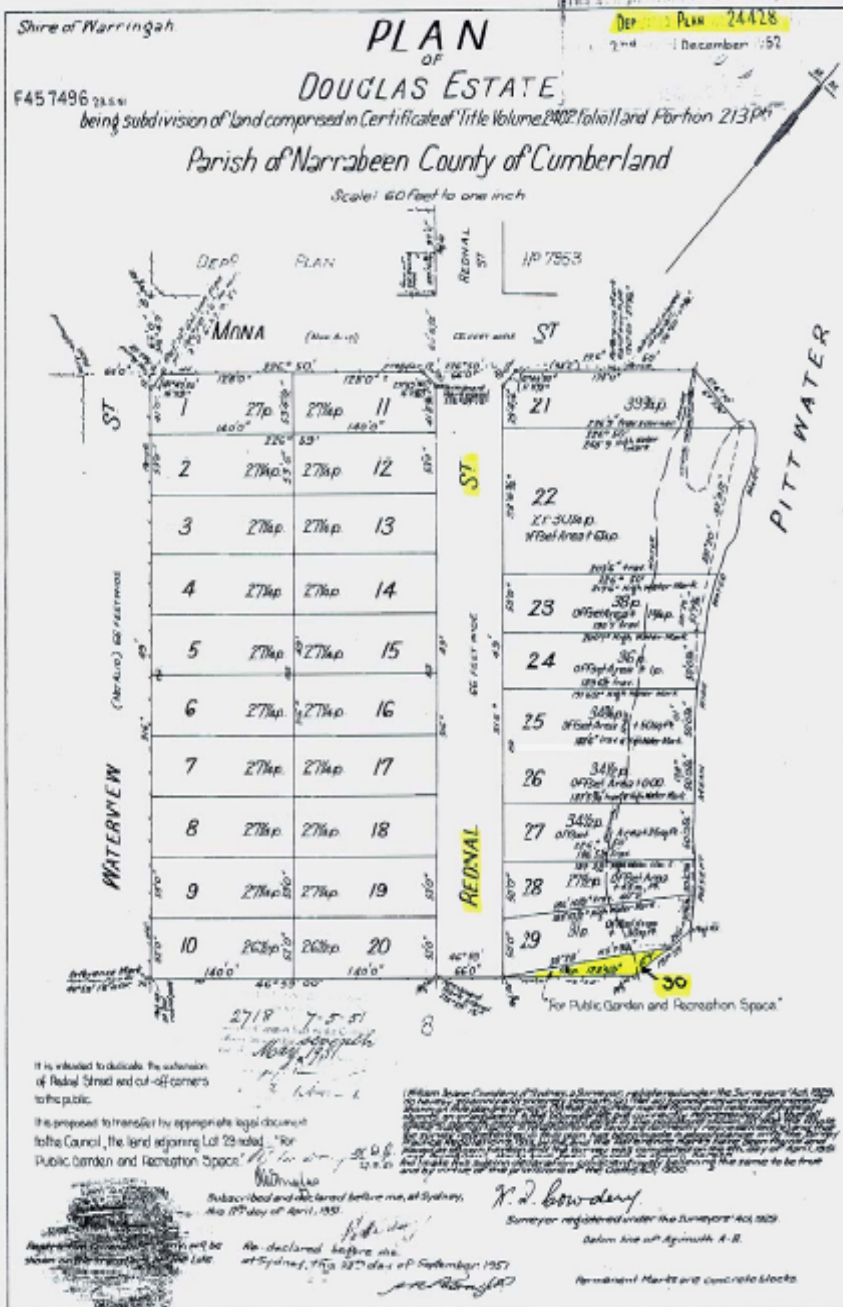
ANNEXURES – PHOTOGRAPHS



LEVEL SECTION OF THE LAND



LAND VIEWED FROM THE STREET FRONTAGE



COMPARISON OF AREAS OF
REGISTRATION DISTRICTS

REGISTRATION DISTRICT	AREA (ACRES)	PERCENTAGE
1	1.1	1.1
2	1.1	1.1
3	1.1	1.1
4	1.1	1.1
5	1.1	1.1
6	1.1	1.1
7	1.1	1.1
8	1.1	1.1
9	1.1	1.1
10	1.1	1.1
11	1.1	1.1
12	1.1	1.1
13	1.1	1.1
14	1.1	1.1
15	1.1	1.1
16	1.1	1.1
17	1.1	1.1
18	1.1	1.1
19	1.1	1.1
20	1.1	1.1
21	1.1	1.1
22	1.1	1.1
23	1.1	1.1
24	1.1	1.1
25	1.1	1.1
26	1.1	1.1
27	1.1	1.1
28	1.1	1.1
29	1.1	1.1
30	1.1	1.1

1. I, David Richard Davies, Registrar General for the South West, certify that this plan is a true and correct copy of the original as deposited in the office of the Registrar General for the South West, Sydney, on 17th day of April, 1953.

2. I, David Richard Davies, Registrar General for the South West, certify that this plan is a true and correct copy of the original as deposited in the office of the Registrar General for the South West, Sydney, on 17th day of April, 1953.

1





TechnologyOne ECM Document Number: 4375341

Natural Environment Committee

10.0 Natural Environment Committee Business

C10.1	Minutes of the Sydney Coastal Councils Group Annual General Meeting of 8 December 2012
--------------	---

Meeting: Natural Environment Committee

Date: 4 February 2013

STRATEGY: Beach & Coastal Management

ACTION: Strategic Initiative - Partner with other councils, SCCG and Catchment Management Authorities to integrate and complement regional initiatives

PURPOSE OF REPORT

To advise Council of the Minutes of the Sydney Coastal Councils Group (SCCG) Annual General Meeting held on 8 December 2012 and hosted by the City of Sydney.

1.0 BACKGROUND

- 1.1 The SCCG is a forum to promote co-ordination between the 15 member councils on environmental issues relating to the sustainable use and management of the Sydney urban coastal environment.

2.0 ISSUES

2.1 Item 7 – Annual Elections

The annual election of an executive committee for the SCCG was conducted at the AGM with the following results:

Chairperson	Cr Cathy Griffin	Manly
Vice Chairperson (Estuarine Council)	Cr Wendy Norton	Willoughby
Vice Chairperson (Ocean Council)	Cr Geoff Stevenson	Randwick
Treasurer (Honorary)	Cr Peter Towell	Sutherland
Secretary (Honorary)	Cr Jacqueline Townsend	Pittwater
Member	Cr Lynne Saville	Willoughby
Member	Cr Irene Doutney	City of Sydney
Member	Cr Leon Goltsman	Waverley

2.2 Item 11.1: NSW Coastal Reforms

Delegates received a presentation in regard to the Stage 1 NSW Coastal Reforms introduced by the State Government in September 2012. The Group resolved as follows:

In light of the nature and implications of the Stage 1 NSW Coastal Reforms, the Group write to Member Councils encouraging them to continue to apply the former NSW Sea Level Rise Policy Statement, considering the Department of Environment, Climate Change and Water 2009 Technical note: Derivation of the NSW Government's sea level rise planning benchmarks.

3.0 SUSTAINABILITY ASSESSMENT

No sustainability assessment required

4.0 EXECUTIVE SUMMARY

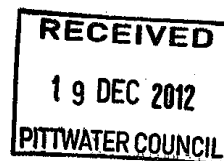
- 4.1 The minutes of each Sydney Coastal Councils Group meeting are reported for the information of Council at the request of the SCCG Executive Committee.
-

RECOMMENDATION

That the Minutes of the SCCG Annual General Meeting of 8 December 2012 (appended as **Attachment 1**) be noted.

Report prepared by
Paul Hardie, Principal Officer – Coast & Estuary

Jennifer Pang
MANAGER – CATCHMENT MANAGEMENT & CLIMATE CHANGE

**SYDNEY COASTAL
COUNCILS GROUP****MEMORANDUM**

MEMO TO: General Manager

SUBJECT: SCCG Minutes from Annual General Meeting – 8 December 2012

DATE OF MEMO: 17 December 2012

Memo4-12

Dear General Manager,

Please find attached a hard copy of the Minutes and Actions from the SCCG Annual General Meeting held on Saturday 8 December, hosted by the City of Sydney Council.

A per the SCCG Constitution and SCCG Strategic Plan, Member Councils are asked to table these minutes from the quarterly SCCG 'Full Group' meetings at an appropriate Council meeting for the information of Councillors, Executives and relevant staff.

If you would like an electronic copy of these Minutes and attachments, please email me on: geoff@sydneycoastalcouncils.com.au. Thank you for your assistance with this matter.

On behalf of the SCCG we wish you a very Merry Christmas and happy and safe new year !!!

Your sincerely,

Geoff Withycombe
Regional Coastal Environment Officer / Executive Officer

Sydney Coastal Councils Group Inc.
Level 14, 456 Kent Street
SYDNEY NSW 2001
DX 1251 Sydney
Ph: +61 2 9246 7791
Fax: +61 2 9265 9660
Email: geoff@sydneycoastalcouncils.com.au

SYDNEY COASTAL COUNCILS GROUP Inc.
MEMORANDUM

MEMO TO:

Councillor Brian Troy
Councillor Mark Castle
Ms Judith Betts
Ms Cathy McMahon
Councillor Anthony Anisse
Councillor Michael Hutchence
Dr Ross McPherson
Mayor Councillor Darcy Byrne
Councillor Linda Kelly
Councillor Daniel Kogoy
Mr Ryann Medei
Councillor Barbara Aird
Councillor Cathy Griffin
Mr Stephen Clements
Councillor Tom Sherlock
Councillor Roy Bendall
Ms Belinda Atkins
Cr Tony Carr
Mr Peter Massey
Mayor Councillor Jacqueline Townsend
Councillor Selena Griffith
Mr Paul Hardie
Councillor Lindsay Shurey
Councillor Geoff Stevenson
Ms Bronwyn Englaro
Mayor Councillor Shane O'Brian
Ms Alexandria Vandine / Ms Madeline Hourihan
Councillor Peter Towell
Mr Ian Drinnan / Dr Guy Amos
Councillor John Mant
Councillor Irene Doutney
Councillor Linda Scott
Mr Chris Derksema
Councillor Vanessa Moskal
Councillor Sue Heins
Mr Denise Regan
Mayor Councillor Sally Betts
Councillor Leon Goltsman
Councillor Bill Mouroukas
Ms Emily Scott / Mr Corey Fox
Councillor Wendy Norton
Councillor Lynne Saville
Ms. Nicola Faith
Councillor Greg Levenston
Councillor Elena Kirillova
Mr Chris Munro / Mr Sam Badalati
Emeritus Prof. Bruce Thom AM
Mr Phil Colman
Mr George Cotis
Mr George Copeland
Dr Judy Lambert AM
Ms Wendy McMurdo

Botany Bay Council
Botany Bay Council
Botany Bay Council
Botany Bay Council
Hornsby Council
Hornsby Council
Hornsby Council
Leichhardt Council
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Manly Council
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North Sydney Council
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Warringah Council
Waverley Council
Waverley Council
Waverley Council
Willoughby Council
Willoughby Council
Willoughby Council
Woollahra Council
Woollahra Council
Woollahra Council
Honorary Member
Honorary Member
Honorary Member
Honorary Member
Honorary Member

SUBJECT: Please find attached the Minutes and actions from the SCCG Annual General Meeting hosted by the City of Sydney on Saturday 8 December.

DATE OF MEMO: 17 December 2012

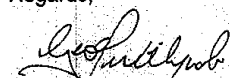
MemoM3-12

Please find attached the Minutes and Actions from the Sydney Coastal Councils Group Inc. Annual General Meeting hosted by City of Sydney Council on Saturday 8 December.

NB the next SCCG Full Group meeting will be held 16 March 2013 hosted by Woollahra Council (pending confirmation).

On behalf of the SCCG Secretariat we wish you all a very Merry Christmas and happy and safe New Year !! Thank you all for your support and participation in SCCG activities in 2012 and we look forward to continue to provide support services to your Council and your communities in 2013.

Regards,



Geoff Withycombe

Regional Coastal Environment Officer / Executive Officer

LIST OF ACTIONS FROM THE ANNUAL GENERAL MEETING 8 DECEMBER 2012

The table below is intended to provide delegates with a summary of the meeting. Actions for delegates to complete prior to the next meeting have been highlighted in bold

Item	Action	By whom	Due By
5.0	Business Arising <ul style="list-style-type: none"> SCCG – City of Sydney Hosting Contract The EO continue to chase a meeting with the City of Sydney, Executive Officer, with the aim of reviewing and renewing the existing hosting contract. Governance of Sydney Waterways The EO and Prof Thom to report back at next meeting on outcomes of meeting with Roads and Maritime Services, Dept. of Planning and Crown Lands. 	EO EO / Prof Thom	ASAP 15 March
6	Annual Reports The Chairperson's and Executive Officer's annual reports be forwarded to Mayors and General Managers.	EO/Chair	Dec 2012
7	Annual SCCG Executive Committee Elections Chairperson Cr. Cathy Griffin (Manly) Vice Chairperson (Estuarine Council) Cr. Wendy Norton (Willoughby) Vice Chairperson (Ocean council) Cr. Geoff Stevenson (Randwick) Treasurer (Honorary) Cr. Peter Towell (Sutherland) Secretary (Honorary) Cr. Jacqueline Townsend (Pittwater) Member Cr. Lynne Saville (Willoughby) Member Cr. Irene Doughty (City of Sydney) Member Cr. Leon Goltsman (Waverley)	ALL	2012 - 2013
7.6	SCCG Honorary Member 2012 – 2013 <ul style="list-style-type: none"> E/Prof. Bruce Thom AM Mr Phil Colman Mr George Cotis Dr Judy Lambert AM Mr George Copeland Ms Wendy McMurdo 	ALL	2012 – 2013
10.1	Administration <ul style="list-style-type: none"> SCC Strategic Plan – Implementation Monitoring Report (July 2011 – June 2012) The report be included with the SCCG annual reports and sent to general managers for their information. 	EO	December
11.1	NSW Coastal Reforms <ol style="list-style-type: none"> In light of the nature and implications of the Stage 1 NSW Coastal Reforms, the Group write to Member Councils encouraging them to continue to apply the former <u>NSW Sea Level Rise Policy Statement</u>, considering the <u>Department of Environment, Climate Change and Water 2009 Technical note: Derivation of the NSW Government's sea level rise planning benchmarks</u>. The Group inform the Minister for Local Government of the above resolution. The Secretariat provide an update and outcomes report at the next meeting Through discussion, the SCCG determine any additional actions to address Member Council issues and concerns regarding the NSW Coastal Reforms. 	EO / Chair EO Secretariat ALL	ASAP December 15 March Ongoing

Item	When	By whom	Due By
11.2	"SCCG Water Recycling Handbook for Councils" 1) The final draft of the SCCG Water Recycling Handbook for Councils be sent to Member Councils, the Full Group and the Technical Committee for comment. 2) An invitation be extended to Full Group Delegates and Technical Committee Representatives in relation to the launch of the SCCG Water Recycling Handbook for Councils. 3) The final version of the Handbook be formally sent to Member Councils. 4) In due course, the project Steering Working Group be thanked and SCPO be congratulated on the outcomes of this significant initiative.	SCPO SCPO SCPO SCPO	February February February March
11.3	SCCG Coastal Adaptation Pathways Projects 1) SCCG CAP program outputs to be formally disseminated within Member Councils. 2) SCCG develop and implement a specific capacity building training program to promote uptake of the outputs of the program by Member Councils. 3) The draft capacity building program be tabled at the first SCCG Technical Committee in 2013 for consideration.	PO-CCA PO-CCA / Secretariat PO-CCA	February Jan – Feb 14 Feb
11.4	SCCG Capacity Building Program and Engagements Report 1) delegates identify and recommend any additional capacity building activities/forum topics for 2013 2) delegates support the promotion of Summerama.	ALL ALL	Jan – Feb Dec- Jan
13.1	Annual Financial Statement for period 1 July 2011 – 31 June 2012 1) The Annual financial statement for the period 1 July 2011 to 30 June 2012 be received and noted. 2) That Sydney Coastal Councils Group Inc make the following statement (subject to the satisfactory audit of the SCCG finances). In the opinion of the Members of the Sydney Coastal Councils Group Inc: (a) the accompanying general purpose financial report of and special schedules of the Sydney Coastal Councils Group Inc for the period ending 30 June 2012 are drawn up so as to give a true and fair view of: (i) the state of affairs of the Group as at 30 June 2012, and the operating result and cash flows for the financial year ended on that date and all controlled entities; and (ii) the other matters required to be disclosed; (b) the general purpose financial report and special schedules are in accordance with the accounting and other records of the Group; and (c) the general purpose financial report is drawn up in accordance with accounting policy disclosed in the statement; and (d) no circumstances have arisen which would render the report false or misleading in any way.	ALL	December
14	General Business Container Deposit System 1) The SCCG write to State and Federal Environment Ministers urging support for CDS at the next COAG meeting in April highlighting the impact that plastic containers has on the marine environment. 2) The SCCG write to the NSW Minister for Education to inquire on what school education and change behaviour programs are underway to reduce plastic use and increase recycling. 3) Pending above the Group look to incorporate supporting programs in Summerama 2014.	EO / Chairperson	ASAP
14.1	2013 Meeting dates Saturday 15 March 2013 at 12 noon (Woollahra Council) Saturday 15 June 2013 at 12 noon (City of Sydney) Saturday 14 September (AGM) 2013 at 12 noon (to be determined) Saturday 7 December 2013 at 12 noon (City of Sydney)	ALL	8 December
14.4	Next meeting The next meeting of the Group by held on 15 March 2013 at Woollahra Council (pending confirmation).	ALL	14 March

SYDNEY COASTAL COUNCILS GROUP Inc.
MINUTES FOR THE ANNUAL GENERAL MEETING
HELD ON SATURDAY 8 DECEMBER, 2012
AT THE CITY OF SYDNEY COUNCIL CHAMBERS

IN ATTENDANCE

Cr. Brian Troy	City of Botany Bay
Cr. Irene Doutney	City of Sydney
Cr. Cathy Griffin	Manly Council
Cr. Barbara Aird	Manly Council
Cr. Jacqueline Townsend	Pittwater Council
Cr. Selena Griffith	Pittwater Council
Mr. Paul Hardie	Pittwater Council
Cr. Geoff Stevenson	Randwick Council
Cr. Lindsay Shurey	Randwick Council
Cr. Peter Towell	Sutherland Council
Cr. Sue Heins	Warringah Council
Cr. Sally Betts	Waverley Council
Cr. Leon Gottsman	Waverley Council
Cr. Wendy Norton	Willoughby Council
Cr. Lynne Saville	Willoughby Council
Cr. Greg Levenston	Woollahra Council
Cr. Elena Kirillova	Woollahra Council
Mr. Geoff Withycombe	SCCG (EO)
Mr. Stephen Summerhayes	SCCG (SCPO)
Ms. Rachael Buzio	SCCG (CPO)
Dr. Ian Armstrong	SCCG (PO CCA)
Emeritus Professor Bruce Thom AM	Honorary Member
Dr. Judy Lambert AM	Honorary Member
Mr. George Cotis	Honorary Member
Mr. George Copeland	Honorary Member
Mr. Phil Colman	Honorary Member
Ms. Wendy McMurdo	Honorary Member

1. OPENING

The meeting opened at 12.30pm. Cr. Griffin (Interim Chairperson) welcomed delegates to the Meeting and paid respects to traditional owners. Cr Griffin thanked the City for providing the meeting location and providing lunch. Round table introductions were given.

2. APOLOGIES

Cr. Mayor Darcy Byrne	Leichhardt Council
Cr. Tony Carr	North Sydney Council
Cr. John Mant	City of Sydney Council
Cr. Linda Scott	City of Sydney Council
Cr. Vanessa Moskal	Warringah Council

Resolved that the apologies be received and noted.

Councils not represented at the meeting
Hornsby, Leichhardt, Mosman, North Sydney

3. DECLARATION OF PECUNIARY INTERESTS

Resolved that the Minutes of the Ordinary Meeting of the SCCG held on 16 June 2012 at the City of Sydney Council be confirmed.

4. CONFIRMATION OF MINUTES

4.1 Minutes of the Ordinary Meeting of the SCCG held on 16 June 2012 at the City of Sydney.

Resolved that the Minutes of the Ordinary Meeting of the SCCG held on 16 June 2012 at the City of Sydney Council be confirmed.

4.2 Minutes of the Technical Committee Meeting of the SCCG held on 14 June 2012 hosted by Leichhardt Council.

Resolved that the Minutes of the Technical Committee Meeting of the SCCG held on 14 June 2012 hosted by Leichhardt Council be received and noted.

4.3 Minutes of the Technical Committee Meeting of the SCCG held on 9 August 2012 hosted by North Sydney Council at the Coal Loader Centre for Sustainability.

Resolved that the Minutes of the Technical Committee Meeting of the SCCG held on 9 August 2012 at the Coal Loader Centre for Sustainability be received and noted.

5. BUSINESS ARISING

Business arising from Minutes other than those items listed below in Reports.

6.1 Chairperson's Annual Report (Report attached)

Clr Griffin introduced and welcomed former Councillor Wendy McMurdo. Clr Griffin thanked and congratulated Wendy for her 4 years as Chairperson and 8 years of service on the SCCG as the Hornsby Council delegate.

Wendy McMurdo tabled her annual report and read to it. Delegates congratulated and thanked Wendy McMurdo for her substantial efforts as Chairperson.

Resolved that the Chairperson's Annual Report be received, considered and adopted as part of the 2011/2012 Annual Report.

6.2 Executive Officer's Annual Report (Report attached)

The Executive Officer, Geoff Withycombe tabled his full annual report and provided delegates with a summary presentation. This focused on:

- Key Areas of Focus
- The Year in Review – 'Facts and Figures'
- SCCG Internal Activities
- Key SCCG Program Outcomes
- SCCG Grant Applications
- Financial Position
- Conclusions and Thanks

Resolved that:

- 1) The Executive Officer's (public officer) Annual Report be received and adopted as part of the 2011/2012 Annual Report.
- 2) The Chairperson's and Executive Officer's report be forwarded to Mayors and General Managers.

6. ANNUAL REPORTS

6.1 Chairperson's Annual Report

(Attached)

Resolved that the Chairperson's Annual Report be received, considered and adopted as part of the 2011/2012 Annual Report.

6.2 Executive Officer's Annual Report

(Attached)

Resolved that the Executive Officer's (public officer) Annual Report be received, considered and adopted as part of the 2011/2012 Annual Report.

7. ANNUAL ELECTIONS

Proceedings in Brief

The introduced the procedures for the Annual Executive Committee elections. The Executive Committee consists of the Chairperson, two Vice Chairpersons, Treasurer and Secretary and up to three other committee members who are delegates of financial member councils.

Cr. Griffin handed over the Chair to Honorary member, Prof Bruce Thom as returning officer for the purposes of the election of Chairperson.

7.1 Chairperson

Cr. Cathy Griffin (Manly Council) was nominated and elected as Chairperson.

7.2 Vice Chairpersons

(i) *Vice Chairperson (ocean council)*

Cr. Geoff Stevenson (Randwick Council) was nominated and elected as Vice Chairperson (Ocean Council).

(ii) *Vice Chairperson (estuarine council)*

Cr. Wendy Norton (Willoughby Council) was nominated and elected Vice Chairperson (Estuarine Council).

7.3 Treasurer (Honorary)

Cr. Peter Towell (Sutherland Council) was nominated and elected Treasurer.

7.4 Secretary (Honorary)

Cr. Jacqueline Townsend (Pittwater Council) was nominated and elected Secretary.

7.5 Executive Members

The following delegates were nominated and elected

- | | |
|----------------------|------------------------|
| 1) Cr. Lynne Saville | Willoughby Council |
| 2) Cr. Irene Doutney | City of Sydney Council |
| 3) Cr. Leon Goltsman | Waverley Council |

The 2012 - 2013 Sydney Coastal Councils Group Inc. Executive Committee consists of:

Chairperson	Cr. Cathy Griffin	Manly
Vice Chairperson (Estuarine Council)	Cr. Wendy Norton	Willoughby
Vice Chairperson (Ocean council)	Cr. Geoff Stevenson	Randwick
Treasurer (Honorary)	Cr. Peter Towell	Sutherland
Secretary (Honorary)	Cr. Jacqueline Townsend	Pittwater
Member	Cr. Lynne Saville	Willoughby
Member	Cr. Irene Doutney	City of Sydney
Member	Cr. Leon Goltsman	Waverley

Cr. Griffin thanked delegates for their support. Cr. Griffin noted that it was a great honour to be elected as Chairperson and looked forward to working with delegates over the next 12 months.

7.6 Nominations for SCCG Honorary Members

The SCCG considered nominations for honorary membership for 2012/2013 to include but not limited to:

- E/Prof. Bruce Thom AM
- Mr Phil Colman
- Mr George Cotis
- Dr Judy Lambert AM
- Mr George Copeland
- Ms Wendy McMurdo

7.7 Nominations for External Committees (if required)

The members of external committees are appointed by the relevant State Government agencies or Ministers. Nominations for the committees are not identified at this time.

Resolved that External Committee representation not required at this time.

8. CORRESPONDENCE

8.1 Sent and Received Correspondence

Resolved that the circulated "sent" and "received" correspondence be received and noted.

8.2 SCCG correspondence from the last meeting (including responses where available)

- a) SCCG 'Mapping and Responding to Coastal Inundation' project
- b) Previous delegates "Thank you letter"
- c) Coastal Reforms

Resolved that the SCCG correspondence from last meeting be received and considered.

9. PRESENTATION – "Australian Coastal Management and the SCCG"

- Emeritus Professor Bruce Thom AM (SCCG Honorary Member)

Prof Thom noted that he had been involved with SCCG since 1997 when he was first invited to facilitated 10 community workshops as part of the development of the SCCG, Sydney Regional Coastal Management Strategy. Prof Thom noted the substantial input made by the SCCG over many years. Prof Thom highlighted that there is no other organisation in Australia quite like the SCCG and it is seen as a national leader and a significant contributor to coastal policy and science.

Prof Thom provided a comprehensive overview of the history and outcomes of coastal management in Australia dating back to 1977 with the prohibition of sand mining on Frazer Island and the first national coastal management inquiry held in 1979. Prof Thom reviewed outcomes through the 1990s with the "Injured Coastline" inquiry process through the RAC inquiry released in 2003, the 'Coast and Clean Seas' program through to the present day.

Prof Thom then moved onto NSW State Government reviewing history of the NSW Coastal Management Program beginning after the 1974 storms, the NSW coastal policy(s) and the former Coastal Council of NSW through the 2010 reforms headed by Minister Sartor and now the recent NSW coastal reforms being led by Minister Parker and the Ministerial Task Force.

Resolved that:

- 1) the presentation be heard and considered at the meeting.
- 2) Professor Thom AM be thanked for his presentation.

10. ADMINISTRATIVE MATTERS

10.1 SCCG Strategic Plan (2010 – 2014) Implementation Monitoring Report (July 2011 – June 2012).

Proceedings in Brief

The EO referred delegates to the Implementation Report in the business papers. The report aims to assess the achievement of 'Outcome Statements' through performance indicators for associated 'SCCG Activities'. A summary of each key strategic theme and their respective outcomes is reviewed. Results are presented in tables listing key outcomes and a rating of implementation success for each key theme. An overall rating is then provided for each outcome statement together with a brief written summary. Overall via the self assessment the outcomes achieved were the highest rating of "good".

Resolved that:

- 1) The report be received and considered.
- 2) SCCG delegates be requested to identify any issues and needs and areas for further focus in 2013 and 2014.
- 3) The report be including with the Annual report and sent to General Managers for their information.

MEETING BREAK & DELEGATE WORKSHOP (20 minutes)

"SCCG ANNUAL SURVEY 2012"

The aim of this short survey is to enable the Sydney Coastal Councils Group Secretariat to identify what SCCG activities have assisted Member Councils and importantly to identify additional avenues and activities to further enhance this assistance.

Resolved that:

- 1) Delegates complete the survey to be distributed at the meeting.
- 2) The Secretariat prepare a survey results report for consideration at the March 2013 meeting.

11. REPORTS

Reports 11.1 – 11.5 FOR CONSIDERATION

11.1 NSW Coastal Reforms (Stage 1)

Proceedings in Brief

Delegates were referred to the comprehensive SCCG Briefing Note included in the business papers. The SCPO reviewed the key elements of the Stage 1 Coastal Reforms including:

- Amendments to the Coastal Protection Act 1979 by the Coastal Protection Amendment Act 2012 to make it easier for landowners to place sandbags on beaches as temporary coastal protection works,
- Clarifying what information councils should put on section 149 certificates relating to projected sea level rise impacts - new guidelines will be prepared for councils by the Department of Planning and Infrastructure,
- Giving councils the flexibility to consider coastal hazards in the context of their local circumstances – the State Government no longer recommends statewide sea level rise benchmarks for councils”.

After much discussion it was noted that the SCCG Technical Committee meeting held on Thursday discussed this in detail and resolved that the following recommendation be considered by the Full Group at its Annual General meeting.

“The SCCG write to member councils encouraging the continued application of the former NSW Sea Level Rise Policy Statement”.

Resolved that:

- 1) The report be received and noted.
- 2) In light of the nature and implications of the Stage 1 NSW Coastal Reforms, the Group write to Member Councils encouraging them to continue to apply the former NSW Sea Level Rise Policy Statement, considering the Department of Environment, Climate Change and Water 2009 Technical note: Derivation of the NSW Government’s sea level rise planning benchmarks.
- 3) The Group inform the Minister for Local Government of the above resolution.
- 4) The Secretariat provide an update and outcomes report at the next meeting
- 5) Through discussion, the SCCG determine any additional actions to address Member Council issues and concerns regarding the NSW Coastal Reforms.

11.2 Launch of the “SCCG Water Recycling Handbook for Councils”

Proceedings in Brief

In 2010 the SCCG and Sydney Water partnered to facilitate a workshop for SCCG Member Councils to discuss actions and projects that facilitate water recycling and re-use projects. The forum was the result of a desire from both the SCCG and Sydney Water to work more collaboratively on water recycling and re-use projects.

The SCPO discussed key developments relating to the Handbook and the detailed update provided in the Business papers. A Working Group has been developing a “Handbook” to provide SCCG Member Councils with information on identifying, evaluating and developing water recycling projects and representatives have been invited to contribute in relation to those Handbook chapters who do not presently have an author.

Resolved that:

- 1) The report be received and noted.
- 2) The final draft of the SCCG Water Recycling Handbook for Councils be sent to Member Councils, the Full Group and the Technical Committee for comment.
- 3) An invitation be extended to Full Group Delegates and Technical Committee Representatives in relation to the launch of the SCCG Water Recycling Handbook for Councils.
- 4) The final version of the Handbook be formally sent to Member Councils.
- 5) In due course, the project Steering Working Group be thanked and SCPO be congratulated on the outcomes of this significant initiative.

11.3 SCCG Coastal Adaptation Pathway ProjectsProceedings in brief

In July 2011, the Sydney Coastal Councils Group (SCCG) was awarded funding under the Coastal Adaptation Decision Pathways Project (CAP) for three projects-

- 1) **"Prioritising Coastal Adaptation and Development Options for Local Government";**
- 2) **"Demonstrating Climate Change Adaptation of Interconnected Water Infrastructure";**
- 3) **"Assessment and Decision frameworks for Existing Seawalls".**

Funding has been provided by the Australian Government represented by the Department of Climate Change and Energy Efficiency. The Coastal Adaptation Decision Pathways projects is an Australian Government Initiative.

The Project Officer provided an update on project(s) progress at the meeting. This included:

The Project Officer outlined the status of each of the projects and the process of completing the requirements for the Australian Government. The latest versions of the CAP Newsletter, the individual project newsletters and the individual Project Summary Reports were circulated for information. The print proof of the Synthesis Report for the *Demonstrating Climate Change Adaptation of Interconnected Water Infrastructure* Project was circulated.

The proposed Work plan for 2013, which is being prepared was discussed, including the incorporation of the outputs of the CAP projects as part of the work plan. The Assessment and Decision Frameworks for Seawalls, in particular, lends itself to a practical approach incorporating the economic inputs to decision-making and the assessment and management of small seawalls as part of asset management. The MCA project will provide the Monitoring and Evaluation Framework with interest already from Sutherland, Rockdale, and Warringah in trialing the Guide. The Interconnected Water Infrastructure project would best be developed through a case study and Councils were asked to consider appropriate projects.

Activities from CAP projects that have been identified include:

- Review and refine pro-forma assessment sheet to maximise useful for Local Government
- Launch of Seawalls Project with field trip and workshops
- Launch of MCA project with capacity building workshops, including application of Monitoring and Evaluation Guide
- Develop trial of User Guide and iPDF with partners in actual management context

The proposal to review Climate Change activities across member Councils was outlined. The information from this survey will be incorporated in the Work Plan to assist the implementation of climate change activities.

The work plan will help Councils to recognise that the issues to be dealt with are already a risk to Council's assets and the safety of the community. Climate Change will compound these issues, rather than create new ones, and the everyday business of Councils needs to be adaptive across the organisation and not just the responsibility of the environment officer. The CAP projects have provided a number of tools to support Local Government and the SCCG can be a leader, adopting and implementing these tools to support their activities.

Resolved that:

- 1) the report be heard and considered.
- 2) SCCG CAP program outputs to be formally disseminated within Member Councils.
- 3) SCCG develop and implement a specific capacity building training program to promote uptake of the outputs of the program by Member Councils.
- 4) The draft capacity building program be tabled at the first SCCG Technical Committee in 2013 for consideration.

11.4 SCCG Capacity Building Program & Engagements Report

Proceedings in Brief

The Secretariat is working with Member Councils to ensure the SCCG Capacity Building Program meets their needs. To assist this, a report from the Coastal Projects Officer on the Capacity Building Program and other activities is a standing item on all Technical Committee and Full Group meeting agendas.

The CPO provided a review of key outputs and outcomes of the program over the recent months as well as reviewed upcoming programs. The CPO also noted that outcomes of the annual SCCG (internal) survey will be included into the 2013 Capacity building program where possible.

Items discussed included:

- SCCG Boundaries and Barriers Forum (14 August)
- SCCG / CSIRO Mapping and Responding to Coastal Inundation forum (4 October)
- SCCG Capacity Building program 2013– 2014 (draft report)
- Review of SCCG Summerama Program (January 2013)

Resolved that:

- 1) this report be received and considered;
- 2) delegates identify and recommend any additional capacity building activities/forum topics for 2013
- 3) delegates support the promotion of Summerama.

11.5 SCCG Grant Program Update

Proceedings in Brief

The report included in the business papers includes details of: a) current SCCG grant programs underway b) recently completed and acquitted grant program c) recent successful grant applications and d) recently submitted grant applications (2012). The CPO will provide further details on above if requested by delegates.

Resolved that the report be received and considered.

Reports 11.6 – 11.10
FOR INFORMATION ONLY
 (pending inquiry)

11.6 Technical Committee Report

Resolved that the report be received and considered.

11.7 Beachwatch & Harbourwatch Programs**Resolved that:**

- 1) the report on Beachwatch and Harbourwatch Programs be received and noted.
- 2) SCCG to meet with the Beachwatch program manager to clarify the revised testing and reporting regime.

11.8 Hawkesbury Nepean Catchment Management Authority's Update

Resolved that the report be received and noted.

11.9 NSW Department of Primary Industries's Aquatic Biosecurity & *Caulerpa taxifolia* Annual Report

Resolved that the report be received and noted.

11.10 In the Press

Resolved that the report be received and noted.

11.11 Key Activities Report for June – November 2012

Resolved that the SCCG Key Activities Report for June – November 2012 be received and noted.

12. SCCG SUBMISSIONS

- NSW Independent Local Government Review
- A New Planning System for NSW Green Paper
- Local Government Acts Task Force – Preliminary Ideas Paper

Resolved that:

- 1) The Submissions for received and endorsed
- 2) The SCCG continue to participate in the reforms to NSW Local Government and NSW Planning system(s).

13. TREASURER'S REPORT**13.1 Annual Financial Statement for the period 1 July 2011 to 30 June 2012****Resolved that:**

- 1) The Annual financial statement for the period 1 July 2011 to 30 June 2012 be received and noted.
- 2) That Sydney Coastal Councils Group Inc make the following statement (subject to the satisfactory audit of the SCCG finances).

In the opinion of the Members of the Sydney Coastal Councils Group Inc:

(a) the accompanying general purpose financial report of and special schedules of the Sydney Coastal Councils Group Inc for the period ending 30 June 2012 are drawn up so as to give a true and fair view of:

- (i) the state of affairs of the Group as at 30 June 2012, and the operating result and cash flows for the financial year ended on that date and all controlled entities; and
- (ii) the other matters required to be disclosed;

(b) the general purpose financial report and special schedules are in accordance with the accounting and other records of the Group; and

(c) the general purpose financial report is drawn up in accordance with accounting policy disclosed in the statement; and

(d) no circumstances have arisen which would render the report false or misleading in any way.

13.2 Finance Statements for period 30 June 2012 to 31 September 2012

Resolved that the financial statements for the period 30 June – 31 September 2012 be received and adopted.

13.3 Final SCCG Operating Budget 2012 - 2013

Resolved that the final SCCG Operating Budget 2012 – 2013 be received and noted.

14. GENERAL BUSINESS

Container Deposit System (CDS) – Cllr Arid (Manly)

Councillor Arid proposed that the SCCG support the campaign to introduce national Container Deposit legislation. Cr Arid noted that Australia currently wastes 8 billion containers every year

In April, 2012, Federal Environment Minister, Tony Burke stated that he supports container deposits as long as the States do. This is a major advance as national legislation will be required. State Environment Ministers from around Australia are planning to make a final decision in April, 2013.

There is currently a campaign under way by the LGSA and Boomerang Alliance urging State and Federal Ministers to support CDS at the next COAG meeting in April. The delegates supported the SCCG writing to the relevant ministers in support of CDS and highlighting the impact that plastic containers has on the marine environment.

The delegates also agreed to send a letter to the NSW Minister for Education to inquire on what school education and change behaviours programs are underway to reduce plastic use and increase recycling.

Pending above the Group look to incorporate supporting programs in Summerama 2014.

Resolved that

- 1) The SCCG write to State and Federal Environment Ministers urging support for CDS at the next COAG meeting in April highlighting the impact that plastic containers has on the marine environment.
- 2) The SCCG write to the NSW Minister for Education to inquire on what school education and change behaviour programs are underway to reduce plastic use and increase recycling.
- 3) Pending above the Group look to incorporate supporting programs in Summerama 2014.

14.1 Suggested 2013 Meeting dates / Next Meeting

Confirmed Dates	Location
• Saturday 16 March 2013 at 12 noon	(Woollahra Council)
• Saturday 15 June 2013 at 12 noon	(City of Sydney)
• Saturday 14 September (AGM) 2013 at 12 noon	(to be determined)
• Saturday 7 December 2013 at 12 noon	(City of Sydney)

14.2 Items for Press Release

Resolved that items for press release be considered.

14.3 Agenda items for the next SCCG meeting

Resolved that delegates suggest additional agenda items including presentations for the next SCCG meeting proposed for 16 March 2013 starting at 12 noon.

14.4 Next Meeting

Resolved that the next meeting of the Group be held on 16 March 2013 at Woollahra Council (pending confirmation).

Cr Griffin closed the meeting and wished all delegates a Merry Christmas and happy and safe New Year.

The meeting closed at 4.00pm

Confirmation of Minutes:



Council Meeting

**11.0 Adoption of Community, Recreation and Economic
Development Committee Recommendations**

**12.0 Adoption of Natural Environment Committee
Recommendations**
