



PITTWATER COUNCIL

# Agenda

## Council Meeting

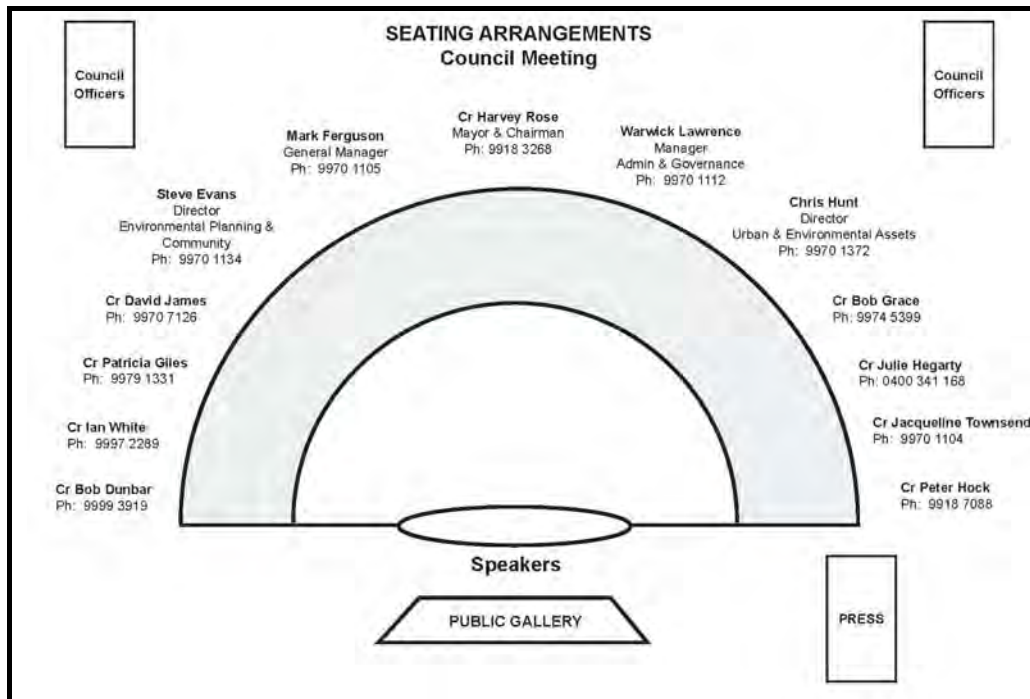
Notice is hereby given that a Council Meeting of Pittwater Council will be held at Mona Vale Memorial Hall on

**18 June 2012**

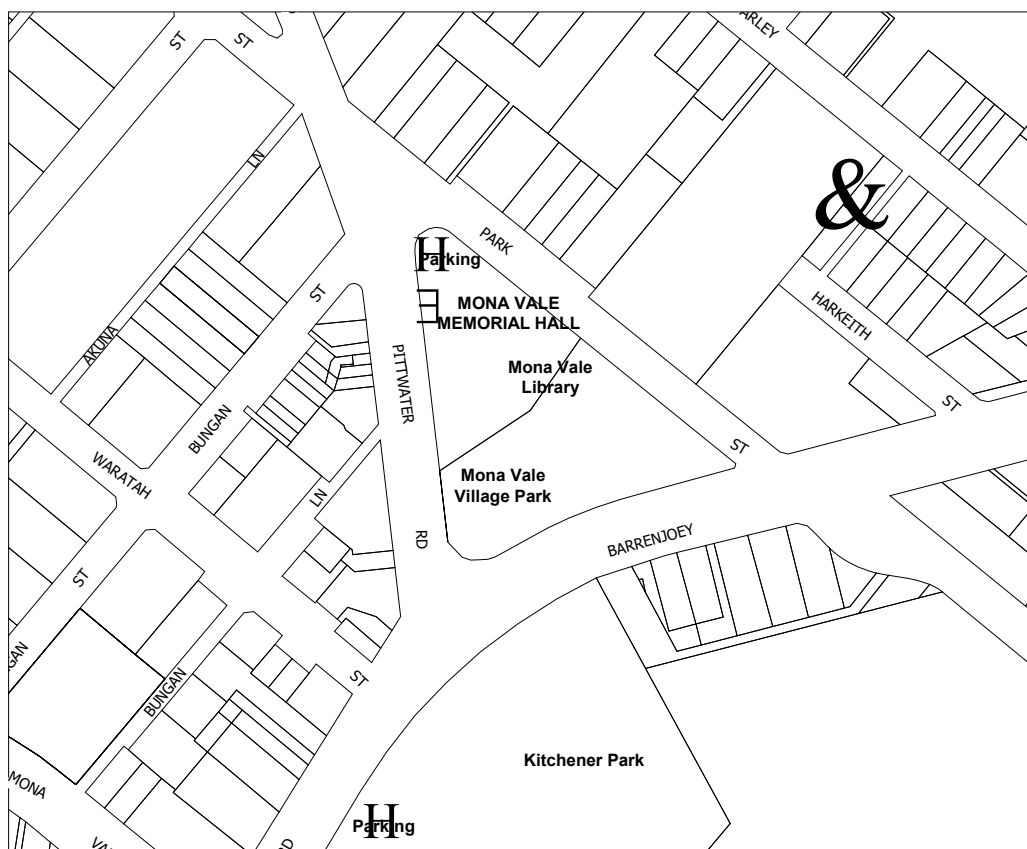
Commencing at 6.30pm for the purpose of considering the items included on the Agenda.

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](http://www.pittwater.nsw.gov.au)

## IMPORTANT NOTE FOR COUNCILLORS

The Council has received Commercial in Confidence and Confidential Legal Advice in relation to the matters listed below which is attached as **Appendix 1 and Appendix 2 to Councillor's Agenda on yellow paper**. It is important that Councillors read these documents prior to determining the matters. Should the Council wish to consider the Legal Advice during the course of the meeting, the following procedure should be followed:

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

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

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C10.5	T41112 – SHOROC – Provision of Fire Testing and Maintenance Services	35
C11.1	N0350/11 – 64 – 66 Avalon Parade, Avalon - Demolition of the existing dwelling and construction of a housing for seniors and people with a disability development and strata subdivision	106

Mark Ferguson  
**GENERAL MANAGER**

# Council Meeting

## Acknowledgement of Country

Pittwater Council honours and respects the spirits of the Guringai people.  
Council acknowledges their traditional custodianship of the Pittwater area

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**CONFIDENTIAL CLAUSE**

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

- (d) Commercial information of a confidential nature that would, if disclosed:-
- prejudice the commercial position of the person who supplied it; or
  - confer a commercial advantage on a competitor of the Council; or
  - reveal a trade secret.

'Commercial in Confidence' - T41112 - SHOROC Provision of Fire Testing and Maintenance Services

**CONFIDENTIAL CLAUSE**

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

- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

'Confidential Legal Advice' - N0350/11- 64 - 66 Avalon Parade Avalon – Legal Advice (1/2) - Inter Allotment Drainage Easement

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

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## Council Meeting

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### 1.0 Public Forum

#### 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

### GUIDELINES FOR RESIDENTS - PUBLIC FORUM

#### Objective

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

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

Mark Ferguson  
**GENERAL MANAGER**

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## **2.0 Resident Questions**

### **RESIDENT QUESTION TIME**

#### **Objective**

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

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

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

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## **3.0 Apologies**

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

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

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

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

*"(1) [Pecuniary interest] A Pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.*

*(2) [Remoteness] A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter."*

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

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

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

\* A reportable political donation is a donation of:

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

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## 5.0 Confirmation of Minutes

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

Minutes of the Council Meeting held on 4 June 2012.

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## **6.0 Public Addresses**

### **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.

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.*

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## **7.0 Mayoral Minutes**

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<b>8.0</b>	<b>Business by Exception (All items on the Agenda)</b>
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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.

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<b>9.0</b>	<b>Council Meeting Business</b>
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Nil.

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## **Governance Committee**

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### **10.0 Governance Committee Business**

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<b>C10.1</b>	<b>Financial Report for the Period Ending 31 May 2012 of the 2011/2012 Financial Year</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** To provide monthly, quarterly and annual budgets and financial statements

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## **PURPOSE OF REPORT**

To provide Council with the financial results for the period ending 31 May 2012 of the 2011/2012 Financial Year.

### **1.0 BACKGROUND**

1.1 The Original 2011/2012 Budget was adopted by Council as part of the 2011-2015 Delivery Program & Budget on 18 April 2011. The Revised 2011/12 Budget as a part of March quarterly review was adopted by Council on 21 May 2012, and have been transferred to the Revised budget column in this report.

1.2 Councils Monthly reporting structure includes the following;

- **Consolidated Position**
  - Graphical Representation
  - Commentary
  - Consolidated Financial Statement
- **Operating Position**
  - Graphical Representation
  - Commentary
  - Operating Financial Statement
- **Balance Sheet**
- **Cash Flow Statement**
- **2011/12 Major Projects**

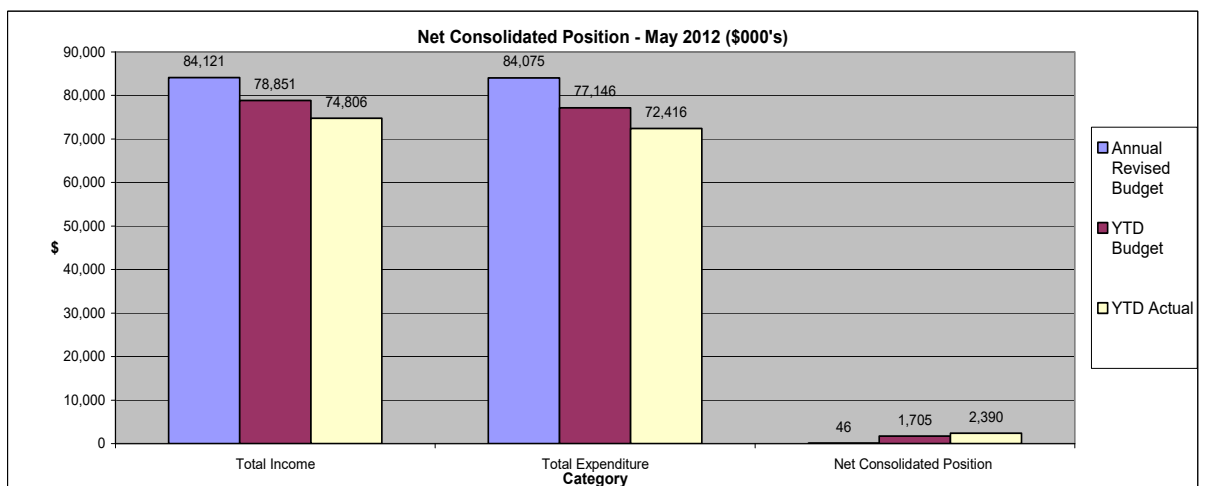
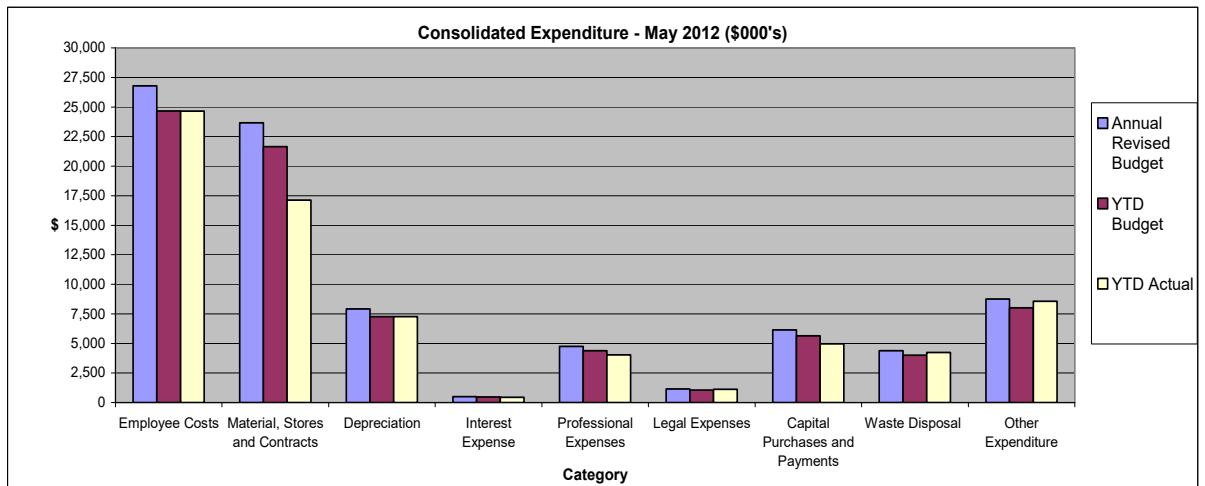
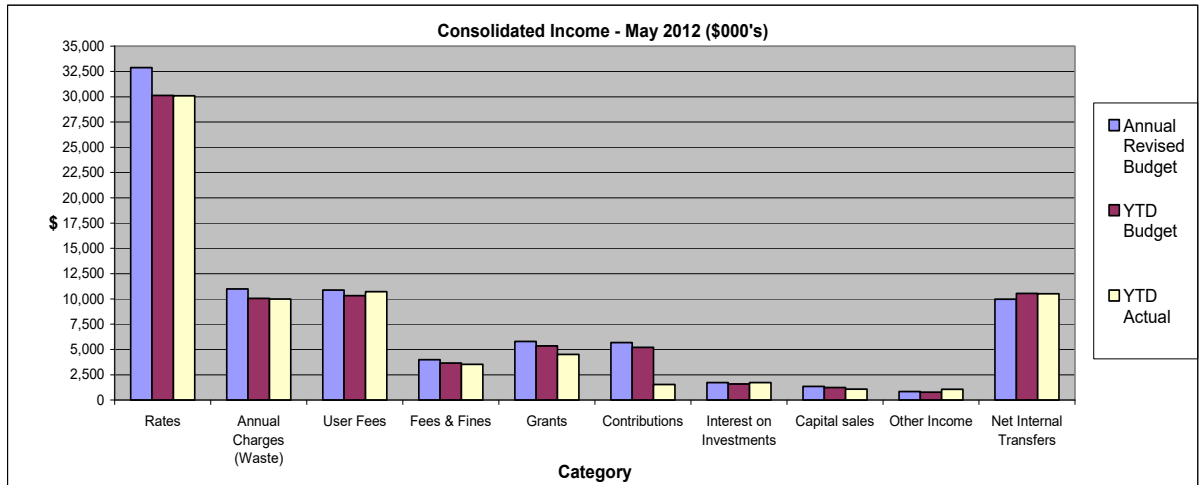
### **2.0 ISSUES**

#### **2.1 Consolidated Financial Statement**

The Original 2011/2012 Budget was adopted by Council as part of the 2011-2015 Delivery Program & Budget on 18 April 2011. The Revised Budgets have been amended to reflect the March budget review as adopted by Council on 21 May 2012.

The year to date consolidated financial result for the period ending 31 May 2012 is an increase of Council funds of \$2.390 million. Compared to the year to date budget of a increase of Council funds of \$1.705 million this represents a positive variance of \$685,000.

The graphical representation below outlines Council's major categories of consolidated income and expenditure.



2.2

## Commentary - Consolidated YTD Budget Versus Actual – 31 May 12

<b>YTD Consolidated Budget as at 31 May 2012 - Increase of Council Funds</b>	<b>\$ 1,705,000</b>
<b>INCOME</b>	
Increased User Fees mainly relating to Parking Fee's, Cemetery Income & Rental Income paid in Advance	\$ 400,000
Reduced Regulatory fees & fines mainly relating to Development Application & Inspection and fines Income	-\$ 124,000
Reduced Operating Grant Transfers mainly relating to Fee Relief Grant, Flood Mapping & Coastal Zone Protection Grants with a corresponding reduction in Expenditure	-\$ 593,000
Reduced Capital Grant Transfers mainly due to works relating to Careel Bay Wharf, Traffic Facilities & Church Point Tie up Facility	-\$ 252,000
Reduced Capital Contributions mainly relating to S94 & Loan Borrowings	-\$ 3,953,000
Increased Operating Contributions mainly relating to Restorations Contributions	\$ 281,000
Increased Return on Investments & Other Interest Income	\$ 158,000
Increased Other Income relating to Insurance, Legal Recoveries, Markets and other sundry Income	\$ 269,000
Reduced Capital Sales Income mainly relating to Plant vehicle Sales	-\$ 161,000
Reduced Transfers from Reserve - S94 mainly relating to Narrabeen Creek, District Park, Macpherson st & Apex Park works	-\$ 1,158,000
Reduced Transfers from Reserve - Other mainly relating to Lakeside Capital PB Ferry wharf, Church Point Tieup & Church Point seawall works	-\$ 2,629,000
<b>EXPENDITURE</b>	
Reduced Materials & Contract Services mainly due to timing of the Capital Works such as Narrabeen Creek and Lakeside cabins with a Corresponding reduction in Funds Transfers	\$ 4,512,000
Additional Other Expenditure mainly relating to Legal & Insurance Expenditure	-\$ 41,000
Additional Sundry Services & Waste Disposal Expenditure	-\$ 120,000
Additional Public Utilities Mainly relating to Street Lighting	-\$ 80,000
Additional Leases/Rental/Hire/Licences mainly due to Scotland Island, Road Rehabilitation Caravan Park, & Hitchcock Park works	-\$ 265,000
Reduced Capital Purchases mainly due to timing of Plant & Motor vehicle Purchases, Pay & Display Machines, and Library Book Purchases	\$ 662,000
Reduced Transfers to Reserve - S94 mainly due to WWV & Plan 2 Income	\$ 1,988,000
Reduced Transfers to Reserve - Other mainly due to delayed borrowings	\$ 1,791,000
<b>YTD Consolidated Actual as at 31 May 2012 - Increase of Council Funds</b>	<b>\$ 2,390,000</b>

The above financial analysis represents the variations between the May 2012 YTD Budget and the actual flow of Income, Expenditure and the utilisation of associated funds as at 31 May 2012.

The overall difference in the May 2012 YTD Budget to Actual is a positive variance of \$685,000.

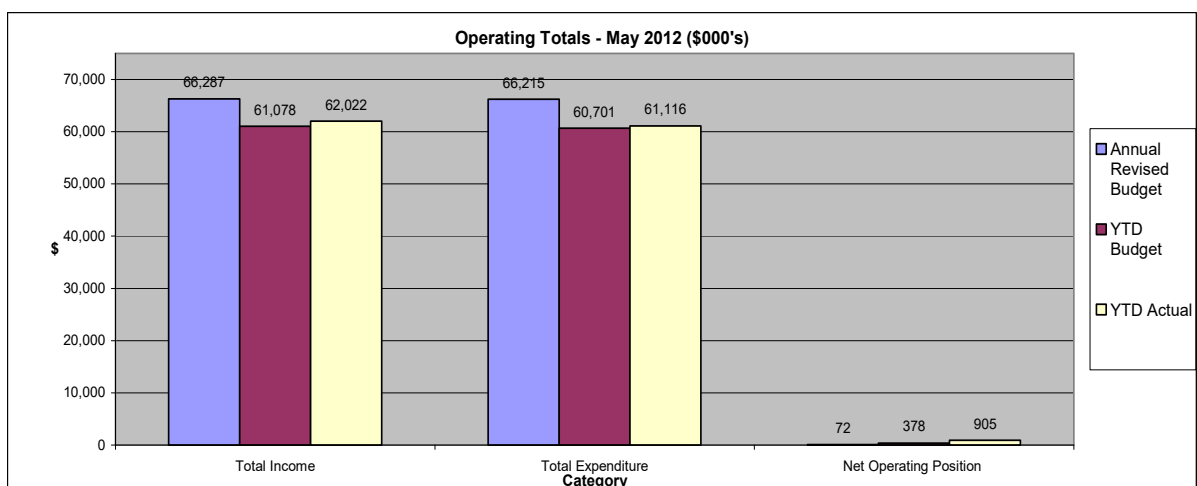
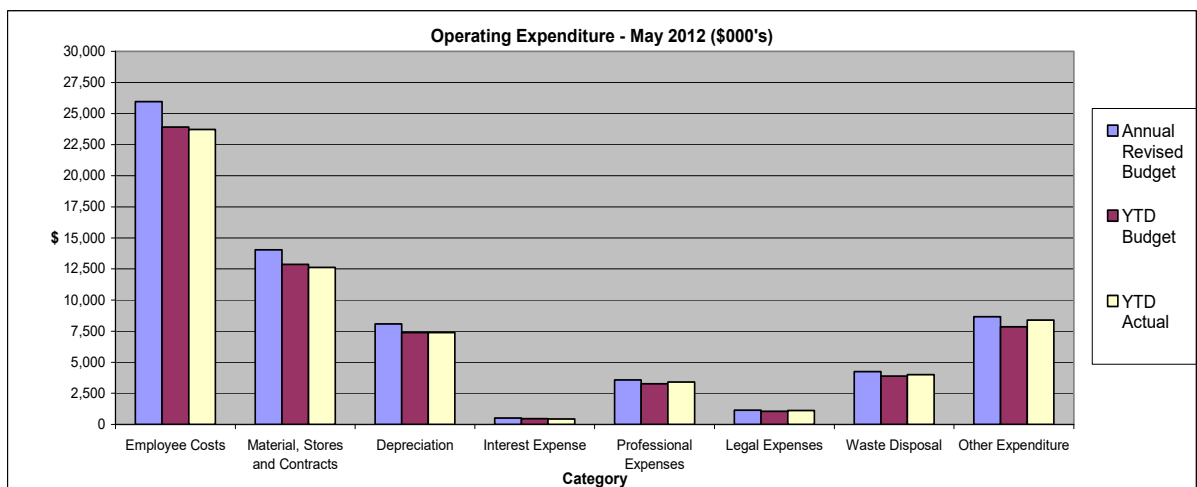
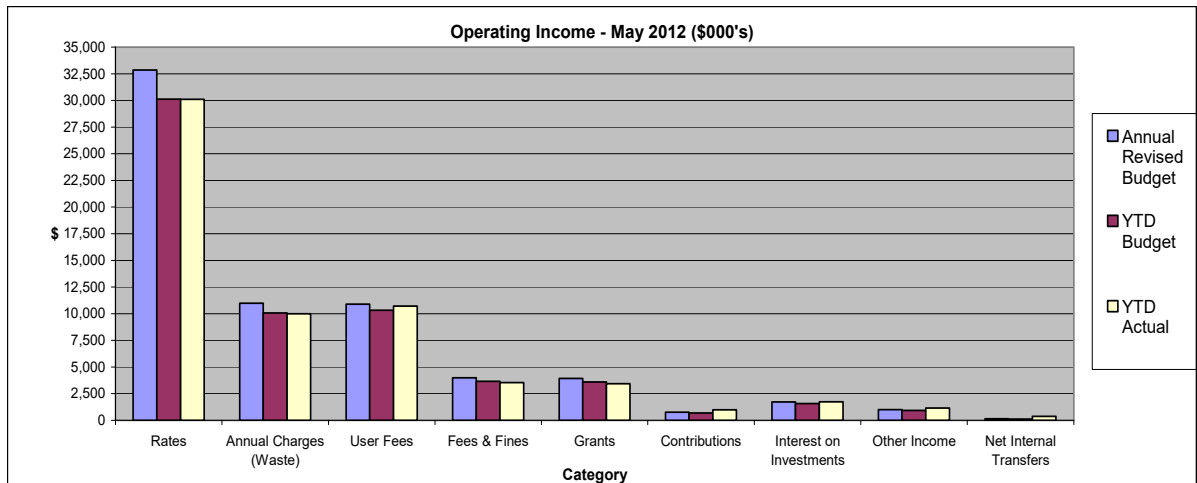
# CONSOLIDATED STATEMENT

<b>Pittwater Council</b> <b>Consolidated Statement</b> <b>For Period 11 Ending 31 May 2012</b>							
Year to Date - \$000's			Annual Budget - \$000's				
Budget	Actual	Variance		Original	Revised	Projected	Variance
			Direct Income				
10,319	10,719	400	User Fees	10,529	10,893	10,893	0
1,308	1,281	-27	Regulatory Fees	1,709	1,422	1,422	0
2,351	2,255	-97	Regulatory Fines	2,576	2,566	2,566	0
3,591	2,998	-593	Operating Grant Transfers	3,343	3,921	3,921	0
1,757	1,505	-252	Capital Grant Transfers	902	1,868	1,868	0
4,510	556	-3,953	Capital Contributions	5,032	4,922	4,922	0
698	980	281	Operating Contributions	475	762	762	0
30,117	30,100	-16	Rates Income	32,868	32,868	32,868	0
10,067	10,002	-66	Domestic Waste Charges	10,987	10,987	10,987	0
1,582	1,740	158	Return on Investments & Other Interest Income	1,355	1,726	1,726	0
277	302	25	Rebates Income	290	302	302	0
499	768	269	Other Income	252	545	545	0
1,241	1,081	-161	Capital Sales	1,355	1,355	1,355	0
<b>68,317</b>	<b>64,285</b>	<b>-4,031</b>	<b>Total Direct Income</b>	<b>71,671</b>	<b>74,136</b>	<b>74,136</b>	<b>0</b>
			Indirect Income				
2,424	2,378	-45	Plant Hire Recovery	2,661	2,645	2,645	0
3,105	3,106	0	Notional Rental Income	3,389	3,389	3,389	0
391	711	320	Service Agreement Income	427	427	427	0
6,857	6,857	0	Overhead Recovery	7,484	7,484	7,484	0
1,826	1,746	-80	Contract Internal Income	2,097	1,993	1,993	0
7,266	7,265	-1	Transfer From Reserve-Depreciation	7,960	7,929	7,929	0
2,732	1,574	-1,158	Transfer From Reserve-S94	2,672	2,911	2,911	0
8,016	5,387	-2,629	Transfer From Reserve-Other	6,984	8,895	8,895	0
<b>32,617</b>	<b>29,024</b>	<b>-3,593</b>	<b>Total Indirect Income</b>	<b>33,673</b>	<b>35,673</b>	<b>35,673</b>	<b>0</b>
			Direct Expenditure				
18,388	18,396	-8	Salaries & Wages	20,374	19,920	19,920	0
6,292	6,262	30	Other Employee Costs	6,844	6,867	6,867	0
1,416	1,283	133	Materials	1,823	1,533	1,533	0
219	319	-100	Stores	231	239	239	0
79	69	10	Minor Plant Purchases	45	86	86	0
1,990	2,188	-198	Plant & Equipment	2,218	2,172	2,172	0
17,939	13,272	4,667	Contract Services External	16,097	19,651	19,651	0
7,266	7,265	0	Depreciation Expense	7,960	7,929	7,929	0
465	448	17	Interest Expense	618	508	508	0
4,374	4,034	341	Professional Expenses	3,120	4,745	4,745	0
1,054	1,114	-61	Legal Expenses	950	1,150	1,150	0
201	256	-55	Bad & Doubtful Debts	219	219	219	0
566	832	-265	Leases/Rentals/Hire/Licences	516	616	616	0
1,514	1,594	-80	Public Utilities	1,513	1,652	1,652	0
335	366	-32	Communications	271	365	365	0
314	308	6	Advertising	398	342	342	0
891	963	-72	Insurance	1,026	973	973	0
165	176	-11	Banking	170	180	180	0
488	395	92	Other Expenses	611	532	532	0
370	491	-120	Office Expenses	355	404	404	0
4,007	4,227	-220	Sundry Services/Waste Disposal	4,958	4,373	4,373	0
104	120	-17	Memberships	91	113	113	0
3,077	3,067	10	Levies/Contributions/Subsidies	3,004	3,358	3,358	0
5,634	4,971	662	Capital Purchases/Payments	5,951	6,148	6,148	0
<b>77,146</b>	<b>72,416</b>	<b>4,730</b>	<b>Total Direct Expenditure</b>	<b>79,362</b>	<b>84,075</b>	<b>84,075</b>	<b>0</b>
			Indirect Expenditure				
1,291	1,291	0	Corporate Development Overhead	1,409	1,409	1,409	0
1,369	1,369	0	IT Services Overhead	1,494	1,494	1,494	0
1,561	1,561	0	Financial Services Overhead	1,703	1,703	1,703	0
3,105	3,106	0	Accommodation Overhead	3,389	3,389	3,389	0
998	998	0	Insurance Overhead	1,089	1,089	1,089	0
797	797	0	Records Overhead	870	870	870	0
841	841	0	Customer Service Overhead	918	918	918	0
2,424	2,378	45	Plant Hire Charge Internal	2,661	2,645	2,645	0
1,826	1,746	80	Contract Services Internal Expense	2,097	1,993	1,993	0
359	684	-325	Service Agreement Expense	392	392	392	0
2,712	724	1,988	Transfer To Reserve-S94	2,783	2,960	2,960	0
4,799	3,008	1,791	Transfer To Reserve-Other	7,095	6,826	6,826	0
<b>22,083</b>	<b>18,503</b>	<b>3,580</b>	<b>Total Indirect Expenditure</b>	<b>25,900</b>	<b>25,688</b>	<b>25,688</b>	<b>0</b>
<b>1,705</b>	<b>2,390</b>	<b>685</b>	<b>Increase/(call) on Council Funds</b>	<b>82</b>	<b>46</b>	<b>46</b>	<b>0</b>

## 2.3 Operating Statement

The year to date Operating Result before Capital for the period ending 31 May 2012 is a surplus of \$905,000. Compared to the Year to Date budget of a \$378,000 surplus this amounts to a positive variance of \$528,000.

The graphical representation below outlines Council's major categories of Operating income and expenditure.



## 2.4 Commentary – Operating YTD Budget Versus Actual – 31 May 12

<b>YTD Operating Results before Capital Budget as at 31 May 2012</b>	<b>\$</b>	<b>378,000</b>
<b>INCOME</b>		
Increased User Fees mainly relating to Parking Fee's, Cemetery Income & Rental Income paid in Advance	\$	400,000
Reduced Regulatory fees & fines mainly relating to Development Application & Inspection and fines Income	-\$	124,000
Reduced Operating Grant Transfers mainly relating to Fee Relief Grant, Flood Mapping & Coastal Zone Protection Grants with a corresponding reduction in Expenditure	-\$	169,000
Additional Operating Contributions mainly relating to Restorations Income	\$	281,000
Increased Return on Investments & Other Interest Income	\$	158,000
Increased Other Income relating to Insurance, Legal Recoveries, Markets and other sundry Income	\$	271,000
Decreased Loss on Sale of Assets mainly relating to Plant Sales	-\$	59,000
<b>EXPENDITURE</b>		
Reduced Salaries, Wages & On costs	\$	196,000
Reduced Materials, Stores & Contract Services External	\$	233,000
Additional Public Utilities Mainly relating to Street Lighting	-\$	79,000
Additional Leases/Rental/Hire/Licences mainly due to Scotland Island Road Rehabilitation Expenditure	-\$	178,000
Additional Professional Expenditure mainly relating to Lakeside and Security Services	-\$	144,000
Additional Sundry Services & Waste Disposal Expenditure	-\$	118,000
Additional Other Expenditure mainly relating to Communications, Legal & Insurance Expenditure	-\$	141,000
<b>YTD Operating Results before Capital Actuals as at 31 May 2012</b>	<b>\$</b>	<b>905,000</b>

The above financial analysis represents the variations between the May 2012 YTD Budget and the actual flow of Income and Expenditure as at 31 May 2012.

The overall difference in the May 2012 YTD Budget to Actual is a positive variance of \$528,000.

# OPERATING STATEMENT

<b>Pittwater Council</b> <b>Operating Statement</b> <b>For Period 11 Ending 31 May 2012</b>							
Year to Date - \$000's			Annual Budget - \$000's				
Budget	Actual	Variance		Original	Revised	Projected	Variance
			Direct Income				
10,319	10,719	400	User Fees	10,529	10,893	10,893	0
1,308	1,281	-27	Regulatory Fees	1,709	1,422	1,422	0
2,351	2,255	-97	Regulatory Fines	2,576	2,566	2,566	0
3,591	3,427	-164	Operating Grant Income	3,343	3,921	3,921	0
698	980	281	Operating Contributions	475	762	762	0
30,117	30,100	-16	Rates Income	32,868	32,868	32,868	0
10,067	10,002	-66	Domestic Waste Charges	10,987	10,987	10,987	0
1,582	1,740	158	Return on Investments & Other Interest Income	1,355	1,726	1,726	0
277	302	25	Rebates Income	290	302	302	0
499	770	271	Other Income	252	545	545	0
147	87	-59	Profit / (Loss) on Sale of Assets	160	160	160	0
0	0	0	Gain from Joint Venture Assets	0	0	0	0
<b>60,955</b>	<b>61,662</b>	<b>707</b>	<b>Total Direct Income</b>	<b>64,543</b>	<b>66,152</b>	<b>66,152</b>	<b>0</b>
			Indirect Income				
2,424	2,379	-44	Plant Hire Recovery	2,661	2,645	2,645	0
391	711	320	Service Agreement Income	427	427	427	0
1,826	1,746	-80	Contract Internal Income	2,097	1,993	1,993	0
<b>4,640</b>	<b>4,837</b>	<b>196</b>	<b>Total Indirect Income</b>	<b>5,184</b>	<b>5,064</b>	<b>5,064</b>	<b>0</b>
			Direct Expenditure				
17,843	17,722	121	Salaries & Wages	19,784	19,330	19,330	0
6,080	6,006	75	Other Employee Costs	6,613	6,636	6,636	0
781	845	-64	Materials	798	852	852	0
206	246	-40	Stores	231	225	225	0
67	55	11	Minor Plant Purchases	45	73	73	0
1,957	2,109	-152	Plant & Equipment	2,218	2,136	2,136	0
9,856	9,379	478	Contract Services External	9,705	10,755	10,755	0
7,395	7,394	0	Depreciation Expense & Ammortisation	8,101	8,070	8,070	0
465	448	17	Interest Expense	618	508	508	0
3,262	3,406	-144	Professional Expenses	2,443	3,574	3,574	0
1,054	1,112	-58	Legal Expenses	950	1,150	1,150	0
201	256	-55	Bad & Doubtful Debts	219	219	219	0
481	658	-178	Leases/Rentals/Hire/Licences	516	525	525	0
1,514	1,593	-79	Public Utilities	1,513	1,652	1,652	0
243	347	-103	Communications	271	366	366	0
314	306	8	Advertising	398	342	342	0
891	963	-72	Insurance	1,026	973	973	0
165	176	-11	Banking	170	180	180	0
488	395	93	Other Expenses	611	532	532	0
370	489	-119	Office Expenses	355	404	404	0
3,888	4,005	-118	Sundry Services/Waste Disposal	4,958	4,243	4,243	0
104	120	-17	Memberships	91	113	113	0
3,077	3,085	-8	Levies/Contributions/Subsidies	3,004	3,358	3,358	0
<b>60,701</b>	<b>61,116</b>	<b>-416</b>	<b>Total Direct Expenditure</b>	<b>64,636</b>	<b>66,215</b>	<b>66,215</b>	<b>0</b>
			Indirect Expenditure				
2,332	2,251	81	Plant Hire Charge Internal	2,561	2,545	2,545	0
1,826	1,746	80	Contract Services Internal Expense	2,097	1,993	1,993	0
359	479	-120	Service Agreement Expense	392	392	392	0
<b>4,517</b>	<b>4,477</b>	<b>40</b>	<b>Total Indirect Expenditure</b>	<b>5,049</b>	<b>4,929</b>	<b>4,929</b>	<b>0</b>
<b>378</b>	<b>905</b>	<b>528</b>	<b>Operating Results before Capital</b>	<b>42</b>	<b>72</b>	<b>72</b>	<b>0</b>
4,068	1,897	2,171	Grants & Contributions - Capital	3,534	4,390	4,390	0
0	0	0	Material Public Benefits - S94	0	0	0	0
<b>4,446</b>	<b>2,802</b>	<b>-1,643</b>	<b>Change in Net Assets - Resulting from Opera</b>	<b>3,576</b>	<b>4,463</b>	<b>4,463</b>	<b>0</b>

## 2.5 Balance Sheet

Council's actual change in equity for the period ending 23 May 2012 is a increase of \$2.802 million (net change in assets resulting from operations) and now stands at \$1.312 billion as represented in Council's Balance Sheet below:

<b>Pittwater Council Balance Sheet</b> <b>For Period 11 Ending 31 May 2012</b>			
<b>Actual</b> <b>31/05/2012</b> <b>\$'000's</b>		<b>Projected</b> <b>30/06/2012</b> <b>\$'000</b>	<b>Actual</b> <b>30/06/2011</b> <b>\$'000</b>
<b>CURRENT ASSETS</b>			
3,754	Cash Assets	1,419	1,994
20,892	Investments	20,559	22,267
3,821	Receivables	4,192	4,546
60	Inventories	60	57
515	Other	300	300
4,625	Non Current Assets held for sale	4,625	4,625
<u>33,667</u>	<b>TOTAL CURRENT ASSETS</b>	<u>31,155</u>	<u>33,789</u>
<b>NON-CURRENT ASSETS</b>			
0	Investments	0	0
0	Receivables	870	870
0	Inventories	0	0
1,283,566	Infrastructure Property, Plant and Equipment	1,287,693	1,281,024
5,147	Investments Accounted for using the Equity Method	5,494	5,494
1,720	Investment Property	1,750	1,750
3,483	Intangible Assets	3,092	3,234
<u>1,293,916</u>	<b>TOTAL NON-CURRENT ASSETS</b>	<u>1,298,899</u>	<u>1,292,372</u>
<u><u>1,327,583</u></u>	<b>TOTAL ASSETS</b>	<u><u>1,330,054</u></u>	<u><u>1,326,161</u></u>
<b>CURRENT LIABILITIES</b>			
2,961	Payables	1,612	3,791
909	Interest Bearing Liabilities	1,147	881
6,559	Provisions	6,328	6,191
<u>10,429</u>	<b>TOTAL CURRENT LIABILITIES</b>	<u>9,087</u>	<u>10,863</u>
<b>NON-CURRENT LIABILITIES</b>			
0	Payables	0	0
4,759	Interest Bearing Liabilities	6,916	5,715
165	Provisions	160	155
<u>4,924</u>	<b>TOTAL NON-CURRENT LIABILITIES</b>	<u>7,076</u>	<u>5,870</u>
<u><u>15,353</u></u>	<b>TOTAL LIABILITIES</b>	<u><u>16,163</u></u>	<u><u>16,733</u></u>
<u><u>1,312,230</u></u>	<b>NET ASSETS</b>	<u><u>1,313,891</u></u>	<u><u>1,309,428</u></u>
<b>EQUITY</b>			
1,312,230	Accumulated Surplus/ ( Deficit )	1,313,891	1,309,428
	Asset Revaluation Reserve		
<u><u>1,312,230</u></u>	<b>TOTAL EQUITY</b>	<u><u>1,313,891</u></u>	<u><u>1,309,428</u></u>

## 2.6 Cash Flow Statement

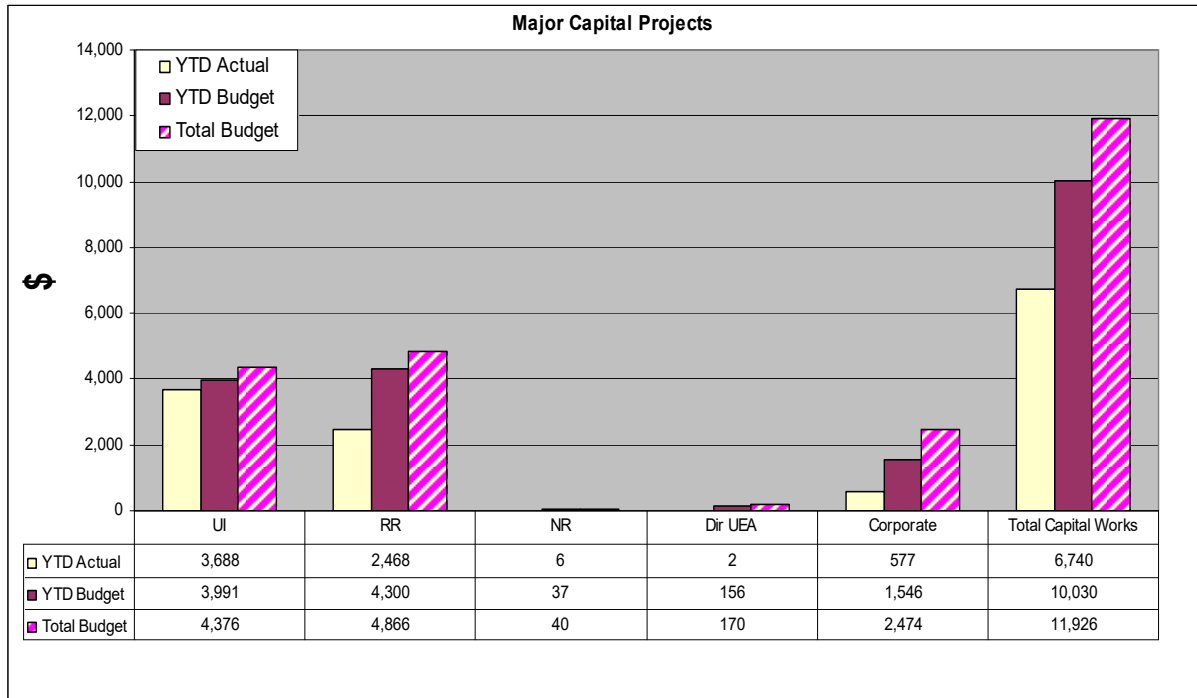
The actual Cash flow for the period ended 31 May 2012 is a net inflow of \$385,000. Compared to the year to date budget of \$257,000 outflow this amounts to a positive variance of \$642,000. This positive variance is mainly due to the timing of the Capital works Program.

Following is a graphical representation of Council's cash position budget to actual:-

<b>Pittwater Council</b> <b>Cash Flow Statement</b> <b>For Period 11 Ending 31 May 2012</b>							
Year to Date - \$000's			Annual Budget - \$000's				
Budget	Actual	Variance		Original	Revised	Projected	Variance
<b>Cash Inflows</b>							
41,184	41,335	151	Rates & Garbage	43,746	43,627	43,627	0
5,348	4,396	-952	Grants	4,245	5,264	5,264	0
10,869	11,252	383	User Charges	10,529	10,893	10,893	0
3,659	3,505	-154	Regulatory Fees & Fines	4,285	3,988	3,988	0
2,496	825	-1,671	Contributions & Donations	475	762	762	0
1,582	1,926	344	Return on Investments & Other Interest Income	1,355	1,726	1,726	0
1,241	1,081	-160	Sale of Assets (Excluding Land)	1,355	1,355	1,355	0
0	0	0	Sale of Land	0	0	0	0
800	1,088	288	Other	542	847	847	0
2,712	724	-1,988	S94 Contributions Received	2,632	2,522	2,522	0
0	0	0	Proceeds from loan	2,400	2,400	2,400	0
0	95	95	GST Net Inflow	0	0	0	0
<b>69,891</b>	<b>66,227</b>	<b>-3,664</b>	<b>Total Inflows</b>	<b>71,562</b>	<b>73,384</b>	<b>73,384</b>	<b>0</b>
<b>Cash Outflows</b>							
18,702	18,709	-7	Employee Salary & Wages	20,374	19,920	19,920	0
5,792	5,755	37	Employee Other Costs	6,395	6,388	6,388	0
1,291	1,319	-28	Insurance Claims/Premiums	1,026	973	973	0
3,077	2,113	964	Levies & Contributions	3,004	3,358	3,358	0
34,075	31,393	2,682	Materials/Stores/Contracts	32,635	37,222	37,222	0
1,054	1,114	-60	Legal Expenses	950	1,150	1,150	0
305	305	0	Loan Interest Repayments	618	508	508	0
718	718	0	Loan Principal Repayments	949	880	880	0
5,134	4,417	717	Purchase Of Assets	5,002	5,268	5,268	0
<b>70,148</b>	<b>65,842</b>	<b>4,306</b>	<b>Total Outflows</b>	<b>70,953</b>	<b>75,667</b>	<b>75,667</b>	<b>0</b>
-257	385	642	Net Inflows/(Outflows)	609	-2,283	-2,283	0
24,261	24,261	0	Funds Carried Forward from Prior Year	20,629	24,261	24,261	0
<b>24,004</b>	<b>24,646</b>	<b>642</b>	<b>Total General Fund</b>	<b>21,238</b>	<b>21,978</b>	<b>21,978</b>	<b>0</b>
8,187	7,357	830	Less Restricted Assets	6,483	9,638	9,638	0
800	800	0	Less Unexpended Grants	800	800	800	0
10,072	10,910	-838	Less Internal Reserves	11,420	9,840	9,840	0
<b>4,945</b>	<b>5,579</b>	<b>634</b>	<b>Increase/(call) on Council Funds</b>	<b>2,535</b>	<b>1,701</b>	<b>1,701</b>	<b>0</b>

## 2.7 2011/2012 Major Projects

The total budget expenditure for Major projects amounted to \$11.926 million as amended in the March Quarterly Review. The actual Expenditure for the period ended 31 May 2012 amount to \$6.740 million. Budgeted Expenditure versus Actual Expenditure of the CIP is outlined below:



2011/2012 MAJOR PROJECTS		Projected	Gross	Percentage
PERIOD ENDING 31st May 2012		Total	Exp	Complete
TOP TEN JOBS BY PROJECTED BUDGET	Comment	Budget	Actual	%
Sydney Lakeside Upgrade Cabins	Lakeside Cabins Purchase	1,400,000	-	0%
Narrabeen Creek - Corridor B - Stage 1	S94 WWV Funded Project	650,500	576,312	89%
Deep Creek Pedestrian Bridge - Construction	RTA/Warringah/Pittwater Joint Funded	476,360	476,360	100%
Narrabeen Creek Corridor B Cycleway	S94 WWV Funded Project	438,500	203,107	46%
Woorak Reserve	Grant, Marine Reserve Funded	362,150	359,163	99%
PB Ferry Wharf	Grant, Marine Reserve Funded	256,521	4,365	2%
RTA Funding Traffic Signs & Linemarking	Ongoing Road Works	207,507	188,197	91%
Revolving Energy Fund	Energy Efficiency Projects	200,500	131,696	66%
S/W Quality Treatment Device Improvements	SMSC Funded Works	155,000	140,955	91%
Bungendor St - Harvey Rd	Federal Gov't grant Funded	131,833	131,833	100%

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### **3.0 SUSTAINABILITY ASSESSMENT**

#### **3.1 Supporting & Connecting our Community (Social)**

3.1.1 The Report will have no impact on this strategy

#### **3.2 Valuing & Caring for our Natural Environment (Environmental)**

3.2.1 The Report will have no impact on this strategy

#### **3.3 Enhancing our Working & Learning (Economic)**

3.3.1 The Report will have no impact on this strategy

#### **3.4 Leading an effective & Collaborative Council (Governance)**

3.4.1 The Report will have no impact on this strategy

#### **3.5 Integrating our Built Environment (Infrastructure)**

3.5.1 The Report will have no impact on this strategy

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### **4.0 EXECUTIVE SUMMARY**

4.1 In providing the Council with the financial results for the period ending 31 May 2012 the following information should be noted:

- The year to date Consolidated financial result for the period ending 31 May 2012 is an increase on Council funds of \$2.390 million. Compared to the year to date budget of \$1.705 million, this represents a positive variance of \$685,000.
  - The year to date Operating Result before Capital for the period ending 31 May 2012 is a surplus of \$905,000. Compared to the Year to Date Budget of \$378,000 surplus this amounts to a positive variance of \$528,000.
  - The Major Projects Program year to date expenditure stands as \$6.740 as at 31 May 2012.
  - The actual Cash flow for the period ended 31 May 2012 is a net inflow of \$385,000. Compared to the year to date budget of \$257,000 outflow this amounts to a positive variance of \$642,000.
- 

### **RECOMMENDATION**

1. That the Year to date financial results for the period ending 31 May 2012 be noted, including:
  - Consolidated financial result being an increase of Council funds of \$2.390 million.
  - Operating result before capital being a surplus of \$905,000.
  - Major Projects Program expenditure stands as \$6.740 million.
  - Cash and investment position stands at \$24.646 million.

Report prepared by  
Myles Thana, Management Accountant

Mark Jones  
**CHIEF FINANCIAL OFFICER**

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## **C10.2 Investment Balances for the Month of May 2012**

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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** To Provide Effective Investment of Council's Funds

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### **PURPOSE OF REPORT**

To advise on the status of Council's Investment Balances for the Month of May 2012

### **1.0 BACKGROUND**

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

### **2.0 ISSUES**

#### **2.1 MONTHLY RETURNS**

Investment return for the month of May 2012:

Term deposits interest income:	\$	112,082
Tradable CDO/FRNs interest income:	\$	-
Tradable CDO/FRNs capital movement:	\$	<u>(12,706)</u>
Net investment income for May 2012:	\$	99,376

#### **YEAR TO DATE RETURN**

Investment return year to date May 2012:

Term deposits interest income:	\$	1,410,758
Tradable CDO/FRNs interest income:	\$	79,490
Tradable CDO/FRNs capital movement:	\$	<u>61,719</u>
Net investment return year to date:	\$	1,551,967

Projected investment return budget for financial year.	\$	1,596,000
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#### **2.2 PERFORMANCE OF COUNCIL'S PORTFOLIO FOR THE LAST FIVE YEARS**

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

<b>Year to</b>	<b>Net Return</b>	<b>Return on average funds invested</b>
June 2008	\$ 594,815	2.3%
June 2009	\$ 534,575	2.4%
June 2010	\$1,364,315	6.1%
June 2011	\$1,521,223	5.9%
May 2012	\$1,551,967	6.4%
Projected Budget	\$1,596,000	6.4%

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

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## **RESPONSIBLE ACCOUNTING OFFICER CERTIFICATION**

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

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### **3.0 SUSTAINABILITY ASSESSMENT**

3.1 A sustainability assessment is not required for this report.

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### **4.0 EXECUTIVE SUMMARY**

4.1 The net investment return as at 31 May 2012 is a gain of \$ 1,551,967.

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## **RECOMMENDATION**

That the information provided in the report be noted, including the 2011/12 net investment return of \$ 1,551,967 as at 31 May 2012.

Report prepared by  
Renae Wilde, Senior Project Accountant

Mark Jones  
**CHIEF FINANCIAL OFFICER**



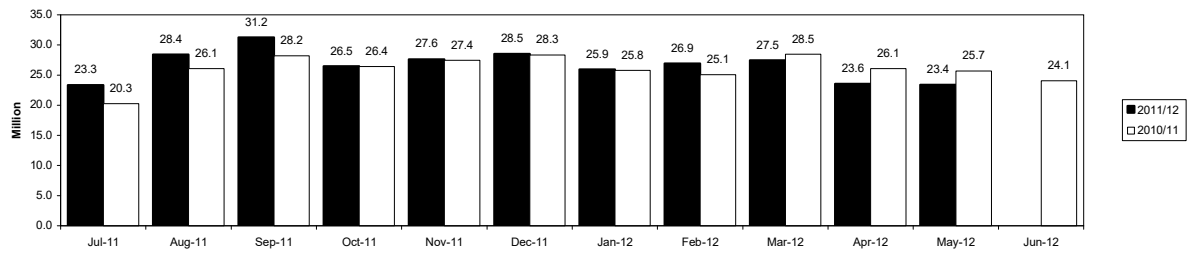
# PITTWATER COUNCIL

## INVESTMENT BALANCES

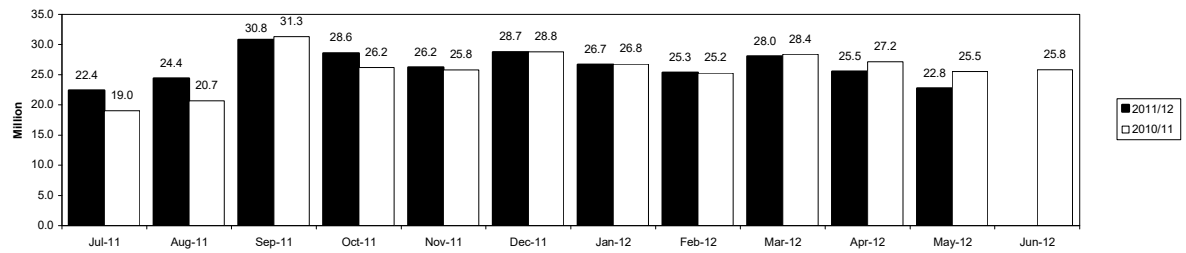
As at 31st May 2012

TYPE	INSTITUTION	Rating	AMOUNT \$	DATE INVESTED	MATURITY DATE	TERM (DAYS)	INTEREST RATE
At Call	NAB	AA-	1,650,000.00	At Call	At Call	1	4.25%
<b>At Call Total</b>			<b>1,650,000.00</b>				
Term Dep	Suncorp-Metway	A+	500,000.00	21-Feb-12	20-Aug-12	181	6.00%
Term Dep	Suncorp-Metway	A+	750,000.00	22-Feb-12	22-Aug-12	182	6.00%
Term Dep	Suncorp-Metway	A+	1,000,000.00	28-Feb-12	6-Jun-12	99	5.90%
Term Dep	Suncorp-Metway	A+	1,000,000.00	29-Feb-12	28-Aug-12	181	5.95%
Term Dep	Suncorp-Metway	A+	1,000,000.00	1-Mar-12	30-Aug-12	182	5.95%
Term Dep	Suncorp-Metway	A+	1,000,000.00	2-Mar-12	3-Sep-12	185	5.95%
<b>Investee Total</b>			<b>5,250,000.00</b>				
Term Dep	Bankwest	AA-	750,000.00	16-Mar-12	22-Jun-12	98	5.90%
Term Dep	Bankwest	AA-	1,000,000.00	21-Mar-12	19-Jun-12	90	5.85%
Term Dep	Bankwest	AA-	1,000,000.00	13-Apr-12	16-Jul-12	94	5.85%
Term Dep	Bankwest	AA-	750,000.00	16-Apr-12	23-Jul-12	98	5.80%
Term Dep	Bankwest	AA-	1,000,000.00	31-May-12	13-Sep-12	105	5.20%
<b>Investee Total</b>			<b>4,500,000.00</b>				
Term Dep	Westpac	AA-	500,000.00	30-Jan-12	1-Aug-12	184	5.85%
<b>Investee Total</b>			<b>500,000.00</b>				
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	2-Mar-12	4-Jun-12	94	5.86%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	6-Mar-12	12-Jun-12	98	5.85%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	12-Mar-12	18-Jun-12	98	5.80%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	10-Apr-12	9-Jul-12	90	5.75%
<b>Investee Total</b>			<b>4,000,000.00</b>				
Term Dep	ING Bank	A+	750,000.00	3-Feb-12	3-Aug-12	182	5.97%
Term Dep	ING Bank	A+	750,000.00	7-Feb-12	7-Aug-12	182	5.97%
Term Dep	ING Bank	A+	1,000,000.00	14-Feb-12	13-Aug-12	181	5.97%
Term Dep	ING Bank	A+	750,000.00	27-Feb-12	27-Aug-12	182	6.03%
Term Dep	ING Bank	A+	1,000,000.00	29-Feb-12	29-Aug-12	182	6.04%
Term Dep	ING Bank	A+	500,000.00	1-Mar-12	28-Aug-12	180	6.00%
<b>Investee Total</b>			<b>4,750,000.00</b>				
Term Dep	NAB	AA-	1,000,000.00	5-Mar-12	10-Sep-12	189	5.89%
Term Dep	NAB	AA-	1,000,000.00	30-May-12	27-Aug-12	89	5.30%
<b>Investee Total</b>			<b>2,000,000.00</b>				
<b>Longreach Capital Markets</b>							
<b>Portfolio Manager</b>							
Structured Note	Citigroup (see investment information)	A+	500,000.00	28-Jun-07	28-Jun-14		0.00%
<b>Investee Total</b>			<b>500,000.00</b>				
<b>* Arranging Institution</b>							
Floating Rate CDO	* Merrill Lynch	D	57,686.00	14-Dec-11	20-Mar-13		bbsw + 1.70%
Floating Rate CDO	* J P Morgan	D	40.00	06-Jul-06	20-Jun-13		bbsw + 1.65%
Floating Rate CDO	* Lehman Bros	under review	196,000.00	20-Mar-07	20-Sep-14		suspended
Floating Rate CDO	* Morgan Stanley	D	120.00	15-Aug-06	20-Jun-15		bbsw + 3.30%
<b>Investee Total</b>			<b>253,846.00</b>				
						May BBSW Close	3.53%
<b>TOTAL INVESTMENTS</b>			<b>\$23,403,846.00</b>				

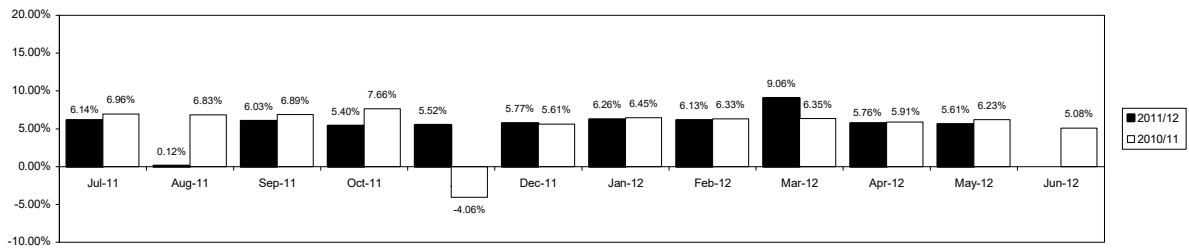
### Investments On Hand - Month End



### Average Investments Held

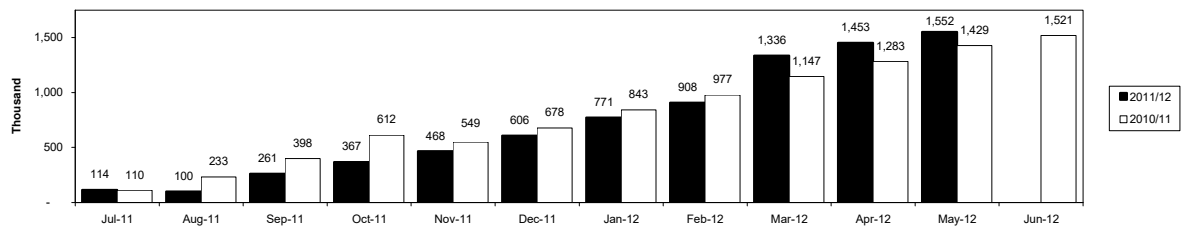


### Average Rate of Return

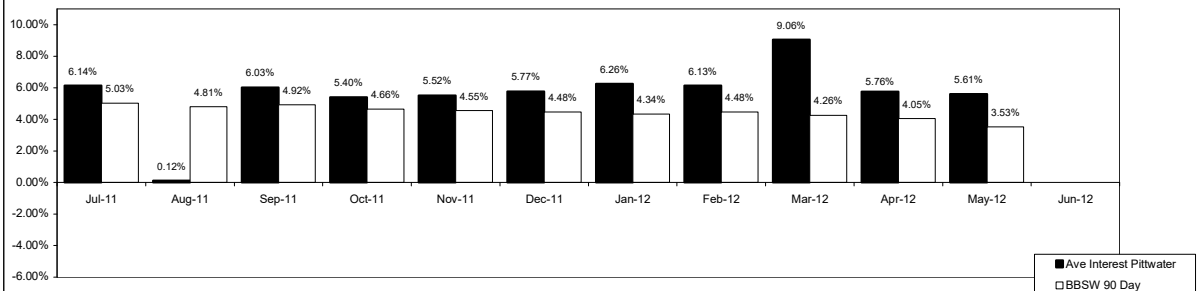


### Total Return Y.T.D.

Budget 1,596



### Rate of Return vs Benchmark



## Investment Information:

### Types of Investments

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

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

A **Bank Bill** is a short term investment issued by a bank representing its promise to pay a specific sum to the bearer on settlement. The amount payable to Council at maturity is the face value which represents the purchase price and interest earned.

A **Floating Rate Note** is a longer term investment issued by a financial institution with a variable interest rate. The adjustments to the interest rate are usually made every three months and are tied to a certain money-market index such as the BBSW.

A **Floating Rate CDO** or Collateralised Debt Obligation is an investment backed by a diversified pool of one or more classes of debt. These investments are for longer terms and offer a higher rate of interest. Credit Ratings are assigned to these investments as detailed in the investment balances listing.

### Credit Rating Information

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

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

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

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

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

**Note:** Council's Longreach structure product is shown at face value, as required by international accounting standards as it was purchased on a hold to maturity basis, unlike Council's CDOs within the ex - Lehman Bros portfolio that are considered tradable.

Current market value of this structure product is: - Longreach Structured Note \$475,720

---

## **C10.3 Legal Expenditure as at 31 May 2012**

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**Meeting:** Governance Committee

**Date:** 18 June 2012

---

**STRATEGY:** Business Management

**ACTION:** To produce monthly, quarterly and annual budgets and statements

---

### **PURPOSE OF REPORT**

To advise on the status of Council's Legal Expenditure as at 31 May 2012.

#### **1.0 BACKGROUND**

- 1.1 In providing Council with an accurate picture of Pittwater's Legal Expenditure, current data and a graphical representation of Council's Legal Expenditure are presented.

#### **2.0 ISSUES**

- 2.1 Gross Annual Original Legal Budget for 2011/12: \$ 950,000  
Gross Annual Revised (March) Legal Budget for 2011/12: \$ 1,150,000

Gross Legal Expenditure Breakdown:

- Total Solicitor Fees at 31/5/12: \$ 722,526
- Total Other Associated Expenditure at 31/5/12: \$ 391,794

Total Gross Legal Expenditure at 31/5/12: \$ 1,114,320

---

#### **3.0 SUSTAINABILITY ASSESSMENT**

No sustainability assessment is required.

---

#### **4.0 EXECUTIVE SUMMARY**

- 4.1 The Gross Legal Expenditure to 31 May 2012 is \$ 1,114,320 which exceeds the Year to Date Budget for 2011/12.
- 

### **RECOMMENDATION**

That the information provided in the report be noted.

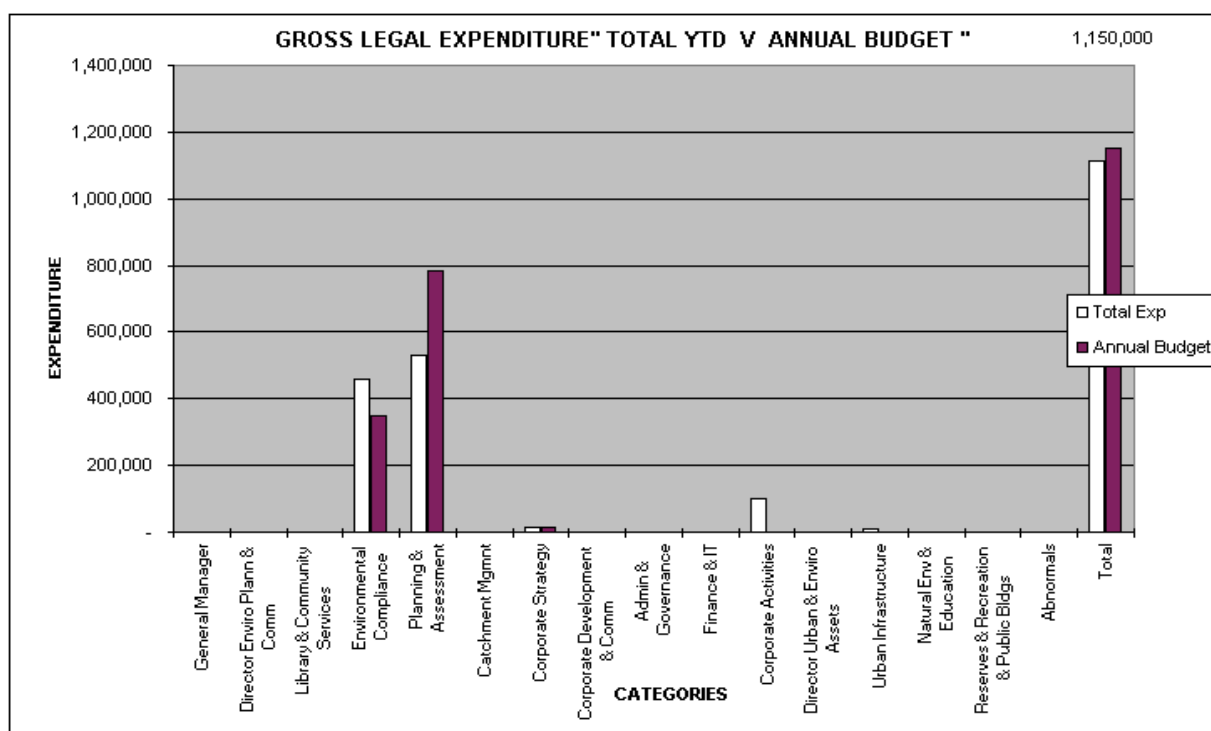
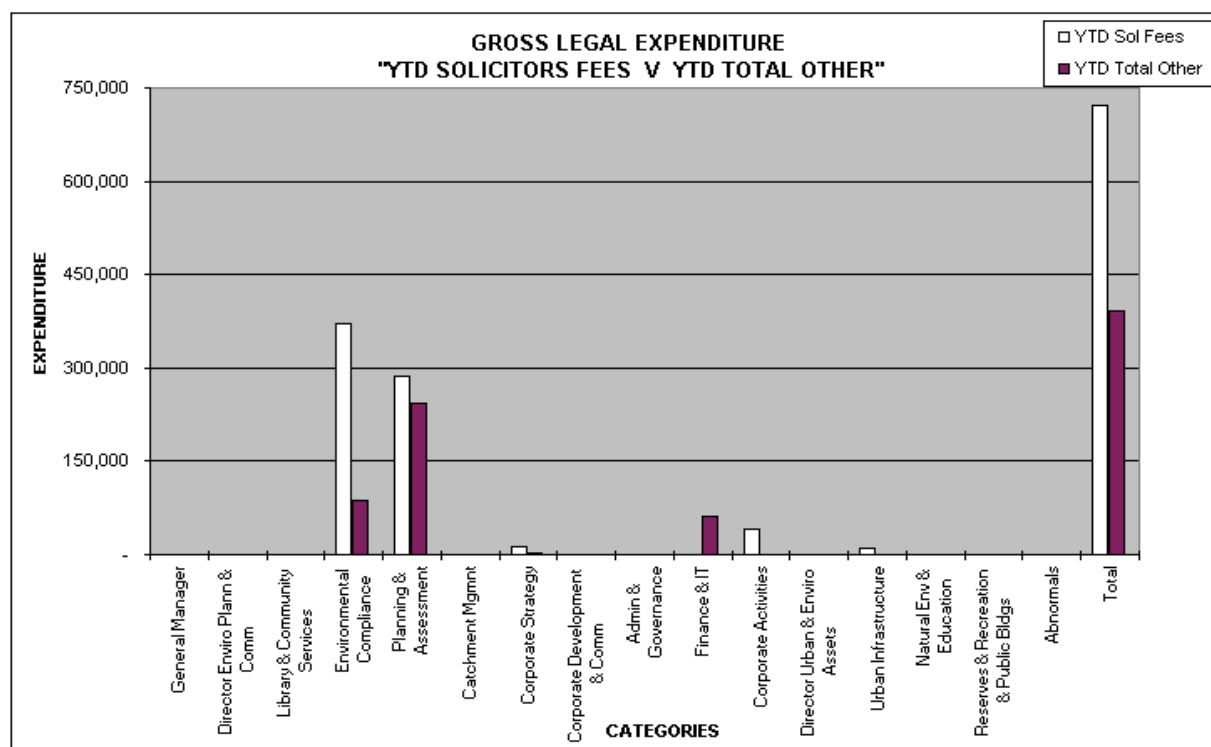
Report prepared by  
Renaë Wilde, Senior Project Accountant

Mark Jones  
**CHIEF FINANCIAL OFFICER**

## **LEGAL EXPENDITURE** **TOTALS AND GRAPHICAL REPRESENTATION**

*as at 31st May 2012*

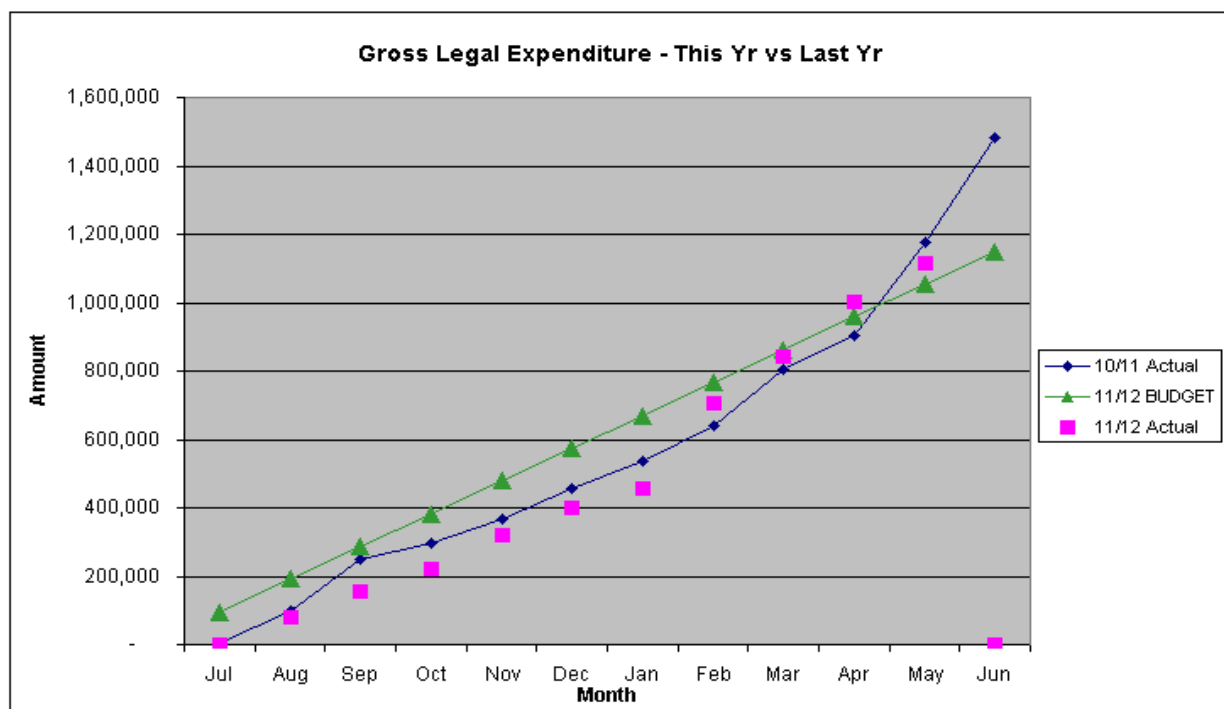
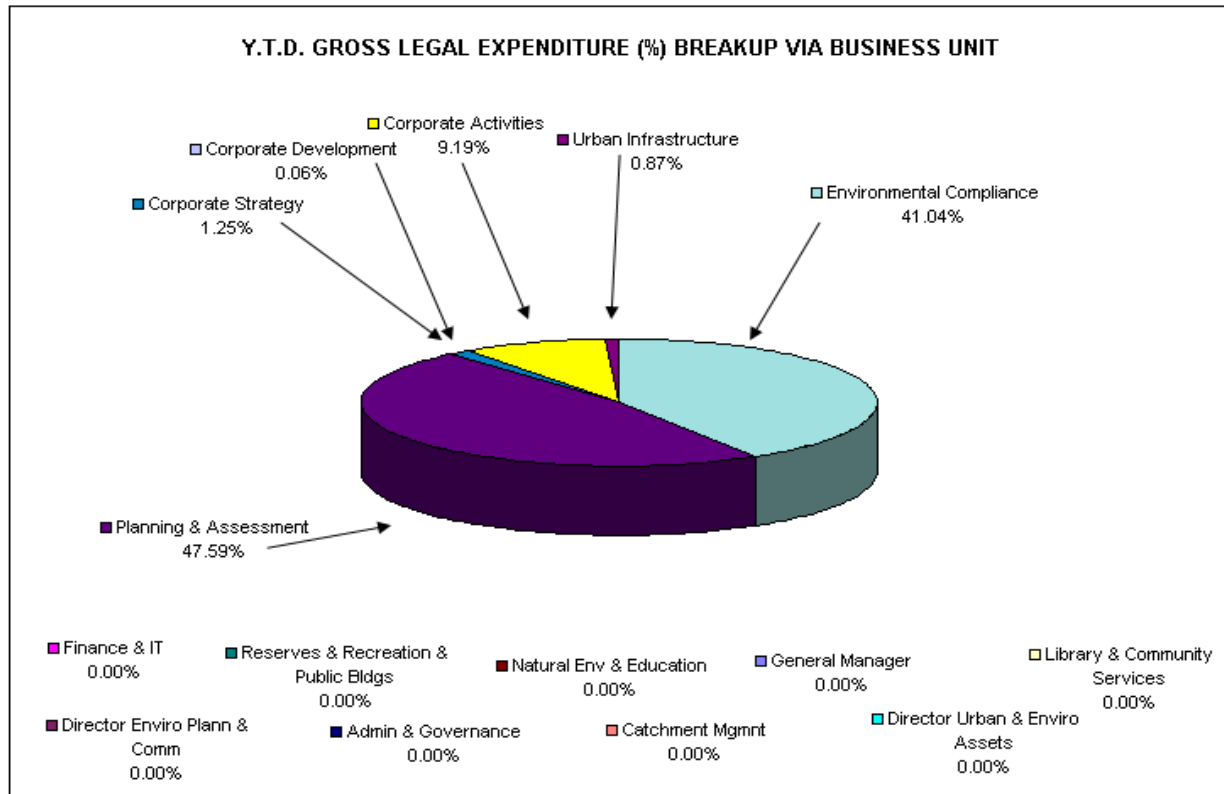
Solicitors Other Expenditure	Solicitors Fees Expenditure	Third Party Expenditure	Total Expenditure	Current Year Budget	Current Year Inc./Recov./Reversal
259,201	722,526	132,593	1,114,320	1,150,000	17,422



## **LEGAL EXPENDITURE** **TOTALS AND GRAPHICAL REPRESENTATION**

*as at 31st May 2012*

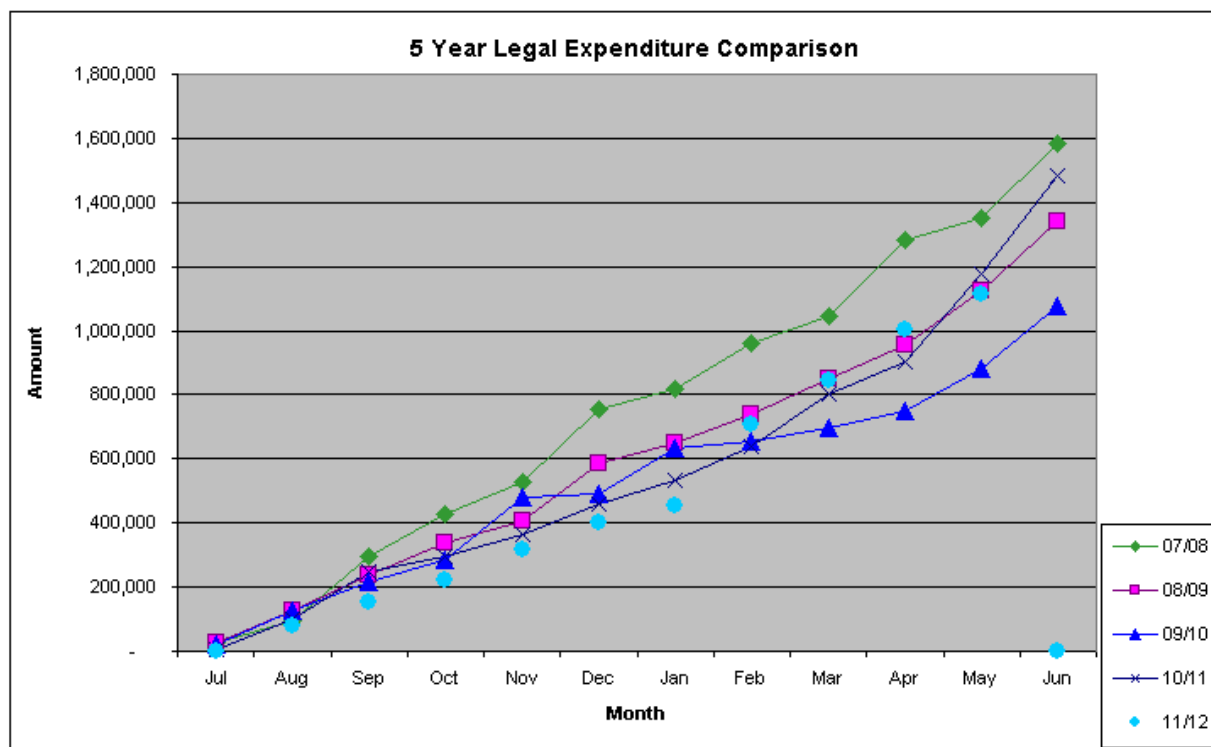
Solicitors Other Expenditure	Solicitors Fees Expenditure	Third Party Expenditure	Total Expenditure	Current Year Budget	Current Year Inc./Recov/Reversal
259,201	722,526	132,593	1,114,320	1,150,000	17,422



## **LEGAL EXPENDITURE** **TOTALS AND GRAPHICAL REPRESENTATION**

*as at 31st May 2012*

Solicitors Other Expenditure	Solicitors Fees Expenditure	Third Party Expenditure	Total Expenditure	Current Year Budget	Current Year Inc/Recov/Reversal
259,201	722,526	132,593	1,114,320	1,150,000	17,422



### **Top Ten Legal Matters by 2011/12 Expenditure**

Property	Description	2011/12 Expenditure	Prior Years Expenditure	Expenditure Life to Date All Years
6 Polo Avenue Mona Vale	Contempt of Court Proceedings Unauthorised Land Use	\$ 216,424	\$ 1,441	\$ 217,865
14 - 18 Boondah Road Warriewood*	Advice and Challenge Approval	\$ 173,429	\$ 278,778	\$ 452,207
38-40 St Andrews Gate Elanora Heights	Deemed Refusal	\$ 141,219	\$ -	\$ 141,219
21 Bungari Street Mona Vale	Deemed Refusal	\$ 135,202	\$ 16,244	\$ 151,446
Currawong	ICAC Investigation	\$ 102,353	\$ 13,742	\$ 116,095
76 Wallumatta Road Newport	Unauthorised Excavations	\$ 62,300	\$ -	\$ 62,300
48 Old Barrenjoey Road Avalon	Unauthorised Use of Premises	\$ 43,878	\$ -	\$ 43,878
223 Plateau Road Bilgola Plateau	Refusal	\$ 22,565	\$ -	\$ 22,565
10 Bynya Road Palm Beach	Deemed Refusal	\$ 20,208	\$ -	\$ 20,208
20 Chiltern Road Ingleside	Illegal Land Use	\$ 20,083	\$ -	\$ 20,083
		<b>\$ 937,660</b>	<b>\$ 310,205</b>	<b>\$ 1,247,866</b>

\* In relation to 14-18 Boondah Road, Council on 4/10/11 resolved that a report on the costs specific to the Court case be provided. This will be provided upon final accounts being received.

---

## **C10.4      Loan Borrowings - June 2012**

---

**Meeting:**            Governance Committee

**Date:**              18 June 2012

---

**STRATEGY:**      **Business Management**

**Action:**            To provide the necessary funding source for Council's Capital Improvements Program and Capital Upgrades at Sydney Lakeside Holiday Park.

---

### **PURPOSE OF REPORT**

To seek Council's approval to borrow funds as per Council's 2011-15 Delivery Program and Revised Budget and to seek Delegated Authority for the General Manager to finalise the proposed borrowings.

#### **1.0      BACKGROUND**

1.1      As indicated in the 2011-15 Delivery Program and as incorporated in Council's 2011-12 Revised Budget, it is necessary for Council to borrow \$2,400,000 in order to assist with the funding of Council's Capital Improvements Program (\$1,000,000) and Capital Upgrades at Sydney Lakeside Holiday Park (\$1,400,000).

#### **2.0      ISSUES**

##### **2.1      Funding Requirements**

**Council's Capital Improvements Program              \$1,000,000**

As a part of Council's forward planning of its Capital Improvements Program which includes the renewal, upgrade and acquisition of Council assets, an annual rolling loan program of \$1,000,000 is required as a part of the funding process. The use of loan funds as a part of Council's asset funding mix is to maintain a level of inter-generational equity regarding the cost and utilisation of Council assets and to maintain an adequate level of capital works within the current and future budget process.

Overall, Council's 2011-12 Revised Budget for its Capital Improvements Program amounts to \$11.9 million dollars which is funded by sources including Borrowings, Developer Contributions, Grants, SRV funds, Storm Water Management Service Charge and Council funds.

**Sydney Lakeside Tourist Park                              \$1,400,000**

Council has developed a Masterplan for improvements to Sydney Lakeside Holiday Park at Narrabeen in order to generate greater returns from the facility. To begin this improvement process, \$1,400,000 has been budgeted to be borrowed in 2011-12 for the Capital Upgrade of the facility.

##### **2.2      Financial Information**

On the 30th May 2012, Council sought quotes from the Banking and Finance sector for its 2011-12 Borrowing Program. Nine institutions were invited to quote. Of the nine, four formally responded with indicative quotes. Indicative borrowing rates range from the low 5% to the mid 6% range for a 10 year fixed rate loan on a semi-annual repayment cycle. Based on the indicative market quotes, it is envisaged that the total cost to Council over the 10 year period would be approximately \$3,000,000.

### 2.3 Policy Implications

All proposed borrowings in the Report comply with Councils Policy 115 - Loan Borrowing – Infrastructure Replacement and Creation.

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### 3.0 SUSTAINABILITY ASSESSMENT

A sustainability assessment is not required for this Report.

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### 4.0 EXECUTIVE SUMMARY

- 4.1 Approval is being sought from Council to borrow funds for the purposes of funding the Council's Capital Improvements Program (\$1,000,000) and Capital Upgrades at Sydney Lakeside Holiday Park (\$1,400,000).
- 4.2 In order to facilitate the borrowings, Delegated Authority for the General Manager is sought to finalise quotes and accept the most financially advantageous loans from the lending market.
- 4.3 In facilitating such borrowings, Council has complied with Loan Policy No. 115 in that funds are sought for the purposes of Infrastructure Replacement and Creation and that the debt service ratio still remains low at 2.17% and within the Policy limit of 5.5%.

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### RECOMMENDATION

- 1. That in accordance with Council's adopted 2011-15 Delivery Program and the 2011-12 Revised Budget, Council authorises borrowings totalling \$2,400,000 in order to fund the following:
  - a. Capital Works Program \$1,000,000
  - b. Sydney Lakeside Holiday Park Capital Program \$1,400,000
- 2. That the General Manager be authorised to finalise quotes and accept the most financially advantageous loan/s from the lending market.
- 3. That the seal of Council be affixed to all relevant documentation, if necessary,

Report prepared by

Mark Jones  
**CHIEF FINANCIAL OFFICER**

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<b>C10.5</b>	<b>T41112 - SHOROC - Provision of Fire Testing and Maintenance Services</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** Establish a program of effective cost reduction through continuous monitoring of costs and sustainable purchasing

---

## **PURPOSE OF REPORT**

To seek Council's approval for the SHOROC evaluation panel's recommendation for the provision of fire testing and maintenance services to Council offices and buildings for a three (3) year period from the date of execution with a one (1) year optional extension.

### **1.0 BACKGROUND**

- 1.1 The regular testing and upkeep of Council's fire fighting equipment is an important component of maintaining Councils assets and providing a safe work place for employees to carry out their duties.
- 1.2 Testing of Council's equipment is carried out on a regular scheduled basis with replacements of equipment on an as required basis.
- 1.3 Council has currently one provider contracted to provide fire testing and maintenance services to our various sites.
- 1.4 The SHOROC Group of Councils investigated the opportunity and recognised that joint tendering may bring overall benefits to service provision to each individual council.
- 1.5 Hunter Councils Regional Procurement Initiative was subsequently engaged to prepare documentation and manage the tender process on behalf of SHOROC councils

### **2.0 ISSUES**

2.1 Tenders were advertised by open tender:

- via Tenderlink on Tuesday, 20<sup>th</sup> March, 2012
- in the Sydney Morning Herald on Tuesday, 20<sup>th</sup> March, 2012; and
- in the Manly Daily on Monday, 19<sup>th</sup> March, 2012
- A total of 17 (seventeen) contractors purchased the tender documents.

#### **2.2 Tenders Received**

- Twelve (12) tenders were received via Tenderlink and duly registered by the Regional Procurement Initiative.

Tenders received were from:

- Extreme Fire Solutions
- Wormald (A Tyco International Company)
- Aqua Fire Protection
- Advance Fire Protection
- Rassco Services Pty Ltd

- Controlled Fire
- Celsius Fire Services
- Universal Fire Protection Pty Ltd
- Alliance Fire Protection Systems Pty Ltd
- Grosvenor Engineering Group
- The Fire Protection Specialist Company Pty Ltd
- Infinity Fire Protection

### 2.3 Tender Compliance

Submissions received from all tenderers were found to be conforming. A minor non conformance was noted to the Conditions of Contract from Extreme Fire Solutions relating to the charging of the management fee by Regional Procurement.

### 2.4 Tender Evaluation

The Tender panel comprised:

Andrea Tattam - SHOROC  
 Nigel Hart - Warringah Council  
 Glenn Nielsen - Manly Council  
 Peter Baartz - Pittwater Council  
 Michael Stroud - Mosman Council  
 Craig Wade - Regional Procurement Initiative (Independent)

### 2.5 Evaluation Criteria

The results of the tenders are summarised in Attachments 1 and 2.

Evaluation criteria comprised:

- Price, including:
  - Labour
  - Replacement parts
  - Recharges
  - Inspections
  - Certification and training
- Referees
- Quality Assurance
- Work health & safety
- Ecologically sustainable development
- Customer Service

### 2.6 Tender Evaluation

The detailed analysis of the tender is 'commercial in confidence' and as such is included as a confidential attachment – see Confidential Section of this Agenda.

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## 3.0 SUSTAINABILITY ASSESSMENT

### 3.1 Supporting & Connecting our Community (Social)

3.1.1 The tender process includes an assessment of sustainable practices and products. Tenderers are required to complete an Environmental Sustainability & Social Equity questionnaire covering aspects of organisational and product information systems, policy and environmental sustainability. Tenderers provided information relating to waste management, energy consumption management, use of solar panels, rain water harvesting and use of hybrid vehicles in their operations.

3.1.2 All tenderers completed this schedule and were scored accordingly.

### **3.2 Valuing & Caring for our Natural Environment (Environmental)**

3.2.1 No sustainability impact

### **3.3 Enhancing our Working & Learning (Economic)**

3.3.1 No sustainability impact

### **3.4 Leading an Effective & Collaborative Council (Governance)**

3.4.1 The calling of an assessment of tenders is in accordance with Council's procurement requirements. The tenders were assessed by a panel comprising staff from four (4) councils and an independent against six (6) criteria with associated weighting.

### **3.5 Integrating our Built Environment (Infrastructure)**

3.5.1 No sustainability impact

---

## **4.0 EXECUTIVE SUMMARY**

4.1 Tenders were called for the provision of fire testing and maintenance services to Council offices and maintenance services under T41112SHOROC for a three (3) year period from the date of execution with a one (1) year optional extension. Twelve (12) tenders containing twelve (12) proposals were received and upon assessment, the evaluation panel is recommending the tender from Grosvenor Engineering Group Pty Ltd as per the tendered schedule of rates be accepted. Council approval is sought for the recommendation.

---

## **RECOMMENDATION**

1. That pursuant to clause 178 (1) (a) of the Local Government (General) Regulation 2005, the tender from Grosvenor Engineering Group Pty Ltd as per the tendered schedule of rates for a three (3) year period from the date of execution with a one (1) year optional extension be accepted.
2. That the General Manager be authorised to sign the necessary documentation and affix, on behalf of Council the Council Seal if required.
3. That Hunter Councils Regional Procurement Initiative be advised of Council's decision.
4. That unsuccessful tenderers be notified of the tender outcomes in writing and thanked for their participation.

Report prepared by  
John Berry, Group Leader – Building Services

Les Munn  
**MANAGER, RESERVES, RECREATION & BUILDING SERVICES**

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<b>C10.6</b>	<b>Tender 01/12 - Construction of Cabins at Sydney Lakeside Holiday Park</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** Effectively Manage the Operations of Sydney Lakeside Holiday Park

---

## **PURPOSE OF REPORT**

To seek Councils approval for the acceptance of a tender for the construction of cabins for Sydney Lakeside Holiday Park.

### **1.0 BACKGROUND**

- 1.1 As part of the capital works program for Sydney Lakeside it is intended to replace twenty old and dilapidated bunk-house style cabins with new cabins. This need was identified in the Plan of Management adopted by Council in June 2010.
- 1.2 The twenty bunk-house cabins that were located in the centre of the Park were beyond their economic life and did not warrant any further capital or maintenance expenditure. The cabins were disposed of by auction. They were over 25 years old and showed signs of severe deterioration of their structural shells and major structural elements including the external walls. Due to their condition refurbishment was not a viable option and it is necessary to replace them over a period of two to three years. This first stage tender was for the supply of ten (10) cabins. Plans on which the tenderers were asked to submit tenders are shown at **Attachment 2**.
- 1.3 Under Section 55 of the Local Government Act, 1993 and Sections 166 and 167 of the Local Government (General) Regulation 2005, Council invited Tenders (T01/12) from vendors (companies or organisations) for the Construction of Cabins at Sydney Lakeside Holiday Park. Tenders were submitted by the following seven tenderers and were evaluated by a panel four people:
  1. Uniplan Group Pty Ltd
  2. Wendgold Pty Ltd (Trading Name: Eastcoast Homes and Park Cabins)
  3. High-Tech Park Homes Pty Ltd
  4. Australian Portable Buildings Pty Ltd (Trading Name: APB Modular)
  5. Parkwood Modular Buildings Pty Ltd
  6. Sydney Design and Construction Pty Ltd
  7. Sudiro Constructions Pty Ltd

The Tender documents were distributed via Tenderlink on 5<sup>th</sup> of April, 2012. The Tender documents were downloaded by thirteen vendors including the above seven during tender period.

The closing date for receipt of Tender was 10.00 am, 8<sup>th</sup> of May, 2012.

Submissions were received on time from all of the above-mentioned seven vendors.

## 2.0 ISSUES

### 2.1 Evaluation Panel

An Evaluation Panel (EP) was formed, comprising the following representatives:

Role	Name	Position
Member	George Veness	Senior Property Officer, Administration and Governance
Member	Glenn Davis	Principal Officer - Commercial, Administration and Governance
Member	John Berry	Group Leader, Reserves, Recreation and Building Services
Independent – Procurement Representation	Nadim Masri	Procurement & Contracts Officer, Urban Infrastructure

The EP met at 1.30 pm, 22<sup>nd</sup> of May, 2012 to consider the submissions received.

### 2.2 Evaluation Criteria

Tenders were evaluated using the following mandatory and weighted criteria:

Mandatory Criteria	Conformance
Compliance with Conditions of Tender and submission of all documentation required by the Invitation to Tender	Complies / Complies with Alternative / Does not Comply
Financial capacity	Complies / Complies with Alternative / Does not Comply
Compliance with Occupational Health and Safety legislation and the requirements of Workcover Authority of New South Wales	Complies / Complies with Alternative / Does not Comply
Insurances	Complies / Complies with Alternative / Does not Comply
Departures and qualifications and compliance with Specification	Complies / Complies with Alternative / Does not Comply

Weighted Criteria	% Weighting
The fees, rates and prices	45%
Key personnel including personnel of subcontractors	10%
Demonstrated past experience in performing work similar to the Works required in this Tender	15%
Quality assurance system and procedures	10%
Environmental sustainability and social equity	5%
Anticipated subcontracting	5%
Proposed methodology and Works program	10%

## 2.3 Evaluation Method

The evaluation was conducted in two (2) stages as follows:

**Stage 1** - Initial Cull

**Stage 2** - Detailed Evaluation of Remaining Tenders

### Stage 1: Initial Cull

An initial review was conducted by the EP to identify any non-conforming Tenders. Six Tenders were found to be non-conforming and did not have sufficient information to allow initial assessment. The initial assessment of Tenders was conducted as follows:

#### Assessment of Receipt

No Tenders were received after the closing date and time and therefore all were considered further in the evaluation process.

#### Assessment of Conformance

Tenders were assessed for conformance with the Mandatory Criteria and the general Tender requirements, including the Specification.

- Eastcoast Homes and Park Cabins conformed to the Mandatory Criteria and Tender requirements
- The remaining tenders were deficient in the following areas:
- Uniplan Group – Form 2 of the tender documentation was not submitted which meant this tender contained no financial information on which to assess the financial capacity of the tenderer.
- High-Tech Park Homes, - Form 2 of the tender documentation was not submitted which meant this tender contained no financial information on which to assess the financial capacity of the tenderer.
- APB Modular – Form 2 of the tender documentation was not submitted which meant this tender contained no financial information on which to assess the financial capacity of the tenderer. In addition Form 10 of the tender documentation addressing compliance with the tender specification was not submitted.
- Parkwood Modular Buildings - Form 2 of the tender documentation was not submitted which meant this tender contained no financial information on which to assess the financial capacity of the tenderer.
- Sydney Design and Construction – This tenderer had not completed Form 2 (Financial Capacity), Form 7 (Compliance with OH & S and Workcover compliance), Form 8 (insurances) or Form 10 (Compliance with specifications).
- Sudiro Construction – This tenderer had not completed Form 2 (Financial Capacity), Form 7 (Compliance with OH & S and Workcover compliance), Form 8 (insurances) or Form 10 (Compliance with specifications). Also the tender did not submit a price for the cabins.
- Generally then they did not comply with the Conditions of Tender as none of these Tenders had any financial information to allow initial assessment of corporate financial capacity. Additionally, Tender from APB Modular did not provide a signed Statutory Declaration (Form 5) and a Lump Sum Price (Form 1), Tender from Sydney Design and Construction did not provide any completed Forms except for a Lump Sum Price and Tender from Sudiro Constructions only provided Forms 1 and 5 but no other Forms. Therefore these six Tenders did not provide the required documentation to allow Assessment of Mandatory Criteria and were therefore culled at the initial stage of the evaluation.
- The Tender from Eastcoast Homes and Park Cabins was progressed to the next stage of the evaluation

## Stage 2: Detailed Evaluation of Tenders

The remaining Tender underwent detailed examination of its response in relation to the Weighted Criteria.

Scoring was applied as per the attached Evaluation Scoring Guide (refer **Attachment 1**).

For the Non-Price Criteria, a rating scale was used to score the level of confidence in the Tender respondent as to whether the panel felt it would have the ability to perform the works, based on an assessment of the Tenderer's strengths and weaknesses.

After reaching agreement on the individual Non-price Scores, the Total Non-Price Score for the Tenderer was calculated in the following way:

Non-Price Scoring	Tender 1	Tender 2	Tender 3
Total Non-price Weighted Score ( $T_{ws}$ ) = Sum of individual Non-Price Weighted Scores ( <b>Maximum 55%</b> )			

The tendered price amount was also examined. The assessed and loaded tender Lump Sum Price was used in the following to calculate the Weighted Price Score: (Note the lower the price, the higher the score)

After reaching agreement on the Individual Weighted Scores, the Total Weighted Score for the Tender was calculated by summing the Individual Weighted Scores. The results are summarised as follows:

Tender	Lump Sum Price (Inc. GST)	Price Weighted Score (Maximum 45)	Non-Price Weighted Score (Maximum 55)	Total Weighted Score (Maximum 100)
Eastcoast Homes and Park Cabins	\$1,043,550	45.0	34.3	79.3

### Due Diligence

A referee check was conducted to confirm the preferred Tenderer's past performance.

Eastcoast Homes and Park Cabins achieved a very good referee check. The company is well known to other Councils and has undertaken numerous construction works for other Councils in the past. Eastcoast Homes and Park Cabins has a history of successfully completed contracts similar in nature and scope to the works required under the proposed contract.

### Summary

From above:

Tender from Eastcoast Homes and Park Cabins offered the lowest tendered price and rated well on the Non-price Criteria. The company is known to other Councils and has provided numerous cabin construction related work with local government in the past. The company has fully documented Work Health Safety and Quality Management systems in place. It is considered that Eastcoast Homes and Park Cabins possesses all of the technical, financial and managerial resources necessary to satisfactorily provide the required works.

### **3. CONCLUSION**

The tender from **Eastcoast Homes and Park Cabins** is the highest ranked tender and meets all of Council's requirements for the proposed contract. On balance, this tender represents the best value for money for Council.

---

#### **3.0 SUSTAINABILITY ASSESSMENT**

##### **3.1 Supporting & Connecting our Community (Social)**

- 3.1.1 The provision of these new cabins will add to the quality and quantity of recreational services and facilities within the park.

##### **3.2 Valuing & Caring for our Natural Environment (Environmental)**

- 3.2.1 The tender documentation included a requirement for tenderers to address environmental sustainability and social equity issues. The recommended tender was satisfactory in those regards.

##### **3.3 Enhancing our Working & Learning (Economic)**

- 3.3.1 This tender will have no impact on this assessment.

##### **3.4 Leading an Effective & Collaborative Council (Governance)**

- 3.4.1 The provision of these new cabins will result in increased revenue for the Park and reduced maintenance costs. There is adequate provision in the Lakeside capital works budget to fund this acquisition.

##### **3.5 Integrating our Built Environment (Infrastructure)**

- 3.5.1 The design of the cabins have been designed in a way that they do not change the nature and 'feel' of Sydney Lakeside Park. The design criterion have been developed to add to the overall scheme of the park as a whole. The overall positioning of the cabins also provides more of a village feel, this has been achieved by offsetting cabins into precincts with attached pathways. The cabins now incorporate a deck that will open up the precinct to provide a more family environment.

---

#### **4.0 EXECUTIVE SUMMARY**

- 4.1 Tenders were called in April 2012 for the provision of ten (10) bunkhouse cabins under Tender 01/12.
- 4.2 Seven (7) tenders were received of which only one was conforming.
- 4.3 The only conforming tenderer also tendered the lowest price.

---

## **RECOMMENDATION**

1. That pursuant to clause 178 (1) (a) of the Local Government (General) Regulation 2005, Council accept the tender from Eastcoast Homes and Park Cabins in the lump sum amount of \$1,043,550 (inc GST).
2. That The General Manager be authorised to sign the necessary documentation and affix, on behalf of Council the Council Seal if required.

Report prepared by  
George Veness, Senior Property Officer

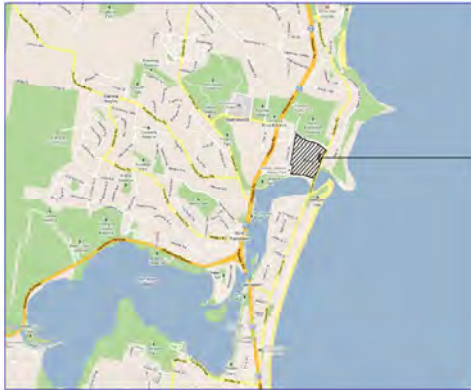
Paul Reid  
**MANAGER, CORPORATE STRATEGY & COMMERCIAL**

## EVALUATION SCORING GUIDE

The Evaluation Panel uses the following rating scale to score its level of the confidence that the Respondent/Tenderer would do what it claims it would do to meet the contractual requirements, based on the Evaluation Panel's assessment of the Respondent's/Tenderer's strengths and weaknesses.

<b>Absolutely Risk-Free.</b> Superior response to criterion. Exceedingly innovative and flexible. Greatly exceeds the evaluation criterion. Comprehensively documented. All proposals and claims comprehensively detailed and substantiated. Unequivocal support from the referees. Minimum contract management.	100
<b>Statistically Risk-Free.</b> Outstanding response to criterion. Highly innovative and flexible. Comprehensively meets the evaluation criterion. Completely documented. All proposals and claims fully detailed and substantiated. Unequivocal support from the referees.	90
<b>Minimal Risk but Acceptable.</b> Excellent response to criterion. Very innovative and flexible. Comfortably meets the evaluation criterion. Very well documented, with only minor omissions acceptable without change. Minor lack of substantiation of claims. Referees happy with the Tenderer.	80
<b>Minor Risk but Acceptable.</b> Very good response to criterion. Innovative and flexible. Satisfactorily meets the evaluation criterion. Well documented, with minor deficiencies and shortcomings resolved with clarification, and manageable with minor changes. Referees happy with the respondent/tenderer but report minor shortcomings.	70
<b>Some Risk but Acceptable.</b> Good response to criterion. Minor innovation and flexibility. Satisfactorily meets the evaluation criterion. Satisfactorily documented, with minor deficiencies and shortcomings resolved with clarification, and manageable with important changes. Referees have reservations about past performance.	60
<b>Risky and Barely Acceptable.</b> Acceptable response to criterion, but some non-critical elements are unworkable. Minor innovation and flexibility. Just meets the evaluation criterion. Satisfactorily documented, with important deficiencies and shortcomings not fully resolved with clarification, and manageable only with significant changes. Referees have experienced poor performance in the past.	50
<b>Risky and Unacceptable. (Proposal is Non-Compliant)</b> Problematic response to criterion, with some important elements unworkable. Little innovation and flexibility. Barely meets the evaluation criterion. Barely documented, with important deficiencies and shortcomings not resolved by clarification, and manageable only with substantial restructuring and extra Contract Manager effort. Referees report past failures.	40
<b>Very Risky and Unacceptable. (Proposal is Non-Compliant)</b> Poor response to criterion with many important elements unworkable. Little innovation and flexibility. Barely meets the evaluation criterion. Barely documented, with important flaws not resolved by clarification, and manageable only with a major re-write and excessive effort by the Contract Manager. Referees report past failures.	30
<b>Extremely Risky and Unacceptable. (Proposal is Non-Compliant)</b> Unsatisfactory response to criterion with the fundamentals lacking. No innovation and inflexible. Does not meet the evaluation criterion. Poorly documented, the Respondent/Tenderer has provided minimal information even with clarification. The respondent/tenderer has made an effort but possesses minimal capability and experience. One or more referees are unable to recommend the tenderer.	20
<b>Unequivocally Risky. (Proposal is Non-Compliant)</b> Incomplete response to criterion. No innovation and inflexible. Does not meet the evaluation criterion. Lacks documentation. Respondent/Tenderer has provided some information but the submission/tender is not genuine. Is out of its depth. Is unsuited to the required services. No likelihood of the Respondent/Tenderer making any effort to manage the risks. No referees cited.	10

# proposed cabins sydney lakeside holiday park north narrabeen



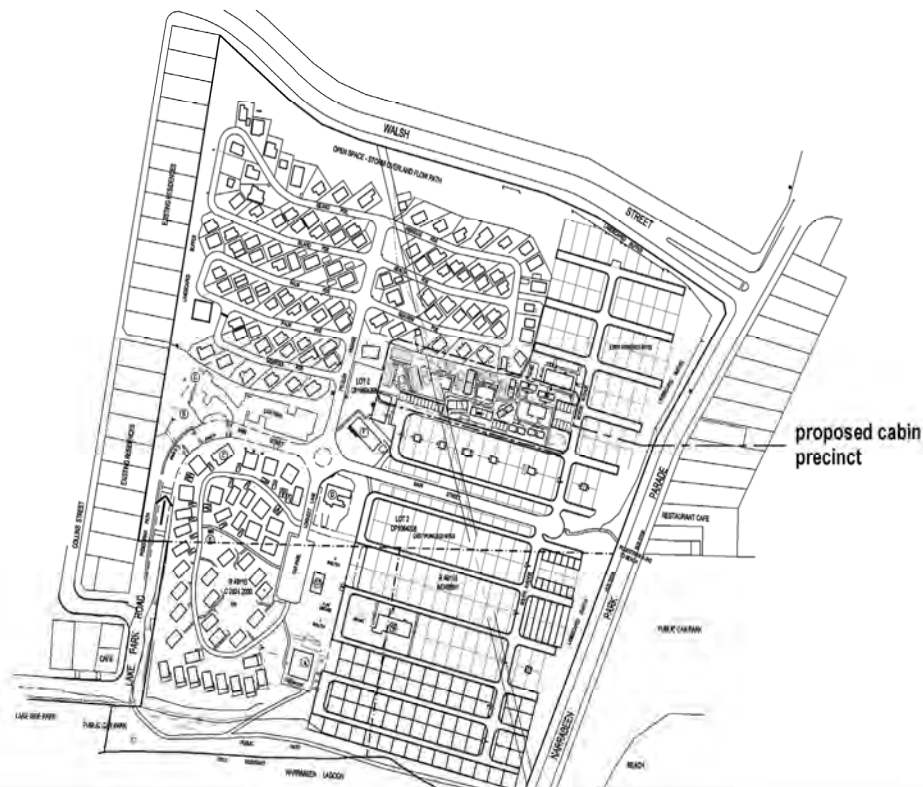
sydney lakeside holiday park

## index to sheets

sheet no.	description
RD11224 - 01	face sheet, locality plan and index
- 02	overall site plan
- 03	precinct plan
- 04	site plan part A
- 05	site plan part B

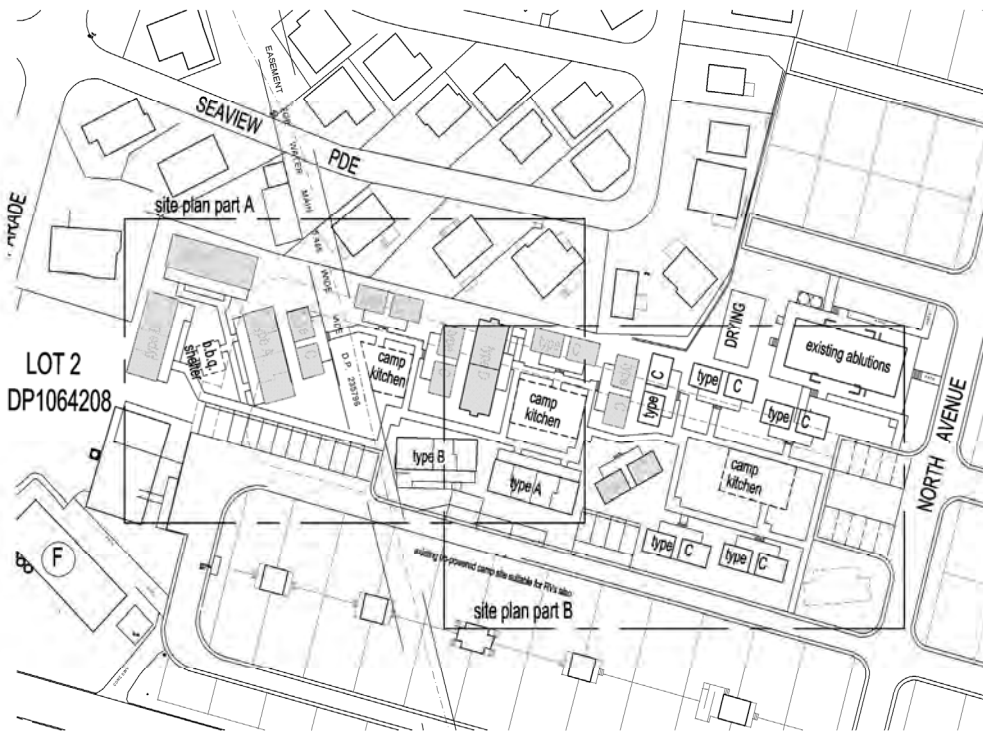
## locality plan

 raymond design	sydney lakeside holiday park 38 lake park road north narrabeen	face sheet, locality plan	sheet no. RD11224 date: 18 DEC 2013 rev: 01 prepared by: RD checked by: RD approved by: RD	 north	RD11224			01.			A		
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proposed cabin precinct

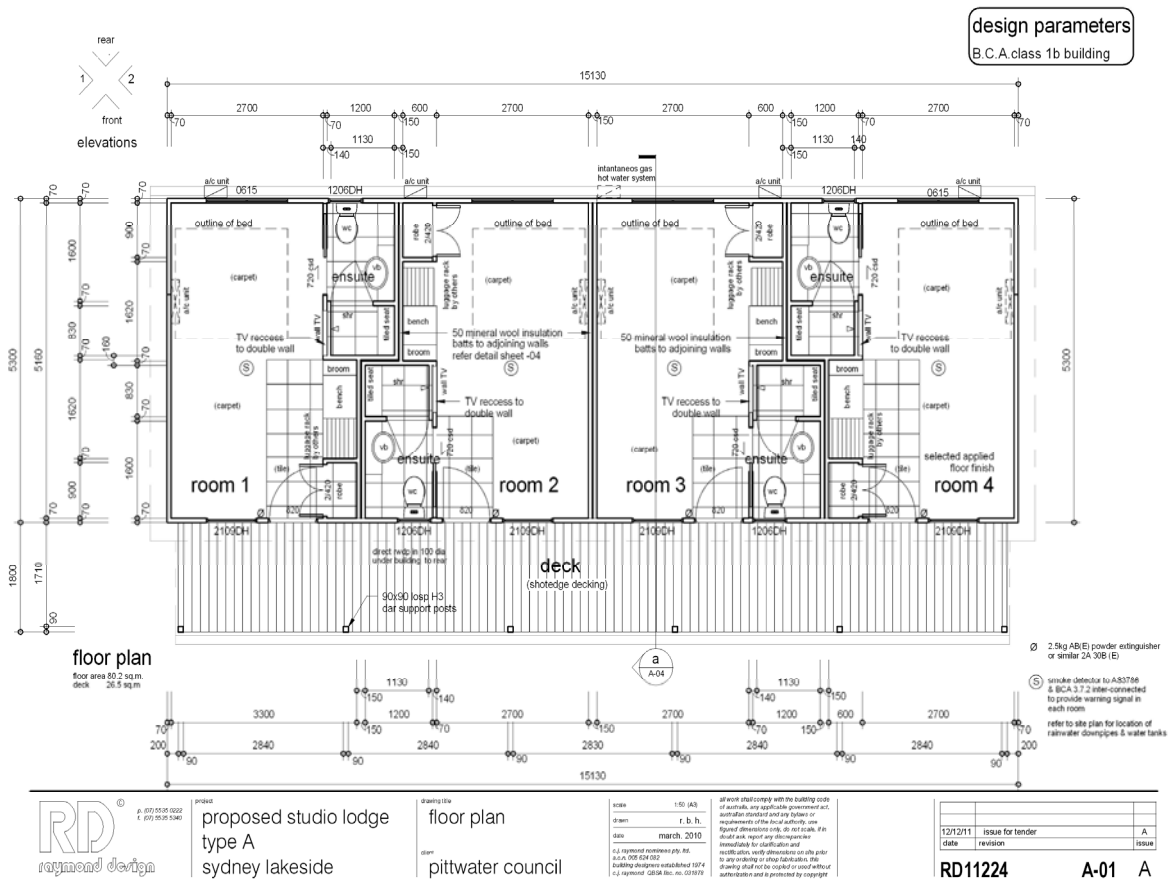
	<b>sydney lakeside holiday park</b> 38 lake park road north narrabeen	<b>overall site plan</b> pitwater council	sheet no. <b>RD11224</b> date: <b>18 DEC 2013</b> rev: <b>01</b> prepared by: <b>RD</b> checked by: <b>RD</b> approved by: <b>RD</b>		RD11224	02	A
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	sydney lakeside holiday park 38 lake park road north narrabeen	cabin precinct plan pittwater council	1:1000 10/10/2011		RD11224	03.	A
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	sydney lakeside holiday park 38 lake park road north narrabeen	cabin precinct site plan part A pittwater council	1:1000 10/10/2011		RD11224	04.	A
			1:1000 10/10/2011		RD11224	04.	A



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## **C10.7      2012-2016 Delivery Program & Budget**

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**Meeting:**            Governance Committee

**Date:**            18 June 2012

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**STRATEGY:**    **Business Management**

**ACTION:**            Develop a structure/framework for integrated Corporate Planning

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### **PURPOSE OF REPORT**

To seek adoption of Pittwater Council's 2012-2016 Delivery Program, 2012-2013 Budget and Fees & Charges and the making of Rates, Domestic Waste Management Charges and Stormwater Management Service Charges.

### **1.0      BACKGROUND**

- 1.1    Pittwater Council's 2012-2016 Delivery Program incorporating the 2012-2013 Budget was placed on statutory public exhibition for a period of 6 weeks, longer than the 28 days as required by the Local Government Act 1993.
- 1.2    Section 402 of the Local Government Act 1993 requires councils to develop a Delivery Program for four years and adopt it on or before 30 June each year.
- 1.3    Pittwater Council's 2012-2016 Delivery Program & Budget has been produced in accordance with the Local Government Act and identifies key actions that will be undertaken by Council over the coming four-year period to meet the community's needs.
- 1.4    The 2012-2016 Delivery Program is the third of the revised structure for the document. The document keeps this Delivery Program in line with the 2020 Strategic Plan as well as making it more accessible/ readable for the community.

### **2.0      ISSUES**

#### **2.1      Review of Pittwater Council's Strategic Framework**

- 2.1.1   Pittwater Council's Delivery Program & Budget has been reviewed in light of the legislative changes from the Department of Local Government. This plan complies with the Integrated Planning and Reporting Framework.
- 2.1.2   Following on from the development of the 2020 Strategic Plan the Delivery Program has been reviewed and updated to flow on from this and provides a four-year delivery program to provide the mechanism to achieve the community's goals and targets and to translate strategic initiatives into yearly actions.
- 2.1.3   Council's Delivery Program continues to be structured along the same lines of the Strategic Plan which includes having 20 strategies under five key directions.
- 2.1.4   The way in which Council's budget is presented again reflects the 20 strategies and five key directions from the 2020 Strategic Plan. Financial information is still presented in the traditional format in terms of the consolidated statement but a budget has also been presented for each of the five key directions and 20 strategies.

2.1.5 In the 2012-2016 Delivery Program there has also been a streamlined approach to the existing introductory information and document section to make the document more accessible for the community. Hence there is a move towards avoiding duplication and directing residents to the relevant documents on the internet.

2.1.6 For the fourth time, the 2012-2016 Delivery Program contains operational key performance indicators (KPI's). These KPI's have been developed so that the community will be able to track the performance of Council over a long period of time. The progress of these KPI's will be reported in the Annual Report.

## 2.2 Summary of Pittwater Council's 2012-2016 Delivery Program

2.2.1 The 2012-2016 Delivery Program establishes an overall operating framework for all Council activities and provides an instrument of public accountability and the basis for measuring the performance of Council.

2.2.2 The community vision that underpins both the 2020 Strategic Plan and Delivery Program is ***'to be a vibrant sustainable community of connected villages inspired by bush, beach and water'***.

2.2.3 The 2012-2016 Delivery Program comprises of 5 sections including:

- **Section 1 – Overview:** providing an overview of Pittwater's community and Council including the strategic direction for Pittwater; a snapshot of Pittwater's demographic profile; introducing your Councillors; Council's organisational structure, vision, mission and values; where your Council dollar goes each year; and Council's customer service charter.
- **Section 2 – Financials:** outlining Council's financial information including Council's revenue policy; a statement of ordinary and special rates and charges; pricing policy; proposed external borrowings statement; one-year and four-year consolidated, operating, cash flow statements and balance sheets.
- **Section 3 – 4 Year Delivery Program:** outlining a four-year action plan for Council activities under 20 Strategies and 5 Key Directions as outlined in the 2020 Strategic Plan as well as a one-year budget and four-year Capital Improvements Program.
- **Section 4 – Statement of Fees & Charges:** outlining the full range of 2012-2013 fees and charges that Council is authorised to charge.

2.2.4 There are four years worth of actions in the Delivery Program for Council to achieve from 2012-2016. These actions are spread across all the 20 strategies contained in the 2020 Strategic Plan. The responsibility for the completion of each action has been assigned to specific Business Units within Council. Progress and monitoring on the delivery of these actions is done on a quarterly basis and progress reported to Council each quarter.

2.2.5 12 reference points emanated from Reference Group meetings over the past 12 months. These have been reviewed and considered in the preparation of the 2012-2016 Delivery Program and Budget. 11 of the 12 reference points have been wrapped up within existing actions over the next four years within the plan. The 1 reference point not included is;

*'Council work with the community to encourage residents to clear leaf litter, vegetation and pollutants from kerbs and gutters in their neighbourhood'*

In review, this reference point would require a broad based education approach across the whole of Pittwater, Council will research possible grant opportunities to complete this reference point. If funding is obtained the reference point will be included at a later stage.

## 2.3 Special Variation Application – IPART Determination

IPART approved the Special Rate Variation, in 2011, of 7.8%, 7% and 6% (including CPI) over three years. The SRV will generate approximately \$38 million over a ten year period that is to be spent on community services and infrastructure programs under a community contract. The full list of programs being funded by the SRV can be found at the end of each of the Key Directions in this document.

In addition to this IPART have introduced a *Carbon Price Advance*. IPART has set the rate peg for 2012/13 at 3.6%. This includes an amount of 0.4% as a carbon price advance. The carbon price advance will be removed from the rate pegs in the following two years. They will remove 0.1% from the 2013/14 rate peg and 0.3% from the 2014/15 rate peg. IPART have made these adjustments to the rate pegs to assist councils to meet higher costs expected from the carbon price to be introduced from 1 July 2012.

This process bring councils, who have special rate variations, into line with the way IPART have set the rate peg for 2012/13 and the adjustments to the rate peg in subsequent years. All works associated with the 10-year \$38million program have been incorporated into the 2012-2016 Delivery Program and Budget that has been on exhibition. The SRV works program has been separated out from the CIP program in the Delivery Program to ensure ongoing clarity for reporting.

## 2.4 Financial Summary for 2012/2013 Budget

### 2.4.1 2012/2013 Budget Outline

Operating Result	\$ 1,247,761 (surplus)
Consolidated Result	\$ 88,900 (surplus)
Total Cash & Investments	\$ 22,346,039
Capital Improvements	\$ 19,688,942
Rating Income Yield	\$ 35,268,901
Domestic Waste Charge	\$ 11,480,698
Unrestricted Current Ratio	3.52 (stable)
Debt Service Ratio	2.29% (low)

### 2.4.2 Highlights for 2012/2013 include:

- Car park and access improvements, including construction of Mona Vale Car Park at Bungan Lane
- Coastal and Wetland walkway upgrades
- Bushland Enhancement works and rehabilitation
- Floodplain mitigation works and stormwater system upgrades
- Extension of lifeguard services across council beaches
- Pittwater estuary and coastline remediation works
- Local road rehabilitation & maintenance
- Cycleways and pedestrian network upgrades
- Further upgrades to Scotland Island road and drainage networks
- Elanora Heights commercial centre upgrade – Stage 1
- Narrabeen Sports High – shared use ovals upgrade including synthetic playing surface
- Energy and water saving initiatives

- Waste management initiatives including Waste and Sustainability Improvement Payment (WaSIP) Program
- Construction of large park and playground within Warriewood Valley
- Wharf and waterway infrastructure upgrades
- Warriewood Valley s94 road and drainage upgrades
- Managing natural hazards

#### 2.4.3 Capital Improvement Program

There is \$ 19,688,942 budgeted in the Capital Improvements Program, including the following examples of major projects:

Strategy	CIP Description	TOTAL
Asset Management	Implement Asset Management Program	175,000
Beach & Coastal Management	Bicentennial Coastal Walkway Upgrades Estuary & Coastline Rehabilitation	322,340
Building Communities	Mona Vale Carpark Upgrade Commercial Centre Upgrades	3,923,637
Business Management	Sydney Lakeside Capital Works	2,289,394
Energy Efficiency	Revolving Energy Fund – retrofit of council & community buildings	344,840
Recreational Management	Playground Refurbishments Palm Beach Wharf Upgrade Avalon Surf Club Improvements Reserve Improvements	2,012,263
Transport & Traffic	Road Rehabilitation Roadside & Verge Improvements Roads to Recovery	8,265,910
Water Management	Stormwater Quality Treatment Device Improvements Fern Creek – Corridor H Floodplain Mitigation Works	1,942,538

## 2.5 Ministerial Advice on General Revenue Increase

2.5.1 On 15 May 2012 IPART announced an increase of 7.4 percent (including carbon tax adjustment) in the amount that Council can generate from general-purpose rate income in 2012-2013.

2.5.2 In accordance with Section 494 of the Local Government Act 1993, it is recommended that Council makes the following Ordinary Rates for 2012/13;

Ordinary Rate Name	Rate in \$	Minimum Rate
Residential	0.17291c	\$755.33
Farmland	0.12064c	\$755.33
Business	0.31747c	\$964.33
Bus-Warriewood Square	0.35834c	-

## 2.6 Interest Charges on Overdue Rates

2.6.1 The Minister for Local Government has determined that the maximum rate of interest that may be charged on overdue rates and charges for 2012-2013 will be 10%.

2.6.2 In accordance with Section 566(3) of the Local Government Act, it is recommended that Council resolves to adopt the maximum interest rate allowed.

## 2.7 Domestic Waste Management Charges

2.7.1 Domestic Waste Management Charges for 2012-2013 have been increased to reflect the cost of the service.

2.7.1 In accordance with Section 496 of the Local Government Act 1993, it has been recommended that Council makes and levies the following Domestic Waste Management Charges for 2012-2013:

Domestic Waste Charge Name	Total Charge
Availability Charge	\$130.00
Residential Usage Charge	\$470.00
Special Charge (some retirement villages)	\$418.00

## 2.8 Stormwater Management Service Charges

2.8.1 The Stormwater Management Service Charges for 2012-2013 have remained the same as 2011-2012.

2.8.2 In accordance with Section 496 of the Local Government Act 1993, it has been recommended that Council makes the following Stormwater Management Service Charges for 2012-2013:

Stormwater Management Service Charge Name	Total Charge
Land categorised as residential	\$25.00
Residential Strata (per lot)	\$12.50
Land categorised as business	\$25 per 350 sqm (or part thereof)

## 2.9 Public Submissions on Delivery Program

2.9.1 The Delivery Program was placed on exhibition on 17 April 2012 to 31 May 2012 for a period of 6 weeks. (Normally only 28 days)

2.9.2 Public exhibition of the Draft Plan included:

- Advertisement in local papers and magazines
- Copies being made available at Council offices, Mona Vale and Avalon Community Library and on the Pittwater Council website.

2.9.3 In addition a public meeting (15 May 2012) was held with residents to outline the details of the Delivery Program and to gain feedback during the exhibition period.

2.9.4 A total of 3 written submissions were received from residents that covered 3 themes. These submissions have been summarised below. Included in the summaries are responses to each of the themes raised and as well as an outcome to the issue raised with respect to the Delivery Program. The themes raised include;

### THEME 1: Heritage

**Number of Submissions: 1**

#### Submission Points

- Further funding should be contributed, by Council, toward heritage related studies within the 2012/2013 Budget

## **Council Response**

The Council is committed to the preservation and promotion of heritage in all its forms across the Local Government Area. This is reflected in the significant proportion of the Planning & Assessment budget allocated towards heritage projects. Examples of this include:

- Provision made in the current budget to fund (along with a partial grant from the NSW Heritage Office) a Community Based Heritage Study. This extensive study includes the engagement of a professional heritage consultant to work with the Council and the Pittwater Community to review and update the Council's heritage listed items.
- Provision made for funding to retain a heritage expert to provide a heritage advisory service. This service assists owners in the preparation of applications and assists staff in the assessment of applications either associated with, or in the vicinity of, items of heritage significance.
- Council makes a significant contribution to funding the Aboriginal Heritage Office (AHO). The AHO provides a wide range of services to Council and the community including training for staff and assistance in the assessment of development applications.
- In addition to the above, a significant proportion of staff time is spent on heritage related matters.

On balance, the funding of heritage at Council is considered reasonable.

## **Outcome**

- No change made to 2012-2016 Delivery Program & Budget.

## **THEME 2: Sustainability and Climate Change including energy efficiency**

### **Number of Submissions: 1**

#### **Submission Points**

- That the Council and community is not making adequate progress in meeting the objectives within Pittwater 2020
- Assuming Council is setting out in the 2012-2016 Delivery Program to deliver the measures in the 2020 Strategic Plan, then:
  - Is Council planning to address **all** the Strategic Plan initiatives by 2020 or only a selection? Which initiatives has it set aside?
  - What targets have been set or should be set to meet the initiatives under the current state of environment community concern
  - What timetable are we working to for implementing initiatives in the Strategic Plan
  - What progress have we made to date? Are we on schedule?
  - How much effort is required to meet the initiatives? Does Council need to allocate additional funds or/and more human resources to meet the objectives?

### **Council Response**

- Council is committed to Sustainability and Energy Efficiency as evident by Pittwater 2020 and the budget put toward these outcomes
- Progress on the KPI's within the Delivery program each year are collated within the Annual Reports
- Progress of all targets and objectives within Pittwater 2020 will be highlighted in the *End of Term Report* that will be going to Council for consideration in August 2012
- Council will be conducting a major review of Pittwater 2020 over the next year where the effectiveness of the entire Pittwater 2020 will be assessed and reviewed
- The 2012-2016 Delivery Program & Budget has included the following budget for 2012/2013:
  - Energy Efficiency Strategy = \$740,403
  - Sustainability & Climate Change = \$237,479

### **Outcome**

- No change made to 2012-2016 Delivery Program & Budget

### **THEME 3: Overall comments on the structure of the document and the 2012/2013 Budget**

#### **Number of Submissions: 1**

#### **Submission Points**

- Business Unit Budgets and staff numbers in the organigram
- That the 'Where your Dollar Goes' section is too complicated and not transparent
- That the reference to the survey in the Environmental Section should be detailed further
- That the community engagement statement should be amended
- Details should be provided of the SRV committee around structure, sign-off and reports
- Detail needs to be provided on external loan borrowings
- General statements on the actual budget items
- PCYC should be taken out of the plan

### **Council Response**

- Since moving toward the Integrated Planning and Reporting framework, as legislated in Oct 2010, council provides a whole of council budget as well as indicative; 5 Key Direction Budgets and 20 Strategic budgets. Staff numbers are reported within the Annual Report as required.
- The "Where your Dollar Goes" section is there to provide residents an overview of the types of items council spends money on and is not meant to be a full listing of expenditure items
- This detailed survey has gone to Council before and highlighted the importance of the environment to the community as well as indicating that residents had a high level of satisfaction with what Council where doing in this regard.
- Council has a clear Community Engagement Policy that has been adopted by Council that includes Equity, Access, Participation and Rights.

- There is a formal process by which the SRV Committee is conducted; there was an extensive process by which members were selected. The role and responsibility of this committee has been adopted by Council.
- A narrative has now been provided on external loan borrowings
- The general statements (views of the submission author) regarding the budget have been reviewed and some minor explanations have been incorporated into the Delivery Program Document.
- The final decision has not been made on the PCYC and thus has been kept within the plan and budget

#### **Outcome**

- Additional commentary has been included in the Delivery Plan Document concerning borrowings, SRV committee structure and an explanation of Council's Operating and Consolidated Statements.
- Council will be conducting a major review of Pittwater 2020 and all cascading documents including all future Delivery Programs

## **2.10 Council Amendments**

The exhibited 2012-2016 Delivery Program & Budget has undergone the following amendments. These amendments are due to new information being made available since the Draft 2012-2016 Delivery Program & Budget went on public exhibition. The amendments below are not from public submissions to Council.

### **2.10.1 Changes to Financials - Section 2**

#### **2012/2013 Rating Structure Table**

- Minor changes to the rating structure table in the Draft Delivery Program as highlighted in section 2.4.2 of this report.
- In addition to minor changes, Council incorporated IPART's 0.4% increase associated with the carbon tax which amounted to a general rate increase of \$145,809 in 2012-13. This increase is to be unwound over the next two years (0.1% in 2013-14 & 0.3% in 2014-15) as prescribed by IPART. This additional income (and unwinding) has been incorporated in the 2012-13 and future years budgets.

#### **General Budgetary and Accounting Changes**

- Pasadena Site Church Point – The removal of financial information relating to the purchase of the Pasadena Site, including both associated loan borrowings and purchase price of \$2 Million dollars.
- Sydney Lakeside Tourist Park - The addition of financial information associated with the Master Plan upgrades for the Sydney Lakeside Tourist Park. Additional information included future proposed borrowings of \$1.5 million in 2012-13 and \$1.3 million in 2013-14 and associated capital works, sale of cabins at approximately \$1.1 million in both 2012-13 and 2013-14 and changes to operational income and expenditure projections associated with the upgrade of the Park.
- Additional commentary has been included in the Delivery Plan Document concerning borrowings, SRV committee structure and an explanation of Council's Operating and Consolidated Statements.

## **2.10.2 Changes to Fees & Charges – Section 4**

### **Section 603 Certificates (Certificates as to Rates and Charges)**

The S603 Certificate Statutory Fees has increased from \$60 (as per Council's Draft 2012/13 Fees and Charges) to \$65 per certificate. This fee of \$65 per Certificate is to be included in the 2012/13 Fees and Charges Schedule.

### **Parking Permits**

Residential Additional Stickers from 1 March – 31 August where changed from \$4.50 to \$41.50. This change was due to a typing error during the development of the document

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## **3.0 SUSTAINABILITY ASSESSMENT**

### **3.1 Supporting & Connecting our Community (Social)**

The actions in the 2012-2016 Delivery Program all have a positive affect on community connectedness and continue to provide a variety of services across the community.

### **3.2 Valuing & Caring for our Natural Environment (Environmental)**

All the activities within the Delivery Program reflect the philosophy of protecting and enhancing the human and natural environment for current and future generations.

### **3.3 Enhancing our Working & Learning (Economic)**

Council continues to provide life-long learning opportunities for all sectors of the community. Council commits to local economic development initiatives that do not have a negative impact on the local natural environment.

### **3.4 Leading an Effective & Collaborative Council (Governance)**

The layout and structure of the Delivery Program contributes toward Council's ongoing commitment to transparency and accountability when dealing with the community.

### **3.5 Integrating our Built Environment (Infrastructure)**

The CIP budget & delivery program as well as the SRV program of works contained within the Delivery Program highlights Councils aim of enhancing the provision and use of public space as well as ensuring that Council adhere to environmental principles with maintaining and creating new assets.

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## **4.0 EXECUTIVE SUMMARY**

4.1 Pittwater Council's 2012-2016 Delivery Program incorporating the 2012-2013 Budget was placed on statutory public exhibition for a period of 6 weeks, more than the 28 days as required by the Local Government Act 1993.

4.2 The budget included in the 2012-2016 Delivery Program provides for a Consolidated (Operating plus Capital) surplus of \$88,900 and an Operating surplus of \$1,247,761 for 2012-2013.

4.3 Delivery Program actions are spread across all the 20 strategies contained in Pittwater 2020. The responsibility for the completion of each action has been assigned to specific Business Units within Council. Progress and monitoring on the delivery of these actions is done on a Quarterly basis and reported to Council.

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## **RECOMMENDATION**

1. That Council makes the annual Ordinary Rates (in accordance with IPART's approval), Domestic Waste Management Charges and Stormwater Management Services Charges for 2012/2013 as named and shown in the Report.
2. That Pittwater Council's 2012-2016 Delivery Program, 2012-2013 Budget and all other Fees & Charges, as tabled, be adopted.

Report prepared by  
Paul Reid - Manager, Manager Corporate Strategy & Commercial  
Mark Jones - Chief Financial Officer

Mark Ferguson  
**GENERAL MANAGER**

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## **C10.8 Privacy Management Plan Review**

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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** To effectively manage Council's Corporate Governance responsibilities

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### **PURPOSE OF REPORT**

To make minor amendments to Council's Privacy Management Plan to ensure it is up to date, easy to understand and complies with legislative requirements.

### **1.0 BACKGROUND**

1.1 A review of Council's Privacy Management Plan has been undertaken to ensure all references are correct and the document is well set out and easy to understand.

### **2.0 ISSUES**

2.1 Section 33 of the Privacy and Personal Information Protection Act 1998 (PIPPA), requires all NSW Councils to prepare a Privacy Management Plan.

2.2 In addition a Privacy Code of Practice for Local Government was gazetted on 30 June 2000, which had the effect of modifying part of the PIPP Act to apply to local government.

2.3 Councils were provided with a model Privacy Management Plan in June 2000 and to comply with the requirements of the PIPP Act, Council adopted the model Plan on 23 October 2000.

2.4 A review of Council's Privacy Management Plan has been undertaken to ensure the Plan is still current.

2.5 A few minor amendments have been made. These include the following:

- replacement of a reference to the Freedom of Information Act to the Government Information (Public Access) Act 2009;
- replacement of a reference to the Commonwealth Oaths Act on the statutory declaration form to the NSW Oaths Act;
- insertion of a privacy notice on the two statutory declaration forms;
- some grammatical amendment.

2.6 These changes are considered administrative and minor only, having no effect on the requirements of the Plan, and therefore not requiring public exhibition.

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### **3.0 SUSTAINABILITY ASSESSMENT**

#### **3.1 Supporting & Connecting our Community (Social)**

3.1.1 The report will have no effect on this strategy.

### 3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 The report will have no effect on this strategy.

### 3.3 Enhancing our Working & Learning (Economic)

3.3.1 The report will have no effect on this strategy.

### 3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 The amendments to the Privacy Management Plan, particularly the addition of a privacy notice to the statutory declaration forms, provides information to the public about how their personal information will be used, collected, stored and may be amended.

### 3.5 Integrating our Built Environment (Infrastructure)

3.5.1 The report will have no effect on this strategy.

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## 4.0 EXECUTIVE SUMMARY

4.1 The Privacy Management Plan adopted in October 2000 (Policy No 134), and last amended in November 2011, has a few administrative errors and omissions in it.

4.2 The Plan has been amended to correct these administrative errors and omissions.

4.3 The amendments to the original document (refer **Attachment 1**) is attached with changes highlighted in yellow.

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## RECOMMENDATION

That the attached amended Privacy Management Plan be adopted and a copy be referred to the Office of the NSW Privacy Commissioner.

Report prepared by  
Gabrielle Angles, Principal Officer - Administration

Warwick Lawrence  
**MANAGER, ADMINISTRATION & GOVERNANCE**

<b>Council Policy – No 134</b>	<b>Adopted:</b>	<b>OM:23.10.2000</b>
	<b>Amended</b>	<b>OM:18.05.09, OM:17.10.2011</b>
<b>Version:</b>		

**TITLE:** **PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 - PRIVACY MANAGEMENT PLAN**

**STRATEGY:** **Business Management**

**BUSINESS UNIT:** **Administration and Governance**

**RELEVANT LEGISLATION:** **Privacy and Personal Information Protection Act 1998**  
**Government Information (Public Access) Act 2009**  
**Health Records & Information Act 2002**  
**NSW Local Government Act 1993**  
**Children and Young Peoples Act**  
**Environmental Planning and Assessment Act 1979**

**RELATED POLICIES:** **Policy No 165 - Access to Public Information**

### **Objective**

To provide for the protection of personal information and for the protection of the privacy of individuals.

### **Policy Statement**

This Policy has been prepared in accordance with Section 33 of the Privacy and Personal Information Protection Act (PPIPA) and the Privacy Code of Practice for Local Government

In order to comply with the requirements of the Act, Council is to comply with the twelve Information Protection Principles which have been incorporated into this Plan.

Council collects, stores and uses a broad range of information. A significant part of that information is personal information. This Plan applies to that part of the Council's information that is personal information.

## PRIVACY MANAGEMENT PLAN FOR PITTWATER COUNCIL

### Introduction

Council's Privacy Management Plan provides for the protection of personal information and for the protection of the privacy of individuals and has been prepared in accordance with Section 33 of the Privacy and Personal Information Protection Act (PPIPA) and the Privacy Code of Practice for Local Government.

In order to comply with the requirements of the Act, Council is to comply with the twelve Information Protection Principles which have been incorporated into this Plan.

Council collects, stores and uses a broad range of information. A significant part of that information is personal information. This Plan applies to that part of the Council's information that is personal information.

#### What is personal information?

"Personal information" is defined in section 4 of the PPIPA as follows:

Personal information is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

#### What is not "personal information"?

"Personal information" does not "include information about an individual that is contained in a publicly available publication". Personal information, once it is contained in a publicly available publication, ceases to be **personal information and is no longer** covered by the PPIPA.

Where the Council is requested to provide access or make a disclosure and that information has already been published, then the Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIPA.

Council considers the following to be publicly available publications:

- An advertisement containing personal information in a local, city or national newspaper
- Personal information on the Internet
- Books or magazines that are printed and distributed broadly to the general public
- Council Business papers or that part that is available to the general public
- Personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIPA. However, Council's decision to publish in this way must be in accordance with the PPIPA.

## Policy on Electoral Rolls

The Electoral Roll is a publicly available publication. Council will provide open access to the Electoral Roll in Council's Mona Vale Library. Council will refer any requests for copies of the Electoral Roll to the State Electoral Commissioner. Council will not provide copies of the Electoral Roll.

## Application of this Plan

The PPIPA and this Plan apply, wherever practicable, to:

- Councillors
- Council employees
- Consultants and contractors of the Council
- Council owned businesses and
- Council committees (including those which may be established under section 355 of the LGA).

Council will ensure that all such parties are made aware that they must:

- comply with PPIPA
- comply with the Code of Practice for Local Government
- comply with any other applicable Privacy Code of Practice and this Plan
- not collect personal information by an unlawful means.

## Personal Information Held by Council

The Council holds personal information concerning Councillors, such as:

- personal contact information
- complaints and disciplinary matters
- pecuniary interest returns and
- entitlements to fees, expenses and facilities.

The Council holds personal information concerning its customers, ratepayers and residents, such as (but not limited to):

- rates records
- DA applications and related submissions
- Unsolicited complaints and petitions
- Submissions and information provided as part of Community Engagement
- Details as provided on any form or application presented to Council

The Council holds personal information concerning its employees, such as:

- recruitment material
- leave and payroll data
- personal contact information
- performance management plans
- disciplinary matters
- pecuniary interest returns and
- wage and salary entitlements.

Applications for suppression in relation to general information s 739 LGA (not public registers).

Where an application for suppression is made in relation to anything other than a public register, then an application under section 739 of the Local Government Act 1993 ("LGA") is required.

Section 739 of the LGA covers all publicly available material under the GIPA Act other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739.

When in doubt, Council will err in favour of suppression.

#### Caution as to Unsolicited Information (Complaints, Petitions)

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal information, then that information should be still treated in accordance with this Plan, the Code and the PPIPA for the purposes of Principles 5-12 which relate to storage, access, use and disclosure of information.

As a matter of course the subject matter of petitions may be reported to Council meetings but the names and addresses are not provided in the Business Paper nor will they be provided to any third party.

Similarly the nature of any unsolicited complaint received may be available in accordance with the **Government Information (Public Access) Act 2009 (NSW)** however the name and address of the complainant will not be disclosed to any third party nor will any other relevant information relating to the complaint that may identify the complainant (i.e. photos).

#### Information collected as a result of a Community Engagement process (submissions, surveys, contact details at meetings)

Council engages the public by way of public meetings, surveys or invitations for submissions on a Council project, event or other initiative. Council will advise the public in letters, on website, in advertising and at public meetings how any personal information that is collected will be handled. Unless indicated otherwise such personal information will generally be dealt with as follows:-

**PUBLIC MEETINGS:** Personal information collected at public meetings will only be collected for the purpose of ongoing consultation on the issue by Council officers. Such information will not be made available for release to the public.

**SUBMISSIONS:** All submissions received as part of a community engagement process will be considered in the public arena and as such any submission will be made available in its entirety if so requested, unless confidentiality is requested in accordance with the provisions of Section 739 of the Local Government Act.

#### Health Records and Information Privacy Act 2002

This Plan details how the Council deals with both personal information and health information it collects to ensure that it complies with the Privacy and Personal Information Protection Act 1998 (NSW) or The Privacy Act 1988 (Commonwealth) and the Health Records and Information Privacy Act 2002. In the Plan a reference to "information" is a reference to both health information and personal information.

The following paragraphs in italics have been paraphrased from the Department of Local Government's Privacy Code of Practice.

## ***Privacy principles (Part 2 Division 1 Sections 8 to 19 inclusive, PIPP Act)***

### *Collection of Personal Information for Lawful Purposes*

1. *Council will not collect personal information unless:*
  - (a) *Information is collected for a lawful purpose that is directly related to a function or activity of Council, and*
  - (b) *The collection of the information is reasonably necessary for that purpose.*
2. *The Council will not collect personal information by any unlawful means.*

### Dealings With Other Councils and Government Agencies

Council continues to collect and deliver personal information to and from Government Departments involved in the normal functions of Council's operation. Council deals with the NSW Commission for Children and Young People for enquiries on personnel and recruitment matters i.e. for pre-employment screening of people working with children (Children and Young Peoples Act).

### Multiple Uses of Personal Information

Council uses personal information for a variety of purposes within its departments, as on most occasions the information was collected for one main purpose, it may be used for a variety of other Council related purposes.

For example, the names and address of individual owners of property kept on the Rate and Charging Record (Section 602 of the Local Government Act, 1993) are used to notify adjoining owners of proposed development, identify companion animal ownership, evaluate applications for the removal of trees, investigate complaints regarding non compliance with the various Acts administered by Council, evaluate applications for uses of public land including dedications and resumptions as well as being the basis of the Rating and Valuation Register.

Personal information collected by Council may also be used for the purpose of customer/ratepayer satisfaction surveys or any other Council related project that may require a random selection of names and addresses for any other consultation purpose.

### ***Collection of Information Directly from the Individual***

*When collecting personal information, Council will collect information only from the individual to whom the information relates unless:*

- (a) *the individual has authorised collection from someone else, or*
- (b) *the information has been provided by a parent or guardian of a person under the age of 16.*

Council may depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

### ***Requirements When Collecting Personal Information***

*When Council collects personal information about an individual, that person will be notified of:*

- (a) *the fact that the information is being collected*
- (b) *the purposes for which the information is collected*
- (c)

- the intended recipients of the information*
- (d) *whether the supply of information is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided*
- (e) *the existence of any right of access to, and correction of the information*
- (f) *Council's name and address and where the information will be stored.*

A privacy protection notice will be added to all forms, where the Council solicits personal information from the general public. Internal forms are not affected. A Privacy Statement will be read at public meetings, where lists of names and addresses of attendees are collected. Council may depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

### **Other Requirements Relating to the Collection of Personal Information**

*Council will take reasonable steps to ensure that:*

- (a) *information collected, is relevant to a purpose, is not excessive, is accurate, up to date and complete, and*
- (b) *the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.*

Council may use public place video surveillance in accordance with **NSW Government Policy Statement and Guidelines for the Establishment and Implementation of Closed Circuit Television in Public Places**. The provisions of the Work Place Surveillance act will be complied with.

### **Retention and Security of Personal Information**

*With regard to the retention and security of personal information, Council will ensure:*

- (a) *that information is kept for no longer than is necessary for the purposes for which the information may be lawfully used, and*
- (b) *that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and*
- (c) *that the information is protected, by taking such security safeguards as a reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure and against all other misuse (as are reasonable in the circumstances), and*
- (d) *that if it is necessary for the information to be given to a person in connection with the provision of a service to council, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.*

Where it is necessary for personal information to be given to a person in connection with the provision of a service to council, Council shall ask the following questions and make the following enquiries:

- Who, or which statutory requirement, has authorised its transfer?
- To what purpose will the personal information be used?
- What measures are in place to ensure its proper use?
- How will it be held?
- Who will have access to it?
- What measures are in place to prevent unauthorised access?
- Upon use of the information, how will it be disposed of?
- What measures are in place to ensure compliance with PIPPA?

Disposal (archiving and destruction) of Council records is the responsibility of the Group Leader - Records. All records approved for destruction by the Group Leader -Records are also recommended for destruction by the manager/director responsible for the functional area that created the records.

The Records Disposal Schedule used as the basis for records disposal is GDA10: General Records Disposal Schedule for Local Government Records, issued by State Records NSW and having effect under the State Records Act 1998. GDA10 is a public document available from State Records NSW.

Destruction of records which have no residual business or research values and which are eligible for destruction in accordance with GDA10, is undertaken on an as required basis.

### ***Information About Personal Information Held by Agencies***

*If Council holds personal information about any individual it will take the necessary steps to enable any person to ascertain:*

- (a) Whether the Council holds personal information and*
- (b) Whether the Council holds personal information relating to that person, and*
- (c) If Council holds personal information relating to that person:*
  - (1) The nature of that information and*
  - (2) The main purposes that the information is being used, and*
  - (3) That person's entitlement to gain access to that information.*

### ***Access to Personal Information Held by Agencies***

*Where Council holds personal information, it will, at the request of an individual to whom personal information relates and without excessive delay or expense, provide the individual with access to that information.*

Any person will be able to ascertain whether Council holds their personal information by contacting Council in writing addressed to the General Manager. Employees should enquire at the Corporate Development Unit to access their records.

### ***Alteration of Personal Information***

*If Council holds personal information, it will, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:*

- (a) is accurate, and*
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.*

*If Council is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, Council will, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.*

*If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by Council.*

If personal information is amended Council will arrange for records to be physically altered, whether computerised or in hard copy.

The council will seek to notify recipients of information, as soon as possible, of the making of any amendment where it is reasonably practicable. In deciding whether notification is reasonably practicable in the circumstances of a particular case, Council shall have regard to the following matters:

- Did Council collect the personal information?
- Has the personal information been forwarded to other parties?
- How many other parties would have received the personal information?
- What was the use of the information by the other parties?
- How widespread was the dissemination of the personal information within the organisations?
- How many persons would have had access to the information before and after the amendments?
- Would there be an unfair and misleading impression given of the individual?
- Would there be a potential adverse outcome for the individual as a consequence of a failure not to modify?
- What are the practical issues that have to be resolved to manage the process?
- Can Council quantify the resources, financial and human, required to notify all the parties who received the information?

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the General Manager in the first instance and treated in accordance with the grievance procedures or complaint handling procedures.

### ***Agency Must Check Accuracy of Personal Information Before Use***

*Council will not use personal information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.*

### ***Limits on Use of Personal Information***

*Council will not use personal information for a purpose other than for which it was collected unless:*

- (a) *The individual to whom the information relates has consented to use the information for that other purpose, or*
- (b) *The other purpose for which the information is used is directly related to the purpose for which it was collected, or*
- (c) *The use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom that information relates or to another person.*

Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- (a) Where the use is in pursuance of Council's lawful and proper functions and Council is satisfied that the personal information is reasonably necessary for the exercise of such functions, or
- (b) Where personnel information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition
- (c) Those purposes referred to in the section heading "Multiple Uses of Personal information".

Staff using relevant personal information to perform usual office functions will not notify individuals for their approval. Personnel and recruiting records will be discussed with solicitors when the need arises and with council staff when necessary without prior approval of individuals. These processes relate to the normal operational functions of council and any personal information collected will be used for multiple purposes, only if required for the business of Council.

### ***Limits of Disclosure of Personal Information***

- (a) *Council will not disclose personal information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:*
  - (1) *The disclosure is directly related to the purpose for which it was collected and there is no reason to believe the individual concerned would object, or*
  - (2) *The individual has been made aware that this kind of information is usually released, or*
  - (3) *Disclosure is necessary to prevent or lessen a serious or imminent threat to the life of the individual concerned or another person.*
- (b) *Council may disclose personal information to public sector agencies or public utilities on condition that:*
  - (1) *The agency has approached Council in writing*
  - (2) *Council is satisfied that the information is to be used by that agency for the proper and lawful functions of that agency, and;*
  - (3) *Council is satisfied that the personal information is reasonably necessary for the exercise of that agency's functions.*
- (c) *Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.*
- (d) *Where Council is requested by a potential employer, it may verify that a current or former employee works or has worked for council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has provided their consent for council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she applied.*
- (e) *A disclosure of personal information for research purposes will be allowed under a Section 41 Direction made by the Privacy Commissioner (if such a direction exists) until such time as a Research Code is made by the Attorney General.*

### **Special Restrictions on Disclosure of Personal Information**

- (a) *Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religion or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.*
- (b) *Council will not disclose the information to any person or body who is in jurisdiction outside New South Wales unless:*
  - (1) *a relevant privacy law that applies to the personal information concerned is in force in that jurisdiction, or*
  - (2) *the disclosure is permitted under a Privacy Code of Practice.*
- (c) *For the purposes of sub section (2), a relevant privacy law means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.*
- (d) *There is no intention to depart from the above otherwise that is permitted by the PIPPA or any other Privacy Code of Practice which may apply to Council from time to time except in the circumstances described below:*
  - (1) *For the purposes of S19(2) only, where Council is requested by a potential employer outside New South Wales, it may verify that a current or former employee works or has worked for council, the duration of that work, and the position occupied during that time. This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless council is satisfied that the person has provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.*
  - (2) *A disclosure of personal information for research purposes will be allowed under a Section 41 Direction made by the Privacy Commissioner (if such a direction exists) until such time as a Research Code of Practice is made by the Attorney General.*

### **Public Registers (Part 6 Clauses 57, 58 and 59 PIPP Act)**

A public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).

Example of registers held by Council (but not limited to):

- \* Register of Development Applications
- \* Land Register
- \* Pecuniary Interest register
- \* Register of Investments
- \* Register of current declarations of disclosures of political donations to Councillors
- \* Register of Delegations
- \* Register of Councillors voting on Development matters
- \* Register of Graffiti removal (Section 67C LGA).

## Register Provisions

Council may allow any person to:

- inspect a publicly available copy of a public register in council premises, and
- copy a single entry or a page of the register

without requiring the person to provide a reason for accessing the register and without determining that the proposed use of the register is consistent with the purpose of the register or the act under which the register is kept.

In particular Council does not require any person to provide a reason for inspecting the Council's Pecuniary Interest Register or any register on which the Council records declarations made by Councillors or designated officers under Chapter 14 Part 2, Divisions 3 or 4 of the Local Government Act.

Requests for access, copying or sale of the whole or a substantial part of a public register held by council may not necessarily fit within the purpose for which a public register was created. Council may therefore:

- (a) disclose by way of providing access, copy or sale of the whole or a substantial part of a public register, provided that the names and addresses of all current and previous property owners and the names and addresses of all current and previous applicants are not disclosed, or
- (b) disclose by way of providing access, copy or sale of the whole or a substantial part of a public register where Council has satisfied itself by way of a statutory declaration by the person requesting the information that the information is to be used for a purpose of the register or the Act under which the register is kept.

With respect to (a) and (b) above Council will ensure that the GIPA Act and Section 149G of the Environmental Planning and Assessment Act 1979 are complied with where applicable.

Council requires that any person who requests information from a public register either applies in writing to the General Manager or attends the Council's Customer Service Counters during normal office hours.

Where a copy of the whole or a substantial part of a public register is requested, the applicant is required to complete a statutory declaration (Appendix 1) describing the intended use of any information obtained from the inspection. Justices of the Peace at Council's Customer Service Counters may witness signatures on statutory declarations for this purpose.

Council requires that during certain circumstances it may be possible to suppress personal information held on registers. Where an application for suppression is made in relation to a public register, then an application under Section 57 of the PIPP Act is required.

Suppression of personal information on a public register will only be provided where **it** can be shown that a person's safety or well being may be affected and that suppression would not be contrary to the public interest.

## Initial Enquiry or Complaint

Any person is entitled to obtain access to any personal information that council holds about them. They may request alterations be made to their personal details or request information on the way their personal details have been used. It is important that the initial enquiry or complaint be a formal submission, in the form of a letter addressed to:

The Public Officer  
Pittwater Council  
PO Box 882  
Mona Vale NSW 1660

Where a person has requested information about their personal affairs and has been refused access, is unsatisfied with Council's response or Council's refusal to change a persons personal details, they are entitled to request an Internal Review of the initial complaint or enquiry.

A person who has requested information and;

- is aggrieved by the conduct of Council in the following circumstances:
  - (a) contravention of a privacy principle that applies to Council
  - (b) contravention of a code of practice that applies to Council
  - (c) disclosure of personal information kept on a public register, or
- has made an initial request for access to personal information or requested a response concerning Council's actions concerning their personal information.

is entitled to apply for an Internal Review.

A request for Internal Review **must be** in writing and made on the appropriate Internal Review Application Form (**Appendix 2**) and forwarded to:

The Public Officer  
Pittwater Council  
PO Box 882  
Mona Vale NSW 1660

## Review Process

On receipt of the request for Internal Review, a copy will be forwarded to the Privacy Commissioner, who will also be informed of progress and the outcome of the review.

Any application for Internal Review must be lodged within 6 months from the time the applicant first became aware of the conduct (the subject of the application). At all times the contents of the review will be kept confidential.

The application will be dealt with by an appropriate Council Officer, who will consider any relevant material submitted by either the applicant or the Privacy Commissioner. The review will be completed as soon as reasonably practicable within 60 days from receipt of the application for Internal Review.

Following completion of the Internal Review, Council will do one or more of the following:

- (a) take no further action on the matter
- (b) make a formal apology to the applicant
- (c) take appropriate remedial action
- (d) provide undertakings that the conduct will not occur again
- (e) implement administrative measures to ensure that the conduct will not occur again.

As soon as practicable and within 14 days of the completion of the Internal Review, Council will notify the applicant and the Privacy Commissioner in writing of:

- (a) the findings and the reasons for those findings
- (b) any proposed actions to be taken
- (c) the right of the applicant to have those findings and the Council's proposed action reviewed by the Administrative Appeals Tribunal.

### **Training and Education**

Council's Public Officer will provide advice to appropriate staff when required and staff will receive training during the Staff Induction Programme. The Privacy Management Plan will be available on Council's intranet, website and at Council's customer service centres.

### **Further Information**

Further information may be obtained from the Public Officer, Pittwater Council on telephone 9970 1112 or the NSW Privacy Commissioner's Office on telephone 9268 5588.

**STATUTORY DECLARATION FOR ACCESS UNDER SECTION 57 OF THE PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 TO A PUBLIC REGISTER HELD BY COUNCIL**

**Statutory Declaration**  
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

I, the undersigned, .....(name of applicant)

of.....(address),  
in the State of New South Wales, do solemnly and sincerely declare that:-

I am.....(relationship (if any) to person inquired about)

I seek to know whether ..... is on the public register of .....\*

The purpose for which I seek this information is.....

.....The  
purpose for which the information is required is to .....

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

Declared at.....  
in the said State this ..... day of ..... 200  
before me.

.....  
before me:  
Justice of the Peace/Solicitor

.....  
Name to be printed

\* *Applicant to describe the relevant public register.*

**Privacy and Personal Information Protection Notice**

This information is provided under the Oaths Act 1900 (NSW) voluntarily by the applicant and is collected for the assessment of the application. Failure to provide this information will prevent Council processing your application and may lead to your application being rejected. This information is intended only for Officers of Pittwater Council and will be stored in accordance with Pittwater Council's compliant Records Management System (ECM) and the State Records Act 1998 (NSW). This information may be accessed by Council Officers or by requests under the Government Information (Public Access) Act 2009 (NSW). You have a right to access your personal information under the Privacy and Personal Information Protection Act 1998 (NSW) by application to Pittwater Council and to have that information updated or corrected.

The Public Officer  
Pittwater Council  
PO Box 882  
Mona Vale NSW 1660

**PRIVACY COMPLAINT: INTERNAL REVIEW APPLICATION FORM**

*(The Privacy and Personal Information Protection Act 1998 (PIPP Act) and the Health Records and Information Privacy Act 2002 (HRIP Act) provide that public sector agencies deal with complaints by way of internal review.)*

Applicant's Name:.....

Address: .....

.....Phone No:.....

**Please detail the conduct which you wish to have reviewed. (please attach a separate piece of paper if there is insufficient space below.)**

.....

.....

.....

.....

.....

.....

.....

.....

**When did the alleged conduct occur?**

.....

**When and how did you first become aware of the alleged conduct? (Please specify precise dates). If you became aware of the conduct more than 6 months ago, please specify the reasons why Council should undertake a review even though it is not required to do so.**

.....

.....

.....

.....

Applicant's signature

**Privacy and Personal Information Protection Notice**

This information is provided under the Privacy and Personal Information Protection Act 1998 (NSW) voluntarily by the applicant and is collected for the assessment of the application. Failure to provide this information will prevent Council processing your application and may lead to your application being rejected. This information is intended only for Officers of Pittwater Council and will be stored in accordance with Pittwater Council's compliant Records Management System (ECM) and the State Records Act 1998 (NSW). This information may be accessed by Council Officers or by requests under the Government Information (Public Access) Act 2009 (NSW). You have a right to access your personal information under the Privacy and Personal Information Protection Act 1998 (NSW) by application to Pittwater Council and to have that information updated or corrected.

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<b>C10.9</b>	<b>Change to Scheduled Council Meeting Dates in September and October 2012</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** To maintain and improve democratic representation

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**PURPOSE OF REPORT**

To make changes to scheduled Council meeting dates due to the Local Government Elections on 8 September 2012 to enable sufficient time for confirmation of election results and for Councillor training and induction.

**1.0 BACKGROUND**

- 1.1 Currently Council meetings are scheduled for 17 September 2012 and 2 October 2012.
- 1.2 Due to the Local Government Elections scheduled for 8 September 2012 these meeting dates are problematic and need review.

**2.0 ISSUES**

- 2.1 The meeting date of 17 September 2012 is five (5) working days after the Local Government election. This does not allow sufficient time for election results to be confirmed.
- 2.2 It is proposed to change the meeting of 17 September 2012 to Monday 24 September 2012. This will allow sufficient time for election results to be confirmed and an agenda to elect a Mayor and Deputy Mayor to be circulated to all new Councillors. Under section 290 of the Local Government Act 1993 a Council must elect the Mayor within 3 weeks of a general election. The proposed meeting date of 24 September 2012 complies with this section of the Local Government Act.
- 2.3 A meeting is also scheduled for Tuesday 2 October 2012 (Monday 1 October being a public holiday). This would be eight (8) days after the proposed meeting date of 24 September 2012.
- 2.4 To allow time for new Councillors to receive induction and training and to keep sufficient time between Council meetings to ensure production and circulation of business papers, it is also proposed that the meeting scheduled for Tuesday 2 October 2012 be cancelled. The next meeting would then be held on 15 October 2012.
- 2.5 A calendar outlining the current meeting schedule and proposed changes is attached (refer **Attachment 1**).
- 2.6 It is also proposed to hold Councillor briefing /inductions on the Monday nights not scheduled for Council meetings for a period of time to update new Councillors on policy/procedures/projects etc. A more formal detailed report on an induction program for Councillors will be presented to Council in July.

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### **3.0 SUSTAINABILITY ASSESSMENT**

- 3.1 A sustainability assessment is not required for this report.

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### **4.0 EXECUTIVE SUMMARY**

- 4.1 The current Council meeting schedule has two scheduled meetings for Council on 17 September 2012 and 2 October 2012 which will be problematic due to the Local Government Election.
- 4.2 To enable the results of the Local Government elections to be confirmed and to allow time for new Councillor induction and training to take place, it is proposed that the Meeting of 17 September 2012 be rescheduled to 24 September 2012 and the meeting of 2 October be cancelled.

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### **RECOMMENDATION**

1. That the Council meeting of 17 September 2012 be rescheduled to 24 September 2012.
2. That the Council meeting of 2 October 2012 be cancelled.

Report prepared by  
Gabrielle Angles – Principal Officer, Administration

Warwick Lawrence  
**MANAGER, ADMINISTRATION & GOVERNANCE**

**September 2012**

Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
1	2	3 Council Meeting	4	5	6	7
8 Election	9	10	11	12	13	14
15	16	17 Council Meeting(Proposed to be rescheduled)	18	19	20	21
22	23	24 New Proposed Council Meeting	25	26	27	28
29	30					

**October 2012**

Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
		1 Public Holiday	2 Council Meeting (Proposed to be Cancelled)	3	4	5
6	7	8	9	10	11	12
13	14	15 Council Meeting	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

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<b>C10.10</b>	<b>Determinations of the Local Government Remuneration Tribunal 2012/2013</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** Effectively manage Council's corporate governance responsibilities

---

## **PURPOSE OF REPORT**

To consider Councillor and Mayoral fees for the 2012/2013 financial year.

### **1.0 BACKGROUND**

- 1.1 The Local Government Remuneration Tribunal has made determinations under Sections 241 of the Local Government Act, of annual fees payable for the twelve month period commencing from 1 July 2012 to Mayors and Councillors of local Councils. In summary, the Tribunal has determined to increase the maximum fees payable to Councillors and Mayors by 2.5%. Last year Council increased the adopted Councillor and Mayoral fees for 2011/2012 by the 4.2% recommended by the Tribunal (the maximum recommended).
- 1.2 As of June 2011 the Remuneration Tribunal is now required to have regard to the Government's wages policy when determining the increase to minimum and maximum fees applicable to Councillors and Mayors. The public sector wages policy is currently capped at 2.5%.
- 1.2 Under the provisions of Section 248 of the Act, a Council must pay each Councillor an annual fee in accordance with the Tribunal's Determinations. Accordingly, a Council may, having regard to the category established by the Tribunal:
- fix a fee that is equal to, or greater than, the minimum but not greater than the maximum for the appropriate category; or
  - where no fee is fixed, pay the appropriate minimum fee determined by the Tribunal;
  - a Council must pay the same fee for each Councillor;
  - advice has previously been received from the Department of Local Government that once Council has determined its fee for the next annual period and that period has commenced, the decision has been implemented and the Council is not then able to alter the fee.
- 1.3 As part of their 2012 Annual Review the Remuneration Tribunal looked at key economic indicators, including the Consumer Price Index and the Labour Price Index, and found the full increase of 2.5% available to it was warranted.
- 1.4 The following table sets out the range of fees that can be paid to the Councillors and the Mayor for the 2012/2013 financial year for Metropolitan Councils, the details of the existing fees paid to the Mayor and Councillors of Pittwater Council, and what the fee would be if the full 2.5% increase was implemented.

<b>CATEGORY- METROPOLITAN</b>	
<b>Current Councillor Annual Fee Range (2011-2012)</b>	<b>*Current Mayoral Fee Range (2011-2012)</b>
\$7,550 - \$16,640 pa	\$16,080 - \$36,320 pa
<b>New Councillor Annual Fee Range (2012-2013)</b>	<b>*New Mayoral Fee Range (2012-2013)</b>
\$7,740 - \$17,060 pa	\$16,480 - \$37,230 pa
<b>Current Pittwater Councillor Fee 2011/12</b>	<b>*Current Pittwater Mayoral Fee 2011/12</b>
\$16,227 pa	\$35,428 pa
<b>Proposed Pittwater Councillor Fee 2012/13 (after 2.5% increase)</b>	<b>*Proposed Pittwater Mayoral Fee 2012/13 (after 2.5% increase)</b>
\$16,632	\$36,313

*\*This fee must be paid in addition to the fee paid to the Mayor as a Councillor (s.249(2)).*

- 1.5 This 2.5% increase (recommended by the Local Government Remuneration Tribunal) on the current annual fees received by Pittwater Councillors and Mayor would see Councillor and Mayoral fees increase to \$16,632 and \$36,313 respectively.
- 1.6 The Remuneration Tribunal also undertook a review of the categories of Councils. These categories are Principal City, Major City, Metropolitan Major, Metropolitan Centre, Metropolitan (Pittwater Council's category), Regional Rural, Rural, County Councils Water and County Councils Other. The last time this was undertaken was in 2009. After considering submissions received, findings of previous reviews and issues raised by the LGSA the Tribunal found no change to the current categorisation framework or current categorisation of individual councils was warranted.
- 1.7 As a consequence Pittwater Council remains in the Metropolitan category.

## **2.0 ISSUES**

- 2.1 To determine if Council wishes to increase its current Councillor and Mayoral fees by the max 2.5% recommended by the Remuneration Tribunal or to increase the fees to the maximum allowed.
- 2.2 The fee structure adopted by the current Council will remain in place after the newly elected Council takes office.

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## **3.0 SUSTAINABILITY ASSESSMENT**

### **3.1 Supporting & Connecting our Community (Social)**

The report will have no impact on this strategy.

### **3.2 Valuing & Caring for our Natural Environment (Environmental)**

The report will have no impact on this strategy.

### 3.3 Enhancing our Working & Learning (Economic)

The report will have no impact on this strategy.

### 3.4 Leading an Effective & Collaborative Council (Governance)

This report is in response to the requirements of Sec 239 and 241 of the Local Government Act.

### 3.5 Integrating our Built Environment

The report will have no impact on this strategy.

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## 4.0 EXECUTIVE SUMMARY

- 4.1 The Local Government Remuneration Tribunal has made determinations under Sections 239 and 241 of the Local Government Act, of annual fees payable for the twelve month period commencing from 1 July 2012 to Mayors and Councillors of local Councils.
- 4.2 The Tribunal has determined to increase the maximum fees payable to Councillors and Mayors by 2.5%.
- 4.3 This report recommends that the **current** Councillor and Mayoral fees be increased by the 2.5% as recommended by the LG Remuneration Tribunal.

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## RECOMMENDATION

- 1. That the annual fee payable to Councillors for the period 1 July 2012 to 30 June 2013 be **\$16,632**, representing a 2.5% increase (as recommended by the Local Government Remuneration Tribunal) to the current fees.
- 2. That the annual fee payable to the Mayor for the period 1 July 2012 to 30 June 2013 be **\$36,313**, representing a 2.5% increase (as recommended by the Local Government Remuneration Tribunal) to the current fees.

Report prepared by  
Gabrielle Angles, Principal Officer - Administration

Warwick Lawrence  
**MANAGER, ADMINISTRATION & GOVERNANCE**

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<b>C10.11</b>	<b>Minutes of the Community Engagement, Information and Governance Reference Group Meeting of 23 May 2012</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

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

---

## **PURPOSE OF REPORT**

To present to Council for consideration, the Minutes of the Community Engagement, Information & Governance Reference Group Meeting held on 23 May 2012 (**Attachment 1**).

## **1.0 BACKGROUND**

- 1.1 The Community Engagement, Information & Governance Reference Group has a primary role of assisting the Pittwater 2020 Strategic Plan process by critically analysing and reviewing the Strategic Goals aligned to leading an effective and collaborative Council and providing Reference Points for further consideration by Council.
- 1.2 The Community Engagement, Information & Governance Reference Group has previously established a priority order to eventually consider each of the aligned Strategic Goals and associated Key Direction Strategies.
- 1.3 At the meeting of 23 May 2012 the Community Engagement, Information & Governance Reference Group considered the following topics:

**CEIG 4.1**      ***Climate Change Risk Assessment***

**CEIG 4.2**      ***End of Term Report***

**CEIG 4.3**      ***Update on Actions Arising from Reference Groups to be incorporated into the Delivery Program and Budget for 2012-2016***

## **2.0 ISSUES**

### **2.1 CEIG 4.1: Climate Change Risk Assessment**

The Reference Group was provided a copy of the Climate Change Risk Assessment which seeks to identify and quantify the risks associated with climate change across a broad cross section of Council Activities.

### **2.2 CEIG 4.2: End of Term Report**

All reference groups have been provided a brief outline of the End of Term Report which covers the current term of the elected Council.

### **2.3 CIEG 4.3: Update on Actions Arising from Reference Groups to be incorporated into the Delivery Program and Budget for 2012-2016**

The Actions Arising and how these have been considered in the Delivery Program were noted.

## 2.4 **General / Emerging Business:**

- Potential Cost to Council of Proposed Carbon Tax
- Total Cost to Council of the Preparation, Implementation and Remedial Programs in Preparation for Climate Change
- Standard Letter Review
- EcoMarker Update
- Sustainability Pittwater

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## 3.0 **SUSTAINABILITY ASSESSMENT**

- 3.1 The Community Engagement, Information & Governance Reference Group has a specific focus on governance related matters in the context of the Pittwater 2020 Strategic Plan and its triple bottom line sustainable living approach.

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## 4.0 **EXECUTIVE SUMMARY**

- 4.1 The Community Engagement, Information & Governance Reference Group has provided a number of Discussion and Reference Points that will assist Council and the community.

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## **RECOMMENDATION**

1. That the Minutes of the Community Engagement, Information & Governance Reference Group Meeting held on 23 May 2012 be noted.
2. That the initiatives discussed in relation to:
  - Climate Change Risk Assessment
  - End of Term Report
  - Update on Actions Arising from Reference Groups to be incorporated into the Delivery Program and Budget for 2012-2016

be taken into consideration when developing / updating Council's Delivery Plan and Strategic documents.

Report prepared by

Chris Hunt  
**DIRECTOR, URBAN & ENVIRONMENTAL ASSETS**

# **Minutes**

## **Community Engagement, Information & Governance Reference Group**

**held at the Coastal Environment Centre,  
Lake Park Road, North Narrabeen on**

**23 MAY 2012**

**Commencing at 4.05pm**

## **ATTENDANCE**

Cr Bob Grace, Chairperson

### **the following community representatives:**

Mr David Williams, Bayview-Church Point Residents Association  
Mr Gavin Butler, Newport Residents Association  
Mr Peter Middleton, Newport Residents Association  
Mr Storm Jacklin, Palm Beach and Whale Beach Association  
Mr Graeme Jessup, Sustainability Pittwater  
Ms Sarah Hatcher, Pittwater Resident Representative  
Mr Bill Gye, Scotland Island Residents Association  
Mr John Gillham, Northern Beaches Community Services

### **the following Council Advisors**

Mr Chris Hunt, Director, Urban & Environmental Assets  
Mr Paul Reid, Manager, Corporate Strategy & Commercial  
Ms Pamela Tasker, Administration Officer/Minute Secretary

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<b>COMMUNITY ENGAGEMENT, INFORMATION &amp; GOVERNANCE REFERENCE GROUP MEETING</b>
---

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5.5	Sustainability Pittwater	
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## **1.0 Apologies**

Apologies were received from the following members:

Mr Hans Carlborg, Pittwater Resident Representative  
Ms Lynne Czinner, Peninsula Music Club  
Ms Brigitte Mahler-Mills, West Pittwater Community Association  
Ms Gillian Clive, Pittwater Resident Representative  
Mr Roy Keeping, Pittwater Resident Representative  
Mr Tony Tenney, Clareville and Bilgola Residents Association

and leave of absence was granted from the Community Engagement, Information & Governance Reference Group Meeting held on 23 May 2012.

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## **2.0 Declarations of Pecuniary Interest - Nil**

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## **3.0 Confirmation of Minutes**

### **REFERENCE GROUP RECOMMENDATION**

That the Minutes of the Community Engagement & Information Reference Group Meeting held on 22 February 2011, copies of which were circulated to all Reference Group Members, be and are hereby confirmed as a true and accurate record of the proceedings of that meeting.

(Mr Middleton / Mr Jacklin)

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## **4.0 Discussion Topics**

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### **CEIG 4.1 Climate Change Risk Assessment**

### **REFERENCE GROUP RECOMMENDATION**

That the Reference Group Members note the attached report and the information contained in the Pittwater Council Climate Change Risk Assessment.

(Mr Jacklin / Mr Jessup)

#### **Proceedings in Brief**

Mr Hunt addressed the meeting on this item.

## DISCUSSION:

This report has already been endorsed by Council and the purpose of the report to secure ongoing Government funding was understood. However, at least one member voiced concern as the source material for the report was drawn largely from CSIRO literature and much of the CSIRO research was based on IPCC reports. The member disputed Council's assertion that "*mitigation actions reduce climate change impacts by reducing greenhouse gas emissions*", stating that a link between greenhouse gas emissions and climate change had not been proven and that no back up documents were referenced in the report. The member did however agree that mitigation may alleviate naturally occurring climate change and that adaptation actions do increase the ability of a community to cope with the impacts of climate change should such occur.

Mr Hunt responded that Council does rely on the CSIRO literature and other scientific papers, including IPCC reports, in the compilation of Council reports and in preparing for the impact of climate change. The link between greenhouse gases and climate change is widely accepted, and any reduction of CO<sub>2</sub> emissions into the atmosphere has to be of benefit. Also, the source documentation is referenced on P. 36 of the Assessment Report.

Some members wished to voice their disagreement of the interpretation of the literature being put forward by another member of the Reference Group, believing that a strong correlation between greenhouse gas emissions and Climate Change has been established and that this link was supported in the vast majority of scientific literature.

**Q:** Members don't have the resources to study every scientific paper. Have councils agreed a common premise of scientific findings - an agreed consensus of opinion referenced across the board?

**A:** Pittwater Council relies primarily on CSIRO literature and research and IPCC scientific findings. We cannot be certain of the literature other Councils are using but assume they rely on similar sources.

**Q:** If Council takes the threat of sea level rise seriously, do they plan to raise the new Palm Beach Ferry Wharf by 1 to 2 metres?

**A:** The Palm Beach Ferry Wharf probably doesn't need to be built higher for this proposed upgrade but may need to be raised in the future. Relevant time horizons need to be considered along with the ability to retrofit at a later stage. The life of the new wharf is projected at approximately 30 to 50 years. New Council buildings are projected to last 50 to 100 years so are being built with higher floor levels. Many wharves will be converted to floating pontoons but unfortunately this is not possible with Palm Beach Ferry Wharf due to higher wave movements.

**Q:** Has Council realised that Hazard Mapping could be used by Insurance Companies as an excuse for setting higher insurance premiums on waterfront properties?

**A:** Council already has hazard mapping on flood zones, tidal inundation zones, coastal erosion zones, bushfire zones, landslip zones, etc. Council is required under the *Environmental Planning & Assessment Act* to supply information on whether the land in question is subject to development controls as a result of a particular hazard. This advice is via S149(2) and S149(5) Certificates. Insurance cover is a matter between the property owner and the insurer.

In collaboration with Warringah Council we are currently revising the flood study for Narrabeen Lagoon to include climate change scenarios. The draft of this Study is due in October 2012. The degree of flood hazard on a property is rated through Category 1 (being high hazard), Category 2 (flood fringe properties) through to Category (3) being related to overland flow from sub-catchments.

Hazard mapping is refined, as appropriate, to take into account changes to legislation and additional requirements such as Climate Change and sea level rise.

**Q:** What is the amount of the WaSIP payment to Council (P. 8 of the Agenda)?

**A:** WaSIP payments are rebates from the waste services levies charged on waste collection. The projected rebate for next financial year is approximately \$400,000. This is earmarked for specific Waste and Sustainability Improvement projects. The WaSIP program is however under review by the State Government.

**Q:** Is groundwater affected by Climate Change?

**A:** Council is already looking at the risks Climate Change poses to groundwater aquifers although these are not comprehensively mapped as yet. Access to aquifers is tightly regulated and a licence to tap into an aquifer is required. The primary risk is saltwater intrusion. SHOROC has a localised study planned.

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## **5.0 General / Emerging Business**

### **5.1 Potential Cost to Council of the Proposed Carbon Tax**

Mr Paul Reid (Manager, Corporate Strategy & Commercial) provided the following update to members on this matter:

#### **Impact of the Carbon Tax:**

*Briefing Paper to the Community Engagement, Information and Governance Reference Group – 23 May 2012*

The Clean Energy Legislative Package received Royal Assent in December 2011. The package contains four main Acts:

- The Clean Energy Act 2011 (which sets up the carbon price mechanism).
- The Clean Energy Regulator Act 2011 (which establishes a regulatory body to administer the mechanism).
- The Climate Change Authority Act 2011 (which establishes a new Authority to advise the government on the future design of the carbon price mechanism).
- The Clean Energy (Consequential Amendments) Act 2011.

The package establishes a carbon price mechanism to reduce the amount of carbon dioxide that Australia emits into the atmosphere.

The carbon price will impact Councils as producers of emissions and as consumers of goods and services, in the following manner:

1. As producers of emissions exceeding 25,000 tonnes of CO<sub>2</sub>-e per annum, especially through the operation of landfills.
2. As consumers of inputs through electricity consumption (for example for street lighting, council buildings, water and sewerage operations etc).

This carbon price mechanism will commence on 1 July 2012.

The price that affected businesses have to pay for each tonne of CO<sub>2</sub>-e emitted will be \$23 from 1 July 2012. It will then increase by 2.5% in real terms for the next 2 years (estimated to be \$24.15 per tonne CO<sub>2</sub>-e in 2013/14 and \$25.40 per tonne CO<sub>2</sub>-e in 2014/15). The price will move to a flexible, market-driven price on 1 July 2015.

In addition to the above, it is estimated by various bodies including the Australian Treasury and IPART that the carbon price will increase the CPI by between 0.6 - 0.7% in 2012/13 with a further increase of 0.1-0.2% in 2015/16.

The Federal Government estimates that 500 companies and organisations, including some Councils, will be required to pay for their carbon pollution under the above carbon pricing mechanism.

The 500 that will pay the carbon price include those operating facilities that have direct greenhouse gas emissions of 25,000 tonnes of CO<sub>2</sub>-e a year or more excluding emissions from transport fuels and some synthetic greenhouse gases. This includes Councils which operate large landfills.

*Pittwater is not one of these 500 organisations. However, the carbon price will impact councils such as Pittwater as consumers of goods and services such as energy, water, transport fuels and construction materials.*

IPART has estimated that the rise in electricity prices will account for around half the impact of the carbon price on council costs (excluding waste management costs). The other council costs most affected are likely to be those related to construction (steel, bitumen, concrete and timber).

Although local councils are ineligible for direct compensation for these cost increases, some relief has been offered by IPART through a specific carbon price related advance of 0.4% to the 2012/13 rate peg which amounts to \$145,809 for Pittwater Council. However, this increase is then to be wound out (reduced) over the next two years with reductions in Council's rates by 0.1 % (\$35,306) in 2013/14 and 0.3% (\$111,912) 2014/15.

On an "average rate" in Pittwater in 2012/13 this amounts to approximately \$6.42 extra per annum.

In terms of Council's cost structures and budget preparation we have not spent inordinate amounts of time trying to estimate the across the board increases in costs associated with the carbon tax mainly due to the uncertainty that still prevails over the actual impacts on business. Although, we have allowed for moderate increases in utilities and waste that will go towards offsetting both natural prices rises and carbon tax increases in 2012/13.

Council has increased utilities cost centres in the following amounts:

Description	2011/12 March Revised Budget	2012/13 Projected Budget	Percentage Increase
Electricity	344,000	448,000	30%
Street Lighting	950,000	990,000	4.2%
Gas	46,000	50,000	8.6%
Fuel	512,000	536,000	4.6%
Water	311,000	332,000	6.7%

*Note: the large increase in electricity is as a result of significant cost increases being experienced in 2011/12 against budget and anticipated price increase in 2012/13 as a result of the carbon tax and further natural price increase.*

In terms of waste disposal, Council's Domestic Waste Contract is subject to CPI increases and therefore at this stage will only be impacted by the carbon tax in terms of its impact on CPI itself.

In addition to Council's waste contract, Council is charged by Kimbriki Tip for hard waste disposal (4,700 tonnes p.a.) and Seta Waste Disposal Centre (Belrose) for Putrescibles waste disposal. Carbon Price impacts from these sites at this stage are not fully known but preliminary estimates from say Kimbriki Tip is that an associated cost of \$4 per household may be experienced.

Accordingly, Council has budgeted in 2012/13 the cost of Council's waste service to amount to approximately \$11.4 million (including guesstimates on additional costs associated with potential carbon tax and all other natural price increases such as rises in the cost of service, CPI etc.), some 4.4% higher than in 2011/12.

Based on the above cost structure, Council's waste charge is forecast to rise from \$450 per household in 2011/12 to \$470 per household in 2012/13 (4.4%).

*Note: the above information and costs form a part of Council's overall budget process and reflect forward estimates that result in Council obtaining a balanced Consolidated Position and Operating Surplus.*

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## **4.0 Discussion Topics**

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### **CEIG 4.2 End of Term Report**

#### **REFERENCE GROUP RECOMMENDATION**

1. That the outline of the End of Term Report be noted.
2. That Mr Reid be thanked for his presentation.
3. That Reference Group members provide feedback on reference points to be included in the end of term report.
4. That the wider community also be welcomed to provide feedback.

(Ms Hatcher / Mr Gye)

#### **Proceedings in Brief**

Mr Paul Reid, Manager – Corporate Strategy & Commercial, addressed the meeting on this item.

#### **DISCUSSION:**

**Q:** Of all the actions set down in the 10 year Strategic Plan, will Council eliminate some during the four year reviews?

**A:** No, Council has adopted the program, but some projects will be carried over the 10 year program. The review is taking an overview of what has been achieved and what still needs to be achieved. It does not go into detail on specific projects.

Council is seeking feedback from reference group members, and would request that any additional comment on the reference points contained within the report be emailed to Jane Mulroney, Community Engagement Officer, within the next one to two weeks if possible.

**Q:** Is the 2020 Strategic Plan flexible?

**A:** Yes. We would not like to see major changes but some adjustment is possible. Strategies and key directions will not change but they can be tweaked.

Reference Group workshops are planned as part of the review of strategic directions and how the plan can be improved. We are looking at doing this by June 2013.

A Community Survey will be coming out in the next month which seeks community feedback on the goals and targets of the Pittwater 2020 Strategic Plan.

A Reference Group member also enquired as to the process to review already adopted Plans of Management, e.g. Church Point Plan of Management.

Comment was made that Plans of Management such as Church Point are the culmination of an extensive community consultation process and alternative proposals need to have regard to that process and the recommendations/outcomes achieved.

## REFERENCE POINTS:

- ***Community and Reference Group members to provide additional comment on reference points contained within the report to the email address as follows:***

***[jane\\_mulroney@pittwater.nsw.gov.au](mailto:jane_mulroney@pittwater.nsw.gov.au)***

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### **CEIG 4.3 Update on Actions Arising from Reference Groups to be incorporated into the Delivery Program and Budget for 2012-2016**

#### **REFERENCE GROUP RECOMMENDATION**

- 1 This report provides an update on the process of the Delivery Program and Budget for 2012-2016.
- 2 That the information provided in the report be noted.

(Mr Middleton / Mr Butler)

#### **Proceedings in Brief**

Mr Paul Reid, Manager – Corporate Strategy & Commercial, addressed the meeting on this item.

## **DISCUSSION:**

A public meeting was held on 18 May with approximately 16 residents in attendance.

The document provides a brief overview of next year's capital works and constraints. More information in greater detail is available from Paul Reid. Please contact him directly on:

***[paul\\_reid@pittwater.nsw.gov.au](mailto:paul_reid@pittwater.nsw.gov.au)***

IPART and the SRV: there is a cumulative special increase in rates revenue for 3 years including a CPI allowance and once established, subsequent increases then revert to CPI only. It should be noted that CPI does not cover the actual cost increases.

Additional burdens on Council funds in recent times included shifts in costs from State to Local Government. Examples include the reclassification of parts of Pittwater Road and McCarrs Creek Road from an arterial road to a regional road, thus putting the onus and expense for upkeep onto Council; energy costs have also risen well above the CPI. This increased expenditure was not matched by a relaxation on rates pegging and so created a shortfall in available funds.

Pittwater Council works closely with the other SHOROC Councils to achieve economies of scale.

Various community surveys and public meetings have shown that the community wants upgrades to urban infrastructure so Council has to address how to fund this. We have not relied entirely on rates revenue however. For example, the inclusion of cafes or kiosks in parks and at beaches, pay & display parking fees, and various other income initiatives are constantly under consideration.

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## **5.0 General / Emerging Business**

### **5.2 Total Cost to Council for the Preparation, Implementation and Remedial Programs in Preparation for Climate Change**

Mr Hunt advised that the Climate Change Risk Assessment provides a broad outline of what will need to be taken into consideration. Specific costs are not available at this stage.

### **5.3 Standard Letter Review**

Following on from his very interesting presentation at the last meeting, Mr Middleton requested an update on the Standard Letter Review and, if possible, some examples of progress on specific form letters.

Mr Hunt advised that a comprehensive review is currently underway, having been initiated shortly after the last Reference Group Meeting. It was generally agreed that this was a good initiative and an update and hopefully some samples of amended standard letters would be brought to the next meeting in August.

### **5.4 EcoMarker Update**

Mr Graeme Jessup provided a verbal update to members on the progress of the EcoMarker initiative.

Again, Council has adopted this initiative with enthusiasm. There will be a trial over five locations in June. Community feedback at these installations will be sought and, if positive, the decision will be taken to go ahead with the project next year. This will mean extending to more sites throughout Pittwater.

If it does prove popular in Pittwater the initiative will be rolled out to other Councils, SHOROC etc.

Mr Graeme Jessup provided a short presentation encouraging further community participation in Sustainability Pittwater. Sustainability Pittwater offers a forum to discuss ideas with likeminded residents and to participate in the formulation of proposals to be presented to Council at community Reference Group meetings.

For further information Graeme Jessop on 0419 495 178 or via email:

[graemejessop@optusnet.com.au](mailto:graemejessop@optusnet.com.au)

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## **6.0 Next Meeting**

The next meeting of the Community Engagement, Information & Governance Reference Group is scheduled to be held on 22 August 2012.

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**There being no further business  
the meeting closed at 5.35pm on  
Wednesday, 23 May, 2012**

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<b>C10.12</b>	<b>Minutes of the Audit &amp; Risk Committee for the meeting held on 16 May 2012</b>
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**Meeting:** Governance Committee

**Date:** 18 June 2012

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**STRATEGY:** Business Management

**ACTION:** Maintain and service Council's range of Committees

---

## **PURPOSE OF REPORT**

To present to Council the Minutes of the Audit & Risk Committee for the meeting held on 16 May 2012.

### **1.0 BACKGROUND**

1.1 Council approved the establishment of an Internal Audit Committee at its meeting held on 16 November 2009. The Committee plays a pivotal role in the governance framework to provide Pittwater Council with independent assurance and assistance on risk management, control, governance and external accounting responsibilities. This Committee was subsequently renamed the Audit & Risk Committee. The original Audit & Risk Committee Charter required the Committee to report to Council "at least annually".

1.2 At its meeting on 15 February 2012, the Audit & Risk Committee resolved that:

*Minutes of the Audit & Risk Committee Meetings are to be reported to Council on a quarterly basis and so be placed on the public record.*

and

*The Audit & Risk Committee Charter ... to be reviewed and revised by the Committee ... and submitted for approval by Council at the first availability.*

As a result the Audit & Risk Committee Charter was revised to reflect quarterly reporting to Council.

1.3 Council endorsed an updated Audit & Risk Committee Charter at its meeting held on 16 April 2012.

### **2.0 ISSUES**

2.1 Per the revised Audit & Risk Committee Charter the Minutes of the Audit & Risk Committee Meetings shall be reported to Council on a quarterly basis.

### **3.0 SUSTAINABILITY ASSESSMENT**

#### **3.1 Leading an Effective & Collaborative Council (Governance)**

The Audit & Risk Committee plays a pivotal role in the governance framework to provide Council with independent assurance and assistance in the areas of risk, control, compliance and financial reporting.

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#### **4.0 EXECUTIVE SUMMARY**

- 4.1 The Audit & Risk Committee has resolved to amend their Charter so that Minutes of quarterly meetings are reported to Council and so be placed on the public record. As such, a copy of the Minutes of the Audit & Risk Committee Meeting held on 16 May 2012 is at **Attachment 1**.

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#### **RECOMMENDATION**

That the Minutes of the Audit and Risk Committee Meeting held on 16 May 2012 be noted.

Report prepared by  
Renaldi Steyn - Internal Auditor

Paul Reid  
**MANAGER, CORPORATE STRATEGY & COMMERCIAL**

# Minutes

## *Audit & Risk Committee Meeting*

held in the 3<sup>rd</sup> Floor Conference Room at  
Pittwater Council, Warriewood on

*16 May 2012*

Commencing at 5.10pm

ATTENDANCE:

## **Members**

Mr Neil Adams (Chairperson)  
Mr John Gordon  
Cr Jacqueline Townsend  
Cr Julie Hegarty

## **The following Council Officers (non-voting)**

Mr Mark Ferguson, General Manager  
Mr Paul Reid, Manager, Corporate Strategy & Commercial  
Mr Mark Jones, Chief Financial Officer  
Ms Renaldi Steyn, Internal Auditor  
Mr Jeremy Wardell, Principal Officer, Risk & Developer Contributions  
Mr Lindsay Dyce, Manager, Planning & Assessment  
Ms Denka Van Den Bosch, Principal Officer  
- Land & Information  
- Development Application Process Administration  
Ms Pamela Tasker, Administration Officer / Minute Secretary

## **Audit & Risk Committee**

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<b>1.0</b>	<b>Apologies</b>	
<b>2.0</b>	<b>Declarations of Pecuniary or Conflict of Interest</b>	
<b>3.0</b>	<b>Confirmation of Minutes</b>	
<b>4.0</b>	<b>Matters Arising &amp; Action Items from Minutes</b>	
<b>5.0</b>	<b>Report on Risk Management</b>	
<b>6.0</b>	<b>Report on Internal Audit Activities</b>	
<b>7.0</b>	<b>Complaints Register</b>	
<b>8.0</b>	<b>General Business</b>	
<b>9.0</b>	<b>Next Meeting</b>	

***Attachment 1: Action Item Summary***

**Notes:**

1. The Audit & Risk Committee (A&RC) Meeting commenced at 5.10pm.
2. Mr Adams assumed the Chair.

**Proceedings in Brief**

Mr Adams gave a brief introduction and welcomed those present.

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**1.0 Apologies - Nil**

Nil.

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**2.0 Declarations of Conflict of Interest / Pecuniary Interest - Nil**

Nil.

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**3.0 Confirmation of Minutes**

**COMMITTEE DECISION**

That the Minutes of the A&RC Meeting held on 15 February 2012, copies of which were circulated to all members, be and are hereby confirmed as a true and accurate record of that meeting.

(Mr Gordon / Cr Hegarty)

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**4.0 Matters Arising & Action Items from Minutes**

**Proceedings in Brief**

7/1.7 – The Manager - Planning & Assessment and the Principal Officer - Land & Information / Development Application Process Administration, addressed the meeting providing a brief overview on current DA procedures, specifically:

- managing risk in terms of corruption, etc.
- calculating, monitoring and improving assessment times
- performance measurement and monitoring
- how the DA process can be improved

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## COMMITTEE DECISION

1. That the Manager - Planning & Assessment, and the Principal Officer, Land & Information / Development Application Process Administration be thanked for their presentation to the Committee.
2. That the Manager, Planning & Assessment, report back to the Committee Meeting on 21 November 2012 re maintaining the information on the property data base.

(Mr Gordon / Cr Hegarty)

### **Notes:**

1. The Manager, Corporate Strategy & Commercial, the Manager, Planning & Assessment, and the Principal Officer, Land & Information / Development Application Process Administration left the meeting at 5.50pm.
2. The Chair welcomed the new Internal Auditor to her first Audit & Risk Committee Meeting.
3. The Internal Auditor then continued her address to the meeting on Item 4: Matters Arising and Action Items from the Minutes.

### **Action Items – Matters Arising & Action Items from Minutes:**

- 7/1.7 - the Manager, Planning & Assessment, to report back to the Committee Meeting to be held on 21 November 2012 re maintaining the information on the property data base.
- 7/1.8 – Because of the timing of full implementation of the new procurement process, the Probity Review is to be deferred to completion by 1 June 2013.

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## **5.0 Report on Risk Management**

### **Proceedings in Brief**

The Principal Officer, Risk Management & S94 Developer Contributions, addressed the Committee on this item.

### **Action Items – Update on Risk Management:**

- Enterprise Risk Management (ERM) Plan – Implementation of the ERM framework is subject to appointment of a consultant. An update is to be brought back to the Committee at the November meeting.

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## **6.0 Report on Internal Audit Activities**

### **Proceedings in Brief**

The Internal Auditor addressed the Committee on this item.

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## **6.1 Issues Register: Progress on Audit Recommendations**

### **Proceedings in Brief**

The Internal Auditor addressed the Committee on this item.

### **Action Items – Issues Register:**

- **Attachment 4 – Development Determination:**  
Council Policy re planning decisions being called to Council is being addressed through changes to legislation due at the end of this year. An update is to be brought to the Committee in February 2013 pending legislative changes and development of a Council Policy.
- **Attachment 5 – Item 4.1:**  
The redesign of Customer Service Centres is to be undertaken by 30 September 2012 as funding becomes available.
- **Attachment 6 – Item 3:**  
Fleet Management – The review and update of the current Motor Vehicle guidelines is to be brought forward to August 2012.
- **Attachment 7 – Item 5:**  
Preparation and submission of casual employee lists to be completed by 31 July 2012.
- **Attachment 8 – Item 1:**  
The IT access review to be completed by 30 June 2012.
- **Attachment 9 – Section 94 Contributions Audit – Item 4:**  
To ensure that the reconciliation on payments of S94 Developer Contributions is formally documented and communicated to all relevant employees, the recommendation stands as is with responsibility transferred to the Manager, Administration & Governance and the Chief Financial Officer. To be completed by 30 September 2012.

### **Note:**

Cr Hegarty left the meeting at 7.20pm.

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## **6.2 Section 94 Contributions Audit**

### **Proceedings in Brief**

The Internal Auditor addressed the Committee on this item.

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## **6.3 Report on Location and Structural Adequacy of the Existing Server Room**

### **Proceedings in Brief**

The Chief Financial Officer addressed the Committee on this item. The existing server room was considered to be adequate with emergency back up provided by the Mona Vale server if required. The risk of flooding was acknowledged but Council has put in place adequate controls to mitigate the risks identified.

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## **6.4 Review of Internal Audit Charter and Audit & Risk Committee Charter**

### **Proceedings in Brief**

The Internal Auditor addressed the Committee on this item.

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## **6.5 Internal Audit Plan**

### **Proceedings in Brief**

The Internal Auditor addressed the Committee on this item.

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## **COMMITTEE DECISION**

1. That the Committee approve the Internal Audit Plan for 2012/2013.
2. That a new Strategic Audit Plan 2012-2015 be brought to the Committee for the November meeting.

(Mr Adams / Mr Gordon)

### **Action Items – Internal Audit Plan:**

- A new Strategic Audit Plan 2012-15 be brought to the Committee for its November 2012 meeting.

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## **7.0 Complaints Register**

### **Proceedings in Brief**

The General Manager addressed the Committee on this item

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### **Note:**

The Chief Financial Officer left the meeting at 8.15pm.

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## **8.0 General Business**

### **8.1 Climate Change Risk Assessment**

The Pittwater Climate Change Risk Assessment Report was adopted by Council at their meeting on 7 May 2012. The question of how Climate Change risks are managed at present was discussed by the Committee.

The Corporate Risk Register currently addresses obvious risks associated with climate change, such as bushfire, coastal erosion, flooding and predicted Sea Level Rise. Potential hazards on properties are also addressed via development controls which govern new development in risk affected zones.

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## **9.0 Next Meeting**

The next meeting of the Audit & Risk Committee will be held at 5.00pm on Wednesday, 15 August, 2012.

**THERE BEING NO FURTHER BUSINESS THE AUDIT & RISK  
COMMITTEE MEETING CLOSED AT 8.25PM ON  
WEDNESDAY, 16 MAY, 2012**

## Attachment 1 - Action Item Summary

- **7/1.7 - the Manager, Planning & Assessment, to report back to the Committee Meeting to be held on 21 November 2012 re maintaining the information on the property data base.**
- **7/1.8 – Because of the timing of full implementation of the new procurement process, the Probity Review is to be deferred to completion by 1 June 2013.**
- **Enterprise Risk Management (ERM) Plan – Implementation of the ERM framework is subject to appointment of a consultant. An update is to be brought back to the Committee at the November meeting.**
- **Attachment 4 – Development Determination:  
Council Policy re planning decisions being called to Council is being addressed through changes to legislation due at the end of this year. An update is to be brought to the Committee in February 2013 pending legislative changes and development of a Council Policy.**
- **Attachment 5 – Item 4.1:  
The redesign of Customer Service Centres is to be undertaken by 30 September 2012 as funding becomes available.**
- **Attachment 6 – Item 3:  
Fleet Management – The review and update of the current Motor Vehicle guidelines is to be brought forward to August 2012.**
- **Attachment 7 – Item 5:  
Preparation and submission of casual employee lists to be completed by 31 July 2012.**
- **Attachment 8 – Item 1:  
The IT access review to be completed by 30 June 2012.**
- **Attachment 9 – Section 94 Contributions Audit – Item 4:  
To ensure that the reconciliation on payments of S94 Developer Contributions is formally documented and communicated to all relevant employees, the recommendation stands as is with responsibility transferred to the Manager, Administration & Governance and the Chief Financial Officer. To be completed by 30 September 2012.**
- **A new Strategic Audit Plan 2012-15 be brought to the Committee for its November 2012 meeting.**

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## **Planning an Integrated Built Environment Committee**

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### **11.0 Planning an Integrated Built Environment Committee Business**

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<b>C11.1</b>	<b>N0350/11- 64 - 66 Avalon Parade Avalon - Demolition of the existing dwellings and construction of Housing for Seniors and People with a Disability development and Strata Subdivision</b>
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**Meeting:** Planning an Integrated Built Environment Committee

**Date:** 18 June 2012

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**STRATEGY:** Land Use and Development

**ACTION:** Provide an effective development assessment and determination process

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## **PURPOSE OF REPORT**

To inform the Committee of the result of the deferral request made at its meeting on Monday, 16 April 2012 concerning Development Application N0350/11 for the demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability and strata subdivision at 64 – 66 Avalon Parade, Avalon.

### **1.0 BACKGROUND**

- 1.1 The Planning and Integrated Built Environment Committee, at its meeting held on Monday, 16 April 2012 considered a recommendation by the Development Unit that the subject application be approved subject to an amended condition.

The Committee resolved as follows:

*That the matter be deferred to allow discussions with the Applicant and the Objectors on privacy issues, parking issues, streetscape and massing issues, site coverage and hydrology issues including supporting calculations that determine no net impact on the 1% flooding probability taking into account climate change and increased rainfall, further; legal advice on access for inter allotment drainage easements.*

Minutes of the Planning and Integrated Built Environment Committee meeting is attached (refer **Attachment 1**).

- 1.2 After the Committee meeting, on the 18 April 2012, the applicant filed a Class 1 Appeal with the NSW Land & Environment Court against Council's deemed refusal of the development application.
- 1.3 Council received a letter from the applicant on 20 April 2012 responding to the minutes of the meeting of 16 April 2012.

### **2.0 REASON FOR REFERRAL TO COUNCIL**

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

### 3.0 DISCUSSIONS WITH THE APPLICANT AND THE OBJECTORS

- 3.1 The applicant's response received was in the form of a written letter and supporting diagrams addressing the issues raised at the Committee meeting.

The applicant's response is attached (**ATTACHMENT 2**).

This information was loaded on Council's website accessible by the public.

The Applicant met with Council on 30 April 2012 to discuss the issues raised at the Committee meeting and response provided. Since that meeting a number of phone calls and email correspondence between Council and the applicant in an attempt to resolve the privacy issues has taken place.

- 3.2 The main objectors were contacted via phone and/or email during April and May 2012. The following table indicates the property owners contacted and the issues discussed.

Address	Contact	Issues Discussed
62 Avalon Pde	- Phone/email various dates in 4/12 and 5/12	- Privacy - Stormwater - Site Coverage - Landscaping/Trees - Streetscape - Relocation of stairs
75 Avalon Pde	- Phone on 8/5/12	- Streetscape/Lack separation - Landscaping
68 Avalon Pde	- Phone on 7/5/12	- Privacy - Asbestos Removal
Pittwater Palms	- Phone/email various dates in 4/12 and 5/12	- Fencing - Tree removal - Stormwater
Avalon Preservation Trust	- Phone on 9/5/12	- Streetscape - Overdevelopment - Parking Issues - Privacy - Flooding - Site Coverage - Landscaping
26/82 Avalon Pde	- Phone on 8/5/12	- Fencing - Tree Removal
79 Avalon Pde	- Phone on 8/5/12	- Parking/Traffic generation - Pedestrian Safety
60 Avalon Pde	- Phone on 8/5/12	- Stormwater - Parking - Unsuitable building

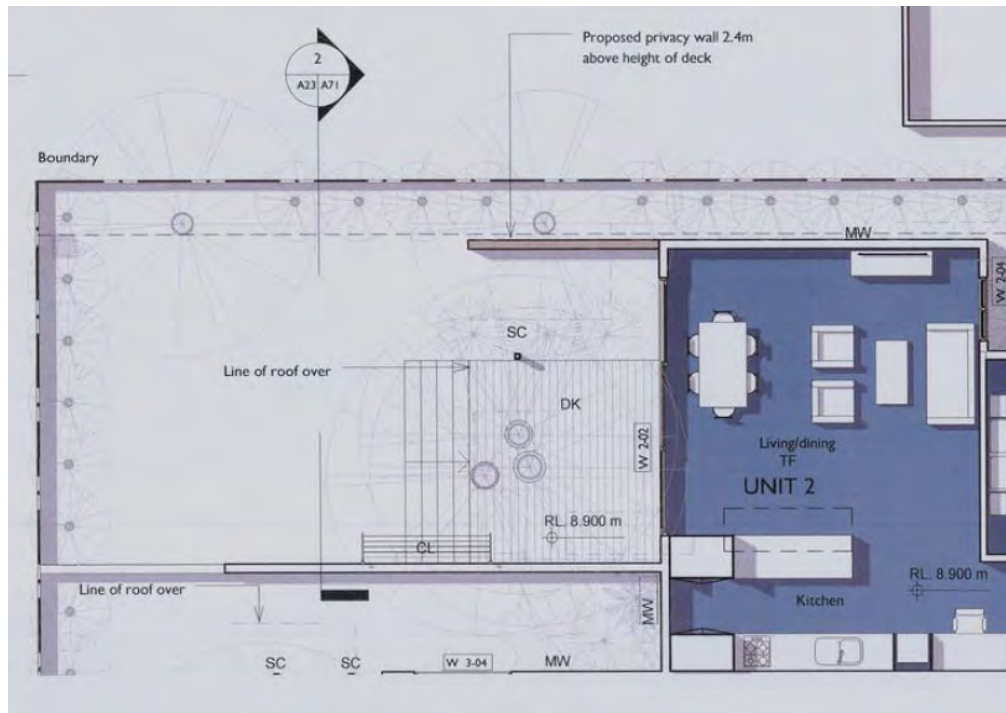
Each of the issues discussed are addressed in section 4 of this covering report.

## 4.0 ISSUES

### 4.1 Privacy

#### Unit 2

The applicant has proposed a solid privacy wall extending from the eastern wall of Unit 2 for the width of the deck (shown on new drawing A71).



Except from Plan A71 Richard Cole Architecture Pty Ltd

The applicant has indicated that it would be a solid wall (not masonry, but a lightweight insulated panel) which will extend from ground level to 2m above the ground floor level/deck and be behind the slender weaver bamboo. The applicant advised that the colour choice could be the neighbour's preference either green or brown.

The owner of 62 Avalon Pde has responded by advising that they prefer a solid wall with the colour chosen from the developments colour palette at a later date.

It is therefore recommended that an additional B condition be incorporated into the draft consent:

- A privacy wall is to be erected extending from the eastern wall of Unit 2 in a northerly direction for the width of Unit 2 deck. The wall shall be solid, painted with a mid to dark tone (either a green or brown) and shall extend from ground level to 2m above the ground floor level/deck.

It is also recommended that the Plan A71 be referenced on the front page of the consent.

The neighbour has also suggested that the stairs could be reoriented to the east as originally proposed to minimise potential damage to Tree 18. It is recommended that Condition C16 be amended to state:

- The north facing stairs to the Unit 2 deck are to be deleted and new stairs provided along the eastern edge of the deck. Revised plans are to be provided prior to issue of the Construction Certificate.

Given that a privacy wall is proposed and the stairs conditioned to be east facing, it is no longer necessary for the Mango Tree to be located 2m in from the eastern boundary. It is therefore recommended that condition B34 is deleted.

It was suggested at the council meeting that the Slender Weave Bamboo to be planted along the eastern boundary be planted at a minimum height of 3.0m. The neighbour agrees with this suggestion. It is recommended that an additional E condition be incorporated into the draft consent:

- The Slender Weave Bamboo to be planted along the eastern boundary (referred to in Condition B35) shall be planted utilising plant stock with a minimum height of 3.0m upon planting. This condition relates to that part of the eastern boundary planting zone between Unit 2 and the rear (northern) boundary. The bamboo is to be retained for the life of the development and maintained at a minimum height of 3.0m above ground level.

The neighbour has suggested that the landscape plan be updated to show the Slender Weave Bamboo planted along the eastern boundary. Considering that the requirement is referred to in two sections of the consent (B - for the life of the development and E - Prior to Occupation Certificate) it is not considered necessary for the landscape plan to be amended prior to issue of the construction certificate.

#### Unit 7

The applicant has proposed that the Unit 7 screen be a horizontal angled screen (similar to photos below).



The applicant provided the following comments:

*"This style prevents any overlooking from balconies yet still allows ventilation and sun to pass through the screen. I assume at this stage it would be sitting on top of a solid wall (planter box) similar to the left hand photo (1.8m total from the floor) positioned as per the plans (along the eastern side from the lounge windows to the end of the balcony). This effectively creates 100% visual privacy (rather than the suggested 25% clear opening proposed by council) and would comprehensively address any privacy concerns from unit 7."*

The owner of 62 Avalon Pde has responded by advising that they prefer the style in the first photograph with fixed slats sloping from the inside of the deck up to the outside. The neighbour requested exact specifications for the slats to ensure no overlooking could be achieved. It was agreed that a condition with specific wording could satisfy this concern. It is recommended that an additional B condition be incorporated into the draft consent:

- The screening device along the eastern edge of Unit 7 deck and planter shall be a horizontal angled screen with the lower point of each panel to be on the inside of the deck and the higher point of each panel on the outside of the deck. The screen is to be installed in a manner so that when a horizontal view point (at eye level) of the screen is taken from within Unit 7 deck, no openings are visible.

It is also recommended that condition B16 be amended as follows

- All screening devices, **other than those specifically referred to elsewhere in this consent** shall be 1.7m high from the finished floor level, solid, translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:
  - permanent and fixed;
  - made of durable materials;
  - and dark and earthy materials and tones.

#### Unit 11

The owner of 68 Avalon Pde indicated that privacy was still a concern. Unit 11 is the only unit elevated adjacent to 68 Avalon Pde. The living room windows are screened by a privacy screen and the bathrooms and bedrooms windows 11-08 and 11-09 are recommended to be frosted glazing (condition B33). It is considered that the spatial separation, screening devices and landscaping along the western boundary provides adequate privacy protection to the private open space at 68 Avalon Pde.

## 4.2 **Parking**

The applicant has advised that no further information can be provided on this matter and reiterates that the development complies with the controls and standards. Objectors to the development maintain that there is inadequate parking provided and will put further pressure on existing on-street parking deficiencies.

The development provides one (1) car space for each dwelling which is eleven (11), in addition to three (3) visitor spaces and a wash bay (total 14). Under SEPP HSPD eleven (11) carparking spaces are required to comply with AS2890.6 (incorporate a shared space for accessibility). Advice from the Accessibility consultant and Traffic Engineer finds that the visitor spaces can double as a shared space thus satisfying these criteria.

PDCP relies on the RTA (2002) Guide to Traffic Generating Development for calculating minimum spaces for SEPP HSPD development. This guide requires a minimum of eight (8) residential spaces and two (2) visitor spaces (total 10), which is less than what SEPP HSPD requires.

Overall a minimum of eleven (11) spaces are provided that can comply with AS2890.6, therefore pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on parking requirements.

Concerns were also raised in relation to pedestrian safety along the footpath being affected due to entering and existing vehicles. Neighbours have indicated that the footpath is frequented by elderly on motorized scooters and children on foot and on bicycles.

The footpath is to be retained and made good as part of the development. Two driveway crossings will be reduced to one and sight lines will be maintained to the east and west.

The submitted traffic report assesses the proposed Traffic Generation against the RTA (2002) Guide to Traffic Generating Developments. The existing peak hour vehicle trips are calculated at 1.7 trips for the two dwellings. The peak hour trips generated by the proposed development are calculated at 2.2 trips. It is concluded that there will be no noticeable change in the number of vehicle trips on Avalon Parade due to the proposed development.

It is not considered that the proposal will change the local traffic conditions to an extent that pedestrian safety would be compromised.

#### 4.3 Streetscape and Massing

The applicant has responded to the streetscape issue by providing an elevation drawing which shows the proposed massing and the letter refers to the 10m deep soil landscape front setback, natural colour palette, variety of building forms and the building mass sitting below the tree canopy.

Some objectors maintain that the development is too bulky and is of a scale and mass inappropriate within the streetscape. In order to achieve a massing and aesthetic preferred by some objectors significant design changes would be required. There would need to be a net reduction in the front building mass (through the centre) which would include the deletion of units or relocation of the mass further north (towards the rear). The adjoining property owners have indicated that they do not prefer additional storeys (building mass) towards the rear 50% of the site.

It is understood that the Committee is concerned with the visual character of the development when read in the context of surrounding buildings and landscape. The Assessing Officers report (**ATTACHMENT 3**) acknowledges that the proposed massing is different to existing built form character in the streetscape. The report investigates alternative designs however concludes that the proposed massing is acceptable in the circumstance given the 10m front setback, effective screening through landscaping and architectural elements and features integrated into the façade.

The retention and implementation of landscaping within the 10m front setback forms the fundamental basis of supporting the proposed building mass. For this reason further advice relating to the realistic screening capacity of the landscape scheme was requested from Council's Natural Resources officer:

*"I have assessed the proposed Landscape Plan (Jamie King Landscape Architect Drawing No. Sht-1 8th September 2011) with regard to screening within the front setback area adjacent to the street. This area includes the retention of three (3) large Eucalypts as well as the addition of three (3) additional large canopy trees (Eucalyptus robusta and Melaleuca quinquenervia) and five (5) smaller sub-canopy trees (Banksia integrifolia and Waterhousia floribunda). A row of Viburnum shrubs is proposed along the front boundary which will provide adequate mid-level screening. Along with the existing and proposed canopy and sub-canopy trees, it is considered that the level of screen planting upon maturity, will sufficiently screen the majority of the built form."*

As established in the Assessing Officer's report, the density and scale of the design is one which complies with the development standards in SEPP HSPD and Council cannot refuse consent for these reasons. While the development is visually different to existing built form in the streetscape, it does appropriately respond to the local character considering that higher density development is permitted on the site under SEPP HSPD.

#### 4.4 Hydrology

The Committee requested further assessment of the hydrology issues including stormwater discharge and flooding. The Committee specifically requested *supporting calculations that determine no net impact on the 1% flooding probability taking into account climate change and increased rainfall.*

##### Stormwater Disposal

Council's Development Engineer provided the following advice to the Manager Planning & Assessment in response to the Committee's request:

*"I refer to your memo dated 1<sup>st</sup> May 2012 requesting a review of the storm water disposal component of the assessment report, prepared by Amy Allen dated 16<sup>th</sup> April 2012. In particular whether the application can be supported in terms of the recommended conditions and whether those conditions ensure that there is no net impact on the 1 % flooding probability taking into account climate change and increased rainfall.*

*The assessment report dated 16<sup>th</sup> April 2012 deals with storm water disposal under the heading "B5.10 Storm water discharge into public drainage system....". This section describes the process that was undertaken during the assessment stage of the application and is summarised as follows:*

- Initial assessment highlighted that the proposal was not acceptable, as it had no method of reducing storm water flows from the developed site and therefore would have an impact on adjoining properties. The applicant was requested to investigate the construction of an inter-allotment drainage line to connect to Councils storm water system which would remove storm water from the site.*
- The applicant approached the adjoining neighbours to negotiate an easement, however the requests were denied.*
- The applicant put forward an alternative approach to storm water management that involved the use of retention and detention tanks to reduce site storm water runoff and the disposal of the runoff using dispersion trenches.*

*An alternative approach is acceptable under Councils DCP 21 control B5.10 where the development does not have legal access to the public drainage system and is unable to gain the adjoining owner's consent for access.*

*The key components of this alternative system are summarised in Table 1 below;*

<b>Table 1</b>	<b>Pre-development conditions</b>	<b>Post-development conditions</b>
Site area (m <sup>2</sup> )	2230	2230
Impervious area (m <sup>2</sup> )	1072	1540
Pervious area (m <sup>2</sup> )	1158	690
% impervious	48.1	69.1
1%AEP runoff (m <sup>3</sup> /sec)	0.114 (114 litres/sec )	0.083 ( 83 litres/sec )
Retention volume (m <sup>3</sup> )		32
Detention volume (m <sup>3</sup> )		49
% reduction 1% AEP runoff		27

*The key characteristics of this system are the use of retention (32m<sup>3</sup>) and detention (49 m<sup>3</sup>) tanks to reduce site storm water runoff by 27% in the 1% AEP storm event.*

*In regards to the consideration of “climate change and increased rainfall” impacts, Councils DCP requirements for site storm water disposal do not require their consideration. However they are considered as part of the flood hazard controls and were considered by Council’s Catchment Management Unit when setting appropriate flood planning levels for the site. I understand a review of the flood planning level for the site is being undertaken by Council’s Catchment Management and Climate Change Unit.*

*Whilst the construction of an inter-allotment drainage line through the adjoining lots to connect into council’s storm water system is the preferred option the alternative system proposed by the applicant is also considered appropriate as it:*

- Reduces peak flows from the developed site (until the site and adjoining sites are inundated from the upstream catchment in the 1% AEP flood event).*
- Does not concentrate or alter site surface flows*
- Replicates and improves existing localised flow characteristics.*

*Accordingly conditions of consent were recommended for inclusion in any consent that allows the applicant the option to either;*

- Construct a suitably sized inter-allotment drainage line connecting to council’s storm water system or,*
- Install the combined retention/detention tank system as proposed by AKY Civil Engineering in their design dated January 2012.*

*Either of the above options will meet the outcomes of Council’s control B5.10 “Storm water discharge to public drainage system “and are therefore considered appropriate.*

*As per your request this review was discussed with Council’s Urban infrastructure Unit and the comments provided by the Units’ Project Leader – Stormwater Management is attached below. These comments support the approach taken and the recommended conditions of consent.”*

Council’s Project Leader - Stormwater Management provided the following advice to Council’s Development Engineer in response to the Committee’s request:

*“Reference is made to your email of 7.5.12 with attached draft response to Lindsay Dyce’s memo of 1.5.12 and meeting between ourselves of 3.5.12 to discuss the relevant issues.*

*The following information is offered to assist with your final reply:*

*With regards to on site stormwater disposal relating to the issue at hand:*

*Pittwater 21 DCP Control B5.10 - Stormwater Discharge into Public Drainage System applies.*

*The outcome of the control is to have no adverse environmental impact at the discharge location.*

*The control's preferred treatment for site stormwater drainage is to be connected to a public drainage system, either directly or via a inter-allotment drainage (through adjoining properties) or via a public reserve.*

*A variation of this control stipulates that where the development does not have legal access to the public drainage system and is unable to gain adjoining owner's consent on alternative access through drainage easements as required Council would consider other options on their merit. This variation would need to be supported by an appropriately qualified Water Engineer outlining the collection, use, reuse and disposal method demonstrating that it will provide an acceptable standard of safety, will not have any adverse impact on adjoining properties, bushland or public places, and will not adversely impact on the downstream drainage system, downstream bushland or any downstream.*

***The control does not specifically require developers to take into account climate change (i.e. sea level rise and increased rainfall intensity).***

*Council's Pittwater 21 DCP Climate Change requirements are stipulated under Control B5.23.*

*This control relates to determining changed impacts on Coastal Hazard Extents, Flood Planning Levels and Estuarine Planning Levels due to climate change.*

*It is understood that the Council's Floodplain Management Engineer issued flood advice that included Climate Change and advised that the 100 year flood level increased by 300mm - which was reflected in a Flood Planning Level increase of 300mm to RL 8.9m AHD.*

*Policy direction relating to Climate Change would appear to be the responsibility of the Catchment Management & Climate Change team (CM&CC). Questions relating to inclusion of climate change requirements across the board including stormwater controls should be directed to CM&CC.*

*Your assessment appears comprehensive and indicates that the developer has taken an approach that is consistent with Council Pittwater 21 DCP requirements. Conclusions reached in your draft memo appear to be appropriate."*

Based on the advice above, the development results in a net reduction in peak stormwater runoff (decrease of 27% in the 1% AEP storm event). It is noted that Council's policies do not require developers to take into account climate change (i.e. sea level rise and increased rainfall intensity) when calculating site stormwater disposal.

In this regard, the proposed combined retention/detention tank system will meet the outcomes of control B5.10 and is suitable. Forcing an easement for drainage over an adjoining property is not considered to be an appropriate solution given that an acceptable alternative is available. The optional condition C1 should be retained in the draft consent if in the event an adjoining property owner does willingly provided consent to an easement.

### Flood Storage

Council's Catchment Management and Climate Change Team provided the following advice to the Manager Planning & Assessment in response to the Committee's request:

#### ***"Background***

*The Development Application for 64-66 Avalon Parade was presented to Council on 16 April 2012 and deferred in order to investigate the impact of the proposed development on flood storage.*

*This memo comments on the issues of flood storage with respect to the proposed development. Other flood related issues, such as floor level and evacuation potential are detailed in previous correspondence (see notes on DW3860488). A summary of proposed consent conditions relating to flooding are provided in this memo.*

*It should be noted the Flood Risk Management Report (Barrenjoey Consulting Engineers, Sept 2011) does not provide any calculations on flood storage. Additional information provided on 20 April 2012 from Catalina Island provides the results of calculations (not the actual calculations) undertaken by Richard Cole Architecture (drawing title "Displaced Flood Storage Volume", dated Sept 2011).*

#### ***Flood Storage***

*The current land use consists of two residential dwellings and garages all with slab on ground. Additional information provided by Catalina Island on 20 April 2012 states the existing dwellings and outbuildings currently occupy 93.1m<sup>3</sup>.*

*As stated in the Flood Risk Management Report (Barrenjoey Consulting Engineers, Sept 2011), the proposed building is shown to be raised via piers creating an area for flood storage underneath.*

*The additional information states the proposals will result in a loss of flood storage volume of 93.1m<sup>3</sup>, the exact same volume as is estimated to be currently displaced. Therefore according to the applicant there is no impact on flood storage as a result of the proposals within DA N0350/11.*

#### ***Verification of Calculations***

*It is unclear how the flood storage calculations were undertaken as these were not provided. A basic verification of these calculations was undertaken using the Survey Plan (DP Surveying, July 2011) that states the total site occupies 2230m<sup>2</sup> and the ground level varies from 7.5m to 8.9m AHD.*

*The verification showed it is highly unlikely the flood storage is the exactly the same pre and post development, despite the building being raised via piers due to the cumulative impact of the pier foundations and slab on ground car parking areas.*

*The "Displaced Flood Storage Volume" drawing showed a proportion of Unit 3 was to be built with mixed foundations, i.e. slab on ground and suspended floors. No other drawing or elevation plan shows this mixed use of foundations. It is also unclear from the Elevation Plans whether the sides of the buildings were enclosed.*

Therefore, it is likely the impact on flood storage is much greater than portrayed on the "Displaced Flood Storage Volume" drawing. However, should all the units be raised via piers and there is sufficient space underneath the building, it is unlikely the impact of flood storage would adversely affect surrounding properties.

### **Conditions**

It is recommended the following conditions (or words to that effect) are added to the DA consent in order to ensure the impact on flooding is minimised, in accordance with Pittwater Councils Development Control B3.14 and B3.23.

### **Additional Condition**

*Bx.xx All residential units are to be constructed with piers. The underside of the floor is to be kept clear. There are to be no materials fixed onto the side of the building between the ground level and floor level to ensure clear passageway of floodwaters.*

*The other flood related conditions of consent as provided in the Council report of 16 April 2012 should be retained as follows:*

### **Retained Condition B31**

*All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed to allow for the passage of floodwaters through the fence.*

### **Retained Condition E14**

*A Flood Emergency Response Plan is to be prepared which addresses the emergency response for all floods up to the Probable Maximum Flood or the Flood Planning Level (whichever is the higher).*

- (a) For developments where the period of isolation of the development is greater than 2 hours in a Probable Maximum Flood, High-level On-site Refuge will not be permitted. "Isolation" is defined as where there would be a minimum depth of water of 300mm in a probable maximum flood to access land above the probable maximum flood to where there is adequate refuge.*
- (b) For High-level On-site Refuge to be considered by Council as the method of Emergency Response, it must be demonstrated that:*
  - (i) the period of isolation of the development is no more than 2 hours in a Probable Maximum Flood;*
  - (ii) the Refuge must have a minimum floor level at or above the Probable Maximum Flood or Flood Planning Level (whichever is the higher level);*
  - (iii) for Critical and Vulnerable Land Uses (includes Seniors Living developments), the Refuge must be able to be accessed via a disabled access by people who do not have to enter deeper water to access the Refuge;*
  - (iv) the Refuge must provide a minimum of:*
    - o 10 square metres for each individual dwelling;*
    - o 2 square metres per person based on the number of likely employees and patrons/visitors;*
  - (v) the Refuge must be suitable for occupation for the stated number of persons for the likely time of isolation, assuming no provision of external services, particularly electricity and water;*
  - (vi) the Refuge is located in a building that has been certified by a Structural Engineer to be structurally sound under the likely hydraulic forces up to the level of the Probable Maximum Flood."*

The applicant submitted a Flood Storage displacement diagram in response to the issues raised at the Committee meeting. The diagram identifies pre development and post development flood storage scenarios.

It is noted that the existing dwellings are slab on ground construction and the mass of these structures limits the flood storage on site. The development proposes two tanks beneath Unit 2 and Unit 3 and piers/footings under the remaining units in which their mass limits the flood storage on site.

The difference between pre and post development conditions is that post development flood storage is greater than predevelopment flood storage. Therefore the development results in a net increase in flood storage and this impact is unlikely to adversely affect neighbouring properties.

In order to ensure that the development is elevated across the site except to the garage and where the tanks are located, it is recommended that the following additional B condition is incorporated into the draft consent:

- All residential units are to be constructed with piers (except the areas where the detention and rainwater tanks are located). The underside of the floor is to be kept clear. There are to be no materials fixed onto the side of the building between the ground level and floor level to ensure clear passageway of floodwaters.

#### 62 Avalon Pde

The neighbour at 62 Avalon Pde engaged an Engineer to provide a review of proposed development in terms of affects on 62 Avalon Pde. The advice states:

*Accordingly it is appropriate that flows, whether piped or surface, should be directed to maintain the existing condition. Flows should thus not be directed towards or through your property, since this is not the existing drainage flow path.*

The advice suggests the following suitable conditions be placed within any consent to protect 62 Avalon Pde:

- any development consent should require that the existing elevated ground levels in the north eastern part of No. 64 Avalon Parade be maintained.
- the rear yards should be unpaved and constructed with a permeable material to limit the increase in hard surface area.

It is recommended that additional B conditions are incorporated into the draft consent:

- The rear yards of units 1, 2, 3, 4, 5 and 6 are not to be paved and must be maintained in accordance with the approved landscape plan for the life of the development.
- The natural ground levels around the development shall be maintained in accordance with the details on the Survey Plan (Ref: 2283 Dated 26 July 2011 Prepared by DP Surveying) for the life of the development.

It is recommended that a new E condition be incorporated into the consent:

- Ground levels around the development shall be maintained in accordance with the details on the Survey Plan (Ref: 2283 Dated 26 July 2011 Prepared by DP Surveying) and are to be certified by a Registered Surveyor prior to the issue of the Occupation Certificate.

It is also recommended that the Survey Plan (Ref: 2283 Dated 26 July 2011 Prepared by DP Surveying) be referenced on the front page of the consent.

The neighbour has requested the restriction on paving be registered on the title of the land. It is considered that consent conditions and approved plans are sufficient to restrict additional paving and it would be onerous to require registering of this restriction on the title.

The neighbour has suggested that the grounds be maintained as common property so the drainage system can be maintained. The rear yards of the units should be retained as private open space as this is required for amenity reasons. Access to the tanks would need to be provided through land occupied by Unit 2 and Unit 3. For this reason it is recommended that the following F condition be incorporated into the consent:

- Provision is to be made in the Strata Plan for access to the Detention Tank and Rainwater Tank for the purpose of inspection, maintenance and repair in favour of the Body Corporate.

#### **4.5 Site Coverage**

The applicant responded to this issue by referring to the compliance with the SEPP HSPD and distribution of deep soil and landscaped area over the site to achieve enhanced privacy and streetscape.

SEPP HSPD requires that a minimum of 30% of the area of the site is to be landscaped and 15% of that area be deep soil zone. The proposed landscaped/deep soil zone is 831m<sup>2</sup> or 37.3% which complies with the standard. Pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on the scale of the development, deep soil zones and landscaped areas.

It is considered that the recommended conditions in part 4.4 above ensure that additional hard surface area other than that nominated on the landscape plan is not permitted.

#### **4.6 Inter Allotment Drainage Easements**

The Committee requested legal advice on access for an inter allotment drainage easements. This legal advice is to be separately circulated.

#### **4.7 Tree Retention**

The owner of 62 Avalon Pde has requested that Tree 18 and Tree 29 be retained. Both are assessed in the Arborist Report and are proposed to be retained. Existing draft condition D15 is relied upon for the protection of Tree 18. It is recommended that an additional B condition be incorporated into the draft consent:

- Tree 29 is to be retained and not removed. The canopy of Tree 29 (excluding the trunk) should it overhang onto No. 64 Avalon Pde may be trimmed by a maximum 10%.

Residents of Pittwater Palms are concerned about the trees along the common boundary and their potential removal. Trees 24, 25, 26, 27 and 28 are located north of the common boundary on the Pittwater Palms land. They are assessed in the Arborist Report are not recommended for removal. Removal of these trees can only occur with the consent of the owners (Executive Committee) of Pittwater Palms.

#### **4.8**

## Fencing

Concerns have been raised by a resident of the Pittwater Palms complex and the Pittwater Palms Executive Committee regarding the styling of the rear boundary fence. The fencing condition as recommended in condition B31 states:

All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed of **timber (lapped and capped)** and to allow for the passage of floodwaters through the fence.

A unit owner opposite the subject site has suggested lapped and capped style or traditional paling style as it provides an effective barrier for noise and privacy. The Executive Committee has suggested a friendly neighbour style (alternative palings on opposite sides of the fence). The Executive Committee believes that this is a better option aesthetically and to allow for the passage of floodwaters.

From a planning perspective there is no preference over any style of fence however it is unlikely that privacy and noise impacts would be heightened if a friendly neighbour style was erected.

It is recommended that the styling of the fence not be nominated in the consent and it only refers to timber materiality and allowing for the passage of floodwaters. This will enable both property owners to agree upon a dividing fence under the provisions of the *Dividing Fences Act 1991* (Condition G1). It is recommended that condition B31 be amended as follows:

- All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed of timber and to allow for the passage of floodwaters through the fence.

## 4.9 Asbestos Removal

Concern was raised by the owner of 68 Avalon Pde regarding the removal of asbestos and potential health and safety issues. Conditions C6 and D19 specifically relate to the safe removal of asbestos in accordance with the AS2601-2001 The Demolition of Structures and WorkCover Authority of New South Wales - Short Guide to Working with Asbestos Cement. These conditions can satisfy the concerns of the neighbour.

It is recommended that condition C6 be moved to a B condition as it is more appropriately classed as a life of the development condition.

## 4.10 Undergrounding of Services

The applicant has requested that condition B27 be deleted from the draft conditions of consent. Condition B27 states:

*All utility services including overhead power supply and communication cables located in the adjacent road verge & those to service the development are to be placed and/or relocated underground for the total frontage of the development site to any public road at the full cost to the developer.*

This is a standard condition incorporated into consents as control C1.20 requires:

*All existing and proposed utility services within the site are to be placed underground or encapsulated within the building.*

*All existing and proposed utility services to the site, or adjacent to the site within a public road reserve, are to be placed underground for the total frontage of the site to any public road.*

*Design and construction of the undergrounding of utility services is to be at full cost to the developer.*

The variation to the control states:

*Based on technical practicalities and advice from the energy supplier the merit for not proceeding with undergrounding of utility services will be considered for the following circumstances subject to achieving the outcomes of this control:*

- *electricity wires carrying 16,000 volts, 33,000 volts or more, and/or*
- *short lengths of overheads of two spans or less*

The applicant has provided correspondence from a representative of Ausgrid and reasons why undergrounding in this circumstance is not warranted.

Ausgrid has indicated that they have “no objection to Council's requirement for the undergrounding of overhead assets, however in this instance we would oppose the installation of an additional pole”. The correspondence goes on to note that the pole located between 64 & 66 Avalon Pde pole number PB 62605 has a streetlight which would require explicit consent from Council for its removal.

The applicant has provided the following reasons why undergrounding is unreasonable in the circumstance:

- in order to underground services one or two new poles would be required in the verge of adjoining properties
- the removal of the existing pole would require the removal of the streetlight which would need to be replaced on a new pole anyway
- the undergrounding of services is likely to cost in excess of \$200 000
- no undergrounding occurs along the north side of the street and would look out of place

Given that the undergrounding would be a short length (two spans or less) and requires pole/s to be located on the verge of 64-66 Avalon Pde to provide street lighting the proposal not to proceed with undergrounding services is supported on merit. It is recommended that condition B27 be amended as follows:

- *All utility services within the site are to be placed underground or encapsulated within the building.*

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## **5.0 SUSTAINABILITY ASSESSMENT**

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

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## **6.0 EXECUTIVE SUMMARY**

- 6.1 The application was considered by the Planning and Integrated Built Environment Committee at its meeting held on the 16 April 2012 and deferred to allow discussions with the Applicant and the Objectors on privacy issues, parking issues, streetscape and massing issues, site coverage and hydrology issues and obtain legal advice on access for inter allotment drainage easements.

- 6.2 The applicant lodged an appeal to the Court on 18 April 2012.
  - 6.3 Discussions have been held between Council, the applicant and the objectors during April and May 2012.
  - 6.4 The applicant provided a formal response and ongoing clarification of issues.
  - 6.5 A formal response was received from owner 62 Avalon Pde and the Pittwater Palms Executive Committee. The contacted objectors were given the opportunity to discuss their concerns and/or provide suggestions to resolve their concerns.
  - 6.6 Privacy issues have been resolved subject to additional/amended conditions.
  - 6.7 Hydrology issues have been revisited and calculations verified by Council's Planning, Urban Infrastructure and Catchment Management and Climate Change departments. The stormwater run off post development is a net decrease and the flood storage post development is a net increase. Overall it is unlikely that the development as proposed and associated run off will adversely affect the surrounding lands.
  - 6.8 Parking, streetscape and massing issues have been addressed in this covering report and while still of concern to some community members are assessed to be acceptable given the policy framework and merits of the design.
  - 6.9 Legal advice on the easements is to be separately circulated.
  - 6.10 Legal advice on the Court procedure is to be separately circulated.
  - 6.11 Staff's assessment of the issues is contained in the Assessing Officer's report as endorsed by the DU subject to conditions.
  - 6.12 Staff's assessment of the issues in response to the Committee's deferral of the matter at the 16 April meeting is contained within this covering report.
- 

## **RECOMMENDATION**

That the recommendation in the Development Officer's Report be endorsed and Application N0350/11 for the demolition of the existing dwellings, construction of Housing for Seniors and People with a Disability at 64 - 66 Avalon Parade, Avalon be granted Development consent subject to the conditions contained in the Draft Determination and the following amendments and additional condition of consent:

### **1. Additional Documents to be referenced in Consent**

- Architectural Plans Project No. 1109 Drawing No. A71 Revision A Dated 20 April 2012 Prepared by Richard Cole Architecture Pty Ltd
- Survey Plan Ref: 2283 Dated 26 July 2011 Prepared by DP Surveying

### **2. Delete condition B34**

### **3. Delete condition C6**

### **4. Amended Condition of Consent B16:**

All screening devices, other **than those specifically referred to elsewhere in this consent** shall be 1.7m high from the finished floor level, solid, translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:

- permanent and fixed;
- made of durable materials;
- and dark and earthy materials and tones.

**5. Amended Condition of Consent B27:**

All utility services within the site are to be placed underground or encapsulated within the building.

**6. Amended Condition of Consent B31:**

All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed of timber and to allow for the passage of floodwaters through the fence.

**7. Amended Condition of Consent C16:**

The north facing stairs to the Unit 2 deck are to be deleted and new stairs provided along the eastern edge of the deck. Revised plans are to be provided prior to issue of the Construction Certificate.

**8. Additional Condition of Consent B**

Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 *The Demolition of Structures*.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

1. Protection of site workers and the general public.
2. Erection of hoardings where appropriate.
3. Asbestos handling and disposal where applicable.
4. Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

**9. Additional Condition of Consent B**

A privacy wall is to be erected extending from the eastern wall of Unit 2 in a northerly direction for the width of Unit 2 deck. The wall shall be solid, painted with a mid to dark tone (either a green or brown) and shall extend from ground level to 2m above the ground floor level/deck.

**10. Additional Condition of Consent B**

The screening device along the eastern edge of Unit 7 deck and planter shall be a horizontal angled screen with the lower point of each panel to be on the inside of the deck and the higher point of each panel on the outside of the deck. The screen is to be installed in a manner so that when a horizontal view point (at eye level) of the screen is taken from within Unit 7 deck, no openings are visible.

**11.**

### **Additional Condition of Consent B**

All residential units are to be constructed with piers (except the areas where the detention and rainwater tanks are located). The underside of the floor is to be kept clear. There are to be no materials fixed onto the side of the building between the ground level and floor level to ensure clear passageway of floodwaters.

### **12. Additional Condition of Consent B**

The rear yards of units 1, 2, 3, 4, 5 and 6 are not to be paved and must be maintained in accordance with the approved landscape plan for the life of the development.

### **13. Additional Condition of Consent B**

The natural ground levels around the development shall be maintained in accordance with the details on the Survey Plan (Ref: 2283 Dated 26 July 2011 Prepared by DP Surveying) for the life of the development.

### **14. Additional Condition of Consent B**

Tree 29 is to be retained and not removed. The canopy of Tree 29 (excluding the trunk) should it overhang onto No. 64 Avalon Pde may be trimmed by a maximum 10%.

### **15. Additional Condition of Consent E**

The Slender Weave Bamboo to be planted along the eastern boundary (referred to in Condition B35) shall be planted utilising plant stock with a minimum height of 3.0m upon planting. This condition relates to that part of the eastern boundary planting zone between Unit 2 and the rear (northern) boundary. The bamboo is to be retained for the life of the development and maintained at a minimum height of 3.0m above ground level.

### **16. Additional Condition of Consent E**

Ground levels around the development shall be maintained in accordance with the details on the Survey Plan (Ref: 2283 Dated 26 July 2011 Prepared by DP Surveying) and are to be certified by a Registered Surveyor prior to the issue of the Occupation Certificate.

### **17. Additional Condition of Consent F**

Provision is to be made in the Strata Plan for access to the Detention Tank and Rainwater Tank for the purpose of inspection, maintenance and repair in favour of the Body Corporate.

Report prepared by

Amy Allen  
**SENIOR PLANNER**

Steve Evans  
**DIRECTOR ENVIRONMENTAL PLANNING & COMMUNITY**

**C11.3: N0350/11 - 64-66 Avalon Parade Avalon - Demolition of the existing dwellings, construction of Housing for Seniors and People with a Disability**

**Meeting:** Planning an Integrated Built Environment Committee

**Date:** 16 April 2012

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**COMMITTEE RECOMMENDATION**

That the matter be deferred to allow discussions with the Applicant and the Objectors on privacy issues, parking issues, streetscape and massing issues, site coverage and hydrology issues including supporting calculations that determine no net impact on the 1% flooding probability taking into account climate change and increased rainfall, further; legal advice on access for inter allotment drainage easements.

(Cr Rose / Cr Grace)

**Notes:**

1. A division was duly taken resulting in the following voting:

<b>Aye (For)</b>	<b>No (Against)</b>
Cr Rose	
Cr White	
Cr Dunbar	
Cr Giles	
Cr Hegarty	
Cr Hock	
Cr James	
Cr Grace	

2. The following Motion was moved by Cr Giles, seconded by Cr White and subsequently withdrawn by Cr Giles:

*That the recommendation in the Development Officer's Report be endorsed and application N0350/11 for demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability at 64 Avalon Parade, Avalon (Lot 59 DP 9151), 66 Avalon Parade, Avalon (Lot 60 DP 9151) be granted development consent subject to the conditions contained in the Draft Determination and the following amended condition B31:*

***Amended Condition B31***

*All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed of **timber (lapped and capped)** and to allow for the passage of floodwaters through the fence.*

***Additional Condition***

*Fixed privacy screens to be fitted on the eastern boundary.*

***Additional Condition B38***

*Tree 29 is to be retained and not removed. The canopy of Tree 29 (excluding the trunk) should it overhang onto No. 64 Avalon Parade may be trimmed by a maximum 10%.*

***Additional Condition B39***

*The rear yards of units 1, 2, 3, 4, 5 and 6 are not to be paved and must be maintained in accordance with the approved landscape plan for the life of the development.*

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**Procedural Motion (COUNCIL DECISION)**

That Cr Grace be granted an extension of time to complete his address to the meeting on this item.

(Cr Rose / Cr Hegarty)

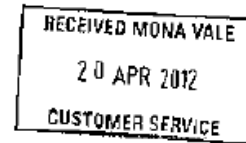
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**Procedural Motion (COUNCIL DECISION)**

That Cr James be granted an extension of time to complete his address to the meeting on this item.

(Cr Rose / Cr Grace)

To: Pittwater Council  
 Attention: Ms. Amy Allen  
 Date: 20.4.2012



Re: DA n0350/11  
**Proposed seniors Living Development at 64-66 Avalon Pde, Avalon Beach**

Dear Amy

Following the disappointing assessment of DA n0350/11 by the Planning and Integrated Built Environment Committee at its meeting of 19th April 2012 we have requested to have the NSW Land and Environment Court take over as the Consent Authority.

In response to the committee's recommendations for further discussion on matters of privacy, parking, streetscape, massing, site coverage, hydrology, flooding and legalizing drainage easements - we believe that these matters have already been discussed and negotiated at length and resolved. We can however add the following documentation and advice for further clarity.

**Privacy** - As supported by the DU committee, the privacy issues pertaining to no.62 Avalon Parade have been more than adequately addressed. However in good faith we can propose a solid privacy wall adjacent to the deck of unit 2 to a height as indicated in the attached plan A71 - *Privacy Study*. While reducing amenity for the future occupants of unit 2, it would create a sound and visual barrier between the dwellings and we could accept this as an alternative solution.

We would agree with Mr Edmonds that there is no privacy issue from the balcony of unit 7 overlooking the pool area of no 62. The attached diagram A71 - *Privacy Study*, clearly shows line of sight (through the proposed screen) over the ridge of dwelling, passing above people in the pool area of no 62. The privacy screen would have 25% clear openings of an angled blade style (for ventilation) but restrict direct viewing through it. We cannot offer any further discussion on the matter and will rely on the LEC to assess compliance.

**Parking** - As this matter has been assessed by the DU committee and council's own traffic engineer as complying or exceeding all controls standards - RTA(2002) Guide to traffic Generating Development, SEPP SL P21 DCP and relevant Australian Standards, we cannot offer any further discussion on the matter and will rely on the LEC to assess compliance.

**Streetscape and massing** - This matter has been assessed by the DU committee as acceptable. We have included the following elevation drawing, which clearly indicates the height is well below that permitted under the DCP and the perceived massing is actually considerably less than what could be expected were two family homes built on the same site. Additional to this there is a ten meter landscaped setback allowing considerable opportunity for screen planting. The proposed building sits well below the tree canopy, utilizes a palette of natural materials and displays a variety of building forms. Combined with a full width deep soil landscape it makes a positive contribution to the streetscape. We cannot offer any further discussion on the matter and will rely on the LEC to assess compliance.

**Site Coverage** - The existing cover is 48%. While possible to measure site cover various ways, the proposed cover can be assessed between 50.7% and 62.7%. Both upper and lower calculations comply with the SEPP and importantly the distribution of deep soil and

landscape areas contribute to enhanced privacy and streetscape. We cannot offer any further discussion on the matter and will rely on the LEC to assess compliance.

**Hydrology** - The matter of storm water disposal has been discussed at length and resolved. Currently the site has no detention tanks, rainwater tanks or piped connection to council's stormwater system and storm events have not created any reported issues for over 30 years. While no drainage easement is forthcoming, the proposed detention and dispersion system has been assessed as satisfying the DCP controls and actually reducing peak discharges by 27%. Council's own engineer has stated it's a positive solution for all surrounding neighbors.

It should be noted that the proposed stormwater drainage solution was no longer on the list of issues presented by the objector at no.62 (both at the DU meeting and the Council meeting). From this one can assume their consultants, Demlakian Engineering, had advised them the proposed solution was acceptable. We cannot offer any further discussion on the matter and will rely on the LEC to assess compliance.

**Flood storage volumes** - Barrenjoey Consulting Engineers had prepared a Flood Study report submitted with the DA. The report states no net loss of flood storage volume and an improved overland flow path. Council's own engineers have not expressed any concern over flood storage. Demlakian (acting for the objector) has not expressed any concern and AKY Engineering (acting for the applicant) has not expressed any concern.

That's 4 engineers who do not express concerns.

The attached diagram indicates the storage volumes displaced by the existing and proposed structures, as per DCP B3.14(1). Calculations show the flood storage volume is increased (improved). We cannot offer any further discussion on the matter and will rely on the LEC to assess compliance.

**Legalizing drainage easements** - Section 88K of the Conveyancing Act does allow the court to impose an easement over an adjoining property. However section 40(1) of the NSW Land and Environment Court Act advises that the court must first grant consent to the development before considering an imposition of an easement and at a separate and non concurrent hearing. The LEC also advises that applications for easements are unlikely to be simple or routine applications.

The fact that an effective stormwater drainage solution has been proposed and this has been accepted by council's own engineering department as a 27% improvement over the existing situation would imply the easement, in this case, is not "Reasonably Necessary" (as defined by the LEC) and hence would only incur undue costs and time for both the applicant and the defendant neighbours.

As the matter is now before the court, the plans would stand as submitted. Any request by council to amend the plans could only be considered in conjunction with an approval.

Yours sincerely



Tom Luedecke  
Director - Catalina Island Pty Ltd





Existing

Existing Displaced Flood Storage Volume

$$= 72.3 + 3.6 + (1.1 + 3.3) + 2.4$$

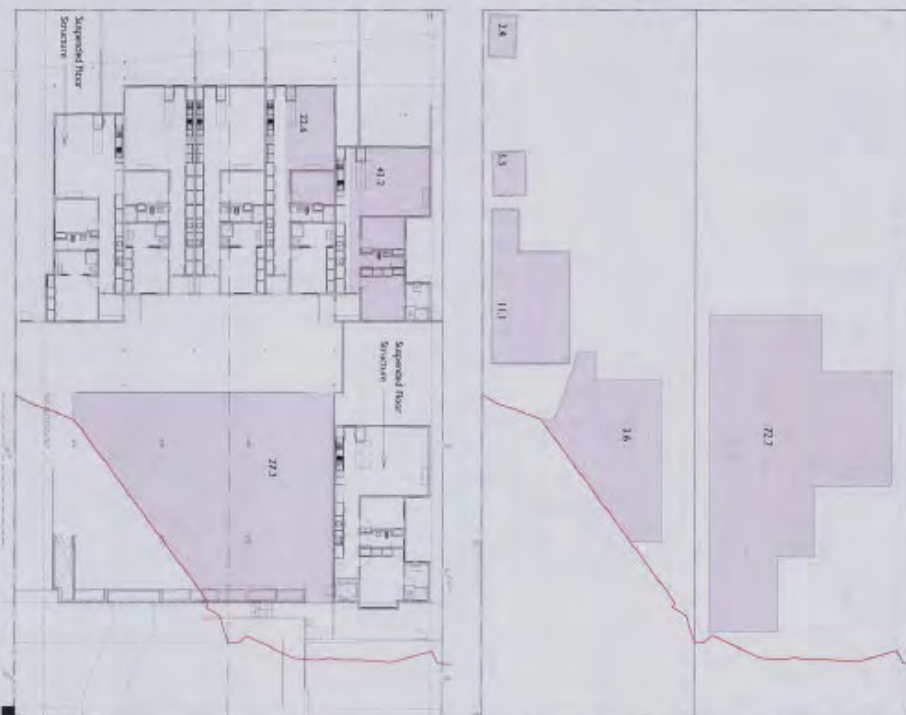
= 93.1 cubic meters

## Proposed

Displaced Flood Storage Volume

$$= 27.3 + 43.2 + 22.6$$

= 93.1 cubic meters



התאחדות המורים

[illegible]

A	Additional information	3 BQ 1.1

**Avalon Parade Seniors Living DEVELOPMENT APPLICATION**  
New Seniors Living Development at 66-66 Avalon Parade, Avalon Beach  
Card no listed pay for

Project Number	100	Checked by
Date	20/11/2017	Grade
Drawn by	Adrian	

A72

**SUBJECT: N0350/11 - 64 Avalon Parade, Avalon (Lot 59 DP 9151), 66 Avalon Parade, Avalon (Lot 60 DP 9151) Demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability**

**Determination Level:** Development Unit

**Date:** 29 March 2012

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## **SUMMARY OF RECOMMENDATION**

### **CONSENT WITH CONDITIONS**

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<b>REPORT PREPARED BY:</b>	Amy Allen
<b>APPLICATION SUBMITTED ON:</b>	16 September 2011
<b>APPLICATION SUBMITTED BY:</b>	CATALINA ISLANDS PTY LTD 22 HUDSON PARADE AVALON 2107
<b>OWNER(S):</b>	BROWNE, CATHY ANNE (Own) CATALINA ISLANDS PTY LTD (Own)

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### **1.0 DEVELOPMENT CONTROLS**

The sites are zoned 2(a) Residential under the provisions of Pittwater Local Environmental Plan 1993. A group of self contained dwellings is not permitted within the zone under Council's planning provisions, however State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to the land and allows a group of self contained dwellings in areas zoned where they would not otherwise be permitted.

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

#### **State Legislation**

- Environmental Planning and Assessment Act 1979 ("EP&A Act")
- Environmental Planning and Assessment Regulation 2000
- Protection of the Environment Operations Act, 1997 ("POEO Act")

#### **State Environmental Planning Policies and Guidelines**

- State Environmental Planning Policy No. 55 (Remediation of Land) ("SEPP 55")
- State Environmental Planning Policy (Building Sustainability Index: BASIX) ("SEPP BASIX")
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ("SEPP HSPD")
  - Clause 15 allows any form of seniors housing on the land despite the provisions of any other environmental planning instrument
- Seniors Living Policy: Urban Design Guidelines For Infill Development 2004

#### **Local Environmental Plans and Policies**

- Pittwater Local Environmental Plan 1993 ("PLEP")
  - Clause 9 Zone 2(a) (Residential)
  - Clause 11 Subdivision in residential zones
  - Clause 46 Provision of adequate water and sewerage services

- Pittwater 21 Development Control Plan (Amendment 6) ("PDCP")
  - Flood Risk Management Policy for Development in Pittwater
  - Geotechnical Risk Management Policy for Pittwater 2009.

## **2.0 NOTIFICATIONS**

The development application plans were notified by mail, newspaper advertisement and site signage to eighty one (81) property owners in accordance with Councils notification policy for 31 days from 27 September 2011 until 29 October 2011.

Amended plans were notified from 14 December 2011 to 4 January 2012.

Amended stormwater concept plans were notified from 21 February 2012 to 5 March 2012.

As a result of the notification periods, twenty two (22) submissions were received with some submitters lodging multiple objections.

## **3.0 ASSESSMENT ISSUES**

- State Environmental Planning Policy No. 55 (Remediation of Land)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Cumulative Impact - C1.21 SEPP (Housing for Seniors or People with a Disability) 2004
- B3.14 Flood Hazard - Flood Category 1 - Low Hazard - Other Development; B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)
- B5.10 Stormwater Discharge into Public Drainage System; B5.1 Water Management Plan
- B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy
- B6.10 Transport and Traffic Management - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy
- 3.2 Submission of a Statement of Environmental Effects
- B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land; C1.1 Landscaping
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- D1.1 Character as viewed from a public place; D1.4 Scenic protection – General; Visual Amenity
- D1.9 Side and rear building line
- D1.14 Site coverage - Environmentally Sensitive Land
- D1.15 Fences – General
- Hours of construction and Noise
- Excavation and Damage to adjoining properties

## 4.0 COMPLIANCE TABLES

### 4.1 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS AND PEOPLE WITH A DISABILITY) 2004

Can the proposal satisfy the technical compliance requirements and/or performance requirements of the clause?

Clause	Standard	Proposal	C
<b>CHAPTER 1 &amp; 2 – PRELIMINARY AND KEY CONCEPTS</b>			
2 Aims of Policy	<p>(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:</p> <ul style="list-style-type: none"> <li>(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</li> <li>(b) make efficient use of existing infrastructure and services, and</li> <li>(c) be of good design.</li> </ul> <p>(2) These aims will be achieved by:</p> <ul style="list-style-type: none"> <li>(a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and</li> <li>(b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and</li> <li>(c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.</li> </ul>	<p>The proposal increases the supply of residences, makes efficient use of existing infrastructure and services and is considered to be of a good design.</p> <p>The development is consistent with the aims of SEPP HSPD.</p>	Y
4 Land to which Policy applies	This Policy applies to land within New South Wales that is land zoned primarily for urban purposes but only if the development for the purpose of dwelling-houses is permitted on the land.	The Policy applies to this land as it is land zoned primarily for urban purposes and development including dwelling houses is permitted on the land.	Y
13 Self-contained dwellings	<b>In-fill self-care housing:</b> Seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.	The proposal is for a group of 11 self-contained dwellings (in-fill self-care housing) used permanently for seniors or people with a disability.	Y
<b>CHAPTER 3 – DEVELOPMENT FOR SENIORS HOUSING</b>			
<b>Part 1 - General</b>			
14 Objectives	The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.	The development is in a location and designed in a manner particularly suited to those seniors who are independent, mobile and active and other people with a disability regardless of their age.	Y
15 What Chapter does	This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy: (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing	The proposed senior's housing development is permitted under this clause despite the provisions of PLEP.	Y
16 Development consent required	Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.	The proposed senior's housing development requires development consent from Pittwater Council.	Y

Clause	Standard	Proposal	C
18 Restrictions on occupation of seniors housing	<p>(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:</p> <ul style="list-style-type: none"> <li>(a) seniors or people who have a disability,</li> <li>(b) people who live within the same household with seniors or people who have a disability,</li> <li>(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.</li> </ul> <p>(2) A consent authority must not consent to a development application made pursuant to this Chapter unless:</p> <ul style="list-style-type: none"> <li>(a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and</li> <li>(b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).</li> </ul> <p>(3) Subclause (2) does not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.</p>	Appropriate conditions can be incorporated into any consent granted to ensure the proposal is consistent with the requirements of Clause 18.	Y
21 Subdivision	Land on which development has been carried out under this Chapter may be subdivided with the consent of the consent authority.	Strata Subdivision is proposed as part of this application. A draft strata plan was submitted with the application.	Y
<b>Part 1A - Site compatibility certificates</b>			
24 Site compatibility certificates	<p>Applicable where:</p> <ul style="list-style-type: none"> <li>(a) the site adjoins land zoned for urban purposes, special uses or used for the purposes of an existing registered club; or</li> <li>(b) applies for buildings with a floor space ratio which requires consent under clause 45</li> </ul>	Certificate is not required as the subject site is residentially zoned land and adjoins residentially zoned land and has a floor space ratio of 0.5:1 which complies with the requirement of clause 45.	-
<b>Part 2 - Site-related requirements</b>			
26 Location and access facilities	<p>The consent authority must be satisfied, by written evidence, that residents of the proposed development will have compliant access to:</p> <ul style="list-style-type: none"> <li>(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</li> <li>(b) community services and recreation facilities, and</li> <li>(c) the practice of a general medical practitioner.</li> </ul>	<p>The applicant has provided written confirmation that the proposal can satisfy the requirements of this clause.</p> <p>Facilities and services in Avalon Village are located approximately 320m from the site accessible by a public footpath with an overall average gradient of 1:80.</p> <p>A bus stop is located on Avalon Pde on the road reserve directly in front of the development site and two additional stops are in close proximity of the site.</p> <p>The bus service 191 travels to and from Avalon Village at least once each day from Monday to Friday during daylight hours.</p>	Y

Clause	Standard	Proposal	C
28 Water and Sewer	The consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage	The applicant has provided written confirmation that the proposal can be connected to the existing reticulated water and waste water system. While no letter has been provided by Sydney Water, the consent authority is satisfied that reticulated water and sewerage infrastructure is available to service this site.	Y
29 Site compatibility criteria to which clause 24 does not apply	<p>Applies to development not subject to clause 24.</p> <p>A consent authority must take into consideration and have regard for the criteria referred to in clause 25 (5) (b) (i), (iii) and (v) which states:</p> <ul style="list-style-type: none"> <li>• 25(b)(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</li> <li>• 25(b)(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</li> <li>• 25(b)(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</li> <li>•</li> </ul>	<p>The proposal is not subject to Clause 24.</p> <p>The consent authority through this assessment has taken into consideration the criteria within clause 25 and is satisfied that the development is of a design, scale and character not inconsistent with existing uses, approved uses and future uses of land in the vicinity of the development.</p>	Y
<b>Part 3 – Design requirements</b>			
30 Site analysis	The consent authority must not grant consent unless satisfied applicant taken into account a site analysis prepared by the applicant in accordance with this clause.	A site analysis plan and written documentation explaining how the design has regard for the site analysis has been provided in the development application.	Y
31 Design of in-fill self-care housing	The consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	The proposal is consistent with the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> which is addressed in detail in section 10 later in this report.	Y
32 Design of residential development	A consent authority must not consent to a development application unless satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.	The consent authority is satisfied that the design of the development has had regard for the principles. Discussion under each principle is provided under clauses 33 – 39 below.	Y

Clause	Standard	Proposal	C
33 Neighbour-hood amenity and streetscape	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</li> <li>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</li> <li>(c) maintain reasonable neighbourhood amenity and appropriate residential character by: <ul style="list-style-type: none"> <li>(i) providing building setbacks to reduce bulk and overshadowing, and</li> <li>(ii) using building form and siting that relates to the site's land form, and</li> <li>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</li> <li>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</li> </ul> </li> <li>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</li> <li>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</li> <li>(f) retain, wherever reasonable, major existing trees, and</li> <li>(g) be designed so that no building is constructed in a riparian zone.</li> </ul>	<p>The proposal is consistent with the desired future character of the locality in that the built form draws on style characteristics of the area and is located appropriately near the commercial centre.</p> <p>The proposal provides a setback consistent with the buildings on the street and allows the retention of three mature existing trees.</p> <p>Overall the development has an acceptable impact upon the streetscape amenity and visual amenity from neighbouring properties.</p> <p>Detailed discussion provided in section 10 later in this report.</p>	Y
34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <ul style="list-style-type: none"> <li>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</li> <li>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</li> </ul>	<p>The proposed units have been located and orientated to minimise visual and acoustic impacts. The proposal is satisfactory subject to provision of measures including screening devices and landscaping.</p> <p>Detailed discussion provided in section 10 later in this report.</p>	Y
35 Solar access and design for climate	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</li> <li>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</li> </ul>	<p>The proposal ensures that adequate daylight to the main living areas of neighbours and to the units is provided.</p> <p>Detailed discussion provided in section 10 later in this report.</p>	Y
36 Stormwater	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</li> <li>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</li> </ul>	<p>The proposed development relies on on-site stormwater detention and dispersion to ensure that post development flows are not greater than pre development flows. The development therefore minimises the disturbance and impacts of stormwater runoff on adjoining properties.</p>	Y

Clause	Standard	Proposal	C
37 Crime Prevention	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <ul style="list-style-type: none"> <li>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</li> <li>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</li> <li>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</li> </ul>	<p>The design of the units allows observation of the public area and/or persons approaching the entry door.</p> <p>The development is capable of being secured with a shared entry and intercom system.</p>	Y
38 Accessibility	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</li> <li>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</li> </ul>	<p>An Access Assessment Report prepared by Accessible Building Solutions Dated 29 August 2011 was submitted with the development application. The report concludes that safe and convenient pedestrian links are available from the site and appropriate parking for residents and visitors can be achieved.</p>	Y
39 Waste Management	<p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Garbage and recycling enclosure is provided within the carparking area and satisfies the requirements of this clause.</p>	Y
<b>Part 4 – Development Standards to be complied with</b>			
40 Development standards – minimum sizes and building height	<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.</p> <p>(2) <b>Site size</b> The size of the site must be at least 1,000 square metres.</p> <p>(3) <b>Site frontage</b> The site frontage must be at least 20 metres wide measured at the building line.</p> <p>(4) <b>Height</b> in zones where residential flat buildings are not permitted. If the development is proposed in a residential zone where residential flat buildings are not permitted:</p> <ul style="list-style-type: none"> <li>(a) the height of all buildings in the proposed development must be 8 metres or less, and</li> <li>(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and</li> <li>(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.</li> </ul>	<p>The site has an area of 2230m<sup>2</sup> and satisfies this requirement.</p> <p>The site has a street frontage of 36.6m and satisfies this requirement.</p> <p>a) The proposal has a maximum height of 7.95m in accordance with the definition of height in the SEPP  b) The building is no more than 2 storeys in height adjacent to the side boundaries  c) the building located within the rear 25% of the site is not greater than 1 storey in height</p>	<p>Y</p> <p>Y</p> <p>Y</p>
41 Standards for hostels and self-contained dwellings	<p>A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.</p>	<p>The proposed self-contained dwellings can comply with the standards specified in Schedule 3.</p> <p>See Schedule 3 assessment at the end of this table.</p>	Y

Clause	Standard	Proposal	C
<b>Part 7 – Development standards that cannot be used as grounds to refuse consent</b>			
46 Inter-relationship of Part with design principles in Part 3	Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.	<p>Design Principles</p> <ul style="list-style-type: none"> <li>○ Neighbourhood amenity and streetscape</li> <li>○ Visual and acoustic privacy</li> <li>○ Solar access and design for climate</li> <li>○ Stormwater</li> <li>○ Crime prevention</li> <li>○ Accessibility</li> <li>○ Waste management</li> </ul> <p>The principles have been addressed in the application documentation and assessed in detail in the report. The consent authority is satisfied that adequate regard has been given to each of the principles set out in Division 2 of Part 3.</p>	Y
50 Standards that cannot be used to refuse development consent for self-contained dwellings	<p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds:</p> <p>(a) <b>building height:</b> if all proposed buildings are <b>8 metres</b> or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),</p> <p>(b) <b>density and scale:</b> if the density and scale of the buildings when expressed as a floor space ratio is <b>0.5:1</b> or less</p> <p>(c) <b>landscaped area:</b> if:</p> <ul style="list-style-type: none"> <li>(i) in the case of a development application made by a social housing provider-a minimum 35 square metres of landscaped area per dwelling is provided, or</li> <li>(ii) in any other case-a minimum of <b>30%</b> of the area of the site is to be landscaped,</li> </ul> <p>(d) <b>Deep soil zones:</b> if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than <b>15%</b> of the area of the site (the <i>deep soil zone</i>).</p> <p>Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres</p> <p>(e) <b>solar access:</b> if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of <b>3 hours</b> direct sunlight between 9am and 3pm in mid-winter</p>	<p>The proposal has a maximum building height of 7.95m</p> <p>The proposal has a FSR of 0.5:1 and complies.</p> <p>The proposal achieves a landscaped area of 47.2% and satisfies this requirement.</p> <p>(Note: SEPP HSPD definition of landscaped area used)</p> <p>The proposal achieves a deep soil zone of 37.3% and satisfies this requirement.</p> <p>Approximately 27% of the deep soil zone is in the rear of the site, which does not achieve the preferable 66%, however the deep soil zone is evenly distributed around the site with a generous area within the front building setback.</p> <p>The living rooms and private open spaces of all dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>

Clause	Standard	Proposal	C
	<p>(f) <b>private open space for in-fill self-care housing:</b> if:</p> <p>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,</p>	All dwellings comply with the required private open space area.	Y
	<p>(h) <b>parking:</b> if at least the following is provided:</p> <p>(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or</p> <p>(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.</p>	<p>The development provides 1 car space for each dwelling in addition to 3 visitor spaces and a wash bay.</p> <p>The 11 spaces satisfy the requirement of 0.5 car spaces for each bedroom (11 x 2 bed dwellings = 11).</p>	Y
<b>Schedule 3 – Standards concerning accessibility and useability for hostels and self-contained dwellings</b>			
2 Siting standards	<p>(1) <b>Wheelchair access</b> If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.</p> <p>(2) If the whole of the site does not have a gradient of less than 1:10:</p> <p>(a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and</p> <p>(b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.</p> <p>For example, if 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by this subclause. If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is likely to be unable to meet these requirements.</p> <p>(3) <b>Common areas</b> Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>	<p>100% of the dwellings at RL8.9 have wheelchair access by a continuous accessible path of travel to the Avalon Parade boundary at RL9.</p> <p>The development is capable of compliance subject to recommended conditions.</p>	
3 Security	<p>Pathway lighting:</p> <p>(a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and</p> <p>(b) must provide at least 20 lux at ground level.</p>	The development is capable of compliance subject to recommended conditions.	Y
4 Letterboxes	<p>Letterboxes:</p> <p>(a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and</p>	The development is capable of compliance subject to recommended conditions.	Y

Clause	Standard	Proposal	C
4 <i>Letterboxes (Continued)</i>	<ul style="list-style-type: none"> <li>(b) must be lockable, and</li> <li>(c) must be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.</li> </ul>		
5 Private car accommodation	<p>If car parking (not being car parking for employees) is provided:</p> <ul style="list-style-type: none"> <li>(a) car parking spaces must comply with the requirements for parking for persons with a disability set out in <i>AS 2890</i>, and</li> <li>(b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and</li> <li>(c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.</li> </ul>	<p>The application proposes a total of 14 parking spaces (11 resident spaces and 3 visitor spaces).</p> <p>11 carparking spaces are required to comply with AS2890.6 and one of those spaces be able to increase in width to 3.8m.</p> <p>5 spaces clearly meet the requirements of AS2890.6 in that a shared space is readily available next to spaces 1, 6, 7, 8 and 11.</p> <p>The Traffic Engineer advises that the remaining 6 spaces can comply as the visitor spaces can double as a shared space (wheelchair accessible) by way of removable bollards. The Accessibility Consultant also considers this to be a satisfactory arrangement.</p> <p>The development is capable of compliance subject to recommended conditions.</p>	Y
6 Accessible entry	Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of <i>AS 4299</i> .	The development is capable of compliance subject to recommended conditions.	Y
7 Interior: general	Widths of internal corridors and circulation at internal doorways must comply with <i>AS 1428.1</i> .	The development is capable of compliance subject to recommended conditions.	Y
8 Bedroom	<p>At least one bedroom within each dwelling must have:</p> <ul style="list-style-type: none"> <li>(a) an area sufficient to accommodate a wardrobe and a bed sized as follows: <ul style="list-style-type: none"> <li>(i) in the case of a dwelling in a hostel-a single-size bed,</li> <li>(ii) in the case of a self-contained dwelling-a queen-size bed, and</li> </ul> </li> <li>(b) a clear area for the bed of at least: <ul style="list-style-type: none"> <li>(i) 1,200 millimetres wide at the foot of the bed, and</li> <li>(ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and</li> </ul> </li> <li>(c) 2 double general power outlets on the wall where the head of the bed is likely to be, and</li> <li>(d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and</li> <li>(e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</li> <li>(f) wiring to allow a potential illumination level of at least 300 lux.</li> </ul>	The development is capable of compliance subject to recommended conditions.	Y

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

Clause	Standard	Proposal	C
16 <i>Kitchen (Continued)</i>	<ul style="list-style-type: none"> <li>(iii) cooktops (see clause 4.5.7), except that an isolating switch must be included,</li> <li>(iv) an oven (see clause 4.5.8), and</li> <li>(d) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and</li> <li>(e) general power outlets: <ul style="list-style-type: none"> <li>(i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and</li> <li>(ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.</li> </ul> </li> </ul>		
17 Access to kitchen, main bedroom, bathroom and toilet	In a multi-storey self-contained dwelling, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	No multi-storey self-contained dwellings are proposed.	-
18 Lifts in multi-storey buildings	In a multi-storey building containing separate self-contained dwellings on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with clause E3.6 of the <i>Building Code of Australia</i>	The application proposes one lift for access to the first floor above the garage. The lift can be provided in accordance with this requirement subject to recommended conditions.	Y
19 Laundry	A self-contained dwelling must have a laundry that has: <ul style="list-style-type: none"> <li>(a) a circulation space at door approaches that complies with AS 1428.1, and</li> <li>(b) provision for the installation of an automatic washing machine and a clothes dryer, and</li> <li>(c) a clear space in front of appliances of at least 1,300 millimetres, and</li> <li>(d) a slip-resistant floor surface, and</li> <li>(e) an accessible path of travel to any clothes line provided in relation to the dwelling.</li> </ul>	The development is capable of compliance subject to recommended conditions.	Y
20 Storage for linen	A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of <i>AS 4299</i>	The submitted plans indicate storage for linen in each dwelling and are capable of compliance subject to recommended conditions.	Y
21 Garbage	A garbage storage area must be provided in an accessible location.	Garbage area provided in the garage and is accessible from ground level units or the upper level units via the lift.	Y

## 4.2 PITTWATER 21 DEVELOPMENT CONTROL PLAN

**T** – Can the proposal satisfy the technical requirements of the control?

**O** – Can the proposal achieve the control outcomes?

**N** – Is the control free from objection?

Y – Yes      N – No      - – N/A

CONTROL	STANDARD	PROPOSAL	T	O	N
<b>Development Engineer</b>					
B3.14 Flood Hazard - Flood Category 1 - Low Hazard - Other Development	All floor levels including carparks are to be 8.9m AHD, which is the designated flood planning level (including climate change) for the site.	All floor levels have been raised to 8.9m AHD to account for the flood and Climate Change hazards on the site.	Y	Y	Y
B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)		See discussion later in this report.			
B3.15 Flood Hazard - Flood Category 1 - Low Hazard - Land Subdivision			-	-	-
B3.22 Flood Hazard - Flood Category 3 - All Development			-	-	-
B5.4 Stormwater Harvesting			Y	Y	Y
B5.9 Stormwater Management - Water Quality - Other than Dwelling House, Dual Occupancy and Secondary Dwellings			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System	<p>Stormwater drainage is to be connected to a public drainage system by gravity means to which it would naturally flow.</p> <p><u>Variation</u> Where the development does not have legal access to the public drainage system and is unable to gain adjoining owner's consent on alternative access through drainage easements as required, Council will consider the following on merit:</p> <ul style="list-style-type: none"> <li>- An on-site infiltration system on suitable land.</li> <li>- Redirection of stormwater flow</li> <li>- A split system</li> <li>- An alternative discharge approach</li> </ul>	<p>The development does not connect to a public drainage system and relies upon an alternative method of detention and discharge for stormwater disposal.</p> <p>Concern has been raised in a number of submissions regarding the proposed method of stormwater disposal and the likely impacts on neighbouring properties.</p> <p>See discussion under later in this report.</p>	N	Y	N
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)			-	-	-

CONTROL	STANDARD	PROPOSAL	T	O	N
B6.2 Access Driveways and Works on the Public Road Reserve- All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B6.4 Internal Driveways - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy	The minimum number of vehicle parking requirements must be determined using appropriate guidelines for parking generation and servicing facilities based on development type comparison based on the RTA Guide to Traffic Generating Development or analysis drawn from surveyed data for similar development uses. Provision must be made within the development site for access and parking of all service vehicles servicing the site, visitor parking and parking for people with disabilities.	<p>RTA (2002) Guide to Traffic Generating Development requires a minimum of 8 residential spaces and 2 visitor spaces</p> <p><u>Proposed</u></p> <ul style="list-style-type: none"> <li>○ 11 residential spaces</li> <li>○ 3 visitor spaces</li> <li>○ 1 car wash bay</li> <li>○ 11 spaces can comply with AS2890.6 parking for people with disabilities</li> </ul> <p>The development complies with the control and applicable guidelines.</p> <p>Concern has been raised regarding the lack of off street parking and implications on on-street parking.</p> <p>See discussion later in this report.</p>	Y	Y	N
B6.9 On-Street Parking Facilities - All Development other than Dwelling Houses, Secondary Dwellings and Dual Occupancy			-	-	-
B6.10 Transport and Traffic Management - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		<p>Concern has been raised regarding the impact of traffic generated by the development and the accuracy of the submitted Traffic Report.</p> <p>See discussion later in this report.</p>	Y	Y	N
B8.1 Construction and Demolition - Excavation and Landfill			-	-	-
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			-	-	-
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y

CONTROL	STANDARD	PROPOSAL	T	O	N
B8.6 Construction and Demolition - Traffic Management Plan			-	-	-
C4.1 Land Subdivision - Protection from Hazards			Y	Y	Y
C4.2 Land Subdivision - Access Driveways and Off-Street Parking Facilities			Y	Y	Y
C4.3 Land Subdivision - Transport and Traffic Management			Y	Y	Y
C4.4 Land Subdivision - Public Roads, Footpath and Streetscape			Y	Y	Y
C4.5 Land Subdivision - Utility Services			Y	Y	Y
C4.6 Service and delivery vehicle access in land subdivisions			-	-	-
<b>Natural Resources</b>					
B1.4 Aboriginal Heritage Significance		<i>No apparent issues</i>	Y	Y	Y
B3.5 Acid Sulphate Soils	<p>If it is determined that acid sulphate soils are present or are likely to be present on the land, consideration must be given to: the likelihood of the proposed development resulting in the discharge of acid water; and any comments from the Department of Planning.</p> <p>Works beyond 2 metres below natural ground surface Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface</p>	<p>Acid Sulphate Region 4</p> <p>The extent of excavation is limited to low trenches for water management devices and pier footings with a maximum depth of 500mm – 1m.</p> <p>As the works do not involve excavation below 2 metres it is unlikely that the development will cause the discharge of acid water.</p>	Y	Y	Y
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land		<p>Council's natural resources officer has assessed the proposal against the relevant controls.</p> <p>Concern has been raised questioning the location of proposed landscaping within narrow setbacks, within footprints of decks and under overhanging roofs.</p> <p>See discussion later in this report.</p>	Y	Y	N
C1.1 Landscaping		Refer to Section B4.5 for comment.	Y	Y	Y
<b>Planner</b>					
EPA Act Section 147 Disclosure of political donations and gifts	Applications or public submissions to Council may require a Political donations and gifts disclosure statement to be completed under section 147(4) and (5) of the Environmental Planning and Assessment Act 1979.	No political donations or gifts have been reported in the application or public submissions.	Y	Y	Y

CONTROL	STANDARD	PROPOSAL	T	O	N
3.1 Submission of a Development Application and payment of appropriate fee	A completed development application form including formal owners consent to lodge the application together with the appropriate fees must be submitted with all development applications.	A completed development application form has been submitted which included formal owners consent from all property owners.	Y	Y	Y
3.2 Submission of a Statement of Environmental Effects	A Statement of Environmental Effects (SEE) must accompany all development applications.	Concern has been raised regarding the accuracy of the submitted Statement of Environmental Effects and it not being subject to an independent review.  See discussion later in this report.	Y	Y	N
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings	Survey Plan, Site Plan, Development drawings and a Schedule of Finishes required to be submitted.	Concern has been raised regarding a lack of architectural detail on the plans.  A range of supporting documentation including architecturally drafted plans has been submitted with the development application which is adequate to undertake a detailed assessment of the application.  The land is affected by a covenant created in 1944. The terms specify that only one residence is permitted to be erected on the land and restricts where the built form is located. Clause 39 of PLEP allows for the suspension of covenants for the purpose of enabling development to be carried out in accordance with PLEP or in accordance with a consent granted under the Act.  The covenant in this circumstance does not apply to the development as development would be carried out in accordance with a consent granted under the Act.	Y	Y	N
3.4 Notification	Seniors Living Applications must be publicly notified for a minimum period of 31 days.	The development application was publicly notified for 31 days between the 27 September 2011 and 29 October 2011.  The amended plans were notified for 21 days between the 14 December 2011 and 4 January 2012.  Amended stormwater concept plans were notified from 21 February 2012 to 5 March 2012.	Y	Y	Y
3.5 Building Code of Australia	Proposed development must be designed, constructed and maintained so that they comply with the relevant provisions of the Building Code of Australia.	The proposed structures are constructed of conventional materials and design and able to be constructed in accordance with the BCA.	Y	Y	Y

CONTROL	STANDARD	PROPOSAL	T	O	N
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)	The following SEPPs apply to this development: <ul style="list-style-type: none"> <li>SEPP HS&amp;PD</li> <li>SEPP BASIX</li> <li>SEPP 55</li> </ul>	The proposal is not classified as a residential flat building and therefore not subject to an assessment under the provisions of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.  Assessment of the development under the applicable SEPPs is located later in this report.	Y	Y	Y
4.5 Integrated Development: Aboriginal Objects and Places		The application is not classified as integrated development as it does not require development consent and an approval under the National Parks and Wildlife Act 1974.	-	-	-
4.6 Integrated Development - Protection of the Environment		The application is not classified as integrated development as it does not require development consent and an approval under the Protection of the Environment Operations Act 1997.	-	-	-
4.7 Integrated Development - Roads		The application is not classified as integrated development as it does not require development consent and an approval under the Roads Act 1993	-	-	-
5.1 Referral to the Roads and Traffic Authority under SEPP (Infrastructure) 2007		The proposed development is not subject to assessment under the provisions of SEPP (Infrastructure) 2007.	-	-	-
5.3 Referral to NSW Department of Environment and Climate Change (DECC)		The proposed development is not on land that is, or is a part of, critical habitat, or the development is likely to significantly affect a threatened species, population, or ecological community, or its habitat.	-	-	-
6.2 Section 94 Contributions - Open Space Bushland and Recreation	A section 94 Contribution is applicable to the proposed development, payable prior to CC.	9 dwellings x \$9000 = \$81 000 (1 dwelling per lot credit included)  A section 94 Contribution of \$81 000 is applicable to the proposed development, payable prior to CC.	Y	Y	Y
6.3 Section 94 Contributions - Public Library Services	A section 94 Contribution is applicable to the proposed development, payable prior to CC.	9 dwellings x \$2000 = \$18 000 (1 dwelling per lot credit included)  A section 94 Contribution of \$18 000 is applicable to the proposed development, payable prior to CC.	Y	Y	Y
6.4 Section 94 Contributions - Community Service Facilities	A section 94 Contribution of is applicable to the proposed development, payable prior to CC.	9 dwellings x \$3500 = \$31 500 (1 dwelling per lot credit included)  A section 94 Contribution of \$31 500 is applicable to the proposed development, payable prior to CC.	Y	Y	Y
6.5 Section 94 Contributions - Village Streetscapes	A section 94 Contribution is applicable to the proposed development, payable prior to CC.	9 dwellings x \$5000 = \$45 000 (1 dwelling per lot credit included)  A section 94 Contribution of \$45 000 is applicable to the proposed development, payable prior to CC.	Y	Y	Y

CONTROL	STANDARD	PROPOSAL	T	O	N
A1.7 Considerations before consent is granted		The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, SEPP HSPD, Pittwater Local Environmental Plan 1993, Pittwater 21 DCP and other relevant Council policies.	Y	Y	Y
B1.3 Heritage Conservation - General		<p>The existing properties have not been identified as possibly meeting any of the criteria for heritage listing.</p> <p>A submission was received requesting that the Heritage value of Avalon Pde be investigated and an independent report prepared by a heritage planner in consultation with an Avalon community group.</p> <p>Avalon Pde is not identified as within a Heritage Conservation Area however does have unique qualities. The locality statement describes Avalon Pde as having a unique leafy character created by generous setbacks and mature canopy streets lining the street. The proposed development respects the setbacks and existing trees. The visual impacts of the proposal on the streetscape are addressed in detail later in this report.</p> <p>It was suggested to the submitter that an investigation into Heritage Values of the street can be pursued separately to this application.</p>	Y	Y	N
B2.2 Land Subdivision - Residential Zoned Land		The two lots will be required to be consolidated prior to being strata subdivided. No land (Torrens title) subdivision is proposed.	Y	Y	Y
B2.5 Dwelling Density and Subdivision - Multi-Unit Housing	<p>Note: this control is not applicable as the control does not apply to the land or the type of development. It has been included for reference to provide a comparative assessment of the development as if the land was zoned for Multi-Unit Housing</p> <p>The dwelling density of development shall be 1 dwelling per 200 sq m = maximum 11 dwellings</p>	<p>If the land was zoned for multi unit housing (townhouses, units etc) the maximum allowable density under PLEP and PDCP is 11 dwellings.</p> <p>Concern has been raised regarding the proposal being an overdevelopment. The proposal complies with the density standards in SEPP HSPD and while it does not reflect the density of a single dwelling, it is acceptable as it is consistent with the objectives of SEPP HSPD which clearly aim to increase the number of residences for the targeted social type.</p>	Y	Y	N
B3.6 Contaminated Land and Potentially Contaminated Land	Council shall not consent to the carrying out of any development on land unless it has considered SEPP No. 55 Remediation of Land.	<p>A submission from a neighbour raises concern that the site may be contaminated as they have anecdotal evidence that a car was buried in the backyard of 66 Avalon Pde in the 1960s.</p> <p>See discussion later in this report.</p>	Y	Y	N

CONTROL	STANDARD	PROPOSAL	T	O	N
B5.1 Water Management Plan	<p>An Integrated Water Management approach must be undertaken on all land subject to development for the effective water management of all water on the site including:</p> <ul style="list-style-type: none"> <li>• rainwater</li> <li>• stormwater</li> <li>• greywater, and</li> <li>• wastewater</li> </ul> <p>in accordance with:</p> <ul style="list-style-type: none"> <li>• SEPP BASIX</li> <li>• PDCP</li> <li>• All relevant legislation</li> </ul>	<p>The applicant submitted a stormwater concept plan relying upon a method of detention and dispersion for stormwater disposal and indicates rainwater tanks consistent with the BASIX requirements.</p> <p>Wastewater able to be connected to the Sydney Water Reticulated Sewage System and no greywater treatment system is proposed.</p> <p>Concern has been raised regarding the proposed method of stormwater disposal and the likely impacts on neighbouring properties.</p> <p>See discussion under later in this report.</p>	Y	Y	N
B5.2 Wastewater Disposal	All premises must be connected to the Sydney Water centralised sewerage waste disposal system where available.	The development is able to be connected to the Sydney Water Reticulated Sewage System.	Y	Y	Y
B5.3 Greywater Reuse		No greywater treatment system is proposed.	-	-	-
B5.12 Stormwater Drainage Systems and Natural Watercourses		The proposal is not a controlled activity carried out in, on or under the waterfront land which is regulated by the Water Management Act 2000.	-	-	-
C1.2 Safety and Security	<p>Building design should allow visitors who approach the front door to be seen without the need to open the door.</p> <p>Adequate lighting must be provided according to the intended use of the development.</p> <p>Shared entries must be able to be locked and incorporate an intercom system or the like to allow visitors to gain entry.</p> <p>Building entrances are to be clearly visible from the street, easily identifiable and appropriately lit.</p>	The proposal can achieve the control requirements subject to conditions being incorporated into any consent issued.	Y	Y	Y
C1.3 View Sharing	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	From the site inspections undertaken, it does not appear that any unreasonable view loss will occur as a result of the development.	Y	Y	Y
C1.4 Solar Access	The main private open space and windows to the principal living area of each dwelling and any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.	<p>Concern has been raised in submissions regarding the amount of solar access to some dwellings and overshadowing of the solar panels on surgery roof at 62 Avalon Pde.</p> <p>See discussion later in this report.</p>	Y	Y	N

CONTROL	STANDARD	PROPOSAL	T	O	N																																																				
C1.5 Visual Privacy	<p>Private open space, recreation areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation.</p> <p>Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.</p>	<p>Concern has been raised by the owners of 62 and 68 Avalon Pde relating to the overlooking impacts resulting from the development.</p> <p>See discussion later in this report.</p>	Y	Y	N																																																				
C1.6 Acoustic Privacy	<p>Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and recreation areas and the like.</p> <p>Noise generating plants including pool/spa motors, air conditioning units and the like shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.</p>	<p>Concern has been raised by adjoining property owners regarding the location of air-conditioning units and arising noise impacts.</p> <p>See discussion later in this report.</p>	Y	Y	N																																																				
C1.7 Private Open Space	<p>For Shop Top Housing and Multi-Unit housing developments, private open space at upper levels in the form of front/rear or internal courtyard balconies and terraces are required. The dimension of the balcony should be sufficient so that the area can be usable for recreational purposes (i.e. a minimum area of 10m2 and a minimum width of 2.4m). First floor balconies along the side boundary must be designed to limit overlooking and maintain privacy of adjoining residences. Ground floor units are to have a minimum area of private open space of 30sq.m and with no dimension less than 4m.</p>	<p>All dwellings exceed the minimum area required for private open space.</p> <table><tr><th>Unit</th><th>Floor</th><th colspan="2">Private Open Space</th></tr><tr><td></td><td></td><th>Main</th><th>Total</th></tr><tr><td>1</td><td>Ground</td><td>10m²</td><td>75m²</td></tr><tr><td>2</td><td>Ground</td><td>10m²</td><td>82m²</td></tr><tr><td>3</td><td>Ground</td><td>9m²</td><td>50m²</td></tr><tr><td>4</td><td>Ground</td><td>9m²</td><td>37m²</td></tr><tr><td>5</td><td>Ground</td><td>9m²</td><td>50m²</td></tr><tr><td>6</td><td>Ground</td><td>9.5m²</td><td>102m²</td></tr><tr><td>7</td><td>First</td><td>20m²</td><td>20m²</td></tr><tr><td>8</td><td>First</td><td>20m²</td><td>20m²</td></tr><tr><td>9</td><td>First</td><td>20m²</td><td>20m²</td></tr><tr><td>10</td><td>First</td><td>21m²</td><td>21m²</td></tr><tr><td>11</td><td>First</td><td>16.6m²</td><td>16.6m²</td></tr></table>	Unit	Floor	Private Open Space				Main	Total	1	Ground	10m²	75m²	2	Ground	10m²	82m²	3	Ground	9m²	50m²	4	Ground	9m²	37m²	5	Ground	9m²	50m²	6	Ground	9.5m²	102m²	7	First	20m²	20m²	8	First	20m²	20m²	9	First	20m²	20m²	10	First	21m²	21m²	11	First	16.6m²	16.6m²	Y	Y	Y
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1	Ground	10m²	75m²																																																						
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9	First	20m²	20m²																																																						
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CONTROL	STANDARD	PROPOSAL	T	O	N
C1.9 Adaptable Housing and Accessibility	<p>The design of all other residential development to meet the criteria of AS 4299-1995:</p> <p>100% of Housing for Seniors or People with a Disability shall be adaptable as per the requirements of SEPP HSPD.</p> <p>Development within areas subject to flooding must provide for access on land within private ownership. In this regard ramps must not encroach into the public domain.</p>	<p>An accessibility report (BCA Access Provisions &amp; SEPP Seniors Living Statement of Compliance) has been submitted with the application. It has been prepared by ACAA Accredited Access Consultant from Accessible Building Solutions.</p> <p>The report concludes that the proposal can achieve compliance with the access provisions of the BCA and AS 4299 Adaptable Housing.</p> <p>Concern has been raised regarding the timber pathways which are susceptible to becoming slippery in the wet. Schedule 3 of SEPP HSPD requires balconies and external paved areas have slip-resistant surfaces. It is recommended that a condition be imposed to ensure that the external pathways have slip-resistant surfaces.</p> <p>Details demonstrating compliance are required at CC stage. It is recommended that conditions requiring certification of compliance with the BCA, Australian Standards and the Accessibility Report should be incorporated into the CC and OC stages of the consent.</p>	Y	Y	N
C1.10 Building Facades	For SEPP (Housing for Seniors or People with a Disability) 2004 where possible mailboxes should be orientated obliquely to the street to reduce visual clutter and the perception of multiple dwellings.	It is unclear where the mail boxes are proposed to be located. In any instance there is adequate communal circulation area behind the 10m front setback to locate multiple mail boxes.	Y	Y	Y
C1.12 Waste and Recycling Facilities	Where residential development consists of three or more dwellings a communal waste and recycling enclosure shall be provide for waste and recyclables (paper and containers).	The garbage storage area is proposed within the communal garage and can meet the relevant requirements subject to conditions being incorporated into the consent.	Y	Y	Y
C1.13 Pollution Control	Residential premises must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, noise and/or land pollution.	<p>Pollution is regulated under the Protection of the Environment Operations Act, 1997. Specifically, the removal of Asbestos must be undertaken in accordance with Workcover guides and Australian standards.</p> <p>It is considered that potential pollution from the construction phase and noise resulting from the residential use can be effectively managed by existing regulations, guidelines and standards.</p> <p>The proposal can readily achieve the control outcomes subject to conditions being incorporated into the consent.</p>	Y	Y	Y
C1.14 Separately Accessible Structures		None proposed.	-	-	-

CONTROL	STANDARD	PROPOSAL	T	O	N
C1.15 Storage Facilities	Provision of lockable storage areas of 8m <sup>3</sup>	6 x 5m <sup>3</sup> storage areas are provided in the garage and each dwelling provides varied sized cupboard storage amounting to a minimum of 8m <sup>3</sup> for each dwelling.	Y	Y	Y
C1.18 Car/Vehicle/Boat Wash Bays	A designated wash bay is to be incorporated on the site where developments have more than ten units.	A designated wash bay is proposed in the communal garage.  It is recommended a condition be incorporated into the consent to ensure that a the designated wash bay be designed and constructed so as to not allow polluted waters to enter the stormwater drain and stormwaters do no enter the sewer.	Y	Y	Y
C1.19 Incline Passenger Lifts and Stairways		None proposed.	-	-	-
C1.20 Undergrounding of Utility Services	All existing and proposed utility services within the site are to be placed underground or encapsulated within the building.	The development can achieve the control requirements subject to a condition being incorporated into the consent.	Y	Y	Y
C1.21 SEPP (Housing for Seniors or People with a Disability) 2004	Cumulative Impact of Housing for Seniors or People with a Disability	Submissions raise concern that the proposal will result in a concentration and over supply of senior living developments along Avalon Pde.  See discussion later in this report.	Y	Y	N
C1.23 Eaves	Provision of 450mm eaves on all elevations. Council may consider a variation to this control where the development is shop top housing or multi-unit housing.	The development provides minimum 450mm wide eaves on all elevations.	Y	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure	Street trees are to be planted to the road reserve frontage placed at 6m centres	A footpath already exists along the frontage of the site however there is no sufficient space to accommodate street trees.  The road reserve along the northern side of the street has no street trees as it accommodates a pedestrian foot path and a number of bus stops.  Three significant canopy trees within the front boundary of the development site are proposed to be retained, maintaining the desirable landscape character of Avalon Pde which is consistent with the control outcomes.	N	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run	Plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building. Council does not encourage air conditioning units on the roof of Multi Unit Housing.	The air conditioning units are located on the ground next to the buildings, whilst not located within the buildings they have sufficient setbacks to adjoining properties. Noise is regulated under the relevant legislation and regulations.  The lift is internally integrated into the design fabric and no equipment is located on the roof.	Y	Y	Y
C4.7 Land Subdivision - Amenity and Design		No land subdivision proposed.	-	-	-

CONTROL	STANDARD	PROPOSAL	T	O	N
C4.8 Land Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots		No land subdivision proposed.	-	-	-
D1.1 Character as viewed from a public place  D1.4 Scenic protection - General	Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.	Concern has been raised in submissions in relation to the aesthetics of the development and it being out of character when viewed from adjoining properties and Avalon Pde.  See discussion later in this report.	Y	Y	N
D1.5 Building colours and materials	Dark and earthy colours	Roof - Colorbond charcoal grey Walls - mid dark browns (render), timber, stone  It is recommended that the consent conditions refer to the schedule of finishes submitted with the application to ensure that the scheme proposed is constructed.	Y	Y	Y
D1.6 Height - General	Maximum 8.5m	Maximum height is 7.95m to the top of highest ridge from natural ground level.  Concern has been raised regarding the height and scale of the development.  See discussion under SEPP HSPD later in this report.	Y	Y	N
D1.8 Front building line	Land zoned 'residential' along Avalon Pde, on the southern side between Gunjulla Place and Ruskin Rowe (being No's 95 to 121 inclusive), and on the northern side (being no's 50 to 112 inclusive) - 10m	The development maintains a 10m front setback except for a 500mm projection to part of the upper floor to provide a bay style window to units 1 and 7.  This is considered to be a minor breach and supportable on merit considering that it contributes to an articulated facade.  See discussion under SEPP HSPD later in this report.	N	Y	Y
D1.9 Side and rear building line	Dwellings 2.5 at least to one side; 1.0 for other side 6.5 rear (other than where the foreshore building line applies)  Multi-unit housing: where the wall height is more than 3m, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than: $S = 3 + (H + 2 / 4)$	<b>Front Block</b> West - varied 2.5m - 3.2m East - varied 1m - 3.2m  <b>Rear Block</b> West - varied 2.5m - 3.2m East - varied 1m - 3.2m  Rear - 6.5 (building), 3.5m (decks)  Concern has been raised regarding the side setbacks. See discussion later in this report.	N	Y	N

CONTROL	STANDARD	PROPOSAL	T	O	N
D1.11 Building envelope	<p><b>Dwellings</b> Planes are to be projected at 45 degrees from a height of 3.5 metres above natural ground level at the side boundaries to the maximum height (refer to relevant height under Part D Localities).</p> <p><b>Multi Unit Housing</b> Planes are to be projected at 45 degrees from a height of 4.2 metres above natural ground level at the side boundaries to the maximum height (refer to relevant height under Part D Localities).</p> <p>Where subject to Estuarine, Flood &amp; Coastline (Beach) Hazard Controls, the building envelope shall be measured from a height above the minimum floor level requirement under the Estuarine, Flood and Coastline (Beach) Hazard Controls.</p>	<p><b>Dwelling control</b> Minor breach (500mm) to eave and wall on the eastern elevation.</p> <p>Very minor breach (100mm) to eave and wall on the western elevation</p> <p><b>Multi Unit Housing control</b> -complies</p> <p>The site is subject to minimum floor level of 8.9m and complies with the envelope when measured from minimum floor level required.</p> <p>The development can be supported on merit considering that the site is subject to Flood Hazard controls and does not result in any unreasonable bulk within the setbacks.</p>	N	Y	Y
D1.14 Site coverage - Environmentally Sensitive Land	<p>Maximum Site Coverage 40%</p> <p>Minimum Landscaped Area 60%</p>	<p>Site coverage 1399m<sup>2</sup> or 62.7% Landscape area 831m<sup>2</sup> or 37.3%</p> <p>The proposal exceeds the maximum allowable site coverage on the site.</p> <p>See discussion later in this report.</p>	N	Y	N
D1.15 Fences - General	<p>Front and side fences (within the front building setback) – 1m</p> <p>Fencing is permitted along the rear and side boundaries (other than within the front building setback) to a maximum height of 1.8 metres.</p> <p>No masonry fences will be permitted on land identified in High Flood Hazard Areas or on land within a Floodway.</p> <p>All fences in High Flood Areas or within a Floodway are to be constructed in 'open' materials, for the full height of the fence, to allow for the passage of floodwaters through the fence.</p>	<p>Front fence - 1m high with 1m landscape setback</p> <p>Side and Rear fences - 1.8m</p> <p>The proposed fencing complies with the control.</p> <p>Concern has been raised in submissions regarding the location and materiality of the proposed fencing.</p> <p>See discussion later in this report.</p>	Y	Y	N

CONTROL	STANDARD	PROPOSAL	T	O	N
D1.17 Construction, Retaining walls, terracing and undercroft areas	<p>Lightweight construction and pier and beam footings should be used in environmentally sensitive areas. In the provision of outdoor entertaining areas, preference is given to timber decks rather than cut/fill, retaining walls and/or terracing.</p> <p>Undercroft areas shall be limited to a maximum height of 3.5 metres. Adequate landscaping shall be provided to screen undercroft areas.</p>	<p>Lightweight construction and pier and beam footings have been adopted as the site is flood prone and requires minimum floor levels.</p> <p>The undercroft areas of the decks of the rear building are a maximum 1m high and will not create any adverse visual impact.</p> <p>No retaining walls are proposed.</p>	Y	Y	Y
SEPP (Building Sustainability Index: BASIX) 2004		The BASIX commitments in certificate No. 394052M are achievable subject to recommended conditions of consent.	Y	Y	Y
Other State Environmental Planning Policies (SEPPs)			-	-	-

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

## 5.0 SITE DETAILS

The site is known as Lot 59 in DP 9151, No. 64 Avalon Parade, Avalon and Lot 60 in DP 9151, No. 66 Avalon Parade, Avalon. The sites are located on the northern side of Avalon Pde. They are regular in shape, with each lot having a site area of 1115m<sup>2</sup> and a total site area of 2230m<sup>2</sup>. Combined, the sites have a frontage of 36.6m to Avalon Pde, a western and eastern boundary of 60.96m and a northern boundary of 36.6m. The site has a fall of 1.8m and site slope of 2.6% from the higher south western corner to the lower north eastern corner.

The site is flood affected.

The property contains a modified landscape typical of an existing domestic garden with trees which are not significant in size except for three mature and significant Swamp Mahogany trees along the front of the site.

Lot 59 is currently developed by a single storey brick dwelling with paved areas and an inground swimming pool. Lot 60 is currently developed by a single storey fibro dwelling with a detached garage, paved areas and a shed. Formal vehicular access from Avalon Pde is provided via concrete driveways.

A State Transit Authority bus stop is located on the road reserve adjacent to the site.

A low brick fence and hedging exists along the front boundary of Lot 59 and low open timber fencing along the front boundary of Lot 60. Low open timber fencing and 1.8m high solid timber fencing exists along the side and rear boundaries.

Existing development surrounding the site consists of one and two storey residential dwellings configured on similar sized lots with large rear gardens. Pittwater Palms retirement village which accommodates 169 residences is located immediately to the north of the site. Beyond the adjoining properties to the west are five (5) recently constructed medium density developments (seniors living) among dwelling houses and to the east is the Avalon Village shopping precinct and recreational areas.

## 6.0 PROPOSAL IN DETAIL

The applicant seeks consent for the following development at 64 and 66 Avalon Parade, Avalon:

- Demolition of the existing dwellings and ancillary structures
- Seniors Living development comprising of:
  - 11 x two bedroom self contained dwellings
  - Ground level carparking comprising of:
    - 11 standard car spaces
    - 3 visitor car spaces
    - Carwash bay
    - Waste garbage room
- Landscaping works to the site including fencing and tree removal
- Consolidation of two lots into one
- Strata subdivision of the resultant development

## 7.0 BACKGROUND

The development application was notified from 27 September 2011 until 29 October 2011. On 11 November 2011 the applicant submitted additional information in response to the some of the issues raised in the submissions. On 18 November 2011 Council formally requested additional information of the applicant requesting a number of issues be addressed. On 5 December 2011 additional information and amended plans were submitted to Council. The amended plans were notified from 14 December 2011 to 4 January 2012. On 19 January 2012 Council made a further request for additional information to address concerns relating to stormwater disposal. On 17 February 2012 amended stormwater concept plans were submitted and they were notified from 21 February 2012 to 5 March 2012.

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

The application of SEPP NO. 1 is not required.

## 9.0 EXISTING USE RIGHTS

Does the proposal rely on Existing Use Rights? No

## 10.0 DISCUSSION OF ISSUES

- **State Environmental Planning Policy No. 55 (Remediation of Land)**

A submission from a neighbour raises concern that the site may be contaminated as they have anecdotal evidence that a car was buried in the backyard of 66 Avalon Pde in the 1960s.

Clause 7 of SEPP 55 sets out what must be considered by the consent authority in determining a development application. This includes whether:

- the land is contaminated
- if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out
- if the land requires remediation, whether the land will be remediated before the land is used for that purpose.

Section 145A of the EP&A Act defines contaminated land as:

*land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.*

There is no empirical evidence that the land is contaminated. If a car was buried 50 years ago it is likely that the tank would have been near empty. If it was full (approximately 50L - 60L) and there was a fault in the tank there is the possibility that the fuel leaked over time and discharged into the watertable.

The proposed method of construction is pier and beam footings raised above ground level to account for the flood hazard. The extent of excavation is limited to low trenches for water management devices and pier footings (maximum 500mm – 1m depth).

It is considered that remnants of fuel in the land from 50 years ago is not a presence that presents a risk of harm to human health or any other aspect of the environment. Council is satisfied that the land is suitable for the proposed residential purpose considering the evidence of past land uses on and around the site.

- **State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

The subject application has been made under the provisions of SEPP HSPD. Pursuant to clause 4 of SEPP HSPD the policy applies to the site as it is zoned for residential purposes where 'Dwelling houses' are permissible with development consent.

Pursuant to clause 15 of SEPP HSPD development for the purpose of any form of seniors housing is allowed despite the provisions of any other environmental planning instrument. "Seniors housing" is defined in clause 10 as

*residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility, or*
  - (b) a hostel, or*
  - (c) a group of self-contained dwellings, or*
  - (d) a combination of these,*
- but does not include a hospital.*

The application proposes a group of self-contained dwellings and is therefore permitted on the land pursuant to SEPP HSPD.

The relevant provisions of SEPP HSPD are addressed in the compliance table in section 4.1 earlier in this report. The development complies with the development standards, standards the Council cannot refuse consent and other numerical requirements.

Despite numerical compliance, consideration of the design and outcome based principles and objectives of SEPP HSPD are required. A detailed assessment of the proposal against the relevant design principles and guidelines is provided in this section of the report.

Concerns have been raised in submissions relating to the development being inconsistent with the provisions of SEPP HSPD and more specifically that the scale, aesthetics and appearance of the built form is incompatible within the streetscape and is inconsistent with the desired future character for the Avalon Locality. These concerns are addressed within this section of the report.

It is appropriate to frame this assessment around the design principles established in *Seniors Living Policy: Urban Design Guidelines for Infill Development*. This will inform how the development performs against the aims and objectives of SEPP HSPD, the relevant criteria in clause 25 (5) (b) (i), (iii) and (v) and PDCP controls. A relevant Land and Environment Court planning principle is drawn on to guide the assessment where necessary.

### **31 Design of in-fill self-care housing**

Clause 31 of SEPP HSPD provides that a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. This policy aims to promote a balance between need for greater housing choice and the need to safeguard the character of residential neighbourhoods. The policy is divided into five chapters each corresponding to a key issue when designing infill development. Each chapter is addressed below:

#### **1) Responding to Context**

The aim of this chapter is to indicate specific areas which need to be considered in order to effectively respond to the local context. The policy uses the method of posing key questions which should be asked in relation to the following areas:

- Analysis of neighbourhood character
- Street layout and hierarchy
- Block and Lots
- Built environment
- Trees
- Policy environment
- Site analysis

The site is located on Avalon Pde, identified as one of the major roads within the locality connecting communities to the west with Avalon Beach Commercial Centre. PDCP emphasises the unique leafy character of Avalon Pde and prescribes large front setbacks to ensure significant canopy trees are retained and enhanced along the street.

Built form along Avalon Pde is predominantly one and two storey detached dwellings on large (approximately 1100m<sup>2</sup>) blocks with sizeable landscaped frontages and backyards. PDCP controls are flexible in that they do not prescribe any particular style of architecture or design. The result is a mixture of architectural styles and forms across the locality from early settlement cottages to large contemporary residences.

Towards the east the street is characterised by commercial development, shop top housing and open parking areas which make up part Avalon Beach Commercial Centre.

Among the dwelling houses are six (6) medium density developments containing a total of thirty two (32) dwellings/units for seniors and/or people with a disability which address Avalon Pde. The developments at 74-76 Avalon Pde, 81-83 Avalon Pde and 85-87 Avalon Pde are within the visual catchment of the development site (33m – 100m).

There are also 169 dwellings/units within the Pittwater Palms complex which is an older terrace style seniors living development which is accessed off Avalon Pde. The complex is located on a large amalgamated site behind the residential allotments which front onto Avalon Pde and Central Rd.

Large mature canopy trees line Avalon Pde, located within the road reserve or within the private allotments and are a significant characteristic of the street. Existing and new development retains the predominant tree canopy in the front setbacks, maintaining the tree lined streetscape of Avalon Pde.

Building heights along the street are generally one and two storey and front setbacks are consistently 10m to the northern side and 18m and greater to the southern side. The building footprints for single dwellings are generally in the street half of the sites with open backyards and 2m – 5m distance between dwellings. The medium density developments extend into and are spread over the majority of their sites. The three within the visual catchment of the development site are over amalgamated lots and the built form addresses the double frontage with breaks in the facade or separation between buildings.

## **2) Site planning and Design**

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

The development is made up of two buildings a double storey building in the front half and a single storey building in the rear half. The units are distributed evenly across the site with the dwellings in the front building on the first floor above the carpark and dwellings in the rear building at ground floor.

The rear facades of the buildings and all living areas have been deliberately orientated to the north to maximise solar access and daylight amenity. All dwellings receive the minimum solar access hours with the majority receiving daylight through the whole day on June 21<sup>st</sup>. The bulk of the development is within the front building which maximise dwellings with a street frontage. The rear building is single storey in height to minimise any bulk impact when viewed from adjoining properties.

Three mature Swamp Mahogany's located in the front setback are to be retained which will reduce the visual impact of the development on the streetscape. Deep soil planting is proposed within the front setback, mid block and to the rear. A Swamp Mahogany is proposed to be retained in the rear north eastern corner of the site. While the tree is within the footprint of Unit 2 deck, the tree can be retained subject to recommendations in the Arborist Report. The adequacy of the eastern setback to accommodate vegetation has been investigated and is acceptable subject to deletion of part of Unit 2 roof and provision of 2m setback to Unit 7 deck and roof. The development includes centralised parking area which effectively reduces the area occupied for driveways and maximises space for deep soil zones in the front setback.

The total landscaped area (deep soil zones) is 37% which does not comply with the minimum requirements of 60% under PDCP however it more than exceeds what is considered satisfactory in SEPP HSPD. Despite this, it is considered that the landscape scheme is appropriate as it ensures that the significant canopy lining the street is maintained and enhanced and provides mid block, side setback and rear setback landscaping to reduce the visual impact of the development when viewed from the street and adjoining properties.

The siting of the development is appropriate considering the optimal internal amenity achieved, acceptable impacts on neighbours while providing the maximum development yield.

## **3) Impacts on Streetscape**

The aim of this chapter is to respond to the desired streetscape character through sympathetic design. A number of submissions have been received concerned that the bulk and scale, horizontality and overall aesthetics of the development are not sympathetic in the streetscape. One submission specifies that the bulk of carpark podium and unbroken row of units above creates a bulk and mass similar to a residential flat building or motel which is prohibited in the zone.

The desired future character statement for the Avalon locality specifically goes to desired streetscape character for Avalon Parade:

*Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.*

The broader aims of the statement are to ensure that future development maintains a height limit below the tree canopy, retain and enhance the locally native tree canopy and vegetation and ensure contemporary buildings minimise bulk and scale, utilise facade modulation and shade elements and are finished in building colours and materials to harmonise with the natural environment.

Overall, the desired future character statement and PDCP controls are flexible in that they do not prescribe any particular style of architecture or design. This chapter also does not prescribe any particular style or design which is acceptable within the streetscape however suggests design principles for the built form that can reduce the visual bulk of a development. They include:

- *Breaking up the building massing and articulating building facades*
- *Allowing breaks in rows of attached dwellings*
- *Using variation in materials, colours and openings (doors, windows and balconies) to order building facades with scale and proportions that respond to the desired contextual character*
- *Setting back upper levels behind the front building façade*
- *Where it is common practice in the streetscape, locating second storeys within the roof space and using dormer windows to match the appearance of existing dwelling houses*
- *Reducing the apparent bulk and visual impact of a building by breaking down the roof into smaller roof elements*
- *Using a roof pitch sympathetic to that of existing buildings in the street*
- *Avoiding uninterrupted building facades including large areas of painted render*

The proposed development addresses Avalon Pde as one building with no clear break in the building which does not reflect the spacing and rhythm of built form along the street. The development has a horizontal appearance created by the low skillion roof height where other built form incorporates more vertical roof forms such as hipped and/or gabled roof forms. Additional information was requested of the applicant to address the principles outlined above. The applicant responded by amending the design in the following way:

- The front façade has been broken into three elements:
  - Left side of the building has sandstone base with projecting first floor bay clad in weatherboard
  - Central roof over access stair removed, providing open break in the massing with a proprietary green wall and clear finished timber screens
  - Right side of the building rendered base with vertical green wall and vertical rendered bay
- The front façade incorporates projecting stairs, bays and a recessed verandah to break up the bulk of the building
- The horizontality of the building broken down by central break in the roof, varied materials, composition of elements on the façade use of eaves and the incorporation of landscaping.

The amendments described above successfully articulate the front façade. The central break in the roof form goes part way to provide an interruption in the building massing however the built form will still be perceived as one building. The horizontality of the building mass is clearly different to the existing pattern of built form along Avalon Pde when perceived from the street and neighbouring properties.

It is noted that the other medium density developments on amalgamated sites either provide a separation between buildings or a central break or cut out.

The issue of compatibility between seniors living development and surrounding low-density development was tested in Land and Environment Court decision 11038 of 2002 *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council [2003] NSWLEC 268*. Commissioner Roseth established a four step principle to assess compatibility as the issue kept arising as SEPP HSPD allows development with different physical characteristics to what is permissible under the zoning.

***The first principle is that buildings in a SEPP 5 development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single-storey. The principle does not apply to conservation areas where single-storey dwellings are likely to be the major reason for conservation.***

Avalon Pde is predominantly made up of one and two storey dwellings and is not within a conservation area. The development is divided into two blocks one which addresses the double frontage to Avalon Pde which is two storeys high. The development as it sits along the low side of Avalon Pde has a height less than or similar to existing two storey dwellings.

***The second principle is that where the size of a SEPP 5 development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.***

The development presents as a single building and does not incorporate a vertical break in the horizontal building mass. The design utilises other measures to visually break up the building including a central break in the roof form, varied materiality, projecting/recessing elements and landscaping within the front setback.

Consideration is given to other medium density developments on amalgamated lots and what building separation or a generous break or cut out in the building would achieve. Photographs (Richard Cole Architecture Pty Ltd) provided in the application documents each development are provided below.



74-76 Avalon Pde



81-83 Avalon Pde



85-87 Avalon Pde



111-113 Avalon Pde

The development at 74-76 Avalon Pde is four (4) separate buildings/dwellings with a central driveway accessing the rear of the development. The driveway access is centred which increases considerably the amount of open concrete area and exposes the entire development to the rear of the site. This site does not benefit from mature canopy in the front building line.

The development at 81–83 Avalon Pde is six (6) partially separated buildings/dwellings and basement carparking. The driveway access is toward one side of the site and the front building setback contains mature screen planting.

The development at 85-87Avalon Pde is ten (10) units and basement carparking and is one building with the generous central cut out. The driveway access is centred which increases the amount of open area (unable to be landscaped) in front of the break. The development presents as a single building. Effective screen landscaping is provided to the side of the driveway.

The development at 111-113 Avalon Pde is four (4) separate buildings/dwellings. The driveway access is centrally located again preventing screen planting between buildings and exposing built form to the rear. This site benefits from effective canopy screening in the front setback.

It is beneficial to have examples of similar development in the area as it demonstrates 'as built' impacts in the streetscape. The issue that arises from separating buildings and providing central access is that it increases considerably the amount of open concrete area, does to allow for vegetation between buildings and exposes the entire development (rear of the site) when viewed from the street.

81–83 Avalon Pde is a good example of how pushing the driveway access to the side allows for more meaningful landscape screening to the front of the development.

The current proposal has been designed to retain the three significant canopy trees in the front building setback and allow all units to be orientated to the north. The carparking area has a minimal footprint and driveway access has been located to one side due to the location of the trees and a bus stop at the centre point of the site.

It is questionable as to whether a large break or cut out in the façade would reduce the visual bulk of the development to an extent in which it would be perceived as separate buildings and less horizontal.

It is noted that even if some building separation was provided persons travelling or walking along Avalon Pde would view the site from oblique angles, in which the built form would still be perceived as one building.

There is merit in the applicant's position that interruption is provided by composition of elements, recessed first floor, central break in the roof form and varied materials on the front façade. Furthermore, weight is given to the effectiveness of the established and proposed landscaping within the front setback which is preferable to alternate solutions with central access or two driveways.

It is acknowledged that a total separation of the building into two to address Avalon Pde would reflect the existing building rhythm established by single dwelling houses. Notwithstanding this, the design does have merit as it appropriately responds to the site orientation to provide optimal amenity to future occupants within the building envelope prescribed in SEPP HSPD.

While the proposal does contain the maximum yield permitted, the scale of the development in terms of built form and density complies with the standards of SEPP HSPD and therefore cannot be refused for this reason. The visual impact, aesthetics and appearance of the development is not considered to be a detrimentally significant impact within the streetscape to warrant refusal of the application.

***The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.***

There is an established front building line of 10m along the northern side of Avalon Pde which the development generally responds to. The land is prone to flood and responds to the topography by proposing a pier and beam design and at grade parking area. The development retains the three significant Swamp Mahogany's within the front building setback which will contribute to the reducing the visual dominance of development. The stormwater disposal on site has been investigated and pits and pipes are at a sufficient distance from the trees to ensure their survival.

***The fourth principle is that a SEPP 5 development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced, only that their introduction should be done with care and sensitivity.***

The proposed roof form is skillion where as hipped and gable roof forms are the predominant roof form along Avalon Pde and in the locality. Examples of skillion or flat roofs along Avalon Pde are limited to medium density development, a handful of small residences and the surgery roof at 62 Avalon Pde.

The flat skillion roof form is common in medium density development as there are design constraints limiting height to 8m. While the roof form is different to the majority of dwelling roofs, this should not suggest that the development is automatically incompatible with other buildings on the street.

To be compatible does not mean building forms must be identical. Compatibility refers to built form existing together in harmony and sensitively in the context. The development emphasises materiality and architectural elements to sympathetically respond to buildings in the street.

The development design is not considered to reflect the built form of a residential flat building (within the meaning of SEPP 65) or a motel. The development does not rely on a basement or open parking facilities and alternatively relies on a partially concealed garage on ground level which is more consistent with characteristics of a detached dwelling house.

The development uses a variety of materials including stone, timber, cladding, render and glazing which successfully harmonise into the natural environment resulting in a coastal aesthetic which is very common in the locality. The variety of materials, projecting bay windows, open verandahs, screen elements and eaves interrupt the façade allowing the built form to be read in parts.

Overall the design represents a quality architectural style, provides a front setback appropriate in the context and visually acceptable within the streetscape. It is unrealistic to expect permissible development of this type to present to a street with a scale and built form identical or even similar to that of a dwelling house. Even the four (4) dwelling SEPP HSPD developments along Avalon Pde are still perceived as medium density housing. The development achieves the majority of the built form principles and all of the landscaping, amenity and parking principles within this chapter and therefore considered acceptable.

#### **4) Impacts on Neighbours**

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

The proposal maintains the existing dwelling orientation of front to back with no unit orientated to the side boundaries. The double storey built form is located to the front of the site to reflect the footprints and scale of existing built form addressing the street.

A variety of measures including window placement, spatial separation, fixed screens, frosted glazing and landscaping have been incorporated into the design to minimise overlooking impacts from the first floor to neighbouring properties. Effort has been made to locate private open space within the rear setbacks to reduce any privacy impacts between neighbouring dwellings. Plants and trees are provided to the side of the driveway to minimise noise and visual impacts from 68 Avalon Pde. The development does not unreasonably overshadow existing neighbouring dwellings.

The walls facing the side and rear boundaries are heavily modulated with short spans of walls and varied setbacks. It is recommended that the roof form over Unit 2 be partially deleted to reduce building mass when viewed from adjoining properties and allow sufficient area for landscaping. The plans were amended to modify the roof form addressing Avalon Pde to provide a break to minimise the visual impact. While this does not satisfy the requests of some submitter to separate the building form the break in the roof form does interrupt the structure providing some visual relief in built form. The apparent bulk of the development is minimised by proposed landscaping and vegetation within setbacks and through the middle of the block.

#### **5) Internal Site Amenity**

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

The dwellings have been designed to maximise solar access to living areas and orientated to protect privacy. Bedrooms are located away from the driveway and garage which is screened from communal areas by timber panelling. The design is successful in minimising the hard surfaces for garaging and driveway use. The space on either side of the driveway can be adequately landscaped and the communal car court is integrated into the design which reduces the visual dominance of the garaging structure.

The development provides distinct and separate pedestrian and vehicular circulation and clearly defines public and private areas. Private open space allocated to each dwelling is generous and orientated to the north. Communal open space is largely within the front setback with common circulation areas and landscaping through the middle of the block.

## **29 Site compatibility criteria to which clause 24 does not apply**

Pursuant to Clause 29 of SEPP HSPD a consent authority must take into consideration and have regard for the criteria referred to in clause 25 (5) (b) (i), (iii) and (v) which states:

- *25(b)(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
- *25(b)(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*
- *25(b)(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.*

Submissions raise concern that the development does not achieve these criterions. This clause refers to what Council must take into consideration and have regard for in determining an application.

This report addressed the relevant criteria in Clause 25 under the relevant sections. The affect of the development on the natural environment and how hazards affect the site and surrounding area are addressed and concluded to be acceptable. The servicing and infrastructure required for the development has been investigated and the development is satisfactory in this regard.

The bulk, height, scale and character of the development have been addressed exhaustively within this report. The compatibility of the development has been tested and consideration given to the impacts on the surrounding area particularly in relation to visual impacts and the streetscape. The development is not of a scale or built form that has a visual impact which is considered unacceptable within its context.

The assessment finds that the development is consistent with the standards, design guidelines and overall the design objectives of SEPP HSPD.

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

Submissions raise concern that the proposal will result in a concentration and over supply of senior living developments along Avalon Pde. It is suggested in the submissions that the cumulative impact of senior's developments and the current proposal will make multi dwelling housing the dominant dwelling form and affect the single dwelling residential character of Avalon Pde.

Control C1.21 states:

*Cumulative Impact*

*Housing for Seniors or People with a Disability, developments shall:*

- *be in keeping with the development of the surrounding area in regard to bulk, height, scale and character.*
- *not result in such an accumulation of Housing for Seniors or People with a Disability developments to create a dominant social type in the surrounding neighbourhood.*

- *not result in such an accumulation of Housing for Seniors or People with a Disability developments to create a dominant 'multi-unit' housing appearance in the neighbourhood.*

Previous applications for SEPP HSPD along Avalon Pde which have been determined by Land and Environment Court provide important discussion on cumulative impact of multi dwelling housing along Avalon Pde.

In order to undertake an assessment of cumulative impact, the history of Senior Living development along Avalon Pde is investigated and the findings are detailed in the table below.

DA	NO.	DEVELOPMENT	COUNCIL DECISION	L&E COURT DECISION
82/83  84/143	82	Pittwater Palms  Home for the Aged (129 Self Care Units, 40 Bed Hostel, Village Centre, Associated Carparking and Landscaping)	Consent 82/83  Approved Modification with replaced consent 84/143 (Warringah)	-
N0378/98	102	SEPP 5 housing for the aged (4 Units)	Refused	Dismissed (Refused)
N0720/99	52	Aged and disabled housing (5 units with off street parking for 5 vehicles)	Refused	Upheld (Approved)
N1048/99	102	Four units for older people or people with a disability with underground carparking for four vehicles and strata subdivision	Refused	-
N0045/00	83 - 87	Construction of 14 dwellings for older people or people with a disability including carparking for 23 vehicles	Refused	Discontinued
N1136/00	79	SEPP 5 (Four units with carparking for 6 vehicles)	Refused	Discontinued
N0693/01	91	SEPP 5 (Three units)	Refused	Dismissed (Refused)
N0331/02	83	SEPP 5 (4 Units with basement carparking)	Refused	Upheld (Approved)
N0888/02	91	SEPP 5 (3 units)	Approved	-
N0170/03	81	SEPP 5 (4 self contained dwellings and strata title subdivision)	Refused	Upheld
N0662/03	85 - 87	SEPP 5 (10 units)	Refused	Upheld (Approved)  11361 of 2003 <i>Equity Group Investments Pty Ltd v Pittwater Council</i>
N0031/04	81 - 83	SEPP 5 (6 dwellings and basement carparking for 10 vehicles)	Approved Modification Approved	-
N0281/05	111 - 113	SEPP (Seniors Living) (Four single level homes)	Refused	Dismissed (Refused)

DA	NO.	DEVELOPMENT	COUNCIL DECISION	L&E COURT DECISION
N0492/05	74 - 76	SEPP Seniors Living 2004 (4 detached, self-contained, self-care dwellings with 4 swimming pools and 9 car parking spaces and strata subdivision)	Refused	Upheld (Approved)  11233 of 2005 <i>Walker &amp; Walker Developments Pty Ltd</i>
N0455/06	111 - 113	SEPP Seniors Living 2004 (4 detached dwellings with strata subdivision)	Approved Modification Approved	-

**Note: Bolded type indicates approved and constructed developments**

Land and Environment Court decision 11361 of 2003 *Equity Group Investments Pty Ltd v Pittwater Council* considered and tested the issue of cumulative effect, finding that the development at 85 -87 Avalon Pde did not exceed the critical threshold.

Land and Environment Court decision 11233 of 2005 *Walker & Walker Developments Pty Ltd v Pittwater Council* is the most recent case which considered and tested the issue of cumulative effect, finding that the development at 74-76 Avalon Pde did not exceed the critical threshold.

It is considered useful to use the PDCP control criteria as the assessment framework and where necessary guidance is taken from Land and Environment Court decisions. Each criterion is addressed below:

- ***The development shall be in keeping with the development of the surrounding area in regard to bulk, height, scale and character.***

Commissioner Bly in *Walker & Walker Developments Pty Ltd v Pittwater Council* goes to character in paragraph 32 stating

*Whilst I accept that character should not be read down to just streetscape, in the absence of other assessment criteria the visual presentation of the proposal in the context of cumulative effects must be an important consideration.*

The commissioner goes on to state in paragraph 33 that

*The proposal will have an apparent higher density and a different landscaping regime by comparison with surrounding single detached dwellings on their own land. It nevertheless comprises four detached dwellings and will predominantly present to the street as two such dwellings, notwithstanding that the rearmost of the dwellings will also be apparent. Whilst it will appear somewhat different, including its newness, to other dwellings in Avalon Parade I do not accept that this difference is such as to cause me to conclude that it is critically different in character.*

The development will present to Avalon Pde as a higher density in comparison to the single detached dwellings around the site. The proposal will however maintain the important landscape character along Avalon Pde. The development presents as one building containing a garage and apartments, however unlike 74 -76 Avalon Pde the rearmost apartments will not be apparent.

The development will no doubt appear different to other dwellings and development along Avalon Pde, noting its low horizontal form and varied façade treatments. Whilst the development will present as a new building effort has been made in the architecture to draw on design quality, building elements, finishes and a landscape scheme consistent with the surrounding area. For these reasons, the development is not considered critically different in character to the extent that it would be perceived as significantly detrimental to the character of Avalon Pde.

- ***The development shall not result in such an accumulation of Housing for Seniors or People with a Disability developments to create a dominant social type in the surrounding neighbourhood.***

Social effects of the accumulation of SEPP HSPD have been raised as a concern in submissions. Social implications of SEPP HSPD development was not a contention in the previous cases. The proposal is for 11 new units which may increase the number of seniors or people with a disability residing on Avalon Pde.

It is noted that a net increase may not occur as persons in this social type may relocate/down size from dwellings in the surrounding neighbourhood.

The proposed development is located in an area where there is a concentration of SEPP HSPD development (6 developments). This has occurred as a result of providing SEPP HSPD development in a suitable location prescribed in the policy (close proximity to a commercial centre with level, safe and convenient access).

No evidence has been presented to indicate that the proposed development will increase the number of seniors or people with a disability in the area to an extent that they would become the dominant social type. Post development, the social type in the surrounding neighbourhood will remain a mixture of families, young, middle aged and mature persons/couples, people with a disability, carers etc.

- ***The development shall not result in such an accumulation of Housing for Seniors or People with a Disability developments to create a dominant 'multi-unit' housing appearance in the neighbourhood.***

Commissioner Moore in *Equity Group Investments Pty Ltd v Pittwater Council* states in paragraph 3

*... I accept the proposition that, at some stage, there might be reached a point where SEPP5 developments in Avalon Parade attain a sufficient aggregation where it would be appropriate for the council or the Court to say "enough is enough".*

The commissioner goes on in paragraph 4 to outline that in that case the threshold had not been passed taking into account

- the number developments already approved;
- the differences in style and design between them; and
- the fact that the proposed development is located between existing approvals.

This threshold test is also referred to in *Walker & Walker Developments Pty Ltd v Pittwater Council*.

Six (6) developments (containing a total of 32 dwellings/units) have been approved and constructed which address Avalon Pde. In addition to this, there are 169 dwellings/units within the Pittwater Palms complex which does not physically address Avalon Pde however primary access is provided via Avalon Pde. The proposed low horizontal scale and quality design finishes are sufficiently different to the style and design of existing developments to conclude that there is no connection or continuation of a development type along Avalon Pde.

The difference in style and design is important in this case as the development is within 33m – 100m of existing approvals along Avalon Pde and adjoins Pittwater Palms to the rear.

The control refers to a *dominant 'multi-unit' housing appearance*. Dominant is defined in the Macquarie Dictionary as *main; major; chief*.

If the proposed development were constructed, seven (7) 'multi-unit' housing developments among single dwelling houses would present to Avalon Pde. A person travelling along Avalon Pde would see mainly single and double storey dwellings, some dual occupancies and some multi dwelling housing. It is not considered that the proposed development would cause a threshold to be crossed which would cause the visual appearance of Avalon Pde to change or perceive to change from predominately low density housing to predominately medium density housing.

Submissions raise concern that the current market conditions reflect that there is an oversupply of seniors units in the area. SEPP HSPD aims to provide accessible housing for the future. Current real estate market conditions should not determine whether a development is acceptable or not. Therefore this is not a matter for further consideration in this assessment.

- **B3.14 Flood Hazard - Flood Category 1 - Low Hazard - Other Development; B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)**

Council's Development Engineer and Catchment Management & Climate Change department assessed the development application. The development is a Seniors Living Development, so the Probable Maximum Flood (PMF) is used as minimum floor levels. The floor levels proposed were RL 8.7 which met the PMF level of RL 8.7.

As the development constitutes an 'intensification of development', the 2100 climate change scenario must be included in the flood levels. The minimum floor levels for the development (including carparking and all common areas) were therefore increased to 8.8m AHD for No.64 and 8.9m AHD for No.66. The plans were amended to raise the floor levels across the entire development to RL 8.9.

The Catchment Management & Climate Change department indicated that in addition to minimum floor level, there were also two key flood-related issues at this site being:

**(1) Loss of flood storage:**

*No net loss of flood storage volume will be permitted below the level of the 1%AEP flood level for the site (8.3-8.4m AHD). When calculating flood storage volume, the flood storage volume displaced by structures in place on the site at the time of the hydraulic modelling was undertaken, may be taken into account*

**(2) Flood Emergency Response Plan:**

- *A Flood Emergency Response Plan is required for all new development and additions which addresses the emergency response for all floods up to the Probable Maximum Flood or the Flood Planning Level (whichever is the higher).*
- *For developments where the period of isolation of the development is greater than 2 hours in a Probable Maximum Flood, High-level On-site Refuge will not be permitted. "Isolation" is defined as where there would be a minimum depth of water of 300mm in a probable maximum flood to access land above the probable maximum flood to where there is adequate refuge.*
-

*For High-level On-site Refuge to be considered by Council as the method of Emergency Response, it must be demonstrated that:*

- (a) the period of isolation of the development is no more than 2 hours in a Probable Maximum Flood;*
- (b) the Refuge must have a minimum floor level at or above the Probable Maximum Flood or Flood Planning Level (whichever is the higher level);*
- (c) for Critical and Vulnerable Land Uses (includes Seniors Living developments), the Refuge must be able to be accessed via a disabled access by people who do not have to enter deeper water to access the Refuge;*
- (d) the Refuge must provide a minimum of:*
  - 10 square metres for each individual dwelling;*
  - 2 square metres per person based on the number of likely employees and patrons/visitors;*
- (e) the Refuge must be suitable for occupation for the stated number of persons for the likely time of isolation, assuming no provision of external services, particularly electricity and water;*
- (f) the Refuge is located in a building that has been certified by a Structural Engineer to be structurally sound under the likely hydraulic forces up to the level of the Probable Maximum Flood.*

With regard to loss of flood storage volume, the development including the detention tanks will not result in a net loss of flood storage volume considering the elevated nature of the built form and existing displacement caused by the structures on the site.

Based on the criteria provided above the proposed development is unlikely to rely on High-level On-site Refuge as there is direct accessible route to the street (RL 9) which is above the probable maximum flood level and adequate for refuge.

It is considered necessary to impose a condition of consent requiring a Flood Emergency Response Plan which addresses the emergency response for all floods up to the Probable Maximum Flood or the Flood Planning Level (whichever is the higher).

- **B5.10 Stormwater Discharge into Public Drainage System; B5.1 Water Management Plan**

Development applications are required to address water management in an integrated manner to ensure rainwater, stormwater, greywater, and wastewater are effectively managed. The applicant submitted a stormwater concept plan relying upon a method of detention and dispersion for stormwater disposal and indicates rainwater tanks consistent with the BASIX requirements. Wastewater able to be connected to the Sydney Water Reticulated Sewage System and no greywater treatment system is proposed.

Council received submissions raising concern that the method of stormwater disposal is ineffective given the existing water infiltration issues on site and potential impacts on neighbouring properties. The adjoining neighbour at 62 Avalon Pde has commissioned a report by a Hydraulic Engineer which finds that the site conditions are not suitable for on site infiltration of stormwater.

Control B5.10 requires that stormwater be discharged into the public drainage system by either a Direct Connection to the Public Drainage System, Connection to Public Drainage System via Inter-allotment Drainage and Easement or Connection to public Drainage System via Public Reserve.

Direct Connection to the Public Drainage System along Avalon Pde is not viable as the natural flow of water is directed away from Avalon Pde. Mechanical means (i.e. pumps) for disposal of stormwater runoff to Avalon Pde is not permitted.

The land has no existing legal access to an Inter-allotment Drainage Easement and there is no Public Reserve adjoining the subject site.

The variation to the control states:

*Where the development does not have legal access to the public drainage system and is unable to gain adjoining owner's consent on alternative access through drainage easements as required, Council will consider the following on merit:*

- *An on-site infiltration system on suitable land. Land affected by landslip may not be suitable for installation of an on-site infiltration system, however, may be acceptable if supported by Geotechnical Risk Assessment stating that on-site disposal achieves the 'Acceptable Level' of risk as defined in the Geotechnical Risk Management Policy for Pittwater.*
- *Redirection of stormwater flow*
- *A split system*
- *An alternative discharge approach*

*If such a variation is sought it must be accompanied by a supporting report by an appropriately qualified Water Engineer and Geotechnical Engineer (where applicable), outlining the collection, use, reuse and disposal method and demonstrating that it will provide an acceptable standard of safety, will not have any adverse impact on adjoining properties, bushland or public places, and will not adversely impact on the downstream drainage system, downstream bushland or any downstream public places.*

Council's Development engineer assessed the concept plan, submitted report and submissions against control B5.10 and provided the following advice:

*'The proposed method of stormwater management is not acceptable given the scale of the development and the existing surrounding property ground levels. The applicant needs to pursue the construction of an inter-allotment drainage line to council's stormwater system.*

*The proposed use of on-site dispersion would only be considered if it is demonstrated that adjoining properties have refused to grant easements to drain water and that the dispersion system will not adversely affect adjoining properties.*

*In this regard it is suggested an inter-allotment drainage line along the northern boundaries of 62, 60 and 58 Avalon Parade connecting into the existing Council stormwater pit in the south western corner of the Bowling Green would be the most effective solution.'*

The applicant responded to Council's request for additional information indicating that they had attempted to contact owners of 62 Avalon Pde and Pittwater Palms (82 Avalon Pde) regarding an inter allotment drainage easement. It does not appear that the owners of 60 and 58 Avalon Parade were approached.

Written consent for the piping and acquisition of an easement has not been granted by the neighbouring owners who were approached.

The response from the applicant relied on the original stormwater plan proposing detention and dispersion through trenches. The response referred to an existing 100mm pipe from 64 Avalon Pde to the Pittwater Palms stormwater drain. There is no formal easement benefiting 64 Avalon Pde to drain into Pittwater Palms drain therefore this cannot be relied upon to drain water from the new development.

The response also referred to a dish drain that directs overland flows from 56, 58, 62, 64 and 66 to Council's stormwater pit in the south western corner of the Bowling Green. 64 and 66 Avalon Pde has no direct or legal access to the drain connecting to Council's stormwater pit.

An Infiltration Test was also submitted which was conducted by Crozier Geotechnical Consultant. The report found that the water table was 1.2m below surface level and concluded that the proposed system of detention and recycling will result in only minor seepage to neighbouring properties down slope.

As a result of the second notification period, submissions were received indicating that the additional information was inadequate, that the on site dispersion method is non compliant with Councils controls and will result in adverse impacts on the surrounding properties.

Councils Development engineer considered the applicants response and further submissions and provided the following advice:

*'In order to address concerns from adjoining properties in regard to increase stormwater runoff from the developed site, a storm water management plan needs to be developed that meets the following requirements:*

- Site runoff is to be no greater post development than pre development. In this regard it is expected that on-site detention will be required to reduce peak flows from the site for the 1% AEP storm events.*
- Site discharge can be dispersed across the surface of the site in a manner that does not increase or concentrate storm water flows onto adjoining properties.*
- Detention volumes can be estimated utilising the volumes provided by Council in DCP 21 or obtained using hydrograph producing software.*

*The above details are to be provided to council in order to address concerns raised by adjoining property owners.'*

The applicant submitted a revised stormwater management plan in response to Council's request for additional information.

As a result of the third notification period submissions were received including a revised report from Demlakian on behalf of the owners of 62 Avalon Pde maintaining concerns that on site dispersion method is not suitable and will have adverse impacts on the neighbours. Concerns have been raised by the residents of Pittwater Palms who claim that the amended design now directs flow towards Pittwater Palms. Photographs of water pooling on site were also forwarded to Council.

The applicant provided a Stormwater Drainage response to the Demlakian Report prepared by AKY Civil Engineering. Councils Development engineer considered the amended design, submission and AKY Civil Engineering response and provided the following advice:

*'The preferred method of storm water management from the development site is to construct a inter-allotment drainage line from the site to council's public drainage system. This would require the granting of private easements through adjoining properties.*

*The applicant has been unable to gain the consent of adjoining properties for the necessary easements, even though storm water appears to be a major concern for the adjoining properties.*

*Notwithstanding this the applicant has submitted an alternative option that incorporates the use of re-use storage tanks and detention tanks that will reduce peak flows from the site by approximately 27% in the 1%AEP storm event. Discharge for this alternative will be via a series of on-site dispersion trenches.*

*Either of the above methods are considered acceptable as they will provide a significant improvement to the existing storm water management systems on the site. It is proposed to condition the consent to allow the applicant to pursue either option at construction certificate stage.'*

In the absence of any existing or forthcoming legal easement benefiting the development site to drain stormwater through surrounding land to Council's pit (which in all experts opinions is the most effective solution), it is reasonable for the applicant to propose and Council to consider an alternative solution under the variation to the control. Detaining and dispersing stormwater within the development site is a viable alternative option subject to there being no increase in predevelopment flows and acceptable impacts on surrounding lands.

For clarification purposes, despite the notations on the stormwater plan the application is not relying on absorption/infiltration method of disposal. The methodology proposed is detention (storage) and dispersion (across the land). The trenches act as measure to distribute the flow so it is not concentrated at any one point.

The calculations indicate that post development flows across the land will be reduced considerably compared to the current dispersion only method.

It is acknowledged that the alternative option it is not the preferred solution, however it is an acceptable solution which satisfies the controls and outcomes of PDCP and improves the current discharge rate. For these reasons use of this method is not a reason which would reasonably warrant refusal of the application.

The recommended condition to provide an option for stormwater disposal in the event an easement is granted has been reviewed by Council's Urban Infrastructure (Stormwater Management) Department and considered appropriate in this circumstance. It is reasonable to condition the development in this manner to ensure the option is available in the event the circumstances change.

- **B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy**

Concern has been raised in submissions relating to the lack of off street parking, location of visitor parking, lack of bicycle storage and the accuracy of the submitted Traffic/Parking Report.

A Traffic and Parking Impact report prepared by a qualified Traffic Engineer provides a detailed assessment of the proposal against PDCP, SEPP HSPD, RTA Guidelines, AS2890.1 and AS2890.6. The traffic assessment has been assessed by Council's Development Engineer who raised no issues with the methodology used and accurateness of the report.

The control does not provide a control for SEPP HSPD development and therefore the following control applies:

- *The minimum number of vehicle parking requirements must be determined using appropriate guidelines for parking generation and servicing facilities based on development type comparison based on the RTA Guide to Traffic Generating Development or analysis drawn from surveyed data for similar development uses. Provision must be made within the development site for access and parking of all service vehicles servicing the site, visitor parking and parking for people with disabilities.*

RTA (2002) Guide to Traffic Generating Development requires a minimum of 8 residential spaces and 2 visitor spaces. The development proposes 11 residential car spaces, 3 visitor spaces and a car wash bay which complies with the control and applicable guidelines.

In terms of the requirements of SEPP HSPD, 0.5 spaces per bedroom (total 11) are required in which the development also satisfies.

In terms of providing parking for people with disabilities SEPP HSPD requires 11 carparking spaces to comply with AS2890.6 and one of those spaces to be able to increase in width to 3.8m. 5 spaces clearly meet the requirements of AS2890.6 in that a shared space is readily available next to spaces 1, 6, 7, 8 and 11. The Traffic Engineer advises that the remaining 6 spaces can comply as the visitor spaces can double as a shared space (wheelchair accessible) by way of removable bollards. The Accessibility Consultant also considers this to be a satisfactory arrangement.

If this flexible arrangement is not considered satisfactory at certification stage the visitor areas will require permanent bollards providing a total of 11 spaces for people with disabilities. Regardless of whether the shared/visitor space arrangement is satisfactory or not, the development meets the RTA and PDGP requirements of 10 spaces and the SEPP HSPD standard of 11 car spaces and pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on parking requirements.

The control requires security enclosed bicycle storage facilities at the rate of 1 bicycle rack per 3 dwellings. The development requires 4 bicycle racks securely within the site however are not nominated on the plans. It is considered that there is space within the building footprint to provide 4 bicycle racks and it is recommended a condition be incorporated into the consent.

It is recommended that conditions be incorporated into the consent to ensure that the parking and storage is provided in accordance with the relevant Australian Standards.

- **B6.10 Transport and Traffic Management - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy**

Concern has been raised in submissions regarding increased traffic and congestion arising from the development. The Traffic and Parking Impact report assesses traffic implications of the development based on RTA (2002) Guide to Traffic Generating developments. The report concludes that an extra 0.5 trips per dwelling will have no noticeable traffic impact on the road network operation. The report was assessed by Council's Development Engineer and no objection has been raised on traffic impact grounds. The development is therefore not considered to have a traffic impact that is significantly detrimental to the surrounding street network as to warrant the refusal of the development.

- **3.2 Submission of a Statement of Environmental Effects**

Concern has been raised regarding the accuracy of the submitted Statement of Environmental Effects and it not being subject to an independent review. The development application assessment process is an independent review of the proposal which identifies and addresses the likely impacts of the proposal. It is considered that adequate information has been submitted with the application for Council to undertake an assessment of the proposal.

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

Council's natural resources officer has assessed the proposal against the relevant controls and provided the following comments:

*"The property contains a modified landscape typical of an existing garden. The proposed works involve demolition of the existing dwellings at Nos. 64 and 66 Avalon Parade and construction of a seniors living development with 11 apartments, carparking, landscaping and strata subdivision. The site contains trees and as such an arborist report (Rain Tree Consulting September 2011) has been supplied which assesses thirty (30) trees or groups of trees on the site and adjacent properties. Four (4) trees on the subject site are species exempt from the Tree Preservation Order. The report recommends the removal of eight (8) trees which are covered under the TPO, none of which are considered significant in size. All trees located on neighbouring properties can be safely retained as can three large and significant Swamp Mahogany trees (Trees 1, 2 and 3) in the front of the site.*

*The report has indicated that seven (7) trees onsite require specific tree protection methodology and arborist supervision is required. Tree 18 which has structures proposed over part of its root zone is of concern. The structure is a deck which is to one side only and the arborist report has specified that a Tree Root Investigation be conducted which will be conditioned. If this does not indicate presence of large roots it is considered that the tree could be safely retained if tree protection measures are complied with. It is considered that this is a more favourable alternative to removing the tree or redesigning the proposal.*

*The recommendations of the arborist report are supported and all specifications are to be adopted.*

*The landscape plan (Jamie King Landscape Architect Drawing No. Sht-1 13th September 2011) indicates trees to be retained on the site consistent with the arborist report, as well as providing an extensive planting schedule which contains predominantly locally native species in quantities and locations which will achieve the required levels of screening. The landscape plan is therefore considered to be acceptable."*

Concern has been raised questioning the location of proposed landscaping within narrow setbacks, within footprints of decks and under overhanging roofs. Council's natural resources officer has provided a response to the some of the concerns:

*"An objection has been raised (Boyle 26/10/11) which in part concerns landscaping issues. This includes the proposed side setbacks not being wide enough to support the species and they will not be able to attain the required heights to effectively screen the buildings. This issue is justified and consideration should be given to increasing some of the setback distance along the eastern boundary.*

*Concern is raised with the retention of Tree 18 which has structures proposed over part of its root zone.*

*The structure is a deck which is to one side only and the arborist report has specified that a Tree Root Investigation be conducted which will be conditioned. If this does not indicate presence of large roots it is considered that the tree could be safely retained if tree protection measures are complied with. It is considered that this is a more favourable alternative to removing the tree or redesigning the proposal."*

The eastern boundary has a 1m setback to four (4) projecting ground floor rooms with the rest of the ground floor setback at 3.2m. The first floor has an eastern setback of 3.2m to the wall and 2m to the deck. The first floor deck has been setback 2m which is a sufficient width to allow taller plants to grow. With regard to the ground floor setbacks there is sufficient width and openings in roof forms to allow for the growth of the proposed slender weave bamboo.

Concern has been raised that there will be insufficient sunlight and water access in the eastern setback and under roof forms to the proposed vegetation. Council's natural resources officer has indicated that the landscaping within the eastern setback will receive adequate light and water.

Concern has been raised regarding the relocation of the Mango Tree to the eastern boundary and the roof form over the garden area of Unit 2 conflicting with its growth. Discussions with the applicant indicated that they have no issue with deleting part of the roof. Deleting a 3m x 3m portion of the roof over the garden area would allow the Mango tree to grow within the eastern setback.

The neighbour has requested that the slender weave bamboo be provided along the eastern boundary for privacy and screening reasons. The applicant has indicated that there is no issue with providing this species along the boundary.

Concern has been raised regarding potential lawn maintenance issues. The ground floor units except Unit 6 do not have external access to the rear yard and lawn mowers would need to be pushed through each unit and down the deck stairs to access the garden. It appears that there is area under the elevated decks for the storage of a lawn mower or other outdoor tools. Maintenance of private open space areas and storage of associated equipment is the responsibility of the individual owner and is not an issue which would reasonably require the imposition of a consent condition.

- **C1.4 Solar Access**

Concern has been raised in submissions regarding amount of solar access to some dwellings and overshadowing of the solar panels on the surgery roof at 62 Avalon Pde.

Each of the proposed dwellings receive the minimum 3 hours of daylight access to the principal living area and main private open space.

Unit 1 living room window and private open space just comply as it is in sunlight between 9am and 12pm. It is noted that the majority of the dwellings receive up to 6 hours during the day which is an excellent level of solar amenity particularly in a medium density development.

Solar collectors for hot water to heat the pool are located on the roof of the doctor's surgery to the east of the development. Between half and all of the collectors are in sunlight on June 21st between 8am and 2pm which satisfies the requirements of the control.

- **C1.5 Visual Privacy**

### **Unit 7**

Concern has been raised by the owners of 62 Avalon Pde relating to the overlooking impact of Unit 7 windows and deck to the pool, kitchen skylight, front garden area and balcony. The neighbours are also concerned that the first floor elements along the eastern façade result in an unacceptable visual mass.

The deck to Unit 7 has been setback 2m from the eastern boundary and a privacy screen proposed to protect cross looking from the internal and external living areas in Unit 7. The privacy screen extends along the eastern edge of the deck and planter area.

The neighbour has suggested the planter box be deleted, a further 1m eastern setback to the deck, a privacy screen along the eastern edge of the deck and fixed privacy screens to the exterior of all east facing windows of Unit 7.

The planter is 1m wide and 8.6m long and will allow the growth of low lying plants to provide a pleasant outlook from the east facing living room windows. The fixed screen to the eastern edge will ensure that there is no privacy impact to 62 Avalon Pde.

The unscreened east facing windows are to bedrooms and bathrooms. Windows 7-08 and 7-09 are louvered windows to the bathrooms and it is recommended that they are frosted glazing. Window 7-07 is to a bedroom and 4m from the carport at 62 Avalon Pde. The difference in eye level between a person in the window and someone in the carport is 3m and there is a 3.2m landscaped setback between the areas. It is considered that no unreasonable privacy impacts will result from Window 7-07 to justify an exterior privacy screen to the window.

Window 10 is also to a bedroom and is 4m to the doctor's surgery where a window to a consulting room exists. Below window 7-10 is the roof form of the ground floor which obstructs view lines down to the surgery. It is considered that no unreasonable privacy impacts will result from Window 7-10 to justify an exterior privacy screen to the window.

It is considered that there is adequate spatial separation and intervening screens and vegetation between the proposal and the existing dwelling at 62 Avalon Pde to ensure that an acceptable privacy relationship is provided to both properties. While persons at 62 Avalon Pde will perceive first floor elements in terms of building mass this is not an unreasonable impact within residentially zoned areas.

### **Unit 2**

Concern has been raised by the owners of 62 Avalon Pde relating to the overlooking impact of Unit 2 into the rear garden area. The stairs of Unit 2 deck accessing the garden are orientated east - west which will allow a person on the deck and descending the stairs to look over the boundary fencing into the rear yard of 62 Avalon Pde.

The neighbour has raised concern that the roof form over the garden area of Unit 2 will conflict with the growth of the transplanted Mango tree. The neighbour has suggested bamboo replace the Mango tree, the stairs be reorientated to the north and a privacy screen be erected along the eastern edge of the balcony.

Discussions with the applicant indicated that they have no issue with Council conditioning bamboo along the boundary, reorientation of the stairs and deletion of part of the roof.

Deleting a 3m x 3m portion of the roof over the garden area would allow the Mango tree to be located in the eastern setback in addition to the bamboo along the boundary. A screen along the eastern edge of the deck would divide the private open space of Unit 2 into two. This would reduce the visual amenity and solar access to Unit 2. The slender weave bamboo and Mango Tree within the eastern setback will provide adequate intervening screening to protect direct overlooking. For these reasons it is considered that a privacy screen along the eastern edge of the deck is not necessary.

It is recommended that the stairs are relocated to the northern side of the deck, bamboo replace the location of the Mango Tree on the eastern boundary, the Mango tree be relocated to be set 2m in from the eastern boundary and the roof form over the garden area of Unit 2 be deleted.

## **Unit 11**

Concern has been raised by the owners of 68 Avalon Pde regarding privacy impacts from west facing windows. The unscreened windows to the first floor are to bathrooms and bedrooms and are 3.2m from the common boundary. It is recommended that Window 11-08 and 11-09 are frosted glazing. The spatial separation and landscape scheme along the western boundary provides adequate privacy protection to the private open space at 68 Avalon Pde.

## **Within Development Site**

The private open spaces and decks to all units are orientated to the north and incorporate measures including screen walls and landscaping to protect privacy.

It is recommended that both proposed and conditioned privacy screens/walls are constructed in accordance with PDCP specifications to ensure that the screens are fixed timber construction with restricted openings.

- **C1.6 Acoustic Privacy**

Concern has been raised by adjoining property owners regarding the location of air-conditioning units and arising noise impacts.

The ground floor air-conditioning units are located adjacent to each unit with a minimum distance of 6.8m from the eastern boundary and 2.2m from the western boundary. The upper floor air-conditioning units are located adjacent to the car park approximately 2.7m from the western boundary.

It is considered that the location of the air-conditioning units is acceptable in that there is a reasonable setback, a timber fence and intervening landscaping to minimise the impact to neighbouring properties. It is recommended that a condition requiring that the development comply with the noise provisions of the POEO Act and POEO (Noise Control) Regulation be incorporated into the consent.

- **D1.1 Character as viewed from a public place; D1.4 Scenic protection – General; Visual Amenity**

Specific concern has been raised in submissions in relation to the aesthetics of the development and it being out of character when viewed from adjoining properties and Avalon Pde. This section considers the specific controls in D1.1 of PDCP and the concerns of neighbours. Bulk, height, scale and character context and compatibility has been exhaustively addressed earlier in this report (under SEPP HSPD considerations) and therefore parts of this section simply refer to these earlier sections to avoid repetition.

- *Buildings which front the street must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted.*

Submissions indicate concern that the design and aesthetics of the proposal are more consistent with an industrial building rather than a residential dwelling type. Submissions note that the skillion roof is not consistent with hipped and gable roof forms in the area.

As discussed previously the development is considered to be compatible with the design themes of the locality noting that whilst the development does not have a hipped or gable roof form this does not infer that it is incompatible. The architectural design has merit and does not result in an impact that is significantly detrimental to character of Avalon Pde as to warrant the refusal of the development.

- *Control: Walls without articulation shall not have a length greater than 8 metres to any street frontage.*

The walls that address Avalon Pde provide architectural relief and facade modulation (articulation). No wall greater than 8m addressing Avalon Pde in length is proposed.

- *Control: Any building facade to a public place must incorporate at least two of the following design features:*

- i. entry feature or portico;*
- ii. awnings or other features over windows;*
- iii. verandahs, balconies or window box treatment to any first floor element;*
- iv. recessing or projecting architectural elements;*
- v. open, deep verandahs; or*
- vi. verandahs, pergolas or similar features above garage doors.*

The proposed building facade incorporates the following design features:

- entry stairs;
- vertical green walls (structure which enables vegetation growth);
- lower level roof forms over projecting bay windows on the first floor;
- deep verandah across majority of first floor and above part of the garage door;
- recessed roof form over central part of verandah .

In addition to these elements the design incorporates a number of materials to break up the façade including stonework, rendered masonry and timber weatherboards. The proposal complies with the requirements of the control.

- *Control: The bulk and scale of buildings must be minimised. Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.*

Submissions indicate concern that the bulk and scale of the design is not minimised and creates adverse visual impacts when viewed from the street.

As previously discussed the bulk and scale of the development is considered to be appropriate. While the low horizontal nature of the design is different to other medium density housing along Avalon Pde which provides large or full breaks, it is not a scale that is so detrimental that would warrant refusal of the application. Furthermore pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on scale.

- *Control: Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. Parking structures should be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.*

Concern has been raised in submissions that the garage podium is greater than 50% of the site frontage.

This control aims to minimise visual impact of parking structures when viewed from the street. As part of the structure will not be visible (concealed by entrance stairs) or perceived as a parking structure it would be unreasonable to include that part in the width percentage.

The garage door is 4.5m wide (12% of frontage), the garage floor plate is 21.2m wide (58% of frontage) and what will be perceived as the garage is 12.5m wide (34% of frontage).

The façade treatment to the visible portion of the parking structure is stone work clearly identifying a solid portion of the building used as a garage. It is noted that use of sandstone to treat the base level of a dwelling is a common design element in the locality. The applicant has submitted a montage without introduced landscaping which demonstrates the visible and perceived parking structure from the street and the effectiveness of varied materiality.



Photo Montage without proposed landscaping (Richard Cole Architecture Pty Ltd)

- *Control: Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.*

The development retains three mature and significant Swap Mahogany's in the front setback. The retention of these trees is fundamental to the development ensuring that the leafy character of Avalon Pde is maintained. Additional trees are proposed within the front setback enhancing this important landscape character.

Four (4) other mature trees are proposed to be retained on the site (eastern setback and rear setback). All other trees are exempt species and can be removed. A landscape scheme with an extensive planting schedule which contains predominantly locally native species has also been assessed by Council's Landscape officer who has indicated that will achieve the required levels of screening and is acceptable.

- *Control: Television antennas, satellite dishes and other telecommunications equipment must be minimised and screened as far as possible from public view.*

It is considered that any antennas, satellite dishes and other telecommunications equipment can be reasonably screened from public view. It is recommended a condition reflecting this be incorporated into the consent.

- *Control: General service facilities must be located underground. Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.*

Services such as telecommunications, electricity, drainage pipes and the sewer are required to be located underground within the site. It is recommended a condition reflecting this be incorporated into the consent. PDCP also requires that power lines above the road reserve are to be undergrounded at the full expense of the developer.

## **62 Avalon Pde**

Concern has been raised by the owners of 62 Avalon Pde regarding the visual impact of the roof form over the garden area of Unit 2 and the privacy wall between Unit 2 and Unit 3. The roof form over the garden area is unnecessary and is recommended to be deleted. It is considered that this satisfies the bulk and scale concerns of the neighbour.

The privacy wall/screen between Unit 2 and Unit 3 is maximum 3.2m high and 7m from the eastern boundary. The height of the screen is necessary as there are minimum floor levels required and minimum heights to protect privacy. Screen wall between units are very common and it is considered that the 7m distance to the common boundary in addition to intervening landscaping will ensure that the wall will not cause an unreasonable bulk impact when viewed from 62 Avalon Pde.

## **75 Avalon Pde**

Concern has been raised by the owners of 75 Avalon Pde the adverse visual impact of the development as viewed from their property. 75 Avalon Pde is opposite the development site and the front façade of the building will be visible from internal and external living areas. The neighbour is concerned that in the absence of building separation the low skillion roof form creates a massing comparable to an industrial building. The aesthetics, appearance and massing of the development has been addressed earlier in this report and considered to be reasonable when viewed from the street. From 75 Avalon Pde the development will appear as denser and larger compared to detached dwelling houses however this is to be expected given the permitted density on the site. Effort has been made in the design of the façade to articulate and modulate to visually break up the built form. It is not considered that the development will have a metallic cubic aesthetic comparable to an industrial building. The materiality is timber, stone and dark tones applied to render and cladding. Furthermore the landscape scheme proposed in the front building line will be adequate in screening at least 50% of the development. For these reasons it is considered that the visual impact is acceptable.

### **• D1.9 Side and rear building line**

The proposed side setbacks to the development comply with Council's controls for residentially zoned land of 1m to one side and 2.5m to the other. While these numerical controls apply to the proposal, it is beneficial to assess the development against the multi unit housing controls (greater setbacks). While the greater setbacks are not enforceable under PDCP, this approach allows one to see how the development would perform against multi unit housing controls if the land was zoned for this type of development.

<b>Setback</b>	<b>Building</b>	<b>Residential Control</b>	<b>MUH Control</b>	<b>Proposed</b>
West	Front	2.5m	4m	3.2m
	Rear	2.5m	3.3m	3.2m
East	Front	1m	4.2m	2m - 3.2m
	Rear	1m	3.4m	1m - 3.2m



The proposed site coverage is 1399m<sup>2</sup> or 62.7% and landscaped area of 831m<sup>2</sup> or 37.3% which does not comply with the PDCP control for dwellings allowing maximum site coverage of 40% and minimum landscaped area of 60%.

Greater compliance with PDCP control is desirable to minimise visual impacts and minimise disturbance to the natural landscape. Notwithstanding this, the proposal complies with the standards for deep soil zones and scale/density under SEPP HSPD and pursuant to clause 50 of SEPP HSPD the consent authority cannot refuse consent based on the scale of the development and landscaped areas.

- **D1.15 Fences – General**

Concern has been raised in submissions relating to the materiality and design of fencing along the boundaries and within the property. The proposal includes a 1m high front fence set in 1m to allow for a landscape setback and 1.8m high side and rear fences which comply with the control.

PDCP also restricts the type of fencing on land identified as High Flood Hazard Areas or on land within a Floodway. No masonry fences are permitted and fencing is to be constructed in 'open' materials, for the full height of the fence, to allow for the passage of floodwaters through the fence.

The site is identified as Low Flood Hazard and therefore not subject to these control requirements.

Concerns raised by neighbours were considered by the applicant and the plans amended to change fencing to be traditional paling lap and cap timber fencing.

It is recommended that a condition be incorporated into the consent requiring all fences to along boundaries and within the site to be timber paling fences of solid construction or with 25% openings to allow for the passage of waters through the fence.

Concern has been raised regarding the visual impact of fencing between Units 2 and 3. The proposed fence is 2.2m - 3.2m high in order to achieve privacy between the elevated deck of Unit 3 and lawn area of Unit 2.

It is recommended that the fences/screening partitions adjacent to decks are to be 1.8m in height from the finished floor level of the decks (RL10.7) or 1.8m from the natural ground level (lawn area).

- **Hours of construction and Noise**

As submission from a resident in Pittwater Palms has requested that Council incorporate a number of conditions into any consent issued to restrict noise and access during the construction phase.

Council applies the following standard condition to all consents:

- *The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.*

Council cannot vary this prescribed standard condition of consent. In formulating and applying the standard condition Council is restricting the hours of potentially offensive construction activity and balancing the needs of property owners and allowing for reasonable construction practice by the building industry.

If offensive noise impacts do occur during the construction period these impacts will be regulated under the POEO Act and POEO (Noise Control) Regulation.

With regard to access, the development does not propose to gain access to the site from Pittwater Palms land. The consent only applies to land at 64 and 66 Avalon Pde and does not consent to any access or works on adjoining properties.

- **Excavation and Damage to adjoining properties**

The owners of 62 Avalon Pde have requested that a dilapidation report be prepared for the adjoining properties. A dilapidation report surveys the condition of existing structures and is commonly required where excavation is proposed on adjoining land or works are likely to destabilise foundations. Construction methodology in this development is to elevate the buildings off the land and use pier and beam footings which require minimal excavation. In this instance it would be considered an onerous condition to require dilapidation reports.

## **11.0 CONCLUSION**

The development has been applied for under the provision of SEPP HSPD which is a state policy with specific aims to encourage the provision of housing to meet the needs of seniors or people with a disability. The policy requires developments to be located in areas where efficient use of existing infrastructure and services is available. The State government has also developed design guidelines to achieve built form that responds to the characteristics of its site and form and are of good design.

This assessment finds that the proposed development is consistent with these aims as it increases the housing stock by eleven dwellings, has level and convenient pedestrian access to Avalon Commercial Centre and while it has a different built form and scale in its context it still responds to and is sympathetic within the Avalon Pde streetscape. Numerically, the design falls within the development standards prescribed in the policy and generally reflects the PDGP controls and objectives.

The likely amenity impacts have been addressed and overall the development affords a good level of privacy and visual amenity to neighbours and future occupants. It has been demonstrated that an acceptable method of stormwater disposal can be achieved which improves run off volumes compared to the current scenario.

Accordingly, the application is recommended for approval.

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## **RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER**

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to development application N0350/11 for the demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability development comprising of 11 x 2 bedroom self contained dwellings, ground level carparking and a strata subdivision of the resultant development at 64 – 66 Avalon Pde, Avalon subject to attached draft determination.

Report prepared by

Amy Allen  
**SENIOR PLANNER**

## DRAFT DETERMINATION

### CONSENT NO: N0350/11 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

#### **Applicants Name and Address:**

CATALINA ISLANDS PTY LTD  
22 HUDSON PARADE  
AVALON BEACH 2107

Being the applicant in respect of Development Application No **N0350/11**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0350/11** for:

Demolition of the existing dwellings, construction of a Housing for Seniors and People with a Disability development comprising of 11 x 2 bedroom self contained dwellings, ground level carparking and a strata subdivision of the resultant development

**At: 64 Avalon Parade, Avalon Beach (Lot 59 DP 9151), 66 Avalon Parade, Avalon Beach (Lot 60 DP 9151)**

#### **Decision:**

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- **Architectural Plans Project No. 1109 Drawing No. A01, A02, A03, A04, A05, A06, A07, A08, A09, A13, A17, A18, A22, A23, A24, A25, A26, A27 and A28 All Revision D Dated 28 November 2011 Prepared by Richard Cole Architecture Pty Ltd**
- **Finishes Board Project No. 1109 A10 Revision D Dated 28 November 2011**
- **Landscape Plan project No. 1115 Sht-1 Dated 8 September 2011 Prepared by Jamie King Landscape Architect**
- **BASIX Certificate 394052M Dated 12 September 2011**
- **Arborist Report for 64-66 Avalon Pde Avalon Beach Dated September 2011 Prepared by Raintree Consulting**
- **Traffic and Parking Impacts Report No. 11045 Rep 01 Dated 8 September 2011 Prepared by TEF Consulting**
- **BCA Access Provisions & SEPP Seniors Living Statement of Compliance for 64-66 Avalon Pde Avalon Beach Dated 29th August 2011 Prepared by Accessible Building Solutions**
- **Stormwater Drainage Plans Project 12005 Drawing No. H-01, H-02, H-03 and H-04 Dated 25 January 2012 Prepared by AKY Civil Engineering**
- **Flood Risk Management Report Job No. 110710 Dated September 2011 Prepared by Barrenjoey Consulting Engineers**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent **Insert Date**

Mark Ferguson  
GENERAL MANAGER  
Per:

## CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

### A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

5. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - a. in the case of work for which a principal contractor is required to be appointed:
    - i. The name and licence number of the principal contractor, and
    - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
  - b. in the case of work to be done by an owner-builder:
    - i. The name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

6. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
7. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

**B. Matters to be incorporated into the development and maintained over the life of the development:**

1. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted design, Environmental and Health Risk Management Plan, Operation and Maintenance Plan, Manufacturer's Specifications and associated operational guidelines.
2. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
3. The internal driveway is to be constructed to an all weather standard finish to be of dark or earthy tones, line marked and signposted.
4. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and Department of Environment & Climate Change (DECC) are to be notified.
5. At least eight (8) locally native canopy trees are to be planted onsite to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and the Native Plants for Your Garden link on Council's website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists). All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
6. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
7. Any vegetation planted onsite outside approved landscape zones is to be consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on Council website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists)
8. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for noxious/environmental weed lists.

9. No environmental weeds are to be planted on the site. Refer to Pittwater Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for environmental weed lists.
10. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at a maximum of 6 metre interval.
11. Landscaping is to be implemented in accordance with the approved Landscape Plan (Jamie King Landscape Architect Drawing No. Sht-1 13th September 2011). The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.
12. In accordance with Pittwater Council's Tree Preservation Order, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, as trees stand within the envelope of approved development areas. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
13. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
14. Security lighting must meet AS4282 the control of the obtrusive effects of outdoor lighting.
15. Shared entries must be able to be locked and incorporate an intercom system or the like to allow visitors to gain entry.
16. All screening devices shall be 1.7m high from the finished floor level, solid, translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:
  - o permanent and fixed;
  - o made of durable materials;
  - o and dark and earthy materials and tones.
17. Walls and/or ceilings of attached dwellings shall have a noise transmission rating in accordance with Part F(5) of the Building Code of Australia.
18. Walls and ceilings of attached dwellings must also comply with the fire rating provisions of the Building Code of Australia.
19. All eleven (11) units are required at the rate and class as required under the Accessibility Control and in compliance with the requirements of AS 4299 - *Adaptable Housing*.
20. The development is to comply with the specific requirements of Schedule 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
21. The external pathways shall have slip-resistant surfaces.
22. Unless specifically approved through development consent no mesh enclosing of the car parking spaces of any kind will be permitted.
23. All carparking facilities and driveway profiles, for adaptable and accessible housing, from the street to the on site car parking spaces for the adaptable apartments must comply with AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.

24. Garbage enclosures/stores shall be provided and maintained in accordance with the following:

- (a) A separate room or an appropriately constructed area is to be provided for the storage of garbage and recyclables.
- (b) The walls of the enclosure shall be cement rendered and steel trowelled to a smooth, even surface.
- (c) The floor shall be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room/enclosure.
- (d) Stormwater shall not enter the floor of the garbage enclosure such that the sewer system may be contaminated by rainwaters.
- (e) Garbage and recycling rooms shall be vented to the external air by natural or artificial means. The installation and operation of the mechanical ventilation system shall comply with AS 1668, Parts 1 & 2.
- (f) The room used for the storage and washing down of garbage and recycling receptacles shall be constructed of solid material (brick, concrete blocks, structural fibrous cement or similar homogeneous material) so as to prevent the formation of cavities which become possible harborages for insects and vermin. Framing in timber is not permitted.
- (g) The garbage and recycling room shall be made vermin proof.
- (h) Hot and cold water hose cocks shall be located within a garbage enclosure or in close proximity to Councils satisfaction.
- (i) The enclosure shall be of adequate size to accommodate the following bins numbers and capacity per dwelling:
  - 1. 80 litres per household per week of garbage, and
  - 2. 70 litres per household per week of paper recyclables, and
  - 3. 70 litres per household per week of container recyclables.

The residential waste and recycling enclosure is to be physically separated from the commercial waste and recycling enclosure.

25. No water pollution shall result from the operation of any plant or equipment or activity carried out.
26. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.
27. All utility services including overhead power supply and communication cables located in the adjacent road verge & those to service the development are to be placed and/or relocated underground for the total frontage of the development site to any public road at the full cost to the developer.
28. Materials and colour schemes are to be in accordance with the samples submitted and approved by Council with the application.
29. Front and side fences within the front building setback (10m) shall not exceed a maximum height of 1 metre above existing ground level.

30. Rear and side boundary fences (other than within the front building setback) shall have a maximum height of 1.8 metres from existing ground level.
31. All fences along the boundaries (except for the front boundary fence) and within the site are to be constructed to allow for the passage of floodwaters through the fence.
32. The screening/partition walls between units 2, 3, 4, 5 and 6 shall be 1.7m high from the finished floor level of the decks and be of timber construction or if masonry be treated to be a dark tone.
33. Windows 7-08, 7-09, 11-08 and 11-09 shall be frosted glazing.
34. The transplanted Mango Tree along the eastern boundary is to be repositioned to be 2m (to the trunk) west of the eastern boundary.
35. Slender weave bamboo shall be planted along the entire eastern boundary except in the front building line.
36. Antennas, satellite dishes and other telecommunications equipment should be reasonably screened from public view.
37. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

#### **C. Matters to be satisfied prior to the issue of the Construction Certificate:**

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

2. Storm water disposal from the site is to be by either of the following options:
  1. A suitably sized piped inter-allotment drainage line connecting the site to Council's drainage system, or;
  2. The concept storm water management system utilising combined storage/detention tanks with overflow to on-site dispersion trenches as proposed by A K Y Civil Engineering project 12005 Drawing H-01 Revision A. Dated 25/01/12.

Details of the adopted option are to be provided to the Principal Certifying Authority with the construction certificate application.

3. Engineering details showing the Stormwater Harvesting and Reuse Scheme are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified practicing Water/Environmental/Civil Engineer with corporate membership of the Institution of Engineers Australia (MIE Aust), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with Pittwater 21 DCP.
4. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.

5. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

6. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the Roads Act 1993 for the design and construction of any works located on the road reserve including Access Driveways.
7. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
8. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 *The Demolition of Structures*.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

1. Protection of site workers and the general public.
2. Erection of hoardings where appropriate.
3. Asbestos handling and disposal where applicable.
4. Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

9. Structural Engineering details relating to the approved works are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
10. A contribution of \$81 000 is to be made to Cashier Code SOPS, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for Embellishment of Open Space, Bushland and Recreation in accordance with Section 94 Contributions Plan No.2. The Contributions Plan may be inspected at Pittwater Council, No 1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.

Where rates payable under Section 94 Contributions Plan No 2 are reviewed and varied, the applicant is to pay the contribution rate as specified in the plan as it exists at the time of contribution.

11. A contribution of \$18 000 is to be made to Cashier Code SLEL, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for Public Library Services in accordance with Section 94 Contributions Plan No.3. The Contributions Plan may be inspected at Pittwater Council, No 1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.
12. A contribution of \$31 500 is to be made to Cashier Code SCSF, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for Community Services Facilities in accordance with Section 94 Contributions Plan No.18.

The Contributions Plan may be inspected at Pittwater Council, No 1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.

13. A contribution of \$45 000 is to be made to Cashier Code SVSS, pursuant to Section 94 of the *Environmental Planning and Assessment Act, 1979* (as amended), for providing improved Village Streetscapes in accordance with Section 94 Contributions Plan No.19. The Contributions Plan may be inspected at Pittwater Council, No1 Park Street, Mona Vale. The Section 94 contribution is to be paid prior to issue of the Construction Certificate.

Where rates payable under Section 94 Contributions Plan No 19 are reviewed and varied, the applicant is to pay the contribution rate as specified in the plan as it exists at the time of contribution.

14. Design details and technical specifications relevant to recommendations in the Access Report (BCA Access Provisions & SEPP Seniors Living Statement of Compliance for 64-66 Avalon Pde Avalon Beach Dated 29th August 2011 Prepared by Accessible Building Solutions) must be submitted to the Accredited Access Adviser for written confirmation which is to be submitted to the Accredited Certifier or Council with the Construction Certificate application.
15. Certification from the Accredited Access Adviser that design details and specifications comply with the Accessibility Control and the DA Access Report, must be submitted to the Accredited Certifier or Council with the Construction Certificate application.
16. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.
17. The plans are to be amended to provide a secure area for 4 bicycle racks.
18. The east facing stairs to the Unit 2 deck are to be deleted and new stairs provided along the northern edge of the deck. Revised plans are to be provided prior to issue of the Construction Certificate.
19. The most northern eastern corner of the Unit 2 roof located over the lawn and stairs is to be deleted (the area represents 3m x 3m). Revised plans are to be provided prior to issue of the Construction Certificate.
20. The central portion of the main roof of the front building is to be deleted over the central access stairs. Approved Plans A27 and A28 show the area to be deleted. Revised plans are to be provided prior to issue of the Construction Certificate.
21. All provisions of the SEPP (Housing for Seniors or People with a Disability) 2004 (Schedule 3 and Parts 1 & 2 Self-contained dwellings) concerning access, useability and additional standards for self contained dwellings are to be satisfied and achieved through the construction and installation details.

**D. Matters to be satisfied prior to the commencement of works and maintained during the works:**

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
2. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

3. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.
4. All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.
5. The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.
6. The site is to be fully secured by a fence to all perimeters to the site to prevent unauthorised access both during the course of the works and after hours.
7. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
8. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
9. No skip bins or materials are to be stored on Council's Road Reserve.
10. A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
11. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
  - o The builder's name, builder's telephone contact number both during work hours and after hours.
  - o That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
  - o That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - o That no skip bins or materials are to be stored on Council's Road Reserve.
  - o That the contact number for Pittwater Council for permits is 9970 1111.
12. All construction in the public road reserve must be undertaken by a Council authorised contractor.
13. Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in the Arborist Report and/or Ecological Sustainability Plan or Bushland Management Plan. Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed.

14. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Rain Tree Consulting dated September 2011 are required to be complied with before and throughout the development period, particularly with regard to the following:
- i. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
  - ii. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
  - iii. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
  - iv. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
  - v. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
15. A tree root investigation is required to be undertaken on Tree 18 as indicated by the arborist report, to further assess potential impacts of excavation for decking pier footings and stormwater facilities. All care should be taken to ensure this trees retention, and if the root investigation indicates that the tree will be adversely affected by the works, the built form must be redesigned in this vicinity in accordance with arborist approval and a Section 96 lodged with Council for the redesigned works.
16. During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.
17. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
18. Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.
19. Demolition works must be carried out in compliance with WorkCovers *Short Guide to Working with Asbestos Cement* and Australian Standard AS 2601 2001 *The Demolition of Structures*.

The site must be provided with a sign containing the words *DANGER ASBESTOS REMOVAL IN PROGRESS* measuring not less than 400mm x 300mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

#### **E. Matters to be satisfied prior to the issue of Occupation Certificate:**

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

2. Certification is to be provided to a Private Certifying Authority by an experienced Water/Environmental/Civil Engineer who is NPER accredited by the Institution of Engineers, Australia that the stormwater harvesting and reuse scheme has been completed in accordance with the engineering plans and specifications required under this consent.
3. Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer, with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this consent.
4. A certificate submitted by a Chartered Professional Engineer confirming to the satisfaction of the Principal Certifying Authority that the works in the public road reserve comply with Council requirements is to be provided with the Occupation Certificate application.
5. Prior to issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.
6. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
7. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
8. The sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.

9. Street numbers are to be affixed to the building or a structure within the site visible from the public domain prior to occupation.
10. Prior to release of the occupation certificate documented evidence is to be submitted from a licensed plumber to the Private Certifying Authority confirming that the floor of the car wash bay is graded and drained to the Sydney Water Sewerage Network and that the perimeter of the designated wash bay, is suitably bunded to prevent storm waters entering the sewer.
11. A restriction on use of the land is to be created on the title of any new lots, the terms of which burden the said lots, benefit Council and restrict the occupancy of the lot to persons defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as to "older people" or "people with a disability" or people who live with older people or people with a disability. All matters relating to this restriction on use of the land are to be finalised prior to release of the Occupation Certificate.
12. Any lease or tenancy or agreement prepared for a residence within this development is to contain terms which prohibit occupation of the residence by persons other than those specified in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as aged or disabled persons together with any person who live with aged or disabled person(s). Further the "by laws" of any body corporate created through strata subdivision of the development are to contain terms which prohibit the use of any strata unit other than by persons specified in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as aged or disabled together with any bona fide carer(s).
13. An Accredited Access consultant is to certify that the development has complied with the construction certificate details and the design details and technical specifications relevant to recommendations in the Access Assessment Report (BCA Access Provisions & SEPP Seniors Living Statement of Compliance for 64-66 Avalon Pde Avalon Beach Dated 29th August 2011 Prepared by Accessible Building Solutions) and in accordance with all relevant accessibility provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
14. The lot consolidation of Lot 59 in DP 9151, No. 64 Avalon Parade, Avalon and Lot 60 in DP 9151, No. 66 Avalon Parade, Avalon must be undertaken and formalised (created and registered) prior to issue of the occupation certificate.
15. A Flood Emergency Response Plan is to be prepared which addresses the emergency response for all floods up to the Probable Maximum Flood or the Flood Planning Level (whichever is the higher).
  - (a) For developments where the period of isolation of the development is greater than 2 hours in a Probable Maximum Flood, High-level On-site Refuge will not be permitted. "Isolation" is defined as where there would be a minimum depth of water of 300mm in a probable maximum flood to access land above the probable maximum flood to where there is adequate refuge.
  - (b) For High-level On-site Refuge to be considered by Council as the method of Emergency Response, it must be demonstrated that:
    - (i) the period of isolation of the development is no more than 2 hours in a Probable Maximum Flood
    - (ii) the Refuge must have a minimum floor level at or above the Probable Maximum Flood or Flood Planning Level (whichever is the higher level)

- (iii) for Critical and Vulnerable Land Uses (includes Seniors Living developments), the Refuge must be able to be accessed via a disabled access by people who do not have to enter deeper water to access the Refuge
- (iv) the Refuge must provide a minimum of:
  - o 10 square metres for each individual dwelling;
  - o 2 square metres per person based on the number of likely employees and patrons/visitors
- (v) the Refuge must be suitable for occupation for the stated number of persons for the likely time of isolation, assuming no provision of external services, particularly electricity and water; the Refuge is located in a building that has been certified by a Structural Engineer to be structurally sound under the likely hydraulic forces up to the level of the Probable Maximum Flood.

16. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

#### **F. Matters to be satisfied prior to the issue of Subdivision Certificate:**

1. Appropriate easements are to be created where service lines or drainage lines pass through private property other than the lot which they benefit. This can be advised through the registration of the Plan of Subdivision.
2. The applicant is to lodge an application for a Subdivision Certificate with Council or an accredited certifier. The Subdivision Certificate is to be obtained prior to lodgement of the plans with the Land Titles Office.

Note: In the case of Strata Subdivision Plans the Subdivision Certificate may also be issued by an accredited certifier.

3. A Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act 1994 is to be provided to the Principal Certifying Authority with the Subdivision Certificate application.
4. The following documents and payments are to be submitted to Council in a single package to ensure the efficient release of the Subdivision Certificate:
  - i. Evidence of Payment of the Section 94 Contribution.
  - ii. A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994.
  - iii. Copies of the Subdivision Plans (original plus 6 copies).
  - iv. The Private Certifying Authority Compliance Certificate. Each component of the works as outlined above are to be certified as being carried out in accordance with the relevant plans and documentation by suitably qualified professional persons as outlined in this development consent.

The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:

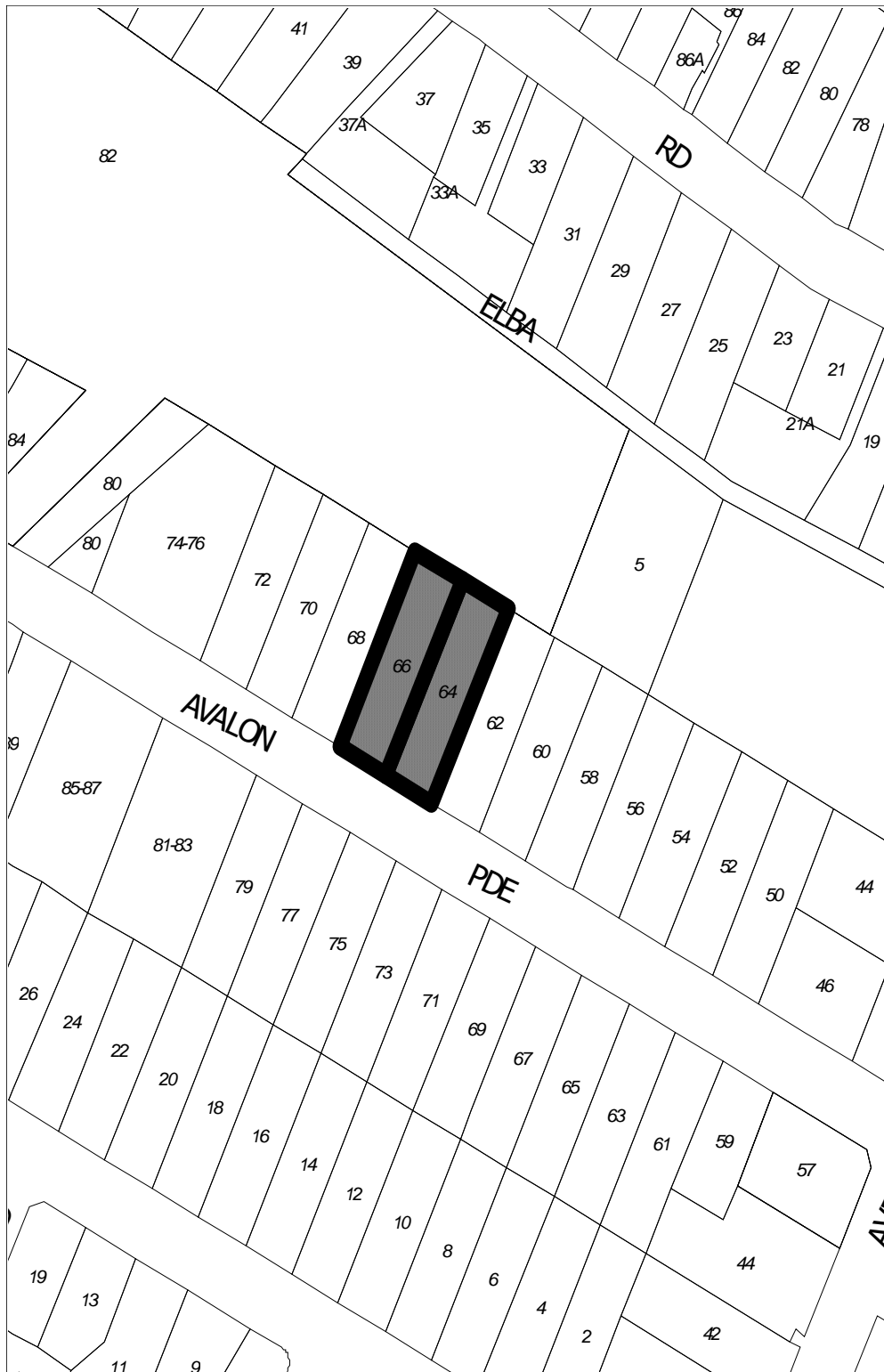
- Boundary layout;
- Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
- Easements, survey numbers and marks, reduced levels and co-ordinates;

- Stormwater drainage, pipe sizes and types, pit sizes and types, subsoil drains;
- Significant landscaping.

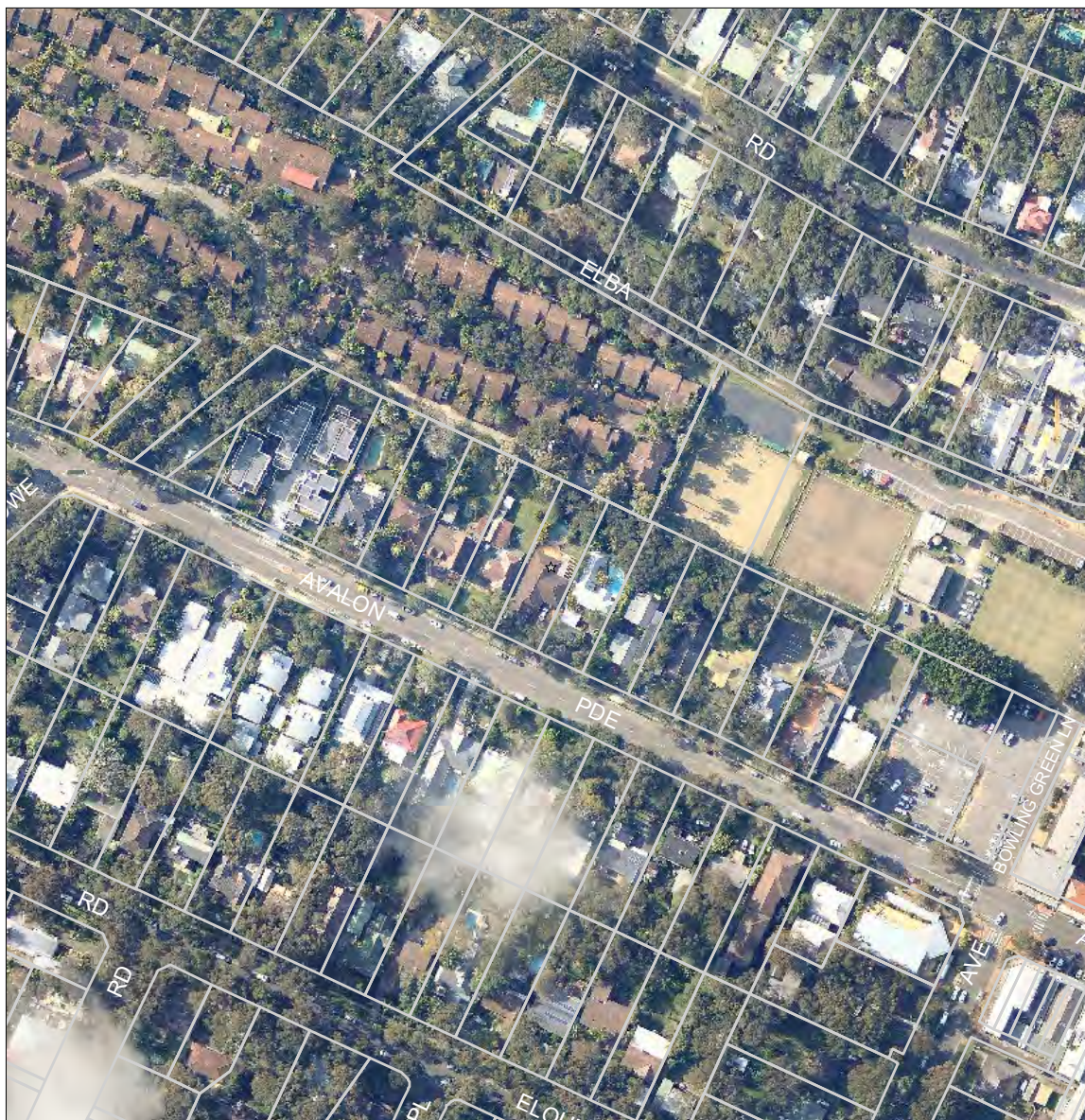
#### **G. Advice:**

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
5. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the *Environmental Planning and Assessment Act, 1979*. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
7. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act, 1979*, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. You are reminded of your obligations under the objectives of the *Disability Discrimination Act (DDA) 1992*.
10. You are reminded of your obligations under the *Dividing Fences Act 1991*.

## LOCALITY MAP

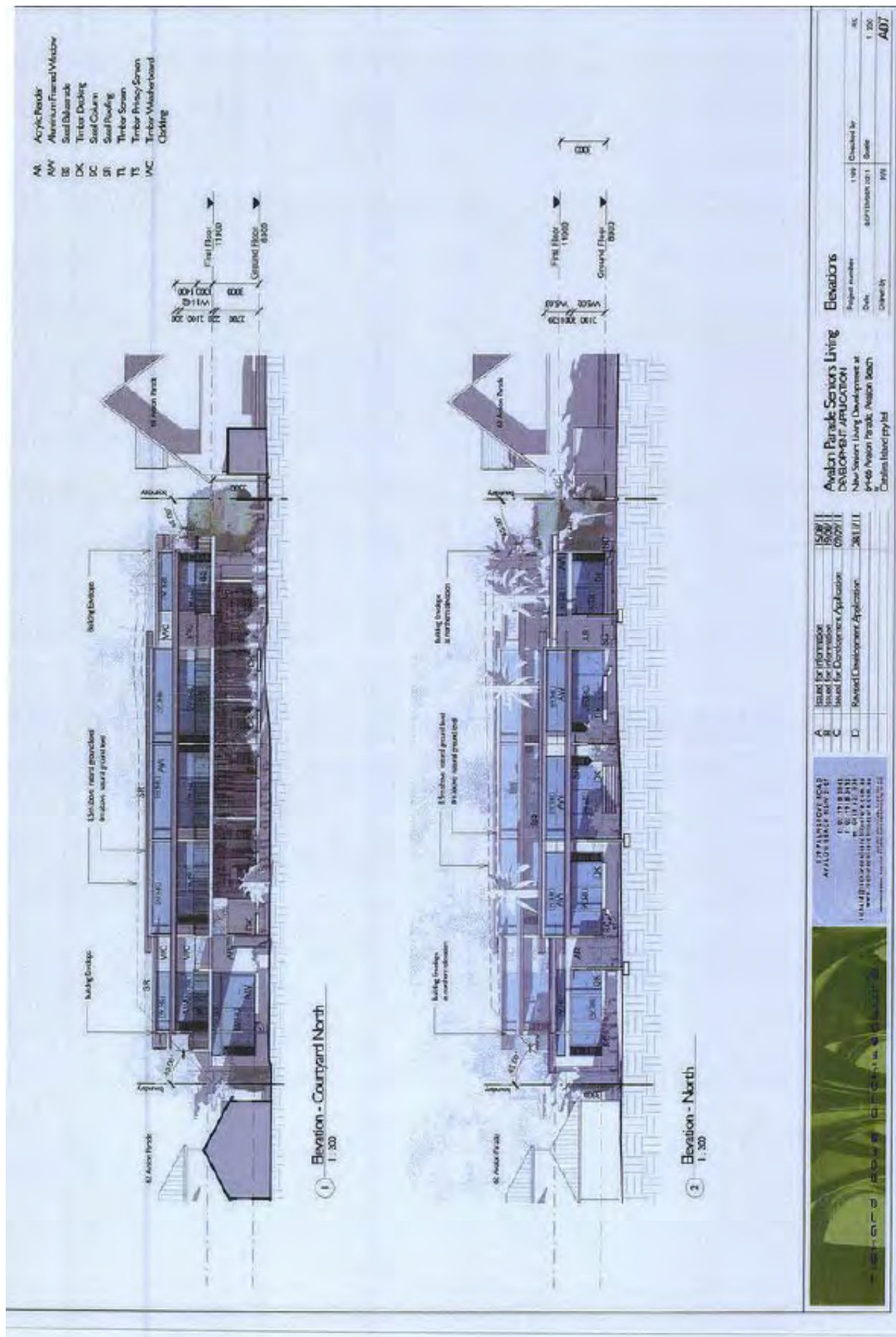


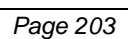
## AERIAL PHOTOGRAPH



## NOTIFICATION PLAN







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<b>C11.2</b>	<b>N0445/10 - S82A Review of Determination - 12 Northview Road, Palm Beach - Construction of a three storey dwelling, swimming pool and detached double garage with separately accessible structure</b>
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**Meeting:** Planning an Integrated Built Environment Committee

**Date:** 18 June 2012

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**STRATEGY:** Land Use and Development

**ACTION:** Provide an effective development assessment and determination process

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**PURPOSE OF REPORT**

To seek the Committee's determination of a S82A Review of Determination of a three storey dwelling, swimming pool and detached garage with separately accessible structure at 12 Northview Road, Palm Beach (Lot 21 DP 669199).

**1.0 BACKGROUND**

- 1.1 The original Development Application for this property was previously refused under delegated authority by the Development Unit at its meeting of 8 September 2011.
- 1.2 On 8 March 2012 the applicant lodged a Section 82A Review of Determination following amendments made to the original design in response to the refusal reasons. These are outlined and addressed in detail in the Assessing Officer's report (refer **Attachment 1**).
- 1.3 On 12 March 2012 the applicant filed a Class 1 Appeal with the Land and Environment Court against Council's refusal of the original development application.
- 1.4 On 24 May 2012 the applicant was granted leave from the Court to rely on amended plans which are the subject of this 82A application.

**2.0 REASON FOR REFERRAL TO COUNCIL**

- 2.1 Under Section 10 of the Development Unit's Authority and Terms of Reference all Section 82A reviews previously determined by the Development Unit are to be referred to Council for final determination.

**3.0 DEVELOPMENT UNIT DELIBERATIONS**

- 3.1 The Development Unit resolved at its meeting of 7 June 2012 to endorse the Assessing Officer's recommendation for approval subject to the draft Conditions of Consent (refer **Attachment 1**) and the following amended conditions:

**B15** In accordance with Pittwater Council's Tree Preservation Order, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, as trees stand within the envelope of approved development areas. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers. **(For clarification purposes, it is noted that as indicated on the approved Landscape Plan Tree 14 is to be retained)**

**B36** The louvers to the enclosed verandah on the southern elevation are to be obscure glazing or solid and fixed vertically at a 45 degree angle. **These louvers are to be recessed so they do not project beyond the southern elevation of the enclosed verandah.**

**C7** Detailed plans and elevations are required to be provided prior to the issue of the Construction Certificate that indicate that the proposed driveway and garage works ensure the 2.6 metre structural root zone of Tree 6 **and 8** is not breached, and that levels are not altered within the Tree Protection Zone, in accordance with the specifications on Page 6 of the arborist report (RainTree Consulting May 2010).

#### **4.0 ASSESSMENT/OBJECTOR ISSUES**

- Refusal Reason 1 - C1.3 View Sharing; De facto building line
- Refusal Reason 2 - D12.6 Side and rear building line and D12.8 Building envelope
- Refusal Reason 3 – Skillful Design
- Suspension of Covenants and Inconsistencies with Contract drawings
- B3.1 Landslip Hazard
- B4.17 Littoral Rainforest - Endangered Ecological Community; C1.1 Landscaping
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- D12.1 Character as viewed from a public place
- D12.4 Height
- D12.10 Site coverage - Environmentally Sensitive Land
- D12.13 Construction, Retaining walls, terracing and undercroft areas
- Headlight Impact

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#### **5.0 SUSTAINABILITY ASSESSMENT**

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

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#### **6.0 EXECUTIVE SUMMARY**

- 6.1 The application was considered by the Development Unit on the 8 September 2012 and was refused. Following changes to the original application a Section 82 Review of Determination was lodged.
- 6.2 The Section 82A Review of Determination was considered by the Development Unit at its meeting held on 7 June 2012 and endorsed the Assessing Officer's recommendation for approval with amended conditions B15, B36 and C7.

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## RECOMMENDATION

That the recommendation in the Development Officer's Report be endorsed and Application N0445/10 - S82A Review of Determination - 12 Northview Road, Palm Beach (Lot 21 DP 669199) for construction of a three storey dwelling, swimming pool and detached garage with separately accessible structure be granted development consent subject to the conditions contained in the Draft Determination and the following amended conditions:

- B15** In accordance with Pittwater Council's Tree Preservation Order, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, as trees stand within the envelope of approved development areas. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers. **(For clarification purposes, it is noted that as indicated on the approved Landscape Plan Tree 14 is to be retained)**
- B36** The louvers to the enclosed verandah on the southern elevation are to be obscure glazing or solid and fixed vertically at a 45 degree angle. **These louvers are to be recessed so they do not project beyond the southern elevation of the enclosed verandah.**
- C7** Detailed plans and elevations are required to be provided prior to the issue of the Construction Certificate that indicate that the proposed driveway and garage works ensure the 2.6 metre structural root zone of Tree 6 **and 8** is not breached, and that levels are not altered within the Tree Protection Zone, in accordance with the specifications on Page 6 of the arborist report (RainTree Consulting May 2010).

Report Prepared by  
Gabrielle Angles, Principal Officer – Administration

Warwick Lawrence  
**MANAGER – ADMINISTRATION AND GOVERNANCE**

**SUBJECT: N0445/10 - S82A Review of Determination - 12 Northview Road, Palm Beach (Lot 21 DP 669199) Construction of a three storey dwelling, swimming pool and detached double garage with separately accessible structure.**

**Determination Level:** Development Unit

**Date:** 7 June 2012

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### **SUMMARY OF RECOMMENDATION**

#### **CONSENT WITH CONDITIONS**

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<b>REPORT PREPARED BY:</b>	Amy Allen
<b>APPLICATION SUBMITTED ON:</b>	8 March 2012
<b>APPLICATION SUBMITTED BY:</b>	CRONE PARTNERS ARCHITECTURE STUDIOS LEVEL 2, 364 KENT STREET SYDNEY 2000
<b>OWNER(S):</b>	VOTRAINT NO 104 PTY LTD (Own)

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### **1.0 SITE DETAILS**

The site is identified as 12 Northview Road, Palm Beach (Lot 21 DP 669199). The site is irregular in shape with an area of 848.2m<sup>2</sup> and is located on the eastern side of Northview Rd. The site has a narrow frontage of 7.425m and then widens to 21.4m at the rear. The site slopes steeply towards the east and enjoys significant views towards the ocean and Barrenjoey Headland. There is an existing brick cottage on the site with a single garage located on the front boundary. The adjoining built form consists of large two and three storey dwellings. There are a number of significant trees within the site and a 2.8m wide drainage easement borders the rear of the site. The site is identified as being slip affected, within a foreshore scenic protection area and is in the vicinity of a heritage item.

### **2.0 PROPOSAL IN DETAIL**

The applicant seeks consent for the following development:

- Demolition of the existing garage and partial demolition of the existing dwelling
- Construction of a new double garage and studio/office with bathroom and terrace
- Lift providing access from garage level down to ground floor level
- Construction of a new three level dwelling comprising of open plan living, kitchen and dining; a study; east, west and south facing verandahs/decks; three bathrooms; four bedrooms (two with ensuite); laundry and store; games room and subfloor tank storage area
- Construction of a partially inground swimming pool and associated decking
- Excavation (maximum depth of 4m)
- Landscaping including retaining walls, terracing and tree removal

### 3.0 DEVELOPMENT CONTROLS

The following planning and legislative framework applies to the proposed development:

#### State Legislation

- *Environmental Planning and Assessment Act, 1979* ('EP&A Act')
- *Environmental Planning and Assessment Regulation, 2000*
- *Planning Appeals Legislation Amendment Act 2010*

#### State Environmental Planning Policies and Guidelines

- *State Environmental Planning Policy No.55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX)*

#### Local Environmental Plans and Policies

- *Pittwater Local Environmental Plan 1993* ('PLEP')
  - The subject site is zoned 2(a) Residential under Clause 9 of PLEP and the proposed development is permissible with development consent.
- *Pittwater 21 Development Control Plan (Amendment No.6)* ('PDCP')
  - *Geotechnical Risk Management Policy for Pittwater 2009*

### 4.0 SECTION 82A PROVISIONS

The application has been lodged under the provisions of Section 82A of the EP&A Act. In considering the application the following tests under Section 82A are addressed:

- The original development application was not Designated Development, Integrated Development or a Crown application and therefore, the decision can be reviewed [S82A(1)].
- Council must conduct a review as a request has been made in accordance with this section [S82A(2)].
- The period in which a review can be undertaken is prescribed in S82A(2A) and S97 of the EP&A Act. The EP&A Act was amended by the *Planning Appeals Legislation Amendment Act 2010* where the appeal period was reduced from 12 months to 6 months. Clause 136 Savings, transitional and other provisions (Schedule 6 of the EP&A Act) states:

*The amendments made to Part 4 of the Act by the Planning Appeals Legislation Amendment Act 2010 do not apply to or in respect of a development application lodged with a consent authority before the commencement of section 82B (as inserted by that amending Act).*

The commencement date of section 82B was 28 February 2011. The development application was lodged with Council on 3 August 2010 before the commencement date therefore a review can be undertaken within a 12 month period after the date on which the applicant received notice of the determination. The development application was refused on 13 September 2011, therefore a review can be undertaken up until 13 September 2012 [S82A(2A)].

-

The applicant has made amendments to the development described in the original application [Section 82A(3A)]. The amendments include:

#### Garage Level Plan

- Increase southern setback from 0.2m to 1m
- Change in layout of garage including additional floor area in the south eastern corner and reduced floor area to the east
- Relocation of lift from 1.2m to 2.5m from northern boundary
- Lower garage floor level from RL49 to RL48.7
- New windows with louvres along southern elevation
- New windows with louvres along northern elevation

#### Upper Ground Floor Plan

- Decrease southern setback from 1.5m to 1m
- Change in layout of studio/home office including reconfigured stairs and additional floor area to the east
- Relocation of lift from 1.2m to 2.5m from northern boundary
- Lower upper ground floor level from RL46.1 to RL45.8
- New windows with louvres along northern elevation
- New 4.5m long timber screen on the southern boundary adjacent to the landscaped area to RL47.8

#### Ground Floor Plan

- Relocation of lift from 1.2m to 2.5m from northern boundary
- Delete store adjacent to lift
- Reconfigure external stairs accessing the courtyard
- Courtyard level increased from RL42.55 to RL42.6
- Decrease floor area kitchen/entry
- New fireplace to southern end of courtyard
- Relocate stairs and reconfigure kitchen
- New windows along southern elevation to kitchen
- New window to study on northern elevation
- New fireplace to the northern side of living area
- Reduced floor area to the east
- Reduce level of deck from RL42.6 to RL42.55
- Increase southern setback to enclosed verandah from 1.5m/4.3m to 2.5m/4.6m
- Increase southern setback to deck from 4.1m to 5m
- Increase deck area to the north and decrease to the south and east
- Increase height of timber privacy screen on southern boundary from RL44.5 to RL45.35 adjacent to landscape terrace

#### Lower Ground Floor Plan

- Delete windows to sub floor area on northern and southern elevations
- Relocate stairs and reconfigure laundry, bathroom and store
- New window to Bedroom 4 on southern elevation
- Reduce size Bedroom 3 ensuite
- Delete window to Bedroom 3
- Decrease northern setback to Bedroom 3 from 1.4m/1.7m to 1.1m/1.7m
- Minor increase in floor area to the east
- Delete study/media area
- New windows to master bedroom on northern elevation and window repositioned on southern elevation
- Increase area of master bedroom to the north and decrease to the south and east
- Increase southern setback to master bedroom/ensuite from 1.5m/ 4.3m to 2.5m/5m

### Basement Plan

- Change void area to water tank storage area and increase area to the east
- Decrease northern setback to tank store from 1.4m/1.7m to 1.1m/1.3m
- Reconfigure bathroom and games room
- Increase games room level from RL36.7 to RL36.8
- Increase southern setback to games room from 1.5m and 4.3m to 2.5m and 4.6m
- Change terrace material from tiles to timber
- Increase level of terrace from RL36.65 to RL36.75
- Reduce size of the pool and reposition pool slightly to the north
- Additional timber deck to the southern edge of the pool
- Increased southern setback to the pool/deck from 1.9m/2.m to 3.1m/4m

### Roof Plan

- Net decrease in roof area reflecting the greater setbacks to the south and east
- Decrease in garage ridge level from RL52.8 to RL52.7
- Decrease in garage parapet level from RL51.85 to RL51.4
- Increase in parapet level above living room from RL45.575 to RL45.8

### Landscape Plan

Note: comparison undertaken based on June 2010 Rev D Landscape Plan submitted with original DA

- Change landscaped lawn/terrace area adjacent to studio/office from maintaining natural ground levels (approx RL45 – RL44.5) to filling to RL46
  - Relocate retaining walls between detached garage/studio and dwelling
  - New informal stone steps along northern boundary
  - Reconfigure access stairs between garage/studio and dwelling
  - Increased soft landscaped area between southern boundary and pool/deck
  - Increased soft landscaped area to the north western corner of the site adjacent to the driveway
  - Increased soft landscaped area between the southern boundary and the garage/studio
- The application for Review of Determination was notified to adjoining property owners from the 12 March 2012 to 26 March 2012 in accordance with PDCP notification policy. An extension to this period was permitted until 30 March 2012 where requested in writing to Council. Submissions received within this period have been considered and addressed within this report S82A(4)(a) and S82A(4)(b)].
  - While there are a number of amendments to the application, individually they are relatively minor and have been undertaken to respond to issues raised with the original application. The proposal continues to be classed as a residential development including demolition and the construction of a dwelling house, pool, garage and studio. It is substantially the same development as was considered in the original application [S82A(4A)].
  - The determination of the original application was made by a delegate of the Council (the Development Unit) and therefore the review determination must be undertaken by the Planning and Integrated Built Environment Committee [S82A(6)].

## 5.0 BACKGROUND

### Appeal - N0445/10

On 12 March 2012 the applicant filed a Class 1 Appeal with the NSW Land & Environment Court against Council's refusal of the original development application.

On 24 May 2012 the applicant was granted leave from the court to rely on amended plans which are the subject of this 82A application.

### Development Application - N0445/10

Development application N0445/10 was lodged on 3 August 2010. The application was formally amended during the assessment process in an attempt to minimise the impacts on the neighbouring properties ("refused scheme"). The application was refused on the 13 September 2011 under delegated authority of the Development Unit for the following reasons:

1. *The development does not provide for a view sharing scenario satisfying the requirements of C1.3 - View Sharing of P21 DCP in respect of the impacts upon No. 13 Northview Road noting in particular the development is sited partly forward of a de facto rear building alignment established between Nos. 26 - 32 Sunrise Road (inclusive), 11 Northview Road, 13 Northview Road, 9 and 8 Northview Road. Components of the development associated with moderate view loss in respect of No. 13 and minor view loss in respect of No. 11 Northview (view line from master bedroom to 'Kiddies Corner') of Palm Beach exceed the building height and envelope controls.*
2. *Non-compliance with the requirements of controls D12.6 and D12.8 of Pittwater 21 DCP (side setback and building envelope controls) with respect to the Garage/Studio building.*
3. *A more skillful design solution that addresses control requirements and is derived from discussions with 11 and 13 Northview Road is available to be achieved.*

The 82A application was lodged with Council on 8 March 2012 seeking a review of the original application and amendments made in response to the refusal reasons outlined above.

### Development Application - N0207/06

Development consent N0207/06 was issued on 18 September 2006 for alterations and additions to existing dwelling, demolition of existing garage, construction of new garage and boundary adjustment (with 13 Northview Road).

Modification to the consent was issued on 4 April 2007 which included an amendment to the boundary adjustment and minor internal and external changes.

On 22 July 2008 an extension of the Development Consent was granted until 18 September 2009.

A construction certificate CC0357/09 was issued on 9 September 2009 for Stage 1 which included Bathroom 3 renovation.

A Notice of Commencement of Building Work was issued 15 September 2009. This planning report does not investigate whether works have been substantially commenced.

## **6.0 NOTIFICATIONS**

Eleven (11) property owners were notified from the 12 March 2012 to 26 March 2012. As a result of the notification period, four (4) submissions were received from the owners of 11 and 13 Northview Rd, 9 Ocean Rd and 32 Sunrise Rd and one (1) letter of support received from the owners of 34 Sunrise Rd.

## **7.0 STATE ENVIRONMENTAL PLANNING POLICY NO. 1 - DEVELOPMENT STANDARDS (SEPP No. 1)**

The application of SEPP NO. 1 is not required.

## **8.0 EXISTING USE RIGHTS**

Does the proposal rely on Existing Use Rights? No

## **9.0 ASSESSMENT/OBJECTOR ISSUES**

- Refusal Reason 1 - C1.3 View Sharing; De facto building line
- Refusal Reason 2 - D12.6 Side and rear building line and D12.8 Building envelope
- Refusal Reason 3 – Skillful Design
- Suspension of Covenants and Inconsistencies with Contract drawings
- B3.1 Landslip Hazard
- B4.17 Littoral Rainforest - Endangered Ecological Community; C1.1 Landscaping
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- D12.1 Character as viewed from a public place
- D12.4 Height
- D12.10 Site coverage - Environmentally Sensitive Land
- D12.13 Construction, Retaining walls, terracing and undercroft areas
- Headlight Impact

## 10.0 COMPLIANCE TABLE

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

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
REF - Development Engineer					
<b>B3.1 Landslip Hazard</b>		<p>Concern has been raised in a submission relating to the extent of excavation proposed and the potential landslip risk.</p> <p>See discussion under B3.1 Landslip Hazard later in this report.</p>	Y	Y	N
B3.22 Flood Hazard - Flood Category 3 - All Development			-	-	-
B5.4 Stormwater Harvesting			Y	Y	Y
B5.7 Stormwater Management - On-Site Stormwater Detention			Y	Y	Y
B5.8 Stormwater Management - Water Quality - Dwelling House, Dual Occupancy and Secondary Dwellings			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B6.1 Access Driveways and Works on the Public Road Reserve - Dwelling House and Dual Occupancy			Y	Y	Y
B6.3 Internal Driveways - Dwelling Houses and Dual Occupancy			Y	Y	Y
B6.5 Off-Street Vehicle Parking Requirements - Dwelling Houses, Secondary Dwellings and Dual Occupancy			Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill		One submission received requesting a dilapidation report. Condition of consent recommended.	Y	Y	N
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y

Control	Standard	Proposal	T	O	N
B8.4 Construction and Demolition - Site Fencing and Security			-	-	-
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan			Y	Y	Y
REF - Health					
B5.2 Wastewater Disposal					
B5.3 Greywater Reuse					
REF - Heritage					
<b>B1.2 Heritage Conservation - Items in the vicinity of a heritage item, heritage conservation areas, archaeological sites or potential archaeological sites</b>		<p>Council's Strategic Planning Officer provided the following comments:</p> <p><i>"The site was inspected on 12/03/2012. The proposed application is generally in keeping with the scale and character of the surrounding developments. The steep topography and heavy tree cover reduces the visual effect of the proposed development and it is unlikely to detract from the architectural or historical significance of any of the surrounding heritage items or conservation area."</i></p>	Y	Y	Y
REF - Natural Resources					
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.5 Acid Sulphate Soils			Y	Y	Y
<b>B4.17 Littoral Rainforest - Endangered Ecological Community</b>		<p>Concern has been raised by the owner of 13 Northview Rd regarding the proposed vegetation along the southern boundary and the potential for further view loss impacts.</p> <p>See discussion under B4.17 Littoral Rainforest - Endangered Ecological Community; C1.1 Landscaping later in this report.</p>	Y	Y	N
<b>C1.1 Landscaping</b>		See discussion under B4.17 Littoral Rainforest - Endangered Ecological Community; C1.1 Landscaping later in this report.	Y	Y	Y
REF - Planner					
EPA Act Section 147 Disclosure of political donations and gifts			Y	Y	Y

Control	Standard	Proposal	T	O	N
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings			Y	Y	Y
3.4 Notification		Application was re-notified as a 'new dwelling'.	Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
4.5 Integrated Development: Aboriginal Objects and Places			-	-	-
4.7 Integrated Development - Roads			-	-	-
5.3 Referral to NSW Department of Environment and Climate Change (DECC)			-	-	-
A1.7 Considerations before consent is granted		Application was correctly re-notified for 14 days as a new dwelling.	Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B5.2 Wastewater Disposal			Y	Y	Y
B5.3 Greywater Reuse			-	-	-
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
C1.2 Safety and Security			Y	Y	Y
<b>C1.3 View Sharing</b>		<p>Submissions raising view loss concerns have been received from the adjoining properties at 11 and 13 Northview Rd and 32 Sunrise Rd.</p> <p>See discussion under Refusal Reason 1 - C1.3 View Sharing; De facto Building Line later in this report.</p>	N	Y	N
<b>C1.4 Solar Access</b>		<p>Concern has been raised by the owner of 13 Northview Rd regarding overshadowing impacts created by the garage/studio building.</p> <p>See discussion under C1.4 Solar Access later in this report.</p>	Y	Y	N

Control	Standard	Proposal	T	O	N
<b>C1.5 Visual Privacy</b>		Concern has been raised by adjoining property owners regarding privacy impacts arising from the development.  See discussion under C1.5 Visual Privacy later in this report.	N	Y	N
<b>C1.6 Acoustic Privacy</b>		A submission was received regarding the proposed noise impacts created by the enclosed verandah.  See discussion under C1.6 Acoustic Privacy later in this report.	N	Y	N
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			-	-	-
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures		Submission received regarding the proposed studio	N	Y	N
C1.17 Swimming Pool Safety			Y	Y	Y
C1.19 Incline Passenger Lifts and Stairways			-	-	-
C1.23 Eaves	450mm eaves	No eaves have been proposed to the new dwelling, given the design of the dwelling it is not possible and other shading devices have been incorporated into the design.	N	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure			Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run			Y	Y	Y
<b>D12.1 Character as viewed from a public place</b>		Concern has been raised in submissions relating to the excessive bulk and scale impacts created by the multi level development when viewed from Palm Beach.  See discussion under D12.1 Character as viewed from a public place later in this report.	N	Y	N
D12.3 Building colours and materials	Dark and earthy tones	The proposal has incorporated dark and earthy colours and materials including the use of existing sandstone	Y	Y	Y

Control	Standard	Proposal	T	O	N
D12.4 Height	<p>Maximum height - 8.5 metres</p> <p>Variation for site slope in excess of 30% – 10m</p>	<p>Maximum Height Building – 8.3m to south eastern corner of dwelling</p> <p>Maximum Height Deck – 9.35m to top of balustrade in the south eastern corner Note: maximum height of floor level of the deck is 8.35m</p> <p>Concern has been raised in submissions relating to the height of the development.</p> <p>See discussion under D12.4 Height later in this report.</p>	N	Y	N
D12.5 Front building line	<p>6.5m</p> <p>Variation Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable.</p>	<p>Garage - 3.2m to 4.2m Studio – 3.9m to 5.3m</p> <p>The amendments result in a slight increase in the front setback which is considered an improvement and acceptable under the variation to the control.</p>	N	Y	N
D12.6 Side and rear building line	<p>2.5m to one side, 1m to the other and 6.5m rear</p>	<p><u>South</u> Garage – 1m Studio – 1m Dwelling – 2.5m to 5m Deck – 5m Pool - 3.1m to 4m</p> <p><u>North</u> Garage – 1.5m Studio – 1.5m Dwelling – 1.1m to 1.7m Deck – 11m Pool – 9.8m</p> <p><u>Rear</u> Dwelling – 17.6m Deck – 11.2m Pool – 9m</p>	N	Y	N

Control	Standard	Proposal	T	O	N
D12.6 Side and rear building line (Cont..)		<p>Concern has been raised in submissions relating to the bulk and scale impacts arising from the development.</p> <p>See discussion under Refusal Reason 2 - D12.6 Side and rear building line and D12.8 Building envelope later in this report.</p>			
D12.8 Building envelope	<p>Building envelope projected 45 degrees from a height of 3.5 metres at the boundary</p> <p>Variation for site slope in excess of 30% - merit</p>	<p>The development results in moderate building envelope breaches to the northern elevation of the dwelling and garage and very minor breaches to the southern elevation of the dwelling and garage.</p> <p>Concern has been raised in submissions relating to the bulk and scale impacts arising from the development.</p> <p>See discussion under Refusal Reason 2 - D12.6 Side and rear building line and D12.8 Building envelope later in this report.</p>	N	Y	N
D12.10 Site coverage - Environmentally Sensitive Land	<p>Maximum Site coverage - 40%</p> <p>Minimum Landscaped area - 60%</p> <p>Variation Provided the outcomes of this control are achieved impervious areas less than 1 metre in width and up to 6% of the total site area may be provided as impervious landscape treatment.</p>	<p>Site coverage – 367m<sup>2</sup> or 43.3% Landscaped Area – 481.2m<sup>2</sup> or 56.7%</p> <p>Variations Paths – 6m<sup>2</sup> Recreation Areas – 50.9m<sup>2</sup></p> <p>Total Varied Site Coverage – 310.1m<sup>2</sup> or 36.6%</p> <p>Concern has been raised in submissions relating to the accuracy of the submitted site coverage calculations and increased stormwater run off from the site.</p> <p>See discussion under D12.10 Site coverage - Environmentally Sensitive Land later in this report.</p>	N	Y	N
D12.12 Fences - Flora and Fauna Conservation Areas		No new fencing is proposed	Y	Y	Y

Control	Standard	Proposal	T	O	N
<b>D12.13 Construction, Retaining walls, terracing and undercroft areas</b>		<p>A number of retaining walls are proposed on the site for access, terracing and landscaping purposes. Given the slope of the site and excavation involved to provide a level building footprint retaining walls are appropriate.</p> <p>Concern has been raised by the owner of 13 Northview Rd regarding the proposed retaining wall to the landscape terrace to the west of the enclosed verandah.</p> <p>See discussion under D12.13 Construction, Retaining walls, terracing and undercroft areas later in this report.</p>	Y	Y	N
D12.14 Scenic Protection Category One Areas		The proposed is not considered to result	Y	Y	Y
<b>SEPP (Building Sustainability Index: BASIX) 2004</b>		<b>New BASIX Certificate was lodged. The commitments can be satisfied subject to recommended conditions.</b>	Y	Y	Y
Other State Environmental Planning Policies (SEPPs)			Y	Y	Y

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

Compliance Table Compiled by Sophie Garland in September 2011

**Compliance Table Amended by Amy Allen in May 2012**

## 11.0 DISCUSSION OF ISSUES

- **Refusal Reason 1 - C1.3 View Sharing; De facto building line**

*The development does not provide for a view sharing scenario satisfying the requirements of C1.3 View Sharing of P21 DCP in respect of the impacts upon No. 13 Northview Road noting in particular the development is sited partly forward of a de facto rear building alignment established between Nos. 26 32 Sunrise Road (inclusive), 11 Northview Road, 13 Northview Road, 9 and 8 Northview Road. Components of the development associated with moderate view loss in respect of No. 13 and minor view loss in respect of No. 11 Northview (view line from master bedroom to 'Kiddies Corner') of Palm Beach exceed the building height and envelope controls.*

The owners of 11 and 13 Northview Road and 32 Sunrise Rd have raised concerns relating to the proposed dwelling impacting on views to Palm Beach comprising of the sand/water interface, breaking waves and ocean beyond.

### **Height Poles**

Height poles have been erected on site indicating the extent of the proposed dwelling and have been certified by a Registered Surveyor, Adam Clerke on the 18 April 2012. An inspection of the height poles as viewed from the dwellings at 11 and 13 Northview Road was undertaken on 3 May 2012 and viewed from the deck at 32 Sunrise Rd on 18 May 2012.

At the site inspection the neighbour at 13 Northview Rd raised concerns that some of the poles were not vertical. The neighbour made a request on 10 May 2012 to have the poles recertified as they were the crucial poles to assess the view impact. The correspondence received also referred to the position of Pole 8 being 500mm to the west and a missing pole to the top eave in the north east corner of the garage/studio structure.

From the site inspection, the higher parts of Poles 8 and 9 were on a slight lean to the north. Leaning height poles are very common where sites are susceptible to coastal winds. It is considered that the lean is not of a magnitude that prevents an assessment of the massing to be undertaken, noting that the lean is taken into account in the view assessment. For these reasons, recertification is not considered necessary.

Pole 8 is located 500mm to the west as the exact position was inaccessible due to the location of Tree 13. Pole 9 is more eastward of Pole 8 and is the most crucial pole in terms of determining the extent of the ground level when inspected from the majority of viewing locations at 13 Northview Rd.

With regard to the request for another pole to the top eave in the north eastern corner of the garage/studio structure, this was not requested of the applicant by Council. No view impact occurs as a result of the location of the garage. Some poles were requested in this area to gain an understanding of the bulk and massing concerns of the neighbours. A pole representing the eave at the south eastern corner at RL51.8 was erected and pole representing the wall/parapet at the north eastern corner at RL 51.4 was erected. An additional pole at 51.8 is not considered necessary for Council to undertake an assessment of the visual bulk from adjoining properties.

## **View Sharing Assessment**

View loss and view sharing are assessed under the criteria in the Land and Environment Court planning principle established in *Tenacity Consulting v Warringah [2004]* NSWLEC 140 and in control C1.3 of PDCP.

### ○ **Planning Principle - First Step**

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

#### 13 Northview

The dwelling at 13 Northview Rd enjoys views to Palm Beach, Barrenjoey Headland and coastline to the north, east and south.

The view to be affected is to the north east where a partially filtered view corridor between vegetation and the existing dwelling at 12 Northview Rd to the beach, sand/water interface, breaking waves and ocean beyond exists.

When the site was inspected the view to be affected had changed from the view assessed in 2010. This is due to the growth of vegetation, particularly the Cotton Palm (Tree 13) on 12 Northview Rd (circled in red in photograph below).



Photograph taken from lower deck at 13 Northview Rd 3 May 2012 (Pittwater Council)

The vegetation now obstructs approximately half of the sand view from the ground floor deck of 13 Northview Rd. Considering that Tree 13 is to be removed, is identified as an exempt species and Council has a photographic record of the view without the vegetation the following assessment ignores the current obstruction caused by growth of Tree 13.

The view to be affected is considered to be moderately to highly valued as it is a view corridor down to the beach allowing the view of sand, water breaking on to the sand, breaking waves and the ocean beyond.

#### 11 Northview

The dwelling at 11 Northview Rd enjoys views to Palm Beach, Barrenjoey Headland and coastline to the north, east and south. The view to be affected is to vegetation in the rear gardens of properties to the south and is considered to be more appropriately classified as an outlook. Depending on position and viewing angle a very small slither of sand adjacent to Ocean Rd to the south is obstructed.

#### 32 Sunrise Rd

The dwelling at 32 Sunrise Rd enjoys views to Palm Beach, Barrenjoey Headland and coastline to the north, east and south. The view to be affected is to vegetation in the rear gardens of properties to the north and part of the dwelling at 11 Northview Rd and is considered to be more appropriately classified as an outlook.

### ○ **Planning Principle - Second Step**

*The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

#### 13 Northview

The view is obtained from the first floor master bedroom and deck, entry foyer, living/dining/kitchen and ground floor living room and deck. The view is captured from persons sitting and/or standing in all areas except for the first floor living areas and deck which is only visible from standing positions.

The view from all areas is over the side and rear boundary of 12 Northview Rd in a north easterly direction. Due to the awkward subdivision pattern, the views are captured over the common side boundary with 12 Northview Rd despite the angle being perceived as over the rear boundary of 13 Northview Rd.

#### 11 Northview

The outlook is obtained from the first floor master bedroom and deck and ground floor living areas and deck. The outlook is captured from persons sitting and/or standing in these areas looking over the side boundaries of 12 Northview Rd and 9 Ocean Rd in a southerly direction.

#### 32 Sunrise Rd

The outlook is obtained from the deck from sitting and standing positions looking over the side boundaries of 11 and 12 Northview Rd.

### ○ **Planning Principle – Third Step**

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

In this case it is more useful to assess the view loss qualitatively.

#### 13 Northview

The proposed development has the following impacts on the views obtained from 13 Northview Rd:

- The impact to the master bedroom and associated deck is the loss of the majority of sand/water interface and some breaking waves. The outer breaking waves and expanse of ocean beyond is retained. This is considered a minor impact as the view is less significant as it is from a bedroom.
- The impact to the entry foyer is the loss of the majority of sand/water interface and some breaking waves. The outer breaking waves and expanse of ocean beyond is retained. This is considered a minor impact as the view is less significant as it is obtained from a transitional area.
- The impact from the east facing windows to the first floor living/dining/kitchen is negligible as the sand/water interface view is already obstructed by the deck at 13 Northview Rd and the view to Barrenjoey Headland and ocean is retained in whole.
- The impact from the north facing living room window is very minor as there is a partial obstruction of highly filtered sand and water through the Norfolk Island pine and the viewing angle is made difficult by a fixed cabinet, fireplace and chimney.
- The impact from the first floor deck is minor as the view is mostly retained with the exception of a filtered area of sand in the foreground from certain sitting and standing positions. The majority of sand view and the entire sand/water interface, breaking waves and water beyond are retained from the deck which is considered to be the principal private open space as it is directly accessible from the principal internal living areas.
- The impact to the ground floor living room is minor with a small portion of the ocean obstructed from sitting and standing positions. The view of ocean beyond is retained.
- The impact to the ground floor deck is classed as moderate as a large portion of the beach/sand/water interface is obstructed and approximately half of the breaking waves are obstructed from standing and sitting positions. The outer breaking waves and expanse of ocean beyond is retained

#### 11 Northview

The impact on the outlook from both the upper and ground floor areas is considered to be a negligible view impact except from one position in the master bedroom. Towards the bed head in the master bedroom the impact is considered to be very minor as a slither of sand is affected. With the exception of this slither, the entire view of sand, water and coastline is retained from all areas. Overall this is considered to be a negligible view impact.

### 32 Sunrise Rd

The impact on the outlook from the deck is considered to be a negligible view impact as the entire view of sand, water and coastline is retained.

#### ○ **Planning Principle - Fourth Step**

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

*With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

In order to determine the reasonableness of the proposal causing the impact firstly consideration needs to be given to compliance with planning controls and secondly whether a more skilful design is available which provides the applicant with the same development potential and internal amenity.

#### **Compliance with Planning Controls**

The area causing the moderate view impact to 13 Northview Rd is the southern and eastern components proposed as the enclosed verandah, deck, master bedroom and ensuite. The built form creating the impact has a side setback ranging from 2.5m to 5m and a rear setback of 11.2m which complies and exceeds the control requirements. It sits within the building envelope with the exception of a very minor area of the eave above the enclosed verandah. The height of the impacting area ranges from 6.55m to 8.3m to the top of the enclosed verandah and up to 9.35m to the top of the balustrade of the deck. It is noted that the built form other than the south eastern corner of the balustrade sits below the 8.5m limit. The proposed site coverage in terms of at grade hard surface areas exceeds the 40% control by 3.3% however the three dimensional mass only represents 36.6% of the site. This is a minor site coverage non compliance created by at grade paving and access stairs supportable under the variation to the control.

The refusal reason makes reference to the development being sited partly forward of a de facto rear building alignment established between Nos. 26 - 32 Sunrise Road (inclusive), 11 Northview Road, 13 Northview Road, 9 and 8 Northview Road. The submissions received raise concern that the dwelling projects eastward of the de facto rear building line and as a result is creating adverse visual and view impacts. The applicant's position is that there is no control or outcome for new development to conform to existing rear building alignments.

The term *de facto building line* is not referenced in any PDCP control. It is referenced in the definition of *established building line* in A1.9 Definitions of PDCP. *Established building line* is described as 'a building line that is established by map (foreshore building line) or a de facto building line.'

The definition of a de facto building line as described in A1.9 Definitions of PDCP is 'the line of the facade of structures created by the location of structures on nearby properties. There may be separate de facto building lines for dwellings and decks, verandahs, etc. See also established building line.'

The term *Established building line* appears in PDCP under the front building line control. Established building lines are an important consideration when applying front setbacks to ensure that a consistent alignment and streetscape aesthetic is achieved where an existing building line is present.

In the absence of the policy providing a restriction or a direction on how to approach applying a rear de facto building line, consideration is given to a potential rear de facto building line, associated impacts and possible alternative design which conform to the alignment.

De facto building lines usually arise when there is a consistent subdivision pattern and rhythm of the built form located on each allotment. The land subdivision pattern along Sunrise Rd, Northview Rd and Ocean Rd is awkward and could not be described as a regular pattern of allotments. The awkwardness arises at the Sunrise Rd/Northview Rd junction where 32 and 34 Sunrise Rd and 12 and 13 Northview Rd make up the corner. This corner arrangement contains four irregularly shaped sites containing dwellings which are relatively close in proximity.

The sites do share similar characteristics with dwellings orientated to the east and northeast (towards coast/views), verandahs, pools and steep vegetated land to the east of the dwellings.

When determining whether a de facto building line/s is present, consideration is given to the eastern extent of dwelling walls, verandahs and pools. A rough line can be construed from the eastern walls of 7, 8, 11 and 12 Northview Rd and the north eastern walls of 32, 30 and 28 Sunrise Rd (see Aerial Photograph below).



The most western point of the alignment is likely to pass near the boundary junction of 12 and 13 Northview Rd and 32 Sunrise Rd. It is very difficult to construe this line as far west to the eastern facade of the dwelling at 13 Northview Rd. If taking the line to the eastern extent of verandahs/pools line would be further eastward.

Compared to examples of established building lines in the locality this scenario is not considered to represent a definitive or obvious de facto building line. Despite this, it is acknowledged that a perceived building line loosely based on the red line in the aerial photograph above is present.

If development of any of the sites were to occur that crossed this line the built form is more likely to create visual impacts to neighbouring properties.

As discussed previously, there is no control which restricts development to a rear de facto building line and therefore it is considered appropriate to deal with the likely impacts that arise from extending eastward of the perceived building line under Skilful Design and Reasonableness below.

As the development complies with the controls albeit a minor building envelope and height non compliance, could a more skilful design (including one which conforms to the perceived rear building line) provide the applicant with the same development potential and internal amenity and reduce the view impact to the neighbours.

### **Skilful/Alternative Design and Reasonableness**

Based on the moderate view impact to the ground floor deck at 13 Northview Rd described in the third step above, minimisation of this impact should be investigated. The impact created to the other areas is considered acceptable based on the impact being classed as minor and/or the nature of activities taking place in the areas where the view is obtained (i.e. bedroom).

The applicant maintains that further changes have been undertaken to minimise the impact to the neighbour, comply with Councils planning controls and comply with the covenant restrictions. The amendments made in the 82A plans incorporate changes to the south eastern component which creates the view impact. The changes include an increased southern setback (additional 600mm – 900mm). The amended impact would be described as a minor increase in beach/sand/water interface compared to the refused scheme.

In terms of investigating alternative designs that may minimise the impact, a number of options have arisen based on details of a previous consent, suggestions in submissions, examination of the plans and viewings at site inspections. The following alternative designs are considered and it is determined whether the design would result in a reduced view impact. If a reduction can be achieved an assessment of whether it would be reasonable to request those design changes is undertaken based on whether development potential and internal amenity is maintained.

(1) Full compliance with height and building envelope controls (without variations)

If the design were amended to achieve full compliance with the building envelope control and 8.5m height limit (excluding applicable slope variations) the difference in terms of impact from the ground floor deck would be insignificant. Given that no noticeable benefit would result it would be unreasonable to request the design be changed in this manner.

(2) Restriction of development eastward of the perceived de facto building line

Restricting development eastward of the perceived de facto building line and providing the same development potential does not prevent a southern extension/component to the dwelling. Further massing to the south is permitted to the 2.5m setback and this would result in additional built form closer to 13 Northview Rd and a comparable view impact to the one which is currently proposed. For this reason it would be unreasonable to request conforming to a perceived rear building line.

(3) Design consistent with footprint of N0207/06 consent

It has been suggested that the approved alterations and additions is an example of a design which results in an acceptable impact.

It is noted that this design was approved concurrently with a boundary adjustment which altered the common boundary with 13 Northview Rd. A 4m wide 'handle' of land extending from the north eastern corner of 13 Northview Rd was created thus reducing the width of 12 Northview Rd and increasing the size of 13 Northview Rd. The application retained most of the external fabric of the cottage and additions were designed in response to the altered southern boundary. Subsequently the built form was more north east than what is currently proposed and would have had less of an impact on the view from the ground floor deck at 13 Northview Rd.

Considering that the development consent was based on a different allotment configuration and design concept it would be unreasonable to assume that this is an appropriate design in the current circumstance and request design changes accordingly.

(4) Design consistent with Covenants and Contract drawings

It has been suggested that a dwelling footprint and design consistent with the covenants restricting height and contract drawings would result in an acceptable impact. As discussed in detail in the next section of this report, the development complies with the height restrictions with the exception of a minor area to the garage/studio eave and lift. The south eastern component creating the impact complies with the covenant restrictions. As with the outcome of option 2 above, compliance with the covenant does not prevent a southern extension/component which would result in a comparable impact to the one which is currently proposed. In terms of the contract drawings, they have not been lodged with Council therefore no assessment can be undertaken to determine whether they would impact less or more than the current proposal.

(5) Design that allows the majority/full retention of sand view

From the site inspections undertaken one can assess the degree of design changes required to allow the retention of the view from the ground floor deck. To retain the view corridor of beach/sand/water interface from the deck between the tips of Norfolk Island pine to the north east and existing vegetation to the east the following amendments to the design would be required:

- Removal of the southern and eastern components in a diagonal angle taken from the south west corner of the enclosed verandah and north eastern corner of the deck.
- Removal of the majority of the enclosed verandah, deck, master bedroom and ensuite and reconfiguration of two levels.
- Side setbacks ranging from 2.5m to the west and 9.8m to the east.

A design that allows the retention of the view requires deletion of floor area and substantial redesign of the ground, lower and basement levels. Lowering of the built form would not obviously reduce impact as the roof plane and floor of the deck obstructs the downward view angle to the beach. Given the extent of changes required and reduced development potential it would be unreasonable to require design changes to fully retain the view from the lower deck.

(6) Compromised design suggested by owners of 13 Northview Rd

The owners of 13 Northview Rd have suggested a compromised design which in their opinion substantially maintains the primary view corridor enjoyed from the lower living room deck of No. 13. The design changes are:

- an additional 1.5m southern setback to the enclosed verandah/ensuite/part of master bedroom
- an additional 2.5m southern setback to the deck/master bedroom
- area lengthened by 1.7m to the west
- deck and bedroom below reduced in depth

- an increase in length and change shape of deck
- an additional 2.5m setback to swimming pool and deck

Based on the site inspections and photographs taken and the view analysis undertaken by the applicant and objector the suggested changes would result in a portion of sand retained where the southern half of the Cotton Palm fronds currently exist and a small area of breaking waves just above the Cotton Palm fronds. This design would still obstruct half of the sand view however is a reduction compared to the proposed impact.

The compromised design suggested is not resolved and the amendments would require a number of changes to the design. The ground, lower and basement levels would require reconfiguration, moving the games room, likely relocation of stairways and awkward relationships between the master bedroom and bedroom 2 and the living room/verandah/deck.

While the compromised design could allow for similar floor area, the changes required are not insignificant and reduces the occupant amenity particularly to the bedrooms and makes the living room/verandah/deck corner arrangement in terms of practicality questionable.

The compromised design will allow greater portion of sand view to be retained however the changes needed are of a magnitude that requires redesign/reconfiguration of three levels and more importantly would reduce the internal amenity on two levels for future occupants. The reasonableness of requesting these design changes comes down to the guidance given in step four of the planning principal:

- *A development that complies with all planning controls would be considered more reasonable than one that breaches them.*  
The area creating the impact generally complies with the controls therefore is considered reasonable
- *Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable.*  
As a moderate impact arises from a compliant built form the impact is considered reasonable
- *With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.*  
The area creating the impact is complying and alternative designs have been investigated. The compromised design would reduce the impact on the views to the sand however does not maintain the same development potential and amenity.
- *If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The answer to the question is no as the development potential and amenity would be compromised. Therefore the impact created from the complying development is considered acceptable and the view sharing reasonable

## Conclusion

This assessment finds that the development results in view loss from various areas from 13 Northview Rd. The important areas are the principal living areas being the upper and lower floor decks. The impact to the upper deck is acceptable as the majority of the panoramic view is retained. The impact to the lower deck is classified as a moderate impact as part of the sand and breaking wave view is obstructed.

The built form creating the moderate impact complies with the planning controls. A de facto rear building line was considered and even if development generally conformed to this alignment a reasonably complying development will still create a comparable impact on views to the sand.

Alternative designs and their benefits have been investigated and reasonableness determined. The compromised position provides a moderate reduction acceptable to the neighbour however would require a number of changes over three levels of the dwelling and would create an awkward arrangement of rooms which would reduce the amenity for future occupants.

In assessing the acceptability of the impact weight must be given to compliance with PDGP controls (noting that the area which is creating the impact is 2.5m-5m from the side boundary) and the fact that part of the view is retained from the lower deck and the entire view is retained from the upper floor deck which is directly accessible from the kitchen, living and dining areas.

The outcome of control C1.3 of PDGP calls for reasonable view sharing scenario between dwellings. Considering the policy compliance and proportion of views to be retained from principal living areas the current design is considered to achieve a reasonable view sharing scenario consistent with C1.3 of PDGP and the planning principle *Tenacity Consulting v Warringah [2004] NSWLEC 140*.

- **Refusal Reason 2 - D12.6 Side and rear building line and D12.8 Building envelope**

*Non compliance with the requirements of controls D12.6 and D12.8 of Pittwater 21 DCP (side setback and building envelope controls) with respect to the Garage/Studio building.*

### **Garage/Studio Building**

The garage/studio building has been amended to provide a 1m setback along the southern boundary and maintains 1.5m along the northern boundary however the lift shaft has been increased to a 2.5m setback. The building does not comply with the minimum 2.5m requirement to one side of the building. Compared to the refused scheme, the southern setback to the garage has increased from 200mm to 1m however the southern setback to the studio has decreased from 1.5m to 1m.

The building envelope breach to the southern elevation has been reduced to what would be classified as a minor area to the south eastern corner of the wall. The moderate building envelope breach to the northern elevation is maintained to the north eastern corner of the wall.

The main concern from both neighbours is the bulk and scale of the building, particularly the depth and suggests design changes to delete the building envelope breach and minimise the visual impact. The depth of the structure is a minimum 8m and a maximum 9m where the lift shaft is located.

The neighbour at 13 Northview Rd suggests a 1.5m southern setback, additional planting in the 1.5m setback, a reduction in height by 600mm and a reduction in depth by 1m for solar access, bulk and scale, privacy and landscaping reasons.

The neighbour at 11 Northview Rd suggests a reduction in depth by 2m to minimise the visual dominance of the structure.

As outlined in other areas of this report, the garage/studio does not create unacceptable solar access impacts and privacy concerns and headlight glare are resolved through consent conditions. With regard to the opportunity for additional landscaping, an increased southern setback would not increase the amount of landscaping where it is necessary to ameliorate visual or privacy impacts. Other than bulk and scale impacts, these are not reasons that would be considered enough to warrant further design changes.

To determine whether a design change is warranted based on the visual impact of the structure, policy non compliances and visual impacts from neighbouring properties are considered.

To firstly address the technical requirements, there is no PDCP control limiting the depth of a structure. Built form is restricted through setback, height, site coverage and building envelope controls. The side setback to the north does not comply with 2.5m requirement. There are minor and moderate building envelope breaches to the northern and southern elevations respectively. The heights of the building comply with a maximum height of 6m in the north eastern corner and 5.5m in the south eastern corner. The heights are significantly below the height control and applicable variations up to 10m permitted on this site.

The structure is 6m from the landscaped area and 14.4m from the living areas at 13 Northview. The structure is 7m to the western courtyard and 11m to the living areas at 11 Northview. It will be visible from the living area windows and decks at 13 Northview Rd and western courtyard and living areas at 11 Northview Rd.

The main aspect for all properties is to the north east, east and south east towards the ocean and coastline. The building does not obscure an aspect or view to water or coastline from neighbouring properties. It is acknowledged that the perception of bulk when viewed from lower positions on the slope is of concern when facing west however it is highly unlikely that this visual impact would be eliminated or significantly reduced by the changes suggested.

It is inevitable that any structure regardless of further design changes will be visible from the neighbouring properties. It is not an unreasonable expectation to see built form of this nature in a residential zone. Examples currently exist on the neighbouring properties and within the broader locality.

Overall the structure is considered to appropriately respond to the existing built form context and site constraints. It sits well below the height limit and results in minor to moderate breaches to the building envelope which are common on slopes of this nature. While an additional 1m north setback is required under the control this is a result of providing mandatory off street parking and access to the dwelling on a narrow part of the site (10m).

It is also noted that a 7.5m wide garage is not excessively wide and its appearance is consistent with similar garage structures in the locality. Landscaping within the property boundaries will provide partial screening and will aid in minimising the perceived visual impact.

For these reasons the numerical non compliances with the side setback and building envelope controls are considered acceptable and the suggested design changes are not warranted as the visual impact is considered reasonable in the circumstances.

## **Dwelling**

Concern has been raised regarding the use of the existing dwelling foundations which do not comply with the 1m setback control. The existing walls to be retained are a minimum 890mm to the northern boundary and minimum 1.8m to the southern boundary.

The development is classified as a new dwelling however the application specifically states that only partial demolition of the existing cottage is proposed. The contemporary PDCC controls only apply to the new structures not existing structures and therefore it would be unreasonable to force removal and/or relocation of the existing stone walls.

To ensure that the foundation walls are retained it is recommended that the following condition be incorporated into the consent:

- The development shall be carried out such that it results in the retention of all existing building fabric that has been nominated for retention in the approved development consent plans.

Concern has been raised regarding the bulk created by the proposed dwelling extending past the eastern façade of 11 Northview Rd. A building envelope non compliance occurs at this point. The impact is a visual impact however it does not create any unreasonable view impact, solar access or privacy impact. Building envelope breaches are not uncommon on slopes of this nature and considering it is not creating an adverse impact the view of part of a wall when viewed from 11 Northview is considered acceptable.

### **• Refusal Reason 3 – Skilful Design**

*A more skilful design solution that addresses control requirements and is derived from discussions with 11 and 13 Northview Road is available to be achieved.*

The refusal reason was specifically formulated to indicate that a more skilful design which complied with the controls and arose from consultation with the neighbours could be achieved. The applicant amended the plans to provide a complying proposal where the impact occurs.

Concern has been raised in submissions that no consultation occurred. It does not appear that any meaningful discussions took place between neighbours after the determination. Council is not in a position to force consultation and can only encourage neighbours to discuss the development with each other.

The view sharing assessment is provided in a previous section of this report which addresses skilful design under the view sharing principle. The assessment finds that a reasonable view sharing outcome arises from the amendments made despite the lack of neighbour discussions.

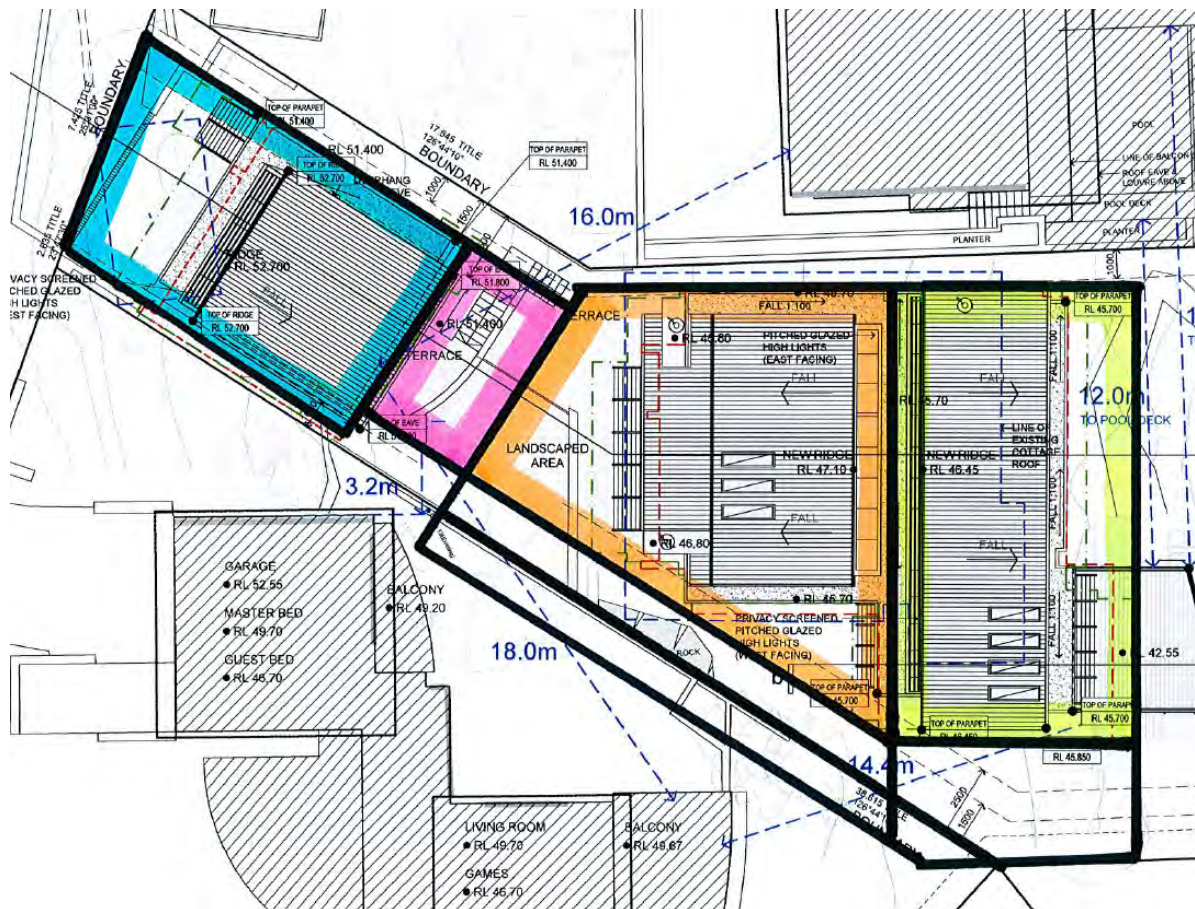
### **• Suspension of Covenants and Inconsistencies with Contract drawings**

Concern has been raised by the owner of 13 Northview Rd regarding the existing Covenants over the site and the footprint of the built form being inconsistent with drawings which formed part of the purchase contract of 13 Northview Rd.

## Covenants

The submission from the neighbour notes that while clause 39 of PLEP allows for the suspension of covenants this does not make the covenant irrelevant and automatically disregarded in the consideration of an application. The applicant provided a copy of the Survey Plan showing the height restrictions over 12 Northview Rd. Below is a an over lay (undertaken by Council) of the height restriction boundaries onto the Roof Plan:

- A - Area highlighted as orange is restricted in height to RL47.25
- B - Area highlighted as yellow is restricted in height to RL46.5
- C - Area highlighted as blue is restricted in height to RL54.5
- D - Area highlighted as pink is restricted in height to RL48



Roof Plan prepared by cronepartners with overlay of covenant survey (Pittwater Council)

There are additional height restrictions (E – H) to areas to the south and south west however they have not been highlighted as no built form is located within these areas.

The eastern edge of the eave to the garage is at RL51.8 and the parapet above the lift is at RL51.4. Both elements exceed the restriction in part D of the covenant which prescribes RL48 as the height limit.

Clause 39 Suspension of covenants, etc. of PLEP states:

- *For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, any covenant, agreement or similar instrument imposing a restriction on the carrying out of the development does not, to the extent necessary to serve that purpose, apply to the development.*
- *Nothing in this clause affects the rights or interests of the Council under any covenant, agreement or similar instrument.*
- *Pursuant to section 28 of the Act, before the making of this clause the Governor approved of this clause.*

This clause allows Council to override the covenant thus allowing a higher structure in part D. In order to determine whether suspending the covenant restriction the development would need to be consistent with the provisions of PLEP.

The development proposes a dwelling house in a residential zone which is consistent with the provisions of PLEP. Consideration is given to the PDCP controls.

The assessment finds that the garage roof has a maximum height of 6.4m and the lift has a maximum height of 5.9m. These heights are considerably lower than PDCP height control of 8.5m and 10m variation for steep slopes which this site qualifies for. The roof eave and lift also comply with the 1m/2.5m side setback control. A very minor non compliance arises under the building envelope control to the eave however for the reasons indicated in previous sections of this report they are considered acceptable on merit.

The submission provided by the neighbour states:

*“The present covenant which operates between the parties is indicative of what is acceptable development on 12 Northview Road. The Council can assume on the face of the covenant that the parties to it had undertaken negotiations and made an agreement as to what the parties understood as being an acceptable form of development that would take place on the subject land.”*

Half of the proposed deck/master bedroom sits eastward of the Part B restriction boundary in the white space of the covenant survey. Technically no height restriction applies to this area however one may assume that no development was intended eastward of the B boundary. It is noted that while restrictions do exist to the south and south west, no development is proposed within these areas.

The height of the development is generally consistent with the covenant restrictions albeit a small portion of the garage and lift which encroach slightly into part D. This encroachment is not considered to be of a magnitude that would make this development one which reflects a design that is inconsistent with what were considered acceptable heights for development on 12 Northview Road.

#### Contract Drawings

The submission indicates that there was a condition within the contract of sale of 13 Northview Rd that the new owners would support a development application subject to it being based on the drawings attached to the contract. The submission provides that there have been numerous design changes including new components compared to the contract drawings.

It is the neighbour's position that they are not bound to support the current application under the contract condition as it is different to the contract drawings.

The contract conditions and drawings have not been viewed by Council in considering the issues raised by the neighbour.

It is not Council's role to determine whether a party in a civil agreement is bound to support the current application under the contract condition or not. Council's obligations are prescribed by the EP&A Act, which requires consideration of submissions from any interested party. In this circumstance, the owners of 13 Northview Rd have lodged submissions which are considered and addressed throughout this report. Concerns raised in submissions are not dismissed because of a civil agreement between parties.

Similarly, Council is not in a position to force an applicant to develop land in accordance with the terms of a civil agreement. It is land owner's right to submit an application under the provisions of the EP&A Act, have it assessed by Council under the relevant policies and have it determined.

This process requires the application to be considered on its own merits and includes consultation with neighbours and consideration of the likely impacts. Development consent can suspend the conditions of a civil agreement and noting that there is a minor variation to the restriction suspension to this extent is appropriate in this circumstance.

- **B3.1 Landslip Hazard**

Concern has been raised in a submission relating to the extent of excavation proposed and the potential landslip risk. A Geotechnical Assessment was submitted with the application which is a requirement under the Geotechnical Risk Management Policy for Pittwater 2009. The assessment prepared by Jeffery and Katauskas Pty Ltd identifies the proposed excavation on the site, undertakes a risk analysis and makes recommendations to ensure that the development can achieve the acceptable risk management criteria outlined in the policy. Council's development engineer has assessed the submitted report and associated Forms 1 and 1a and is satisfied that the potential land slip risk has been appropriately investigated. It is considered that the recommendations of the Geotechnical Engineer and consent conditions can satisfy the concerns of the neighbour.

- **B4.17 Littoral Rainforest - Endangered Ecological Community; C1.1 Landscaping**

Council's natural resources officer provided the following comments:

*"I have reviewed the proposed Section 82A reconsideration for N0445/10 (12 Northview Road Palm Beach). The proposed outbuilding was initially refused by Council due to view loss issues from the neighbouring dwelling, and as such the dwelling has been modified to address these concerns. The modified design does not have any further impact to trees or significant vegetation. A revised landscape plan ("360" Drawing No. LP-01 29th February 2012) has been submitted. The plan is considered to be acceptable however a submission has been received (Don Fox Planning 30th March 2012) which raises concerns with the heights of the proposed species along the boundary between no. 12 and no.13 Northview Road, in particular the *Elaeocarpus reticulatus* and *Acmena smithii*. This is a valid concern given the potential mature heights of these species can reach 8 to 10 metres under optimal growing conditions, however due to the proximity of the site to the coast and its aspect in relation to exposure to salt-laden winds, plant species do not tend to reach mature heights as they are wind-pruned.*

*These particular species are not salt and wind tolerant and will be highly unlikely to reach heights exceeding 5 metres in this location. Therefore, it is not considered to be necessary to amend the landscape plan, however the following condition can be applied to the consent as a precaution and to appease the party making the submission:*

*Screen planting around the boundaries of the property is to be maintained by trimming to a maximum height of (insert appropriate height) metres in order to preserve view corridors from neighbouring dwellings. The maintaining of vegetation to this specified height is to apply for the life of the development.*

There are no further natural resource or landscaping issues.”

Concern has been raised by the owner of 13 Northview Rd regarding the proposed vegetation along the southern boundary and the potential for further view loss impacts.

As discussed above, the species proposed are unlikely to reach 10m given the proximity of the site to the coast and its aspect in relation to exposure to salt-laden winds. While it is unlikely that the screen planting will grow to heights which would affect views it is recommended that the following condition is incorporated into the consent:

- Screen planting around the boundaries of the property is to be maintained by trimming to a maximum height of 5 metres in order to preserve view corridors from neighbouring dwellings. The maintaining of vegetation to this specified height is to apply for the life of the development.

#### • **C1.4 Solar Access**

Concern has been raised by the owner of 13 Northview Rd regarding overshadowing impacts from the garage/studio structure to the landscape terrace. It is suggested in the submission that the garage/studio structure should be amended to provide a greater southern and eastern setback and reduce the height to minimise the overshadowing impact.

The development complies with the solar access control, ensuring that the built form provides a minimum of 3 hours of daylight access to the principal living areas and private open space of neighbouring properties. The landscape terrace of concern to the neighbour receives daylight access between 9am and 12pm.

See discussion under Refusal Reason 2 regarding the setbacks and impacts of the garage/studio structure.

#### • **C1.5 Visual Privacy**

Concern has been raised by adjoining property owners regarding privacy impacts arising from the development.

11 Northview Rd - Access Stairs

Concern has been raised regarding the potential overlooking impacts from the access stairs to the western courtyard at 11 Northview Rd. Plan DA 11 and DA 12 depict different screens along the northern boundary.

- Plan DA 11 depicts one screen at RL45.5.
- Plan DA 12 depicts two screens, one at 44.35 adjacent to the court yard and one at RL46 adjacent to the stairway.

The submission suggests that the screens may not protect the western courtyard of 11 Northview Rd from persons using the stairs. The DA12 screen will begin to obscure the viewing line of a person moving down stairs approximately 6 stairs down. In order to protect view lines from the top 6 stairs a screen at RL47.4 would be required. A screen to this height would exacerbate bulk and scale concerns raised by the neighbour. The other screen at RL44.35 adjacent to the western courtyards of both properties will effectively screen both recreational areas.

It is considered that the privacy screens proposed on DA12 in addition to the proposed landscaping will result in an acceptable privacy relationship between the dwellings subject to the following conditions of consent:

- The privacy screens are to be erected along the northern boundary in accordance with the screens depicted on approved Plan DA12.

### 13 Northview Rd - Studio Terrace, Enclosed Verandah and Landscape Terrace

Concern has been raised that the proposed studio terrace and landscaped area will create direct overlooking/cross looking opportunities into the landscape terrace, bedrooms, living room and deck of 13 Northview Rd. The plans show a privacy screen at RL47.8, ranging in height from 1.6m to 2.15m from natural ground level along the southern boundary. It was a recommendation of the previous assessment that a screen be erected in this location.

Adjacent to the proposed landscape terrace is an upper floor master bedroom and deck and lower floor bedroom, landscape terrace and living room window.

A person on the master bedroom balcony due to difference in level would be able to overlook this area. This relationship is of less concern as the bedroom balcony is not utilised for recreational purposes.

The proposed screen prevents cross looking between the studio terrace and landscape terrace outside the guest bedroom. The neighbour is concerned that the screening does not extend along the boundary to prevent cross looking further east on the landscape terrace. It was also suggested that the screen would need to be 2.2m from natural ground level to be effective. The neighbour has indicated that they prefer a landscape hedge along this boundary, eliminating the need for a solid screen.

Considering the areas concerned are not the main recreational areas for both properties it is appropriate to rely on landscaping as a privacy measure in this instance. It is recommended that the following conditions be incorporated into the consent:

- The timber screen along the south western boundary at RL47.8 is to be deleted.
- Screen planting to a height maintained at 1.8m is to be provided along the southern boundary to provide visual privacy between the proposed studio terrace and associated landscape terrace at 12 Northview Rd and the adjoining landscape terrace and lower ground deck 13 Northview Rd. Species selection is to incorporate the dominant tree species growing in the area or locally indigenous species.

Concern has been raised regarding the proposed enclosed verandah and landscape terrace to the west. The neighbour is concerned that privacy impacts will arise particularly to their lower deck which is at RL46.7.

The plans indicate a privacy screen along the southern boundary at RL45.35. A view line would be possible from the lower deck over the screen into the enclosed verandah and associated terrace.

The previous assessment concluded that the landscape terrace should be deleted and the western wall of the enclosed verandah be replaced with a solid wall and the southern opening incorporate vertical screens to address the privacy impact. This assessment is supported for privacy reasons and eliminates the need for a privacy screen along the common boundary. An additional benefit of deleting this area is the proposed filling and retaining of the terrace is not required and landscaping can be provided in this area over the natural fall of the land (further discussion is provided under section D12.13 later in this report). It is recommended that the following condition be incorporated into the consent:

- The proposed landscape terrace to the west of the enclosed verandah and the external timber deck and awning shall be deleted.
- The timber screen along the southern boundary at RL45.35 is to be deleted.
- The western wall of the enclosed verandah is to be replaced with a solid wall.
- The louvers to the enclosed verandah on the southern elevation are to be obscure glazing or solid and fixed vertically at a 45 degree angle.
- The landscaped area south of the kitchen and enclosed verandah (between contours 42 and 40) shall be maintained/returned to natural ground levels as per the survey details in Plan 27296L Dated 25 March 2010 Prepared by Adam Clerke Surveyors Pty Ltd.

#### 11 & 13 Northview Rd – Garage/Studio

The submissions raise concern regarding the north and south facing windows to the garage and studio. These windows are to a garage and stairwell which are areas that do not generate need for privacy control measures under PDCP. Notwithstanding this, these windows are proposed to have external louvered screens applied and this in addition to adequate spatial separation, window offsetting and landscaping provides ample protection to neighbouring properties.

#### Proposed Louvered Screens

The architectural plans nominate a number of windows on the elevations where louvered screens are applied to the external face of the glazing. A submission raises the concern that there is insufficient detail to understand whether the louvers will provide privacy to neighbouring property.

The only windows that are in the vicinity of private open space of adjoining properties and would require a fixed privacy screen are the:

- ground floor bathroom and study (northern elevation)
- ground floor kitchen and enclosed verandah (southern elevation)
- lower ground floor ensuite (southern elevation)

Further details of the proposed screens are not considered necessary as the design specifications can be incorporated into a consent condition. It is recommended that the following condition be incorporated into the consent:

- The louvered screens applied to the north facing windows to the ground floor bathroom and study and the south facing windows of the ground floor kitchen and enclosed verandah and lower ground floor ensuite shall have a maximum of 25% openings which are permanent and fixed.

- **C1.6 Acoustic Privacy**

Concern has been raised regarding potential acoustic noise impacts arising from the enclosed terrace. The recommendations made in part C1.5 above address this concern.

- **D12.1 Character as viewed from a public place**

Concern has been raised in submissions relating to the excessive bulk and scale impacts created by the multi level dwelling when viewed from Palm Beach. It is suggested in the submissions that the impact arises from the cantilevered structure which is more eastward than adjoining properties and encroaches into the existing landscape corridor.

The following photograph was taken to understand the existing natural and built form character along the escarpment.



Photograph taken from Palm Beach facing west (Pittwater Council)

The existing view from Palm Beach is a row of dwellings on the road level in the foreground, a corridor of dense vegetation behind and a row of dwellings above.

In terms of physical impact on the landscape corridor, the proposed footprint of the dwelling requires the removal of Tree 13 (Cotton Palm) and Tree 14 (Hills Fig). Both trees are identified as exempt species under Pittwater Council's Tree Preservation Order. The landscape plan indicates new plantings eastward of the building including trees and low to mid level vegetation. In this regard the development does not require the removal of existing native trees in the landscape corridor and is not considered to cause a visual scar on the escarpment.

Multi leveled dwellings are an existing built form characteristic in the locality due to the topography. While the locality statement does envisage maximum two storey dwellings presenting to the public domain, it is often an unrealistic outcome in localities with steep topographies.

The south eastern part of the proposed dwelling will extend further to the east appearing larger than the existing cottage. The cantilevered part of the structure will appear to sit just above the canopy line. The lower levels of the dwelling will be screened by existing and proposed trees eastward of the building. The garage/studio building will be screened by the Norfolk Island pine from a westerly view point on the beach, however would be visible from a north western view point on the beach.

In terms of the visual bulk concerns, considering the existing built form along the upper and lower parts of the escarpment and the existing established vegetation the proposal does not present as an excessively bulky building. It is considered that the design sympathetically responds to the context achieved through building separation, articulation, use of recessive dark and natural finishes and retention of surrounding vegetation.

- **D12.4 Height**

Concern has been raised in submissions relating to the height of the development, particularly the massing and scale of the garage/studio structure when viewed from down slope locations on adjoining dwellings.

The maximum building height of the garage/studio building is 6.4m to the top of the north eastern eave and 5.5m to the top of the south eastern eave. The heights are significantly below the maximum permitted under the control of 8.5m and 10m under the applicable variation. Despite compliance, the height of the garage/studio building is perceived from neighbouring properties as high due to the slope and upward view angle from areas on the neighbouring properties. While the perceived scale is high as it is three levels, only two levels are visible as the basement level is underground. Considering that the building sits well below the height limit and the scale is one which is similar to those on adjoining properties the visual impact is acceptable.

The maximum building height of the dwelling is 8.3m to the top of the south eastern eave and 9.35m to the top of the balustrade on the south eastern corner of the deck. The top of the balustrade represents a non compliance with the 8.5m height control in PDCP. The control does allow a variation up to 10m to minor parts of a development where a site slope exceeds 30%. The footprint of the dwelling qualifies for the variation as the slope is 38%. Applying the variation is considered acceptable as the non compliance is to an open balustrade element.

- **D12.10 Site coverage - Environmentally Sensitive Land**

Concern has been raised by the owners of 13 Northview Rd regarding the accuracy of the proposed site coverage calculations. The amended site coverage (all hard surfaces) is calculated as 367m<sup>2</sup> or 43.3% which is a slight reduction on the refused scheme. The control requires a maximum of 40% however the variation to the control allows a certain amount of impervious recreational area and pathways to be included as landscape area subject to the control outcomes being achieved. An area of 56.9m<sup>2</sup> can be applied as a variation which results in a total site coverage of 310.1m<sup>2</sup> or 36.6%.

Concern has been raised by the owner of a down slope property regarding increased stormwater run off created by hard surface areas on the site. A Water Management Plan was submitted with the application which provides rain water tanks, on site detention and discharge of stormwater via an existing line within an easement along the southern boundary.

Council's development engineer has assessed the proposal against the relevant PDCP controls and the proposal satisfies the requirements for water management subject to recommended consent conditions.

The control outcomes are considered to be readily achieved as the development is a built form which minimises bulk and scale impacts, sits sympathetically within the built form and natural environment, retains significant trees, supplements vegetation on the site and provides for effective management of water on site.

- **D12.13 Construction, Retaining walls, terracing and undercroft areas**

Concern has been raised by the owner of 13 Northview Rd regarding the proposed elevated terrace to the west of the enclosed verandah. The terrace is proposed to be at RL42.4. The existing ground level at this point ranges between RL40.2 and RL41.7. The elevated terrace would require a retaining wall 2.2m at the most eastern point. The wall is not depicted on the landscape plan however is nominated on the elevations and the back filling of the area is depicted on Section bb. The land adjoining the terrace on 13 Northview Rd is at natural grade (not retained) therefore a retaining wall would also be required along the common boundary.

As discussed previously the landscape terrace in the original assessment was not supported for privacy and acoustic reasons. This is also supported in this assessment and it is recommended that this area be maintained at natural ground levels as per the survey plan. This eliminates the need for a retaining wall and further alteration to the natural slope of the land. Side access to the rear of the property is provided on the northern side.

The application also proposes a change to the retaining wall between the dwelling and garage. In the refused scheme the wall RL44.5 and the proposed is RL46. The wall is stone and is 3.4m high with a 1m solid wall/balustrade above. There is an existing stone wall in this location at RL45 and replacement of it is necessary in order to retain the existing floor levels of the dwelling.

The wall is 4.4m high from the floor level of the western courtyard however it is screened by the dwelling and is at a similar height to the wall on 13 Northview Rd. It is considered that a retaining wall is necessary and the one proposed is stone and can be screened by landscaping to the south east.

- **Headlight Impact**

Concern has been raised by the owner of 13 Northview Rd regarding potential headlight glare impact created by vehicles entering and exiting the garage. The eastern façade of the garage incorporates floor to ceiling high glazing. The ground and first floor living areas at 13 Northview Rd have a line of sight through north facing windows to the eastern elevation of the garage. The distance between the living room windows and the garage is a minimum 14.4m. Vehicles entering the garage would need to enter parallel to the southern wall and this angle is unlikely to have direct glare impact to these living areas.

While no direct impact would occur between the windows, light spill from the headlights and reflection against the glazing could splay in the direction of the living rooms, particularly the lower ground floor living room. It does not appear necessary to have floor to ceiling glazing to a garage. It is considered a 1.2m high sill height (solid wall below the window) and eventual growth of vegetation along the southern boundary will minimise any splayed light spill from the vehicles. It is recommended that the following condition be incorporated into the consent:

- The south east facing window to the garage (made up of four glazed panels) shall have a sill height of 1.2m, from the finished floor level of the garage. The area below 1.2m shall be solid masonry wall.

## **12.0 CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan 1993, draft Pittwater 21 LEP, Pittwater 21 DCP and other relevant Council policies.

The development has been amended to address the issues raised in the original scheme. The review assessment examines the amendments and finds that greater southern setbacks to the garage and dwelling now make these areas of the development generally complying with the setback and building envelope controls. Impacts on the views from 13 Northview Rd have been reduced noting that the additional setback to the master bedroom/deck provides a minor increase in the portion of sand view available from the lower deck at 13 Northview Rd.

Concerns by neighbours regarding view impacts remain and have been considered and assessed under the relevant policies. The assessment finds that the moderate impact to the lower deck is acceptable given that the built form complies with the controls and alternative designs either have a similar impact or reduces the development potential on the site and compromises internal amenity.

In forming this view, weight was given to the fact that part of the sand view is retained, most of the breaking wave view is retained and the expanse of ocean beyond is retained from the lower deck. This in addition to the panoramic view being retained from the upper floor deck is an acceptable and reasonable view sharing outcome given the awkward subdivision pattern and policy controls that apply to the site.

The stepped nature of the dwelling design, use of modulated facades and recessive finishes will allow the dwelling to sit sympathetically within the existing built context and natural environment.

The amended plans have been considered under Section 82A of the EP&A Act and have sufficiently addressed the issues and requirements of PDGP. Accordingly, the application is recommended for development consent.

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### **RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER**

That Council as the consent authority pursuant to the provisions of section 82A of the Environmental Planning & Assessment Act, 1979, review the determination of Development Application N0445/10 for the construction of a three storey dwelling, swimming pool and detached double garage with separately accessible structure at 12 Northview Rd, Palm Beach and issue development consent subject to the conditions contained in the Draft Determination attached.

Report prepared by

Amy Allen  
**SENIOR PLANNER**

**DRAFT DETERMINATION**

**CONSENT NO: N0445/10  
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)  
NOTICE TO APPLICANT OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

Applicants Name and Address:

CRONE PARTNERS ARCHITECTURE STUDIOS  
LEVEL 2, 364 KENT STREET  
SYDNEY 2000

Being the applicant in respect of Development Application No **N0445/10**

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0445/10** for:

**Construction of a three storey dwelling, swimming pool and a detached double garage with separately accessible structure**

**At: 12 NORTHVIEW ROAD, PALM BEACH (Lot 21 DP 669199)**

**Decision:**

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with:

**Architectural Drawings Job No. CA 2224A Prepared by Crone Partners Pty Ltd Drawing No:**

- DA10, DA11, DA12, DA13, DA14, DA15A and DA15B AI Revision F Dated 19 April 2012
- DA 15C Revision C Dated 19 April 2012
- DA16 DA17, DA18, DA19, DA20, DA21, DA22, DA23, DA24, DA25, DA26, DA27, DA28 and DA29 Revision E Dated 28 February 2012
- DA70 Revision B Dated 28 February 2012

**Survey Plan Reference 27296L dated 25 March 2010 Prepared by Adam Clerke Surveyors Pty Ltd**

**Landscape Plan Sheet LP-01 Revision E Dated 29 February 2012 Prepared by 360° Landscape Architects**

**BASIX Certificate A133820 Dated 2 March 2012**

**Geotechnical Assessment Reference: 19977SB rpt Dated 9 April 2010 Prepared by Jeffery Katauskas Pty Ltd**

**Water Management Plans project No. AA002501 Drawing No. H01, H02, H03, H04, H05, H06 and H07 Dated 4 June 2012 Prepared by Hyder Consulting Pty Ltd**

**Tree Assessment and Development Impact Report Dated May 2010 Prepared by Rain Tree Consulting**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent      **TBA**

Mark Ferguson  
GENERAL MANAGER

Per:

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## CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a Council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

### A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

5. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - a. in the case of work for which a principal contractor is required to be appointed:
    - i. The name and licence number of the principal contractor, and
    - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
  - b. in the case of work to be done by an owner-builder:
    - i. The name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

6. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
7. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

**B. Matters to be incorporated into the development and maintained over the life of the development:**

1. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Jeffrey and Katauskas are to be incorporated into the construction plans.
2. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted design, Environmental and Health Risk Management Plan, Operation and Maintenance Plan, Manufacturer's Specifications and associated operational guidelines.
3. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
4. As part of an integrated on-site stormwater management system, stormwater from the on-site detention system is to be discharged directly to the piped drainage system within the interallotment drainage easement within the property.
5. The internal driveway finish is:
  - a. to be a stable surface for all weather conditions
  - b. to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.
6. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and Department of Environment & Climate Change (DECC) are to be notified.
7. At least eight (8) locally native canopy trees are to be planted onsite to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping in the Native Plants for Your Garden link on Council's website [www.pittwater.nsw.gov.au/environment/plants\\_and\\_animals/native\\_plants](http://www.pittwater.nsw.gov.au/environment/plants_and_animals/native_plants). All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
8. For the life of the development, domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.

9. Any vegetation planted outside approved landscape zones is to be consistent with:
  - a. Species listed in the Ecological Sustainability Plan or Bushland Management Plan
  - b. Species listed from the Endangered Ecological Community
  - c. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and *Native Plants for Your Garden* link available from Council's website [www.pittwater.nsw.gov.au](http://www.pittwater.nsw.gov.au)
10. Over the life of the development all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website ([www.pittwater.nsw.gov.au](http://www.pittwater.nsw.gov.au)) for noxious/environmental weed lists.
11. No environmental weeds are to be planted on the site. Refer to Pittwater Council website ([www.pittwater.nsw.gov.au](http://www.pittwater.nsw.gov.au)) for environmental weed lists.
12. Any new fencing is to be made passable to native wildlife. As a guideline, hole dimensions should be 150mm wide X 100mm long at ground level spaced at 6 metre intervals.
13. Landscaping is to be implemented in accordance with the approved Landscape Plan (360 Degrees Drawing No. LP-01 Dated 29 February 2012). The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate. This landscaping is to then be maintained for the life of the development.
14. Screen planting is to be provided, which after three years will, in conjunction with existing vegetation and canopy planting, screen at least 50% of the built form when viewed from the street and/or neighbouring properties. Species selection is to incorporate locally native species. The screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies or is destroyed or removed.
15. In accordance with Pittwater Councils Tree Preservation Order, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, as trees stand within the envelope of approved development areas. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
16. A minimum of 200mm clearance is to always be maintained to the tree trunk from proposed bearers, joists and decking.
17. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
18. The spa/pool backwash and any overflow waters are to be disposed to the Sydney Water sewer.
19. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1-2007, Safety barriers for swimming pools
20. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool.

21. The warning notice (i.e. sign) must contain all of the following words:

- i. "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" and
  - ii. "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
  - iii. "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
- b. In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
- i. that are set out in accordance with the relevant provisions of that Guideline, and
  - ii. that comply with the other relevant guidelines of the Australian Resuscitation Council, and
  - iii. that are illustrated by drawings with key words only in bold print,
- c. a statement to the effect that formal instruction in resuscitation is essential,
- d. the name of the teaching organisation or other body that published the sign and the date of its publication.

22. New electrical connections are to be carried out using underground cabling.

23. Materials and colour schemes are to be in accordance with the finishes nominated on the approved development consent plans. The colours applied to external wall render must be mid to dark grey, green or brown tones.

24. Roofs to all structures are to be of dark grey, brown and/or green tones only.

25. The underside of the elevated pool is to be painted in natural tones to blend with the surrounding landscape.

26. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

27. The proposed studio is not to be used for separate residential habitation and no kitchen facilities are to be installed.

28. The development shall be carried out such that it results in the retention of all existing building fabric that has been nominated for retention in the approved development consent plans.

29. Screen planting around the boundaries of the property is to be maintained by trimming to a maximum height of 5 metres in order to preserve view corridors from neighbouring dwellings. The maintaining of vegetation to this specified height is to apply for the life of the development.

30. The privacy screens are to be erected along the northern boundary in accordance with the screens depicted on approved Plan DA12 Dated 19 April 2012 Prepared by Crone Partners.

31. The timber screen along the south western boundary at RL47.8 is to be deleted.

32. Screen planting to a height maintained at 1.8m is to be provided along the southern boundary to provide visual privacy between the proposed studio terrace and associated landscape terrace at 12 Northview Rd and the adjoining landscape terrace and lower ground deck 13 Northview Rd. Species selection is to incorporate the dominant tree species growing in the area or locally indigenous species.
33. The proposed landscape terrace to the west of the enclosed verandah and the external timber deck and awning shall be deleted.
34. The timber screen along the south western boundary at RL45.35 is to be deleted.
35. The western wall of the enclosed verandah is to be replaced with a solid wall.
36. The louvers to the enclosed verandah on the southern elevation are to be obscure glazing or solid and fixed vertically at a 45 degree angle.
37. The landscaped area south of the kitchen and enclosed verandah (between contours 42 and 40) shall be maintained/returned to natural ground levels as per the survey details in Plan 27296L Dated 25 March 2010 Prepared by Adam Clerke Surveyors Pty Ltd.
38. The louvered screens applied to the north facing windows to the ground floor bathroom and study and the south facing windows of the ground floor kitchen and enclosed verandah and lower ground floor ensuite shall have a maximum of 25% openings which are permanent and fixed.
39. The south east facing window to the garage (made up of four glazed panels) shall have a sill height of 1.2m, from the finished floor level of the garage. The area below 1.2m shall be solid masonry wall.

### **C. Matters to be satisfied prior to the issue of the Construction Certificate:**

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Prior to issue of the Construction Certificate, Form 2 of the *Geotechnical Risk Management Policy for Pittwater* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
2. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.8 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.

3. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application.

Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

4. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
  - a. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
  - b. A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
  - c. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
  - d. Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.
5. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
6. A Dilapidation Report is required in relation to the structures on the adjoining property at 13 Northview Rd. The report is to be prepared by a qualified Geotechnical Engineer and a copy provided to the owners of 222 McCarrs Creek Rd.
7. Detailed plans and elevations are required to be provided prior to the issue of the Construction Certificate that indicate that the proposed driveway and garage works ensure the 2.6 metre structural root zone of Tree 6 is not breached, and that levels are not altered within the Tree Protection Zone, in accordance with the specifications on Page 6 of the arborist report (RainTree Consulting May 2010)
8. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
9. The Accredited Certifier or Council must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
10. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

11. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

**D. Matters to be satisfied prior to the commencement of works and maintained during the works:**

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
2. All excavated material is to be removed from the site.
3. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
4. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
5. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
6. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
7. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
8. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.
9. All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.
10. The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.
11. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
12. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
13. No skip bins or materials are to be stored on Council's Road Reserve.

14. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
- The builder's name, builder's telephone contact number both during work hours and after hours.
  - That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
  - That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - That no skip bins or materials are to be stored on Council's Road Reserve.
  - That the contact number for Pittwater Council for permits is 9970 1111.
15. All construction in the public road reserve must be undertaken by a Council authorised contractor.
16. A satisfactory construction traffic management plan (CTMP) prepared by a suitably qualified traffic consultant is required to be submitted to the Private Certifying Authority prior to the commencement of any site works. The plan is to detail:
- Quantity of material to be transported
  - Proposed truck movements per day
  - Proposed hours of operation
  - Proposed traffic routes, noting that 3 tonne load limits apply to some roads within Pittwater
17. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by RainTree Consulting dated May 2010 are required to be complied with before and throughout the development period, particularly with regard to the following:
- i. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
  - ii. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
  - iii. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
  - iv. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
  - v. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

- vi. Tree 8 as recommended for removal in the arborist report, is located on an adjoining private property and cannot be removed without owners consent.
  - vii. Council acknowledges that the trees in conflict with the proposed/approved driveway is a poor/average specimen, however the removal of these trees is not considered an urgent matter for Council to attend to under normal tree maintenance circumstances therefore the removal of the tree to facilitate the construction of the driveway will be at your own expense. Please contact Council for a list of approved Council contractors who must carry out the works.
18. During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.
19. A stamped copy of the approved plans is to be kept on the site at all times, during construction.

#### **E. Matters to be satisfied prior to the issue of Occupation Certificate:**

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. Prior to issue of the Occupation Certificate, Form 3 of the *Geotechnical Risk Management Policy* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
2. Certification is to be provided to Private Certifying Authority by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, that the on-site detention system has been completed in accordance with the engineering plans and specifications required under this consent.
3. Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer, with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this consent.
4. For internal driveways in difficult and/or steep terrain a Certificate is to be submitted to the Principal Certifying Authority with the Subdivision Certificate application by a qualified practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Private Certifying Authority that the driveway has been constructed in accordance with the approved plans and relevant conditions of Development Consent.

5. A certificate submitted by a Chartered Professional Engineer confirming to the satisfaction of the Principal Certifying Authority that the works in the public road reserve comply with Council requirements is to be provided with the Occupation Certificate application.
6. Prior to issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated. The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.
7. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
8. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
9. The dwelling shall have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
10. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

**F. Matters to be satisfied prior to the issue of Subdivision Certificate:**

Nil

**G. Advice:**

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.

5. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the *Environmental Planning and Assessment Act, 1979*. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
7. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act, 1979*, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

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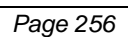
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## LOCALITY MAP



*Agenda for the Council Meeting to be held on 18 June 2012.*





dimensions and weights to be verified after its construction, and/or its discrepancies to be verified after its erection.

Approved by _____			Date _____	
No.	Number	Code	By	Date
C	ISSUED FOR COMPLAINT	00	01 JAN 92	
B	ISSUED FOR DEFECT APPROVAL	00	30 JAN 92	
A	ISSUED FOR DEFECT APPROVAL	00	09 JAN 92	

**VOTRAINT No. 104**  
for & on behalf of  
**CPB INVESTMENTS**

CD	ME	APR 15	JUN 15
<p><b>■ name</b>            CALZAD A MORTUO EN RD</p> <p><b>scale</b> 1:100 @ A, 1:200 @ A3</p>			

**cronepartners**  
architecture  
studios.

**PROJECT**  
Proposed Alterations and Additions  
12 Northview Road  
Palm Beach NSW 2106

**DRAWING BY**  
OVERALL NORTH ELEVATION

DEVELOPMENT APPLICATION	
CA 2224 A	DA 20 C
job no.	drawing no.



OVERALL NORTH ELEVATION





[illegible][illegible]OTRAINT No. 104  
or & on behalf of  
PB INVESTMENTS

name	checked	date	pdf date
	MS	Aug 10	Aug 10

1:100 @ A1, E200 @ A3

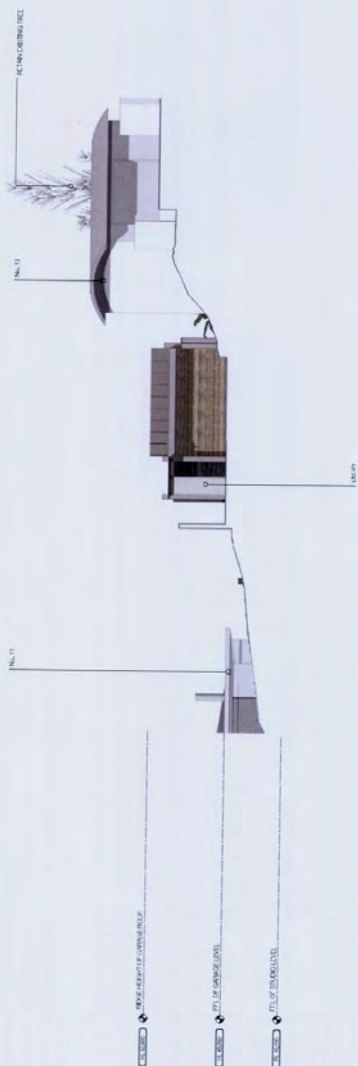
cronepartners  
architecture

Architecture  
studios.

Journal of Interpersonal Violence 26(10)

Northville Road  
Marm Beach NSW 2108

DEVELOPMENT APPLICATION
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A 2224 A | DA 23 | C  
DA 23 | C

OVERALL WEST ELEVATION