

4.0 COMPLIANCE TABLE

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

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
REF - Development Engineer					
B3.1 Landslip Hazard		The requirements of the Geotechnical Risk Management Policy for Pittwater, 2009 have been met.	Y	Y	Y
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			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			-	-	-

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			-	-	-
REF - Health					
B5.2 Wastewater Disposal			-	-	-
B5.3 Greywater Reuse			-	-	-
C5.17 Pollution control			-	-	-
REF - Natural Resources					
B1.4 Aboriginal Heritage Significance		<i>No apparent issues.</i>	Y	Y	Y
B3.5 Acid Sulphate Soils		<i>No issues- Acid Sulphate Region 5 only.</i>	Y	Y	Y
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land		Discussed in detail under Section 10 B4.5.	Y	Y	Y
C1.1 Landscaping			Y	Y	Y
REF - Planner					
EPA Act Section 147 Disclosure of political donations and gifts			Y	Y	Y
3.1 Submission of a Development Application and payment of appropriate fee			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			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
4.5 Integrated Development: Aboriginal Objects and Places			-	-	-
4.6 Integrated Development - Protection of the Environment			-	-	-

Control	Standard	Proposal	T	O	N
4.7 Integrated Development - Roads			-	-	-
5.3 Referral to NSW Department of Environment and Climate Change (DECC)			-	-	-
A1.7 Considerations before consent is granted			Y	Y	Y
B1.3 Heritage Conservation - General		No heritage concerns were raised.	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
C1.3 View Sharing	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties. The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.	Concern has been raised relating to potential view loss from adjoining properties at no's 11, 8 & 6 Karloo Parade. Discussed under Section 10 C1.3 later in this report.	Y	Y	N
C1.4 Solar Access	The main private open space and windows to the principal living area of the dwelling and adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.	Concern raised from adjoining property owner at no. 7 Karloo Parade regarding overshadowing of their first and ground floor living areas. Discussed further in Section 10 C1.4.	Y	Y	N
C1.5 Visual Privacy		Concern raised by residents of no. 11 & 5 Karloo Parade regarding visual privacy from adjoining bedrooms. Discussed further under Section 10 C1.5.	Y	Y	N
C1.6 Acoustic Privacy			Y	Y	Y
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			-	-	-
C1.12 Waste and Recycling Facilities			Y	Y	Y

Control	Standard	Proposal	T	O	N
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures			-	-	-
C1.17 Swimming Pool Safety		No swimming pool is proposed.	-	-	-
C1.19 Incline Passenger Lifts and Stairways			-	-	-
C1.23 Eaves	450mm minimum	450mm across all elevations.	Y	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure		The landscape plan is required to be amended prior to the issue of the Construction Certificate which deletes the proposed hedging and small tree species from the road reserve, as Council no longer permits hedging within road reserves where coastal views are present. Any new planting within the road reserve must incorporate turf or locally native groundcover species only (Cond. C6).	N	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run			Y	Y	Y
D10.1 Character as viewed from a public place	Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. Except in the Newport Commercial centre, parking structures must be located behind the front building line, preferably set back further than the primary building.	Concern raised by residents of no. 4 Karloo Parade regarding character as viewed from the street. New double garage is set forward the building line. Discussed further under Section 10 D10.1	N	Y	N
D10.4 Building colours and materials	Dark and earthy tones	Roof: Colourbond "Windspray" (compliant) Weatherboards: Dulux "Pale Earth" (non-compliant) FC Sheeting: Dulux "Warm neutral" (non compliant) External finishes considered to be in character with the coastal setting of Karloo Parade and considered acceptable in this regard.	N	Y	Y
D10.5 Height (excluding Newport Commercial Centre)	8.5m maximum	8.5m measured from NGL. The height, although compliant, is a maximum only and it is considered that the height can be reduced to improve provisions for view sharing and to reduce the bulk and scale of the development. A condition of consent is recommended which reduces the proposed maximum RL of 50.86 to a maximum of 49.90 and a reduced garage roof pitch of 23 degrees to improve provisions for view sharing, solar access and to reduce the bulk and scale as viewed from the public domain.	Y	Y	Y

Control	Standard	Proposal	T	O	N
D10.7 Front building line (excluding Newport Commercial Centre)	6.5m	Proposed double garage setback varies from nil- 3.3m where the north western corner abuts the front boundary. Proposed dwelling is setback 8.8-12.6m. Discussed further under Section 10 D10.7.	N	Y	Y
D10.8 Side and rear building line (excluding Newport Commercial Centre)	2.5m to at least one side; 1.0m for other side; & 6.5m rear.	1.8m southern side setback; 850mm northern side setback; & 15.9m rear (Eastern) side setback. The northern side setback is recommended to be conditioned a minimum 1m from the northern boundary (Cond. B20). The 1.8m southern side setback is supported on merit given that spatial separation via the existing right of carriage way running the extent of the southern boundary allows for adequate solar access and visual/acoustic privacy to the adjoining dwelling at no. 7 Karloo Parade.	N	Y	Y
D10.11 Building envelope	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.	The proposal result in a breach of the building envelope on the north eastern and south western elevations of the dwelling, which incorporates the eaves and a minor portion of the hipped gable roof form and the south western elevation of the garage, consisting of the roof over the walkway. Considered acceptable given that shade structures are permissible outside of the envelope, the 16.7 degree (30%) average cross fall of the site and that no adverse amenity impacts are considered to result from the non compliance.	N	Y	Y
D10.13 Site coverage - Environmentally Sensitive Land	40% maximum site coverage; & 60% minimum landscaped area.	38.46% (282.17sqm) Site coverage; & 61.54% (451.73sqm) Landscaped area.	Y	Y	Y
D10.14 Fences - General		No additional fencing is proposed.	-	-	-
D10.16 Construction, Retaining walls, terracing and undercroft areas	Undercroft areas shall be limited to a maximum height of 3.5 metres. Adequate landscaping shall be provided to screen undercroft areas.	The subsequent undercroft of the suspended double garage is 4.1m measured from NGL. It is considered that the undercroft area is able to be adequately landscaped as indicated on the landscape plan and not visible from the street or public place.	N	Y	Y
D10.18 Scenic Protection Category One Areas			Y	Y	Y

Control	Standard	Proposal	T	O	N
SEPP No 71 Coastal Protection		No development is located below Mean High Water Mark therefore referral to the Department of Planning is not required. The proposed development achieves the relevant aims and considerations within SEPP 71.	Y	Y	Y
SEPP (Building Sustainability Index: BASIX) 2004		BASIX Cert. No: 378747S.	Y	Y	Y
Other State Environmental Planning Policies (SEPPs)			-	-	-

*Issues marked with an **N** are discussed later in the report.

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

5.0 SITE DETAILS

The site is identified as Lot 25 in DP 12994, known commonly as 9 Karloo Parade, Newport. The site is irregular (trapezoidal) in shape and has a total area of 733.9m². The site is located on the low eastern side of Karloo Parade of which the land cross falls from the street at approximately 16.7 degrees (30%) towards the rear. The lot possesses a 16.51m frontage to the street and shares common residential boundaries to the north, east and a right of carriageway to the south. The site presently contains a two storey weatherboard dwelling with detached single garage located on the north western corner of the allotment.

The surrounding built form character consists of two and three storey contemporary style dwellings orientated to the east and west with aspects to the ocean. The streetscape of Karloo Parade is generally characteristic of a modified landscape in a coastal setting with views from the street to the ocean between dwellings and parking structures.

6.0 PROPOSAL IN DETAIL

The applicant seeks consent for the demolition of the existing dwelling and garage and construction of a new two storey dwelling, driveway and detached double garage incorporating the following:

- **Ground floor:** detached double garage with external access stairs, west facing winter terrace, study, open plan kitchen with dining and living room, bathroom, bedroom 1 with en-suite and rear east facing deck
- **Lower Ground floor:** bedroom 2, 3 & 4, family room, laundry, bathroom and east facing terrace; &
- **Other development:** Excavation up to 2.5m is required to accommodate the lower level for the proposed residence, an 8m dispersion trench is proposed to the rear of the site.

7.0 BACKGROUND

Development application N0285/11 was submitted to Council on the 2nd August, 2011 and notified to adjoining property owners in accordance with Council's policy from which five submissions were received. Two of the five submissions were received outside of the prescribed notification period following a one week granted extension. One submission was received outside of this notification period without a granted extension however has been considered in the assessment. The application was referred to Council's Development Engineer and Natural Resource Officer for comments.

Additional vertical solar access diagrams were received by the applicant on the 29th August, 2011 in relation to a meeting held between the applicant and adjoining neighbour at no. 7 Karloo Parade. Additional information was requested on the 19th October, 2011 to the effect of amending the dwelling to comply with the character of the Newport locality, finalising owner's consent and erecting height poles. Documentation in the form of owner's consent and a height pole survey was received on the 8th of December, 2011.

Preliminary objector meetings were conducted on the 10th, 13th and 19th of November, 2011 and again on the 14th December, 2011 to view the height poles from these properties.

The subject proposal was heard at a Development Unit meeting held on the 9th February, 2012 and was deferred by the panel for further consideration of issues raised by the Objectors and Applicant at the meeting.

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

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

Council's Natural Resources Officer has provided the following comments in relation to the proposal:

"The property contains a modified landscape typical of a domestic garden. The proposed works involve the demolition of the existing dwelling and construction of a new dwelling and garage. Trees exist on the site however the majority are not locally native species. An arborist report (Rain Tree Consulting June 2011) has been provided which assesses twelve (12) trees or groups of trees, of which eleven (11) are species which are currently exempt from Council's Tree Preservation Order, the other (Tree 1) being a Cheese Tree located on the road reserve. Trees 2 and 3 (palms) although exempt are also located on the road reserve. As indicated in the arborist report, all specimens on the subject property may be removed, however Trees 1, 2 and 3 located on the road reserve can be retained based on the proposed design as they are outside of the proposed driveway crossover.

The landscape plans (Impact Planners Pty Ltd Drawing Nos. 412-L1, L2 and L3 9th May 2011) provide a Schedule of Existing Trees which indicate all trees to be removed and retained. There are more trees indicated than those assessed in the arborist report, however all extra trees are also exempt species, and the plan is generally consistent in this respect.

*As the site is sloping, the rear yard will be terraced with a turfed area surrounded by massed plantings. The front yard will contain plantings of locally native shrubs and groundcovers, some of which are proposed to be planted in the road reserve area, including *Acmena smithii* and *Tristaniopsis laurina* which are small trees/hedging shrubs.*

Council is currently writing a policy on soft landscaping within road reserves and the potential blocking of iconic coastal views from public thoroughfares. The proposed landscaping in this road reserve area have the potential to block views from the street and as such are not permitted to be planted in the road reserve. The landscape plan is therefore required to be amended to delete the proposed hedging and small tree species from the road reserve. In addition, any hedging along the front boundary must be maintained at a height of 1 metre for the life of the development so as to not block coastal views from the public domain."

- **C1.3 View Sharing**

Concern has been raised relating to potential view loss from adjoining properties at no's 11, 8 & 6 Karloo Parade. Objector meetings on site were held at the respective properties potentially affected by the development and it was considered necessary that height poles be erected to indicate the extent of the view loss and height of the proposed eastern elevation, and the height and extent of the double garage. Following the request, height poles were erected and surveyed accordingly.

A detailed assessment of potential view loss as result of the proposal as a whole is considered essential as iconic views of Mona Vale headland from no. 11 Karloo Parade and higher value views such as land/ocean interface and crashing waves from no's 8 & 6 are currently enjoyed by the respective properties.

View Sharing is to be assessed in accordance with the provisions of C1.3 of Pittwater 21 DCP, and the established method of assessing view loss is based on the relevant Land and Environmental Court Planning Principle, the court decision *Tenacity Consulting Pty Ltd Vs Warringah Council* (2004) NSWLEC 140. In assessing the development against Tenacity principles the following is considered:

1. Iconic views are valued more importantly than views without icons, as are views with land and water interface, and whole views rather than partial views.
2. From what part of the property are the views obtained. Views from the front and back are more valuable than side views, and standing views easier to maintain than seated views.
3. The extent of the impact for the whole of the property. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.
4. 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.

Careful consideration has been given to the subsequent view loss as result of the proposed new dwelling and garage at 9 Karloo Parade, Newport with reference to the submitted plans, height pole survey and site inspections of the objecting and subject properties (with height poles erected). The view loss impacts from adjoining properties have been assessed in accordance with the relevant planning principal and are detailed as follows:

1. Nature of the Views Affected

No. 11 Karloo Parade

The nature of the views to be affected from the dwelling at 11 Karloo Parade is a complete obstruction of the Mona Vale Headland, breaking waves beneath and the ocean (Fig. 1).



The whole view of the headland, breaking waves and ocean is considered to be of high value in accordance with the planning principal.

Fig. 1 Standing view of the Mona Vale Headland and Ocean across the existing roof of no. 9 Karloo Parade from the centre of the front terrace at 11 Karloo Parade. Red line indicates approximate line of proposed ridge.

No. 8 Karloo Parade

The nature of the views to be affected from the dwelling at 8 Karloo Parade is a portion of Bungan Beach and ocean interface (tidal). It is noted that views of land/water interface are considered to be valuable however the view is less valued in this instance given the partial nature of the view (Fig. 2).



Fig. 2 Standing view of Bungan Beach from the rear first floor balcony of no. 8 Karloo Parade. Red line indicates the approximate eastern height and extent of the proposed roof at no. 9 Karloo Parade.

No. 6 Karloo Parade

The nature of the view to be affected from the dwelling at no. 6 Karloo Parade is a filtered portion of Bungan Beach and breaking/surging waves. The view is considered to be of low value given that this view is predominantly obscured by existing vegetation, namely a large conifer tree and screen planting within the front setback of no. 9 Karloo Parade (Fig. 3).



Fig. 3 Partially obstructed standing view of Bungan Beach and surging waves from first floor balcony of no. 6 Karloo Parade.

2. Part of the Property that Views are Obtained/Affected

No. 11 Karloo Parade

The affected views obtained from the dwelling at no. 11 Karloo Parade is primarily from the outdoor courtyard orientated at the front (west) of the property accessible from a bedroom which also currently enjoys the views to be affected. The view corridor is accessed from the side of the property and across the side boundary of no. 9 Karloo Parade from a standing position.

Unobstructed views of the ocean, Bungan Beach and the Mona Vale Headland remain unaffected by the proposal from the east (rear) facing principal internal and external living areas on the first floor and lower level private open space (P.O.S) area.

No. 8 Karloo Parade

The affected views obtained from the dwelling at no. 8 Karloo Parade are enjoyed from a standing position on the first floor balcony accessed from the principal internal living area and is considered to be the principal outdoor space of the dwelling.

The property enjoys 180 degree views of the ocean and a view towards the south east of the Mona Vale Headland as well as views of southern Bungan Beach from the principal P.O.S (east facing deck) partially obscured by landscaping on the subject site and that of the properties adjacent to the beach below. Views of the ocean are also enjoyed from internal living areas such as the living room, dining room and kitchen and remain unaffected by the proposal. Views of Bungan Beach from the living room are currently obstructed by existing landscaping on the subject site and those of adjoining properties below.

No. 6 Karloo Parade

The affected views obtained from the dwelling at no. 6 Karloo Parade is primarily from the first floor balcony orientated to the east, and to a minor extent, from the adjoining internal dining room. The affected view corridor is over the top of the subject site at no. 9 Karloo Parade and is accessed from a standing position.

180 degree views of the ocean and Mona Vale Headland to the south east remain unaffected by the proposal from the property's principal P.O.S and 180 degree views of the ocean are retained from internal living areas on the first floor (orientated to the east). Views to Bungan Beach and associated surging waves are partially obstructed by landscaping within the front setback of no. 9 Karloo parade (proposed to be removed to accommodate the garage) and rear yard of the subject site (Fig. 4).



Fig. 4 Seated and standing views of Bungan Beach and surging waves currently obstructed by existing vegetation from the living room of no. 6 Karloo Parade.

A condition of consent is recommended to ensure the new landscaping within the front setback does not exceed 1m in height to preserve coastal views from the public domain (**Cond. B13**).

3. Extent of the Impact

No. 11 Karloo Parade

The obstructed views from the external courtyard of no.11 Karloo Parade is otherwise retained from the principal private open space and internal living area orientated to the rear (east) of the dwelling. It is noted that, although these views are valuable in nature, they are accessed across the side boundary of no. 9 Karloo Parade. According to the planning principal, views enjoyed across the side of an adjoining property are harder to retain than those accessed from the front or rear. In this regard, the view loss is considered moderate.

No. 8 Karloo Parade

The obstructed views of Bungan Beach from the principal private open space of no. 8 Karloo Parade is moderate given that beach views further to the south remain unobstructed. It is considered that view sharing is achieved in this regard (Fig. 5).



Fig. 5 Views of Bungan Beach to the south are retained from the P.O.S of no. 8 Karloo Parade.

No. 6 Karloo Parade

The obstructed views consisting of a portion of Bungan Beach and surging waves from the Principal living areas of no. 6 Karloo Parade are considered minor given that views of the beach/ocean interface are retained further south and that these views are currently obscured via existing vegetation proposed to be removed as previously discussed. It is also noted that the location of the proposed garage will require the removal of the dense vegetation which currently obstructs the beach from this property, and will effectively open up a new view corridor of the beach to the south east.

4. Reasonableness of the Proposal Causing the Impact

The proposed development results in several non-compliances with the Locality Specific Development Controls of the Newport locality, namely Front Building Line, Building Envelope and Side Setbacks. It is noted as part of this assessment that there is no clear defacto building line across the low side of Karloo Parade, however the proposal is sited appropriately given the steep gradient of the site and a precedent exists for parking structures built along the front boundary.

Due to proposed increased ridgeline (RL 50.86) projected further eastward to that of the existing dwelling, there will be some obstruction of beach/ocean interface views from the adjoining dwellings on the high side of Karloo Parade and significant views of the Mona Vale headland and Ocean from the property to the north of the subject site at no. 11 Karloo Parade.

In respect to the significant view loss from 11 Karloo Parade, the views to the headland remain unaffected by the proposal from all aspects of the property's principal private open space and the dwelling enjoys sweeping unobstructed views of the ocean and Bungan Beach from both internal and external living areas.

The non-compliances with the Front Building Line and Building Envelope are discussed in the compliance table of this report and both variations to the control are found to be reasonable subject to conditions to reduce the pitch of the garage roof (**Cond. B18**) and height of the proposed dwelling (**Cond. B19**).

Ultimately it should be recognised that a view corridor obtained across a side boundary is unlikely to be able to be retained unless the proposal were to be restricted to its existing footprint. In accordance with assessment principles of *Tenacity v Warringah*, this would not be a reasonable expectation for the development of the land at 9 Karloo Parade.

Summary of Assessment

Coastal views obtained from internal and external living areas by residents of no's 6, 8 & 11 Karloo Parade will be subsequently impacted as result of the proposal. Given that the views lost are not whole views, obtained from other aspects of living areas and/or only partially obstructed, the proposal is considered reasonable in terms of view sharing.

Overall, the proposed development does not significantly impact views accessible from the principal private open spaces and internal living areas of the adjoining properties, is sited appropriately given the restrictive site constraints and results in only minor non-compliances, namely with the building envelope control and side setback controls, of which impacts are mitigated through recommended conditions in the draft determination. As such, it should be considered that this proposal achieves an acceptable view sharing scenario subject to conditions.

- **C1.4 Solar Access**

Concern raised from adjoining property owner at no. 7 Karloo Parade regarding overshadowing of the first and ground floor living areas. The 3 dimensional computer modeled shadow diagrams provided indicates that a minimum of 3 hours solar access is achieved to internal and external living areas of the adjoining dwelling between 9am and 3pm on June 21st.

The windows to internal living areas on the first floor of the northern elevation are not overshadowed until 2pm mid winter and at least 50% of the first floor deck receives a minimum 3 hours of sunlight between 9am and 3pm on June 21st as indicated on the vertical shadow diagram submitted with the application. The proposal is considered to achieve the requirements of the control and considered acceptable.

- **C1.5 Visual Privacy**

Concern raised by residents of no. 11 Karloo Parade regarding visual privacy from their ground floor master bedroom via the proposed first floor balcony. Given that both the bedroom window and the proposed verandah are orientated directly to the east, no impact to the privacy of the subject and adjoining residents are considered to result.

Concern raised by resident of no. 5 Karloo Parade regarding loss of visual privacy from their bedroom via the proposed first floor bedroom on the southern elevation.

It is noted that that no. 5 is two properties south of the subject dwelling and it is considered that there is substantial spatial separation (>9m) between the windows. All private open space areas are orientated to the east and the west where no privacy impacts occur. Windows on both the northern and southern elevations are offset to those of adjoining properties. The proposal is considered satisfactory in this regard.'

-

D10.1 Character as viewed from a public place

Concern raised by residents of no. 4 Karloo Parade regarding character as viewed from the street.

The proposed new double garage is located forward the building line and does not satisfy the technical requirements of the control which states that parking structures should be located behind the front building line, preferably set back further than the primary building.

This merit assessment takes into consideration the following factors and control outcomes:

- The restrictive topography constraint which limits the setback and siting of parking structures on the property
- The proposed garage is less than 50% of the lot width (37%) and less than 7.5m wide (6m)
- The floor of the parking structure is sited at RL 49.90, with a large portion below street level and is effectively viewed at human scale from the public domain
- Precedent set on the low side of Karloo Parade indicating existing parking structures, both double carports and double garages sited well forward the building line, and
- Recommended condition adopted in the draft consent to reduce the pitch of the proposed garage roof form from 28 degrees down to a maximum of 23 degrees (**Cond. B18**). This will mitigate the non compliance in respect to reducing the bulk and scale of the built form as viewed from the street. It is considered that lowering the garage is not appropriate given the low level gradient required to achieve vehicular access.
- The desired future character of the Newport locality is:

"...Future development will maintain a height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development... Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance..."

The proposal is within the 8.5m height restriction and essentially below canopy tree level. Although the new dwelling is not necessarily "stepped" to accommodate the slope as such, it is viewed as a two storey development from Bungan Beach with minimal street presence from Karloo Parade due to the nature of the slope and deep setback (8.8-12.6m).

- The subsequent relocation of the parking structure to the south western corner of the site will open up new view corridors to the ocean from the street and adjacent properties on the high side of Karloo Parade due to the subsequent demolition of the existing garage and removal of dense vegetation currently obstructing views to the east.
- A condition is to be adopted in the draft consent to ensure any hedging along the front boundary be maintained at a height of 1 metre for the life of the development so as to not block coastal views from the public domain and is also conditioned accordingly (Cond. B13).

Considering the above merit assessment, the proposal readily achieves the outcomes of the control subject to recommended conditions and is supported in this regard.

•

D10.7 Front building line (excluding Newport Commercial Centre)

As previously discussed in depth under D10.1 above, the proposed double garage is setback nil to 3.3m from the front boundary and does not comply with the minimum 6.5m setback as required by the control. A variation in the clause is warranted as the proposed new dwelling complies with the minimum setback requirement and the steep site constraint restricts a compliant setback for off street parking structures. Given the outcome of the view loss assessment under C1.3 which concluded that reasonable view sharing will be achieved subject to conditions, the impact is considered reasonable and the variation supported in this regard.

11.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan 1993, draft Pittwater 21 LEP and Pittwater 21 DCP and other relevant Council policies.

The proposed new dwelling and garage results in numerous non-compliances with Pittwater 21 DCP, however upon merit assessment, is considered to achieve the respective control objectives and the desired character of the Newport locality.

Although the proposal will obstruct a portion of the coastal views currently enjoyed by adjoining properties, the impacts of which have been thoroughly assessed, it is considered that view sharing is essentially achieved in accordance with the relevant planning principal, subject to recommended conditions.

The dwelling and associated parking structure are designed and sited appropriately given the steep constraint of the site and recommended conditions to reduce the bulk and scale from the street adequately addresses the concerns raised by adjoining properties in this regard.

Accordingly, the application is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0285/11 for a new two storey dwelling, garage and driveway at 9 Karloo Parade, Newport subject to the attached draft conditions of consent.

Report prepared by

Linda Rodriguez
PLANNER

DRAFT CONSENT NO: N0285/11

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

Applicants Name and Address:
TIMOTHY & TRISH MURPHY
4 SIMONE CRESCENT
STRATHFIELD 2135

Being the applicant in respect of Development Application No **N0285/11**

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 **N0285/11** for:

Demolition of existing and construction of a new two storey dwelling and garage

At: 9 Karloo Parade, Newport (Lot 25 DP 12994)

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 numbered: DA-01 & DA-02 Dated March 2011, SK-01 Dated April 2011 & DA-03 Dated July 2011 Prepared by The Design Section Pty Ltd Architects, Tree Assessment & Development Impact Report Dated June 2011 Prepared by Rain Tree Consulting, Geotechnical Risk Management Report Dated 6th June 2011 Referenced: MM 27626 Prepared by Jack Hodgson Consultants Pty Ltd. BASIX Certificate numbered: 378747S Dated 9th June 2011.

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,
 - 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 Jack Hodgson Consultants 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. The Stormwater Harvesting and Reuse Scheme shall be maintained as appropriate in accordance with best practice to ensure optimum performance of the stormwater treatment system.
4. 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.
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 three (3) locally native canopy trees are to be planted onsite to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and the Native Plants for Your Garden link on Council's website http://www.pittwater.nsw.gov.au/environment/species_lists. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
8. 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 onsite outside approved landscape zones is to be consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website http://www.pittwater.nsw.gov.au/environment/species_lists
10. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
11. No environmental weeds are to be planted on the site. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
12. 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.
13. Any hedging planted along the front boundary line must be maintained at approximately one (1) metre in height so as to maintain coastal views from the public domain.
14. 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.
15. 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.
16. 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.
17. Roofs to all structures are to be of dark or mid grey, brown and/or green tones only. No white or light coloured roofs are permitted.
18. The pitch of the garage roof is not to exceed 23 degrees to reduce the bulk and scale of the development as viewed from the public domain.
19. The height of the dwelling is not to exceed RL 49.90 to improve provisions for view sharing and solar access to adjoining properties.
20. The dwelling is to be setback a minimum of 1 meter from the northern boundary when measured from any point of the northern elevation (vertical wall) of the building.
21. 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.

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 B5.7 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. 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.

6. The landscape plan is required to be amended prior to the issue of the Construction Certificate which deletes the proposed hedging and small tree species (*Acmena smithii* "minor" and *Tristaniaopsis laurina* "Luscious") from the road reserve, as Council in accordance with a new Streetscape policy no longer permits hedging within road reserves where coastal views are present. Any new planting within the road reserve must incorporate turf or locally native groundcover species only.
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. Where the building does not provide minimum 450mm eaves to any roof form, the proposal is to be modified to provide eaves a minimum of 450mm in width.
10. The finished surface materials, including colours and texture of any building, shall blend with the surrounding and/or natural materials. Colours and materials shall be non-glare of low reflectivity. A satisfactory specification which achieves this shall be submitted to the Accredited Certifier or Council with the Construction Certificate application in the form of a *Schedule of Finishes*.
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. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
2. 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.
3. 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.
4. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

5. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
6. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
7. No skip bins or materials are to be stored on Council's Road Reserve.
8. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - The Builder's name, Builder's telephone contact number both during work hours and after hours.
 - That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - That no skip bins or materials are to be stored on Council's Road Reserve.
 - That the contact number for Pittwater Council for permits is 9970 1111.
9. 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 June 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.
10. 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.
11. A stamped copy of the approved plans is to be kept on the site at all times, during construction.

12. 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.
13. 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 give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. Prior to 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. 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.
5. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
6. Street numbers are to be affixed to the building prior to occupation.
7. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

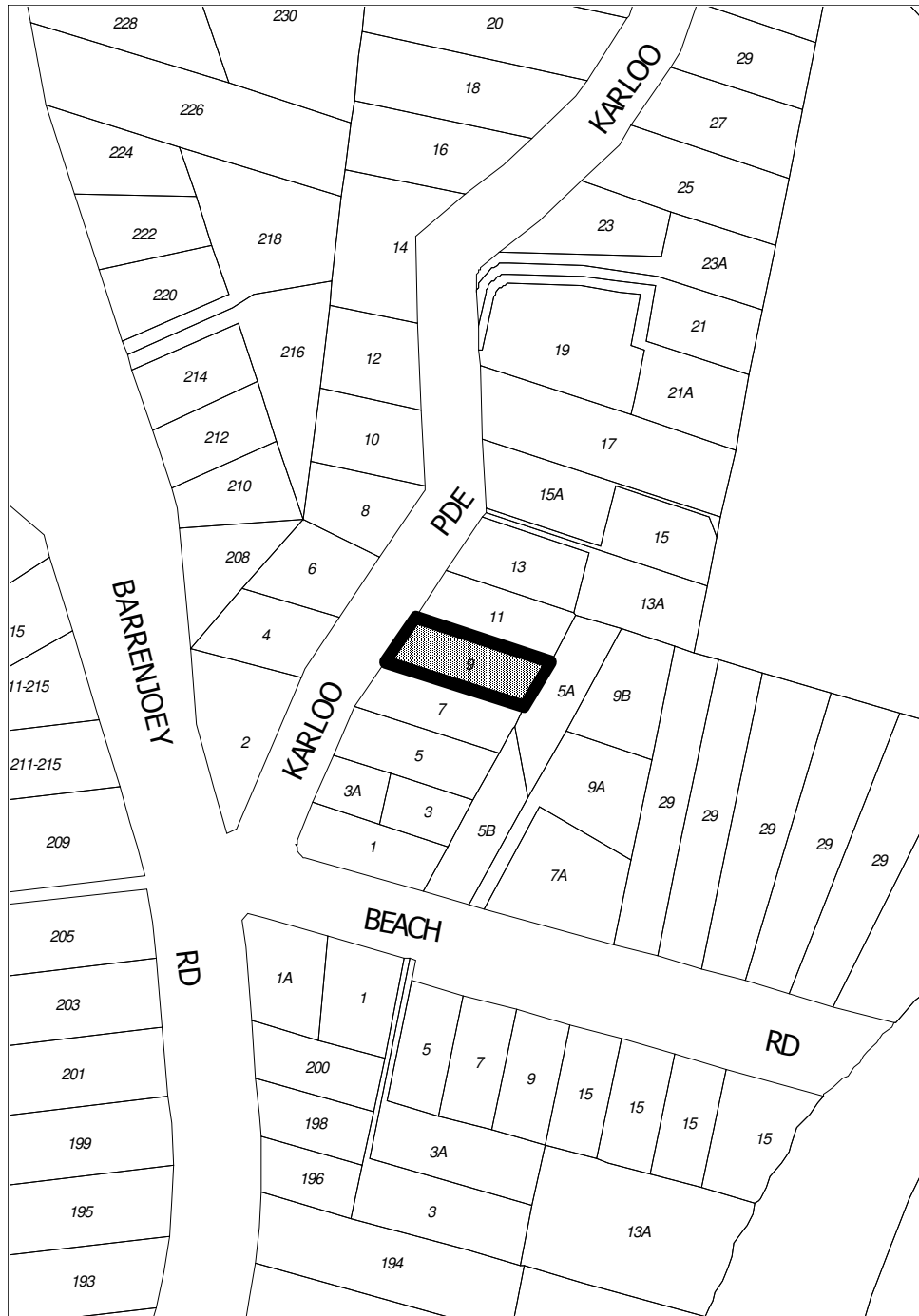
F. Matters to be satisfied prior to the issue of Subdivision Certificate:

NIL.

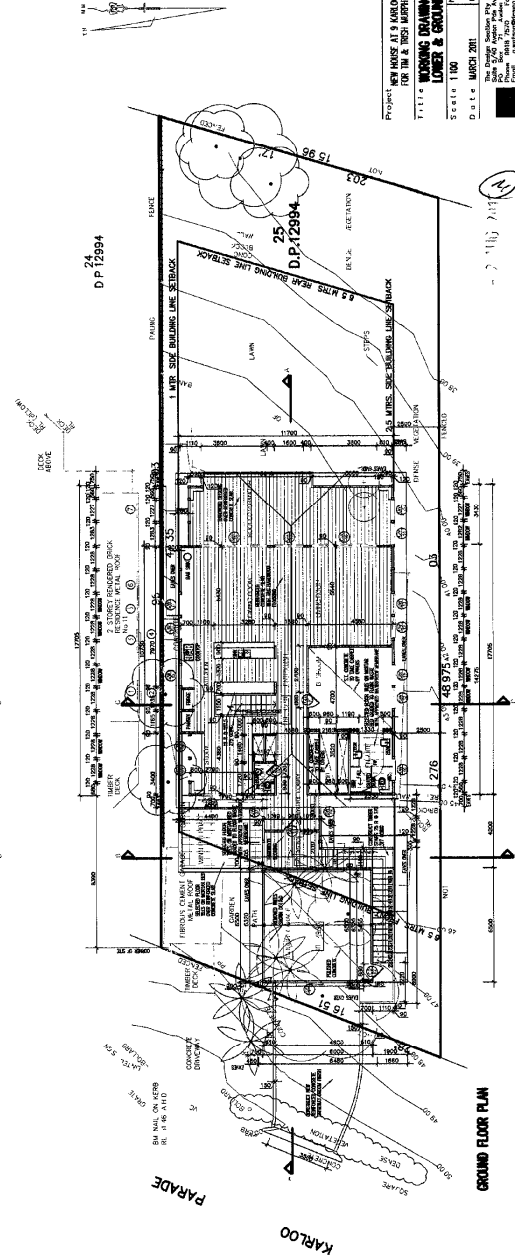
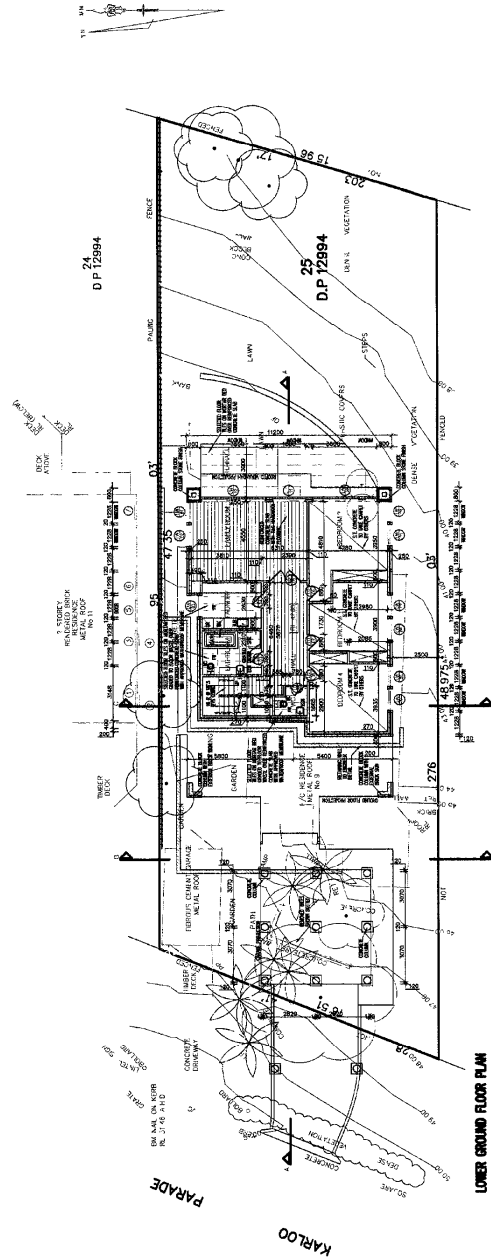
G. Advice:

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 6 months 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 then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

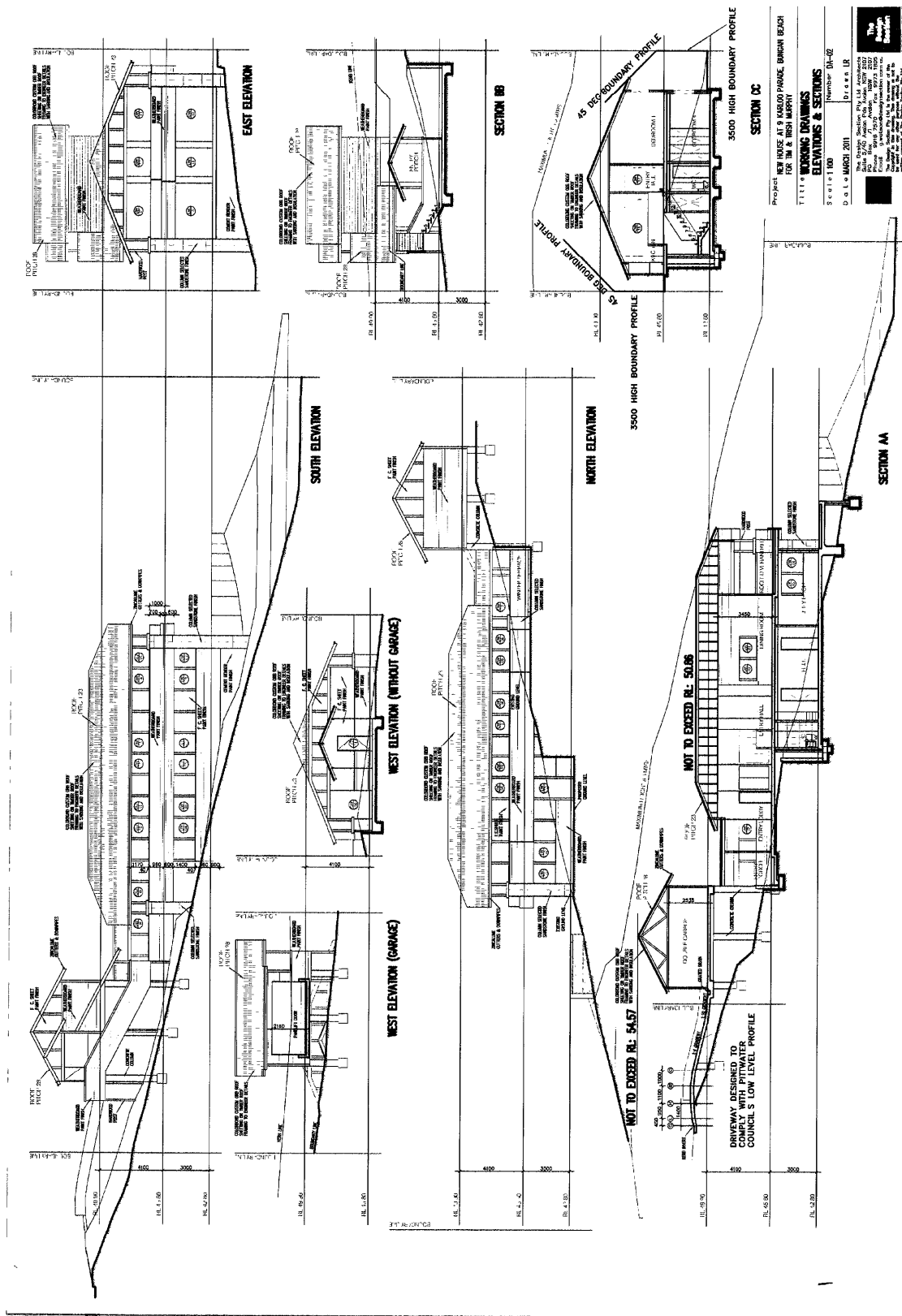
LOCALITY MAP



NOTIFICATION PLANS



Project	NEW HOUSE AT 9 KARLOO PHASE, LINCOLN BEACH
Title	WORKING DRAWINGS
Scale	1:100
Date	MARCH 2011
Drawn by	DAVID
Checked by	DAVID
Number	100
Revision	100



C11.4 Planning Proposal - Preservation of trees or vegetation

Meeting: Planning an Integrated Built Environment Committee

Date: 19 March 2012

STRATEGY: Vegetation Strategy

ACTION: Review, update and implement development controls and conditions regarding landscape vegetation and bushland management

PURPOSE OF REPORT

The purpose of this report is to allow Council to formally consider including a new clause concerning the preservation of trees and bushland vegetation into the *Pittwater Local Environmental Plan 1993* (Pittwater LEP). This will strengthen Council's ability to control and manage the removal of trees and/or bushland vegetation, which is essential to conserving biodiversity in and the amenity of the Pittwater Local Government Area (LGA).

To facilitate the proposed amendment to the Pittwater LEP, this report seeks Council's endorsement to forward the attached Planning Proposal to the Department of Planning & Infrastructure (DP&I) for assessment and Gateway Determination in accordance with the requirements of Section 56 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). Refer to **Attachment 1** for the Planning Proposal.

1.0 BACKGROUND

- 1.1 In December 2008 Council was unable to successfully prosecute a case involving bushland clearing due to confusion regarding the definition of bushland as outlined in the Tree Preservation Order (1996) at that time. Consequently in September 2009, Council resolved to amend the Tree Preservation Order to remove reference to bushland.

Having regard for the above and to provide the Council with capacity to prosecute illegal clearing and seek reinstatement of illegally cleared trees or vegetation through restoration orders, and to introduce greater certainty into the preservation of trees and vegetation in Pittwater, it is proposed to amend both the Pittwater LEP and the Pittwater 21 Development Control Plan (DCP).

2.0 ISSUES

2.1 Local Environmental Plan

- 2.1.1 With regard to amending the Pittwater LEP, on 17 October 2011, the Planning an Integrated Built Environment Committee resolved (inter alia):

- ‘2. That Council not process future individual Planning Proposals other than through the Pittwater Standard Instrument LEP process unless in exceptional circumstances, being demonstrated public benefit, demonstrated hardship, environmental preservation or as contained with the Warriewood Valley Strategic Review area.

3. *All individual Planning Proposals submitted during the period of preparation of the Pittwater Standard Instrument LEP be initially reported to Council for notation in relation (2) above. Noting that it will remain open to Council to lift the moratorium in exceptional circumstances being demonstrated public benefit, demonstrated hardship or environmental preservation.'*

The subject Planning Proposal is considered to meet the exceptional circumstances criteria as it's intended outcome is to protect trees and bushland vegetation in Pittwater (environmental preservation), which will ultimately result in a public benefit.

It is therefore recommended that Council consider the subject Planning Proposal and endorse the recommendation of this report to commence the statutory process for amending the Pittwater LEP.

- 2.1.2 Currently all Councils in New South Wales are required to prepare a new LEP in line with the Standard Instrument LEP template. This provides an opportunity to regularise tree and vegetation preservation and removal processes.

It is noted that Pittwater's draft Standard Instrument LEP is expected to be exhibited in mid 2012. However having regard for the current uncertainty surrounding the protection of bushland in Pittwater, it is considered prudent to proceed with the amendment to the current LEP, rather than wait for the adoption of Pittwater's draft Standard Instrument LEP.

It is therefore proposed that the text from Clause 5.9 of the Standard Instrument LEP (Preservation of trees or vegetation) (refer to **Attachment 2**), which is a mandatory clause, be incorporated into the Pittwater LEP in place of the current clause for the preservation of trees (Clause 41) (refer to **Attachment 3**).

2.2 Development Control Plan

- 2.2.1. Clause 5.9 of the Standard Instrument LEP states that it applies to '*...species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan...*' As such, a new control has been drafted for inclusion in the Pittwater 21 DCP, where the terms 'tree' and 'bushland' are prescribed.

The new draft control will be facilitated through the current review of the Pittwater 21 DCP, which will be reported to Council in March 2012. It is anticipated that the new control will be in place prior to the amendment to the Pittwater LEP being published on the NSW Legislation website.

Council staff consider that Clause 5.9 of the Standard Instrument LEP, along with the draft control for the Pittwater 21 DCP, is the best means for rectifying and modernising the current situation, and ensuring the preservation of trees and vegetation in Pittwater. Further, when it comes time to implementing Pittwater's draft Standard Instrument LEP, standard Clause 5.9 will already be in use. As such, the processes involved in tree and/or vegetation pruning and/or removal under the Standard Instrument LEP will already be in place.

2.3 Assessment

- 2.3.1 The day after the amendment to the Pittwater LEP is published on the NSW Legislation website, the current Tree Preservation and Management Order (TPMO) will automatically be repealed.

The proposed amendment to the Pittwater LEP, and concurrent amendment to the Pittwater 21 DCP, provides that if the removal of a tree and/or bushland vegetation is proposed as part of a Development Application (DA) for another purpose (such as a new dwelling), the tree and/or bushland vegetation removal will be assessed as part of that process. However, if it does not form part of a DA, a Tree and Bushland Vegetation Removal Application form would need to be submitted to Council. A Tree and Preservation Officer would then assess the application and either issue a permit or refuse the application.

The existing assessment provisions for tree and/or bushland vegetation removal applications will remain largely unchanged. The existing Tree Removal Application form however, will be amended to include bushland vegetation removal works.

All relevant matters, such as heritage or threatened species, will still be considered regardless of the application type (e.g. a DA, a permit or an assessment under Part 5 of the EP&A Act).

2.4 Planning Proposal

2.4.1 When a Planning Proposal is lodged, preliminary non-statutory notification is usually undertaken in order to gauge the view of the community. In this case, preliminary non-statutory notification is not considered necessary for the following reasons:

- Pittwater's *2020 Strategic Plan – Our Sustainable Future* specifically includes the following objectives:

'To conserve and enhance biodiversity through appropriate land use and development controls...To recognise bushland, landscape and vegetation in land use allocation and development controls... To halt the loss of biodiversity and advance its recovery'

And the following Strategic Initiatives:

'Develop planning controls to ensure biodiversity principles are integrated into and applied to development and land use...Review, update and implement development controls and conditions regarding landscape vegetation and bushland management'

Which Council endorsed at its meeting of 21 April 2008.

- Having regard for the current uncertainty surrounding the protection of bushland in Pittwater, it is considered prudent to proceed with the amendment to the current LEP as soon as possible
- The Planning Proposal will result in a net community benefit by strengthening the controls surrounding tree and bushland vegetation removal, and thereby conserve the biodiversity and maintain the natural amenity of the Pittwater LGA
- The Planning Proposal will not result in any detrimental impact to the Pittwater community or the environment

2.4.2 If Council endorses to progress the subject Planning Proposal, it will be forwarded to the DP&I for assessment and Gateway Determination. If the DP&I decides to progress the Planning Proposal, community consultation will be undertaken in accordance with Section 57 of the EP&A Act (refer to **Attachment 4** for a diagram outlining how a LEP is made under Part 3 of the EP&A Act).

Given that the Planning Proposal will apply to the whole Pittwater LGA, it is considered inappropriate to send letters to all landowners.

The following is proposed to advise residents that the subject Planning Proposal is on public exhibition:

- An advertisement in the Manly Daily
- A letter to all landowners of non-urban land (as they do not receive the Manly Daily)
- A letter to all registered community groups in Pittwater
- Information on the 'Documents on exhibition' page on Pittwater Council's website

The public exhibition period will extend for 28 days or as otherwise specified in the Gateway Determination.

3.0 FORWARD PATH

- 3.1 The Planning Proposal will be forwarded to the DP&I for assessment and Gateway Determination. The Gateway Determination will advise whether or not the Planning Proposal should proceed. If it is agreed that the Planning Proposal should proceed, the Gateway Determination will include requirements and timeframes for the remainder of the process for amending the Pittwater LEP.
- 3.3 The Planning Proposal will then go on public exhibition, and a report will be presented to Council on the outcome of the Gateway Determination and subsequent community consultation including any submissions received.
- 3.4 The Planning Proposal will then be forwarded to the DP&I for amending the Pittwater LEP.
- 3.5 The new draft control will be facilitated through the current review of the Pittwater 21 DCP, which will be reported to Council in March 2012.

4.0 SUSTAINABILITY ASSESSMENT

4.1 Supporting & Connecting our Community (Social)

- 4.1.1 Pittwater's natural bushland and treed environment is a major reason why people want to live and work in Pittwater. The protection of the environment provides a common focus along with community interaction through volunteer environmental programs such as bush regeneration.

4.2 Valuing & Caring for our Natural Environment (Environmental)

- 4.2.1 Incorporating text from Clause 5.9 (Preservation of trees or vegetation) of the Standard Instrument LEP into the Pittwater LEP and incorporating provisions regarding bushland preservation in the Pittwater 21 DCP will allow Council to legally enforce protection of bushland as well as trees in the Pittwater LGA.

4.3 Enhancing our Working & Learning (Economic)

- 4.3.1 The Pittwater environment, in particular the preservation of its bushland and treed canopy, is a fundamental part in achieving a sustainable Pittwater economy.

4.4 Leading an effective & Collaborative Council (Governance)

- 4.4.1 Incorporating text from Clause 5.9 (Preservation of trees or vegetation) of the Standard Instrument LEP into the Pittwater LEP and incorporating provisions regarding bushland preservation in the Pittwater 21 DCP will allow Council to legally enforce protection of bushland as well as trees in the Pittwater LGA.

4.5 Integrating our Built environment (Infrastructure)

- 4.5.1 Pittwater's vision seeks to preserve its treed and bushland character in its urban context, which is maintained through the proposed amendment to the Pittwater LEP and Pittwater 21 DCP.

5.0 EXECUTIVE SUMMARY

- 5.1 The purpose of this report is to allow Council to formally consider including a new clause concerning the preservation of trees and vegetation into the *Pittwater Local Environmental Plan 1993* (Pittwater LEP). This will strengthen Council's ability to control and manage the removal of trees and/or vegetation, which is essential to conserving biodiversity in and the amenity of the Pittwater Local Government Area (LGA).
- 5.2 The attached Planning Proposal (**Attachment 1**) proposes to incorporate the text from Clause 5.9 (Preservation of trees or vegetation) of the Standard Instrument LEP into the current Pittwater LEP in place of the current clause for the preservation of trees (Clause 41).
- 5.3 To facilitate the proposed amendment to the Pittwater LEP, this report seeks Council's endorsement to forward the attached Planning Proposal to the DP&I for assessment and Gateway Determination in accordance with the requirements of Section 56 of the *Environmental Planning & Assessment Act 1979* (EP&A Act).
- 5.4 The moratorium imposed on 17 October 2011 needs to be lifted in order to progress the subject Planning Proposal as an exceptional circumstance.
- 5.5 Clause 5.9 of the Standard Instrument LEP states that it applies to '*...species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan...*' As such, a new control has been drafted for inclusion in the Pittwater 21 DCP, where the terms 'tree' and 'bushland' are prescribed. The new draft control will be facilitated through the current review of the Pittwater 21 DCP, which will be reported to Council in March 2012.
- 5.6 The day after the amendment to the Pittwater LEP is published on the NSW Legislation website, the current Tree Preservation and Management Order (TPMO) will automatically be repealed.

RECOMMENDATION

- 1 That Council endorse the statutory process to amend the *Pittwater Local Environmental Plan 1993* to include the text from Clause 5.9 (Preservation of trees or vegetation) of the Standard Instrument LEP.
- 2 That Community Consultation is carried out in accordance with any Gateway Determination issued by the Department of Planning and that the outcomes of the community consultation process are reported to Council.
- 3 On the grounds of public benefit and environmental preservation the Council endorse the lifting of the moratorium imposed on 17 October 2011 and progress the subject Planning Proposal.

Report prepared by
Kelly Wilkinson, Senior Strategic Planner

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT



PLANNING PROPOSAL

To amend the Pittwater Local Environmental Plan 1993 by including a clause for the preservation of trees or vegetation

Prepared By Pittwater Council

PART 1 OBJECTIVES OR INTENDED OUTCOMES

The intended outcome of this Planning Proposal is to strengthen the controls concerning the protection of trees and vegetation in the Pittwater Local Government Area (LGA) to halt the loss of vegetation through illegal clearing, in order to enhance and conserve biodiversity.

PART 2 EXPLANATION OF PROVISIONS

Amend the *Pittwater Local Environmental Plan 1993* (Pittwater LEP) by incorporating the text from Clause 5.9 of the Standard Instrument LEP (Preservation of trees or vegetation) (refer to Appendix 1) in place of the current clause in the Pittwater LEP for the preservation of trees (Clause 41) (refer to Appendix 2 for Clause 41 and Clause 8 of the *Environmental Planning and Assessment Model Provisions 1980*).

Amendments to Clause 6 (Model Provisions) and the Model Provisions adopted through the Pittwater LEP will also be required as part of this proposal. The amendments involve:

- Clause 6 'Model Provisions' – delete (2)(a1) and amend (1)(b) by inserting '8'
- Model Provisions – delete Clause 8 of the Model Provisions

Refer to Appendix 3 for Clause 6 of the Pittwater LEP.

Clause 5.9 of the Standard Instrument LEP states that it applies to '*...species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan...*'. As such, a new control has been drafted for inclusion in the Pittwater 21 Development Control Plan (Pittwater 21 DCP). The new control is being facilitated through the annual house-keeping review of the Pittwater 21 DCP, which is anticipated to be in place prior to this Planning Proposal being published on the NSW Legislation website.

PART 3 JUSTIFICATION

A Need for the Planning Proposal

(A1) Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is, first and foremost, in response to incidences of illegal clearing of bushland within the Pittwater LGA. As a result, *Pittwater's 2020 Strategic Plan – Our Sustainable Future* (Pittwater's Strategic Plan) incorporates the need to preserve our natural environment through land use and development controls. Several relevant objectives include:

'To conserve and enhance biodiversity through appropriate land use and development controls...To recognise bushland, landscape and vegetation in land use allocation and development controls'

In order to achieve such objectives, the following strategic initiative was specifically identified in Pittwater's Strategic Plan:

'Review, update and implement development controls and conditions regarding landscape vegetation and bushland management'

(A2) Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Currently Clause 41 of the Pittwater LEP refers to Clause 8 (Preservation of Trees) of the *Environmental Planning and Assessment Model Provisions 1980*, which both make reference to Council's Tree Preservation and Management Order. However, Council's current Tree Preservation and Management Order (gazetted in October 2009) does not protect bushland from illegal clearing. As the Pittwater LEP already addresses tree preservation, an amendment to strengthen the LEP is considered the best means to remedy this situation.

Clause 8 of the Model Provision only makes provision for '*...preserving existing amenity...*', whereas objective of Clause 5.9 of the Standard Instrument LEP is: '*...to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation...*'

Clause 5.9 of the Standard Instrument LEP also states that it applies to '*...species or kinds of trees or other vegetation that are prescribed...by a development control plan...*'

Strengthening Pittwater's LEP by including an objective, such as the one within Clause 5.9 of the Standard Instrument LEP, as well as a reference to Pittwater's DCP where the terms 'tree' and 'bushland' are prescribed, is considered the best means of achieving the intended outcome of this Planning Proposal.

A further advantage of utilising the text from Clause 5.9 of the Standard Instrument LEP is when it comes time to implementing Pittwater's Standard Instrument LEP, the standard Clause 5.9 will already be in use. As such, the processes involved in tree and/or bushland pruning and/or removal under the Standard Instrument LEP will already be in place.

(A3) Is there a net community benefit?

A net community benefit will result from the subject Planning Proposal as it intends to protect Pittwater's natural bushland and treed environment, which is a unique characteristic of the Pittwater LGA, and is a key reason why people want to live and work in the area. Protecting Pittwater's natural environment will maintain the natural beauty and amenity of the LGA, being of great benefit to the quality of life of the Pittwater community as well as future generations.

B Relationship to Strategic Planning Framework

(B1) Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Metropolitan Plan for Sydney 2036 and exhibited draft strategies)?

The Planning Proposal is consistent with the objectives and actions contained within the Metropolitan Plan for Sydney and the Draft North-East Sub-regional Strategy as it provides for the protection of Sydney's unique diversity of plants and animals, which is a specific objective in both the Metropolitan Plan for Sydney 2036 and Draft North-East Sub-regional Strategy.

The local community has a high level of concern for the protection of our environment with many hundreds of people actively involved as environmental volunteers in partnership with the Natural Environment and Education Business Unit of Pittwater Council and the Coastal Environment Centre.

Including the text from Clause 5.9 of the Standard Instrument LEP will help to protect and enhance Pittwater's biodiversity particularly on private property which is essential for preserving Pittwater's scenic beauty and maintaining its amenity. The Planning Proposal will help to manage the impact of development/activities on the natural environment and manage natural resources.

(B2) Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is consistent with Pittwater's Strategic Plan, which incorporates the need to preserve our natural environment. Several relevant objectives include:

'To conserve and enhance biodiversity through appropriate land use and development controls... To recognise bushland, landscape and vegetation in land use allocation and development controls... To halt the loss of biodiversity and advance its recovery'

(B3) Is the Planning Proposal consistent with applicable state environmental planning policies?

The Planning Proposal is consistent with the State Environmental Planning Policies as set out at Appendix 4.

(B4) Is the Planning Proposal consistent with applicable Ministerial Directions (S117 Directions)?

The Planning Proposal is consistent with the Section 117 Directions as set out at Appendix 5.

C Environmental, social and economic impact

(C1) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal aims to assist in the protection of biodiversity including threatened species, populations, ecological communities, and their habitats. There are no critical habitats declared for the Pittwater LGA.

The Planning Proposal will have a positive impact on Pittwater's biodiversity.

(C2) Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No adverse environmental effects are likely to occur as a result of the Planning Proposal.

Should the Planning Proposal be made, when a Development Application (DA) includes tree and/or bushland removal, or when a Tree and Bushland Removal Application form is submitted, supporting information, such as an Ecological Impact Assessment and/or Arborist report including relevant 7-Part Tests of Significance for threatened species, populations or ecological communities (under Section 5A of the *Environmental Planning and Assessment Act 1979*), may be required in order for any environmental impact to be adequately assessed.

(C3) How has the Planning Proposal adequately addressed any social and economic effects?

Pittwater's natural bushland and treed environment is a major reason why people want to live and work in Pittwater. The protection of the environment provides a common focus along with community interaction through volunteer environmental programs such as bush regeneration.

In September 2010 Pittwater Council completed its first comprehensive community survey with Pittwater residents. Environmental and sustainability initiatives, managing and protecting creeks and waterways, protecting native plants and animals and restoring natural bushland were considered of highest importance.

The Planning Proposal will allow Council to legally enforce the protection of trees and bushland vegetation (as prescribed in the new control drafted for the Pittwater 21 DCP) within the Pittwater LGA.

The Pittwater environment, in particular the preservation of its bushland and treed canopy, is a fundamental part in achieving a sustainable Pittwater economy.

D State and Commonwealth interests

(D1) Is there adequate public infrastructure for the Planning Proposal?

Not applicable.

(D2) What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage. Council notes that this response will be amended post-consultation following the Gateway Determination.

PART 4 COMMUNITY CONSULTATION

Council proposes that the Planning Proposal be exhibited consistent with the requirements of Section 57 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Section 29 of the *Local Government Act 1993* and/or any other requirements as determined by the Gateway Determination under Section 56 of the *Environmental Planning & Assessment Act 1979*.

Council proposes to undertake community consultation in accordance with Council's adopted Community Engagement Policy. As a minimum, the following is proposed:

- Advertising in the local newspaper and on Council's website at the start of the exhibition period
- An exhibition period of twenty-eight (28) days from the date it appears in the newspaper and on Council's website
- A letter to all landowners of non-urban land (as they do not receive the Manly Daily)
- A letter to all registered community groups in Pittwater

Clause 5.9 of the Standard Instrument LEP:

5.9 Preservation of trees or vegetation [compulsory, except subclause (9) optional]

- (1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.*
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.*

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

 - (a) development consent, or*
 - (b) a permit granted by the Council.**
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.*
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.*
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.*
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

 - (a) that is or forms part of a heritage item or that is within a heritage conservation area, or*
 - (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,**

unless the Council is satisfied that the proposed activity:

- (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and*
- (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.*

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) *This clause does not apply to or in respect of:*

- (a) *the clearing of native vegetation:*
 - (i) *that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or*
 - (ii) *that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or*
- (b) *the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or*
- (c) *trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or*
- (d) *action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or*
- (e) *plants declared to be noxious weeds under the Noxious Weeds Act 1993.*

Note. *Permissibility may be a matter that is determined by or under any of these Acts.*

Clause 41 of the *Pittwater Local Environmental Plan 1993*:

41 Preservation of trees

A tree preservation order made and in force immediately before the appointed day under any instrument that applied to land to which this plan applies shall be deemed to be a tree preservation and management order made by the council under clause 8 of the [Environmental Planning and Assessment Model Provisions 1980](#) and may be rescinded or varied by the council in accordance with that clause.

Clause 8 of the *Environmental Planning and Assessment Model Provisions 1980*:

8 Preservation of trees

- (1) Where it appears to the council that it is expedient for the purpose of securing amenity or of preserving existing amenity, it may, for that purpose and by resolution, make an order (hereinafter referred to as a tree preservation order) and may, by like resolution, rescind or vary any such order.*
- (2) A tree preservation order may prohibit the ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in the order except with the consent of the council and any such consent may be given subject to such conditions as the council thinks fit.*
- (3) A tree preservation order may relate to any tree or trees or to any specified class, type or description of trees on land described particularly or generally by reference to the Local Government area or any divisions thereof.*
- (4) The council shall forthwith upon the making of a tree preservation order cause notice of the making of the order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situated.*
- (5) A person who contravenes or causes or permits to be contravened a tree preservation order shall be guilty of an offence.*
- (6) It is a sufficient defence to proceedings under this clause relating to the ring-barking, cutting down, topping, lopping, removal, injury or wilful destruction of a tree to prove:*
 - (a) that the tree was dying or dead or had become dangerous,*
 - (b) that taking the action was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree was situated,*
 - (c) that written notice about the proposed action was given to the council of the area in which the tree was situated and the council, before the action was taken, confirmed in writing:*
 - (i) that the tree was in a fuel free zone within the meaning of the document entitled "Planning for Bush Fire Protection" published by the Department of Bush Fire Services, and*
 - (ii) that, if the council has classified species of trees as being likely to present a significant fire hazard, the tree was of such a species, or*

(d) that written notice about the proposed action was given to that council, a period of not less than 14 days occurred after the notice was given (and before the action was taken) and the council did not advise the person during that period that it opposed the action being taken.

In this subclause, notice means a notice that includes the name and address of the person who gives it and that explains that a tree of a named species situated in a specified position on land described in the notice is intended to be ring-barked, cut down, topped, lopped, removed, injured or wilfully destroyed for the purpose of bush fire hazard reduction.

(7) The powers conferred on the council in pursuance of this clause shall not apply to trees in a State forest or on land reserved as a timber reserve within the meaning of the Forestry Act 1916, or to trees required to be trimmed or removed under section 48 of the Electricity Supply Act 1995, or to trees situated on the Trust lands (within the meaning of the Royal Botanic Gardens and Domain Trust Act 1980).

Clause 6 of the *Pittwater Local Environmental Plan 1993*:

6 Model Provisions

(1) *The Environmental Planning and Assessment Model Provisions 1980 (in this clause referred to as the Model Provisions), except:*

(a) *the definitions of advertisement, advertising structure, car repair station, dwelling, educational establishment, general store, home occupation, light industry, major road frontage, mineral sand mine, parking space, professional consulting rooms, public utility undertaking, recreation facility, roadside stall, rural worker's dwelling, site area, tavern, tourist facilities and units for aged persons in clause 4 (1), and*

(b) *clauses 5 (5), 12, 15, 16, 17, 18, 23, 24, 26, 27, 28, 30, 31, 32, 33 and 34 and items 1 and 10 of Schedule 1,*

are adopted for the purposes of this plan.

(2) *For the purposes of this plan, the Model Provisions shall be deemed to be amended:*

(a) *by inserting in clause 5 (1) after the word "within" the words "a foreshore scenic protection area or within",*

(a1) *by omitting from clause 8 the words "tree preservation order" wherever occurring and by inserting instead the words "tree preservation and management order",*

(b) *(Repealed)*

(c) *by omitting from clause 35 (c) the words "carried on in dwelling-houses",*

(d) *by inserting in Item 2 of Schedule 1 after the word "drainage" the words ", telecommunication services", and*

(e) *by inserting in Item 2 (d) of Schedule 1 after the word "electricity" the words "or to provide telecommunication services".*

Checklist – Consideration of State Environmental Planning Policies

Checklist – Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area. The Table identifies which of the relevant SEPPs apply to the Planning Proposal (or not) and if applying, is the Planning Proposal consistent with the provisions of the SEPP.

Title of State Environmental Planning Policy (SEPP)	Applicable	Consistent	Reason for inconsistency
SEPP No 1 – Development Standards	NO	-	-
SEPP No 4 – Development without consent...	NO	-	-
SEPP No 6 – Number of Storeys in a Building	NO	-	-
SEPP No 14 – Coastal Wetlands	YES	YES	-
SEPP No 21 – Caravan Parks	NO	-	-
SEPP No 22 – Shops and Commercial Premises	NO	-	-
SEPP No 26 – Littoral Rainforests	YES	YES	-
SEPP No 30 – Intensive Agriculture	NO	-	-
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	YES	YES	-
SEPP No 33 – Hazardous and Offensive Development	NO	-	-
SEPP No 44 – Koala Habitat Protection	YES	YES	-
SEPP No 50 – Canal Estate Development	NO	-	-
SEPP No 55 – Remediation of Land	NO	-	-
SEPP No 60 – Exempt and Complying Development	NO	-	-
SEPP No 62 – Sustainable Aquaculture	NO	-	-
SEPP No 64 – Advertising and Signage	NO	-	-
SEPP No 65 – Design Quality of Residential Flat Development	NO	-	-
SEPP No 70 – Affordable Housing (Revised Schemes)	NO	-	-
SEPP 71 – Coastal Protection	YES	YES	-

SEPP (Affordable Rental Housing) 2009	NO	-	-
SEPP (Building Sustainability Index: BASIX) 2004	NO	-	-
SEPP (Exempt and Complying Development Codes) 2008	NO	-	-
SEPP (Housing for Seniors or People with a Disability) 2004	NO	-	-
SEPP (Infrastructure) 2007	NO	-	-
SEPP (Major Development) 2005	NO	-	-
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	-	-
SEPP (Rural Lands) 2008	YES	YES	-
SEPP (State and Regional Development) 2011	NO	-	-
SEPP (Temporary Structures) 2007	NO	-	-

The following is a list of the deemed SEPP's (formerly Sydney Regional Environmental Plans) relevant to the Pittwater Local Government Area.

Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)	Applicable	Consistent	Reason for inconsistency
SREP No 20 – Hawkesbury-Nepean River (No 2 - 1997)	YES	YES	-

Checklist – Consideration of [Section 117](#) Ministerial Directions

1 Employment and Resources

	Direction	Applicable	Consistent
1.1	Business and Industrial Zones	YES	YES
1.2	Rural Zones	YES	YES
1.3	Mining, Petroleum Production and Extractive Industries	NO	N/A
1.4	Oyster Aquaculture	NO	N/A
1.5	Rural Lands	YES	YES

Justification for inconsistency

NIL

2 Environment and Heritage

	Direction	Applicable	Consistent
2.1	Environmental Protection Zones	YES	YES
2.2	Coastal Protection	YES	YES
2.3	Heritage Conservation	YES	YES
2.4	Recreation Vehicle Areas	YES	YES

Justification for inconsistency

NIL

3 Housing, Infrastructure and Urban Development

	Direction	Applicable	Consistent
3.1	Residential Zones	YES	YES
3.2	Caravan Parks and Manufactured Home Estates	YES	YES
3.3	Home Occupations	YES	YES
3.4	Integrating Land Use and Transport	YES	YES
3.5	Development Near Licensed Aerodromes	YES	YES

Justification for inconsistency

NIL

4 Hazard and Risk

	Direction	Applicable	Consistent
4.1	Acid Sulphate Soils	YES	YES
4.2	Mine Subsidence and Unstable Land	NO	N/A
4.3	Flood Prone Land	YES	YES
4.4	Planning For Bushfire Protection	YES	YES

Justification for inconsistency

NIL

5 Regional Planning

	Direction	Applicable	Consistent
5.1	Implementation of Regional Strategies	NO	N/A
5.2	Sydney Drinking Water Catchments	NO	N/A
5.3	Farmland of State and Regional Significance on NSW Far North Coast	NO	N/A
5.4	Commercial and Retail Development along the Pacific Hwy, North Coast	NO	N/A
5.5	Development in the vicinity of Ellalong, Paxton and Millfield	NO	N/A
5.8	Second Sydney Airport: Badgerys Creek	NO	N/A

Justification for inconsistency

NIL

6 Local Plan Making

	Direction	Applicable	Consistent
6.1	Approval and Referral Requirements	YES	YES
6.2	Reserving Land for Public Purposes	YES	YES
6.3	Site Specific Purposes	NO	N/A

Justification for inconsistency

NIL

7 Metropolitan Planning

	Direction	Applicable	Consistent
7.1	Implementation of the Metropolitan Strategy	YES	YES

Justification for inconsistency

NIL

Clause 5.9 of the Standard Instrument LEP:

5.9 Preservation of trees or vegetation [compulsory, except subclause (9) optional]

- (1) *The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.*
- (2) *This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.*

Note. *A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.*

- (3) *A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:*
 - (a) *development consent, or*
 - (b) *a permit granted by the Council.*
- (4) *The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.*
- (5) *This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.*
- (6) *This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.*
- (7) *A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:*
 - (a) *that is or forms part of a heritage item or that is within a heritage conservation area, or*
 - (b) *that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,*

unless the Council is satisfied that the proposed activity:

- (c) *is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and*
- (d) *would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.*

Note. *As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.*

(8) *This clause does not apply to or in respect of:*

- (a) *the clearing of native vegetation:*
 - (i) *that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or*
 - (ii) *that is otherwise permitted under Division 2 or 3 of Part 3 of that Act,*
- (b) *the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or*
- (c) *trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or*
- (d) *action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or*
- (e) *plants declared to be noxious weeds under the Noxious Weeds Act 1993.*

Note. *Permissibility may be a matter that is determined by or under any of these Acts.*

Clause 41 of the *Pittwater Local Environmental Plan 1993*:

41 Preservation of trees

A tree preservation order made and in force immediately before the appointed day under any instrument that applied to land to which this plan applies shall be deemed to be a tree preservation and management order made by the council under clause 8 of the [Environmental Planning and Assessment Model Provisions 1980](#) and may be rescinded or varied by the council in accordance with that clause.

Clause 8 of the *Environmental Planning and Assessment Model Provisions 1980*:

8 Preservation of trees

- (1) Where it appears to the council that it is expedient for the purpose of securing amenity or of preserving existing amenity, it may, for that purpose and by resolution, make an order (hereinafter referred to as a tree preservation order) and may, by like resolution, rescind or vary any such order.*
- (2) A tree preservation order may prohibit the ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in the order except with the consent of the council and any such consent may be given subject to such conditions as the council thinks fit.*
- (3) A tree preservation order may relate to any tree or trees or to any specified class, type or description of trees on land described particularly or generally by reference to the Local Government area or any divisions thereof.*
- (4) The council shall forthwith upon the making of a tree preservation order cause notice of the making of the order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situated.*
- (5) A person who contravenes or causes or permits to be contravened a tree preservation order shall be guilty of an offence.*
- (6) It is a sufficient defence to proceedings under this clause relating to the ring-barking, cutting down, topping, lopping, removal, injury or wilful destruction of a tree to prove:*
 - (a) that the tree was dying or dead or had become dangerous,*
 - (b) that taking the action was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree was situated,*
 - (c) that written notice about the proposed action was given to the council of the area in which the tree was situated and the council, before the action was taken, confirmed in writing:*
 - (i) that the tree was in a fuel free zone within the meaning of the document entitled "Planning for Bush Fire Protection" published by the Department of Bush Fire Services, and*
 - (ii) that, if the council has classified species of trees as being likely to present a significant fire hazard, the tree was of such a species, and*

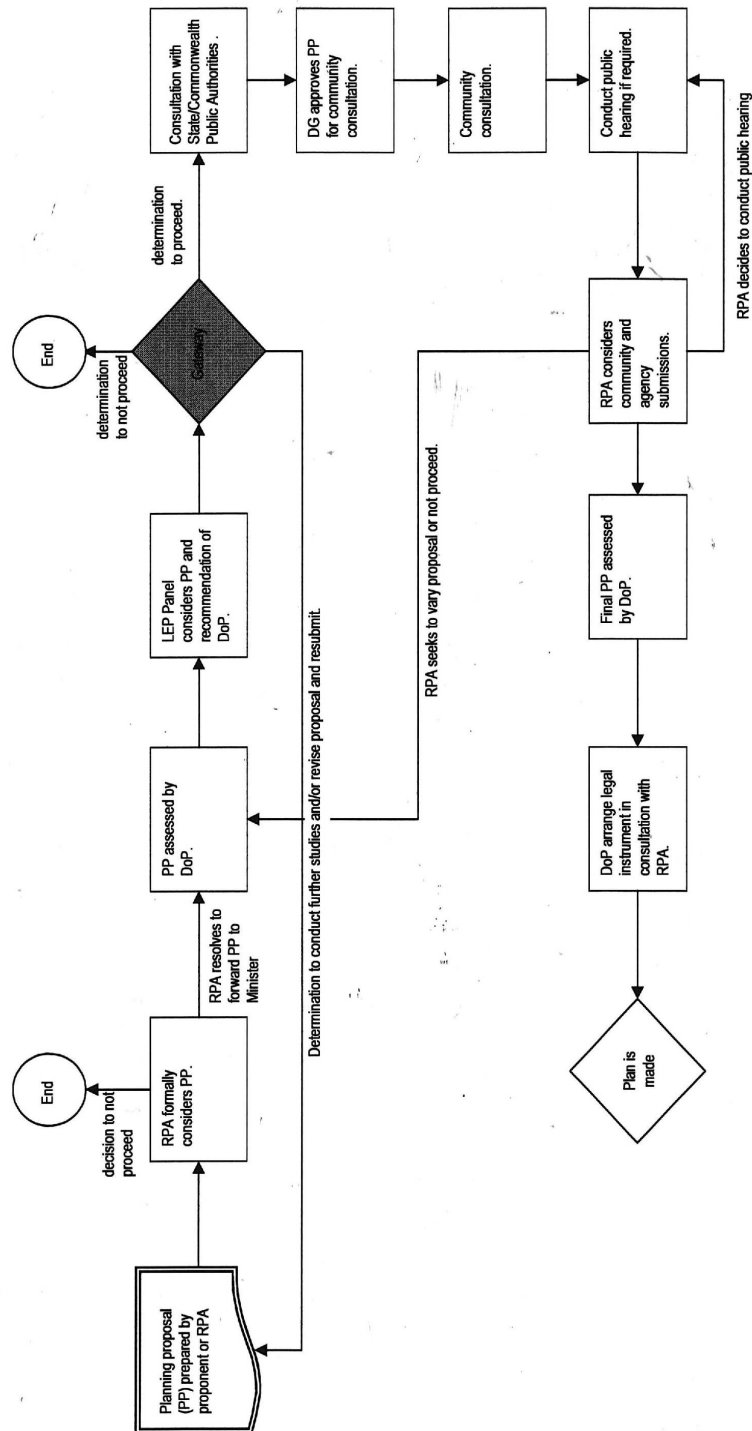
(e) that written notice about the proposed action was given to that council, a period of not less than 14 days occurred after the notice was given (and before the action was taken) and the council did not advise the person during that period that it opposed the action being taken.

In this subclause, notice means a notice that includes the name and address of the person who gives it and that explains that a tree of a named species situated in a specified position on land described in the notice is intended to be ring-barked, cut down, topped, lopped, removed, injured or wilfully destroyed for the purpose of bush fire hazard reduction.

(7) The powers conferred on the council in pursuance of this clause shall not apply to trees in a State forest or on land reserved as a timber reserve within the meaning of the Forestry Act 1916, or to trees required to be trimmed or removed under section 48 of the Electricity Supply Act 1995, or to trees situated on the Trust lands (within the meaning of the Royal Botanic Gardens and Domain Trust Act 1980).

How a Local Environmental Plan is made under Part 3 of the EP&A Act:

Figure 5 – Process to make a local environmental plan



Note:

- RPA means Relevant Planning Authority (such as Council)

Extracted from 'A guide to preparing local environmental plans' prepared by Department of Planning & Infrastructure (July 200)

C11.5 NSW Planning System Review Issues Paper

Meeting: Planning an Integrated Built Environment Committee

Date: 19 March 2012

STRATEGY: Land Use & Development

ACTION: Respond to Reforms in Planning Processes and Advocate on Behalf of Council

PURPOSE OF REPORT

To advise the Council of the submission prepared by Council staff in relation to the ongoing New South Wales Planning System Review.

1.0 BACKGROUND

- 1.1 In July 2011, the Minister for Planning and Infrastructure announced that a full review of the planning system in New South Wales would be undertaken over a period of approximately 18 months.
- 1.2 The review process is being run by Tim Moore (former Minister for the Environment and Senior Commissioner of the Land & Environment Court), and Ron Dyer (former Minister for Public Works).
- 1.3 The review process commenced with a listening and scoping phase. From September to November 2011, community forums were held throughout NSW and meetings were held with a number of key stakeholder groups and individuals. Submissions to the listening and scoping phase closed on 4 November 2011.
- 1.4 During this phase Council staff attended community forums and prepared a submission outlining the issues and priorities that a new planning system for NSW should address. Including:
 - The need for improvements to the strategic planning process;
 - The ability for Council to deal with minor LEP amendments without approval of the Minister;
 - The need for greater flexibility in the application of the Standard Instrument LEP to better reflect local circumstances;
 - The need for different levels of assessment that reflect the complexity of development applications;
 - Improved consistency and transparency in the operation of determination panels such as JRPPs and PACs;
 - More effective deterrents for non-compliance;
 - Increased consultation requirements at State level;
 - A simplified non-adversarial and low-cost merit appeal system for single dwelling applications;
 - Recognition that local government cannot afford the full burden of infrastructure associated with new development;
 - Recognition of the technological and cultural shift towards an online future, and the need for the systems and information that underpin any new planning system to be electronically available.

2.0 ISSUES

- 2.1 An Issues Paper has now been released. The Issues Paper contains 236 consultation questions covering five broad topics. The topics covered are:-:
- Key Elements, Structure and Objectives of a new Planning System;
 - Making Plans;
 - Development Proposals & Assessment;
 - Appeals & Reviews; Enforcement & Compliance; and
 - Implementation and Governance.
- 2.2 Initially the closing date for submissions in relation to the Issues Paper was 17 February 2012, but this was later extended to 2 March 2012.
- 2.3 Council staff prepared a response to the Issues Paper, which was submitted on 2 March 2012 (see **Attachment 1**).
- 2.4 Unfortunately the large volume of work involved in preparing Council's response to 236 questions and the timeframes for making a submission, did not allow for the response to be reported to Council prior to submission.
- 2.4 In the next phase of the review process the Panel will consider public comments made during the listening and scoping phase and the submissions made in response to the Issues Paper, and together with a working group, they will produce a Green Paper. The Green Paper will set out the Panel's recommended structure for a new planning system.
- 2.5 The Green Paper is due to be released by the end of April 2012, after which it is likely there will be further community consultation and another opportunity to make submissions.
- 2.6 Following consultation on the Green Paper, the Panel will prepare a White Paper and draft legislation. These documents will be publicly exhibited prior to being submitted to the NSW Parliament.
-

3.0 SUSTAINABILITY ASSESSMENT

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

- 3.1.1 The NSW Planning System Review is an opportunity for Council to advocate for a better planning system that will deliver improved outcomes for our community, including increased transparency and more effective community consultation requirements for both plan making and development assessment.

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

- 3.2.1 The NSW Planning System Review is an opportunity for Council to advocate for a better planning system that will deliver improved outcomes in relation to protecting our local environment and promoting development consistent with the principles of sustainability.

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

- 3.3.1 The NSW Planning System Review is an opportunity for Council to advocate for a more efficient and effective planning system that will deliver improved outcomes for our local economy.

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

- 3.4.1 The NSW Planning System Review is an opportunity for Council to advocate for a more efficient and transparent planning system.

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

- 3.5.1 The NSW Planning System Review is an opportunity for Council to advocate for a better planning system with increased focus on effective strategic planning and improved mechanisms for funding infrastructure.

4.0 EXECUTIVE SUMMARY

- 4.1 A review of the NSW Planning System is currently being undertaken by Tim Moore and Ron Dyer. From September to November 2011 they held community forums throughout NSW and attended meetings with key stakeholder groups and individuals.
- 4.2 Council staff attended the community forums and made a submission on behalf of Council in November 2011.
- 4.3 An Issues Paper was released in December 2011 and was on public exhibition until 2 March 2012.
- 4.4 Council staff prepared a response to the Issues Paper (**Attachment 1**) which was submitted on 2 March 2012.
- 4.5 The next stage of the review process is the preparation of a Green Paper outlining the recommended structure for a new planning system.

RECOMMENDATION

That Council note the contents of the submission at **Attachment 1**.

Report prepared by
Monique Tite, Senior Strategic Planner

Lindsay Dyce
MANAGER - PLANNING AND ASSESSMENT

SUBMISSION ON THE ISSUES PAPER OF THE NSW PLANNING SYSTEM REVIEW

Chapter A: Introduction

A1 What should the objectives of new planning legislation be?

The objects of the current EP&A Act are generally supported. However, there is a need to strengthen the relationship between these objects and the rest of the Act. This requires placing stronger emphasis on the integration of the objectives throughout the new Act. Any amendments to the Act should be required to demonstrate consistency with the stated objectives of the Act.

A strong emphasis should remain on sustainability, including equal regard for all three spheres including environmental, economic and social impacts.

Equality should be an objective in all processes and decision making structures, implemented in the new Act. A strengthening of the focus on ethical, unbiased, objective and evidence based decision making should be central to any new Act.

A2 Should any overarching objectives be given weight above all other considerations?

There should be equal consideration for all objectives and impacts. However some guidance around evaluating the tradeoffs between obviously conflicting objectives would be very useful.

A3 Should there be strict controls in plans?

Good outcomes may be achievable without strict rules, if the planning system was set up to facilitate this approach. However, if the planning system aims to be more simplistic and deliver certainty and timely outcomes, then strict rules are the easier and simpler option.

Without strict rules there is more subjectivity and potential debates over interpretation and assessments of what will achieve 'good' outcomes. It is clearer for all parties involved if there are some principal development standards that are agreed on with the community and then followed.

A4 Should applications that depart from development controls be permitted?

Yes, but the situations where a variation is allowed should be clearly described and communicated in the relevant control. If the specified criteria for a variation are not met, the application should not be approved.

A5 What should the test be for a proposed variation?

Generally the test for a variation should include:

- consistency with the stated objectives of the control,
- the impacts of the variation are shown to be acceptable in relation to general principles of development control, such as amenity.

However, different additional tests would be needed for different controls. The test should be based on situations where it is clearly not possible to meet a control and still achieve a reasonable development outcome, for example where a site has a significant slope which leads to minor breaches of a building height control.

A6 Should new planning legislation provide a framework for regional strategic planning processes?

Yes, there is a need for greater emphasis to be placed on strategic planning at state, regional and local levels. Plans should be vertically integrated and consistent, with all levels of plan making adopting a similar format.

In the current strategic planning system, requirements are binding on local councils via the imposition of housing and employment targets in sub-regional strategy documents. However, there is no similar binding requirement for State Agencies to deliver infrastructure to support the additional residential and employment populations. There has been a repeated failure to integrate land use planning and infrastructure delivery and this must be addressed in any new Act.

Additionally, greater consultation and transparency is required in the development and adoption of state and regional strategic planning. The failure to explain to communities how growth targets were calculated in the Metropolitan Strategy and subsequent strategic planning documents resulted in mistrust and a lack of acceptance of these crucial strategic documents at the local level.

If so, how should appropriate regions be determined for strategic planning?

Regions should have an identity within the community to allow for greater levels of engagement. If regions are artificially constructed there is a risk that the community will fail to connect with the conversation. Although local government areas quite often meet this criteria, it is recognised that some local government areas in metropolitan Sydney can be too small for effective regional planning.

For the Pittwater LGA the existing North East sub-region works well, because the Manly, Warringah and Pittwater LGAs are already collectively identifiable to the community as a distinct region within Sydney, being 'the northern beaches'. This is particularly helpful in relation to community engagement, as the region already has a strong identity. It is a shame that the 'North East Sub Regional Strategy' did not use this identity to its advantage by using 'the northern beaches' in its title. Not many people within the broader community would know what 'the north east sub region' is, but almost everyone knows what is meant by 'the northern beaches'.

A7 Should strategic plans be statutory instruments with greater weight?

Giving strategic plans statutory weight would give more certainty to the community and to Council's in undertaking local strategic planning activities.

However the process for creating these plans should be improved, through increased community participation and consultation. The current planning system generally fails to engage the broader community in strategic planning.

There needs to be far greater community support, understanding and acceptance of strategic plans for them to have statutory weight. This requires more explanation to communities regarding how growth targets are calculated and what information and data is being used to determine these.

A8 How should implementation of strategic plans be facilitated?

- Increased community participation and consultation.
- Increased consistency and planning across state governments in relation to the infrastructure needed to support strategic plans.

A9 In a new planning system, how can we improve community participation opportunities?

It needs a dramatically different approach to the current system in NSW and we need to accept that this will require increased resources, including time and money.

NSW appears well behind in relation to top quality meaningful community engagement. Other cities around the world should be looked to for good examples (e.g. Vancouver) and even other states of Australia (e.g. South Australia). South Australia has less than half the population of Sydney yet their extensive consultation process and program for the South Australian Strategic Plan reached over 9000 people. Information on the consultation is readily available on their website (<http://saplan.org.au/>), in stark contrast to the website of the Metropolitan Plan for Sydney (<http://www.metroplansydney.nsw.gov.au/Home.aspx>) which provides no information on the community consultation process or indeed any information or opinions garnered from the community, nor anyway to allow for continual feedback or engagement.

Key performance indicators around reaching a certain number of people could provide an incentive.

While localised planning is also necessary there is much greater scope for city wide strategic plans to achieve a greater level of engagement with the community through larger consultation budgets and more resources. Also the larger the plan and the issues the bigger conversation can be generated within the city-wide community and the greater interest it might be to the media.

How can we improve consultation processes for plan making and development assessment?

We need to encourage innovation and creativity in this field. Currently community consultation feels like more of a burden or a box to tick, and when timeframes are tight, something that is often cut back on.

The South Australian Strategic Plan used a "Community Engagement Board" whose roles included: promoting the plan in the wider community, overseeing a formal accreditation or partnerships program so that organisations can affiliate with the plan and advising the Executive Committee of Cabinet periodically on the Plan's impact and implementation outside Government.

A10 How should levies to pay for local and state community infrastructure be set?

In most cases Local Government does not have the capacity to provide the infrastructure needed specifically in relation to new development. The upfront cost of providing infrastructure and services required as a direct result of a development should be paid for by the developer.

Any requirement for Local Government to pay for infrastructure related to private development would have severe financial implications and would add to the already significant financial burden associated with ongoing maintenance and improvements to existing infrastructure. It is noted that funding available to Local Government is limited by rate capping.

It is not fair or equitable for rate payers to suffer the full burden of paying for infrastructure directly needed for a development that financially benefits a developer. In many cases communities do not want increased population or development in their local areas and will be even less likely to accept it if they are also being asked to pay for related infrastructure through their rates.

The setting of levies for infrastructure should be clear and transparent, and the requirement to show where, how and when funding will be spent is supported. The existing guidelines for section 94 plans need improvement in order to facilitate increased transparency, consistency and efficiency.

The levies imposed should reflect the real costs of providing both hard and soft infrastructure (including community facilities and services) directly related to a development. The use of broad caps on infrastructure levies and contributions is not supported, as every local government area has unique requirements, and the costs for providing similar infrastructure in different locations can vary considerably. Councils need the ability to demonstrate the levies required to meet the real costs associated with essential infrastructure provision.

There is also a need for greater transparency in relation to the collection of State infrastructure levies. The State should have the same responsibility as Local Government in relation to justifying and reporting on how, when and where infrastructure contributions will be spent.

Analysis is required to establish whether 'capping' s94 plans resulted in any reduction in price to the end purchaser? Or did the developer just sell for market value and pocket the price differential.

A11 What alternatives to – or additional funding sources for – such infrastructure should be considered?

State and Federal Government assistance.

A12 Who should decide regionally significant development and local development applications?

The elected Council, JRPPs and delegated council staff, depending on the scale and nature of the development. The hierarchy of determination should be clearly defined and easy to understand.

A13 Should Joint Regional Planning Panels decide development applications?

Yes. The role of JRPPs is generally supported, but any duplication of responsibilities should be removed. There is a need for clearer articulation to all stakeholders regarding the hierarchy of determination authorities and the roles of agencies.

If so, which applications should the panels decide? Who should identify these?

The current limits are considered reasonable. Councils should also be able to nominate controversial applications they do not wish to decide.

A14 Should councils be able to apply to be exempt from the Joint Regional Planning Panel process?

No, this would create unnecessary complexities and confusion for the community. The new system needs to be simple and clear, not full of cumbersome exceptions to the rules, which make it increasingly difficult for the community to understand the processes that apply.

A15 Should any changes be made to complying development and the process of approving it?

Codes SEPP does not have adequate consideration for Aboriginal heritage, as it does not recognise that information on the locations of items of significance are not made public or recorded on 149 certificates.

The Floodplain Management Authority has raised issues with regard to complying development applying to flood prone land. The Codes SEPP relies on councils having not only mapped their flood-prone areas but also having categorised their floodplains into areas of flood risk, flood hazard, floodway, flood storage and overland flow.

Very few councils have this information as flood mapping is a costly and time-consuming exercise, with many councils simply not having the technical expertise and/or the resources to undertake the complex flood studies required to produce flood mapping. Many councils have a program of flood studies to be completed that span several years or more. Some councils have floodplains that may never be mapped.

A16 What changes should be made to the private certification system?

The role of Private Certifying Authorities (PCA's) needs to be better defined. There are problems associated with PCA's correctly interpreting conditions related to planning matters which may in part be addressed through improved or standardised consent conditions, but may also be improved through a requirement for certain conditions to be signed off by a Certified Practising Planner (CPP).

A17 How can private certifiers be made more accountable?

There is an inherent conflict in the passing of regulatory functions into a competitive market, where customers can shop around for leniency, and reputations of poor performance only encourage a wider customer base. The functions and oversight powers of the Building Professionals Board (BPB) should be strengthened. There needs to be increased transparency and accountability surrounding the actions and decisions of the BPB. There should be heavier penalties for PCAs who do not comply with the rules, including heavier financial penalties.

A18 Should there be a right of review or appeal against a council decision concerning the zoning of a property?

There should be a right of review for the refusal of rezoning applications (planning proposals), but only when strategic plans have been given some statutory weight in deciding such a review. This would ensure that planning continues in an orderly process in accordance with an adopted strategy, and does not become a piecemeal and ad-hoc process.

A19 Should there be any distinction between a council decision to change a zoning and a council refusing an application to change the zoning?

As with development applications, only the applicant should have appeal rights (there should be no third party appeals).

A20 If there is to be a right of appeal or review of a council zoning decision, who should decide that appeal or review?

A simplified non-adversarial, non-legal and low-cost merit review system that does not involve lawyers and courts would be preferred. The system should be equitable and not financially prohibitive for applicants or Councils. An independent Planning Commission may be an appropriate solution.

A21 What are appropriate measures that might be implemented in a new planning system to create public confidence in the integrity of environmental impact statements (and their supporting studies) for major development projects?

The internal assessment of applications and the relevant EIS's by the Department of Planning and Infrastructure should be made publicly available online to increase transparency and public confidence in the assessment process.

Chapter B: Key Elements, Structure and Objectives of a new Planning System

B1 What should be included in the objectives of new planning legislation?

See answer to A1, as the question is the same.

B2 Should ecologically sustainable development be the overarching objective of new planning legislation?

ESD - 'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be *increased*' (The Ecologically Sustainable Development Steering Committee 1992).

All objectives should have equal weight. ESD is an important objective, however, there needs to be some agreement around what the 'ecological processes, on which life depends' are exactly, and what quantifies 'quality of life'.

B3 Should some objectives have greater weight than others? (same as A2)

There should be equal consideration for all objectives and impacts. However some guidance around evaluating the tradeoffs between obviously conflicting objectives would be very useful.

B4 Should there also be separate objectives for plan making and development assessment and determination?

If the Act is split into multiple acts covering these different areas then that would be appropriate, but in a single Act, multiple objectives would add unnecessary layers of complexity.

B5 Should the objectives address the operation of the new planning legislation?

Equality should be an objective of all processes and decision making structures, implemented in the new Act. Any new Act should strengthen the focus on ethical, unbiased, objective and evidence based decision making.

B6 Are the current definitions in the Act still relevant or do they need updating?

Definitions should be consistent with those used in the Standard Instrument LEPs, or vice versa.

B7 Does the present definition of 'development' need to be rewritten? If so, in what respect?

The current definition is acceptable.

B8 Should there be a definition of 'minor'? If so, what should it say?

Minor would be hard to define as it is a relative term. However, the use of the term 'minor' to described things within the Act, such as what constitutes certain section 96 applications, creates areas of subjectivity and confusion. The same applies to terms such as 'minimal environmental impact'. If they cannot be defined, maybe they should not be used.

B9 Should 'public interest' be defined? If so, what should it say?

It is inherently a subjective term that would be very difficult to define.

B10 Should there be one act or separate acts for different elements of the planning system?

If different areas are thought to require different objectives then it would probably make sense to divide the acts rather than overcomplicate the one Act to provide for them all.

Ideally the new planning legislation should be simpler to navigate than the previous, so whichever approach would best achieve this outcome should be supported.

B11 What should be in regulations?

The more detailed requirements relating to how Councils should implement requirements of the Act, such as community consultation and public exhibition.

B12 Should there be a statutory requirement to review legislation periodically? If so, at what interval?

Yes, a five year interval would be appropriate and the concept of an independent review for Acts and Regulations is supported.

B13 Should there be requirements to periodically review other planning instruments and maps?

Yes, reviews of EPIs are needed to ensure they remain contemporary, do not become inefficient and are achieving appropriate outcomes. Five year interval would also be appropriate for reviewing SEPPs, and LEPs.

B14 Should the information available about land on a central portal be able to be legally relied upon, if there is the ability for it to be certified for accuracy?

This has to happen at some time in the future. Electronic information is the way forward so it is inevitable. The system required to make this possible might require additional resources and capacity building, but it should be pushed for. However, it would be of no benefit to bring in a law allowing electronic information to be relied upon until an accurate system has been developed that can provide users with the right information. We should work towards ensuring the accuracy necessary information.

It may be necessary to stage council's migration to a centralised portal, so that a thorough process for ensuring accuracy can be implemented and maintained.

In relation to questions around the identification of Aboriginal cultural sites, council supports the wishes of the Aboriginal Heritage Office who has expressed a wish for the locations of such sites to remain confidential.

B15 Would this be able to replace section 149 Planning Certificates?

In the future when an appropriate system has been built and implemented, yes.

B16 What provisions should there be for independent decision making?

The role of JRPPs and the PAC are generally supported. The processes should be inquisitorial rather than adversarial and they should be conducted in public to provide for transparency.

Both the Council and the applicant should maintain the existing rights of appeal. Third party appeal rights should also remain unchanged.

B17 What should be the role of the Minister in a new planning system?

The Minister should be involved only in strategic planning (this would perhaps make it easier for them to focus on creating a quality strategic framework on which decisions can be based and in doing so raise its profile and credibility). It would also take them out of the development assessment process and allow for increased independence in decision making. (Splitting the Acts might make sense if this approach is adopted.) It is considered that the PAC could make decisions regarding State Significant development in place of the Minister.

Chapter C: Making Plans

C1 Should there be an independent State Planning Commission to undertake strategic planning? Or should there be an independent Planning Advisory Board?

Elected representatives at both State and local level should remain involved with the strategic planning process, with ultimate responsibility for decisions and accountability to the electorate. However, there would be no objection to an independent planning advisory board.

C2 Should regional organisations of councils be recognised in new planning legislation?

No, they work well as voluntary organisations and should remain as such.

C3 Should new legislation prescribe a process of community participation prior to the drafting of a plan?

Yes, for major plans, as long as it is not too prescriptive, as we need to leave room for innovation and creativity in the implementation of community consultation.

A requirement to consult prior to drafting would be useful for some large scale plans such as Standard LEPs but not for every rezoning application / planning proposal. The timeframe for minor amendments to LEPs is already ridiculously long.

C4 Should there be required consideration of the 'public interest' in the plan making process?

Yes, fundamentally planning should be about serving the public interest.

C5 Should there be a definition of what constitutes the 'public interest'? And what should it say? (same as B9)

Yes, but this will be very difficult to define as it can be a subjective term, with many different and conflicting opinions about what constitutes a public benefit.

C6 Should plans and associated maps have prescribed periodic reviews? (same as B13)

Yes, reviews of EPIs and associated mapping are needed to ensure they remain contemporary, do not become inefficient and are achieving appropriate outcomes.

C7 At what suggested intervals should such reviews occur?

A five year interval would be appropriate for reviewing EPIs and any associated mapping,

C8 How can new planning legislation co-ordinate with council planning under the Local Government Act?

Any new Act should be consistent with the Local Government Act, and periodic reviews should ensure continued consistency.

C9 What information and data should be used when preparing plans?

Plans should be prepared using the most up to date and accurate information available. A coordinated and consistent approach to the use of data would be beneficial

C10 Should there be a requirement to make it publicly available?

Yes the data and information used in preparing plans should be freely available to ensure transparency.

C11 Should there be a requirement for plans to address climate change?

Yes it is critical that the new planning legislation consider climate change and require that EPIs incorporate appropriate provisions related to climate change in their preparation and/or review.

C12 Should biodiversity and environmental studies be mandatory in the preparation of plans?

It would depend on the scope of the plan and it may not be necessary for all minor amendments. There should be some biodiversity and environmental studies to underpin any major plans, or any plans that would have environmental impacts.

C13 How should landscapes of Aboriginal cultural heritage significance be identified and considered in plan making?

Decisions and changes to the ways in which landscapes of Aboriginal cultural heritage significance are identified and considered in plan-making are complex and should perhaps be left outside the scope of this review. Some would suggest that mainstream understanding of what the terms “landscape” and “cultural heritage” mean to Aboriginal people is insufficient to properly address the plethora of issues a question such as this raises. The question cannot and should not be answered without specifically targeted Aboriginal involvement. The structure and timeframes associated with this review process are unlikely to bring about changes that are positive or meaningful to Aboriginal people, in relation to Aboriginal cultural heritage.

To consider the question further the panel should consider reading *Rethinking the building blocks: ontological pluralism and the idea of 'management'* by Richard Howitt and Sandra Suchet-Pearson (from *Geografiska Annaler: Series B: Human Geography*) 88 (3), 2006).

C14 Should new planning legislation provide a statutory framework for strategic planning? (same as A6)

Yes, there is a need for greater emphasis to be placed on strategic planning at all levels. Plans should be vertically integrated and consistent, with all levels of plan making adopting a similar format.

In the current strategic planning system, requirements are binding on local councils via the imposition of housing and employment targets in sub-regional strategy documents. However, there is no similar binding requirement for State Agencies to deliver infrastructure to support the additional residential and employment populations. There has been a repeated failure to integrate land use planning and infrastructure delivery and this must be addressed in any new Act.

Additionally, greater consultation and transparency is required in the development and adoption of state and regional strategic planning. The failure to explain to communities how growth targets were calculated in the Metropolitan Strategy and subsequent strategic planning documents resulted in mistrust and a lack of acceptance of these crucial strategic documents at the local level.

C15 Should strategic plans be statutory instruments that have legal status? (same as A7)

Giving strategic plans statutory weight would give more certainty to the community and to Council's in undertaking local strategic planning activities.

However the process for creating these plans should be improved, through increased community participation and consultation. The current planning system generally fails to engage the broader community in strategic planning.

There needs to be far greater community support, understanding and acceptance of strategic plans for them to have statutory weight. This requires more explanation to communities regarding how growth targets are calculated and what information and data is being used to determine these.

There needs to be far greater community support, understanding and acceptance of strategic plans for them to have statutory weight.

Having statutory weight would give more certainty and may avoid situations where Councils are unsure whether to continue planning in accordance with a strategic plan when a new government is elected and they fail to communicate any position of the existing plan.

They should definitely be given legal status if appeals relating to rezoning applications are to be introduced.

C16 How can the implementation of strategic plans be facilitated? (same as A8)

- Increased community participation and consultation.
- Increased consistency and planning across state governments in relation to the infrastructure needed to support strategic plans.

C17 To which geographical regions should strategic plans apply – catchments or local government areas?

Regional strategic plans should apply to regions that have an identity within the community to allow for greater levels of engagement. If regions are artificially constructed there is a risk that the community will fail to connect with the conversation. Local government areas meet this objective, and are therefore appropriate for local level strategic planning, but are often too small for effective regional planning.

C18 Should there be State environmental planning policies? If so, should they be in a single document? Or should they be provisions in a local environmental plan?

Provisions in SEPPs should be amalgamated into LEPs. The Standard Instrument LEP gives the State the power to mandate clauses and land uses, so there is no longer any need for separate State policies.

It is convoluted and confusing for an LEP to prohibit a land use in a particular zone, and then have a SEPP that permits it in the same zone. It makes planning very difficult for the wider community to understand and even harder for them to have faith in the planning system. This is the exact type of problem that the planning review should be working to overcome.

There may need to be a legal process where the State can gazette multiple new clauses into multiple Standard LEPs easier than under the current system.

C19 Should there be statutory public participation requirements when drafting SEPPs?

Yes, the power to avoid consultation should be removed.

C20 Should a SEPP be subject to disallowance by Parliament?

Yes, this would provide for more political accountability.

C21 Should there be a review process to deal with issues arising between the Department and councils that relate to the preparation of local environmental plans?

Yes. The new Local Planning Panel appears to be working well so far.

C22 Should there be a legislative provision to establish this?

Yes, perhaps the Local Planning Panel could be formalised and have certain decision making powers.

C23 How should rezonings (planning proposals) be initiated?

Council should continue to have the role of choosing to initiate an amendment to the LEP or not.

C24 How can amendments to plans be processed more quickly?

Allow minor amendments to be approved by Local Government. Just putting in a timeframe wont necessarily speed things up, it needs the right process and enough resources to make it happen. If a deemed refusal timeframe is put in place and appeals are introduced, this could just result in poor planning outcomes. Strategic planning should not be made to fit into a development assessment model, but needs its own specific process distinct to the challenges and objectives of strategic planning.

C25 Should there be a right of appeal or review for decisions about planning proposals? (same as A18)

There should be a right of review for the refusal of rezoning applications (planning proposals), but only when strategic plans have been given some statutory weight in deciding such a review. This would ensure that planning continues in an orderly process in accordance with an adopted strategy, and does not become a piecemeal and ad-hoc process.

C26 Should there be a right for a landholder to seek compensation for the consequences of a rezoning of their land?

No. Land cannot be seen as a never changing financial asset. We live in a dynamic world that offers no guarantees.

There is currently no collection of betterment levies from landowners when they are up-zoned, so there cannot be an expectation that the government (when making decisions in the public interest) should have to pay out compensation when a zone is changed in a less profitable way).

If compensation was introduced then a betterment levy should also be introduced to pay for it. However, it is noted that the implementation and management of this would also have a financial burden.

C27 When local environmental plans are being made or amended, how can transparency and opportunities for negotiation be improved during consultation with government agencies?

- The State should have a more consistent approach, as many problems arising with agencies relate to initiatives imposed by The Department of Planning rather than Council.
- Require comments from Agencies to be made public.
- A formal process of review, perhaps through the Local Planning Panel.

C28 Should some individual rezonings not require any merit consideration at a state level?

Yes, as long as they are consistent with the relevant Strategic Planning Strategy. This would help improve the efficiency of the amendment process.

C29 What should be the processes prior to listing an item of local heritage in an LEP?

The current process is generally adequate. Landowners should have more part in the decision.

C30 Should student housing be included as affordable housing?

Yes

C31 How can abuses of 'student housing' be prevented?

There should be specific high quality design standards for student housing, and all other forms of affordable housing.

Development of student housing should be subject to conditions on the occupancy and sale of the property, similar to those in place for Seniors Living development.

C32 What should be the legal status of a DCP?

They should have a determining weight, but with the ability for variation in certain specifically identified circumstances or situations. The current system is considered satisfactory.

C33 Should there be a standard template for DCPs?

Not while the standardisation of LEPs is still happening, there should be some monitoring and evaluation of the LEPs before any decision around DCPs occurs.

Instead of a template, there could be some standard elements that a DCP must include, such as headings and standard definitions. A DCP should primarily be tailored for specific local conditions.

There is concern regarding over standardisation creating a stagnant planning profession. There should still be room for the encouragement of innovation, creativity and problem solving in policy planning.

C34 How should new planning legislation facilitate cooperative cross-border planning between councils?

Through the provision of improved regional strategic planning.

C35 Should a program be developed to integrate Aboriginal reserves properly into a new planning system and, if so, how should that program be developed and what timeframe could be targeted for its implementation?

No. They should remain outside the EP&A Act. There is no need to further complicate matters by including these areas.

C36 Should developers of greenfield residential land release areas be required to make provision for a registered club and associated facilities?

No. There is no consensus regarding any positive social outcomes or benefit to the public interest from these facilities over and above any other. There is already huge debate around what kind of infrastructure should be required to be provided by developers, increasing the requirements in this way would only worsen the situation and increase the difficulties associated with bringing new dwellings to the market.

C37 Who should have responsibility for planning in the unincorporated area of the State?

Being a Sydney Metropolitan council, Pittwater Council does not have any particular opinions on which authority should have the responsibility of the unincorporated areas of the State.

Chapter D: Development Proposals & Assessment

D1 How should development be categorised?

Pittwater Council agrees that the development categories should be simplified and the suggestion in the discussing paper looks suitable. Adding a scale or numbering system to the categories (and subcategories) to indicate the level of assessment required would be beneficial by being more easily understood by the community.

Subcategories and terminologies should aim to be self-explanatory to help the communication between governments and the public. Terms like integrated development and designated development as well as staged development confuses non-planning professionals (if not planning professionals also).

D2 What development should be designated as State significant and how should it be identified? Should either specific projects or types of development generally be identified as State significant?

The minister should not have the power to designate specific projects as state significant on a case by case basis. It should be clearly defined what type and/or value (possibly additional criteria) should constitute as state significant to avoid political interference in the planning system. The minister can then change the requirements generally but not on a case by case basis to include certain developments. Further consideration should be given to social and environmental impacts when determining State significant development.

D3 What type or category of development, if any, should be identified as regionally significant and be determined by a body other than the council?

The current JRPP system is supported but provisions for Councils to elect certain developments to be referred to the JRPP for determination would be beneficial in certain complex or politicised developments.

D4 What development should be exempt from approval and what development should be able to be certified as complying?

The Codes SEPP generally covers an appropriate amount of developments and through ongoing reviews and amendments, a suitable balance for exempt and complying developments can be established.

Exempt and especially complying developments in hazard prone areas, such as flooding or bushfire, and on land with aboriginal heritage, due primarily to lack of mapping, should be reviewed to ensure such developments doesn't undermine the planning structure in place to evaluate these sensitive sites.

D5 How should councils be allowed local expansions to any list of exempt and complying development?

Yes. Some area specific exempt and complying developments are not covered by the State policies and, as a result, Councils will need the ability to expand on these through the LEP as introduced in the Standard Instrument.

D6 Should there be a public process for evaluating complying development applications?

No. The nature of a complying development is that it complies within the standard requirements. If public evaluation is needed, the complying development requirements should be changed to ensure a development assessment process is conducted with the associated public process.

D7 Should there be an absolute right to develop land for a purpose permitted in the zone subject only to assessment of the form proposed?

No. A number of factors, other than form, have influence on the permissibility of a development. Ignoring environmental, social, economic and other relevant factors would undermine good planning practice.

D8 Should there be an automatic approval of a proposal if all development standards and controls are satisfied?

No. In a system moving towards greater emphasis on planning objectives and strategic planning documents, merit assessment is essential in determining if a development should be approved. A one size fits all approval for developments, complying with numerical values, would ignore the greater contexts.

D9 Should conceptual approvals be available for large scale developments with separate components?

Yes. Concept approvals should be made optional for large scale developments addressing the overall layout issues such as building footprints, bulk & scale, recreational areas, connectivity, transport and the like. The concept plans should be made more binding, with only very minor modifications to be approved without the need for a new concept plan.

D10 Should a new planning system reinstate the ability to convert one nonconforming use to another, different nonconforming use?

No. This completely undermines the philosophy behind zoning.

D11 Should existing nonconforming uses be permitted to intensify on the site where they are being conducted (subject to a merit assessment)?

No.

D12 Should existing nonconforming uses be permitted to expand the boundaries of their present site (subject to a merit assessment)?

No.

D13 Should properties with existing nonconforming uses have access to exempt and complying development processes?

No.

D14 When there is a change in zoning of the land, should an application be able to be made to a council for a declaration of the nature and extent of an existing use?

Yes.

D15 Should there be a system of transferable dwelling entitlements to permit owners of an agricultural holding to transfer a dwelling entitlement from that land to another parcel of land?

No.

D16 Extinguish that dwelling entitlement on the original agricultural landholding?

-

D17 Should it be possible to apply for approval for development that is prohibited in a zone?

No. This would undermine the strategic planning documents and remove certainty in the planning system.

D18 Should there be a single application to the council to obtain permission to use an unauthorised structure?

Yes. Streamlining of the process would be beneficial, however, there should be significant disincentives as a result of building unauthorised structures.

D19 Where a small scale proposal requires an environmental impact statement, should it be possible to seek a waiver?

No. The criteria triggering environmental impact statements can be revised as appropriate but if a potential impact has been identified, such as vicinity to residential dwellings, the environmental impact statement is needed to ensure the potential impacts are addressed.

D20 Should dual service connections be permitted for residences in greenfield residential developments?

No. The number of service connections should reflect the current provisions in the planning system. Good design can ensure the possibility of a secondary service connection in the future much like with adaptable housing.

D21 What provisions, if any, should be made for pre-lodgement processes?

No provisions are needed as the current system works. A pre-lodgement meeting is a guide only and advice, based on very preliminary plans and other documentation, cannot be made binding for Councils. If the advice was made binding, Council staff would refrain from commenting on controversial/complex enquiries.

D22 How should Director-General's requirements fit in the planning process?

As they exist today.

D23 How can the application process be simplified?

Through implementation of an electronic enquiry and lodgement portal, the application process will be standardised across local government areas. Requirements for lodging a DA, in an e-lodgement system, will be determined by the proposed development as well as the characteristics of the individual parcel of land. This automatic process will remove any general requirements that are not needed and only provide a list of specific requirements relating to the development and the subject land. This will do a great deal to simplify the application process.

D24 Should there be standard development application forms that have to be used in all council areas?

Following on from D23, the development application form would be automatically modified depending on the information required (triggered by the proposed development and the characteristics of the site). This will allow Councils across NSW to 'modify' the development application forms depending on information, required by Council, to be submitted. However, the overall formatting will have to be established by the central authority managing the portal and Councils will have to amend their processes as required.

D25 What public notification requirements should there be for development applications?

The public notification process is an essential part of a healthy planning system. To ensure transparency, all documents, including objections, should be made publicly available for all applications (State or Local) and 'commercial in confidence' documents should be kept to an absolute minimum. Objections should be published with names to ensuring submissions address planning issues only and avoid defamatory comments.

The new planning system should increase the emphasis on community engagement and relevant planning authorities should be required to work with the community (including State) to understand their role in the development assessment process (See also D1 relating to categories and terminology). Different lengths for the exhibition period should apply depending on the complexity of the application, with very complex proposals attracting significantly longer exhibition periods than 28 days.

An extension of the exhibition periods should apply over the Christmas holiday period only.

D26 How can the community consultation process be improved?

Complex applications, due to its increased significance for both governments and the community, should result in a more detailed assessment including extended community consultation. As a result, the new planning system should acknowledge that this can only be achieved by extending the process for complex applications and allowing public input at various stages of the process. This is often the case with strategic documents, at present, and the impacts of complex development applications can be considered similar.

D27 Should deemed approvals take the place of deemed refusals for development applications?

No. To avoid a deemed approval, many Councils would simply refuse development applications prior to the time limit lapsing. This approach would not result in good planning outcomes.

D28 Should councils be able to charge a higher development application fee in return for fast-tracking assessment of a development proposal?

No. Fast-tracking certain development applications, for a fee, would be inequitable and potentially force consent authorities to compromise the required level of assessment.

D29 If an application partially satisfies the requirements for complying development, should it be assessed only on those matters that are non-complying?

No. Assessment under two different assessment systems would be very confusing for all stakeholders.

D30 How can unnecessary duplication of reports and information seeking be eliminated from the development process?

Through an electronic lodgement system the requirement to submit, for example, 10 colour copies of a report accompanying a development application should be eliminated. Furthermore, the electronic tracking of a development application will store the original report/information and, if no changes have been made, a note referencing the original report/information can be made. Alternatively, a more substantial cover letter or follow-up report can address new issues relating to the original report/information, whereby eliminating the need for duplications.

D31 How should State significant proposals be assessed?

Following on from D26, the assessment process for State significant proposals (or complex proposals) should go through a more thorough process due to the greater significance as well as the likely greater potential economic, environmental and social impacts. The State should assess state significant proposals, however, greater emphasis should be put on consultation with both local government and the local community, who will be in the best position to identify local impacts.

D32 Should the Crown undertake self-assessment?

Self-assessment and self-determination enables both public authorities and Councils to neglecting the assessment, and mediation, of relevant impacts. For minor activities without noticeable impacts this is acceptable, however, on larger projects (the current regional development threshold is too lenient) this can result in significant adverse impacts for both the environment and the community.

For larger projects, it should be made a requirement that self-assessment is done by a Certified Practising Planner and Pittwater Council supports the idea that determination should be made by someone other than the applicant. An independent Crown approval authority could be established to determine public authorities' self-assessment for larger projects.

The independent Crown approval authority would be in a position to understand the need for public infrastructure provisions (and have in-house technical expertise to evaluate alternative solutions for mobile phone coverage in an area for example) as well as ensuring the economic, environmental and social impacts are assessed. This process, if managed properly and transparently, would also ensure that concerns of local communities are taken into account and help restore faith in the planning system.

D33 Should the Crown undertake self-determination?

Please see D32.

D34 Should councils undertake self-assessment?

Please see D32.

D35 Should councils undertake self-determination?

Please see D32.

D36 How can the integrity of an environmental impact statement be guaranteed?

As discussed in A21, EIS' should be made publicly available online to increase transparency and public confidence in the assessment process.

D37 Should new planning legislation make provision for councils to appoint architectural review and design panels?

Pittwater Council does not currently use architectural review or design panels. Pittwater Council has experimented with a similar setup in the past but found that the advisory panel created, comprising primarily of local experts such as architects, were reluctant to criticise each others work and, as such, the advisory panel did not prove as useful as intended.

Pittwater Council currently focuses its resources on educating staff to make qualified decisions when assessing development applications, however, Pittwater Council would, if a more suitable structure was set up, consider using such panels on highly complex or politicised applications.

The cost of running these panels is significant. This should be rectified in fees able to be charged.

D38 What changes, expansions or additions should be made to the present assessment criteria in the Planning Act?

The assessment criteria is largely adequate, however, climate change should be included as a key assessment component of the new Planning Act.

The complexity of the assessment criteria makes it hard to ensure that all issues are appropriately assessed (including not assessing things that aren't issues) and guidelines from the DP&I, such as a matrix, incorporating local and state objectives and relevant legislation (incl. Australian Standards) would be beneficial.

D39 Should the economic viability of a development proposal be taken into account in deciding whether the proposal should be approved or in the conditions for approval?

No.

D40 Sometimes there are changes that would rectify problems with a proposal and thus permit its approval. Should it be mandatory during an assessment process for the consent authority to advise of this?

No. This could lead to Council staff having to re-design applications and result in significant extra workload. There would also be probity issues associated with this approach. If an application is close to an approval but for 1 or 2 minor issues then this could be appropriate. In practice many councils use this approach. However, it is difficult to mandate and sends mixed messages i.e. fast determination times or engage in negotiation.

D41 Should a new planning system permit adverse impacts on the value of properties in the vicinity of a proposed development to be taken into account when considering whether a development should be approved?

No. Arguably any proposed development could be shown to have an adverse impact on properties in the vicinity of a proposed development.

D42 Should local development controls be allowed to preclude high-quality, environmentally sustainable, residential designs on the basis that they are inconsistent with the existing residential development in the vicinity?

In certain areas, such as heritage conservation areas, local development controls should be able to require that residential designs be consistent with that of the existing residential development.

However, outside such areas, a proposed high-quality, environmentally sustainable, residential development should not necessarily be refused just because it is inconsistent with the design/style of existing residential development in the vicinity. Building design and style is largely subjective and people should be able to build any style of dwelling as long as it generally complies with other applicable development controls (such as height, setbacks and building envelope), which would maintain, to a large extent, some consistency with nearby residential development.

As high-quality, environmentally sustainable, residential designs are not mandated, it's important to encourage, rather than preclude, such development. Development controls should encourage such designs and the merit of such proposals should be a large consideration in undertaking an assessment.

D43 How can the planning system ensure that the impact of development that is remote from but directly affecting a community is taken into account in the assessment process?

Under Section 79C of the EP&A Act, a consent authority is required to consider, amongst several other matters, the likely impacts of a development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The same matters for consideration should apply to State significant developments.

All impacts of a proposed development should be considered, regardless of how distant or the extent/level of impact. All impacts should be known and understood so that mitigation measures can be explored and implemented.

D44 Should a consent authority be required to consider any cumulative impact of multiple developments of the same general type in a locality or region? Should this be a specific requirement in assessment criteria?

Yes. Cumulative impact should be a specific requirement for consideration, particularly where proposals make use of State legislation (e.g. housing for seniors or affordable rental housing), where the land might not be zoned to accommodate the proposed use. However, such consideration should incorporate several other factors including:

- The proposed development type and use e.g. coal mines or housing for seniors
- The merit of the proposed development
- The extent/likelihood/type of potential impact (e.g. emissions or traffic)
- The current zone and the current permissible uses (e.g. is the proposed use similar to that for which it is zoned)
- The surrounding zones and land uses (e.g. is the proposed use in conflict with surrounding zones and land uses)

The assessing officer should have the discretion to determine whether the potential cumulative impact is reasonable, giving justification, however generating some sort of criteria to guide planners in making such a decision, which should be as open and transparent as possible, should be considered.

Cumulative impact should also be a specific requirement for consideration in Strategic Planning.

D45 As part of the assessment process for some classes of development projects, should there be a mandatory requirement in a new planning system for full carbon accounting to be considered?

This would be appropriate for some classes of development, including some local development, such as some rural industries, heavy industries, waste or resource management facilities, or open cut mines; designated developments; and, in particular, State significant projects.

However, prior to development assessment at the State and local level being required to incorporate the matter of carbon accounting, it should be addressed, implemented and adequately functioning at the National level. Further, the cost of requiring carbon accounting in development assessment should be understood before it is mandated.

D46 Should the broader question of the public benefit of granting approval be balanced against the impacts of the proposal in deciding whether to grant consent?

Yes, however a fairly rigorous and sophisticated test would need to be undertaken on a case by case basis to weigh up the extent/likelihood/type of impact versus the extent/likelihood/type of public benefit.

The three-step approach utilised under the Mining SEPP seems appropriate and reasonable, however such a decision would have the potential to be subjective, which could potentially be seen by the community as ambiguity in the system, and a way to get developments, like a new mine or an extension to a mine, approved, regardless of the adverse impacts.

Generating some sort of criteria to guide planners to make such a decision, which should be as open and transparent as possible, should be considered.

D47 Should a consent authority be able to take into account past breaches of an earlier development consent by an applicant in considering whether or not it is reasonable to expect that conditions attached to any future development consent would be obeyed?

No, this would undoubtedly prove to be a complex and subjective task. Instead, consideration should be made to incorporating a provision that permits a condition requiring the payment of a performance bond (either on all consents or only on consents where a proponent is a repeat offender) and outlining the requirements for having the bond returned e.g. there is no damage to Council owned land or infrastructure.

D48 Should objections to complying with a development standard remain?

Some flexibility in the planning system should remain, and there are many situations where compliance with such standards cannot be met (due to site characteristics for example) or where the proposed variation is only minor and the impact is minimal, so to have the ability to vary a standard is considered reasonable.

An application to vary a standard should include documentation clearly indicating which standard is to be varied, to what extent and the location of the proposed variation on a plan so that the community can make an informed objection and the assessing officer can make an informed decision.

D49 Should an 'improve or maintain' test be applied to some types of potential impacts of development proposals?

Yes, however this test would only be applicable to certain impacts i.e. those that can adequately be measured (see D50).

To address those matters that can't necessarily be adequately measured, a proponent should be required to do all that is possible to limit and/or mitigate any potential impact resulting from a development proposal.

D50 If so, what sorts of potential impacts should be subject to this higher test?

The following potential impacts could be subject to the “improve or maintain” test:

- Vegetation removal, including Endangered Ecological Communities, riparian corridors and vegetation that is likely to contain threatened species
- Water quality, particularly where our drinking water catchment is involved

D51 Should there be a specific assessment criterion that requires risk of damage as a consequence of either short-term natural disasters or long term natural phenomenon changes to be included in development assessment?

Yes, certain matters should definitely be a consideration for many properties, provided that informed decisions can be made.

Due to the risk surrounding liability and the economic wellbeing of private landowners, planners must be provided with the information and guidance required to assess potential risk, including maps to indicate which properties are at risk and which natural disasters and natural phenomenon changes they are at risk to (e.g. flood areas, sea level rise areas, tidal inundation areas, areas at risk of erosion). Further, guidance on how to mitigate the risks should also be provided, such as requirements for developments proposed on bushfire prone land, land subject to flooding and land that will be affected by sea level rise.

D52 What water issues should be required to be considered for urban development projects?

Water capture and its efficient use and reuse should be encouraged for all new developments as well as retrofitting existing developments.

The cost of implementing such measures should be considered before such a requirement is mandated.

D53 When development is proposed that has an impact on an existing, nonconforming residential use, should any special assessment criterion be required to take account of the residential use?

Regardless of whether an existing use is nonconforming, all proposed developments should consider the impact it may have on surrounding land uses. One would hope that Council's controls account for such consideration.

D54 Should new planning legislation fix a time at which a council assessment report concerning a development application is to be made available for access? If so, when should that be?

No. This should not be mandated through planning legislation.

D55 When should an amended application be re-exhibited and when is a new application required?

A threshold for amendments that trigger the need for re-exhibition versus the requirements for a new development application would be useful. Alternatively, Council should be given the discretion to make such a decision on a case by case basis.

Clarification is required as the current approach is ambiguous and can lead to confusion and controversy.

If an amendment requires re-exhibition, the timeframe required to assess the application should recommence.

D56 What are appropriate performance standards by which council efficiency can be measured in relation to development assessment?

In order to measure the efficiency of a Council in relation to development assessment, the nature/complexity of an application should undoubtedly be taken into consideration. The stated Capital Investment Value of the proposed development could be an indicator of the nature/complexity of an application.

Further, other factors that come into play during the development assessment process, such as State agency response times and the time it takes the applicant to submit additional information, should also be accounted for.

D57 Should there be random performance audits of council development assessment?

Yes, this would ensure that processing times for development applications are the best they can be, and assure applicants that Council is processing their applications as efficiently as possible.

D58 How should concurrences and other approvals be speeded up in the assessment process?

An electronic system, coordinated at the State level, should be developed and implemented to provide Council's the ability to seek concurrences and other approvals from State agencies, and to provide State agencies the ability to upload their responses.

This would speed up response times immensely, as the relevant contact in the relevant State agency would be informed of an application almost immediately, providing enough time to respond with comments, concurrence, terms of approval, or a statement advising that no comments will be provided. On this note, in response to referrals, it should be mandatory for State agencies to advise Council's if they have no comment. This would also contribute to speeding up response times.

Alternatively, a centralised State unit to coordinate responses from State agencies to Councils, and vice versa, would also speed up the assessment process as the unit would be on top of who the relevant contact is in each agency, particularly when State agencies change/are restructured.

'Deemed concurrence', 'deemed approval' and developing default standard minimum conditions of consent are not supported as there are too many uncertainties surrounding such approaches.

D59 What approvals, consents or permits required by other legislation should be incorporated into a development consent?

There is the potential to increase the integration of other statutory consents, approvals and/or permits into the planning process, however the requirement for such should be clearly incorporated into the planning legislation so that they are easily understood and unambiguous. The complexity of the current planning system is undoubtedly contributed to where the requirements for many approvals, consents and/or permits are required via other legislation e.g. the *Threatened Species Conservation Act 1995*.

The requirement for such approvals, consents and/or permits could be coordinated via an electronic system, similar to that discussed at D58, in the interest of speeding up the development assessment process.

D60 Should a council be able to delegate to a concurrence authority power to impose conditions on a development consent after the council approves the proposal?

This may contribute to speeding up development assessment processing times, however it would most likely bring with it additional complexity, which could potentially slow the process. For example, a concurrence authority would have limited knowledge of controls across different local government areas (LGA) so there is the potential for conditions to be contradictory or inconsistent, and further, Council wouldn't have the opportunity to review the proposed conditions. Utilising the same electronic system as previously discussed to coordinate approvals, consents, permits, concurrences etc. would also work for concurrence authorities providing conditions.

D61 Should there be some penalty on a council if a referral to a concurrence authority has not been made in a timely fashion?

Councils should ensure their administrative processes are the best they can be so that the sending of referrals is done as efficiently as possible. But no penalty should be imposed if a referral to a concurrence authority has not been made in a timely manner, particularly as many other factors can contribute to a delayed referral being sent, including incomplete applications.

D62 Who should make decisions about State significant proposals?

The Planning Assessment Commission (PAC) as an independent body. The PAC should remain as impartial as possible, with the Minister having limited input into the assessment process.

D63 What concurrence decisions should be able to be delegated?

The Director General should be able to delegate concurrence decisions relevant to exceptions/variations to development standards.

D64 Should there be a model instrument of delegation?

A model instrument of delegation could work provided, in the interest of being open and transparent, a decision to delegate can be justified and is documented.

D65 What decisions should the Planning Assessment Commission make? Should the Commission's processes be inquisitorial or adversarial?

The PAC should be the determining authority for State significant proposals, as an independent body, with the Minister having limited input into the assessment process.

D66 What should be the processes required for hearings of Planning Assessment Commission panels?

The processes required of the PAC should be clearly prescribed and unambiguous in the planning legislation, and should be similar to the processes required of Joint Regional Planning Panels (JRPP) and Councils, including the opportunity for the community to make submissions and present their views to the panel, as well as the requirements for hearings and public meetings.

D67 Should a local member be on any Planning Assessment Commission panel considering a proposed development?

Yes, particularly because local members would have good local knowledge of the relevant area and as they are the closest representative of the community. This should particularly be the case if it remains that the public have a limited opportunity to present their views to a PAC panel.

D68 If so, should this be mandatory for all commission panels?

Not necessarily. The relevant Council should be provided the opportunity to make representation on a panel if they so choose but they should also have the ability to decline. This opportunity should be afforded for each application.

D69 Should the development assessment criteria for the Planning Assessment Commission be the same as for any other development assessment process?

Yes, the process for the PAC, including development assessment criteria, should be similar to that required of a JRPP and Council.

The PAC should still have to consider local and State planning documents and controls, including the relevant DCP, in addition to other considerations relevant to State significant proposals such as public benefit.

D70 Should a new planning system include Joint Regional Planning Panels?

Yes.

D71 What should be the composition of a Joint Regional Planning Panel?

A JRPP should have both local and State representation, with representation being balanced i.e. two or three members from both local and State, with an appropriate method for making a final decision should it be evenly split e.g. bringing in an additional panel member from an adjoining Council, which is likely to be affected by the subject regional proposal.

D72 What should be the hearing processes for a Joint Regional Planning Panel?

As previously mentioned, the processes required of the JRPP, Councils and the PAC should be clearly prescribed and unambiguous, and should be consistent, including the opportunity for the community to make submissions and present their views to the panel, as well as the requirements for hearings and public meetings.

D73 Should a council be able to refer a matter to a Joint Regional Planning Panel for determination even if the matter would not ordinarily fall within the jurisdiction of such a panel?

Yes, particularly where applications are controversial, as suggested by a Mayor in the Issues Paper.

D74 Should State nominated members of a Joint Regional Planning Panel be precluded from taking part in any decision concerning the local government area in which they reside?

Yes, this could cause a conflict of interest.

D75 If a proposed development is recommended for approval by council staff, has no public submission objecting to it and is not objected to by the Department, should it be determined by the council?

No, as the application will have commenced and progressed through the process for regional development, it may as well be determined by the relevant JRPP. For there to be a recommendation by the assessing officer, no public submissions objecting to the proposed development and no objection from the DP&I, the assessment process would almost be complete and may as well continue as per the process for regional development.

D76 Should it be possible to constitute a Joint Regional Planning Panel with a single representative of each of the affected councils to consider and determine a significant development proposal that extends across the boundary between two local government areas?

Yes, where a significant development proposal extends across the boundary of two LGAs, representation should be made from each LGA. In the interest of inter-governmental collaboration, this should not be discouraged.

D77 If located entirely within one local government area, should a significant development proposal that is likely to have a significant planning impact on an adjacent local government area be determined by such a two council panel?

The opportunity for representation on a JRPP should be offered to each Council of an adjoining or nearby LGA that may be impacted by any 'significant development proposal'. In the interest of inter-governmental collaboration and regional planning, this should not be discouraged.

However, in order to avoid ambiguity and potential conflict, criteria should be developed to identify which development proposals are 'likely to have a significant planning impact' on an adjacent or nearby LGA so that it is clear when representation could be made on the relevant JRPP.

D78 Should a council should be able to apply to the Minister to be exempt from a JRPP?

In most cases Council's planning capacity and decision making ability is sufficiently robust, however in the interest of consistency, inter-governmental collaboration and regional planning, all Council's should have a JRPP.

D79 Should aggregation of multiple proposals to bring them within the jurisdiction of a Joint Regional Planning Panel be banned if, separately, they would not satisfy the jurisdictional threshold?

Yes, if separately a proposal would not satisfy the jurisdictional threshold.

A JRPP should not be seen as a better alternative to Council in determining applications. They should be considered on par; with the same processes for development assessment, including consideration of the same controls and planning documentation, just with differing representation.

D80 Should an elected council have the right to pass a resolution to supplement or contradict the assessment report to a Joint Regional Planning Panel?

Yes. The elected Council, as the closest representative of the community, should not be restricted from putting forward a supplementary or contradictory resolution for further consideration by the relevant JRPP.

D81 Should the Central Sydney Planning Committee be established under legislation for a new planning system or should it remain established by a provision of the City of Sydney Act?

This is a matter for the City of Sydney and its residents.

D82 Should elected councillors make any decisions about any development proposals?

Yes. It is also important that Councillors are largely involved in developing strategic planning documents.

D83 What should be the requirement for a decision making body to give reasons for decisions – in particular as to why objections to a proposal have not been accepted?

In the interest of openness and transparency, just as planners justify their decisions as well as summarise and address all matters raised in submissions, all levels of decision making should be required to justify their decisions, particularly if they depart from the assessing officer's recommendation.

D84 If a council resolves to approve a development proposal where the assessment report recommends rejection, should the council be obliged to provide reasons for approval of the development?

Yes, in the interest of openness and transparency, all levels of decision making should be required to justify their decisions, particularly if they depart from the assessing officer's recommendation.

D85 Should approval of development proposals for quarries be removed from councils?

The Capital Investment Value of a proposed quarry should determine whether the PAC, JRPP or Council is the determining authority. If the quarry is of a value that requires the application to be assessed by Council, there should be no reason why Council can't determine the application.

D86 Should there be a range of standard conditions of consent to be incorporated in development approvals?

Yes, in the interest of improving development assessment processing times and developing some consistency between LGAs, a range of standard conditions of consent should be developed and available for use. The ability to amend standard conditions or draft additional conditions should be permitted, as every development application is different and subsequently, requirements will vary.

D87 Should new planning legislation make it possible for public interest conditions to be imposed that go beyond the conditions that immediately relate to a particular development?

Conditions of consent should fairly and reasonably relate to a proposed development so any public interest conditions imposed should still have a nexus to the subject proposal.

D88 Should nominated conditions of consent be able to be reviewed at regular, specified intervals?

No.

D89 Should it be possible to grant a long-term time-limited development consent for developments that are potentially subject to inundation by sea level rise caused by climate change?

Yes, but only if relevant information and guidance is provided at the State level (see response to D51) in order to justify such a long-term time-limited development consent.

D90 Should consent authorities be prohibited from requiring public positive covenants as part of development approvals, if the matter could be dealt with by a condition of consent?

Council should retain the discretion to make a decision on a case by case basis.

D91 Should new planning legislation make it possible to impose performance bonds or sureties unrelated to the protection of public assets?

NO, if it does not relate to the protection of public assets. The rehabilitation of land following the approved development ceasing should if deemed to have likely impact on environment/amenity must have conditions in the development consent for the approval of the development.

D92 If so, should there be any restrictions on the reasons for which such bonds or sureties could be required?

Not applicable as answer to D91 is NO.

D93 Should a new planning legislation system permit a council to impose a condition that requires payment of charges that would fall due under the Local Government Act?

YES. All legislation is inter-related with each other, regardless if it is State or Commonwealth legislation. This inter-relationship however is not generally understood by the general public, resulting in frustration on being made aware that other approvals (including application fees or charges) are required following receipt of development consent.

A transparent planning system should enable conditions to be imposed advising other approvals require to be sought as part of the development/building process.

D94 If there is to be a more concept based development application process, should councils have the power to impose conditions on construction approvals?

This seems to be a 'double-edged sword' as the ability for councils to impose conditions will increase the level of certainty with the certification process. Nonetheless, council becomes a party to liability if there is failure in the certification process.

D95 Should IPART be given a general reference to examine and make recommendations about how any shortfall in development contributions plans for necessary community infrastructure should be funded?

YES so long as any recommendations made in how the shortfall should be funded are not be mandated. Any recommendation is for the Council to consider and if appropriate, implement/adopt.

This should not be the primary purpose for any IPART analysis.

D96 Should IPART be given a reference to make recommendations about what should be the extent, standard and nature of community infrastructure works that should be included in contributions plans?

YES so long as any recommendations made by IPART are not be mandated. Any recommendation is for the Council to consider and if appropriate, implement/adopt.

As per answer to D95, this should not be the primary purpose of IPART's role in any future review of contributions plans.

D97 In light of the particular circumstances that might apply to the area covered in a contributions plan, should IPART be given a standing reference to enable councils to apply for variation to the cap on community infrastructure contributions?

YES. Currently, the cap on contributions has significant financial implications for local government. It is inequitable for an existing community to be burdened with the delivery of infrastructure to a new land release project to the detriment of upgrading existing or failing infrastructure.

D98 Is it reasonable to require IPART to undertake a detailed analysis of each contributions plan developed by councils?

NO, this is a timely exercise with limited resources available to undertake the analysis. Additionally, IPART's role is to currently consider exhibited draft contributions plans rather than during the preparation of the plan, a protracted exercise that delays Council's ability to levy developments in accordance with the plan that could have previously been adopted without input from IPART.

IPART's role would be value added during the preparation phase, via a preliminary review of contributions schemes as costed works list and projected demand for infrastructure is determined, together with consideration of the methodology being used to determine the contribution rate to be applied (including timing of payment for monetary contribution and determination of indices to be used to make annual adjustments to the contribution rate).

D99 Would it be preferable to give IPART a general reference to develop an appropriate plan preparation methodology and approach to construction costing for community infrastructure contributions plans?

YES, it may be more appropriate to restrict IPART's role towards methodology (including timing of payment for monetary contribution and determination of indices to be used to make annual adjustments to the contribution rate) and approach to construction costing (including determining the % to be applied to works items in regard to contingencies should the item be delivered in 2, 5 or 7 years from the plan being adopted). The local variations for different localities should be included in the costing.

D100 Should IPART be given a reference to make recommendations as to when community infrastructure contributions should be available? Should this include recommendations as to whether a delayed payment system should apply and, if so, at what development stages payment should be made?

NO. Councils are answerable to their communities, and demand/pressure for the identified infrastructure from which the contributions are received will be received within those communities. Local government's current reporting requirements already provide an indication of when the contributions will be spent through delivery of infrastructure.

If the express intent is for timely delivery of infrastructure in line with development, then payment of monetary contributions must be before the Construction Certificate is issued. Opportunities should be open for local government to determine whether the staging the payments of monetary contributions (if the development consent results in the staging of the construction of the development) is an appropriate approach.

Additionally, opportunities to improve and increase the use of the Material Public Benefits or Works-In-Kind approach will be advantageous towards timely delivery of infrastructure.

Pittwater Council has a history of timely delivery of infrastructure, and contributions are part of the organisation's financial statements that must be managed sustainably over time. This has been achieved by the Council's insistence, through the development consent conditions, that monetary contributions be paid before construction works can occur on site.

D101 Should there be a requirement for councils to publish a concise, simply written, separate document on community infrastructure funds collected and their proportionate contribution to individual elements in the council's contributions plan?

NO. This is already undertaken as part of Council's Financial Reporting, provided on an annual basis. Any specific requirement that deals only with contributions is an additional reporting requirement unnecessary as it duplicates information already available, resulting in waste of Council time and resources.

D102 Should IPART be given a reference to consider whether or not guidelines and/or mandatory requirements should be set for councils about community infrastructure prioritisation and levels of community infrastructure funds permitted to be available?

NO. Councils and its community should be setting the priorities for infrastructure, in line with delivery of strategic plans.

A risk managed methodology based upon latest standards should be the default position to prioritise infrastructure build. The foregoing risk management standards should already be adopted by all Councils.

D103 Should new planning legislation make provision for voluntary planning agreements to permit departure from numerical limits that would otherwise apply to a development?

NO as this is inconsistent in the transparency of the planning legislation and decision-making process.

Opportunities for voluntary planning agreements should continue without the need for departures from numerical limits.

Voluntary planning agreements are, by nature, a negotiated outcome between Council and the developer in regard to delivery of infrastructure associated with the development. Through the negotiation process, Council has a vested interest in the approval of the development which typically occurs concurrently with the assessment process thus making it difficult to delineate Council's role as a consent authority in determining the development and its role as an approval authority in agreeing to the negotiated offer (via the voluntary planning agreement).

NB. In this situation, development may be an application to rezoning of land or a Development Application.

D104 Should any appeal be allowed against the reasonableness of a development contribution, if it has been approved by the Independent Pricing and Regulatory Tribunal?

YES as the reasonableness of a development contribution to be levied must be considered against Newbury principle as does any conditions imposed on development consents.

Any appeal however should not deal with nexus or methodology of the contributions plan if IPART retains role in analysing draft contributions plans – IPART has sufficient rigour in scrutinising and assessing the reasonableness of a contributions plan in regard to nexus, methodology, works items and costings.

D105 Should developer contributions apply to modifications of approved development?

YES, subject to merit and nature of the modifications sought, and provided that the 'test' of nexus and reasonableness is satisfied.

D106 Should regional joint facilities funded by developer contributions shared between councils be encouraged?

YES, this is particularly advantageous in delivery of any regional facility.

D107 What should be the permitted scope of modification applications?

Although this will be difficult to prescribe in legislation, the option towards a set % of change to an approved development is theoretically palatable.

D108 Should there be a limit to the number of modification applications permitted to be made?

YES. Incremental applications sought to modify the development results in significant departures from the original approved development, particularly where the incremental modifications result in impacts that, (1) cumulatively or (2) had it been considered comprehensively in a single application, are significant to the detriment of the environment, community etc in terms of safety and amenity.

D109 Should any modification be able to be approved retrospectively after the work has been done?

Yes, as long as it is substantially the same development. However, there should also be a penalty or some disincentive in place that makes retrospective approvals less attractive to applicants.

D110 If so, should retrospective approval be confined only to minor changes and not more substantial ones? Should this be the case even if major changes leave the development substantially the same development as the one originally approved?

Yes.

D111 Should minor modification applications made to the Planning Assessment Commission or Joint Regional Planning Panel approvals be decided without a public hearing?

YES so long as the modification applications do not result in any impact or increase the impact.

Council however recognises there is clear distinction with the public hearing under the PAC and the JRPP. The public hearing for the PAC is not open as parties are not in the same room at the time before the PAC. Conversely, the JRPP (similar to a Council meeting) has all parties in the room at the same time and can hear the JRPP's deliberations and determination, including questions and respond to the JRPP

D112 Should councils be able to deal with minor modification applications to major projects?

YES so long as the modification applications do not result in any impact or increase the impact.

D113 Development applications that propose breaches to (or increases in breaches to) numerical limits in local environmental plans are subject to special tests. Should modification applications be subject to these same special tests?

YES as the cumulative impact of this modification results in increased breach to numerical limits.

D114 Should the 'substantially commenced' test for ensuring the ongoing validity of development consent be retained?

YES. The test should be related to physical commencement and this test should remain.

D115 If the present test was not retained, what new test should replace it?

See answer to D114

D116 How long should development consents last before they lapse?

Opportunities should continue for councils to issue 2 year consents (with the mandated maximum of 5 years) given that councils are presently in the Standard LEP Template preparation/implementation process.

D117 Should private certifiers have their role expanded and, if so, into what areas?

NO. The uncertainty and lack of confidence in the current private certification system needs to firstly be addressed. Added to the uncertainty in a new planning and certification act, any expansion should be considered as a future amendment to the new act (not effected at the same time).

D118 Should private certifiers be permitted, in effect, to delegate certification powers to other specialist service providers and be entitled to rely, in turn, on certificates to the certifier from such specialist professions?

Any professional specialists providing certification for a development should be accredited by the Building Professionals Board (BPB). The accredited professional specialists would be allowed to issue a Compliance Certificate under Part 4A of the Act. This certification can be relied upon by the Principal Certifying Authority (PCA) irrespective of private or Council acting as the PCA.

D119 Should certifiers be required to provide a copy of the construction plans that they have certified (as being generally consistent with the development approval) to the council to enable the council to compare the two sets of plans?

YES however Local Government's role in certification is not to act as a 'policeman'.

A copy should be forwarded to Council for access by the general public and to assist Council in carrying out enforcement action as the local government authority/consent authority.

D120 Should there be a requirement for rectification works to remove unacceptably impacting non-compliances when these are actually built rather than leaving an assessment of such non-compliances to either a modification application assessment or to the Court on an appeal against any order to demolish?

YES

D121 What statutory compensation rights, if any, should neighbours have against a certifier who approves unauthorised works that have a material adverse impact on a neighbouring property?

There is currently the ability for a third party to either make a complaint to the Building Professionals Board whom have the ability to grant compensation or seek to make a claim on the certifier's professional indemnity insurance.

D122 Should construction plans be required to be completely the same as the development approval and not permitted to be varied by a private certifier for construction purposes?

D123 Should developers be permitted to choose their own certifier?

YES if private certification system is to be retained.

D124 What should the Department's compliance inspection role be?

The Department should undertake compliance inspections for projects that have been approved, and conditioned, by the State. The Department should also undertake random compliance audits.

D125 Should Interim Occupation Certificates have a maximum time specified and, if so, how much should this be?

Yes, maximum of 6 months.

D126 Should a certifier issuing a Final Occupation Certificate be required to certify that the completed development has been carried out in accordance with the development consent?

Yes for all aspects of the development consent and not just the structure/building being certified.

D127 What might be done to have power delegated by the Commonwealth to State authorities or councils to give approval under the Commonwealth Act?

D128 Should there be a guide prepared to explain to councillors what their roles are in the development proposal assessment and determination process and how it is appropriate that they fulfil that role?

YES.

D129 If there were to be such a guide prepared, who should have the responsibility for its preparation and what participation and consultation processes should be undertaken in its development?

Department of Planning & Infrastructure (DP&I), Department of Local Government (DLG) and Independent Commission Against Corruption (ICAC) should all have input in the preparation of the guide, with targeted consultation (especially but limited to the Local Government Association and Shires Association). DLG should take a lead role in preparing this guide and implementing the training.

D130 Is it appropriate to consider, in legislation for a new planning system, providing a statutory basis for spreading the cost of a necessary rehabilitation or stabilisation measure across all property ownerships benefited by such a measure?

In limited circumstances.

D131 Should there be specific statutory obligation to require the establishment of (and the procedures for) community consultation forums to be associated with major project developments?

YES, the current process of the proponent undertaking a 'preliminary' forum and the Department's own consultation process (of simply notifying adjoining property owners it considers to be affected by the proposal and an advertisement) is grossly insufficient.

Typically, councils own notification procedures are more extensive and go above current minimum statutory provisions as a result of an adopted policy. The Department should have similar procedures, that have been exhibited and adopted, in place for exhibition of any matters including major project developments.

D132 Should a quantity surveyor's report be required to accompany applications for large projects?

YES however it should not be limited to large projects and particularly where excavation is proposed. This should be a mandatory requirement to all DA's as the QS report should provide the nearest-accurate estimate of the works to be undertaken on the site.

D133 What fees should councils receive for development applications?

The fees should be calculated on a full cost recovery basis with a minimum, rather than a maximum, fee set in the legislation.

D134 When and how should council development application fees be reviewed?

Councils are obliged to publish its Fees and Charges and any review of development fees should occur concurrently with any review by council of its fees and charges.

Chapter E: Appeals & Reviews; Enforcement & Compliance

E1 What appeals should be available and for whom?

A simplified non-adversarial, tribunal-style and low-cost appeal system that places limits on representation for merits based appeals would be preferable, especially for single dwelling applications. Venues could be in local/regional areas to ensure accessibility to this process. This type of system would be much more equitable than the current system, which is only available to those with the ability to pay and also places a large financial burden on councils.

For judicial review third party appeals should continue to be available. A court-based adversarial system is likely to be more suited to appeals regarding procedural matters.

Regardless of the type of appeals system there should be a greater focus on mediation to facilitate out of court resolutions.

E2 Should anyone be able to apply to the Court to restrain a breach of the Act?

Yes – the current ‘open standing’ provisions in respect of restraining breaches of the Act (ie: restraining a breach of process) should be retained in any new legislation.

E3 In what circumstances should third party merit appeals be available?

A third party should continue to have open standing to question the validity of any administrative decision made under a new Act. This will ensure integrity in the new system.

However under the current appeals system extending the right of third parties to be heard in regard to merit appeals is not supported primarily due to the potential financial impacts on councils. The current practices and process of the NSW Land and Environment Court, which result in time consuming and expensive appeals, do not lend themselves to a significant extension of third party merit appeal rights, without the potential of bogging down decision making.

If a simplified, low cost, tribunal-style system were to be implemented it may be feasible for third parties to have merit appeal rights in a greater range of circumstances than they currently do. For third party merit appeals it would be necessary to apply a strict, short time frame during which appeals are allowed.

In 2007 ICAC recommended the following categories of development should be accompanied by third party appeal rights:

- Development relying on significant SEPP 1 objections
- Developments where council is both the applicant and the consent authority, or where an application relates to land owned by council
- Major controversial developments, including for example large scale residential flat developments, and
- Developments that are the subject of planning agreements.¹

¹ ICAC (2007) *Corruption Risks in NSW Development Processes*.

E4 Should approval bodies or concurrence authorities be the respondent to some appeals?

Yes - in circumstances where an approval body or concurrence authority have refused an application where the council otherwise would have approved the application, the body or authority should be required to make representation during the proceedings to defend their position. The approval body or concurrent authority could potentially appear as the co-respondent with the council

E5 What should be the time limit for any appeal about LEP provisions?

To ensure consistency with the time for appeals relating to determinations of development applications and modifications, the time limit for any appeal about LEP provisions should be 6 months.

E6 Should the Court have absolute discretion as to costs orders? Or should the Court's discretion be limited and, if so, in what respects?

Applicants should continue to be encouraged to amend their plans prior to going to Court in the interests of time and money. The Court should be required to make a costs order when plans are amended by the applicant during proceedings.

The Court should also continue to require the applicant to pay for the costs of re-notification of the amended plans.

E7 Should any appeal be allowed against the reasonableness of a development contribution if it has been approved by the Independent Pricing and Regulatory Tribunal?

YES as the reasonableness of a development contribution to be levied must be considered against Newbury principle as does any conditions imposed on development consents.

Any appeal however should not deal with nexus or methodology of the contributions plan if IPART retains role in analysing draft contributions plans – IPART has sufficient rigour in scrutinising and assessing the reasonableness of a contributions plan in regard to nexus, methodology, works items and costings.

E8 What sort of reviews should be available?

Reviews should continue to be available for development applications and modifications. Review decisions should be binding on the Council. Nonetheless, the review decision should be able to be appealed to the Court.

Reviews should not be available for re-zoning matters.

E9 Who should conduct a review?

Reviews of council decisions made under delegation should be undertaken internally under delegation, however reviews should be undertaken by someone other than the original decision maker.

There is a need for clearer articulation to all stakeholders regarding the hierarchy of determination authorities and review bodies. The costly duplication of responsibilities should be removed.

E10 What rights should third parties have about reviews? And what provisions should apply regarding the costs of the review?

Third party objectors to the original application should be notified and have the right to make a submission during a review.

Third party objectors should not have the right to initiate a review.

E11 How might recommendations by the Planning Assessment Commission be reviewed?

Reviews of PAC recommendations should only be undertaken by the Land and Environment Court.

E12 Do some present penalties need to be increased?

The current planning system does not offer effective deterrents to non-complying development or for carrying out development without consent. Non-compliance and breaches of the Act if not effectively and efficiently brought to account undermine the public confidence in the system when offenders are not brought to account or seem to get off 'lightly'.

There is a perception that the building industry sometimes avoids obtaining necessary approvals, as there is a general belief that councils lack the will or the resources to take effective action to demolish unauthorised structures, and even if action is taken, that the consequences are unlikely to outweigh the benefits gained through early construction of a project.

There is a clear need for stronger penalties and harsher financial implications for non-compliance to build public confidence and engender respect for the planning system.

E13 What new orders should there be or what changes are needed to the present orders?

- Completion Orders should be able to be issued to require a development to be completed within a reasonable amount of time where the partially completed development is risk to the health/safety of the community
- Demolition and clean up orders should be able to be issued to control activities and/or uses where there are health and/or fire risk/s.

E14 How can enforcement be made easier and cheaper for consent authorities?

In order to make enforcement easier and cheaper for councils mechanisms for cost recovery for investigatory actions are required.

Requiring the payment of enforcement bonds for any enforcement costs incurred during construction should be considered. The bond would be paid prior to the commencement of works and returned on the satisfactory completion of works.

Remove the recipient's right of appeal to the L&E Court where Orders are issued to comply with a development consent.

E15 Should councils have a costs or other remedy against private certifiers in certain circumstances?

Yes – where unauthorised or non-complying works have been certified councils should be able to recover inspection and enforcement costs.

E16 Should monitoring and reporting conditions be reviewable?

Yes – in certain circumstances, however the intent of the original condition should remain the same and the amended condition should not be more onerous.

E17 Should there be an appeal right for third parties in proceedings against private certifiers?

No.

E18 Should a consent authority have a wider right to revoke a development consent?

No.

E19 Should councils have a statutorily created 'best endeavours' defence?

No.

E20 Should council compliance officers be given rights of entry and inspection and of access to official databases for compliance and enforcement inspections under planning legislation on the same basis as they have such rights under the Local Government Act?

Under a new Act authorised officers should be given adequate powers of investigation on the same basis as they have under the *Local Government Act* – including rights of entry and inspection, access to official databases and powers to require the production of documents.

Chapter F: Implementation and Governance

F1 What should be the role of the Department in implementing a new planning system? Should the role and resourcing of regional offices be embraced? And, if so, in what respects?

The Department should play a key role in facilitating understanding of a new system, through appropriate training, community education and provision of appropriate resources.

Decentralising the power of the Department is supported and the role of regional offices should be embraced. These offices would need to be adequately resourced and decision-making capacity to implement the system.

F2 What should be the role of councils in implementing a new planning system?

- Undertake assessment of development applications
- Preparation of local plans
- Compliance and enforcement
- Undertake rezoning applications – ie: spot rezonings, minor rezonings in accordance with a masterplan/strategic plan, minor housekeeping rezonings

F3 What can be done to ensure community ownership of a new planning system?

The current planning system is enormously complex and characterised by a multi-layered system of controls. By simplifying the system, in particular planning terminology, communicating processes and prioritising community involvement this will help to ensure community ownership in the new system.

There must also be a stronger focus on education and improving community understanding of the planning system.

F4 What actions can be undertaken by bodies preparing strategic plans to increase community engagement with the planning system?

Community consultation and public participation should be prioritised during the formulation of new strategic plans. The failure to explain to communities how growth targets are calculated in strategic planning documents, as an example, has resulted in mistrust and a lack of acceptance of these crucial targets at a local level.

Public participation is fundamental to good planning and ensuring community buy-in. Open and early consultation with communities will also help to reduce conflict and will improve community acceptance of new proposals. The community must be able to participate in a genuine and meaningful manner in relation to all aspects of the development of strategic plans. Examples of ways to engage the community could include community workshops and information evenings, information booths in local shopping centres or main streets.

F5 What changes can be put in place to ensure more effective cooperation between councils, government agencies, the community and developers within the planning system?

There needs to be consistency and co-ordination between state agencies, including improved communication and greater buy-in where the initiatives and policies of one agency rely on another.

In any new Act it should be clear who is responsible for administering each process and procedure and who has rights under those procedures. Responsibilities should be allocated to enable single-handed dealing with that process or procedure to avoid matters passing through multiple bodies or agencies blurring ultimate responsibility.

There is a need for greater emphasis to be placed strategic planning at state, regional and local levels. Plans should be vertically integrated and consistent with each other and should be prepared in conjunction with other government agencies. Leadership at a State level needs to be provided in the form of costed, evidence based, clear strategic plans. These plans when adopted should bind all lower order plans and other government agency decisions and policies as they relate to planning. Just as local government is bound by sub-regional strategy documents, State government agencies should likewise be bound to delivery on their obligations.

To this end, there is a clear need for improved co-ordination in infrastructure delivery. The Department of Planning and Infrastructure should ensure that the infrastructure and services identified in the metropolitan and regional strategies is fully funded, can and will be delivered in appropriate timeframes. Without such commitments it is difficult for communities to have confidence that necessary infrastructure will be delivered, which makes it difficult for communities to accept increased development.

The suggestion of the establishment of an urban development committee of Cabinet to coordinate government agencies' involvement in the process of major urban land release projects is supported to ensure more effective co-ordination of infrastructure and service delivery.

F6 What checks and balances can be put in place to ensure probity in the planning system?

Just as Council's are required under the Local Government Act to prepare and adopt a code of conduct, a similar code of conduct should apply to State agencies and decision making bodies.

Any code of conduct should be regularly reviewed by staff to ensure good understanding an individual's rights and responsibilities under that code.

F7 How can information technology support the establishment of a new planning system?

The current planning system is enormously complex and it is difficult for landowners to readily identify and understand the planning controls relevant to their property. There is a need to recognise the technological and cultural shift towards an online future. Any new Act must make maximum use of information technology to make it easier and simpler for landowners to identify and access the relevant planning controls for each property. In reviewing the current Act, regard must be had for the following:

- An improved customer interface
- An electronic mapping system that provides state-wide spatial representation of planning information (zoning, state policies, local planning)
- Spatial delivery of data that allows interrogation on an individual parcel basis
- Ability to interrogate online what land uses are permissible and what is prohibited
- Clearly define information required to be submitted with applications
- A transparent application tracking system
- A standardised reporting and monitoring systems

F8 Should the new planning system contain mechanisms for reporting on and evaluating objectives of the legislation?

Yes – this is essential. A uniform reporting framework which facilitates analysis of all objectives of the act, whether quantitative or qualitative, should be implemented. All government agencies and councils should use the same framework.

F9 How should information about the planning system be made more accessible in a multicultural society?

- Publishing educational materials in languages other than English
- Improving webpage interface of Council and Department web pages – web pages in multiple languages
- Availability of translators

C11.6 Review of Pittwater 21 Development Control Plan

Meeting: Planning an Integrated Built Environment Committee **Date:** 19 March 2012

STRATEGY: Land Use & Development

ACTION: Review planning instruments to reflect Council's Strategic Plan, local values and respond to regional and state requirements as well as sustainability and climate change

Cut unnecessary red tape in Council's assessment and determination process

PURPOSE OF REPORT

The purpose of the report is to advise Council that a Review of Pittwater 21 Development Control Plan (P21 DCP) is being undertaken and to gain Council endorsement for the formal exhibition of the draft document included in a table at **Attachment 1 and 2** to this report.

1.0 BACKGROUND

- 1.1 The review of planning instruments and associated red tape reduction in Council's assessment and determination process were identified as Strategic Initiatives under the Land Use and Development Strategy in the Pittwater 2020 Strategic Plan.
- 1.2 The review aims to incorporate necessary changes and reduce red tape.
- 1.3 Pittwater 21 DCP was adopted 8 December 2003 and came into effect 1 February 2004. The P21 DCP has since been amended six times as described in the following table.

Amendment No.	Date Adopted	Date in Effect	Description
1	6 Aug 2007	10 Sep 2007	Major review of Parts: Preliminary, A, B, C and D
2	5 Nov 2007	3 Dec 2007	Newport Masterplan Amendment – Major changes to controls for Newport Commercial Centre (incorporating the Newport Masterplan at Appendix 12) and minor changes to controls for development in all centres and multi-unit housing developments.
3	4 Feb 2008	18 Feb 2008	Clarification of various controls.
4	20 Oct 2008	28 Nov 2008	Introduction of Secondary Dwellings.
5	15 Jun 2009	6 Jul 2009	Major review of Parts Preliminary, A, B, C, D and Appendices.
6	21 Sep 2009	12 Oct 2009	Geotechnical Policy Amendments.

- 1.4 Meeting were held between Planning and Assessment and relevant Business Units to identify particular controls which will be the subject of review, as well as opportunities for red tape reduction through modification of conditions of development consent and information required to be submitted.
- 1.5 The Business Units were responsible for reviewing the content of the development controls relevant to their operations. They were asked to assess the necessity, value, comprehension and reasonableness of each control in P21 DCP and were encouraged to reduce any red tape identified.
- 1.6 Feedback provided from the relevant Business Units, together with internal changes identified by Planning and Assessment, has formed the basis for this review. Submissions received, raising various issues with controls, from local residents and community groups since the last review of Pittwater 21 DCP in 2009 have also been considered.

2.0 ISSUES

2.1 The Controls Need Refinement

2.1.1 The purpose of P21 DCP Review and associated red tape reduction was to :

- Streamline and simplify development approval processes;
- Make controls easier to understand and applications easier to lodge;
- Remove unnecessary and unjustified requirements;
- Ensure that the appropriate development controls and conditions are in place; and
- Ensure consistency with the latest legislative changes;

2.2 Important Changes to the P21 DCP

2.2.1 Outlined below are the key amendments to P21 DCP with a reason for the proposed changes (all changes are provided in detail in **Attachment 1**). Proposed key amendments include the following:

Control	Summary of changes (see Att 1 for details)	Reason for amendments
4.1 Integrated Development – Water Supply, Water Management and Water Activity	Proposed changes to Title, Uses to which this control applies, Outcomes, Controls, Variations and Advisory notes.	Proposed changes reflect recent changes to the NSW Water Management Act 2000 and Water Management (General) Regulation 2011.
4.8 Integrated Development – Rivers, Streams and Foreshores	Proposed changes to Mapping, Uses to which this control applies, Controls and Advisory notes.	Proposed changes reflect recent changes to the NSW Water Management Act 2000 and Water Management (General) Regulation 2011.
A1.9 Definitions	Inclusion of Vegetation Class Definitions and additional definitions	To provide greater clarity and make the control easier to understand and apply. The additional definitions are primarily a result of the introduction of control B4.22 Preservation of Trees and Bushland Vegetation.

B4.22 (proposed control) Preservation of Trees or Bushland Vegetation	Introduction of new control called Preservation of trees and bushland vegetation	The Tree Preservation Order (TPO) is proposed to be repealed and the preservation of trees and bushland vegetation incorporated into the Pittwater LEP and DCP.
B6.6 Off-Street Vehicle Parking Requirements – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy	A number of smaller changes to Controls and Variations	Minor administrative changes and variations to provide greater clarity and a more easy to understand control.
D – throughout (Building colours and materials)	Include 'light grey' and 'beige' to permitted colours.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D9.15 Seawalls at Beach Basin, Mona Vale	Repeal entire control	This control has been made redundant by amendments to the Coastal Protection Act and P21 DCP Appendix 6

2.3 Statutory Process

- 2.3.1 In accordance with the Environmental Planning and Assessment Regulations 2000, it is recommended to publicly exhibit the draft P21 DCP and invite written submissions. The statutory requirement is for public exhibition of twenty-eight (28) days.

2.4 Community Engagement And Exhibition

- 2.4.1 Should Council agree to the recommendation of this report, in accordance with Council's Community Engagement Policy at least one written notice is to be placed in the Manly Daily, the notice and additional information on the proposed changes are to be published on Council's website and copies made available for viewing at the libraries and Customer Service. Further, Council's advisory committee members and relevant community groups will be invited to make submissions.

2.5 Forward Path

- 2.5.1 If Council agrees to the recommendation to exhibit the draft changes to the P21 DCP, at the close of the exhibition all submissions received will be considered and any necessary changes to the draft plan incorporated. A subsequent report will be prepared for Council to consider adopting the Draft P21 DCP amendment bringing it into force.
- 2.5.2 Community submissions may result in changes to the P21 DCP as a result of the primary exhibition. It is proposed that if there are significant changes that they be separately exhibited to allow for community to view the changes and ensure the timely progression and implementation of the majority of changes to P21 DCP.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The draft P21 DCP is an integral component to evaluating the likely impacts of development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The P21 DCP maintains and enhances the community lifestyle and built form character that enhances the health and wellbeing of the community.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 The draft P21 DCP is an integral component to evaluating the likely impacts of development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The P21 DCP includes initiatives that aim to reduce our ecological footprint, protect our bushland and biodiversity, as well as improve the health of our beaches and waterways.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 The draft P21 DCP is an integral component to evaluating the likely impacts of development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The P21 DCP facilitates participation in employment, local business opportunities and quality educational opportunities.

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The draft P21 DCP is an integral component to evaluating the likely impacts of development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The P21 DCP facilitates community participation, collaboration and engagement to ensure that decision-making is ethical, accountable and transparent.

3.5 Integrating our Built environment (Infrastructure)

- 3.5.1 The draft P21 DCP is an integral component to evaluating the likely impacts of development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The P21 DCP aims to enhance the liveability and amenability of our villages by promoting effective, efficient and connected transport choices through the improved mix of appropriate land use and development.

4.0 EXECUTIVE SUMMARY

- 1.1 The review of planning instruments and associated red tape reduction in Council's assessment and determination process was identified as Strategic Initiatives under the Land Use and Development Strategy in the Pittwater 2020 Strategic Plan.
- 4.2 The purpose of P21 DCP Review and associated red tape reduction was to :
- Streamline and simplify development approval processes;
 - Make controls easier to understand and applications easier to lodge;
 - Remove unnecessary and unjustified requirements;
 - Ensure that the appropriate development controls and conditions are in place; and
 - Ensure consistency with the latest legislative changes;
- 4.3 Key amendments to P21 DCP are outlined in this report with a reason for the proposed changes
- 4.4 A comprehensive list of the changes to P21 DCP is included in **Attachment 1** and the introduction of a new control is included in **Attachment 2**.
- 4.5 The report outlines the required statutory process for public exhibition and community engagement, in accordance with Councils Community Engagement Policy.

RECOMMENDATION

1. That the information provided in the report be noted.
2. That the attached draft changes to Pittwater 21 Development Control Plan be placed on public exhibition for 28 days with submissions invited from the public and notified in accordance with Council's Community Engagement Policies.
3. That following the period of public exhibition and consideration of any submissions received, the draft Pittwater 21 Development Control Plan Amendment be reported back to Council for further consideration.

Report prepared by
Andreas Olsen - Strategic Planner

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

Comprehensive list of proposed controls to be amended

Control	Proposed Amendments	Reason for Amendment
Front cover & throughout	Administrative changes to dates etc.	Minor formatting.
Throughout	Minor administration changes (government department names, new legislation etc.). Names to be changed throughout: DECC, Department of Water and Energy to Department of Environment, Climate Change and Water Roads and Traffic Authority to Roads and Maritime Services Department of Fisheries to Department of Primary Industries AAA water rating to 2005 Water Efficiency Labelling and Standards Act AS 4013-1992 to AS 4013-1999	Administrative changes.
3.2 Submission of Statement of Environmental Effects	<u>Controls:</u> Replace 'The SEE must demonstrate how the development satisfies the relevant policies in the DCP and justify any non-compliances' with 'The SEE must demonstrate how the development satisfies the relevant policies in the DCP and State controls and justify any non-compliances'	Changes to clarify that SEE's also need to address State policies.
3.4 Notification	<u>Controls:</u> Add after Development Application '(including s96 modification applications and s82A review of determination applications)' <u>Variations:</u> Delete all existing variations. Add ' When the outcomes of this control are achieved, the following variations may be applied: - An application for a s96(1) involving minor error, misdescription or miscalculation may not require re-notification - Notifications of amendments to in progress applications may be re-notified for a shorter period than required for the original notification period (minimum period must be 14 days). - Minor amendments to in progress applications may not require re-notification.'	
3.6 State Environmental Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)	<u>Uses to which this control applies:</u> Change the listed uses to 'all uses'	Changes to clarify that relevant State policy need to be address for all developments.

Control	Proposed Amendments	Reason for Amendment
4.1 Integrated Development: Water Supply, Water Management and Water Activity	<p><u>Title</u> Change from 'Integrated Development: Water Supply, Water Management and Water Activity' to 'Integrated Development: Water Supply, Water Use and Water Activity'</p> <p><u>Uses to which this control applies</u> Introduce the following uses:</p> <ul style="list-style-type: none"> • Dwelling House - New • Dwelling House - Alterations and Additions • Attached Dual Occupancy • Detached Dual Occupancy • Multi-Unit Housing • Shop-Top Housing • Business Development - New Construction or Alterations and Additions • Industrial Development - New Construction or Alterations and Additions • Subdivision (Additional Lots - Excludes Dual Occupancy) • Subdivision (Boundary adjustment) • Pool (ancillary to a dwelling) • Tennis court (ancillary to a dwelling) • Inclinator (ancillary to a dwelling) • Jetty, ramp, pontoon (ancillary to a dwelling) • Attached dwellings in non-urban areas • Group Building • Residential Flat Building (2 storey) • Residential Flat Building (3 storey) • Seniors Housing - SEPP (Housing for Seniors or People with a Disability) 2004 • Advertising/Signs • Bed and Breakfast Establishment • Child Care Centre • Demolition • Earthworks/Landfill • Subdivision (Boundary Adjustment) • Warriewood Valley Sector Development/Subdivision • Telecommunication Facility • Waste Water Disposal System • Hospital/Nursing Home • Secondary Dwelling • In-fill affordable housing - SEPP (Affordable Rental Housing) 2009 • Occupation/Use of existing business premises • Occupation/Use of existing industrial premises 	Proposed changes reflect recent changes to the NSW Water Management Act 2000 and Water Management (General) Regulation 2011.

Control	Proposed Amendments	Reason for Amendment
	<p><u>Outcomes:</u> Add 'Compliance with the requirements of the Water Management Act 2000 including Water Sharing Plans'</p> <p><u>Controls:</u> Delete all current controls and replace with: 'Applications involving water supply works (including the installing and operating a pump, dam or bore), water use, and activities (including controlled activities and aquifer interference activities) must be referred to the NSW Office of Water. Relevant approvals under the Water Management Act 2000 are required to be obtained from the NSW Office of Water. Exemptions may apply under the Water Management (General) Regulation 2011.'</p> <p><u>Variations:</u> Delete 'Where the applicant provides clear and unambiguous proof that the proposal does not involve any construction or disturbance within 40 metres of a waterway or foreshore this requirement may be dispensed with.'</p> <p><u>Advisory Notes:</u> Delete 'This is a control which only applies to a very small number of Applications. (See above for details). If unsure seek advice from a Planning Consultant or Council prior to progressing.' and replace with 'Further information is available from the NSW Office of Water website.'</p>	

Control	Proposed Amendments	Reason for Amendment
4.8 Integrated Development: Rivers, Streams and Foreshores	<p><u>Controls:</u> Remove heading 'Streams, Rivers and Lakes'</p> <p>Delete 'If the development is a controlled activity to be taken on water front land the application must be referred to the Department of Water and Energy (DWE)' and replace with 'The application must be referred to the NSW Office of Water if the development is a controlled activity to be undertaken on waterfront land of a river, lake or estuary (excluding the coastal foreshore). A controlled activity approval under the Water Management Act 2000 is to be obtained for controlled activities carried out in, on or under waterfront land.'</p> <p>Delete (and move to Advisory Notes) 'Waterfront Land is:</p> <ul style="list-style-type: none"> • The bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, OR • The bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, OR • The bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark, OR • If the regulations so provide, the bed of the coastal waters of the State, and any inland lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed distance inland of, the mean high watermark of the coastal waters, • where the prescribed distance is 40 metres or (if the regulations prescribes a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance. Land that falls into 2 or more categories referred to in paragraph (a), (a1) and (a2) may be waterfront land by virtue of any of the paragraphs relevant to that land.' <p>Delete (and move to Advisory Notes) 'A controlled activity means:</p> <ul style="list-style-type: none"> • The erection of a building or the carrying out of a work (within the meaning of the Environmental Planning & Assessment Act 1979, or • The removal of material (whether or not extractive material) or vegetation from land whether by way of excavation or otherwise, or • The deposition of material (whether or not extractive material) on land, whether by way of landfill operations of otherwise, or • the carrying out of any other activity that affects the quantity or flow of water in a water source' <p>Delete "exemptions may apply for minor residential developments as described under Clause 39A (2) (g) of the Water management Act 2000. However, where works are in-stream these exemptions will not apply.' and replace with 'Exemptions may apply under the Water Management (General) Regulation 2011 including minor residential developments and ancillary facilities where works are <u>not</u> in-stream, and activities carried out on waterfront land of a river that is fully concrete lines or piped.'</p>	Proposed changes reflect recent changes to the NSW Water Management Act 2000 and Water Management (General) Regulation 2011.

Control	Proposed Amendments	Reason for Amendment
	<p><u>Advisory Notes:</u></p> <p>Include text 'Waterfront Land is:</p> <ul style="list-style-type: none"> • The bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, OR • The bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, OR • The bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the estuary, OR • If the regulations so provide, the bed of the coastal waters of the State, and any inland lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed distance inland of, the mean high watermark of the coastal waters, • where the prescribed distance is 40 metres or (if the regulations prescribes a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance. Land that falls into 2 or more categories referred to in the first, second and third dot points above may be waterfront land by virtue of any of the paragraphs relevant to that land.' <p>Include text 'A controlled activity means:</p> <ul style="list-style-type: none"> • The erection of a building or the carrying out of a work (within the meaning of the Environmental Planning & Assessment Act 1979, or • The removal of material (whether or not extractive material) or vegetation from land whether by way of excavation or otherwise, or • The deposition of material (whether or not extractive material) on land, whether by way of landfill operations of otherwise, or • the carrying out of any other activity that affects the quantity or flow of water in a water source' <p>Include text 'Further information is available from the NSW Office of Water website.'</p>	

Control	Proposed Amendments	Reason for Amendment
A1.9 Definitions	<p data-bbox="373 240 947 271">Inclusion of Vegetation Class Definitions as follows:</p> <p data-bbox="373 298 499 329"><u>Category 1</u></p> <p data-bbox="373 329 1593 505">Areas with high quality intact bushland with good connectivity of predominately native vegetation. Native vegetation in this category includes rainforest, forest, woodland, scrub, heath, mangroves, saltmarsh and wetland vegetation. Depending on vegetation type, all structural layers including canopy, sub - canopy, understorey and groundcovers are generally present but some local disturbances may occur. Disturbances such as weed incursion, if present, is limited to very few scattered perennial/annual ground cover species; one or two discrete patches; or limited to edges.</p> <p data-bbox="373 532 499 563"><u>Category 2</u></p> <p data-bbox="373 563 1602 794">Areas of fragmented bushland in moderate condition and occurring outside of core bushland areas. This includes developed areas interspersed with small patches of remnant bushland with good connectivity of predominately native vegetation. Native vegetation in this category includes rainforest, forest, woodland, scrub, heath, mangroves, saltmarsh and wetland vegetation. Depending on vegetation type, all structural layers including canopy, sub - canopy, understorey and groundcovers are generally present but vegetation in this category is likely to be affected by moderate localised disturbance such as partial clearing and weed incursions (with weeds often limited to disturbed areas and remnant edges). Fragmented bushland may include large numbers of native trees and shrubs retained in gardens and parks.</p> <p data-bbox="373 821 499 852"><u>Category 3</u></p> <p data-bbox="373 852 1602 1109">Areas of highly disturbed or cleared bushland with poor connectivity which has been negatively impacted by activities in adjacent areas (e.g. land clearing). These areas are located outside areas identified as wildlife corridors. These areas can be modified landscapes with predominately planted native and exotic vegetation such as typical of suburban gardens, although they still have potential for habitat recreation or enhancement through appropriate landscaping. Native vegetation in this category includes rainforest, forest, woodland, scrub, heath, mangroves, saltmarsh and wetland vegetation. Depending on vegetation type, vegetation in this category is likely to have a reduced canopy and substrata (including groundcover). Weed incursion is likely to be moderate to very high with widespread perennial/annual weeds dominating the understory and groundcover structural layers. Exotic vine thickets smothering remnant native canopy species may also be present.</p>	<p data-bbox="1625 240 1908 355">To provide greater clarity and make the control easier to understand and apply.</p>

Control	Proposed Amendments	Reason for Amendment
A1.9 Definitions	<p>Additional definitions relating to the new proposed B4.22 control being:</p> <p>“Arborist” means a specialist in the care of trees and vegetation with relevant qualifications i.e. as a minimum the Arborist would require an AQF Level 5 equivalent or above.</p> <p>“Bushland” means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation (Local Government Act 1993).</p> <p>“Height of tree” means the distance measured vertically between the horizontal plane of the lowest point of the base of the tree which is immediately above ground and the horizontal plan of the uppermost point of the tree.</p> <p>“Injury” for the purposes of the DCP means damage to a tree or bushland vegetation and includes</p> <ul style="list-style-type: none"> • Pruning, damaging / tearing live branches and roots; • Vines growing to the trunk and branches of trees which is or will result in a detrimental impact on tree health; • Damaging the bark, including attachment of objects using invasive fastenings, the fastening of materials around the trunk of trees which may result in a detrimental impact on tree health; • Damaging the root zone of a tree by way of compaction, including storage and stockpiling materials; • Changing of ground levels within the root zone of a tree by way of excavation, trenching, filling or stockpiling; • Poisoning. <p>“Significant Trees” are described as; any local endemic trees, habitat trees, trees with historical/cultural significance or large amenity trees with visual significance.</p> <p>“Tree” means any tree, whether native, endemic, exotic or introduced species which</p> <ul style="list-style-type: none"> (i) height exceeds three (3.0) metres, or (ii) trunk, bole or branch girth exceeds 0.5 metres or which has a combined girth or each of two or more trunks or boles exceeding 0.5 metres, or (iii) branch canopy width exceeds five (5.0) metres, or (iv) is not listed in table 1 (Exempt Tree Species), or (v) is not a plant declared to be a noxious weed under the <i>Noxious Weeds Act 1993</i> (See Council’s website for a full list of Noxious weeds). 	<p>The additional definitions are primarily a result of the introduction of control B4.22 Preservation of Trees and Bushland Vegetation.</p>
B4.1 Flora and Fauna Conservation Category 1 Land	<p>Control: Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'</p>	<p>Improved clarity of the control.</p>

Control	Proposed Amendments	Reason for Amendment
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	<u>Control:</u> Change 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	<u>Control:</u> Change 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.6 Wildlife Corridor	<u>Control:</u> Change 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.8 Freshwater Wetland Endangered Ecological Communities	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.9 Duffys Forest Endangered Ecological Community	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.10 Themeda Grassland – Endangered Ecological Community	<u>Control:</u> Change 'Fencing shall allow the safe of native wildlife' to 'Fencing shall allow the safe passage of native wildlife' Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.

Control	Proposed Amendments	Reason for Amendment
B4.11 Land Adjoining Bushland	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.13 Freshwater Wetlands (non Endangered Ecological Communities)	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.14 Development in the Vicinity of Wetlands	<u>Control:</u> Change 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 60% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.17 Littoral Rainforest – Endangered Ecological Communities	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.18 Heathland/Woodland Vegetation	<u>Control:</u> Change 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, is native vegetation...' to 'Development shall ensure 80% of the area that is not covered by buildings or associated structures, contains native vegetation...'	Improved clarity of the control.
B4.22 (proposed control) Preservation of Trees or Bushland Vegetation	Introduction of a new control to replace the Pittwater Tree Preservation Order (to be repealed). The proposed control is attached in Attachment 2.	The Tree Preservation Order (TPO) is proposed to be repealed and the preservation of trees and bushland vegetation incorporated into the Pittwater LEP and DCP.
B5.10 Stormwater Discharge into Public Drainage Systems	<u>Controls:</u> Delete 'Mechanical means (i.e. pumps) for disposal of stormwater runoff will not be permitted.' Delete 'or Occupation Certificate' and replace with 'For other uses other than subdivision, where the easement has not been created prior to the issue of consent, then a deferred commencement condition will be applied.' <u>Variations:</u> Change 'infiltration' with 'infiltration/dispersion' (twice)	Improved clarity of the control.
B5.14 Stormwater Drainage Easements (Public Stormwater	<u>Uses to which this control applies</u> Include 'Dwelling House – New' and 'Dwelling House – Alterations and Additions'	Ensure control adequately addresses Stormwater Drainage Easements.

Control	Proposed Amendments	Reason for Amendment
Drainage Systems)		
B6.1 Access Driveways and Works on the Public Road Reserve – Dwelling House and Dual Occupancy	<u>Controls:</u> Under second dot point of 'access driveway location', replace 'face of kerb' with 'edge of footway area closest to property boundary' Under 'access driveway construction and finishes', add 'suspended driveways must not use the existing road structure for support'	Improved clarity of the control.
B6.2 Access Driveways and Works on the Public Road Reserve – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy	<u>Control:</u> Under 'general requirements', remove 'as illustrated in Appendix 10 - driveway profiles'	Administrative change.
B6.3 Internal Driveways – Dwelling Houses and Dual Occupancy	<u>Controls:</u> Under 'internal driveway', add fourth dot point 'the driveway enters onto a classified main road'. Under 'internal driveway and driveway corridor width', numerical changes from '2.4' to '3.0' metres (three changes) <u>Variation:</u> Add sub heading 'Vehicular entry/exit in forward direction' followed by 'A variation may be considered subject to demonstration through a Traffic Assessment Report and the relevant certification that an alternate vehicular access arrangement to the site is safe for all pedestrian and vehicular traffic.'	To improve traffic safety.

Control	Proposed Amendments	Reason for Amendment
B6.6 Off-Street Vehicle Parking Requirements – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy	<p><u>Outcome:</u> Delete 'Small retail facilities are encouraged in Newport Commercial Centre'</p> <p><u>Controls:</u> Under first dot point of 'residential car parking', change 'relates' to 'relate' and add 'and shall not total more than 10 % of total number of spaces' Third dot point, delete 'In the Newport Commercial Centre, no on site parking is required for lots with vehicular access solely from Barrenjoey Road and with a street frontage width of less than 18 metres' (to be included under Variations). Under 'Residential Car Parking', delete first dot point 'Stacking parking will only be accepted if the spaces relates to the same dwelling' and include 'Where there are dwellings with two (2) or more bedrooms in an apartment development, tandem parking spaces may be permitted where all of the following are met: a) two (2) parking spaces have been allocated per two (2) or more bedroom apartments b) the proportion of tandem parking spaces does not exceed 10% of the total residential parking for two (2) or more bedroom units Tandem parking will only be permitted where it can be clearly demonstrated that vehicles so parked are directly associated to a single apartment and that such vehicles do not restrict or impede the parking, manoeuvring or access of other vehicles.'</p> <p><u>Variations:</u> Under 'Changes in Use', insert 'In the Mona Vale Commercial Centre, no additional on-site parking is required for lots where there is a 'change of use' to residential and where the street frontage is to Bungan Street or Pittwater Road (between Barrenjoey Road and Bungan Street) and the subject site has a street frontage width of less than 15 metres.' Under 'Off-set of On-Site Car Parking Requirements', following on from the second dot point, insert 'and on the basis that the off-set of on-site car parking only applies to the visitor parking component of any residential development.' Create new sub-heading titled 'Newport Commercial Centre'. Below insert 'In the Newport Commercial Centre, no on site parking is required for lots with vehicular access solely from Barrenjoey Road and with a street frontage width of less than 18 metres.'</p>	Changes to controls and variations to improve clarity of the control relating to Newport Commercial Centre, Mona Vale Commercial Centre, Tandem Parking as well as administrative changes.
B6.7 Access driveways and Works on Road Reserves on or Adjacent to a Main Road	<p><u>Land to which this control applies:</u> Delete 'McCarrs Creek', replace 'Pittwater Roads' with 'Pittwater Road' and add 'Wakehurst Parkway to Barrenjoey Road'</p>	Minor changes to where the control applies.

Control	Proposed Amendments	Reason for Amendment
B6.10 Transport and Traffic Management – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy	<u>Uses to which this control applies:</u> Delete 'Earthworks/Landfill' <u>Controls:</u> Under 'Transport and Traffic Planning', add 'An assessment of the impact of traffic generated by the proposed development on the local street system must be undertaken'	
C – throughout	<u>Advisory Notes:</u> Change reference from 'Landscaping Vegetation Specifications' to 'Landscape and Vegetation Management' (Appendix 9 of the P21 DCP)	Administrative changes.
C1.2 Safety and Security	<u>Land to which this control applies</u> Delete 'All land in the Pittwater LGA not including the Pittwater waterway or Warriewood Valley land release area - P21DCP-BCMDCP037' and replace with 'All land in the Pittwater LGA not including the Pittwater waterway P21DCP-BCMDCP037'	To apply control to Warriewood Valley Land Release Area.
C1.4 Solar Access	<u>Advisory Notes:</u> Add 'Visit: The Benevolent Society v Waverley Council [2010] NSWLEC 1082 (http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/pages/LEC_planningprinciples)'	Improved clarity of the control.
C1.11 Secondary Dwellings	<u>Controls:</u> Insert 'A secondary dwelling above a detached garage is not supported.'	Improved clarity of the control.
C1.14 Separately Accessible Structures	<u>Controls:</u> Delete 'iii) where the structure has a floor area greater than 30sqm, a covenant is created on the Title of the land, at the applicants expense, the terms of which clearly denotes that the structure is not to be used for separate residential habitation nor is to be modified so as to incorporate bathroom, toilets, or cooking facilities.'	Removal of red tape.
C1.24 Public Road Reserve – Landscaping and Infrastructure	<u>Controls:</u> Under 'Dwelling Houses, Secondary Dwellings and Dual Occupancy', add 'in location to be nominated by Council and is subject to a Section 139 approval from Council' to the existing paragraph Under 'Other Development - less than 6 dwellings', add '(Section 139 approval required from Council)' to the first paragraph Under 'Other Development - comprising 6 or more dwellings', add '(Section 139 approval required from Council)' to the first paragraph Under 'Landscaping General - All Development', add 'All work is subject to a Section 139 approval from Council'	Improved clarity of the control.
C2.6 Adaptable Housing and Accessibility	<u>Uses to which this control applies:</u> Include 'shop-top housing' and 'child care centres'	Include additional uses to which the control applies.

Control	Proposed Amendments	Reason for Amendment
C3.18 Public Road Reserve – Landscaping and Infrastructure	<u>Controls:</u> Under 'Landscaping General - All Development', add 'All work is subject to a Section 139 approval from Council'	Improved clarity of the control.
C4.3 Land Subdivision – Transport and Traffic Management	<u>Controls:</u> Change 'All traffic assessments are to be undertaken in accordance with the Roads and Traffic Authority Guidelines for Traffic Generating Developments or similar guidelines' to 'A traffic assessment is to be undertaken in accordance with the Roads and Traffic Authority Guidelines for Traffic Generating Developments or similar guidelines' Add 'and be approved by Councils Traffic Committee when on local roads or the R.M.S. on classified roads' to the last paragraph	Improved clarity of the control.
C4.4 Land Subdivision – Public Roads, Footpaths and Streetscape	<u>Controls:</u> Under 'Proposed public roads within the subdivision', change 'footpaths or cycleways (minimum 1.5m width or minimum 2.1m width where a cycleway is proposed)' to 'footpaths (minimum 1.5m width) or cycleways (minimum 2.1m width)'	Improved clarity of the control.
C4.5 Land Subdivision –Utility Services	<u>Controls:</u> Insert '(where not already located underground)' (twice) so it reads 'All existing and proposed utility services to the site (where not already located underground) are to be...' and 'All utility services existing or otherwise located (where not already located underground) on the perimeter...'	Improved clarity of the control.
C5.18 Public Road Reserve – Landscaping and Infrastructure	<u>Controls:</u> Under 'Development up to 1000sq m Gross Floor Area' changes '2.1m wide' to '2.1m minimum width'	Improved clarity of the control.
C6.20 Water Management for Development in Warriewood Valley Land Release Area	<u>Controls:</u> Change sub-heading 'Sector 10 (7 Orchard Street, Warriewood – 10 Lots)' to 'Sector 10 (37, 39, 41, 43, 45, 47, 49, 51, 53 and 55 Orchard Street, Warriewood)'	Improved clarity of the control.
C6.21 Provision of Infrastructure – Warriewood Valley Land Release Area	<u>Controls:</u> Change 'by' to 'via' in first paragraph Insert 'prior to occupation of the development' (twice) so it reads 'Infrastructure and facilities are to be provided directly as part of the development process prior to occupation of the development in the following instances:' and 'Other infrastructure requirements within the public domain are to be provided in accordance with the terms and requirements of Warriewood Valley Section 94 Contributions Plan WV S 94 prior to occupation of the development including:'	Improved clarity of the control.

Control	Proposed Amendments	Reason for Amendment
D1.1 Character as viewed from a public space (Avalon)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Change to allow small stormwater downpipes on facades of buildings.
D1.5 Building colours and materials (Avalon)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D1.9 Side and rear building line (Avalon)	<u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'	Improved clarity of the control.
D2.1 Character as viewed from a public space (Bayview Heights)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.
D2.3 Building colours and materials (Bayview Heights)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D3.1 Character as viewed from a public space (Bilgola)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.

Control	Proposed Amendments	Reason for Amendment
D3.3 Building colours and materials (Bilgola)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D3.7 Side and rear building line (Bilgola)	<p><u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'</p>	Improved clarity of the control.
D4.1 Character as viewed from a public space (Church Point and Bayview)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.
D4.3 Building colours and materials (Church Point and Bayview)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D4.6 Side and rear building line (Church Point and Bayview)	<p><u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'</p>	Improved clarity of the control.

Control	Proposed Amendments	Reason for Amendment
D5.1 Character as viewed from a public space (Elanora Heights)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.
D5.3 Building colours and materials (Elanora Heights)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D5.6 Side and rear building line (Elanora Heights)	<u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'	Improved clarity of the control.
D5.10 Site Coverage – Non Urban	<u>Outcomes:</u> Delete 'To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.' Delete 'To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site.'	Improved clarity of the control.
D6.1 Character as viewed from a public space (Ingleside)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.
D6.3 Building colours and materials (Ingleside)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.

Control	Proposed Amendments	Reason for Amendment
D8.1 Character as viewed from a public space (Lower Western Foreshores and Scotland Island)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.
D8.3 Building colours and materials (Lower Western Foreshores and Scotland Island)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D9.1 Character as viewed from a public space (Mona Vale)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.
D9.3 Building colours and materials (Mona Vale)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D9.7 Side and rear building line (Mona Vale)	<u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'	Improved clarity of the control.

Control	Proposed Amendments	Reason for Amendment
D9.15 Seawalls at Beach Basin, Mona Vale	Entire control to be repealed. This control has been made redundant by amendments to the Coastal Protection Act and DCP Appendix 6.	This control has been made redundant by amendments to the Coastal Protection Act and P21 DCP Appendix 6
D10.1 Character as viewed from a public space (Newport)	<u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'	Minor change to allow small stormwater downpipes on facades of buildings.
D10.4 Building colours and materials (Newport)	<u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)' <u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D10.6 Height (Newport Commercial Centre)	<u>Outcomes:</u> Delete 'The Newport commercial centre is the village centre for the local community and an attractor for residents of the Barrenjoey peninsula. (Ec, S)' Delete 'A diverse and vibrant mix of uses contribute to the sustainability of the Newport commercial centre. (Ec)' <u>Controls:</u> First sentence, insert 'This is shown in Figure 1 below.' So it reads 'The maximum height for the commercial centre varies from one to three storeys. This is shown in Figure 1 below.' First dot point, include '(shown as light blue in Figure 1)' Second dot point, include '(shown as medium blue in Figure 1)' Third dot point, include '(shown as dark blue in Figure 1)'	Revise the controls to reflect the Newport Masterplan more closely.
D10.8 Side and rear building line (excluding Newport Commercial Centre)	<u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'	Improved clarity of the control.

Control	Proposed Amendments	Reason for Amendment
		Revise the controls to reflect the Newport Masterplan more closely.
D10.32 Solar Access and Ventilation (Newport Commercial Centre)	D10.9 Setbacks (Newport Commercial Centre)	<p><u>Controls:</u> Under Figure 2, add 'and Seaview Avenue' so the text will read 'The front setback on Foamcrest Avenue and Seaview Avenue is to be 8 metres to provide a generous landscaped setting for the buildings.' Under the two dot points add 'On all street frontages the third (topmost) level is to be set back a minimum 4.0 metres from the front building line.' Under 'Rear Setbacks' after the second set of dot point, add 'If multiple lots are consolidated such that part of one lot runs the full width of the street block and part does not, a 6.0m rear setback requirement applies for that portion of that boundary where the boundary to any neighbouring property is also a rear boundary.' Diagram to be included.</p>
D11.1 Character as viewed from a public space (North Narrabeen)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.
D11.3 Building	<u>Outcomes:</u>	Allow lighter colours

Control	Proposed Amendments	Reason for Amendment
colours and materials (North Narrabeen)	<p>Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.'</p> <p>Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	having regard for demonstrated improved thermal performance and associated sustainability benefits.
D11.7 Side and rear building line (North Narrabeen)	<p><u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'</p>	Improved clarity of the control.
D12.1 Character as viewed from a public space (Palm Beach)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.
D12.3 Building colours and materials (Palm Beach)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.'</p> <p>Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D12.6 Side and rear building line (Palm Beach)	<p><u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'</p>	Improved clarity of the control.
D13.1 Character as viewed from a public space (Upper Western Foreshores)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.

Control	Proposed Amendments	Reason for Amendment
D13.3 Building colours and materials (Upper Western Foreshores)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D14.1 Character as viewed from a public space (Warriewood)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.
D14.3 Building colours and materials (Warriewood)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.
D14.8 Side and rear building line (Warriewood)	<p><u>Controls:</u> Under 'multi-unit housing', delete 'Where the wall height is more than 3m above ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:' and replace with 'Where the wall height is more than 3m above natural ground level, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than the distance calculated in accordance with the following:'</p>	Improved clarity of the control.
D15.1 Character as viewed from a public space (Waterways)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.
D15.3 Building colours and materials (Waterways)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability

Control	Proposed Amendments	Reason for Amendment
	<p><u>Controls:</u> Delete 'External colours and materials shall be dark and earthy tones as shown below:' and replace with 'External colours and materials shall be consistent with the range of tones shown below:' Move 'light grey' and 'beige' from 'not permitted' to 'permitted' colours and materials.</p>	benefits.
D15.18 Seawalls	<p><u>Advisory Notes:</u> Add 'For further information on seawalls see publication "Environmentally Friendly Seawalls – A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries" from Sydney Metropolitan Catchment Management Authority (SMCMA) available at their website.'</p>	Providing additional information.
D16.1 Character as viewed from a public space (Warriewood Valley Urban Release Area)	<p><u>Controls:</u> Delete 'Attempts should be made to conceal all electrical cabling and the like. No conduit/downpipes are allowed on facades of buildings.' And replace with 'Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.'</p>	Minor change to allow small stormwater downpipes on facades of buildings.
D16.2 Building colours and materials (Warriewood Valley Land Release Area)	<p><u>Outcomes:</u> Delete 'To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater' and replace with 'To ensure the colours and materials of buildings compliment and enhance the visual character of their location within the natural landscapes of Pittwater.' Delete 'Damage to existing native vegetation and habitat is minimised. (En)'</p> <p><u>Controls:</u> Delete 'External colours and materials shall be natural tones such as green, brown and dark earthy colours.' And replace with 'External colours and materials shall be consistent with the range of tones shown below:' Include colour palate (permitted and not permitted) as per other 'Building colours and materials' controls (including 'light grey' and 'beige' as permitted). Delete 'Roofs to all structures are restricted to the dark colours of the grey sandy earth and the native vegetation, being recessive colours of mid to dark greys, mid to dark browns and mid to dark greens. White, light coloured, red, orange roofs and walls are not permitted.' Delete 'Large unbroken areas of roofs must be avoided and building facades must be modulated and/or contain shade elements (such as verandahs or pergolas) to visually reduce the bulk and scale of development. Large expanses of roof and wall areas are not acceptable.'</p> <p>Move 'Note: See Appendix 3 Warriewood Valley Urban Land Release Planning Content & Criteria for Background Information' to Advisory Notes. Move 'Note: The section 88B instrument applying to the land may have specific restrictions as to colours and building materials, and should be referred to in conjunction with this DCP.' to Advisory Notes</p>	Allow lighter colours having regard for demonstrated improved thermal performance and associated sustainability benefits.

Control	Proposed Amendments	Reason for Amendment
D16.4 Side and rear building lines – Warriewood Valley Residential Sectors	<p><u>Variation:</u> Add 'Where unpainted facebrick is used for the zero lot line wall, a variation to the requirement for the creation of an easement may be considered.'</p> <p><u>Advisory Notes:</u> Delete reference to 'D14.19' and include reference to 'D16.3'</p>	Minor change to control.
D16.15 (proposed control) Scenic Protection - General	Apply control D14.2 Scenic protection – General (Warriewood Locality - D14) to Warriewood Valley Land Release Area Locality (D16) also. The duplicated control will be D16.15.	To apply control to Warriewood Valley Land Release Area.
Appendix 1 Notification Procedures	<p><u>2.2 When is the notification letter required?:</u> At the end, insert 'Amended plans and/or additional information submitted during the assessment of an application should be re-notified to all parties originally notified and all parties that have made a submission in relation to the application except when the impacts of the amendments and/or additional information is likely to be minor.'</p> <p>Variation when the impact of the amendments and/or additional information is likely to increase the level of impact on surrounding properties.'</p>	To ensure appropriate notification procedures in relation to amended plans and/or additional information.
Appendix 2 Heritage Conservation	<p>Section 4. D: Include description of</p> <ul style="list-style-type: none"> • Ocean Road Heritage Conservation Area • Currawong Heritage Conservation Area 	For the Appendix to reflect, and make reference to, all 6 heritage conservation areas in Pittwater LGA.
Appendix 10 Driveway Profiles	Reducing and changing existing driveway profiles	Updating and reducing the number of driveway profiles in the Appendix.

Comprehensive list of proposed maps to be changed

Control	Proposed Amendments	Reason for Amendment
Ingleside locality map	Following properties to be changed from Ingleside Locality Map to Ku-ring-gai Chase National Park: 20 CICADA GLEN ROAD, INGLESIDE 26 CICADA GLEN ROAD, INGLESIDE 26A CICADA GLEN ROAD, INGLESIDE 26B CICADA GLEN ROAD, INGLESIDE	Boundary readjustment as advertised in the NSW Government Gazette No 34, 28 February 2007.
Elanora Heights Locality Map	Following properties to be changed from Elanora Heights Locality Map to Ingleside Locality Map: 212 POWDERWORKS ROAD, INGLESIDE 214 POWDERWORKS ROAD, INGLESIDE 216 POWDERWORKS ROAD, INGLESIDE 218 POWDERWORKS ROAD, INGLESIDE 220 POWDERWORKS ROAD, INGLESIDE 222 POWDERWORKS ROAD, INGLESIDE 254 POWDERWORKS ROAD, INGLESIDE 9 WILGA STREET, INGLESIDE 10 WILGA STREET, INGLESIDE 11 WILGA STREET, INGLESIDE 12 WILGA STREET, INGLESIDE 13 WILGA STREET, INGLESIDE 14 WILGA STREET, INGLESIDE 1 WILSON AVENUE, INGLESIDE 7 WILSON AVENUE, INGLESIDE 9 WILSON AVENUE, INGLESIDE 5 WILSON AVENUE, INGLESIDE 3 WILSON AVENUE, INGLESIDE	The properties are part of Ingleside and the amendments to the maps are proposed to reflect that.
4.8 Integrated Development: Rivers, Streams and Foreshores	Map P21DCP-BCDCP003 to be amended to remove coastal foreshore areas and additional sections of natural watercourses added in the upper catchment areas.	Proposed changes reflect recent changes to the NSW Water Management Act 2000 and Water Management (General) Regulation 2011.
C1.2 Safety and Security	Change P21DCP-BCMDCP037 to include Warriewood Valley land release area.	To apply control to Warriewood Valley Land Release Area.
D10.10 Foreshore and Building Line (Newport)	Foreshore building line map readjusted (1-19 Calvert Parade) to follow cliff face and sand dunes.	Correction of the foreshore building line map.

B4.22 Preservation of trees or bushland vegetation

Land to which this control applies

- All land and waterways not including National Parks, road reserves, Council owned land, or land under the care, control and management of Council.

Uses to which this control applies

- Removal or pruning of a tree or bushland vegetation (not associated with works as part of any other development application).

Outcomes

To protect and enhance the amenity that trees and/or bushland vegetation provide.

To protect and enhance the scenic value and character that trees and/or bushland vegetation provide (En, S).

To protect, enhance and account for the contribution trees and/or bushland vegetation provide to the ecological value and biodiversity of Pittwater including habitat for: locally native plant and animal species; threatened species, populations and endangered ecological communities (En).

To promote the benefits corridors of trees and/or bushland vegetation provide for the movement of flora and fauna (En, S).

Controls

2. A person shall not ringbark, cut down, top, lop, remove, poison, injure, or wilfully destroy any prescribed tree or bushland vegetation without a Tree and Bushland Vegetation Removal Permit unless authorised by a current Development Consent.

This includes damage to a tree or bushland vegetation by:

- Damaging or tearing live branches and roots;
- Not removing vines growing on the trunk and branches of trees which could result in a detrimental impact on tree health;
- Damaging the bark, including attachment of objects using invasive fastenings, the fastening of materials around the trunk of trees which may result in a detrimental impact on tree health;
- Tree topping, where large branches and/or the trunk of the tree is removed from the top of the trees canopy.
- Tree lopping, where branches are removed to reduce the height and spread of the tree.
- Damaging the root zone of a tree by way of compaction, including storage and stockpiling materials;
- Changing of ground levels within the root zone of a tree by way of excavation, trenching, filling or stockpiling;
- Any type of ploughing or planting that destroys native ground cover;
- Under-scrubbing of bushland vegetation;
- Spray drift when spraying weeds;
- Burning of vegetation (not part of a Hazard Reduction Certificate);
- Grazing of stock;
- Any other act or activity that causes the destruction of; the severing of trunks or stems of; or any other substantial damage to, some or all of the native vegetation in an area.

Note: Where such activities are required as part of other works for which a Development Application is required, the works will be assessed as part of the Development Application.

3. Variations

Pruning less than 10% of a tree's canopy over a 12 month period (all pruning works must be in accordance with AS 4373-2007 Pruning of amenity trees) is permitted without a Tree and Bushland Vegetation Removal Permit or Development Consent.

Council may consider a variation to this control where:

- Council is satisfied a tree or other vegetation is dying or dead and is not required as habitat for native fauna.
- Council is satisfied a tree or other vegetation is a risk to human life or property.

4. Exempt tree species

The tree species listed in Table 1 below and listed in the noxious weed declarations for Pittwater Council under the *Noxious Weeds Act 1993* are considered undesirable and can be removed without a Tree and Bushland Vegetation Removal Permit or Development Consent.

Refer to Councils website for a list of noxious weeds and
(http://www.pittwater.nsw.gov.au/environment/noxious_weeds/listed_noxious_weeds_for_pittwater_council).

There are five classes of noxious weed, each with different legal obligations for management, refer to the *Noxious Weeds Act 1993* for requirements.

Table 1 – Exempt Tree Species

Exempt Trees

BOTANICAL NAME	COMMON NAME
<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Acacia saligna</i>	Golden Wreath Wattle, Golden Willow Wattle
<i>Acer negundo</i>	Box Elder
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Alnus jorullensis</i>	Evergreen Alder
<i>Araucaria bidwillii</i>	Bunya Bunya Pine
<i>Brachychiton acerifolium</i>	Illawara Flame
<i>Castanospermum australe</i>	Black Bean, Moreton Bay Chestnut
<i>Celtis australis</i>	Hackberry
<i>Cinnamomum camphora</i>	Camphor Laurel
<i>Citharexylum spinosum</i>	Fiddlewood
<i>Citrus spp.</i>	Citrus Trees inc. Lemon, Orange, Madarine, Lime, Grapefruit.
<i>Cupressus spp</i>	Cypress Pine
<i>Cupressocyparis leyandii</i>	Leighton's Green Cypress
<i>Erythrina spp</i>	Coral Tree
<i>Eriobotrya japonica</i>	Loquat
All <i>Ficus spp.</i> other than Ficus macrophylla , <i>Ficus rubiginosa</i> and <i>Ficus coronata</i>	All <i>Ficus spp.</i> other than Moreton Bay Fig, Port Jackson Fig and Sandpaper Fig
<i>Fortunella spp.</i>	Kumquat
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Harpephyllum caffrum</i>	Kaffir Plum
<i>Jacaranda mimosifolia</i>	Jacaranda
<i>Lagunaria patersonia</i>	Norfolk Island Hibiscus
<i>Liquidambar styraciflua</i>	Liquidambar
<i>Malus spp</i>	Apple
<i>Nerium oleander</i>	Oleander
<i>Olea spp.</i>	Olive
Palms other than <i>Livistona australis</i>	Palms other than Cabbage-tree Palm
<i>Paraserianthes lophantha</i>	Crested Wattle
<i>Prunus spp.</i>	Apricot, Almond, Cherry, Plum, Peach
<i>Populus spp.</i>	Poplar
<i>Robinia pseudoacacia</i>	False Acacia
<i>Sapium sebiferum</i>	Chinese tallow
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Schinus terebinthifolius</i>	Brazilian Mastic, Broadleaf Pepper Tree
<i>Spathodea campanulata</i>	African Tulip Tree
<i>Ulmus parvifolia</i>	Chinese Elm

5. What are trees and what is bushland?

- (A) Any tree, whether native, endemic, exotic or introduced species which
 - (i) Height exceeds three (3.0) metres, or
 - (ii) Trunk, bole or branch girth exceeds 0.5 metres or which has a combined girth or each of two or more trunks or boles exceeding 0.5 metres, or

- (iii) Branch canopy width exceeds five (5.0) metres, or
- (iv) Is not listed in Table 1 (Exempt Tree Species)
- (v) Is not a plant declared to be a noxious weed under the Noxious Weeds Act 1993 (see Council's website for a full list of Noxious weeds);

or

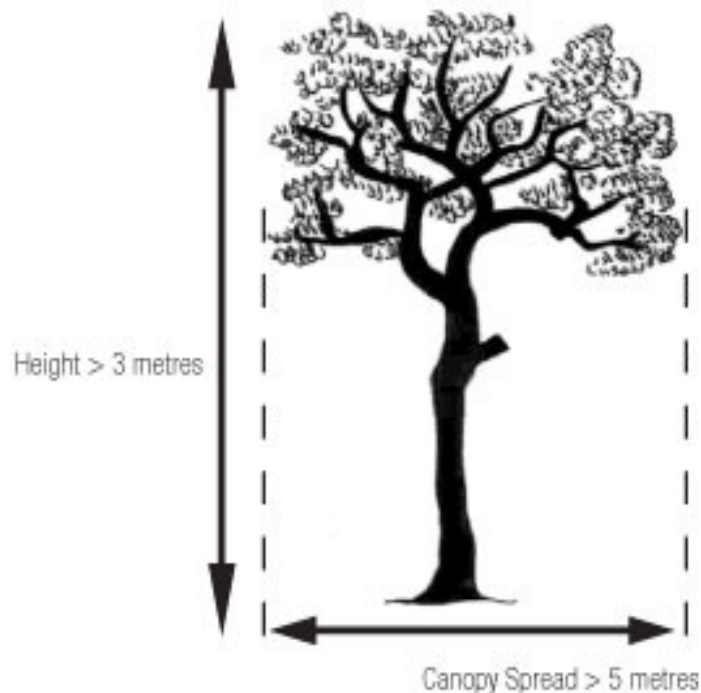
(B) Any bushland being:

- (i) Land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation (as defined by the Local Government Act 1993)

6. How to measure a tree

The diagrams below illustrate how tree measurements shall be obtained. The height of a tree is the distance measured vertically between the horizontal plane of the lowest point of the base of the tree (which is immediately above ground) and the horizontal plan of the uppermost point of the tree.

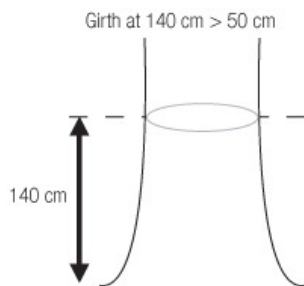
Measuring tree height and canopy spread



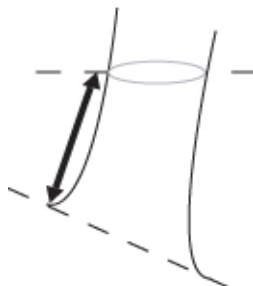
Measuring tree girth

Using a measuring tape, measure the girth (circumference) of the tree trunk/s or branch as shown in the diagrams below. Generally measurements are taken at 1.4 metres above ground level.

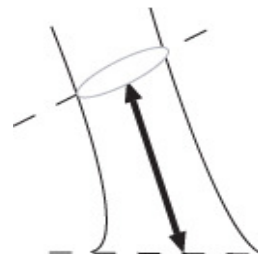
(Developed using the AS 4970—2009 Australian Standard: Protection of trees on development sites)



1. Level Ground



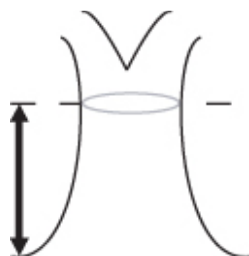
2. Sloping Ground (Take measurement 1.4m from highest side)



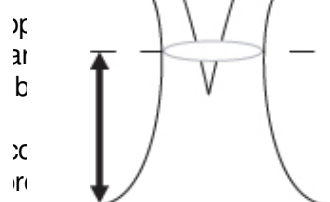
3. Leaning on Level Ground

At

1.



2.

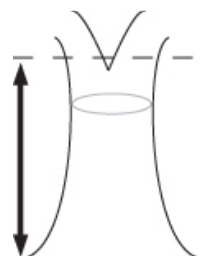


3.

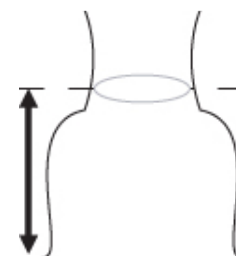
a

4. Forked tree above 1.4 metres

5. Forked Tree below 1.4 metres



6. If branches/whorls occur at 1.4 metres take the measurement from the narrowest point below.



7. If the tree is deformed or buttresses take the measurement at the narrowest point above.

C11.7	Minutes of the Pittwater Traffic Committee Meeting held on 14 February 2012
--------------	--

Meeting: Planning an Integrated Built Environment Committee

Date: 19 March 2012

STRATEGY: Traffic and Transport

ACTION: Provide planning, design, investigation and management of traffic and transport facilities.

PURPOSE OF REPORT

To present to Council for consideration, the Traffic Committee Minutes of 14 February 2012.

1.0 BACKGROUND

- 1.1 The Traffic Committee recommendations for the Traffic Committee of 14 February 2012 (see **Attachment 1**) are referred to Council for consideration. In accordance with the delegation of the Roads and Maritime Services of NSW to Council, Council must consider the advice of the Traffic Committee before making a decision with respect to the management of traffic in Pittwater.

2.0 ISSUES

2.1 Item 4.7: Woorak Road and Iluka Road, Palm Beach - 12 Hour Parking Restrictions

Proposed 12 hour parking restrictions in the existing 90° angle parking on Woorak Road and Iluka Road covered by the Plan of Management for Woorak Road Reserve, Iluka Park and Sandy Point Lane adopted by Council.

2.2 Item 4.8: Kalang Road, Elanora Heights - Proposed Central Median Island and Raised Pedestrian Crossing

Proposals identified in the Elanora Heights Village Centre Masterplan to improve traffic and pedestrian safety in Kalang Road. The traffic management devices include a raised pedestrian crossing located midway between Powder Works Road and St Andrews Gate, and a central median island along Kalang Road.

2.3 Item 4.9: ANZAC March - Wednesday 25 April 2012

Street closures in Avalon to allow the ANZAC March to proceed.

2.4 Item 4.10: Avalon Tattoo - Saturday 16 June 2012

Street closures in Avalon to allow the Avalon Tattoo March to proceed.

3.0 SUSTAINABILITY ASSESSMENT

A sustainability assessment is not required for Minutes of Meetings.

4.0 EXECUTIVE SUMMARY

- 4.1 To present to Council the recommendations of the Traffic Committee contained in the minutes of the meeting of 14 February 2012 for Council's consideration.
-

RECOMMENDATION

That the Traffic Committee recommendations contained in the Minutes of the Meeting of 14 February 2012 be adopted.

Report prepared by
Ricky Kwok - Civil Design & Traffic Engineer - Strategy, Investigation and Design

Mark Shaw
MANAGER, URBAN INFRASTRUCTURE

Minutes

Pittwater Traffic Committee Meeting

Held in the Ground Floor Meeting Room at Level 3, 5 Vuko Place,
Warriewood on

14 February 2012

Commencing at 1:01pm



Attendance:

Voting Members of the Committee are invited to attend, namely:

Chairperson, Cr Julie Hegarty
Member for Pittwater, Ms Jill Dubois (excluding Development Matters)
Traffic NSW Northern Beaches – Sgt Matthew Thompson
Traffic NSW Northern Beaches – Snr Constable Logan O'Donohue

And Non Voting Representatives from Bus Providers including State Transit Authority

State Transit Authority – Mr Wade Mitford
Forest Coaches – Mr Arron Cutugno

Council Staff:

Manager, Urban Infrastructure, Mr Mark Shaw
Civil Design & Traffic Engineer, Mr Ricky Kwok
Road Safety Officer, Ms Michelle Carter
Administration Officer / Minute Secretary, Ms Sherryn McPherson

TABLE OF CONTENTS

Item No	Item	Page No
1.0	Apologies	
2.0	Declarations of Pecuniary Interest - Nil	
3.0	Confirmation of Minutes	
4.0	Committee Business	
TC4.1	Jacksons Road, Warriewood - 2 Hour Parking Restrictions	
TC4.2	Avalon Parade, Avalon - 1 Hour Parking Restrictions	
TC4.3	Ponderosa Parade, Warriewood - Change Heavy Vehicle Turning Facility to a Roundabout	
TC4.4	Riverview Road, Avalon - Extension of Double Separation Lines	
TC4.5	Boondah Road, Warriewood - Double Separation Lines	
TC4.6	Daydream Street, Warriewood - 15 Minute Parking Restrictions	
TC4.7	Woorak Road and Iluka Road, Palm Beach - 12 Hour Parking Restrictions	
TC4.8	Kalang Road, Elanora Heights - Proposed Central Median Island and Raised Pedestrian Crossing	
TC4.9	ANZAC March - Wednesday 25 April 2012	
TC4.10	Avalon Tattoo - Saturday 16 June 2012	
5.0	General Business	
6.0	Next Meeting	

1.0 Apologies

1. Apologies were received from John Begley of Roads and Maritime Services. Comments provided by Roads and Maritime Services and have been included in the Minutes.
2. The Traffic Committee Members accepted the apologies.

2.0 Declarations of Pecuniary Interest - Nil

3.0 Confirmation of Minutes

That the Minutes of the Traffic Committee Meeting held on 29 November 2011, be confirmed as a true and accurate record of that meeting.

(Cr Julie Hegarty / Ms Jill Dubois)

4.0 Committee Business

TC4.1 Jacksons Road, Warriewood - 2 Hour Parking Restrictions

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the request by the community for the provision of 2 hour parking (8.30am-6pm every day) in Jacksons Road between Boondah Road and the roundabout to Warriewood Square Shopping Centre.

(Cr Hegarty / Ms Jill Dubois)

TC4.2 Avalon Parade, Avalon - 1 Hour Parking Restrictions

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the request from the local community for the provision of 1 hour parking (8.30am-6pm Monday-Friday and 8.30am-12.30pm Saturday) outside No.57 Avalon Parade.

(Sgt Matt Thompson / Ms Jill Dubois)

TC4.3 Ponderosa Parade, Warriewood - Change Heavy Vehicle Turning Facility to a Roundabout

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the request from residents and local businesses to change the existing heavy turning facility in Ponderosa Parade to a roundabout by the following measures to:

1. Remove the existing 'GIVEWAY WHEN TURNING RIGHT' signs and associated linemarking.
2. Provision of Roundabout Giveaway signs and associated linemarking.
3. Provision of roundabout advanced warning signs on both approaches to the roundabout.
4. Provision of 'Changed Traffic Conditions Ahead' signage to warn motorists of upcoming changed conditions.
5. Notify businesses which have driveways leading onto the facility of the changes and request that they also inform their customers.

(Cr Hegarty / Ms Jill Dubois)

TC4.4	Riverview Road, Avalon - Extension of Double Separation Lines
--------------	--

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the residents' request to improve safety at the Riverview Road/Hudson Parade intersection by extending the existing double separation lines in Riverview Road to the driveway of No.3 Riverview Road.

(Cr Hegarty / Ms Jill Dubois)

TC4.5	Boondah Road, Warriewood - Double Separation Lines
--------------	---

COMMITTEE RECOMMENDATION

1. That the Traffic Committee does not support the proposal for a double separation line along the centre of Boondah Road from Macpherson Street to the existing double separation lines outside No.6 Boondah Road.
2. Environmental Compliance be requested to enforce parking regulations near the intersection of Boondah Road and Macpherson Street.

(Cr Hegarty / Ms Jill Dubois)

TC4.6	Daydream Street, Warriewood - 15 Minute Parking Restrictions
--------------	---

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the request from the Owners Corporation of Strata Plan No.80638 for 15 minute parking restrictions (7am-6pm Mon-Fri) in the indented parking bay outside No.4 Daydream Street.

(Cr Hegarty / Sgt Matt Thompson)

TC4.7	Woorak Road and Iluka Road, Palm Beach - 12 Hour Parking Restrictions
--------------	--

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the proposal for 12 hour parking (every day) in the existing 90° angle parking on Woorak Road and Iluka Road (shown on Council Plan 8-TC-2012).

(Cr Hegarty / Sgt Matt Thompson)

TC4.8	Kalang Road, Elanora Heights - Proposed Central Median Island and Raised Pedestrian Crossing
--------------	---

COMMITTEE RECOMMENDATION

1. That the Traffic Committee reconsider the Item once the Masterplan has been completed and detailed plans be provided on the proposals.
2. That the Traffic Committee supports the concept in principal of following proposals in Kalang Road to improve traffic and pedestrian safety in the Elanora Heights Village Centre:
 - A raised pedestrian crossing ('Wombat crossing') located midway between Powder Works Road and St Andrews Gate
 - A central Median Island along the centre of Kalang Road between Powder Works Road and St Andrews Gate.

(Sgt Matt Thompson / Ms Jill Dubois)

Note:

That Roads and Maritime Services does not support vegetation in the proposed central median as it can obstruct sight distances on the approaches to the pedestrian crossing.

TC4.9	ANZAC March - Wednesday 25 April 2012
--------------	--

COMMITTEE RECOMMENDATION

That the Traffic Committee supports the proposed March route to be held on Wednesday 25 April 2012 along Old Barrenjoey Road, Avalon Parade and Bowling Green Lane at Dunbar Park.

(Cr Hegarty / Sgt Matt Thompson)

TC4.10	Avalon Tattoo - Saturday 16 June 2012
---------------	--

COMMITTEE RECOMMENDATION

That the Traffic Committee, to enable the proposed Avalon Tattoo March to be held on Saturday 16 June 2012, supports the temporary closure of Old Barrenjoey Road (Dress Circle Road to Barrenjoey Road), Avalon Parade (Bellevue Avenue to Barrenjoey Road) and Bowling Green Lane (at Dunbar Park) on that day. Small changes to the timing of the march proposed prior to the day of the event may be granted by Council administratively following appropriate consideration.

(Cr Hegarty / Ms Jill Dubois)

5.0 General Business

Pittwater Road/Wakehurst Parkway, North Narrabeen - Council raised the issue of installing a Welcome to Pittwater Sign in the form of a sandstone feature in the road reserve between Pittwater Road and the Wakehurst Parkway.

Action: RMS Representative to forward details of the proposal to their Road Safety section as they may have issues regarding the location.

NSW Bike Week Event - Council raised the possibility of a Bike Ride event staged in September during NSW Bike Week involving Manly, Warringah and Pittwater Council.

Action: Council to seek further comments from RMS. Possible future Agenda Item.

156 Bus McCarrs Creek to Manly - Councillor tabled resident complaint advising that the 156 bus service does not run on time causing residents to miss the Manly Ferry.

Action: The State Transit Authority and the Representative of Local Member have received a copy of this complaint and the resident has been sent a response.

Barrenjoey Road, Newport - Councillor tabled correspondence from the Royal Motor Yacht Club regarding an accident involving a parked vehicle along Barrenjoey Road and measures to prevent future accidents.

Action: No action proposed. Vehicles can legally park in Barrenjoey Road outside the signposted Clearway restrictions, and vehicles driving in the left lane should be alert of parked vehicles when driving at inappropriate speeds.

Prince Alfred Parade, Newport - Councillor raised a request from the Royal Motor Yacht Club for 'No Parking' signs in Prince Alfred Parade, due to complaints from members receiving infringement notices when parking within 3m of double separation lines.

Action: Council's Road Safety Officer will liaise with the Royal Motor Yacht Club suggesting that they educate their members of illegal parking practices through their newsletters/publications and website.

Garden Street, Warriewood - The NSW Police (Northern Beaches) informed the Traffic Committee of speeding issues in Garden Street between Pittwater Road and Jacksons Road and difficulties in enforcing speed limits.

Action: Council has made efforts to increase community awareness of the impact of speeding in Garden Street through its 'Slow Down Pittwater Speed Reduction Project' and is limited in their options with regards to traffic calming in the area.

Polo Avenue, Mona Vale - The State Transit Authority has requested 'No Stopping' restrictions on the both sides of Polo Avenue, 13m west of its intersection with Barrenjoey Road due to difficulties in turning into the road when cars park near the intersection.

Action: Council to investigate and prepare report to be considered at the next Traffic Committee Meeting. This will be a future Agenda Item.

6.0 Next Meeting

The next meeting of the Traffic Committee will be held on the 10 April 2012 at Level 3, 5 Vuko Place, Warriewood commencing at 1.00pm.

**THERE BEING NO FURTHER BUSINESS
THE MEETING CONCLUDED AT 2.40PM ON MONDAY
14 FEBRUARY 2012**

C11.8	Minutes of the Planning an Integrated Built Environment Reference Group Meeting held on 15 February 2012
--------------	---

Meeting: Planning an Integrated Built Environment Committee

Date: 19 March 2012

STRATEGY: Business Management

ACTION: Maintain and Service Council's Range of Committees

PURPOSE OF REPORT

To present to Council for consideration, the Planning an Integrated Built Environment Reference Group Minutes of 15 February 2012.

1.0 BACKGROUND

- 1.1 The Planning an Integrated Built Environment Reference Group was established by Council to consider matters involving goals and initiatives contained in the key direction of Council's Strategic Plan – Integrating Our Built Environment.
- 1.2 The strategic objectives within the associated key direction are:
 - Asset Management Coordination Strategy
 - Energy Efficiency Strategy
 - Land Use & Development Strategy
 - Town & Village Strategy
 - Transport & Traffic Strategy
- 1.3 To fulfil its role, the Planning an Integrated Built Environment Reference Group provides:
 - a link between Council and the community which enhances communication about the strategic direction of Council initiatives;
 - input from Council and the community (historical, social and environmental) when considering possible solutions;
 - consideration of implications from strategic initiatives and their likely impact on the local community; and feedback to Council on behalf of the community.

2.0 ISSUES

2.1 PIBE4.1 – Update on Outcomes of Reference Group Meetings

Reference Point

- That the reference points listed be considered during the development of the 2012-2016 Delivery Program.
- That the roles and responsibilities for working groups be adopted.

2.2 **PIBE4.2 – Standard Instrument LEP**

Reference Point

- That the report be noted and the preparation of the draft Pittwater Standard Instrument Local Environmental Plan continue to progress.
- That the PIBE Reference Group be kept updated regarding the progress of the Pittwater Standard Instrument Local Environmental Plan.

2.3 **PIBE4.3 – Community Based Heritage Study Review**

Reference Point

- Heritage Group, residents associations and additional networks be notified for participation on the Heritage Committee

2.4 **PIBE4.4 – Elanora Heights Village Centre Masterplan**

Reference Point

- That the process and time frame for the Elanora Heights Masterplan be supported.

The Masterplan is to make reference to:
 - * Architectural design incorporating Sustainability principals,
 - * Bush Heritage,
 - * Wildlife corridors,
 - * Transport,
 - * Reduction of speed limits to control traffic in the area,
 - * Changing demographics.
- The Residents Action Group Elanora Heights is finalizing a submission and will distribute to all reference group members for additional feedback.
- LEP to be a standard Item on the Planning a Built Environment Reference Group Agenda.

2.5 **PIBE 5.0 – Emerging Business**

Reference Point

- That the marketing document with minor changes be accepted by the group and enabling the Marketing the Sustainability Checklist Version 3 be implemented, and that the marketing document be referred to the Community Engagement officer, Corporate Strategy and relevant Council Staff.
- A meeting to be held if necessary after the document has been reviewed.

3.0 SUSTAINABILITY ASSESSMENT

This report does not require a sustainability assessment.

4.0 EXECUTIVE SUMMARY

- 4.1 To present to Council the outcome of discussion papers on Strategic issues and to present Reference Points of the Planning an Integrated Built Environment Reference Group contained in the minutes of the meeting of 15 February 2012.

RECOMMENDATION

That the Minutes of the Planning an Integrated Built Environment Reference Group meeting of 15 February 2012 be noted (see **Attachment 1**).

Report prepared by

Steve Evans
DIRECTOR, ENVIRONMENTAL PLANNING & COMMUNITY

Minutes

Planning an Integrated Built Environment Reference Group

held in the Training Room at the Coastal Environment Centre, Lake
Park Road, Narrabeen on

15 February 2012

Commencing at 4:08pm

Attendance:**Members of the Committee:**

Cr Bob Dunbar, Chairperson
Cr Jacqui Townsend

Community Group Representatives:

Avalon Preservation Association, Mr Peter Mayman
Bayview – Church Point Residents Association, Mr Steve Richmond
Clareville and Bilgola Plateau Residents Association, Mr Ray Mills
Friends of Narrabeen Lagoon Catchment Committee, Ms Jacqui Marlow
Newport Residents Association, Ms Selena Webber
Newport Residents Association, Ms Susan Young
Newport Residents Association, Mr Richard Links
Palm Beach & Whale Beach Association, Merinda Rose
Pittwater Resident Representative, Mr James Owen
Pittwater Resident Representative, Natasha Connelly
Scotland Island Residents Association, Mr Greg Roberts

Council Advisors:

Mr Steve Evans, Director Environment Planning & Community
Mr Andrew Pigott, Principal Strategic Planner
Ms Monique Tite, Senior Strategic Planner
Ms Jane Mulroney, Community Engagement Officer – Corporate Strategy
Ms Sherryn McPherson, Administration Officer/Minute Secretary

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

**PLANNING AN INTEGRATED BUILT ENVIRONMENT
COMMITTEE MEETING**

TABLE OF CONTENTS

Item No	Item	Page No
1.0	Apologies	
2.0	Declarations of Pecuniary Interest	
3.0	Confirmation of Minutes	
4.0	Discussion Topics	
PIBE4.1	Update on Outcomes of Reference Group Meetings	
PIBE4.2	Standard Instrument LEP Report to PIBE Reference Group	
PIBE4.3	Community Based Heritage Study Review	
PIBE4.4	Elanora Heights Village Centre Masterplan Report to Planning an Integrated Built Environment Reference Group	
5.0	Emerging Business	
6.0	Next Meeting	

**The Director, Environment Planning & Community
has approved the inclusion of
all reports in this minutes.**

1.0 Apologies

1. Apologies were received from
Mr Geoff Sheppard, Clareville and Bilgola Plateau Residents Assoc.
Ms Linda Haefeli, Climate Action Pittwater
Mr David Palmer, Ingleside Residents Landcare Group Inc.
Ms Julia Alston, Pittwater Resident Representative

and leave of absence was granted from the Planning an Integrated Built Environment Reference Group Meeting held on 16 November 2011.

2. The Reference Group members accepted the apologies.
-

2.0 Declarations of Pecuniary Interest

3.0 Confirmation of Minutes

REFERENCE GROUP RECOMMENDATION

That the Minutes of the Planning an Integrated Built Environment Reference Group Meeting held on 16 November 2011 be confirmed as a true and accurate record of that meeting.

(Mr Ray Mills / Mr Peter Mayman)

4.0 Discussion Topics

PIBE4.1 Update on Outcomes of Reference Group Meetings
--

Proceedings in Brief

Jane Mulroney, Community Engagement Officer – Corporate Strategy addressed the meeting on this item.

Reference Groups were commended on their contributions and for the valuable role in providing feedback to Council on the goals and strategies of the Pittwater 2020 Strategic Plan that Council is trying to progress. They have assisted Council to do this in the following ways:

1. Providing **direct feedback** during discussion of agenda items at each meeting
2. Developing '**reference points**' to be considered for incorporation into the Delivery Program
3. Initiating **working groups**
4. Reference Group **member presentations**

Matters Arising from the discussion:

Q: Can members of the general public come and observe at Reference Group meetings?

A: Yes they are welcome to come and observe however due to limited space at the Coastal Environment Centre to accommodate more attendees. It is expected that observers will contact the Minute Secretary if they wish to attend. Observers will sit in the additional chairs provided.

Q: Do all the minutes go to all Councillors

A: Yes they do, a hard copy is provided to all Councillors. The minutes are also go to the Council meetings for further review and tabling as part of Council Agenda papers.

Q: Limited time is allocated for Reference Group meetings with too much time being spent explaining items by Council staff rather than discussing topics and in depth conversations. Documents should be intensively reviewed prior to the meeting so we can briefly discuss the reports and ask questions of staff. This will also provide additional time on other items.

A: Reference groups have been created in order to discuss / resolve strategic issues. The Reference Group agreed that at future meetings members would prefer to spend more time responding to report papers rather than having them thoroughly explained by a Council representative. Prior to each meeting all Reference group members are to familiarize themselves with the reports included in the agenda and have a thorough understanding of the topic before attending the meeting to allow more time for discussions.

It was recommended that the Chair ask for a brief overview of the agenda item by the Council Officer responsible and then open up the topic for discussion.

REFERENCE POINT

1. That the reference points listed be considered during the development of the 2012-2016 Delivery Program.
2. That the roles and responsibilities for working groups be adopted.

PIBE4.2 Standard Instrument LEP Report to PIBE Reference Group

Proceedings in Brief

Mr Andrew Pigott, Principal Strategic Officer addressed the meeting on this item.

The current process aims to convert and update the current LEP to meet the Standard Instrument Template which will form consistency for all Councils across the state.

It is proposed that any new Planning Proposals received during this process which includes Rezoning Applications will be put on hold. Exceptions will be made in the instance of those applications where there is demonstrated Community or Public benefit, financial hardship or environmental issues (including the Warriewood Valley Land Release Area) which would prove problematic if the application is delayed.

Pittwater Council is proposing to work extensively with the community and will have two (2) public exhibition periods prior to submitting the document to the Department of Planning & Infrastructure. As per page 14 of the Agenda, we will be working in accordance with the following deadlines

	Milestone
October - November 2011	Finalisation of draft Standard Instrument LEP including internal business unit consultation
December - January 2011	Consultation with State Agencies e.g. Sydney Water, RTA
February 2012	Meeting with Department of Planning & Infrastructure
March - April 2012	Report to Council recommending forwarding draft SI LEP to Dept of Planning & Infrastructure
May 2012	Dept of Planning & Infrastructure issue s65 Certificate
June - July 2012	1 st exhibition of Standard Instrument LEP
August 2012	Review submissions and make any necessary changes and report to Council
September 2012	2 nd exhibition of Standard Instrument LEP
October 2012	Review submissions
November - December 2012	Report Standard Instrument LEP to Council recommending forwarding to the Dept of Planning & Infrastructure to adopt
February 2013	Pittwater Standard Instrument LEP made

Matters Arising from the discussion:

Q: Will the Draft LEP Report go to the Department of Planning prior to going on exhibition? If so, can we meet the necessary deadline in order to receive funding?

A: We are required to submit the Standard Instrument LEP to the Department of Planning & Infrastructure prior to going on public exhibition. If there is an extended delay by the Department of Planning in responding to us, we will have good grounds to support our case for payment of the funding.

Due to significant delays in the past regarding the preparation of the LEP, the Department of Planning have made a considerable effort in getting the Councils LEPs adopted.

Q: Are there local variations? For example offshore people may need to make alternate changes to the LEP to suit their area..?

A: There is one LEP however minor changes will be implemented to suit each Council.

Q: Friends of Narrabeen Lagoon Catchment have sent in a submission to Warringah Council in attempt to save parts of Red Hill and for this to be included within their LEP. Tony Kelly was approached during this process and when it came to signing the documents there was a change of Government and the document did not go through. Can a change of government change this process?

A: Yes, the minister has the power to make changes to the LEP.

Q: In regards to the current Department of Planning review, when are submissions due by?

A: Submissions were due on the 17 February 2012, however the due date has been extended to the 2 March 2012.

Q: In regards to the resolution made at Council on 17 October 2011, regarding not processing Planning Proposals until the new LEP has been implemented, should any new Planning Proposals have been put to Council and the moratorium lifted prior to accepting the rezoning proposal or giving owners consent?

A: Whether it is council, individual or company, rezoning can still occur if the applicant can demonstrate there will be financial hardship, community / public benefit or environmental issue if the rezoning didn't take place.

Note:

An invitation was circulated to all Reference Group members whom were invited to attend Council's event "Northern Beaches Action Plan" being held on the 29 February 2012 from 7.30 – 9.00pm at Dee Why RSL, 932 Pittwater Road, Dee Why. Further information is available on website: nsw2021northernsydneydeewhy@dpc.nsw.gov.au. All members and community groups were encouraged to attend.

REFERENCE POINT

1. That the report be noted and the preparation of the draft Pittwater Standard Instrument Local Environmental Plan continue to progress.
2. That the PIBE Reference Group be kept updated regarding the progress of the Pittwater Standard Instrument Local Environmental Plan.

PIBE4.3 Community Based Heritage Study Review

Proceedings in Brief

Monique Tite, Senior Strategic Planner addressed the meeting on this item.

The NSW Heritage Branch (under the Office of Environment and Heritage) has approved a funding grant of up to \$50,000 for Council to undertake a Community Based Heritage Study review.

The project is due to be reported to the Planning and Integrated Built Environment Committee Meeting on the 20 of February 2012 for endorsement.

If endorsed the project should commence by late February or early March 2012, and be undertaken by a heritage consultant, who will work closely with a 'heritage study working group' which will consist of 10-12 people, including a least one Councillor, council staff representatives and interested members of the community.

The project will also involve asking the community to nominate items of heritage significance, as well as public exhibition of the draft heritage study prior to adoption by Council.

The project must be completed by the 15 of May 2013 to ensure Council receives the allocated funding.

Matters Arising from the discussion:

Q: During the course of the study, what will happen to the status of currently listed heritage items?

A: The review will provide the opportunity to update the existing heritage studies in relation to all aspects of European heritage including built, natural and landscape items and conservation areas and will include:

- consulting with the community regarding potential new items and the significance and relevance of current items,
- reviewing and updating the thematic local history as necessary,
- a review and update of the current listed items and their significance,
- delivering a consolidated Pittwater Heritage Study for the LGA, that provides an assessment of any new items recommended for inclusion and updates information regarding the significance and relevance of current items.

Q: What will be the process at end of the review to incorporate the Items into the LEP which we don't have yet?

A: We will need to follow the LEP amendment process if new items need to be incorporated. Council will address this issue as both projects progress.

Q: What provision will there be for objections to heritage listings by a property owner?

A: A process will be established to advise all community and property owners that a possible heritage item is under review and Council will provide them the opportunity to provide comment. Council will make decisions to include properties into the LEP which will be finalised by the Minister.

Q: Will the working group be looking for people who were on the previous Heritage Committee and has expertise in this area or will a mixture of community members be selected?

A: The advertisement will initially go out to the general community and letters will be sent to all registered community groups. A selection process will be utilized to break down the number of applicants and final selection will come down to expertise and experience in this area. The working group will be limited to a total of 10-12 people.

Council will take into consideration participation in previous heritage groups when considering nominations.

A report will be going to Council on 20 February 2012 recommending that a Councilor be nominated to participate in the group.

Q: A very preliminary draft report will be prepared and will determine what funds are available. In the Agenda Report (page 16) it states the project must be completed by the 15 May 2013, with a draft report and claim for 50% of the grant funding being received by the 15 May 2012. What will be in the draft report?

A: It is possible that the draft report prepared by the 15 May 2012 may be very preliminary, and there may be further revisions of the draft beyond this date. In order to receive funds we need to have a draft report submitted. Half of the funds will need to be spent by 15 May 2012 and the remaining half to be spent before 15 May 2013.

Q: Sometime ago there were 2 houses located on the boundary of Pittwater High School. Is it possible to find out what happened to these houses as they have recently been removed and should have been heritage listed? Photos have been witnessed with these houses dating back as early as the 1930's.

A: A review will be performed to see what has happened to these houses.

Queens Parade has been nominated as heritage as it was one of the first streets established in Pittwater. Especially as it was also the first main street for business etc. It is important to look at Pittwater as a whole and make sure the original houses and streets have made Pittwater remain for future generations.

Q: Where will the funding of \$50,000 come from?

A: Council will receive \$50,000 from the Office of Environmental Heritage. Additional staff resources will be contributed by Council during the course of this project.

Q: How will Council notify the community about this, will Council write to the Community Associations etc..?

A: Yes we will be writing to every registered community group, so the information can be distributed to representatives whom can further circulate the information to their network and contacts.

REFERENCE POINT

Heritage Group, residents associations and additional networks be notified for participation on the Heritage Committee.

PIBE4.4	Elanora Heights Village Centre Masterplan Report to Planning an Integrated Built Environment Reference Group
----------------	---

Proceedings in Brief

Andrew Pigott addressed the meeting on this item.

The Draft on Exhibition period closes Friday 17 February.

Once the Exhibition period closes for submissions, these will then be reviewed. The landscape masterplan will be finalised and presented to Council for adoption. Further consultation regarding the built form masterplan will then take place. Following this consultation period, responses received will be reviewed and then the built form masterplan will be presented to Council for adoption.

Matters Arising from the discussion:

Q: There is a lot of activity happening in Elanora and an unofficial Residents Group has been formed. A response to the submission has been drafted. The group is looking for more members of the community to support there response but would like to know if it is possible an extension of time by approx 1 week?

A: The group was encouraged to submit the document as is on the deadline and then place a further submission with any amendments. The benefit of Council receiving the submission on time will give the current consultant an overview of what the Association is asking for and can possibly incorporate these ideas into the plan. The landscape option needs to be resolved so Reserve and Recreation workers can begin works.

Q: Whenever land is rezoned from housing back to commercial – How will Council manage the impact on landscaping / removal of trees in regards to limited replanting options?

A: This is addressed in the Masterplan, landscaping provisions must be met for the development to progress.

Q: In regards to Kywong Reserve, wildlife are moving through this Reserve to the rest of the suburb, will the new Masterplan how will we continue to maintain the wildlife corridor?

A: The Masterplan will try and achieve a balance between the flora and fauna that live and move through the reserve and the passive recreation needs of the community. The Reserve isn't currently recognised as a wildlife corridor but we understand that native fauna do use it.

Q: The Community Centres at Avalon and Newport have proved successful, is Council considering a third (3) Community Centre in the near future?

A: The creation of a new centre will require funding which is not available at the moment. Additional storage space is under review in order to assist the current users

Q: In regards to the 3 elements included on Page 74 of the Agenda, the building located on the corner of Kalang and Powderworks Road has a terrible look and the community is worried about the restrictions currently available to architects to ensure their designs follow a similar theme in the area. Who is going to develop the guidelines of the distinct architectural character and ensure these procedures will be abided by in the future?

A: GMU the consultants will design the guidelines.

Q: Why is there no reference to sustainability in the Masterplan and why are they not incorporating sustainability principals into the plan?

A: Sustainability as a topic isn't specifically referenced however, the document does address numerous issues of sustainability in the landscaping and built form.

Q: Pittwater DCP is well established and has incorporated all the controls as possible. How can Council provide further guidance to architects preventing buildings being built with a number of non compliances therefore not being utilized for its intended purpose?

A: Council always applies our planning controls to every development application that is submitted. Unfortunately Pittwater can not always control absolutely every land shape or building design.

REFERENCE POINT

1. That the process and time frame for the Elanora Heights Masterplan be supported.
2. The Masterplan is to make reference to:
 - architectural design incorporating Sustainability principals,
 - bush Heritage,
 - wildlife corridors,
 - transport,
 - Reduction of speed limits to control traffic in the area,
 - Changing demographics.
3. The Residents Action Group Elanora Heights is finalizing a submission and will distribute to all reference group members for additional feedback.
4. LEP to be a standard Item on the Planning a Built Environment Reference Group Agenda.

5.0

Emerging Business

Greg Roberts updated the reference group on the Sustainability Principals and Checklist.

Feedback is encouraged to be provided to Greg Roberts in the form of a soft copy or electronic format.

The document once adopted / implemented will be updated on a regular basis to ensure it is always kept current.

Q: Does the Reference group support the target audience and segmented areas of the community?

A: It was recommended the document Include Structural Engineers.

Updates to the document will continue to be made and distributed to all members via the Council's Community Engagement Officer – Corporate Strategy and Minute Secretary.

Pre lodgments meetings and discussions will need to be made prior to the development application process commencing.

Q: Have you consulted Council staff in relation to this Marketing Plan regarding their capacity to implement actions?

A: Once the final documents have been completed it will then be forwarded to relevant Council Staff for their comment.

REFERENCE POINT

1. That the marketing document with minor changes be accepted by the group and enabling the Marketing the Sustainability Checklist Version 3 be implemented, and that the marketing document be referred to the Community Engagement officer, Corporate Strategy and relevant Council Staff.
2. A meeting to be held if necessary after the document has been reviewed.

Application in regard to the Wilga-Wilson area, Ingleside

Report is going to Council Meeting Item C11.3 will be addressed on the 20 February 2012 providing a response to this Item.

Bike tracks, Elanora and Ingleside - Poor infrastructure in the area proving dangerous to ride in the area.

Future works, upgrades and reviews of the area would be highly beneficial in regards to safety for riders which in future will encourage a higher number of riders enjoying cycling in the area.

REFERENCE POINT

The Reference Group would like to see the review of the Community Strategic Plan and consider the Walks and Rides program.

COMMITTEE RECOMMENDATION

That the next meeting of the Planning an Integrated Built Environment Reference Group Meeting will be held on 16 May 2012 at the Coastal Environment Centre commencing at 4.00pm

**THERE BEING NO FURTHER BUSINESS
THE MEETING CONCLUDED AT 6.11pm
ON WEDNESDAY, 16 MAY 2012**

Council Meeting

12.0 Adoption of Governance Committee Recommendations

13.0 Adoption of Planning an Integrated Built Environment Committee Recommendations

14.0 Councillor Questions

Committee of the Whole

15.0 Confidential Items

Pittwater Council is committed to, and has fostered, the practice of open local government. Some matters, however, are of a sensitive nature and are dealt with in Closed Session. The nature of such matters are contained within Section 10A(2)(d) of the Local Government Act, 1993, the text of which is recorded within the recommendation hereunder.

1. That in the public interest, and pursuant to Section 10A(2)(d) of the Local Government Act, 1993, the Council move into Closed Session to consider Item C15.1 Confidential Report - Potential Acquisition of Pasadena at Church Point and Item C15.2 Confidential Report on the Outcomes of the Warriewood Valley Strategic Review
2. That pursuant to Section 10A(2)(d) of the Local Government Act, 1993, the press and public be excluded from the proceedings of the Committee of the Whole on the basis that the items to be considered are of a confidential nature, that reason in this instance being:

10A(2)(d) Commercial information of a confidential nature that would, if disclosed:-
 - (i) prejudice the commercial position of the person who supplied it; or*
 - (ii) confer a commercial advantage on a competitor of the Council; or*
 - (iii) reveal a trade secret.*
3. The grounds on which a meeting is closed to the public must be specified in the decision to close the meeting and recorded in the minutes of the meeting.
4. A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.
5. That the correspondence and reports relevant items considered in Closed Session be withheld from access to the press and the public.
6. That upon resumption of the Council meeting in Open Session the General Manager (or nominee) report those resolutions made by the Committee of the Whole.

Mark Ferguson
GENERAL MANAGER

C15.1 Confidential Report – Property Acquisition

Meeting: Council

Date: 19 March 2012

STRATEGY: Business Management

ACTION: Continue to identify and evaluate potential business opportunities

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:-
 - (i) prejudice the commercial position of the person who supplied it; or
 - (ii) confer a commercial advantage on a competitor of the Council; or
 - (iii) reveal a trade secret.
-

PURPOSE OF REPORT

To seek Council's endorsement for the acquisition of land known as "Pasadena" at Church Point to provide enhanced open space, deliver community services and to support the ongoing implementation of the Church Point masterplan.

1.0 BACKGROUND

- 1.1 Receivers and Trustees have been appointed to the bankrupt estate of the former owner of Pasadena – this action was undertaken in January this year. Subsequently, the Receivers have reviewed the financial position of the estate and determined to place the Pasadena up for sale by auction, with the auction to be held 28th March, unless the property is sold beforehand.
- 1.2 The Pasadena comprises a number of land parcels, not all of which are under the direct control of the Receiver (see Attachment 1):

Property		Owner		Size	Zoning
Lot 142, DP 752046		A Romeo – freehold land		632 square metres	3 (c) Neighbourhood Business
Lot 3, DP 1148738 Lease 311606		Crown		812 square metres	Unzoned. Use – for business purposes (outdoor dining area and carparking)
Land Below High Water Mark fronting Pasadena Licence 312335		Crown		135 square metres	6(a1) Waterways Recreation. Use – for business purposes (jetty)
Lot 317, DP 824048		Pittwater Council		643 square metres	9(d) Arterial Road Reservation. Use – public road

- 1.3 Only Lot 142 is up for auction, this being the freehold land component of Pasadena. The Crown Lease and Crown Licence formerly held by Pasadena and which provide Pasadena with its outdoor dining area and carparking (lease 311606) and its jetty (licence 312335) are likely to be assigned over to the new purchaser of the Pasadena Freehold (refer to **Attachment 2**). **Negotiations would need to be entered into with the Crown to achieve the assignment of these tenures over to Council, should it acquire the Pasadena Freehold. This is a risk to the viability of the Pasadena Restaurant – the outdoor dining area is integral to the efficient operation of a restaurant/function centre on the Pasadena site. The Crown Lease over the outdoor dining area will also have a significant impact on the valuation of the Pasadena freehold.**
- 1.4 Initial discussions have been held with the appointed Receiver and the Bank holding the first mortgage over the Pasadena freehold. Following these initial discussions, detailed work has been undertaken, as part of a normal Due Diligence process, to establish:
- The market value of the Pasadena Freehold land
 - The condition of the building and its structures, services and infrastructure
 - An assessment of the range of permissible uses for the Pasadena site (including the Crown Lands associated with the Pasadena)
 - A review of the Contract for Sale of the Pasadena Freehold land
- 1.5 The Market Valuation was undertaken on an “As Is” basis and is summarised in Section 2.4.

2.0 ISSUES

2.1 Condition of Existing Building

A Condition Assessment and Cost Plan has been prepared to investigate the condition of the current building and its structures and to provide an order of costs involved in restoring the building to its former uses (motel, restaurant and commercial offices/retail) and for refurbishment to create a Café/Restaurant and Community Centre.

The Condition Assessment concluded that the Structure and Shell of the existing building are in poor condition (noteworthy items are the façade separating from the buildings; external staircase also separating from the building; and compromised roof membrane allowing significant water ingress within the building); the interiors of the building are in very poor condition (extensive water damage); and the services (hydraulics, fire services, electrical) range from fair to very poor. An assessment of the existing building against the Building Code of Australia demonstrates that the Pasadena fails to meet the deemed-to-comply provisions of the Code, especially in crucial areas including fire resistance and stability; provision for escape; smoke hazard management; emergency lighting, exit signs, and warning systems, construction of exits, compartmentation and separation and damp and waterproofing

The Cost Plan prepared for refurbishing the existing building addressed the two options outlined above, namely:

	Option 1 Motel & Restaurant	Option 2 Café & Community Centre
Estimated Capital Cost	\$3 million	\$2 million

* note: these are only broad indicators of order of costs – no detailed plans have been prepared to permit accurate costings

The estimated cost to demolish the existing building is estimated to cost \$100,000 and construction cost of a similar building to the existing building is estimated at \$3.5 million.

2.2 Planning

The Pasadena building is zoned 3(c) Neighbourhood Business under Pittwater Local Environmental Plan 1993 (refer to Attachment 3). “Refreshment Rooms” (a definition which also includes cafes and restaurants) and shops, as well as commercial premises are permissible in the 3(c) zone. Function Centres may be permissible as an adjunct to the restaurant use but standalone would be prohibited in this zone. Community uses are currently prohibited within this zone, except for child care centres or libraries, which are permissible uses. The range of commercial uses permissible within this zone includes beauty salons, bread shops, post offices, TAB agencies and the like. Motels are not a permitted use within the 3(c) zone – the former owner of the site has relied upon existing use rights to operate a motel from the site.

The outdoor dining area occupied by the Pasadena lies on Crown Land held under lease (used for the outdoor dining area and some carparking along the eastern fringe of the Pasadena building). This land is unzoned under the LEP and therefore no land use restrictions apply to this land. All development in this unzoned land is permissible.

Pittwater Development Control Plan 21 (DCP 21) sets out the Desired Character of the locality – any future development of the site should have regard for and accord with the Desired Character of Church Point.

The site enjoys a current development consent (granted by the Land & Environment Court) for construction of a new 3 storey shop-top housing development comprising basement carparking, a restaurant, three shops and three residential units.

2.3 Plan of Management

Council has previously adopted the Church Point Plan of Management (PoM). The PoM shows the retention of carparking along the Pittwater Road frontage of the Pasadena (i.e. within Council-owned Lot 317), with realigned/additional carparking within the public reserve to the east of the building and a wider foreshore being created to the front of the Pasadena. The PoM also notes that the area subject to this lease can be reduced by 33% to accord with re-negotiated lease terms (note: this obligation is contained within a non-executed lease that is not recognised by the Crown) – it is likely that any re-negotiated lease with the Crown over this land will involve a smaller land area than is currently utilised by the Pasadena for its outdoor dining area. Any reduction in carparking area within this leasehold may limit the development potential of the site due to the inability to provide for adequate on-site carparking).

The PoM establishes some general planning principles and specific strategies for the Pasadena site that will need to be accounted for in any re-development proposal.

2.4 Valuation Advice

Independent valuation advice has been sought from Knight Frank Valuations to establish the market value of the Pasadena Freehold. The valuation advice has been prepared on the basis of Highest and Best Use of the site, which is largely reflected by the development proposal outlines in the existing consent which applies to the site (“As is with DA”) and also without regard to any current approval, given that the land use approved by the Land & Environment Court (the current DA) would unlikely be approved in the future (“As Is without DA”).

The Highest and Best Use of the site is based upon the existing development consent, granted by the Land & Environment Court for construction of a new, 3 storey shop-top housing development comprising basement carparking, a restaurant, shops and three residential units. However, the DA may not necessarily reflect the optimal configuration of for a re-development of the site due to the unusual and expensive design and further that it essentially replaces the existing improvements on site.

The Valuation Advice is conditional upon the Crown Lease and Crown Licence being able to be transferred to Council (should it be the purchaser) – there is a risk associated with the transfer of these tenures that, in the case of the Lease, are essential to the operation of a restaurant/function centre.

Council's Valuer considers that marketability of the property, on an "As Is without DA" basis to be somewhat limited, given the risk of the transfer of the Crown Tenures and the likely costs involved in the repair/upgrading works required to enable the existing premises to be used for the purposes of a restaurant/function centre. Further, there has been a steady turnover of tenants for the small retail outlets within Pasadena and the function centre is a failed business – the vacancy of the income producing retail space, together with major rectification works represent a significant impediment to marketing the property.

On an "As Is with DA" basis, the property is likely to attract only selective interest from local private developers. There is the view that the current DA which applies to the site may not be the Highest and Best Use for the site, as it largely proposes a broadly similar use profile to the recent functionality of Pasadena. Recently, a sales marketing campaign was undertaken for the Pasadena with the current DA in place – concerns about the viability of the three shops and the likelihood of the apartments achieving "prestige" prices commensurate with expectations (due to being above a restaurant/function centre) lead to potential purchasers withdrawing from previous negotiations to purchase the property.

The Valuation Advice ascribes the following values to the Pasadena:

- "As Is without DA" - \$1,900,000 (excluding GST)
- "As Is with DA" - \$2,250,000 (excluding GST)

Under a public auction scenario (which is the disposal methodology adopted by the Receiver), competitive bidding may push the price of the property beyond the valuation determined by Council's valuer.

It is recommended that a maximum bidding price of \$2,300,000 be adopted for the acquisition of the Pasadena freehold.

The property is scheduled to go to auction on 28 March, if not sold beforehand.

2.5 Development Scenarios

The Pasadena site has a valid consent in place from the Land and Environment Court as described above.

There are two development scenarios which could be pursued for the Pasadena site:

Scenario 1 – refurbishment of existing building for Café/Restaurant & Community Use

Under this scenario, the restaurant and outdoor dining area is to be refurbished (along with the retention of the seven carparking spaces within the Crown Leasehold on the eastern edge of the building) and re-open the commercial shop spaces (for either retail/ commercial use or for child care or libraries uses).

The order of costs for this refurbishment scenario is some \$2 million (excluding design and approvals costs, holding costs, ongoing operational costs).

However, this usage does not comply with the existing development consent (which also approves apartments and basement carparking) and no modification of this consent to delete these additional elements is possible.

Therefore, this scenario is not viable.

Scenario 2 – Demolition and Construction of New Café/Restaurant and Community Use

This development scenario would involve demolishing the existing building and seeking development consent for these uses in a differently designed building (noting the planning requirements of the LEP, PoM and Land & Environment Court decisions relating to this site).

A 300 square metre restaurant/café to provide a capacity of 200 seats could be developed for an order of costs of \$1.5 to \$1.8 million (excluding design and approvals costs, holding costs, ongoing operational costs). However, this scenario contains a development approvals risk in being able to develop a restaurant /café, with associated carparking, on-site on satisfactory conditions of approval.

Carparking is a limiting factor in any re-development scenario.

2.6 Funding

The acquisition of the Pasadena is to be secured by loan funds. Ongoing income is to be generated from rental of the commercial use of the restaurant.

2.7 Risks and Considerations

Purchase Price

- Cost to secure premises is greater than market valuation
- The remedy to address this matter is to not exceed the valuation figure adopted in this report.

Condition of Existing Building

- Latent (non-visible) conditions or circumstances which represent further costs – e.g. hidden structural damage, contamination, dangerous & hazardous materials)
- The remedy to address this matter is to demolish the existing building

Holding Costs

- Acquisition costs and interest charges during the design and approvals process – which could run over 2-3 years
- The remedy to address this matter is to examine proceeds from other asset sales

Design and Approval

- Costs of design and likelihood of approval on acceptable terms
- Existing Development Consent (that is possibly non-viable and unable to be modified to achieve a reduced scope) versus new Development Application that reduces the development potential of the site and its capacity to accommodate a restaurant/café and associated carparking
- The remedy to address this matter is to prepare and lodge a new Development Application that includes improved parking

Construction Costs

- Broad estimates only at this conceptual stage – risk of substantial rises in construction costs as project is better defined and outcomes of development approval process (e.g. undergrounding of carparking)
- The remedy to address this matter is to prepare a detailed cost plan at the time of preparing a new design (at the Development Application stage)

Crown Leaseholds Being Assigned

- No guaranteed tenure over Crown Leasehold containing outdoor dining area and carparking
- The remedy to address this matter is to initiate discussions with the Department of Lands to either ensure the assignment of the lease and licence to Council as owner of the Pasadena freehold or to incorporate these lands within the Crown Reserve and seek appointment as Trust Manager

2.8 Probity Plan

As part of the project development, a probity plan will be developed to ensure that appropriate probity measures are put in place to address both the acquisition and development phases.

3.0 SUSTAINABILITY ASSESSMENT (view sustainability assessment tool)

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The Pasadena is a locally significant landmark site. Acquisition of this site represents a strategic initiative to retain the site under public ownership. This has community and social benefits in securing ongoing community benefit deriving from public ownership.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 It is proposed that additional open space would be created upon acquisition of the Pasadena – the goal of achieving more public space would be an objective of the design process.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 It is proposed that a commercial opportunity would be created through the purchase of the Pasadena – a restaurant/café would be developed to generate ongoing income.

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The acquisition cost has been independently established by Council's Valuer with reference to market value. This independent expert advice has established the quantum that Council should consider for the acquisition of the Pasadena.

3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 The acquisition of the Pasadena opens up potential to increase the amount of public open space at Church Point and integration with existing open space around the foreshore.

4.0 EXECUTIVE SUMMARY

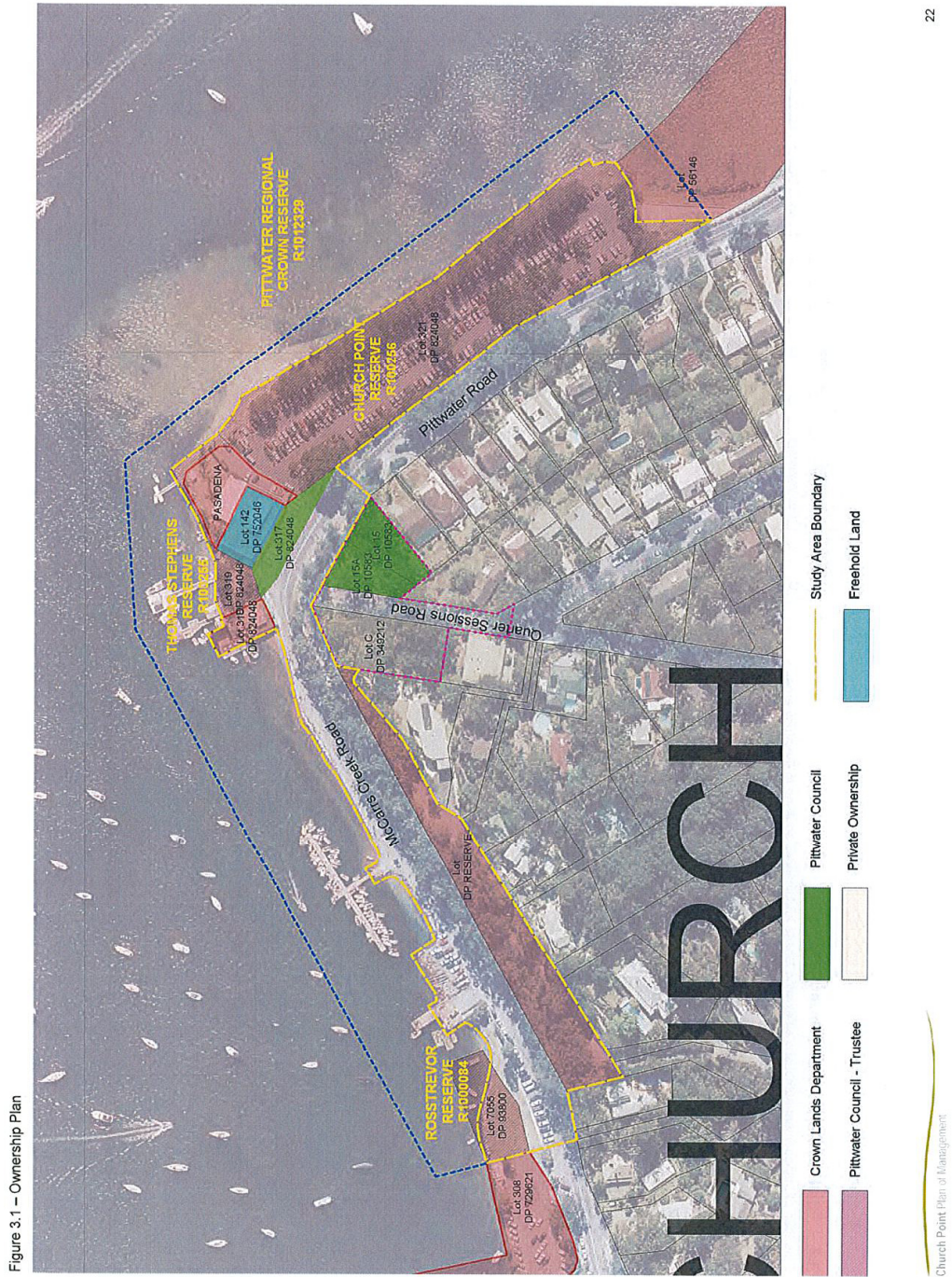
- 4.1 The company which owns the Pasadena at Church Point has gone into receivership – the appointed Receivers have offered the Pasadena for sale by auction (unless sold beforehand).
- 4.2 The Pasadena is a local landmark and represents a significant opportunity for Council to acquire the Pasadena freehold land to establish a commercial enterprise and provide some additional public open space to the existing foreshore area.
- 4.3 Independent Valuation Advice has determined the market worth of the Pasadena – it is recommended that Council pursues this opportunity with the Receiver and negotiates the possible acquisition in accordance with the terms of this report.

RECOMMENDATION

- 1. That the General Manager be authorised to conduct and complete negotiations for the possible acquisition of the Freehold Land at Pasadena at Church Point, either prior to or at auction, up to the maximum bidding price valuation advice provided by Knight Frank to secure the Pasadena freehold land.
- 2. That the General Manager be authorised to conduct and conclude negotiations for the assignment of all Crown tenures (leases and licences) associated with the Pasadena Freehold.
- 3. That the subject freehold land be classified as Operational Land under the terms of the Local Government Act upon acquisition
- 4. That the General Manager be authorised to sign and/or affix the Seal of Council to all relevant documentation associated with the acquisition of the Pasadena freehold land and associated Crown tenures.

Report prepared by
Glenn Davis, Principal Officer – Commercial

Paul Reid
MANAGER - CORPORATE STRATEGY & COMMERCIAL







C15.2 Confidential Report on the Outcomes of the Warriewood Valley Strategic Review

Meeting: Council

Date: 19 March 2012

STRATEGY: Land Use & Development

ACTION: Coordinate land use planning component of land release

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.
-

PURPOSE OF REPORT

To inform Council and stakeholders on the outcomes of the Warriewood Valley Strategic Review including the findings of the independent consultants commissioned to provide advice on hydrology and water management, urban design, traffic and transport issues, and assess the economic feasibility of the findings.

A substantial issue has arisen from the recommendation of the Hydrology report relating to flood evacuation and the requirements of the State Emergency Service (SES). The report recommends acceptance of evacuation routes below the Probable Maximum Flood (PMF) level and the reliance on “shelter in place”. The Hydrology report however qualifies this requiring that this be accepted by the SES. The accepted guidelines up to this point in time for planning for development, including greenfield sites, provided for evacuation routes being at the 1% (1 in a 100) levels. Warriewood Valley has been planned on the basis of the 1% criteria.

SES has not accepted the Hydrology reports recommendation. This difference between the SES position and that of the current flood planning guidelines has significant, State-wide implications on land-use planning and development in the floodplain including Warriewood Valley.

Notwithstanding this unresolved issue this report recommends public exhibition of the Draft Warriewood Valley Strategic Review Report, together with the independent consultants’ reports. However this flood evacuation issue must be resolved prior to any properties that do not currently have PMF evacuation routes available being progressed through any rezoning process for higher development potential.

The Interim Probity Report prepared by Procure Group, the independent probity advisor engaged to oversee the governance issues regarding the Warriewood Valley Strategic Review process, is also presented to Council.

1.0 BACKGROUND

- 1.1 At its meeting of 18 July 2011, Council was provided with an update on the Warriewood Valley Strategic Review, including the establishment of a Project Control Group (PCG) comprising representatives from the Department of Planning and Infrastructure and Council. to oversee the strategic review process.

Additionally, Council was advised that the General Manager established two distinct teams of Council officers to administer the conflicting roles of Council as both a landholder/manager and Planning Authority.

At that meeting of 18 July 2011, Council resolved inter-alia:

“2 That a report be brought back to Council on the outcomes of the Warriewood Valley Strategic Review.”

- 1.2 The Draft Warriewood Valley Strategic Review Report, prepared by the PCG, is based on the findings from the independent consultants' reports.

Copies of the Draft Warriewood Valley Strategic Review Report, independent consultants' studies have been provided to Councillors under a separate cover.

- 1.3 Attached to this report is the Interim Probity Report and presents the outcomes of the audit carried out by Procure Group in regard to the Department's, Council's and the PCG's delivery of the strategic review against the Project Plan and the Community Engagement Plan in terms of governance and project protocols, including the Probity Plan (**Attachment 1**).

2.0 ISSUES

- Process for determining 'undeveloped' land to be considered for increased density/development potential and outcomes
- Outcomes of the independent consultant's hydrology report
- Outcomes of the combined independent consultants' findings regarding future development opportunities
- Concept Plan for the Southern Buffer
- Increase in total dwellings
- Emerging issue regarding effective flood risk management and emergency response policies

3.0 PROCESS FOR DETERMINING UNDEVELOPED LAND TO BE CONSIDERED FOR INCREASED DENSITY & DEVELOPMENT POTENTIAL

- 3.1 The process for determining which undeveloped lands in Warriewood Valley (2010 Framework area) and 120 Mona Vale Road, have potential for increase in dwelling density and development is as follows:
- Step1 – Preliminary review
 - Step 2 – Land capability assessment as determined by the Composite Land Capability Map
 - Step 3 – Land capability assessment as determined by the Developable Land Classification (an outcome of the consultant Hydrology Study).

- 3.2 Step 1 is the preliminary review and was based on identifying which land parcels are defined as “undeveloped” and within a “designated residential” sector under Warriewood Valley Planning Framework 2010.

The table below identifies those sectors not considered for any increase in dwelling density by Step 1 of the review process.

Sector ID	Property Address	Reason for no further consideration
102	185 Warriewood Road	Designated Industrial in 2010 Planning Framework. Already zoned 4(b).
103	10c, 10d, 12a, 12b, 12c, 14a, 14b, 14c & 16a Ponderosa Parade	Designated Industrial in 2010 Planning Framework. Already zoned 4(b).
104	3 Harris Street & 16 Apollo Street	Designated Industrial in 2010 Planning Framework. Already zoned 4(b).
105	15 Jubilee Avenue	Designated Industrial in 2010 Planning Framework. Already zoned 4(b).
201	4 Walana Crescent (in Sector 20)	Not identified as undeveloped in 2010 Planning Framework.
202	14 Walana Crescent (in Sector 20)	Not identified as undeveloped in 2010 Planning Framework.
203	3 Harrier Place (in Sector 20)	Not identified as undeveloped in 2010 Planning Framework.
204	79 Cabbage Tree Road (unzoned land in Sector 20)	Not identified as undeveloped in 2010 Planning Framework. Contains Aveo Peninsula Gardens Retirement Village
702	10 Jubilee Avenue (unzoned land in Sector 7)	Northern portion of property designated Industrial as part of Sector 7 in 2010 Planning Framework (majority of the site is not in Planning Framework).
802	5 Forest Road	Not identified as undeveloped in 2010 Planning Framework. Contains Mater Maria School
10C	194 Garden Street	Not identified as undeveloped in 2010 Planning Framework. Contains Seaview Assisted Living Apartments

- 3.3 Step 2 (Land capability) –This step utilised a spatial Land Capability Assessment process which took into account the environmental, economic and social characteristics that influences land use allocation decisions to produce a Composite Land Capability Map for the Warriewood Valley Release Area and 120 Mona Vale Road (previously used to inform the recently adopted *Pittwater Local Planning Strategy – Planning for Pittwater Towards 2021*)

Any sectors /site containing significant constraints was excluded from further consideration for increased density.

- 3.4 120 Mona Vale Road contains significant constraints to the majority of its site and was excluded from further consideration for intensification for urban purposes. The landowner has the opportunity to make separate application for development of the site.
- 3.5 In this regard Council on 4 July 2011, when dealing with a DA for road construction for this site resolved:-

"1. Council acknowledges that the applicant has proceeded to seek a resolution to access the site at 120 Mona Vale Road in accordance with Council resolutions of 18 April 2006 and 7 April 2008. Council acknowledges that the applicant has secured owners agreement to lodge an application for the development of the road.

Given that owners agreement to an access road has been secured, Council is in a position to consider an overall Masterplan / rezoning to develop 120 Mona Vale Road and the area proposed for the road over 4 Boundary Street and 10 Jubilee Avenue, subject to the submission of full detailed studies, reports and plans addressing environmental, infrastructure, hazard management, biodiversity and urban capability of the sites.

2. That consideration of the present application be deferred pending the outcome of the current Strategic Review of the Warriewood Valley and consideration of the Masterplan suggested above."

- 3.6 It was also found that a range of environmental characteristics existed across Sector 9 (the last of the designated residential sectors still to be rezoned/developed) making it impossible to specify a single development prescription for the whole of the sector. Therefore Sector 9 was divided into sub-sectors based on in accordance with the prevailing environmental characteristics.

4.0 OUTCOMES OF HYDROLOGY REPORT

- 4.1 Cardno was commissioned to undertake a Hydrology Study to consider the flood and water management implications of increased development in Warriewood Valley, particularly:
- Analyse and detail the extent of flooding across Warriewood Valley
 - Outline the options for flood evacuation
 - Recommend an approach to cut and filling various land parcels to provide a building platform above the flood planning level and to assist in the conveyance of flood water
 - Provide preliminary recommendations for on-site detention on various sites and options/ recommendations for water quality treatment.

The study is a high level assessment of flooding and acknowledged that a more detailed assessment will need to be undertaken following the completion of the Narrabeen Lagoon Flood Study (currently underway). Cardno's recommendation relating to flood evacuation is contingent on SES acceptance.

4.2 A developable land classification was applied to the undeveloped land, accounting for:

- The expected flood behaviour on the site
- The cut and fill required to provide a building area, 500mm above the 100 year ARI plus climate change level
- Emergency evacuation routes from each site.

A map was produced based on the outcomes of the developable land classification. This map is the final step (Step 3) of the land capability assessment process that determines which of the undeveloped lands is capable (based on the environmental attributes of each site) of accommodating an increase in dwelling density.

4.3 The Study identified 2 Macpherson Street (known as Sector 1m) as being significantly below the Probable Maximum Flood level (plus climate change), and being unsuitable for development because of risk to life and property as a result of flood.

2 Macpherson Street was not tested for increased density given its hydrological constraints. This confirmed the 2010 Planning Framework's prescription that this site should not have a development yield/ density attributed to it.

4.4 Flooding in the Southern Buffer is governed by backwater flooding from both the Warriewood Wetlands and the Narrabeen Lagoon, and experiences long duration flooding. Flood depths exceed 1m across most of the Southern Buffer in a 100 year ARI event particularly the following properties:

- 1 Boondah Road
- 3 Boondah Road
- 6 Boondah Road
- 8 Boondah Road
- 9 Boondah Road (Lots 8 & 9 DP 26902)
- 10 Boondah Road

To address the issue of long duration flooding, and to enable any development opportunity in the Southern Buffer area, Cardno identified:

- The need for significant cut and fill to create two developable areas with the required compensatory flood storage areas and retention of flow path in much of the 'middle' Southern Buffer area.
- The land use options for the created developable areas are limited to residential (at the northern section), whilst commercial and retail land uses being considered in the southern area.
- Pittwater Road and Jacksons Road being raised to provide sufficient evacuation time and the installation of a flood warning system.
- Boondah Road (North) and Macpherson Street (East) will also need to be raised to provide flood free access up to the Probable Maximum Flood (PMF) event.
- That the following properties are not suitable for intensification of development.

4.5 The Hydrology Study also recommended the following flood emergency response approaches for Warriewood Valley up to the PMF event:

- the existing evacuation route in the Valley via Ponderosa Parade needs to be enhanced (for use by more people) by an alternate route across Macpherson Street East (which requires upgrading);
- the need to upgrade Pittwater Road and Macpherson Street East to provide additional evacuation options for the wider community (beyond Warriewood Valley).

Cardno identified that 'shelter-in-place' is a concern in situations where the flood duration is longer than 6 hours thus resulting in isolation. Cardno at page 33 of the Hydrology Study, states:-

"It would be recommended that this approach be discussed in conjunction with the SES, as it will be important as it will be important to gain their acceptance of the approach as the lead combat agency for floods."

Flood emergency management is discussed in more detail in Section 8 of this report.

5.0 OUTCOMES OF OTHER CONSULTANTS' REPORTS

5.1 HBO+EMTB prepared the Urban Design study and proposed a built form for each identified residential sector having considered its environmental and hydrological attributes and locational context.

A range of development scenarios were prepared for the Southern Buffer area for further consideration by the other consultants prior to the development of a concept plan. A set of design principles underpinning the concept plan for the Southern Buffer was also developed.

5.2 A Strategic Transport study was prepared by AECOM. The study considered the traffic impacts of various development scenarios of both the undeveloped residential sectors and the Southern Buffer (as part of a completed Warriewood Valley release area development). It found that most key intersections can continue to operate at acceptable levels in both the am and pm peak periods, however AECOM advised that for some development scenarios, various with an array of physical impacts works will be required at certain intersections.

Transport NSW have advised that they have no objection to the methodology or the findings of the study.

5.3 Hill PDA was commissioned to undertake an economic feasibility of the development scenarios prepared by the urban design consultant and took into account the outcomes of the hydrology and transport studies.

In terms of 'small lot housing and townhouses', (the dominant form of housing in Warriewood Valley), Hill PDA found that this development is economically feasible if the density is a minimum 30 dwellings per hectare.

Hill PDA found that 'apartment buildings' would need to be set at 60 dwellings per hectare to be economically viable. However, the independent Urban Design Study did not recommend such density generally across the Valley and the PAC's limitation of development at 14-18 Boondah Road to 3-4 stories was a determining factor in the PCG determining that 60 dwellings per hectare is not appropriate.

6.0 CONCEPT PLAN FOR THE SOUTHERN BUFFER

- 6.1 A concept plan and set of design principles have been developed for the Southern Buffer area based on the outcomes of the land capability assessment and independent consultants' studies. The concept plan is not an indicative zoning map but rather, is a visual representation of the development opportunities that may be realised if the landowners in the Southern Buffer agree to a collaborative approach.
- 6.2 Infrastructure and community services, both within the Buffer area and external to it, to service the future development of the Southern Buffer area, will require further examination as part of the detailed planning process.

7.0 INCREASE IN TOTAL NUMBER OF DWELLINGS

- 7.1 Undeveloped residential sites with potential for increased dwelling density have been identified through the land capability assessment and Hydrology Study.

The recommended density generally increases from 25 dwellings per hectare to 32 dwellings per hectare. This recommended density, by the PCG, is well below the 60 dwellings per hectare approved by the Planning Assessment Commission (PAC) for 14-18 Boondah Road Warriewood, and proposed on further sites in the south eastern areas of the Valley under the former Part 3A process.

- 7.2 The Warriewood Valley Planning Framework 2010 identified 927 dwellings still to be realised on those properties to be developed/rezoned. The PAC's decision in January 2011 provides for approximately 223 additional dwellings over the yields contained in the 2010 Framework.

The table (on the next page) provides a breakdown of dwellings allocated to those sectors where development is not yet complete and compares the proposed number of dwellings proposed under the 2010 Planning Framework and the yield now being proposed by the Strategic Review.

Some sectors identified as having significant existing environmental constraints, have not been identified as having potential for increased density. The onus will be on individual landowners of these sectors to demonstrate that a density on those sites can be achieved accounting for the environmental attributes of the site.

- 7.3 Sector 901 was not considered by the PCG as appropriate to be developed as a whole sector given its disparate land capability. The Urban Design consultant, having considered the eastern portion of the sector to be less constrained than the western portion, deduced that the eastern half of Sector 901 (known as 901A) can achieve a higher density and yield if it developed as an amalgamated sector. A maximum density of 36 dwellings per hectare is recommended for an amalgamated 901A being well below the density recommended by the Urban Design study. This amalgamated development opportunity would provide for 3 storey apartment buildings in this sector thus providing for a diversity in housing stock consistent with the determinations made by the Planning Assessment Commission and Council's adopted Local Planning Strategy-Planning for Pittwater Towards 2021.

If amalgamation cannot occur, then the density of individual parcels in 901A would remain at 32 dwellings per hectare.

A number of land parcels in the western portion however have significant constraints and therefore were not prescribed a new density or yield. It is recognised that for these parcels, the onus will be on landowners to demonstrate how any proposed development can be achieved.

Sector ID	Property Address	2010 Density	New Density	2010 Yield	New Yield	Additional Dwellings
101	165-167 Warriewood Rd	15/Ha*	26/Ha	1	4	3
301	20 Macpherson St	25/Ha*	32/Ha	42	53	11
302	18 Macpherson St	25/Ha*	32/Ha	66	84	18
303	16 Macpherson St	25/Ha*	32/Ha	23	29	6
501	4 & 8 Forest Rd	25/Ha*	32/Ha	75	99	24
801	23B Macpherson St	25/Ha*	32/Ha	19	38	19
901	<i>See Section 7.3 of Council Report</i>	25/Ha*	Various	245	335**	90
10A.1	115 Orchard Street	15/Ha*	No density prescribed	8	No allocation	-8
10A.2	111,111a & 113 Orchard St	15/Ha*	No density prescribed	6	No allocation	-6
10B	109 Orchard St	15/Ha*	20/Ha	28	45	17
Buffer 1a	61 Warriewood Rd (Construction commenced)	25/Ha***	No change	17	15 (Actual)	-2
Buffer 1b	53 Warriewood Rd	25/Ha***	32/Ha	17	24	7
Buffer 1c	53a Warriewood Rd	25/Ha***	32/Ha	13	18	5
Buffer 1d	53b Warriewood Rd	25/Ha***	32/Ha	1	1	0
Buffer 1e	53c Warriewood Rd	25/Ha***	32/Ha	11	15	4
Buffer 1f	49 Warriewood Rd	25/Ha***	32/Ha	14	21	7
Buffer 1g	45 Warriewood Rd	25/Ha***	32/Ha	17	23	6
Buffer 1h	43 Warriewood Rd	25/Ha***	32/Ha	1	1	0
Buffer 1i	41 Warriewood Rd	25/Ha***	32/Ha	27	39	12
Buffer 1j	31 Warriewood Rd	25/Ha***	32/Ha	26	40	14
Buffer 1k	29 Warriewood Rd	25/Ha***	32/Ha	14	21	7
Buffer 1l	23,25 & 27 Warriewood Rd	25/Ha***	32/Ha	43	67	24
Buffer 2a	4 Macpherson St	Site specific design	22/Ha	20	29	9
Buffer 3b	5 & 7 Macpherson St	25/Ha***	32/Ha	7	9	2
Total Additional Dwellings						269

* Density achieved across the whole sector rather than individual parcels (with the exception of the Buffer Areas)

** Sector 901 – divided into sub-sectors as a result of environmental attributes

*** Density calculated with the first 15m fronting the street at 10/Ha and remainder at 25/Ha

- 7.4 The revised dwelling yields for the land tabled above amounts to 1010 dwellings (up from 741 dwellings attributed for the same sectors under the 2010 Planning Framework).

The total net increase is 269 dwellings.

The total dwellings now anticipated for Warriewood Valley is 2,544 dwellings including the additional 263 dwellings approved by the PAC for 14-18 Boondah Road.

- 7.5 Additional infrastructure and community services commensurate with increasing the total dwelling numbers in Warriewood Valley will require further examination as part of the preparation of a new Contributions Plan for Warriewood Valley.

Council at its meeting of 21 February 2011 resolved, inter-alia:

“6 That Council support that in any future strategic review of Warriewood Valley that results in higher densities, that Council will seek to require 10% of any additional housing density be provided as ‘affordable rental housing’, managed by an appropriate Community Housing Provider in perpetuity.”

Part of the identification and review of community services will be the development of an agreed mechanism for provision of affordable rental housing to achieve the 10% target consistent with Council resolution.

The future review of infrastructure and service provision will need to consider Hill PDA’s recommendations that developer contributions not exceed \$50,000 per dwelling as contributions above this reduce the feasibility of residential development and will potentially result in delay or non-completion of the Warriewood Valley release area project. The finalisation by government of the approach to flood evacuation routes may effect the economic viability of the Valley’s development should roads need to be raised.

8.0 EFFECTIVE FLOOD RISK MANAGEMENT & EMERGENCY RESPONSE POLICIES

- 8.1 A significant issue that emerged through the review process and also concurrently to do with developments proposed in North Narrabeen (reported to Council 5 March 2012) relates to planning of flood affected areas and effective flood risk management and emergency response practices.

Warriewood Valley is in the Upper Narrabeen Lagoon floodplain. The southern half of the Valley is within the Narrabeen Creek Sea Level Rise Investigation Area.

In regard to the Narrabeen Lagoon floodplain, flood risk, depth and duration is distinct to other floodplains in the Pittwater LGA. In this floodplain, the flood duration to peak and recede for a major flood can involve up to 8-10 hours, including inundation of Pittwater Road and Macpherson Street (as the main access roads for the release area). Specific intersections in Warriewood Valley have also been identified to be inundated, such Ponderosa Parade, Garden Street (South) and Jacksons Road.

Cardno, in its Hydrology Report for the Warriewood Valley Strategic Review, proposes flood evacuation options that includes ‘shelter-in-place’ and recommended that the NSW State Emergency Services (SES) be consulted *“to gain their acceptance of the approach as the lead combat agency for floods”*.

- 8.2 The NSWSES have expressed the opinion, noting that there is no acceptable period of flood isolation, particularly the longer the duration of flood isolation the greater the probability of an emergency occurring that requires the attendance of emergency services (such as State Emergency Services, NSW Ambulance, Fire or Police).

- 8.3 The Director-General of the DP&I and the Commissioner of SES on 21/12/2011 met with Council staff to discuss the issue of emergency evacuation. It was acknowledged that the SES position on development criteria and evacuation issues emanating from its review of the Cardno report needed to be resolved by Government given the potential ramifications extend to intensification of development within a floodplain (including other land release areas) For progression of the recommendations of the Strategic Review of the Warriewood Valley to take place (relative to those sites that currently don't have appropriate evacuation routes), Government must resolve its position

It is understood that a review and determination of a state-wide flood emergency response approach is to take place.

- 8.4 In regard to the Strategic Review, a number of residential sectors identified for increased density also have flood free access in a Probable Maximum Flood (PMF) event, rezoning may be progressed for those sectors.

The majority of residential sectors identified for increased density have (or will have) flood free access for evacuation in a 1 in 100 year flood event (below the PMF). These sectors will need to await the Government's determination of the flood emergency policy for NSW.

The findings of the Hydrology Study commissioned for the Strategic Review and the SES's view on evacuation criteria will be utilised and taken into consideration as part of the assessment of any DA in the Valley.

9.0 TASKS UNDERTAKEN BY PROBITY ADVISOR

- 9.1 Procure Group was engaged as the independent probity advisor overseeing probity issues concerning the Warriewood Valley Strategic Review.

- 9.2 A Probity Plan was prepared by Procure Group aimed to:

- Identify potential conflicts of interest and probity risks associated with the scope of the strategic review project
- Detail the processes to be followed by Department personnel, Council personnel and PCG members to avoid those identified conflicts of interest and probity risks
- Identify and articulates the roles and responsibilities for each PCG member.

In addition, the Probity Advisor prepared a probity and communication protocol for the two teams established by the General Manager in regard to Council's land ownership/development and regulatory roles.

- 9.3 Procure Group audited the Department's, Council's and the PCG's delivery of the project against the governance and project protocols in both the Project Plan and Community Engagement Plan and against the Probity Plan. The outcomes of the audit are presented in the Probity Report (see **Attachment 1**).

10.0 WAY FORWARD

- 10.1 If Council agrees the Draft Strategic Review Report and independent consultant studies will be placed on public exhibition for a minimum 60 days. The Probity Report prepared by Procure Group and this report will form part of the exhibition documents.

As part of the exhibition process, the following tasks will be carried out in accordance with the Communication Engagement Strategy and Plan:-

- This report, the Draft Strategic Review Report, the Independent Consultant reports and the Interim Probity Report will be made available to the Community and stakeholders.
- An newsletter will be sent to all landowners and interested parties highlighting the outcomes of the Strategic Review including an invitation to a briefing session conducted by Council and Department of Planning & Infrastructure officers.
- The briefing session will be held within the first two weeks of the exhibition period. All landowners and interested parties will be formally invited to attend via the newsletter and advertisement.
- Council's webpage on the Warriewood Valley Strategic Review will be updated.

The matters raised during the exhibition period will be considered by the Project Control Group (PCG).

The outcomes of the exhibition together with recommendations by the PCG will be reported to Council.

- 10.2 The agreed flood emergency policy, resulting from the Government's review of such policies, will be reported to Council when it is released/ received.

11.0 SUSTAINABILITY ASSESSMENT

11.1 Supporting & Connecting our Community (Social)

The Strategic Review aims to continue to enhance the health and wellbeing of residents in Warriewood Valley, taking into consideration infrastructure, land capacity, urban form and the area's current character.

11.2 Valuing & Caring for our Natural Environment (Environmental)

The Strategic Review aims to achieve a satisfactory impact on our ecological footprint and continue protecting our biodiversity.

11.3 Enhancing our Working & Learning (Economic)

The Strategic Review aims to continue the orderly planned development of Warriewood Valley, and ensure delivery of a viable land release.

11.4 Leading an Effective & Collaborative Council (Governance)

Landowner and community participation will be conducted at the appropriate times to ensure that decision making is ethical, accountable and transparent.

A probity protocol has been established in conjunction with the independent probity advisor to oversee the required governance for the strategic review.

A 'whole of government' approach is to be achieved to ensure Community confidence in the project.

11.5 Integrating our Built Environment (Infrastructure)

The Strategic Review is in response to a decision by PAC on increased dwelling density (through the Part 3A process). Legislative reforms and Minister's Directions impacting on infrastructure delivery in Warriewood Valley are relevant.

The Strategic Review aims to continue maintain the liveability and amenity of the Valley by locating an appropriate mix of land use and development and associated infrastructure.

12.0 EXECUTIVE SUMMARY

The Strategic Review of undeveloped lands in the Warriewood Valley Release Area (including the Southern Buffer area) commenced on 16 May 2011 when Council endorsed the partnership approach between the Department and Council.

At its meeting of 18 July 2011, Council was provided with an update on the Strategic Review. At the time, it was anticipated that the outcomes of the strategic review would be presented to Council in late 2011.

This report highlights the outcomes of the strategic review of undeveloped lands and seeks Council endorsement to place on public exhibition the Draft Strategic Review Report notwithstanding the SES has not accepted the Hydrology Report recommendations. It is also proposed to exhibit independent consultant studies including the Probity Report.

RECOMMENDATION

- 1 That the information contained in this report be noted and it be made public.
- 2 That the Draft Warriewood Valley Strategic Review Report, associated Independent Consultant Studies, and the Interim Probity Report be placed on public exhibition for 60 days and that landowners in the Warriewood Valley Release Area, relevant Community Associations and interested parties be invited to respond.
- 3 That the State Government be requested to finalise guidelines for future development relating to flood evacuation.
4. A further report be brought back to Council on the outcomes of the exhibition.

Report prepared by
Liza Cordoba, Principal Officer Land Release

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT



DEPARTMENT OF PLANNING & INFRASTRUCTURE AND PITTWATER COUNCIL

WARRIEWOOD VALLEY STRATEGIC REVIEW

INTERIM PROBITY REPORT – 6 MARCH 2012

Action	Person	Position	Signature
Prepared by	Vic Baueris	Account Director	
Approved by	Warwick Smith	Director	

PREPARED FOR:

Mr Sam Haddad
Director General
Dept of Planning & Infrastructure

Mr Mark Ferguson
General Manager
Pittwater Council

CONTENTS

1. INTRODUCTION	3
2. SCOPE AND METHODOLOGY	4
3. PROBITY PLAN WORK PERFORMED	6
4. PITTWATER COUNCIL WORK PERFORMED	8
5. CONCLUSION.....	8
6. STATEMENT OF RESPONSIBILITY	9
TABLE 1.	10
TABLE 2.	23

1. INTRODUCTION

In March 2011, the Director General of the Department of Planning and Infrastructure (Department) and the General Manager of Pittwater Council (Council) agreed to undertake a strategic review of all undeveloped lands in the Warriewood Valley Release Area (Review). This followed a Planning Assessment Commission (PAC) decision in January 2011 to approve a Meriton Apartments Pty Ltd Part 3A application, despite it being contrary to Council's development controls. At the same time, the PAC recommended that such a Review be undertaken.

A Project Control Group (PCG), comprising representatives of the Department and Council, has been established to oversee the Review. The PCG has developed a Project Plan which includes a requirement for the engagement of a probity adviser and the development of a Probity Plan to complement the Project Plan. The final version of the Project Plan was endorsed by the Director General of the Department and the General Manager of the Council on 31 October 2011.

Procure Group Pty Ltd (Procure) has been engaged by the Department and Council to provide probity advisory services for the Review. Procure's engagement commenced on 22 June 2011 with our attendance at the fourth meeting of the PCG. In the following months the key activities conducted by the PCG have been to:

- Develop and implement the Project Plan, including a Community Engagement Strategy
- Develop and implement the Probity Plan
- Engage consultants to conduct studies related to hydrology, urban design, transport and economic aspects of the Warriewood Valley Release Area
- Conduct a range of community and landowner consultations
- Prepare a draft Strategic Review Report for consideration by Council and the Director General of the Department prior to public exhibition.

In addition, Council, with assistance from Procure, has developed and implemented a Probity Protocol to deal with the conflicting roles arising from Council ownership of land within the Warriewood Valley Release Area. This has required the establishment of two officer teams – a Technical Team and a Property Team – that have operated separately in order to carry out the conflicting roles with appropriate separation.

Procure has prepared this Interim Probity Report to accompany the Strategic Review Report. The Interim Probity Report includes a summary of the key activities undertaken by Procure along with a progress report on implementation of each of the actions required in the Probity Plan and Probity Protocol.

A final probity report will be completed once the public exhibition and comment process is undertaken and a final Strategic Review Report is presented.

2. SCOPE AND METHODOLOGY

2.1 ROLE OF PROBITY ADVISER

In its publication *Probity and Probity Advising* (November 2005) the Independent Commission Against Corruption (ICAC) describe a probity adviser as:

“an individual or organisation engaged to observe, review and provide guidance on the probity framework and/or processes of a project. Agencies use internal or external probity advisers to verify that the processes followed are consistent with government regulations, policies, guidelines and best practice principles. A probity adviser provides opinions and guidance on probity risks and issues that may arise during the process and confirms, in writing, whether the concluded process is consistent with the requirements outlined in a probity plan as well as general probity fundamentals. If probity requirements are not being or have not been met, the adviser identifies the non-conformities and any reasons for these in a written report, and if necessary, suggests solutions and monitors their implementation.

A probity adviser is chiefly concerned with ensuring the integrity of the procedures and processes of the project, rather than project outcomes. That is, the focus is on the means, not the ends of the project. The probity advising role is essentially preventive”.

2.2 PROBITY FUNDAMENTALS

In undertaking the probity advisory role, Procure has had regard to the “probity fundamentals” described in the ICAC publication. These probity fundamentals are:

- Maintaining impartiality
- Managing conflicts of interest
- Maintaining accountability and transparency
- Maintaining confidentiality
- Obtaining value for money

Our work performed to review the application of each of these probity fundamentals during the Review to date is documented in section 3 of this report.

2.3 BRIEF FOR THE PROBITY ADVISER

The PCG identified probity issues arising from the mixed ownership of land – public and private sector – within the Warriewood Valley Release Area that warranted the engagement of a probity adviser. The probity issues were described by the PCG as follows:

The Crown, Council and private landowners hold land in the Southern Buffer area of the Warriewood Valley Release Area; an area identified for potential expansion as a small town centre. Council also owns land in the broader

Warriewood Valley, principally acquired through its Section 94 Contributions Plan. The realisation of the highest and best use of land may require land swaps with landowners or other land dealings by the Council. Such activities attract close scrutiny and the services of a probity auditor are required to ensure that an appropriate governance structure and Project protocols are in place and followed to avoid real and perceived conflicts of interest. (Consultant Brief, Probity Auditor, p2).

This is consistent with the view of the ICAC which in its publication *Corruption risks in the development approval process* (September 2007) noted that a consent authority has a conflict of roles between its different functions as a developer and land use regulator.

To address these issues, the PCG determined that, among other activities, the probity adviser will:

1. *Prepare a Probity Plan which:*
 - a. *identifies potential conflicts of interest and probity risks associated with the scope of the Project;*
 - b. *clearly details the processes to be followed by Department personnel, Council personnel and PCG members to avoid those identified conflicts of interest and probity risks; and,*
 - c. *identifies and articulates the roles and responsibilities for each PCG member.*
2. *Audit the Department's, Council's and the PCG's delivery of the Project against the Project Plan (in respect only of issues of governance and Project protocols), Community Engagement Plan (in respect only of issues of governance and Project Protocols) and Probity Plan and prepare:*
 - a. *an Interim Probity Report that outlines the level of compliance and incorporates activity 1 above, and*
 - b. *a Final Probity Report that outlines the level of compliance and provides probity advice on the next steps for implementing the Warriewood Valley Strategic Review. (Consultant Brief, Probity Auditor, p8)*

2.4 PROBITY PLAN

The PCG, with assistance from Procure, prepared a Probity Plan that was formally adopted at its meeting held on 10 August 2011. The Probity Plan identified the key broad areas of probity risk as follows:

- **Maintaining impartiality** – the conflict of roles faced by Council needs to be addressed by appropriate internal arrangements to separate the Council's planning input to the Review from its internal management of proposals for the development of its landholdings.
- **Managing conflicts of interest** – potential conflicts of interest for PCG members and consultants engaged to assist the Review need to be managed.

- **Ensuring accountability and transparency** – Review sponsors and PCG members need to ensure that decision-making and Review documentation are consistent with defined responsibilities. An additional responsibility for the Project Sponsors is to endorse the final report and recommendations arising from the Review.
- **Maintaining confidentiality** – communication with stakeholders, particularly landowners affected by planning decisions, needs to be conducted with due regard to confidentiality. The Department and Council will need to document information security arrangements, particularly as they relate to the dual roles within Council. Similarly, access to the preparatory work and draft reports of consultants will need to be limited.
- **Obtaining value for money** – the engagement of consultants needs to be done consistent with Department and Council procurement policies. The quality of consultant work needs to be monitored and assessed.

The Probity Plan includes a detailed Probity Risk Assessment that addresses each of the ICAC's probity fundamentals. Probity risks are identified and the level of risk rated using the Department's risk methodology. A progress report on the steps taken to date in implementing the Mitigation Actions is provided in Table 1 (attached).

2.5 PITTWATER COUNCIL PROBITY PROTOCOL

A key document required by the Probity Plan was the preparation by Council of a Probity Protocol for dealing with Council-owned land subject to the Review. The Property Team, with the assistance of Procure, prepared the Probity Protocol. It was endorsed by Council's General Manager on 22 September 2011 and reported to a meeting of the Council on 4 October 2011. The steps taken to date in the implementation of the Probity Protocol are outlined in Table 2 (attached).

3. PROBITY PLAN - WORK PERFORMED

In undertaking this Review, Procure has completed the following:

- Noted that the Project Plan includes:
 - Governance and reporting arrangements
 - Communication engagement strategy and protocols
 - Risk register that includes probity risks.
- Confirmed by observation of PCG meetings attended and review of documentation (including minutes of PCG meetings where Procure was not in attendance) maintained by the Department and Council that the Project Plan has been followed in all material respects.

- Noted that the Probity Plan was approved by the PCG on 10 August 2011. The Probity Plan includes a probity risk assessment that identified probity risks related to need to each of the probity fundamentals nominated by the ICAC.
 - Confirmed by observation of the PCG meetings and review of documentation (including minutes of PCG meetings where Procure was not in attendance) maintained by the Department and Council that the Probity Plan has been followed in all material respects.
 - Attended the community consultation meetings held at the commencement of the Review as required by the Community Engagement Strategy. At the meetings community members, landowners and their representatives were invited to contact the Probity Adviser if they had any probity concerns regarding the conduct of the Review. No such contact was made.
 - Attended the meeting held with Southern Buffer landowners, including the Council Property Team, held on 26 September 2011. Noted the letter from the private landowners to the Department dated 7 October 2011 in which issues related to landowner engagement and the scope of consultants' briefs were raised. Further noted the Department's reply of 14 November 2011.
 - Contacted the signatory to the letter from the private landowners, as noted above, on 7 November 2011 to ascertain if there were any probity concerns related to the Review that he wished to raise. The issues related by the signatory were those included in the letter of 7 October 2011. No additional issues were raised.
 - Noted that Council received a letter dated 21 December 2011 from a representative of Southern Buffer Landowners (the owners of 3, 6 and 8 Boondah Rd) which alleged that due to the existence of Council and State Government owned land in the Southern Buffer, both the Council and the Department had a conflict of interest which makes them incapable of conducting the review impartially. Procure advised the author of the letter that the risks created by the conflict of roles he identified were addressed in the Project Plan, Probity Plan and Probity Protocol developed for the Review.
- Note: The representative of the Southern Buffer Landowners declined an invitation from the probity adviser to meet to discuss this matter on the basis that he considered that the issues had been adequately explained in his correspondence dated 21 December 2011.
- Confirmed that all members of the PCG, Department and Council staff working on the Review and all consultants have signed a project specific *Confidentiality and Conflict of Interest Undertaking* that required any private interest to be declared. Noted that no private interest was declared that may be perceived to create a conflict of interest.
 - Noted that the engagement of all consultants, except the hydrology consultant, has been undertaken utilizing the Department's procurement procedures. This includes evaluation of submissions using selection criteria that were made known to proponents in the briefs inviting submissions and in accordance with an approved evaluation plan. Further noted that the engagement of the Hydrology consultant was by direct engagement by Council with the agreement of the Department, and in a manner consistent with the Department's procurement policies.
 - Confirmed that the Probity Plan included security requirements to be followed to maintain confidentiality. These requirements included secure physical storage of documentation and separation of access to Council documents between the Technical Team and the Property Team.

- Confirmed with the Department and Council Project Managers that the security arrangements as outlined in the Probity Plan were implemented.
- Confirmed with the Department's Project Manager on 10 November 2011 that the Governance requirements of the Project Plan as they relate to the provision of reports to Departmental Committees have been fulfilled.
- Reviewed the draft Warriewood Valley Strategic Review Report.

4. PITTWATER COUNCIL PROBITY PROTOCOL - WORK PERFORMED

In undertaking this Review, Procure has completed the following:

- Noted that the conflict of roles for Council arising from its ownership of land within Warriewood Valley was identified at the commencement of the Review and that a Probity Protocol was developed and implemented in accordance with the Probity Plan.
- Noted that the Council General Manager issued a formal delegation of roles to establish a Property Team to deal with land owned by Council and a Technical Team to participate in the Review to assist the PCG. Further noted that in accordance with the Probity Protocol, Council has implemented a clear separation of functions and access to information between the two teams.
- Attended an initial briefing to Councillors on 11 July 2011 and participated in separate discussions on the roles of the two Council teams and related issues.
- Noted that the Council received a confidential briefing from the Property Team on 15 August 2011 as the result of which an Action Plan for the Property Team was agreed.
- Noted that the Probity Protocol was endorsed by the General Manager on 22 September 2011 and reported to Council at its meeting on 4 October 2011.
- Confirmed at a meeting with Property Team members on 7 November 2011 that the actions set out in the Probity Protocol had been implemented.
- Confirmed with Council's Project Manager on 22 November 2011 that the Probity Protocol had operated effectively to ensure the separation of the two teams.
- Attended a meeting with the Council General Manager and other officers on 21 February 2012 in order to discuss the letter of 21 December 2011 from Southern Buffer Landowners and issues related to the public exhibition of the report from the Review. At that meeting Procure expressed the view that there were probity reasons for proceeding to public exhibition at this time.

5. CONCLUSION

Based upon our work performed and detailed in this report, no issues of a probity nature have come to our attention that would lead us to conclude that the processes followed in relation to the Warriewood Strategic Review by the Project Control Group, the Department of Planning and Infrastructure and Pittwater Council have not been conducted in a fair and equitable manner with due regard to probity.

6. STATEMENT OF RESPONSIBILITY

This report has been completed for the purpose of assisting the Department of Planning and Infrastructure and Pittwater Council in their decision making in relation to the Warriewood Valley Strategic Review. The report cannot be relied upon by any other party or for any other purpose. While the Probity Adviser may provide input into processes followed, the Department of Planning and Infrastructure and Pittwater Council retain overall responsibility for the probity of their personnel and processes.

Table 1

PROBITY RISK ASSESSMENT – INTERIM REVIEW FEBRUARY 2012

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
Impartiality								
Review outcome influenced by conflict of roles for Council as planning authority and landowner	Diminished public trust in planning processes Loss of confidence in Project	M/E	A		Council implements agreed protocol with two separate teams handling PCG matters and internal proposals for Council landholdings	Liza Cordoba (LC)	Completed	Completed
					Council GM formally establishes internal team arrangements and issues formal delegations to define team roles	LC / Council GM	Completed	Completed
					Review outcome ratified by PCG and Project Sponsors	Eddie Swat (ES) / Samara Fitzpatrick (SF)	According to Project program	To be referred to Council meeting & then to DG of Department
					PCG has access to all relevant information	ES / SF	Ongoing	Ongoing

PAGE 10

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
Pressure from developers to participate in and influence outcomes of the Review	Independence of the Review compromised. Outcome of Review may be delayed	H/H	A		PCG oversees all Review outcomes	ES / SF	Ongoing	Ongoing
					Separate consideration of the Southern Buffer	ES / SF	Ongoing	Ongoing
					Developers contribute through established community consultation process	LC	Ongoing	Department has advised Stockland that PCG unable to meet with landowners until exhibition period
					Communication with developers in accordance with Communication Plan	LC	Ongoing	
Centro (shopping centre owners) seek to influence land use in Southern Buffer	Independence of the Review compromised.	L/H	C		PCG oversees all Review outcomes	ES / SF	Ongoing	Ongoing
					Separate consideration of the Southern Buffer	ES / SF	Ongoing	Implemented & ongoing
					Centro contributes through established community consultation	LC	Ongoing	Centro formally advised that PCG unable to

PAGE 11

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					process Communication with Centro in accordance with Communication Plan	LC	Ongoing	meet until exhibition period Documented & ongoing
Landowners lobby Government and Council directly to achieve desired planning outcomes	Improper influence on planning decisions Media embarrassment for NSW Government and Council	M/H	B		All planning decision-making procedures followed and transparent. PCG members, Department and Council staff disclose any interests or meetings with landowners/developers at PCG meetings. Legal requirements re declaration of political donations and lobbyists adhered to. Communication with landowners in	ES / SF ES / SF ES / SF LC	Ongoing Ongoing Ongoing Ongoing	Documented & ongoing Documented & ongoing No requirement to date Documented &

PAGE 12

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					accordance with Communication Plan			ongoing
Conflicts of Interest								
Consultant appointments affected by related interests	Inappropriate consultants appointed Criticism of process Time consuming to resolve issues	L/H	C		PCG controls appointment process using Department procedures and vets conflict of interest issues	ES / SF	Ongoing	Department procedures used except in the case of Hydrology as approved
Consultants have conflicts of interest	Inappropriate advice provided Loss of confidence in planning process	L/H	C		Consultants required to notify of all actual, potential and perceived conflicts of interest as part of selection process All actual, potential and perceived conflicts of interest declared to the PCG for determination of agreed action	ES / SF ES / SF	Ongoing Ongoing	Department documentation as part of engagement process As required

PAGE 13

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					Action to address identified conflict of interest discussed with Probity Adviser, implemented and monitored	ES / SF	Ongoing	As required
PCG members have conflicts of interest	Loss of confidence in PCG outcomes	M/H	B		All actual, potential and perceived conflicts of interest declared Action to address identified conflict of interest discussed with Probity Adviser, implemented and monitored	ES / SF ES / SF	Completed Completed	Deeds completed and provided to Probity Adviser As required

PAGE 14

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
Transparency and Accountability								
PCG does not fulfil probity requirements	Breach of probity affecting the integrity of the Review	L/H	C		PCG adopts Probity Plan for the conduct of the Review Probity risk assessment undertaken by probity adviser and endorsed by PCG Probity adviser reviews compliance with Probity Plan	ES / SF ES / SF ES / SF	Completed Completed According to Project program	Adopted by PCG on 10 August 2011 Adopted by PCG on 10 August 2011 First review in November 2011
Decision making by PCG not formally documented	Decisions made in ad hoc manner Transparency and accountability undermined	L/H	C		Formal minutes of meetings prepared Agreed protocol for decisions between meetings	ES / SF ES / SF	Ongoing Ongoing	Minutes prepared as required

PAGE 15

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
Community and stakeholder communication inadequate	Loss of confidence in Review	L/H	C		Communications Plan developed, adopted and implemented by PCG	LC	Completed	Completed as part of the Project Plan
					Communication Protocols ensure that there is a clear demarcation of responsibility for responding to community questions between the two Council teams	LC	Completed	Completed
					Implementation of Communication Plan monitored by PCG	ES / SF	Ongoing	Ongoing
Decision making process not followed	Decisions made by inappropriate officers Role of PCG undermined	L/H	C		PCG oversees decision-making procedures	ES / SF	Ongoing	Ongoing
					Agreed protocol for decisions between meetings	ES / SF	Ongoing	Ongoing
					PCG recommendations reviewed and endorsed	ES / SF	According to	Draft Strategic

PAGE 16

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					by the Project Sponsors Final decisions taken by Government in accordance with statutory requirements	ES / SF	Project program According to Project program	Review to Council & then DG of Department To be completed in 2012
No documented justification for decisions made	Review bodies have no records to confirm the process Decisions cannot be justified	L/H	C		Detailed Review Report prepared and endorsed by the PCG	ES / SF	According to Project program	Draft report prepared for Council on
					Review Report provided to Project Sponsors	ES / SF	According to Project program	Final report to be done in 2012
					Appropriate records to be created and maintained	ES / SF	Ongoing	Records maintained as required
					Probity review at conclusion of Review	ES / SF / Vic Baueris (VB)	According to Project program	To be done in 2012

PAGE 17

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
Council does not document separation of roles related to Council land	Loss of confidence in Review process Damage to Council reputation	L/H	C		Council documents separation protocol. Probity review conducted	LC LC / VB	Completed According to Project program	Probity Protocol completed Interim review in February 2012
Confidentiality								
Consultant, Department and Council reports not secured	Sensitive planning information becomes available to unauthorised parties	M/H	B		Department and Council procedures in place for secure storage of hard copies and material on computer network All participants in the PCG and consultants sign confidentiality deeds Information security requirements documented for	ES / SF / LC ES / SF ES / SF	Ongoing Completed Project Plan amendment drafted;	Confirmed Confirmed Project Plan. Endorsed by DG & GM

PAGE 18

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					Department and Council		awaiting endorsement	(31/10/11)
Public comment made by unauthorised persons	Inappropriate, inconsistent or incorrect information provided to the public	M/H	B		Responsibility for public comment agreed between Department and Council and documented in Communication Plan Councillors advised of agreed protocol	LC LC	Completed Completed	Confirmed Reported to Council on 4 October 2011
Planning information available prematurely	Unfair benefit to recipients	M/H	B		Department and Council agree on release of material Procedures for release of project information included in Project Plan	ES / SF ES / SF	Project Plan amendment drafted; awaiting endorsement Project Plan amendment drafted; awaiting endorsement	Outlined in Version 2.0 of Project Plan. Endorsed by DG & GM (31/10/11)

PAGE 19

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
Breach of IT security	Inappropriate access to confidential information	M/H	B		All information stored in accordance with record keeping protocols Access to IT system controlled and available to authorised persons only	ES / SF / LC ES / SF / LC	Ongoing Project Plan amendment drafted; awaiting endorsement	Outlined in Version 2.0 of Project Plan. Endorsed by DG & GM (31/10/11)
Obtaining Value for Money								
Consultants do not provide value for money	Waste of public funds Damage to reputation of Department and Council	M/H	B		Department and, where appropriate, Council procurement procedures govern process for engagement of consultants PCG oversees consultant contract management	ES / SF / LC ES / SF	Ongoing Ongoing	Confirmed with the approved exception of Hydrology Confirmed
Planning costs not properly authorised	Waste and misuse of public funds	L/H	C		Department and Council Executive to authorise expenditure	ES / SF / LC	Ongoing	Confirmed

PAGE 20

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					PCG oversees consultant contract management	ES / SF	Ongoing	Confirmed
Extra costs expended because planning advice from consultants not accurate due to poor performance and inadequate review	Planning outcomes compromised Government embarrassment Delays to project Extra costs	L/H	C		All planning advice and reports checked for quality by Department and Council officers, and peer review, where necessary Other specialist Government agencies also check reports where relevant PCG monitors quality and cost	ES / SF ES / SF ES / SF	Ongoing Ongoing Ongoing	Confirmed Draft reports provided to Transport and SES Confirmed
Potential for unwarranted material gain by Crown and/or Council from land swaps in the Southern Buffer area	Damage to reputation of Department and Council	M/E	A		Open and transparent community consultation process Crown and Council negotiations with private	LC LC	Ongoing Ongoing	Consistent with Project Plan No negotiations to

PAGE 21

Description of Risk	Impact or consequence	Likelihood/Seriousness	Grade	Change	Mitigation Actions (Preventative or Contingency)	Individual/Group Responsible for Mitigation Action	Timeline for Mitigation Action (as set in August 2011)	Mitigation Action Taken To February 2012
					owners conducted in accordance with Probity Protocol Audited by Probity Adviser	LC / VB	According to Project program	date Interim report in February 2012

PAGE 22

Table 2

PROBITY PROTOCOL - PITWATER COUNCIL

Council-owned Land Subject to the Warriewood Valley Strategic Review

PROBITY RISK	ACTION	INTERIM REPORT – February 2012
Maintaining impartiality		
Council recognises that it has conflicting roles in relation to the Review as noted in this Protocol	The Probity Protocol is to be endorsed by the General Manager and reported to Council in order to ensure that Council's involvement in the Review is undertaken in a transparent and impartial manner	Probity Protocol endorsed by GM and reported to Council on 4 October 2011
Decisions in relation to the re-zoning of Council-owned land arising from the Review should not be made by Council to avoid the conflict of roles arising	Decisions in relation to Council-owned land in the area subject to the Review will require Council resolution to initiate the statutory re-zoning process. This may involve referral to	To be addressed following conclusion of the Review

PAGE 23

PROBITY RISK	ACTION	INTERIM REPORT – February 2012
	the Joint Regional Planning Panel for independent consideration.	
Council officer input to the Review should be separated from officer consideration of the best use of Council-owned land.	Council's officer contribution to the Review will be the responsibility of the Technical Team which will operate with complete independence and separation from the Property Team.	GM has issued formal delegations to establish the two teams. Operation of the teams confirmed through review of documentation and in discussion with Team leaders
The members of the two teams need to have an understanding of the potential for a conflict in roles and receive a clear statement of their roles and responsibilities.	The General Manager of Council will issue a formal delegation of roles to the two teams and will make the Probity Protocol available to both Teams.	GM has issued the formal delegations
Managing Conflicts of Interest		
In addition to the conflict of roles for the Council, the consideration of options for the use of Council-owned land should not be influenced, or perceived to be influenced, by the personal interests of Councillors or members of the Property Team.	Members of Council shall declare any interests as required by the Local Government Act and the members of the Property Team shall declare in writing any conflicts of interest they may have in relation to the consideration of Council-owned	Probity Protocol including this requirement has been reported to Council. Property Team members have all signed conflict of interest declarations No interests that could constitute a conflict of interest have been declared.

PAGE 24

PROBITY RISK	ACTION	INTERIM REPORT – February 2012
	property and the Review. If a member of staff declares an interest this shall be the subject of consideration by the General Manager and the Probity Adviser to determine the appropriate course of action.	
Maintaining Transparency and Accountability		
Accountability requires that the decisions of Council are subject to the appropriate level of public scrutiny and that the responsibilities of Council officers are carried out within the boundaries established by the General Manager and the Council.	The Property Team shall operate within parameters established by Council decision and within the formal delegation made by the General Manager. Reports to Council from the Property Team shall be confidential in accordance with Section 10A (2) (d) of the Local Government Act.	GM delegation plus initial report to Council in September 2011 established parameters for operation of the Property Team Confirmed
Clear channels of communication with the community are required to ensure that the two Council teams maintain a separate identity and	Landowners in the Review area, and members of the public, will be made aware of the appropriate communication channels to the	Confirmed. Website updates provided

PAGE 25

PROBITY RISK	ACTION	INTERIM REPORT – February 2012
roles	Technical Team and separate channels to the Property Team. All media releases related to the Review, or to issues related to Council-owned land shall be approved by the General Manager. This includes releases of behalf of individual members of Council.	Arrangements for approval of media releases in place as required
Transparency requires opportunity for the community to consider and comment on plans related to Council-owned land	The outcome of the Review will be placed on public exhibition and any comments made by the Property team will also be made public	Public exhibition scheduled for 2012
Accountability requires that records are available of all meetings and negotiations between private landowners and the Property Team.	The Property Team shall prepare and maintain minutes of all meetings with private landowners. Notes of informal interactions shall also be kept. These records shall be stored with appropriate security to maintain the confidentiality of commercial in confidence material.	Confirmed

PAGE 26

PROBITY RISK	ACTION	INTERIM REPORT – February 2012
Maintaining Confidentiality		
Confidentiality is of high importance given the commercial in confidence nature of discussions related to the future of Council-owned land.	Members of the Property team shall sign confidentiality deeds in relation to the confidential information necessary for their responsibilities Private landowners involved in discussions related to Council owned land shall be required to respect the commercial in confidence nature of such discussions before they commence	Confirmed Confirmed
Separation of the roles of the two Council officer teams requires that internal Council information storage systems are set up to prevent inadvertent or deliberate access to information required for the two teams.	Separation and security of information on Council IT systems is to be managed in accordance with Council policy requirements. Separation of access on Council record keeping systems to the confidential information developed by both teams is to be maintained.	Confirmed Confirmed

PAGE 27

Council Meeting

16.0 Adoption of the Committee of the Whole Recommendation

Confidential Advice

"Commercial in Confidence"

Confidential - Tender T04/11 - Provision of Cleaning Services for Council Offices and Buildings
--

CONFIDENTIAL 'COMMERCIAL IN CONFIDENCE' ADVICE

Item No:	C9.1
Matter:	Tender T04/11 - Provision of cleaning services for Council offices and buildings Tender Evaluation
From:	Les Munn MANAGER – RESERVES, RECREATION & BUILDING SERVICES
Meeting:	Council
Date:	19 March 2012

The abovementioned matter is listed as Item No. C9.1 in Open Session in the Agenda.

The detailed analysis of the tenders is attached.

Les Munn
MANAGER – RESERVES, RECREATION & BUILDING SERVICES

Confidential - Tender T04/11 - Provision of Cleaning Services for Council Offices and Buildings

CONFIDENTIAL 'COMMERCIAL IN CONFIDENCE' ADVICE

1.0 SCOPE OF WORKS

The scope for this tender is to provide the labour, equipment, materials and other things necessary for the cleaning of various Council offices located at Boondah Depot, Warriewood and Mona Vale.

2.0 TENDERS RECEIVED

2.1 Tenders Received

- Sixteen (16) tenders were received via Tenderlink and duly registered by Council.
- One (1) tender was received in the Tender Box, Mona Vale and duly registered by Council
- All tenders were checked arithmetically and in raw order were initially listed on price as follows:

Table 1

Contractor	Tender	Ranking
International Cleaning Services Pty Ltd	\$204,318.04	1
Statewide Quality Services	\$225,630.00	2
Guardian Property Services Pty Ltd	\$247,839.33	3
TJS Cleaning Services Pty Ltd	\$249,319.44	4
Supercare Property Services	\$282,526.05	5
Cama Corp	\$320,232.00	6
LPK Services Pty Ltd	\$328,800.00	7
The Sparkle Team Property Services	\$330,103.20	8
Starlight Commercial	\$337,663.20	9
ADZ Cleaning Services Pty Ltd	\$422,076.00	10
Quad Services Pty Ltd	\$441,261.75	11
Douglas Wright Pty Ltd	\$452,190.00	12
Broadlex Services	\$461,307.58	13
Storm International	\$489,480.00	14
The Shine Services	\$635,056.56	15
Pacific Building Management Group	\$1,088,546.25	16
AMC Cleaning NSW Pty Ltd	\$1,449,849.00	17

3.0 TENDER EVALUATION

3.1 Capability and Track Record

- International Cleaning Services Pty Ltd is a long established company providing services nationally to large clients in both the government and private sectors. International is a provider of commercial, retail, hospitality and industrial cleaning services to the marketplace and is viewed as being able to capably supply services as specified under this tender.
- Statewide Quality Services is a Sydney based company established in 1998 and is a provider of commercial cleaning, maintenance, strata and security services across the metropolitan and regional areas of New South Wales. Statewide is a supplier to both local government and private enterprise and is viewed as being able to capably supply services as specified under this tender.
- Guardian Property Services Pty Ltd is a Sydney based company established for over 30 years and provides commercial cleaning services to Sydney based clients in both the government and private sectors. Guardian Property Services is the incumbent supplier of cleaning services to for Council offices and buildings and has provided a satisfactory level of service since January of 2008.
- TJS Cleaning Services Pty Ltd is a long established national company and is a provider of commercial cleaning, maintenance, and security services. TJS is a supplier to schools, and the private sector and is viewed as being able to capably supply services as specified under this tender.
- Supercare Property Services is a Sydney based company established in 2000 and is a provider of commercial & industrial cleaning and maintenance services. Supercare is a provider primarily to the private sector and is viewed as being able to capably supply services as specified under this tender.
- Cama Corp is a well established provider of cleaning services to both the government and private sectors and has been providing service to Council for the cleaning of amenities blocks and has been a supplier of service to Council since 2007. Cama Corp is viewed as being able to capably supply services as specified under this tender.
- LPK Services Pty Ltd is a long established business providing services to local government and clubs in the Sydney metropolitan area and is viewed as being able to capably supply services as specified under this tender.
- The Sparkle Team Property Services is a well established company providing services to local government and is a provider of in the Sydney metropolitan area and is viewed as being able to capably supply services as specified under this tender.
- Starlight Commercial is a well established provider of cleaning services to both the government and private sectors and provides commercial and strata cleaning and maintenance services to the Sydney marketplace. Starlight has been a previous provider of cleaning services to Council for the cleaning of amenities blocks, this service ceasing in 2009.
- ADZ Cleaning Services Pty Ltd is a well established Sydney based company and is a current supplier of cleaning services to government. ADZ provide commercial and domestic cleaning services to the Sydney marketplace and are viewed as being able to capably supply services as specified under this tender.

- Quad Services Pty Ltd is a Sydney based provider of cleaning, security and maintenance services in the states of New South Wales, Victoria, Queensland and the Australian Capital Territory in both the government and private sectors and is viewed as being able to capably supply services as specified under this tender.
- Broadlex Services are a long established Sydney based company providing cleaning services to the government and private sectors and are viewed as being able to capably supply services as specified under this tender.
- Douglas Wright Pty Ltd is a Sydney based provider of commercial cleaning and building maintenance, primarily to the private sector and stratas.
- Storm International are a well established business providing cleaning services to government and the private sector in New South Wales and Victoria and is viewed as being able to capably supply services as specified under this tender.
- The Shine Services is a well established Sydney based company providing cleaning services to schools and the private sector and is viewed as being able to capably supply services as specified under this tender. Storm International has not been a previous supplier of cleaning services to Council.
- Pacific Building Management Group are a Sydney based provider of cleaning, security and building maintenance services and is viewed as being able to capably supply services as specified under this tender.
- AMC Cleaning (NSW) Pty Ltd is the New South Wales arm of Victorian based AMC Cleaning Pty Ltd and is a well established national organisation. AMC Cleaning is a provider of cleaning and landscaping services and currently provides services to the government and private sectors. AMC is viewed as being able to capably supply services as specified under this tender.

3.2 The tender evaluation was conducted in three stages:

- Stage 1: Initial Cull – documentation check
- Stage 2: Detailed check of supplied information
- Stage 3: Comparative analysis

Stage 1

All tenderers completed the required forms allowing them to move on to the next stage.

Stage 2 (Refer Attachment 1)

Tenders received from Statewide Quality Service, Supercare Property Services, Douglas Wright Pty Ltd, Starlight Commercial and International Cleaning Services did not contain sufficient financial information to allow further assessment and were subsequently culled (form 2).

Tenders received from Starlight Commercial, International Cleaning Services, AMC Cleaning NSW Pty Ltd, LPK Services, The Shine Service, ADZ Cleaning and Broadlex Services all noted the required insurance coverage but did not submit the required proof of insurance as required by the Schedule (form 8). As such, these tenders were also culled.

Stage 3 (Refer Attachment 2)

Table 2

Contractor	Score	Revised Ranking	Tender Price (incl GST)
Guardian Property Services Pty Ltd	83.5	1	\$247,839.33
TJS Cleaning Services Pty Ltd	80.5	2	\$249,319.44
Quad Services Pty Ltd	71.5	3	\$441,261.75
The Sparkle Team Property Services	70.5	4	\$330,103.20
Cama Corp	67.0	5	\$320,232.00
Storm International	64.25	6	\$489,480.00
Pacific Building Management Group	46.5	7	\$1,119,661.00

3.3 Recommended Tenderer

Guardian Property Services gained the highest evaluation score and offered the lowest tender price and:

- Sub contractors to be used are known good performers in their area of expertise
- Good work practices were noted in the area of environment and sustainability, and products used were generally of an environmentally friendly or non-toxic nature

The second ranked tender was from TJS Cleaning Services Pty Ltd in the amount of \$249,319.44 including GST and:

- Whilst price competitive, there was no significant advantage in the selection of this tender over the higher ranked tender.
- The tenderer failed to provide information on providers for services to be subcontracted.

The remaining tenders ranked lower and were significantly more expensive and well beyond the budget estimate for this service.

It is noted that Guardian Property Services is the incumbent supplier and is currently performing to a satisfactory level. There are significant advantages in the continuance of service in the areas of site familiarity and work standards, Occupational Health and Safety and time that would be spent by Council staff in transitioning to any other supplier.

ATTACHMENT 1- PITTSBURGH COUNCIL EVALUATION SCORE SHEET

Provision of cleaning services for Council offices and buildings

COMPLIANT TENDERS

	Tenderer	Guardian Property Services	TJS Cleaning Services P/L	Cama Corp	The Sparkle Team Property Services	Quad Services P/L	Storm International	Pacific Building Management Group
Criteria								
Completion of all nominated forms, schedules and declarations.	All forms	PASS	PASS	PASS	PASS	PASS	PASS	PASS
Financial Capacity	Form 2	PASS	PASS	PASS	PASS	PASS	PASS	PASS
Compliance with OH&S legislation	Form 7	PASS	PASS	PASS	PASS	PASS	PASS	PASS
Insurances	Form 8	PASS	PASS	PASS	PASS	PASS	PASS	PASS
Departures from compliance with specification	Form 10	PASS	PASS	PASS	PASS	PASS	PASS	PASS

NON-COMPLIANT TENDERS

	Tenderer	International Cleaning Services P/L	Supercare Property Services	Statewide Quality Services	LPK Services P/L	Starlight Commercial	ADZ Cleaning Services P/L	Broadlex Services	Douglas Wright P/L	The Shine Services	AMC Cleaning P/L
Criteria		Score: Pass/Fail									
Completion of all nominated forms, schedules and declarations.	All forms	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS
Financial Capacity	Form 2	PASS	FAIL	FAIL	PASS	FAIL	PASS	PASS	FAIL	PASS	PASS
Compliance with OH&S legislation	Form 7	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS
Insurances	Form 8	FAIL	PASS	PASS	FAIL	FAIL	FAIL	FAIL	PASS	FAIL	FAIL
Departures from compliance with specification	Form 10	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS	PASS

ATTACHMENT 2- PITTWATER COUNCIL EVALUATION SCORE SHEET

Provision of cleaning services for Council offices and buildings

SCORED TENDERS

	Tenderer	Weighted Score	Guardian Property Services	TJS Cleaning Services P/L	Cama Corp	The Sparkle Team Property Services	Quad Services P/L	Storm International	Pacific Building Management Group
Criteria									
The fees rates and prices	Form 1	40	40	39.5	31	30	22.5	20.25	9
Key personnel	Form 2	10	8	7	7	7	8	6	2
Demonstrated past experience	Form 3	10	8	6	7	6	7	7	5
Quality Assurance	Form 6	25	15	20	15	15	20	17.5	17.5
Environmental Sustainability	Form 9	5	3.5	4	2	2.5	4	3.5	3
Anticipated sub contractors	Form 11	10	9	4	5	10	10	10	10
Total weighted criteria		100	83.5	80.5	67	70.5	71.5	64.25	46.5

	Supercare Property Services	Statewide Quality Services	LPK Services P/L	Starlight Commercial	ADZ Cleaning Services P/L	Broadlex Services	Douglas Wright P/L	The Shine Services	AMC Cleaning (NSW) P/L	International Cleaning Services P/L
CULLED TENDERS										
	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED
	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED	CULLED

ATTACHMENT 3 - FEES RATES AND PRICES, DAILY WEEKLY, HALF-YEARLY AND YEARLY SERVICES
PROVISION OF CLEANING SERVICES FOR COUNCIL OFFICES AND BUILDINGS

TENDERER	SERVICE	PRICE - ALL SITES	TOTAL
International Cleaning Services Pty Ltd	Daily Services	\$ 135,116.64	
	Weekly Services	\$ 22,539.33	
	Half-yearly Services	\$ 26,880.00	
	Yearly Services	\$ 19,782.00	
	Total		\$ 204,317.97
Statewide Quality Services	Daily Services	\$ 209,898.00	
	Weekly Services	\$ 14,352.00	
	Half-yearly Services	\$ 828.00	
	Yearly Services	\$ 552.00	
	Total		\$ 225,630.00
Guardian Property Services Pty Ltd	Daily Services	\$ 156,155.01	
	Weekly Services	\$ 39,037.44	
	Half-yearly Services	\$ 35,952.84	
	Yearly Services	\$ 16,694.04	
	Total		\$ 247,839.33
TJS Cleaning Services Pty Ltd	Daily Services	\$ 175,439.55	
	Weekly Services	\$ 42,145.89	
	Half-yearly Services	\$ 13,336.56	
	Yearly Services	\$ 18,397.44	
	Total		\$ 249,319.44
Supercare Property Services	Daily Services	\$ -	
	Weekly Services	\$ 242,525.40	
	Half-yearly Services	\$ 19,149.30	
	Yearly Services	\$ 20,851.35	
	Total		\$ 282,526.05
Cama Corp	Daily Services	\$ 248,820.00	
	Weekly Services	\$ 48,048.00	
	Half-yearly Services	\$ 15,576.00	
	Yearly Services	\$ 7,788.00	
	Total		\$ 320,232.00
LPK Services Pty Ltd	Daily Services	\$ 230,100.00	
	Weekly Services	\$ 30,000.00	
	Half-yearly Services	\$ 38,700.00	
	Yearly Services	\$ 30,000.00	
	Total		\$ 328,800.00
The Sparkle Team Property Services	Daily Services	\$ 262,189.20	
	Weekly Services	\$ 33,462.00	
	Half-yearly Services	\$ 15,156.00	
	Yearly Services	\$ 19,296.00	
	Total		\$ 330,103.20
Starlight Commercial	Daily Services	\$ 282,414.60	
	Weekly Services	\$ 15,108.00	
	Half-yearly Services	\$ 20,340.00	
	Yearly Services	\$ 19,800.00	
	Total		\$ 337,663.20
ADZ Cleaning Services Pty Ltd	Daily Services	\$ 360,828.00	
	Weekly Services	\$ 42,978.00	
	Half-yearly Services	\$ 10,092.00	
	Yearly Services	\$ 8,178.00	
	Total		\$ 422,076.00
Quad Services Pty Ltd	Daily Services	\$ 388,375.14	
	Weekly Services	\$ 23,522.34	
	Half-yearly Services	\$ 10,763.97	
	Yearly Services	\$ 18,600.30	
	Total		\$ 441,261.75

ATTACHMENT 3 - PAGE 2

TENDERER	SERVICE	PRICE - ALL SITES	TOTAL
Broadlex Services	Daily Services	\$ 413,925.99	
	Weekly Services	\$ 14,783.04	
	Half-yearly Services	\$ 7,581.07	
	Yearly Services	\$ 25,017.48	
	Total		\$ 461,307.58
Douglas Wright Pty Ltd	Daily Services	\$ 343,980.00	
	Weekly Services	\$ 58,500.00	
	Half-yearly Services	\$ 24,660.00	
	Yearly Services	\$ 25,050.00	
	Total		\$ 452,190.00
Storm International	Daily Services	\$ 420,420.00	
	Weekly Services	\$ 36,660.00	
	Half-yearly Services	\$ 8,400.00	
	Yearly Services	\$ 24,000.00	
	Total		\$ 489,480.00
The Shine Services	Daily Services	\$ 426,731.37	
	Weekly Services	\$ 84,510.93	
	Half-yearly Services	\$ 35,700.03	
	Yearly Services	\$ 88,114.29	
	Total		\$ 635,056.62
Pacific Building Management Group	Daily Services	\$ 954,690.00	
	Weekly Services	\$ 122,694.00	
	Half-yearly Services	\$ 7,078.50	
	Yearly Services	\$ 4,083.75	
	Total		\$ 1,088,546.25
AMC Cleaning NSW Pty Ltd	Daily Services	\$ 1,111,286.88	
	Weekly Services	\$ 125,562.12	
	Half-yearly Services	\$ 90,000.00	
	Yearly Services	\$ 123,000.00	
	Total		\$ 1,449,849.00

