



PITTWATER COUNCIL

Agenda

Council Meeting

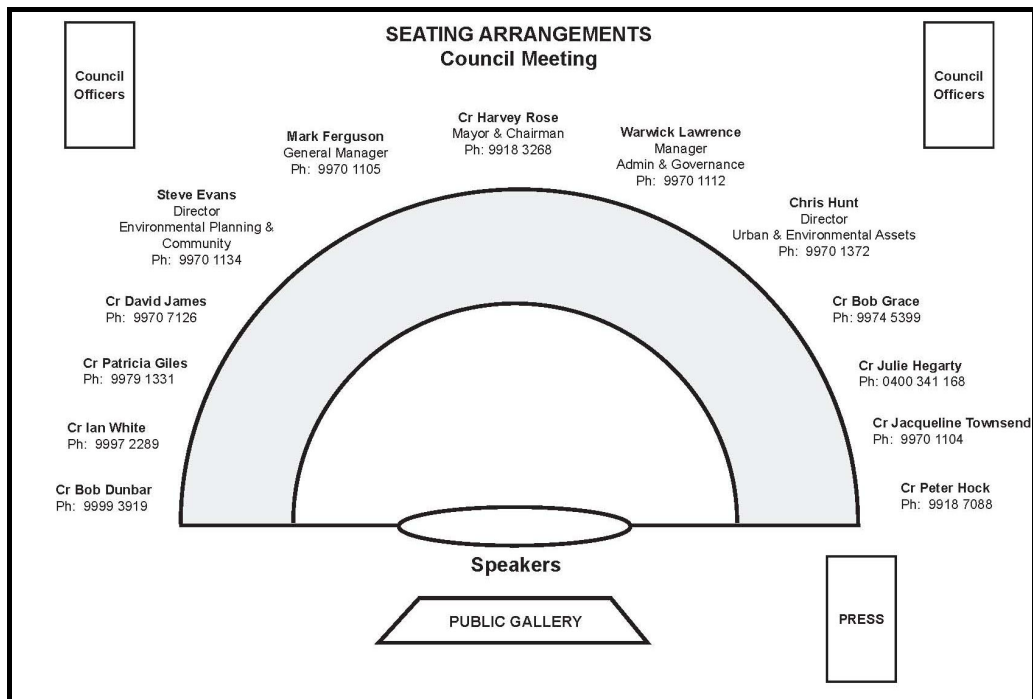
Notice is hereby given that a Council Meeting of Pittwater Council will be held at Mona Vale Memorial Hall on

21 February 2011

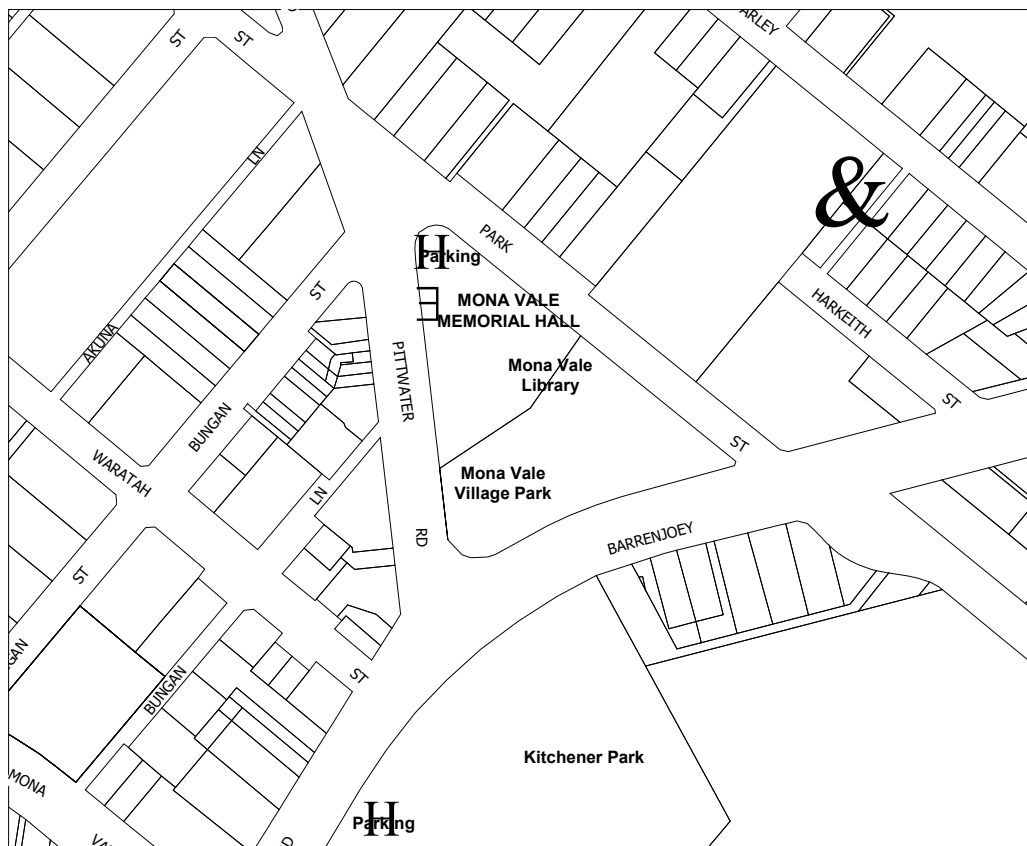
Commencing at 6.30pm for the purpose of considering the items included on the Agenda.

Mark Ferguson
GENERAL MANAGER

Seating Arrangements



Meeting Location



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

IMPORTANT NOTE FOR COUNCILLORS

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

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

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

Item No	Item	Page No
C11.1	N0594/10 - 9-11 Beaconsfield Street, Newport – Demolition of the existing structures, construction of an Infill Affordable Housing development comprising 25 apartments, two levels of basement carparking and strata subdivision	134
C11.2	N0533/09 - 14A Prince Alfred Parade, Newport Construct a Part 2 / Part 3 Storey Dwelling-House	185

Mark Ferguson
GENERAL MANAGER

Council Meeting

Acknowledgement of Country

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

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CONFIDENTIAL CLAUSE

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

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

Confidential Legal Advice – N0594/10 - 9-11 Beaconsfield Street, Newport – Demolition of the existing structures, construction of an Infill Affordable Housing development comprising 25 apartments, two levels of basement carparking and strata subdivision

Confidential Legal Advice - N0533/09 - 14A Prince Alfred Parade, Newport Construct a Part 2 / Part 3 Storey Dwelling-House

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

Council Meeting

1.0 Public Forum

Statement of Respect

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

GUIDELINES FOR RESIDENTS - PUBLIC FORUM

Objective

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

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

2.0 Resident Questions

RESIDENT QUESTION TIME

Objective

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

- Resident questions are to be handed up on the form located at the back of the Meeting room to Council staff in attendance at the Meeting prior to the commencement of the Meeting;
- A period of up to 10 minutes is allocated to Resident Question Time. A limit of 2 resident questions per person per Meeting is permitted;
- Residents are asked to keep their questions precise to allow the opportunity for clear responses. Questions may be taken on notice depending on the complexity of the question and the need to refer to relevant Council documents;
- There will be no debate or questions with, or by, councillors during/following a resident question;
- No defamatory or slanderous questions will be permitted. Should a resident make such a comment, their question will be immediately terminated by the Chair of the Meeting;
- Questions will not be permitted in relation to the following matters:

Matters involving current dealings with Council (eg. development application, contractual matters, tenders, legal matter, etc);
- Council's general Meeting procedures apply to Resident Question Time, in particular, no insults or inferences of improper behaviour in relation to any other person/s is permitted.

Mark Ferguson
GENERAL MANAGER

3.0 Apologies

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

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

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

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

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

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

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

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

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

* A reportable political donation is a donation of:

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

5.0 Confirmation of Minutes

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

Minutes of the Council Meeting held on 7 February 2011.

6.0 Business by Exception (All items on the Agenda)

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

7.0 Public Addresses

Statement of Respect

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

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

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

Exceptions to these requirements may apply where:

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

8.0	Mayoral Minutes - Nil
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9.0	Council Meeting Business
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C9.1 Community Engagement Policy**Meeting:** Council**Date:** 21 February 2011**STRATEGY:** Community Engagement, Education & Awareness**ACTION:** Implement and effectively resource Council's Community Engagement Policy**PURPOSE OF REPORT**

To present a revised Community Engagement Policy for adoption by Council.

1.0 BACKGROUND

- 1.1 At its meeting on 19 October 2009 Council resolved that all Council policies would be reviewed by staff and brought back to Council for review and adoption.
- 1.2 Council's Community Engagement policy (No. 170) was last amended in 2007 (**See Attachment 1**).
- 1.3 The position of Community Engagement Officer was created at the end of 2008. Since this time much work has been undertaken to implement a comprehensive approach to community engagement across Council. There has been a consolidation of community engagement activities as part of Council's core business.
- 1.4 In recent times the field of Community Engagement has progressed significantly and there is now a great deal of research around the methods and approaches to community engagement. The Community Engagement policy has also been updated to reflect these advancements and ensure that our community engagement is keeping up with accepted practices in the field, including those being undertaken in local government.
- 1.5 This policy has also been updated to indicate our ongoing progress and a desire to strengthen Council's approach to broader consultation. A more expansive community engagement framework has been developed which consists of:
 - Community Engagement Policy – updated (**Attachment 2**)
 - Community Engagement Procedures (new internal document)
 - Community Engagement Toolkit (new internal document)
- 1.6 The Community Engagement Procedures and Toolkit are internal documents which have been created to guide and resource Council staff undertaking community engagement.
- 1.7 The key difference between the existing and updated policy is that details concerning the practical and operational aspects of the policy have been inserted into two new documents; the Community Engagement Procedures and Community Engagement Toolkit. These new documents are intended to provide specific detail for staff and guide them in implementing community engagement activities. The updated policy retains a description of the broad policy context in which community engagement occurs and places emphasis on the core values and objectives that underpin Council's approach.

The policy refers to the International Association of Public Participation (IAP2) Public Participation Spectrum, an internationally recognised model for engaging with the community. Importantly, the policy now requires all staff to include details regarding community consultation in all Council reports and briefings to senior management.

2.0 ISSUES

2.1 Draft policy

2.1.1 The attached policy has amended the existing Community Engagement policy to reflect the movement by Council staff to deliver a suite of community engagement techniques when undertaking projects that require community consultation. Extensive detail about how to effectively plan and implement community engagement has now been located within an additional Community Engagement Procedures document.

2.1.2 A Community Engagement Toolkit has been created to describe a vast array of engagement methodology and best practice notes have been included to ensure that the highest practice standards in relation to community engagement are achieved. These now form a more comprehensive framework and approach to community engagement across Council.

2.1.3 This policy highlights that Council's core values will influence and underpin all community engagement work.

2.2 International Association of Public Participation (IAP2) model for Public Participation

2.2.1 The policy clearly outlines the International Association for Public Participation model which describes five levels of public participation which may be desired in the community engagement process. These include inform, consult, involve, collaborate and empower.

2.2.2 It should be noted that the levels of participation desired will be determined by the context in which any community engagement exists. It is likely that in the context of local government that community engagement will largely occur at the levels of inform, consult and involve; and on some occasions at the level of collaborate. This is due largely to the fact that local government rests on a model of elected representatives who will ultimately make decisions reflective of their community's aspirations. The community engagement process is a vital link between the community and Council. This process requires that Council will inform the community about issues that affect them and also ensures that the community have an opportunity to have their views heard.

2.2.3 The IAP2 model for public participation is widely accepted amongst community engagement practitioners, including those in local government, as the model which should inform this work.

2.3 Resourcing

2.3.1 An electronic community engagement form has been created to guide staff through the community engagement planning process and to ensure that community engagement plans have been reviewed by relevant Business Unit Managers and the Community Engagement Officer. The plans will also be automatically directed to the Office of the General Manager to ensure efficient communication about consultation activities.

- 2.3.2 A community engagement intranet page has been developed to provide staff with ready access to resources required for community engagement.
- 2.3.3 Once adopted workshops will be facilitated with staff to confirm the policy and reinforce expected community engagement practices.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 This policy places priority on the value of community input on decisions that may affect Pittwater residents. Implementation of this policy encourages informed decision making that is supported and owned by the community.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 Not applicable.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 Not applicable.

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The policy promotes the desire to ensure that the Pittwater community are informed about issues that affect them and that they also have the opportunity to be involved in decision making processes. Providing the broadest cross-section of the community with the opportunity to have their views heard promotes transparent decision making and good governance.

3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 Not applicable.

4.0 EXECUTIVE SUMMARY

- 4.1 This updated community engagement policy reinforces Council's commitment to engage with the community on issues of relevance that may affect them. The policy has been updated to reflect progression in community engagement practices and is accordingly now supported by the addition of a Community Engagement Procedures and Community Engagement Toolkit. These all form part of a stronger community engagement framework for Council.

RECOMMENDATION

1. That the information provided in the report be noted.
2. That the updated Community Engagement Policy (Attachment 2) be adopted.
3. That Council's Policy Register be updated to include the new Policy.

Report prepared by

Jane Mulroney
Community Engagement Officer

Paul Reid
TEAM LEADER, CORPORATE STRATEGY & COMMERCIAL

Council Policy – No 170	Adopted:	OM: 22.10.2007
	Amended:	

COMMUNITY ENGAGEMENT POLICY

INDEX

COMMUNITY ENGAGEMENT POLICY

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COMMUNITY ENGAGEMENT POLICY

1. PURPOSE:

To develop a framework to ensure that a consistent and appropriate process is undertaken by Council in relation to proposals and projects requiring community consultation.

To confirm Council's commitment to conducting quality consultation and its willingness to actively engage the community in its decision making processes.

2. POLICY STATEMENT:

Pittwater Council is committed to consulting with its community and recognises that a standard of consultation should be undertaken commensurate with the nature, complexity and impact of the issue/s involved.

3. STATEMENT OF RESPECT:

"Pittwater Council promotes and strives to achieve a climate of respect for others and civic pride; valuing and protecting our unique environment, both natural and built, for current and future generations."

Pittwater Council will conduct its community consultation with this Statement of Respect and its Core Values, Respect, Quality, Ethics and Communication, at the forefront of the community engagement process.

4. OBJECTIVE:

To ensure that the Pittwater Community are:-

- Well informed on all issues that may directly or indirectly affect them.
- Actively encouraged to participate in Council's decision making and policy development processes
- Provided with an appropriate opportunity to voice their opinions, concerns or interest in matters that affect them

To ensure that Pittwater Council:-

- Meets its Legislative requirements regarding Community Consultation
- Seeks the views of as wide a cross section of the community as possible by selecting consultation methods that are flexible, inclusive and appropriate

5. COMMUNITY ENGAGEMENT TOOLKIT:

A Community Engagement Toolkit has been developed (Appendix A) and provides practical guidance for staff on when and how to consult with the community and a checklist of tasks that should be undertaken to ensure that the consultation process is consistent and appropriate in each situation.

Note: *The Toolkit is not intended for the notification and consultation process relating to Development Applications as this process is determined in accordance with the provisions of the Environmental, Planning and Assessment Act 1993. The Legislative provisions of any other consultation process will also take precedent over this policy, however where the legislative requirements are less than is required by assessment under this Policy, then a more comprehensive consultation process shall occur in accordance with this Policy.*

6. LEVEL OF COMMUNITY PARTICIPATION:

Four levels of community participation have been developed. The level of participation needs to be determined based on what you are trying to achieve.

Level of Participation	Definition
INFORMING	<ul style="list-style-type: none">• Advising the community of a situation or proposal• Informing on a decision or direction• Providing advice on an issue• No response is required, although people are free to seek a further level of participation
SEEKING INFORMATION	<ul style="list-style-type: none">• Undertaking market research to identify needs or issues• Seeking comment on a proposal, action or issue• Seeking feedback on a service or facility• Option for people to seek a further level of participation
INVOLVING	<ul style="list-style-type: none">• Involving the community in discussion and debate• Adopting a more personal and innovative approach through personal contact and meetings/sessions that encourage participation• Involving at different times throughout the planning process
PARTNERSHIPS	<ul style="list-style-type: none">• Establishing a structure for involvement in decision making e.g. working party• Enabling ongoing involvement and keeping informed• Sharing responsibility for achieving outcomes

7. LEVEL OF IMPACT ON THE COMMUNITY

Level of Impact	Brief Description
Level 1 – (High impact on the LGA)	<ul style="list-style-type: none">• High level of impact on the whole or large part of the Pittwater LGA
Level 2 – (Lower impact on the LGA)	<ul style="list-style-type: none">• Lower level of impact on the whole or a large part of the Pittwater LGA
Level 3 – (High impact on a section of the local community)	<ul style="list-style-type: none">• High level of impact of a local nature, on a local area, a specific community or target group.
Level 4 – (Lower impact on a section of the local community)	<ul style="list-style-type: none">• Lower level of impact of a local nature, on a local area, a specific community or target group

8. EVALUATION

Evaluation is important as it allows you to see what you did well and/or what things you could improve on for future consultations. Did you get the information you needed? By evaluating a project it allows you to improve your planning and implementation for future projects. It is important to share your experiences with other Council staff so they can also learn from your experiences.

An evaluation guide (**APPENDIX “E”**) is attached.

9. POLICY REVIEW

This Policy will be reviewed by the General Manager on an annual basis with any substantial amendments referred to Council for its consideration.

APPENDICES

10. COMMUNITY ENGAGEMENT TOOLKIT

- APPENDIX "A"

STEP 1.

Know and understand your project

You will need to have a clear understanding of the project. What is it, why and when the project is occurring, where and who the project will impact and the degree of impact that the project will have on those affected. Is there a need to inform or involve another Business Unit within Council? Are there sufficient funds available in the Council Budget to fund the consultation process?.

STEP 2.

Determine the level of community participation suitable for your project.

Informing, seeking information, involving or a partnership?

STEP 3.

With the assistance of the following table identify the level of impact your project has on the community

- Who is affected?. How much of the community is affected?

Level of Impact	Criteria for determining the level of impact	Examples of projects/initiatives
Level 1	<ul style="list-style-type: none"> A project that impacts a substantial and significant range of the community (area or people). High level of real or perceived positive or negative impact, or risk across the LGA. Potential for a high risk controversy and/or conflict across the LGA Likely high level of interest from the community. Any significant impact or attributes that are considered to be of value to the whole of Pittwater, such as regional facilities. Potential high impact on state or regional strategies or directions. Any impact on the health, safety or wellbeing of the broader community. 	<ul style="list-style-type: none"> Management Plan and its components (Budget, Strategic Plan, Fees & Charges). Significant policies / plans / strategies such as: <ul style="list-style-type: none"> Disability Action Plan Capital Works Program Social Plans Environmental Plan Plans of Management (district or regional) Removal or changes to a district or regional facility / service Provision of a district or regional facility/service (e.g. Library). Changes to Pittwater wide services, (e.g. waste management). Planning for a regional / district wide facility / activity.
Level 2	<ul style="list-style-type: none"> Some lower level real or perceived positive or negative impact, or risk across the LGA. Potential for some controversy or conflict across the LGA. Potential for some, although not significant impact on state or regional strategies or directions. 	<ul style="list-style-type: none"> Revising the Capital Works Program. Minor modifications to fees and charges. Minor changes to service delivery. Changes to Ward Boundaries
Level 3	<ul style="list-style-type: none"> High level of real or perceived positive or negative impact, or risk on a local area, specific community or user group/s of a facility or service. Significant change or loss to any facility or service to a specific community / target group. Potential for a high risk controversy and / or conflict in the local community. 	<ul style="list-style-type: none"> Removal or changes to a local facility / service, for example: <ul style="list-style-type: none"> Playgrounds (e.g. changes of equipment) Roads (e.g. local road closures) Sportsgrounds (e.g. development of amenity building) Parks (e.g. changes to use of park) Childcare facilities (e.g. changes to ages). Removal or changes to a local activity (e.g. sports activity). Planning for a local area facility / activity. Community Facilities Review. Major works on local facilities or infrastructure

Level of Impact	Criteria for determining the level of impact	Examples of projects/initiatives
Level 4	<ul style="list-style-type: none"> • Lower level of real or perceived positive or negative impact, or risk on a local area, small community or target group of a specific activity or service at a local level. • Slight change or loss to any facility or service to a local community / target group. • Low or no risk controversy or conflict in the local community. 	<ul style="list-style-type: none"> • Development of a cultural development initiative in a small localised community. • Plans of Management (Community Land)

STEP 4

After determining the level of community participation and the level of impact for the project or issue consult the following **Community Engagement Matrix (APPENDIX B)** to determine the essential strategies for engagement.

STEP 5

Determine the key stakeholders to be involved in the consultation process utilising the appropriate Checklist (**APPENDIX C**).

STEP 6

If the consultation process involves the calling of a public meeting complete the Meetings Checklist (**APPENDIX D**)

STEP 7

After the consultation process has been completed ensure that all stakeholders are informed of any outcome/decision on the issue. All written communications received in relation to the consultation process must be managed in accordance with Council's Customer Service Charter (Policy No 166).

STEP 8

Finally, but most importantly you need to review and evaluate the engagement process that you undertook. A checklist is available as (**APPENDIX E**)

11. COMMUNITY ENGAGEMENT MATRIX
- APPENDIX "B"

Type of Consultation	Level 1 High Impact – Pittwater LGA	Level 2 Lower Impact – Pittwater LGA	Level 3 High Impact – Local	Level 4 Lower Impact – Local
INFORMING	E	E	E	E
Personal Telephone Contact	O	D	O	O
In Person Meeting	O	D	O	D
Written Correspondence	E	E	O	N/A
Website/Internet	E	E	O	O
Establish email distribution list on specific issue/project	O	O	O	O
Pamphlet	O	N/A	O	O
Letter Box Drop	O	D	O	O
Notice in Local Paper	E	O	D	O
Notice in Newsletter	O	O	O	O
Media Release	E	N/A	O	N/A
Site Display	O	O	O	O
Displays in Other Locations (e.g. shopping centre, library)	O	O	O	N/A
SEEKING INFORMATION	E	E	E	D
Suggestion Box	N/A	N/A	O	D
Telephone Survey	O	O	O	O
Written Survey	O	O	O	N/A
Website/Internet	E	E	O	O
Establish email distribution list on specific issue/project	O	O	O	O
Hotline/Phone-in	O	O	O	N/A
Letter or Media Promotion Inviting Submissions	E	O	O	N/A
Public Exhibition	E	O	O	N/A
Interview	O	D	O	O
Focus Group Session	D	D	D	D
INVOLVING	E	E	D	D
Meetings with User or Stakeholder Groups	E	E	D	D
Meeting with Existing Group, e.g. parents, school children, youth, aged, business	D	O	D	D
Website/Internet	E	E	O	O
Workshop Session	D	D	D	D
Meeting by Invite	D	D	D	O
Site Tour/Meeting	D	D	O	O
Public Meeting	O	O	O	N/A
PARTNERSHIPS	D	O	O	O
Taskforce or Working Party	D	O	O	N/A
Joint Venture	O	O	O	O

E = Essential

D = Desirable

O = Optional

N/A = Not Applicable

12. CHECKLIST OF STAKEHOLDERS**- APPENDIX "C"**

It is important to identify the appropriate sections of the community "key stakeholders" to be involved in the consultation process. Examples of community segments to be considered in the communication and consultation process are as follows:-

Owners of adjoining or affected land	Primarily in development matters, rate and property matters or health matters. In general, an owner or occupier should receive personal notification of any service or activity that will have a specific and direct effect upon them. It is noted, however that in relation to the statutory notification process for development applications, a public meeting would not be warranted.
Streets or Neighbourhoods	For traffic matters, dealings on Council land, garbage collections or for larger scale development matters.
Pittwater wide	For community-wide issues, providing general information e.g. recycling, Council functions, community land activities, management and financial plans.
Other Government Agencies	Council has a large advocacy role to play in advising other levels of Government of the needs and expectations of the community.
SHOROC	Council will consult with Regional Councils on issues which cross the boundaries of the Pittwater Area e.g. waste management, resource sharing, transport infrastructure.
Elected Representatives	Local, State and Federal representatives act as advocates for the people in a wide variety of matters.
Police	In a community liaison capacity for traffic, vandalism and criminal matters or development matters such as amusement centres, brothels and alcohol free zones.
Specific Target Groups (Older People, Cultural and Linguistically Diverse, Aboriginal and Torres Strait Islander, Youth, Women, Children & People with Disabilities)	To ensure that affected target groups are consulted on relevant Council policies and services.
Sporting Groups	In making decisions about sporting, recreational and leisure facilities in the Pittwater area.
Environmental Groups	In relation to environmental issues.
Chamber of Commerce/ Pittwater Business Ltd.	In matters where a Chamber of Commerce (or other organisation representing local business) is active and can provide information regarding the needs of the business community.
Community/Social Groups	Community/social groups comprising local residents should be consulted in relation to their particular interest areas and needs as well as activities and functions conducted by Council. (social, artistic or cultural interest).
Religious Groups	In matters of religious significance and social values.

13. CHECKLIST FOR THE CALLING OF PUBLIC MEETINGS, PUBLIC CONSULTATIONS AND PUBLIC FORUMS - APPENDIX "D"

1. AUTHORISATION

Attached is a Council resolution (Minute) authorising the calling of a public meeting or forum authorisation from the General Manager OR Business Manager approving the selected consultation process.

..... ☐

2. CONSULTATION STRATEGY

Have you established the appropriate level and category of community consultation in accordance with this Policy? If so, what type and level has been selected?

..... ☐

3. PURPOSE OF THE MEETING/ KEY ISSUES

(a) The purpose of the meeting has been separately identified and is attached..... ☐

(b) An agenda for the conduct of the meeting has been completed and is attached ☐

(c) The Key Issues have been separately identified and are attached ☐

4. VENUE HIRE

A venue for the public meeting has been arranged which satisfies all of the following:-

(a) Access for people with disabilities ☐

(b) Venue is of sufficient size with available chairs to seat all persons likely to attend..... ☐

(c) All necessary equipment is available for the meeting and working (e.g. lighting, overhead Projector / screen, microphones, air con, PA equipment, etc)..... ☐

(d) Budget allocation for equipment and venue hire has been identified..... ☐

(e) Cabling and connections available for technological presentations ie internet... .. ☐

(f) Arrangements have been made to collect keys and obtain security access..... ☐

5. COUNCILLOR INVITATION

All Councillors have been notified of the public meeting and given all necessary details in writing of the matters noted in this checklist.

..... ☐

6. INVITEES

A list of persons invited to attend the public meeting has been finalised and is documented and attached hereto.

..... ☐

7. CHAIR OF THE MEETING

The Chairperson of the public meeting is and this person has agreed to chair the public meeting. (**Note:** Please request the Chairperson to read Council's Statement of Respect at the commencement of the meeting. The Chairman will be required to advise all participants or attendees of the necessary evacuation procedures should an emergency occur.)

☐

8. RECORDING DECISIONS

The officer nominated to record the necessary decisions taken at the meeting is and this person has been advised of this requirement.

☐

9. NOTIFICATION

All forms of public notification have been considered and the following forms of public notification have been taken (please tick as appropriate):

(a) Internet..... ☐

(b) Local Newspaper(s):

Manly Daily ☐

Pittwater Life ☐

Peninsula Living..... ☐

(c) Regional Newspaper (if applicable)..... ☐

(d) Correspondence ☐

(e) Letter Box Drops..... ☐

(f) Telephone Contact ☐

(g) Other..... ☐

The above checklist has been fully and properly completed and all arrangements for the public meeting are to my satisfaction.

.....
(Signature of Relevant
Business Unit Manager)

.....
(Date)

I have been briefed by the above Business Unit Manager and am satisfied that the abovementioned public meeting should proceed as planned.

.....
(Signature of Authorising Officer)

.....
(Date)

*** A COPY OF THIS CHECKLIST MUST BE FORWARDED TO THE GENERAL MANAGER AND THE MAYOR AND COUNCILLORS' EXECUTIVE ASSISTANT WHEN COMPLETED.**

- Were the objectives of the consultation process achieved? If not why not?
- To what extent did participants contribute to the process?
- How useful was the information obtained?
- What impact did the consultation have on the recommendation and final decision?
- Were all the stakeholders identified in Appendix "C" consulted on your project. If not, what difficulties did you encounter in including them in the consultation process?
- Was the consultation process well received by those involved in the process?
- Do you feel that the consultation process selected was the most appropriate?
- How has the public been advised of the final outcome?
- Do you feel that the consultation process was successful?
- What improvements/changes would you make for a similar future engagement process?
- What involvement has there been from other Council Business Units?
- If your consultation process involved a meeting were the venue, equipment and chairman suitable?

Note: *The checklist is not exhaustive but merely a guide to assist you in your evaluation of the adopted process for your project. Any additional constructive comment/s that you can provide is welcomed and will assist other staff to formulate a more exhaustive engagement strategy for their particular project.*

Council Policy – No 170 Version:	Adopted:	22.10.2007
	Amended:	

TITLE:	Community Engagement Policy
STRATEGY:	Community Engagement, Education and Awareness
BUSINESS UNIT:	Corporate Strategy and Commercial
RELEVANT LEGISLATION:	Local Government Act 1993 Environmental Planning and Assessment Act 1979 Privacy and Personal Information Protection Act 1998 Government Information (Public Access) Act 2009
RELATED POLICIES:	Privacy Management Plan (Policy 134)

PURPOSE

- To develop a framework that ensures a consistent approach is undertaken by Council staff in relation to proposals and projects requiring community consultation.
- To confirm Council's commitment to conducting quality consultation and its willingness to actively engage the community in its decision making processes.
- To ensure that Council meets its obligations concerning community engagement processes specified by relevant legislation.
- To create an organisational culture in which community engagement processes are seen in a context of best practice and good governance.

POLICY STATEMENT

Pittwater Council is committed to involving the community in decisions that affect them and recognises that a standard of consultation should be undertaken which appropriately responds to the nature, complexity and impact of the issue/s involved.

POLICY DIRECTION

The Community Engagement policy will assist Council to achieve the aims, goals and targets identified under Key Direction 4: Leading an Effective and Collaborative Council of Pittwater Council's *2020 Strategic Plan*. "Community Engagement, Education and Awareness" is a key strategy within this key direction and requires a clear and robust policy framework to achieve the outcomes identified. The Community Engagement policy sets out the principles underpinning all community engagement activities which will assist Council to undertake consultation in a manner that is in line with community expectations.

In addition, community engagement will demonstrate a collaborative effort to resolve issues and plan for the future which will result in better outcomes for Council and the community. An ultimate goal of community engagement is to strengthen trust between Council and the community and build confidence in Council's ability to plan and make decisions that will respond to present and future needs of the community.

COMMUNITY ENGAGEMENT FRAMEWORK

Council's community engagement framework consists of the following documents which are intended to guide and support consultation activities.

Community Engagement Policy - This policy provides the foundation upon which all community engagement processes will be developed.

Community Engagement Procedures – The procedures provide a step by step guide to completing community engagement plans underpinning consultation approaches.

Community Engagement Toolkit- The Toolkit provides guidance to staff about appropriate methodologies and identifies expected practice standards to be incorporated into all consultation activities.

Staff are expected to be familiar with the contents of each of these documents.

CORE VALUES

Staff will conduct community consultation with Council's core values of Respect, Quality, Ethics and Communication at the forefront of the community engagement process.

Council's Statement of Respect promotes the collaborative relationship that Council aspires to have with its community:

"Pittwater Council promotes and strives to achieve a climate of respect for others and civic pride; valuing and protecting our unique environment, both natural and built, for current and future generations".

POLICY OBJECTIVES

This Community Engagement Policy aims to ensure the following in relation to both Council and the community -

That Council:

- Informs staff about elements to be considered in every consultation activity,
- Establishes an approach within the organisation that values community involvement in planning and decision making,
- Maintains best practice standards in all community engagement processes,
- Ensures that a consistent approach is undertaken in relation to all community consultation activities, and
- Sets out a clear process so that the community can have confidence in the consultation undertaken by Council.

That the Pittwater Community are:

- Informed on issues that may directly or indirectly affect them,
- Actively encouraged to participate in Council's decision making processes,
- Provided with an appropriate opportunity to voice their opinions, concerns or interest in matters that affect them.

ENGAGEMENT CONTEXT

Council will undertake consultation with the community for a variety of reasons which may be statutory and non-statutory in their nature.

Planning for community engagement should be undertaken on any project that requires community input and consultation. This may include but not be limited to the following examples:

- Community Strategic Plan
- Plans of Management
- Introduction or revision of Council policy
- Planning documents such as the Development Control Plan (DCP) and Local Environmental Plan (LEP)
- Delivery Programs and Budgets
- Action Plans

Legislative requirements

Staff should ensure that they are familiar with any statutory requirements concerning consultation with the community. The Local Government Act 1993 (NSW) in particular sets out in a number of sections the obligation of Council to consult with the community and promotes consultation as a necessary part of delivering services to the community.

Recent amendments to the *Local Government Act 1993 (NSW)* brought about by the Local Government Planning and Reporting Bill 2009 now require Council to establish and implement a community engagement strategy, based on social justice principles, when developing and reviewing the community strategic plan.

The Environmental Planning and Assessment Act 1979 specifies that nearby neighbours and interested community groups shall be notified in respect to Development Applications.

PUBLIC PARTICIPATION SPECTRUM

Community engagement plans will be developed for every project requiring consultation with the community. Any approach to community engagement will be informed by the internationally recognised “Public Participation Spectrum” developed by the International Association for Public Participation (IAP2) which outlines five levels of public participation. When planning for community engagement Council staff will need to determine the most appropriate level of participation depending on the nature and complexity of the project/issue.

The following provides a description of the entire public participation model but it must be recognised that Council performs a specific role and that many decisions whilst informed by community input will ultimately rest with Councillors, the community’s elected representatives. Council will most commonly conduct community engagement processes at the Inform, Consult and Involve levels of participation.

	Level of Participation	Public Participation Goal
<div style="text-align: center;"> Increasing levels of public impact ↓ </div>	Inform	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives, opportunities and/or solutions.
	Consult	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.
	Involve	To obtain feedback public on analysis, alternatives and/or decisions.
	Collaborate	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.
	Empowerment	To place final decision making in the hands of the public.

PLANNING FOR COMMUNITY ENGAGEMENT

Adequate attention to planning for community engagement by staff will ensure that the most effective and innovative processes are implemented.

Development of a Community Engagement Plan

A Community Engagement Plan must be completed for every project requiring community participation and consultation. A community engagement plan must be finalised at the earliest opportunity to ensure that adequate notice of engagement activities is given to interested members of the community.

The development of a community engagement plan is intended to clarify the purpose and objectives of consultation and result in the development of a strategy that incorporates appropriate engagement techniques to maximise participation.

All community engagement plans will be reviewed by the relevant Business Unit Manager and a completed copy of the plan must be forwarded to the Community Engagement Officer and Office of the General Manager.

REPORTING REQUIREMENTS

All reports to Council where consultation is a desired outcome must incorporate detail about the intended methods of engagement with the community.

Details about plans for community engagement must also be included in any briefing to Senior Management.

PRIVACY IN COMMUNITY CONSULTATION

It is likely that Council will collect personal information during the course of consultation efforts. Consequently, it is important to adhere to Council's Privacy Management Plan (Policy 134) which states that:

"Council will advise the public in letters, on website, in advertising and at public meetings how any personal information that is collected will be handled".

Unless indicated otherwise such personal information will generally be dealt with as follows:-

Public Meetings: Personal information collected at public meetings (e.g. contact details on an attendance list) will only be collected for the purpose of ongoing consultation on the issue by Council officers. Such information will not be made available for release to the public.

Submissions: All submissions received as part of a community engagement process will be considered in the public arena and as such the content of any submission will be made available in its entirety if so requested, unless confidentiality is requested in accordance with the provisions of Section 739 of the Local Government Act. Individual's personal details will not be handed on to a third party.

C9.2 Reference Group Review**Meeting:** Council**Date:** 21 February 2011**STRATEGY:** Business Management**ACTION:** Review Council's committee structure and governance protocols to maintain transparency and accountability.**PURPOSE OF REPORT**

To inform Council about the progress of reference groups since their creation and make recommendations concerning the operation of reference groups in the next term of appointment.

1.0 BACKGROUND

1.1 Council established four reference groups in early 2009 to replace the former portfolio committees. The reference groups are:

- 1 Community Recreation and Economic Development
- 2 Natural Environment
- 3 Planning an Integrated Built Environment
- 4 Governance

1.2 The reference groups were aligned with the key directions of the 2020 Strategic Plan and report directly to the four corresponding Principle Committees of Council. Any matters requiring action are reported to the relevant Committee. This alignment also allows Councillors to monitor Council's performance against the initiatives identified in the 2020 Strategic Plan.

1.3 Members of the Reference groups were appointed for a term of two years which expires in early 2011. Members of reference groups initially attended a briefing session outlining the terms of reference and operation of the reference groups.

1.4 The function of the Reference Groups is to consider and resolve on matters relating to the strategic objectives (goals) within the associated key direction of the Strategic Plan. The original intention of the Reference Groups was to establish them as forward looking think tank mechanisms that could assist Council in reviewing its progress of the 2020 Pittwater Strategic Plan.

1.5 In May 2009 each reference group prioritised the goals from their corresponding key direction in the Strategic Plan in order to direct the focus of future reference group meetings. Each reference group has worked through these goals at a different pace due to the nature and complexity of the issues involved. Some have almost completed examination of their goals while others are half way through.

- 1.6 Each of the reference groups are unique as they have different membership, expertise and are focused on entirely different issues for most of the time.

Review of Reference Groups

1.7 Overall satisfaction

- 1.7.1 A review of reference groups was undertaken by conducting a confidential on-line survey. All members were sent a copy of the survey to complete during week of 1-8 November 2010.

The results of the survey indicate there is a willingness by members for the reference groups to continue. When asked about their overall satisfaction with the reference groups 50% of survey respondents indicated they were mostly or very satisfied.

One survey respondent commented that *"I have found being involved with a Reference Group a very rewarding and informative experience and this has helped me to understand how a community can work together and achieve a positive outcome"*.

1.8 Key achievements

- 1.8.1 Overall key achievements identified by reference group members were often centred around outputs that were very tangible. An excellent example of this is the development of Council's *Sustainability Principles and Checklist* by the Planning an Integrated Built Environment (PIBE) Reference Group. The group has worked proactively alongside Council staff to produce an excellent resource for the community. Reference group members have continued to progress this project by developing a marketing strategy to ensure that the community are aware of and can use this resource to its full potential.
- 1.8.2 A yearly review of issues arising out of reference groups is undertaken to identify initiatives that can be prioritised within Council's Delivery Program and Budget. This review is reported to Council and senior management for their consideration.

1.9 Positive elements

- 1.9.1 Positive aspects of reference groups identified by members are reflected by the following survey comments:
- *They are a chance to speak directly with Council staff about policy issues,*
 - *There was evidence that ideas were taken on board,*
 - *It was more than just a talk fest because there seemed to be a willingness to incorporate our ideas,*
 - *I am more informed about what is happening and I have a better understanding of Council*
 - *Useful to meet with like-minded people,*
 - *Council staff have clearly put in a lot of work to achieve the results, I suspect well beyond the call of duty.*

1.10 Areas for improvement

- 1.10.1 For those who indicated dissatisfaction this was mostly linked to the operation of one particular reference group. An evaluation of this reference group and following discussion has set a path forward to resolve the existing issues.

This includes the suggestion that the reference group be more appropriately named. This will provide clarity about the core business of this particular reference group. It is recommended that the Governance reference group be named the "Community Engagement and Information Reference Group". The role of this reference group is not to assume an audit and risk function as this is performed by Council's Audit and Risk Committee which includes external members.

1.10.2 Survey responses revealed that dissatisfaction has been related to a number of issues such as:

- Some members would like opportunity to go beyond analysis of strategic plan goals and discuss pressing issues for Pittwater Council.
- Reference group members at times have wanted to deal with matters outside the terms of reference and this has been frustrating for some individuals who would like to deal with more operational issues.
- Members are keen to see tangible outputs arising from meetings and to see that the results of discussions result in meaningful outcomes.

1.11 Time, date, location and frequency of meetings

1.11.1 84.2% would prefer to continue meeting at 4pm and the majority want to continue to meet on Wednesdays.

1.12 100% would like to continue meeting at the Coastal Environment Centre.

1.13 Members indicated a preference for continuing to meet on a quarterly basis or two monthly. A number of members commented that they would participate in working groups or workshops in between the quarterly meetings when tangible outputs needed to be progressed.

2.0 ISSUES

2.1 Strategic role of reference groups

2.1.1 The first two years of reference group meetings have identified the need to be very clear about the strategic direction of reference groups. There is great benefit to Council to hear the ideas expressed by group members who have a wealth of knowledge and expertise, especially when this enables Council to be better informed about the Pittwater community and its built and natural environment.

2.1.2 At the conclusion of each agenda item in meetings, members have the opportunity to formulate "reference points" which are intended to highlight conceptual ideas, identify areas for further discussion or to highlight to the relevant Council Committee where particular action may be required. A review of reference group minutes has revealed that reference points arising from group discussion could be more concrete. This would provide a clear direction for Councillors and Council staff about key issues to be progressed.

2.1.3 It has emerged that reference group members would like to be brought up to date with the broad strategic direction of Council. To address this, all reference groups during February 2011 meetings are being provided with presentations from SHOROC about the *Shaping Our Future* report and from Council's Planning and Assessment Business Unit about the draft Land Use Planning Strategy. Reference group members have indicated that it is very useful to see the "big picture". Being informed about policy directions and strategic decisions will help to contextualise their deliberations.

- 2.1.4 Members have commented that they would like the opportunity to be informed and updated about key issues affecting Pittwater. Emerging Business is a standing item on the agenda and it is proposed that this could be used more effectively by reference group members to remain informed. Members can request that an update is given on important issues such as large scale development etc. which may be pertinent to their group.
- 2.1.5 There is the opportunity for members to provide papers and presentations to their reference group as long as these are associated directly with the goal/item to be discussed on the agenda. There has only been one occasion where a reference group member has delivered a presentation to the reference group and it is considered that there is more scope for reference group members with particular knowledge and expertise to add to the group's deliberations.

2.2 Composition of reference group members

- 2.2.1 A majority of reference group members are aged over 50 years of age. To broaden representation so that membership is more reflective of the demographics of Pittwater a strategy to encourage younger age groups to participate is required.
- 2.2.2 Council will conduct an Expression of Interest process in late February so that members of the community can apply to participate on the reference groups. Strategies include promoting the EOI process through Council services utilised by younger age groups and through widespread advertising through local and social media.
- 2.2.3 At present membership within reference groups is confined to those members who are part of a registered community group. Many residents contribute a great deal to their community but are often not part of a registered community group. To enhance participation, it is recommended that 4 positions on each reference group are available to individuals who have an interest and/or expertise in the matters dealt with by each reference group. Community organisation representatives will also be eligible to apply. There will be a total of 16 participants appointed to each reference group.

2.3 Youth Participation

- 2.3.1 Consultation carried out by Council's Social Planning and Community Development team revealed that young people were not necessarily interested in participating on the reference groups but would like Council to undertake regular consultation in their own environments such as school locations. In light of this it is recommended that Council direct its energies to the youth consultation model being implemented by the Social Planning and Community Development team. Council will consult on issues of interest to young people on a 6-monthly basis. This timeframe ensures that Council staff will have the capacity to implement and work with young people to progress the outcomes from consultation.

2.4 Code of conduct

- 2.4.1 A code of conduct was created for reference groups members at the beginning of 2009 and it is suggested that this continue as the code of conduct for ongoing reference groups.
- 2.4.2 In the interests of probity reference group members will be required to sign a form indicating to Council that they have read the code of conduct and are aware of its contents.

2.5 Attendance at meetings

- 2.5.1 It is expected that reference group members who apply to become a reference group member must commit to attending meetings on a regular basis. Members will forfeit their membership of a reference group if there are more than three occasions when a member cannot attend. It is recommended that the member will need to resign and the registered community group will nominate a new representative on their behalf.
- 2.5.2 To ensure continuity individual members cannot delegate membership or attendance at meetings to another person.
- 2.5.3 Members of registered community groups may identify an alternative delegate at the time of the Expression of Interest process. It is expected that alternative delegates would be well briefed by the nominated delegate. In the event that the alternative delegate cannot attend they shall not be replaced.

2.6 Responsibilities of reference group members

- 2.6.1 It is expected that reference group members will be providing feedback to their community group about the outcomes and discussion from each reference group meeting. Members are advised well in advance about the future topics of discussion and should be speaking with their registered community group about any issues that could contribute to the discussion on any particular issue. Minutes of each meeting are distributed to members who can discuss pertinent items with their group.

2.7 Review panel to recommend membership

- 2.7.1 At the conclusion of the Expression of Interest period a panel will review all applications and make recommendations to Council about appointment of members to each reference group. The panel will appoint members according to the criteria identified in the Expression of Interest application which give priority to relevant knowledge, expertise and professional experience, ability to attend as required, commitment to communicate with relevant registered community groups and to ensure the broadest cross section of the community is represented on each group.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The ongoing operation of the reference groups seeks to maintain community input and obtain feedback about the strategic initiatives being implemented as part of Pittwater 2020 Strategic Plan. Every effort will be made to ensure participation of the broadest cross-section of the community and to ensure that these voices are heard.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 The Natural Environment reference group will devote attention to the key direction goals concerned with Valuing and Caring for our Natural Environment. Reference group members have a diverse knowledge about the natural environment and can share information about initiatives that could be considered by Council.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 Nil impact

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 The reference groups have been structured to ensure transparency and accountability with regard to implementation of the strategic plan. It is intended that reference groups will have the opportunity to discuss ideas and accordingly strengthen the decisions made by Council.

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 The Planning an Integrated Built Environment reference group will continue to examine sustainability issues and discuss strategic planning issues that will influence future infrastructure planning for Pittwater.

4.0 COMMUNITY CONSULTATION

4.1 All reference group members were surveyed in November 2010 and their views about the operation of reference groups and suggestions for improvement were ascertained. This feedback was taken into consideration in the development of reference groups for a new term.

4.2 An Expression of Interest (EOI) process is planned for late February 2011.

4.3 Information will be provided to the community advising them about the EOI process by the following strategies:

- Letter to all registered community groups
- Letter to existing Reference Group members
- Advertising throughout the Community Notice board in the Manly Daily throughout February.
- Articles will be included in the February edition of the Pittwater Report and in the monthly on-line Council newsletter.
- Flyer to be available at the Library and customer Service areas
- Flyer to be distributed through After School Care, Family Day Care and Warriewood Child Care and existing children's services networks.
- Flyer to be distributed to Chambers of Commerce at Mona Vale, Newport and Avalon as well as Pittwater Business Limited.
- Dedicated page on Council's website with capacity for on-line applications to be submitted.

5.0 EXECUTIVE SUMMARY

5.1 Reference groups were established in early 2009 and members were appointed for a term of two years. As members term of appointment is about to expire it was an opportune time to review reference groups and consider possible improvements to enhance the operation of reference groups in the future.

- 5.2 Reference groups have continued to develop over this time and are becoming an important mechanism by which Council can receive input from the community. It is recommended that reference groups be continued and some revisions have been made to membership to ensure broad representation from the community on these groups.

RECOMMENDATION

- 1 That Council approve the ongoing operation of the reference groups at their current location and time.
- 2 That Council confirm the Terms of Reference (**Attachment 1**).
- 3 The Council approve the expansion of membership of each reference group to 16 members which may include up to 14 community group/community organisation members and up to 4 individual members from the community.
- 4 That the General Manager have the delegated authority to appoint reference group members to a group when there is a resignation.
- 5 That the Governance reference group will be renamed "Community Engagement and Information" Reference Group.

Report prepared by

Jane Mulroney
Community Engagement Officer

Paul Reid
TEAM LEADER, CORPORATE STRATEGY AND COMMERCIAL

TERMS OF REFERENCE – REFERENCE GROUPS

Purpose

Reference Groups are responsible for providing advice to Council on the goals and strategic initiatives contained within the relevant key direction of Council's Strategic Plan.

Objectives

Reference groups have been established to:

- Operate as a mechanism for strategic review of Pittwater 2020 Strategic Plan
- Bring together expertise and diverse community knowledge on issues related to the goals and strategic initiatives within the Pittwater 2020 Strategic Plan
- Be an equitable forum where registered community groups, community organisations and other individuals have an opportunity to be involved in discussion with Council staff on relevant issues
- Compliment other elements of Council's broader consultation framework and act as another mechanism through which Council staff can bring items where consultation is required
- Be a means of identifying innovative ideas that can enhance the strategic direction of Council.

Scope of powers and reporting

Reference groups will report directly to the corresponding Council Committee. Minutes of meetings will be reported to the Council Committee. Council retains the authority to make final determination on matters.

Term

Reference groups are appointed for a term of two years. At the end of the two years Council will review their operation and make recommendations for appointment of a new term of representatives.

Membership

Membership shall consist of the following:

- One Councillor, who shall operate as Chairperson.
- Up to fourteen (14) community representatives from community organisations or members of Community Groups who are registered on Council's "Register of Community Groups". A maximum of two (2) representatives from any one group may be appointed.
- Up to four (4) individuals from the Pittwater community.
- A total of sixteen (16) members shall be appointed to each reference group.
- All other councillors are invited to attend and observe.

Council staff and other relevant agencies will attend as required.

Quorum

A quorum shall exist upon the attendance of a majority of members including a Councillor as Chair.

Eligibility

Expressions of Interest to participate on Reference Groups shall be determined against the following criteria:

- Individuals must be residents of the Pittwater community
- Be able to demonstrate a high level of knowledge, expertise, interest, and local knowledge relevant to the key direction of the Reference Group.
- Be available and make a commitment to attend the reference group meetings to be held on a quarterly basis on Wednesdays between 4-6pm
- Be willing to abide by Council's Code of Conduct for Reference Groups.

Responsibilities of Members

It is the responsibility of reference group members to properly prepare and contribute to each of the quarterly reference group meetings. Reference Group members will be sent a package of business papers prior to each meeting which will inform members about key decisions and discussions to be held at the next reference group meeting.

It is assumed that community group/organisation representatives will consult with their community group/organisation about matters of relevance to them.

Members will have the responsibility to convey the views of those they represent in a fair and unbiased manner.

Attendance at Meetings

It is expected that reference group members who apply to become a reference group member must commit to attending meetings on a regular basis. Members will forfeit their membership of a reference group if there are more than three occasions when a member cannot attend. In the event that a member has not attended three meetings, a new representative will need to be nominated by the community group/organisation they represent. This nomination will be confirmed by the General Manager. Individual members shall not be replaced.

Responsibilities of Council

- Council will demonstrate Council's values of respect, ethics, quality and communication in their dealings with reference groups.
- Council will ensure that business papers are distributed to members in a timely manner.
- Council will provide feedback to reference group on how their advice has been considered and implemented by Council.

Governance Committee

10.0 Governance Committee Business

C10.1 Financial Report for the Period Ending 31 December 2010 of the 2010/2011 Financial Year**Meeting:** Governance**Date:** 21 February 2011**STRATEGY:** Business Management**Action:** To provide monthly, quarterly and annual budgets and financial statements**PURPOSE OF REPORT**

To provide Council with the financial results for the period ending 31 December 2010 of the 2010/2011 Financial Year. As per Local Government (General) Regulations Clause 203 which states, *"No later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement."*

1.0 BACKGROUND

- 1.1 The Original 2010/2011 Budget was adopted by Council as part of the 2010-2014 Delivery Program and Budget on 21 June 2010. The Revised 2010/11 Budget was adopted by Council on 15 November 2010 as a part of the September quarterly review, and have been transferred to the Revised budget column in this report.
- 1.2 Council's reporting structure undertakes a dual format of both financial and strategic information which includes:
 - Budget Review Statement
 - Performance Indicators
 - Summary of Financial Statements
 - Financial Statements (Consolidated, Operating, Balance Sheet, Cash flow)
 - Reserve Balances
 - 2010/2011 Major Projects
 - Rates Debtors
 - Loan Liability
 - Environmental Levy - Escarpment Acquisition
 - Environmental Infrastructure Levy
 - Stormwater Management Service Charge
 - S94 Contribution Plans
 - Key Directions and Associated Strategies

2.0 ISSUES**2.1 Budget Review Statement**

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulations 2005. "It is my opinion as the Chief Financial Officer that the Quarterly Budget Review Statement for Pittwater Council for the quarter ended 31/12/10 indicates that Council's projected financial position at 30/06/11 will be satisfactory at year end having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

2.2 Performance Indicators

In assessing an organisations financial position, there are a number of performance indicators that can assist to easily identify whether or not an organisation is financially sound. These indicators and their associated benchmarks, as stipulated by the Local Government Association of NSW and Shires Association of NSW are set out below.

#	Performance Indicator	2010/11 <i>Budget Dec Review</i>	2009/10 Actual	2008/09 Actual	Local Government Bench Mark
1	Operating Result (before Capital amounts)	\$160,000 Surplus	\$2.128m Surplus	\$62,000 Surplus	Surplus
2	Consolidated Result	\$79,000 Surplus	\$278,000 Surplus	\$76,000 Surplus	N/A
3	Unrestricted Current Ratio	3.21:1	3.81:1	2.92:1	>100% or 1:1
4	Debt Service Ratio	2.37%	2.71%	1.82%	<10%
5	Rates and Annual Charges Coverage ratio	62.96%	63.01%	63.22%	>50%
6	Rates and Annual Charges Outstanding %	5.00%	4.95%	4.65%	<5%
7	Building and Infrastructure Renewals Ratio	1.05:1	0.64:1	1.56:1	>100% or 1:1

1. Operating Result (before Capital Contributions)

The Operating result is the Profit or Loss that Council makes from normal Operations (Excluding expenditure on Capital items). A Surplus is a positive financial indicator.

2. Consolidated Result

The Consolidated Result is the increase or call on Council funds which shows the source and application of both Operating and Capital Income and Expenditure along with transfers to and from Reserves applicable to those activities. A Surplus is a positive financial indicator.

3. Unrestricted Current Ratio

The Unrestricted Current ratio is the ratio of Unrestricted Cash Assets held that are available to meet any current liabilities. The above ratio indicates that Council currently projects to have \$3.21 (excluding externally restricted funds such as S94 and grant monies) available to service every \$1 of debt as it falls due at the end of the financial year. A ratio greater than one is a positive financial indicator.

4. Debt Service Ratio

This ratio demonstrates the cost of servicing Council's annual debt obligations (loan repayments, both principal and interest) as a portion of available Revenue from Ordinary Activities. A lower ratio is a positive financial indicator.

5. Rates and Annual Charges Coverage Ratio

This ratio indicates the dependency of Rates and Annual charges over Council's total Revenue from continuing operations. A higher ratio is a positive financial indicator.

6. Rates and Annual Charges Outstanding %

This indicates the percentage of Rates and Annual charges outstanding at the end of the financial year. A lower ratio is a positive financial indicator.

7. Building and Infrastructure Renewal Ratio

This ratio indicates the rate of renewal/replacement of existing assets as against the depreciation of the same category of Assets. A ratio greater than one is a positive financial indicator.

2.3 Summary of Financial Statements

2010-11 Budgeted Statement of **Consolidated Financial Position**

Consolidated Statement shows the source and application of both Capital & Operating Income and Expenditure along with the movements in Reserves.

	(\$ '000)
Total direct income (Operating & Capital)	67,275
Total indirect income (Including transfer from Reserves)	29,898
Total income	97,173
Total direct Expenditure (Operating & Capital Expenditure)	74,801
Total indirect Expenditure (Including transfers to Reserves)	22,293
Total Expenditure	97,094
Increase in Council Funds (Includes Operating Results before Capital of \$160,000)	79

2010-11 Budgeted **Income Statement**

Income statement shows the extent to which community equity has changed by net result of ordinary activities during year.

	(\$ '000)
Operating Income	67,699
Operating Expenditure	67,540
Operating Results before Capital	160
Capital Income (Grants and Contributions)	3,434
Changes in Net Assets – Resulting from Operations	3,593

2010-11 Budgeted Statement of **Cashflows**

The statement of cash flows shows the nature and amount of council's cash inflows and outflows for all activities.

	(\$ '000)
Cash inflows	67,092
Cash outflows	66,234
NET Inflows/(Outflows)	858
Funds Carried Forward from Prior year	19,771
Total General Fund	20,629

2010-11 Budgeted **Balance Sheet**

The Balance sheet shows council's assets & liabilities which make up community equity.

	(\$ '000)
Current Assets (Includes Cash Assets of \$20,629)	29,049
Non Current Assets	1,989,204
Total Assets	2,018,253
Current Liabilities	9,894
Non Current Liabilities	5,914
Total Liabilities	15,808
Net Community Assets	2,002,445
Balance at Beginning of the year	1,998,852
Net results	3,593
TOTAL COMMUNITY EQUITY	2,002,445

2.4 Consolidated Financial Statement

As a result of the December Quarterly Review, the projected financial position shows a surplus in uncommitted funds of \$79,000, a increase of \$14,000 from the previously adopted budget of \$65,000.

The fluctuation in the budget can be mainly attributed to: -

Budgeted Consolidated Result as per the Adopted Budget - Y/E 30 June 2011 Increase of Council Fund: \$		65,000
INCOME		
Reduced User fees mainly relating to Sydney Lakeside Income	-\$	155,000
Additional Operating Grant Transfers mainly relating to additional Works Program such as Waste & Sustainability Improvements Program	\$	232,000
Additional Capital Grant Transfers mainly relating to additional Works Program such as Waste & Sustainability Improvements Program, Dunbar Park & Deep Crk Pedestrian Bridge	\$	185,000
Reduced Capital Contributions mainly relating to Sydney Lakeside Loan	-\$	958,000
Reduced Operating Contributions mainly relating to Waste And Sustainability Improvements Program Classification to Grant Funds	-\$	288,000
Additional Transfers from Reserve - S94 mainly relating to additional Works Program such as Winn bay Upgrade & Bushland Management Works	\$	151,000
Reduced Transfers from Reserve - Other Mainly relating to Sydney Lakeside Upgrade	-\$	927,000
EXPENDITURE		
Reduced Materials, Stores & Contract Services External mainly relating to the removal of works such as Sydney Lakeside Cabins Upgrade	\$	690,000
Reduced Interest Expenses relating to the postponement of the Sydney Lakeside Cabin Upgrade	\$	140,000
Reduced Bad & Doubtful Debts mainly relating to Fines & Rental Income	\$	252,000
Additional Other Expenditure	-\$	186,000
Reduced Capital Purchases/Payments mainly relating to Finance 1 Upgrade and loan repayment	\$	189,000
Additional Transfer to Reserve - S94 Mainly relating to additional WWV Income	-\$	418,000
Reduced Transfer to Reserve - Other mainly relating to Transfer of Sydney Lakeside loan	\$	1,107,000
Projected Budget Consolidated Result year ending 30 June 2011 - Increase of Council Funds	\$	79,000

The Actual Year to Date Consolidated Financial Result for the period ending 31 December 2010 is a surplus of \$2.002 million. Compared to the year to date budget of \$1.445 million call on Council funds, this amounts to a positive variance of \$558,000.

CONSOLIDATED STATEMENT

Pittwater Council Consolidated Statement For Period 6 Ending 31 December 2010							
Year to Date - \$000's			Annual Budget - \$000's				
Budget	Actual	Variance		Original	Revised	Projected	Variance
			Direct Income				
5,539	5,708	169	User Fees	10,319	10,616	10,461	-155
781	918	137	Regulatory Fees	1,535	1,560	1,560	0
1,345	1,112	-233	Regulatory Fines	2,691	2,691	2,691	0
1,655	1,793	139	Operating Grant Transfers	2,768	3,374	3,606	232
396	440	44	Capital Grant Transfers	4,527	1,713	1,898	185
826	1,274	449	Capital Contributions	3,175	2,493	1,536	-958
315	373	58	Operating Contributions	355	859	571	-288
15,617	15,534	-84	Rates Income	31,827	31,827	31,827	0
4,923	4,947	25	Domestic Waste Charges	9,849	9,849	9,849	0
655	741	87	Return on Investments & Other Interest Income	1,210	1,210	1,210	0
288	288	0	Rebates Income	252	288	288	0
320	502	182	Other Income	485	510	539	29
596	549	-47	Capital Sales	1,239	1,239	1,239	0
33,254	34,180	925	Total Direct Income	70,231	68,229	67,275	-955
			Indirect Income				
1,294	1,347	54	Plant Hire Recovery	2,577	2,588	2,588	0
1,544	1,544	0	Notional Rental Income	3,088	3,088	3,088	0
404	641	237	Service Agreement Income	809	809	819	10
3,579	3,579	0	Overhead Recovery	7,162	7,162	7,162	0
877	829	-48	Contract Internal Income	1,883	1,755	1,530	-225
3,992	3,994	2	Transfer From Reserve-Depreciation	7,988	7,988	7,988	0
127	41	-85	Transfer From Reserve-S94	2,119	1,019	1,170	151
2,660	1,908	-752	Transfer From Reserve-Other	4,743	6,480	5,553	-927
14,477	13,884	-593	Total Indirect Income	30,369	30,888	29,898	-990
			Direct Expenditure				
9,619	9,507	112	Salaries & Wages	19,388	19,380	19,444	-63
3,489	3,437	52	Other Employee Costs	7,024	7,060	7,085	-24
612	599	13	Materials	1,597	1,299	1,436	-137
146	150	-3	Stores	287	292	324	-32
46	42	4	Minor Plant Purchases	89	92	92	0
1,295	1,310	-15	Plant & Equipment	2,107	2,112	2,113	-1
6,615	6,016	599	Contract Services External	17,652	16,007	15,146	861
3,992	3,994	-2	Depreciation Expense	7,988	7,988	7,988	0
341	273	68	Interest Expense	683	683	543	140
1,442	1,395	47	Professional Expenses	3,353	3,834	3,863	-29
500	458	42	Legal Expenses	900	1,000	1,000	0
454	463	-10	Bad & Doubtful Debts	207	459	207	252
282	273	9	Leases/Rentals/Hire/Licences	485	537	579	-42
692	726	-34	Public Utilities	1,386	1,384	1,434	-50
157	122	35	Communications	313	313	308	5
216	164	52	Advertising	428	434	403	31
513	562	-49	Insurance	971	998	1,011	-13
95	99	-4	Banking	190	190	190	0
251	201	50	Other Expenses	591	658	644	14
175	253	-78	Office Expenses	359	360	362	-1
1,781	1,864	-83	Sundry Services/Waste Disposal	3,556	3,561	3,604	-43
61	95	-35	Memberships	92	93	98	-5
1,634	1,650	-16	Levies/Contributions/Subsidies	2,973	2,936	2,931	5
1,896	1,627	269	Capital Purchases/Payments	4,064	4,184	3,996	189
36,303	35,279	1,024	Total Direct Expenditure	76,685	75,856	74,801	1,055
			Indirect Expenditure				
510	510	0	Corporate Development Overhead	1,020	1,020	1,020	0
726	726	0	IT Services Overhead	1,453	1,453	1,453	0
958	958	0	Financial Services Overhead	1,918	1,918	1,918	0
1,544	1,544	0	Accommodation Overhead	3,088	3,088	3,088	0
555	555	0	Insurance Overhead	1,111	1,111	1,111	0
388	388	0	Records Overhead	776	776	776	0
442	442	0	Customer Service Overhead	884	884	884	0
1,294	1,342	-48	Plant Hire Charge Internal	2,577	2,588	2,588	0
877	829	48	Contract Services Internal Expense	1,883	1,755	1,530	225
379	632	-253	Service Agreement Expense	759	759	769	-10
810	1,263	-453	Transfer To Reserve-S94	1,775	877	1,296	-418
1,501	1,594	-93	Transfer To Reserve-Other	6,597	6,967	5,861	1,107
9,983	10,782	-799	Total Indirect Expenditure	23,840	23,196	22,293	903
1,445	2,002	558	Increase/(call) on Council Funds	75	65	79	14

2.5 Operating Statement

The Projected Operating Result before Capital for the financial year 2010/2011 is a surplus of \$160,000, a variance of \$10,000 compared to the previously adopted budget of \$150,000 surplus.

The fluctuation in the budget can be mainly attributed to: -

Budgeted Operating Results before Capital as per Adopted Budget for the year ending 30/6/11		\$	150,000
INCOME			
Reduced User fees mainly relating to Sydney Lakeside Income	-\$		155,000
Additional Operating Grant Transfers mainly relating to additional Works Program such as Waste & Sustainability Improvements Program	\$		232,000
Reduced Operating Contributions mainly relating to Waste And Sustainability Improvements Program Classification to Grant Funds	-\$		288,000
EXPENDITURE			
Additional Materials, Stores & Contract Services External mainly relating to works such as Bushland Management Expenditure	-\$		100,000
Reduced Interest Expenses relating to the postponement of the Sydney Lakeside Cabin Upgrade	\$		140,000
Reduced Bad & Doubtful Debts mainly relating to Fines & Rental Income	\$		252,000
Additional Other Expenditure	-\$		71,000
Projected Operating Results before Capital for the year ending 30 June 2011 Surplus	\$		160,000

The Actual Year to Date Operating result before Capital for the period ending 31 December 2010 shows a profit of \$841,000. Compared to the Year to Date Budget of a \$86,000 profit, this indicates a positive variance of \$755,000.

OPERATING STATEMENT

Pittwater Council							
Operating Statement							
For Period 6 Ending 31 December 2010							
Year to Date - \$000's			Annual Budget - \$000's				
Budget	Actual	Variance		Original	Revised	Projected	Variance
			Direct Income				
5,539	5,708	169	User Fees	10,319	10,616	10,461	-155
781	918	137	Regulatory Fees	1,535	1,560	1,560	0
1,345	1,112	-233	Regulatory Fines	2,691	2,691	2,691	0
1,655	1,972	318	Operating Grant Income	2,768	3,374	3,606	232
315	373	58	Operating Contributions	355	859	571	-288
15,617	15,534	-84	Rates Income	31,827	31,827	31,827	0
4,923	4,947	25	Domestic Waste Charges	9,849	9,849	9,849	0
655	741	87	Return on Investments & Other Interest Income	1,210	1,210	1,210	0
288	288	0	Rebates Income	252	288	288	0
320	502	182	Other Income	485	510	539	29
80	75	-5	Profit / (Loss) on Sale of Assets	160	160	160	0
0	0	0	Gain from Joint Venture Assets	0	0	0	0
31,517	32,171	653	Total Direct Income	61,451	62,945	62,762	-183
			Indirect Income				
1,294	1,347	54	Plant Hire Recovery	2,577	2,588	2,588	0
404	641	237	Service Agreement Income	809	809	819	10
877	829	-48	Contract Internal Income	1,883	1,755	1,530	-225
2,575	2,817	243	Total Indirect Income	5,269	5,152	4,937	-215
			Direct Expenditure				
9,342	9,259	83	Salaries & Wages	18,829	18,821	18,885	-63
3,372	3,321	51	Other Employee Costs	6,789	6,825	6,849	-24
398	422	-24	Materials	799	810	837	-27
143	134	9	Stores	287	287	311	-24
46	42	4	Minor Plant Purchases	89	92	92	0
1,295	1,262	32	Plant & Equipment	2,107	2,112	2,085	27
4,459	4,644	-184	Contract Services External	8,891	9,360	9,436	-77
4,063	4,065	-2	Depreciation Expense & Ammortisation	7,988	8,129	8,129	0
341	273	68	Interest Expense	683	683	543	140
1,245	1,280	-35	Professional Expenses	2,596	2,915	2,910	5
500	458	42	Legal Expenses	900	1,000	1,000	0
454	463	-10	Bad & Doubtful Debts	207	459	207	252
282	248	34	Leases/Rentals/Hire/Licences	485	537	539	-2
692	725	-34	Public Utilities	1,386	1,384	1,434	-50
157	122	35	Communications	313	313	308	5
216	164	52	Advertising	428	434	403	31
513	562	-49	Insurance	971	998	1,011	-13
95	99	-4	Banking	190	190	190	0
251	201	50	Other Expenses	591	658	644	14
175	249	-74	Office Expenses	359	360	362	-1
1,778	1,820	-42	Sundry Services/Waste Disposal	3,556	3,558	3,558	0
61	95	-35	Memberships	92	93	98	-5
1,634	1,650	-16	Levies/Contributions/Subsidies	2,973	2,936	2,931	5
31,511	31,557	-46	Total Direct Expenditure	61,510	62,955	62,763	192
			Indirect Expenditure				
1,239	1,300	-62	Plant Hire Charge Internal	2,467	2,478	2,478	0
877	829	48	Contract Services Internal Expense	1,883	1,755	1,530	225
379	461	-82	Service Agreement Expense	759	759	769	-10
2,495	2,591	-96	Total Indirect Expenditure	5,109	4,992	4,777	215
86	841	755	Operating Results before Capital	101	150	160	10
1,221	2,022	-801	Grants & Contributions - Capital	6,301	2,806	3,434	-628
0	0	0	Material Public Benefits - S94	0	0	0	0
1,307	2,863	1,555	Change in Net Assets - Resulting from Opera	6,402	2,955	3,593	638

2.6 Cash Flow Statement

The projected total General Fund for the year ended 30 June 2011 stands at \$20.629 million. Compared to the previously adopted budget, this amount is a increase of \$105,000.

The actual result for the period ended 31 December 2010 is a net inflow of \$8.095 million. Compared to the year to date budget, this amounts to a variance of \$1.557 million.

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

Pittwater Council Cash Flow Statement For Period 6 Ending 31 December 2010							
Year to Date - \$000's			Annual Budget - \$000's				
Budget	Actual	Variance		Original	Revised	Projected	Variance
Cash Inflows							
25,580	25,539	-41	Rates & Garbage	41,590	41,590	41,590	0
2,200	2,349	149	Grants	7,294	4,940	5,407	467
5,550	5,606	56	User Charges	10,319	10,616	10,461	-155
2,100	1,902	-198	Regulatory Fees & Fines	4,226	4,251	4,251	0
500	325	-175	Contributions & Donations	355	1,075	815	-260
650	594	-56	Return on Investments & Other Interest Income	1,210	1,210	1,210	0
600	549	-51	Sale of Assets (Excluding Land)	1,239	1,239	1,239	0
0	0	0	Sale of Land	0	0	0	0
438	1,057	619	Other	737	798	827	29
810	1,263	453	S94 Contributions Received	1,775	877	1,292	415
0	0	0	Proceeds from loan	1,400	1,400	0	-1,400
0	216	216	GST Net Inflow	0	0	0	0
38,428	39,400	972	Total Inflows	70,145	67,997	67,092	-905
Cash Outflows							
9,600	9,576	24	Employee Salary & Wages	19,388	19,380	19,444	-64
3,050	3,070	-20	Employee Other Costs	6,480	6,497	6,497	0
510	460	50	Insurance Claims/Premiums	971	998	1,011	-13
1,650	1,693	-43	Levies & Contributions	2,973	2,936	2,931	5
14,700	14,200	500	Materials/Stores/Contracts	32,692	31,625	30,804	821
500	458	42	Legal Expenses	900	1,000	1,000	0
290	284	6	Loan Interest Repayments	622	622	552	70
390	393	-3	Loan Principal Repayments	866	866	824	42
1,200	1,170	30	Purchase Of Assets	3,198	3,318	3,171	147
31,890	31,305	585	Total Outflows	68,091	67,244	66,234	1,010
6,538	8,095	1,557	Net Inflows/(Outflows)	2,054	753	858	105
19,771	19,771	0	Funds Carried Forward from Prior Year	18,676	19,771	19,771	0
26,309	27,866	1,557	Total General Fund	20,730	20,524	20,629	105
6,777	7,315	-538	Less Restricted Assets	3,444	5,002	5,269	-267
1,204	1,204	0	Less Unexpended Grants	1,400	800	800	0
8,143	8,987	-844	Less Internal Reserves	13,030	12,587	12,411	176
10,185	10,359	174	Increase/(call) on Council Funds	2,856	2,135	2,149	14

2.7 Balance Sheet

Council's Projected total increase in equity for the year ending 30 June 2011 is \$3.593 million (net change in assets resulting from operations) this will increase the Total equity to \$2.002 billion.

Pittwater Council Balance Sheet For Period 6 Ending 31 December 2010			
Actual 31/12/2010 \$'000's		Projected 30/06/2011 \$'000	Actual 30/06/2010 \$'000
CURRENT ASSETS			
2,375	Cash Assets	3,380	3,260
25,491	Investments	17,249	16,511
3,240	Receivables	3,000	3,461
78	Inventories	70	59
441	Other	850	958
4,598	Non Current Assets held for sale	4,500	4,597
<u>36,223</u>	TOTAL CURRENT ASSETS	<u>29,049</u>	<u>28,846</u>
NON-CURRENT ASSETS			
0	Investments	0	0
0	Receivables	600	733
0	Inventories	0	0
1,975,039	Infrastructure Property, Plant and Equipment	1,978,478	1,975,848
5,173	Investment Property	5,173	5,173
5,025	Investments Accounted for using the Equity Method	4,953	5,094
<u>1,985,237</u>	TOTAL NON-CURRENT ASSETS	<u>1,989,204</u>	<u>1,986,848</u>
<u><u>2,021,460</u></u>	TOTAL ASSETS	<u><u>2,018,253</u></u>	<u><u>2,015,694</u></u>
CURRENT LIABILITIES			
6,557	Payables	3,271	3,268
407	Interest Bearing Liabilities	823	828
6,230	Provisions	5,800	5,998
<u>13,194</u>	TOTAL CURRENT LIABILITIES	<u>9,894</u>	<u>10,094</u>
NON-CURRENT LIABILITIES			
0	Payables	0	0
6,386	Interest Bearing Liabilities	5,754	6,593
165	Provisions	160	155
<u>6,551</u>	TOTAL NON-CURRENT LIABILITIES	<u>5,914</u>	<u>6,748</u>
<u><u>19,745</u></u>	TOTAL LIABILITIES	<u><u>15,808</u></u>	<u><u>16,842</u></u>
<u><u>2,001,715</u></u>	NET ASSETS	<u><u>2,002,445</u></u>	<u><u>1,998,852</u></u>
EQUITY			
2,001,715	Accumulated Surplus/ (Deficit)	2,002,445	1,998,852
	Asset Revaluation Reserve		
<u><u>2,001,715</u></u>	TOTAL EQUITY	<u><u>2,002,445</u></u>	<u><u>1,998,852</u></u>

2.8 2010/2011 Reserve Balances

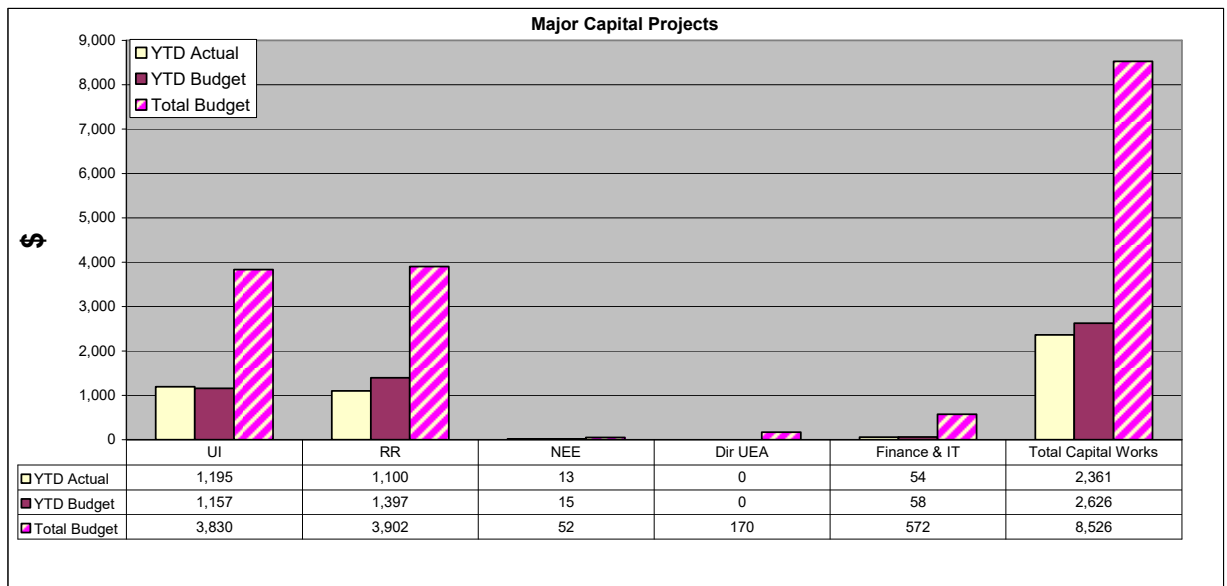
Council's Projected Reserve Balances which reflect funds restricted for both internal and external purposes amount to \$18.480 million. In addition to the restricted amounts listed below, Council also holds \$2.149 million in unrestricted funds which when combined with restricted funds amount to Council's projected year end cash position of \$20.629 million.

Unlike Council's restricted funds which are held for specific purposes such as Section 94 works, Cemetery works, Caravan Park Capital Works etc, Council's unrestricted funds are utilised as one mechanism to fund the business's ongoing operations. This does not mean that they can be spent in isolation, as Council's annual income and expenditure are managed via Council's Consolidated Statement which currently reflects an almost balanced position of \$79,000 surplus.

General Reserves	Opening Balance 01.07.2010	Transfers To Reserve	Transfers From Reserve	Closing Balance 30.06.2011
Environmental Levy (Escarpment)	1,696,083	-	4,584	1,691,499
Environmental Infrastructure Levy	667,855	1,469,481	2,036,954	100,382
General Reserve	3,473,072	1,577,346	1,210,319	3,840,099
Employee Leave Entitlement	1,234,432	-	-	1,234,432
Caravan Park Capital Works	206,727	200,000	150,000	256,727
Cemetery Reserve	1,384,816	148,252	166,635	1,366,433
Road Reserve	463,121	100,000	41,000	522,121
Capital Works Reserve	123,220	-	123,220	-
Strategic Property Rationalisation Reserve	163,452	-	35,000	128,452
Plant Replacement	69,446	-	49,000	20,446
Tennis Liason Trust Fund	169,613	48,306	45,000	172,919
Other	512,673	1,010,646	657,466	865,853
Lagoon Entrance Clearing	100,000	25,000	-	125,000
Avalon Golf Course	32,953	-	-	32,953
Commercial Centres Outdoor Seating	29,034	107,500	136,534	-
Marine Infrastructure	161,580	50,000	139,799	71,781
Church Point Easement	131,934	-	43,709	88,225
Election Reserve	75,000	75,000	-	150,000
IT Reserve	48,000	-	30,000	18,000
Restoration Reserve	40,000	75,000	-	115,000
Trust and Bonds (eg. Tree and Footpath)	596,882	-	-	596,882
Community Centre Trusts	168,801	-	121,339	47,462
Bus Shelter Reserve	28,730	-	-	28,730
Total Reserves	11,577,424	4,886,531	4,990,559	11,473,396
Section 94	5,142,975	1,295,701	1,169,867	5,268,809
Domestic Waste Management	458,867	443,995	-	902,862
Specific Purpose Unspent Grants and Contributions	716,009	5,587,803	5,503,812	800,000
Stormwater Management Levy	67,317	530,000	562,399	34,918
Total Reserves & Section 94	17,962,593	12,744,030	12,226,637	18,479,986

2.9 2010/2011 Major Projects

The total expenditure for Major Projects (including revotes) under the previously adopted 2010/2011 Capital Improvements Program amounted to \$8.987 million. The program has now been amended to \$8.526 million in the December Quarterly Review.



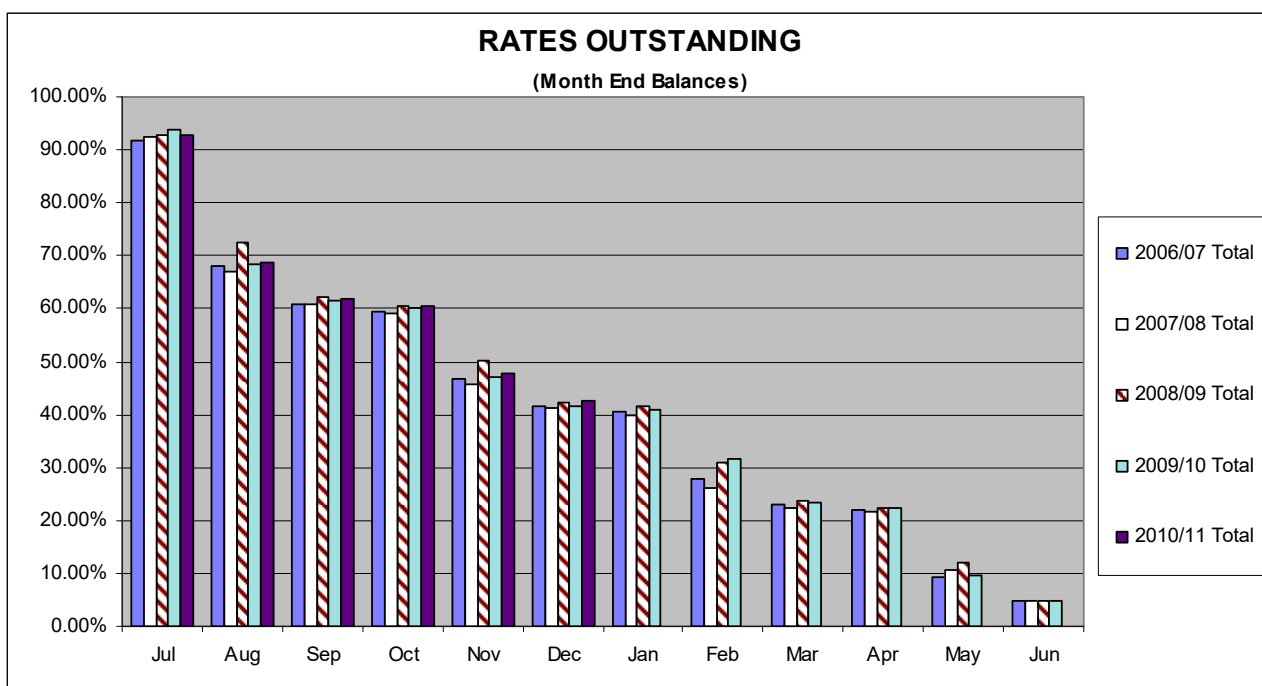
2010/2011 MAJOR PROJECTS		Revised	Projected	Gross	Percentage
PERIOD ENDING 31st December 2010		Total	Total	Exp	Complete
TOP TEN JOBS BY PROJECTED BUDGET	Comment	Budget	Budget	Actual	%
Deep Creek Pedestrian Bridge - Construction	RTA/Warringah/Pittwater Joint Funded	800,000	912,000	-	0%
Governor Phillip Park Landscape & Playground Upgrade	Grant, EI Levy Works near completion	353,017	484,017	346,874	72%
Car/Trailer Park Upgrade Woorak Reserve PB	Grant, Marine Reserve Funded	355,000	355,000	2,492	1%
PB Ferry Wharf	Grant, Marine Reserve Funded	300,000	300,000	-	0%
Church Point Seawall (Works)	EI Levy Works	267,136	267,136	-	0%
Dunbar Park remedial works	Trust & Grant Funded	110,000	260,000	3,125	1%
Billies Kiosk Bilgola Beach Design & Construction	Project Complete	236,980	236,980	258,787	109%
RTA Funding Traffic Signs & Linemarking	Ongoing works	194,000	194,000	93,977	48%
Avalon Golf Course - Tanks and Irrigation	Ongoing works	164,200	164,200	34,273	21%
Sydney Lakeside Improvements	Ongoing works	150,000	150,000	45,772	31%

2.10 Rates Debtors

Throughout the year, Council Rates staff will make a concentrated and consistent approach to all aspects of the debt recovery process. Council's target for rate arrears amounts to 5% or lower. In attempting to obtain the target, staff monitors and follows up ratepayers to ensure compliance with all aspects of Council rate recovery practices.

As at the quarter ended 31 December 2010, Council collected \$ 25.143M (57.50%) of the total of \$43.728M collectable, being the current year rate levy, (including the environmental infrastructure levy), domestic waste management charges, supplementary rate levies, onsite waste water management charges, stormwater management services charges, interest charges, legal costs and the outstanding rates and charges brought forward from the previous year. This left a balance of \$ 18.585M (42.50%) outstanding at 31 December 2010.

A monthly comparison of the ratio of outstanding rates from 2006/07 to 2010/11 is shown on the graph below.



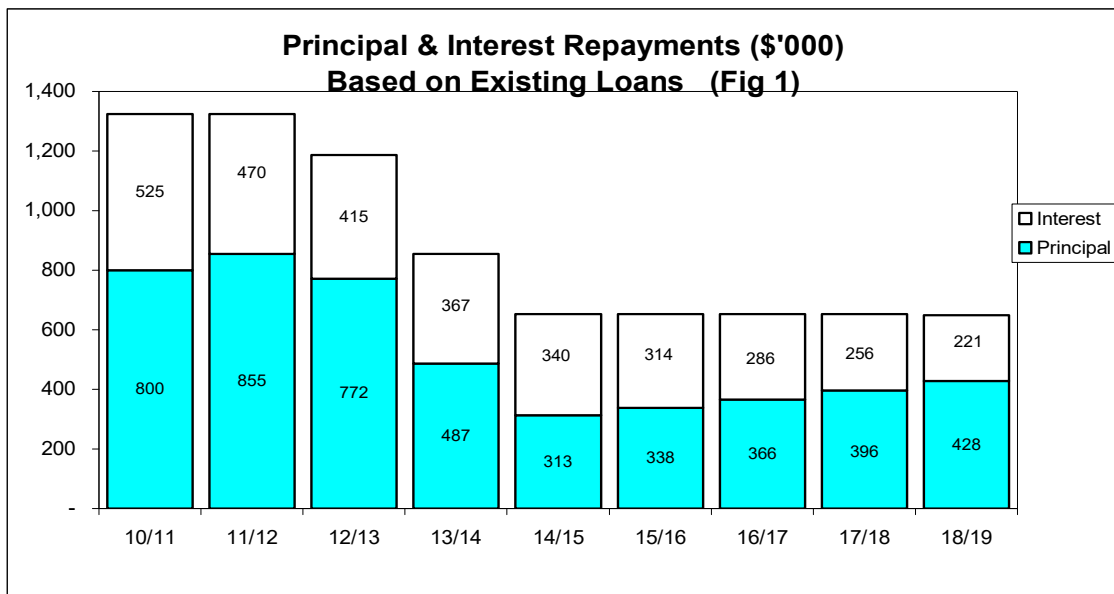
The outstanding total of \$ 18.585M included \$ 2.597M owing by the following categories of ratepayers for which Council will not take legal action for the recovery of outstanding amounts:-

- Pensioners – no legal action is taken, apart from the issuing of normal Rate Notices and a reminder letter - \$ 1.995M. The majority of this amount is not yet due for payment and will be collected over the remaining three instalments.
- Ratepayers paying off their rates in accordance with individually agreed arrangements - \$ 0.441M. Council's policy is to allow such arrangements to be made and not to take recovery action against such ratepayers unless they default on their payment arrangements.
- Ratepayers who are eligible to have part of their rates postponed for up to five years because their land is zoned for a higher valued purpose, but is used for residential purposes - \$ 0.161M. This is an entitlement contained in the Local Government Act, for which no recovery action can be taken.

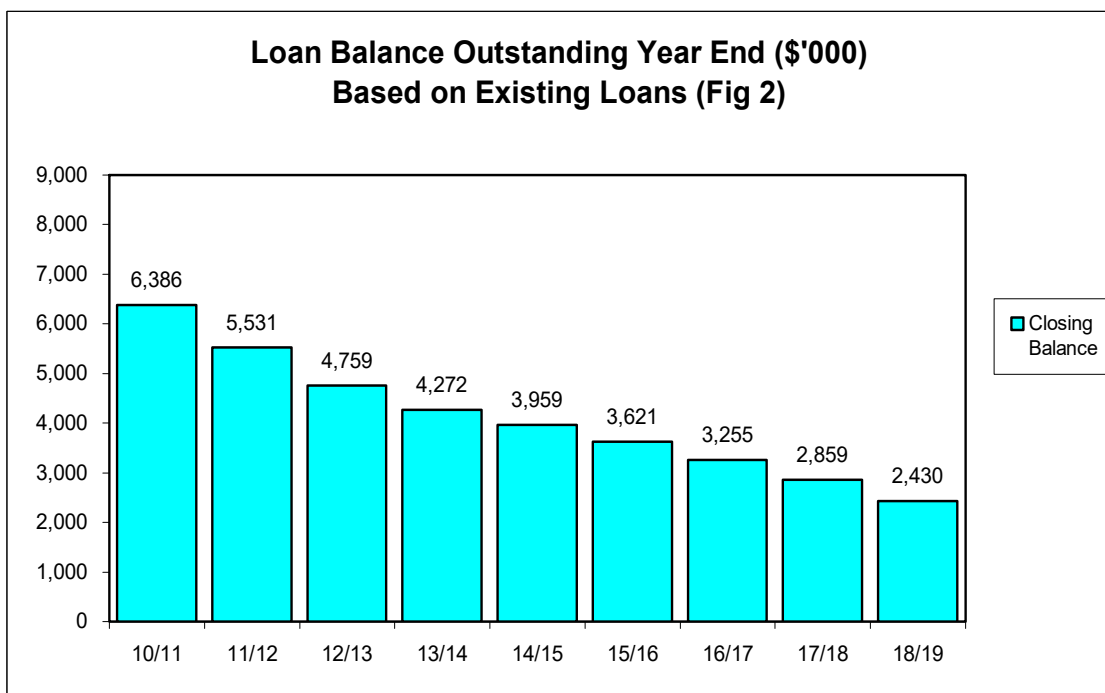
2.11 Loan Liability

Council's outstanding loan position as at 31 December 2010 was \$6.386 million.

As shown in Figure 1 below, total loan repayments in 2010/2011 amount to \$1.325 million. These repayments are made up of principal repayments totalling \$800,000 and interest repayments totalling \$525,000.



As shown in Figure 2 below, Council's outstanding loan balance will decrease to \$5.531 million as at 30 June 2011. (These figures are based on current loan levels, and are subject to review).



Council's Projected Debt Service Ratio for the 2010-11 Financial year stands at 2.37%.

2.12 Environmental Levy – Warriewood/Ingleside Escarpment Acquisition

The Environmental Levy to date has helped to fund the following land acquisitions:

▪ Healesville Holding (Burrawang Ridge Estate)	28.0 hectares
▪ Part Mater Maria School site	3.6 hectares
▪ Heydon Estate	<u>26.6 hectares</u>
TOTAL	<u>58.2 hectares</u>

In addition, Council has resolved to enter into negotiations with the Uniting Church in regard to the potential acquisition of part of their land, at Elanora Heights for escarpment protection.

Opening Reserve Balance as at 01/07/10	\$1,696,083
YTD Income to 31/12/10	\$0
YTD Expenditure to 31/12/10	\$10,340
Closing Reserve Balance as at 31/12/10 (restricted)	\$1,685,743

2.13 Environmental Infrastructure Levy

The Environmental Infrastructure (EI) Levy commenced 1 July 2005 to provide funds for the environmental infrastructure retrofit and upgrade throughout the Pittwater area.

The EI-Levy provides funds for environmental infrastructure that will progressively improve both our 'urban' and 'natural' environment. The EI-Levy over a seven year period will target high priority projects that benefit the broadest cross section of our community.

Council's Management Plan includes a schedule of EI-Levy funded projects for the next five years, which will be reviewed and publicly exhibited annually. The schedule of works will also receive input from the community through the Environmental Infrastructure Levy Advisory Committee comprising representatives from the four Portfolio Committees.

Opening Reserve Balance as at 01/07/10	\$667,855
YTD Income to 31/12/10	\$731,465
YTD Expenditure to 31/12/10	\$451,128
Closing Reserve Balance as at 31/12/10 (restricted)	\$948,192

2.14 Stormwater Management Service Charge

The Stormwater Management Service Charge Program is funded by a Stormwater Management Service Charge commencing from 1 July 2007 under amendments to the Local Government Act 1993 and the Local Government (General) Regulations 2005.

The Stormwater Management Service Charge Program is made under the recent addition of Section 496A to the Local Government Act 1993 made by the Local Government Amendment (Stormwater) Act 2005 and in accordance with clauses 125A, 125AA, 200A and 217 of the Local Government (General) Regulation 2005.

The Stormwater Management Service Charge Program is levied on rateable urban land that is categorised for rating purposes as residential or business (excludes vacant land – see definition in the Act). The charge levied is:

- \$25 for land categorised as residential
- \$12.50 per residential strata lot
- \$25 per 350 square metres (or part thereof) for land categorised as business
- Pro-rata apportionment for business strata complexes.

The purpose of the service charge is to fund both capital projects and recurrent expenditure relating to new or additional stormwater management services to eligible land within the 23 sub-catchments within Pittwater by taking a 'global' approach to stormwater services and ensuring a reasonable equitable distribution of Stormwater Management Services over time.

The Stormwater Management Service Charge Annual Works Program for the current and future years is set out in Councils 2009-2013 Management Plan in the Major Projects Work Schedules for Urban Infrastructure Business Unit.

Opening Reserve Balance as at 01/07/10	\$67,317
YTD Income to 31/12/10	\$264,159
YTD Expenditure to 31/12/10	\$145,655
Closing Reserve Balance as at 31/12/10 (restricted)	\$185,821

2.15 Section 94 Contribution Plans

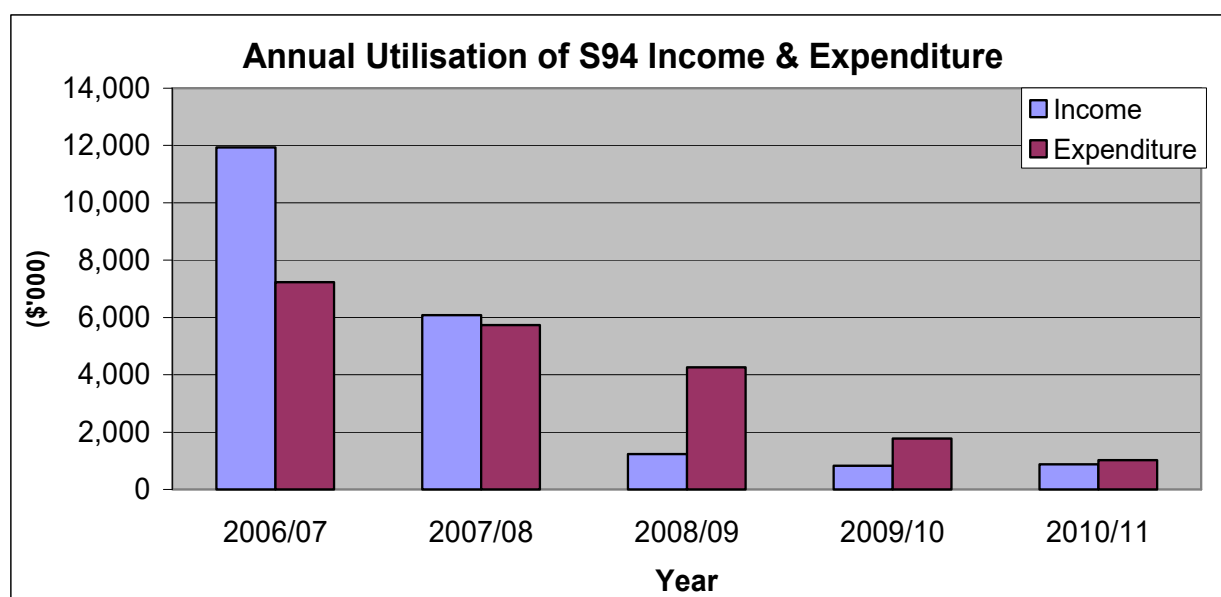
Section 94 (S94) is a monetary contribution levied on developers at the development applications stage to pay for a proposed increase in demand for public services, such as roads and parks.

Council has a number of S94 contribution plans, each containing income projections and work programs, enabling a financial strategy to efficiently and equitably administer the funds. A summary detailing the balances and projected income and expenditure for the current year of the various plans is contained within the table below:

SECTION 94 PLANS	Plan Balance as at 30/06/10	Expenditure for 2010/11	Income for 2010/11	Plan Balance as at 30/06/11	Plan Balance as at 30/09/10
Community Service Facilities	\$ 103,117	\$ 198,012	\$ 135,000	\$ 40,105	\$ 175,967
Mona Vale Car Parking	\$ 3,190,169	\$ 100,000	\$ -	\$ 3,090,169	\$ 3,190,169
Newport Car Parking	\$ 85,794	\$ -	\$ -	\$ 85,794	\$ 85,794
Open Space	\$ 199,674	\$ 487,303	\$ 456,572	\$ 168,943	\$ 650,268
Village Streetscape	\$ 121,313	\$ 146,512	\$ 232,344	\$ 207,145	\$ 353,657
Public Libraries	\$ 155,858	\$ 87,000	\$ 53,403	\$ 122,261	\$ 209,261
Warriewood Valley	\$ 1,287,050	\$ -	\$ -	\$ 1,287,050	\$ 1,287,050
Totals	\$ 5,142,975	\$ 1,018,827	\$ 877,319	\$ 5,001,467	\$ 5,952,166

Council is required to undertake financial management of Section 94 contributions as the authority responsible for most of the communities' infrastructure and regional facilities. The timing of the capital expenditure is heavily dependant upon the levels of development and contributions received.

To demonstrate Pittwater Council's financial management of Section 94 contributions, a comparison of income (contributions received) versus expenditure for the provision of community facilities is shown in the graph below.



3.0 SUSTAINABILITY ASSESSMENT

Over the last two years Pittwater Council, in collaboration with the Local Community, developed Pittwater 2020, the first of its kind. This strategic plan provides an overarching framework to proactively respond to the community aspirations and desires.

The Strategic Plan articulates the community vision for what Pittwater should be like in 2020 and outlines five interlinked and independent key directions and their associated strategies under which all planning will occur. The 20 key strategies have been developed providing the operational mechanism – vision, objectives, initiatives and measures – to achieve the inspirational goals and targets.

Accordingly, in an effort to assist Council's Strategic Plan and associated vision the 2010/11 budget, in addition to traditional financial reporting formats, has been broken down based upon the key five directions and their 20 associated strategies.

For information for the community the net consolidated position of each key direction and strategies are outlined below:

5 Key Directions - Net Budget Position:

3.1 Supporting & Connecting our Community (Social)

3.1.1 The net impact of the 2010/11 projected budget for this key direction is a cost of \$5.320 million.

This net cost includes:	
Operating Expenditure	\$9.455 million
Capital Expenditure	\$1.735 million
Income	(\$4.214) million
Transfer from Reserve*	(\$2.225) million
Transfer to Reserve*	\$568,000
Net Cost to Council	\$5.320 million

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 The net impact of the 2010/11 projected budget for this key direction is a cost of \$4.461 million.

This net cost includes:	
Operating Expenditure	\$15.438 million
Capital Expenditure	\$1.907 million
Income	(\$10.772) million
Transfer from Reserve*	(\$2.898) million
Transfer to Reserve*	\$786,000
Net Cost to Council	\$4.461 million

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 The net impact of the 2010/11 projected budget for this key direction is a cost of \$993,000.

This net cost includes:	
Operating Expenditure	\$4.659 million
Capital Expenditure	\$888,000
Income	(\$3.669) million
Transfer from Reserve*	(\$1.324) million
Transfer to Reserve*	\$439,000
Net Cost to Council	\$993,000

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The net impact of the 2010/11 projected budget for this key direction is income of \$16.048 million.

This net income includes:	
Operating Expenditure	\$19.316 million
Capital Expenditure	\$4.466 million
Income	(\$41.014) million
Transfer from Reserve*	(\$3.097) million
Transfer to Reserve*	\$4.281 million
Net Income to Council	(\$16.048) million

3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 The net impact of the 2010/11 projected budget for this key direction is a cost of \$5.196 million.

This net cost includes:	
Operating Expenditure	\$13.703 million
Capital Expenditure	\$3.182 million
Income	(\$7.605) million
Transfer from Reserve*	(\$5.167) million
Transfer to Reserve*	\$1.082 million
Net Cost to Council	\$5.196 million

**Note: Transfers to and from Reserve represent funds acquired in the current and/or prior financial years but are utilised or placed into reserve in the current financial year.*

20 Strategies - Net Budget Position:

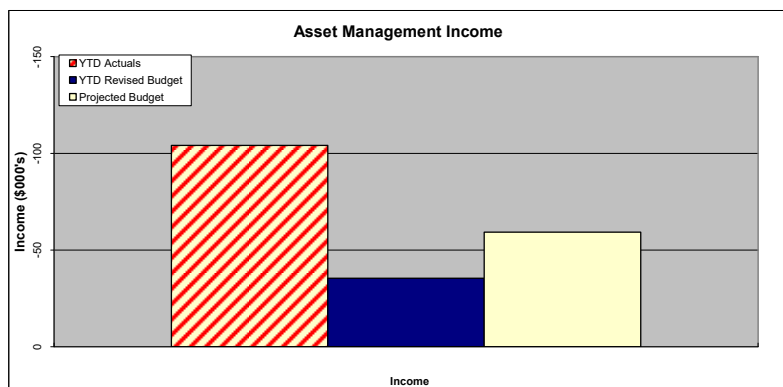
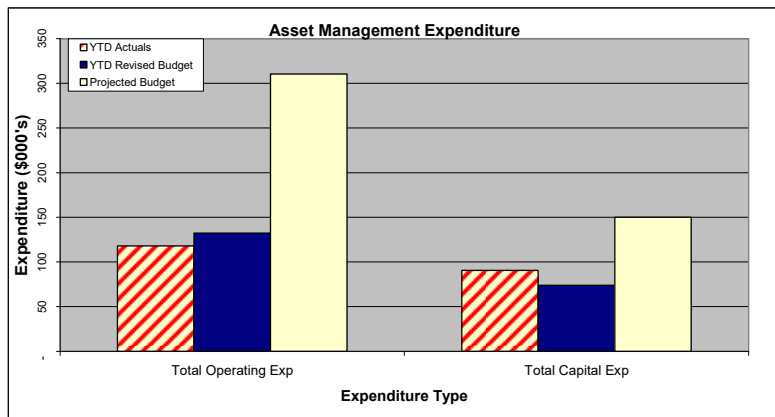
ASSET MANAGEMENT

STRATEGY

Asset Management Coordination

Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	77	88	177
Other Employee Costs	30	35	70
Materials and Contracts	1	1	1
Depreciation	0	0	0
Interest	0	0	0
Other Costs	10	9	63
Total Operating Exp	118	132	310
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	91	74	150
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	91	74	150
Income (Op & Cap)			
User Fees	(59)	0	0
Fees and Charges	0	0	0
Grant Transfers	(0)	0	(15)
Contributions	(44)	(34)	(43)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(1)	(1)	(1)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(104)	(35)	(59)
Transfers from Reserves	(0)	0	(9)
Transfers to Reserves	43	34	43
Net Cost* / (Income)	148	205	436

* Net Cost Funded By Rates



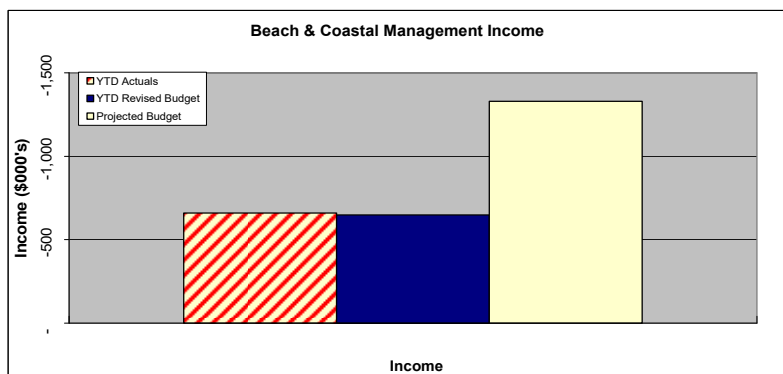
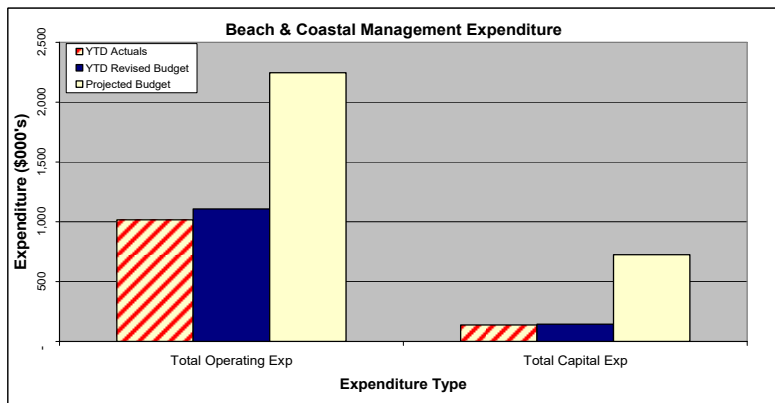
BEACH & COASTAL MANAGEMENT

STRATEGY

Beach & Coastal Management

Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	230	233	469
Other Employee Costs	79	84	169
Materials and Contracts	520	518	1,115
Depreciation	55	57	109
Interest	0	0	0
Other Costs	133	216	384
Total Operating Exp	1,016	1,107	2,245
Capital Expenditure			
Capital Asset Acquisitions	39	39	120
Capital Works Programs	99	105	605
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	138	144	724
Income (Op & Cap)			
User Fees	(520)	(538)	(1,077)
Fees and Charges	0	0	0
Grant Transfers	(50)	(36)	(157)
Contributions	(87)	(69)	(87)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(2)	(5)	(9)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(660)	(649)	(1,329)
Transfers from Reserves	(519)	(548)	(812)
Transfers to Reserves	173	149	239
Net Cost* / (Income)	148	204	1,067

* Net Cost Funded By Rates

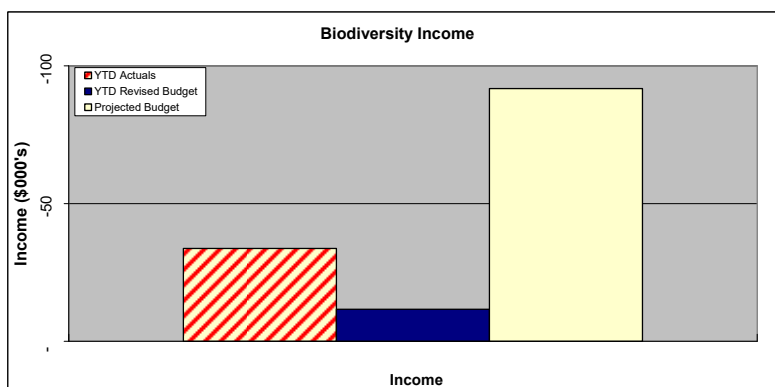
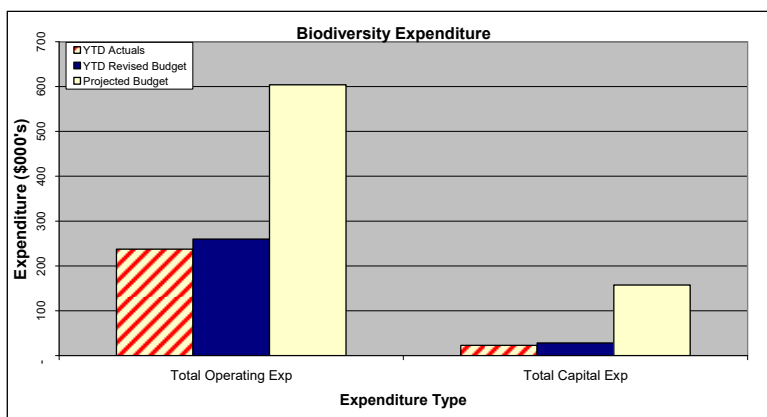


BIODIVERSITY

STRATEGY Biodiversity

Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	98	116	241
Other Employee Costs	35	41	84
Materials and Contracts	87	84	239
Depreciation	0	0	0
Interest	0	0	0
Other Costs	17	19	41
Total Operating Exp	237	260	604
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	23	28	157
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	23	28	157
Income (Op & Cap)			
User Fees	(0)	0	0
Fees and Charges	(5)	(5)	(9)
Grant Transfers	(6)	(3)	(78)
Contributions	(23)	(3)	(3)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	(0)	(1)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(34)	(12)	(92)
Transfers from Reserves	(23)	(20)	(166)
Transfers to Reserves	(0)	0	0
Net Cost* / (Income)	203	257	504

* Net Cost Funded By Rates

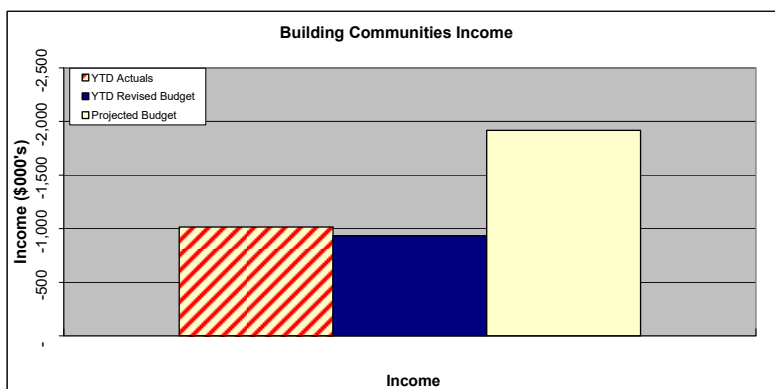
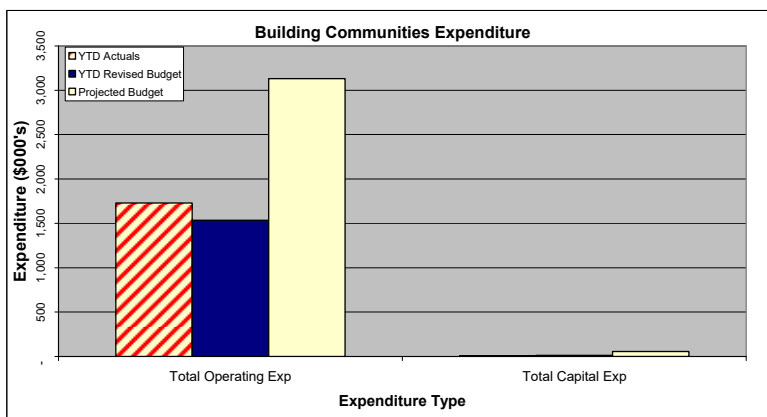


BUILDING COMMUNITIES

STRATEGY Building Communities

Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	950	860	1,748
Other Employee Costs	290	260	530
Materials and Contracts	141	95	205
Depreciation	1	1	2
Interest	1	1	2
Other Costs	347	320	644
Total Operating Exp	1,730	1,535	3,131
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	10	14	56
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	10	14	56
Income (Op & Cap)			
User Fees	(456)	(473)	(939)
Fees and Charges	(60)	(64)	(129)
Grant Transfers	(406)	(359)	(751)
Contributions	(81)	(34)	(87)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(12)	(5)	(10)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(1,016)	(936)	(1,916)
Transfers from Reserves	(55)	(57)	(40)
Transfers to Reserves	90	43	96
Net Cost* / (Income)	760	599	1,327

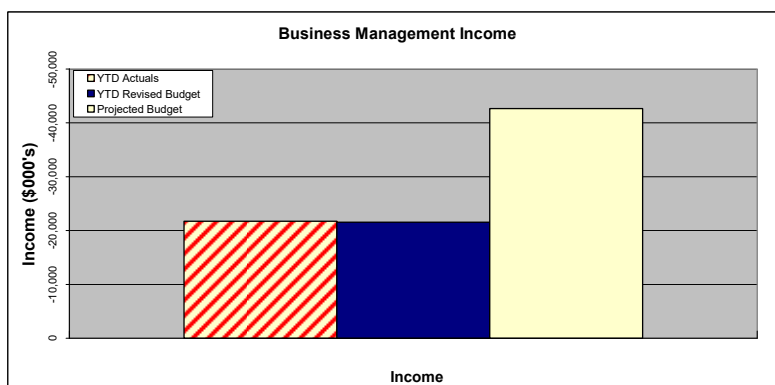
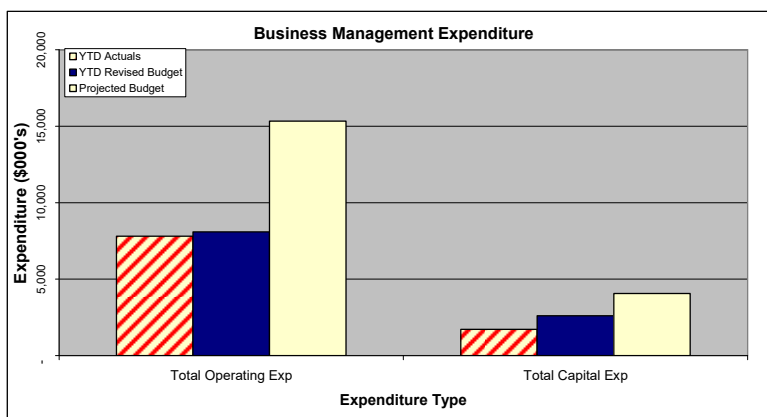
* Net Cost Funded By Rates



BUSINESS MANAGEMENT

STRATEGY Business Management			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	1,933	1,922	3,873
Other Employee Costs	810	828	1,702
Materials and Contracts	893	1,171	2,162
Depreciation	1,057	1,056	2,113
Interest	264	332	525
Other Costs	2,851	2,785	4,958
Total Operating Exp	7,807	8,095	15,333
Capital Expenditure			
Capital Asset Acquisitions	986	1,191	2,539
Capital Works Programs	321	999	700
Capital Material Public Benefits	0	0	0
Loan Repayments	417	417	824
Total Capital Exp	1,724	2,608	4,062
Income (Op & Cap)			
User Fees	(3,170)	(3,177)	(5,824)
Fees and Charges	(97)	(124)	(272)
Grant Transfers	(1,119)	(998)	(1,669)
Contributions	(47)	(34)	(140)
Rates Income	(15,533)	(15,617)	(31,827)
Domestic Waste Charge	0	0	0
Return on Investments & Other I	(741)	(655)	(1,210)
Other Income	(454)	(349)	(490)
Capital Assets Disposals	(549)	(596)	(1,239)
Total Income (Op & Cap)	(21,710)	(21,551)	(42,671)
Transfers from Reserves	(834)	(1,502)	(1,987)
Transfers to Reserves	1,305	1,108	4,476
Net Cost* / (Income)	(11,708)	(11,241)	(20,787)

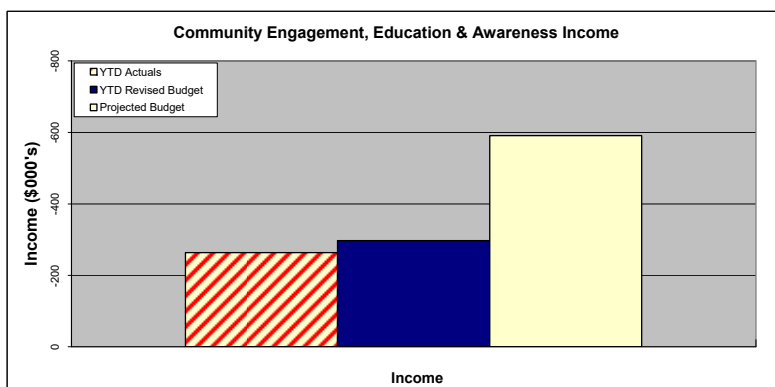
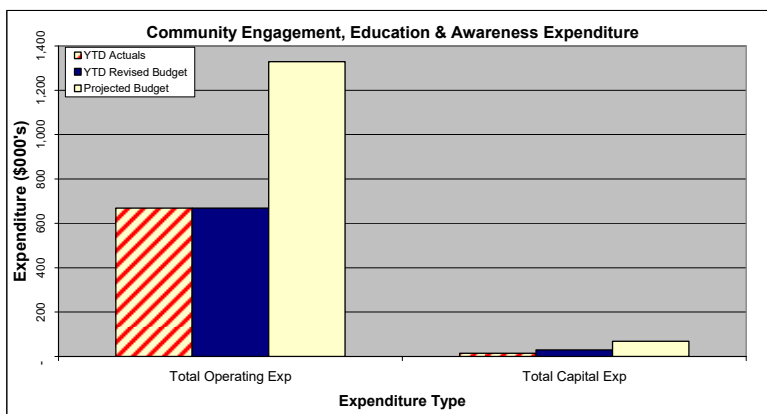
* Net Cost Funded By Rates



COMMUNITY ENGAGEMENT, EDUCATION & AWARENESS

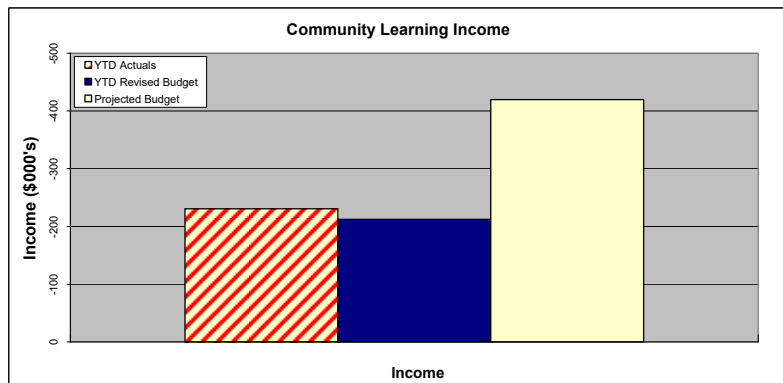
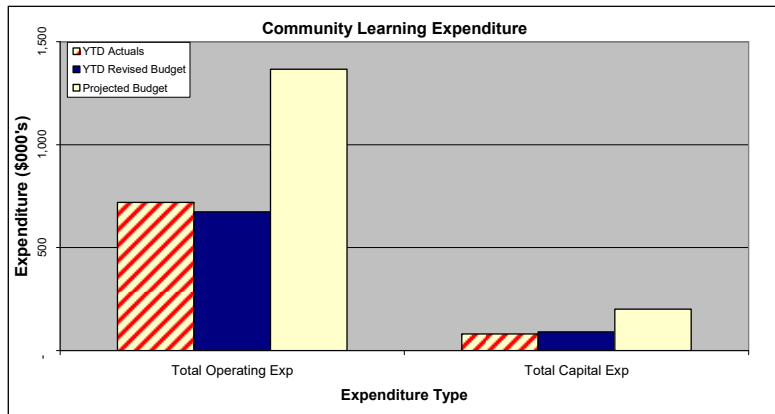
STRATEGY Community Engagement, Education & Awareness			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	248	236	478
Other Employee Costs	75	69	139
Materials and Contracts	166	90	171
Depreciation	0	0	0
Interest	8	8	15
Other Costs	171	265	525
Total Operating Exp	669	668	1,329
Capital Expenditure			
Capital Asset Acquisitions	4	15	36
Capital Works Programs	10	15	32
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	15	30	69
Income (Op & Cap)			
User Fees	(143)	(187)	(383)
Fees and Charges	(21)	(19)	(38)
Grant Transfers	(60)	(65)	(118)
Contributions	(34)	(20)	(41)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(6)	(6)	(12)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(264)	(297)	(591)
Transfers from Reserves	(0)	(9)	(48)
Transfers to Reserves	34	20	41
Net Cost* / (Income)	453	413	800

* Net Cost Funded By Rates



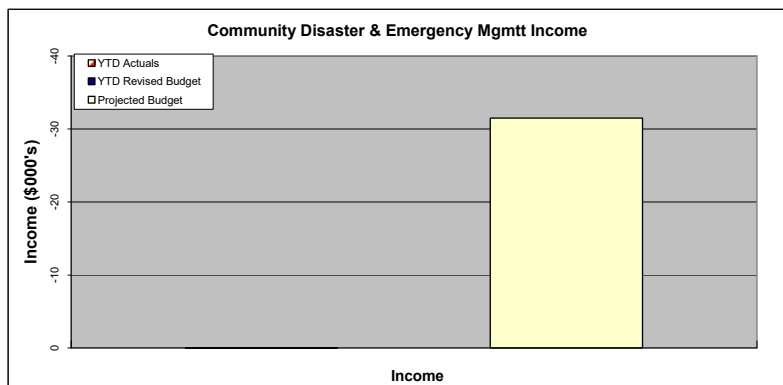
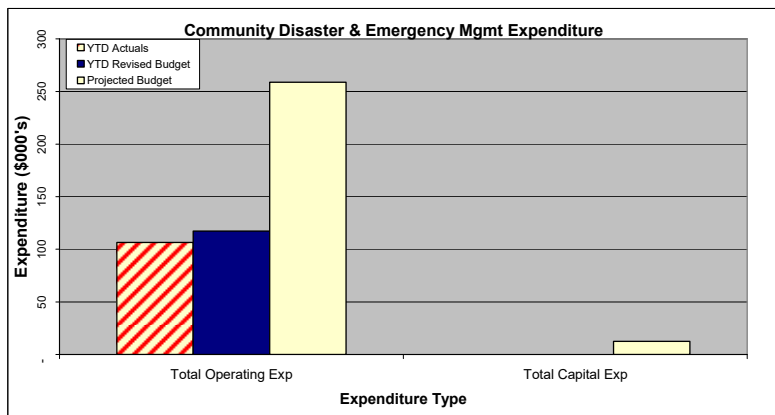
COMMUNITY LEARNING

STRATEGY Community Learning			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	373	346	703
Other Employee Costs	116	106	215
Materials and Contracts	66	57	114
Depreciation	78	78	156
Interest	0	0	1
Other Costs	87	86	176
Total Operating Exp	719	674	1,366
Capital Expenditure			
Capital Asset Acquisitions	80	90	186
Capital Works Programs	1	2	15
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	81	92	201
Income (Op & Cap)			
User Fees	(84)	(99)	(190)
Fees and Charges	(13)	(14)	(28)
Grant Transfers	(52)	(48)	(108)
Contributions	(81)	(52)	(95)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(231)	(212)	(420)
Transfers from Reserves	(154)	(159)	(352)
Transfers to Reserves	81	52	95
Net Cost* / (Income)	497	446	891
* Net Cost Funded By Rates			



COMMUNITY DISASTER & EMERGENCY MANAGEMENT

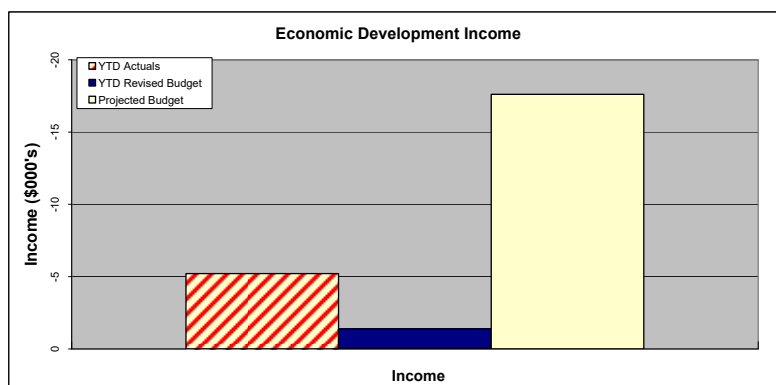
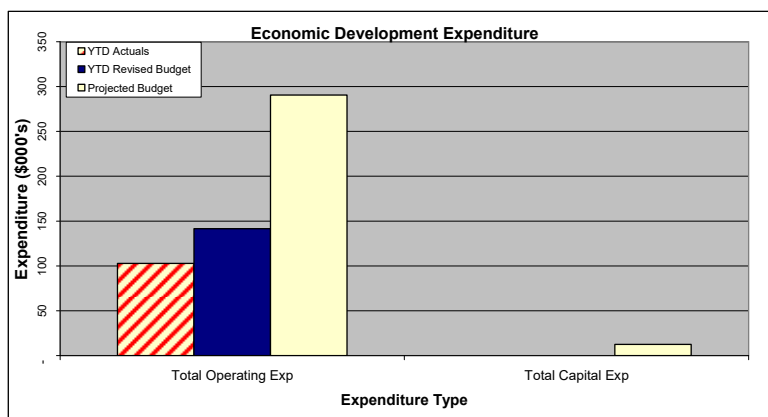
STRATEGY Community Disaster & Emergency Management			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	42	43	86
Other Employee Costs	13	16	31
Materials and Contracts	(3)	2	22
Depreciation	0	0	0
Interest	0	0	0
Other Costs	55	57	120
Total Operating Exp	107	117	259
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	0	0	12
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	0	0	12
Income (Op & Cap)			
User Fees	0	0	0
Fees and Charges	0	0	0
Grant Transfers	(0)	0	(31)
Contributions	0	0	0
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(0)	0	(31)
Transfers from Reserves	(60)	(64)	(9)
Transfers to Reserves	0	0	0
Net Cost* / (Income)	46	53	231
* Net Cost Funded By Rates			



ECONOMIC DEVELOPMENT

STRATEGY Economic Development			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	65	66	133
Other Employee Costs	21	21	42
Materials and Contracts	3	4	8
Depreciation	0	0	0
Interest	0	0	0
Other Costs	15	51	108
Total Operating Exp	103	142	291
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	0	0	12
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	0	0	12
Income (Op & Cap)			
User Fees	0	0	0
Fees and Charges	(5)	(1)	(3)
Grant Transfers	(0)	0	(15)
Contributions	0	0	0
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(5)	(1)	(18)
Transfers from Reserves	(0)	0	(9)
Transfers to Reserves	0	0	0
Net Cost* / (Income)	97	140	277

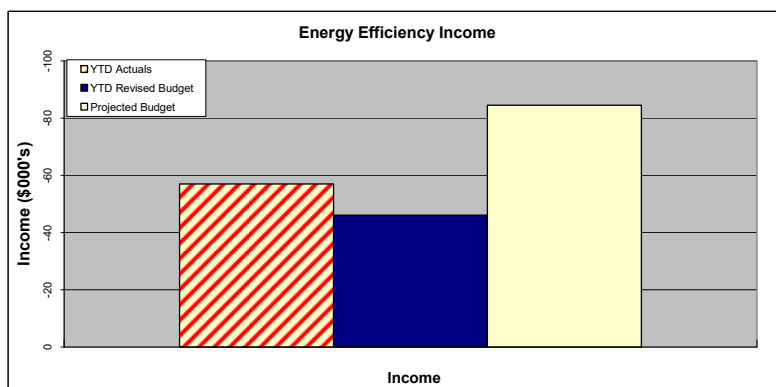
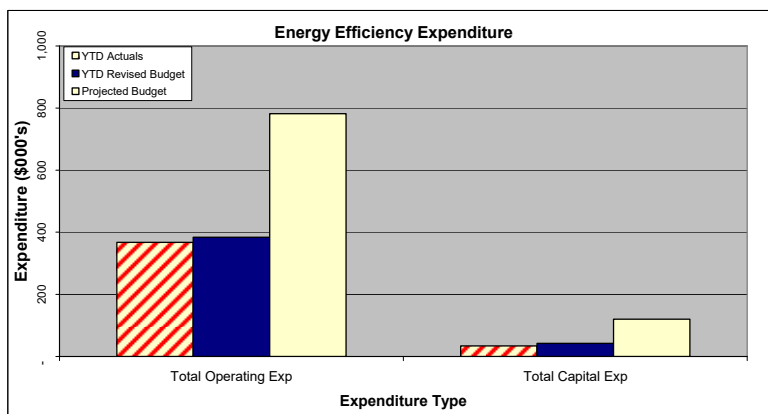
* Net Cost Funded By Rates



ENERGY EFFICIENCY

STRATEGY Energy Efficiency			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	93	106	214
Other Employee Costs	33	38	76
Materials and Contracts	37	43	84
Depreciation	81	80	161
Interest	0	0	0
Other Costs	124	116	246
Total Operating Exp	368	383	782
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	34	42	120
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	34	42	120
Income (Op & Cap)			
User Fees	(9)	(7)	(15)
Fees and Charges	(1)	(1)	(2)
Grant Transfers	(0)	(3)	(23)
Contributions	(46)	(34)	(43)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(1)	(1)	(1)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(57)	(46)	(85)
Transfers from Reserves	(27)	(26)	(235)
Transfers to Reserves	43	34	68
Net Cost* / (Income)	361	387	651

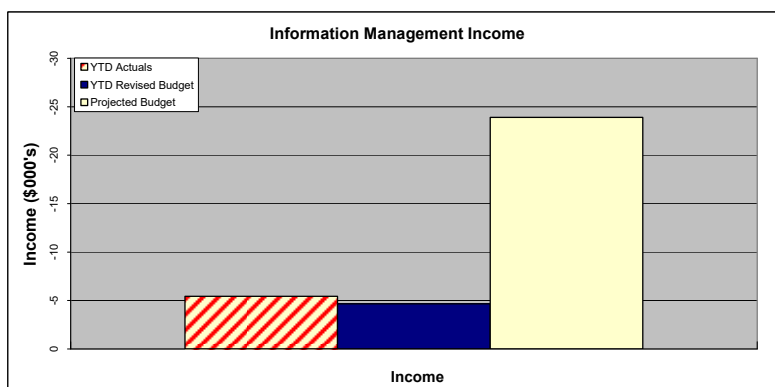
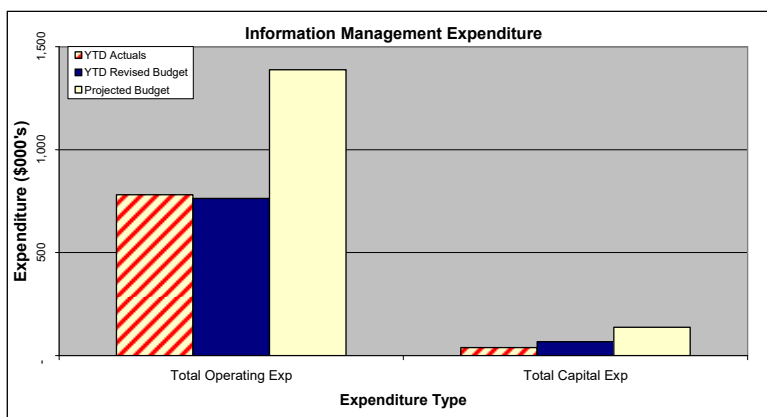
* Net Cost Funded By Rates



INFORMATION MANAGEMENT

STRATEGY Information Management			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	311	309	622
Other Employee Costs	98	93	190
Materials and Contracts	248	222	289
Depreciation	79	79	158
Interest	0	0	0
Other Costs	45	62	129
Total Operating Exp	781	764	1,388
Capital Expenditure			
Capital Asset Acquisitions	39	68	125
Capital Works Programs	0	0	12
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	39	68	138
Income (Op & Cap)			
User Fees	(5)	(4)	(9)
Fees and Charges	(0)	(0)	(1)
Grant Transfers	(0)	0	(15)
Contributions	0	0	0
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(5)	(5)	(24)
Transfers from Reserves	(117)	(147)	(292)
Transfers to Reserves	0	0	0
Net Cost* / (Income)	698	680	1,210

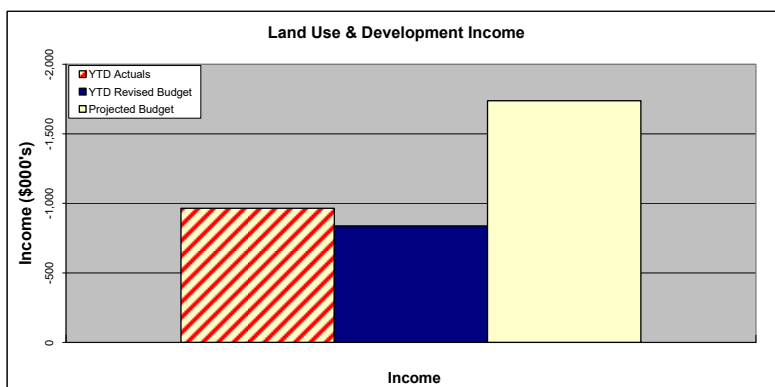
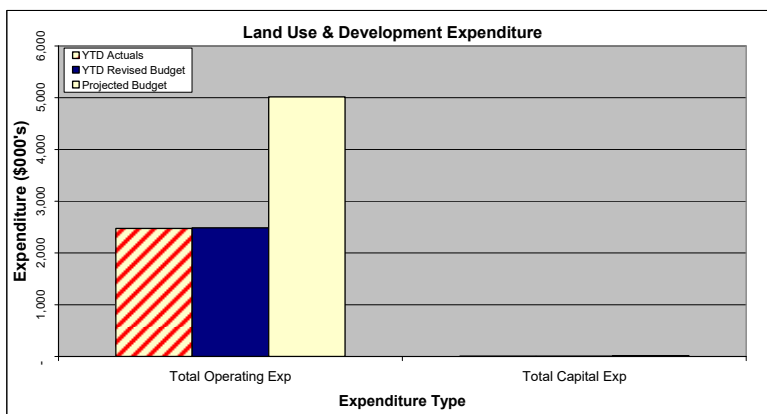
* Net Cost Funded By Rates



LAND USE & DEVELOPMENT

STRATEGY Land Use & Development			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	1,316	1,351	2,722
Other Employee Costs	397	401	809
Materials and Contracts	60	46	101
Depreciation	19	19	39
Interest	0	0	0
Other Costs	682	667	1,343
Total Operating Exp	2,474	2,485	5,014
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	2	2	16
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	2	2	16
Income (Op & Cap)			
User Fees	(120)	(83)	(165)
Fees and Charges	(756)	(721)	(1,418)
Grant Transfers	(2)	(4)	(41)
Contributions	(24)	0	(47)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(61)	(30)	(66)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(964)	(838)	(1,738)
Transfers from Reserves	(0)	(0)	(10)
Transfers to Reserves	24	4	55
Net Cost* / (Income)	1,536	1,653	3,338

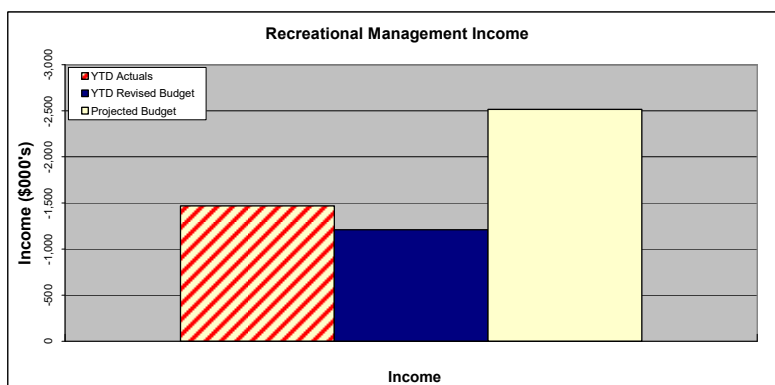
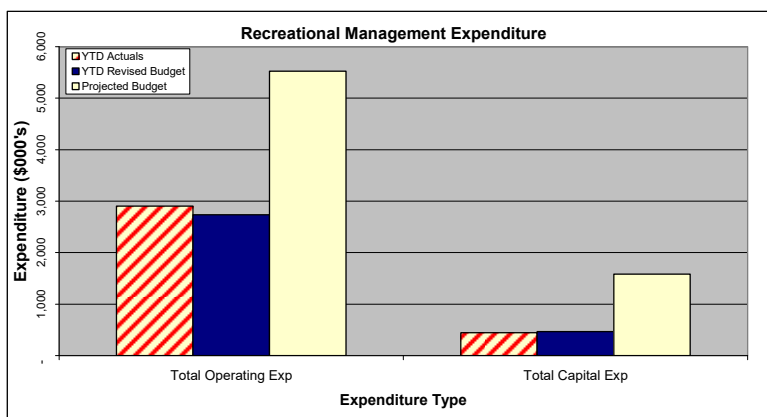
* Net Cost Funded By Rates



RECREATIONAL MANAGEMENT

STRATEGY Recreational Management			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	1,048	1,069	2,160
Other Employee Costs	400	410	827
Materials and Contracts	741	552	1,129
Depreciation	458	460	915
Interest	0	0	0
Other Costs	257	245	493
Total Operating Exp	2,904	2,737	5,524
Capital Expenditure			
Capital Asset Acquisitions	60	74	162
Capital Works Programs	385	393	1,419
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	445	467	1,580
Income (Op & Cap)			
User Fees	(728)	(627)	(1,258)
Fees and Charges	(205)	(222)	(445)
Grant Transfers	(223)	(124)	(448)
Contributions	(290)	(227)	(347)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(21)	(11)	(17)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(1,467)	(1,211)	(2,515)
Transfers from Reserves	(779)	(697)	(1,898)
Transfers to Reserves	362	311	446
Net Cost* / (Income)	1,465	1,606	3,138

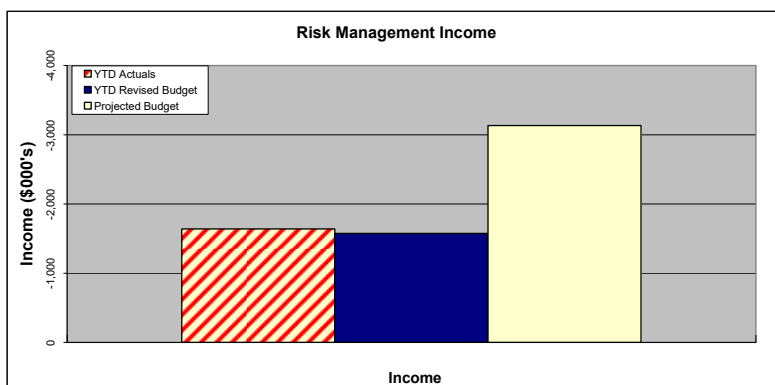
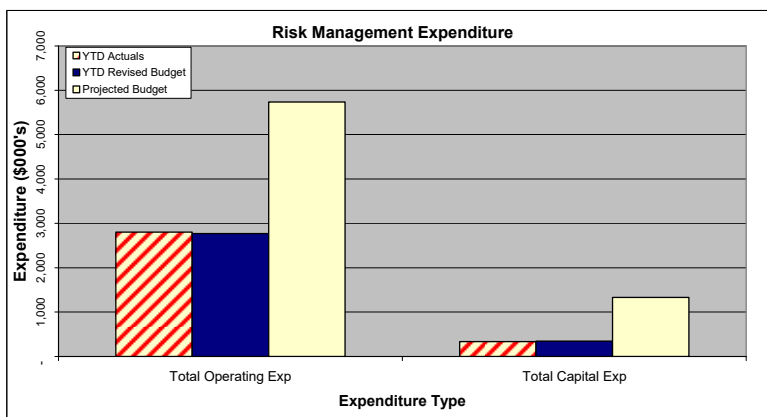
* Net Cost Funded By Rates



RISK MANAGEMENT

STRATEGY Risk Management			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	870	955	1,934
Other Employee Costs	322	350	708
Materials and Contracts	550	461	1,067
Depreciation	226	226	452
Interest	0	0	0
Other Costs	835	779	1,576
Total Operating Exp	2,802	2,771	5,737
Capital Expenditure			
Capital Asset Acquisitions	2	2	3
Capital Works Programs	332	346	1,327
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	334	348	1,330
Income (Op & Cap)			
User Fees	(231)	(191)	(332)
Fees and Charges	(581)	(685)	(1,371)
Grant Transfers	(169)	(176)	(685)
Contributions	(442)	(327)	(529)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(215)	(195)	(215)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(1,638)	(1,574)	(3,132)
Transfers from Reserves	(205)	(201)	(1,117)
Transfers to Reserves	367	301	508
Net Cost* / (Income)	1,661	1,645	3,325

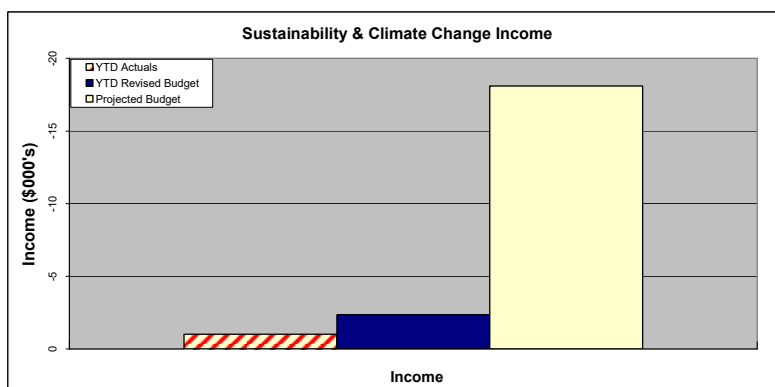
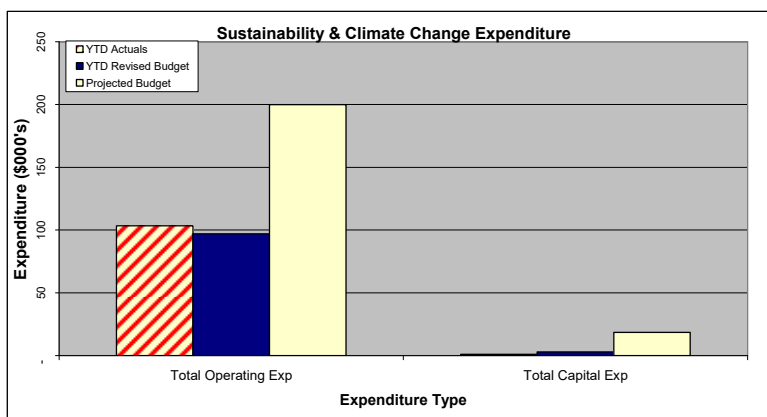
* Net Cost Funded By Rates



SUSTAINABILITY & CLIMATE CHANGE COORDINATION

STRATEGY Sustainability & Climate Change Coordination			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	65	60	121
Other Employee Costs	21	19	38
Materials and Contracts	5	3	5
Depreciation	0	0	0
Interest	0	0	0
Other Costs	13	15	36
Total Operating Exp	103	97	200
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	1	3	18
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	1	3	18
Income (Op & Cap)			
User Fees	0	0	0
Fees and Charges	(1)	(1)	(2)
Grant Transfers	(0)	(2)	(17)
Contributions	0	0	0
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(1)	(2)	(18)
Transfers from Reserves	(0)	(0)	(9)
Transfers to Reserves	0	0	0
Net Cost* / (Income)	103	97	191

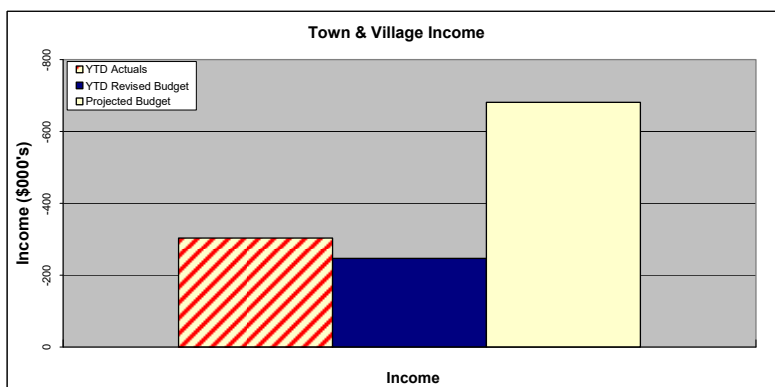
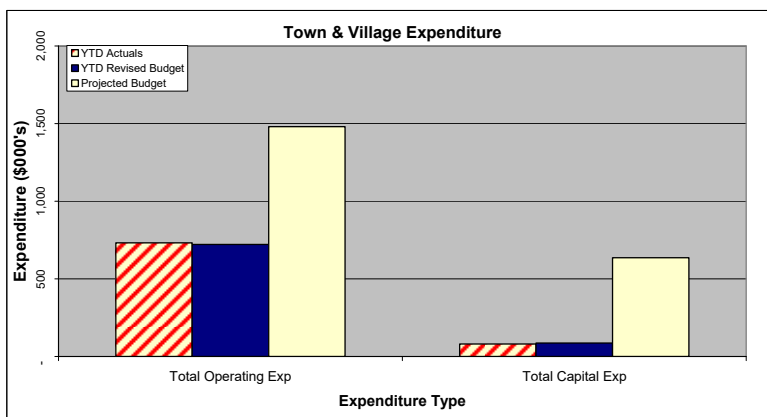
* Net Cost Funded By Rates



TOWN & VILLAGE

STRATEGY Town & Village			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	383	398	803
Other Employee Costs	151	159	320
Materials and Contracts	65	42	107
Depreciation	30	29	59
Interest	0	0	0
Other Costs	103	93	192
Total Operating Exp	732	722	1,481
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	81	87	636
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	81	87	636
Income (Op & Cap)			
User Fees	(105)	(68)	(136)
Fees and Charges	(21)	(17)	(35)
Grant Transfers	(20)	(37)	(292)
Contributions	(154)	(121)	(214)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(4)	(3)	(3)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(303)	(247)	(681)
Transfers from Reserves	(72)	(95)	(394)
Transfers to Reserves	230	164	307
Net Cost* / (Income)	669	630	1,349

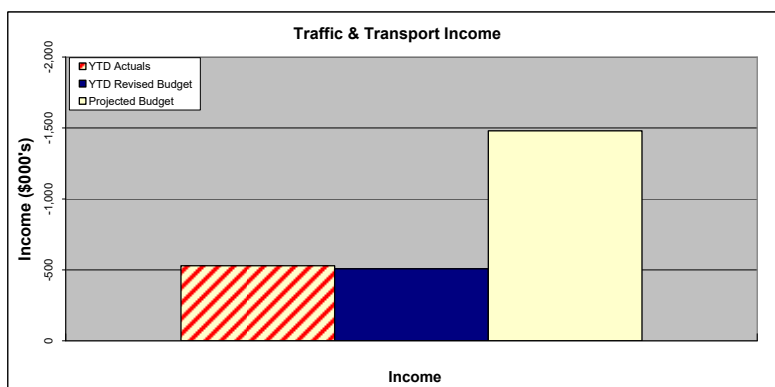
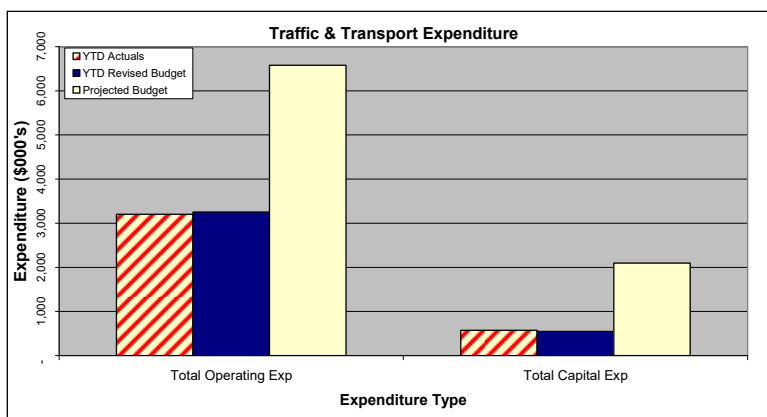
* Net Cost Funded By Rates



TRAFFIC & TRANSPORT

STRATEGY Transport & Traffic			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	533	611	1,231
Other Employee Costs	217	250	503
Materials and Contracts	185	172	373
Depreciation	1,963	1,963	3,927
Interest	0	0	0
Other Costs	304	259	542
Total Operating Exp	3,202	3,255	6,577
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	576	550	2,096
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	576	550	2,096
Income (Op & Cap)			
User Fees	(72)	(61)	(86)
Fees and Charges	(101)	(88)	(177)
Grant Transfers	(113)	(181)	(816)
Contributions	(238)	(175)	(400)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(5)	(2)	(2)
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(529)	(508)	(1,480)
Transfers from Reserves	(2,886)	(2,947)	(6,464)
Transfers to Reserves	102	88	252
Net Cost* / (Income)	465	439	981

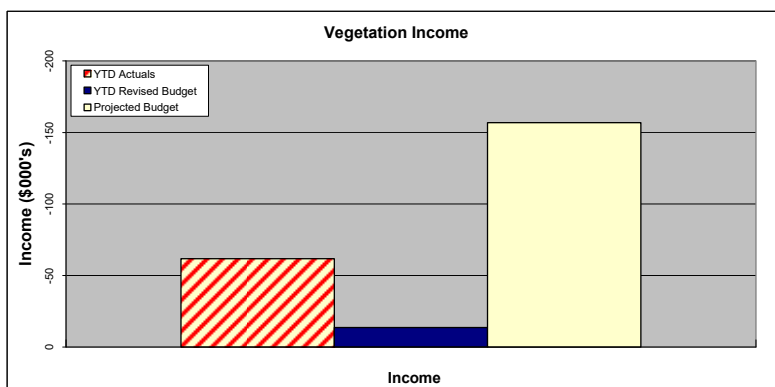
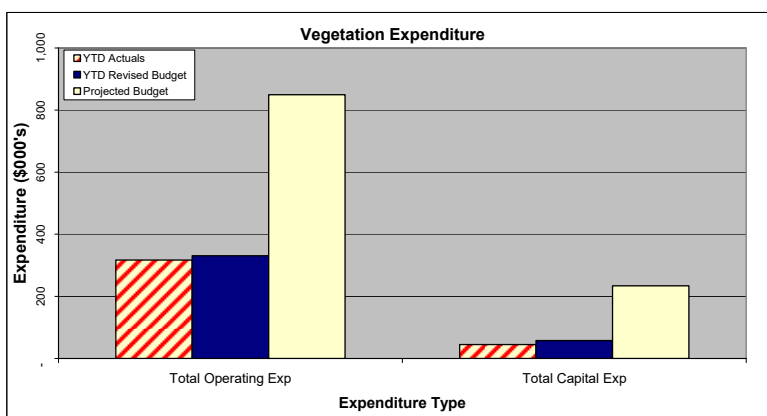
* Net Cost Funded By Rates



VEGETATION

STRATEGY Vegetation			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	106	127	271
Other Employee Costs	41	48	102
Materials and Contracts	155	135	437
Depreciation	0	0	0
Interest	0	0	0
Other Costs	15	20	39
Total Operating Exp	317	331	849
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	45	58	234
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	45	58	234
Income (Op & Cap)			
User Fees	(0)	0	0
Fees and Charges	(4)	(4)	(8)
Grant Transfers	(0)	(2)	(141)
Contributions	(58)	(8)	(8)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(0)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(62)	(14)	(157)
Transfers from Reserves	(65)	(51)	(280)
Transfers to Reserves	2	2	3
Net Cost* / (Income)	237	325	649

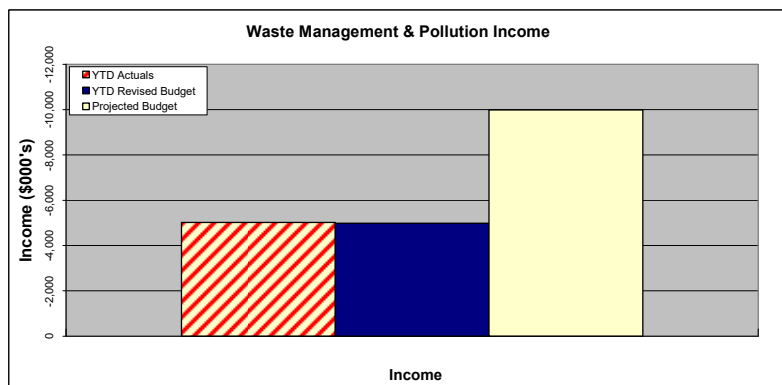
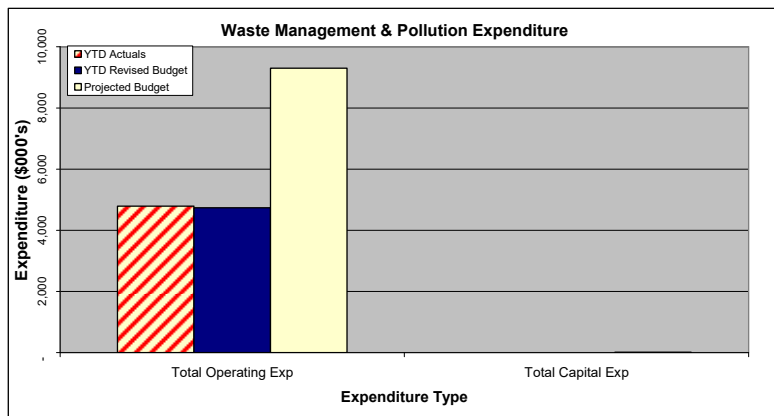
* Net Cost Funded By Rates



WASTE MANAGEMENT & POLLUTION CONTROL

STRATEGY Waste Management & Pollution Control			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	315	261	526
Other Employee Costs	98	84	170
Materials and Contracts	2,440	2,513	5,028
Depreciation	2	2	4
Interest	0	0	0
Other Costs	1,936	1,880	3,570
Total Operating Exp	4,791	4,740	9,297
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	0	0	12
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	0	0	12
Income (Op & Cap)			
User Fees	(0)	0	(0)
Fees and Charges	(68)	(61)	(123)
Grant Transfers	(0)	0	(15)
Contributions	0	0	0
Rates Income	0	0	0
Domestic Waste Charge	(4,948)	(4,923)	(9,849)
Return on Investments & Other I	0	0	0
Other Income	(4)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(5,020)	(4,984)	(9,986)
Transfers from Reserves	(0)	0	(9)
Transfers to Reserves	0	0	504
Net Cost* / (Income)	(228)	(244)	(181)

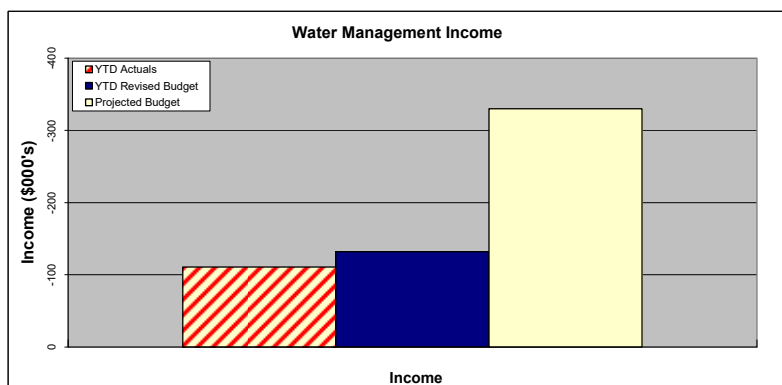
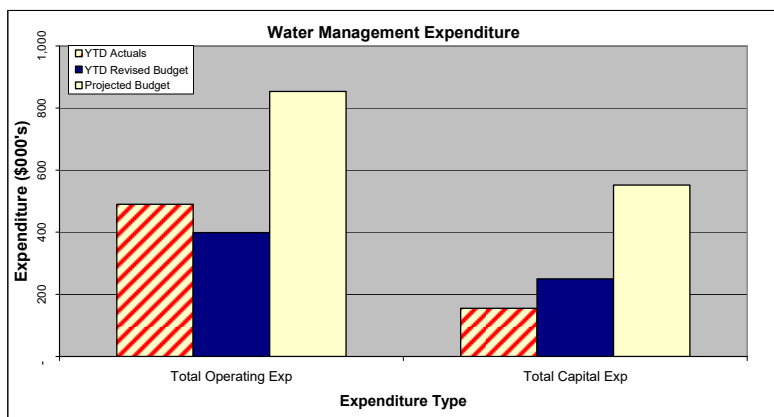
* Net Cost Funded By Rates



WATER MANAGEMENT

STRATEGY Water Management			
Operating Expenditure	YTD Actuals -\$000's	YTD Revised Budget -\$000's	Total Projected Budget -\$000's
Salaries and Wages	203	184	372
Other Employee Costs	72	61	123
Materials and Contracts	62	33	88
Depreciation	18	18	36
Interest	0	0	0
Other Costs	136	102	235
Total Operating Exp	490	398	853
Capital Expenditure			
Capital Asset Acquisitions	0	0	0
Capital Works Programs	155	250	552
Capital Material Public Benefits	0	0	0
Loan Repayments	0	0	0
Total Capital Exp	155	250	552
Income (Op & Cap)			
User Fees	(5)	(23)	(46)
Fees and Charges	(91)	(96)	(193)
Grant Transfers	(12)	(12)	(68)
Contributions	0	0	(23)
Rates Income	0	0	0
Domestic Waste Charge	0	0	0
Return on Investments & Other I	0	0	0
Other Income	(2)	0	0
Capital Assets Disposals	0	0	0
Total Income (Op & Cap)	(111)	(132)	(330)
Transfers from Reserves	(146)	(256)	(571)
Transfers to Reserves	0	0	23
Net Cost* / (Income)	389	260	527

* Net Cost Funded By Rates



4.0 EXECUTIVE SUMMARY

4.1 In providing the Council with the financial results for the period ending 31 December 2010 the following information should be noted:

- The Projected Consolidated financial result as at 31 December 2010 is an increase on Council funds of \$79,000. Compared to the previously adopted budget of \$65,000 this amounts to a decrease of \$14,000.
- The Projected Operating result before capital as at 31 December 2010 is a surplus of \$160,000. Compared to the previously adopted budget of \$150,000 surplus this amounts to a increase of \$10,000.
- The Major Projects Program budget stands at \$8.526 million for 2010/11. Compared to the previously adopted budget figure of \$8.987 million this amounts to a decrease of \$461,000.
- The Projected cash and investment position at 30 June 2011 is \$20.629 million. Compared to the previously adopted budget figure of \$20.524 million this amounts to a increase of \$105,000.

RECOMMENDATION

1. That the financial results for the period ending 31 December 2010 be noted.
2. That the Projected Budget incorporating all amendments as detailed in this report be adopted.

Report prepared by
Myles Thana, Management Accountant

Mark Jones
CHIEF FINANCIAL OFFICER

C10.2 Investment Balances for the months of December 2010 and January 2011

Meeting: Governance Committee

Date: 21 February 2011

STRATEGY: Business Management

ACTION: To Provide Effective Investment of Council's Funds

PURPOSE OF REPORT

To advise on the status of Council's Investment Balances for the months of December 2010 and January 2011.

1.0 BACKGROUND

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

2.0 ISSUES

2.1 MONTHLY RETURNS

Investment return for the month of December 2010.

Term deposits interest income:	\$	138,964
Tradable CDO/FRNs interest income:	\$	30,345
Tradable CDO/FRNs capital movement:	\$	<u>(40,525)</u>
Net investment income for the month of December 2010	\$	128,784

Investment return for the month of January 2011.

Term deposits interest income:	\$	132,152
Tradable CDO/FRNs interest income:	\$	0
Tradable CDO/FRNs capital movement:	\$	<u>32,703</u>
Net investment income for the month of January 2011	\$	164,855

YEAR TO DATE RETURN

Investment return year to date January 2011.

Term deposits interest income:	\$	815,406
Tradable CDO/FRNs interest income:	\$	88,100
Tradable CDO/FRNs capital movement:	\$	<u>(60,936)</u>
Net investment return year to date:	\$	842,570

Projected investment return budget for financial year.	\$	1,080,000
--------------------------------------------------------	----	-----------

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

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

Year to	Net Return	Return on average funds invested
June 2007	\$1,221,246	6.6%
June 2008	\$ 594,815	2.3%
June 2009	\$ 534,575	2.4%
June 2010	\$1,364,315	6.1%
January 2011	\$ 842,570	5.6%
Projected Budget	\$1,080,000	5.5%

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

RESPONSIBLE ACCOUNTING OFFICER CERTIFICATION

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

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

3.1.1 The Report will have no impact on this strategy

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 The Report will have no impact on this strategy

3.3 Enhancing our Working & Learning (Economic)

3.3.1 The Report will have no impact on this strategy

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 The Report will have no impact on this strategy

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 The Report will have no impact on this strategy

4.0 EXECUTIVE SUMMARY

4.1 The net investment return as at 31 January 2011 is a gain of \$ 842,570

RECOMMENDATION

That the information provided in the report be noted, including the year to date (January) net investment return of \$ 842,570.

Report prepared by
David Miller, Project Accountant

Mark Jones
CHIEF FINANCIAL OFFICER

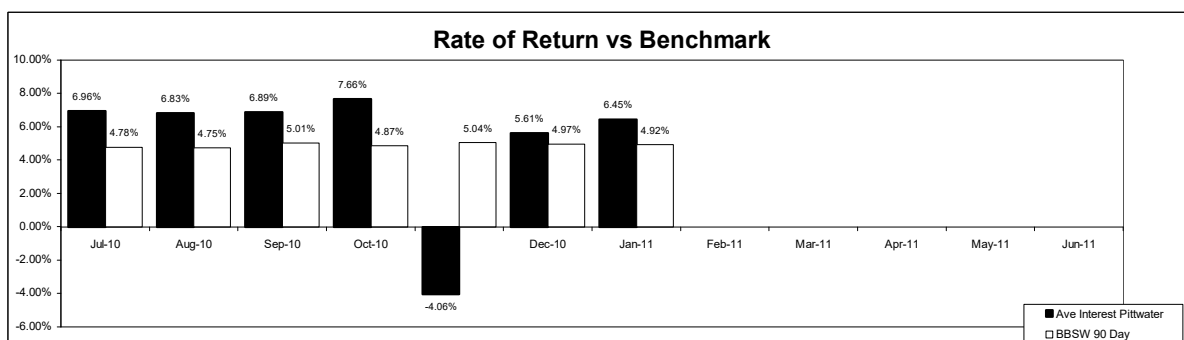
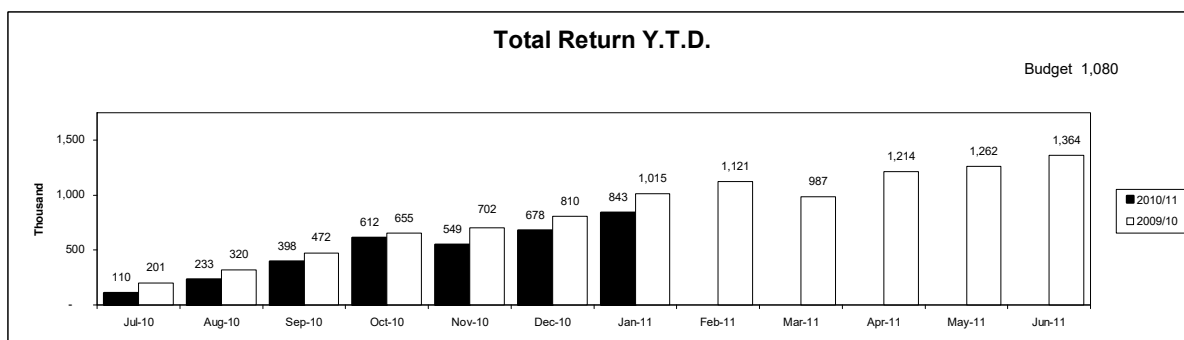
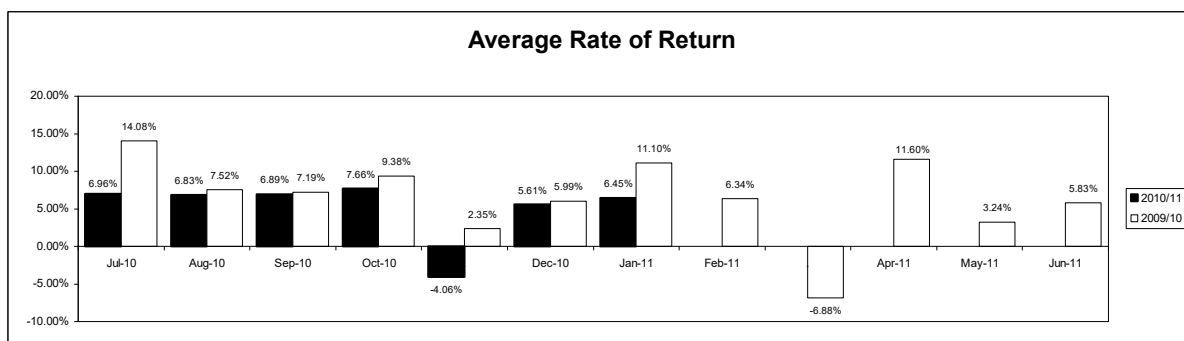
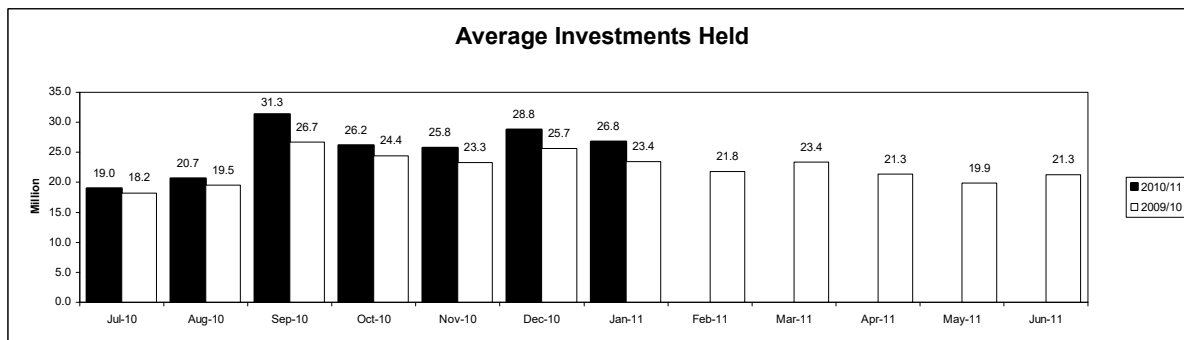
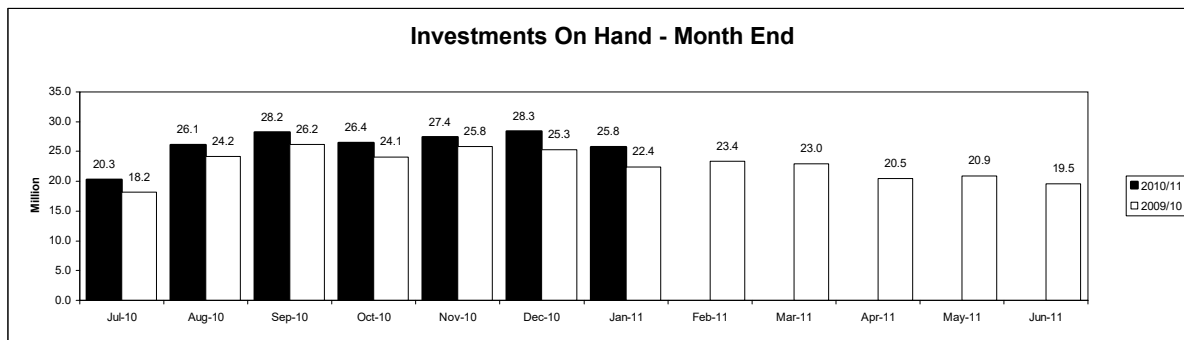


PITTWATER COUNCIL

INVESTMENT BALANCES

As at 31st January 2011

TYPE	INSTITUTION	Rating	AMOUNT \$	DATE INVESTED	MATURITY DATE	TERM (DAYS)	INTEREST RATE
At Call	CBA	AA	25,000.00	At Call	At Call	1	4.70%
At Call Total			25,000.00				
Term Dep	IMB Society	BBB	1,000,000.00	19-Aug-10	15-Feb-11	180	6.20%
Term Dep	IMB Society	BBB	1,000,000.00	2-Sep-10	2-Mar-11	181	6.07%
Term Dep	IMB Society	BBB	1,000,000.00	22-Nov-10	23-May-11	182	6.20%
Term Dep	IMB Society	BBB	1,000,000.00	10-Jan-11	11-Jul-11	182	6.20%
Term Dep	IMB Society	BBB	750,000.00	28-Jan-11	30-Jan-12	367	6.30%
Investee Total			4,750,000.00				
Term Dep	Metway	A+	1,000,000.00	4-Aug-10	2-Feb-11	182	6.35%
Term Dep	Metway	A+	1,000,000.00	3-Aug-10	3-Feb-11	184	6.08%
Term Dep	Metway	A+	1,000,000.00	31-Aug-10	28-Feb-11	181	5.96%
Term Dep	Metway	A+	1,000,000.00	10-Nov-10	11-Apr-11	152	6.05%
Term Dep	Metway	A+	1,000,000.00	3-Nov-10	2-May-11	180	6.02%
Term Dep	Metway	A+	1,000,000.00	1-Dec-10	30-May-11	180	6.12%
Term Dep	Metway	A+	1,000,000.00	2-Dec-10	31-May-11	180	6.12%
Investee Total			7,000,000.00				
Term Dep	Bankwest	AA	1,000,000.00	10-Aug-10	10-Feb-11	184	6.15%
Term Dep	Bankwest	AA	1,000,000.00	24-Aug-10	21-Feb-11	181	6.05%
Term Dep	Bankwest	AA	1,000,000.00	16-Mar-10	16-Mar-11	365	6.25%
Investee Total			3,000,000.00				
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	4-Jan-11	4-Apr-11	90	6.00%
Term Dep	Newcastle Permanent	BBB+	500,000.00	27-Jul-10	21-Apr-11	268	6.10%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	24-Aug-10	23-May-11	272	6.10%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	16-Nov-10	15-Aug-11	272	6.10%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	2-Dec-10	29-Aug-11	270	6.15%
Term Dep	Newcastle Permanent	BBB+	1,000,000.00	1-Dec-10	1-Dec-11	365	6.25%
Investee Total			5,500,000.00				
Term Dep	ING Bank	A+	1,000,000.00	30-Nov-10	30-May-11	181	6.15%
Term Dep	ING Bank	A+	1,000,000.00	14-Sep-10	14-Sep-11	365	6.08%
Investee Total			2,000,000.00				
Term Dep	CBA	AA	1,000,000.00	4-Jan-11	3-Feb-11	30	5.53%
Term Dep	CBA	AA	1,000,000.00	31-Jan-11	2-Mar-11	30	5.32%
Investee Total			2,000,000.00				
Longreach Capital Markets							
Portfolio Manager							
Structured Note	Citigroup (see investment information)	A+	500,000.00	28-Jun-07	28-Jun-14		0.00%
Investee Total			500,000.00				
Floating Rate Note	HSBC	AA	500,335.00	06-Feb-07	22-Sep-11		bbsw + 0.28%
* Arranging Institution							
Floating Rate CDO	* Lehman Bros	under review	126,000.00	07-Apr-08	20-Mar-13		suspended
Floating Rate CDO	* J P Morgan	CCC-	2,810.00	06-Jul-06	20-Jun-13		bbsw + 1.20%
Floating Rate CDO	* HSBC	CCC-	1,110.40	09-Nov-05	22-Jun-13		bbsw + 1.40%
Floating Rate CDO	* J P Morgan	CCC	138,550.00	13-Oct-05	20-Mar-14		bbsw + 1.00%
Floating Rate CDO	* Merrill Lynch	CCC-	18,723.00	25-Feb-07	23-Jun-14		bbsw + 1.30%
Floating Rate CDO	* Lehman Bros	under review	178,000.00	20-Mar-07	20-Sep-14		suspended
Floating Rate CDO	* Morgan Stanley	CCC-	37,555.00	15-Aug-06	20-Jun-15		bbsw + 2.00%
Investee Total			1,003,083.40				
				January bbsw close		4.92%	
TOTAL INVESTMENTS			\$25,778,083.40				



Investment Information:

Types of Investments

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

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

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

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

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

Credit Rating Information

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

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

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

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

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

Note:

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

Current market value of this structured product is: - Longreach Structured Note \$438,080

C10.3 Legal Expenditure as at 31 January 2011

Meeting: Governance Committee **Date:** 21st February 2011

STRATEGY: Business Management

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

PURPOSE OF REPORT

To advise on the status of Council's Legal Expenditure for the period ending 31 January 2011.

1.0 BACKGROUND

- 1.1 In providing Council with an accurate picture of Pittwater's Legal Expenditure, current data and a graphical representation of Council's Legal Expenditure are presented (**see Attachment 1**).

2.0 ISSUES

- 2.1 Gross Annual Legal Budget for 2010/11: \$ 1,000,000

Gross Legal Expenditure Breakdown:

- Total Solicitor Fees at 31/1/11: \$ 345,563
- Total Other Associated Expenditure at 31/1/11: \$ 189,673

Total Gross Legal Expenditure at 31/1/11: \$ 535,236

Year to Date Budget for Legal Expenses at 31/1/11: \$ 583,101

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The Report will have no impact on this strategy

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 The Report will have no impact on this strategy

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 The Report will have no impact on this strategy

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The Report will have no impact on this strategy

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 The Report will have no impact on this strategy

4.0 EXECUTIVE SUMMARY

4.1 The Gross Legal Expenditure to 31 January 2011 is \$535,236 which is lower than the Year to Date Budget for 2010/11.

RECOMMENDATION

That the information provided in the report be noted.

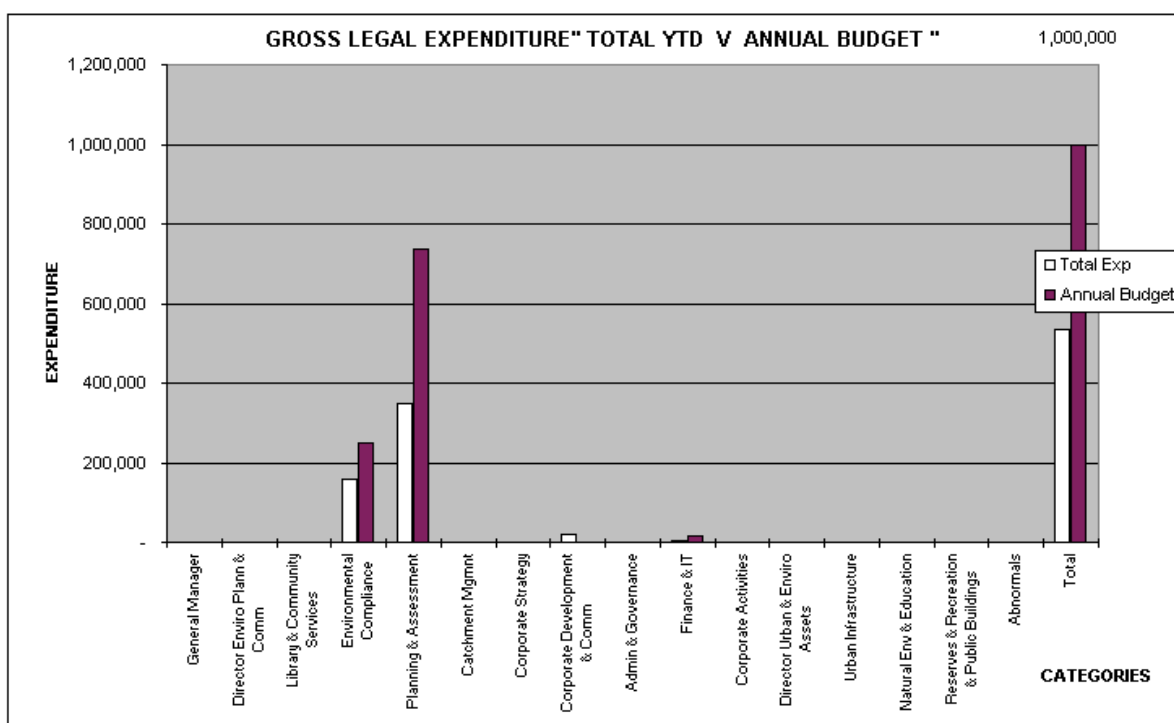
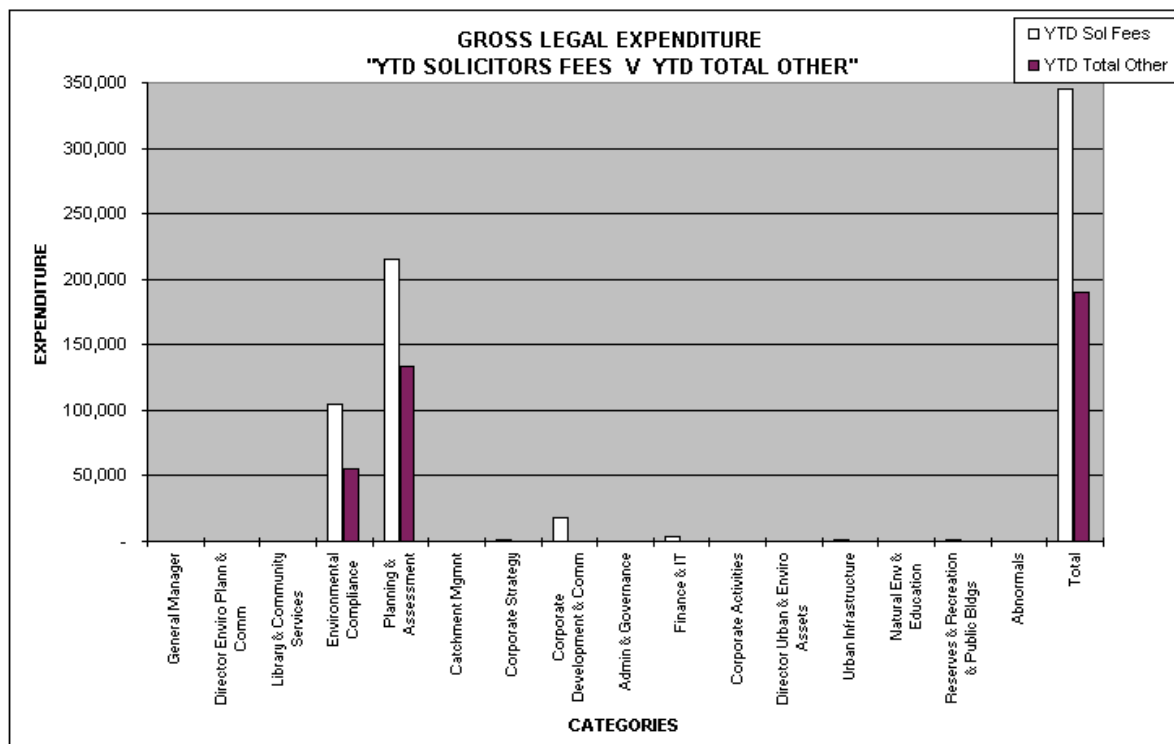
Report prepared by
Renaë Wilde, Senior Project Accountant

Mark Jones
CHIEF FINANCIAL OFFICER

LEGAL EXPENDITURE TOTALS AND GRAPHICAL REPRESENTATION

as at 31st January 2011

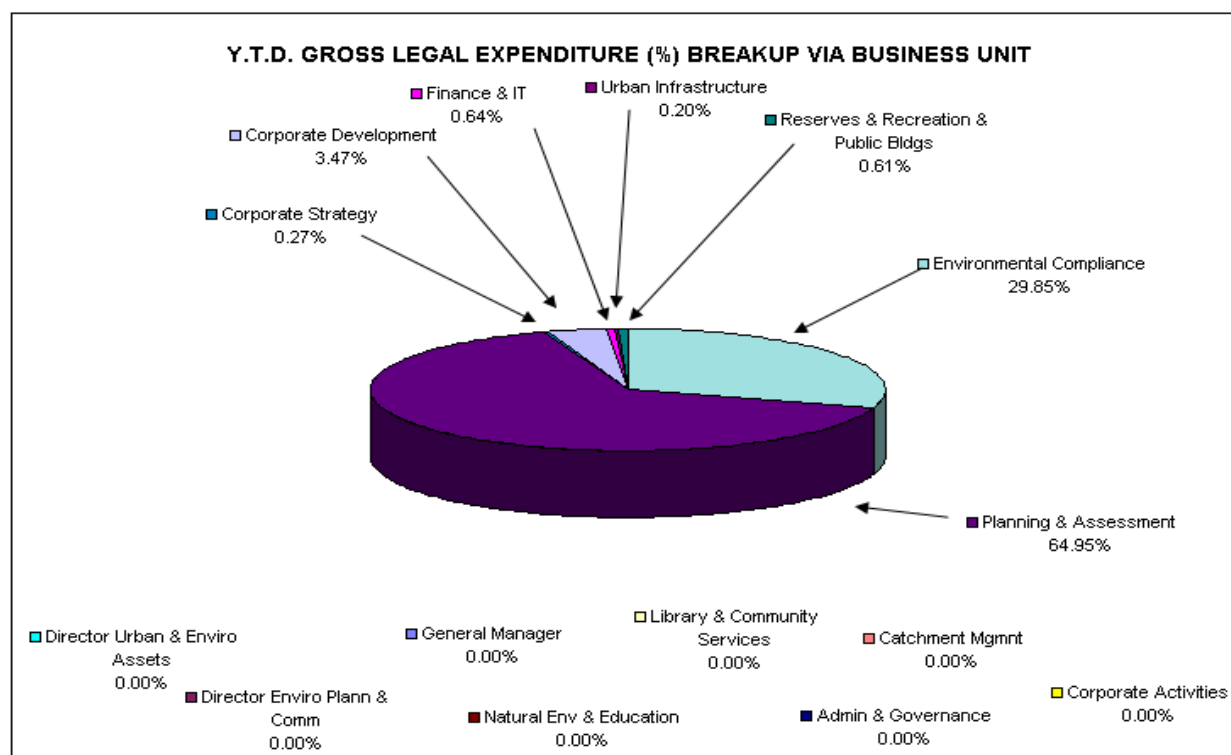
Solicitors Other Expenditure	Solicitors Fees Expenditure	Third Party Expenditure	Total Expenditure	Current Year Budget	Current Year Inc/Recov/Reversal
22,097	345,563	167,576	535,236	1,000,000	156,935



LEGAL EXPENDITURE **TOTALS AND GRAPHICAL REPRESENTATION**

as at 31st January 2011

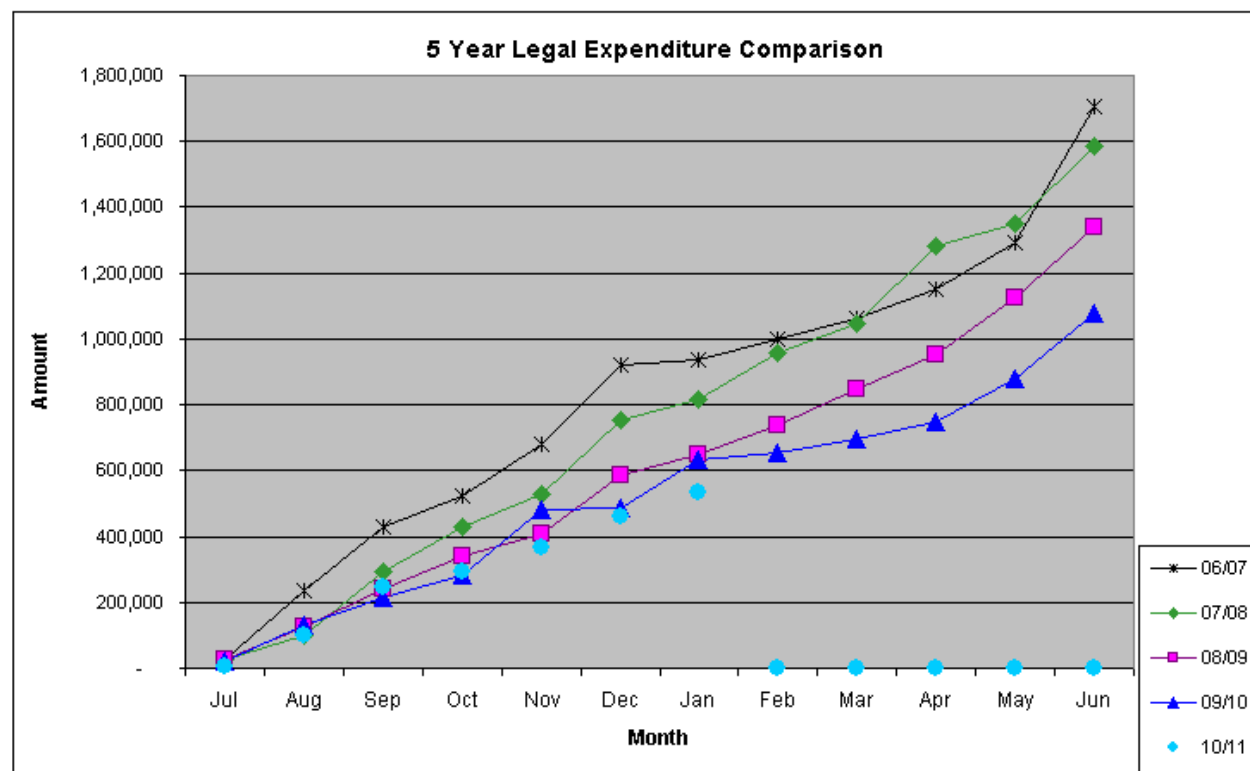
Solicitors Other Expenditure	Solicitors Fees Expenditure	Third Party Expenditure	Total Expenditure	Current Year Budget	Current Year Inc/Recov/Reversal
22,097	345,563	167,576	535,236	1,000,000	156,935



LEGAL EXPENDITURE **TOTALS AND GRAPHICAL REPRESENTATION**

as at 31st January 2011

Solicitors Other Expenditure	Solicitors Fees Expenditure	Third Party Expenditure	Total Expenditure	Current Year Budget	Current Year Inc/Recov/Reversal
22,097	345,563	167,576	535,236	1,000,000	156,935



Top Ten Legal Matters by 2010/11 Expenditure

Property	Description	2010/11 Expenditure	Prior years Expenditure	Expenditure Life to Date All Years
23B MacPherson Street Warriewood	Refusal	\$ 138,845	\$ 46,152	\$ 184,997
1858 Pittwater Road Church Point	Modification to Court Consent	\$ 66,608	\$ -	\$ 66,608
263 Whale Beach Road Whale Beach	Non-Compliant Pool Fence	\$ 52,147	\$ 7,060	\$ 59,207
5 - 7 Careel Head Road Avalon	Building Site Works	\$ 34,105	\$ -	\$ 34,105
232 / 234 Barrenjoey Road Newport	Deemed Refusal	\$ 31,201	\$ -	\$ 31,201
14 - 18 Boondah Road Warriewood	Refusal	\$ 23,076	\$ 29,328	\$ 52,404
2129 Pittwater Road Church Point	Appeal on Refusal	\$ 16,508	\$ 68,874	\$ 85,382
122 & 122A Crescent Road Newport	Unauthorised Building Works	\$ 13,490	\$ 57,352	\$ 70,842
2 / 8 Bungan Street Mona Vale	Refusal	\$ 13,280	\$ -	\$ 13,280
14A Prince Alfred Parade Newport	Deemed Refusal	\$ 13,269	\$ -	\$ 13,269
		\$ 402,528	\$ 208,766	\$ 611,294

C10.4 Monthly Contractors and Staff Report - November and December 2010**Meeting:** Governance Committee**Date:** 21 February 2011**Strategy:** Business Management**Action:** Produce monthly, quarterly and annual budgets and statements**PURPOSE OF REPORT**

To report on new staff appointments and contract engagements for the months of November and December 2010.

1.0 BACKGROUND

On 7 September 2009 Council resolved:

"In light of the current economic crisis and financial constraints of Council, Council resume the monthly reporting of all staff and contractor appointments."

Accordingly, a monthly report in respect of all new appointments of staff and engagement of new contractors is submitted to Council.

In order to gain a more precise and meaningful understanding of contractor engagements on a month by month basis, all Monthly Contractors and Staff Reports will list new staff appointments and terminations and contractor engagements for each month that exceed \$2,000 and are ongoing for greater than one month.

2.0 ISSUES

The information at **Attachment 1** of this Report has been provided by the Business Unit Managers and is broken into the following sub-sections:

- Appointment of Council staff
- Termination of Council Staff
- Contracts (greater than \$2,000 and ongoing for greater than one month)

3.0 SUSTAINABILITY ASSESSMENT**3.1 Supporting & Connecting our Community (Social)**

3.1.1 The Report will have no impact on this strategy

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 The Report will have no impact on this strategy

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

3.3.1 The Report will have no impact on this strategy

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

3.4.1 The Report will have no impact on this strategy

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

3.5.1 The Report will have no impact on this strategy

4.0 EXECUTIVE SUMMARY

The movements of Council staff for the months of November and December 2010 are as follows:

- 1 appointment that refills existing vacancy
- 2 terminations

A summary of new contractor engagements are outlined in **Attachment 1** of this Report.

RECOMMENDATION

1. That the information provided on the engagement of new contracts for the month of November and December 2010 as provided by the Business Unit Managers at **Attachment 1** be noted.
2. That the terminations and appointments of staff during November and December 2010 be noted.

Report prepared by

Mark Jones
CHIEF FINANCIAL OFFICER

Appointments of Council Staff in November 2010

Business Unit	Position	Status (PFT,TFT,PPT,TPT, Secondment)	Start Date	Finish Date	Reason for Appointment
EC	Administration Officer	PFT	22/11/10	N/A	Recruitment Vacancy

Terminations of Council Staff in November 2010

Business Unit	Position	Status (PFT,TFT,PPT,TPT, Secondment)	Start Date	Finish Date
CL & ED	Library Officer	PPT	26/11/07	10/11/10
RR & BS	Bush Care Officer	PFT	23/03/09	12/11/10

Appointments of Council Staff in December 2010

Business Unit	Position	Status (PFT,TFT,PPT,TPT, Secondment)	Start Date	Finish Date	Reason for Appointment
EC	Trainee Ranger	PFT	15/12/10	N/A	Recruitment Vacancy
P & A	Planning Officer – Development	PFT	20/12/10	N/A	New position
EC	Trainee Ranger	PFT	29/12/10	N/A	Recruitment Vacancy

Terminations of Council Staff in December 2010

Business Unit	Position	Status (PFT,TFT,PPT,TPT, Secondment)	Start Date	Finish Date
RR & BS	Signs Co-ordinator	PFT	6/09/93	3/12/10
EC	Administration Officer	PFT	20/10/08	31/12/10
RR & BS	Reserves Cleansing Labourer	PFT	6/09/95	31/12/10

Contract Engagements – November and December 2010

Division/Unit	Name of Approved Consultant/Contract or/ Agency	Position Type of Work	Terms of Engagement	Cost to Council	Term
Corporate Development	Tempnet	Casual Educators – CEC	Contract Agreement	\$3,607	1 Year
Corporate Development	Tempnet	Casual Parking Officers – EC	Contract Agreement	\$5,404	1 Year
Corporate Development	Tempnet	Assistant Development Officers – P&A	Contract Agreement	\$2,491	1 Year
Corporate Development	Tempnet	Asset Management – UI	Contract Agreement	\$2,326	1 Year
Corporate Development	Tempnet	Casual Educators – CEC	Contract Agreement	\$3,061	1 Year
Corporate Development	Tempnet	Casual Parking Officers –EC	Contract Agreement	\$6,153	1 Year
Corporate Development	Tempnet	Assistant Development Officers – P&A	Contract Agreement	\$ 2,719	1 Year
Corporate Development	Tempnet	Asset Management – UI	Contract Agreement	\$2,224	1 Year
Urban Infrastructure	Veolia Water Network Services	High pressure cleaning in Newport and Mona Vale	Via SHOROC	\$9,339	One Month
Urban Infrastructure	Anteater Environmental Services	Treatment for rabbits at Mona Vale Cemetery	One-off	\$2,585	One Month

Division/Unit	Name of Approved Consultant/Contractor/ Agency	Position Type of Work	Terms of Engagement	Cost to Council	Term
Urban Infrastructure	Brookvale Mini Crete	Concreting works at: Garden Street & Samuel Street, North Narrabeen – footpath	One-off	\$3,146	One Month
Urban Infrastructure	Southwest Kerbing	Installation of kerbing, gutters, laybacks and dish drain at Grenfell Ave, North Narrabeen	One-off	\$3,249	One Month
Urban Infrastructure	Metromix Pty Ltd	Concreting – Grenfell Ave, North Narrabeen	SHOROC/ Hunter Council	\$5,716	One Month
Urban Infrastructure	Downer EDI	Pavement re-sheet in Park St, Mona Vale and Pavement re-sheet in Parklands Ave, Mona Vale	One-off	\$39,692	One Month

Division/Unit	Name of Approved Consultant/Contractor/ Agency	Position Type of Work	Terms of Engagement	Cost to Council	Term
Urban Infrastructure	Perma Liner Industries	Rehabilitation of stormwater line including video report in Foxall St, Elanora Heights	One-off	\$19,745	One Month
Urban Infrastructure	Bell Environmental Services	Clean GPT's as per schedule, clean trash racks and litter boom as per monthly schedule.	Contract Agreement	\$2,420.00	One Month
Urban Infrastructure	Pan Civil	Site investigation and install gel rock anchors Stage 1 - at 59 Grandview Drive, Newport	One-off	\$25,850	One Month

Division/Unit	Name of Approved Consultant/Contractor/ Agency	Position Type of Work	Terms of Engagement	Cost to Council	Term
Urban Infrastructure	Pan Civil	Wall repair and install Tecco mesh to wall face and secure. Restore site - Stage 2 - at 59 Grandview Drive, Newport	One-off	\$15,950	One Month
Urban Infrastructure	Pennine Paving	Repair damaged crossings, restore dish drains, construct dish gutters, construct AC kerbs – various locations.	One-off	\$3,329	One Month
Urban Infrastructure	GHD Geotechnics	Peer review of proposed Currawong development	One-off	\$7,892	One Month
Urban Infrastructure	Civil Certification	Pittwater Road / McCarrs Creek Road – Road Audit Report for Main Road Reclassification Project (Council Resolution)	One-off	\$29,969	One Month

Division/Unit	Name of Approved Consultant/Contract or/ Agency	Position Type of Work	Terms of Engagement	Cost to Council	Term
Urban Infrastructure	Civil Certification	Nareen Creek Wall investigation, design and approvals	One-off	\$5,920	One Month
Urban Infrastructure	Civil Certification	Nareen Creek Wall investigation, design and approvals	One-off	\$6,413	One Month
Urban Infrastructure	Resource Governance Solutions	Training on Traffic Signs Data Collection System – 3 days	One-off	\$3,410	One Month
Urban Infrastructure	Sewer Services	CCTV inspection and reporting for Church Point / Bayview catchment	One-off	\$25,482	One Month
Urban Infrastructure	Sydney Traffic Services	Line marking in Macpherson Street, Cabbage Tree Road, Gerroa Avenue and Lane Cove Road	One-off	\$6,645	One Month

Division/Unit	Name of Approved Consultant/Contract or/ Agency	Position Type of Work	Terms of Engagement	Cost to Council	Term
Urban Infrastructure	Sydney Traffic Services	Line marking in Elanora Road, Prince Alfred Parade and Parkland Avenue	One-off	\$7,038	One Month
Urban Infrastructure	Sydney Traffic Services	Line marking in Park Street and install signs in St. Andrews Gate, Beaconsfield Street and Kalinya Street	One-off	\$15,962	One Month
Urban Infrastructure	Sydney Traffic Services	Line marking in Waratah Street, Mona Vale	One-off	\$2,924	One Month

C10.5 December 2010 Quarterly Management Report**Meeting:** Governance Committee**Date:** 21 February 2011**STRATEGY:** Business Management**ACTION:** Develop a structure/framework for integrated Corporate Planning**PURPOSE OF REPORT**

To report on the 2nd Quarter (Oct, Nov, Dec) of the 2010-2014 Delivery Program & Budget.

1.0 BACKGROUND

- 1.1 Council is required to report each quarter on the progress of the 2010-2014 Delivery Program & Budget. This is the first quarterly report for the 2010/2011 financial year. Budget results per Key Direction and associated Strategies are all detailed in the **Financial Report for the Period Ending 31 December 2010 of the 2010/2011 Financial Year** that is presented elsewhere in this Agenda. The Quarterly Report has been circulated separately and will be formally tabled at the meeting.

2.0 ISSUES**2.1 Reporting on the 2010-2014 Delivery Program**

- This Quarterly Management Report provides an update as to the progress of the 391 actions that are contained in the 2010-2014 Delivery Program. For consistency the same format has been used for this report as in the Delivery Program. The report is broken down by Council's 5 Key Directions and then by strategies and ultimately the operational actions. The report provides an update to each operational action as well as additional comments relating to the progress of the action.
- The Division of Local Government Best Practice Review action list is also reported on in this report, each recommendation, from 2009, has been reported on and an update given.
- The position of Grants Officer has recently been introduced into the Corporate Strategy & Commercial. This role will research new grant opportunities and co-ordinate the grant management process across council as well as prepare quarterly reports to council on the progress of all grant applications.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

The activities below all have a positive affect on community connectedness and continue to provide a variety of services across the community.

- Citizenship ceremony conducted on 18 November 2010 with 60 citizens naturalised.
- Volunteers' reception held for volunteers during December with 145 participants.
- The Council has worked closely with Youth Reach and the Northern Beaches Indoor Sports Centre to develop and deliver the Midnight Basketball Program from Oct - Dec 2010.
- Capital Improvement Program projects completed: Tennis Court Wharf; Governor Phillip Park Playground; Bilgola Beach Kiosk reconstruction; Shelter area at Rowland Reserve; Old Wharf Reserve Dinghy Storage (stage 1); Botham Beach Dinghy Storage area (stage 1); Paradise Beach Kayak Storage; North Narrabeen Rock Pool Carpark Resealing and Careel Bay foreshore restoration.
- A range of projects has been undertaken with high schools and youth groups, including meeting with all local high schools, consulting student representatives, supporting the first Pittwater Parent Forum delivered by Point Zero Youth Services and delivering the first Midnight Basketball tournament with Youth Reach.
- Numbers using Outside School Hours Services continue to increase – future planning in the pipeline.
- Assisting community groups with the Grant and Funding Guide for Community and funding opportunities has gone live on the Council's website.
- A range of guided tours of Pittwater's natural environment has been developed and advertised through the Coastal Environment Centre's Community Events Calendar.

3.2 Valuing & Caring for our Natural Environment (Environmental)

The activities below all reflect the philosophy of protecting and enhancing the human and natural environment for current and future generations.

- Plastic Bag Reduction Programme established for Avalon shopping centre.
- Working with businesses to increase commercial waste recycling – 154 food premises visited since beginning of financial year.
- Climate change and sea level rise impacts being incorporated into Estuary and Coastal Management Strategies and Plans of Management.
- SepticSafe Inspection program which educates households about on-site sewage management has been established – 214 households contacted.
- Joint electronic waste collections established with other SHOROC Council's.
- Coastal Ambassadors program completed with 5 surf clubs participating.
- Progressing work with National Parks and Wildlife Service in the preparation of recovery plans and priority action statements for threatened fauna and flora.
- Assessed 750 Development Applications in 2010 against relevant biodiversity controls.
- Draft Fauna and Vegetation Management Plans prepared.
- Priority list for irrigation and drainage requirements on sportsgrounds has been completed.

3.3 Enhancing our Working & Learning (Economic)

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

- 46,975 visits to Mona Vale Library; 78,842 loans at Mona Vale Library; 6,996 PC Bookings; 19,623 loans at Avalon Community Library.
- Some 7,200 people attended the 178 different activities available at community centres every week.
- WIFI hotspots provided in Avalon and Mona Vale village centres.
- Catchment, environmental and sustainability programs delivered to 1,143 Primary School students educated 2011FY to date by CEC Community Educators; 1,185 High School Students; 362 in CEC Roadshows; 227 Universities & TAFE's and 275 Pre-School students.

3.4 Leading an Effective & Collaborative Council (Governance)

The activities below all contribute towards Council's ongoing commitment to transparency and accountability when dealing with the community.

- Total Customer enquiries logged via Merit for quarter was 3535.
- 9 formal and 114 informal GIPA applications were received and determined during the quarter.
- 112 media enquires managed within deadlines and 50 media releases issued during the quarter.
- Information packs produced for new rate payers.
- Revised performance review system and guidelines implemented.
- 2010 Pittwater Aspiring Leadership Program successfully completed.
- Risk Management Guideline adopted.
- Fire Wise program completed with the Rural Fire Service – over 30 meetings held across the fire district.

3.5 Integrating our Built Environment (Infrastructure)

All the highlights below are aimed at enhancing the provision and use of public space as well as ensuring that Council adhere to environmental principles.

- The Pittwater Transport guide has been completed and distributed to local pubs and clubs.
- Motorcycle awareness week took place between 23 – 31 October – activities included a variety of advertising campaigns to raise awareness between motorcyclists and drivers.
- A 7.5kw solar panels system was installed on Newport Recreation Centre.
- 179 development applications determined (median processing time: 44 working days) and 53 Section 96 Modifications determined (median processing time: 29 working days).

4.0 EXECUTIVE SUMMARY

In providing Council with this information for the period ending 31 December 2010 the following information should be noted as a summary, there are 391 active operational actions for the period 2010/11

ACTION Status	Quarter 1	Quarter 2
Completed Actions	14	23
Progressing as Planned	126	139
Ongoing Programs	200	188
Deferred to Coming Qtr's	18	34
Scheduled for future Qtr's	33	7

RECOMMENDATION

That the Quarterly Management report for the period ending 31 December 2010 (Quarter 1) as tabled be noted.

Report prepared by
Paul Reid, Team Leader Corporate Strategy & Commercial

Mark Ferguson
GENERAL MANAGER

**C10.6 Audit & Risk Committee - Operations Report for the Period
28 April 2010 to 31 December 2010****Meeting:** Governance Committee**Date:** 21 February 2011

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

PURPOSE OF REPORT

To present to Council the Annual Operations Report of the Audit & Risk Committee for the Period 28 April 2010 to 31 December 2010.

1.0 BACKGROUND

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

1.2 The Audit & Risk Committee Charter, Section 10 (Reporting) states:

i) The Committee shall report at least annually to Council.

This Operations Report covers the calendar year 2010, from the inaugural meeting of 28 April 2010 to 31 December 2010 (**see Attachment 1**).

2.0 ISSUES

2.1 Per the Audit & Risk Committee Charter, Section 10 (Reporting), the Committee shall report at least annually to Council.

3.0 SUSTAINABILITY ASSESSMENT**3.1 Leading an Effective & Collaborative Council (Governance)**

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

4.0 EXECUTIVE SUMMARY

- 4.1 The Audit & Risk Committee is responding to the requirements of their Charter to report annually to Council. As such, the attached report provides Council with a summary of the operations of the Audit & Risk Committee for the Period 28 April 2010 to 31 December 2010.

RECOMMENDATION

That the information provided in the report (**see Attachment 1**) be noted.

Report prepared by
Lilian Whiteman, Internal Auditor

Paul Reid
TEAM LEADER, CORPORATE STRATEGY & COMMERCIAL

PITTWATER COUNCIL

**Report by Chairperson of
The Audit & Risk Committee
Pittwater Council**

**Operations of the Audit & Risk
Committee for the Period from
28/04/2010 to 31/12/2010**

1. Introduction

The purpose of this report is to provide Pittwater Council with a summary of the operations of the Audit & Risk Committee (the Committee) in accordance with the Committee Charter.

Consistent with its commitment to open and transparent governance that meets the highest community expectations, in November 2009, Council resolved to enhance the governance framework by forming an Audit Committee and an Internal Audit Function. The principles adopted were based upon guidelines issued by the Department of Premier & Cabinet Division of Local Government in October 2008 - *Internal Audit Guidelines*.

Following an advertising and assessment programme, Council appointed two suitably qualified, independent members for the Committee in February 2010.

The Committee has adopted an appropriate Charter to govern its operations and which is based on the guidelines referred to above. Included in the Charter is a requirement for the Committee to report to Council annually outlining its activities. Whilst the Committee has been operating for less than 12 months, it was considered by the Committee members that a report on progress to date would be presented.

2. Committee Members

The Committee is comprised of the following members:

Independents

- Mr. Neil Adams
- Mr. John Gordon (Chairperson)

Councillors

- Councillor Harvey Rose (Mayor, retired from Committee effective 15.11.2010)
- Councillor Jacqueline Townsend (Deputy Mayor)
- Councillor Julie Hegarty (Appointed effective 15.11.2010)

3. Advisors to the Committee

All meetings

- | | |
|--------------------|---------------------------------------------|
| - Mark Ferguson | General Manager |
| - Mark Jones | Chief Financial Officer |
| - Mechtild Stander | Internal Auditor (retired August 2010) |
| - Lilian Whiteman | Internal Auditor (appointed September 2010) |
| - Pamela Tasker | Administration Officer/Minute Secretary |

As required

Council's External Auditors, Hill Rogers Spencer Steer

Council Managers, including to date:

- James Payne Manager, Urban Infrastructure
- Paul Reid Team Leader, Corporate Strategy & Commercial
- Chris Hunt Director, Urban and Environmental Assets Division
- Lindsay Dyce Manager, Planning and Assessment
- Christy Ratnakumar Financial Accountant
- Myles Thana Management Accountant

4. Meetings of the Committee

The table below sets out the meetings of the Committee held since its inception until the date of the most recent meeting.

Summary of Committee Meetings

Meeting Date	John Gordon	Neil Adams	Clr Townsend	Clr Rose/ Clr Hegarty
28/4/2010	√	√	√	√
11/8/2010	√	√	√	√
17/11/2010	√	√	√	Apology

5. Committee Orientation

At the first meeting on 28 April 2010, the Committee received a detailed briefing from Council Management on Council's operations, key risks and opportunities. On 30 June 2010, Mr Adams and Mr Gordon were provided with a comprehensive tour of Council operations accompanied by Councillors Rose and Townsend.

6. Background to the Internal Audit Function

Council appointed from its Finance team an Internal Auditor Mechtild Stander, who worked 3 days per week providing internal audit services to Council. With Mechtild's transfer overseas, Council sought applications from suitably qualified external candidates and in September 2010, appointed Lilian Whiteman a Certified Practicing Accountant with significant external and internal audit experience. Lilian has been appointed in a full time role.

The Internal Audit function is governed by a Charter prepared by Ms Stander, endorsed by this Committee and approved by Council at the meeting held on 17 May 2010. The Charter is again based on best practice recommendations made by the Department of Premier & Cabinet Division of Local Government.

Following discussions with management and a high level review of Council's risk framework, an Internal Audit programme of work was developed and approved by the Committee. The programme of work will be reviewed in 2011 based on results to date and from a more formal risk review of Council.

7. Achievements to Date

Since the Committee was formed in April 2010, the following milestones were achieved:

- (i) Audit Committee members were briefed on the roles, responsibilities and provided with background material on the management and operations of Council.
- (ii) Mr. Gordon and Mr. Adams were provided with a comprehensive tour of Council facilities.
- (iii) Reviewed and endorsed the Audit & Risk Committee Charter and the Internal Audit Charter drafted by the Internal Auditor based on industry guidance and best practice.
- (iv) The Committee received a briefing on Council's internal risk management practices.
- (v) Reviewed and approved the interim Internal Audit programme for the 2010/2011 years submitted by the Internal Auditor and revisited with the appointment of Lilian Whiteman to the position.
- (vi) Reviewed the Financial Statements for the year ended 30 June 2010 and received a briefing from Council Finance management and the independent External Auditors. The Committee recommended that the financial statements be referred to Audit.
- (vii) Reviewed and approved questionnaires, drafted by the Internal Auditor, to be completed by Council managers following audit in order to facilitate assessment of the Internal Audit Function.
- (viii) Reviewed and approved an appropriate format for recording and tracking progress regarding the implementation of Internal and External audit recommendations.
- (ix) The Committee considered the following audit reports prepared by Internal Audit:
 - Report on Cash Collection Centres
 - Report on Business Excellence - Managing Gifts and benefits
 - Report on delegations of Authority

The Committee also reviewed Council's draft Procurement Policy & Guidelines which are undergoing revision at present.
- (x) The Committee considered and accepted the resignation of Councillor Rose consistent with revised Division of Local Government guidelines which recommend that Mayors should not be a member of the Audit & Risk Committee. The Committee also noted the important contribution to Council Governance made by Mayor Rose in supporting the establishment of the Audit & Risk Committee.

8. Action Points for 2010/2011

The Audit & Risk Committee will complete the following for the forthcoming year:

- (a) Present the Committee's Annual Report to Council for its meeting on 21.02.2011.
- (b) Review outstanding items on the Internal Audit programme.
- (c) Follow up on the implementation of Internal and External audit recommendations.
- (d) Review and endorse an Internal Audit programme for 2011-12 and a revised Strategic Audit Plan.

- (e) Receive an update from Council on its Enterprise Wide Risk Assessment and review of the responses to assessed risk.
- (f) Perform an assessment of the Internal Audit function at the close of calendar 2011.
- (g) Undertake a self assessment of the Committee's performance at the close of calendar 2011.
- (h) Pursue other governance related issues as necessary.

9. Conclusion

Council has taken the important initiative to further strengthen its corporate governance practices and form an Audit & Risk Committee and Internal Audit function. Since inception in April 2010, members of the Committee have worked together productively and harmoniously. I would like to take this opportunity to thank the other Committee members and the Internal Auditors for their valuable contribution to the Committee's success.

I would also like to acknowledge the support from the General Manager Mark Ferguson and his management team for the Committee and the Internal Audit function.

John Gordon

Audit & Risk Committee
Chairperson
18.01.2011

C10.7 Public Exhibition of Draft Interim Coastal Risk Management Policy for Public Buildings and Assets in Pittwater**Meeting:** Governance Committee**Date:** 21 February 2011

STRATEGY: **Beach & Coastal Management**
Risk management co-ordination Strategy**ACTION:** Provide planning, design, investigation and management of beaches, coastline and estuaries;
Maintain and service beach, coastal and estuary facilities;
Upgrade beach, coastal and estuary facilities;
To deal with risks due to natural and man-made hazards of air and water pollution (eg bushfire, coastal, estuarine, flood, geotechnical, acid sulphate soil, extreme weather events) for the benefit of the community;
To manage public liability risk associated with public infrastructure;
To require that land use planning decisions take into account risks due to natural hazards and the impacts of climate change.

PURPOSE OF REPORT

To place the Draft Interim Coastal Risk Management Policy for Public Buildings and Assets in Pittwater (the Draft Policy) (refer **Attachment 1**) on public exhibition.

1.0 BACKGROUND

- 1.1 The Draft Policy has been prepared in response to representations from North Palm Beach Surf Life Saving Club Inc who wish to build a second storey addition on top of the centre pavilion of the existing surf club building. Avalon Surf Life Saving Club and Mona Vale Surf Life Saving Club also have development applications (DAs) lodged for improvements to their existing surf club buildings.
- 1.2 As a part of the NSW Government's Coastal Erosion Reform package, amendments to legislation, new statutory guidelines and supporting policy commenced on 1 January 2011 to better equip the State and local councils to deal with the challenges of coastal erosion. The reform package is also intended to re-energise councils planning processes in the face of increased risks posed by climate change.
- 1.3 The reform package is based on the principles of ecologically sustainable development and promotes development that balances social, economic and environmental considerations. Whilst the reforms do not prohibit coastal development, all components of the package are designed around a risk based approach allowing proponents to demonstrate whether they can manage the risks associated with development in a hazardous environment.
- 1.4 The reform package also provides for coastal and flood protection works so long as they do not adversely affect coastal or flood processes, the environment, beach access or other properties.

- 1.5 A strong precept throughout the reform package is a recognition that councils have a duty of care for the ongoing sustainability of their decisions.
- 1.6 The Draft Policy attempts to strike a balance between the responsible management of risk for buildings and assets already subject to (or likely to be subject to) coastal hazards and the continued use of those buildings and assets until the level of risk is no longer acceptable to the community.

2.0 ISSUES

2.1 Coastal Hazards

- The levels of risk associated with coastal hazards such as beach erosion, shoreline recession, coastal inundation, coastal lake entrance instability and tidal inundation will increase over time as a result of climate change and in particular sea level rise.
- Existing structures located seaward of the immediate hazard line are currently at risk from coastal hazards during major storm events and are likely to be damaged or lost unless risk management actions or coastal protection works are undertaken.
- Structures located landward of the immediate hazard line may also be at risk from coastal hazards at some stage in the future depending on how far landward of the immediate hazard line they are located.
- Many public buildings and assets in Pittwater are similarly located and affected. Certain public buildings and assets however, may need to be located in areas (or in proximity to areas) affected by coastal hazards in order to fulfil their intended function, for example, coastal protection works, ocean rock pools, surf clubs, wharves and jetties, boat ramps, parking areas and amenity buildings.
- Council will be required to develop risk management strategies for all these structures and implement the necessary actions (including structural protection works) on a priority basis. This process will roll-out over a lengthy timeframe and Council does not have the necessary finances or resources to undertake all the work at once.
- In the meantime, there may be no impediment to these buildings continuing to be used for some time into the future until the level of risk increases to an unacceptable level. If appropriate risk management measures are put in place, most of these buildings have the potential to remain serviceable and useful for decades, even without seawalls, revetments and other engineered protective structures.
- The ongoing use of these buildings could enable existing services and functions to continue without disruption and also allows the State and local councils time to develop longer term adaptation and risk management strategies.

2.2 Surf Club Buildings

- Within the Pittwater LGA, seven (7) public surf club buildings are located at the following beaches:
 - Warriewood Beach
 - Mona Vale Beach
 - Bungan Beach
 - Newport Beach
 - Bilgola Beach
 - Avalon Beach
 - North Palm Beach

- Most of these surf club buildings are located in the active beach zone with some partially seaward of the immediate hazard line, to a greater or lesser extent.
- Council has recently received DAs for extensive additions and alterations to North Palm Beach Surf Life Saving Club and Avalon Surf Life Saving Club as well as a DA for less significant additions and alterations to Mona Vale Surf Life Saving Club.
- Following the refusal of the DA for the North Palm Beach Surf Club building, club officials approached Council to try and resolve a reasonable way forward that would enable the club to continue to grow its membership, store rescue equipment and better provide surf rescue services to the Pittwater community. The Club confirmed that it could fund the proposed renovations without assistance from Council.
- In order to approve the club's development proposal for the North Palm Beach Surf Club building for the design life of the development (deemed to be 100 years) it would be necessary for the club to undertake expensive engineered coastal protection works, in which case it could not afford to undertake the proposed renovation works.
- Avalon Surf Life Saving Club faces a similar conundrum with its development proposal.
- From a beach management perspective, the construction of seawalls, terminal revetments or deep pile foundations seaward of the immediate hazard line may also be highly problematic. Whilst they may protect the asset at risk, these structures also have the potential to cause further beach erosion, long term sand loss and other off site impacts that may affect beach amenity and access.
- To date, wherever possible, Council has attempted to reinstate and revegetate a natural foredune structure as a "soft" coastal protection measure for Pittwater's ocean beaches.
- Council must demonstrate that it can responsibly manage all the risks associated with coastal hazards, so that there will not be adverse impacts upon or future costs to the broader community.
- Unlike the situation where private developers and landowners are not allowed to decide on the level of risk they are willing to take in their investment decisions (as they are unlikely to be the ones to bear the risk of the decisions) councils are obliged to weigh the social benefits of all their investment decisions.
- For this reason Council may wish to consider a higher risk of damage to or loss of an asset (but not a higher risk to life) in the interests of continuing to provide an invaluable service to the community.
- In this way, as long as the risk to property is managed to a level acceptable to the community, a strong argument can be mounted to continue to utilise and improve (within reason) coastal public buildings for the remaining design life of the structure or until it is no longer viable or useable.

2.3 Community Land and Crown Land Management

- North Palm Beach, Bilgola and Newport surf clubs are located on Crown land, whilst the remaining public surf club buildings are located on community land owned by Pittwater Council in fee simple.

- Pittwater Local Environmental Plan 1993 (PLEP93) states that the permissible uses for land zoned 6(a) Existing Recreation and 7(a) Environmental Protection as being those uses outlined in a relevant plan of management. All public surf club buildings in Pittwater are located on lands zoned 6(a).
- Community land is managed through community land plans of management prepared under the *Local Government Act 1993*. These plans must define the types of activities and development as well as the leases and licences that will be authorised on community land.
- Crown lands are managed through Crown land plans of management prepared under the *Crown Lands Act 1989*. These plans also stipulate the activities and leases that are permitted on a reserve including the development of infrastructure, facilities and buildings that are consistent with the dedicated purpose of the Crown reserve. Only development authorised in a plan of management and agreed to by the Reserve Trust (where constituted) and the Minister can be undertaken on Crown land.
- Where work is proposed to be undertaken by a third party on a Crown asset, the agreement of the Reserve Trust and the Minister must be gained before work commences.
- If approved, the Interim Policy will remain in force until such time as the longer term redevelopment and risk management proposals for all buildings, assets and infrastructure on affected coastal public lands have been incorporated into the relevant plans of management.

2.4 The Draft Policy

- The Draft Policy works within the existing coastal land use planning framework to enable Council to maximise the benefits to the community from the ongoing use of buildings and other assets that may be at increased risk from coastal hazards exacerbated by climate change.
- By relying upon risk management measures other than engineered coastal protection works and allowing volunteer organisations to undertake limited improvement works on a one-off basis, many existing coastal buildings may continue to be used in the short to medium term.
- Council will gain extra time to develop longer term strategies for management of coastal risk and any building improvement work proposed in the interim will be required to demonstrate a positive cost/benefit to the community.
- If adopted, the Policy will provide community volunteer organisations, such as surf life saving clubs, with a degree of certainty when planning future growth, development and financial investment. The Policy will only apply to development proposals with a total estimated value of less than \$500,000 (indexed).

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The draft Policy aims to assist surf life saving clubs (as well as other volunteer organisations) in the Pittwater area to continue to utilise and improve their existing buildings in order to provide effective, ongoing services to the community, accommodate expanding club memberships and store the equipment necessary to provide the service and undertake training and social activities.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 An important consideration of the Draft Policy is the environmental consequences of coastal protection works on natural beach systems, in particular the long term impacts of seawalls and other 'hard' engineered structures on beach environments, amenity and access.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 The Draft Policy seeks to maximise the utility of existing coastal buildings and assets while returning a positive cost/benefit to the Pittwater community.

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 The Draft Policy demonstrates that Council is responsive to the specific needs of the community and is willing to take a lead role in addressing those needs in a reasonable and practical manner.
- 3.4.2 Proponents will nevertheless be required to undertake an appropriate assessment of risk to life and property, in accordance with the NSW Government Guidelines, in support of any development proposal.

3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 The Draft Policy will provide the opportunity for the community to make the necessary transition to longer term climate change adaptation measures for public infrastructure in Pittwater.

4.0 EXECUTIVE SUMMARY

- 4.1 The Draft Policy has been prepared in response to concerns raised by surf life saving clubs over the need to improve their buildings and facilities in order to remain viable and to continue to provide surf life saving services to the community.
- 4.2 In view of the likelihood that some existing coastal buildings and assets may not be affected by coastal hazards in the short to medium term, it is considered reasonable that these structures continue to be used and even improved until the level of risk increases to an unacceptable level.
- 4.3 The Draft Policy works within the existing coastal land use planning framework to enable Council to maximise the benefits to the community from the ongoing use of coastal buildings and assets whilst providing surf clubs and other volunteer and service organisations with a higher degree of certainty when planning future investment.

- 4.4 The Draft Policy takes a merit based approach to the assessment of development applications for the improvement of existing coastal buildings. DAs must demonstrate an ability to appropriately manage the risk to life and property, a positive cost/benefit to the Pittwater community and the total estimated value of the proposed work must be less than \$500,000 (indexed).
- 4.5 If approved, the Policy will remain as an interim policy until such time as the necessary redevelopment proposals and risk management strategies have been incorporated into the relevant plans of management for affected coastal lands.

RECOMMENDATION

1. That the attached Draft Interim Coastal Risk Management Policy for Public Buildings and Assets in Pittwater (refer **Attachment 1**) be placed on public exhibition for a period of 28 days.
2. That copies of this report and the Draft Policy be forwarded to the Land and Property Management Authority, Department of Environment, Climate Change and Water and the Department of Planning for their consideration and comment.
3. That a further report be brought back to Council at the close of the public exhibition period.

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

Les Munn
ACTING DIRECTOR, URBAN & ENVIRONMENTAL ASSETS

Council Policy – No Version: 1	Adopted:	
	Amended	

TITLE:	Interim Coastal Risk Management Policy for Public Buildings and Assets in Pittwater
STRATEGY:	Beach and Coastal Management Risk Management Coordination
BUSINESS UNIT:	Catchment Management and Climate Change
RELEVANT LEGISLATION:	<i>Coastal Protection Act 1979</i> <i>Coastal Protection and Other Legislation Amendment Act 2010</i> <i>Crown Lands Act 1989</i> <i>Environmental Planning and Assessment Act 1979</i> <i>Local Government Act 1993</i> <i>State Emergency and Rescue Management Act 1989</i> All applicable sub-ordinate legislation
RELATED POLICIES:	State Environmental Planning Policy No 71-Coastal Protection State Environmental Planning Policy (Infrastructure) 2007 NSW Coastal Policy NSW Coastal Design Guidelines NSW Sea Level Rise Policy Statement NSW Coastal Planning Guideline: Adapting to Sea Level Rise Minister's Requirements under the Coastal Protection Act Guidelines for Preparing Coastal Zone Management Plans State Disaster Plan (DISPLAN) Coastal Crown Lands Policy Coastline Risk Management Policy for Development in Pittwater Estuarine Risk Management Policy for Development in Pittwater Council Policy – No. 176 Climate Change Geotechnical Risk Management Policy for Pittwater Draft Pittwater Asset Management Policy

1.0 Objectives

- 1.1 To comply with all applicable coastal and land use planning legislation as well as all relevant policies and statutory guidelines for development within the NSW coastal zone.
- 1.2 To apply the principles of the NSW Coastal Planning Guideline: Adapting to Sea Level Rise (2010) when assessing applications for development on coastal public lands.

- 1.3 To promote a risk and merit based approach for the assessment of proposals for certain public buildings and assets which (because of their purpose, utility or temporary nature) are or may need to be located in areas subject to coastal hazards.
- 1.4 To implement appropriate management responses and apply reasonable development controls to the improvement and refurbishment of existing coastal public buildings with due consideration for the protection of life and property and the consequent environmental, social and economic impacts.
- 1.5 To ensure that proponents for development on coastal public land demonstrate that their proposal can manage risks from coastal hazards for the design life of the proposed development.
- 1.6 To assist surf life saving clubs in the Pittwater area to continue to utilise and improve their existing buildings in order to provide effective, ongoing surf life saving services, accommodate expanding club memberships and store the equipment necessary to undertake surf life saving activities.

2.0 Policy Statement

- 2.1 Pittwater Council accepts the clear intention of the NSW Government to appropriately manage the risks associated with erosion and other coastal hazards exacerbated by climate change (in particular sea level rise) through the provisions of the NSW Coastal Erosion Reform Package.
- 2.2 Council recognises, however, that certain public buildings and assets may need to be located in areas influenced by coastal processes and affected by coastal hazards in order to fulfil their intended function, for example, coastal protection works, ocean rock pools, surf life saving club buildings, wharves and jetties, estuary tidal pools, boat ramps, parking areas, amenity buildings and other recreational facilities or structures.
- 2.3 Council acknowledges that these structures may therefore be subject to a higher level of risk from coastal processes than most other coastal development and are more likely to suffer damage as a result of coastal hazards.
- 2.4 Council confirms that it is not in favour of seawalls and other hard engineered structures (which may cause beach loss in the longer term) and prefers instead the use of beach nourishment, revegetated foredunes or 'soft' engineering structures, such as sand filled geotextile containers (where feasible) for coastal protection purposes.
- 2.5 Council appreciates that volunteer organisations, such as surf life saving clubs, provide an invaluable community service. In most cases surf life saving clubs will rely upon existing public buildings and other coastal infrastructure in order to continue to provide surf rescue services to beach visitors, to store surf rescue equipment and to conduct surf rescue training, competitive events and social activities.
- 2.6 Council understands that many existing public buildings in the coastal zone of Pittwater, in particular surf life saving club buildings may, in part, be located seaward of the immediate hazard line. These buildings will be affected, sooner or later, by coastal hazards exacerbated by climate change including, shoreline recession, coastal erosion and oceanic inundation, yet most will remain viable and serviceable in the short to medium term future.
- 2.7 Council concedes that it currently does not have sufficient resources to protect or relocate all public buildings and infrastructure, in the Pittwater area, that are likely to be affected by coastal hazards exacerbated by sea level rise. This type of climate change adaptation process will require a priority based planning program that will be implemented over a period spanning many decades.

- 2.8 Council respects that surf life saving clubs may wish to improve surf club buildings to enhance their operational capabilities, to grow membership and community participation as well as to take advantage of income generating opportunities to better secure their futures.
- 2.9 Council realises that surf life saving clubs cannot afford the expensive retro-fitting of coastal protection structures for their buildings and may not be in a position to delay upgrading their existing facilities until longer term climate change adaptation measures are put in place.
- 2.10 Council considers it reasonable therefore, to continue to utilise and even improve surf club buildings and other coastal public assets, as long as it can be demonstrated that the risks to life and property can be managed to a level acceptable to the community for the intended design life of the structure or until it is no longer viable or useable.

3.0 Policy Direction

- 3.1 All development proposals for building improvements and additions and alterations to public buildings in the Pittwater coastal zone must be consistent with any redevelopment proposal adopted in a relevant plan of management. Any risk management measures proposed in response to coastal hazards must also be agreed with Council or the relevant management authority.
- 3.2 In the case of development proposed on Crown land, the proposal must also be agreed to by the Reserve Trust (where a Crown Reserve is managed under a trusteeship) and the Minister for Lands. If the work is to be undertaken by parties other than the Reserve Trust, the Minister's approval must be gained before work commences. Landowners consent to lodge a DA must be gained from the Land and Property Management Authority prior to lodgement.
- 3.3 All development applications (DA) for building improvements and additions and alterations to public buildings in the Pittwater coastal zone must be supported by a coastal risk assessment for the existing building prepared in accordance with the requirements of section 4 of the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise (2010)* and the *Coastal Risk Management Guide: Incorporating sea level rise benchmarks in coastal risk assessments (2010)*.
- 3.4 The risk assessment must outline, as a minimum, the following:
- a description of all relevant coastal hazards affecting the subject property;
 - the coastal hazard zones at the subject property (including the immediate hazard line as well as hazard lines for the 50 and 100 year planning periods);
 - an explanation of how the proposal complies with applicable NSW coastal legislation, statutory coastal guidelines and all relevant policies; and,
 - justification for the proposed design life of the building and details as to how the risks from coastal hazards (particularly the risk to life) will be managed to an acceptable level for that period of time (this may include measures such as emergency coastal protection works, emergency evacuation plans, beach nourishment works, allowing discrete parts of the building to be sacrificial in the event of a major storm and decommissioning the building when agreed trigger conditions are met).
- 3.5 Where an existing public building is located entirely seaward of the immediate hazard line, the NSW Coastal Planning Guideline deems structures in these locations to be typically unsuitable for future development and consequently major additions and alterations will not be considered under these circumstances. Minor refurbishment and internal reconfigurations may be considered if it can be demonstrated that the risks from current coastal hazards can be satisfactorily managed for the remaining design life of the building.

- 3.6 Where the majority of an existing public building is landward of the immediate hazard line but seaward of the 50 year hazard line, the DA will be assessed on merit and against the planning criteria in the NSW Coastal Planning Guideline. The same criteria will also apply where the majority of a public building is landward of the 50 year hazard line but seaward of the 100 year hazard line.
- 3.7 No additions or alterations will be permitted to be founded seaward of the building footprint of an existing building that is itself located partially seaward of the immediate hazard line.
- 3.8 As a general guide for Council and the community, this policy will apply on a one-off basis only, to a development application for proposed work with a total estimated value of less than \$500,000 (indexed). A positive cost/benefit to the Pittwater community must also be demonstrated and included in support of the DA.
- 3.9 This Policy does not preclude any other relevant requirements of the NSW Planning System, the provisions of an adopted plan of management for the subject land or the specific arrangements of a property lease over the subject land.
- 3.10 To the extent that this Policy is inconsistent with any statute, policy or guideline of the NSW Government, the statute, policy or guideline shall prevail.

4.0 Application of this Policy

- 4.1 This Policy applies to all buildings and assets owned or managed by Pittwater Council and located in the coastal zone of the Pittwater local government area as defined in the NSW *Coastal Protection Act 1979*.

Note: This Policy must be read in conjunction with the relevant Plan of Management for the community land and/or Crown land being considered for development.

C10.8 Native Fauna Management Plan - Public Exhibition**Meeting:** Governance Committee**Date:** 21 February 2011**STRATEGY:** Biodiversity Management**ACTION:** To protect threatened species and habitats**PURPOSE OF REPORT**

To recommend the exhibition of the Draft Native Fauna Management Plan and advise Council on the progress of the project.

1.0 BACKGROUND

- 1.1 Fauna lists for the LGA and specific areas within including Council reserves were updated via a number of methods. Surveys were undertaken by the consultant Ecotone in certain reserves where funding permitted, other areas of the LGA were updated using recent fauna reports from trusted stakeholders and DECCW Wildlife Atlas records. Emphasis was placed on fauna species listed as threatened under the Threatened Species Conservation Act 1995, as well as species which are deemed locally significant to the Pittwater LGA. As a comprehensive bird survey had been undertaken in 2008, surveys by the consultants focused on bats, small terrestrial and arboreal mammals, frogs and reptiles. Records earlier than 1995 were generally discounted as being still viable, despite being discussed in some cases, such as the Koala population in the Pittwater LGA.
- 1.2 Detailed management actions are provided in the first section of the report and are prioritised and cross-referenced to other sections in the plan. These actions reflect and aim to mitigate any relevant Key Threatening Processes as per the Threatened Species Conservation Act 1995 which are focussed on habitat retention, enhancement of wildlife corridors, fire management, minimising disturbance to wildlife, controlling pests and invasive species, minimising the impact of domestic animals and wildlife road fatalities.
- 1.3 A rapid assessment tool for fauna and habitat surveying has been developed for Council bushland reserves. This is currently being trialled by NEE staff and awaiting further development and integration with Catchment Management Authority methodology.
- 1.4 Species profiles have been included in the appendices of the management plan which profile each listed threatened species known or having the potential to occur in the LGA. These profiles give scientific information as well as details of the population in or near the LGA. Profiles have been included for two threatened populations, two critically endangered species, thirteen endangered species and fifty vulnerable species (as per the most recent determinations under the Threatened Species Conservation Act 1995). These can be included on the Council website for future community education purposes.
- 1.5 The management plan will help meet the objectives of the Biodiversity Strategy with the Pittwater Strategic Plan 2020, and specifically aid in habitat management, updating and creating Plans of Management for bushland reserves, identification of faunal communities at risk and minimising risk elements, conditions for development, community engagement and grant applications.

- 1.6 The full Native Fauna Management Plan can be viewed at:
www.pittwater.nsw.gov.au/Current_Documents_On_Exhibition
- 1.7 This report recommends that Council approves placing the draft Native Fauna Management Plan on public exhibition for comment.

2.0 ISSUES

2.1 Key elements addressed in the Native Fauna Management Plan:

The plan aims to provide the following:

- update information on relevant legislation;
- review and update actions provided in the current Fauna Management Plan and prioritise actions;
- update Council's Wildlife Corridor Plan;
- develop a rapid assessment tool for assessing fauna habitat;
- historical discussion on fauna found in the Pittwater LGA;
- provision of native fauna profiles and photographs (for community education, website etc)

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 This plan provides for the diverse needs of all sectors of the community by increasing the focus on fauna conservation. The plan provides many opportunities for volunteering and the emphasis on protection of native fauna and participation in such activities creates a sense of ownership and belonging for residents and stakeholders.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 The project provides direction for fauna management with emphasis on threatened species, conserving locally significant species, identification of key threatening processes, rehabilitation of fauna habitat through vegetation management and pest removal, and enhancement of wildlife corridors and reserves.

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 Actions as proposed in the plan are representative of long term strategies to improve the focus on native fauna as an educational resource, and can be incorporated into the Coastal Environment Centre's educational programs and other natural environment programs for schools.

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

- 3.4.1 The plan provides an effective use of community assets by improving natural area amenity which native fauna is viewed as a significant aspect of. The recommended refinements as a result of public feedback will improve amenity overall in this regard.

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

- 3.5.1 The Native Fauna Management Plan is applicable across the entire Pittwater LGA and this includes within urban areas. Management actions and recommendations will align with and provide future direction for the Pittwater LEP, DCP and current and future land release areas.

4.0 **EXECUTIVE SUMMARY**

4.1 This draft management plan has been prepared to:

- update Council's current fauna management plan prepared in 2000;
- plan and allocate management actions that are prioritised including those of high importance and those that can be implemented when funding becomes available in the future;
- integrate sustainable principles into future management; and
- comply with legislative changes particularly the *Local Government Act 1993* and the *Threatened Species Conservation Act 1995*.

4.2 This report recommends that Council approve placing the draft Native Fauna Management Plan on public exhibition for comment.

RECOMMENDATION

1. That the Draft Native Fauna Management Plan, as tabled at the meeting, be placed on public exhibition for a period of 28 days with submissions received up to 42 days from the date of advertisement.
2. That following the public exhibition period, a further report be presented to Council.

Report prepared by
Matt Hansen – Natural Resources Assessment Officer

Mark Beharrell
MANAGER, NATURAL ENVIRONMENT & EDUCATION

C10.9 Result of Public Exhibition of Proposed Licence Agreement between St Augustine's College & Council**Meeting:** Governance Committee**Date:** 21 February 2011**STRATEGY:** Recreational Management**ACTION:** To provide a diverse range of accessible recreational opportunities and associated assets/facilities to cater for a broad range of ages, abilities and interests**PURPOSE OF REPORT**

To report to Council the results of the Public Exhibition of the proposed Licence Agreement between Council and St Augustine's College – Sydney for the use of Pittwater Rugby Park – Main Field, Field 2 & Field 4 at North Narrabeen Reserve

For Council to consider approving the issuing of a Licence Agreement for 5 years with a 5 year option to St Augustine's College – Sydney, for the use of Pittwater Rugby Park Main Field, Field 2 and Field 4 at North Narrabeen Reserve.

1.0 BACKGROUND

- 1.1 Over the past three years St Augustine's College has utilised, on a casual basis, the Pittwater Rugby Park facility for the playing of school rugby union games.
- 1.2 In June 2010, the College made an approach to Council in regard to using the facilities at North Narrabeen Reserve (including Pittwater Rugby Park) on a permanent basis for the training of their school rugby union teams and the playing of games in the Independent Schools Competition.
- 1.3 Council formulated a draft proposal and quote for the use of the facilities. The draft quote was calculated using Council's current fees and charges.
- 1.4 Council staff held discussions with Narrabeen Rugby Club (Tigers) who are the main winter season user of Fields 3 & 4. The Club indicated support (in principle) for the proposal. The President of Narrabeen Rugby Club was provided with the playing dates for the St Augustine's College games on 13 December 2010. Council received an email from the President advising that these dates had been advised to the head body compiling the draw and that these days would be made available for St Augustine's College.
- 1.5 Council staff held discussions with Pittwater Baseball Club who are the main summer season user of Field 3 & 4, they indicated support (in principle) for the proposal but were concerned that during March there is an overlap on a Wednesday night. Council staff indicated that they could move the St Augustine's training to another location within the reserve for the period of March. The representative indicated that the club would be willing to work thru this issue.

- 1.6 Council held a meeting with the President of Warringah Rugby Club in regard to the permanent use of Pittwater Rugby Park by St Augustine's College and if that could fit in with Warringah Rugby Club's use of the ground. The Warringah Rugby Club President has also held discussions with St Augustine's College representative in regard to the use of the facility and the future relationship that can be formed between the two bodies.
- 1.7 A report was tabled at Council's meeting on 6 December 2010, where it was resolved "*that consideration of this item be deferred for two weeks to provide Councillors with the attachment and further information*".
- 1.8 A report was tabled at Council's meeting on 20 December 2010, where it was resolved "*that the proposed Licence be placed on Public Exhibition. That the results of the Public Exhibition be reported back to Council at the first meeting in February 2011*".
- 1.9 Due to the Public Exhibition period being over the Christmas period, Council requires that Public Exhibition documents over this period are to be on display until the end of January. As the Public Exhibition period did not close until 1 February 2011, staff were unable to provide the results of the Public Exhibition prior to the Agenda closing date of 28 January 2011 for the 7 February 2011 Meeting (first meeting in February).
- 1.10 Notice of the Public Exhibition of the proposed Licence Agreement was advertised in the Manly Daily on 28 December 2010. Copies of the proposed Licence Agreement were available for viewing at Council's Customer Service Centres, Mona Vale Library, Avalon Library and Council's website.

2.0 ISSUES

- 2.1 St Augustine's College has requested a long term arrangement for the permanent use of Pittwater Rugby Park Main Field & Field 2 and Field 4 in North Narrabeen Reserve. Council has proposed a Licence Agreement of 5 years with a 5 year option. Due to the period of the Licence Agreement, it is a requirement of Council that the proposed Licence Agreement be placed on Public Exhibition for a period of 30 days.
- 2.2 Council will be entering into a long term commitment with St Augustine's for the use of Pittwater Rugby Park – Main Field and Field 2 & Field 4 at North Narrabeen Reserve for training and matches.
- 2.3 St Augustine's use of the outside grounds may impact on the use of those grounds by current users such as Pittwater Baseball Club and Narrabeen Rugby Union (Tigers). Council staff contacted representatives of these two organisations prior the proposed Licence Agreement being formalised and reported to Council.
- 2.4 Narrabeen Rugby Club (Tigers), whose home ground is North Narrabeen No. 3 & 4, agreed in principle to the proposal as it would have positive outcomes for the Club in terms of additional coaching & player opportunities and additional income as the Club would open it's canteen when St Augustine's are playing matches at North Narrabeen Reserve.
- 2.5 Since the proposed Licence Agreement was reported to Council, Council staff have discussed with Narrabeen Rugby Club (Tigers) field options. The Club representative has indicated that they would prefer St Augustine's to be allocated to Field 4 rather than Field 3 as stated in the proposed Licence Agreement. The proposed Licence Agreement **(Attachment 3)** has been altered to reflect this change. The President of Pittwater Baseball Club has also been advised by Council of this change.

- 2.6 Pittwater Baseball Club, whose home grounds are North Narrabeen No. 3, 4 & 5, supported, in principle, the use of the field by St Augustine's, but had some concerns in regard to the impact on their training times on a Wednesday (Monday – there is no baseball training), due to the training commencing for St Augustine's in late February, which is an overlap into the summer season. Council Staff have advised Pittwater Baseball that they will allocate another part of the reserve to St Augustine's on a Wednesday during the overlap period. The Club representative agreed with this action by Council. If the proposed Licence Agreement is adopted this arrangement will be confirmed in writing by Council to Pittwater Baseball Club.
- 2.7 Warringah Rugby Club has been consulted on the issue and has agreed to the proposal in principle (**see Attachment 1**). As a demonstration of good faith, it is proposed to allocate \$10,000 per annum for the term of the Licence Agreement (from the St. Augustine's fees) to Warringah Rugby Club to compensate the Club for necessary adjustments and inconvenience in particular the need to make No. 1 field available for St Augustine's matches.
- 2.8 A written agreement would be entered into with Warringah Rugby Club to guarantee security for the St Augustine's Licence Agreement and the use of the main ground. This Agreement would contain conditions that if Warringah Rugby Club is unable to make the main ground available to St Augustine's College for all matches, then there may only be a partial compensation payment to Warringah Rugby Club.
- The main objective of the payment to Warringah Rugby Club is to compensate the Club for having to re-schedule their home matches for Colts or Grade games from Pittwater Rugby Park to another date/venue. This would only occur in the event of a clash of dates.
- 2.9 St Augustine's College has also seen the proposed Licence Agreement and formally agreed to its conditions (**see Attachment 2**).
- 2.10 St Augustine's wishes to run a maximum of 5 weekend match days which may impact on Warringah Rugby Club's use of the main field and the outside fields. The dates that St Augustine's require were advised to Warringah Rugby Club in November 2010. The Club will make representation to NSW Rugby for them to cater for these dates in their draw.
- 2.11 A preliminary draw for the coming Rugby Union season, received by Council, indicates there would be an overlap on one date.
- 2.12 Should Warringah Rugby Club, after making representation to NSW Rugby Union, be unable to accommodate the use of the ground by St Augustine's, the following options may be available:-
- a) The top two grades of Warringah Rugby Club and the top two grades of St Augustine's play on the main field, the remaining grades of Warringah Rugby Club play on Field 2 together with St Augustine's. The remaining St Augustine's games would be played on Field 3 & 4 – North Narrabeen Reserve.
 - b) St Augustine's games from the main field be moved to Field 2. The St Augustine's games from Field 2 would be re-located to Field 3 North Narrabeen Reserve. In the event that all the games for St Augustine's are not played on the main field, the proposed compensation payment would be withdrawn or a percentage payment paid reflecting the number of St Augustine's match days played.

- c) Warringah Rugby Club play these games on a Sunday, as other clubs in the Shute Shield competition have chosen to do due to supporters attending private school rugby union competitions which play on a Saturday.

2.12 Council will receive income from the fees and charges received from St Augustine's Licence Agreement. The proposed fees, which are determined in accordance with Council's adopted fees and charges contained within the Delivery Plan (see table below), would be in the vicinity of \$38,000 for the first year.

TRAINING Monday & Wednesdays 4pm-5.30pm			
Facility	Council Fee		Total
Main Field	Field Hire & Change Rooms	\$288.00 per day \$576.00 per week (2 sessions)	27 weeks @ \$576.00 = \$15,552.00 (no floodlights)
	Floodlights	\$40.00 per hour \$80.00 per week	16 weeks @ \$80.00 = \$1,280.00 (Number of weeks that floodlights will be required calculated by Council)
Field 2	Field Hire	\$80.00 per day \$160.00 per week	27 weeks @ \$160.00 = \$4,320.00 (no floodlights)
	Floodlights	\$40.00 per hour \$80.00 per week	16 weeks @ \$160.00 = \$1,280.00 (Number of weeks that floodlights will be required calculated by Council)
Field 4	Field Hire	\$75.00 per day \$150.00 per week	27 weeks @ \$150.00 = \$4,050.00 (no floodlights)
	Floodlights	\$16.00 per day \$32.00 per week	16 weeks @ \$32.00 per week = \$512.00 (Number of weeks that floodlights will be required calculated by Council)

GAMES			
Facility	Council Fee		Total
Main Field	Field Hire (includes Toilets) Change Rooms	\$358.00 per day \$358.00 per day Linemarking \$261.00 per day	5 days @ \$977.00 per day = \$4,885.00
Field 2	Field Hire	\$150.00 per day Linemarking \$261.00 per day	5 days @ \$411.00 per day = \$1,644.00
Field 4	Field Hire	\$127.00 per day Linemarking \$261.00 per day (if required)	5 days @ \$127.00 per day = \$635.00

- 2.13 The proposed Licence Agreement will complement the existing use of the facility and the current users of the facility and provide further use of the ground by schools (**see Attachment 3**).
- 2.14 The proposed Licence Agreement was placed on public exhibition from the 28 December 2010 until 1 February 2011. Following the exhibition period, 6 submissions have been received. These submissions are summarised in **Attachment No. 4**.
- 2.15 This proposal is in keeping with Council's Recreational Management Strategy which has an objective '*To promote youth involvement in recreational, social & cultural activities & events*'.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 This Licence Agreement will allow greater use of Pittwater Rugby Park by school students and the community in general.

3.2 Valuing & Caring for our Natural Environment (Environmental)

- 3.2.1 Nil

3.3 Enhancing our Working & Learning (Economic)

- 3.3.1 Council will be receiving income of approximately \$38,000 per annum from this Licence Agreement which will assist with running costs for the ground and payment to Warringah Rugby Club.

3.4 Leading an Effective & Collaborative Council (Governance)

- 3.4.1 Council would need to enter into a Licence Agreement with St Augustine's College for the use of the grounds at Pittwater Rugby Park and North Narrabeen Reserve. The proposed Licence Agreement has been placed on public exhibition for a period of 40 days.

- 3.4.2 Council would also formalise a written agreement with Warringah Rugby Club regarding St Augustine's College use of the sporting facilities at North Narrabeen Reserve.

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

- 3.5.1 Funds received from this Licence Agreement will assist with maintaining the infrastructure at the ground.

4.0 **EXECUTIVE SUMMARY**

- 4.1 St Augustine's College wishes to establish a permanent relationship with Council and requested a 5 year Licence with a 5 year option for the use of Pittwater Rugby Park and North Narrabeen Reserve on specified days & times for the training & playing of school Rugby Union.
- 4.2 At the Council meeting 20 December 2010 Council resolved for the proposed Licence Agreement be placed on Public Exhibition.
- 4.3 Six (6) Submissions (**Attachment 4**) were received. None of the submissions vehemently opposed the issuing of a Licence Agreement to St Augustine's College as long as the requirements of the current historical users of the facility were not compromised.
- 4.4 As a demonstration of good faith, it is proposed to allocate \$10,000 per annum for the term of the Licence Agreement, from the St. Augustine's income to Warringah Rugby Club to compensate the club for necessary adjustments and inconvenience to its regular training and playing schedule. This payment would be on condition that a written agreement be entered into with Warringah Rugby Club to guarantee security of the St Augustine's Licence Agreement.

RECOMMENDATION

1. That Council resolve to approve the issuing of a Licence Agreement between Council and St Augustine's College – Sydney for the use of Pittwater Rugby Park – Main Field, Field 2 & Field 4 at North Narrabeen Reserve for a period of 5 years with a 5 year option.
2. That a written Agreement be entered into with Warringah Rugby Club to guarantee security for the St Augustine's College Licence Agreement.
3. That a Condition of the written Agreement between Council and Warringah Rugby Club be that if the St Augustine's College Licence Agreement is unable to be fulfilled the payment of \$10,000 per annum for the term of the St Augustine's Licence Agreement will be reviewed by Council as per the Conditions of the Agreement.

Report prepared by
Linda Ward – Facility Manager Pittwater Rugby Park & North Narrabeen Reserve

Les Munn
MANAGER, RESERVES, RECREATION & BUILDING SERVICES



13th December 2010

Mr Mark Ferguson, General Manager
 Pittwater Council
 DX 9018
 MONA VALE

Dear Mark,

PITTWATER RUGBY PARK

In relation to the issue of the sub licence for the use of Pittwater Rugby park by St Augustine's college. As stated in our last correspondence of 2nd of December 2010 Warringah Rugby Club in principle has no issue with the concept or reasoning behind the issuing of this sub licence. Warringah Rugby Club believes that this issue should be explored and sees great benefits to both the local community and Warringah Rugby Club by the issuing of this sub licence.

Council therefore has the support of Warringah Rugby Club to pursue this matter in accordance with conversations that have currently been held with council representatives pertaining to certain issues relating the granting of the sub licence. Discussions need to ensure an equitable usage of the ground and ensure that Warringah Rugby Club as Primary tenant of the ground is not disadvantaged by the issuing of the sub licence. In saying that Warringah Rugby club is prepared to work with all parties and NSW RU to ensure availability of the ground for St Augustine's. There are a number of specific issues that need to be worked through, which relate to scheduling and infrastructure use etc we believe by the entering into of some kind of tripartite or heads of agreement that these issues can be overcome.

I look forward to entering into these discussions and am confident that a successful outcome can be achieved.

Mike Sheeran

President



ST AUGUSTINE'S COLLEGE - SYDNEY

13 December 2010

Ms Linda Ward
Pittwater Council
Vuko Place
WARRIEWOOD NSW

Dear Ms Ward

Further to your email of 9 December 2010 to Mr John Papahatzis we advise our acceptance of all terms and conditions in the Deed of Licence between St Augustine's College Sydney and Pittwater Council regarding the use of grounds and grandstands as detailed in the agreement.

Please contact me if there are any queries.

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Holland'.

David Holland
Director of Business and Finance
Phone 02 9938 8203
Email davidh@saintaug.nsw.edu.au

Federal Parade (PO Box 399) Brookvale NSW 2100 Tel: (02) 9938 8200 Fax: (02) 9905 6483
Email: adm@saintaug.nsw.edu.au Website: www.saintaug.nsw.edu.au ABN 24 111 925 225 CRICOS No. 01369C

DATED this

day of

2010

DEED OF LICENCE

BETWEEN

PITTWATER COUNCIL

(the "Licensor")

AND

ST. AUGUSTINE'S COLLEGE SYDNEY

(the "Licensee")

Matthew Huntingdon & Co

Solicitors & Notaries

367 Barrenjoey Rd

Newport NSW 2106

Telephone: 9999 1504

Facsimile : 9997 7938

DATED this

day of

2010

BETWEEN Pittwater Council of Vuko Place, Warriewood, New South Wales
of the first part (called the "Licensor" in this Agreement)

AND St Augustine's College Sydney A.C.N 111 925 225, of Federal Parade, Brookvale,
New South Wales of the second part (called the "Licensee" in this Agreement)

WHEREAS:-

A. The Licensor is the registered proprietor of Lot 1 in Deposited Plan 1064208 (called the "Land" in this Agreement).

B. On part of the Land, identified in the aerial photograph annexed and marked item 1 by the area within the broken lines, is :-

- a training ground adjacent to Pittwater Road, Warriewood; and
- a main stadium with grandstand to the east of the training ground; and
- a third ground to the east of the main ground and including the more detailed list of amenities as set out in item 2 attached.

(collectively called the "Grounds" in this Agreement).

C. The Licensor has agreed at the request of the Licensee, to grant a licence of the Grounds to the Licensee, subject to the terms and conditions of this Agreement.

D. The parties agree that this Agreement represents a reasonable arrangement between them given the particular circumstances of the Licensor's responsibilities in regard to the Grounds.

NOW THIS DEED WITNESSES and in consideration of the mutual promises it is agreed and declared as follows:-

1. The parties acknowledge that the agreed use of the Grounds is for training and playing of school competition games in accordance with the schedule in Item 3. The Licensee's use of the Grounds must always conform with Council resolutions, any legislation and regulations in force from time to time, and the terms of this Agreement.

2. The term of this Agreement is for five years.

The Licensee agrees to return the Grounds to the Licensor at the expiry of the term in substantially the same condition as they were at the commencement of this Agreement, fair wear and tear excepted.

3. The Licensee may apply to the Licensor for a further five year term, to commence at the expiry of this Agreement, provided that:-

- (a) the Licensee is not in breach of the terms of this Licence Agreement at the time the request for a further five year term is made by the Licensee; and
- (b) the Licensee serves written notice on the Licensor of its request for a further five year term, between three and six months prior to the expiry of this Agreement; and
- (c) the Licensor and the Licensee agree to conduct a comprehensive review of the terms of the new licence at the discretion of the Licensor.

4. The annual fees payable by the Licensee to the Licensor are as per Pittwater Councils adopted Fees & Charges contained in Councils Delivery Plan.

5. The Licensee will pay the reasonable legal fees and expenses of the Licensor associated with this Agreement.
6. At all times during the term of this Agreement, the Grounds must be kept in a clean and tidy condition to the satisfaction of the Licensor.
7. Any notice to be given under this Agreement by one of the parties to the other must be in writing and is given for all purposes by delivery in person, (in the case of the Licensee, to the person for the time being responsible for legal matters on behalf of the Licensee, or by pre-paid post or by facsimile addressed to the receiving party at the addresses of the Licensor and the Licensee respectively, as set out in this Agreement. The party may at any time change its address, postal address, by giving written notice to the other party of the change.
8. If any part of this Agreement is rendered unenforceable or invalid or the operation of it becomes excluded by operation of law or otherwise, the remaining provisions of this Agreement will not be affected but will remain in full force and effect and will be valid and enforceable to the fullest extent permitted by law.
9. It is fundamentally understood by the parties that on and from the date of this Agreement and in accordance with its terms, the Licensor shall permit the Licensee to occupy the Grounds provided always that such occupancy shall in no way be to the exclusion of authorised representatives of the Licensor.
10. The Licensee shall not enter into a sub-licence, assign or otherwise deal in a similar manner with the Grounds without the consent of the Licensor.
11. The Licensee shall not do anything in the Grounds which would constitute a nuisance or annoyance to other users of the Grounds or the Land or neighbouring properties to the Land.
12. The Licensee shall indemnify and keep indemnified the Licensor from and against all suits, damages, costs, actions, claims, debts, demands and other liabilities during the continuance of this Agreement and the Licensee shall take out and maintain a public risk insurance policy with a reputable insurer in the names of the Licensor insuring Council against such matters in the sum of not less than twenty million dollars (\$20,000,000.00) and shall produce at any time when required by the Licensor the last renewal receipt for the payment of the premium for the policy.
13. No provision of this Agreement shall be deemed to have been waived either in whole or in part by the Licensor unless such waiver is in writing and signed on behalf of the Licensor. Any such waiver shall not affect or prejudice the rights or remedies of the Licensor in respect of any future or other breach and (unless expressly stated) shall not amount to a general waiver of any provision of this Agreement.
14. Nothing in this Agreement is intended to or shall confer on the Licensee any right as tenant of the Grounds or create the relationship of landlord and tenant between the parties.

Any such implication or inference is hereby expressly negated.

It is further expressly agreed and declared that this Agreement shall be conclusive evidence that the relationship between the parties is at all times during the initial term and any further agreed period shall be that of Licensor and Licensee and that the rights of the Licensee are fully set out in this Agreement.

The Licensee acknowledges that no representation or warranty contrary to or inconsistent with the terms of this Agreement has been given by any servant or agent of the Licensor to the Licensee.

15. In consideration of the promises by the Licensee contained in this Agreement, the Licensor agrees to:-

- (a) provide playing surfaces consistent with those found in grounds of similar standard elsewhere in the area governed by the Licensor; and
- (b) maintain and present the facility to a standard that meets the reasonable expectations of the patrons of the facility; and
- (c) ensure that equipment and facilities are in working order prior to training/games; and
- (d) carry out line marking to meet the requirements of the rugby union code, such code to be provided by the Licensee to the Licensor in writing; and
- (e) provide a storage area, being the area of 30 square metres known to the parties and which is located under the southern part of the grandstand, and
- (f) provide canteen service when reasonably required.

16. The following clauses are essential terms of this Agreement:-

Clauses 1, 2, 3, 4, 9, 10, 11, 12, 14 and 15.

EXECUTED AS A DEED

SIGNED by a duly
authorised officer of
Pittwater Council
in the presence of :

.....
Witness

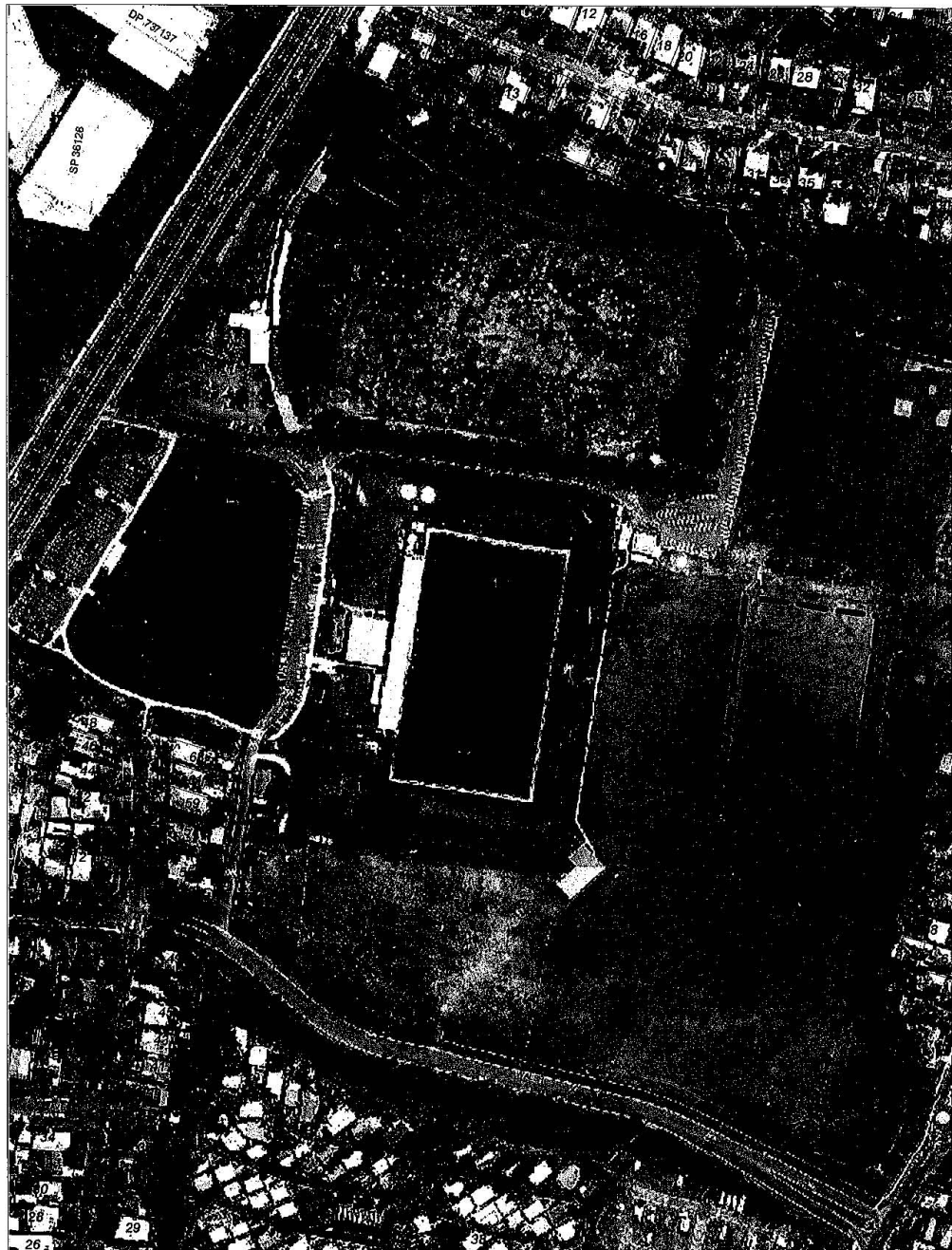
.....
Name of Witness

SIGNED by the directors of the
Licensee pursuant to Section 127
of the Corporations Act in the
presence of :

.....
Director

.....
Director

Item 1



Item 2

Pittwater Rugby Park

Field 1 (Main)
Field 2
Grandstand & Surrounds
Change Rooms
Toilets
Team Room
Medical Room
Referees Room
Ice Room
Function Room – Match Days Only
Secure Storage – Southern End of Grandstand

North Narrabeen Reserve

Field 4
Toilets – Northern Amenity
Toilets – Southern Amenity

Item 3

Training Feb – August Inc (No school holidays)			
Main Field	27 weeks	Monday & Wednesday	4pm – 5.30pm
Field 2	27 weeks	Monday & Wednesday	4pm – 5.30pm
Field 4	27 weeks	Monday & Wednesday	4pm – 5.30pm

Playing – ISA Competition – Full Day			
Main Field	5 dates	Saturday	8am – 5.30pm
Field 2	5 dates	Saturday	8am – 5.30pm
Field 4	5 dates	Saturday	8am – 5.30pm

SUMMARY OF SUBMISSIONS

Ref	Submission	Issue	Council Response
1	Non Resident	<p>Dates for playing of St Augustine's games could be a disadvantage to Public State Primary & High School Carnivals being held at this location.</p> <p>Dates for playing of St Augustine's games may affect Sydney Junior rugby Carnivals and Warringah Colts Games</p>	<p>School Carnivals are held during school hours at this location.</p> <p>St Augustine's games are not proposed to be played during school hours.</p> <p>Council has liaised with the Narrabeen Junior Rugby Union Club and Warringah Rugby Club who are supportive of St Augustine's utilising the facility. Dates of the games for 2011 were supplied to both of these organisations in November 2010.</p>
2	Resident	Supporting the use of the facility by St Augustine's College, as it would see the facility used productively and not left idle.	
3	Resident	<p>Asked the question if arrangements had been made to accommodate the Warringah Rugby Club games.</p> <p>Submission stated 10 dates. St Augustine's College require 5 dates in Season 2011.</p>	<p>Council staff held a meeting and had telephone conversations with Warringah Rugby Club in regard to the use of the facility by St Augustines. They support the issuing of a Licence Agreement as indicated in their letter of support which is attached to this report.</p>

Ref	Submission	Issue	Council Response
4	President – Narrabeen Jnr Rugby Union Club	Concerns that playing & training days may clash with St Augustines as Club has not held their registrations and draw has not been compiled.	<p>Council Staff spoke to the President of Narrabeen Jnr Rugby Union Club on the 30 November. He advised that the Club supported the use of the facility by St Augustines and that training on Mondays & Wednesdays would not be a problem.</p> <p>Dates for St Augustine's games were provided to the President on 8 December 2010. Council received an email from the President on the 13 December confirming that the organisation who compile the draw had been advised to exclude these dates (St Augustine's games) from the Minis Draw. Minis play on a Saturday at North Narrabeen Reserve</p>
5	Pittwater Baseball Club	<p>Requested clarification of the field that St Augustine's College will use for training and playing.</p> <p>Concerns that Pittwater Baseball have allocation for training on Wednesday night and that St Augustines may impinge of their training times</p>	<p>Council has contacted the Club and clarified that Field 4 will be used by St Augustines</p> <p>Council Staff spoke to the President of Pittwater Baseball 29 November 2010. She advised that they were supportive of the use of the facility by St Augustines and that Council would work with the Club in regard to moving St Augustines to another part of the reserve, if training times clashed. The President agreed with this compromise offered by Council.</p>

Ref	Submission	Issue	Council Response
6	Narrabeen Tigers Jnr Rugby Club	<p>Supported the proposed Licence Agreement to St Augustine's College.</p> <p>Will work with Council if there are conflicts in times for the use of North Narrabeen Reserve.</p>	<p>Council Staff spoke with the President of Narrabeen Tigers Jnr Rugby 30 November 2010 and advised of training days & times and playing times.</p> <p>The President advised that Mondays & Wednesdays would not be a problem for St Augustines to use for training.</p> <p>Dates for St Augustine's games were provided to the President on 8 December 2010. Council received an email from the President on 13 December confirming that he had advised the organisation compiling the draw to exclude the dates from the minis draw. Minis play on a Saturday at North Narrabeen Reserve.</p>

Planning an Integrated Built Environment Committee

11.0 Planning an Integrated Built Environment Committee Business

**C11.1 N0594/10 - 9-11 BEACONSFIELD STREET, NEWPORT -
Demolition of the existing structures, construction of an
Infill Affordable Housing development comprising of 25
apartments, two levels of basement carparking and strata
subdivision**

Meeting: Planning an Integrated Built
Environment Committee

Date: 21 February 20100

STRATEGY: **LAND USE AND DEVELOPMENT**

ACTION: Provide and effective development assessment and determination process

PURPOSE OF REPORT

To inform the Committee of the Development Unit's recommendation following consideration of Development Application N0594/10 - 9 Beaconsfield Street, Newport (Lot 30 Dp 1093125), 11 Beaconsfield Street, Newport (Lot 29 DP 1093125), Demolition of the existing structures, construction of an Infill Affordable Housing development comprising of 25 apartments (10 x 1 bedroom, 3 x 1 bedroom + study, 2 x 2 bedroom, 8 x 2 bedroom + study and 2 x 3 bedroom) and two levels of basement car parking and a strata subdivision of the resultant development.

1.0 BACKGROUND

The Development Unit, at its meeting held on Thursday, 3 February 2011 considered the Development Officer's report (**Attachment 1**) for determination of Development Application N0594/10 - 9 Beaconsfield Street, Newport (Lot 30 DP 1093125), 11 Beaconsfield Street, Newport (Lot 29 DP 1093125), Demolition of the existing structures, construction of an Infill Affordable Housing development comprising of 25 apartments (10 x 1 bedroom, 3 x 1 bedroom + study, 2 x 2 bedroom, 8 x 2 bedroom + study and 2 x 3 bedroom) and two levels of basement carparking and a strata subdivision of the resultant development.

2.0 REASON FOR REFERRAL TO COUNCIL

2.1 The Applicant has had the matter listed in the Land and Environment Court for hearing.

3.0 DEVELOPMENT UNIT DELIBERATIONS

3.1 Six Objectors addressed the Development Unit on the application relating to: overdevelopment of the site, not fitting in with the local amenity, lack of visual and acoustic privacy, size and bulk of development, traffic and parking.

3.2 The Applicant was not represented at the Development Unit meeting.

3.3 The Development Unit supported the Assessing Officer's recommendation for refusal

4.0 ISSUES

- Over development of the site
- Privacy – visual and acoustic
- Bulk and scale of development
- Traffic
- Parking
- Solar access

5.0 SUSTAINABILITY ASSESSMENT

- 5.1 This report does not require a Sustainability Assessment

6.0 EXECUTIVE SUMMARY

- 6.1 The Application was considered by the Development Unit at its meeting held on 3 February 2011 and after hearing from the Objectors and noting that the Applicant was not represented, endorsed the Assessing Officer's recommendation for Refusal.

RECOMMENDATION

That the recommendation in the Development Officers Report (**Attachment 1**) be endorsed and Development Application N0594/10 - 9 Beaconsfield Street, Newport (Lot 30 DP1093125), 11 Beaconsfield Street, Newport (Lot 29 DP1093125) be refused for the following reasons:

1. **Inadequate Information to Assess the Development Application**

There are inconsistencies between the submitted plan documentation and insufficient information to assess solar access, impacts to trees on the subject site and adjoining sites and the proposed strata subdivision.

2. **Desired Future Character and Local Context**

The development is inconsistent with the A4.10 Newport Locality of Pittwater 21 DCP and Clause 2(3)(a)(iii), 2(3)(b) and 9 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development is inconsistent with the desired future character for the Newport Locality and does not satisfactorily respond to the local context.

As the development does not achieve the desired future character for the locality, the development is also inconsistent with the outcomes of controls D10.1 Character as viewed from a public place, D10.3 Scenic protection – General, D10.5 Height (excluding Newport Commercial Centre), D10.7 Front building line (excluding Newport Commercial Centre), D10.8 Side and rear building line (excluding Newport Commercial Centre) and D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP.

3. **Bulk and Visual Impact**

The development is inconsistent with Clause 2(3)(b), 2(3)(d) and 11 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development results in unacceptable visual bulk and mass when viewed from the street and neighbouring properties and does not maximise amenity for the benefit of its occupants and the wider community.

As the development does not minimise bulk, the development is also inconsistent with the outcomes of controls D10.8 Side and rear building line (excluding Newport Commercial Centre) and D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP.

4. **Solar Access**

The development is inconsistent with C1.4 Solar Access of Pittwater 21 DCP, RFDC Rule of Thumb for Daylight Access and Clause 2(3)(a)(i), 2(3)(e), 2(3)(d) and 15 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that development does not provide the necessary amount of daylight access to the future occupants of the development.

As the development does not provide adequate daylight access to the future occupants of the development, the development is also inconsistent with the outcomes of controls D10.8 Side and rear building line (excluding Newport Commercial Centre) and D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP.

5. **Natural Ventilation**

The development is inconsistent with the RFDC Rules of Thumb for Natural Ventilation and Clause 2(3)(a)(i), 2(3)(e), 2(3)(d) and 15 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development does not provide the necessary amount of natural ventilation to the future occupants of the development.

6. **Visual Privacy**

The development is inconsistent with C1.5 Visual Privacy of Pittwater 21 DCP and Clause 2(3)(d) of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development does not optimise visual privacy for future occupants through good design and results in adverse privacy impacts to adjoining properties.

As the development does not provide reasonable level of privacy within the development site and maintain it to residential properties, the development is also inconsistent with the outcomes of control D10.8 Side and rear building line (excluding Newport Commercial Centre) of Pittwater 21 DCP.

Report prepared by

Warwick Lawrence
MANAGER ADMINISTRATION AND GOVERNANCE

SUBJECT: N0594/10 - 9 BEACONSFIELD STREET, NEWPORT (Lot 30 DP 1093125), 11 BEACONSFIELD STREET, NEWPORT (Lot 29 DP 1093125)

Demolition of the existing structures, construction of an Infill Affordable Housing development comprising of 25 apartments (10 x 1 bedroom, 3 x 1 bedroom + study, 2 x 2 bedroom, 8 x 2 bedroom + study and 2 x 3 bedroom) and two levels of basement carparking and a strata subdivision of the resultant development.

Determination Level: Development Unit Meeting

Date: 3 February 2011

SUMMARY OF RECOMMENDATION

REFUSAL

REPORT PREPARED BY:	Amy Allen
APPLICATION SUBMITTED ON:	12/10/2010
APPLICATION SUBMITTED BY:	BOSTON BLYTH FLEMING 1/9 NARABANG WAY BELROSE 2085
OWNER(S):	SOLOMON, JOHN EDWARD (Own) THORNTON, HELEN ANN (Own) SOLOMON, J (OwnResOcc)

1.0 DEVELOPMENT CONTROLS

The sites are zoned 2(a) Residential under the provisions of Pittwater Local Environmental Plan 1993 (PLEP). Multi Unit Housing development is prohibited within the zone under PLEP, however State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) applies to the site and allows residential flat buildings in areas zoned where they would not otherwise be permitted. Consequently, the Multi Unit Housing development is permissible with consent on these lots.

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

- Environmental Planning and Assessment Act 1979, as amended;
- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development and the Residential Flat Design Code;
- State Environmental Planning Policy (BASIX) 2004; Pittwater Local Environmental Plan 1993;
- Pittwater 21 Development Control Plan – Amendment 6;
- Geotechnical Risk Management Policy for Pittwater 2009.

2.0 NOTIFICATIONS

- Ninety One (91) property owners were notified.
- As a result of both notification periods, eighty eight (88) submissions were received with some objectors submitting multiple objections.
- A petition comprising of approximately nine hundred (900) signatures addressed to the Legislative Assembly of NSW was also submitted to Council.

3.0 ASSESSMENT ISSUES

- B5.10 Stormwater Discharge into Public Drainage System
- B6.6 Off-Street Vehicle Parking Requirements – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy
- B6.10 Transport and Traffic Management – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy
- B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor; C1.1 Landscaping
- Inadequate Information to Assess the Development Application; 3.3 Submission of supporting documentation – Site Plan / Survey Plan / Development Drawings
- A1.7 Considerations before consent is granted
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- C1.7 Private Open Space
- D10.1 Character as viewed from a public place; D10.3 Scenic protection – General
- D10.4 Building colours and materials
- D10.5 Height (excluding Newport Commercial Centre)
- D10.7 Front building line (excluding Newport Commercial Centre)
- D10.8 Side and rear building line (excluding Newport Commercial Centre)
- D10.13 Site coverage – Environmentally Sensitive Land

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?

Y – Yes N – No - – N/A

Control	Standard	Proposal	T	O	N
DEVELOPMENT ENGINEER					
B3.1 Landslip Hazard		<p>Submissions raise concerns relating to the geotechnical risk including impacts from excavation in close proximity to the boundary and potential structural damage to adjoining properties.</p> <p>A geotechnical report which satisfies the requirements defined by the Geotechnical Risk Management Policy for Pittwater 2009 has been assessed by council's development engineer. The recommendations within the geotechnical report can be incorporated into any consent issued.</p>	Y	Y	N
B3.22 Flood Hazard – Flood Category 3 – All Development			-	-	-
B5.4 Stormwater Harvesting			Y	Y	Y
B5.7 Stormwater Management – On-Site Stormwater Detention			Y	Y	Y
B5.9 Stormwater Management – Water Quality – Other than Dwelling House, Dual Occupancy and Secondary Dwellings			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System		<p>Submissions raise concerns relating to the lack of any agreements with the RTA over the use of their land for stormwater disposal and the affect of stormwater run off on down slope properties.</p> <p>See discussion later in report.</p>	Y	Y	N
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)			-	-	-

B6.2 Access Driveways and Works on the Public Road Reserve- All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B6.4 Internal Driveways – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B6.6 Off-Street Vehicle Parking Requirements – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy	<p>Total spaces required – 46</p> <p>Residential – 37 spaces (Including 13 spaces)</p> <p>Visitor – 9 spaces</p>	<p>Submissions raise concerns relating to the lack of off street parking spaces proposed to service the development and the associated impacts on on-street parking facilities.</p> <p>Total spaces proposed – 40 (Including 13 spaces)</p> <p>See discussion later in report.</p>	N	Y	N
B6.9 On-Street Parking Facilities – All Development other than Dwelling Houses, Secondary Dwellings and Dual Occupancy		<p>Submissions raise concerns relating to the current lack of on street parking and the impact of the development on the existing facilities.</p> <p>The control does not require the development to provide on-street parking facilities.</p> <p>See discussion under B6.10 Transport and Traffic Management later in this report.</p>	-	-	N
B6.10 Transport and Traffic Management – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		<p>Submissions raise concerns relating to the impacts associated with increased traffic generated from the development, congestion and pedestrian safety.</p> <p>See discussion later in report.</p>	Y	Y	N
B8.1 Construction and Demolition – Excavation and Landfill		<p>Submissions raise concerns relating to the risks from excavation in close proximity to property boundaries and potential structural damage.</p> <p>The proposed excavation has been addressed within the Geotechnical Assessment.</p> <p>It is considered that the proposal satisfactorily addressed the risks associated with the development, subject to recommendations within the report and additional recommendations from council's Development Engineer including a requirement for dilapidation reports being incorporated into any consent issued.</p>	Y	Y	N

B8.2 Construction and Demolition – Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition – Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition – Site Fencing and Security			-	-	-
B8.5 Construction and Demolition – Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition – Traffic Management Plan			Y	Y	Y
NATURAL ENVIRONMENT AND LANDSCAPING					
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.5 Acid Sulphate Soils			Y	Y	Y
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor and C1.1 Landscaping		<p>Submissions raise concerns relating to the disturbance to native flora and fauna as a result of excavation for the structure and drainage, domestic pets and the adequacy of the proposed landscaping to effectively screen the development.</p> <p>See discussion later in report.</p>	N	N	N
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		<p>There are inconsistencies and deficiencies in the submitted development application documentation.</p> <p>See discussion later in report.</p>	N	N	Y
3.4 Notification			Y	Y	Y

3.5 Building Code of Australia			Y	Y	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)	The following SEPPs apply to this development: SEPP (Affordable Rental Housing) 2009 (SEPP ARH) SEPP No. 65 Design Quality of Residential Flat Code (SEPP 65)	Submissions raise concerns relating to the proposal being inconsistent with SEPP ARH and SEPP 65. See discussion later in report.	N	N	N
4.5 Integrated Development: Aboriginal Objects and Places		The development is not classified as integrated development.	Y	Y	Y
4.6 Integrated Development – Protection of the Environment		The development is not classified as integrated development.	Y	Y	Y
4.7 Integrated Development – Roads		The development is not classified as integrated development.	Y	Y	Y
5.1 Referral to the Roads and Traffic Authority under SEPP (Infrastructure) 2007		The application does not require Referral to the Roads and Traffic Authority under SEPP (Infrastructure) 2007 as it is not adjacent to a classified road and is not traffic generating development.	Y	Y	Y
5.2 Referral to the NSW Police Service		The application was referred to the NSW Police for a formal assessment against the Crime Prevention Guidelines particularly Crime Prevention through Environmental Design. Correspondence dated 30 November 2010 makes recommendations to be incorporated into the development to minimise crime risk. It is considered that the recommendations are reasonable and achievable and should be incorporated into any development consent issued.	Y	Y	Y
5.3 Referral to NSW Department of Environment and Climate Change (DECC)		The development is not on land that is, or is a part of, critical habitat, or the development is likely to significantly affect a threatened species, population, or ecological community, or its habitat therefore does not require referral to the NSW DECCW.	Y	Y	Y
6.2 Section 94 Contributions – Open Space Bushland and Recreation		23 dwellings x \$9000 = \$207 000 (1 dwelling per lot credit included) A section 94 Contribution of \$207 000 is applicable to the proposed development, payable prior to CC.	Y	Y	Y

6.3 Section 94 Contributions – Public Library Services		23 dwellings x \$2000 = \$46 000 (1 dwelling per lot credit included) A section 94 Contribution of \$46 000 is applicable to the proposed development, payable prior to CC.	Y	Y	Y
6.4 Section 94 Contributions – Community Service Facilities		23 dwellings x \$3500 = \$80 500 (1 dwelling per lot credit included) A section 94 Contribution of \$80 500 is applicable to the proposed development, payable prior to CC.	Y	Y	Y
6.5 Section 94 Contributions – Village Streetscapes		23 dwellings x \$5000 = \$115 000 (1 dwelling per lot credit included) A section 94 Contribution of \$115 000 is applicable to the proposed development, payable prior to CC.	Y	Y	Y
A1.7 Considerations before consent is granted		The majority of submissions raise concerns relating to the development being prohibited within the Residential 2(a) zone, the expectation by residents that development of this nature could not be built on the site and the negative impacts on property values. See discussion under later in this report.	Y	Y	N
B1.3 Heritage Conservation – General			Y	Y	Y
B2.5 Dwelling Density and Subdivision – Multi-Unit Housing	1 dwelling per 200 sq m (2892/200) = maximum 14.46 dwellings Primary street frontage (width) Beaconsfield Street – 40.235m Multi-unit housing must not be carried out unless the street frontage is greater than or equal to one third of the length of the longest side boundary.	Submissions raise concerns relating to the density of the development and the lack of supporting infrastructure. The development proposes 25 dwellings where the control allows a maximum of 14 dwellings on the site. See discussion under later in this report.	N	N	N
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B5.1 Water Management Plan		The applicant has submitted stormwater concept plans which integrates rainwater and stormwater use and has been assessed by council's development engineer who is satisfied that the system is acceptable subject to recommended conditions.	Y	Y	Y
B5.2 Wastewater Disposal		The development is able to be connected to the Sydney Water Reticulated Sewage System.	Y	Y	Y
B5.3 Greywater Reuse		No greywater treatment system is proposed.	Y	Y	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses		The proposal is not a 'controlled activity' carried out in, on or under the waterfront land which is regulated by the Water Management Act 2000.	Y	Y	Y

C1.2 Safety and Security		The proposal can achieve the control requirements subject to conditions being incorporated into any consent issued.	Y	Y	Y
C1.3 View Sharing		Concern has been raised by the owners of 5B and 7 Beaconsfield Street regarding the proposal's impact on views to Pittwater waterway and district bushland views. Certified height poles have not been erected on site. Therefore an accurate assessment has not been able to be undertaken. See discussion later in this report.	N	Y	N
C1.4 Solar Access	The main private open space and Windows to the principal living area of each dwelling and any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 st	Submissions raise concerns relating to overshadowing impacts to adjoining property owners, the solar access to the proposed units and the self shadowing impact of screening devices. Based on the information provided and general assessment of the units (habitable room windows and private open space), orientation and location within the building the development fails to provide 70 per cent of the dwellings a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. See discussion under C1.4 Solar Access and SEPP 65 later in this report.	N	N	N
C1.5 Visual Privacy	Private open space, recreation areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation. Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.	Submissions raise concerns relating to the overlooking and visual privacy impacts to adjoining properties. The proposal does not achieve the necessary levels of amenity in relation to visual privacy for future occupants and occupants of neighbouring properties. See discussion under later in this report.	N	N	N
C1.6 Acoustic Privacy	Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and recreation areas and the like.	Submissions raise concerns relating to the noise impacts associated with the development particularly during the construction phase and the long term impacts from the habitation of 25 units and pedestrian access along the boundary. See discussion under later in this report.	Y	Y	N

C1.7 Private Open Space	<p>For Shop Top Housing and Multi-Unit housing developments, private open space at upper levels in the form of front/rear or internal courtyard balconies and terraces are required.</p> <p>The dimension of the balcony should be sufficient so that the area can be usable for recreational purposes (i.e. a minimum area of 10m2 and a minimum width of 2.4m).</p> <p>First floor balconies along the side boundary must be designed to limit overlooking and maintain privacy of adjoining residences.</p>	<table><tr><th>Unit</th><th>Floor</th><th colspan="2">Private Open Space</th></tr><tr><td></td><td>Ground or Upper</td><td>Main</td><td>Total</td></tr><tr><td>1</td><td>Ground</td><td>14m²</td><td>38m²</td></tr><tr><td>2</td><td>Ground</td><td>14m²</td><td>38m²</td></tr><tr><td>3</td><td>Ground</td><td>18m²</td><td>34m²</td></tr><tr><td>4</td><td>Ground</td><td>10m²</td><td>35m²</td></tr><tr><td>5</td><td>Ground</td><td>12m²</td><td>85m²</td></tr><tr><td>6</td><td>Ground</td><td>12m²</td><td>85m²</td></tr><tr><td>7</td><td>Ground</td><td>12m²</td><td>90m²</td></tr><tr><td>8</td><td>Ground</td><td>12m²</td><td>37m²</td></tr><tr><td>9</td><td>Ground</td><td>12m²</td><td>24m²</td></tr><tr><td>10</td><td>Upper</td><td>11m²</td><td>11m²</td></tr><tr><td>11</td><td>Upper</td><td>11m²</td><td>11m²</td></tr><tr><td>12</td><td>Upper</td><td>17m²</td><td>17m²</td></tr><tr><td>13</td><td>Upper</td><td>33m²</td><td>33m²</td></tr><tr><td>14</td><td>Upper</td><td>9m²</td><td>9m²</td></tr><tr><td>15</td><td>Upper</td><td>9m²</td><td>9m²</td></tr><tr><td>16</td><td>Upper</td><td>10m²</td><td>10m²</td></tr><tr><td>17</td><td>Ground</td><td>14m²</td><td>145m²</td></tr><tr><td>18</td><td>Ground</td><td>12m²</td><td>26m²</td></tr><tr><td>19</td><td>Ground</td><td>9m²</td><td>38m²</td></tr><tr><td>20</td><td>Ground</td><td>15m²</td><td>77m²</td></tr><tr><td>21</td><td>Upper</td><td>103m²</td><td>103m²</td></tr><tr><td>22</td><td>Upper</td><td>77m²</td><td>77m²</td></tr><tr><td>23</td><td>Upper</td><td>14m2</td><td>14m²</td></tr><tr><td>24</td><td>Upper</td><td>24m2</td><td>24m²</td></tr><tr><td>25</td><td>Upper</td><td>9m2</td><td>27m²</td></tr></table> <p>Balconies to units 14, 15, and 25 result in minor non compliances with the minimum area for private open space.</p> <p>See discussion under later in this report.</p>	Unit	Floor	Private Open Space			Ground or Upper	Main	Total	1	Ground	14m²	38m²	2	Ground	14m²	38m²	3	Ground	18m²	34m²	4	Ground	10m²	35m²	5	Ground	12m²	85m²	6	Ground	12m²	85m²	7	Ground	12m²	90m²	8	Ground	12m²	37m²	9	Ground	12m²	24m²	10	Upper	11m²	11m²	11	Upper	11m²	11m²	12	Upper	17m²	17m²	13	Upper	33m²	33m²	14	Upper	9m²	9m²	15	Upper	9m²	9m²	16	Upper	10m²	10m²	17	Ground	14m²	145m²	18	Ground	12m²	26m²	19	Ground	9m²	38m²	20	Ground	15m²	77m²	21	Upper	103m²	103m²	22	Upper	77m²	77m²	23	Upper	14m2	14m²	24	Upper	24m2	24m²	25	Upper	9m2	27m²	N	N	Y
Unit	Floor	Private Open Space																																																																																																															
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11	Upper	11m²	11m²																																																																																																														
12	Upper	17m²	17m²																																																																																																														
13	Upper	33m²	33m²																																																																																																														
14	Upper	9m²	9m²																																																																																																														
15	Upper	9m²	9m²																																																																																																														
16	Upper	10m²	10m²																																																																																																														
17	Ground	14m²	145m²																																																																																																														
18	Ground	12m²	26m²																																																																																																														
19	Ground	9m²	38m²																																																																																																														
20	Ground	15m²	77m²																																																																																																														
21	Upper	103m²	103m²																																																																																																														
22	Upper	77m²	77m²																																																																																																														
23	Upper	14m2	14m²																																																																																																														
24	Upper	24m2	24m²																																																																																																														
25	Upper	9m2	27m²																																																																																																														
C1.7 Private Open Space Continued...	<p>Ground floor units are to have a minimum area of private open space of 30sq.m and with no dimension less than 4m.</p>																																																																																																																
C1.9 Adaptable Housing and Accessibility	<p>The design of all other residential development to meet the criteria of AS 4299-1995: Adaptable Housing is encouraged.</p> <p>50% of Multi Unit Housing shall be adaptable.</p>	<p>52% or 13 apartments are proposed to be adaptable, which is consistent with the control which requires minimum 50%.</p> <p>An access report has been undertaken by Mark Relf of Accessibility Solutions Pty Ltd, who is an accredited member of the Association of Consultants in Access, Australia, Inc.</p> <p>The report provides adequate discussion of the design of the proposal in terms of access and mobility issues and confirmation that the adaptable houses can comply with the control, relevant standards and DDA principles subject to the recommendations within the report being incorporated into any consent issued.</p>	Y	Y	Y																																																																																																												

C1.10 Building Facades	For Multi Unit Housing and other development that includes multiple dwellings with multiple letterboxes, where possible mailboxes should be orientated obliquely to the street to reduce visual clutter and the perception of multiple dwellings.	The letterboxes are located to the north eastern corner of the site within the front setback. It is considered that the proposed location is suitable in terms of achieving the control objectives.	Y	Y	Y
C1.12 Waste and Recycling Facilities	Where residential development consists of three or more dwellings a communal waste and recycling enclosure shall be provide for waste and recyclables (paper and containers).	The application was referred to Councils Environmental Health Officer for comments and/or recommendations relating to the proposed Waste and Recycling Facilities. The proposal can meet the relevant requirements subject to conditions being incorporated into any consent issued.	Y	Y	Y
C1.13 Pollution Control	Residential premises must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, noise and/or land pollution.	Submissions raise concerns relating to potential air pollution as a result of construction processes and potential health implications. Pollution is regulated under the Protection of the Environment Operations Act, 1997. Specifically, the removal of Asbestos must be undertaken in accordance with Workcover guides and Australian standards. It is considered that potential pollution from the construction phase and use for residential purposes can be effectively managed by existing regulations, guidelines and standards. The proposal can readily achieve the control outcomes subject to conditions being incorporated into any consent issued.	Y	Y	N
C1.14 Separately Accessible Structures		None proposed.	Y	Y	Y
C1.15 Storage Facilities	Provision of lockable storage areas of 8m ³	20 lockable storage areas are proposed where 25 are required. There is adequate area within the basement to provide 5 additional storage areas. It is considered that the control can be satisfied by a condition incorporated into any consent issued.	N	Y	Y
C1.18 Car/Vehicle/Boat Wash Bays	A designated wash bay is to be incorporated on the site where developments have more than ten units.	No designated wash bay is proposed. Whilst this should be indicated on the plans a condition could be incorporated into any consent issued to ensure that a suitably designed designated wash bay be provided in the development.	N	Y	Y
C1.19 Incline Passenger Lifts and Stairways		None proposed.	Y	Y	Y

C1.20 Undergrounding of Utility Services	All existing and proposed utility services within the site are to be placed underground or encapsulated within the building.	The development can achieve the control requirements subject to a condition being incorporated into any consent issued.	Y	Y	Y
C1.23 Eaves	Provision of 450mm eaves on all elevations. Council may consider a variation to this control where the development is shop top housing or multi-unit housing.	No eaves are proposed to the elevations where the control requires minimum 450mm eave to all elevations. A variation to the control is applicable for Multi Unit Housing. It is considered that this is a minor non compliance and if adequate solar access could be demonstrated then this non compliance could be supported on merit.	N	Y	Y
C1.24 Public Road Reserve – Landscaping and Infrastructure		Street trees on the road reserve are provided in accordance with the outcomes of the control.	Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run	Plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building. Council does not encourage air conditioning units on the roof of Multi Unit Housing.	The requirements of this control can be satisfied by a condition being incorporated into any consent issued.	Y	Y	Y
D10.1 Character as viewed from a public place and D10.3 Scenic protection – General	Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.	The majority of submissions raise concerns relating to the development being inconsistent with the existing character of Beaconsfield St. See discussion later in this report.	N	N	N
D10.4 Building colours and materials	External colours and materials shall be dark and earthy tones.	The proposal incorporates white and grey walls which are inconsistent with council's requirement for external colours and materials to be dark and earthy tones. See discussion later in this report.	N	Y	Y
D10.5 Height (excluding Newport Commercial Centre)	Maximum – 8.5m	Submissions raise concerns relating to the height of the development. Maximum height is 8.48m in the south western corner of the front portion of the development. See discussion later in this report.	Y	N	N
D10.7 Front building line (excluding Newport Commercial Centre)	6.5m or established building line, whichever is the greater	Submissions raise concerns relating to the front building line being inconsistent with established building line. Privacy partitions and portions of the decks to units 19 and 20 are within the 6.5m setback. See discussion later in this report.	N	N	N

D10.8 Side and rear building line (excluding Newport Commercial Centre)	<p>Land zoned Residential – where the wall height is more than 3m, the minimum distance from any point on the external wall of the building and a side or rear boundary shall not be less than:</p> <p>$S = 3 + H - 2 / 4$</p> <p>West – varied 4m to 5m</p> <p>East – varied 4.1m to 4.5m</p> <p>South – varied 4.7m to 5m</p>	<p>Submissions raise concerns relating to the lack of spatial separation between the built form, scale impacts as a result of the length of the structure and the adequacy of the side setback to accommodate substantial landscaping.</p> <p>West – 4.5m to 13m East – 4.5m to 7.5m South – 7.5m to 11.4m</p> <p>The proposed side and rear setbacks comply with the minimum control requirement.</p> <p>See discussion later in this report.</p>	Y	N	N
D10.11 Building envelope	<p>Multi-unit housing – Planes are to be projected at 45 degrees from a height of 4.2 metres above natural ground level at the side boundaries to the maximum height.</p>	<p>The proposed structure is located within the building envelope.</p>	Y	Y	Y
D10.13 Site coverage – Environmentally Sensitive Land	<p>Maximum Site Coverage – 40%</p> <p>Minimum Landscaped Area – 60%</p> <p>The following may be permitted as site coverage in Multi Unit Housing only:</p> <p>Areas with soil depth greater than 800mm above built structures (excluding drainage and waterproof membranes) may be included as both site coverage and landscaping.</p>	<p>Submissions raise concerns relating to the scale of the development and lack of landscaping.</p> <p>Site coverage – 1991m² or 68.8%</p> <p>Landscape area – 901m² or 31.2%</p> <p>The proposal exceeds the maximum allowable site coverage on the site.</p> <p>See discussion later in this report.</p>	N	N	N
D10.15 Fences – Flora and Fauna Conservation Areas		<p>It is unclear from the submitted documentation as to whether new fencing is proposed on all boundaries.</p> <p>Whilst details of fence heights and material should be on the plans any new fencing can be conditioned to comply with the DCP requirements.</p>	Y	Y	Y

D10.16 Construction, Retaining walls, terracing and undercroft areas	Retaining walls and terracing shall be kept to a minimum.	<p>Retaining walls have not been kept to a minimum. The walls range in height with a maximum height of 3m in the western setback. These walls and fencing on top create undesirable visual impacts to occupants of units to the rear of the site and the owners of 13 Beaconsfield St.</p> <p>The visual impacts could be minimised by conditioning screen landscaping. The walls are not visible from the street.</p> <p>Council's natural resource officer is satisfied that existing mature trees will not be impacted by the retaining walls.</p> <p>While the development does not comply with the control, it is likely that most redevelopment schemes would require some retaining walls.</p> <p>In this regard, the control outcomes can be satisfied by conditions being incorporated into any consent issued.</p>	N	Y	Y
SEPP (Building Sustainability Index: BASIX) 2004		The BASIX commitments in certificate No. 338718M_02 are achievable subject to recommended conditions of consent.	Y	Y	Y
Other State Environmental Planning Policies (SEPPs)		<p><u>State Environmental Planning Policy (Major Development) 2005</u></p> <p>Pursuant to Clause 13B and 13F of SEPP Major Infrastructure 2005 the Joint Regional Planning Panel (JRPP) may exercise the consent authority functions of the council for Affordable Housing with a capital investment value of more than \$5 million.</p> <p>The proposal is worth \$5.59 million.</p> <p>To seek clarification as to whether the JRPP is the consent authority for this application the Project Officer at the JRPP Panel Secretariat Office was contacted.</p> <p>It was advised that given that only 13 units were proposed to be used as affordable rental housing, only half of the capital investment value was included.</p> <p>Therefore the application only applies for a capital investment value of \$2.9 million of affordable rental housing and does not require referral to the JRPP for determination.</p>	Y	Y	Y

This compliance table documents in summary form the assessment of the proposal against the relevant controls of Pittwater 21 DCP. Where significant breach of policy is sought by the application, or where public submissions require it, additional comments are provided in the discussion of issues section within this report.

5.0 SITE DETAILS

The site is known as Lot 30 in DP 1093125, No. 9 Beaconsfield Street, Newport and Lot 29 in DP 1093125, No. 11 Beaconsfield Street, Newport. The sites are located on the southern side of Beaconsfield St. They are regular in shape, with each lot having a site area of 1446m², consolidated the site area is 2892m². Combined, the sites have a frontage of 40.235m to Beaconsfield Street, an eastern boundary of 74.825m, a southern boundary of 40.295m and a western boundary of 74.55m.

The site falls from the street at the north eastern corner to the south western corner with a site slope of approximately 13.5%. The sites contain significant native trees (mainly Turpentine) predominantly at the rear of the site where a wildlife corridor is intact. The site is slip affected.

The sites are currently developed by single storey brick cottages with detached structures including a garage on Lot 30 and a metal shed on Lot 29. Formal vehicular access from Beaconsfield Street is provided via concrete driveways. A State Transit Authority bus stop is located adjacent to Lot 29 on Beaconsfield Street. Open metal fencing exists along the boundaries except for lot 29 where the front boundary is lined by a timber fence.

Existing development surrounding the sites consist of single residential dwellings configured on similar sized lots or on battle axe subdivisions. To the north west along Beaconsfield Street is Newport Public School and beyond the single dwelling houses to the north are medium density developments including units and townhouses

6.0 PROPOSAL IN DETAIL

The applicant seeks consent for the following development at 9 – 11 Beaconsfield Street, Newport:

- Demolition of the existing structures;
- Infill Affordable Housing development, comprising of:
 - 25 apartments (10 x 1 bedroom, 3 x 1 bedroom + study, 2 x 2 bedroom, 8 x 2 bedroom + study and 2 x 3 bedroom);
 - 13 Units (1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 14, 15, and 16) are proposed to be maintained as Affordable Rental Housing;
 - 13 Units (1, 2, 5, 6, 7, 8, 10, 11, 14, 15, 16, 22 and 25) are proposed to be Adaptable Housing;
- Two levels of basement carparking, comprising of:
 - 27 standard car spaces;
 - 13 accessible car spaces;
 - Waste garbage room;
 - Lockable storage areas;
 - Electrical, storage and plant rooms;
- Associated landscaping works to the site including tree removal;
- Excavation;
- Strata subdivision of the development;
- Consolidation of two lots into one.

7.0 BACKGROUND

Notification DA Plans

Development application N0594/10 was notified by mail, newspaper advertisement and site signage in accordance with Councils notification policy for 31 days from 20 October 2010 until 20 November 2010.

Amended Plans and Notification

Amended plans, a revised landscape plan, traffic report, accessibility report and BASIX Certificate were submitted to Council on the 25 November 2010. The plans were notified in accordance with Councils notification policy for 31 days from 1 December 2010 until 31 December 2010. The plans include the following amendments:

- Level 1 – Increase basement area to accommodate three car spaces relocated from level 2 and lower floor by 850mm
- Level 2 – Reduce basement area, reconfigure unit layout to accommodate an additional unit on the western side of the building (Unit 7) and lower floor by 850mm
- Level 3 – Reconfigure unit layout to accommodate an additional unit on the western side of the building (Unit 15) and lower floor by 850mm
- Level 4 – Remove two units (Unit 19 and 20) , provide internal courtyards to units 21 and 25 and lower floor by 850mm
- Alter the proposed units allocated as affordable and adaptable.

Class 1 Appeal

On 8 December 2010, the Applicant lodged a Class 1 Appeal with the NSW Land & Environment Court against Council's deemed refusal of the Application.

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

• **B5.10 Stormwater Discharge into Public Drainage System**

Submissions raise concerns relating to the lack of any agreements with the RTA over the use of their land for stormwater disposal and the affect of stormwater run off on down slope properties. Council's development engineer has provided the following comments:

The proposal relies on the construction of an inter-allotment drainage line through adjoining properties as such easements need to be created to allow the construction of this drainage line. The applicant has provided a "letter of intent" from the RTA indicating that they are willing to grant an easement for drainage to the applicant. In this regard no objections are raised subject to the construction of the inter-allotment drainage line

Council's development engineer has assessed the development against relevant controls and is satisfied that the proposed stormwater design complies with the policy subject to recommended conditions of consent. With regard to the concerns raised, the proposal will improve stormwater removal off the site which is considered a more desirable outcome for down slope properties.

- **B6.6 Off-Street Vehicle Parking Requirements – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy**

Submissions raise concerns relating to the lack of off street parking spaces proposed to service the development and the associated impacts on on-street parking facilities. The proposal is inconsistent with the DCP control requirement for parking spaces in that an additional 6 visitor spaces are required.

Whilst compliance with the DCP control should be achieved to minimise impacts of on on-street parking, the proposed 40 spaces more than exceed the standard of 0.5 spaces per unit (13 spaces) under SEPP ARH. Subsequently, pursuant to clause 14(2)(a) of SEPP ARH the consent authority cannot refuse consent based on the non compliance with parking requirements under the DCP.

It is considered that the proposal can comply with the other control requirements such as the provision for garbage collection, removalist vans, emergency vehicles and the storage of 9 bicycles subject to condition being incorporated into any consent issued.

- **B6.10 Transport and Traffic Management – All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy**

The majority of submissions raise concerns relating to the impacts associated with increased traffic generated by the development, particularly:

- Increased congestion along Beaconsfield St and Crescent Rd.
- Narrowness of Beaconsfield St and extra vehicles negotiating from driveways.
- Current lack of on-street parking and the impact of the development on the existing facilities.
- Pedestrian safety concerns especially during school pick up and drop off periods and the construction phase.
- Accuracy of the traffic report and suggested referral to the Pittwater Local Traffic Committee.

Council's development engineer has assessed the submitted traffic report and is satisfied that the development is consistent with the relevant controls and standards subject to conditions. It is noted that the development is not classified as traffic generating development pursuant to Division 17, Subdivision 2 of State Environmental Planning Policy (Infrastructure) 2007.

Council's development engineer is satisfied that the development does not generate pedestrian, cyclist, traffic and transport requirements in excess of the capacity of the existing road and transport network. While congestion along the road is a local issue, the development does not create the additional demands or is of a use which would trigger the requirement for changes and upgrading to the surrounding public infrastructure and transport network.

Provision of additional on-street parking is not a requirement under Pittwater 21 DCP for this development. The impact of the development on the existing facilities has been addressed above.

Safety issues relating to the use of construction vehicles and increased traffic in the vicinity of Newport Public School is a major community concern. Council's development engineer is satisfied that the development can be constructed safely and has recommended conditions be imposed on any consent issued. The conditions effectively restrict construction access to the approved driveway only, require safety fencing and require a construction traffic management plan detailing the Quantity of material to be transported, proposed truck movements per day, proposed hours of operation and proposed traffic routes.

The submitted traffic assessment has assessed the development against the Roads and Traffic Authority Guidelines for Traffic Generating Developments. Given that the development complies with the control and does not incorporate upgrading of the transport network the proposal does not require referral to the Pittwater Local Traffic Committee.

- **B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor and C1.1 Landscaping**

Submissions raise concerns relating to the disturbance to native flora and fauna as a result of excavation and domestic pets and the adequacy of the proposed landscaping to effectively screen the development. Council's natural resource officer has provided the following assessment and comments:

The properties contain a modified landscape with a mixture of both exotic and native trees with native trees (mainly Turpentine) predominating at the rear of the site where a wildlife corridor is intact.

The proposed works involve the demolition of the two single dwellings on 9 and 11 Beaconsfield Street and construction of an Affordable Housing development incorporating 25 residential apartments, with 2 levels of basement parking for 40 vehicles.

An © report (Footprint Green Pty Ltd 6th October 2010) has been submitted which assesses 39 trees across the two properties and including adjacent properties and road reserve. 22 of the assessed trees are locally native specimens. The report recommends the removal of 26 trees, mainly within the footprint of the main building and the driveway. Of the trees to be removed, eleven (11) are locally native specimens. Aside from one specimen (Tree 20) the majority of the existing Turpentine at the rear of the property will be retained which is a good outcome considering the large building footprint and level of excavation required. The retention of these trees in particular the large Tree 16 specimen is however heavily reliant on specific tree protection measures being adhered to, a practice often ignored on such large-scale development sites.

The landscape plan (Trish Dobson Drawing No. 1026/DA-L01 8th August 2010) indicates the trees to be retained and removed, however a couple differ to that of the © report – specifically Tree 20 and Tree 39 which are indicated to be retained on the landscape plan. The plan also indicates that 107 trees are to be planted to replace those removed. All proposed new vegetation on the landscape plan is locally native and is considered to be acceptable in terms of appropriate species for the site.

The population increase associated with the proposed 25 units may impact on the local wildlife population by the increased traffic and increased numbers of domestic cats and dogs kept at the site, both of which directly cause wildlife mortality. The number of domestic pets wandering at night is particularly difficult to control and for Council to enforce.

Amended plans were provided relating to the proposed development in November 2010. This includes an amended landscape plan (Trish Dobson Drawing No. 1026/DA-L01A 22nd November 2010). This plan is consistent with that of the © report, and no further trees are recommended for removal. The landscaping is in essence the same as that indicated on the original plan, with a few extra specimens provided. All species are compliant with the requirements of the DCP in being at least 80% locally native.

In relation to the ability of the proposed landscaping to effectively screen and soften the bulk and scale of the development, this is questionable particularly along the eastern boundary. As the side setback in this area is narrow, lilly pillies and watergums are being relied upon as screening plants, which in such tight confines will be unlikely to attain the heights specified on the Plant Schedule and therefore screening potential will be reduced.

A submission has been received (Fehlau 14th December 2010) regarding the proposed stormwater pipe which will be installed within an easement extending from the rear of the subject property through adjoining properties to the rear (143 Crescent Road and 239 Barrenjoey Road) as indicated on the Sediment and Erosion Control Plan (Northern Beaches Consulting Engineers Pty Ltd Drawing No. D01 October 2010). This plan indicates that a settlement pond will be located at the rear of the subject site with an easement containing a stormwater pipe running south towards Wiruna Crescent through a heavily vegetated area containing canopy trees.

The submission is concerned with the potential impact of the works destabilising trees on the adjoining properties. Council's Development Engineer has informed that the required easement and stormwater pipe installation require a 1 metre by 1 metre excavation and the proposed settlement pond will also require excavation. The excavation required for the settlement pond on the subject site will be in close proximity to Trees 16, 27 and 28 onsite.

The © report (Footprint Green Pty Ltd 6th October 2010) does not appear to refer to or discuss the impacts of the Sediment and Erosion Control Plan. Trees on the adjoining sites have not been assessed with respect to the stormwater works however are very likely to be impacted, and this is a current deficiency of the application in not addressing this issue. A further © report is therefore required which assesses the potential impacts of the settlement pond and stormwater pipe/easement on all trees both on and off the subject site.

Considering these comments, further information is required for council's Natural Resource Officer to assess the impacts of the development on significant trees on the subject site, 239 Barrenjoey Rd, Newport and 143 Crescent Rd, Newport. Given that the extent of impact cannot be established, the application should not be supported.

With regard to the effectiveness of landscaping proposed to screen the built form, it is considered that the development is inconsistent with the control outcomes in that:

- The built form is not softened and complemented by landscaping.
- The landscaping does not reflect the scale and form of development.

Whilst the development is inconsistent with the outcomes of Pittwater 21 DCP, pursuant to clause 14(1)© and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on landscaping.

- **Inadequate Information to Assess the Development Application; 3.3 Submission of supporting documentation – Site Plan / Survey Plan / Development Drawings**

There appears to be inconsistencies between the submitted plan documentation, particularly:

- The site plan DA-00 and roof plan DA-05A are not consistent;
- The roof plan excludes the pergola and balcony of Unit 23;
- External privacy screens proposed are indicated on the elevations DA-06A and DA-07A however not reflected on the plans DA-02A, DA-03A and DA-04A and vice versa.

Furthermore, there are deficiencies in the application documentation:

- **Strata Plan** – A draft strata plan prepared by a Registered Surveyor has not been submitted. The plan provides details such as what areas are allocated to a sole occupancy unit, what areas are allocated for parking spaces, loading bays, and space for any other purpose forming a part of a sole occupancy unit and what areas are common property (landscaped areas, access areas and signage). Given that the development application seeks consent to subdivide the development a draft plan is required for assessment.
- **Solar Access Diagrams** – The elevational shadow diagrams submitted are deficient in that they do not indicate overshadowing to the units with an easterly aspect and are extremely difficult to interpret given the variations in grades of shading (different shades of grey). Furthermore, they do not appear to take into account shadowing cast by retaining walls, fencing on retaining walls, privacy screens and some balconies.
- **© Report** – A further © report is required which assesses the potential impacts of the settlement pond and stormwater pipe/easement on all trees both on and off the subject site.

Given that insufficient information has been provided to adequately assess the development application, the application should not be supported.

- **A1.7 Considerations before consent is granted**

The majority of submissions raise concerns relating to the development being prohibited within the Residential 2(a) zone, the expectation by residents that development of this nature could not be built on the site and the negative impacts on property values.

Whilst these concerns are acknowledged, the proposal is permissible on the site pursuant to the provisions in SEPP ARH which overrides Councils local zoning controls. The affect on existing property values is not a planning consideration when undertaking a merit assessment of a permissible development.

All concerns raised by the community have been taken into consideration in the assessment of the development application, and are addressed under the relevant section else where in this report.

- **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Submissions raise concerns relating to the application of SEPP ARH particularly that it was never subject to Public Exhibition or consultation, Newport not being identified as an area of need in the NSW Government's Affordable Housing Strategy and the Social implications of units managed by a community housing provider.

Whilst these concerns are acknowledged, SEPP ARH is an applicable state policy to the subject site. The policy has been legitimately developed by the NSW Department of Planning with an objective to provide affordable rental housing in NSW. It is considered that issues relating to the development of the state policy and the character of residents affordable rental housing attracts are not planning considerations when undertaking a merit assessment of a permissible development.

The applicant seeks development consent to construct a residential flat building pursuant to Division 1 In-fill affordable housing of SEPP ARH.

SEPP ARH aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, the SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 1 In-fill affordable Housing

Clause 10 prescribes the land in which In-fill affordable Housing applies. The subject site is on land which the division applies as it satisfies the following criteria:

- 1) The site is within a land use zone 2(a) Residential that is equivalent to Zone R2 Low Density Residential. Zone R2 Low Density Residential is defined within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 which permits generally low density dwellings with associated services and facilities. Zone 2(a) Residential allows development for the purposes of dwelling houses.
- 2) The site is within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the *Passenger Transport Act 1990*) that has at least one bus per hour servicing the bus stop between 06.00 and 18.00 each day from Monday to Friday (both days inclusive).
- 3) The subject site is identified in an environmental planning instrument as being within a scenic protection area however development with a building height of 8.5 metres is permitted on the land.

Pursuant to Clause 11(a) and 12 of SEPP ARH, the proposed residential flat building is permissible with consent on the subject site as it satisfies the following criteria:

- 1) The development is for the purposes of a residential flat building where at least 50 per cent of the dwellings (13) in the proposed development will be used for affordable housing.
- 2) The development does not result in a building on the land with a building height of more than 8.5 metres.
- 3) Residential flat buildings are otherwise not permissible on the subject site zoned 2(a) Residential pursuant to PLEP 1993.

Clause 14 prescribes development standards which cannot be used by a consent authority to refuse consent. The following table is an assessment of the proposal against the SEPP ARH development standards.

Sub clause	SEPP ARH Standards that cannot be used to refuse consent	Compliance
1 Low rise development		
1(a) <i>Density and scale</i>	The density and scale of the buildings when expressed as a floor space ratio are not more than 0.75:1	COMPLIES 2065m ² : 2892m ² = 0.714 : 1
1(b) <i>Site area</i>	The site area on which it is proposed to carry out the development is at least 450 square metres	COMPLIES The consolidated site area is 2892m ²
1(c) <i>Landscaped area</i>	At least 30 per cent of the site area is to be landscaped	COMPLIES 1454m ² or 50.3% of the site is landscaped Landscaped areas are calculated as all ground level soil/lawn areas and paved areas, including areas above concrete slabs with minimum 800mm soil depth but does not include decks or upper floor level planters
1(d) <i>Deep soil zones</i>	The site area that is not built on, paved or otherwise sealed: <ul style="list-style-type: none"> - is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the <i>deep soil zone</i>), and - each area forming part of the deep soil zone has a minimum dimension of 3 metres, and - if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area - 	COMPLIES 753m ² or 26% of the site is deep soil area with a minimum dimension of 3m 432m ² or 57% of the deep soil zone is to the rear of the proposed building. Generally the majority of the deep soil zone is to the rear portion of the site
1(e) <i>Solar access</i>	Living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	NON COMPLIANCE Based on the information provided and general assessment of the units (habitable room windows and private open space), orientation and location within the building, the development fails to provide 70 per cent of the dwellings a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. See comprehensive discussion under section SEPP 65 Principle 7: Amenity and C1.4 Solar Access later in this report.

Sub clause	SEPP ARH Standards that cannot be used to refuse consent	Compliance																																																																														
2 General																																																																																
2(a) <i>Parking</i>	At least 0.5 car spaces are provided for each dwelling	COMPLIES Total 40 car spaces provided, therefore 1.6 car spaces are provided for each dwelling																																																																														
(b) <i>Dwelling size</i>	Each dwelling has a gross floor area of at least: <ul style="list-style-type: none"> - 50 square metres in the case of a dwelling having 1 bedroom, or - 70 square metres in the case of a dwelling having 2 bedrooms, or - 95 square metres in the case of a dwelling having 3 or more bedrooms 	COMPLIES <table border="1"> <thead> <tr> <th>Unit</th><th>Beds</th><th>Gross floor area</th></tr> </thead> <tbody> <tr><td>1</td><td>1</td><td>60m²</td></tr> <tr><td>2</td><td>1</td><td>60m²</td></tr> <tr><td>3</td><td>2 + S</td><td>105m²</td></tr> <tr><td>4</td><td>2 + S</td><td>96m²</td></tr> <tr><td>5</td><td>1</td><td>60m²</td></tr> <tr><td>6</td><td>1</td><td>58m²</td></tr> <tr><td>7</td><td>1 + S</td><td>70m²</td></tr> <tr><td>8</td><td>2 + S</td><td>93m²</td></tr> <tr><td>9</td><td>1 + S</td><td>68m²</td></tr> <tr><td>10</td><td>1</td><td>60m²</td></tr> <tr><td>11</td><td>1</td><td>60m²</td></tr> <tr><td>12</td><td>2 + S</td><td>110m²</td></tr> <tr><td>13</td><td>1</td><td>65m²</td></tr> <tr><td>14</td><td>1</td><td>58m²</td></tr> <tr><td>15</td><td>1</td><td>57m²</td></tr> <tr><td>16</td><td>1 + S</td><td>68m²</td></tr> <tr><td>17</td><td>2 + S</td><td>95m²</td></tr> <tr><td>18</td><td>3</td><td>106m²</td></tr> <tr><td>19</td><td>1</td><td>60m²</td></tr> <tr><td>20</td><td>2</td><td>90m²</td></tr> <tr><td>21</td><td>2</td><td>103m²</td></tr> <tr><td>22</td><td>2 + S</td><td>110m²</td></tr> <tr><td>23</td><td>2 + S</td><td>105m²</td></tr> <tr><td>24</td><td>2 + S</td><td>120m²</td></tr> <tr><td>25</td><td>3</td><td>128m²</td></tr> </tbody> </table>	Unit	Beds	Gross floor area	1	1	60m ²	2	1	60m ²	3	2 + S	105m ²	4	2 + S	96m ²	5	1	60m ²	6	1	58m ²	7	1 + S	70m ²	8	2 + S	93m ²	9	1 + S	68m ²	10	1	60m ²	11	1	60m ²	12	2 + S	110m ²	13	1	65m ²	14	1	58m ²	15	1	57m ²	16	1 + S	68m ²	17	2 + S	95m ²	18	3	106m ²	19	1	60m ²	20	2	90m ²	21	2	103m ²	22	2 + S	110m ²	23	2 + S	105m ²	24	2 + S	120m ²	25	3	128m ²
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Clause 16 states

Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.

The intent of this clause is to ensure that development is provided and designed in accordance with the provisions of SEPP ARH and SEPP 65. The development is inconsistent with the aims and design principles of SEPP 65 and the RFDC Rules of Thumb. See following section for a detailed assessment.

Clause 17 prescribes specific conditions of consent which are to be imposed by the consent authority. If the application is supported the conditions to the following effect are to be applied to the consent:

- (a) For 10 years from the date of the issue of the occupation certificate the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing.
- (b) For 10 years from the date of the issue of the occupation certificate all accommodation that is used for affordable housing will be managed by a registered community housing provider.
- (c) A restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in (a) and (b) are met.

Clause 18 specifies that subdivision of the development is allowed with consent. The applicant seeks to strata subdivide the development as part of the development application. No draft strata plan has been submitted for assessment. See Section 3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings earlier in this report.

Summary SEPP ARH Assessment

The proposed development fails to achieve the minimum 70% requirement in which council cannot refuse consent for daylight access. Given that provision of daylight access is not a development standard under this policy the proposal cannot be considered to be inconsistent with the provisions of SEPP ARH.

- **State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development**

Submissions raise concerns relating to the proposal not being consistent with the principles outlined in SEPP 65. Particularly concerns relate to the density, the bulk and the development being incompatible with the existing and desired future character of the area and the scale being inconsistent with the building types or models outlined in the "Residential Flat Design Code" (RFDC). These concerns are addressed throughout the SEPP 65 Assessment.

SEPP 65 aims to improve the design quality of residential flat development in NSW and specifically aims:

- a) *to ensure that it contributes to the sustainable development of New South Wales:*
 - i. *by providing sustainable housing in social and environmental terms, and*
 - ii. *by being a long-term asset to its neighbourhood, and*
 - iii. *by achieving the urban planning policies for its regional and local contexts, and*
- b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*

- e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*

Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted.

SEPP 65 requires the assessment of any development application for residential flat development against 10 design principles contained within clauses 9 – 18. Furthermore, pursuant to Clause 30(2) of SEPP 65 council must take into consideration the Residential Flat Design Code.

As such, the following consideration has been given to the requirements of the SEPP 65 and the RFDC.

Residential Flat Design Code Compliance Table

The following table is an assessment of the proposal against the guidelines (*Rules of Thumb*) provided in the RFDC.

	GUIDELINE	CONSISTENCY WITH GUIDELINE
PART 02 SITE DESIGN		
Site Configuration		
Deep Soil Zones	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	YES 31.2% of the site is deep soil landscape area.
Open Space	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent.	YES It is considered that the development can satisfy this requirement, however accurate calculations are not possible as a strata plan indicating common space has not been submitted.
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² .	YES Ground floor apartments provide terraces, lawn areas and landscaping in excess of 25m ² .
Planting on Structures	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity.	YES The landscape plan shows a mixture of small and medium trees set amongst shrubs and ground cover.

	GUIDELINE	CONSISTENCY WITH GUIDELINE
Planting on Structures <i>Continued...</i>	<p>The following are recommended as minimum standards for a range of plant sizes:</p> <p>Medium trees (8 metres canopy diameter at maturity)</p> <ul style="list-style-type: none"> - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metres x 6 metres or equivalent <p>Small trees (4 metre canopy diameter at maturity)</p> <ul style="list-style-type: none"> - minimum soil volume 9 cubic metres - minimum soil depth 800mm - approximate soil area 3.5 metre x 3.5 metre or equivalent - 	<p>Trees are located mostly within the deep soil boundary setbacks and shrubs and turf are confined to the areas above the basement with planting on slabs having minimum soil depths of 800mm.</p>
Safety	<p>Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.</p>	<p>YES</p> <p>A formal crime risk assessment has been undertaken by NSW Police. Recommendations can be incorporated into any consent conditions to address this requirement.</p>
Visual Privacy	<p>Refer to Building Separation minimum standards.</p> <p>For buildings over three storeys, it is recommended that building separation increase in proportion to building height to ensure appropriate urban form, adequate amenity and privacy for building occupants. Suggested dimensions within a development, for internal courtyards and between adjoining sites are:</p> <p>Up to four storeys/12 metres</p> <ul style="list-style-type: none"> - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms 	<p>N/A</p> <p>The Building Separation standards apply to building over three storeys.</p> <p>These standards are not applicable to this development and therefore Visual Privacy is addressed under the control requirements of the DCP. See C1.5 Visual Privacy later in this report.</p>

	GUIDELINE	CONSISTENCY WITH GUIDELINE																														
Pedestrian Access	Identify the access requirements from the street or car parking area to the apartment entrance.	YES Defined pedestrian entry pathways and ramps are proposed from street frontage.																														
	Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum. Provide barrier free access to at least 20 percent of dwellings in the development.	YES Lift access has been provided from the basement levels to each level of the development.																														
Vehicle Access	Generally limit the width of driveways to a maximum of six metres.	YES The proposed driveway width is 5.8m																														
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	YES The proposed vehicle entry is located to the north west of the Beaconsfield St frontage and the pedestrian entry is located on the north east of the Beaconsfield frontage. There is no secondary frontage.																														
PART 03 BUILDING DESIGN																																
Building Configuration																																
Apartment layout	Single-aspect apartments should be limited in depth to 8 metres from a window. <i>Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory daylighting and natural ventilation can be achieved, particularly in relation to habitable rooms.</i>	NO <table border="1"> <thead> <tr> <th>Unit</th><th>Depth</th><th>Area</th></tr> </thead> <tbody> <tr> <td>5</td><td>9m</td><td>Entry, kitchen</td></tr> <tr> <td>6</td><td>9m</td><td>Entry, kitchen</td></tr> <tr> <td>7</td><td>9.3m</td><td>Study, laundry, entry</td></tr> <tr> <td>8</td><td>9.6m</td><td>Kitchen, bedroom, ensuite</td></tr> <tr> <td>9</td><td>8.6m</td><td>Study, entry</td></tr> <tr> <td>14</td><td>8.9m</td><td>Kitchen</td></tr> <tr> <td>15</td><td>8.9m</td><td>Kitchen</td></tr> <tr> <td>16</td><td>9m</td><td>Study, entry</td></tr> <tr> <td>19</td><td>9.2m</td><td>Kitchen</td></tr> </tbody> </table> <p>Units 5, 6, 7, 8, 9, 14, 15, 16 and 19 are single aspect apartments that have a depth of greater than 8 metres from a window.</p> <p>The applicant has failed to demonstrate that adequate solar access and natural ventilation is provided to units 5, 6, 7, 8, 9, 14, 15 and 16 and therefore it is considered that the apartment layout is poor in terms of providing satisfactory amenity to the occupants.</p> <p>See discussion under Principle 7: Amenity</p>	Unit	Depth	Area	5	9m	Entry, kitchen	6	9m	Entry, kitchen	7	9.3m	Study, laundry, entry	8	9.6m	Kitchen, bedroom, ensuite	9	8.6m	Study, entry	14	8.9m	Kitchen	15	8.9m	Kitchen	16	9m	Study, entry	19	9.2m	Kitchen
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	GUIDELINE	CONSISTENCY WITH GUIDELINE																
	<p>The back of a kitchen should be no more than 8 metres from a window.</p> <p><i>Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory daylighting and natural ventilation can be achieved, particularly in relation to habitable rooms.</i></p>	<p>NO</p> <table><tr><th>Unit</th><th>Depth</th></tr><tr><td>5</td><td>6m - 9m</td></tr><tr><td>6</td><td>6m - 9m</td></tr><tr><td>8</td><td>9.6m</td></tr><tr><td>14</td><td>6m - 8.9m</td></tr><tr><td>15</td><td>6m - 8.9m</td></tr><tr><td>18</td><td>9m</td></tr><tr><td>19</td><td>9.2m</td></tr></table> <p>The rear walls of kitchens in units 5, 6, 8, 14, 15, 18 and 19 are greater than 8 metres from a window.</p> <p>The applicant has failed to demonstrate that adequate solar access and natural ventilation is provided to units 5, 6, 8, 14 and 15 and therefore it is considered that the apartment layout is poor in terms of providing satisfactory amenity to the occupants.</p> <p>See discussion under Principle 7: Amenity</p>	Unit	Depth	5	6m - 9m	6	6m - 9m	8	9.6m	14	6m - 8.9m	15	6m - 8.9m	18	9m	19	9.2m
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	<p>The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.</p>	<p>N/A</p> <p>No cross-over or cross-through apartments over 15 metres deep are proposed.</p>																
	<p>If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used.</p> <p>As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none">- 1 bedroom apartment 50m²- 2 bedroom apartment 70m²- 3 bedroom apartment 95m²	<p>YES</p> <p>The proposed apartments satisfy the minimum dimensional requirements. The proposal incorporates a number of 1 bedroom units some including studies exceeding 50m².</p>																
Apartment Mix	<p>Include a mixture of unit types for increased housing choice.</p>	<p>YES</p> <p>The proposal includes:</p> <ul style="list-style-type: none">- 10 x 1 bedroom- 3 x 1 bedroom + study- 2 x 2 bedroom- 8 x 2 bedroom + study- 2 x 3 bedroom																

	GUIDELINE	CONSISTENCY WITH GUIDELINE
Balconies	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	YES The proposed apartments satisfy the minimum dimensional requirements.
Ceiling Heights	The following recommended minimum dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). In residential flat buildings or other residential floors in mixed use buildings: <ul style="list-style-type: none"> - in general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. 	YES All habitable rooms have a floor to ceiling height of 2.7m or greater.
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	NO Ground floor apartments are not provided with separate entries due to site slope and building configuration. This is acceptable on merit. 6 of the 12 proposed adaptable units are ground floor apartments.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	YES All ground floor apartments have direct access to private open space areas which include terraces and landscaped courtyards.
Internal Circulation	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	YES Each single corridor services a maximum of 8 apartments.
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> - studio apartments 6m³ - one-bedroom apartments 6m³ - two-bedroom apartments 8m³ - three bedroom apartments 10m³ 	NO The proposed apartments provide storage cupboards within the units in addition to 15 x 8m ³ and 5 x 30m ³ separate lockable storage areas within the basement. This is not of great concern as the 5 additional storage areas could be provided within the basement area.

	GUIDELINE	CONSISTENCY WITH GUIDELINE
Building Amenity		
Daylight Access	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	NO Based on the information provided and general assessment of the units (habitable room windows and private open space), orientation and location within the building the development fails to provide 70 per cent of the dwellings a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. See discussion under section Principle 7: Amenity and C1.4 Solar Access later in this report.
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.	YES There are no single-aspect apartments with a southerly aspect.
Natural Ventilation	Building depths, which support natural ventilation typically, range from 10 to 18 metres.	YES Building depths on the shorter axis are generally 18 metres.
	Sixty percent (60%) of residential units should be naturally cross ventilated. <i>Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.</i>	NO 36% of the residential units are naturally ventilated by providing a dual aspect corner apartment. The remaining single aspect apartments do not achieve natural ventilation. From the documentation submitted the applicant fails to demonstrate how natural ventilation is satisfactorily achieved in accordance with the RFDC. See discussion under Principle 7: Amenity
	Twenty five percent (25%) of kitchens within a development should have access to natural ventilation.	YES 36% of kitchens have access to natural ventilation.
Building Performance		
Waste Management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES Waste management has been assessed by Councils Health Officers who are satisfied that the proposal can meet the relevant requirements and standards subject to consent conditions.
Water Conservation	Rainwater is not to be collected from roofs coated with lead or bitumen based paints or from asbestos cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES The proposal can satisfy this requirement subject to consent conditions.

Discussion of SEPP 65 Design Quality Principles

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into consideration the design quality of the residential flat development when evaluated in accordance with the design quality principles. The following discussion is an evaluation of the proposal against the design quality principles.

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

The majority of submissions raise concerns relating to the development being out of character in the local context. Clause A4.10 Newport Locality of Pittwater 21 DCP identifies the existing character and desired future character for Newport.

Current Character

The site has a frontage to Beaconsfield Street. The existing context comprises of elements of the built environment and the natural environment. The existing built form context for this development comprises of one and two-storey detached dwellings on 500m² - 1300m² allotments. The natural environment is an important characteristic of Beaconsfield Street, which is lined by large trees, many of which are planted in private properties. One of the current characteristics in the locality is for buildings to be viewed within their natural landscaped setting.

Desired Future Character

Following are excerpts from the desired future character statement for the Newport locality:

- *The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape.*
- *Any multi unit housing will be located within and around commercial centres, public transport and community facilities.*
- *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.*
- *Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like.*
- *Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance.*
- *A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land.*

- *As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

The proposal is for a two and three story apartment block extending across the width of two standard allotments and extending into the site to the south for a length 60m. The front and rear portions are two story with the centre portion three storeys.

The development is not compatible with any built form and landscape setting along Beaconsfield St. The development is heavily excavated into the site and does not integrate into the natural slope of the land. Bulk and scale is not minimised and it is doubtful that the proposed landscaping will provide effective screening of the development when viewed from the street and surrounding properties. The proposed development is not consistent with the desired future character for the Newport Locality nor will it contribute to the quality and identity of the area.

Local Context

The RFDC aids in identifying appropriate building types for local context. The building type proposed is generally a 'Stepped Apartment' which is suited to sloping sites, large lots facing public open space and where a view is desired. This building type while it may suit some characteristics of the site (slope of the lot and desirable views), it is not considered to be the most suitable building type for the local context identified in the RFDC.

The 'Big House Apartment' building type is generally more suited to the local context of detached dwellings with mature tree plantings to the rear. Beaconsfield St has an established low density detached dwelling character which is likely to remain and the rear of the dwellings provide a significant corridor of mature trees which extends down the whole street.

While there is a slope (generally over the rear portion) on the site and potential views to be captured of Pittwater waterway and district bushland outlooks, it is not agreed that these characteristics override those within the 'Big House Apartment' type when determining the appropriate building type within the local context.

It is considered that the design does not respond satisfactorily to the local context, and that a building type more consistent with character of detached two storey dwellings is more suitable and a more desirable outcome for the Newport locality. In this regard the development is inconsistent with the aims of SEPP 65 in that the proposal does not achieve the urban planning policies for the local context (Clause 2(3)(a)(iii)).

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The majority of submissions raise concerns relating to the excessive scale of the development. Particularly the immediate neighbours concerns relate to visual bulk impacts when viewed from their internal and external living areas.

The overall height of the proposal is below 8.5m from existing ground level limit set by SEPP ARH and from natural ground level set by Pittwater 21 DCP. The RFDC does not apply a technical value for height but calls for an appropriate bulk and height that suits the scale of the street and the surrounding buildings. The desired character statement for the locality gives guidance on scale by clearly stating that future development is to maintain a height limit below the tree canopy and minimise bulk and scale.

While the height is within the limit, the proposal does not minimise bulk and scale. The scale of the building does not respond to and is entirely inconsistent with the scale of existing built form. The visual massing of the development especially when viewed from surrounding properties is a long continuous mass of built form extending for a depth of 60m into the site. Compared to the dwellings adjacent, they extend for a depth of 15m – 20m into their sites.

The bulk and scale of the development is further exacerbated by the lack of mature canopy trees to the front and side building setbacks. Private open space areas within the front building line and pedestrian access within the eastern setback minimise opportunity for substantial landscaping. The majority of the deep soil area and landscape area proposed is to the rear portion of the site.

Suitable and adequate landscape screening of the development will not be achieved and the building will not give the appearance of being secondary to landscaping and vegetation.

Given the size and scale of the development it is considered that allocating setbacks entirely to substantial landscaping (not hard surface areas, lawn for private open space and terracing) would be a more desirable outcome.

Whilst the development does not provide appropriate bulk that suits the scale of the street and the surrounding buildings, pursuant to clause 14(1)(a) of SEPP ARH the consent authority cannot refuse consent based on the scale of the development.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The majority of submissions raise concerns relating to the visual impact of the built form. Particularly the immediate neighbours concerns relate to visual bulk impacts due to setbacks when viewed from their internal and external living areas.

Appropriate built form is measured through building alignments, proportions, building type and the manipulation of building elements. The proposal generally complies with Pittwater 21 DCP setbacks except for partitions and decks within the front setback. To determine the appropriateness of the built form the building alignment should not give rise to adverse visual impacts when viewed from the public domain and surrounding properties.

The proposed residential flat building presents as a single building, there is no distinct visual separation of building elements to the street frontage and particularly to the length of the building. The continuous horizontal nature of the design to the rear of the site causes unacceptable visual impacts to neighbouring properties.

In order to provide higher densities and keep the height within the 8.5m limit the development has been substantially lowered into the site. This has gravely compromised the internal amenity and outlook for lower ground units especially on the eastern side. Poor daylight access, poor natural ventilation and outlooks to retaining walls are the result. Occupant amenity is addressed under Principle 7: Amenity later in this assessment.

Greater building alignments, reduced proportions, a different building type and the manipulation of building elements would result in a more appropriate built form for the site and the building's residential purpose. The proposal is inconsistent with Clause 2(3)(b), 2(3)(d) and 11 Principle 3: Built Form of SEPP 65 in that the development results in unacceptable visual mass and does not maximise amenity for the benefit of its occupants and the wider community. In this regard, the development should not be supported.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

The densities proposed are not consistent with the existing density in the area nor are they intended for these areas under council's local policies. See section 2.5 Dwelling Density and Subdivision - Multi-Unit Housing later in this report assessment against local controls.

Whilst the development is inconsistent with existing and projected densities for the site, pursuant to clause 14(1)(a) of SEPP ARH the consent authority cannot refuse consent based on the scale and density of the development.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

The proposal does not provide a high level of internal amenity to all units. The orientation to the majority of the units is single aspect to the east and west and some are below natural ground level. The capacity for resource efficiency through passive solar design and design for natural ventilation is poor. The proposal is inconsistent with the aims of SEPP 65 in that the development does not provide sustainable housing in environmental terms and does not minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions (Clause 2(3)(a)(i) and 2(3)(e)).

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Deep soil zones are provided generally to the rear of the site. The comments from council's natural resource officer have been considered and in terms with compliance with the applicable DCP control, the officer is satisfied that the development can comply. While these comments are acknowledged, it is considered that the proposal fails to achieve the principle in that the landscaping to the front and side setbacks is not sufficient enough to contribute to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Whilst the development is inconsistent with the principle, pursuant to clause 14(1)(c) and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on the landscaped areas of the development.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

The majority of the units proposed (particularly on the lower levels) have poor amenity. The Rules of Thumb within the RFDC aid in determining where these amenity issues arise, they can be summarised as:

- **Daylight Access**
From the general assessment undertaken it is doubtful that the development can provide direct sunlight to the living room windows and private open spaces for 3 hours at mid winter to units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 (68% of units in the development). See discussion under C1.4 Solar Access later in this report.
- **Natural Ventilation**
9 units (36%) are naturally ventilated by providing dual aspect corner apartment where 60% are required under the Rule of Thumb. The remaining single aspect apartments do not achieve natural ventilation (units 1, 2, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 19, 20 and 23).
- **Apartment Layout**
Units 5, 6, 7, 8, 9, 14, 15 and 16 are single aspect apartments that have a depth of greater than 8 metres from a window and do not provide adequate solar access and natural ventilation.

The rear walls of kitchens in units 5, 6, 8, 14 and 15 are greater than 8 metres from a window and do not provide adequate solar access and natural ventilation.

Furthermore visual privacy impacts occur between the proposed balconies on level 3 and level 4 and between private open spaces and habitable room windows of some of the units and adjoining properties (See Section C1.5 Visual Privacy later in this report).

Considering that applicant has failed to demonstrate that adequate solar access and natural ventilation is provided to the majority of the habitable areas of the units it is considered that the apartment layout is poor in terms of providing satisfactory amenity to the occupants.

The development is inconsistent with the RFDC Rules of Thumb (Daylight Access, Natural Ventilation and Apartment Layout), Principle 7: Amenity and Clause 2(3)(d) of SEPP 65 in that the development does not maximise amenity for the benefit of its occupants and the wider community and therefore should not be supported.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

A formal crime risk assessment of the development has been undertaken by NSW Police. The proposal will provide casual surveillance of the street from some units while maintaining internal privacy. The development provides clear, safe access points for pedestrians and vehicles. The development can achieve the outcomes of this principle subject to conditions being incorporated into any consent issued.

Principle 9: Social dimensions and housing affordability

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

The proposal provides a mix of one, two and three bedroom dwellings that could cater for a range of lifestyles, budgets and housing needs. The development addresses the need for affordable housing and provides thirteen units which are capable of adaptation for disabled access.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The aesthetics of the building are not inconsistent with building elements, textures, materials and colour which are used within the locality. It is considered that subject to conditions being imposed on the consent the development can achieve the outcomes of this principle.

Summary of SEPP 65 Assessment

The development fails to comply with the RFDC Rules of Thumb in relation to Daylight Access, Natural Ventilation and Apartment Layout, fails to achieve the outcomes of Design Principles 1, 2, 3, 4, 5, 6 and 7 and aims of SEPP 65. Whilst inconsistent with SEPP 65 the development cannot be refused pursuant to clause 14 of SEPP ARH on density, bulk and scale and landscaping.

The proposal does not satisfactorily respond to the local context and desired future character for the locality and fails to provide an acceptable level of amenity to future occupants. For these reasons, the development should be refused.

- **B2.5 Dwelling Density and Subdivision - Multi-Unit Housing**

Submissions raise concerns relating to the density of the development and the lack of supporting infrastructure. The development proposes 25 dwellings whereas if the local zoning provisions allowed multi unit housing development a maximum of 14 dwellings on the site would be permitted. The development is inconsistent with the control and outcomes in that the development does not achieve the desired future character of the locality and the scale and design of the built form results in adverse amenity impacts to adjoining residential development.

Whilst the development is inconsistent with the control and outcomes of Pittwater 21 DCP, pursuant to clause 14(1)(a) of SEPP ARH the consent authority cannot refuse consent based on the scale and density of the development.

- **C1.3 View Sharing**

Concern has been raised by the owners of 7 and 5B Beaconsfield Street regarding the proposal's impact on views to Pittwater waterway and bushland views of Newport basin and district.

Height poles have not been erected on the site, therefore an accurate assessment has not been able to be undertaken. Considering the direction of the views/outlook, the proposed location of the built form relative to the dwellings and relative heights, it is likely the development will impact on the views to Pittwater waterway and bushland outlooks to the west of the affected dwellings.

Regarding the assessment of view loss and view sharing consideration of clause C1.3 of Pittwater 21 DCP and the planning principle developed by the Land and Environment Court is undertaken. The planning principle *Tenacity Consulting v Warringah* [2004] NSWLEC 140 is considered to be the main authority when assessing view loss and view sharing.

An individual assessment from each objecting property is provided below:

5B Beaconsfield Street

The property captures highly filtered views to Pittwater waterway to the west from an upper floor bedroom and the front porch. The views are captured from standing and sitting positions and are captured across the side boundary. The view is valued as it is an outlook to water. It is likely that the proposed development will obstruct the view to the waterway. In qualitative terms, the impact is considered to be minor given that:

- the view is over the side boundary and difficult to protect;
- both views are highly filtered by vegetation and therefore susceptible to obstruction;
- the upper floor view is captured from a bedroom/study; and
- the proposal generally complies with the relevant built form controls.

7 Beaconsfield Street

The property captures a view to Pittwater waterway to the south west from a bedroom and an outlook to the north-west to the streetscape/bushland from the main internal and external living areas. The views are captured from standing and sitting positions and are captured across the side boundary. The view is valued as it is an outlook to water and to the natural and urban environment. It is likely that the proposed development will obstruct the view to the waterway and to the tree lined streetscape. In qualitative terms, the impact is considered to be minor given that:

- the view/outlook is over the side boundary and difficult to protect;
- the water view is captured from a bedroom;
- the outlook to the north west of the streetscape over the subject property is susceptible to obstruction from any compliant development on the site; and
- the proposal generally complies with the relevant built form controls.

The proposed development is considered to achieve an equitable view sharing scenario when considering the site characteristics and extent of impact. Consequently, the development is considered to be consistent with clause C1.3 View Sharing of Pittwater 21 DCP and planning principle Tenacity Consulting v Warringah [2004] NSWLEC 140.

This assessment had identified that equitable view sharing can be achieved. Visual impacts arising from the built form when viewed from the street and surrounding properties is in the SEPP 65 assessment earlier in this report.

• **C1.4 Solar Access**

Submissions raise concerns relating to overshadowing impacts to adjoining property owners and the proposed solar access to the units and the self shadowing impact of screening devices. The proposal overshadows neighbouring properties to the west between 9am and 10am and properties to the east between 2pm and 3pm. The development complies with the control in that it does not overshadow habitable room windows and private open space on adjoining properties for 3 hours on June 21st. In this regard the impact is considered acceptable.

Elevational solar access diagrams indicating daylight access to living room windows between 12pm and 3pm on June 21st were submitted to council on 25 November 2010. The diagrams only indicate the daylight access to the northern and western elevations. The Statement of Environmental Effects (dated 22 November 2010) claims that 70% or 17 units achieve 3 hours direct solar access.

Firstly, a comprehensive assessment of daylight access to the proposed units has been unable to be undertaken for the following reasons:

- No elevational diagrams have been submitted to indicate daylight access to the east facing units. Whilst it is acknowledged that the applicant has disclosed that these units do not comply with control, determining how much daylight access these units do receive needs to be established to assess amenity impacts and other DCP controls.
- The diagrams submitted are extremely difficult to interpret given that there are variations in grades of shading. There are different shades of grey and white cast over the windows and it is not clear as to what the different shades indicate.
- The diagrams submitted do not appear to take into account shadowing cast by retaining walls, fencing on retaining walls, privacy screens and some upper balconies.

Secondly, the applicants' statement that 17 units comply therefore the proposal complies with SEPP ARH and SEPP 65 as 70% achieve access is not technically correct. 17 out of 25 units is 68% of units in the development.

Based on the information provided and general assessment of the units (habitable room windows and private open space), orientation and location within the building, the development fails to meet the requirements with respect of Daylight Amenity in the RFDC and Clause C1.4 Solar Access of Pittwater 21 DCP.

The general assessment took into account the subterranean nature of the design, and the likely shading impacts of retaining walls and privacy devices. From the general assessment undertaken it is doubtful that the development can provide direct sunlight to the living room windows and private open spaces for 3 hours at mid winter to units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 (17/25 or 68%).

The development does not comply with Pittwater 21 DCP in that:

- the main private open space of each dwelling does not receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st;
- 50% of the glazed area to the windows to the principal living area of the proposal does not receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st; and
- the proposal does not demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.

Where a proposal does not comply with the standard a variation to the control can apply subject to meeting specific criteria. The development does not satisfy the variation as the proposal is inconsistent with the general principles of the development control, inconsistent with the desired future character of the locality and fails to achieve the minimum standard of 70% of dwellings receiving 3 hours of daylight access required under the RFDC.

The development does not provide an acceptable amount of amenity to the future occupants of these units. The proposed development is inconsistent with Pittwater 21 DCP, SEPP 65 design principles and RFDC Rules of Thumb, and therefore should not be supported.

- **C1.5 Visual Privacy**

Development Site

The balconies on the western elevation (units 14, 15, 16, 17 and 23) are well within 9m of each other (some 3m) and provide no privacy screening. Whilst conditioning of these devices is a possible solution, screening will create an overshadowing impact, reducing daylight access to units 14, 15 and 16. It is considered that the proposal is inconsistent with the control outcomes in that outdoor living areas of dwellings do not optimise visual privacy through good design. In this regard the application should not be supported.

Adjoining Sites

Submissions raise concerns relating to the overlooking and visual privacy impacts to adjoining properties, specifically 5B, 7, 13 and 13A Beaconsfield St (the immediate neighbours). The impacts to each neighbour are addressed separately below:

- 5B Beaconsfield St

The owners of 5B Beaconsfield St are concerned about visual privacy impacts from balconies and windows along the eastern elevation to their front porch, rear deck and windows to a dining room and bedroom. The proposed balcony allocated to unit 11 is 6m from the front porch and the balcony allocated to unit 12 is 6m from the dining room window. Fixed privacy screens and planter boxes have been proposed to minimise overlooking/cross looking impacts. It is considered that these devices can effectively minimise visual privacy impacts subject to conditions being incorporated into any consent.

- 7 Beaconsfield St

The owners of 7 Beaconsfield St are concerned about visual privacy impacts from balconies and windows along the eastern elevation to their entertaining deck, window/doors to main living area and outdoor BBQ area. The proposed terraces to units 8, 9, 21 and 25 are within 7m - 9m to the areas of concern. Fixed privacy screens have been proposed to minimise overlooking/cross looking impacts to units 21 and 25. It is considered that these devices can effectively minimise visual privacy impacts subject to conditions being incorporated into any consent issued.

A potential impact arises between the living room window/door and adjacent deck to the terraces in units 8 and 9. Due to the change in levels, the impact would be the occupants of 7 Beaconsfield St looking down to the terraces. It is considered that the boundary fence and proposed vegetation along the boundary would aid in minimising this impact. The visual privacy scenario is acceptable subject to conditions being incorporated into any consent issued.

- 13 Beaconsfield St

The owners of 13 Beaconsfield St are concerned about visual privacy impacts from balconies and windows along the western elevation to their rear terrace, front patio, living room window and bedroom windows. The proposed terraces and windows to units 4, 5, 13 and 14 are 10 – 17m from the rear terrace and living room window on the eastern elevation of 13 Beaconsfield St. It is considered that the distance, change in levels and proposed and existing vegetation minimise any unreasonable visual privacy impact to these areas.

The proposed terraces and windows to units 7, 16, 17, 22 and 23 are 25m – 30m from the front patio and bedroom windows on the northern elevation at 13 Beaconsfield St. It is considered that there could be a potential overlooking impact between unit 23 balcony and windows to the north facing front patio which is considered a main private open space for recreational activities. To effectively protect privacy to the patio, the proposed canopy trees along the western boundary would need to be relied upon. Using the Planning Principle within *Super Studio v Waverley [2004] NSWLEC 91* to guide in the assessment, when landscaping is the main safeguard against overlooking it should be given minor weight. Whilst distance is also relied upon, an impact still occurs and it is doubtful that the canopy trees would effectively protect overlooking at least in the earlier years the development.

- 13A Beaconsfield St

The owners of 13A Beaconsfield St are concerned about visual privacy impacts from balconies and windows along the western elevation to their rear decks, rear private open space which includes a spa and living, bedroom and ensuite windows.

The proposed balconies and windows to units 23 and 24 are 15m – 17m from the windows to the living room and ensuite windows on the eastern elevation. It is considered that the distance, planter boxes and change in levels minimise any unreasonable visual privacy impact to these windows.

The proposed balconies and windows to units 16, 17, and 23 are 15m from the rear decks, private open space and bedroom windows at 13A Beaconsfield St. These units will overlook the decks and the entire private open space and recreational areas at 13A Beaconsfield St. Whilst it is acknowledged that the distance is further than 9m as stipulated by the control, these units fail to meet the control in that they are elevated balconies to the side of a residential flat building and have direct views of more than 50% of the private open space of a lower level dwelling.

In this instance it is considered that the distance is inadequate given the elevated nature of the balconies. Therefore only the proposed vegetation and canopy trees are relied upon to protect privacy to 13A Beaconsfield St. As indicated by the Planning Principle within *Super Studio v Waverley [2004] NSWLEC 91*, minor weight should be given to landscaping to safeguard against overlooking. In this regard the privacy scenario between the development and the rear deck off the living rooms and rear terraced recreational area (including the spa) is unacceptable.

Considering that development fails to achieve the control requirements and outcomes in that development results in adverse privacy impacts to adjoining properties, the development should not be supported.

- **C1.6 Acoustic Privacy**

Submissions raise concerns relating to the noise impacts associated with the development particularly during the construction phase and the long term impacts from the habitation of 25 units and pedestrian access along the boundary. While noise will result from the construction phase and over the life of the development, it is considered that noise generated from habitation and recreational use of residential dwellings and construction noise within limited hours are reasonable impacts. Mechanical equipment which generates noise is located within the basement area which will effectively minimise the noise impacts. It is considered that the proposal can achieve the control outcomes subject to conditions being incorporated into any consent issued.

- **C1.7 Private Open Space**

Units 14, 15, and 25 do not provide the minimum area for private open space. The balconies provide 9m² where a minimum 10m² is required. It is considered that these are minor non compliances that could be satisfied by condition.

The proposed level 3 and level 4 balconies along the western side are not consistent with the control in that they have not been designed to limit overlooking and maintain privacy of adjoining residences. Balconies of units 16, 17 and 23 will overlook the entire private open space area which includes a spa at 13A Beaconsfield St.

Furthermore the development fails to comply with the control in that the majority of private open space areas along the eastern side on levels 2 and 3 (units 1, 2, 3, 8, 9, 10, 11 and 12) receive little to no daylight access.

The development is inconsistent with the control outcomes in that:

- Private open space to units along the eastern side on levels 2 and 3 do not receive sufficient solar access.
- Private open space at 13A Beaconsfield St does not receive sufficient privacy (See C1.5 Visual Privacy).
- Private open space to units along the western side on levels 3 and 4 do not receive sufficient privacy (See C1.5 Visual Privacy).

Considering that development fails to achieve the control requirements and outcomes, the development should not be supported.

- **D10.1 Character as viewed from a public place and D10.3 Scenic protection – General**

The majority of submissions raise concerns relating to the development resulting in a negative visual impact when viewed from the street and it being physically incompatible with the adjoining residences. The development does not comply with the control in that the bulk and scale of the building is not minimised and that the building does not give the appearance of being secondary to landscaping and vegetation. Furthermore the development is inconsistent with the policy outcomes in that:

- The development does not achieve the desired future character of the Locality.
- The proposal does not promote a scale and density that is in keeping with the height of the natural environment.
- The proposal does not respond to, reinforce and sensitively relate to the spatial characteristics of the existing urban environment.
- The visual impact of the built form is not secondary to landscaping and vegetation.

Whilst the development is inconsistent with the control and outcomes of Pittwater 21 DCP, pursuant to clause 14(1)(a), 14(1)(c) and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on the scale and landscaping.

Given that the development is inconsistent with the desired future character of the locality outcome within clauses D10.1 Character as viewed from a public place and D10.3 Scenic protection – General of Pittwater 21 DCP, the proposal should not be supported.

- **D10.4 Building colours and materials**

The proposal incorporates white and grey walls which are inconsistent with council's requirement for external colours and materials to be dark and earthy tones. Furthermore the proposed roof material and colour does not appear to be specified. Dark and earthy building colours and materials can minimise bulk and scale impacts and the visual prominence of the built form when viewed from adjoining properties and the public domain.

Given that the proposal is for a building of a scale unlike any on the street, the building colours must be dark tones to minimise visual impacts. A condition could be imposed in the consent to ensure that the walls, roof and finishes are dark colours.

- **D10.5 Height (excluding Newport Commercial Centre)**

Submissions raise concerns relating to the height of the development. The maximum height is 8.48m from natural ground level, occurring at the south western corner of the front portion of the development. The proposal complies with the DCP control however is considered to be inconsistent with the control outcomes in that:

- The proposal cannot achieve the desired future character of the Locality.
- The built form dominates the natural setting.

Whilst the development is inconsistent with the outcomes of Pittwater 21 DCP, pursuant to clause 14(1)(a) of SEPP ARH the consent authority cannot refuse consent based on the scale of the development.

Given that the development is inconsistent with the desired future character of the locality outcome within clause D10.5 Height of Pittwater 21 DCP, the proposal should not be supported.

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

Submissions raise concerns relating to the front building line being inconsistent with the established building line. Privacy partitions and portions of ground level decks to units 19 and 20 are within the 6.5m front setback. Front building lines vary along Beaconsfield St and it is considered that the proposal is generally consistent with the established building line.

Notwithstanding this, the development does not comply with the control and is inconsistent with the policy outcomes in that:

- Private open space areas of units 18, 19 and 20 are located within the front building line minimising opportunity for substantial landscaping to visually reduce the built form.
- The development does not achieve the desired future character of the Locality.
- The proposal does not promote a scale and density that is in keeping with the height of the natural environment.
- The proposal does not respond to, reinforce and sensitively relate to the spatial characteristics of the existing urban environment.

Whilst the development is inconsistent with the control and outcomes of Pittwater 21 DCP, pursuant to clause 14(1)(a), 14(1)(c) and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on the scale and landscaping.

Given that the development is inconsistent with the desired future character of the locality outcome within clause D10.7 Front building line of Pittwater 21 DCP, the proposal should not be supported.

- **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

Submissions raise concerns relating to the lack of spatial separation between the built form, visual impacts as a result of the length of the structure and the adequacy of the side setbacks to accommodate substantial landscaping. The proposed side and rear setbacks comply with the DCP control however the development is considered to be inconsistent with the control outcomes in that:

- The proposal cannot achieve the desired future character of the locality.
- The bulk and scale of the built form is not minimised.
- The development does not ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.
- Substantial landscaping including a mature tree canopy within the side setbacks is not provided.

Whilst the development is inconsistent with the outcomes of Pittwater 21 DCP, pursuant to clause 14(1)(a), 14(1)(c) and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on the scale and landscaping.

Given that the development is inconsistent with the locality, bulk and amenity outcomes within clause D10.8 Side and rear building line of Pittwater 21 DCP, the proposal should not be supported.

• **D10.13 Site coverage - Environmentally Sensitive Land**

The proposal results in a site coverage of 68.8% and a landscape area of 31.2% where the DCP control allows a maximum of 40% and 60% respectively.

Compliance with the DCP control should be achieved to minimise visual impacts and minimise disturbance to the natural landscape. The development does not comply with the control and is inconsistent with the policy outcomes in that:

- The proposal cannot achieve the desired future character of the locality.
- The bulk and scale of the built form is not minimised.
- A reasonable level of amenity and solar access is not provided and maintained to future occupants and adjoining properties.
- Vegetation is not retained to visually reduce the built form.

Whilst the development is inconsistent with the control and outcomes of Pittwater 21 DCP, pursuant to clause 14(1)(a), 14(1)(c) and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on the scale and landscaping.

Given that the development is inconsistent with the locality, bulk and amenity outcomes within clause D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP, the proposal should not be supported.

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 State and Local policies.

Firstly, the applicant has failed to provide adequate information to undertake a comprehensive assessment of the application. Secondly, based on the information provided it is considered that the development fails to appropriately respond to the local context and desired character for Newport, provide the necessary daylight access, natural ventilation and privacy to future occupants and results in adverse visual privacy impacts to adjoining priorities.

It is noted that Clause 16 of SEPP ARH states that the provisions of this policy do not override the provisions of SEPP 65. The development should be consistent with both SEPP ARH and SEPP 65. The development fails achieve the aims and fulfil the design principles of SEPP 65 and meet the controls and outcomes of Pittwater 21 DCP. Accordingly, the application should be refused.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That development application N0594/10 for the demolition of the existing structures, construction of an Infill Affordable Housing development comprising of 25 apartments and two levels of basement carparking and a strata subdivision at 9 – 11 Beaconsfield Street, Newport is refused for the reasons outlined in the draft notice of determination.

Report prepared by

Amy Allen
PLANNER

DRAFT DETERMINATION

REFUSAL

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)

NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicants Name and Address: BOSTON BLYTH FLEMING 1/9 NARABANG WAY BELROSE 2085 Being the applicant in respect of Development Application No **N0594/10** Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of the Development Application for: *Demolition of the existing structures, construction of an Infill Affordable Housing development comprising of 25 apartments (10 x 1 bedroom, 3 x 1 bedroom + study, 2 x 2 bedroom, 8 x 2 bedroom + study and 2 x 3 bedroom) and two levels of basement carparking and a strata subdivision*

At: 9 BEACONSFIELD STREET, NEWPORT (Lot 30 DP 1093125), 11 BEACONSFIELD STREET, NEWPORT (Lot 29 DP 1093125)

Decision:

The Development Application has been refused for the following reasons:

7. Inadequate Information to Assess the Development Application

There are inconsistencies between the submitted plan documentation and insufficient information to assess solar access, impacts to trees on the subject site and adjoining sites and the proposed strata subdivision.

8. Desired Future Character and Local Context

The development is inconsistent with the A4.10 Newport Locality of Pittwater 21 DCP and Clause 2(3)(a)(iii), 2(3)(b) and 9 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development is inconsistent with the desired future character for the Newport Locality and does not satisfactorily respond to the local context.

As the development does not achieve the desired future character for the locality, the development is also inconsistent with the outcomes of controls D10.1 Character as viewed from a public place, D10.3 Scenic protection – General, D10.5 Height (excluding Newport Commercial Centre), D10.7 Front building line (excluding Newport Commercial Centre), D10.8 Side and rear building line (excluding Newport Commercial Centre) and D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP.

9. Bulk and Visual Impact

The development is inconsistent with Clause 2(3)(b), 2(3)(d) and 11 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development results in unacceptable visual bulk and mass when viewed from the street and neighbouring properties and does not maximise amenity for the benefit of its occupants and the wider community.

As the development does not minimise bulk, the development is also inconsistent with the outcomes of controls D10.8 Side and rear building line (excluding Newport Commercial Centre) and D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP.

10. Solar Access

The development is inconsistent with C1.4 Solar Access of Pittwater 21 DCP, RFDC Rule of Thumb for Daylight Access and Clause 2(3)(a)(i), 2(3)(e), 2(3)(d) and 15 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that development does not provide the necessary amount of daylight access to the future occupants of the development.

As the development does not provide adequate daylight access to the future occupants of the development, the development is also inconsistent with the outcomes of controls D10.8 Side and rear building line (excluding Newport Commercial Centre) and D10.13 Site coverage - Environmentally Sensitive Land of Pittwater 21 DCP.

11. Natural Ventilation

The development is inconsistent with the RFDC Rules of Thumb for Natural Ventilation and Clause 2(3)(a)(i), 2(3)(e), 2(3)(d) and 15 of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development does not provide the necessary amount of natural ventilation to the future occupants of the development.

12. Visual Privacy

The development is inconsistent with C1.5 Visual Privacy of Pittwater 21 DCP and Clause 2(3)(d) of State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development in that the development does not optimise visual privacy for future occupants through good design and results in adverse privacy impacts to adjoining properties.

As the development does not provide reasonable level of privacy within the development site and maintain it to residential properties, the development is also inconsistent with the outcomes of control D10.8 Side and rear building line (excluding Newport Commercial Centre) of Pittwater 21 DCP.

NOTES:

1. This determination was taken under delegated authority on behalf of the elected Council pursuant to Section 377 of the Local Government Act 1993.
2. An applicant may under Section 82A of the Act, apply to council to review this determination.
3. Section 97 of the Act confers on the applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land & Environment Court exercisable within 12 months after receipt of this notice.
4. Any person who contravenes this notice of determination of the abovementioned development application shall be guilty of a breach of the Environmental Planning & Assessment Act, 1979, and shall be liable to a monetary penalty and for a restraining order which may be imposed by the Land and Environment Court.

Mark Ferguson
GENERAL MANAGER

Per:

Date

LOCALITY MAP



PROPOSED 3-STORY APARTMENT BUILDING
 1000 S. 1st St.
 1000 S. 1st St. (1000 S. 1st St.)

ARCHITECTS
 RYAN ARCHITECTS
 1000 S. 1st St.
 1000 S. 1st St.

DATE
 10/1/2010

PROJECT
 1000 S. 1st St.

APPROVALS
 DEVELOPMENT APPLICATION
 1000 S. 1st St.

DA 00

**C11.2 N0533/09 - 14A PRINCE ALFRED PARADE, NEWPORT
Construct a Part 2 / Part 3 Storey Dwelling-House**

Meeting: Planning an Integrated Built
Environment Committee

Date: 21 February 2011

STRATEGY: Land Use and Development

ACTION: Provide an effective development assessment and determination process

PURPOSE OF REPORT

To inform the Committee of the Development Unit's recommendation following consideration of Development Application N0533/09 - 14A Prince Alfred Parade, Newport (Lot 172 DP 709495) Construct a Part 2 / Part 3 Storey Dwelling-House.

1.0 BACKGROUND

- 1.1 The Development Unit, at its meeting held on Thursday, 3 February 2011 considered the Development Officer's report (**Attachment 1**) for determination of Development Application N0533/09 - 14A Prince Alfred Parade, Newport (Lot 172 DP 709495) Construct a Part 2 / Part 3 Storey Dwelling-House.

2.0 REASON FOR REFERRAL TO COUNCIL

- 2.1 The Applicant has had the matter listed in the Land and Environment Court for hearing

3.0 DEVELOPMENT UNIT DELIBERATIONS

- 3.1 Three Objectors addressed the Development Unit on the application relating to: overdevelopment of the site, excavation, inadequate Arborist's Report, impact on surrounding trees and the application not fitting in with the local amenity.
- 3.2 The Applicant did not attend the Development Unit meeting.
- 3.3 The Development Unit supported the Assessing Officer's recommendation for Refusal

4.0 ISSUES

- Overdevelopment of the site
- Inadequate Arborist's Report
- Bulk and scale of development
- Size of excavation

5.0 SUSTAINABILITY ASSESSMENT

- 5.1 This report does not require a Sustainability Assessment.

6.0 EXECUTIVE SUMMARY

- 6.1 The Application was considered by the Development Unit at its meeting held on 3 February 2011 and after hearing from the Objectors and noting that the Applicant was not present, endorsed the Assessing Officer's recommendation for Refusal.

RECOMMENDATION

That the recommendation in the Development Officers Report (**Attachment 1**) be endorsed and Development Application N0533/09 - 14A Prince Alfred Parade, Newport (Lot 172 DP 709495) Construct a Part 2 / Part 3 Storey Dwelling-House be refused for the following reasons:

1. The proposed development fails to adequately minimise both direct impacts (such as excavation) and indirect impacts (such as suspended structures) within the 12m tree protection zone of the significant Spotted Gum tree located partially on the subject site and partially on 12 Prince Alfred Parade (the 'Tree'). This is likely to affect the long term viability and structural integrity of the Tree, which is partially owned by another party who has not granted consent to the removal of the Tree.
2. The proposed development will be located a minimum of 5.6m from the centre of the trunk of the tree and will impact on approximately 28.7% of the tree protection zone, with necessary soil level changes and landscaping works at an even closer distance to the tree. This is likely to have an unacceptable detrimental impact on the future health and survival of the Tree.
3. The loss of the significant Spotted Gum tree would have an adverse impact on the Pittwater Spotted Gum Endangered Ecological Community and would result in a significant loss of remnant on-site native tree canopy cover.
4. The submitted Revised Arborist Report dated 7 December 2010 and prepared by Naturally Trees and accompanying the amended plans received in December 2010 is inadequate as it:
 - (i) Does not draw any conclusion or make comment on the long term impact on the health of the Tree from the removal of the 3 smaller tree roots together with the 3 larger roots identified as being located in the building envelope.
 - (ii) Does not consider the location of the roots to be severed (north and east of the trunk of the Tree) when weighed against the trunk lean and canopy bias of the Tree to the west in terms of the short term potential impacts on the stability of the Tree.
5. The development is not consistent with the desired future character in A4.10 of Pittwater 21 DCP for the Newport locality as it fails to sufficiently minimise bulk and scale to ensure the successful retention of the significant Spotted Gum and achieving a reasonable balance between the development of land and maintaining significant features of the natural landscape.
6. The development fails to comply with the 8.5m maximum height control and cannot benefit from the permitted height variation of 10m on steep land as it fails to satisfy the outcomes of this control and fails to be consistent with the desired future character for the Newport locality.
7. The development does not comply with the maximum site coverage control within D10.13

8. Site Coverage - Environmentally Sensitive Land. Furthermore, the development does not satisfy the underlying outcomes of this control, particularly in that it fails to achieve the desired future character for the Newport locality, it fails to reasonably minimise the bulk and scale of the built form sufficiently to ensure that existing vegetation is retained and to preserve and enhance the rural and bushland character of the area.
9. The development is not considered to be consistent with the controls and objectives of D10.18 'Scenic Protection Category One Areas' of Pittwater DCP 21 in that the development has not been designed to sufficiently minimise impacts on the significant Spotted Gum tree situated on the common boundary with 12 Prince Alfred Parade. The Applicant has not demonstrated that retention of this tree is possible. The siting, building form and bulk and scale of the development will compromise the visual integrity of the Site by causing the eventual removal of this tree and dominating the natural setting of the Site, particularly when viewed from Horseshoe Cove and Pittwater.
10. The development is not consistent with Aims 2(e), (g) and (k) of SEPP 71 and is contrary to Matters For Consideration 8(a), (d) and (f) of SEPP 71.
11. The Development Application has failed to adequately demonstrate, with the submission of a detailed Construction Traffic Management Plan, that the excavation and construction phase of the development can be carried out without unreasonable nuisance or disruption to neighbouring properties and the street system and that any necessary owners consent for the use of adjoining land during construction, has been obtained.

Report prepared by

Warwick Lawrence
MANAGER ADMINISTRATION AND GOVERNANCE

SUBJECT: N0533/09 - 14A PRINCE ALFRED PARADE, NEWPORT (Lot 172 DP 709495) Construct a Part 2 / Part 3 Storey Dwelling-House

Determination Level: Development Unit

Date: 3 February 2011

SUMMARY OF RECOMMENDATION

REFUSAL

REPORT PREPARED BY:	Gordon Edgar
APPLICATION SUBMITTED ON:	23/11/2009
APPLICATION SUBMITTED BY:	MGAA ARCHITECTS
OWNER(S):	KOROLKOVA, ELENA (Own)

This Development Application is the subject of a Class 1 Appeal to the Land and Environment Court against the deemed refusal of the Application. Court hearing dates have been set down for 10-11 March 2011.

1.0 DEVELOPMENT CONTROLS

The proposed dwelling is permissible in the Residential 2(a) zone pursuant to Clause 9 of Pittwater LEP 1993.

2.0 NOTIFICATIONS

7 property owners notified

Objections were received from the owners of 8 neighbouring properties with some residents submitting multiple objections.

Amended plans and additional information were received on 17 March 2010. All original objectors were re-notified of this additional information and further objections were received from 4 property owners as well as a pro-forma objection from 8 residents of Prince Alfred Parade.

Further amended plans and additional information was received on 10 December 2010 and objectors were re-notified. As a result of this re-notification process 3 further objections were received.

3.0 ISSUES

- 3.1 Submission of a Development Application and payment of appropriate fee
- 3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings
- 3.4 Notification
- 4.8 Integrated Development - Rivers, Streams and Foreshores
- A1.7 Considerations before consent is granted

- A4.10 Newport Locality
- B3.1 Landslip Hazard
- B5.11 Stormwater Discharge into Waterways and Coastal Areas
- B8.6 Construction and Demolition - Traffic Management Plan
- B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
- C1.1 Landscaping
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- D10.1 Character as viewed from a public place
- D10.4 Building colours and materials
- D10.5 Height (excluding Newport Commercial Centre)
- D10.7 Front building line (excluding Newport Commercial Centre)
- D10.10 Foreshore building line
- D10.11 Building envelope
- D10.13 Site coverage - Environmentally Sensitive Land
- D10.14 Fences - General
- D10.16 Construction, Retaining walls, terracing and undercroft areas
- D10.18 Scenic Protection Category One Areas
- SEPP No 71 Coastal Protection

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		Concern has been raised by objectors in relation to the geotechnical report and the risk of landslip on the site. These issues are discussed in more detail later in this report under the relevant control.	Y	Y	N
B3.7 Estuarine Hazard - Residential Development: Dwelling House, Secondary Dwelling and Dual Occupancy			Y	Y	Y
B3.22 Flood Hazard - Flood Category 3 - All Development			-	-	-
B5.4 Stormwater Harvesting			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
B5.11 Stormwater Discharge into Waterways and Coastal Areas		Concern has been raised by objectors regarding the proposed arrangements for the collection and disposal of overland stormwater from the site. This matter is addressed in greater detail later in this report under the relevant heading.	Y	Y	N
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.13 Development on Waterfront Land			-	-	-
B6.1 Access Driveways and Works on the Public Road Reserve - Dwelling House and Dual Occupancy			-	-	-
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	Minimum requirement of 2 spaces	Concern has been raised by an objector regarding the adequacy of the provision for on-site parking. The development includes 3 car spaces and complies with the DCP requirement. On occasions when there are multiple visitors, it would be possible for 2 more vehicles to be parked on the driveway area in a temporary stacked arrangement.	Y	Y	N
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y

Control	Standard	Proposal	T	O	N
B8.3 Construction and Demolition - Waste Minimisation			-	-	-
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		Concern has been raised by objectors regarding the difficulties presented by the site for construction access. This matter is dealt with in greater detail later in this report under the relevant control heading.	N	N	N
REF - Heritage					
B1.3 Heritage Conservation - General			-	-	-
REF - Natural Resources					
B1.4 Aboriginal Heritage Significance		No apparent issues.	Y	Y	Y
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community		Concern has been expressed by objectors regarding whether or not the development will have a negative impact on the continued health and survival of a significant mature Spotted Gum located on the common boundary between the subject site and No.12 Prince Alfred Parade. This issue is discussed in more detail later in this report under the relevant DCP control.	N	N	N
B4.15 Saltmarsh Endangered Ecological Community			Y	Y	Y
B4.16 Seagrass Conservation			-	-	-
B4.19 Estuarine Habitat			Y	Y	Y
B4.20 Protection of Estuarine Water Quality			Y	Y	Y
B5.3 Greywater Reuse			-	-	-
C1.1 Landscaping		Concern has been raised by objectors regarding the proposed planting of canopy trees adjacent to the southern boundary of the Site. This issue is addressed in more detail under the relevant heading later in this report.	N	N	N
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		Concern has been raised by objectors regarding owners consent for the development application. This issue is discussed in more detail later in this report.	Y	Y	N
3.2 Submission of a Statement of Environmental Effects			Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings		Concern has been raised by objectors regarding certain supporting information to the application. These matters are discussed in more detail later in this report.	Y	Y	N

Control	Standard	Proposal	T	O	N
3.4 Notification		Concern has been raised by objectors regarding the timing and length of the notification period for the most recently received amended plans. This issue is discussed under the relevant heading later in this report.	Y	Y	N
3.5 Building Code of Australia			Y	Y	Y
4.5 Integrated Development: Aboriginal Objects and Places			-	-	-
4.7 Integrated Development - Roads			-	-	-
4.8 Integrated Development - Rivers, Streams and Foreshores		This control is not applicable to the development application. See relevant section later in this report for detailed discussion.	-	-	-
5.3 Referral to NSW Department of Environment and Climate Change (DECC)			-	-	-
A1.7 Considerations before consent is granted		Issues raised in objections not addressed elsewhere in this report are addressed under this control heading later in this report.	Y	Y	N
A4.10 Newport Locality		Concern is raised by objectors that the development is inconsistent with the desired future character for the Newport locality. This is discussed in more detail later in this report under the relevant heading and also under Control D10.5.	N	N	N
B3.5 Acid Sulphate Soils	Region 5		Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			-	-	-
B5.2 Wastewater Disposal			Y	Y	Y
B5.3 Greywater Reuse			-	-	-
B5.11 Stormwater Discharge into Waterways and Coastal Areas			-	-	-
B5.12 Stormwater Drainage Systems and Natural Watercourses			-	-	-
B5.13 Development on Waterfront Land			-	-	-
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing		Concern has been raised by objectors regarding the potential loss of views from their properties arising as a result of the development. This matter is discussed in more detail later in this report.	Y	Y	N
C1.4 Solar Access		Concern has been raised in regard to the potential of the development to cause unreasonable overshadowing on adjoining properties. This matter is discussed in more detail later in this report under the relevant control heading.	Y	Y	N
C1.5 Visual Privacy		Concern has been raised by the owners of the immediately adjoining properties at No's 12, 14 and 16 Prince Alfred Parade regarding the potential privacy impacts of the development. This issue is addressed in more detail under this control heading later in this report.	Y	Y	N

Control	Standard	Proposal	T	O	N
C1.6 Acoustic Privacy		Concern has been raised by objectors regarding potential noise arising from the development. This issue is addressed in detail under the relevant heading later in this report.	Y	Y	N
C1.7 Private Open Space		The Ground Floor balcony and adjoining landscaped area provide adequate outdoor open space with direct connection to internal living areas.	Y	Y	Y
C1.9 Adaptable Housing and Accessibility		The proposal incorporates an internal lift connecting the driveway and access level with all of the lower habitable levels of the dwelling.	-	-	-
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures			-	-	-
C1.17 Swimming Pool Safety		The proposed swimming pool was deleted in the amended plans. This control is no longer applicable.	-	-	-
C1.19 Incline Passenger Lifts and Stairways			Y	Y	Y
C1.23 Eaves		The proposal incorporates eaves on its western side but not on the side elevations to the north or south. Notwithstanding this, windows to the side elevations have been minimised and sun protection can be provided using louvres or blinds as necessary. It is not considered necessary to strictly enforce this requirement as eaves would be contrary to the character of the design of the building and would be detrimental to its appearance as the roof and side walls are designed to join together via rounded edges.	N	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure			-	-	-
C1.25 Plant, Equipment Boxes and Lift Over-Run		Concern has been raised by an objector regarding the lack of detail of the height of the lift overrun and whether the height complies with the height covenant. This information has been submitted and the lift overrun level is the same as the height covenant but does not exceed it.	Y	Y	N
C5.21 Plant, Equipment Boxes and Lift Over-Run			-	-	-
D10.1 Character as viewed from a public place		Concern has been raised by objectors with regard to the performance of the development against this control. This matter is discussed in more detail under the relevant section later in this report.	N	N	N
D10.4 Building colours and materials		Objectors have raised concern over this issue, refer to detailed comments under appropriate heading later in this report and also related comments under Section A4.10.	Y	Y	N

Control	Standard	Proposal	T	O	N
D10.5 Height (excluding Newport Commercial Centre)		Concern has been raised by objectors regarding the performance of the development against this control. This matter is discussed in more detail later in this report.	N	N	N
D10.7 Front building line (excluding Newport Commercial Centre)	The subject site is unique in that it has no street frontage. The front boundary of the subject site is the common boundary with the adjoining property at 12 Prince Alfred Parade.	Concern has been raised by objectors regarding the proposed front building setback of the development to the common boundary with their property. This matter is discussed in more detail later in this report under the relevant control.	Y	Y	N
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Minimum of 1m required to one side boundary and 2.5m to the other side boundary. Minimum of 6.5m to rear boundary.	The proposal has a minimum setback of 1.2m to the southern side boundary and a minimum setback of 2.618m to the northern side boundary. Due to the application of a Foreshore Building Line, the development is compliant with the standard rear setback control.	Y	Y	Y
D10.10 Foreshore building line		Concern has been raised by objectors in relation to the performance of the development against this control. This is discussed in more detail later in this report.	Y	Y	N
D10.11 Building envelope		Concern is raised by objectors regarding the performance of the development against the controls and outcomes of this standard in the DCP. This issue is discussed in greater detail later in this report.	N	Y	N
D10.13 Site coverage - Environmentally Sensitive Land	Maximum site coverage permitted is 40% of the site and minimum landscaped area is 60% of the site area. An additional 6% site coverage permitted if hard paved outdoor open space.	Proposal will result in site coverage of 44.59% of the Site including 1.35% hard paved recreation areas. Objectors have raised concern in relation to the compliance of the development with this control. This is discussed in more detail later in this report.	N	N	N
D10.14 Fences - General		An objector has raised concern with regard to fencing of the site. This issue is discussed in more detail later in this report.	N	Y	N
D10.16 Construction, Retaining walls, terracing and undercroft areas		Concern is raised by objectors in relation to the number of retaining walls proposed. This issue is discussed in detail later in this report.	Y	Y	N
D10.18 Scenic Protection Category One Areas	The subject site is classified as Scenic Protection - Category One.	Objectors have expressed concern over the performance of the development against this control and its outcomes. This is discussed later in the report under the relevant section.	N	N	N
D15.9 Public foreshore access			Y	Y	Y
D15.11 Waterfront lighting			-	-	-
D15.12 Development seaward of mean high water mark			-	-	-
SEPP No 71 Coastal Protection		Concern has been raised by objectors about the performance of the development against this SEPP. This is addressed in more detail later in this report.	N	N	N

Control	Standard	Proposal	T	O	N
SEPP (Building Sustainability Index: BASIX) 2004			Y	Y	Y
Other State Environmental Planning Policies (SEPPs)			-	-	-

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

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

5.0 SITE DETAILS

The subject site is located on the western side of Prince Alfred Parade, Newport and extends to the foreshore of Pittwater. The site is known as 14A Prince Alfred Parade, Newport. The legal description of the site is Lot 172 in DP 709495. The site is irregular in shape and does not have frontage to Prince Alfred Parade. The site slopes steeply from front to rear and resulting in a level change of approximately 15m across the site. The area of the site is 813.6sqm. Its average length is approximately 40m and its average width is approximately 20m.

Adjoining the rear property boundary of the site is reclaimed land between 10.7m and 12.3m deep and extending across the full width of the site. The reclaimed land is retained by a stone sea wall. The subject site is vacant with the only structures on the site being a concrete path and stairs passing down the length of the site and an inclinator adjacent to the northern boundary. The inclinator connects the reclaimed land at the water's edge and associated boating facilities (including a boat shed and jetty) with the upper part of the driveway over 14 Prince Alfred Parade. There is also a loose stone retaining wall at the rear of the site. The site contains a significant mature Spotted Gum located midway along the common boundary between the site and the adjoining property to the south known as 12 Prince Alfred Parade. There is another smaller eucalypt in the south-east corner of the site. The subject site is burdened by 1m wide easement to drain water and a 2.5m wide Right of Way in the location of the inclinator running adjacent to the northern side property boundary.

Vehicular access is gained from Prince Alfred Parade to the subject site via an existing driveway that services the dwelling on the adjoining property to the east known as 14 Prince Alfred Parade. This property contains a part 1 / part 2 storey brick and tile dwelling-house. The driveway over 14 Prince Alfred Parade is subject to a 3.5m-4.5m wide right of way benefitting the subject site and passing down the southern side of the existing dwelling at 14 Prince Alfred Parade. The dwelling at 14 Prince Alfred Parade has a covered rear balcony on the first floor as well as a ground floor raised rear tiled terrace with no balustrades. Both the first floor and ground floor balconies look directly over the subject site towards Pittwater. The ground floor terrace to 14 Prince Alfred Parade is setback between 0.3m and 1.4m from the common boundary with the subject site. Adjoining the subject site to the south is No.12 Prince Alfred Parade which contains a 2 storey rendered and clad house with an in-ground swimming pool and an inclinator adjacent to the common boundary with the subject site. Adjoining the subject site to the north is No.16 Prince Alfred Parade containing a 2 storey brick and tile dwelling-house.

6.0 PROPOSAL IN DETAIL

The originally submitted proposal was for the construction of a part 2, part 3 and part 4 storey dwelling-house and an in-ground swimming pool. However, over the course of a number of amendments to the development, the subject proposal of this assessment report is for the construction of a part 2 / part 3 storey dwelling-house.

The dwelling design and associated private open space is stepped down the slope of the site in a series of stepped terraces with curved retaining walls. Fairly extensive excavation is proposed to a maximum depth of approximately 4.4m. The Ground Floor contains an open plan living room / dining room/ kitchen, study, pantry and WC. Level 1 contains the Master Bedroom & ensuite/WIR, 3 other bedrooms, 2 ensuites, home cinema and laundry. The Garage Level contains an entry foyer. An internal lift is proposed connecting all of the 4 levels of the dwelling.

1 additional visitor's car space is proposed in front of the dwelling as well as a vehicle turntable. It is also proposed to landscape the unbuilt portions of the site including a series of terraces at the rear of the dwelling.

7.0 BACKGROUND

A Pre-DA Meeting with Council officers was carried out on 7 July 2009. Comments made in the Pre-DA Report included ensuring the development was above flood levels, requiring a Geotechnical Report, the site being within Spotted Gum Forest land and containing Saltmarsh Foreshore Vegetation, the need for an arborist's report, the site being within Flora & Fauna Habitat Enhancement Category 3, the need for stormwater drainage details with any DA, the site not being identified as requiring on-site detention although if stormwater is to be directed into Saltmarsh habitat, an alternative method of disposal is required, the need for a car turntable to ensure forward entry and egress, the need for a Traffic Management Plan for the construction period and excavation details, the required maximum site coverage being 40% and minimum landscaped area being 60% and high risk that the proposal did not comply with these standards, that swimming pools are only permitted within the Foreshore Building Line if they do not protrude above Natural Ground Level, risk of maximum building height variation, high risk of non-compliance with Building Envelope control, that terracing and retaining walls should be kept to a minimum, risk of overshadowing 12 Prince Alfred Parade, uncertainty as to whether the proposal will be too bulky and the need to assess its appearance from Pittwater and the Royal Motor Yacht Club and, uncertainty as to whether the development would fit in with the natural environment.

Following preliminary assessment of the development application and submissions received, Council officers sent a letter to the Applicant dated 4 February 2010 and raising a number of issues that required attention including owners consent for work on the reclaimed land, the need for a more detailed geotechnical investigation, whether the application requires an activity approval under the Water Management Act, whether a lift overrun is proposed, whether the character of the development was secondary to landscaping and vegetation as required under numerous outcomes to numerous applicable controls, the need to provide screening and separation to the dwelling at 14 Prince Alfred Parade, the non-compliance of the swimming pool with the foreshore building line, non-compliances with the building envelope control, non-compliance with the site coverage and landscaped area control, excessive cut and fill proposed on the site and, whether the mature Spotted Gum on the site can be safely retained as there may have been some inaccuracies in the Arborist report.

A meeting was held on 17 February 2010 and the town planner and architect for the Applicant at which these concerns were reiterated and explained in more detail. It was made clear at this meeting that the development needed to comply with the site coverage control and that the bulk and scale of the development needed to be reduced in a meaningful way.

Additional information was submitted in response to this letter on 17 March 2010. The additional information included amended plans including the following modifications to the original proposal:

- Increased setback from the southern boundary at the location of the Spotted Gum tree from 4.5m to 5.325m, with the setback from the centre of the tree trunk being 5.2m;

- deletion of swimming pool and deck;
- reduction in building floor space and site coverage from 52.97% to 44.85% of the Site;
- increase in landscaped area;
- additional buffer landscaping between development and dwelling at 14 Prince Alfred Parade and deletion of 1 open car space.

Notification of the amended plans and additional information received in March 2010 was sent to those who had made a submission on the originally submitted plans. The notification period for the amended plans was between 29 March 2010 and 12 April 2010. Further objections were received from 4 residents as well as a pro-forma style objection signed by 8 other residents of Prince Alfred Parade.

On 23 August 2010, following detailed assessment of the amended plans and additional submissions made, Council's Executive Planner advised the Applicant that the additional information and amended plans did not adequately respond to the issues raised in Council's letter dated 4 February 2010 or the concerns verbally expressed at the meeting with the representatives for the Applicant on 17 February 2010. On 24 August 2010, the Applicant sent Council's Executive Planner an email requesting that the assessment report on the Application to Council's DU Committee not be finalised until a meeting could be held between senior Council officers and representatives for the Applicant to discuss the outstanding issues. On 1 September 2010, a further meeting was held between Council's Executive Planner and representatives for the Applicant and the owner of the property. The outstanding issues were outlined by Council's Executive Planner both verbally at this meeting and also in writing in a follow-up email. These included the following:

- development not being consistent with the desired future character for the locality;
- insufficient evidence submitted to provide Council with certainty that the development would not threaten the survival of the significant Spotted Gum tree on the boundary between the Site and 12 Prince Alfred Parade;
- development fails to satisfy controls and outcomes of Section D10.1 of Pittwater 21 DCP in that bulk and scale not sufficiently minimised and built form is not secondary to landscaping;
- Development non-compliant with 8.5m maximum building height control (D10.5 of DCP) and does not benefit from maximum 10m variation as it is not consistent with desired future character of locality;
- Inadequate setback/separation between development and dwelling at 14 Prince Alfred Parade;
- proposed raised turfed area and retaining wall protrudes beyond foreshore building line;
- building envelope control non-compliance (D10.11 of DCP);
- non-compliance with site coverage and landscaped area controls within DCP (D10.13) and failure to meet the outcomes of these controls;
- excessive excavation of the Site did not meet requirements of D10.16 as it did not minimise the disturbance of the Site

On 20 September 2010, a Class 1 Appeal was lodged with the Land and Environment Court based on the deemed refusal of the Application.

On 26 November 2010, a 'Without Prejudice' meeting was held between Council officers and the Applicant at which the architect for the Applicant tabled draft amended plans which included *inter alia* the deletion of the entire Lower Ground Floor and the reconfiguration and extension of the Ground Floor and First Floors.

On 1 December 2010, Mallesons Stephen Jaques, legal representatives for the Council, sent the legal representatives for the Applicant a letter regarding the Amended Plans tabled at the 'Without Prejudice' meeting. The letter acknowledged that the amended plans were an improvement on previous versions but raised concern over the design and size of the large rear balcony on Level 1. It also requested a revised arborist report following the digging of a new root investigation trench for the Spotted Gum tree with recommendations as to whether the setback to the tree needed to be increased. A revised photomontage/model and a revised landscape plan were also requested.

On 10 December 2010, Council received the second set of amended plans which are the subject of this assessment report.

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

- **B3.1 Landslip Hazard**

Objectors raised concern over the originally submitted Geotechnical Report prepared by Jeffery and Katauskas and dated 10 August 2009. Concern was expressed that the report was highly qualified and conditional upon a number of ongoing investigation and maintenance intervals during the construction process. Concern was expressed that the subject site is heavily modified due to previous excavation, particularly on the lower part of the site. There is anecdotal evidence that overland flow of water from 14 and 14A Prince Alfred Parade onto 12 Prince Alfred Parade has resulted in emergency re-mediation to retain land adjacent to the waterfront in the past. It was also noted by the assessing officer that the original Geotechnical Report was highly qualified and recommended detailed geotechnical investigation involving at least 2 cored boreholes being drilled on the site at Construction Certificate stage.

The Applicant was requested to undertake the detailed investigations prior to determination of the development application. An amended Geotechnical Report by Jeffery and Katauskas dated 9 March 2010 following the carrying out of the necessary investigative drilling. This report provides a number of recommendations to minimise geotechnical risk during the excavation and construction process and for the life of the development. Compliance with the recommendations of this report as well as close supervision of the works at regular intervals will be required as a condition of consent.

The owner of the adjoining property to the east at 14 Prince Alfred Parade has objected to a recommendation in the Geotechnical Report dated 9 March 2010 on page 10 which states "Anchors will extend beyond the site boundaries and therefore permission from the neighbours will be required prior to installation." The neighbour advises that he will not grant owners consent for the rock anchors underneath their property.

This matter has been raised with the Applicant who has sought additional advice from Jeffrey and Katauskas.

Jeffrey and Katauskas have provided additional advice (dated 5 May 2010) regarding alternatives for supporting the bulk excavation that would not require rock anchors underneath adjoining properties. These alternative options include using cross bracing between the soldier pile walls or a 'modified top-down' construction technique.

Jeffrey and Katauskas further note in their report that the way the development process is structured by Pittwater Council, the geotechnical consultant is required to review and approve the structural drawings (including shoring) prior to the issue of a Construction Certificate. The geotechnical consultant is also required to carry out regular geotechnical inspections during construction and to sign off prior to the issue of the Occupation Certificate. It is considered that this issue can be addressed by a suitable condition of consent requiring that the recommendations of all reports by Jeffrey and Katauskas be complied with. A further condition could be recommended prohibiting any work on adjoining properties.

The Geotechnical Report recommends the preparation of detailed Dilapidation Reports on structures on adjoining properties and objectors raise the need for such reports. A condition of consent should be attached to any consent requiring that the developer prepare such reports.

Objectors have also required the imposition of a \$200,000 bond for repair of potentially damaged structures. The dilapidation condition will require the developer to either undertake or pay for repairs, if required. It is not considered that a bond is required.

The latest amended plans include the deletion of the entire Lower Ground Floor which will significantly reduce the depth of the proposed excavation on the Site.

Objectors have requested that a further Geotechnical Report be required to be provided given the discovery of additional tree roots associated with the large Spotted Gum. It is not considered that a further report is necessary.

An objector notes that the original Geotechnical Report makes a reference to the retention of the dry stone retaining wall in the south-west corner of the Site. This retaining wall is to be replaced with a new wall.

- **B5.11 Stormwater Discharge into Waterways and Coastal Areas**

- Concern has been raised by objectors regarding the proposed arrangements for the collection and disposal of overland stormwater from the site. It is considered that this issue is able to be addressed with conditions of consent requiring that the design and construction of the stormwater drainage system be undertaken and supervised by suitably qualified and experienced engineers.

- **B8.6 Construction and Demolition - Traffic Management Plan**

- Concern has been raised by objectors regarding the construction management for the project.

A relevant control from this section of the DCP states the following:

“All transport works must not cause adverse disruption or nuisance to adjoining residences, businesses or the street system.”

Normally, a Construction Traffic Management Plan would be required to be submitted prior to the commencement of works. However, the subject site is fairly unique in that it does not have street frontage and access to Pittwater is via reclaimed land.

The Site is also steep. Given the extent of the work proposed, particularly the extent of the excavation proposed, there is likely to be a high number of construction vehicles entering and leaving the site and a need for flat areas on the site where excavation and construction materials can be stored. The subject site benefits from a Right of Way to Prince Alfred Parade over the adjoining property at 14 Prince Alfred Parade. The driveway in this ROW is steep and winding and not suitable for any heavy construction vehicles. The owner of the ROW has stated that he does not want it used or obstructed by construction vehicles.

It is considered that the circumstances of the subject site are such that a Construction Management Plan should be required by condition to be submitted prior to activation of the consent so that Council can check that the proposed method of construction does not contravene the terms of the Right of Way using vehicles that may damage the driveway over 14 Prince Alfred Parade or that Department of Lands are specifically agreeable to the reclaimed land fronting Pittwater to be the main access point to the site for construction purposes. The only other alternative would appear to be the use of a crane either from a location on the Site or on Prince Alfred Parade. It is not certain that a crane based on Prince Alfred Parade would be acceptable as this road is narrow with limited or no verges in this location. It is also not certain that the Site is suitable for a crane due to a lack of flat areas on the Site.

Should the development be approved, it is considered that this matter could be addressed by a deferred commencement condition requiring that a Construction Traffic Management Plan and any necessary owners' consents be submitted to Council for approval. The Plan would be required to show the method of access for construction/excavation material vehicles to the site and provide evidence that the Management Plan is in accordance with the terms of the Right of Way and/or the terms of the lease of the reclaimed land fronting Pittwater. This would include not blocking the ROW over 14 Prince Alfred Parade or using it to park construction vehicles or store materials.

As this information has not been submitted with the Development Application and the development is recommended for refusal for other reasons, the lack of certainty as to how the development will be constructed without causing disruption to neighbouring properties or the street system is included as a recommended reason for refusal.

- **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

- Council's Natural Resources Officer has advised the following initial comments in December 2009 in regard to this control:

"Property contains a modified landscape with a large area of turf with little other vegetation other than a few canopy trees along the southern boundary.

A new dwelling is proposed in a similar but larger footprint to the existing dwelling to be demolished. An arborist report (Naturally Trees Arboricultural Consulting 3rd August 2009) assesses four (4) trees within 5 metres of the proposed works, two of which are locally native Spotted Gums.

The report recommends the removal of two Tallowwood trees (non-indigenous species) which are in poor structural condition and one is within the footprint of the proposed driveway. There are no objections to the removal of these two trees, provided that replacement canopy planting is undertaken. The remaining two trees (Spotted Gums) are to be retained and protected as specified in the report. The Landscape Plan (Volker Klemm Landscape Design Drawing No. DA1 C 11th September 2009) provides in excess of 30 new canopy trees, most of which are smaller species which grow to 6 or 7 metres in height and all are locally native species.

A stairway and path extends from the dwelling down to a lawn near the foreshore at the rear of the site, and is complemented by shrubs, small trees and palms to soften the built form and recreate habitat in a currently devoid site. The plan is considered acceptable."

Concern was expressed by objectors regarding whether or not the development will have a negative impact on the continued health and survival of a significant mature Spotted Gum located on the common boundary between the subject site and No.12 Prince Alfred Parade.

The original application was supported by an arborist report prepared by Naturally Trees and dated 3 August 2009. It reported that an investigative trench was dug by the author 4.4m north of the trunk of the Spotted Gum and running in an east/west alignment to a depth of 500mm and being 8m in length with its middle being aligned to the centre of the tree trunk. It reported that one small woody root with a diameter of 35mm was located within the trench.

It has been claimed by objectors that there was evidence onsite to suggest that the location of the trench was actually 5.5m from the trunk of this tree.

When the assessing officer inspected the site on 16 December 2010, a trench was observed located a distance of approximately 5.5m from the center of the trunk of the Spotted Gum and 3 roots, one of which was much greater than 35mm in diameter was observed. In addition, the submitted initial Geotechnical Report prepared by Jeffrey & Katauskas was not taken into account in the arborist report. This Geotechnical Report noted the 8 degree lean of the Spotted Gum and concluded that downslope soil creep is probably occurring on this site. As a result of these issues, objectors maintain that Council cannot be certain that the Spotted Gum will survive if the development proceeds.

These concerns were raised with the Applicant in an additional information letter dated 4 February 2010. In response to these concerns, the arborist for the Applicant submitted an additional information letter dated 18 February 2010 confirming the location of the trench and the size of the only root found was correct, as originally reported and offering the opinion that the trunk lean of this tree was attributable to possible competition with adjacent trees that have since been removed. No changes are made to the recommendations in the original report which require strict compliance with tree protection measures, stating that *"excavation and edge of completed works MUST NOT be closer than 4.4m north of trunk centre in an east west alignment throughout the TPZ."* (emphasis by arborist for Applicant).

An objector commissioned an arboricultural report to comment on the arborist reports submitted in support of the proposal. This report was prepared by Footprint Green and is dated 15 April 2010.

This report states that, based on the Australian Standard Protection of Trees on Development Sites AS 4970-2009, the Spotted Gum has a Tree Protection Zone (TPZ) of 15m radius from the tree and any development within 10.5m are a Major Encroachment into the TPZ. At the time of the writing of the Footprint Green report, the development was proposed to be within 4.5m from the tree. The amended plans have increased this setback at the Lower Ground Level to 5.325m. The Footprint Green report makes the observation that, typically, excavation will occur 500mm closer than the resultant setback due to potential battering, soil retention structures, subsoil drainage and waterproofing of the building below soil levels.

This report also states that it is likely that significant tree roots and structural tree roots would typically extend beyond 4m from the tree. It also makes the observation that the initial root investigation trench must have been inadequate if it failed to identify roots that travelled under this trench and were discovered further away from the tree.

It concludes that the Applicant's arborist has failed to demonstrate that, with major encroachment into the TPZ, the tree will not be structurally unstable in the ground and its health will not be significantly impacted upon by the development. The Footprint Green report concludes that substantial effort is still required to substantiate that the tree can be retained due to its size, its location on the boundary and joint ownership and the fact that it is a component of the endangered Spotted Gum Endangered Ecological Community.

Council's Natural Resources Officer concurred with the conclusion of the Footprint Green report. Due to substantial time periods between each report and trenches being dug, it was requested that, in the presence of a Council officer and the relevant arborist for the Applicant, a new trench be dug at an agreed location to make an assessment for the presence of roots prior to the approval of the development. This request was forwarded to the Applicant on 5 July 2010 however, the Applicant, at that time, declined to carry out this work and instead submitted a revised version of the original arborist report with amended setbacks to reflect the amended plans and prohibiting any excavation closer than 4.9m from the tree. Otherwise, this revised report was exactly the same as the original report dated 3 August 2009.

No new investigative trench was dug to support this report. In an email from the architect for the Applicant attaching the new arborist report, it is claimed that it is the result of discussions and the revised setback was agreed with Council's Natural Resources Officer. However, discussions between Council's Natural Resources Officer and the assessing officer have revealed that, whilst a general discussion took place, no such agreement was ever made and the original request for an inspection of a new root investigation trench prior to it being filled in was never retracted.

The Applicant subsequently lodged a Class 1 Appeal on 20 September 2010 against the deemed refusal of the application with the Land and Environment Court. On 26 November 2010, a 'Without Prejudice' meeting was conducted between the architect and town planner for the Applicant and Council officers. Amended plans were tabled at this meeting which included the deletion of the entire Lower Ground Floor of the development.

Whilst Council officers acknowledged that these plans were an improvement on previous versions of the development, a verbal request, followed by a written request dated 1 December 2010, was made for the submission of a further revised arborist report that was based on the carrying out of a new root investigation trench on the Site with recommendations as to whether the proposed setback to the Spotted Gum was appropriate or if it needed to be increased.

A further set of amended plans were lodged with the Land and Environment Court and with Council on 10 December 2010. These amended plans were accompanied by a revised arborist's report prepared by Naturally Trees and dated which was prepared following the digging of a more extensive and deeper root investigation trench. The new trench uncovered 6 tree roots all originating from the Spotted Gum in question and ranging in diameter from 30mm to 80mm.

The amended plans submitted in December 2010 include the deletion of the entire Lower Ground Floor but with the Ground Floor at the same setback as the previous amended plans of 6.439m from the centre of the trunk of the Spotted Gum. The revised arborist's report that accompanied these most recent amended plans does not recommend increasing the setback even though more roots were found than in the initial root trench investigation. It states that the health of the tree

"will suffer slightly due to the loss of 23% of its feeder roots"

This report also makes the following warning:

"The subject tree will be affected by the development proposal unless stringent tree care is adopted throughout the entire works program."

The report acknowledges the likelihood of potential impacts without questioning the appropriateness of the setback proposed and makes no recommendations to increase this setback despite the fact that 6 tree roots were found in the most recent root investigation trench compared to 1 root in the original report.

This report was not considered to be rigorous enough for Council to rely upon in the determination of this application. Therefore, Council appointed Landscape Matrix as an independent arborist to comment on the potential impacts of the development and make recommendations on what would be an appropriate setback from this Spotted Gum tree. The report by Landscape Matrix dated 18 January 2011, states the following:

"....The tree is considered to be of significant landscape value and of long life expectancy (SULE). Based on the AS4970-2009 Protection of trees in construction sites, the tree protection zone (TPZ) of the tree is 12 metres and the structural root zone (SRZ) is 3.5 metres....."

.....The report by Naturally Trees identifies an encroachment by the proposal of 23% of the TPZ area and specifically identifies 6 woody roots that will be severed as a result of the proposal.....While the report concludes the removal of the smaller 3 roots is "unlikely to have an affect on the longevity and/or the stability" of the tree the report does not draw any conclusion or make comment on the impact of the on the impact of the cumulative removal of the 3 smaller roots together with the 3 larger roots. The report does not consider the location of the roots to be severed (north and east of the trunk) when weighed against the trunk lean and canopy bias to the west in terms of potential impacts on stability of the tree.

Using a scale drawing in a CAD program (TurboCAD) and a tree protection zone of 23 metres I have calculated the proposal has the potential to impact on around 129.76sqm or 28.7% of the tree's identified TPZ – this is considered to be a high level of impact that is likely to affect the tree's long term health and reduce its SULE. In addition, there is potential to impact the tree's stability through the loss of 6 woody roots identified in the report prepared by Naturally Trees dated 7/12/2010. The report prepared by Naturally Trees does not comment on the cumulative impact of the loss of these 6 roots. In addition to these 6 roots I consider that there is the very real possibility that other roots, lower in the soil profile, may be affected, increasing the potential impacts on stability. (The root investigation trenching undertaken by Naturally Trees was of approximately 600mm depth while the proposed excavation for the dwelling is to be substantially deeper).

Given the above comments I am of the opinion that the proposed works have the potential to impact the health of the tree in the longer term and, possibly, impact on the tree's stability in the shorter term. It is recommended that the proposal be amended to avoid the need for excavation/soil level changes within a 6 metre radius of the tree and that a maximum of 15% of the tree's identified tree protection zone be directly or indirectly affected by the proposal (i.e. direct impacts such as excavation or soil level changes, indirect impacts such as suspended structures over tree protection zone)."

The above report was referred to Council's Natural Resources Officer, who endorsed all the comments and conclusions made.

In regard to the recommended modifications to the proposal, to reduce the area of the proposed development directly and indirectly affecting the TPZ of the tree down from 28.7% of the TPZ to 15% of the TPZ will require fairly significant deletions and a re-design and re-planning of the development.

It is not considered appropriate for such a re-design to be conditioned. Consequently, and noting the Land and Environment Court hearing dates on 10 and 11 March 2011, Council has no alternative but to refuse the development. The Applicant has been advised about the concerns over this tree throughout the history of the assessment process and 3 sets of plans have been assessed together with a number of arborist reports. The advice from the independent arborist makes it clear that the tree is likely to be detrimentally affected by the development and that the proposed setbacks and the latest arborist report submitted are inadequate.

Accordingly, the Development Application is recommended for refusal.

- **B4.15 Saltmarsh Endangered Ecological Community**

Refer to Section B4.7 for comment. No works on the foreshore area are proposed.

- **B4.19 Estuarine Habitat**

Refer to Section B4.7 for comment. No works on the foreshore area are proposed.

- **B4.20 Protection of Estuarine Water Quality**

Refer to Section B4.7 for comment. No works on the foreshore area are proposed.

- **C1.1 Landscaping**

This section of the DCP includes the following control:

"Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops."

Due to the failure of the proposal to provide adequate certainty that the significant Spotted Gum tree can be retained, the development is not considered to comply with this control. Refer to Section B4.7 for detailed comments on this issue.

Concern has been raised by the owners of 12 Prince Alfred Parade that it is proposed in the landscape plan to plant a number of trees immediately adjacent to their common boundary with the subject site and that some of the trees are actually proposed to be planted on the objectors' property. It is confirmed that there are 3 trees proposed to be planted on the other side of the boundary and not on the subject site itself. Obviously, these trees must be deleted.

Further concern has been raised by the owners of 12 Prince Alfred Parade that approximately 14 trees proposed to be planted immediately adjacent to their boundary with mature heights of 15m, could potentially endanger the integrity of the rising pressurized sewer main just inside this common boundary at 12 Prince Alfred Parade. There is anecdotal evidence of previous interference with the pressurised sewer main due to tree roots. The objectors are also concerned about the potential for these trees planted immediately adjacent to their northern boundary to interfere with solar access to their property, particularly as they intend to install solar panels on their roof.

In addition, there is an inclinometer running adjacent to this common property boundary and a possibility that these trees, if planted too close to the boundary, could interfere with the operation of this inclinometer.

If the Application were to be approved, it is considered reasonable to require the Applicant to address these concerns with a revised Landscape Plan to be submitted with the Construction Certificate. Documented evidence could be required to be submitted to demonstrate that the revised landscape plan has been prepared in consultation with Sydney Water in relation to the rising sewer main adjacent to the common boundary between the Site and 12 Prince Alfred Parade.

In addition, a condition of consent could require that the maturing height of species planted immediately adjacent to the dwelling at 12 Prince Alfred Parade not exceed the level of the eaves of this dwelling.

- **3.1 Submission of a Development Application and payment of appropriate fee**

Stormwater drainage pipes are proposed within the reclaimed land adjacent to Pittwater. Council officers raised concern that owners consent had not been obtained for this work. The Applicant has now submitted owners consent for the work on this land. Objectors have also raised concern that the originally submitted proposal sought to include the reclaimed land as part of their landscaped area and that owners consent had not been obtained from the Crown for any work relating to the application to be undertaken on this land. The Applicant has been advised that no bonus for landscaping on adjoining reclaimed land can be used to justify non-compliance with the minimum landscaped area control. The proposal has been amended to address the landscaped area requirements within the confines of the development site.

- **3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings**

An objector has raised concern over the originally submitted architectural plans, stating that there were certain anomalies between the floor plans. These plans were subsequently amended twice and no anomalies have been found in the most recently received amended plans.

- **3.4 Notification**

Objectors have raised concern that the most recently received amended plans were notified just prior to the Christmas / New Year period and that a longer period than 14 days should be granted to give neighbours sufficient time to commission independent professional reports. Although the official notification period was not extended, late submissions have been received and considered by Council officers.

The timing of the notification is largely driven by the Land and Environment Court's timetable but care has been taken to ensure that the re-notification has been carried out in accordance with Council's Notification Policy. The objectors have been given as much additional time as possible and the assessing officer has met with them to discuss their outstanding concerns. In addition, the objectors have been advised that they will have the opportunity to make verbal representations to Council's Development Unit Committee and to a full Council meeting.

The objectors have also been advised that they will have the opportunity to address the Land and Environment Court when it carries out its site inspection during the first hearing date on 10 March 2011.

- **4.8 Integrated Development - Rivers, Streams and Foreshores**

Preliminary assessment identified the possibility that the proposed stormwater pipes over the reclaimed Crown Land may be integrated development under the Water Management Act.

The NSW Office of Water was contacted by the assessment officer to clarify whether an Activity Approval was required. A representative of the Office of Water confirmed that, given that the Applicant submitted owners consent for the work from the NSW Department of Lands and that the work was in accordance with the lease applying to the land, such work was exempt from requiring an Activity Approval pursuant to Clause 39A of the Water Management Act (General) Regulation. Given the above, the subject development is not integrated development.

- **A1.7 Considerations before consent is granted**

Concern has been raised by objections that the development does not comply with a height covenant applying to the site. The Covenant sets a maximum RL of 21.297 and the maximum ridge level of the development is RL 21.297 at the lift overrun. It is therefore compliant with this height covenant although it is non-compliant with the DCP height control as detailed under Control D10.5.

- **A4.10 Newport Locality**

Concern has been raised by objectors regarding whether the proposed development is consistent with the desired future character for the Newport Locality. The relevant statements describing the desired future character are the following:

"The Newport locality will remain primarily a low-density residential area consisting of one and two storey dwelling-houses in a natural landscaped setting, integrated with the landform and the landscape.....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. Contemporary buildings will utilise façade modulation and/or incorporate shade elements such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance.....A balance will be achieved between maintaining natural landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.”

One of the major problems with previously submitted schemes of this proposal was that it presented to the Pittwater waterway as a 4 storey building with the upper level of the dwelling at 14 Prince Alfred Parade also being visible behind the development – making it appear to be a 5 storey building. The style of the design construction of the development, with heavy masonry elements walls, floors and ceilings with curved side walls, together with a large first floor balcony with a heavy masonry roof on the First Floor and indicated colours of white and light colours, was such that the development had an appearance that was clearly dominant over the natural landscaped setting. Bulk and scale had not been reasonably “minimised”.

The development drew attention to itself rather than “harmonised” with the natural environment surrounding it.

The most recent set of amended plans included the complete deletion of the formerly proposed Lower Ground Floor. This change reduces the perception of the bulk and scale of this development when viewed from Pittwater.

A previous amendment that reduced the terracing and the further reduction of terracing in the latest scheme also assists in providing a natural landscaped setting for the development when viewed from Pittwater. However, the previous discussion in this report regarding the inadequacy of the setback of the development from the Spotted Gum tree is an indication that further reductions of bulk and scale to this development are necessary in order for the development to retain the local native tree canopy on the subject site and be consistent with the abovementioned desired future character for Newport.

The development is therefore recommended for refusal as it fails to be consistent with the desired future character for the Newport locality because it fails to provide adequate certainty that the Spotted Gum can be retained and fails to minimise bulk and scale with appropriate setbacks from this tree.

- **C1.3 View Sharing**

The owners of 14 Prince Alfred Parade have raised concern over the impact on their views.

It is likely that there will be some loss of view of land/water interface from the lower terrace of the dwelling at 14 Prince Alfred Parade, in front of the subject site.

It is noted that, at the time of the subdivision of 14 Prince Alfred Parade to create the subject site, the owners placed a maximum height covenant on the subject site in order to protect their views. The maximum height covenant is RL 21.297 AHD. With a maximum ridge RL of RL 21.297 AHD, the proposal complies with this covenant.

Distant water views would still be available from the lower terrace and wider water views would be available from the upper terrace of the dwelling at 14 Prince Alfred Parade. Given the location of the Site in relation to this property, some loss of foreground water view is unavoidable and reasonable. It would appear that the covenant height has been set with this in mind. It is also noted that the lower terrace does not appear to be used as has no balustrades and that the First Floor terrace is the primary outdoor open space for this dwelling.

Some land/water interface views are available across the subject site from the kitchen of the dwelling at 12 Prince Alfred Parade. This is a view across the side boundary between the two properties. The proposal is likely to obscure some of this land/water interface view but this impact is not considered to be unreasonable given much more expansive views available to this property directly to the rear of this dwelling.

The dwelling immediately to the north of the subject site is 16 Prince Alfred Parade. The owners of this property have also objected to the proposal. There may be some minor obscuring of views across the common boundary between the subject site and this adjoining property but the impact is not considered to be unreasonable given more expansive views of Pittwater available to this dwelling directly to the rear.

- **C1.4 Solar Access**

An objection has been received from the adjoining property to the south of the site, 12 Prince Alfred Parade, raising overshadowing as a concern. Submitted shadow diagrams indicate that the proposal will result in additional shadowing of the rear yard of 12 Prince Alfred Parade at 9am during midwinter. This is primarily terraced landscaped area.

The primary outdoor open space to this adjoining dwelling are an upper balcony and pool terrace, which will receive some minor additional overshadowing at 9am during midwinter but this impact is not considered to be unreasonable. The dwelling and outdoor open space to 12 Prince Alfred Parade will receive the required 3 hours of sunlight between Midday and 3pm during Midwinter. The proposal is therefore considered to comply with this control.

Concern was also raised regarding the potential for landscaping to block out sunlight to intended future solar panels to the roof of 12 Prince Alfred Parade. A condition is recommended requiring a revised landscape plan being submitted with the Construction Certificate that does not incorporate canopy trees adjacent to this dwelling greater in maturing height than the level of the eaves.

- **C1.5 Visual Privacy**

The owners of 12 Prince Alfred Parade have expressed concern that their aural and visual privacy would be detrimentally affected, particularly to their kitchen, by the movement of people and vehicles to and from the development.

The foyer entry and associated parking/manoeuvring area are elevated above ground level and adjacent to the objectors' kitchen window. The kitchen window is located 3.6m from the common boundary between the properties. The elevated driveway and entry area has a setback of between nil and 1.2m from the boundary with external stairs 0.2m from this boundary.

The submitted landscape plan indicates proposed screen planting between the entry driveway and the kitchen window of 12 Prince Alfred Parade in a small, triangular area of unbuilt upon area, however, it is noted that this screen planting continues over the common boundary and into 12 Prince Alfred Parade. This planting also is in such close proximity to the inclinator on 12 Prince Alfred Parade that it would be likely to interfere with the operation of the inclinator. This planting does not have consent from the owners of 12 Prince Alfred Parade and would not be permitted.

Given that the planting between these properties is likely to be insufficient for privacy screening, a condition of consent is recommended requiring that a lattice screen be erected along the northern edge of the driveway and manoeuvring area to protect the privacy of the dwelling at 12 Prince Alfred Parade. This detail can be included in the plans to be submitted with the Construction Certificate, should the Application be approved.

The lower terrace of the dwelling at 14 Prince Alfred Parade is set back between 0.3m and 1.3m from the common boundary with the subject site and oriented toward the site. The proposed development has been designed to retain privacy to this outdoor open space by using the area adjacent to this terrace for landscaping, parking and as a foyer entry area with no windows facing towards this terrace.

The planter box between the proposal and the dwelling at 14 Prince Alfred Parade has been increased in size but effective screen planting may impact on water views from this dwelling. Given the design of the proposal and the minimal rear setback of the dwelling at 14 Prince Alfred Parade, privacy between these dwellings is considered to be reasonable in the circumstances of the case.

Other outdoor open spaces incorporated within the proposal are behind the corresponding terraces of adjoining dwellings. Side windows have been minimised such that it is not considered that the proposal would have any unreasonable impacts on the existing level of privacy of adjoining properties.

The owners of 16 Prince Alfred Parade have raised concern over the windows proposed on the northern elevation of the development. Windows are proposed to the entry foyer and stairs. This concern could be addressed by a condition requiring vertical 45 degree external louvres oriented toward Pittwater to be installed on these windows to prevent direct overlooking of the adjacent property.

- **C1.6 Acoustic Privacy**

An objection from 12 Prince Alfred Parade raises concern over noise impacts arising from the movement of people and vehicles to and from the development via the elevated driveway and entry area, which is set back between nil and 1.2m from the common boundary between these properties.

The rooms facing toward this entry area are the kitchen and living room areas which are not considered to be noise sensitive areas. It is not anticipated that the noise impacts of the development would be unreasonable.

Concern has been raised in objections regarding potential plant noise. A pool is no longer proposed in the amended plans. For other potential plant noise, these could be addressed with suitable conditions of consent.

A request was also made to clarify the proposed location of plant equipment. The amended plans show a plant room within the excavated area at Level 1. The plant will be required to comply with noise emission standards and is not considered to pose a significant amenity impact.

- **D10.1 Character as viewed from a public place**

Numerous objections expressed concern with the performance of the development against his control.

The relevant controls are as follows:

- The bulk and scale of buildings must be minimised.
- Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.

Previous versions of this development performed poorly against this control due to the combination of the extent of the proposed significant site coverage, the strong horizontal banding of the development emphasized in each level and the excessive use of terraces resulted in the development having a built form that was highly urban in character and clearly dominating over landscaping and vegetation.

The above concerns were raised with the Applicant in a letter dated 4 February 2010. At a meeting between the assessing officer and the town planner and architect for the development it was recommended that the development comply with site coverage and that the bulk and scale of the building be reduced in a meaningful way to reduce the prominence of the building over the landscaped setting.

In response, the Applicant modified the plans in March 2010 by deleting the swimming pool, increasing the setback to the large Spotted Gum at Lower Ground Level by 800mm and increasing the level of compliance with the site coverage control (whilst still not strictly complying).

The above modifications were found to be inadequate in addressing these concerns. A substantial reduction in the size of the building was necessary to address this issue successfully. The Applicant was advised of this and submitted further amended plans in December 2010 that included the deletion of the entire Lower Ground Floor. Some additional floor area was added to the Ground and First Floors but this additional area was not visible from Pittwater.

This latest set of modifications to the development has improved the performance of the development against this control. The wording of the controls under this section of the DCP is fairly open to interpretation as they are descriptive rather than being prescriptive in nature. It is considered that the difference between the proposal satisfying this section of the DCP and not satisfying it is the successful retention of the significant Spotted Gum tree on the Site. Provided that the development incorporates sufficient setbacks away from this tree to ensure its survival, it is considered that the development will have sufficiently minimised bulk and scale and sufficiently integrated the built form with landscaping to have the appearance of being secondary to landscaping and existing vegetation.

As detailed previously under Section B4.7 of this report, there is now sufficient expert arborist evidence before Council to determine that the development has failed to incorporate adequate setbacks from this tree. Consequently, the development fails to satisfy this section of the DCP and is recommended for refusal.

- **D10.4 Building colours and materials**

The owners of 10 Prince Alfred Parade have raised concern over the extent of reflective surfaces incorporated within the design of the development. This matter could be addressed by a condition stipulating the maximum reflectivity of materials used, should the development be approved.

- **D10.5 Height (excluding Newport Commercial Centre)**

Objections raise concern over the height of the proposal and the performance of this development against the controls and outcomes of this control.

The maximum height of the development at the ridge of the entry foyer roof is 9.25m, which does not comply with the maximum 8.5m height limit. However, the building footprint has a slope greater than 30%, thus, a variation up to a maximum height of 10m is permitted under the terms of the DCP. Under the terms of the permitted variation in the DCP, the height variation is only considered provided that:

- the outcomes of the control is achieved,
- the building footprint is situated on a slope in excess of 30%,
- the visual bulk of the development is minimised, particularly when viewed from down slope,
- buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs which allow the building to step down the slope.

It is also noted that relevant outcomes of the maximum building height control are as follows:

- *Buildings should reinforce the bushland character of Pittwater and be designed to preserve and strengthen the bushland character;*
- *The built form does not dominate the natural setting.*

In assessing the performance of the development against the above criteria, it is necessary to look at the development as a whole rather than just the portions of it that are above the 8.5m height limit.

The First Floor of the proposal is partially cantilevered over the TPZ of the Spotted Gum tree whilst the Ground Floor has a greater setback from this tree. The development does not comply with the maximum site coverage control (as detailed under Section D10.13 of this report) using the smaller Ground Floor footprint to calculate site coverage. The proposed dwelling is a generously proportioned 6 bedroom dwelling (including office as bedroom). A large portion of the First Floor overhanging the TPZ of the Spotted Gum is balcony areas (and corresponding roofing to these balconies) to bedrooms and an ensuite that are not essential to the functionality of the dwelling. There is ample scope to reduce the size and bulk of the building by deleting unnecessary balconies and internal floor space. A 6 bedroom dwelling is not considered appropriate on a constrained site such as the subject site.

The development is not considered to have sufficiently minimised visual bulk. It has not been designed to preserve and strengthen the bushland character of the locality and it dominates the natural setting by encroaching on the TPZ of the Spotted Gum to such an extent that it threatens the survival of this tree.

Given the above, the development fails to meet the pre-requisite requirements to benefit from the permitted 10m height variation and therefore, does not strictly comply with the applicable maximum 8.5m height limit.

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

The owner of 14 Prince Alfred Parade, located directly in front of the subject site, has expressed concern that the proposed front setback is not adequate. They have requested that the minimum setback of any wall or roof be 8m. The proposed development at Garage Level has a variable setback of between 5.8m and 12.3m to the common boundary with this property, which is effectively its "front" boundary.

The front building setback control of 6.5m is not considered to apply to the subject site as it does not have frontage to a public street. Concern over the lack of adequate setback to 14 Prince Alfred Parade was raised in the additional information letter sent to the Applicant dated 4 February 2010. The applicant responded in the March 2010 amended plans to this concern by increasing the minimum setback of the lower excavated levels to the front boundary from 1m to 2.3m. These amended plans also increased the minimum setback of the above-ground level of the dwelling (Garage/Entry Level) from this property from 3.036m to 5.8m. The size and width of the proposed planter box located between the proposed development and the existing dwelling at 14 Prince Alfred Parade was also increased in amended plans.

The existing inadequate rear setback of the dwelling at 14 Prince Alfred Parade has been taken into account in the design of the proposal sufficiently to reasonably mitigate privacy impacts. The main living areas to the development are located well away from the dwelling at 14 Prince Alfred Parade and oriented towards Pittwater instead. A larger front setback would not result in any meaningful benefits. The development is therefore considered to be acceptable in regard to this issue.

Objectors have called for a greater degree of canopy tree landscaping in-between the proposed development and the existing dwelling at 14 Prince Alfred Parade to break up the appearance that they are the same building if viewed from Pittwater. This is not considered to be feasible as canopy trees in this location are likely to interfere with the water views from the dwelling at 14 Prince Alfred Parade.

- **D10.10 Foreshore building line**

Concern has been expressed by objectors that the formerly proposed swimming pool encroached the foreshore building line. The swimming pool was subsequently deleted in March 2010 from the proposal and, instead, a level turfed area extending out from the terrace at Lower Ground Level with a part curved and part straight edged sandstone retaining wall approximately 2m high being necessary to create this level turfed area. This entire grassed area and the retaining wall and located between the foreshore and the foreshore building line.

Council officers expressed concern over the raised turfed area and the retaining wall for this area being outside the Foreshore Building Line. In the most recently amended plans dated December 2010, this raised turfed area has also been deleted and no part of the development protrudes in front of the Foreshore Building Line.

Concern has also been expressed by objectors that the house is too close to the foreshore. The western edge of the roofline and terrace of the Lower Ground Level of the building are abutting the Foreshore Building Line.

The development is considered to now comply with the foreshore building line provisions in PLEP 1993, which prohibits a "building" forward of the foreshore building line.

- **D10.11 Building envelope**

Concern is raised by objectors regarding the non-compliance of the development with the building envelope control. The development complies with the building envelope control at all points except at the location of the stairs and lift well in relation to the northern boundary. The building protrudes a maximum of approximately 2.2m beyond the building envelope. The Applicant correctly identifies that, in view of the site being in excess of 30% slope, the development is entitled to be considered on a merits basis if it does not strictly comply with this control.

The non-compliance does not result in any unreasonable amenity impacts to adjoining properties. In view of this and taking into account the fact that the non-compliance is a permitted variation, the non-compliance is not considered to be unreasonable in the circumstances.

- **D10.13 Site coverage - Environmentally Sensitive Land**

Objectors' raised concern that the originally submitted proposal sought a concession on the maximum site coverage control using adjoining reclaimed land on the foreshore as bonus landscaped area. The Applicant was subsequently informed that this approach was not acceptable and that the development had to comply with this control within the boundaries of the development site itself. The proposal was modified in March 2010 to achieve closer compliance with this control but it still did not strictly comply.

The most recently submitted amended plans, received in December 2010, include a site coverage of 362.6sqm (44.59% of Site) including 11sqm or 1.35% hard paved outdoor open space. The maximum permitted site coverage is 40% of the Site or 325.4sqm with an additional 6% of hard paved outdoor open space also permitted in circumstances where the outcomes of the control are achieved.

It should be noted that the Applicant's calculation of site coverage does not include a portion of the First Floor of the development that overhangs the TPZ of the significant Spotted Gum tree.

Even though this undercroft area is counted as "landscaped area" it is overhung by building that, as detailed previously under Section B4.7 of this report, would have a detrimental impact on this tree. The potential impacts of the non-compliance of the development with the site coverage control are therefore greater than the relatively minor numerical non-compliance might suggest.

The failure of the information submitted with the amended plans to demonstrate that the development will not have an unacceptable impact on the health and continuing survival of the Spotted Gum tree, as detailed under Section B4.7 of this report, results in the failure of the development to be consistent with the following underlying outcomes of the maximum site coverage control:

- *Achieve the desired future character for the Newport Locality;*
- *The bulk and scale of the built form is minimised;*
- *Vegetation is retained and enhanced to visually reduce the built form;*
- *Conservation of natural vegetation and biodiversity;*
- *To preserve and enhance the rural and bushland character of the area.*

Whilst it is acknowledged that the deletion of the entire Lower Ground Floor reduced the 4 storey appearance of the development and reduced internal floor area, it did not greatly reduce site coverage as most of the deleted floor was excavated. It is also considered that there is still considerable scope to reduce the floor plate of Level 1, as detailed previously under Section D10.5 of this report.

The Application fails to comply with the numerical requirements of this control and fails to satisfy the underlying outcomes. The Application is recommended for refusal for these reasons.

Objectors also raise concern that the Right of Way adjacent to the northern boundary of the site incorporates an inclinator for the exclusive use of the owners of 14 Prince Alfred Parade and cannot be considered to be a part of the landscaped area of the site. However, the definition of landscaped area in the DCP is "the area of a site which is, or is available to be predominantly vegetated".

It is not considered that this definition would necessarily exclude the inclinator area from being considered to be landscaped area as it is noted that the existence of the inclinator does not prevent vegetation from occurring within this space although the existence of the Right of Way would restrict the potential of this land to be planted with any vegetation other than turf or ground cover otherwise it would interfere with the operation of the inclinator.

It is further noted that adjacent to the southern boundary of the site is another inclinator. Some of the proposed planting is very close to the common boundary with 12 Prince Alfred Parade, and, in fact, some proposed planting in the landscape plan is not on the subject site but is located on 12 Prince Alfred Parade and is within the path of the inclinator. Clearly, such proposed planting will not occur and an amended landscape plan should be required to be submitted with the Construction Certificate by a condition of consent, should the development be approved. The amended landscaped plan should be required to include all proposed tree species being planted a minimum of 350mm inside the Site boundaries.

- **D10.14 Fences - General**

Concern is raised by an objector that an existing fence adjacent to the southern boundary is non-compliant with applicable controls as it exceeds the height limit and is built closer than 3m to MHWM.

This appears to be the case. A condition of consent could be applied to ensure the fence is reconstructed as compliant following the completion of the development, should the development be approved.

-

D10.16 Construction, Retaining walls, terracing and undercroft areas

Concern was raised initially by objectors about the excessive cut and fill proposed and the number of retaining walls. This concern was raised in a letter to the Applicant dated 4 February 2010.

In response, the amended plans submitted in March 2010 included a reduction of retaining walls on the northern side of the rear portion of the site adjacent to Pittwater. The subsequent amended plans submitted in December 2010 made further reductions in terracing. The development is now considered to be satisfactory in relation to this control.

- **D10.18 Scenic Protection Category One Areas**

Concern is expressed by objectors in relation to the performance of the development against this control.

Relevant controls under this section of the DCP are:

- *Development is to minimise the impact on existing vegetation.*
- *The applicant shall demonstrate the retention and regeneration of existing native vegetation outside the immediate area required to carry out the development.*
- *The development is to incorporate measures for planting and maintenance of native vegetation within those areas which are already cleared, and which are not required to be cleared to allow for the development.*
- *The siting, building form, orientation and scale of the development shall not compromise visual integrity of the site by removal of canopy trees along ridges and upper slopes.*

As detailed in the discussion under Control B4.7, there is uncertainty remaining regarding the adequacy of the setbacks to the existing significant Spotted Gum on the common boundary between the site and 12 Prince Alfred Parade. The proposal is not considered to be compliant with the above controls and is therefore recommended for refusal.

- **SEPP No 71 Coastal Protection**

Concern has been raised by objectors about the performance of the development against this SEPP. Due to the failure of the Application to demonstrate that the development will not result in the ultimate loss of the significant Spotted Gum tree, it is not considered that the development is consistent with the following aims in Clause 2 of this policy:

- (e) To ensure the visual amenity of the coast is protected.
- (g) To protect and preserve the native coastal vegetation.
- (k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.

Given detailed discussion elsewhere in this report, it is not considered that the development is satisfactory in relation to the following matters for consideration under Clause 8 of this policy:

- (a) The aims of the Policy.
- (d) The suitability of the development given its type, location and design and its relationship with the surrounding area.

- (f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.

The failure to satisfy the above provisions of SEPP 71 are recommended as a reason for refusal.

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, Pittwater 21 DCP and other relevant Council policies.

Having made a detailed consideration of all of the relevant issues, including concerns raised in objections, it is not considered that the second set of amended plans and additional information submitted in December 2010 for this proposal adequately satisfies a number of controls and outcomes of multiple sections of Pittwater 21 DCP, largely as a result of the identified potential harm the development may cause the significant Spotted Gum tree. The development also does not satisfy a number of aims and considerations within SEPP 71 and it is not consistent with the desired future character for the locality of Newport.

The development must therefore be recommended for refusal.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Development Application N0533/09 be refused for the reasons provided in the attached draft determination.

Report prepared by

Gordon Edgar
EXECUTIVE PLANNER

DRAFT DETERMINATION

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

MGAA Architects Pty Ltd
294 Military Road
DOVER HEIGHTS NSW 2030

Being the applicant in respect of Development Application No N0533/09

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

Construct a 3 storey dwelling-house

At:

14A PRINCE ALFRED PARADE, NEWPORT (Lot 172 DP 709495)

Decision:

The Development Application has been refused for the following reasons:

12. The proposed development fails to adequately minimise both direct impacts (such as excavation) and indirect impacts (such as suspended structures) within the 12m tree protection zone of the significant Spotted Gum tree located partially on the subject site and partially on 12 Prince Alfred Parade (the 'Tree'). This is likely to affect the long term viability and structural integrity of the Tree, which is partially owned by another party who has not granted consent to the removal of the Tree.
13. The proposed development will be located a minimum of 5.6m from the centre of the trunk of the tree and will impact on approximately 28.7% of the tree protection zone, with necessary soil level changes and landscaping works at an even closer distance to the tree. This is likely to have an unacceptable detrimental impact on the future health and survival of the Tree.
14. The loss of the significant Spotted Gum tree would have an adverse impact on the Pittwater Spotted Gum Endangered Ecological Community and would result in a significant loss of remnant on-site native tree canopy cover.
15. The submitted Revised Arborist Report dated 7 December 2010 and prepared by Naturally Trees and accompanying the amended plans received in December 2010 is inadequate as it:
 - (i) Does not draw any conclusion or make comment on the long term impact on the health of the Tree from the removal of the 3 smaller tree roots together with the 3 larger roots identified as being located in the building envelope.
 - (ii) Does not consider the location of the roots to be severed (north and east of the trunk of the Tree) when weighed against the trunk lean and canopy bias of the Tree to the west in terms of the short term potential impacts on the stability of the Tree.
16. The development is not consistent with the desired future character in A4.10 of Pittwater 21 DCP for the Newport locality as it fails to sufficiently minimise bulk and scale to ensure the

successful retention of the significant Spotted Gum and achieving a reasonable balance between the development of land and maintaining significant features of the natural landscape.

17. The development fails to comply with the 8.5m maximum height control and cannot benefit from the permitted height variation of 10m on steep land as it fails to satisfy the outcomes of this control and fails to be consistent with the desired future character for the Newport locality.
18. The development does not comply with the maximum site coverage control within D10.13 Site Coverage - Environmentally Sensitive Land. Furthermore, the development does not satisfy the underlying outcomes of this control, particularly in that it fails to achieve the desired future character for the Newport locality, it fails to reasonably minimise the bulk and scale of the built form sufficiently to ensure that existing vegetation is retained and to preserve and enhance the rural and bushland character of the area.
19. The development is not considered to be consistent with the controls and objectives of D10.18 'Scenic Protection Category One Areas' of Pittwater DCP 21 in that the development has not been designed to sufficiently minimise impacts on the significant Spotted Gum tree situated on the common boundary with 12 Prince Alfred Parade. The Applicant has not demonstrated that retention of this tree is possible. The siting, building form and bulk and scale of the development will compromise the visual integrity of the Site by causing the eventual removal of this tree and dominating the natural setting of the Site, particularly when viewed from Horseshoe Cove and Pittwater.
20. The development is not consistent with Aims 2(e), (g) and (k) of SEPP 71 and is contrary to Matters For Consideration 8(a), (d) and (f) of SEPP 71.
21. The Development Application has failed to adequately demonstrate, with the submission of a detailed Construction Traffic Management Plan, that the excavation and construction phase of the development can be carried out without unreasonable nuisance or disruption to neighbouring properties and the street system and that any necessary owners consent for the use of adjoining land during construction, has been obtained.

NOTES:

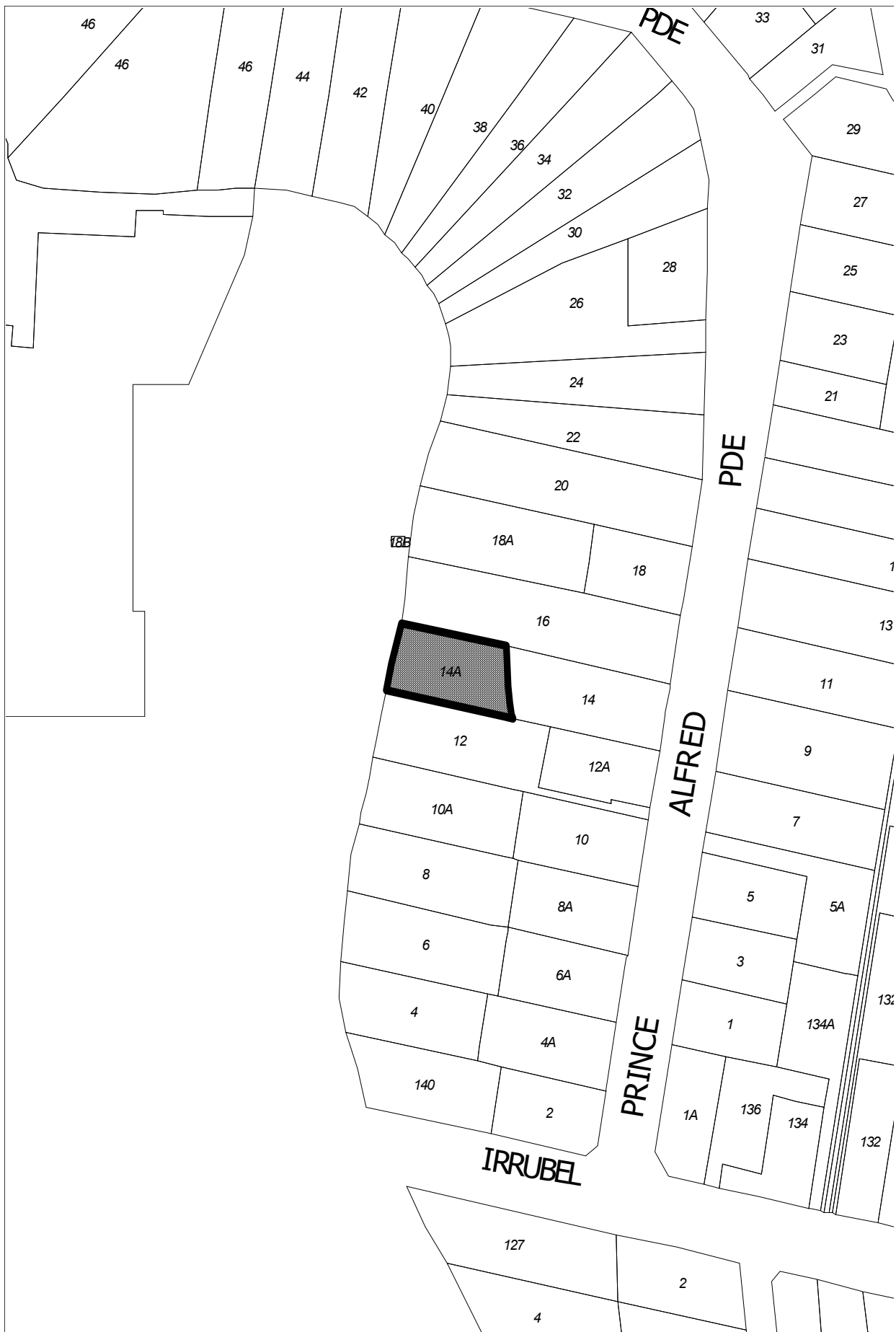
1. This determination was taken under delegated authority on behalf of the elected Council pursuant to Section 377 of the Local Government Act 1993.
2. An applicant may under Section 82A of the Act, apply to council to review this determination.
3. Section 97 of the Act confers on the applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land & Environment Court exercisable within 12 months after receipt of this notice.
4. Any person who contravenes this notice of determination of the abovementioned development application shall be guilty of a breach of the Environmental Planning & Assessment Act, 1979, and shall be liable to a monetary penalty and for a restraining order which may be imposed by the Land and Environment Court.

Mark Ferguson
GENERAL MANAGER

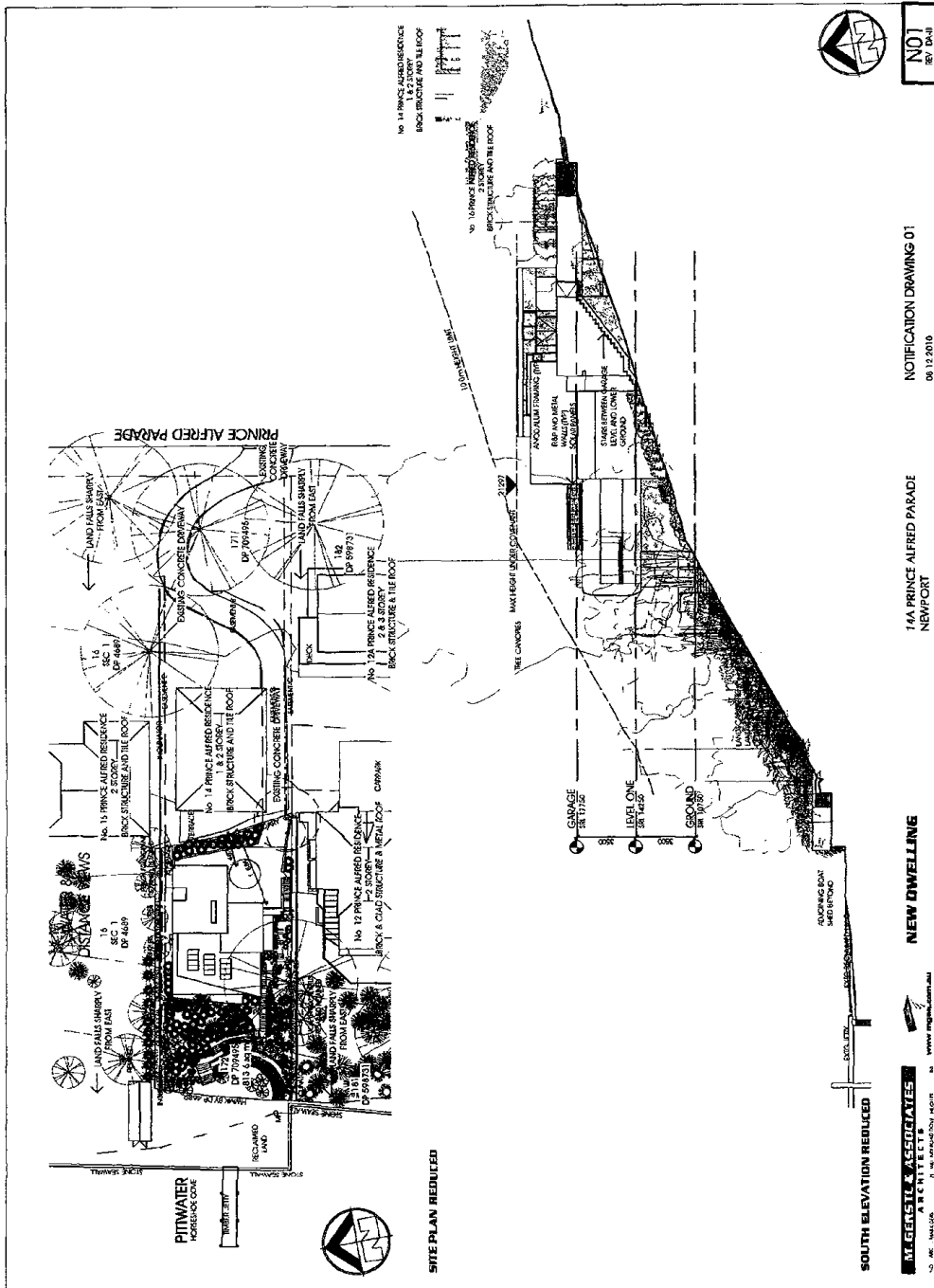
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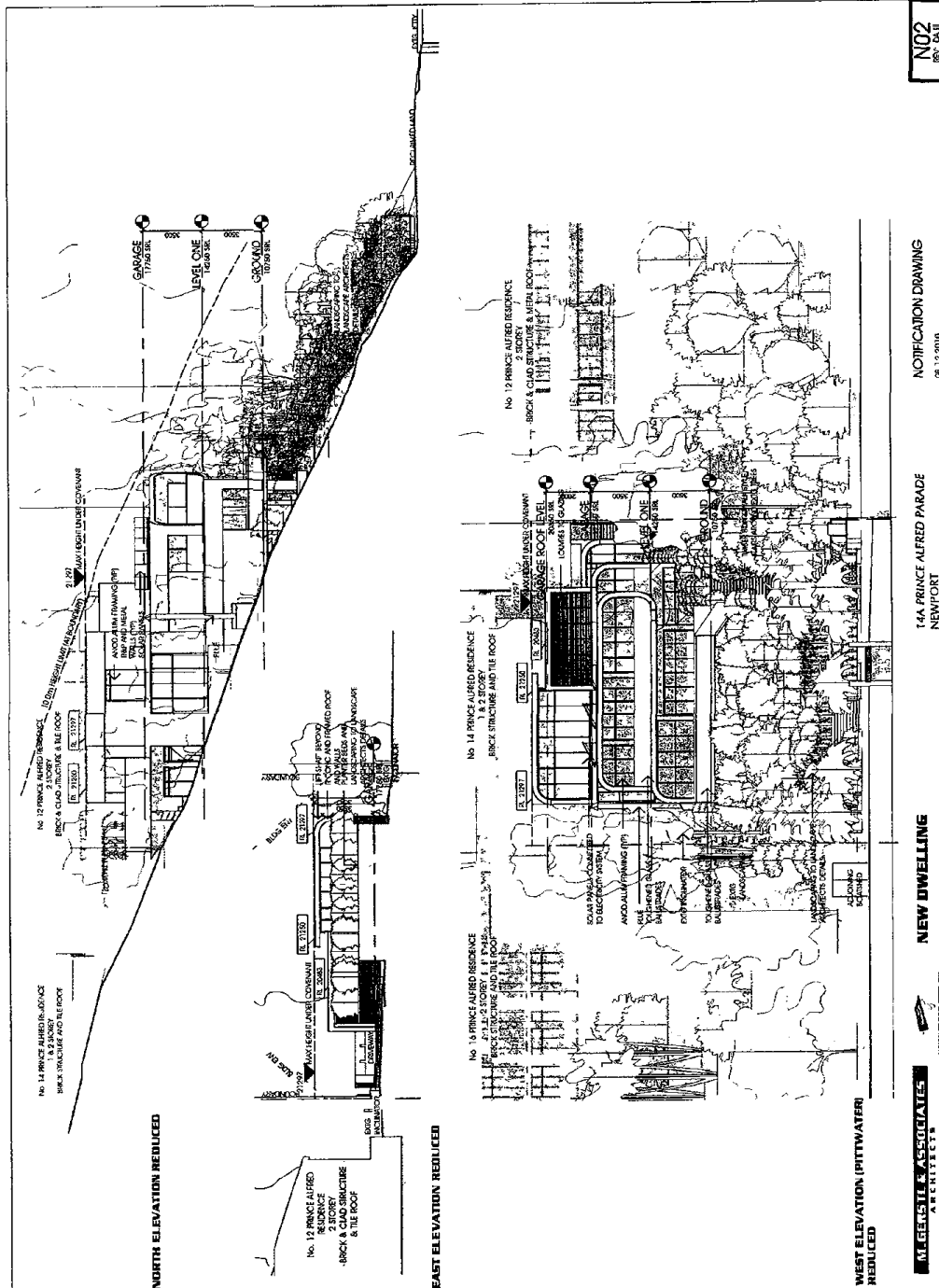
Date

LOCALITY MAP



NOTIFICATION PLANS





C11.3 Submission on the Review of State Environmental Planning Policy (Affordable Rental Housing) 2009

Meeting: Planning an Integrated Built Environment Committee **Date:** 21 February 2011

STRATEGY: Land Use & Development

ACTION: Monitor legislative and regulatory changes relating to land use planning.

PURPOSE OF REPORT

The purpose of this report is to advise Council the NSW Government has commenced an automatic review of State Environmental Planning Policy – Affordable Rental Housing 2009. To help inform and facilitate that review the Department of Planning prepared a discussion paper **(circulated separately)**.

Pittwater's response to the numerous issues raised in The Paper is outlined in the report and included as a submission to the Department of Planning that is due Tuesday 1 March 2011 **(ATTACHMENT 1)**.

In addition, the report includes further detailed information to clarify the separate roles affordable rental housing and social housing contributes to the housing stock and community needs in Pittwater.

1.0 BACKGROUND

- 1.1 On 31 July 2009 the State Environmental Planning Policy – Affordable Rental Housing 2009 commenced (AHSEPP). It is a legislative requirement that a new SEPP be reviewed 12 months after its introduction. Accordingly, the Dept. of Planning (DOP) released a discussion paper for public comment. Pittwater's response to the numerous issues raised in The Paper is outlined in the report and included as a submission to the Department of Planning that is due Tuesday 1 March 2011 **(ATTACHMENT 1)**.
- 1.2 On 21 September 2009 the implications for the Pittwater local government area were reported to Council. The AHSEPP applies to the whole State. The State Environmental Planning Policy 10 – Retention of Low-Cost Rental Accommodation has been repealed and subsequently incorporated into the AHSEPP.
- 1.3 Generally, State Environmental Planning Policy's (SEPP's) are put in place by the state government, whereas Local Environmental Plans (LEP's), although formally made by the state government, are primarily the domain of local government. SEPP's can only be made by the Minister for Planning when they are of the opinion that the matters concerned are of significance for the state.
- 1.4 Most SEPP's expand the range of permissible activities that would otherwise be prohibited by the LEP.

- 1.5 The AHSEPP is designed to increase the amount and diversity of affordable housing in our state. The policy aims to encourage home owners, social housing providers and developers to invest and create new affordable rental housing to meet the needs of our growing population and existing residents.

The policy:

- Encourages partnerships between private and not-for-profit housing providers;
- Assists in the provision of housing closer to major employment areas, consistent with the State Plan;
- Mitigates against the loss of any existing affordable housing;
- Positions NSW to be a beneficiary of major Australian Government housing funding programs;
- Supports innovative affordable housing styles, including granny flats and new style boarding houses; and
- Puts affordable housing provisions into a single planning instrument.

- 1.6 The development types the AHSEPP includes are listed below.

- i. In-fill affordable rental housing
- ii. Secondary Dwellings
- iii. Boarding houses
- iv. Supportive accommodation
- v. Social housing - Residential flat buildings near centres by social housing providers, public authorities and joint ventures
- vi. Residential development by Land and Housing Corporation
- vii. Group homes

- 1.7 The AHSEPP facilitates these aims by introducing new and existing forms of affordable housing into more areas, provides floor space ratio bonuses and other incentives to develop affordable dwellings which will have a restrictive covenant for 10 years; and imposes development restrictions on existing affordable housing stock to ensure it is retained.

- 1.8 'Affordable Housing' is defined as housing for very low income households, low incomes households or moderate income households, being such households as are prescribed by regulations or as are provided for in an environmental planning instrument *Environmental Planning and Assessment Act 1979*. The AHSEPP defines what is meant by these income levels.

- 1.9 The DOP has created a specific web page with information about the AHSEPP and fact sheets for specific types of development. www.planning.nsw.gov.au/affordablehousing

1.10 The following table illustrates the uptake of the AHSEPP in Pittwater to date.

Type	No. of developments
In-fill affordable housing	2 in-progress
Secondary dwellings – as complying development	3 issued
Boarding houses	Nil
Supportive accommodation	Nil
Residential flat buildings – social housing providers, public authorities and joint ventures	Nil
Residential Development – Land and Housing Corporation	Nil
Group homes	1 Note: Council is not the consent authority
Retention of existing affordable rental housing	Nil

2.0 SOCIAL ISSUES

2.1 Defining Affordable Rental Housing

Housing affordability generally relates to both rental and purchase housing. The term 'affordable housing' has been used for sometime with differing interpretations; this has lead to a misunderstanding in the community. The term 'Affordable Housing' does however encompasses a range of housing options from; social housing managed by the State Government or Community Housing providers, low cost market rent options and lower market purchase options.

The AHSEPP specifically relates to affordable **rental** housing where eligibility is determined on the gross median incomes (adjusted periodically). Currently the eligibility as at 2010-11:

- Very low-income households – income less than 50% of the gross Sydney median income (currently being an income less than \$33,400)
- Low income households – incomes between 50% and 80% of gross median income (currently \$33,400 - \$53,500); and
- Moderate income households – income between 80% and 120% of the gross median (currently \$53,500 - \$83,300)

Please note, other factors are considered when assessing eligibility; demonstrated housing need, assets and residency as set out in the Affordable Housing Guidelines July 2010 (**Attachment 2**).

Affordable rental housing is for rental purposes only, with tenancy and property managed by a registered Community Housing Provider (CHP). The CHP must meet the standards of governance and service in line with the *Housing Act 2001* (NSW). CHP's are further explained in 2.3. The benchmark for rental housing to be considered 'affordable' is for the households involved to pay no more than 30% of their gross income in rent.

2.2 The spectrum of affordable housing

Affordable housing encompasses housing on a spectrum of need and options. As stated in the Department of Planning's discussion paper.

'A wide range of housing options is needed to help meet the changing needs of those who are in varying degrees of housing stress. It is important to acknowledge that different groups need different types of accommodation and often a person will move through several different housing types as they move from a need for a high level of assistance towards lower levels of help and then on to independence.'

Broadly within this spectrum, rental housing is provided and managed by state agencies (otherwise known as public housing) or community housing sector.

The community housing sector is a growing sector, consisting of four main types of housing management:

- Housing Associations (not-for-profit specialised housing management organisations, often charitable institutions). For example Link Housing Ltd.
- Co-operative Housing (tenant managed incorporated co-operatives). For example Ryde Hunters Hill Community Housing Co-operative Ltd.
- Churches housing (community housing managed by church based agencies). For example Anglican Housing Association Ltd.
- Aboriginal Housing (Aboriginal Community Housing providers). For example Dharawal Aboriginal Corporation Community Association.

Over the last 4 years there has been significant growth in the NSW Community Housing sector which has seen more government owned stock transferred to community housing providers to manage. In 2010 the NSW Government passed the Community Housing Bill which enables the transfer of title to not-for-profit Community Housing Providers to encourage leveraging opportunities with the overall objective to increase housing stock.

2.3 Community Housing Providers (CHP)

Community Housing Providers manage affordable rental accommodation for low to moderate income earners in NSW. The largest number of the three forms of CHP's are housing associations which are not-for-profit incorporated organisations (either associations incorporated under the Department of Fair Trading or not-for-profit companies incorporated under ASIC). Many CHP's are charitable institutions.

CHP's are regulated under the *Housing Act 2001* (NSW) and the Housing Regulations. Each CHP must undergo a performance based regulatory system administered by the Registrar of Community Housing. All CHP's are graded into classes depending on their size and current status of operations (i.e. potential for growth).

Increasingly CHP's are working in partnership with support agencies, the private sector and local government to increase the supply of affordable rental housing stock through innovative solutions.

Through the Federal Government's National Building Economic Stimulus Plan (NBESP) 4400 new dwellings are being built nationally for social and affordable housing purposes, the nearest NBESP project to Pittwater is in Ryde. Approximately 90% of the dwellings delivered under this plan will be managed by Community Housing Providers.

2.4 Eligibility for social housing (including community housing)

The policy for social housing in NSW is to house the most in need. All social housing providers will assess eligibility and priority which concentrates on very low and low income households that may need support to live independently and households on an income that can not find affordable accommodation to suit their needs.

A CHP may manage stock specifically targeted at tenants who are eligible for social housing. Each applicant or tenant must fit within the income eligibility limits; these are thresholds that state the maximum gross income a household may earn in order to be eligible for social housing.

2.5 Eligibility for affordable rental housing

The AHSEPP addresses affordable rental housing projects only. This is an important distinction as affordable rental housing is targeted to households who are experiencing housing stress who do not meet the eligibility criteria for social housing (as outlined in 2.4). The critical distinction between social housing and affordable rental housing schemes is the eligibility. Eligibility for affordable rental housing is tested against the criteria set out in the Affordable Housing Guidelines July 2010 (**Attachment 2**).

A CHP manage stock specifically set aside for affordable housing. Then, depending on the individual set of circumstances for each household or tenants, applications for housing are tested against the appropriate criteria.

2.6 Targeting specific groups for affordable rental housing projects

Unlike social housing, affordable rental housing projects can be targeted to the local community's needs. For instance in an area where the cost of housing is high, local service workers may be in severe housing stress or forced to move out of area. The need to retain such 'key workers' is important to local service delivery and local economies, therefore specifically targeting this group for an affordable housing project would be beneficial for the local community.

This is outlined in the Centre for Affordable Housing (a division of Housing NSW) literature when planning for affordable housing projects, that such projects should be targeted to suit the needs of the particular community, for instance 'workers important to the local economy'.

A study conducted in 2004 'Northern Beaches Key Worker Study' described 'key workers' as lower income occupations, and occupations that provide essential services to the community in areas such as health, education, transport, child care. This report also stated the term 'key worker' is an important concept *'as it underlines the relationship between housing and labour markets and provides additional rationale for the provision of affordable housing in competitive economies.'*

Many community housing providers have developed targeted affordable housing projects in recognition of the need for providing affordable housing to low to moderate income households in the area in which they work. As stated above people in this group are generally not eligible for public or social housing but are however in housing stress. Bluechip Ltd a consortium of CHP's states;

'some affordable housing projects are specifically targeted to workers in employment sectors that contribute to the health and social wellbeing of local communities. The types of industry these workers will be drawn from includes, essential services (police, fire and ambulance), health services, childcare workers, education and other community support services.'

2.7 Rent charged for affordable rental housing

Most affordable housing rental projects charge people either a percentage of their income as rent or offer rents that are lower than market rents. A common rental charge for low-income households is 25% of the household income.

In some Affordable Housing projects the rent charged is at increasing levels as household income increases, for example 25% for very low, 27% for low and 30% for moderate incomes. This approach means that people's rent never exceeds the common affordability benchmarks.

To ensure financial viability for CHP who manage affordable housing projects retaining a mix of low and moderate income earners is essential as the rent obtained from moderate income households can cross-subsidise very low or low income households so the project can remain financially viable overall.

Another approach is to charge a discounted market rent. In these cases, the average market rent for a particular property type is calculated and a discount applied. The most common figure is 75% of market rent. While this approach does not guarantee that rent never exceeds affordability benchmarks, it does allow for people who need to live in a particular area to have access to rent that is significantly cheaper than in the private market. It also provides much greater certainty of income for the CHP.

2.8 Tenure

All affordable housing (and social housing) tenancies come under the NSW Residential Tenancy Act 1987. Leases are for a fixed term which is determined by the housing provider depending on the individual / household circumstances. The NSW Affordable Housing Guidelines state; '*A lease should be no longer than a period of ten years in keeping with the NSW Government's longest lease term under reshaping Public Housing reforms.*'

Leases may be renewed, subject to the tenant continuing to meet the eligibility criteria. If a tenant's circumstances change and there is an increase in household income they may be required to move, however this process is managed by the housing provider and would take into account the ability of that particular household to move immediately. Each CHP is responsible for managing the rental income and residential tenancy agreements.

2.9 Housing in Pittwater

Pittwater is characterised by high housing costs (both purchase and rental) with virtually no social housing. Recent data indicates house prices and rental levels continue to increase within Pittwater and in most cases are higher than Sydney as a whole.

The most recent Rent and Sales report September 2010 (available on Housing NSW website www.housing.nsw.gov.au) the median rent for both separate houses and units are:

Separate Houses	Pittwater (per week)	Sydney (per week)
2 Bedroom	\$525	\$350
3 Bedroom	\$695	\$390

Flats / Units	Pittwater (per week)	Sydney (per week)
1 Bedroom	\$330	\$390
2 Bedroom	\$450	\$430

The median income for Pittwater and Sydney is as follows (ABS Census 2006):

Family Type	Pittwater (per week)	Sydney (per week)
Individual	\$653	\$518
Couple	\$1486	\$1154 (median household)
Family	\$1767	\$1350

These figures highlight that an individual household is likely to be in housing stress as they may be earning \$653 per week but paying nearly half (\$330) their weekly income in rent accommodation.

The Chief Executive of Housing NSW recently stated to the Director General Department of Planning in relation to the Meriton's proposed development in Warriewood:

"The Northern Beaches, including Pittwater is one of the least affordable areas in NSW, both for rental and purchase. As at June 2008, 70% of low and moderate income earners in the area were experiencing housing stress in the private rental market (compared with the average of 56% across Greater Metropolitan Region (GMR). Only 10% of properties in the private rental market were affordable to households in 80% of median income (compared with the 31% in the GMR), and only 0.3% of dwellings were affordable for purchase to households at 80% of median income in Pittwater (compared with 0.9% on average in the GMR). Indeed, the Bankwest Key Worker Housing Affordability Report from March 2009 found that housing in Pittwater is not affordable for purchase by any of the five key worker groups investigates – nurses, teachers, police officers, fire fighter and ambulance officers."

3.0 PLANNING ISSUES – RESPONSE TO THE DISCUSSION PAPER

3.1 The following sections outline the general and specific issues raised in the Department of Planning Discussion Paper and Pittwater's response.

3.2 General issues

3.2.1 Understanding affordable rental housing and social housing?

DOP – Develop a communication program to raise public awareness of the nature of affordable rental housing encouraged by the AHSEPP and the groups of people it is likely to accommodate.

Pittwater – Agreed. Greater assistance is required through specialised funding arrangements to local councils through the Centre for Affordable Housing. Assistance is required to quantify and qualify the local and regional factors and processes that drive the demand for affordable rental housing and social housing. Funding could be aimed at raising community awareness to further understand the impact that provision of affordable housing may have within a local community. Funding would help inform the formulation of targeted and more efficient planning response using a method that is more sensitive to the local and regional context.

3.2.2 Ensuring objective decision making

DOP – Retain the existing threshold of a Capital Investment Value (CIV) of more than \$5 million for the determination of AHSEPP proposal by JRPPs and the threshold only apply to the “affordable rental” component, but provide clarification on how the CIV of the component is calculated, and/or

Give councils the ability to refer any affordable rental projects they consider appropriate to the JRPP

Provide guidance to councils on merit assessment of AHSEPP proposal taking into consideration local community issues, as well as affordable housing needs.

Pittwater – The threshold of CIV should be raised up to \$10 million. The reduced threshold is inequitable for any similar development types that do not include an affordable housing component.

Further, merit assessment guidelines of AHSEPP to balance the community interest, built form and affordable housing needs to be developed.

3.2.3 Should there be local variations to the Affordable Rental Housing SEPP?

DOP – Examine the financial feasibility of additional incentive schemes to those offered by the AHSEPP and SEPP 70 to allow for different approaches in different areas to assist in the delivery of appropriate affordable rental housing.

Pittwater – There must be local variations to the AHSEPP. There are too many local constraints and variations for a one size fit all State wide approach. The current scatter gun approach for infill housing is not consistent with the existing neighbourhood character. Councils must be allowed to have different delivery mechanisms that exempt them from the AHSEPP. Council must be allowed to identify land suitable for affordable or social housing so that the basic principles of orderly and timely development can occur.

3.2.4 Should there be affordable rental housing benchmarks in major developments?

DOP – Examine opportunities to establish affordable rental housing benchmarks in major developments.

Pittwater – Agreed. There needs to be an acceptable mandatory benchmark/quantum of affordable or social housing in major developments. The dedication of affordable or social housing should be in-perpetuity and not for the short term of 10 years. In particular, major developments that exceed local orderly planning provisions (Part 3A) must have a benchmark component imposed. Part 3A proponents are achieving the financial windfall of approvals well beyond agreed planning provisions without the providing a net community benefit, such as affordable housing.

3.3 In-fill affordable housing

Low rise infill housing (Dual occupancies, villa, townhouses and residential flat buildings)	<ul style="list-style-type: none"> ▪ Permissible in most residential zones ▪ Location criteria for proximity to public transport only in Sydney region i.e. 800m from railway station or ferry wharf, or 400 metres a light rail station or a bus stop with hourly buses 6.00am - 6.00pm Monday to Friday ▪ Height limit: 8.5 metres ▪ Maximum FSR 0.75:1 (0.5:1 after 30 June 2011) ▪ Minimum site area: 450 square metres ▪ 50% of stock must be affordable housing for 10 years ▪ Design criteria: for parking, dwelling size and solar access, landscaping/deep soil zone requirements, Refers to Seniors Living Urban Design Guidelines ▪ Affordable housing to be managed by a registered CHP 	Council or Joint Regional Planning Panel (JRPP)
Infill in residential flats	<ul style="list-style-type: none"> ▪ Permissible only where residential flat buildings are already permissible ▪ Location criteria as for Low Rise above. ▪ Provides a sliding scale FSR bonus of 0.2:1.0 if 20% of dwellings are affordable, increasing to 0.5:1.0 if 50% is affordable. Affordable housing for 10 years. ▪ Affordable housing to be managed by a registered CHP 	Council or JRPP

3.3.1 Density of low-rise infill development – floor space incentive

DOP – The floor space ratio for low-rise infill development to change to 0.5:1 on 30 June 2011 as scheduled.

Continue to monitor the effectiveness of this control in delivering new dwellings

Pittwater – Agreed. The floor space ratio must be reduced to 0.5:1.

The development industry incorrectly relies on FSR as a development right rather than as an indicator of site potential. On more constrained sites the result should be less floor area, but developers appear to be fixated on achieving the maximum floor area regardless of the site or neighbourhood character.

3.3.2 Design of low-rise infill development

DOP – Finalise the low-rise housing guidelines with the inclusion of setback and private open space standards, taking into consideration issues raised in submissions.

Pittwater – Agreed. Council must be able to apply the building envelop that is consistent with the relevant DCP local area character statements, the built form controls so that any new development is consistent with the established and future built form in the surrounding area.

3.3.3 Proximity to transport criteria

DOP – Examine the implication of extending the public transport services frequency requirements for sites to include the weekend and evening to concentrate development closer to accessible locations and services; and

Allow variations in the distance from public transport criteria of up to 10% to be considered on their merits under SEPP No.1 – Development Standards.

Pittwater – Agreed in part. The initial criteria in AHSEPP as introduced required a regular bus service 7 days a week. This is more suitable to proposed tenants and would reduce the scattering impact of the development. The current criteria for infill development could result in tenants that are isolated from reasonable daily service needs.

Council does not support any consideration of variation to the distance criteria.

3.3.4 Allow infill affordable housing in other zones

DOP – Expand Division 1 of AHSEPP to the B4 Mixed Use Zone and Special Purpose SP1 Zone and their equivalents, making it clear that the assessment of proposals should take into account the provisions of relevant environmental planning instruments and policies which regulate the mix of residential and non-residential uses in the zone.

Pittwater – Agreed in part. Although currently Pittwater has no areas equivalent to the B4 Mixed Use Zone it could be applied to the shop-top housing areas subject to appropriate provision of retail or commercial floor space as provided for in Council's DCP.

3.3.5 Community housing providers

DOP – Examine the merits of different legal means of ensuring affordable rental housing is used for that purpose for the 10 year period required;

Issue guidance material to ensure that the role of community housing providers is clearly explained and that development applications are accompanied by an appropriate level of documentation regarding future management of the affordable dwellings; and

Examine alternatives for managing affordable housing in order to offer developers a choice of management arrangements

Pittwater – Agreed that further legal means need to be explored. Council suggests evidence be required that a management agreement with a CHP be registered with Housing NSW prior to occupation certificate being issued. Council is not the appropriate gatekeeper as it can not track changes in tenant like Housing NSW or the Rental Tribunal Board could.

Council considers the 10 year period as too short in the trade off and long term legacy of development windfall that would not otherwise be permitted. The net community benefit is not achieved. Council suggests the affordable units should be retained in perpetuity.

3.3.6 Budget studio accommodation

DOP – Reduce the minimum floor are for a studio apartment developed as infill affordable rental housing from 35 square metres to 25 square metres.

Pittwater – Not supported. At any future stage, after 10 years and beyond, there is the potential to amalgamate the studio apartments. At the minimum requirement the result would be a 50 square metre, 2 bedroom unit which would clearly not be sufficient.

3.4 Secondary dwellings

Secondary dwellings (Granny flats)	<ul style="list-style-type: none">▪ Permissible in most residential zones▪ Lot size: 450 square metres▪ Maximum floor space: 60 square metres▪ May be internal, attached or detached▪ Complying development opportunities▪ Cannot be subdivided from the principal dwelling	Council (if CDC or DA) or Private Certifiers (if CDC)
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3.4.1 Secondary dwellings in rural and environmental zones

DOP – Make secondary dwellings permissible in rural zones and environmental living zones where dwelling houses are permissible (Zone RU1, RU2, RU3, RU4, RU5, RU6 and E4 and their equivalents)

Pittwater – Council does not support the inclusion of secondary dwellings in environmental zone E4. Many parts of Pittwater likely to be so zoned are environmentally sensitive, such as Scotland Island and the western foreshore of Pittwater adjoining the Ku-ring-gai National Park. Intensifying residential land use on these areas that are not serviced by sewer is not 'minimal environmental impact'. The AHSEPP has inadvertently permitted intensification in areas only accessible by ferry. Council seeks an exclusion of Scotland Island and the Western foreshore area of Pittwater from AHSEPP Division 2.

Council would support the inclusion of secondary dwellings in its equivalent rural zones, such as its non-urban zone equivalent as the intensification is of minimal density over much larger lot sizes.

The Standard LEP Options paper proposed some changes to the provisions for secondary dwellings that were practical and clarified the size formula. The AHSEPP should be consistent. The DoP should advise how it intends to modify council LEPs that have already incorporated the secondary dwelling provision, such that there isn't going to be two versions in operation once the AHSEPP is amended. That is, the LEP version and the AHSEPP version.

3.4.2 Secondary dwellings in multi-unit developments

DOP – Facilitate 'dual key apartments' in the form of secondary within residential flat buildings and multi-dwelling housing; and

A minimum dwelling size need not be specified for either of the individual dwellings making up the dual key apartment, providing that the whole dual key apartment meets the corresponding non-refusable minimum floor area specified in Division 1 for an affordable dwelling with that number of bedrooms (or the minimum area for a one-bedroom dwelling in the case of a dual key apartment comprising two studio dwellings).

Pittwater – Agreed to the concept of dual key apartments in projects for residential flat buildings only. Do not agree to dual key concept within attached dwellings, dual occupancies, dwelling houses or multi dwelling housing. Further technical clarification is required to determine whether a principal dwelling and the secondary dwelling count as a single dwelling or two dwellings, i.e. a secondary dwelling defined as a separate dwelling in its own right.

3.4.3 Minimum lot size and complying development

DOP – Clarified that the AHSEPP does not prevent secondary dwelling being developed on lots smaller than 450 square metres, in zones where the use is permitted.

Following the expansion of the complying development provisions applying to housing in the Exempt and Complying Codes SEPP, the complying development provisions in clause 23 of AHSEPP be expanded for secondary dwellings on any sized lot in residential or rural zones.

Pittwater – ‘The Schedule 1 Development standards for secondary dwellings’ needs to be renamed to ‘Schedule 1 *Complying development* – development standards for secondary dwellings’. This will clarify and make it consistent with wording of Schedule 2 Complying development – group home. Council have received a number of development applications from professionals that have inadvertently used these complying development standards when required to consider Council’s DCP controls.

There is no reference to any standard conditions that apply to any complying development certificate under the AHSEPP unlike the Code SEPP.

3.4.4 Car parking

DOP – Require replacement car parking in cases where the secondary dwelling displaces existing car parking that had been provided in accordance with previous development consent.

Pittwater – Council DCP requires an additional car parking space for the secondary dwelling be provided in addition to minimum requirement of two spaces for the principal dwelling. Council will consider a no net loss of car parking (minimum two spaces) on merit with the inclusion of a condition of consent dedicating one of the two car spaces is for the use by the occupant of the secondary dwelling.

3.4.5 Minimum floor area

DOP – Do not prescribe the minimum floor area for a secondary dwelling in AHSEPP

Pittwater – The minimum floor area should be consistent with the minimum floor area of studio accommodation of 35 square metres.

3.4.6 Section 94 development contributions and other charges

DOP – Provide councils the option of not charging section 94 contributions charges at all or establish a standard contribution rate across the state based on the cost of works consistent with the current methodology under section 94(A) as follows:

\$0 - \$100,000 – no contribution
\$100,000 - \$200,000 – 0.5% contribution
Over \$200,000 – 1% contribution.

Review the practices of council in charging for new services under other legislation in relation to scale of the secondary dwelling proposal.

Pittwater – Agreed to giving councils the option for charging a fee or not. Pittwater Council does not currently charge section 94 fee for secondary dwellings.

3.5 Boarding houses

Boarding houses	<ul style="list-style-type: none">▪ Permissible in most residential zones & some commercial▪ 5 or more boarding rooms need a communal living room▪ 20 or more residents requires on-site manager▪ Floor space incentives in residential flat zones▪ Design criteria: parking, dwelling size, solar access	Council
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3.5.1 The new generation boarding house concept

DOP – That the Department works with the boarding house industry, NSW Housing and other stakeholders, on ways to improve the community's perception of the new boarding house model encouraged by the AHSEPP

Pittwater – Agreed.

3.5.2 Building Code of Australia (BCA)

DOP – Provide guidance on the BCA requirements for different types of boarding house accommodation.

Pittwater – Agreed.

3.5.3 Affordability

DOP – No action proposed under the EP&A Act.

Pittwater – Agreed.

3.5.4 Car parking standards

DOP – No change to AHSEPP provision proposed, subject to consideration of submissions on this issue.

Pittwater – The car parking standard of 1 parking space for each 10 boarding rooms is too low and should be 1 per 5 boarding rooms. Any variation would only be suitable if it were located in close proximity to 'good' public transport. The other consideration could be proximity to a car share scheme, however the long term location, operation or viability of the car share scheme can not be guaranteed.

Council is particularly concerned about the implications of lack of car spaces when after 10 years 'affordable units' revert to the public market to a 'typical Pittwater household' with higher than the Sydney average car ownership. The public streets are not capable of handling such car parking over-flow.

3.5.5 Complying development

DOP – Develop new boarding houses or the extension and conversion of existing buildings to boarding houses under complying development provisions paralleling those for group homes. The provisions could also be developed to provide for the alteration or addition to existing boarding houses.

Pittwater – Development applications should be mandatory new boarding houses. Council does not support a complying development code that would result in the creation of new boarding houses.

Council does support a complying or exempt development code that would allow alterations or additions to an existing boarding house.

3.5.6 Design Guidelines

DOP – Develop a Design Guideline based on the draft Low-Rise Affordable Housing which could also be applied to boarding houses.

Pittwater – Agreed.

3.5.7 Compliance issues

DOP – Encourage councils to continue to monitor existing boarding houses in their area and investigate potentially illegal boarding house developments.

Pittwater – Agreed.

3.6 Supportive accommodation

Supportive accommodation	<ul style="list-style-type: none"> Enables services and facilities within residential flat buildings used for social or affordable housing (e.g. training rooms, medical rooms) 	Government agency
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DOP – No issues have been raised

Pittwater – The DoP should ensure a suitable referral system that encourages other relevant public authorities like Police, NSW Health or Human Services, to comment on the suitable location or social outcome of such an application.

3.7 Residential flat buildings – social housing providers

Residential flat buildings (Social Housing Providers and Joint Ventures)	<ul style="list-style-type: none"> Permissible in Sydney, in any zone within 800 metres of rail station and in nominated regional towns, in any zone within 400 metres of commercial or mixed use zone Only if by or on behalf of a public authority or a social housing provider or in JV with Housing NSW Site Compatibility Certificate required from Department 50% of stock must be affordable housing for 10 years Affordable housing is managed by a registered CHP 	Council (DA) plus Dept. (SCC) if prohibited
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3.7.1 Site compatibility considerations

DOP – Develop guidance for Site Compatibility Certificate applications under the AHSEPP to deal with the issue of competing need for jobs and affordable rental housing.

Apply the transport locational criteria applicable to infill housing development to Division 5

Expand this form of development to additional regional areas that have zoned B4 Mixed Use land.

Pittwater – This development type is not applicable in Pittwater as there are no rail stations. However, there are serious planning principle concerns about the ability to locate housing in any zone that would then decrease the net employment land. The 10 year affordable housing tenure is again too short for this development windfall. Council supports further discussion and clarification of the site compatibility requirements when dealing with the community need for employment land. Any erosion of employment must consider the cumulative impact on the council's ability to meet job targets.

Council does not support the application of the transport criteria of this housing development. Alternate transport location criteria may be based on the strategic bus corridors (constructed) across Sydney.

Regional areas (councils) should be given the choice to determine if this form of development is suitable for their areas and their community. Permissibility should be based on demand.

3.8 Residential development – Land & Housing Corporation

Land and Housing Corp Residential Development	<ul style="list-style-type: none"> ▪ Permissible only where type of housing is already permissible ▪ Only apply if NSW Housing the proponent ▪ Development without consent provisions ▪ Maximum 20 units and 8.5m height ▪ Must consult with neighbours and local council ▪ Must consider Seniors Living Urban Design Guidelines 	Housing NSW
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3.8.1 Consideration of stakeholder views in assessment

DOP – Housing NSW project be notified in accordance with the council's notification requirements for comparable private sector development, subject to Housing NSW paying to council the standard notification fee prescribed in the Regulations (currently \$830). This could be achieved through a MOU with the LGSA or an amendment to the EP&A Regulation.

Pittwater – Agreed.

3.8.2 Expanding the self-assessment provisions

DOP – Change the threshold for residential development that can be approved by Housing NSW from 20 units to 30 units while retaining the current 8.5 metres height limit.

Pittwater – Council does not support increasing the threshold. All residential development by the Land & Housing Corporation should be subject to same rigours of environmental assessment and due process applied in development assessment by the local council. It is not in the public interest to expand self-assessment that would not allow for scrutiny by councils or the community of the suitability of site selection or character of the area to cope with the impact of an addition of up to 30 units.

3.8.3 Car parking in affordable housing projects

DOP – No change in the AHSEPP standard of 1 car space per 5 dwellings for social housing proposed.

The Department of Planning and Housing NSW will develop a parking standard guideline which sets out the parameters for determining parking standards for affordable housing taking into consideration bedroom numbers, site location and other factors. Submissions are invited to the development of parking standards in social housing projects.

Pittwater – Subject to location near a good public transport network, Council supports the car parking standard of 1 parking space per 5 dwellings for social housing projects. The other consideration could be the provision of visitor parking, bike facilities or an additional space for a car share scheme. Council accepts the long location or operation of the car share scheme can not be guaranteed.

3.8.4 Section 94 and social housing

DOP – Housing NSW to pay contributions determined in accordance with the relevant council's Contributions Plan unless a Ministerial exemption is in force.

Pittwater – Agreed.

3.8.5 Demolition and minor works by Housing NSW

DOP – Expand the exempt development provisions for social housing demolition and minor works, subject to compliance with appropriate environmental standards.

Pittwater – Agreed.

3.9 Group homes

Group homes	<ul style="list-style-type: none"> ▪ Permissible in residential, mixed and special use zones ▪ Development without consent provisions for Agency if less than 10 bedrooms – otherwise consent from council ▪ Complying and exempt development opportunities 	Agency, or Council (if CDC or DA) or Accredited Certifiers (if CDC)
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3.9.1 Complying development provisions – number of buildings

DOP – Amend the complying development provisions to clarify that they should permit the development of two or more buildings on a single lot of land as a group home.

Pittwater – Council would only support such built form if it could demonstrate that it was consistent with the neighbourhood character density and did not adversely impact the amenity of adjoining landowners.

3.9.2 Complying development provisions – conversion of existing buildings

DOP – Allow the conversion of existing dwelling houses to group homes as exempt development when this does not involve any structural building works and as complying development when structural building works are involved.

Pittwater – Agreed in principal based on the premise that the exempt and complying development provisions include a standard that ensures the building facility is appropriately accessible and adaptable in accordance with Australian Standards.

3.9.3 Complying development provisions – minor amendments

DOP – Make minor amendment to the complying development provisions to improve its clarity and effectiveness.

Pittwater – Agreed. Generally, the AHSEPP needs to include standard conditions for any complying development certificates.

3.10 Retention of Low-Cost Rental Accommodation

3.10.1 Interpretation of 'low rental'

DOP – Amend AHSEPP to provide that this part of the AHSEPP does not apply to a building constructed after 28 January 2000.

Pittwater – Agreed.

3.10.2 Area of application

DOP – Invite submissions on this matter, particularly from councils and other regional stakeholders in areas where Part 3 currently does not apply.

Pittwater – Agreed. Those councils potentially affected in the future should be given the choice of whether it is appropriate to reapply the old SEPP 10 provisions or allow those councils to demonstrate that they have, by other means, off-set the effect of it not applying or do not have the same level of need for the AHSEPP to be applied.

3.10.3 Calculation of contributions

DOP – Submission are invited on aspects of Part 3 and Guidelines which may be considered to be unclear so that these may be addressed in a review of the Guidelines.

Pittwater – No comments to add.

3.10.4 Application of contributions

DOP – Submissions are invited from councils interested in using contributions in their local housing program so that options to ensure that funds are used most effectively can be considered.

Pittwater – Council supports the choice to use funds in accordance with any local initiative by the relevant council. Any diversion of monies undermines and potentially delays delivery of council's own local program that is seeking to achieve the same outcome.

4.0 Conclusion

The provision and planning of affordable housing is challenging and complex. Council needs to provide opportunities for suitable and appropriately located housing to retain 'key workers' who are important for local service delivery and Pittwater's vibrant local economy. A modest supply of affordable housing will contribute a diverse housing choice to the overall benefit of the general community. Clearly there is a supply gap of affordable housing that the AHSEPP is trying to meet. Pittwater needs work towards defining and understanding the local affordable housing needs of its constituents and identify appropriate location criteria.

The AHSEPP in its current form provides inequitable opportunities for 'in-fill affordable housing' developments. The AHSEPP imposes a planning paradigm that contradicts Pittwater's orderly planning process. The AHSEPP imposes conflicting land uses within neighbourhoods potentially creating tension about bulk, scale and inappropriate development.

Any future State Government needs to continue to work with local councils to develop a set of mechanisms to develop affordable housing projects suitable for the local area.

4.0 SUSTAINABILITY ASSESSMENT

4.1 Supporting & Connecting our Community (Social)

- 4.1.1 The state policy directly facilitates delivery of new affordable rental housing, including accommodation options for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

4.2 Valuing & Caring for our Natural Environment (Environmental)

- 4.2.1 The state policy encourages additional opportunities for more compact and affordable forms of housing with minimal environmental impact by improving utilisation of existing building stock and infrastructure.
- 4.2.2 The state policy does not focus housing opportunities on areas of lower environmental value. In-fill and residential flat developments should be located where conventional flats are located.

4.3 Enhancing our Working & Learning (Economic)

- 4.3.1 The state policy seeks to expand the role for not-for-profit providers of affordable rental housing and supports local business centres by providing affordable rental housing for workers close to places of work.

4.4 Leading an Effective & Collaborative Council (Governance)

- 4.4.1 The state policy provides a consistent state wide planning regime for the provision of affordable rental housing. It is poor governance to override orderly local planning.

4.5 Integrating our Built Environment (Infrastructure)

- 4.5.1 The state policy aims to integrate new affordable rental housing with sustainable transport options such as proximity to existing transport network and provision of bike storage.

5.0 EXECUTIVE SUMMARY

- 5.1 The State Environmental Planning Policy – Affordable Rental Housing 2009 (AHSEPP) facilitates the introduction of new and existing forms of affordable housing into more areas, provides floor space ratio bonus and other incentives to develop affordable dwellings which will have a restrictive covenant for 10 years; imposes development restrictions on existing affordable housing stock to ensure it is retained.

The NSW Government has commenced an automatic review of AHSEPP. To help inform and facilitate that review the Department of Planning prepared a discussion paper (The Paper) (**Attachment 1**). Pittwater's response to the numerous issues raised in The Paper is outlined in the report and shall be included in a submission to the Department of Planning.

Affordable housing fits within the broad social housing context. Whilst both social and affordable housing may have similar objectives they have different policy and financial parameters. One of the key distinctions between social and affordable housing is that affordable housing can be specifically targeted to meet a local community's needs to house key workers.

Pittwater is widely acknowledged as 'one of the least most affordable areas in NSW' this includes rental options for the above mentioned target groups, in turn effecting the area's social and economic diversity and reducing the availability of 'key workers' living and working in the Pittwater area.

RECOMMENDATION

1. That Council acknowledge the need for affordable rental housing in Pittwater and within SHOROC region.
2. That Council endorse and submit a detailed response to the Affordable Rental Housing SEPP Discussion Paper as outlined in **Attachment 1**.
3. That Council continue to assess applications on their merit, taking into account the local area character statements and relevant development control provisions.
4. That Council request a local variation to the Affordable Rental Housing SEPP to allow in-fill and residential flat buildings for affordable rental housing only in the current shop-top and multi-unit housing areas of Pittwater where there is an agreed community expectation for medium density development and it is in close proximity to commercial centres and transport.
5. That Council continue to monitor and evaluate the progress of the Affordable Rental Housing SEPP review.
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.

Report prepared by

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MANAGER, COMMUNITY, LIBRARY & ECONOMIC DEVELOPMENT

**SUBMISSION ON
THE AFFORDABLE RENTAL HOUSING SEPP
by Pittwater Council**

Pittwater Council welcomes the opportunity to comment on the Affordable Rental Housing SEPP and work with the Department of Planning to address the local issues facing affordable rental housing in Pittwater as permitted under this state policy.

Council has major reservations about the AHSEPP in its current form as it has the potential to provide inequitable opportunities for 'in-fill affordable housing' developments. The AHSEPP imposes a planning paradigm that contradicts Pittwater's orderly planning process. The AHSEPP imposes conflicting land uses within neighbourhoods potentially creating tension about bulk, scale and inappropriate development.

The following section outlines the general and specific issues raised in the Department of Planning Discussion Paper and Pittwater's response.

KEY ISSUES

1.0 General issues**1.1 Understanding affordable rental housing and social housing?**

DOP – Develop a communication program to raise public awareness of the nature of affordable rental housing encouraged by the AHSEPP and the groups of people it is likely to accommodate.

Pittwater – Agreed. Greater assistance is required through specialised funding arrangements to local councils through the Centre for Affordable Housing. Assistance is required to quantify and qualify the local and regional factors and processes that drive the demand for affordable rental housing and social housing. Funding could be aimed at raising community awareness to further understand the impact that provision of affordable housing may have within a local community. Funding would help inform the formulation of targeted and more efficient planning response using a method that is more sensitive to the local and regional context.

1.2 Ensuring objective decision making

DOP – Retain the existing threshold of a Capital Investment Value (CIV) of more than \$5 million for the determination of AHSEPP proposal by JRPPs and the threshold only apply to the "affordable rental" component, but provide clarification on how the CIV of the component is calculated, and/or

Give councils the ability to refer any affordable rental projects they consider appropriate to the JRPP

Provide guidance to councils on merit assessment of AHSEPP proposal taking into consideration local community issues, as well as affordable housing needs.

Pittwater – The threshold of CIV should be raised up to \$10 million. The reduced threshold is inequitable for any similar development types that do not include an affordable housing component.

In addition, councils should be given the option of requiring the JRPP to be the relevant planning authority for any development application the council considers appropriate.

Further, merit assessment guidelines of AHSEPP to balance the community interest, built form and affordable housing needs to be developed.

1.3 Should there be local variations to the Affordable Rental Housing SEPP?

DOP – Examine the financial feasibility of additional incentive schemes to those offered by the AHSEPP and SEPP 70 to allow for different approaches in different areas to assist in the delivery of appropriate affordable rental housing.

Pittwater – There must be local variations to the AHSEPP. There are too many local constraints and variations for a one size fit all approach. The current scatter gun approach for low-rise infill housing is not consistent with the existing neighbourhood character. Councils must be allowed to have different delivery mechanisms that exempt them from the AHSEPP. Council's planners must be allowed to identify land suitable for affordable or social housing so that the basic principles of orderly and timely development can occur.

1.4 Should there be affordable rental housing benchmarks in major developments?

DOP – Examine opportunities to establish affordable rental housing benchmarks in major developments.

Pittwater – Agreed. There needs to be an acceptable mandatory benchmark/quantum of affordable or social housing in major developments. The dedication of affordable or social housing should be in-perpetuity and not for the short term of 10 years. In particular, major developments that exceed local orderly planning provisions (Part 3A) must have a benchmark component imposed. Part 3A proponents are achieving the financial windfall of approvals well beyond agreed planning provisions without the providing a net community benefit, such as affordable housing.

2.0 **In-fill affordable housing**

2.1 Density of low-rise infill development – floor space incentive

DOP – The floor space ratio for low-rise infill development to change to 0.5:1 on 30 June 2011 as scheduled.

Continue to monitor the effectiveness of this control in delivering new dwellings

Pittwater – Agreed. The floor space ratio must be reduced to 0.5:1.

The development industry incorrectly relies on FSR as a development right rather than as an indicator of site potential. On more constrained sites the result should be less floor area, but developers are fixated on achieving the maximum floor area regardless of the site or neighbourhood character.

2.2 Design of low-rise infill development

DOP – Finalise the low-rise housing guidelines with the inclusion of setback and private open space standards, taking into consideration issues raised in submissions.

Pittwater – Agreed. Council must be able to apply the building envelop that is consistent with the relevant DCP local area character statements, the built form controls so that any new development is consistent with the established and future built form in the surrounding area.

2.3 Proximity to transport criteria

DOP – Examine the implication of extending the public transport services frequency requirements for sites to include the weekend and evening to concentrate development closer to accessible locations and services; and

Allow variations in the distance from public transport criteria of up to 10% to be considered on their merits under SEPP No.1 – Development Standards.

Pittwater – Agreed in part. The initial criteria in AHSEPP as introduced required a regular bus service 7 days a week. This is more suitable to proposed tenants and would reduce the scattering impact of the development. The current criteria for infill development could result in tenants that are isolated from reasonable daily service needs.

Council does not support any consideration of variation to the distance criteria.

2.4 Allow infill affordable housing in other zones

DOP – Expand Division 1 of AHSEPP to the B4 Mixed Use Zone and Special Purpose SP1 Zone and their equivalents, making it clear that the assessment of proposals should take into account the provisions of relevant environmental planning instruments and policies which regulate the mix of residential and non-residential uses in the zone.

Pittwater – Agreed in part. Although currently Pittwater has no areas equivalent to the B4 Mixed Use Zone it could be applied to the shop-top housing areas subject to appropriate provision of retail or commercial floor space as provided for in Council's DCP.

2.5 Community housing providers

DOP – Examine the merits of different legal means of ensuring affordable rental housing is used for that purpose for the 10 year period required;

Issue guidance material to ensure that the role of community housing providers is clearly explained and that development applications are accompanied by an appropriate level of documentation regarding future management of the affordable dwellings; and

Examine alternatives for managing affordable housing in order to offer developers a choice of management arrangements

Pittwater – Agreed that further legal means need to be explored. Council suggests receipt evidence be required that a management agreement with a CHP be registered with Housing NSW prior to occupation certificate being issued. Council is not the appropriate gatekeeper as it can not track changes in tenant like Housing NSW or the Rental Tribunal Board could.

Council considers the 10 year period as too short in the trade off and long term legacy of development windfall that would not otherwise be permitted. The net community benefit is not adequate offset. Council suggests the affordable units should be retained in perpetuity.

2.6 Budget studio accommodation

DOP – Reduce the minimum floor are for a studio apartment developed as infill affordable rental housing from 35 square metres to 25 square metres.

Pittwater – Not supported. At any future stage, after 10 years and beyond, there is the potential to amalgamate the studio apartments. At the minimum requirement the result would be a 50 square metre, 2 bedroom unit which would clearly not be sufficient.

3.0 Secondary dwellings

3.1 Secondary dwellings in rural and environmental zones

DOP – Make secondary dwellings permissible in rural zones and environmental living zones where dwelling houses are permissible (Zone RU1, RU2, RU3, RU4, RU5, RU6 and E4 and their equivalents)

Pittwater – Council does not support the inclusion of secondary dwellings in the environmental zone E4. Many parts of Pittwater are environmentally sensitive, such as Scotland Island and the western foreshore of Pittwater adjoining the Ku-ring-gai National Park. Intensifying residential land use on these small lot areas that are not serviced by sewer is not 'minimal environmental impact'. The AHSEPP has inadvertently permitted intensification in areas only accessible by ferry. Council seeks an exclusion of Scotland Island and the Western foreshore area of Pittwater from AHSEPP Division 2.

Council would support the inclusion of secondary dwellings in its equivalent rural zones, such as its non-urban zone equivalent as the intensification is of minimal density over much larger lot sizes.

The Standard LEP Options paper proposed some changes to the provisions for secondary dwellings that were practical and clarified the size formula. The AHSEPP should be consistent. The DoP should advise how it intends to modify council LEPs that have already incorporated the secondary dwelling provision, such that there isn't going to be two versions in operation once the AHSEPP is amended. That is, the LEP version and the AHSEPP version.

3.2 Secondary dwellings in multi-unit developments

DOP – Facilitate 'dual key apartments' in the form of secondary within residential flat buildings and multi-dwelling housing; and

A minimum dwelling size need not be specified for either of the individual dwellings making up the dual key apartment, providing that the whole dual key apartment meets the corresponding non-refusable minimum floor area specified in Division 1 for an affordable dwelling with that number of bedrooms (or the minimum area for a one-bedroom dwelling in the case of a dual key apartment comprising two studio dwellings).

Pittwater – Agreed to the concept of dual key apartments in projects for residential flat buildings only. Do not agree to dual key concept within attached dwellings, dual occupancies, dwelling houses or multi dwelling housing. Further technical clarification is required to determine whether a principal dwelling and the secondary dwelling count as a single dwelling or two dwellings, i.e. a secondary dwelling classed as a separate dwelling in its own right, which would not contribute to any provisions that might specify a dwelling yield.

3.3 Minimum lot size and complying development

DOP – Clarified that the AHSEPP does not prevent secondary dwelling being developed on lots smaller than 450 square metres, in zones where the use is permitted.

Following the expansion of the complying development provisions applying to housing in the Exempt and Complying Codes SEPP, the complying development provisions in clause 23 of AHSEPP be expanded for secondary dwellings on any sized lot in residential or rural zones.

Pittwater – ‘The Schedule 1 Development standards for secondary dwellings’ needs to be renamed to ‘Schedule 1 *Complying development* – development standards for secondary dwellings’. This will clarify and make it consistent with wording of Schedule 2 Complying development – group home. Council have received a number of development applications from professionals that have inadvertently used these complying development standards when required to consider Council’s DCP controls.

There is no reference to any standard conditions that apply to any complying development certificate under the AHSEPP unlike the Code SEPP.

3.4 Car parking

DOP – Require replacement car parking in cases where the secondary dwelling displaces existing car parking that had been provided in accordance with previous development consent.

Pittwater – Council DCP requires an additional car parking space for the secondary dwelling be provided in addition to minimum requirement of two spaces for the principal dwelling. Council will consider a no net loss of car parking (minimum two spaces) on merit with the inclusion of a condition of consent dedicating one of the two car spaces is for the use by the occupant of the secondary dwelling.

3.5 Minimum floor area

DOP – Do not prescribe the minimum floor area for a secondary dwelling in AHSEPP

Pittwater – The minimum floor area should be consistent with the minimum floor area of studio accommodation of 35 square metres.

3.6 Section 94 development contributions and other charges

DOP – Provide councils the option of not charging section 94 contributions charges at all or establish a standard contribution rate across the state based on the cost of works consistent with the current methodology under section 94(A) as follows:

- \$0 - \$100,000 – no contribution
- \$100,000 - \$200,000 – 0.5% contribution
- Over \$200,000 – 1% contribution.

Review the practices of council in charging for new services under other legislation in relation to scale of the secondary dwelling proposal.

Pittwater – Agreed to giving councils the option for charging a fee or not. Pittwater Council does not currently charge section 94 fee for secondary dwellings.

4.0 **Boarding houses**

4.1 The new generation boarding house concept

DOP – That the Department works with the boarding house industry, NSW Housing and other stakeholders, on ways to improve the community's perception of the new boarding house model encouraged by the AHSEPP

Pittwater – Agreed.

4.2 Building Code of Australia (BCA)

DOP – Provide guidance on the BCA requirements for different types of boarding house accommodation.

Pittwater – Agreed.

4.3 Affordability

DOP – No action proposed under the EP&A Act.

Pittwater – Agreed.

4.4 Car parking standards

DOP – No change to AHSEPP provision proposed, subject to consideration of submissions on this issue.

Pittwater – The car parking standard of 1 parking space for each 10 boarding rooms is too low and should be 1 per 5 boarding rooms. Any variation would only be suitable if it were located in close proximity to 'good' public transport. The other consideration could be proximity to a car share scheme, however the long term location, operation or viability of the car share scheme can not be guaranteed.

Council is particularly concerned about the implications of lack of car spaces when after 10 years 'affordable units' revert to the public market to a 'typical Pittwater household' with higher than the Sydney average car ownership. The public streets are not capable of handling such car parking over-flow.

4.5 Complying development

DOP – Develop new boarding houses or the extension and conversion of existing buildings to boarding houses under complying development provisions paralleling those for group homes. The provisions could also be developed to provide for the alteration or addition to existing boarding houses.

Pittwater – Development applications should be mandatory new boarding houses. Council does not support a complying development code that would result in the creation of new boarding houses.

Council does support a complying or exempt development code that would allow alterations or additions to an existing boarding house.

4.6 Design Guidelines

DOP – Develop a Design Guideline based on the draft Low-Rise Affordable Housing which could also be applied to boarding houses.

Pittwater – Agreed.

4.7 Compliance issues

DOP – Encourage councils to continue to monitor existing boarding houses in their area and investigate potentially illegal boarding house developments.

Pittwater – Agreed.

5.0 Supportive accommodation

DOP – No issues have been raised

Pittwater – The DoP should ensure a suitable referral system that encourages other relevant public authorities like Police, NSW Health or Human Services, to comment on the suitable location or social outcome of such an application.

6.0 Residential flat buildings – social housing providers

6.1 Site compatibility considerations

DOP – Develop guidance for Site Compatibility Certificate applications under the AHSEPP to deal with the issue of competing need for jobs and affordable rental housing.

Apply the transport locational criteria applicable to infill housing development to Division 5

Expand this form of development to additional regional areas that have zoned B4 Mixed Use land.

Pittwater – This development type is not applicable in Pittwater as there are no rail stations. However, there are serious planning principle concerns about the ability to locate housing in any zone that would then decrease the net employment land. The 10 year affordable housing tenure is again too short for this development windfall. Council supports further discussion and clarification of the site compatibility requirements when dealing with the community need for employment land. Any erosion of employment must consider the cumulative impact on the council's ability to meet job targets.

Council does not support the application of the transport criteria of this housing development. Alternate transport location criteria may be based on the strategic bus corridors (constructed) across Sydney.

Regional areas (councils) should be given the choice to determine if this form of development is suitable for their areas and their community. Permissibility should be based on demand.

7.0 Residential development – Land & Housing Corporation

7.1 Consideration of stakeholder views in assessment

DOP – Housing NSW project be notified in accordance with the council's notification requirements for comparable private sector development, subject to Housing NSW paying to council the standard notification fee prescribed in the Regulations (currently \$830). This could be achieved through a MOU with the LGSA or an amendment to the EP&A Regulation.

Pittwater – Agreed.

7.2 Expanding the self-assessment provisions

DOP – Change the threshold for residential development that can be approved by Housing NSW from 20 units to 30 units while retaining the current 8.5 metres height limit.

Pittwater – Council does not support increasing the threshold. All residential development by the Land & Housing Corporation should be subject to same rigours of environmental assessment and due process applied in development assessment by the local council. It is not in the public interest to expand self-assessment that would not allow for scrutiny by councils or the community of the suitability of site selection or character of the area to cope with the impact of an addition of up to 30 units.

7.3 Car parking in affordable housing projects

DOP – No change in the AHSEPP standard of 1 car space per 5 dwellings for social housing proposed.

The Department of Planning and Housing NSW will develop a parking standard guideline which sets out the parameters for determining parking standards for affordable housing taking into consideration bedroom numbers, site location and other factors. Submissions are invited to the development of parking standards in social housing projects.

Pittwater – Subject to location near a good public transport network, Council supports the car parking standard of 1 parking space per 5 dwellings for social housing projects. The other consideration could be the provision of visitor parking, bike facilities or an additional space for a car share scheme. Council accepts the long location or operation of the car share scheme can not be guaranteed.

7.4 Section 94 and social housing

DOP – Housing NSW to pay contributions determined in accordance with the relevant council's Contributions Plan unless a Ministerial exemption is in force.

Pittwater – Agreed.

7.5 Demolition and minor works by Housing NSW

DOP – Expand the exempt development provisions for social housing demolition and minor works, subject to compliance with appropriate environmental standards.

Pittwater – Agreed.

8.0 **Group homes**

8.1 Complying development provisions – number of buildings

DOP – Amend the complying development provisions to clarify that they should permit the development of two or more buildings on a single lot of land as a group home.

Pittwater – Council would only support such built form if it could demonstrate that it was consistent with the neighbourhood character density and did not adversely impact the amenity of adjoining landowners.

8.2 Complying development provisions – conversion of existing buildings

DOP – Allow the conversion of existing dwelling houses to group homes as exempt development when this does not involve any structural building works and as complying development when structural building works are involved.

Pittwater – Agreed in principal based on the premise that the exempt and complying development provisions include a standard that ensures the building facility is appropriately accessible and adaptable in accordance with Australian Standards.

8.3 Complying development provisions – minor amendments

DOP – Make minor amendment to the complying development provisions to improve its clarity and effectiveness.

Pittwater – Agreed. Generally, the AHSEPP needs to include standard conditions for any complying development certificates.

9.0 **Retention of Low-Cost Rental Accommodation**

9.1 Interpretation of 'low rental'

DOP – Amend AHSEPP to provide that this part of the AHSEPP does not apply to a building constructed after 28 January 2000.

Pittwater – Agreed.

9.2 Area of application

DOP – Invite submissions on this matter, particularly from councils and other regional stakeholders in areas where Part 3 currently does not apply.

Pittwater – Agreed. Those councils potentially affected in the future should be given the choice of whether it is appropriate to reapply the old SEPP 10 provisions or allow those councils to demonstrate that they have, by other means, off-set the effect of it not applying or do not have the same level of need for the AHSEPP to be applied.

9.3 Calculation of contributions

DOP – Submission are invited on aspects of Part 3 and Guidelines which may be considered to be unclear so that these may be addressed in a review of the Guidelines.

Pittwater – No comments to add.

9.4 Application of contributions

DOP – Submissions are invited from councils interested in using contributions in their local housing program so that options to ensure that funds are used most effectively can be considered.

Pittwater – Council supports the choice to use funds in accordance with any local initiative by the relevant council. Any diversion of monies undermines and potentially delays delivery of council's own local program that is seeking to achieve the same outcome.

CONCLUSION

The provision and planning of affordable housing is challenging and complex. Council needs to provide opportunities for suitable and appropriately located housing to retain 'key workers' who are important for local service delivery and Pittwater's vibrant local economy. A modest supply of affordable housing will contribute a diverse housing choice to the overall benefit of the general community. Clearly there is a supply gap of affordable housing that the AHSEPP is trying to meet. Pittwater needs work towards defining and understanding the local affordable housing needs of its constituents and identify appropriate location criteria.

The AHSEPP in its current form provides inequitable opportunities for 'in-fill affordable housing' developments. The AHSEPP imposes a planning paradigm that contradicts Pittwater's orderly planning process. The AHSEPP imposes conflicting land uses within neighbourhoods potentially creating tension about bulk, scale and inappropriate development.

Any future State Government needs to continue to work with local councils to develop a set of mechanisms to develop affordable housing projects suitable for the local area.



Human Services
Housing NSW
Centre for Affordable Housing

NSW Affordable Housing Guidelines

July 2010

NSW AFFORDABLE HOUSING GUIDELINES

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1.0 INTRODUCTION

Increasing the supply of affordable housing through the community housing sector is a strategic priority for the NSW Government to assist a greater number of households in housing need.

An opportunity exists for the community housing sector to play an increased role in its growth through its own investment. Because community housing providers can use debt funding, and can access tax and other concessions to reduce delivery costs, the community housing sector is an attractive partner for the NSW Government in the delivery of affordable housing in areas of need¹.

The *NSW Affordable Housing Guidelines* are Ministerial Guidelines that set out the policy framework for delivery of affordable housing by registered community housing providers.

These Guidelines set out:

- Principles for the operation of affordable housing programs;
- Expectations regarding housing outcomes for the target groups to be housed; and
- Expectations with respect to financial and asset management.

While affordable housing has many goals that are similar to social housing, there are specific policy and financial parameters and different risk factors, which are reflected in these Guidelines.

For registered community housing providers, failure to comply with these Guidelines is cause for regulatory review under the *Housing Act 2001*. Individual affordable housing projects may also be subject to specific conditions and requirements as set out in the community housing agreements with the NSW Land and Housing Corporation (Housing NSW).

2.0 DEFINITION OF KEY TERMS

The national definition of affordable agreed by Australian housing, planning and local government ministers is "housing that is appropriate for the needs of a range of very low, low and moderate-income households, priced to ensure households are able to meet other essential basic living costs."

'Affordable housing supply' is defined within these Guidelines to give specific meaning to the particular initiatives to which they apply. Affordable housing supply:

- Is owned by or under the long term management² of registered community housing providers;
- Has been acquired through public; or public and private financing;
- Is allocated to very low, low and moderate income households in housing need;

¹ Housing NSW (2007), *Planning for the future: new directions for community housing in NSW*, p.14.

² These Guidelines may also apply to affordable housing projects involving government investment where community housing providers have management responsibility but do not hold title.

- Is financially self sustaining – providing housing does not depend on recurrent subsidies from the NSW Government for meeting operational, financing and asset management costs; and
- Meets defined standards of affordability and appropriateness.

3.0 APPLICATION OF GUIDELINES

These Guidelines apply to properties that are designated as affordable housing within a community housing provider's portfolio of properties. Housing NSW may have a direct interest in these properties or the property may have been procured by community housing providers with finance secured against government funded assets.

Contracts between Housing NSW and community housing providers will indicate where housing must be managed in accordance with these Guidelines.

The Guidelines will also be issued as advisory guidelines to all registered community housing providers to be considered by them for application to any other affordable housing units that they manage or own, such as properties delivered through the *SEPP (Affordable Rental Housing)* 2009. This is intended to promote a consistent approach to the provision of affordable housing by registered community housing providers in NSW.

4.0 PRINCIPLES

There are five principles which govern the functioning of community housing providers and the delivery of housing affordability. The table below provides an overview to the principles of the supply of affordable housing through community housing providers.

PRINCIPLE	COMPONENTS
4.1 Relationships	Business partnerships – government and CHPs
	Roles and Responsibilities of community housing providers – CHPs to own and operate dwellings
	Consultative relationships – government and CHPs
4.2 Targeting of assistance	Those in need with housing stress
	Those with future income growth or home ownership targets
	Choice of housing for public housing applicants/tenants
4.3 Service delivery goals	Affordability – discounted rent
	Workforce incentives – improving economic circumstances
	Appropriateness – well located dwellings adhering to a number of standards
	Access and information – about affordable houses choice
	Social mix – ensured through projects
4.4 Financial management	Application of funds – procurement costs
	Efficiency – of use of subsidies
	Cost effective – best use of government investment
	Financial sustainability – between affordability and sustainable operation

Reinvestment of retained earnings – into affordable housing supply

4.1 Relationships and partnerships

Business partnerships – The new initiatives position government and community housing providers as business partners with each party contributing funds and other resources toward increased affordable housing supply.

Roles and responsibilities of community housing providers – In general, community housing providers will own and operate new affordable housing supply. Providers will make independent business decisions concerning the operation of affordable housing programs, which are informed by the requirements of the NSW government and their financial and policy goals. The NSW government will develop and implement policy objectives for affordable housing supply in addition to appropriate regulatory requirements. The NSW government will monitor providers' performance to ensure compliance under specific program or project agreements and through the Regulatory Code.

Consultative relationships – The NSW government and community housing providers will work together in a transparent, cooperative manner. The NSW government will be mindful of the business consequences for community housing providers of policy decisions concerning affordable housing programs. Policy decisions will be informed by consultation with providers'.

4.2 Targeting of assistance

Affordable housing supply aims to:

- Create access to affordable housing for households in housing stress who do not meet the social housing eligibility criteria; or who would be unlikely to be allocated social housing in the short to medium term;
- Support households with income growth potential and/or prospective home ownership in the medium term by offering affordable rental housing; and
- Give public housing applicants and tenants, including those exiting public housing, another choice of housing which may be more suited to their needs.

4.3 Service delivery goals

There are five overarching service delivery goals for affordable housing programs in NSW. These include affordability, workforce incentives, appropriateness, access and information and social mix.

Affordability – Affordable housing supply will be let at a discount to local market rents, taking into account household income and capacity to pay. Various methods may be used to set rents.

Workforce Incentives – Rent levels for affordable housing supply will not be set so as to act as a disincentive for households to improve their economic circumstances through employment and training opportunities where they have the capacity to do so.

Appropriateness – Housing acquired through affordable housing programs will be well located, meet a range of household needs, meet environmental and energy efficient

standards and be delivered in accordance with service standards common to community housing.

Access and information – Potential tenants will have access to information about affordable housing choices including rent and allocations policies, enabling them to make informed choices between affordable housing, social housing or private market tenures.

Social mix – Affordable housing supply will ensure a social mix by avoiding large congregations of affordable housing units and through the allocation of housing across varying income bands. Consideration should be given to achieving income mix on individual projects noting that allocations will be informed by the need to match demand to available supply. In some cases, allocations may also be targeted to a specific population group as in a housing development for aged households.

Appendix 1 provides a set of potential objectives for affordable housing programs that should be considered by community housing providers.

4.4 Financial management

Application of funds – All public funding provided to achieve affordable housing supply will be directed to the procurement costs of affordable housing supply, including feasibility costs.

Efficiency – Any subsidies that are provided to access, obtain, manage and maintain affordable housing supply should be used in the most efficient way.

Cost effective – Affordable housing supply will make best use of government investment through utilising for example, partner contributions of land, fee concessions, and tax and planning benefits. Affordable housing supply will also make best use of assets by borrowing against them to deliver more housing.

Financial sustainability – Rent policy needs to achieve a balance between affordability and the sustainable operation of affordable housing, including meeting the cost of private finance. To assist in achieving sustainability, income limits will generally exceed those for public housing and rents will be set to optimise the amount of Commonwealth Rent Assistance (CRA) payable.

Reinvestment of retained earnings - Retained earnings from the operation of affordable housing programs will be reinvested in affordable housing supply. Retained earnings are funds that are in excess of all operational costs and provision for contingent risks.

5.0 ELIGIBILITY

5.1 Income

Definitions of income will be consistent with the definition set out in the *Community Housing Rent Policy*.

Affordable housing which is subject to these Guidelines will target households whose incomes fall within very low, low and moderate income bands as nationally agreed by Ministers. These income bands are defined as:

- Very low – less than 50% of the median household income for Sydney or rest of NSW, as applicable;

- Low – between 50% and 80% of the median household income for Sydney or rest of NSW, as applicable; and
- Moderate – Between 80% and 120% of the median household income for Sydney or rest of NSW, as applicable.

For affordable housing subject to these Guidelines, income eligibility limits will vary by household size as set out in Appendix 2, updated on an annual basis.

Income limits will be reviewed annually to reflect consumer price index (CPI) adjustments to social security pensions and benefits or movements in average weekly earnings as applicable.

5.2 Housing need

Applicants must be in housing need and unable to resolve this need in the medium to long term without assistance. Factors demonstrating need include currently living in unaffordable and/or unsuitable housing and the need to relocate for employment or family reasons.

5.3 Assets

Applicants should not have assets or property which could reasonably be expected to solve their housing situation. Policies should not however, discourage eligible households from saving towards a home deposit.

5.4 Applications may be made directly to community housing providers

Applicants for affordable housing are not required to apply through Housing Pathways prior to lodging an affordable housing application.

5.5 Other criteria

Other eligibility criteria such as residency will be consistent with the *Community Housing Eligibility and Access Policy*.

6.0 ALLOCATION POLICY

6.1 Factors informing allocations

It is intended that affordable housing supply will be allocated across three income bands, as previously listed. The allocation to different income bands will aim to balance the needs of households in housing stress with the requirement to generate sufficient income to meet finance as well as other operating costs.

Allocations by community housing providers will therefore be informed by a number of factors:

- Financial viability;
- Provision for allocations on a priority basis;
- Achieving a mix of income bands and household sizes in and/or across projects; and
- Matching of supply to need.
- Applicants' connection to the local area.

Consideration should also be given to local conditions, such as labour supply, when making allocation decisions.

It is recognised that in order to ensure financial viability, revenue from operations must be sufficient to build a surplus – to offset contingent risks and to support investment in additional affordable housing supply. Risk management includes ensuring that any affordable housing properties developed are kept in acceptable condition for their use and that no liabilities occur that would detract from the provider's ability to deliver services on behalf of the Department.

This means that at least in the short term, allocations of affordable housing supply to higher income households may exceed those for lower income households. Over time, as resources permit the relative allocation of housing in a project or portfolio may need to be adjusted to achieve a balance across the three target income bands.

6.2 Applicant registration for affordable housing supply

Community housing providers will develop an application and allocations policy for prospective tenants. Community Housing providers should make this policy publicly available.

7.0 RENT SETTING

7.1 Affordability

Rent setting policy will ensure affordable outcomes for eligible households. Different approaches may be used to achieve this objective such as income based rents, relating rents to the average income level of a target group or rent levels which are a discount to the local market. Regardless of approach, the expected outcome for very low and low income households is that households would not pay more than 30% of their income in rent.

Greater flexibility in pricing may be applied to moderate income households but in all cases, the relevant circumstances of the applicant household³ and their capacity to pay will be guiding principles.

For purposes of assessing affordability, the rent to (household) income ratio will be defined as rent net of CRA over income net of CRA.

7.2 Commonwealth Rent Assistance and GST

Rent levels should be set to maximise CRA and take advantage of the Australian Taxation Office (ATO) rulings on GST supply. The ATO has ruled that the non commercial supply of accommodation by charities will not attract GST if the rent is less than 75% of the market rent. The ATO has set market rents for NSW as a whole (see Table 4, Appendix 2).

Financial analysis shows that:

- For NSW as a whole, the weekly rent at which CRA payments are maximised is lower than 75% of market rents; and
- For Sydney, market rents in some localities are higher than the ATO rulings – these are mainly in northern and eastern suburbs.

³ For example, relevant circumstances might include benefit to the client accessing housing closer to their work that reduces their outlays for travel.

This means that rent that is less than 74.9% of market rent will attract both maximum CRA and GST free tax status in most localities.

For some localities, a discount to market rent greater than 25% may be required to attract GST free status. Maximum CRA would continue to be available for these localities. Further information on these issues is contained in Appendix 3.

7.3 Pricing and financial viability

Overall rent policy will be informed by the need to ensure that revenue is sufficient to cover costs, inclusive of debt repayments, as no recurrent subsidy will be available for affordable housing supply.

Rent policy may also include varying prices for individual units of housing according to the amenity and location of the dwelling

Pricing may be adjusted in line with market trends subject to rent levels meeting affordability principles. The process for implementing rent increases shall be in accordance with the *Residential Tenancies Act 1987*. A minor amendment to Clause 26 of the *Residential Tenancies Act 1987* will be made to accommodate rent increases.

8.0 REVIEWS OF ELIGIBILITY FOR AFFORDABLE HOUSING

Eligibility reviews will generally take place six months prior to the expiration of a fixed term lease. In the case of long term leases, annual reviews of eligibility may be conducted.

9.0 TENURE

Leases for affordable housing will be for fixed terms determined by the provider relevant to tenant circumstance. A lease should be no longer than a period of ten years in keeping with the NSW Government's longest lease term under Reshaping Public Housing reforms.

Leases will be eligible for renewal for a further term on the condition that tenants continue to meet eligibility criteria (noting that some clients may have progressed into a higher income band). Ongoing eligibility will include a consideration of whether a tenant has acquired assets or property that could reasonably be expected to solve their housing situation whilst a tenant.

Where tenants' income is above the maximum income limit for moderate income earners, the ability of the household to move immediately to private rental or home ownership will be assessed in consultation with the tenant.

Assessment of the capacity to move immediately will be influenced by factors such as the:

- Cost of appropriate private rental housing;
- Probability of a household saving sufficient funds to enable a move to home ownership in the short term; and
- Need for a particular location for schooling, employment or necessary medical or family support.

In these circumstances, the tenant will generally have up to twelve months to move to alternative accommodation.

10.0 TRADING ASSETS

Community housing providers may dispose of their affordable housing stock to better meet demand, realise capital growth or redevelop to a higher density. The net proceeds of sales are to be re-invested in affordable housing supply and there is to be no net loss of housing units following reinvestment. The cost of re-housing tenants affected by the sale of affordable housing supply will be met by the community housing provider.

Where Housing NSW has a direct interest in the properties, community housing providers must adhere to the conditions of interest placed on such properties.

11.0 APPLICANT AND TENANT RIGHTS

Under these Guidelines providers must make available information to affordable housing tenants that specify the details and parameters of their tenancy, including information on rent setting and tenure.

Under these Guidelines providers must implement a two stage appeal policy. A first level appeal or review may be requested by the tenant or applicant to the housing provider, initiating an internal review of the issue. If the applicant or tenant is unsatisfied with the internal review decision, they may take their appeal to the Housing Appeals Committee for an independent review of the original decision.

12.0 REPORTING AND REGULATORY REQUIREMENTS

Reporting requirements will be set out in the community housing agreement between Housing NSW and the provider. Specific reporting requirements may be set out for particular affordable housing programs.

Under the *Housing Act 2001*, providers must comply with the Regulatory Code in order to maintain registration as a community housing provider. The Regulatory Code sets out requirements that must be met in relation to the provider's operations and the provision of community housing. These include fairness and resident satisfaction (Part 2); sustainable tenancies and communities (Part 3); protection of government investment (Part 7); and efficient and competitive delivery of community housing (Part 9). For each performance area there are requirements that a provider must meet. For example within the Regulatory Code, Performance Area 4: Asset Management, specifically deals with the participation of community housing providers in strategic asset management 'to ensure that community housing providers engage in strategic asset management to meet residents' housing needs and preferences at present and in the future.' Registered community housing providers must also ensure that their properties are well maintained and that residents are satisfied with their condition.

13.0 EVALUATION

Community housing providers will be expected to fully participate in independent evaluations of affordable housing programs initiated by the NSW government from time to time. Community housing providers are also encouraged to evaluate a selection of their own affordable housing projects.

APPENDIX 1 – POSSIBLE OBJECTIVES FOR AFFORDABLE HOUSING INITIATIVES

Primary objectives	
<i>Affordable Housing</i>	To improve access to existing housing that is affordable for both low and moderate income households and those with specific housing needs in housing affordability stress (the target groups); and To preserve and add to the supply of affordable housing where it is needed for the target groups.
Supporting objectives	
<i>Appropriate Housing</i>	To ensure that housing provided is appropriate to the needs – and changes in needs – of the target groups in response to: <ul style="list-style-type: none"> • Size and type of household; • Cultural needs of households; • Occupant circumstances (e.g. need for support services; need for stability); and • Locational needs of households. To provide well designed housing and neighbourhoods. To contribute to the environmental sustainability of dwellings provided to the target groups.
<i>Participation</i>	To enable the target groups to participate in decisions about affordable housing policies, products and projects.
<i>Positive non shelter outcomes</i>	To provide affordable housing in ways that can strengthen the economic and social position of the target groups. Specific consideration should be given as appropriate to contributions to: <ul style="list-style-type: none"> • Incentives for workforce participation; • Support for family life and work family balance; • Ways of supporting the health, well being and education needs of occupants; • Enabling ageing in place, and • The development of socially cohesive communities and community building processes.
<i>Choice</i>	To diversify the housing and tenure options available in local housing markets and to provide the target groups with adequate choice.
<i>Equity</i>	To target any subsidies that are provided to the target groups in proportion to need. To give priority of assistance to those most in need.
<i>Longer term benefits</i>	To retain and use any benefits gained from investing in housing for the target groups to meet the needs of future generations. To progressively improve the capacity of the private and not for profit sectors to provide affordable housing.
<i>Unintended impacts avoided</i>	To avoid as far as possible any unintended impacts of the way that initiatives intended to improve the affordability of housing are implemented. For example, to avoid measures that contribute to a sudden surge in demand and a consequential short term boom in house prices.
<i>Efficiency</i>	To use any subsidies that are provided to access, procure, manage and maintain housing in the most efficient way.

Source: Milligan, V. Phibbs, P. Gurran, N. and Fagan, K. 2007. *Approaches to Evaluation of Affordable Housing Initiatives* Research Paper 7, NRV3 'Housing Affordability for Lower Income Australians', AHURI: Melbourne, Table 1.1.

APPENDIX 2 – HOUSEHOLD MEDIAN INCOMES**TABLE 1: MEDIAN HOUSEHOLD INCOME LEVELS BY INCOME BAND**

INCOME BANDS	% OF MEDIAN INCOME	ANNUAL INCOME RANGE (Sydney) 2010-11	ANNUAL INCOME RANGE (NSW) 2010-11
Very low	< 50% median	< \$33,400	< \$30,000
Low	50% - 80% median	< \$53,5000	< \$48,000
Moderate	80% - 120% median	< \$80,300	< \$72,100

CALCULATING HOUSEHOLD INCOME BANDS BY HOUSEHOLD SIZE

To determine the Income Band by Household Size, take the following steps:

Step 1: Add up the number of adults (18 years old or over) in the household.

Step 2: Add up the number of children (under 18 years old) in the household.

Step 3: For each adult and child add up the income allowance using the figures in Table 2.

Examples of Income Bands by Household Size are provided below in Tables 3A and 3B.

TABLE 2: HOUSEHOLD INCOME BANDS BY HOUSEHOLD SIZE

Household members	Gross annual household income		
	Very low	Low	Moderate
Sydney			
Single adult	\$20,300	\$32,400	\$48,600
Each additional adult (18 years or over)	Add \$10,100 to the income limit	Add \$16,200 to the income limit	Add \$24,300 to the income limit
Each additional child (under 18 years)	Add \$6,100	Add \$9,700	Add \$14,600
New South Wales			
Single adult	\$17,600	\$28,100	\$42,600
Each additional adult (18 years or over)	Add \$8,800 to the income limit	Add \$14,100 to the income limit	Add \$21,100 to the income limit
Each additional child (under 18 years)	Add \$5,300	Add \$8,400	Add \$12,700

TABLE 3*: HOUSEHOLD INCOME BANDS BY HOUSEHOLD SIZE**A: SYDNEY REGION**

Household type	Very low	Low	Moderate
Single	< \$20,300	< \$32,400	< \$48,600
Single + 1	< \$26,400	< \$42,100	< \$63,200
Single + 2	< \$32,500	< \$51,800	< \$77,800
Single + 3	< \$38,600	< \$61,500	< \$92,400
Single + 4	< \$44,700	< \$71,200	< \$107,000
Couple	< \$30,400	< \$48,600	< \$72,900
Couple + 1	< \$36,500	< \$58,300	< \$87,500
Couple + 2	< \$44,600	< \$68,000	< \$102,100
Couple + 3	< \$48,700	< \$77,700	< \$116,700
Couple + 4	< \$54,800	< \$87,400	< \$131,300

B: REMAINDER OF NEW SOUTH WALES

Household type	Very low	Low	Moderate
Single	< \$17,600	< \$28,100	< \$42,200
Single + 1	< \$22,900	< \$36,500	< \$54,900
Single + 2	< \$28,200	< \$44,900	< \$67,600
Single + 3	< \$33,500	< \$53,300	< \$80,300
Single + 4	< \$38,800	< \$61,700	< \$93,000
Couple	< \$26,400	< \$42,200	< \$63,300
Couple + 1	< \$31,700	< \$50,600	< \$76,000
Couple + 2	< \$37,000	< \$59,000	< \$88,700
Couple + 3	< \$42,300	< \$67,400	< \$101,400
Couple + 4	< \$47,800	< \$75,800	< \$114,100

* These tables will be updated annually by the Centre for Affordable Housing and available on its website <http://www.housing.nsw.gov.au/Centre+for+Affordable+Housing/>

APPENDIX 3 – APPLICATION OF GST AND COMMONWEALTH RENT ASSISTANCE TO RENT SETTING

Rent setting by community housing providers should aim to maximise Commonwealth Rent Assistance (CRA) and take advantage of Goods and Services Tax (GST) exemptions.

The Australian Taxation Office rules state that the non-commercial supply of accommodation by charities will be GST-free if accommodation provided is supplied for consideration that is less than 75% of the GST inclusive market value.

The ATO has established benchmark maximum rents that community housing providers can use to determine the value of 74.9% of market rents. Table 4 sets out the current ATO weekly market maximum rents for New South Wales by number of bedrooms and the value of rent at 74.9% of the benchmark.

TABLE 4: ATO WEEKLY MARKET RENTS BY BEDROOM SIZE

House Size	ATO Set Market Rate	Maximum Rent (74.9%)
1 bedroom	\$418.75	\$313.64
2 bedrooms	\$581.25	\$388.17
3 bedrooms	\$743.75	\$557.07
4 or more bedrooms	\$965.25	\$722.97

Source: Table 5, Charities Consultative Committee Resolved Issues Document, Part 3 – Non-commercial activities of charities, cost of supply and market value tests, Section C – Benchmark market values for charities, ATO. January, 2010. This data is updated annually by the ATO <http://www.ato.gov.au/nonprofit/content.asp?doc=/content/16250.htm&page=14>

Current maximum CRA rates are set out in Table 5. As shown the weekly rent at which CRA payments are maximised (rents beyond this point do not attract additional CRA) is below 74.9% of market rents shown in Table 4.

This means that community housing providers can potentially set rents that maximise CRA but still fall below the 75% benchmark.

Determining the extent to which the GST rule will be of benefit to community housing providers would likely take account of:

- Whether a discount of 25% or more below market rents is financially sustainable; and
- The extent to which GST exempt status assists financial sustainability – in some cases, a smaller discount to market rent above ATO rulings may be more cost effective than savings on GST.

TABLE 5*: RENT ASSISTANCE RATES PAID FORTNIGHTLY UNDER *FAMILY ASSISTANCE ACT* 2010

Family Situation	Maximum rate of RA	Rent threshold	Fortnightly Rent at which max. rate of RA is payable	Weekly Equivalent
Single, no children	\$113.4	\$100.80	\$252.00	\$126.00
Single, no children, sharer	\$75.60	\$100.80	\$201.60	\$100.80
Couple, no children	\$107.00	\$164.40	\$307.07	\$153.85
Partnered, illness separated, no children	\$113.40	\$100.80	\$252.00	\$126.00
Partnered, temporarily separated, no children	\$107.00	\$100.80	\$243.47	\$121.74
Single, 1 or 2 children	\$133.28	\$132.86	\$310.57	\$155.29
Single, 3 or more children	\$150.64	\$132.86	\$333.71	\$166.86
Couple, 1 or 2 children	\$133.28	\$196.56	\$374.27	\$187.14
Couple, 3 or more children	\$150.64	\$196.56	\$397.41	\$198.71

Source: Centrelink, 2010.

*This table will be updated regularly and available from the Centrelink http://www.centrelink.gov.au/internet/internet.nsf/payments/rent_rates.htm

C11.4 SEPP (Exempt & Complying Development Codes) 2008 - Amendments and Expansion

Meeting: Planning an Integrated Built Environment Committee **Date:** 21 February 2011

STRATEGY: Land Use & Development

ACTION: Respond to Reforms in Planning Processes and Advocate on Behalf of Council
Monitor legislative and regulatory changes relating to land use planning

PURPOSE OF REPORT

This report is to inform Council of amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 that will commence from 25 February 2011 and of the local exclusion of coastal risk areas from the application of the SEPP which will also commence on 25 February 2011. This report provides a summary of the main changes that will take place.

1.0 BACKGROUND

- 1.1 Council will be aware that state wide provisions for exempt and complying development were introduced by way of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP'), which commenced on 27 February 2009.
- 1.2 Since the Codes SEPP was introduced it has been expanded to include internal alterations, commercial and industrial development and subdivisions. The Codes SEPP currently includes the following Codes:
 - General Exempt Development Code (49 types of development);
 - General Housing Code (sites greater than 450sqm & wider than 12m);
 - Housing Internal Alterations Code;
 - General Commercial and Industrial Code; and
 - Subdivisions Code.
- 1.3 During 2009 Council sought exclusion from the Codes SEPP for land identified as being subject to Coastline Risk and Geotechnical Risk and for front setback and landscaped area requirements. In February 2010 the Department of Planning advised that only Pittwater Council's Coastline Risk areas would be excluded from the application of the Codes SEPP. The proposed exclusion of Geotechnical Risk areas and variations to front setback and landscaped area were not accepted.
- 1.4 On 3 December 2010 State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010 (the Amendment) was released. The Amendment widens the area to which the Codes SEPP applies and introduces three new Codes for complying development and a number of other changes to the existing Codes. The Amendment is due to commence on 25 February 2011. The proposed changes and the manner in which they will impact on Pittwater are outlined below.

2.0 ISSUES

In relation to the local exclusion from the Codes SEPP for coastline risk areas in Pittwater, the enabling amendments were gazetted on 1 December 2010, and the amendments will commence on 25 February 2011. The other amendments to the Codes SEPP also commencing on 25 February 2011 and the implications of these for Pittwater are outlined below.

2.1 General Amendments (Part 1)

Part 1 of the Codes SEPP relates to the administrative and general requirements for exempt and complying development under the SEPP. Part 1 sets out important matters about how the Codes SEPP operates, including; where the Codes SEPP applies; how the Codes SEPP applies; definitions and land use zones; and the relationship of the Codes SEPP to other planning policies.

Previously under the Codes SEPP complying development could be undertaken on 8,024 properties in Pittwater. Following the amendments the number will increase by 10,581 properties to 18,597 properties. This is as a result of changes to the Codes SEPP that include allowing complying development to be carried out on low risk bush fire prone land, low hazard/low risk flood prone land, foreshore scenic protection areas and difficult sites.

2.1.1 Low Risk Bush Fire Prone Land

The changes to the Codes SEPP allow complying development to be carried out on low risk bush fire prone land (BAL (Bushfire Attack Level) - LOW through to BAL - 29). A suitably qualified professional is required to assess the level of risk to the lot, which will determine whether complying development is permissible. The Amendment to the Codes SEPP also specifies certain development standards specific to bushfire prone lots such as compliance with 'Planning for Bushfire Protection'.

2.1.2 Low Hazard/Low Risk Flood Prone Land

Changes to the Codes SEPP allow for complying development to be carried out on some low hazard and low risk flood prone land. The council or a professional engineer who specialises in hydraulic engineering must certify whether the flood control lot is located within a flood storage area, a floodway area, a flow path, a high risk or high hazard area, all of which are excluded from complying development. The Amendment to the Codes SEPP also specifies certain development standards specific to flood control lots, such as compliance with minimum floor levels set by the council and other specific flood construction standards.

2.1.3 Changes to the definition of 'excluded land identified by an environmental planning instrument'

'Excluded land identified by an environmental planning instrument' has been maintained as an exclusion to the General and Rural Housing Codes, but the definition of 'excluded land identified by an environmental planning instrument' has been changed to vary the locations where exempt and complying development can take place.

Previously, land identified as a difficult site, or within a foreshore scenic protection area fell within that definition, and was therefore excluded from the application of the General Housing Code. The amendments relax the definition of 'excluded land identified by an environmental planning instrument', which now only includes the following land:

- within a buffer area;
- within a river front area;

- within an ecologically sensitive area;
- environmentally sensitive land;
- within a protected area; and
- land identified by an environmental planning instrument, a development control plan or a policy adopted by council as being a coastal erosion hazard.

2.1.4 Minimum lot size requirements

The Codes SEPP previously restricted complying development from being carried out on land less than the minimum lot size for the erection of a dwelling house under an environmental planning instrument. The requirement for sites to meet the minimum lot size standards under an environmental planning instrument (EPI) has been removed for the purposes of the General Housing Code, but is retained for the Rural Housing Code.

2.1.5 Complying development being allowed on any part of a lot not affected by a land based exclusion (Rural Housing Code)

Currently, if a property is only partly affected by a land based exemption (e.g. environmentally sensitive land) the whole property is excluded from complying development under the Codes SEPP. For rural properties this restriction is impractical and unnecessary given the relatively large size of rural properties and the ability to avoid sensitive areas when locating development. The Codes SEPP has been amended so that for rural zoned properties, only the land within the property affected by the land sensitivity is excluded from complying development under the Codes SEPP and not the entire property.

For residential zoned properties, the entire lot will continue to be excluded.

2.1.6 Allowing limited complying development in heritage conservation areas (not heritage items)

The Codes SEPP has been amended to allow some limited complying development in draft and existing heritage conservation areas. Development in these areas includes detached outbuildings in accordance with the General and Rural Housing Codes, demolition of detached ancillary development under the Demolition Code, attic conversions with flush roof windows and ground floor opening to the rear of a dwelling house under the Housing Alterations Code. The types of development allowed are described in more detail in the sections of this report individually addressing the General Housing Code, Rural Housing Code, Housing Alterations Code and the Demolition Code.

2.1.7 Extension of the Transition Period

The transition period for local controls for exempt and complying development has been extended from 1 January 2011 to 1 September 2011.

This means that people will get to choose up until 1 September 2011, when undertaking development, whether or not they want to use the controls under the Pittwater DCP 22 - Exempt and Complying Development or the Codes SEPP. It is important to note the applicant will have to choose one or the other, not both.

2.1.8 Nominations for Local Exclusions

In light of these changes to the Codes SEPP there will be a second round of nominations for local exclusions relating to new areas where the Codes SEPP applies.

Councils will be invited to nominate areas they consider should be excluded from the application of the new areas of the Codes SEPP. Council has applied for previous exclusions from the Codes SEPP for coastline and landslip risk areas. Council was only granted exemption from the Codes SEPP for coastline risk areas.

It is expected that the Department will call for these nominations in February 2011. At that time, further detail on criteria, timing and the process will be provided to Council.

The Department will also request councils to nominate additional local development types for inclusion. For example the following councils allow the following as complying development:

- Orange LGA - rural and residential subdivision
- Sutherland LGA - seawalls (repair or replacement)
- Port Macquarie Hastings LGA - jetties and boating structures

2.2 Expanded General Exempt Development Code (Part 2)

2.2.1 New types of exempt development

Nine new exempt development types have been introduced. These are:

Development Type	Brief description
Emergency works and temporary repairs	Allows temporary repair of any damage to a building or structure in an area declared by an order under section 33 of the State Emergency and Rescue Management Act 1989 to be an area where a state emergency exists.
Filming	Outlines the circumstances where filming can be carried out without development consent.
Fuel tanks and gas storage	Allows construction or installation of an above ground fuel tank or gas storage facility for agricultural activity on a lot in a rural zone that is larger than 2ha when it is carried out in accordance with the relevant development standards.
Solar hot water systems	A note referring to users back to State Environmental Planning Policy (Infrastructure) 2007 has been introduced to reinforce that solar hot water systems can be undertaken as exempt development under this policy.
Solar (photovoltaic) electricity generating systems	A note referring to users back to State Environmental Planning Policy (Infrastructure) 2007 has been introduced to reinforce that Solar (photovoltaic) electricity generating systems can be undertaken as exempt development under this policy.
Minor subdivision works	<p>Allows minor subdivision works to be undertaken for:</p> <ul style="list-style-type: none"> • A minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings, or lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned. • Consolidation of lots that does not create additional lots or the opportunity for additional dwellings. • Rectifying an encroachment on a lot. <p>This is consistent with the mandatory provisions of the Standard Instrument LEP which allows minor subdivision works to be undertaken without any approval.</p>
Temporary structures and temporary alterations to buildings or works, solely for filming purposes.	Allows the installation of a temporary structure and temporary alterations and additions to a building or work solely for filming purposes for up to 30 days within a 12 month period.

Development Type	Brief description
Tennis courts	<p>Allows the construction or installation of a tennis court in rural zones or Zone R5 where the lot size is at least 1ha where the development is carried out in accordance with the relevant development standards.</p> <p>Tennis courts are not exempt development where the site is a heritage item, draft heritage item or within a heritage conservation area or draft heritage conservation area.</p>
Tents or marquees used solely for filming purposes.	Allows for construction or installation of tents or marquees solely for the use of filming purposes where the development is carried out in accordance with the relevant development standards.

These exempt development types have been included following community feedback and discussion with local government.

2.2.1 Revised standards for exempt development

Standards for 12 exempt development types have been amended. These changes aim to protect the amenity of adjoining properties, provide minor increases in the size and types of exempt development, and increase the standards for rural zoned properties. The 12 exempt development types include the following:

- Strengthening noise requirements for air conditioners, evaporative cooling units and heat exchange pumps
- Increasing the maximum floor area of an animal shelter for horses in rural zones
- Increasing the maximum floor area of aviaries in rural zones
- Awnings, blinds and canopies
- Clarification of maximum floor area of balconies
- Increasing the maximum size of car ports in rural properties and on lots larger than 300sqm
- Limiting the maximum number of shipping containers on rural zoned properties
- Restricting food preparation or skin preparation premises
- Allowing the replacement of balustrades and restumping of houses
- Broadening the range of properties where above ground rain water tanks can be built
- Not allowing below ground rain water tanks to be located on acid sulphate affected properties
- Increasing the maximum size of shade structures for both domestic and non domestic premises

2.2.2 Removed from exempt development

Bed and breakfast accommodation has been removed from the General Exempt Development Code. It is now a complying development type under the new Part 4A General Development Code.

2.3 **Expanded & amended General Housing Code (Part 3)**

2.3.1 Small Lots

The General Housing Code will now apply to sites with a minimum area of 200sqm. The provisions for these smaller sites will generally be an extension of the current development standards in the General Housing Code. (See **Attachment 1** for a summary of the proposed provisions)

It was previously proposed to create a new 'Small Lots Code' that would apply to sites with an area of 200 - 250sqm with a width of 6 -10m and to sites with an area of 250sqm plus with a width of 6 -10m. Instead the published Amendment extends the General Housing Code to sites with a minimum area of 200sqm and a width, measured at the building line fronting a primary road, of at least 6m. The General Housing Code includes a range of controls now applicable to smaller sites.

The provisions adopted in the amendment are similar in nature to those discussed in the Small Lots Discussion paper reported to Council on the 2nd of August 2010. (See below discussion of built form controls and Attachment 1 for a summary table of the built form controls that apply to different sized allotments).

Most residential areas in Pittwater consist of lots generally larger than 450 sqm and with primary frontages greater than 10m wide. The expansion to cover smaller lot sizes will have limited application in the Pittwater LGA.

2.3.2 Basements

Basements are currently not permitted under the General Housing Code, and excavation associated with the erection of a dwelling house or alterations and additions to a dwelling house or ancillary development is limited to a maximum of 1.0m. The Amendment maintains the 1.0m maximum for excavation under the General Housing Code, and adopts a 2.0m limit for excavation under the Rural Housing Code. The Amendment allows basements as complying development under the General Housing Code, in accordance with the following maximum floor areas:

Lot Width (at the building line)	Basement Floor Area
6-10m	25 sqm
10m+	45 sqm

Pittwater LGA contains extensive areas that are identified as being subject to landslip and as such serious concern has been raised in previous submissions to the Department of Planning regarding this amendment and the general application of the Codes SEPP on slip affected sites. Despite having raised concerns no provision has been made for determining geotechnical stability and potential landslip hazard for complying development.

2.3.3 Removal or Pruning of Trees

To qualify as complying development under the current SEPP (Section 1.18 (1)(e)) the development must not require the removal or pruning of any tree or vegetation that would otherwise require a permit or development consent for removal or pruning. The Amendment alters this provision, such that any tree within the subject lot, that is within 3m of a proposed complying development (under the General Housing Code) that is less than 6.0m high and not listed on a significant tree register kept by the Council, can be removed or pruned without requiring a separate permit or consent.

This amendment to the Codes SEPP is of particular concern as the ability for trees of up to 6.0m to be removed without the approval of Council is contrary to Council's Tree Preservation Order which generally protects trees greater than 3.0m in height. There is no requirement for the replacement of these trees, and no ability for Council to negotiate for the replanting of any new trees. Also of concern is the lack of any condition requiring an arborist to confirm that the height of trees being removed is less than 6.0m. This is a particular problem for anything of a height that is beyond human scale. While a 3.0m tree might easily be perceived as being double a human height, a tree around 6.0m in height is less easy to confirm.

This control has been adopted without any consultation or any opportunity for Council to comment on its potential impact.

2.3.4 Built Form Controls

Other than the minimum lot width of 6.0m, the parallel width requirements that previously corresponded to lots of certain area have been removed, such that most of the controls are now solely dependent on lot size, with the exception of side and rear setbacks, private open space & controls relating to outbuildings on rear lanes which are determined based on lot width and are no longer dependent on site area.

The majority of development standards in the amended Codes SEPP remain generally the same or similar to the current provisions, the main change being new development standards within the Codes SEPP applicable to smaller lots. As previously discussed there are limited locations in Pittwater with small lot sizes and it is not envisaged that there will be any major implications in the LGA from the minor changes which are being made to the development standards for larger lots.

2.3.5 Maximum site coverage

The maximum site coverage for sites already covered by the General Housing Code remains unchanged. Small lots not previously covered by the Code will have a maximum site coverage of 65% for lots of 200 - 250sqm, 60% for lots of 250 - 300sqm and 55% for lots of 300 - 450sqm. (See Attachment 1 for summary table of development standards under the amended General Housing Code)

2.3.6 Minimum landscaped area

The minimum landscaped area for lots between 600 - 900sqm and 900 - 1500sqm the minimum landscaped area required has been increased by 5% to 30% & 40% respectively. The minimum landscaped area for small lots not previously covered by the Code will be 10% for lots of 200 - 300sqm and 15% for lots of 300 - 450sqm. (See Attachment 1 for summary table of development standards under the amended General Housing Code)

Pittwater Council had previously applied for and been denied a local exemption to the landscaped area control, as the current General Housing Code development standards are well below those required under the Pittwater 21 DCP.

In most areas of the LGA the Pittwater 21 DCP requires a minimum landscaped area of 50-60%. Under the Amendment the standards within the General Housing Code will remain well below those of the Pittwater 21 DCP, however the increased requirement for landscaped open space for sites between 600 and 1500sqm is welcomed.

2.3.7 Maximum floor area

The maximum floor area for sites already covered by the General Housing Code remains unchanged. Small lots not previously covered by the Code will have a maximum floor area of 90% for lots of 200 - 250sqm, 85% for lots of 250-300sqm and 270sqm for lots of 300 - 450sqm. (See Attachment 1 for summary table of development standards under the amended General Housing Code)

2.3.8 Principal private open space

The minimum size of private open space for sites already covered by the General Housing Code remains unchanged. Small lots not previously covered by the Code will have a minimum private open space requirement of 16sqm for lots of 200 - 300sqm and 24sqm for lots of 300 - 450sqm. (See Attachment 1 for summary table of development standards under the amended General Housing Code)

2.3.9 Front setbacks

The minimum front setback for lots less than 300sqm will be 3.0m or the average of the adjoining properties. The minimum front setback requirement for lots of 300 - 450sqm will be 4.5m or the average of the adjoining properties. The current front setback standards for lots currently covered by the General Housing Code (lots greater than 450sqm) will remain unchanged (see Attachment 1 for a summary table of development standards under the amended General Housing Code).

2.3.10 Side setbacks

The current side setback controls under the General Housing Code require a minimum side setback of 0.9m for sites up to 900sqm, 1.5m, for sites 900 - 1500sqm and 2.5m for sites over 1500sqm in area. For sites up to 1500sqm, these side setback controls apply up to a height of 3.8m, after which the side setback must increase by a distance that is equal to one-quarter of the additional building height above 3.8m.

Side setbacks controls under the Amendment will apply based on the width of the site rather than the site area. The formula method for the calculation of side setback has been maintained under the Amendment, but the minimum side setback will now apply up to a height of 4.5m for sites with a width greater than 10m and up to a height of 5.5m for sites with a less than 10m but greater than 6m. (See Attachment 1 for summary table of development standards under the amended General Housing Code)

2.3.11 Built to boundary provisions

Built to boundary provisions will apply to lots with a width of 6 - 8m (both sides) and lots with a width of 8 - 10m (one side), except where the wall of an adjacent building is within 900mm of the boundary and is not of masonry construction, or where the wall of an adjacent building is within 900mm of the boundary and has a window facing the boundary.

The height of walls built to the boundary can be a maximum of 3.3m, except where the wall will adjoin a neighbouring boundary wall, in which case the wall must not exceed the height of that wall. The length of any boundary wall must not be greater than 20m or 50% of the depth of the site (whichever is the lesser), or must not be longer than the boundary wall on the adjoining lot.

It is envisaged that the new built to boundary provisions will have limited application within the existing residential areas of Pittwater as the majority of lots in the LGA have widths greater than 10.0m.

2.3.12 Rear setbacks

The current rear setback controls under the General Housing Code require a minimum rear setback of 3.0m for sites up to 900sqm, 5.0m, for sites 900 - 1500sqm and 10.0m for sites over 1500sqm in area. The rear setback controls apply up to a height of 3.8m, after which the rear setback must increase by an amount that is equal to three times the additional building height above 3.8m, up to a maximum of 8.0m (for sites up to 900sqm), 12.0m (for sites 900 - 1500sqm) and 15.0m (for sites greater than 1500sqm).

Rear setbacks controls under the Amendment will apply based on the width of the site rather than the site area. The formula method for the calculation of rear setback has been maintained under the Amendment, but the minimum rear setback will now apply up to a height of 4.5m. The minimum rear setback will be 3.0m for sites with a width of 6 - 15m, 5.0m for sites with a width of 15 - 18m and 10.0m for sites wider than 18.0m. (See Attachment 1 for summary table of development standards under the amended General Housing Code)

2.3.13 Car parking & garages

The expansion of the Codes SEPP to cover small lots includes a provision allowing there to be no car space provided for new dwellings on lots less than 8m wide and restricting the construction of a garage on these lots. It also sets a maximum width for any garage door openings to 3.2m for lots with a width of 8-12.0m and 6.0m for lots with a width greater than 12.0m. The Amendment simplifies the existing provisions while allowing for garage doors proportional and appropriate to the width of the site.

The front setback for garages, carports and car parking spaces remains unchanged, as does the required dimensions for open hard-stand car parking.

2.3.14 Outbuildings

The maximum height of 4.8m for outbuildings is maintained, as it is consistent with the existing standards in the General Housing Code. Additional provisions allow outbuildings to be built to the boundary in accordance with provisions previously discussed in this report.

2.3.15 Outbuildings in heritage conservation areas

Detached outbuildings in heritage conservation areas will be complying development under the General Housing Code. Outbuildings in heritage conservation areas must have a maximum area of 20sqm and be located behind the rear of the existing dwelling house and not within a side setback. Complying development will not apply in heritage conservation areas for outbuildings on lots adjoining rear laneways or secondary or parallel roads. For an outbuilding to be complying development in a heritage conservation area all other relevant development standards (such as landscaped area and site coverage) under the General Housing Code must be met.

As all outbuildings must be located behind the rear building line, the streetscape qualities of heritage conservation areas should be maintained. As such the commencing provisions relating to outbuildings should not be detrimental to Pittwater's heritage conservation areas. However, it is noted that the Amendment relating to the removal of trees up to 6.0m also applies to complying development of outbuildings in heritage conservation areas and concern is raised regarding the potential for trees to be removed in these areas without approval from Council.

It is considered that some of our heritage conservation areas such as Ruskin Rowe, are significant for their tree canopies. As such it is suggested that this amendment has the potential to impact the heritage values of these areas through loss of trees up to 6.0m in height.

2.3.16 Rear laneway studios

Detached studios adjoining rear laneways are a new addition to the General Housing Code. This type of development will encourage studios or ancillary living space above garages on rear lanes, potentially providing passive surveillance and increasing the safety and general amenity of a laneway. The Amendment will allow these outbuildings to be built to a height of 6.0m, a width of 9.0m and a depth of 7.0m, where the outbuilding is located a minimum distance away from the main dwelling.

The general requirements for maximum site coverage and landscaped area must be satisfied, and the provision of the Code includes controls for maximum floor area and minimum side setbacks as follows:

Lot Width	Maximum Floor Area	Side Setback
6m-12m	60m ²	0.9m for up to 4.5m in height
		1.2m above 4.5m in height
12m-15m	75m ²	0.9m for up to 4.5m in height
		1.2m above 4.5m in height
15m-18m	100m ²	0.9m for up to 4.5m in height
		1.5m above 4.5m in height
18m +	100m ²	1.5m for up to 4.5m in height
		2.5m above 4.5m in height

Rear laneways do not occur in the majority of residential areas in Pittwater and the provisions of the Codes SEPP will have limited application in the LGA.

2.4 **New Rural Housing Code (new Part 3A)**

The existing Codes SEPP allows alterations and additions to existing dwelling houses and ancillary development in rural zones to be undertaken as 'complying development'. The existing provisions are being transferred to the new Rural Housing Code.

The new Rural Housing Code will apply to rural zones RU1, RU2, RU3, RU4 and the large lot residential zone R5 (or equivalent zones), with the same land based exemptions as the General Housing Code. The equivalent zones under the Pittwater LEP would include 1(a) (Non-urban "A") as RU1, 1(a1) (Non-urban "A1") and 1(c) (Non-urban "C") as RU2 and 1(b) (Non-urban "B") as RU4.

The Rural Code will allow the development of new single and two storey dwelling houses, as well as alterations and additions to existing dwelling houses and ancillary development. The development standards that apply are based primarily on the area of the site. For new dwelling houses to be complying development, the property must meet any minimum lot size requirement in a LEP for a new dwelling house. In rural zones new dwelling houses will be able to be built as complying development in zone RU1, RU2 and RU4 where the site has an area of at least 4000sqm, and in zone R5 where the site has a minimum width of 18m.

A summary of the development standards under the Rural Housing Code is included below:

Lot zone & area	R5 <4000sqm	R5 & RU1, RU2, RU4 >4000sqm (1(a) (Non-urban "A") as RU1, 1(a1) (Non-urban "A1") and 1(c) (Non-urban "C") as RU2, and 1(b) (Non-urban "B") as RU4)	R5 & RU1, RU2, RU3, RU4 >4000sqm (1(a) (Non-urban "A") as RU1, 1(a1) (Non-urban "A1") and 1(c) (Non-urban "C") as RU2, and 1(b) (Non-urban "B") as RU4)
Development type	New dwelling house, alterations & additions & ancillary development	New dwelling house, alterations & additions & ancillary development	Alterations & additions or ancillary development
Maximum floor Area	430sqm	N/A	N/A
Landscape area	45%	N/A	N/A
Site coverage	30%	N/A	N/A
Front setback	Average of the nearest two dwelling houses within 40m of the lot or 10m	15m (R5) 30m (RU4) 50m (RU1-RU2)	15m (R5) 30m (RU4) 50m (RU1- RU3)
Side setback	2.5m	10m	10m
Rear setback	15m	15m	15m
Building height	8.5m	10m	10m
Maximum floor area outbuilding	500sqm – agricultural use otherwise 100sqm	500sqm – agricultural use otherwise 100sqm	500sqm – agricultural use otherwise 100sqm

It is noted that, consistent with the provisions of the General Housing Code, detached outbuildings in heritage conservation areas will also be complying development under the Rural Housing Code.

2.5 Expanded Housing Alterations Code (Part 4)

Currently named the Housing Internal Alterations Code, the Amendment renames this to the Housing Alterations Code. The Code applies in areas where the General Housing Code does not apply such as heritage conservation areas and land excluded by an environmental planning instrument.

The Code is expanded to allow minor external alterations, including alterations and enlargements to existing windows and external walls for dwelling houses and outbuildings. The Code will also allow a roof area within an existing dwelling house to be converted to an attic with dormer windows (or flush mounted roof windows in heritage conservation areas).

The alterations must not change the building classification under the BCA or change the floor area or footprint of the dwelling house. New windows in habitable rooms (other than bedrooms), more than 1m above ground level, closer than 3m to a side or rear boundary and with a sill height of less than 1.5m, must have a privacy screen. New openings on bushfire prone land must be adequately sealed or protected to prevent the entry of embers.

External alterations under the Code within heritage conservation areas are limited to a wall or wall opening behind the rear building line of the dwelling house at ground floor level.

Attic conversions are only permitted in dwelling houses that exist at the commencement of the clause (i.e: 25 February 2011). They must be contained entirely within the roof space of the existing dwelling, and cannot result in a change to the pitch of the roof. An attic conversion must have one dormer window if the building is less than 6m wide and two dormer windows if the building is 6m wide or more, except in heritage conservation areas where dormer windows are not permitted. Attic conversions in heritage conservation areas must only have windows flush with the existing roof plane, only on the rear facing roof slope and the windows must not exceed an areas of 1.5sqm in total.

2.6 New General Development Code (new Part 4A)

The General Development Code covers development types that are not easily categorised as either, commercial, industrial or residential. The Department of Planning indicates their intention to continue to expand this Code as other general development types are identified. The same land based exemptions that apply to the Housing Alterations Code will also apply to this Code.

Bed and breakfast accommodation will be the only development type in this Code when it commences on 25 February 2011. Bed and breakfast accommodation will be removed from the General Exempt Development Code and become complying development. The Department of Planning indicates that they believe this approach to be more consistent with the approach taken by the majority of local councils.

Bed and breakfast accommodation will only be complying development where it is permissible under the land use zone, is not located in a bush fire prone area, and where it complies with the following development standards:

- located within an existing dwelling house;
- consists of not more than four guest bedrooms;
- have at least one guest bathroom;
- have appropriate internal fire safety measures;
- have at least one off-road car parking space per guest room;
- have no advertising other than a single business identification sign; and
- comply with the requirements of the Building Code of Australia.

2.7 New Demolition Code (Part 7)

Currently demolition is permitted under the General Housing Code, the General Commercial and Industrial Code and the Housing Alterations Code. The new Demolition Code will replace the demolition provisions in all other Codes and contain all rules for demolition and removal.

Under the Demolition Code the following development types can be demolished or removed:

- a dwelling;
- ancillary development;
- an industrial building; or
- a commercial building that would be complying development under the General Commercial and Industrial Code.

Demolition cannot generally be undertaken on heritage items or draft heritage items, with the exception of demolition associated with new door or window openings if it is at the rear of the building and at the ground floor level (e.g. replacing a rear window with french doors), minor demolition works directly associated with new work allowed under the Housing Alterations Code including works that are associated with an attic conversion and a flush roof window to the rear roof plane.

In heritage conservation areas demolition of a detached outbuilding, consistent with those permissible under the General Housing Code, is complying development under the Demolition Code.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

3.1.1 The Amendment to the provisions for exempt and complying development is aimed at improving and expanding the controls to make the planning system quicker and simpler for the community to use and understand. The Department of Planning is hoping such amendments lead to increased take-up rates for exempt and complying development.

There is no public participation in the assessment process of complying development.

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 It is considered that the Amendment to the Codes SEPP in general, has given some consideration to environmental constraints. However, there remains a lack of recognition for Pittwater's landslip hazard areas. There is also concern regarding the increased ability for the public to remove trees up to 6m in height without permission from Council.

3.3 Enhancing our Working & Learning (Economic)

3.3.1 The Exempt and Complying Development Codes provide approval in the form of a complying development certificate, which can be issued in 10 days for a range of residential development types that would otherwise require a development application. The original implementation of the Codes and the current proposed expansion are both aimed at increasing the efficiency and capacity of the planning system and facilitating the building industry and local economies.

3.4 Leading an Effective & Collaborative Council (Governance)

3.4.1 The Exempt and Complying Development Codes provide approval in the form of a complying development certificate, which can be issued in 10 days, with the aim of increasing the efficiency and capacity of the planning system.

There is no public participation in the assessment process of complying development.

3.5 Integrating our Built Environment (Infrastructure)

3.5.1 The Exempt and Complying Development Codes have been developed to provide faster approvals for standard development types. Council has previously raised potential issues with the proposed expansion of the SEPP and has taken the opportunity to apply for local exemptions where possible.

Notwithstanding, there are still issues in relation to the application of complying development in landslip hazard areas, that have the potential to jeopardize acceptable planning outcomes for the built environment.

4.0 EXECUTIVE SUMMARY

4.1 On 3 December 2010 the State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010 was released.

4.2 The Amendment includes the following:

- New and revised definitions, amendments to the land based exclusions, changes to the approval required from other legislative bodies as well as other administrative amendments to the Codes SEPP.
- An expansion of the General Exempt Development Code.
- An extension of the General Housing Code to apply to lots with a minimum area of 200sqm and a minimum width of 6m. The Amendment also includes new types of development such as basements and excavation, outbuildings in heritage conservation areas, outbuildings on rear laneways, restrictions on demolition and the removal of some restrictions relating to minimum lot size.
- A new Rural Code to apply to sites in rural and large lot residential zones for new dwellings, alterations and additions to existing dwelling houses and ancillary development.
- Expanding the Housing Internal Alterations Code to allow minor external alterations such as windows and doors and roof extensions and dormer windows, to be known as the Housing Alterations Code.
- A new General Development Code (currently only applying to Bed & Breakfast accommodation).
- A new separate Demolition Code.

4.3 The Amendment is due to commence on 25 February 2011.

RECOMMENDATION

That Council note the contents of the above report in relation to the expansion of complying development.

Report prepared by
Karen Chapman & Monique Tite, Strategic Planners

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

General Housing Code							
Lot Size	200-250m ²	250-300m ²	300-450m ²	450-600m ²	600-900m ²	900-1500m ²	1500m ² +
Max Site Coverage of all development	65%	60%	55%	50%*	50%	40%	30%
Max Floor Area for dwelling houses	90% of area	85% of area	270m ²	330m ²	380m ²	430m ²	430m ²
Max Floor Area for outbuildings	36m ²	36m ²	45m ²	45m ²	60m ²	100m ²	100m ²
Max floor area balconies etc	12m ²	12m ²	12m ²	12m ²	12m ²	12m ²	12m ²
Max Height dwellings	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m
Max Height outbuildings	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m
Front Setbacks (primary street frontage)	3.0m or average	3.0m or average	4.5.0m or average	4.5m or average	4.5m or average	6.5m or average	10m or average
Min Landscaped Area	10%	10%	15%	20%	30%	40%	45%
Lot width (at building line)	6-10m		10-18m		18-24m	24m+	
Side Setbacks dwellings & outbuildings	0.9m for a height of up to 5.5m (or can be built to one or both boundaries in some circumstances)		0.9m for a height of up to 4.5m		1.5m for a height of up to 4.5m	2.5m	
	0.9m + one quarter of the height above 5.5m		0.9m + one quarter of the height above 4.5m		1.5m + one quarter of the height above 4.5m	2.5m	
Lot width (at building line)	6-8m	6-10m	10-15m	15-18m	18m+		
Rear Setbacks dwellings	3.0m for a height up to 4.5m	3.0m for a height up to 4.5m	3.0m for a height up to 4.5m	5.0m for a height up to 4.5m	10.0m for a height up to 4.5m		
	average or 6.0m for a height above 4.5m	6.0m for a height above 4.5m	8.0m for a height above 4.5m	12.0m for a height above 4.5m	15.0m for a height above 4.5m		

Lot width (at building line)	6-12m	12-18m	18-24m	24m+	
Rear Setbacks outbuildings	0m for a height up to 3.3m	0.9m for a height up to 3.8m	1.5m for height up to 3.8m	2.5m for height up to 3.8m	
	any part of building above 3.3m shall be setback one quarter of the height above 3.3m	any part of building above 3.8m shall be setback 0.9m + one quarter of the height above 3.8m	any part of building above 3.8m shall be setback 1.5m + one quarter of the height above 3.8m	any part of building above 3.8m shall be setback 2.5m + one quarter of the height above 3.8m	
Lot width (at building line)	6-10m	10m+			
Min Private Open Space	16m ²	24m ²			
Lot width (at building line)	6-12m	12-15m	15m+		
Floor area of detached studio on rear lane	60m ²	75m ²	100m ²		
Lot width (at building line)	6-15m	15-18m	18m+		
Side setback of detached studio on rear lane	0.9m up to a height of 4.5 (some built to boundary provisions for lots 6-10m wide)	0.9m up to a height of 4.5m	1.5m up to a height of 4.5m		
	1.2m above 4.5m	1.5m above 4.5m	2.5m above 4.5m		

* the site coverage of a single storey dwelling house and all ancillary development on a lot must not be more than 55 per cent of the area of the lot, if the lot has an area of at least 450sqm but less than 500sqm.

C11.5 Metropolitan Plan for Sydney 2036

Meeting: Planning an Integrated Built Environment Committee Date: 21 February 2011

STRATEGY: Land Use & Development

ACTION: Monitor legislation and regulatory changes relating to the land use planning strategy

PURPOSE OF REPORT

To introduce the NSW Government's *Metropolitan Plan for Sydney 2036* and discuss the likely implications for the Pittwater local government area.

1.0 BACKGROUND

In December 2010, the NSW Government released its *Metropolitan Plan for Sydney 2036* (the '2010 Metropolitan Plan'), which replaces the 2005 Metropolitan Strategy. According to the Department of Planning (DoP), the 2010 Metropolitan Plan is a more integrated, long-term planning framework that links land use, transport and other infrastructure to manage Sydney growth over the next 25 years. Guided by DoP's vision of a more sustainable, affordable, liveable, equitable and networked Sydney metropolitan region, the 2010 Metropolitan Plan sets boundaries for future urban development and identifies strategic transport corridors and major centres the DoP suggest are best placed to focus commercial and residential growth in the future.

The DoP is yet to release the updated North East Subregional Strategy which will translate the Strategic Directions of the 2010 Metropolitan Plan into a range of local actions and targets, including those for housing and employment. Council is expected to ultimately incorporate these actions and targets into the new standard instrument Local Environmental Plan (LEP) at the first opportunity.

Staff are currently preparing a 'planning strategy' which will guide future land use in Pittwater and provide the basis for the preparation of the new standard instrument LEP. Initially, the planning strategy will incorporate the existing housing and employment targets associated with the 2005 Metropolitan Strategy. The new targets will be incorporated into the 'planning strategy' when they become available, most likely towards the end of the year.

To access the full version of the 2010 Metropolitan Plan, please visit the NSW Government's website: <http://www.metroplansydney.nsw.gov.au/Home.aspx>

2.0 ISSUES

2.1 The 2010 Metropolitan Plan identifies the following key challenges facing Sydney.

- Population growth – Sydney's population is expected to grow by 1.7 million people between 2006 and 2036 to 6 million – an average annual rise of 56,650.

- Demographic change – By 2036, the number of people aged 65 and above will more than double to just over one million.
- Suitable and affordable housing – 770,000 additional homes are required by 2036 and the location, size and type of new housing must reflect the population's changing needs.
- More jobs, closer to home – 760,000 additional jobs will be required, half of which will be required in Western Sydney.
- More efficient transport – The location of new homes and jobs will need to match transport capacity.
- More efficient infrastructure delivery – Long-term land use and infrastructure planning and delivery must be better integrated to improve certainty, improve investment decision-making and ensure more efficient use of public and private resources.
- A more sustainable Sydney – Sydney's central challenge is to grow sustainably – to improve economic and social outcomes while protecting our natural environment.
- Climate change – Sydney's planning system and transport network must help address the long-term impacts of climate change by ensuring lower greenhouse gas emissions and adapting to more extreme weather patterns and effects.
- Maintaining our global competitiveness – Sydney must adapt to changing international circumstances while protecting and building on its own comparative advantages.

2.2 In response to these challenges, the 2010 Metropolitan Plan proposes nine strategic directions.

- **Strengthening the 'city of cities'** – The 2010 Metropolitan Plan aims to strengthen Sydney's spatial structure of a city of cities in order to improve Sydney's productivity and enable it to grow efficiently and sustainably. This means planning for a more compact, connected multi-centred and increasingly networked city structure, and planning and coordinating delivery of infrastructure to meet metropolitan housing and employment growth targets. While all of Sydney's centres, employment lands and resources make an important contribution in terms of building the productivity and status of the region, the 2010 Metropolitan Plan focuses primarily on strengthening the role of the five major centres, comprising Sydney and North Sydney CBDs, Parramatta, Liverpool and Penrith. For more information regarding the 'city of cities' concept, please refer **Attachment 1**. The only major centre in the North East is Brookvale - Dee Why.
- **Growing and renewing centres** – The Plan accepts that focusing housing in and around centres helps to make efficient use of existing infrastructure, increases the diversity of housing supply, allows more trips to be made by public transport and helps strengthen the customer base for local businesses. Locating a greater proportion of dwellings closer to employment and services can also help make the city more liveable and socially inclusive. Based on this premise, the 2010 Metropolitan Plan promotes the concentration of retail, commercial, civic, cultural and residential uses in accessible centres in close proximity to public transport facilities. The size and role of centres varies widely across the Sydney metropolitan area, with the key differences between centre types being the amount and type of employment and retail services. The centre types hierarchy (refer **Attachment 2**) provides a common language and understanding about centres and their roles. The highest order centre in Pittwater is Mona Vale which is recognised as a Town Centre, while Warriewood Square is considered a Stand-alone Shopping Centre and Avalon and Newport are considered Villages. There is also a number of smaller Neighbourhood Centres located around Pittwater. It is important to note that the hierarchy does not seek to restrict the growth of centres. The 2010 Metropolitan Plan recognises that centres will inevitably grow and change over time and they are encouraged to do so.
- **Transport for a connected city** – The 2010 Metropolitan Plan promotes higher residential densities; a greater mix of activities focused in centres; and well connected, walkable neighbourhoods. This kind of city structure is thought to contribute to increased public transport patronage and encourage more active modes such as walking and cycling, thereby reducing greenhouse gas emissions and improving the health and wellbeing of residents.

The 2010 Metropolitan Plan proposes a number of transport projects that aim to improve the connectedness of Sydney's centres particularly the five major centres. The Strategic Bus Corridor that runs from Sydney—Mona Vale—Macquarie Park was identified in 2005's Metropolitan Strategy and it remains the only transport strategy proposed for the Pittwater area. Therefore, road transport (private motor vehicles, buses and taxis) will continue to be the dominant form of transportation for Pittwater residents. Despite this, reducing kilometres travelled by private motor vehicles and encouraging public transport use are important sustainability objectives and it is important to consider ways to increase walking and cycling and the share of trips on public transport.

- **Housing Sydney's population** – The DoP estimates that an additional 770,000 dwellings will need to be constructed across Sydney to keep pace with expected population growth and to address the ongoing issue of housing affordability. Table 1 contains a break down of housing targets by subregion and compares housing targets under the 2005 Metropolitan Strategy and the 2010 Metropolitan Plan. Originally 17,300 dwellings were proposed for the north east under the 2005 Metropolitan Strategy, not including Ingleside. It was originally estimated that Ingleside could provide an additional 4,900 dwellings. Under the 2010 Metropolitan Plan, 29,000 dwellings are proposed for the north east (including Ingleside). This represents a pro rata increase of 6,800 dwellings. More specific targets for Pittwater will be available once the new North East Subregional Strategy is released later this year. It is not yet known how many dwellings will be allocated to Ingleside.

Table 1: Subregional dwelling targets

Subregion	2005 Metropolitan Strategy	2010 Metropolitan Plan	Increase
Sydney city	55,000	61,000	+6,000
East	20,000	23,000	+3,000
South	35,000	58,000	+23,000
Inner west	30,000	35,000	+5,000
Inner north	30,000	44,000	+14,000
North	21,000	29,000	+8,000
North east	17,300 (22,200 including Ingleside)	29,000 (including Ingleside)	+11,700 (+6,800 including Ingleside)
West central	95,500	96,000	+500
North west	140,000	169,000	+29,000
South west	155,000	155,000	n/a
Central coast	56,000	70,000	+14,000
Total	654,800	769,000	+114,200

The DoP promotes the construction of a mix of dwelling types, tenures, prices, sizes, room mix and shapes and, in particular, stresses the need for significantly more medium density, low-medium rise homes in appropriate locations. The 2010 Metropolitan Plan aims to locate at least 70 per cent of new housing within existing urban areas and up to 30 per cent of in new release areas. Overall, 80 per cent of all new housing is to be located within walking distance of centres of all sizes with good public transport.

- **Growing Sydney's economy** – The DoP suggests that Sydney will require an additional 760,000 jobs by 2036 to support expected population growth. The employment capacity targets for each subregion are contained in **Attachment 3**. The employment target for the North East subregion is 23,000 additional jobs, representing a rise from 89,000 jobs in 2006 to 112,000 in 2036. The 2010 Metropolitan Plan proposes 3,500 more jobs than the 2005 Metropolitan Strategy which set a target of 19,500. Specific targets for Pittwater will be available once the new North East Subregional Strategy is released later this year.

The DoP stresses the importance of creating jobs within Strategic Centres; however, it also suggests that new standard instrument LEPs provide for a broad range of local employment types, including home businesses, which have the potential to reduce pressure on transport infrastructure and improve liveability by reducing or removing the need to commute to and from work.

- **Balancing land uses on the city fringe** – The Metropolitan Plan aims to contain Sydney's urban footprint by focussing on urban renewal and concentrating new housing and employment growth in strategic and local centres. Land release will continue to focus predominantly on the North West and South West Growth Centres.
- **Tackling climate change and protecting the natural environment** – The DoP state that addressing climate change and protecting Sydney's natural environment is critical to maintaining Sydney's quality of life, its economic productivity and its competitive status as a global city. Encouraging a compact, multi-centred city and integrating land use with transport planning will help slow emissions growth in Sydney by encouraging smaller homes and promoting more walking, cycling and public transport use. This also improves health and local air quality.
- **Achieving equity, liveability and social inclusion** – Jobs, transport, affordable housing, and physical and social infrastructure are all essential to achieving equity, liveability and social inclusion and these are key themes throughout the 2010 Metropolitan Plan. The NESRS will translate the 2010 Metropolitan Plan's objectives into specific actions for the Pittwater local government area, which will then be incorporated into Council's new LEP. To assist in the creation of healthy, safe, accessible and inclusive places, the DoP will also prepare design guidelines for centres to reflect best practice design principles.
- **Delivering the plan** – The 2005 Metropolitan Strategy was criticised for a number of reasons, particularly for being poorly integrated with the State's other strategic documents, for lacking meaningful performance measures, and being incapable of bridging the gap between its many idealistic motherhood statements and the practical reality of their implementation.

The DoP now acknowledges the need for clear pathways for decision-making and practical means of implementation and the 2010 Metropolitan Plan aims to: integrate decision-making across government to achieve plan directions; develop strongly integrated land use and infrastructure planning processes; align subregional planning with the strategic directions of the 2010 Metropolitan Plan; ensure LEPs deliver the intent and yield anticipated under the 2010 Metropolitan Plan; establish the Sydney Metropolitan Development Authority to deliver urban renewal in priority locations; streamline the land release process; monitor and update the 2010 Metropolitan Plan; and facilitate public engagement in metropolitan and subregional planning.

3.0 SUSTAINABILITY ASSESSMENT

3.1 Supporting & Connecting our Community (Social)

- 3.1.1 The 2010 Metropolitan Plan aims to ensure that equity, liveability and social inclusion are integrated into planning and decision-making; that appropriate social infrastructure and services are located near transport, jobs and housing; that healthy, safe and inclusive places are provided, based on active transport; and that local communities continue to identify, enliven and protect places of special cultural, social and community value.

The 2010 Metropolitan Plan may therefore have a positive influence on the community's feeling of connectedness by increasing a sense of belonging in the area and promoting community activities. It may also have a positive impact on access to facilities and services by all residents, and improve the quality of cultural, community and recreational services available to the community, thereby contributing to the health and wellbeing of Pittwater residents.

3.2 Valuing & Caring for our Natural Environment (Environmental)

3.2.1 The 2010 Metropolitan Plan aims to curtail Sydney's urban footprint. The 2010 Metropolitan Plan also aims to: integrate environmental targets into land use planning; improving the health of waterways, coasts and estuaries; improving water sustainability; protect Sydney's unique diversity of plants and animals; improve Sydney's air quality; and limiting unacceptable noise levels and unnecessary waste.

3.3 Enhancing our Working & Learning (Economic)

3.3.1 One of the key Strategic Directions contained in the 2010 Metropolitan Plan is to increase the number and diversity jobs, closer to home. The 2010 Metropolitan Plan also promotes the provision of more affordable housing which could potentially encourage the supply of key workers for essential service provision.

3.4 Leading an effective & Collaborative Council (Governance)

3.4.1 Promised regular reviews of the 2010 Metropolitan Plan will introduce more transparency and accountability for the State Government.

3.5 Integrating our Built environment (Infrastructure)

3.5.1 The 2010 Metropolitan Plan is likely to have only a limited effect on the level of public transport in Pittwater; however, it does encourage the use of more sustainable transport options including walking and cycling.

4.0 EXECUTIVE SUMMARY

The *Metropolitan Plan for Sydney 2036* (the '2010 Metropolitan Plan'), replaces the 2005 Metropolitan Strategy, and represents an integrated, long-term planning framework that links land use, transport and other infrastructure to manage Sydney growth to 2036. A new North East Subregional Strategy will be released later this year which will translate the strategic directions of the 2010 Metropolitan Plan into a range of local actions and targets for the Pittwater area and these will be incorporated into Council's land use planning strategy and its new standard instrument LEP at the first opportunity.

The 2010 Metropolitan Plan for Sydney identifies the following key challenges facing Sydney:

- Population growth
- Demographic change
- Suitable and affordable housing
- More jobs, closer to home
- More efficient transport
- More efficient infrastructure delivery
- A more sustainable Sydney
- Climate change
- Maintaining our global competitiveness

In response to these challenges, the 2010 Metropolitan Plan proposes nine strategic directions:

- Strengthening the 'city of cities'
- Growing and renewing centres
- Transport for a connected city
- Housing Sydney's population
- Growing Sydney's economy
- Balancing land uses on the city fringe
- Tackling climate change and protecting the natural environment
- Achieving equity, liveability and social inclusion
- Delivering the plan

RECOMMENDATION

That the information provided in the report be noted.

Report prepared by
Sarah Sheehan - Assistant Strategic Planner

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

THE 'CITY OF CITIES' CONCEPT

The city of cities concept describes a compact, multi-centred and connected city structure enabling people and businesses to spend less time travelling to access work, services, markets or regional facilities. This promotes productivity and better infrastructure utilisation, reduces car use, energy use and emissions, and supports a more active lifestyle.

The five cities identified in the Metropolitan Plan for Sydney 2036 are the focal point of the broad regional catchments shown in **Figure 1**. They offer services, employment, retail, entertainment and cultural facilities at a regional scale, acting as 'capitals' for their region. Their role is critical for a fair and efficient city—one that offers jobs closer to home, less need to travel and less reliance on a single CBD for many aspects of Sydney life.

The cities are supported by Major and Specialised Centres (such as Hornsby, Brookvale, Dee Why and Chatswood) within a transport and economic network. Smaller local centres (such as Mona Vale, Newport and Avalon) are spread within this framework, offering a focus for concentrations of housing, commercial activity and local services at different scales.

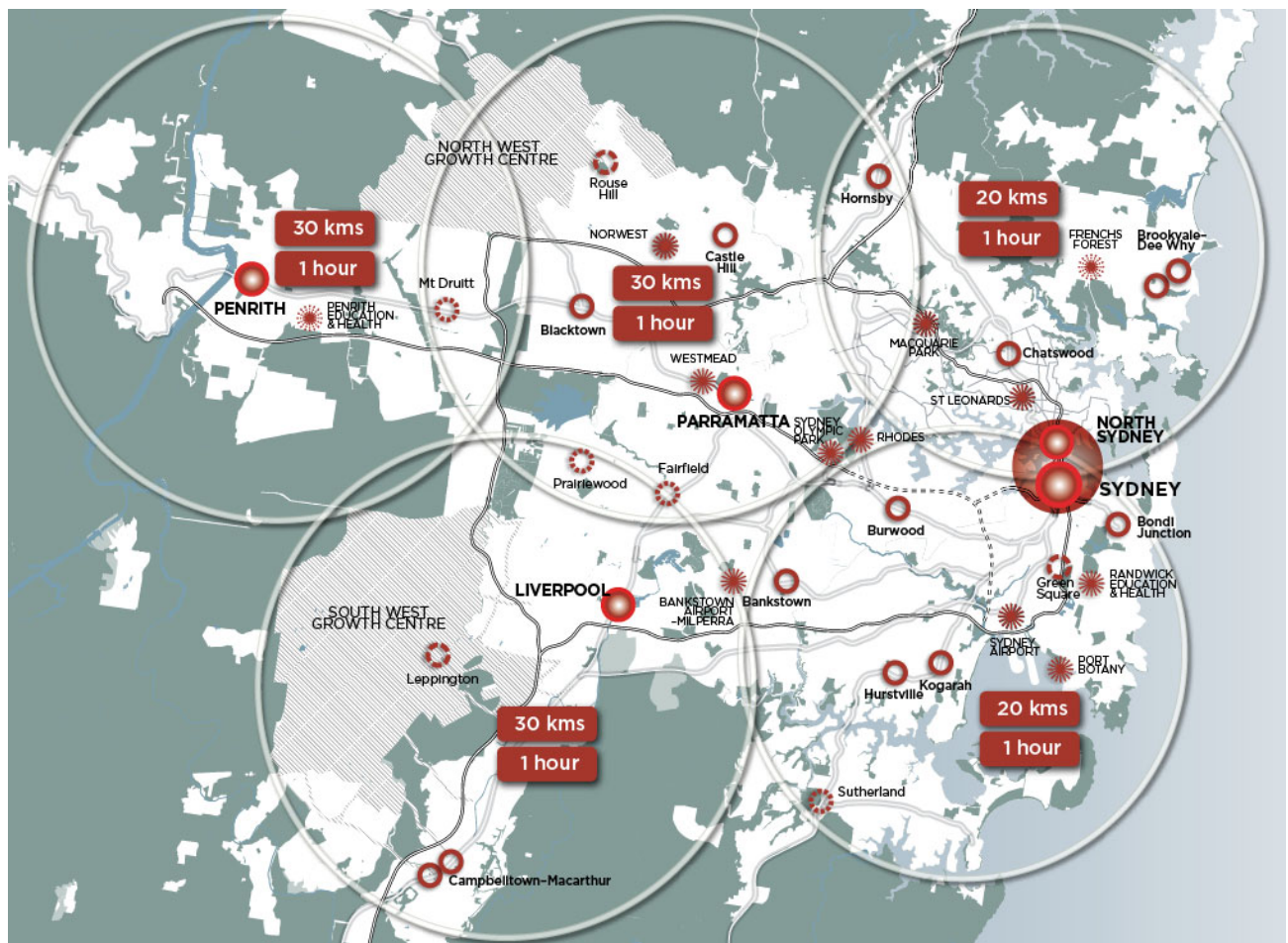


Figure 1: The 'city of cities' approach regards Sydney as comprising five cities: Sydney CBD and North Sydney (Global Sydney); Parramatta (Sydney's premier Regional City and second CBD); as well as Liverpool and Penrith (Regional Cities).

THE CENTRES HIERARCHY

This table identifies the different types of centres and their role.

CENTRE TYPES	
Strategic Centres	<p>Global Sydney Global Sydney is divided into two important Centres, Central Sydney and North Sydney. Central Sydney consists of five precincts: Sydney CBD; Pyrmont-Ultimo; Sydney Education & Health; City East; and Redfern-Waterloo. These precincts have distinct roles and identities - as detailed in <i>Strengthening a City of Cities</i>.</p> <p>Global Sydney is the focal point of the Sydney wide public transport system. This system will become increasingly networked, better connecting Global Sydney with the Regional Cities and Major Centres.</p> <p>The governing bodies are the State Government, City of Sydney Council and North Sydney Council. The State Government has an ongoing commitment to the success of Global Sydney as the primary focus for business and linkages to the global economy.</p> <p>Global Sydney Criteria</p> <ul style="list-style-type: none"> • Global Sydney is the primary focus for national and international business, professional services, specialised health and education precincts, shopping and tourism. It is also a cultural, recreation and entertainment destination of national and international significance. It has iconic public spaces and is a focus for arts and cultural organisations and venues. • Global Sydney has a dominant role in terms of employment, economic and social activity. It has a metropolitan, State, national and international catchment for its activity. It is the global hub of the Australian economy. • Global Sydney has a high concentration of knowledge-based jobs with high skill levels, higher-education requirements, high levels of management responsibility and attractive salaries. • Global Sydney has strong linkages with the international gateways of Sydney Airport and Port Botany. • Global Sydney employs around 400,000 people (2006), and has capacity for more than 50,000 high or medium density homes. • Transport criteria: <ul style="list-style-type: none"> —Transport catchment: metropolitan, Statewide, national, international. —Focal point and primary destination (for commuters and multiple other trip types) for high volume, high frequency public transport feeders (rail and bus) linked with the entire metropolitan catchment. —Express rail links with Regional Cities and Global Economic Corridor. —Focal point in the motorway network with links to key gateways, Global Economic Corridor and Regional Cities. —Highest standard of freight access as a focal point in the Sydney freight network. • Demonstrated capacity within the commercial core to ensure adequate capacity for the expansion of office and retail space. Demonstrated capacity within mixed use zoning around the commercial core to support core economic functions and provide for higher density residential uses. • Good quality streetscape and a range of activities at street level to service the needs of office workers and visitors, as well as the specialised retail needs of Sydneysiders from across the city. • Walking catchment radius of approximately 2km. <p>Regional Cities The important role of Regional Cities is a core consideration of the Metropolitan Plan in creating a series of connected cities, whereby everyone in the Sydney Metropolitan Area will be within 30 minutes travel by public transport to a Regional City (or Global Sydney) in the long term. Three Regional Cities are identified in the Metropolitan Plan:</p> <ul style="list-style-type: none"> —Parramatta, Sydney's second CBD, which serves Western Sydney; —Liverpool, which serves South Western Sydney; and —Penrith, which serves outer Western Sydney and the Blue Mountains. <p>Wollongong and Newcastle are the Regional Cities for the Illawarra and Lower Hunter regions respectively, and Gosford is developing as a Regional City for the Central Coast.</p> <p>The State Government has a strong strategic interest in the success of Regional Cities as key structuring elements for Sydney and as the capitals of their regions.</p>

CENTRE TYPES

Regional City Criteria

- The centres which constitute Regional Cities contain a full range of business, government, health, retail, cultural, entertainment and recreational activities with good access to parklands.
- Their city planning reflects their significance as employment destinations with core commercial areas to support employment growth.
- Regional Cities operate as 'capitals' of their regions.
- Regional Cities have extended development areas beyond their city centres, which provide • employment, services and residential opportunities that create stimulus for future development (such as Westmead in the case of Parramatta, and the Potential Specialised Centre of Penrith Education & Health in the case of Penrith).
- Regional Cities are located in large and rapidly growing catchment areas and are not close to each other.
- Each Regional City has a suitably sized catchment area to sustain services and employment-generating landuses within that City.
- Regional cities typically employ at least 15,000 people, with the potential for growth to 30,000 jobs by 2036. Regional Cities typically have capacity for 35,000-50,000 dwellings.
- Regional Cities have a natural setting (such as a river) which provides a critical advantage in enhancing the city's amenity.
- Transport criteria:
 - Transport catchment: regional.
 - Focal point for regional public transport services (rail and bus) for commuters and multiple other trip types.
 - Express rail links with Global Sydney.
 - Linked with the motorway network to Global Sydney—with links with key gateways, Global Economic Corridor and other Regional Cities.
 - Focal point of regional arterial road network.
 - High standard of freight access as a key node in the Sydney freight network.
- Demonstrated capacity within the commercial core to ensure adequate capacity for growth and change in office and retail space. Demonstrated capacity within a mixed use zoning around the commercial core to accommodate a range of support services and activities, and residential development.
- Walking catchment radius of approximately 2km.

Major Centres

Major Centres are the main shopping and business centre for their subregions. They also include residential development and other land uses within approximately a 1km radius of the centre.

Most Major Centres in Sydney contain large retail centres which from time to time will require upgrading. This cycle of ongoing improvement and growth needs to be understood, and seen as an opportunity to achieve better design outcomes for the retail centre, and for the surrounding area and its streets.

The State Government has a strategic interest in the success of Major Centres as key structuring elements for Sydney and as focal points for subregional services.

Major Centre Criteria

- Major Centres are key structuring elements for growth in subregions. They represent significant employment destinations as well as being active centres with higher density residential development.
 - Major Centres are the major shopping, business and service centre for the surrounding area, usually with a full scale shopping mall, council offices, taller office and residential buildings, central community facilities, a civic square, cinemas, sporting facilities and significant parklands.
 - In many cases, Major Centres are the focus for major institutions, principally serving immediate subregional residential populations on the fixed rail network.
 - Major Centres have a minimum of 8,000 jobs, with the potential for 12,000 jobs by 2036. Major Centres typically have capacity for 9,000 - 28,000 dwellings.
- Major Centres can be divided into established, planned and potential centres.
- Transport criteria:
 - Transport catchment: subregional.
 - Linked to the metropolitan rail network directly - or very high volume trunk busways.
 - Focal point as a destination and origin for subregional public transport services (typically bus).
 - Focal point of subregional arterial and collector road network.
 - Freight access links with Sydney freight network.
 - Major Centres should retain a commercial core in cases where targeted growth for commercial development is at risk of not being accommodated in the centre. Mixed uses should be located around the commercial core, and in some centres this may be a significant proportion of the centre. Residential development in the mixed use area can form an important element in revitalising the centre and provide for more housing choice.
 - Walking catchment radius of approximately 1km.

CENTRE TYPES

Specialised Centres

Specialised Centres are differentiated from other strategic centres in that they perform vital economic and employment roles across the whole metropolitan area. Specialised Centres are critical in sustaining Sydney's competitiveness, and the State Government has a strategic interest in their success.

Specialised Centre criteria

- Specialised Centres are areas containing major airports, ports, hospitals, universities, and clusters of research and business activities that perform vital economic and employment roles across the metropolitan area.
- Specialised Centres are recognised for the agglomeration economies that they offer as clusters of specialised industry.
- The primary significance of Specialised Centres is as employment destinations.
- Over time, particular Specialised Centres such as Sydney Olympic Park may assume a greater mix of residential, retail and service uses, and assume the role of a Major Centre. The emergence of these other uses in Specialised Centres needs to be balanced with their employment role.
- The way Specialised Centres interact with the rest of the city is complex, and growth and change in and around them must be carefully planned to ensure they continue to serve their primary employment and economic development functions.
- Potential Specialised Centres are areas which have the potential to become significant locations for concentrated employment growth. Potential Specialised Centres would need to be located near existing public transport, and/or be supported by public transport improvements. They would complement existing Strategic Centres.
- Transport criteria:
 - Transport catchment: may be irregular and relate to employment specialties of the centre.
 - Key destination for workforce—access by workforce available by high volume public transport (rail or high volume bus services).
 - Linked with motorway, arterial roads and relevant freight network to their specialty.
- Specialised functions must be protected for the long term, and residential and other non-specialised but competing uses must not override the core activities in these centres. Some however will plan for ancillary uses which are suitable, such as student or staff accommodation near universities and hospitals.
- Need high quality public places and parks for workers and nearby residents.
- Walking catchment radius of approximately 1km.

CENTRE TYPES

Local Centres

Town Centres

A Town Centre is large group of shops and services, with a mix of uses and good links with the surrounding neighbourhood. It provides the focus for a large residential population.

Town Centre criteria

- Comprise more than 50 retail premises and services, generally with supermarkets, sometimes a shopping mall, a variety of specialist shops, restaurants, schools, community facilities such as a local library, and a medical centre.
- Tend to be a residential origin location, rather than an employment destination. Contain medium and high density housing, typically containing around 4,500-9,500 dwellings within the walking catchment of the centre.
- Are serviced by heavy rail and/or strategic bus and local bus networks, and some have ferry services.
- Ideal elements are a town square, a main street, sports facilities and reasonable access to parkland.
- Have a walking catchment radius of approximately 800 metres.

Stand-alone Shopping Centres

The Metropolitan Plan does not provide for the establishment of new stand-alone shopping centres. Existing stand-alone shopping centres are typically internalised, privately owned centres away from other commercial areas, containing many of the attributes of a Town Centre without housing or open space. Through a process of good local planning, existing stand-alone shopping centres may have potential to be converted into more traditional Town Centres over time.

Villages

A Village is a group of shops and services for daily shopping, with a mix of uses and good links with the surrounding neighbourhood.

Village criteria

- Comprise retail premises and services for daily shopping, such as supermarkets, butchers, banks, hairdressers, cafes, restaurants, and take away food shops, as well as child care centres, schools and other compatible activities in the immediate vicinity.
- Typically contain up to 5,500 dwellings within the walking catchment of the centre and contain medium density housing.
- Are serviced by strategic bus and local bus networks as a minimum.
- Have a walking catchment radius of approximately 400-600 metres












Neighbourhood Centres

A Neighbourhood Centre is the smallest recognised centre type in this hierarchy. It is a small group of shops, typically focussed on a bus stop.

Neighbourhood Centre criteria

- Comprise a few shops and services, such as a corner shop, petrol station/convenience store, café and newsagent.
- Typically contain up to 1,000 dwellings within the walking catchment of the centre, including some medium density housing such as townhouses and villas.
- May have childcare centres, schools and other compatible activities located close together.
- Are serviced by local and/or strategic bus networks.
- Have a walking catchment radius of approximately 150-200 metres.

EMPLOYMENT CAPACITY TARGETS BY SUBREGION

SUBREGION	BASE EMPLOYMENT 2006	LONG TERM EMPLOYMENT CAPACITY TARGET 2036	EMPLOYMENT GROWTH 2006-2036	EMPLOYMENT GROWTH 2006-2036
 SYDNEY CITY	429,000	543,000	+114,000	27%
 EAST	136,000	167,000	+31,000	23%
 SOUTH	193,000	245,000	+52,000	27%
 INNER WEST	99,000	124,000	+25,000	25%
 INNER NORTH	238,000	300,000	+62,000	26%
 NORTH	83,000	98,000	+15,000	18%
 NORTH EAST	89,000	112,000	+23,000	26%
 WEST CENTRAL	322,000	420,000	+98,000	30%
 NORTH WEST	266,000	411,000	+145,000	55%
 SOUTH WEST	133,000	274,000	+141,000	106%
 CENTRAL COAST	104,000	158,000	+54,000	52%
TOTAL	2,092,000	2,852,000	+760,000	36%
Share in Western Sydney	34%	39%	50%	

Note: all employment targets are rounded to the nearest 1,000. Source: Department of Planning 2010

C11.6 Suburb Name Proposal - BILGOLA to be renamed BILGOLA BEACH

Meeting: Planning and Integrated Built Environment Committee **Date:** 21 February 2010

STRATEGY: Information Management

ACTION: To report on the re-exhibition of the proposal for “Bilgola” to be renamed “Bilgola Beach”, in accordance with Council’s resolution on the 5 October 2010.

PURPOSE OF REPORT

To inform Council on the results of the re-exhibition of the proposal for “Bilgola” to be renamed “Bilgola Beach” as part of the Suburb Names and Boundaries Review within Pittwater Local Government Area (**see Attachment 1**), and to seek Council’s endorsement to make a recommendation to the Geographical Names Board (GNB) to forward to the Minister for Lands for official gazettal.

1.0 BACKGROUND**1.1 The Geographical Names Board**

The Geographical Names Board is the official body for naming and recording details of places and geographical names in NSW. As part of their process they investigate the names in question and seek the concurrence of the local council to proceed with a formal community consultation process. Following a decision of the Board to proceed, the naming proposal is advertised in local newspapers calling for community submissions.

1.2 Suburb Names in Pittwater LGA

Council resolved on 15 June 2009:

That the exhibition of suburb names by the GNB be reported to Council to allow a formal submission to the GNB by Council.

Council resolved on 5 October 2010:

- 1 *That given Council’s support to the change of name of “Avalon” to “Avalon Beach” at its meeting of 21 June 2010 and the supporting submissions in the exhibition period the suburb name “Avalon Beach” be supported in Council’s recommendation to the Geographical Names Board of Pittwater’s Suburb Names and Boundaries.*
- 2 *That the proposal to rename the suburb “Bilgola” to “Bilgola Beach” be placed on public exhibition and the results be reported back to Council, prior to Council forming a recommendation to the Geographical Names Board of Pittwater’s Suburb Names and Boundaries.*

The proposal for “Bilgola” to be renamed “Bilgola Beach” was placed on exhibition from 18 October 2010 to 22 November 2010:

- The proposal details were placed on Council’s webpage throughout the period of exhibition.

- The proposal details were made available for viewing at Council's Customer Service Centres at Bilgola and Mona Vale throughout the period of exhibition.
- Advertisements were placed in Council's fortnightly Community Noticeboard page in the Manly Daily newspaper on Saturday 23 October and Saturday 20 November 2010.

2.0 ISSUES

2.1 Results of re-exhibition of the proposal for "*Bilgola*" to be renamed "*Bilgola Beach*"

A total of 3 submissions were received:

In Favour of Bilgola Beach – All three submissions received supported the proposal to rename "*Bilgola*" to "*Bilgola Beach*".

Additionally, twenty-six submissions were received previously (during the exhibition of "Avalon Beach" suburb name) in support of changing the suburb name from "*Bilgola*" to "*Bilgola Beach*".

No submissions were received objecting to the proposal.

Therefore it is recommended that the suburb name "*Bilgola Beach*" be supported and the Geographical Names Board be advised .

Other Issues– During the re-exhibition period of the proposal for "*Bilgola*" to be renamed "*Bilgola Beach*", Council staff received enquiries regarding the possibility of also renaming "*Newport*" to "*Newport Beach*". In particular, a representative of the Newport Residents Association informed that the matter was raised as a motion during its meeting on 19 October 2010 as an action to pursue with Council. However, no submissions were received by Council.

3.0 SUSTAINABILITY ASSESSMENT

This report does not require a sustainability assessment.

4.0 EXECUTIVE SUMMARY

That the current suburb name "*Bilgola Beach*" be supported in Council's recommendation to the Geographical Names Board of Pittwater's Suburb Names & Boundaries.

That Council proceed with a final recommendation to the Geographical Names Board of Pittwater's Suburb Names & Boundaries.

RECOMMENDATION

That Council support the suburb name "*Bilgola Beach*" and that the Geographical Names Board be advised.

Report prepared by
Mark Turnbull, Land Information Officer

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

Summary of submissions received

In favour of renaming “ <i>Bilgola</i> ” to “ <i>Bilgola Beach</i> ”	
Respondant :	Comments:
resident	As a resident of The Serpentine for many years, I request that the name Bilgola Beach be officially adopted for the currently zoned area.
resident	We wish to support the proposal to change the name from Bilgola to Bilgola Beach as the Council has on exhibition and complying with the existing Geographical Names Board boundary for Bilgola (Map GNB4094-A), NOT that as proposed in the map attached to the exhibition. We see no reason to move properties in boundaries from one named location. Our family have been long time residents (since 1955) at Bilgola Beach.
resident	Following the proposal, we totally support the submission to rename bilgola to bilgola beach. Traditionally all the post that has been sent to our house has been addressed as Bilgola beach as we are in a distinctly different geographical area to bilgola plateau. Also at our address on the serpentine we are not in the school catchment area for the local bilgola plateau school.
Submissions received prior to the re-exhibition period of the proposal to rename “ <i>Bilgola</i> ” to “ <i>Bilgola Beach</i> ”	
	Summary of covering letter received with form letters:
	<p>The name “<i>Bilgola Beach</i>” has been used historically & extensively for the area in a similar manner to “<i>Bilgola Beach</i>”</p> <p>In keeping with the Pittwater theme of Palm Beach, Whale Beach, and now possibly Bilgola Beach.</p> <p>The current area of Bilgola is defined by a natural amphitheatre that has the beach as its centre-piece.</p> <p>“Bilgola Plateau” suburb is named for its geographical characteristics & so too should “Bilgola Beach”, as the two areas are marked by a natural geographical division.</p> <p>Residents often report confusion between the similar sounding words Balgowlah & Bilgola when voicing their address.</p> <p>The only current signage in the area states “Bilgola Beach”, not just “Bilgola”.</p>
26 Residents	

Council Meeting

12.0 Adoption of Governance Committee Recommendations

**13.0 Adoption of Planning an Integrated Built Environment
Committee Recommendations**

14.0 Councillor Questions

16.0 Confidential Items

Confidential Legal Advice

**Confidential Legal Advice - N0594/10 - 9-11 BEACONSFIELD STREET,
NEWPORT - Demolition of the existing structures, construction of an
Infill Affordable Housing development comprising of 25 apartments,
two levels of basement carparking and strata subdivision**

CONFIDENTIAL LEGAL ADVICE

Item No: C11.1

Matter: N0594/10 - 9-11 BEACONSFIELD STREET, NEWPORT - Demolition of the existing structures, construction of an Infill Affordable Housing development comprising of 25 apartments, two levels of basement carparking and strata subdivision

From: Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

Meeting: Council

Date: 21 February 2011

The abovementioned matter is listed as Item No. C11.1 in Open Session in the Agenda.

Please find attached Legal Prospects Advice received from Mallesons Stephen Jaques in relation to the above matter.

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

MALLESONS STEPHEN JAQUES

Confidential communication

Attention: Ms Amy Allen

14 February 2011

The General Manager
Pittwater Council
DX 9018
MONA VALE
Email amy_allen@pittwater.nsw.gov.au

Dear Sirs

**Pittwater Council ats Peninsula Developments Australia Pty Ltd
Land and Environment Court Proceedings No. 10985 of 2010
Property: 9-11 Beaconsfield Street, Newport
Solicitor's Appeal Summary**

Attached is our advice to Council which is the subject of Legal Professional Privilege unless disclosed to third parties. Please ensure that this remains a **confidential** item

Following consideration of this advice, we would be grateful for your further instructions.

Yours sincerely



Debra Townsend
Partner
Direct Line +61 2 9296 2341
Email debra.townsend@malleasons.com

Enc

MALLESON'S STEPHEN JAQUES

Attention Ms Amy Allen

14 February 2011

The General Manager
Pittwater Council
DX 9018 MONA VALE
By email

Dear Sir

**Pittwater Council ats Peninsula Developments Australia Pty Ltd
Land and Environment Court Proceedings No. 10985 of 2010
Solicitor's Appeal Summary**

Property Address:

9-11 Beaconsfield Street, Newport ("Property")

Proposed Development:

The Development Application No N0594/10 ("DA") the subject of these proceedings proposes the demolition of the existing structures at the Property, excavation and the construction of infill affordable housing development for 25 apartments together with two levels of basement car parking, associated landscaping as well as site consolidation and strata subdivision of the final development

Date of Lodgement of Application:

12 October 2010 Additional information and amended plans provided 25 November 2010.

Council Decision:

Council has not yet determined the DA The DU at the meeting on 3 February 2011 resolved to adopt the Council Officer's recommendation for refusal outlined in the DU Report dated 3 February 2011

Date of Lodgement of the Appeal:

The Applicant commenced Class 1 Proceedings on 8 December 2010 against Council's deemed refusal of the DA.

Hearing:

This matter is listed for hearing on 18 and 19 April 2011 We have been instructed to brief Mr Patrick Larkin of Counsel to appear on Council's behalf in the hearing

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Issues:

The Council's Statement of Facts and Contentions dated 25 January 2011 is attached at Annexure "A" ("Council's Statement"). The Council's Statement was finalised prior to determination by the Council in order to comply with the Court's Directions.

Should we be instructed that amendments are required to the Council's Statement so that it is consistent with the Council's resolution, there is an opportunity in the Court's Directions to do so prior to 11 March 2011. After this time, leave of the Court will be required to file and serve an amended statement and, if sought, may necessitate a vacation of the current hearing dates and payment of the applicant's costs thrown away.

We sought and received instructions to engage an external expert, Ms Gabrielle Morrish, to provide us with urban design advice on the DA and, if she is able to support refusal, to provide expert evidence on behalf of the Council at the hearing. We are arranging for Ms Morrish to inspect the site with the assessing officer today.

Opinion on Prospects:

In our opinion having reviewed the DA documents, the DU Report and having attended the site, the Council has **good prospects** of successfully defending the appeal.

In our opinion, the Court is likely to find that

- 1 The proposed development will result in a single unbroken building form on the Property the length and width of which is excessive, out of character and results in unacceptable impacts upon the neighbouring properties and the Newport Locality
- 2 The proposed development will result in unacceptable visual privacy and amenity impacts on neighbouring properties in terms of overlooking and visual bulk

Residential flat buildings are prohibited on the Property. The DA relies upon State Environmental Planning Policy (Affordable Rental Housing) 2009 ("Affordable Housing SEPP") which commenced on 31 July 2009. To the best of our knowledge the provisions of the Affordable Housing SEPP have not as yet been examined by the Court. Accordingly, we do not have the benefit of previous case law to inform our prospects advice. We are aware, however, that there is a hearing set down later this month relating to a boarding house proposal in Parramatta applied for under the Affordable Housing SEPP. If a judgment becomes available before the hearing of this appeal, it should shed some light on the Court's approach to the Affordable Housing SEPP.

The Affordable Housing SEPP is currently under review. The paper prepared by the Department of Planning for the purposes of this review indicates that from 30 June 2011 the allowable Floor Space Ratio ("FSR") will be reduced from 0.75:1 to 0.5:1 (the current allowance of 0.75:1 was granted as a temporary measure in response to the economic conditions of 2009/2010.) If the instrument is amended as proposed the current proposal with 0.74:1 would be in breach of the new control. However, in the normal course, any amendment to the instrument is likely to contain a savings provision whereby development applications lodged but not determined prior to the amendments coming into force are to be determined as if the amendments had not been made. Nevertheless, in



MALLESON'S STEPHEN JAKES

Pittwater Council

14 February 2011

our experience where the planning controls have changed, the change can influence the Court's impression of an application

The Court has directed that the Applicant provide additional information in relation to solar access for the proposed new dwellings in the form of elevational shadow diagrams. We have also made an informal request for electronic copies of the solar access information provided, which if not provided informally may be pursued through formal Court channels such as a notice to produce or subpoena. The provision of this information may address some or all of the Council Officer's concerns in relation to the solar access impacts of the DA.

If additional information and analysis does not demonstrate adequate solar access, this non-compliance, in addition to the Council Officer's concerns in relation to the lack of natural ventilation, would result in a serious impact on the amenity of future occupants and is likely to influence the Court to refuse the DA. We note that on current information it appears that the majority of the units that will be affected by these amenity impacts will be those available for affordable rental housing.

Conciliation:

It is the Court's usual practice to fix appeals for a conciliation conference under section 34 of the *Land and Environment Court Act 1979*. At the first directions hearing in this matter we informed the Court that the Council did not consider that this was a matter capable of resolution at a conciliation conference. The Applicant's solicitors agreed that the matter could proceed straight to hearing given that their client would be overseas for May and June 2011 and they were instructed to progress the matter in a timely fashion.

Estimate of Fees:

In accordance with our fee letter of 20 January 2011, we estimated the likely amount of our fees for this matter to be approximately \$35,000 (excluding GST, disbursements and the costs of Counsel and the independent consultants).

Recommendation:

Council should resolve to defend the appeal.

Please do not hesitate to contact us if you have any questions regarding the above.

Yours sincerely



Debra Townsend

Partner

Direct line +61 2 9296 2341

Email debra.townsend@mallesons.com

STATEMENT OF FACTS AND CONTENTIONS

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	109854 of 2010

TITLE OF PROCEEDINGS

Applicant	Peninsula Developments Australia Pty Ltd
Respondent	Pittwater Council

FILING DETAILS

Filed for	Respondent
Legal representative	Debra Townsend, Mallesons Stephen Jaques
Legal representative reference	DST PXA: MMM 02-5504-4078
Contact name and telephone	Melanie McIntyre, 9296 2655

PART A - FACTS

The Proposal

- 1 The Development Application No N0594/10 ("DA") the subject of these proceedings proposes the following
 - (a) Demolition of the existing structures,
 - (b) Excavation,
 - (c) Infill Affordable Housing development, comprising of
 - (i) 25 apartments (10 x 1 bedroom, 3 x 1 bedroom + study, 2 x 2 bedroom, 8 x 2 bedroom + study and 2 x 3 bedroom),
 - (ii) 13 Units (1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 14, 15, and 16) are proposed to be maintained as affordable rental housing for 10 years,
 - (iii) 13 Units (1, 2, 5, 6, 7, 8, 10, 11, 14, 15, 16, 22 and 25) are proposed to be adaptable housing,
 - (d) Two levels of basement carparking, comprising of
 - (i) 27 standard car spaces,
 - (ii) 13 accessible car spaces,
 - (iii) Waste garbage room,
 - (iv) Lockable storage areas,
 - (v) Electrical, storage and plant rooms,
 - (e) Associated landscaping works to the site including tree removal,
 - (f) Consolidation of the two lots into one site, and
 - (g) Strata subdivision of the completed development

The Site

- 2 The site comprises Lot 30, DP 1093125 (known as 9 Beaconsfield Street, Newport) and Lot 29, DP 1093125 (known as 11 Beaconsfield Street, Newport) ("Site")

- 3 The Site is located on the southern side of Beaconsfield St. The Site is regular in shape, with each lot having an area of 1448m². The consolidated Site area is 2892m². The Site has a combined frontage of 40.235m to Beaconsfield Street, an eastern boundary of 74.825m, a southern boundary of 40.295m and a western boundary of 74.55m.
- 4 The Site falls from the street at the north eastern corner to the south western corner with a site slope of approximately 13.5%.
- 5 The Site currently contains two by single storey brick cottages with detached structures including a garage on Lot 30 and a Metal shed on Lot 29.
- 6 The Site is identified as being within the Area mapped for Flora and Flora Conservation – Category 2. The Site contains significant native trees (mainly Turpentine) predominating at the rear of the site where a wildlife corridor is intact.
- 7 The Site is identified as being slip affected.
- 8 The Site is identified as being within a Foreshore Scenic Protection Area.

The Locality

- 9 The Site is within Newport Locality. The character of the Newport Locality is primarily a low density residential area with dwellings built along the valley floor, plateau and slopes. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes.
- 10 The Newport Locality is characterised by the steep slopes to the north and south and the valley floor. Due to the topography, slopes and ridge tops of the Newport Locality are visually prominent.
- 11 Medium density housing adjoins the Newport Commercial Centre along Ocean and Foamcrest Avenues, and in pockets along Kalinya Road, Gladstone Street, Livingston Place, and Queens Parade.
- 12 Existing development surrounding the Site consists of single residential dwellings. To the North West along Beaconsfield Street is Newport Public School.
- 13 The desired future character for the Newport Locality is for it to remain primarily a low density residential area characterised by one and two storey dwellings in a natural landscaped setting. Any multi-unit housing development is to be located within and

around commercial centres, public transport and community facilities. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape and minimise site disturbance.

Statutory Controls

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

- (a) *Environmental Planning and Assessment Act 1979*, as amended,
- (b) *State Environmental Planning Policy (Affordable Rental Housing) 2009* ("SEPP ARH 2009");
- (c) *State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development* ("SEPP 65"),
- (d) *State Environmental Planning Policy (BASIX) 2004*,
- (e) *Pittwater Local Environmental Plan 1993* ("PLEP")
 - The Site is zoned 2(a) (Residential),
 - Clause 5(1) Consideration of certain applications Part III of the Model Provisions 1980 adopted by PLEP,
- (f) *Pittwater 21 Development Control Plan – Amendment 6* ("PDCP"),
- (g) *Residential Flat Design Code* ("RFDC"),
- (h) *Geotechnical Risk Management Policy for Pittwater 2009*

Actions of the Respondent Consent Authority

- 15 On 12 October 2010 the DA was submitted to Pittwater Council ("Council")
- 16 The DA was referred to Council's Development Engineers, Council's Natural Resources Department, Council's Environmental Health Department, Council's Reserves and Recreation Department and the NSW Police. The DA was not referred to a "design review panel" under SEPP 65 as Pittwater Council does not have a "design review panel"

- 17 The DA was advertised for 31 days from 20 October 2010 until 20 November 2010
As a result of the notification process, fifty two (52) objections were received with
some objectors submitting multiple objections
- 18 On 25 November 2010 the Applicant submitted amended plans and a revised
landscape plan, traffic report, accessibility report and BASIX Certificate to council
("Amended Plans")
- 19 The Amended Plans include the following modifications to the DA.
- Level 1 - Increase basement area to accommodate three car spaces
relocated from level 2 and lower floor by 850mm
 - Level 2 - Reduce basement area, reconfigure unit layout to accommodate an
additional unit on the western side of the building (Unit 7) and lower floor by
850mm
 - Level 3 - Reconfigure unit layout to accommodate an additional unit on the
western side of the building (Unit 15) and lower floor by 850mm
 - Level 4 - Remove two units (Unit 19 and 20) , provide internal courtyards to
units 21 and 25 and lower floor by 850mm
 - Alter the proposed units allocated as affordable and adaptable
- 20 The Amended Plans were advertised for 31 days from 1 December 2010 until
31 December 2010 As a result of the notification process, thirty six (36) objections
were received with some objectors submitting multiple objections
- 21 On 8 December 2010, the Applicant lodged a Class 1 Appeal with the NSW Land &
Environment Court against Council's deemed refusal of the DA, including the
Amended Plans ("DA 584/10")

PART B - CONTENTIONS

The Respondent contends that DA 594/10 should be refused for the reasons set out below

1 THE DEVELOPMENT RESULTS IN UNACCEPTABLE SOLAR ACCESS AND NATURAL VENTILATION IMPACTS ON THE AMENITY OF FUTURE OCCUPANTS

DA 594/10 does not achieve the necessary levels of amenity for future occupants in relation to solar access and natural ventilation. This non-compliance is of such magnitude so as to warrant refusal of DA 594/10.

Particulars

- (a) In order to satisfy the standards that cannot be used to refuse consent ("Minimum Standards") in SEPP (ARH) 2009 and the requirements of SEPP 65 a minimum of 18 dwellings (out of the 25 dwellings proposed by DA 594/10) are required to comply with the solar access controls in the SEPPs.
- (b) Council does not accept that 70% of apartments satisfy the solar access Minimum Standards set out in the SEPP (ARH) 2009 and the requirements of SEPP 65. The Council is not satisfied that only 8 units (1, 2, 3, 8, 9, 10, 11 and 12) are non-compliant with the solar access Minimum Standards in SEPP (ARH) 2009 and the requirements of SEPP 65 as inadequate information has been submitted to enable a proper assessment in relation to quality (useable solar access) and quantity of solar access to the living rooms and private open spaces of each unit (refer Contention 4).
- (c) The Council contends that on the information that has been provided with DA 594/10 it is unlikely that the development can provide direct sunlight to the living rooms and private open spaces for 3 hours at mid winter to units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17, a total of 17 dwellings. This is a non-compliance of 68% in relation to the Minimum Standards in SEPP (ARH) 2009 and the requirements of SEPP 65 and is considered sufficient to warrant refusal of DA 594/10.
- (d) In any event, units 1, 2, 3, 8, 9, 10, 11, 12, stated by the Applicant as non-compliant, will receive little to no daylight access due to the subterranean nature of the design, retaining walls and privacy devices. This amounts to 32% non-compliance, and therefore does not comply with the Minimum

Standards provided for in SEPP (ARH) 2009 and the requirements of SEPP 65, and is not an acceptable amount of amenity to provide to the future occupants of these units

- (e) The Council contends on the information provided that DA 594/10 does not comply with the solar access provisions of the PDCP
- (i) The main private open space of each dwelling does not receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st,
 - (ii) 50% of the glazed area to the windows to the principal living area of the proposal does not receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st, and
 - (iii) the proposal does not demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access

Where a proposal does not comply with the standard a variation to the control can apply subject to meeting specific criteria. DA 594/10 does not satisfy the variation as it is inconsistent with the general principles of the PDCP, inconsistent with the desired future character of the Newport locality and fails to achieve the standards in the relevant State Environmental Planning Policies.

- (f) Council does not accept that 60% of apartments are naturally cross ventilated. The RFDC Rules of Thumb for Natural Ventilation (under Building Amenity) requires sixty percent (60%) of residential units to be naturally cross ventilated
- (g) The Council contends that DA 594/10 does not provide natural cross ventilation to 15 units (1, 2, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 19 and 20). This is unacceptable and is considered to be sufficient non-compliance to warrant refusal.

Controls

- Clause 14 (1)(e) solar access SEPP (ARH) 2009,
- Clause 2(3)(a)(i), 2(3)(e) and 2(3)(d) SEPP 65,

- Clause 15 Principle 7 Amenity SEPP 65,
- Part 3 Building Amenity in the RFDC Daylight Access and Natural Ventilation,
- Clause C1 4 Solar Access PDCP,
- Clause C1 7 Private Open Space PDCP

**2 THE DEVELOPMENT RESULTS IN UNACCEPTABLE VISUAL PRIVACY
IMPACTS ON FUTURE OCCUPANTS AND NEIGHBOURING RESIDENTIAL
PROPERTIES**

DA 594/10 does not achieve the necessary levels of amenity in relation to visual privacy for future occupants and occupants of neighbouring properties

Particulars

- (a) The balconies on the western elevation (units 14, 15, 16, 17 and 23) are within 9m of each other (some 3m) and provide no privacy screening. Any screening device erected would reduce daylight access to units 14, 15 and 16 and further increase the non-compliance with solar access controls - refer Contention 1 above
- (b) The westerly facing balconies and windows to units 16, 17 and 23 will overlook the entire private open space and recreational areas including a spa at 13A Beaconsfield St. This is an unacceptable amenity impact to a neighbouring property.
- (c) The balcony and windows of unit 23 are likely to overlook the north facing front patio of 13 Beaconsfield Street which is considered a main private open space for recreational activities

Controls.

- Clause 2(3)(d) SEPP 65,
- Clause C1 5 Visual Privacy PDCP,
- Clause C1 7 Private Open Space PDCP

3 THE DEVELOPMENT IS INCOMPATIBLE WITH LOCAL CONTEXT AND DESIRED FUTURE CHARACTER

DA 594/10 does not respond to the existing local context and is inconsistent with the desired future character of the Newport Locality

Particulars

- (a) Beaconsfield St is characterised by one and two storey detached dwellings on 500m² - 1300m² standard and battleaxe allotments. A significant corridor of mature trees exists to the rear of the sites on the southern side of Beaconsfield Street which extends down to Pittwater Waterway. The DA 594/10 is for a building which extends across the width of two standard allotments and extends into the site for a length 60m. The built form of DA 594/10 significantly exceeds that of any of the existing development and development anticipated in PDOP Newport Locality characteristics and this is sufficient to warrant its refusal.
- (b) The Site requires a building type more consistent with character of detached two storey dwellings within a natural landscape setting to positively respond and contribute to its local context.
- (c) The proposed "Stepped Apartment" building type is not the most appropriate for the local context of the Newport Locality. The PDOP identifies "Big House Apartment" building type as more suited to a local context of detached dwellings with mature tree plantings to the rear.
- (d) The proposed scale of the development of DA 594/10 across 68.8% of the site is contrary to the desired future character prescribed in PDOP,
- (e) The desired future character for the Newport Locality is for it to remain primarily a low density residential area characterised by one and two storey dwellings. The desired future character identifies that any multi unit housing development is to be located within and around existing commercial centres,
- (f) DA 594/10 does not achieve the required relationship between built form and landscaping on site which is characteristic of the Newport Locality. DA 594/10 does not dedicate building setbacks to substantial landscaping to ensure the built form is secondary to landscaping.

Controls

- Clause 2(3)(a)(iii) and 2(3)(b) SEPP 65,
- Clause 9 Principle 1 Context SEPP 65,
- Part 1 Residential Flat Building Types in the RFDC,
- Clause A4 10 Newport Locality PDCP,
- Clause D10 1 Character as viewed from a public place PDCP,
- Clause D10 3 Scenic protection - General PDCP

4 INADEQUATE INFORMATION

There are inconsistencies and deficiencies in the documentation provided for DA 594/10

Particulars

- (a) There are inconsistencies in the submitted plan documentation for DA 594/10, particularly
- The site plan DA-00 and roof plan DA-05A are not consistent,
 - The roof plan excludes the pergola and balcony of Unit 23,
 - External privacy screens proposed are indicated on the elevations DA-06A and DA-07A however not reflected on the plans DA-02A, DA-03A and DA-04A and vice versa
- (b) There is insufficient information regarding.
- Strata Subdivision - a draft strata plan prepared by a Registered Surveyor has not been submitted. Given that the development application seeks to incorporate strata subdivision of the development a draft plan is required by council for assessment
 - Solar Access - the elevational shadow diagrams submitted are deficient in that they do not indicate overshadowing to the units with an easterly aspect and are extremely difficult to interpret given the variations in grades of shading (different shades of grey)

Furthermore, they do not appear to take into account shadowing cast by retaining walls, fencing on retaining walls, privacy screens and some balconies

- Arbonst report - a further arbonst report is required which assesses the potential impacts of the settlement pond and stormwater pipe/easement on all trees both on and off the Site

Controls

- Clause 18 Subdivision SEPP (ARH) 2009,
- Clause 3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings PDCP;
- Clause C1 4 Solar Access PDCP,
- Clause 14(e) solar access, SEPP (ARH) 2009,
- Footprint Green Pty Ltd Dated 6th October 2010

5 THE DEVELOPMENT RESULTS IN UNACCEPTABLE BULK

The proposed built form will result in bulk which is inconsistent with the character of the locality and unacceptable when viewed from neighbouring properties and from the street


Particulars

- (a) The proposal presents to the street and neighbouring properties as a single mass of built form with no distinct visual separation of building elements
- (b) The proposal presents to neighbouring properties as a two to three storey continuous horizontal mass of built form extending for a length of 60m into the site. The extent of built form means that adequate landscaping cannot be provided to alleviate the perception of bulk. The proposed development is of a size and mass that will result in unacceptable impacts on the visual amenity of surrounding residential properties
- (c) The proposal results in a site coverage of 68.8% which is significantly greater than allowed under PDCP requirement applicable to properties in the locality

- (d) The long horizontal mass and subterranean nature of the built form is not appropriate in that the design does not provide the necessary levels of internal amenity in relation to solar access and natural ventilation (refer Contention 1)

Controls

- Clause 2(3)(b) and 2(3)(d) SEPP 65,
- Clause 11 Principle 3. Built Form SEPP 65,
- Clause A4 10 Newport Locality PDCP,
- Clause D10 1 Character as viewed from a public place PDCP,
- Clause D10 3 Scenic protection - General PDCP,
- Clause D10 7 Front building line (excluding Newport Commercial Centre) PDCP,
- Clause D10 8 Side and rear building line (excluding Newport Commercial Centre) PDCP

SIGNATURE 

Amy Allen, Development Planner
Pittwater Council

Date 25/1/11

**Confidential Legal Advice - N0533/09 - 14A PRINCE ALFRED PARADE,
NEWPORT Construct a Part 2 / Part 3 Storey Dwelling-House**

CONFIDENTIAL LEGAL ADVICE

Item No: C11.2

Matter: N0533/09 - 14A PRINCE ALFRED PARADE, NEWPORT Construct a
Part 2 / Part 3 Storey Dwelling-House

From: Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

Meeting: Council

Date: 21 February 2011

The abovementioned matter is listed as Item No. C11.2 in Open Session in the Agenda.

Please find attached Legal Prospects Advice received from Mallesons Stephen Jaques in relation to the above matter.

Lindsay Dyce
MANAGER, PLANNING AND ASSESSMENT

MALLESONS STEPHEN JAQUES

Attention: Gordon Edgar

11 February 2011

The General Manager
Pittwater Council
DX 9018 MONA VALE
BY EMAIL

Dear Gordon

**Pittwater Council ats M Gerstl & Associates Pty Ltd
Land and Environment Court Proceedings No. 10754 of 2010
Solicitor's Appeal Summary**

Attached is our letter of advice on the prospects of Council successfully defending this appeal in the Land and Environment Court

Should this matter be reported to Council, please ensure that the letter remains a **confidential item** because the disclosure of the advice to a third party waives all rights to legal professional privilege. Similarly, quoting from the letter of advice in Council's report may also waive privilege.

Following consideration of this advice, we would be grateful for your further instructions

Yours faithfully



Michelle Astridge
Senior Associate
Direct line +61 2 9296 2951
Email michelle.astridge@mallesons.com

Debra Townsend
Partner

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MALLESONS STEPHEN JAQUES

Attention Mr Gordon Edgar

11 February 2011

The General Manager
Pittwater Council
DX 9018 MONA VALE
BY EMAIL

Dear Sir

**Pittwater Council ats M Gerstl & Associates Pty Ltd
Land and Environment Court Proceedings No. 10754 of 2010
Solicitor's Appeal Summary**

Property Address:

14A Prince Alfred Parade, Newport ("Property")

Proposed Development:

Development Application No. N0533/09, the subject of these proceedings seeks consent for the construction of a part 2/part 3 storey dwelling house on the Property ("DA")

Date of Lodgement of Application:

23 November 2009

Council Decision:

Council has not yet determined the DA. The DU at the meeting on 3 February 2011 resolved to adopt the Council Officer's recommendation for refusal outlined in the DU Report dated 3 February 2011

Date of Lodgement of the Appeal:

The Applicant commenced Class 1 Proceedings on 20 September 2010 against Council's deemed refusal of the DA.

Hearing:

This matter is listed for hearing on 10 and 11 March 2011.

Issues:

The Council's Statement of Facts and Contentions dated 24 January 2011 are attached at Annexure "A" ("Council's Statement"). The Council's Statement was finalised prior to determination by the Council in order to comply with the Court's Directions. Should we be instructed that amendments

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MALLESON'S STEPHEN JAQUES

Pittwater Council

11 February 2011

are required to the Council's Statement so that it is consistent with the Council's resolution, leave of the Court will be sought to file and serve an amended statement. Given the proximity of the hearing, leave may not be granted. If it is, it may necessitate a vacation of the current hearing dates and in that event the Council will be ordered to pay the Applicant's costs thrown away by reason of the vacation.

Opinion on Prospects:

In our opinion, having regard to the expert evidence that has been prepared on behalf of Council in relation to these proceedings, the Council has **poor prospects** of successfully defending an outright refusal of the DA.

Instead, we consider that the Court is more likely to either approve the application subject to the imposition of conditions to ensure retention of the Spotted Gum (*Corymbia maculata*) located on the boundary of the Property and 12 Prince Alfred Parade, and the provision of a Construction Management Plan or to issue an "amber light" approval following amendments to the proposal that will ensure retention of the Spotted Gum.

In relation to the issues in dispute, we make the following comments:

1 Impact on Spotted Gum, Natural Context and Scenic Quality

Mr Guy Paroissien, Council's independent arborist, has confirmed that:

- (a) the Spotted Gum is a tree of high landscape significance and is a tree that is a characteristic species of the endangered ecological community known as the Pittwater Spotted Gum Forest and should therefore be retained;
- (b) the proposed development will have a high level of impact on the Spotted Gum (approximately 28-7% of the tree's identified tree protection zone), which is likely to affect the long term viability and stability of this tree, and
- (c) the Applicant's arborist has not adequately assessed the impacts of the proposal on the Spotted Gum and has underestimated the proposal's impact on the tree.

Mr Gordon Edgar, Council's town planner, has advised that his concern with the bulk and scale of the proposed development (which exceeds the height, site coverage and landscaping controls) is the effect the proposal, particularly the inadequate setback, will have on the Spotted Gum. Mr Edgar is of the view that should increased setbacks to that tree be provided, then the bulk and scale of the proposed development when viewed from Pittwater will be acceptable and a variation to the exceedance in the site coverage control will be available.

Therefore, having regard to the evidence that will go before the Court, and given the importance of the Spotted Gum and the impact the proposed development is likely to have on that tree, we do not consider that the Court will be minded to refuse the application but instead will allow development to proceed if it can be satisfied that the Spotted Gum will be adequately safeguarded.

MSJ

MALLESONS STEPHEN JAQUES

Pittwater Council

11 February 2011

2 Inadequate Information - Construction Management Plan

Having regard to the difficulty in accessing this Property (in that access from the street is over a right of way burdening 14 Prince Alfred Parade), we are of the view that there is a reasonable prospect that the Court would depart from the normal requirement to prepare a Construction Management Plan prior the issue of a Construction Certificate and instead require that this plan be prepared as a deferred commencement condition

Conciliation:

The parties attended a without prejudice meeting to discuss the Council's concerns with the proposed development instead of attending a conciliation conference pursuant to section 34 of the *Land and Environment Court Act, 2007* at the request of the Applicant

As a consequence, the Applicant prepared amended plans which are now the plans of these proceedings. Prior to the Applicant finalising the plans, additional concerns were raised with the Applicant concerning the protrusion of the upper floor balcony and the inadequate setback to the Spotted Gum

The Applicant advised that it was unwilling to further amend the plans unless the Court requires it to do so. Accordingly, the Council has exhausted all conciliation options in this regard

Estimate of Fees:

In accordance with our fee letter of 19 October 2010, we estimated the likely amount of our fees for this matter to be approximately \$25,000 (excluding GST, disbursements and the costs of Counsel and the independent consultants)

Recommendation:

Council should resolve to

- 1 defend the appeal with the plans in its current form; and
- 2 grant delegated authority to the General Manager to enter into consent orders to settle the matter should the Applicant make changes to the DA that address Council's concerns relating to the Spotted Gum.

Please do not hesitate to contact us if you have any questions regarding the above

Yours sincerely

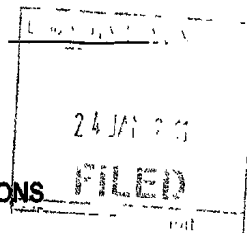


per Debra Townsend
Partner

Direct line +61 2 9296 2341

Email debra.townsend@malleasons.com

STATEMENT OF FACTS AND CONTENTIONS



COURT DETAILS

Court	Land & Environment Court of New South Wales
Class	One
Case number	10754 of 2010

TITLE OF PROCEEDINGS

Applicant	<u>M. GERSTL & ASSOCIATES PTY LTD</u>
Respondent	<u>PITTWATER COUNCIL</u>

FILING DETAILS

Filed for	The Respondent	
Legal representative	Debra Townsend	
Legal representative reference	DDT/MMA	
Contact name and telephone	Michelle Astridge	(02) 9296 2668

STATEMENT OF FACTS AND CONTENTIONS

PART A - FACTS

The Proposal

- 1 The proposal relates to Development Application No N0533/09 ("**Application**") for the construction of a part-two and part-three storey dwelling-house

The Site

- 2 The site is known as 14A Prince Alfred Parade, Newport, being Lot 172 in DP 709495 ('the **Site**')
 - 3 The Site is located on the western side of Prince Alfred Parade and is located to the rear of No 14 Prince Alfred Parade. The Site does not have frontage to Prince Alfred Parade. It benefits from a Right of Carriageway between 3.5m and 4.5m wide over the existing driveway on 14 Prince Alfred Parade. There is also a 1m wide easement for services benefiting the Site over the portion of 14 Prince Alfred Parade adjacent to the southern boundary.

- 4 The Site is irregular in shape. It has an average width of approximately 20m and an average length of approximately 40m. The area of the Site is 813.6sqm.
- 5 The Site is vacant with the exception of a stone retaining wall in the south-western corner and concrete stairs extending across the length of the Site. There is also an inclinometer located adjacent to the northern side boundary. The inclinometer is the subject of a 1.5m wide Right of Way burdening the Site and benefiting No. 14 Prince Alfred Parade. Other easements affecting the Site include a 1m wide drainage easement adjacent to the northern side boundary. The Site is also subject to a Positive Covenant prohibiting any future building on the Site from exceeding RL21.297.
- 6 To the rear or west of the Site is reclaimed Crown Land adjoining the foreshore of Horseshoe Cove. The reclaimed land is not a part of the Site and is the subject of a lease to the owner of the Site and managed by the NSW Department of Lands. The reclaimed land is variable in width between 10.7m and 12.3m and adjoins the full extent of the rear boundary of the Site. There is an existing timber jetty adjacent to the reclaimed land adjoining the Site and a stone sea wall to Horseshoe Cove.
7. The Site falls steeply approximately 15m from front to rear.
- 8 The Site does not contain significant vegetation other than a large mature Spotted Gum located midway along the common boundary between the Site and the adjoining property to the south known as 12 Prince Alfred Parade. There are also 2 small eucalypts in the south-east corner of the Site.

The Locality

9. The site is located within the 'Newport Locality', as identified under Pittwater 21 DCP. This locality is predominantly a low-density residential area with medium density housing within and adjoining the Newport Commercial Centre. Dwelling stock is typically one and two storeys in height and within a natural landscaped setting.
- 10 The site is located on the western side of Prince Alfred Parade and enjoys panoramic views over Horseshoe Cove, the Pittwater waterway and the eastern shores of Bayview.
11. There is very little on-street parking within this section of Prince Alfred Parade due to the steep topography of the land and lack of road verges. The high point of the Site is approximately 16m below the level of Prince Alfred Parade.

- 12 Adjoining the Site to the east (ie in front of the Site and between the Site and Prince Alfred Parade) is No 14 Prince Alfred Parade. This property contains a part 1 / part 2 storey brick and tile dwelling-house with a concrete driveway connecting the Site with Prince Alfred Parade. The Site benefits from a Right of Way over this driveway. The dwelling at 14 Prince Alfred Parade has a covered rear balcony on the first floor as well as a rear ground floor raised terrace with no balustrades. Both of these outdoor open spaces areas look directly over the subject site towards Pittwater. There is a minimal rear setback between this dwelling and the common boundary of this property with the Site. The ground floor terrace of the dwelling at 14 Prince Alfred Parade is setback between 0.3m and 1.4m from this common boundary.
- 13 Adjoining the Site to the south is No 12 Prince Alfred Parade, which contains a 2 storey rendered and clad dwelling-house with an in-ground swimming pool and an inclinator adjacent to the common boundary with the Site. The trunk of the significant mature Spotted Gum mentioned previously is partially located within this property and partially on the Site. 12 Prince Alfred Parade also contains an inclinator located adjacent to the common boundary between this property and the Site.
14. Adjoining the Site to the north is No 16 Prince Alfred Parade, which contains a 2 storey brick and tile dwelling-house.
- 15 The Site is not visible from Prince Alfred Parade but, being elevated land adjacent to the foreshore, it is highly prominent when viewed from Pittwater or Horseshoe Cove.
- 16 The foreshore area in the vicinity of the Site is characterised by 2 storey dwelling-houses with a generous setback from the foreshore and within a natural landscaped setting characterised by significant canopy trees that are predominantly Spotted Gums. The reclaimed land adjoining the foreshore is generally turfed. There are a number of boatsheds dotted along the foreshore area. North of the Site in the foreshore area is the Royal Motor Yacht Club. South of the Site is the Royal Prince Alfred Yacht Club.

Statutory and Policy Controls

17. The following planning legislation, environmental planning instruments, development control plans and policies apply to the Site, with the relevant provisions specified.
- (a) Environmental Planning and Assessment Act 1979, as amended ('EPA Act')
 - (b) State Environmental Planning Policy No 71—Coastal Protection

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- clause 2 (e), (g) and (k)
 - clause 7
 - clause 8 (a), (d) and (f)
- (c) *Pittwater Local Environmental Plan 1993 ("PLEP 1993")*
- The Site is zoned Residential 2(a) (Residential "A"),
 - Site identified as within Area 1 on Dual Occupancy map - Dual Occupancy development prohibited in Area 1.
- (d) *Pittwater 21 Development Control Plan – Amendment 6 ("Pittwater 21 DCP")*
- A4 10 'Newport Locality'
 - B3 1 'Geotechnical Hazard' – Site identified as 'Geotechnical Hazard H1'
 - B4 7 'Pittwater Spotted Gum Forest – Endangered Ecological Community'
 - B8 6 'Construction and Demolition – Traffic Management Plan'
 - C1 1 'Landscaping'
 - D10 1 'Character as Viewed from a Public Place'
 - D10 5 'Height (excluding Newport Commercial Centre)'
 - D10 13 'Site Coverage – Environmentally Sensitive Land'
 - D10 18 'Scenic Protection Category One Areas'
- (e) *Interim Geotechnical Risk Management Policy for Pittwater - 2009 - Hazard Zone 1 (H1)*

Background

- 18 A Pre-DA lodgement meeting was held on-site between representatives for the Applicant and Council officers on 7 July 2009. In the resultant pre-DA report, Council raised a number of concerns with the Applicant including flood levels, geotechnical adequacy, impact on spotted gum, site coverage, height controls, overshadowing, bulk and scale and character of the dwelling within the location. Council advised that the application would require a geotechnical report, an arborist report, details of the method of stormwater disposal, a traffic management plan and excavation details.

Actions of the Respondent Consent Authority

- 19 Development Application No ³ N0573/09 was lodged with Council on 23 November 2009 seeking consent for the erection of a new dwelling-house and a new in-ground swimming pool (the pool has subsequently been deleted from the proposal)
- 20 The DA was notified for a period of two (2) weeks between 30 November 2009 and 14 December 2009. As a result of this initial notification process, objections were received from the owners of eight (8) neighbouring properties with some residents submitting multiple objections.
21. An inspection of the Site was carried out by Council's Executive Planner on 16 December 2009.
- 22 Following a preliminary assessment of the development application and submissions received, Council's Executive Planner assessing the Application sent a letter dated 4 February 2010 to the Applicant raising a number of issues that required the submission of additional information and amended plans
- 23 A meeting was held on 17 February 2010 between Council's Executive Planner and representatives for the Applicant at which the concerns raised in the letter of 4 February 2010 were reiterated and explained in more detail, with focus on the need to comply with site coverage control and reduce bulk and scale. It was advised that the onus was on the Applicant to demonstrate that the setback from the mature Spotted Gum was adequate. Council also raised concern over the appearance of the development when viewed from Pittwater
- 24 Council received additional information and amended plans submitted in response to the concerns raised on 17 March 2010 ("**1st Amended Plans**").
- 25 Council re-notified previous objectors of the 1st Amended Plans and additional information received for a period of 14 days between 29 March 2010 and 12 April 2010. Further objections were received from the owners of 4 neighbouring properties as well as a pro-forma style objection signed by 8 other residents of Prince Alfred Parade.

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26. On 23 August 2010, following detailed assessment of the 1st Amended Plans and additional submissions made, Council's Executive Planner advised the Applicant that the additional information and 1st Amended Plans did not adequately respond to the issues raised in Council's letter dated 4 February 2010 or the concerns verbally expressed at the meeting with the representatives for the Applicant on 17 February 2010.
 27. On 24 August 2010, the Applicant sent Council's Executive Planner an email requesting that the assessment report on the Application to Council's Development Unit Committee not be finalised until a meeting could be held between senior Council officers and representatives for the Applicant to discuss the outstanding issues
 28. On 1 September 2010, a further meeting was held between Council's Executive Planner and representatives for the Applicant and the owner of the property. The outstanding issues were outlined by Council's Executive Planner both verbally at the meeting and in writing in a follow up email
 29. On 20 September 2010, a Class 1 Appeal was lodged with the Land and Environment Court appealing against the deemed refusal of the Application, in respect of the 1st Amended Plans
 30. On 26 November 2010, a 'Without Prejudice' meeting was held between the Respondent and the Applicant
 31. On 9 December 2010, the Applicant lodged with the Court a Notice of Motion seeking leave of the Court to rely on amended plans dated 8 December 2010 ("**2nd Amended Plans**") and associated documentation
 32. On 10 December 2010, Council received the 2nd Amended Plans and a revised arborist report
 33. On 15 December 2010, the Court granted leave for the Applicant to rely on the 2nd Amended Plans and associated documents, subject to a section 97B costs order
 34. This statement has been prepared having regard to the 2nd Amended Plans
 35. Council put the 2nd Amended Plans and additional information on re-notification for 14 days between 14 December 2010 and 28 December 2010. 3 objections were received with 2 of these objections being from one adjoining property. Requests for additional time to prepare objections were received from other residents but were not received by the time of the signing of this Statement of Facts and Contentions

PART B - CONTENTIONS

The Respondent contends that the DA should be refused for the reasons set out below.

1. UNACCEPTABLE IMPACT ON SIGNIFICANT TREE

The proposed development will have an unacceptable impact on the stability and long term health and survival of the Spotted Gum (*Corymbia maculata*) tree located on the common boundary between the Site and the adjoining property to the south known as 12 Prince Alfred Parade ('the Tree'), which is considered to be visually significant within the locality and worthy of retention

Particulars:

- (a) The proposed development fails to adequately minimise both direct impacts (such as excavation and soil level changes) and indirect impacts (such as suspended structures) within the 12m tree protection zone of the Tree which will effect the long term viability and structural integrity of the Tree.
- (b) The proposed development will be located a minimum of 5.6m from the centre of the trunk of the tree and will impact on approximately 28.7% of the tree protection zone, with necessary soil level changes and landscaping works at an even closer distance to the tree
- (c) Should the long term health and stability of the Tree be affected, it will compromise the visual integrity of the site, have an adverse impact on the Pittwater Spotted Gum Endangered Ecological Community and will result in adverse visual impacts when viewed from Horseshoe Cove and Pittwater
- (d) The submitted Revised Arborist Report accompanying the 2nd Amended Plans, dated 7 December 2010 and prepared by Naturally Trees ('Revised Arborist Report') is inadequate as it.
 - (i) does not draw any conclusion or make comment on the long term impact on the health of the Tree from the removal of the 3 smaller tree roots together with the 3 larger roots identified as being located in the building envelope

- (ii) does not consider the location of the roots to be severed (north and east of the trunk of the Tree) when weighed against the trunk lean and canopy bias of the Tree to the west in terms of the short term potential impacts on the stability of the Tree.
- (e) The owner of 12 Prince Alfred Parade has not given owners consent for the removal of the Tree

Controls

- (i) Section 79C(1)(b) and (d) of the EPA Act
- (ii) Pittwater 21 DCP – A4 10 'Newport Locality'
- (iii) Pittwater 21 DCP – B4 7 'Pittwater Spotted Gum Forest – Endangered Ecological Community'
- (iv) Pittwater 21 DCP – C1 1 'Landscaping'
- (v) Pittwater 21 DCP – D10 1 'Character as viewed from a public place'
- (vi) Pittwater 21 DCP – D10 18 'Scenic Protection Category One Areas'

2. IMPACTS ON NATURAL CONTEXT AND SCENIC QUALITY

The bulk, scale and site coverage of the development has not been sufficiently minimised to ensure that the built form does not dominate over the natural landscape setting and allow for the successful retention of the existing native tree canopy. The development is not considered to have an acceptable scenic impact when viewed from the Pittwater waterway. It is not consistent with the desired future character for the Newport Locality.

Particulars

- (a) The proposal will result in adverse visual impacts on the bushland character of the area and will dominate the natural setting, particularly when viewed from Horseshoe Cove and Pittwater.
- (b) The maximum height of the proposed development is 9.25m, which exceeds the maximum building height of 8.5m and does not meet the outcomes of Control 10.5 of Pittwater 21 DCP.
- (c) The proposed development will result in a total site coverage of 362.6sqm or 44.59% of the total Site area which is in excess of the permissible site

coverage of 40% of the Site or 325 4sqm, and does not fulfil the outcomes of Control D10.13 of Pittwater 21 DCP.

- (d) The development does not successfully integrate with or sensitively relate to the natural context of the Site.

Controls.

- (i) Pittwater 21 DCP – A4 10 'Newport Locality'
- (i) Pittwater 21 DCP – D10 1 'Character as viewed from a public place'
- (ii) Pittwater 21 DCP – Control D10 5 'Height (excluding Newport Commercial Centre).
- (iii) Pittwater 21 DCP – Control D10.13 'Site Coverage – Environmentally Sensitive Land'.
- (iv) Pittwater 21 DCP – D10 18 'Scenic Protection Category One Areas'

3. INADEQUATE INFORMATION

No construction management plan has been provided by the Applicant to enable Council to adequately assess the development application regarding the potential impacts on adjoining properties during construction

Particulars.

- (a) The subject site has a number of unique characteristics in that it does not have frontage to a public street and access to Pittwater waterway is via reclaimed land leased to the owner of the Property by the Department of Lands. Vehicular access to/from the Property is via a steep and winding driveway over a right of way burdening 14 Prince Alfred Parade and is not suitable for heavy construction vehicles. There is limited street parking area and road verge in Prince Alfred Parade in the vicinity of the site. Therefore, construction of the development is likely to be problematic and may cause unacceptable disruption to or result in adverse environmental impacts on neighbouring properties
- (b) Prior to determination, Council requires a detailed Construction Management Plan outlining all relevant details of the proposed method of construction, site access for excavation and construction vehicles, storage of materials and site management during the excavation/construction process. This will enable


Council to determine whether the excavation and construction process will
have an unreasonable impact on neighbouring properties

Controls:

Pittwater 21 DCP – B8 6 'Construction and Demolition – Construction Management
Plan'



Gordon Edgar
Capacity
Date of signature


Executive Planner, Pittwater Council
21 January 2011