

# **Agenda**

## **Council Meeting**

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

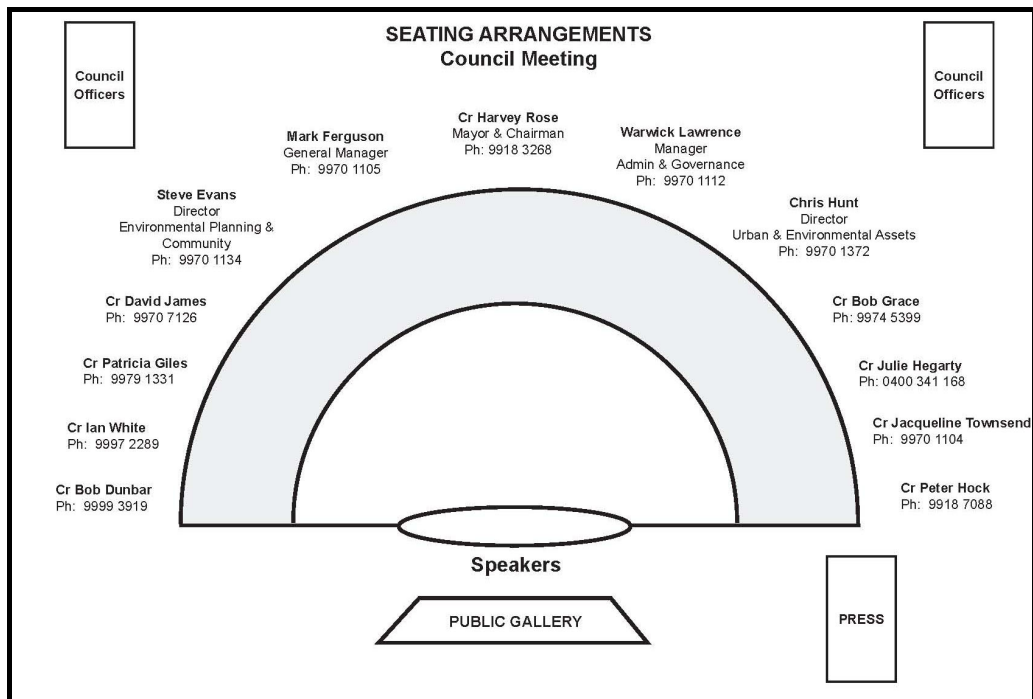
***7 November 2011***

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

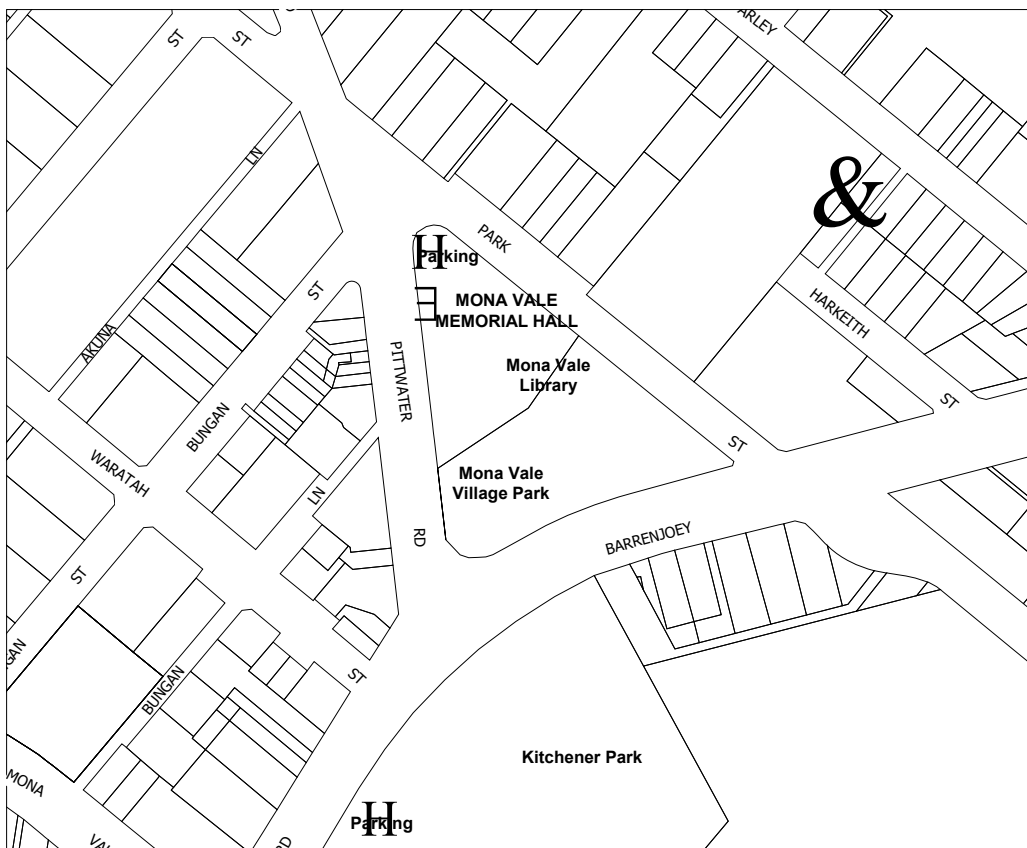
Mark Ferguson  
**GENERAL MANAGER**



## Seating Arrangements



## Meeting Location



All Pittwater Council's Agenda and Minutes are available on the Pittwater website at [www.pittwater.nsw.gov.au](http://www.pittwater.nsw.gov.au)

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

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## Council Meeting

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### 1.0 Apologies

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

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

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

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

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

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

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

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

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

- \* A reportable political donation is a donation of:
  - \$1,000 or more made to or for the benefit of the party, elected member, group or candidate; or

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

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### **3.0 Confirmation of Minutes**

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

Minutes of the Council Meeting held on 17 October 2011.

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### **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.**

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## **4.0 Public Addresses**

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

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

*Exceptions to these requirements may apply where:*

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

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## **5.0 Mayoral Minutes**

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## **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.

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## 7.0 Council Meeting Business

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### C7.1 R0001/09 - 17 & 25-27 Foamcrest Avenue Newport - Cover Report to Consultant's Assessment

**Meeting:** Council

**Date:** 7 November 2011

**STRATEGY:** Land Use & Development

**ACTION:** Coordinate land use and open space planning

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#### PURPOSE OF REPORT

To introduce the attached assessment report (**Attachment 1**) and recommendation provided to Council by the independent consultants SJB Planning.

#### 1.0 BACKGROUND

- 1.1 Pittwater Council owns car parking sites at 17 and 25-27 Foamcrest Avenue, Newport, which are the subject of a Planning Proposal to rezone the sites from Zone 5(a) (SPECIAL USES "A") to 3(a) (GENERAL BUSINESS "A") and to amend the Multi Unit Housing Map to enable shop top housing on the site.
- 1.2 Due to Council's ownership of the sites and contractual interest in the proposal, O'Connor Marsden & Associates were engaged to prepare a Probity Assessment Protocol and to provide independent probity advice during the assessment process.
- 1.3 Having regard for the Probity Assessment Protocol, Pittwater Council engaged an independent planning consultant to undertake an assessment of the Planning Proposal. SJB Planning was engaged for this purpose.
- 1.4 The original Planning Proposal (including concept plans) was submitted to Council on 28 July 2009 by URBIS Pty Ltd on behalf of Fabcot Pty Ltd (a subsidiary of Woolworths Ltd).
- 1.5 SJB Planning carried out an independent assessment of the original Planning Proposal and as part of their assessment provided an alternate Planning Proposal (Appendix 4 of the consultants report). This assessment was considered by Council on 18 October 2010, and Council resolved:-
  - *That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan.*
  - *That Council reinforce that the Newport Village Commercial Centre Masterplan is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue.*
  - *The Council refer the alternative Planning Proposal, as set out in Appendix 3, to facilitate the rezoning of Council owned land at 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), to the Director General of Planning for a Gateway Determination.*
  - *That further community consultation be carried out in accordance with any Gateway Determination and that the outcome of the community consultation be reported to Council.*

- *That Council note that endorsement of proceeding with the alternative Planning Proposal in no way fetters the statutory and regulatory responsibilities of the Council under the Environmental Planning & Assessment Act 1979 or Council's obligation to objectively consider the suitability of any future development application on this site, including but not limited to that for the purpose of a supermarket.*
  - *That all persons who have made a submission be formally advised of Council's decision.*
- 1.6 Based on Council's resolution, the alternate Planning Proposal prepared by SJB Planning has been progressed as the Planning Proposal (Appendix 4 of the consultants report).
- 1.7 The Planning Proposal seeks to rezone Council's two carpark sites at 17 and 25-27 Foamcrest Avenue from their current zone 5(a) (SPECIAL USES "A") to 3(a) (GENERAL BUSINESS "A") and to amend the Multi Unit Housing Map to enable shop top housing on the site.
- 1.8 The Planning Proposal was forwarded to the Department of Planning, who issued a Gateway Determination (Appendix 2 of the consultants report) on 9 December 2010. The Gateway Determination gave Council a nine month timeframe for completing the rezoning process.
- 1.9 In accordance with the Gateway Determination the Planning Proposal was publicly exhibited from 13 January to 10 February 2011. In response to the public exhibition Council received 548 submissions.
- 1.10 Following the public exhibition SJB Planning assessed the submissions and recommended the following:
- "Given the evident ongoing public interest with the outcome of the Planning Proposal and the requests for a public hearing, SJB Planning recommends that Council, as the relevant planning authority, arrange a public hearing in accordance with section 57(6) of the EP&A Act."*
- 1.11 On 4 April 2011, in consideration of SJB Planning's recommendation, Council resolved:
1. *That a public hearing in accordance with Section 57(6) of the EP&A Act be conducted and that public notice of 21 days be provided.*
  2. *That a suitably qualified person or company, independent of the process to date, be appointed to facilitate a public hearing into the merits of the Planning Proposal.*
- 1.12 Accordingly, Council staff prepared a project brief for conducting a public hearing and invited quotes from five independent planning consultants, with a requirement that they should not have acted for Fabcot Pty Ltd (Woolworths), Pittwater Council or SJB Planning within the last five years.
- 1.13 Responses were evaluated and Council engaged Mr Lindsay Fletcher of Planning Ingenuity on 29 April 2011, to chair and report on the public hearing.
- 1.14 The public hearing was held on 12 and 13 May 2011 in the Mona Vale Memorial Hall. SJB Planning, Woolworths, Pittwater Council (the Property team), Newport versus Woolies, the Newport Residents Association and a group of Newport business owners addressed the public hearing, in addition to 54 individual speakers.
- 1.15 On 29 June 2011 Council received Mr Lindsay Fletcher's report (Appendix 3 of the consultants report) on the public hearing. This report was then provided to SJB Planning for consideration in their assessment and recommendation to Council.

- 1.16 Due to the additional time needed to hold a public hearing, Council sought an extension from the Department of Planning and Infrastructure, to the nine month timeframe in the Gateway Determination. The Department of Planning and Infrastructure issued a revised Gateway Determination (Appendix 5 of the consultants report) on 1 July 2011 extending the timeframe to 12 months.

## **2.0 ISSUES**

- 2.1 Attached (**Attachment 1**) is an assessment report to Council prepared by SJB Planning, on the outcomes of the public exhibition and the public hearing.
- 2.2 Council staff have reviewed the report from an administrative viewpoint and endorse the report for consideration by Council.

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## **3.0 SUSTAINABILITY ASSESSMENT**

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

- 3.1.1 Please see attached assessment report by SJB Planning.

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

- 3.2.1 Please see attached assessment report by SJB Planning.

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

- 3.3.1 Please see attached assessment report by SJB Planning.

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

- 3.4.1 Having regard for issues of probity arising from Council's conflicting roles as an assessment authority, as a current land owner, and as the future owner of stratum on the site, an Assessment Protocol was developed by O'Connor Marsden & Associates. In accordance with the Protocol, Pittwater Council engaged an independent planning consultant to undertake the assessment of the planning proposal and any future development application on the site.

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

- 3.5.1 Please see attached assessment report by SJB Planning.

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## **RECOMMENDATION**

That the attached report and recommendation from SJB Planning (**Attachment 1**) be considered.

Report prepared by  
Monique Tite, Senior Strategic Planner

Steve Evans  
**DIRECTOR – ENVIRONMENTAL PLANNING & COMMUNITY**

**SUBJECT: Planning Proposal affecting 17 and 25-27 Foamcrest Avenue, Newport**

Meeting: **Planning an Integrated Built Environment**

Date: **7 November 2011**

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**STRATEGY:** Land Use & Development

**ACTION:** Coordinate land use and open space planning

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**OVERVIEW AND PURPOSE OF REPORT****OVERVIEW**

SJB Planning has been engaged by Council to undertake an independent assessment of an application to rezone Council owned land at 17 and 25-27 Foamcrest Avenue Newport.

At the Council Meeting of 18 October 2010, the Council's Planning an Integrated Built Environment Committee considered an assessment report prepared by SJB Planning regarding an application to rezone Council owned land at 17 and 25-27 Foamcrest Avenue Newport and review a Planning Proposal submitted on behalf of Woolworths Ltd. The proposal that had been lodged with the Council was to prepare a draft local environmental plan (LEP) for the land to enable it to be rezoned from 5(a) (Special Uses "A") to 3(a) (General Business "A").

The SJB Planning report included recommendations that the Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan and that the Council adopt an alternative Planning Proposal, as was included as an attachment to the report.

A copy of the report to the Council Meeting of 18 October 2010 is at Appendix 1 to this latest report.

The resolution of the Planning an Integrated Environment Committee and the Council at that time was as follows:

- 1. That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan.*
- 2. That Council reinforce that the Newport Village Commercial Centre Masterplan is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue.*
- 3. The Council refer the alternative Planning Proposal, as set out in Appendix 3, to facilitate the rezoning of Council owned land at 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), to the Director General of Planning for a gateway determination.*
- 4. That further community consultation be carried out in accordance with any gateway determination and that the outcome of the community consultation be reported to Council.*

5. *That Council note that endorsement of proceeding with the alternative Planning Proposal in no way fetters the statutory and regulatory responsibilities of the Council under the Environmental Planning & Assessment Act 1979 or Council's obligation to objectively consider the suitability of any future development application on this site, including but not limited to that for the purpose of a supermarket.*
6. *That all persons who have made a submission be formally advised of Council's decision.*

The alternative Planning Proposal (Appendix 4) was referred to the NSW Department of Planning and Infrastructure for a Gateway determination, which was provided in writing on 9 December 2010. A copy of the Gateway determination is included as Appendix 2 to this report.

The Planning Proposal was publicly exhibited from 13 January to 10 February 2011. Details of the submissions are provided in section 3 of this report.

Included among the submissions were at least 45 written requests for a public hearing. SJB Planning recommended to the Council that Council undertake a public hearing, being a formal process under section 57(6) of the *Environmental Planning and Assessment Act 1979*.

In response to this recommendation the Council resolved, at its meeting of 4 April 2011, to hold a public hearing, which took place on 12-13 May 2011. The Council separately engaged an independent consultant to undertake the public hearing, and SJB Planning played no part in this selection, other to advise on any potential conflicts of interest. The Council engaged Mr Lindsay Fletcher of Planning Ingenuity, who conducted the hearing at Mona Vale Memorial Hall. A copy of Mr Fletcher's report on the Public Hearing is included as Appendix 3 to this report.

The recommendations and response to the report on the public hearing are included in section 4 of this report.

## **PURPOSE OF REPORT**

The purpose of this report is to inform the Council of the responses to the public exhibition of the adopted Planning Proposal and the outcomes of the public hearing, and to make recommendations as to further action.

The objective of the adopted Planning Proposal is outlined below:

*"The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking."*

The adopted Planning Proposal, which is included at Appendix 4 to this report, does not list the development of a supermarket as a stated objective or outcome and it does not include concept plans or indicative drawings of potential future built form outcomes. It is also noted however, that the Planning Proposal does not exclude a supermarket as being one of the forms of potential future development at the site under a 3(a) "General Business A" zone, albeit that retail development fronting Foamcrest Avenue in this location is not consistent with the Newport Village Commercial Centre Masterplan.

The adopted Planning Proposal was prepared in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning and Infrastructure guideline for Plan making.

## 1.0 THE SITE AND SURROUNDING LAND

- 1.1 Full details of the land affected by the proposal were provided in the report to Council of 18 October 2010. This previous report is Appendix 1, and so these full details are not repeated in this latest report.

In summary, the subject land is known as 17 and 25-27 Foamcrest Avenue, Newport. The land includes four allotments which are owned by Pittwater Council. The subject lots are detailed in Table 1.

**Table 1 Subject Land**

Address	Property Description	Zone	Owner
17 Foamcrest Avenue, Newport	Lot 10 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
17 Foamcrest Avenue, Newport	Lot 11 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council

The four allotments, which are identified in Figure 1 below, currently accommodate 56 'at grade' public car parking spaces.

The four allotments have a total area of 2364.8m<sup>2</sup>, Lots 10 and 11 Section 5 Deposited Plan 6248 (i.e. 17 Foamcrest Avenue) having an area of 1112.8m<sup>2</sup> and Lots 14 and 15 Section 5 Deposited Plan 6248 (i.e. 25-27 Foamcrest Avenue) having an area of 1252m<sup>2</sup>.

Within, and surrounding, the allotments there are several garden beds which accommodate various forms of vegetation.

**Figure 1: Lot 10, Lot 11, Lot 14 and Lot 15, Section 5 in Deposited Plan 6248 (17, 25 and 27 Foamcrest Avenue) – site nominated in blue.**



The four Council owned allotments straddle a fifth allotment (Lot 1 in Deposited Plan 584141) which runs through the street block from Foamcrest Avenue to Barrenjoey Road (refer to Figure 2).

The allotment separating the Council owned land has two frontages (i.e. Foamcrest Avenue and Barrenjoey Road) and has two street addresses being 23 Foamcrest Avenue (on its northern side) and 343-345 Barrenjoey Road on its southern side.

Lot 1 in Deposited Plan 584141 is owned by Woolworths Ltd and accommodates an open car park on the northern side and a commercial/retail building on the southern (Barrenjoey Road) side.

**Figure 2: Lot 1 Deposited Plan 584141 – nominated in orange**



## **2.0 BACKGROUND**

A full account of the background to the matter, leading up to the report considered at the Council meeting of 18 October 2010, is provided in the earlier report, at Appendix 1.

Since the 18 October 2010 resolution the following has occurred:

- Gateway determination to proceed with the Planning Proposal (PP), subject to conditions, issued by the Department of Planning and Infrastructure (DP&I), 9 December 2010;
- Public exhibition of the PP 13 January – 10 February 2011;
- Recommendation by SJB Planning to Council to undertake a public hearing, under the provisions of section 57(6) of the *EP&A Act*;
- Council resolution to undertake a public hearing 4 April 2011;
- Council engaged Mr Lindsay Fletcher of Planning Ingenuity to undertake the public hearing;
- Public hearing conducted on 12-13 May 2011;
- Council requested the Department of Planning and Infrastructure to extend the timeframe of the Gateway determination on 3 June 2011;
- Report on public hearing provided by Mr Fletcher to Council, dated 29 June 2011;
- The Department of Planning and Infrastructure informed Council on 1 July 2011 that the Gateway determination timeframe was extended until 16 December 2011 (refer to Appendix 5);
- Following review of the Planning Ingenuity report, SJB Planning seeks confirmation from the Council that they are to undertake relevant investigations with the DP&I, as recommended in the report on the public hearing;
- Council confirms that it has no objection to such investigations;

- Meeting between representatives of DP&I and SJB Planning held on 1 September 2011;
- Notes confirming discussion between DP&I and SJB Planning, received 8 September 2011.

### **3.0 COMMUNITY CONSULTATION**

#### **3.1 Previous consultation**

The Woolworths Planning Proposal (subsequently not supported by Council) was subject to non-statutory preliminary notification and community consultation in September-October 2009 and again in April-May 2010. Details of the consultations, number and nature of submissions received etc. was documented in the previous report, included at Appendix 1.

#### **3.2 Community consultation associated with adopted Planning Proposal**

The adopted Planning Proposal was publicly exhibited and notified between 13 January – 10 February 2011 in accordance with the requirements of the Gateway determination and s56(2)(c) and s57 of the *Environmental Planning and Assessment Act 1979*. It is noted that in accordance with condition 3 of the Gateway determination and s56(2)(d) a copy of the Planning Proposal was provided to the Department of Environment Climate Change and Water for comment. To date no comment has been received.

In response to the exhibition 548 submissions were received.

#### **3.3 Submissions in objection**

Of the submissions received, 522 were in objection (including 402 in a pro-forma style format and a “Survey of Newport Business Owners” submitted by the Newport Residents Association and the Newport versus Woolies Community Group). The issues raised in the submissions in objection are summarised below:

- Rezoning the subject site as proposed for the sole purpose of General Business 3 (A) is inconsistent with the objectives of the Newport Commercial Centre Masterplan.
- A further sensitive schematic plan should be developed in consultation with the local community indicating the nature of any rezoning required in order to implement the objectives of the Masterplan.
- The rezoning of the land as proposed would leave Council and the community in a vulnerable position, particularly if the sites were disposed of to a private owner. It would become very difficult to implement the Masterplan objectives.
- Alternative rezoning proposals have not been considered by Council when it is apparent that there are potentially far better options.
- A blanket commercial rezoning of the site is wrong. The rezoning of public land must show a public benefit and any rezoning of the subject site should include provisions for community open space and possible community uses.
- The land should not be rezoned to satisfy a provision of a contract between Woolworths and Pittwater Council. That plan was rejected by the community and Council’s independent consultants because it did not comply with the Newport Masterplan, particularly in covering the entire site from edge to edge.
- A more sensitive development of character and quality is encouraged. Such a development would create an ‘off main road’ village centre for Newport with pedestrian linkages and allow for a vibrant commercial/retail development potentially including Council offices and a modestly sized supermarket if required.
- There are more options than the three listed in the Planning Proposal for achieving the objectives and intended outcomes. A fourth option is to rezone one of the lots “community” and the other “general business”. A fifth option is to rezone the land 3(a) (General Business “A”) with “conditions” relating to the minimum provision of communal space, specification of pedestrian corridors, requirement for the development of a community facility (e.g. Library) and Council offices on the site and requirement that any future development is to fully comply with the objectives and provisions of the Newport Commercial Centre Masterplan.

- The proposal does not demonstrate a clear net community benefit.
- The “blanket rezoning” of the site without additional conditions would be to the detriment of the community and the Newport Commercial Centre.
- The conclusion in the consultants previous report to Council which outlines that there would likely be a net community benefit in the event that the site is developed for relatively intense commercial uses in the future results in the proposed LEP amendment being a blatant proposal to rezone the site for Woolworths.
- The traffic review undertaken defies common sense and there are unanswered questions in this regard.
- The stated intention of Woolworths to use Robertson Road as an access road is inconsistent with the Masterplans aim to create a plaza on Robertson Road.
- The proposition that a large supermarket would have no adverse impacts on the economy of Newport is incorrect.
- Imaginative planning at the site will give Newport a “style and character that will be a far greater generator of income for a wide selection of local people than income gouged by a predatory supermarket sent back to corporate head office”.
- Local employment will be reduced as a result of the Planning Proposal. The proposal will facilitate the development of a large supermarket and many local businesses will be adversely affected by the offerings of the supermarket.
- A large supermarket at the site would result in noise levels and will pollute the surrounding streets.
- Removal of mature trees will have an environmental impact on the surrounding residential development.
- Amending the LEP without the provision for open space/community use will be detrimental to the Newport commercial centre.
- The planning proposal is an endorsement of the final rezoning proposal from Woolworths.
- The proposal suggests that the rezoning will have no effect on how the development will take place, since final control will be under the DCP and the Masterplan – this is disingenuous in the extreme as the LEP provides the statutory controls and the DCP and the Masterplan can be subject to variations.
- The proposal is duplicitous. The essence of the Woolworths scheme is being promoted in the current planning proposal after its formal rejection by the consultants.
- Pittwater Council is showing an unethical administrative bias. Council is attempting to facilitate the completion of its undisclosed deal with Woolworths.
- The current planning proposal represents the re-introduction and tacit approval of the Woolworths scheme and therefore raises doubts about its ethical standing.
- The ethical issue cannot be put aside in any consideration of the proposal.
- The plan to develop a large supermarket makes a mockery of the sustainability, bush, beach and water themes that Pittwater Council has pursued for so long.
- Failure to realise the full potential of this beautiful seaside village is much more than opportunity loss, it is the decimation of a village culture and the imposition of a corporation generating income to be sent out of the local community.
- Newport people have done everything possible to let local authorities know they are against the proposal.
- The arguments against the proposal are from many perspectives including environmental, sustainability, economic, broad planning and human.
- Any LEP amendment must contain conditions that ensure real public benefit.
- In spite of enormous expenditure by Woolworths and Pittwater Council in an effort to progress the rezoning proposal, and in spite of the demands made on residents to respond to the various rezoning proposals, the community has continued to voice its objection to the use of the site for a “mega store”.
- In view of the encumbered nature of the site and the vested interest of the Pittwater Council, ethical considerations make it imperative that a public hearing be held into the planning proposal.

- The authors of the “Survey of Newport Business Owners” extrapolated their results to make the following conclusions:
  - 12% would be happy to see parking area repaved and restored;
  - 28% wanted no supermarket at all;
  - 5% did not know or could not answer;
  - 54% wanted a supermarket of a size similar to Coles Newport. “in this option it was clear that the development would include green space and community services and would involve the rezoning of one block of public land only”.
  - “94% of businesses have indicated that they do not want overdevelopment of the site”
  - “only one respondent to the survey said they wanted a giant supermarket that took up the whole car park site”
- The proposal remains inconsistent with the Masterplan.
- The proposal will not result in the highest and best land use of the site.
- The proposal is not in the public interest.
- The site should not be sold by Council.
- The site should be developed for the purpose of open space.
- The site should be developed for the purpose of ‘green community space - as a focus for an off main road village centre’.
- The proposal will result in poor pedestrian outcomes in terms of safety and lack of pedestrian linkages through the site.
- The proposal will result in adverse built form/architectural outcomes.
- The proposal will result in a diminished streetscape for both Foamcrest Avenue and also to Barrenjoey Road.
- The proposal does not respond to the residential interface in Foamcrest Avenue and will result in adverse impacts to the residential amenity of nearby residential dwellings.
- The proposal will have adverse impacts upon wildlife.
- The proposal will have adverse impacts upon existing infrastructure (roads, electricity, water sewerage and drainage).
- The proposal to rezone (and develop) the land is primarily for Council’s economic and or financial purposes.
- There is concern about transparency with regard to the dealings of Council and Woolworths.
- There has been a lack of consultation with the community.
- The proposal will result in a development of excessive scale and floor space at the site.
- The supermarket floor space per population demand assumptions that underpin the proposal are challengeable.
- The public benefits of the proposal are overstated and the public costs are understated.
- The proposal lacks a cost benefit analysis.
- The proposal is inconsistent with the Pittwater LEP objectives, the Newport Masterplan, the Pittwater DCP 21, the draft NE sub-regional strategy and the Sydney Metropolitan Strategy 2005.
- The amended ‘indicative concept drawings’ do not address the issues raised in the previous notification and submissions.
- The forwarding of a letter dated 1 July 2011 from the Director of Planning at Pittwater Council to SJB Planning post the publication of the “Report on Public Hearing” prepared by Planning Ingenuity, is an inappropriate intervention and direction by Council staff and has jeopardised the independence of the consultant’s role.
- The extent of influence by Council indicates a conflict of interest. The accumulation of actions by Council during the process of assessment of the planning proposal has led to a perception among ratepayers that the Council has overstepped its role in its handling of the application and appears to be relentlessly pursuing the completion of its contract with Woolworths.
- An administrator should be called in to investigate the background activities involved in the rezoning application.
- The proposal should be rejected and correct procedure followed.

### 3.4 Submissions in support

26 submissions were in support including a petition with the signatures of the owners and or operators of 61 businesses in Newport. The reasons for support are summarised below:

- Many businesses come and go due to the lack of a large development that attracts people to come and shop on Newport. A business such as Woolworths is required to keep the number of shoppers at a level that will support a variety and mix of other smaller businesses in Newport.
- Council's car park is split by the land currently owned by Woolworths. If the rezoning does not proceed and the Council car parks are not included in the Woolworths proposed development, then it is likely that the land splitting the Council car parks will be developed independently. This would result in the creation of two small Council car parks with less capacity than currently exists.
- Lack of parking is an issue for Newport. If the rezoning is approved and the Woolworths development proceeds Newport will gain 150-170 more car parking spaces than is currently available and this will benefit Newport and the local businesses.
- Without development such as Woolworths customers will keep driving through Newport to shop elsewhere.
- The southern end of the Newport shopping strip requires parking and customers if the businesses there are to stay open.
- The existing free car parking area is often filled with long stay parkers that are not shopping in the centre.
- Shop owners in the centre often cannot park in the car park.
- An open space area situated behind the shopping strip would not be used and or would attract anti-social behaviour.
- The request for a day care centre at the site raises issues with who would pay for it to be constructed, who would rent and or operate it and what parking would be provided to service it.
- Council's newly built community centre would be a better site for a day care centre.
- Over 60 local businesses have signed a petition supporting the Woolworths development and this represents a large proportion of the businesses in Newport.
- Newport previously had two supermarkets and once the supermarkets closed the decline of the commercial centre started. Newport residents now drive to Mona Vale to shop.
- Driving to and from Mona Vale and finding a park is not a pleasure, it is a chore.
- The advent of Coles at Newport has not stopped the Newport shoppers travelling to Mona Vale to shop. Coles is too small for most shoppers.
- Woolworths is a potential solution to reduce traffic congestion, encouraging work and shopping locally.
- Newport shoppers might benefit from increased competition resultant from a Woolworths shop.
- There would be reduced car parking if the sites were used as open space areas and for the purpose of a library and child care facility.
- The planning proposal is a progressive step forward for Newport.
- The shopping centre is stagnant and the redevelopment of the Woolworths site and the Council car parks will provide welcome improvements.
- Woolworths project will revitalise the Newport shopping strip.
- Woolworths project will attract larger pedestrian flow to Newport shops.
- Woolworths project will draw more customers to the area that currently shop elsewhere and increase economic activity for existing small businesses.
- Woolworths project will attract new small businesses that would otherwise not come to Newport.
- The "protesters" don't speak for all small business owners in Newport.
- The amended design is considerably improved and is likely to be a good addition to Barrenjoey Road.

- Amended 'indicative concept' has addressed the majority of issues.
- The development of a Woolworths supermarket would provide choice and a balance to Coles.
- If Woolworths is unable to develop the site it will sell the land and the site will be developed for different purposes leaving the Council car park split and difficult to develop in the future.
- Objections are funded by Coles.

### 3.5 Summary

The proposal attracted considerable interest during the statutory community consultation period and this is consistent with the public interest shown during the non-statutory notification periods, public information session and key stakeholder meetings held prior to the Gateway determination. The majority of the submissions received raise objection to the Planning Proposal, with approximately 5% of submissions in support of the proposal.

Notwithstanding that the Planning Proposal does not nominate a specific type of future development at the site by way of concept drawings, proposed plans or the like, the overwhelming majority of the objections submitted relate to the perception that the future development of the site will be for the purpose of a Woolworths supermarket. The public submissions also indicate a strong perception that the Planning Proposal will be the catalyst or the trigger for the development of the site for the purpose of a Woolworths supermarket.

The objections raise a number of issues, but the majority of matters raised are concerned with the outcomes related to the future development of the site for the purpose of a supermarket.

As with submissions received during early non-statutory exhibition periods for the previous Planning Proposal (i.e. the proposal which Council resolved not to pursue) it is also notable that the majority of the submissions received to the actual Planning Proposal indicate that the proposal does not accord with the Newport Village Commercial Centre Masterplan and that any Planning Proposal and future development should accord with the Masterplan.

Numerous submissions raised the issue that alternative rezoning proposals had not been considered and that there are other more appropriate proposals or options for the site. The majority of objections supported the notion that a blanket commercial rezoning of the site is unacceptable and instead any rezoning of the site should include provisions for community open space and possible community uses.

This notion was considered in the Newport Residents Association submission and discussed in detail in the Newport versus Woolies Community Group submission which calls for (amongst other matters) any rezoning to include specific conditions within the LEP to provide minimum provision of communal space at the site, specification of pedestrian corridors, requirement for the development of a community facility (e.g. Library) and Council offices on the site and a requirement that any future development is to fully comply with the objectives and provisions of the Newport Commercial Centre Masterplan. The types of 'conditions' outlined would require inclusion of 'Special Uses' provisions relating to the site within Schedule 10 of the LEP.

Other key issues raised relate to the economic impacts, traffic related impacts, built form impacts and social impacts that the development of the site for the purpose of a supermarket will have upon the Newport Village Commercial Centre and the wider Newport community. Issues were also raised questioning the ethical conduct of the Council during the process to date.

It is also noted that within numerous submissions in support of the planning proposal, the issue of 'minority group' influence over the process was raised. This issue has not been considered as part of the assessment.

## **4.0 PUBLIC HEARING AND REPORT**

### **4.1 Key issues identified in report**

The public hearing occurred at the Mona Vale Memorial Hall on 12-13 May 2011. The Planning Ingenuity report on the public hearing is included as Appendix 3 to this report. The Planning Ingenuity report includes details of the number of submissions made, as well a summary of each of those submissions.

The Planning Ingenuity report identifies key issues that arose from the public hearing. The conclusions drawn in relation to key issues are repeated below. SJB Planning comments in response to the recommendations are included in section 4.3 below.

#### ***Is the Planning Proposal necessary?***

*In order to permit the proposals adopted by Council and supported by the community in the Newport Masterplan/DCP, or indeed to support any of the alternate suggestions put forward during the public hearing such as open space and community facilities, it is necessary to change the land use restrictions that apply to the land.*

#### ***Is the Planning Proposal appropriate?***

*In my opinion that (sic) the planning proposal is appropriate having regard to the fact it is both consistent with the Newport Masterplan/DCP and is also consistent with the NSW Department of Planning's Circular. If it agreed, as I have suggested, that it is necessary to change the current restricted land uses on the subject land in order to facilitate redevelopment in accordance with the Newport Masterplan/DCP, it seems to me that there is only one alternative to the current Planning Proposal. The alternate would be to include the subject land in Schedule 10 of the LEP which, pursuant to clause 44 of the LEP, enables additional uses to be approved on the land without formally rezoning the land. The alternative should be given some consideration.*

(Note: the alternative is considered in section 4.3 of this SJB Planning report).

#### ***The link between the Planning Proposal and the sale of land to Woolworths.***

*Clearly Council does have two roles in this matter. Under these circumstances it is particularly important that Council has in place appropriate probity guidelines and procedures to minimize any potential conflict. Several of the submissions outlined and made clear that Council had adopted carefully considered guidelines to deal with this issue. Importantly, I note from the comments made by representatives of SJB Planning, and from my own dealings with officers of the Council in respect of this public hearing, I am satisfied that appropriate probity procedures have been implemented to ensure transparency of the process and to avoid any conflict of interest between Council's role as the land owner and its role as the planning authority.*

#### ***The link between the Planning Proposal and Woolworths' specific proposal/design.***

*Much of the time at the public hearing was devoted to objections to the concept design, both original and amended, prepared by Woolworths. It would seem clear that there is very little prospect of the current Woolworths design proposal being recommended for approval in the event that a development application along those lines were to be submitted to Council.*

***Whether adequate measures are in place to ensure that future development is consistent with Council's adopted Masterplan/DCP?***

*Under the current planning proposal, Council's Newport Masterplan/DCP would be a matter that any consent authority is obliged to consider pursuant to the provisions of Section 79(c)(a)(iii) of the EP&A Act 1979. Additionally, the NSW Land and Environment Court have held that a lawfully adopted Development Control Plan must be the central focus of the determination of a development application by a consent authority. Together these facts should give some reassurance that any consent authority, be it the Council, the Joint Regional Planning Panel or the Land and Environment Court, will give very considerable weight to the Newport Masterplan in the determination of any future development application.*

***Whether the adopted Masterplan/DCP is adequate to ensure the desired design outcomes for the site?***

*In my opinion there would be merit in further consideration being given to whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP in order to provide greater certainty and more site specific guidelines for the future development of the site and surrounding land. This could occur in parallel with the remainder of the rezoning process with amendments to the DCP, if any, adopted so as to come into effect concurrent with the zoning change.*

*To assist with the rebuilding of public confidence, it is my opinion that Council should take advantage of the enormous planning, architectural and urban design talent available in its local community to assist with a guide this review. A select group of that available local talent should be invited to participate with Council's strategic planning officers and the authors of the original Newport Masterplan to undertake that review.*

**4.2 Recommendations contained in the report**

- "1. That Council note the report and the submissions made to the public hearing as summarised in Annexure A.*
- 2. That Council request SJB Planning to investigate and give consideration to an alternative method of amending the current restrictive planning controls applicable to the subject land by possibly including the subject land in Schedule 10 of the LEP which, pursuant to clause 44 of the LEP, enables additional uses to be approved on the land without formal rezoning. This option should be investigated with officers of the NSW Department of Planning and, if acceptable, consideration should be given to whether or not this alternative methodology would result in additional weight being given to the need for strict compliance with the Newport Masterplan/DCP.*
- 3. That SJB Planning and Pittwater Council give further consideration to whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP in order to provide greater certainty and more site-specific guidelines for the future development of the site and surrounding land. In doing so, Council should take advantage of the enormous planning, architectural and urban design talent available in its local community to assist with and guide this review by inviting a small group to participate with Council's strategic planning officers and the authors of the original Newport Masterplan to undertake that review.*
- 4. That the groups and individuals who appeared and made submissions to the public hearing be thanked for their contribution and assistance with Council's consideration of the Planning Proposal."*

## 4.3 Comments arising from the public hearing report

### 4.3.1 Recommendation No 2

Recommendation No 2 suggested investigation of an alternative method of amending the current restrictive planning controls applicable to the land, by possibly including the land in schedule 10 of the Pittwater LEP, and in so doing enabling additional uses to be approved on the land without formal rezoning. This investigation was to include involvement of officers of the NSW Department of Planning and Infrastructure.

The recommendation included an additional component – that if the option was considered acceptable, consideration should then be given to whether or not this alternative methodology would result in additional weight being given to the need for strict compliance with the Newport Masterplan/DCP.

Dealing with these separate (but nonetheless interrelated) components of the recommendation, the following comments are provided:

- The inclusion of additional permissible land uses for specific sites, rather than a general rezoning of land, has most commonly occurred in order to achieve a very specific single or very limited land use(s) outcome in locations where there are predominantly other more sensitive uses, i.e. providing for a commercial use on a single site in a residential zoned area or providing for a community use on open space or environmentally sensitive zoned land. The 2 subject and physically separated sites are surrounded on 3 sides, and divided up the middle, by land already zoned General Business 3 (a) – so there is no immediate sensitivity, in land use terms, to immediately adjoining properties. There will inevitably be interface issues, including with the residential properties opposite on Foamcrest Avenue, but this will be the case to a large extent with whatever additional development occurs on the land.
- The inclusion of additional permissible land uses for specific sites, rather than a general rezoning of land is applied to a single or contiguous site for the purpose of a single land use outcome. An orderly and integrated development outcome, involving the 2 physically separated sites, is more likely if they are included in a consolidated development parcel inclusive of the land in between and which is already zoned General Business 3 (a). A single large development site, rather than 3 smaller separate sites, would afford the opportunity to mitigate likely impacts with neighbours, through the provision of building setbacks and would also more likely achieve public benefits such as through site links and servicing access for properties to the north-east that are currently reliant on the Council's car park for such.
- Development on the two sites (and potentially integration with the middle site), consistent with the Newport Masterplan/DCP is likely to involve more than a single land use. At this stage it is not known what the potential land uses and development outcomes will be and so introducing a single or narrow range of land uses into schedule 10 (as this is how the schedule has been used to date) may in fact impede the capacity to realise the Newport Masterplan/DCP.
- Placing of additional land uses for specific sites in schedule 10 is not consistent with the Department of Planning and Infrastructure's LEP Practice Note PN 10-001. The Planning Ingenuity report acknowledges this and on page 9 directly quotes from PN 10-001:

#### ***Principle 1.2 - Rezoning existing 'special use' zones***

*For infrastructure or services prescribed in all zones and those currently zoned 'special use', (e.g. roads, railway lines, substations, pipelines etc), the appropriate adjacent land zone should generally be used.*

*Applying the adjacent zone type to public infrastructure land follows a basic planning principle of aligning land uses. It is established practice to refer to the zoning of adjoining land when seeking to establish an appropriate zoning for land. In many cases the infrastructure land would have been zoned the same as the adjoining land if it had not been used instead for an infrastructure purpose.*

*This approach avoids the need for spot rezonings when the infrastructure use expands, ceases, is realigned or is downsized in the future. It is preferable that the land use zone be the same as the adjacent zoning, so that future uses are compatible with existing surrounding uses.*

- The matter was discussed at a meeting with senior officers of the Department of Planning and Infrastructure, as suggested in the Planning Ingenuity report. At that meeting it was made clear that the DP&I policy position is that, rather than rely on the “schedule” to accommodate additional land uses, an appropriate zone should be found for currently zoned “special uses” sites where possible - and this approach is consistent with the DP&I's approach with new LEPs (in the Standard Instrument).

The Department officers advised that the “schedule” should only be used or considered as an alternative when an appropriate zone cannot be found for the subject land.

In addition they advised that if it is proposed by the Council to attempt to include land uses in schedule 10 of PLEP then a new Gateway determination would be required as this approach was not envisaged in the current Planning Proposal and has not been exhibited.

- Finally, the Departmental officers referred to recent examples where the additional uses “schedule” approach has not been supported by the Department.

In summary, while not impossible, the inclusion of land use provisions in schedule 10 of PLEP is considered to be a less practical and realistic alternative to a rezoning to General Business 3(a), and in our opinion is unlikely to receive support from the Department of Planning and Infrastructure. In addition, and as pointed out on page 14 of the Planning Ingenuity report, the schedule 10 approach *is problematic in that it would be inconsistent with the provisions of the NSW Department of Planning's Planning System Circular PN10-001 and it would also only be a short-term option because in the longer term Council would be required to rezone the subject land the same as the adjacent business zoned land as part of the Council's new comprehensive LEP.*

On this latter point we are advised by Council officers that the Council's comprehensive LEP is programmed to be reported to the Council in March/April 2012 to seek a resolution to forward the DLEP to the Department of Planning and Infrastructure to obtain a Section 65 Certificate in order to proceed to exhibition. The Department of Infrastructure and Planning also indicated that their expectation is that the Council's comprehensive LEP may be finalised by the end of 2012, although this is not certain

With regard to the second component of Recommendation 2, it is not considered that the use of schedule 10 would in itself necessarily give greater weight to the need to for strict compliance with the Newport Masterplan/DCP. While it is unknown at this stage what in fact might be included in the schedule 10 provisions, we would assume that it would allow a range of land uses consistent with the anticipated outcomes in the Newport Masterplan/DCP. The desired future land uses identified in the document include mixed uses – retail, commercial, and community and residential, noting that it is identified that Foamcrest Avenue is not suitable for retail uses. It is considered that the Newport Masterplan/DCP would be given equal weight in relation to any future development on the subject sites.

### **4.3.2 Recommendation No 3**

Recommendation No 3 requires SJB Planning and the Council to give further consideration to whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP in order to provide greater certainty and more site specific guidelines for the future development of the site and surrounding land.

We have carefully considered the Planning Ingenuity report, including the comments regarding some perceptions as to what should/could be delivered on the site resulting from the Masterplan/DCP. We also note that the public hearing heard from numerous people confirming that the Masterplan/DCP is supported by the community and that they have confidence in the document (also widely expressed in written submissions). In particular, the Planning Ingenuity report quotes directly from the submission made by Professor Peter Webber who strongly supports the document and confirms its clarity. The subsequent concerns expressed by Professor Webber relate to the possible “loss of control” over the sites if they are sold. The Planning Ingenuity report notes that the suggestion of a “concept plan” across the 2 subject sites and the privately owned site is problematic and is not supported.

We have also reviewed our past comments, in the report to Council of 18 October 2010, where we place strong support in the Newport Masterplan/DCP, and rejected the Woolworths PP because it was inconsistent with the document and the planning controls. The fact that the Woolworths PP was unsuccessful reinforces the status and value of the Newport Masterplan/DCP.

Ultimately it is a matter for the Council, but in our opinion the existing Newport Masterplan/DCP provides appropriate and adequate guidelines for the future development of the subject sites, and for a consolidated development site, in the event that all 3 sites are united to form a single development site. In the event that the Council wishes now to realise different outcomes to those envisaged in the Masterplan/DCP, for example such as some put forward in some submissions for greater open space, then the Masterplan/DCP would need to be amended. This is an option available to the Council.

## **5.0 CONCLUSION**

The previous report by SJB Planning, considered at the Council meeting of 18 October 2010, placed significant weight on the Newport Masterplan/DCP provisions. The inconsistency of the Woolworths Planning Proposal with the Newport Masterplan/DCP was the reason that it was recommended that Council not proceed any further with that particular Planning Proposal.

Achieving the outcomes envisaged in the Newport Masterplan/DCP was in turn the reason for the recommendation that Council adopt an alternative Planning Proposal, to rezone the subject sites General Business 3(a). The Newport Masterplan/DCP cannot be delivered without a change to the statutory planning controls that currently apply to the subject sites.

Written public submissions and those made at the public hearing have reinforced support for the Newport Masterplan/DCP.

The Planning Ingenuity report on the public hearing makes two key recommendations. Both recommendations have been considered in the body of this report. The approach of including land use provisions in schedule 10 of PLEP, as an alternative to the rezoning to General Business 3(a), has been considered. This alternative is not considered practical or realistic for the reasons outlined in this report. In our opinion it is unlikely that the schedule 10 approach would receive support from the DP&I at the time of a Gateway determination – bearing in mind that this alternative approach would need a fresh Planning Proposal and the recommencement of the Planning Proposal process. As acknowledged in the Planning Ingenuity report, even if successful with the schedule 10 alternative, this would be a short term option, as the land would be zoned business in the upcoming Pittwater comprehensive LEP.

The second of the key recommendations of the Planning Ingenuity report is to consider whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP. For the reasons outlined in the body of this report, this is not considered necessary, but it is an option open to the Council

A number of submissions, and in particular recent written submissions, put forward alternative approaches/outcomes, for the subject land, almost all of which depart from the Newport Masterplan/DCP. If the Council is of the opinion that these alternative options have merit and warrant further consideration – bearing in mind they are not uniform in their approach, and in fact some are quite different, then the option is available to amend the Newport Masterplan/DCP.

There is a very widespread community interest in this matter and in making recommendation to the Council as to the next steps we are conscious of both “planning” and “public interest” considerations the Council need to balance.

Moving forward with the Planning Proposal in its current form would set the statutory framework that would facilitate the realisation of Newport Masterplan/DCP as it applies to the subject sites. We have already expressed the opinion that the Woolworths concept plan is inconsistent with the Masterplan/DCP, so the rezoning to General Business 3(a) would not be for the purpose of accommodating that “concept”.

Alternatively, if the Council wishes to explore some or all of the different options put forward by various members of the Community, then the current Newport Masterplan/DCP will require amendment and this should occur before proceeding any further with a Planning Proposal for the site, as the former may influence the latter.

## **6.0 NEXT STEPS**

- 6.1 Should Council resolve to forward the Planning Proposal to the Department of Planning and Infrastructure, the Department will undertake a final assessment.
- 6.2 Should Council resolve not to forward the Planning Proposal to the Department of Planning and Infrastructure Council will be required to inform the Department.
- 6.3 In summary if the Planning Proposal is forwarded to the Department, the steps left in the “gateway” process are:
  - Final Planning Proposal assessed by DP&I
  - DP&I prepares legal instrument in consultation with Parliamentary Counsel
  - Plan is made by the Minister
- 6.4 The identified Key Stakeholders and those who had previously made written submissions will be advised of Council’s resolution.

## **7.0 EXECUTIVE SUMMARY**

- 7.1 SJB Planning has been engaged by Council to undertake an independent assessment of an application to rezone Council owned land at 17 and 25-27 Foamcrest Avenue Newport.
- 7.2 At the Council Meeting of 18 October 2010, the Council’s Planning and Integrated Built Environment Committee considered an assessment report prepared by SJB Planning regarding an application to rezone Council owned land at 17 and 25-27 Foamcrest Avenue Newport and review a Planning Proposal submitted on behalf of Woolworths Ltd. The proposal that had been lodged with the Council was to prepare a draft local environmental plan (LEP) for the land to enable it to be rezoned from 5(a) (Special Uses “A”) to 3(a) (General Business “A”).

- 7.3 The SJB Planning report included recommendations that the Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan and that the Council adopt an alternative Planning Proposal, as was included as an attachment to the report.
- 7.4 The resolution of the Planning and Integrated Environment Committee and the Council at that time was as follows:
- That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan.
  - That Council reinforce that the Newport Village Commercial Centre Masterplan is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue.
  - The Council refer the alternative Planning Proposal, as set out in Appendix 3, to facilitate the rezoning of Council owned land at 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), to the Director General of Planning for a gateway determination.
  - That further community consultation be carried out in accordance with any Gateway determination and that the outcome of the community consultation be reported to Council.
  - That Council note that endorsement of proceeding with the alternative Planning Proposal in no way fetters the statutory and regulatory responsibilities of the Council under the *Environmental Planning & Assessment Act 1979* or Council's obligation to objectively consider the suitability of any future development application on this site, including but not limited to that for the purpose of a supermarket.
  - That all persons who have made a submission be formally advised of Council's decision.
- 7.5 The alternative Planning Proposal was referred to the NSW Department of Planning and Infrastructure for a Gateway determination, which was provided in writing on 9 December 2010.
- 7.6 The Planning Proposal was publicly exhibited from 13 January to 10 February 2011.
- 7.7 SJB Planning recommended to the Council that Council undertake a public hearing, being a formal process under section 57(6) of the *Environmental Planning and Assessment Act 1979*. In response to this recommendation the Council resolved, at its meeting of 4 April 2011, to hold a public hearing, which took place on 12-13 May 2011 and an independent consultant, Mr Lindsay Fletcher of Planning Ingenuity, conducted the hearing at Mona Vale Memorial Hall.
- 7.8 The purpose of this report is to inform the Council of the responses to the public exhibition of the exhibited Planning Proposal and the outcomes of the public hearing, and to make recommendations as to further action.

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## RECOMMENDATION

1. That, given the level of public interest in this matter, and the wide range of opinions expressed regarding appropriate outcomes for the Council owned land, the Council resolve whether or not it wishes to review and amend the Newport Village Commercial Centre Masterplan.
2. In the event that Council does not wish to review and amend the Newport Village Commercial Centre Masterplan, then it should
  - (a) once again reinforce that it is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue;
  - (b) adopt the exhibited Planning Proposal (which is at Appendix 4) and forward it to the Director General of the Department of Planning and Infrastructure with a request that the Department undertake a final assessment, and if supported proceed to prepare and make the legal instrument that will rezone the land.
3. In the event that the Council does wish to review and amend the Newport Village Centre Masterplan it should:
  - (a) take no further action in relation to the exhibited Planning Proposal at this time; and
  - (b) request a report from the Director Environmental Planning and Community on the appropriate process and timeframe for undertaking such a review; and
  - (c) inform the Department of Planning and Infrastructure of the Council's decision.
4. That all persons who have made a submission be formally advised of Council's decision.

Report prepared by

**Stuart Gordon, Associate / Stuart McDonald, Director**  
**SJB Planning NSW Pty Ltd**

**SUBJECT: Planning Proposal affecting 17 and 25-27 Foamcrest Avenue, Newport**

**Meeting:** Planning an Integrated Built Environment Committee      **Date:** 18 October 2010

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**STRATEGY:** Land Use & Development

**ACTION:** Coordinate land use and open space planning

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**OVERVIEW AND PURPOSE OF REPORT**

SJB Planning NSW Pty Ltd has been engaged by Council to undertake an independent assessment of an application to rezone Council owned land at 17 and 25-27 Foamcrest Avenue Newport and review a Planning Proposal submitted on behalf of Woolworths Ltd. The proposal is to prepare a draft local environmental plan (LEP) for the land to enable it to be rezoned from 5(a) (Special Uses "A") to 3(a) (General Business "A").

At the Council meeting held in November 2008 Council resolved to grant owner's consent to Woolworths Ltd to lodge a rezoning application to rezone 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A").

At the same meeting Council also resolved to grant owner's consent to Woolworths Ltd to lodge a Development Application for retail development, including a supermarket, at 17 and 25-27 Foamcrest Avenue, Newport.

A Planning Proposal (refer to Attachment 1) was prepared and submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd. It is noted that Woolworths currently owns land adjoining the subject parcels of land.

As of the date of the preparation of this report, a Development Application for the subject site had not yet been lodged with Council by Woolworths Ltd. This report does not consider or make an assessment of any Development Application concerning development at the site, including development for the purpose of a supermarket.

It is also noted that this report does not in any way consider the merits, the conditions or any of the circumstances relating to any agreement which Council may have to sell the subject land to Woolworths Ltd.

This report assesses two key matters as follows:

- The planning merit of the proposition to rezone the land at 17 and 25-27 Foamcrest Avenue Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"); and
- The planning merit of the actual Planning Proposal prepared and submitted to Council on behalf of Woolworths to undertake the rezoning.

This report concludes that the proposal to rezone the Council owned land at 17 and 25-27 Foamcrest Avenue Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A") is a rational planning outcome, is consistent with NSW Department of Planning policies, is consistent with the Draft North East Sub-regional Strategy, is consistent with the Newport Village Commercial Centre Masterplan and therefore has merit.

This report concludes that the rezoning of the subject land to 3(a) (General Business "A") will be consistent with the Newport Village Commercial Centre Masterplan as it applies to the site; where

as the current zoning effectively prohibits the realisation of the Newport Village Commercial Centre Village Masterplan as it applies to the site.

This report however also concludes that aspects of the Planning Proposal submitted on behalf of Woolworths Ltd are inconsistent with the Newport Village Commercial Centre Masterplan.

Specifically the stated objectives and intended outcomes of the submitted Planning Proposal and aspects of the indicative concept drawings are inconsistent with the built form outcomes envisaged in the Newport Village Commercial Centre Village Masterplan.

In accordance with the NSW Government's 'gateway' process which deals with rezoning applications and LEP amendments, a planning proposal can be prepared by the relevant planning authority (RPA) or by a proponent for the proposed LEP. In either event, the RPA is ultimately responsible for any planning proposal to be forwarded to the Minister for the next step in the process, being the gateway determination.

Therefore in accordance with the findings of this report, it is considered that the Planning Proposal submitted by Woolworths should not proceed to the NSW Department of Planning.

While recommending rejection of the Planning Proposal as submitted, the authors of this report also recognise that the rezoning of the site to 3(a) (General Business "A") has the potential to deliver the Newport Village Commercial Centre Masterplan as it applies to the site. If the Council concurs that the potential realisation of the Masterplan is worth pursuing, given that this is the stated Council policy position for the site, then it is recommended that the alternative Planning Proposal, attached to this report, proceed to the Department of Planning for a gateway determination.

Therefore in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning's guideline for Plan making, the applicant's Planning Proposal is recommended to be rejected and an alternative Planning Proposal has been prepared for the rezoning and for referral to the gateway process.

The alternative Planning Proposal outlines a broader objective and intended outcome for the rezoning which is considered to accord with the Newport Village Commercial Centre Masterplan and does not focus on any one particular future development outcome.

The alternative Planning Proposal details that the purpose of the rezoning is to enable the future redevelopment of the site consistent with the Newport Village Commercial Centre Masterplan, and the surrounding commercial centre, while maintaining a public car park.

The alternative Planning Proposal does not list the development of a supermarket as a stated objective or outcome and it does not include concept plans or indicative drawings of potential future built form outcomes. It also follows however, that the Planning Proposal does not exclude a supermarket as being one of the forms of potential future development at the site under a 3(a) "General Business A" zone, albeit that retail development fronting Foamcrest Avenue in this location is not consistent with the Newport Village Commercial Centre Masterplan.

It is noted that the alternative Planning Proposal has been prepared in accordance with the amendments recommended in this report, and as noted above, in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning's guideline for Plan making, the applicant's Planning Proposal.

## **1.0 THE SITE AND SURROUNDING LAND**

- 1.1 The land affected by the proposal is known as 17 and 25-27 Foamcrest Avenue, Newport. The land includes four allotments which are owned by Pittwater Council. The subject lots are detailed in Table 1.

**Table 1 Subject Land**

Address	Property Description	Zone	Owner
17 Foamcrest Avenue, Newport	Lot 10 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
17 Foamcrest Avenue, Newport	Lot 11 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	Pittwater Council

The four allotments, which are identified in Figure 1 below, currently accommodate 56 'at grade' public car parking spaces.

The four allotments have a total area of 2364.8m<sup>2</sup>, Lots 10 and 11 Section 5 Deposited Plan 6248 (i.e. 17 Foamcrest Avenue) having an area of 1112.8m<sup>2</sup> and Lots 14 and 15 Section 5 Deposited Plan 6248 (i.e. 25-27 Foamcrest Avenue) having an area of 1252m<sup>2</sup>.

Within, and surrounding, the allotments there are several gardens beds which accommodate various forms of vegetation.

**Figure 1: Lot 10, Lot 11, Lot 14 and Lot 15, Section 5 in Deposited Plan 6248 (17, 25 and 27 Foamcrest Avenue) – site nominated in blue.**



The site is oriented in a north west to south east direction, however for the sake of this report the Foamcrest Avenue frontage is referred to as the northern side and the Barrenjoey Road frontage is referred to as the southern side.

The four Council owned allotments straddle a fifth allotment (Lot 1 in Deposited Plan 584141) which runs through the street block from Foamcrest Avenue to Barrenjoey Road (refer to Figure 2).

The allotment separating the Council owned land has two frontages (i.e. Foamcrest Avenue and Barrenjoey Road) and has two street addresses being 23 Foamcrest Avenue (on its northern side) and 343-345 Barrenjoey Road on its southern side.

Lot 1 in Deposited Plan 584141 is owned by Woolworths Ltd and accommodates an open car park on the northern side and a commercial/retail building on the southern (Barrenjoey Road) side.

The car park on the Woolworths owned land has approximately 24 car spaces. The car park has operated in conjunction with the Council owned car parks such that it is effectively a contiguous car park open to the public which also provides a vehicular access link between Councils two car parks at 17 Foamcrest Avenue and 25-27 Foamcrest Avenue.

**Figure 2: Lot 1 Deposited Plan 584141 – nominated in orange**



The commercial/retail building has a central arcade which allows pedestrian access from the car park.

Lot 1 in DP 584141 has also operated as a pedestrian link from the Council car parks through to shops in Barrenjoey Road.

The subject allotments slope down from Foamcrest Avenue towards Barrenjoey Road so that the ground level of the footpath in front of 17 Foamcrest Avenue is approximately 5m higher than the ground level of the footpath in front of 343 Barrenjoey Road.

To the west of 17 Foamcrest Avenue is the property at 335 Barrenjoey Road which extends from Barrenjoey Road through to Foamcrest Avenue. 335 Barrenjoey Road is legally described as SP 44281 and accommodates various commercial/retail buildings within a shopping arcade/mall over the southern portion of the site and a residential flat building above a car park on the northern side of the site which addresses Foamcrest Avenue.

Immediately to the north of the subject land is Foamcrest Avenue and beyond that is residential development in the form of one, two and three storey free standing dwellings and medium density residential buildings.

To the east of the site, there is a row of single storey commercial/retail shops which address Robertson Road (at 29 Foamcrest Avenue and 349 Barrenjoey Road). There is a covered walkway running along the rear of the shops which is adjacent to the eastern boundary of 27 Foamcrest Avenue.

The properties of 337-341 Barrenjoey Road are located to the south of 17 Foamcrest Avenue. A development application for a mixed use development including retail premises and residential units was approved by Pittwater Council and construction has commenced and is nearing completion.

Located to the south of 25 Foamcrest Avenue are commercial/retail buildings at 343 Barrenjoey Road.

To the south of 27 Foamcrest Avenue is the property known as 347 Barrenjoey Road which accommodates a single storey commercial/retail building which houses a pharmacy. At the rear of the pharmacy, adjacent to the southern boundary of 27 Foamcrest Avenue, is an 'at grade' car park which relies on informal vehicular access over 27 Foamcrest Avenue.

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## 2.0 BACKGROUND

2.1 At its meeting held on 17 November 2008 Council resolved the following:

- 1. That Council note the proposed development scheme as generally set out in the concept sketches included as Attachment 2 to this report for the amalgamated Council/Woolworths properties at Foamcrest Avenue & Barrenjoey Road, Newport.*
- 2. That Council grant owners consent to Woolworths Ltd to lodge a rezoning application to rezone the Council car park sites at 17-19 & 25-27 Foamcrest Avenue, Newport to a General Business 3 (a) zoning, it being noted that the rezoning application will be independently assessed and determined by the Minister for Planning.*
- 3. That Council grant owners consent to Woolworths Ltd to lodge a development application for a retail development including a supermarket and associated car parking at 17-19 & 25-27 Foamcrest Avenue, Newport, it being noted that the development application will be independently assessed and referred to the Joint Regional Panel for determination.*
- 4. That it be noted that the granting of owners consent in 2 and 3 above in no way fetters the statutory and regulatory responsibilities of the Council under the Environmental Planning & Assessment Act.*
- 5. That the General Manager be authorised to negotiate with Woolworths Ltd the sale of Council's car park sites at 17-19 & 25-27 Foamcrest Avenue, Newport in accordance with Council's valuation advice and the construction of an additional stratum layer/s of public car parking, to be owned by the Council in perpetuity, as part of the proposed development scheme referred to in 1 above.*
- 6. That a further report be brought to Council on the financial, legal and contractual matters associated with this project prior to any agreement being reached with Woolworths Ltd.*
- 7. That community consultation in relation to this project be commenced in accordance with the Council's adopted community engagement policy (Level 3 - High Impact/Local), including but not limited to the Newport Residents Association, the Newport Chamber of Commerce and residents of Foamcrest Avenue, Newport.*

2.2 A Planning Proposal was lodged on behalf of Woolworths Ltd on 10 July 2009. Table 2 outlines a history of the key dates and assessment relating to the Planning Proposal.

**Table 2 History of Key Dates**

Action	Date
Planning Proposal submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd.	28/07/2009
Application was advertised/notified.	7/09/2009 to 9/10/2009
Submission of Tree Assessment and Impact Report prepared by Rain Tree Consulting	24/09/2009
Submission of Traffic Report prepared by Colston Budd Hunt & Kafes	15/10/2009
First round of 'Key Stakeholder' meetings held.	30/11/2009
Public Information Session held.	3/12/2009
Request to applicant for Economic Impact Assessment	23/12/2009

Submission of Response to Issues raised at Public Information Session from Woolworths Ltd	8/02/2010
Submission of Newport Commercial Centre Economic Assessment prepared by Hill PDA	11/02/2010
Receipt of Peer Review of the Traffic Report prepared by ML Traffic Engineers	15/02/2010
Submission of amended concept plans	12/04/2010
Submission of amended Supplementary Traffic Report prepared by Colston Budd Hunt & Kafes	12/04/2010
Submission of Statement on the Design Changes to the Concept Plans	15/04/2010
Submission of amended concept plans (i.e. sections)	20/04/2010
Receipt of Peer Review of the Supplementary Traffic Report prepared by ML Traffic Engineers	22/04/2010
Receipt of Peer Review of Economic Assessment prepared by Leyshon Consulting	16/04/2010
Application was readvertised/renotified.	28/04/2010 to 28/05/2010
Submission of amended concept plans (i.e. Mezzanine Level)	05/05/2010
Submissions of response to issues raised by ML Traffic, prepared by Colston Budd Hunt & Kafes	24/05/2010
Second round of 'Key Stakeholder' meetings held.	08/06/2010
Submission by Woolworths Ltd of Posters of a street view of Barrenjoey Road - 17 Foamcrest Avenue, Newport	24/06/2010
Submission of amended concept plans (i.e. Mezzanine Level showing link to Robertson Road)	26/08/2010

### 3.0 REVIEW OF THE PLANNING PROPOSAL SUBMITTED ON BEHALF OF WOOLWORTHS LTD

#### 3.1 Overview of the planning proposal

A planning proposal has been prepared and submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd.

The proposal relates to four Council owned allotments. The location of the subject land is shown in Figure 1.

The current zoning of the four allotments is 5(a) (Special Uses "A") with the word "Parking" notated on the respective sites on the Pittwater Local Environmental Plan 1991 Zone Map (refer to Figure 3).

Development on the land is restricted in accordance with the development control table at clause 9 of the Pittwater Local Environmental Plan 1993 which outlines that development for the following purposes is the only form of development permitted (with consent) at the site:

*"Advertisements; drainage; helipads; roads; the purpose indicated by scarlet lettering on the Zoning Map and any purpose ordinarily incidental or subsidiary thereto; utility installations (other than gas holders or generating works)."*

Therefore currently, development for the purpose of commercial premises, recreation areas, public buildings and shop-top housing (amongst other purposes) is prohibited at the site.

The land immediately to the east, west and south of the subject land is zoned 3(a) (General Business "A") – refer to extract from the Pittwater Local Environmental Plan 1991 Zone Map below in Figure 3.

All four allotments are proposed to be rezoned to 3(a) (General Business "A").

**Figure 3: Extract from current Pittwater Local Environmental Plan 1991 Zone Map**



### 3.2 Explanation of provisions to be used in the local environmental plan

The proposed rezoning requires the amendment of the Pittwater Local Environmental Plan 1993 Zoning Map in accordance with the proposed changes as outlined in Table 3 below.

**Table 3 Proposed Zoning Changes**

Address	Property Description	Existing Zone	Proposed Zone
17 Foamcrest Avenue, Newport	Lot 10 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
17 Foamcrest Avenue, Newport	Lot 11 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) (Special Uses "A")	3(a) (General Business "A")

It is also considered that in order to allow shop-top housing at the site, commensurate with the surrounding 3(a) zoned land and the desired future character for the Newport Village Commercial Centre, the parcels of land comprising the site should all be identified by the symbol "STH" on the Multi-Unit Housing Map.

The submitted Planning Proposal does not address this issue. It is considered that any planning proposal forwarded to the Department of Planning for a gateway determination should include a proposed amendment to the Multi-Unit Housing Map.

The proposal requires no other provisions of the LEP to be amended.

### 3.3 Rezoning objective and intended outcomes – as proposed

The stated objectives and intended outcomes of the proposed rezoning as detailed in the submitted Planning Proposal are as follows:

#### *"5.1 Objectives and Intended Outcomes*

*The planning proposal and site concept have been developed with consideration of the strategic directions for Pittwater, specifically relevant to Newport, the surrounding land uses as well as discussions with Council.*

*The objective of the rezoning is:*

*To enable the redevelopment of the car park site for retail development, consistent with the remainder of the town centre and including the retention of the public car parking component and provision of additional car parking.*

*An indicative concept of the intended outcome for the site has been prepared, with the following key principles:*

- *Retail uses include a supermarket and speciality retail shops*
- *Basement supermarket at the rear of the site beneath the levels of the existing car park*
- *Speciality shops fronting an arcade, accessible from Barrenjoey Road*
- *Two storey decked car park over the retail space, with level access from Foamcrest Avenue*

- *Retention of the public car parking component currently on site and enhancement in the car parking numbers*
- *Provision of loading facilities in the north of the site, distanced from residential land uses.*
- *Retention of the existing through site link from Barrenjoey Road to Foamcrest Avenue with the use of travelators and a central pedestrian walkway through the car park at ground level.*
- *Provision of future pedestrian links to Robertson Street and to the south west of the site, if the adjoining sites were to be redeveloped.*
- *The bulk of the development is generally in accordance with the setback requirements of Pittwater DCP and the Newport Masterplan.*

*Indicative concept drawings prepared by Rice Daubney are provided as appendix A to this report and propose an enhanced retail offer with associated car parking, as well as retaining the public car parking component on the site.*

*The detailed design of the proposal is currently being progressed as part of a development application for the site and will be lodged following the submission of this rezoning proposal. “*

It is noted that the indicative concept plans have been amended so that the reference to concept plans prepared by Rice Daubney is no longer relevant. The amended concept plans have been prepared by BN Architecture and include an underground car park with a supermarket and specialty retail above.

In summary, the primary objective and intended outcome of the Woolworths submitted Planning Proposal is for the future development of a new supermarket at the site in addition to maintaining the quantum of public car parking spaces.

### **3.4 Newport Village Commercial Centre Masterplan**

The key strategic planning document for the site is the Newport Village Commercial Centre Masterplan.

The purpose of the Masterplan is to establish a holistic and integrated vision document for the Newport Village Commercial Centre, encompassing both the private and public domain. The document was developed with extensive community involvement.

The Masterplan provides an urban design framework that aims to enhance the amenity and design quality of the centre, and to support social, economic and cultural activities. Its stated focus is on a high amenity and high quality environment to support social, economic and cultural activities and to contribute positively to Newport's future.

It follows then that the logical strategic planning objective for the site should be the delivery of the desired future character as generally outlined in the Newport Village Commercial Centre Masterplan.

The Masterplan outlines strategies for 8 specific elements and these strategies are reinforced and implemented by development controls in the Masterplan and within DCP21. When combined, the strategies and the recommended development controls together form the desired future character.

Within the strategies of the Masterplan there are specific references to the subject site and the area which the subject site lies in, known as the 'car park precinct'. The most pertinent references when considering the desired future character for the site are in Part 4.6 (Land Uses) and Part 4.9 (Built Form). The stated Land Use strategy in Part 4.6 identifies that the desired future land uses for the site include mixed uses (retail, commercial, community and residential).

The strategy in Part 4.9 (Built Form) and the Figure 4.9.1 confirm that a form and scale of development commensurate with adjacent commercial development is envisaged across the site. The relevant extracts are detailed below:

#### *"4.6 Land Uses*

*Mixed uses including retail, commercial, community and residential uses are appropriate for the village centre. The strategy includes retaining the focus on Barrenjoey Road and Robertson Road as the main retail streets. Foamcrest Avenue is not suitable for retail uses for two reasons: it interfaces with a residential area and it should not compete with the intensity of use on the main shopping street and side streets. Ground floor uses on Foamcrest could include commercial uses in the form of professional suites, and a higher proportion of residential use in mixed use buildings would not be out of place east of Robertson Road beyond the church.*

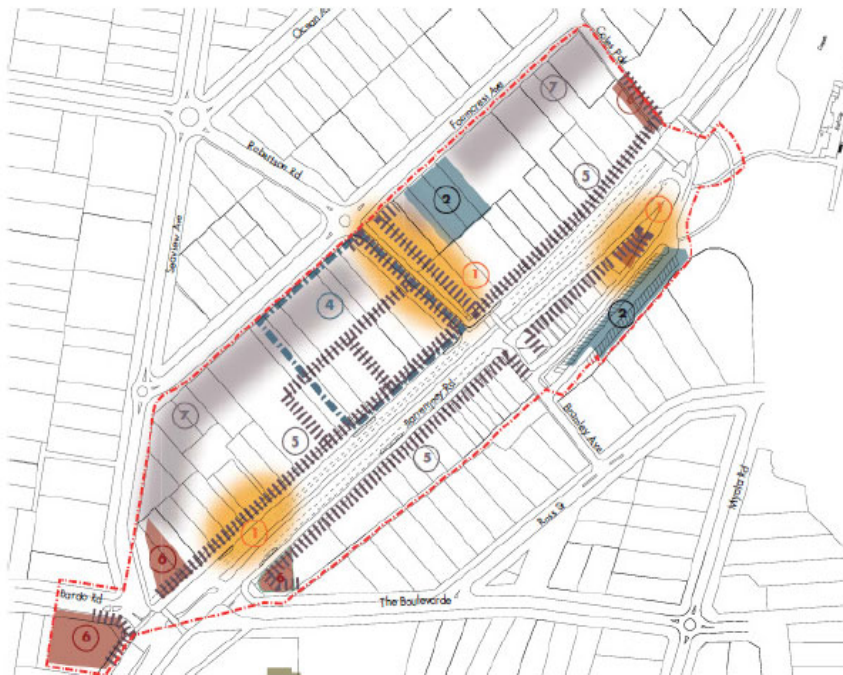
1. ....

...

4. Consider the 'car park precinct' including the Council-owned sites on Foamcrest Avenue as an aggregated site (or possibly 2 or 3 integrated sites), to rationalise land uses, optimise efficiencies and deliver high amenity, high quality built form. Integrate the sites fronting Robertson Road with the planning of this 'precinct' to ensure that no lots remain isolated and unable to be developed."

(Note: Figure 4.6 does not have a key. The numbers on the Figure 4.6 relate to the above points).

*"Figure 4.6 Land Uses"*



"Figure 4.9.1 Built Form"



Section 4.6 outlines that development addressing Foamcrest Avenue is not suitable for retail uses for reasons relating to the interface with residential properties and competition with the main shopping street and side streets. The indicative concept plans do not propose active retail uses to address the Foamcrest Avenue frontage.

The strategies for 'Land Use' and 'Built Form' for the site are supported by detailed development controls within Part D10 of DCP 21. The detailed development controls in DCP21 originate and have been adapted from the draft development controls outlined in Part 5.8 (Proposed Amendments to DCP 21) of the Masterplan.

Numerous built form controls in Part D10 of DCP21 are exclusive to the car park precinct and reinforce the desired future development outcomes for the site. The built form controls seek to achieve a scale and form commensurate with commercial and mixed use development. One of the key built controls relevant to the site is reproduced below:

*"D10.6 Height (Newport Commercial Centre)*

*The maximum height for the commercial centre varies from one to three storeys.*

- *For one-storey buildings, limit the overall height in metres to 7 metres*
- *For two storey buildings, limit the overall height in metres to 8.5 metres.*
- *For three storey buildings, limit the overall height in metres to 11.5 metres.*

*The following height restrictions also apply:*

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the street frontage height to 2 storeys, with a*

*maximum height above the flood planning level of 7 metres to the top of the structure (equivalent to the floor level of the floor above). Above this, a balustrade is permitted to the top level so long as the balustrade is at least 50% transparent.*

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the height at the 4 metre setback (to the topmost storey) to 10.5 metres above the flood planning level, with the roof form being contained within a height plane of 15 degrees, to a maximum overall height of 11.5 metres."*

As demonstrated above the desired future character for the site is congruent with the desired future character of the wider Newport Village Commercial Centre.

The site is not identified for development for a specific land use or development type, rather it is identified for development in a manner commensurate with the land uses and activities over the remainder of the Newport Commercial Centre which is exclusively zoned 3(a) (General Business "A") apart from Council owned Open Space near Bramley Avenue.

In accordance with the development control table at clause 9 of the Pittwater Local Environmental Plan 1993, the permitted land uses in the 3(a) (General Business "A") zone are relatively broad and include, amongst others, development for the purpose of commercial premises, recreation areas, public buildings and group buildings or residential flat buildings which are attached to shops or commercial premises.

### **3.5 Environmental Assessment**

The Planning Proposal raises issues with regards to the following environmental matters:

- Traffic and parking
- Economic impacts
- Built form
- Flooding
- Tree removal
- Social impacts

Consideration of each of these issues is outlined below. Consideration against the Newport Masterplan is also included.

#### ***Traffic and parking***

- 3.5.1 The submitted Planning Proposal was referred to Council's Engineer who outlined that a supermarket is likely to have a heavy dependency on large vehicles servicing the site and therefore raised concerns as to whether the configuration of Foamcrest Ave can cater with the service demand created by such a development.
- 3.5.2 Council's Engineer indicated that a traffic management assessment should be submitted with the rezoning application demonstrating that the roads surrounding the development will be able to cater for the likely demand for service deliveries from a supermarket.
- 3.5.3 The applicant subsequently submitted a Traffic Report prepared by Colston Budd Hunt & Kafes
- 3.5.4 The Traffic Report was undertaken based on the proposal "to rezone the parts of the site used for car parking, to provide for a new Woolworths supermarket of some 3,540m<sup>2</sup> and specialty shops of some 610m<sup>2</sup>. Vehicular access would be provided from Foamcrest Avenue, to a parking area for 287 parking spaces" The Traffic Report in summary found the following:

- The signal controlled intersection of Barrenjoey Road with Seaview Avenue is operating with average delays of less than 20 seconds per vehicle during the Thursday afternoon and Saturday lunchtime peak periods. This represents level of service B, a good level of service.
- The roundabout controlled intersections of Foamcrest Avenue with Robertson Road and Seaview Avenue are operating with average delays of less than 15 seconds per vehicle during peak periods. This represents level of service A/B, a good level of service.
- The proposed provision of 287 spaces satisfies Council requirements, and is considered to be appropriate.
- Traffic increases on Foamcrest Avenue, from where access to the development is proposed, would be some 180 to 190 vehicles per hour two-way during Thursday afternoon and Saturday peak hours. Increases on Seaview Avenue, Robertson Road and Barrenjoey Road would be some 20 to 190 vehicles per hour two-way.
- Based on the calculated traffic generation rates, the intersection of Barrenjoey Road with Seaview Avenue would operate with average delays of less than 25 seconds per vehicle during peak periods. This represents level of service B, a good level of service.
- The intersections of Foamcrest Avenue with Robertson Road and Seaview Avenue would continue to operate with average delays of less than 15 seconds per vehicle during peak periods. This represents level of service A/B, a good level of service.
- The proposed car park access driveway on Foamcrest Avenue would operate with average delays for all movements of less than 15 seconds per vehicle during peak periods. This represents level of service A/B, a good level of service.
- The road network will be able to cater for the additional traffic from the proposal.
- The proposal would strengthen demand for existing public transport services in the area.
- The access and the internal circulation and layout are considered appropriate.

3.5.5 Council engaged ML Traffic to undertake a peer review of the Colston Budd Hunt & Kafes Traffic Report. The Peer Review essentially listed various items that needed further attention or clarification.

3.5.6 A Supplementary Traffic Report prepared by Colston Budd Hunt & Kafes was subsequently submitted which examined the traffic implications of the amended drawings lodged for the Planning Proposal and also sought to address the matters raised by in the ML Traffic Peer Review.

3.5.7 The Supplementary report concluded that the main points relating to the traffic implications of the amended Planning Proposal are as follows:

- *The revised planning proposal would provide for a 2,950m<sup>2</sup> supermarket and 1,365m<sup>2</sup> specialty shops;*
- *The proposal would strengthen demand for existing public transport services in the area;*
- *The proposed parking provision complies with the requirements of Pittwater 21 DCP and RTA Guidelines;*
- *Access, internal circulation and layout are considered appropriate;*
- *The road network will be able to cater for the additional traffic from the proposed development;*
- *While there would be an increase in traffic in Foamcrest Avenue as a result of the proposed development, there would be not a significant affect on road safety; and*
- *The matters raised by the ML traffic review have been addressed.*

3.5.8 Council engaged ML Traffic to undertake a peer review of the Supplementary Traffic Report in which ML Traffic concluded the following:

*"A review of the traffic assessment has been undertaken for the planning proposal at 17 and 25-27 Foamcrest Avenue, and 343 Barrenjoey Road including the development of the two adjacent Council properties.*

*A review showed that further information is required to assess the traffic report in the following areas*

- *Clarification of the peak hours is required*
- *The net trip generation of the site has not been done correctly.*

*We believe that the above issues are of a minor nature and certainly do not preclude the proposed development from obtaining approval from Pittwater Council. Upon receipt of the minor clarification and correction, there are no traffic issues that would preclude the approval of the proposed development."*

3.5.9 A letter of response was prepared by Colston Budd Hunt & Kafes. The letter addressed the two outstanding matters to which ML Traffic subsequently acknowledged by way of email dated 24/05/2010.

3.5.10 In light of the above details and summarised analysis, it is considered that the Planning Proposal is considered satisfactory with regard to traffic and parking implications.

### ***Economic***

3.5.11 The applicant was requested to provide an Economic Impact Assessment to inform the Planning Proposal and responded by submitted the "Newport Commercial Centre Economic Assessment" prepared by Hill PDA.

3.5.12 The report nominated a trade area and analysed the trade area demographics. The report provided analysis of the retail floor space within the area, identified the demand for retail floor space within Newport, analysed the economic implications for the Newport Commercial Centre and outlined the economic merits of the proposal. The report concluded the following:

*"This Economic Analysis of the proposal rezoning has found that there is a sufficient demand within the Newport Commercial Centre trade area at the present time to accommodate 3,800 sqm of retail floor space including a 3,200 sqm supermarket and 600sqm specialty retail.*

*As the subject site is located within the Newport Commercial Centre, the attraction of a full line supermarket and the additional parking could provide economic benefits to the surrounding specialty retailers. We also consider that a centre on the Subject Site as planned could promote sustainable travel given its close proximity and ease of access to a range of family households and businesses. The central location of the Subject Site within the suburb of Newport and Pittwater LGA would also allow for residents to have greater access to parking and conduct their core shopping.*

*There are a number of likely positive impacts of the proposed rezoning including*

- *Improved retail offer,*
- *Reduced escape expenditure*
- *Reduction in travel costs"*

3.5.13 Council engaged Leyshon Consulting to under take a peer review of the Economic Assessment prepared by Hill PDA.

3.5.14 The Peer Review came to the following conclusions (note these are paraphrased and not direct quotes):

- The report does not assess the potential impact of the proposed development but merely examines certain floorspace demand and supply issues.
- Concern is raised that the Hill PDA report does not examine what affect a much larger Woolworths supermarket of 3,200m<sup>2</sup>. (plus 600m<sup>2</sup>. of supporting specialty retail) will have on the smaller recently opened 1,600m<sup>2</sup>. Coles supermarket at the northern end of the Newport retail strip.
- The Hill PDA report does not consider what might be the impact on the existing centre at Avalon of the transfers of spending from the Avalon Woolworths to the new store proposed at Newport.
- Hill PDA have argued that it is an established legal precedent in the Land and Environment Court of New South Wales that the relevant impact of a proposed development is that which falls on centres not individual stores or direct competitors.
- Given the importance of this issue and Council's involvement in this development as both a property owner and a decision-maker, we believe Council should seek an independent legal opinion as to whether the normal requirements of Section 79C(1)(b) of the Act can be set aside in this instance in the manner advocated by Hill PDA.
- Overall, therefore, a reasonable balance between the demand for, and supply of, supermarket floorspace within the Newport trade area in 2011-12 appears likely if development of the proposed Woolworths proceeds.
- This does not mean, however, that a Woolworths supermarket can be introduced into the Newport retail system "impact free". We have concerns about the potential impact of the proposed supermarket on the newly opened, and much smaller Coles in Newport, and what the inevitable reduction in sales activity at Woolworths Avalon may mean for that centre.
- It is fair to note that the proposed Woolworths supermarket will bring some benefits to the Newport centre. The development of a full-line supermarket within the centre where none exists at present should have a positive influence on local shopping patterns to the benefit of Newport as a whole.
- It should encourage a higher proportion of trade area resident shopping trips to be directed to Newport than occurs at present. This should have potential spin-off benefits in terms of the existing retail premises which line Barrenjoey Road.
- The proposed retail development at Newport will also create jobs in the centre.
- Subject to final plans, the centre will also benefit from an increase in overall off-street car parking by some 57 spaces.
- Arguments that the proposed development will increase local competition in the supermarket sector appear overstated.
- Another economic benefit is that the proposal will generate an increased "choice" for shoppers as far as supermarket goods are concerned in Newport rather than within the surrounding region as Woolworths is already represented at Avalon, Mona Vale and Warriewood.
- There is prima facie evidence that the proposed development would not generate, in a general sense, unacceptable impacts on the retail system in the trade area and would, if viewed in isolation from community concerns, produce some economic benefits for the Newport centre.

With respect to the first five dot points above it is noted that legal advice to Council indicates the Court has generally held that, in respect of the economic impact of a proposed development, the proper planning consideration which a decision-maker

must have regard to is the overall economic impact on the commercial centre or community, that is the wider locality.

The legal advice to Council indicates that the Court has stated that section 79C(1)(b) of the EPA Act "*does not require the consideration of economic impact on individual competitors, except to the extent that any impact upon individual competitors, or competition generally, demonstrates economic impact in the locality as an environmental or planning matter* (see *Cartier Holdings Pty Ltd v Newcastle City Council* (2001) per Justice Pearlman, upheld in *The Village McEvoy Pty Ltd v Council of the City of Sydney* (No 2) [2010] NSWLEC 17).

Also, the draft State Environmental Planning Policy (Competition) 2010, which has been publicly exhibited but has not yet come into force, appears to be an attempt by the NSW government to codify the above principle, notwithstanding that it is unlikely to apply to the rezoning of land because the SEPP will only apply to Part 4 development applications that are made after the SEPP comes into force.

- 3.5.15 Notwithstanding that the Peer Review alludes to the economic benefits of the proposal being overstated in the applicant's economic report and also raises issue with various technical arguments in the report, the Peer Review concludes that on balance there is prima facie evidence that the proposed development would not generate, in a general sense, unacceptable impacts on the retail system in the trade area.
- 3.5.16 Further the Peer review finds that, if viewed in isolation from community concerns, the proposal would produce some economic benefits for the Newport centre.
- 3.5.17 On the basis of the expert economic analysis, it is considered that the Planning Proposal is satisfactory with regard to the potential economic impacts, notwithstanding that retail development addressing the Foamcrest Avenue side of the site is inconsistent with the Newport Village Commercial Centre Masterplan.

### **Built Form**

- 3.5.18 The submitted Planning Proposal was supported by 'indicative concept' drawings which outlined a potential building footprint and envelope for a supermarket, speciality retail shops and car park development across the subject site and the Woolworths Ltd owned land at 343 Barrenjoey Road (also known as 23 Foamcrest Avenue).

The applicant has since amended the concept drawings, providing significantly more detail and indicating basement car parking where previously above ground car parking was proposed.

The amended drawings have considerably less detail than that which would be expected for a set of Development Application drawings, as would be expected with a Planning Proposal.

A review of the drawings indicates that various built form aspects of the supermarket, specialty retail and car park concept are inconsistent with the built form envisaged for the site as detailed in the Newport Village Commercial Centre Masterplan.

Specifically the building footprints do not align with those outlined in Figure 4.9.1 Built Form of the Masterplan. In this regard it is recognised that some of the proposed heights of the indicative buildings are less than what is shown in the Masterplan, which envisages 1, 2 and 3 storey development over the site.

It is acknowledged that the building footprints in the Masterplan are not a prescribed requirement and as such there is flexibility to arrange buildings at the site in a manner that is not exactly the same as building footprint presented in Figure 4.9.1.

It is also acknowledged that future development at the site is unlikely to correlate exactly as the Masterplan outlines in terms of building envelopes, building footprints and building alignments.

Nonetheless, the proposed indicative arrangement of buildings will inhibit the successful realisation of another important aspect of the Masterplan - the pedestrian links across the site.

Importantly, the site is identified in the Newport Village Commercial Centre Masterplan (refer to sections 4.5 and 4.2 and Figure 4.2 and 4.5 of the Masterplan) as accommodating significant north – south and east – west pedestrian pathways / links across the site. It is envisaged that these two links will form part of a wider, integrated pedestrian network throughout the Commercial Centre.

The amended indicative concept drawings show a relatively convoluted and disjointed set of pedestrian links, such that the north-south link is entered adjacent to the two loading bays in the north east corner, leads down a set of stairs to the basement (mezzanine level) car park, leads across the car park in front of a row of car spaces (i.e. within the vehicular circulation space of the car park) and then delivers the pedestrian to a set of travelators which in turn delivers the pedestrian to shops at the front of the proposed development near Barrenjoey Road.

The proposed east-west pedestrian link is less clear. The amended concept drawings indicate a proposed link between Robertson Road, through the property at 29 Foamcrest Avenue, into the subject site. The link however does not appear to extend through the site to link up with the existing stepped pedestrian path which is located at the south west corner of the site. Instead it appears that a pedestrian would have to enter the 'mezzanine' car park level and manoeuvre through the circulation space of the car park to a doorway in the south west corner of the car park.

It is noted that the majority, if not all of the pedestrian linkages proposed, appear to be covered and the majority are not "edged and overlooked by active uses" as envisaged Part 4.6 of the Masterplan.

Other aspects of concern with the indicative built form relate to the proposed setbacks and boundary interfaces.

Specifically the proposed interface between the site and Foamcrest Avenue does not appear to result in an active street front as envisaged by the Masterplan. In addition the proposed loading dock appears to sit forward of the set back required in the Masterplan and in the relevant DCP 21 controls.

The proposed nil setback to the western boundary is potentially an issue in terms of visual massing, view loss and solar access for the medium density residential development located immediately to the west of the site.

The nil setback to the eastern boundary is also of concern given it is likely to result in the deletion of the current servicing arrangements for most of the commercial properties located at 29 Foamcrest Avenue and 349 Barrenjoey Road (which address Robertson Road) and which informally rely on 27 Foamcrest Avenue for access for servicing (i.e. for service deliveries, garbage storage and collection, etc).

The applicant has indicated the provision of two loading/service bays in the north east corner of the development for use by the commercial properties to the east. It is not clear however how these would operate, and it does not appear that they would resolve garbage storage and collection issues for the commercial properties located at 29 Foamcrest Avenue and 349 Barrenjoey Road.

Other potential built form issues concern the front alignment which appears to be set further forward than at least one adjacent building, notwithstanding that the proposed building alignment may accord with the relevant development control.

While it recognised that the drawings are indicative only, and it is considered some, if not all of the built form issues may be able to be addressed through the Development Application process, it is nonetheless considered inappropriate to put forward the indicative concept drawings in their current form as part of the Planning Proposal given there are clear and apparent non-compliances with the desired future character built form controls in the Newport Village Commercial Centre Masterplan and the DCP21 development controls.

### ***Flooding***

- 3.5.19 Council's Flood Risk Map states the properties the subject of the Planning Proposal have been identified as being within a High Hazard Area, affected by a Flood Planning Level (FPL) and Probable Maximum Flood (PMF).

Council has a Flood Risk Management Policy which has been prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005. Future development will be subject to the provisions of the Policy and a flooding assessment of the site may be required.

The proposal was referred to Council's Engineer who has confirmed that it is apparent that future development will be able to comply with flood related development controls.

### ***Tree Removal***

- 3.5.20 Council's Natural Resource officer has reviewed the proposed rezoning application and inspected the site. An arborist report (RainTree Consulting Arboricultural Management July 2009) was submitted with the application. The report assesses 36 trees in relation to the site and proposal. Any potential impact to these trees relates to a future Development Application which at this stage has not been lodged. The report specifies that the majority of the trees onsite would require removal in accordance with the works anticipated in the indicative concept plans submitted with the planning proposal as they all fall within the indicative building footprint.

As the current application is only for rezoning, no trees require removal at this stage, the arborist report should be resubmitted with the future DA to which it will be more applicable.

### ***Social Impacts***

- 3.5.21 The rezoning of the land is likely to have limited direct or indirect social impacts. The future development of the land in accordance with the planning provisions of the new zone may result in social impacts.

It is noted that the initial (non-statutory) community consultation and notification of the Planning Proposal raised significant interest within the community and a total of 2574

submissions were received (including various petitions) with respect to the two notification periods.

The overwhelming majority of these submissions raised objection to the proposal and the issues raised are summarised in section 3.7 below.

It is reasonable to say that the majority of the objections relate directly or indirectly to the proposed future development of the site for the purpose of a Woolworths supermarket.

### **3.6 Consistency with Relevant Strategic Planning Framework**

3.6.1 The Planning Proposal is considered to be generally consistent with the objectives and actions contained within the draft North-East Sub-regional Strategy and the Sydney Metropolitan Strategy.

3.6.2 The Planning Proposal is considered to have aspects that are inconsistent with the Newport Village Commercial Centre Masterplan as elaborated upon elsewhere in the report.

3.6.3 The Planning Proposal is considered to be generally consistent with the community's vision as expressed in the Council's *Strategic Plan 2020 and Beyond*.

In particular the proposal is consistent with the "Town and Village Strategy" which outlines that strategic infrastructure is to provide integrated car parking options in Newport and Mona Vale and investigate other options via ongoing masterplans.

3.6.4 The planning proposal is consistent with applicable state environmental planning policies.

In particular it is noted that the proposal is considered to be consistent with the Draft SEPP (Competition) 2010, (refer to discussion below).

3.6.5 Draft SEPP (Competition) 2010 has been prepared and was placed on exhibition for public comment from 27 July 2010 to 26 August 2010.

The aims of this draft SEPP are to promote economic growth and competition and to remove anti-competitive barriers in environmental planning and assessment. The new draft State Environmental Planning Policy (SEPP) proposes:

- The commercial viability of a proposed development may not be taken into consideration by a consent authority, usually the local council, when determining development applications;
- The likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered unless the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and
- Any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect.

The provisions of the draft SEPP relate to specific Development Applications more so than the proposed rezoning of land and in this regard any future Development Application relating to the subject site will be considered against the provisions of the draft SEPP.

Notwithstanding, the proposal to rezone the subject site from 5(a) (Special Uses "A") to 3(a) (General Business "A") has also been considered against the provisions of the draft SEPP and has found to be consistent with those provisions.

The rezoning will result in an increase in the quantum of 'business zoned' land within the wider Newport Commercial Centre and the economic analysis undertaken to date (refer to section 3.5 above) indicates that the actual rezoning of the land is unlikely to have an overall adverse impact on the extent and adequacy of local community services and facilities.

- 3.6.6 It is also noted that the proposal to rezone the land is consistent with the Planning System Circular (PN 08-002) issued by the NSW Department of Planning with respect to the zoning of infrastructure land in LEPs.

The circular outlines six principles that should be followed when zoning infrastructure land in new LEPs. It is considered that the circular applies given that the site contains (and is proposed to contain) an infrastructure type covered in the Infrastructure SEPP (i.e. *a car park for the purpose of 50 or more cars with access to classified road or to road that connects to classified road, if access within 90m of connection, measured along alignment of connecting road*).

Principle 1.2 (Rezoning existing 'special use' zones) of the circular states the following:

*"Land currently zoned 'special use' for these types of infrastructure or services (e.g. roads, railway lines, pipelines etc), should be zoned the same as the adjacent land. Applying the adjacent zone type to public infrastructure land follows a basic planning principle of aligning land uses. It is established practice to refer to the zoning of adjoining land when seeking to establish an appropriate zoning for land. In many cases the infrastructure land would have been zoned the same as the adjoining land if it had not been used instead for an infrastructure purpose. This approach avoids the need for spot rezonings when the infrastructure use ceases or is downsized in the future. It is preferable that the land use zone be the same as the adjacent zoning, so that future uses are compatible with existing surrounding uses."*

In summary, it can therefore be reasonably expected that as part of the Council's new comprehensive LEP that will be introduced in accordance with the Standard Instrument format, Council will be required to rezone the subject land to 3(a) (General Business "A") in accordance with the provisions of Planning Circular PN 08-002.

- 3.6.7 The Planning Proposal is generally consistent with the applicable Ministerial Directions (S117 Directions).

### 3.7 Non-statutory Preliminary Notification and Community Consultation

Formal consultation with State and Commonwealth Authorities will be carried out as advised by the Department of Planning upon any gateway determination.

Although not required by legislation, preliminary non-statutory notification and community consultation was undertaken with respect to the submitted Planning Proposal in accordance with Council's Community Engagement Policy.

The application was advertised between 7 September 2009 and 9 October 2009 with 1343 submissions received (1340 in objection and 3 in support). It is noted that 1019 of the 1340 objections received were in a 'pro-forma' style format

It is also noted that one of the 1340 objections had a petition attached with 2018 signatures.

Upon the amendment of the application and provision of additional information, the application was re-advertised between 28 April 2010 and 28 May 2010 with 1231 submissions received (1225 in objection and 6 in support). It is noted that 998 of the 1325 objections received were in a 'pro-forma' style format.

It is also noted that one of the 6 submissions of support has a petition attached titled "*Letters From Newport Business Owners*" with signatures from the owners and / or operators of 60 businesses within Newport and 1 in Bilgola Plateau.

In total 2574 submissions were received (not including signatories to petitions). It has not been determined how many people have lodged submissions in addition to signing petitions.

It is also noted that the Newport vs Woolies Community Group has a website devoted to objection to the Planning Proposal submitted by Woolworths Ltd.

Several 'alternative concepts' have also been proposed (including supporting drawings) and submitted during the notification periods.

One of the alternative concepts was prepared on behalf of the Newport vs Woolies Community Group and a number of submissions received refer to this alternative concept.

In addition to the notification periods outlined above a 'Public Information Session' was held (and independently facilitated) and a series of meetings were undertaken with identified 'Key Stakeholders' including the Newport Residents Association, the Newport vs Woolies Community Group, Pittwater Council Property Officer, and Woolworths Ltd representatives. It is noted that the Newport Chamber of Commerce were also invited to the Stakeholder meetings but did not attend.

The matters raised are generally consistent and have been summarised below:

Objections raised.

- The proposal is inconsistent with the Newport Village Commercial Centre Masterplan.
- The proposal is inconsistent with controls within the Pittwater DCP 21 and the Pittwater LEP 1993.
- The proposal is inconsistent with Draft North East Draft Regional Strategy.
- The proposal is inconsistent with Section 117 Directions of the EP&A Act 1979.
- The proposal does not satisfy (or provide sufficient information to satisfy) the statutory requirements of a Planning Proposal.
- The Planning Proposal should not be considered without consideration of a DA because they are closely linked.
- Approval of the proposal effectively means approval of a future DA for a supermarket.
- There is no need for a second supermarket in Newport.
- Additional retail floor space will create over supply in Newport.
- A supermarket will negatively impact upon the viability of existing businesses within Newport.
- The economic report is inaccurate and or flawed.
- The proposal will lead to the loss of the sense of 'Village' that currently exists at Newport.
- The proposal will result in significant additional car and truck movements and will result in significant adverse impacts upon the local road network.
- Car parking should be provided below ground level (Note: The amended 'indicative concept' plans include below ground car parking).
- Additional parking is not required in Newport.
- The traffic reports submitted are inaccurate and or flawed.

- The proposal will not result in the highest and best land use of the site – for example an underground car park with public open space at ground level would be a better use of the site.
- The site should not be sold by Council.
- The site should be developed for the purpose of open space.
- The site should be developed for the purpose of 'green community space - as a focus for an off main road village centre'.
- The proposal will result in poor pedestrian outcomes in terms of safety and lack of pedestrian linkages through the site.
- The proposal will result in adverse built form/architectural outcomes.
- The proposal will result in a diminished streetscape for both Foamcrest Avenue and also to Barrenjoey Road.
- The proposal does not respond to the residential interface in Foamcrest Avenue and will result in adverse impacts to the residential amenity of nearby residential dwellings.
- Alternative proposals have not been fully or properly explored.
- The proposal will have adverse impacts upon wildlife.
- The proposal will have adverse upon existing infrastructure (roads, electricity, water sewerage and drainage).
- The proposal to rezone (and develop) the land is primarily for Council's economic and or financial purposes.
- There is concern about transparency with regard to the dealings of Council and Woolworths.
- There has been a lack of consultation with the community.
- The amended 'indicative concept drawings' do not address the issues raised in the first round of notification and submissions.

#### In support

- Woolworths project will upgrade 'tired' buildings and improve the streetscape.
- Woolworths project will revitalise the Newport shopping strip.
- Woolworths project will attract larger pedestrian flow to Newport shops.
- Woolworths project will draw more customers to the area that currently shop elsewhere and increase economic activity for existing small businesses.
- Woolworths project will attract new small businesses that would otherwise not come to Newport.
- There are insufficient car spaces and no loading zones at the southern end of Newport to support small businesses and the Woolworths project would help address this problem.
- The "protesters" don't speak for all small business owners in Newport.
- The amended design is considerably improved and is likely to be a good addition to Barrenjoey Road.
- Amended 'indicative concept' has addressed the majority of issues.
- The development of a Woolworths supermarket would provide choice and a balance to Coles.
- The long term benefits of a Woolworths store will outweigh the short term negative inconveniences.
- If Woolworths is unable to develop the site it will sell the land and the site will be developed for different purposes leaving the Council car park split and difficult to develop in the future.

#### Summary

As demonstrated above the non-statutory preliminary notification and community consultation attracted significant public interest. The majority of the submissions received raise objection to the Planning Proposal, with less than 1% of submissions in support of the proposal.

The overwhelming majority of the objections submitted relate to the proposed future development of the site for the purpose of a Woolworths supermarket.

The objections raise a number of issues, but the majority of matters raised are concerned with the outcomes related to the future development of the site for the purpose of a supermarket.

It is also notable that the majority of the submissions received indicate that the proposal does not accord with the Newport Village Commercial Centre Masterplan and that any Planning Proposal and future development should accord with the Masterplan.

This point was also one of the key matters raised by representatives of the Newport Residents Association and the Newport vs Woolies Community Group at the Stakeholder meetings and within their respective written submissions.

Other key issues raised by the above mentioned Key Stakeholders relate to the economic impacts, traffic related impacts, built form impacts and social impacts that the development of the site for the purpose of a supermarket will have upon the Newport Village Commercial Centre and the wider Newport community.

Discussion about the potential environmental, economic and social impacts is outlined above in section 3.5.

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#### 4.0 ALTERNATIVE PLANNING PROPOSAL

The Planning Proposal submitted by Woolworths focuses on one main intended outcome and one main objective for the site, that being the future development of the site for the purpose of a supermarket, retail speciality shops and a car park.

Though it may be that development for the purpose of a supermarket will be development that is permitted with consent upon the site being rezoned, it is considered that the Planning Proposal objective is not consistent with the desired future character of the site, such that that the desired future character is much broader than 'development for one purpose only'.

The stated objective in the submitted Planning Proposal does not seek to deliver the broader desired future character for the site as set out in the Newport Village Commercial Centre Masterplan and for this reason the objective is not supported.

In addition, various aspects of the 'indicative concept' outlined in the submitted Planning Proposal are inconsistent with the Newport Village Commercial Centre Masterplan as detailed in the above sections of this report and therefore the indicative concept cannot be supported.

Notwithstanding that the submitted Planning Proposal is not supported, this report nonetheless concludes that the actual rezoning of the site from 5(a) (Special Uses "A") to 3(a) (General Business "A") is a rational planning outcome, is consistent with NSW Department of Planning policies, is consistent with the Draft North East Sub-regional Strategy, will provide the potential for the delivery of future development generally consistent with the Newport Village Commercial Centre Masterplan and therefore has merit.

In light of that conclusion and in accordance with the provisions of Section 55(1) of the EP&A Act and the Department of Planning's guideline for Plan making, an alternative Planning Proposal has been provided.

The objective of the alternative Planning Proposal is considered to be consistent with the Newport Village Commercial Centre Masterplan. The alternative Planning Proposal is attached to this report (refer to Attachment 2) and the objective is outlined below:

*"The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking."*

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## 5.0 NEXT STEPS

- 5.1 Should Council adopt the recommendation, a request will be made to the Department of Planning for a “gateway” determination. Additionally, the identified Key Stakeholders and those who had previously made written submissions will be advised of Council’s resolution.
- 5.2 If the gateway determination is to proceed with the rezoning, then community consultation will be undertaken as required by the Department of Planning.
- 5.3 A report would then be provided to Council following the community consultation process with a recommendation to either proceed or not proceed with the Planning Proposal and draft LEP.
- 5.4 In summary the steps of the “gateway” process are:
  - A Planning Proposal (PP) is prepared by the proponent or Relevant Planning Authority (in this case, Council)
  - Preliminary non-statutory notification of rezoning
  - Council formally considers PP (this report)
  - Council resolves to forward PP or the alternative PP to Department of Planning (DoP)
  - PP assessed by DoP
  - A Planning Panel considers PP & recommendations of DoP
  - Gateway determination (potential referral to the Joint Regional Planning Panel)
  - Consultation with State/Commonwealth Public Authorities
  - Council conducts formal Community Consultation
  - Council conducts a public hearing if required
  - Council considers community and agency submissions and determines whether to proceed
  - Final PP assessed by DoP
  - DoP prepares legal instrument in consultation with Parliamentary Counsel
  - Plan is made by the Minister

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## **6.0 SUSTAINABILITY ASSESSMENT**

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

- 6.1.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business "A") zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan. The Masterplan aims to enhance the amenity and design quality of the centre, and to support social, economic and cultural activities. Its stated focus is on a high amenity and high quality environment to support social, economic and cultural activities and to contribute positively to Newport's future.

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

- 6.2.1 The site is within an existing business precinct (commercial centre) in a built up area of Newport. The site has not been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats.

Assessment of future development applications will include evaluating the likely impacts of future development with respect to natural environment and economic and social impacts in the locality.

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

- 6.3.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business "A") zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan

The increase in the supply of commercial / retail floor space that the rezoning may facilitate (if the site is developed for the purpose of commercial premises to its maximum potential) is likely to result in employment generation within an already well established commercial centre.

Initial analysis indicates that such development is unlikely to unacceptably impact on the viability of the existing Commercial Centre and assessment of future development applications will include evaluation of the likely economic impacts in the locality.

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

- 6.4.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business "A") zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan

The Masterplan was developed with extensive community involvement.

Consultation with landowners and community participation has been undertaken during the assessment to ensure that decision-making regarding the proposal is accountable and transparent. Further consultation will likely be required by the Minister for Planning.

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

- 6.5.1 Progressing the plan-making process to permit land uses and activities at the site in accordance with the 3(a) (General Business "A") zone will facilitate the potential redevelopment of the site in a manner generally consistent with the Newport Village Commercial Centre Masterplan

The rezoning would not inhibit Council's ability to maintain the quantum of public car spaces which currently exist at the site and it would not inhibit Council's ability to maintain and improve the pedestrian access through the site currently enjoyed by the public.

The site is within an established Commercial Centre which is well serviced by existing infrastructure including public transport.

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## 7.0 EXECUTIVE SUMMARY

- 7.1 Council resolved to grant owners consent to Woolworths Ltd to lodge a rezoning application to rezone the Council owned 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business). Woolworths currently own land located between the Council owned parcels of land (known as 23 Foamcrest Avenue and 343 Barrenjoey Road).
- 7.2 A Planning Proposal has been submitted to Council by URBIS Pty Ltd on behalf of Fabcot Pty Ltd which is a subsidiary of Woolworths Ltd.
- 7.3 SJB Planning NSW Pty Ltd was engaged by Council to undertake an independent assessment of the application to rezone the land (this report).
- 7.4 The report concludes that the proposal to rezone the Council owned land from 5(a) (Special Uses "A") to 3(a) (General Business "A") is a rational planning outcome, is consistent with NSW Department of Planning policies, is consistent with the Draft North East Sub-regional Strategy, would potentially facilitate development generally consistent with the Newport Village Commercial Centre Masterplan and therefore has merit.
- 7.5 The rezoning of the subject land to 3(a) (General Business "A") will assist in the possible realisation of the Newport Village Commercial Centre Village Masterplan as it applies to the site, where as the current zoning effectively prohibits the full realisation of the Newport Village Commercial Centre Village Masterplan as it applies to the site.
- 7.6 The Planning Proposal submitted on behalf of Woolworths Ltd is considered to be inconsistent with Newport Village Commercial Centre Masterplan.
- 7.7 The stated key principles in the submitted Planning Proposal do not seek to deliver the broader desired future character for the site as set out in the Newport Village Commercial Centre Masterplan and for this reason is not supported.
- 7.8 It is recommended that the Planning Proposal should not proceed to the NSW Department of Planning's 'gateway' process in its current form.
- 7.9 This report provides an alternative Planning Proposal which outlines a broader objective and intended outcome for the rezoning, when compared to the submitted Planning Proposal.
- 7.10 The objective of the alternative Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking.
- 7.11 The alternative Planning Proposal does not list the development of a supermarket as a stated objective and it does not include concept plans or indicative drawings of potential future built form outcomes. The alternative Planning Proposal does not however, seek to specifically exclude a supermarket as being one of the forms of potential future development at the site. Notwithstanding this, retail development fronting Foamcrest Avenue is not consistent with the Newport Village Commercial Centre Masterplan.
- 7.12 The alternative Planning Proposal has been prepared in accordance with the amendments recommended in this report and at the request of Council's strategic planning department.
- 7.13 This report recommends referral of the alternative Planning Proposal for a gateway determination.

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## RECOMMENDATION

1. That Council not proceed with the Planning Proposal lodged on behalf of Woolworths as the Proposal is inconsistent with the provisions of the Newport Village Commercial Centre Masterplan.
2. That Council reinforce that the Newport Village Commercial Centre Masterplan is the guiding document for future zoning and redevelopment of the subject land and 23 Foamcrest Avenue.
3. The Council refer the alternative Planning Proposal, as set out in Attachment 2, to facilitate the rezoning of Council owned land at 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), to the Director General of Planning for a gateway determination.
4. That further community consultation be carried out in accordance with any gateway determination and that the outcome of the community consultation be reported to Council.
5. That Council note that endorsement of proceeding with the alternative Planning Proposal in no way fetters the statutory and regulatory responsibilities of the Council under the *Environmental Planning & Assessment Act 1979* or Council's obligation to objectively consider the suitability of any future development application on this site, including but not limited to that for the purpose of a supermarket.
6. That all persons who have made a submission be formally advised of Council's decision.

Report prepared by

Stuart Gordon, Senior Planner / Stuart McDonald, Director, SJB Planning NSW Pty Ltd



Planning

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Department Generated Correspondence (Y)

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Our ref: PP\_2010\_PITTW\_004\_00 (10/21690)  
 Your ref: Andrew Pigott

Mr Mark Ferguson  
 General Manager  
 Pittwater Council  
 PO Box 882  
 MONA VALE NSW 1660

Dear Mr Ferguson,

**Re: Planning Proposal to rezone land at 17 and 25-27 Foamcrest Avenue, Newport**

I am writing in response to your Council's letter dated 25 October 2010 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Pittwater Local Environmental Plan 1993 to rezone 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), and to amend the Multi-Unit Housing Map to enable shop top housing on the site.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Gateway Determination requires that the planning proposal be made publicly available for a period of 28 days. Under section 57(2) of the Act, I am satisfied that the planning proposal, when amended as required by the Gateway Determination, is in a form that can be made available for community consultation.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Nathan Herborn of the Regional Office of the Department on 02 9228 6111.

Yours sincerely,

  
 Tom Gellibrand  
 Deputy Director General  
 Plan Making & Urban Renewal

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## Planning

### Gateway Determination

**Planning Proposal (Department Ref: PP\_2010\_PITTW\_004\_00):** to rezone 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), and to amend the Multi-Unit Housing Map to enable shop top housing on the site.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Pittwater Local Environmental Plan 1993 to rezone 17 Foamcrest Avenue Newport (Lot 10 & 11, Section 5, DP 6248) and 25-27 Foamcrest Avenue Newport (Lot 14 & 15, Section 5, DP 6248) from 5(a) (Special Uses "A") to 3(a) (General Business "A"), and to amend the Multi-Unit Housing Map to enable shop top housing on the site should proceed subject to the following conditions:

1. A copy of Council's Flood Risk Management Policy and the s117 direction 4.3 - Flood Prone Land is included in the exhibition material.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal must be made publicly available for **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Department of Environment, Climate Change and Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 9<sup>th</sup> day of December 2010.

**Tom Gellibrand**  
Deputy Director General  
Plan Making & Urban Renewal  
Delegate of the Minister for Planning

Pittwater PP\_2010\_PITTW\_004\_00 (10/21690)

## REPORT ON PUBLIC HEARING

PLANNING PROPOSAL – 17 & 25-27 FOAMCREST AVENUE, NEWPORT NSW 2106

CLIENT: **PITTWATER COUNCIL**  
PO BOX 882, MONA VALE NSW 1660

PROJECT REF: 0051/11

DATE: 29 June 2011

**PLANNING**  
I N G E N U I T Y

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## **1 INTRODUCTION**

This report has been prepared by Lindsay Fletcher, Managing Director of Planning Ingenuity Pty Ltd who was retained by Pittwater Council to conduct and report on a public hearing pursuant to section 57(6) of the Environmental Planning and Assessment Act 1979.

The public hearing relates to a Planning Proposal to amend the Pittwater Local Environment Plan 1993 to rezone 17 and 25-27 Foamcrest Avenue, Newport and to amend the Multi-Unit Housing Map to enable shop-top housing on those properties.

The purpose of this report is to report on the issues that arose in submissions made to the public hearing on the Planning Proposal and specifically to review the Planning Proposal and the manner in which this was produced, in the context of issues raised at the public hearing as well as to make recommendations for consideration when Council considers the Planning Proposal.

This Report is divided into seven sections. The remaining sections include the terms of reference; an outline of the Planning Proposal; an overview/summary of the Public Hearing; a discussion of key issues; a conclusion; and recommendations.

## **2 TERMS OF REFERENCE**

The terms of reference for the public hearing are as follows:

- Conduct a public hearing pursuant to section 57(6) of the Environmental Planning and Assessment Act 1979 with respect to the Planning Proposal (R0001/09) to amend the Pittwater Local Environment Plan 1993 to rezone 17 and 25-27 Foamcrest Avenue, Newport from Zone 5(a) (SPECIAL USES "A") to 3(a) (GENERAL BUSINESS "A"), and to amend the Multi-Unit Housing Map to enable shop-top housing on the site.
- Review the Planning Proposal that was exhibited and given a Gateway Determination and the manner in which this was produced, in the context of issues raised at the public hearing.
- Make recommendations for consideration when Council considers the Planning Proposal.

### **3 THE PLANNING PROPOSAL**

#### **3.1 The Subject Properties**

The land subject to the Planning Proposal is known as 17-19 and 25-27 Foamcrest Avenue, Newport. The land includes four allotments which are owned by Pittwater Council. The subject lots are detailed in Table 1.

TABLE 1 - Subject Land			
Address	Description	Zoning	Owner
17 Foamcrest Avenue, Newport	Lots 10 & 11 Section 5 Deposited Plan 6248	5(a) Special Uses "A" - Parking	Pittwater Council
25 Foamcrest Avenue, Newport	Lot 14 Section 5 Deposited Plan 6248	5(a) Special Uses "A" - Parking	Pittwater Council
27 Foamcrest Avenue, Newport	Lot 15 Section 5 Deposited Plan 6248	5(a) Special Uses "A" - Parking	Pittwater Council

The four allotments have a total area of 2364.8m<sup>2</sup> and are shown in Figure 1 below. They currently accommodate 'at grade' public car parking spaces and landscaping including several large trees.

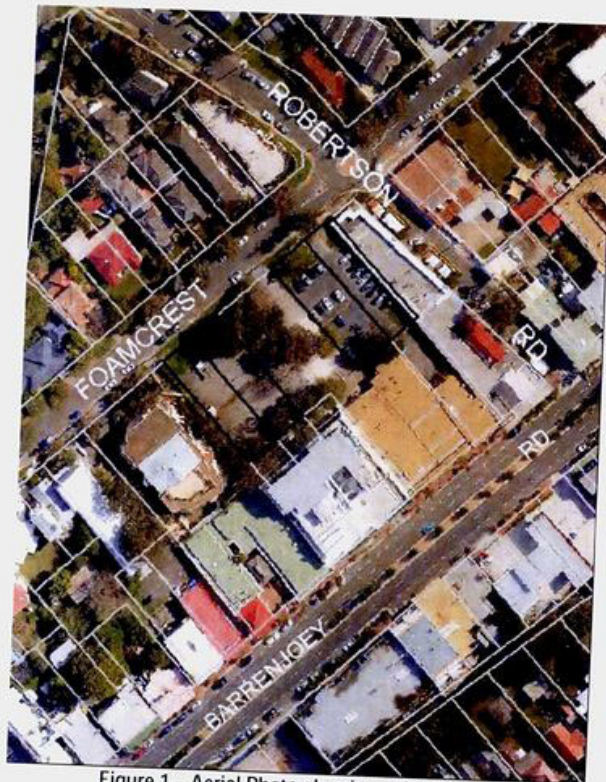


Figure 1 – Aerial Photo showing subject land

The four Council owned allotments straddle a fifth allotment (Lot 1 in Deposited Plan 584141) owned by Woolworths Ltd. which runs through the street block

from Foamcrest Avenue to Barrenjoey Road. That allotment has two frontages and two street addresses, namely 23 Foamcrest Avenue on its northern side and 343-345 Barrenjoey Road on its southern side.

The northern end between the Council owned Lots contains an open 'at ground' car park with approximately 24 car spaces whilst the southern end contains a commercial/retail building fronting Barrenjoey Road. The commercial/retail building has a central arcade which allows pedestrian access from the car park.

The car park on the Woolworths owned land has operated in conjunction with, and provides a vehicular access link between, the Council owned car parks such that it is effectively a contiguous car park open to the public.

The subject land slopes down from Foamcrest Avenue towards Barrenjoey Road so that the ground level of the footpath in Foamcrest Avenue is in the order of 5m above the footpath level on Barrenjoey Road.

### 3.2 The Proposed LEP Amendments

The public hearing relates to a Planning Proposal to amend the Pittwater Local Environment Plan 1993 to rezone 17 and 25-27 Foamcrest Avenue, Newport from Zone 5(a) Special Uses "A" to 3(a) General Business "A", and to amend the Multi-Unit Housing Map to enable shop-top housing on the site. This Planning Proposal is an alternative proposal recommended to Council by independent planning consultants, SJB Planning, who were appointed by Pittwater Council to assess of an earlier Planning Proposal for the land submitted on behalf of Woolworths Ltd.



Figure 2 - Current Zoning



Figure 3 - Proposed Zoning

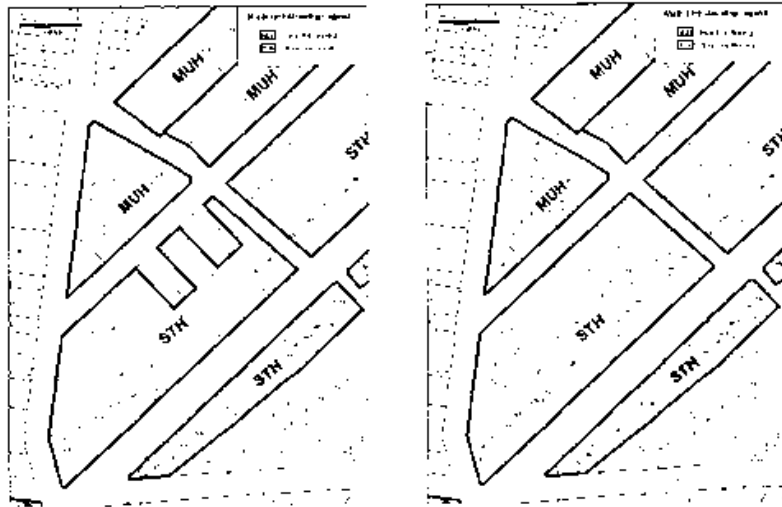


Figure 4 - Existing and Proposed MUH Maps

### 3.3 Background to the Planning Proposal

In July 2009 an application was lodged by Fabcot (Woolworths Ltd), to rezone properties owned by Pittwater Council, located in the Newport commercial centre. Having regard for the Council ownership of the site, so as to maintain appropriate levels of probity, Pittwater Council engaged SJB Planning as an independent consultant to assess that application.

Throughout 2009 and 2010, the application underwent preliminary community consultation and assessment. As a result of assessment and consultation, SJB Planning recommended that Pittwater Council not proceed with the original Woolworth's proposal, but rather that the Council endorse an amended Planning Proposal as outlined in Section 3.2 above.

In October 2010 Council resolved to start the statutory process for amending the Pittwater LEP by requesting a Gateway Determination from the Department of Planning. The Council received a Gateway Determination from the Department of Planning on 9<sup>th</sup> December 2010. The Planning Proposal has proceeded subject to the conditions of that determination.

The Planning Proposal was publicly exhibited from 13<sup>th</sup> January to 10<sup>th</sup> February 2011. In excess of 540 submissions were received by Council with at least 45 requesting or supporting the call for a public hearing. SJB Planning recommended that Council, as the relevant planning authority, arrange a public hearing in accordance with section 57(6) of the EP&A Act.

#### **4 THE PUBLIC HEARING**

I wish to gratefully acknowledge the assistance of Council staff in taking minutes of the hearing. These have been compared with my own notes taken during the hearing and, where possible, checked by reference to copies of presentations provided to the Chair during the hearing. Not all speakers provided copies of their presentation. The resultant summary of the submissions made during the hearing is attached as Annexure A.

The public hearing was held over two consecutive days on the 12<sup>th</sup> and 13<sup>th</sup> of May 2011 at the Mona Vale Memorial Hall in Mona Vale. Six key stakeholder groups and 57 individuals registered to address the hearing over the two days set aside. The key stakeholder groups were each allocated a period of 30 minutes whilst individuals were each allocated five minutes.

Five of the 57 individuals that registered to speak did not attend. However two individuals who had not previously registered attended and addressed the hearing.

Additionally, 11 of the individuals who registered to address the hearing did not personally attend but rather appeared either by video (6) or their written submissions were presented on their behalf by other speakers (5).

In summary, of the 60 group or individual submissions made to the public hearing, only four spoke in favour of the exhibited planning proposal. The stakeholder groups that spoke in favour were Woolworths, the Property Team of Pittwater Council and the Newport Business Owners group.

However, of the 56 other submissions made to the hearing, not one suggested that there should be no development of the site, or ultimately no rezoning of the land. The vast majority, if not all submissions, supported future development providing that it was in accordance with the Newport Masterplan/DCP and thereby acknowledged that some development of the land was appropriate. It was also acknowledged that in order to achieve future development, the zoning of at least part of the land would need to change.

At the conclusion of the two days of public hearing I was left with the clear overall impression that members of the public were confused and frustrated by the length of the process and the number of exhibitions and public meetings that have been held in relation to the future of the site. Generally people appeared confused that Council appeared to be continuing with the development of the site to facilitate a development by Woolworths that both members of the public as well as Council's independent specialist consultants considered to be inconsistent with the desired outcome for the site has identified in the Newport Masterplan/DCP.

Most participants could not differentiate between the planning proposal initiated by Woolworths and the planning proposal that is in fact the subject of this public hearing. In other words, they appeared to not understand why Council had simply not rejected the Woolworths planning proposal given the public response to it

during its previous informal public exhibition, and why it was necessary for them to continue to raise objection to what they saw as the same proposal.

Most participants were skeptical or even cynical that the purpose of the exhibited planning proposal was to facilitate development in accordance with the Newport Masterplan/DCP. Rather, they appeared to believe that the planning proposal was aimed to facilitate the development concept submitted and advocated by Woolworths representatives.

For reasons I will outline, it is my opinion that the primary issue Council needs to deal with if it pursues this planning proposal is not the intent of the planning proposal itself but rather the public perception that it will not achieve the desired objectives and built form outcomes identified in the Newport Masterplan. Moreover, as far as practicable Council needs to guard against the possibility that the land will be developed in a manner that is inconsistent with the Masterplan.

Council and its officers are clearly caught in a dilemma in balancing the need for reasonable expedition of implementing the strategies of the Masterplan (which must inevitably include rezoning of the subject land) and ensuring an open and transparent process with maximum public consultation. Council has gone well beyond the minimum requirements for public consultation in relation to the development of this land. Had they not done so they would have, rightly in my opinion, been open to criticism for not adequately consulting stakeholders.

However the lengthy process and the numerous informal and formal exhibitions and meetings has itself lead to criticism of Council procrastinating and appears to have bred much of the cynicism and frustration evident during the public hearing. In my opinion, given the sensitive nature of the proposal and the fact that it is public land, an open and transparent process is critical and it is therefore better that Council err on that side, despite the frustration and criticisms that it may have caused.

In summary, the key issues that arose from the public hearing can be summarised as follows:

- Is the Planning Proposal necessary?
- Is the Planning Proposal appropriate?
- The link between the Planning Proposal and the sale of land to Woolworths-probity/conflict of interest.
- The link between the Planning Proposal and Woolworths' specific proposal/design.
- Whether adequate measures are in place to ensure that future development is consistent with Council's adopted Masterplan/DCP?
- Whether the adopted Masterplan/DCP is adequate to ensure the desired design outcome for the site?
- Whether a "full range" or smaller supermarket is appropriate?

Each of these key issues is discussed in the following section.

## **5 DISCUSSION OF KEY ISSUES**

### **5.1 *Is the Planning Proposal necessary?***

In my opinion the planning proposal is necessary. As indicated previously, of the many submissions made to the hearing, not one suggested that there should be no development of the site, or ultimately no rezoning of the land. The vast majority, if not all submissions, supported future development providing that it was in accordance with the Newport Masterplan/DCP and thereby acknowledged that some development of the land was appropriate.

The subject land is currently zoned 5(a) Special Uses A under Pittwater LEP 1993. Pursuant to the development control table at clause 9 of the LEP the following purposes are the only forms of development permitted (with consent) in this zone:

- " Advertisements; drainage; helipads; roads; the purpose indicated by scarlet lettering on the Zoning Map and any purpose ordinarily incidental or subsidiary thereto; utility installations (other than gas holders or generating works)."

The purpose indicated by scarlet lettering on the Zoning Map is "parking". Therefore, development for the purpose of child care centres, commercial premises, community facilities, public open space, recreation areas, public buildings and shop-top housing (amongst other purposes) are currently prohibited on the site.

Therefore, in order to permit the proposals adopted by Council and supported by the community in the Newport Masterplan/DCP, or indeed to support any of the alternate suggestions put forward during the public hearing such as public open space and community facilities, it is necessary to change the current land use restrictions that apply to the land.

### **5.2 *Is the Planning Proposal appropriate?***

The planning proposal formulated by SJB Planning on behalf of Pittwater Council proposes two changes to the LEP. Firstly the zoning of the subject land would be changed to 3(a) General Business A on the LEP Zoning Map to match the zoning of all adjoining land on the southern side of Foamcrest Avenue. Secondly, it is proposed to amend the Multi-Unit Housing Map in the LEP to identify the subject properties as suitable for shop top housing, again so as to be consistent with all adjoining land on the southern side of Foamcrest Avenue.

This second component is one of the matters that clearly differentiate the SJB Planning proposal from the original proposal submitted to the Council on behalf of Woolworths. That original proposal would not have enabled the provision of shop top housing on the subject land and was one of the ways in which that original proposal was inconsistent with the provisions of the Newport Masterplan/DCP.

The zoning of land is ultimately a matter for the State Government in that the making or amendment of a LEP is ultimately the responsibility of the Minister for Planning. In the preparation, format and content of planning proposals must therefore be guided by State and regional planning policies as well as guidelines and directions from the State Government through the NSW Department of Planning. Details of those relevant documents are set out in the report of SJB Planning to the Pittwater Council meeting in October 2010.

In this regard, I particularly note that the NSW Department of Planning's Planning System Circular PN10-001 (n.b. this circular supersedes and replaces previous circular PN 08-002) provides quite specific guidance on the rezoning of existing Special Use zones and states, inter alia:

**Principle 1.2 - Rezoning existing 'special use' zones**

For infrastructure or services prescribed in all zones and those currently zoned 'special use', (e.g. roads, railway lines, substations, pipelines etc), the appropriate adjacent land zone should generally be used.

Applying the adjacent zone type to public infrastructure land follows a basic planning principle of aligning land uses. It is established practice to refer to the zoning of adjoining land when seeking to establish an appropriate zoning for land. In many cases the infrastructure land would have been zoned the same as the adjoining land if it had not been used instead for an infrastructure purpose.

This approach avoids the need for spot rezonings when the infrastructure use expands, ceases, is realigned or is downsized in the future. It is preferable that the land use zone be the same as the adjacent zoning, so that future uses are compatible with existing surrounding uses".

In light of the above, it is my opinion that the planning proposal is appropriate having regard to the fact that it is both consistent with the Newport Masterplan/DCP and is also consistent with the NSW Department of Planning's Planning System Circular PN10-001. In light of that Planning Circular, it can reasonably be expected that Council will be required to rezone the subject land the same as the adjacent business zoned land as part of the Council's new comprehensive LEP that is to be introduced in accordance with the Standard Instrument format.

If it is agreed, as I have suggested, that it is necessary to change the current restricted land uses on the subject land in order to facilitate redevelopment in accordance with the Newport Masterplan/DCP, it seems to me that there is only one alternative to the current Planning Proposal. That alternative would be to include the subject land in Schedule 10 of the LEP which, pursuant to clause 44 of the LEP, enables additional uses to be approved on the land without formally rezoning the land.

In doing so it would be necessary to identify all potential additional uses for the land, which may be difficult. However, a possible advantage of this methodology is that it may give additional weight to the need for strict compliance with the Newport Masterplan/DCP as potentially that could be made a condition precedent to the granting of any development consent. However, this alternative would be inconsistent with the provisions of NSW Department of Planning's Planning System Circular PN10-001 and may therefore be difficult to justify. In

any event, it would be only a short-term option because, as previously indicated, it can reasonably be expected that Council will be required to rezone the subject land the same as the adjacent business zoned land as part of the Council's new comprehensive LEP.

### **5.3 The link between the Planning Proposal and the sale of land to Woolworths**

It was clear from the submissions made during the hearing that there is a link between rezoning of the land and the sale of the land to Woolworths. In particular, this was made clear in the submissions by both Woolworths and Council's Property Team.

Whilst the planning proposal that is the subject of the hearing differs significantly from the original Planning Proposal submitted by Woolworths, it is nevertheless clear that if the land is rezoned in accordance with the SJB Planning's alternate Planning Proposal, that would trigger one of the two events that are said to be necessary under the Contract of Sale for the land to be sold to Woolworths.

The second event is the approval of a satisfactory development application. The prospects for this second trigger to the sale of the land are discussed in the following subsection. However, before doing so I will comment on concerns raised during the hearing that Council has a conflict of interest because of the fact that it is both the land owner and the planning authority.

Clearly Council does have two roles in this matter. It seems to me that it is an inevitable consequence of the fact that Council owns land that is identified in the Newport Masterplan as having potential and being strategically important for redevelopment in conjunction with neighbouring lands to facilitate economic growth in the Newport centre. Under these circumstances, it is my opinion that to do nothing with the land simply to avoid any perceived conflict of interest would be to abrogate Council's broader responsibilities to the proper management and appropriate economic development of its local government area.

Equally, under these circumstances it is particularly important that Council has in place appropriate probity guidelines and procedures to minimize any potential conflict. Several of the submissions outlined and made clear that Council had adopted carefully considered guidelines to deal with this issue. Importantly, I note from the comments made by representatives of SJB Planning, and from my own dealings with officers of the Council in respect of this public hearing, I am satisfied that appropriate probity procedures have been implemented to ensure transparency of the process and to avoid any conflict of interest between Council's role as the land owner and its role as the planning authority.

Additionally, I note that whilst Council has a significant role to play in this matter as the relevant local planning authority, the final determination of any Planning Proposal rests not with the Council but with the NSW Minister for Planning. In my view, this provides an additional level of safeguard to ensure appropriate transparency and probity of the process.

#### **5.4 The link between the Planning Proposal and Woolworths' specific proposal/design.**

Much of the time at the public hearing was devoted to objections to the concept design, both original and amended, prepared by Woolworths in support of their original Planning Proposal. Notwithstanding the fact that this was not the Planning Proposal placed on exhibition or the subject of the public hearing, it was clear that with the exception of Woolworths themselves and the Newport Business Owners Group, nobody (including SJB Planning and Council's Property Team) considered the Woolworths concept design to be consistent with the provisions of the Newport Masterplan/DCP.

The following extracts from the report of SJB Planning to the Piltwater Council meeting in October 2010 clearly highlight the significant areas of non-compliance with the Woolworths scheme.

- A review of the drawings indicates that various built form aspects of the supermarket, specialty retail and car park concept are inconsistent with the built form envisaged for the site as detailed in the Newport Village Commercial Centre Masterplan.

Specifically the building footprints do not align with those outlined in Figure 4.9.1 Built Form of the Masterplan. In this regard it is recognised that some of the proposed heights of the indicative buildings are less than what is shown in the Masterplan, which envisages 1, 2 and 3 storey development over the site.

It is acknowledged that the building footprints in the Masterplan are not a prescribed requirement and as such there is flexibility to arrange buildings at the site in a manner that is not exactly the same as building footprint presented in Figure 4.9.1.

It is also acknowledged that future development at the site is unlikely to correlate exactly as the Masterplan outlines in terms of building envelopes, building footprints and building alignments.

Nonetheless, the proposed indicative arrangement of buildings will inhibit the successful realisation of another important aspect of the Masterplan - the pedestrian links across the site.

Importantly, the site is identified in the Newport Village Commercial Centre Masterplan (refer to sections 4.5 and 4.2 and Figure 4.2 and 4.5 of the Masterplan) as accommodating significant north - south and east - west pedestrian pathways / links across the site. It is envisaged that these two links will form part of a wider, integrated pedestrian network throughout the Commercial Centre.

The amended indicative concept drawings show a relatively convoluted and disjointed set of pedestrian links, such that the north-south link is entered adjacent to the two loading bays in the north east corner, leads down a set of stairs to the basement (mezzanine level) car park, leads across the car park in front of a row of car spaces (i.e. within the vehicular circulation space of the car park) and then delivers the pedestrian to a set of travelators which in turn

delivers the pedestrian to shops at the front of the proposed development near Barrenjoey Road.

The proposed east-west pedestrian link is less clear. The amended concept drawings indicate a proposed link between Robertson Road, through the property at 29 Foamcrest Avenue, into the subject site. The link however does not appear to extend through the site to link up with the existing stepped pedestrian path which is located at the south west corner of the site. Instead it appears that a pedestrian would have to enter the 'mezzanine' car park level and manoeuvre through the circulation space of the car park to a doorway in the south west corner of the car park.

It is noted that the majority, if not all of the pedestrian linkages proposed, appear to be covered and the majority are not "edged and overlooked by active uses" as envisaged Part 4.6 of the Masterplan."

Additionally, representatives of Council's Property Team stated during their submission to the public hearing, inter alia:

- \* The SJB assessment further concluded that the rezoning of the subject land is consistent with the Newport Commercial Centre Masterplan as it applies to the site and that the current zoning of the site effectively prohibits the realisation of the Newport Commercial Centre Masterplan as it applies to the site.

However, SJB also concluded that aspects of the Woolworths Planning Proposal are inconsistent with the Newport Commercial Centre Masterplan. Specifically, the stated objectives and intended outcomes of the submitted Planning Proposal and aspects of the indicative concept drawings are inconsistent with the built form outcomes envisaged in the Newport Commercial Centre Masterplan.

An Alternative Planning Proposal was prepared by SJB for the site which outlines a broader objective and intended outcome for the rezoning, which is considered to accord with the Newport Commercial Centre Masterplan. The Alternative Planning Proposal will enable the future redevelopment of the site, while maintaining public car parking."

Their submission concluded in the following terms, inter alia:

- \* Accordingly, the reasoning of the council owned land parcels at 17 and 25-20 7 From Crest Ave copper Newport is fully supported as being both consistent with the conclusions of an independent planning adviser and the Newport Commercial Centre Masterplan. The rezoning will also deliver economic growth and development opportunities to support the ongoing functioning of Newport Commercial Centre."

In the light of the above: it would seem that there is very little prospect of the current Woolworths design proposal being recommended for approval in the event that a development application along those lines were to be submitted to Council. In this regard, it should be noted that it is SJB Planning that have already been engaged to assess and report upon any such development application. Their views on the current design concept are very clear from their earlier report.

Additionally, I would note that it is possible that Pittwater Council will not be the consent authority for any such development application. Whilst the legislation is currently under review, a development of the scale proposed by Woolworths is

likely to be a matter determined by the Joint Regional Planning Panel rather than by the Council. If so, this introduces a further level of independence in the decision-making, given Council's ownership of part of the land that would be covered by such a development application.

Notwithstanding the above, once a Planning Proposal changes the permitted uses on the land, Council's ability to dictate the design outcome is reduced. That is, any decision of Council or the Joint Regional Planning Panel can be tested by way of an appeal to the NSW Land and Environment Court. It is in that context that it becomes important to ensure, as far as practicable, that measures are in place to achieve the desired built form outcome envisaged for the subject land.

### **5.5 Whether adequate measures are in place to ensure that future development is consistent with Council's adopted Masterplan/DCP?**

It is my opinion that the primary issue Council needs to deal with if it pursues this planning proposal is not the intent of the planning proposal itself but rather the public perception that it will not achieve the desired objectives and built form outcomes identified in the Newport Masterplan. Moreover, as far as practicable Council needs to guard against the possibility that the land will be developed in a manner that is inconsistent with the Masterplan.

In this regard it is relevant to note that the objectives of the subject Planning Proposal differ significantly from that of the original Planning Proposal submitted on behalf of Woolworths. The objective of the alternate Planning Proposal that is the subject of the public hearing is as follows:

"The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking."

Under the current planning proposal, Council's Newport Masterplan/DCP would be a matter that any consent authority is obliged to consider pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979. A number of decisions of the NSW Land and Environment Court have held that a lawfully adopted Development Control Plan must be the central focus of the determination of a development application by a consent authority. Together these facts should give some reassurance that any consent authority, be it the Council, the Joint Regional Planning Panel or the Land and Environment Court, will give very considerable weight to Pittwater DCP 21 (which incorporates the Newport Masterplan) in the determination of any future development application.

In my opinion, the only way that greater determining weight may arguably be given to the provisions of the Masterplan would be if the Planning Proposal proceeded by way of including the subject land in Schedule 10 of the LEP which,

pursuant to clause 44 of the LEP, enables additional uses to be approved on the land without formally rezoning the land.

As previously indicated, a possible advantage of this methodology is that it may give additional weight to the need for strict compliance with the Newport Masterplan/DCP as potentially that could be made a condition precedent to the granting of any development consent. However, this alternative is problematic in that it would be inconsistent with the provisions of NSW Department of Planning's Planning System Circular PN10-001 and it would also only be a short-term option because in the longer term Council will be required to rezone the subject land the same as the adjacent business zoned land as part of the Council's new comprehensive LEP.

### **5.6 Whether the adopted Masterplan/DCP is adequate to ensure the desired design outcome for the site?**

Numerous speakers spoke in support of the Newport Masterplan/DCP and expressed confidence in that document and the consultative process involved in its preparation and adoption. This sentiment was perhaps best encapsulated in the presentation by Professor Peter Webber - Emeritus Professor of Architecture at the University of Sydney and a former NSW Planning Commissioner. Professor Webber made a submission by video presentation and a copy of the transcript was provided to the hearing. In this regard, he said in his submission, *inter alia*:

" I want to make just three points.

The first one is to do with the Master Plan and now the DCP. The council has adopted what I think is an excellent Master Plan. It is quite a visionary document which sets out clear and logical controls to guide the development of Newport Village.

It is absolutely critical we adhere to the principles if we are going to really achieve attractive spaces and places, all the places we want to see realised. Those are clearly documented in words and diagrams in the Newport Masterplan and the DCP."

Notwithstanding his praise for the Newport Masterplan and DCP, Professor Webber went on to express concern that if the two sites were rezoned and sold to other parties, Council and the community would in fact lose control of the process and have little power to ensure that vision adopted in the Masterplan and the DCP could be realised. He therefore suggested two options to advance the process in a positive way. Both the suggested options involved the preparation of a "concept plan" for the site, his preferred option being that this be done prior to, rather than parallel to or after the rezoning.

The preparation of a concept plan for the combined site has merit and could be readily achieved in circumstances where Council controlled the whole of the development site. Under that scenario, the sale and development of the land could be conditioned upon implementation of the approved concept plan.

However, it is more problematic where Council controls only part of the site. No doubt a concept plan could still be prepared, but unless Council owned the whole of the development site it would not be in a position to make the sale and development of the site conditional upon that concept plan. Under these circumstances, Council must rely upon its role as the planning authority and ensure that its vision for the area is clearly documented in the relevant planning controls.

It would appear from the comments of numerous speakers, including Professor Webber, that Council has achieved this in the preparation and adoption of the Newport Masterplan/DCP. On that basis, the community should take some comfort that the adopted planning controls for the locality should achieve the desired outcome for the subject site.

On the other hand, from several of the submissions made to the public hearing their appeared to be considerable confusion as to precisely what the Newport Masterplan/DCP stipulated for future development in the locality.

Several speakers raised objection to the planning proposal on the basis that the Woolworths concept plans for development of the site were inconsistent with the Newport Masterplan/DCP because those concept plans failed to provide shop top housing fronting Foamcrest Avenue.

Whilst the public hearing was dealing with SJB Planning's alternative Planning Proposal and not the original proposal by Woolworths or the concept plans supporting that original proposal, I nevertheless make the observation that from my reading of the Newport Masterplan/DCP, it does not mandate the provision of shop top housing on any particular site and certainly not specifically on the subject sites. Whilst it is true that amongst many matters the Newport Masterplan does encourage the provision of shop top housing, it does not follow that any particular development proposal would be held to be inconsistent with the Masterplan simply because it chose not to provide shop top housing as part of the built form.

I raise this because it is one example of several instances that arose during the public hearing where it would appear that there are clear differences between the expectations of some individuals and groups as to what the adopted Newport Masterplan provides for the future development of these sites, and what the Masterplan/DCP actually stipulates.

Another similar common theme was that the site should provide some public open space as a focal point for the local community. Again, the adopted Masterplan/DCP includes no such expectation. Rather, the Masterplan proposes creating a lineal public space in front of the shops on Robinson Road, not on the subject sites. It does however propose providing pedestrian routes through the subject site to link with that proposed open space on Robertson Road. The Masterplan notes that these pedestrian routes "could be open to the sky or within a building or a combination of both. They should be lined with active uses, accessed directly off the route and visible from it through clear openings or extensive areas of glazing."

In the light of the above, in my opinion there would be merit in further consideration being given to whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP in order to provide greater certainty and more site-specific guidelines for the future development of the site and surrounding land. In my opinion there is time for this to occur in parallel with the remainder of the rezoning process with amendments to the DCP, if any, adopted so as to come into effect concurrent with the zoning change.

This could help address the existing public skepticism and perhaps restore public confidence that future development can achieve the desired objectives and built form outcomes identified in the Newport Masterplan/DCP. To assist with rebuilding this public confidence, it is my opinion that Council should take advantage of the enormous planning, architectural and urban design talent available in the local community to assist with and guide this review. A select group of that available local talent should be invited to participate with Council's strategic planning officers and the authors of the original Newport Masterplan to undertake that review.

### **5.7 Whether a "full range" or smaller supermarket is appropriate?**

The representatives of Woolworths outlined clearly the case for a full range supermarket in Newport. In essence, they indicated that in terms of supermarket floor space, Newport has an undersupply in the trading area based on an independent report (Hill PDA, 2008) commissioned by SHOROC which looked at retail demand now and in the future.

The report looked at supermarket floor space in Pittwater (supply versus demand) and found that there is a shortage of around 20,000m<sup>2</sup>. Pittwater LGA was identified as having a 31% undersupply versus 11% oversupply in Warringah. The Hill PDA report states that unless Pittwater address the undersupply there will be a number of negative consequences, including: missed opportunities for employment; increased strain on roads as people shop elsewhere; and strain on local environment (additional cars on road, travelling to other suburbs to shop).

Woolworths' representatives argued that because the significant changes to the initial design have added significant costs to the project, it has to be a full range supermarket to make it work financially. The supermarket would need to be at least 3000m<sup>2</sup> – anything less won't provide the range to enable shoppers to do a full weekly shop. If it is not a full range supermarket, the range and choices would have to be scaled back. They argue that a new full range supermarket would revitalise, reinvigorate and make viable the Newport shopping strip and would help retain customers within the Newport village.

Whilst this is primarily a matter that will ultimately be determined at the development application stage, it would seem on the evidence available at this time that there is no compelling reason to not allow a full range supermarket on the basis of its likely economic impact. The economic impact issue was

considered by SJB Planning in their report to Council in October 2010. Based on the expert reports available, including independent peer review reports commissioned by Council, they concluded in the following terms:

- On the basis of the expert economic analysis, it is considered that the Planning Proposal is satisfactory with regard to the potential economic impacts, notwithstanding that retail development addressing the Foamcrest Avenue side of the site is inconsistent with the Newport Village Commercial Centre Masterplan."

In light of the above, it would appear that the only other reason that a full range supermarket would not be appropriate on the site would be if it is not physically possible to fit a 3000m<sup>2</sup> supermarket in the available building envelope, having regard to the need to satisfy other requirements of the Newport Masterplan/DCP such as the provision of appropriate pedestrian linkages in both a North-South and East-West direction. Again therefore, this is a matter that is likely to be determined only at the development application stage.

### **5.8 Other Development Related Issues**

During the public hearing there were several other matters raised that relate directly to the nature, scale and design of future development on the site. Those matters included:

- Loss of trees in future redevelopment;
- Traffic and servicing issues for future development and the capacity of the road network; and
- The impact of any proposed development on on-street parking in Foamcrest Avenue.

As previously indicated there was considerable discussion on the concept plans proposed by Woolworths. However, the planning proposal that is the subject of the public hearing does not contain any specific design proposals or concepts. Indeed, the reason for that alternate Planning Proposal is that the original proposal by Woolworths, including the concept designs, was found to be unacceptable. Under the circumstances there is no point in considering these development specific issues at this point of time other than to note that they will be matters that need to be addressed in the design and assessment of any future development application.

## **6 CONCLUSION**

This report has been prepared by Lindsay Fletcher, Managing Director of Planning Ingenuity Pty Ltd who was retained by Pittwater Council to conduct and report on a public hearing pursuant to section 57(6) of the EP&A Act 1979.

The public hearing relates to a Planning Proposal to amend the Pittwater Local Environment Plan 1993 to rezone 17 and 25-27 Foamcrest Avenue, Newport and to amend the Multi-Unit Housing Map to enable shop-top housing on those properties.

The land subject to the Planning Proposal is known as 17 and 25-27 Foamcrest Avenue, Newport comprising four allotments owned by Pittwater Council and used as an 'at grade' public car park. The four Council owned allotments straddle a fifth allotment owned by Woolworths Ltd. which runs through the street block from Foamcrest Avenue to Barrenjoey Road. The northern end of the Woolworths land also contains an open 'at ground' car park. The car park on the Woolworths owned land has operated in conjunction with, and provides a vehicular access link between, the Council owned car parks such that it is effectively a contiguous car park open to the public.

The Planning Proposal was publicly exhibited from 13<sup>th</sup> January to 10<sup>th</sup> February 2011. In excess of 540 submissions were received by Council with at least 45 requesting or supporting the call for a public hearing in accordance with section 57(6) of the EP&A Act.

The public hearing was held over two consecutive days on the 12<sup>th</sup> and 13<sup>th</sup> of May 2011 at the Mona Vale Memorial Hall in Mona Vale. Six key stakeholder groups and 57 individuals registered to address the hearing over the two days. Five of the 57 individuals that registered to speak did not attend. However two individuals who had not previously registered attended and addressed the hearing.

In summary, of the 60 group or individual submissions made to the public hearing, only four spoke in favour of the exhibited Planning Proposal. However, of the 56 other submissions made to the hearing, not one suggested that there should be no development of the site, or ultimately no rezoning of the land. The vast majority, if not all submissions, supported future development providing that it was in accordance with the Newport Masterplan/DCP and thereby acknowledged that some development of the land was appropriate. It was also acknowledged that in order to achieve future development, the zoning of at least part of the land would need to change.

At the conclusion of the two days of public hearing I was left with the clear overall impression that members of the public were confused and frustrated by the length of the process and the number of exhibitions and public meetings that have been held in relation to the future of the site. Most participants could not differentiate between the planning proposal initiated by Woolworths and the planning proposal that is in fact the subject of this public hearing.

Most participants were skeptical that the purpose of the exhibited planning proposal was to facilitate development in accordance with the Newport Masterplan/DCP. Rather, they appeared to believe that the planning proposal was aimed to facilitate the development concept submitted and advocated by Woolworths representatives.

In my opinion, the primary issue Council needs to deal with if it pursues this planning proposal is not its intent or effect, but rather the public perception that rezoning the land will not achieve the desired objectives and built form outcomes identified in the Newport Masterplan. As far as practicable Council needs to guard against the possibility that the land will be developed in a manner that is inconsistent with the Masterplan.

In summary, it is my opinion that there were seven (7) key issues that arose from the public hearing. Those key issues and my comments on them are set out in detail in Section 5 of this report. My main conclusions in relation to the key issues are as follows:

*Is the Planning Proposal necessary?*

In order to permit the proposals adopted by Council and supported by the community in the Newport Masterplan/DCP, or indeed to support any of the alternate suggestions put forward during the public hearing such as public open space and community facilities, it is necessary to change the land use restrictions that apply to the land.

*Is the Planning Proposal appropriate?*

In my opinion that the planning proposal is appropriate having regard to the fact that it is both consistent with the Newport Masterplan/DCP and is also consistent with the NSW Department of Planning's Circular. If it is agreed, as I have suggested, that it is necessary to change the current restricted land uses on the subject land in order to facilitate redevelopment in accordance with the Newport Masterplan/DCP, it seems to me that there is only one alternative to the current Planning Proposal. That alternative would be to include the subject land in Schedule 10 of the LEP which, pursuant to clause 44 of the LEP, enables additional uses to be approved on the land without formally rezoning the land. That alternative should be given some consideration.

*The link between the Planning Proposal and the sale of land to Woolworths.*

Clearly Council does have two roles in this matter. Under these circumstances it is particularly important that Council has in place appropriate probity guidelines and procedures to minimize any potential conflict. Several of the submissions outlined and made clear that Council had adopted carefully considered guidelines to deal with this issue. Importantly, I note from the comments made by representatives of SJB Planning, and from my own dealings with officers of the Council in respect of this public hearing, I am satisfied that appropriate probity procedures have been implemented to ensure transparency of the

process and to avoid any conflict of interest between Council's role as the land owner and its role as the planning authority.

*The link between the Planning Proposal and Woolworths' specific proposal/design.*

Much of the time at the public hearing was devoted to objections to the concept design, both original and amended, prepared by Woolworths in support of their original Planning Proposal, notwithstanding the fact that this was not the Planning Proposal placed on exhibition or the subject of the public hearing.

Nevertheless, it would seem clear from submissions made to the hearing that there is very little prospect of the current Woolworths design proposal being recommended for approval in the event that a development application along those lines were to be submitted to Council.

*Whether adequate measures are in place to ensure that future development is consistent with Council's adopted Masterplan/DCP?*

Under the current planning proposal, Council's Newport Masterplan/DCP would be a matter that any consent authority is obliged to consider pursuant to the provisions of Section 79C(1)(a)(iii) of the EP&A Act, 1979. Additionally, the NSW Land and Environment Court have held that a lawfully adopted Development Control Plan must be the central focus of the determination of a development application by a consent authority. Together these facts should give some reassurance that any consent authority, be it the Council, the Joint Regional Planning Panel or the Land and Environment Court, will give very considerable weight to the Newport Masterplan in the determination of any future development application.

*Whether the adopted Masterplan/DCP is adequate to ensure the desired design outcome for the site?*

In my opinion there would be merit in further consideration being given to whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP in order to provide greater certainty and more site-specific guidelines for the future development of the site and surrounding land. This could occur in parallel with the remainder of the rezoning process with amendments to the DCP, if any, adopted so as to come into effect concurrent with the zoning change.

To assist with rebuilding public confidence, it is my opinion that Council should take advantage of the enormous planning, architectural and urban design talent available in its local community to assist with and guide this review. A select group of that available local talent should be invited to participate with Council's strategic planning officers and the authors of the original Newport Masterplan to undertake that review.

## **7 RECOMMENDATION**

1. That Council note the report and the submissions made to the public hearing as summarised in Annexure A.
2. That Council request SJB Planning to investigate and give consideration to an alternative method of amending the current restrictive planning controls applicable to the subject land by possibly including the subject land in Schedule 10 of the LEP which, pursuant to clause 44 of the LEP, enables additional uses to be approved on the land without formal rezoning. This option should be investigated with officers of the NSW Department of Planning and, if acceptable, consideration should be given to whether or not this alternative methodology would result in additional weight being given to the need for strict compliance with the Newport Masterplan/DCP.
3. That SJB Planning and Pittwater Council give further consideration to whether it is necessary to strengthen the current provisions of the Newport Masterplan/DCP in order to provide greater certainty and more site-specific guidelines for the future development of the site and surrounding land. In doing so, Council should take advantage of the enormous planning, architectural and urban design talent available in its local community to assist with and guide this review by inviting a small group to participate with Council's strategic planning officers and the authors of the original Newport Masterplan to undertake that review.
4. That the groups and individuals who appeared and made submissions to the public hearing be thanked for their contribution and assistance with Council's consideration of the Planning Proposal.



Lindsay Fletcher  
Managing Director

# **PLANNING PROPOSAL**

## **The rezoning of 17 and 25-27 Foamcrest Avenue, Newport**

*Prepared by SJB Planning NSW Pty Ltd, for Pittwater Council*

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## PART 1 OBJECTIVES OR INTENDED OUTCOMES

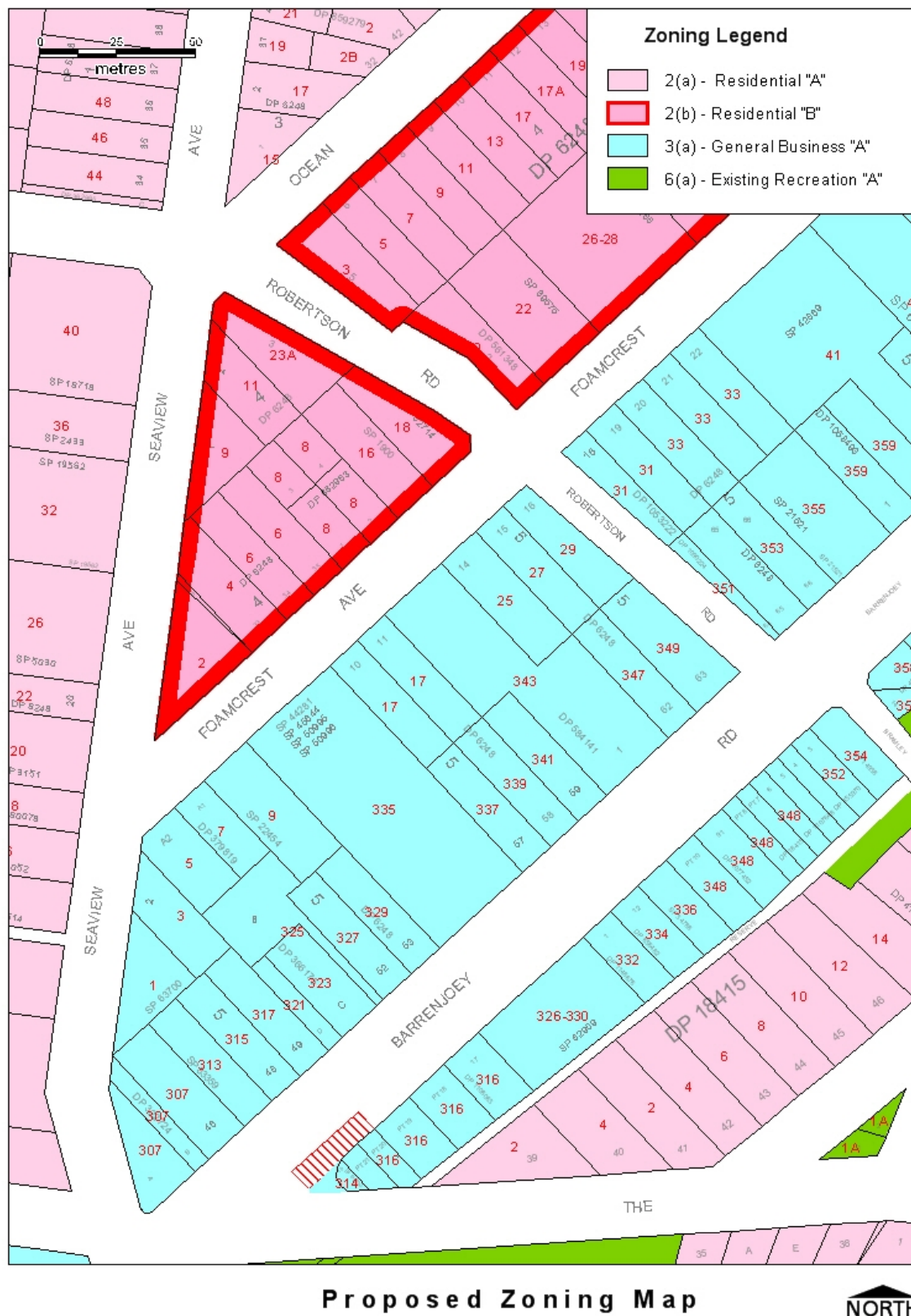
The objective of this Planning Proposal is for the rezoning of 17 and 25-27 Foamcrest Avenue Newport from its current 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and generally consistent with the provisions of the Newport Village Commercial Centre Masterplan as it applies to the site, while maintaining public car parking.

**MAP 1: Existing Zoning**



**Subject Site: Lots 10, 11, 14 & 15 Section 5 Deposited Plan 6248 (17, 25-27 Foamcrest Avenue Newport)**

## MAP 2: Proposed Zoning



**Subject Site: Lots 10, 11, 14 & 15 Section 5 Deposited Plan 6248 (17, 25-27 Foamcrest Avenue Newport)**

## **PART 2 EXPLANATION OF PROVISIONS**

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The proposed rezoning requires the amendment of the Pittwater Local Environmental Plan 1993 Zoning Map in accordance with the proposed zoning map shown in Map 2 and summarised in Table 1.

**Table 1 Proposed Zoning Changes**

Address	Property Description	Existing Zone	Proposed Zone
<b>17 Foamcrest Avenue, Newport</b>	<b>Lot 10 Section 5 Deposited Plan 6248</b>	<b>5(a) (Special Uses "A")</b>	<b>3(a) (General Business "A")</b>
<b>17 Foamcrest Avenue, Newport</b>	<b>Lot 11 Section 5 Deposited Plan 6248</b>	<b>5(a) (Special Uses "A")</b>	<b>3(a) (General Business "A")</b>
<b>25 Foamcrest Avenue, Newport</b>	<b>Lot 14 Section 5 Deposited Plan 6248</b>	<b>5(a) (Special Uses "A")</b>	<b>3(a) (General Business "A")</b>
<b>27 Foamcrest Avenue, Newport</b>	<b>Lot 15 Section 5 Deposited Plan 6248</b>	<b>5(a) (Special Uses "A")</b>	<b>3(a) (General Business "A")</b>

In order to allow shop-top housing at the site in accordance with clauses 21L, 21M, 21O of the Pittwater Local Environmental Plan 1993, commensurate with adjacent and surrounding 3(a) (General Business "A") zoned land, the parcels of land comprising the site are all proposed to be identified by the symbol "STH" on the Multi-Unit Housing Map.

The existing Multi-Unit Housing Map is shown in Map 3 and the proposed Multi-Unit Housing Map is shown in Map 4.

There are no other provisions that are required to be amended.

*Agenda for the Council Meeting to be held on 7 November 2011.*



## MAP 4: Proposed Multi-Unit Housing Map



**Proposed Multi-Unit Housing Map**



## PART 3 JUSTIFICATION

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### A Need for the Planning Proposal

#### (A1) Is the planning proposal a result of any strategic study or report?

The proposed rezoning is consistent with the strategic planning study of the Newport Village which culminated in the Newport Village Commercial Centre Masterplan (“the Newport Masterplan”).

The Newport Masterplan was commissioned by Pittwater Council in late 2006 and followed a five stage process which included Analysis; Setting the Vision; Development of Concept Options; Study Report; and Exhibition, Pittwater Council resolved to adopt the Newport Masterplan in November 2007.

The proposed rezoning is also consistent the Pittwater 21 Development Control Plan (DCP21), which strategically sets the planning outcomes sought for individual localities within Pittwater through desired character statements and development controls for specific areas or localities. Each locality is distinct in terms of its land use, geography, and social character.

Following the adoption of the Newport Masterplan, the Council also adopted amendments to the DCP21 which had been recommended in the Masterplan and which deal exclusively with the Newport Village Commercial Centre. The relevant amendments to DCP21 became effective on 3 December 2007.

A key amendment was to append the Newport Commercial Centre Masterplan to DCP21 and prescribe that all *“Development in the Newport Commercial Centre shall be in accordance with the approved Masterplan for the Newport Commercial Centre”* (refer to Part D10.2 Character – Newport Commercial Centre and Appendix 12 of the DCP).

The ‘Newport Locality’ is addressed in Part D10 of DCP21 and the Newport Commercial Centre is recognised separately from the remainder of the Newport locality within this Part of the DCP. The desired character, the outcomes and the specific controls for the Newport Commercial Centre in Part D10 are informed directly by the Newport Masterplan.

The purpose of the Newport Masterplan is to establish a holistic and integrated vision document for Newport Village Commercial Centre, encompassing both the private and public domain. The document was developed with extensive community involvement.

The Newport Masterplan provides an urban design framework that aims to enhance the amenity and design quality of the centre, and to support social, economic and cultural activities. Its stated focus is on a high amenity and high quality environment to support social, economic and cultural activities and to contribute positively to Newport’s future.

The masterplan relates to the commercial core of Newport, along Barrenjoey Road and including the side streets, and also considers the existing and likely future character of Foamcrest Avenue.

Apart from road reserves, the land within the study area covered by the Newport Masterplan and referred to as the Newport Commercial Centre in DCP21 is comprised of 71 allotments zoned 3(a) (General Business “A”), 3 allotments zoned Open Space 6(a) (Existing Recreation “A”) and 4 allotments which are zoned 5(a) (Special Uses “A”).

Essentially the Newport Commercial Centre is zoned 3(a) (General Business “A”) apart from Council owned Open Space near Bramley Avenue and the Council owned Special Use land which is the subject of this Planning Proposal.

A set of over-arching masterplan principles, developed during the study of the Newport Village Commercial Centre, underpin the desired future character statements and controls. The core principles encompass economic, social and cultural, environmental and design issues, to ensure that the masterplan will contribute to a sustainable outcome for Newport. The principles are outlined below:

#### Economic principles

- Revitalise Newport Village Centre
- Build on the existing strengths of the village
- Increase the mix and diversity of uses
- Increase visibility of the commercial centre from the beachfront to support visitor / tourism activities
- Provide sufficient parking to accommodate village users

#### Social and cultural principles

- Activate and enliven streets and public spaces to improve safety and security, and the perception of safety and security
- Create a village 'hub' for Newport where people can gather and interact
- Improve the experience of arriving and being in Newport
- Link public open spaces to create a legible and accessible pedestrian network
- Create clear and inviting connections to community facilities and to public transport
- Encourage walking and cycling
- Foster understanding of Newport's history, geography and community

#### Environmental principles

- Improve connections between the village and the beach
- "Green" Barrenjoey Road with street trees
- Provide sheltered, pleasant public spaces
- Optimise commercial and residential amenity
- Represent Newport as a leader in environmental sustainability

#### Character principles

- Design the public domain (footpaths, arcades and plazas) at a 'human' scale that supports the village character
- Reinforce the relaxed character created by varied building setbacks, heights, facades and roof forms
- Design buildings to respond to the climate, topography and setting
- Protect and share views to ocean and hills

The proposed rezoning of the subject site is consistent with the above set of principles.

In addition to the overarching principles the Newport Masterplan outlines strategies for 8 specific elements and these strategies are reinforced and implemented by development controls in the Masterplan and within DCP21. The strategies relate to the following 8 elements:

- Open Space
- Vehicle Movement and Public Parking
- Vehicular Access and Underground Parking
- Pedestrian and Cycle Network
- Land Uses
- Public Domain Character
- Landscape Character

- Built Form

Within the strategies of the Masterplan there are specific references to the subject site and the area which the subject site lies in, known as the 'car park precinct'. The most pertinent references are in Part 4.6 (Land Uses) and Part 4.9 (Built Form). The stated Land Use strategy in Part 4.6 identifies that the desired future land uses for the area that the site is in include mixed uses (retail, commercial, community and residential).

The strategy in Part 4.9 (Built Form) and the Figure 4.9.1 confirm that a form and scale of development commensurate with adjacent commercial development is envisaged across the site. The relevant extracts are detailed below:

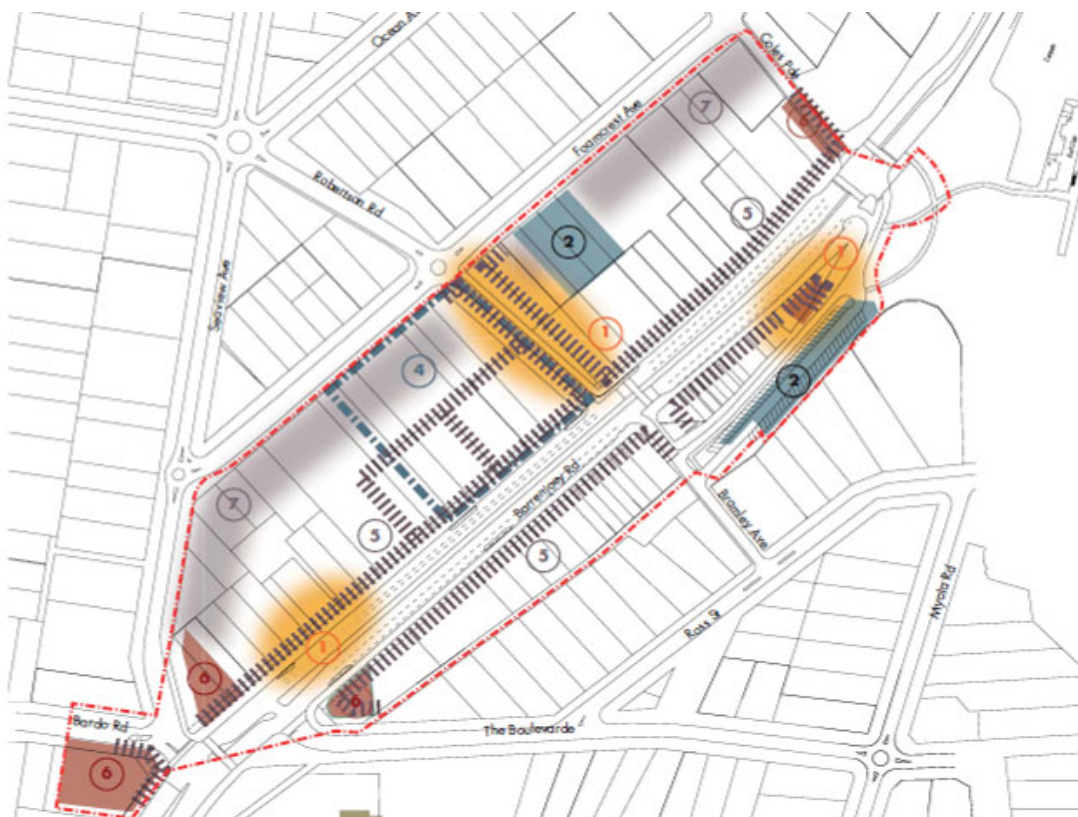
1.....

#### "4.6 Land Uses

*Mixed uses including retail, commercial, community and residential uses are appropriate for the village centre. The strategy includes retaining the focus on Barrenjoey Road and Robertson Road as the main retail streets. Foamcrest Avenue is not suitable for retail uses for two reasons: it interfaces with a residential area and it should not compete with the intensity of use on the main shopping street and side streets. Ground floor uses on Foamcrest could include commercial uses in the form of professional suites, and a higher proportion of residential use in mixed use buildings would not be out of place east of Robertson Road beyond the church.*

*4. Consider the 'car park precinct' including the Council-owned sites on Foamcrest Avenue as an aggregated site (or possibly 2 or 3 integrated sites), to rationalise land uses, optimise efficiencies and deliver high amenity, high quality built form. Integrate the sites fronting Robertson Road with the planning of this 'precinct' to ensure that no lots remain isolated and unable to be developed."*

"Figure 4.6 Land Uses".



*“Figure 4.9.1 Built Form”*



The strategies for Land Use and Built Form for the site are supported by detailed development controls within Part D10 of DCP 21 (as amended). The detailed development controls in DCP21 originate, and have been adapted from, the draft development controls outlined in Part 5.8 (Proposed Amendments to DCP 21) of the Masterplan.

Numerous built form controls in Part D10 of DCP21 are exclusive to the car park precinct and reinforce the desired future development outcomes for the site are of a scale and form commensurate with commercial and mixed use development. One of the key built controls relevant to the site is reproduced below:

*“D10.6 Height (Newport Commercial Centre)*

*The maximum height for the commercial centre varies from one to three storeys.*

- *For one-storey buildings, limit the overall height in metres to 7 metres*
- *For two storey buildings, limit the overall height in metres to 8.5 metres.*
- *For three storey buildings, limit the overall height in metres to 11.5 metres.*

*The following height restrictions also apply:*

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the street frontage height to 2 storeys, with a maximum height above the flood planning level of 7 metres to the top of the structure (equivalent to the floor level of the floor above). Above this, a balustrade is permitted to the top level so long as the balustrade is at least 50% transparent.*

- *On Barrenjoey Road and 17-29 Foamcrest Avenue (including land fronting Foamcrest Avenue at 343 Barrenjoey Road), limit the height at the 4 metre setback (to the topmost storey) to 10.5 metres above the flood planning level, with the roof form being contained within a height plane of 15 degrees, to a maximum overall height of 11.5 metres."*

Importantly the Newport Masterplan and DCP21, as demonstrated in the above examples, identify that the desired future land uses and building forms for the subject site accord with the site being rezoned from 5(a) (Special Uses "A") to 3(a) (General Business "A").

The identified desired future land uses and building forms are the result of a comprehensive strategic study of the area. Under the current zoning the desired future character for the site is unattainable as development for the purpose of mixed use development including commercial premises, retail and residential development are prohibited in the 5(a) (Special Uses "A").

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

Options include:

- 1 Maintaining current zoning.
- 2 Rezoning the land to a zone other than 3(a) (General Business "A") or 5(a) (Special Uses "A").
- 3 The proposal.

The first is the 'do nothing' option. This is not favoured as this option would not allow the site to be developed in any form other than the limited forms permissible in accordance with the current zoning tables for 5(a) Special uses zoning. As stated above, development for the purpose of commercial premises (including retail) and all forms residential development are prohibited in the 5(a) (Special Uses "A").

Option 1 would not enable the redevelopment of the site consistent with the surrounding commercial centre and land uses and would not achieve the desired future character as outlined in the Newport Commercial Centre Masterplan and the relevant DCP 21 Newport Locality controls.

The second option would be available, although it is not considered viable as it is likely to unreasonably constrain future redevelopment of the land. As with Option 1, other zonings such as Non-Urban, Open Space and Residential zones, have limited permissible land uses and would prevent the redevelopment of the site for the mixed use land uses desired for the site.

The proposal, or third option, is clearly the best outcome as it will allow the redevelopment of the site in a manner that is commensurate with the surrounding commercial centre and land uses and would achieve the desired future character as outlined in the Newport Commercial Centre Masterplan and the relevant DCP 21 Newport Locality controls.

The 3(a) (General Business "A") is the most appropriate business zone compared to the other available business zones as it is the same zone as the zoning of the immediately adjacent sites and the remainder of the Newport Village Commercial Centre.

The 3(a) (General Business "A") zone permits all the land uses identified in the desired future character for the site and will allow for the continued use of the site for public car parking and its future use for the purpose of community facilities if desired.

In summary, the proposal best achieves Council's objectives for the site.

**(A3) Is there a net community benefit?**

The Planning Proposal will facilitate improvements to the urban environment and public domain by allowing for the redevelopment of an existing public car park for mixed use land uses (including commercial, retail, residential and community) while maintaining the quantum of public car spaces.

Rezoning the site to 3(a) (General Business “A”) would enable redevelopment of the site in a manner which accords with the strategic vision, the desired future character and the finer grain development controls for the site as elucidated in the Newport Village Commercial Centre Masterplan and the Pittwater DCP 21. The realisation of the strategic vision and desired future character will result in a net community benefit.

The rezoning would not inhibit Council’s ability to maintain the quantum of public car spaces which currently exist at the site and it would not inhibit Council’s ability to maintain the pedestrian access through the site currently enjoyed by the public and therefore the existing community benefits realised from the site will also be maintained.

If the site were to be rezoned to 3(a) (General Business “A”) it would be consistent with the zoning of land immediately adjacent to the site and the remainder of land within the Newport Village Commercial Centre.

The rezoning of the land would also be consistent with Council’s economic, centres and corridors and housing requirements imposed by the Sydney Metropolitan Strategy and Draft North East Subregional Strategy (refer below in section B1).

It is noted that an initial application was made to Council for the rezoning of the site on behalf of Woolworths Ltd with the Planning Proposal objectives and intended outcomes focusing on the future development of the site for the purpose of a supermarket and a car park.

An analysis was carried out with respect to the potential economic and traffic related impacts based on the objective that the site is redeveloped for the purpose of a supermarket, speciality retail shops and a public car park.

While this is only one potential development outcome for the site, and it is not the objective of this Planning Proposal, the future development of the site for a supermarket is considered a relatively intense use and therefore the analysis undertaken for that scenario is relevant.

It is noted that the Planning Proposal which focused on the development of the site for a supermarket attracted significant objection within the community during non-statutory notification by Pittwater Council.

Many issues were raised with the key objections relating to the potential future development of the site for the purpose of a supermarket. Concerns were raised with regard to the economic impact upon existing individual retail outlets and the economic viability of the wider Newport Commercial Centre, traffic and parking implications for the centre, opportunity loss (such that the land could better be used for open space, ‘a town square’ and or community facilities) and the actual need for a new supermarket in the Newport locality.

While the analysis provided within the reports submitted with the Woolworths Ltd application is not exhaustive, the analysis and the subsequent independent peer reviews, provide an indication that redevelopment of the site for the purpose of a supermarket and a car park may be able to be carried in a manner that would not result in significant adverse impacts with regards to the economic viability of the Newport Village Commercial Centre and the local traffic network.

Therefore in terms of net community benefit, initial analysis indicates that in the event that the site is developed for relatively intense commercial uses in the future in accordance with the proposed 3(a) (General Business “A”) zoning, the proposal is likely to result in a positive benefit to the community.

To assist in determining the net community benefit the proposal was assessed against the evaluation criteria for ‘conducting a net community benefit test’ as outlined in the draft Centres Policy and is detailed below:

Evaluation Criteria	Y/N	Comment
Will the LEP be compatible with the agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Y	The proposed rezoning is compatible with the applicable State and the regional strategic directions for the area including the Metropolitan Strategy, North East Sub Regional Strategy and SEPP (Infrastructure), 2007. The rezoning will result in additional business zoned land within an established commercial centre.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Y	<p>The subject site is not identified within a key strategic centre or corridor. The site is identified as part of the Newport village within the North East Draft Subregional Strategy.</p> <p>While allowing the retention of the existing quantum of public parking at the site, the proposed rezoning is likely to facilitate the redevelopment of the site for the purpose of commercial premises and or mixed use purposes and thereby increase employment and access to additional services and facilities for the local community.</p>
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	N	<p>The proposed rezoning will not create a precedent within the locality because it represents the only remaining Special Uses land within the immediate vicinity of the site and within the wider locality of Newport.</p> <p>The site is located adjacent to, and straddles, existing 3(a) (General Business "A") zoned land and its rezoning from Special Use to General Business is rational given its commercial context.</p>
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Y	The site is owned by Council and used for the purpose of a public car park. There are no other 5(a) (Special Use "A") zoned sites within the vicinity or wider locality and there have been no other recent 'spot rezonings' in the locality to refer to in terms of assessing any cumulative impact.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Y	<p>The proposal will result in the addition (albeit a relatively small addition) of employment lands within an established commercial centre. The conversion of the land from a Special Use zone (for the purpose of car parking) to a General Business zone is likely to generate additional full and part time jobs upon its future rezoning and development.</p> <p>This will assist Council in meeting its employment targets set out within the Draft Subregional Strategy.</p>

Evaluation Criteria	Y/N	Comment
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	Y	<p>Residential development is prohibited at the site in accordance with the current zoning. The proposed rezoning will allow for some forms of residential development in the future (i.e. 'shop-top' development).</p> <p>The rezoning therefore provides the potential that the proposed amendment to the LEP will increase housing supply.</p>
Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future transport?	Y	<p>The existing public infrastructure is adequate to meet the needs of the proposal.</p> <p>The site is fully serviced and is contained within an established urban area.</p> <p>The proposal will not inhibit Council's ability to maintain existing public parking at the site and exiting pedestrian links through the site.</p> <p>There is available public transport on Barrenjoey Road that has the ability to support the proposal.</p>
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so what are the likely impacts on the terms of greenhouse gas emissions, operating costs and road safety?	N	<p>The proposal is unlikely to result in changes to car distances travelled by customers, employees and suppliers as the site is located within the established commercial centre of the Newport village and therefore is already a local 'destination'. The redevelopment of the site for the purpose of commercial and mixed use development is likely to benefit from multi purpose trips to the commercial centre.</p>
Are the significant Government investments in infrastructure or services in the area where patronage will be affected by the proposal? If so what is the expected impact?	N	<p>The site is located within the commercial centre of Newport and has good access to public transport. The proposal is unlikely to have a negative impact on the surrounding infrastructure or services.</p>
Will the proposal impact on land that the Government has identified as a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	N	<p>The site is currently a hardstand at grade car park and accordingly, the land does not contain any known critical habitat, threatened species or contain significant biodiversity values.</p> <p>Part of the site is flood affected. Council has provisions within its suite of development controls which deal with flood affected areas/sites including the Newport Commercial Centre. Detailed design solutions will be required at Development Application stage which demonstrate compliance with Council's requirements and which will ensure that future development at the site is designed to accord with the flood planning level.</p>

Evaluation Criteria	Y/N	Comment
<p>Will the LEP be compatible/complementary with surrounding adjoining land uses? What is the impact on the amenity in the location and wider community? Will the public domain improve?</p>	Y	<p>The site is located in a street block within the Newport Commercial Centre. All other land parcels within the street block are zoned 3(a) (General Business "A")</p> <p>The proposal is compatible with the immediately adjacent land uses.</p> <p>Residential zoned land is located on the opposite of Foamcrest Avenue from the site; however the redevelopment of the site (post rezoning) for commercial and mixed use purposes is consistent with the remainder of the street block and the wider commercial centre.</p> <p>Any future development will be required to accord with general and specific development controls as set out in Council's consolidated DCP and within the locality specific Newport Village Commercial Centre Masterplan. These controls are aimed at mitigating adverse amenity impacts.</p> <p>Further, initial analysis of traffic and economic issues relating to the potential future development of the site for car parking and retail purposes indicate that it is likely that development of the site can be carried out without significant adverse impacts upon the location and wider community.</p> <p>The site currently operates as an 'at grade' asphalt public car park and its 'Special Use' zoning prohibits most other forms of development including for commercial premises and residential development. The public car park straddles a private land holding which is zoned 3(a) (General Business "A"). The subject site currently relies upon the private land for vehicle access and manoeuvring within the car park. The rezoning of the land will provide the possibility for the land to be redeveloped in an integrated manner and consistent with the remainder of the commercial centre.</p> <p>The rezoning of the land will not inhibit Council's ability in any way to retain the quantum of public car parking spaces at the site and or the ability to maintain pedestrian access across the site. The rezoning of the land will provide the potential for the site to be redeveloped in a manner that is consistent with the desired future character for the site and wider locality as detailed in the Newport Village Commercial Centres Masterplan.</p>

Evaluation Criteria	Y/N	Comment
		As a result it is considered that the proposal is likely to result in improvements to the public domain through the potential for the realisation of built form and land use strategies and goals within the Masterplan.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area	Y	<p>The proposal will enable development of the site for the purpose of commercial premises where currently such development is prohibited. Hence the proposal is likely to result in increased commercial and retail floor space and increased choice and competition.</p> <p>Initial analysis was carried out with respect to the potential economic impacts based on the sites future redevelopment for the purpose of retail use (primarily for a supermarket) and a public car park.</p> <p>While this is only one potential development outcome for the site, the initial analysis (which was independently peer reviewed), indicates that redevelopment of the site for the purpose relatively intense commercial uses may be able to be carried in a manner that would not result in significant adverse impacts with regards to the economic viability of the Newport Village Commercial Centre.</p>

## **B Relationship to Strategic Planning Framework**

### **(B1) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

#### *City of Cities (The Metropolitan Strategy)*

Released in 2005, the strategy sets the direction for Sydney's planning until 2031. The strategy addresses a number of themes ranging from employment, centres and housing, and the environment. Its actions mainly revolve around implementation via other plans, such as LEPs prepared by Councils.

There is nothing in the strategy directly pertinent to the assessment of this Planning Proposal, although the Metropolitan Strategy states that its delivery is dependent upon more detailed plans as established in sub-regional strategies.

#### *North East Sub-regional Strategy*

The Metropolitan Strategy establishes 10 sub-regions; and Pittwater is in the North East sub-region along with Manly and Warringah.

Key targets outlined in the Sub-regional Strategy for Pittwater are targets of 4,600 new dwellings and 6,000 new jobs planned for the sub-region by 2031. To this end, the planning proposal, in adding to the amount of land that would be developable for mixed used purposes (including commercial, retail, residential and community uses), contributes not only locally and also regionally to the reaching these targets.

The sub-regional strategy is divided into sections addressing various planning issues. Economy and Employment, Centres and Corridors, and Housing are featured and the Proposal is considered against these sections below:

- *Employment.*

The Sub-regional Strategy outlines a target of 19,500 additional jobs for the North East subregion to 2031, with 6,000 of those jobs expected from the Pittwater LGA.

Overall the Sub-regional Strategy outlines that there is a relatively limited supply of employment lands in the North East subregion and identifies the areas of Mona Vale, North Narrabeen and Warriewood in Pittwater as locations of existing employment lands and areas for potential future expansion of employment lands.

The proposal would result in a relatively small increase in business zoned land within a recognised and well established commercial centre.

The proposal accords with Action A1 of the Sub-regional Strategy which states “*Provide suitable commercial sites and employment lands in strategic areas*”.

- *Centres and Corridors*

Newport is identified as a ‘Village’ within the Sub-regional Strategy using the Metropolitan Strategies typology.

The North East subregion has one Strategic Centre (i.e. the Major Centre of Brookvale-Dee Why). All other centres in the subregion are local centres and the subregional strategy indicates that local centres are to be managed by local councils.

As stated above, the proposal would result in a relatively small increase in business zoned land within a recognised and well established commercial centre. The proposal is strategically rational and will reinforce the commercial nature of the Newport Village Commercial Centre with an emphasis on future commercial development while still allowing for the potential of residential use in conjunction with commercial development.

The proposal accords with the Action B1 (provide places and locations for all types of economic activity across the Sydney region) Action B2 (Increase densities in centres whilst improving liveability) and Action B4 (concentrate activities near public transport) of the Sub-regional Strategy.

- *Housing*

The Sub-regional Strategy outlines a target of 17,300 additional dwellings for the North East subregion to 2031, with 4,600 of those dwellings expected from the Pittwater LGA.

The proposal would result in a relatively small increase in business zoned land within a recognised and well established commercial centre. The identification of the site by the symbol "STH" on the Multi-Unit Housing Map as proposed would allow shop-top housing at the site in accordance with clauses 21L, 21M, 21O of the Pittwater Local Environmental Plan 1993.

The planning proposal accords with Action C1 (ensure adequate supply of land and sites for residential development), Action C2 (plan for a housing mix near jobs, transport and services) and Action C3 (renew local centres) by providing additional land within an existing Centre capable of being developed in the future for residential uses.

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

This planning proposal is consistent with the Newport Village Commercial Centre Masterplan, which is the underlying strategic plan for the land in the Newport Commercial Centre as discussed above (A1).

In addition, the proposal is consistent with the community's vision as expressed in the Council's *Strategic Plan 2020 and Beyond*. This plan establishes five directions:

- Supporting and connecting our community
- Valuing and caring for our natural environmental
- Enhancing our working and learning
- Leading an effective and collaborative Council
- Integrating our built environment

Rezoning the Council owned land to allow for its redevelopment in a manner that maintains the existing quantum of public car parking at the site, while allowing for new mixed use development at the site commensurate with the remainder of the Newport Commercial Centre is consistent with the above five directions.

**(B3) Is the planning proposal consistent with applicable state environmental planning policies?**

This planning proposal is consistent with the applicable state environmental planning policies. See Appendix 2 and the discussion below.

*SEPP 19 – Bushland in Urban Areas*

SEPP 19 aims to protect and preserve bushland within certain urban areas for natural heritage or for recreational, educational and scientific purposes. The policy aims to protect bushland in public open space zones and reservations, and to ensure that bush preservation is given a high priority when local environmental plans for urban development are prepared (DoP 2010).

Pittwater Council is not listed in the SEPP as an area to which the policy applies. However the SEPP was gazetted on 24 October 1986 at a time when the Pittwater local government area was part of the Warringah Shire. Therefore, the SEPP could be considered to apply to Pittwater, even though no amendments have been made to SEPP 19 to incorporate Pittwater Council into the policy since the formation of Pittwater Council on 2 May 1992. For the purpose of this assessment, we have proceeded on the basis that the policy applies to Pittwater.

There is no remnant bushland at the site and the planning proposal is considered to meet the aims and objectives of SEPP 19.

*SEPP No. 32 – Urban Consolidation*

The focus of this SEPP is aimed at enabling urban land which is no longer required for the purpose for which it is currently zoned or used, to be redeveloped for multi-unit housing and related development and therefore is indirectly related to the Planning Proposal.

Specifically, the objective of the Planning Proposal is to rezone the subject site from 5(a) (Special Uses "A") to 3(a) (General Business "A") to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses while maintaining a public car park. It is therefore considered that there is a greater potential for the land to be developed for commercial and retail uses rather than residential uses.

Notwithstanding, the current zoning of the site prohibits use for residential purposes, while the proposed rezoning and identification of the site by the symbol "STH" on the Multi-Unit Housing Map would allow shop-top housing at the site in accordance with clauses 21L, 21M, 21O of the Pittwater Local Environmental Plan 1993.

The Planning Proposal is therefore consistent with SEPP 32 in providing the opportunity for the development of additional mixed land uses including for the purpose of residential development in a location where there is existing public infrastructure, transport and community facilities.

#### *SEPP No. 55 - Remediation of Land*

When carrying out planning functions under the Act (including undertaking LEP amendments), SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.

Council has considered the potential for contamination of the site as part of the preparation of the Planning Proposal.

Given the outcome of initial environmental testing and also that the land use history of the site involves its current car park use and previous residential use, Council is confident that the site is suitable, or can be remediated and made suitable, for the intended future land uses that would be permissible at the site in accordance with the proposed 3(a) (General Business "A") zoning.

#### *SEPP (Infrastructure) 2007*

The Infrastructure SEPP is not directly relevant to the Planning Proposal, although it is likely that the SEPP would be relevant to future redevelopment of the site made possible through the proposed rezoning.

In particular it is likely that future Development Applications for the redevelopment of the would involve 'traffic generating development' as defined in Clause 104 and Schedule 3 of the SEPP such as a car park for 50 or more car spaces, and or shops and commercial premises of a size and capacity of 1,000m<sup>2</sup> in area.

Such development types would require Council to refer such Development Applications to the RTA for comment.

Initial assessment of the traffic implications of future retail development at the site have been undertaken which were based upon a scenario for redevelopment of the site for the purpose of a car park and a retail development, primarily a supermarket. The conclusions of the initial traffic assessment (including a peer review) found that the local road network would be able to cater for additional traffic generated from a supermarket / retail development at the site.

It is noted that the traffic and parking scenario analysed is only one potential development outcome for the site in the event that it was to be rezoned and developed, however the analysis can give Council confidence that should the site be rezoned, then it is likely that it can be developed for mixed use purposes in the future in a manner that would not result in significant adverse impact upon the local traffic/road network.

It is proposed that further traffic and parking assessment would be undertaken following LEP Gateway determination, as part of any future Development Application as required.

The proposal is consistent with the Infrastructure SEPP.

## *Draft SEPP (Competition) 2010*

A draft State Environmental Planning Policy has been prepared and was placed on exhibition for public comment from 27 July 2010 to 26 August 2010.

The aims of this draft SEPP are to promote economic growth and competition and to remove anti-competitive barriers in environmental planning and assessment. The new draft State Environmental Planning Policy (SEPP) proposes:

- The commercial viability of a proposed development may not be taken into consideration by a consent authority, usually the local council, when determining development applications;
- The likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered unless the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and
- Any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect.

The provisions of the draft SEPP relate to specific Development Applications more so than the proposed rezoning of land and in this regard any future Development Application relating to the subject site will be considered against the provisions of the draft SEPP.

Notwithstanding, the proposal to rezone the subject site from 5(a) (Special Uses "A") to 3(a) (General Business "A") has also been considered against the provisions of the draft SEPP and has found to be consistent with those provisions.

The rezoning will result in a relatively minor increase in the quantum of 'business zoned' land within the wider Newport Commercial Centre and the rezoning is unlikely to have an overall adverse impact on the extent and adequacy of local community services and facilities.

No other State Environmental Planning Policies are considered relevant as summarised in the table at Appendix 2.

### **(B4) Is the planning proposal consistent with applicable Ministerial Directions (S117 Directions)?**

This planning proposal is generally consistent with the applicable Ministerial Directions (S117 Directions). See Appendix 3.

## **C Environmental, social and economic impact**

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

No, the Planning Proposal site is located in an existing business precinct (commercial centre) in a built up area of Newport. The Planning Proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats.

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

Council's Flood Risk Map states the properties the subject of the Planning Proposal have been identified as being within a High Hazard Area, affected by a Flood Planning Level (FPL) and Probable Maximum Flood (PMF).

Council has a Flood Risk Management Policy which has been prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005. Future development will be subject to the provisions of the Policy and a flooding assessment of the site may be required.

Council's Engineer has reviewed the proposal and has confirmed that it is apparent that future development will be able to comply with flood related development controls.

Other likely environmental effects resulting from the planning proposal relate to traffic management, water management and potential impact on the amenity of adjoining residents.

It is however unlikely that the proposed amendment to the Pittwater LEP 1993 will result in development creating any environmental effects that cannot already be controlled as there are development controls within Council's suite of 'fine grain' planning provisions applying to the subject property in relation to such matters as traffic management, water management and amenity impacts. Any future development of the site will, when lodged as a DA, require assessment under Section 79C of the EP&A Act and be subject to Council's environmental development controls.

**(C3) How has the planning proposal adequately addressed any social and economic effects?**

**Social effects**

The Planning Proposal will provide an opportunity for the redevelopment of the site for land uses and activities commensurate with the surrounding Newport Commercial Centre. The proposed expansion of permissible uses and activities for the site has the potential to result in additional services and facilities which will benefit the wider community.

The above sections of this Planning Proposal demonstrate that the proposed rezoning accords with the relevant strategic planning framework and is likely to result in a net community benefit.

**Economic effects**

The economic effects are discussed within the Net Community Benefit Analysis.

Initial economic impact reporting relating to the potential redevelopment of the site for a one potential outcome being a supermarket, specialty retail shops and a car park (refer to Newport Commercial Centre Economic Assessment dated January 2010 and prepared by Hill PDA and Peer Review of Economic Assessment prepared by Leyshon Consulting dated April 2010) and broader economic analysis (refer to Chapter 6 in the SHOROC Regional Employment Study dated March 2008 and prepared by Hill PDA) indicate that the additional supply of commercial/retail floor space that would result from redevelopment of the site is unlikely to result in significant adverse impacts upon the economic viability of the Newport Village Commercial Centre or the viability of nearby centres.

The key positive economic effects being that the Planning Proposal will enable development of the site for the purpose of commercial premises where currently such development is prohibited. Hence the proposal is likely to result in increased commercial and retail floor space and increased choice and competition within the Newport Village Commercial Centre and employment generation.

## **D State and Commonwealth interests**

### **(D1) Is there adequate public infrastructure for the planning proposal?**

There is adequate public infrastructure servicing the Newport Commercial centre and the proposed rezoning does not generate the need for additional infrastructure.

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

At this stage of the Planning Proposal State and Commonwealth public authorities have yet to be consulted as the Gateway Determination has yet to be issued by the Minister for Planning.

This section will be completed following consultation with the State and Commonwealth Public Authorities identified in the gateway determination.

## **PART 4 COMMUNITY CONSULTATION**

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### **Preliminary consultation**

Formal consultation with State and Commonwealth Authorities will be carried out as advised by the Department of Planning, and as proposed below.

Preliminary community consultation was undertaken with respect to rezoning the site in accordance with Council's Community Engagement Policy.

The consultation however related to a different Planning Proposal which sought to rezone the site in the same manner but with the specific stated objective and intended outcome for development of a supermarket and car park at the site (refer to discussion under the heading A3 in section 3 of this proposal).

The proposal for a rezoning for the purpose of a supermarket development at the site attracted significant objection within the community during the non-statutory notification and consultation carried out by Pittwater Council and this is summarised below:

The application was advertised between 7 September 2009 and 9 October 2009 with 1343 submissions received (1340 in objection and 3 in support). It is noted that 1019 of the 1340 objections received were in a 'pro-forma' style format

It is also noted that one of the 1340 objections had a petition attached with 2018 signatures.

Upon the amendment of the application and provision of additional information, the application was re-advertised between 28 April 2010 and 28 May 2010 with 1231 submissions received (1225 in objection and 6 in support). It is noted that 998 of the 1325 objections received were in a 'pro-forma' style format

It is also noted that one of the 6 submissions of support has a petition attached titled "*Letters From Newport Business Owners*" with signatures from the owners and / or operators of 60 businesses within Newport and 1 in Bilgola Plateau.

In total 2574 submissions were received (not including signatories to petitions). It has not been determined how many people lodged submissions in addition to signing petitions.

In addition to the notification periods outlined above a 'Public Information Session' was held (and independently facilitated) and a series of meetings were undertaken with identified 'Key Stakeholders' including the Newport Residents Association, the Newport vs Woolies Community

Group, Pittwater Council Property Officer, and Woolworths Ltd representatives. It is noted that the Newport Chamber of Commerce were also invited to the Stakeholder meetings but did not attend.

The matters raised in the submissions are summarised below:

Objections raised:

- The proposal is inconsistent with the Newport Village Commercial Centre Masterplan.
- The proposal is inconsistent with controls within the Pittwater DCP 21 and the Pittwater LEP 1993.
- The proposal is inconsistent with Draft North East Draft Regional Strategy.
- The proposal is inconsistent with Section 117 Directions of the EP&A Act 1979.
- The proposal does not satisfy (or provide sufficient information to satisfy) the statutory requirements of a Planning Proposal.
- The Planning Proposal should not be considered without consideration of a DA because they are closely linked.
- Approval of the proposal effectively means approval of a future DA for a supermarket.
- There is no need for a second supermarket in Newport.
- Additional retail floor space will create over supply in Newport.
- A supermarket will negatively impact upon the viability of existing businesses within Newport.
- The economic report is inaccurate and or flawed.
- The proposal will lead to the loss of the sense of 'Village' that currently exists at Newport.
- The proposal will result in significant additional car and truck movements and will result in significant adverse impacts upon the local road network.
- Car parking should be provided below ground level (Note: The amended 'indicative concept' plans include below ground car parking).
- Additional parking is not required in Newport.
- The traffic reports submitted are inaccurate and or flawed.
- The proposal will not result in the highest and best land use of the site – for example an underground car park with public open space at ground level would be a better use of the site.
- The site should not be sold by Council.
- The site should be developed for the purpose of open space.
- The site should be developed for the purpose of 'green community space - as a focus for an off main road village centre'.
- The proposal will result in poor pedestrian outcomes in terms of safety and lack of pedestrian linkages through the site.
- The proposal will result in adverse built form/architectural outcomes.
- The proposal will result in a diminished streetscape for both Foamcrest Avenue and also to Barrenjoey Road.
- The proposal does not respond to the residential interface in Foamcrest Avenue and will result in adverse impacts to the residential amenity of nearby residential dwellings.
- Alternative proposals have not been fully or properly explored.
- The proposal will have adverse impacts upon wildlife.
- The proposal will have adverse upon existing infrastructure (roads, electricity, water sewerage and drainage).
- The proposal to rezone (and develop) the land is primarily for Council's economic and or financial purposes.
- There is concern about transparency with regard to the dealings of Council and Woolworths.
- There has been a lack of consultation with the community.
- The amended 'indicative concept drawings' do not address the issues raised in the first round of notification and submissions.

In support:

- Woolworths project will upgrade 'tired' buildings and improve the streetscape.
- Woolworths project will revitalise the Newport shopping strip.
- Woolworths project will attract larger pedestrian flow to Newport shops.
- Woolworths project will draw more customers to the area that currently shop elsewhere and increase economic activity for existing small businesses.
- Woolworths project will attract new small businesses that would otherwise not come to Newport.
- There are insufficient car spaces and no loading zones at the southern end of Newport to support small businesses and the Woolworths project would help address this problem.
- The "protesters" don't speak for all small business owners in Newport.
- The amended design is considerably improved and is likely to be a good addition to Barrenjoey Road.
- Amended 'indicative concept' has addressed the majority of issues.
- The development of a Woolworths supermarket would provide choice and a balance to Coles.
- The long term benefits of a Woolworths store will outweigh the short term negative inconveniences.
- If Woolworths is unable to develop the site it will sell the land and the site will be developed for different purposes leaving the Council car park split and difficult to develop in the future.

The majority of matters raised relate to the future development of the site for the purpose of a supermarket. While recognising that the development of the site for the purpose of a supermarket is one potential development outcome, this Planning Proposal adopts a much wider strategic planning focus as detailed in the objectives and analysis in the sections above.

Further participation of the local community will be invited once the Minister for Planning has determined to commence the "Gateway" LEP process.

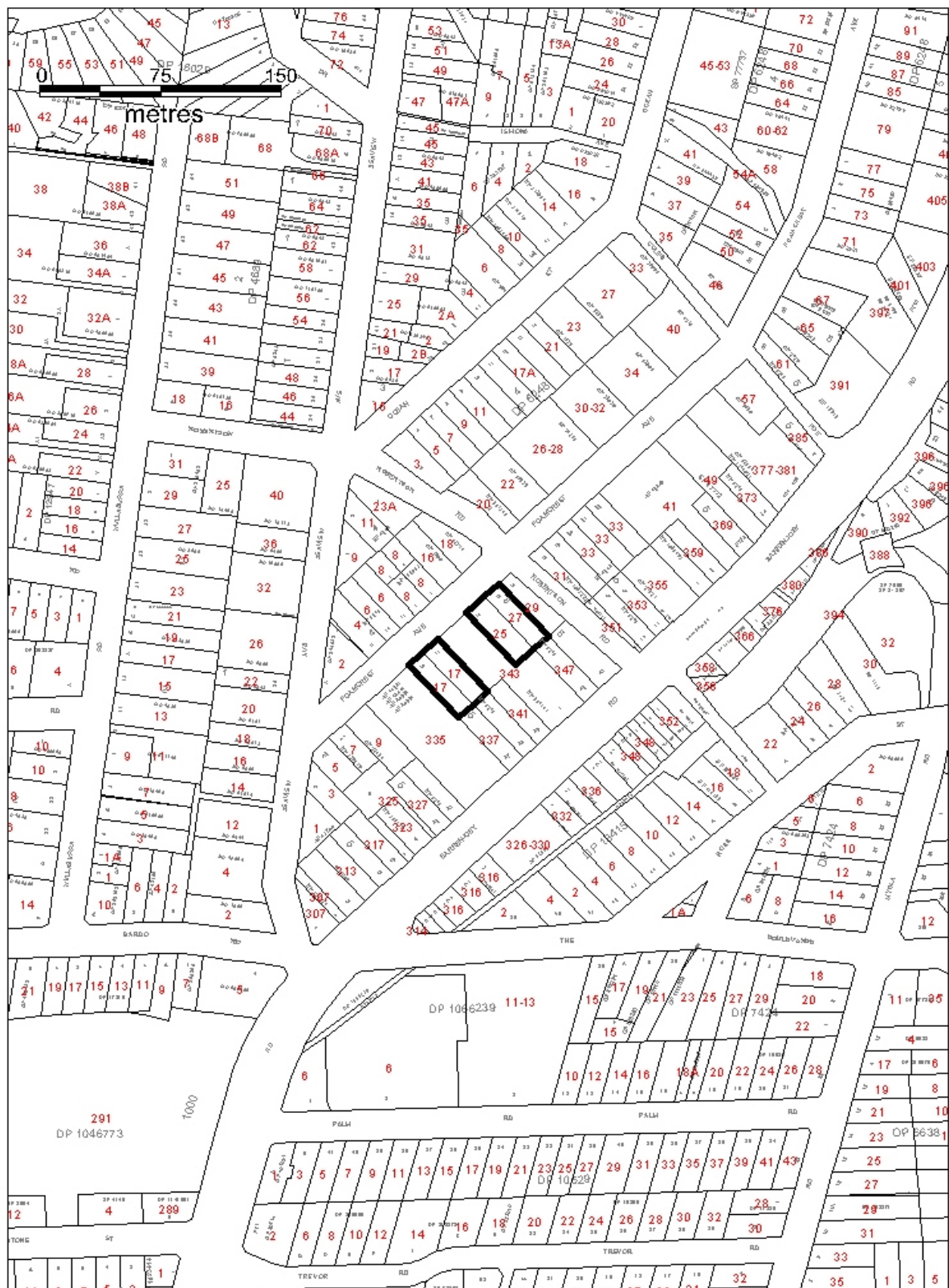
### **Proposed consultation**

Government agencies will be formally consulted, as required by the Department of Planning. This is provided for by the Act, as part of the Department's "Gateway" assessment and decision regarding the Planning Proposal.

Further public involvement will be carried out in accordance with Council's adopted Community Engagement Policy, in the following manner:

As a minimum:

- advertising in the local newspaper and on Council's website at the start of the exhibition period
- exhibition period as required by the Gateway determination, of 14 to 28 days
- notify adjoining property owners (within a 400m radius of the subject site) and those individuals and organisations that made submissions during the preliminary consultation period.



### Location Map



## Checklist - Consideration of State Environmental Planning Policies

The following SEPP's are relevant to the Pittwater Local Government Area.

<b>Title of State Environmental Planning Policy (SEPP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SEPP No 1 – Development Standards	NO	Not applicable	
SEPP No 4 – Development without consent...	NO	Not applicable	
SEPP No 6 – Number of Storeys in a Building	NO	Not applicable	
SEPP No 10 – Retention of Low-Cost Rental Accommodation	NO	Not applicable	
SEPP No 14 – Coastal Wetlands	NO	Not applicable	
SEPP No 21 – Caravan Parks	NO	Not applicable	
SEPP No 22 – Shops and Commercial Premises	NO	Not applicable	
SEPP No 26 – Littoral Rainforests	NO	Not applicable	
SEPP No 30 – Intensive Agriculture	NO	Not applicable	
SEPP No 32 – Urban Consolidation	YES	Yes	
SEPP No 33 – Hazardous and Offensive Development	NO	Not applicable	
SEPP No 44 – Koala Habitat Protection	NO	Not Applicable	
SEPP No 50 – Canal Estate Development	NO	Not applicable	
SEPP No 55 – Remediation of Land	YES	Yes	See below
SEPP No 62 – Sustainable Aquaculture	NO	Not applicable	
SEPP No 64 – Advertising and Signage	NO	Not applicable	

<b>Title of State Environmental Planning Policy (SEPP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SEPP No 65 – Design Quality of Residential Flat Development	NO	Not applicable	
SEPP No 70 – Affordable Housing (Revised Schemes)	NO	Not applicable	
SEPP (Building Sustainability Index: BASIX) 2004	NO	Not applicable	
SEPP (Exempt and Complying Development Codes) 2008	NO	Not applicable	
SEPP (Housing for Seniors or People with a Disability) 2004	NO	Not applicable	
SEPP (Infrastructure) 2007	YES	Yes	
SEPP (Major Development) 2005	NO	Not applicable	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NO	Not applicable	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	NO	Not applicable	

#### SEPP 55

Preliminary environmental assessment of the site has been undertaken. The testing was undertaken with a focus on potential future development of the site for the purpose of commercial uses and the results indicate that contaminants of potential concern were not detected in fill or native soils at concentrations in excess of the assessment criteria for a commercial/industrial setting.

It is noted that it is proposed that shop top housing be permissible at the site upon rezoning the land. Given the results of the initial testing, Council can be reasonably confident that the site is suitable, or can be made suitable for the future uses of the site consistent with the proposed rezoning. It is considered that additional testing and reporting can be carried out if and when a Development Application is lodged or alternatively upon moving to the gateway process.

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

<b>Title of deemed SEPP, being Sydney Regional Environmental Plan (SREP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
SREP No 20 – Hawkesbury-Nepean River (No 2 -1997)	NO	Not applicable	

The following is a list of the draft SEPP's relevant to the Pittwater Local Government Area.

<b>Title of draft State Environmental Planning Policy (SEPP)</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
Draft SEPP (Competition) 2010	YES	Yes	

**Section 117 Ministerial Directions Checklist**  
*(Directions as per DoP website September 2010)*

**Table**

**Compliance with Ministerial Directions, s117 Environmental Planning and Assessment Act, 1979.**

**1      Employment and Resources**

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	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
1.1 Business and Industrial Zones	YES	YES	
1.2 Rural Zones	NO	Not applicable	
1.3 Mining, Petroleum Production and Extractive Industries	NO	Not applicable	
1.4 Oyster Aquaculture	NO	Not applicable	
1.5 Rural Lands	NO	Not applicable	

**2      Environment and Heritage**

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	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
2.1 Environment Protection Zones	NO	Not applicable	
2.2 Coastal Protection	NO	Not applicable	
2.3 Heritage Conservation	NO	Not applicable	
2.4 Recreation Vehicle Areas	NO	Not applicable	

**3      Housing, Infrastructure and Urban Development**

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	<b>Applicable</b>	<b>Consistent</b>	<b>Reason for inconsistency</b>
3.1 Residential Zones	YES	YES	
3.2 Caravan Parks and Manufactured Home Estates	NO	Not applicable	
3.3 Home Occupations	NO	Not applicable	
3.4 Integrating Land Use and Transport	NO	Not applicable	
3.5 Development near Licensed Aerodromes	NO	Not applicable	

## 4 Hazard and Risk

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	Applicable	Consistent	Reason for inconsistency
4.1 Acid Sulphate Soils	YES	YES	
4.2 Mine Subsidence and Unstable Land	NO	Not applicable	
4.3 Flood Prone Land	YES	NO	See below
4.4 Planning for Bushfire Protection	NO	Not applicable	

Directions 4.1 and 4.3

- (4.1) The site has a low probability of containing acid sulphate soils. The planning proposal itself does not include works. Notwithstanding, Council has in place planning provisions that ensure that any future development of the site proposed will be required to accord with the relevant development controls dealing with development on sites affected by acid sulfate soils.
- (4.3) Flooding to a high hazard classification is identified by Council's flood maps over part of the site. Despite this, and in accordance with clause 9 of Direction 4.3, the proposal is considered satisfactory, as a Flood Risk Management Policy has been prepared by Council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, and future development will be subject to the provisions of the Policy and it is also considered exposure to flood risk will not change as a result of this proposal.

## 5 Regional Planning

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	Applicable	Consistent	Reason for inconsistency
5.1 Implementation of Regional Strategies	NO	Not applicable	
5.2 Sydney Drinking Water Catchments	NO	Not applicable	
5.3 Farmland of State and Regional Significance on NSW Far North Coast	NO	Not applicable	
5.4 Commercial and Retail Development along the Pacific Hwy, North Coast	NO	Not applicable	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield	NO	Not applicable	
5.8 Second Sydney Airport: Badgerys Creek	NO	Not applicable	

## 6 Local Plan Making

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	Applicable	Consistent	Reason for inconsistency
6.1 Approval and Referral Requirements	YES	YES	
6.2 Reserving Land for Public Purposes	YES	YES	See below
6.3 Site Specific Purposes	YES	YES	See below

### Directions 6.2 and 6.3

- (6.2) The proposal is not zoned as a public reserve or open space as such , notwithstanding the proposal seeks to rezone Council owned land to 3(a) (General Business “A”) from its current 5(a) (Special Uses “A”).

In accordance with the current zoning controls development of the site is limited to purposes relating to car parking and the site is currently used as an at grade public car park.

Car parking is a use/activity permitted with consent in accordance with the provisions of the 3(a) (General Business “A”) and therefore the proposed rezoning will not inhibit Council’s ability to maintain the quantum of public car spaces at the site.

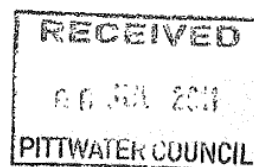
As such the proposal does not represent the loss of land reserved for public purposes, rather it represents the widening of the permissible land uses and activities on Council owned land and as such the proposal accords with the objectives set out in clause 1 Direction 6.2.

- (6.3) The objective of the proposal is to enable the redevelopment of the site consistent with the surrounding commercial centre and land uses while maintaining a public car park. The site is proposed to be rezoned to 3(a) (General Business “A”) which is an existing zone within the Pittwater LEP 1993. The rezoning would enable the proposal’s objective to be realised without the need for imposing any development standards or requirements in addition to those already contained in that zone. The proposal accords with Direction 6.3.

Doc. No: 4224369



**Planning &  
Infrastructure**



Office of the Director General

Mr Mark Ferguson  
General Manager  
Pittwater Council  
PO Box 882  
MONA VALE NSW 1660

11/10058

Attention: Steve Evans

Dear Mr Ferguson

I refer to Council's letter of 3 June 2011, requesting an extension to the Gateway Determination timeframe for the Planning Proposal for 17 & 25 – 27 Foamcrest Avenue, Newport.

I appreciate Council's initiative in advising the Department of the likely delays to the progress of the Planning Proposal associated with the public hearing and subsequent reporting. I have now altered the Gateway Determination in relation to this Planning Proposal, as delegate of the Minister for Planning and Infrastructure. The Planning Proposal should proceed subject to the conditions in the attached revised Gateway Determination.

I have determined to extend the timeframe for finalisation of the Local Environmental Plan (LEP). The LEP is now to be finalised by 16 December 2011. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

Should you have any further enquiries about this matter, please contact Nathan Herborn, Sydney East Planning Team, of the Department on telephone number 9228 6451.

Yours sincerely

*Sam Haddad*  
Sam Haddad  
Director General  
1/7/2011



## Gateway Determination


**Planning Proposal (Department Ref: PP\_2010\_PITTW\_004\_00):** to rezone 17 and 25-27 Foamcrest Avenue, Newport from 5(a) (Special Uses "A") to 3(a) (General Business "A"), and to amend the Multi-Unit Housing Map to enable shop top housing on the site.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(7) of the EP&A Act that an amendment to the Pittwater Local Environmental Plan 1993 to rezone 17 Foamcrest Avenue Newport (Lot 10 & 11, Section 5, DP 6248) and 25-27 Foamcrest Avenue Newport (Lot 14 & 15, Section 5, DP 6248) from 5(a) (Special Uses "A") to 3(a) (General Business "A"), and to amend the Multi-Unit Housing Map to enable shop top housing on the site should proceed subject to the following conditions:

1. A copy of Council's Flood Risk Management Policy and the s117 direction 4.3 - Flood Prone Land is included in the exhibition material.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal must be made publicly available for **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs* (Department of Planning 2009).
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Department of Environment, Climate Change and Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the original Gateway determination (9 December 2010).

Dated 1<sup>st</sup> day of July 2011.

  
Sam Haddad  
Director General  
Department of Planning and Infrastructure  
Delegate of the Minister for Planning and  
Infrastructure

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## **C7.2      2010/2011 Annual Report**

**Meeting:**      Council

**Date:**      7 November 2011

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

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

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### **PURPOSE OF REPORT**

To report on the 2010/2011 Annual Report for the 2010/2014 Delivery Program.

### **1.0      BACKGROUND**

- 1.1 Council is required to prepare and publish an annual report within five months of the end of financial year. The 2010/2011 Annual Report outlines the Council's achievements and progress in implementing the 2010/2014 Delivery Program. As such, the Annual Report is one of the key accountability mechanisms between Council and the community.
- 1.2 The requirements for preparing the Annual Report and the matters which must be reported on are prescribed by the Local Government Act 1993 and Local Government (General) Regulation 2005.
- 1.3 Copies of the Annual Report must be sent to the Minister, provided on Council's website and at libraries and customer services centres at Mona Vale and Avalon. Copies are also available for purchase.

### **2.0      ISSUES**

- 2.1 The production of an Annual Report is a legislative requirement and provides Councillors and members of the public with useful information about the Council's achievements throughout the previous year.
- 2.2 The contents of the Annual Report are structured as follows:
  - Section 1 – overview of the community, Pittwater Council and the Community Strategic Plan
  - Section 2 – progress against the 2010/2014 Delivery Plan
  - Section 3 – State of Pittwater report, which provides a snapshot of the condition of the environment and Council's response to pressures impacting on the environment (this is in a similar format to previous State of Environment reports prepared with other SHOROC Councils)
  - Section 4 – statutory statements – this is information that is not directly relevant to the Delivery Program but is required by the Act and Local Government (General) Regulation 2005 because the Government believes it is important for the community to know about it
  - Section 5 – financial statements from the Council's year-end audited accounts.

- 2.3 Under the new planning and reporting framework for Councils introduced by the Local Government Amendment (Planning and Reporting) Act 2009, there are now fewer statutory matters (Section 4 of the report) which Councils must report on. In addition, the State of Environment report, previously prepared in conjunction with other SHOROC Councils, is now required to be prepared by Councils once every four years (in the year in which an ordinary election). However, to maintain continuity the 2010/2011 Annual Report continues to report on environmental matters previously reported in the State of Environment report.
- 

### **3.0 SUSTAINABILITY ASSESSMENT**

A sustainability assessment is not required as the Annual Report reports on Council's 2010/2014 Delivery Program which has been subject to a sustainability assessment.

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### **4.0 EXECUTIVE SUMMARY**

- 4.1 The Annual Report has been prepared in accordance with the requirements of Section 428 of the Local Government Act 1993 and Section 217 of the Local Government (General) Regulation 2005.
- 4.2 Council's Annual Report will be forwarded to the Minister and copies made available for the public as indicated above.
- 

### **RECOMMENDATION**

That the 2010/2011 Annual Report for the financial year ending 30 June 2011 (as tabled) be noted.

Report prepared by

Paul Reid – Manager, Corporate Strategy & Commercial

Mark Ferguson  
**GENERAL MANAGER**

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## **Community, Recreation and Economic Development Committee**

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### **8.0            Community, Recreation and Economic Development Committee Business**

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## **C8.1 Appointment of 2011/2012 Elanora Heights Community Centre Management Committee**

Meeting: **Community, Recreation & Economic Development Committee**

Date: **7 November 2011**

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**STRATEGY:** **Community Learning**

**ACTION:** To provide and maintain a network of Community Centres available to the community.

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### **PURPOSE OF REPORT**

To inform Council of the election of the members and new executive of the Elanora Heights Community Centre Management Committee.

### **1.0 BACKGROUND**

- 1.1 In accordance with Council's requirements, Executive Members of these committees hold office for one year and are elected at the Annual General Meeting.
- 1.2 Those appointed to the Management Committee assist Council with the management of Elanora Heights Community Centre on behalf of Council. Under Section 355 and 377 of the Local Government Act 1993, the Committee is delegated the authority to assist Council with the management of the Centre.

### **2.0 ISSUES**

- 2.1 On 3 August 2011 the Elanora Heights Community Centre Management Committee held their Annual General Meeting at which elections were conducted for executive positions. The 2011/2012 executive and other members on the committee are as follows:-

Chairperson:	Mr Bill Akhurst
Treasurer:	Mr John Ward
Secretary:	Ms Patricia Corthorn
Committee Members:	Ms Katherine Ward Mrs Mavis Bickerton Ms Deidre Peters Mrs Carol Gibbons

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### **3.0 SUSTAINABILITY ASSESSMENT**

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

- 3.1.1 The Elanora Heights Community Centre Management Committee plays a valuable role in assisting with the management of the Elanora Heights Community Centre facility. The Management Committee has representatives from user groups Elanora Players, Yoga Fitness and Dance Arena and two Interested Citizens.

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

3.2.1 There is no environmental impact.

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

3.3.1 The Elanora Heights Community Centre offers a number of important activities to the community including kindergarten for some eighty children per week, theatre for adults including four different productions each year, a wide variety of dance classes for over 100 children per week, and yoga fitness classes for adults.

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

3.4.1 The Elanora Heights Community Centre Management Committee plays a very valuable role in assisting with the management of this multi purpose facility.

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

3.5.1 There is no impact on infrastructure.

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## **4.0 EXECUTIVE SUMMARY**

4.1 Executive Members of this committee hold office for one year and are elected at the Annual General Meeting.

4.2 Those appointed assist with the management of the Community Centre on behalf of Council, under delegated the authority.

4.3 Council is indebted to these residents who volunteer their time to assist Council to manage the centre.

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## **RECOMMENDATION**

That Council appoint the nominated members and executive of the Elanora Heights Community Centre Management Committee for 2011/2012 as listed below:

Chairperson:	Mr Bill Akhurst
Treasurer:	Mr John Ward
Secretary:	Ms Patricia Corthorn
Committee Members:	Ms Katherine Ward Mrs Mavis Bickerton Ms Deidre Peters Mrs Carol Gibbons

Report prepared by  
Pat Rudgley, Community Facilities Co-Ordinator.

Lindsay Godfrey  
**MANAGER, COMMUNITY, LIBRARY & ECONOMIC DEVELOPMENT**

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## **Natural Environment Committee**

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### **9.0 Natural Environment Committee Business**

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<b>C9.1</b>	<b>Land Classification - Escarpment Land acquired by Council from the Uniting Church in Australia</b>
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**Meeting:** Natural Environment Committee

**Date:** 7 November 2011

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**STRATEGY:** Land Use & Development  
Biodiversity Strategy  
Vegetation Strategy

**ACTION:** Complete final stage of Warriewood Ingleside Escarpment Acquisition Program

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## **PURPOSE OF REPORT**

To formally classify Lots 1, 3 and 4 in DP 1163689 (formerly parts of the Elanora Conference Centre site) sited at 13A, 49 and 49A Wesley Street, Elanora Heights in accordance with the requirements of the *Local Government Act 1993* (LG Act), following Council's acquisition of the land from the Uniting Church in Australia.

## **1.0 BACKGROUND**

- 1.1 Pittwater Council has recently purchased of some 3.0 hectares of escarpment bushland, which includes part of the Mullet Creek corridor, from the Uniting Church in Australia following the subdivision and rezoning of the Elanora Conference Centre site (refer to registered plan of subdivision at **Attachment 1**).
- 1.2 Section 31(2) of the LG Act makes provision for a council, before it acquires land or within 3 months after it acquires land, to resolve that the land be classified as "Community Land" or "Operational Land".
- 1.3 Section 34 of the LG Act requires that a council must give public notice of a proposed resolution to classify public land, define the terms of the proposed resolution, include a description of the public land concerned and specify a period of not less than 28 days during which submissions may be made to Council.
- 1.4 The existing conference centre development remains in the ownership of the Uniting Church in Australia and is wholly contained within Lot 2 in DP 1163689 (see attached plan of subdivision).

## **2.0 ISSUES**

### **2.1 Public Notification**

A notification of the proposed resolution to classify public land was advertised twice in the Manly Daily and a public notice (including the terms of the proposed resolution and a description of the public land concerned) was exhibited for a period of 31 days from 1 October 2011 to 31 October 2011 at Council's Customer Services Centres, Libraries and on the Pittwater website.

### **2.2 Results of Public Exhibition**

No submissions were received by the close of the public exhibition period.

### 2.3 Zoning of Transferred Public Land

Lots 1, 3 and 4 in DP 1163689 have been rezoned as 7(a) Environmental Protection prior to their transfer to Council. The proposed public land classification of these lots (as recommended in this report) was also detailed in the Planning Proposal submitted to the Minister for Planning and exhibited as a part of the 'Gateway' process to amend Pittwater 93 Local Environmental Plan.

### 2.4 Proposed Classification

Lots 1 and 4 in DP 1163689 (about 2.0 hectares in total) are proposed to be classified as "Community Land". Lot 3 in DP 1163689 (about 1.0 hectare) is proposed to be classified as "Operational Land" in order to enable the Elanora Conference Centre to continue to use this area through a long term lease that was part of the contractual arrangements.

### 2.5 Permitted Use of the Lease Area

The permitted use of Lot 3 in DP 1163689 is outlined in Pittwater LEP 93 and is defined in the lease agreement as follows:

*"Outdoor recreational, religious and educational activities and associated equipment, but only if the lessor is satisfied that:*

- a) the activities proposed will only have a minimal environmental impact; and*
- b) the activities proposed are ancillary to and associated with the adjacent Elanora Conference Centre.*

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## 3.0 SUSTAINABILITY ASSESSMENT

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

3.1.1 The acquisition of approximately 3.0 hectares of escarpment bushland from the Uniting Church in Australia completes the land area of Ingleside Chase Reserve and provides public access to the southern escarpment bushland from Wesley Street, Elanora Heights. The reserve is a natural scenic backdrop to the Warriewood Land Release Area and a most important environmental resource for the Pittwater community.

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

3.2.1 As a part of a public reserve zoned for environmental protection, the newly acquired land provides greater opportunity to conserve and enhance the biodiversity and habitat value (including the Mullet Creek corridor) of high quality escarpment bushland.

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

3.3.1 By leasing back Lot 3 to the Uniting Church in Australia for an extended period for uses of minimal environmental impact. Council has been able to acquire the extra 1.0 hectare area of Lot 3 at no extra financial cost to the community. The acquisition also completes all proposed land purchases under the Environmental Levy within the budget allocation.

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

3.4.1 Under the LG Act, Council is required to give public notice of its intention to classify public land as either community land or operational land and specify a period of not less than 28 days during which submissions on the proposal may be made.

### 3.5 Integrating our Built Environment (Infrastructure)

- 3.5.1 The acquisition of further areas of good quality escarpment bushland, including another section of the Mullet Creek corridor provides a continuous public reserve and wildlife corridor from the top of the escarpment through Warriewood Wetlands and terminating at North Narrabeen Beach via Narrabeen Lagoon and foreshores. This wildlife corridor and recreational open space is an important offset to and refuge from the increasing urban density of Warriewood Valley.

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## 4.0 EXECUTIVE SUMMARY

- 4.1 Under the LG Act, a council is required to give public notice of a proposed resolution to classify public land as either "Community Land" or "Operational Land" before it acquires land or within 3 months after it acquires land.
- 4.2 Pittwater Council has acquired about 3 hectares of Elanora Conference Centre (comprised of Lots 1, 3 and 4 in DP 1163689) from the Uniting Church in Australia.
- 4.3 Lots 1 and 4 in DP 1163689 are proposed to be classified as "Community Land" and Lot 3 in DP 1163689 is proposed to be classified as "Operational Land".
- 4.4 The proposed land classification for these lots has been publicly exhibited previously as a part of the preparation of the Ingleside Chase Plan of Management as well as the LEP amending process to rezone the land being transferred between Council and the Uniting Church.
- 4.5 In accordance with s34 of the LG Act, Council has now given public notice of the proposed resolution to classify public land (acquired from the Uniting Church in Australia) and stipulated a period of at least 28 days during which submissions could be made to Council.
- 4.6 Following the exhibition period, no submissions were received.

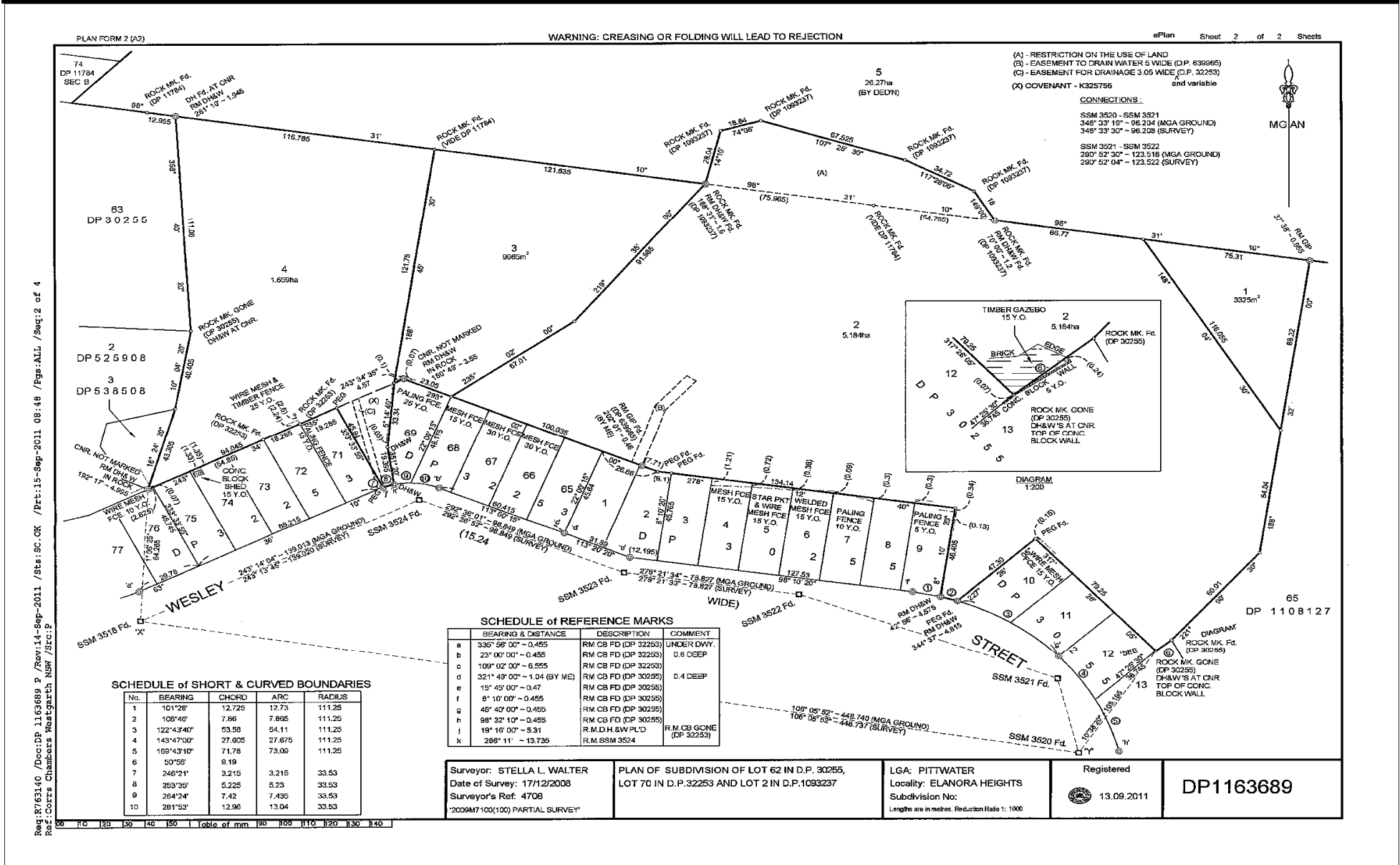
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## RECOMMENDATION

1. That public land at Elanora Heights, acquired by Pittwater Council from the Uniting Church in Australia, be classified in accordance with section 31(2) of the *Local Government Act 1993* as follows:
  - Community Land - Lots 1 and 4 in DP 1163689.
  - Operational Land - Lot 3 in DP 1163689.
2. That the land classifications resolved by Council for these parcels of public land be recorded in Council's Property Register.

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

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



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## **C9.2 Minutes of the Sydney Coastal Councils Group Annual General Meeting of 10 September 2011**

Meeting: **Natural Environment Committee**

Date: **7 November 2011**

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**STRATEGY:** **Beach & Coastal Management**

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

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### **PURPOSE OF REPORT**

To advise Council of the Minutes of the Sydney Coastal Councils Group (SCCG) Annual General Meeting held on 10 September 2011 and hosted by Randwick City Council.

#### **1.0 BACKGROUND**

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

#### **2.0 ISSUES**

##### **2.1 Item 7 – Annual Elections**

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

<b>Chairperson</b>	Cr Wendy McMurdo	Hornsby Council
<b>Vice Chairperson (Ocean Council)</b>	Cr Cathy Griffin	Manly Council
<b>Vice Chairperson (Estuarine Council)</b>	Cr Veronique Marchandean	North Sydney Council
<b>Treasurer (Honorary)</b>	Cr Wendy Norton	Willoughby Council
<b>Secretary (Honorary)</b>	Cr Lynne Saville	Willoughby Council
<b>Committee Members</b>	Cr Conny Harris	Warringah Council
	Cr Jacqueline Townsend	Pittwater Council
	Cr Geoff Stevenson	Randwick Council

##### **2.2 Item 6 – Annual Reports**

Delegates received annual reports from the Chairperson and the Executive Officer outlining a diverse range of projects and activities undertaken by the SCCG during 2010/2011. The Chairperson's Annual Report and the Executive Officer's Annual Report are appended as **Attachment 2**.

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### **3.0 SUSTAINABILITY ASSESSMENT**

No sustainability assessment required

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### **4.0 EXECUTIVE SUMMARY**

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

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### **RECOMMENDATION**

That the Minutes of the SCCG Annual General Meeting of 10 September 2011 (appended as **Attachment 1**) be noted.

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

Jennifer Pang  
**MANAGER – CATCHMENT MANAGEMENT & CLIMATE CHANGE**

**SYDNEY COASTAL COUNCILS GROUP Inc.  
MINUTES FOR THE ANNUAL GENERAL MEETING  
HELD ON SATURDAY 10 SEPTEMBER, 2011  
HOSTED BY RANDWICK CITY COUNCIL CHAMBERS**

**IN ATTENDANCE**

Cr. Brian Troy	City of Botany Bay
Cr. Wendy McMurdo	Hornsby Council
Cr. Michele McKenzie	Leichhardt Council
Cr. Cathy Griffin	Manly Council
Cr. Barbara Aird	Manly Council
Cr. Anne Connon	Mosman Council
Cr. Warren Yates	Mosman Council
Cr. Veronique Marchandean	North Sydney Council
Cr. Jacqueline Townsend	Pittwater Council
Cr. David James	Pittwater Council
Mr. Paul Hardie	Pittwater Council
Cr. Margaret Woodsmith	Randwick Council
Cr. Geoff Stevenson	Randwick Council
Ms. Bronwyn Englaro	Randwick Council
Cr. Lesa de Leau	Rockdale Council
Cr. Nicola Grieve	Woollahra Council (part of meeting)
Cr. Susan Jarnason	Woollahra Council (part of meeting)
Cr. Michael Regan	Warringah Council (part of meeting)
Cr. Sally Betts	Waverley Council
Cr. Leon Gottsman	Waverley Council
Mr. Geoff Withycombe	SCCG (EO)
Mr. Craig Morrison	SCCG (SCPO)
Professor Bruce Thom AM	Honorary Member
Dr. Judy Lambert AM	Honorary Member
Mr. George Cotis	Honorary Member
Mr. George Copeland	Honorary Member
Mr. Phil Colman	Honorary Member

**For Presentation**

Ms. Lisa Corbyn	Office of Environment and Heritage
Mr. Mike Sharpin	Office of Environment and Heritage

## 1. OPENING

The meeting opened at 12.45pm. Cr. McMurdo (Chairperson) welcomed delegates to the Meeting and introduced Mayor Murray Matson to welcome the SCCG to the City of Randwick. Cr. Matson provided a welcome to Country and welcomed fellow councillors and representatives of the Office of Environment and Heritage (OEH) to the City of Randwick.

Cr McMurdo thanked the Mayor for the welcome and requested round the table introductions.

## 2. APOLOGIES

Mr. Chris Derksema  
Cr. Peter Towell  
Cr. Christina Kirsch  
Cr. Conny Harris  
Cr. Wendy Norton  
Cr. Lynne Saville  
Ms. Nicola Faith  
Cr. Keith Rhodes

City of Sydney Council  
Sutherland Council  
Warringah Council  
Warringah Council  
Willoughby Council  
Willoughby Council  
Willoughby Council  
President LGSA

**Resolved that** the apologies be received and noted.

**Councils not represented at the meeting**  
Sutherland and City of Sydney

## 3. DECLARATION OF PECUNIARY INTERESTS

**Resolved that** there was no declaration of pecuniary interests.

## 4. CONFIRMATION OF MINUTES

### 4.1 Minutes of the Ordinary Meeting of the SCCG held on 18 June 2011 at the City of Sydney

**Resolved that** the Minutes of the Ordinary Meeting of the SCCG held on 18 June 2011 at the City of Sydney Council be confirmed.

### 4.2 Minutes of the SCCG Executive Committee held on 6 September 2011 at City of Sydney Council.

The EO noted that these minutes were not yet ready from the meeting held on Tuesday.

**Resolved that** the Minutes of the SCCG Executive Committee held on 6 September 2011 at the City of Sydney Council be tabled at the next meeting.

### 4.3 Minutes of the Technical Committee Meeting of the SCCG held on 16 June 2011 hosted by Hornsby Council on the Hawkesbury River.

**Resolved that** the Minutes of the Technical Committee Meeting of the SCCG held on 16 June 2011 hosted by Hornsby Council on the Hawkesbury River be received and noted.

**4.4 Minutes of the Technical Committee Meeting of the SCCG held on 11 August 2011 hosted by North Sydney Council at the Coal Loader Centre for Sustainability – Balls Head.**

**Resolved that** the Minutes of the Technical Committee Meeting of the SCCG held on 11 August 2011 at the Coal Loader Centre for Sustainability be received and noted.

## **5. BUSINESS ARISING**

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

- **SCCG – City of Sydney Hosting Contract**

The EO noted that there had been no news in relation to renewal of the Hosting Agreement between the City and the Group. Last year the City further extended the contract for an additional 12 months. It is understood that some internal reviews of the existing contract have been undertaken however no consultation with the SCCG EO has occurred.

**Resolved that** the EO continue to chase a meeting with the City of Sydney, Executive Officer, with the aim of reviewing and renewing the existing hosting contract.

- **Sydney Harbour Councils**

The EO noted that the meeting with the Hunters Hill General Managers had not occurred as Barry Smith has gone on an extended European holiday. This meeting will occur on his return at the beginning of October.

**Resolved that:**

1. The SCCG EO meet with the General Manager of Hunters Hill on his return from holidays at the beginning of October.
2. Pending outcomes of the meeting with Hunters Hill Council that the SCCG invite all harbour councils who are not members of the SCCG to become members.

- **Governance of Sydney Waterways**

The SCPO referred delegates to the associated update report in business papers for full details. The SCPO then provided a brief summary.

At the last SCCG meeting it was resolved, via a recommendation from SCCG Honorary Member Professor Bruce Thom AM, to take the issues of “Governance of Sydney Waterways” to the Technical Committee for consideration with a view of developing an investigation scoping document to address any identified issues.

At the Technical Committee meeting (11 August) delegates were asked to identify issues their councils have with the management of development, assets and environmental protection within waterways of Sydney.

Broadly the discussion identified a high level of uncertainty around the role and responsibilities of Local and State authorities in the management of waterways and adjacent lands within each of Sydney’s estuaries.

Overall it was identified that a wide range of landowners and managers were responsible for approvals and management. This results in processes such as development approvals, licensing, leasing, environmental management and maintenance of assets being extremely complex and inconsistent between waterways. This resulted in issues such as environmental management, maintenance of water quality and meaningful stakeholder engagement being neglected.

To address this, delegates resolved that Professor Bruce Thom, in his role as a concerned scientist with the Wentworth Group, be requested to identify a suitably qualified researcher to undertake an assessment of the authorities responsible for the Governance of Sydney Waterways. This research should identify the management, approval and licensing roles of State and Local authorities in each of Sydney's waterways. It was recommended that the results of this research would be best presented in the form of 'plan' and 'cross section' illustrations for each waterway extending from the middle of the waterway to land adjoining mean high tide mark boundaries.

Prof. Thom noted that it was important that any investigation directly involve Maritime (via Michael Wright) and Crown Lands (via Graham Harding) and that a meeting be held with these representatives to further scope the investigation program and report back to the next SCCG meeting with a proposed investigation project scope and details of potential supporting resources

Delegates further discussed the need to consult with Maritime regarding a broad range of waterways issues. It was resolved that the SCCG would invite Waterways to address the next meeting to provide:

- update on the new government structure in relation to waterways and boating management,
- Clarifying roles and responsibilities of waterway management authorities including Maritime,
- Providing an update on the development of Sydney Boat storage strategy,
- Development of the integrated waterways management strategy for Sydney.

**Resolved that:**

- 1) Professor Bruce Thom with the assistance of the SCCG Secretariat identify a suitably qualified researcher to undertake an assessment of the authorities responsible for the Governance of Sydney Waterways. (This research should identify the management, approval and licensing roles of State and Local authorities in each of Sydney's waterways),
- 2) The SCCG Secretariat and Prof Bruce Thom meet with Maritime and Crown Lands (and potentially Department of Planning) to discuss the above,
- 3) Prof Bruce Thom report back to the next meeting with an outcomes report to include an investigation outline for consideration.
- 4) SCCG invite NSW Maritime to address the next meeting.

**a) Commonwealth Update - Emeritus Professor Bruce Thom AM**

Regular item for Prof Bruce Thom to provide an update on current Commonwealth activities including those of the National Coasts and Climate Change Council (NCCC) in which he is Chair.

- The ALGA will soon be releasing a legal report addressing issues of potential liability for Local Government in relation to climate change. Outcomes of this report may potentially be taken to the appropriate COAG committee for consideration

- DCCEE on behalf of the National Coasts and Climate Change Council are also undertaking their own legal investigations to determine the status of coastal legislation in Australia. This aims to develop a series of recommendations to improve approaches and consistency across the country. The SCCG / EDO report ("Audit of sea level rise coastal erosion and inundation legislation and policy") has been considered in this process.
- The NCCCC is also addressing the need to increase the capacity of Local Government including information and expertise.

**Resolved that:**

- 1) Prof Bruce Thom's update report be received and noted
- 2) Prof Thom keep the Group informed of activities of the Commonwealth and the Coasts and Climate Change Council.

## **6. ANNUAL REPORTS**

### **6.1 Chairperson's Annual Report (Report attached)**

Cr Wendy McMurdo provided her annual report. Delegates congratulated and thanked Cr. McMurdo for her substantial efforts during the year.

**Resolved that** the Chairperson's Annual Report be received, considered and adopted as part of the 2010/2011 Annual Report.

### **6.2 Executive Officer's Annual Report (Report attached)**

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

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

**Resolved that**

- 1) The Executive Officer's (public officer) Annual Report be received and adopted as part of the 2010/2011 Annual Report.
- 2) The SCCG Secretariat be thanked for their extraordinary efforts and outcomes throughout 2010 – 2011.

## **7. ANNUAL ELECTIONS**

### Proceedings in Brief

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

Cr James and Cr. Woodsmith indicated that they would be standing down from the SCCG Executive Committee this year noting that they would not be standing for the next Local Government election. On behalf of all delegated and member councils. Cr. McMurdo thanked Cr. James and Cr. Woodsmith for their many years service.

Both delegates indicated that they intend to continue to attend SCCG meetings prior to the election next year.

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

## 7.1 Chairperson

Cr. Wendy McMurdo (Hornsby Council) was nominated and elected as Chairperson.

## 7.2 Vice Chairpersons

### (i) Vice Chairperson (ocean council)

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

### (ii) Vice Chairperson (estuarine council)

Cr. Veronique Marchandean (North Sydney Council) was nominated and elected Vice Chairperson (Estuarine Council).

## 7.3 Treasurer (Honorary)

The EO noted that Cr Norton is an apology for the meeting however has informed the Group that she remains interested in Executive Committee representation if so nominated by delegates.

Cr. Wendy Norton (Willoughby Council) was nominated and elected Treasurer.

## 7.4 Secretary (Honorary)

The EO noted that Cr Saville is an apology for the meeting however has informed the Group that she remains interested in Executive Committee representation if so nominated by delegates.

Cr. Lynne Saville (Willoughby Council) was nominated and elected Secretary.

## 7.5 Executive Members

The following delegates were nominated and elected

- |                            |                   |
|----------------------------|-------------------|
| 1) Cr. Conny Harris        | Warringah Council |
| 2) Cr. Jacqueline Townsend | Pittwater Council |
| 3) Cr. Geoff Stevenson     | Randwick Council  |

The 2011 - 2012 Sydney Coastal Councils Group Inc. Executive Committee consists of:

<b>Chairperson</b>	Cr. Wendy McMurdo	Hornsby Council
<b>Vice Chairperson</b> (Ocean council)	Cr. Cathy Griffin	Manly Council
<b>Vice Chairperson</b> (Estuarine council)	Cr. Veronique Marchandean	North Sydney Council
<b>Treasurer</b> (Honorary)	Cr. Wendy Norton	Willoughby Council
<b>Secretary</b> (Honorary)	Cr. Lynne Saville	Willoughby Council
<b>Members</b>	Cr. Conny Harris	Warringah Council
	Cr. Jacqueline Townsend	Pittwater Council
	Cr. Geoff Stevenson	Randwick Council

Cr. Wendy McMurdo thanked delegates for their continued support. Cr McMurdo noted that it was a great honour to be elected again as Chairperson and looked forward to working with delegates over the next 12 months. Cr. McMurdo thanked Cr. James and Cr Woodsmith for their participation and contribution to the Executive Committee over many years.

## **7.6 Nominations for SCCG Honorary Members**

The SCCG consider nominations for honorary membership for 2011/2012 to include by not limited to:

- |                         |                                  |
|-------------------------|----------------------------------|
| • E/Prof. Bruce Thom AM | Incumbent                        |
| • Mr Phil Colman        | Incumbent                        |
| • Mr George Cotis       | Incumbent                        |
| • Ms Shirley Colless    | Incumbent (pending confirmation) |
| • Dr Judy Lambert       | Incumbent                        |
| • Mr George Copeland    | Incumbent                        |

**Resolved that:**

1. All nominated delegates be invited to become 2011-2012 SCCG Honorary delegates,
2. The Secretariat write a letter to honorary members confirming their nomination

## **7.7 Nominations for External Committees (if required)**

**Resolved that** nomination for External Committee not required at this time.

# **8. CORRESPONDENCE**

## **8.1 Sent and Received Correspondence**

**Resolved that** the circulated “sent” and “received” correspondence be received and noted.

## **8.2 SCCG correspondence from the last meeting**

### **a) SCCG Audit of Sea Level Rise, Coastal Erosion and Inundation Legislation and Policy**

- 1) The SCCG forward the final report to all Member Councils.
- 2) The SCCG provide the final report to:
  - Commonwealth including the relevant Minister’s Environment and Climate Change and also to the National Coasts and Climate Change Council.
  - State Government Minister’s and relevant heads of Departments

### **b) NSW Reforms to Coastal Management**

The SCCG resolved that the SCCG meet with Warringah and Pittwater Councils to develop a joint letter to the Minister to address issues including: preparation of Emergency sub plans, and DA referrals to the Coastal Panel and other immediate implementation issues as identified.

**Update:** No response received as yet (Minister attending the meeting)

Paul Hardie provided a further background to the issue. Pittwater Council had been previously advised that only DAs for coastal protection works in isolation would be assessed by the NSW Coastal Panel. As the majority of DAs received by coastal councils involved development or redevelopment of entire residential or commercial properties, that also included coastal protection works, it would be unlikely that the Coastal Panel received many referrals.

Department of Planning staff had advised that they would seek further advice from their legal section to clarify the referral requirements and to determine whether it would be possible to separate components of a DA for referral to the Coastal Panel.

Prof Thom noted that the Panel had unfortunately not met since the election. Prof Thom responded that the Panel has not been made aware of the seawall development that has recently been constructed at Kingscliff in the Tweed Shire. Prof Thom recommended that any council considering the development or redevelopment of seawall structure(s) that they should refer these to the Panel for consideration.

### **c) Beachwatch Program (Beachwatch Advisory Committee)**

It was resolved by the SCCG to formally write back to the Director of Sustainability Programs with cc to the NSW Minister for the Environment noting the desire to retain the BAC to meet at least twice a year to address issues including but not limited to:

- Ongoing review and improvements to communication of the Beachwatch program activities and outcomes to Sydney residents and visitors through existing and additional communication processes and technologies.
- Addressing ongoing technical issues with improvements to monitoring techniques, equipment and processes.
- Ongoing advise, training, coordination and communications with Local Governments.
- Specifically addressing 'sanitary risk' profiles and processes and developing associated remediation action plans with all relevant land and infrastructure managers.
- Provision ongoing review and support of the Beachwatch program

The EO provided the meeting with an update. A meeting between the SCCG EO and the Manager for Beachwatch was held on 28 July. A subsequent letter was received from the Director of Sustainability Director. This notes the convening of 2 forums 1) "Communication forum" to be held on November 2011 with all key stakeholders 2) a "Workshop with Councils" to be held in March to develop Action plans to address key pollution sources affecting swimming areas. (OEH Letter provided in Item 11.8).

#### **Resolved that:**

- 1) the SCCG correspondence from last meeting be received and considered.
- 2) The SCCG chase the letter of response from the Minister for the Environment in regards to the preparation of Emergency sub plans, and integrated development referrals to the Coastal Panel.

## **9. PRESENTATION – Ms Lisa Corbyn – Chief Executive (NSW Office of Environment and Heritage - OEH)**

### Proceedings in Brief

Lisa Corbyn apologised on behalf of the NSW Minister for the Environment who was unable to attend the meeting. The Minister has indicated that she would still like to meet with the SCCG to address issues and needs for coastal management.

Ms Corbyn provided a broad overview of the functions of OEH including roles and activities since taking over coastal issues 4 years ago. OEH is now part of a bigger cluster that includes Planning, Local Government and OEH providing good opportunities to work better together. A summary of the presentation:

- OEH (formerly DECCW) identified the need to look at the coastal management system for NSW, to understand stakeholder views within the context that coastal management is probably the most challenging issue facing us all with very diverse views on how the coast should be managed.
- There is a clear need for strong partnerships to find practical and appropriate management responses to ensure that the Government gets the balance right.
- SCCG is a well known advocate for the coast with an impressive track record preparing numerous submissions addressing the coast and for projects such as Walking Coastal Sydney, and the recent Underwater Sydney program.
- OEH has reviewed its “coastal, estuary and floodplain management grant program to revise program goals and ensure good outcomes.
- Last year’s reforms have generally focused on coastal erosion with the need to better understand the risk and hazards, to improve interactions with Councils. Ms Corbyn identified that nothing is easy and that all management and planning solutions will come at a huge costs resulting in the need to look a new and clever ways of addressing issues and potential responses

#### Issues addressed in questions

- Need to get Coastal Zone Management Plans developed and importantly adopted noting that no plan has been approved by the Department in at least 3 years.
- When can the debate begin to address the potential for utilizing offshore sands for the purposes of beach nourishment ?
- The community and councils remain confused on what the new legislation actually does and doesn’t allow.

The Minister is very interested to now hear from a broad range of interests on how these issues can be addressed and the perceived limitations of the Coastal Protection Bill. It was noted that all coalition MPs are meeting with staff from OEH on Wednesday to start these discussions.

- The need to reconsider the implementation of “Container Deposit Legislation”(CDL).

The Minister has asked for briefing on CDL. The OEH maintains the view that a national approach to CDL is desired to ensure consistency and reduce complexity across state boundaries. OEH is currently looking at the issues and reviewing regulations addressing 6 potential options to move this issue forward.

Cr. Grieve queried the potentials for a marine sanctuary area for Camp Cove. It was noted that Marine Parks and DPI Fisheries conservation people have gone back to DPI from OEH. The new Government has recently announced a moratorium on the establishment of any new parks however has committed to maintain those existing. The independent scientific review is currently underway and this comprehensive and independent review will likely report back to Government in about 6 months.

Honorary member Mr George Cotis expressed his concerns that in the recent case of Gunnamatta Marina, dealt with under Part 3A, there was a failure to include Port Hacking Plans of Management (integrated management plans adopted by local government and State agencies) in the Director General’s Requirements.

Mr Cotis highlighted the view of the SCCG that despite repeal of part 3A, the NSW Infrastructure State Environmental Planning Policy and the establishment of Joint Regional Planning Panels were still resulting in the approval of number of developments in coastal and estuarine environments that are inconsistent with local planning regulations and strongly opposed by coastal communities. To address this, the SCCG believe that:

1. Thorough, consistent and transparent environmental assessment for all development proposals occurring in the coastal zone taking into account local plans and regulations and policies be undertaken.
2. Local Government and the community needed to be provided with sufficient information and opportunity to meaningfully participate in strategic planning and development assessment. Especially in the decision make frameworks applied through Joint Regional Planning Panels and the Land and Environment Court.

He also raised the question of whether State agencies should be more activist in safeguarding the common good where the public domain is involved. "

The EO noted that the SCCG Chairperson, SCPO and himself meet with Minister for Local Government, Parliamentary Secretary for Planning and the Chief of staff for the Environment Minister on Thursday. Issues addressed included needs for:

- A central Government vision for the NSW coast,
- Substantial and meaningful consultation with the community and stakeholders on what they value and what they want for the future of the NSW coast,
- The revision and redevelopment of the NSW Coastal Policy (1997),
- Re-establishment of an independent commission or committee to provide advice directly to the Government.

The Chairperson thanked Lisa Corbyn for her presentation and attendance and noting that the SCCG looked forward to hearing from the Minister when she might be able to meet with SCCG delegates.

**Resolved that:**

- 1) Lisa Corbyn be thanked for her attendance and presentation.
- 2) The SCCG contact the Minister's office to convene a SCCG consultation regarding coastal management issues.

## **10. ADMINISTRATIVE MATTERS**

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

#### Proceedings in Brief

The EO referred delegates to the Implementation Monitoring report contained in the business papers. It was noted that the SCCG Strategic Plan (2010 – 2014) states that implementation is to be reviewed annually and reported to the Annual General Meeting. The process aims to assess the pursuit towards achievement of 'Outcomes Statements' by evaluating implementation of 'SCCG Objectives' through performance indicators for associated 'SCCG Activities'.

The report provides an overview of implementation seeking to:

- Summarise the annual implementation of the SCCG Strategic Plan, 2010 – 2014,
- Emphasise key achievements,
- Highlight any issues that are in need of attention or changes in direction for the next 12 months, and
- Comment on the suitability of the existing indicators and make any associated recommendations for change.

The self assessment implementation review undertaken by the Secretariat achieved the highest overall ranking of "GOOD".

**Resolved that:**

- 1) The report be received and noted.
- 2) SCCG delegates be requested to identify any issues and need and areas for further focus in 2011-2012.

## **10.2 New Staff for the SCCG**

### Proceedings in Brief

The Executive Officer provided delegates with a verbal overview of changes in the Secretariat.

- **Coastal Projects Officer**

Delegates were informed that Jodie Savage has resigned from the SCCG with her last day being 2 September 2011. Jodie has secured a job with Waverley Council as their new Environment Officer – Education. This position was advertised in the week 22 - 26 August with applications closing 9 September (*45 applications have since been received*).

The EO noted that the SCPO was now primarily responsible for managing this position and was also managing the recruitment process.

- **New Project Officer – Climate Change Adaptation**

The SCCG advertised for an additional project officer position in August entitled Project Officer (Climate Change Adaptation), with applications closing 25 August. This 18 month contract position will be required to coordinate the implementation of SCCG adaption projects via grant funding secured by the Australian Government, Department of Climate Change and Energy Efficiency through their Coastal Adaptation Decision Pathways program. The Group received 13 Applications with 4 to be interviewed on 22 September.

**Resolved that** the report be received and noted.

## **11. REPORTS**

### **Reports 11.1 - 11.6 FOR CONSIDERATION**

#### **11.1 Release of SCCG documents**

The SCPO provided an overview of the below SCCG documents and noted that the SCCG has now hard copies documents distributing these to delegates:

- ***Audit of Sea Level Rise, Coastal Erosion and Inundation Legislation and Policy***
- ***Coastal Connections – Community Engagement Strategy (Social Media)***

**Resolved that** the reports be received and noted.

#### **11.2 SCCG Capacity Building Program & Engagements Report**

##### Proceedings in Brief

The EO noted that the Secretariat is continuing to work with Member Councils to ensure the SCCG Capacity Building Program meets the needs of members. Details of the report included in the business papers were summarized to address:

- the Coastal Connections Project;
- the SCCG's website eLibrary resource database;
- the Underwater Sydney; and
- the SCCG Building for Sustainability Forum Report

<b>Resolved that</b> the report be received and noted.
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### 11.3 SCCG – Sydney Water – Developing Water Recycling Guidelines

#### Proceedings in Brief

The SCCG-Sydney Water Working Group has resolved that in 2011 to develop a guide or handbook that provides councils with information to assist with the identification, development and delivery of water re-use and recycling projects. The SCPO provided an update on the progress of the Guidelines. Delegates were informed that at the last Working Group meeting some confusion arose as to the organisation taking the lead on the drafting of the document and level of detail to be contained within the document, with the potential for two separate handbooks to be developed.

Following the Working Group meeting it was resolved that both proposed handbooks be integrated. This will be achieved by providing the summary information Sydney Water is intending to produce at the beginning of the document after the introduction. This section of the document could make reference to the greater detail contained further in the handbook and would be useful in indicating to readers at an early stage whether they should contact Sydney Water, continue planning for their project by reading the handbook or not continue with their idea.

<b>Resolved that:</b>
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- |  |
|--|
| <ol style="list-style-type: none"> <li>1) The report be received and noted.</li> <li>2) The final document be launched in December.</li> </ol> |
|--|

### 11.4 Coastal User Conflicts - Update report

#### Proceedings in brief

The issues of Coastal User conflicts were addressed at the April SCCG Full group meeting. The EO provided a summary of activities addressing the associated SCCG resolution.

a) The SCCG has surveyed member councils to determine:

- What extent spearfishing is a coastal conflict issue
- Identify additional coastal user conflicts that occur or potentially occur within member councils (below the high watermark) including reasons for conflict, frequency and example location and identification of possible solution(s).
- Identify ideas, focus and desired outcomes for an associated SCCG forum

Outcomes of this survey were used to prepare the draft forum agenda. It was noted that at the last meeting that the SCCG resolved that "The SCCG in partnership with Waverley Council and Department of Industry and Investment facilitate a SCCG member council forum to better clarify actions and regulations below the 'high water mark'".

A recent meeting between the SCCG and Waverley Council has scoped the format and content of the forum. This was presented to delegates at the meeting and the EO work shopped details with delegates

Issues highlighted:

- Revise proposed forum title and include 'access',
  - Need for legal advice regarding the local government area boundary (ie MHWM) in the Local Government Act and what are the Council legal responsibilities and potential liabilities
  - Access to foreshore areas (to below high water mark) requires clarification in relation to above
  - Dr Gerry Bates be invited to present some of the water boundary legal issues at the forum
  - Potentially include:
    - NPWS particularly in relation to compliance issues
    - Rock fisherman safety
    - Commercial use of foreshores
    - Presentation from Department of Lands
  - Potentially combine presentations 1 and 3 so to include something from Department of Lands
  - Address the issues of water conflicts and the increasing popularity of ocean swimming
- b) Delegates were informed that the SCCG and Waverley Council are soon to meet with Underwater Skindiver's and Fishermans Association (USFA) to:
- Facilitate actions to advance the regulation of spearfishing including but not limited to:
    - Licences to purchase spearfishing equipment
    - Inclusion of specific notations within the NSW Recreational Fishing Licenses
    - Working with licence agents, retail outlets and equipment manufactures to promote and distribute related education including Code of Conduct(s) and Spearfishing Guides
    - Identification of additional education activities to ensure safe and appropriate use of spearfishing equipment.

**Resolved that:**

- 1) the report be received and noted.
- 2) Input into the format and content of the SCCG Management and Regulation Below the High Water Mark forum be received and incorporated.
- 3) Delegates from SCCG and Waverley Council meeting with USFA to pursue identified initiatives.

## **11.5 Developing a Sydney Adaptation Strategy – OEH, DoPI, SCCG, WSROC**

### Proceedings in Brief

The EO provided delegates with a brief update on the project. It was noted that the new government have articulated the ongoing commitment to develop an adaptation strategy for Sydney. The development of the Adaptation Plan has been identified as an action in the Metropolitan Plan for Sydney 2036, released in December 2010.

The Group has recently been provided with a preliminary draft MOU for consideration with initial comments provided. The interim steering committee has not meet since the election but will be reconvening on 20 September to consider the draft MOUs and to further pursue the project plan(s) and implementation processes.

The EO noted that he will have more to report at the next meeting including hopefully a final draft MOU for consideration of sign-off.

**Resolved that** the report be received and considered.

#### **11.6 SCCG Grant Program Update**

**Resolved that** the report be received and noted.

### **Reports 11.7 – 11.12 FOR INFORMATION ONLY**

#### **11.7 Technical Committee Report**

**Resolved that** the report be received and noted.

#### **11.8 Beachwatch & Harbourwatch Programs – Cr. McMurdo**

**Resolved by the Beachwatch Advisory Committee representative that** the report on Beachwatch and Harbourwatch Programs be received and noted.

#### **11.9 (a) Sydney Metropolitan Catchment Management Authority's Update (b) Hawkesbury Nepean Catchment Management Authority's Update**

**Resolved that** the reports be received and noted.

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

**Resolved that** the report be received and noted.

#### **11.11 Key Activities Report for June – September 2011**

**Resolved that** the SCCG Key Activities Report for June – September 2011 be received and noted.

### **12. TREASURER'S REPORT**

#### **12.1 Annual Financial Statement for the period 1 July 2010 to 30 June 2011**

**Resolved that:**

- 1) The Annual financial statement for the period 1 July 2010 to 30 June 2011 be received and noted.
- 2) That Sydney Coastal Councils Group Inc make the following statement (subject to the satisfactory audit of the SCCG finances).  
In the opinion of the Members of the Sydney Coastal Councils Group Inc:
  - (a) the accompanying general purpose financial report of and special schedules of the Sydney Coastal Councils Group Inc for the period ending 30 June 2011 are drawn up so as to give a true and fair view of:
    - (i) the state of affairs of the Group as at 30 June 2011, and the operating result and cash flows for the financial year ended on that date and all controlled entities; and
    - (ii) the other matters required to be disclosed;

- (b) the general purpose financial report and special schedules are in accordance with the accounting and other records of the Group; and
- (c) the general purpose financial report is drawn up in accordance with accounting policy disclosed in the statement; and
- (d) no circumstances have arisen which would render the report false or misleading in any way.

## 12.2 Final SCCG Operating Budget 2011 - 2012

### Proceedings in brief

The EO noted that from the last meeting the SCCG Executive Committee was charged with finalizing the SCCG Operating budget and invoicing members.

The final budget was finalised and approved by the Executive with final details and associated invoices sent to member councils on 8 July. The EO noted that a substantial increase of appropriately 8% was incurred this year however such increases are not now expected for sometime. The EO noted that all members are financial for the next 12 months and thanked them for their ongoing support.

**Resolved that** the final SCCG Operating Budget 2011 – 2012 be received and noted.

## 13. GENERAL BUSINESS

### ○ Discussion Items

#### ○ Plastic Parking tickets (Manly Council)

Cr. Griffin noted that she has been collecting tens of plastic parking tickets and infringement notices on the harbor shore of Manly. These ticket have travelled down the harbor from as far as Parramatta, Chatswood with many identified from Woollahra and Waverley Councils.

Cr. Griffin noted that new ticketing machines that some Council's Rangers are now using more durable plastic paper and find their way into the environment and therefore Sydney Harbour. Cr Griffin noted that these tickets replacing the paper based ones no longer break down and are becoming an increasing obvious problem.

The conversation then centered around the major problems of plastic waste in the littering stream

- **“Exploring Tidal Waters on Australian Temperate Coast” Phil Coleman and Peter Mitchell, 2011.**

Phil Colman (SCCG Honorary Member) and Peter Mitchell where again congratulated on their book “Exploring Tidal Waters on Australian Temperate Coast”. Delegates congratulated the authors on a very important text and resolved to support its promotion and distribution. Phil noted that he had copies for sale if anyone was interested. (see SCCG web site for order forms).

**Resolved that:**

- 1) The Group write to member councils highlighting this issues of impacts from plastic parking and infringement notices and request member councils consider alternatives and requesting a response to the SCCG correspondence,
- 2) The Secretariat prepare a brief report regarding plastics in the marine environment specifically highlight associated member councils policies and activities such as banning plastic bottles for Councils activities

**13.1 Items for Press Release**

**Resolved that** items for press release be considered.

**13.2 Agenda items for the next SCCG meeting**

**Resolved that** delegates suggest additional agenda items including presentations for the next SCCG meeting proposed for either Saturday 3 December starting at 12 noon.

**13.3 Next Meeting**

**Recommended that** the next meeting of the Group by held on either Saturday 3 December 2011 at the City of Sydney (pending confirmation).

Cr Wendy McMurdo closed the meeting thanking delegates for their continued confidence in her as SCCG Chairperson and thanked members for their continue interest, participation and attendance

The meeting closed at 4.40pm

Confirmation of Minutes: .....

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GW056-11

## **EXECUTIVE OFFICER'S 2010-2011 ANNUAL REPORT**

### **ANNUAL GENERAL MEETING**

10 September 2011 – Randwick Council

#### **1. INTRODUCTION**

The Sydney Coastal Councils Group (SCCG) had another great year in 2010/2011. The Group has continued to improve cooperation and coordination through the provision of services to Member Councils, their communities and many other stakeholders. The Group also continues to achieve its commitment to improve Sydney's urban coastal environment by providing leadership, facilitating a focused and coordinated approach to sustainable coastal management. The ongoing commitment of the Secretariat and success of the Group is best demonstrated through submission of 13 funding applications to successfully secure \$1,266,630 funding for projects.

This annual report provides SCCG delegates, Member Councils and other interested stakeholders with:

- A review of the SCCG's key areas of focus for 2010/2011;
- Annual facts and figures,
- SCCG internal activities,
- Details of the key initiatives and outcomes of the Group including the numerous successful projects and activities utilising internal and substantial external grant and in-kind resources, and
- Details of the various advocacy and lobbying activities, and
- Conclusions and thanks.

#### **2. KEY AREAS OF FOCUS**

In addition to the continued implementation of the Group's new Strategic Plan 2010 – 2014 and providing direct support and representation of Member Councils, the Secretariat has focused on:

- Continuing to build and expand on the Group's solid foundation, and addressing new emerging issues as they arise,
- Coordinating communications and interactions amongst Member Councils at all levels,
- Being a key advocate for the development of appropriate coastal policy and legislative initiatives and management responses for coastal areas, (including advocating for better outcomes to the NSW coastal management reform agenda),

- Identifying, securing and utilising substantial grant funding for various regional projects and programs,
- Informing parties contesting both the Federal and State Government elections of the policy positions of the SCCG on key coastal management issues, and
- Promoting the Group's activities and programs.

### 3. THE YEAR IN REVIEW - FACTS AND FIGURES

- The Secretariat have facilitated 38 internal and attended 133 external meetings,
- The Group facilitated 6 major workshops and forums:
  - GIS in the Coastal Zone forum
  - Engaging Communities - Social Media Workshop
  - Reforms to Coastal Erosion Management in NSW - Information Session
  - Economics, Management and the Coastal Zone Forum
  - SCCG / CSIRO Coastal Inundation Planning Workshop
  - Landslide Risk Management Roadshow 2011 – National Seminar Series
- The Group forwarded 102 letters and received 128 pieces of correspondence,
- The Group extensively used email facilities sending and receiving over 8000+,
- The Group prepared 4 quarterly newsletters (Coastal Currents) each forwarded to over 500 people and organisations, as well as all Member Council councillors.
- The Group prepared 11 Monthly enews (Making Waves) forwarded to over 500 people and organisations,
- The Group continued to distribute copies of various SCCG publications,
- The Group sought \$2,997,810 worth of funding through thirteen applications and continued to deliver over \$2,053,625 worth of projects.
- Grant Funding – The Group and project partners have:
  - Completed projects worth \$1571,500 in grant funds
  - Utilised over \$482,125 in grant funds for ongoing projects
  - Secured an additional \$1,266,630 in grant funds for projects
  - Unsuccessfully applied for \$1,713,680 worth of grant funds
- The SCCG Secretariat made 11 formal presentations regarding the SCCG and its programs:
  - "The SCCG – An overview" (Warringah Council)
  - "SCCG and Climate Change Adaptation" (Seoul National University)
  - "SCCG an Overview" (Northern Sydney ROC)
  - "Is the Law a Useful Communication Tool in a Changing Climate?" (National Coastal Management Conference)
  - "Coastal Planning and Management In a Changing Climate" (NSW Environmental Planning and Law Association Annual Conference)
  - "Is the Law a Useful Communication Tool in a Changing Climate?" (NSW Coastal Management Conference)
  - "Coastal Planning and Management In a Changing Climate" (NSW Coastal Management Conference)
  - "The SCCG – An overview" (Manly Council)
  - "SCCG Climate Change Activities including Vulnerability Assessments" (DECCW / Dept of Planning – Sydney Adaptation Strategy (Interim Steering Committee))
  - "Climate Change Vulnerability Mapping – A Local Government Case Study" (AILA NSW Series 2011)
  - "The SCCG – An overview" (Sutherland Council)

- The Secretariat promoted the Group and its activities at 6 public forums / events with information handouts / stall. These included:
  - GIS in the Coastal Zone forum
  - Engaging Communities - Social Media Workshop
  - Reforms to Coastal Erosion management in NSW - Information Session
  - Economics, Management and the Coastal Zone Forum
  - SCCG / CSIRO Coastal Inundation Planning Workshop
  - NSW Coastal Management Conference
- The Group initiated and contributed to numerous press articles in national and local newspapers; interviews as well as direct consultations with numerous key journalists,
- The Secretariat has continued to grow professionally attending 22 workshops, seminars, conferences and training events including:
  - Cities as Water Supply Catchments
  - Metropolitan Water Sharing Plan Information Session
  - 2010 Climate Adaptation Futures Conference (NCCARF)
  - Sea Change2030+ International Competition awards
  - LGSA Coastal Protection Act and Other Legislation Bill Workshop
  - Sea Level Rise visualisation tool and maps information session (DCC)
  - Maritime Panel “Changes to NSW Coastal Protection Legislation and Implications for Coastal Protection in NSW”.
  - Coast to Coast National Coastal Management Conference
  - MERI Training Workshop for Coastline Conservation
  - Sydney CMA – Developing a Sydney Harbour Water Quality Improvement Program
  - Randwick Council Practical Water Management Workshop
  - SCCG SSSI - “GIS in Coastal Zone”
  - NSW Coastal Management conference
  - USSA Sustainability Training Package Launch & Training Day
  - SCCG / ROE Engaging Communities - Social Media Workshop
  - SCCG Information Session – Reforms to Coastal Erosion Management in NSW
  - SCCG Economics, Management and the Coastal Zone Forum
  - SCCG / CSIRO Inundation Planning Workshop
  - Landslide Risk Management. Roadshow Seminars 2011
  - Maritime Panel NSW evening Lecture series (Dr Stephen Hughes – USA)
  - Natural Disasters: Assessing the Risk to Property
  - SCCG / UNSW ‘Building for Sustainability’ Forum
- 100% of resolutions from Group meetings, its Committees, and Working Groups have been addressed effectively. These are either: complete; or currently underway,
- The Group made 8 regional submissions on coastal and regional issues, outlined below:
  - Draft Minister’s Requirements under the Coastal Protection Act 1979
  - Coastal Reforms Coastal Zone Management Plans”, • Authorised officers, statutory requirements for emergency coastal protection works”
  - Clearing of native vegetation (non threatened species) in urban areas
  - Unregulated river sources and groundwater sources Draft Water Sharing Plans (WSP) for the Greater Metropolitan Region
  - Draft New South Wales Biodiversity Strategy 2010 – 2015.
  - NSW Coal and Gas Strategy – Scoping Paper
  - Sydney Harbour National Park – Draft Plan of Management, 2011
  - REF – Cronulla Wastewater Treatment Plant – Odour Management Project.

## 4. SCCG ACTIVITIES

### 4.1 *Implementing the SCCG Strategic Plan 2010 - 2014*

The Sydney Coastal Councils Group's Strategic Plan 2010 – 2014 was adopted at the 2010 SCCG Annual General Meeting held at Manly Council on 11 September.

The SCCG Strategic Plan has been prepared to document and highlight the SCCG strategic focus for the period (July 2010 – June 2014). This document represents the sixth Business Plan of the SCCG since the Group's inception in 1989.

The purpose of the Strategic Plan is to provide SCCG Members and external stakeholders with details of the SCCG including background, structure, members, overarching Sydney regional coastal management guiding principles and the SCCG strategies.

The plan focuses SCCG activities over the next four years under the following 'Outcome Statements':

1. Build the role and capacity of Member Councils to sustainably manage the urban coastal and estuarine environment.
2. Coordinate and facilitate the exchange of information on integrated coastal and estuary management amongst Member Councils.
3. Represent and advocate Member Councils' interests on issues relating to regional, state and national coastal and estuarine management.
4. Facilitate sustainable and integrated planning and management of natural and built coastal and estuarine assets.
5. Identify and address emerging regional coastal and estuarine issues through research and project development.
6. Facilitate the exchange and development of knowledge and tools to enhance community awareness on sustainable coastal and estuarine management.

The SCCG Strategic Plan is a dynamic strategy that is to be evaluated annually and comprehensively reviewed after 4 years. The first review report has been prepared and is included in the AGM business papers for consideration (see item 10.1).

Specifically this implementation report seeks to:

- Summarise the annual implementation of the SCCG Strategic Plan, 2010 - 2014
- Emphasise key achievements,
- Highlight any issues that are in need for further attention or changes in direction for the next 12 months, and
- Comment on the suitability of the existing indicators and make any associated recommendations for change.
- A top implementation rating of "GOOD" was achieved for all six 'Outcome Statements'.

### 4.2 *Employment of the SCCG Secretariat*

The employment of the **SCCG Secretariat** has continued, with 3 full time positions including my position, the Senior Coastal Projects Officer, Craig Morrison and the Coastal Projects Officer – Jodie Savage.

With the departure of the Project Officer - Capacity Building in March 2010, the renewed Coastal Project Officer position was filled in October 2010 by Jodie Savage after a period of work experience and then temporary engagement.

### **4.3 SCCG External Committee Representations**

The Group has continued to actively maintain and expand consultation and partnerships with other stakeholders. The Group directly represents the interests of Member Councils and their coastal communities, via representation on numerous **external committees** including:

- Interagency Riparian Boundaries Working Group
- USP – Urban Sustainability Support Alliance Steering Committee
- Malabar Headland Interagency Group
- LGSA Climate Change Mitigation and Adaptation Reference Group
- Northern Sydney Environment Educators Network
- Southern Sydney Sustainability Education Network
- NCCARF – Settlements and Infrastructure – Network Advisory Group
- NSW Coastal Conference Organising Committee (2010 and 2011)
- SCCG – SSSI Coordination Group
- Bureau of Meteorology Sydney Marine Weather Services Consultative Committee
- Sydney Metro Stormwater Sustainability Group, (formerly WSUD in Sydney Project)
- Sydney Adaptation Strategy – Interim Steering Committee

### **4.4 SCCG Internal Committees**

The **internal committees** of the SCCG have continued to be well supported and achieve significant outcomes. The new and existing working groups and committees which have proven to be a very valuable asset to the Group. Committees include:

- SCCG Full Group, Executive and Technical Committees
- SCCG Strategic Plan – Directional Committee
- SCCG Capacity Building Education Steering Committee
- SCCG Beach Management Working Group
- SCCG Mapping and Responding to Coastal Inundation Technical Expert Panel
- SCCG / Sydney Water Working Group
- SCCG Geotechnical Expert Panel
- SCCG – SSSI Partnership Organizing Committee
- *SCCG Sea Level Rise Expert Panel*
- *SCCG Groundwater Investigations Working Group*
- *SCCG Great Ocean Walkway Working Group*
- Other consultative / liaison groups on a needs basis
- Various memberships and associations.

### **4.5 SCCG Meetings (invited presenters / delegate field trips)**

The key SCCG Committees have continued to be well facilitated and attended by delegates. Four SCCG Full Group meetings have occurred with external **key note presentations** at these meetings including:

- Legal Advice – Coastal Protection and Other Legislation Amendment Bill 2010 – Ms Kirston Gerathy (HWL Ebsworth Lawyers)
- Sand Dollars – the Economics of Sydney beaches (Mr David Anning – UNSW & SCCG PhD student)
- Beachwatch Program – Ms Cristien Hickey (OEH)
- Mapping and Responding to Coastal Inundation – Dr Matthew Inman (CSIRO)

The Technical Committee has also been very active throughout 2010 – 2011 meeting bi-monthly. Guest presentations throughout the year have included:

- Sewerfix Program Update (Mr Rod Kerr – Sydney Water)
- Designing and maintaining Stormwater Storage and Quality Improvement Devices in Response to Climate Change (Murray Powell - NSW Stormwater Industry Association)
- Sydney Harbour National Park (Peter Ray – NPWS Harbor North)
- Dragonfly Environmental – Wetlands management and Recreation (Mia Dalby-Ball)
- Green Village and Green Apartment Programs (Melinda Cook - City of Sydney Council)
- SCCG / CSIRO Mapping and Responding to Coastal Inundation – Dr Matthew Inman (CSIRO)

The Secretariat now organises afternoon field trips at least twice a year to follow Technical Committee meetings. This year these have included:

- Barangaroo Development
- North Head – North Fort (North Fort Army History Unit)
- Hawkesbury River Boat Cruise and Interpretation

#### **4.6 SCCG Consultations and Communications (internal and external)**

##### **4.6.1 SCCG Annual Member Council Survey**

The Annual SCCG Survey is undertaken in December every year is to provide opportunity for Member Councils to outline what SCCG activities in 2010 had assisted them and to identify additional activities and projects that could be conducted in 2011. The findings of the survey are utilised to further enhance the services provided to Member Councils.

The surveys were distributed to all Member Council delegates of the Full Group and Technical Committee, fifteen surveys were returned, seven from the Full Group and eight from the Technical Committee.

Delegates continue to be very happy with the level of service provided to them by the SCCG. Delegates believe the Group continues to provide a strong platform for information, advocacy and delivery of regional projects and research. Overall these activities are seen as playing an important role in building the capacity of Member Councils to manage their coastal and estuarine environments.

As with previous years, delegates felt the Group facilitated the sharing of information between Councils as well as other stakeholders through its meetings, working groups and electronic communications very effectively. Issues associated with delegate capacity to attend meetings and the ongoing representation of all Member Councils through Technical and Full Group meetings was raised.

Areas of focus and possible projects were considered within the following areas:

- Sharing of information and views between the Technical Committee and Full Group delegates.
- Ensuring all Member Councils are represented at SCCG Meetings.
- Building the understanding of Full Group delegates on the broad range of technical issues associated with coastal management.
- Projects under topics including: Climate Change Adaptation; Sea level rise; Groundwater; GIS; Built Environment and Infrastructure; Planning and legal; Community Education and Engagement; Marine; Water; Biodiversity and Funding.

#### **4.6.2 Formal Member Council Consultations**

The SCCG writes to each Member Council at the beginning of the year to invite interested councils with an opportunity to meet with the SCCG Executive Committee and Executive Officer. This process aims to: a) provide timely opportunities to review the functions and benefits of the SCCG and b) regularly assess Member Council needs and priorities so to ensure that the SCCG objectives, strategies, programs and services remain applicable, appropriate and of value to Member Councils. During the financial year direct consultations were made with: Warringah; Manly; and Sutherland Councils as well as the Northern Sydney ROC (Environment and Planning Committee(s)).

#### **4.6.3 SCCG Policy Positions on Key Coastal Management Issues for the Federal and NSW State Elections.**

In preparation for the 2010 and 2011 Federal and NSW Elections the SCCG formerly resolved to requests that political parties contesting the election outline their policy positions:

##### **Federal Election:**

- Implementing Priority Recommendations from the *Managing our Coastal Zone in a Changing Climate: the Time to Act is Now* Report;
- An independent coastal advisory body for Australia;
- A strategy for managing the impact of climate change on the coastal zone;
- Funding for Local Government and community coastal programs and initiatives;
- Public participation in the strategic planning and major development assessment in the coastal zone; and
- Maintenance of public ownership and public access in the coastal zone.

##### **NSW Election:**

- An independent review into coastal management in NSW
- An independent coastal advisory body for NSW
- A consistent and coordinated approach to climate change adaptation in the NSW coastal zone
- Funding for Local Government and community coastal programs and initiatives
- Decision making based on local plans and regulation as well as public participation
- Maintenance of public ownership and public access to and along the coastal zone
- The delivery of total water cycle management for urban coastal environments
- Maintenance and enhancement of coastal biodiversity through the NSW planning framework
- A NSW Marine Management Strategy

In identifying these issues and developing the associated policy positions, the SCCG Secretariat undertook extensive consultation with Councillor and staff delegates of SCCG Member Councils. This ensured that the issues identified and policy positions represent the views all SCCG Member Councils. All outcomes were broadly distributed amongst Member Councils and to other interested organisations and individuals.

#### **4.7 SCCG Web Sites**

A new SCCG web site was launched at the end of February 2011 [www.sydneycostalcouncils.com.au](http://www.sydneycostalcouncils.com.au). The new web site has a new professional and modern look, intended to improve the usability and functionality of visitors.

Additional new features of the website include: a) an intranet for use by the Secretariat and Member Council delegates to improve communication channels is currently being finalized b) an eLibrary function has also been set up and is currently being populated with SCCG and member council resources.

The SCCG Walking Coastal Sydney web site also continues to be extremely popular with almost 5,000 visit per month [www.walkingcoastalsydney.com.au](http://www.walkingcoastalsydney.com.au)

The SCCG web site [www.monitor2manage.com.au](http://www.monitor2manage.com.au), developed by Dr Ian Armstrong has also been maintained. This site promotes sustainable environment management through an improved understanding of monitoring and good decision-making. The site aims to assist council staff and others in identifying monitoring needs, designing monitoring programs, dealing with data management and analysis as well as reporting.

#### **4.8 SCCG Promotion and External Communications**

To ensure that representatives, stakeholders and the community are kept informed of the Group's activities, achievements, and outcomes, the Group has continued to maintain and increase SCCG's profile. Key objectives, activities, outcomes and policy positions have been provided via direct and indirect consultations and a variety of media including:

- Quarterly Newsletter "Coastal Currents",
- Monthly enews "Making Waves",
- Information / fact sheets,
- Press releases / direct liaison and interviews with journalists,
- Submissions,
- SCCG Web Site,
- Stakeholder surveys, interviews, direct and indirect consultations
- Attending numerous meetings, workshops and seminars,
- Internal SCCG events
- Widely distributing general information including direct inquiries.

### **5. KEY SCCG PROGRAM OUTCOMES (2010-2011)**

I would like to provide an overview of some of the key initiatives and outcomes over the last 12 months:

#### **5.1 SCCG Climate Change Activities**

The SCCG has continued to actively address various climate change issues and needs with a particular focus on climate change adaptation considerations and associated strategies; the development, collating and distributing climate change science, climate change adaptation strategies and other policy development; and general advocacy.

##### **5.1.1 "Systems Approach to Regional Climate Change Adaptation Strategies"**

The SCCG continues to address and implement the findings and key priorities under this award winning project. This has focused on the 42 key recommendations under 6 themes targeted at increasing the adaptive capacity of Councils. These include:

- "Know Your Enemy" - improve understanding of social and ecological vulnerability
- "Plan for Change" - build climate change into planning frameworks
- "Get Smart" - develop education and outreach programs
- "Act, Watch and Learn" - monitor, evaluate and report

- “Put the House in Order” - develop internal and external arrangements
- “Money Talks” - enhance revenue streams to councils
- Timo Leiter from Frankfurt University (Germany), previous tutor at the **Australian School of Business at UNSW** is also currently finalizing his SCCG partnership project titled: *“Monitoring, Evaluating and reporting climate change adaptation in Local Government.”* This Masters level research aims to develop a model for monitoring, evaluating and reporting adaptation activities at local level.

### **5.1.2 Mapping and Responding to Coastal Inundation**

In 2009 the SCCG secured grant funding under Natural Disaster Mitigation Program to undertake the project with the CSIRO entitled Mapping and Responding to Coastal Inundation. This project is now running months late and will be completed by November 2011. It includes 3 major stages:

#### **Stage 1:** Effect of Climate Change on Sea level Rise and Extreme Sea Levels

- A set of high resolution hydrodynamic model simulations will be produced in order to obtain current climate, as well as storm tide return level estimates and sea level rise considerations

#### **Stage 2:** Development of model planning provisions to integrate sea level rise and extreme sea level events into relevant planning strategies of the SCCG:

- Assess existing planning strategies (Australia and Internationally)
- Identify gaps in information, knowledge, capacity or external barriers
- Develop model provisions, actions and implementation strategies

#### **Stage 3:** Develop and distribute community risk disclosure information and corresponding community and stakeholder education program:

- Assess existing education strategies within Australia and Internationally for addressing and communicating sea level rise and flooding impacts.
- Consultation with Member Councils and targeted community groups and individuals to identify gaps in information, knowledge and capacity as well as internal and external barriers for message transfers.
- Utilising outcomes of stage 1 and 2 and incorporating the above to develop and deliver freely available educational tools that build the understanding and capacity of relevant stakeholders.

### **5.1.3 SCCG Audit of Sea Level Rise, Coastal Erosion and Inundation Legislation and Policy**

The SCCG engaged the Environmental Defender’s Office NSW (EDO) to conduct a comparative assessment of Australian State and Territory planning and coastal legislation and policies that address sea level rise, coastal erosion, coastal inundation and storm surge. The final report also identified and analysed current legal and policy approaches to managing sea level rise and coastal erosion, and make recommendations for law reform and providing national and international case studies from the UK, South Africa, and 3 states in USA. The final report was released widely in May 2011.

This document supports the 2008 SCCG and NSW EDO publication entitled: *“Coastal Councils Planning for Climate Change: An assessment of Australian and NSW legislation and government policy provisions in relation to climate change relevant to regional and metropolitan NSW coastal councils”*.

#### **5.1.4 New Climate Adaptation Grant Programs for the SCCG**

In June this year the SCCG was successful in obtaining over \$1 million dollars to implement the following climate change adaptation programs via funding from the Australian Government's Coastal Adaptation Pathways program.

- **Multi-Criteria Approaches to Adaptive Coastal Development**

**Project Objectives:**

- Development of a multi-criteria analysis framework for evaluating alternative coastal management decisions;
- Evaluate the utility of the framework with respect to learning and practical decision-making;
- Development of framework for long-term monitoring and evaluation of development decisions.

**Project Partners;** Oak Ridge National Laboratory (Dr. Benjamin Preston & Megan Maloney), University of Sunshine Coast (Prof. Tim Smith).

- **Assessment and Decision Frameworks for Existing Seawalls.**

**Project Objectives:**

- To assist Local and State Government evaluate the robustness and condition of existing seawalls of unknown construction and quality; including identifying/quantifying what exists (for certification if appropriate), defining likely future changes to design conditions and outlining possible options for further upgrades. Templates will be developed for assessing suitability, monitoring and maintenance, to determine investments strategies and business cases for sea defence structures through an asset register.

**Project Partners:** Coastal Management Pty Ltd; Griffith University Centre for Coastal Management, WRL (University of NSW), NSW OEH, NSW Land and Property Management and SA Department Natural Resources.

- **Demonstrating Climate Change Adaptation of Interconnected Water Infrastructure Project.**

**Project Objectives:**

- Identify the range of existing interconnected council and Sydney Water infrastructure that is vulnerable to direct and indirect impacts of climate change;
- Assess the long-term triggers, investment requirements and appropriate investment quantum for a range of infrastructure types (case study sites will be selected in conjunction with the Department);
- Report on adaptation strategies, issues, barriers and opportunities and test the adaptation responses through the case studies;
- Produce guidance and frameworks that assist asset managers mitigate the impacts of climate change on water infrastructure; and
- Undertake community consultation to identify expectations on utility provision in response to climate change and develop tools and strategies for communication.

**Project Partners:** Sydney Water Corporation, NSW OEH.

#### **5.1.5 Reducing SCCG Carbon Footprint – Internal Policy**

The SCCG is continuing to implement its internal policy "Reducing SCCG Carbon Footprint".

The aim of the policy document is to reduce the Group's carbon footprint with a focus on avoidance strategies and if feasible in the future to become carbon neutral with a focus on avoidance as the primary objective.

Activities undertaken this year to implement the policy have included:

- Providing opportunities for Member Councils to share ideas and progress towards their own carbon reduction initiatives eg via the Technical Committee,
- Continuing hosting by the City of Sydney who ensure office space and associated facilities are carbon neutral,
- Purchasing office equipment and materials that are of low emissions,
- Reducing car use where possible and facilitating car pooling to SCCG for the Secretariat and Member Councils delegates,
- Where possible and appropriate holding meetings in locations serviced by public transport,
- Offsetting all SCCG air travel.

## **5.2 “Scoping Study for the extraction of offshore sand reserves for Beach Nourishment in the Greater Metropolitan Region”**

The SCCG completed this exciting project in 2010. Since this time the SCCG has a) had a opportunity to brief the previous Government Environment Minister key advisor on the project outcomes, and b) reviewed project outcomes and cost benefits at the “SCCG Economics, Management and the Coastal Zone Forum”. The Group is now working with the new government to hopefully organise a forum to specifically look at this potential management response to the loss of Sydney beaches due to extreme storm events and sea level rise caused by climate change.

## **5.3 “Quantifying the Value of Sydney’s Beaches” (PhD Program)**

The PhD candidate, David Anning has now finalised his PhD with independent reviews completed and internal UNSW PhD awarding processes underway. In addition to the PhD thesis, David will soon provide the SCCG with:

- a 30 page project summary
- 2 page project outcomes information sheet(s)
- Reports including: Introduction to environmental valuation methods / Benefit Transfer Guide; How-to guide for application of individual methods: Travel Cost, Contingent Valuation, Hedonic Pricing

The SCCG and David Anning will be convening a half day end of project forum towards the end of 2011 to review outcomes and provide capacity building opportunities for SCCG Member councils.

## **5.4 Reforms to Coastal Erosion Management in NSW**

On 26 March 2010 the Minister for Climate Change and the Environment, the Hon Frank Sartor, announced the release of the exposure draft of the *Coastal Protection and Other Legislation Amendment Bill 2010* to implement various legislative amendments.

This reform process consumed a lot of the SCCG Secretariat resources in the second half of 2010 addressing all levels of government on issues, needs and concerns of Member Councils and coastal councils generally. Activities included:

1. Liaising with many individual council officers, Councillors and many other interested parties
2. Workshopping the issues at SCCG Technical Committee meetings,
3. Various correspondence and a delegation meeting with The Hon. Frank Sartor MP,

4. Presenting generic SCCG issues at the Parliament House forum facilitated by Ian Cohen MP
5. Inviting DECCW to address SCCG meetings,
6. The SCCG in partnership with the LGSA lobbied for consideration of the Bill to be postponed by The NSW Government via a press release and SCCG consultation with all NSW political parties,
7. Engaging Doug Lord (Coastal Environment Pty Ltd) to assist with the preparation of the SCCG submission on the Bill and the associated 7 Guidelines,
8. Engaging Kirston Gerathy (HWL Ebsworth) in partnership with the LGSA to undertake legal assessments of the Bill in relation to implementation by councils and exposure to litigation.
9. Facilitating forums and workshops with agency representatives, key stakeholders, member councils and other interested individuals and experts to consider the various elements of the reforms.

The substantial investment of time and resources resulted in not all SCCG issues and concerns being address however improvements to the associated legislation and policy provisions and guidelines where achieved. In January 2011, the SCCG then published its related activities in a single document that included:

- An introduction to the reforms
- A history of Coastal Management in NSW (prepared by Mr Doug Lord)
- SCCG Correspondence to the NSW Government
- SCCG Submissions
- The Commissioned Legal Advice (prepared by Ms Kirston Gerathy (Partner HWL) and
- Details and outcomes of the two SCCG forums convened with member councils and others including all presentations.

## **5.5 SCCG Geotechnical Investigations**

Since the release of the award winning Landslide Risk Management Guidelines, in 2007, the SCCG and the Australian Geomechanics Society (AGS) sought and obtained additional grant funds to continue the geotechnical management activities under a program entitled: "Education Empowerment of Landslide Risk Management to Regulators and Practitioners". As part of this process the AGS with the assistance of the SCCG convened a National roadshow with seminars in most capital cities. The expert Steering Committee is now working on and finalising a geotechnical education empowerment web site.

## **5.6 Underwater Sydney – Education Program (web site)**

The SCCG and Underwater Australia partnered with leading marine experts to develop 'Underwater Sydney'. This was also supported by Australia's leading advertising agency BMF, Zing (PR firm) and the Sydney Aquarium Foundation. This ground breaking program supports and promotes existing research, conservation and education efforts, built around a communication model of quirky stories, inspiring imagery, education and engagement tools. The new web site "Underwater Sydney" was launched on 31 August 2011 receiving extremely positive coverage in print, television and social media.

## **5.7 SCCG and Sydney Water – Water Recycling Opportunities Partnership**

In March 2010, the SCCG and Sydney Water partnered to facilitate a workshop for SCCG Member Councils to discuss actions and projects that facilitate water recycling and re-use projects. The forum was the result of a desire from both the SCCG and Sydney Water to work more collaboratively on water recycling and re-use projects. The final report from the forum has been distributed to all Member Councils. Specific recommendations for future action identified at the forum included:

- The establishment of a joint SCCG-Sydney Water Working Group.
- The development of a “Handbook” which provides all SCCG Member Councils with information on identifying, evaluating and developing water recycling projects.
- Ongoing collection and access to technical and project specific information

The SCCG-Sydney Water Working Group resolved that in 2011 to develop a guide or handbook that provides councils with information to assist with the identification, development and delivery of water re-use and recycling projects. The preparation of this guide is underway to be launched later in 2011.

### **5.8 COVER MAR” (Coastal VulnERability to Multiple inundAtion souRces) tool.**

The SCCG and the UNSW - The Australian Tsunami Research Centre and Natural Hazards Research Laboratory have been recently successful in securing substantial grant funding via the Natural Disaster Resilience Program – (NSW State Projects Program).

This 2 year program aims to develop and test a semi-quantitative, multi-hazard tool for the assessment of the vulnerability of buildings and selected infrastructure to extreme inundations, caused by coastal storms (and associated river floods) and tsunamis. The COVER MAR tool will be built using the Papathoma Tsunami Vulnerability Assessment (PTVA) Model as its foundation. The PTVA is based on the use of a widely-used multi-criteria technique (the Analytic Hierarchy Process) and as such, it has great potential for application with multiple-hazards.

### **5.9 SCCG Research Partnerships**

Over the last year the Secretariat and the SCCG has been working hard to consolidate and establish new **Research Partnership Programs** with key organisations.

In late 2008 the SCCG and the **University of New South Wales (Faculty of Science)** signed off a new Partnership Memorandum of Understanding (MOU). This MOU is established to provide a foundation to encourage academic cooperation through research and study in the furtherance of the advancement of learning. The SCCG continues to attempt work collectively with UNSW Faculty of Science in scoping innovative research proposals and coordinate meetings and other briefing sessions.

The **SCCG - University of NSW Collaborative Partnership MOU** program for Masters of Environmental Management students has continued. The partnership program is designed for the SCCG, council members, and the IES to jointly focus on addressing contemporary and strategic environmental management issues. The future areas of focus and activities of the SCCG – UNSW IES partnership are being revised. It is anticipated that the Secretariat will confirm the future direction of the partnership in late 2011. Copies of all ~35 research projects undertaken as part of the partnership are available via the UNSW IES web site: <http://www.ies.unsw.edu.au/>

The SCCG has endeavoured to reignite the **Department of Physical Geography at Macquarie University MOU** that was signed off in December 2005. The Secretariat has recently met with representatives from the now Department of Environment and Geography with the aim of revitalising the partnership. The SCCG and the Department of Environment and Geography have put in a joint NCARF - Social, Economic and Institutional Dimensions Grants Program entitled: “Making the transition from vulnerability assessment to adaptation action: understanding and addressing critical enablers and barriers”. Outcomes are expected shortly.

### **5.10 Urban Sustainability Program – URBAN SUSTAINABILITY SUPPORT ALLIANCE (USSA)**

Project partners (LGSA, SCCG, DECCW, the Local Government Managers Association, Albury City Council and Blacktown Council and the Institute of Sustainable Futures (UTS), secured \$1,551,500.00 funding under the NSW Urban Sustainability Program to undertake the 3 year support program. The project brought together an alliance to assist Councils throughout the state to undertake sustainability projects and programs. This program was effectively rapped up in June 2011.

### **5.11 SCCG Summer Activities Program “Summarama” and “Coastal Connections**

The SCCG again put together the **SCCG Summer Activities Program** during January to encourage the community to enjoy our coast and to become involved in the protection, management and rehabilitation of our coastal and marine environments. The SCCG has continued this initiative over the last 9 years in the Sydney region.

The 2011 Summer Activities Program ran from 5 January – 5 February and featured over 90 events, with over 2000 members of the public getting out and about, and discovering Sydney’s coastline.

Via the 12 participating councils the types of events/activities offered over the month included: Aquarium displays, Bushwalks, Coastal bike rides, Coastal walks, Educational talks, Heritage tours, Guided Eco walks, Low cost environ tips for your home, Native plant nursery visits, Rock platform walks, Sea kayaking, Snorkeling, Water saving information sessions, Wetland tours and worm farming demonstrations and much more.

In June 2010 the SCCG were successful in receiving a \$20,000 grant from the Sydney Metropolitan Catchment Management Authority (SMCMA) to deliver a project called ‘Coastal Connections’.

### **5.12 SCCG Coastal Connections**

The aim of the **SCCG Coastal Connections** project was to engage the next generation of conservation volunteers and to increase awareness and participation in coastal management and conservation. A sustainability PR / marketing company, Republic of Everyone was engaged to create a community engagement strategy and capacity building program(s) that focuses on using social media to target the next generation.

The SCCG Coastal Connections Project was made up of four main components:

- 1) To create and trial a Community Engagement Strategy that focuses on using social media to target the next generation to become involved in coastal conservation.
- 2) To deliver capacity building tools and workshops that inform SCCG Member Councils and other stakeholders about new ways to engage the community, focusing on social media.
- 3) To trial using a social media strategy to conduct a social media campaign to increase the awareness and participation of the SCCG Summerama: Summer Activities Program activities.
- 4) To deliver in partnership with project partners three bush regeneration / conservation events held in the iconic locations of Kurnell, Narrabeen Lagoon catchment and North Head during January 2011, as part of Summerama: Summer Activities Program.

The SCCG Coastal Connections Project is considered unique because it has explored access to other networks not commonly associated with natural resource management by using social media.

## 6. SCCG GRANT APPLICATIONS 2010 - 2011

The SCCG has submitted or partnered in thirteen grant applications and continues to deliver over \$1,748,755 of grant funded projects.

### Awaiting notification

- **Metropolitan Greenspace Program: iWalk (\$17,500)** **TOTAL \$17,500**

### Successful applications in 2010 – 2011

- **Natural Disaster Resilience Program (NSW State Projects Program):** “COVER MAR” (Coastal VulnERability to Multiple inundAtion souRces) tool. (\$260,830)
  - **Coastal Adaptation Decision Pathways:** Multi-Criteria Approaches to Adaptive Coastal Development (\$450,000)
  - **Coastal Adaptation Decision Pathways:** Assessment and Decision Frameworks for Existing Seawalls. (\$305,800)
  - **Coastal Adaptation Decision Pathways:** Demonstrating Climate Change Adaptation of Interconnected Water Infrastructure Project \$250,000
- TOTAL \$1,266,630**

### Unsuccessful Grant Applications 2010 – 2011

- **NSW Environmental Trust Research Program:** Managing the impacts of climate change on coastal aquifers in Sydney (\$100,000)
  - **NSW Environmental Trust Research Program:** A segmented approach to facilitating optimal adaptation responses (\$100,000)
  - **NSW Environmental Trust Research Program:** Staying open: managing public land and ecosystems for change (\$150,000)
  - **Coastal Adaptation Decision Pathways:** Coastal Adaptation - from Theory to Practical, Community-Based Solutions (\$285,000)
  - **NCARF - Social, Economic and Institutional Dimensions Grants Program:** Understanding perceptions of social and economic impacts of sea level rise and acceptance of adaptation options. (\$253,680)
  - **NCARF - Social, Economic and Institutional Dimensions Grants Program:** A segmented approach to facilitating optimal adaptation responses (\$75,000)
  - **NCARF - Social, Economic and Institutional Dimensions Grants Program:** Making the transition from vulnerability assessment to adaptation action: understanding and addressing critical enablers and barriers (\$350,000) (SCCG Project Partner)
  - **Natural Disaster Resilience Program (Auxiliary Disaster Resilience Grants Scheme):** Local Safe (\$400,000)
- TOTAL \$1,713,680**

### Ongoing Grant Projects 2010-2011

- **Natural Disaster Mitigation Program:** Mapping and Responding to Coastal Inundation (\$150,000)
  - **Natural Disaster Mitigation Program - Education Empowerment of Landslide Risk Management** to regulators and practitioners (\$260,000)
  - **Community Action Grants Program –** Quantifying the Value of Sydney (NSW) Beaches in order to assess cost / benefit of necessary coastal protection / abatement measures as a result of enhanced climate change impacts. (\$72,125)
- TOTAL \$482,125**

## Completed Projects 2010/9 – 2011

- **Urban Sustainability Program** “Urban Sustainability Support Alliance”, (LGSA; SCCG; Albury & Blacktown Councils; Manly; DECCW; LGMA (\$1,551,500)
- **Sydney Metropolitan CMA:** Coastal Connections Project (\$20,000)

**TOTAL \$1,571,500**

## 7. SCCG FINANCIAL POSITION

The Group has maintained a healthy **financial position**. Figures outlined below (*these are subject to audit*):

○ Total Income:	\$ 418,310
○ Total Assets:	\$ 254,140
○ Total Expenditure:	\$ 494,130
○ Total Liabilities:	\$ 148,883
○ Total Equity	\$ 105,257

## 8. CONCLUSIONS

In conclusion I would like to thank all those who have assisted the SCCG Secretariat ensure the continued professional operation and successful outcomes of the Group during the last financial year.

I would like to thank all delegates of the Full Group who have attended meetings and participated in SCCG activities. I would also like to thank the Executive Committee for their contributions particularly the Chairperson, Cllr. Wendy McMurdo for her commitment, direction, advice and assistance to ensure the smooth running of the SCCG, and directing activities of the SCCG Executive Committee.

The **Technical Committee** and its various working groups have again proved to be the cornerstone of the Group, demonstrating significant support and enthusiasm throughout the year. My appreciation and thanks to all representatives for their efforts and contributions.

A particular thanks to our **Senior Coastal Projects Officer**, Craig Morrison for his very significant contributions to the Group over the last 12 months. Craig has now been with us for some 6 years and has again provided both myself and the Group with outstanding support.

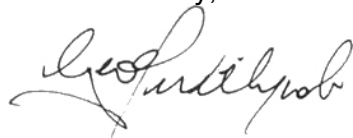
I would also like to thank the SCCG Coastal Projects Officer, Jodie Savage. Jodie started with us in March 2010. Jodie recently resigned from the Group leaving on 2 September to take up an Education role with Waverley Council. We thank Jodie for her contribution and wish her all the best in her future endeavours.

I would finally like to take this opportunity to thank the **SCCG host Council**, City of Sydney Council (CoS). A special thanks to the Lord Mayor Clover Moore MP, the CEO Monica Barome, and the many other staff who assisted to ensure the smooth operations of the Secretariat. Our hosting contract was again renewed this year for at least 12 months.

The year ahead will be another exciting year with a continued focus to implement the SCCG Strategic Plan providing various support services to member councils. The securing of more than \$1.2 Million in grant funds over the last few months to undertake national leading projects with internally recognised researchers and experts will ensure the SCCG continues to lead the way in assisting member councils and their communities' better management Sydney coastal environment.

On behalf of the Secretariat, I would like to thank Member Councils for their support in employing the three staff and contributing to the success of the SCCG during 2010 – 2011. The Secretariat looks forward to further enhancing the support services to our Member Councils and their communities.

Yours sincerely,



Geoff Withycombe  
**Executive Officer**  
**Regional Coastal Environment Officer**  
**Public Officer**



[www.sydneycoastalcouncils.com.au](http://www.sydneycoastalcouncils.com.au)

**Chairpersons Annual Report 2011**  
**Annual General Meeting – Saturday 10 September 2011**  
**Randwick Council**

Another busy year with the Group, providing a focussed and co-ordinated approach to sustainable coastal management for our member councils. The Group, through our Secretariat, and in very tight financial times, has managed to secure another \$1,266,630 in funding for projects that will continue to enhance the capacity of our member councils to deal with coastal management issues.

We saw the implementation of the new SCCG Strategic Plan 2010 – 2014 which was adopted at our 2010 AGM, and which guides the work of the Group and provides direction and support for member councils. As a dynamic strategy, the Strategic Plan will be evaluated annually to ensure that it continues to provide a clear focus and accountability for our activities.

This year has seen a lot of effort by the Secretariat put into maintaining attendance at our quarterly meetings, including several letters to member councils and follow-up phone calls to delegates. As it's very important to the work of the Group that as many councillor representatives as possible attend the full meeting to provide important input into the decisions made and the direction taken by the Group then delegates are reminded that if they're not able to make a meeting that they please make sure the alternative delegate is able to come along in their place.

A dominating factor throughout the year was the Federal and State Elections. For both elections policy positions in relation to coastal issues were sought from the major parties and their responses were disseminated to the Group. Almost all parties responded to our request although in some cases the responses proved disappointing and didn't appear to display a clear understanding of the major issues affecting coastal management.

Following the NSW Election we wrote to various minister's in the new government seeking to put the Group's position on coastal management issues and were pleased to be invited to meet with the Minister for Planning & Infrastructure, the Honourable Brad Hazzard, and the Minister for Local Government, the Honourable Donald Page. The meeting was held two days ago and although Mr Hazzard was unable to make it he sent his Parliamentary Secretary, Craig Baumann MP and senior staff from, the Office of Environment and Heritage and the Department of Planning and Infrastructure. The meeting seemed to go very well with Geoff and Craig providing the Ministers with a detailed and professional overview of member concerns.

In response to requests from members, 6 major workshops and forums were held throughout the year on a broad range of topics that varied from coastal inundation to engaging communities using social media. The feedback response to those events was, as usual, excellent and the comments have helped to guide the planning for future workshops.

At the end of February 2011, of the Group's new website was launched. It provided a more user-friendly format and better access to a much broader range of information than was previously available. It has also provided a more professional look by which to showcase the work of the group both domestically and internationally. Feedback on the changes has been really positive and Jodie should be commended for all the hard work she's put in to making the change such a success.

Another great launch in August was that of the website "*Underwater Sydney*" which showcases the underwater environment of each of our member Councils and provides an exciting educational and fun tool for our communities. I would strongly encourage all our members to explore this wonderful site, and recommend it to your friends and colleagues.

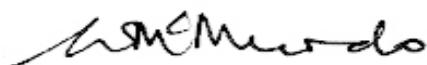
As you will see from the financial statements presented to the meeting, the Group continues to be in a sound financial position with enough resources to continue it's valuable work on behalf of members.

On the staffing front, at last year's AGM we were happy to welcome Jodie as our new Coastal Projects Officer. However, she did such a good job on the new website, the workshops, and the forums that one of our member Councils "poached" her from us! So we now have to say farewell to Jodie and advertise for a new staff member. Many thanks to Jodie for all her hard work and we hope she continues her fine work with her new employer (and will they please not poach any more of our staff).

For all of this, no amount of praise and gratitude is enough for the tireless efforts of our Secretariat –Geoff and Craig (and Jodie this year), and they continue to represent the Group with excellence in every forum. Their expertise and professionalism is legendary.

Finally, I'd again like to thank everyone from the Full Group for their support for sustainable coastal management. Without that, and the ongoing deep commitment and support from the Technical Committee, we simply wouldn't be able to gain the achievements we have to date.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W McMurdo', written in a cursive style.

Councillor Wendy McMurdo

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**Council Meeting**

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

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**11.0          Adoption of Natural Environment Committee  
Recommendations**

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