

# **Minutes of a Meeting of Warringah Council**

## **held on Tuesday, 14 December 2010**

### **at the Civic Centre, Dee Why, Commencing at 6.02pm**

#### **ATTENDANCE**

##### **Members**

Cr M Regan (Mayor), and Crs V De Luca OAM, J Falinski , R Giltinan, Dr C Harris, Dr C Kirsch, V Laugesen, M Ray, J Sutton and Dr H Wilkins.

##### **Officers**

General Manager (R Hart), Director Corporate Services (J Warburton), Director Community and Environmental Services (G Sloan), Director Strategic and Development Services (M Ryan), Corporate Lawyer (V Ingram), Chief Financial Officer (D Walsh), Internal Auditor (A Manewell), Manager Strategic Planning (D Kerr), Manager Community and Safety Services (V King), Manager Natural Environment (G Curtis), Manager Marketing and Communications, Manager Parks, Reserves and Foreshores (M Keelan), Community and Engagement Research Coordinator (K Lewis), Team Leader Governance (M Lee), A/Coordinator Governance (A Moore), Administration Officer (A Cooke), Manager Strategic Planning (D Kerr), Manager Marketing and Communications (G Middleton), Team Leader Infrastructure (F Varrica).

#### **NOTES**

The meeting commenced at 6.02pm, adjourned at 8.17pm, resumed at 8.22pm, moved into closed session at 9.04pm, resumed in open session at 9.53pm and concluded at 10.06pm.

#### **ORDER OF BUSINESS**

The Business of the meeting was dealt with in the following order:

Items 1.0, 2.0, 3.0, 4.0, 5.1, 6.1, 6.2, 6.3, 6.4, 9.8, 12.1, 12.2, 15.0, 15.1, 15.2, 15.3, 15.4 and 16.0.

## **1.0 APOLOGIES**

Nil.

## **2.0 CONFIRMATION OF MINUTES**

354/10 **RESOLVED**

***Cr Sutton / Cr Giltinan***

That the Minutes of the Meeting of Council of 23 November 2010, copies of which were previously circulated to all Councillors be and are hereby confirmed as a true and correct record of the proceedings of that Meeting.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **PROCEDURAL MOTION – MOTION TO REVISE ORDER OF AGENDA**

355/10 **RESOLVED**

***Cr Regan / Cr Sutton***

That Item 15.4 originally confidential Item Warringah Draft LEP 2009 be brought into Open Session and addressed as Item 9.8.

### **VOTING**

**For the resolution:** Crs, Falinski, Giltinan, Harris, Kirsch, Laugesen, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca and Ray.

## **3.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST**

Nil.

## **4.0 PUBLIC FORUM**

THE MAYOR REQUESTED EACH SPEAKER TO ACKNOWLEDGE THEY HAD BEEN INFORMED THAT THE MEETING WAS TO BE WEBCAST LIVE AND THAT COUNCIL ACCEPTS NO RESPONSIBILITY FOR ANY DEFAMATORY COMMENTS MADE.

**4.1. Mr Tom Kirsop** made a statement regarding the Long Reef Surf Club site building.

**4.2. Mr Ray Cox** addressed Item 9.1 on the agenda.

**4.3. Mr Jim Boyce** addressed Item 9.2 on the agenda.

**4.4. Mr Damien Daley** addressed Item 9.5 on the agenda.

CR FALINSKI LEFT THE CHAMBER AT 6.19PM AND RETURNED AT 6.20PM.

**4.5. Ms Patricia Boydell**, representing Northern Beaches Mental Health Support Group, addressed Item 10.1 on the agenda.

CR RAY LEFT THE CHAMBER AT 6.26PM.

**4.6. Mr Jack Tilburn** addressed Item 12.2 on the agenda.

CR RAY RETURNED TO THE CHAMBER 6.31PM.

**4.7. Mr Geoff Mallinson**, representing Wipe Out Graffiti, addressed Item 12.4 on the agenda.

### **PROCEDURAL MOTION – PERMISSION TO ADDRESS COUNCIL**

356/10 **RESOLVED**

***Cr Harris / Cr Regan***

That Ms Mary Armstrong representing Belrose Rural Community Association be granted permission to address Council in the Public Forum.

## **VOTING**

**For the resolution:** Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Cr Falinski.

**Ms Mary Armstrong** representing Belrose Rural Community Association, addressed Item 9.3 on the agenda.

## **MOTION OF URGENCY – TRAFFIC ISSUES – WOOLWORTHS MANLY VALE**

CR REGAN DECLARED A LESS THAN SIGNIFICANT NON-PECUNIARY INTEREST AND LEFT THE CHAMBER AT 6.40PM.

IN THE ABSENCE OF THE MAYOR, THE GENERAL MANAGER CALLED FOR NOMINATIONS OF A CHAIR. CR RAY ONLY WAS NOMINATED AND SUBSEQUENTLY ELECTED THE ACTING CHAIR.

CR RAY ASSUMED THE CHAIR.

CR WILKINS DECLARED A LESS THAN SIGNIFICANT NON-PECUNIARY INTEREST AND LEFT THE CHAMBER AT 6.42PM

CR LAUGESSEN DECLARED A NON-SIGNIFICANT, NON-PECUNIARY INTEREST

## **357/10 RESOLVED**

### ***Cr Laugesen / Cr Giltinan***

That as a matter of urgency, Council considers a motion in relation to Traffic Issues - Woolworths Manly Vale.

## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen and Ray.

**Against the resolution:** Cr Sutton.

THE ACTING CHAIR SUBSEQUENTLY DETERMINED THE MATTER TO BE ONE OF URGENCY.

IN ACCORDANCE WITH CLAUSE 14(3)(b) OF COUNCIL'S CODE OF MEETING PRACTICE, THIS ITEM WILL BE DEALT WITH AS ITEM 12.1 ON THE AGENDA.

CRS REGAN AND WILKINS WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

CR SUTTON LEFT THE CHAMBER AT 6.47PM AND RETURNED AT 6.49PM.

CRS REGAN AND WILKINS RETURNED TO THE CHAMBER AT 6.51PM.

THE MAYOR RESUMED THE CHAIR.

**MOTION OF URGENCY – MINISTER FOR PLANNING’S DECISION RE WARRINGAH  
LEP 2009**

***Cr De Luca / Cr Laugesen***

That as a matter of urgency, Council considers a motion in relation to the Freshwater Village JRPP Decision.

**VOTING**

**For the motion:** Crs De Luca and Laugesen.

**Against the motion:** Crs Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

THE MOTION, ON BEING PUT, WAS DECLARED LOST.

**MOTION OF URGENCY – BROOKVALE PARK CENTENARY CELEBRATION**

358/10 **RESOLVED**

***Cr Kirsch / Cr Ray***

That as a matter of urgency, Council considers a motion in relation to Brookvale Park Centenary Celebrations.

**VOTING**

**For the resolution:** Crs De Luca, Giltinan, Kirsch, Laugesen, Ray, and Wilkins.

**Against the resolution:** Crs Falinski, Regan, Sutton and Harris.

THE MAYOR SUBSEQUENTLY DETERMINED THE MATTER TO BE ONE OF URGENCY.

IN ACCORDANCE WITH CLAUSE 14(3)(b) OF COUNCIL’S CODE OF MEETING PRACTICE, THIS ITEM WILL BE DEALT WITH AS ITEM 12.2 ON THE AGENDA.



## **5.0 MAYORAL MINUTES**

### **5.1 Mayoral Minute No. 24/2010 General Manager Performance Review 2009-2010**

(Report not contained in the agenda)

#### ***Cr Regan***

That in accordance with Section 10 (2) of the Local Government Act 1993, Council resolves that the Annual Performance Review of the General Manager 2009-2010 Report, by the Performance Review Panel and outcomes, be treated as confidential as it contains information on:

*“personnel matters concerning particular individuals (other than Councillors)”.*

#### **PROCEDURAL MOTION – THAT THE MOTION BE PUT**

359/10 **RESOLVED**

#### ***Cr Sutton / Cr Falinski***

That the motion be put.

#### **VOTING**

**For the resolution:** Crs Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca and Laugesen.

THE MOTION, UPON BEING PUT, WAS DECLARED CARRIED.

360/10 **RESOLVED**

#### ***Cr Regan***

That in accordance with Section 10 (2) of the Local Government Act 1993, Council resolves that the Annual Performance Review of the General Manager 2009-2010 Report, by the Performance Review Panel and outcomes, be treated as confidential as it contains information on:

*“personnel matters concerning particular individuals (other than Councillors)”.*

#### **VOTING**

**For the resolution:** Crs Falinski, Giltinan, Harris, Kirsch, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca and Laugesen.

## **PROCEDURAL MOTION – AMENDMENT TO ORDER OF BUSINESS**

361/10 **RESOLVED**

***Cr Regan /Cr Sutton***

That the Order of Business be amended so that certain items can be dealt with by exception, with the recommendations being adopted.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **PROCEDURAL MOTION – ITEMS MOVED BY EXCEPTION**

362/10 **RESOLVED**

***Cr Regan /Cr Sutton***

That the recommendations of the Director in each of the following Items 7.1, 7.2, 7.4, 7.5, 7.6, 8.1, 9.4 and 9.7 be adopted.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **6.0 MATTERS CARRIED OVER FROM THE COUNCIL MEETING 23 NOVEMBER 2010**

### **COMMUNITY AND ENVIRONMENTAL SERVICES DIVISION REPORTS**

#### **6.1 Proposal to Waive the Fee for Reserves Vehicular Access Permits Submitted by Sporting Clubs for Setting Up Fields**

(BP REF 1)

363/10 **RESOLVED**

***Cr De Luca / Cr Kirsch***

That Council waive the \$150 fee for Reserves Vehicular Access Permits submitted by Sporting Clubs for setting up fields.

## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **NOTICES OF MOTION**

### **6.2 Notice of Motion No 61/2010 Financial Management**

(BP REF 3)

364/10 **RESOLVED**

***Cr Falinski / Cr Regan***

That when proposing additional expenditure not otherwise contained in the adopted budget, Councillors shall identify an equivalent funding source, from additional revenue generation, cuts or savings in the proposed expenditure on projects or programs.

CR LAUGESSEN LEFT THE CHAMBER AT 7.32PM.

## **VOTING**

**For the resolution:** Crs Falinski, Giltinan, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca, Harris, Kirsch and Ray.

CR LAUGESSEN WAS ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

CR LAUGESSEN RETURNED AT 7.36PM.

## **SUPPLEMENTARY MOTION**

***Cr De Luca / Cr Ray***

That the resolution's requirement for Councillors to identify funding sources within a Notice of Motion be referred to the Division of Local Government for advice as to whether this is permissible or fetters Councillors rights to bring a lawful Notice of Motion before a council.

## **VOTING**



**For the motion:** Crs De Luca, Kirsch, Laugesen and Ray.

**Against the motion:** Crs Falinski, Giltinan, Harris, Regan, Sutton and Wilkins.

THE MOTION, ON BEING PUT, WAS DECLARED LOST.

### **6.3 Notice of Motion No 62/2010 Warringah Council Jet Skis for 3 Points Challenge**

(BP REF 4)

***Cr De Luca / Cr Wilkins***

That Council resolves to:

1. Provide access to 2 jet skis to the North Curl Curl Life Saving Club on 4 December 2010 to assist with their holding of the 7th annual 3 Point Challenge & Ocean Swim; and
2. Waive the fees of \$980 associated with the hire of the 2 skis.
3. That funding be allocated from the \$30,000 budget set aside for such purposes.

#### **AMENDMENT**

***Cr Harris / Cr Ray***

That Council resolves to:

1. Provide access to 2 jet skis to the North Curl Curl Life Saving Club on 4 December 2010 to assist with their holding of the 7th annual 3 Point Challenge & Ocean Swim; and
2. Waive fees of \$490 (half) associated with the hire of the 2 skis.
3. That funding be allocated from the \$30,000 budget set aside for such purposes

#### **VOTING**

**For the amendment:** Crs Falinski, Harris and Ray.

**Against the amendment:** Crs De Luca Giltinan, Kirsch, Laugesen Regan, Sutton and Wilkins

THE AMENDMENT, ON BEING PUT, WAS DECLARED LOST.

**365/10 RESOLVED**

***Cr De Luca / Cr Wilkins***

That Council resolves to:

1. Provide access to 2 jet skis to the North Curl Curl Life Saving Club on 4 December 2010 to assist with their holding of the 7th annual 3 Point Challenge & Ocean Swim; and
2. Waive the fees of \$980 associated with the hire of the 2 skis.
3. That funding be allocated from the \$30,000 budget set aside for such purposes.

**VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

**6.4 Notice of Motion No 63/2010  
Revision of (current) Draft Housing Strategy for Warringah**

(BP REF 5)

***Cr Kirsch / Cr Laugesen***

That Council prior to public exhibition of the draft housing strategy

- I. Re-draft the current draft housing strategy and reduce the increase in dwellings to the target required under the Metro Strategy 2030 of 10,300 dwellings, taking into account existing availability in Warringah;
- II. Conduct community DCP workshops with participation from residents of affected suburbs as input to DCPs for each neighbourhood that will potentially be affected by the housing strategy and increased density;
- III. Invite the Government, Liberal Party and The Greens to provide statements of their future housing targets for Warringah to be included with the draft housing strategy.

CR FALINSKI DECLARED A PECUNIARY INTEREST AND LEFT THE CHAMBER AT 7.49PM.

CR REGAN DECLARED A PECUNIARY INTEREST AND LEFT THE CHAMBER 7.49PM.

CR SUTTON DECLARED A PECUNIARY INTEREST AND LEFT THE CHAMBER 7.49PM.

IN THE ABSENCE OF THE MAYOR, THE GENERAL MANAGER CALLED FOR NOMINATIONS OF A CHAIR. CR RAY ONLY WAS NOMINATED AND SUBSEQUENTLY ELECTED THE ACTING CHAIR.

CR RAY ASSUMED THE CHAIR.

CR WILKINS DECLARED A SIGNIFICANT NON PECUNIARY INTEREST AND LEFT THE CHAMBER AT 7.52PM.

AT THIS STAGE, THE SECONDER, WITH THE CONSENT OF THE MOVER AMENDED THE MOTION TO READ:

- A. That Council prior to public exhibition of the draft housing strategy
  - 1. Re-draft the current draft housing strategy and reduce the increase in dwellings to the target required under the Metro Strategy 2030 of 10,300 dwellings, taking into account existing availability in Warringah;
  - 2. establish a lobbyist register for draft housing strategy submissions to identify and separate professional and third-party lobbyists' submissions to from residents' submissions in the resulting report to council.
- B. As part of the exhibition
  - 3. Conduct community DCP workshops with participation from residents of affected suburbs as input to DCPs for each neighbourhood that will potentially be affected by the housing strategy and increased density;
  - 4. Invite the Government, Liberal Party and The Greens to provide statements of their future housing targets for Warringah to be included with the draft housing strategy.
  - 5. exhibit at the same time, the recent submission to the Department of Planning for Frenchs Forest to be considered as a specialist regional centre in response to its enquiry of Council to make Frenchs Forest a Regional Centre in the current review of the Metropolitan Strategy
  - 6. Provide advice of draft Housing Strategy on Section 149 (5) certificates for affected properties

## **AMENDMENT**

***Cr Harris / /Cr Giltinan***

That council requests a report regarding the pros and cons of the items below:

- A. That Council prior to public exhibition of the draft housing strategy
  - 1. Re-draft the current draft housing strategy and reduce the increase in dwellings to the target required under the Metro Strategy 2030 of 10,300 dwellings, taking into account existing availability in Warringah;
  - 2. establish a lobbyist register for draft housing strategy submissions to identify and separate professional and third-party lobbyists' submissions to from residents' submissions in the resulting report to council.
- B. As part of the exhibition
  - 3. Conduct community DCP workshops with participation from residents of affected suburbs as input to DCPs for each neighbourhood that will potentially be affected by the housing strategy and increased density;
  - 4. Invite the Government, Liberal Party and The Greens to provide statements of their future housing targets for Warringah to be included with the draft housing strategy.

5. exhibit at the same time, the recent submission to the Department of Planning for Frenchs Forest to be considered as a specialist regional centre in response to its enquiry of Council to make Frenchs Forest a Regional Centre in the current review of the Metropolitan Strategy
6. Provide advice of draft Housing Strategy on Section 149 (5) certificates for affected properties

## **VOTING**

**For the amendment:** Crs Giltinan and Harris.

**Against the amendment:** Crs De Luca, Kirsch, Laugesen and Ray.

THE AMENDMENT, ON BEING PUT, WAS DECLARED LOST.

CRS FALINSKI, REGAN, SUTTON AND WILKINS WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

## **366/10 RESOLVED**

### ***Cr Kirsch / Cr Laugesen***

- A. That Council prior to public exhibition of the draft housing strategy
  1. Re-draft the current draft housing strategy and reduce the increase in dwellings to the target required under the Metro Strategy 2030 of 10,300 dwellings, taking into account existing availability in Warringah;
  2. establish a lobbyist register for draft housing strategy submissions to identify and separate professional and third-party lobbyists' submissions to from residents' submissions in the resulting report to council.
- B. As part of the exhibition
  3. Conduct community DCP workshops with participation from residents of affected suburbs as input to DCPs for each neighbourhood that will potentially be affected by the housing strategy and increased density.
  4. Invite the Government, Liberal Party and The Greens to provide statements of their future housing targets for Warringah to be included with the draft housing strategy.
  5. exhibit at the same time, the recent submission to the Department of Planning for Frenchs Forest to be considered as a specialist regional centre in response to its enquiry of Council to make Frenchs Forest a Regional Centre in the current review of the Metropolitan Strategy.
  6. Provide advice of draft Housing Strategy on Section 149 (5) certificates for affected properties.

## **VOTING**

**For the resolution:** Crs De Luca, Giltinan, Kirsch, Laugesen and Ray.

**Against the resolution:** Cr Harris.

CRS FALINSKI, REGAN, SUTTON AND WILKINS WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

IN ACCORDANCE WITH CLAUSE 13.2(ii) OF COUNCIL'S CODE OF MEETING PRACTICE, THE MEETING WAS ADJOURNED AT 8.17PM. THE MEETING RESUMED AT 8.22PM WITH ALL COUNCILLORS PRESENT WITH THE EXCEPTION OF CR LAUGESSEN.

THE MAYOR RESUMED THE CHAIR.

CR LAUGESSEN RETURNED TO THE CHAMBER AT 8.23PM

## **PROCEDURAL MOTION – SUSPENSION OF STANDING ORDERS\**

367/10 **RESOLVED**

***Cr Kirsch / Cr De Luca***

That Standing Orders be suspended to consider Item(s) 9.8 followed by the Motions of Urgency (Item 12.1 and 12.2), and Items 9.5, 9.3, 9.6 and 9.1.

## **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **9.8 Draft Warringah LEP 2009**

(Report not contained in the agenda)

***Cr Kirsch / Cr Regan***

- A. That Council not support the Draft Warringah LEP 2009 (in the form provided to Council on 7 December 2010) for the reasons detailed in this report and attachments and seek to resolve matters of disagreement with the Department of Planning prior to the plan being made.
- B. That Council staff immediately seek a meeting with the Director General of the Department of Planning to discuss resolution of those matters of concern detailed in this report and attachments.
- C. That Council expresses its concern to the Department of Planning in relation to the inadequate response period given by the Department which does not allow full and proper review (including community engagement) of the proposed changes to the Draft Warringah LEP 2009.

AT THIS STAGE, THE MOVER, WITH THE CONSENT OF THE SECONDER AMENDED THE MOTION TO READ:

- A. That Council not support the Draft Warringah LEP 2009 (in the form provided to Council on 7 December 2010) for the reasons detailed in this report and attachments and seek to resolve matters of disagreement with the Department of Planning prior to the plan being made.
- B. That Council staff immediately seek a meeting with the Director General of the Department of Planning to discuss resolution of those matters of concern detailed in this report and attachments.
- C. That Council expresses its concern to the Department of Planning in relation to the inadequate response period given by the Department which does not allow full and proper review (including community engagement) of the proposed changes to the Draft Warringah LEP 2009.
- D. That this Council Seeks urgent independent legal advice from Senior Counsel as to the legal options available to restrain the Minister for Planning, The Hon Tony Kelly MLC and/ or the Department of Planning from changing the Warringah LEP against Warringah Council and its peoples' wishes and seek orders if necessary to ensure that Warringah Council's LEP as prepared by Council is confirmed.

**368/10 RESOLVED**

***Cr Kirsch / Cr Regan***

- A. That Council not support the Draft Warringah LEP 2009 (in the form provided to Council on 7 December 2010) for the reasons detailed in this report and attachments and seek to resolve matters of disagreement with the Department of Planning prior to the plan being made.
- B. That Council staff immediately seek a meeting with the Director General of the Department of Planning to discuss resolution of those matters of concern detailed in this report and attachments.
- C. That Council expresses its concern to the Department of Planning in relation to the inadequate response period given by the Department which does not allow full and proper review (including community engagement) of the proposed changes to the Draft Warringah LEP 2009.
- D. That this Council Seeks urgent independent legal advice from Senior Counsel as to the legal options available to restrain the Minister for Planning, The Hon Tony Kelly MLC and/ or the Department of Planning from changing the Warringah LEP against Warringah Council and its peoples' wishes and seek orders if necessary to ensure that Warringah Council's LEP as prepared by Council is confirmed.

**VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

## **12.1 Motion of Urgency – Manly/Warringah Council Boundary Traffic Issues at Manly Vale, Woolworths Request for Modification of Consent to DA107/2010**

CR FALINSKI LEFT THE CHAMBER AT 8.35PM AND RETURNED AT 8.35PM.

CR REGAN DECLARED A PECUNIARY INTEREST AND LEFT THE CHAMBER AT 8.35PM.

IN THE ABSENCE OF THE MAYOR, THE GENERAL MANAGER CALLED FOR NOMINATIONS OF A CHAIR. CR RAY ONLY WAS NOMINATED AND SUBSEQUENTLY ELECTED THE ACTING CHAIR.

CR RAY ASSUMED THE CHAIR.

CR WILKINS DECLARED A PECUNIARY INTEREST AND LEFT THE CHAMBER AT 8.36PM.

CR SUTTON LEFT THE CHAMBER AT 8.38PM AND RETURNED AT 8.40PM.

369/10 **RESOLVED**

***Cr Laugesen/ Cr De Luca***

That Council:

- i) notes the applicant's advice to Manly Council that potentially 30 trucks per day will make deliveries and collect garbage from the Roseberry Street supermarket site;
- ii) submits, on behalf of Warringah residents in Roseberry Street and Kenneth Roads at Manly Vale, an objection to Manly Council to Woolworths' Section 96 Modification of Consent requesting permission for deliveries between 5.00am and 10.00pm, seven days per week, which is contrary to the JRPP's ruling on this application for truck access between 7.00am and 7.00pm to prevent loss of amenity to residents in close proximity to the supermarket development;
- iii) provides its submission to Manly Council by the current deadline of 22 December 2010 (an extension is pending) and supplies a copy to Warringah Councillors.

### **VOTING**

**For the resolution:** Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray and Sutton.

**Against the resolution:** Nil.

CRS REGAN AND WILKINS WERE ABSENT FROM THE CHAMBER DURING CONSIDERATION OF AND VOTING ON THIS ITEM.

CR REGAN AND WILKINS RETURNED TO THE CHAMBER AT 9.42PM.

THE MAYOR RESUMED THE CHAIR.

## **12.2 Motion of Urgency – Centenary Celebration – Brookvale Park**

***Cr Kirsch / Cr De Luca***

That Council:

- a) hold a Centenary celebration event in 2011 at Brookvale Park
- b) consult the Brookvale community for participation, sponsorship and program development and;
- c) identify funding for the event at the next Quarterly Review to the amount of \$25,000

### **PROCEDURAL MOTION – THAT THE MOTION BE PUT**

370/10 **RESOLVED**

***Cr Sutton / Cr Falinski***

That the motion be put.

### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

371/10 **RESOLVED**

***Cr Kirsch / Cr De Luca***

That Council:

- a) hold a Centenary celebration event in 2011 at Brookvale Park
- b) consult the Brookvale community for participation, sponsorship and program development and;
- c) identify funding for the event at the next Quarterly Review to the amount of \$25,000

### **VOTING**

**For the resolution:** Crs De Luca, Giltinan, Harris, Kirsch, Laugesen, Ray, and Wilkins.

**Against the resolution:** Crs Falinski, Regan and Sutton.



## **7.0 GENERAL MANAGER'S REPORTS**

### **7.1 Minutes of the SHOROC Inc Board Meeting held 17 November 2010**

(BP REF 8)

362/10 **RESOLVED**

That the Minutes of the SHOROC Incorporated Board Meeting of 17 November 2010 be noted and the recommendations contained therein be ADOPTED.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)

### **7.2 Minutes of the SHOROC Annual General Meeting held 17 November 2010**

(BP REF 28)

362/10 **RESOLVED**

That the Minutes of the SHOROC Annual General Meeting of 17 November 2010 be noted and the recommendations contained therein be ADOPTED.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)

### **7.4 Internal Audit Annual Report – 2009-2010**

(BP REF 46)

362/10 **RESOLVED**

That the Internal Audit Annual Report 2009-2010 be noted.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)



## **7.5 Councillors Report from Attendance at the Local Government Association of NSW Annual Conference 2010 held in Albury**

(BP REF 47)

362/10 **RESOLVED**

That the report by Councillor Harris regarding the Local Government Association of NSW Annual Conference 2010 be noted.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)

## **7.6 Councillors Report from Attendance at the Bike Futures Conference 2010 held in Melbourne**

(BP REF 51)

362/10 **RESOLVED**

That the report by Councillor Laugesen regarding the Bike Futures Conference 2010 be noted.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)

## **8.0 CORPORATE SERVICES DIVISION REPORTS**

### **8.1 Monthly Funds Management Report November 2010**

(BP REF 57)

362/10 **RESOLVED**

- A. That the report indicating Council's Funds Management position be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)



## **9.4 Membership – Green Building Council of Australia**

(BP REF 97)

362/10 **RESOLVED**

- A. That Council joins the Green Building Council of Australia for a period of two years.
- B. That the benefits of this membership be reviewed in November 2012.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)

## **9.7 Minutes of Infrastructure and Development Strategic Reference Group Meeting held 18 November 2010**

(BP REF 115)

362/10 **RESOLVED**

That the Minutes of the Infrastructure and Development Strategic Reference Group Meeting held 18 November 2010 (Attachment) be noted.

(THIS ITEM WAS DEALT WITH EARLIER IN THE AGENDA)

## **15.0 CONFIDENTIAL MATTERS – CLOSED SESSION**

(BP REF 156)

372/10 **RESOLVED**

***Cr Sutton / Cr Falinski***

### **RECOMMENDATION OF DIRECTOR STRATEGIC AND DEVELOPMENT SERVICES**

That, on the grounds and for the reasons stated below, the Council resolve into Closed Session to receive and consider the items identified as Confidential and listed on this Agenda as :

- Item 15.1 Tender 2010/158 - Ryan Place, Beacon Hill - Civil and Stormwater Upgrade
- Item 15.2 Tender 2010/137 - Nolan Reserve Sportsfield Lighting Construction - Stage 1
- Item 15.3 Tender 2010/152 - Restoration Works to South Curl Curl Rock Pool
- Item 15.4 Mayoral Minute No 25/2010, General Manager's Performance Review – Confidential Report

**Matters to be Discussed During Closed Session - Section 10D**

- Item 15.1 Tender 2010/158 Ryan Place, Beacon Hill - Civil and Stormwater Upgrade
- Item 15.2 Tender 2010/137 - Nolan Reserve Sportsfield Lighting Construction - Stage 1
- Item 15.3 Tender 2010/152 - Restoration Works to South Curl Curl Rock Pool
- Item 15.4 Mayoral Minute No 25/2010, General Manager's Performance Review – Confidential Report

**Grounds on which Matter Should be Considered in Closed Session – Section 10A(2)**

- Item 15.1 (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it.
- Item 15.2 (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it.
- Item 15.3 (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it.
- Item 15.4 (a) personnel matters concerning particular individuals (other than councillors)

**Reason Why Matters are being considered in Closed Session – Section 10B**

To preserve the relevant confidentiality, privilege or security of such information.

- B. That pursuant to Section 10A Subsections 2 & 3 and 10B of the Local Government Act 1993 (as amended), the press and public be excluded from the proceedings of the Council in Closed Session on the basis that the items to be considered are of a confidential nature.
- C. That the closure of that part of the meeting for the receipt or discussion of the nominated item or information relating thereto is necessary to preserve the relevant confidentiality, privilege or security of such information.
- D. That the Minutes and Business Papers including any reports, correspondence, documentation or information relating to such matter be treated as Confidential and be withheld from access by the press and public, until such time as the reason for confidentiality has passed or become irrelevant because these documents relate to a matter specified in section 10A(2).
- E. That the resolutions made by the Council in Closed Session be made public after the conclusion of the Closed Session and such resolutions be recorded in the Minutes of the Council Meeting.

**VOTING**

**For the resolution:** Crs Falinski, Giltinan, Regan, Sutton and Wilkins.

**Against the resolution:** Crs De Luca, Harris, Kirsch, Laugesen and Ray.

THERE BEING AN EQUAL NUMBER OF VOTES, THE MAYOR USED HIS CASTING VOTE FOR THE MOTION, WHICH WAS CARRIED.

THE MEETING MOVED INTO CLOSED SESSION AT 9.04PM.

THE MEETING RESUMED IN OPEN SESSION AT 9.53PM.

## **16.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION**

THE GENERAL MANAGER REPORTED ON RESOLUTIONS PASSED IN CLOSED SESSION.

### **15.1 Tender 2010/158 Ryan Place, Beacon Hill - Civil and Stormwater Upgrade**

(BP REF C1)

373/10 **RESOLVED**

***Cr Sutton / Cr Falinski***

- A. That pursuant to clause 178(1) (a) of the Local Government (General) Regulation 2005, council accept the tender of Sporting Services (Const.) Pty Ltd trading as Pan Civil to carry out Ryan Place, Beacon Hill Civil and Stormwater Upgrade Retaining Wall Remedial Works, as Specified in Tender T2010/158, the lump sum price of \$332,245.32 (incl. GST).
- B. That council delegate authority to the General Manager to execute the contract including a contingency amount of 49,840 (excl. GST) representing 15% of the contract value.

#### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

### **15.2 Tender 2010/137 – Nolan Reserve Sportsfield Lighting Construction – Stage 1**

(BP REF C7)

374/10 **RESOLVED**

***Cr Falinski / Cr Sutton***

- A. That Council accepts the tender for undertaking the Construction of Nolan Reserve Sportsfield Lighting – Stage 1 for an amount of \$170,045 (excluding GST) from SMADA Electrical P/L.

- B. That the General Manager be authorised to enter into the contract with SMADA Electrical P/L and to approve contract variations up to a total contingency amount of \$29,955 (excluding GST).

#### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Regan, Sutton and Wilkins.

**Against the resolution:** Cr Ray.

### **15.3 Tender 2010/152 – Restoration Works to South Curl Curl Rock Pool**

(BP REF C13)

375/10 **RESOLVED**

#### ***Cr De Luca / Cr Regan***

- A. That Council resolve to increase budget to \$597,000 (excluding GST) by delaying the refurbishment of Freshwater Rock Pool to the 2012/13 year.
- B. That Council accepts the tender from Silver Raven P/L for an amount of \$497,186 (excluding GST) for undertaking the Restoration Works to South Curl Curl Rock Pool.
- C. That the General Manager be authorised to enter into the contract and to approve contract variations up to a total project amount of \$597,000 (excluding GST) including 20% contingency.

#### **VOTING**

**For the resolution:** Crs De Luca, Falinski, Giltinan, Harris, Kirsch, Laugesen, Ray, Regan, Sutton and Wilkins.

**Against the resolution:** Nil.

### **15.4 Mayoral Minute No 25/2010 General Manager's Performance Review – Confidential Report**

THIS RESOLUTION WAS RESCINDED AT THE COUNCIL MEETING HELD ON  
8 FEBRUARY 2011.

The meeting concluded at 10.06pm.

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This is the final page of the Minutes comprising (23) pages numbered (1) to (23)  
of meeting 2010/15 of Warringah Council held on 14 December 2010  
and confirmed on 22 February 2011.

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Mayor

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General Manager



**COUNCIL MEETING**

**2010/15**

**14 DECEMBER 2010**

**REPORTS NOT CONTAINED IN THE AGENDA**

		<b>MP REF</b>
<b>5.1</b>	<b>Mayoral Minute No24/2010 General Manager Performance Review 2009-2010</b>	<b>25</b>
<b>9.8</b>	<b>Draft Warringah LEP 2009</b>	<b>26-60</b>



**5.1**

**Mayoral Minute No 24/2010  
General Manager Performance Review 2009-2010**

The Council is responsible for the General Manager's performance management. It is a requirement of the General Manager's employment contract that the General Manager has an annual performance review.

In accordance with clause 7.10 (a) of the employment contract, Council should send the General Manager a written report of the Council's conclusions of the performance outcome. In accordance with Local Government General Manager Performance Management Guidelines, the outcome of the review is to be reported to the entire Council. The guidelines also state that this should not be an opportunity to debate the results or re-enact the performance management of the General Manager. The outcomes must be signed by the General Manager and Mayor to conclude the process.

The report is a confidential document under Section 10 A (2) (a) of the Local Government Act 1993 ("The Act"):

*"personnel matters concerning particular individuals (other than Councillors)".*

The Council needs to resolve in accordance with Section 10 A (2) of the Act, that the Annual Performance Review of the General Manager 2009-2010 Report, and outcomes contained within the report, is to be dealt with in closed session.

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**RECOMMENDATION**

That in accordance with Section 10 (2) of the Local Government Act 1993, Council resolves that the Annual Performance Review of the General Manager 2009-2010 Report, by the Performance Review Panel and outcomes, be treated as confidential as it contains information on:

*"personnel matters concerning particular individuals (other than Councillors)".*

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**Michael Regan  
MAYOR**

## **9.8 Draft Warringah LEP 2009**

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### **EXECUTIVE SUMMARY**

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#### **Purpose**

To present Draft Warringah LEP 2009 to Council following its review by the Parliamentary Counsel and the Department of Planning.

#### **Summary**

Council resolved to endorse the Draft Warringah LEP 2009 on 8 June 2010. The Draft LEP has been under review by the Department of Planning and the Parliamentary Counsel since 25 June 2010.

The Department of Planning has written to Council on 7 December 2010 advising of a suite of changes that it intends to recommend to the Minister for the making of the plan. The proposed changes vary significantly from the Council endorsed version of the Draft LEP.

Council has not had the opportunity to undertake a detailed review of all matters raised by the Department nor has it been able to engage the Warringah Community in relation to any such changes.

There are current matters before the Land and Environment Court that are significantly impacted upon by the proposed changes to the Draft Warringah LEP 2009.

It is recommended that Council oppose a number of the proposed changes for reasons specified in this report. The Department of Planning require a response on these matters by 22 December 2010.

#### **Financial Impact**

The Draft Warringah LEP 2009 project is budgeted within Council's Strategic Community Plan

#### **Policy Impact**

The Warringah LEP is the governing policy for implementation of Council's land use planning strategies.

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### **RECOMMENDATION OF DIRECTOR STRATEGIC AND DEVELOPMENT SERVICES**

- F. That Council not support the Draft Warringah LEP 2009 (in the form provided to Council on 7 December 2010) for the reasons detailed in this report and attachments and seek to resolve matters of disagreement with the Department of Planning prior to the plan being made.
  - G. That Council staff immediately seek a meeting with the Director General of the Department of Planning to discuss resolution of those matters of concern detailed in this report and attachments.
  - H. That Council expresses its concern to the Department of Planning in relation to the inadequate response period given by the Department which does not allow full and proper review (including community engagement) of the proposed changes to the Draft Warringah LEP 2009.
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## REPORT

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### Background

On 31 March 2006 the NSW Government gazetted the Standard Instrument (Local Environmental Plans) Order 2006. All Councils in NSW were required to prepare a new comprehensive local environmental plan (LEP) for their respective areas in the standard LEP format. The State Government established timeframes for completion of this work and Warringah was given 3 years within which to undertake the preparation of its new plan.

Having regard to this timeframe and the need to bring Warringah's LEP into alignment with NSW Government planning instruments and policy, Council resolved to translate the existing provisions of Warringah LEP 2000 into the new standard format.

The draft Warringah LEP 2009 was publicly exhibited between 12 October and 30 December 2009 and over 300 submissions were received. At its meeting of 8 June 2010 Council considered a report on all submissions that resulted in a number of changes being made to the exhibited plan prior to its final adoption by Council. Council's final adopted Draft Warringah LEP 2009 was sent to the Director General of the Department of Planning on 25 June 2010, with a request that the Minister make the plan.

On 7 December 2010 Council received a letter from the Department of Planning advising formal consultation on the terms of the Draft Warringah LEP 2010 (sic) under Section 59 of the Environmental Planning and Assessment Act 1979. The letter (Attachment 1) indicates some reasoning for changes proposed by the Department and also provides a table of all amendments made (by the Department) to the draft plan since its public exhibition in late 2009. The letter advises that comments are to be provided to the regional team by 22 December 2010, hence the need for an urgent consideration of matters by the Council

### Proposed Changes

In total there are fifty four (54) broad headings where changes to the Draft LEP have been proposed. It is noted that some of these changes were agreed by Council with its resolution of 8 June 2010. Attachment 2 provides a summary of the changes as detailed by the Department of Planning and includes proposed responses prepared by Council Officers.

In addition to the summary of changes the letter of 7 December 2010 indicates eleven (11) specific matters where substantial changes have been proposed by the Department of Planning. These are detailed below.

#### 1. Oxford Falls Valley

#### Department of Planning advice

*As previously advised, the Minister has received a number of submissions in relation to land at Oxford Falls Valley. These submissions have objected to the E3 Environmental Management zoning of the land and have requested that either all or part of the Valley be deferred from the LEP pending the outcome of the planning studies recommended to be undertaken by the Planning Assessment Commission, or have requested that the land be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or RU6 Transition.*

*In considering various options for this site, the Department is of the opinion that the most appropriate option is to defer Oxford Falls Valley from the draft LEP until Council has undertaken the studies recommended by the Commission.*

*Upon completion of these studies, Council will be in a better position to determine the appropriate areas to be zoned for conservation and if appropriate, any areas suitable for urban development.*

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Draft Warringah LEP 2009 (Report to Council)**Council Response**

Council Officers do not support the deferral of the Oxford Falls Valley from Draft Warringah LEP 2009. As detailed in the advice from the Planning Assessment Commission, further studies are to be undertaken to determine if any areas are suitable for urban development. The consideration of further studies has been included in Council's Strategic Community Plan to commence in the 2011/12 year and conclude by 2013/14. It is noted that the existing work undertaken to date on the Oxford Falls Valley area has concluded significant environmental constraints exist. This information was provided to the Planning Assessment Commission. Council remains of the view that the translation of controls from Warringah LEP 2000 to Draft Warringah LEP 2009 is best represented by the E3 – Environmental Management zone. The rationale for use of the E3 zone is set out in Item 4.1 to Council meeting of 8 June 2010 and has been provided to the Department of Planning.

The area of conjecture here relates to "Seniors Housing" and the State Government policy in this regard that is imposed on Warringah Council. It must be noted that Council over many years has not supported the development of large retirement village developments on the urban fringe as this represents de facto urban expansion.

Council's decision to adopt this zone was made with knowledge that "Seniors Housing" would not be permitted on some of the land. Whilst complicated in its interpretation, Warringah LEP 2000 includes provisions for "Seniors Housing" within its content due to the fact that, at the time of its making, the NSW Government required all then current State Environmental Planning Policies to be incorporated into Warringah's LEP. Therefore, the provisions of the (then) SEPP for Seniors Housing were included in Warringah LEP 2000.

It is also noted that the provisions of the Seniors Housing SEPP only apply to land adjoining an urban area. This means that the majority of land in the Oxford Falls Valley is not permitted to have "Seniors Housing" by virtue of the NSW Government's own policy.

Over time the Seniors Housing SEPP has been amended on many occasions, specifically in some cases to deal with the issues raised by Warringah Council's LEP 2000. It is the opinion of the Council Officers that the NSW Government would be better placed resolving conflicts within its own planning instruments rather than deferring consideration of the Oxford Falls Valley under Draft Warringah LEP 2009.

It should further be noted that at no time throughout the 4.5 year process (to date) to develop the draft LEP has the Department raised concerns or sought discussion with Council in regard to the zoning of land in Oxford Falls Valley.

**Recommendation: That Council seek to re-instate the E3 – Environmental Management zoning for land in the Oxford Falls Valley that is proposed to be a deferred matter.**

## 2. Pittwater Road, Brookvale

**Department of Planning advice**

*The Department has received submissions made on behalf of St Vincent De Paul Society requesting to either defer land at 638 Pittwater Road, Brookvale, from the draft Plan due to it having potential for land uses permitted under the current zoning provisions, but not under the LEP submitted by Council. The Minister is giving serious consideration to the deferral of the F1 Brookvale Centre locality and will make a decision once the draft LEP is submitted to him for making.*

**Council Response**

Draft Warringah LEP 2009 (Report to Council)

The existing F1 Brookvale Centre and F2 Brookvale Service Centre localities in Warringah LEP 2000 are business based localities that align Pittwater Road and provide a service function to the broader industrial areas to the east and the west of Pittwater Road. They also provide a business corridor between the industrial areas of Brookvale and the residential/ retail areas of Dee Why. It is proposed to translate this function using the B5 Business Development zone. Notably, this corridor includes significant automobile operations and the zone is proposed to be used only in this area of Warringah. Amongst other matters, it will support the established automobile operations.

In determining the most appropriate standard instrument zone(s) for Brookvale it was noted that the existing F1 Brookvale Centre locality makes provision for the development of shop top housing, however, the F2 Brookvale Service Centre locality discourages this land use. Within the B5 Business Development zone (which will be made up of the F1 and F2 localities) it is proposed that shop top housing will be prohibited. This represents a notable difference from the existing planning provisions.

This position is justified on the basis that the Metropolitan and NE Subregional Strategies identify Dee Why/ Brookvale as the 'Major Centre' for the subregion. To respond to this directive in its draft LEP Council has previously advised the Department as follows:

Dee Why currently accommodates Warringah's civic functions and multiple associated community facilities. It has significant areas of office and retail floor space and has the largest concentration of medium density residential development in Warringah. The Dee Why Town Centre is currently the focus of a major re development proposal that will significantly increase retail, office and residential floor space. It will also provide upgraded community facilities and public spaces that are integrated and central within the heart of Dee Why. The re development will ensure that the Dee Why Town Centre is wholly consistent with the Department's descriptor of a major centre.

Brookvale has historically been a major centre of industry and employment in Warringah and the subregion. This role has continued to expand with recent re development, particularly west of Pittwater Road. To ensure the on going availability of industrial and compatible employment land it is vital that Brookvale does not support significant office and residential floor space in competition with Dee Why. Rather, it should continue to support and service the major centre of Dee Why by providing an alternate range of employment and service functions.

Accordingly, the commercial area of Dee Why is proposed to be zoned B4 Mixed Use and allow retail, commercial, service and community functions as well as housing. The housing role of the northern portion of the 'Major Centre' will be supported by areas surrounding the B4 zone being zoned R3 Medium Density Residential.

The draft LEP proposes use of a number of zones to facilitate the employment and service functions of Brookvale being B3 Commercial Core (allocated only to the Warringah Mall site); B5 Business Development and IN1 General Industrial. None of these zones will permit housing on the basis that:

- the area does not represent desirable residential land in terms of residential amenity having regard to its use for industry; major shopping mall and range of service and automobile related functions, and
- there remains significant re development potential within the B4 zoned area (ie. the Dee Why commercial area) in the northern portion of the 'Major Centre' to accommodate an expanded housing role within the Dee Why commercial area, and
- Council is seeking to promote the role of the area as current and future employment lands and it is appropriate that competition with residential markets does not hinder this process, and

## Draft Warringah LEP 2009 (Report to Council)

- In addition to dwellings targets, the Metropolitan Strategy establishes significant jobs capacity targets for the sub region and Warringah has been allocated the major portion of this target.

During the exhibition of the draft Warringah LEP 2009, a submission was received on behalf of the owners of 638 Pittwater Road, Brookvale. This submission sought to have the whole of the site included in the B5 Business Development zone and remove the partial IN1 General Industrial zone from the site. The submission did not request the land be rezoned for residential purposes. Whilst Council made no change to the draft LEP in response to this submission, on 24 August 2010 Council gave further consideration to the apparent anomalous split zoning of the site. It decided that this warrants review and has instructed staff to proceed to give further consideration to this after the making of the draft LEP.

Subsequent to the exhibition of the draft LEP a development application was lodged with Council for a mixed commercial residential development on the site on the basis that affordable housing would be provided. The subsequent assessment of the application has been raised in correspondence between the applicant and the Minister for Planning. The application was determined by the Joint Regional Planning Panel on 23 November 2010 by way of refusal.

**Recommendation: That Council does not support deferring consideration of 638 Pittwater Road or land within the F1 Brookvale Centre Locality under WLEP 2000 on the basis that the Metropolitan Strategy and Draft North East subregional plan indicate Brookvale as a future employment area.**

### 3. Harbord Diggers Club

#### Department of Planning advice

*The Department received a submission on behalf of the Harbord Diggers Club requesting that the draft LEP be amended to permit a range of additional uses on land at 80 Evans Street, Freshwater or that the land be rezoned to R3 Medium Density Residential.*

*In resolving the issues raised by the Club, the Department proposes to recommend to the Minister that he amends the draft Plan and includes residential flat buildings as an additional permitted use, through the use of Schedule 1, and identify the site on the Additional Permitted Uses Map. This will enable the permitted uses on the site to be consistent with uses currently permissible under Warringah LEP 2000.*

#### Council Response

The site occupied by the Harbord Diggers club is not zoned for multi unit housing and has not been so zoned by past planning instruments. The assumption that the Department of Planning has based this decision on is incorrect. Under WLEP 2000 this site has special provisions that require the Recreation Area (Registered Club) to remain on the site. There have been a number of schemes prepared by the owners of the site in recent times to include residential uses on the site in the form of townhouses and apartment buildings. The most recent development application was refused by the Warringah Development Review Panel on 11 November 2010. This application was refused (in part) due to the proposed apartment and townhouse development not being consistent with the Desired Future Character statement of Warringah LEP 2000. This Desired Future Character Statement requires residential uses in the H1 Freshwater Beach locality to be "...detached style housing in landscaped settings". The inclusion of Residential Flat Buildings as an additional permitted use is clearly not consistent with this planning intention. The recommendation of the Department of Planning for this site is therefore not supported.

**Recommendation: That Council does not support the Additional Permitted Use of "residential flat buildings" on the site of the Harbord Diggers Club.**



Draft Warringah LEP 2009 (Report to Council)

4. Waratah Park (Lot 445 DP 824043, 13 Namba Road Duffys Forest)

**Department of Planning advice**

*A submission was received from the Land and Property Management Authority (LPMA) requesting a number of amendments to the draft Plan. One of these requests sought amendment to the minimum lot size for Waratah Park from 20ha to 2ha.*

*Given that the subject site has a minimum housing density of 1 dwelling per 2ha in Warringah LEP 2000, the Department has amended the Lot Size Map for Waratah Park to be consistent with the provisions under the current controls.*

**Council Response**

The report to Council of 13 November 2007 included a recommendation that the minimum lot size for Lot 445 DP 824043, be set at 2 Hectares. At the Council meeting, the Administrator resolved to amend the draft LEP Lot Size Map to ensure that the site (and various others in the Duffys Forest area) cannot be further subdivided. Accordingly, the minimum lot size for the site was increased to 20 hectares. This amendment prevents the land from being further subdivided as the land is less than 20 hectares in size.

Increasing the minimum lot size, whilst not a strict translation of the current development standards, has planning merit. The subject land is steep, bushfire prone and poorly serviced with Water and Sewerage infrastructure. In addition, poor development outcomes have resulted in the adjoining site at Lot 446 Joalah Road, where land has been subdivided into 2 hectare parcels in recent times.

**Recommendation: That Council oppose the change in minimum lot size for Lot 445 DP 824043 and retain the minimum 20 hectare lot size as previously resolved by Council**

5. Belrose Corridor

**Department of Planning advice**

*In letter dated 7 May 2010, LPMA advised that the final boundary of open space land in Sector 3 of the Belrose Corridor will require flexibility and it does not support the rezoning of this land to RE1 Public Recreation.*

*It is noted that the letter advised that 3ha of open space land will be dedicated to Council as part of the development application process.*

*Consequently, the Department has amended the zoning of land in sector 3 from public recreation to residential. It is advised that once the zoning boundaries for this sector have been resolved, the draft Plan can be amended accordingly.*

**Council Response**

In principle the request of the Department of Planning is supported. However to ensure that the outcomes of the rezoning process undertaken over a period of 15 years can be achieved the Department of Planning is requested to confirm that land identified as future open space will be dedicated at no cost to Council once the boundaries of the parcel are confirmed.

On 7 May 2010 the Land and Property Management Authority (LPMA) wrote to Council clearly outlining that this would be done. The support for this change is made on this basis.

**Recommendation: That Council support amended zoning of land in Sector 3 on the basis that all open space identified in the Belrose Road Corridor rezoning process/ approval is dedicated to Council, at no cost, when the land is subdivided and that, before this change**

Draft Warringah LEP 2009 (Report to Council)

**to the draft LEP is made Council receives further written agreement from both the Department of Planning and the LPMA confirming the previous advice of the LPMA on 7 May 2010.**

#### 6. Coastal Hazards Clause

##### **Department of Planning advice**

*As you are aware, Council's preferred option for the Coastal Hazards Clause restricts development on land zoned residential and local centre, thereby creating a subzone which is inconsistent with Director 1 of Clause 2.1 of the Standard Instrument.*

*Consequently, the draft Clause has been amended to include heads of consideration consistent with the Department's policy position. The amended clause requires the consent authority to address additional consideration of risk to life, property and the environment.*

##### **Council Response**

The issue of development in coastal hazard zones has been addressed in Warringah since 1991 through a series of hazard lines and development controls that essentially prohibit development in the area at greatest risk, known as the "Zone of wave impact". With the introduction of the Standard Instrument LEP, this ability to place development controls on high risk areas to prevent development is less effective.

In addition the introduction of SEPP(Exempt and Complying Development) to Warringah (which will occur with the making of the LEP) will allow certain development to be carried out without the need for Council to assess a development application, further increasing the risk of inappropriate development in the coastline hazard area.

In order to preserve the current strength of planning controls for coastline hazard areas Council Officers have engaged in detailed discussions with the Department of Planning. Council Officers have, on numerous occasions, submitted draft local clauses for consideration by the Department that have sought to protect coastal hazard areas in a manner that is consistent with the current provisions contained in Warringah LEP 2000. The Department has consistently opposed the creation of a sub-zone and therefore not supported Council's approach which seeks to implement provisions to ensure that the "Area of Wave Impact and Slope Adjustment" is free of any future development.

**Recommendation: That Council oppose any changes to its coastline hazard controls.**

#### 7. Registered Clubs

##### **Department of Planning advice**

*The Department's policy is that registered clubs are not a suitable use for the RE1 zone as it is a 'public recreation' zone. The policy position is that it is the use of the land, not the ownership, that should determine whether an RE1 (Public Recreation) or RE2 (Private Recreation) zone is applied.*

*Consequently, registered clubs and other similar commercial uses, and uses involving a long term lease, should not be permissible in the RE1 zone. The draft LEP therefore does not include 'registered clubs' as a permissible use in the RE1 zone. The land zoning map has been amended to reinstate the RE2 zoning for these sites.*

##### **Council Response**

This position is not supported by Council Officers. There are a number of registered clubs that are located on land owned by Council in Warringah. This issue is best illustrated by example. The Long Reef Golf Club is a case in point. On the site of the golf course there exists a registered club, a proshop, a carpark and greenkeepers sheds. The land occupied by the golf course itself



Draft Warringah LEP 2009 (Report to Council)

is also under a 'long term lease' (as described in the Department's advice). It would appear that, to properly implement the Department's stated policy provision, the whole of the Long Reef Golf Club area should be zoned RE2 Private Recreation. However, this is not the change being proposed by the Department. Rather, it proposes to zone only the club building as RE2 with the remainder (the majority of the land, car park etc..) being zoned RE1 Public Recreation. The logic for this decision has not been provided to Council.

In discussions with the Department of Planning on this matter, Council Officers have highlighted the difficulties with zoning registered clubs on publicly owned land as RE2 Private Recreation. However, to date no clear advice has been provided to understand the rationale behind this policy and many questions remain unanswered about the application of the policy consistently throughout the LGA. Council Officers are of the view that the changes proposed by the Department do not fully address the Department's stated policy position and will result in numerous anomalies in Council's LEP.

**Recommendation: That Council retain the RE1 Public Recreation zone for all existing registered clubs located on publicly owned land in Warringah.**

#### 8. Wakehurst Parkway, Narrabeen

##### **Department of Planning advice**

*It is understood that land at lots 1 and 2 DP 1031932 and lots A and B DP 372120 at Wakehurst Parkway are proposed to be zoned E1 National Parks and Nature Reserves under the draft LEP. However, these sites are owned by the Department.*

*Until these lands are transferred to the Department of Environment, Climate Change and Water, it is inappropriate to zone them E1. Consequently, the sites have been rezoned to E2 Environment Conservation. Once the transfer of these sites has occurred, a planning proposal can be lodged to amend their zoning.*

##### **Council Response**

This matter raises no issues of concern for Council. It is noted that Warringah LEP 2000 includes these same sites in the C4 Garigal National Park Locality. This was done on advice from the National Parks and Wildlife Service in 1999. The land has effectively been 'zoned' as National Park for 10 years and Council would support its inclusion in the E1 National Park and Nature Reserves zone once the appropriate transfer of ownership has occurred.

**Recommendation: Support this change to the Warringah LEP, subject to land being appropriately rezoned should it be transferred to DECCW in the future.**

#### 9. Land Use Table

##### **Department of Planning advice**

*The land use table for various zones had been amended to be consistent with State Environmental Planning Policy (Infrastructure) 2007 and the Department's policy position. A complete list of these changes is outlined in the table accompanying this letter.*

##### **Council Response**

See responses in Attachment 2.

**Recommendation: That Council respond to matters as detailed in Attachment 2.**

#### 10. Changes to local provisions

Draft Warringah LEP 2009 (Report to Council)

**Department of Planning advice**

*Local provisions relating to Acid Sulfate Soils, Flood Planning and Location of Sex Service Premises have been amended to be consistent with the Departments most recent model clauses.*

**Council Response**

These changes to the draft LEP have been separately identified in the table accompanying the Department's letter of 7 December 2010 and are individually addressed in Attachment 2.

**Recommendation: That Council respond to matters as detailed in Attachment 2.**

11. Building heights for land at Narrabeen

**Department of Planning advice**

*In September 2010 Council requested that the Department amend the height limit for land bounded by Pittwater Road, Narrabeen Street, Ocean Street and Albert Street, Narrabeen from 11m to 8.5m on the Height of Buildings Map. It is understood that this request is consistent with the development standards included in Warringah LEP 2000. It is advised that this change has been made.*

**Council Response**

This change is supported by Council Officers. It corrects a drafting error in the exhibited Draft LEP 2009.

**Recommendation That Council agree with this change.**

**Council's final Draft Warringah LEP 2009 adopted 8 June 2010**

Following exhibition and consideration of submissions Council adopted the Draft Warringah LEP 2009 at its meeting of 8 June 2010. The adopted position of the Council was included in the version of the Draft LEP sent to the Department of Planning on 25 June 2010.

The response provided by the Department of Planning, dated 7 December 2010, includes an attached table that indicates changes that the Department is proposing to make to the 'Public Exhibition Draft' of the draft Warringah LEP 2009 (that is, the version that was certified by the Department on 9 September 2009).

The Department's response of 7 December 2010 does not address all matters that Council sought to change with its submission to the Department on 25 June 2010. That is, it is silent on some of the changes sought by Council. Accordingly, whilst the Department's response addresses many of the changes sought by Council on 25 June 2010, it does not address all of these and Council officers remain unclear as to the status of certain of the changes Council has sought to make.

It should be further noted that whilst the Department's response of 7 December 2010 states that it has attached, "...a copy of the revised instrument, accompanying maps and a consolidated table of changes undertaken" no maps have been provided at the time of preparation of this report to allow review by Council staff.

Having regard to the above, it is imperative that Council officers have more time to review the entire draft LEP that has been provided by the Department on 7 December 2010, inclusive of all proposed map changes, to ensure that staff can confidently report to Council on all changes that are proposed (both those proposed by the Department and those proposed by Council on 25 June 2010 and accepted by the Department). The Department's requirement that Council respond by 22 December 2010 does not provide sufficient time for staff to review the draft LEP at the required level of detail and provide a comprehensive report to Council in this regard. In particular, dialogue

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is needed with relevant officers of the Department to gain a thorough understanding of the final LEP that is proposed to be recommended by the Director General to the Minister.

### **LEP Plan Making Provisions**

The making of local environmental plans is controlled by Part 3 of the Environmental Planning and Assessment Act, 1979. Ultimately the Minister is the responsible authority for the making of the plan. In a letter dated 31 May 2010 the Department of Planning wrote to Council advising that the LEP process would commence from Section 59(2) of the Environmental Planning and Assessment Act 1979. This advice is important in that Section 59(1) is specifically excluded from the process. Section 59(1) of the Act includes the provision that the Council is to be consulted by the Department prior to the making of the plan.

Notwithstanding this advice, a further letter was received from the Department of Planning dated 15 October 2010 that states:

*“Furthermore, the draft LEP is now subject to the new Part 3 of the Environmental Planning and Assessment Act, 1979. Consequently, the Department is required to consult with the Council on the terms of the draft instrument before the draft plan can be notified.*

*It is further advised that the draft LEP is currently with Parliamentary Counsel. Once the Department has received the final version of the draft Plan from Parliamentary Counsel, this will be **forwarded to Warringah Council for consultation.**” (emphasis added)*

This advice is in direct conflict with the May 2010 advice and as such Council will rely on the later advice and will provide an appropriate response to the Department on the making of the plan.

### **Current Development Applications and Land and Environment Court Matters**

Section 79C of the Environmental Planning and Assessment Act requires the Draft Warringah LEP 2009, as exhibited by Council, as a matter for consideration in the assessment of development applications even though it is not yet made. As the making of the Plan draws closer and becomes more imminent and certain the weight given to the draft LEP is generally increased. This is consistent with numerous judgements of the Land and Environment Court. Notwithstanding this, the adopted Draft LEP includes a “savings provision” whereby any Development Application lodged but not determined prior to the LEP being made is assessed as if the plan had not commenced. There is no change proposed to this savings provision from the Departments advice.

At this time Council is also party to eight (8) separate Class 1 Appeals on development applications to the Land and Environment Court. The changes proposed to the draft plan would result in significant impacts to the manner in which Council would defend such appeals, particularly in the areas identified as deferred matters. Of notable relevance, the deferral of land in the Oxford Falls Valley from the draft LEP would substantially reduce Council's prospects of defending appeals for development applications for seniors housing development.

### **Options Available to Council**

There are 2 options available to Council with regard to the draft Warringah LEP.

Option 1 - Council endorses the proposed changes to the draft Warringah LEP and agrees to the Minister making the plan. This would represent poor planning outcomes for Warringah and a loss of community confidence in the planning system. The lack of consultation and community engagement are matters of great concern particularly with areas such as the Harbord Diggers site, where land is proposed to be “upzoned” without regard for the local community or impact on traffic, amenity or the like.

Option 2 - Council opposes any changes to the draft Warringah LEP that are not consistent with its adopted position of 8 June 2010.

It is recommended that Council proceed with Option 2 and oppose the making of the draft LEP in the form advised by the Department of Planning on 7 December 2010. However, it should be

Draft Warringah LEP 2009 (Report to Council)

noted that this option includes the risk that the Director General and the Minister will make the Plan regardless of Council's views.

As noted in this report and attachments, Department of Planning officers have been working closely with Council staff over the past four and half years throughout the process to prepare the draft LEP. On 7 December 2010 the Department has raised a number of significant issues that have, at no time during the preceding process, been raised with Council as giving rise to concern. In addition, there are a number of changes proposed by the Department that are erroneous and/or display a lack of knowledge of the existing Warringah LEP and the process undertaken to translate this into the standard instrument format.

### **Conclusion**

The Warringah LEP is a critical policy of Council with regard to the implementation of Council's Land Use Planning Policy. The inadequate time provided to respond to the matters raised by the Department of Planning places the integrity of the Draft LEP 2009 at risk. There are a number of fundamental changes to the Draft Plan that will result in development of land not envisaged when the plan was placed on Public Exhibition. To ensure community confidence in Council's planning documents the Draft LEP 2009 as provided to Council, should as a minimum be placed on Public Exhibition as required by the Act. In addition, matters that relate to local planning matters should be left with the Council to resolve rather than directed by the Department of Planning.

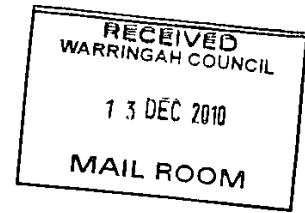
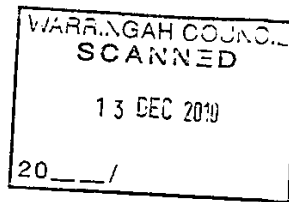
**Manager Strategic Planning**



Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)



Planning



Mr Rik Hart  
General Manager  
Warringah Council  
Civic Centre  
725 Pittwater Road  
DEE WHY NSW 2099

10/24001

Attention: Mr Malcolm Ryan

Dear Mr Hart

**Subject: Draft Warringah Comprehensive Local Environmental Plan 2010**

I am writing to consult with you on the terms of the draft *Warringah Local Environmental Plan (LEP) 2010* as required by section 59 of the *Environmental Planning and Assessment Act 1979* ("EP&A Act").

Parliamentary Counsel's Office has now prepared the draft LEP and I have attached a copy of the revised instrument, accompanying maps and a consolidated table of changes undertaken.

As you are aware, the Minister has received a number of submissions and representations regarding the draft LEP that have requested amendments be made to the zoning of certain land or have asked that land be deferred from the final Plan. These requests were made on the basis that the proposed zones under the draft LEP do not reflect the current development potential of the land.

As a result, several changes have been made to the draft Plan to resolve the issues raised. The draft LEP has also been amended to be consistent with the Department's policy position. Comments concerning these changes are discussed below.

Oxford Falls Valley

As previously advised, the Minister has received a number of submissions in relation to land at Oxford Falls Valley. These submissions have objected to the E3 Environmental Management zoning of the land and have requested that either all or part of the Valley be deferred from the LEP pending the outcome of the planning studies recommended to be undertaken by the Planning Assessment Commission, or have requested that the land be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or RU6 Transition.

In considering various options for this site, the Department is of the opinion that the most appropriate option is to defer Oxford Falls Valley from the draft LEP until Council has undertaken the studies recommended by the Commission.

Upon completion of these studies, Council will be in a better position to determine the appropriate areas to be zoned for conservation and if appropriate, any areas suitable for urban development.

Pittwater Road, Brookvale

The Department has received submissions made on behalf of St Vincent De Paul Society requesting to either defer land at 638 Pittwater Road, Brookvale from the draft Plan or amend the draft Plan to allow a range of additional uses on the site.

It is advised that the Minister is giving serious consideration to the deferral of Locality F1 Brookvale Centre and land at 638 Pittwater Road, Brookvale, from the draft Plan due to it having potential for land uses permitted under the current zoning provisions, but not under the LEP submitted by Council. The Minister will make a decision on this site once the draft LEP is submitted to him for making.

Harbord Diggers Club

The Department received a submission on behalf of the Harbord Diggers Club requesting that the draft LEP be amended to permit a range of additional uses on land at 80 Evans Street, Freshwater or that the land be rezoned to R3 Medium Density Residential.

In resolving the issues raised by the Club, the Department proposes to recommend to the Minister to amend the draft Plan and include residential flat buildings as an additional permitted use, through the use of Schedule 1, and identify the site on the Additional Permitted Uses Map. This will enable the permitted uses on the site to be consistent with uses currently permissible under Warringah LEP 2000.

Waratah Park

A submission was received from the Land and Property Management Authority (LPMA) requesting a number of amendments to the draft Plan. One of these requests sought amendment to the minimum lot size for Waratah Park from 20ha to 2ha.

Given that the subject site has a minimum housing density of 1 dwelling per 2ha in Warringah LEP 2000, the Department has amended the Lot Size Map for Waratah Park to be consistent with the provisions under the current controls.

Belrose Corridor

In letter dated 7 May 2010, LPMA advised that the final boundary of open space land in Sector 3 of the Belrose Corridor will require flexibility and it does not support the rezoning of this land to RE1 Public Recreation.

It is noted that the letter advised that 3ha of open space land will be dedicated to Council as part of the development application process.



Consequently, the Department has amended the zoning of land in sector 3 from public recreation to residential. It is advised that once the zoning boundaries for this sector have been resolved, the draft Plan can be amended accordingly.

#### Coastal Hazards Clause

As you are aware, Council's preferred option for the Coastal Hazards Clause restricts development on land zoned residential and local centre, thereby creating a subzone which is inconsistent with Direction 1 of Clause 2.1 of the Standard Instrument.

Consequently, the draft Clause has been amended to include heads of consideration consistent with the Department's policy position. The amended clause requires the consent authority to address additional consideration of risk to life, property and the environment.

#### Registered Clubs

The Department's policy position is that registered clubs are not a suitable use for the RE1 zone as it is a 'public recreation' zone. The policy position is that it is the use of the land, not the ownership, that should determine whether an RE1 or RE2 zone is applied.

Consequently, registered clubs and other similar commercial uses, and uses involving a long term lease, should not be permissible in the RE1 zone. The draft LEP therefore does not include 'registered clubs' as a permissible use in the RE1 zone. The land zoning map has been amended to reinstate the RE2 zoning for these sites.

#### Wakehurst Parkway, Narrabeen

It is understood that land at lots 1 and 2 DP 1031932 and Lots A and B DP 372120 at Wakehurst Parkway are proposed to be zoned E1 National Parks and Nature Reserves under the draft LEP. However, these sites are owned by the Department.

Until these lands are transferred to the Department of Environment, Climate Change and Water, it is inappropriate to zone them E1. Consequently, the sites have been rezoned to E2 Environment Conservation. Once the transfer of these sites has occurred a planning proposal can be lodged to amend their zoning.

#### Land Use Table

The land use table for various zones has been amended to be consistent with State Environmental Planning Policy (Infrastructure) 2007 and the Department's policy position. A complete list of these changes is outlined in the table accompanying this letter.

#### Changes to local provisions

Local provisions relating to Acid Sulfate Soils, Flood Planning and Location of Sex Service Premises have been amended to be consistent with the Department's most recent model clauses.

#### Building heights for land at Narrabeen

In September 2010 Council requested that the Department amend the height limit for land bounded by Pittwater Road, Narrabeen Street, Ocean Street and Albert Street, Narrabeen from 11m to 8.5m on the Height of Buildings Map. It is understood that this

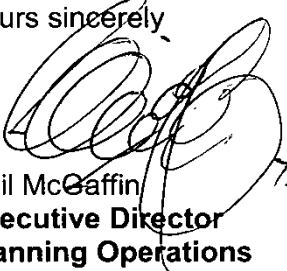
Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

request is consistent with the development standards included in Warringah LEP 2000. It is advised that this change has been made.

It would be appreciated if you would provide your comments to the Regional Team, on the draft LEP, by 22 December 2010. I would be happy to meet with you to discuss the Plan should you consider this worthwhile.

The draft Warringah LEP 2009 is provided to you on a confidential basis for the purpose of consultation under section 59 of the EP&A Act. Legal professional privilege applies to this draft and it is not the intention of the Minister to waive legal professional privilege in providing you with this draft. Disclosure of the matters contained within this draft by you to third parties may result in legal professional privilege being lost.

Yours sincerely



7.12.10

Neil McGaffin  
**Executive Director**  
**Planning Operations**



## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

## Changes made to the Warringah LEP 2010 post exhibition

LEP Section	Change to the LEP
<b>Part 1</b>	
Clause 1.2 (2)(f)(vi).	Word 'sulphate' will be replaced with 'sulfate' in the final instrument.
Clause 1.3 – land to which Plan applies	Clause has been amended to provide that the Plan does not apply to the land identified on the Land Application Map as 'deferred matter.'
<b>Part 2</b>	
Zones: RU4, R2, R3, B1, B2, B3, B4, B5, B7, IN1, IN2, SP1, SP2, RE1, RE2, E3, E4.	<p>'Emergency service facilities' have been added to item 3 in all zones except E1 National Parks and Natural Reserves, W1 natural Waterways, E2 Environmental Conservation and zones prescribed under SEPP infrastructure.</p> <p>Please note that 'emergency service facilities' have been included in item 2 in zone RE2. This will be amended to item 3 in the final instrument.</p>
Zone R2 Low Density Residential	Educational establishments have been deleted from Item 3.
Zone R3 Medium Density Residential	Educational establishments; Health consulting rooms; and Hospitals have been deleted from item 3.
Zone B1 Neighbourhood Centre	Farm buildings and Moveable dwellings have been deleted from Item 4.
Zone B2 Local Centre	Farm buildings; Home industries; Hospitals; and Moveable dwellings have been deleted from Item 4.

## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

Zone B3 Commercial Core	Farm buildings; Hospitals; Home industries; and Moveable dwellings have been deleted from Item 4.
Zone B4 Mixed Use	Farm buildings; Moveable dwellings have been deleted from Item 4.
Zone B5 Business Development	Farm buildings; Health consulting rooms; Hospitals; and Moveable dwellings have been deleted from Item 4.  'Bulky goods premises 'have been added to Item 3 in zone B5 Business Development.
Zone B7 Business Park	Educational establishments; Farm buildings; Farm stay accommodation; Funeral homes; Moveable dwellings; Health services facilities; and Home industries have been deleted from Item 4.
Zone IN1 General Industrial	Farm buildings; Farm stay accommodation; Funeral homes; Moveable dwellings; and Waste or resource management facilities have been deleted from Item 4.
Zone IN2 Light Industrial	Farm buildings; Farm stay accommodation; Funeral homes; Home industries; and Moveable dwellings have been deleted from Item 4.
RE1 Public Recreation	'Car parks' have been added to Item 2 in zone RE1. In the final instrument 'Car parks' will be included in item 3.
Zone RE2 Private Recreation	'ordinarily incidental or ancillary to Recreation facilities (indoor) or Recreation Facilities (outdoor)' have been deleted from Item 3.
Zone E3 Environmental Management	The draft Plan has been amended to replace the word 'preserving' with 'conserving' in the fourth zone objective.
Zone E4 Environmental Living	The Plan will be amended to replace the word 'preserving' with 'conserving' in the fifth zone objective.
RU4 Rural Small Holdings	'recreational facilities (outdoor)' have been deleted from item 3 in Zone RU4 Rural Small Holdings.
<b>Part 3</b>	
Clause 3.1	Clause 3.1 Exempt development, subclause (3A)(e) has been deleted.

## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

(3A)(e)	
<b>Part 4</b>	
Clause 4.3 - Height of buildings	Subclause 4.3(1)(a) has been amended to say the following:  (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.
Clause 4.2A - No strata plan or community title subdivisions in certain rural and environmental zones.	The title of the clause will be amended to the below in the final instrument:  No strata plan or community title subdivisions in certain rural and environmental protection zones.
Clause 4.4 Floor Space Ratio	The below has been inserted:  (1) The objectives of this clause are as follows: (a) to control the bulk and size of buildings; (b) to achieve an appropriate visual relationship between buildings; (c) to define the allowable density and intensity of development, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic; and (d) to minimise adverse environmental effects from buildings on the use or enjoyment of adjoining properties and the public domain.  (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
Clause 4.5 Calculation of floor space ratio and site area	The standard instrument clause has been inserted.
<b>Part 5</b>	
NIL	
<b>Part 6</b>	
Clause 6.9 – Site A proposed new road above podium elements.	The word 'east' has been replaced with the word 'west'.
Clause 6.14 – Acid sulfate soils	Clause 6.14 has been replaced with the most recent model clause.
Clause 6.15 – Flood planning land	Clause 6.15 has been replaced with the most recent model clause.

## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

6.17 – Coastline Hazard	The draft Plan has been amended to include a heads of consideration clause.
Clause 6.18 – Erection of dwelling houses in Zone E3 Environmental Management	<p>The following subclause has been included in Clause 6.18(2):</p> <p>This clause applies to land zoned E3 Environmental Management except land known as Belrose Road Corridor being Lot 52, DP 819308, Lot 12, DP 225340, Lot 5, DP 260080, Lot 3, DP 534463, Lot 13, DP 587071, Lot 33, DP 222330, Lot 38, DP 238042, Lot 39, DP 238042, Lot A, DP 347637, Lot 2, DP 526613, Lot 11, DP 244797, Lot 6, DP 514039 and Lot 5, DP 514039.</p>
6.20 – Subdivision of certain land	<p>Clause 6.20(2)(b) has been replaced with the below:</p> <p>(b) must ensure that all lots contain a suitable building area that will allow the preservation of natural landscape features including rock outcrops.</p> <p>Clause 6.20(3)(b) has been replaced with the following subclause:</p> <p>6.20(3)(b) must include the creation of lots (in addition to those referred to in paragraph (a)) that contain land zoned RE1 Public Recreation.</p>
Clause 6.21 – Sex service premises and restricted premises	Clause 6.21 has been replaced with the most recent model clause.
<b>Schedule 1</b>	
Item 2 Use of certain land at Challenger Drive, Belrose	<p>The words 'Licence Number L308608' in item 2 have been deleted.</p> <p>Subclause 1 has been amended to provide that it applies to land shown as 'Area 8.'</p> <p>Additional uses have been added to the item:</p> <p>Resource recovery facilities (but only for the purpose of processing and recycling construction and demolition waste) and industries (but only industries that are concrete batching plants).</p>
Item 4 – Use of certain land at corner of Mona Vale Road and Forest Way, Belrose	A new subclause (3) will be included in the final instrument which says that hotel or motel accommodation and pubs are to include at least one room used for the holding of events, functions, conferences and the like.
Item 12 – use of certain land in Wakehurst parkway, Frenchs forest	Item has been deleted from the Schedule
Item 14 Use of certain land at Lumsdaine	Subclause (1) has been replaced with '(1) This clause applies to land in Lumsdaine Drive, Freshwater, being Lot 100 DP 1136132.'

## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

Drive, Freshwater	<p>The subclause will refer to 'Area 10' shown on the Additional Permitted Uses Map.</p> <p>The clause will include residential flat buildings as an additional permitted use on the site.</p>
Item 20 Use of certain land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills,	recreational facilities (outdoor) and recreation area have been added to item 20.
<b>Schedule 2</b>	
Signage (Other)	<p>'0.06sqm' will be replaced with '6sqm' in subclause (1)(d) in the final instrument.</p> <p>The word 'dwelling' in subclause (1)(e) will be replaced with 'building' in the final instrument.</p>
Filming	The reference to the 'Department of Lands' has been replaced with 'Land and Property Management Authority' in subclause (6)(m)(v).
Rainwater tanks and Satellite dishes	Rainwater tanks and satellite dishes have been removed from Schedule 2.
Activities on road reserves.	<p>An additional item in Schedule 2 has been included:</p> <p>Display of goods on footpath.</p> <p>The display must be associated with a lawfully established business.</p> <p>The display must be on the part of the footpath that is adjacent to that business.</p> <p>The goods displayed must be small-scale goods such as chemist bargains bins or clothes racks.</p> <p>The display must have consent under Division 3 of Part 9 of the Roads Act 1993.</p>
Outdoor eating areas (associated with an approved restaurant).	<p>A clause will be included that the occupation of a Crown reserve requires a licence under the Crown Lands Act, and where Council is a Reserve Trust manager, outdoor eating is covered by a Trust licence.</p> <p>The below subclauses have been added to this item:</p> <p>(1) If on a footpath—must have an approval under section 125 of the <i>Roads Act 1993</i>.</p> <p>(2) If on community land—must have an approval under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i>.</p>
Outdoor areas of community land used for commercial purposes	<p>The below subclause has been added to this item:</p> <p>Must have an approval under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i>.</p>
Private electricity service poles	<p>The below subclause has been added to this item:</p> <p>Must comply with the specifications contained in the <i>Code of Practice (Electricity) Service and</i></p>

## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

	<i>Installation Rules of New South Wales, DWE 07_207, published by the NSW Government in December 2007.</i>
<b>Schedule 3</b>	
Standards	<p>The below have been deleted:</p> <ul style="list-style-type: none"> <li>• Building alterations (industrial and warehouse buildings)</li> <li>• Building alterations (internal for business premises, offices and shops)</li> <li>• Change of use (from one type of approved business, office or shop to another type of business, office or shop)</li> <li>• Change of use (from one type of approved industrial or warehouse use to another type of industrial or warehouse use).</li> </ul>
Residential flat buildings (internal alterations (other than balcony enclosures and items that are externally visible) and the construction of associated garages and outbuildings)	Clause has been amended to only apply to the construction of garages and outbuildings associated with residential flat buildings.
<b>Schedule 4</b>	
NIL	
<b>Schedule 5</b>	
HI 8	<p>Heritage Item no I 8 will be deleted from the final Plan:</p> <p>Lot 72, DP 791319, 35 Beach Road, Collaroy, from Schedule 5 and the Heritage Map.</p>
All heritage items	Schedule 5 has been amended to be consistent with Planning Circular, 09-11.
<b>Schedule 6</b>	
NIL	
<b>MAPS</b>	
Land Zoning Map – Belrose Corridor	<p>Land in Sector 3 of the Corridor has been rezoned from RE1 to R2.</p> <p>Lot Size and Height of Buildings Maps have been amended accordingly.</p>
Land Zoning Map – registered clubs	<p>The RE2 zone has been reinstated for the below clubs:</p> <ul style="list-style-type: none"> <li>• Manly Vale Bowling Club</li> <li>• North Manly Bowling Club</li> <li>• Long Reef Golf Club</li> <li>• Wakehurst Golf Club</li> </ul>
Land Zoning	Lots 1 & 2 in DP1031932 and Lots A & B in DP 372120 have been rezoned to E2

## Draft Warringah LEP 2009 (Attachment 1 – Letter from NSW Government Planning)

Map - Wakehurst Parkway, Narrabeen	Environmental Conservation.
Various maps – Oxford Falls Valley	Oxford falls Valley has been deferred from the instrument.
Additional Permitted Uses Map – Harbord Diggers Club Site	Land at 80 Evans Street, Freshwater will be identified as 'Area 10' on the Additional Permitted Uses Map.
Lot Size Map – Waratah park	Lot Size Map for Waratah Park will be amended to identify a 2ha minimum lot size for the Park.
Height of Buildings Map – land at Narrabeen	Land bounded by Pittwater Road, Narrabeen Street, Ocean Street and Albert Street will be amended to include a 8.5m instead of 11m.

Draft Warringah LEP 2009 (Attachment 2 – Changes made to the Warringah LEP 2010 post exhibition)

**Changes made to the Warringah LEP 2010 post exhibition**

LEP Section	Change to the LEP	Council Officer Recommendation
<b>Part 1</b>		
Clause 1.2 (2)(f)(vi).	Word 'sulphate' will be replaced with 'sulfate' in the final instrument.	AGREE with change, this was adopted by Council on 8 June 2010, and has not been corrected in the PC draft.
Clause 1.3 – land to which Plan applies	Clause has been amended to provide that the Plan does not apply to the land identified on the Land Application Map as 'deferred matter.'	DISAGREE – Deferred matters are contested and not consistent with final adopted Draft LEP of 8 June 2010.
<b>Part 2</b>		
Zones: RU4, R2, R3, B1, B2, B3, B4, B5, B7, IN1, IN2, SP1, SP2, RE1, RE2, E3, E4.	<p>'Emergency service facilities' have been added to item 3 in all zones except E1 National Parks and Natural Reserves, W1 natural Waterways, E2 Environmental Conservation and zones prescribed under SEPP infrastructure.</p> <p>Please note that 'emergency service facilities' have been included in item 2 in zone RE2. This will be amended to item 3 in the final instrument.</p>	<p>AGREE in Principle – Council resolved on 8 June 2010 to add "Emergency Services Facilities" to zones as indicated.</p> <p>In zone RE2 the PC draft indicates "emergency services facilities" as already in item 3.</p> <p>It is noted that in Zone RE1 – the PC draft indicates "emergency services facilities" as an item 2 use, inconsistent with advice above.</p>
Zone R2 Low Density Residential	Educational establishments have been deleted from Item 3.	<p>DISAGREE – this change makes all new Primary and Secondary Schools prohibited development in Residential zones. This would effectively prohibit any new schools from the residential zone. Existing schools would in some cases be able to use SEPP Infrastructure for minor expansion.</p> <p>There is no rationale provided from the Department with regard to this change and it is inconsistent with</p>



## Draft Warringah LEP 2009 (Attachment 2 – Changes made to the Warringah LEP 2010 post exhibition)

		Council's adopted position of 8 June 2010
Zone R3 Medium Density Residential	Educational establishments; Health consulting rooms; and Hospitals have been deleted from item 3.	<p>Educational Establishments – this change makes all new Primary and Secondary Schools prohibited development in Residential zones. This would effectively prohibit any new schools from the residential zone. Existing schools would in some cases be able to use SEPP Infrastructure for minor expansion. There is no rationale provided for this change.</p> <p>Health Consulting Rooms – It is Council's planning position that Health Consulting Rooms are an appropriate land use in the R3 zone. There is not rationale provided for this change.</p> <p>Hospitals – There are a number of Hospitals in Warringah in residential zones. The prohibition of this land use creates Existing Use Rights for these existing facilities. Again no rationale has been provided by the Department of Planning for this change.</p>
Zone B1 Neighbourhood Centre	Farm buildings and Moveable dwellings have been deleted from Item 4.	<p>DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.</p> <p>There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.</p>
Zone B2 Local Centre	Farm buildings; Home industries; Hospitals; and Moveable dwellings have been deleted from Item 4.	<p>DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.</p> <p>There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.</p>
Zone B3 Commercial Core	Farm buildings; Hospitals; Home industries; and Moveable dwellings have been deleted from Item 4.	<p>DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.</p>

## Draft Warringah LEP 2009 (Attachment 2 – Changes made to the Warringah LEP 2010 post exhibition)

		There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.
Zone B4 Mixed Use	Farm buildings; Moveable dwellings have been deleted from Item 4.	DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.  There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.
Zone B5 Business Development	Farm buildings; Health consulting rooms; Hospitals; and Moveable dwellings have been deleted from Item 4.  'Bulky goods premises' have been added to Item 3 in zone B5 Business Development.	DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.  There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.  AGREE - The proposed change to add "Bulky goods premises" as an item 3 land use in the B5 zone is consistent with Council's resolution of 8 June 2010.
Zone B7 Business Park	Educational establishments; Farm buildings; Farm stay accommodation; Funeral homes; Moveable dwellings; Health services facilities; and Home industries have been deleted from Item 4.	DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.  There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.
Zone IN1 General Industrial	Farm buildings; Farm stay accommodation; Funeral homes; Moveable dwellings; and Waste or resource management facilities have been deleted from Item 4.	DISAGREE – Council's resolved position of 8 June 2010 is to prohibit these land uses in this zone.  There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.
Zone IN2 Light Industrial	Farm buildings; Farm stay accommodation; Funeral homes; Home industries; and Moveable dwellings have	DISAGREE – Council's resolved position of 8 June

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	been deleted from Item 4.	2010 is to prohibit these land uses in this zone.  There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.
RE1 Public Recreation	'Car parks' have been added to Item 2 in zone RE1. In the final instrument 'Car parks' will be included in item 3.	AGREE with change, this was adopted by Council on 8 June 2010, and has not been corrected in the PC draft
Zone RE2 Private Recreation	'ordinarily incidental or ancillary to Recreation facilities (indoor) or Recreation Facilities (outdoor)' have been deleted from Item 3.	DISAGREE – This change would lead to a Registered Club being permissible without an associated recreational land use (eg Lawn Bowling) on land zoned for Private Recreation. This change is clearly inconsistent with Council's adopted position of 8 June 2010.  There has been no correspondence or discussion from the Department of Planning with regard to this proposed change.
Zone E3 Environmental Management	The draft Plan has been amended to replace the word 'preserving' with 'conserving' in the fourth zone objective.	DISAGREE - There has been no correspondence or discussion from the Department of Planning with regard to this proposed change. There is insufficient time available to seek legal advice on the implication of such a change on Development Applications and current Land and Environment Court matters.
Zone E4 Environmental Living	The Plan will be amended to replace the word 'preserving' with 'conserving' in the fifth zone objective.	DISAGREE - There has been no correspondence or discussion from the Department of Planning with regard to this proposed change. There is insufficient time available to seek legal advice on the implication of such a change on Development Applications and current Land and Environment Court matters.
RU4 Rural Small Holdings	'recreational facilities (outdoor)' have been deleted from	AGREE – This change is consistent with Council's

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	item 3 in Zone RU4 Rural Small Holdings.	adopted resolution of 8 June 2010.
<b>Part 3</b>		
Clause 3.1 (3A)(e)	Clause 3.1 Exempt development, subclause (3A)(e) has been deleted.	AGREE – This change is consistent with Council's adopted resolution of 8 June 2010.
<b>Part 4</b>		
Clause 4.3 - Height of buildings	Subclause 4.3(1)(a) has been amended to say the following:  (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.	AGREE – This change is consistent with Council's adopted resolution of 8 June 2010.
Clause 4.2A -No strata plan or community title subdivisions in certain rural and environmental zones.	The title of the clause will be amended to the below in the final instrument:  No strata plan or community title subdivisions in certain rural and environmental protection zones.	AGREE – This change is consistent with Council's adopted resolution of 8 June 2010.
Clause 4.4 Floor Space Ratio	The below has been inserted:  (1) The objectives of this clause are as follows: (a) to control the bulk and size of buildings; (b) to achieve an appropriate visual relationship between buildings; (c) to define the allowable density and intensity of development, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic; and (d) to minimise adverse environmental effects from buildings on the use or enjoyment of adjoining properties and the public domain.  (2) The maximum floor space ratio for a building on any	AGREE – This change is consistent with Council's adopted resolution of 8 June 2010.

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	land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	
Clause 4.5 Calculation of floor space ratio and site area	The standard instrument clause has been inserted.	AGREE – This change is consistent with Council's adopted resolution of 8 June 2010.
<b>Part 5</b>		
NIL		
<b>Part 6</b>		
Clause 6.9 –Site A proposed new road above podium elements.	The word 'east' has been replaced with the word 'west'.	AGREE - Council request of 8 June 2010.  Required to correct an error in the Public Exhibition Draft LEP.
Clause 6.14 – Acid sulfate soils	Clause 6.14 has been replaced with the most recent model clause.	AGREE – the changes made by the Department to the model acid sulphate soils clause raise no issues of concern in the Warringah context.
Clause 6.15 – Flood planning land	Clause 6.15 has been replaced with the most recent model clause.	DISAGREE – the changes made by the Department to the model flood planning land clause have implications in the Warringah context.  There has been insufficient time for Council's Natural Environment unit to consider the implications of the revised model clause which may include the need to review the data contained on the LEP Flood Planning Area Map.
6.17 – Coastline Hazard	The draft Plan has been amended to include a heads of consideration clause.	DISAGREE – the changes made by the Department represent a reduced level of certainty around development outcomes within identified coastline hazard areas in Warringah.  There has been insufficient time to undertake full

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		consideration of the implications of the revised Coastline Hazard clause.
'Clause 6.18 – Erection of dwelling houses in Zone E3 Environmental Management	<p>The following subclause has been included in Clause 6.18(2):</p> <p>This clause applies to land zoned E3 Environmental Management except land known as Belrose Road Corridor being Lot 52, DP 819308, Lot 12, DP 225340, Lot 5, DP 260080, Lot 3, DP 534463, Lot 13, DP 587071, Lot 33, DP 222330, Lot 38, DP 238042, Lot 39, DP 238042, Lot A, DP 347637, Lot 2, DP 526613, Lot 11, DP 244797, Lot 6, DP 514039 and Lot 5, DP 514039.</p>	AGREE – with change. This was adopted by Council on 8 June 2010.
6.20 –Subdivision of certain land	<p>Clause 6.20(2)(b) has been replaced with the below:</p> <p>(b) must ensure that all lots contain a suitable building area that will allow the preservation of natural landscape features including rock outcrops.</p> <p>Clause 6.20(3)(b) has been replaced with the following subclause:</p> <p>6.20(3)(b) must include the creation of lots (in addition to those referred to in paragraph (a)) that contain land zoned RE1 Public Recreation.</p>	AGREE – with changes. These were adopted by Council on 8 June 2010.
Clause 6.21 – Sex service premises and restricted premises	Clause 6.21 has been replaced with the most recent model clause.	<p>DISAGREE – the changes made by the Department to the model location of sex services premises clause are not supported.</p> <p>The 'like' clause contained in the certified draft LEP includes parameters around the location of <i>restricted premises</i> in addition to those around <i>sex services premises</i>. These should be retained.</p>

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Schedule 1		
Item 2 Use of certain land at Challenger Drive, Belrose	<p>The words 'Licence Number L308608' in item 2 have been deleted.</p> <p>Subclause 1 has been amended to provide that it applies to land shown as 'Area 8.'</p> <p>Additional uses have been added to the item:</p> <p>Resource recovery facilities (but only for the purpose of processing and recycling construction and demolition waste) and industries (but only industries that are concrete batching plants).</p>	<p>DISAGREE – on 8 June 2010 Council resolved to make a similar change. However, the Department has revised the manner in which the change has been made. Based on current information available to Council it cannot be certain that the change made by the Department will not extend the land for which additional permitted uses are permitted over and above that intended by Council.</p> <p>DISAGREE – the land uses to be added to the item, as set out in the column to the left, meet the objective of Council's resolution on 8 June 2010. However, the Parliamentary Counsel draft of the Warringah LEP 2010, at Item 2 of Schedule 1, supplied to Council in conjunction with this table, is inconsistent with the wording identified in column to the left.</p>
Item 4 – Use of certain land at corner of Mona Vale Road and Forest Way, Belrose	A new subclause (3) will be included in the final instrument which says that hotel or motel accommodation and pubs are to include at least one room used for the holding of events, functions, conferences and the like.	AGREE – this change was not requested by Council but will supplement and improve on the intent of Item 4 of Schedule 1.
Item 12 – use of certain land in Wakehurst parkway, Frenchs forest	Item has been deleted from the Schedule	<p>DISAGREE - this change was not requested by Council. It removes the additional permitted use status of <i>places of public worship</i> from the Christian City Church site at Oxford Falls.</p> <p>Council seeks to include the site in Schedule 1 to ensure that the use of the site for a place of public worship is permitted thereby ensuring that its LEP and DCP controls apply to any future development applications for the site.</p>

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Item 14 Use of certain land at Lumsdaine Drive, Freshwater	<p>Subclause (1) has been replaced with '(1) This clause applies to land in Lumsdaine Drive, Freshwater, being Lot 100 DP 1136132.'</p> <p>The subclause will refer to 'Area 10' shown on the Additional Permitted Uses Map.</p> <p>The clause will include residential flat buildings as an additional permitted use on the site.</p>	<p>DISAGREE – the current planning instrument for Warringah does not support residential flat building development of this site, nor did previous planning instruments.</p> <p>This represents a significant change in potential development outcomes for the site which is not supported by Council. Further, the local community has not had the opportunity to consider and comment on this change.</p>
Item 20 Use of certain land in the vicinity of Mona Vale and Myoora Roads, Terrey Hills,	recreational facilities (outdoor) and recreation area have been added to item 20.	AGREE - Council resolved to make this change on 8 June 2010.
<b>Schedule 2</b>		
Signage (Other)	<p>'0.06sqm' will be replaced with '6sqm' in subclause (1)(d) in the final instrument.</p> <p>The word 'dwelling' in subclause (1)(e) will be replaced with 'building' in the final instrument.</p>	<p>DISAGREE – Council resolved on 8 June 2010 to delete '6sqm' and replace with '0.06sqm'.</p> <p>The change proposed by the Department is an error.</p>
Filming	The reference to the 'Department of Lands' has been replaced with 'Land and Property Management Authority' in subclause (6)(m)(v).	AGREE – the change was not requested by Council but will update the Schedule 2 for currency with NSW Government authorities. Change gives rise to no issues of concern to Council.
Rainwater tanks and Satellite dishes	Rainwater tanks and satellite dishes have been removed from Schedule 2.	AGREE – the change was not requested by Council. However, since preparation of the draft LEP the erection of <i>rainwater tanks</i> and <i>satellite dishes</i> has been addressed by SEPP(Exempt and Complying Development). It is therefore appropriate to delete these from the Warringah LEP.
Activities on road reserves.	An additional item in Schedule 2 has been included:	DISAGREE – Council resolved on 8 June 2010 to



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	<p>Display of goods on footpath.</p> <p>The display must be associated with a lawfully established business.</p> <p>The display must be on the part of the footpath that is adjacent to that business.</p> <p>The goods displayed must be small-scale goods such as chemist bargains bins or clothes racks.</p> <p>The display must have consent under Division 3 of Part 9 of the Roads Act 1993.</p>	<p>include a similar provision in Schedule 2. However, the changes made by the Department are not wholly consistent with Council's resolution.</p> <p>Concern is raised that the change will not permit <i>business identification signage</i> (including 'A' frame signs) as exempt development.</p> <p>Note: the change also imposes certain parameters around the display of goods on footpaths that were not requested by Council. However, these raise no issue of concern.</p>
Outdoor eating areas (associated with an approved restaurant).	<p>A clause will be included that the occupation of a Crown reserve requires a licence under the Crown Lands Act, and where Council is a Reserve Trust manager, outdoor eating is covered by a Trust licence.</p> <p>The below subclauses have been added to this item:</p> <p>(1) If on a footpath—must have an approval under section 125 of the <i>Roads Act 1993</i>.</p> <p>(2) If on community land—must have an approval under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i>.</p>	<p>AGREE – not requested by Council. The changes essentially re word content that has previously been included in the draft LEP by Council and raise no issues of concern.</p>
Outdoor areas of community land used for commercial purposes	<p>The below subclause has been added to this item:</p> <p>Must have an approval under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i>.</p>	<p>AGREE – not requested by Council. The changes essentially re word content that has previously been included in the draft LEP by Council and raise no issues of concern.</p>
Private electricity service poles	<p>The below subclause has been added to this item:</p>	<p>AGREE – not requested by Council. The change raises no issue of concern.</p>

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	Must comply with the specifications contained in the <i>Code of Practice (Electricity) Service and Installation Rules of New South Wales</i> , DWE 07_207, published by the NSW Government in December 2007.	
<b>Schedule 3</b>		
Standards	<p>The below have been deleted:</p> <ul style="list-style-type: none"> <li>• Building alterations (industrial and warehouse buildings)</li> <li>• Building alterations (internal for business premises, offices and shops)</li> <li>• Change of use (from one type of approved business, office or shop to another type of business, office or shop)</li> <li>• Change of use (from one type of approved industrial or warehouse use to another type of industrial or warehouse use).</li> </ul>	AGREE – Council resolved on 8 June 2010 to make this change. Since preparation of the draft LEP the matters to be deleted from Schedule 3 are now addressed by SEPP(Exempt and Complying Development).
Residential flat buildings (internal alterations (other than balcony enclosures and items that are externally visible) and the construction of associated garages and outbuildings)	Clause has been amended to only apply to the construction of garages and outbuildings associated with residential flat buildings.	AGREE - not requested by Council. The changes essentially re word content that has previously been included in the draft LEP by Council and raise no issues of concern.
<b>Schedule 4</b>		
NIL		
<b>Schedule 5</b>		
HI 8	Heritage Item no I 8 will be deleted from the final Plan:	AGREE - Council resolved to make this change on

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	Lot 72, DP 791319, 35 Beach Road, Collaroy, from Schedule 5 and the Heritage Map.	8 June 2010.
All heritage items	Schedule 5 has been amended to be consistent with Planning Circular, 09-11.	AGREE – Council resolved to make this change on 8 June 2010.
<b>Schedule 6</b>		
NIL		
<b>MAPS</b>		
Land Zoning Map – Belrose Corridor	<p>Land in Sector 3 of the Corridor has been rezoned from RE1 to R2.</p> <p>Lot Size and Height of Buildings Maps have been amended accordingly.</p>	AGREE – only on the basis that all open space identified in the Belrose Road Corridor rezoning process/ approval is dedicated to Council, at no cost, when the land is subdivided and that, before this change to the draft LEP is made Council receives further written agreement from both the Department of Planning and the LPMA confirming the previous advice of the LPMA on 7 May 2010. .
Land Zoning Map – registered clubs	<p>The RE2 zone has been reinstated for the below clubs:</p> <ul style="list-style-type: none"> <li>• Manly Vale Bowling Club</li> <li>• North Manly Bowling Club</li> <li>• Long Reef Golf Club</li> <li>• Wakehurst Golf Club</li> </ul>	<p>DISAGREE – The Department of Planning's policy position in this matter remains unclear and raises many questions about how to apply this consistently throughout the LGA.</p> <p>Council is of the view that the changes proposed by the Department do not fully address the Departments stated policy position and will result in numerous anomalies in Council's LEP.</p>
Land Zoning Map - Wakehurst Parkway, Narrabeen	Lots 1 & 2 in DP1031932 and Lots A & B in DP 372120 have been rezoned to E2 Environmental Conservation.	AGREE – this change was not requested by Council but raises no issues of concern.
Various maps – Oxford Falls Valley	Oxford falls Valley has been deferred from the instrument.	DISAGREE – the E3 Environmental Management zone proposed by Council for the Oxford Falls Valley is an appropriated translation of the current

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		<p>provisions of Warringah LEP 2000 for this land.</p> <p>The rationale for the zone has been documented in Item 4.1 to Council meeting of 8 June 2010 which has been provided to the Department.</p> <p>At no time throughout the 4.5 year process (to date) to develop the draft LEP has the Department raised concerns or sought discussion with Council in regard to the zoning of this land.</p>
Additional Permitted Uses Map – Harbord Diggers Club Site	Land at 80 Evans Street, Freshwater will be identified as 'Area 10' on the Additional Permitted Uses Map.	<p>DISAGREE – the current planning instrument for Warringah does not support residential flat building development of this site, nor did previous planning instruments.</p> <p>This represents a significant change in potential development outcomes for the site which is not supported by Council. Further, the local community has not had the opportunity to consider and comment on this change.</p>
Lot Size Map – Waratah park	Lot Size Map for Waratah Park will be amended to identify a 2ha minimum lot size for the Park.	DISAGREE – The land is environmentally constrained and should therefore not be subject to further subdivision which would allow increased development potential.
Height of Buildings Map – land at Narrabeen	Land bounded by Pittwater Road, Narrabeen Street, Ocean Street and Albert Street will be amended to include a 8.5m instead of 11m.	AGREE - this corrects a drafting error in the exhibited Draft LEP 2009.

