

ATTACHMENT BOOKLET PART 3

ORDINARY COUNCIL MEETING

TUESDAY 26 FEBRUARY 2013



TABLE OF CONTENTS

| Item Subject No |
|--------------------|
|--------------------|

PART 1

| | | |
|------------|---|--|
| 6.3 | QUARTERLY BUSINESS AND BUDGET REVIEW STATEMENT - DECEMBER 2012 | |
| | Attachment : | Quarterly Business and Budget Review Statement - December 2012.....2 |
| 7.1 | GLEN STREET THEATRE - REVITALISATION PROJECT | |
| | Attachment : | Glen Street Theatre - Masterplan59 |

PART 2

| | | |
|------------|--|---|
| 8.5 | UPDATE OF WARRINGAH DESIGN GUIDELINES - PUBLIC SPACES POLICY | |
| | Attachment 1: | Warringah Design Guidelines - Public Spaces.....140 |
| | Attachment 2: | Proposed Paving - Village Centres.....235 |
| 8.6 | WARRINGAH DEVELOPMENT CONTROL PLAN (AMENDMENT 3 - END OF TRIP BICYCLE FACILITIES AND DEE WHY RSL MASTER PLAN) | |
| | Attachment 1: | Warringah Development Control Plan (Amendment 3)238 |
| | Attachment 2: | Submission on DCP (Amendment 3).....256 |

PART 3

| | | |
|------------|---|--|
| 8.7 | EVERGREEN ESTATE PLANNING PROPOSAL | |
| | Attachment 1: | Evergreen Estate Planning Proposal.....260 |
| | Attachment 2: | Evergreen Estate Development Control Plan289 |
| | Attachment 3: | Evergreen Estate - Voluntary Planning Agreement.....298 |
| | Attachment 4: | Evergreen Estate VPA Explanatory Statement333 |
| | Attachment 5: | Evergreen Estate Public Submissions Summary Table340 |
| | Attachment 6: | Evergreen Estate Copies of all Submissions348 |
| | Attachment 7: | Evergreen Estate Land Zoning Map - Proposed404 |
| | Attachment 8: | Evergreen Estate Height of Buildings Map - Proposed405 |
| | Attachment 9: | Evergreen Estate Minimum Subdivision Lot Size Map - Proposed406 |

Planning Proposal – 26 Campbell Avenue, Cromer



PLANNING PROPOSAL

WARRINGAH LOCAL ENVIRONMENTAL PLAN

26 CAMPBELL AVENUE, DEE WHY

MARCH 2012



Contents

| | | |
|----------|--|-----------|
| 1 | Introduction | 3 |
| 2 | The Site and surrounding area | 4 |
| 2.1 | Site context and location | 4 |
| 2.2 | Surrounding development | 5 |
| 2.3 | Site details and features | 7 |
| 2.4 | Background | 8 |
| 3 | The Planning Proposal | 9 |
| 3.1 | Overview | 9 |
| 4 | Part 1 - Objectives or intended outcomes of the proposed LEP [EPA Act s.55 (2)(a)] | 10 |
| 5 | Part 2 - An explanation of the provisions that are to be included in the proposed LEP [EPA Act s.55 (2)(b)] | 11 |
| 5.1 | Warringah Local Environmental Plan 2011 | 11 |
| 5.2 | Planning Agreement | 11 |
| 6 | Part 3 - Justification for those objectives, outcomes and provisions and the process for their implementation [EPA Act s.55 (2)(c)] | 14 |
| 6.1 | <i>Section A - Need for the planning proposal</i> | 14 |
| 6.2 | <i>Section B - Relationship to strategic planning framework</i> | 16 |
| 6.3 | <i>Section C - Environmental, social and economic impact</i> | 21 |
| 6.4 | <i>Section D - State and Commonwealth Interests</i> | 26 |
| 7 | Part 4. Details of the community consultation that is to be undertaken on the planning proposal [EPA Act s. 55(2)(e)] | 28 |

Planning Proposal – 26 Campbell Avenue, Cromer

1 Introduction

The proposal seeks to rezone the land at 26 Campbell Avenue Cromer, known to Council for some time as the Evergreen Tennis Centre. Two outcomes will result from the proposal:

- Rezoning of 1.4 hectares (84%) of the land to residential
- Dedication of 2,840 square metres (16%) of land to Council and rezoning to Public Recreation

It is recommended that Council support the proposal and refer the matter to the Department of Planning and Infrastructure for consideration.



2 The Site and surrounding area

2.1 Site context and location

The site is known as No. 26 Campbell Avenue Cromer. Key features of the site's location and context (as depicted in Figure 1) include:

- The site is located approximately 1 km north of the Dee Why town centre and 1.3 km north of the main bus interchange in Dee Why (near the corner of Pittwater Road and Howard Avenue).
- In terms of transport, the site is within convenient walking distance (500m) of the strategic bus corridor operating along Pittwater Road. A dedicated off-road cycle link also connects to the site. Bus stops adjoin the site and are serviced by 5 bus routes being the 180, 158, 146, 179 and E79 providing access to locations such as Dee Why, Warringah Mall, Manly, the Sydney CBD.
- The Dee Why Creek open space corridor adjoins the site and links Narrabeen and Dee Why Lagoons. As evident in Figure 1 the site adjoins the narrowest section of the corridor.
- Employment areas exist within convenient distance to north of the site at Cromer and to the South in Dee Why and Brookvale.



Planning Proposal – 26 Campbell Avenue, Cromer

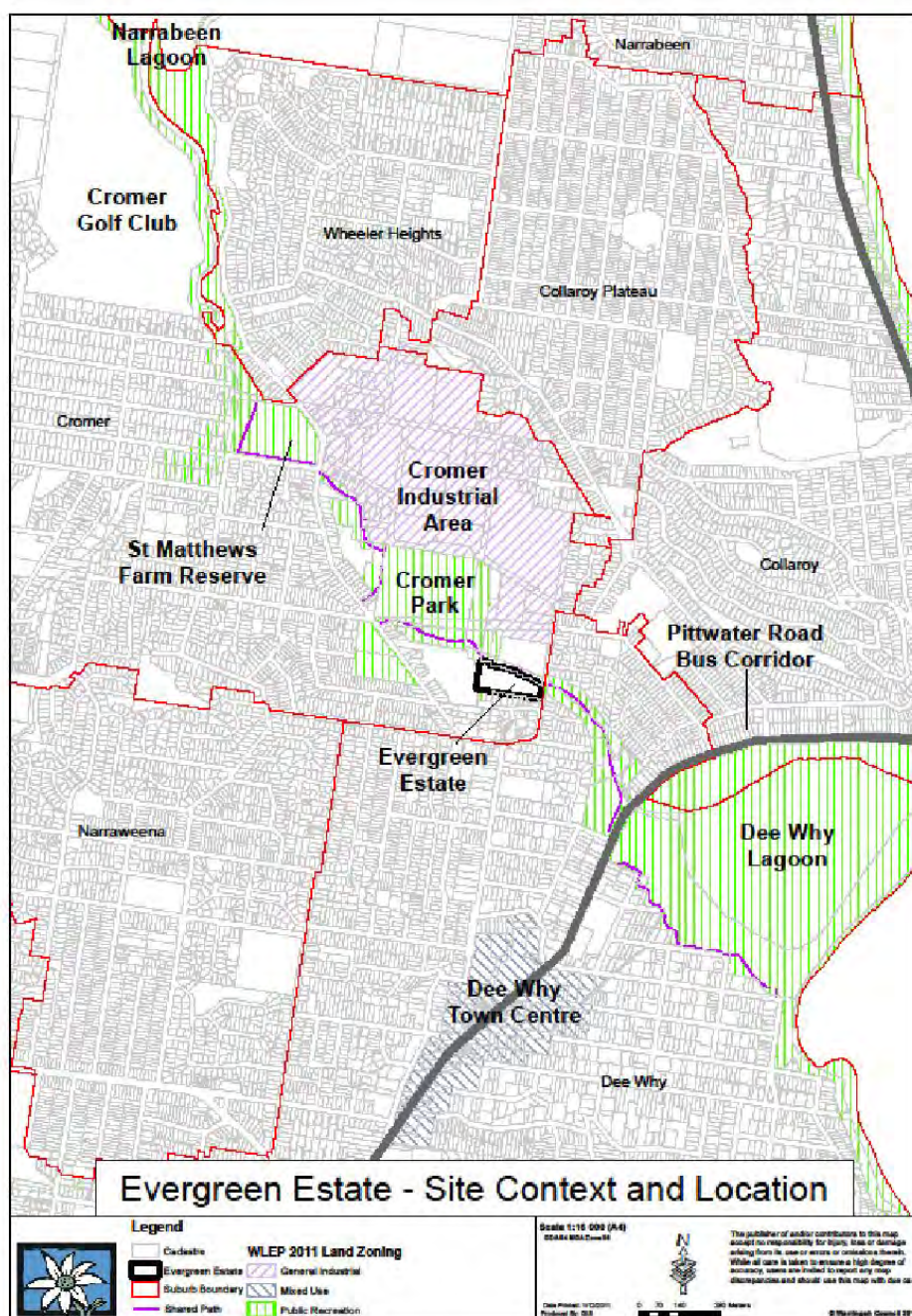


Figure 1- Site context and location

2.2 Surrounding development

The site's immediate surrounds comprise a mix of residential forms, from detached dwellings to seniors housing and apartment buildings with some business uses to the north interspersed with open space. More specifically:

Planning Proposal – 26 Campbell Avenue, Cromer

- Detached style housing in Bruzzano Place adjoins the site's southern boundary;
- A medium density housing area is located approximately 50 metres to the south. This area takes in the southern side of Bruzzano Place, parts of Campbell Avenue, Lynwood Avenue and Fisher Road North.
- Public open space adjoins the northern and western boundaries of the site providing a buffer to adjoining development:
 - Dee Why Gardens Retirement Village is beyond the open space to the west;
 - The Time and Tide Hotel is beyond the creek-line corridor to the north.
- Playing fields are to the east of the site, on the opposite side of Campbell Avenue. This open space links the site through to Pittwater road.
- Open space containing Dee Why Creek forms the northern boundary of the site. It forms part of the open space corridor that links Narrabeen and Dee Why Lagoons and contains Dee Why Creek and a walking/cycling track. This significant open space link provides a buffer between the site and business related development to the north.

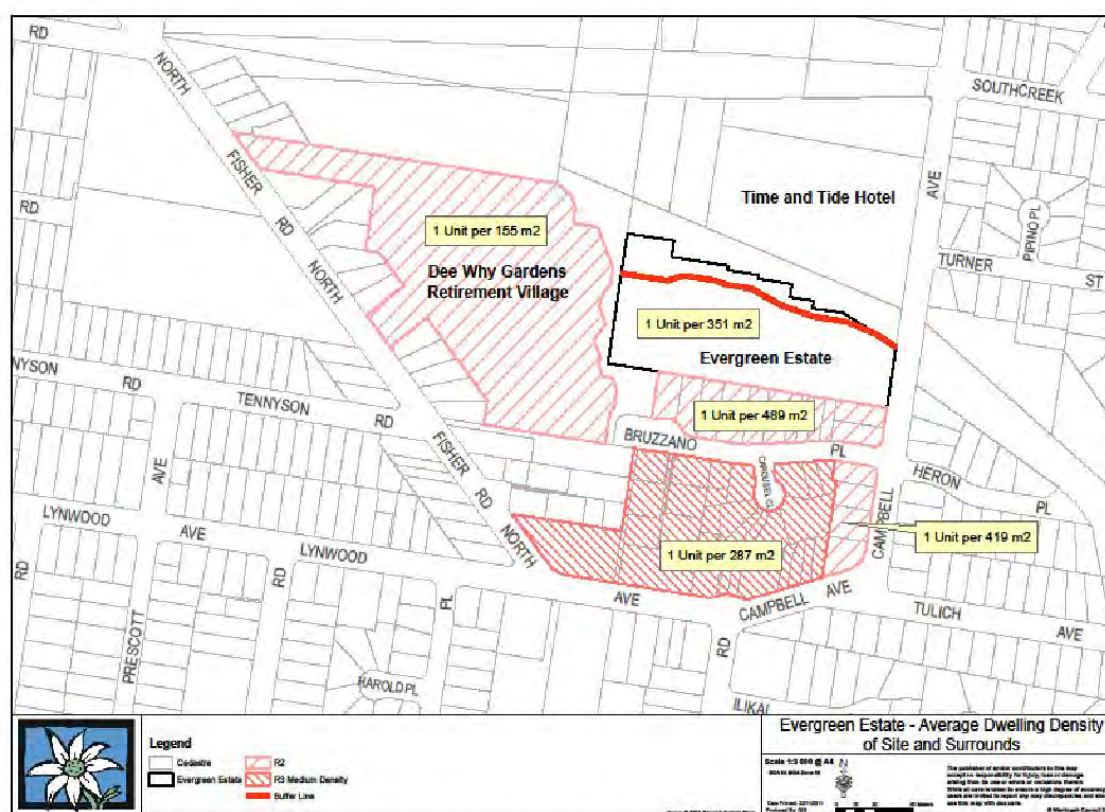


Figure 2- Surrounding development. Key residential development areas and their densities

2.3 Site details and features

Key features of the site include:

- The site is legally described as Lot 61 in DP 611195 and it has an area of 17,299sqm or 1.73 hectares.
- It is irregular in shape, its shortest (but still significant) boundary is its 46.6 metre frontage to Campbell Avenue (eastern boundary), its southern boundary is 221.28 metres and a western boundary is 99.25 metres.
- The northern boundary fronting the creek-line corridor is 228 metres in length.
- The site includes the following development:
 - 14 tennis courts
 - a brick building - containing 8 squash courts, administration office and amenities;
 - 3 volleyball courts and a small mini-golf ('putt-putt') facility;
 - vehicular access from Campbell Avenue; and
 - bitumen surfaced car park which is no longer line-marked but appears to have capacity for approx. 40-50 car spaces.
- The existing facilities are generally in average to poor condition.
- A number of established trees are present, principally around the perimeter of the site.
- Three 6-metre-wide easements traverse the site; one each for sewer, stormwater drainage and water supply.

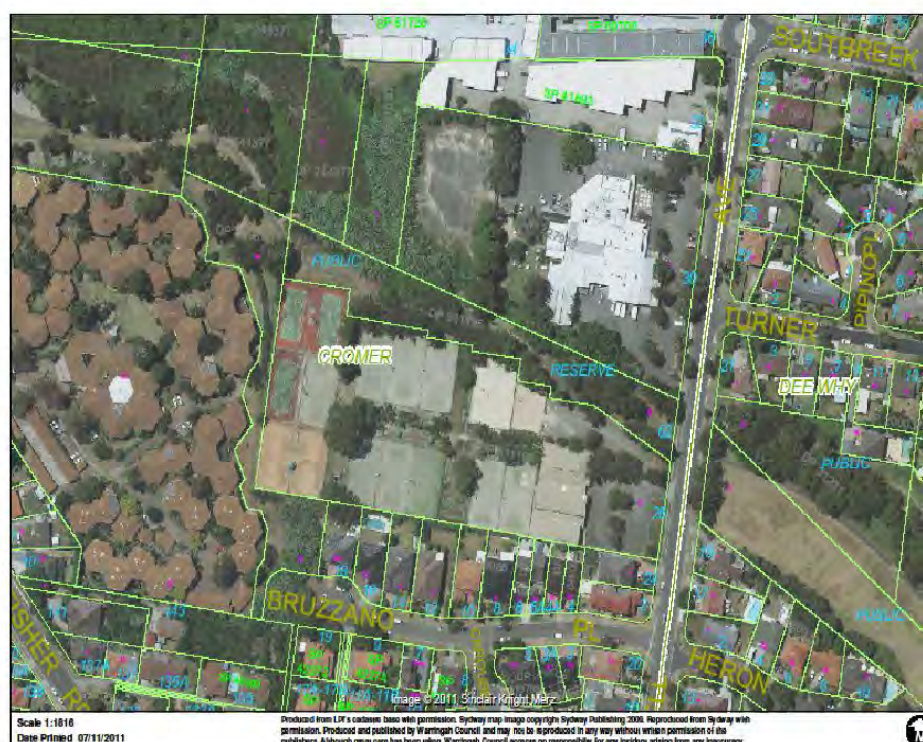


Figure 3- Aerial photograph of the site and its surrounds

Planning Proposal No. 2013/0001 (Evergreen Estate)

2.4 Background

- Most recently the site has been known as Courtsportz. Prior to this it was known as the Evergreen tennis centre. For the purpose of clarity, the site is referred to only as the Evergreen tennis centre in this report.
- The recreational facility on the site closed in December 2010 and has not operated since. It has been secured with temporary construction fencing. Prior to closure, the Tennis and Squash Centre operated on the site for approximately 34 years.

The proponent has highlighted some historical context which is worth noting with respect to the land's zoning, use as a tennis and squash facility, and previous riparian enhancement:

- Private Recreation zoning of site is an historical consequence of the landowner at the time (Ampol Australia) requesting such a zoning to enable the development of the tennis and squash court facility.
- The tennis facilities on the site, were originally built 30 years ago by Ampol Australia. One of their prime motives for the development was to showcase synthetic grass tennis courts which at that time were a new product. Ampol Australia had created a division of their company to sell, distribute and market synthetic grass tennis courts throughout Australia. Some years later Ampol Australia sold the site.
- Tennis Australia has stated that synthetic tennis courts are being phased out in Australia as tennis facility upgrades occur.
- The proponent has advised that prior to the landowner requesting the rezoning Council had proposed the site be rezoned from Non-Urban 1(a) to Residential 2(a).
- Ampol dedicated 25% of the original site to enhance the riparian zone along its northern boundary and paid for much of the piping of the creek as a condition of approval of their commercial tennis operation.



Page 10 of 10

Planning Proposal – To be Approved by Council

3 The Planning Proposal

3.1 Overview

The Department of Planning and Infrastructure (DP&I) sets the form and structure for Planning Proposal reports. Accordingly, this report is set out in four main parts, as follows:

- Part 1 - A statement of the objectives or intended outcomes of the proposed LEP;
- Part 2 - An explanation of the provisions that are to be included in the proposed LEP;
- Part 3 - Justification for those objectives, outcomes and provisions and the process for their implementation:
 - A. Need for the planning proposal
 - B. Relationship to strategic planning framework
 - C. Environmental, social and economic impact
 - D. State and Commonwealth interests
- Part 4 - Details of the community consultation that is to be undertaken on the planning proposal.

Planning Proposal: 26 Campbell Avenue (Evergreen)

4 Part 1 - Objectives or intended outcomes of the proposed LEP [EPA Act s.55 (2)(a)]

The intended outcomes of the proposed LEP include:

- Residential development of 84% of the site. This will involve changing the zoning from Private Recreation (RE2) to Residential (R2 Low Density) for 1.4 hectares of the site. It also involves amending the Lot Size Map.
 - The intended outcome from this zoning change is 34 residential dwellings.
- Public recreational use and ecological enhancement of 16% of the site. This will involve changing the zoning from Private Recreation (RE2) to Public Recreation (RE1) for 0.3 hectares of the site. It also involves amending the Height of Buildings Map.
 - The intended outcome from this zoning change is the widening and enhancement of a public open space corridor that is strategically valued from recreation and ecological viewpoints.



Planning Proposal: 26 Campbell Avenue, Chateau

5 Part 2 - An explanation of the provisions that are to be included in the proposed LEP [EPA Act s.55 (2)(b)]

The proposal involves rezoning the land from private recreation to residential and public recreation.

The following planning provisions would be required:

- Amend Warringah Local Environmental Plan 2011 (LEP); and
- Prepare a Voluntary Planning Agreement

These matters are outlined below.

It is also noted that the proponent has expressed a desire to concurrently seek development consent should the matter proceed through the Department's Gateway Approval process. This does not currently form part of the proposal, but is noted, as it may do so in the future.

5.1 Warringah Local Environmental Plan 2011

1. Amend the zoning of the land from RE2 Private Recreation to R2 Low Density Residential and RE1 Public Recreation; this will be achieved by amending the zoning map in accordance with the attached zoning extract map;
2. Amend the Lot Size Map by specifying a minimum lot size of 300 square metres on the residential land;
3. Other planning controls under the LEP, that currently apply to the land, and will continue to apply to the land include:
 - 3.1. 8.5 metre building height limit as shown on the Height of Buildings Map (residential land component only),
 - 3.2. Acid Sulphate Soils Map. Minor affectation.

5.2 Planning Agreement

The need for a Voluntary Planning Agreement (VPA) has been identified. It is needed to accommodate:

- The dedication of the land to Council for Public Recreation.
- The proposed dwelling yield, which involves a range of allotment sizes.

Whilst further discussion between Council and the proponent is needed to develop a formal VPA, the terms to which there is general agreement are outlined as follows:

1. Dwelling Yield
 - 1.1. The dwelling yield for the site is 34 dwellings.
 - 1.2. This requirement is best placed in the VPA because:
 - It establishes a maximum density for the site that is linked to the dedication of public open space.
 - It will allow a range of lot sizes varying between 300 and 461 square metres;
 - The LEP, as required by the Standard Local Instrument, controls density by setting a minimum allotment size. This does not in itself accommodate the proposal given the range of lot sizes varying between 300 and 461 square metres.
2. Open Space Corridor:
 - 2.1. Dedication to council, at no cost, approximately 2,840 square metres of land in the manner expressed in Figure 6 titled Concept Plan.

Planning Proposal – 26 Campbell Avenue, Cromer

- 2.2. The dedication will occur concurrently with the rezoning.
- 2.3. The zoning of the land is to be public recreation and is to be processed in conjunction the proposed residential zoning for the larger portion of the existing allotment.
- 2.4. Embellishment of this land at no cost to Council.
- 2.5. Embellishment of this land in accordance with a landscape plan (and any other appropriate plan such as a Vegetation Management Plan) prepared in consultation with council and to council's requirements.
- 2.6. Maintenance and management of this land for a period of 5 years from the date of completion of the embellishment works.

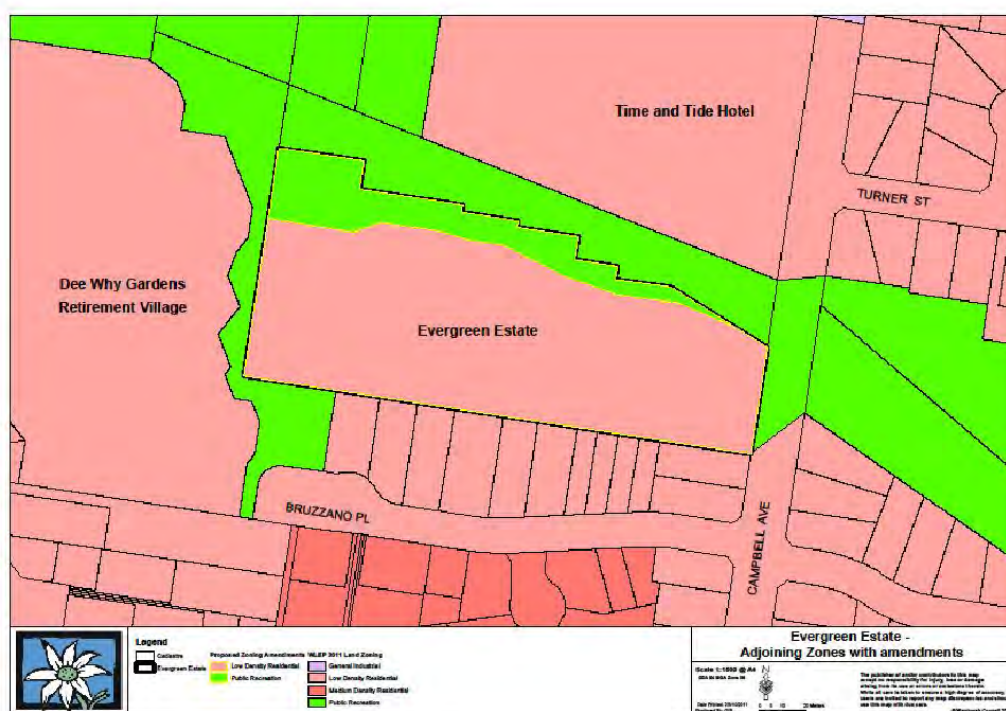


Figure 4- Zone extract of site LEP 2011

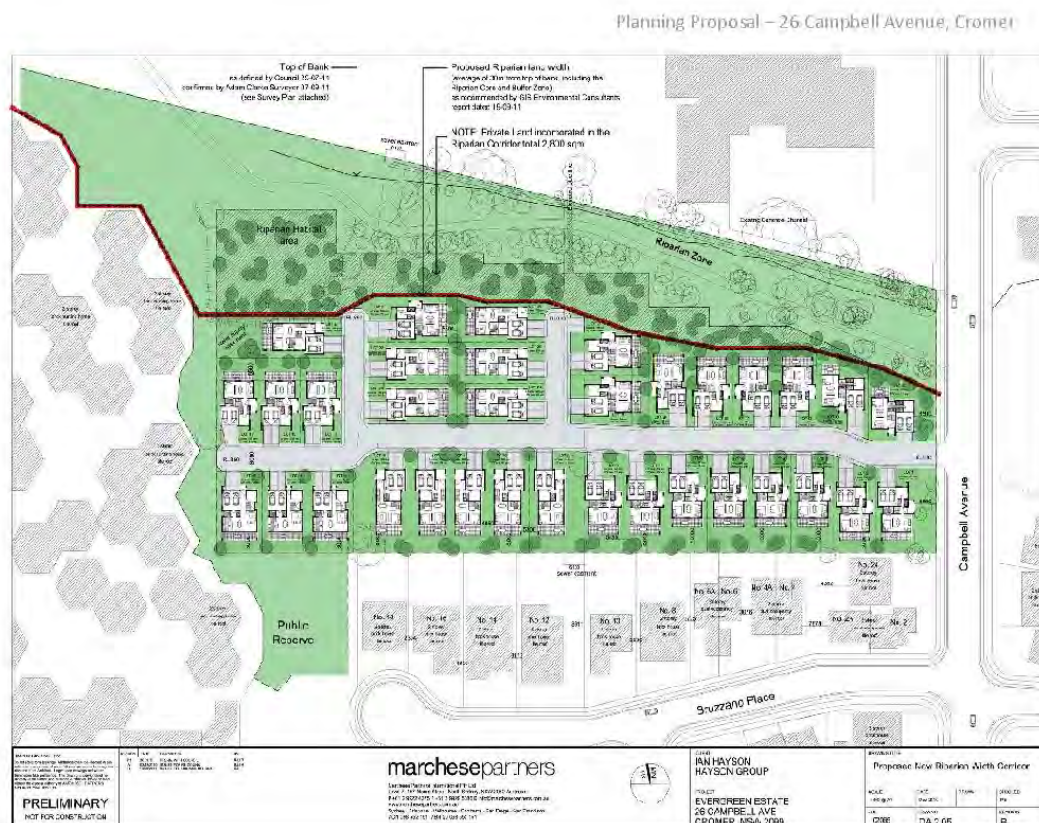


Figure 5- Concept plan

Planning Proposal - not approved by Council

6 Part 3 - Justification for those objectives, outcomes and provisions and the process for their implementation [EPA Act s.55 (2)(c)]

6.1 Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

- The proponent has prepared a planning report and a range of technical studies that support the proposed zoning change. These documents include:
 - Planning Proposal Report by consultants Boston Blyth Fleming Town Planners
 - Housing Demand Assessment by consultants The Demographers Workshop
 - Recreation facility supply and demand assessment by consultants Parkland Environmental Assessment
 - Arboricultural Impact Assessment by consultants Redgum Horticultural
 - Flora and Fauna Impact Assessment by GIS Environmental Consultants
 - Transport and Traffic Assessment by consultants Transport and Traffic Planning Associates
 - Preliminary Acid Sulfate Soil Assessment by consultants SMEC Testing Services
 - Stormwater Drainage Concept and Flood Risk Management Plan by consultants Kozarovski and Partners
 - Preliminary Contamination Assessment and Geotechnical investigation by consultants GeoEnviro Consultancy
- These reports support the residential outcome foreshadowed for the site, along with the benefits (ecological and recreational) of the proposed land dedication for public open space.

Justification for Provisions

The LEP provisions (detailed in Section 5 of this report) are needed to deliver the changes in zoning to facilitate the development of the site.

Further built form controls that are not included in the LEP (for example, building setback, building footprints and landscaped space), are required to guide the housing outcome foreshadowed for the site. It is noted:

- The potential exists to include some site-specific planning controls in the VPA designed to accommodate the integrated rezoning and 'smaller allotment' housing outcome that is proposed for the site, as expressed in the concept plan.
- Alternatively the potential exists to amend the Warringah DCP (DCP) to provide some site-specific built form controls to accommodate the 'smaller allotment' housing outcome proposed.
- As these planning controls are not contained in the LEP, and whilst important to the proposed development of the site, they do not form part of the statutory LEP amendment. As such these are matters to be further considered in the assessment of the planning proposal once a Gateway determination has been made.



Planning Proposal: 76 Campbell Avenue, Chateau

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

The proposal is a highly appropriate means of achieving the objectives for the redevelopment of the site and reinstatement of some of the riparian qualities of a 228m section the site that adjoins Dee Why Creek. The following points are noted in support of this view:

- the location is appropriate for residential use
- infrastructure is available to support residential use
- residential use is compatible with surrounding land uses
- the proposed residential density of the site is compatible with nearby development
- the housing density proposed for the site strikes an appropriate balance (34 dwellings, being equivalent to 1 dwelling per 351 sq m) with respect to the surrounding residential densities and the shift towards more compact urban housing
- there are no significant environmental constraints limiting residential use
- residential use will supply housing for which there is strong and growing demand
- there is sufficient recreation land in Warringah to satisfy demand
- dedication and embellishment of sensitive riparian land at no capital cost to Council and at no cost for the initial 5 years of maintenance
- the proposal presents an orderly means of renewing a large contiguous area of underutilised urban land that has become redundant (not having been used for approximately 12 months).

3. *Is there a net community benefit?*

The Planning Proposal will deliver a net community benefit. The community benefits include:

- Dedication of approximately 2,840 sq m of land into public ownership:
 - widening of a strategically significant wildlife corridor at its narrowest point; thereby enhancing the capability of the corridor to act as a movement corridor for flora and fauna; and
 - securing this function in perpetuity.
- Embellishment of the land to be dedicated into public ownership:
 - Landscaping with appropriate features and endemic native species to support the ecological function of the corridor.
 - Maintenance of this land by the landowner for 5 years from the time the embellishment is completed.
- Provision of additional housing:
 - for which there is high and growing demand;
 - in a highly appropriate location accessible to existing services, shops, and transport.
- Investment in the renewal of what has become (over the past 12 months) a large unused land parcel

Planning Proposal - 76 Campbell Avenue (Form)

6.2 Section B - Relationship to strategic planning framework

1. *Is the planning proposal consistent with the objectives and actions contained within the Sydney Metropolitan Strategy for 2036 of the draft North East Subregional Plan?*

The Metropolitan Strategy 2036 sets the strategic direction for decisions related to land use and transport planning in the Sydney Metropolitan Area.

Warringah's dwelling target of an additional 10,300 home by 2031 is established in the companion strategy - the draft North East Subregional Plan.

The Metropolitan Strategy establishes a number of strategic directions which are relevant to the planning proposal. These are identified and addressed in-turn below.

Strategic Direction A2 aims to achieve a compact, connected, multi centred and increasingly networked city structure. Objective A3 is to contain urban footprint and achieve a balance between greenfields growth and renewal in urban areas.

In response:

- The proposal is consistent with the Government's centres based approach and assists in containing the urban footprint. The site is a large, flat parcel of existing urban land, in single ownership and is suitable for the proposed residential development.

Strategic Direction B aims to focus residential development within centres with access to public transport and local services. It is the State government's aim to ensure that eighty percent of new houses are within walking distance (generally one kilometre) of existing and planned centres with good public transport (Objective B1.3).

In response:

- The site has immediate, convenient access to public transport via bus services operating along Campbell Avenue; It is also a 500 metre walk to Pittwater Road which is the major bus transport route for the Region and is consistent with this Direction.

Strategic Direction D aims to ensure an adequate supply of land and sites for residential development. Across Metropolitan Sydney, a target of between 60 and 70 per cent of new housing is to be accommodated in existing urban areas, focused around centres (Objective D1.1).

In response:

- The proposal provides an opportunity to increase the supply of housing within walking distance (nine hundred (900) metres) from the Dee Why major centre. The increased residential population will support local businesses and increase activity in the local area. The proposal is consistent with this Direction.

The draft North- Eastern Sub Regional Plan translates the objectives of NSW Government's Metro Strategy to the local level. A relevant key direction in the consideration of the proposal is "Better access to a variety of housing choice and create liveable and sustainable communities". An identified key action in the direction is to provide for an appropriate range of residential zonings to cater for changing housing needs in the community (NE C2.3.2). There is a related need to increase the mix of housing types with higher density forms of housing.

In response:

- The proposed dwelling density affords Council the opportunity to increase housing stock and housing choice in the area, and to meet the changing housing needs of the local community and is consistent with this Direction.



Planning Proposal 26 Campbell Avenue, Charing

2. *Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?*

There are four plans of particular relevance to consider in responding to this question:

- Living Warringah Strategic Plan
- The Strategic Community Plan 2011
- Warringah Recreation Strategy 2009
- Draft Housing Strategy 2010

These are addressed in turn below.

Living Warringah Strategic Plan

Living Warringah 2005 is Council's overarching Strategic Plan. It identifies a number of outcomes in the Living Spaces chapter relating to Housing in the area. These outcomes include:

- provision of housing that responds to changing demographic profile of the community and reflects local needs and expectations;
- implementation of the NSW Government's Metropolitan Strategy;
- minimisation of the environmental impact from housing development and growth;
- encouragement of more sustainable travel behaviour i.e. walk, cycle or public transport;
- provision of a mix of densities around centres and along transport routes; and
- location of housing growth in proximity to existing services.

In response, the proposal is consistent with this Strategy as it will:

- provide additional housing stock and choice to assist in meeting current demand in the area;
- contribute to housing targets established in various strategy plans including Metropolitan and draft Subregional Strategies;
- efficiently use existing urban land that is surrounded by residential development on its east, south, and west sides;
- utilise Council's existing cycleway/pathway system and the existing local bus service;
- increase residential density on land that is in close proximity to facilities and services in the major centre of Dee Why and the one of the region's major bus transport routes; and
- utilise existing physical infrastructure on the land.

Strategic Community Plan 2011

The Warringah Strategic Community Plan 2011 is the Council's primary forward planning document. The plan contains some objectives/goals relevant to the consideration of the planning proposal which are identified and addressed below.

With regards to recreation, the plan contains the goal:

Goal (3.1) Safe and well maintained public spaces that reflect community needs.

In response:

- the proposal provides approximately 2,840 square metres of additional land for public recreation in Warringah;

Planning Proposal: 70 Campbell Avenue, Chateau

- the additional public open space will provide opportunities to improve and enhance the Dee Why Creek Open Space Corridor, and better balance the corridor's functions as a recreation space and ecological habitat.

With regard to urban development, the plan contains the goal:

Goal (3.2) Socially and environmentally responsible urban development.

The plan's goals relevant to housing and the planning proposal are:

- *Plan appropriately for future housing in Warringah, balancing State Government growth targets, the changing demographic profile of the community, local needs and expectations and the need to reduce carbon emissions and resource consumption and the challenges of infrastructure limitations.*
- *Ensure housing development is sensitive to the natural and built environments*

In response:

- The provision of housing on the site will be consistent with the goals of the strategic plan in relation to housing.
- The proposal is sensitive to the natural environment in that it will remove urban development from a sensitive riparian area, embellish this area and dedicate it to public ownership.
- The proposed additional housing:
 - is sufficiently supplied with infrastructure
 - will assist in addressing some of the demographic and housing affordability challenges that the plan identifies
 - is sensitive to the natural and built environment in that the site has no significant environmental constraints and is compatible with surrounding land uses
 - will assist in meeting the growth targets set in the Metropolitan Strategy.

Warringah Recreation Strategy 2009

The Warringah Recreation Strategy 2009 (Recreation Strategy) outlines many of the outstanding and varied recreation opportunities offered locally. These include the large assets like the beaches, Manly Dam, Brookvale Park and Cromer Park as well as a myriad of other smaller facilities like children's playgrounds, sports fields and pocket parks.

Council's involvement in the provision of recreation is extensive with the provision of land estimated to be in the vicinity of 1,629 hectares (excluding National parks). This land includes bushland, beaches, lagoons, sportsgrounds and parklands. Around 800 hectares of this land (almost 50%) is actively managed by Council for various recreational activities.

Based on the 800 hectare open space provision, Warringah's supply levels well exceed (by approximately 2 to 1) the historical benchmark provision which is 2.83 hectares of open space per 1,000 people of population. Applying the benchmark results in demand for 407.52 hectares of open space based on Warringah's estimated population is approximately 144,000. Whilst using this standard has a number of limitations, it does nevertheless provide a starting point for benchmarking purposes. These matters are further discussed in Section 6.3 of this report.

Beaches, parks, walking trails/bushland are the most visited recreation assets, ahead of outdoor sporting facilities and playing fields.

The strategy identifies that Warringah Council is one of the key providers of recreation assets, programs and services in the area but also that the commercial sector, and State and Federal governments also play roles. Council's commonly play a key role because recreation has a significant community benefit but the provision and management of recreational assets, and services are often financially unviable for the commercial sector.

Planning Proposal: 26 Campbell Avenue, Chateau

The Strategy's survey results indicate that the three top activities in Warringah are walking, swimming and cycling. Also that visits to the beaches and parks prevail over those to sporting reserves and playing fields.

The change in the site's zoning is not inconsistent with the strategy, particularly having regard for the significant supply levels of recreational land and opportunities in Warringah. Further consideration is given to the supply and demand of recreational land in the area in Section 6.3 of this report.

Draft Housing Strategy 2010

The draft Housing Strategy 2010 is Council's response to the housing challenge facing Warringah. It is also a strategic planning response to the:

- Metropolitan Strategy
- draft North East Subregional Plan
- Ministerial Direction 7.1 Implementation of Metropolitan Plan for Sydney 2036.

Development of the draft strategy took place during 2010. The draft strategy foreshadows growth levels of residential dwellings ranging between 10,300 and 16,000 be gradually developed over the next 25 or so years.

However in July 2011 Council resolved to undertake no further development of the strategy until to State Government commits to funding infrastructure upgrades commensurate with the growth levels that have been foreshadowed.

It is relevant to distinguish the differences between infrastructure and housing growth that are associated with the draft Housing Strategy and those issues associated with the proposed rezoning of the site. Some clear distinctions can be drawn.

Firstly, the site is well located to benefit from a range of established infrastructure provisions including proximity to: open space, the adjacent off-road walking and cycling link, public transport, nearby shops, services and employment areas. The advantages of the site's location and level of infrastructure available do not trigger the need for a larger scale, strategic assessment of these issues.

Secondly, as a single, albeit large site at 1.7ha, the proposal makes provision for 34 dwellings. Whereas the draft Housing Strategy, in contemplating the growth of Narraweena for example, foreshadowed growth levels of 3,675 new dwellings over an area of approximately 65 hectares. The scales of the development outcomes are significantly different and the need for a larger scale, strategic assessment of these issues is not triggered.

There is sufficient strategic planning justification to support the proposal. The development of housing on the site is consistent with the principles of concentrated growth in and around town centres, and within close proximity to public transport links/corridors. In this sense the proposal is consistent with the principles that underpin Council's Residential Development Strategy 1998, its draft Housing Strategy 2010 and indeed the Metropolitan Strategy.

3. Is the planning proposal consistent with applicable state environmental planning policies?

SEPP 32 - Urban Consolidation

The aims and objectives of the SEPP relates to:

- the promotion of the orderly and economic development of land that is no longer required for its current purpose; and
- implementation of the State's urban consolidation policy.

In response:

- There is considerable evidence to justify the applicant's position that the previous use on the site is no longer viable, that there is sufficient land available to satisfy recreational need, and an alternative use is appropriate.

Planning Proposal - 26 Campbell Avenue (Farm)

- The site is not environmentally constrained in terms of bushfire, flooding, ecological communities, heritage etc. and is therefore capable of accommodating residential development.
- The proposal involves the reuse of urban land in an area that has access to services, is close to many work and leisure opportunities and does not involve fringe land release.
- It does not involve the provision of new infrastructure.
- It will increase the supply and choice of housing locally.

The proposal is consistent with the aims and objectives of SEPP 32 Urban Consolidation.

SEPP 55 - Remediation of Land

The SEPP requires the planning authority to consider whether the land is contaminated in rezoning proposals.

SEPP 55 requires that a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. In response:

- Information available from the Department of Lands and aerial photos of the site dating back to 1951 indicate the site was used for residential purposes and market gardening until the 1970s. From the 1970s the site was used for recreational purposes.
- A Preliminary Contamination Assessment and Geotechnical investigation (Geo Enviro Consultancy October 2006) accompanies the proposal and does not identify any significant issues at this stage.
- Further investigation of potential contamination issues would be required at later stages of the planning approval process. This may be needed following the gateway determination of the proposal.

The proposal has satisfactorily addressed the requirements of SEPP 55 Remediation of Land for the current phase of the proposal's assessment.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following 5 Ministerial Directions are applicable to the proposal:

- Direction 3.1 Residential Zones
- Direction 3.4 Integrating Land Use and Transport
- Direction 4.1 Acid Sulphate Soils.
- Direction 4.3 Flood Prone Land.
- Direction 7.1 Implementation of Metropolitan Plan for Sydney 2036.

Consideration of the Ministerial Directions is provided below.

Direction 3.1 Residential Zones

The proposal is consistent with the aims and objectives of the Direction because it:

- Encourages a variety and choice of housing to provide for existing and future housing needs of the community;
- Makes efficient use of existing infrastructure and services; and
- Provides a buffer to minimise the impact of the residential development on the existing, adjacent open space land.

Direction 3.4 Integrating Land Use and Transport

The proposal is consistent with the aims and objectives of the Direction because it:

- improves access to housing, jobs and services by walking, cycling and public transport, and

Page 10 of 10

Planning Proposal: 764 Campbell Avenue, Chateau

- supports the efficient and viable operation of public transport services.

Direction 4.1 Acid Sulphate Soils.

The proposal is consistent with the aims and objectives of the Direction.

- The site is identified on the LEP map - Acid Sulphate Soil. A level 5 which represents the lowest level of affectation.
- The proposal includes a Preliminary Acid Sulphate Soil Assessment. It concludes that there is no need for a detailed Acid Sulphate Soil Assessment report.
- In light of the above, the extent of any further work in relation to Acid Sulphate Soil considerations can be deferred to a later phase in the planning approval process (eg. development application stage).

Direction 4.3 Flood Prone Land.

The proposal is consistent with the aims and objectives of the Direction. There is no development proposed within the current predicted 100 year flood area.

Direction 7.1 Implementation of Metropolitan Plan for Sydney 2036.

The proposal is consistent with the aims and objectives of the NSW Government's Metropolitan Plan in that:

- It will contribute towards Council's existing housing target of 10,300 additional dwellings by the year 2031.
- The proposal will increase choice of housing stock and style in the local area. It represents a modern form of detached housing on smaller lots.
- The site is adjacent to good public and pedestrian/cyclist transport, and other infrastructure. No additional infrastructure is required for the proposal.

6.3 Section C - Environmental, social and economic impact.

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

No. There are no recorded threatened species populations or critical habitat located on the site.

Indeed the proposal, through the dedication and embellishment of addition public open space presents a unique opportunity to enhance the ecological characteristic of the creek-line corridor and to achieve 3 highly sought after outcomes, namely:

- Widen the existing public open space corridor at one of its narrowest points
- Secure this additional land in public ownership
- Embellish the natural vegetation and riparian characteristics of this section of the corridor

Through these means it is intended that the proposal will create additional capacity for the habitat and movement of different flora and fauna species.

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

As identified above, positive environmental effects are foreshadowed from the improvement of land within the riparian zone. This will be managed through preparation of the appropriate plans to guide the effective management of this space.

Planning Proposal - 76 Campbell Avenue Closure

3. *How has the planning proposal adequately addressed any social and economic effects?*

Yes. Several expert studies have been undertaken in considering the social and economic effects of the proposal. These studies include:

- Recreation Facility Supply and Demand Assessment and Supplementary Information Report by consultants Parkland Environmental Planners
- Correspondence from Chesterton International land economists
- Correspondence from CMS consultants in Property, Financial and Corporate affairs
- Housing Demand Assessment by consultants The Demographers Workshop
- SGS Consultants (commissioned by council to provide an independent review of economic considerations)

The key social and economic considerations of the proposal are addressed below.

Economic Effects

Positive economic effects stemming from the proposal include: capital investment in the order of \$25 million in the renewal of the land, employment during the construction phase, economic multiplier effects in the construction sector.

Social Effects

In relation to social effects, being on the periphery of a Major Centre (as defined by the Metropolitan Strategy) there is sufficient social infrastructure and services to support the future residents of the site.

Recreational Land

Another social and economic consideration is the availability of recreational land in light of the proposed zoning change. The availability of recreational land is addressed below.

Recreation – supply and demand

Warringah has access to a wide range of recreation facilities. The following excerpt from the Warringah Recreation Strategy 2009 demonstrates the significant scale of recreational opportunities in Warringah. These are the facilities that Council is involved with, but excludes the various private and state operated facilities:

Warringah Council's involvement in the provision of recreation is extensive. Council manages over 800 hectares of open space including nine beaches, 54 sportsgrounds, 500 hectares of natural areas, a range of community buildings, over 200 parks, 170 playgrounds, a series of tracks, trails and pathways, the Warringah Aquatic Centre, and a variety of other developed assets, such as horse arenas, skate parks, ocean pools and sports courts.

The wide range of indoor and outdoor recreation facilities are supported by a number of different land tenures and zonings. The following table provides an outline of common recreational activities:

| Recreation facility | Zone | Ownership |
|--|--|--|
| Beaches | Public Recreation | Crown |
| Bushland | National Park, Environmental (various types) | Multiple, for example, National Park, state agencies, private. |
| Sports fields (eg. football codes, netball, softball, baseball, cricket) | Public Recreation | Council |
| Courts – tennis, basketball, squash | Public Private Recreation | Council Private |

Page 20 of 20

Planning Proposal – 76 Campbell Avenue, Cronulla

| Recreation facility | Zone | Ownership |
|---|--|--|
| Built specialist recreation facilities such as ten-pin bowling, indoor rock climbing, fitness centres | Medium Density Residential - Dee Why RSL ten pin | Private |
| | General Industrial - Northern Beaches Rock House Brookvale | Private |
| | Business Development - Fitness First Dee Why | Private |
| Skate ramps | Public Recreation | Council |
| BMX track (Terry Hills) | Public Recreation | Council |
| Mountain biking trails | Public Recreation (eg Manly dam) | Council |
| | Bushland - National Park, Environmental (various types) | Multiple for example National Park, state agencies, private, crown land and public |
| Lawn bowling greens | Public Recreation (eg North Manly) | Council |
| | Private Recreation (eg Dee Why Bowling club) | Private |
| Golf courses | Public Recreation (eg Warringah and Wakehurst Golf courses) | Council |
| | Private Recreation (eg Cromer) | Private |
| Golf driving range | Primary Production Small Lots (eg Terrey Hills Driving Range) | Crown land – private lease |
| Surf clubs | Public Recreation | Public |
| Equestrian facilities | Public Recreation (eg JJ Melbourne Hills Memorial Reserve, Terrey Hills) | Public |
| | Rural small holdings | Private |
| Ocean pools | Public Recreation | Crown |
| Indoor swimming pools (eg, Warringah Aquatic Centre, Fitness First, Manly Leagues, Harbord Diggers) | Public Recreation | Public, private and Crown |
| Athletics - Narrabeen sports academy | Public recreation | State Owned - Minister administering the Sporting Venues Management Act |
| Shooting range (Terry Hills) | Rural small holdings (non conforming use) | Private |
| Cycling | Road ways – multiple zones | Public |
| | Public Recreation dedicated paths | |
| Registered Clubs | North Manly Bowling Club – Public Recreation | Public |
| | Harbord Bowling Club - Private Recreation | Private |

Page 2 of 10

Planning Proposal - 26 Campbell Avenue (Tennis)

In considering whether a change in zoning on the site is appropriate, it is necessary to consider the availability of land and range of opportunities within Warringah that are available for recreational pursuits. Firstly consideration is given below to the supply of recreation land generally.

A historical standard for open space provision is 2.83 hectares of open space per 1,000 people of population. This standard was developed in the early 1900's and is considered to be outdated by many experts in the field. It is nevertheless a reference point in the absence of any other widely accepted benchmark for open space provision. Applying it to Warringah results in the following:

- Warringah's estimated population is approximately 144,000.
- The benchmark of 2.83 hectares of open space per 1,000 people generates demand for 407.52 hectares of open space.
- Warringah's supply of open space provision is has been estimated to be over 800 hectares, meaning that supply levels well exceed the standard at some 50% above this benchmark.

It is important to recognise the limitations of the benchmark and that there are a range of planning considerations beyond just the gross of open space provision. These considerations relate more to qualitative factors and whether the open space is fit to meet the particular needs of the community it serves. Examples of qualitative considerations include:

- Distribution and accessibility – where open space is located with respect to the communities that use it and how can people access it.
- Demographics - ensuring that the types of open space are suited to a community's age profile eg. more playgrounds for communities/locations where there is high numbers of children.
- Quality and level of maintenance – the ability for a community to financially sustain its open space assets to a standard that is safe for people to use and meets community expectations.
- Local conditions – the availability in Warringah of beaches and lagoons is a local characteristic that attracts a lot of recreational activity which an area like, for example, the Ryde LGA does not have.

Taking the above considerations into account, in both quantitative and qualitative terms Warringah is well served with recreational facilities. In quantitative terms Warringah is well above the historical standard for open space provision. In qualitative terms Warringah's wide range of recreation facilities and their distribution is healthy. Whilst there may be particular strategies needed to improve specific recreation user needs, the level of supply and distribution is broadly considered sufficient to meet current and projected demand.

Secondly, and further to the above, consideration is given below more specifically to the supply of private recreation land.

Private Recreation Land

Under the present zoning controls applicable to the site there is no requirement for it to operate as a tennis centre. As such it is appropriate to consider the proposed zoning change in light of the wider spectrum of land uses permitted by the zone.

There are a variety of recreational land uses permissible (with development consent) on the site within the Private Recreation zone, for example:

- *Recreation facilities (indoor)* which includes for example, indoor swimming pool, bowling alley, ice rink
- *Recreation facilities (outdoor)* which includes for example, golf driving range, skate board ramp, go-kart track, rifle range.
- *Community facilities;*
- *Kiosks*
- *Recreation areas*
- *Emergency services facilities*
- *Registered clubs*

Page 24 of 29

Planning Proposal: 26 Campbell Avenue, Cronulla

As evidenced above, a wide range of recreation related commercial enterprises are permissible within the zone. Whilst 14 tennis courts (being the principal function of the existing facility) present some amenity conflicts with adjoining land, particularly housing to the south, some of the other potential uses (see outdoor recreation facility examples above) present higher potential for amenity impacts.

Consideration is given below to the supply of land zoned Private Recreation and in this regard the following points are noted:

- The total area of land zoned Private Recreation in Warringah is approximately 51 hectares which includes the Cromer Golf Course site that makes up 42ha or 81% of the total provision of Private Recreation zoned land.
- Excluding Cromer Golf course, the balance of Private Recreation zoned land is 10ha which is distributed across approximately 10 different land holdings (including the Evergreen site). Of this 10ha, 3ha has identified environmental constraints (flooding, bushfire, ecologically sensitive).
- 51 hectares of Private Recreation zoned land equates to approximately 6% of Warringah's recreational land supply (based on an overall supply of approximately 800ha). Whereas if Cromer Golf Course is excluded this percentage is reduced to 10ha or 1% of the overall recreational land supply.
- In overall recreational land supply terms Warringah's proportion of Private Recreation zoned land is relatively small. The change in zoning of the subject site will not significantly impact supply levels.
- It should be noted that this consideration of land supply is a quantitative measure rather than a consideration of qualitative considerations. Furthermore, other land capability considerations are equally important matters in contemplating the land's future potential.

Tennis specifically

There are 88 tennis courts in Warringah (including the Evergreen site; 74 excluding), 26 in Pittwater and, 22 in Manly; 136 in total on the Northern Beaches.

The Recreation Facility Supply and Demand Assessment by consultants Parkland Environmental Planners notes:

- Analysis shows that if the Evergreen tennis courts were available for use, only 17% of the capacity of existing tennis courts in Warringah was required to satisfy the demand for tennis court time.
- When the 14 Evergreen tennis courts were removed from the calculations, 36% of the capacity of the existing tennis courts in Warringah were needed to satisfy the demand for tennis court time.
- This analysis shows that there was an excess capacity of 64% in tennis court availability in Warringah even if the Evergreen courts were removed from the supply.

Evidence has also been provided to demonstrate that in the year since the centre has been closed there's been increased patronage at the council owned facility at Collaroy/Long Reef (Griffin Park) which is the closest tennis facility to the site, but no notable increase in demand elsewhere.

Tennis Australia have expressed that they have been actively looking for a site in Warringah to develop tennis courts at multi-sport 'hubs' in accessible and visible locations. Tennis Australia has subsequently advised it is not interested in pursuing the Evergreen site for tennis because of poor access, lack of public visibility, small street frontage, and irregular site dimensions. No other sport or community organisations have expressed an interest in funding sporting facilities on the site.

The commercial land rental costs paid by the operator to the owner of Evergreen, and court occupancy rates which didn't cover the land rental and other operating costs, resulted in a financial loss for a number of years prior to the centre's closure. In contrast, leases on tennis centres such as Collaroy, on public land leased from Council are based on total financial turnover. This is favourable from a financial viability perspective and preferred compared to a situation where an operator must first pay land rental costs as is the case with the Evergreen site.

Planning Proposal – not subject to public comment

In summary

The Warringah area offers a wide range of recreational activities, across different zones and land tenures.

As evidenced in Council's Recreation Strategy 2009, beaches, parks, walking trails/bushland are the most visited recreation assets, ahead of outdoor sporting facilities and playing fields.

Warringah's involvement in the provision of recreation is extensive with the provision of land estimated to be well over 800 hectares. This means that supply levels well exceed the historical standard for open space provision is 2.83 hectares of open space per 1,000 people of population (144,000 people generating demand for 408 ha of open space) and are at some 50% above this benchmark.

It is notable that two of the three most popular recreational pursuits (at least at the time the Warringah Recreational Strategy 2009 was prepared) being walking and cycling, are able to occur virtually irrespective of land zoning and land tenure considerations, that is, along roads (cycling) and footpaths (walking). It is also notable that a dedicated off-road walking and cycling path adjoins the site's northern boundary and will be an asset for any future residents of the site.

Private recreational zoned land accounts for a small proportion of the supply in recreational activities. Furthermore court based sports make up a small proportion of the overall range of recreational activities.

There has been no evidence to indicate that, in the time since the closure of the Evergreen site in December 2010, an undersupply of recreational opportunities or an unmet demand has been created.

The proposed change in the site's zoning represents an insignificant impact on the supply of recreational facilities in Warringah.

In terms of the site's future use the site's poor access, lack of public visibility, small street frontage, and irregular site dimensions are considered salient and inherent characteristics that work against its future success for a renewed recreational use. Furthermore a number of the other uses permitted in the Private Recreation zone (eg, indoor recreation use, go-kart track, golf driving range, paint ball centre) are potentially incompatible with the adjoining residential housing. This is in part a reflection of the fact that residential development has built-up in the 34 years since the courts were originally developed on the site.

For these reasons, and given the site's compatibility with adjoining residential development, absence of significant environmental constraints, and capability to accommodate residential development, a change in the land's zoning is appropriate.

6.4 Section D - State and Commonwealth Interests

1. Is there adequate public infrastructure for the planning proposal?

Yes:

- Being within an existing urban area, key utilities such as water, electricity, sewer, storm water, and telephony are available to the site.
- The site is located approximately 1 km north of the Dee Why town centre and 1.3 km north of the main bus interchange in Dee Why (near the corner of Pittwater Road and Howard Avenue).
- In terms of transport:
 - the site is within convenient walking distance of the strategic bus corridor in operation along Pittwater Road.
 - A dedicated off-road walking and cycling link also connects to the site via the Dee Why Creek Corridor.
 - Bus stops adjoin the site and are serviced by 5 bus routes being the 180, 158, 146, 179 and E79 providing access to locations such as Dee Why, Manly, the Sydney CBD.
- Employment areas exist within convenient distance to north of the site at Cromer; and to the South in Dee Why and Brookvale.

Page 16 of 16

Planning Proposal – 76 Campbell Avenue, Cammeray

2. *What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

The following Government agencies were consulted as part of Council's initial phase of public exhibition:

- Ausgrid-Energy Australia; Rural Fire Service; NSW Office of Water; State Transit ; NSW Police.

There was no objection to the proposal.

There will be further consultation with the relevant Government agencies should the proposal proceed to become a statutory LEP amendment.



Planning Proposal 26 Approved Sydney Council

7 Part 4. Details of the community consultation that is to be undertaken on the planning proposal [EPA Act s. 55(2)(e)]

The proposal was exhibited for 1 month from 28 February to 28 March 2011. 93 submissions were received including 87 which objected outright, and 6 that gave qualified support to the proposal.

- Key issues raised in objection, include:
 - Loss of publicly accessible tennis and squash courts
 - Loss of recreational space more generally
 - Overdevelopment of the site
 - Overdevelopment of Dee Why more generally
 - Undesirable precedent
 - Loss of trees
 - Impact on the riparian corridor
 - Traffic and parking related impacts
 - Construction related disruptions
- Key issues raised in support, principally centred on the details relating to the proposed residential outcome on the site.
- It is also noted the Council's Strategic Reference Group for Recreation and Open Space, comprising representatives from the community, lodged an objection to the proposal.

It is noted that the proposed dedication of 2,840 sqm of land was not part of the proposal when it was publicly exhibited. Also at this time the proposal made provision for 40 dwellings.

The dedication of land and the reduction in proposed dwellings from 40 to 34 resulted from discussions with the proponent following the assessment of the application and in particular the nature of matters relating to the riparian corridor.

Tennis Australia submission - concern about the loss of tennis and squash courts

A submission was received from Tennis Australia raising concern to the loss of a large-scale tennis facility. A number of submissions also raised concern to the loss of tennis and squash courts generally. It is a matter that requires some clarification and therefore a more detailed response is provided below.

Tennis Australia is the governing body of tennis within Australia. They are a large business with commercial interests vested in promoting and expanding participation in tennis. They raised concern to the loss of what they identify as a tournament scale tennis facility. That is, a facility with approximately 12 or more courts which is beneficial in the running of local (but larger) scale events from a single location without the need to use satellite venues.

However, as discussed in Part C3 of this report, from a planning perspective a variety of other uses are permitted under the current zoning provisions.

The mere fact that tennis courts exist presently on the site does not in itself mandate that this must continue. Whilst the current Private Recreation zoning limits development of the site to land uses permitted in this zone, there is no requirement compelling the landowner to only operate tennis and squash courts on the site. Indeed it is at the owner's discretion that none of the tennis, squash and other facilities on the site is currently being operated.

Under the current zoning it is well within the landowner's right to bring forward a development application for other uses permitted in the zone, for example an indoor recreation facility such as a bowling alley or ice rink.

For these reasons it is important to distinguish that the zoning in itself carries no requirement or guarantee that the site will be used for tennis and squash. It is therefore also relevant to acknowledge that the potential for tennis and squash to continue on the site in the future does not rest solely on the proposed zoning change.

Page 28 of 30

Planning Proposal – 26 Campbell Avenue (Green)

In summary:

- Submissions raised have been assessed and taken into account in the consideration of the planning proposal.
- The submissions in support of the proposal came from residents close to the site. One objection was received from the Dee Why Gardens Retirement Village, the large seniors development to the west of the site.
- There have been no submissions raising matters of such substance or significance as to be given determining weight or that should influence the recommendation for support of the proposal
- There will be further community consultation as part of the statutory assessment of the proposal if Council and the Department resolve to support the proposed draft LEP.



DRAFT 16 November 2012

WARRINGAH DEVELOPMENT CONTROL PLAN (DCP)

PART G SPECIAL AREA CONTROLS

Part G6 - The Evergreen Estate

Introduction

This part provides specific controls for future residential development for small lot housing on the Evergreen Estate.

The following parts of the Warringah DCP do not apply to the Evergreen Estate:

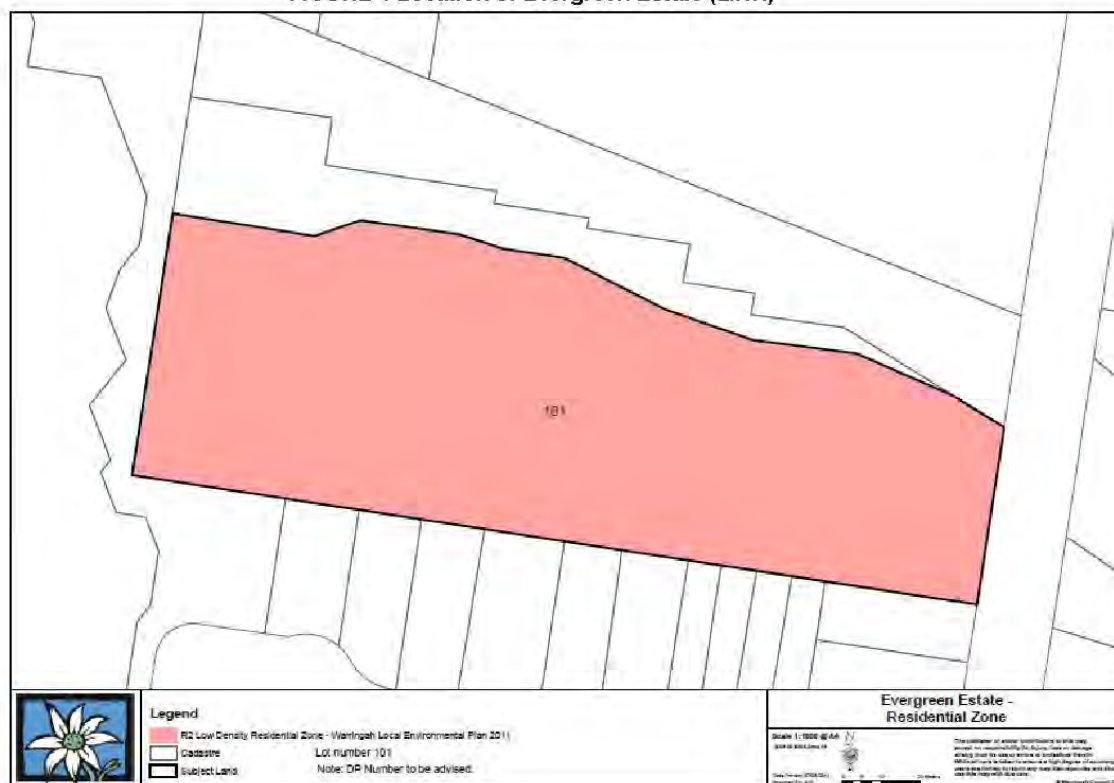
- Part B - Built Form Controls
- Part C1 - Subdivision (requirement 1 only)
- Part D2 - Private Open Space
- Part D6 - Access to Sunlight of Warringah Development Control Plan (DCP).

This is because part G6 includes site specific controls for the land. All other parts of the DCP apply to the land.

Applies to Land

This part applies to land Zoned R2 Low Density Residential in Warringah Local Environmental Plan 2011 and known as the Evergreen Estate at 26 Campbell Avenue Cromer shown outlined on Figure 1 Location of Evergreen Estate.

FIGURE 1 Location of Evergreen Estate (LINK)



DRAFT 16 November 2012

General Objectives

1. To provide a residential layout that accommodates small lot, single dwelling and environmentally sustainable housing
2. To facilitate innovative high quality residential development that incorporates principles for good connectivity, access and amenity
3. To ensure development is compatible with the adjoining neighbourhood amenity and to provide an attractive living environment for its occupants
4. To ensure that development enhances and supports the character of the riparian landscape by ensuring that location and design is sensitive to the physical conditions and qualities of the land and its environs

General Requirements

1. Future development will reflect the visual pattern, orientation and predominant scale of adjacent residential development
2. Development should minimise any impacts on the adjacent open space. It shall have regard to the values of the Dee Why Creek open space corridor identified in the Dee Why Creek and South Creek Corridor Plan of Management
3. The quality of the environment will be maintained by the planting of suitable native tree canopy and preserving the natural landscape, including natural watercourses
4. Materials that blend with the colours and textures of the natural landscape are to be incorporated

Overall Development Layout

Pedestrian and Access Road Network

| Objectives | Requirements |
|--|---|
| O1 To establish a safe internal access road network that serves the development | R1.1 The road (private or public) and pedestrian network layout is to be generally in accordance with Figure 2 Road and Subdivision Layout, provided the relevant planning controls can be satisfied |
| O2 To provide appropriate access and egress points between the Evergreen Estate redevelopment and the existing road network | R2.1 There shall be a high level of internal accessibility and good external connection to Campbell Avenue for local vehicle, pedestrian and cycle movements |
| O3 To enhance transport access and safety | R3.1 As part of any future development application for subdivision, a traffic impact assessment is to be submitted to Council confirming compliance with relevant specifications, in particular, with respect to road geometry and gradients. The assessment is to: <ul style="list-style-type: none"> • address the impact of any additional traffic on local streets • incorporate traffic management measures that restrain vehicle speed and create safe conditions for all road users • allow for emergency access requirements • provide adequate means of efficient evacuation in emergencies |

DRAFT 16 November 2012

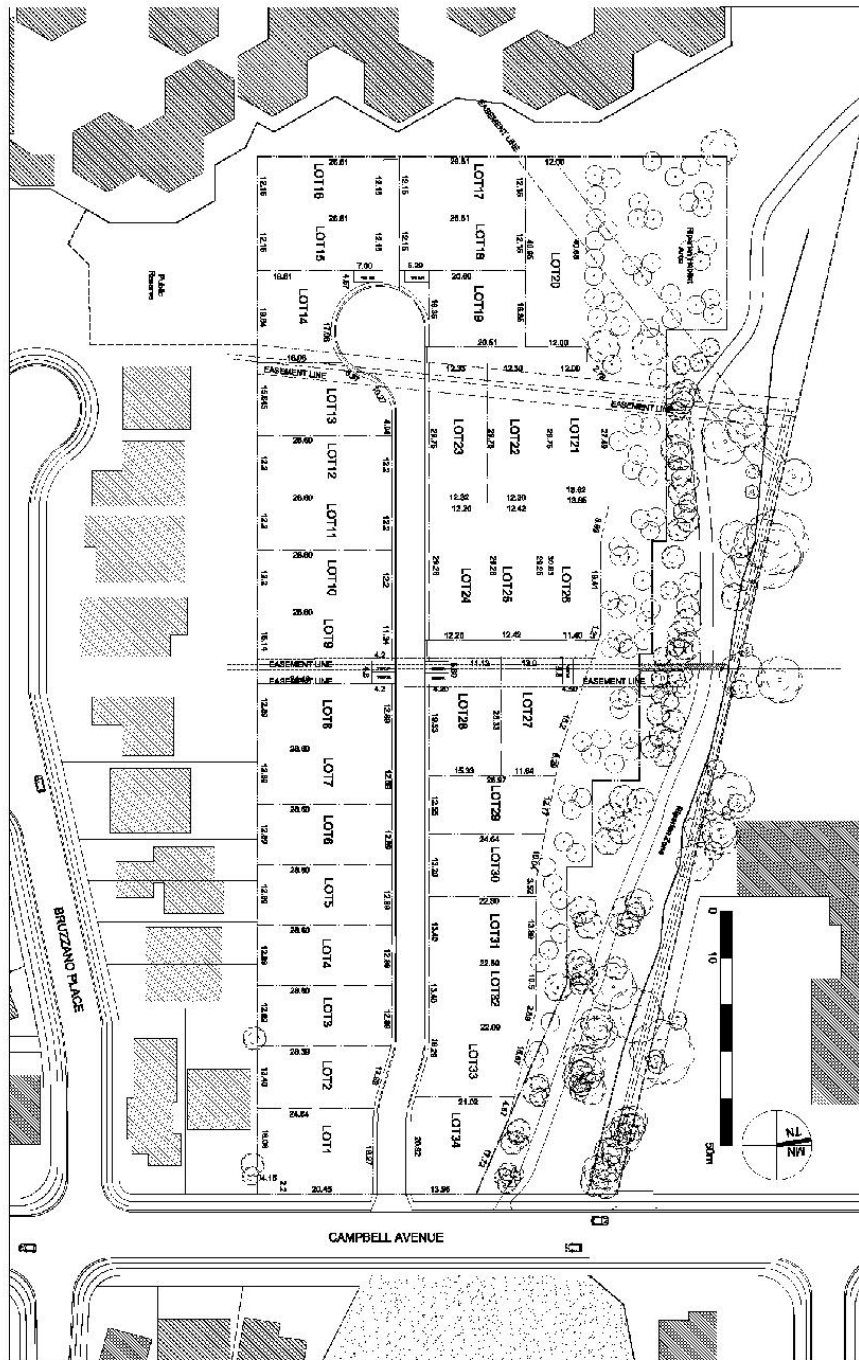


FIGURE 2 Road & Subdivision Layout

DRAFT 16 November 2012

Natural features

Landscaping

| Objectives | Requirements |
|--|---|
| O4 To provide appropriate landscaping within the Estate which allows for an attractive sense of amenity for occupants, as well as a suitable site interface with the natural features of the adjoining Dee Why Creek Corridor | R4.1 A Landscape Plan is to be submitted as part of any future residential subdivision development application. The Plan is to: <ul style="list-style-type: none"> be prepared in accordance with Council's requirements identify the location, type and condition of all existing trees. be compatible with the recommendations of the Landscape Management and Rehabilitation Strategy (prepared by Woodlots and Wetlands Pty Ltd and Site Image Landscape, June 2012) for lots with an interface to the adjacent open space land to the north demonstrate the provision of an attractive streetscape that reinforces the functions of the street, enhances the amenity of buildings and is sensitive to the built form, landscape and environmental conditions of the adjoining open space be prepared in accordance with Biodiversity Management Plan Guidelines use plants grown from local provenance seed and cuttings include landscaping in front setback areas include at least one "tall or low tree" from Appendix A is to be provided within the front setback area of every dwelling house. The mature height of these trees shall be between 5 and 8 metres |
| O5 To provide adequate protection of Dee Why Creek | R5.1 The northern boundary demarcates the southern extent of the riparian corridor along Dee Why Creek. The average 30 metre width of the riparian corridor includes both the core riparian zone and a riparian buffer. Development is to be designed and managed to minimise any potential impacts on the corridor |
| O6 To ensure development of the site does not adversely impact on the riparian corridor | R6.1 Any setback areas that encroach within the 30 metres of the top of the bank will be treated with increased planting densities. The proposed species, density and distribution of plantings are to be based on the recommendations of a Vegetation Management Plan prepared by a suitably qualified ecologist |

Built Form Requirements

| Subdivision Layout, Lot Yield, Lot Dimensions and Lot Size | |
|---|---|
| O7 To achieve a residential development pattern that provides an opportunity for a small lot subdivision that offers a variety of housing choice | R7.1 The subdivision layout and lot dimensions are to be generally in accordance with Figure 2 Road and Subdivision Layout, provided the relevant planning controls can be satisfied |
| O8 To impose a maximum lot yield to limit the density of development | R8.1 The maximum number of residential lots to be created is 34 |
| O9 To allow for a range of lot sizes to | R9.1 The size of individual residential lots shall be no |

DRAFT 16 November 2012

| | |
|--|--|
| provide an efficient, orderly and sustainable subdivision layout | less than 300sqm and not more than 490sqm |
| Wall Height | |
| O10 To minimise the visual impact of development when viewed from adjoining properties and land zoned RE1 Public Recreation | R10.1 Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space) |
| Front building setback | |
| O11 To create a sense of openness and arrival | R11.1 Development is to maintain a minimum front building setback of 6.5 metres to Campbell Avenue, except for the provision of an Electricity Substation |
| O12 To provide an attractive streetscape and sense of amenity, to minimise the visual impact of development on the streetscape and to allow for adequate private open space | R12.1 Development is to maintain a 4 metre minimum front building setback to the internal access roads. A lesser setback may be considered for lots 13, 14, 15, 19, 33 and 34 (Figure 2 Road and Subdivision Layout) where the front setback objectives can be met. A greater setback may be required on lots south of the main access road to meet the private open space requirements in R23.1 – R23.3 inclusive |
| O13 To consider the treatment of corner allotments | R13.1 The setback from the secondary frontage for corner lots 23, 24 and 28 is to be a minimum of 2 metres |
| O14 To provide opportunities for casual surveillance of the street and provide visual interest | R14.1 The front building setback area is generally free of any structures or site facilities other than driveways, fences, landscaping and letter boxes R14.2 Buildings are to be oriented to the street |
| Rear building setback | |
| O15 To provide opportunities for deep planting and planting of suitable and substantial native vegetation | R15.1 Development is to maintain a minimum rear building setback of 6 metres with the exception of: <ul style="list-style-type: none"> • Lots 3- 6 where a 10 metre rear building setback applies and • Lots 7-13 where an 8 metre rear building setback applies. <p>A lesser setback may be considered for lots 21, 22, 23, 27 and 28 and adjacent land zoned RE1 Public Recreation where the rear setback objectives can be met</p> |
| O16 To preserve the amenity of adjacent land, particularly relating to privacy between buildings | R16.1 The rear building setback area is to be open, landscaped and free of any structures other than ancillary development R16.2 The rear building setback may be encroached by ancillary development but only if the total area of all such development does not exceed 50% of the rear setback area. Any encroachments must comply with the rear setback objectives Definition: Rear building setback is the distance measured perpendicular to the boundary furthest from a public street or the internal access road up to the any building on the allotment |
| Side Boundary setback | |
| O17 To ensure that development does not become visually dominant | R17.1 Development is to maintain a minimum setback of 0.9 metres from side boundaries |
| O18 To ensure that the scale and bulk of buildings is minimised | R18.1 Side boundary setback areas are to be free of any above or below ground structures, car parking or |

DRAFT 16 November 2012

| | |
|--|--|
| | site facilities other than fences |
| O19 To provide adequate separation between buildings and to ensure a reasonable level of privacy and amenity | R19.1 Overlooking between buildings must be minimised by the location and design of windows and balconies or screening devices |
| Side Boundary Building Envelope | |
| O20 To ensure that development does not become visually dominant by virtue of its height and bulk | <p>R20.1 To maintain an acceptable level of spatial separation buildings must be sited within a building envelope determined by projecting planes at 45 degrees from a height above existing ground level at the side boundaries of 4 metres. Where the natural ground levels slope from the front to the rear of an allotment a variation to the Side Boundary Envelope may be considered, where:</p> <p># The Side Boundary Envelope of 4 metres is maintained at the front of the dwelling</p> <p># The variation doesn't exceed 900mm for more than one-half the length of the dwelling's side wall</p> <p>R20.2 Fascias, gutters, downpipes, eaves (up to 450mm from the boundary), masonry chimneys, flues, pipes or other services infrastructure may encroach beyond the side boundary envelope (BCA requirements)</p> |
| Landscaped Open Space | |
| O21 To ensure that the appropriate vegetation is planted and maintained within the Estate, and that there is a suitable interface with the land that adjoins the riparian corridor to the north | R21.1 The open space areas shall be planted and maintained in accordance with Council's requirements and compatible with the recommendations of the Landscape Management and Rehabilitation Strategy (prepared by Woodlots and Wetlands Pty Ltd and Site Image Landscape, June 2012) for the adjacent open space land to the north |
| O22 That landscape design must enhance personal safety and reduce potential for crime and vandalism by incorporating Crime Prevention Through Environmental Design (CPTED) principles LINK | <p>R22.1 Ensure landscaping enables visibility along access ways to restrict opportunities for concealment</p> <p>R22.2 Height of landscaping on the front property boundary is to be maintained at a 1.2m maximum height at a depth of 1 metre.</p> <p>R22.3 Tree location and species selection must accommodate vehicle and pedestrian sight lines</p> <p>R22.4 Ground cover should stabilise the site but not excessively increase bushfire hazard risk</p> |
| Private Open Space | |
| O23 To provide functional and well located areas of private open space | <p>R23.1 Dwellings are to provide the following amount of private open space:</p> <ul style="list-style-type: none"> • 1 or 2 bedrooms - 35 sq m with a minimum dimension in any direction of 3 metres; • 3 or more bedrooms – 60 sq m with a minimum dimension in any direction of 5 metres <p>R23.2 Private open space is to:</p> <ul style="list-style-type: none"> • be directly accessible from a living area • be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play • be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development • have useable proportions for residents and |

DRAFT 16 November 2012

| | |
|---|--|
| | <p>provide space for functions such as clothes drying</p> <p>R23.3 Private open space is to be located to maximise solar access. On lots south of the main internal access road (that connects to Campbell Avenue) half of the required private open space (see R23.1) is to be provided at the front of the building to maximise solar access. Private open space for Lot 14 shall be provided on the eastern side of the lot.</p> |
| Dwelling Design | |
| <p>O24 To encourage innovative and contemporary building designs which result in a high quality and attractive residential environment</p> | <p>R24.1 Building facades are to be articulated. Front facades must be suitably articulated. Elements for articulation may include:</p> <ul style="list-style-type: none"> • verandahs • porches • windows • awnings • eaves • garage doors • wall line variation. <p>R24.2 Eave overhangs are to provide sun shading and protect windows and doors and provide aesthetic interest. Eaves should have an overhang of 450mm (BCA requirements)</p> <p>R24.3 Proposed dwelling colours, materials and finishes are to be from a neutral palette of colours. Highly reflective colours are not acceptable</p> |
| Access and Parking | |
| <p>O25 To reduce the visual impact of garages, carports, driveways and parking areas on the streetscape of the internal access roads</p> | <p>R25.1 Garages are an important element of the dwelling façade. They are to be integrated with and complementary to the dwelling design</p> <p>R25.2 The maximum width of a driveway at the kerb is to be 4m</p> <p>R25.3 The maximum width of the driveway at the garage is 5.5 metres</p> |
| Fencing | |
| <p>O26 Fencing is to be suitable to the conditions of the site and is to improve the streetscape amenity.</p> | <p>R26.1 Concept details of all fencing are to be submitted as part of the residential subdivision development application</p> <p>R26.2 The fence along the northern boundary of the land is to utilise high quality materials, should be of sufficiently robust construction to limit vandalism/prevent damage or creation of any unapproved access points directly into the adjacent RE1 Public Recreation zone</p> <p>R26.3 Fencing is to meet Council's requirements with particular reference to the hydrological characteristics of the land</p> |
| Servicing | |
| <p>O27 To ensure that site facilities are integrated, functional, unobtrusive, accessible and easy to maintain</p> | <p>R27.1 Utility services including service structures, plant and equipment are to be:</p> <ul style="list-style-type: none"> • located underground or be designed to be an integral part of the development • suitably screened from public places or streets • provided in a common trench where possible • to each separate lot <p>R27.2 Waste receptacle storage areas and mailboxes are to be integrated with the overall design of buildings</p> |

DRAFT 16 November 2012

| | |
|--|--------------------|
| | and/or landscaping |
|--|--------------------|

DRAFT 16 November 2012

Appendix A: Suitable Plant Species List

Canopy / Trees

Banksia serrata
Glochidion ferdinandi
Melaleuca linearifolia
Tristaniopsis laurina

Shrubs

Acacia floribunda
Acacia longifolia
Actinotus helianthi
Banksia ericifolia var. ericifolia
Banksia oblongifolia
Banksia robur
Banksia spinulosa var. spinulosa
Breynia oblongifolia
Callicoma serratifolia
Callistemon citrinus
Correa alba
Dodonaea triquetra
Goodenia ovata
Grevillea sericea
Kunzea ambigua
Lambertia formosa
Leptospermum polygalifolium
Macrozamia communis
Westringia fruticosa

DATED: 2013

EVERGREEN DEVELOPMENT (DEE WHY) PTY LIMITED
ACN 142 053 816

Developer

BINBURRA PTY LTD
ACN 104 267 754

Owner

WARRINGAH COUNCIL
ABN 31 565 068 406

Council

VOLUNTARY PLANNING AGREEMENT

HARRIS & COMPANY
Solicitors
Level 6
68 Pitt Street
SYDNEY NSW 2000
DX 724 SYDNEY
Telephone 9261 8533
Facsimile 9232 8227
Ref: POB:120089

INDEX

| | | |
|-----|--|----|
| 1. | Definitions and Interpretation | 1 |
| 2. | Acknowledgements, Agreements and Warranties..... | 4 |
| 3. | Development Application | 5 |
| 4. | Embellishment Works | 5 |
| 5. | Actions of Council..... | 6 |
| 6. | Conditions Precedent | 6 |
| 7. | Registration of the Proposed Plan of Subdivision..... | 6 |
| 8. | Development Consent and Development Contributions..... | 7 |
| 9. | Bank Guarantee and Enforcement | 7 |
| 10. | Registration of Agreement | 9 |
| 11. | Dispute Resolution..... | 10 |
| 12. | Notices | 10 |
| 13. | Miscellaneous | 11 |

THIS DEED made the _____ day of _____ 2013

BETWEEN EVERGREEN DEVELOPMENT (DEE WHY) PTY LIMITED ACN 142 053 816 of Suite 505, 24-30 Springfield Avenue, Potts Point in the State of New South Wales ("Developer")

AND BINBURRA PTY LTD ACN 104 267 754 of Level 2, 696 Pittwater Road, Brookvale in the State of New South Wales ("Owner")

AND WARRINGAH COUNCIL ABN 31 565 068 406 of 725 Pittwater Road, Dee Why in the State of New South Wales ("Council")

RECITALS

- A. The Owner is the registered proprietor of the Land.
- B. Council is the council of the local government area of Warringah.
- C. The Owner has entered into an agreement with the Developer in connection with the Land.
- D. Subject to the Conditions Precedent being satisfied and the agreement between the Owner and the Developer being completed, the Developer will become the registered proprietor of the Land.
- E. The Owner and the Developer have requested that the LEP Amendments and the DCP Amendments be made in connection with the Land;
- F. Upon the grant of Development Consent and the satisfaction of the Conditions Precedent, the Owner and Developer propose lodging the Plan Documents for registration and doing all things necessary to register the Plan Documents to effect a transfer the Public Open Space Land to Council in accordance with the terms of this Agreement.
- G. Upon the completion of the Conditions Precedent referred to in clause 6.1 the Developer and the Owner agree to do all things necessary to carry out their obligations under this Agreement with the result that the Public Open Space Land will be vested in Council free of any encumbrances and at no cost to Council, the area of the Public Reserve will be increased by 2,800 square metres upon registration of the Plan Documents and contributions will be made to the landscaping and maintenance of the Public Open Space Land.
- H. The Developer and Owner offer to enter into an agreement with Council to transfer the Public Open Space Land to Council subject to the matters set out in this Agreement.

OPERATIVE PART

1. Definitions and Interpretation

- 1.1 The following words have these meanings in this deed unless the contrary intention appears:-

"Act" means the *Environmental Planning and Assessment Act 1979*;

"Agreement" means this voluntary planning agreement made in the form of a deed;

"Authorised Officer" means:

- (a) in the case of the Developer, a director, secretary or an officer whose title contains the word "manager" or a person performing the functions of any

of them and that party's solicitor; and

- (b) in the case of Council, a person appointed by the Council to act as an authorised officer for the purpose of this deed;

"Bank Guarantee" means the bank guarantee issued for the benefit of Council in accordance with the terms of this Agreement;

"business day" means a day which is not a Saturday, Sunday, a public holiday or a bank holiday in the State of New South Wales;

"Conditions Precedent" means the conditions precedent set out in clause 6.1 of this Agreement;

"Demolition Waste Plan" means the plan prepared by Marchese Partners International Pty Ltd dated April 2012, job number 02065, drawing number DA 1.05, revision A, a copy of which is annexed and marked "E";

"Development Application" means the development application lodged with Council on 29 June 2012 as DA 2012/0768 ("DA 2012/0768") seeking the grant of development consent under the Act for building, engineering or construction work that comprises:

- (a) subdivision of the Land and the Public Reserve in accordance with the Proposed Plan of Subdivision;
- (b) demolition of the existing improvements erected on the Land; and
- (c) the Embellishment Works,

or any other development application in similar form to DA 2012/0768;

"Development Consent" means the determination of the Development Application (as amended) by the grant of development consent under section 80(1)(a) of the Act;

"Development Contributions" means a monetary contribution, the dedication of land free of cost or the provision of a material benefit;

"DCP" means the Warringah Development Control Plan;

"DCP Amendments" means amendments to the DCP made under the Act substantially in conformity with the draft "Warringah Development Control Plan, Part G Special Area Controls, Part G6 – The Evergreen Estate", a copy of which is annexed and marked "H";

"Embellishment Works" means the carrying out of building, engineering or construction work on the Public Open Space Land necessary to implement the LMR Strategy and the Vegetation Management Plan;

"GST" has the same meaning as in the GST Law;

"GST Law" has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999*;

"Land" means the land situated at 26 Campbell Parade, Dee Why comprised in Lot 61 in Deposited Plan 611195;

"Landscape Concept Plans" means the Demolition Waste Plan, the Public Open Space Planting and Hardscape Plan and the Public Open Space Maintenance Plan;

"LEP Amendments" means the making under the Act of the amendments to WLEP 2011 set out in clause 5.1 of this Agreement;

"LMR Strategy" means the landscape management and rehabilitation strategy relating to the Public Open Space Land;

"Lot 61" means that part of the Land having an area of 1.4516 hectares identified as Lot 61 in the Proposed Plan of Subdivision;

"Plan Documents" means the Proposed Plan of Subdivision, the Proposed Deposited Plan Administration Sheet and the Proposed Section 88B Instrument;

"Proposed Deposited Plan Administration Sheet" means the Deposited Plan Administration Sheet relating to the Proposed Plan of Subdivision, a copy of which is annexed and marked "C";

"Proposed Plan of Subdivision" means the plan of subdivision of the Land and the Public Reserve prepared by John T Higgins, surveyor, dated 15 May 2012 a copy of which is annexed and marked "A";

"Proposed Section 88B Instrument" means the proposed instrument setting out terms of easements to be created and released intended to be created pursuant to section 88B of the *Conveyancing Act* 1919 upon registration of the Proposed Plan of Subdivision, a copy of which is annexed and marked "D";

"Public Open Space Land" means that part of the Land having an area of 2,800 square metres which will become part of the Public Reserve upon registration of the Proposed Plan of Subdivision being the land identified by hatching in the plan prepared by Higgins Surveyors dated 17 May 2012 reference number 38506, sheet 1, a copy of which is annexed and marked "B";

"Public Open Space Maintenance Plan" means the plan titled "Plan-Dedicated Open Space Riparian Zone Maintenance" prepared by Site Image Landscape Architects, job number SS12-2468, drawing number 102, issue G, a copy of which is annexed and marked "G"

"Public Open Space Planting and Hardscape Plan" means the plan titled "Plan-Dedicated Open Space Riparian Zone Planting & Hardscape" prepared by Site Image Landscape Architects, job number SS12-2468, drawing number 101, issue G, a copy of which is annexed and marked "F";

"Public Reserve" means the land comprised in Lot 62 in Deposited Plan 611195;

"Register" means the register required to be maintained by section 31B(1) of the *Real Property Act* 1900;

"Regulation" means *Environmental Planning and Assessment Regulation* 2000;

"Riparian Zone" means the common boundary between the Land and the Public Reserve;

"Subdivision Certificate" means a subdivision certificate issued under section 109C(1)(d) of the Act which authorises the registration of the Proposed Plan of

Subdivision under Division 3 of Part 23 of the *Conveyancing Act 1919*;

"Transfer" means a form of transfer under the *Real Property Act 1900* between the Developer or Owner as transferor and Council as transferee in respect of the interest held in the Public Open Space Land by the Developer or the Owner in registrable form (other than for it having been executed by Council) as transferee;

"Vegetation Management Plan" means the flora and fauna management plan prepared by Woodlots & Wetlands Pty Ltd dated 6 February 2013, issue D;

"WLEP 2011" means Warringah Local Environmental Plan 2011.

1.2 In this deed unless the contrary intention appears:-

- (a) a reference to this deed or another instrument includes any variation or replacement of any of them;
- (b) reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word "person" includes a firm, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (f) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- (g) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (h) a reference to an accounting term is to be interpreted in accordance with accounting standards under the *Corporations Act 2001*, schedule 5 to the *Corporations Regulations* and, if not inconsistent with those accounting standards and that schedule, generally accepted principles and practices in Australia consistently applied by a body corporate or as between bodies corporate and over time.

1.3 Headings are inserted for convenience and do not affect the interpretation of this Agreement.

1.4 For the purposes of clause 25E(7) of the Regulation, any explanatory note prepared under Part 4 Division 1A of the Regulation is not to be used to assist in construing this Agreement.

2. Acknowledgements, Agreements and Warranties

2.1 The parties acknowledge and agree that this Agreement is a voluntary planning agreement under Subdivision 2 of Division 6 of Part 4 of the Act entered into voluntarily and at the request of the Owner and the Developer.

2.2 The parties acknowledge and agree that they have prepared an explanatory note

under clause 25E of the Regulation in relation to this Agreement.

- 2.3 The parties acknowledge and agree that upon registration of the Proposed Plan of Subdivision under Division 3 of Part 23 of the *Conveyancing Act* 1919, the Public Open Space Land (which as at the date of this Agreement forms part of the Land) will be transferred to Council free of all encumbrances, including but not limited to any writ, mortgage, charge or lease, and at no cost so as to become part of the Public Reserve with the result that the Public Reserve will be increased in area by 2,800 square metres.
- 2.4 The Developer warrants that it is a person who, for the purposes of section 93F(1)(c) of the Act, has entered into an agreement with the Owner.
- 2.5 The Developer and Owner each warrant that it is not aware of any contamination in or emanating from the Public Open Space Land and is not aware of any notices or orders in relation thereto.

3. Development Application

- 3.1 Council acknowledges that the Development Application has been lodged with Council.
- 3.2 Council acknowledges that the LMR Strategy, the Landscape Concept Plans and the Vegetation Management Plan have been lodged with Council as part of the Development Application.

4. Embellishment Works

- 4.1 The Embellishment Works must be physically commenced by the Developer or Owner within eighteen months of the date that the Proposed Plan of Subdivision is registered under Division 3 of Part 23 of the *Conveyancing Act* 1919. For the purposes of this clause, the term "physically commenced" has the same meaning as in section 95 of the Act.
- 4.2 The Embellishment Works must be maintained by the Developer or Owner at its cost for a period of five years from the date they are completed in accordance with the terms of the LMR Strategy and the Vegetation Management Plan.
- 4.3 Council must permit the Developer, the Owner and the registered proprietor for the time being of Lot 61 together with the contractors, employees, assignees and agents of those persons to have reasonable and necessary access to the Public Open Space Land for the purpose of carrying out the Embellishment Works and any maintenance work under LMR Strategy or the Vegetation Management Plan provided such access is at the risk of the that person seeking access for the purposes contemplated in this clause and such person shall have and maintain adequate insurance in this regard to the reasonable satisfaction of Council. To this extent Council is released from any liability relating to such access and the Developer and Owner indemnify and keep Council indemnified in respect to any claim or loss whatsoever arising from such access, other than from loss arising from negligent acts or omissions of Council. All works are to be undertaken and completed in accordance all relevant legislation and to the reasonable satisfaction of Council having regard to the LMR Strategy and the Vegetation Management Plan.
- 4.4 The provisions of this clause 4 are subject to and conditional upon Development Consent having been granted and the Plan Documents having been registered.

5. Actions of Council

- 5.1 The parties note that Council is taking all action necessary to amend WLEP 2011 so that the following LEP Amendments are made under the Act:
- (a) that part of the Land comprising Lot 61 is rezoned from Zone RE2 Private Recreation to Zone R2 Low Density Residential; and
 - (b) that part of the Land comprising the Public Open Space Land is rezoned from Zone RE2 Private Recreation to Zone RE1 Public Recreation.
- 5.2 Council must take all action necessary so that the DCP Amendments are made under the Act.
- 5.3 For the purposes of expressing certainty concerning the provisions of section 93F(9) of the Act, this Agreement does not impose any obligation on Council to:
- (a) grant Development Consent; or
 - (b) exercise any function under the Act in relation to a change to WLEP 2011.

6. Conditions Precedent

- 6.1 The following are Conditions Precedent for the purposes of this Agreement:
- (a) WLEP 2011 must be amended under the Act by making the LEP Amendments;
 - (b) the DCP must be amended under the Act by making the DCP Amendments; and
 - (c) Development Consent must be granted and Council must publish public notice of the granting of that consent in the prescribed form under section 101 of the Act.
- 6.2 The Conditions Precedent must be satisfied before the Developer and Owner have any obligation to lodge the Proposed Plan of Subdivision for registration under Division 3 of Part 23 of the *Conveyancing Act 1919*.

7. Registration of the Proposed Plan of Subdivision

- 7.1 Immediately upon all of the Conditions Precedent being satisfied, the Developer or Owner must at their expense deliver the Plan Documents, the Transfer and discharges of any encumbrances to Council and evidence that the lease registration number AC642136 has been removed from the title to the Public Open Space Land.
- 7.2 Upon receipt of the Plan Documents and the satisfaction of the Conditions Precedent, Council must subject to clause 7.4(a):
- (a) issue the Subdivision Certificate and endorse that certificate on the Proposed Plan of Subdivision;
 - (b) endorse and execute the Proposed Deposited Plan Administration Sheet and the Proposed Section 88B Instrument; and
 - (c) produce the certificate of title for the Public Reserve at Land and Property

Information to permit the registration of the Plan Documents.

7.3 Council must within 28 days of the later of the receipt by Council of the Plan Documents and the satisfaction of the Conditions Precedent:

- (a) return the Plan Documents and the Transfer duly endorsed and executed by Council to the party that delivered those documents to Council under clause 7.1;
- (b) produce the certificate of title for the Public Reserve at Land and Property Information to permit the registration of the Plan Documents and do all things necessary to enable the Plan Documents and Transfer to be registered having regard to the terms of caveat registered number K200000P on the title to the Public Reserve; and
- (c) give notice of the date of production of the certificate of title for the Public Reserve at Land and Property Information to the party that delivered the documents to Council under clause 7.1.

7.4 The Developer or Owner must at their expense:

- (a) obtain all necessary consents to the lodgement of the Plan Documents for registration, comply with all conditions of the Development Consent necessary for the issue of a subdivision certificate relating to the Development Consent and to facilitate the transfer of the Public Open Space Land to Council upon registration of the Plan Documents; and
- (b) within 14 days of Council complying with Council's obligations under this clause 7, lodge the Plan Documents and the Transfer at Land and Property Information and do everything required to enable the Plan Documents to be registered.

7.5 Upon the satisfaction of the Conditions Precedent, the Developer or Owner must do all things necessary at their expense including but not necessarily limited to, sign all documents, produce the certificate of title for the Land at Land and Property Information and do everything required to enable the Plan Documents to be registered and for the Public Open Space to be transferred at no cost to Council subject to Council having complied with its obligations under clause 7.3.

8. Development Consent and Development Contributions

8.1 Development Contributions will be required upon the grant of Development Consent. Benefits under this agreement are not to be taken into consideration when determining such Development Contributions.

8.2 This Agreement does not exclude the application of section 94, section 94A and section 94EF of the Act and any other contributions required under the Act or under the Regulation in connection with the Development Consent and any modification or variation of the Development Consent.

9. Bank Guarantee and Enforcement

9.1 The obligations as to the Embellishment Works on the part of the Developer and the Owner under this Agreement must be secured by the Bank Guarantee being an unconditional guarantee:

- (a) issued at the request and expense of the Developer by an Australian bank

in favour of Council for a sum not less than \$139,707.44;

- (b) which is for a term that commences on the date of registration of the Proposed Plan of Subdivision and terminates not earlier than five (5) years after that date; and
 - (c) which can be called upon and used by Council in the event that either the Developer or the Owner fail or refuse to comply with their respective obligations under clauses 4.1 and 4.2.
- 9.2 The secured liability under the Bank Guarantee shall be reduced progressively upon completion of the following Embellishment Works by the Developer or Owner in the amounts stated below:
- (a) \$12,628.00 upon completion of the demolition and removal from the Public Open Space Land of concrete slabs, compacted sand bases, hotmix, road base and fencing to Council's reasonable satisfaction and in a manner consistent with the Demolition Waste Plan;
 - (b) \$79,045.79 upon completion of all remaining work on the Public Open Space Land as set out in the LMR Strategy and the Vegetation Management Plan (except for maintenance) to Council's reasonable satisfaction and in a manner consistent with the Public Open Space Planting and Hardscape Plan;
 - (c) \$9,606.73 for each year of the 5 year period that maintenance work is completed on the Public Open Space Land in accordance with the LMR Strategy and the Vegetation Management Plan to Council's reasonable satisfaction and in a manner consistent with the Public Open Space Maintenance Plan.
- 9.3 In the event that either the Developer or the Owner fail or refuse to comply with their respective obligations under clauses 7.4 and 7.5 of this Agreement, Council may upon the expiration of 28 days written notice to the Developer and the Owner of its intention to exercise its rights under this clause, compulsorily acquire the Public Open Space Land. The parties agree that any compulsory acquisition of the Public Open Space Land effected in accordance with the terms of this clause:
- (a) is a compulsory acquisition entered into by agreement of the parties pursuant to section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* ("the Just Terms Act");
 - (b) the compensation to be paid by Council to the Owner for the acquisition is one dollar (\$1.00);
 - (c) the provisions of Division 1 (Pre-acquisition procedures) and Part 3 (Compensation for acquisition of land) of the Just Terms Act do not apply to any such compulsory acquisition on the basis that the parties have agreed in writing on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- 9.4 Council acknowledges and agrees that the provision to it of the Bank Guarantee together with its power to potentially compulsorily acquire the Public Open Space Land by exercising its rights under clause 9.3 and its right to lodge and maintain a caveat on the title to the Land under clause 10.4 of this Agreement constitutes:
- (a) suitable means for the enforcement of this Agreement in the event of a

breach of the Agreement by the Developer or the Owner; and

- (b) compliance with section 93F(3)(g) of the Act for the purposes of this Agreement.

10. Registration of Agreement

10.1 The Developer or Owner must procure the registration of this Agreement pursuant to section 93H of the Act on the Register for the Land in accordance with the *Real Property Act* 1900 prior to the issue of the Subdivision Certificate.

10.2 The Developer or Owner must procure:

- (a) the consent of every person who, at the time this Agreement is to be lodged for registration has an estate or interest in the Land, to the registration of the Agreement under section 93H of the Act; and
- (b) the execution of all documents and the performance of all actions required for the registration of the Agreement under section 93H of the Act on the Register for the Land,

prior to the issue of the Subdivision Certificate.

10.3 The Developer and Owner:

- (a) consent to the registration of the Agreement under section 93H of the Act; and
- (b) must execute all documents and perform of all actions required for the registration of this Agreement under section 93H of the Act on the Register for the Land,

prior to the issue of the Subdivision Certificate.

10.4 The Developer and Owner acknowledge and agree that Council has a caveatable interest in the Land from the date of Development Consent and shall be entitled to lodge and maintain a caveat on the title of the Land notifying Council's interest in the Land as a result of this agreement. Any caveat lodged by Council in respect of the Land under this clause must be withdrawn by Council upon registration of the Transfer.

10.5 The Developer and Owner agree that no operational development consent other than the Development Consent shall be granted with respect to the Land unless and until the Public Open Space Land has been transferred to Council at no cost and in accordance with the terms of this Agreement. Provided however, that the provisions of this clause 10.5 will not preclude:

- (a) the lodgement of a development application and the assessment of that application pending transfer; and
- (b) the grant of deferred development consent which includes as a condition of the grant of development consent a condition that the subdivision of the Land for residential allotments must not commence until the Public Open Space Land has been transferred to Council in accordance with the terms of this Agreement.

11. Dispute Resolution

- 11.1 If a dispute arises out of or in connection with this Agreement, including any dispute as to breach or termination of this Agreement or to any claim in tort, in equity or under any legislation, a party to this Agreement cannot commence any court proceedings relating to the dispute unless and until that party has complied with the provisions of this clause headed Dispute Resolution, except where that party seeks urgent interlocutory relief.
- 11.2 A party claiming that a dispute has arisen must serve a notice on the other party specifying the nature of the dispute.
- 11.3 Upon issue and receipt of a notice specifying the nature of a dispute, the parties must endeavour in good faith to resolve the dispute the subject of the notice expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or arbitration in a form agreed upon by the parties.
- 11.4 If the parties do not agree within 7 business days of the service of the notice of dispute, or any further period agreed in writing by them, as to:
- (a) the dispute resolution technique and procedures to be adopted;
 - (b) the timetable for each of those procedures; and
 - (c) the selection and compensation of any independent person required in connection with that technique,
- the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales and must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.
- 11.5 Each party to the dispute must pay its own costs of complying with its obligations relating to dispute resolution (other than the costs of any litigation) and must pay equally the cost of any mediator or arbitrator.
- 11.6 If the dispute is not finally resolved through the forum of mediation, each party is at liberty to litigate the dispute without further notice.

12. Notices

- 12.1 A notice, approval, consent or other communication in connection with this deed:-
- (a) may be given by an Authorised Officer of the relevant party;
 - (b) must be in writing;
 - (c) must be left at the address of the addressee, or sent by prepaid ordinary post (airmail if posted to or from a place outside Australia) to the address of the addressee or sent by facsimile to the facsimile number of the addressee which is specified in this clause or if the addressee notifies another address or facsimile number then to that address or facsimile number.
- 12.2 Unless a later time is specified in it a notice, approval, consent or other communication takes effect from the time it is received.

12.3 A letter or facsimile is taken to be received:-

- (a) in the case of a posted letter, on the third (seventh, if posted to or from a place outside Australia) day after posting; and
- (b) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purpose of this clause.

12.4 For the purposes of this clause, the address of a party is the address set out below:

Developer

Address: Suite 505, 24-30 Springfield Avenue, Potts Point, NSW, 2011
Facsimile 9368 6499
Attention: Mr Ian Hayson

Owner

Address: Level 2, 696 Pittwater Road, Brookvale, NSW, 2100
Facsimile 9938 1675
Attention: Mr Neale Marshall

Council

Address: Civic Centre, 752 Pittwater Road, Dee Why, NSW, 2099
Facsimile 9942 2598
Attention: General Manager

13. Miscellaneous

Dealings with the Land

13.1 Upon satisfaction of the Conditions Precedent and pending the subsequent transfer of the Public Open Space Land to Council at no cost and free of encumbrances including but not limited to any writ, mortgage, charge or lease, in accordance with the terms of this Agreement, the Developer or Owner must not sell, transfer, assign, novate, charge, encumber or otherwise deal with the Land or purport to do so without the prior written consent of Council. The parties note that such consent will not be granted unless any such transferee, assignee, novatee, chargee or encumbrance beneficiary enters into a binding agreement with Council in similar terms and with the same obligations as are set out in this Agreement. Provided however, that:

- (a) this clause 13.1 does not apply to the agreement referred to in Recital C or to any agreement pursuant to which the Developer may become the registered proprietor of the Land; and
- (b) if Council fails or refuses to grant written consent under this clause 13.1 within twenty one (21) days of the latter of:
 - (i) being served with a written request for the grant of such consent, and
 - (ii) the transferee, assignee, devisee, chargee, encumbrance or beneficiary entering into a binding agreement with Council in similar terms to this Agreement including execution of such agreement,

then upon expiration of that twenty one (21) day period, Council is deemed to have given the required consent.

Exercise of Rights

- 13.2 The parties acknowledge that nothing in this Agreement abrogates or fetters or is intended to abrogate or fetter, the lawful and proper discharge by Council of its statutory obligations and responsibilities, whether in relation to the subject matter of this Agreement or otherwise.
- 13.3 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement but the rest of this Agreement is not affected.

Review of this Agreement

- 13.4 If it appears necessary or desirable to the parties that this Agreement should be reviewed, the Agreement may only be amended by an instrument in writing setting out the amendments agreed to be made to this Agreement, which amendments shall take effect when signed by all of the parties to the Agreement.

Waiver and Variation

- 13.5 A provision of or a right created under this deed may not be waived or varied except in writing signed by the party or parties to be bound.

Remedies Cumulative

- 13.6 The rights, powers and remedies provided in this deed are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this deed.

Counterparts

- 13.7 This document may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

Governing law and jurisdiction

- 13.8 This Agreement is governed by and is to be construed in accordance with the law of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any court hearing appeals from those courts.

Costs, expenses and GST

- 13.9 The Developer must pay Council's reasonable legal costs in an agreed amount (inclusive of GST) together with its own costs in relation to:
- (a) the negotiation, preparation, execution and registration of this Agreement;
 - (b) the registration of the Proposed Plan of Subdivision; and
 - (c) any taxes, duties, registration or other fees (and fines and penalties relating to the taxes, duties and fees) which are payable or are assessed by to be payable in relation to this Agreement or the registration of the

Proposed Plan of Subdivision.

- 13.10 Council must deliver a tax invoice issued in conformity with the GST Law to the Developer in relation to any costs and expenses payable by the Developer on its behalf under clause 13.9.
- 13.11 In this clause 13, terms used have the meaning given to them by the GST Law as defined in the GST Law.
- 13.12 Subject to the terms of this clause 13, if a party to this Agreement (the "Supplier") makes a supply under or in connection with this Agreement and is liable by law to pay GST on that supply, then the consideration (even if nil) otherwise payable by the recipient of the supply will be increased by an amount equal to the GST paid or payable by the Supplier.
- 13.13 If this Agreement requires a party to pay for, or reimburse any expense, loss or outgoing ("reimbursable expense") suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.
- 13.14 If a party to this Agreement has the benefit of an indemnity for a cost, expense, loss or outgoing ("indemnified cost") under this Agreement, the indemnity is for the indemnified cost net of any input tax credit or reduced input tax credit to which that party is entitled in respect of the indemnified cost.
- 13.15 Each party agrees to do all things, including providing tax invoices and other documentation that may be necessary or desirable to enable or assist the other party to claim any input tax credit, set-off, rebate or refund in relation to any amount of GST paid or payable in respect of any supply under this Agreement.
- 13.16 Subject to the operation of this clause, and unless otherwise expressly stated amounts in this agreement are GST exclusive.

EXECUTED as a deed

EXECUTED by EVERGREEN
DEVELOPMENT (DEE WHY)
PTY LIMITED ACN 142 053 816
pursuant to section 127 of the
Corporations Act 2001

.....
Director

.....
Director

EXECUTED by BINBURRA
PTY LTD ACN 104 267 754
pursuant to section 127 of the
Corporations Act 2001

.....
Director

.....
Director

EXECUTED by WARRINGAH COUNCIL
by its authorised officer in the presence of:

.....
Witness

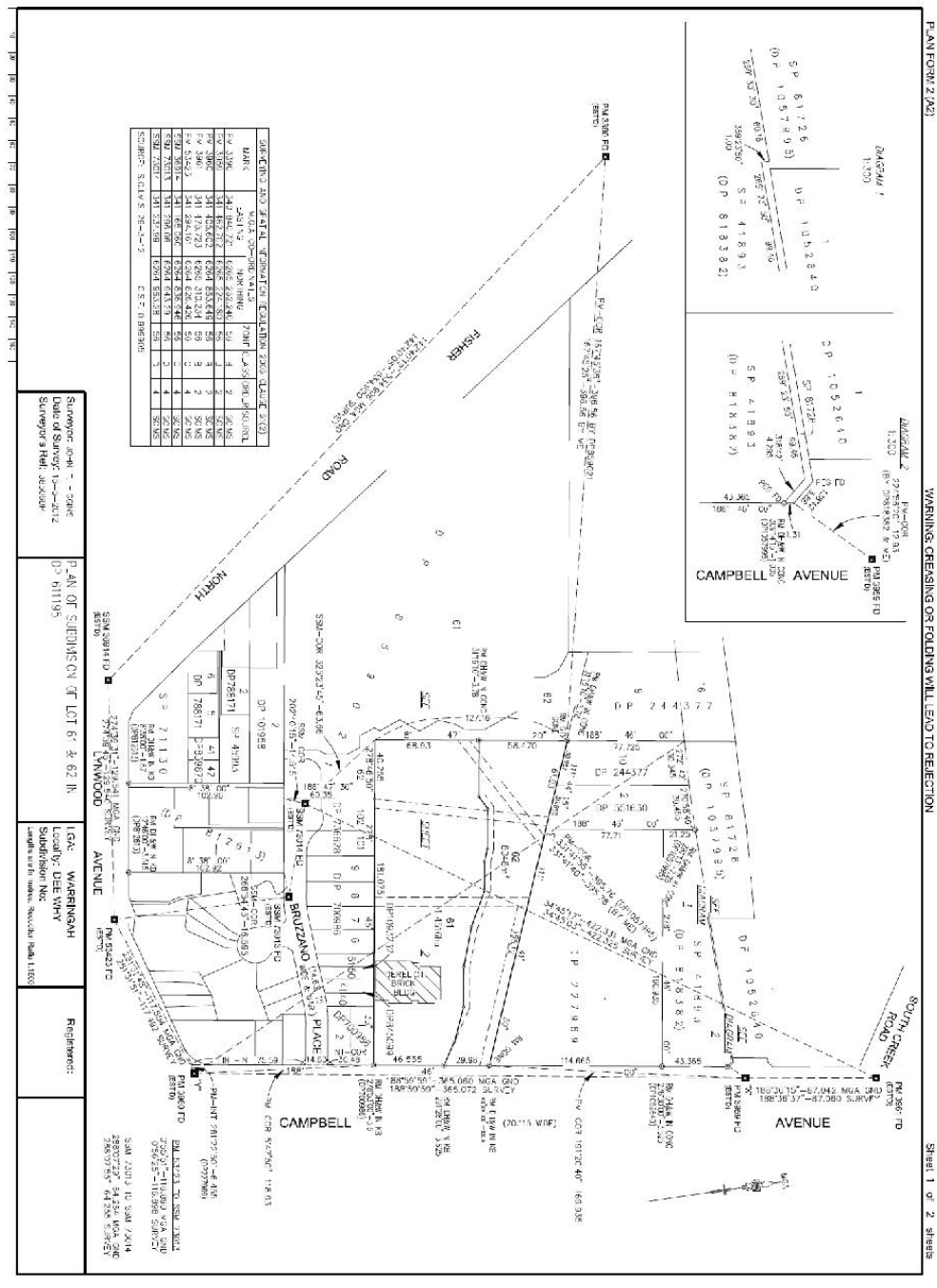
.....
Authorised officer

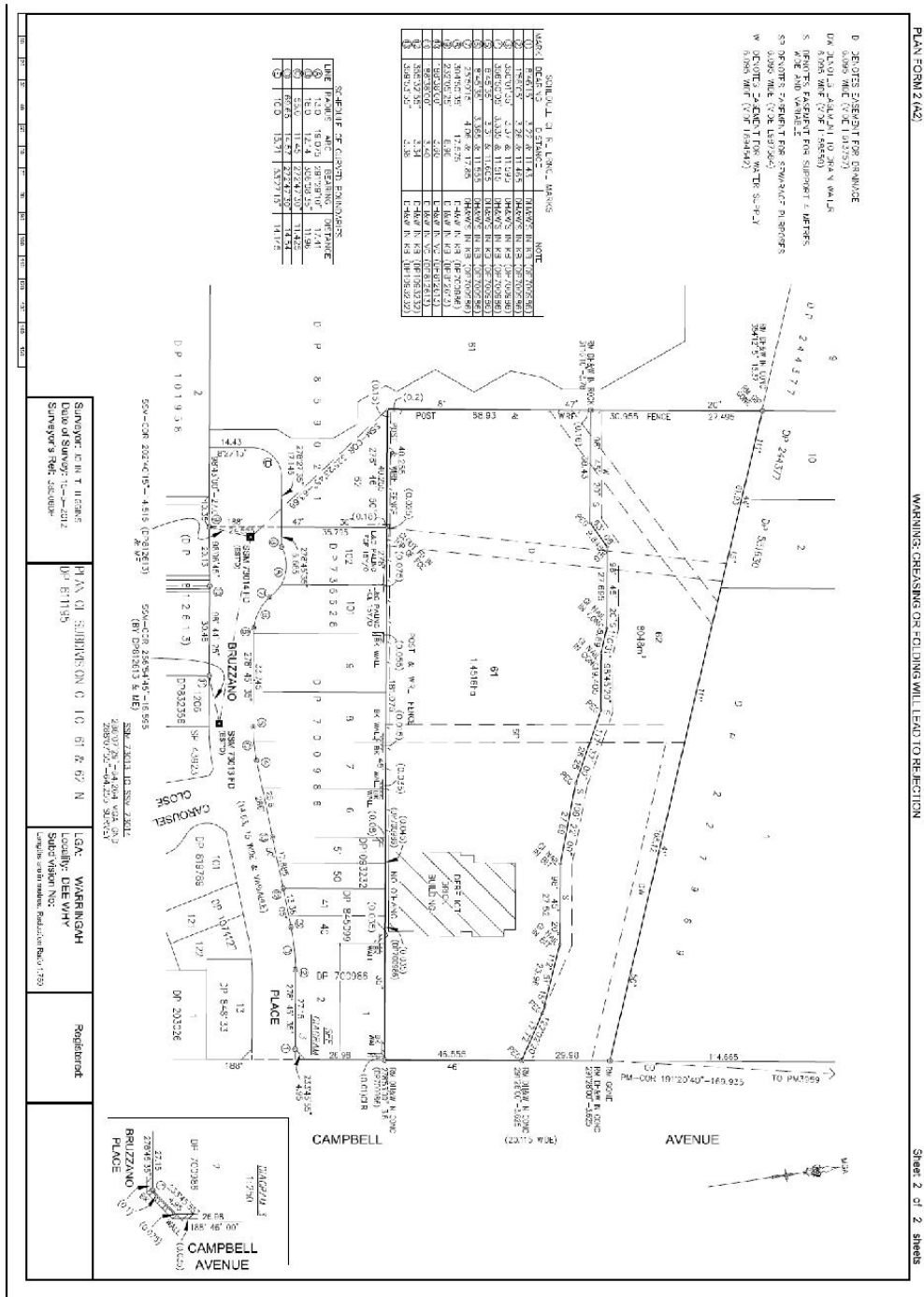
.....
Name and address of witness

.....
Name of authorised officer

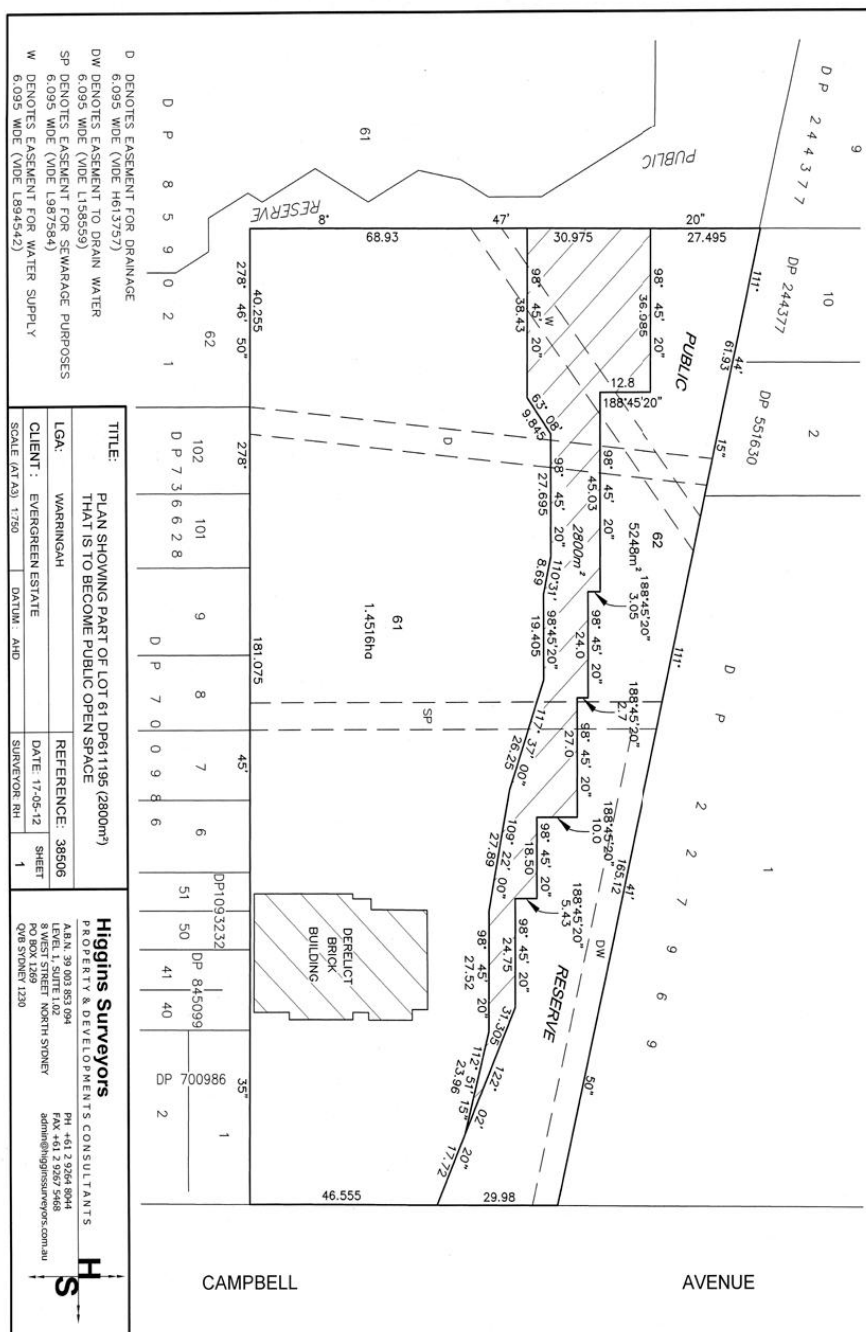
DRAFT

Annexure "A"
Proposed Plan of Subdivision





Annexure "B"
Public Open Space Land



Annexure "C"
Proposed Deposited Plan Administration Sheet

PLAN FORM 6

WARNING: Creasing or folding will lead to rejection

| DEPOSITED PLAN ADMINISTRATION SHEET | | Sheet 1 of 2 sheet(s) | | | | | | | | | | | | | | |
|---|---|-----------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|------------|------------|----------|----------|
| <p><small>SIGNATURES, SEALS and STATEMENTS of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.</small></p> <p><small>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919</small></p> <p><small>IT IS INTENDED TO RELEASE:</small></p> <p style="margin-left: 40px;">1) EASEMENT FOR SUPPORT 4 METRES WIDE AND VARIABLE (DP611195)</p> <p><small>IT IS INTENDED TO CREATE:</small></p> <p style="margin-left: 40px;">1) EASEMENT FOR SUPPORT 4 METRES WIDE AND VARIABLE</p> <p><small>IT IS INTENDED TO DEDICATE LOT 62 TO THE PUBLIC AS PUBLIC RESERVE.</small></p> <p align="center">SEE SHEET 2 FOR SIGNATURES & SEALS</p> <p align="center"><small>Use PLAN FORM 6A for additional certificates, signatures, seals and statements</small></p> <p>Crown Lands NSW/Western Lands Office Approval</p> <p>I, in approving this plan certify <small>(Authorised Officer)</small> that all necessary approvals in regard to the allocation of the land shown herein have been given</p> <p>Signature: Date: File Number: Office:</p> | <div style="text-align: right; font-weight: bold; font-size: small;">* OFFICE USE ONLY</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p align="center">PLAN OF SUBDIVISION OF LOT 61 & 62 IN DP 611195</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p>LGA: WARRINGAH Locality: DEE WHY Parish: MANLY COVE County: CUMBERLAND</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p align="center"><small>Surveying Regulation, 2006</small></p> <p>I, JOHN THOMAS HIGGINS of HIGGINS SURVEYORS PO BOX 1269, QVB SYDNEY, 1230 a surveyor registered under the <i>Surveying and Spatial Information Act, 2002</i>, certify that the survey represented in this plan is accurate, has been made in accordance with the <i>Surveying and Spatial Information Regulation, 2006</i> and was completed on: 15-5-2012....</p> <p>The survey relates to LOT 61 ... & ... 62</p> <p><small>(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)</small></p> <p>Signature Dated: <small>Surveyor registered under the Surveying & Spatial Information Act, 2002</small></p> <p>Datum Line: "X"- "Y" Type: Urban Rural</p> </div> <div style="border: 1px solid black; padding: 5px;"> <p align="center"><small>Plans used in the preparation of survey/compilation</small></p> <table style="width:100%; font-size: x-small;"> <tr> <td>DP 227969</td> <td>DP 244377</td> <td>DP 551630</td> </tr> <tr> <td>DP 611195</td> <td>DP 700986</td> <td>DP 736628</td> </tr> <tr> <td>DP 845099</td> <td>DP 859021</td> <td>DP 812613</td> </tr> <tr> <td>DP 818382</td> <td>DP 1052640</td> <td>DP 1057955</td> </tr> <tr> <td>DP 1093232</td> <td>SP 41893</td> <td>SP 81726</td> </tr> </table> <p align="center"><small>(if insufficient space use Plan Form 6A annexure sheet)</small></p> </div> | DP 227969 | DP 244377 | DP 551630 | DP 611195 | DP 700986 | DP 736628 | DP 845099 | DP 859021 | DP 812613 | DP 818382 | DP 1052640 | DP 1057955 | DP 1093232 | SP 41893 | SP 81726 |
| DP 227969 | DP 244377 | DP 551630 | | | | | | | | | | | | | | |
| DP 611195 | DP 700986 | DP 736628 | | | | | | | | | | | | | | |
| DP 845099 | DP 859021 | DP 812613 | | | | | | | | | | | | | | |
| DP 818382 | DP 1052640 | DP 1057955 | | | | | | | | | | | | | | |
| DP 1093232 | SP 41893 | SP 81726 | | | | | | | | | | | | | | |
| <p align="center">Subdivision Certificate</p> <p>I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:</p> <p>the proposed set out herein <small>(insert 'subdivision' or 'new road')</small></p> <p align="center">* Authorised Person/General Manager/Accredited Certifier</p> <p>Consent Authority: Date of Endorsement: Accreditation no: Subdivision Certificate no: File no:</p> | <p><small>* Delete whichever is inapplicable.</small></p> | | | | | | | | | | | | | | | |
| <p align="right"><small>SURVEYOR'S REFERENCE</small> 38506DP</p> | | | | | | | | | | | | | | | | |

* OFFICE USE ONLY

Annexure "D"
Proposed Section 88B Instrument

Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B Conveyancing Act 1919.

(Sheet 1 of 2 Sheets)

Plan of Subdivision of Lot 61 & 62 in
 Deposited Plan No. 611195 covered by
 Subdivision Certificate No.
 Dated

Full name and address of the owner
 of the Land:

Part 1A (Release)

| Number of item shown in the intention panel on the plan: | Identify of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan: | Burdened lot(s) | Benefited lot(s), or Prescribed Authorities: |
|--|---|-----------------|--|
| 1. | Easement for Support 4 Metres Wide and Variable | 62/611195 | 61/611195 |

Part 1 (Creation)

| Number of item shown in the intention panel on the plan: | Identify of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan: | Burdened lot(s) | Benefited lot(s), or Prescribed Authorities: |
|--|---|-----------------|--|
| 1. | Easement for Support 4 Metres Wide and Variable | 62 | 61 |

Part 2 (Terms)

1. Easement for Support 4 Wide and variable Numbered 1 on the Plan
 Administration Sheet
 Statutory Easement

Authorised Person
 Warringah Council.....

Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B Conveyancing Act 1919.

(Sheet 2 of 2 Sheets)

Plan of Subdivision of Lot 61 & 62 in
Deposited Plan No. 611195 covered by
Subdivision Certificate No.
Dated

The Common Seal of **XX (A.C.N XX)** is hereunto
affixed pursuant to a resolution of the Board of
Directors in the presence of

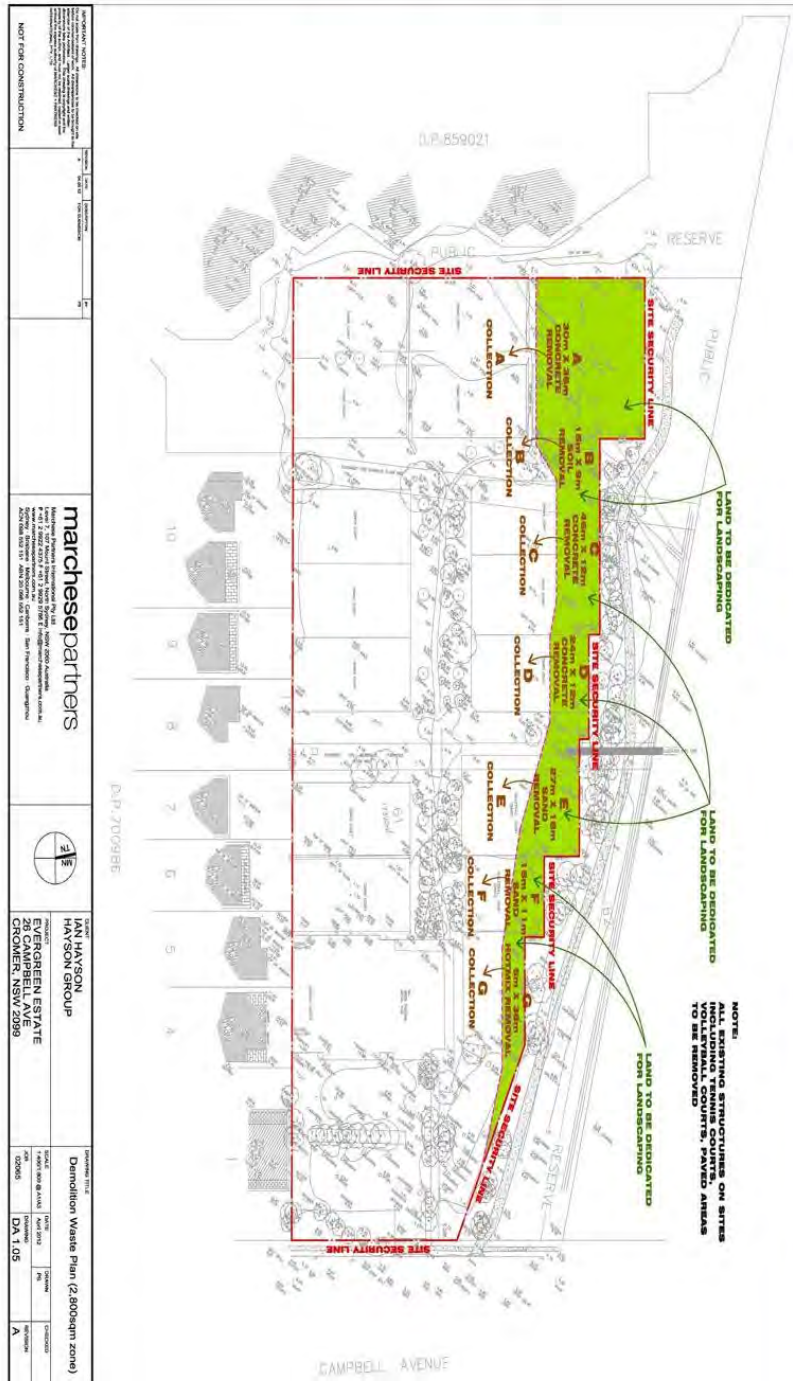
.....
DIRECTOR

.....
SECRETARY

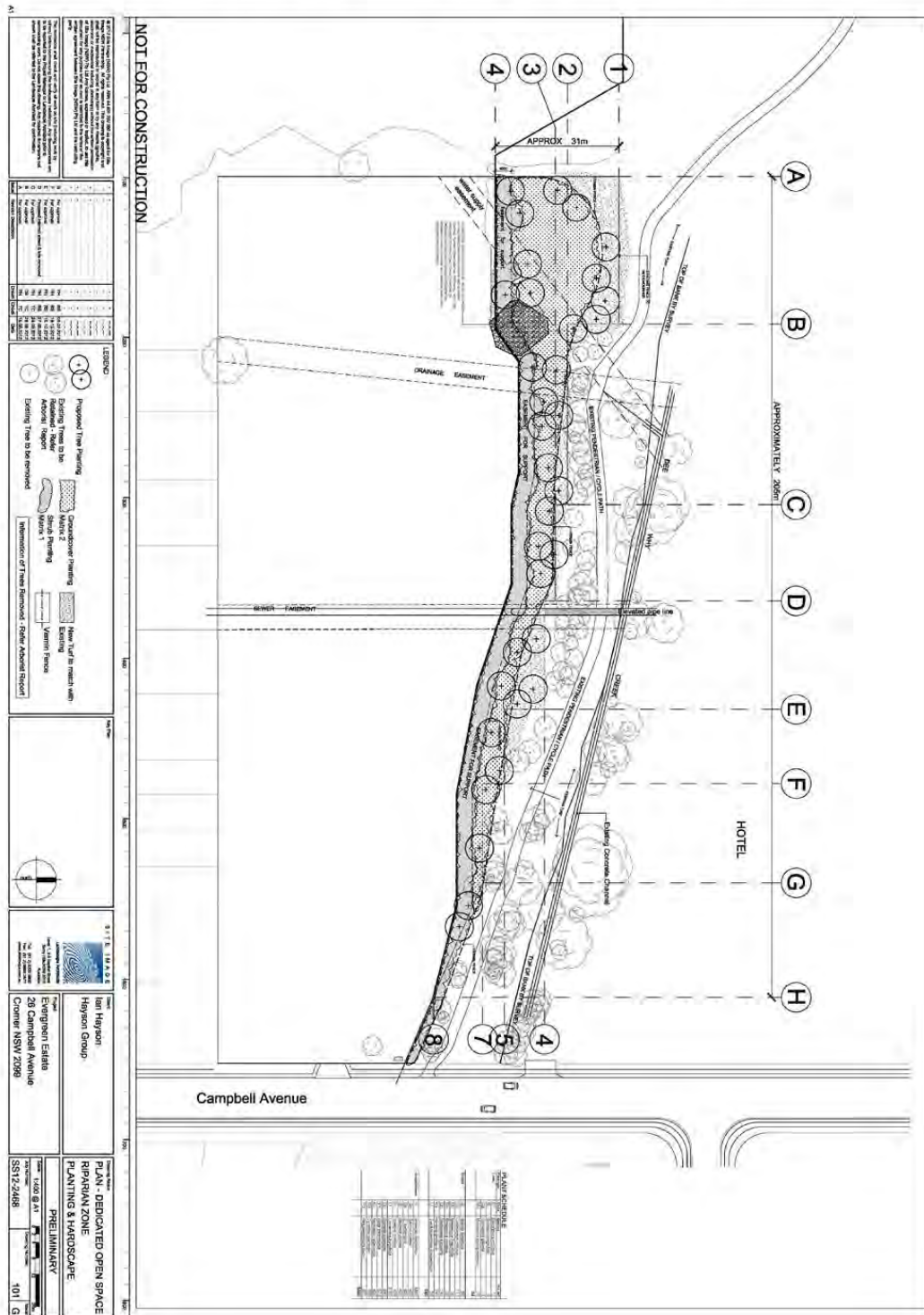
MORTGAGEE

Authorised Person
Warringah Council.....

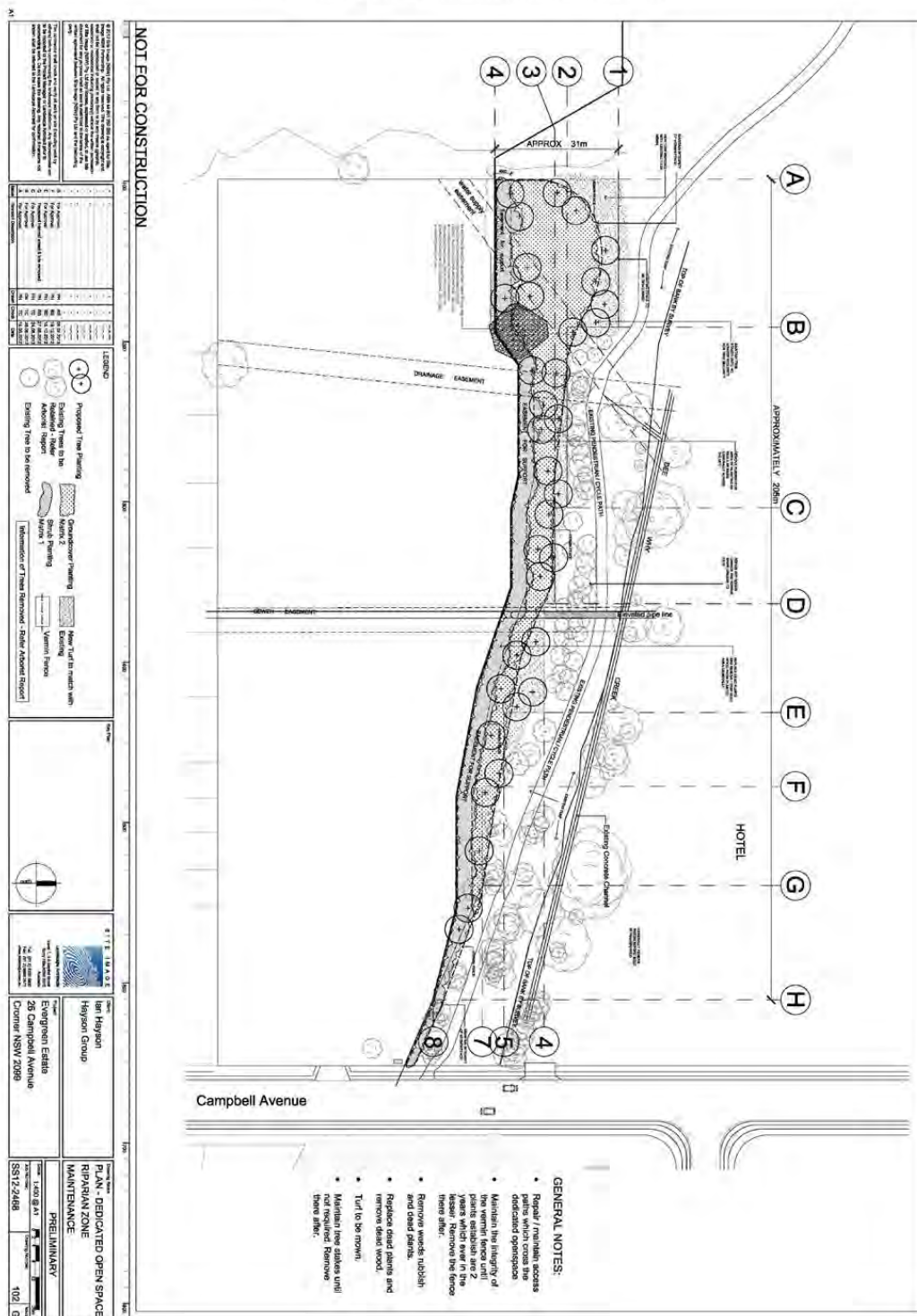
Annexure "E"
Demolition Waste Plan



Annexure "F"
Public Open Space Planting and Hardscape Plan



Annexure "G"
Public Open Space Maintenance Plan



Annexure "H"

DCP Amendments

WARRINGAH DEVELOPMENT CONTROL PLAN (DCP)

PART G SPECIAL AREA CONTROLS

Part G6 - The Evergreen Estate

Introduction

This part provides specific controls for future residential development for small lot housing on the Evergreen Estate.

The following parts of the Warringah DCP do not apply to the Evergreen Estate:

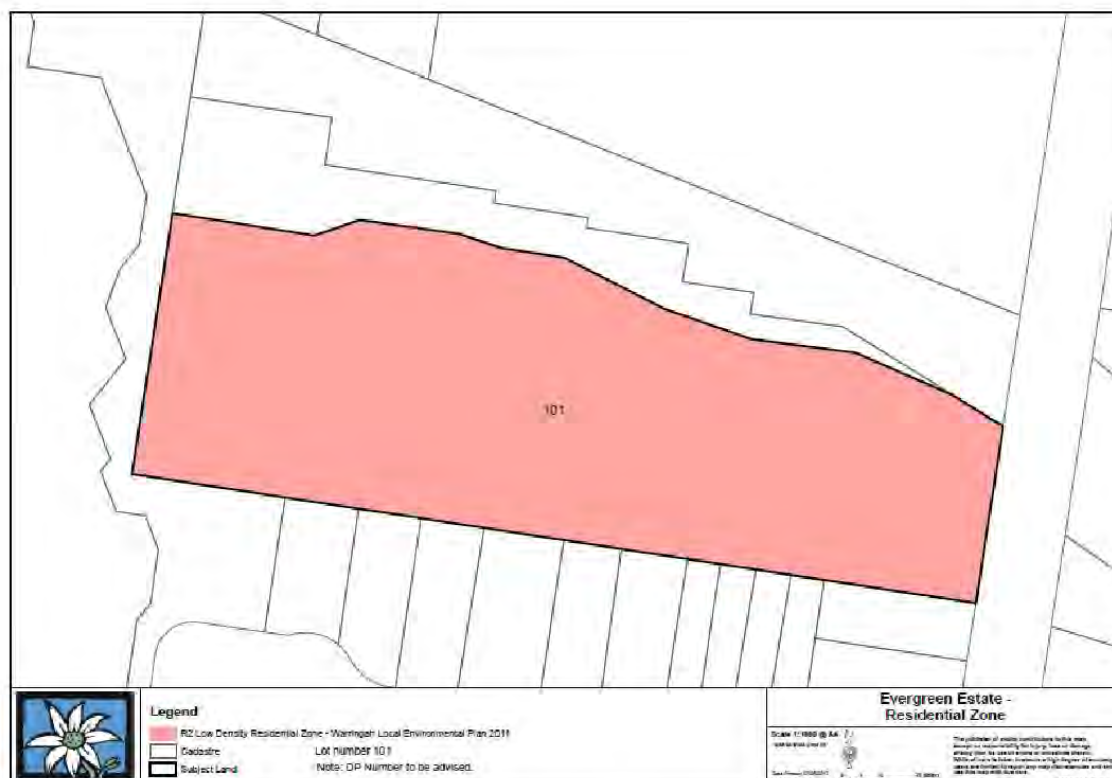
- Part B - Built Form Controls
- Part C1 - Subdivision (requirement 1 only)
- Part D2 - Private Open Space
- Part D6 - Access to Sunlight of Warringah Development Control Plan (DCP).

This is because part G6 includes site specific controls for the land. All other parts of the DCP apply to the land.

Applies to Land

This part applies to land Zoned R2 Low Density Residential in Warringah Local Environmental Plan 2011 and known as the Evergreen Estate at 26 Campbell Avenue Cromer shown outlined on Figure 1 Location of Evergreen Estate.

FIGURE 1 Location of Evergreen Estate (LINK)



General Objectives

1. To provide a residential layout that accommodates small lot, single dwelling and environmentally sustainable housing
2. To facilitate innovative high quality residential development that incorporates principles for good connectivity, access and amenity
3. To ensure development is compatible with the adjoining neighbourhood amenity and to provide an attractive living environment for its occupants
4. To ensure that development enhances and supports the character of the riparian landscape by ensuring that location and design is sensitive to the physical conditions and qualities of the land and its environs

General Requirements

1. Future development will reflect the visual pattern, orientation and predominant scale of adjacent residential development
2. Development should minimise any impacts on the adjacent open space. It shall have regard to the values of the Dee Why Creek open space corridor identified in the Dee Why Creek and South Creek Corridor Plan of Management
3. The quality of the environment will be maintained by the planting of suitable native tree canopy and preserving the natural landscape, including natural watercourses
4. Materials that blend with the colours and textures of the natural landscape are to be incorporated

Overall Development Layout

Pedestrian and Access Road Network

| Objectives | Requirements |
|------------|--------------|
|------------|--------------|

| | |
|--|---|
| O1 To establish a safe internal access road network that serves the development | R1.1 The road (private or public) and pedestrian network layout is to be generally in accordance with Figure 2 Road and Subdivision Layout, provided the relevant planning controls can be satisfied |
| O2 To provide appropriate access and egress points between the Evergreen Estate redevelopment and the existing road network | R2.1 There shall be a high level of internal accessibility and good external connection to Campbell Avenue for local vehicle, pedestrian and cycle movements |
| O3 To enhance transport access and safety | R3.1 As part of any future development application for subdivision, a traffic impact assessment is to be submitted to Council confirming compliance with relevant specifications, in particular, with respect to road geometry and gradients. The assessment is to: <ul style="list-style-type: none"> • address the impact of any additional traffic on local streets • incorporate traffic management measures that restrain vehicle speed and create safe conditions for all road users • allow for emergency access requirements • provide adequate means of efficient evacuation in emergencies |

Natural features

Landscaping

| Objectives | Requirements |
|--|---|
| O4 To provide appropriate landscaping within the Estate which allows for an attractive sense of amenity for occupants, as well as a suitable site interface with the natural features of the adjoining Dee Why Creek Corridor | R4.1 A Landscape Plan is to be submitted as part of any future residential subdivision development application. The Plan is to: <ul style="list-style-type: none"> be prepared in accordance with Council's requirements identify the location, type and condition of all existing trees. be compatible with the recommendations of the Landscape Management and Rehabilitation Strategy (prepared by Woodlots and Wetlands Pty Ltd and Site Image Landscape, June 2012) for lots with an interface to the adjacent open space land to the north demonstrate the provision of an attractive streetscape that reinforces the functions of the street, enhances the amenity of buildings and is sensitive to the built form, landscape and environmental conditions of the adjoining open space be prepared in accordance with Biodiversity Management Plan Guidelines use plants grown from local provenance seed and cuttings include landscaping in front setback areas include at least one "tall or low tree" from Appendix A is to be provided within the front setback area of every dwelling house. The mature height of these trees shall be between 5 and 8 metres |
| O5 To provide adequate protection of Dee Why Creek | R5.1 The northern boundary demarcates the southern extent of the riparian corridor along Dee Why Creek. The average 30 metre width of the riparian corridor includes both the core riparian zone and a riparian buffer. Development is to be designed and managed to minimise any potential impacts on the corridor |
| O6 To ensure development of the site does not adversely impact on the riparian corridor | R6.1 Any setback areas that encroach within the 30 metres of the top of the bank will be treated with increased planting densities. The proposed species, density and distribution of plantings are to be based on the recommendations of a Vegetation Management Plan prepared by a suitably qualified ecologist |

Built Form Requirements

| Subdivision Layout, Lot Yield, Lot Dimensions and Lot Size | |
|---|--|
| O7 To achieve a residential development pattern that provides an opportunity for a small lot subdivision that offers a variety of housing choice | R7.1 The subdivision layout and lot dimensions are to be generally in accordance with Figure 2 Road and Subdivision Layout, provided the relevant planning controls can be satisfied |
| O8 To impose a maximum lot yield to limit the density of development | R8.1 The maximum number of residential lots to be created is 34 |
| O9 To allow for a range of lot sizes to provide an efficient, orderly and sustainable subdivision layout | R9.1 The size of individual residential lots shall be no less than 300sqm and not more than 490sqm |
| Wall Height | |
| O10 To minimise the visual impact of development when viewed from adjoining properties and land zoned RE1 Public Recreation | R10.1 Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space) |
| Front building setback | |

| | |
|--|---|
| O11 To create a sense of openness and arrival | R11.1 Development is to maintain a minimum front building setback of 6.5 metres to Campbell Avenue, except for the provision of an Electricity Substation |
| O12 To provide an attractive streetscape and sense of amenity, to minimise the visual impact of development on the streetscape and to allow for adequate private open space | R12.1 Development is to maintain a 4 metre minimum front building setback to the internal access roads. A lesser setback may be considered for lots 13, 14, 15, 19, 33 and 34 (Figure 2 Road and Subdivision Layout) where the front setback objectives can be met. A greater setback may be required on lots south of the main access road to meet the private open space requirements in R23.1 – R23.3 inclusive |
| O13 To consider the treatment of corner allotments | R13.1 The setback from the secondary frontage for corner lots 23, 24 and 28 is to be a minimum of 2 metres |
| O14 To provide opportunities for casual surveillance of the street and provide visual interest | R14.1 The front building setback area is generally free of any structures or site facilities other than driveways, fences, landscaping and letter boxes R14.2 Buildings are to be oriented to the street |
| Rear building setback | |
| O15 To provide opportunities for deep planting and planting of suitable and substantial native vegetation | R15.1 Development is to maintain a minimum rear building setback of 6 metres with the exception of: <ul style="list-style-type: none"> • Lots 3-6 where a 10 metre rear building setback applies. • Lots 7-13 where an 8 metre rear building setback applies. A lesser setback may be considered for lots 21, 22, 23, 27 and 28 and adjacent land zoned RE1 Public Recreation where the rear setback objectives can be met |
| O16 To preserve the amenity of adjacent land, particularly relating to privacy between buildings | R16.1 The rear building setback area is to be open, landscaped and free of any structures other than ancillary development R16.2 The rear building setback may be encroached by ancillary development but only if the total area of all such development does not exceed 50% of the rear setback area. Any encroachments must comply with the rear setback objectives Definition: Rear building setback is the distance measured perpendicular to the boundary furthest from a public street or the internal access road up to the any building on the allotment |
| Side Boundary setback | |
| O17 To ensure that development does not become visually dominant | R17.1 Development is to maintain a minimum setback of 0.9 metres from side boundaries |
| O18 To ensure that the scale and bulk of buildings is minimised | R18.1 Side boundary setback areas are to be free of any above or below ground structures, car parking or site facilities other than fences |
| O19 To provide adequate separation between buildings and to ensure a reasonable level of privacy and amenity | R19.1 Overlooking between buildings must be minimised by the location and design of windows and balconies or screening devices |
| Side Boundary Building Envelope | |
| O20 To ensure that development does not become visually dominant by virtue of its height and bulk | R20.1 To maintain an acceptable level of spatial separation buildings must be sited within a building envelope determined by projecting planes at 45 degrees from a height above existing ground level at the side boundaries of 4 metres. Where the natural ground levels slope from the front to the rear of an allotment a variation to the Side Boundary Envelope may be considered, where: <ul style="list-style-type: none"> # The Side Boundary Envelope of 4 metres is maintained at the front of the dwelling # The variation doesn't exceed 900mm for more than one-half the length of the dwelling's side wall R20.2 Fascias, gutters, downpipes, eaves (up to 450mm from the boundary), masonry chimneys, flues, pipes or other services infrastructure may encroach beyond the side boundary envelope (BCA requirements) |
| Landscaped Open Space | |
| O21 To ensure that the appropriate | R21.1 The open space areas shall be planted and maintained in |

| | |
|--|---|
| vegetation is planted and maintained within the Estate, and that there is a suitable interface with the land that adjoins the riparian corridor to the north | accordance with Council's requirements and compatible with the recommendations of the Landscape Management and Rehabilitation Strategy (prepared by Woodlots and Wetlands Pty Ltd and Site Image Landscape, June 2012) for the adjacent open space land to the north |
| O22 That landscape design must enhance personal safety and reduce potential for crime and vandalism by incorporating Crime Prevention Through Environmental Design (CPTED) principles LINK | R22.1 Ensure landscaping enables visibility along access ways to restrict opportunities for concealment R22.2 Height of landscaping on the front property boundary is to be maintained at a 1.2m maximum height at a depth of 1 metre. R22.3 Tree location and species selection must accommodate vehicle and pedestrian sight lines R22.4 Ground cover should stabilise the site but not excessively increase bushfire hazard risk |
| Private Open Space | |
| O23 To provide functional and well located areas of private open space | R23.1 Dwellings are to provide the following amount of private open space: <ul style="list-style-type: none"> • 1 or 2 bedrooms - 35 sq m with a minimum dimension in any direction of 3 metres; • 3 or more bedrooms – 60 sq m with a minimum dimension in any direction of 5 metres R23.2 Private open space is to: <ul style="list-style-type: none"> • be directly accessible from a living area • be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play • be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development • have useable proportions for residents and provide space for functions such as clothes drying R23.3 Private open space is to be located to maximise solar access. On lots south of the main internal access road (that connects to Campbell Avenue) half of the required private open space (see R23.1) is to be provided at the front of the building to maximise solar access. Private open space for Lot 14 shall be provided on the eastern side of the lot. |
| Dwelling Design | |
| O24 To encourage innovative and contemporary building designs which result in a high quality and attractive residential environment | R24.1 Building facades are to be articulated. Front facades must be suitably articulated. Elements for articulation may include: <ul style="list-style-type: none"> • verandahs • porches • windows • awnings • eaves • garage doors • wall line variation. R24.2 Eave overhangs are to provide sun shading and protect windows and doors and provide aesthetic interest. Eaves should have an overhang of 450mm (BCA requirements) R24.3 Proposed dwelling colours, materials and finishes are to be from a neutral palette of colours. Highly reflective colours are not acceptable |
| Access and Parking | |
| O25 To reduce the visual impact of garages, carports, driveways and parking areas on the streetscape of the | R25.1 Garages are an important element of the dwelling façade. They are to be integrated with and complementary to the dwelling design |

| | |
|---|---|
| internal access roads | <p>R25.2 The maximum width of a driveway at the kerb is to be 4m</p> <p>R25.3 The maximum width of the driveway at the garage is 5.5 metres</p> |
| Fencing | |
| <p>O26 Fencing is to be suitable to the conditions of the site and is to improve the streetscape amenity.</p> | <p>R26.1 Concept details of all fencing are to be submitted as part of the residential subdivision development application</p> <p>R26.2 The fence along the northern boundary of the land is to utilise high quality materials, should be of sufficiently robust construction to limit vandalism/prevent damage or creation of any unapproved access points directly into the adjacent RE1 Public Recreation zone</p> <p>R26.3 Fencing is to meet Council's requirements with particular reference to the hydrological characteristics of the land</p> |
| Servicing | |
| <p>O27 To ensure that site facilities are integrated, functional, unobtrusive, accessible and easy to maintain</p> | <p>R27.1 Utility services including service structures, plant and equipment are to be:</p> <ul style="list-style-type: none"> • located underground or be designed to be an integral part of the development • suitably screened from public places or streets • provided in a common trench where possible • to each separate lot <p>R27.2 Waste receptacle storage areas and mailboxes are to be integrated with the overall design of buildings and/or landscaping</p> |

Appendix A: Suitable Plant Species List**Canopy / Trees**

Banksia serrata
Glochidion ferdinandi
Melaleuca linearifolia
Tristaniopsis laurina

Shrubs

Acacia floribunda
Acacia longifolia
Actinotus helianthi
Banksia ericifolia var. ericifolia
Banksia oblongifolia
Banksia robur
Banksia spinulosa var. spinulosa
Breynia oblongifolia
Callicoma serratifolia
Callistemon citrinus
Correa alba
Dodonaea triquetra
Goodenia ovata
Grevillea sericea
Kunzea ambigua
Lambertia formosa
Leptospermum polygalifolium
Macrozamia communis
Westringia fruticosa

EXPLANATORY NOTE

Part 4 Division 1A of the *Environmental Planning and Assessment Regulation 2000*

1. Background

- 1.1 This Explanatory Note is the written statement required to be prepared pursuant to clause 25E of the *Environmental Planning and Assessment Regulation 2000* in relation to the voluntary planning agreement proposed to be entered into between Evergreen Development (Dee Why) Pty Limited ACN 142 053 816 ("the Developer"), Binburra Pty Ltd ACN 104 267 754 ("the Owner") and Warringah Council ("Council") ABN 31 565 068 406.
- 1.2 This Explanatory Note has been prepared jointly by the Developer, the Owner and Council ("the Parties").
- 1.3 The agreement ("the Voluntary Planning Agreement") is proposed to be made by the Developer, the Owner and Council under section 93F of the *Environmental Planning and Assessment Act 1979* ("the Act") in relation to the land at 26 Campbell Parade, Dee Why comprised in Lot 61 in Deposited Plan 611195 ("the Land").
- 1.4 The Voluntary Planning Agreement will set out arrangements to be made between the parties to that agreement for the effective transfer of part of the Land to Council upon the registration of a plan of subdivision and for the use or application of that land towards a public purpose.
- 1.5 The Voluntary Planning Agreement arises from a request having been made by the Owner for changes to be made to *Warringah Local Environmental Plan 2011* ("WLEP 2011") in relation to the Land. The Developer is a person who for the purposes of section 93F(1)(c) of the Act has entered into an agreement with the Owner.

2. Purpose

- 2.1 The purpose of this Explanatory Note is to:
 - (a) summarise the objectives, nature and effect of the Voluntary Planning Agreement;
 - (b) set out an assessment of the merits of the Voluntary Planning Agreement, including the impact on the public or any relevant section of the public; and
 - (c) otherwise satisfy relevant provisions of the Act and *Environmental Planning and Assessment Regulation 2000* in connection with the Voluntary Planning Agreement.
- 2.2 This Explanatory Note is not to be used to assist in construing the Voluntary Planning Agreement and does not form part of the Voluntary Planning Agreement.

- 2 -

3. Summary of the objectives, nature and effect of the Voluntary Planning Agreement

- 3.1 The Voluntary Planning Agreement incorporates an offer by the Developer with the consent of the Owner to transfer to Council at no cost and free from encumbrance part of the Land having an area of 2,800 square metres ("the Public Open Space Land") upon registration of the proposed plan of subdivision, a copy of which is annexed to the Voluntary Planning Agreement ("the Proposed Plan of Subdivision").
- 3.2 The Public Open Space Land adjoins land held by Council as public reserve being Lot 62 in Deposited Plan 611195 ("the Public Reserve") and which is part of the Dee Why creek open space corridor that links Narrabeen Lagoon and Dee Why Lagoon. The Public Open Space Land is at the narrowest section of that corridor and as a significant area of open space, will provide a buffer between the residential and business related development to its immediate north.
- 3.3 By entering into the Voluntary Planning Agreement, the Developer proposes to increase the area of the open space corridor within the Public Reserve, add to the capacity of Council to preserve and enhance that open space corridor and to contribute to the landscaping and maintenance of that corridor by undertaking embellishment works that will incorporate a landscape management and rehabilitation strategy.
- 3.4 The registration of the Proposed Plan of Subdivision will:
- (a) increase the area of the Public Reserve by 2,800 square metres and result in the Public Open Space Land becoming part of the Public Reserve vested in Council; and
 - (b) reduce the area of the Land by 2,800 square metres and result in a new Lot 61 reduced in size ("New Lot 61").
- 3.5 The Voluntary Planning Agreement provides that the Proposed Plan of Subdivision will be lodged for registration following:
- (a) WLEP 2011 being amended to vary the zoning of the New Lot 61 from RE2 Private Recreation to R2 Low Density Residential;
 - (b) WLEP 2011 being amended to vary the zoning of the Public Open Space Land from RE2 Private Recreation to RE1 Public Recreation;
 - (c) the amendment of Warringah Development Control Plan ("the DCP"); and
 - (d) the grant of development consent to enable the Land to be subdivided in accordance with the Proposed Plan of Subdivision, the demolition of existing improvements erected on the Land and for the approval of a landscape management and rehabilitation strategy to be undertaken by the Developer in relation to the Public Open Space Land.
- 3.6 The intended outcome of the relevant amendment of WLEP 2011 and the

- 3 -

DCP is to:

- (a) vary the zoning for the New Lot 61 from Private Recreation (RE2) to R2 Low Density Residential ("the Residential Land"); and
- (b) vary the zoning for the Public Open Space Land from Private Recreation (RE2) to RE1 Public Recreation to provide for the widening and enhancement of a public open space corridor that is strategically valued from recreation and ecological viewpoints.

3.7 In addition to obliging the Developer with the consent of the Owner to vest the Public Open Space Land in Council, the Voluntary Planning Agreement will also require the Developer at its cost to:

- (a) undertake relevant environmental rehabilitation, restoration measures and landscape management; and
- (b) undertake and manage appropriate vegetation and landscape management,

of the Public Open Space Land for a period of five years from the date of registration of the Proposed Plan of Subdivision in accordance with strategies prepared by a suitably qualified environmental consultant in consultation with Council ("the embellishment works").

3.8 The obligations on the Owner and the Developer under the Voluntary Planning Agreement will be enforced by:

- (a) the Developer providing a bank guarantee to Council of not less than \$139,707.44 which amount will be reduced progressively upon completion of the embellishment works; and
- (b) Council having the right to compulsorily acquire the Public Open Space Land upon payment of \$1.00 in the event that the Public Open Space Land is not vested in Council once Council has complied with its obligations under the Voluntary Planning Agreement.
- (c) Council having a caveatable right until the transfer of the Public Open Space Land to Council, at no cost to Council, is effected.

3.9 In addition to the enforcement provisions referred to in clause 3.8 the Developer and Owner agree under the Voluntary Planning Agreement to constraints regarding operational consent being granted with respect to the Land until the transfer of the Public Open Space Land to Council at no cost to Council.

4. Assessment of the merits of the Voluntary Planning Agreement

How the Voluntary Planning Agreement promotes the public interest and one or more of the objects of the Act

4.1 The objects of the Act include encouraging:

- 4 -

- (a) the proper management, development and conservation of natural and artificial resources,
 - (b) the promotion and co-ordination of the orderly and economic use and development of land,
 - (c) the provision of land for public purposes,
 - (d) the provision and co-ordination of community services and facilities,
 - (e) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,
 - (f) ecologically sustainable development, and
 - (g) the opportunity for the development of affordable housing.
- 4.2 The Voluntary Planning Agreement will promote these objects and the public interest by:
- (a) the addition of the Public Open Space Land to the Public Reserve for use as public open space at no monetary cost to Council;
 - (b) the widening and improvement of the strategically significant creek open space corridor which links Narrabeen Lagoon and Dee Why Lagoon where it adjoins the Land at its narrowest point thereby securing the opportunity in perpetuity to protect and conserve native animals and plants in the location of the Public Reserve;
 - (c) the implementation of a vegetation management plan which will result in the Public Open Space Land being embellished with endemic native species thereby enhancing the ecological function of the Public Reserve and the adjoining wider creek open space corridor;
 - (d) the maintenance and conservation of the Public Open Space Land at no cost to Council for a period of five years;
 - (e) the provision of a significant area of open space which will comprise both a community facility and a buffer between the Public Reserve and residential and business related development to its immediate north;
 - (f) the opportunity to renew a large contiguous area of underutilised urban land that has become redundant in an orderly manner;
 - (g) the opportunity to provide additional housing for which there is a strong and growing demand in a highly appropriate location which is accessible to existing services, shops and transport when the Residential Land is developed.

How the Voluntary Planning Agreement promotes one or more of the elements of Council's charter under section 8 of the Local Government Act 1993

- 5 -

- 4.3 The Voluntary Planning Agreement will promote the following elements of Council's charter under section 8 of the *Local Government Act 1993*

- (a) *To provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.*

The Public Open Space Land will be created in accordance with the terms of the Voluntary Planning Agreement and by forming part of the Public Reserve, will provide public open space for members of the community. The requirement that the Developer embellish and enhance that land under the vegetation management plan and strategies proposed under the Voluntary Planning Agreement and for the performance of those obligations to be secured by a bank guarantee to be provided by the Developer for the benefit of Council, will ensure that the facility is established and maintained effectively.

- (b) *To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.*

The creation, management and maintenance of the Public Open Space Land in the manner proposed under the Voluntary Planning Agreement will promote this element.

- (c) *To engage in long-term strategic planning on behalf of the local community.*

The widening of a strategically significant wildlife corridor, the embellishment and maintenance of that corridor together with the prospective future renewal of underutilised urban land for housing purposes in a location accessible to existing services, shops and transport are all elements of long-term strategic planning for the benefit of the local community that will be achieved under the Voluntary Planning Agreement.

5. Miscellaneous

- 5.1 There is no provision of the Voluntary Planning Agreement that must be complied with before a construction certificate or occupation certificate is issued in respect of the Development Consent the subject of the Voluntary Planning Agreement. There is however effectively constraint upon the issue of any such certificates in relation to any further subdivision of New Lot 61.
- 5.2 The Developer must procure the registration of the Voluntary Planning Agreement under section 93H of the Act before a subdivision certificate is issued.
- 5.3 There is no provision in Council's capital works program relevant to the subject matter of the Voluntary Planning Agreement and accordingly, the agreement does not conform to that program.

INDEX

| | | |
|----|---|---|
| 1. | Background..... | 1 |
| 2. | Purpose | 1 |
| 3. | Summary of the objectives, nature and effect of the Voluntary Planning Agreement | 2 |
| 4. | Assessment of the merits of the Voluntary Planning Agreement | 3 |
| 5. | Miscellaneous | 5 |

DATED: 2013

EVERGREEN DEVELOPMENT (DEE WHY) PTY LIMITED
ACN 142 053 816

Developer

BINBURRA PTY LTD
ACN 104 267 754

Owner

WARRINGAH COUNCIL
ABN 31 565 068 406

Council

EXPLANATORY NOTE

HARRIS & COMPANY
Solicitors
Level 6
68 Pitt Street
SYDNEY NSW 2000
DX 724 SYDNEY
Telephone 9261 8533
Facsimile 9232 8227
Ref: POB:120089

Evergreen Estate – Public Submissions Summary Table

The following table is a summary of issues raised by the public during the exhibition period between November 2012 – January 2013. It documents the following: The number of times the issue was raised; nature of the issue; where in the exhibition material it is addressed; brief summary of its meaning; response to the issue; if action is required. Please note- O refers to Objective; R refers to Requirement; These are references in the draft DCP.

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------|---|---|--|--------------------|
| 4 | Rear Setback Need for a 10 metre minimum setback from houses in Bruzzano Place | DCP: O15/O16, R 15.1/ 16.1 | DCP R15.1 allows a general setback of 6 metres for the land. Those lots adjacent to Bruzzano Place (Lots 3 to 6) have a larger rear setback of 10 metres and (Lots 7 to 13) 8 metres respectively. The general rear setback throughout Warringah is 6 metres. Proposed Lots 1 and 2 have incorporated this standard because of their shape. Setbacks for Lots 3 to 13 in excess of the general requirement have been incorporated to allow ample separation between existing and future dwellings. This was previously requested by Bruzzano Place residents. It will result in a good level of protection of their amenity. This matter is adequately addressed in the DCP. | Nil |
| 4 | Traffic Traffic flow in neighbourhood needs to be managed e.g. roundabout on to Campbell Avenue and/or in vicinity of Bruzzano Place | DCP O2/O3 and R2.1/ R3.1 | DCP O2 and O3 highlight the need for safe access to and from the existing road network. DCP R3.1 specifies that a traffic impact assessment will be part of any future DA. It will address a number of specific matters, including the impact of additional traffic on local streets. The DCP provides a framework for the assessment of future Development Applications (DA's). This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of future DAs on the land. | Nil |
| 3 | Number of Dwellings Maximum number of dwelling houses to be 34 and to remain low density | DCP O8 and R8 | This matter is adequately addressed in the DCP. DCP O8 imposes a maximum lot yield. R8 specifies this maximum as 34. The 34 lots are also outlined in DCP Figure 2 Road and Subdivision Layout. This matter is adequately addressed in the DCP. | Nil |
| 3 | Rear fence Rear fence to be erected to screen between new and existing development | Parent DCP D15 | Parent DCP Part D15 requires side and rear fences with a maximum height of 1.8 metres throughout most parts of Warringah, including the land at Evergreen (the land). The DCP provides a framework for the assessment of future Development Applications (DA's). This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of future DAs on the land. | Nil |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------------|---|---|--|-----------------------|
| 3 | <p>Loss of Recreation Land</p> <p>Objection to rezoning from private recreation, loss of local recreation resource (adjacent to the corridor), health benefits of exercise, lack of justification of loss of recreation resource and resultant rezoning to residential, under supply of sporting facilities within walking distance of area.</p> <p>Inconsistent with the provisions of WLEP 2000 and WLEP 2011. Not in the public interest.</p> <p>Goes against the original recommendation of the Open Space and Recreation Strategic Reference Group to refuse the planning proposal</p> | <p>Planning Proposal March 2012 and associated council report dated 13 December 2011</p> | <p>This matter is adequately addressed in the DCP.</p> <p>Council report dated 13 December 2011 under "Recreation Opportunities" (p.136) and Planning proposal dated March 2012 under "Warringah Recreation Strategy 2009" (p.18 and Recreation – supply and demand pp. 22 - 26).</p> <p>These concerns were raised in a number of submissions in response to the first non statutory public exhibition in March 2011. They were addressed in the council report and the planning proposal. It was concluded that the change in zoning is not inconsistent with Warringah's Recreation Strategy 2009, particularly having regard to the significant supply of levels of recreational land and opportunities in Warringah.</p> <p>LEP 2000 no longer applies to the land (hence is not relevant to the planning proposal) because of the gazettal of Warringah Local Environmental Plan 2011(WLEP). The planning proposal is consistent with the provisions of WLEP. More broadly, it is considered to be consistent with the aims and objectives of Council's Residential Strategy, its draft Housing Strategy and the wider State government Metropolitan Strategy. The planning proposal and council report identified significant public benefits as a result of the rezoning.</p> <p>This was noted in the planning proposal dated March 2012 (p.28). The Group has not made a submission on the recent exhibition</p> <p>The planning proposal and council report have adequately addressed the matters raised.</p> | <p>Nil</p> |
| 3 | <p>Riparian Buffer</p> <p>Proposed open space buffer not wide or large enough. Should be at least 50% of the land. Doesn't provide opportunities for creek improvement over time or opportunities for tall tree planting to enhance open space corridor. Concern that housing will be developed within 40 metres of the top of the bank of Dee Why Creek. Doesn't allow for relocation of the pathway out of the riparian zone.</p> | <p>Planning Proposal March 2012 and associated council report dated 13 December 2011</p> <p>DCP O21 and R21.1</p> | <p>Council Report dated 13 December 2011 (p.136) and Planning Proposal dated March 2012 (p.29). DCP O21 and R21.1 specify that the interface shall be appropriately planted to enhance the corridor.</p> <p>The extent of the open space buffer was determined following a detailed ecological assessment by GIS Environmental Consultants. The total area of 2840 sqm varies in width from 20m to 50m from the top of the creek bank. The 20m (narrowest) buffer width is in the vicinity of Campbell Avenue near the road culvert where the creek will remain piped. The DCP specifies complimentary planting in the buffer area. This will be further addressed at the DA stage.</p> <p>In December 2011 Council endorsed the buffer on the basis that it would:</p> <ul style="list-style-type: none"> - allow widening of the corridor at one of its narrowest points - secure additional land in public ownership - embellish the natural vegetation and riparian characteristics of this section of the corridor <p>The existing pathway has an equally important recreation function within the corridor i.e.</p> | <p>Nil</p> |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------------|---|--|--|-----------------------|
| | | | pedestrian and cyclist access. The planning proposal, council report and DCP have adequately addressed the matters raised and no change to the extent of the buffer is recommended. | |
| 2 | Site Condition Need to clean up the area and develop as soon as possible | NA | Noted | Nil |
| 2 | Alternative Recreation Use Large land area that could be used for a variety of sports, potential multi sports hub, exercise for older local people (eg adjacent retirement village), grant funding should be explored. SGS economic report recommended that further investigation should be made to assess the collective demand for a multi use recreational facility. This has not been done. Economic arguments do not justify the rezoning. There is demand for other sports locally such as futsal. | Planning Proposal March 2012 and council report dated 13 December 2011 | Council report (p.139) and Planning Proposal (pp.24 -26). Tennis Australia investigated the land for a multi sport venture and did not consider it suitable. No other sport or community organisation expressed interest in the site. It was considered that the land's poor access, lack of public visibility, small street frontage, and irregular site dimensions make it unsuitable for large scale recreational use. The planning proposal and council report have adequately addressed the matters raised. | Nil |
| 1 | Construction Worker Parking Construction workers to park on site, not in surrounding streets | NA | This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of any future DA. | Nil |
| 1 | Lot Size Lots should be no less than 500 sq.m. each | Planning Proposal March 2012 | Planning Proposal March 2012 (p.11). The proposal is for small lot housing with a minimum lot size of 300 sqm. The proposed range of lot sizes varies from 300 to 490 sqm, and the average lot size is 360 sqm. The proposal will contribute towards council's housing target set by the State government. Council's assessment has concluded that the land is suitable for small lot residential development. | Nil |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------|---|---|--|--------------------|
| | | | The planning proposal adequately addresses the matter raised. | |
| 1 | Skateboarders Skateboarders will need somewhere to ride when land developed | NA | This is not a matter relevant to the assessment of the proposal. Notwithstanding this, it is noted that St. Mathews Farm Reserve Landscape Masterplan includes a new junior skate ramp. This Masterplan was adopted by Council on 11 December 2012. The reserve is approximately 1 km from The Evergreen Estate and can be accessed using the existing pathway along Dee Why Creek. | Nil |
| 1 | Low Income Housing Development should provide low income housing so that young couples and lower paid workers can live locally | NA | Planning Proposal March 2012 (p.21). The proposal will result in a small lot housing alternative and create additional housing choice in Warringah. It could potentially provide opportunities for low income housing. This is not a matter for consideration in the assessment of the proposal and is not something council can direct. | Nil |
| 1 | Retention of Tennis Court Some of the land should be used as a tennis court | Planning Proposal March 2012 | Council Report dated 13 December 2011 under "Recreation Opportunities" (p.138) and Planning Proposal dated March 2012 under "Warringah Recreation Strategy 2009" (p.18 and Recreation – supply and demand pp. 22 - 26). The planning proposal and Council report concluded that there is a significant supply of recreational land and opportunities in Warringah. Since Evergreen closed there has been no evidence to suggest that there is an unmet demand for tennis. Provision of a tennis court is not part of the proposal. The planning proposal and council report have adequately addressed the matter raised. | Nil |
| 1 | Noise Concern that new residential development in close proximity to existing Tide and Tide Hotel may experience unacceptable noise levels, particularly on Friday and Saturday nights. Measures need to be incorporated into the DCP or as a condition of DA consent to protect future residents. Additional DCP requirement put forward for inclusion. | NA | The DCP provides a framework for the assessment of future Development Applications (DA's). This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of future DAs on the land. | Nil |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------|--|--|--|--------------------|
| 1 | Internal Road Width Inadequate width of proposed internal access road | Parent DCP C1, C9 and Appendix 4, DCP O1 and R1.1 | Warringah DCP section C1 specifies an internal road access width of 6 metres and Appendix 4 of C9 specifies dimensions of turning circles etc. The proposed internal access road indicated in DCP Figure 2 Road and Subdivision Layout meets these standards. This will be further assessed at DA stage. | Nil |
| 1 | Density Residential density should be higher to allow for a larger amount of open space on land | DCP O9 and R9.1 and general Part G6 DCP objectives | <p>DCP O9 is to allow a range of lot sizes to provide an efficient, orderly and sustainable residential layout. DCP R9.1 provides a range of 300 to 490 sqm lots to address land characteristics.</p> <p>The proposed density allows the overall DCP objectives to be met, particularly those relating to sustainability and residential amenity.</p> <p>The proposed subdivision pattern and envisaged housing form will fit appropriately into the context of the established residential area.</p> <p>Council's resolution of 14 February 2013 was for 34 residential lots. The proposal has satisfied this requirement.</p> <p>This matter is adequately addressed in the DCP.</p> | Nil |
| 1 | Lot Size too small Lot size of 300 sq.m. too small for Cromer. Not consistent with other R2 land in Warringah. Large houses on small lots not appropriate. More like a dual occupancy development | Planning proposal March 2012 | <p>Planning proposal March 2012 p.11.</p> <p>See above response to the issue of density.</p> <p>The planning proposal has adequately addressed the matter raised. The proposed subdivision pattern and envisaged housing form will fit appropriately into the context of the established residential area.</p> | Nil |
| 1 | Developer Gain Rezoning will result in significant benefit to owner and developer. Previous sports business left to run down to justify rezoning | Planning Proposal March 2012 and council report dated 13 December 2011 | <p>Planning proposal p.15 and 22 i.e. community benefits and economic effects.</p> <p>The planning proposal was supported in February 2012 after significant community benefits were outlined including: dedication of land into public ownership; embellishment of the public land; provision of additional housing and investment in renewal of unused land.</p> <p>There are positive economic effects for the proposal including: capital investment of \$25 million, employment during construction and the resultant multiplier effects.</p> <p>The planning proposal has adequately addressed the matter raised.</p> | Nil |
| 1 | Precedent This rezoning will act as a | NA | Each planning proposal received in the future will be dealt with on its individual merits. | Nil |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------------|--|--|---|-----------------------|
| | catalyst for others to follow and further loss of recreation resources | | | |
| 1 | Public Hearing Request for public hearing under section 57(5) of the EPA Act. It is not in the public interest. | NA | <p>In its Gateway Determination of March 2012 the Department indicated there was no need for a public hearing.</p> <p>There are significant public benefits which will result from the planning proposal including:</p> <ul style="list-style-type: none"> - dedication of over 2800 sqm of land into public ownership at no cost to Council - embellishment of this land for 5 years by the current owner prior to handover to council - provision of additional much needed housing in the area - renewal of land that has been unused for more than 2 years <p>In accordance with Section 57 (5) of the EP&A Act, 1979, the relevant planning authority is to arrange a public hearing on the issues raised in the submission if:</p> <p>(a) a person making a submission so requests, and</p> <p>(b) the relevant planning authority considers that the issues raised in a submission are of such significance that they should be the subject of a hearing</p> <p>In this regard, it is recommended that the public exhibition submissions have been adequately considered by this Council Report and are not of a scale, nature or significance to warrant the holding of a public hearing.</p> | Nil |
| 1 | Rezoning would visually narrow the entry to the open space corridor at Campbell Avenue | DCP O4 and R4.1 | <p>DCP O4 states that landscaping shall provide a suitable interface with the adjoining creek corridor. DCP R4.1 specifies the need for and content of a future landscape plan</p> <p>When viewed from Campbell Avenue the land comprises a neglected car park and disused administration buildings. The width of the corridor at the Campbell Avenue is not being reduced as a result of the proposal. There is a 6.5 metre setback from the street that will be fenced and landscaped.</p> <p>Further, the DCP provides a framework for the assessment of future Development Applications (DAs). This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of future DAs on the land.</p> | Nil |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------|--|--|---|--------------------|
| 1 | Environmental constraints Land has a number of environmental constraints, including flooding, acid sulphate soils, and wildlife corridor. | Planning Proposal March 2012 and associated council report dated 13 December 2011 | Planning Proposal (pps.15, 19 and 26) and Council report dated 13 December 2011 (p.137) Assessment of the proposal has found that there are no environmental constraints of such significance to render the land incapable or unsuitable for accommodating residential development Further consideration will be given to a number of environmental assessment matters as part of the assessment of future DAs on the land. | Nil |
| 1 | Amending DCP Part G6 of the DCP is an amendment to the parent instrument that increases the complexity of WDCP. The controls are not consistent with other parts of Warringah | NA | While the complexity of the Warringah DCP may be increased, Council's e-services system will ensure the clear delivery of relevant and applicable planning information for The Evergreen Estate. The controls in the proposed Part G6 of the DCP are specifically applicable to The Evergreen Estate, and do not impact on other areas in Warringah. This matter has been adequately addressed. | Nil |
| 1 | Stormwater Easements Private residential lots will include land affected by the stormwater easement. Public access to the easement needs to be retained. Will restrict opportunities for Water Sensitive Urban Design (WSUD). | Parent DCP C1 Subdivision, C4 Stormwater, C6 Building over or adjacent to Constructed Council Drainage Easements | The Warringah DCP and Council policies address building over council easements and WSUD. Access will be retained to all council easements. Council's WSUD requirements will have to be met via Part C of the parent DCP. This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of future DAs on the land. The DCP and Council's policies adequately address the matter raised. | Nil |
| 1 | Built Form Standards Inadequate amount of land to be available for landscaped open space and private open space. Private open space shouldn't be allowed at the front of dwellings, sunlight not addressed, front setbacks inadequate. Building envelope of 5 metres at rear of buildings too high. DCP includes controls contrary to those | Planning proposal March 2012, Parent DCP Part D Design and DCP Built Form Requirements | Planning proposal p.14 and 18, Parent DCP Design and DCP Built Form Requirements A suite of small lot housing controls has been created for the land to provide a small lot housing alternative in Warringah. It is an opportunity to increase housing stock and choice in the area, and to meet the changing needs of the local community. The DCP provides a framework for the assessment of future Development Applications (DA's). This issue is not a matter for consideration in finalising the DCP but will be considered as part of the assessment of future DAs on the land. This matter has been adequately addressed. | Nil |

| No of times issue raised | Issue | Planning Proposal Report and/or DCP reference | Response | Recommended Action |
|--------------------------------|---|---|---|-----------------------|
| | applying to the rest of Warringah. This could act as a precedent for other land in Warringah | | | |
| 1 | Individual Lot Development Preference for each lot to be developed individually to increase variety of style and accommodation. Does not want the Evergreen Estate to look like Warriewood Valley | Parent DCP Part D Design and DCP Built Form Requirements | Parent DCP Part D Design and DCP Built Form Requirements. A suite of small lot housing controls has been designed to provide a small lot housing alternative in Warringah. The manner in which the site is developed is a matter for the land owner / developer. There are sufficient provisions in the DCP to guide the assessment of future housing on the site. It is not up to Council to determine whether future housing shall be developed individually or not. This matter has been adequately addressed. | Nil |
| 1 | Dwelling colours and materials | DCP R24.3 | DCP R24.3 states that dwellings are to be from a neutral palette of colours. Highly reflective materials are not acceptable. This matter is adequately addressed in the DCP. This will be considered as part of the assessment of future DAs on the land. | Nil |
| 1 | Information Stall | NA | Thanking Council for the information stall and commending staff on their handling of questions on the day. Following the stall the Dee Why Gardens Residents Committee was informed of the exhibition content by the author. | Nil |

ATTENTION: LINDSEY DEY

Hi Lindsey,

Thank you for your letter of 24 November 2012, advising Sydney Water of the above planning proposal.

Please note: Due to the type and scale of rezoning, we have no comment at this stage.

However, at the subdivision and development application stage the developer should engage a Water Servicing Coordinator (WSC) to get a Section 73 Certificate and manage the servicing aspects of the development. The proponent will be provided with detailed information including, but not limited to servicing, capacity and Sydney Water easements at this time.

Requirement for a Section 73 Certificate

Sydney Water will assess the impact of the development when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. The proponent must fund any adjustments needed to Sydney Water infrastructure as a result of any development.

The proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator will ensure submitted infrastructure designs are sized & configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

Sydney Water requests Council to continue to instruct proponents to obtain a Section 73 Certificate from Sydney Water. Details are available from any Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at www.sydneywater.com.au

Regards

Corrine Manyweathers | Student Town Planner

Urban Growth Strategy | Sydney Water
Level 6, 1 Smith Street Parramatta NSW 2150
PO Box 399 Parramatta NSW 2124
T 8849 4014

corrine.manyweathers@sydneywater.com.au | sydneywater.com.au

77 Brighton Street
Curl Curl NSW 2096
Phone: 9938 3459
Email: aesharp@bigpond.net.au

3rd January 2012

To: The General Manager
Warringah Council
725 Pittwater Road
Dee Why NSW 2099

THE EVERGREEN ESTATE - PEX2012/0009

Re: Planning Proposal to amend Warringah LEP 2011 to allow residential development on 84% of the former Evergreen Tennis Centre site at 26 Campbell Avenue, Cromer

Dear Sir

I wish to OBJECT to the planning proposal to rezone the Evergreen Estate from private recreation to residential use for the following reasons.

OPEN SPACE / RECREATION CORRIDOR

- The site has strategic advantages for recreation use in terms of its location within the Dee Why Creek Corridor and proximity to surrounding urban areas, some of which are densely populated.
- The private recreation use complements and extends the recreation use of the adjoining public open space corridor.
- The recreation zoning is compatible / consistent with the objective of Council to provide an open space link between Dee Why Lagoon and Narrabeen Lagoon. The site contributes to the recreation use associated with the Corridor
- The subject site is alongside the Dee Why Open Space Corridor, which is particularly narrow at this point.

- Of historical relevance, background information indicates that a larger area (1.594 hectares / 15,940 m²) of public open space was proposed in 1974, but this was reduced to 5,253 m². *"The area of public open space was reduced from 70% to 23.5% on the basis that the land was dedicated to Council instead of needing to be purchased by Council..."* (SEE, Page 13)
- Since the subject site was set aside for recreation use, residential development in the surrounding urban area has increased, while land available for recreation has decreased.
- The proposed residential use would occupy land adjacent to the Dee Why Creek Corridor, which has multiple and potential values for recreation, environment and public access.

APPROPRIATE TRANSLATION

- In Locality E2 (Dee Why Lagoon Suburbs) the Desired Future Character states that "land occupied by the Evergreen Tennis Centre at Lot 61 DP611195 will continue to be used only as recreation facilities".
- Recreation facilities is a Category 1 land use at the Evergreen Centre. This translates to the RE2 zone which permits recreational facilities, community facilities and ancillary functions.
- The proponent's claim that the RE2 zoning under the draft LEP is "*considerably more restrictive than the provisions of WLEP 2000 which did not prohibit uses such as dwelling houses*" is not correct. Housing, although considered as a Category 2 use, is NOT consistent with the desired future character for the Evergreen Centre in the E2 Locality.
- In WLEP2000 relatively few uses are listed as prohibited. In relation to the Evergreen Centre, 'housing' does not pass the threshold test in Clause 12(3)(b) of WLEP2000 and therefore should not be permitted.

- Given that the Evergreen Tennis Centre (depicted on the LEP map) "will continue to be used only as recreation facilities" the RE2 zone does not impose additional land use restrictions on the site.
- The RE2 Private Recreation zone is an appropriate translation of the existing provisions of WLEP 2000 into the standard instrument LEP for the subject site.
- The comparison with 'Smiths Tennis Centre' at 29-35 Pitt Road, North Curl Curl is not directly relevant. The report states: "*There does not appear to be any planning reason for the difference in land zonings.*" The Smiths Tennis Centre was zoned 'residential' in the Warringah LEP 1985, unlike the subject site which was zoned 'private recreation'. As a consequence, the Smiths Tennis Centre site was NOT identified as a private recreation facility when WLEP2000 was adopted and soon afterwards was replaced with a housing subdivision.

ACCESSIBILITY

- A List of publicly accessible local tennis courts is shown in Warringah (Table 1, SEE, page 19). This list shows that the ONLY facility within easy walking distance of Dee Why is the subject site.
- The report claims "*There are also many excess public land opportunities for new tennis facilities if required to satisfy long-term demand.*" There is no evidence to verify this claim, which is contrary to the view that 'excess public land' available for new recreation facilities is a scarce resource, particularly in built up areas.
- The report claims that: "*existing tennis facilities in the area have excess capacity to absorb the increased demand following the removal of the tennis courts from the site.*" However, there are no other tennis courts identified in the LOCAL area.
- Tennis is a social sport suitable for all ages, including older people. In the Recreation Facility Demand Assessment some of the comments appear to support an increase in demand for tennis facilities. For example, a trend towards 'informal, casual and non-organised recreation activities' such as walking and tennis (Page 42). Also on Page 43: "*There is an increasing interest in recreation activities and*

facilities / settings that are of interest to all ages in a family or group; participation in court sports rather than field sports..."

- The removal of the 8 squash courts would mean a significant reduction of the 14 courts within Warringah and no other courts in close proximity.
- The suggested alternative location for Beach Volley Ball in North Manly Bowling Club is not within convenient walking distance of Dee Why or Cromer.
- The suggested alternative locations for mini-golf at Terrey Hills and North Narrabeen are not convenient to Dee Why or Cromer area.
- The scope of the Recreation Facility Demand Assessment looks at the demand for outdoor and indoor recreation / leisure facilities within 10 minutes drive / 10 kilometres of Dee Why / Cromer. If the scope were confined to cater for demand within easy walking / cycling distance from Dee Why or Cromer, this would highlight the importance of the Evergreen Centre, as there is no suitable alternative site.

ECONOMIC VIABILITY

- The 'economic' arguments put forward do not justify the rezoning of the site for residential.
- Council / another interested party could look at improving the viability of private recreation centre(s), but the rezoning of the Evergreen Centre to residential is not appropriate.
- The claim that the facility is not economically viable does not justify the rezoning and permanent loss of the recreation facility. The 'viability' of a sporting venue is dependent on a range of factors, many of which are not directly related to land use.
- The low occupancy prior to the closing of the facilities appears to have eventuated as a pretext for the rezoning application.
- The report comments on the high cost of upgrading or investing in facilities but does

not look at funding sources to assist with sporting projects.

- The site was acquired with its current land use for recreation and can be sold for private recreation if the current owner does not wish to continue to own / lease the site.
- If rezoned for residential, the land value would escalate and as a consequence, the subject site would never revert to recreational use.
- The rezoning would result in a windfall profit for the landowner / developer. Rezoning to residential would be an irreversible step.
- There is a significant financial incentive for the current owner to seek to rezone the site for residential due to the substantial increase in the value of the land that would result from the rezoning.

TRANSPORT / DEMAND

- Land available for recreation / sporting centres is scarce, particularly within / near to built up areas in Warringah.
- The review has looked mainly at current tennis, volley ball and mini-golf provision and demand in Warringah. However, there are OTHER sporting uses such as 'five a side' soccer which has become popular in recent years. The planning proposal does not provide a thorough assessment of other sporting options with the potential to attract users.
- Recreation facilities that are easily accessible by walking, cycling and public transport help to reduce dependence on cars. They also provide for residents without access to cars.
- The site is accessible from the main North to South transport corridor: "A major bus stop is located within the Dee Why Centre on Pittwater Road which is only 1.3km walking distance from the site."

- The Metropolitan Strategy imposes targets for additional dwellings and population in Warringah that will result in increased demand for recreational facilities.
- Major development in Dee Why Town Centre has already been approved that will result in additional dwellings / population within the walking / cycling catchment of the subject site.
- Dee Why area has a shortage of sporting and recreation facilities and also of land suitable for these facilities.

SUMMARY

- Dee Why has a high concentration of residential dwellings and population. The private recreation use should be retained to provide for the surrounding residential area.
- The site was is part of a corridor of land used for recreation alongside Dee Why Creek. The site adjoins the Dee Why open space corridor, used for active and passive recreation including walking and cycling.
- This application is the latest in a sequence of so far unsuccessful proposals to rezone the site for residential development. The repeated applications demonstrate a persistent attempt to 'up-zone' the land in spite of previous refusals. This application similarly should be refused, as it is not in the public interest.
- If rezoned for residential, the land would be subdivided for private dwellings. With multiple land owners and a correspondingly huge increase in the cost of the land, the subject site would never be re-acquired for recreational purposes.
- Recreation facilities contribute to the health of residents and prevent obesity. It is important that these facilities are conveniently located to encourage local residents to walk or cycle to access the facilities.
- The recreation site is within easy reach of Dee Why Town Centre, Dee Why open space corridor and surrounding residential areas.

- The proposed rezoning for residential would permanently remove a strategic site allocated for private recreation use and have implications for the surrounding urban areas.

Yours sincerely

Ann Sharp

77 Brighton Street

Curl Curl NSW 2096

Phone: 9938 3459

Email: aesharp@bigpond.net.au

4th January 2012

The General Manager

Warringah Council

725 Pittwater Road

Dee Why NSW 2099

Email: deyl@warringah.nsw.gov.au

THE EVERGREEN ESTATE – PEX2012/0009 – Submission

PLANNING PROPOSAL - 26 CAMPBELL AVENUE, CROMER

I wish to object to the planning proposal to rezone the subject site from private recreation to residential and to the proposed amendment to the Warringah Development Control Plan.

Following are some REASONS to SUPPORT this objection.

PLANNING ISSUES

HOUSING DENSITY CONTROL

The proposal would not only rezone the site to residential but would allow a concession to the housing density. This in turn would increase the value of the land.

The proposed 34 lot subdivision does not conform to the housing density standard in the current WLEP2011 and previous WLEP2000. The CourtSportz site is located in the Locality in which "The maximum housing density is 1 dwelling per 600 m2 of site area..."

This control does not apply:

- a) for housing [under SEPP (HSPD)]
- b) within "medium density areas" shown on the map...

The private recreation site is NOT located within a "medium density area" as shown on the LEP

map. Therefore a minimum 600 m² lot size would normally apply to the area in which the site is situated. The average lot size for the 34 lots in the proposed subdivision would be between 300 and 400 square metres, which is less than two thirds of the required MINIMUM.

The proposed subdivision for 34 large houses on undersized lots with residual landscaped open space would have a very different character to that of low density residential in the locality. The concentrated residential area would be like an enclave of over-development situated in close proximity to the recreation corridor.

It is misleading to claim that the planning proposal is a 'low density' development.

DEE WHY CREEK CORRIDOR

"The proposal will return a significant portion of this sensitive land to public open space."

The proposal will return only 16% of the site to public open space. This is hardly a significant portion.

"Enhancement and expansion of Dee Why Creek / open space corridor which adjoins the northern boundary of the site." The rezoning proposal would increase the width of the adjoining public open space corridor from 20 metres to 30 metres. However, building development is unlikely to be permitted within the 30 metres of Dee Why Creek, as this is less than the recommended minimum riparian setback. [If the site is retained for recreation a 10m wide landscape buffer could be provided.]

The proposal would result in the loss of trees and open space adjoining the 30 metres wide corridor.

PERMITTED RECREATION USES

"It is also relevant to acknowledge that the site's present zoning permits a range of uses which have higher potential for adverse impacts, for example, go-kart track, registered club, golf driving range, skateboard ramp."

The examples of recreation use quoted in the report to justify the housing proposal are unlikely to occur – and would require development consent. The impacts on adjoining properties would be taken into account if a development application was submitted for these uses.

Permitted uses include those that would be compatible with the adjoining residences and would complement the mixed use recreational use of the site. For example, a catering facility such as a

kiosk could provide an additional source of income for the sporting venue. Council consent would be required for this or any other recreational activity mentioned in the report.

ADJOINING RESIDENCES

An apparent conflict is *“residences that adjoin the southern boundary of the site (from the northern side of Brazzano Place) are currently within 7-15 metres of flood-lit tennis courts”* However, the conflict can be reduced, as lighting can be designed or upgraded to avoid light spillage into adjoining properties. Also, lights can be turned off before 10pm.

The fact that “residential development has built-up in the 34 years since the courts were originally developed on the site” contributes to the apparent conflict. However, the recreation facility was in existence well before the adjoining development. The configuration of the courts, landscaping and conditions relating to its use can mitigate impacts on adjoining residents. Also, visual and noise impacts are likely to result from the proposed residential development.

LOCAL AREA

KEY ISSUE – LOCATION

The rezoning proposal would take away a site zoned for private recreation that is conveniently situated to residents in built up and densely populated areas. This includes medium density housing areas that lack open space so that residents are more dependent on local areas zoned for recreation use.

The rezoning proposal does not take into account the PROXIMITY of the private recreation site to concentrated residential areas. The report does not adequately consider the social impact on the densely populated areas such as Dee Why or the potential unmet demand for sporting facilities. The report states that a qualitative consideration is: *“Distribution and accessibility – where open space is located with respect to the communities that use it and how people can access it.”*

SUPPLY

The report states that: *“The proposed change in the site’s zoning represents an insignificant impact on the supply of recreational facilities in Warringah.”* However, within the local area, there would be a significant REDUCTION in the supply of recreational facilities suitable for court sports.

SPATIAL DISTRIBUTION

A relevant consideration is the spatial distribution and mix of of recreational facilities in the local area.

1. Limited land is available for mixed recreation use including court sports.
2. The size of the site provides scope for a range of sporting and ancillary uses.
3. The potential demand in the surrounding area has not been adequately assessed.

SOCIAL – PROXIMITY of SITE

Land allocated for recreational use provides an important amenity for surrounding residential areas. The proposal would result in additional housing development while permanently taking away recreational land in a location where there is already an under-supply of recreational facilities. This is short-sighted planning that will adversely affect the amenity of the local area now and in the future.

HEALTH BENEFITS

Strategies to improve health and reduce obesity include the provision of recreational facilities in the local area.

ACCESSIBILITY

The private recreation site is located approximately 1 km north of the Dee Why town centre and within convenient walking distance of Pittwater Road. The report states: *"Bus stops adjoin the site and are serviced by 5 bus routes being the 180, 158, 146, 179 and E79"* and *"A dedicated off-road walking and cycling link also connects to the site via the Dee Why Creek Corridor"*. Accessibility advantages of bus and cycle way apply to the recreational use of the site and justify that use just as much as they do the housing proposal.

RECREATION

RECREATIONAL COMPLEX

The Courtsportz site houses "some 14 tennis courts, 8 squash courts, beach volley ball courts, administration building, car parking and other associated facilities."

ADVANTAGES of LARGE SITE

The private recreation site is sufficiently large to become a recreation hub with a range of sporting uses. The present site is large enough to provide a venue (with 12 or more courts) for tennis tournaments and other sporting events. The Council report states that Tennis Australia "raised concern to the loss of what they identify as a tournament scale tennis facility".

RECREATION CORRIDOR

The LOCATION of the site is alongside the public open space corridor, which has a walking and

cycling path connecting Dee Why Beach and Narrabeen Lagoon. This shared path will be completed in the near future and the route will attract more users. The private recreation site is strategically located and allows the prospect of a mixed use facility to be COMBINED with walking and cycling.

WALKING and CYCLING

The Council report states that the top recreational activities are walking and cycling. This provides an additional argument for retaining the recreation area, which is within walking and cycling distance of Dee Why Town Centre and Pittwater Road.

TENNIS

The NSW tennis industry benchmark for tennis courts one court per head of population i.e. 1: 1,500. Applying this benchmark to the local area, the number of courts would be well below the desired minimum if the Courtsportz site is rezoned. The population in the 2099 postcode (Cromer, Dee Why, Narrabeena, North Curl Curl) is about 35,000 and in Collaroy is about 14,000. If the NSW benchmark is applied – 1 court per 1,500 persons – 23 courts would be required in the 2099 postcode and 9 in Collaroy, giving a combined total of 32 for the local area.

Excluding CourtSportz, there are only 4 courts in Narrabeen and 6 in Collaroy, giving a combined total of 10 – well below the NSW benchmark.

MIXED USE RECREATION FACILITY

The SGS report to Council recommends a further analysis of a multi use recreational facility on the site. "While the Recreational Facility Demand Assessment contains a relatively robust analysis of the supply and demand for tennis, squash, volleyball and mini-golf recreational facilities on an individual basis, **we suggest that the collective demand for facilities offered by a multi use recreational facility as would be provided by a redeveloped Courtsportz facility has not been sufficiently analysed.**" Council has not followed up this recommendation and look at the benefits of a mixed use recreational hub on the site that provides for a range of sporting activities, such as futsal. Tennis courts can be used for multi-sports like netball, basketball and futsal.

GRANT FUNDING

A grant to upgrade the facility is a potential source of funding that has not been explored. The size of the site may increase the potential to attract funding for upgrade.

The submission from Tennis NSW states that funding is available for upgrading tennis facilities and the National Court Rebate Scheme provides a rebate for surfacing tennis courts e.g. with Plexi

Cushion. The amount of funding required to resurface the outside courts is a relevant factor in assessing the required financial support from 'other sources'.

PRIVATE RECREATION SITES

LAND VALUE

The land value of the Courtsportz site is currently estimated to be a few million dollars. The SGS report states that the **"unimproved valuation of the land is \$1.9 million"**. Rezoning the private recreation site to residential would greatly increase its land value and prevent any possibility of its future use for recreational purposes.

FINANCIAL CARROT

If Council rezones the site for residential its land value would increase by several million dollars, and the windfall profit would accrue to the land owner. The prospect of a substantial increase in the land value is a financial incentive for any land owner to pursue the rezoning of a private recreation site to residential.

DOWNWARD SPIRAL

The prospect of a windfall gain could also lead to a reduced incentive to invest in upgrades or maintenance. A downward spiral results if the facility becomes shabby, attracts less patronage and the business is no longer operating at a profit – or breaking even.

If the state of the courts is persistently poor this provides fertile ground on which to claim that the private recreation site is not financially viable. A state of dilapidation and prolonged period of closure would strengthen this argument.

REWARD

Why REWARD poor investment in maintenance and upgrade with a rezoning that will reap millions of dollars and result in the permanent loss of a recreational land in the local area? The recreational venue has become run-down partly because of inadequate funds for maintenance. However, this does not justify rezoning the site for development and permanently depriving the community of a site identified for a recreational use.

OTHER PRIVATE RECREATION SITES

The large profit to be made from the rezoning is likely to encourage the speculation and demise of other private recreation facilities.

Several years ago Council rejected an application from Dee Why Bowling Club to rezone part of their private recreation land to residential. If the Courtsportz site is rezoned, applications to rezone other private recreation sites could follow suit. Land speculation could result in facilities being gradually run-down, thus promoting the argument that the private recreation use is not financially viable.

Two other sites in the Dee Why Lagoon Suburbs Locality are zoned for private recreation in WLEP2011. Similar to the Evergreen site, the intended land use for these sites, as stated in the WLEP2000 Locality Statement, is that they "will continue to be used only as recreation facilities".

COURTS at CURL CURL

In North Curl Curl the tennis courts complex in Pitt Road was sold for residential about 10 years ago – but this site was already zoned for residential – unlike the site at 26 Campbell Parade.

In the southern part of Curl Curl four tennis courts in the grounds of the Harbord Bowling Club became run down when the Club was proposing to sell the land to another owner for a private recreation use. However, the sale did not take place and instead the courts were leased and work undertaken to upgrade the facilities and given them a new lease of life. Now the courts are in regular use for futsal, with a pizza cafe to complement the venture.

SUPPORT for RETAINING RECREATION ZONE

Why is this rezoning being recommended for approval when it is opposed by so many? This includes numerous objectors, Tennis NSW, Strategic Reference Group – Recreation and Open Space, and a 1000 signature petition.

Why is the Council report recommending a rezoning proposal that has been rejected previously?
The arguments for previous refusals are not included in the Council report.

The referral response from Council's Parks, Reserves and Foreshores also supports the site retaining its existing zoning and states that: "Sportsfields are currently experiencing increased demand for use for small sided versions of games, primarily futsal and 6-sided soccer. The Evergreen site could be utilised to provide a facility that could satisfy this demand."

The Minutes of the SRG - Recreation and Open Space meeting held 21 February 2011 contains the following Recommendation to Council:

That a submission is made on behalf of SRG members stating a unanimous vote against the

proposed rezoning of the land at Lot 61 DP 611195 (referred to as the Evergreen Tennis Centre in WLEP 2000) from private recreational zoning to housing zoning)

RESOLVING the PROBLEM

Suggested solutions can be worked through but the first step is NOT to rezone the site to residential. If the site is rezoned this would negate any prospect of retaining the site for recreation, as the land would become prohibitively expensive.

Since the facility was closed the site has become derelict and this state of neglect is being used as an argument to justify rezoning. Steps can and should be taken to reinstate and restore the site for recreational use rather than to permanently remove this option by rezoning the site to residential. The recreation site has the potential to provide a unique facility within the local area and it is in the public interest that it is retained for its intended use.

ATTACHED are comments and quotes from the SGS Economics and Planning Report that support a further analysis of the demand for a multi-use recreational facility.

Yours sincerely

Ann Sharp

SGS ECONOMICS & PLANNING REPORT

This report suggests

1. the subject site represents a unique facility on the Northern Beaches due to the number and mix of facilities provided on the site
2. that further analysis is required to assess the collective demand for a multi use recreational facility
3. it is likely that the current site represents a viable business opportunity for a mixed use recreational facility
4. the viability of the facility has been understated from an operator's perspective
5. capital funding support would be required to invest in modern building and facilities

The report does not include a breakdown of costs relating to an upgrade of the facility. The capital funding required for modern buildings would be considerably more expensive than the cost of resurfacing outdoor courts. Potential sources of funding are not explored in the report.

RELEVANT QUOTES

The "unimproved valuation of the land is \$1.9 million". (Page 6)

"Investing in modern buildings and facilities to support the use would require capital funding support from Council or another source. If this was secured the facility could probably generate revenues to cover operating costs including a margin for profit." (Page 2)

"we suggest that the collective demand for facilities offered by a multi use recreational facility as would be provided by a redeveloped Courtsportz facility has not been sufficiently analysed." (Page 2)

"In analysing the operating outcomes the proponent appears to have underestimated the potential income from sources other than Court Hire i.e. membership, merchandising, training. **The proponent is therefore understating the viability from an operator's perspective.**" (Page 2)

"The subject site is privately owned and represents a unique facility on the Northern Beaches due to the number and mix of facilities provided on site. Currently there are very few examples of privately owned and run mixed-use recreational facilities operating on private land due to the typically modest returns on land and facility investment." (Page 4)

"Tennis Australia has identified the site as of strategic importance due to the attributes mentioned above. The industry body is promoting a mixed use recreational facility model with the intention of creating 'community hubs' which allow for community participation in a number of sports and thereby maximise social interaction and the benefits which flow from participation in sporting activities. The Tennis Australia model requires 10 to 12 courts on one site with a mix of surface types combined with other health and fitness facilities." (Page 4)

"it is likely that from an operational perspective the current site represents a viable business opportunity (recurrent revenues would meet recurrent costs) for a mixed use recreational facility. Upfront capital funding from another source may allow for a 'community hub' sporting facility to be successfully developed in line with the model currently being promoted by Tennis Australia." (Page 5)

"due to the current trend towards the creation of 'community hubs'...it may be more useful to estimate the demand for a mixed use recreational facility as represented by the Courtsportz

complex." (Page 7)

"the Courtsportz site provides the opportunity to host a facility which does not currently exist in the area and may be difficult to repeat elsewhere in the sub region. Also...there are opportunities for partnerships to be developed so as to share the redevelopment costs." (Page 8)

"We suggest that, given the data made available to SGS, there has not been sufficient consideration of the possibility that participation rates for tennis may increase beyond the rates assumed due to the initiatives beyond the rates assumed due to the initiatives currently being undertaken by Tennis Australia and Tennis NSW." (Page 12)

"While it is relevant to analyse the demand for each type of recreational activity separately it may be more useful to estimate the demand for a mixed use recreational facility of the type represented by the Courtsportz complex in its current form and after redevelopment." (Page 13)

77 Brighton Street
Curl Curl NSW 2096
Phone: 9938 3459

Email: aesharp@bigpond.net.au

5th January 2012

The General Manager
Warringah Council
725 Pittwater Road
Dee Why NSW 2099

Email: deyl@warringah.nsw.gov.au

THE EVERGREEN ESTATE – PEX2012/0009 - Submission

PLANNING PROPOSAL

I object to the rezoning of the land zoned for private recreation to residential.

OPEN SPACE CORRIDOR

The planning proposal to rezone the site to residential would replace a zoning for private recreational use that complements the Dee Why Creek Open Space Corridor.

The strategic significance of the open space corridor between Dee Why Beach and Narrabeen Lagoon supports the retention of an adjoining recreation use. A strategic plan should encourage a diversity of recreational uses on land adjoining the corridor.

Within the vicinity of the open space corridor, three other sites are also zoned RE2. The RE2 (private recreation) zone for the subject site complements the existing public and private recreation use along the open space corridor.

The subject site is located at the narrowest point of the open space corridor. The existing

RE2 zone extends the function of the corridor for recreation use and landscape open space.

The planning proposal would visually narrow the entry to the public open space corridor in Campbell Avenue. The housing development would replace the full width of what is currently set aside for private recreation use.

Additional housing can be provided elsewhere in areas already zoned for residential use – but private recreation land next to the Corridor is not relocatable.

The use of the Corridor for recreation purposes should be reinforced by retaining recreation areas adjacent to the Corridor. This land use guideline should be adopted as a Policy of Council.

ENVIRONMENTAL CONSTRAINTS

The subject site has environmental constraints that make it unsuitable for the proposed residential use.

The Warringah DCP 2011 shows that part or all of the subject site is affected by the following environmental constraints:

- Low Flood Risk Planning Precinct – affects much of the site
- Acid Sulfate Soils Class 5 – affects the whole of the site
- Wildlife Corridor – overlaps a wide corridor near to creek

The proposed residential zone and development would overlap land that is affected by one or all of these environmental constraints.

Residential development on the flood prone land should be avoided, particularly as the risk of flooding is likely to increase in the future. These areas should be retained for a low intensity recreation use with landscaped open space. The subject site is also adjacent to the coastal zone upstream of Dee Why Lagoon.

The housing development would overlap the wildlife corridor identified in Warringah DCP 2011, particularly in the vicinity of Campbell Avenue. A wide margin of land should be set aside for a wildlife corridor alongside Dee Why Creek with additional space for recreation use.

The housing estate does not allow adequate setback from Dee Why Creek or riparian vegetation. Along most of the northern boundary there is no buffer for recreation use separating the riparian corridor from the housing estate.

The proposed subdivision would allow private residential lots to overlap the stormwater easement that traverses the site. This would restrict future opportunities for Water Sensitive Urban Design measures to improve water quality in Dee Why Creek. An easement of sufficient width should be kept clear for public access.

RIPARIAN CORRIDOR

The planning proposal includes the rezoning of 16% of the subject site from private recreation to public open space in order to widen the corridor and riparian buffer on the southern side of Dee Why Creek. However, only a relatively narrow margin of land would be added to the existing corridor, particularly along the eastern portion.

"The land to be dedicated to Council provides a riparian corridor with an average width of 30m." However, a more generous margin is required, particularly with the proposed juxtaposition of a residential development. The riparian buffer should be at least 40 metres from the top of the bank to provide for a vegetation corridor and adequate setback from Dee Why Creek.

The Warringah Creek Management Study (WCMS) 2004 maps incorporate constraints in existing urban areas. However, the maps are not intended to restrict the riparian buffer width in conjunction with a planning proposal where there is ample scope to widen the corridor. The maps should be used in conjunction with the aims and objectives of the WCMS to improve the existing condition of waterways. Dee Why Creek should have a wider buffer to sustain edge effects and the impacts from the anticipated adjoining

residential development.

The Warringah Natural Area Survey identifies the subject site as being part of “a *regional wildlife corridor, which provides connectivity to the coastal corridor with regional core habitats including Dee Why Lagoon and Jamieson Park, Narrabeen*”. The proposed subdivision boundary should provide an increased width for a regional wildlife corridor.

The Natural Environment Unit of Council considers that: “*the provision of a 40m wildlife corridor overrides the 30m riparian corridor based on connectivity attributes to significant habitat up and downstream of the subject site*”. The additional 10 metre width (average) of riparian corridor should be increased to at least 20 metres.

Near to Campbell Avenue very little width has been added to the existing corridor. Additional width should be provided in this location, which provides an entrance to the walkway along the Dee Why Creek Corridor.

An additional reason is that the private recreation land has trees and landscaped open space to complement the corridor. However, the residential development would mean the majority of trees would be removed and two storey houses would be visible from the public open space.

The proposed width does not leave any scope for the future replacement of the channelised watercourse with a more naturalistic creek that would also reduce flooding downstream and improve water quality. Although the project is not identified as a priority at this time, the works could be carried out in subsequent years.

Scope for these improvements is consistent with Council's Policy for Protection of Waterways and Riparian Land, which states that: “Piped or channelised watercourses shall be reinstated to more natural forms where possible” (cl 3.1d).

The Flood Planning Level Map partially overlaps the proposed subdivision boundary. The riparian corridor should be widened to encompass the flood plain on the southern side of

the creek.

Although two stormwater easements traverse the site, the application does not consider measures to reduce stormwater impacts on Dee Why Creek in conjunction with landscaping and the removal of drainage structures.

MODIFIED PLAN

The site cannot be developed for housing under the current zoning. If any land was to be rezoned for residential development, a far greater proportion – at least 50% - of the site should be set aside for environmental and recreational use to extend the corridor.

The proportion of only 16% of the site allocated as additional public open space is not adequate. The proposed additional width does not allow for tall trees to enhance the amenity of the corridor or recreational use. The corridor set aside for environmental and recreational should be much wider.

The proposal does not provide an on-site recreation areas for residents, including children. The size of the lots is significantly smaller than normal, so additional play space should be provided.

It is unacceptable to suggest that the adjoining public open space is a substitute for on-site play areas. This is using public land to offset the provision of adequate play space and landscaped areas that can and should be provided ON SITE within the development.

Any proposal to rezone land to R2 should consider a different plan for the site that allocates a much wider corridor for the purposes of open space. Dwellings with landscape setback could be located on the northern boundary of existing development. This configuration would allow a compromise that would better respect and retain the special features and function of the recreation corridor.

LOW DENSITY RESIDENTIAL ZONE?

The planning proposal includes rezoning 84% of the subject site to the low density

residential - R2 zone. However, it is questionable, as to whether the proposed development satisfies the objectives and requirements relating to low density residential.

The proposed amendment to Warringah DCP 2011 is PART G SPECIAL AREA CONTROLS is Part G6 – The Evergreen Estate. This states that the minimum individual lot size is 300 square metres and the maximum 490 square metres. The Road and Subdivision Layout in Figure 2 shows that the majority of lots would be closer to the minimum lot size.

The proposed lot size of 300 square metres would be half that of the minimum lot size (600 square metres) for the surrounding low density area in WLEP2011. The proposed lot size is more akin to a dual occupancy development, which is listed as a dwelling type in the R3 (medium density) zone in WLEP2011.

As a general rule, smaller lots also means substantially reduced areas for landscaped open space and in particular, the establishment of trees of reasonable height.

The adjacent Dee Why Retirement Village, which has a small area per dwelling, was approved under the former SEPP5 (seniors housing) legislation. Under WLEP2011 seniors housing is prohibited in R2 low density residential areas.

The planning proposal is NOT consistent with the requirements for low residential development under WLEP2011, as the form of development would be similar to that of 34 dual occupancies.

In WLEP2011 dual occupancy development is PROHIBITED in the R2 zone. It is not appropriate to apply the R2 zone to a form of development that is similar to that of dual occupancy, which is an R3 dwelling type.

Dual occupancy legislation resulted in a number of negative outcomes and was eventually repealed. A planning proposal that allows large houses on small blocks is likely to have similar adverse consequences, such as reduced and inadequate outdoor area for privacy,

play and landscaping.

An objectives of the R2 low density residential zone is:

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The planning proposal does not fulfil this objective of the R2 zone. The limited area available for landscaping would undermine a descriptive control that applies to the low density residential zone in WLEP2011.

Approval of this development would convey the message that this proposal is acceptable as R2 low density residential, when, on the basis of the standard descriptive and prescriptive controls in WLEP2011, it does not fit the criteria.

There is also a risk that this proposal would be used as an example and precedent for future low density development in Warringah – even though its form is more akin to medium density housing.

PROPOSED CHANGES to WARRINGAH DCP 2011

The Special Area Controls in Part G6 – The Evergreen Estate would not improve upon the DCP requirements that it would override. The proposal is an over-development that compromises the standard controls in the DCP. The Special Area Controls bypass adopted controls and objectives that apply to development in Warringah.

Part D2 Private Open Space

A requirement of Part D2 – private open space – is that Private Open Space is not to be provided in the front of the building. The proposal omits D2 and allows private open space in the front of some dwellings.

The dimensions and requirements for private open space in G6 are the same as for R3 (medium density) dwelling types in WDCP2011.

Part D6 – Access to Sunlight is omitted. The only reference to solar energy appears to be a requirement that eaves should have an overhang of 450mm.

Part E7 – Development on land adjoining public open space

The proposed lots adjoining the existing and proposed public open space do not complement the use and character of the site. Side and rear boundary fences would abut the public open space along the northern and western boundaries.

Part G6 Side Boundary Building Envelope

In the WDCP2011 the subject site is located in an area with a 4m side boundary envelope – not 5m. Part G6 (R20.1) would require 4 metres at the front of a building, but on sloping land would allow a variation to the Side Boundary Envelope of up to 0.9 metres 'for no more than one-half the length of dwelling's side wall'. This variation would allow larger buildings with half the rear side wall up closer to 5m in height.

This variation would not be consistent with the development control for the Side Boundary Envelope that applies to the surrounding low density area.

Part G6 Front building setback

The front building setback is only 4m compared with the standard 6.5m in the surrounding R2 residential area. A lesser setback may be considered for some lots "where the front setback objectives can be met". Any greater setback would be to "meet private open space requirements". In spite of a requirement to plant at least one "tall or low tree" within the front setback of every dwelling house, a 4m front setback would limit the scope for landscaping and trees.

Part G6 - O5 and O6 (Dee Why Creek and riparian corridor)

The proposal does not allow adequate width for the riparian buffer. It also does not consider the potential to relocate the paved path in the future so that it is outside the riparian zone.

Housing development would occur within 40 metres of the top of the bank of Dee Why

Creek. The G6 requirement to increase plant densities within private allotments that encroach within the 30 metres of the top of the bank is no substitute for a wider vegetation buffer.

PART G6 – THE EVERGREEN ESTATE

Concessions that allow increased development on the subject site override existing controls in Warringah DCP. Site specific controls that apply to the Evergreen Estate are not consistent with standard controls that apply to low residential development.

The Part G6 amendment to the Warringah DCP is a detailed document that would add complexity and volume to the adopted DCP. The question arises, as to what confidence can be had in the existing controls and the consistency of their application if Council adopts this amendment.

PUBLIC INTEREST

The proposal ignores the strategic benefits of retaining the existing private recreation zone or encouraging a diversity of recreation use along the Corridor.

The site is unique in that the SIZE of the site allows the potential for a multi-use sporting facility in a location that is alongside a regional open space corridor in close proximity to schools and concentrated residential areas.

It is in the public interest that RE2 land be retained to cater for the existing and unmet demand for recreation facilities.

The social benefit of using the site for 34 undersized allotments does not, in my view, outweigh the social benefit of retaining the site for a recreational use that complements the regionally significant corridor.

The land is strategically situated alongside the open space corridor and is one of the few sites that could provide a multi-use court sports facility within the local area.

The site is not suitable for the proposed intensive residential development due to the combined environmental constraints of the site and its location in close proximity to Dee Why Creek.

The proposal would result in an over-development in close proximity to Dee Why Creek. Within the subject site it would also result in the loss of many trees that enhance the amenity of the corridor.

The Corridor is important for open space and recreation uses that cater for surrounding residential areas, including Dee Why and Cromer.

I would like to request a public hearing on the planning proposal (under section 57 (5) of EP&A Act).

Yours sincerely

Ann Sharp

Lindsey Dey

From: Lynne Rae [lynnerae888@hotmail.com]
Sent: Wednesday, 2 January 2013 10:26 PM
To: Lindsey Dey
Subject: The Evergreen Estate - PEX2012/0009 - Submission
The General Manager
Warringah Council
725 Pittwater Road
Dee Why NSW 2099

3rd January, 2013

Dear Sir

Re: The Evergreen Estate - PEX2012/0009 - Submission

I refer to the above planning proposal and would like to submit a submission.

I still reject the planning that would put 34 residential lots on this land that is zoned "Private Recreational" and only leave 16 percent for public open space. There is a creek that runs right next to the proposal land and I would hate to see the flora and fauna around this green corridor be damaged or destroyed. So little green land is available especially in this area. I would like to see a bigger buffer around that corridor.

With so little land around the northern beaches for recreational purposes, it is a crime to let this land be rezoned just because the owners of the property want to make more money by zoning residential. This land could be used for so many recreational purposes! As mentioned before, in an earlier submission, it's all very well to have just open space for kids but I would like to think that supervised recreational activities are what may benefit in the long run to build well-adjusted adults and create a better community. I know I benefited from the Centre and have long standing friendships with people over the last 25 to 30 years to vouch for that. I more or less grew up on that tennis centre and would like to think that future generations could also benefit from competitive and social interaction in such a place. It does not have to stay just as a tennis centre or squash courts. It could be so much more than that. Once this land is zoned residential, you will have lost another recreational area forever.

I still can't believe that the Council has been manipulated into rezoning this land. It should be the Council getting the owners to clean up their own mess, especially now. Its been nearly a year since the rescission motion was passed and the owners have not done anything to secure the land from any further damage being done to it. It's to their advantage to make the property as ramshackle as possible!

I guess I'm fighting a losing battle, but if you don't stand up for what you believe in and speak up, nothing would ever change.

Please consider my submission and perhaps ask for another planning proposal in regards to the public open space becoming bigger or better yet, go back to the drawing board and create another proposal for this land that includes a multi-recreational facility!!!

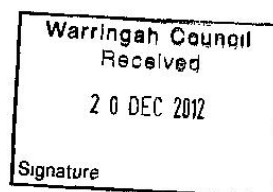
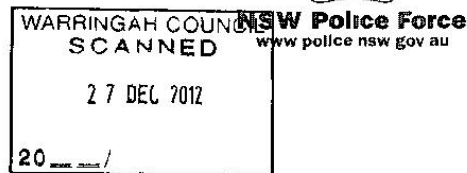
Yours faithfully

Lynne Rae
6/80 Old Pittwater Road
Brookvale NSW 2100

14/02/2013

19/12/2012

Attn The General Manager
Warringah Council
Civic Centre
725 Pittwater Road
Dee Why 2099



Dear Sir

Re THE EVERGREEN ESTATE – PE2012/0009

Address 26 Campbell Avenue Cromer 2099

Thank you for referring this development application to our Local Area Command for comment. Given the nature of the development we do not believe a Crime Risk Assessment is necessary.

- ☐ The crime in the area is currently low and it is expected that this development will have minimal impact on our resources.
- ☒ While crime is currently low in the area being developed, this development will have a positive impact in bringing residents and businesses together to make the area safer.
- ☐ The proposed development is in line with the Council's development plan for the area under consideration. As the NSWPF were involved in the development of the plan, we do not need to provide further comment.

If you have any queries in relation to this letter, please do not hesitate in contacting me on 9971 3339.

Regards

Northern Beaches Local Area Command
Dee Why Police Station

Cnr St David Avenue and Fisher Road, Dee Why 2099
Telephone 02 99713399 Facsimile 02 9971 3366 TTY 9211 3776 (Hearing/Speech impaired)
ABN 43 408 613 180

NSW POLICE FORCE RECRUITING NOW 1800 222 122
WWW.POLICE.NSW.GOV.AU/RECRUITMENT



Kylie Boss
Senior Constable
Crime Prevention Officers
Northern Beaches Local Area Command

NSW POLICE FORCE RECRUITING NOW 1800 222 122
WWW.POLICE.NSW.GOV.AU/RECRUITMENT

**Warringah
Council**

Civic Centre 725 Pittwater Road
Dee Why NSW 2099
DX 9118

Telephone (02) 9942 2111
Facsimile (02) 9971 4522

Website www.warringah.nsw.gov.au
Email council@warringah.nsw.gov.au

Ms Kylie Boss
Senior Constable
Crime Prevention Officer
Northern Beaches Police
Corner of Fisher Road and St David Avenue
Dee Why NSW 2099

Dear Ms Boss

**PEX2012/0009 PUBLIC EXHIBITION OF THE EVERGREEN ESTATE PLANNING
PROPOSAL DRAFT AMENDMENT TO WARRINGAH DEVELOPMENT CONTROL PLAN
AND DRAFT VOLUNTARY PLANNING AGREEMENT**

26 CAMPBELL AVENUE CROMER

Introduction

A planning proposal has been submitted to Council by Binburra Pty Ltd to rezone land at 26 Campbell Avenue Cromer (Lot 61 DP 611195) from RE2 Private Recreation to R2 Low Density Residential and RE1 Public Recreation under Warringah Local Environmental Plan 2011

Council resolved to support this planning proposal on 14 February 2012. It also resolved to

- incorporate an amendment to the Warringah Development Control Plan (DCP) that will provide detailed development controls for the residential land
- work with the proponent to develop a Voluntary Planning Agreement (VPA) that will address the public recreation land that is to be dedicated to Council

The proposed changes would allow the construction of 34 dwelling houses and the creation of public open space

Invitation

You are invited to comment on these documents. They are being exhibited as a comprehensive package to ensure the community has a full understanding of what is proposed for the land.

Additional information

A copy of the planning proposal, draft development control plan and draft voluntary planning agreement are enclosed with this letter. Additional information on the planning proposal, draft amendment to the DCP and draft VPA can be found by accessing www.warringah.nsw.gov.au. Details of the planning proposal can be found on the NSW Department of Planning and Infrastructure's web site on www.planning.nsw.gov.au.

Public Exhibition

Your comment is invited during the exhibition period between **Saturday 24 November 2012** and **Saturday 5 January 2013**. The exhibition can also be viewed at the following places:

Civic Centre, Pittwater Road, Dee Why between the hours of 8.30am and 5.00pm

Dee Why, Belrose, Forestville and Warringah Mall libraries (check Council's web site for specific opening hours)

Submission Making

Submissions must be clearly identified as THE EVERGREEN ESTATE PEX2012/0009 and can be made in the following ways:

Mail

The General Manager

Warringah Council

725 Pittwater Road

Dee Why NSW 2099

Email

deyl@warringah.nsw.gov.au

Further information on submission making can be found at the end of this letter

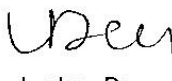
What happens next?

Your submission will form part of the Council report on the matter. You will then be advised of Council's decision.

Further Enquiries

Please contact Ms Lindsey Dey, Senior Strategic Planner on 9942 2165 if you require additional information.

Yours faithfully

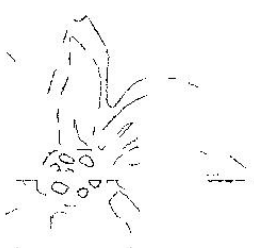


Lindsey Dey
Senior Strategic Planner

ADDITIONAL INFORMATION IN RELATION TO SUBMISSION MAKING

Government Information Public Access legislation (GIPA)

Any submission is capable of being inspected under The Government Information (Public Access) Act 2009 (GIPA) and the Government Information (Public Access) Regulation 2009 (GIPA Regulation) and is prescribed as Open Access Information. Open Access Information can be made available to the public on Council's Website and by making a submission. Council can place a copy of your submission on Council's Applications (eServices). This will include any personal information contained in your submission unless you specifically indicate otherwise in writing.



All communications to be addressed to

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone 1300 NSW RFS
e mail csc@rfs.nsw.gov.au

Facsimile 8741 5433

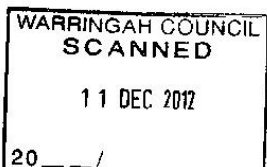


The General Manager
Warringah Council
Civic Centre 725 Pittwater Road
DEE WHY NSW 2099



Your Ref PEX2012/0009
Our Ref LEP/0129

Attention Lindsey Day



5 December 2012

Dear Sir / Madam

Re Public Exhibition of Evergreen Estate Planning Proposal, Draft Amendment to Warringah Development Control Plan and Draft Voluntary Planning Agreement

I refer to your letter dated 24 November 2012 seeking the Rural Fire Service comments regarding the above proposal

The Service has reviewed the proposal on public exhibition and notes that the subject site is not mapped as bush fire prone on the Warringah Bush Fire Prone Land Map nor would the proposed rezoning and development have a negative impact in respect to bush fire for the immediate and surrounding areas. In this regard the RFS raises no issues or concerns in respect to bush fire.

Should you have any further enquiries regarding this matter please contact Michael Murrell on 1300 NSW RFS

Yours sincerely



Michelle Streater
A/Team Leader Development Assessment

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006* visit the RFS web page at www.rfs.nsw.gov.au and search under *Planning for Bush Fire Protection 2006*



Our Ref. KAS:
Your Ref. PEX 2012/0009
Direct Line 9236 8555
Direct E-mail k.stapleton@jdklegal.com.au

Partners
Douglas Hamilton
Kim Stapleton
Jon Martin

Consultant
John Miller

Senior Associate
Tim Calvert

24 December 2012

The General Manager
Warringah Council
725 Pittwater Road
DEE WHY 2099

Email: deyl@warringah.nsw.gov.au

Dear General Manager

RE: EVERGREEN ESTATE

We act for the Timti Pty Ltd, the registered proprietor of the *Time and Tide Hotel* located at 30 Campbell Avenue, Dee Why.

We have been instructed to comment on the implications of the Evergreen Estate planning proposal for the hotel.

In preparing this submission, we have reviewed two documents:

1. Planning Proposal: Warringah Local Environmental Plan - 26 Campbell Avenue, Dee Why dated March 2012
2. DRAFT Amendment to Warringah Development Control Plan, Part G - Special Area Controls. Part G6 - the Evergreen Estate.

We note that the Evergreen Estate site is known as 26 Campbell Avenue, Cromer, and formerly accommodated the Evergreen Tennis Centre. The adjacent development comprises detached residential dwellings to the south of the site, and the *Time and Tide Hotel* to the north of the site. The Dee Why Creek Open Space Corridor which links Narrabeen with the Dee Why Lagoons is located between the Evergreen Estate and the *Time and Tide Hotel*.

We note that the planning proposal is to:

- (i) Amend the zoning of the land of the Evergreen Estate from RE2 Private Recreation to R2 Low Density Residential and RE1 Public Recreation.

Level 5
1 Castlereagh Street
SYDNEY NSW 2000

GPO Box 3758
SYDNEY NSW 2001

phone + 61 2 9236 8588
fax + 61 2 9236 8599

Liability limited by a scheme approved under Professional Standards Legislation

- (ii) Make provision for a dwelling yield of 34 dwellings in the Evergreen Estate.
- (iii) Dedicate to Council approximately 2840m² of land contiguous with the Dee Why Creek Open Space Corridor, for public recreation.

The planning proposal therefore introduces new residential development within proximity of the *Time and Tide Hotel*, albeit separated from the hotel by the Dee Why Creek Open Space Corridor and that part of the Evergreen Estate site which is to be rezoned Public Recreation. In combination, the Dee Why Creek Reserve and the land to be zoned Public Recreation will provide a significant buffer between the new residential dwellings in the Evergreen Estate and the *Time and Tide Hotel*.

Notwithstanding, it is not unusual in this type of environment for the normal and reasonable operation of a hotel to have, or to be perceived to have, some impact on adjoining and nearby residential development, primarily in respect of noise. It can be observed that the *Time and Tide Hotel* has previously addressed this issue with the erection of a 1.8m high timber fence along the Campbell Avenue frontage of the site to shield residential dwellings on the opposite side of Campbell Avenue from any noise generated by patrons of the hotel or by vehicles using the carpark adjacent to the Campbell Avenue frontage. However, the planning proposal will introduce to the area a large number of owners of individual residential dwellings who are likely to have different expectations of the effect of normal and reasonable operation of the *Time and Tide Hotel* on their individual residential dwelling.

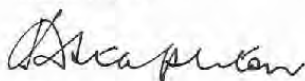
In circumstances where the *Time and Tide Hotel* has been established on the site at 30 Campbell Avenue, Cromer for approximately 60 years, it is suggested to Council that it is not unreasonable that if the planning proposal is to be approved, it should be subject to a condition requiring subsequent residential development to include measures designed to protect future residents/tenants of the Evergreen Estate from any effects caused by the normal and reasonable operation of the *Time and Tide Hotel*. There is precedent for this sort of action, including conditions of consent imposed on residential development within proximity of an existing licensed premises.

It is suggested that the following requirement should be incorporated in the amendment to Warringah Development Control Plan as follows:

| OBJECTIVES | REQUIREMENTS |
|--|--|
| To ensure that new residential development is adequately protected from any noise impact associated with existing development in the area. | An acoustic study is to be carried out to determine the existing acoustic environment of the area, including on busy trading nights (Thursday/Friday/Saturday) of the Time and Tide Hotel. The acoustic study will identify any building measures required in new residential dwellings to provide acoustic protection for future residents/tenants. |

We trust that Council will appreciate the need to impose this type of control on new residential development in the Evergreen Estate to protect future residents and tenants in the development from any noise effect associated with the normal and reasonable operation of the *Time and Tide Hotel*, thereby minimising the potential for complaints by new owners and, in consequence, the need for Council to intervene in any disputes.

Yours faithfully
JDK LEGAL



Kim Stapleton

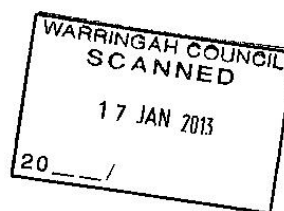
We wish you a Merry Christmas and prosperity for 2013. Our office will be closed from 12:00 noon on Friday, 21 December 2012 and will re-open on Monday, 7 January 2013.



Name Peter Christie

Address 42 / 155 Fisher Road Nth
Cromer NSW 2099Contact details (02) 9981 4242
0407 074 900
wch26578@bigpond.net.au

14th January 2013

The General Manager
Warringah Council
725 Pittwater Road
Dee Why NSW 2099**Submission on The Evergreen Estate PEX2012/0009**

- * Planning Proposal
- * Proposed changes to Warringah Development Control Plan
- * Draft Voluntary Planning Agreement

Dear Sir / Madam

Thank you for the stall that was on site on Saturday 15 December 2012. I found the information was well presented including project planners to answer the visitors questions.

I have lived at Dee Why Gardens (DWG) for the last 5 years being on Residents Committee since Oct 2009 and taking up the job of Chairman of that Committee the following year. I have been asked by the new DWG Committee to continue with my involvement on the Evergreen Project and then reporting back to them of all changes to the 34 Homes, the land and all other aspects of the development.

Every question I had on the project was answered to my satisfaction which I then reported back to the DWG Committee who are holding their monthly meeting next week.

Should they have any questions they will contact your Project Manager Ms Lindsey Dey direct or via myself.

Please contact myself on the above information should you require any additional information.

Yours Faithfully


Peter Christie

Name D BASHAMAddress 3 RYRIE AVE CROMERContact details 0414511522**Submission on The Evergreen Estate – PEX2012/0009**

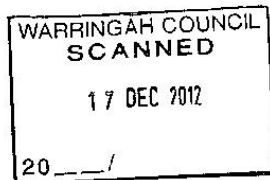
- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

OPTION 1

All blocks should be no smaller than
500²m

OPTION 2

Sports fields.

Name Antonio BruzzanoAddress 6 Bruzzano PLContact details 0407 908 907**Submission on The Evergreen Estate - PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

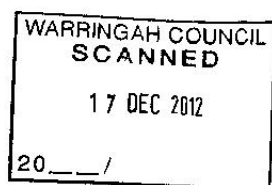


I am in support of this proposal, as long as the set back from boundary of Bruzzano PL residences is at least 10m²

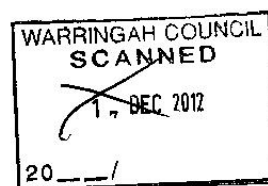
A handwritten signature in dark ink.

The proposal must remain as Low density and no more properties than are ^{currently} ~~proposed~~ proposed.

Campbell Ave should be redesigned with roundabouts at Bruzzano and Heron place.

Name Kathryn BuzzanoAddress 6 Buzzano PlContact details 0407 151 100**Submission on The Evergreen Estate – PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement



- * We are in support of 34 houses only
- * low density rezoning
- * 10 metre set back from the back fence (our back fence) at a minimum
- * Please hurry up It has been 2 years!!
- * Infrastructure needs to be considered + managed carefully Campbell Avenue is congested enough during peak hour, possibility of a roundabout at end of Buzzano Pl + new street.

Name Lygia LandoAddress 12 Bruggans PlaceContact details 0419 440754**Submission on The Evergreen Estate – PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

* concerned regarding rear fence line to Bruggans Place residence houses. Should be at least 10m more set back.

* Rear fence to be erected so as to screen between houses

* concerns regarding traffic flow, re Bruggans Place and Campbell Ave.

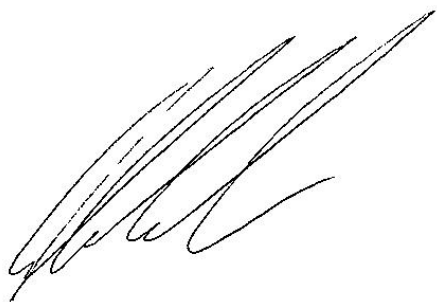
Maybe council should arrange for a 'roundabout' to be installed at the or near to entrance to development.

* On work commencing can council ensure that the construction workers park on the site and NOT on Campbell Ave or Bruggans Place.

Name GW GolderAddress 3 MICHELE ROADContact details 0417 239609**Submission on The Evergreen Estate – PEX2012/0009**

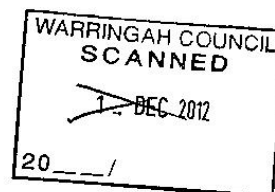
- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

No problem so far,
will the fences be high enough?



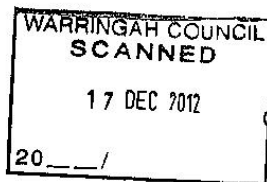
Name JAN HOODAddress 1/15 WHEELER PDE
DEK WHY 2099Contact details 99825410**Submission on The Evergreen Estate - PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement



The proposed subdivision looks fine, providing the homes, sites available provide affordable housing for young couples, singles pensioners etc We need to have available in an area such as this an alternative to units for low income earners such as teachers, police, nurses, shop assistants as there is sadly lacking at the moment Perhaps part of the area could be allocated to a tennis court
J Hood

Name Suo Macki

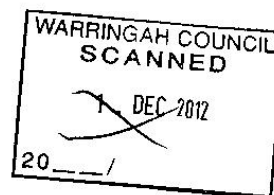


Address 4, 4a, 8 Bruzzano Pl

Contact details 99815475

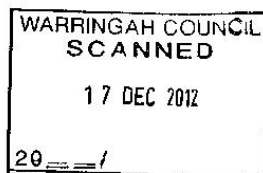
Submission on The Evergreen Estate - PEX2012/0009

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement



- ① We are happy for the proposal to go ahead as the proposal shows only 34 houses
- ② 10 metre set back and a high fence as my back wall is the actual squash wall
- ③, Need more traffic control ~~Bruzzano Place~~ Campbell Ave there needs to be a roundabout at the end of new development As is it takes up to 10 minute to get out of Bruzzano Place in the morning, and afternoon Need a safe crossing or set of light

Suo Macki

Name MARIOAddress 141 FISHER RD NTH DYContact details 0420 - 549 407**Submission on The Evergreen Estate – PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

It good for the area if it gets built
to clean up the abandoned area if it doesn't
go ~~ahead~~ ahead by the public another idea
would be is to build a cinema complex
Parking should be addressed on the site because
with more medium density its going to get
busier on the roads.

Name Sally RobinsonAddress 10 Karoola St
WarringahContact details 0414 068084**Submission on The Evergreen Estate – PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

Kids use the old tennis courts for
skate boarding. They are no trouble
& keep out of the way of walkers.
They should have another area set
out for them in the district
I am only walking dog

Thanks

Jobs

Name Colin TurnerAddress 4 Pipiro Place D7Contact details 94896033**Submission on The Evergreen Estate - PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement

I HAVE NO OBJECTION TO THE PROPOSAL IF THE
BUILDINGS BEY 2 STOREY AND ALL LOTS HAVE ~~AT~~ SUFFICIENT
OFF STREET PARKING



✓
Lindsey Dey

From: conny harris [conny.harris@gmail.com]
Sent: Thursday, 3 January 2013 5:25 PM
To: Lindsey Dey
Subject: Submission: The Evergreen Estate; PEX 2012/0009

Dear Lindsey,

I have viewed the plans again and like to raise my objection to the proposal of rezonning 'The Evergreen Estate'.

As ex chair of the Open Space and Recreation Strategic Reference Group, I feel strongly about commenting on this proposal. 'Our' SRG passed a unanimous vote to recommend to council 'Not to rezone this land', and prior to this vote a discussion had taken place that addressed various aspects addressing recreational needs versus housing needs.

My personal view includes besides housing and recreational needs that here is a great opportunity to get a wider than proposed - green corridor established that should be explored. However primarily this land is recreational land and should remain as such. Sports/ recreation is undergoing constant change and to claim that this land is not offering any potential is absurd. With Dee Why Gardens Retirement Village next door, perhaps a less energetic recreational activity than tennis could be more suitable, but that is up to the private owner...who bought the land as private recreation space.

If any residential development were to take place, it could perhaps be in a more concentrated form and with a substantially higher proportion of land becoming available for public recreation.

Yours sincerely,
Conny Harris

7/01/2013

Lindsey Dey

From: Dana & Rod MacKenzie [macrush@aapt.net.au]
Sent: Friday, 4 January 2013 7:14 AM
To: Lindsey Dey
Subject: THE EVERGREEN ESTATE and include Council's reference i.e. PEX2012/0009

Thank you for allowing me to make comment regarding this development.

Overall the idea is a good one - private medium density homes located in an area that has a park nearby for future children and adults to use.

My concerns are car movement and parking.

1. It appears that there is only one laneway into the development which will have to allow two-way access. I was unable to determine how this will be handled or if the laneway is wide enough.

2. Parking. My feeling is that each residence should have at least two parking space. We all would be naive to think that there will be only one car in a one bedroom residence let alone a two or three. I know that the council uses a factor for number of carspaces in a development but I have seen it too often when the roadside becomes clogged with the overflow cars from each development. This can be seen with the apartment blocks near the round-about at Fischer Road and Lynwood Avenue.

I hope that my view will be considered.

Kind regards,
Dana MacKenzie
154 Victor Road
Narraweena

**Department of
Primary Industries**
Office of Water

Contact Gina Potter
Phone 02 8838 7566
Fax 02 8838 7554
Email gina.potter@water.nsw.gov.au

The General Manager
Warringah Council
Civic Centre
725 Pittwater Road
Dee Why NSW 2099

Our ref 10 ERM2011/0252
File No
Your Ref PEX2012/0009

Attention Warringah Council



12 December 2012

Dear Sir/Madam

Re Proposed Development / Controlled Activity Approval
The Evergreen Estate 26 Campbell Avenue CROMER – To rezone the land
from Private Recreation RE2 to Low Density Residential & RE1 Public
Recreation

I refer to your letter dated 21/11/2012 in relation to the above development

The NSW Office of Water has reviewed the site and our maximum requirements are for a setback of 10 metres from the top of bank of the first order watercourse and this area to be rehabilitated with fully structured riparian vegetation in accordance with our guidelines for Riparian Corridors. Any proposed stormwater outlets should also be in accordance with our guidelines.

The proposal for the redevelopment of the site is likely to require a Controlled Activity Approval under the Water Management Act 2000. It is therefore recommended that any development application for the site be lodged as Integrated Development and referred to the NOW for assessment. It is also advised that the recommendations outlined above be incorporated into the plans at an early stage to streamline the assessment process.

Further information on controlled activity approvals under the *Water Management Act 2000* can be obtained from the Office of Water's website
www.water.nsw.gov.au Water licensing Approvals > Controlled activities

Please direct any questions or correspondence to Gina Potter gina.potter@water.nsw.gov.au

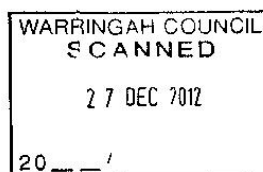
Yours sincerely



Gina Potter
Licensing Officer (Controlled Activities)
Office of Water Licensing South

Name Elaine RalphNote change of
address Address 85/115 Fisher Rd North
CromerContact details 9971 1823**Submission on The Evergreen Estate – PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement



I would request that the DCP include
a control addressing colours + materials
of the proposed dwellings I request
that the colours are dark + earthy
+ the materials are non reflective.

Regards

Elaine Ralph



Submission PEX 2012/0009

**Warringah
Council**Civic Centre 725 Pittwater Road
Dee Why NSW 2099
DX 9118
(02) 9942 2111
(02) 9971 4522**Telephone**
Facsimile**Website**
Emailwww.warringah.nsw.gov.au
council@warringah.nsw.gov.au

21 November 2012

*NB*
E J Ralph
133C Fisher Road North
CROMER NSW 2099

Dear Sir / Madam

*Please change address to**# 85/155 Fisher Rd North
Cromer 2099*

Our reference, PEX2012/0009

**PEX2012/0009 PUBLIC EXHIBITION OF THE EVERGREEN ESTATE PLANNING PROPOSAL
DRAFT AMENDMENT TO WARRINGAH DEVELOPMENT CONTROL PLAN AND DRAFT VOLUNTARY
PLANNING AGREEMENT****26 CAMPBELL AVENUE CROMER****Introduction**

A planning proposal has been submitted to Council by Binburra Pty Ltd to rezone land at 26 Campbell Avenue Cromer (Lot 61 DP 611195) from RE2 Private Recreation to R2 Low Density Residential and RE1 Public Recreation under Warringah Local Environmental Plan 2011

Council resolved to support this planning proposal on 14 February 2012. It also resolved to

incorporate an amendment to the Warringah Development Control Plan (DCP) that will provide detailed development controls for the residential land

work with the proponent to develop a Voluntary Planning Agreement (VPA) that will address the public recreation land that is to be dedicated to Council

The proposed changes would allow the construction of 34 dwelling houses and the creation of public open space

Invitation

You are invited to comment on these documents. They are being exhibited as a comprehensive package to ensure the community has a full understanding of what is proposed for the land.

Additional information

Additional information on the planning proposal, draft amendment to the DCP and draft VPA can be found by accessing www.warringah.nsw.gov.au. Details of the planning proposal can be found on the NSW Department of Planning and Infrastructure's web site on www.planning.nsw.gov.au.

Public Exhibition

ALSO ON SITE 15 Dec'r 10am to 1 PM
Your comment is invited during the exhibition period between **Saturday 24 November 2012** and **Saturday 5 January 2013**. The exhibition can also be viewed at the following places:

Civic Centre, Pittwater Road, Dee Why between the hours of 8.30am and 5.00pm

Dee Why, Belrose, Forestville and Warringah Mall libraries (check Council's web site for specific opening hours)

Submission Making

Submissions must be clearly identified as THE EVERGREEN ESTATE PEX2012/0009 and can be made in the following ways:

MailThe General Manager
Warringah Council
725 Pittwater Road
Dee Why NSW 2099

Email

deyl@warringah.nsw.gov.au

Further information on submission making can be found at the end of this letter

Drop in information stall

There will be an information stall at the Evergreen Estate on Saturday 15 December 2012 between 10am and 1pm. This will allow the community the opportunity to ask staff questions about the planning proposal.

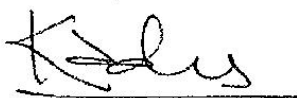
What happens next?

Your submission will be formally acknowledged and it will form part of the Council report on the matter. You will then be advised of Council's decision.

Further Enquiries

Please contact Ms. Lindsey Dey, Senior Strategic Planner on 9942 2165 if you require additional information.

Yours faithfully



Caroline Kades
Senior Strategic Planner

ADDITIONAL INFORMATION IN RELATION TO SUBMISSION MAKING

Government Information Public Access legislation (GIPA)

Any submission is capable of being inspected under The Government Information (Public Access) Act 2009 (GIPA) and the Government Information (Public Access) Regulation 2009 (GIPA Regulation) and is prescribed as 'Open Access Information'. Open Access Information can be made available to the public on Council's Website and by making a submission. Council can place a copy of your submission on Council's Applications (eServices). This will include any personal information contained in your submission unless you specifically indicate otherwise in writing.

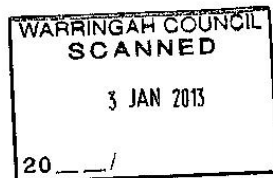
Warringah Council strongly advises any person who makes or who is considering making a submission to not include any material which is defamatory, libellous, discourteous, rude, obscene, offensive, harassing, intimidating, threatening, menacing, abusive to another or otherwise inappropriate or unlawful. Council reserves the right to edit any submission or otherwise not post online any material in a submission which could, in the reasonable opinion of Council, expose Council or others to a risk of actionable liability or legal action.

Privacy and Personal Information

In making a submission you may provide Council with personal information. This information will be held by Council to enable us to contact you if required and to ensure completeness of our records. You are not required by law to supply Council with your name and address. You may choose to make an anonymous submission, but you should note that without your name and address officers will not be able to contact you or acknowledge your submission.

Council presumes that you consent to the disclosure of your personal information and copying of your submission.

Warringah Council accepts no responsibility for defamatory or other similar matters included in your submission. You include such matters in the submission at your own risk.

Name E ROBINSONAddress 6 HERON PLACEContact details 9401 4756**Submission on The Evergreen Estate – PEX2012/0009**

- Planning Proposal
- Proposed changes to Warringah Development Control Plan
- Draft Voluntary Planning Agreement



Having examined the proposal for the Evergreen Estate I do not have any major objection to this latter proposal

If each property is developed individually I do think that would lend itself to a greater variety of style of accommodation and quality

A single developer may be quicker but I think quality + variety may be sacrificed I would ^{not} like to see a replication of Warneewood Valley in the way

Gregory Robinson

