



Dee Why South Catchment Floodplain Risk Management Plan

Prepared by Warringah Council
June 2015

Dee Why South Catchment Floodplain Risk Management Plan

Foreword

The NSW Government *Flood Prone Land Policy* is directed towards providing solutions to existing flood problems in developed areas and ensuring that new development is compatible with the flood hazard and does not create additional flooding problems in other areas.

Under the policy, the management of flood prone land is the responsibility of Local Government. The State Government subsidises flood management measures to alleviate existing flooding problems, and provides specialist technical advice to assist Councils in the discharge of their floodplain management responsibilities. The Commonwealth Government also assists with the subsidy of floodplain management measures.

The Policy identifies the following floodplain management 'process' for the identification and management of flood risks:

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|--|---|
| 1. Formation of a Committee | Established by a Local Government Body (Local Council) and includes community group representatives and State agency specialists. |
| 2. Data Collection | The collection of data such as historical flood levels, rainfall records, land use, soil types etc. |
| 3. Flood Study | Determines the nature and extent of the flooding problem. |
| 4. Floodplain Risk Management Study | Evaluates floodplain management measures for the floodplain in respect of both existing and proposed development. This is the stage Council is currently undertaking for the Dee Why South Catchment. |
| 5. Floodplain Risk Management Plan | Involves formal adoption by Council of a management plan for the floodplain. |
| 6. Implementation of the Plan | Implementation of actions to manage flood risks for existing and new development. |

This report forms the fifth stage of the floodplain management process for the Dee Why South Catchment floodplain. The Dee Why South Catchment Flood Study, 2013 (Stage 2 and 3 of the floodplain management process) and Floodplain Risk Management Study, 2014 (Stage 4 of the floodplain management process) were both prepared by Cardno (NSW/ACT) Pty Ltd.

This plan has been prepared by Warringah Council to outline flood risk management actions to be undertaken to reduce the flood hazard and risk to people and property in the Dee Why South Catchment.

Dee Why South Catchment Floodplain Risk Management Plan

Executive Summary

The Dee Why South Catchment is bordered by McIntosh Road to the north, Waratah Parade to the west and May Road to the south. The catchment area is approximately 268 hectares and is characterised by a steep escarpment grading down to a low floodplain area, discharging to Dee Why Lagoon. This catchment includes parts of the suburbs of Dee Why and Narraweena. While the majority of the catchment contains residential development, there is a major commercial sector, the Dee Why Town Centre, located in its lower reaches.

Flooding has previously caused property damage and inundated areas of the Dee Why Town Centre. Council's records indicate that the catchment has experienced major flood events in 1947, 1953 and 1954.

Flooding in the Dee Why South Catchment can pose a high flood risk to residents, businesses and members of the public living and working within the catchment.

Warringah Council through the Dee Why South Catchment Flood Study Working Group has prepared a Floodplain Risk Management Plan that fulfils Council's responsibilities under the NSW Government Flood Prone Land Policy. The Plan has been prepared in accordance with the guidelines provided in the 2005 NSW Floodplain Development Manual (The Manual).

The Plan is based on the outcomes of the investigations undertaken in the Dee Why South Catchment Flood Study adopted in 2013 and Dee Why South Catchment Floodplain Risk Management Study (FRMS) prepared in 2014.

The 2014 Dee Why South Catchment Floodplain Risk Management Study identified floodplain management options and evaluated these options based upon a range of economic, social and environmental criteria. These management options were developed in consultation with the community, Council and state agency stakeholders. The study built upon previous work, including the 2013 Dee Why South Catchment Flood Study which defined the nature and extent of flooding in the catchment.

The Plan outlines how Council in conjunction with other Government agencies and residents will implement a coordinated mix of measures that address the existing, future and continuing flood risks in the Dee Why South Catchment.

The objectives of this Plan are to:

- reduce the flood hazard and risk to people and property in the community in the present day, and to ensure future development is controlled in a manner consistent with the flood hazard and risk;
- reduce private and public losses due to flooding;
- where possible, protect and enhance waterways and the floodplain environment;
- be consistent with the objectives of relevant state policies, in particular, the Government's Flood Prone Land and State Rivers and Estuaries Policies and satisfy the objectives and requirements of the Environmental Planning and Assessment Act 1979;
- ensure that the draft floodplain risk management plan is fully integrated with Council's existing corporate, business and strategic plans, existing and proposed planning proposals, meets Council's obligations under the Local Government Act, 1993 and has the support of the local community;

Dee Why South Catchment Floodplain Risk Management Plan

- ensure actions recommended for incorporation in this plan are sustainable in social, environmental, ecological and economic terms; and
- establish a program for implementation and suggest a mechanism for the funding of the plan which should include priorities, staging, funding, responsibilities, constraints, and monitoring.

Measures available for the management of flood risk can be categorised according to the way in which the risk is managed. Various options for flood risk management have been identified and assessed. These options can be broadly defined into three categories of management:

- **Flood modification measures** – Flood modification measures are measures aimed at preventing / avoiding or reducing the likelihood of flood risks. These measures reduce the risk through modification of the flood behaviour in the catchment.
- **Property modification measures** – Property modification measures are focused on preventing / avoiding and reducing consequences of flood risks. Rather than necessarily modify the flood behaviour, these measures aim to modify properties (both existing and future) so that there is a reduction in flood risk.
- **Emergency response modification measures** – Emergency response modification measures aim to reduce the consequences of flood risks. These measures generally aim to modify the behaviour of people during a flood event.

This Plan has taken the prioritised measures from the 2014 Dee Why South Catchment FRMS, and developed an implementation plan for Council. An implementation plan is described in Section 9 and recommended measures and actions include:

FM2	Increase drainage capacity in Oaks Avenue
FM8b	Underground storage tanks at Redman Road
PM5	Planning instrument amendments
EM3	Public awareness and education
EM2	Flood Warning System
EM1	Information transfer to the SES
PM4	Flood proofing guidelines
EM5	Event Data Collection

Each option is classified in one of four categories:

- High priority
- Medium priority
- Low priority
- Ongoing action

The classification of the options will affect the staging of their implementation, with high priority actions likely to be investigated further as an immediate priority, whereas medium and low priority actions will be implemented depending upon budgetary and resource constraints.

The Plan represents the considered opinion of the local community on how to best manage its flood risk and its flood prone land. It also provides a long-term path for the future development of the community.

Dee Why South Catchment Floodplain Risk Management Plan

The management plan will be publicly exhibited and subject to revision in light of any comments received.

Dee Why South Catchment Floodplain Management Plan

Contents

Contents	1
List of Tables	2
List of Figures	2
Glossary and Abbreviations	3
1. Introduction	6
1.1. Purpose of the Plan	6
1.2. Objectives of the Plan	6
2. Catchment Characteristics	8
3. Existing Flood Risk	10
3.1. Historical Flooding	10
3.2. Flood Behaviour	11
3.3. Property Flooding	11
3.4. True Flood Hazard	14
3.5. Economic Impact of Flooding	17
4. Consultation	18
4.1. Floodplain Committee and Stakeholder Consultation	18
4.2. Public Exhibition	18
5. Floodplain Risk Management Options	19
6. Flood Modification Options	20
6.1. Increase drainage capacity along Oaks Avenue (Option FM2)	20
6.2. Underground storage tanks at Redman Road (Option FM8)	21
7. Property Modification Options	23
7.1. Flood Proofing Guidelines	23
7.2. Planning Instrument Amendments	23
8. Emergency Response Modification Options	27
8.1. Flood Warning Systems	27
8.2. Public Awareness and Flood Education	27
8.3. Information transfer to the NSW SES	28
9. Implementation Program	29
10. References	31

Dee Why South Catchment Floodplain Risk Management Plan

List of Tables

- Table 1 – Estimated Number of Flood Affected Properties in the Dee Why South Catchment
- Table 2 – Flood Damages summary for the Dee Why South Catchment
- Table 3 – Flood Risk Management Alternatives (SCARM, 2000)
- Table 4 – Flood Modification Options assessed in the 2014 Dee Why South Catchment FRMS
- Table 5 – Economic Assessment of Option FM2
- Table 6 – Economic Assessment of Option FM8b
- Table 7 – Proposed Flood Categories
- Table 8 – Proposed flood categories and required DCP amendments
- Table 9 – Implementation program for actions identified in the Plan

List of Figures

- Figure 1 – The extents of the Dee Why South Catchment and Dee Why CBD
- Figure 2 – Key Features and Roads within the Dee Why South Catchment
- Figure 3 – Flooding on Pittwater Road, 1953 (Source: Warringah Council)
- Figure 4 – Flooding on Pittwater Road, 1953 (Source: Warringah Council)
- Figure 5 – 100 yr ARI Overland Flow Flood Extents
- Figure 6 – 100 yr ARI Mainstream Flood Extents
- Figure 7 – 100 yr ARI True Flood Hazards
- Figure 8 – PMF True Flood Hazards
- Figure 9 – Proposed flood categorisation process

Dee Why South Catchment Floodplain Risk Management Plan

Glossary and Abbreviations

Australian Height Datum (AHD)	A standard national surface level datum approximately corresponding to mean sea level.
Average Recurrence Interval (ARI)	The average or expected value of the periods between exceedances of a given rainfall total accumulated over a given duration. It is implicit in this definition that periods between exceedances are generally random. That is, an event of a certain magnitude may occur several times within its estimated return period.
Cadastre, cadastral base	Information in map or digital form showing the extent and usage of land, including streets, lot boundaries, water courses etc.
Catchment	The area draining to a site. It always relates to a particular location and may include the catchments of tributary streams as well as the main stream.
Design flood	A significant event to be considered in the design process; various works within the floodplain may have different design events. E.g. some roads may be designed to be overtopped in the 1 in 1 year ARI flood event.
Development	The erection of a building or the carrying out of work; or the use of land or of a building or work; or the subdivision of land.
Discharge	The rate of flow of water measured in terms of volume over time. It is to be distinguished from the speed or velocity of flow, which is a measure of how fast the water is moving rather than how much is moving.
Flash flooding	Flooding which is sudden and often unexpected because it is caused by sudden local heavy rainfall or rainfall in another area. Often defined as flooding which occurs within 6 hours of the rain which causes it.
Flood	Relatively high stream flow which overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam, and/or overland runoff before entering a watercourse and/or coastal inundation resulting from super elevated sea levels and/or waves overtopping coastline defences.
Flood fringe	The remaining area of flood prone land after floodway and flood storage areas have been defined.
Flood hazard	Potential risk to life and limb caused by flooding.
Flood prone land	Land susceptible to inundation by the probable maximum flood (PMF) event, i.e. the maximum extent of flood liable land. Floodplain Risk Management Plans encompass all flood prone land, rather than being restricted to land subject to designated flood events.
Floodplain	Area of land which is subject to inundation by floods up to the probable maximum flood event, i.e. flood prone land.
Floodplain management measures	The full range of techniques available to floodplain managers.
Floodplain management options	The measures which might be feasible for the management of a particular area.
Flood planning area	The area of land below the flood planning level and thus subject to flood related development controls.
Flood planning levels	Flood levels selected for planning purposes, as determined in floodplain

Dee Why South Catchment Floodplain Risk Management Plan

(FPLs)	management studies and incorporated in floodplain management plans. Selection should be based on an understanding of the full range of flood behaviour and the associated flood risk. It should also take into account the social, economic and ecological consequences associated with floods of different severities. Different FPLs may be appropriate for different categories of land use and for different flood plains. The concept of FPLs supersedes the "Standard flood event" of the first edition of the Manual. As FPLs do not necessarily extend to the limits of flood prone land (as defined by the probable maximum flood), floodplain management plans may apply to flood prone land beyond the defined FPLs.
Flood storages	Those parts of the floodplain that are important for the temporary storage of floodwaters during the passage of a flood.
Floodway areas	Those areas of the floodplain where a significant discharge of water occurs during floods. They are often, but not always, aligned with naturally defined channels. Floodways are areas which, even if only partially blocked, would cause a significant redistribution of flood flow, or significant increase in flood levels. Floodways are often, but not necessarily, areas of deeper flow or areas where higher velocities occur. As for flood storage areas, the extent and behaviour of floodways may change with flood severity. Areas that are benign for small floods may cater for much greater and more hazardous flows during larger floods. Hence, it is necessary to investigate a range of flood sizes before adopting a design flood event to define floodway areas.
Geographical Information Systems (GIS)	A system of software and procedures designed to support the management, manipulation, analysis and display of spatially referenced data.
High hazard	Flood conditions that pose a possible danger to personal safety; evacuation by trucks difficult; able-bodied adults would have difficulty wading to safety; potential for significant structural damage to buildings.
Hydraulics	The term given to the study of water flow in a river, channel or pipe, in particular, the evaluation of flow parameters such as stage and velocity.
Hydrograph	A graph that shows how the discharge changes with time at any particular location.
Hydrology	The term given to the study of the rainfall and runoff process as it relates to the derivation of hydrographs for given floods.
Low hazard	Flood conditions such that should it be necessary, people and their possessions could be evacuated by trucks; able-bodied adults would have little difficulty wading to safety.
Mainstream flooding	Inundation of normally dry land occurring when water overflows the natural or artificial banks of the principal watercourses in a catchment. Mainstream flooding generally excludes watercourses constructed with pipes or artificial channels considered as stormwater channels.
Management plan	A document including, as appropriate, both written and diagrammatic information describing how a particular area of land is to be used and managed to achieve defined objectives. It may also include description and discussion of various issues, special features and values of the area, the specific management measures which are to apply and the means and timing by which the plan will be implemented.
Mathematical/computer	The mathematical representation of the physical processes involved in runoff and stream flow. These models are often run on computers due to the

June 2015

4

Dee Why South Catchment Floodplain Risk Management Plan

models	complexity of the mathematical relationships. In this report, the models referred to are mainly involved with rainfall, runoff, pipe and overland stream flow.
NPER	National Professional Engineers Register. Maintained by Engineers Australia.
NSW	New South Wales
Overland Flow	Inundation by runoff flowing across the land surface before it enters a principal watercourse. This includes areas where runoff exceeds the capacity of a piped drainage system or flows overland along alternative flow paths which do not follow the drainage lines
Peak discharge	The maximum discharge occurring during a flood event.
Probable maximum flood (PMF)	The flood calculated to be the maximum that is likely to occur.
Probability	A statistical measure of the expected frequency or occurrence of flooding. For a more detailed explanation see Average Recurrence Interval.

Dee Why South Catchment Floodplain Risk Management Plan

1. Introduction

Warringah Council through the Dee Why South Catchment Flood Study Working Group has prepared a Floodplain Risk Management Plan that fulfils Council's responsibilities under the NSW Government Flood Prone Land Policy. The Plan has been prepared in accordance with the guidelines provided in the 2005 NSW Floodplain Development Manual (The Manual).

The Plan outlines how Council in conjunction with other Government agencies and residents will implement a coordinated mix of measures that address the existing, future and continuing flood risks in the Dee Why South Catchment. The Plan covers the areas outlined in Figure 1. The Plan is based on the outcomes of the investigations undertaken in the Dee Why South Catchment Flood Study adopted in 2013 and Dee Why South Catchment Floodplain Risk Management Study adopted in 2014.

Following the implementation of the management options adopted in this plan, there will continue to be a residual flood risk. A fundamental principle of this Plan is to ensure that the options are not considered individually or in isolation. Options have been considered collectively so that their interactions, cumulative impact, economic suitability and effectiveness will ensure that a holistic approach to floodplain management is achieved.

1.1. Purpose of the Plan

The purpose of the Dee Why South Catchment Lagoon Floodplain Risk Management Plan (FRMP) is to formalise the outcomes of an effective floodplain risk management process. It is based on a comprehensive and detailed evaluation of all factors that affect and are affected by the use of flood prone land in the catchment. It represents the considered opinion of the local community on how to best manage its flood risk and its flood prone land. It also provides a long-term path for the future development of the community.

The management plan will be publicly exhibited and subject to revision in light of these responses.

1.2. Objectives of the Plan

Past investigations of flood mitigation options in the Dee Why South Catchment have suggested that reducing the 100 year ARI peak flood level to below kerb height will require strategies which are beyond Council's financial resources. As a result the principal objective of this Plan is to implement a range of suitable measures to reduce the final flood hazard to an appropriate safe level for a commercial centre such as the Dee Why Central Business District (CBD).

The objectives of this Plan are to:

- reduce the flood hazard and risk to people and property in the community in the present day, and to ensure future development is controlled in a manner consistent with the flood hazard and risk;
- reduce private and public losses due to flooding;
- where possible, protect and enhance waterways and the floodplain environment;
- be consistent with the objectives of relevant state policies, in particular, the Government's Flood Prone Land and State Rivers and Estuaries Policies and satisfy the objectives and requirements of the Environmental Planning and Assessment Act 1979;
- ensure that the draft floodplain risk management plan is fully integrated with Council's existing corporate, business and strategic plans, existing and proposed planning proposals, meets Council's obligations under the Local Government Act, 1993 and has the support of the local community;
- ensure actions recommended for incorporation in this plan are sustainable in social, environmental, ecological and economic terms; and
- establish a program for implementation and suggest a mechanism for the funding of the plan which should include priorities, staging, funding, responsibilities, constraints, and monitoring.

Dee Why South Catchment Floodplain Risk Management Plan

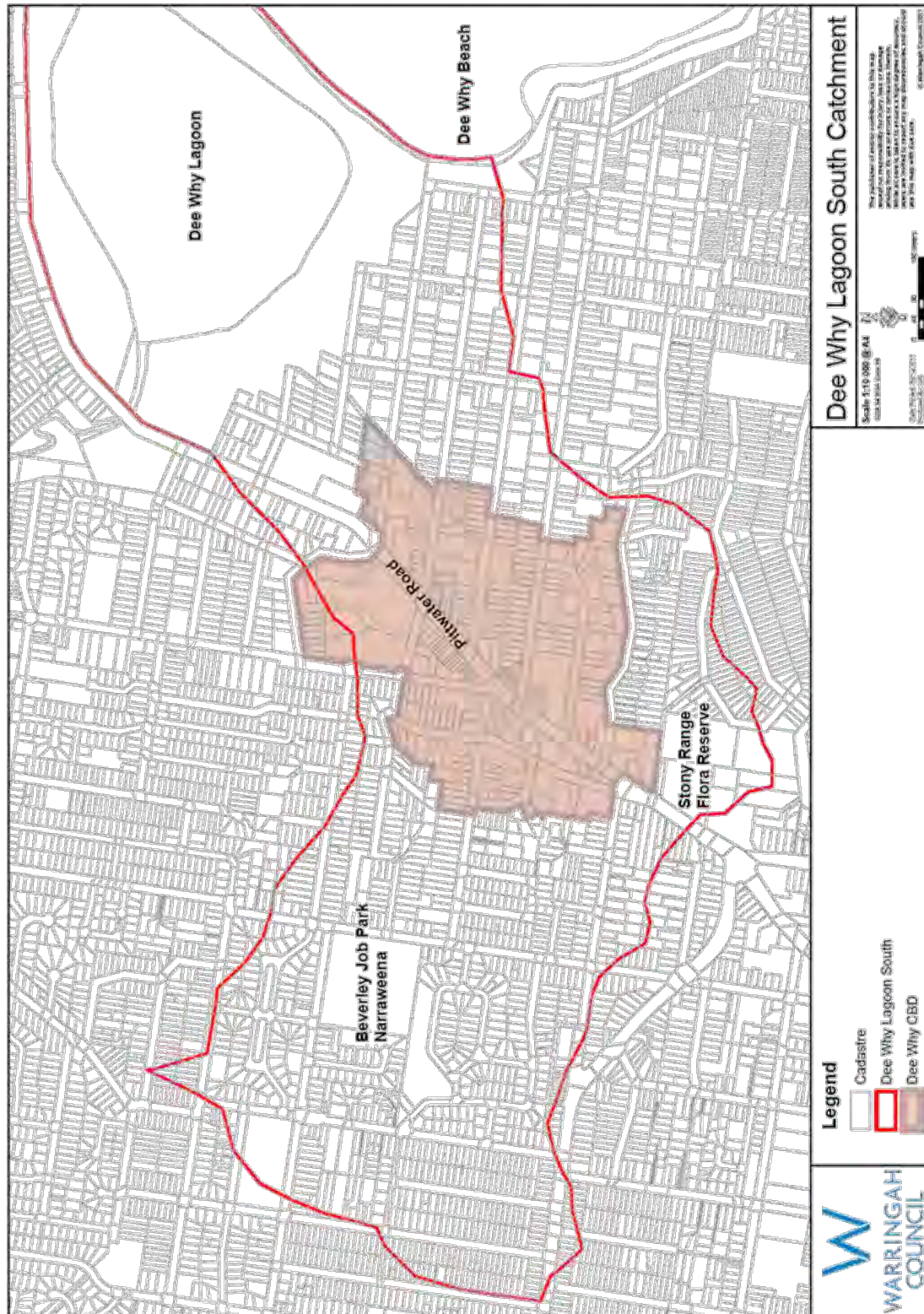


Figure 1 – The extents of the Dee Why South Catchment and Dee Why CBD

Dee Why South Catchment Floodplain Risk Management Plan

2. Catchment Characteristics

The Dee Why South Catchment includes parts of the suburbs of Dee Why and Narrabeena which drain to the Dee Why CBD. The Catchment is bordered by McIntosh Road to the north, Waratah Parade to the west, and May Road to the south, and Dee Why Lagoon in the east. The catchment area is approximately 268 ha and is characterised by a steep escarpment which grades down to a low floodplain area, before discharging to the ocean via Dee Why Lagoon (refer Figure 1). The majority of the catchment is developed for residential purposes, with the CBD located in its lower reaches.

Key features and roads are identified in Figure 2.

The catchment has developed from low density residential development in the 1940s to largely medium density residential dwellings in the present day. Most of the original creek lines have been piped with only three sections of open channel remaining:

- A largely open concrete channel running between Victor Road and Redman Road;
- East of Pittwater Road running parallel with both Oaks Avenue and Pacific Parade; and
- Downstream of Dee Why Parade to Dee Why Lagoon

Because the catchment is now mostly paved rainfall does not seep into the ground and instead runs off in even small storms. Consequently flooding in the catchment is predominantly from runoff from streets, roads and properties and/or flows which exceed the capacity of the existing underground drainage system which flow overland to the low points in the catchment which typically follow the original creek lines. High traffic pedestrian and vehicular areas in the Dee Why Town Centre also experience inundation from overland flows, particularly along Redman Road, Pittwater Road, Oaks Avenue and Howard Avenue.

Dee Why South Catchment Floodplain Risk Management Plan



Figure 2 – Key Features and Roads within the Dee Why South Catchment

Dee Why South Catchment Floodplain Risk Management Plan

3. Existing Flood Risk

A comprehensive investigation of the historical and existing flood behaviour in the catchment under a range of design floods, and how this was determined can be found in the 2013 Dee Why South Catchment Flood Study.

3.1. Historical Flooding

Records held by Warringah Council disclose that extreme flooding has been experienced in the Dee Why CBD in the past. Historical photographs record the catchment flooding which occurred in 1947, 1953 and 1954 including severe overland flows which flooded Redman Road, Pittwater Road and potentially Oaks and Howard Avenues. There are no official rainfall records for these floods and therefore it was not possible to assess the severity of the storms which led to the flooding.

The flooding of Pittwater Road which was experienced in 1953 is displayed in Figures 3 and 4.



Figure 3 – Flooding on Pittwater Road, 1953 (Source: Warringah Council)



Figure 4 – Flooding on Pittwater Road, 1953 (Source: Warringah Council)

Dee Why South Catchment Floodplain Risk Management Plan

3.2. Flood Behaviour

A coupled 1D/2D XPSWMM hydraulic model was established and calibrated as a basis for the assessment of existing and future flood behaviour in the Dee Why South Catchment. This flood model was used to undertake assessments for:

- Flood design event simulation for 1 yr ARI, 5 yr ARI, 10 yr ARI, 20 yr ARI, 100 yr ARI, 200 yr ARI, 1,000 yr ARI and PMF storms.
- A range of sensitivity analyses
- Hydraulic categorisation
- Provisional hazard classification
- Future flood risk through climate change assessment

The Dee Why South Catchment is relatively small, falling from a plateau of around 96m AHD, down a steep escarpment to the Dee Why CBD located on a low floodplain. Due to these geographical features and the nature of development in the catchment, the critical duration rainfall event in the catchment is short. These short duration rainfall events lead to flash flooding with little to no warning time.

The main overland flow path originates on the escarpment in Narraweena with the convergence of two overland flow paths in Beverley Job Park. Flood waters increase in depth and velocity as they are transported in an open channel through properties in Lewis Street, Dela Close and Redman Road. Flood waters then exceed the capacity of the underground stormwater infrastructure and surcharge down Redman Road. At the intersection of Pittwater Road and Redman Road the main overland flow path converges with a number of minor overland flow paths from the southern portion of the catchment. From this point overland flows are split with flood waters conveyed down either Oaks Avenue or Howard Avenue.

The flood modelling identified a number of locations within the catchment which would experience depths of flooding of >0.5m in a 100 yr ARI event, particularly in the lower catchment including Redman Road, Pittwater Road and Oaks Avenue. This can be attributed to undersized drainage systems and in some cases to an absence of underground drainage and of dedicated overland flow paths.

Flooding due to overland flows in a 100 yr ARI storm are presented in Figure 5 while 100 yr ARI mainstream flooding is presented in Figure 6.

Particularly hazardous to pedestrians and others, is the rate of rise of flood waters and time it takes to reach the peak flood depth. Most major access roads such as, Pittwater Road, Oaks Avenue, Howard Avenue and Redman Road experience peak flood depths in a 100 yr ARI flood event in as little as 30 minutes - 35 minutes.

3.3. Property Flooding

The majority of development in the Dee Why South Catchment is medium density multi-unit residential dwellings. A significant number of properties are impacted by flooding in the Dee Why South Catchment. This is due to the widespread extent of flooding in a Probable Maximum Flood event as well as counting each individual unit as a property.

The number of properties affected by flooding for a range of flood events is outlined in Table 1.

Dee Why South Catchment Floodplain Risk Management Plan

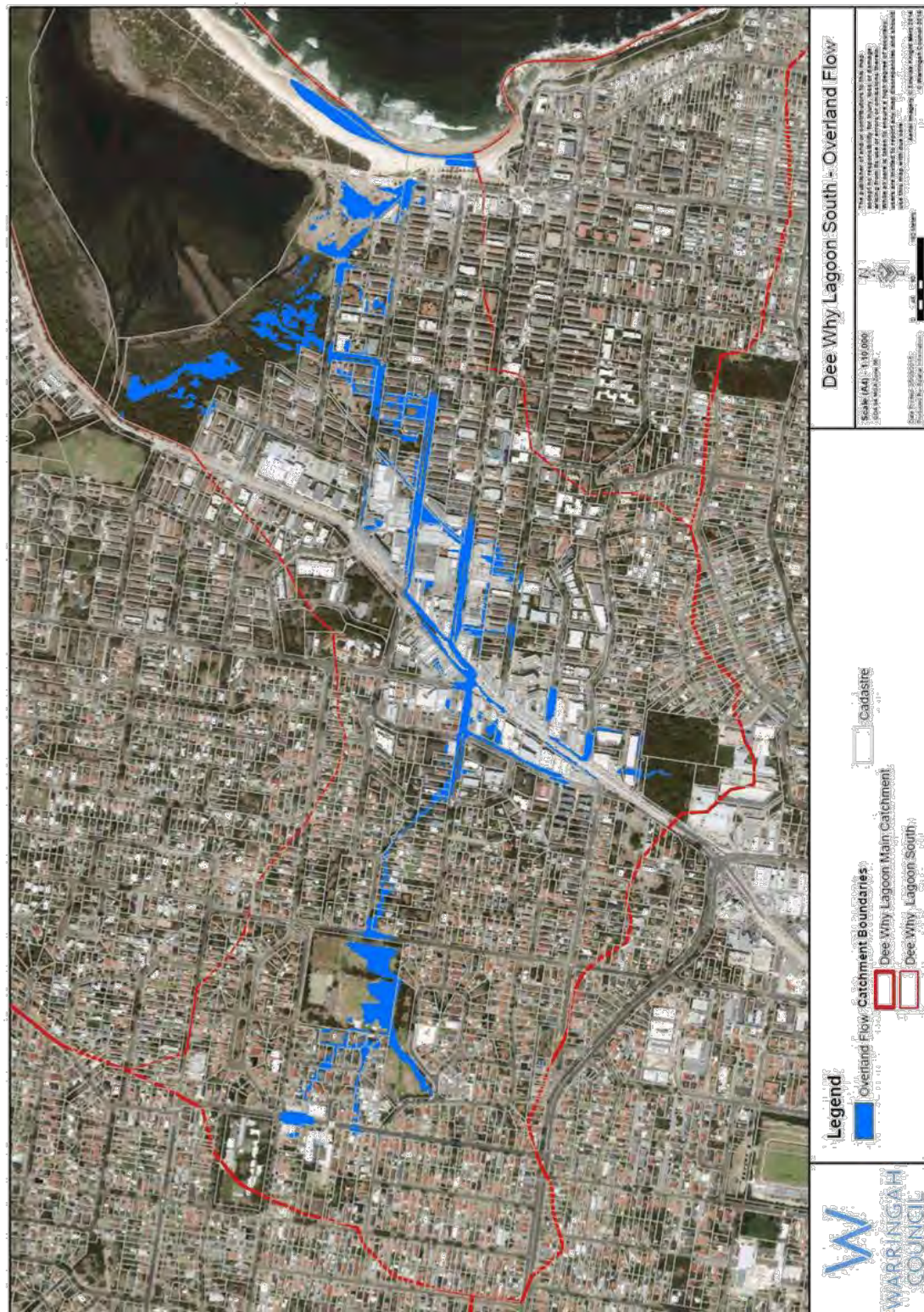


Figure 5 – 100 yr ARI Overland Flow Flood Extents

Dee Why South Catchment Floodplain Risk Management Plan



Figure 6 – 100 yr ARI Mainstream Flood Extents

Dee Why South Catchment Floodplain Risk Management Plan

**Table 1 – Estimated Number of Flood Affected Properties
in the Dee Why South Catchment**

Flood	Number Flood Affected Properties*
5 yr ARI	1,219
10 yr ARI	1,471
20 yr ARI	1,626
100 yr ARI	2,089
PMF	4,538

**Based on 0.15m filtered extents from the Flood Study. Note that if a property is subdivided each individual title will be considered within the above counts.*

3.4. True Flood Hazard

Flood hazard can be defined as the risk to life caused by a flood, and is categorised in accordance with Appendix L of the Manual as follows:

- Provisional flood hazard is based on the hydraulic characteristics of the floodwaters, namely the relationship between the depth and velocity of floodwaters (provisional hazard = depth x velocity); and
- True flood hazard is a refinement of the provisional flood hazard which considers a range of additional factors that contribute to flood risk.

An assessment of the true flood hazard of the floodplain was undertaken in the 2014 Dee Why South Catchment Floodplain Risk Management Study. This involves undertaking an initial assessment of provisional flood hazards and then refining the assessment based on the consideration of a range of other factors including:

- Size of the flood
- Effective warning time
- Flood readiness
- Rate of rise of floodwaters
- Duration of flooding
- Ease of evacuation
- Effective flood access; and
- Type of development in the floodplain

Due to the rapid rise and onset of flooding in the catchment with limited associated flood warning time there is little possibility for evacuation.

Flood readiness is considered to be low in the catchment due to a range issues, primarily the significant time since a major flood event and the absence of a Local Flood Plan from the NSW SES.

In a 100 yr ARI event the main overland flow paths are categorised as high hazard with a number of the lots abutting these flow paths hazardous due to a lack of flood free access. Particularly isolated are the properties fronting Lewis Street and Dela Close which require access across the open channel. The areas of flooding that are subject to shallower flood depths or lower velocities are categorised as low hazard. In a PMF event most roads are subject to high hazard flooding, restricting access to a significant number of flood affected properties in the lower catchment.

The assessed true flood hazards in the 100 yr ARI flood and the Probable Maximum Flood are presented in Figures 7 and 8 respectively.

Dee Why South Catchment Floodplain Risk Management Plan

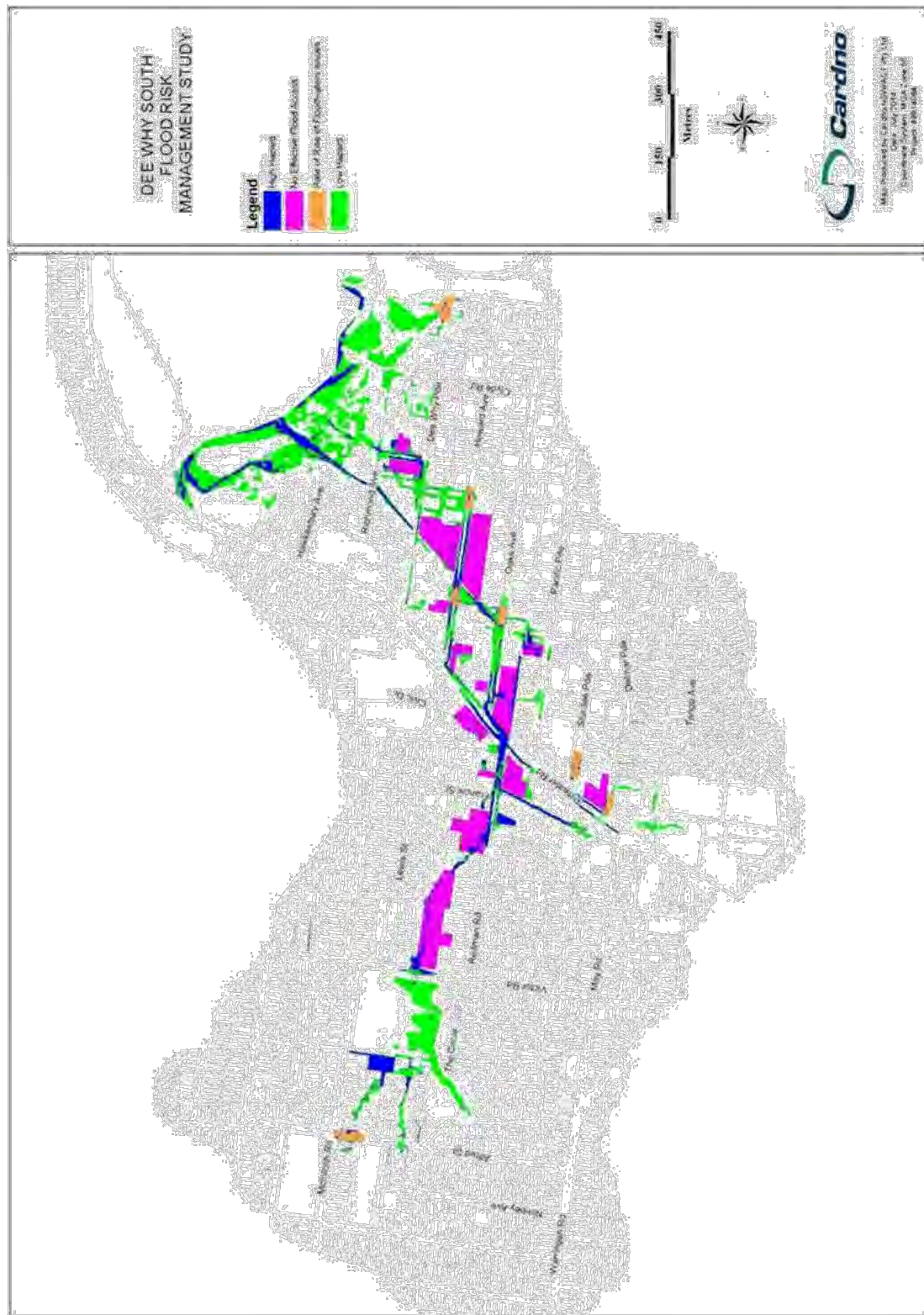


Figure 7 – 100 yr ARI True Flood Hazards

Dee Why South Catchment Floodplain Risk Management Plan

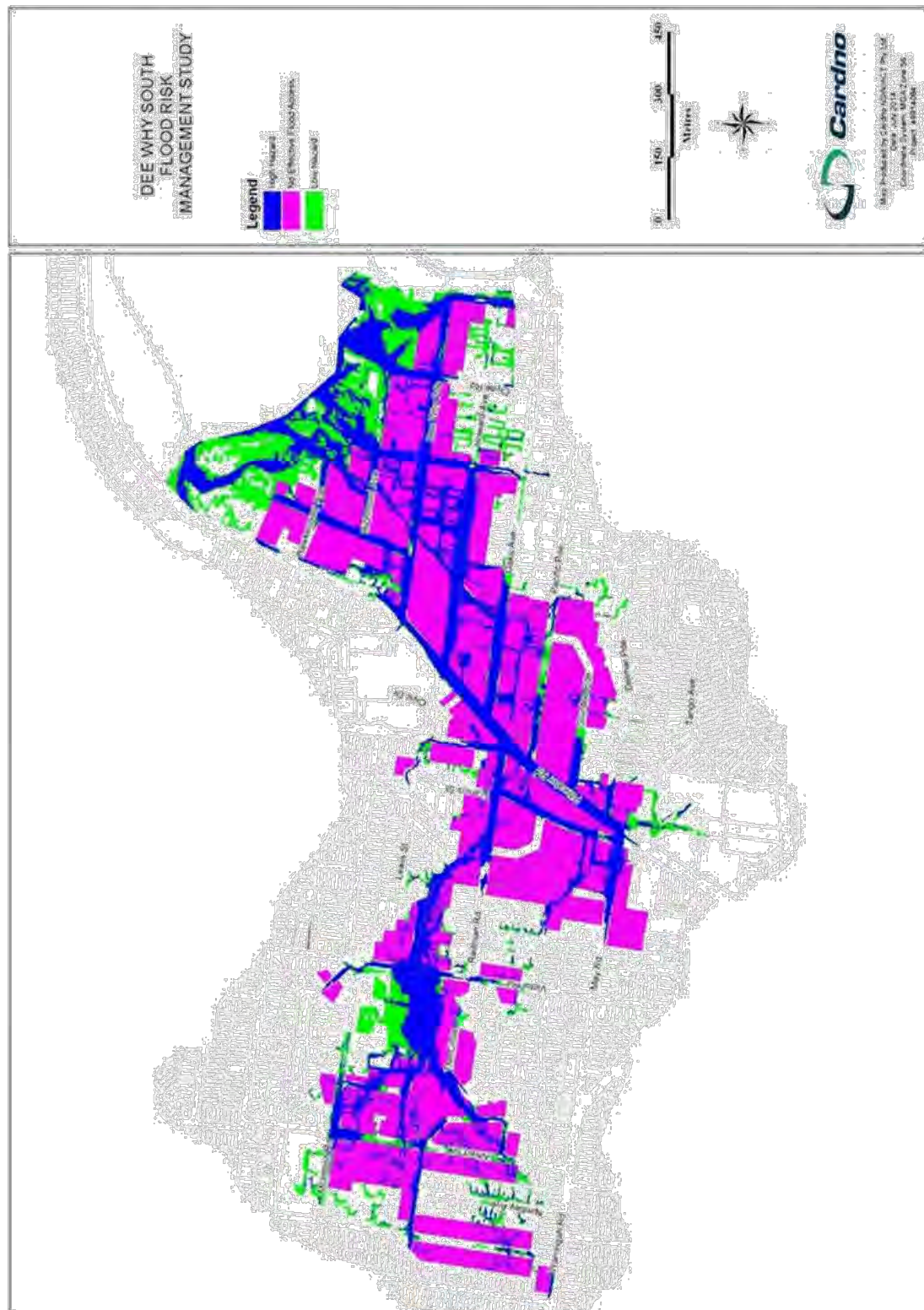


Figure 8 – PMF True Flood Hazards

Dee Why South Catchment Floodplain Risk Management Plan

3.5. Economic Impact of Flooding

A flood can have wide ranging effects on members of the community. There are the financial impacts of flooding as well as social impacts which can be more difficult to quantify. Broadly, the economic impacts of flooding, or flood damages, can be classified into three categories: direct, indirect and intangible.

Direct damages are the most immediate impact of flooding and consist of damage to building structures, contents or external damage. This can include damage to buildings, foundations, walls, carpets, furniture and ancillary structures or motor vehicles. The cost of direct damages is dependent on a number of factors including flood readiness, effective warning time, structure material resilience, flood depths, flood velocities and the duration of inundation.

Indirect damages are the additional financial costs associated with flooding. They are usually incurred following a flood event and can include clean-up costs, costs of temporary accommodation, loss of wages, sales or production and the loss of public opportunities.

Intangible damages cannot easily be quantified in financial terms. They include the emotional, mental and physical damage that a flood can inflict on a community. Although physical loss of life due to flooding is comparatively rare, the emotional cost of a flood can be significant and long-lived.

Flood damages were estimated for those properties whose ground floor level have been previously surveyed. These properties are primarily located in the greater Dee Why CBD area. The flood damages were estimated using flood damages curves prepared by the NSW Government's Office of Environment & Heritage (OEH) that provide a relationship between flood depth and corresponding financial cost for a range of land uses. Inputs include the floor area for individual properties, warning time, contents value and the level of the base of the property.

The Dee Why South Catchment includes the commercial centre of the Dee Why CBD. Within the CBD there are a number of on-grade car parks and extensive on street parking which can experience flooding. To consider the potential impact of flooding on vehicles, a flood damages assessment of parked vehicles was included. Details of how this was undertaken can be found in the 2014 Dee Why South Catchment Floodplain Risk Management Study.

A summary of the direct flood damages for the Dee Why South Catchment can be found in Table 2.

Table 2 – Flood Damages summary for the Dee Why South Catchment

Flood	No. of Properties with Overfloor Flooding	Average Overfloor Flooding Depth (m)	Maximum Overfloor Flooding Depth (m)	No. of Properties with Overground Flooding	Rounded Total Damages (excl GST)	Proportion of Total Damages			
						Residential	Commercial	Public	Cars
PMF	264	1.27 / 1.48	2.73 / 2.86	305	\$55,034,000	11%	47%	0%	42%
100 yr ARI	117	0.94 / 0.95	2.56 / 2.53	174	\$12,400,000	19%	76%	1%	4%
20 yr ARI	80	0.98 / 0.73	2.55 / 1.70	143	\$7,798,000	21%	76%	2%	1%
10 yr ARI	70	1.01 / 0.65	2.54 / 1.67	123	\$6,500,000	20%	77%	2%	0%
5 yr ARI	57	1.09 / 0.65	2.52 / 1.37	104	\$5,397,000	23%	76%	1%	0%

Note: Overfloor Flood Depths are for Residential / Commercial Properties

The properties included in Table 2 are only those for which floor level survey exists, this is limited to the Dee Why CBD and results in a lower number when compared to the entire catchment (Table 1).

Dee Why South Catchment Floodplain Risk Management Plan

4. Consultation

4.1. Floodplain Committee and Stakeholder Consultation

The Dee Why South Catchment Flood Study Working Group has played an important role in assisting Council in the preparation and implementation of Floodplain Risk Management Plans. The Working Group has been consulted during the preparation of the Floodplain Risk Management Plan and reviewed the Plan prior to the Public Exhibition period.

4.2. Public Exhibition

The draft Dee Why South Catchment Floodplain Risk Management Plan was placed on Public Exhibition between 1 May and 29 May 2015. The purpose of the Public Exhibition is to seek community feedback on the options selected for implementation. As part of this process the following opportunities for the community to participate in the review of the document were provided:

- A letter was sent to approximately 4700 home owners within the extent of the Probable Maximum Flood, inviting them to provide feedback on the Plan.
- Posting of the draft Plan on the project web site, with a link from Council's web site
- Community Engagement email to interested residents and groups
- Displays in the Customer Service foyer of the Civic Centre, and all Council libraries
- Advertisements in the Council Notices section of The Manly Daily
- Two drop-in information sessions
- Hand delivery of letters to 200 business owners and operators in the vicinity of the proposed new stormwater pipes.

Over the public exhibition period of the project the webpage received 131 site visits by 115 individual visitors, and there were 299 page views with 60 document downloads in total. A total of 3 submissions were received during the public exhibition period.

The submissions ranged from concern at the level of flood risk in Dee Why, support for the FRMP to questions on expenditure in floodplain management.

Dee Why South Catchment Floodplain Risk Management Plan

5. Floodplain Risk Management Options

Flood Risk can be categorised as existing, future or residual risk:

- **Existing Flood Risk** – existing buildings and developments on flood prone land. Such buildings and developments by virtue of their presence and location are exposed to an 'existing' risk of flooding.
- **Future Flood Risk** – buildings and developments that may be built on flood prone land. Such buildings and developments would be exposed to a flood risk when they are built.
- **Residual Flood Risk** – buildings and development that would be at risk if a flood were to exceed management measures already in place. Unless a floodplain management measure is designed to withstand the PMF, it may be exceeded by a sufficiently large event at some time in the future.

The alternate approaches to managing risk are outlined in **Table 3**.

Table 3 - Flood Risk Management Alternatives (SCARM, 2000)

Alternative	Examples
Preventing / Avoiding risk	Appropriate development within the flood extent, setting suitable planning levels.
Reducing likelihood of risk	Structural measures to reduce flooding risk such as drainage augmentation, levees, and detention.
Reducing consequences of risk	Development controls to ensure structures are built to withstand flooding.
Transferring risk	Via insurance – may be applicable in some areas depending on insurer.
Financing risk	Natural disaster funding.
Accepting risk	Accepting the risk of flooding as a consequence of having the structure where it is.

Measures available for the management of flood risk can be categorised according to the way in which the risk is managed. There are three broad categories of management:

- **Flood modification options** – Flood modification options are measures aimed at preventing / avoiding or reducing the likelihood of flood risks. These measures reduce the risk through modification of the flood behaviour in the catchment.
- **Property modification options** – Property modification options are focused on preventing / avoiding and reducing consequences of flood risks. Rather than necessarily modify the flood behaviour, these measures aim to modify properties (both existing and future) so that there is a reduction in flood risk.
- **Emergency response modification options** – Emergency response modification options aim to reduce the consequences of flood risks. These measures generally aim to modify the behaviour of people during a flood event.

Several measures relating to each of these categories were assessed as part of the 2014 Floodplain Risk Management Study.

Dee Why South Catchment Floodplain Risk Management Plan

6. Flood Modification Options

Flood modification options modify the behaviour of a flood itself by altering the flow regime; this may be through reducing flood levels or velocities. A number of flood modification options were investigated in the 2014 Dee Why South Catchment Floodplain Risk Management Study.

The Dee Why South Catchment is highly urbanised with much of the original watercourse now piped. As a result there is limited scope for many flood modification options and those investigated primarily comprised pipe upgrades, detention basins or other localised works.

A list of the flood modification options investigated in the Study is found in Table 4. Only those works which were deemed to be effective at reducing flooding, non-cost prohibitive and did not result in adverse flooding or environment impacts are included in this Plan.

Table 4 - Flood Modification Options assessed in the 2014 Dee Why South Catchment FRMS

Option No.	Description
FM1	Pipe upgrade between Pacific Parade and Oaks Avenue
FM2	Increase drainage capacity along Oaks Avenue
FM3	Drainage upgrades between Oaks and Howard Avenues plus Option FM2
FM4	Daylighting of box culvert between Howard Avenue and Dee Why Parade
FM5	Walter Gors Park detention basin plus Option FM2
FM6	Replace open channel between Oaks Avenue and Pacific Parade with new pipe under Pittwater Road plus Options FM1 and FM2
FM7	Raise level of Oaks Avenue and Howard Avenue plus Option FM2
FM8	Storage basins at Mooramba Road car park and Redman Road
FM9	Upgrade of Open Channel between Victor Road and Redman Road plus Option FM8
FM10	Combination of Option FM2 and Option FM8

Of the flood modification options that were investigated in the Floodplain Risk Management Study (Table 4), only Options FM2 and FM8 were included in the Plan. Both of these options offer significant reductions in flood damages compared to their capital cost.

6.1. Increase drainage capacity along Oaks Avenue (Option FM2)

Oaks Avenue is one of the main overland flow paths in the Dee Why South Catchment and is therefore subject to significant flood depths and velocities in a 100 yr ARI flood. Currently there is no underground drainage in the western half of Oaks Avenue.

Oaks Avenue is a major commercial street within the Dee Why CBD, with retail premises fronting the street at the western end. A number of properties on Oaks Avenue would likely suffer overfloor flooding in a 100 yr ARI flood resulting in significant flood damages.

To attempt to convey a portion of the overland flow underground, the Floodplain Risk Management Study investigated the benefits of installing a large diameter pipe from the intersection of Pittwater Road and Oaks Avenue connecting into the existing box culvert opposite 33 Oaks Avenue.

The pipe consisted of an 825 mm diameter concrete pipe running the length of Oaks Avenue with 600 mm diameter pipes connecting additional stormwater pits to the main pipe. The new large diameter pipe will connect into an existing twin box culvert which crosses Oaks Avenue outside 33 Oaks Avenue. There is sufficient capacity in the box culvert to accommodate the additional flows under this option.

Dee Why South Catchment Floodplain Risk Management Plan

This option would be constructed entirely within the Council road reserve and would not need to be constructed under or within private property. This negates the requirement for easements, compensation or compulsory purchase.

The flood modelling undertaken in the 2014 Dee Why South Catchment FRMS indicated this option would reduce flood depths by up to 0.22 m in Oaks Avenue, and would result in further reductions downstream of the option. The principal objective of the 2014 Dee Why South Catchment FRMS was to reduce the flood hazard in key areas of where it is currently high. This option reduces the current high hazard to low hazard for much of Oaks Avenue roadway.

This option is extremely effective at reducing the overall hazard along Oaks Avenue and results in significant benefits to areas along the main flow path downstream of the option. This will result in lower property damage in a 100 yr ARI flood.

To assess the cost effectiveness of the option the flood damages were calculated under existing conditions and following implementation of the option. The present value of the savings in average annual flood damage that the option will afford throughout its design life (the benefit) is divided by the cost to construct and maintain the option to give its cost-benefit ratio.

The assessment of the costs and benefits of Option FM2 are summarised in Table 5.

Table 5 – Economic Assessment of Option FM2

Option	Present Value of Reduction in Flood Damages	Capital Cost	Annual Cost	Total Cost of Option	Benefit/Cost Ratio
FM2	\$6,577,000	\$1,158,473	\$1,900	\$1,186,500	5.54

The total lifetime cost of the option is significantly less than the present value of the reduction in flood damages. The resultant cost-benefit ratio is 5.54. This is the highest cost benefit ratio of all flood modification options that were investigated and is due to the large reduction in damages compared to the comparatively modest cost of implementation.

The additional capacity in the twin box culvert that traverses Oaks Avenue may allow for an even larger pipe to be installed in Oaks Avenue, producing further reductions in flood depth and hazard. The feasibility of further increasing the size of the stormwater pipe will be investigated in the detailed design phase of implementation.

The construction cost of the proposed option can be sourced from Council's Stormwater Renewal budget with grant funding a possibility if the timing of the works coincides with the award of Floodplain Management Program grants by the NSW Office of Environment and Heritage.

The costs for the floodplain management options are preliminary estimates based upon a concept design and include the physical estimate of the works. The estimates do not include costs of design, approvals, project management and contingency. Following detailed design it is likely that the project cost will differ from that outlined above.

Even if the resultant costs of implementation for this option are double what is predicted in this Plan, the cost/benefit ratio would still be greater than 3 and significant enough to warrant the construction of the option.

6.2. Underground storage tanks at Redman Road (Option FM8)

The aim of this option is to capture and detain floodwater upstream of Pittwater Road and thereby reduce peak flood levels throughout much of the Dee Why CBD. The eastern end of Redman Road has been identified in the Dee Why Town Centre Masterplan as a potential redevelopment site.

Dee Why South Catchment Floodplain Risk Management Plan

The 2014 Dee Why South Catchment FRMS investigated the construction of two storage tanks with a 600mm connecting pipe to ensure free transfer of flows between the tanks. These tanks would be located under the Mooramba Road Car Park and the eastern end of Redman Road.

Subsequent investigations identified that while the Mooramba Road Car Park individually has little flood benefit in the 100 yr ARI flood an underground flood storage tank located in Redman Road is a feasible flood modification option. The subsequent modelling assessed a 2,500 m³ tank to capture overland flows that are conveyed down Redman Road (Option FM8b).

The storage tank results in significant reductions in flood depths downstream of Redman Road. Flood depths on Redman Road, Pittwater Road, Oaks Avenue and Howard Avenue are reduced by up to 0.3 m with the flood hazard in areas of the roadways reducing from high to low hazard.

The assessment of the costs and benefits of Option FM8b are summarised in Table 6.

Table 6 – Economic Assessment of Option FM8b

Option	Present Value of Reduction in Flood Damages	Capital Cost	Annual Cost	Total Cost of Option	Benefit/Cost Ratio
FM8b	\$16,861,534	\$3,014,900	\$21,000	\$3,324,672	5.07

The estimated capital cost of the option is around \$3 million, this is significantly less than the expected savings that the option would provide through reduced flood damages. The resultant cost-benefit ratio is 5.07, which is comparatively high and further consideration will be given to the implementation of this option.

Option FM2 is effective at reducing flooding on Oaks Avenue and downstream in flood events more frequent than the 100 yr ARI flood event. Once option FM2 has been constructed and is operational, FM8 will only offer additional flood damage reductions to Pittwater Road and more broadly in the 100 yr ARI flood event. Considering the design life of the option would likely be less than 100 years, there is a risk that this option would not demonstrate significant benefits during its operation.

Although the potential reduction in damages that this option affords far outweighs the estimated capital cost, there are major assumptions in the modelling to produce the reported reduction in flood damages. The option captures overland flows from the roadway in Redman Road and detains them in an underground tank. Further consideration needs to be given to the specific design to capture such a large volume of water. To capture sufficient flows for the system to be effective, a number of stormwater inlets would need to be constructed in the roadway. This design could result in a significant roadway redesign and construction and may impact on existing services such as water and sewer mains. These design and construction challenges could increase the estimated capital cost and the resultant economic feasibility of the option.

The Redman Road flood storage tank alone produces major flooding benefits on Pittwater Road, which is a State Government asset. Council does not have the budget available to implement this option independently. Representations have been made to the Roads and Maritime Services (RMS) and State Transit Authority (STA) to further discuss funding the feasibility investigations for Option 8.

Dee Why South Catchment Floodplain Risk Management Plan

7. Property Modification Options

Property modification options are measures which modify existing development or impose controls on future development to increase the flood resilience of properties. Examples of property modification options are:

- Voluntary house raising schemes;
- Voluntary purchase of highly flood affected properties;
- Flood proofing of existing development; and
- Land use planning and development controls

A number of property modification measures were investigated in the 2014 Dee Why South Catchment FRMS. Development in the Dee Why South Catchment has been long established and particularly in the lower catchment is characterised by unit development. This limits the ability of schemes such as voluntary house raising to be effective or widely implemented.

The region is characterised by higher than average property prices. In the catchment, the median house price is \$924,000, and the apartment price is \$538,000 (APM, 2014). In NSW, the median house price is \$500,000 and apartment price is \$511,000 (APM, 2014). This poses financial challenges in the implementation of any voluntary purchase of flood affected properties. Funding for voluntary purchase is limited with the NSW annual budget with funding assistance capped at \$1 million across NSW. Further, to satisfy the grant funding requirements, any property considered for voluntary purchase must have no opportunity for evacuation or shelter in place.

7.1. Flood Proofing Guidelines

A number of the major roads in the Dee Why CBD are highly flood affected, such as Redman Road, Pittwater Road, Oaks Avenue and Howard Avenue. These roads include sections of retail development fronting the road. The ground floor level of this retail development is often at same level as the top of kerb and would be subject to significant overfloor flooding in a 100 yr ARI event. Further there are a number of existing basement car park entries with ramps set below the 100 yr ARI flood level which are vulnerable to flooding in a 100 yr ARI flood.

Flood proofing is able to reduce either the flooding experienced or damages incurred by existing development which would otherwise be subject to overfloor flooding. The 2014 Dee Why South Catchment FRMS investigated the benefits of preparing and disseminating flood proofing guidelines and noted that it could minimise structural and contents damage.

There is no current statutory requirement to encourage residents or businesses to flood proof their properties. The guidelines could be an attachment to Part E11 of the Warringah Development Control Plan –Flood Prone Land which will be reviewed in 2014/15 and 2015/16.

7.2. Planning Instrument Amendments

At present, flood mapping and the application of development controls in the Warringah LGA does not differentiate between flooding from mainstream or overland flow sources. As such, a standard 500 mm freeboard is applied throughout the Warringah LGA to define the Flood Planning Level (FPL) and to identify properties subject to the provisions of Clause 6.3 Flood Planning in the Warringah Local Environment Plan (WLEP) 2011.

As the drainage system throughout Dee Why is predominantly piped, it could be considered that the primary cause of the flooding is overland flows as opposed to overflows from creeks and watercourses (mainstream flooding).

In areas of the catchment where the PMF level is less than 500 mm higher than the 100 yr ARI flood level the application of a 500 mm freeboard, without consideration of local topography or buildings

Dee Why South Catchment Floodplain Risk Management Plan

can inappropriately identify properties as potentially flood affected without the presence of an actual flood risk.

The NSW Floodplain Development Manual (the Manual) Section C6 provides Councils with discretion in determining whether flooding is due to overland flow. The Manual subcategorises local overland flow into major and minor drainage, with major drainage typically involving water depths greater than 0.3 m (in the storm event used to derive Flood Planning Levels, typically the 100 yr ARI event). Herein major drainage is referred to as overland flow while local drainage is referred to as local runoff. The flood categories proposed for the Warringah LGA are described in Table 7.

Table 7 - Proposed Flood Categories

Flood	Streamflow which overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam, and/or flooding associated with overland flow before it enters a principal watercourse.
	<u>Mainstream flooding:</u> Inundation of normally dry land occurring when water overflows the natural or artificial banks of a principal watercourse (which excludes those in a modified condition by being piped, channelised or diverted).
	<u>Overland flow:</u> Inundation by runoff flowing across the land surface before it enters a principal watercourse. This includes areas where runoff exceeds the capacity of a piped drainage system or flows overland along alternative flow paths which do not follow the drainage lines. Land is considered to be flood affected if the flow depth is greater than 0.3 m or experiences high hazard* when the flow depth is greater than 0.15 m. (Equivalent to 'Major Drainage' in the Manual).
Local Runoff	Local runoff in urban areas generally poses little danger to personal safety. The depth of flow is generally less than 0.3 m and is low hazard. Land subject to local runoff is not considered to be flood affected. (Equivalent to 'Local Drainage' in the Manual).

**as defined in the Manual*

Dee Why South Catchment Floodplain Risk Management Plan

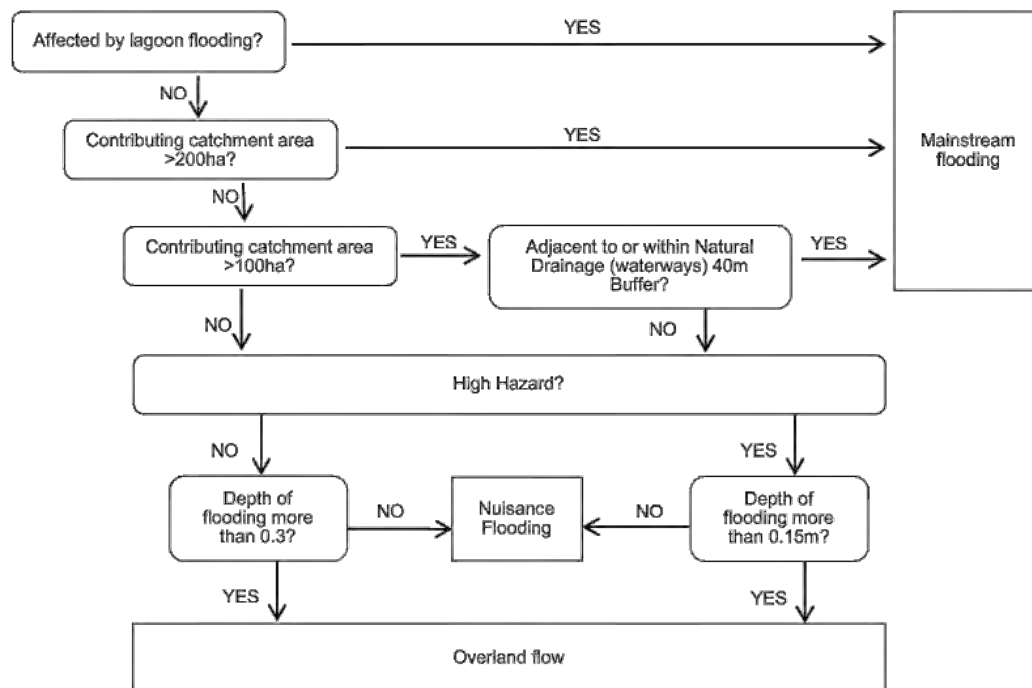


Figure 9 – Proposed flood categorisation process

In establishing flood categories for properties affected by flooding in the 100 yr ARI flood event, the decision-making process outlined in Figure 9 is proposed.

The entire Dee Why South Catchment, excluding the downstream lagoon waterbody, is less than 200 hectares. The only reach of the original open channel is between Victor Road and the western end of Redman Road; however the size of the upstream catchment from this channel is less than 100 hectares. When the above proposed flood categorisation process is applied all flood affected properties in the Dee Why South Catchment, excluding those adjacent to the lagoon, are categorised as subject to overland flows.

A number of recently completed Flood Studies have highlighted areas where the current flood risk planning precincts and related development controls are not appropriately defining and managing the flood risk. In 2014 Council staff investigated alternative approaches to define and manage flood risk, receiving input from the NSW Office of Environment and Heritage and external consultants. The State Government has confirmed that the proposed approach complies with the NSW Floodplain Development Manual, 2005.

The areas impacted by overland flow and mainstream flooding are outlined in Figures 5 and 6 respectively.

It is further recommended that Section E11 Flood Prone Land of *Warringah Development Control Plan* (WDCP) 2011 be amended as outlined in Table 8.

Dee Why South Catchment Floodplain Risk Management Plan

Table 8 – Proposed flood categories and required DCP amendments

Flooding Category	Definition	DCP Changes
Mainstream	<ul style="list-style-type: none"> Upstream catchment more than 200ha or Upstream catchment more than 100ha and within the Natural Drainage (waterways) 40m buffer layer 	Medium Risk and High Risk Flood Planning Precincts will be amended to remove areas now classified as 'Overland Flow' and 'Nuisance Flooding'.
Overland Flow	<ul style="list-style-type: none"> Upstream catchment less than 200ha and not within the Natural Drainage (waterways) 40m buffer layer If high hazard depth of flooding more than 0.15m If low hazard depth of flooding more than 0.3m 	A new DCP flood risk planning precinct will be created for 'Overland Flow'. The flood related development controls outlined in Part E11 of the Warringah DCP
Nuisance	<ul style="list-style-type: none"> If low hazard flooding with a depth less than 0.3m or If high hazard flooding with a depth less than 0.15m 	<p>No flood related development controls will be applied to this category.</p> <p>Special provisions may be required for basement carpark development</p>

8. Emergency Response Modification Options

Emergency response modification options aim to lower the consequences of flooding by modifying people's behaviour prior to and during a flood. Examples include a more flood resilient community, flood warning systems and improved emergency response arrangements.

8.1. Flood Warning Systems

The Northern Beaches Flood Warning System is a joint partnership between Pittwater, Warringah and Manly Councils in collaboration with the NSW OEH and the Bureau of Meteorology. As described in Millener et. al. (2013), the five-year objective is to develop a basic flash flood warning system for the region's community by the strategic installation of rainfall, water level and flow gauges. A publicly accessible webpage hosted by Manly Hydraulics Laboratory (MHL) (<http://new.mhl.nsw.gov.au/users/NBFloodWarning/>) is available to inform the public via real-time water level gauge data, provision of advice on flood trigger levels, and provision of advice on where flooding may be occurring. When trigger levels on selected gauges are exceeded the system sends an SMS to relevant personnel in the NSW SES, the Councils and/or the Roads and Maritime Services. The gauges are envisaged to provide data for many years and the effectiveness of the overall system is dependent on the community receipt of and their response to warning messages.

The current warning system and the associated webpage could be enhanced as discussed below.

The NSW SES together with Manly, Warringah and Pittwater Councils, developed the Northern Beaches Flood and Coastal Storms Education Strategy in 2012. A survey of residents undertaken during the preparation of this strategy identified that residents would prefer that specific warning messages be disseminated directly to them via SMS messages and/or by door knocks by the NSW SES. SMS messages are used by other agencies as it is considered effective to warn at risk residents of potential danger. Appropriate trigger levels (such as rainfall depths and Lagoon levels) for issuing of alerts will need to be formulated to provide warnings to at risk residents in flood affected locations. MHL have advised that while their warning system is able to provide such warnings the current trigger levels are based on initiating decisions on the management of the Dee Why Lagoon entrance not for issuing flood warnings.

A second potential improvement is that although there IP telemetry is supported by most of the gauges and older gauges are in the process of being upgraded, the data is still received by MHL's servers where it is uploaded onto the webpage. This often creates around a 30 minute delay between the time when rainfall is recorded and its availability on the webpage. In a flash flood environment such as the Northern Beaches, this is too long to provide any timely flood warning.

Regular maintenance and monitoring of the gauges and system is also required to ensure it is functioning correctly and that any breakdown in the gauges or failure of the telemetry is quickly corrected.

The existing gauge readings could be combined with live vision from webcams mounted in key locations, such as the Dee Why Lagoon entrance. This will enable remote monitoring and thus more regular checking of the conditions prior to the initiation of specific management actions such as opening the lagoon entrance. These potential improvements will be examined at the end of the current contract period in 2017.

8.2. Public Awareness and Flood Education

A community that is aware of the risk and consequences of flooding can prepare for and respond to a flood event more effectively. The single largest factor determining whether a community is flood aware is the frequency of flood events in the recent history of the area. Due to the absence of major flooding in Dee Why within the last 50 - 60 years, flood education must be a purposeful activity to help build a more resilient community.

Dee Why South Catchment Floodplain Risk Management Plan

As identified in the 2008 NSW State Flood Plan the NSW SES has responsibility to:

"Prepare, coordinate and deliver awareness and educational materials and programs regarding flooding."

This highlights that flood education and building a more flood resilient community is not the sole responsibility of one agency or organisation. A collaborative approach is needed to ensure that during times of little or no flooding that new community members as well as the existing community are aware of the flood risk and the mitigation activities that will help reduce the consequences of flooding.

In the spirit of a collaborative approach, the NSW SES, Manly, Warringah and Pittwater Councils developed the Northern Beaches Flood and Coastal Storms Education Strategy in 2012. The strategy has been developed to outline a plan for the agencies to raise awareness of the mechanism and potential impacts of natural hazards and encourage appropriate emergency response behaviours. It lists a series of actions to be undertaken by the organisations within the 2012-2016 period.

The actions identified in the Strategy have been implemented individually or in isolation which encourages an ad-hoc approach to community education. A more effective approach would be to develop a holistic education campaign that is rigorously planned and which identifies the resources (both staff and financial) required to implement the campaign. It also needs to identify the objectives and how the education campaign will be evaluated against those objectives. The Micromex survey which was undertaken prior to the development of the 2012 Strategy identified hazard 'appetite' through awareness of various parameters. Future surveys need to be designed to include questions which assess baseline scenarios relating to an objective, follow up surveys can then attempt to assess the effectiveness of the education campaign.

8.3. Information transfer to the NSW SES

The Local Flood Plan for the Northern Beaches which covers the Manly, Warringah and Pittwater LGAs has not been finalised. Information from this Plan and the preceding 2014 Floodplain Risk Management Study and 2013 Flood Study needs to be transferred to the NSW SES to assist in finalising the Local Flood Plan.

The Northern Beaches Councils will continue to meet quarterly with the NSW SES – Sydney Northern Region to provide technical data determined through the Floodplain Risk Management Process.

Dee Why South Catchment Floodplain Risk Management Plan

9. Implementation Program

The implementation program essentially forms the action list for this Plan.

The benefit of following this sequence is that gradual improvement of the floodplain occurs, as the funds become available for implementation of these measures.

Further steps in the floodplain management process from this point forward are:

1. Floodplain Management Committee to consider and adopt recommendations of this Plan;
2. Council to consider the Floodplain Management Committee's recommendations;
3. Council to adopt the Plan and submit an application for funding assistance to NSW OEH and other agencies as appropriate; and
4. As funds become available from NSW OEH, other state government agencies and / or Council's own resources, implement the measures in accordance with the established priorities.

This plan should be regarded as a dynamic instrument requiring review and modification over time. The catalysts for change could include new flood events and experiences, legislative change, alterations in the availability of funding and reviews of Council planning policies. In any event, a review every five years is warranted to ensure the ongoing relevance of the Plan.

The Plan is outlined in Table 9, with a priority ranking for all selected options.

Each option is classified in one of four categories:

- High priority
- Medium priority
- Low priority
- Ongoing action

This classification of the options will affect the staging of their implementation, with high priority actions likely to be investigated further as an immediate priority, whereas medium and low priority actions will be implemented depending upon budgetary and resource constraints.

Ongoing actions are actions which will start/continue on a regular recurring schedule.

Dee Why South Catchment Floodplain Risk Management Plan

Table 9 – Implementation program for actions identified in the Plan

Option	Description	Estimated cost		
		Capital	Annual	Priority
Increase drainage capacity in Oaks Avenue	A large diameter pipe is proposed to run the length of Oaks Avenue, connecting into the main box culvert opposite 33 Oaks Avenue.	\$1,158,473*	\$1,900	High
Underground storage tank/s at Redman Road	Tank/s would be located along the main overland flow path in Redman Rd and would require large underground pits to intercept flow upstream of the tank. Design and construction challenges could significantly increase the estimated capital cost.	\$3,014,900*	\$21,000	High
Planning instrument amendments	Amend Part E11 of the Warringah Development Control Plan to include separate classifications and development controls for mainstream flooding and overland flow	N/A	N/A	High
Public awareness and education	Review Northern Beaches Flood and Coastal Storms Education Strategy at the end of the current Strategy period (2012-2017)	\$0	\$5,000	High
Flood Warning System	At the end of the current contract (2017) review potential actions: - Live webcam streaming of lagoon entrances for entrance management - Potential for public opt-in to lagoon water level text messages - Improve speed of data publication on webpage and review reliability of system and potential improvements	\$30,000	\$7,000	High
Information transfer to the SES	Quarterly meetings to be held between Northern Beaches Councils and NSW SES Sydney Northern region to transfer data obtained through the floodplain risk management process.	N/A	N/A	Ongoing
Flood proofing guidelines	Seek funding assistance from the NSW Office of Environment and Heritage to prepare flood proofing guidelines. Amend the DCP to create a statutory requirement for existing premises undergoing interior development.	\$15,000	\$1,500	Low
Event Data Collection	Routine data collection following a flood event	\$5,000	\$5,000	Ongoing

*The costs for the floodplain management options are preliminary estimates based upon a concept design and include the physical estimate of the works. The estimates do not include costs of design, approvals, project management and contingency. Following detailed design it is likely that the project cost will differ from that outlined above.

Dee Why South Catchment Floodplain Risk Management Plan

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(i) HONES LA HOOD

PLANNING AGREEMENT

Warringah Council

Council

Joesandra Pty Limited

Developer

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(i)

The Hones La Hood contact for this
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(ii) TABLE OF CONTENTS

1.	Planning agreement under the Act	1
2.	Application of the planning agreement	2
3.	Operation of this planning agreement	2
4.	Definitions and interpretation	2
4.1.	Definitions	2
4.2.	General	6
5.	Development Contribution to be made under this Agreement	7
6.	Application of the Development Contribution	7
7.	Application of s94, 94A and s94EF of the Act to the Proposed Development	8
8.	Registration of this Agreement	8
9.	Review of Agreement.....	8
10.	Dispute resolution	8
11.	Security and enforcement	10
12.	Notices	11
13.	Approvals and Consent.....	13
14.	Assignment and dealings	13
15.	Costs	13
16.	Entire agreement	13
17.	Further Acts	13
18.	Governing Law and Jurisdiction	14
19.	Joint and individual liability and benefits.....	14
20.	No fetter	14
21.	Representations and warranties.....	14
22.	Severability	14
23.	Modification.....	14
24.	Waiver	14
25.	GST	15
26.	Explanatory Note	15
	Schedule 1 – Section 93F Requirements	16
	Schedule 2 – Development Contribution Schedule	18
	Schedule 3 – Development Procedures	19
	Schedule 4 – Development Program	22
	Schedule 5 – Release and Discharge Terms.....	23
	Schedule 6 – Security Arrangements	24
	Execution Page	25

(iii)

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- This Planning Agreement is made on 2015.

Parties

Warringah Council

of Civic Centre, Pittwater Road, Dee Why
("Council")

Joesandra Pty Limited

of 44 Charlton Crescent, Kogarah
("Developer")

• Background

- A The Developer owns the Land which is located within the Council's local government area.
- B The Developer intends, subject to obtaining appropriate approvals, to develop the Land by carrying out the Development.
- C The Lane is to the rear of the Land.
- D Presently the Lane does not meet appropriate standards to properly operate as a public lane/road.
- E As part of the Development the Developer has offered to provide the Development Contribution to the Council.
- F The parties have agreed to enter into this Agreement so as to give effect to the proposal in recital "E".

• Operative provisions

1. Planning agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of division 6 of Part 4 of the Act.

2. Application of the planning agreement

The planning agreement constituted by this Agreement applies to the Land, including the Lane Dedication Land.

3. Operation of this planning agreement

3.1 Subject to clause 3.2, the Parties agree that the terms of this agreement will take effect and bind the parties from the Commencement Date and will remain in force and effect until the Lane Dedication Land is dedicated by the Developer to the Council.

3.2 The parties agree that if the Developer:

- (a) has not obtained development consent in respect of the Development on or before the first anniversary of the Commencement Date; or
- (b) the Developer withdraws the Development Application for the Development,

then this agreement terminates and will be of no further force or effect and Council must, within 10 Business Days of the happening of such an event, return to the Developer:

- (a) the Bank Guarantee; and
- (b) the signed Transfer.

4. Definitions and interpretation

4.1. Definitions

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

"Application" means an application for any Development Consent.

"Assignment and Dealing Terms" means the obligations imposed on the relevant Parties under, and by virtue of, clause 14.

"Authorised Officer" means, in the case of any Party, a director or secretary or an officer whose title contains the word "manager" or a person performing the functions of any of them, or any other person appointed by that Party to act as an Authorised Officer for the purpose of this Agreement.

"Authority" means any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity and includes an accredited certifier accredited under section 6 of the *Building Professionals Act 2005*.

"Bank Guarantee" means a guarantee or an undertaking by a trading bank or another financial institution acceptable to the Council (acting reasonably) whereby that bank or institution unconditionally and irrevocably agrees to pay the Council on written demand a specified sum of money not less than the amount of the Payment or so much thereof as Council may demand from time to time, and must include an expiry date which is not less than 5 years from the issue date and includes any renewed bank guarantee as referred to in Schedule 6.

"Business Day" means any day except for Saturday or Sunday or a day which is a public holiday in Sydney.

"Certificate of Title" means the certificate of title issued by LPI NSW in respect of the Reserve.

"Commencement Date" means the date of this Agreement.

"Control" or "Controlled" means in respect of an entity the possession, directly, or indirectly, of the power, whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights, directly or indirectly, to control the membership of the board of directors of the entity or to otherwise, directly or indirectly, direct or influence the direction of the management and/ or policies of that entity, whether by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock or units or other interests of that entity or otherwise.

"Costs" includes reasonable costs, charges and expenses, including those incurred in connection with advisers.

"Council" means Warringah Council.

3

"Dealing" in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

"Development" means the proposal to redevelop the Land by construction of a shop top housing development, including basement carparking and consolidation of 2 lots into 1.

"Development Application" has the meaning given to that term in the Act.

"Development Consent" has the meaning given to that term in the Act.

"Development Contribution" means the dedication of the Laneway Dedication by the Developer to the Council as a public road.

"Development Contribution Schedule" means Schedule 2 of this Agreement.

"Development Procedures" means the terms and conditions imposed on the relevant Parties under, and by virtue of, Schedule 3.

"Development Program" means the timetable and milestones for each Development Contribution described in Schedule 4.

"Dispute Resolution Procedures" means the procedures imposed on the relevant Parties under clause 10.

"Explanatory Note" means the explanatory note relating to this Agreement, as required by clause 25E of the Regulation, and attached as Exhibit A to this Agreement.

"GST" has the meaning it has in the GST Act.

"GST Act" means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

"Land" means Lot 2 in DP 363933 and Lot 1 in DP 34961 known as 341 - 343

4

Condamine Street, Manly Vale.

"Lane" means Sommerville Place, Manly Vale.

"Lane Dedication" means the dedication of the Lane Dedication Land, to the Council for the purposes of widening the Lane to make it appropriately trafficable.

"Lane Dedication Land" means part of the Land, namely a strip of land located on the western boundary of the Land 1.5m wide.

"Law" means:

- (a) the common law including principles of equity; and
- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws or consents by an Authority.

"LEP" means *Warringah Local Environmental Plan 2011*.

"LGA" means the *Local Government Act 1993*, as amended.

"LPI NSW" means Land and Property Information Service New South Wales.

"Parent" means any person who Controls the Developer.

"Party" means a party to this Agreement, including their respective successors and assigns.

"Real Property Act" means the *Real Property Act 1900*.

"Regulation" means the *Environmental Planning and Assessment Regulation 2000*.

"Related Entity" has the meaning "related entity" has in the *Corporations Act 2001* (Cth).

"Register" means the Torrens title register maintained under the Real Property Act.

"Release and Discharge Terms" means the obligations imposed on the relevant Parties under, and by virtue of, Schedule 5.

"Review Procedures" means the procedures set out in clause 9.

"Security Arrangements" means those security arrangements set out in clause 11.

"Transfer" means the transfer (in registrable form but not stamped for stamp duty) of the Lane Dedication Land from the Developer to the Council.

4.2. General

In this Agreement unless the contrary intention appears:

- (a) a reference to a document or another instrument includes any variation or replacement of any of them;
- (b) a 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;

6

- (h) a reference to any thing (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (i) "include" or "including" when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (j) if a Party is prohibited from doing anything, it is also prohibited from:
 - (i) allowing or causing it to be done; and
 - (ii) doing or omitting to do anything which results in it happening;
- (k) a reference to a statute, ordinance, code or law includes a statute, ordinance code or law of the Commonwealth of Australia;
- (l) a reference to a body, whether statutory or not which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (m) no rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of this Agreement;
- (n) any capitalised term used, but not defined in this Agreement, will have the meaning ascribed to it under, and by virtue of, the Act; and
- (o) the Schedules and Exhibits form part of this Agreement.

5. Development Contribution to be made under this Agreement

The Developer will provide, or procure the provision of, the Development Contribution (in Schedule 2) by following the Development Procedures (in Schedule 3) in accordance with the Development Program (in Schedule 4).

6. Application of the Development Contribution

The Developer will provide, or procure the provision of, the Development Contribution (in Schedule 2) at the time or times and in accordance with and or in the manner set out in the Development Contribution (in Schedule 2) by following the Development Procedures (in Schedule 3) in accordance with the Development Program (in Schedule 4).

7. Application of s94, 94A and s94EF of the Act to the Proposed Development

The application of sections 94, 94A and 94EF of the Act are not excluded.

8. Registration of this Agreement

This Agreement is proposed to be registered in accordance with s93H of the Act.

9. Review of Agreement

The Parties may agree to review this Agreement. Any review or modification will be conducted in the circumstances and in the manner determined by the Parties. Any agreed amendment of this Agreement will:

- (a) be evidenced in writing; and
- (b) accurately record the agreement of the parties.

10. Dispute resolution**(iii) 10.1 Notice of Dispute**

If a party claims that a dispute has arisen under this Agreement (Claimant), it must give written notice to the other party (Respondent) stating the matters in dispute and designating as its representative a person to negotiate the dispute (Claim Notice). No party may start court proceedings (except for proceedings seeking interlocutory relief) in respect of a dispute unless it has first complied with this clause 10.

(iv) 10.2 Response to Notice

Within 10 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

(v) 10.3 Negotiation

The nominated representative must:

- (1) meet to discuss the matter in good faith within 5 business days after service by the Respondent of notice of its representative;
- (2) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

(vi) 10.4 Further Notice if Not Settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (Dispute Notice) by mediation under clause 10.5 or by expert determination under clause 10.6.*

(vii) 10.5 Mediation

If a party gives a Dispute Notice calling for the dispute to be mediated:

- (1) the parties must agree to the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (2) the Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (3) the Mediator appointed pursuant to this clause 10.5 must:
 - (a) have reasonable qualifications and practical experience in the area of the dispute; and
 - (b) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
- (4) the Mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (5) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (6) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (7) in relation to costs and expenses:
 - (a) each party will bear their own professional and expert costs incurred in connection with the mediation; and
 - (b) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

(viii) 10.6 Expert Determination

If the dispute is not resolved under clause 10.3 or 10.5, the dispute may, by agreement between the parties, both acting reasonably having regard to the nature of the dispute, be resolved by expert determination, in which event:

- (1) the dispute must be determined by an independent expert in the relevant field:
 - (a) agreed upon and appointed jointly by Council and the Developer; or
 - (b) in the event that no agreement is reached or appointment made within 30 business days, appointed on application of a party by the then current President of the Law Society of New South Wales;
- (2) the expert must be appointed in writing and the terms of appointment must not be inconsistent with this clause;
- (3) the determination of the dispute by such expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (4) the expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (5) each party will bear its own costs in connection with the process and the determination by the expert together with an equal proportion of the expert's fees and costs; and
- (6) any determination made by an expert pursuant to this clause is final and binding upon the parties except where the determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal and any party may commence litigation in relation to the dispute if it has not been resolved within 20 business days of the expert giving his or her decision.

(ix) 10.7 Litigation

If the dispute is not finally resolved in accordance with this clause 10, either party is at liberty to litigate the dispute.

(x) 10.8 Continue to perform obligations

Each party must continue to perform its obligations under this Agreement, notwithstanding the existence of a dispute.

11. Security and enforcement

- 11.1 Nothing in this Agreement prevents Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this

Agreement (including the breach of this Agreement by the Developer) or any matter to which this Agreement relates.

11.2 Until such time as the Development Contribution has been paid in full the Developer must:

- a) notify Council in writing of the name and contact details of any Certifying Authority to which it has applied for a Construction Certificate at the same time that such application is made;
- b) at the time it lodges any application for a construction certificate notify the Certifying Authority in writing of the existence and terms of this Agreement;
- c) procure and provide to Council a written acknowledgement from the Certifying Authority addressed to Council confirming that the Certifying Authority will not issue a Construction Certificate until Council provides written confirmation that the Development Contribution has been paid.

11.3 The Developer acknowledges and agrees 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 to the Land notifying Council's interest created by this Agreement.

11.4 The Developer will upon execution of this Agreement deliver to Council a caveat in registrable form with the consent to caveat signed by the Developer notifying Council's interest created by this Agreement together with a cheque in favour of Land & Property Information, NSW for the registration fee on the caveat.

11.5 Council will provide such written consents and registrable documents to the Developer to enable the Land to be mortgaged provided that the mortgagee acknowledges Council's interest in the Land under this Agreement and agrees to the registration of this Agreement in accordance with its terms.

11.6 Upon registration of the Agreement on the title to the Land in accordance with clause 8 or payment/provision of the Development Contribution to Council or surrender of the Development Consent, the Developer will be entitled to withdrawal of the caveat.

11.7 In addition to the above, the Developer must provide the Security Arrangements as set out in Schedule 6.

12. Notices

- (xi) 12.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that Party at its address set out below.
- (b) Faxed to that Party at its fax number set out below.
- (c) Emailed to that Party at its email address set out below.

(xii) Council

Address: Civic Centre, 725 Pittwater Road, DEE WHY NSW

Fax: (02) 9971 4522

Email: council@warringah.nsw.gov.au

Attention: General Manager

(xiii) Developer

Address: Joesandra Pty Limited
44 Charlton Crescent
Kogarah NSW 2217

Email: joe@zs.com.au

Attention: Joe Sleiman

- (xiv) 12.2 If a Party gives the other Party 3 business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

- (xv) 12.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) If it is delivered, when it is left at the relevant address.
- (b) If it is sent by post, 2 business days after it is posted.
- (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

- (xvi) 12.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the

Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

13. Approvals and Consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

14. Assignment and dealings

Until the Development Contribution is paid in full, the Developer cannot sell, transfer, assign, novate, charge, encumber or otherwise deal with the Land or attempt or purport to do so unless the Developer:

- (a) gives Council no less than ten (10) Business Days' notice in writing of the proposed sale, transfer, assignment, novation, charge, encumbrance or other dealing with its rights in respect of the Land;
- (b) procures that any buyer, transferee, assignee or novatee promptly executes an Agreement in favour of Council whereby the buyer, transferee, assignee or novatee becomes contractually bound with Council to perform the Developer's obligations under this Agreement;
- (c) in the event of a proposed charge, mortgage, encumbrance or other dealing with the Land, provides to Council a bank guarantee unlimited in time from a bank and on terms acceptable to Council to secure the payment of the Development Contribution.

15. Costs

Council's costs of and incidental to the preparation and execution of this Agreement and any related documents and registration of same shall be borne by the Developer.

16. Entire agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

17. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

18. Governing Law and Jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

19. Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

20. No fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

21. Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

22. Severability

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.

23. Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

24. Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or a breach of obligation by, another Party.

- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

25. GST

- (xvii) 25.1 Unless otherwise indicated, all amounts payable by one party to the other party in relation to a supply under this Agreement have been calculated exclusive of any GST which may be imposed on the supply.
- (xviii)
- (xix) 25.2 If any supply made under this Agreement is, or becomes, subject to GST, the party to whom the supply is made ("Recipient") must pay to the party making the supply ("Supplier"), as consideration, in addition to any consideration payable or to be provided elsewhere in this Agreement, subject to issuing a Valid Tax Invoice, an additional amount on account of GST, such amount to be calculated by multiplying the consideration by the applicable rate of GST.
- (xx) 25.3 Any amount in respect of GST payable under clause 25.2 must be paid to the Supplier immediately on receipt of the Valid Tax Invoice.
- (xxi) 25.4 If any party is required to reimburse or indemnify the other party for a cost or expense ("Cost") incurred by the other party, the amount of that Cost for the purpose of this Agreement is the amount of the Cost incurred, less the amount of any credit for, or refund of, GST, which the party incurring the Cost is entitled to claim in respect of the Cost.
- (xxii) 25.5 If GST is linked with the abolition or reduction of other taxes and charges, all amounts payable by the Recipient to the Supplier under this Agreement (excluding GST) must be reduced by the same proportion as the actual total costs of the Supplier (excluding GST) are reduced either directly as a result of the abolition or reduction of other taxes and charges payable by the Supplier or indirectly by way of any reduction in prices (excluding GST) charged to the Supplier. Both parties must also comply with Part VB of the *Trade Practices Act 1974* (Cth).

26. Explanatory Note

The Explanatory Note must not be used to assist in construing this Agreement.

1.2 Schedule 1 – Section 93F Requirements

The Parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures to ensure that the planning agreement complies with the Act.

REQUIREMENT UNDER THE ACT	THIS PLANNING AGREEMENT
Planning instrument and/or development application - (Section 93F(1)) The Developer has: (a) sought a change to an environmental planning instrument. (b) made, or proposes to make, a Development Application.	(a) No; (b) Yes, for the Development;
Description of land to which this Agreement applies - (Section 93F(3)(a))	The Land.
Description of change to the environmental planning instrument to which this Agreement applies - (Section 93F(3)(b)(i))	Not applicable.
Description of the development to which this Agreement applies - (Section 93F(3)(b)(ii))	The Development.
Description of the nature and extent of the provision to be made by the developer under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made.	See Schedules 3, 4 & 5.

(Section 93F(3)(c))	
Applicability of section 94 of the Act - (Section 93F(3)(d))	The application of section 94 of the Act to the Development is not excluded.
Applicability of section 94A of the Act - (Section 93F(3)(d))	The application of section 94A of the Act to the Development is not excluded.
Applicability of section 94EF of the Act - (Section 93F(3)(d))	The application of section 94EF of the Act to the Development is not excluded.
Consideration of benefits if under this Agreement section 94 applies - (Section 93F(3)(e))	Not applicable.
Mechanism for Dispute resolution - (Section 93F(3)(f))	See clause 10
Enforcement of this Agreement – (Section 93F(3)(g))	See clause 11
No obligation to grant consent or exercise functions – (Section 93F(9))	See clause 13

1.3 Schedule 2 – Development Contribution Schedule

1. Development Contributions

The Developer undertakes to make the following Development Contribution:

Column 1	Column 2
Development Contribution	Intended use
Dedication to the Council, at no cost to the Council, of the Lane Dedication.	Public Road.

1.4 Schedule 3 – Development Procedures

- 1.1 The Developer shall amend the Development Application in respect of the Development so as to divide the Lane Dedication Land from the balance of the Land on or before the first anniversary of the Commencement Date.
- 1.2 The Council must, if it is the consent authority, determine the Development Application, as proposed to be amended by clause 1.1 of this schedule, in accordance with the Act and in accordance with its obligations as Local Government authority, paying specific regard to clauses 13 and 20 of this Agreement.
- 1.3 Within 14 Business Days of the determination of the Development Application in respect of the Development, the Developer must provide written notice to the Council stating that:
- (a) if the Consent for the Development is granted:
 - (i) it accepts that Consent and the conditions imposed and does not intend to appeal that Consent; or
 - (ii) the conditions imposed are irreparably and unacceptably inconsistent with this Agreement but that it does not intend to appeal; or
 - (iii) it does not accept that Consent and the conditions imposed and intends to appeal that Consent to the Land and Environment Court.
 - (b) if the Development Application for the Development is refused, either:
 - (i) it accepts the refusal of that Development Application; or
 - (ii) it does not accept the refusal of that Development Application and intends to appeal (including continuing with any appeal that is presently on foot) the determination of that Application to the Land and Environment Court.
- 1.4 Within 14 Business Days of the determination of an appeal under paragraph 1.3(a)(iii) or 1.3(b)(ii), the Developer must provide written notice to the Council stating that:
- (a) if the Development is approved:

- (i) it accepts the Court's decision and does not intend to appeal; or
 - (ii) it accepts the Court's decision and does not intend to appeal but that the conditions are irreparably and unacceptably inconsistent with this Agreement; or
 - (ii) it does not accept the Court's decision and intends to appeal the decision or the consent authority lodges an appeal against that decision.
- (b) if the Development is refused development consent, that either:
 - (i) it accepts the refusal and clause 3 will apply; or
 - (ii) it does not accept the refusal and intends to appeal the determination under section 56A of the *Land and Environment Court Act 1993* or to a higher Court, as the case may be.
- 1.5 The provisions of clause 1.4 will apply to any subsequent appeal commenced by either the Developer or consent authority, as the case may be.
- 1.6 Clause 3.2 of this Agreement will apply on the provision of written notice under paragraph 1.3(a)(ii), 1.3(b)(i), 1.4(a)(ii) or 1.4(b)(i).
- 1.7 On receipt of the written notice contemplated in paragraph 1.3(a)(i) or 1.4(a)(i):
 - (a) the Developer must take all necessary and reasonable steps so as to procure the registration of a subdivision of the Land so as to sever the Lane Dedication Land from it;
 - (b) upon the subdivision referred to in clause 1.7(a) occurring (and separate titles issuing), the Developer must provide to the Council a transfer in registrable form (but not stamped for stamp duty) in respect of the Land Dedication Land and the Certificate of Title for the Land Dedication Land; and
 - (c) the Council must take all steps necessary to then procure the registration of that transfer, effecting the Dedication of the Lane Dedication Land as a Public Road within 28 Calendar Days of receipt of that notice.
- 1.8 Should the Developer fail to provide the notice required under either clause 1.3 or 1.4, then the Consent for the Development shall be deemed to be on terms acceptable to the Developer and in which case clause 1.7 above shall apply at the expiration of the requisite notice giving period.

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1.5 Schedule 4 – Development Program

1.1 The Developer shall effect the Development Contribution by:

- (a) the provision of written notice to Council in accordance with paragraphs 1.3(a)(i) or 1.4(a)(i) of Schedule 3 whereby:
 - (i) the Developer must take all necessary and reasonable steps so as to procure the registration of a subdivision of the Land so as to sever the Lane Dedication Land from it;
 - (ii) upon the subdivision referred to in clause 1.1(a)(i) occurring (and separate titles issuing), the Developer must provide to the Council a transfer in registrable form (but not stamped for stamp duty) in respect of the Land Dedication Land and the Certificate of Title for the Land Dedication Land; and
 - (iii) the Council must take all steps necessary to then procure the registration of that transfer, effecting the Dedication of the Lane Dedication Land as a Public Road within 14 Business Days of receipt of that notice.

1.2 In the event that the deeming provisions referred to in clause 1.8 of Schedule 3 apply:

- (i) the Developer must take all necessary and reasonable steps so as to procure the registration of a subdivision of the Land so as to sever the Lane Dedication Land from it;
- (ii) upon the subdivision referred to in clause 1.1(a)(i) occurring (and separate titles issuing), the Developer must provide to the Council a transfer in registrable form (but not stamped for stamp duty) in respect of the Land Dedication Land and the Certificate of Title for the Land Dedication Land; and
- (iii) the Council must take all steps necessary to then procure the registration of that transfer, effecting the Dedication of the Lane Dedication Land as a Public Road within 28 Calendar Days of receipt of that notice.

1.6 Schedule 5 – Release and Discharge Terms

The Council agrees:

- (a) that upon the registration of the Transfer and the Certificate of Title by the Council at the LPI NSW consistent with this Agreement, and providing for the Dedication of the Lane Dedication Land to the Council, the Developer would have fully satisfied and discharged its obligations under this Agreement; and
- (b) if so requested by the Developer, to provide to the Developer (or to any other person authorised to act on her behalf) a letter within 30 Business Days of receipt of such a request, prepared on the Council's letterhead, confirming the Council's assessment that the Developer has fully discharged its obligations under this Agreement; and
- (c) Clause (a) has effect whether or not the Council gives the letter to the Developer under clause (b).

1.7 Schedule 6 – Security Arrangements

- 1.1 Upon execution of this Agreement the Developer must provide to the Council:
- (a) a Bank Guarantee in the sum of \$#####, such Bank Guarantee not to have an expiry date that is less than 5 years from the issue date; and
 - (b) a signed transfer in registrable form at the LPI NSW (but not stamped for stamp duty) in respect of the Lane Dedication Land.
- 1.2 The Council will hold the Bank Guarantee and the Transfer pending registration of the subdivision creating the Lane Dedication Land.
- 1.3 No later than 4 years from the date the Bank Guarantee, including any replacement Bank Guarantee, is issued the Developer must obtain a replacement Bank Guarantee in the sum of \$#####, such replacement Bank Guarantee not to have an expiry date that is less than 5 years from the issue date.
- 1.4 In the event this Agreement is terminated in accordance with clause 3.2 or otherwise, the Council must return the Bank Guarantee and the Transfer to the Developer in accordance with clause 3.2.

1.8

1.9 Execution Page

Executed as an Agreement.

The seal of Warringah Council)
was affixed by authority of the)
Mayor and General Manager)

Mayor

General Manager

Name of Witness

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Executed by Joesandra Pty Limited)
ACN ### in accordance with s.127)
Corporations Act)

Secretary/Director

Director

Name of Witness (print)

Name of Director (print)

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EXPLANATORY NOTE

Planning Agreement

Between

Warringah Council

&

7941542/6

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(a) Exhibit A - Explanatory Note

Planning Agreement – Dedication of land at Sommersville Place for public road

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft Planning Agreement (the “**Planning Agreement**”), under Section 93F of the *Environmental Planning and Assessment Act 1979* (the “**EPA Act**”), for the granting of a development consent (the “**Consent**”) involving the following:

- (a) the construction of a shop top housing development at 341 – 343 Condamine Street, Manly Vale (**Land**), including basement car parking and consolidation of 2 lots into 1; and
 - (b) the dedication of land to the Council as a public road,
- (all known as the “**Proposed Development**”).

This explanatory note has been prepared jointly between the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

1. Parties to the Planning Agreement

Joesandra Pty Limited (the “**Developer**”) has made an offer to Warringah Council (the “**Council**”) to enter into a Planning Agreement, for the dedication of part of the Land (namely a strip of land 1.5m wide located on the western boundary of the Land) (called the “**Lane Dedication Land**”) in lieu of the Council compulsorily acquiring that part of the Land or having to pay for it so as to enable Sommersville Place, Manly Vale to be widened and provide an appropriate and safe trafficable public road.

2. Description of the Subject Land

The land to which this Planning Agreement applies is described as follows:

- Lot 2 in DP 363933; and
- Lot 1 in DP 349961,

known as 341 - 343 Condamine Street, Manly Vale.

3. Description of Proposed Change to Environmental Planning Instrument

There is no change proposed to the *Warringah Local Environmental Plan 2011*.

4. Summary of Objectives, Nature and Effect of this Planning Agreement

The objective of the Planning Agreement is to ensure that the Sommerville Place remains an appropriate and trafficable public road under the care and control of the Council for the benefit of current and future generations

5. Timing of delivery of the public community benefit

The dedication of the public benefit, namely the dedication of the Lane Dedication Land, will occur prior to or within 3 months of the issue of a construction certificate for the Development.

6. Assessment of the Merits of this Planning Agreement

(a) The Planning Purposes Served by this Planning Agreement

In accordance with Section 93F(2) of the EPA Act 1979, this Planning Agreement promotes the following public purpose;

- *the provision of (or the recoupment of the cost of providing) public amenities or public services*

The parties have assessed this Planning Agreement and state that the provisions of this Planning Agreement, in particular the Proposed Development, provide a reasonable

means of achieving the public purposes set out above by reason that the Lane Dedication Lane will be vested under the care and control of the Council.

(b) How this Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

In accordance with the EPA Act 1979, this Planning Agreement and the Proposed Development promotes its intent to encourage;

- (ii) the promotion and co-ordination of the orderly and economic use and development of the Land; and*
- (v) the provision and co-ordination of community services and facilities; and*

The Planning Agreement achieves these Objects by requiring the Developer to make the dedication of the Lane Dedication Land which will enable Sommerville Place to be widened and the area to be controlled by the Council as a public road.

By providing the dedication of land the Planning Agreement will result in:

- promotion of the social and economic welfare of the community and a better environment;
- promotion and co-ordination of the orderly and economic use and development of land (a better trafficable public road); and
- provision and co-ordination of community services and facilities (being a public road); and

(i) (c) How this Planning Agreement Promotes the Public Interest

This Planning Agreement's intent is to promote the Public Interest through the acquisition of land for public purposes to the Council without the Council having to pay for the land.

This in turn promotes further Public Interest by ensuring that the scarce and valuable resources of the Council are maintained and preserved for the betterment and enjoyment of the community at large.

(ii) (d) How this Planning Agreement Promotes one or more of the elements of Council's Charter under section 8 of the *Local Government Act 1993*

This Planning Agreement promotes the following elements of the Council's Charter:

- 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; and
- 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

This Planning Agreement promotes the above elements of the Council's Charter by providing an appropriate and trafficable public road under the care and control of the Council for the benefit of current and future generations.

(e) The Impact of this Planning Agreement on the Public or any Section of the Public

The growing population of Warringah requires public roads – particularly those that are both appropriate and safe. This Planning Agreement provides the Council with land which will be dedicated to Council for use as a public road. As a public road, the Lane Dedication Land will be available to all road users to use.

- (f) Identify whether the Planning Agreement conforms with Council's capital works program (if any)" CI 25E(2)(f)

The Planning Agreement is not inconsistent with Council's Capital Works Program

State whether the agreement, amendment or revocation specifies that certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued CI 25E(2)(g)

The Planning Agreement does not include a provision that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.

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PAGE

1

Minutes of Warringah Development Assessment Panel Meeting held on 12 November 2014

WARRINGAH DEVELOPMENT ASSESSMENT PANEL MEETING

3.2	LOT 343 CONDAMINE STREET MANLY VALE - DEMOLITION WORKS AND CONSTRUCTION OF A SHOP TOP HOUSING DEVELOPMENT AND CONSOLIDATION OF TWO (2) LOTS INTO ONE (1) LOT
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Panel Member

Kevin Hoffman, Chair (Environmental Law)

Russell Olsson, Urban Design Expert

Sue Hopley, Environmental Expert

Jennifer Cooper, Community Representative

DA2014/0828

PROCEEDINGS IN BRIEF

The Panel read reports, including the objections and plans as submitted with the application. The Panel then inspected the property and surroundings, particularly noting the very heavy traffic on Condamine Street approaching peak hour when the inspection took place.

The Panel also noted the consistent use of the pedestrian crossing by a considerable number of pedestrians at the intersection of King Street and Condamine Street, together with noticeable traffic activity in the rear lane known as Somerville Place.

During the visit to the site, the Panel looked at the proposal and noted the lack of address in the design to the corner of the site, being an important corner in the Condamine Street retail streetscape and the lack of activation proposed on the King Street frontage, where there would be some advantage in extending the shopfronts and the footpath awning down the King Street frontage.

The Panel noted that the two proposed entrances to the car park off King Street would eliminate several on-street carparking spaces and that the proposal does not provide for any visitor parking in its own basement. The site is located directly opposite a private school with attendant pickup and drop-off activities at particular times of the day and the local residents use Somerville Place to avoid accessing Condamine Street to get to the shops.

Another matter that took the Panel's attention was that most of Somerville Place to the south has been widened to have a two-way carriageway, however the northern section of the laneway, especially the last three properties at the King Street end, is only slightly wider than 3 metres, thus providing only one way vehicular access. The panel was

ITEM

3.1

PAGE

2

Minutes of Warringah Development Assessment Panel Meeting held on 12 November 2014

informed of Council's consistent approach in requiring any new DA's for redevelopment of these commercial properties to provide for road widening of Somerville Place, to gradually improve its usability and safety into the future. This development is proposing to increase the density of residential uses and commercial uses on the site and should provide the additional width where at the rear of the subject property. Therefore, this should constitute a reason for refusal.

On returning to the public meeting at the Council Chambers, the Panel found that there were no representatives of the applicant seeking to be heard and there was one objector who wished to be heard. The objector owns the pharmacy and adjoining property to the immediate south of the subject property. She is concerned that a 3-storey limit applies within the local shopping centre and the height of this development is 4 storeys. She has placed solar panels on her roof, not far from the northern side boundary with the subject property and is concerned that the exceedence of the 3-storey height limit by this proposal will overshadow all of her solar panels.

The objector had written in to Council on her objections to the proposal and is likewise concerned about the increased activity in Somerville Place, that access being the disabled person's access to the pharmacy shop being operated on the adjoining property.

The Panel considered the detailed assessment report contained in the agenda and found that there were a number of major non-compliances with the applicable statutes and development control plans, which indicates in summary that the proposal as it stands, is an over development of the site that does not take proper consideration of many aspects of its impacts.

Therefore, the Panel has determined that it is fully supports the findings and recommendations in the Council assessment report and therefore, the Council as the consent authority refuse development consent to Development Application DA 2014/0828 for demolition works and construction of a shop top housing development and consolidation of two lots into one lot on land at Lot 2 DP 363933, 343 Condamine Street Manly Vale and Lot 1 DP 34961, 341 Condamine Street Manly Vale subject to the reasons outlined as follows.

Voting 4/0

DECISION OF THE WARRINGAH DEVELOPMENT ASSESSMENT PANEL

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2014/0828 for Demolition works and Construction of a Shop Top Housing Development and Consolidation of Two (2) Lots into One (1) Lot on land at Lot 2 DP 363933, 343 Condamine Street, MANLY VALE, Lot 1 DP 34961, 341 Condamine Street, MANLY VALE, subject to the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development. In particular, the following Design Principles:

ITEM

3.1

PAGE

3

Minutes of Warringah Development Assessment Panel Meeting held on 12 November 2014

- Clause 9 (Principle 1 - Context);
- Clause 10 (Principle 2 – Scale);
- Clause 11 (Principle 3 – Built Form); and
- Clause 15 (Principle 7 – Amenity).

Additionally, the proposal is inconsistent with the following Rules of Thumb under the Residential Flat Design Code:

- Street Setbacks;
 - Deep Soil Zones;
 - Open Space;
 - Privacy;
 - Balconies;
 - Storage;
 - Daylight Access; and
 - Natural Ventilation.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Infrastructure) 2007 in that it will not satisfy Clause 102 – 'Impact of road noise or vibration on no-road development' without having an adverse impact upon the residential amenity and energy efficiency of the development.
 3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of the Warringah Local Environmental Plan 2011 in that the development does not satisfy Clause 1.2(2)(d)(ii) – Aims of the Plan.
 4. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the provisions of the Clause 4.3 – Height of Buildings Development Standard of the Warringah Local Environmental Plan 2011.
 5. Pursuant to Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Draft State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development. In particular, the following Design Principles:

Clause 28(2)(b) - Determination of Development Applications and Schedule 1 - Design Quality Principles

- Principle 1 – Context and Neighbourhood Character;
- Principle 2 – Built Form and Scale
- Principle 3 – Density
- Principle 6 – Amenity
- Principle 9 – Architectural Expression

ITEM

3.1

PAGE

4

Minutes of Warringah Development Assessment Panel Meeting held on 12 November 2014

Additionally, the proposal is inconsistent with the following Apartment Design Guide:

Clause 28(2)(c) - Determination of Development Applications and the Apartment Design Guide

- Part 2G – Street Setbacks
 - Part 3F – Visual Privacy
 - Part 4L – Solar and Daylight Access
 - Part 4P – Private Open Space and Balconies
 - Part 4Q – Natural Ventilation
 - Part 4R - Storage
6. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the relevant provisions of the Warringah Development Control Plan 2011. In particular, the proposal is inconsistent with the provisions of the following clauses:
- Clause B2 – Number of Storeys;
 - Clause B7 – Front Boundary Setbacks;
 - Clause C2 – Traffic, Access and Safety;
 - Clause C3 – Parking Facilities;
 - Clause C4 – Stormwater;
 - Clause C9 – Waste Management;
 - Clause D2 – Private Open Space;
 - Clause D8 – Privacy;
 - Clause D9 – Building Bulk; and
 - Clause F1 – Local and Neighbourhood Centres.
7. Pursuant to Section 79C(a)(iv) of the Environmental Planning and Assessment Act, 1979, insufficient information has been submitted to enable the assessment of the application. In particular:
- Clause C2 – Traffic, Access and Safety; and
 - Clause C4 – Stormwater.
8. Pursuant to Section 79C (1)(e) of the Environmental Planning and Assessment Act, 1979, the proposed development is not in the public interest as the development is inconsistent with the context, scale and intensity of development that the community can reasonably expect to be provided on this site and within the local area.
9. The proposed development does not provide for the widening of the laneway at the rear of the site (Sommerville Place), thereby not facilitating a safe and functional laneway in a manner which has been consistently required for new developments adjoining the laneway.

ITEM

3.1

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2014/0828
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 2 DP 363933 , 343 Condamine Street MANLY VALE NSW 2093 Lot 1 DP 34961 , 341 Condamine Street MANLY VALE NSW 2093
Proposed Development:	Demolition works and Construction of a Shop Top Housing Development and Consolidation of Two (2) Lots into One (1) Lot
Zoning:	LEP - Land zoned B2 Local Centre LEP - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Development Assessment Panel (WDAP)
Land and Environment Court Action:	Yes
Owner:	Joesandra Pty Limited
Applicant:	Cracknell Lonergan Architects
Application lodged:	24/07/2014
Application Type:	Local
State Reporting Category:	Residential - New multi unit
Notified:	22/08/2014 to 09/09/2014
Advertised:	23/08/2014
Submissions:	3
Recommendation:	Refusal
Estimated Cost of Works:	\$ 4,337,153

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the

- development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Development Control Plan - B2 Number of Storeys
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D2 Private Open Space
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot 2 DP 363933 , 343 Condamine Street MANLY VALE NSW 2093 Lot 1 DP 34961 , 341 Condamine Street MANLY VALE NSW 2093
Detailed Site Description:	<p>The subject site consists of a two (2) allotments located on the western side of Condamine Street.</p> <p>The site is legally known as Lot 1 in DP 34961 and Lot 2 in DP 363933, No.341 and No. 343 Condamine Street, Manly Vale.</p> <p>The site is rectangular in shape with a frontage of 23.47m along Condamine Street and a depth of 40.54m (along King Street). The site has an area of 951.47m².</p> <p>The site is located at the northern edge of the B2 Local Centre zone and accommodates two mixed use developments comprising shops and residential apartments. The site is a corner allotment, bounded by Condamine Street to the east, King Street to the north and Sommerville Place to the west (rear). Sommerville Place is a narrow laneway at the rear of the site Extends between Sunshine Street at the southern end and King Street at the northern end.</p> <p>Immediately adjacent the site, at the rear, is St Peters Church Hall, which is identified under Schedule 5 of the Warringah Local Environmental Plan 2011 as a heritage item (I85).</p>

The site is well served by public transport with a bus stop located at the front of the site on Condamine Street and opposite the site on the eastern side of Condamine Street that provide services north to Warringah Mall and south to the city.

Surrounding development consists of a mix of mixed-use developments mainly located along eastern and western sides of Condamine Street.

Adjacent to the site to the north is St Kieran's Church and St Kieran's School and residential dwellings.

The site is generally flat without any topographical constraint.

Map:



SITE HISTORY

A search of Council's records reveals that the site has been used for commercial/mixed use purposes for a significant period of time. Recent development applications include:

DA2013/0622

For the Use of the premises as a Veterinary Clinic/Hospital at No. 341 Condamine Street. The application was approved on 19 August 2013.

DA2009/0568

For the Occupation of an existing shop as a cake and bread shop with associated signage at No. 341 Condamine Street. The application approved on 18 June 2009.

History of the Subject Application

A letter was sent to the Applicant on 1 August 2014 with a request for additional information in the form of an 'Acoustic Report'. The applicant responded on 4 August 2014 with a request for an extension of time to submit the 'Acoustic Report'.

Council records indicate that the applicant was advised that no request would be granted to extend the time and that a preliminary assessment of the application indicated that the proposal would not be supported in its current form. The applicant was therefore encouraged to withdraw the application.

Subsequently, correspondence received from the applicant on 6 August 2014 requested the withdrawal of the application. However, on 15 August 2014, further correspondence was received from the applicant which advised that the application would not be withdrawn, as previously requested, and instructed that the application was to proceed to determination as proposed.

It is noted that an Acoustic Report was submitted to Council on 27 August 2014. This has been considered in this report under State Environmental Planning Policy (Infrastructure) 2007.

On 22 September 2014 the applicant filed a Class 1 Appeal on the basis that Council had not determined the application within the statutory time period (deemed refusal).

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for demolition works and construction of a four storey shop top housing development consisting of a shop and residential apartments with associated car parking and landscaping comprising 24 units, 182m² shop, basement level residential car parking for 27 vehicles, ground floor commercial car parking for 11 vehicles and site works at No.s 341-343 Condamine Street, Manly Vale ('the site').

Specifically the development includes the following:

Level	No. of Car Spaces	Units
Basement	27 spaces (residential)	Nil
Ground Floor	11 spaces (commercial)	Commercial premises - 182m ² Nil - Residential
First Floor	N/A	1 Bedroom: 6 2 Bedroom: 2 3 Bedroom: 1
Second Floor	N/A	1 Bedroom: 6 2 Bedroom: 2 3 Bedroom: 1
Third Floor	N/A	1 Bedroom: 2 2 Bedroom: 4

		3 Bedroom: 0
Total	38 Spaces	1 Commercial premises 24 residential units.

A 182m² commercial premises, associated awning, plant, storage and bin (residential and commercial) rooms, two vehicles crossings serving the residential driveway and commercial car parking area containing 11 car spaces and lift and stairwell access/egress is provided at the ground floor level.

The first, second and third floors contain residential apartments with lift and stairwell access and egress and garbage bin storage room/chute. Landscaped garden beds are provided to Unit No.s 301 and 306 located on the third floor.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (see commentary in the 'Environmental Planning Instruments' section in this report).
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters may be addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent.</p>

Section 79C 'Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter may be addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
<p>Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p><u>Environmental Impact</u> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>Generally, the subject site is not constrained by any natural features and is not subject to any threatened species, critical habitat, flood, bushfire, heritage or acid sulfate soils. In this regard, the development will not have any adverse impact upon the natural environment.</p> <p>However, the design of the development is considered to be unsatisfactory by providing a bulk and scale that is not commensurate with that of the existing surrounding development and will provide an unsatisfactory outcome on the built environment. There are no topographical constraints that would warrant the level of non compliance proposed to a number of planning controls.</p> <p>In summary, the proposed development will result in adverse environmental impact on the built environment.</p> <p><u>Social Impact</u> The proposed development will not have a detrimental social impact in the locality considering character of the proposal.</p> <p>The development is considered satisfactory in terms of potential social impact in the locality considering the residential character of the proposal and that the development will provide greater diversity to the housing stock of the Warringah LGA.</p> <p><u>Economic Impact</u></p>

Section 79C 'Matters for Consideration'	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the mixed (commercial and residential) nature of the proposed land use
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for this type of development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	This assessment has found that the proposed development is not in the public interest as the development is inconsistent with the context, scale and intensity of development that the community can reasonably expect to be provided on this site and within the local area

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Barry McGrath	1 / 345 Condamine Street MANLY VALE NSW 2093
Mrs Roslyn Rose	339 Condamine Street MANLY VALE NSW 2093
Mrs Eliza O'Sullivan	337 Condamine Street MANLY VALE NSW 2093

The following issues were raised in the submissions and each have been addressed below:

- **Non-compliance with Building Height control;**
- **Out of character of the area (Number of Storeys);**
- **Overshadowing;**
- **Privacy;**
- **Noise; and**
- **Traffic Impacts and Car Parking.**

The matters raised within the submissions are addressed as follows:

Non-compliance with Building Height control

Concern is raised in relation to the height of the building and that it does not comply with the maximum height permitted under the height of buildings control.

Comment:

This matter is addressed in detail elsewhere within this report (refer to 'Height of Buildings' Development Standard under Warringah Local Environmental Plan 2011).

In summary, the proposed variation to the Height of Buildings Development Standard is considered to be excessive, inconsistent with the Objectives of the zone and Development Standard (as required to be considered under Clause 4.6 of the WLEP 2011), and is not supported.

This matter has been included as a reason for refusal.

Out of character of the area (Number of Storeys)

Concern is raised in relation to the proposed four storey building and that it is out of character for the area and would be physically dominant.

Comment:

This matter is addressed in detail elsewhere within this report (refer to B2 Number of Storeys form control under WDCP).

In summary, the proposed variation to the maximum number of storeys control is considered to be excessive, would create an undesirable precedent for similar development to occur in the B2 zone, inconsistent with the Requirements and Objectives of Clause B2 under the WDCP 2011, and is not supported.

This matter has been included as a reason for refusal.

Overshadowing

Concern is raised in relation to the overshadowing that will result from the proposed building.

Comment:

This matter is addressed in detail elsewhere within this report (refer to D6 - Access to Sunlight control under WDCP).

In summary, based on the level of non-compliance proposed to the Height of Buildings Development Standard and the Number of Storeys Built Form control, the level of overshadowing caused to neighbouring properties is considered unreasonable and unacceptable in this instance.

This matter has been included as a reason for refusal.

Privacy

Concern is raised in relation to the impact upon neighbouring properties privacy.

Comment:

This matter is addressed in detail elsewhere within this report (refer to D8 Privacy control under the WDCP).

In summary, the proposal does not achieve adequate separation between buildings to the west and, in the absence of any form of privacy treatments, results in unreasonable overlooking.

This matter could be addressed by way of appropriate conditions relating to screening should the Panel be of a mind to approve the application. However, it should be noted that screening is not considered to be an appropriate method of addressing privacy. Rather, it is considered that this issue should have been appropriately considered by the architect as an integrated response at the design stage of the development.

This advance consideration would avoid any adverse impact upon internal amenity to the screened units (ie: by adding to a sense of enclosure and limiting access to ventilation and sunlight) and to mitigate additional visual bulk to the exterior of the development, when viewed from the surrounding public and private domains.

This matter has been included as a reason for refusal.

Noise

Concern is raised in relation to the management of noise.

Comment:

This matter could be addressed by way of standard conditions of consent relating to noise management should the panel be of a mind to approve the application.

The matter of external noise (generated by Condamine Street) is addressed under State Environmental Planning Policy (Infrastructure) 2007.

Traffic Impacts and Car parking

The following concerns are raised:

- Impact on the rear lane in terms of access to other properties and loading and unloading.
- Lack of visitor car parking
- Increased traffic movements

Comment:

These matters have been addressed in detail elsewhere within this report (refer to the 'Referrals' (Traffic Engineer) section and C2 - Traffic, Access and Safety and C3 Parking Facilities controls under the WDCP).

In summary, the application is not supported on the basis of a lack of car parking and satisfactory access arrangements.

This matter is included as a reason for refusal.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Development Engineers	<p>The application was referred to Council's Development Engineer who provided the following comments:</p> <p><u>Stormwater Drainage</u></p> <p><i>Development Engineers have reviewed the stormwater drainage proposal prepared by EZE Hydraulic Engineers, job no. 11030, issue A and advise the proposal cannot be supported due to the following reasons:</i></p> <ol style="list-style-type: none"> <i>An engineering longitudinal section through the outlet pipe from the Onsite Stormwater Detention (OSD) tank to the public stormwater drainage pit in Condamine is not submitted to Development Engineers for assessment. Minimum information required on the long-section is to include design invert levels, finished surface levels, pipe sizes and levels, design flows, all utility services that may cross the line.</i> <p><i>Note: It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact locations of any crossings or connections are to be shown.</i></p> <i>The centerline of the orifice plate (RL 19.37m AHD) is below the top of kerb level (RL 20.52m AHD) at point of stormwater connection into the public stormwater drainage system in Condamine Street. The orifice plate appears to be a 'drowned orifice' and therefore OSD system is operating under outlet control. This is unacceptable to Council. Refer to section 4.9.1 of Council's OSD Technical Specification.</i> <i>In order for Development Engineers to adequately assess the stormwater drainage proposal, the DRAINS computer model must be submitted for assessment. Development Engineers have not received the DRAINS model to date. The proposed OSD storage volume appear to be lower than expected.</i> <i>The proposed OSD tank relies on a 150mm dia overflow pipe in the event of a blockage to the control discharge device or orifice. Discharge point of the overflow pipe into the public stormwater system is unclear. The overflow pipe outlet must be a free outlet, that is, the outlet must be clear at all times and not subject to blockages. This is to enhance venting of the OSD tank where gas build up is likely and to prevent any stormwater damage to the shop/retail area in the event of a blockage to the public stormwater drainage system in Condamine street. Refer to sections 4.5 and 4.11 of Council's OSD Technical Specification.</i> <i>Proposed OSD tank is located under shop/retail (habitable</i>

Internal Referral Body	Comments
	<p><i>floor) area. Goods or materials stored in the shop/retail floor area may suffer dampness or water seepage related damage when the OSD tank is operating and therefore is not acceptable to Council.</i></p> <p>6. <i>Freeboard between the finished floor level of the shop (RL 20.10m AHD) and maximum level in the OSD tank (RL 19.90m AHD) is 200mm which is less than the minimum 300mm freeboard required. This is not acceptable. Refer to section 4.5 of Council's OSD Technical Specification.</i></p> <p><i>The OSD system may need to be re-designed and drainage plans amended to address the above issues.</i></p> <p><u><i>Vehicle Access</i></u></p> <p><i>The applicant has not submitted engineering long sections of the proposed vehicle ramps/driveways for Development Engineers to assess. Proposed vehicle ramps/driveways gradients, change of gradients, height clearance, etc must comply with AS2890.1. Applicant is to incorporate Council's standard 'Normal' driveway profile between the kerb alignment and boundary alignment.</i></p> <p><i>In summary, the proposal is not supported for approval due to lack of information to address:</i></p> <ul style="list-style-type: none"> <i>Stormwater drainage for the development in accordance with clause C4 Stormwater of the DCP</i> <i>Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety</i> <p><u><i>Road widening</i></u></p> <p><i>Council's records (TRIM 2013/265275) indicate that road widening was required for the development at 333 Condamine Street to maintain the access of the lane as a two way system in Somerville Place. In this regard comments should be obtained from Council's Traffic Engineers with regards to any road widening requirements for development application DA2014/0828 also.</i></p> <p><i>Note: Groundwater table was not encountered the preparation of the geotechnical report. General condition of de-watering to be issued where all other engineering matters are addressed to Development Engineers' satisfaction."</i></p> <p><i>Therefore, the application is not supported by the Development Engineers</i></p>

Internal Referral Body	Comments
	and the issues raised above have been included as reasons for refusal.
Heritage Advisor	<p>The application was referred to Council's Heritage Advisor who provided the following comments</p> <p><i>"This application has been referred for heritage comments as it is in the vicinity of a listed local heritage item. The site is in the vicinity of Item 185 - St Peters Church Hall, 1 King Street, Manly Vale, which is listed as a local heritage item in Schedule 5 of Warringah Local Environmental Plan 2011.</i></p> <p><i>The heritage item is located to the south west of the subject site, being located at the rear of the land known as 1 King Street, located on the western side of the laneway which runs behind the Manly Vale shopping strip.</i></p> <p><i>This application proposes the demolition of existing buildings and structures on the site known as 341-343 Condamine Street, Manly Vale and the construction of a 4 storey building. As well as basement parking, the proposed building has commercial space at ground level with 3 levels of residential apartments above.</i></p> <p><i>Details of the proposal are contained within the Statement of Environmental Effects accompanying the application, prepared by nino urban planning + development, dated June 2014. The application was also accompanied by a Statement of Heritage Impact (SHI) dated April 2014 by Cracknell & Longergan Architects and Heritage Consultants.</i></p> <p><i>As far as the proposed development is concerned, it is worth noting that although the site on which the heritage item is located is immediately to the west of the subject site (across the laneway), the actual heritage item, being the weatherboard church hall building is located at the rear of the site (1 King Street) and to the south-west of the site.</i></p> <p><i>This building was originally built on the King Street frontage, but was moved to its current location in the 1960's, so its original context has been compromised. It does however retain most of its original fabric and is continued to be used by the church as a community building, maintaining a socially significant role in the community.</i></p> <p><i>The heritage building is not very visible from King Street, as it is located behind the rectory building. It is however, visible from the laneway. Views to and from the heritage item are limited by the existing commercial development along Condamine Street.</i></p> <p><i>It is inevitable that new development will occur along the Manly Vale shopping strip fronting Condamine Street, and that there will be more intense development than that which currently addresses the rear land.</i></p> <p><i>In conclusion it is considered that the proposed development will not have</i></p>

Internal Referral Body	Comments
	<p><i>an unacceptable impact upon the heritage item in the vicinity, being St Peters Church Hall, 1 King Street, Manly Vale. This is based upon the fact that there is no impact upon its original fabric, no adverse impact upon its curtilage and that views to and from the heritage item are already limited.</i></p> <p><i>Therefore, no objections are raised to this application on heritage grounds and no conditions required."</i></p>
Landscape Officer	The application was referred to Council's Landscape Officer who did not raise any objection to the proposal.
Traffic Engineer	<p>The application was referred to Council's Traffic Engineer who provided the following comments:</p> <p><i>"The proposed development is for a mixed use development providing 24 units and 182m² of retail. The site is located at the intersection of Condamine Street and King Street, Manly Vale. This intersection is a signal controlled intersection. The development proposes to provide 27 resident parking spaces (including 2 x disabled spaces and 1 x small car space) and 11 commercial/retail spaces in a separately accessible car park from the residential car park.</i></p> <p><i>It is not proposed to provide any residential visitor parking spaces on the site. The traffic report argues that there is sufficient on-street parking in King Street to cater for the five spaces that would be required under the Warringah DCP. It is considered that the presence of the school and church in the street, as well as the existing medium density development, does place a restriction on available parking at times other than the peak periods surveyed. The lack of visitor parking on the site is not acceptable.</i></p> <p><i>It is proposed to provide a median in King Street as part of the development so that all access to the residential parking is left in/left out. exiting vehicles are proposed to travel via Somerville Place and either Sunshine Street or Kenneth Road to access Condamine Street. Somerville Place is a narrow laneway located adjacent to the western boundary of the proposed development. It is a narrow laneway (approx. 3.6m) which provides rear access for the shops and other developments along this section of Condamine Street. It is not considered suitable to act as a through route for all exiting traffic from the development."</i></p> <p>Further comments were provided by Council's Traffic Engineer on 29 October 2014 in relation to the status and widening of Somerville Place, as follows:</p> <p><i>"Somerville Place is currently operating as a two way lane. Consideration of a Development Application at No.333 Condamine Street highlighted the need to for widening of the northern end of Somerville Place to 6m for the purpose of providing and maintaining a two way traffic flow on the lane see. Approval of the subject development application in the current format would extinguish the ability of achieving this objective.</i></p>

Internal Referral Body	Comments
	<p><i>In order to maintain the two way traffic flow a road widening strip about 2.5m wide needs to be dedicated as public road. This will maintain the two way status of the lane and accommodate the increase traffic flow generated by this development on the lane. It will also provide for the waste servicing of the development which is to be undertaken from Somerville Place.</i></p> <p><i>Somerville Place is currently designated as a two way street, however, the width of the laneway in the northern section is currently only about 3.6m wide whilst the southern section is 6m wide. Operation of the lane as a two way street is marginal. It does not meet the requirements under amcord in regards to widths for access roads. Changing the access arrangements to a one way system has been considered; however, this will limit access to the site and create a lengthy circulation pattern through residential areas. The best outcome for both Council and the property owners is that the lane remains a two way system.</i></p> <p><i>The current configuration is an historical hangover from the use of the laneway by low intensity retail operating with a frontage to Condamine Street, with some parking at the rear of the site. Traffic volumes on the lane have been historically very low. The main use is generally for staff parking and delivery access to the rear of the retail developments on Condamine Street. This situation was tolerated due to the low volumes and the absence of residential developments off the laneway. With developments as proposed it is immediately apparent that volumes will increase, particularly with the addition of residential component. If Council is going to allow developments of this type and scale we must take steps to guarantee that access to these sites is sufficient. Specifically a two way system with adequate carriageway width must be provided.</i></p> <p><i>Allowing this development to proceed without the road widening would establish a permanent choke point on Somerville Place and any opportunity to make the width adequate for residential access would be lost.</i></p> <p><i>The creation of this access will be a long process as the laneway can only be altered as each site between Somerville Place and Condamine Street is developed. It has been previously identified that the sites between 333 Condamine St and Sunshine St will also be required to provide a section of land to increase the carriageway width as they are developed, as will the sites between 337 Condamine Street and King Street.</i></p> <p><i>This development will create additional traffic movements on Somerville Place. To increase traffic volumes without a commensurate improvement to functionality of the road network is not acceptable. In effect the road network must be 'no worse' as a result of this development. The improvement to carriageway with is proportionate with the additional traffic generated by this development and reflects the changing use."</i></p>

Internal Referral Body	Comments
	<p>Council's Traffic Engineer recommends imposing a condition which requires the dedication to Council of a strip of land which will affectively provide a 6m wide lane. In addition a small splayed corner is to be provided at the north/ west corner of the widened Somerville Place and the subject property. However, it would be unreasonable to impose such a condition on the current application as this would require significant change to the development to achieve the required widening. Therefore, the application is not supported by the Traffic Engineer and the issues raised above have been included as reasons for refusal.</p>
Waste Officer	<p>The application was referred to Council's Waste Services who provided the following comments:</p> <p><i>"The application is unacceptable for the following reasons:</i></p> <ol style="list-style-type: none"> <i>1. The waste bin room is too small, Council does not provide 1100L bins, Council only provides 240L bins and this development will need 20 of them. The dimension of each bin are as follows: 1060mm (H) x 585mm (W) x 730 (D).</i> <i>2. The waste bin room must not be located further than 6500mm from the property boundary.</i> <i>3. There is no separate bulky goods room that is minimum 8 cubic metres in dimension.</i> <p><i>Council's waste contractor will service the bins off Sommerville Pl and this service will be a wheel in/out from the waste bin room. It is suggested that the parking marked 6 (Ground Floor Plan - DA02 E) is turned into the waste bin room and built in compliance with Council's waste development control guidelines. The guidelines can be downloaded from Council's website, alternatively a Council's waste officer can discuss the requirements and assist in ensuring the bin room design and location are acceptable."</i></p> <p>Therefore, the application is not supported by the Waste Officer and the issues raised above have been included as reasons for refusal.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	The application was referred to The NSW Police Force who have provided the following comment:

External Referral Body	Comments
	<p><i>"Given the nature of the development we do not believe a Crime Risk Assessment and CPTED (Crime Prevention through Environmental Design) assessment is required."</i></p> <p><u>Comment:</u> Notwithstanding the response from the NSW Police Force, an assessment of the proposal against the principles of CPTED have been provided in this report.</p>
NSW Roads and Maritime Services - (SEPP Infra. Traffic generating dev)	<p>The application was referred to The NSW Roads and Maritime Service who have provided the following comment:</p> <p><i>"Reference is made to Council's letter dated 1 August 2014, regarding the above-mentioned Application which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with Clause 101 of the State Environmental Planning Policy (Infrastructure) 2007.</i></p> <p><i>Roads and Maritime has reviewed the submitted documentation and raise no objection to the Application."</i></p> <p><u>Comment:</u> Conditions were provided with the referral response and may be included in a consent should this application be approved.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 536422M_02 dated Tuesday, 22 July 2014). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 82034392 dated 08/04/14).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed

Water	40	40
Thermal Comfort	Pass	Pass
Energy	30	30

Comment:

It is unclear as to whether or not any of the above assessments have taken into consideration to the requirements and recommendations made within the Acoustic Report (see 'Road Traffic Noise Assessment' dated August 2014 as prepared by Noise and Sound Services).

However, based on the dates of the above reports and the date of the Acoustic Report it would appear that the requirements and recommendations made within the Acoustic Report have not been considered.

In this regard, given Section 6 of the Report recommends that "*an acoustically insulated building must be kept virtually air tight to exclude external noise*" and that "*to achieve the required Rw ratings, the windows must be kept closed. Hence there is a requirement for mechanical ventilation or air-conditioning to provide fresh air to control odours external noise.*", the development will have an adverse impact upon the amenity of the residential components of the development and will decrease the energy efficiency of the building.

The aim of the Building Sustainability Index (BASIX) is to deliver equitable, effective water and greenhouse gas reductions across the state. This policy aims to ensure consistency in the implementation of the BASIX scheme throughout the State.

The above recommendation would result in a direct conflict with the aims of this policy and is therefore not supported.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Roads and Maritime Service (RMS)

Schedule 3 - Traffic Generating Development

The development is not classified as Traffic Generating Development under Schedule 3 of the SEPP nor does it propose a new crossover onto Pittwater Road. Notwithstanding, the application was referred to the Roads and Maritime Service for comment and should the application be approved no objection was raised in relation to the proposed development subject to conditions being included in the consent.

Conditions were provided with the referral response and may be included in a consent should this application be approved.

Clause 102 – Impact of road noise or vibration on no-road development

Clause 102 applies to residential development adjacent to a road corridor or freeway with an annual average daily traffic volume of more than 40,000 vehicles and which the consent authority considers would be likely to be adversely affected by road noise or vibration.

The Roads and Maritime Service (RMS) has published traffic volume maps for NSW ('Traffic Volume Maps for Noise Assessment for Building on Land Adjacent to Busy Roads').

The noise assessment for the development is indicated on Map 12 as mandatory under Clause 102 of the SEPP as the volume of traffic along Pittwater Road/Condamine Street exceeds 40,000 vehicles.

Clause 102(3) prohibits the consent authority from granting consent to residential development adjacent to a road corridor or freeway unless it is satisfied that appropriate measures will be taken to ensure that the above-mentioned LAeq levels are not exceeded.

An Acoustic Report (see 'Road Traffic Noise Assessment' dated August 2014 as prepared by Noise and Sound Services) was submitted on 27 August 2014 which addresses this matter and concludes that *"the measurements have been used to predict internal noise levels for the proposed commercial and 24 residential unit development. No exceedences of the internal noise or vibration levels are predicted. This is providing that the recommendation details shown in Section 6 above are fully complied with. Mechanical ventilation, natural ventilation or air conditioning is required."*

Section 6 of the Report recommends that *"an acoustically insulated building must be kept virtually air tight to exclude external noise"* and that *"to achieve the required Rw ratings, the windows must be kept closed. Hence there is a requirement for mechanical ventilation or air-conditioning to provide fresh air to control odours external noise."* This is considered to be an extreme solution in that it will have an adverse impact upon the amenity of the residential components of the development and will decrease the energy efficiency of the building.

Therefore, the consent authority cannot be satisfied that appropriate measures have been taken in addressing exceedence of the required LAeq levels and consent must not be granted.

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has submitted a Soil Classification Report dated 15/12/2013 prepared by Benviron Group. It concludes the following:

"With reference to a site walkover and above identified profiles (natural only see point 1 & 2) and the attached site plan in areas that could be inspected, and with reference to NSW DECC guidelines, the

materials found within the 'in-situ soils' at the site have been classified as VENM (Virgin Excavated Natural Material).

It is recommended that areas underneath the building be inspected after demolition in order to confirm the nature of underlying materials.

It is recommended that excavation be undertaken carefully and should the discovery of any contamination be identified, works should cease immediately for further assessment.'

Note: The Protection of the Environment Operations Act 1997 defines VENM as:

'natural material (such as clay, gravel, sand, soil or rock fines):

- that has been excavated or quarried from areas that are not contaminated with manufactured chemicals or process residues, as a result of industrial, commercial, mining or agricultural activities, and*
- that does not contain any sulphidic ores or soils or any other waste.'*

Based on the above, Council is satisfied the land is suitable for development. Conditions of consent could be imposed regarding further investigation and monitoring during construction works should the application be approved.

SEPP 65 - Design Quality of Residential Flat Development

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

The Draft SEPP (Amendment No. 3) is currently a public consultation draft and is undergoing public exhibition which ends on 31 October 2014. Once the exhibition concludes, submissions will be reviewed and the Department will provide a report to the Minister for Planning. Subject to the Minister's agreement, changes may be made to the SEPP 65 policy and the Apartment Design Guide.

The relevance of a draft Local Environmental Plan and the weight to be given to it relies on the facts of the particular case and circumstances which have been highlighted by numerous Land and Environment Court cases including *Mathers v North Sydney Council* [2000] NSWLEC 84, *Haywood and Bakker Pty Ltd v North Sydney Council* [2000] NSWLEC 138; *Blackmore Design Group Pty Ltd v North Sydney Council* [2001] NSWLEC 279).

In summary, the primary principles arising from Land and Environment Court cases are that the weight to be placed upon a draft Local Environmental Plan, when determining a development application depends on:

1. The imminence of the draft LEP and the degree of certainty that it will come into force;
2. The extent of conflict between proposed development and planning objectives of the zone contained in the draft LEP; and
3. The existence and applicability of savings provisions in the draft LEP.

Whilst the above judgements relate to draft Local Environmental Plans, the above principles have been applied to the draft SEPP to ensure consistency given that both are Environmental Planning Instruments:

1. *The imminence of the draft SEPP and the degree of certainty that it will come into force.*

The draft SEPP is a consultation draft only and could change as a result of the submissions received by the Department. Notwithstanding, given the progress made in formulating and exhibiting the draft SEPP it is considered that there is a degree of certainty of it coming into force and therefore, it may be considered to be imminent.

2. *The extent of conflict between the proposed development and Design Quality Principles, Development Standards and Acceptable Solutions contained in the draft SEPP and the Apartment Design Guide.*

This assessment has considered the development against the draft SEPP and has included identified non-compliances in the Recommendation of this report as reasons for refusal.

3. *The existence and applicability of savings provisions in the draft SEPP.*

The draft SEPP does not, at present, include any savings provisions.

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

SEPP 65 applies to new residential flat buildings, substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

"Residential flat building" means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."

As previously outlined the proposed development is for the erection of a four (4) storey residential flat 'housing' development plus basement car parking for the provisions of twenty-four (24) self-contained dwellings.

As per the definition of a 'Residential Flat Building' and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000* requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

The SEPP requires the assessment of any development application for residential flat development against 10 Design Quality Principles contained in Clauses 9 - 18 and Council is required to consider the matters contained in the associated "Residential Flat Design Code". As such, the following consideration has been given to the requirements of the SEPP and Design Code.

The 10 Design Quality Principles are outlined as follows:

Principle 1: Context

Clause 9 (Principle 1: Context) stipulates that:

"Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area".

Comment:

Manly Vale is identified in the NSW Government's 'Metropolitan Plan for Sydney 2036' (2010) as a 'Small Village' centre which includes a small strip of shops adjacent to a residential area within a 5 to 10 minute walk and which contains between 150 and 2,700 dwellings within a 400m catchment. Like any commercial centre, the context of Manly Vale as a centre will be subject to change as it physically evolves.

The site is a corner allotment located at the northern most end of the Manly Vale 'local centre' on the corner of King Street and Condamine Street. The site is located at the interface of different land uses and land zones which present vastly different built features.

The site is adjoined by R2 Low Density Residential parcels of land that are currently used as two separate Church's and a School. To the west (rear) of the site land is zoned R2 Low Density Residential and is currently occupied by a Church which is listed as heritage item under Schedule 5 of the WLEP 2011 (No. 185), development further west of the Church is largely dominated by single dwelling house of one and two storeys as is development further north of the site.

To the south of the site located on the western side of Condamine Street forms the Manly Vale 'local centre' and is zone B2 Local Centre where development ranges in age, size and use therefore the key built features of the area vary and consist of one, two, three and four storey commercial and mixed use developments. Development located on the eastern side of Condamine Street consist of 2 and 3 storey medium density developments and mixed use developments south of Sunshine Street where land is zoned B2 Local Centre.

The western side of Condamine Street between King Street and Sunshine Street is largely under developed and is currently under going transition to that of development envisaged for the zone.

The development, as proposed, is considered to be inconsistent with this evolving context and as it will not provide an appropriate transition between the character of surrounding localities/zones in terms of its excessive height, non-compliant setbacks, and dominant building bulk. In this regard, the proposed development does not provide an appropriate transition to surrounding development or appropriate built form having regard to its visually prominent location and corner allotment siting.

Therefore, it is considered that the proposed development does not sensitively respond nor favourably contribute to its context or satisfactorily contribute to the quality and identity of the area.

The development does not satisfy this Principle.

Principle 2: Scale

Clause 10 (Principle 2: Scale) stipulates that:

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

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

Comment:

The scale of the development is not considered to be an appropriate response to the scale of existing development nor to the scale identified for the Desired Future Character of the area.

The development does not provide sufficient setbacks to the upper most floor to adequately reduce the bulk, scale and height. The combination of the non compliance with the Height of Buildings Development Standard, Number of Storeys control and the Front Boundary Setback control exacerbate the scale of the building and render the development out of scale with its surrounding buildings or building envisaged for the transition of the area.

Whilst there is minor articulation of the built form proposed in the form of balconies, the development will visually present as a four storey building when viewed from the prominent street corner and surrounding properties and will not achieve a scale commensurate to other buildings within the local centre or of that envisaged for the area undergoing transition.

The development does not satisfy this Principle.

Principle 3: Built Form

11 (Principle 3: Built Form) stipulates that:

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

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

Comment:

The building alignments, proportions and types are not considered to be appropriate in that the development will introduce a built form that will be out of character and scale to that of surrounding development and to that envisaged for the area undergoing transition.

While the development defines the public domain, it is considered that it will not fit reasonably within its local character by failing to sensitively respond to the character of the streetscape and does not provide a satisfactory level of internal amenity and outlook.

The development does not satisfy this Principle.

Principle 4: Density

Clause 12 (Principle 4: Density) stipulates that:

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

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

Comment:

Although it should be noted that WLEP 2011 does not include a Density Development Standard or control for the B2 Local Centre zone, the development proposes the provision of twenty-four (24) apartments which translates to a residential density of 1 dwelling per 38.6m².

Given the absence of a density Development Standard, density is gauged by how the development responds to the Design Quality Principles of SEPP 65, the relevant Development Standards of the WLEP 2011 and the relevant controls within the WDCP. This assessment has found that the development, as proposed, does not achieve a satisfactory level of compliance and consistency with these Principles, Standards and controls.

The development does not satisfy this Principle.

Principle 5: Resource, Energy and Water Efficiency

Clause 13 (Principle 5: Resource, Energy and Water Efficiency) stipulates that:

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

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

Comment:

The site currently accommodates an existing and ageing commercial building which, on inspection, does not include materials which could reasonably be recycled for use in the construction of the development.

The residential elements of the development have been designed to achieve the commitment targets set by SEPP (BASIX) and satisfies the relevant environmental Primary Development Controls under the Residential Flat Design Code.

Notwithstanding, an Acoustic Report (see 'Road Traffic Noise Assessment' dated August 2014 as prepared by Noise and Sound Services) was submitted on 27 August 2014 which addresses this matter and concludes that *"the measurements have been used to predict internal noise levels for the proposed commercial and 24 residential unit development. No exceedences of the internal noise or vibration levels are predicted. This is providing that the recommendation details shown in Section 6 above are fully complied with. Mechanical ventilation, natural ventilation or air conditioning is required."*

Section 6 of the Report recommends that *"an acoustically insulated building must be kept virtually air tight to exclude external noise"* and that *"to achieve the required Rw ratings, the windows must be kept closed. Hence there is a requirement for mechanical ventilation or air-conditioning to provide fresh air to control odours external noise."* This is considered to be an extreme solution in that it will have an adverse impact upon the energy efficiency of the building.

Based upon the recommendations of the Acoustic Report, the development does not satisfy this Principle.

Principle 6: Landscape

Clause 14 (Principle 6: Landscape) stipulates that:

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

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

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

Comment:

As the development is subject to boundary-to-boundary setback provisions the ability to provide landscape area is limited and there is no landscaped area proposed on the ground, first or second floors.

Landscape planter boxes are provided on the Third Floor balconies to Unit Nos. 301 and 306 along the southern edge which will provide improved amenity and visual aesthetics when viewed from surrounding properties.

The development satisfies this Principle.

Principle 7: Amenity

Clause 15 (Principle 7: Amenity) stipulates that:

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

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

Comment:

Limited design input has been given to the overall internal amenity and the live-ability of the proposed residential apartments.

The design of some of the residential apartments result in irregular and limited room dimensions which are considered to be inefficient. Additionally, the majority of apartments do not achieve adequate access to natural ventilation and sunlight, provide reasonable levels of visual and acoustic privacy, storage, or provide appropriate and reasonable areas of private open space that are of a useable size.

Furthermore, the Acoustic Report submitted with the application recommends that *"an acoustically insulated building must be kept virtually air tight to exclude external noise"* and that *"to achieve the required Rw ratings, the windows must be kept closed. Hence there is a requirement for mechanical ventilation or air-conditioning to provide fresh air to control odours external noise."* This is considered to be an extreme solution in that it will have an adverse impact upon the residential amenity of the building.

The development does not satisfy this Principle.

Principle 8: Safety and Security

Clause 16 (Principle 8: Safety and Security) stipulates that:

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

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

Comment:

All of the proposed units have frontage to a street, Condamine Street, King Street or Sommersville Place and will provide satisfactory in the development which face towards the both Condamine Street and Somerville passive surveillance. Internal security is achieved by providing lockable entry doors at street level and a gated car park entrance.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good casual visual surveillance of the public and private domains.

The development satisfies this Principle.

Principle 9: Social Dimensions

Clause 17 (Principle 9: Social Dimensions) stipulates that:

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

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

Comment:

The development provides 24 apartments (14 x 1 bedroom units, 8 x 2 bedroom units and 2 x 3 bedroom units which vary in size and affordability). This mix is considered to provide housing to suit the social mix and needs of the locality as purchasers will choose to buy because of the proximity of the site to the northern beaches, accessibility to shopping and services including the Warringah Mall precinct, and the high frequency public transport route along Condamine Street.

The development satisfies this Principle.

Principle 10: Aesthetics

Clause 18 (Principle 10: Aesthetics) stipulates that:

"Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development."

Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the Desired Future Character of the area."

Comment:

Whilst the design of the building is modern and contemporary, it is not considered to be compatible with the scale of existing and future development in the the area, as envisaged under relevant planning controls. The non-compliance with the building height, number of storeys and front setback controls will not provide an effective architectural transition between the proposed built form and the desired future character of the local area.

The development does not satisfy this Principle.

Residential Flat Design Code

The following table is a general consideration against the criteria of the 'Residential Flat Design Code' as required by SEPP 65.

Primary Development Controls	Guideline	Consistent/Comments
PART 01 LOCAL CONTEXT		
Floor space ratio	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	N/A Floor space ratios do not apply under WLEP 2011
Building height	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	Inconsistent Note: Despite the heights tested below, WLEP 2011 permits an 11m overall building height. This is discussed under WLEP 2011 in this report. <u>Maximum desired height:</u> Ground Floor (commercial): 3.6m x 1 = 3.6m

		<p>Levels 1, 2 & 3 (residential): 2.7m x 3 = 8.1m Floor Plates: 0.3m x 4 = 1.2m = 12.9m</p> <p><u>Proposed height:</u> Ground Floor (commercial): 4.2m x 1 = 4.2m Levels 1, 2 & 3 (residential): 2.7m x 3 = 8.1m Floor Plates: 0.3m x 4 = 1.2m = 13.5m</p> <p>Note: the above does not assess the development against overall height as prescribed by the Height of Buildings Development Standard.</p>				
Building separation	<p>Design and test building separation controls in plan and section.</p> <p>For buildings up to four storeys/12m:</p> <p>(a) 12m between habitable rooms/balconies; (b) 9.0m between habitable/balconies and non-habitable rooms; (c) 6.0m between non-habitable rooms.</p> <p>Note: The RFDC defines a habitable room as any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room</p>	<p>Inconsistent</p> <p>The tables below illustrate the areas of compliance & non-compliance with regards to building separation.</p> <p>The table below is used to show the separation between the proposed apartments and the existing dwellings on neighbouring residential properties to the north and west:</p> <table><tr><td>1 King Steet (west)</td><td>5.2m to 6.2m</td></tr><tr><td>345 Condamine Street (north)</td><td>24m</td></tr></table>	1 King Steet (west)	5.2m to 6.2m	345 Condamine Street (north)	24m
1 King Steet (west)	5.2m to 6.2m					
345 Condamine Street (north)	24m					
Street Setbacks	<p>Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.</p>	<p>Inconsistent</p> <p>The common character of the local area is mixed due to the location of the site at the northern edge of the Local Centre. In this regard, the local area displays a variety of setbacks, building heights and street tree plantings.</p> <p>It is considered that the development does not sensitively respond to this local character because, in part, the street setback on the top floor is minimal and promotes an excessive and dominant building bulk and scale to the streetscape.</p>				
	Test street setbacks with building	Inconsistent				

	envelopes and street sections.	<p>The setbacks to the ground, first and second floors are considered appropriate in that they provide adequate vertical and horizontal articulation.</p> <p>However, the bulk created by the additional top storey element is excessive and will dominate adjoining development and the streetscape.</p>
	Test controls for their impact on the scale, proportion and shape of building facades.	<p>Inconsistent</p> <p>The development does not exhibit an appropriate level of articulation, it is not compatible with the relative scale and proportion of building facades along Condamine Street or of that envisaged for development on the western side of Condamine Street within the local centre particularly given the site and site within the local centre have a 11m maximum height control under WLEP 2011 and maximum 3 storey limit under WDCP.</p> <p>On this basis, the overall scale of the development is not considered to be appropriate given the character of the site and envisaged future development of the site and area.</p>
Side & Rear setbacks	Relate side setbacks to existing streetscape patterns.	<p>Consistent</p> <p>The site is located within a local centre where nil setbacks to the side and rear are permitted.</p>
Floor space ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height- building footprint the three dimensional building envelope open space requirements.	<p>N/A</p> <p>Floor space ratios do not apply under WLEP 2011</p>
PART 02 SITE DESIGN		
Deep soil zones	A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with	<p>Inconsistent</p> <p>The site is located within a heavily urbanised area where the site is built out and there is limited capacity for water infiltration.</p> <p>The application has been reviewed by Council's Development Engineers who do not support the proposed stormwater treatment measures and this</p>

	the design of the residential flat building.	has been included as a reason for refusal.																																																	
Open Space	The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.	Inconsistent The development does not include any communal open space.																																																	
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	Inconsistent The development provides the following areas of private open space. <table><tr><th>Apartment</th><th>POS Area</th></tr><tr><td>101</td><td>11.22m²</td></tr><tr><td>102</td><td>16m²</td></tr><tr><td>103</td><td>16m²</td></tr><tr><td>104</td><td>16m²</td></tr><tr><td>105</td><td>16m²</td></tr><tr><td>106</td><td>16m²</td></tr><tr><td>107</td><td>16m²</td></tr><tr><td>108</td><td>11.2m²</td></tr><tr><td>109</td><td>4.8m²</td></tr><tr><td>201</td><td>16.83m²</td></tr><tr><td>202</td><td>13.44m²</td></tr><tr><td>203</td><td>8.19m²</td></tr><tr><td>204</td><td>8.19m²</td></tr><tr><td>205</td><td>8.19m²</td></tr><tr><td>206</td><td>8.19m²</td></tr><tr><td>207</td><td>13.44m²</td></tr><tr><td>208</td><td>11.2m²</td></tr><tr><td>209</td><td>4.8m²</td></tr><tr><td>301</td><td>29m²</td></tr><tr><td>302</td><td>31m²</td></tr><tr><td>303</td><td>8.19m²</td></tr><tr><td>304</td><td>8.19m²</td></tr><tr><td>305</td><td>31m²</td></tr><tr><td>306</td><td>34m²</td></tr></table> The development does not provide adequate areas of open space for Units 109, 203, 204, 205, 209, 303 and 304 and this has been included as a	Apartment	POS Area	101	11.22m ²	102	16m ²	103	16m ²	104	16m ²	105	16m ²	106	16m ²	107	16m ²	108	11.2m ²	109	4.8m²	201	16.83m ²	202	13.44m ²	203	8.19m²	204	8.19m²	205	8.19m²	206	8.19m²	207	13.44m ²	208	11.2m ²	209	4.8m²	301	29m ²	302	31m ²	303	8.19m²	304	8.19m²	305	31m ²	306
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		reason for refusal.
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4.0m. (see 'Balconies' for other private open space requirements).	Not Applicable All apartments are located above the ground floor.
Planting on structures	<p>In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:</p> <ul style="list-style-type: none"> Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent. Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent. Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent. Shrubs - minimum soil depths 500-600mm Ground cover - minimum soil depths 300-450mm Turf- minimum soil depths 100-300mm any subsurface drainage 	Consistent As the development is subject to boundary to boundary setback provisions the ability to provide landscape area is limited and there is no landscaped area proposed on the ground, first or second floors. Landscape planter boxes are provided on the top floor balconies to Unit Nos. 301 and 306 along the southern edge which will provide greater physical separation between buildings, improved amenity and visual aesthetics when viewed from surrounding properties.

	requirements are in addition to the minimum soil depths quoted above.	
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings	<p>Consistent</p> <p>The development accommodates 24 units and is therefore subject to an assessment under the principles of Crime Prevention Through Environmental Design (CPTED).</p> <p>CPTED is a strategy focussing on the planning, design and structure of areas. The concept identifies opportunities for reducing crime through design and place management principles which block opportunities for crime or by making crimes more difficult by creating obstacles or barriers to targets.</p> <p>CPTED employs four key strategies:</p> <p>Access control is a design concept directed primarily at decreasing crime opportunity. It seeks to attract, channel or restrict the movement of people through landscaping, barriers and personnel. Access control can be organised (guards), mechanical (locks) or natural (spatial definition).</p> <p><u>Comment:</u> The development provides for an artificial form of access control via a secure pedestrian foyer to create a defined boundary between the public and private domain.</p> <p>Territorial reinforcement occurs when physical design creates or extends a sphere of influence so that users develop a sense of proprietorship. Territorial reinforcement can be achieved through design that encourages people to gather in public space and to feel some responsibility for its use and condition, design with clear transitions and boundaries between public and private space; and clear design cues on who is to use the space and what it is used for.</p> <p><u>Comment:</u> The design of the development includes one main entrance from King Street and balconies to the</p>

		<p>street frontage which encourages the residents of the building to develop a sense of ownership and responsibility.</p> <p>Natural surveillance is a design concept directed primarily at keeping intruders/offenders under observation. This can be achieved by maximising sightlines, improving lighting, and the removal of barriers and hiding spots.</p> <p><u>Comment:</u> The development permits passive surveillance of the street frontages to Condamine Street and King Street. The development, particularly at the lower levels, are in full sight of approaching traffic and surrounding development.</p> <p>Space management is linked to the principle of territorial reinforcement. Space management ensures that space is appropriately utilised and well cared for.</p> <p>Examples include: activity coordination, site cleanliness, rapid repair, removal or refurbishment of decayed physical elements.</p> <p>From this perspective, the design of the built environment is critical for the prevention of crime.</p> <p><u>Comment:</u> The ongoing maintenance of the development, including the landscaped areas at ground level, is subject to a private arrangement with the body corporate of the development.</p>
Privacy	<ul style="list-style-type: none"> To provide reasonable levels of visual privacy externally and internally, during the day and at night. To maximise outlook and views from principal rooms and private open space without compromising visual privacy. 	<p>Inconsistent</p> <p>The development does not provide adequate levels of visual privacy both internally and externally.</p> <p>Internal privacy conflict arises between the balconies of Units 203/204 & 205/206 and 302/303 & 304/305.</p> <p>External privacy conflict arises between the</p>

		<p>balconies of Units 101, 201, 301 & 302 and the neighbouring residential property to the west (No. 1 King Street).</p> <p>This matter could be addressed by way of appropriate conditions relating to screening should the Panel be of a mind to approve the application. However, it should be noted that screening is not considered to be an appropriate method of addressing privacy. Rather, it is considered that this issue should have been appropriately considered by the architect as an integrated response at the design stage of the development. This advance consideration would avoid any adverse impact upon internal amenity to the screened units (ie: by adding to a sense of enclosure and limiting access to ventilation and sunlight) and to mitigate additional visual bulk to the exterior of the development, when viewed from the surrounding public and private domains.</p>
Pedestrian access	Identify the access requirements from the street or car parking area to the apartment entrance.	<p>Consistent</p> <p>The development provides level and legible pedestrian access to all floor levels from the basement car parking area.</p>
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	<p>Consistent</p> <p>Should the panel be of a mind to approve the application, a condition may be imposed requiring the development to comply with the Australian Standard, should the application be approved.</p>
	Provide barrier free access to at least 20% of dwellings in the development.	<p>Consistent</p> <p>100% of apartments have barrier free access via a direct lift to all floors.</p>
Vehicle access	Generally limit the width of driveways to a maximum of 6.0m.	<p>Consistent</p> <p>The development proposes two driveways with a maximum width of 5.5m.</p>
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	<p>Consistent</p> <p>The development proposed two vehicle entry</p>

		points off King Street which is considered to be the secondary street frontage.						
PART 03 BUILDING DESIGN								
Building depth	The back of a kitchen should be no more than 8.0m from a window.	Consistent All of the proposed apartments kitchens are within 8m of a window.						
Balconies	<p>Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.</p> <p>Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.</p>	Inconsistent All of the apartments provide balconies with a minimum depth of 2.0m with the exception of the following: <table><tr><th>Apartment</th><th>Balcony Depth</th></tr><tr><td>109</td><td>1.6m</td></tr><tr><td>209</td><td>1.6m</td></tr></table> <p>These units provide two proposed balcony areas, one area addresses Condamine Street and is open in natural like a traditional balcony and has a minimum depth of 1.6m.</p> <p>The other proposed balcony area doubles as the entrance to the apartment and is enclosed on three sides with a minor portion of the area open to the void space located on the southern side of the building. These areas are not considered to an adequate or useable space.</p> <p>This has been included as a reason for refusal.</p>	Apartment	Balcony Depth	109	1.6m	209	1.6m
Apartment	Balcony Depth							
109	1.6m							
209	1.6m							
Ceiling heights	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none">in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of usein residential flat buildings in mixed use areas: 3.3m minimum for ground floor	Consistent The commercial space at the ground floor has a floor-to-ceiling height of 4.2m. All apartments achieve a floor-to-ceiling height of 2.7m which is in accordance with Part F3 (Clause F3.1(iii)) of the Building Code of Australia.						

	<p>to promote future flexibility of use in residential flat buildings or other residential floors in mixed use buildings</p> <ul style="list-style-type: none"> in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. for two storey units, 2.4m minimum for second storey if 50 percent or more of the minimum wall height at edge for two-storey units with a two storey void space, 2.4m minimum ceiling heights attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope. 	
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Not Applicable No apartments are proposed on the ground floor.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	Not Applicable No apartments are proposed on the ground floor.
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> studio apartments 6.0m³ one-bedroom apartments 6.0m³ two-bedroom apartments 8.0m³ three plus bedroom apartments 10m³ 	Inconsistent 1 bedroom - 14 x 6.0m ³ = 84m ³ 2 bedroom - 8 x 8.0m ³ = 64m ³ 3 bedroom - 2 x 10.0m ³ = 30m ³ Total storage required = 178m³ Total storage provided = 113m³ The proposed development does not provide adequate storage areas for the residential apartments.

		This has been included as a reason for refusal.
Building Amenity		
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	Inconsistent It is estimated that the development provides for approximately 66.6% of apartments which gain access to direct sunlight for a minimum of two hours between 9am and 3pm in mid-winter. The application does not include any details which demonstrate compliance with this requirement. This has been included as a reason for refusal.
	Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Note: The RFDC does not define single-aspect apartments but does define dual aspect apartments as having at least two major external walls facing in different directions, including corner, cross over and cross through apartments.	Consistent There are no single-aspect apartments with a southerly aspect.
Natural Ventilation	Sixty percent (60%) of residential units should be naturally cross ventilated.	Inconsistent 10 (42%) of the residential apartments are naturally cross ventilated. This has been included as a reason for refusal.
Building Performance		
Waste management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	Consistent A Waste Management Plan has been provided with the application. However the proposed waste management (waste storage areas and servicing) is not supported by Council's Waste Management Department. Should the panel be of a mind to approve the application a condition of consent could be imposed to satisfy this rule of thumb.
Water conservation	Rainwater is not to be collected from roofs coated with lead- or	Consistent

	bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	The development provides for normal guttering. No lead or bitumen-based paints will be permitted.
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Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11.0m	14m	27.27%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	No
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment
4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard and is assessed taking into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

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Requirement:	11m
Proposed:	14m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	27.27%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposed development has a maximum height of 14m and is 4 storeys in height which does not comply with the maximum height limit of 11m under WLEP 2011 and maximum 3 storey height limit under WDCP 2011.

As discussed throughout this report, the proposal is not considered to be compatible with the height and scale of surrounding and nearby development, as evidenced by the numerous non compliance's with this Development Standard and the Built Form controls of the WDCP.

The Manly Vale local area is largely under developed in terms of its zoning as a 'local centre'. As such, like any commercial centre, the context of Manly Vale as a centre will be subject to change as it physically evolves.

The development, as proposed, is considered to be incompatible with this evolving context as it will not provide an appropriate transition between the character of surrounding and nearby development in terms of its height and scale.

The proposed development does not satisfy this objective.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

As discussed in detail throughout this report, the proposed development will have unreasonable visual impact when viewed from adjoining properties, the street and the public domain.

The proposal will result in a unreasonable building bulk and scale when viewed from the public and neighbouring private domains, levels of overlooking of the adjoining properties to the west and unreasonable overshadowing of properties to the south.

The proposed development does not satisfy this objective.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposed development will not have an adverse impact on the scenic quality of Warringah's coastal and bush environments.

The proposed development satisfies this objective.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

As discussed in detail throughout this report, as a result of the proposed height of the building, number of storeys and front setbacks, the proposed development will result in unreasonable visual impact when viewed from the street and public domain.

The proposed development does not satisfy this objective.

What are the underlying objectives of the zone?

A detailed assessment against the zone objectives is provided under the zoning control of this report. In summary, it has been found that the proposal is considered to be consistent with the objectives of B2 Local Centre zone of Warringah Local Environmental Plan 2011.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

The clause provides an appropriate degree of flexibility in applying certain development standards to particular development.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The clause seeks to achieve better outcomes for and from development by allowing flexibility in particular circumstances. However, the non-compliance with the maximum Height of Buildings Development Standard is considered to be substantial (27.27% or 3m) and results in a building that is excessive in height, bulk and scale. It is noted that the site is not topographically constrained and does not contain any unique environmental features which could otherwise justify a variation to the Development Standard.

As such, the the building height non-compliance is considered significant, particularly given the absence of site constraints.

Enforcing compliance with the numerical standard in this instance would achieve a better planning outcome in terms of reducing the visual impact and building bulk of the development on surrounding properties, the street and public domain.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The applicant has provided a written request seeking to vary the Development Standard. However, as detailed throughout this report, it is not considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be inconsistent with the objectives of the B2 Local Centre zone in the WLEP 2011 and therefore the development is not considered to

be in the public interest.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the inconsistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard can not be assumed.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	Part 3/Part 4	N/A	No
B6 Side Boundary Setbacks	Merit Assessment	Nil	N/A	Yes
B7 Front Boundary Setbacks	<u>Condamine Street</u>			
	Basement Floor: N/A	Basement Floor: 200mm - 1.2m	N/A	Yes
	Ground Floor: Aligned to street frontage.	Ground Floor: Nil	N/A	Yes
	First Floor: Aligned to street frontage.	First Floor: Nil.	N/A	Yes
	Second Floor: Aligned to street frontage.	Second Floor: Nil - 1.3m	N/A	Yes
	Third Floor: 5m.	Third Floor: Nil - 1.6m.	74% - 100%	No
	<u>King Street</u>			
	Basement Floor: N/A	Basement Floor: 200mm - 1.2m	N/A	Yes
	Ground Floor: Aligned to street frontage.	Ground Floor: Nil	N/A	Yes
	First Floor: Aligned to street frontage.	First Floor: Nil	N/A	Yes
	Second Floor: Aligned to street frontage.	Second Floor: 0.9m - 2.9m	42% - 82%*	No
	Third Floor: Aligned to street frontage.	Third Floor: 0.9m - 2.9m		

	Third Floor: 5m.			
B10 Rear Boundary Setbacks	Merit Assessment	Nil	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	No	No
B2 Number of Storeys	No	No
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	No
Other land in B2 zone	No	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
Mixed Use Premises (Residential/Non-Residential)	No	No
D2 Private Open Space	No	No
D3 Noise	Yes	Yes
D6 Access to Sunlight	No	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	No	No

Detailed Assessment

B2 Number of Storeys

Description of non-compliance

The control requires development to be a maximum 3 storeys in height. The proposed development is 4 storeys in height.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To ensure development does not visually dominate its surrounds.***

Comment:

As discussed throughout this report, the proposed development is inconsistent with the existing and intended scale and bulk of buildings envisaged for the area.

The non-compliance with this control, the Height of Buildings Development Standard under the WLEP 2011 and the Front Boundary Setbacks under the WDCP 2011 render the development excessive in its height, bulk and scale and will result in a building that will be visually dominant when viewed from the street, public domain and surrounding properties.

The proposal does not satisfy this objective.

- ***To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.***

Comment:

As discussed above, the non compliance with the number of storeys control will contribute to the unreasonable visual impact of the development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes. The non compliance is substantial (one storey) and therefore no effort is made to minimise the visual impact of the development.

- ***To provide equitable sharing of views to and from public and private properties.***

Comment:

The proposed development provides an equitable sharing of views to and from public and private properties and is consistent with the objectives and requirements of Clause D7 - Views under the WDCP.

- ***To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.***

Comment:

As discussed above, the proposed development will result unreasonable visual impact when viewed from adjoining and nearby properties and as such will not maintain a reasonable level of amenity to these properties.

The proposed development does not satisfy this objective.

- ***To provide sufficient scope for innovative roof pitch and variation in roof design.***

Comment:

The non-compliance is substantial, being one storey, and therefore, a variation to a low pitch skillion roof or even a flat roof design would not improve the compatibility of the development with scale and height of adjoining development.

The proposed development does not satisfy this objective.

- ***To complement the height of buildings control in the LEP with a number of storeys control.***

Comment:

It is considered that the development's response to the site topography is not appropriate having regard to the flatness of the site and substantial breach of this control, being one storey, and the 4.3 Height of Buildings Development Standard of WLEP 2011, being 27.27% (3m). As such, the development represents an unacceptable balance between realistic site yield overall, building height and number of storeys.

The proposal does not satisfy the objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B7 Front Boundary SetbacksDescription of non-compliance

The control requires buildings to be aligned to the street frontage for the ground, first and second floors and for any floor above the second floor to be setback a minimum 5m from any street frontage.

The proposed development is setback from the front boundary as follows:

Condamine Street frontage

- Basement Floor: 200mm - 1.2m
- Ground Floor: Nil
- First Floor: Nil.
- Second Floor: Nil - 1.3m
- Third Floor: Nil - 1.6m.

King Street frontage

- Basement Floor: 200mm - 1.2m
- Ground Floor: Nil
- First Floor: Nil
- Second Floor: 0.9m - 2.9m
- Third Floor: 0.9m - 2.9m

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To create a sense openness.***

Comment:

As the area is relatively underdeveloped in terms of the type of development envisaged for the area and the local centre, the existing visual continuity pattern of buildings is somewhat different to that envisaged for the area and is currently under transition.

The most recent developments within the local centre have adopted appropriate and substantial front setbacks to the upper floors including the second floor of the developments irrespective of the numerical requirement for only storeys above the second floor to be setback a minimum of 5m.

It is therefore considered that, in order for development to be considered, that at a minimum, to maintain the visual continuity and pattern of buildings the minimum setback to any floor above the second floor should be 5m as per the requirements of this control. The proposed third floor provides a nil to 1.6m setback for the Condamine Street frontage and a 0.9m to 2.9m setback from the King Street frontage. The setbacks to both street frontages do not maintain the visual continuity or pattern of buildings envisaged for the local area and that adopted for recent developments in the area.

The boundary to boundary setback provisions limit the ability for landscape elements to be incorporated into the design of buildings. The landscape elements proposed are considered suitable in this instance.

The proposed development does not satisfy this objective.

- ***To protect and enhance the visual quality of streetscapes and public spaces.***

Comment:

As discussed in detail throughout this report the proposed development will result in unreasonable building bulk and visual impact when viewed from when viewed from adjoining properties, streets and the public domain.

The inability of the proposal to effectively minimise the visual impact on the Condamine Street and King Street streetscapes and public domain renders the proposal an over-development of the site and is neither appropriate or reasonable. This is further further evidenced by the non compliances proposed to the Height of Buildings Development Standard under the WLEP 2011 and relevant controls of the WDCP.

In particular the visual impact on the streetscapes and public domain can be attributed to the non-compliance with the Height of Buildings Development Standard under the WLEP 2011 and the Number of Storeys and Front Boundary Setback controls under the WDCP 2011.

The proposed development does not satisfy this objective.

- **To achieve reasonable view sharing.**

Comment:

The proposed development achieves a reasonable sharing of views.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C2 Traffic, Access and Safety

The application was referred to Council's Traffic Engineer for assessment who has raised concerns in relation to vehicular access to and from the site.

Detailed comments made in relation to this issue is provided under the 'Referrals' section of this report.

In summary the following comments have been made by the Traffic Engineer with regards to vehicular access:

"It is proposed to provide a median in King Street as part of the development so that all access to the residential parking is left in/left out. Exiting vehicles are proposed to travel via Somerville Place and either Sunshine Street or Kenneth Road to access Condamine Street. Somerville Place is a narrow laneway located adjacent to the western boundary of the proposed development. It is a narrow laneway (approx. 3.6m) which provides rear access for the shops and other developments along this section of Condamine Street. It is not considered suitable to act as a through route for all exiting traffic from the development. "

In addition to the above, in order for vehicles to make a right turn onto Condamine Street to travel south, vehicles will have to take a route using local roads to arrive at the intersection of Condamine Street and Campbell Parade to the north or the intersection of Condamine Street and Kenneth Road to the south.

This is considered to be an inconvenient and undesirable route for vehicles to take to turn right onto Condamine Street, the use of local roads as through roads is unacceptable and not supported in this instance.

Vehicle/Pedestrian Conflict

In addition to the above, the development proposes two (2) crossovers onto King Street. This raises concern regarding vehicle/pedestrian conflict, particularly given the the section of footpath concerned forms a well-used pedestrian route to and from the shops in the neighbourhood centre and busy public transport routes and bus stops. Whilst it is acknowledged that vehicular access onto King Street would be more desirable than Somerville Place, the development should be designed to be more sensitive to the safety of the community within which it is located and include one (1) crossover only.

Having regard to the traffic access and safety, the proposal is not supported in its current form and this has been included as a reason for refusal.

C3 Parking Facilities

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
<u>Residential</u>				
14 x 1 bedrooms units	1 spaces per dwelling	14 spaces	27 spaces (inclusive of visitor spaces)	Shortfall of 5 spaces.
8 x 2 bedroom units	1.2 spaces per dwelling	9.6 spaces		
2 x 3 bedroom units	1.5 spaces per dwelling	3 spaces		
Residential Visitors	4.8 spaces	4.8 spaces		
	1 space per dwelling	Total = 32 spaces (inclusive of visitor spaces)		
	1 space per 5 dwellings			
<u>Shop</u>				
1 x 182m ² shop	1 space per 16.4 m ² GLFA (6.1 spaces per 100 m ² GLFA).	11 spaces	11 spaces	Nil.
Total		43 spaces (rounded up)	38 spaces	- 5 spaces

The proposed development provides 27 residential spaces (inclusive of visitor spaces), and 11 spaces for the proposed shop resulting in a total provision of 38 spaces, a short fall of 5 car spaces.

The shortfall arises from as the proposed development fails to provide any visitor car parking for the residential component of the development.

Given that the required visitor car parking for the development is 5 spaces the provision of zero visitor car spaces is inadequate and unacceptable.

The argument is made by the applicant that there is adequate on-street car parking available in King Street to cater for the shortfall of visitor car parking. Council's Traffic Engineer has assess the application and has provided the following comments in regards to this argument and the shortfall of visitor car parking:

'It is considered that the presence of the school and church in the street, as well as the existing medium density development, does place a restriction on available parking at times other than the peak periods surveyed.'

Council's Traffic Engineer does not support the application on this basis.

The inability of the proposal to provide adequate provision of car parking renders the proposal an over-development of the site and is neither appropriate or reasonable which is further evidenced by the non compliances proposed with the Height of Buildings Development Standard under the WLEP 2011 and relevant controls of the WDCP.

Therefore the proposal does not provide adequate off street car parking and does not achieve consistency or compliance with the objectives and requirements of this control and this has been included as a reason for refusal.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is is not supported, in this particular circumstance.

C4 Stormwater

The application was referred to Council's Development Engineer for assessment who has raised fundamental concerns with the application in terms of the design of stormwater infrastructure, stormwater management and insufficient information to assess and/or determine compliance with the requirements of Council's Policies and of this control..

Detailed comments made in relation to these issues are provided under the 'Referrals' section of this report.

Having regard to the stormwater design issues and insufficient information, the proposal is not supported in its current form and this has been included as a reason for refusal.

C9 Waste Management

The application was referred to Council's Waste Services who has raised fundamental concerns in regards to the design of the garbage rooms, access to the garbage rooms and insufficient bulky good storage area. Detailed comments made in relation to these concerns are contained with the 'Referral's section of this

report.

Therefore, the application is not supported in its current form and this has been included as a reason for refusal.

D2 Private Open Space

Description of non-compliance

A total of 10m² of private open space with minimum dimensions of 2.5m is required to be provided for any units not located at ground level. The proposed development has eight (8) units located on the first, second and third floors that do not comply with the minimum requirements of this control. The following private open space areas are provided to these units:

- Unit No. 109 - 4.8m²
- Unit No. 203 - 8.19m²
- Unit No. 204 - 8.19m²
- Unit No. 204 - 8.19m²
- Unit No. 205 - 8.19m²
- Unit No. 206 - 8.19m²
- Unit No. 209 - 4.8m²
- Unit No. 303 - 8.19m²
- Unit No. 3.4 - 8.19m²

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To ensure that all residential development is provided with functional, well located areas of private open space.***

Comment:

Whilst the private open space areas are directly accessible from the living area of each of the units and therefore are well located in accordance with the requirements of this control, they are not of a size that meets the minimum required space and therefore cannot be considered functional.

It should be noted that Unit No.109 and Unit No. 209 propose two balcony areas, one that addresses Condamine Street located off the living area and one that is located at the entry way to the dwelling. The proposed balcony located at the entry way to the dwelling is not considered to be well located or a functional a private open space area and is therefore not considered under this assessment to be a private open space area.

Further, its dual purpose as the entry point to the dwelling and a proposed private open space area is not considered to be functional or a good design. These areas do not satisfy any of the requirements with regards to effective location of private open space areas and the enclosed nature is not conducive to useable private open space and it is not directly accessible off a living area of each dwelling.

The proposed development does not satisfy this objective.

- ***To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.***

Comment:

With the exception of Unit No. 109 and Unit No. 209, the balconies are integrated with and directly accessible from the living area of each of the units.

The proposed development satisfies this objective.

- ***To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.***

Comment:

Adequate physical separation is provided between the proposed open space areas of the units and the adjoining properties private open spaces to ensure no unreasonable privacy or amenity impacts.

The proposed development satisfies this objective.

- ***To ensure that private open space receives sufficient solar access and privacy.***

Comment:

Insufficient information has been submitted with the application to determine if the proposed units obtain sufficient solar access. This matter has been included as a reason for refusal.

The architectural plans are unclear in terms of any privacy treatments that have been provided to the balcony areas of the proposed units, in particular those units located on the northern elevation of the building where private open space areas are located directly opposite each other.

However, it is considered that appropriate conditions could be imposed to ensure a reasonable level of privacy is maintained to each unit should the panel be of a mind to approve the application.

The proposed development does not satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D6 Access to Sunlight

As a result of the boundary to boundary setback provisions of the site and the north-south orientation overshadowing of properties to the south is inevitable. The relatively underdeveloped nature of the adjoining sites to the south, being single to two storeys in height and with smaller building footprints further

exacerbate the level of overshadowing to these properties and the reasonableness of maintaining solar access to these properties in their current state.

However, it is acknowledged that the level of overshadowing is exacerbated by the non compliance with the Height of Buildings Development Standard under the WLEP 2011 and the Number of Storeys control under the WDCP.

D8 Privacy

The proposal does not provide adequate separation between adjoining properties to facilitate adequate privacy.

This matter could be addressed by way of appropriate conditions relating to screening should the Panel be of a mind to approve the application. However, it should be noted that screening is not considered to be an appropriate method of addressing privacy. Rather, it is considered that this issue should have been appropriately considered by the architect as an integrated response at the design stage of the development. This advance consideration would avoid any adverse impact upon internal amenity to the screened units (ie: by adding to a sense of enclosure and limiting access to ventilation and sunlight) and to mitigate additional visual bulk to the exterior of the development, when viewed from the surrounding public and private domains.

D9 Building Bulk

As discussed in detail throughout this report the proposed development will result in unreasonable building bulk and visual impact when viewed from adjoining properties, streets and the public domain.

The inability of the proposal to effectively minimise the visual impact and reduce the building bulk renders the proposal an over-development of the site and is neither appropriate or reasonable. This is further further evidenced by the non compliances proposed with the Height of Buildings Development Standard under the WLEP 2011 and relevant controls of the WDCP.

In particular the visual impact and building bulk can be attributed to the non compliance with the Height of Buildings Development Standard under the WLEP 2011 and the Number of Storeys and Front Boundary Setback controls under the WDCP 2011.

Therefore, the proposed development does not satisfy the objectives or requirements of this control and this has been included as a reason for refusal.

F1 Local and Neighbourhood Centres

The overall building bulk, height and scale of the development is not consistent with the scale of surrounding development.

The development does not provide sufficient setbacks to the upper most floor to adequately reduce the bulk, scale and height. The combination of the non compliance with the height of buildings development standard, number of storeys control and the front boundary setback control exacerbate the scale of the building and render the development out of scale with its surrounding buildings or building envisaged for the transition of the area.

In particular the development is not considered to enhance the public domain or contribute to the desired scale and pattern of development or the continuity of the Condamine Street or King Street streetscapes.

Further, Requirement No. 6 of this control states:

6. Buildings greater than 2 storeys are to be designed so that the massing is substantially reduced on the top floors and stepped back from the street front to reduce bulk and ensure that new development does not dominate existing buildings and public spaces.

In this regard and as discussed previously within this report, the development does not provide appropriate setbacks to the third floor of the building and is therefore inconsistent with this requirement.

The proposed development does not satisfy the objectives or requirements of this control and this has been included as a reason for refusal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

In particular, this assessment has found that the development, as proposed, raised fundamental concerns, inconsistencies and non compliance with numerous controls under the Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan.

The following concerns have been raised and the application was found to be non-compliant and/or inconsistent with the listed controls:

Referral Responses

The application was referred to internal departments and external authorities.

Council's Traffic Engineer, Development Engineer and Waste Services have all raise fundamental concerns with the application that do not allow them to support it in its current form.

Submissions Received

The development attracted three (3) individual submissions . The submissions raised the following issues:

- Non-compliance with Building Height control;
- Out of character of the area (Number of Storeys);
- Overshadowing;
- Privacy;
- Noise; and
- Traffic Impacts and Car Parking.

The issues raised in the submissions have been addressed in the "Public Notification Section" of this report where it was found that all issues, with exception to 'Noise' and 'Privacy' (which could be addressed by condition if the application were to be approved) supported the refusal of the application.

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

The assessment of the Development Application against the provisions of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development found that the proposal was inconsistent with a number the Design Quality Principles and Rules of Thumb as contained under the associated Residential Flat Design Code.

In particular the development is inconsistent with the following Design Quality Principles:

Design Quality Principles

- Clause 9 (Principle 1 - Context);
- Clause 10 (Principle 2 – Scale);
- Clause 11 (Principle 3 – Built Form); and
- Clause 15 (Principle 7 – Amenity).

Additionally, the proposal is inconsistent with the following Rules of Thumb under the Residential Flat Design Code:

Residential Flat Design Code

- Street Setbacks;
- Open Space;
- Visual Amenity;
- Balconies;
- Storage;
- Daylight Access; and
- Natural Ventilation.

Draft State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

This assessment has considered the development against the Draft SEPP (Amendment No. 3) and has identified the following non-compliances and inconsistencies:

Clause 28(2)(b) - Determination of Development Applications and Schedule 1 - Design Quality Principles

- Principle 1 – Context and Neighbourhood Character;
- Principle 2 – Built Form and Scale;
- Principle 3 – Density;
- Principle 6 – Amenity; and
- Principle 9 – Architectural Expression.

Additionally, the proposal is inconsistent with the following controls in the Apartment Design Guide:

Clause 28(2)(c) - Determination of Development Applications and the Apartment Design Guide

- Part 2G – Street Setbacks;
- Part 3F – Visual Privacy;
- Part 4L – Solar and Daylight Access;
- Part 4P – Private Open Space and Balconies;
- Part 4Q – Natural Ventilation; and
- Part 4R – Storage.

Warringah Local Environmental Plan 2011

The assessment of the Development Application did not comply with Clause 4.3 - 'Height of Buildings' Development Standard under the Warringah Local Environmental Plan 2011.

The variation proposed to the Development standard under the WLEP is not supported in this instance.

Warringah Development Control Plan 2011

The assessment found that the proposal did not comply with the following clauses under the Warringah Development Control Plan 2011.

- Clause B2 – Number of Storeys
- Clause B7 – Front Boundary Setbacks
- Clause C2 – Traffic, Access and Safety;
- Clause C3 – Parking Facilities;

- Clause C4 – Stormwater;
- Clause C9 – Waste Management;
- Clause D2 – Private Open Space;
- Clause D8 – Privacy;
- Clause D9 – Building Bulk; and
- Clause F1 – Local and Neighbourhood Centres

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development does not constitute the proper and orderly planning for the site. Furthermore, based upon the numerous non compliances proposed with the relevant planning controls the proposed development is considered to be an over-development of the site and not in the public interest.

As a direct result of the application and the consideration of the matters detailed within this report it is recommended that the Warringah Development Assessment Panel (WDAP), as the consent authority, refuse the application for the reasons detailed within the "Recommendation" section of this report.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2014/0828 for the Demolition works and Construction of a Shop Top Housing Development and Consolidation of Two (2) Lots into One (1) Lot on land at Lot 2 DP 363933,343 Condamine Street, MANLY VALE, Lot 1 DP 34961,341 Condamine Street, MANLY VALE, subject to the reasons outlined as follows:

CURRENT MARKET VALUATION

341-343 CONDAMINE AVE MANLY VALE



Artist impression of proposed development

DATE OF VALUATION: 26 MAY 2015

TABLE OF CONTENTS

VALUATION SUMMARY	3
QUALIFICATIONS:	4
INSTRUCTIONS:.....	4
DATE OF VALUATION:	4
BASIS OF VALUATION:	4
LOCATION:	4
LEGAL DESCRIPTION:	5
PROPERTY DESCRIPTION:.....	5
SERVICES:.....	8
ZONING:.....	8
MARKET COMMENTARY:	9
VALUATION RATIONALE/METHODOLOGY:	12
VALUATION:.....	14
QUALIFICATIONS AND DISCLAIMERS:.....	14
DEFINITIONS:	14



VALUATION SUMMARY

PROPERTY: *341-343 Condamine Street Manly Vale*

DESCRIPTION: *Development land*

TITLE: *Lot 1 DP 34961 & Lot 2 DP 363933*

LAND AREA: *951 m² (475.5 m² & 475.5 m²)*

LAND TO BE DEDICATED: *55.04 m²*

ZONING: *B4 Mixed Uses*

DATE OF VALUATION: *26 May 2015.*

VALUATION: *\$165,000 (calculated as 55.04 m² (land lost) x 2:1 FSR as 110.08 m² (GFA lost) x \$1,500/m² per GFA say \$165,000 (site value).*

Please note the VPA benefit can be calculated at a rate of \$1,500/m² per GFA.

*GST is not included in this valuation. Since the introduction of GST from 1 July 2000, all sale contracts require the purchase prices to be shown inclusive of GST, if it is applicable. For most properties sold with a lease in place, this would constitute a going concern and so GST is not payable. For all new residential apartments and the majority of non-residential property, which is sold with vacant possession, the transfer price will include GST. As I assess a GST exclusive value, I use my best endeavours to ascertain whether my primary sales are inclusive or exclusive of GST.

To any party relying on this report we advise that this one page summary must be read in conjunction with the attached report of which this summary forms part.

QUALIFICATIONS:

I am a Certified Practicing Valuer. I am an Associate Member of the Australian Property Institute since 1984. I have over 25 years experience in providing valuations for all types of property within the greater metropolitan area (15 years at the Valuer General's Department and over 10 years in private practice). Since late 2002, I have worked as a sole practitioner in my current role at FPV Consultants.

INSTRUCTIONS:

Steve Johnson senior property officer for Warringah Council has instructed FPV Consultants to carry out a valuation on the property known as 341 -343 Condamine Street Manly Vale.

The developer of the above site will dedicate a strip of land at the rear of the site consisting of: 23.47metres x 2.345 metres (55.04 m²).

The voluntary planning agreement (VPA) is considering a height breach varying between 1.829 metres to 2.438 metres. The floor area of the upper most storey internally equates to a total of 299 m², including the external balconies the total floor area is 421 m².

The development contribution that requires valuation is a strip of land located on the western boundary of the site for the purposes of widening Somerville Place, to make it appropriately trafficable.

The valuation report should be undertaken to API reporting standards and should include a detailed rationale on the basis of the valuation assessment including the relativity of all the comparable sales to the subject property being fully explained, analysed and adjusted including calculations and workings.

DATE OF VALUATION:

26 May 2015.

BASIS OF VALUATION:

Market value at any time means the amount that would have been paid for the land if it had been sold at that time by a willing but not anxious seller to a willing but not anxious buyer.

LOCATION:

The subject site consists of a two (2) allotments located on the western side of Condamine Street. The site is a corner allotment, bounded by Condamine Street to the east, King Street to the north and Somerville Place to the west (rear). Somerville Place is a narrow laneway at the rear of the site Extends between Sunshine Street at the southern end and King Street at the northern end. Condamine Street is a busy arterial Road.

The site is well served by public transport with a bus stop located at the front of the site on Condamine Street and opposite the site on the eastern side of Condamine Street that provide services north to Warringah Mall and south to the city.

Surrounding development consists of a mix of mixed-use developments mainly located along eastern and western sides of Condamine Street.

Adjacent to the site to the north is St Kieran's Church and St Kieran's School and residential dwellings. Immediately adjacent the site, at the rear, is St Peters Church Hall, which is identified as a heritage item.



LEGAL DESCRIPTION:

The site is legally known as Lot 1 in DP 34961 and Lot 2 in DP 363933, No.341 and No. 343 Condamine Street, Manly Vale.

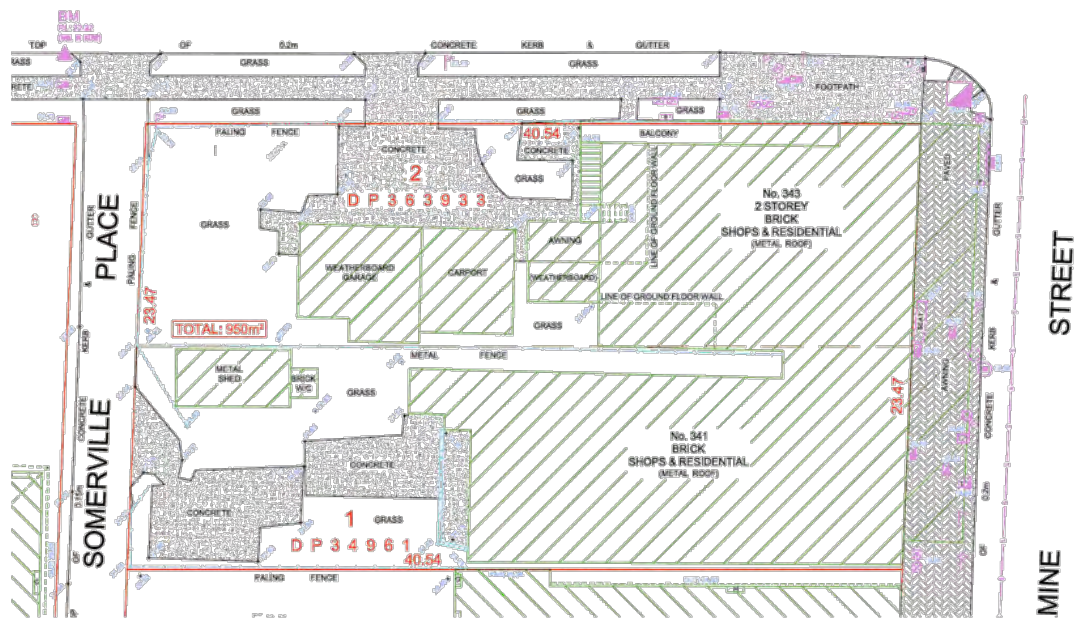
All within the local government area of Warringah, locality of Manly Vale, Parish of Manly Cove and County of Cumberland.

PROPERTY DESCRIPTION:

The site is rectangular in shape with a frontage of 23.47 metres along Condamine Street and a depth of 40.54 metres (along King Street). The site has an area of 951 m². The site is generally flat without any topographical constraint.

Currently situated at 341 is a single level brick retail development, consisting of two retail shops and a residential apartment at the rear.

Currently situated at 343 is a two level brick/rendered shop and residence, built circa 1960's. Ground level contains a retail shop and level one contains 2 x two bedroom residential units. At the rear of the site are a double carport and a double lock up garage.



Front view (Condamine Street)



View from Somerville Lane (rear of the property)



View south to north from Somerville Lane (rear of the property)

SERVICES:

All services available to the subject area, which includes water, sewerage/drainage, gas, electricity and telephone whilst most roads are bitumen sealed, concrete kerbed and guttered.

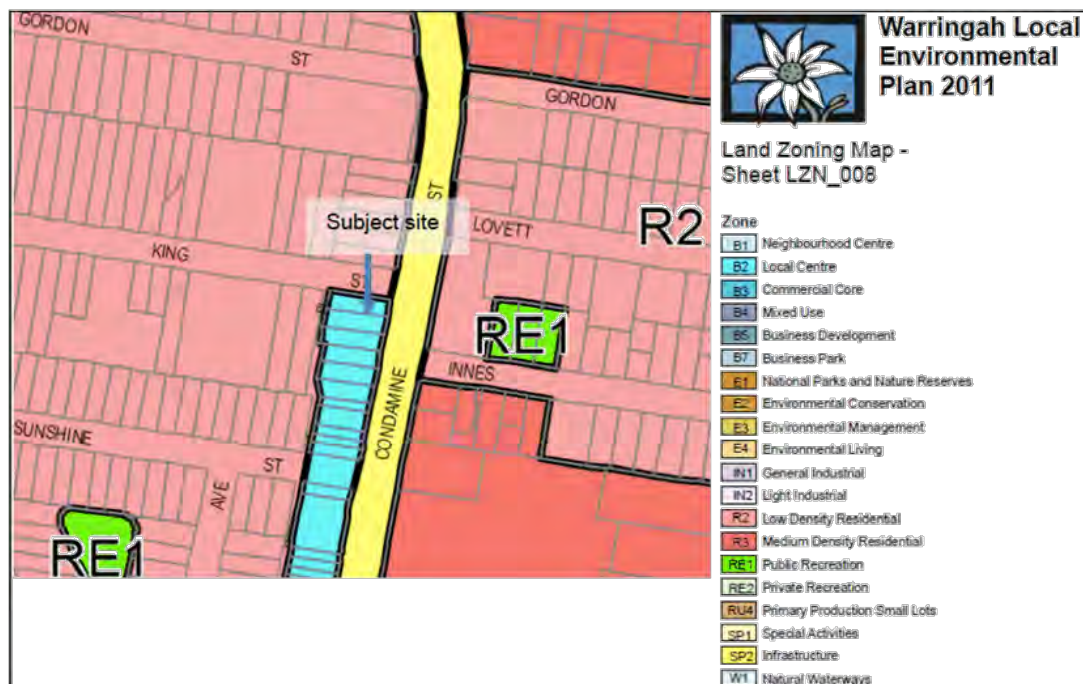
ZONING:

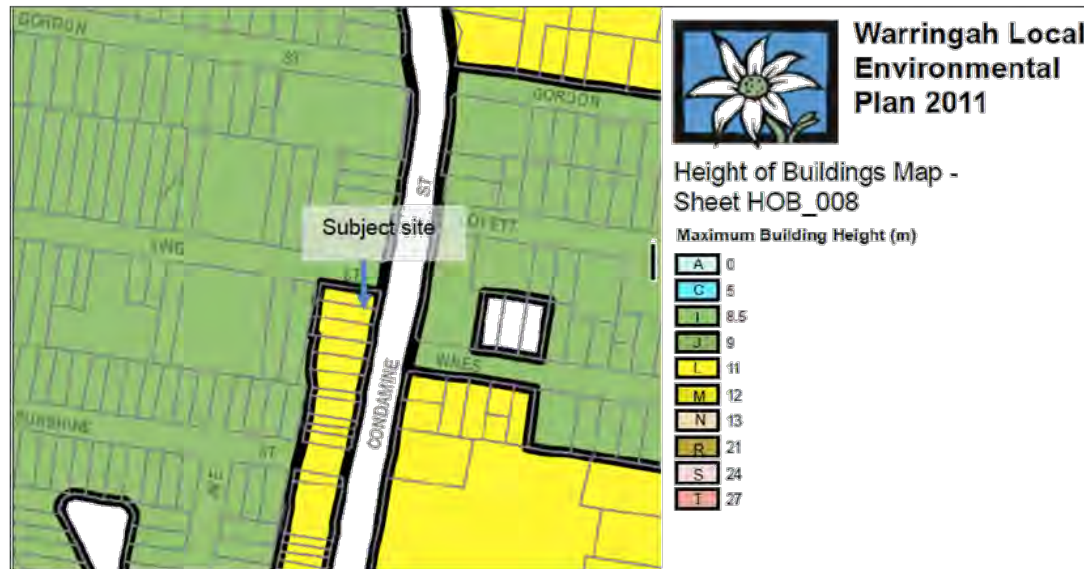
The land is zoned B4 Mixed Use under Warringah Local Environmental Plan 2011 which was gazetted on the 9 December 2011. Warringah Development Control Plan (DCP) 2011 also applies to the subject site.

The B4 Mixed Use zone allows for residential flat buildings, shop-top housing and commercial premises (which include business premises, office premises and retail premises) are all permitted with consent.

This zone allows for a maximum height limit ranging from 11 metres (3 storey height limit) but no FSR applies.

DA: The development application is for the demolition of the existing buildings and construction of a four storey shop top housing development consisting of a shop and residential apartments with associated car parking and landscaping comprising 24 units, 182 m² shop, basement level residential car parking for 27 vehicles, ground floor commercial car parking for 11 vehicles. The total GFA is 1,902 m².





MARKET COMMENTARY:

At its meeting 5 May 2015, the Reserve Bank announced that official interest rates would be cut to a new 60 year low falling by 0.25 % to 2%.

This month's action by the Reserve Bank follows the February cut which broke a sequence of 16 consecutive months of steady rates.

The May rate reduction reflects weak economic data with the ABS reporting a national unemployment trend rate of 6.1 % over March. Although this was a reduction over the previous months 6.2 %, the rate nonetheless remains at near 12-year highs.

Housing market activity has continued to strengthen in most capital cities with lower rates and rising confidence fuelling higher buyer activity. Auction activity in Sydney, Melbourne and Brisbane has tracked at or near record levels over April and into May with the Sydney market remaining particularly robust.

Although rates have been cut for May the bias for future action from the Bank likely remains downwards. This however will be tested by the negative economic aspects of the current record low levels of rates and strongly rising housing market activity.

Lower mortgage rates through further rate cuts may continue to fuel strong prices growth particularly in the Sydney and Melbourne markets.

The RBA is aiming to drag the Australian dollar lower and stimulate economic growth without adding more fuel to housing market demand.

The key indicators affect the RBA decision is that Sydney's dwelling values are up 14.5 % over the past 12 months while prices are almost 7 % higher in Melbourne. The other capitals are growing by less than 2.5 % a year.

The Australian dollar has increased in value more than US2.5c to around US78.5c since early April, following concerns that a sputtering US economic recovery would dissuade the US Federal Reserve from lifting interest rates there as previously flagged.

Weak annual inflation of 1.3 % over the year to March — well below the RBA's 2 % to 3 % target range — and ongoing falls in mining investment and key export prices provide the board with the scope to cut rates further. Investors are expecting one further cut before the end of the year, bringing official rates to 1.75 %.

Low interest rates and improved business confidence has succeeded in stimulating the property sector, despite uncertainties in the global economy. Increased construction activity is reported and business and consumer confidence is growing in most sectors.

The development of residential is driving more widespread renewal than any other land use at present, representing the 'highest and best use' from a development standpoint. Sales of development sites reflect this sentiment, with sites offering residential development opportunities observed to be principally driving sales activity in the development market.

A period of soft residential activity and growth since 2004 resulted in significant pent-up demand. This is a large contributing factor to the high levels of market activity currently witnessed, from generous premiums paid to assemble and amalgamate development sites to rapid and high levels of pre-sales.

Late 2013 was the start of a property bubble in the Sydney market evident by significant price rises, increase in development activity, buyer enquires and clearance rates. In our view the current levels of demand reflect sustained pent up demand for dwellings in Sydney.

Residential property prices and investor interest over the 5 years prior to 2013 were quite flat and construction activity was failing to keep up with long term demand (which resulted in average household sizes or occupancy rates increasing slightly in the last inter-censal period). The recent upward trend in the residential market is a correction to the previous 5 years of flat growth.

The key drivers to Sydney's residential property market are:

- Low interest rates underpinning affordability;
- High cost of ownership leading to a higher propensity for households to rent;
- Downsizing of empty nesters; demographic trends leading to declining household sizes;
- Strong population growth from international migration and natural increase; and strong demand from international investors particularly from Asia.

It is widely acknowledged that development has not kept pace with demand, contributing to a tight rental market and rising house prices. This situation would have worsened without a significant and protracted uplift in residential development, particularly given demographic trends for declining household sizes and strong population growth.

The median sales price for units in Manly Vale in the last year was \$614,000 based on 116 home sales. Compared to the same period five years ago, the median unit sales price for units increased 32.8%, which equates to a compound annual growth rate of 5.8%.

Development Sites Sales:

Sale 1: 341-343 Condamine Street Manly Vale (subject property)	
Land Area: 951 m ² ,	Contract Date: 5/11/2012 & 12/4/2013
Sale Price: \$2,550,000	Analysed Land Rate: \$1,341 m ² per GFA

Zone: B2 Local Centre	Legal description: Lot 2, DP 502637
Comment: Development site. Market has moved upwards since the purchase adjust sale. The building adds little value to the land except some holding income. The DA applied for is for a GFA of 1,902 m ² .	

Sale 2: 822 Pittwater (Cnr Delmar parade) Road Dee Why	
Land Area: 1,566 m ²	Contract Date: 26/9/2013
Sale Price: \$7,200,000.	Analysed Land Rate: \$1,250/m ² per GFA
Zone: B4 Mixed Use	Legal description: Lot 6 DP 7002
Comment: Development Site. GFA 5,760 m ² . Corner with Delmar Parade. DA2014/0042 approved 18/8/2014 for the demolition of the existing buildings and the construction of a new building containing 49 apartments and ground floor retail over 8 levels. A slightly irregular shaped corner lot, predominately level Ocean views and district views can be achieved from the upper levels of the development. Market has moved upwards since the purchase adjust sale.	

Sale 3: 18 Howard Ave, Dee Why	
Land Area: 670.3 m ² .	Contract Date: 12/07/2012
Sale Price: \$2,585,000	Analysed Land Rate: \$1,285m ² per GFA
Zone: B4 Mixed Uses	Legal description: Lot 2, DP 502637
Comment: Improved building. Dimensions: 15.24 X 44.196. 2 Level commercial building used by Legacy. Large hall and commercial kitchen. 24 metre height limit. Possible FSR 3:1 as 2,011 m ² GFA. The building adds little value to the land. Market has moved upwards since the purchase adjust sale.	

Sale 4: 30 Pacific Parade, Dee Why	
Land Area: 766.8 m ² .	Contract Date: 28/2/2011
Sale Price: \$1,450,000	Analysed Land Rate: \$1,333/m ² per GFA
Zone: B4 Mixed Uses	Legal description: Lot 10, DP 1181747
Comment: Development Site. Regular shaped lot that falls gradually from the road. Handily located to Dee Why shopping area. DA Approved Site for 9 Residential Apartments comprising 6 x 2 bedrooms, 3 x 1 bedrooms over basement car parking. Estimated GFA 900 m ² . Small site. Sold with DA approval. Allow allowance for the approved DA. Deduced land value say \$1,200,000. Market has moved upwards since the purchase adjust sale.	

Sale 5: 57 Delmar Parade, & 2 Carew Street Dee Why	
Land Area: 1,681.9 m ² .	Contract Date: 24/4/2014
Sale Price: \$4,300,000	Analysed Land Rate: \$1,548/m ² per GFA
Zone: R3 – Medium Density Residential.	Legal description: Lot B DP 354374, & Lot 1 DP 526244

Comment: Development Site. Estimated GFA 2,500 m². The site is located on the northern side of Delmar Parade at the corner with Carew Street. The site is located on the north eastern face of a hill, and generally falls to the north. The site is relatively large, being approximately 42 metres wide on the Delmar Parade street frontage and 46 metres in length on the Carew Street frontage. 11 metre height maximum. DA approved prior to sale for 21 apartments. The DA adds value to the land say 10% as \$3,870,000.

Sale 6: 22-24 Shackel Avenue Brookvale

Land Area: 1,828 m².

Contract Date: 14/6/2013 & 36/9/2013

Sale Price: \$3,500,000

Analysed Land Rate: \$1,458/m² per GFA

Zone: R3 – Medium Density Residential.

Legal description: Lots 11 & 12 DP 7397

Comment: Development Site. Estimated GFA 2,400 m². Development Application DA2013/0925 Demolition works and Construction of a Residential Flat Building (Submitted: 08/08/2013) approved 3/12/2013. Subsequently 24 apartments constructed.

VALUATION RATIONALE/METHODOLOGY:

The principal method of valuation is the comparison of rates from sales evidence of comparable properties. Then adjustments for the inherent characteristics of the sales compared to the subject site have to be made.

Comparison is best made with comparable evidence. These may not always be available in established areas. In these instances a value judgment must be made of the value by a Valuer who has the qualifications, training and experience to make the necessary judgment as to the merits or otherwise of the subject property in comparison with available evidence.

In arriving at the value of the subject property, I have adopted the assessment of comparable sales approach for appropriately zoned land as my primary method of valuation.

Sales are used as a market guide to set our parameters and gauge what a developer would expect to pay for the site, whilst a hypothetical residual calculation is carried out as a check method to ascertain the whether the rates adopted is feasible in the market. Floor space ratios (FSR's) may vary quite dramatically between sales evidence and the subject property and therefore the assessment upon the quantum of GFA negates these variances. The sales within this report are considered to provide good comparable market evidence for the relevant date.

Also economies of scale have dictated in the market place that the smaller the site the higher the value rate should be applied (all things being equal). Therefore a larger parcel of land will result in a lower rate per square metre per site area which can be reflected, to a certain extent. However the inherent features of a particular property may defy this trend if the site has a particular advantage over another.

Adjustments have been made to the analysed land value, (\$/m² of GFA), to reflect the land value of the subject property. Consideration has been given to, but not limited to, the size of the developable GFA analysed sales evidence to that of the subject site.

Accordingly, in assessing the value of a development site it is essential that a consistent approach be adopted i.e. GFA. To ignore this need for consistency will distort the potential yield of a site and consequently provide an incorrect market value.

I have established that the highest and best use of the land is a mixed use development site. The valuation represents the market level existing at date and is based on the analysis of site sales. Furthermore this report is more specific in the sales relied on and compares the sales evidence directly with the subject property.

The physical nature of the land and its surrounding development has been taken into account in determining the value.

I have summarised the development site sales below:

No	Address	Adjusted Land value	GFA	Value rate per GFA \$/m ²	COMMENTS
1	341-343 Condamine Street Manly Vale	\$2,550,000	1,902.00	\$1,341	Subject property.
2	822 Pittwater Road Dee Why	\$7,200,000	5,760.00	\$1,250	Development Site. 49 apartments and ground floor retail over 8 levels. A slightly irregular shaped corner lot, predominately level Ocean views and district views can be achieved from the upper levels of the development.
3	16 Howard Ave, Dee Why	\$2,585,000	2,011	\$1,285	Potential Development Site. Improved building. 2 Level commercial building used by Legacy. Large hall and commercial kitchen. 24 metre height limit. The building adds little value to the land.
4	30 Pacific Parade, Dee Why	\$1,200,000	900	\$1,333	Development Site. Handily located to Dee Why shopping area. Allow allowance for the approved DA
5	57 Delmar Parade, & 2 Carew Street Dee Why	\$3,870,000	2,500	\$1,548	Development Site. 11 metre height maximum. DA approved prior to sale for 21 apartments.
6	22-24 Shackel Avenue Brookvale	\$3,500,000	2,400	\$1,458	Development Site. 24 apartments constructed good comparable.

The sales range from \$1,250/m² to \$1,548/m² per GFA. The subject is represented by sale number 1, however it was sold in 2013 and the market has improved since then, therefore I will adopt \$1,500/m² as the value of the GFA in the subject location.

I have been asked to assess the strip of land at the rear of the site consisting of: 23.47metres x 2.345 metres (55.04 m²). The development contribution is for the purposes of widening Somerville Place, to make it appropriately trafficable.

The subject zone allows for a maximum height limit ranging from 11 metres (3 storey height limit) but no FSR applies.

The entire subject site is 951 m². I usually analyse sales with no fixed FSR as follows: 951 m² (subject land) less 33% for boundary setbacks as 637 m² x 3 levels of developments (incorporating the 11 metre height limit) as 1911 m² of GFA.

The subject development application is for the demolition of the existing buildings and construction of a four storey shop top housing development consisting of a shop and residential apartments with associated car parking and landscaping comprising 24 units, 182 m² shop, basement level residential car parking for 27 vehicles, ground floor commercial car parking for 11 vehicles. The total GFA is 1,902 m² (FSR 2:1).

Therefore i have calculated the value of the land lost as:

55.04 m² (land lost) x 2:1 FSR as 110.08 m² (GFA lost) x \$1,500/m² per GFA say \$165,000 (site value).

VALUATION:

The Current Market Value for a strip of land located at the rear of 341-343 Condamine Street Manly Vale as at the 26 May 2015 as per details referred to in this report is considered to be: **\$165,000**



Errol Ferdinands AAPI (Val)
Certified Practising Valuer
Registration No. 2768
(Without Limitations)

QUALIFICATIONS AND DISCLAIMERS:

1. The Valuer has no pecuniary interest in the said property past, present or prospective, and the opinion expressed is free of any bias in this regard. The Valuation has been made in conformity with the Code of Professional Ethics and Conduct laid down by the Australian Property Institute and the Regulations under the New South Wales Valuers Registration Act, 2003 as amended.
2. This report has been prepared for the private and confidential use of Warringah Council It should not, without the express written authority be reproduced in whole or in part or relied upon by any other party for any purpose. Our warning is registered here, that any party, other than those specifically named in this paragraph, should obtain their own valuation before acting in any way in respect of the subject property.
3. This site is considered to have no contamination and therefore remedial work is not required prior to construction of any new development also that the existing building is assumed not to contain asbestos.
4. GST is not included in the above valuation.

DEFINITIONS:

*Gross Floor Area (GFA) means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor."

The definition goes on to state that Gross Floor Area includes:-

- a) The area of mezzanine;
- b) Habitable rooms in a basement or an attic; and
- c) Any shop, auditorium, cinema and the like in a basement or attic.

It goes on to state that Gross Floor Area excludes:-

- d) Any area for common vertical circulation such as lifts and stairs; and
- e) Any basement storage or vehicle access loading areas and garbage service areas;
- f) Plant rooms, lift towers and other areas exclusively for mechanical services or ducting;



- g) Car parking to meet any requirement of the Consent Authority (including access to the car parking);
- h) Any space used for the loading or unloading of goods including access to it;
- i) Terraces and balconies with outer walls less than 1.4 metres high; and
- j) Voids above the floor at the level of a storey or storey above.

Please note: The Net Lettable Area (NLA) could be very different depending on the type of development.



Contents

PART 1: Introduction.....	3
PART 2: Administration and Operation	5
PART 3: Summary Schedule	13
Summary schedule for s94A Contributions Plan	13
PART 4: Expected Development and Demand for Public Facilities	14
Metropolitan Strategies	14
Employment Growth	15
Rationale for Development Levy	15
PART 5: Section 94A Schedule of Works	17
PART 6: Section 94 Schedule of Works.....	18
PART 7: References.....	19
Dictionary.....	20
APPENDIX A: Applicable Direction under section 94E of the Act.....	21
APPENDIX B: Procedure for determination of an S94A levy	23
APPENDIX C: Sample Cost Summary Report	24
APPENDIX D: Location of Section 94A Funded Work.....	25
APPENDIX E: Location of Section 94 Funded Work	27

PART 1: Introduction

What is a Section 94A Development Contributions Plan?

Under Section 94A (s94A) of the *Environmental Planning and Assessment Act 1979* (the Act), Council may levy a flat rate contribution towards, or recoup the capital cost of providing or extending facilities, infrastructure and services necessary to meet the increased demand created by new development in its area.

s94A of the Act provides as follows:

94A Fixed Development Application Consent levies

- (1) *A consent authority may impose, as a condition of Development Application Consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.*
- (2) *A consent authority cannot impose as a condition of the same Development Application Consent a condition under this section as well as a condition under section 94.*
- (2A) *A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:*
 - (a) *the Minister, or*
 - (b) *a development corporation designated by the Minister to give approvals under this subsection.*
- (3) *Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.*
- (4) *A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the Development Application Consent and the object of expenditure of any money required to be paid by the condition.*
- (5) *The regulations may make provision for or with respect to levies under this section, including:*
 - (a) *the means by which the proposed cost of carrying out development is to be estimated or determined, and*
 - (b) *the maximum percentage of a levy.*

The *Warringah Development Contributions Plan 2015* (the Plan) is the mechanism by which the entitlements under s94A of the Act are implemented and accounted for by Council. The Plan also includes a Works Program (Part 5) outlining when and where the new works will be provided.

The Plan is implemented through the development process by attaching conditions to any Development Application Consents or Complying Development Certificates that meets the requirements of this Plan.

Warringah Council has levied contributions for a range of facilities and services under previous Section 94 Development Contributions Plans. The preparation of this Plan provides the opportunity to implement a new, simplified development contributions structure that will improve the efficiency and flexibility of community facility provision, in a manner that best meets the needs of the population for which the contribution was levied.

PART 2: Administration and Operation

1 What is the name of this Plan?

This development contributions plan is called *Warringah Development Contributions Plan 2015*.

2 What is the purpose of the Plan?

The primary purposes of the Plan are:

- (1) To authorise, as a condition of Development Application Consent upon effected Development Applications and Complying Development Certificates, the imposition of a contribution pursuant to s94A of the Act
- (2) To assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area
- (3) To publicly identify the purposes for which the levies are required
- (4) To include a revised Section 94 (s94) Works Program which will enable the expenditure of Council's existing s94 reserves.

3 When does this Plan commence?

1 July 2015.

4 What plans does this Plan repeal?

This Plan repeals *Warringah S94A Development Contributions Plan 2014* adopted by Council on 24 June 2014 and in operation on 1 July 2014.

All remaining funds collected under the *Warringah Section 94 Development Contributions Plan 2001* are to be applied toward completing the Works Program in *Warringah Section 94 Development Contributions Plan 2001* in accordance with the revised Section 94 Works Schedule included within Part 6 of this Plan. Upon full completion of the Section 94 Works Program, any remaining funds are to be pooled into the development contributions reserve established as part of this Plan (clause 16) and used upon works listed in Part 5.

5 Land to which this Plan applies

This Plan applies to all land within the local government area of Warringah.

6 Development to which this Plan applies

This Plan applies to all applications for Development Application Consent and Complying Development Certificates proposing works whose total development cost is \$100,001 or greater.

The 'total development cost' is determined having accounted for each of the contributing cost factors set out within clause 25J of the *Environmental Planning & Assessment Regulation 2000* (the Regulation). It is provided to Council through the full and accurate completion (to the satisfaction of Council) of the Cost Summary Sheet lodged with the Development Application or Complying Development Certificate Application.

Development that satisfies any one (or more) of the following criteria are exempt from this Plan and from payment of the s94A levy:

- (1) Development Applications and complying Development Applications whose total development cost is less than \$100,001
- (2) Applications lodged under Section 96 of the *EP&A Act 1979* to modify condition/s of an existing consent
- (3) Development Applications and Complying Development Certificate Applications for public purposes as proposed by:
 - a) Council, that involve the use of land classified as Community or Operational under the *Local Government Act 1993* or as Crown Land under the *Crown Lands Act 1989*
 - b) Non-profit organisations, as defined by the Australian Taxation Office, on behalf of, or in partnership with Council
 - c) Government agencies
 - d) Public utility providers.

Development which complies with the Ministerial Direction under s94E dated 10th November 2006 and includes development:

- (1) For the purpose of disabled access
- (2) For the sole purpose of affordable housing
- (3) For the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building
- (4) For the sole purpose of the adaptive reuse of an item of environmental heritage
- (5) Other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous Development Application Consent relating to the subdivision of the land on which the development is proposed to be carried out.

To avoid any doubt with regard to item (5) above, the then Department of Infrastructure, Planning and Natural Resources' *Development contributions Practice*

notes (2005), provides that 'the Section 94E direction prohibits the use of Section 94A in respect of development that has been the subject of a condition under Section 94 under a previous Development Application Consent relating to the subdivision of the land on which the development is to be carried out.'

7 How is the total development cost determined?

Clause 25J of the Regulation sets out how to determine the total cost of development:

25J Section 94A levy—determination of proposed cost of development

- (1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:*
 - (a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,*
 - (b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,*
 - (c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.*
- (2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.*
- (3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:*
 - (a) the cost of the land on which the development is to be carried out,*
 - (b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,*
 - (c) the costs associated with marketing or financing the development (including interest on any loans),*

- (d) *the costs associated with legal work carried out or to be carried out in connection with the development,*
- (e) *project management costs associated with the development,*
- (f) *the cost of building insurance in respect of the development,*
- (g) *the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),*
- (h) *the costs of commercial stock inventory,*
- (i) *any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law,*
- (j) *the costs of enabling access by disabled persons in respect of the development,*
- (k) *the costs of energy and water efficiency measures associated with the development,*
- (l) *the cost of any development that is provided as affordable housing,*
- (m) *the costs of any development that is the adaptive reuse of a heritage item.*

8 Cost summary reports must accompany Development Applications or applications for Complying Development Certificates

A Development Application or application for a Complying Development Certificate is to be accompanied by a Cost Summary Report that addresses the matters set out in clause 25J of the Regulation.

For development with a total cost of \$100,001 or greater, a Cost Summary Report (addressing the matters contained in Appendix B) is to be completed and certified by a person who is considered to be suitably qualified in the opinion of Council.

Council may request the provision of an independent Cost Summary Report (addressing the matters contained within Appendix B) that is certified by a registered quantity surveyor for larger developments or where a major discrepancy in a Cost Summary Report is detected.

9 Construction Development Certificates and the obligations of Accredited Certifiers

In accordance with clause 94EC (1) (a) of the Act, this plan specifies that Accredited Certifiers must, if a complying development certificate issued, impose a condition under section 94A. The condition is to be determined as described in clause 11 of this plan.

10 Construction Certificates and the obligation of Accredited Certifiers

In accordance with clause 146 of the Regulation, a Certifying Authority must not issue a Construction Certificate for building work or subdivision work under a Development Application Consent unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the Accredited Certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in accordance with clause 142(2) of the Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where Council has agreed to works in kind, material public benefit or dedication of land as alternatives to payment of the s94A levy. In such cases, Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

11 How will the levy be calculated?

The levy will be determined on the basis of the rate as set out in the Summary Schedule, contained within Part 2 of this Plan. The levy will be calculated as follows:

$$\text{Levy payable (O)} = C \times D$$

Where:

C = the levy rate applicable

D = the proposed cost of carrying out the development

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the Regulation. The procedures set out in Appendix B to this Plan must be followed to enable the council to determine the amount of the levy to be paid.

Council may review the valuation of works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the applicant and no Construction Certificate will be issued until such time that the levy has been paid.

12 When is the levy payable?

A levy must be paid to Council at the time specified in the condition that imposes the levy. If no such time is specified, the levy must be paid prior to the issue of a Subdivision Certificate, Construction Certificate or Complying Development Certificate.

13 How will the levy be adjusted?

Contributions required as a condition of consent under the provisions of this plan will be adjusted at the time of payment of the contribution in accordance with the following formula:

$$\text{Contribution at time of payment} = O + A$$

Where:

O = the original contribution as set out in the consent

A = is the adjustment amount which is
$$= \frac{\$C_o \times (\text{Current CPI} - \text{Base CPI})}{\text{Base CPI}}$$

Where:

Current CPI: the Consumer Price Index for 'Sydney – All Groups' as published by the Australian Bureau of Statistics available at the time of review of the contribution rate, and

Base CPI: the Consumer Price Index for 'Sydney – All Groups' as published by the Australian Bureau of Statistics at the date of adoption of this plan.

Note: In the event that the Current CPI for Sydney is less than that for the previous quarter, the Current CPI for Sydney shall be taken as not less than the previous.

14 Can deferred or periodic payments be made?

Council does not permit deferred or periodic payments of the s94A levy under this Plan.

15 How are credits for existing development addressed in this Plan?

No credits or levy discounts of any kind are issued for either existing development or prior approvals.

16 Are there alternatives to the payment of the s94A levy?

An applicant may only elect to forgo to the payment of monetary contributions upon effected development through the following means:

- (1) By Council accepting an offer by an applicant to satisfy the contribution by carrying out works in kind, but only where the facility is identified in the works program and it is constructed by the developer to Council's standards and then transferred to Council. In these circumstances, Council will only transfer paid contributions on receipt of invoices not exceeding the amount already collected or committed by the fund

(2) By both Council and the applicant entering into a written planning agreement in accordance with Section 93F of the Act, whose terms and conditions are voluntarily agreed to and signed by both parties. The agreement:

- a) may be for the payment of a monetary contribution, the dedication of land free of cost, any other public benefit, or any combination of these, to be used for or applied toward a public purpose (as defined in the Dictionary of this Plan)
- b) is not invalid by reason only that there is no connection between the development and the works or expenditure of any money it proposes.

Applicants proposing to enter into a Planning Agreement should enquire with Council with regard to the relevant procedures prior to the lodgement of their Development Application.

17 Pooling of levies

This plan expressly authorises s94A levies paid for different purposes to be pooled and applied progressively for the delivery of the community facilities and infrastructure listed in the Schedule of Works in Part 5 of this Plan. The priorities for the expenditure of the levies are shown in this Schedule of Works.

18 How will Council use collected contributions?

Council is to use the funds collected under this Plan toward meeting the cost of providing the community facilities listed in the Schedule of Works of this Plan (Part 5). Subject to s93E(2) of the Act and Clause 15 of this Plan, the community facilities listed in Part 5 are to be provided in accordance with the staging set out within Part 5.

A proportion of all funds collected (0.05%) will be pooled in a separate Council account for use toward ongoing forward planning and administration of development contribution funds. Funds collected in this account will be used to:

- (1) Periodically engage consultants to undertake forward planning studies informing the use of development contributions
- (2) To fund the full time employment of Council's Senior Strategic Planner (S94)
- (3) To fund 30% of the costs of a Management Accounting position within Council.

19 In what circumstances are s94A levies to be refunded?

Levies collected from a developer under this Plan will only be refunded upon the formal surrender or lapsing of the relevant Development Application Consent to which the contribution was applied.

20 Is a contributions register kept?

Council maintains a register of all developer contributions collected and the details of all Voluntary Planning Agreements enacted through a condition of Development Application Consent. The Contributions Register can be inspected at Council's offices and contains the following information:

- (1) Each Development Application Consent which levied contributions for facilities
- (2) The address to which the Development Application Consent was issued, date when contributions are received and the amount
- (3) A detailed account of the monetary contribution, land dedication or other material public benefit negotiated and signed off through any Voluntary Planning Agreement, including a full copy of the agreement.

21 Plan will be subject to annual review

Council is to undertake an annual review of the works included in the Schedule of Works within Part 5 of this Plan, including the maintenance of a record of completed works and the introduction of new community facilities into the Schedule in place of those completed.

PART 3: Summary Schedule

The Schedule of Works contained in Part 5 of the Plan identifies the public facilities for which a s94A levy will be required.

Levies paid to Council (in accordance with the rates set out in the Summary Schedule below) will be applied towards meeting the cost of provision or augmentation of these public facilities in the identified financial years.

Summary schedule for s94A Contributions Plan

Type of Development	Levy
All Development Applications and applications for Complying Development Certificates whose total costs amount to less than \$100,001	Nil
All Development Applications and applications for Complying Development Certificates with a total cost from \$100,001 - \$200,000 (excluding exempt development, Section 96 (s96) applications to modify Development Application Consent and Development Applications proposed by Council)	0.5 percent
All Development Applications and applications for Complying Development Certificates with a total cost exceeding \$200,000 (excluding exempt development, s96 applications to modify Development Application Consent and Development Applications proposed by Council)	1.0 percent

Conditions authorised by this Plan are subject to any direction given by the Minister under Section 94E (s94E) of the Act.

Funds collected under this Plan will be allocated toward the delivery of \$2 million worth of projects in the 2015/16 financial year. A full list of projects to be funded has been included in Part 5 of this Plan.

Any relevant Ministerial direction under s94E of the Act which has been made and is in force from time to time is included in the Attachment to this Plan. Refer to Appendix A of this Plan for the content of relevant Ministerial directions.

PART 4: Expected Development and Demand for Public Facilities

Residential population growth and employment generation from new industrial, commercial and retail developments will increase demand on Council's existing public amenities and facilities. To ensure that the community's enjoyment of public facilities is not diminished by population growth Council must augment its existing facilities, and where possible, provide new facilities to accommodate the additional demand.

Population Growth in Warringah

Warringah has experienced a steady growth rate of over 1% between 2006 and 2011 (the most recent Census years). This growth rate has placed a continuous demand on Warringah Council to provide infrastructure for the growing population. The growth can be summarised as:

- Estimated Residential Population (ERP) of Warringah increased from 139,163 to 147,611, representing a population increase of 8,448 or 6.1%. This equates to an annual growth rate of approximately 1.2% representing a significant increase in residential population growth
- Population growth within Warringah is closely aligned to the Sydney Statistical Division which experienced a population increase of approximately 6.6% or 1.3% per year
- Approximately 2200 additional dwellings have been approved. This equates to an average of 440 new dwellings per annum.

This growth is forecast to continue into the future. Between 2011 and 2021, it is estimated that the following changes will take place:

- Population increase of 11,324 or 0.7% annual growth rate.
- Additional 4550 dwellings or 455 per annum.

Beyond 2021, a steady population growth rate of approximately 1100 people per year is expected. Combined with a falling household size (less people living in each dwelling), it is expected that more dwellings will be required to keep up with demand. This will likely increase density in established centres.

Metropolitan Strategies

Growth strategy across the Sydney Metropolitan Area is developed by the NSW Department of Planning and Infrastructure. Over the past decade, three metropolitan strategies have been produced by the Department. These strategies have outlined growth expectations across the Metropolitan Area, providing growth guidelines for councils and the public. The strategies have demonstrated an expectation that dwelling growth will exceed that of the natural growth that is forecasted to take place.

The *Sydney Metropolitan Strategy* (2005) set the North East Subregion (comprising the Warringah, Pittwater and Manly local government areas) a target of 17,300 new dwellings from 2006 to 2031.

The more localised component of that strategy, the draft *North East Subregional Strategy* (2007), set Warringah's share of this dwelling target at 10,300 new dwellings, or 412 per year.

The *Metropolitan Plan for Sydney to 2036* (2010) is the five year update to the *Sydney Metropolitan Strategy*. This document updated all subregional housing and employment targets within the Sydney Region. The housing target for the North East Subregion was increased to 29,000 between 2006 and 2036. The plan does not apportion dwelling targets to local government areas within the subregion.

A Plan For Growing Sydney (2014) was released in December 2014. This strategy classified Warringah as part of the North subregion. This has been expanded to include Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah and Willoughby. The strategy does not apportion dwelling or employment targets to the subregion. These are expected to be included in a sub-regional plans released during the 2015/16 financial year.

While the 2014 strategy has not apportioned dwellings at the LGA level, it has shown an expectation across the Sydney Metropolitan Area that more dwellings will be delivered. Assuming the same apportionment rate from the 2007 Subregional Strategy is applied to the 2014 strategy, Warringah will be expected to deliver approximately 10,700 dwellings between 2014 and 2031. This is an increase to 630 per year, compared to the 412 target of the 2005 strategy.

Employment Growth

Non-residential development will create demand for the provision or upgrading of roads and traffic management facilities and civic improvements. Understanding the anticipated employment growth and location of growth centres enables Council to target those improvements effectively.

Warringah Employment Study 2013 was prepared to identify the economic, social and environmental trends which will influence employment growth within the region. It identifies key strategies and principles to better enable the region to accommodate employment growth to 2031.

The employment study has identified that within Warringah, demand for employment in the retail, commercial and industrial sectors will continue to grow in the future. Demand for floorspace within these sectors is forecast to increase by 446,585 square metres and between 2011 and 2036, along with 12,553 jobs. This growth is anticipated to be focused in the main employment lands within Warringah of located in Dee Why, Frenchs Forest, Brookvale, Forestville, and Austlink Business Park.

Rationale for Development Levy

As an established LGA, Warringah does not currently have any identified land release areas. State Government and Council strategic land use policies place significant restrictions on additional

subdivision and development on the fringes of Warringah's urban areas and focuses development within existing centres. As such, the emphasis of development contribution expenditure in Warringah will increasingly take the form of upgrades and augmentations to existing community facilities, as opposed to new land dedications and facilities required to service 'new' residential areas.

There are a number of factors that have traditionally influenced the ability of Council to deliver community facilities in a manner that matches demand using a traditional s94 approach:

- (1) Difficulties defining and maintaining the nexus between who contributes toward the cost of developing community facilities and who the users of the facilities are. The ability to apportion the costs of new community facilities strictly to new populations is increasingly difficult in highly urbanised local government areas such as Warringah. The users of community facilities are increasingly willing to travel to any part of Warringah to access community services, placing an undue burden on specific development to contribute toward their provision
- (2) Low apportionments under a traditional s94 model. The proportion of works funded by development contributions can only match the proportion of new population into this area. Accordingly, new populations moving into established urban areas cannot be expected to fund the entire cost of these upgraded or augmented facilities that are enjoyed by the entire community. Employing this approach again through a new Development Contributions Plan will not enable Council to collect the funds required to deliver community facilities at a rate that matches demand

These problems are overcome through the adoption of a levy which is based on a fixed percentage of the total cost of development. Funds collected under this system are pooled into a single reserve and are used to fund the provision of new public facilities and services in locations where Council has identified demand, through the ongoing residential and non-residential growth. This demand has led to the inclusion of specific projects within the Schedule of Works in the Plan.

With the majority of development types proposed in Warringah requiring Development Application Consent, including some of the most minor forms of residential development, there is justification for the application of a 'development value threshold' which would exempt these smaller developments from the fee being levied. The intent of a 'contribution free' threshold is to relieve smaller developments with negligible impact on the demand for additional community facilities from having to pay the levy. The contributions free threshold is set at \$100,000, in-line with Clause 25K of the Regulation.

PART 5: Section 94A Schedule of Works

This Part lists the works to be funded by contributions collected under the provisions of this plan. It has been compiled based upon Council's Community Strategic Plan, Plans of Management and an analysis of asset requirements throughout Warringah. The works are to be completed using funds collected under this Plan. Projects within this Schedule have been assessed by Council's as being a high priority on the basis of community need, safety and risk to Council.

This Schedule of Works is to be progressively updated to reflect the completion of the listed works and to add new projects as the Schedule nears completion. Where applicable, the location of these projects has been mapped at Appendix D.

Project No	Name	Suburb	2015/2016 S.94A Allocation	Estimated Total Project Cost	Estimated Completion
BN3304	Narrabeen Lagoon Multi Use Trail	Narrabeen	\$279,000	\$3,500,000	2015/16
BN5845	St Matthews Farm Reserve, Cromer – Skate Park Design	Cromer	\$47,000	\$47,000	2015/16
BN5881	Sports Capital Assistance Program	Multiple	\$233,000	\$433,000	2016/17
BN6022	Footpath Program – New Works	Multiple	\$450,000	\$800,000	Ongoing
BN6027	Bike Plan Implementation Program	Multiple	\$100,000	\$200,000	Ongoing
BN6039	Berry Reserve and Jamieson Park Upgrades	Narrabeen	\$120,000	\$240,000	2016/17
BN6061	Dee Why Town Centre – Design of New Traffic Facilities and Streetscape	Dee Why	\$359,678	\$690,000	2015/16
BN6225	Traffic Works Program	Multiple	\$200,000	\$400,000	Ongoing
BN6433	Birdwood Park, Narrabeen – New Works	Narrabeen	\$100,000	\$200,000	2016/17
BN6548	Griffith Park, Collaroy – New Irrigation Works	Narrabeen	\$50,000	\$50,000	2015/16
BN6553	New Library Technology	Multiple	\$65,000	\$65,000	2015/16
BN6031	King Street, Manly Vale – Traffic Calming*	Traffic	\$0	\$59,000*	TBD

Notes: Estimated Total Project Costs column includes 94A and other sources of funding.
* Currently on hold, pending approval for commencement of works.

PART 6: Section 94 Schedule of Works

This Part lists the works to be funded by existing Section 94 contributions collected under the Section 94 Development Contributions Plan 2001.

The projects listed within the Section 94 Schedule of Works, and the allocation of funds for these projects, reflect the intent under which the funds were originally collected.

The location of each project has been mapped in Appendix E. However please note that these maps are only indicative and are subject to more specific detailed plans.

Project No	Name	Suburb	2015/2016 S.94 Allocation	Reserve	Estimated Total Project Cost	Estimated Completion
BN5800	Dee Why Town Centre Parking and Community Facility	Dee Why	\$2,155,793	E10 – Dee Why Parking E5 – Community Centre Dee Why	\$25,000,000	2015/16
BN5856	Walter Gors Reserve New Works and Dee Why Parade Shared Walk	Dee Why	\$1,582,252	E7 – Open Space for Dee Why Town Centre and Surrounds	\$7,000,000	2016/17
BN5908	Pittwater Road, Dee Why – Widening and Signal Adjustment Works	Dee Why	\$447,975	E7 – Open Space for Dee Why Town Centre and Surrounds	\$800,000	2016/17
BN6061	Dee Why Town Centre – Design of New Traffic Facilities and Streetscape	Dee Why	\$380,000	E7 – Open Space for Dee Why Town Centre and Surrounds E8 – Road and Traffic Management	\$690,000	2015/16
BN6062	St David's Reserve, Dee Why – Bus Interchange and Reserve Works	Dee Why	\$0	E7 – Open Space for Dee Why Town Centre and Surrounds	\$1,020,000	2017/18
BN6429	Dee Why Town Centre – Streetscape Improvement Works	Dee Why	\$0	E7 – Open Space for Dee Why Town Centre and Surrounds E8 – Road and Traffic Management	\$12,100,000	2017/18
BN6430	Dee Why Town Centre – Construction of New Traffic Facilities	Dee Why	\$0	E7 – Open Space for Dee Why Town Centre and Surrounds E8 – Road and Traffic Management	\$430,000	2017/18

Notes: Estimated Total Project Costs column includes 94 and other sources of funding.

PART 7: References

This Plan has been compiled with reference to the guidelines provided from the following key documents:

- *Department of Infrastructure Planning and Natural Resources, Development Contributions – Practice Note, 2005*
- *Department of Planning, Draft Local Development Contribution Guideline, November 2009*
- *Department of Planning, Metropolitan Plan for Sydney, 2036*
- *Department of Planning, Metropolitan Strategy for Sydney, 'City of Cities – A Plan for Sydney's Future' 2005*
- *Department of Planning, Draft North East Subregional Strategy 2007*
- *Department of Planning and Infrastructure, Draft Metropolitan Strategy for Sydney to 2031, March 2013*
- *ID Consulting, Warringah Council Community Profile, 2013*
- *SHOROC Regional Employment Study, March 2008*
- *Warringah Council, Warringah Local Environmental Plan 2011*
- *Warringah Council, Draft Warringah Community Strategic Plan 2013*
- *Warringah Council, Warringah Council Section 94 Development Contributions Plan 2001*
- *Warringah Council, Warringah Section 94A Development Contributions Plan 2014*
- *Warringah Council, Warringah Local Environmental Plan 2000*
- *Warringah Bike Plan 2010*
- *Warringah Pedestrian Access and Mobility Plan 2011*
- *Warringah Playground Strategy 2007*

Dictionary

In this Plan, unless the context or subject matter otherwise indicates or requires the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979*.

Council means Warringah Council.

Regulation means the *Environmental Planning and Assessment Regulations 2000*.

Total development cost means the cumulative cost of all factors listed in clause 25J of the Regulations and clause 6 of this Plan.

Public purpose includes (without limitation) any of the following:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services,
- (b) the provision of (or the recoupment of the cost of providing) affordable housing,
- (c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,
- (d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,
- (e) the monitoring of the planning impacts of development,
- (f) the conservation or enhancement of the natural environment.

APPENDIX A: Applicable Direction under section 94E of the Act

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Revocation of Direction in force under section 94E And Direction under section 94E

I, the Minister for Planning:

1. Pursuant to sections 4(8) and 94E of the *Environmental Planning and Assessment Act 1979* ("the Act"), revoke the direction in force under section 94E of the Act made by Craig Knowles, the former Minister for Infrastructure and Planning, on 6 November 2000, in relation to development applications to carry out development under *State Environmental Planning Policy No 5 – Housing for Older People or People with a Disability* ("SEPP 5"). This revocation applies to development applications made on or after commencement of *State Environmental Planning Policy (Seniors Living) 2004 (Amendment No 2)* ("the SEPP").
2. Pursuant to section 94E of the Act, direct consent authorities that there are no public amenities or public services in relation to which a condition under Division 6 of Part 4 of the Act may be imposed on the class of development consents identified in Schedule A granted to a social housing provider as defined in the SEPP. This direction applies to development applications made by such a social housing provider on or after commencement of the SEPP.

Schedule A

Development consents to carry out development for the purposes of any form of seniors housing as defined in *State Environmental Planning Policy (Seniors Living) 2004*.


Minister for Planning

Sydney, 11th Sep 2007.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DIRECTION UNDER SECTION 94E

I, the Minister for Planning, under section 94E of the *Environmental Planning and Assessment Act 1979* ("the Act"), direct consent authorities that:

(1) The maximum percentage of the levy for development under section 94A of the Act, having a proposed cost within the range specified in the Table to Schedule A, is to be calculated in accordance with that Table.

(2) Despite subclause (1), a levy under section 94A of the Act cannot be imposed on development:

- a) for the purpose of disabled access,
- b) for the sole purpose of affordable housing,
- c) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
- d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or
- e) other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out.

In this direction words and expressions used have the same meaning as they have in the Act. The term "item" and "environmental heritage" have the same meaning as in the *Heritage Act 1977*.

This direction does not apply to development applications and applications for complying development certificates finally determined before 1 December 2006.



FRANK SARTOR, M.P.,
Minister for Planning,
Sydney.
[Dated: 10 November 2006]

SCHEDULE A

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

APPENDIX B: Procedure for determination of an S94A levy

A cost summary report is required to be submitted to allow council to determine the contribution that will be required.

To avoid doubt, section 25J of the *Environmental Planning and Assessment Act 1979* sets out the items that are included in the estimation of the construction costs by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:

- if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,
- if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,
- if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.

The items and components of the following form should be used as guide in determining the total cost of a development, for the purpose of determining the s94A levy that applies.

APPENDIX C: Sample Cost Summary Report

Cost Summary Report

DEVELOPMENT APPLICATION No. REFERENCE
CONSTRUCTION CERTIFICATE No. DATE

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

ANALYSIS OF DEVELOPMENT COSTS:

Demolition and alterations	\$	Hydraulic services	\$
Structure	\$	Mechanical services	\$
External walls, windows and doors	\$	Fire services	\$
Internal walls, screens and doors	\$	Lift services	\$
Wall finishes	\$	External works	\$
Floor finishes	\$	External services	\$
Ceiling finishes	\$	Other related work	\$
Fittings and equipment	\$	Sub-total	\$

Sub-total above carried forward	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant Fees	\$
Other related development costs	\$
Sub-total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

- inspected the plans the subject of the application for Development Application Consent or construction certificate.
- calculated the development costs in accordance with the definition of development costs in the S94A Development Contributions Plan of Warringah Council at current prices.
- included GST in the calculation of development cost.

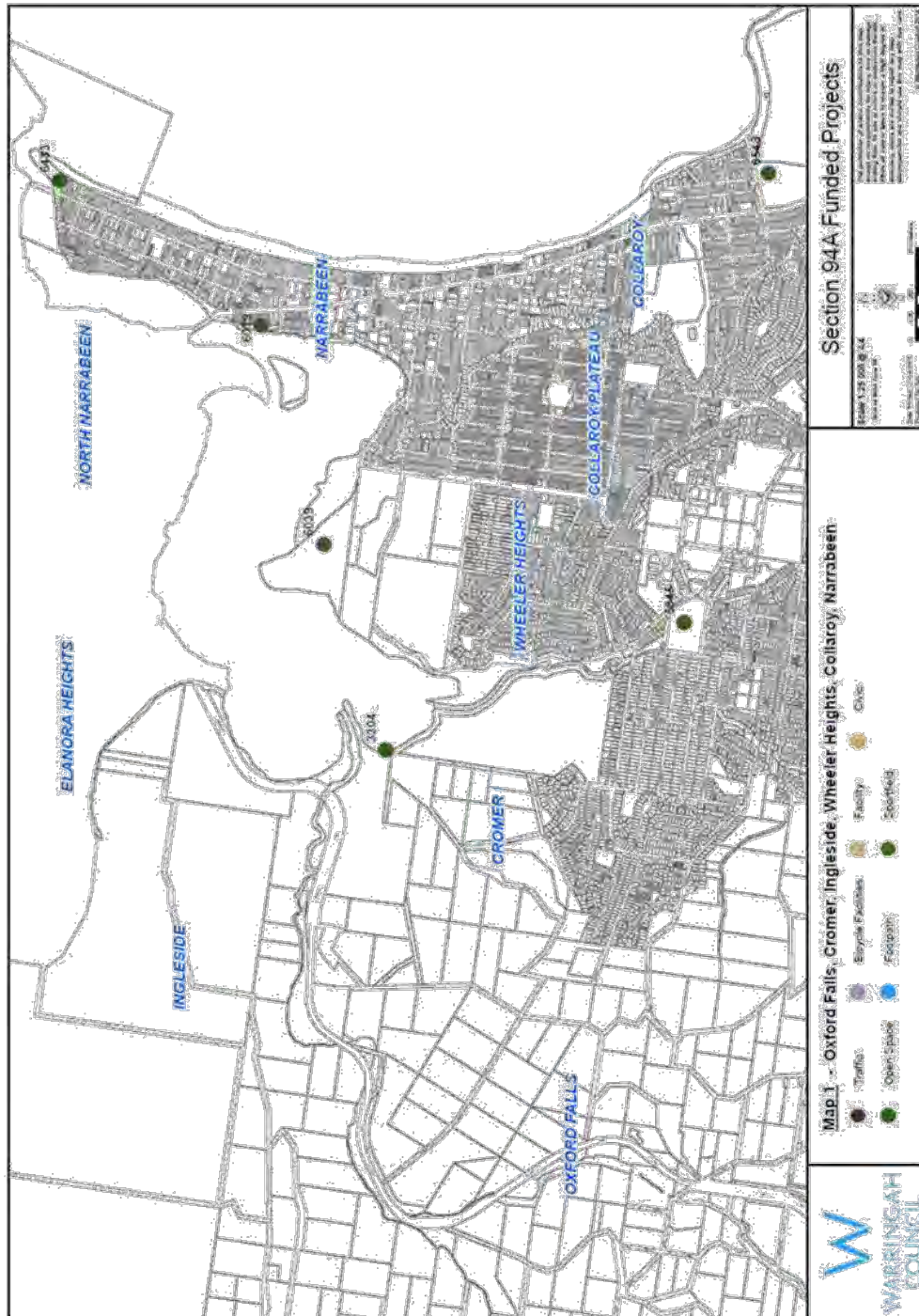
Signed:

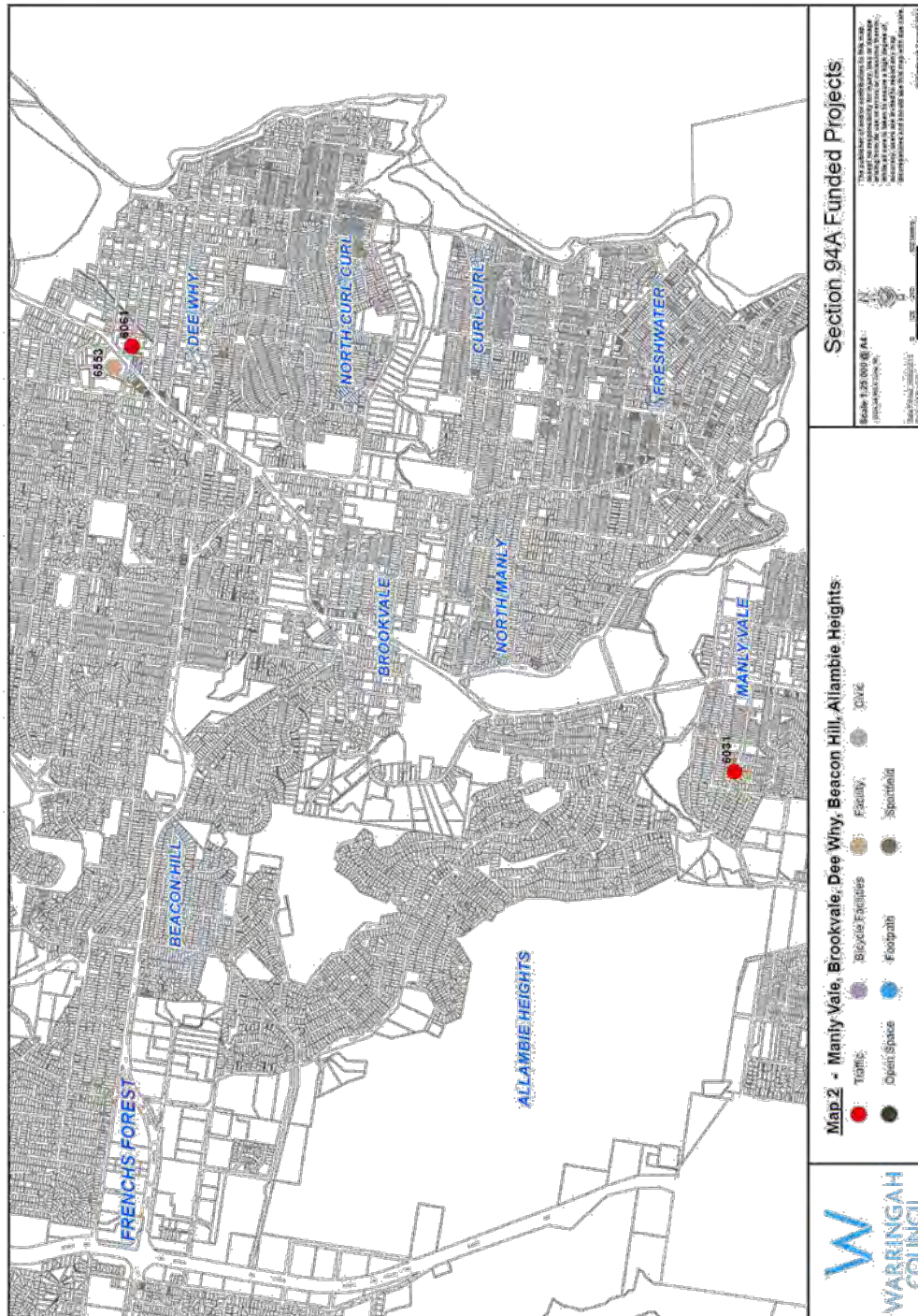
Name:

Position and Qualifications:

Date:

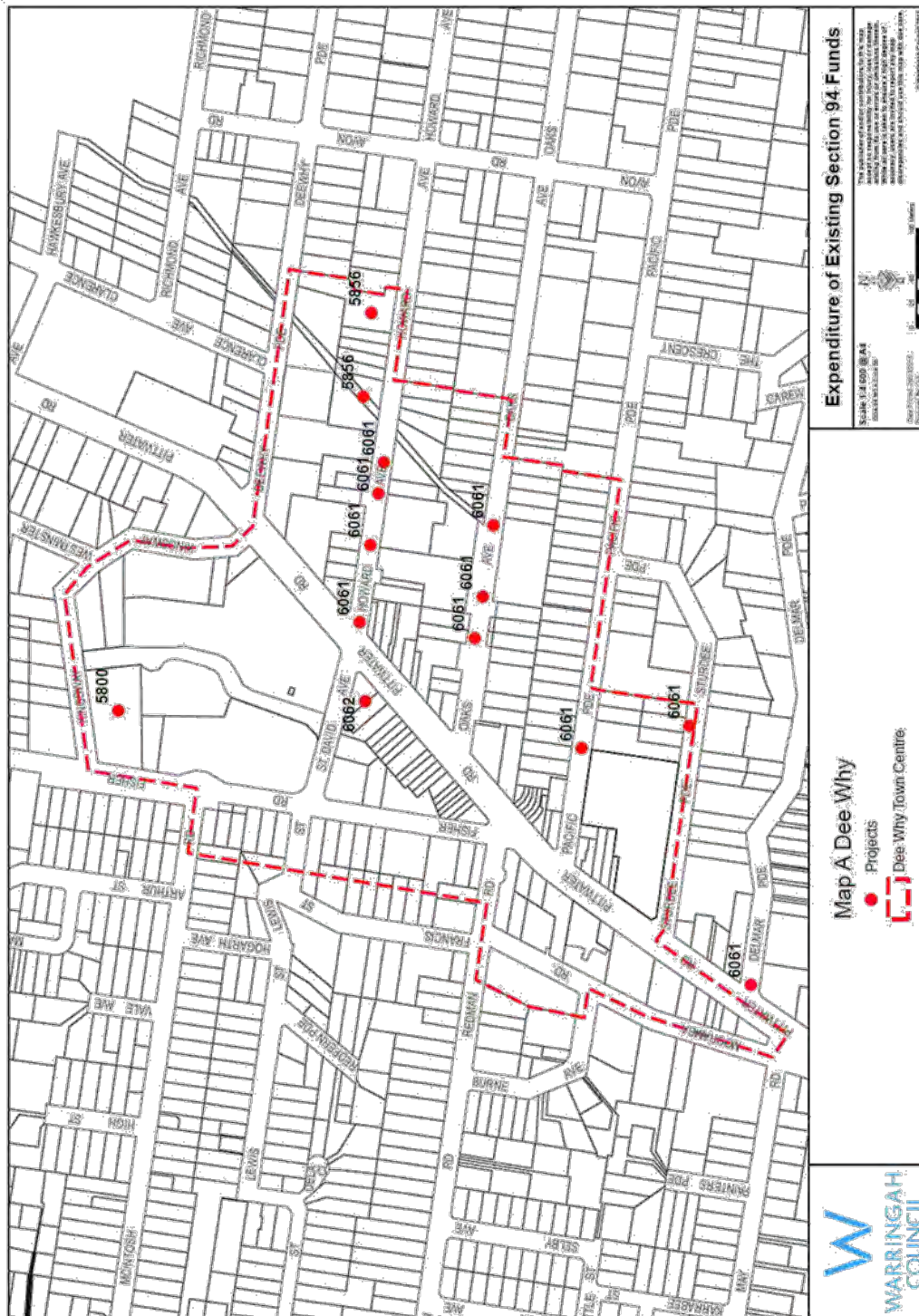
APPENDIX D: Location of Section 94A Funded Work





Note: Project BN5881, BN6022, BN6027 and BN6225 have not been identified on the maps. These projects are to be delivered in multiple locations. See relevant program for project detail.

APPENDIX E: Location of Section 94 Funded Work





GUIDE FOR BUSH FIRE PRONE LAND MAPPING

Document control

Release history

Version	Date	Author	Summary of changes
V4C	26/09/2014	Jason Hulston	

Reviewed by

Name	Title	Date
David Boverman	Manager Planning & Development	26/09/2014

Approved by

Name	Title	Date
Corey Shackleton	Group Manager Community Resilience	26/09/2014

Related documents

Document name	Version

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The NSW Rural Fire Service reserves the right to review this guideline. The information contained in this document is subject to change from time to time.

Contents

1	Definitions.....	5
2	Introduction.....	6
3	Legislation	6
4	Monitoring and Review	6
5	Bush Fire Prone Mapping Process.....	7
5.1	Process for amendments and certification of a Bush Fire Prone Land Map	7
5.2	Process for amendments and certification of a Bush Fire Prone Land Map for Urban Release Areas.....	8
5.3	Map for Commissioner's approval	8
6	Steps to prepare a Bush Fire Prone Land Map	9
6.1	Step 1 - Identification of bush fire prone vegetation	9
6.2	Step 2 - Preparation of Bush Fire Prone Land Map (BFPLM)	10
6.3	Data custodianship, copyright and distribution.....	11
6.4	Depiction	13
6.5	Data Quality	14
6.6	Format.....	14
6.7	Metadata Requirements	14
6.8	File Naming Conventions	15
6.9	Provision of Source Data.....	15
6.10	Delivery Mechanisms for Supply of bush fire prone vegetation data to the NSW RFS.....	15
7	References	15
8	Appendices.....	16
	Appendix 1 – Bush Fire Prone Depiction Maps	17
	Appendix 2 – Metadata Requirements.....	18
	Appendix 3 – URA Application Form	21

1 Definitions

Agricultural land - A piece of land used for agricultural purposes including, but not limited to, dairying, pig-farming, poultry farming, viticulture, orchards, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind, or any combination of these, but excluding forestry and plantations (e.g. tea tree).

Bush fire hazard - The potential for land to carry a bush fire, utilising materials or fuels that can be ignited.

Bush fire prone area - An area of land that can support a bush fire or is likely to be subject to bush fire attack, as designated on a bush fire prone land map

Bush fire prone land map - A map prepared in accordance with this guide and certified by the Commissioner of the NSW RFS under section 146(2) of the *Environmental Planning and Assessment Act 1979*.

Council/s - The council of a local government area.

Designated bush fire prone land - in relation to an area, means land recorded for the time being as bush fire prone land on a bush fire prone land map for the area.

Digital data - The electronic datasets comprising the certified bush fire prone land polygons and the related metadata (in MapInfo TAB or ESRI Shapefile format).

Grasslands - Grassed areas capable of sustaining a fire. Under *Australian Standard 3959 Construction of buildings in bushfire-prone areas*, identified as low open shrubland, hummock grassland, closed tussock grassland, tussock grassland, open tussock, sparse open tussock, dense sown pasture, sown pasture, open herbfield, and sparse open herb field.

Grass, whether exotic or native, which is regularly maintained at or below 10cm height, (includes maintained lawns, golf courses, maintained public reserves, parklands, nature strips and commercial nurseries) are regarded as managed land.

Managed Land - Managed land is land that has vegetation removed or maintained to limit the spread and impact of bush fire. It may include existing developed land (i.e. residential, commercial or industrial), roads, golf course fairways, playgrounds or sports fields, vineyards, orchards, cultivated ornamental gardens and commercial nurseries. Most common will be gardens and lawns within curtilage of buildings. These areas will be managed to meet the requirements of an Asset Protection Zone.

Remnant Vegetation - For purposes of this guide, remnant vegetation is vegetation that is considered to be of a lower bush fire risk due to the size of the parcel. This includes areas of vegetation greater than 1 hectare, but less than 2.5 hectares in size. Vegetation 1 hectare or less is not considered to be remnant vegetation.

Short Fire Run - Vegetation that is considered to be of a lower bush fire risk as the size and shape of the parcel limits the potential development of a bush fire. A short fire run will include parcels of vegetation of any length where the width does not exceed 100 metres.

Urban Release Area (URA) - land that is defined as being located within an urban release area by NSW Department of Planning & Environment.

2 Introduction

On 1 August 2002, the *Rural Fires and Environmental Assessment Legislation Amendment Act 2002* amended the *Rural Fires Act 1997* and the *Environmental Planning and Assessment Act 1979* to provide significant improvements in bush fire safety. This included a requirement for the preparation of a bush fire prone land map identifying vegetation within local government areas that has the potential to support a bush fire. The bush fire prone land map is the trigger for the consideration of bush fire protection measures for new development (*Planning for Bush Fire Protection* and Australian Standard 3959-2009 – *Construction of buildings in bush fire prone areas*).

On 1 March 2013, the *Environmental Planning and Assessment Act 1979* was amended allowing the NSW Rural Fire Service (NSW RFS) to update bush fire prone land maps for urban release areas in a streamlined fashion.

This guide provides the details for the mapping of bush fire prone land as required under section 146 of the *Environmental Planning and Assessment Act 1979*. It is to be used by the NSW RFS, councils, and those involved in the mapping of urban release areas.

3 Legislation

This section outlines the legislative context for the mapping of bush fire prone land and the assessment of Development Applications on such land.

Section 146 of the *Environmental Planning and Assessment Act 1979* requires councils, where a bush fire risk management plan applies, to record a bush fire prone land map after consulting with the Commissioner of the NSW RFS. The Commissioner will designate lands to be bush fire prone within an area and, when satisfied that the lands have been recorded on a map, certify the map as the Bush Fire Prone Land Map. Councils are required to make these maps available for public inspection.

Section 149 of the *Environmental Planning and Assessment Act 1979* requires that a council will, in the planning certificate, include advice on relevant matters affecting a parcel of land of which it may be aware. This includes bush fire prone land, as specified in Schedule 4 of *Environmental Planning and Assessment Regulation 2000*. The section 149 certificate is an important mechanism for councils to inform people living in or looking to purchase into a bush fire prone area, that bush fire is a consideration.

Section 79BA of the *Environmental Planning and Assessment Act 1979* requires that where development of bush fire prone land occurs, the consent authority must be satisfied that the development complies with *Planning for Bush Fire Protection 2006* or has consulted with the Commissioner of the NSW RFS.

Complying development is permitted on bush fire prone land for the lower risk bush fire attack levels (Australian Standard 3959 BAL levels 12.5, 19, and 29). Such development is required to meet development standards complying with *Planning for Bush Fire Protection 2006*.

Section 100B of the *Rural Fires Act 1997* requires the issue of a bush fire safety authority by the Commissioner of the NSW RFS for all residential subdivision or special fire protection purpose developments on bush fire prone land. A bush fire safety authority is issued where the Commissioner believes that the development complies with standards that provide the development with appropriate protection measures against bush fire.

4 Monitoring and Review

Council, having had its bush fire prone land certified by the Commissioner of the NSW RFS, should regularly monitor and review the information to ensure currency and reliability of data depicted.

Monitoring and review of the bush fire prone land should reflect required certification and approval standards within legislative timeframes (i.e. before the end of the period of every 5 years after the certification date of the map as outlined in section 146 of the *Environmental Planning and Assessment Act 1979*).

Notwithstanding, bush fire prone land maps may need to be reviewed and prepared on a more frequent basis depending on the extent of vegetation changes within the local government area (e.g. annually). In its review, council should consider any areas of expanding residential development leading to vegetation loss or areas of vegetation regrowth and consider factors such as data currency/accuracy/resolution/availability.

5 Bush Fire Prone Mapping Process

5.1 Process for amendments and certification of a Bush Fire Prone Land Map

For Urban Release Areas Section 5.2 of this document will apply.

The following is the process for re-certification of bush fire prone land maps for council. An amendment is treated as a re-certification.

- a. Council should initially contact their local NSW RFS District (or relevant NSW RFS Customer Service Centre in non rural fire districts) regarding the review of the map to obtain requirements for re-certifying the map.
- b. NSW RFS HQ should be contacted to request a digital copy of the BFPLM plus 1 km buffer into adjoining Council areas (allowing for consistency along boundaries).
- c. Council to review bush fire prone vegetation and update.
- d. Council to provide bush fire prone land map to relevant District (or relevant NSW RFS Customer Service Centre in non rural fire districts).
- e. Council to forward the data file to NSW RFS HQ for processing. This shall be provided as digital data (MapInfo Tab File or ESRI Shape File, with the projection defined). Council shall include with the digital dataset a letter from council requesting the Commissioner certify council's map and detail the proposed changes. Council is also to include an accompanying letter from the manager of the local NSW RFS District responsible for that council (or relevant NSW RFS Customer Service Centre in non rural fire districts), confirming the proposed amendments and its concurrence to them.
- f. Any contentious issues are to be resolved prior to the recertification and printing of final bush fire prone land maps. Where anomalies or issues are identified during the recertification process, the NSW RFS will contact the local council and any amendments to the map are the responsibility of the council;
- g. The NSW RFS will commence the recertification process once amendments have been agreed to by NSW RFS District staff (or relevant NSW RFS Customer Service Centre in non rural fire districts) and council, and all information is complete and accepted as being accurate.
- h. The NSW RFS will endeavour to provide a hard copy of the Bush Fire Prone Land Map certified by the Commissioner and accompanying digital data to the council within 28 days of processing the final amendments.

All communication regarding bush fire prone land is to be provided to the NSW RFS by mail or email.

5.2 Process for amendments and certification of a Bush Fire Prone Land Map for Urban Release Areas

- a. The following is the process for re-certification of bush fire prone land maps for those developing urban release. Any proposed amendment to a bush fire prone land map is to be regarded as requiring re-certification. A draft map does not constitute a certified map.
- b. This document is to be used in conjunction with the URA User Guide. The User Guide and other supplementary documentation to assist in the application process will be available on the NSW RFS website.
- c. Before an applicant decides to go through this process, the applicant must confirm the site is located within a defined Urban Release Area. Please check the NSW Department of Planning & Environment for details.
- d. The applicant is to request a bush fire prone land map dataset for the subject area from NSW RFS HQ.
- e. The NSW RFS will electronically provide this in the form of a shape file of the existing bush fire prone vegetation plus buffer and surrounding 200 metres of site.
- f. Applicant to review dataset and update in accordance with this guide.
- g. The applicant is to submit an application form (Appendix 3) with an amended data set to the NSW RFS Planning and Development at Head Office for processing. This shall be provided as digital data (MapInfo Tab File or ESRI Shape File, with the projection defined).
- h. NSW RFS HQ advises relevant council and advises application has been received for an amendment to the Bush Fire Prone Land Map. NSW RFS Planning and Development forwards proposed changes to relevant NSW RFS Customer Service Centre for their review and concurrence.
- i. The NSW RFS Customer Service Centre will liaise with the relevant NSW RFS District where necessary, and then provide written confirmation of the proposed amendments and its concurrence to NSW RFS HQ.
- j. Any contentious issues are to be resolved prior to the recertification and printing. Where anomalies or issues are identified during the recertification process, the NSW RFS will liaise with the applicant. If issues cannot be resolved and the NSW RFS does not support the amendments, the applicant will be contacted to discuss the disparity with NSW RFS. NSW RFS reserves the right to be the absolute arbiter and will advise applicants in writing of determinations;
- k. The NSW RFS will commence the recertification process once amendments have been agreed to and all information is complete and accepted as being in accordance with the guidelines.
- l. Once certified the NSW RFS will provide a hard copy of the BFPLM and accompanying digital data to the council and a soft copy to the proponent as soon as possible after processing the amendments.
- m. All communication regarding bush fire prone land is to be delivered to the NSW RFS by mail or email. Refer to NSW RFS contacts in Section 6.10 of this document.

5.3 Map for Commissioner's approval

The NSW RFS will print the final Bush Fire Prone Land Map using the standard NSW RFS template for approval by the Commissioner.

Any contentious issues are to be resolved prior to the recertification and printing of final bush fire prone land maps.

The NSW RFS will produce 3 hard copies of the certified bush fire prone land map (at A0 size for the LGA) to be filed and distributed as follows:

- > Copy 1 – for NSW RFS, Planning and Development section;
- > Copy 2 – for NSW RFS, District Manager (or Fire and Rescue NSW);
- > Copy 3 – for Council records.

The NSW RFS will also distribute a digital version of the map back to council with associated metadata.

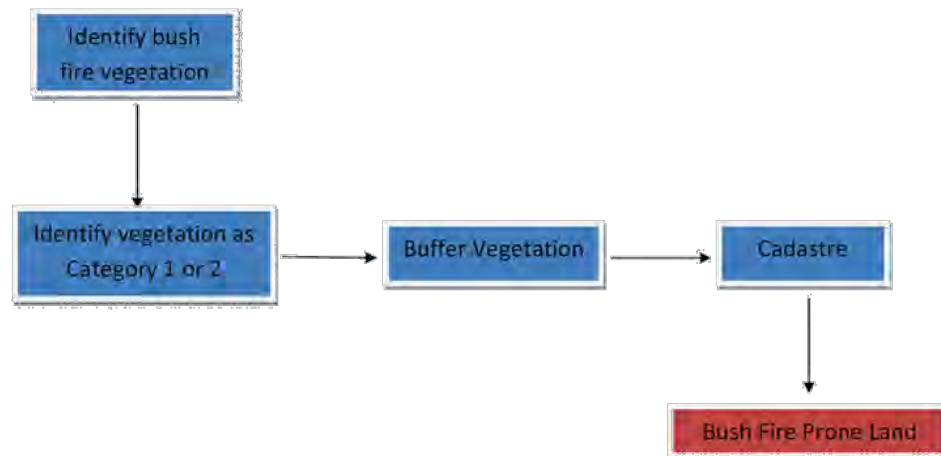
The NSW RFS may also display the bush fire prone land data and maps on the NSW RFS website.

The Commissioner shall certify the BFPLM under section 146 of the *Environmental Planning and Assessment Act 1979* upon advice of the Manager, Planning and Development.

6 Steps to prepare a Bush Fire Prone Land Map

Bush Fire Prone Land Maps are required to be reviewed at least every 5 years. When reviewing a map it should be based on the most up to date aerial photography, or Spot Satellite imagery and where necessary field inspection to ensure accuracy.

The methodology for preparing a bush fire prone mapping products is outlined in figure below and detailed in sections 6.1- 6.4.



6.1 Step 1 - Identification of bush fire prone vegetation

RESPONSIBILITY: Council / Applicant in URA process

CUSTODIAN: Council DATA BROKER: Council

This section defines the methodology and criteria for determining what is categorised as bush fire prone vegetation. Council may undertake their own vegetation mapping studies, or source vegetation information from Local Vegetation Studies, or utilise satellite or air photography. State government agencies such as National Park and Wildlife Services and the Office of Environment and Heritage have also conducted vegetation mapping. Care must be taken when sourcing vegetation information to ensure it is fit for purpose. When undertaking mapping it should be taken into account:

- > vegetation regrowth and clearing,
- > urban development, and
- > boundary alignment with adjoining councils.
- > For URA's, land that has been rezoned as environmental protection or areas where a riparian corridor, nature reserve or similar is proposed and management is not guaranteed should be mapped as bush fire prone vegetation. This is to be applied even if the area has not been fully established or the vegetation in its current form is in its infancy.

The methodology for categorising vegetation is as follows:

1. Identify and determine vegetation types for all land within the local government area (both private and public tenure), using *Planning for Bush Fire Protection*,

Vegetation is to be classified into the following categories:

- > Vegetation Category 1
 - > Areas of forest, woodlands, heaths (tall and short), forested wetlands and timber plantations.
 - > Remnant and Short Fire Run vegetation within 30 metres of each other where the combined area is greater than 2.5 hectares.
- > Vegetation Category 2
 - > Grasslands, freshwater wetlands, semi-arid woodlands, arid shrublands and rainforests.
 - > Remnant vegetation and short fire runs greater than 100 metres lateral separation from Category 1 vegetation and 30 metres from other Category 2 vegetation.

2. Vegetation defined below is excluded from being mapped as bush fire prone

- i. Single areas of vegetation less than 1 hectare in area and greater than 100 metres separation from other areas of Category 1 or Category 2 vegetation;
- ii. Multiple areas of vegetation less than 0.25 hectares in area and not within 30 metres of each other;
- iii. Strips of vegetation less than 20 metres in width, regardless of length and not within 20 metres of other areas of Category 1 or Category 2 vegetation;
- iv. Areas of "Managed grassland" including grassland on, but not limited to, grazing land, recreational areas, commercial/industrial land, residential land, airports/airstrips, maintained public reserves and parklands, commercial nurseries and the like;
- v. Areas of managed gardens and lawns within curtilage of buildings;
- vi. Non-vegetated areas, including waterways, roads, footpaths, buildings and rocky outcrops.
- vii. Managed botanical gardens;
- viii. agricultural lands used for annual and/or perennial cropping, orchard, market gardens, nurseries and the likes are excluded;
- ix. Mangroves.

IMPORTANT: Throughout the bush fire prone land mapping process the NSW RFS will work with councils and other relevant stakeholders to ensure suitable categorisation of bush fire prone land. This is of particular importance for Short Fire Runs and Remnants.

NOTE: The bush fire prone vegetation dataset must exclude any vegetation identified above.

At the conclusion of this part of the process there will be a spatial dataset named "bush fire vegetation".

6.2 Step 2 - Preparation of Bush Fire Prone Land Map (BFPLM)

COPYRIGHT: NSW Rural Fire Service

CUSTODIAN: Council DATA BROKER: Council / NSW Rural Fire Service

The BFPLM consists of buffered vegetation (produced in Step 1).

Bush Fire Prone Vegetation Buffer

This section defines the criteria for determining the bush fire prone vegetation buffer.

Once areas of vegetation have been defined and appropriate bush fire vegetation categories applied, it is necessary to apply the buffering criteria.

The method for the determination of bush fire vegetation buffering is as follows: -

- > Bush Fire Prone Vegetation Category 1 – apply a 100 metre external buffer to each vegetation polygon.
- > Bush Fire Prone Vegetation Category 2 – apply a 30 metre external buffer to each vegetation polygon.

At the conclusion of this process there will be one dataset; comprising of three parts; Vegetation Category 1, Vegetation Category 2, and Buffer. This will be used to define "bush fire prone land" and will be displayed on a map.

6.3 Data custodianship, copyright and distribution.

Given that bush fire prone land maps are published under control of the State of NSW (through the NSW RFS), copyright is owned by the NSW RFS pursuant to ss. 176 and 177 of the *Copyright Act 1979*.

The data custodianship of the various data sets that are produced by the BFPL mapping process follows the principles outlined in the ANZLIC Guidelines for Custodianship.

"A custodian of a fundamental dataset, or a component of that dataset, is an agency recognised by ANZLIC as having the responsibility to ensure that a fundamental dataset is collected and maintained according to specifications and priorities determined by consultation with the user community, and made available to the community under conditions and in a format conforms with standards and policies established for the Australian Spatial Data Infrastructure." (ANZLIC, 1998)

The Guidelines for Custodianship also set out the principles of; trusteeship, standard setting, maintenance of information, authoritative source, accountability, information collection and maintenance of access.

Brokerage of data refers to the exchange of data and information. A data broker in each organisation would arrange the provision and receipt of data and information in an organisation. When data is owned by one organisation (or custodian) permission must be given to a second organisation to broker the data or information, on the custodian's behalf. This arrangement is set out in a data license agreement.

Under these principles, responsibilities are split between Council and NSW RFS for the BFPL mapping digital datasets and components of the BFPL maps. These responsibilities are summarised below:

Dataset	Copyright	Data Broker
Bush Fire Prone Vegetation	NSW RFS	Council
Bush Fire Prone Land Map (Dataset)	NSW RFS	NSW RFS and Council (under data license)
Cadastre	LPMA, Council or Developer (three possible sources)	LPMA or Council
Bush Fire Prone Property Map This is a selection of the cadastre lots that intersect Bush Fire Prone Land Map. This map could be remade at various points in time as the cadastre changes.	Council or Developer	Council Provided as separate digital data sets (BFPLM and Cadastre) The certified printed maps or PDF versions can be supplied by both organisations. Maps may be made available on both organisations' websites as PDF documents or via web maps.

Council may use various sources to build the most current vegetation map including, air photography, satellite imagery and vegetation maps. The data sources and methods used to map the bush fire prone vegetation need to be set out in ANZLIC / ISO compliant metadata statement.

The NSW RFS responsibilities with regard to copyright and ownership are as follows:

Provide, manage and maintain a central repository for all bush fire prone land mapping data across NSW.

Maintain metadata for the state-wide bush fire prone land data held in the central repository.

Individual Council BFPLM metadata statements will be compiled in consultation with the council, for information on broker details, lineage, maintenance, and citation information.

Copyright and ownership of the end output digital BFPL data and certified hardcopy BFPLM, will reside with the NSW RFS. However, the NSW RFS will allow each council the authority to broker (release) their BFPLM data for whichever purpose that they deem to be appropriate.

The NSW RFS will manage data held within the central repository in accordance with the ANZLIC (see schedule 3) metadata guidelines and NSW metadata profile.

Where the NSW RFS produces bush fire prone land maps (printed or PDF) on behalf of councils, the NSW RFS will provide the bush fire prone land map dataset to councils. Councils are given permission to broker the printed map or PDF version.

Council responsibilities with regard to data brokerage are as follows:

Council will ensure bush fire prone land map (printed or PDF) outputs are in accordance with this Guide.

Council is to have the Bush Fire Prone Land Map available for public inspection during normal business hours pursuant to Section 146 of *Environmental Planning and Assessment Act 1979*.

Council is a broker of the Bush Fire Vegetation Map.

6.3.1 Published Map and Data Requirements

These data requirements are necessary to ensure a coordinated and standardised approach to generating and maintaining bush fire prone land maps. These requirements apply only to map outputs, not to structures or formats within local council database environments.

6.4 Depiction

It is important to maintain a consistent presentation to the maps. The depiction as stated here is not software specific; however it is generic and can be applied to all GIS software.

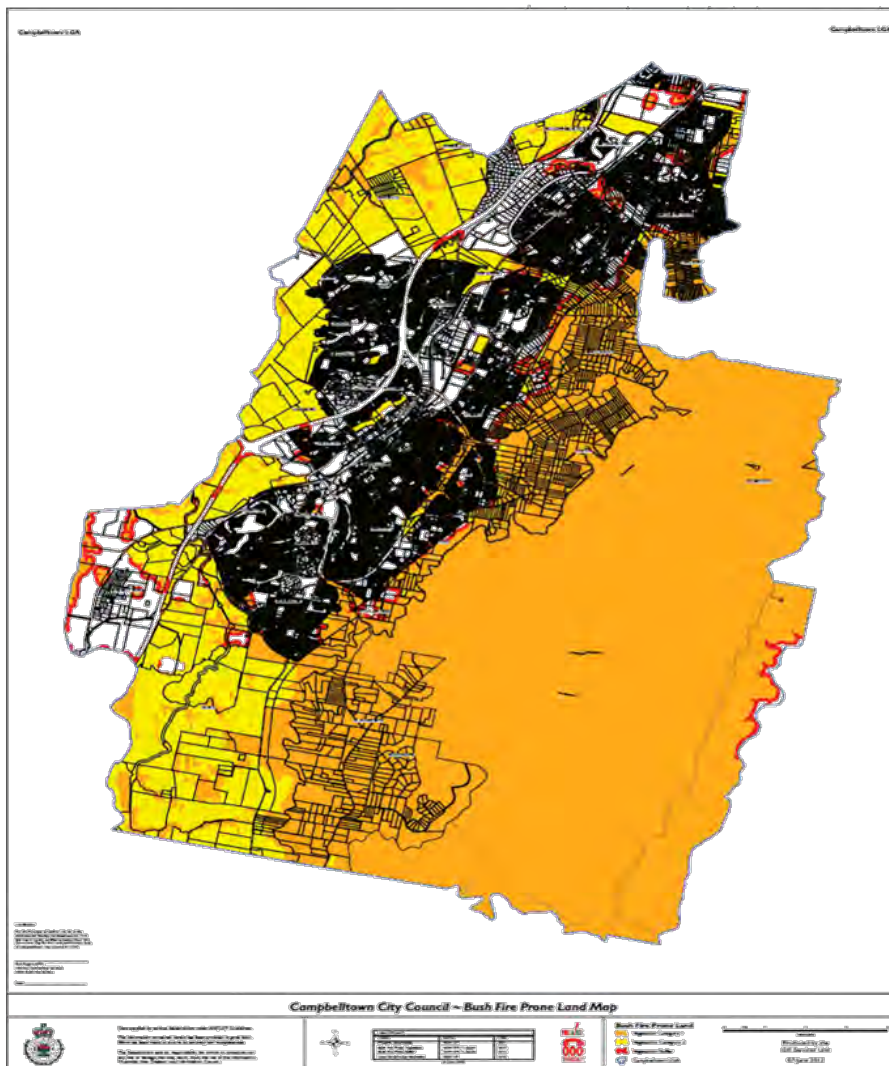
Vegetation Category 1 polygons shall be coloured solid orange (RGB 255/170/0) without a borderline.

Vegetation Category 2 polygons shall be coloured solid yellow (RGB 255/255/0) without a borderline.

Bush Fire Prone Vegetation Buffer polygon objects shall be coloured solid red (RGB 255/0/0) without a borderline.

Appendix 1 – Bush Fire Prone Depiction Maps provides examples of bush fire prone land map depictions.

An example of a completed bush fire prone land map is provided in Figure 1.



6.5 Data Quality

All data will be checked by the NSW RFS Headquarters for quality, including a visual check against the most recent air photos or satellite imagery available and against data quality checks.

Visual checks will check for presence and absence of the correct vegetation types, holes and gaps in the data along Council boundaries.

Quality checking will check both the completeness of the attributing, topological errors such as overlapping polygons, gaps between polygons and overlapping council boundaries.

6.6 Format

When councils send bush fire prone vegetation and property map layers to the NSW RFS the data must be in accordance with the following:

Bush fire prone vegetation map

- a. One data set is required, consisting of the Vegetation Categories;
- b. The Council cadastre layer may be provided otherwise the Service will use the latest LPMA cadastre as an overlay layer to the BFPLM.
- c. Data shall be in Arc Geodatabase (Personal or File), ArcView shape or MapInfo tab/mid/mif
- d. The data shall include all attached files that are required for display and storage of the data. E.g. MapInfo tab file includes files with the suffix: .tab/.dat/.id/.map/.ind. Arcview Shape includes files with the suffix: shp, dbf, shx, prj, xml,
See: http://webhelp.esri.com/arcgisdesktop/9.2/index.cfm?TopicName=Shapefile_file_extensions
- e. All data provided should utilise the datum GDA 94 and in Geographics, Lamberts or Transverse Mecator Projection (MGA54, 55 or 56). This must clearly be identified in the meta-data statement.
- f. The data must not be password protected or locked in any way that denies the RFS full and complete access to the data.
- g. The required attribute fields for the bush fire vegetation dataset are: -

Field name	Type	Size	Example
Vegetation_Category	Character	1	1, 2
BFP_DESC	Character	32	Vegetation Category 1
LGA_NAME	Character	50	Central_Darling
Date_Certified	Character	8	ddmmyyyy

Note: Date Certified Field will be filled in by the NSW RFS once the map has been certified by the Commissioner of the NSW RFS.

6.7 Metadata Requirements

Metadata must be provided by all organisations in the Word and/or XML format abiding by ISO19139 standard and ANZLIC / NSW profiles.

Metadata requirements for the dataset are as per the ANZLIC Core Metadata Requirements. Further definitions and descriptions regarding ANZLIC Metadata can be found in the complete ANZLIC Metadata Profile Version 1.1 and ANZLIC Metadata Profile Guidelines Version 1.0.

Organisations may use any of the metadata creation software available that conforms to the ISO19139 standard and ANZLIC/NSW Guidelines, such as the ANZLIC metlite tool to develop the metadata see www.anzlic.org.au. Example of the metadata statements are provided in Appendix 2.

6.8 File Naming Conventions

When sharing datasets between the organisations it is recommended that the following conventions are used.

Bush Fire Prone Vegetation dataset files are to use the following naming convention:

- > BFV_CouncilName_DateSaved
 - BFV – This designates Bush Fire Vegetation.
 - CouncilName – sentence case: if more than one word do not leave spaces (e.g. CentralDarling).
 - DateSaved – formatted as YYYYMMDD

Where produced, the bush fire prone land dataset is to use the following naming convention:

- > BFPL_CouncilName_DateSaved
 - BFPL – This designates bush fire prone land.
 - CouncilName – sentence case: if more than one word do not leave spaces.
 - DateSaved – formatted as YYYYMMDD

6.9 Provision of Source Data

If Council utilised a different procedures or source data to develop the vegetation map please provide documentation or data with submitted Bush Fire Vegetation dataset. Council will need to provide details such as; the data source, date, currency, projection. This should be recorded in the metadata statement with the BFV dataset.

For example; Vegetation interpretation was derived from Spot 5 Satellite data captured on August 2005.

6.10 Delivery Mechanisms for Supply of bush fire prone vegetation data to the NSW RFS

The mechanisms for delivering datasets to the NSW RFS are as follows;

6.10.1 Files Sent Electronically

Files sent electronically (i.e. Email) shall have all files saved into WinZip files and attached to the email. Each WinZip file will include all applicable files. The attached WinZip files shall be named in accordance with 6.7 – Naming Conventions.

Files sent electronically with a subject title of XX Council Bush Fire Prone Land Map Dataset to:

gis@rfs.nsw.gov.au

6.10.2 Files Sent by Post

Files may be sent to the NSW RFS via normal postal service. Files sent in this way shall be copied to a standard Compact Disk (CD). The CD shall be posted in a package that has been specifically designed for CD postage. CD's should be a closed session and written for standard CD reader access. The NSW RFS will not accept any other delivery mechanism without prior approval.

Files sent by post to: -

The Commissioner
NSW Rural Fire Service
Att Manager Planning and Development
Locked Bag 17
Granville NSW 2142

7 References

ANZLIC (1998) Guidelines for Custodianship, ANZLIC, ACT, Australia

ANZLIC (2007) ANZLIC Metadata Profile Guidelines, ANZLIC – the Spatial Information Council, ACT, Australia

NSW Government (2010) NSW Spatial Metadata Policy, CS2i, NSW

NSW Government (unpub) NSW Vector Metadata Guideline, CS2i, NSW

8 Appendices

The following appendices are provided for information to the reader and should not be used as the only source of detail. For detail and context please read the appropriate documentation as mentioned in the various sections of this Guide.

Additional reference material for vegetation classification can be found in *Planning for Bush fire Protection 2006* (or subsequent versions).

- Appendix 1** Depiction Examples
- Appendix 2** Metadata Requirements
- Appendix 3** URA Application Form

Appendix 1 – Bush Fire Prone Depiction Maps

All examples are shown including an aerial photograph to assist in interpretation.

- a. Example of Category 1 Vegetation and 100m Buffer



- b. Example of Category 2 Vegetation and 30m Buffer



Appendix 2 – Metadata Requirements

Council can be supplied the template XML document for use in their GIS. Council will need to update:

- > Title including the current year
- > Council Name
- > Date created
- > Source data and lineage information
- > Datum / Projection
- > Geographic extent
- > Positional Accuracy.
- > Metadata date

Example BFPL metadata statement

General Properties	
File Identifier	C90D1B79-251E-4AC8-AB67-D1223967F1D6
Hierarchy Level	dataset
Hierarchy Level Name	dataset
Standard Name	ANZLIC Metadata Profile: An Australian/New Zealand Profile of AS/NZS ISO 19115:2005, Geographic information - Metadata
Standard Version	1.1
Date Stamp	2010-07-08
Resource Title	<i>Council Name</i> LGA Bush Fire Prone Land YYYY Month
Alternate Resource Titles	Council Name Bush Fire Prone Land
Other Resource Details	none
Format Name	*.shp
Format Version	Unknown
Key Dates and Languages	
Date of creation	2010-01-08
Date of publication	2010-07
Date of revision	2010-06-01
Metadata Language	eng
Metadata Character Set	utf8
Dataset Languages	eng
Dataset Character Set	utf8
Abstract	LGA bushfire prone land dataset contains two sets of information. One is bushfire vegetation, and the other one is bushfire vegetation buffer. The definition of bushfire vegetation categories is as follows: Bush Fire Vegetation Category 1 and 2: Types of vegetations have been adapted from previous release. Buffer was created based on the bush fire vegetation, with the buffering distance being 100 metres for vegetation category 1 and 30 metres for category 2. Vegetation excluded from the bush fire vegetation categories are areas of vegetation less than one hectare and agricultural lands. Areas of national parks are identified as bush fire vegetation category 1. The legislative context of this dataset is as follows. On 1 August 2002, the Rural Fires and Environmental Assessment Legislation Amendment Act 2002 (Amendment Act) came into effect. The Act amends both the Environmental Planning and Assessment Act 1979 and the Rural Fires Act 1997 to ensure that people, property and the environment are more fully protected against the dangers that may arise from bush fires. The Amendment Act requires councils to map bush fire prone land within their local government area, which becomes the basis for planning for bush fire protection.
Purpose	To map bush fire prone land within the local government area, which becomes the basis for planning for bush fire protection
Metadata Contact Information	
Name of Individual	Name withheld
Organisation Name	NSW Rural Fire Service
Position Name	GIS Data Coordinator

Role	user
Voice	0287415555
Facsimile	0287415550
Email Address	gis@rfs.nsw.gov.au
Address	15 Carter Street Homebush Bay NSW 2127 Australia
Resource Contacts	
Name of Individual	Name withheld
Organisation Name	Council Name Council
Position Name	XXX
Role	pointOfContact
Voice	(02)XXXX XXXX
Facsimile	(02)XXXX XXXX
Email Address	????@Council Name.nsw.gov.au
Address	XXXX XXXX NSW XXXX Australia
Lineage Statement	How and when the original vegetation data set was captured is unknown. The final certified data set was supplied by the NSW Rural Fire Service in the form of a MapInfo TAB file. This data set has been created on the base of this original data set using Aerial Imagery supplied from SKM in 2009 and site studies when required. A buffer was created based on the bushfire vegetation, with the buffering distance being 100 metres for vegetation category 1 and 30 metres for category 2. The resulting draft dataset was then presented to staff within the relevant government council departments to comment, review and ground truth. Modifications were made to the bush fire vegetation data according to the feedback, and buffer is re-created. Upon confirmation of acceptance of the relevant staff involved the dataset was then certified by the commissioner of NSW Rural Fire Service. Bushfire vegetation and bushfire vegetation buffer were processed in MapInfo. The polygons were cleaned, their original attributes were retained and the two type of information (vegetation and buffer) were presented in a single dataset.
Jurisdictions	
	New South Wales
Search Words	
	HAZARDS-Fire
Themes and Categories	
Topic Category	environment
Topic Category	planningCadastre
Status and Maintenance	
Status	completed
Maintenance and Update Frequency	irregular
Date of Next Update	2015-01
Reference system	
Reference System	4283 (GDA94)
Data Scales/Resolutions	
Scale	1:25000
Spatial Representation Type	
Spatial Representation Type	vector
Metadata Security Restrictions	
Classification	unclassified
Authority	RFS
Use Limitations	na
Dataset Security Restrictions	
Classification	unclassified
Authority	RFS
Use Limitations	na
Dataset Access Constraints	
Identifier	copyright
Annotation	
Dataset Use Constraints	
Identifier	copyright
Annotation	

Metadata Access Constraints	
Identifier	copyright
Annotation	
Metadata Use Constraints	
Identifier	copyright
Annotation	NSW Government Copyright
Extent - Geographic Bounding Box	
North Bounding Latitude	-33.777871
South Bounding Latitude	-33.823871
West Bounding Longitude	151.232054
East Bounding Longitude	151.307463
Additional Extents - Geographic	
Identifier	aus
Distribution Information	
Distributor 1	
Distributor 1 Contact	
Name of Individual	Name withheld
Organisation Name	Council Name Council
Position Name	XXX
Role	distributor
Voice	(02)XXXX XXXX
Facsimile	(02)XXXX XXXX
Email Address	XXXX@Council Name.nsw.gov.au
Address	XXXX
	XXXX NSW 2095
	Australia

Appendix 3 – URA Application Form



Urban Release Area (URA) – Bush Fire Prone Land Map (BFPLM) Amendment Application Form

APPLICATION

Name	
Company	
Telephone	
Mobile	
Email	

PROPERTY DETAILS

Lot/s		DP/SP	
URA NAME		STAGE No/s	
SUBURB/s:			
LOCAL GOVERNMENT AREA/s:			

DETAILS OF PROPOSED AMENDMENTS

CHECKLIST

<input type="checkbox"/>	Amended shapefile
<input type="checkbox"/>	Lot Layout / Matserplan
<input type="checkbox"/>	Extract of existing BFPLM
<input type="checkbox"/>	Aerial photography of site (if available)

