



# MEETING AGENDA

Notice is hereby given that an Ordinary Meeting of Council will be held at the Civic Centre, Dee Why on

**Tuesday 25 March 2014**

Beginning at 6:00pm for the purpose of considering and determining matters included in this agenda.

**Rik Hart**  
**General Manager**

## OUR VISION

*A vibrant community, improving our quality of life by living and working in balance with our special bush and beach environment*

## OUR VALUES

*Respect*

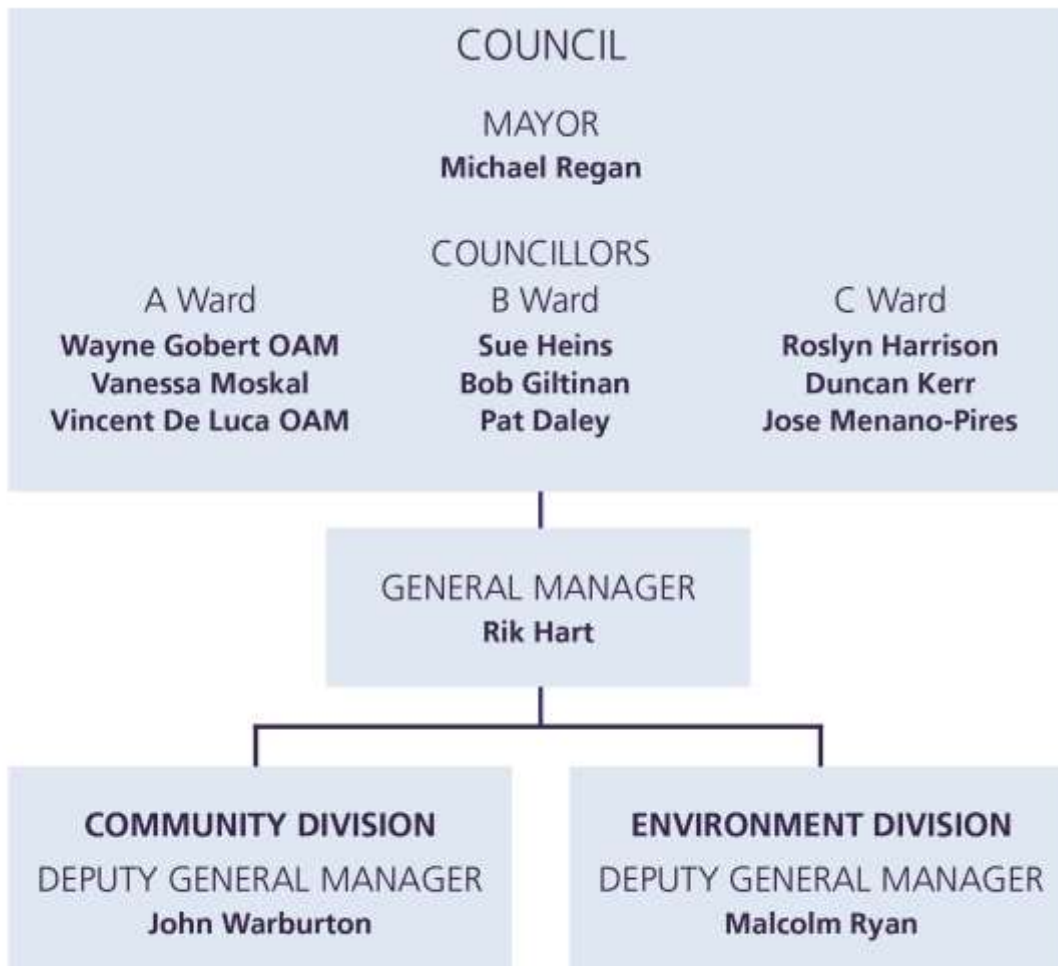
*Integrity*

*Teamwork*

*Excellence*

*Responsibility*

## ORGANISATIONAL STRUCTURE



**Agenda for an Ordinary Meeting of Council  
to be held on Tuesday 25 March 2014  
at the Civic Centre, Dee Why  
Commencing at 6:00pm**

**ACKNOWLEDGEMENT OF COUNTRY**

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**2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

2.1 Minutes of Ordinary Meeting of Council held 25 February 2014

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

**4.0 PUBLIC FORUM**

**5.0 MAYORAL MINUTES**

Nil

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## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF ORDINARY MEETING OF COUNCIL HELD 25 FEBRUARY 2014**

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#### **RECOMMENDATION**

That the Minutes of the Ordinary Meeting of Council held 25 February 2014, copies of which were previously circulated to all Councillors, be confirmed as a true and correct record of the proceedings of that meeting.

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## **6.0 GENERAL MANAGER'S REPORTS**

<b>ITEM 6.1</b>	<b>MINUTES OF THE SHOROC INC BOARD MEETING HELD 19 FEBRUARY 2014</b>
<b>REPORTING MANAGER</b>	<b>GENERAL MANAGER</b>
<b>TRIM FILE REF</b>	<b>2014/058448</b>
<b>ATTACHMENTS</b>	<b>1 Minutes of the SHOROC Inc Board Meeting - 19 February 2014 (Included In Attachments Booklet)</b>

### **REPORT**

#### **PURPOSE**

To report the decisions of the SHOROC Incorporated Board Meeting held 19 February 2014 (Attachment) for the Council's information.

#### **REPORT**

SHOROC is a partnership of Manly, Mosman, Pittwater & Warringah councils, that makes up the region of the Northern Beaches from Bradleys Head to Barrenjoey. SHOROC meets quarterly every year and is led by a Board of the council Mayors and General Managers.

The Board of SHOROC Incorporated met at Brookvale on Wednesday 19 February 2014. Minutes from the SHOROC Incorporated Board Meeting are submitted for Council's consideration.

#### **FINANCIAL IMPACT**

Nil

#### **POLICY IMPACT**

Nil

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#### **RECOMMENDATION OF GENERAL MANAGER**

That the Minutes of the SHOROC Incorporated Board Meeting held 19 February 2014 be noted.

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<b>ITEM 6.2</b>	<b>MONTHLY FUNDS MANAGEMENT REPORT FEBRUARY 2014</b>
<b>REPORTING MANAGER</b>	<b>CHIEF FINANCIAL OFFICER</b>
<b>TRIM FILE REF</b>	<b>2014/068946</b>
<b>ATTACHMENTS</b>	<b>1 Application of Funds Invested (Included In Attachments Booklet)</b> <b>2 Council's Holdings as at 28 February 2014 (Included In Attachments Booklet)</b> <b>3 Investment Portfolio at a Glance (Included In Attachments Booklet)</b> <b>4 Monthly Investment Income vs. Budget (Included In Attachments Booklet)</b> <b>5 Economic Notes (Included In Attachments Booklet)</b>

## **REPORT**

### **PURPOSE**

To report the balance of investments held as at 28 February 2014.

### **CERTIFICATION – RESPONSIBLE ACCOUNTING OFFICER**

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government General Regulation 2005 and Council's Investments Policy number FIN-PL-215.

### **REPORT**

The following attachments are provided as part of the Report.

1. Application of Funds Invested
2. Council's Holdings as at 28 February 2014
3. Investment Portfolio at a Glance
4. Monthly Investment Income vs. Budget
5. Economic Notes

### **FINANCIAL IMPACT**

The actual investment income to 28 February is \$2,573,682 which compares favourably to the budgeted income of \$2,378,004 a variance of \$195,678.

### **POLICY IMPACT**

The investment strategy was reviewed by our Investment Advisors Prudential Investment Services Corp, in January 2014. They confirmed that Council continues to maintain a prudent investment strategy and is well placed for the balance of the 2013/14 financial year and indeed beyond.

Performance over the 2013/14 financial year to date (February 2014) is strong having exceeded the benchmark, 4.12%pa vs 2.68%pa. Council has been proactive in sourcing opportunities in the market whilst investing prudently and managing cash flow.

**RECOMMENDATION OF GENERAL MANAGER**

That the:

- A. Report indicating Council's Funds Management position be noted.
  - B. Certificate of the Responsible Accounting Officer be noted and the report adopted.
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## **7.0 COMMUNITY DIVISION REPORTS**

<b>ITEM 7.1</b>	<b>FISHERMANS BEACH</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER COMMUNITY</b>
<b>TRIM FILE REF</b>	<b>2014/061607</b>
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li><b>1 Community Consultation Summary Report (Included In Attachments Booklet)</b></li><li><b>2 Community Meeting Summary Report (Included In Attachments Booklet)</b></li><li><b>3 Community Meeting Presentation - SLSSNB (Included In Attachments Booklet)</b></li><li><b>4 Community Meeting Presentation - Warringah Council (Included In Attachments Booklet)</b></li><li><b>5 Fishermans Beach Fact Sheet (Included In Attachments Booklet)</b></li></ol>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

This report summarises the community consultation process and outcomes following the Council resolution on 22 October 2013 to explore community concerns about future uses of the Surf Rescue Building at Fishermans Beach, Collaroy.

#### **REPORT**

Elton Consulting were appointed as external consultants to facilitate the community meeting, to review all community input and provide a report summarising key themes and outcomes of the consultation process.

The community meeting took place on Monday 10 February 2014 at Long Reef Golf Club and comments closed on 27 February 2014.

The attached report (Attachment 1) summarises the project background, the consultation process, the feedback received and key issues raised. An extract from the Executive Summary:

*"The consultation process generated significant community debate and a large volume of feedback was received."*

*"When considering future uses of the building there is a wide range of needs and views to be accommodated. Presently it would appear that much of the feedback and debate is based on an unclear view about the positions or plans of SLSSNB or Council."*

*From the feedback SLSSNB is a valued organisation that provides an important community service. The present activities of SLSSNB in the building are widely supported and the need for the organisation to have certainty of tenure is recognised. However, for a large number of people who provided feedback to this process there remains some uncertainty around SLSSNB's long term plans. For this group of respondents there is the view that if Council retains control over the lease, the following can occur:*

- SLSSNB's desire for certainty of tenure can still be satisfied*
- safeguards for environmental protection and community amenity are secured*

- *that facility can best meet the needs of all user groups over time*
- *ongoing community consultation can be assured"*

**FINANCIAL IMPACT**

Nil

**POLICY IMPACT**

Nil

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**RECOMMENDATION OF DEPUTY GENERAL MANAGER COMMUNITY**

That Council note the community consultation summary report.

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## **REPORT**

### **BACKGROUND**

In response to a Notice of Motion from Councillor Daley, Council resolved on 22 October, 2013 to:

- A. Invite Surf Life Saving Sydney Northern Beaches to brief councillors regarding their plans for Fisherman's Beach Long Reef Marine Sanctuary (Aquatic Reserve).
- B. Not support the redevelopment of the Warringah Rescue Building unless full community consultation has occurred in accordance with the Griffith Park Plan of Management.
- C. Call a public meeting to seek the views of the local community regarding the future of Fisherman's Beach Long Reef Marine Sanctuary (Aquatic Reserve) and the Warringah Rescue Building.
- D. Write to schools and relevant community groups in the Warringah Local Government Area seeking their views regarding the future of Fisherman's Beach Long Reef Marine Sanctuary (Aquatic Reserve) and the Warringah Rescue Building and how they want the area to be used in the future.
- E. Help ensure that the operations of the Fish Care Volunteers continue at their current location at Fisherman's Beach.

A community meeting was organised to provide an opportunity for concerned community members to hear the facts and share their views. This meeting provided the opportunity to hear directly about future plans and usage for the site.

The community meeting was held on Monday 10 February at 6.30pm at Long Reef Golf Club.

Following the meeting Council resolved at its meeting on 25 February 2014:

*"That Council write immediately to the Minister for Crown Lands in regards to the Lease for the Warringah Surf Rescue Building currently being considered by the Minister and request that the matter be put on hold as Council is currently in the process of conducting community consultation which will be brought back to Council on 25 March 2014"*

### **CONSULTATION**

In support of the above resolution Council completed the following actions:

- Arranged for SLSSNB to attend a Councillor briefing on 4 February 2014.
- Organised a public meeting on Monday 10 February 2014 at 6.30pm, Long Reef Golf Club.
- A dedicated project page was set up on the website to provide information and collect registrations and online comments.
- Sent letters and emails to all schools in the area, local residents and key stakeholders including surf clubs and environmental groups.
- Sent emails to the community engagement email database, community groups and other relevant stakeholders.
- Invited relevant Government Departments and local Politicians.

- Placed adverts in the Council Notices section of the Manly Daily on 21 December 2013, 18 and 25 January and 1 and 8 February 2014.

The outcomes and summary from the community consultation process is included in Attachment 1 along with the summary of the community meeting (Attachment 2) and other supporting documents in Attachments 3, 4 and 5.

**TIMING**

The consultation process took place from 18 December 2013 to 27 February 2014.

The community meeting was held on Monday 10 February 2014.

**FINANCIAL IMPACT**

Nil

**POLICY IMPACT**

Nil

<b>ITEM 7.2</b>	<b>NORTHERN BEACHES MUSIC FESTIVAL - REQUEST TO WAIVE FEES</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER COMMUNITY</b>
<b>TRIM FILE REF</b>	<b>2014/075484</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

## **REPORT**

### **PURPOSE**

To consider Northern Beaches Music Festival (NBMF) organiser's request to waive fees for the Tramshed and Berry Reserve, Narrabeen for the staging of the fourth Northern Beaches Music Festival scheduled from 2-4 May 2014.

### **REPORT**

Council has received a written request from the Northern Beaches Music Alliance (NBMA), the not for profit group providing service to the community that manages the NBMF. They have requested that Council waive fees for the use of the Tramshed and Berry Reserve for the duration of this year's Festival. The NBMF state that *"despite all our fundraising efforts by members of the Northern Beaches Music Alliance, we do have a \$5000 shortfall"*. As a result they have requested that Council *"waive the fees for hiring of the Tramshed Art Complex and Berry Reserve"*.

As a worthy community group they receive a community rate like all our other worthy not profit community users. The Community Centre fees are kept reasonable so that the community groups can afford to pay them, so they are already subsidised by Council for the benefit of the majority – the NBMF is also eligible for the non-profit hourly rates, even though they are charging fees for the event at which thousands attend, in 2014 it is \$50 for a weekend pass for one person.

The event in its fourth year and has grown enormously and now has stages in secured marquees in Berry Reserve, with over 48 bands are playing over the duration of the festival.

Due to the growth of the festival Council is now in a position where we need cancel all regular hirers over three days to facilitate the requirements of the event organisers. This results in opportunity cost to the Council and impacts negatively on other users of the venue. There are significant impacts on the venue due to the heavy usage of the 3 halls, 2 meeting rooms and reserve. These include power used for all music equipment, water, waste, cleaning and damages.

Council's Parks, Reserves and Foreshores section have a form to apply for a one-off fee waiver which has been adopted by Council, see *Policy Impact below*. This form is used at the discretion of Parks, Reserves and Foreshores where they can show community benefit or hardship.

The NBMA have not submitted an application and have not been assessed accordingly, however they wish to be considered for a fee waiver. Fees for community centres can only be waived by resolution of council. Fees for reserves can be waived at the discretion of council staff upon receipt of the appropriate waiver form. The NBMA have previously been successful in applying in Community Grant Program however did not apply for this year's program.

Due to the precedent it sets, staff do not support approving the waiver of fees as proposed by the NBMA.

### **FINANCIAL IMPACT**

Berry Reserve booking fee \$1,013

This is made up of \$473 for ground hire and \$540 for bin service. The fee for waste collection is a direct cost to Council.

The refundable bond of \$2,000 is also be set in place for any hirer.

Tramshed hire fee \$1,645

A bond of \$1,500 is paid up front which is refunded post event depending on any outstanding charges incurred for damages.

The total financial impact is \$2,658

This is made up of \$2,118 hirer fees and \$540 for bin service.

### **POLICY IMPACT**

Council's Grants and Sponsorship Policy allows for value in-kind sponsorship for activities such as hiring of parks and community centres or where they provide community benefit or experience hardship.

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### **RECOMMENDATION OF DEPUTY GENERAL MANAGER COMMUNITY**

That Council does not approve the waiver of fees associated to the use of the Tramshed and Berry Reserve for the Northern Beaches Music Festival 2-4 May 2014.

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## 8.0 ENVIRONMENT DIVISION REPORTS

ITEM 8.1	CHILD CARE PROVIDED BY LOCAL GOVERNMENT
REPORTING MANAGER	DEPUTY GENERAL MANAGER ENVIRONMENT
TRIM FILE REF	2014/035455
ATTACHMENTS	NIL

### EXECUTIVE SUMMARY

#### PURPOSE

To inform Council of the contents of the NSW research report *Childcare, roads, rates and rubbish* and how this evidence supports Warringah's continued involvement in providing children's services. The full report can be found on the Community Childcare Cooperative Ltd (NSW)'s website at: [http://booking.ccccnsw.org.au/files/nsw\\_childcare\\_fa.pdf](http://booking.ccccnsw.org.au/files/nsw_childcare_fa.pdf)

#### SUMMARY

The report outlined that when local government provides education and care for children in their local government area a number of benefits result from key areas such as:

##### Quality

The report demonstrates clearly that Council services provide the highest quality of care followed by not-for-profit community-based services then for profit services. Council services set a benchmark for fees and quality that lifts standards.

##### Responsibility

The Local Government Act requires Councils to plan for children's needs.

##### Meeting residents desire for quality, affordable education and care

Council provided care is consistently more affordable, more accessible and responsive to the needs of families within a council's LGA. The report shows residents value Council provided early education and care services which tend to have large waiting lists.

##### Long term social and economic benefits

Providing quality care for children is an investment in a service type with high economic and social returns for the community.

#### FINANCIAL IMPACT

Nil

#### POLICY IMPACT

The research confirms that council's current role in providing child care is providing valuable material benefit to our community, the council and the economy

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#### RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council note the contents of the NSW research report *Childcare, roads, rates and rubbish*:

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*NSW Local Government and Early Education and Care.*

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## **REPORT**

### **BACKGROUND**

Community Child Care Co-operative (NSW) and Australian Community Children's Services NSW commissioned a research project about NSW local government involvement in the provision and support of childcare. This encompassed early childhood education and care for children under school age (0 to 5 years) within each NSW Council's local government area (LGA).

### **REPORT HIGHLIGHTS**

The report highlights five key areas which outline the important role Council provides in the provision of early childhood services.

#### **1 EARLY CHILDHOOD EDUCATION AND CARE PROVIDES SUBSTANTIAL BENEFITS**

Quality early childhood education and care provides numerous benefits to the community, to the child, families and to Councils.

##### **Benefits to the community**

Early childhood education and care services provide significant benefits to the community as outlined below:

Child	Enhance the development of young children.
Parents	Provide a way by which the community can support parents by ensuring that the task of caring for and raising children is not solely that of the parents or their immediate relatives.
Workforce	Assist parents, particularly mothers, to retain their skills, employability and career continuity, resulting in higher national productivity and economic output
Equity	Ensure that parents on low-incomes are not driven to place their children in unsafe, unstable or unsatisfactory environments
Community	Build community capacity by creating neighbourhood connections and strong relationships a
Economic	Provide a good return on investment. The High/Scope Perry Preschool Study showed that when the benefits to the participants themselves are added to the public returns, the return on investment have quantified that a state receives as much as a \$17 return for each \$1 investment in preschool programs.

##### **Benefits to the child**

We now know that the early years of a child's life are the most important developmentally. 75% of a child's brain develops during the first five years of their life, and half of all the intellectual and developmental potential of a child is established by age four. Therefore, early childhood education and care is also valuable to children, contributing to:

- Children's cognitive, social, emotional and physical development
- Improving children's academic results. Research from The Melbourne Institute, shows that children who have had access to a preschool education gain as much as a 15–20 point advantage in National Assessment Program – Literacy and Numeracy (NAPLAN) tests in school year three<sup>a</sup>
- Reducing disadvantage between children who are born into affluent families and those that are not. A child from a low-income family at the age of three may know 240 words, whereas a child of the same age from a high-income family may know as many as 1,200 words. Early childhood education and care helps close that gap

- Assisting with school readiness
- Parent support
- Early identification of children at risk
- Effective parenting
- Healthy child development
- Strong communities and
- Social cohesion.

### **Benefits to families**

There are a number of reasons why families need and want to access early childhood education and care. Some families need two incomes to survive. Other parents need to return to their job after having a baby in order to keep their job or maintain a meaningful career. Early childhood education and care services can also provide a respite from home duties for parents who are not currently in the workforce. The number of working families in Australia has been steadily increasing over the past two decades. Families are also becoming increasingly aware of the educational value of early childhood education and care both while a child is young as well as the long lasting benefits throughout their education.

There are good policy reasons for ensuring early childhood education and care is accessible and affordable for families and children. Ensuring families have access to high quality, affordable and accessible early childhood education and care ensures that there is:

- Provision of education at an age when children's brain are most receptive
- An opportunity for children to have a head start at school
- Satisfaction of the work expectations of parents
- Effective use of the skills of working women
- Support of women's equality
- Provision of a current and future labour supply
- Promotion of economic self-reliance of families
- Reduction of poverty and
- Increased family income and its flow-on effects to consumption and economics.

## **2 THE ROLE OF LOCAL GOVERNMENT**

The role of local government in the provision of early childhood education and care services is driven by the requirements under the Local Government Act and, also, each Council's commitment, plan and policy access for the local community to high quality, diverse, affordable and accessible programs.

Local government performs significant roles in relation to early childhood education and care services: planning, development of services, a provider of services and setting the benchmark.

Local government remains a large provider of early childhood education and care services in NSW.

- 89 Councils (as at December 2013) directly provide early childhood education and care services (around 61% of all Councils) **equating to around 7% of all early childhood education and care services in NSW**
- 46 Councils are providers of family day care services (45% of all publicly owned family day care, and 25% of the total number of family day care schemes) and
- 102 out of school hours care schemes are provided by local government (around 14% of publicly owned services).

### **Benefits of council run services**

As well as increasing the supply of places in an LGA, Council-run early childhood education and care services can provide additional benefits within an LGA by:

- Benchmarking: Delivering a level of service quality which other services within the municipality are then required to match
- Bridging the gaps: Delivering education and care in areas of 'market failure' such as to babies, children with additional needs, low income earners, CALD children and Aboriginal and Torres Strait Islanders
- Equity: Better servicing the needs of disadvantaged children and families and
- Setting a benchmark fee rate and a benchmark for the quality of education and care service provision.

Community based service providers are operated by providers that operate within the community and do not derive a profit for delivering the service. There are some clear differences between for-profit and not-for-profit community-based service providers:

### **Not-for-profit services**

- Better outcomes for staff produces better care:
- Spend a higher proportion of their income on wages. The quality of education and care services depends largely on the relationships that are formed between educators and children. Services which have better retention rates of educators (through higher wages) and which employ more staff are generally acknowledged to provide higher quality education and care
- Higher service quality:
- Have scored higher ratings to date against the National Quality Standard for education and care services. Under the National Quality Framework, a new method for assessing and rating the quality of early education and care services was introduced across Australia in 2012. Community Child Care Co-operative (NSW) has analysed the ratings of the first 1,378 preschool and long day care services rated in NSW and found that 84% of the services rated as "Exceeding the National Quality Standard" are community based not for-profit or Council run services
- Cater for higher dependency:
- Generally educate and care for a higher proportion of children with additional needs and babies under two. It is more costly to supply education and care to these two groups than to other children
- Reinvest any surplus funds into the service – hence all revenue raised through the service is kept within the LGA
- Not for profit services are contracting in proportion of market share:

- Very few new not-for-profit services have been established in recent years. (Notable exception was in the wake of the close of corporate provider ABC Learning when a not for profit operator Goodstart Early Learning took over the operation of the majority of the ABC Learning Centres). Barriers to new entry by this sector include capital costs.

### **Trends in Council services**

- Tend to have large waiting lists/be highly prized by residents. In many LGAs Council run services are seen as providing good value for money and be of high quality
- In concert with not-for-profit community based services often have a restraining effect on market fees in a local government area, and a positive effect on quality of service provision
- Have scored higher ratings to date against the National Quality Standard for early childhood education and care services.

### **3 COUNCIL RUN SERVICES LEAD IN QUALITY RATINGS**

Some Councils and early childhood education and care advocates have argued that for-profit services do not provide the same quality of care for children as not-for-profit community-based services, simply because the profits go to shareholders and is not invested back into the service. While evidence around this has mostly been anecdotal in the past, the release of ongoing quality ratings data by the Australian Children's Education and Care Quality Authority (ACECQA) has delivered quantitative evidence that the not-for-profit community-based services (including Council services) are providing a higher quality of service than for-profit services.

Since 2012, early childhood education and care services in Australia have been progressively assessed and rated against the National Quality Standard at one of the following levels:

Exceeding the National Quality Standard

Meeting the National Quality Standard

Working Towards the National Quality Standard

Significant Improvement Required

Table 3 shows the outcomes by provider type and indicates that:

87% of rated Council services exceeded or met the NQS and 13% were working toward the NQS

67% of all rated not-for-profit community-based services exceeded or met the NQS and 33% were working toward meeting the NQS and

29% of rated for-profit services exceeded or met the NQS, 70% were working toward meeting the NQS, and 0.2% (two services) required significant improvement

**National Quality Standard Outcomes by provider type** (Source: Childcare, roads, rates and rubbish - p.19).

	Not-for-profit community		Council		For-profit		DEC (Department of Education)	
	No.	%	No.	%	No.	%	No.	%
Total assessed by service type	379	100%	148	100%	837	100%	14	100%
Exceeding or meeting the NQS	254	67%	129	<b>87%</b>	245	30%	7	50%
Working towards meeting the NQS	125	33%	19%	13%	590	<b>70%</b>	7	<b>50%</b>
Significant improvement required	0	0%	0	0%	2	0.2%	0	0%

The outcomes of the ACECQA National Quality ratings clearly show that Council services are providing the highest quality of care followed by not-for-profit community-based services. For-profit services are significantly behind the not-for-profit sector in achieving quality outcomes. The top rating level of Excellent is provided through a separate assessment process.

#### **4 FEES ARE IN THE SPOTLIGHT**

From 2005 to March 2013, the average cost of long day care increased by 7.1% per annum. This compares to an average CPI increase of 2.8% during the same period. According to the Commonwealth Government publication Child Care & Early Learning in Summary, March quarter 2013 "Before Australian Government childcare subsidies were taken into account, out-of-pocket costs for families varied from 39.9% of weekly disposable income for families earning a gross income of \$35,000 per year, to 16.1% for families earning a gross income of \$150,000 per year. After Australian Government childcare subsidies, out-of-pocket costs were significantly reduced to around 9.0% of disposable income across all income ranges."

There is no doubt that users' perception of early childhood education and care costs are that they have continued to rise as a proportion of family expenditure. Because of this, providers of all types, including Council providers are under increasing pressure from users to limit fee increases and increasingly subsidise the costs of early childhood education and care provision.

#### **5 WHY LOCAL GOVERNMENT SHOULD STAY INVOLVED IN EARLY CHILDHOOD EDUCATION AND CARE**

The research report provides ample evidence of the need and benefits of local government providing early childhood education and care in their community:

##### **Meeting residents desire for quality, affordable education and care**

- Families need access to affordable early childhood education and care and local government is well suited to facilitate this access
- Residents have indicated a preference for Council-run or Council supported early childhood education and care services
- Council services set a benchmark in terms of fees and quality that other services in an LGA are forced to meet.



**Long term social and economic benefits**

- Access to quality early education and care reaps economic benefits. Up to \$17 for every \$1 invested
- Council services provide a much higher quality of care resulting in better social and educational outcomes for children
- Council early childhood education and care services provide increased access to babies, children with additional needs or from disadvantaged backgrounds
- If early childhood education and care is left only to the for-profit providers, new services will only be created in areas of high demand and low disadvantage.

**Responsibility**

- Local government has a responsibility under the Local Government Act to plan for children
- Local governments are connected to their community needs
- No other level of government is planning for early education and care access
- Local governments develop planning controls that can encourage and manage supply of early childhood education and care
- Local government has a valuable role in supporting the not-for-profit sector through the provision of facilities. Without such support not-for-profit organisations may not be sustainable
- Support for early childhood education and care services support their role as community capacity builders within an LGA
- If Local Government can distinguish itself as a level of government that acts in the area of early education and care planning and provision
- Councils have the strongest advocacy voice to other levels of government

**6 VALIDATION OF WARRINGAH'S SERVICE**

The report confirms clear benefits to Council and the community of Warringah continuing to provide this service. The benefits are material and social both in the short and long term. The 2013 Annual Community Survey results ranks Provision of child care as high importance (rating of 7.03). Currently (February 2014) there are over 1050 children on the waiting list with Warringah Council children's services. 100% of Council's services that have undertaken an Assessment and Rating visit are Exceeding or meeting the National Quality Standard and will continue to provide high quality services to meet the needs of the community.



<b>ITEM 8.2</b>	<b>SENIORS VOLUNTEERING TO READ TO CHILDREN IN COUNCIL'S DAY CARE CENTRES</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER ENVIRONMENT</b>
<b>TRIM FILE REF</b>	<b>2013/342784</b>
<b>ATTACHMENTS</b>	<b>1 Warringah Council's Children's Services celebrating Children's Week</b>

### EXECUTIVE SUMMARY

#### PURPOSE

To provide options for senior volunteers to participate in Council's Long Day Care Centres.

#### SUMMARY

Council, at its meeting on 26 November 2013, resolved:

*"That Council staff prepare a brief report within six months regarding the feasibility of running a trial program in one of Council's Day Care Centres involving a seniors volunteer or volunteers reading to children who are in the care of the centre concerned."*

This report outlines the opportunities for senior volunteers to work with children attending long day care centres. This could be trialled at Brookvale Children's Centre for a six month period and review the implementation. The program could then be rolled out further to include other locations.

#### FINANCIAL IMPACT

The Group Manager Human Resources and WHS Manager have provided updated advice in regards to Volunteers.

Volunteers and work experience students are not 'workers' under the Workers Compensation Act 1987 and you do not need to cover them with your workers compensation insurance policy.

Employers need to make sure that volunteers and work experience students have a safe working environment. This is known as 'duty of care'.

Volunteers or work experience students should seek impartial advice as to whether or not they need an individual policy (such as a personal accident and illness policy). This is not a Work Cover requirement.

Volunteers may be covered under Public Liability or Personal Accident insurance and Council needs to treat them as an employee and demonstrate duty of care.

#### POLICY IMPACT

Nil

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#### RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That the use of senior volunteers reading to children is trialled with volunteer members of Brookvale Probus at Brookvale Children's Centre for a six month period and the program evaluated at the end of this time.

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## REPORT

### BACKGROUND

Council wished to explore possible opportunities of senior volunteers working with children in our long day care services.

### CONSULTATION

Discussions have been held with the Group Manager Human Resources, WHS Manager, Group Manager Community Services and the Aged Services Development Officer in regards to senior volunteers working with children.

### OPTIONS

Seniors have a lifetime of experience to offer a child care centre. In today's society the typical family unit is constantly changing and children and grandparents do not always have the opportunity to enjoy a close relationship. Enabling senior volunteers to spend time with children would increase the sense of community enjoyed within a child care service.

There are a number of opportunities which may enable senior volunteers to work with children in Warringah's services.

#### 1. Senior volunteers from Local Clubs/groups

A volunteer club (such as Probus Brookvale) could organise for groups of senior volunteers to attend a long day care centre on a weekly basis. The time spent with the children would be up to one hour. The activities would consist of opportunities to read with the children, assist with puzzles, and be involved with creative activities like painting and craft. Brookvale Probus has been in contact with Council and is keen to collaborate on this program.

#### 2. Senior volunteers visit our long day care centres

Senior volunteers from the community could visit a long day care centre on a weekly basis. The time spent with the children would be up to one hour. The activities would consist of opportunities to read with the children, assist with puzzles, and be involved with creative activities like painting and craft.

#### 3. Children visit seniors in aged care facilities

Children attending the long day care centres could attend local nursing homes or retirement homes.

In October 2013, Brookvale Children's Centre visited Alexander Aged Care to share singing some songs, sharing some pictures and just chatting about themselves. It was a very positive experience for the seniors and children.

There are closely located facilities at Brookvale and Dee Why Children's Centres. Children undertake local walk excursions currently. A risk assessment has already been completed for the children to visit this location.

#### Adopt a grandparent program

This model could be used with any of the above options to connect the volunteer with a regular group of children for activities undertaken with the children. This program connects seniors in the community with young children. The model looks very effective and could form the base going forward to progress this idea. There is no current relationship with Council and *Adopt a Grandparent*. (<http://www.adoptagrandparent.com.au/assets/resources/aagp-faq.pdf>)

To implement this program the following prerequisites would be required:

- 1) Senior volunteers would need to complete an online Working With Children Check:  
<http://www.kids.nsw.gov.au/Working-with-children/New-Working-with-Children-Check>
- 2) Senior volunteers would need to have an onsite induction at the location they will be volunteering

**TIMING**

The Brookvale Probus Club has been contacted and advised they would discuss this idea at the March Annual General Meeting. The trial could commence once the children have relocated back to Brookvale Children's Centre following the renovations being complete.

**FINANCIAL IMPACT**

There may be potential impact on the cost of Public Liability or Personal Accident insurance claims.

**POLICY IMPACT**

Nil



## APPENDIX

Warringah Council's Children's Services celebrated Children's Week.

### Brookvale Children's Centre

On Tuesday the 22<sup>nd</sup> of October staff walked with a group of 11 children around the corner to Alexander Aged Care. Upon arriving at the nursing home using the sanitiser was popular with talk about keeping germs away for the grandmas and grandpas. The children were all given a glass of icy cold water from a crystal jug and then walked down the hall and entered into a big room. There were lots of seniors sitting and waiting. The children sat down and sang songs. The grandmas and grandpas sang with the children, using their hands. After the songs the children handed out a picture drawn for each person. The children then sat with them to talk, using a clear loud voice so they could hear the children! Hugs were shared with seniors who were in beds, wheelchairs and some were walking around with us. The residents kept on clapping! There was one grandma that asked if the children could come every month and teach them some songs. After morning tea the children waved good bye singing 5 little ducks and headed home down the hill. The children haven't stopped talking about it since.



### Dee Why Children's Centre

Grandparents and Grand Special Friends was a time to have the children talk about the everyday activities which they take part in, and for the staff to engage with the older members of our children's families and community.

The children baked biscuits as part of their planned program. The biscuits were lovingly bagged and delivered up to the nearby Aged Care facility and given to the residents. This reflects the Early Learning Years Framework Principle of Connecting with the Community. It helps build the children's awareness of the larger community and promotes empathy towards the elderly as it raises discussions between educators and the children. This discussion included working out exactly "Who are old people?"



Supporting Documents:      Children's Services Student and Volunteer Handbook  
Children's Services Policy CS 9 Staffing: Code of Conduct,  
Determining Responsible Person and Students and Volunteers



<b>ITEM 8.3</b>	<b>COUNCIL CARPARKS REVIEW</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER STRATEGIC PLANNING</b>
<b>TRIM FILE REF</b>	<b>2013/299676</b>
<b>ATTACHMENTS</b>	<b>1 Carpark Locations and Profiles (Included In Attachments Booklet)</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To report to Council the results of a strategic review of Council's public carparks, specifically the conflicts identified between the zoning and land classification of some carparks and the manner in which they are being used.

#### **SUMMARY**

Council staff have conducted a review of the planning controls relating to Council's public carparks.

Issues with a number of carparks have arisen since the *Local Government Act 1993* came into force. These issues relate to conflicts between the zoning and land classification of some carparks and the manner in which they are being used. For example, adjoining private landholders (both residential and businesses) are using the community classified land to access their property, which is not allowed under the *Local Government Act 1993*.

To resolve these conflicts, it is recommended that the Warringah Local Environmental Plan 2011 (WLEP 2011) be amended to rezone several carparks. Also, that consideration is given to the reclassification of certain other carparks. Prior to proceeding to initiate any potential land reclassification, due to the interest in community classified land, it is recommended that the community be consulted and the results be reported to Council.

#### **FINANCIAL IMPACT**

Nil

#### **POLICY IMPACT**

Nil

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### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council:

- A. Prepare and seek Gateway Determination for planning proposals to rezone the following carparks from RE1 Public Recreation:
  - a. to B2 Local Centre - Collaroy Street Carpark, Collaroy
  - b. to B2 Local Centre - Lagoon Street Carpark, Narrabeen
  - c. to B2 Local Centre - Darley Street and Starkey Street Carpark, Forestville
  - d. to B1 Neighbourhood Centre - McIntosh Road Carpark, Narrabeena (being Crown Land and subject to Owners consent)

- 
- B. Prepare a planning report to consult with the community in regards to the potential reclassification of the following carparks from community land to operational land; and rezoning the land so that the carparks reflect the surrounding land use:
- a. Mooramba Road Carpark, Dee Why
  - b. Brookvale Carpark, Lot 10 / 9999 Winbourne Road, Brookvale
  - c. Oliver Street and Lawrence Street Carpark, Freshwater
- C. Prepare a planning report to consult with the community in regards to the potential reclassification or creation of a public road within the carpark adjacent to Dee Why Rockpool
- D. Seek delegation from the NSW Department of Planning and Infrastructure to liaise directly with Parliamentary Counsel's Office in the making of amending local environmental plans.
-



## REPORT

### BACKGROUND

A review has been undertaken of Council's public carparks across the Warringah Local Government Area. The review was undertaken because Council was aware of incidents where there are conflicts and inconsistencies between the zoning and land classification of some carparks and the manner in which they are being used.

The public carparks reviewed can be summarised as having two key purposes; they provide car parking:

- for open space - parks, playing fields, beaches, foreshores, etc.; or
- for local centres, for example, Freshwater Village, Collaroy Beach, Narrabeen Village, some involving 'Park and Ride' usage by bus commuters.

Of the 237 public carparks that have been reviewed, nine carparks present conflicts between their usage and their planning provisions that are considered to be a priority for resolution. There are two key aspects to these usage concerns:

- All carparks within Warringah have been zoned open space, and as such are classified under the Local Government Act as 'Community Land'. 'Community Land' is not permitted to have access across it to adjoining private land. There are several incidents of this occurring, mainly at carparks within local centres
- Carparks within local centres are zoned RE1 Public Open Space but do not provide car parking in association with open space usage, that is, to support visitation to parks, playing fields or beaches. As a result these carparks are inconsistent with the objectives of the open space zone. The carpark would be better served by being zoned to be consistent with the land which it serves, in most cases one of the business zonings.

### PURPOSE – WHY DID COUNCIL UNDERTAKE A CARPARK REVIEW?

A review of public carparks is an action within the Warringah Community Strategic Plan. The purpose of the carpark review was to find and resolve issues that have arisen during the operation of Council's carparks as:

- a) the *Local Government Act 1993* (LG Act) specified that Council owned land must be classified as community or operational and;
- b) Warringah Local Environmental Plan (WLEP) 2000 stated that if public open space land did not have a plan of management, only exempt development and development for the purpose of recreation facilities can be carried out on public open space.

### WHY HAS THIS COME ABOUT?

In each case the carparks, the subject of concern, and their adjoining land holdings have been in existence for many years; as have the access arrangements. It is therefore appropriate to ask why this current problem has arisen.

The answers lie in a number of changes to legislation over an extended time period including the Local Government Act (change from the previous *Local Government Act 1919 Act* to the current *Local Government Act 1993 Act*), case law and changes in subsequent Local Environmental Plans (eg. WLEP 1985, WLEP 2000 and the current WLEP 2011). A brief summary of some key milestones in this history is provided as follows:

- 1993 - Introduction of the new *Local Government Act 1993*. When this came into force, Councils were given a time period to nominate the classification for each parcel of land. If this was not done, the land was automatically classified as 'community'

- 1994 – A Council report resolved to reclassify certain land parcels. Most Council owned carpark were recommended to be classified as operational land. This was resolved by Council and most carpark became operational
- 1997 – There was a landmark court case regarding these matters *Bathurst City Council v PWC Properties Pty Limited (30 September 1998)* (Bathurst City Council decision). The case successfully challenged the reclassification process undertaken by Councils of certain parcels of land following the introduction of the *Local Government Act 1993*
- 1997 – (9 December 1997) there was a further Council Report to again reclassify certain parcels of land following the Bathurst City Council decision
- 2000 – (22 February 2000) there was a Council Report identifying those parcels to be reclassified and those that should not be reclassified
- When Council prepared the WLEP 2000, being a locality based planning scheme, there were no zones. It was decided that most Council owned land be marked on the LEP maps as 'green', being identified as Public Open Space. This included public carpark
- WLEP 2011 came into force in December 2011 and reintroduced a traditional zoning scheme to Warringah. A principle adopted in preparing WLEP 2011 was to translate (as best as possible) like for like planning provisions. This has resulted in the green areas under WLEP 2000 being translated to RE1 Public Recreation.

#### **WHY IS THE CURRENT SITUATION AN ISSUE?**

Section 46 of the LG Act, prohibits the sale, or lease or use of community land for 'private' use. This provision affects uses of publicly owned carpark for private and delivery vehicle movements. On this basis the classification of a carpark as community land limits Council's ability to regularise access to adjoining private land holdings.

There are several carpark where private landholders are using Council carpark to access their land, without a formal access arrangement. Due to the legal risk of such a situation it is not appropriate for such an informal arrangement to continue. It is therefore preferable that Council reclassify the carpark that are being used for private access, to operational land.

In addition to the above the use of RE1 Public Recreation zoned land as a carpark is inconsistent with the objectives of the zone, where the carpark does not support public recreation. For example a carpark that supports a sportsfield is correctly zoned RE1 Public Recreation, compared to a carpark that is zoned RE1 Public Recreation, but it is used mainly in association with a local shopping centre. Council as a landowner must work within the objectives of a zone just as a private landholder is required to. It is preferable that the function of these sites better reflect the zone and the purposes for which they are used.

#### **WHY RECLASSIFY: FORMALISE CURRENT ACCESS ARRANGEMENTS TO PRIVATE LAND**

Once land is reclassified to operational, Council can enter into a licence agreement with the relevant private landowners, to formalise (or regularise) the private use of public land. In regard to the matters which are the subject of this report this would involve a licence agreement for access to the private land from the public land / carpark.

As discussed, the formalisation of such a use is required to protect Council and the broader community. A licence cannot be entered into between Council and private landholders over public land, whilst the land retains its community land classification.

## **WHAT IS PROPOSED TO FIX THE SITUATION?**

It has been identified that there are eight carparks that require initial attention and these are the focus of this report (refer to Attachment 1 for a map of each carpark). In summary:

- Four carparks require a rezoning from RE1 Public Recreation to reflect, and be compatible, with their surrounding land use zone
- Three carparks require rezoning and potentially land reclassification (in part or whole)
- One carpark (adjoining Dee Why Rockpool) requires a section to be reclassified or potentially made into a public road.

These eight carparks and their proposed/ potential planning changes are summarised as follows:

- Collaroy Street Carpark, Collaroy. Zoned RE1 Public Recreation to be rezoned to B1 Neighbourhood Centre, to reflect the surrounding land uses that the carpark serves
- Lagoon Street Carpark, Narrabeen. Zoned RE1 Public Recreation to be rezoned to B1 Neighbourhood Centre, to reflect the surrounding land uses that the carpark serves
- Darley Street and Starkey Street Carpark, Forestville. Zoned RE1 Public Recreation to be rezoned to B1 Neighbourhood Centre, to reflect the surrounding land uses that the carpark serves
- McIntosh Road Carpark, Narrabeen. Zoned RE1 Public Recreation to be rezoned to B1 Neighbourhood Centre, to reflect the surrounding land uses that the carpark serves.

The following carparks potentially require land reclassification (in part or whole), with the exception of the carpark adjacent to Dee Why Rockpool which may benefit from part of its land being reclassified to a public road:

- Brookvale Carpark, Lot 10/ 9999 Winbourne Road, Brookvale. Multiple adjoining private landholders (mainly businesses) use the carpark for vehicle access to their properties and therefore this use conflicts with the land's community classification and open space zoning
- Oliver Street and Lawrence Street Carpark, Freshwater. Several adjoining private landholders use the carpark for vehicle access to their properties and therefore this use conflicts with the land's community classification and open space zoning
- Carpark adjacent to Dee Why Rockpool. An adjoining private landholder (apartment building) uses the carpark for vehicle access to their property and therefore this use conflicts with the land's community classification and open space zoning
- Mooramba Road Carpark, Dee Why. There are no access conflicts by adjoining land owners in relation to this carpark however the site occupies an important location within the Dee Why town centre and has been mooted in the past as a potential location for increased car parking provision and expanded use by park and ride commuters. It is therefore appropriate to consider the site's planning controls (including its classification) to determine whether there is a case to support a change in planning provisions.

## **THE REMAINING CARPARKS**

As previously noted the review considered 237 carparks; eight being recommended for initial attention in this report. Council's asset register identifies that there are 237 carpark assets however in reality some carparks comprise more than one 'asset' within the register and therefore the actual number is less than this.

Of the remaining carparks there are approximately 200 within the asset register, mostly associated with open space, that do not require any further action stemming from this review.

There are approximately 15 other carparks that require further investigation to resolve different use and planning anomalies. The nature of these anomalies range from inconsistencies between Council's records (land register and GIS mapping system); ill-defined site boundaries that need to be clarified; and carparks occupying road reserves. Addressing these remaining anomalies will be prioritised as part of Council's future works program.

### **WHERE TO FROM HERE**

In order to resolve the issues outlined above the following course of action is proposed:

- Proceed with the preparation of planning proposals for the four carparks within local centres that only require rezoning and seek Gateway Determinations from the Department of Planning and Infrastructure. Community consultation will occur as part of the statutory processing of the draft LEP
- In relation to the four carparks that have conflicts between their use by adjoining private land, zoning and land classification:
  - Prepare planning reports and consult with the community. These land holdings potentially require land classification to resolve their use / planning conflicts
  - Report back to Council the results of the community consultation prior to proceeding with any potential planning regime changes.

### **FINANCIAL IMPACT**

Nil

### **POLICY IMPACT**

Nil

<b>ITEM 8.4</b>	<b>INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL FINAL REPORT "REVITALISING LOCAL GOVERNMENT" - COUNCIL'S SUBMISSION</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER ENVIRONMENT</b>
<b>TRIM FILE REF</b>	<b>2014/016945</b>
<b>ATTACHMENTS</b>	<b>1 Warringah Submission on the Independent Local Government Review Panel's Final Report: Revitalising Local Government 2013 (Included In Attachments Booklet)</b>

## **REPORT**

### **PURPOSE**

To endorse a submission to the Division of Local Government in response to the final report of the Independent Local Government Review Panel (the Panel).

### **REPORT**

Warringah has made a series of submissions on these reforms since 2011, the latest approved by Council on 25 June 2013. This final report of the Panel – 'Revitalising Local Government' – was submitted to the Minister for Local Government in October 2013 and released for public exhibition on 6 January 2014. Comments are due by 4 April 2014 to the Division of Local Government.

The reforms address finance, governance, structures and boundaries, including some marked changes since the 'Future Directions' paper. Of the report's 65 recommendations, five are not applicable, a third are similar to 'Future Directions' and the remainder are new or substantially changed. Most of the recommendations are supported or conditionally supported. Warringah opposes the recommendations on Joint Organisations as they are currently proposed (recommendations 31, 35, 43); and on the governing body to determine organisation structure (29).

A submission in response to the 65 recommendations of the Review Panel's final report (Revitalising Local Government) is contained in Attachment 1.

### **FINANCIAL IMPACT**

Nil

### **POLICY IMPACT**

Nil – the State Government will consider the report and submissions in formulating its reform decisions. Councils and communities will likely be consulted on structural reforms in 2014-2015.

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### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council endorse the submission in response to 'Revitalising Local Government', the final report of the Independent Local Government Review Panel.

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<b>ITEM 8.5</b>	<b>REGIONAL STRATEGIC PARTNERSHIPS</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER ENVIRONMENT</b>
<b>TRIM FILE REF</b>	<b>2014/071504</b>
<b>ATTACHMENTS</b>	<b>1 Northern Metropolitan Council of Mayors - Draft Terms of Reference - January 2014</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To provide a progress report on strategic partnerships between Warringah and other councils within northern Sydney.

#### **SUMMARY**

Council has been reviewing its options for strategic partnerships with other councils, for the purposes of strategic planning, advocacy and shared services. For these partnerships to be effective and democratic, a key requirement is for proportional representation of member councils' populations in decision-making. The report finds that this is not accommodated by current arrangements under SHOROC, the proposed Northern Metropolitan Council of Mayors, nor the proposed Joint Organisations under the NSW reforms of local government. It is proposed that Warringah refrain from membership of these bodies if there is no proportional representation.

#### **FINANCIAL IMPACT**

In 2014-15 the cost of Warringah's membership to SHOROC is anticipated to be between \$93,000 to \$95,000 for its role in planning and advocacy. If there is a change in the current arrangement changes, Council would still need to resource regional planning and advocacy by some avenue.

#### **POLICY IMPACT**

All communities will benefit from strong regional partnerships, with proportional representation.

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### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

- A. That Council's participation in regional collaboration of councils is on the basis of proportional representation of each council's population size, to ensure democratic decisions across the related region.
  - B. That Council:
    - a. Provides input to the SHOROC/NSROC Working Party on the proposed Northern Metropolitan Council of Mayors; to advocate a proportional representation model of voting arrangements.
    - b. Seeks proportional representation for voting arrangements on SHOROC for joint planning and advocacy; and that Warringah withdraw from its membership if this will not be accommodated.
    - c. Opposes membership of any future Joint Organisation, whether mandatory or voluntary, unless it is based on proportional representation.
-



## REPORT

### BACKGROUND

In a climate of reforms being foreshadowed for local government in NSW, Warringah has been exploring ways to improve regional partnerships and alliances. Warringah seeks to be more effective in serving its residents, both in terms of shared services and in higher-level strategic planning across regions.

At Council the meeting of 24 September 2013, it was resolved (271/13) that Council:

- "A. Writes to the Minister for Local Government to express our ongoing support of its agenda to reform local government in partnership with Local Councils.*
- B. Write to the Mayors of The Hills and Hornsby Councils expressing Council's support to enter into a cooperative strategic alliance that identifies mutually beneficial opportunities to improve efficiencies in areas of procurement, policy development and resource allocation.*
- C. Receive a progress report from the General Manager within six months and sets out the framework for the strategic alliance with The Hills and Hornsby Councils for Council's endorsement.*
- D. Advise SHOROC of its intention to withdraw participation in the joint procurement business unit and shared services business improvement program by the end of this financial year but state our continued support for regional advocacy and strategic planning.*
- E. Request further advice from the SHOROC Executive Director regarding alternative models that can support Warringah's advocacy and strategic planning role such as proposed Council of Mayors model.*
- F. Endorse the work completed to date by SHOROC in advocacy and planning for regional outcomes.*
- G. Note that the Mayor and General Manager will continue to be involved in discussions about closer cooperation and a potential merger of SHOROC and NSROC in the areas of advocacy and strategic planning.*
- H. Consider this motion as a response to Notice of Motion 15/2013 Joint Collaboration Opportunities with Other Councils from the Council Meeting of 25 June 2013."*

### Local Government Reforms

In relation to Point A in the Resolution 271/13 above, Warringah wrote to the Minister in October 2013 to express our support and to meet to discuss the reform agenda.

Our recent submission to the State Government is in support of most of the comprehensive reforms outlined in the Local Government Acts Taskforce's final report, excepting the few that are considered to be too prescriptive. This submission was approved by Council at its last meeting on 25 February 2014.

Warringah is also in support of most of the reforms aimed at a more strategic level, as outlined in the Independent Local Government Review Panel's (Panel) final report released in January 2014. These address financial sustainability, infrastructure, performance, governance, structural reforms and improving the State-local government partnership. The draft submission is before Council (Agenda item 8.4), giving clear support for most of the 60 relevant recommendations. However,



the most notable exception is that the submission opposes the forming Joint Organisations as they are currently proposed.

## **STRATEGIC PARTNERSHIPS**

### **Proposed Joint Organisations of Councils**

The Panel proposes the establishment of Joint Organisations (JOs) as a better collaborative model to replace the Regional Organisations of Councils (ROCs) for strategic planning and shared services. While there is merit in such a model under the Local Government Act, including easily-established commercial bodies, Warringah's submission (Agenda item 8.4) opposes JOs:

- Membership of a JO is mandatory and set for 10 years
- No mechanism for councils to choose their own JO, other than the Panel's groupings
- The cost of establishing another tier, where the scale of the JO may not be sufficient to achieve the required cost: benefit.
- No provision for proportional voting on decisions, based on population size

The Panel advocates a regional JO comprising Warringah, Manly and Pittwater Councils. This is too small to provide a significant strategic planning role, and too small a scale for shared services to be viable. The cost of establishing and running such a small body will negate any commercial benefit. It would be smaller than our current ROC of four councils, one of the smallest in NSW.

Inequity in any JO partnership is also unacceptable. If such JOs allocate equal votes for each member council, then the smallest councils will benefit from a much greater decision-making parity within the regional population, to the detriment of every other member council. For instance Hunters Hill LGA (population 14,139\*), would have more than ten times the voting parity of one the size of Warringah (population 150,275\*), or more than two times that of Mosman, three times that of Manly and four times that of Pittwater.

*\* Estimated Resident Population 2012*

Small councils will have an unwarranted level of control of the larger region around them. This is fundamentally undemocratic, undermining metropolitan governance and will lead to poor regional decisions. It also encourages small councils to stay small, undermines the whole premise of structural reform for the sector, and will likely galvanise resistance to any structural change.

While the Minister for Local Government is publicly supportive of the Panel's model for JOs, the consultation has not yet closed and the Government is yet to form its position on the reform package. Any implementation is likely at least 6 -12 months away to enable legislative change, initiate potential JO pilots and the higher priority voluntary amalgamations.

In the meantime, it is prudent for Council to oppose membership of any future Joint Organisation, whether mandatory or voluntary, unless it is based on proportional representation.

### **Strategic Alliance with The Hills and Hornsby Councils**

In regard to exploring collaboration with The Hills and Hornsby Councils (Points B and C of Resolution 271/13 above), there has been some progress over the last six months.

Meetings have been held between the General Managers of these Councils and Warringah to progress an agreement. Ongoing discussions are taking place to work towards a joint procurement arrangement.

### **Shore Regional Organisation of Councils (SHOROC)**

There have been repeated issues arising throughout our membership of SHOROC where the priorities for Warringah residents have been under-recognised. Recent examples include:

- An emphasis on north-south transport corridor needs in contrast to Warringah's east-west priority;
- Communication with the State government on the proposed Frenchs Forest Hospital and related infrastructure needs.

There is also a long-standing dissatisfaction with resourcing and decision-making around shared services.

Council has advised SHOROC of Warringah's dissatisfaction with the current arrangements for regional advocacy and procurement. This is primarily due to the undemocratic structure of the voting arrangements within the SHOROC Board whereby each member council is allocated two votes (one vote for each of two delegates) regardless of the population that each of them serves.

As Warringah serves over half of the total SHOROC population, our residents are disadvantaged with only a quarter of the votes. This results in 52% of the population being granted a 25% weighting in decision making, and much smaller populations having a greater say in regional decisions. Every other member council of SHOROC has a much higher voting parity for its residents than Warringah, with Mosman having the highest at five times.

**Figure 1: Current voting arrangements in SHOROC**

<b>SHOROC member council</b>	<b>Board Voting entitlement</b>	<b>ERP 2012*</b>	<b>% of SHOROC Population</b>	<b>% of total votes</b>	<b>Voting parity compared to Warringah population</b>
Warringah	2	150,275	52.8	25	1.0
Pittwater	2	61,201	21.5	25	2.5
Manly	2	43,371	15.3	25	3.5
Mosman	2	29,605	10.4	25	5.1
<b>TOTAL</b>	<b>8</b>	<b>284,452</b>	<b>100.0</b>	<b>100</b>	

*\* Estimated Resident Population data from ASGS Population Estimates by Local Government Area 2012*

In recognition of this, and the limited economies of scale afforded to Warringah from this collaboration, Council resolved to withdraw from the joint procurement and shared services with SHOROC (Point D in the Resolution 271/13 above).

As the same inequity of voting applies to strategic and planning decisions within SHOROC, it is in the fundamental interests of our residents to seek a proportional voting arrangement within SHOROC. A more equitable arrangement, for fundamental democratic representation of all residents across the region, is outlined in Figure 2, where each council's voting entitlement is proportional to its population size.

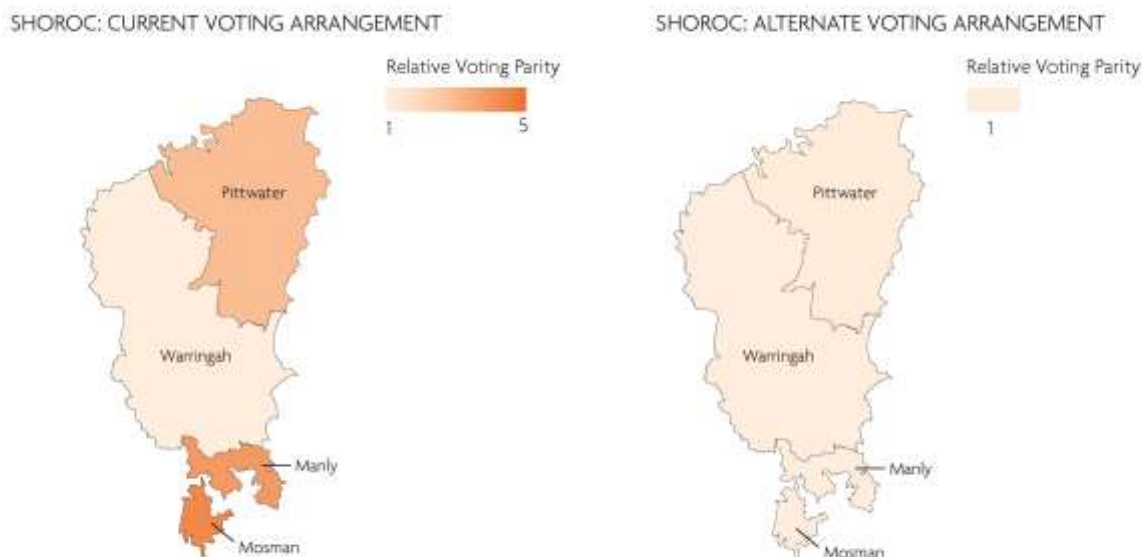
**Figure 2: Alternative voting arrangements for SHOROC**

SHOROC member council	Board Voting Entitlement	ERP 2012*	% of SHOROC Population	% of total votes	Voting parity compared to Warringah population
Warringah	10	150,275	52.8	52.6	1.0
Pittwater	4	61,201	21.5	21.1	1.0
Manly	3	43,371	15.3	15.8	1.0
Mosman	2	29,605	10.4	10.5	1.0
<b>TOTAL</b>	<b>19</b>	<b>284,452</b>	<b>100.0</b>	<b>100.0</b>	

\* Estimated Resident Population data from ASGS Population Estimates by Local Government Area 2012

This roughly equates to one vote for every 15,000 residents across the entire region. With each council entitled to two delegates to a Board meeting, each delegate could be allocated half their council's voting entitlement listed in Figure 2, with the Chair to retain a single casting vote if needed.

The maps in Figure 3 clearly show the inherent inequity of the current voting arrangements within SHOROC, in contrast to the equal say that residents across the region would be afforded through the alternative arrangement.

**Figure 3: Comparison of options for SHOROC voting arrangements**


In the interests of a level playing field for all communities across the region, it is vital to seek a special resolution of SHOROC to alter the Board voting arrangements along these lines in the SHOROC Constitution (Clause 34).

## **A Proposed Regional Model – Northern Metropolitan Council of Mayors**

In relation to Points E and G in the Resolution 271/13 above, SHOROC and NSROC member councils have formed a Working Party and in recent months have explored the idea of merging to form a larger collaborative body across the region. This is proposed as the “Northern Metropolitan Council of Mayors (CoM)” (working title). This CoM is modelled along the lines of Joint Organisations proposed by the Panel. Its key functions would be strategic planning, advocacy and shared services, including the ability to set up commercial bodies.

This CoM would include 11 member councils i.e. the entire membership of SHOROC and NSROC. It would cater for a total population of over 860,000 people, stretching from the harbour foreshores to Hornsby and the northern beaches. It would provide good economies of scale and be an effective voice for regional planning and resourcing in partnership with the State government. At this scale it also aligns well with the State’s planning regions

At this stage, establishing such a body is considered to be some 12 months premature as:

- The government is yet to complete its consultation and announce its position on the reforms, including JOs and whether they would encompass proportional representation
- The Panel’s proposals emphasise that JOs should not be formed until all options for voluntary amalgamations are exhausted
- Enabling changes to the Local Government Act are a prerequisite
- Ministerial Guidelines on the core functioning of JOs are also a pre-requisite

To examine the proposal on its merit, its features are outlined in the attached draft Terms of Reference developed by the Working Party. Clause 5 outlines the draft Operating Rules, with a basis of one vote for each council at Board meetings. As discussed above this type of arrangement is inequitable for residents across the region where council sizes differ markedly.

**Figure 4: Draft voting arrangements in the Northern Metropolitan Council of Mayors**

<b>Proposed Members</b>	<b>CoM Voting entitlement</b>	<b>ERP 2012*</b>	<b>% of region’s population</b>	<b>% of total votes</b>	<b>Voting parity compared to Warringah population</b>
Hunters Hill	1	14,139	1.6	9.1	10.6
Mosman	1	29,605	3.4	9.1	5.1
Lane Cove	1	33,726	3.9	9.1	4.5
Manly	1	43,371	5.0	9.1	3.5
Pittwater	1	61,201	7.1	9.1	2.5
North Sydney	1	67,722	7.8	9.1	2.2
Willoughby	1	71,933	8.3	9.1	2.1
Ryde	1	110,791	12.8	9.1	1.4
Ku-ring-gai	1	116,527	13.5	9.1	1.3
Warringah	1	150,275	17.4	9.1	1.0
Hornsby	1	165,090	19.1	9.1	1.1
<b>TOTAL</b>	<b>11</b>	<b>864,380</b>	<b>100.0</b>	<b>100</b>	

\* Estimated Resident Population data from ASGS Population Estimates by Local Government Area 2012

Figure 4 shows how the one vote per council on this proposed CoM is inequitable:

- Smaller councils will have an unwarranted level of control of the larger region around them, with the percentage of votes exceeding the percentage of population for 7 of the 11 councils. Their voting entitlements is above what is warranted by their population size
- The remaining 4 councils (largest ones) would be under-representing their communities, based on voting entitlement
- Almost all councils would be disadvantaged: Hunters Hill (being the smallest) would have over 2 to 5 times the voting parity of most councils, and 10 times the voting parity of Warringah
- Manly, Lane Cove and Mosman would also each have around 4 to 5 five times the voting parity of Warringah.

This is fundamentally undemocratic, undermining metropolitan governance and will lead to poor regional decisions. It also encourages small councils to stay small, undermines the whole premise of structural reform for the sector, and will likely galvanise resistance to any structural change in northern Sydney.

A draft implementation plan proposes that the formation of the CoM proceed quickly in the coming months on the basis of an Memorandum of Understanding, with a later transition to a JO “ if/when NSW Government policy and the legislative change are made” (Item 4c, SHOROC/NSROC Working Party Meeting 2, held 30 January 2014) . It seems premature and unwarranted to proceed in such an urgent fashion. If this body is formed without proportional representation, or indeed used as a pilot for JOs, this could set a very weighty precedent which would be difficult to change in the future transition to a JO constituted under a revised Local Government Act.

Warringah is fundamentally opposed to this arrangement. As a result of discussions in the Working Party, Hornsby and Warringah Councils were requested to provide input on alternative voting arrangements. Below is outlined an arrangement where there is equitable and democratic voting allocation based on proportional representation

**Figure 5: Alternative voting arrangements for Northern Metropolitan Council of Mayors**

<b>Proposed members</b>	<b>CoM Voting entitlement</b>	<b>ERP 2012*</b>	<b>% of region's population</b>	<b>% of total votes</b>	<b>Voting parity compared to Warringah population</b>
Hunters Hill	1	14,139	1.6	2.0	1.3
Mosman	2	29,605	3.4	4.1	1.3
Lane Cove	2	33,726	3.9	4.1	1.1
Manly	3	43,371	5.0	6.1	1.3
Pittwater	4	61,201	7.1	8.2	1.2
North Sydney	4	67,722	7.8	8.2	1.1
Willoughby	4	71,933	8.3	8.2	1.0
Ryde	6	110,791	12.8	12.2	1.0
Ku-ring-gai	6	116,527	13.5	12.2	1.0
Warringah	8	150,275	17.4	16.3	1.0
Hornsby	9	165,090	19.1	18.4	1.0
<b>TOTAL</b>	<b>49</b>	<b>864,380</b>	<b>100.0</b>	<b>100</b>	

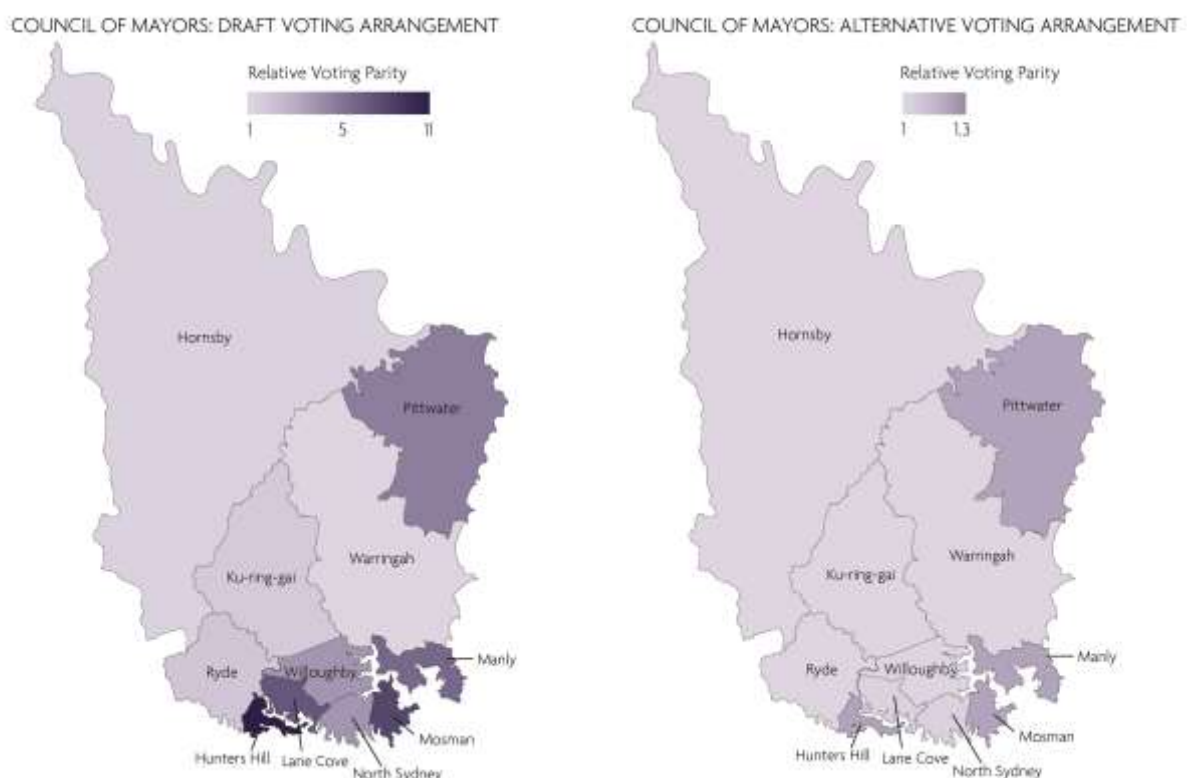
Potential voting options have been explored by grading voting entitlements in line with 20,000 increments in population, as shown in Figure 5. This roughly equates to one vote for every band of 20,000 residents across the region. The relative voting parity of most member councils is 1.0 to 1.1

times that of Warringah. A few of the smaller councils benefit with up to 1.3 times, resulting from where their current population size falls in relation to the nearest band.

Should a different scale be used? Across such a large region with such disparate population sizes, it is considered that smaller bands (under 20,000 population), though more precise, would not allow for enough fluctuation in population size over a 3-4 year period. Expanding to larger bands of 50,000 residents does not recognise enough gradation in current council sizes and also affords a moderate to major advantage to the smaller councils. For instance Hunters Hill residents would have nearly four times the voting parity of Warringah residents, and some others nearly two times.

The maps in Figure 6 clearly show the inherent inequity of the draft voting arrangements within the CoM, in contrast to the equal say that residents would be afforded through the alternative arrangement proposed above. There would be true equal representation of all residents across the region, with no overwhelming privilege afforded to small councils. This provides greater incentive for all member councils to be more effective partners for good outcomes for all of the northern Sydney community.

**Figure 6: Comparison of options for Council of Mayors voting arrangements**



Basing voting entitlements on 20,000 bands of population could work in the following way:

- Each council's voting entitlement would be as is listed in Figure 4, allocated to its single representative (Mayor or delegate)
- Voting is based on an effective quorum; and a consensus of 75% of the total tally of votes of those present (not 75% of delegates present)
- A simple formula would be used at each meeting based on the voting entitlement of those councils present.



- The Chair would retain the right to a single casting vote if needed
- This arrangement would support most of the Operating Rules in the attached draft Terms of Reference (Section 5).

In the interests of a level playing field for all communities across the region, it is proposed that Warringah provide the SHOROC/NSROC Working Party with the requested alternative governance structures for the proposed Council of Mayors. This should be based on details outlined above, to advocate for a proportional representation model of voting arrangements.

**TIMING**

Submissions on the Independent Local Government Review Panel's Report close on 4 April – this submission is dealt with in a separate Agenda item for tonight's meeting. Any implementation of the reforms likely at least 6 -12 months away, as the Government must first establish its position, then initiate a priority implementation package, including initial legislative change.

**FINANCIAL IMPACT**

In 2014-15 the cost of Warringah's membership to SHOROC is anticipated to be between \$93,000 to \$95,000 for its role in planning and advocacy. If there is a change in the current arrangement changes, Council would still need to resource regional planning and advocacy by some avenue.

**POLICY IMPACT**

Warringah will benefit from strong regional partnerships that are well-constituted, as would all member councils. Proportional representation will ensure such partnerships function in a fair and democratic way on behalf of their communities, for regional planning and shared services. This will result in a level playing field for all communities; Warringah residents would no longer be disadvantaged.





**Tab B: *Northern Metropolitan Council of Mayors (working title) DRAFT Terms of  
Reference***

# **Northern Metropolitan Council of Mayors**

**(working title for discussion)**

## **DRAFT Terms of Reference**

*Northern Metropolitan Council of Mayors - Draft Terms of Reference*

## Draft Terms of Reference (FOR DISCUSSION)

### 1. Name

The name of the organisation is the NORTHERN METROPOLITAN COUNCIL OF MAYORS (Working title - To be confirmed) hereunder referred to as "The Organisation".

### 2. Mission

To provide strong leadership and a representative voice on behalf of all Northern Sydney councils, to partner with the state and federal governments on regional planning and priorities, and to collaborate for enhanced financial sustainability.

### 3. Objectives

The objectives of The Organisation are to:

- Provide a collective voice for the councils and communities of Northern Sydney on whole-of-region issues including infrastructure, land-use planning, economic, social and environmental issues, and regulation and reform of the local government sector.
- Facilitate effective and efficient intergovernmental relations and partnerships between all levels of government on regional strategic planning, projects and programs for the benefit of Northern Sydney.
- Support enhanced financial sustainability and capacity of councils and assist councils to adapt or respond to NSW Government policy and legislative change.

### 4. Major role and structure

The Organisation comprises:

- a **Membership** of councils from across the Northern Sydney area
- a **Board (Council of Mayors)** consisting of all member Mayors and an elected **Executive**
- a **General Managers Advisory Committee** consisting of all member General Managers
- an **Administration** including an Executive Director and associated staffing as required.

The major roles of The Organisation are as follows:

- Leadership, advocacy and intergovernmental relations on whole-of-region issues.
- Coordinating strategic regional planning in partnership with the NSW and Commonwealth governments
- Leading and coordinating regional and subregional strategies and programs.

*Northern Metropolitan Council of Mayors - Draft Terms of Reference*

**An overview of Northern Metropolitan Council of Mayors**



Funding of The Organisation is to include an equal '*Membership fee*' for advocacy and regional planning for all member councils and contributions for any specific programs or services on a case by case basis as agreed by the Board.

**5. Draft Operating Rules**

**5.1 Membership**

Membership of The Organisation shall be open to the following Councils: Hornsby, Hunter's Hill, Kuring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde City, Warringah, Willoughby City.

**5.2 Board (Council of Mayors) representation, role and decision-making**

A member council will be represented on the Board by the Mayor as its delegate.

Delegates to the organisation shall collectively be known as the Board.

Where the Mayor of a council is unable to attend a meeting of the Board, the Council may be represented by the Deputy Mayor or another Councillor for the purpose of being an alternative delegate.

*Northern Metropolitan Council of Mayors - Draft Terms of Reference*

Subject to the Act, the Regulation and this constitution and to any resolution passed by the Organisation in a general meeting, the role of the Board is to control and manage the affairs of The Organisation including:

- Adopt an annual business plan
- Monitor the performance of The Organisation
- Adopt annual estimates of revenue and expenditure having regard for the business plan
- Approve additional resources for priority regional projects from time to time and review the business plan and its contents as required
- Make broad policy decisions within the objectives of The Organisation
- Exercise such other functions as may be exercised by The Organisation other than those functions that are required to be exercised by a general meeting.

Board meetings will be held at least four times per year, initially bi-monthly.

**5.3 Quorum and voting**

A quorum at a general meeting of the Board shall consist of a number being half the number of delegates plus one.

All delegates will have one equal vote.

The Organisation operates on a basis of mutuality. Where voting is required decision-making will be by consensus, where consensus is deemed to be 75% of delegates present at a meeting.

The Chair will have both a deliberative and a casting vote.

All votes must be given personally.

**5.4 Executive**

The Executive of the Board shall consist of:

- The President
- Three Vice Presidents

The election of the Executive is to take place at the Annual General Meeting biennially by a system determined by the members to ensure representation of geographic regions if practical.

Each member of the Executive is, subject to this Constitution, to hold office for a term of two years until the conclusion of the second Annual General Meeting following the date of the election, but is eligible for re-election.

If a person who is a member of the Executive ceases to be a delegate then a casual vacancy occurs. A casual vacancy can be filled at an Ordinary Meeting of the Board in such a proper manner as the Board may direct.

*Northern Metropolitan Council of Mayors - Draft Terms of Reference***5.4.1 Role of the Executive**

Between meetings of the Board the role of the Executive shall be to determine matters relevant to the Board's responsibility in circumstances where:

- in the opinion of the Executive the matter is such that it must be determined prior to the next ordinary meeting of the Board, and
- it would be impractical to convene an extraordinary meeting of the Board.

The Executive will also bring matters forward for consideration of the Board where considered appropriate.

This role does not have the authority to vary the adopted Business Plan and Budget or review a regional policy or position that have been adopted by decision of the Board.

**5.4.2 Role of the President**

The President shall preside at all meetings of the Board.

The President, unless otherwise directed by resolution of the Board shall:

- Chair meetings of the Board.
- Represent The Organisation and act as the principal spokesperson
- Exercise leadership and give direction to The Organisation.
- Guide the Board and Executive meetings according to the agenda, emerging issues and the time available
- Represent The Organisation to other Agencies and Governments.
- Present The Organisation and its decisions in a positive way to the community, media, government and other interested groups.
- Together with the GMAC authorise the expenditure of funds provided within the adopted budget.
- Call special general meetings as required.

**5.4.3 Role of the Vice Presidents**

The Vice Presidents, unless otherwise directed by resolution of the Board shall:

- Represent The Organisation where requested by the Board or the President and act as the spokesperson, for example on issues relevant to specific geographic areas
- Support the President in exercising leadership and giving direction to The Organisation.
- Represent The Organisation to other Agencies and Governments where requested by the Board or President.
- Present The Organisation and its decisions in a positive way to the community, media, government and other interested groups.



*Northern Metropolitan Council of Mayors - Draft Terms of Reference***5.5 General Manager Advisory Committee (GMAC)**

Delegates of each Council who are General Managers shall comprise the General Manager Advisory Committee (GMAC). One General Manager shall be appointed chairperson for a period of two years at the first meeting following the Annual General Meeting where the Executive is elected.

The role of the GMAC will be to:

- Advise on administrative and planning matters relating to the role of the Board (Council of Mayors).
- Exercise general supervision of The Organisation's staff and resources including the authorisation of expenditure within the budget approved by the Board.
- Submit reports and recommendations to the Board for policy decision.
- Prepare and submit a Business Plan to the Board for adoption.
- Have general supervision of projects and activities in the Business Plan.
- The exercise of such functions as the Board may delegate to GMAC from time to time by resolution.

**5.6 Delegation to sub-committee**

The Board may delegate to one or more sub-committees (consisting of such members of the Board or its member councils as the Board thinks fit) the exercise of functions of the Board as is deemed appropriate.

**5.7 Administration and staffing**

The organisation shall have the power to appoint such staff as the organisation may require from time to time.

**5.8 Legal structure**

Due to foreshadowed changes in legislation regarding regional organisations, The Organisation will be established initially by Memorandum of Understanding (MOU) between member councils and an implementation plan to an appropriate legal structure will be developed.

**5.9 Financial model**

The Organisation will be funded by:

- A 'Membership' contribution by all members for administration of the Council of Mayors including regional advocacy, planning and intergovernmental relations, which is equal or as otherwise agreed as adopted by unanimous decision of the Board.
- Contributions for any specific programs and activities on a case by case basis.

*Northern Metropolitan Council of Mayors - Draft Terms of Reference***5.10 Powers of The Organisation**

The Organisation shall, for the mutual benefit of the areas of the member Councils have power, in accordance with this Constitution, to:

- Make submissions to governments and other agencies in respect of the areas of the member Councils, consistent with the objectives of The Organisation and adopted Business Plan
- Carry out the objectives of The Organisation
- Receive funds in respect of the:
  - staffing of The Organisation
  - carrying out of projects or studies agreed by The Organisation
  - for any purpose that may be authorised by The Organisation.

The above shall not affect the right of an individual Council acting in its own right on any matters.

The control, regulation, maintenance and management of the exercise of these powers is vested in the meetings of delegates in accordance with this Constitution subject to any delegation of authority which may have been granted.

By resolution, and within limits defined in such resolution, to authorise the Executive or a properly appointed sub-committee consisting either whole or part of elected representatives, staff or other persons to exercise or perform on behalf of The Organisation any power, authority, duty or function other than any power, authority, duty or function, The Organisation, by resolution, reserves for itself.

**6. Other items to be added based on standard constitutional clauses**

Include: Administrative issues including annual and financial reporting, meeting procedure, Resolution of internal disputes, resignation of members, termination of the organisation, media policy, Code of Conduct policy.

**7. Northern Sydney Regional Services Group**

The planned regional model for Northern Sydney also includes the establishment of a separately governed *Northern Sydney Regional Services Group* to support enhanced financial sustainability and capacity of participating councils through a business improvement program and joint council strategic and service delivery initiatives.

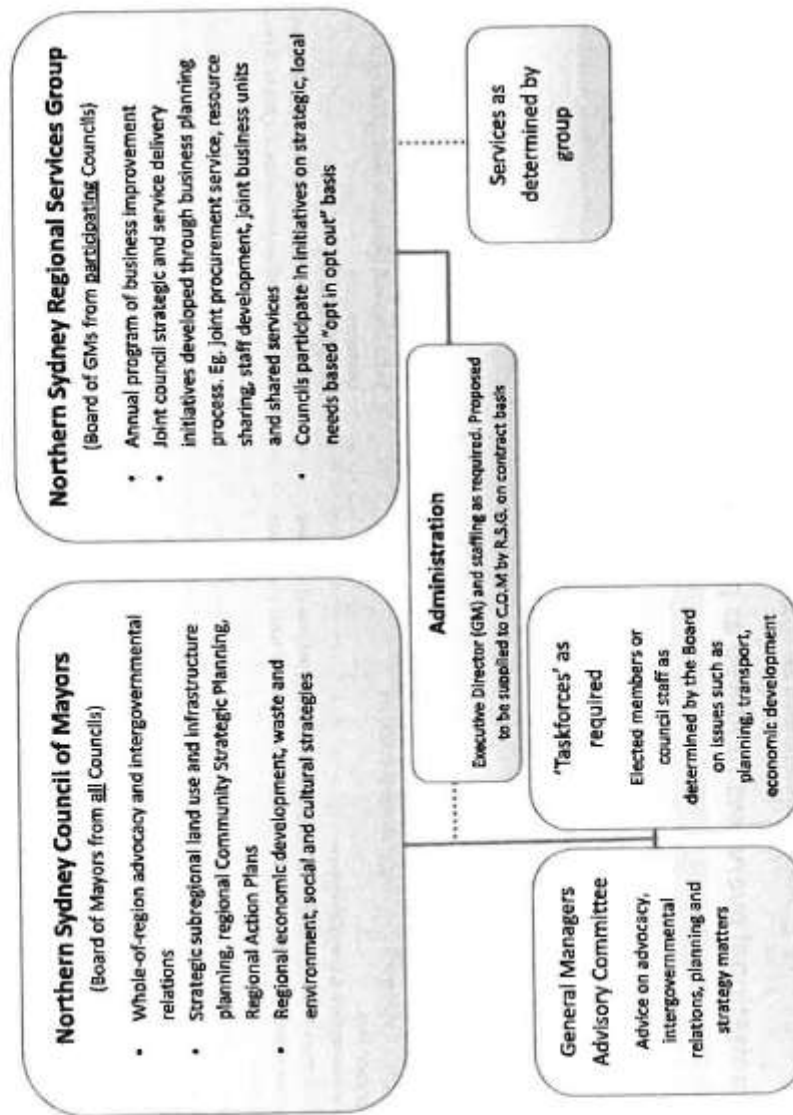
This enables appropriate separation of regional strategic and advocacy functions from regional resource sharing, shared services and joint service delivery functions, where participation in specific initiatives is based on a strategic local needs "opt-in opt-out" basis.

The formal establishment of the proposed Regional Services Group is on hold until the Northern Metropolitan Council of Mayors is established and further clarity is provided by NSW Government regarding its plans for local government reform.



Proposed new regional collaboration model for Northern Sydney  
Meeting outcome from 29/11/13 Meeting of Mayors and General Managers

## Overview of proposed Northern Sydney council collaboration model



Proposed new regional collaboration model for Northern Sydney  
Meeting outcome from 29/11/13 Meeting of Mayors and General Managers

## Proposed organisational overviews (updated as per 29/11/13 meeting)

Group	Council of Mayors	Regional Services Group
<b>Objectives</b>	<ul style="list-style-type: none"> <li>➤ Provide a <b>collective voice</b> for the councils and communities of Northern Sydney on whole-of-region issues including infrastructure, land-use planning, economic, social and environmental issues, and regulation and reform of the local government sector.</li> <li>➤ Facilitate effective and efficient <b>intergovernmental relations and partnerships</b> between all levels of government on <b>regional strategic planning, projects and programs for the benefit of Northern Sydney</b>.</li> <li>➤ Support enhanced financial sustainability and capacity of councils and assist councils to adapt or respond to NSW Government policy and legislative change.</li> </ul>	<ul style="list-style-type: none"> <li>➤ To support <b>enhanced financial sustainability and capacity of councils</b> through a program of business improvement and implementation of joint council strategic and service delivery initiatives.</li> </ul>
<b>Structure</b>	<ul style="list-style-type: none"> <li>➤ Membership open to <b>councils from across the Northern Sydney area</b></li> <li>➤ Board (Council of Mayors) consisting of all member Mayors</li> <li>➤ Elected Executive</li> <li>➤ General Managers Advisory Committee</li> <li>➤ Administration including an Executive Director and associated staffing as required (proposed to be supplied by Regional Services group on contract basis to minimise duplication)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Membership of <b>participating councils</b></li> <li>➤ Board (Regional Services Group) consisting of all member General Managers</li> <li>➤ Elected Executive</li> <li>➤ Administration including staffing and business units as required</li> <li>➤ Joint services as determined by the Board of the Regional Services Group</li> </ul>
<b>Major role</b>	<ul style="list-style-type: none"> <li>➤ Leadership, advocacy and intergovernmental relations on whole-of-region issues.</li> <li>➤ Coordinating strategic regional planning in partnership with the NSW and Commonwealth governments.</li> <li>➤ Leading and coordinating regional and subregional strategies and programs.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Develop an annual program of business improvement initiatives consistent with the strategic needs of member councils for joint activities to support enhanced council financial sustainability and capacity</li> <li>➤ Deliver joint council strategic and service delivery initiatives such as joint procurement services, resource sharing, staff development, joint business units and shared services for consideration of the councils based on a strategic, local needs "opt in opt out" basis.</li> </ul>
<b>Funding</b>	<ul style="list-style-type: none"> <li>➤ Equal 'Membership fee' for advocacy and regional planning</li> <li>➤ Contributions for any specific programs or services on a case by case basis as agreed by the Board.</li> </ul>	<ul style="list-style-type: none"> <li>➤ 'Regional Services Group membership' contribution by participating councils to the development of business improvement proposals, which is equal or as otherwise agreed.</li> <li>➤ Contributions for any specific programs, business activities and services on a case by case basis.</li> </ul>

<b>ITEM 8.6</b>	<b>REPORTING VARIATIONS TO DEVELOPMENT STANDARDS - STATE ENVIRONMENTAL PLANNING POLICY NO.1 - DEVELOPMENT STANDARDS AND CLAUSE 4.6 OF WARRINGAH LOCAL ENVIRONMENTAL PLAN</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER DEVELOPMENT AND COMPLIANCE SERVICES</b>
<b>TRIM FILE REF</b>	<b>2014/055317</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To report to Council variations to development standards granted under State Environmental Planning Policy No.1 – Development Standards (SEPP1) or under Clause 4.6 of the Warringah Local Environmental Plan (WLEP) as required by the NSW Department of Planning and Infrastructure.

#### **SUMMARY**

During the period 1<sup>st</sup> October 2013 to 31<sup>st</sup> December 2013, the following variations were granted:

- 1 variation under State Environmental Planning Policy No.1 – Development Standards
- 16 variations under Clause 4.6 of Warringah Local Environmental Plan 2011.

#### **FINANCIAL IMPACT**

Nil

#### **POLICY IMPACT**

Nil

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#### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That the report identifying all State Environmental Planning Policy No. 1 variations and Clause 4.6 of the Warringah Local Environmental Plan variations granted to development applications between 1<sup>st</sup> October 2013 and 31<sup>st</sup> December 2013 be noted.

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## REPORT

### SEPP 1 Variations Granted

1 SEPP variation was granted between 1<sup>st</sup> October 2013 & 31<sup>st</sup> December 2013 inclusive.

App. No.	Address	Proposal	SEPP variation	% of variation	Determined by
DA2013/0744	254 Warringah Rd, Beacon Hill	Residential – Seniors Living	SEPP 1 – Development Standards	17%	WDAP

### Clause 4.6 Variations Granted

The following applications had a Clause 4.6 variation granted between 1<sup>st</sup> October 2013 and 31<sup>st</sup> December 2013 inclusive.

App. No.	Address	Proposal	Clause 4.6 Development Standard	% of variation	Determined by
DA2012/1377	138-140 Old Pittwater Rd, Brookvale	Industrial	4.3 Height of buildings	129%	L&E Court
DA2013/0708	21 Orlando Rd, Cromer	Industrial	4.3 Height of buildings	5.40%	Delegated Authority
DA2013/0727	68 Cowan Dr, Cottage Point	Residential - alterations & additions	4.3 Height of buildings	65.90%	Delegated Authority
DA2013/0888	13-15 Green St, Brookvale	Commercial/retail/office	4.3 Height of buildings	8.10%	Delegated Authority
DA2013/0907	142 Wyadra Ave, North Manly	Residential - Single new detached dwelling	4.3 Height of buildings	1.10%	Delegated Authority
DA2013/0890	24 Queenscliff Rd, Queenscliff	Residential - alterations & additions	4.3 Height of buildings	78.94%	Delegated Authority
DA2013/0925	22-24 Shackel Ave, Brookvale	Residential - new multi-unit	4.3 Height of buildings	17.64%	Delegated Authority
DA2013/0927	751,757 Warringah Rd, Forestville	Subdivision only	4.1 Minimum subdivision lot size	2.91% - 9.93%	Delegated Authority
DA2013/0984	5 Randall Court, Collaroy Plateau	Residential - alterations & additions	4.3 Height of buildings	4.70%	Delegated Authority
DA2013/1010	12 Roger St, Brookvale	Mixed	4.3 Height of buildings	13.80%	Delegated Authority
DA2013/1038	1 Phyllis St, North Curl Curl	Residential - alterations & additions	4.3 Height of buildings	5.09%	Delegated Authority
Mod2013/0111	4 Monash Pde, Dee Why	Residential – alterations & additions	4.3 Height of buildings	10.53%	Delegated Authority
Mod2013/0183	29-31 Crown Rd & 4 Bridge Rd, Queenscliff	Subdivision only	4.1 Minimum subdivision lot size	75%	Delegated Authority
DA2013/1154	6 Warri Cl, Narrabeena	Residential - alterations & additions	4.3 Height of buildings	129%	Court Approved
DA2013/1233	20 Wandella Rd, Allambie Heights	Subdivision only	4.1 Minimum subdivision lot size	11.6% - 13%	Delegated Authority
DA2013/1243	44 The Crescent, Dee Why	Residential - alterations & additions	4.3 Height of buildings	22%	Delegated Authority

<b>ITEM 8.7</b>	<b>VOLUNTARY PLANNING AGREEMENT - DA2013/1168</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER ENVIRONMENT</b>
<b>TRIM FILE REF</b>	<b>2014/062110</b>
<b>ATTACHMENTS</b>	<b>1 Explanatory Note</b> <b>2 Voluntary Planning Agreement (VPA)</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To seek a decision of Council in relation to a Voluntary Planning Agreement (VPA) which has been lodged in respect to a Development Application for a proposed 15 storey mixed-use development, known as the "Cobalt Development" at 699-701 Pittwater Road, Dee Why (DA2013/1168).

#### **SUMMARY**

Development Application DA2013/1168 (DA) has been lodged for a proposed 15 storey mixed use development, including (as revised) 129 residential units and 5 retail units with associated carparking and other facilities. The current planning controls for the site under WLEP 2011 restrict development to 6 storeys (24 metres). An approval has already been granted by the Joint Regional Planning Panel for a 9 storey building (24 metres) with 85 residential units on this site (DA2011/0887 as modified by MOD2012/0087).

In response to the adoption of the Dee Why Town Centre Masterplan (Masterplan), the applicant is seeking approval for an additional 6 storeys and as part of that intensification has invited Council to enter into a VPA to deliver certain contributions as an offset to the greater height and floorspace.

The applicant's offer includes dedication of floorspace and a lift, a monetary contribution, incorporation of new public amenities and demolition of an existing toilet block in St David's Park.

The revised VPA and DA were publicly exhibited and 570 submissions were received with 569 objecting to the proposal and 1 supporting the proposal.

Based on the inadequate amount of material public benefit being offered under the VPA, it is recommended that Council not enter into the VPA as currently proposed.

#### **FINANCIAL IMPACT**

Should Council adopt the recommendation not to sign the VPA, the financial impact is limited to the fact that Council will solely need to fund the upgrade works in St David's Park and also solely fund the demolition of the existing public toilet block which will need to be demolished as part of the approved 9 storey DA.

The VPA does not seek an exclusion from the payment of Section 94A contributions.

#### **POLICY IMPACT**

As Council is presently in the process of developing a draft policy for Voluntary Planning Agreements this cannot be precisely determined.

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#### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council resolves not to enter into a Voluntary Planning Agreement with Jubilee Properties

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Pty Ltd in association with DA2013/1168.

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## **REPORT**

### **BACKGROUND**

The DA seeks consent for the demolition of existing buildings and construction of a mixed use development comprising retail, commercial and residential units on land at Nos. 697; 699; 701 and 703 Pittwater Road, Dee Why.

The DA seeks to increase the height of the building already approved under DA2011/0887 from nine (9) storeys to 15 storeys which is proposed in response to the future building heights as envisaged under the adopted Masterplan.

However, the Masterplan only allows for the increased building height on selected “Key Sites” within the Town Centre when the following provisos are met:

- (a) The development provides demonstrable public benefits through a Voluntary Planning Agreement (VPA). Such public benefits include the provision of new public open space, wider footpaths or new pedestrian walkways and laneways; and
- (b) That new development does not increase the current floor space provided for within the Town Centre.

The VPA has been put forward by the applicant in response to this new approach and is based on a list of contributions which they believe offers an adequate amount of public benefit to the community despite the increase in gross floor area over and above the approved 9 storey building.

### **THE DEVELOPMENT APPLICATION**

The DA includes the following:

- 15 storeys (plus plant room)
- 149 residential units
- 5 retail units
- Commercial unit/Skyplaza
- Gym
- Public Toilet Facilities
- 177 carparking spaces (did not comply with WDCP 2011).

The accompanying VPA provided a total contribution of \$3,855,000 which was made up of the following:

- \$250,000 towards the upgrade of St David’s Park or provision of a future Skybridge
- Transfer of 3 retail units (263m<sup>2</sup>) on the Ground Floor Level to Council
- Transfer of Level 2 Commercial Space(272m<sup>2</sup>), plus carparking space and lift to Council
- Inclusion of Public Toilets (37m<sup>2</sup>) in Cobalt development
- Demolition of existing toilets in St David’s Park (increase in park area by 50m<sup>2</sup>).

***Amended Application***

Following concerns raised by Council staff regarding the bulk of the building and the lack of spatial separation of the tower to the adjoining properties to the south/west, the DA was subsequently amended to reduce the mass and bulk of the upper six (6) storeys of the building on the southern side of the site and in doing so reduced the number of residential units by 20.

The DA includes the following:

- 15 storeys (plus plant room)
- 129 residential units
- 5 retail units
- Commercial unit/Skyplaza
- Gym
- Public Toilet Facilities
- 178 carparking spaces (compliant with WDCP 2011).

The VPA provided a total contribution of \$2,000,000 which was made up of the following:

- \$250,000 towards the upgrade of St David's Park or provision of a future Skybridge
- Transfer of 1 retail unit (54m<sup>2</sup>) plus 3 carparking spaces on the Ground Floor Level to Council
- Transfer of Level 2 Commercial Space (194m<sup>2</sup>), plus 1 carparking space and lift to Council
- Inclusion of Public Toilets (37m<sup>2</sup>) in the Cobalt development
- Demolition of existing toilets in St David's Park (increase in park area by 50m<sup>2</sup>).

**THE VOLUNTARY PLANNING AGREEMENT****Parties to the VPA**

The parties to the proposed VPA are Jubilee Properties Pty Ltd and Warringah Council in association with the DA.

It is noted that the contributions contained in the VPA partly relate to the adjoining public reserve to the north known as St David's Park, which is No. 703 Pittwater Road, Dee Why.

**Summary of Contributions under the VPA**

The applicant advised that the total value of contributions under the VPA are \$2,000,000 or 34% of the additional value of the development compared to the approved 9 storey development.

These contributions have been summarised as comprising:

1. A cash payment of \$250,000, being a contribution towards the cost of the upgrade of St David's Park and/or towards the construction of a future Skybridge over Pittwater Road to the Meriton Site and over St David's Park/St David's Avenue to Council's Civic Centre Site, and
2. The transfer to Council of 1 retail unit (Retail 1 with an area of 54m<sup>2</sup>) located on the ground floor level of the building fronting Pittwater Road, together with 3 carparking spaces, and



3. The transfer to Council of a commercial space on level 2 of the building together with 3 carparking spaces and a dedicated lift to the ground floor level (combined area of 194m<sup>2</sup>), and
4. The inclusion of Council's public toilet facilities within the ground floor level of the building adjoining St David's Park (area of 37m<sup>2</sup>), and
5. The demolition of the existing public toilets in St David's Park (increasing park area by 50m<sup>2</sup>).

***Applicants Proposed Late Stage Amendments to Latest Version of VPA***

Further to the revised offer outlined above, by letter dated 27 February 2014, the applicant has indicated that the value to Council should also include the cost of installing the lift to the level 2 Council Offices and an amount already paid in Section 94 Contributions for a development consent granted in 2000 which has since been surrendered by the applicant. The applicant stated that the value of the offer increased to \$2,322,000 or 40% of the additional value of the development compared to the approved 9 storey development.

The letter also put forward further revision to their offer, involving an increase in the floor area of "Retail 1" from 54m<sup>2</sup> to 128m<sup>2</sup> and increasing the carparking for this retail unit from 1 space to 3 spaces. The consequence of this change is an increased value of the ground floor retail component which increases the value of the offer to \$2,822,000 or 45% of the of the additional value of the development compared to the approved 9 storey development.

***Value of a Skyplaza and future Skybridge***

The applicant adds that the valuation placed on the proposed dedicated "Skyplaza" on level 2 of the development is not accurately reflected in the valuation placed on this space to date and that the true community benefit should factor in the "strategic value" of the space to be dedicated to Council as it is a key element of the Masterplan.

In this regard, the opportunity of establishing a geographically suitable location for a future Skybridge link connecting the Council Civic Site to the Meriton Site is available on the Cobalt Site. This would avoid the need to construct the access stairs and lift structure within St David's Park. This is noted in the Masterplan as a possibility to improve pedestrian connectivity across Pittwater Road.

The commercial value of the Skyplaza floorspace has been factored into the overall public benefit. However, the intangible value of the Skyplaza and future Skybridge from a strategic point of view cannot be given a monetary value considering the offer does not include the construction of the Skybridge. Whilst the cash contribution of \$250,000 could be used towards the construction of a future Skybridge, this component of the offer was intended to be a contribution towards the upgrade of St David's Park on the basis that the developer wished to use the park as a temporary construction zone during the building of the Cobalt Development.

Therefore, any public benefit derived from the strategic value of the ability for Council (and possibly involving other parties) to connect up a Skybridge in the future, cannot be factored into the value of the present offer under the VPA. Rather, it must be considered a "qualitative benefit" which should be in addition to the quantitative benefit.

**PUBLIC EXHIBITION**

The VPA and DA (original and revised) were publicly exhibited to 2,022 land owners and occupiers and advertised in the Manly Daily, including a "Explanatory Note" (see attachment 1) providing a plain English description of the contents of the VPA to enable the community to better understand the document and its intentions.

The first notification was between 19 October 2013 to 19 November 2013 and the second notification was between 1 February 2014 and 5 March 2014.

As a result of the first public exhibition, 225 submissions were received (including 165 form/standard letters, 60 individual letters and a petition with 17 signatures) and the second public exhibition resulted in 570 submissions (including an on-line petition containing 635 electronic signatures) being received at the time of writing this report.

Issues with the VPA and the associated public benefit were raised in the submissions and are addressed as follows:

**i) *The VPA is equivalent to bribery/corruption***

Concerns have been raised that the developers offer made in the VPA equates to bribery and corruption and that the VPA process should not be allowed in government.

Comment:

A Voluntary Planning Agreement is a legal mechanism entrenched in the NSW planning legislation under Subdivision 2, Sections 93F to 93L of the Environmental Planning and Assessment Act, 1979 and under Division 1A, Clauses 25B to 25H of the Environmental Planning and Assessment Regulation, 2000.

The purpose of a Voluntary Planning Agreement is to allow the developer to do something that involves a significant variation from the normal planning controls that apply and in return provide some material public benefit to the community for the ability to do things differently, such as the dedication of land free of cost, the payment of a monetary contribution for Council to provide facilities and amenities, the provision of another type of material public benefit by the developer, or any combination of these things that can be used for or applied towards a public purpose.

The public purpose in this instance is identified under Section 93F(2)(a) and (d) of the EPA Act as:

*“the provision of (or the recoupment of the cost of providing) public amenities or public services” and “the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure”.*

The VPA presented to Council has been prepared and submitted in accordance with the relevant provisions of the Act and its Regulations. Therefore, the VPA is legal and the comments made in the submissions are unfounded.

**ii) *The Nature of the Public Benefit***

Concerns have been raised that the public benefit contained in the VPA are not in favour of the public, rather it is in favour of the developer.

It is suggested in the submissions that the inclusion of the public toilets in the VPA as a public benefit serves the development more than the community as the development will otherwise have to overlook a public toilet in the park.

Additionally, the submission notes that the provision of public toilets within the building should be discounted from the VPA as these were already included in the approved Development Application (DA2011/0887).

Comment:

Generally, the VPA is considered to offer a public benefit in the upgrading of St David's Park, the provision of floor space to enhance Council's shop-front presence and accessibility and to improve through site pedestrian and vehicular access to facilitate the long-term vision of the Masterplan.

A thorough review of the contents of the VPA and the apportionment of the increased value of the proposed 15 storey development compared to the approved 9 storey development has been undertaken by staff and an independent external consultant. The applicant's valuation of the

components of the VPA, which in Council's opinion amounts to only 36% of the increased value of the development, has been verified by the external consultants.

Nevertheless, the amount of quantitative public benefit (36%) is not considered to be adequate return for the community. Therefore, the concerns expressed by the community in this regard are agreed with.

It is agreed that the relocation of the public toilets from St David's Park into the Cobalt building was an element that was used to justify the non-compliance of the 9 storey building with the height controls (6 storeys) under WLEP 2011 as part of the approval of DA2011/0887. Therefore, the public toilets should be excluded from the total value of the offer and deleted from the VPA.

Notwithstanding, the demolition of the existing public toilet block in St David's Park is considered to be a valid component of the VPA.

**iii) *Elements of the VPA are reliant upon the support of Third Parties***

Concerns have been raised that the provision of a future Skybridge across Pittwater Road and St David's Avenue requires the agreement of third parties who are yet to develop their sites.

**Comment:**

The concerns raised in regard to the likelihood of securing a future Skybridge are legitimate.

It is noted that the Masterplan does envisage some means of dealing with the severance effect of Pittwater Road on the two sides of the town centre and includes references to a pedestrian bridge over Pittwater Road. However, the importance of achieving this outcome is uncertain at this point in time.

The former Multiplex Site (also known as "Site B") is now owned by Meriton and the possibility of linking up a Skybridge with a new development on that site is still being discussed with the new owners. Furthermore, Council is still reviewing the possibility of a bridge link across St David's Avenue to a future development on the Civic Site.

Should Council be unsuccessful in obtaining the agreement of Meriton to provide for a future Skybridge link over Pittwater Road, then the landing area (Skyplaza) being offered on level 2 of the Cobalt building would not be put to that purpose, rather it would continue to be used as public offices for Council operations with its own dedicated lift access.

Furthermore, in the event that the Skybridge did not become a reality, the cash contribution component of the VPA would definitely be used towards the cost of upgrade works to St David's Park.

**REFERRAL COMMENTS**

An analysis of the VPA has revealed the following tangible financial benefits:

1. \$350,000 – being the new public toilets within Cobalt (Jubilee Properties' estimate based on conservative opportunity cost),
2. \$250,000 – being a cash amount payable towards a specified Council project/s
3. \$1.1m – being the transfer to Council of 1 retail unit (area of 128m<sup>2</sup>) located on the ground floor level of the building fronting Pittwater Road, together with 3 car parking spaces
4. \$50,000 – being the cost of demolishing the existing public toilet block in St. David's Park

5. \$1.8 million – being a Council space on Level 2 (total internal area of 194m<sup>2</sup>). This value being the potential current market residential sales value should it be sold as residential units.
6. \$178,500 – being the cost of installing a lift between the Council office and St. David's Park
7. \$143,814 - being Section 94 contributions, bonds and special levy already paid under the surrendered development consent 2000/5096, less the amount refunded

This totals \$3,872,314 or 60% of the proposed total added value of the VPA (noted by the developer as \$6,421,000).

The following intangible community benefits will also be delivered by this project:

- Larger public open space on Council's own land where the toilets will be demolished and re-located within the Cobalt building
- The opportunity cost that gaining the Level 2 space enables, being a landing point for the future proposed sky bridge

This offer has been analysed and the following observations are made in the same order as proposed:

1. \$0 - attributable to the new public toilets – the stated value is slightly higher than our valuation, but is not considered able to be applied to the VPA, as the cost of the toilets were part of the previous development consent justification that enabled additional height at that stage and as such cannot be double counted.
2. \$250,000 – cash payable to a project – this is agreed
3. \$1,000,000 – attributable to the ground floor retail unit – the independent valuation from Council placed the value of this unit at \$900,000, but similar to the justification provided by the developer, an additional \$100,000 has been added for the allocation of two additional car spaces.
4. \$50,000 – demolition of the toilets – this is agreed
5. \$810,000 – attributable to the space on level 2 – this has been independently valued with the rate applied being a commercial space rate, for which it is proposed to be used. The \$1.8m valuation provided by the developer is essentially an opportunity cost and that value is not what Council would realise in accepting this space as proposed.
6. \$178,500 – attributable to the lift – this has not been valued, but is accepted as a reasonable cost for this lift based on benchmarking.
7. \$0 – attributable to the Section 94 refund – this has been requested and addressed previously and is not deemed refundable at the time and Council's position is unchanged.

This totals \$2,288,500 or 36% of the total added value of the VPA.

Note that the stated added value (\$6,421,000) to the developer of the latest development proposal has not been independently valued due to timelines, but has been taken at the developers stated level.

The VPA was also reviewed against the Dee Why master plan and following observations were made:

1. The Masterplan resolution calls for no additional floor area over the current controls will be permitted. The proposal is approximately 3,200 sqm over.
2. The Masterplan building height principle diagram indicates that 15 storeys maximum building height can be considered provided it has acceptable public benefit contributions. The proposal is 16 storeys including the roof plant room.
3. The public benefits outlined in the Voluntary Planning Agreement are not acceptable for the additional height, bulk and floor area proposed.
4. The Masterplan resolution calls for a slender tower on top of a low podium built form. The proposed tower form steps from 9, 12, 13, 14, 15 to 16 storeys with no distinctive podium built form. Car parking is also proposed above ground in the podium built form.

The proposal as it stands is not fully consistent with the resolutions of the Masterplan. It will also set a negative precedent for future development.

### **FINANCIAL IMPACT**

#### **Warringah Section 94A Development Contribution Plan**

The VPA does not seek any concessions in relation to the payment of Section 94A Contributions as part of the assessment of the DA.

However, the VPA does seek, as part of the developer contributions, a component of the offer being the monies paid as part of a 2000 development consent which has since been surrendered by the applicant. As discussed elsewhere in this report, this is not supported and should not form part of the VPA.

Therefore, all contributions subject to the S94 Contributions Plan will be applied if the DA is approved.

### **POLICY IMPACT**

#### **Voluntary Planning Agreements Policy**

Council is currently in the process of preparing a Voluntary Planning Agreements Policy which will be referred to Council at a later date. Therefore, Council has no stated position with respect to VPA's and so there is presently no formalised basis upon which to evaluate the appropriateness of a VPA. Council has previously dealt with only 3 VPAs, hence the need for a policy was not a pressing issue. However, with the adoption of the Masterplan and the suggestion that landowners may wish to take advantage of greater building heights, VPAs may become more common and so a policy would greatly assist the process of discussion, community consultation and evaluation.

Therefore, as discussed throughout this report, the public benefit associated with the current offer by the developer is considered to be inadequate and so the signing of this VPA, based on only 36% of the additional value of the development coming to Council, has the potential to create an undesirable precedent for future VPAs in the town centre and elsewhere in Warringah.

Furthermore, the signing off on a lesser public benefit than what is considered fair and reasonable has the potential to undermine the intended outcomes of the policy direction being developed by Council.

### **CONCLUSION**

The VPA by Jubilee Properties Pty Ltd in association with the new Cobalt Development Application for a 15 storey mixed use development has been the subject of review as to whether there is demonstrable public benefit being offered and whether the VPA is in the public interest.

As the starting point of the VPA was the already approved 9 storey building (including the public toilets), the options for providing public benefits external to the building were limited. Consequently, this has resulted in the majority of the public benefit being contained within the building, in the form of "Ground Floor Retail 1", "Level 2 Commercial Space" and the "Lift Access".

The conclusion drawn from a detailed analysis of the proposed VPA is that the level of public benefit offered to Council in the VPA is not satisfactory in delivering a demonstrable material benefit to the community and that the development, as proposed and is inconsistent with the Dee Why Masterplan.

Therefore, it is recommended that Council resolve not to enter into the VPA with Jubilee Properties Pty Ltd in association with DA2013/1168.



## Revised Explanatory Note

### Introduction

The purpose of this Revised Explanatory Note is to provide a summary to support the notification of the proposed planning agreement (the "**Planning Agreement**") as amended and prepared pursuant to section 93F of the *Environmental Planning and Assessment Act 1979* (the "**Act**").

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

### Parties to the Planning Agreement

The parties to the Planning Agreement are Jubilee Properties Pty Ltd (the "**Owner**") and Warringah Council (the "**Council**").

The Developer has agreed to enter into the Planning Agreement in connection with the proposed Development Application No. 2013/1168 for a mixed use retail, commercial and residential development at 697, 699 and 701 Pittwater Road, Dee Why (the "**DA**").

The contributions contained in the planning agreement partly relate to the adjoining property to the north known as St David's Park, which is No. 703 Pittwater Road, Dee Why, so that property is included in the Subject Land described below.

### Description of the Subject Land

The Planning Agreement applies to the following land (the "**Land**"):

- LOT B, DP 381816, No. 697 PITTWATER ROAD, DEE WHY
- LOT 4, DP 417528, No. 699 PITTWATER ROAD, DEE WHY
- LOT 1, DP 300967, No. 701 PITTWATER ROAD, DEE WHY
- LOT 1, DP 364010, No. 703 PITTWATER ROAD, DEE WHY

### Description of the Proposed Development

The Developer is seeking development consent for the demolition of existing buildings and construction of a part 14/part 15 storey mixed use development comprising retail, commercial and residential units (the "**Development**"), comprising the following:

- 129 residential units
- 5 retail units
- Commercial unit/Skyplaza
- Gym
- Public Toilet Facilities
- 178 carparking spaces

### **Summary of Objectives, Nature and Effect of the Planning Agreement**

The Planning Agreement provides that the Developer will make various contributions, with a total value of \$2,000,000 on the terms of the Planning Agreement. These contributions comprise:

1. a cash payment of \$250,000, being a contribution towards the cost of the upgrade of St David's Park and/or towards the construction of a future skybridge over Pittwater Road to the Multiplex Site (Site B) and over St David's Park/St David's Avenue to Council's Civic Centre Site, and
2. the transfer to Council of 1 retail unit (Retail 1 with an area of 54m<sup>2</sup>) located on the Ground Floor Level of the building fronting Pittwater Road, together with 3 carparking spaces, and
3. the transfer to Council of a commercial space on Level 2 of the building together with 3 carparking spaces and a dedicated lift to the ground floor level (combined area of 194m<sup>2</sup>), and
4. the inclusion of Council's public toilet facilities within the Ground floor Level of the building adjoining St David's Park (area of 37m<sup>2</sup>), and
5. the demolition of the existing public toilets in St David's Park (increasing park area by 50m<sup>2</sup>).

### **Assessment of Merits of Planning Agreement**

#### **The planning purpose of the Planning Agreement**

In accordance with section 93F(2) of the Act, the Planning Agreement has the following public purposes:

- the provision of public amenities and facilities;
- the funding of expenditure relating to the upgrade of St David's Park; and/or
- the provision of a future pedestrian skybridge over Pittwater Road as envisaged in the Dee Why Town Centre Masterplan.

The Council and Developer have assessed the Planning Agreement and both hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving those public purposes.

#### **How the Planning Agreement promotes the public interest**

The Planning Agreement promotes the public interest by providing:

- a monetary contribution towards the construction of an upgrade of St David's Park which forms an important part of the open space network within Dee Why Town Centre, or a monetary contribution towards the construction of a future pedestrian skybridge between Council's Civic Centre Site and the Multiplex Site (Site B), which will form an important part of the pedestrian connections within Dee Why Town Centre, and
- retail space at ground floor level on Pittwater Road that can be used for the delivery of Council services; and



- commercial space at Level 2 that can be used for Council business purposes and is adaptable for the purposes of a landing for a future pedestrian skybridge over Pittwater Road and St David's Avenue, linking Council's Civic Centre Site and the Multiplex Site (Site B), and pedestrian access from the link within the proposed building to Pittwater Road;
- new public toilets which are integrated within the proposed building and demolition of the existing public toilet block, thus increasing the landscaped area of St David's Park.

### **How the Planning Agreement promotes the objects of the Act**

The Planning Agreement promotes the following objects of the Act:

- the promotion and co-ordination of the orderly and economic use and development of land; and
- the provision and co-ordination of community facilities and access.

The Planning Agreement promotes the objects of the Act set out above by requiring the Developer to provide the contribution dedications, amounts and works referred to in this Explanatory Note under the heading "*Summary of Objectives, Nature and Effect of the Planning Agreement*" for the following purposes:

- the future provision of Key Pedestrian Connections from Council's Civic Centre Site to the Multiplex Site (Site B) in the Dee Why Town Centre;
- the upgrade of St David's Park which will help to implement the Dee Why Town Centre Masterplan;
- the provision of improved public toilets; and
- the provision of highly accessible Council office space.

Each of these purposes represents an important public benefit, and the Developer's offer to make contributions for these purposes will provide an important positive benefit to the public who use land to which these purposes relate.

### **How the Planning Agreement promotes the Council's Charter under section 8 of the Local Government Act**

The Planning Agreement promotes the Council's Charter under section 8 of the *Local Government Act 1993* by advancing the following aspects of the Council's Charter through the development contributions that would be secured under the Planning Agreement:

- to have regard to the long term and cumulative effects of its decisions;
- 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; and
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias.

**How the Planning Agreement conforms with the Council's Capital Works Program**

The Planning Agreement conforms with Council's Capital Works Program by contributing to the cost of upgrading St David's Park which is identified as a key open space area under the Dee Why Town Centre Masterplan. The pocket park is identified as being closely linked to the proposed development and its upgrade will help implement the Masterplan.



planning consultants

## APPENDIX B

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WARRINGAH COUNCIL  
ABN 31 565 068 406

(Council)

AND

JUBILEE PROPERTIES PTY. LIMITED  
ACN 140 715 073

(Jubilee)

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**PLANNING AGREEMENT:**  
**DEMOLITION, OFFICE UNIT, PUBLIC TOILETS,**  
**RETAIL UNIT, MONETARY CONTRIBUTION**  
**AND FUTURE SKY BRIDGE**

(Fee Simple Transfer)

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**PLANNING AGREEMENT NO. \_\_\_\_\_**

***Section 93F of the Environmental Planning and Assessment Act, 1979***

**THIS DEED** is made on the \_\_\_\_\_ day of \_\_\_\_\_ 2014

**BETWEEN**

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

**AND**

**JUBILEE PROPERTIES PTY. LIMITED** ACN 140 715 073 of c/- MBP Advisory, Level 12, 130 Pitt Street, Sydney in New South Wales acting as trustee of the Cobalt Trust ("Jubilee")

**BACKGROUND**

- A.** Jubilee is the registered proprietor of the Land.
- B.** The Land is situated within the Warringah Local Government Area. Council is the local authority constituted under the *Local Government Act* 1993 in relation to that LGA.
- C.** On 6 August 2013 Council adopted the Master Plan, which (among other things) proposed an increase in the permissible building height on the Land up to 15 storeys, provided Jubilee could demonstrate sufficient public benefit accruing from the Development to justify such height.
- D.** On 30 September 2013 Jubilee lodged the DA, together with an earlier draft of this Deed, in order to give effect to the objectives of the Master Plan, including by way of establishing an appropriate level of public benefit.
- E.** In support of the DA Jubilee offered, subject to the Condition Precedent being satisfied, to enter into this Deed to demolish the Existing Toilet Block, to transfer the Council Facilities and to make the Monetary Contribution to Council for the purposes set out herein.
- F.** Part or all of the Council Office to be transferred to Council under this Deed may in future be converted into a Sky Link connected with a Sky Bridge across Pittwater Road so as to provide a convenient pedestrian link between Council's Civic Precinct and the proposed new retail and commercial complex at Site B.
- G.** Council reviewed the DA and in December 2013 requested Jubilee to make certain changes to the design of the Building to better reflect the amendments to the WLEP

proposed by Council to give effect to the Master Plan. Council also suggested that Jubilee lodge the Revised DA incorporating these changes. Jubilee agreed to make those changes and to lodge the Revised DA. This Deed has been amended to give effect to revisions in Jubilee's public benefit offer resulting from those design changes suggested by Council.

- H. Jubilee has provided the Valuation, which ascribes a total value of \$1,350,000 to the Council Office and the Retail 1. Jubilee has estimated the value of the other public benefits offered pursuant to this Deed, including the Monetary Contribution, at a total of \$625,000. On this basis the total value of the public benefit offer set out in this Deed is \$2,000,000.
- I. Jubilee has exchanged contracts of sale in relation to 110 strata units within the Building and the parties have agreed that the terms of this Deed must not give rise to any material adverse change in relation to those strata units.
- J. Jubilee is prepared to accept as a condition of the Development Consent a condition that requires Jubilee to enter into this Deed pursuant to section 93I(3) of the Act.

#### **OPERATIVE PROVISIONS:**

### **1 DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In this Deed unless the context otherwise requires:

**"Access Ramp"** means a disabled access ramp in the southern corner of the Park, being a ramp of [1.1] metres in width and [2.5] metres in length within the Park and at a gradient of 1:14, as shown on Appendix B;

**"Act"** means the *Environmental Planning and Assessment Act 1979* (NSW);

**"Building"** means the building contemplated by the Revised DA or by any subsequent development application by Jubilee in relation to the Land;

**"Building Management Committee"** means the committee to be established pursuant to the Strata Management Statement to regulate the management and operation of the Building;

**"Certifying Authority"** means any accredited private certifier including, where appropriate, a Principal Certifying Authority (PCA) appointed or to be appointed to certify the Development or any aspect of it;

**"Civic Precinct"** means the land owned by Council and bounded by Pittwater Road, St. David Avenue and Civic Drive, Dee Why;



**"Cobalt Trust"** means the trust established by deed dated 23 November 2009 between Lawrence Myers (as settlor) and Jubilee (as trustee);

**"Condition Precedent"** means the condition precedent set out in Clause 4.2;

**"Construction Certificate"** means a construction certificate in respect of the whole or any part of the Development;

**"Construction Loan"** means any loan(s) to Jubilee solely or primarily for the purpose of enabling Jubilee to construct the Building;

**"Construction Period"** means the period starting on the date of issue of the Construction Certificate and ending on the date of issue of an Occupation Certificate in respect of the whole Building;

**"Council Facilities"** means:

- (a) the office unit on level 2 of the Building and designated "Council / Commercial Sky Plaza" and "Skyline" on the Plans, together with the dedicated lift which will operate between the ground floor and that office unit and designated "Public / Council Hydraulic Shuttle Lift" on the Plans (**Council Lift**) and with the three car spaces to be included on the title to that unit in accordance with the Strata Plan (**Council Office**); and
- (b) the retail unit on the ground floor of the Building designated Retail 1 on the Plans, together with the three car spaces to be included on the title to that unit in accordance with the Strata Plan (**Retail 1**); and
- (c) the new public toilet facilities to be incorporated within the Building on the ground floor immediately adjacent to the Park as shown on the Plans (**Council Toilets**);

**"DA"** means DA 2013/1168;

**"Deed"** means this planning agreement made in the form of a deed;

**"Demolition"** means the demolition of the Existing Toilet Block in accordance with Clause 6;

**"Development Consent"** and means the approval of the Revised DA (or any subsequent development application by Jubilee in respect of the Land) by Council, the JRPP or other competent authority pursuant to the Act;

**"Existing Toilet Block"** means the Council toilet block currently standing within the Park and designated with a dashed line and labelled "Existing Toilet Block to be Demolished" on the Plans;

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



**"GST Law"** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth)* and any other Act or regulation relating to the imposition or administration of the GST;

**"JRPP"** means the Joint Regional Planning Panel – Sydney East Region;

**"Land"** means the land situated at 5 St. David Avenue, Dee Why being the land comprised in Torrens Title Folio Identifiers B/381816, 4/417528 and 1/300967;

**"LPI"** means the Land and Property Information, New South Wales;

**"Master Plan"** means the Dee Why Town Centre Final Master Plan July 2013 prepared by Place Design Group on behalf of Council, publicly exhibited by Council between 9 February and 5 April 2013 and adopted by Council at its Ordinary Monthly Meeting held on 6 August 2013;

**"Monetary Contribution"** means the amount of \$250,000 to be paid by Jubilee to Council pursuant to Clause 8;

**"Occupation Certificate"** means a final occupation certificate, within the meaning of the Act, in respect of the Building including the Council Facilities;

**"Park"** means St. David's Park, the Council owned park that lies between the Land, Pittwater Road and St. David Avenue;

**"Party"** means a party to this Deed including their successors and assigns;

**"Plans"** means the binder including floor plans, sections and elevations of the Building by Kann Finch dated January 2014 and annexed to this Deed as Appendix A or any later plans which the parties agree in writing to adopt in place of those plans;

**"Registration Application"** means an application for registration of this deed as a planning agreement on title of the Land pursuant to section 93H of the Act in a form approved by the LPI;

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

**"Revised DA"** means the DA as revised by the statement of environmental effects, architectural drawings, consultant reports and other supporting materials lodged by Jubilee with Council on 28 January 2014;

**"Site B"** means the site currently owned by Meriton Group and bounded by Pittwater Road, Oaks Avenue and Howard Avenue in Dee Why;

**"Skybridge"** means an elevated walkway between Level 2 of the Building and Site B over Pittwater Road and / or an elevated walkway between Level 2 of the Building and the Civic Precinct over St. David Avenue;

**"Sky Link"** means, if and when a Skybridge has been constructed, any part of the Council Office rededicated by Council to connect with or support any such Skybridge;

**"Stratum Certificate"** means approval by a Certifying Authority for the stratum subdivision of the Building in accordance with the Stratum Plan;

**"Strata Management Statement"** means the draft strata management statement attached as Appendix D (or a revised statement substantially in the same form in so far as the rights and responsibilities attaching to the Council Office is concerned);

**"Stratum Plan"** means the draft stratum plan attached as Appendix C (or a revised plan nominated by Jubilee and which is in substantially the same form in so far as the rights and responsibilities attaching to the Council Office is concerned) that on registration will create a stratum scheme in respect of the Building including a separate title to the Council Office, Retail 1 and the Council Toilets;

**"Transfer"** means a transfer in registrable form (stamped by the Office of State Revenue for stamp duty if appropriate) transferring the Council Facilities from Jubilee to the Council;

**"Transfer Date"** means the date 20 Business days after the date on which:

- (a) the Strata Certificate is issued; or
- (b) the Stratum Plan is registered by the LPI; or
- (c) the Strata Management Statement is registered by the LPI,

whichever occurs last;

**"Valuation"** means the valuation of the Council Office and Retail 1 by Colliers International dated 26 August 2013 as updated by the letter from Colliers International dated 24 January 2014; and

**"WLEP"** means the Warringah Local Environmental Plan 2011.

## **1.2 Interpretation**

In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (b) A reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney, New South Wales.
- (c) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word that denotes the singular denotes the plural, a word that denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word 'include' or 'including' are to be construed without limitation on the related text.
- (l) A reference to this Deed includes the matters recorded in this Deed.
- (m) A reference to a party to this Deed includes a reference to the employees, officers, agents and contractors of the party, and the party's successors and assigns.
- (n) Words used in this Deed have the same meaning as in the Act unless otherwise defined by this Deed.

**2 PLANNING AGREEMENT UNDER THE ACT**



The Parties to this Deed agree that it is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act entered into voluntarily and at the request of Jubilee.

**3. JUBILEE ACKNOWLEDGMENTS RELATING TO THE WLEP AND NON-FETTER OF COUNCIL**

Jubilee acknowledges and agrees that:

- (a) in addition to its obligations under this Deed, Council is also responsible for the conduct and administration of local government in the Warringah Local Government Area;
- (b) this Deed in no way affects Council's statutory obligations, functions or powers, including without limitation, its obligations, functions or powers in respect of the Revised DA, Development Consent and any other approvals or recommendations required in respect of the works to be carried out under the Revised DA; and
- (c) nothing which the Council does or fails to do under this Deed will limit or otherwise affect Jubilee's obligations under the Development Consent.

**4. CONDITION PRECEDENT**

- 4.1 This Deed will not be executed until after the grant of the Development Consent, but prior to the issue of any Construction Certificate in relation to the Development, and will not be executed unless Jubilee elects in its absolute discretion to take up the Development Consent.
- 4.2 The obligation on Jubilee pursuant to this Deed to transfer the Council Office and Retail 1, and to pay the Monetary Contribution, is conditional upon Development Consent being granted pursuant to the WLEP on or before 30 April 2014 (or any later date to which Jubilee agrees in writing) in a form and on terms consistent with the terms of this Deed and otherwise acceptable to Jubilee in its absolute discretion.
- 4.3 For the avoidance of doubt, neither of the obligations referred to in Clause 5 (a) or (b) is subject to Clause 4.2.

**5. PUBLIC BENEFIT OFFER**

Subject to the terms hereof, Jubilee agrees:

- (a) to demolish the Existing Council Toilets;
- (b) to incorporate the Council Toilets within the Building;
- (b) to transfer the Council Office and the Retail 1 to Council; and

(b) to pay the Monetary Contribution,

and Council agrees to accept a transfer of the Council Facilities and the Monetary Contribution in accordance with the following provisions of this Deed.

**6. DEMOLITION OF TOILET BLOCK AND USE OF PARK**

- 6.1 Jubilee hereby agrees to demolish the Existing Toilet Block, at its own expense, prior to or during the Construction Period.
- 6.2 In consideration of the undertaking by Jubilee in Clause 6.1, Council agrees to allow Jubilee to occupy that part of the Park indicated by dotted lines in Appendix B (**Consent Zone**) during the Construction Period (**Consent**). The Consent extends to any builder(s) appointed by Jubilee and any subcontractor or other agent appointed by Jubilee or any such Builder.
- 6.3 Jubilee further agrees to supply temporary toilet facilities at the place indicated in Appendix B during the period in which the Consent Zone is occupied and the Council Toilets are not operational and publicly available. Jubilee will be responsible for the servicing of those temporary toilets.
- 6.4 Jubilee will be responsible to erect appropriate fencing or hoarding to prevent any member of the public gaining access to the Consent Zone during the period in which it is occupied pursuant to the Consent. Jubilee will ensure that appropriate access to the electricity substation within the Consent Zone is provided at all times.
- 6.5 Jubilee will return the Consent Zone for general public access immediately following the Construction Period. That area is to be clean, level and turfed when returned to public access.
- 6.6 This Clause 6 will apply whether Jubilee decides to proceed under its existing development consent (DA 2011/0887 as modified by MOD 2012/0087), the Development Consent or any subsequent development consent granted in relation to the Land.

**7. THE COUNCIL FACILITIES**

**Construction of Council Facilities**

- 7.1 Jubilee will cause the Council Facilities to be constructed in a proper and workmanlike manner in accordance with the Development Consent, the Plans and this Deed.
- 7.2 The Council Office and Retail 1 will be constructed with suspended ceilings, carpet and the provision for the subsequent installation of air conditioning. Those units will be constructed in compliance with the Building Code of Australia and each such unit is to have a capped water supply with its own water meter and a dedicated electricity distribution board with its own electricity meter. Jubilee will ensure that the floor

plate of the Council Office and Retail 1 as constructed is substantially as shown in the Plans.

7.3 Jubilee may (in its absolute discretion):

- (a) construct the Building with a design which permits emergency access from the Council Office to the fire stairs beside the Retail / Goods Lift marked on the Plans; and
- (b) alter the design of the Building at its own cost, before or after construction, so as to preclude such access, provided that emergency access from the Council Office continues to comply with all applicable fire regulations,

and Council acknowledges that if and when the Council Office incorporates or links with a Skybridge, or is otherwise accessible to the general public, the Building will be altered to ensure that there is no access from the Council Office into the remainder of the Building, other than through the Building lobby on the ground floor.

7.4 Jubilee shall within 60 days of written notification from the Council (or such other period as the Parties may agree acting reasonably having regard to the nature of the defect), at its own expense, remedy any defect in the Council Facilities caused by faulty materials or faulty workmanship (other than minor settlement cracks and minor shrinkage) which are notified to Jubilee in writing by the Council within three calendar months after the Transfer Date.

7.5 Jubilee will immediately notify Council in writing upon the issue of an Occupation Certificate in relation to the Building and Jubilee will deliver to Council an Occupation Certificate in relation to the Council Facilities.

**Stratum Subdivision and Strata Management Statement**

7.6 Within 28 days after an Occupation Certificate has been issued in relation to the Building, Jubilee will lodge the Stratum Plan and the Strata Management Statement for registration with the LPI.

7.7 Jubilee will immediately notify Council in writing of:

- (a) the lodgement of the Stratum Plan and Strata Management Statement with the LPI (including the strata plan number allocated to the Stratum Plan upon lodgement); and
- (b) the registration of the Stratum Plan and Strata Management Statement.

**Transfer and Payment**

7.8 Subject to the terms hereof, prior to or immediately following the issue of the Stratum Certificate, Jubilee will deliver to Council:



- (a) a letter addressed to the LPI authorising and instructing the LPI to forward the certificates of title to the Council Facilities to Council following registration of the Stratum Plan and the Strata Management Statement;
- (b) if required by Council to permit the release of the certificates of title, a letter to the same effect from any mortgagee of the Land;
- (c) discharges of all encumbrances affecting the Council Facilities including:
  - (i) discharges of mortgages in registrable form in respect of all mortgages affecting the Council Facilities; and
  - (ii) (in so far as Jubilee controls any caveat on title) withdrawals of caveats in registrable form in respect of any caveat affecting the Council Facilities;
- (d) a cheque in favour of the LPI for the registration fees on the Transfer and discharges of all encumbrances; and
- (e) a current clear land tax certificate from Office of State Revenue in respect to the Land.

7.9 Subject to the terms hereof, Jubilee will deliver the Transfer to Council so that the Council Facilities are transferred to Council unencumbered in fee simple on the Transfer Date. [EASEMENTS, POSITIVE AND RESTRICTIVE COVENANTS TO BE ADVISED]

7.10 Jubilee authorises Council to date and insert into the Transfer particulars of the title to enable the Transfer to be registered. For the avoidance of doubt, the date of the Transfer will be on or after the Transfer Date.

**Security Arrangements Concerning Retail 1 and Alternative Consideration**

7.11 Council acknowledges and agrees that Jubilee intends to take out a Construction Loan to be secured over the Land and the whole of the Building other than the Council Office and the Council Toilets.

7.12 If Jubilee complies with Clauses 7.8 and 7.9 in relation to the Council Office and the Council Toilets but not Retail 1, it will be deemed to have fully complied with that provision but within six months after the Transfer date must either:

- (a) comply with Clause 7.8 and 7.9 in relation to Retail 1; or
- (b) pay to Council an amount of \$540,000 (**Market Value Amount**), being the market value ascribed to Retail 1 in the Valuation,



and in either case Jubilee must at the same time pay to Council an additional amount equal to \$147.95 for each day after the Transfer Date until the date of payment, representing interest at 10% per annum on the Market Value Amount.

- 7.13 If Jubilee has complied with Clause 7.8 and 7.9 in relation to the Council Office and the Council Toilets but not Retail 1, and fails to comply with Clause 7.12, Council may give notice that it elects for the Market Value Amount (plus interest in accordance with Clause 7.12) to be a debt immediately due and payable to it. In this case Council may take any action available under general law to recover that debt.
- 7.14 If Jubilee has not fully complied with Clause 7.8 and 7.9, it may not make any profit distribution to holders of units in the Cobalt trust until it has complied with Clause 7.12 or paid in full its debt to Council following receipt of a notice from Council under Clause 7.13.
- 7.15 The conditions attaching to the Development Consent will reflect and accommodate the provisions of Clause 7.11, 7.12, 7.13 and 7.14.

**Use of Council Facilities and Public Purpose**

- 7.16 Following transfer of the Council Facilities, Council will use those facilities for the following public purposes:
  - (a) in relation to the Council Office, subject to Clause 7.17, as commercial premises to be occupied by Council staff or sold or let to third parties for use as commercial premises so as to generate sales proceeds or rental income for Council,
  - (b) in relation to Retail 1, as retail premises to be sold or let to third parties so as to generate sales proceeds or rental income for Council, and
  - (c) in relation to the Council Toilets, as public toilet facilities,

provided that, for so long as it remains the owner, Council may not allow any person to occupy the Council Office or Retail 1 (on any basis whatsoever) if occupation by such person is reasonably likely to prejudice the quiet enjoyment of any other strata unit within the Building.

- 7.17 If in future Council constructs one or more Skybridges it may, in its absolute discretion, re-dedicate part or all of the Council Office as a Sky Link, provided that:
  - (a) any such Skybridge and Sky Link will be constructed at Council's expense to a design, using materials and to a standard of construction in keeping with the design, materials and standard of construction of the Building;
  - (b) Council will be responsible for the upkeep and maintenance of any such Skybridge and Sky Link in a condition that enhances the appearance of the Building;

- (c) Council will be responsible to ensure that all public areas are maintained to in a tidy manner and that noise generated in such public areas is restricted to a level that does not interfere with the quiet enjoyment of the Building by occupiers and visitors; and
- (d) Council will ensure that no public access to the Council Lift, fire stairs, Sky Link or any Skybridge is allowed outside the hours of 8 a.m. to 6 p.m. Mondays to Fridays or 8 a.m. to 4 p.m. on Saturdays.

7.18 Council will responsible for the maintenance and cleaning of the Council Toilets and for ensuring that they are properly provisioned and available for use during the hours of operation of those facilities. Council will be responsible for managing the opening times of the Public Toilets, but access to the Public Toilets will be so restricted as to ensure public safety and so as not to detract from the amenity of occupiers of or visitors to any stratum or strata unit within the Building.

7.19 The use of the Council Facilities will not adversely impact upon the quiet enjoyment or amenity of the occupiers of any stratum or strata unit within the Building.

7.20 Council will be responsible for obtaining any necessary consent or approval for the use, fit-out, change of use or further development of the Council Facilities, at its own cost, and will obtain the consent of the Building Management Committee prior to making application for any such consent or approval.

7.21 Due to the importance of the Public Toilets being managed and maintained to an appropriate standard, so as not to prejudice the amenity and quiet enjoyment of other stratum or strata units by occupiers and visitors, Council may not sell, transfer, assign, novate, charge, encumber or otherwise deal with the Public Toilets or any interest therein without the prior approval of the Building Management Committee.

## **8. MONETARY CONTRIBUTION**

Subject to the terms hereof, Jubilee agrees to make the Monetary Contribution to Council on the Transfer Date, such monies to be applied by Council (in its absolute discretion) either in landscaping or other improvements to the Park and / or towards the cost of constructing a Sky Bridge across Pittwater Road.

## **9. APPLICATION OF SECTION 94, SECTION 94A AND SECTION 94EF OF THE ACT TO THE DEVELOPMENT**

9.1 This Deed does not exclude the application of Sections 94, 94A or 94EF of the Act in relation to the Development.

9.2 Consistent with Clause 15(2) of the Warringah Council Section 94A Development Contributions Plan, the cost of the Demolition, the market value of the Council Facilities and the Monetary Contribution will be taken into consideration as development contributions under Section 94 of the Act. Council acknowledges and

agrees that the total value of these items substantially exceeds the contribution that might otherwise be levied under the Act, and accordingly Council agrees that it will not levy any additional contribution in respect of the Development.

**10. COUNCIL CONSENT AS OWNER OF THE PARK**

- 10.1 Upon request by Jubilee Council will grant a licence to Jubilee to enter the Park [and the footpath to Pittwater Road immediately adjacent to the Land] to install rock anchors and to permit any crane installed on the Land or the Consent Zone to intrude into the air space over the Park [and the footpath to Pittwater Road immediately adjacent to the Land], such licence to be in the usual form.
- 10.2 Council consents to permanent access between the Building and the Park so as to permit free entry and exit to the fire stairs immediately adjacent to the Park, the Council Lift lobby servicing the Council Office and the Council Toilets. [MAY NEED MORE FORMAL DOCUMENTATION FOR THIS]
- 10.3 Council consents to permanent access to the Park for the purpose of locating the Access Ramp as shown on Appendix B, so as to enable the building to provide disabled access to the residential lobby and the five retail units in accordance with the BCA. [MAY NEED MORE FORMAL DOCUMENTATION FOR THIS]

**11. REGISTRATION OF THIS DEED**

- 11.1 The Parties agree this Deed is to be registered by the LPI as provided for in section 93H of the Act.
- 11.2 Jubilee warrants that it has done everything necessary to enable this Deed to be registered under section 93H of the Act and, without limitation, Jubilee warrants that it has obtained the express written consent to the registration of this Deed under section 93H of the Act from each person who has an estate or interest in the Land registered under that Act.
- 11.3 On registration of the Stratum Plan of Subdivision Jubilee will at its cost:
  - (a) deliver to Council the Registration Application noting Council as applicant and executed by Jubilee and any other person the subject of the warranty in clause 11.2;
  - (b) lodge or cause to be lodged the title deed with the LPI and advise Council of the production number; and
  - (c) provide Council with a cheque in favour of the LPI for the registration fees for registration of this Deed.
- 11.4 Upon compliance with Clause 11.3 by Jubilee, Council will promptly lodge the Registration Application with the Registrar General.



- 11.5 The Parties will co-operate with each other to ensure that the Deed is registered by the LPI.
- 11.6 Upon transfer of the Council Facilities to Council in accordance with this Deed (or compliance with Clause 7.12 or 7.13), or upon surrender of the Development Consent, Jubilee may request the removal from the title to the Land of the dealing created by registration of the Deed. Council will not withhold its consent to such removal provided the terms of this Deed have been complied with and Jubilee pays all reasonable costs, expenses and fees of Council relating to such removal.
- 11.7 Upon registration of this Deed by the LPI this Deed is binding on, and is enforceable by and against, the owner of the Land from time to time as if each owner for the time being had entered into this Deed.

**12. REVIEW OF THE DEED**

The Parties agree that, subject to section 93G of the Act, this Deed can be reviewed and amended at any time by mutual deed.

**13. DISPUTE RESOLUTION**

- 13.1 If a dispute arises out of or in connection with this Deed, including any dispute as to breach or termination of this Deed or to any claim in law or equity, a Party cannot commence any court proceedings relating to the dispute (except for urgent interlocutory relief) unless and until that Party has complied with the provisions of this Clause.
- 13.2 A Party claiming that a dispute has arisen must serve a notice on the other Party specifying the nature of the dispute.
- 13.3 Upon service of a notice specifying the nature of a dispute, the Parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or arbitration in a form agreed upon by the Parties.
- 13.4 If the parties fail to agree within 10 Business Days of the service of the notice of dispute, or any further period agreed in writing by them, as to:
- (a) the dispute resolution technique and procedures to be adopted;
  - (b) the timetable for each of those procedures; and
  - (c) the selection and compensation of any independent person required in connection with that technique,

the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales and must request that President or his nominee to select the mediator and determine the mediator's remuneration.

- 13.5 All costs associated with compliance with this Clause (other than costs of litigation), including any costs of a mediator, will be shared equally between the Parties.
- 13.6 If the dispute is not finally resolved through the forum of mediation, each Party is at liberty to take legal action without further notice.

#### **14. ENFORCEMENT**

Until such time as the Council Facilities have been transferred to Council in accordance with this Deed (or Jubilee has complied with Clause 7.12 or 7.13) or Jubilee has surrendered the Development Consent, Jubilee must:

- (a) notify the 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 Deed; and
- (c) procure and provide to Council a written acknowledgement from the Certifying Authority addressed to Council confirming that the Certifying Authority will not:
  - (i) issue a Construction Certificate until this Deed is registered in accordance with Clause 11 of this Deed; and
  - (ii) issue an Occupation Certificate until Council provides written confirmation that Jubilee has complied with those terms of this Deed which were required to be complied with at that time; or
  - (iii) issue a Stratum Certificate until Council provides written confirmation that Jubilee has complied with those terms of this Deed which were required to be complied with at that time,

provided that Council may not delay or refuse to give written confirmation in accordance with this Clause 14 (c) except on valid grounds and acting reasonably.

#### **15. NOTICES**

- 15.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Deed 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; or
- (b) emailed to that Party at its email address.

15.2 The address and email address for each Party is:

For Council:

Address: 725 Pittwater Road, Dee Why

Email address:

For Jubilee:

Address: C/- MBP Advisory,  
Level 12, 130 Pitt Street, Sydney

Email address: patrick@jubilee-group.com.au

provided that if a Party gives the other Party three business days notice of a change of its address or email address, this Clause 15.2 is deemed to refer to that new address or email address.

15.3 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; or
- (c) if it is emailed, immediately upon the email being sent, provided that the sender does not receive an electronic notification that the transmission of the email has failed.

15.4 If any notice, consent, information, application or request is delivered, or an email is sent without electronic notification that transmission of the email failed, 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.

**16. APPROVALS AND CONSENT**

Except as otherwise set out in this Deed, and subject to any binding statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party. Any party delaying or withholding any approval or consent under this Deed must promptly provide a detailed written explanation of its reasons for doing so.



**17. ASSIGNMENT AND DEALINGS**

17.1 Until the Council Facilities are transferred to Council in accordance with this Deed, Jubilee cannot sell, transfer, assign, novate, charge, encumber or otherwise deal with the Land in favour of any person (**Third Party**), or attempt or purport to do so unless Jubilee:

- (a) (except in the case of the Construction Loan) gives Council no less than 10 Business Days notice in writing of the proposed dealing with its rights in respect of the Land; and
- (b) in the case of a proposed sale, transfer or assignment of the Land, procures that the Third Party promptly executes a deed in favour of Council whereby that person becomes contractually bound with Council to perform Jubilee's obligations and enforce Jubilee's rights under this Deed, and accordingly thereafter all references to Jubilee will be deemed to be references to the Third Person; or
- (c) in the case of any other proposed dealing, procures that the Third Party promptly executes a deed in favour of Council whereby that party recognises the rights and obligations of Council under this Deed, and provides to Council all appropriate consents and assurances from the Third Person to permit the transfer of the Council Facilities to Council by Jubilee in accordance with the terms of this Deed.

17.2 In the case of the Construction Loan, the obligation under Clause 17.1 in relation to Retail 1 is an obligation to provide to Council consents and assurances to permit the transfer of that unit to Council if and when the Construction Loan has been repaid in full and the security arrangements relating to that unit have been discharged in accordance with their terms.

17.3 If Jubilee complies with Clause 17.1 and / or Clause 17.2 (as appropriate) and Council fails or refuses to grant written consent within 10 Business days after the latter of:

- (a) being served with a written request from Jubilee for the grant of such consent, and
- (b) the Third Party offering to comply with Clause 17.1 (b) or (c) (as appropriate),

upon expiration of that 10 Business day period, Council is deemed to have given the required consent.

**18. TRUSTEE PROVISIONS**

18.1 Jubilee is liable under this Deed in its own right and as trustee of the Cobalt Trust and a reference in this Deed to Jubilee includes Jubilee in both of those capacities.



18.2 Jubilee represents and warrants to Council that:

- (a) in executing this Deed and entering into the transaction contemplated herein, it has properly performed its obligations to the beneficiaries of the Cobalt Trust;
- (b) all necessary action required by the deed establishing the Cobalt Trust has been taken to authorise its unconditional execution and delivery of this Deed and its compliance with its obligations hereunder;
- (c) it is the only trustee of the Cobalt Trust and no action has been taken to terminate the Cobalt Trust, nor has the date, or any event, occurred for the vesting of the property it holds as trustee of the Cobalt Trust; and
- (d) it has the right to be fully indemnified out of the assets of the Cobalt Trust in respect of its obligations under this Deed.

**19. ENTIRE AGREEMENT**

This Deed 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 Deed was executed.

**20. 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 Deed and all transactions incidental to it.

**21. GOVERNING LAW AND JURISDICTION**

This Deed is governed by the laws 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.

**22. REPRESENTATIONS AND WARRANTIES**

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

**23. SEVERABILITY**

If a clause or part of a clause of this Deed 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 party of a

clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed but the rest of this Deed is not affected.

**24. MODIFICATION**

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

**25. WAIVER**

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, the other Party. A waiver by a Party is only effective if it is in writing and only in relation to the particular obligation or breach in respect of which it is expressed to be 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.

**26. GOODS AND SERVICES TAX**

- 26.1 Unless otherwise indicated, all amounts payable by one party to the other party in relation to a supply under this Deed have been calculated exclusive of any GST that may be imposed on the supply.
- 26.2 If any supply made under this Deed is, or becomes, subject to GST, the party making the supply (**Supplier**) is entitled to issue a Valid Tax Invoice to the party to whom the supply is made (**Recipient**), showing an additional amount payable on account of GST, such amount to be calculated by multiplying the consideration by the applicable rate of GST. In that case the Recipient must pay such amount to the Supplier, as consideration in addition to any consideration payable or to be provided elsewhere in this Deed.
- 26.3 Any amount in respect of GST payable under Clause 26.2 must be paid to the Supplier immediately on receipt of the Valid Tax Invoice.
- 26.4 If any party is required to reimburse or indemnify the other party for a cost or expense incurred by the other party (**Cost**), the amount of that Cost for the purpose of this Deed 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.
- 26.5 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 Deed (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* (Commonwealth).

**27. COSTS**

Subject to the terms of this Deed each Party is to bear its own costs of an incidental to the finalisation and execution of this Deed and any related documents and any step required thereunder, except that Jubilee is responsible to pay any stamp duty payable in respect of this Deed or the Transfer.

**28. EXECUTION IN TRIPLICATE**

The Parties hereto will execute this Deed in triplicate so as to provide one original signed by both parties for attachment to the Registration Application referred to in Clause 11 and an original for each of the Parties signed by both Parties.

**EXECUTION**

**EXECUTED** as a deed by **WARRINGAH** )  
**COUNCIL** in accordance with Section 683 )  
of the Local Government Act 1993 )

\_\_\_\_\_

\_\_\_\_\_  
Witness:

**EXECUTED** as a deed by **JUBILEE** )  
**PROPERTIES PTY. LIMITED** )  
in accordance with Section 127 )  
of the Corporations Act 2001 )

\_\_\_\_\_  
Patrick Keenan  
Sole Director

\_\_\_\_\_  
Witness

**APPENDIX A**

**Draft Plans**

**APPENDIX B**

**Diagram of the Park referred to in Clause 6 showing the Consent Zone and referred to in Clause 10.3 showing the location of the disabled access ramp**

**APPENDIX C**

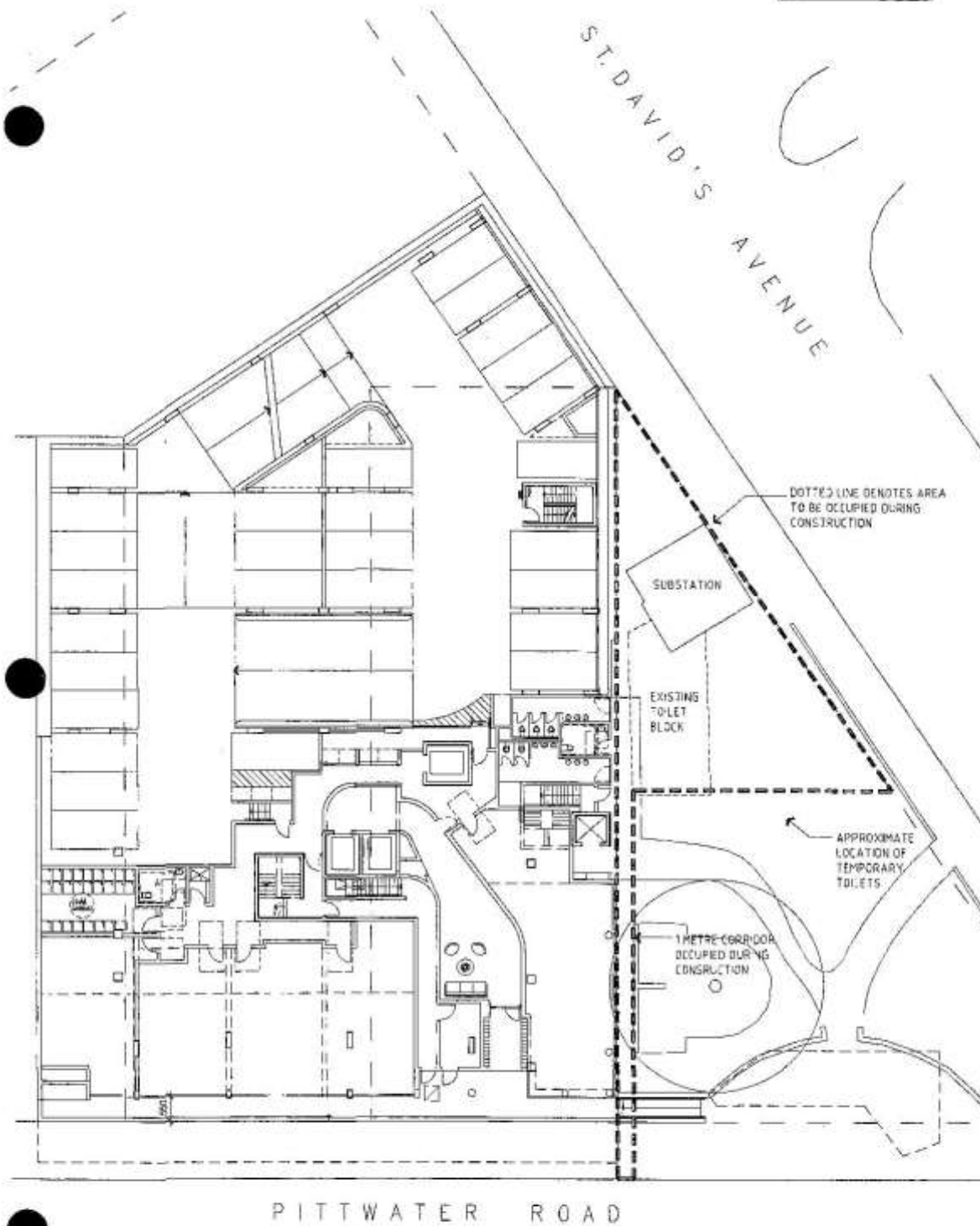
**Draft Stratum Plan**

**APPENDIX D**

**Strata Management Statement**



APPENDIX B



<b>ITEM 8.8</b>	<b>SPONSORSHIP - 2014 NORTHERN BEACHES LOCAL BUSINESS AWARDS</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER STRATEGIC PLANNING</b>
<b>TRIM FILE REF</b>	<b>2014/064627</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

## **REPORT**

### **PURPOSE**

To seek Council's approval to be a major sponsor of the Northern Beaches Local Business Awards, to the value of \$8,500 per year for the next four years.

### **REPORT**

Warringah and Pittwater Councils recognise the significance of regional economic development and the contribution of businesses to a vibrant and healthy lifestyle, strong economy and increasing employment generation. Regional Economic development is a joint funded collaboration between the two Councils with administration of employees and funds being undertaken by Warringah Council.

Warringah and Pittwater Councils have been supporters of the Northern Beaches Local Business Awards over the last three years. The awards celebrate local business excellence, promote and give recognition to the major contribution of this dynamic business community. As a sponsoring partner, the benefits of these awards include recognition as a supporter of a reputable Sydney-wide awards program, whose status is confirmed within the business community and the wider public.

These awards have presented many opportunities to build relationships with business owners, their employees and customers. It is through this high profile event that Council's support has helped to acknowledge the drive and enthusiasm required to succeed in business and given wider networking opportunity for all participants - sponsors, local government, businesses and the general public.

In 2012 Council's Regional Economic Development program was able to establish a unique local award category of 'sustainable business' which recognises sustainable business practices that contribute to a more liveable and healthy community – present and future.

On-going support for sponsorship, over the next four years for these awards will encourage buying local, and give enhanced recognition to all our suppliers of product and services.

### **FINANCIAL IMPACT**

This sponsorship is included in the current Regional Economic Development budget which is funded by both Warringah and Pittwater Councils.

### **POLICY IMPACT**

Support of this nature is provided for under the Grants and Sponsorship Policy. The Policy recognises that Council may enter into these arrangements to build capacity for the community and promote local economic development.



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**RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council, as a joint sponsor with Pittwater Council, provide sponsorship to the value of \$8,500 per year to the Northern Beaches Local Business Awards to 2017.

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<b>ITEM 8.9</b>	<b>DRAFT MEMORIALS, PLAQUES AND NAMING OF ASSETS POLICY</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER PARKS RESERVES &amp; FORESHORES</b>
<b>TRIM FILE REF</b>	<b>2013/138915</b>
<b>ATTACHMENTS</b>	<b>1 Draft Memorials, Plaques and Naming of Assets Policy 2013</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To recommend that the draft Memorials, Plaques and Naming of Assets Policy be placed on public exhibition.

#### **SUMMARY**

On 28 May 2013 Council resolved to 'develop a policy/procedure for the naming of Council's assets'. On 11 December 2012 Council also resolved that:

*'The Heritage Plaques Policy and associated implementation guidelines be prepared and if appropriate, incorporated into Council's existing Warringah Memorials and Plaques Policy (March 2002). The resulting policy is to be reported to Council for adoption at the completion of this project.'*

Council currently has four policies that relate to the naming of various assets and the management of memorials and plaques, which include:

- Public Buildings – Openings & Plaques Policy GOV-PL 250;
- Memorials and Plaques Policy STR-PL 325;
- Naming of Parks and Reserves Policy STR-PL 320; and
- Street Name and Community Facility Name Signs CCS-PL 420

In reviewing these policies and links between them, such as requests to name assets to commemorate individuals, it was considered appropriate to combine memorials, plaques and asset naming into a single policy. A draft Memorials, Plaques and Naming of Council's Assets Policy has therefore been prepared addressing both resolutions above.

#### **CONSULTATION**

The draft policy is proposed to be exhibited for a period of 21 days and will be advertised via the Manly Daily, on Council's website, in the libraries and the Civic Centre. Relevant stakeholders such as heritage groups will be contacted directly about the draft policy.

#### **POLICY IMPACT**

The draft policy is included in Attachment 1.

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#### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That the draft Memorials, Plaques and Naming of Assets Policy be placed on public exhibition for a period of 21 days.

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## REPORT

On 28 May 2013 Council resolved to ‘develop a policy/procedure for the naming of Council’s assets’. On 11 December 2012 Council also resolved that:

*‘The Heritage Plaques Policy and associated implementation guidelines be prepared and if appropriate, incorporated into Council’s existing Warringah Memorials and Plaques Policy (March 2002). The resulting policy is to be reported to Council for adoption at the completion of this project.’*

Council currently has four policies that relate to the naming of various assets and the management of memorials and plaques, which include:

- Public Buildings – Openings & Plaques Policy GOV-PL 250;
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- Naming of Parks and Reserves Policy STR-PL 320; and
- Street Name and Community Facility Name Signs CCS-PL 420

In reviewing these policies and links between them, such as requests to name assets to commemorate individuals, it was considered appropriate to combine memorials, plaques and asset naming into a single policy. A draft Memorials, Plaques and Naming of Council’s Assets Policy has therefore been prepared addressing both resolutions above.

The draft policy combines and updates relevant components of the existing policies to provide a more consistent approach and single reference point for the naming of Council assets and the management of memorials and plaques. It also incorporates matters relating to heritage plaques.

The draft policy identifies principles, guidelines and legislation relating to the naming process for assets including open space and recreational areas, community facilities and streets. It also addresses the principles for installation of plaques and memorials.

Consolidating these policies creates ease for both staff and the community to access relevant information. In relation to implementation guidelines, staff will be able to incorporate heritage plaque requests into the existing Application Form and Guidelines for Memorials and Plaques.

The draft policy states that the changing of long established names for all assets is not preferred and will only be considered in exceptional circumstances. To apply this principle, staff would not consent to name changes of any assets with long established names. Any such proposal would need to come from a resolution of Council prior to staff initiating the naming process.

## CONSULTATION

The draft policy is proposed to be exhibited for a period of 21 days and will be advertised via the Manly Daily, on Council’s website, in the libraries and the Civic Centre. Relevant stakeholders such as heritage groups will be contacted directly about the draft policy

## TIMING

Following public exhibition, the Draft Memorials Plaques and Naming of Assets Policy will be reported back to Council in May for its consideration of submissions and decision in relation to the making of the policy.

## FINANCIAL IMPACT

The cost of consultation will be covered by existing operation budget.

**POLICY IMPACT**

Should the Draft Memorials Plaques and Naming of Assets Policy be adopted by Council in May the following policies would be rescinded:

- Public Buildings – Openings & Plaques Policy GOV-PL 250;
- Memorials and Plaques Policy STR-PL 325;
- Naming of Parks and Reserves Policy STR-PL 320; and
- Street Name and Community Facility Name Signs CCS-PL 420





## Warringah Council Policy

### Policy No. Number

### Memorials, Plaques and Naming of Assets

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#### 1 Purpose of Policy

- To provide a framework for the naming of Council's assets in the Warringah local government area
- To provide an efficient and equitable mechanism for the placement of memorials and plaques within Warringah
- To provide a historical record of the Councillors in office at the time a major public building or asset was opened

#### 2 Principles

##### 2.1 General – Naming of Assets

The changing of long established names is not preferred and will only be considered in exceptional circumstances. Requests to change long established names will only be accepted if supported or determined by a resolution of Council.

##### 2.2 Naming of Parks, Reserves & Other Recreational Areas

The naming of parks, reserves and other recreational areas within the Warringah local government area will be in accordance with the *Geographical Names Act 1966* and guidelines endorsed by the Geographical Names Board (GNB). In addition to the guidelines, Council will consider the following items:

- Parks and reserves and recreation areas will not be named after serving Councillors or Parliamentarians or politically active former Councillors or former Parliamentarians
- When naming sporting areas and major reserves which will be visited by many people from beyond Warringah Council's boundaries, preference will be given to locality or geographical names, for example Beacon Hill Oval or Long Reef Reserve, to assist in travelling to and locating the area or reserve.
- When naming parks and natural reserves, preference will be given to the use of historical names, aboriginal words (e.g. Goombooya Reserve) and the names of indigenous species of plants, birds and animals (e.g. Angophora Reserve, Cabbage Tree Park, Melaleuca Reserve, Currawong Park)

##### 2.3 Naming of Streets

The design and use of street name signs and selection of road names within the Warringah local government area, for which Council is the Roads Authority, will be in accordance with:

- *AS1742.5 - 1887 Street Name and community facility name signs*
- *Roads Act 1993; and*



Policy No. **Error! Reference source not found.**

- Road Naming Policy and guidelines endorsed by the Geographical Names Board (GNB).

Consultation with Roads & Maritime Services (RMS) will occur for the provision of street name and community facility name signs on all roads within the Warringah local government area that are under RMS jurisdiction.

In all subdivisions where new streets are created, Council retains the responsibility for naming such streets in accordance with this policy.

#### 2.4 Naming of Council's Buildings & Infrastructure

Preference will be given to naming buildings after their location and functional purpose. The location may relate to the reserve, suburb or street address of the building or infrastructure (Cromer Community Centre, Green Street Playground).

The names of Councillors holding office at the date of the opening of major Council buildings and infrastructure will be recorded on the plaques at those assets if requested and the Mayor or delegate will be responsible for performing official openings.

#### 2.5 Memorials and Plaques

Memorials and plaques may only be installed on public land or Council's assets with approval. Memorials can encompass trees and bench seats with or without a plaque. Requests for other types of infrastructure may be considered on merit.

Heritage plaques may be installed on public land or Council's assets with approval. Heritage plaques may also be installed on privately owned heritage items as listed under Schedule 5 of Warringah Local Environmental Plan 2011, with landowner consent and Council approval.

The cost of both the plaque, bench seat and associated infrastructure and/or tree shall be borne by the applicant and in accordance with Council's adopted fees and charges if applicable. Applications for new memorials or plaques must be made in writing using the appropriate form.

The applicant must meet all ongoing maintenance costs of the memorial/plaque including vandalism and theft, and if required the applicant must meet all replacement costs. The memorial/plaque will not be replaced at Council's expense.

#### 2.6 Roadside memorials

Roadside memorials may only be installed on road sides with Council approval. Applications will be assessed in accordance with Road and Maritime Services guidelines for Roadside Tributes to ensure they are placed in a safe area on a road verge and do not obstruct the use of the road or road verge by pedestrians, cyclists or road users.

#### 2.7 Miscellaneous

##### a) Commercial Use

This policy does not include advertising and sponsorships which are covered by Council's Grants and Sponsorship Policy.

##### b) Public Art

Policy No. **Error! Reference source not found.**

Any memorial or plaque that incorporates public art must comply with Council's Public Art Policy.

- c) Existing Sites  
The placement of memorials or plaques will take into account the number of existing memorials and plaques, artworks and other objects in the vicinity of the proposed new memorial or plaque.
- d) Planning Requirements  
Certain types of memorials may require development consent under Warringah Local Environment Plan 2011.

### **3 Authorisation**

This Policy was adopted by Council on XXXXXX

It is effective from XXXXX

It is due for review XXXXXX

### **4 Amendments**

This policy replaces :

- Memorials & Plaques Policy STR-PL 325
- Street Name and Community Facility Name Signs Policy CCS-PL 420
- Naming of Parks and Reserves Policy STR-PL 320
- Public Buildings - Openings and Plaques GOV-PL 215

### **5 Who is responsible for implementing this Policy?**

Group Manager Parks Reserves & Foreshores

Group Manager Roads, Traffic & Waste

Group Manager Buildings, Property & Spatial Information

Group Manager Community Services

Group Manager, Strategic Planning

### **6 Document owner**

Deputy General Manager, Environment

### **7 Related Council Policies**

- a) Warringah Council's *Design Guidelines - Public Places* (2013)
- b) Grants and Sponsorship Policy PL 011
- c) Public Art Policy STR PL 010

### **8 Legislation and references**

- a) Roads Act 1993 & Regulations
- b) Local Government Act 1993 & Regulations

Policy No. **Error! Reference source not found.**

- c) Crown Lands Act 1989
- d) Geographical Names Act 1966
- e) Geographical Names Board, Guidelines for the determination of placenames (2012)
- f) Geographical Names Board, Guidelines for the naming of roads (2012)
- g) AS1742.5 - 1887 Street Name and community facility name signs
- h) Warringah Local Environment Plan 2011
- i) Warringah Council's Style Guide (2013)
- j) Warringah Council Signage Style Guide and Principles

## 9 Definitions

**Plaque** A flat tablet of metal, stone or other appropriate material which includes text and and/or images which commemorate a person/groups/association or an event and/or provide historical text or information relevant to its location. Such tablet to be affixed to an object, building or pavement.

**Memorial** An object established in memory of a person/groups/association or event.

**Public Open Space** includes community land and operational land (owned by Council) and other state government land which Council manages. This includes, but is not limited to, areas of environmental sensitivity, parks, reserves, road reserve, bushland, waterways, lagoons and beaches.

**Major reserves** – A reserve that is categorised as regional, sub-regional or district in Council's Plans of Management or that receive high levels of visitation, such as foreshore reserves, or contains key assets or features like Manly Dam.

**Community facility** refers to facilities which are generally of a non-commercial nature and which are likely to be sought by a significant number of strangers to the area. Typical facilities may include:

- Town halls, civic centres and municipal offices.
- Municipal depots and tips.
- Sporting and recreational grounds and facilities.
- Hospitals.
- Railway stations and coach stations.
- Post offices.
- Tertiary education institutions
- Churches and religious institutions.
- Other non-profit institutions.
- Shopping centres

**Street** refers to all road types.

A **roadside memorial** is any object placed within the road reserve to commemorate a death or indicate the site of a road fatality. Memorials may include religious items, flowers or other gestures. Monuments (permanent commemorations) are not permitted within the road reserve.

<b>ITEM 8.10</b>	<b>ADOPTION OF PLAN OF MANAGEMENT - MANLY WARRINGAH WAR MEMORIAL PARK</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER PARKS RESERVES &amp; FORESHORES</b>
<b>TRIM FILE REF</b>	<b>2014/047044</b>
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li><b>1 Final Draft - Plan of Management - Manly Warringah War Memorial Park - Manly Dam - March 2014 (Included In Attachments Booklet)</b></li><li><b>2 Appendices - Manly Warringah War Memorial Park - Plan of Management - March 2014 (Included In Attachments Booklet)</b></li><li><b>3 Timetable of Permitted Waterskiing Times - Manly Warringah War Memorial Park (Included In Attachments Booklet)</b></li><li><b>4 Summary of Response to Submissions - Manly Warringah War Memorial Park Plan of Management March 2014 (Included In Attachments Booklet)</b></li></ol>

## **EXECUTIVE SUMMARY**

### **PURPOSE**

To recommend to Council the adoption of the Manly Warringah War Memorial Park Plan of Management.

### **SUMMARY**

At the meeting of 27 August 2013, Council resolved to publicly exhibit the Draft Manly Warringah War Memorial Park Plan of Management (the Draft Plan) for a period of 42 days following NSW Department of Primary Industries approval. The NSW Department's approval was obtained on 3 December 2013. Subsequently, public exhibition commenced on 21 December 2013 and concluded on 10 February 2014. A total of 271 submissions were received with comments on 9 main topics; water-skiing, mountain biking, walking tracks, traffic and parking, biodiversity, land use planning, commercial activities, dogs in the park and landscaping.

The majority of submissions (171) commented on water-skiing, with 139 of these opposing the proposal to reduce water skiing from 7 days to 4 days a week. 22 submissions supported the proposed changes and 10 submissions called for the total removal of water-skiing. Other submissions generally supported ongoing biodiversity management and track improvements. Some reservations were expressed on the nature of the King Street entry upgrade and recreational impacts, mainly bike riding, on the environment.

As a result of this consultation, minor amendments, including a revised water-skiing time table, have been made to the Plan. The Manly Warringah War Memorial Park Plan of Management will provide strategic guidance for the sustainable development and management of this highly valued and well used community precinct. The Plan of Management is intended to replace an earlier Plan of Management prepared in 1998.

### **FINANCIAL IMPACT**

The Plan of Management will provide direction for future Council operational and capital budgets for Manly Dam.

**POLICY IMPACT**

The Draft Plan of Management has been prepared in accordance with the Crown Lands Act 1989, Crown Lands Regulation 2006, the Reserve Trust Handbook (LPMA, 2007), Local Government Act 1993 and other relevant legislation, policies, operating management standards and planning instruments relevant to the management of the Manly Warringah War Memorial Park.

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**RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council adopt the Manly Warringah War Memorial Park Plan of Management (March 2014).

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## REPORT

### BACKGROUND

Manly Warringah War Memorial Park (the Park), also known as Manly Dam, is Crown Land reserved for the purposes of “public recreation”. It is managed by the Manly Warringah War Memorial Park (R68892) Reserve Trust, as appointed by the Minister for Lands in August 1997. Warringah Council manages the affairs of the Trust, under the provisions of the *Crown Lands Act 1989*, and is also responsible for the Park’s day-to-day management on behalf of the Trust.

The Park area that is the subject of this final draft Plan of Management (the “Plan”) covers approximately 377 hectares, as 33 individual land parcels comprising the majority of Crown Reserve 68892 and part of Crown Reserve 83492 and several unmade Crown road reserves.

The Park is located among the suburbs of Manly Vale, North Balgowlah, Allambie Heights and Frenchs Forest. It features an extensive area of typical Sydney sandstone bushland surrounding the 30 hectare sheltered freshwater water body retained behind the historic Manly Dam.

The area is a significant recreational and environmental asset. It is highly valued by the local community as a recreation venue, conservation area, and scenic asset and for its water catchment roles. Picnics, water sports and walking are common recreation pursuits and the Park is a popular venue for mountain biking and water-skiing.

The current Plan of Management was adopted in 1998. The review of this Plan began in 2010.

### DEVELOPING THE DRAFT PLAN OF MANAGEMENT

The main stages in the preparation of the Draft Plan of Management (Draft Plan) are outlined below.

#### *Community Consultation- Phase 1*

A Community Consultation Plan was developed to support the preparation of this Plan of Management. The initial community consultation identified a range of values for the Park, including inherent or underlying values and the usage values ascribed by the community. The *Community Consultation Report on Values* was prepared at the conclusion of the initial round of consultation.

An *Issues and Directions Discussion Paper* was subsequently developed and released.

#### *Community Consultation- Phase 2*

Following the release of the Discussion Paper a facilitated Community Workshop was held and the *Summary of Community Workshop* document was prepared.

A total of 262 submissions were received on the *Issues and Directions Discussion Paper*. The submissions analysis report- *Report Summary of Community Submissions on the Manly Dam Issues and Directions Discussion Paper* – was prepared.

#### *Draft Plan of Management Developed*

Following the second phase of community consultation, the Draft Plan was prepared. A values-based approach to land planning and management was used. Management actions were developed to protect and enhance the Park’s values, address any issues that may threaten these values and ensure that the Park is managed in line with current community expectations. The management actions are consistent with the purposes for which the area was reserved.

A number of guiding principles of management were identified for the Park. To implement these principles, and achieve the management objectives identified for both the Park as a whole and



individual management zones, a set of prioritised management actions were set out in the Draft Plan.

### **Key Management Actions**

Some of the key management actions from the Draft Plan included:

#### **Biodiversity, Catchment and Landscape**

- Bushland regeneration, revegetation and weed control to continue to improve flora, vegetation communities and habitat, supported by active stormwater and bushfire management measures.
- Undertake or facilitate targeted surveys of threatened or significant fauna and flora species.
- Continue pest species monitoring and control, targeting foxes, rabbits and feral cats.

#### **Cultural Heritage**

- Active management and continued liaison with the Aboriginal Heritage Office to protect Aboriginal heritage sites.
- Improve landscaping and presentation of the existing War Memorial Remembrance Point.
- Facilitate continued use of the Park for remembrance ceremonies events in keeping with the Park's established low key setting.

#### **Visitor Use, Recreation and Enjoyment**

- Continue to maintain a network of safe and sustainably managed tracks of differing standards.
- Permit mountain biking.
- Clearly mark approved mountain bike and shared use tracks with behavioural and safety messages including "code of conduct" and safety warnings.
- Undertake priority works to improve safety and environmental conditions along tracks.
- Established designated water-skiing and powerboat zone to remain.
- Share the entire water body with other recreational users by allowing times on 3 weekdays and Saturdays as standard times for powerboats.
- Review the annual licence/agreement with the Manly Warringah Water Ski Club on use and management of the designated water-skiing and power boating zone.
- Refurbish or rebuild the existing amenity blocks, improving accessibility and functionality.
- Redesign and upgrade the Park's main entrance to improve traffic safety.
- Upgrade, rationalise, formalise or re-align other entry points to the Park.

#### **Environmental Management**

- Identify sources of off-Park pollutants and undertake or encourage water quality improvement measures.
- Continue to monitor water quality, including algal levels and faecal coliform and manage dam wall impellor to reduce algal levels.

- Co-operate with other dam users to maintain dam water levels for effective flood mitigation.
- Negotiate an environmental management plan when renewing lease of the Warringah Golf Course.
- Continue to implement key directions of the Park's Fire Management Plan (2006).

**Park Management and Administration**

- Continue an on-site team presence.
- Manage risk management issues associated with recreational use of the Park.
- Introduce pay and display parking.
- Encourage and support "Friends of the Park" or similar volunteer activities.

**PUBLIC EXHIBITION OF THE DRAFT PLAN OF MANAGEMENT**

At the meeting of 27 August 2013, Council resolved to publicly exhibit the Draft Plan for a period of 42 days following NSW Department of Primary Industries approval.

In December 2013, after reviewing the Draft Plan, the Crown Lands Division of the NSW Trade & Investment – Department of Primary Industries, gave Council advice recommending that the Public Exhibition and future adoption of the Draft Plan be completed under the Local Government Act 1993. Subsequently, public exhibition commenced on 21 December 2013 and concluded on 10 February 2014. The community was notified about the public exhibition and encouraged to comment via written submission by:

- Notices in the local media.
- Council Website Homepage and Your Say Warringah.
- Emailing notifications to stakeholders and Council's Community Engagement list.
- Distributing letterbox notices to residents around the Park's perimeter.
- Displays and signs within the Park.
- Displays at Council's Civic Centre and Libraries.
- Two Community Information Days, attracting approximately 130 people and;
- Meetings with representatives from water-skiing, environmental and mountain bike groups.

By the closing date of 10 February 2014, Council had received 271 submissions, with comments on 9 main topics. An overview of the submissions is outlined below.

**1. Water-skiing - 171 submissions**

139 submissions included comments supporting the status quo of 7 days a week water-skiing, as per the 1998 Plan of Management. Comments included:

- It is a family sport, operating at Manly Dam since 1947, over many generations, that brings the community together.
- There are limited options elsewhere.
- There have been very few incidents or safety issues raised.

- Other water users have many other places to go and 60% of the lake to use when skiing is occurring. Water-skiers only use 40% of lake.
- It is already hard to find water ski slot with 7 days a week.
- Requests for transparent and fairer booking system.
- The weekend is the busiest ski time, so removing any part of Sunday would drastically affect the part of the week most used by water ski club members.
- Some commented that the draft Plan had inaccurate information on “nearest” equivalent locations for water-skiing and boat and participation numbers.
- Many said that all could safely co-exist, with improved signs to communicate safety, and access management, for example, an authorised corridor.
- Suggestions that water-skiing has environmental benefits to reduce algae by circulating water.
- Noise not the problem it used to be with modern motors and decibel laws.
- Used by many locals in the area.
- Current times and situation works well. “If it ain’t broke don’t fix it”.
- Requests to conduct annual reviews and a process for adjustment of times.

22 submissions included comments supporting changing water-skiing from 7 to 4 days a week.

Comments included:

- Water-skiing has a place at Manly Dam, albeit at reduced days from 7 to 4 days a week.
- Reduced days will assist in safely sharing the whole lake with other water users including kayakers, paddle boarders, windsurfers and long distance swimmers.

10 submissions included comments calling for total removal of water skiing. Comments included:

- Inappropriate for the peace and tranquillity of the area, being noisy to other visitors.
- Damaging to the environment from erosion and disruption to nesting water birds.
- Unsafe for other concurrent use with other water users.
- Water-skiers are a minority group dominating and excluding others.

## **2. Mountain Biking – 33 submissions**

14 submissions included comments generally supportive of the draft Plan, including the proposed mountain bike track reroutes to improve safety and the environment. Comments included:

- Authorised tracks are required to link Aquatic Reserve/Sydney Water pipeline.
- Include more “black” sections with challenging/technical features.
- Do not excessively widen tracks or remove difficult/challenging sections.
- Extend/create more tracks to cater demand for increasingly popular sport.
- Allow for night riding (not generally permitted in this Plan).

- A mix supporting and against the “shared use” of tracks.

14 submissions commented that mountain bike tracks should not be “extended” or called for mountain biking in general to be reduced in numbers. Comments included:

- No new track for mountain bikes, as this continues to fragment fragile bushland.
- Concerns that increasing tracks and numbers of mountain bikes and spreading weeds and pathogens, impacting on erosion/sedimentation and fauna numbers, especially threatened species like the climbing galaxias, red-crowned toadlet and spotted-tailed quoll.
- Funds should be redirected towards restoring degraded bushland or bike paths on roads.
- Mountain biking on unauthorised tracks seen as “confronting”.
- Limit mountain bikes to fire trails.
- A mix of submissions in support of and against the “shared use” of tracks between walkers and bikes.

5 submissions included comments about had mountain biking in specific locations around the Park with concerns on excessive noise, speed or erosion.

**3. Walking Tracks - 22 submissions** - Comments included:

- General support for the shared use of mountain bike tracks to allow walking.
- Tracks to be as natural and as narrow as safely possible.
- Some opposed any new tracks of any kind.
- Some support for a new track between Picnic areas (Section 2 to Sections 3 and 4) however, most of these submissions were against this proposal, especially a wide, hard surface path.
- Comments against the proposed walking track between Curl Curl Track and Evas Track.

**4. Traffic and Parking – 18 submissions** - Comments included:

- King Street entry proposal was too engineered and incompatible with the natural setting. Suggestions that an alternate location at corner of King and Arana Street or further within the Park is more suitable. Some support for the current proposal.
- Concerns that mountain bikes were occupying spaces used for school drop-offs and pick-ups at Manly Vale Public School.
- Concerns raised about proposed pay and display parking.
- Objection to deterring roadside parking at Wakehurst Parkway.
- Suggestion to liaise with Roads and Maritime Service (RMS) regarding fauna and pedestrian management along Wakehurst Parkway.

**5. Biodiversity - 15 submissions** - Comments included:

- Confirm in the Plan of Management the Park’s Wildlife Protection Area status.
- Support for the proposed “core fauna habitat and refuge area”, with call to extend this to the whole Park.
- General support for ongoing bushland regeneration and feral animal control.

- Funding should be directed from new tracks to restoring degraded areas.

**6. Land Use Planning – 9 submissions** - Comments included:

- Aquatic Reserve should be included in this draft Plan of Management, as it is the headwaters of the Manly Dam catchment area.
- Support to include other parcels of land into the Park's management.
- Support for creating wildlife corridors linking other reserves to the Park.

**7. Commercial Activities - 6 submissions** - Comments included:

- Opposed to further commercialisation of the Park.
- Opposed to permitting exclusive use of areas of the Park.

**8. Dogs in the Park - 5 submissions** - Comments included:

- Dogs should not be permitted in any park of the Park.
- Dogs are often let off the lead when out of general sight.
- Keeping dogs on lead should be patrolled and enforced.

**9. Landscaping - 5 submissions** – Comments included:

- Consultation must occur before landscaping works.
- New seats around lake and water filling stations around the track.

**General and other comments - 14 submissions**

- War Memorials impact on visual landscape and requests to relocate – 3 submissions.
- Expressions of general enjoyment of visiting the Park – 2 submissions.
- Changing the name of Manly Dam to “Manly Lake” or “reservoir” – 2 submissions.
- Increase promotion of the Park's history – 2 submissions.
- Request for playground upgrade – 1 submission.
- Allow horses on tracks – 1 submission.
- Allow model planes on the lake – 1 submission.
- Bush fire concerns – 1 submission.
- Request to review Water Quality Management Plan – 1 submission.

**Analysis of the submissions:**

- Adds weight to the assertion that the Park is a highly significant regional facility for the water-skiing community. Water-skiing at Manly Dam is more unique than previously indicated in the Draft Plan. Key characteristics are the freshwater and sheltered setting, the ability to use your own boat and equipment and qualities that facilitate better safety for learners, right through to championship level training. Submissions also showed the need for a more transparent and fairer booking system.

- Further supports the position in the Draft Plan of retaining the mountain bike track and undertaking required re-routes and upgrades for safety and environmental benefits.
- Highlighted that the Park's Wildlife Protection Area status should be confirmed and that management solutions to parking along Wakehurst Parkway should be considered before recommending deterrents.
- Supports ongoing and early community consultation on the environmental and safety benefits provided by the track upgrades and reroutes proposed in the Draft Plan.

### **CHANGES TO THE DRAFT PLAN OF MANAGEMENT**

As a result of the submission review, amendments were made to the Final Plan of Management, including some changes to management actions. These amendments are considered to be minor and it is recommended that the changes are adopted without another round of public exhibition.

In summary, the main amendments to management actions include;

- Revised water-skiing access time table to allow:
  - 5 ½ days water-skiing – 4 weekdays, Saturday, Sunday (morning).
- Include an annual review of the water-skiing time table.
- Undertake regular reviews of lake usage. Any subsequent usage and water-ski timetable amendments may be made by Council without amendment to the Plan of Management.
- Management of water-skiing bookings to be aligned with Council's processes.
- Confirm Manly Dam as a "Wildlife Protection Area"
- Limit size of re-route proposal at Cootamundra Drive – reroute around playground only
- Include action to investigate options (if any) for safer access to Wakehurst Parkway entry
- Include action about management of low water levels

### **FINANCIAL IMPACT**

The final adopted Plan of Management will provide direction for future Council operational and capital budgets for Manly Dam

### **POLICY IMPACT**

The Draft Plan of Management has been prepared in accordance with the Crown Lands Act 1989, Crown Lands Regulation 2006, the Reserve Trust Handbook (LPMA, 2007), Local Government Act 1993 and other relevant legislation, policies, operating management standards and planning instruments (see Section 2 of the Plan for a full list of inclusions) which are relevant to the management of the Manly Warringah War Memorial Park.





<b>ITEM 8.11</b>	<b>DAREEN STREET - TRAFFIC FACILITIES PROJECT 2013-14 RESULTS OF COMMUNITY CONSULTATION</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER ROADS TRAFFIC &amp; WASTE</b>
<b>TRIM FILE REF</b>	<b>2014/052629</b>
<b>ATTACHMENTS</b>	<b>1 Traffic Committee Report - Dareen Street - Traffic Facilities Project - 2013-14 - Results of Community Consultation</b>

## **REPORT**

### **PURPOSE**

To present recent Traffic Committee recommendations regarding proposed traffic facilities for Dareen Street, Frenchs Forest for adoption by Council.

### **REPORT**

The Warringah Traffic Committee considered the attached report at its meeting of 3 February 2014. The recommendations were developed following community consultation. A total of 17 submissions were received as outlined in the report.

The conclusion from the Warringah Traffic Committee on this matter states:

Recent monitoring of conditions in Dareen Street and Patanga Road show that the traffic conditions have not changed significantly since February 2007 when the Traffic Committee considered further traffic calming devices in the area. The frequency and severity of traffic accidents have not worsened since this time, and this is reflected in the significant number of resident submission who considered the proposed traffic works to be excessive. Accordingly it is recommended that the proposed traffic scheme could not be supported and that the deferred funds could benefit other projects in the future years.

However the yellow no stopping lines at the kerb returns at the intersection of Dareen Street and Patanga Road should proceed and this should improve visibility and intersection safety. Additionally road safety education for residents in this area should contribute to an improvement in local driver behaviour.

### **FINANCIAL IMPACT**

There are no financial impacts on Council. The No Stopping lines are funded from the Roads and Maritime Services Block Grant for signs and marking.

### **POLICY IMPACT**

Nil

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### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That:

- A. Having considered the traffic conditions, accident data and community feedback the proposed Traffic Calming Scheme for Dareen Street and Patanga Road not be supported.
  - B. Yellow No Stopping lines be installed on the north eastern and south eastern kerb returns of Dareen Street and Patanga Road to reinforce the 10m statutory No Stopping restriction.
  - C. Dareen Street and Patanga Road be included in Council's road safety education program
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for the 2013-14 year.

- D. The Traffic Calming Scheme for Dareen Street and Patanga Road be removed from the future works ledger.
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**ITEM 3.1                      DAREEN STREET - TRAFFIC FACILITIES PROJECT 2013-14  
RESULTS OF COMMUNITY CONSULTATION**

**REPORTING OFFICER        TRAFFIC ENGINEER**

**TRIM FILE REF              2014/004122**

**ATTACHMENTS**

- 1 Dareen Street Traffic Calming Scheme Concept Plan**
- 2 Dareen Street Comment Summary**
- 3 Traffic Accident Data**
- 4 Linemarking Plan**

**UBD Ref: 177 B5**

**Background**

The proposed traffic calming scheme in Dareen Street between Patanga Road and Jones Street was part of Council's Community Strategic Plan 2013-14. The scheme consisted of a roundabout at the intersection of Dareen Street and Jones Street, a raised threshold adjacent to number 68 Dareen Street, and construction of a raised intersection at Dareen Street and Patanga Road. The objective of the proposal was to improve road safety by reducing traffic speeds and discourage through traffic in Dareen Street.

The original scheme was proposed on 19 March 2002, where the scheme was listed in the Future Works Ledger at Priority 4- 'Desirable'. The eastern end of Dareen Street at Ellis Road was permanently closed by Council between 2005 and 2007, and this has reduced the traffic volume in the street considerably. The matter was reviewed again on 6 February 2007 after receiving further representation from a resident in Dareen Street. At the time the installation of further traffic calming devices in Dareen Street was not supported as the initial assessment showed low traffic volumes and was not considered warranted at the time. However it was noted that the scheme remained in Council's future works and programmed for the 2013-14 year.

This report outlines the traffic assessment of the site, and presents the results of the community consultation which was carried out in November 2013.

**Traffic Conditions**

A traffic count surveying both traffic speeds and volumes was undertaken in May 2013 at Dareen Street near house number 80, and also in Patanga Road, adjacent to house no. 7 Patanga Road.

A summary of the traffic survey data is tabled below:

<b>Dareen Street, Frenchs Forest - May 2013</b>			
<b>Near House No 80, on ELP</b>			
	<b>Eastbound</b>	<b>Westbound</b>	<b>Bidirectional</b>
<b>Weekly 50<sup>th</sup> Percentile Speed (km/h)</b>	<b>44</b>	<b>47</b>	<b>46</b>
<b>Weekly 85<sup>th</sup> Percentile Speed (km/h)</b>	<b>55</b>	<b>57</b>	<b>57</b>
<b>Seven Day AADT</b>	<b>162</b>	<b>240</b>	<b>402</b>

<b>Patanga Road, Frenchs Forest - May 2013</b>			
<b>Near House No 7, next to Bus Stop</b>			
	<b>Eastbound</b>	<b>Westbound</b>	<b>Bidirectional</b>
Weekly 50 <sup>th</sup> Percentile Speed (km/h)	43	41	42
Weekly 85 <sup>th</sup> Percentile Speed (km/h)	52	50	51
Seven Day AADT	1,110	1,208	2,317

Both Dareen Street and Patanga Road are local roads under Council's road hierarchy with a speed limit of 50km/h. Jones Street and Patanga Road carry a 3 tonne truck load limit restriction.

The findings show that traffic volumes in Dareen Street are particularly low and that the vehicle speeds are acceptable for the prevailing local road conditions.

As Patanga Road is positioned between two collector roads, the traffic volumes were found to be higher. The traffic speeds in Patanga Road was low from the narrow two-way configuration with high level of on-street parking.

The Frenchs Forest to Dee Why bicycle route runs through Dareen Street, which at the time was preferred over Iris Street or Warringah Road. The volume of cyclists in this route is considered low.

Examination of the traffic accident data provided by the Roads and Maritime Services show that there have been two accidents in Patanga Road and two accidents in Dareen Street for the five year period ending in December 2012. The level and severity of the accidents does not show any outstanding road safety issue in the area.

Details of the traffic accident data are attached.

### **Community Consultation**

Council has undertaken a public notification to gauge the level of support for the proposed traffic facilities. A resident notification with supporting information of the proposal was sent to 130 residents of Dareen Street, and affected residents of Patanga Road. Additionally community notifications in Manly Daily as well as Council's website were undertaken in November 2013. Copies of the concept plans were made available on Council's Customer Service Centre for exhibition. Submissions closed on 22 November 2013.

A total of 17 submissions were received and a summary of the submissions including staff comments is attached.

Out of the 17 submissions received, five were in support and 12 raised objections to the proposal.

A significant number of submissions that objected to the proposal suggested that the traffic calming devices are excessive and that the funds should be used elsewhere such as Iris Street, Oxford Falls Road and Frenchs Forest Road East.

### **Discussion**

The permanent closure of Dareen Street at the eastern end undertaken in the past has eliminated the through traffic in the street, and this has also reduced the vehicle speeds in Dareen Street.

It has been noted that the funding for this project has been withdrawn due to a reduction to the section 94a funding income from land redevelopments. Whilst this means funding for the project



will not be available for the current year, the traffic assessment has continued for consideration by the Traffic Committee.

A number of residents raised concerns with the proposed Northern Beaches Hospital located near Frenchs Forest Road West. It is understood that the state government has commenced investigating the traffic and transport issues associated with the hospital site. At this stage no changes are planned for Dareen Street or Patanga Road.

Another issue that was raised in the submissions was the safety at the intersection of Patanga Road and Dareen Street. This T-intersection is controlled by a 'silent cop' traffic dome and approximately 25m length of double barrier lines. The removal of the traffic dome may encourage higher turning speeds and travelling over the separation line. At this time the removal of the dome is not supported however to improve sight distances when exiting Dareen Street, it is proposed that yellow no stopping lines be installed at the kerb returns to reinforce the Australian Road Rules. A linemarking plan is attached.

It is also proposed that Dareen Street and Patanga Road be included in Council's road safety education program targeting speeding and pedestrian safety.

#### **Conclusion**

Recent monitoring of conditions in Dareen Street and Patanga Road show that the traffic conditions have not changed significantly since February 2007 when the Traffic Committee considered further traffic calming devices in the area. The frequency and severity of traffic accidents have not worsened since this time, and this is reflected in the significant number of resident submissions who considered the proposed traffic works to be excessive. Accordingly it is recommended that the proposed traffic scheme could not be supported and that the deferred funds could benefit other projects in the future years.

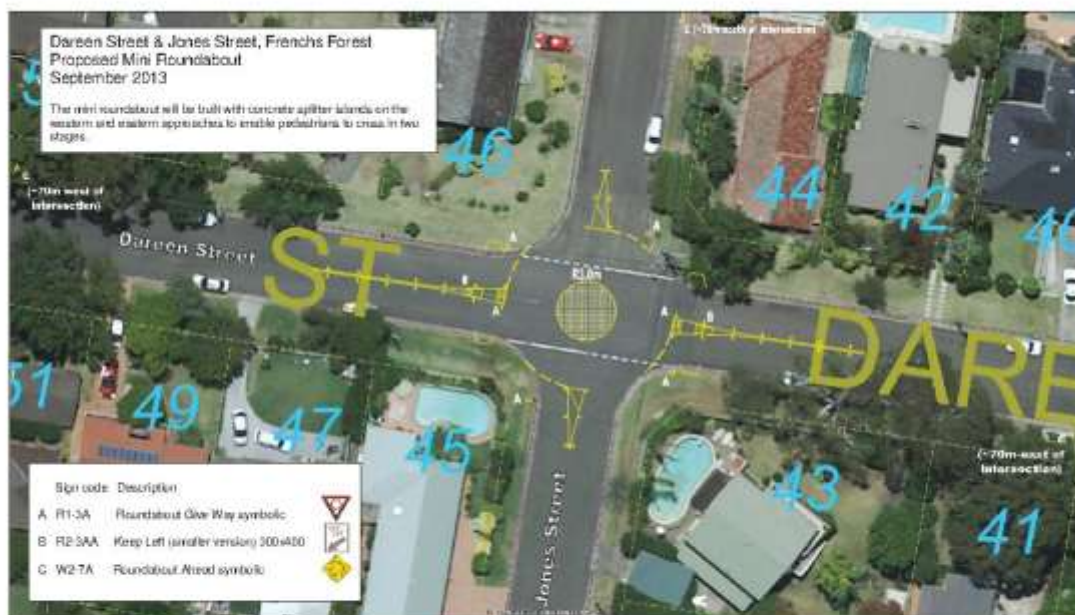
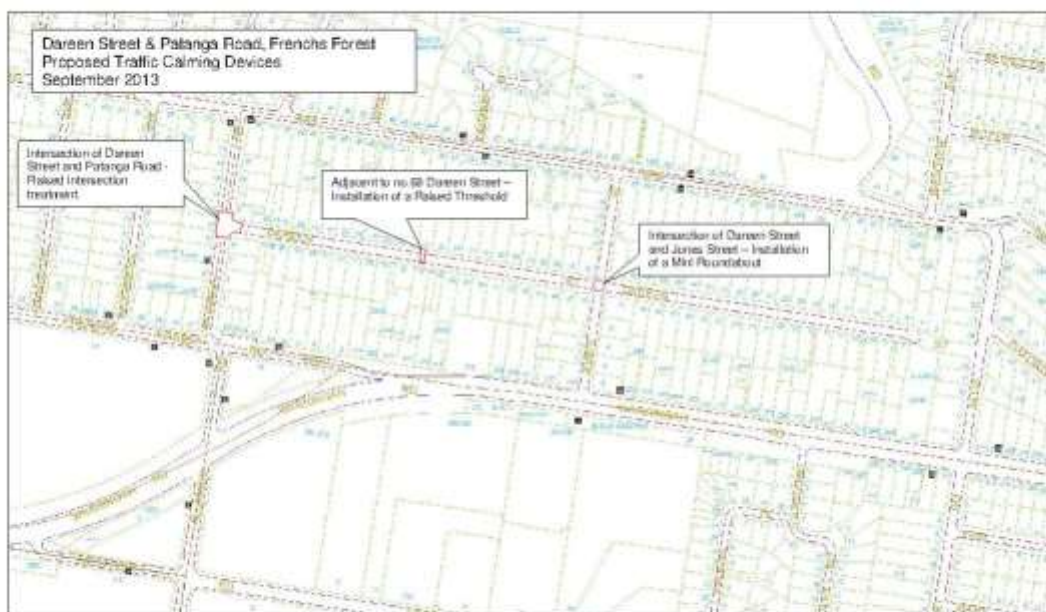
Regardless of the above the yellow No Stopping lines at the kerb returns at the intersection of Dareen Street and Patanga Road should proceed and this should improve visibility and intersection safety. Additionally road safety education for residents in this area should contribute to an improvement in local driver behaviour.

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#### **RECOMMENDATION TO TRAFFIC COMMITTEE**

- A. That having considered the traffic conditions, accident data and community feedback the proposed Traffic Calming Scheme for Dareen Street and Patanga Road not be supported.
  - B. That yellow No Stopping lines be installed on the north eastern and south eastern kerb returns of Dareen Street and Patanga Road to reinforce the 10m statutory No Stopping restriction.
  - C. That Dareen Street and Patanga Road be included in Council's road safety education program for the 2013-14 year.
-









Dareen Street Community Consultation – Summary of Comments November 2013	
Resident Comments	Staff Comments
I can understand traffic calming measures, however, for the volume of traffic, a roundabout seems extreme. Can something please be looked into re: the level of speeding traffic along Oxford Falls Road to join Warringah Rd, where traffic calming measures are crumbling, there are no footpaths, and pedestrians are forced onto the road. Cars regularly ignore the No Entry sign at Tristram Road, making the walk to Beacon Hill Primary School from Oxford Falls Road dangerous, whichever way it is attempted. Oxford Falls road is designated Local Traffic Only, but has become a rat run at peak times, which will only get worse when the new hospital begins construction. Iris St/Oxford Falls Rd is becoming like a mini Warringah Road at times.	Council understand that there are other areas nearby with different traffic concerns. Unfortunately funds have been made available for the traffic calming in Dareen Street and Patanga Road only and this cannot be utilised in other areas.  Dee Why Police is aware of the drivers ignoring the No Entry restriction in Tristram Road. Traffic safety investigations in Iris Street and Oxford Street have been undertaken in the past.
The intersection of Frenchs Forest Road, Patanga Road and Allambie road is a dangerous intersection and has a much higher priority for having a roundabout installed. How many accidents have occurred at the proposed Dareen Street intersection.	The Warringah Traffic Committee at its meeting on 7 June 2011 considered intersection and pedestrian safety at Frenchs Forest Road East and Patanga Road. Initial proposal at the time was to relocate the pedestrian crossing westward and make further improvements at the intersection. This proposal may be subject to further investigation as there may be significant changes to Frenchs Forest Road East in the future.
Not necessary to install roundabout at Dareen Street and Jones Street due to low traffic volume - leave as is. If speeding is an issue this should be solved without traffic calming devices. Dareen Street and Patanga Road raised intersection treatment will create additional noise to residents. Proposed work seems overkill and \$\$ could be better spent on nearby roads eg. Iris Street - decrease vehicular speed, poor line of sight entering street due to parked cars, pedestrian safety concerns when school children alight from buses to cross Iris Street.	Comments regarding speeding, noise and use of Council funds noted.
Roundabout at Jones Street and Dareen St unnecessary. Prefers existing Stop signs. Traffic calming construction at 68 Dareen Street is also unnecessary due to low traffic volume. Western end also unnecessary for buses to negotiate device. Suggestion of No Parking restriction 30m at western end of Dareen Street because parked cars restrict vision. Suggestion to install roundabout at Patanga Street, Frenchs Forest Road to accommodate peak periods and enhance safety.	The Traffic Committee may consider the provision of yellow No Stopping lines at the intersection of Patanga Road and Dareen Street.
Adequately covered traffic issues and congratulates Council on their efforts. Concerns regarding increased speeding vehicles. Lack of footpaths.	Comments noted.
Resident is concerned that further development is imminent and 3-4 Storey units and sidewalks will be built. He states Dareen Street is already a quiet street.	Further developments in the area are subject to the relevant development control plans set by Council. Comments noted.
Council creating hazardous situations. Speed bumps not aesthetic. Suggest block/close end of Dareen Street at Patanga Road therefore only be used local traffic and be less costly to implement.	Traffic Count data show that traffic volume is very low and a permanent closure of the road at the western end is not supported. Comments noted.
Low car movements proposal not justified. Reject mini roundabout at intersection Jones St and Dareen Street waste of \$\$ will not enhance road safety. Reject raised intersection Dareen St and Patanga Road will not enhance road safety. Accept raised thresholds adjacent 68 + signage. Improvement at intersection of Frenchs Forest Road East/Patanga Road/Allambie Road suggests change in traffic flow direction and introduce parking restrictions in pick-up hours to improve safety and traffic flow.	Comments noted.
Traffic minimal and mostly resident related. Dareen Street calm and quiet and suggest 40km zone. Proposed thresholds adjacent 68 won't enhance traffic flow, be an eyesore, unnecessary and creating signage pollution lessening 4-6 parking spots. Jones Street intersection already has Stop signs - sufficient.	Comments noted.

Resident Comments	Staff Comments
Request to close Dareen St at Patanga Rd to create a cul-de-sac to reduce through traffic. Three speed humps required between Jones St and Patanga Rd to reduce vehicle speeds but concerns with increased noise. Happy with roundabout at intersection Jones St and Dareen St.	Comments noted.
Two proposals at corner Patanga Rd & Jones St good idea. Raised threshold adjacent 68 Dareen not necessary considered an 'overkill'. Resident has not noticed any increase in vehicular speed in Dareen St. Intersection Dareen St & Patanga Rd congested, cars parked illegally and it's difficult entering Dareen St.	Comments noted.
Vehicular speed is an issue in Dareen St. Pedestrians are forced to walk on the road due to parked cars. Dareen St & Jones St is used as a turnaround and/or access to east bound Warringham Rd roundabout and speed humps won't deter motorists. RESIDENT'S PROPOSAL - widen west side of Patanga Rd opp shops to ease congestion. Install 10m each way of radius into Patanga/Dareen or remove silent cop. Two moderate speed humps in Dareen would be adequate in lieu of raised threshold. Install moderate speed bump at start of splitter in left northbound lane in Jones St and left westbound lane in Dareen St. Dareen St warrants a footpath and 40km/h signage. Object to current proposal.	The provision of a footpath in Dareen Street would be ranked low as Council is required to install new footpaths with limited funding which should be completed in accordance with Council's priority. A footpath is not expected to be constructed in the near future.
Resident states that WTC Report of Feb 2007 did NOT support installation of traffic devices - no good reason for work to be carried out. House no. 68 also objects to raised threshold and noise that is going to be created. Dareen St is low volume. Request for removal of silent cop at the end of Dareen St. Council investigate and find a solution to traffic problems at intersection Patanga, Frenchs Forest Rd East.	The Traffic Committee report in February 2007 at the time decided not to proceed with the immediate construction of additional traffic devices however this site remained in Council's future traffic works ledger.
Happy with proposal and installation of traffic calming devices.	Comments noted.
Due to Patanga/Dareen intersection being on proposed bike route. Suggestion to construct a bike ramp on western side of intersection allowing bikes easy access from on road routes to the bike path through Patanga Park. 25m widening of Patanga footpath on western side between bike ramp and shared path in park. Style similar to ramps on Harbord Rd near Freshwater Campus.	Currently a ramp already exists on the western side for bicycle riders. Council will consider improving the existing Dee Why to Frenchs Forest cycle route in the future.
Currently a 'silent cop' at the end of Dareen St. Driving north in Patanga then turning right in to Dareen St cars parked on left side of road. This road rises and drivers vision is impaired. Suggestion for No Parking at this location. Request for relocation of proposed RAB signage further east fronting no. 39 Dareen giving motorists more time before reaching RAB. At the top of Jones St is a steep crest. The proposed RAB entry is 5m from crest from Iris St. Low vision at this point - proceed to Stop sign - this puts you in the RAB before you look left /right.	As the report suggests, a yellow No Stopping lines at the kerb returns to reinforce the Australian Road Rules would improve visibility at this intersection. Comments noted.
Waste of money due to low traffic flow - suggest 40km/h 'high pedestrian activity' zone would cost less. Jones St RAB not needed but will improve safety. Raised threshold Dareen / Patanga not needed but not opposed to construction. Raised threshold adjacent 68 Dareen St not necessary and opposed to construction. Create additional noise to households with cars accelerating/decelerating not a necessary measure.	Comments noted. As Dareen Street does not have a high level of pedestrian activity a 40km/h speed limit would not be supported by the Roads and Maritime Services.

From: 01/07/2007 To: 07/01/2014

#### DAREEN ST

onDATE	onTIME	REPORT No.	IDENTIFYING OBJECT	WEATHER	SUN	VEHICLES	AGE	STREET TRAVELLING	SFD SEVERITY	TU	IC	I	PC	TV
<b>FRENCHS FOREST</b>														
2013-03-13	0815	101327470	50 East PATANGA RD	Overcast	Dry	Badan wagon	M 24	South DAREEN ST	20 y (Townway)	2	0	0	0	0
Road User Movement: RUM Code A7 - Moving/standing -> -> emerging from drive														
2008-03-15	0130	081186877	200 West JONES ST	Fine	Dry	Car (modern hatch)	F 42	East PATANGA RD	40					
Road User Movement: RUM Code T3 - Off Path, On Straight -> Off at right -> off														
								M-90 East DAREEN ST	899 y (Townway)	3	0	0	0	0
								0 West JONES ST	0					
<b>FRENCHS FOREST Totals:</b>														
								ACC: 2	FAT ACC: 0	BLI ACC: 0	FA: 0	BLI: 0	PedFA: 0	PEDBLI: 0
<b>DAREEN ST Totals:</b>														
								ACC: 2	FAT ACC: 0	BLI ACC: 0	FA: 0	BLI: 0	PedFA: 0	PEDBLI: 0

Printed On: 07-Jan-14

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From: 01/07/2007 To: 07/01/2014

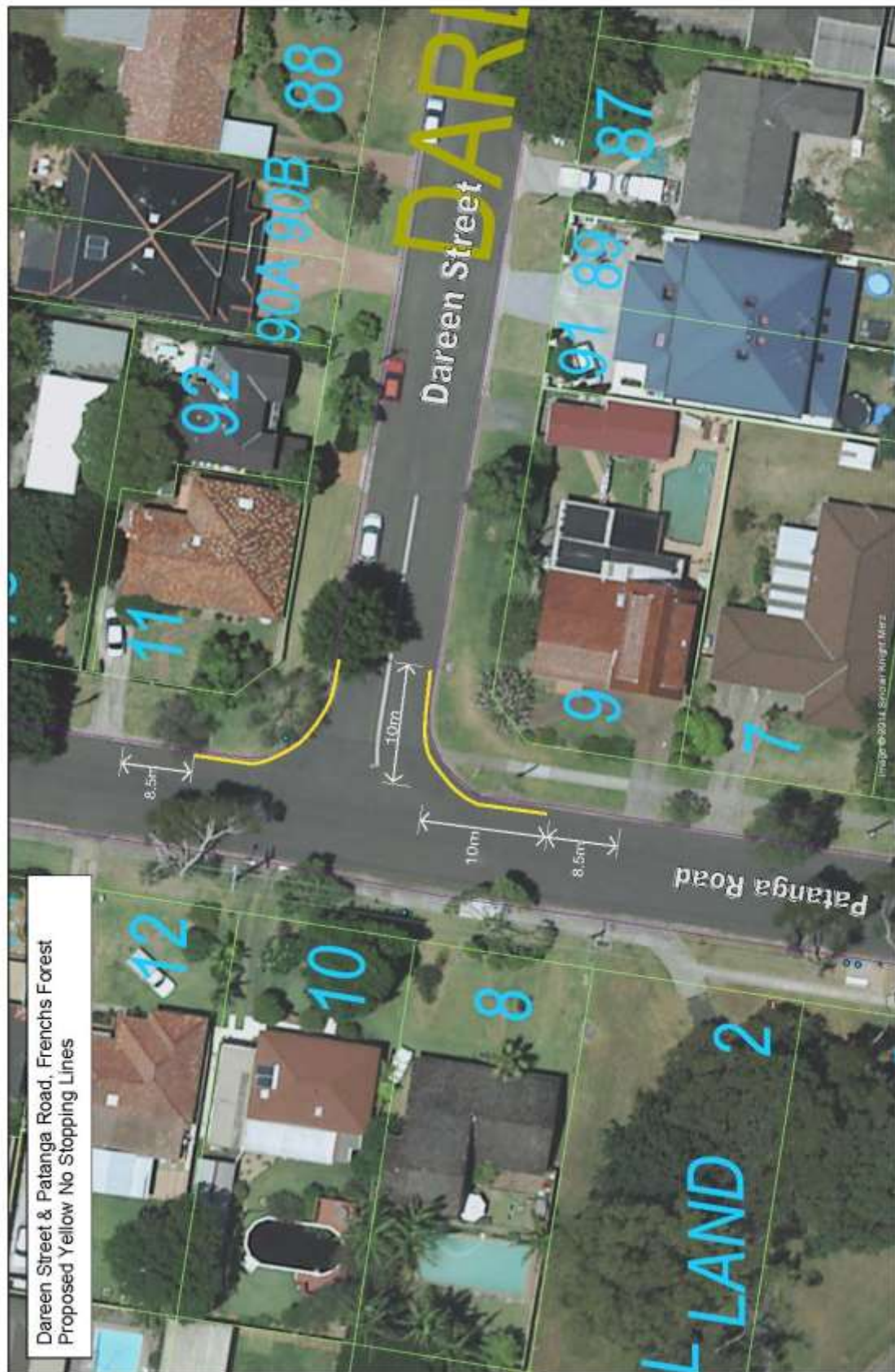
#### PATANGA RD

onDATE	onTIME	REPORT No.	IDENTIFYING OBJECT	WEATHER	SUN	VEHICLES	AGE	STREET TRAVELLING	SFD SEVERITY	TU	IC	I	PC	TV
<b>FRENCHS FOREST</b>														
2008-05-02	0800	082195574	60 North EAST FRENCHS F RD	Fine	Dry	Car (modern hatch)	M 50	North PATANGA RD	40 y (Townway)	1	0	0	0	0
Road User Movement: RUM Code T3 - Off Path, On Straight -> -> Off at right -> off														
2008-04-15	0500	082196107	30 North FRENCHS FOREST RD	Fine	Dry	Range Rover	0	North PATANGA RD	590	heavy	1	0	1	0
Road User Movement: RUM Code 90 - Passenger and Motor Vehicle -> Fall within vehicle														
								0 North FRENCHS FOREST	0					
<b>FRENCHS FOREST Totals:</b>														
								ACC: 2	FAT ACC: 0	BLI ACC: 1	FA: 0	BLI: 1	PedFA: 0	PEDBLI: 0
<b>PATANGA RD Totals:</b>														
								ACC: 2	FAT ACC: 0	BLI ACC: 1	FA: 0	BLI: 1	PedFA: 0	PEDBLI: 0

Printed On: 07-Jan-14

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<b>ITEM 8.12</b>	<b>REVIEW OF TREE ASSESSMENTS FOR DEVELOPMENT APPLICATIONS (DRAFT WDCP 2011 AMENDMENTS)</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER DEVELOPMENT AND COMPLIANCE SERVICES</b>
<b>TRIM FILE REF</b>	<b>2014/063993</b>
<b>ATTACHMENTS</b>	<b>1 Table of Public Submissions and Council Responses (Included In Attachments Booklet)</b> <b>2 Proposed Amendments to Draft WDCP</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To seek a decision of Council in relation to the assessment of tree applications on private property under the Warringah Development Control Plan 2011.

#### **SUMMARY**

On 24 September 2013, Council at its Ordinary Meeting resolved to place on public exhibition the following proposed changes to the Warringah Development Control Plan 2011 (WDCP 2011):

- (i) Introduce a setback to trees of 3 metres, whereby trees within that setback to a building or structure will be exempt from requiring approval
- (ii) Include 9 additional species on the exempt list
- (iii) Alter the definition of a "Tree" to increase the minimum height of a tree that requires approval from 5 metres to 6 metres.

The proposed changes were publicly exhibited from 4 November 2013 until 6 December 2013. A total of 54 submissions were received.

Overall, 70% of the respondents support the 3 proposed amendments. Individually, 72% support the introduction of a setback, 78% support the additions to the exempt list and 67% support the change to the height of a tree.

The aim of the review is to amend the existing tree provisions to make more trees in Warringah exempt from the application process by, introducing a setback to trees and expanding the exemption species list to facilitate a more sustainable, cost effective and efficient system of private tree management.

It is recommended that the existing provisions of the WDCP 2011 be amended in accordance with the three proposed changes, subject to some minor amendments arising out of the public submissions and further consideration of the changes by staff.

#### **FINANCIAL IMPACT**

It is estimated that the number of Development Applications for tree removal will reduce by approximately 30-40% which result in a reduction in income by approximately \$25,000.

#### **POLICY IMPACT**

No impact on Council's current policies as the WDCP 2011 relates to private land.

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**RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council resolve to make the proposed changes to Warringah Development Control Plan 2011 as follows:

- A. Amend Part E1 "*Private Property Tree Management*" to introduce a setback to trees of 3 metres, whereby trees within that setback to a building or structure will be exempt from requiring approval and that the proposed exemption wording include an additional reference to "*garage, carport, studio, shed, workshop and the like, swimming pool, spa and retaining wall*".

Also, the proposed exemption wording to include a reference that trees planted or retained as part of a condition of consent will still require a Development Application or Modification of Consent to permit their removal.

- B. Amend Part A.8 "*Interpretation*" to alter the definition of a "*Tree*" to increase the minimum height of a tree that requires approval from 5 metres to 6 metres, with the exception of palm trees (not listed in Appendix 5), which are to be measured from the base to the top of the trunk.
- C. Amend Appendix 5 "*Species suitable for removal without consent*" to include the 9 additional species listed in this report (as amended).
- D. Amend Appendix 10 "*Details to be contained with an Arborist's Report*" to insert the requirement for an Arborist's report to be prepared in accordance with AS4970-2009 "Protection of Trees on Development Sites".
-

## **REPORT**

### **BACKGROUND**

On 26 March 2013 Council resolved:

*"That this Council resolves to request the General Manager to prepare a report on the application of the DCP for tree removal taking into account the particular circumstances of the case (i.e. the fallen tree at 5 Peronne Parade, Allambie Heights)."*

A report outlining a review of the Warringah Local Environmental Plan (WLEP) 2011 and Warringah Development Control Plan (WDCP) 2011 and presenting a number of Options for amending the WDCP 2011 was considered by Council at its Ordinary Meeting on 24 September 2013 (copy of report attached).

The aim of the review is to amend the existing provisions of the WDCP 2011 to make more trees in Warringah exempt from the application process by, introducing a setback to trees and expanding the exemption species list to facilitate a more sustainable, cost effective and efficient system of private tree management.

Council resolved as follows:

*That Council resolve to place on public exhibition the proposed changes to Warringah Development Control Plan as follows:*

- A. Amend Part E1 "Private Property Tree Management" to introduce a setback to trees of 3 metres, whereby trees within that setback to a building or structure will be exempt from requiring approval.*
- B. Amend Appendix 5 "Species suitable for removal without consent" to include the 9 additional species listed in this report.*
- C. Amend Section A.8 "Interpretation" to alter the definition of a "Tree" to increase the minimum height of a tree that requires approval from 5 metres to 6 metres.*

The proposed changes were publicly exhibited from 4 November 2013 until 6 December 2013, including an advertisement in the Manly Daily, a "Your Say" page on the website (Survey and invitation to make an online submission) and information displayed at the front counter at the Civic Centre.

A total of 54 submissions were received, including 45 online submissions and 9 email submissions. Detailed commentary on the submissions is contained in the table attached to this report, however, the following is a summary of the issues raised in the responses and recommendations for amendments where considered appropriate.

### **Results of the Public Consultation**

#### **(a) General Response**

In general, the majority of those residents who responded were supportive of the proposed changes, with 38 of the 54 submissions or 70% indicating their support.

#### **(b) Response to Introducing a 3 metre Setback**

In response to the proposed introduction of a 3.0 metre setback distance to a tree to make those trees within the 3m area exempt from requiring approval, 38 of the 54 submissions or 70% indicated their support.

Issues raised in relation to this amendment include:

- *The setback distance should be greater than 3 metres*
- *Setback should be based on the height of the tree*
- *Setback should be consistent with State Government proposals in bushfire prone areas*
- *Setbacks should be calculated using a sliding scale*
- *Loss of tree canopy in Warringham*
- *Setback could be open to abuse*
- *Gives residents ability to remove trees required under conditions of development consent*
- *Interpreting the definition of a “structure” in residents favour to remove trees*
- *Should exclude decks and other ancillary structures*
- *Removal of Significant Trees*

The above issues are addressed in the attached table. Based on the review of the issues raised, it is recommended that the wording of the changes to the DCP state that trees required to be planted or retained as part of a condition of consent will still require a Development Application or Modification of Consent to permit their removal.

### ***Change to Exemption***

The wording of the exemption as stated in the Report to Council on 24 September 2013 reads as follows;

*The removal of a tree located within 3 metres of the footprint of an existing permanent building or structure that, if being constructed today, would under current planning controls require development consent, or a Complying Development Certificate.*

Based on the public submissions and a review of the wording, it is recommended that the exemption be altered to avoid confusion around what structures are relevant beyond the main buildings on the site and should read as follows:

*The removal of a tree (where the base of the trunk at ground level) is located within 3 metres of the footprint of an existing permanent building or structure that, if being constructed today, would under current planning controls require development consent, or a Complying Development Certificate. **This includes a garage, carport, studio, shed, workshop and the like, swimming pool, spa and retaining wall.***

The recommendation has been amended to reflect this change.

### ***(c) Response to Including Additional Species on the Exempt Species List***

In response to the proposed inclusion of nine (9) additional species on the Exempt Species List, 38 of the 42 of the 45 online submissions or 93% indicated their support.

In addition, 6 submissions suggested additional species to be added to the list, including:

- *Acer negundo (Box Elder) – Agreed*
- *Liquidamber styraciflua (Liquidamber species) – Already Listed*
- *Cedrus deodara (Deodar Cedar) – Not Agreed*
- *Casuarina spp. (She Oak) – Not Agreed*

- *Magnolia grandiflora (Magnolia) – Not Agreed*
- *Araucaria heterophylla ( Norfolk Island Pine) – Not Agreed*

Issues were raised that the following species should be deleted from the Exempt Species List:

- *Phoenix canariensis (Phoenix Palm) – Agreed (see below)*

The above suggested species for inclusion and deletion are addressed in the attached table. Based on the review of the issues raised, it is recommended that the changes to the DCP be amended to include the *Acer negundo (Box Elder)* and delete the *Phoenix canariensis* (Phoenix Palm). It is also recommended that a reference be added that the height of all palm trees (not listed in Appendix 5) are to be measured from the base of the tree to the top of the trunk rather than the overall height, due to the particular nature of their frond growth.

The recommendation has been amended to reflect this change.

No other changes are deemed necessary.

#### **(d) Responses to Altering the Definition of a Tree**

In response to the proposed alteration to the definition of a “Tree” to increase the minimum height of a tree that requires approval from 5 metres to 6 metres, 36 out of the 45 online submissions or 80% indicated their support.

Issues raised in relation to this amendment include:

- *The height should be greater, suggesting 7m, 8m, 9m, 10m, 11m and 12 metres*
- *The tree canopy width should be changed from 7 metres to 9 metres*
- *Tree height should be on a case by case basis*

The above issues are addressed in the attached table. Based on the review of the issues raised, no changes are deemed necessary.

#### **Other Issues Raised to Tree Assessment Review**

A number of submissions also raised matters which are related to the issue of the review of tree assessments, including the following:

- *Dangerous trees should be allowed to be removed*
- *Council should not hinder the removal of a dangerous tree by the owner (No change to current requirements recommended)*
- *Residents have no choice but all the responsibility*
- *Climate change*
- *Urgency status of trees perceived as dangerous should be upgraded*
- *Concerns regarding retaining the tree assessment method (VTA)*
- *VTA process should be supplemented to avoid future incidents*
- *Risk assessment should be addressed*
- *Other reasons to remove a tree should be recognised (damage to driveways, stormwater and sewer pipes)*



The above issues are addressed in the attached table. In summary, dangerous trees are currently allowed to be removed under WLEP 2011 and no changes are recommended in relation to Council's requirements for the resident to provide documentary evidence (Level 5 Qualified Arborist Report) to Council in accordance with WLEP 2011.

On the issue of climate change, the recommended changes to the WDCP 2011 do not involve changes to the current tree removal provisions such that they would have a significant impact on the tree canopy and hence a significant implication for climate change.

In relation to the tree assessment methods used under the WDCP 2011, the current Visual Tree Assessment (VTA) method is considered best practice and not warranting a new method. As to supplementing the VTA process with a Risk Assessment, the submissions do raise issues that warrant a review of the methods currently undertaken to assess a tree for removal.

However, any change to the method of assessing trees should be considered at a later stage after a thorough investigation has been undertaken into the correct risk assessment model, how it should be implemented and requirements for further training of staff to facilitate that change.

The current position that alternative solutions should be considered before a tree is removed as it is causing damage to driveways, footpaths, pipes and the like, such as pruning and replacing pipes is maintained as this is considered to be a reasonable practice.

#### **Amendment to Appendix 10 of the WDCP 2011 (Arborist's Report)**

As part of the review of the tree assessment provisions of the WDCP 2011, the requirements for the preparation of an Arborist's Report were found to be deficient. The current requirements are contained in Appendix 10 "Details to be contained with an Arborist's Report".

However, there is a need to specify who can prepare the report, and the best way of ensuring an appropriately qualified person prepares the report, is to require it to be in accordance with the Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

The recommendation has been amended to reflect this change.

#### **CONSULTATION**

Consultation was conducted in the form of a formal Public Exhibition from 4 November 2013 until 6 December 2013, including an advertisement in the Manly Daily, a "Your Say" page on the website (Survey and invitation to make an online submission) and information displayed at the front counter at the Civic Centre.

#### **TIMING**

Council's Strategic Planning Section to be informed of Council's decision and that the amendments to the WDCP 2011 will need to be made, public notice of the commencement of the DCP given and notice given to the Director-General of Planning and Infrastructure NSW.

#### **FINANCIAL IMPACT**

It is estimated that the number of Development Applications for tree removal will reduce by approximately 30-40% which will result in a reduction in income by approximately \$25,000.

#### **POLICY IMPACT**

No impact on Council's current policies as the Warringah DCP relates to private land.

## **Attachment 3**

### **Proposed Amendments to Draft Warringah Development Control Plan**

#### **Part A Introduction**

##### **A.8 Interpretation**

###### **P to T**

###### **Tree**

means a palm or woody perennial plant greater than ~~five (5)~~ **6 metres** in height or seven (7) metres in canopy width.

**The height of all palm trees not listed in Appendix 5, are to be measured from the base of the tree (at ground level) to the top of the trunk.**

#### **Part E The Natural Environment**

##### **E1 Private Property Tree Management**

###### **Applies to Land**

This control applies to land to which Warringah Local Environmental Plan 2011 applies.

###### **Objectives**

- To improve air quality, prevent soil erosion and assist in improving; water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.
- To protect human life and property through professional management of trees in an urban environment.
- To provide habitat for local wildlife.
- Promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term with regard to the original 1750 community. See Warringah Natural Area Survey, August 2005.
- To preserve and enhance the area's amenity.

###### **Requirements**

1. All trees are prescribed for the purposes of clause 5.9(2) of WLEP. Development is to be situated and designed to minimise the impact on remnant **native vegetation**, including canopy trees and understorey vegetation, and on remnant native ground cover species.
2. The applicant must demonstrate that the tree to be removed meets one or more of the criteria of the Removal of **Tree** Test in Appendix 8 and the **Tree** Retention Assessment in Appendix 9.

3. Development is to be designed to avoid removal of trees that are identified as having a moderate to high retention value in accordance with the Tree Retention Assessment in Appendix 9.
4. Development must also avoid any impact on trees on public land.
5. Any arborist report submitted to Council is to address the matters listed in Appendix 10.
6. Where the applicant demonstrates that no reasonable alternative design exists and a tree must be removed, suitable compensatory tree planting is required. Details including proposed species and the location of replacement planting are to be provided.
7. For development applications involving the construction of new buildings and works containing Classes 2-9 (BCA), the information contained in Appendix 11 shall be submitted.
8. Where trees proposed to be retained may be affected by the construction of new buildings and works of Classes 1 and 10, a Tree Protection Plan as per Appendix 12 is to be submitted.
9. Where a Tree Management Plan or Biodiversity Management Plan is required, a note is to be made on the lot title. The plan is to be implemented by individual owners or the body corporate.

### Exceptions

Council's consent is not required in relation to:

- The removal of trees listed in Appendix 5.
- The removal of a tree (where the base of the trunk of the tree at ground level) is located within 3 metres of the footprint / foundation of an existing permanent building or structure that, if being constructed today, would under current planning controls require development consent, or a Complying Development Certificate. This includes a garage, carport, studio, shed, workshop and the like, swimming pool, spa and retaining wall.
- A tree, where less than ten percent (10%) of the tree's branches and foliage are to be pruned to reduce the air space occupied by the branches and foliage by no more than ten percent (10%), or, where less than ten percent (10%) of the tree's root system is to be pruned, over a period of twelve (12) calendar months
- The removal of deadwood from a tree
- Removal of any species of parasite mistletoe or parasitic plant from any part of a tree to ameliorate the effects on the tree from such a parasite
- Trees which are:
  - a) in an area in which the Council has authorised their removal as part of a hazard reduction program, where that removal is necessary in order to manage risk
  - b) required to be removed under the NSW Rural Fires Act 1997 and the Environmental Planning and Assessment Act 1979
  - c) removed by Rural Fire Services because they pose or will pose a significant threat to access along required fire trails or to human life, buildings or other property during a bushfire
  - d) in a National Park within the meaning of the National Parks and Wildlife Act 1974
- A tree where the immediate removal is essential for emergency access or emergency

works by the Council, the State Emergency Service or a public authority

- A tree in a container, other than in a planter box that forms part of a building, or in a container that is permanently fixed to a structure
- A field-grown tree propagated as part of a commercial horticultural or agricultural enterprise.

Reference should be made to Part G for site specific requirements.

## Part H Appendices

### Appendix 5 Species suitable for removal without consent

1. *Acacia baileyana* Cootamundra Wattle
2. *Acacia saligna* W A Glory Wattle
3. *Acer negundo* Box Elder
4. *Albizia lophantha* Crested Wattle
5. *Alnus jorullensis* Evergreen Alder
6. *Ailanthus altissima* Tree of Heaven
7. *Araucaria bidwillii* Bunya Bunya Pine
8. *Archontophoenix alexandrae* Alexander Palm
9. *Archontophoenix cunninghamina* Bangalow Palm
10. *Brachychiton acerifolius* Illawarra Flame
11. *Cassia* spp. Cassia
12. *Chamaecyparis* spp. Cypress Pine
13. *Cinnamomum camphora* Camphor Laurel
14. *Cotoneaster glaucophyllus* Cotoneaster
15. *Cupressus* spp. Cypress Pine
16. *Erythrina* spp. Coral Tree
17. *Eucalyptus nicholii* Peppermint Gum
18. *Eucalyptus scoparia* Willow Gum
19. *Ficus benjamina* Weeping Fig
20. *Ficus elastica* Rubber Tree
21. *Gleditsia triacanthos* Honey Locust
22. *Grevillea robusta* Silky Oak
23. *Harpephyllum caffrum* Kaffir Plum
24. *Lagunaria patersonii* Norfolk Island Hibiscus
25. *Liquidambar styraciflua* Liquidambar
26. *Morus* spp. Mulberry

27. *Olea africana* Wild Olive
28. *Persea gratissima* Avocado
29. *Pinus radiata* Radiata Pine
30. *Pittosporum undulatum* Sweet Pittosporum
31. *Populus spp.* Poplars
32. *Pyracantha angustifolia* Orange Fire Thorn
33. *Raphiolepis indica* Indian Hawthorn
34. *Robina pseudoacacia* Black Locust
35. *Salix babylonica* Weeping Willow
36. *Schefflera actinophylla* Umbrella Tree
37. *Syagrus romanzoffiana* Cocos Palm
38. *Washingtonia spp.* Fan Palm
39. Any species identified as noxious weeds under Appendix 7 – Noxious weeds

## Part H Appendices

### Appendix 10 Details to be contained within an Arborist's Report

The following details are to be contained within any arborist report submitted to Council: The report is to be in accordance with the Australian Standard AS4970 – 2009 Protection of trees on development sites.

- a) Species of tree(s) affected
- b) Whether the tree(s) is planted, self sown, or remnant vegetation
- c) If the tree(s) has any special significance such as Aboriginal, Commemorative, Habitat, Historic, Memorial, Rare, Unique form.
- d) The age of the tree(s) and its life expectancy
- e) The height of the tree(s) and its average crown diameter
- f) The condition of the crown of the tree(s)
- g) The extent of the root zone of the tree(s)
- h) The likelihood of the failure of the tree(s) or parts of the tree due to structural defect(s). This is to include the size and location of possible defective parts and their potential threat to life and property.
- i) The trees proximity to services or adjacent structures. This includes dwellings, overhead wires, underground services, signage, and street lights.
- j) Reasons for the removal and/or pruning of the tree(s). How the removal of the tree satisfies the tests identified in Appendix 9 if applicable.

<b>ITEM 8.13</b>	<b>FEASIBILITY OF RUNNING DOG TRAINING</b>
<b>REPORTING MANAGER</b>	<b>GROUP MANAGER DEVELOPMENT AND COMPLIANCE SERVICES</b>
<b>TRIM FILE REF</b>	<b>2014/056442</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To respond to Council's resolution of 27 August 2013 regarding the feasibility of dog training.

#### **SUMMARY**

At the Council Meeting on 27 August 2013 Council resolved:

*That a report be prepared within 6 months for staff to investigate the feasibility of running regular training sessions for dog owners in appropriate parks across the Warringah Local Government Area. These sessions to focus on how to manage and control dogs.*

There are approximately 25000 dogs registered, on the Companion Animals Register as residing within the Warringah Local Government area.

Council receives over 1100 requests per annum relating to animals, which are actioned by the Regulatory Compliance section.

The feasibility of a Council owned and operated training facility is limited, but Council support of community based education and training is potentially a more feasible outcome.

#### **FINANCIAL IMPACT**

Nil, Council support would be in kind only.

#### **POLICY IMPACT**

Nil

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### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That:

- A. Council approve in principle support of a community based dog training and education program.
  - B. Council request the Companion Animals Community Committee to develop and recommend a suitable program considering the skills and experience of its members.
  - C. Staff be available to assist the Companion Animals Community Committee in making recommendations to be reported back to Council in late 2014.
-



## **REPORT**

### **BACKGROUND**

At the Council Meeting on 27 August 2013 Council resolved:

*That a report be prepared within 6 months for staff to investigate the feasibility of running regular training sessions for dog owners in appropriate parks across the Warringah Local Government Area. These sessions to focus on how to manage and control dogs.*

There are approximately 25000 dogs registered on the Companion Animals Register as residing within the Warringah Local Government area. Council receives over 1100 requests per annum relating to animals.

Council receives in excess of 1000 customer requests related to dogs per annum and has done so for several years. Requests relating to dogs last financial year ranked as the second highest complaint generator behind parking for Regulatory Compliance.

In 2012 Warringah Council was involved in an education/training program (Warringah Waggers) in conjunction with the Manly and District Kennel and Dog Training Club. The program involved a written test on dog laws and local controls as well as a practical obedience lesson. The program was cancelled due to lack of support.

### **Legislation**

The Companion Animal Act 1998 provides for the effective and responsible care and management of companion animals in NSW.

There is no legislative requirement for Council to provide any training of companion animals.

Council is the primary enforcement body for the Companion Animals Act. Council needs to protect its impartiality when investigating and taking regulatory action following complaints about antisocial behaviour by dogs.

### **Investigation**

Data analysis revealed that there are several commercial providers of various forms of dog training located in the LGA or its surrounds.

These are established businesses who offer a variety of training options based on the individual requirements of the owners, i.e. socialisation, puppy training, obedience training, addressing nuisance behaviours as well as some more specialised training options.

This includes low cost options, run by not for profit organisations, one fee structure was –

- joining fee of \$25 (one off)
- Annual registration is \$25 (\$12.50 Pensioners)
- \$5 per visit.

No surrounding Councils advertise any in-house dog training.

Council currently runs Dogs Big Day Out (DBDO) which is an annual event that showcases some of the services available to dog owners. This event is well attended and is growing both in terms of attendees and exhibitors. The event has an annual budget provided by Council as well as fees paid by exhibitors.

The Department of Local Government has announced that from mid 2014 there will be expansions to existing education programs and grants for Local Councils to target - microchipping, registration

and desexing programs. They have also announced “*a fundamental redesign of the system*” but are yet to elaborate on what this entails.

## **Feasibility Analysis**

### **Investigation of options for Warringah Council**

#### **1) Council conducts the training**

Currently Council does not have sufficient staff qualified to undertake animal training. If Council were to pursue becoming a training provider they would have engage additional staff or provide training to an existing staff member.

Council would also need to fund set up costs of the new venture – marketing, stock, facilities etc.

This would option would incur cost to the community, and due to our policy of competitive neutrality there would be no significant benefit provided above what already exists in the marketplace.

#### **2) Council engages external providers to conduct training**

Council could engage the services of an external provider to undertake the training. This would require Council establishing what services they require and tendering for suitable providers.

This is considered inappropriate, to engage the services of a commercial provider to provide a commercial service for Council, whilst maintaining competitive neutrality.

#### **3) Council subsidise existing providers**

Council could provide subsidies or incentives to existing providers, Council could offer incentives for commercial providers to reduce the end cost. These incentives may include such incentives as cheaper rates to groups hiring Council assets, one off payments or some other forms of financial assistance.

Council would need to determine the parameters of what type of training qualified, on what basis the incentives were offered – individual or per session.

Given the low take up of the previous Warringah Waggers program, and some of the potential difficulties in regulating financial incentives this is not considered a viable option.

#### **4) Community Volunteers**

There may be sufficient community volunteers, and or existing business willing to donate time to provide training or education on animal related issues. Council could provide in kind support through providing spaces for the training and possibly limited (web based) advertising to promote these activities.

Initial discussion with the Companion Animal Committee, has indicated that they would be willing to manage the program. Further development of this option is required but seems to have potential to be feasible.

## **Conclusion**

Council has no coercive powers to require that dog owners undertake training.

The dog training field in and around the Warringah local Government area appears to be being ably catered for by multiple commercial providers. The community does not gain any tangible benefit through a more competitive market place or significant point of difference by Council entering the field.

Were Council to provide training, there is a risk of damage to Council's impartiality. Council is the appropriate regulatory body for enforcing the Companion Animals Act 1998. Council routinely

issues Orders, recommending seeking additional training or completion of a recommended training regime (within a set timeframe). Were Council to establish itself as a provider of such training, this could be perceived as self-serving requirement or people thinking that they may receive preferential treatment.

There would not appear to be a significant need or demand for Council to become an active service provider.

Council should look at improving existing or new opportunities to act as the conduit between customers and existing providers. Events such as 'DBDO' provide a valuable opportunity for all businesses to exhibit and position themselves in front of their target audience with minimal outlay. Council is able to offer all providers, who wish to be involved, an ability to harness Council's advertising and marketing expertise to promote their business.

As there appears to be significant changes proposed for mid 2014, Council would need to be wary of taking action prior to this, to ensure that Council utilises any opportunity to educate the community on these changes and seek any available funding to provide the education.

A community based program would allow for a program that is flexible enough to respond quickly to changes or issues that arise. They would be able to seek volunteer speakers or trainers with particular skills or knowledge to assist them.

Being community based there are no implications to Council's legislative functions and, if managed through the Companion Animals Committee, would provide more support of the Committee and improve the Committee's ability to provide Council with direction in this area.

### **Improved compliance**

Dogs are one of the significant generators of customer requests for the Compliance section. These complaints typically revolve around owners not ensuring that they comply with the legislative requirements i.e. Dogs off lead and dogs not being effectively secured in properties. These actions are not the responsibility of the animal but the owner.

Staff experienced in animal management issues believe that whilst better training of animals is important, the broader community would be better served by education programs for the owners. This view has been confirmed in research undertaken with community experts.

Council should refer these issues back to the Companion Animal Community Committee to work closely with Regulatory Compliance staff to try and develop a community based program.

This program could work with Regulatory Compliance and jointly seek to obtain additional funding from the proposed Department of Local Government grants, and may include micro chipping programs, targeted advertising, information evenings, guest speakers and some training events.

### **CONSULTATION**

This report considered

- Customer requests made to Council relating to animal management,
- Animal Management publications of the Division of Local Government,
- Verbal and written comments from community experts and passionate members of the community.

### **TIMING**

Late 2014

**FINANCIAL IMPACT**

Nil, Council support would be in kind only.

**POLICY IMPACT**

Nil



<b>ITEM 8.14</b>	<b>2014 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - THE AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (ALGA)</b>
<b>REPORTING MANAGER</b>	<b>DEPUTY GENERAL MANAGER ENVIRONMENT</b>
<b>TRIM FILE REF</b>	<b>2014/068289</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

### **EXECUTIVE SUMMARY**

#### **PURPOSE**

To determine any Motions to be submitted by Warringah Council for the 2014 National General Assembly of Local Government being held in Canberra from Sunday 15 June 2014 to Wednesday 18 June 2014.

#### **SUMMARY**

The National General Assembly of Local Government is the major event on the annual events calendar for the Australian Local Government Association (ALGA). It is convened by the Australian Local Government Association for local councils across Australia to develop and express a united voice on the core issues affecting local government and their communities. Council has been asked to submit Motions, by 17 April 2014.

#### **FINANCIAL IMPACT**

Nil

#### **POLICY IMPACT**

Nil

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#### **RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT**

That Council determines any Motions to be put forward by Warringah Council to the 2014 National General Assembly of Local Government.

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## **REPORT**

### **BACKGROUND**

The National General Assembly of Local Government is an annual conference convened by the Australian Local Government Association for local councils across Australia to develop and express a united voice on the core issues affecting local government and their communities.

The 2014 conference is in Canberra from 15-18 June 2014. Council has been to submit Motions by 17 April 2014.

This year's theme is 'Getting Down to Business'. The theme reflects the renewed focus across all levels of government on the roles and responsibilities of the public sector and the challenges of meeting our communities' needs.

A discussion paper compiled by ALGA was previously distributed to Councillors.

A Motion to be submitted must have the support (i.e. by resolution) of the full Council and meet the following criteria:

- Fall under the National General Assembly theme of Getting Down to Business;
- Be relevant to the work of local government nationally; and
- Complement or build on the policies of state and territory local government associations.

The ALGA requires that any Motions be submitted no later than Thursday 17 April 2014. If Council is to submit Motions by the due date, it will be necessary for Council to resolve to lodge the Motions at tonight's Council Meeting to ensure enough time for staff to submit the details prior to the due date.

### **CONSULTATION**

Councillors have been consulted regarding the submission of Motions to the conference.

### **TIMING**

The conference runs from 15-18 June 2014 inclusive.

### **FINANCIAL IMPACT**

Nil

### **POLICY IMPACT**

Nil

## **10.0 NOTICES OF MOTION**

<b>ITEM 10.1</b>	<b>NOTICE OF MOTION NO 3/2014 - PROTECTING MARINE SANCTUARIES INSTEAD OF RELAXING NSW LAWS TO ALLOW RECREATIONAL FISHING</b>
<b>TRIM FILE REF</b>	<b>2014/076026</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Sue Heins

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### **MOTION**

That Warringah Council write to Premier Barry O'Farrell MP, Local State Member Brad Hazzard MP, Minister for Primary Industries Katrina Hodgkinson MP and the Minister of Environment Robyn Parker MP:

- A. Conveying the concerns of Warringah residents regarding the review of the NSW Marine Estate to allow fishing from ocean beaches and headlands in sanctuary zones, which is likely to reduce the protection of marine life.
  - B. Noting that Council recognises the vital role marine parks and sanctuaries play in providing substantial social, economic and environmental returns for the people of Warringah and NSW.
- 

### **FUNDING SOURCE**

I have been advised that the motion can be completed within current operational budget.

### **BACKGROUND FROM COUNCILLOR SUE HEINS**

NSW waters and marine life are facing many threats, including climate change, ocean acidification, land-based pollution, invasive plants and animals and overfishing of certain species, which disrupts marine food webs and ecosystems.

The NSW State Government is currently considering allowing fishing from the shore in the protected marine sanctuaries of the State's 6 marine parks. This goes against the fundamental principles of marine sanctuaries being safe havens for all marine life, and contravenes years of scientific evidence demonstrating their vital role in marine conservation.

Marine sanctuary zones are an extremely important tool in helping to build resilience in marine ecosystems, and are supported by the Australian Marine Science Association (AMSA), an organisation of over 1000 marine scientists [1]. Sanctuary areas are proven to increase the abundance, diversity and size of marine life within their boundaries and can help protect against the impacts of climate change.

NSW has six multiple-use marine parks (Cape Byron, Solitary Islands, Port Stephens-Great Lakes, Jervis Bay, Batemans and Lord Howe). Marine parks allow for different uses in different zones, the majority permit recreational fishing and some types of commercial fishing.

Fishers and non-fishers alike agree that important marine habitats should be protected in sanctuaries free from fishing. NSW Government polling found 85% of NSW residents support protection of some areas of the marine environment, even if it means recreational and commercial fishing is excluded. In Sydney, the support is even higher, at 89% [2].

The International Union for Conservation of Nature calls for a minimum target of 20% of global marine waters to be marine national parks by 2020. Currently, only about 6.5% of NSW marine waters are fully protected as marine sanctuaries. There is still significant work to be done to create a comprehensive, adequate and representative network of marine protected areas in NSW.

Warringah residents highly value our marine and terrestrial natural resources. Instead of reducing protections to allow fishing in marine sanctuaries, we call on the NSW Government to develop a positive vision which ensures the protection and survival of marine life in the NSW coastal marine environment.

## References

[1] Australian Marine Science Association 2012, Position Statement on Marine Protected Areas. Available at: [https://www.amsa.asn.au/PDF-files/Submissions/AMSA\\_MPA\\_PositionStatement...](https://www.amsa.asn.au/PDF-files/Submissions/AMSA_MPA_PositionStatement...)

[2] NSW and the Department of Environment, Climate Change and Water NSW February 2010, Who cares about the Environment in 2009. Available at: [www.environment.nsw.gov.au/community/whocares2009.htm](http://www.environment.nsw.gov.au/community/whocares2009.htm)

**11.0 QUESTIONS ON NOTICE**

<b>ITEM 11.1</b>	<b>QUESTION ON NOTICE NO 7/2014 - MAYOR'S PRIVATE USE OF MAYORAL JAGUAR</b>
<b>TRIM FILE REF</b>	<b>2014/076138</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

**QUESTION**

Given the Deputy General Manager's Memo of 24 February 2014 that states the Mayor has **not** made any payments for personal use of the Mayoral Vehicle from 2009 to present from the Mayoral Allowance as required under Clause 3.1 of Appendix 'A' of the Warringah Council *Policy for the payment and reimbursement of expenses incurred by, and provision of facilities to, the Mayor, Deputy Mayor and Councillors* should Cr Regan be using the Mayoral vehicle for personal use, is Cr Regan's statement in the Sunday Telegraph on 16 March 2014 and the Manly Daily on 18 March 2014 that he has paid \$500 a month towards the Mayoral vehicle incorrect?



<b>ITEM 11.2</b>	<b>QUESTION ON NOTICE NO 8/2014 - PURCHASE PRICE OF MAYORAL JAGUAR</b>
<b>TRIM FILE REF</b>	<b>2014/076150</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

**QUESTION**

What was the actual purchase price of the Mayor's jaguar?





ITEM 11.3	QUESTION ON NOTICE NO 9/2014 - LUXURY CAR TAX THRESHOLD
TRIM FILE REF	2014/076208
ATTACHMENTS	NIL

Submitted by: Councillor Vincent De Luca OAM

#### QUESTION

In view of Warringah Council's *Policy for the payment and reimbursement of expenses incurred by, and provision of facilities to, the Mayor, Deputy Mayor and Councillors* clause 10.1(a) (i) **Mayoral Vehicle** – for a weekly fee (paid by the Mayor) based on Council's Private Use Car Scheme standard vehicle rate\* a suitable and appropriate vehicle, (valued below the current luxury car tax threshold, as determined by the Australian Tax Office), fully maintained, insured and registered by the Council, for use by the Mayor for all official, executive and social duties connected with the Office of Mayor, and private and personal use in accordance with **Appendix A** to this Policy, is the Jaguar purchased for the Mayor below the current luxury car tax threshold?



## **12.0 RESPONSES TO QUESTIONS ON NOTICE**

<b>ITEM 12.1</b>	<b>RESPONSE TO QUESTION ON NOTICE NO 4/2014 - COSTS OF R CLASS TRAM</b>
<b>TRIM FILE REF</b>	<b>2014/060646</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

### **QUESTION**

What are the total costs for the R Class Tram (including purchase, haulage from Rozelle/Glebe, fit out/maintenance of the tram etc)?

### **RESPONSE**

<b>Item</b>	<b>Cost</b>
Purchase of R class Heritage tram	\$3,000 excluding GST
Haulage from Rozelle/Glebe – includes crane charged and truck	\$9,830 excluding GST
Fit out/maintenance	Fit out will be in partnership with volunteer community/ heritage groups. The cost of material is not known but expected to be less than \$10,000



<b>ITEM 12.2</b>	<b>RESPONSE TO QUESTION ON NOTICE NO 5/2014 - COSTS OF OFFSITE COUNCILLOR WEEKENDS</b>
<b>TRIM FILE REF</b>	<b>2014/060659</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

**QUESTION**

Since the commencement of this current term, what are the total costs for all of the offsite councillor weekends held at Ingleside Conference Centre?

**RESPONSE**

Councillor Induction 12-14 October 2012 = \$11,284.70 excluding GST

Councillor Workshop 16-17 August 2013 = \$4,233.86 excluding GST





<b>ITEM 12.3</b>	<b>RESPONSE TO QUESTION ON NOTICE NO 6/2014 - GENERAL MANAGER, RIK HART'S EXTRA HOLIDAY PERIOD</b>
<b>TRIM FILE REF</b>	<b>2014/060666</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

**QUESTION**

In view of the General Manager, Rik Hart being granted an extra holiday period in lieu of a further salary increase (other than the CPI increase and increase pursuant to his contract), during that holiday period will Mr Hart's replacement receive an additional salary for acting in the position and if so, how much?

**RESPONSE**

Yes, in accordance with Clause10(iii) of the Local Government (State) Award for staff acting that are not designated Senior Staff and for designated Senior Staff acting, in accordance with their Contract of Employment.

Salary paid is dependent on who is acting at the time and the percentage of responsibility undertaken.



## 13.0 CONFIDENTIAL MATTERS – CLOSED SESSION

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### RECOMMENDATION

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

Item 13.1 Tender RA091314Warri - Contestable Energy to Warringah Council  
Metered Sites and Street Lighting

Item 13.2 Brookvale Oval - Proposed Sea Eagles Licence

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

Item 13.1 Tender RA091314Warri - Contestable Energy to Warringah Council  
Metered Sites and Street Lighting

Item 13.2 Brookvale Oval - Proposed Sea Eagles Licence

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

Item 13.1 10A(2)(d(ii)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it

Item 13.2 10A(2)(d(ii)) commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it

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

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

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